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PROPOSED RULE **PR-30,40,50,51**  
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**(118)**

**DUKE POWER COMPANY**

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VICE PRESIDENT  
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May 9, 1985

DOCKETED  
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Mr. Samuel J. Chilk  
Secretary of the Commission  
U. S. Nuclear Regulatory Commission  
1717 H. Street  
Washington, DC 20555

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OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

Dear Mr. Chilk:

Duke Power Company is pleased to submit these additional comments on the proposed rule, "Decommissioning Criteria for Nuclear Facilities," published in the Federal Register on Monday, February 11, 1985. Duke Power has been active in reviewing this issue through its membership in the Utility Decommissioning Group and the Atomic Industrial Forum.

It is the opinion of Duke that new rules are not required to assure that nuclear power plants are safely decommissioned from a technical perspective. The basic premise for the new rule, as outlined in the Regulatory Analysis, is the "lack of uniformity of application, inefficiency on the part of the licensee and NRC in implementation, and finally a lack of timeliness and comprehensiveness that affects proper application of the ALARA principle in carrying out NRC licensing responsibilities" as it relates to present licensees. The current regulations governing operating licenses is a case in point. Additional regulation has not achieved uniformity, efficiency, timeliness or comprehensiveness. Since these plants are either operational or under construction, each should be handled on a case by case basis just as each was handled during the operating license phase.

The more appropriate way to handle this issue is through revision of Regulatory Guide 1.86 and issuance of additional guidance through a NUREG. It is of utmost importance to assure that activities affecting decommissioning not be allowed to become license conditions. In addition to the obvious problems this causes licensees it is contrary to the conclusion drawn in the regulatory guidance that license conditions can "result in inefficient use of commission and licensee staff time and could result in an inconsistent application of policy."

From the financial perspective, the Nuclear Regulatory Commission should refrain from rulemaking in areas that are the province of state public utility commissions. Any discussion of decommissioning costs is inappropriate since each station is individual and cannot be adequately addressed by general funding amounts or criteria.

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Acknowledged by card.....

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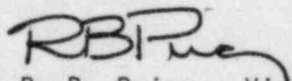
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Where ever utilities choose to invest funds collected from decommissioning is also outside the domain of the NRC. Attempting to assure fund availability through prepayment, insurance or external sinking funds is not in the best interest of the ratepayer as is evidenced by the Commonwealth of Pennsylvania where licensees are required to externally fund through purchase of bonds of Pennsylvania municipalities or of the Commonwealth. This method has effectively put the responsibility for providing decommissioning funds on the taxpayers. It is unlikely that this process provides as much assurance as does a financially viable utility having a large amount of bondable property at the time of decommissioning.

Again the preferred solution to the problem is through the issuance of a NUREG and Regulatory Guide. This solution will provide the NRC with the assurance it needs while simultaneously providing the utility industry the flexibility it needs.

Very truly yours,



R. B. Priory, Vice President  
Design Engineering Department

RBP/pam