

Wednesday, November 3, 2011

Edward L. Williamson
Assistant General Counsel for Operating Reactors
U.S. Nuclear Regulatory Commission
Washington D.C. 20555-0001

Subject : Zion Nuclear Power Station Docket 50-295 License No DPR-48

Dear Mr. Williamson,

Thank you for your recap and sense of direction as covered in your letter to us dated October 28, 2011. We will take the opportunity of reviewing the cited references provided in order to better acquaint our organization with the regulatory details contained in your summary.

While we appreciate the outlined pathway in your letter of how the dedicated trust funds migrate from place to place and the descriptive words "held by" and "holder of" related to the operable dedicated trust funds, **it isn't clear to us who these funds belong to?**

Is it the rate payers or in the present context the current licensee, a non-utility?

Being a local stakeholder and having significant engagement in the Decommissioning process since 2007, we question the wisdom of the NRC regulations that might inform the public two years after the fact in biennial reports that significant amendment changes might have taken place in trust fund agreements or that the NRC subjectively made no objection. Unfortunately, we did not see in the NRC system any notification by the licensee to the NRC as you cite by regulatory reference that they intended to appoint (move to) a trustee/ asset management elsewhere or that there were any proposed called out amendment changes to the previously standing trust agreements. We have noted other notifications of draw downs of capital budgeted project matters based on the 30 day notice regulation.

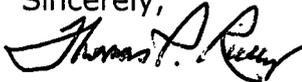
As perspective, during the NRC Decommissioning & License Transfer review period the then licensee (Exelon Generation LLC) and the now present licensee (Zion Solutions LLC) indicated that the proposed decommissioning model as presented should be considered from a public perspective as a positive economic development prospect for the local economy. We concur and suggest as the capital funding of Trust Funds accumulated in the trust came from local rate paying sources entirely that economic development expenditures should remain in the local economy as a fundamental directive. We find this isn't the case and up to 18 people lost their jobs or were marginalized by the dismissal of a local institution in moving trust assets/ management / administration to New York from Chicago.

It is clear that administrative control probably meets the test as being independent and also we gather as you indicate by your letter that the NRC made no objections (reading between the lines) and that no changes were made to the Trust Agreements other than minor changes. As the current licensee has represented at a recent publicly held meeting that these changes were made at the recommendation of outside investment management and as such and based on the logic of your letter that we are communicating about an apples to apples transfer, we can only conclude that the costs of the transaction do not fall in the category of radiological decommissioning costs nor are they ordinary administrative costs as they are redundant and unnecessary. We are passing this view on for review and future consideration not with the idea of initiating corresponding debate.

A declarative answer addressing who owns the Decommissioning Trust balances the rate payers or the non-utility licensee would be appreciated.

Thank you

Sincerely,



Thomas P. Rielly
Executive Principal

Enclosed NRC letter dated October 28, 2011



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

OFFICE OF THE
GENERAL COUNSEL

October 28, 2011

Tom Reilly, Executive Principal
Vista 360°
649 Innsbruck
Liberty, IL 60048

SUBJECT: ZION NUCLEAR POWER STATION

Dear Mr. Reilly:

I am responding to your letter of September 2, 2011, wherein you requested information regarding the Zion nuclear power plant's decommissioning trust funds. You asked:

1. Who owns the Decommissioning Trust Fund balances, the rate-payers or the utility (licensee)?
2. What legal authority does the current and new licensee, Zion Solutions LLC (not a public utility) have in unilaterally appointing and empowering a new trustee and then conveying Decommissioning Trust Fund balances accordingly?

When the operating licenses for Zion Units 1 and 2 were transferred to Zion Solutions, the dedicated decommission trust funds were also conveyed. Prior to the transfer, the funds were held by Exelon, the former owner of Zion. Now the trust funds are held by Zion Solutions. However, NRC regulations place limitations on the use of the decommissioning funds. The restrictions include a requirement that the funds be held outside the administrative control of the licensee, and a prohibition against use of the funds for anything other than radiological decommissioning and ordinary administrative costs. These and other restrictions may be found in 10 C.F.R. (Code of Federal Regulations) §§ 50.75 and 50.82. There is also a regulatory guide, RG 1.159, that gives guidance regarding decommissioning funding. The current version of the regulatory guide, which will be updated, can be found on the NRC website.

The holder of the decommissioning trust funds is permitted to change the trustee, but, under NRC regulations, a licensee that is not an electric utility as defined in 10 C.F.R. § 50.2 must notify the NRC in writing 30 working days prior to the change. In addition, the change cannot be made over NRC objection. See 10 C.F.R. § 50.75(h)(iii). Furthermore, any amendments to the trust agreement, other than minor changes, must be reported in the biennial decommissioning funding report.

T. Reilly

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If you have any additional questions regarding this matter, please do not hesitate to contact this agency.

Sincerely,

A handwritten signature in black ink, appearing to read "Edward L. Williamson for ELW". The signature is fluid and cursive, with the initials "ELW" being particularly prominent at the end.

Edward L. Williamson
Assistant General Counsel
For Operating Reactors
Office of the General Counsel

Docket No. 50-295

License No. DPR-48