

**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

Number: **200543018**  
Release Date: 10/28/2005  
Index Number: 468A.04-02

Person To Contact: ID No.

Telephone Number:

Refer Reply To:  
CC:PSI:B06 – PLR-114092-05

Date:  
July 11, 2005

Re:

LEGEND:

Taxpayer =

Plant =  
Intermediate =

Collector =

Parent =

Director =

Location =  
Commission =  
State =  
Method =  
Order =

Fund =  
a =

Dear

This letter responds to your request, dated March 14, 2005, for a revised schedule of ruling amounts pursuant to § 1.468A-3(i)(1)(iii)(A)(3) of the Income Tax Regulations. Taxpayer was previously granted a revised schedule of ruling amounts on . Information was submitted pursuant to § 1.468A-3(h)(2). As set forth more fully below, Taxpayer now seeks a revised schedule of ruling amounts because Commission decreased the decommissioning cost collections for the Plant.

Taxpayer represents the facts and information relating to its request for a revised schedule of ruling amounts as follows:

Taxpayer is wholly owned by Intermediate, which is wholly owned by Parent. Parent files a consolidated return for the affiliated group which includes Taxpayer, Intermediate, and Parent. Also included in this affiliated group is Collector, which previously collected the decommissioning costs from retail customers and remitted those amounts to Taxpayer. Taxpayer has a percent ownership interest as tenant in common in the Plant, acquired from Collector, effective .<sup>1</sup> This transfer was in response to the laws of State, which provide for competition in the generation and sale of electricity.

The Plant is situated at Location. Plant's operating license expires on . The estimated base cost for decommissioning Plant is based on an independent study and the proposed method of decommissioning the Plant is Method.

Taxpayer is subject to the jurisdiction of Commission. In Order, Commission authorized decreases in the nuclear decommissioning costs to be included in the Taxpayer's cost of service for ratemaking purposes for Plant. Commission determined that the decommissioning costs to be included in cost of service for ratemaking purposes would be reduced to \$a for through .

There are no proceedings pending before Commission that may result in a change to the amount of decommissioning costs for the Plant to be included in the Taxpayer's cost of service for ratemaking purposes.

Section 468A provides that a taxpayer may elect to deduct the amount of payments made to a qualified decommissioning fund. However, § 468A(b) limits the amount paid into such fund for any taxable year to the lesser of the amount of nuclear decommissioning costs allocable to this 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.

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Section 1.468A-2(b)(1) 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) 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".

Because the Commission has concluded that the amount of decommissioning costs for the Plant to be included in the cost of service for ratemaking purposes is \$a for through , we conclude that the Taxpayer's proposed schedule of ruling amounts satisfies the requirements of § 468A of the Code.

APPROVED SCHEDULE OF RULING AMOUNTS FOR TAXABLE YEARS  
THROUGH

YEAR	AMOUNT

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 § 1.468A-3(i)(1)(iii) 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 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.

Except as specifically determined above, no opinion is expressed or implied concerning the Federal income tax consequences of the transaction described above.

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 § 468A of the Code. 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. In accordance with the power of attorney on file with this office, a copy of this letter is being sent to your authorized representative. We are also sending a copy of this letter ruling to the Director. Pursuant to § 1.468A-7(a), a copy of this letter must be attached (with the required Election Statement) to the Taxpayer's federal income tax return for each tax year in which the Taxpayer claims a deduction for payments made to the Fund.

Sincerely yours,

PETER C. FRIEDMAN  
Senior Technician Reviewer, Branch 6  
Office of the Associate Chief Counsel  
(Passthroughs and Special Industries)

cc: