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[Docket No. RM94-14-001]

Nuclear Plant Decommissioning Trust Fund Guidelines; Order Granting Rehearing for Purpose of Further Consideration and Granting Limited Stay of Certain Portions of Final Rule

Issued July 27, 1995.

Before Commissioners: Elizabeth Anne Moler, Chair; Vicky A. Bailey, James J. Hoecker, William L. Massey, and Donald F. Santa, Jr.

On June 16, 1995, the Commission issued a Final Rule in *Nuclear Plant Decommissioning Trust Fund Guidelines*,¹ setting forth requirements for the formation, organization and purpose of nuclear plant decommissioning trust funds (Fund) and for Fund investments. The Commission has received motions for stay and/or requests for rehearing and for clarification from: a group of investment management firms and trust companies; a group of public utility

companies; Strong Capital Management, Inc.; Commonwealth Edison Company; Indiana Michigan Power Company; Maine Yankee Atomic Power Company; New England Public Power Nuclear Customers; and Edison Electric Institute.

In the absence of Commission action within 30 days, the requests for rehearing would be deemed to have been denied. 18 CFR 385.713. In order to allow sufficient time for due consideration of the matters raised, we will grant rehearing for the limited purpose of further consideration.

A number of the parties request that the Commission stay the following provisions of the Final Rule while the requests for rehearing are pending:

1. The requirement that public utilities must establish a separate nuclear decommissioning trust fund for Commission-jurisdictional Fund collections; and

2. The requirement that a Fund investment manager must have a net worth of at least \$100 million.²

In acting on stay requests, the Commission applies the standard set forth in the Administrative Procedure Act,³ i.e., the stay will be granted if the Commission finds that "justice so requires."⁴ In this instance, we will grant a stay of the two challenged provisions of the Final Rule so that we may further consider them while the requests for rehearing are pending.

The remaining provisions of the Final Rule will go into effect on July 31, 1995.

The Commission orders:

(A) Rehearing is hereby granted for the limited purpose of further consideration.

(B) The following note is added to the end of § 35.32 (18 CFR 35.32):

Note: The following provisions of this section are stayed as of July 31, 1995:

1. The requirements in 18 CFR 35.32(a)(1) and (f) that public utilities must establish a separate nuclear decommissioning trust fund for Commission-jurisdictional Fund collections.

2. The requirement in 18 CFR 35.32(a)(4) (the words "and any other Fiduciary") that a Fund investment manager must have a net worth of at least \$100 million.

Authority: 16 U.S.C. 791a-825r, 2601-2645; 31 U.S.C. 9701; 42 U.S.C. 7101-7352.

² See 60 FR 34117, 34123; *slip op.* at 37, 71-72.

³ 5 U.S.C. 705.

⁴ See Power Authority of the State of New York, 71 FERC ¶ 61,321 (1995).

By the Commission.

Lois D. Cashell,

Secretary.

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18 CFR Part 284

[Docket No. RM93-4-008; Order No. 563-E]

Standards for Electronic Bulletin Boards Required Under Part 284 of the Commission's Regulations

Issued July 27, 1995.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; order modifying capacity release data sets.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is issuing an order making changes to its capacity release data sets and Electronic Data Interchange implementation guide in response to a filing by the Electronic Bulletin Board Working Group. The Commission's order revises its "Standardized Data Sets and Communication Protocols," available at the Commission's Public Reference and Files Maintenance Branch.

EFFECTIVE DATE: Pipelines must implement the new requirements by October 25, 1995.

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¹ Nuclear Plant Decommissioning Trust Fund Guidelines, Order No. 580, 60 FR 34109 (June 30, 1995), 71 FERC ¶ 61,350 (1995).