

STATE OF MICHIGAN

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Arthur E. Ellis, Director

April 15, 1994

OFFICE OF SECRETARY
DOCKETING AND SERVICE

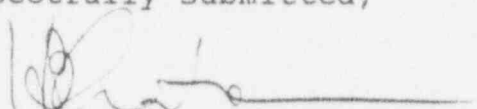
Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
Attn: Docketing and Service Branch

DOCKET NUMBER
PROPOSED RULE PR 50
(59FR 5216)

Dear Secretary:

Enclosed are the comments of the Michigan Public Service Commission Staff on the Draft Policy Statement: Use of Decommissioning Trust Funds Before Decommissioning Plan Approval.

Respectfully submitted,


Hasso C. Bhatia, Ph.D.
Michigan Public Service Commission Staff
Director, Technical Services Division

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Use of Decommissioning Trust Funds
Before Decommissioning Plan Approval;
Draft Policy Statement

No. SP-94-024

COMMENTS OF THE MICHIGAN PUBLIC SERVICE COMMISSION STAFF

I.

INTRODUCTION

In the February 3, 1994 issue of the Federal Register, the U.S. Nuclear Regulatory Commission (NRC), Office of State Programs, published its Draft Policy Statement (SP-94-024), Use of Decommissioning Trust Funds Before Decommissioning Plan Approval. The draft policy statement provides for the filing of comments, the comment period to expire April 19, 1994. In accordance with this procedure, the Michigan Public Service Commission Staff (MPSC Staff) submits the following comments.

The MPSC Staff comments begin by providing background information on the various orders issued by the Michigan Public Service Commission regarding decommissioning trust funds under its jurisdiction and include responses to the Statement of Policy section and to the Criteria section.

II.

DECOMMISSIONING FUNDS IN MICHIGAN

The Michigan Public Service Commission has rate jurisdiction for three utilities owning five operating nuclear units at four plant sites in Michigan. The utilities and plants are Consumers Power Company, (Big Rock Point Plant and Palisades Plant), The Detroit Edison Company (Fermi 2 Nuclear Power Plant), and Indiana Michigan Power Company (Donald C. Cook Nuclear Plant, Units 1 and 2). Eventually the plants will be shutdown, so consideration should be given as to how this Draft Policy Statement could affect their decommissioning.

The external funding of decommissioning costs is provided for in Michigan Public Service Commission orders for these units. The utilities are required to periodically report on the adequacy of the funding. These reports are coincident with or are followed by formal rate requests to revise the amounts that the customers contribute to the funds. The Michigan Public Service Commission has approved settlement agreements and an order based on the record in a contested case for increased funding. The balances in the funds amount to over \$200 million in total and the annual payments total about \$80 million.

III.

SPECIFIC RESPONSES TO THE DRAFT POLICY STATEMENT

A. Statement of Policy

The Statement of Policy in the Draft states in part that:

"The NRC expects that PUCs and FERC will continue to exercise their oversight of utilities' expenditures, including those being paid from decommissioning trust funds, throughout the decommissioning process."

Such a statement thus provides reassurance that the funds are to be used for their intended purpose, with regulatory oversight. To enable this to happen the NRC, Federal Energy Regulatory Commission, and the state utility commissions should seek agreement on decommissioning issues.

B. Criteria

The Draft identifies four criteria to evaluate licensee proposals for early withdrawals from external decommissioning sinking funds. The MPSC Staff believes that the second, third and fourth criteria appear to be reasonable and thus will not comment on them at this time. The MPSC Staff, however, will comment on the first criteria, which is:

"The withdrawals are for expenses for legitimate decommissioning activities as defined in 10 CFR 50.2 that would necessarily occur under most reasonable decommissioning scenarios. Section 10 CFR 50.2 defines 'decommission' as meaning 'to remove (as a

facility) safely from service and reduce residual radioactivity to a level that permits release of the property for unrestricted use and termination of license.'"

The MPSC Staff would note that the decommissioning cost studies filed in support of applications for increased funding amounts have included a growing list of decommissioning activities. For example, two nuclear units in Michigan have had steam generators replaced. The original steam generators are being stored on site and are anticipated to be disposed of when the plant is decommissioned. The costs of disposing of the steam generators and their storage structures are in addition to decommissioning the unit and are included in the utility's decommissioning cost studies. Because Michigan has not had access to a low level radioactive waste (LLRW) disposal facility since 1990, LLRW from plant operations is being stored at the plants. At one plant an additional building has been constructed to store the LLRW. The cost of disposing of the storage building is included in the decommissioning cost studies provided by the utility. The Michigan Public Service Commission has recognized the need to provide funds for the disposal of stored LLRW as part of decommissioning in one of its rate orders regarding decommissioning funding. The trust agreements may need to be modified to include LLRW disposal as an allowable decommissioning cost. In another area of increased responsibility one of the nuclear plants is using on-site dry cask storage for some of its spent nuclear fuel. The estimated cost of disposing of the storage facility is now included in the plant decommissioning cost study that was provided by the utility. Thus each nuclear

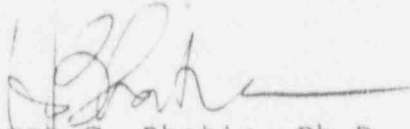
unit may well have unique activities that must be considered as additional tasks of decommissioning the facility. The MPSC Staff believes that these are legitimate activities which can utilize early withdrawal of portions of the decommissioning funds. Withdrawals should be subject to review by the state and federal regulatory commissions.

IV.

SUMMARY

The MPSC Staff generally agrees with the Draft Policy Statement. Nevertheless the MPSC Staff perceives a change in the scope of decommissioning deemed appropriate for funding between the MPSC and the NRC. The NRC now appears to be concerned with decommissioning the facility only as it affects nuclear safety. To the extent that circumstances require that spent nuclear fuel and LLRW continue to be stored in additional facilities at a particular plant, or for other unforeseen requirements that may arise, consideration should also be given to including appropriate estimates of the costs in the site-specific decommissioning cost estimates and increasing the trust fund balances accordingly. The MPSC Staff believes that the overall goal is the restoring the whole site, including nonradioactive structures to the extent that public safety and economic concerns are met. The timing and extent of these decommissioning activities may vary. Thus, the NRC should seek to cooperate as much as possible with the state and federal

regulatory commissions when applying the criteria in the Draft
Policy Statement.



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