



**PR 20, 30, 40, 50, 70 and 72
(73FR03811)**

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U.S. Nuclear Regulatory Commission
Washington, D.C., 20555-0001
Attn: Rulemakings and Adjudications Staff

May 16, 2008 (2:00pm)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Re: FPL Energy Duane Arnold, LLC Comments
Proposed Rule – Decommissioning Planning
RIN 3150-AH45
(73 Fed. Reg. 3812, Jan. 22, 2008)

FPL Energy Duane Arnold, LLC (FPL Energy DAEC), the owner of a majority interest in and the operator of the Duane Arnold Energy Center (DAEC), hereby submits the following comments on the above-referenced Proposed Rule.

FPL Energy DAEC specifically opposes the proposed changes to the use of parent guarantees to provide financial assurance for power reactor decommissioning. The Nuclear Regulatory Commission (NRC) is proposing to revise 10 CFR Part 30 Appendix A to require that a parent company providing a guarantee for decommissioning agree to make itself jointly and severally liable with the licensee for the full cost of decommissioning with any additional costs not paid by the licensee.

Current parent guarantees that have been approved by the NRC in Orders in individual license transfer cases do not provide for joint and several liability between a parent guarantor and licensee. For example, in the case of FPL Energy DAEC's acquisition of a 70 percent ownership share in DAEC, the NRC approved by Order dated December 23, 2005, a \$75 million parent guaranty given by FPL Energy DAEC's indirect parent company, FPL Group Capital, Inc., on behalf of FPL Energy DAEC (which was subsequently increased to \$93 million). The purpose of this parent guarantee was to provide financial assurance for the difference between the amount that was deposited in a decommissioning trust account and the NRC formula amount for decommissioning, calculated as of the transaction closing date pursuant to 10 CFR 50.75(c). This arrangement was approved as part of a large commercial transaction, and imposition of a new requirement for the parent to assume joint and several liability above and beyond the amount of the parent guarantee would be a fundamental change, after the fact, to the terms of this transaction.

There has not been any practical experience demonstrating a need to impose such a joint and several liability requirements on parent guarantors. The Federal Register notice describing the proposed rule provides no specific evidence of any vulnerability in a parent guarantee arrangement, only a brief reference to a "potential" vulnerability (73 Fed. Reg. at 3815). FPL Energy DAEC suggests that the NRC has not articulated a factual or legal basis justifying this proposed change to Part 30.

For these reasons, FPL Energy urges the NRC to not adopt this aspect of the proposed decommissioning planning rule changes. We appreciate the opportunity to comment on the proposed decommissioning planning rulemaking.

Sincerely yours,

J.A. Stall
Senior Vice President, Nuclear and
Chief Nuclear Officer