

P. Evans



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

August 15, 1979

In reply refer to:  
NTFTM 790815-01

Commissioner Jerome Kurtz  
Internal Revenue Service  
Washington, D. C. 20525

Dear Jerry:

As you may know, I am heading up a Special Inquiry into the accident at Three Mile Island for the Nuclear Regulatory Commission. One of the allegations we are looking into is that the reactor was rushed into service 25 hours before year end in order to qualify for sizeable depreciation deductions and investment tax credits. Implicit in such allegations is the charge that safety had been compromised and, to some degree, this contributed to the March 28th accident.

We are not trying to determine the allowability in General Public Utility's 1978 consolidated income tax return of the deductions and credits at issue nor do we seek from the Internal Revenue Service any details of the taxpayer's return.

Rather, we are quite interested in determining the precise criteria that any utility must meet in order to secure, in a given tax year, the initial depreciation deductions and investment tax credits for a nuclear powered generating unit. With a full understanding of these criteria we can then begin to determine if there was a rush to place the Three Mile Island Unit 2 into service before year end.

We had a very helpful informal conference on August 9th with Jean Dobres of the Interpretative Division with respect to the general applicability of the investment tax credit and the depreciation deduction to nuclear power plants. We would now like to pursue this issue in a more definitive manner with the appropriate Service officials.

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In particular, we are quite interested in an explanation of what is meant by the Service in Rev. Rule 79-98 wherein it is required that "the unit was able to operate at its rated capacity without failure even though undergoing tests to eliminate any defects and demonstrate reliability."

Also we would like to know if a utility's declaration of "commercial operation" for a unit has any bearing on the Service's determination of the propriety of a taxpayer claiming investment tax credits and initial depreciation deductions.

Finally, I would like to request the assistance of a qualified field auditor for a short time (1-3 days) to accompany us when we examine GPU's financial records. The need for this assistance is not to make for determinations but to help us quickly identify and understand the meaning of the company's records.

Since our inquiry must be completed by year end, any assistance your office could give us would be deeply appreciated.

Sincerely,



Mitchell Rogovin, Director  
NRC/TMI Special Inquiry Group