

NORTHEAST UTILITIES



THE CONNECTICUT LIGHT AND POWER COMPANY
WESTERN MASSACHUSETTS ELECTRIC COMPANY
HOLYOKE WATER POWER COMPANY
NORTHEAST UTILITIES SERVICE COMPANY
NORTHEAST NUCLEAR ENERGY COMPANY

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August 3, 1989

Docket No. 50-213

50-245

50-336

50-423

B13323

Re: Draft Regulatory Guide

Regulatory Publications Branch
Office of Administration and
Resources Management
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Gentlemen:

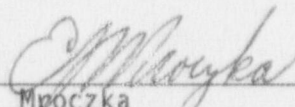
Haddam Neck Plant
Millstone Nuclear Power Station, Unit Nos. 1, 2, and 3
Comments on Draft Regulatory Guide
Assuring the Availability of Funds
for Decommissioning Nuclear Reactors

During May 1989, the Nuclear Regulatory Commission published for public comment, the Draft Regulatory Guide, "Assuring the Availability of Funds for Decommissioning Nuclear Reactors." Connecticut Yankee Atomic Power Company (CYAPCO) and Northeast Nuclear Energy Company (NNECO) hereby respectively submit the attached comments.

We trust that these comments will be useful in finalizing this regulatory guide.

Very truly yours,

CONNECTICUT YANKEE ATOMIC POWER COMPANY
NORTHEAST NUCLEAR ENERGY COMPANY



E. J. Mroczka
Senior Vice President

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U.S. Nuclear Regulatory Commission
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Docket Nos. 50-213

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Haddam Neck Plant
Millstone Nuclear Power Station, Unit Nos. 1, 2, and 3
Comments on the NRC Draft Regulatory Guide
Assuring the Availability of Funds
For Decommissioning Nuclear Reactors

August 1989

Comments on the NRC Draft Regulatory Guide - "Assuring the Availability of Funds for Decommissioning Nuclear Reactors"

Page 3 - Paragraph b.

We recommend the NRC replace the phrase "annually adjust the initial amount..." with "annually adjust the initial certification amount...". This certification amount represents the NRC's decommissioning threshold amount.

Page 13 - Section 1.5.3

This section states that adjustments to decommissioning cost estimates should be made at least once per year for inflation and once every five years for technological and plant status changes.

Although the logistics of computing these adjustments may not be very difficult, this could be a problem if the Northeast Utilities companies do not file for rate increases to account for these adjustments. In this situation, the companies "regulatory allowed" funding levels might fall below the NRC minimum threshold (certification) level. Given the possibility of such scenarios, the NRC should include provisions for licensees collection rates allowed by regulators to come back up to the certification amount within a specified time period (e.g., two years). This could alleviate pressures on licensees to go in for rate cases on an annual basis solely or predominantly for decommissioning reasons.

In addition, we recommend the phrase "frequency of adjustment..." be reworded as "frequency of adjustment of the certification amounts...". This means that we would recalculate the certification amount each year and compare it to the regulatory allowed amounts.

Page 14 - Section 2.1.1

This section states that if more than one licensee owns a facility, there should be a clear indication of the funding provisions made by each licensee. In addition, multiple licensees may pool decommissioning funds for the same facility.

This is interpreted as meaning that NNECO can have, as a licensee and agent for the Millstone units, separate funding plans for each of the licensees (i.e., Connecticut Light & Power Company (CL&P) and Western Massachusetts Electric Company (WMECO)), whose separate funds are pooled for the decommissioning of Millstone 1 and Millstone 2. In addition, NNECO is a licensee and the agent for the Millstone 3 licensees who are contractually obligated to fund to an external trust, those funds required for decommissioning Millstone 3. The aggregate of the individual funds are pooled for the explicit purpose of decommissioning Millstone 3. We recommend that the regulatory guidance be modified to state that each licensee or agent shall be allowed to prepare the funding plans. Further, we believe that the funds for different units should not be pooled. For example, funds for Millstone 1 should be separate from Millstone 2.

Page 15 - Section 2.1.6.3

In light of Section 2.1.6.1, which contemplates a change in the funding method, this section should be clarified by changing the word "The" at the beginning of the section to "An acceptable," or words to the same effect.

Page 15 - Section 2.2.1

This section states that an applicant or licensee using a trust fund should use the recommended words supplied by the NRC to set up the trust.

Each of the Northeast Utilities nuclear units and the Connecticut Yankee Haddam Neck Plant currently has established external trusts. For the most part, the wording of the existing trust agreements are similar to the NRC's recommended wording; however, the NRC places certain restrictions or requirements which we believe are excessive. Specifically, we take exception to the following items proposed by the NRC in its recommended trust wording. Each of these items represents what we feel are inappropriate NRC encroachment on utility/trustee matters.

- 1) Section 5, Paragraph b.(3) which states the NRC be given 30 days prior notice of intent to withdraw funds from the trust.
- 2) Section 5, Third paragraph which requires NRC approval for withdrawals from the trust in excess of a specific amount.
- 3) The portion of Section 6 dealing with investment characteristics. Investment characteristics are covered by Section 468A of the Internal Revenue Code as well as by company specific investment guidelines.
- 4) Section 10 which requires annual trust valuation reports be furnished to the NRC by the Trustee.
- 5) Section 13 which requires 90 days notice to the NRC or State for the Trustee to resign and 90 day notice to the NRC or State and the Trustee for the Grantor to replace the Trustee.
- 6) Section 13 which states the NRC or State must be notified in advance of the date the successor Trustee will become effective.
- 7) Section 15 which requires NRC or State approval in writing of a change in the Trust Agreement.
- 8) Section 16 which requires NRC or State approval to terminate a trust.

Given that the NRC has stated that trust agreements should be set up using the NRC recommended wording, the NRC might not accept trust documents which differ from the recommended wording. Therefore, it is recommended that the NRC "recommendation" on trust agreement wording be deleted or the NRC should grandfather existing trusts such as for the Millstone 1, Millstone 2, Millstone 3, and Haddam Neck plants, which meet the intent of the NRC guidelines.

Page 11 - Section 2.4.1

The words "issuer or provider" in the fifth line are unclear. The appendices including "recommended wording" indicate that the entity drawing on the funds in the event of licensee default will be either the NRC or a State regulatory authority.

We suggest that the words "issuer or provider" be changed to "beneficiary".

Page B-5 - Appendix B.1, paragraph 8

The escrow agent replacement provision in lines 2-5 provides both for 90 and 30 days' prior notice. This seems to be inconsistent.

Page B-26 - Appendix B.5

The words "the bank" and "the financial institution" in the seventh, third, and second lines from the bottom of page B-26 should be replaced with "we".

Page 16 - Section 2.4.5

We recommend the NRC replace the phrase "the total amount remaining to be accumulated,..." with "the total amount remaining to be accumulated based on current decommissioning cost estimates or certification levels,..."

In addition, this section should be renumbered as Section 2.2.5.