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Mr. Samuel J. Chilk
Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

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Re: Proposed Rule Regarding Decommissioning
Criteria For Nuclear Facilities, 50 Fed.
Reg. 5600 (February 11, 1985)

Dear Mr. Chilk:

On May 13, 1985 the Utility Decommissioning Group ("UDG") filed comments with the Commission regarding the proposed rule on decommissioning criteria. The purpose of these additional comments is to respond briefly to the comments filed by several other parties and to bring to the Commission's attention an additional site specific decommissioning cost study that was completed after UDG's May 13 comments had been filed with the Commission.^{1/}

A. The Criticisms Of Various Commenters Do Not
Undermine The Correctness Of The Commission's
Approval Of Internal Funding

The Commission's February 11, 1985 proposed rule correctly concludes that internal funding is appropriate for multi-asset utilities and provides reasonable assurance of the availability of decommissioning funds. 50 Fed. Reg. at 5608, Cols. 1-2. Many comments filed support the Commission's conclusion, including state regulatory agencies and numerous investor- and government-

^{1/} As noted in UDG's May 13 comments, the Group consists of 13 power reactor licensees and the Edison Electric Institute. The thirteen licensees are: Arkansas Power & Light Company, Carolina Power & Light Company, Duke Power Company, Jersey Central Power & Light Company, Metropolitan Edison Company, Northeast Utilities, Pacific Gas and Electric Company, Pennsylvania Electric Company, South Carolina Electric & Gas Company, Southern California Edison Company, Texas Utilities Electric Company, Virginia Power Company, and Yankee Atomic Electric Company.

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owned utilities. These comments also reaffirm the position that the choice between alternative funding methods is for rate regulators to determine.

On the other hand, comments filed by various organizations object to internal funding. These comments, however, offer nothing that has not already been fully considered by the Commission. For example, the report that Public Citizen/Environmental Action ("Public Citizen") filed as its comments on the Commission's proposed rule repeats the objections to internal funding that Public Citizen submitted in connection with the September 20, 1984 briefing to the Commission on the financial and technical aspects of decommissioning. Compare, e.g., the report Public Citizen submitted May 3, 1985 as its comments in this rulemaking, p. 6, with the written comments Public Citizen submitted at the September 20, 1984 Commission briefing, pp. 2-3. These views were, therefore, already considered by the Commission and its staff prior to issuance of the February 1985 proposed rule approving internal funding.

The basis of these objections is that "since no funds are physically set aside" under the internal funding method, it is not a "guaranteed" fund, and "when compared to" other methods provides lesser assurance.^{2/} Contrary to these contentions, the issue here is not whether a particular method "guarantees" funding or provides the "highest" level of funding assurance. Instead, the relevant legal standard is whether the internal reserve provides a reasonable level of assurance. That is the standard that governs the Commission's health and safety determinations under the Atomic Energy Act. See UDG's May 13 comments, pp. 15-17.

The opposing commenters, however, do not even address the reasonable assurance standard. Indeed, they offer nothing to undermine the conclusions of the Commission, its staff and consultant, Professor Siegel, reached after very careful, exhaustive consideration, that the internal reserve satisfies the reasonable assurance standard and, in Professor Siegel's words, "provides excellent assurance of the availability of funds." See 50 Fed. Reg. at 5608, Cols. 1-2; NUREG-0584, Rev. 3, Assuring the Availability of Funds for Decommissioning Nuclear Facilities, p. 49; NUREG/CR-3899, Utility Financial Stability and the Availability of Funds for Decommissioning, p. 13. Cf., 50 Fed. Reg. at 5609, Col. 2 ("[T]he Commission does not believe it is necessary, or desirable, to require a specific financial method for collecting

^{2/} See, e.g., comments of Public Citizen, p. 6; comments of Citizens Assn. For Sound Energy, p. 3; comments of Maine Nuclear Referendum, p. 2; comments of Redwood Alliance, p. 8.

decommissioning funds"). Moreover, the internal reserve provides fully adequate funding assurance even in the case of utilities experiencing severe financial difficulty, as both the Commission and Professor Siegel concluded. See 50 Fed. Reg. at 5608, Col. 2; NUREG/CR-3899, p. 10; see also UDG's May 13 comments, p. 18. In short, the Commission's approval of the internal reserve as an appropriate decommissioning funding method is entirely sound and correct.^{3/}

B. Analysis Of Comments Filed Underscores The Need To Eliminate The Battelle-Derived \$100 Million Certification Method And Emphasize Instead Reliance On Site Specific Cost Studies

UDG's May 13 comments explain that the proposed \$100 million certification method is not sufficient funding in most cases and that site specific studies for large-scale commercial power reactors substantially exceed \$100 million. See UDG's May 13 comments, pp. 6-10. UDG's comments also emphasize that the Battelle Studies, NUREG/CR-0130 and NUREG/CR-0672, which are the basis for the \$100 million amount, were intended to describe

3/ Public Citizen also suggests that "utilities may use [the internal reserve] for new investment projects, with no need to insure that the money taken from customers will be available in the future for decommissioning." Comments of Public Citizen, p. 34. Similarly, Redwood Alliance suggests that decommissioning funds can be used to pay operating expenses. Comments of Redwood Alliance, p. 6. Such contentions have no basis. On the contrary, as explained during the Commission's September 20, 1984 public meeting on decommissioning, Tr. 43, 49-50, rate regulatory agencies assure that ratepayer-contributed funds earmarked for decommissioning will be used for that purpose, and ratepayers are fully protected. Public Citizen also suggests that through "holding-company maneuvers," a licensee could be "'spun off' in a financially weak condition," making decommissioning "very difficult financially." Comments of Public Citizen, p. 36. This claim is specious. It has no legal or factual support.

In addition, the Nuclear Information And Resource Service ("NIRS") suggests that the Commission require insurance to "back up" both internal reserves and external sinking funds in the event that a plant is shut down prematurely for economic reasons. Comments of NIRS, p. 14. There is no such insurance available, however, as NIRS recognizes on the previous page of its comments. Moreover, in approving the shutdown of a plant for economic reasons, the rate regulatory authority will provide not only for recovery of decommissioning costs, but also for recovery of the licensee's unamortized investment in the plant.

decommissioning costs in terms of an order of magnitude only and were not intended as a substitute for site specific cost studies. Id. In addition, UDG explained that although \$100 million usually understates decommissioning costs, the Commission's statement that \$100 million is sufficient to decommission most reactors, coupled with the Commission's concern for adequate decommissioning funding, will lead utility rate case intervenors to argue that \$100 million should be a presumptive cost ceiling in rate cases. Id., pp. 10-11.

UDG's concerns were justified. Comments filed by a group of wholesale power purchasers describe the \$100 million certification amount as "conservatively high" and state that \$100 million "would appear to significantly overstate decommissioning costs for many of the nuclear generating units owned and operated by utilities across the country." See comments of Public Systems, and the accompanying affidavit of Jacob Pous, pp. 3-4. These comments urge the use of the Battelle Studies and the "scaling factors" developed in those studies as a basis for determining different categories of decommissioning cost as a function of plant size. Comments of Public Systems, p. 14. The same comments suggest that "it is not clear that collections from today's ratepayers are necessary in the interest of public safety." Id., p. 32, n. 25.

Comments such as these portend the difficulty that utility licensees may encounter in seeking adequate levels of decommissioning funding. By describing the Battelle-derived \$100 million certification amount as sufficient for most power reactors, the Commission increases that difficulty and unnecessarily injects itself into matters of ratemaking. See UDG's May 13 comments, pp. 6-12. The critical facts here, as emphasized by the Battelle studies themselves and one of their principal authors, R.I. Smith, is that those studies represent "order of magnitude estimates" only and a "realistic estimate" of the decommissioning cost for a given reactor requires "a quite detailed analysis of the specific plant under consideration."^{4/} It is for these reasons that UDG recommends that the Battelle-derived \$100 million certification method be deleted from the proposed rule, and the Commission instead rely on site specific cost studies.^{5/}

4/ See UDG's May 13 comments, pp. 7-8, quoting NUREG/CR-0130 Vol. 1, p. 12-9 and letter from R.I. Smith to H.R. Prins, October 29, 1982 (emphasis added).

5/ Alternatively, if the Commission does not delete the certification method, it should increase the amount and clarify the purpose of certification, as explained in UDG's May 13 comments, pp. 11-12.

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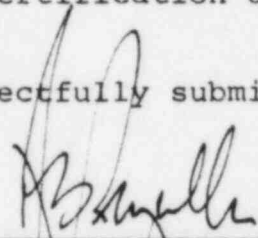
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Finally, UDG wishes to update the list of recent site specific decommissioning cost studies described in UDG's May 13 comments (at p. 9). The updated list is as follows:

Capacity (MWe)	Reactor Type	Date of Study	Removal Cost:		
			Radioactive	Nonradio- active	Total
1090	BWR	5/85	\$142,435,000	\$41,025,000	\$183,460,000
940	BWR	3/85	117,618,000	43,507,000	161,125,000
610	BWR	3/85	111,946,000	30,763,000	142,709,000
1150	PWR	5/85	100,510,000	34,743,000	135,253,000
1205	BWR	5/85	138,303,000	49,461,000	187,764,000

An additional site specific study completed at the end of May has been added to this list (the 1205 MWe reactor), and the data for the first reactor listed was revised subsequent to submission of UDG's May 13 comments.^{6/} Also, as noted in the previous UDG comments (at p. 9), this site specific cost data is shown prior to inclusion of a contingency allowance. Adding a contingency allowance will further increase the disparity between these site specific studies and the \$100 million certification amount in the proposed rule.

Respectfully submitted,



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^{6/} Radioactive removal costs increased and non-radioactive removal costs decreased (also the capacity for this plant is 1090 MWe, not 1000 MWe).