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October 16, 1995
Fort St. Vrain
Unit No. 1
P-95094

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

A. Clegg Crawford
Vice President
Engineering and
Operations Support

The Secretary of the Commission
U.S. Nuclear Regulatory Commission
Washington, DC 20555

DOCKET NUMBER
PROPOSED RULE PR 2,50+51
(60FR 37374) (10)

Attention: Docketing and Service Branch

Docket No. 50-267

SUBJECT: Comments on NRC Proposed Rulemaking Related to Decommissioning of Nuclear Power Reactors

Dear Secretary:

This letter submits Public Service Company of Colorado's (PSCo's) comments on the NRC's Proposed Rulemaking related to Decommissioning of Nuclear Power Reactors. The NRC requested public comments on this proposed rulemaking by October 18, 1995, in 60 FR 37374 dated July 20, 1995.

PSCo generally endorses the nuclear industry comments being provided by the Nuclear Energy Institute. In addition, we are providing our own comments based on our experience with decommissioning the Fort St. Vrain Nuclear Station where dismantlement and license termination activities are currently in progress.

If you have any questions regarding the attached comments, please contact Mr. M. H. Holmes at (303) 620-1701.

Sincerely,

A. Clegg Crawford
Vice President
Engineering and Operations Support

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Attachment

cc: w/attachment

Document Control Desk

Regional Administrator, Region IV

Mr. Robert M. Quillin, Director
Radiation Control Division
Colorado Department of Public Health and Environment

PUBLIC SERVICE COMPANY OF COLORADO

Comments on NRC Proposed Rulemaking Related to Decommissioning of Nuclear Power Reactors

GENERAL COMMENTS:

The Public Service Company of Colorado (PSCo) supports the general concept of the proposed rule and believes the rule will aid licensees in the planning, preparation, implementation and completion of the decommissioning and license termination process. PSCo believes the proposed rule will clarify a number of areas related to the decommissioning and license termination process.

PSCo also supports the general process set forth in section 50.82 of the proposed rule. This process will provide licensees maximum flexibility to engage in decommissioning activities at the earliest opportunity, while affording the public multiple meaningful opportunities to be informed of decommissioning plans at an early date.

PSCo does have a number of specific comments on the proposed rule which follow. Resolution of these comments should help clarify certain specific points in the rule and maximize the beneficial effects of the final rule. PSCo appreciates being afforded this opportunity to provide comments on the proposed decommissioning rule.

SPECIFIC COMMENTS:

1. The NRC should clarify the proposed wording of 10 CFR 2.1201(a)(3) concerning the "permanent removal of fuel from the site to an authorized facility ...". The key requirement is that the licensee not possess fuel under the 10 CFR Part 50 license to be terminated. If the fuel is stored at the site under a 10 CFR Part 72 license, and the fuel and the Part 72 license are not dependent on the 10 CFR Part 50 license, the actual physical location of the fuel would not be a key factor in terminating the Part 50 license or in deciding whether a Subpart G or Subpart L public hearing would be appropriate.
2. The proposed wording of 10 CFR 50.36a(a)(1) should be revised and clarified. Radioactive waste systems will have to be removed and decommissioned prior to license termination. The present wording appears to require that these systems be used and maintained, with Technical Specifications and procedural controls, until license termination.
3. While agreeing with the concept of requiring a Fire Protection Plan through the end of decommissioning, PSCo finds the proposed language in 10 CFR 50.48 to be overly restrictive, vague and ambiguous. Once the permanently removed spent fuel is certified to no longer be a fire protection concern, an industrial fire protection program should be adequate in most cases. Only if decommissioning accident analyses find that credit must be taken for the fire protection program to control the radiological consequences of postulated fires to meet acceptable limits, should the NRC place specific restrictions on the fire protection program a licensee maintains. In addition, PSCo considers that the acceptable radiological consequences of a fire should be defined as EPZ doses which are a small fraction of the EPA Protective Action Guidelines, as opposed to the proposed vague wording

requiring protection against fires that "could result in a radiological hazard." The insurance industry is in a better position to successfully control the adequacy of industrial fire protection programs.

4. PSCo disagrees with the proposed regulatory requirement in 10 CFR 50.71(f) to retain the FSAR into and through the decommissioning/licensing termination process. For the Fort St. Vrain decommissioning, PSCo explicitly superseded the FSAR with the NRC approved Decommissioning Plan. This successfully avoided any and all questions associated with which operational licensing basis commitments should be, would be, or are retained or deleted during decommissioning. Fort St. Vrain has had no issues with NRC inspectors concerning FSAR licensing basis commitments. PSCo can foresee substantial confusion, disagreement and confrontation with NRC personnel, and inconsistencies among licensees, about proper decommissioning licensing basis commitments if the FSAR is retained and licensees unilaterally make wholesale FSAR changes for decommissioning.
5. PSCo disagrees with the premise that decommissioning activities are so important to public health and safety that 10 CFR 50.111 should be revised to make decommissioning licensees subject to criminal penalties. Decommissioning licensees should not be treated any differently than other radioactive material licensees.
6. In addition to the 10 CFR Part 50 regulations for which the proposed rule grants relief after the certifications for permanent shutdown and fuel removal are submitted, PSCo considers that the following additional regulatory relief can be safely granted by rule:
 - a. In cases where no other reactors are operating at the site of a permanently shutdown reactor, the 10 mile radius Emergency Planning Zone in 10 CFR 50.47 can be immediately and safely reduced to a 0.5 mile radius.
 - b. The proposed rule should be explicit in stating that the Fitness for Duty Program rule in 10 CFR Part 26 does not apply to reactors which have been certified to be permanently shutdown and defueled.
 - c. The proposed rule should explicitly state that the secondary financial protection requirement of 10 CFR 140.11(a)(4) is no longer required and the primary financial protection may be reduced to \$100,000,000 once a reactor is certified to be permanently shutdown and defueled. This regulatory relief was evaluated and approved by the Commission in the Staff Requirements Memorandum dated July 13, 1993, in response to SECY-93-127 dated May 10, 1993.
 - d. The proposed rule should explicitly state that the property insurance regulation of 10 CFR 50.54(w) requiring \$1.06 billion in property insurance for each reactor station is no longer required once all reactors at a site have been certified to be permanently shutdown and defueled. Property insurance in the amount of the generic decommissioning cost estimate of 10 CFR 50.75 for each reactor on the site would be more than adequate to pay for any decommissioning accident recovery costs as a regulatory minimum.

The additional regulatory relief granted by these rule changes will result in substantial cost savings for permanently shutdown and defueled reactors with no reduction in safety, and will prevent these issues from being considered for regulatory relief on a case-by-case basis.

7. The first phrase of the first sentence of the proposed changes to 10 CFR 51.53 should be deleted to be consistent with the concept that "a license amendment authorizing decommissioning activities" is no longer required under the proposed rulemaking. The revised wording should just begin with, "Each applicant for a license amendment approving a license termination plan or decommissioning plan ...".