



ZS-2010-0372

10 CFR 50.90  
10 CFR 50.75(h)

November 15, 2010

U. S. Nuclear Regulatory Commission  
ATTN: Document Control Desk  
Washington, DC 20555-0001

Zion Nuclear Power Station, Units 1 and 2  
Facility Operating License Nos. DPR-39 and DPR-48  
NRC Docket Nos. 50-295 and 50-304

Subject: Request for Amendments - Deletion of License Condition 2.C.(14)  
Regarding Decommissioning Trust fund

In accordance with 10 CFR 50.90, "Application for amendment of license or construction permit," ZionSolutions, LLC (ZS) requests amendments to Facility Operating Licenses Nos. DPR-39 and DPR-48 for Zion Nuclear Power Station, Units 1 and 2. The proposed amendments would delete license conditions that impose specific requirements for the decommissioning trust agreement. Instead, the decommissioning trust agreement would be subject to the comprehensive regulatory requirements for decommissioning trust funds that are specified in 10 CFR 50.75(h)(1) through (3). The option to delete license conditions relating to the terms and conditions of decommissioning trust agreements and, instead, conform to the regulations adopted in 2002 is specifically contemplated by the provisions of 10 CFR 50.75(h)(5), and the generic finding of no significant hazards consideration in 10 CFR 50.75(h)(4).

Further description and evaluation of the proposed change is provided in Attachment 1. Attachments 2 and 3 provide markups of the affected license pages for Zion Nuclear Power Station, Units 1 and 2, respectively.

The proposed change has been reviewed by the Zion Station Review Committee in accordance with the requirements of §5.9.2.f.4 of the Zion Technical Specifications.

ZS requests approval of the proposed amendments by December 15, 2010. Once approved, the amendments shall be implemented within 60 days.

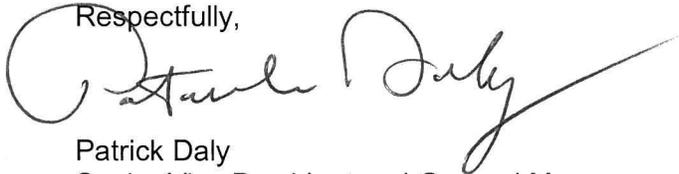
In accordance with 10 CFR 50.91, "Notice for public comment; State consultation," paragraph (b), ZS is notifying the State of Illinois of this application for license amendments by transmitting a copy of this letter and its attachments to the designated State Official.

November 15, 2010  
U.S. Nuclear Regulatory Commission  
Page 2

This submittal does not contain any regulatory commitments. Should you have any questions concerning this letter please contact Tom Tramm at 224-789-4042.

I declare under penalty of perjury that the foregoing is true and correct. Executed on the 15<sup>th</sup> day of November 2010.

Respectfully,

A handwritten signature in black ink, appearing to read "Patrick Daly", with a long horizontal flourish extending to the right.

Patrick Daly  
Senior Vice President and General Manager  
ZionSolutions, LLC

Attachment 1: Description and Evaluation of Proposed Change  
Attachment 2 Revised Pages of ZNPS 1 License  
Attachment 3: Revised Pages of ZNPS 2 License

cc: Regional Administrator, Region III, US NRC  
Office of Environmental Safety, Illinois Emergency Management Agency

## Attachment 1

### **Revision of Trust Fund Requirements**

- 1.0 INTRODUCTION
- 2.0 DESCRIPTION OF PROPOSED AMENDMENTS
- 3.0 BACKGROUND
- 4.0 REGULATORY REQUIREMENTS AND GUIDANCE
- 5.0 TECHNICAL ANALYSIS
- 6.0 REGULATORY ANALYSIS
- 7.0 NO SIGNIFICANT HAZARDS CONSIDERATION
- 8.0 ENVIRONMENTAL EVALUATION
- 9.0 PRECEDENT
- 10.0 REFERENCES

## 1.0 INTRODUCTION

The proposed change deletes Zion Nuclear Power Station (ZNPS) Units 1 and 2 Operating License Conditions 2.C.(14) in their entirety. These License Conditions contain requirements for the decommissioning trust agreement which were imposed before similar requirements were established in NRC regulations. In lieu of the license conditions, *ZionSolutions* will directly implement the corresponding requirements of 10 CFR 50.75(h)(1) through (h)(3).

## 2.0 DESCRIPTION OF PROPOSED AMENDMENTS

Conditions 2.C.(14) of the Zion operating licenses currently include the following requirements for the decommissioning trust funds:

- (a) The decommissioning trust agreement must be in a form acceptable to the NRC.
- (b) With respect to the decommissioning trust fund, investments in the securities or other obligations of *EnergySolutions*, LLC or affiliates thereof, or their successors or assigns are prohibited. Except for investments tied to market indexes or other non-nuclear sector mutual funds, investments in any entity owning one or more nuclear power plants are prohibited.
- (c) The decommissioning trust agreement for Zion, Unit 1 (*and Unit 2*), must provide that no disbursements or payments from the trust shall be made by the trustee unless the trustee has first given the Director of the Office of Nuclear Reactor Regulation 30 days prior written notice of payment. The decommissioning trust agreement shall further contain a provision that no disbursements or payments from the trust shall be made if the trustee receives prior written notice of objection from the NRC.
- (d) The decommissioning trust agreement must provide that the agreement cannot be amended in any material respect without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.
- (e) The appropriate section of the decommissioning trust agreement shall state that the trustee, investment advisor, or anyone else directing the investments made in the trust shall adhere to a "prudent investor" standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations.

The requested amendments would delete all of License Conditions 2.C.(14) including paragraphs (a) through (e) on pages 5 and 6 of Zion Nuclear Power Station, Unit 1 and Unit 2 License Nos. DPR-39 and DPR-48.

In lieu of the license conditions, *ZionSolutions* will directly implement the requirements of 10 CFR 50.75(h)(1) through (h)(3). *ZionSolutions* will provide a revised trust agreement as required by 10 CFR 50.75(h)(1)(iii) within 60 days of NRC approval of this proposal. The trust agreement will conform with §50.75(h) and ZS will take no action under the

existing trust agreement in the interim that would be inconsistent with the provisions of the regulation.

### **3.0 BACKGROUND**

These License Conditions were imposed in 2000 when the Nuclear Regulatory Commission approved the transfer of the Zion licenses from Commonwealth Edison to Exelon Generation Company (Reference 1).

NRC subsequently promulgated rules containing similar decommissioning trust provisions at 10 CFR 50.75(h). These requirements govern financial assurance mechanisms for licensees that are not “electric utilities” as defined in 10 CFR 50.2. An exemption is provided in 10 CFR 50.75(h)(5) for “any licensee that as of December 24, 2003, has existing license conditions relating to decommissioning trust agreements, so long as the licensee does not elect to amend those license conditions.” This exemption applies to Zion because of the License Conditions that were put in place in 2000.

In its 2002 rulemaking which adopted the specific regulations to govern decommissioning trust agreements, the NRC explained that “Licensees will be able to decide for themselves whether they prefer to keep or eliminate their specific license conditions.” 67 FR 79332, 79339 (Dec. 24, 2002). To support the option to amend and eliminate these license conditions, the Commission has made a generic determination in 10 CFR 50.75(h)(4) that a license amendment which does no more than delete specific license conditions relating to the terms and conditions of decommissioning trust agreements involves “no significant hazards consideration.”

### **4.0 REGULATORY REQUIREMENTS AND GUIDANCE**

10 CFR 50.75(h)(5) provides that licensees with existing license conditions relating to decommissioning trust agreements may be amended to conform to the requirements of paragraph (h):

“(5) The provisions of paragraphs (h)(1) through (h)(3) of this section do not apply to any licensee that as of December 24, 2003, has existing license conditions relating to decommissioning trust agreements, so long as the licensee does not elect to amend those license conditions. If a licensee with existing license conditions relating to decommissioning trust agreements elects to amend those conditions, the license amendment shall be in accordance with the provisions of paragraph (h) of this section.”

10 CFR 50.75(h)(4) provides that a license amendment to delete specific license conditions relating to decommissioning trust agreements involves “no significant hazards consideration”:

“(4) Unless otherwise determined by the Commission with regard to a specific application, the Commission has determined that any amendment to the license of a utilization facility that does no more than delete specific license conditions relating to the terms and conditions of decommissioning trust agreements involves “no significant hazards consideration.”

This indicates that Zion License Conditions 2.C.(14) may be deleted. The decommissioning trust agreements will then be controlled by the equivalent requirements of 10 CFR 50.75 (h)(1) through (h)(3).

**5.0 TECHNICAL ANALYSIS**

There are no design or operational nuclear safety technical issues involved in this proposal. The change involves implementation of administrative requirements promulgated by the Commission’s rule making, as written.

**6.0 REGULATORY ANALYSIS**

The table below summarizes the manner in which the specific requirements of Zion License Condition 2.C(14) are addressed adequately in current regulations.

<b>License Condition 2.C.(14)</b>	<b>Regulatory Requirement of 10 CFR 50.75(h)</b>
(a) The decommissioning trust agreement must be in a form acceptable to the NRC.	Decommissioning trust agreements must be in a form which meets the various NRC requirements of 10 CFR 50.75(h).  The Zion <i>Solutions</i> trust agreement was reviewed by NRC prior to transfer of the operating licenses on September 1, 2010 (Reference 2).

<p>(b) With respect to the decommissioning trust fund, investments in the securities or other obligations of EnergySolutions, LLC or affiliates thereof, or their successors or assigns are prohibited. Except for investments tied to market indexes or other non-nuclear sector mutual funds, investments in any entity owning one or more nuclear power plants are prohibited.</p>	<p>§50.75(h)(1)(i)</p> <p>The trustee, manager, investment advisor, or other person directing investment of the funds:</p> <p>(A) Is prohibited from investing the funds in securities or other obligations of the licensee or any other owner or operator of any nuclear power reactor or their affiliates, subsidiaries, successors or assigns, or in a mutual fund in which at least 50 percent of the fund is invested in the securities of a licensee or parent company whose subsidiary is an owner or operator of a foreign or domestic nuclear power plant. However, the funds may be invested in securities tied to market indices or other non-nuclear sector collective, commingled, or mutual funds, provided that this subsection shall not operate in such a way as to require the sale or transfer either in whole or in part, or other disposition of any such prohibited investment that was made before the publication date of this rule, and provided further that no more than 10 percent of trust assets may be indirectly invested in securities of any entity owning or operating one or more nuclear power plants.</p>
---	---

<p>(c) The decommissioning trust agreement for Zion, Unit 1 (<i>and Unit 2</i>), must provide that no disbursements or payments from the trust shall be made by the trustee unless the trustee has first given the Director of the Office of Nuclear Reactor Regulation 30 days prior written notice of payment. The decommissioning trust agreement shall further contain a provision that no disbursements or payments from the trust shall be made if the trustee receives prior written notice of objection from the NRC.</p>	<p>§50.75(h)(1)(iv)</p> <p>Except for withdrawals being made under § 50.82(a)(8) or for payments of ordinary administrative costs (including taxes) and other incidental expenses of the fund (including legal, accounting, actuarial, and trustee expenses) in connection with the operation of the fund, no disbursement or payment may be made from the trust, escrow account, Government fund, or other account used to segregate and manage the funds until written notice of the intention to make a disbursement or payment has been given to the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, or Director, Office of Nuclear Material Safety and Safeguards, as applicable, at least 30 working days before the date of the intended disbursement or payment. The disbursement or payment from the trust, escrow account, Government fund or other account may be made following the 30-working day notice period if the person responsible for managing the trust, escrow account, Government fund, or other account does not receive written notice of objection from the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, or Director, Office of Nuclear Material Safety and Safeguards, as applicable, within the notice period. Disbursements or payments from the trust, escrow account, Government fund, or other account used to segregate and manage the funds, other than for payment of ordinary administrative costs (including taxes) and other incidental expenses of the fund (including legal, accounting, actuarial, and trustee expenses) in connection with the operation of the fund, are restricted to decommissioning expenses or transfer to another financial assurance method acceptable under paragraph (e) of this section until final decommissioning has been completed. After decommissioning has begun and withdrawals from the decommissioning fund are made under § 50.82(a)(8), no further notification need be made to the NRC.</p>
---	--

<p>(d) The decommissioning trust agreement must provide that the agreement cannot be amended in any material respect without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.</p>	<p>§50.75(h)(1)(iii)</p> <p>The trust, escrow account, Government fund, or other account used to segregate and manage the funds may not be amended in any material respect without written notification to the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, or Director, Office of Nuclear Material Safety and Safeguards, as applicable, at least 30 working days before the proposed effective date of the amendment. The licensee shall provide the text of the proposed amendment and a statement of the reason for the proposed amendment. The trust, escrow account, Government fund, or other account may not be amended if the person responsible for managing the trust, escrow account, Government fund, or other account receives written notice of objection from the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, or Director, Office of Nuclear Material Safety and Safeguards, as applicable, within the notice period; and</p>
<p>(e) The appropriate section of the decommissioning trust agreement shall state that the trustee, investment advisor, or anyone else directing the investments made in the trust shall adhere to a "prudent investor" standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations.</p>	<p>§50.75(h)(1)(i)</p> <p>The trustee, manager, investment advisor, or other person directing investment of the funds:</p> <p>(B) Is obligated at all times to adhere to a standard of care set forth in the trust, which either shall be the standard of care, whether in investing or otherwise, required by State or Federal law or one or more State or Federal regulatory agencies with jurisdiction over the trust funds, or, in the absence of any such standard of care, whether in investing or otherwise, that a prudent investor would use in the same circumstances. The term "prudent investor," shall have the same meaning as set forth in the Federal Energy Regulatory Commission's "Regulations Governing Nuclear Plant Decommissioning Trust Funds" at 18 CFR 35.32(a)(3), or any successor regulation.</p>

## 7.0 NO SIGNIFICANT HAZARDS CONSIDERATION

The proposed change does no more than delete specific license conditions relating to the terms and conditions of decommissioning trust agreements. As such, the proposed amendments fall within the "generic" determination by the Commission in 10 CFR 50.75(h)(4) that such an amendment does not normally involve any significant hazards consideration:

"(4) Unless otherwise determined by the Commission with regard to a specific application, the Commission has determined that any amendment to the license of a utilization facility that does no more than delete specific license conditions relating to the terms and conditions of decommissioning trust agreements involves "no significant hazards consideration."

According to 10 CFR 50.92, "Issuance of amendment," paragraph (c), a proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated; or
2. Create the possibility of a new or different kind of accident from any accident previously evaluated; or
3. Involve a significant reduction in a margin of safety.

In further support of this determination regarding the proposed license amendments, an evaluation of the three criteria set forth in 10 CFR 50.92 is provided below.

**1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?**

Response: No

The proposed amendments alter the requirements for the decommissioning trust fund. These revisions of the financial assurance requirements do not involve any changes to any structures, systems or components (SSCs) or any method of operation, maintenance or testing. The proposed amendments will continue to provide assurance that adequate decommissioning funding is maintained. Changes to the terms of the trust fund will not alter previously evaluated Defueled Safety Analysis Report (DSAR) design basis accident assumptions, add any accident initiators, or affect the function of the plant SSCs as to how they are operated, maintained, modified, tested, or inspected.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

**2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?**

Response: No

Implementation of the proposed changes to decommissioning trust fund requirements will have no impact upon the design function of any SSC. Modifying the precise language of the administrative controls on the fund in the trust agreement does not result in the need for any new or different DSAR design basis accident analyses. It does not introduce new equipment that could create a new or different kind of accident, and no new equipment failure modes are created. As a result, no new accident scenarios, failure mechanisms, or limiting single failures are introduced as a result of the proposed amendments.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

**3. Does the proposed change involve a significant reduction in a margin of safety?**

Response: No

The margin of safety is associated with the confidence in the ability of the fission product barriers to limit the level of radiation to the public. The proposed amendments would not alter any SSC functions and would not alter the way the plant is operated. The amendments do not alter the way in which financial assurance for decommissioning is achieved. The proposed amendments would not introduce any new uncertainties associated with any safety limit. The proposed amendments would have no impact upon the structural integrity of the fuel cladding or any other barrier to fission product release. There would be no reduction in the effectiveness of the fission product barriers to limit the level of radiation to the public.

Therefore, the proposed change does not involve a significant reduction in the margin of safety.

## **8.0 ENVIRONMENTAL EVALUATION**

The proposed change is confined to (i) changes to surety, insurance, and/or indemnity requirements, or (ii) changes to recordkeeping, reporting or administrative procedures or requirements. Accordingly, the proposed change meets the eligibility criterion for categorical exclusion set forth in 10 CFR 51.22 "Criterion for categorical exclusion; identification of licensing and regulatory actions eligible for categorical exclusion or otherwise not requiring review" paragraph (c)(10). Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the proposed change.

## **9.0 PRECEDENT**

We are aware of no similar licensing actions.

## 10.0 REFERENCES

- 1) Letter from Donna M. Skay (NRC) to Oliver D. Kingsley (Exelon Generation Group) , "Braidwood, Byron, Dresden, LaSalle, Quad Cities and Zion - Orders Approving Transfer of Licenses from Commonwealth Edison Company to Exelon Generation Company, LLC, and Approving Conforming Amendments," dated August 3, 2000
- 2) Letter from John B. Hickman (NRC) to John A. Christian (*ZionSolutions*), "Issuance of Conforming Amendments Relating to Zion Nuclear Power Station Units 1 and 2," dated September 1, 2010

Attachment 2

Markup of ZNPS 1 License Pages

REVISED LICENSE PAGES

Page 5

Page 6

- (8) Deleted.
- (9) Deleted.
- (10) Deleted.
- (11) Deleted.
- (12) ZS shall provide the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from ZS to its direct or indirect parent, or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding ten percent (10%) of ZS's consolidated net utility plant, as recorded on ZS's books of account.

Deleted.

- (13) Deleted.
- (14) ~~The decommissioning trust agreement for Zion, Unit 1, at the time the transfer of the unit to ZS is effected and thereafter, is subject to the following:
  - (a) The decommissioning trust agreement must be in a form acceptable to the NRC.
  - (b) With respect to the decommissioning trust fund, investments in the securities of other obligations of Energy Solutions, LLC or affiliates thereof, or their successors or assigns are prohibited. Except for investments tied to market indexes or other non-nuclear sector mutual funds, investment in any entity owning one or more nuclear power plants are prohibited.
  - (c) The decommissioning trust agreement for Zion, Unit 1, must provide that no disbursements or payments from the trust shall be made by the trustee unless the trustee has first given the Director of the Office of Nuclear Reactor Regulation 30 days prior written notice of payment. The decommissioning trust agreement shall further contain a provision that no disbursements or payments from the trust shall be made if the trustee receives prior written notice of objection from the NRC.
  - (d) The decommissioning trust agreement must provide that the agreement cannot be amended in any material respect without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.~~

~~(e) The appropriate section of the decommissioning trust agreement shall state that the trustee, investment advisor, or anyone else directing the investments made in the trust shall adhere to a "prudent investor" standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations.~~

(15) ZS shall take all necessary steps to ensure that the decommissioning trust is maintained in accordance with the application for approval of the transfer of the Zion, Unit 1, license and the requirements of the Order approving the transfer, and consistent with the safety evaluation supporting the Order.

3. This amended license is issued without prejudice to subsequent licensing action which may be taken by the Commission.
4. This license is effective as of the date of issuance and shall expire at midnight on April 6, 2013.

FOR THE ATOMIC ENERGY COMMISSION

Original Signed by Roger S. Boyd

A. Giambusso, Deputy Director  
For Reactor Projects  
Directorate of Licensing

Date of Issuance: October 19, 1973

Amendment No. 185

Attachment 3

Markup of ZNPS 2 License Pages

REVISED LICENSE PAGES

Page 5

Page 6

- (a) Deleted.
- (b) Deleted.
- (c) Deleted 1-15-81; Am. 58.
- (d) Deleted 1-15-81; Am. 58.
- (e) Deleted 1-15-81; Am. 58.
  
- (8) Deleted.
- (9) Deleted.
- (10) Deleted.
- (11) Deleted.
- (12) ZS shall provide the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from ZS to its direct or indirect parent, or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding ten percent (10%) of ZS's consolidated net utility plant, as recorded on ZS's books of account.
- (13) Deleted.
- (14) ~~The decommissioning trust agreement for Zion, Unit 2, at the time the transfer of the unit to ZS is effected and thereafter, is subject to the following:
  - (a) ~~The decommissioning trust agreement must be in a form acceptable to the NRC.~~
  - (b) ~~With respect to the decommissioning trust fund, investments in the securities or other obligations of EnergySolutions, LLC or affiliates thereof, or their successors or assigns are prohibited. Except for investments tied to market indexes or other non-nuclear sector mutual funds, investment in any entity owning one or more nuclear power plants are prohibited.~~~~

Deleted.

- ~~(c) The decommissioning trust agreement for Zion, Unit 2, must provide that no disbursements or payments from the trust shall be made by the trustee unless the trustee has first given the Director of the Office of Nuclear Reactor Regulation 30 days prior written notice of payment. The decommissioning trust agreement shall further contain a provision that no disbursements or payments from the trust shall be made if the trustee receives prior written notice of objection from the NRC.~~
- ~~(d) The decommissioning trust agreement must provide that the agreement cannot be amended in any material respect without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.~~
- ~~(e) The appropriate section of the decommissioning trust agreement shall state that the trustee, investment advisor, or anyone else directing the investments made in the trust shall adhere to a "prudent investor" standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations.~~
- (15) ZS shall take all necessary steps to ensure that the decommissioning trust is maintained in accordance with the application for approval of the transfer of the Zion, Unit 2, license and the requirements of the Order approving the transfer, and consistent with the safety evaluation supporting the Order.
3. This amended license is issued without prejudice to subsequent licensing action which may be taken by the Commission.
4. This license is effective as of the date of issuance and shall expire at midnight on November 14, 2013.

FOR THE ATOMIC ENERGY COMMISSION

Original Signed by Roger S. Boyd

A. Giambusso, Deputy Director  
for Reactor Projects  
Directorate of Licensing

Date of Issuance: November 14, 1973

Amendment No. 172