INTERNAL REVENUE SERVICE
Index No.: 468A.04-02

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JUL 21 1999

In re: Schedule of Ruling Amounts

LEGENDS:

Taxpayer =

Corporation =

Plant =
Location =
Commission =

Fund =

District =

Dear

This letter responds to the request of the Taxpayer, dated March 9, 1999, and additional information that was submitted by your authorized representative on behalf of the Taxpayer, seeking an mandatory review of the schedule of ruling amounts in accordance with section 1.468A-3(i)(1)(iii) of the Income Tax Regulations. The request for a revised schedule of ruling amounts is the result of the Commission adjusting the estimated date when the Plant will no longer be included in Taxpayer's rate base for ratemaking purposes. The Taxpayer was previously granted a revised schedule of ruling amounts on June 27, 1997. Information was submitted pursuant to section 1.468A-3(h)(2) of the Income Tax Regulations.

The facts as represented by the Taxpayer are as follows:

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The Taxpayer is a subsidiary of the Corporation. The Plant is situation in Location and the Taxpayer directly owns of the Plant. The Plant began commercial operations on The Commission establishes rates for the furnishing, by the Taxpayer, of electric energy generated by the Plant to retail customers. Taxpayer is currently under the jurisdiction of the Commission. The Taxpayer is under the audit jurisdiction of the district director of District. The Plant's operating license expires on The method of dismantling the Plant is the prompt removal/dismantlement.

The Commission in providing for decommissioning costs in the amount of to be included in Taxpayer's cost of service for ratemaking purposes.

The total cost of decommissioning the Plant is estimated to be and this cost escalated at annually results in a future decommissioning cost of Taxpayer's share of these costs are respectively.

The qualifying percentage calculated pursuant to section 1.468A-8(b)(7)(iii) of the regulations is The funding period and level funding limitation period began on The assumed after-tax rate of return to be earned on the assets of the fund is

At the present time there is a proceeding pending before the 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 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-2(f)(1)(i) of the regulations provides that the amount of decommissioning costs included in cost of service for any taxable year that ends before the date of a retroactive adjustment to an interim rate order or interim determination of a public utility commission shall include amounts authorized pursuant to such interim rate order or determination unless a taxpayer elects the application of section 1.468A-2(f)(2) for such taxable year. For purposes of paragraph (f)(2), a retroactive adjustment occurs on the effective date of the revised rate schedule that implements the retroactive adjustment.

Section 1.468A-2(f)(1)(ii) provides that if a retroactive adjustment to an interim rate order or interim determination reduces the amount of decommissioning costs included in cost of service for one or more taxable years ending before the date of the adjustment, the amount of such reduction must be subtracted from the amount of the decommissioning costs included in cost of service (as determined under section 1.468A-2(b)(2)) for one or more taxable years ending on or after the date of the adjustment. For this purpose, the amount of such reduction must be taken into account in the following manner:

(A) If the retroactive adjustment reduces the amount of decommissioning costs included in the cost of service for one taxable year ending before the date of the adjustment, the total amount of the deduction must be taken into account for the taxable year that includes the date of the adjustment.

(B) If the retroactive adjustment reduces the amount of decommissioning costs included in cost of service for two taxable years ending before the date of the adjustment, at least one-half of the total amount of the reduction must be taken into account for the taxable year ending on or after the date of the adjustment and the total amount of the reduction must be taken into account over the first two taxable years ending on or after the date of the adjustment.

(C) if the retroactive adjustment reduces the amount of decommissioning costs included in cost of service for three or more taxable years ending before the date of the adjustment, at least one-third of the total amount of the reduction must be taken into account for the first taxable year ending on or after the date of the adjustment, at least two-thirds of the total amount of the reduction must be taken into account over the first two taxable years ending on or after the date of the adjustment,
and the total amount of the reduction must be taken into account over the first three taxable years ending on or after the date of the adjustment.

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(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)(2) of the regulations permits a taxpayer who has obtained a schedule of ruling amounts previously, to request a revised schedule of ruling amounts, provided such request is made in accordance with section 1.468A-3(h) and such request is filed before the deemed deadline date for such tax year.

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:

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. The Commission has permitted the amount of decommissioning costs to be included in the Taxpayer's cost of service for ratemaking purposes as required by section 1.468A-3(g) of the regulations.

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 Commission satisfies the requirements of section 468A of the Code.

APPROVED SCHEDULE OF RETAIL RULING AMOUNTS
TAX YEARS

YEAR

EACH YEAR

THROUGH

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 cost applicable to such Fund or the ruling amounts applicable to such 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,

Peter C. Friedman

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