

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact: _____, ID No.

Telephone Number:

Refer Reply To:
CC:PSI:B06
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Date:
September 07, 2007

Re: Request for Extension of Time to File Request for Revised Schedule of Ruling
Amounts Under 468A

Taxpayer =

Plant A =
Plant B =
Plant C =
Plant D =
Commission X =
Commission Y =

Commission Z =
Director =

Dear _____ :

This letter responds to a letter submitted July 13, 2007, requesting an extension of time pursuant to § 301.9100-3 of the Procedure and Administration Regulations for Taxpayer to file requests for revised schedules of ruling amounts for purposes of § 468A of the Internal Revenue Code as described below.

According to the information submitted, Taxpayer, through subsidiaries, owns, in full or in part, Plant A, Plant B, Plant C, and Plant D (the Units). Taxpayer and its various subsidiaries constitute a fully-integrated electric and natural gas utility.

Taxpayer has established a qualified fund with respect to each of the Units as allowed by section 468A of the Internal Revenue Code. Taxpayer is allowed to collect decommissioning amounts from ratepayers as authorized by Commission X, Commission Y, and Commission Z. Taxpayer most recently received schedules of ruling amounts from the Service on _____, for Plant A and Plant B and on _____, for Plant C and Plant D. These schedules set forth, *inter alia*, amounts allowed by Commission Z to be collected through _____.

Taxpayer contributed to the qualified funds for the _____ year the lesser of the amount actually collected from Commission Z customers or the pro-rata portion of the amount provided in the schedules of ruling amounts received from the Service in _____.

LAW AND ANALYSIS

Section 468A provides that a taxpayer may elect to deduct the amount of payments made to a qualified decommissioning fund. However, former § 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.

Section 468A(g) provides that a taxpayer shall be deemed to have made a payment to the nuclear decommissioning fund on the last day of a taxable year if the payment is made on account of such taxable year and is made within 2½ months after the close of the tax year. Section 1.468A-2(c) further provides that the 15th day of the third calendar month after the close of any tax year is the "deemed payment deadline date."

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".

Section 1.468A-3(i)(1)(iii)(A)(3) provides that a taxpayer is required to request a revised schedule of ruling amounts if 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 a nuclear decommissioning fund relates reduces the amount of decommissioning costs to be included in the cost of service for any taxable year.

Section 1.468A-3(i)(1)(iv) provides that any taxpayer that is required to request a revised schedule of ruling amounts by reason of any of the actions described in § 1.468A-3(i)(1)(iii) must file such request on or before the deemed payment deadline date for the first taxable year in which the rates that reflect the action become effective.

Section 301.9100-1(c) provides that the Commissioner may grant a reasonable extension of time under the rules set forth in §§ 301.9100-2 and 301.9100-3 to make a regulatory election, or a statutory election (but no more than six months except in the case of a taxpayer who is abroad), under all subtitles of the Code, except subtitles E, G, H, and I.

Section 301.9100-1(b) provides that the term "election" includes an application for relief in respect of tax.

Sections 301.9100-2 and 301.9100-3 provide the standards the Commissioner will use to determine whether to grant an extension of time to make an election. Section 301.9100-2 provides automatic extensions of time for making certain elections. Section 301.9100-3 provides extensions of time for making elections that do not meet the requirements of § 301.9100-2. A request for relief under § 301.9100-3 will be granted when the taxpayer provides evidence to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and that granting relief will not prejudice the interests of the government.

CONCLUSIONS

Based solely on the facts and representations submitted, we conclude that the requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied. Accordingly, Taxpayer's requests for revised schedules of ruling amounts for the Units will be considered timely filed for purposes of Section 1.468A-3(i)(1)(iii)(A)(3). This relief is intended only to address the technical violation under Section 1.468A-3(i)(1)(iii)(A)(3). Since the statutory deemed payment deadline for the tax year has passed, Taxpayer will not be permitted to make any further contributions for the tax year.

Except as specifically set forth above, we express no opinion concerning the federal income tax consequences of the facts described above under any other provisions of the Code.

We are sending a copy of this letter to the Director.

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

Sincerely,

William P. O'Shea
Associate Chief Counsel
(Passthroughs and Special Industries)

Enclosures (2):
copy of this letter
copy for section 6110 purposes

cc: