

REQUEST FOR ADDITIONAL INFORMATION REGARDING
2017 DECOMMISSIONING FUNDING STATUS REPORT
DONALD C. COOK NUCLEAR PLANT UNIT NOS. 1 AND 2
DOCKET NOS. 50-315 AND 50-316

By letter dated March 21, 2017, (Agencywide Documents Access and Management System (ADAMS) Accession No. ML17081A443), Indiana Michigan Power Company (I&M, the licensee) submitted its biennial decommissioning funding status report to the U.S. Nuclear Regulatory Commission (NRC), for Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2 (CNP). The NRC staff has reviewed the submittal, and determined that additional information is necessary in order to complete its review.

Regulatory Basis for Request

Regulatory Requirements

Title 10 of the *Code of Federal Regulations* (10 CFR) 50.2 states that “Decommission” means to remove a facility or site safely from service and reduce residual radioactivity to a level that permits: (1) Release of the property for unrestricted use and termination of the license; or (2) Release of the property under restricted conditions and termination of the license. Therefore, decommissioning, as used in the NRC regulations, refers to radiological decommissioning.

Regulation 10 CFR 50.75 (f)(1) states, in part, that each power reactor licensee shall report, on a calendar-year basis, to the NRC by March 31, 1999, and at least once every 2 years thereafter on the status of its decommissioning funding for each reactor or part of a reactor that it owns. The information in this report must include, at a minimum, the amount of decommissioning funds estimated to be required pursuant to 10 CFR 50.75(b) and (c); the amount of decommissioning funds accumulated to the end of the calendar year preceding the date of the report; a schedule of the annual amounts remaining to be collected; the assumptions used regarding rates of escalation in decommissioning costs, rates of earnings on decommissioning funds, and rates of other factors used in funding projections; any contracts upon which the licensee is relying pursuant to 10 CFR 50.75(e)(1)(v); any modifications occurring to a licensee’s current method of providing financial assurance since the last submitted report; and any material changes to trust agreements.

Regulation 10 CFR 50.75(h)(2) states, in part, that 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 10 CFR 50.75(e) until final decommissioning has been completed.

Enclosure

Regulation 10 CFR 50.75(h)(2) further states that licensees that are “electric utilities” under 10 CFR 50.2 that use prepayment or an external sinking fund to provide financial assurance shall include a provision in the terms of the trust, escrow account, Government fund, or other account used to segregate and manage funds that except for withdrawals being made under 10 CFR 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 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. After decommissioning has begun and withdrawals from the decommissioning fund are made under 10 CFR 50.82(a)(8), no further notification need be made to the NRC.

Regulation 10 CFR 50.54(bb) states, in part, that for nuclear power reactors licensed by the NRC, the licensee shall, within 2 years following permanent cessation of operation of the reactor or 5 years before expiration of the reactor operating license, whichever occurs first, submit written notification to the Commission for its review and preliminary approval of the program by which the licensee intends to manage and provide funding for the management of all irradiated fuel at the reactor following permanent cessation of operation of the reactor until title to the irradiated fuel and possession of the fuel is transferred to the Secretary of Energy for its ultimate disposal in a repository.

Regulatory Guidance

Regulatory Guide 1.184, “Decommissioning of Nuclear Power Reactors” (ADAMS Accession No. ML13144A840), states on page 6:

Funding for spent fuel maintenance and storage required by 10 CFR 50.54(bb) may be commingled in the same trust fund that is used for decommissioning but the licensee must be able to identify and track the amounts in the trust fund applicable for decommissioning activities and the amounts set aside for spent fuel management and other uses. This is because funds collected and set aside in the decommissioning trust for decommissioning are exclusively for radiological decommissioning as defined in 10 CFR 50.2. Therefore, the amount set aside for radiological decommissioning as required by 10 CFR 50.75 should not be used for: (1) the maintenance and storage of spent fuel in the spent fuel pool, (2) the design, construction, or decommissioning of spent fuel dry storage facilities directly related to permanent disposal, (3) other activities not directly related to radiological decontamination, or dismantlement of the facility or site.

Regulatory Issue Summary 2001-07, Revision 1, “10 CFR 50.75 Reporting and Recordkeeping for Decommissioning Planning,” January 8, 2009 (ADAMS Accession No. ML083440158), states:

Recently, the NRC staff has learned that some licensees also reporting under 10 CFR 50.75(f) have provided figures for the accumulation of decommissioning funds that included funds accumulated for purposes other than to meet the NRC's decommissioning requirements. Therefore, the staff is also issuing this RIS to clarify for licensees the need to preserve the distinction between funds accumulated for radiological decommissioning, which licensees are required to report, and funds accumulated for other purposes."

Regulatory Issue Summary 2001-07, Revision 1, also states:

The NRC has not precluded the commingling in a single account of funds accumulated to comply with NRC radiological decommissioning requirements and funds accumulated to address State site restoration costs (State costs) and spent fuel management costs, as long as the licensee is able to identify and account for the NRC radiological decommissioning funds that are contained within its single account. However, NRC staff has learned that some licensees, in response to the requirement that they report the amount of decommissioning funds accumulated to the end of the calendar year preceding the date of the report, have reported as part of that amount funds accumulated to address State costs and spent fuel management costs. Accordingly, NRC staff is clarifying for licensees the need to report radiological decommissioning fund balances that are distinct from amounts accumulated for other purposes, such as paying for State costs and spent fuel management.

Regulatory Issue Summary 2001-07, Revision 0, "10 CFR 50.75(f)(1) Reports on the Status of Decommissioning Funds (Due March 31, 2001)," February 23, 2001 (ADAMS Accession No. ML010300068), states:

In 1999, some licensees reporting under 10 CFR 50.75(f) indicated a combined total and did not distinguish between the radiological and non-radiological estimates. The staff is issuing this RIS to inform licensees of the need to preserve the distinction between NRC-defined cost estimates and all other decommissioning cost estimates in the reports they must submit by March 31, 2001.

RIS 2001-07, Revision 0, also states:

In reporting the financial status of decommissioning funds, licensees should either omit or list separately, the costs of non NRC-defined decommissioning activities, such as dismantling non-radiological systems and structures and the costs of managing and storing spent fuel on site. These non-radiological costs are not counted as part of NRC's required decommissioning funding assurance.

Background

In its decommissioning funding status report dated March 21, 2017, I&M reported significant reductions in the balances of the Decommissioning Trust Fund (DTF)

accounts for CNP, Unit Nos. 1 and 2, from what was previously reported in its decommissioning funding status report dated March 20, 2015 (ADAMS Accession No. ML15084A007). These amounts are as follows.

In 2015, I&M reported the following:

2. The amount accumulated in the fund allocated to radiological decommissioning reflects the market value of the funds accumulated through December 31, 2014, net of all taxes currently due for items included in 10 CFR 50.75(b) and (c) are:

- a. Cook Unit 1 \$537,925,429
- b. Cook Unit 2 \$489,331,963
- c. Total \$1,027,257,392

In 2017, I&M reported the following:

2. The amount accumulated in the fund allocated to radiological decommissioning reflects the market value of the funds accumulated through December 31, 2016, net of all taxes currently due for items included in 10 CFR 50.75(b) and (c) are:

- a. Cook Unit 1 \$459,454,502
- b. Cook Unit 2 \$418,248,246
- c. Total \$877,702,748

The NRC staff review of these submittals (2015 and 2017) revealed end-of-year balances that had been reduced by \$78,470,927 and \$71,083,717 for CNP Unit Nos. 1 and 2, respectively, or \$149,554,644 collectively. The staff notes that market growth during this period of time was approximately 9%. Therefore, the staff expected the DTF balances for CNP, Unit Nos. 1 and 2, to have increased accordingly.

On April 10, 2018, a Category I public meeting was held between the NRC staff and representatives of I&M via teleconference (ADAMS Accession No. ML18109A069). The NRC staff requested that I&M explain whether there had been a withdrawal of funds from the DTF, and if not, explain the decrease in these funds allocated in the trust fund balances dedicated for radiological decommissioning. In response to the staff's question, the licensee affirmed that there had been no withdrawals. The I&M staff stated that the total value of the account had increased, in alignment with overall market conditions, but that the percent allocated for radiological decommissioning had decreased. The licensee explained that the decrease was due to a 2017 site-specific cost study at CNP, which determined that additional funding would be required in the future for spent fuel management. Therefore, I&M had reallocated a percentage of the funds in the DTF, previously allocated for radiological decommissioning, to be used for future maintenance of CNP's independent spent fuel storage installation (ISFSI), pursuant to 10 CFR 50.54(bb). The licensee stated that in preparing its biennial submittal to the NRC, it had followed the guidance provided in RIS 2001-07, Revision 1.

The NRC staff stated that, per the NRC's regulations, funds that have previously been reported as dedicated for radiological decommissioning cannot be repurposed for non-radiological decommissioning purposes such as for spent fuel management. Thus, the

amount of funds reported biennially is generally expected to increase over time unless adversely affected by market conditions. The licensee responded that I&M had not made a disbursement from the account, only reallocated the funds in the account for future spent fuel management expenses.

Requests for Additional Information

RAI 1

As described above, the end-of-year balance in the DTFs reported to the NRC for CNP, Unit Nos. 1 and 2, decreased between 2015 and 2017. During the April 10, 2018, public meeting, I&M indicated that there was no disbursement from the decommissioning fund. Confirm whether the reported decrease of decommissioning funding between 2015 and 2017 was the result of a withdrawal or disbursement from the DTFs for CNP, Unit Nos. 1 and 2.

RAI 2

During the April 10, 2018, public meeting, I&M stated that the reduction in the amount of decommissioning funding reported to the NRC between 2015 and 2017 was due to the reallocation of the DTFs for CNP, Unit Nos. 1 and 2. Specifically, I&M indicated that it repurposed a percentage of the DTFs previously allocated to radiological decommissioning in 2015, to spent fuel management in 2017. Confirm whether funds allocated to radiological decommissioning within the DTFs for CNP, Unit Nos. 1 and 2, as reported to the NRC in 2015, were repurposed in 2017 for use for spent fuel management.

RAI 3

If funds allocated for radiological decommissioning in 2015 were repurposed for spent fuel management, provide the reason for repurposing the funds. In your response, provide the regulatory basis for repurposing funds in the DTFs, including an explanation of why this practice is consistent with NRC regulations and guidance. Indicate whether I&M intends to request a regulatory exemption to use its DTFs for CNP, Unit Nos. 1 and 2, for spent fuel management.

RAI 4

Were funds allocated to radiological decommissioning in 2015 reallocated for any other purpose in 2017? If so, explain why the funds were repurposed.

RAI 5

Assuming funds allocated to radiological decommissioning in 2015 in the DTFs for CNP, Unit Nos. 1 and 2, were repurposed (for any reason), provide the following information: (1) the percentage of the DTF allocated to radiological decommissioning in the 2015 status report; (2) the percentage of the DTF allocated to radiological decommissioning in the 2017 status report; (3) the percentage and dollar amount of decommissioning funding that was repurposed between 2015 and 2017.