Internal Revenue Service

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Department of the Treasury
Washington, DC 20224

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Person To Contact:
, ID No.
Telephone Number:

Refer Reply To:
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PLR-105310-05
Date:
July 14, 2005

In Re: Revised Schedule of Ruling Amounts

Taxpayer =

Parent =

Plant =
Location =
Commission A =
Commission B =
Commission C =
Agency =
Director =

Fund =
a =
b =
c =
d =
e =
f =
g =
h =
i =
j =

k =
l =
m =
n =
o =
p =
r =
s =
t =
u =
w =
x =
y =
z =
aa =
bb =
cc =
dd =
ee =
ff =
gg =

Dear :

This letter responds to Taxpayer's request dated January 26, 2005, for a revised schedule of ruling amount in accordance with § 1.468A-3(i) of the Income Tax Regulations. Taxpayer was previously granted a revised schedule of ruling amounts on May 16, 2000. The required information for the schedule of ruling amounts was submitted on behalf of Taxpayer pursuant to section 1.468A-3(h)(2). As set forth more fully below, Taxpayer now seeks a revised schedule of ruling amounts because

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Taxpayer has represented the following facts and information relating to its request for a revised schedule of ruling amounts:

Taxpayer is under the audit jurisdiction of Director. Taxpayer files a consolidated Federal income tax return with Parent. Taxpayer owns a a percent interest in Plant, which is situated in Location.

Taxpayer is subject to the jurisdiction of Commission A which covers b percent of Taxpayer's total electric sales, Commission B which covers c percent of Taxpayer's

total electric sales, Commission C which covers d percent of Taxpayer's total electric sales, and Agency which covers e percent of Taxpayer's total electric sales, for a total of f percent. These percentages may vary from year to year. Taxpayer has a contractual agreement to sell electric energy to Agency. Commission C approved this agreement prior to its consummation. As in the previous ruling, Agency is treated as if it is another jurisdiction.

Commission A, in Docket No. g, included $h for decommissioning costs in Taxpayer's cost of service for ratemaking purposes. In determining the decommissioning costs for Plant, Commission A used an estimated cost of $i (j dollars) as a base cost. The estimated base cost for decommissioning the Plant is based on an independent study and is premised on the Prompt Removal/Dismantlement method. This estimated base cost escalated at jj percent per annum to the year of license expiration (k), results in an estimated future decommissioning cost of $l (k dollars). The estimated year in which decommissioning costs will first be incurred is k, and the estimated year in which the decommissioning of Plant will be substantially complete is m.

Docket No. g is a reallocation order that did not change the decommissioning costs associated with Taxpayer's four plants in total. Docket No. g did, however, change the decommissioning costs associated with each plant, including Plant.

The estimated cost of decommissioning Plant, as approved by Commission B in Order No. n, in Docket No. o, included $p for decommissioning costs in Taxpayer's cost of service for ratemaking purposes. In determining the decommissioning costs for Plant, Commission B used an estimated cost of $i (j dollars) as a base cost for decommissioning Plant. The estimated base cost for decommissioning Plant is based on an independent study and is premised on the Prompt Removal/Dismantlement method. This estimated base cost escalated at jj percent per annum to the year of license expiration (k), results in an estimated future decommissioning cost of $l (k dollars). The estimated year in which decommissioning costs will first be incurred is k, and the estimated year in which the decommissioning of Plant will be substantially complete is m.

Order No. n, in Docket No. o, is a reallocation order that did not change the decommissioning costs associated with Taxpayer's four plants in total. Order No. n, in Docket No. o, did, however, change the decommissioning costs associated with each plant, including Plant.

There have been no changes related to Agency since the prior schedule. The cost of service for Commission C has increased to $r, a total increase of $s, due to new municipality contracts. There are no proceedings before the Commissions that may result in an increase or decrease in the amount of decommissioning costs for Plant included in Taxpayer's cost of service.

The estimated date on which Plant will no longer be included in Taxpayer's rate base for ratemaking purposes, as determined under the ratemaking assumptions that were used to determine the latest rates approved by Commission A and Commission B is t, and Commission C and Agency is u. However, the date was u in the first ratemaking proceedings before the Commissions in which Plant was included in Taxpayer's rate base. The estimated useful life of Plant was not adjusted by the Commissions before w.

For Commission A and Commission B, the funding period and level funding limitation for Plant extend from x through y, and for Commission C and Agency from x through k. The estimated useful life of Plant is z years (aa through k). The date Plant began sustained and substantial generation of electricity for sale to customers was aa. The date Plant was first included in Taxpayer's rate base was aa. The estimated period for which Fund will be in effect is bb years (cc through k). Therefore, Taxpayer has calculated the qualifying percentage to be dd. The assumed after-tax rate of return to be earned by the assets of the Fund is ee percent related to Commission A and Commission B, and ff percent related to Commission C and Agency.

Section 468A(a) 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 amount of the nuclear decommissioning costs allocable to the fund that 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 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.

Sections 1.468A-3(a)-(g) of the regulations generally set forth the requirements for schedules of ruling amounts.

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."

To the extent consistent with the principles and provisions of section 468A, section 1.468A-3(a)(2) of the regulations requires that each schedule of ruling amounts 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 cost of service for ratemaking.

Section 1.468A-3(a)(5) of the regulations provides that the Service may, in its discretion, provide a schedule of ruling amounts that is determined on a basis other than the rules of paragraphs 1.468A-3(a) through (g) if, (i) in connection with its request for a schedule of ruling amounts, the taxpayer explains the need for special treatment and sets forth an alternative basis for determining the schedule of ruling amounts, and (ii) the Service determines that special treatment is consistent with the purpose of section 468A.

APPROVED REVISED SCHEDULE OF RULING AMOUNTS
TAXABLE YEARS THROUGH

YEAR	A	B	C	AGENCY	TOTAL

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 this 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. Under section 1.468A-3(i)(1)(iv), the Taxpayer is required to file such a request on or before the deemed payment deadline date for the first taxable 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 tenth taxable year following the close of the tax year in which the most recent schedule of ruling amounts was 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 above, payments made to the Fund can qualify only to the extent that they do not exceed the lesser of the decommissioning costs applicable to the Fund or the ruling amounts applicable to the Fund in the taxable year.

Except as specifically set forth above, no opinion is expressed concerning the federal income tax consequences of the above described facts under any other provision of the Code or regulations. This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

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 taxable year in which the Taxpayer claims a deduction for payments made to the Fund. We are sending a copy of this letter ruling to the Industry Director, Natural Resources and Construction (LM:NRC).

Sincerely yours,

PETER C. FRIEDMAN
Senior Technician Reviewer, Branch 6
(Passthroughs and Special Industries)

Enclosures:
Copy of this letter
Copy for section 6110 purposes

CC: Internal Revenue Service
Attn: Industry Director, Natural Resources and Construction
(LM:NRC)
1919 Smith Street., Stop 1000HOU
Houston, TX 77083