

January 13, 2012

Mr. Tom Reilly, Executive Principal
Vista 360°
649 Innsbruck
Libertyville, IL 60048

SUBJECT: ZION NUCLEAR POWER STATION DECOMMISSIONING TRUST FUND

Dear Mr. Reilly:

I am responding to your letter to Edward L. Williamson, Assistant General Counsel, U.S. Nuclear Regulatory Commission (NRC) dated November 3, 2011, in which you requested information regarding the Zion Nuclear Power Station's decommissioning trust funds. You asked if the decommissioning trust funds belong to the rate payers or the licensee. You also commented on the transfer of the decommissioning trust fund from The Northern Trust Company, who held the funds while Exelon was the licensee, to The Bank of New York Mellon, who currently holds the funds for ZionSolutions.

In common law legal systems, a trust is a relationship whereby property (in this case the decommissioning fund) is held by one party (in this case The Bank of New York Mellon) for the benefit of another (in this case ZionSolutions). A trust is created by a settler, who transfers some property to a trustee, who holds that trust property for the benefit of the beneficiaries. The trust is created by an agreement that defines the duties and powers of the trustee. The trustee has legal title to the trust property, but the beneficiaries have equitable title to the trust property (separation of control and ownership). So from a legal perspective, the trust "belongs" to both the beneficiary (ZionSolutions) and the trustee (The Bank of New York Mellon).

However, to answer your question from a common sense perspective, the trust fund "belongs" to ZionSolutions, the license holder of Zion Nuclear Power Station, as they are the only entity that can receive disbursements from the fund. The decommissioning trust is controlled by The Bank of New York Mellon in accordance with the trust fund agreement and NRC regulations. The only context in which a decommissioning trust fund would belong to the rate payers would be if the power plant owner/licensee was itself a municipally owned utility or customer owned cooperative or other similar entity. While the rate payers may have paid the monies that became the decommissioning trust fund, they have no ownership of the fund. To the extent that the rate payers have rights to excess funds that may remain in the decommissioning trust after decommissioning is completed, that is an issue for State regulatory authorities and is outside NRC purview.

Regarding your observation that you did not see notification for the transfer of the trust fund from The Northern Trust Company to The Bank of New York Mellon, the fund was transferred at

T. Reilly

2

the time of license transfer. Since the documentation for the new trustee was provided as part of the license transfer application, no separate notification was provided by the licensee.

If you have any questions, please contact me at (301) 415-3017 or John.Hickman@nrc.gov.

Sincerely,

/RA/

John B. Hickman, Project Manager
Reactor Decommissioning Branch
Decommissioning and Uranium Recovery
Licensing Directorate
Division of Waste Management
and Environmental Protection
Office of Federal and State Materials
and Environmental Management Programs

Docket No.: 50-295 & 50-304

License No.: DPR-39 & DPR-48

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