(3)

SPIEGEL & MCDIARMID

GEORGE SPIEGEL (1919-1997)

ROBERT C. McDIARMID
ROBERT A. JABLON
JAMES N. HORWOOD
ALAN J. ROTH
FRANCES E. FRANCIS
DANIEL I. DAVIDSON
THOMAS C. TRAUGER
JOHN J. CORBETT
CYNTHIA S. BOGORAD
GARY J. NEWELL
SCOTT H. STRAUSS
BEN FINKELSTEIN
LISA G. DOWDEN
RISE J. PETERS
PETER J. HOPKINS
DAVID E. POMPER

1350 NEW YORK AVENUE, NW
WASHINGTON, DC 20005-4798

WWW.SPIEGELMCD.COM

TELEPHONE (202) 879-4000
FACSIMILE (202) 393-2866
EMAIL SPIEGEL@SPIEGELMCD.COM

Direct Dial (202) 879-4011
EMAIL GARY.NEWELL@SPIEGELMCD.COM

MATTHEW W. WARD
JEFFREY A. SCHWARZ
DAVID B. LIEB
PABLO O. NÜESCH
ANDREA G. LONIAN
*LARISSA A. SHAMRAJ

OF COUNSEL
LEE C. WHITE
SANDRA J. STREBEL
MARGARET A. MCGOLDRICK
P. DANIEL BRUNER
WILLIAM S. HUANG

PUBLIC AFFAIRS DIRECTOR
KENNETH A. BROWN
(NOT A MEMBER OF THE BAR)

*MEMBER OF AK BAR ONLY

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DOCKET NUMBER
PETITION RULE PRM 50-70
(65FR30550)

Ms. Annette Vietti-Cook
Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Attention: Rulemakings and Adjudications Staff

RE: *Eric Joseph Epstein -- Petition for Rulemaking*, Docket No. PRM-50-70

Dear Ms. Vietti-Cook:

Enclosed is an original and seven (7) copies of the Comments of the Publicly Owned Systems Group on the Petition for Rulemaking in this docket. Please time stamp two (2) of the copies and return them to our messenger for our files. The enclosure is a "hard copy" of the Comments which have been electronically filed with the Commission on this date.

Please contact the undersigned if you have any questions concerning the enclosure.

Very truly yours,

Gary J. Newell

GJN:fh

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SECY-02

UNITED STATES OF AMERICA
BEFORE THE
NUCLEAR REGULATORY COMMISSION

Eric Joseph Epstein -- Petition for Rulemaking

Docket No. PRM-50-70

COMMENTS OF THE PUBLICLY OWNED SYSTEMS GROUP IN RESPONSE TO PETITION FOR RULEMAKING

I. INTRODUCTION

On or about January 3, 2000, Eric Joseph Epstein ("Petitioner") filed a petition requesting that the Commission initiate for a formal rulemaking proceeding to amend its financial assurance requirements for the decommissioning of commercial nuclear power reactors. Specifically, the Petitioner requests that NRC amend its financial assurance requirements to: (1) require uniform reporting and recordkeeping by all "proportional owners"[1] of nuclear generating stations; (2) modify and strengthen current nuclear decommissioning accounting requirements for proportional owners; and (3) require proportional owners to conduct a prudency review to determine a balanced formula for decommissioning funding that includes not only ratepayers and taxpayers but shareholders and board members of rural electric cooperatives as well. The Petitioner believes that the proposed amendments are necessary in order to eliminate a claimed funding gap for decommissioning as between nuclear power licensees and proportional

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[1] As the Petitioner uses the term, "proportional owners" are partial owners of nuclear generating stations who are not licensees. However, as explained below, Petitioner is incorrect in his belief that the owner of a partial ownership interest in a nuclear generating unit is not also a licensee of that unit. Therefore, considering the Petition as a whole, it appears that what Petitioner means by "proportional owner" is a partial owner of a nuclear generating unit who is not the *operator* of the unit.

owners of nuclear generating stations. Notice of the filing of the Petition for Rulemaking was published in the Federal Register on May 12, 2000 (65 Fed. Reg. 30550).

The Publicly Owned Systems Group[2] hereby responds in opposition to the Petition for Rulemaking. For the reasons set forth in detail below, the Publicly Owned Systems Group believes that existing financial reporting requirements for the joint owners of nuclear power facilities are sufficient for the Commission to ensure the adequacy of decommission funding. Moreover, Petitioner's claim of a potential "funding gap" is based in large measure on an inaccurate and outdated view of the operative trends affecting the commercial nuclear power industry. In short, Petitioner has not provided support for his claim that the existing regulatory framework is inadequate for the Commission to discharge its responsibilities. Accordingly, the Petition for Rulemaking should be dismissed in its entirety.

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[2] The members of the Publicly Owned Systems Group are listed on Appendix A to these comments.

II. PERSONS DESIGNATED FOR SERVICE

Correspondence concerning this matter should be directed to the following counsel for the Publicly Owned Systems Group:

Gary J. Newell
Spiegel & McDiarmid
Suite 1100
1350 New York Avenue, N.W.
Washington, D.C. 20005-4798
Telephone: (202) 879-4000
Facsimile: (202) 393-2866
E-mail: gary.newell@spiegelmcd.com

It is requested that the foregoing counsel be included on the service list for all formal issuances and correspondence concerning this docket.

III. ARGUMENT

A. The Petitioner Has Not Demonstrated a Need for the Revision of Existing Regulations or for the Adoption of New Regulations.

1. Current Regulations Provide the Commission with Sufficient Information Concerning the Adequacy of Decommissioning Funding.

The Petition in this docket proceeds from several premises that are fundamentally incorrect. These include: (i) the view that the circumstances of one nuclear generating station (Susquehanna) and its co-owners (Pennsylvania Power & Light Company and Allegheny Electric Cooperative), even if properly characterized in the Petition, are characteristic of the nuclear power industry as a whole; and (ii) the belief that State governmental authorities are not taking an active role in ensuring the adequacy of decommissioning funding. However, there is a third incorrect premise that has central importance in the Petition: the belief that minority owners of nuclear power plants are not subject to the decommissioning funding reporting requirements to the same extent as

other licensees. This premise leads the Petitioner to conclude that there is a gap in the regulatory framework for decommissioning financial assurance which must be filled. That conclusion, like the premise from which it proceeds, is erroneous.

Contrary to Petitioner's claim, the fact is that non-operating owners *are* subject to the Commission's reporting requirements for decommissioning funding. Consequently, the existing regulations already provide the Commission with sufficient information concerning the adequacy of decommissioning funding by "proportional owners."

In discussing the Commission's existing regulations governing the reporting and recordkeeping for decommissioning planning (10 C.F.R. § 50.75), the Petitioner appears to confuse the portion that imposes the financial reporting requirements with the portion that specifies the means by which decommissioning financial assurance must be furnished. Thus, the Petitioner correctly recognizes that, in specifying certain of the financial requirements applicable to "electric utilities," the Commission has defined that term to include public utility districts, municipalities, rural electric cooperatives, and state and federal agencies.[3] In addition, in its regulations specifying the acceptable means for providing decommissioning financial assurance, the Commission included within the category of licensees that recover projected decommissioning expenses through cost of service ratemaking "[p]ublic utility districts, municipalities, rural electric cooperatives, and State and Federal agencies, including associations of any of the foregoing, that establish their own rates and are able to recover their cost of service allocable to decommissioning ...." 10 C.F.R. § 50.75(e)(1)(ii)(A). Through this approach, the

Commission allowed the listed self-regulated entities to utilize the external sinking fund method for setting aside decommissioning funds, rather than requiring them to use other more stringent funding methods such as prepayment, insurance or surety bond.

The Petitioner incorrectly believes, however, that this definitional accommodation somehow created a blanket exemption for self-regulated entities from the entire regulatory framework for decommissioning reporting and recordkeeping. Thus, after discussing the inclusion of these entities in the definition of "electric utility," the Petitioner states that "the NRC created a legal loophole for proportional owners and Rural Electric Cooperatives by limiting reporting and record keeping requirements to 'power reactor licensees;' thus enabling partial owners to be free from Nuclear Regulatory Commission scrutiny." Petition at Part II.A.

The Petitioner's confusion appears to stem in some measure from his reliance on the Commission's Notice of Proposed Rulemaking for decommissioning financial assurance, rather than on the regulations actually adopted by the Commission.[4] In any event, what the Petitioner appears to misunderstand is that 10 C.F.R. § 50.75 does *not* grant to self-regulated entities a blanket exemption from the regulatory requirements for decommissioning reporting and recordkeeping. To the contrary, the requirement for biennial reporting on the status of decommissioning funding is, by its express terms, applicable to "each power reactor licensee." 10 C.F.R. § 50.75(f)(1). The owners of

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[3] *See* 10 C.F.R. § 50.2.

[4] *See* Part II.A of the Petition, where the Petitioner discusses the portion of the Notice of Proposed Rulemaking in which the Commission had proposed to modify the definition of "electric utility" set forth in

[Footnote continued on following page]

"proportional" interests in nuclear generating units are licensees of those units, just as are the operating owners of those units. In fact, the Commission has interpreted the Atomic Energy Act as requiring that, when any ownership interest in a nuclear generating unit is transferred to a new owner, an application for amendment of the license must be submitted so as to include the new owner as a licensee.[5] This requirement applies regardless of the size of the ownership interest being conveyed to the new owner. Moreover, the Commission has stated that it views all co-owners as co-licensees who are responsible for complying with the terms of the relevant licenses.[6]

Accordingly, the Petitioner is wrong in his belief that self-regulated entities are exempt from the Commission's reporting and recordkeeping requirements for nuclear decommissioning funding. All licensees, including so-called "proportional owners," are subject to the existing regulations governing decommissioning recordkeeping and reporting. Since their initial adoption, those regulations have been refined through notice and comment rulemaking to address various changes in the commercial nuclear power industry, including some of the same industry developments discussed in the Petition. As a result, the existing regulations already provide the Commission with sufficient information to evaluate the adequacy of decommissioning funding, including funding by

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10 C.F.R. § 50.2. That approach ultimately was not incorporated in the regulations adopted by the Commission.

[5] *Public Service Co. of New Hampshire (Seabrook Station Units 1 and 2)*, 7 N.R.C. 1, 22 (1978), *citing* Section 184 of the Atomic Energy Act, 42 U.S.C. § 2234.

[6] *See* "Final Policy Statement on a Restructuring and Economic Deregulation of the Electric Utility Industry," 62 Fed. Reg. 44071, 44077 (1970), *citing Public Service Company of Indiana, Inc. (Marble Hill Nuclear Generating Station, Units 1 and 2)*, ALAB-459, 7 N.R.C. 179, 200-201 (1978).

"proportional owners." The Petition provides no valid reason for further supplementing or revising those regulations.

2. There is No Basis for Petitioner's Assertion that the Funding of Decommissioning by "Proportional Owners" is Flawed.

The principal thrust of the Petition is that the decommissioning funding mechanism applicable to "proportional owners" is flawed. As the Commission summarized the Petitioner's position in its notice of the filing of the Petition for Rulemaking:

> The Petitioner states that the proportional owners are not required to submit periodic cost projections, conduct site-specific studies, or coordinate with the power reactor licensee. Also, the Petitioner states that proportional owners are not mandated by the NRC to verify, report or monitor record keeping relating to nuclear decommissioning funding mechanisms.

65 Fed. Reg. at 30550.

As noted above, the Petitioner's contention that proportional owners are exempt from providing decommissioning funding information to the NRC springs from the mistaken belief that proportional owners are not "licensees." However, quite apart from this erroneous premise, the Petitioner also appears to believe that self-regulated entities such as municipal and cooperative joint owners are exempt from any sort of oversight that might ensure that these entities are actively funding decommissioning to an appropriate level.

Any claim that self-regulated entities operate free from any oversight of their decommissioning funding practices would be groundless. First, as noted above, self-regulated entities indeed *are* subject to the regulations requiring the biennial submission

of decommissioning funding reports. As a result, the decommissioning funding practices of self-regulated entities are subject to the Commission's direct review of such matters. Furthermore, the Commission has indicated its willingness to address and resolve any problems revealed by those reports in the amount or method of decommissioning funding utilized by the reporting parties.[7]

Second, it appears that, in many instances, self-regulated entities that are minority owners of nuclear units fund their decommissioning obligations at least to the same target level as the plant's majority owners, whose decommissioning plans typically are subject to direct review by ratemaking authorities. As an example, North Carolina Municipal Power Agency No. 1, a municipal joint action agency which is a co-owner with Duke Power Company of the Catawba Nuclear Station, utilizes the same decommissioning cost estimate as Duke itself in funding its decommissioning obligation. Similarly, North Carolina Eastern Municipal Power Agency (also a municipal joint action agency) uses the same decommissioning funding target as Carolina Power & Light Company for the nuclear units that they jointly own. Since the funding targets adopted by Duke and CP&L are subject to review by rate regulatory authorities, this practice results in what may be considered an indirect form of oversight over the decommissioning funding target amounts utilized by the municipal co-owners.

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[7] For example, the Commission's regulations permit self-regulated entities to finance projected decommissioning expenditures through an external sinking fund only to the extent that they are "able to recover their costs of service allocable to decommissioning" through their self-established rates. 10 C.F.R. § 50.75(e)(1)(A). In circumstances where that is not the case, the external sinking fund method of financing decommissioning costs may not be available, and the self-regulated entity may be forced to adopt more stringent decommissioning funding approaches such as prepayment, surety bond, or insurance. The

[Footnote continued on following page]

Finally, the notion that self-regulated entities have unfettered discretion to fund their decommissioning obligations to whatever level they like is undercut by the NRC's own review of the decommissioning funding reports submitted in March 1999 pursuant to 10 C.F.R. § 50.75(f). The NRC's review of those reports (including the reports submitted by self-regulated entities) indicated that "all power reactor licensees appear to be on track to fund decommissioning by the time that they permanently shut down their units."[8]

The Commission has full authority under existing regulations to monitor the level of decommissioning funding by self-regulated entities and other licensees. The Commission also has indicated its willingness to address any problems it may identify in the funding mechanisms and target amounts being utilized. In light of these considerations and the other factors noted above, the Petitioner's claim that self-regulated entities are free to underfund their share of decommissioning costs is without basis.

3. The Industry Developments Discussed by Petitioner Do Not Support the Claim of an Impending Shortfall in Decommissioning Funding.

The Petitioner also cites a number of purported developments in the commercial nuclear power industry as support for his claim that there is a danger of decommissioning expenses being underfunded, with a resulting shift of cost responsibility to the public at

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regulatory mechanism thus ensures that the methods of decommissioning funding used by self-regulated entities are appropriate in relation to their ability to collect projected decommissioning costs through rates.

[8] *See* "Summary of Decommissioning Funds Status Reports," SECY-99-170 (July 1, 1999) at 2. In the one instance of a minority owner municipal licensee that was accumulating a small portion of its decommissioning funds in an internal reserve, the NRC Staff noted that the licensee "appears to be on track with its external funds and may intend to convert the internal funds to external as part of its future collections." The report further noted that the NRC Staff was working with the project managers of the affected plant to obtain additional information and "where appropriate, require corrective action." *Id.* at 3.

large. However, the Petitioner's claims with respect to industry developments do not bear up under scrutiny.

First, the Petitioner claims that the site-specific decommissioning cost projections used by nuclear power plant licensees are too low. The Petitioner cites specifically to the decommissioning cost projections prepared by TLG Engineering and presented in regulatory proceedings by its principal, Mr. Thomas LaGuardia. Petition at Part II.B. The Petitioner's claim is ironic since Mr. LaGuardia's site-specific decommissioning cost estimates have been challenged in a number of proceedings as *excessive,* based on arguments that his estimates reflect (among other things) substantial contingency factors, no allowance for the potential salvage value of plant components, and no meaningful adjustment for increased efficiencies resulting from the accumulation of experience and the development of new technologies in decommissioning. In any event, Petitioner's argument is beside the point because the Commission's regulations require that even site-specific cost estimates used for decommissioning funding purposes must meet specified minimum levels of adequacy that were developed from *generic* cost estimates. *See* 10 C.F.R. § 50.75(c).

The second factor cited by the Petitioner as a basis for his concern about underfunding is the possible premature shutdown of nuclear generating plants. In support of his contention in this regard, the Petitioner cites several plants (principally demonstration and early generation plants) that were shut down prior to the end of their projected operating lives. However, even if this were true in the past, more recent history shows that an increasing number of nuclear generating units have been the subject of applications for *extension* of their operating licenses beyond the originally projected life.

Thus, twenty-year license extensions have been granted by the Commission to the Calvert Cliffs and Oconee Stations, and it has been reported that, as of June 20, 2000, the owners of twenty-six reactors at sixteen plants had notified the NRC that they intend to seek twenty-year license extensions.[9] Indeed, the demand for license extensions appears to be of sufficient magnitude that two companies with extensive nuclear experience (Entergy Nuclear and Framatome Technologies) recently have announced their intention to market license renewal services in the United States.[10] Therefore, it appears that, if anything, the prospect is that nuclear plants will operate substantially *beyond* their initially projected license lives rather than for shorter periods.[11]

Third, with respect to the Petitioner's claim that decommissioning accruals may not be sufficient to cover the cost of spent nuclear fuel disposal, the Commission's regulations already require licensees to provide information about their plans for interim fuel storage following shutdown, including how it will be funded. *See* 10 C.F.R. § 50.54(bb). Presumably, this information would permit the Commission to take appropriate action if it determined that sufficient provision for funding of interim storage had not been made. Furthermore, a number of utility companies and other licensees have actively pursued financial recovery from the Department of Energy for DOE's failure to

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[9] "PSC Staff Tries to Cut Entergy Nuclear Charge," *Electricity Daily*, June 30, 2000, at 2.

[10] "Entergy, Framatome Enter License Renewal Market," *Electricity Daily*, June 27, 2000, at 2.

[11] Even if the Petitioner's recitation of premature shutdowns were considered reflective of the industry's future, the recitation would not support his further claim of a risk of underfunding. The NRC observed in 1999 that, even in identified instances of premature plant shutdown, provision for adequate decommissioning funding had been made. *See* June 15, 1999 letter to Senator Fred Thompson, Chairman, Committee on Governmental Affairs, from NRC Chair Shirley Ann Jackson, and Enclosure 1 thereto. The letter was written to provide NRC's response to a May, 1999 General Accounting Office report that expressed GAO's concern about the adequacy of decommissioning funding requirements.

begin taking delivery of spent nuclear fuel on January 31, 1998, as was statutorily and contractually required. At least one group of claimants was held to have a cognizable claim for recovery against DOE in the United States of Federal Claims.[12] Other utility companies and licensees have pursued a range of options (*e.g.*, development of private repositories) aimed at mitigating spent fuel disposal costs in light of DOE's failure to begin receiving spent fuel in a timely manner. Such recovery or mitigation should operate to reduce any addition to decommissioning costs attributable to DOE's breach of its obligation to begin taking spent fuel on January 31, 1998.

Finally, the Petitioner's contentions with respect to underfunding fail to take account of the active involvement of state governments which, by and large, have been vigilant in ensuring that adequate decommissioning funding is maintained, even in deregulated electricity markets. Thus, as noted in the NRC's 1999 discussion of decommissioning funding adequacy, a number of state legislatures have adopted non-bypassable wires charges as part of their plan for deregulating retail electricity markets in order to ensure that a source of revenues for decommissioning funding is preserved in the competitive market framework.[13] There is no reason to anticipate that

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[12] *Yankee Atomic Electric Co. v. United States.*, 42 Fed. Cl. 223 (Ct. Cl. 1998), *appeal pending; see also Connecticut Yankee Atomic Power Co. v. United States,* 42 Fed. Cl. 448 (1998) and *Maine Yankee Atomic Power Co. v. United States*, 42 Fed. Cl. 582 (1998).

[13] *See* Enclosure 1 to the June 15, 1999 letter from NRC Chair Jackson to Senator Fred Thompson, *supra* note 11, at 2, stating (emphasis in original):

> [T]he NRC's experience to date with States that have implemented restructuring programs indicates that <u>each</u> of these States has recognized the importance of assuring recovery of decommissioning costs and has implemented, or indicated its intention to implement, an assured source of cost recovery for decommissioning from ratepayers through mechanisms such as non-bypassable wires charges.

state governments will become more lax in the future, or that they are likely to otherwise permit inadequate funding of decommissioning with the attendant adverse impacts on the public health and safety in their respective states.

It is therefore clear that the Petitioner's claims about underfunding are based on an incorrect perception of operative trends in the commercial nuclear power industry. Moreover, the Commission's existing regulations cover both the required *amount* of decommissioning funding and the allowable assurance mechanisms,[14] thereby greatly ameliorating any risk of underfunding.

B. The NRC Lacks the Statutory Authority to Impose Certain of the Remedies Sought by Petitioner.

Petitioner recommends that proportional owners of nuclear plants be required to conduct a "prudency review in order to determine a balanced formula for decommissioning funding involving rate payers and/or tax payers and shareholders and/or Board Members of Rural Electric Cooperatives." Petition at Part I. While the precise nature of the "prudency review" proposed by the Petitioner is unclear, the recommendation appears related to the Petitioner's view that shareholders and Board members of electric utilities and cooperatives should bear the financial burden of any shortfall in decommissioning funding. Thus, the Petitioner argues as follows:

> While the power reactor licensees are entitled to recover a portion of decommissioning funding through the rate and tax relief processes, they are not entitled to a full and complete rebate on "stranded investments" and shortfalls that will certainly arise [due to] the underfunding of nuclear decommissioning "funding targets." Shareholders and

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[14] *Id.*, at 5.

> Board Members of electric utilities and Rural Electric Cooperatives must assume responsibility for their business decisions. These aforementioned entities aggressively sought to license, construct, and operate nuclear power plants. To allow artificial definitions concerning ownership of nuclear generating stations to insulate those who cogently made capital investments is immoral, unethical, and an endorsement of corporate socialism. That is, shareholders profit from imprudent investment decisions and are accorded relief when error of mismanagement becomes manifest.

Petition at Part IV.

As discussed above, the Petitioner's belief that decommissioning costs will be underfunded is based on fundamental misconceptions about the scope of existing regulations and about operative trends in the nuclear power industry. Nevertheless, even if the Petitioner's premises were accepted, it is clear that the relief he requests is beyond the NRC's statutory authority.

Petitioner believes the Commission should instruct minority owners to establish a "cost sharing" formula for allocating decommissioning cost shortfalls among ratepayers, stockholders, taxpayers and Board members of electric cooperatives. The premise of his request is that stockholders of investor-owned entities and Board members of electric cooperatives should share in the cost of decommissioning. However, prudently forecasted decommissioning costs have long been recognized as a legitimate expense to be recovered through a utility company's charges to its ratepayers. Any attempt by the Commission to mandate a shifting of these costs to stockholders or cooperative Board members would be subject to reversal on a number of substantial legal grounds.

It also is unclear from the Petition just how far the Petitioner would reach in attempting to impose liability for decommissioning cost shortfalls. For example, a

number of municipalities purchase a share of the output of designated nuclear generating facilities under life-of-the-unit entitlement contracts. These municipalities are neither owners of the units in question, nor are they licensees under the applicable license. Likewise, they do not fund decommissioning directly, but instead bear a share of decommissioning costs through the rates they pay for their unit output entitlements. To the extent that the Petitioner's recommendation would impose additional liability on such entities (or their governing boards) for any shortfall in decommissioning accruals, such an action would be unlawful on a number of grounds -- not the least of which is that such a result would violate the contractual allocation of cost responsibility.

Finally, adoption of the "cost sharing formula" proposed by Petitioner, even if it were assumed to be warranted, would be in the nature of an internal managerial decision that the NRC lacks the authority to mandate. Congress has not charged the Commission with responsibility for micromanaging the internal financial decisionmaking of every entity that owns a portion of a nuclear plant. While the Commission's mandate of protecting the public health and safety may encompass a duty to ensure the adequacy of decommissioning funding, the specific allocation of decommissioning cost responsibility (as between ratepayers, taxpayers, stockholders, board members, etc.) is a matter for corporate management and rate regulatory authorities.[15] To be sure, the NRC lacks the

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[15] The NRC historically has viewed the determination of a specific decommissioning funding schedule to be a matter for the appropriate rate regulatory authorities (for utilities subject to rate regulation). The determination of the portion of decommissioning cost to be borne by ratepayers (versus other stakeholders) is also a matter for the appropriate rate regulatory authorities (or for the licensee in the case of self-regulated entities such as many municipal and cooperative owners).

statutory authority to mandate any particular allocation of decommissioning costs as among these entities.

In short, the Petitioner's recommendation that the Commission require "prudency reviews" from proportional owners, to the extent it is defined in the Petition, appears well beyond the scope of the NRC's statutory authority. The decommissioning funding practices of proportional owners already are subject to Commission review through the NRC's consideration of the biennial funding reports filed by such entities. Furthermore, even in those rare and extreme instances in which nuclear plant owners were forced into outright bankruptcy, the funding of decommissioning costs continued unabated without any shifting of costs to the public at large.[16] Given the continuity of decommissioning funding even in such circumstances, it is clear that there is no need for the Commission to take the radical and legally questionable actions suggested in the Petition.

IV. CONCLUSION

The Petitioner's concerns about the adequacy of decommissioning funding are premised on a fundamental misunderstanding about the scope of the Commission's existing decommissioning funding regulations. As noted above, the Petitioner's concerns -- including his concerns about decommissioning funding by "proportional

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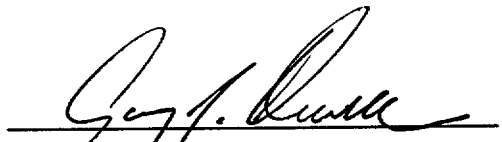
[16] *See* the Commission's discussion of its experience with licensees who have sought protection under the bankruptcy laws in "Final Policy Statement on the Restructuring and Economic Deregulation of the Electric Utility Industry," 10 C.F.R. Part 50, 62 Fed. Reg. 44071 at 44077 n. 3 (1997). In addition, the NRC has stated that it "has provided, and intends to continue to provide, information and other input to the bankruptcy courts overseeing these cases," and that it has sought legislation that would give decommissioning expenses priority in any bankruptcy proceeding. Enclosure 1 to the June 15, 1999 letter cited in note 11, *supra*, at 6.

owners" -- already are addressed through existing regulations. No need has been shown for any revision of the existing regulations or for the adoption of new regulations.

Furthermore, even if the Petitioner's concerns were given weight, the remedies that he recommends are beyond the NRC's statutory authority. Even if these remedies were otherwise assumed to have merit, it is clear that any attempt by the Commission to impose or enforce those remedies would enmesh the NRC in lengthy and substantial legal challenges.

In light of the foregoing, the Publicly Owned Systems Group submits that the Petition for Rulemaking should be dismissed in its entirety.

Respectfully submitted,



Gary J. Newell
Attorney for the Publicly Owned
Systems Group

Law Offices of:
Spiegel & McDiarmid
1350 New York Avenue, NW
Suite 1100
Washington, DC 20005-4798
(202) 879-4000

July 26, 2000

APPENDIX A

MEMBERS OF THE PUBLICLY OWNED SYSTEMS GROUP

Florida Municipal Power Agency

Florida Municipal Power Agency ("FMPA") is a political subdivision of the State of Florida engaged in the development of bulk power supply for its municipal electric system members. FMPA is the owner of an 8.806% undivided ownership interest in Unit No. 2 at the St. Lucie nuclear power station, a two-unit electric generating facility located near Fort Pierce, Florida and operated by Florida Power & Light Company. In addition, certain of FMPA's members have entitlements to output from the Crystal River No. 3 nuclear generating unit, operated by Florida Power Corporation.

New Hampshire Electric Cooperative, Inc.

New Hampshire Electric Cooperative, Inc. ("NHEC") is a consumer-owned electric cooperative that provides service in parts of nine New Hampshire counties. NHEC is the owner of a 2.17% undivided ownership interest in Unit No. 1 at the Seabrook Nuclear Station, which is operated by Public Service Company of New Hampshire (a subsidiary of Northeast Utilities).

Massachusetts Municipal Wholesale Electric Company

Massachusetts Municipal Wholesale Electric Company ("MMWEC") is a political subdivision of the Commonwealth of Massachusetts engaged in the development of bulk power supply for its municipal electric system members. MMWEC is a joint owner of Millstone Unit No. 3 (a nuclear electric generating unit located at the three-unit Millstone station operated by Northeast Utilities and located near Waterford, Connecticut) and Unit No. 1 at the Seabrook nuclear power station (a single-unit generating station operated by Public Service Company of New Hampshire and located in

Seabrook, New Hampshire). MMWEC's share of Millstone 3 capability is 55.2 megawatts, and its share of Seabrook 1 capability is 133.3 megawatts.

North Carolina Municipal Power Agency No. 1

North Carolina Municipal Power Agency No. 1 (NCMPA 1) is a joint action municipal power supply agency created under Chapter 159B of the General Statutes of North Carolina. NCMPA 1 is the owner of a 75% undivided ownership interest in Unit No. 2 at the Catawba Nuclear Station, a two-unit nuclear generating station operated by Duke Power Company. Through the contractual cost sharing provisions of its joint ownership contracts with Duke, NCMPA 1 bears 37.5% of the total costs of the Catawba Nuclear Station.

North Carolina Eastern Municipal Power Agency

North Carolina Eastern Municipal Power Agency (NCEMPA) also is a joint action municipal power supply agency created under Chapter 159B of the General Statutes of North Carolina. NCEMPA is the owner of 18.33% undivided ownership interests in Units 1 and 2 at the Brunswick Steam Electric Plant, and a 16.17% undivided ownership interest in Unit No. 1 at the Shearon Harris Nuclear Power Plant. The Brunswick and Harris stations are operated by Carolina Power & Light Company, which also owns the remaining portions of the enumerated units.