

Barry T. Smitherman
Chairman



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OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

PRM-50-88
(72FR46569)

7

June 20, 2008

Annette L. Vietti-Cook
Secretary
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Attention: Rulemakings and Adjudications Staff

SUBJECT: Comments on PRM-50-88, Petition for Rulemaking on Disposal of Major Reactor Components (72 FR46569, August 21, 2007)

Dear Ms. Vietti-Cook:

This responds to your request for comments on the subject rulemaking regarding the disposal of Major Reactor Components (MRCs). I believe that under appropriate circumstances the NRC should not restrict the use of nuclear decommissioning trust (NDTs) funds for significant decommissioning activities that may appropriately be completed during the operating life of a nuclear plant. There may be circumstances that arise from time to time where the decommissioning (permanent disposal) of MRCs is economical and desirable prior to the cessation of plant operations, and NRC's rules should provide a procedural mechanism for permitting the use of funds from existing NDTs for MRC decommissioning.

I understand that the proposed rulemaking would involve adopting procedures to allow NRC to make a decision on a case-by-case basis to allow utilities with demonstrated financial and technical support to use existing NDT funds to pay for the decommissioning of the MRCs at any appropriate time, rather than waiting for many decades until the entire plant ceases operation and undergoes decommissioning. In some cases, state or federal rate regulatory authorities also have jurisdiction over NDTs, which can include contributions from ratepayers. Therefore, I agree with the provisions in the proposal that would require notification of such state or federal rate regulatory authorities.

There may be circumstances where the use of NDT funds for near term activities is not economically justified, and in such circumstances, rate regulatory authorities may object or decline to permit the use of NDT funds during the operating life of the plant. However, there also may be circumstances where ratepayers are best served by prompt disposal of MRCs, based upon current pricing available for near term disposal and other factors affecting the ratepayers and other stakeholders. Near term activities may create certainty as to price and reduce future risk. Moreover, once these activities are completed, the cost would no longer be included in cost estimates, and collections from ratepayers for these items would be eliminated.

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I think that it is appropriate for NRC to create a procedural mechanism for reviewing and allowing the use of NDT funds under appropriate circumstances, because the opportunity to do so is necessary to allow for rational decisions to be made by both the plant owners and the regulators tasked with protecting the interests of ratepayers.

In addition, I agree with the petitioner that there may be environmental advantages to early removal and disposal of the MRCs. Even though storage of such components can be maintained with little or no environmental releases, early removal will assure that any potential risk, even if remote, is eliminated. Such efforts can enhance public confidence that protection of the environment is being managed aggressively.

In summary, I support this rulemaking. It provides the needed flexibility for NRC to allow the funds collected in NDTs for MRC disposal to be used to pay for timely MRC disposal, subject to appropriate oversight by both the NRC and rate regulatory authorities. Early disposal may be advantageous to the ratepayers in our state, and opportunities to review and approve expenditures for these purposes should not be foreclosed. Without revision, the current rules pose an unnecessary restriction and regulatory burden on licensees and ratepayers.

I appreciate your consideration of these comments, and I look forward to the modification of this rule as proposed.

Sincerely,

A handwritten signature in black ink, appearing to read "Barry T. Smitherman". The signature is fluid and cursive, with the first name being the most prominent.

Barry T. Smitherman
Chairman

cc:

Chairman Dale E. Klein
Commissioner Gregory B. Jaczko
Commissioner Peter B. Lyons
Commissioner Kristine L. Svinicki

Rulemaking Comments

From: Cantwell, Garnet [garnet.cantwell@puc.state.tx.us]
Sent: Friday, June 20, 2008 5:13 PM
To: Rulemaking Comments
Subject: Comments on Rulemaking on Disposal of Major Reactor Components
Attachments: Scan001.PDF

Comments on PRM-50-88, Petition for Rulemaking on Disposal of Major Reactor Components (72 FR46569, August 21, 2007).

Garnet Cantwell
Assistant to Chairman Barry T. Smitherman Public Utility Commission of Texas
512-936-7029
512-936-7028 fax

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To: <rulemaking.comments@nrc.gov>
Return-Path: garnet.cantwell@puc.state.tx.us
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