Index No.: 468A.04-02

CC:DOM:P&SI:6 PLR-106142-99

NOV 30 1999

Re: Revised Schedule of Ruling Amounts

Taxpayer =

Parent =

Plant =
Location =
Commission A =
Commission B =
Utility =
District =
Fund =

Dear

This letter responds to the request of Taxpayer, dated March 9, 1999, and supplemental information that was submitted by your authorized representative on behalf of Taxpayer. Taxpayer is requesting a revised schedule of ruling amounts pursuant to section 1.468A-3(i)(1)(i) of the Income Tax Regulations as the date was changed when the Plant will no longer be included in Taxpayer's cost of service for ratemaking purposes. The Taxpayer was previously granted a revised schedule of ruling amounts on October 6, 1994. Information was submitted pursuant to section 1.468A-3(h)(2).

The facts as represented by Taxpayer are as follows:

Taxpayer files a consolidated federal income tax return with its Parent. Taxpayer directly owns of the Plant, which is situated in Location. The Utility, which is under the jurisdiction of Commission B, purchases of the electrical output of the Plant, with the remaining purchased by the retail customers of Taxpayer, which is under the jurisdiction of Commission A. After

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sales made to Utility have been deregulated and, therefore, there is no longer a cost of service for ratemaking purposes. Taxpayer is under the audit jurisdiction of the District Director of the District. The Plant began commercial operation on The Plant's operating license expires on The Plant was shut down on and was offline permanently on The method of decommissioning the Plant is prompt removal/dismantling. Decommissioning costs are based on a site-specific nuclear decommissioning study.

The total estimated cost of decommissioning the Plant is of which is attributable to the Taxpayer and to the Utility. This estimated cost escalated at a rate of annually results in a future cost for the Plant of Of this future cost, is attributable to the Taxpayer and is attributable to the Utility.

Commission A in provided for decommissioning costs of Commission A in provided for decommissioning costs of for the years , and

Commission B in provided for a decommissioning cost of As of and thus there is

For both commissions the funding period and level funding limitation period begins on The assumed after-tax rate of return to be earned on the assets of the Fund is

As elected in previous schedules of ruling amounts, the Taxpayer calculated the qualifying percentage pursuant to section 1.468A-8(b)(iii) of the regulations to be The qualifying percentage is based on the percentage of depreciation costs with respect to the Plant that remains to be recovered for ratemaking purposes as of

At the present time there are no proceedings pending before either commission that may result in an increase or decrease in the amount of decommissioning costs to be included in Taxpayer's cost of service for ratemaking purposes.

Section 468A(a) of the Code provides that a taxpayer may elect to deduct the amount of payments made to a qualified nuclear decommissioning fund. However, section 468A(b) limits the amount paid into the fund for any tax year to the lesser of

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the amount of nuclear decommissioning costs allocable to the fund which is included in the taxpayer's cost of service for ratemaking purposes for the tax year or the ruling amount applicable to this year.

Section 468A(d)(1) of the Code provides that no deduction shall be allowed for any payment to the nuclear decommissioning fund unless the taxpayer requests and receives from the Secretary a schedule of ruling amounts. The "ruling amount" for any tax year is defined under section 468A(d)(2) as the amount which the Secretary determines to be necessary to fund that portion of nuclear decommissioning costs which bears the same ratio to the nuclear power plant as the period for which the fund is in effect bears to the estimated useful life of the plant. This term is further defined to include the amount necessary to prevent excessive funding of nuclear decommissioning costs or funding of these costs at a rate more rapid than level funding, taking into account such discount rates as the Secretary deems appropriate.

Section 468A(g) of the Code provides that a taxpayer shall be deemed to have made a payment to the nuclear decommissioning fund on the last day of the tax year if the payment is made on account of this tax year and is made within 2 1/2 months after the close of the tax year.

Section 1.468A-1(a) of the regulations provides that an eligible taxpayer may elect to deduct nuclear decommissioning costs under section 468A of the Code. An "eligible taxpayer", as defined under section 1.468A-1(b)(1), is a taxpayer that has a qualifying interest in a nuclear power plant. As defined under section 1.468A-1(b)(2), a "qualifying interest" is, among other things, a direct ownership interest, including an interest held as a tenant in common or joint tenant.

Section 1.468A-2(b)(1) of the regulations provides that the maximum amount of cash payments made (or deemed made) to a nuclear decommissioning fund during any tax year shall not exceed the lesser of the cost of service amount applicable to the nuclear decommissioning fund for such tax year; or the ruling amount applicable to the nuclear decommissioning fund for such tax year.

Section 1.468A-3(a)(1) of the regulations provides that, in general, a schedule of ruling amounts for a nuclear decommissioning fund is a ruling specifying annual payments that, over the tax years remaining in the "funding period" as of the date the schedule first applies, will result in a projected balance of the nuclear decommissioning fund as of the last day of the funding period equal to (and in no event more than) the "amount of decommissioning costs allocable to the fund."

Section 1.468A-3(a)(2) of the regulations provides that, to the extent consistent with the principles and provisions of this section, each schedule of ruling amounts shall be based on the reasonable assumptions and determinations used by the applicable public utility commission in establishing or approving the amount of decommissioning costs to

be included in the cost of service for ratemaking purposes. Under section 1.468A-3(a)(3), the Internal Revenue Service shall provide a schedule of ruling amounts identical to the schedule proposed by the taxpayer, but no such schedule shall be provided by the Service unless the taxpayer's proposed schedule is consistent with the principles and provisions of this section.

Section 1.468A-3(b)(1) of the regulations provides that the ruling amount, specified in a schedule of ruling amounts, for any tax year in the level funding limitation period shall not be less than the ruling amount specified in such schedule for any earlier tax year. Under section 1.468A-3(b)(2), the level funding limitation period begins on the first day of the first tax year for which a deductible payment is made to the nuclear decommissioning fund and ends on the last day of the tax year that includes the estimated date on which the nuclear power plant will no longer be included in the taxpayer's rate base for ratemaking purposes.

Section 1.468A-3(b)(4) of the regulations provides that the ruling amount for the last tax year in the level funding limitation period may be less than the ruling amount for any earlier tax year if the public utility commission assumes that decommissioning costs will be included in the cost of service for only a portion of the last tax year. This smaller ruling amount, however, may not be less than the amount that bears the same relationship to the ruling amount for the preceding tax year as the period for which decommissioning costs will be included in cost of service for the last tax year bears to one year.

Section 1.468A-3(d)(1) of the regulations provides that the amount of decommissioning costs allocable to a nuclear decommissioning fund is the taxpayer's share of the total estimated cost of decommissioning the nuclear power plant multiplied by the qualifying percentage.

Section 1.468A-3(d)(2) of the regulations provides that, in general, the total estimated cost of decommissioning a nuclear power plant is the reasonably estimated cost of decommissioning used by the applicable public utility commission in establishing or approving the amount of these costs, to be included in cost of service for ratemaking purposes.

Section 1.468A-3(d)(3) of the regulations provides that a taxpayer's share of the total estimated cost of decommissioning a nuclear power plant equals the total estimated cost of decommissioning such plant multiplied by the taxpayer's qualifying interest in the plant.

Section 1.468A-3(f)(1) of the regulations provides that if two or more public utility commissions establish or approve rates for electric energy generated by a single nuclear power plant, then the schedule of ruling amounts shall be separately determined pursuant to the rules of sections 1.468A-3(a) through (e) for each public

utility commission that has determined the amount of decommissioning costs to be included in the cost of service for ratemaking purposes for this plant. Under section 1.468A-3(f)(2), this separate determination shall be based on the reasonable assumptions and determinations used by the relevant public utility commission and shall take into account only that portion of the total estimated cost of decommissioning that is properly allocable to the ratepayer whose rates are established or approved by the public utility commission. According to section 1.468A-3(f)(3), the ruling amounts for any tax year is the sum of the ruling amounts for such tax year determined under the separate schedules of ruling amounts.

Section 1.468A-3(g) of the regulations provides that the Internal Revenue Service shall not provide a taxpayer with a schedule of ruling amounts for any nuclear decommissioning fund unless the public utility commission that establishes or approves the rates for electric energy generated by the plant has determined the amount of decommissioning costs to be included in the taxpayer's cost of service for ratemaking purposes and has disclosed the after-tax rate of return and any other assumptions and determinations used in establishing or approving the amount.

Section 1.468A-3(i)(1)(iii) of the regulations provides that a taxpayer is required to request a revised schedule of ruling amounts for a nuclear decommissioning fund if (A) any public utility commission that establishes or approves rates for the furnishing or sale of electric energy generated by a nuclear power plant to which the nuclear decommissioning fund relates: increases the proposed period over which the decommissioning costs of the nuclear power plant will be included in cost of service for ratemaking purposes; adjusts the estimated date on which the nuclear power plant will no longer be included in the taxpayer's rate base for ratemaking purposes; or reduces the amount of decommissioning costs to be included in cost of service for any tax year; and (B) the taxpayer's most recent request for a schedule of ruling amounts did not provide notice to the Service of such action by any public utility commission.

Section 1.468A-8(b)(7)(iii)(A) and (C) of the regulations provides that where a taxpayer files a request for a schedule of ruling amounts for the nuclear decommissioning fund maintained with respect to the nuclear power plant on or before June 3, 1988, the qualifying percentage equals the percentage of original depreciation costs (determined without regard to capitalized decommissioning costs) with respect to the nuclear power plant that remains to be recovered for ratemaking purposes as of the first day of the taxable year that includes July 18, 1984. Original depreciation costs with respect to a nuclear power plant include only those costs that were taken into account in determining the amount of depreciation with respect to such plant in the first ratemaking proceeding in which such depreciation was treated as a cost of service.

We have examined the representations and data submitted by your authorized representative in relation to the requirements set forth in the Code and the regulations, Based solely on these representations of the facts, we reach the following conclusions:

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1. The Taxpayer has a qualifying interest in the Plant and is, therefore, an eligible taxpayer under section 1.468A-1(b)(1) and (2) of the regulations.

2. For the tax year Commissions A and B have permitted the amount of decommissioning costs to be included in Taxpayer's cost of service for ratemaking purposes as required by section 1.468A-3(g) of the regulations. For the tax years Commission A has permitted the amount of decommissioning costs to be included in Taxpayer's cost of service for ratemaking purposes as required by section 1.468A-3(g).

3. The Taxpayer, as one of the owners of the Plant, has calculated its share of the total decommissioning costs under section 1.468A-3(d)(3) of the regulations.

4. The maximum amount of cash payments made (or deemed made) to the nuclear decommissioning fund during any tax year is restricted to the lesser amount of the decommissioning costs applicable to such fund or the ruling applicable to this fund, as set forth under section 1.468A-(2)(b)(1) of the regulations.

5. Taxpayer has calculated the qualifying percentage pursuant to section 1.468A-8(b)(7)(iii) of the regulations to be

Based on the above determinations, we conclude that, subject to the provisions of section 1.468A-2(f) of the regulations, the Taxpayer's proposed schedule of ruling amounts in regard to the Department satisfy the requirements of section 468A of the Code.

APPROVED SCHEDULE OF RETAIL RULING AMOUNTS
COMMISSIONS A AND B
TAX YEARS

YEAR	A	B	TOTAL
EACH YEAR			
THROUGH			

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Approval of the schedule of ruling amounts is contingent on there being no change in the facts and circumstances, known or assumed, at the time the current ruling is issued. If any of the events described in section 1.468A-3(i)(1)(iii) of the regulations occur in future years, the Taxpayer must request a review and revision of the schedule of ruling amounts. Generally, the Taxpayer is required to file such a request on or before the deemed payment deadline date for the first tax year in which the rates reflecting such action became effective. When no such event occurs, the Taxpayer must file a request for a revised schedule of ruling amounts on or before the deemed payment deadline of the 10th tax year following the close of the tax year in which the most recent schedule of ruling amounts were received.

The approved schedule of ruling amounts is relevant only to those payments made to the Fund. Payments allocable to any funds other than the Fund, cannot qualify for purposes of the deduction under the provisions of section 468A of the Code. As stated earlier, payments made to such Fund can qualify only to the extent that they do not exceed the lesser of the decommissioning costs applicable to such Fund or the ruling amounts applicable to this Fund in the tax year.

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides it may not be used or cited as precedent.

Pursuant to the power of attorney on file with this office a copy of this letter is being sent to your authorized representatives. Pursuant to section 1.468A-7(a) of the regulations, a copy of this letter must be attached (with the required Election Statement) to the Taxpayer's Federal income tax return for each year in which the Taxpayer claims a deduction for payments made to the Fund.

Sincerely yours,

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