FP 813-7

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PR-30,40,50,70 (43FR10370)

July 12, 1978

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

Att: Docketing and Service Branch

Subject: Decommissioning Criteria for Nuclear Facilities

Dear Mr. Chilk:

On March 13, 1978 a notice was published in the Federal Register (49 FR 10370) advising that the Nuclear Regulatory Commission ("NRC") is considering amending its regulations to provide more specific guidance on decommissioning criteria for utilization facilities. The notice invited advice and recommendations on several questions concerning decommissioning nuclear facilities.

The Power Authority of the State of New York ("Authority") is pleased to submit its comments.

One of the questions posed by the NRC on which comments are requested is "[s]hould detailed decommissioning plans be required prior to the issuance of licenses?"

Considering the normal utilization facility operating license term of 40 years, and the accelerated pace of nuclear technology advancement, the wisdom of requiring detailed decommissioning plans prior to issuance of licenses is highly questionable. Requiring detailed plans for decommissioning by the licensee at too early a stage may serve to lock the licensee, as well as the NRC, into decommissioning technologies which may be outmoded or inferior at the actual time of decommissioning. A more logical alternative would be to require submittal by licensees of proposed decommissioning plans at a later date, perhaps 3 years prior to the expected date of decommissioning. This would enable the licensee to avail himself of the latest technology and to assure conformance with then applicable regulations.

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Another question posed by the Commission is whether funding or other surety arrangements should be required before the issuance of licenses in all cases? If not, in which cases?

This concern can only arise if one questions the financial capability of the licensee to provide the necessary funds for decommissioning at the end of the facility's useful life. However, if this is indeed the concern, there are alternatives other than surety or funding arrangements which would serve equally well.

Section 50.33(f) of Part 50 of the NRC's regulations already provides for a showing of reasonable assurance by the applicant for an operating license that he has the financial means of permanently shutting the facility down and maintaining it in a safe condition. In addition, the continued financial viability of the applicant throughout the term of the operating license is the subject of continuous reporting and monitoring by other federal agencies. Electric utilities, whether publicly or privately owned, must file yearly statements with the Federal Energy Regulatory Commission which contain detailed financial information. Furthermore, all investor owned utilities must file a yearly 10-K statement with the Securities and Exchange Commission, which statement also contains detailed financial information.

The continuous reporting procedures and monitoring by federal regulatory agencies serve to provide ample early warning of any potential financial difficulties which would warrant the imposition of precautionary measures by the NRC to assure that a licensee provides for future decommissioning costs.

Consideration should also be given to certain practical obstacles in regards to performance bonds and funds. In the case of performance bonds, it is likely that the extraordinarily long life of the bond and the uncertainty of the cost of the future event, i.e. decommissioning, will preclude a licensee from obtaining such a bond for a reasonable premium, if in fact it can be purchased at all.

The Power Authority has addressed the question of decommissioning by recently amending its General Purpose Bond Resolution under which its Indian Point No. 3 and Greene County Nuclear Power Plants are being financed. The amendment will establish a subaccount which will permit funds not required to satisfy deficiencies in the Bond Service Account, or needed for emergency repairs or replacement, to be used for decommissioning.

Any more specific funding arrangement such as a sinking fund into which a portion of revenues would flow during the life of the facility would be impractical. Unless the decommissioning costs at the end of the plant's useful life are identified at the beginning of its license term, and the length of its "useful life" defined, it will be impossible to establish a sinking fund.

To attempt such an early determination of useful life would be to deny the possibility of technological improvements which may well postpone the decommissioning for many years, or even indefinitely.

There is one further aspect to be considered. The establishment of any early funding arrangement for decommissioning will impose on present consumers of electricity costs which may ultimately prove excessive or unneeded. Such imposition on currently over-burdened consumers would be unfair and unprecedented.

The Power Authority hopes that its comments will prove useful in helping the Commission formulate its proposed rulemaking on decommissioning.

Very truly yours,

Vito J. Cassan
Assistant General Counsel