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VIRGINIA POWER

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USNRC

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

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Docket Nos. 50-280

50-281

50-338

50-339

License Nos. DPR-32

DPR-37

NPF-4

NPF-7

Dear Mr. Secretary:

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

VIRGINIA POWER
COMMENTS ON DECOMMISSIONING
CRITERIA FOR NUCLEAR FACILITIES
NOTICE OF PROPOSED RULE MAKING (50FR5600)

Virginia Power is pleased to have the opportunity to comment on the proposed subject rulemaking. We can appreciate the Commission's efforts to address the various issues involved in the decommissioning process, however we feel that the proposed rule is not necessary and recommend that it be withdrawn.

The NRC issued a rule on September 12, 1984 (49FR35747) eliminating the review of financial qualifications of electric utilities in operating license reviews and hearings for nuclear power plants. This rule was based partly on the fact that electric utilities have the ability "to recover, to a sufficient degree, all or portions of the costs of construction and sufficient costs of safe operation through the ratemaking process. It is well established that public utility commissions (PUCs) are legally bound to set a utility's rates such that all reasonable costs of serving the public are recovered, assuming prudent management of the utility." This argument applies also to decommissioning activities carried on by electric utilities. Decommissioning costs are small compared to construction and operating costs, and the utilities are able to collect them through the ratemaking process without the proposed regulation. Indeed, the proposed NRC rule could have the effect of inducing those public utility commissions that have adopted favorable approaches to the recovery of decommissioning costs to revise those approaches to conform to a relatively less advantageous NRC policy.

The proposed rule also seems to be at odds with the Commission policy stated in the 1985 Policy and Planning Guidance (PPPG). The PPPG indicates the Commission's intent to have less prescriptive regulations, and to see that new requirements imposed on the regulated industry have a "positive contribution to the public health and safety," while "existing

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regulatory requirements should be reviewed to see if some could be eliminated without compromising safety." The safety of decommissioning activities is already ensured by other regulations, and will not be enhanced or affected in any manner by the proposed new rule.

Therefore, we recommend that the proposed regulation be withdrawn on the basis that it is not necessary, it does not enhance public health and safety, and does not comply with current Commission policy towards simpler and less prescriptive regulations.

Nevertheless, if the Commission continues to favor issuance of the proposed rule, we recommend that it be revised to take into account the following comments:

- 1) The rule should clarify the means by which changes and updates in the decommissioning funding plans are to be made. It should explicitly state that the plans are not part of the licenses and that changes and updates will not constitute license amendments.
- 2) The rule should make clear that utilities should collect funds towards total decommissioning of the facilities, not just decontamination of the nuclear parts.
- 3) The figure of \$100,000,000 should be deleted because it can be misinterpreted as indicating a minimum or maximum cost of decommissioning. The cost of decommissioning is very plant specific, and there is no basis to believe that the \$100 million figure is representative for a number of plants.
- 4) The rule should be modified to require submission of the decommissioning funding plans two years after issuance of the necessary regulatory guides and other regulatory guidance, rather than two years after the effective date of the rule.
- 5) The proposed rule would require that the estimated cost of decommissioning, in 1984 dollars, be adjusted annually for inflation at a rate twice the change in the Consumers Price Index (CPI). We acknowledge that the CPI is intended to represent a measure of inflation by approximating the cost-of-living index, but that it would prove inadequate for an endeavor such as decommissioning. As such, we recommend that the utilities be allowed to make their best estimate of the increase of the decommissioning costs based on changes in the physical facilities and changes in the costs associated with the different activities associated with the

decommissioning plan. These factors, when evaluated in conjunction with appropriate indicators of economic change, would provide more comprehensive criteria for price adjustments than simply using twice the CPI.

- 6) The rule should state explicitly that it is not intended to supplant any state public utility commission rule or policy concerning the recovery of decommissioning costs or the maintenance of a decommissioning reserve that provides equal or greater assurances that the utilities subject to that commission's jurisdiction will be financially capable of meeting all of the financial requirements for decommissioning activities.
- 7) Recognize that decommissioning of nuclear facilities is different from other industrial plants because there are disposal costs that are not retrievable from the sale of scrap material. In this regard the collection of funds from the customers using electricity from a nuclear power plant to be decommissioned is valid.
- 8) The rulemaking should distinguish between the ability of diversified utilities and single asset (nuclear) utilities to provide financial assurance of their ability to decommission nuclear facilities.
- 9) The mention of generic studies such as the PNL study should be removed from the rule in keeping with the remarks in item 8. This study is outdated in respect to costs and could mislead the PUCs in rate-making processes if applied to individual cases.
- 10) The rulemaking should not require the approval of a decommissioning plan prior to the commencement of actual decommissioning work, if such work is within the limits of the license or violates no other rules. Some work could begin almost immediately after the termination of operation when the optimum work force is available.
- 11) There is a need to examine the criteria for decommissioning and its relationship to the criteria for site residual radioactivity limits. It would be more appropriate if these criteria were broadened to encompass alternate modes of decommissioning which could be established to fit the normal financial and tax structure of the utility industry. The rule should also distinguish the nonradioactive portion of a facility from the radioactive portion. In this regard it is almost certain that the majority of utilities

will not relinquish present sites to the use of the general public but will continue to find functional use of the sites. Conflicts in the rulemaking could also occur where there is more than one unit and they do not have licenses that expire simultaneously.

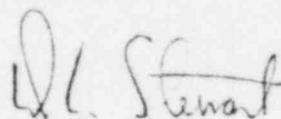
- 12) It appears that the specificity of the recordkeeping requirements in the proposed rule is not necessary for regulation.
- 13) Spent fuel storage facilities and other storage facilities are licensed under Part 72 whereas power stations are licensed under Part 50. The rule should be specific as to what is addressed. Part 72 installations for fuel storage should require only superficial decommissioning, if any, after the fuel is gone.

If the proposed rule is adopted we would endorse, in particular, the following features:

- 1) Inclusion in the proposed rule of internal reserves as an option where utilities can place their decommissioning funds. We urge that this option be maintained.
- 2) A distinction between the routine decommissioning of facilities at the end of their normal lifetime and a forced decommissioning following an accident.
- 3) The exclusion of decommission funding plans from the NEPA process. This should be emphasized in the final rule.
- 4) The recognition that both entombment (ENTOMB) and intermediate storage (SAFSTOR) are viable options before the commencement of decommissioning the radioactive portions of the facility.

In addition, Virginia Power supports the detailed comments submitted by the Utility Decommissioning Group (Bishop, Liberman, Cook, Purcell and Reynolds) and by the Atomic Industrial Forum Subcommittee on Decommissioning.

Very truly yours,


W. L. Stewart

cc: Mr. William J. L. Kennedy
Chairman, AIF Committee on Environment
Atomic Industrial Forum