

**PECO ENERGY COMPANY CONSOLIDATED  
1995 Federal Income Tax Return**

**E. I. No.: 23-0970240**

**Election to Deduct Disaster Loss in Previous  
Tax Year Under IRC Reg. 1.165-11**

PECO Energy Company and subsidiaries hereby elect under IRC Sec. 165(i) to deduct the casualty losses occurring between January 1, 1996 and September 15, 1996 in the tax year prior to the year of loss.

The property that was damaged or destroyed by the disaster is located in Pennsylvania.

We have made an attempt to quantify such costs. In the event that subsequent events change the amount, this election is meant to apply.

**PECO ENERGY COMPANY**

**I.D. No: 23-0970240**

**1995 Election Under Section 468A**

**Peach Bottom Atomic Power Station - Unit 2**

PECO Energy Company, EIN #23-0970240, located at 2301 Market Street, Philadelphia, PA 19101, hereby makes an election under Code Section 468A pursuant to Treasury Regulation 1.468A-7 for the taxable year 1995.

The election is made with respect to Unit 2 of the Peach Bottom Atomic Power Station located at R.D. #1, Delta, PA 17314. The employer identification number for the Peach Bottom 2 Nuclear Decommissioning Fund is 23-6919893.

There were no actual cash payments made to the Nuclear Decommissioning Fund during the taxable year that were not treated as deemed cash payments under Treasury Regulation 1.468A-2(c)(1). The total amount of cash payments deemed made to the Nuclear Decommissioning Fund under Treasury regulation 1.468A-2(c)(1) for 1995 is \$2,157,324. The cost of service amount for the taxable year 1995 is \$3,079,248

Attached is a schedule of Ruling amounts obtained by the PECO Energy Company with respect to Unit 2 of the Peach Bottom Atomic Power Station.

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**PECO Energy Company Consolidated  
1995 Federal Income Tax Return**

**E. I. No.: 23-0970240**

**Election To Amortize Start-Up Expenditures  
60 Months Pursuant To IRC Sec. 195**

In accordance with IRC Sec. 195, PECO Energy Company and its subsidiaries hereby elect to amortize start up expenditures over a period of 60 months for PECO Energy - Telecommunications Group, The Power Team, PECO Gas Supply Company, and Adwin Schuylkill Cogeneration Inc. Amortization will begin the month that the Business activities will be placed in service.

We have made an attempt to quantify such costs. In the event that subsequent events change the amount, this election is meant to apply.

**PECO Energy Company Consolidated  
1995 Federal Income Tax Return**

**E. I. No.: 23-0970240**

**Election To Amortize Organizational Expenditures  
60 Months Pursuant To IRC Sec. 248**

Pursuant to IRC Sec. 248, PECO Energy Company and its subsidiaries hereby elect to amortize all organizational expenditures over a period of 60 months for PECO Energy - Telecommunications Group, The Power Team, and Adwin Schuylkill Cogeneration Inc. Amortization will begin the month that the Business activities will be placed in service.

We have made an attempt to quantify such costs. In the event that subsequent events change the amount, this election is meant to apply.

Internal Revenue Service

Department of the Treasury  
Washington, DC 20224

Patricia M. Healy  
Gerald P. Farano  
Reid & Priest  
701 Pennsylvania Ave., NW.  
Washington, D.C. 20004

Person to Contact:  
Paul Handleman  
Telephone Number:  
(202) 622-3110  
Refer Reply To:  
CC:DOM:P&SI:6 - TR-31-02633-95  
Date: FEB 27 1996

In Re: PECO Energy Company  
Revised Schedule of Ruling Amounts for  
Peach Bottom Atomic Generating Station, Unit 2

Dear Ms. Healy and Mr. Farano:

The enclosed copy of a letter is sent to you under the provisions of a power of attorney currently on file with the Internal Revenue Service.

Sincerely yours,

*Charles B. Ramsey*  
CHARLES B. RAMSEY  
Chief, Branch 6  
Office of the Assistant  
Chief Counsel  
(Passthroughs and Special  
Industries)

Enclosure:  
Copy of Letter

Letter 1690 (Rev. 10-90)

Internal Revenue Service

Department of the Treasury

Index Number: 468A.04-02

P.O. Box 7604  
Ben Franklin Station  
Washington, DC 20044

J. Barry Mitchell  
Vice President, Finance  
and Treasurer  
PECO Energy Company  
2301 Market Street  
Philadelphia, PA 19101

Person to Contact:

Paul Handleman  
Telephone Number:

(202) 622-3110  
Refer Reply to:

CC:DOM:P&SI:6 -- TR-31-02633-95  
Date:

FEB 27 1996

In re: Revised Schedule of Ruling Amounts  
Peach Bottom Atomic Generating Station, Unit 2

Legend:

*This document may not be used or cited as precedent.  
Section 6110 (i) (3) of the Internal Revenue Code.*

Taxpayer	=	PECO Energy Company E.I.N.: 23-0970240
Plant	=	Peach Bottom Atomic Generating Station, Unit 2
Location	=	Delta, Pennsylvania
Commission A	=	Pennsylvania Public Utility Commission
Commission B	=	Federal Energy Regulatory Commission
State X	=	Pennsylvania
Firm	=	NUS Corporation Gaithersburg, Maryland
District	=	Philadelphia, Pennsylvania

Dear Mr. Mitchell:

This letter responds to your request dated November 17, 1995, and additional correspondence, that was submitted by your authorized legal representative on behalf of the Taxpayer. The request is for a revised schedule of ruling amounts under the mandatory review requirement of section 1.468A-3(i)(1)(ii)(A) of the Income Tax Regulations for the Taxpayer's nuclear decommissioning fund (the "Fund") under the jurisdiction of Commission A and Commission B (the "Commissions"). The required information for the schedule of ruling amounts was submitted on behalf of the Taxpayer pursuant to section 1.468A-3(h)(2).

The Taxpayer has represented the following facts and information:

The Taxpayer is incorporated in State X and is an operating utility providing electric and gas service in State X. The Taxpayer is subject to the audit jurisdiction of the District. The Taxpayer owns a 42.49 percent undivided interest as a tenant-in-common in the Plant, which is situated at Location. The Plant began commercial operations in 1974 and the Plant's operating license issued by the Nuclear Regulatory Commission expires at midnight on August 8, 2013.

Commission A, in Docket No. R-891364, effective April 19, 1990 (the "1990 Order"), approved the amount of decommissioning costs included in the Taxpayer's cost of service for ratemaking purposes for electrical energy sales to State X customers. Commission A reviewed the components of the Taxpayer's cost of service, including the portion allocated to Commission B. In the 1990 Order, the jurisdictional percentages were allocated to Commission A in the amount of 93.822 percent of total electrical energy sales and to Commission B in the amount of 6.178 percent of total electrical energy sales for a total of 100 percent. The Commission B jurisdiction was further divided such that 4.563 percent was allocable to Commission B Power Sales and 1.615 percent was allocable to Commission B Wholesale Sales.

Commission B, in Docket No. ER91-478-000, effective October 1, 1991 (the "1991 Order"), increased the jurisdictional percentage allocated to Commission B Wholesale Sales to 2.1163 percent. Effective May 16, 1995, in Docket No. ER95-770-000, Commission B accepted an electric tariff (the "1995 Tariff") allowing the Taxpayer to enter into separate power sales agreements. The jurisdictional percentage allocated to Commission B Power Sales under the 1995 Tariff is 12.888 percent. Approval of these jurisdictional percentages is granted notwithstanding that the sum of the percentages for the

Commissions exceeds 100 percent. Approval is granted based on the Taxpayer's representation that this excess is due to difference in the timing and procedures of the Commission A and Commission B rate cases.

On August 28, 1991, the Internal Revenue Service last approved a formula under section 1.468A-3(a)(4) of the regulations for determining the Taxpayer's revised schedule of ruling amounts. In exercising our discretion under section 1.468A-3(a)(4), the revised schedule of ruling amounts was limited to a 5-year period under section 1.468A-3(i)(1)(ii)(A). Thus, the Taxpayer requests a new revised schedule of ruling amounts.

For the years 1995 through 1999, Commission A in the 1990 Order included decommissioning costs in the Taxpayer's cost of service in the amount of \$2,729,282 a year.

For the years 1995 through 1999, Commission B in the 1991 Order included decommissioning costs in the Taxpayer's cost of service under the Commission B Wholesale Sales in the amount of \$63,912 a year. For the year 1995, decommissioning costs are included under the Commission B Power Sales in the amount of \$49,453 and under the Commission B 1995 Tariff in the amount of \$236,587. For the years 1996 through 1999, decommissioning costs are included under the Commission B 1995 Tariff in the amount of \$377,093 a year.

Contrary to the required information under section 1.468A-3(h)(2)(vi)(B)(5), (6), (7), and (8) of the regulations, the Commissions have not stated the estimated total cost of decommissioning the Plant in future dollars; the estimated cost of decommissioning expressed in future dollars for each taxable year beginning in the estimated year in which substantial decommissioning costs will first be incurred and ending with the estimated year decommissioning will be substantially complete; the methodology used in converting the estimated cost of decommissioning expressed in current dollars to future dollars; and the assumed after-tax rate of return to be earned on the Fund assets. Instead, the Commissions use a methodology for decommissioning the Plant that is based solely on the current cost of decommissioning. This method is referred to as the Constant Current Accrual Method (the "Method"). Under the Method, there are no estimates made as to future inflation rates, future costs or (except for relatively short periods set at 7.0 percent) future interest rates.

The current cost of decommissioning the Plant is based upon a detailed engineering study prepared by the Firm that reflects the cost of decommissioning the Plant currently. This study is updated periodically. In the interim, the current

decommissioning costs are redetermined by applying a series of inflation indices intended to measure the cost increase within each of the various components of decommissioning. The Taxpayer claims that this is the most conservative approach to funding the future cost of decommissioning because it is based on actual facts that are known rather than on future earnings and the growth of costs.

The method of decommissioning the Plant is the immediate dismantling method. The estimated year in which substantial decommissioning costs will first be incurred is the year 2013. The estimated year in which the decommissioning of the Plant will be substantially completed is the year 2017. The estimated date in which the Plant will no longer be included in the Taxpayer's rate base for ratemaking purposes, as determined by the Commissions in establishing or approving rates during the first ratemaking proceed in which the Plant was included in the Taxpayer's rate base, is 2008.

For Commission A and Commission B Power Sales, the total estimated cost of decommissioning the Plant is \$183,621,000 (in 1990 dollars). For Commission B Wholesale Sales, the total estimated cost of decommissioning the Plant is \$203,214,000 (in 1991 dollars). For the Commission B 1995 Tariff, the total estimated cost of decommissioning the Plant is \$184,066,750 (the weighted average between \$183,621,000 and \$203,214,000). As of January 1, 1995, the asset balance of the Fund was \$20,871,715.

The funding period and funding limitation period began on January 1, 1984 and ends on December 31, 2013. The estimated period for which the Fund is to be in effect is 25 years (1984 through 2008) and the estimated useful life of the Plant is 35 years (1974 through 2008). Thus, the Taxpayer has calculated the qualifying percentage to be 71.43 percent.

Under the Method, the Taxpayer determines the current portion of the Taxpayer's cost of decommissioning the Plant. The cost is the product of the qualifying percentage and the total current decommissioning cost for the Plant. In order to determine the amount of any "underfunding," the Taxpayer subtracts the actual amount accumulated in the Fund from the amount that should be in the Fund. If "underfunding" occurs, the amount of the "underfunding" would be amortized over the same period approved by the Commissions. Thus, in determining the amount of the schedule of ruling amounts under the Method for the Taxpayer's 1995 through 1999 tax years, the following formula was used:

$$\frac{(TC \times QP)}{A} + \frac{(TC \times QP) \times B - QB}{A \times C}$$

Where:

- QB = balance in the Fund,
- QP = qualifying percentage,
- TC = the Taxpayer's share of the total cost to decommission currently,
- A = total number of years for the Taxpayer's collection of decommissioning costs,
- B = total number of years since the Taxpayer first began collecting decommissioning costs, and
- C = total number of years remaining for the Taxpayer's collection of decommissioning costs.

Because the effective date of the Commission B 1995 Tariff does not correspond to the beginning or end of a taxable year, computations under the formula for 1995 require the use of a weighted average. Although the Method and resulting formula would allow the Taxpayer to recompute the ruling amount each year, the Taxpayer represents that it only will perform the computation when either of the Commissions adjusts the amount of decommissioning costs included in the Taxpayer's cost of service for ratemaking purposes through a base rate proceeding. Thus, the Taxpayer requests specified dollar ruling amounts for the Commissions and is limiting its request to a 5-year period.

Section 468A 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 taxable year to the lesser of the amount of nuclear decommissioning costs allocable to the fund that is included in the taxpayer's cost of service for ratemaking purposes for the taxable year or the ruling amount applicable to that 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 taxable 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 taxable year if the payment is made on account of the taxable year within  $2\frac{1}{2}$  months after the close of the taxable year.

Section 1.468A-1(a) of the regulations provides, in part, 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, in part, that the maximum amount of cash payments made (or deemed made) to a nuclear decommissioning fund during any taxable year shall not exceed the lesser of (i) the cost of service amount applicable to the nuclear decommissioning fund for such taxable year; (ii) or the ruling amount applicable to the nuclear decommissioning fund for such taxable year.

Section 1.468A-3(a)(1) of the regulations generally provides, in part, that a schedule of ruling amounts for a nuclear decommissioning fund is a ruling specifying annual payments that, over the taxable 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 section 1.468A-3, each schedule of ruling amounts shall be based on the reasonable assumptions and determinations used by the applicable public utility commission(s) in establishing or approving the amount of decommissioning costs to be included in the cost of service for ratemaking purposes, taking into account amounts that are otherwise required to be included in the taxpayer's income under section 38 of the Code and the

regulations thereunder. Thus, for example, each schedule of ruling amounts shall be based on the public utility commission's reasonable assumptions concerning (i) the after-tax rate of return to be earned by the amounts collected for decommissioning; (ii) the total estimated cost of decommissioning the nuclear power plant; and (iii) the frequency of contributions to the nuclear decommissioning fund for a taxable year.

Under section 1.468A-3(a)(3) of the regulations, the Internal Revenue Service shall provide a schedule of ruling amounts that is identical to the schedule proposed by the taxpayer, but no such schedule shall be provided unless the taxpayer's proposed schedule is consistent with the principles and provisions of section 1.468A-3.

Section 1.468A-3(a)(4) of the regulations provides that if, in establishing or approving the amount of decommissioning costs to be included in cost of service for ratemaking purposes, the applicable public utility commission uses an estimated cost of decommissioning that is based on price levels in effect at the time of the ratemaking proceeding (*i.e.*, the public utility commission does not estimate the cost of decommissioning in future dollars), the Service may, in its discretion, provide a formula or method for determining a schedule of ruling amounts (rather than a schedule specifying a dollar amount for each taxable year) that is consistent with the principles and provisions of section 1.468A-3.

Section 1.468A-3(b)(1) of the regulations provides that the ruling amount, specified in a schedule of ruling amounts, for any taxable year in the level funding limitation period shall not be less than the ruling amount specified in such schedule for any earlier taxable year. Under section 1.468A-3(b)(2)(i) and (ii), the level funding limitation period begins on the first day of the first taxable year for which a deductible payment is made to the nuclear decommissioning fund and ends on the last day of the taxable 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(c)(1)(i) and (ii) of the regulations provides that the funding period for a nuclear decommissioning fund is the period that begins on the first day of the first taxable year for which a deductible payment is made (or deemed to be made) to such nuclear decommissioning fund and ends the later of the last day of the taxable year that includes the estimated date on which decommissioning costs of the nuclear power plant to which the nuclear decommissioning fund relates will no longer be included in the taxpayer's cost of service for ratemaking purposes; or the last day of the taxable year that includes the estimated date on which the nuclear power plant to which the

nuclear decommissioning fund relates will no longer be included in the taxpayer's rate base for ratemaking purposes.

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)(i) of the regulations provides, in part, that 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 the plant multiplied by the taxpayer's qualifying interest in the plant.

Section 1.468A-3(d)(4)(i) of the regulations provides that the qualifying percentage for any nuclear decommissioning fund is equal to the fraction, the numerator of which is the number of taxable years in the estimated period for which the nuclear decommissioning fund is to be in effect and the denominator of which is the number of taxable years in the estimated useful life of the applicable nuclear power plant.

Under section 1.468A-3(d)(4)(ii) of the regulations, the estimated period for which a nuclear decommissioning fund is to be in effect (A) begins on the later of the first day of the first taxable year for which a deductible payment is made to the nuclear decommissioning fund or the first day of the taxable year that includes the date that the nuclear power plant begins commercial operations; and (B) ends on the last day of the taxable year that includes the estimated date on which the nuclear power plant to which the nuclear decommissioning fund relates will no longer be included in the taxpayer's rate base for ratemaking purposes. Likewise, under section 1.468A-3(d)(4)(iii), the estimated useful life of a nuclear power plant (A) begins on the first day of the taxable year that includes the date that the plant begins commercial operations; and (B) ends on the last day of the taxable 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(e)(3) of the regulations provides that, for purposes of section 1.468A-3(d)(4)(ii) and (iii), the estimated

date on which the nuclear power plant to which the nuclear decommissioning fund relates will no longer be included in the taxpayer's rate base for ratemaking purposes is determined under the ratemaking assumptions used by the applicable public utility commission in establishing or approving rates during the first ratemaking proceeding in which the nuclear power plant was included in the taxpayer's rate base.

Section 1.468A-3(f)(1) of the regulations provides that if two or more public utility commissions establish or approve rates for electric energy generated by a single nuclear power plant, then the schedule of ruling amounts shall be separately determined pursuant to the rules of sections 1.468A-3(a) through (e) for each public utility commission that has determined the amount of decommissioning costs to be included in the cost of service for ratemaking purposes for this plant. Under section 1.468A-3(f)(2), this separate determination shall be based on the reasonable assumptions and determinations used by the relevant public utility commission and shall take into account only that portion of the total estimated cost of decommissioning that is properly allocable to the ratepayer whose rates are established or approved by the public utility commission. According to section 1.468A-3(f)(3), the ruling amounts for any tax year is the sum of the ruling amounts for such tax year determined under the separate schedules of ruling amounts.

Section 1.468A-3(g) of the regulations provides that the 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 to which the nuclear decommissioning fund relates has (1) determined the amount of decommissioning costs to be included in the taxpayer's cost of service for ratemaking purposes; and (2) 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(h)(2) of the regulations enumerates the information required to be submitted by a taxpayer in order to receive a ruling amount for any taxable year.

Under section 1.468A-3(i)(1)(ii)(A) of the regulations, any taxpayer that has obtained a formula or method for determining a schedule of ruling amounts for any taxable year under section 1.468A-3(a)(4) (which applies when a public utility commission estimates decommissioning costs in current dollars) must file a request for a revised schedule of ruling amounts on or before the deemed payment deadline for its fifth taxable year that begins after its taxable year in which the most recent formula or method was received.

Section 1.468A-3(i)(1)(iii) of the regulations provides that a taxpayer is required to request a revised schedule of ruling amounts for a nuclear decommissioning fund if (A) 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 the nuclear decommissioning fund relates (1) increases the proposed period over which decommissioning costs of the nuclear power plant will be included in cost of service for ratemaking purposes; (2) adjusts the estimated date on which the nuclear power plant will no longer be included in the taxpayer's rate base for ratemaking purposes; or (3) reduces the amount of decommissioning costs to be included in cost of service for any taxable year; and (B) the taxpayer's most recent request for a schedule of ruling amounts did not provide notice to the Service of the action by the public utility commission.

Section 1.468A-3(i)(2) of the regulations provides that any taxpayer that has obtained a schedule of ruling amounts pursuant to section 1.468A-3(h) can request a revised schedule of ruling amounts. Such a request must be made in accordance with the rules of section 1.468A-3(h); thus, the Service shall not provide a revised ruling amount applicable to a taxable year in response to a request for a schedule of ruling amounts that is filed after the deemed payment deadline date for such taxable year.

Section 1.468A-7(a) of the regulations provides, in general, that an eligible taxpayer is allowed a deduction for the taxable year in which the taxpayer makes a cash payment (or is deemed to make a cash payment) to a nuclear decommissioning fund only if the taxpayer elects the application of section 468A of the Code. A separate election is required for each nuclear decommissioning fund and for each taxable year with respect to which payments are to be deducted under section 468A. In the case of an affiliated group of corporations that join in filing a consolidated return for a taxable year, the common parent must make a separate election on behalf of each member whose payments to a nuclear decommissioning fund during such taxable year are to be deducted under section 468A. The election under section 468A for any taxable year is irrevocable and must be made by attaching a statement ("Election Statement") and a copy of the schedule of ruling amounts provided pursuant to the rules of section 1.468A-3 to the taxpayer's federal income tax return (or, in the case of an affiliated group of corporations that join in filing a consolidated return, the consolidated return) for such taxable year. The return to which the Election Statement and a copy of the schedule of ruling amounts is attached must be filed on or before the time prescribed by law (including extensions) for filing the return for the taxable year with respect to which payments are to be deducted under section 468A.

We have examined the representations and information submitted by the Taxpayer in relation to the requirements set forth in the section 468A of the Code and the regulations thereunder. Based solely on these representations, 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) of the regulations.
2. The Commissions have determined 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 has calculated the shares of the total decommissioning costs allocable to each of the Commissions, as required by section 1.468A-3(f)(2) of the regulations.
4. We are exercising our discretion under section 1.468A-3(a)(4) of the regulations by allowing the Taxpayer to use a formula for determining the 5-year schedule of ruling amounts. The approved formula is shown and explained on page 5 of this ruling and the resulting schedule of ruling amounts is shown below.
5. The maximum amount of cash payments made (or deemed made) to the 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.
6. The qualifying percentage under section 1.468A-3(d)(4) of the regulations is calculated to be 71.43 percent.

Based on the above determinations, we conclude that the Taxpayer's proposed schedule of ruling amounts satisfies the requirements of section 468A of the Code. The following schedule of ruling amounts is specifically approved for the Commissions:

APPROVED REVISED SCHEDULE OF RULING AMOUNTS  
TAXABLE YEARS 1995 THROUGH 1999

YEAR	COMMISSION A	COMMISSION B WHOLESALE SALES	COMMISSION B POWER SALES	COMMISSION B 1995 TARIFF	TOTAL
1995	\$1,922,585	\$51,073	\$34,840	\$148,832	\$2,157,330
EACH YEAR 1996 THROUGH 1999	\$1,922,585	\$51,073	-0-	\$237,221	\$2,210,879

In exercising our discretion under section 1.468A-3(a)(4) of the regulations, the approved schedule of ruling amounts is being limited to a 5-year period under section 1.468A-3(i)(1)(ii)(A). Moreover, 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) 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.

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 letter ruling is directed only to the taxpayer who requested it. Section 6110(j)(3) of the Code provides that this ruling may not be used or cited as precedent.

In accordance with the power of attorney on file, a copy of this letter is being sent to your authorized legal representative. 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.

Sincerely yours,

*Charles B. Ramsey/PC*  
CHARLES B. RAMSEY  
Chief, Branch 6  
Office of the Assistant  
Chief Counsel  
(Passthroughs and Special  
Industries)

Enclosure:  
6110 copy

**PECO ENERGY COMPANY**

**I.D. No: 23-0970240**

**1995 Election Under Section 468A**

**Peach Bottom Atomic Power Station - Unit 3**

PECO Energy Company, EIN #23-0970240, located at 2301 Market Street, Philadelphia, PA 19101, hereby makes an election under Code Section 468A pursuant to Treasury Regulation 1.468A-7 for the taxable year 1995.

The election is made with respect to Unit 3 of the Peach Bottom Atomic Power Station located at R.D. #1, Delta, PA 17314. The employer identification number for the Peach Bottom 3 Nuclear Decommissioning Fund is 23-6919894.

There were no actual cash payments made to the Nuclear Decommissioning Fund during the taxable year that were not treated as deemed cash payments under Treasury Regulation 1.468A-2(c)(1). The total amount of cash payments deemed made to the Nuclear Decommissioning Fund under Treasury Regulation 1.468A-2(c)(1) for 1995 is \$2,158,452. The cost of service amount for the taxable year 1995 is \$3,077,148.

Attached is a schedule for Ruling amounts obtained by the PECO Energy Company with respect to Unit 3 of the Peach Bottom Atomic Power Station.

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Internal Revenue Service

Department of the Treasury  
Washington, DC 20224

Patricia M. Healy  
Gerald P. Farano  
Reid & Priest  
701 Pennsylvania Ave., NW.  
Washington, D.C. 20004

Person to Contact:  
Paul Handleman  
Telephone Number:  
(202) 622-3110  
Refer Reply To:  
CC:DOM:P&SI:6 - TR-31-02634-95  
Date: MAR 5 1995

In Re: PECO Energy Company  
Revised Schedule of Ruling Amounts for  
Peach Bottom Atomic Generating Station, Unit 3

Dear Ms. Healy and Mr. Farano:

The enclosed copy of a letter is sent to you under the provisions of a power of attorney currently on file with the Internal Revenue Service.

Sincerely yours,

*Charles B. Ramsey*  
CHARLES B. RAMSEY  
Chief, Branch 6  
Office of the Assistant  
Chief Counsel  
(Passthroughs and Special  
Industries)

Enclosure:  
Copy of Letter

Letter 1690 (Rev. 10-90)

Internal Revenue Service

Department of the Treasury

Index Number: 468A:04-02

P.O. Box 7604  
Ben Franklin Station  
Washington, DC 20044

J. Barry Mitchell  
Vice President, Finance  
and Treasurer  
PECO Energy Company  
2301 Market Street  
Philadelphia, PA 19101

Person to Contact:

Paul Handleman  
Telephone Number:

(202) 622-3110  
Refer Reply to:

CC:DOM:P&SI:6 -- TR-31-02634-95  
Date:

MAR 5 1996

In re: Revised Schedule of Ruling Amounts  
Peach Bottom Atomic Generating Station, Unit 3

Legend:

*This document may not be used or cited as precedent  
Section 6110 (i) (3) of the Internal Revenue Code.*

- Taxpayer = PECO Energy Company  
E.I.N.: 23-0970240
- Plant = Peach Bottom Atomic Generating Station,  
Unit 3
- Location = Delta, Pennsylvania
- Commission A = Pennsylvania Public Utility Commission
- Commission B = Federal Energy Regulatory Commission
- State X = Pennsylvania
- Firm = NUS Corporation  
Gaitherburg, Maryland
- District = Philadelphia, Pennsylvania

Dear Mr. Mitchell:

This letter responds to your request dated November 17, 1995, and additional correspondence, that was submitted by your authorized legal representative on behalf of the Taxpayer. The request is for a revised schedule of ruling amounts under the mandatory review requirement of section 1.468A-3(i)(1)(ii)(A) of the Income Tax Regulations for the Taxpayer's nuclear decommissioning fund (the "Fund") under the jurisdiction of Commission A and Commission B (the "Commissions"). The required information for the schedule of ruling amounts was submitted on behalf of the Taxpayer pursuant to section 1.468A-3(h)(2).

The Taxpayer has represented the following facts and information:

The Taxpayer is incorporated in State X and is an operating utility providing electric and gas service in State X. The Taxpayer is subject to the audit jurisdiction of the District. The Taxpayer owns a 42.49 percent undivided interest as a tenant-in-common in the Plant, which is situated at Location. The Plant began commercial operations in 1974 and the Plant's operating license issued by the Nuclear Regulatory Commission expires at midnight on July 2, 2014.

Commission A, in Docket No. R-891364, effective April 19, 1990 (the "1990 Order"), approved the amount of decommissioning costs included in the Taxpayer's cost of service for ratemaking purposes for electrical energy sales to State X customers. Commission A reviewed the components of the Taxpayer's cost of service, including the portion allocated to Commission B. In the 1990 Order, the jurisdictional percentages were allocated to Commission A in the amount of 93.822 percent of total electrical energy sales and to Commission B in the amount of 6.178 percent of total electrical energy sales for a total of 100 percent. The Commission B jurisdiction was further divided such that 4.563 percent was allocable to Commission B Power Sales and 1.615 percent was allocable to Commission B Wholesale Sales.

Commission B, in Docket No. ER91-478-000, effective October 1, 1991 (the "1991 Order"), increased the jurisdictional percentage allocated to Commission B Wholesale Sales to 2.1163 percent. Effective May 16, 1995, in Docket No. ER95-770-000, Commission B accepted an electric tariff (the "1995 Tariff") allowing the Taxpayer to enter into separate power sales agreements. The jurisdictional percentage allocated to Commission B Power Sales under the 1995 Tariff is 12.888 percent. Approval of these jurisdictional percentages is granted notwithstanding that the sum of the percentages for the

Commissions exceeds 100 percent. Approval is granted based on the Taxpayer's representation that this excess is due to difference in the timing and procedures of the Commission A and Commission B rate cases.

On August 28, 1991, the Internal Revenue Service last approved a formula under section 1.468A-3(a)(4) of the regulations for determining the Taxpayer's revised schedule of ruling amounts. In exercising our discretion under section 1.468A-3(a)(4), the revised schedule of ruling amounts was limited to a 5-year period under section 1.468A-3(i)(1)(ii)(A). Thus, the Taxpayer requests a new revised schedule of ruling amounts.

For the years 1995 through 1999, Commission A in the 1990 Order included decommissioning costs in the Taxpayer's cost of service in the amount of \$2,727,406 a year.

For the years 1995 through 1999, Commission B in the 1991 Order included decommissioning costs in the Taxpayer's cost of service under the Commission B Wholesale Sales in the amount of \$63,891 a year. For the year 1995, decommissioning costs are included under the Commission B Power Sales in the amount of \$49,424 and under the Commission B 1995 Tariff in the amount of \$236,427. For the years 1996 through 1999, decommissioning costs are included under the Commission B 1995 Tariff in the amount of \$376,838 a year.

Contrary to the required information under section 1.468A-3(h)(2)(vi)(B)(5), (6), (7), and (8) of the regulations, the Commissions have not stated the estimated total cost of decommissioning the Plant in future dollars; the estimated cost of decommissioning expressed in future dollars for each taxable year beginning in the estimated year in which substantial decommissioning costs will first be incurred and ending with the estimated year decommissioning will be substantially complete; the methodology used in converting the estimated cost of decommissioning expressed in current dollars to future dollars; and the assumed after-tax rate of return to be earned on the Fund assets. Instead, the Commissions use a methodology for decommissioning the Plant that is based solely on the current cost of decommissioning. This method is referred to as the Constant Current Accrual Method (the "Method"). Under the Method, there are no estimates made as to future inflation rates, future costs or (except for relatively short periods set at 7.0 percent) future interest rates.

The current cost of decommissioning the Plant is based upon a detailed engineering study prepared by the Firm that reflects the cost of decommissioning the Plant currently. This study is updated periodically. In the interim, the current

decommissioning costs are redetermined by applying a series of inflation indices intended to measure the cost increase within each of the various components of decommissioning. The Taxpayer claims that this is the most conservative approach to funding the future cost of decommissioning because it is based on actual facts that are known rather than on future earnings and the growth of costs.

The method of decommissioning the Plant is the immediate dismantling method. The estimated year in which substantial decommissioning costs will first be incurred is the year 2013. The estimated year in which the decommissioning of the Plant will be substantially completed is the year 2017. The estimated date in which the Plant will no longer be included in the Taxpayer's rate base for ratemaking purposes, as determined by the Commissions in establishing or approving rates during the first ratemaking proceed in which the Plant was included in the Taxpayer's rate base, is 2008.

For Commission A and Commission B Power Sales, the total estimated cost of decommissioning the Plant is \$183,621,000 (in 1990 dollars). For Commission B Wholesale Sales, the total estimated cost of decommissioning the Plant is \$203,214,000 (in 1991 dollars). For the Commission B 1995 Tariff, the total estimated cost of decommissioning the Plant is \$184,066,750 (the weighted average between \$183,621,000 and \$203,214,000). As of January 1, 1995, the asset balance of the Fund was \$20,792,495.

The funding period and funding limitation period began on January 1, 1984 and ends on December 31, 2013. The estimated period for which the Fund is to be in effect is 25 years (1984 through 2008) and the estimated useful life of the Plant is 35 years (1974 through 2008). Thus, the Taxpayer has calculated the qualifying percentage to be 71.43 percent.

Under the Method, the Taxpayer determines the current portion of the Taxpayer's cost of decommissioning the Plant. The cost is the product of the qualifying percentage and the total current decommissioning cost for the Plant. In order to determine the amount of any "underfunding," the Taxpayer subtracts the actual amount accumulated in the Fund from the amount that should be in the Fund. If "underfunding" occurs, the amount of the "underfunding" would be amortized over the same period approved by the Commissions. Thus, in determining the amount of the schedule of ruling amounts under the Method for the Taxpayer's 1995 through 1999 tax years, the following formula was used:

$$\frac{(TC \times OP)}{A} + \frac{(TC \times OP) \times B - QB}{A \times C}$$

Where:

- QB = balance in the Fund,
- OP = qualifying percentage,
- TC = the Taxpayer's share of the total cost to decommission currently,
- A = total number of years for the Taxpayer's collection of decommissioning costs,
- B = total number of years since the Taxpayer first began collecting decommissioning costs, and
- C = total number of years remaining for the Taxpayer's collection of decommissioning costs.

Because the effective date of the Commission B 1995 Tariff does not correspond to the beginning or end of a taxable year, computations under the formula for 1995 require the use of a weighted average. Although the Method and resulting formula would allow the Taxpayer to recompute the ruling amount each year, the Taxpayer represents that it only will perform the computation when either of the Commissions adjusts the amount of decommissioning costs included in the Taxpayer's cost of service for ratemaking purposes through a base rate proceeding. Thus, the Taxpayer requests specified dollar ruling amounts for the Commissions and is limiting its request to a 5-year period.

Section 468A 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 taxable year to the lesser of the amount of nuclear decommissioning costs allocable to the fund that is included in the taxpayer's cost of service for ratemaking purposes for the taxable year or the ruling amount applicable to that 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 taxable 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 taxable year if the payment is made on account of the taxable year within  $2\frac{1}{2}$  months after the close of the taxable year.

Section 1.468A-1(a) of the regulations provides, in part, 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, in part, that the maximum amount of cash payments made (or deemed made) to a nuclear decommissioning fund during any taxable year shall not exceed the lesser of (i) the cost of service amount applicable to the nuclear decommissioning fund for such taxable year; (ii) or the ruling amount applicable to the nuclear decommissioning fund for such taxable year.

Section 1.468A-3(a)(1) of the regulations generally provides, in part, that a schedule of ruling amounts for a nuclear decommissioning fund is a ruling specifying annual payments that, over the taxable 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 section 1.468A-3, each schedule of ruling amounts shall be based on the reasonable assumptions and determinations used by the applicable public utility commission(s) in establishing or approving the amount of decommissioning costs to be included in the cost of service for ratemaking purposes, taking into account amounts that are otherwise required to be included in the taxpayer's income under section 88 of the Code and the

regulations thereunder. Thus, for example, each schedule of ruling amounts shall be based on the public utility commission's reasonable assumptions concerning (i) the after-tax rate of return to be earned by the amounts collected for decommissioning; (ii) the total estimated cost of decommissioning the nuclear power plant; and (iii) the frequency of contributions to the nuclear decommissioning fund for a taxable year.

Under section 1.468A-3(a)(3) of the regulations, the Internal Revenue Service shall provide a schedule of ruling amounts that is identical to the schedule proposed by the taxpayer, but no such schedule shall be provided unless the taxpayer's proposed schedule is consistent with the principles and provisions of section 1.468A-3.

Section 1.468A-3(a)(4) of the regulations provides that if, in establishing or approving the amount of decommissioning costs to be included in cost of service for ratemaking purposes, the applicable public utility commission uses an estimated cost of decommissioning that is based on price levels in effect at the time of the ratemaking proceeding (*i.e.*, the public utility commission does not estimate the cost of decommissioning in future dollars), the Service may, in its discretion, provide a formula or method for determining a schedule of ruling amounts (rather than a schedule specifying a dollar amount for each taxable year) that is consistent with the principles and provisions of section 1.468A-3.

Section 1.468A-3(b)(1) of the regulations provides that the ruling amount, specified in a schedule of ruling amounts, for any taxable year in the level funding limitation period shall not be less than the ruling amount specified in such schedule for any earlier taxable year. Under section 1.468A-3(b)(2)(i) and (ii), the level funding limitation period begins on the first day of the first taxable year for which a deductible payment is made to the nuclear decommissioning fund and ends on the last day of the taxable 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(c)(1)(i) and (ii) of the regulations provides that the funding period for a nuclear decommissioning fund is the period that begins on the first day of the first taxable year for which a deductible payment is made (or deemed to be made) to such nuclear decommissioning fund and ends the later of the last day of the taxable year that includes the estimated date on which decommissioning costs of the nuclear power plant to which the nuclear decommissioning fund relates will no longer be included in the taxpayer's cost of service for ratemaking purposes; or the last day of the taxable year that includes the estimated date on which the nuclear power plant to which the

nuclear decommissioning fund relates will no longer be included in the taxpayer's rate base for ratemaking purposes.

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)(i) of the regulations provides, in part, that 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 the plant multiplied by the taxpayer's qualifying interest in the plant.

Section 1.468A-3(d)(4)(i) of the regulations provides that the qualifying percentage for any nuclear decommissioning fund is equal to the fraction, the numerator of which is the number of taxable years in the estimated period for which the nuclear decommissioning fund is to be in effect and the denominator of which is the number of taxable years in the estimated useful life of the applicable nuclear power plant.

Under section 1.468A-3(d)(4)(ii) of the regulations, the estimated period for which a nuclear decommissioning fund is to be in effect (A) begins on the later of the first day of the first taxable year for which a deductible payment is made to the nuclear decommissioning fund or the first day of the taxable year that includes the date that the nuclear power plant begins commercial operations; and (B) ends on the last day of the taxable year that includes the estimated date on which the nuclear power plant to which the nuclear decommissioning fund relates will no longer be included in the taxpayer's rate base for ratemaking purposes. Likewise, under section 1.468A-3(d)(4)(iii), the estimated useful life of a nuclear power plant (A) begins on the first day of the taxable year that includes the date that the plant begins commercial operations; and (B) ends on the last day of the taxable 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(e)(3) of the regulations provides that, for purposes of section 1.468A-3(d)(4)(ii) and (iii), the estimated

date on which the nuclear power plant to which the nuclear decommissioning fund relates will no longer be included in the taxpayer's rate base for ratemaking purposes is determined under the ratemaking assumptions used by the applicable public utility commission in establishing or approving rates during the first ratemaking proceeding in which the nuclear power plant was included in the taxpayer's rate base.

Section 1.468A-3(f)(1) of the regulations provides that if two or more public utility commissions establish or approve rates for electric energy generated by a single nuclear power plant, then the schedule of ruling amounts shall be separately determined pursuant to the rules of sections 1.468A-3(a) through (e) for each public utility commission that has determined the amount of decommissioning costs to be included in the cost of service for ratemaking purposes for this plant. Under section 1.468A-3(f)(2), this separate determination shall be based on the reasonable assumptions and determinations used by the relevant public utility commission and shall take into account only that portion of the total estimated cost of decommissioning that is properly allocable to the ratepayer whose rates are established or approved by the public utility commission. According to section 1.468A-3(f)(3), the ruling amounts for any tax year is the sum of the ruling amounts for such tax year determined under the separate schedules of ruling amounts.

Section 1.468A-3(g) of the regulations provides that the 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 to which the nuclear decommissioning fund relates has (1) determined the amount of decommissioning costs to be included in the taxpayer's cost of service for ratemaking purposes; and (2) 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(h)(2) of the regulations enumerates the information required to be submitted by a taxpayer in order to receive a ruling amount for any taxable year.

Under section 1.468A-3(i)(1)(ii)(A) of the regulations, any taxpayer that has obtained a formula or method for determining a schedule of ruling amounts for any taxable year under section 1.468A-3(a)(4) (which applies when a public utility commission estimates decommissioning costs in current dollars) must file a request for a revised schedule of ruling amounts on or before the deemed payment deadline for its fifth taxable year that begins after its taxable year in which the most recent formula or method was received.

Section 1.468A-3(i)(1)(iii) of the regulations provides that a taxpayer is required to request a revised schedule of ruling amounts for a nuclear decommissioning fund if (A) 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 the nuclear decommissioning fund relates (1) increases the proposed period over which decommissioning costs of the nuclear power plant will be included in cost of service for ratemaking purposes; (2) adjusts the estimated date on which the nuclear power plant will no longer be included in the taxpayer's rate base for ratemaking purposes; or (3) reduces the amount of decommissioning costs to be included in cost of service for any taxable year; and (B) the taxpayer's most recent request for a schedule of ruling amounts did not provide notice to the Service of the action by the public utility commission.

Section 1.468A-3(i)(2) of the regulations provides that any taxpayer that has obtained a schedule of ruling amounts pursuant to section 1.468A-3(h) can request a revised schedule of ruling amounts. Such a request must be made in accordance with the rules of section 1.468A-3(h); thus, the Service shall not provide a revised ruling amount applicable to a taxable year in response to a request for a schedule of ruling amounts that is filed after the deemed payment deadline date for such taxable year.

Section 1.468A-7(a) of the regulations provides, in general, that an eligible taxpayer is allowed a deduction for the taxable year in which the taxpayer makes a cash payment (or is deemed to make a cash payment) to a nuclear decommissioning fund only if the taxpayer elects the application of section 468A of the Code. A separate election is required for each nuclear decommissioning fund and for each taxable year with respect to which payments are to be deducted under section 468A. In the case of an affiliated group of corporations that join in filing a consolidated return for a taxable year, the common parent must make a separate election on behalf of each member whose payments to a nuclear decommissioning fund during such taxable year are to be deducted under section 468A. The election under section 468A for any taxable year is irrevocable and must be made by attaching a statement ("Election Statement") and a copy of the schedule of ruling amounts provided pursuant to the rules of section 1.468A-3 to the taxpayer's federal income tax return (or, in the case of an affiliated group of corporations that join in filing a consolidated return, the consolidated return) for such taxable year. The return to which the Election Statement and a copy of the schedule of ruling amounts is attached must be filed on or before the time prescribed by law (including extensions) for filing the return for the taxable year with respect to which payments are to be deducted under section 468A.

We have examined the representations and information submitted by the Taxpayer in relation to the requirements set forth in the section 468A of the Code and the regulations thereunder. Based solely on these representations, 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) of the regulations.
2. The Commissions have determined 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 has calculated the shares of the total decommissioning costs allocable to each of the Commissions, as required by section 1.468A-3(f)(2) of the regulations.
4. We are exercising our discretion under section 1.468A-3(a)(4) of the regulations by allowing the Taxpayer to use a formula for determining the 5-year schedule of ruling amounts. The approved formula is shown and explained on page 5 of this ruling and the resulting schedule of ruling amounts is shown below.
5. The maximum amount of cash payments made (or deemed made) to the 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.
6. The qualifying percentage under section 1.468A-3(d)(4) of the regulations is calculated to be 71.43 percent.

Based on the above determinations, we conclude that the Taxpayer's proposed schedule of ruling amounts satisfies the requirements of section 468A of the Code. The following schedule of ruling amounts is specifically approved for the Commissions:

APPROVED REVISED SCHEDULE OF RULING AMOUNTS  
TAXABLE YEARS 1995 THROUGH 1999

YEAR	COMMISSION A	COMMISSION B WHOLESALE SALES	COMMISSION B POWER SALES	COMMISSION B 1995 TARIFF	TOTAL
1995	\$1,923,343	\$51,086	\$34,854	\$149,188	\$2,158,471
EACH YEAR 1996 THROUGH 1999	\$1,923,343	\$51,086	-0-	\$237,789	\$2,212,218

In exercising our discretion under section 1.468A-3(a)(4) of the regulations, the approved schedule of ruling amounts is being limited to a 5-year period under section 1.468A-3(i)(1)(ii)(A). Moreover, 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) 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.

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 letter ruling is directed only to the taxpayer who requested it. Section 6110(j)(3) of the Code provides that this ruling may not be used or cited as precedent.

In accordance with the power of attorney on file, a copy of this letter is being sent to your authorized legal representative. 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.

Sincerely yours,

*Charles B. Ramsey/pt*

CHARLES B. RAMSEY  
Chief, Branch 6  
Office of the Assistant  
Chief Counsel  
(Passthroughs and Special  
Industries)

Enclosure:  
6110 copy

**PECO ENERGY COMPANY**

**I.D. No: 23-0970240**

**1995 Election Under Section 468A**

**Salem Generating Station - Unit 1**

PECO Energy Company, EIN #23-0970240, located at 2301 Market Street, Philadelphia, PA 19101, hereby makes an election under Code Section 468A pursuant to Treasury Regulation 1.468A-7 for the taxable year 1995.

The election is made with respect to Unit 1 of the Salem Generating Station located at P.O. Box 236, Hancock's Bridge, NJ 08038. The employer identification number for the Salem 1 Nuclear Decommissioning Fund is 23-6919895.

There were no actual cash payments made to the Nuclear Decommissioning fund during the taxable year that were not treated as deemed cash payments under Treasury Regulation 1.468A-2(c)(1). The total amount of cash payments deemed made to the Nuclear Decommissioning Fund under Treasury Regulation 1.468A-2(c)(1) for 1995 is \$1,594,680. The cost of service amount for the taxable year 1995 is \$2,128,908.

Attached is a schedule of Ruling amounts obtained by the PECO Energy Company with respect to Unit 1 of the Salem Generating Station.

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Internal Revenue Service

Department of the Treasury  
Washington, DC 20224

Patricia M. Healy  
Gerald P. Farano  
Reid & Priest  
701 Pennsylvania Ave., NW.  
Washington, D.C. 20004

Person to Contact:  
Paul Handleman  
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(202) 622-3110  
Refer Reply To:  
CC:DOM:P&SI:6 - TR-31-02629-95  
Date:

In Re: PECO Energy Company  
Revised Schedule of Ruling Amounts for  
Salem Generating Station, Unit 1

Dear Ms. Healy and Mr. Farano:

The enclosed copy of a letter is sent to you under the provisions of a power of attorney currently on file with the Internal Revenue Service.

Sincerely yours,

*Charles B. Ramsey/CR*  
CHARLES B. RAMSEY  
Chief, Branch 6  
Office of the Assistant  
Chief Counsel  
(Passthroughs and Special  
Industries)

Enclosure:  
Copy of Letter

Letter 1690 (Rev. 10-90)

Internal Revenue Service

Department of the Treasury

Index Number: 468A.04-02

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Ben Franklin Station  
Washington, DC 20044

J. Barry Mitchell  
Vice President, Finance  
and Treasurer  
PECO Energy Company  
2301 Market Street  
Philadelphia, PA 19101

Person to Contact:

Paul Handleman  
Telephone Number:

(202) 622-3110  
Refer Reply to:

CC:DOM:P&SI:6 -- TR-31-02629-95  
Date:

FEB 27 1996

In re: Revised Schedule of Ruling Amounts  
Salem Generating Station, Unit 1

Legend:

Taxpayer = PECO Energy Company  
E.I.N.: 23-0970240

Plant = Salem Generating Station, Unit 1

Location = Hancock's Bridge, New Jersey

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Commission B = Federal Energy Regulatory Commission

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Firm = NUS Corporation  
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The Taxpayer has represented the following facts and information:

The Taxpayer is incorporated in State X and is an operating utility providing electric and gas service in State X. The Taxpayer is subject to the audit jurisdiction of the District. The Taxpayer owns a 42.59 percent undivided interest as a tenant-in-common in the Plant, which is situated at Location. The Plant began commercial operations in 1977 and the Plant's operating license issued by the Nuclear Regulatory Commission expires at midnight on August 13, 2016.

Commission A, in Docket No. R-891364, effective April 19, 1990 (the "1990 Order"), approved the amount of decommissioning costs included in the Taxpayer's cost of service for ratemaking purposes for electrical energy sales to State X customers. Commission A reviewed the components of the Taxpayer's cost of service, including the portion allocated to Commission B. In the 1990 Order, the jurisdictional percentages were allocated to Commission A in the amount of 93.822 percent of total electrical energy sales and to Commission B in the amount of 6.178 percent of total electrical energy sales for a total of 100 percent. The Commission B jurisdiction was further divided such that 4.563 percent was allocable to Commission B Power Sales and 1.615 percent was allocable to Commission B Wholesale Sales.

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Commissions exceeds 100 percent. Approval is granted based on the Taxpayer's representation that this excess is due to difference in the timing and procedures of the Commission A and Commission B rate cases.

On August 28, 1991, the Internal Revenue Service last approved a formula under section 1.468A-3(a)(4) of the regulations for determining the Taxpayer's revised schedule of ruling amounts. In exercising our discretion under section 1.468A-3(a)(4), the revised schedule of ruling amounts was limited to a 5-year period under section 1.468A-3(i)(1)(ii)(A). Thus, the Taxpayer requests a new revised schedule of ruling amounts.

For the years 1995 through 1999, Commission A in the 1990 Order included decommissioning costs in the Taxpayer's cost of service in the amount of \$1,888,637 a year.

For the years 1995 through 1999, Commission B in the 1991 Order included decommissioning costs in the Taxpayer's cost of service under the Commission B Wholesale Sales in the amount of \$42,474 a year. For the year 1995, decommissioning costs are included under the Commission B Power Sales in the amount of \$34,225 and under the Commission B 1995 Tariff in the amount of \$163,575. For the years 1996 through 1999, decommissioning costs are included under the Commission B 1995 Tariff in the amount of \$260,721 a year.

Contrary to the required information under section 1.468A-3(h)(2)(vi)(B)(5), (6), (7), and (8) of the regulations, the Commissions have not stated the estimated total cost of decommissioning the Plant in future dollars; the estimated cost of decommissioning expressed in future dollars for each taxable year beginning in the estimated year in which substantial decommissioning costs will first be incurred and ending with the estimated year decommissioning will be substantially complete; the methodology used in converting the estimated cost of decommissioning expressed in current dollars to future dollars; and the assumed after-tax rate of return to be earned on the Fund assets. Instead, the Commissions use a methodology for decommissioning the Plant that is based solely on the current cost of decommissioning. This method is referred to as the Constant Current Accrual Method (the "Method"). Under the Method, there are no estimates made as to future inflation rates, future costs or (except for relatively short periods set at 7.0 percent) future interest rates.

The current cost of decommissioning the Plant is based upon a detailed engineering study prepared by the Firm that reflects the cost of decommissioning the Plant currently. This study is updated periodically. In the interim, the current

decommissioning costs are redetermined by applying a series of inflation indices intended to measure the cost increase within each of the various components of decommissioning. The Taxpayer claims that this is the most conservative approach to funding the future cost of decommissioning because it is based on actual facts that are known rather than on future earnings and the growth of costs.

The method of decommissioning the Plant is the immediate dismantling method. The estimated year in which substantial decommissioning costs will first be incurred is the year 2016. The estimated year in which the decommissioning of the Plant will be substantially completed is the year 2021. The estimated date in which the Plant will no longer be included in the Taxpayer's rate base for ratemaking purposes, as determined by the Commissions in establishing or approving rates during the first ratemaking proceed in which the Plant was included in the Taxpayer's rate base, is 2008.

For Commission A and Commission B Power Sales, the total estimated cost of decommissioning the Plant is \$141,031,000 (in 1990 dollars). For Commission B Wholesale Sales, the total estimated cost of decommissioning the Plant is \$155,669,000 (in 1991 dollars). For the Commission B 1995 Tariff, the total estimated cost of decommissioning the Plant is \$141,346,824 (the weighted average between \$141,031,000 and \$155,669,000). As of January 1, 1995, the asset balance of the Fund was \$17,073,442.

The funding period and funding limitation period began on January 1, 1984 and ends on December 31, 2016. The estimated period for which the Fund is to be in effect is 25 years (1984 through 2008) and the estimated useful life of the Plant is 32 years (1977 through 2008). Thus, the Taxpayer has calculated the qualifying percentage to be 78.13 percent.

Under the Method, the Taxpayer determines the current portion of the Taxpayer's cost of decommissioning the Plant. The cost is the product of the qualifying percentage and the total current decommissioning cost for the Plant. In order to determine the amount of any "underfunding," the Taxpayer subtracts the actual amount accumulated in the Fund from the amount that should be in the Fund. If "underfunding" occurs, the amount of the "underfunding" would be amortized over the same period approved by the Commissions. Thus, in determining the amount of the schedule of ruling amounts under the Method for the Taxpayer's 1995 through 1999 tax years, the following formula was used:

$$\frac{(TC \times QP)}{A} + \frac{(TC \times QP) \times B - QB}{A \times C}$$

Where:

- QB = balance in the Fund,
- QP = qualifying percentage,
- TC = the Taxpayer's share of the total cost to decommission currently,
- A = total number of years for the Taxpayer's collection of decommissioning costs,
- B = total number of years since the Taxpayer first began collecting decommissioning costs, and
- C = total number of years remaining for the Taxpayer's collection of decommissioning costs.

Because the effective date of the Commission B 1995 Tariff does not correspond to the beginning or end of a taxable year, computations under the formula for 1995 require the use of a weighted average. Although the Method and resulting formula would allow the Taxpayer to recompute the ruling amount each year, the Taxpayer represents that it only will perform the computation when either of the Commissions adjusts the amount of decommissioning costs included in the Taxpayer's cost of service for ratemaking purposes through a base rate proceeding. Thus, the Taxpayer requests specified dollar ruling amounts for the Commissions and is limiting its request to a 5-year period.

Section 468A 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 taxable year to the lesser of the amount of nuclear decommissioning costs allocable to the fund that is included in the taxpayer's cost of service for ratemaking purposes for the taxable year or the ruling amount applicable to that 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 taxable 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 taxable year if the payment is made on account of the taxable year within 2½ months after the close of the taxable year.

Section 1.468A-1(a) of the regulations provides, in part, 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, in part, that the maximum amount of cash payments made (or deemed made) to a nuclear decommissioning fund during any taxable year shall not exceed the lesser of (i) the cost of service amount applicable to the nuclear decommissioning fund for such taxable year; (ii) or the ruling amount applicable to the nuclear decommissioning fund for such taxable year.

Section 1.468A-3(a)(1) of the regulations generally provides, in part, that a schedule of ruling amounts for a nuclear decommissioning fund is a ruling specifying annual payments that, over the taxable 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 section 1.468A-3, each schedule of ruling amounts shall be based on the reasonable assumptions and determinations used by the applicable public utility commission(s) in establishing or approving the amount of decommissioning costs to be included in the cost of service for ratemaking purposes, taking into account amounts that are otherwise required to be included in the taxpayer's income under section 88 of the Code and the

regulations thereunder. Thus, for example, each schedule of ruling amounts shall be based on the public utility commission's reasonable assumptions concerning (i) the after-tax rate of return to be earned by the amounts collected for decommissioning; (ii) the total estimated cost of decommissioning the nuclear power plant; and (iii) the frequency of contributions to the nuclear decommissioning fund for a taxable year.

Under section 1.468A-3(a)(3) of the regulations, the Internal Revenue Service shall provide a schedule of ruling amounts that is identical to the schedule proposed by the taxpayer, but no such schedule shall be provided unless the taxpayer's proposed schedule is consistent with the principles and provisions of section 1.468A-3.

Section 1.468A-3(a)(4) of the regulations provides that if, in establishing or approving the amount of decommissioning costs to be included in cost of service for ratemaking purposes, the applicable public utility commission uses an estimated cost of decommissioning that is based on price levels in effect at the time of the ratemaking proceeding (*i.e.*, the public utility commission does not estimate the cost of decommissioning in future dollars), the Service may, in its discretion, provide a formula or method for determining a schedule of ruling amounts (rather than a schedule specifying a dollar amount for each taxable year) that is consistent with the principles and provisions of section 1.468A-3.

Section 1.468A-3(b)(1) of the regulations provides that the ruling amount, specified in a schedule of ruling amounts, for any taxable year in the level funding limitation period shall not be less than the ruling amount specified in such schedule for any earlier taxable year. Under section 1.468A-3(b)(2)(i) and (ii), the level funding limitation period begins on the first day of the first taxable year for which a deductible payment is made to the nuclear decommissioning fund and ends on the last day of the taxable 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(c)(1)(i) and (ii) of the regulations provides that the funding period for a nuclear decommissioning fund is the period that begins on the first day of the first taxable year for which a deductible payment is made (or deemed to be made) to such nuclear decommissioning fund and ends the later of the last day of the taxable year that includes the estimated date on which decommissioning costs of the nuclear power plant to which the nuclear decommissioning fund relates will no longer be included in the taxpayer's cost of service for ratemaking purposes; or the last day of the taxable year that includes the estimated date on which the nuclear power plant to which the

nuclear decommissioning fund relates will no longer be included in the taxpayer's rate base for ratemaking purposes.

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)(i) of the regulations provides, in part, that 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 the plant multiplied by the taxpayer's qualifying interest in the plant.

Section 1.468A-3(d)(4)(i) of the regulations provides that the qualifying percentage for any nuclear decommissioning fund is equal to the fraction, the numerator of which is the number of taxable years in the estimated period for which the nuclear decommissioning fund is to be in effect and the denominator of which is the number of taxable years in the estimated useful life of the applicable nuclear power plant.

Under section 1.468A-3(d)(4)(ii) of the regulations, the estimated period for which a nuclear decommissioning fund is to be in effect (A) begins on the later of the first day of the first taxable year for which a deductible payment is made to the nuclear decommissioning fund or the first day of the taxable year that includes the date that the nuclear power plant begins commercial operations; and (B) ends on the last day of the taxable year that includes the estimated date on which the nuclear power plant to which the nuclear decommissioning fund relates will no longer be included in the taxpayer's rate base for ratemaking purposes. Likewise, under section 1.468A-3(d)(4)(iii), the estimated useful life of a nuclear power plant (A) begins on the first day of the taxable year that includes the date that the plant begins commercial operations; and (B) ends on the last day of the taxable 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(e)(3) of the regulations provides that, for purposes of section 1.468A-3(d)(4)(ii) and (iii), the estimated

date on which the nuclear power plant to which the nuclear decommissioning fund relates will no longer be included in the taxpayer's rate base for ratemaking purposes is determined under the ratemaking assumptions used by the applicable public utility commission in establishing or approving rates during the first ratemaking proceeding in which the nuclear power plant was included in the taxpayer's rate base.

Section 1.468A-3(f)(1) of the regulations provides that if two or more public utility commissions establish or approve rates for electric energy generated by a single nuclear power plant, then the schedule of ruling amounts shall be separately determined pursuant to the rules of sections 1.468A-3(a) through (e) for each public utility commission that has determined the amount of decommissioning costs to be included in the cost of service for ratemaking purposes for this plant. Under section 1.468A-3(f)(2), this separate determination shall be based on the reasonable assumptions and determinations used by the relevant public utility commission and shall take into account only that portion of the total estimated cost of decommissioning that is properly allocable to the ratepayer whose rates are established or approved by the public utility commission. According to section 1.468A-3(f)(3), the ruling amounts for any tax year is the sum of the ruling amounts for such tax year determined under the separate schedules of ruling amounts.

Section 1.468A-3(g) of the regulations provides that the 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 to which the nuclear decommissioning fund relates has (1) determined the amount of decommissioning costs to be included in the taxpayer's cost of service for ratemaking purposes; and (2) 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(h)(2) of the regulations enumerates the information required to be submitted by a taxpayer in order to receive a ruling amount for any taxable year.

Under section 1.468A-3(i)(1)(ii)(A) of the regulations, any taxpayer that has obtained a formula or method for determining a schedule of ruling amounts for any taxable year under section 1.468A-3(a)(4) (which applies when a public utility commission estimates decommissioning costs in current dollars) must file a request for a revised schedule of ruling amounts on or before the deemed payment deadline for its fifth taxable year that begins after its taxable year in which the most recent formula or method was received.

Section 1.468A-3(i)(1)(iii) of the regulations provides that a taxpayer is required to request a revised schedule of ruling amounts for a nuclear decommissioning fund if (A) 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 the nuclear decommissioning fund relates (1) increases the proposed period over which decommissioning costs of the nuclear power plant will be included in cost of service for ratemaking purposes; (2) adjusts the estimated date on which the nuclear power plant will no longer be included in the taxpayer's rate base for ratemaking purposes; or (3) reduces the amount of decommissioning costs to be included in cost of service for any taxable year; and (B) the taxpayer's most recent request for a schedule of ruling amounts did not provide notice to the Service of the action by the public utility commission.

Section 1.468A-3(i)(2) of the regulations provides that any taxpayer that has obtained a schedule of ruling amounts pursuant to section 1.468A-3(h) can request a revised schedule of ruling amounts. Such a request must be made in accordance with the rules of section 1.468A-3(h); thus, the Service shall not provide a revised ruling amount applicable to a taxable year in response to a request for a schedule of ruling amounts that is filed after the deemed payment deadline date for such taxable year.

Section 1.468A-7(a) of the regulations provides, in general, that an eligible taxpayer is allowed a deduction for the taxable year in which the taxpayer makes a cash payment (or is deemed to make a cash payment) to a nuclear decommissioning fund only if the taxpayer elects the application of section 468A of the Code. A separate election is required for each nuclear decommissioning fund and for each taxable year with respect to which payments are to be deducted under section 468A. In the case of an affiliated group of corporations that join in filing a consolidated return for a taxable year, the common parent must make a separate election on behalf of each member whose payments to a nuclear decommissioning fund during such taxable year are to be deducted under section 468A. The election under section 468A for any taxable year is irrevocable and must be made by attaching a statement ("Election Statement") and a copy of the schedule of ruling amounts provided pursuant to the rules of section 1.468A-3 to the taxpayer's federal income tax return (or, in the case of an affiliated group of corporations that join in filing a consolidated return, the consolidated return) for such taxable year. The return to which the Election Statement and a copy of the schedule of ruling amounts is attached must be filed on or before the time prescribed by law (including extensions) for filing the return for the taxable year with respect to which payments are to be deducted under section 468A.

We have examined the representations and information submitted by the Taxpayer in relation to the requirements set forth in the section 468A of the Code and the regulations thereunder. Based solely on these representations, 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) of the regulations.
2. The Commissions have determined 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 has calculated the shares of the total decommissioning costs allocable to each of the Commissions, as required by section 1.468A-3(f)(2) of the regulations.
4. We are exercising our discretion under section 1.468A-3(a)(4) of the regulations by allowing the Taxpayer to use a formula for determining the 5-year schedule of ruling amounts. The approved formula is shown and explained on page 5 of this ruling and the resulting schedule of ruling amounts is shown below.
5. The maximum amount of cash payments made (or deemed made) to the 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.
6. The qualifying percentage under section 1.468A-3(d)(4) of the regulations is calculated to be 78.13 percent.

Based on the above determinations, we conclude that the Taxpayer's proposed schedule of ruling amounts satisfies the requirements of section 468A of the Code. The following schedule of ruling amounts is specifically approved for the Commissions:

APPROVED REVISED SCHEDULE OF RULING AMOUNTS  
TAXABLE YEARS 1995 THROUGH 1999

<u>YEAR</u>	<u>COMMISSION A</u>	<u>COMMISSION B WHOLESALE SALES</u>	<u>COMMISSION B POWER SALES</u>	<u>COMMISSION B 1995 TARIFF</u>	<u>TOTAL</u>
1995	\$1,421,692	\$37,357	\$25,763	\$109,873	\$1,594,685
EACH YEAR					
1996					
THROUGH					
1999	\$1,421,692	\$37,357	-0-	\$175,125	\$1,634,174

In exercising our discretion under section 1.468A-3(a)(4) of the regulations, the approved schedule of ruling amounts is being limited to a 5-year period under section 1.468A-3(i)(1)(ii)(A). Moreover, 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) 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.

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 letter ruling is directed only to the taxpayer who requested it. Section 6110(j)(3) of the Code provides that this ruling may not be used or cited as precedent.

In accordance with the power of attorney on file, a copy of this letter is being sent to your authorized legal representative. 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.

Sincerely yours,

*Charles B. Ramsey/CR*

CHARLES B. RAMSEY  
Chief, Branch 6  
Office of the Assistant  
Chief Counsel  
(Passthroughs and Special  
Industries)

Enclosure:  
6110 copy

**PECO Energy COMPANY**

**I.D. No.: 23-0970240**

**1995 Election Under Section 468A**

**Salem Generating Station - Unit 2**

PECO Energy Company, EIN #23-0970240, located at 2301 Market Street, Philadelphia, PA 19101, hereby makes an election under Code Section 468A pursuant to Treasury Regulation 1.468A-7 for the taxable year 1995.

The election is made with respect to Unit 2 of the Salem Generating Station located at P.O. Box 236, Hancock's Bridge, NJ 08038. The employer identification number for the Salem 2 Nuclear Decommissioning Fund is 23-6919897.

There were no actual cash payments made to the Nuclear Decommissioning fund during the taxable year that were not treated as deemed cash payments under Treasury Regulation 1.468A-2(c)(1). The total amount of cash payments deemed made to the Nuclear Decommissioning Fund under Treasury Regulation 1.468A-2(c)(1) for 1995 is \$1,573,056. The cost of service amount for the taxable year 1995 is \$2,001,132.

Attached is a schedule of Ruling amounts obtained by the PECO Energy Company with respect to Unit 2 of the Salem Generating Station.

s:\wp51\fitrtn95\election\468Asal2.doc

Internal Revenue Service

Department of the Treasury  
Washington, DC 20224

Patricia M. Healy  
Gerald P. Farano  
Reid & Priest  
701 Pennsylvania Ave., NW.  
Washington, D.C. 20004

Person to Contact:  
Paul Handleman  
Telephone Number:  
(202) 622-3110  
Refer Reply To:  
CC:DOM:P&SI:6 - TR-31-02630-95  
Date: FEB 27 1986

In Re: PECO Energy Company  
Revised Schedule of Ruling Amounts for  
Salem Generating Station, Unit 2

Dear Ms. Healy and Mr. Farano:

The enclosed copy of a letter is sent to you under the provisions of a power of attorney currently on file with the Internal Revenue Service.

Sincerely yours,

*Charles B. Ramsey/pc*

CHARLES B. RAMSEY  
Chief, Branch 6  
Office of the Assistant  
Chief Counsel  
(Passthroughs and Special  
Industries)

Enclosure:  
Copy of Letter

Letter 1690 (Rev. 10-90)

P.O. Box 7604  
Ben Franklin Station  
Washington, DC 20044

Index Number: 468A.04-02

Person to Contact:

J. Barry Mitchell  
Vice President, Finance  
and Treasurer  
PECO Energy Company  
2301 Market Street  
Philadelphia, PA 19101

Paul Handleman  
Telephone Number:

(202) 622-3110  
Refer Reply to:

CC:DOM:P&SI:6 -- TR-31-02630-95  
Date:

FEB 27 1996

In re: Revised Schedule of Ruling Amounts  
Salem Generating Station, Unit 2

*"This document may not be used or cited as precedent.  
Section 6110 (b) (3) of the Internal Revenue Code."*

Legend:

Taxpayer	=	PECO Energy Company E.I.N.: 23-0970240
Plant	=	Salem Generating Station, Unit 2
Location	=	Hancock's Bridge, New Jersey
Commission A	=	Pennsylvania Public Utility Commission
Commission B	=	Federal Energy Regulatory Commission
State X	=	Pennsylvania
Firm	=	NUS Corporation Gaitherburg, Maryland
District	=	Philadelphia, Pennsylvania

Dear Mr. Mitchell:

This letter responds to your request dated November 17, 1995, and additional correspondence, that was submitted by your authorized legal representative on behalf of the Taxpayer. The request is for a revised schedule of ruling amounts under the mandatory review requirement of section 1.468A-3(i)(1)(ii)(A) of the Income Tax Regulations for the Taxpayer's nuclear decommissioning fund (the "Fund") under the jurisdiction of Commission A and Commission B (the "Commissions"). The required information for the schedule of ruling amounts was submitted on behalf of the Taxpayer pursuant to section 1.468A-3(h)(2).

The Taxpayer has represented the following facts and information:

The Taxpayer is incorporated in State X and is an operating utility providing electric and gas service in State X. The Taxpayer is subject to the audit jurisdiction of the District. The Taxpayer owns a 42.59 percent undivided interest as a tenant-in-common in the Plant, which is situated at Location. The Plant began commercial operations in 1981 and the Plant's operating license issued by the Nuclear Regulatory Commission expires at midnight on April 18, 2020.

Commission A, in Docket No. R-891364, effective April 19, 1990 (the "1990 Order"), approved the amount of decommissioning costs included in the Taxpayer's cost of service for ratemaking purposes for electrical energy sales to State X customers. Commission A reviewed the components of the Taxpayer's cost of service, including the portion allocated to Commission B. In the 1990 Order, the jurisdictional percentages were allocated to Commission A in the amount of 93.822 percent of total electrical energy sales and to Commission B in the amount of 6.178 percent of total electrical energy sales for a total of 100 percent. The Commission B jurisdiction was further divided such that 4.563 percent was allocable to Commission B Power Sales and 1.615 percent was allocable to Commission B Wholesale Sales.

Commission B, in Docket No. ER91-478-000, effective October 1, 1991 (the "1991 Order"), increased the jurisdictional percentage allocated to Commission B Wholesale Sales to 2.1163 percent. Effective May 16, 1995, in Docket No. ER95-770-000, Commission B accepted an electric tariff (the "1995 Tariff") allowing the Taxpayer to enter into separate power sales agreements. The jurisdictional percentage allocated to Commission B Power Sales under the 1995 Tariff is 12.888 percent. Approval of these jurisdictional percentages is granted notwithstanding that the sum of the percentages for the

Commissions exceeds 100 percent. Approval is granted based on the Taxpayer's representation that this excess is due to difference in the timing and procedures of the Commission A and Commission B rate cases.

On August 28, 1991, the Internal Revenue Service last approved a formula under section 1.468A-3(a)(4) of the regulations for determining the Taxpayer's revised schedule of ruling amounts. In exercising our discretion under section 1.468A-3(a)(4), the revised schedule of ruling amounts was limited to a 5-year period under section 1.468A-3(i)(1)(ii)(A). Thus, the Taxpayer requests a new revised schedule of ruling amounts.

For the years 1995 through 1999, Commission A in the 1990 Order included decommissioning costs in the Taxpayer's cost of service in the amount of \$1,738,522 a year.

For the years 1995 through 1999, Commission B in the 1991 Order included decommissioning costs in the Taxpayer's cost of service under the Commission B Wholesale Sales in the amount of \$38,474 a year. For the year 1995, decommissioning costs are included under the Commission B Power Sales in the amount of \$31,504 and under the Commission B 1995 Tariff in the amount of \$150,523. For the years 1996 through 1999, decommissioning costs are included under the Commission B 1995 Tariff in the amount of \$239,916 a year.

Contrary to the required information under section 1.468A-3(h)(2)(vi)(B)(5), (6), (7), and (8) of the regulations, the Commissions have not stated the estimated total cost of decommissioning the Plant in future dollars; the estimated cost of decommissioning expressed in future dollars for each taxable year beginning in the estimated year in which substantial decommissioning costs will first be incurred and ending with the estimated year decommissioning will be substantially complete; the methodology used in converting the estimated cost of decommissioning expressed in current dollars to future dollars; and the assumed after-tax rate of return to be earned on the Fund assets. Instead, the Commissions use a methodology for decommissioning the Plant that is based solely on the current cost of decommissioning. This method is referred to as the Constant Current Accrual Method (the "Method"). Under the Method, there are no estimates made as to future inflation rates, future costs or (except for relatively short periods set at 7.0 percent) future interest rates.

The current cost of decommissioning the Plant is based upon a detailed engineering study prepared by the Firm that reflects the cost of decommissioning the Plant currently. This study is updated periodically. In the interim, the current

decommissioning costs are redetermined by applying a series of inflation indices intended to measure the cost increase within each of the various components of decommissioning. The Taxpayer claims that this is the most conservative approach to funding the future cost of decommissioning because it is based on actual facts that are known rather than on future earnings and the growth of costs.

The method of decommissioning the Plant is the immediate dismantling method. The estimated year in which substantial decommissioning costs will first be incurred is the year 2020. The estimated year in which the decommissioning of the Plant will be substantially completed is the year 2025. The estimated date in which the Plant will no longer be included in the Taxpayer's rate base for ratemaking purposes, as determined by the Commissions in establishing or approving rates during the first ratemaking proceed in which the Plant was included in the Taxpayer's rate base, is 2008.

For Commission A and Commission B Power Sales, the total estimated cost of decommissioning the Plant is \$141,031,000 (in 1990 dollars). For Commission B Wholesale Sales, the total estimated cost of decommissioning the Plant is \$155,669,000 (in 1991 dollars). For the Commission B 1995 Tariff, the total estimated cost of decommissioning the Plant is \$141,346,824 (the weighted average between \$141,031,000 and \$155,669,000). As of January 1, 1995, the asset balance of the Fund was \$15,875,164.

The funding period and funding limitation period began on January 1, 1985 and ends on December 31, 2020. The estimated period for which the Fund is to be in effect is 24 years (1985 through 2008) and the estimated useful life of the Plant is 28 years (1981 through 2008). Thus, the Taxpayer has calculated the qualifying percentage to be 85.71 percent.

Under the Method, the Taxpayer determines the current portion of the Taxpayer's cost of decommissioning the Plant. The cost is the product of the qualifying percentage and the total current decommissioning cost for the Plant. In order to determine the amount of any "underfunding," the Taxpayer subtracts the actual amount accumulated in the Fund from the amount that should be in the Fund. If "underfunding" occurs, the amount of the "underfunding" would be amortized over the same period approved by the Commissions. Thus, in determining the amount of the schedule of ruling amounts under the Method for the Taxpayer's 1995 through 1999 tax years, the following formula was used:

$$\frac{(TC \times QP)}{A} + \frac{(TC \times QP) \times B - QB}{C}$$

Where:

- QB = balance in the Fund,
- QP = qualifying percentage,
- TC = the Taxpayer's share of the total cost to decommission currently,
- A = total number of years for the Taxpayer's collection of decommissioning costs,
- B = total number of years since the Taxpayer first began collecting decommissioning costs, and
- C = total number of years remaining for the Taxpayer's collection of decommissioning costs.

Because the effective date of the Commission B 1995 Tariff does not correspond to the beginning or end of a taxable year, computations under the formula for 1995 require the use of a weighted average. Although the Method and resulting formula would allow the Taxpayer to recompute the ruling amount each year, the Taxpayer represents that it only will perform the computation when either of the Commissions adjusts the amount of decommissioning costs included in the Taxpayer's cost of service for ratemaking purposes through a base rate proceeding. Thus, the Taxpayer requests specified dollar ruling amounts for the Commissions and is limiting its request to a 5-year period.

Section 468A 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 taxable year to the lesser of the amount of nuclear decommissioning costs allocable to the fund that is included in the taxpayer's cost of service for ratemaking purposes for the taxable year or the ruling amount applicable to that 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 taxable 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 taxable year if the payment is made on account of the taxable year within 2½ months after the close of the taxable year.

Section 1.468A-1(a) of the regulations provides, in part, 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, in part, that the maximum amount of cash payments made (or deemed made) to a nuclear decommissioning fund during any taxable year shall not exceed the lesser of (i) the cost of service amount applicable to the nuclear decommissioning fund for such taxable year; (ii) or the ruling amount applicable to the nuclear decommissioning fund for such taxable year.

Section 1.468A-3(a)(1) of the regulations generally provides, in part, that a schedule of ruling amounts for a nuclear decommissioning fund is a ruling specifying annual payments that, over the taxable 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 section 1.468A-3, each schedule of ruling amounts shall be based on the reasonable assumptions and determinations used by the applicable public utility commission(s) in establishing or approving the amount of decommissioning costs to be included in the cost of service for ratemaking purposes, taking into account amounts that are otherwise required to be included in the taxpayer's income under section 88 of the Code and the

regulations thereunder. Thus, for example, each schedule of ruling amounts shall be based on the public utility commission's reasonable assumptions concerning (i) the after-tax rate of return to be earned by the amounts collected for decommissioning; (ii) the total estimated cost of decommissioning the nuclear power plant; and (iii) the frequency of contributions to the nuclear decommissioning fund for a taxable year.

Under section 1.468A-3(a)(3) of the regulations, the Internal Revenue Service shall provide a schedule of ruling amounts that is identical to the schedule proposed by the taxpayer, but no such schedule shall be provided unless the taxpayer's proposed schedule is consistent with the principles and provisions of section 1.468A-3.

Section 1.468A-3(a)(4) of the regulations provides that if, in establishing or approving the amount of decommissioning costs to be included in cost of service for ratemaking purposes, the applicable public utility commission uses an estimated cost of decommissioning that is based on price levels in effect at the time of the ratemaking proceeding (*i.e.*, the public utility commission does not estimate the cost of decommissioning in future dollars), the Service may, in its discretion, provide a formula or method for determining a schedule of ruling amounts (rather than a schedule specifying a dollar amount for each taxable year) that is consistent with the principles and provisions of section 1.468A-3.

Section 1.468A-3(b)(1) of the regulations provides that the ruling amount, specified in a schedule of ruling amounts, for any taxable year in the level funding limitation period shall not be less than the ruling amount specified in such schedule for any earlier taxable year. Under section 1.468A-3(b)(2)(i) and (ii), the level funding limitation period begins on the first day of the first taxable year for which a deductible payment is made to the nuclear decommissioning fund and ends on the last day of the taxable 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(c)(1)(i) and (ii) of the regulations provides that the funding period for a nuclear decommissioning fund is the period that begins on the first day of the first taxable year for which a deductible payment is made (or deemed to be made) to such nuclear decommissioning fund and ends the later of the last day of the taxable year that includes the estimated date on which decommissioning costs of the nuclear power plant to which the nuclear decommissioning fund relates will no longer be included in the taxpayer's cost of service for ratemaking purposes; or the last day of the taxable year that includes the estimated date on which the nuclear power plant to which the

nuclear decommissioning fund relates will no longer be included in the taxpayer's rate base for ratemaking purposes.

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)(i) of the regulations provides, in part, that 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 the plant multiplied by the taxpayer's qualifying interest in the plant.

Section 1.468A-3(d)(4)(i) of the regulations provides that the qualifying percentage for any nuclear decommissioning fund is equal to the fraction, the numerator of which is the number of taxable years in the estimated period for which the nuclear decommissioning fund is to be in effect and the denominator of which is the number of taxable years in the estimated useful life of the applicable nuclear power plant.

Under section 1.468A-3(d)(4)(ii) of the regulations, the estimated period for which a nuclear decommissioning fund is to be in effect (A) begins on the later of the first day of the first taxable year for which a deductible payment is made to the nuclear decommissioning fund or the first day of the taxable year that includes the date that the nuclear power plant begins commercial operations; and (B) ends on the last day of the taxable year that includes the estimated date on which the nuclear power plant to which the nuclear decommissioning fund relates will no longer be included in the taxpayer's rate base for ratemaking purposes. Likewise, under section 1.468A-3(d)(4)(iii), the estimated useful life of a nuclear power plant (A) begins on the first day of the taxable year that includes the date that the plant begins commercial operations; and (B) ends on the last day of the taxable 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(e)(3) of the regulations provides that, for purposes of section 1.468A-3(d)(4)(ii) and (iii), the estimated

date on which the nuclear power plant to which the nuclear decommissioning fund relates will no longer be included in the taxpayer's rate base for ratemaking purposes is determined under the ratemaking assumptions used by the applicable public utility commission in establishing or approving rates during the first ratemaking proceeding in which the nuclear power plant was included in the taxpayer's rate base.

Section 1.468A-3(f)(1) of the regulations provides that if two or more public utility commissions establish or approve rates for electric energy generated by a single nuclear power plant, then the schedule of ruling amounts shall be separately determined pursuant to the rules of sections 1.468A-3(a) through (e) for each public utility commission that has determined the amount of decommissioning costs to be included in the cost of service for ratemaking purposes for this plant. Under section 1.468A-3(f)(2), this separate determination shall be based on the reasonable assumptions and determinations used by the relevant public utility commission and shall take into account only that portion of the total estimated cost of decommissioning that is properly allocable to the ratepayer whose rates are established or approved by the public utility commission. According to section 1.468A-3(f)(3), the ruling amounts for any tax year is the sum of the ruling amounts for such tax year determined under the separate schedules of ruling amounts.

Section 1.468A-3(g) of the regulations provides that the 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 to which the nuclear decommissioning fund relates has (1) determined the amount of decommissioning costs to be included in the taxpayer's cost of service for ratemaking purposes; and (2) 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(h)(2) of the regulations enumerates the information required to be submitted by a taxpayer in order to receive a ruling amount for any taxable year.

Under section 1.468A-3(i)(1)(ii)(A) of the regulations, any taxpayer that has obtained a formula or method for determining a schedule of ruling amounts for any taxable year under section 1.468A-3(a)(4) (which applies when a public utility commission estimates decommissioning costs in current dollars) must file a request for a revised schedule of ruling amounts on or before the deemed payment deadline for its fifth taxable year that begins after its taxable year in which the most recent formula or method was received.

Section 1.468A-3(i)(1)(iii) of the regulations provides that a taxpayer is required to request a revised schedule of ruling amounts for a nuclear decommissioning fund if (A) 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 the nuclear decommissioning fund relates (1) increases the proposed period over which decommissioning costs of the nuclear power plant will be included in cost of service for ratemaking purposes; (2) adjusts the estimated date on which the nuclear power plant will no longer be included in the taxpayer's rate base for ratemaking purposes; or (3) reduces the amount of decommissioning costs to be included in cost of service for any taxable year; and (B) the taxpayer's most recent request for a schedule of ruling amounts did not provide notice to the Service of the action by the public utility commission.

Section 1.468A-3(i)(2) of the regulations provides that any taxpayer that has obtained a schedule of ruling amounts pursuant to section 1.468A-3(h) can request a revised schedule of ruling amounts. Such a request must be made in accordance with the rules of section 1.468A-3(h); thus, the Service shall not provide a revised ruling amount applicable to a taxable year in response to a request for a schedule of ruling amounts that is filed after the deemed payment deadline date for such taxable year.

Section 1.468A-7(a) of the regulations provides, in general, that an eligible taxpayer is allowed a deduction for the taxable year in which the taxpayer makes a cash payment (or is deemed to make a cash payment) to a nuclear decommissioning fund only if the taxpayer elects the application of section 468A of the Code. A separate election is required for each nuclear decommissioning fund and for each taxable year with respect to which payments are to be deducted under section 468A. In the case of an affiliated group of corporations that join in filing a consolidated return for a taxable year, the common parent must make a separate election on behalf of each member whose payments to a nuclear decommissioning fund during such taxable year are to be deducted under section 468A. The election under section 468A for any taxable year is irrevocable and must be made by attaching a statement ("Election Statement") and a copy of the schedule of ruling amounts provided pursuant to the rules of section 1.468A-3 to the taxpayer's federal income tax return (or, in the case of an affiliated group of corporations that join in filing a consolidated return, the consolidated return) for such taxable year. The return to which the Election Statement and a copy of the schedule of ruling amounts is attached must be filed on or before the time prescribed by law (including extensions) for filing the return for the taxable year with respect to which payments are to be deducted under section 468A.

We have examined the representations and information submitted by the Taxpayer in relation to the requirements set forth in the section 468A of the Code and the regulations thereunder. Based solely on these representations, 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) of the regulations.
2. The Commissions have determined 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 has calculated the shares of the total decommissioning costs allocable to each of the Commissions, as required by section 1.468A-3(f)(2) of the regulations.
4. We are exercising our discretion under section 1.468A-3(a)(4) of the regulations by allowing the Taxpayer to use a formula for determining the 5-year schedule of ruling amounts. The approved formula is shown and explained on page 5 of this ruling and the resulting schedule of ruling amounts is shown below.
5. The maximum amount of cash payments made (or deemed made) to the 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.
6. The qualifying percentage under section 1.468A-3(d)(4) of the regulations is calculated to be 85.71 percent.

Based on the above determinations, we conclude that the Taxpayer's proposed schedule of ruling amounts satisfies the requirements of section 468A of the Code. The following schedule of ruling amounts is specifically approved for the Commissions:

APPROVED REVISED SCHEDULE OF RULING AMOUNTS  
TAXABLE YEARS 1995 THROUGH 1999

<u>YEAR</u>	<u>COMMISSION A</u>	<u>COMMISSION B WHOLESALE SALES</u>	<u>COMMISSION B POWER SALES</u>	<u>COMMISSION B 1995 TARIFF</u>	<u>TOTAL</u>
1995	\$1,400,263	\$36,533	\$25,375	\$110,902	\$1,573,073
EACH YEAR					
1996					
THROUGH					
1999	\$1,400,263	\$36,533	-0-	\$176,765	\$1,613,561

In exercising our discretion under section 1.468A-3(a)(4) of the regulations, the approved schedule of ruling amounts is being limited to a 5-year period under section 1.468A-3(i)(1)(ii)(A). Moreover, 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) 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.

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 letter ruling is directed only to the taxpayer who requested it. Section 6110(j)(3) of the Code provides that this ruling may not be used or cited as precedent.

In accordance with the power of attorney on file, a copy of this letter is being sent to your authorized legal representative. 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.

Sincerely yours,

*Charles B. Ramsey/pc*

CHARLES B. RAMSEY  
Chief, Branch 6  
Office of the Assistant  
Chief Counsel  
(Passthroughs and Special  
Industries)

Enclosure:  
6110 copy

**PECO ENERGY COMPANY**

**I.D. No.: 23-0970240**

**1995 Election Under Section 468A**

**Limerick Generating Station - Unit 1**

PECO Energy Company, EIN #23-0970240, located at 2301 Market Street, Philadelphia, PA 19101, hereby makes an election under Code Section 468A pursuant to Treasury Regulation 1.468A-7 for the taxable year 1995.

The election is made with respect to Unit 1 of the Limerick Generating Station located at Evergreen and Sanatoga Roads, P.O. Box A, Sanatoga, PA 19464. The employer identification number for the Limerick 1 Nuclear Decommissioning Fund is 23-6919896.

There were no actual cash payments made to the Nuclear Decommissioning Fund during the taxable year that were not treated as deemed cash payments under Treasury Regulation 1.468A-2(c)(1). The total amount of cash payments deemed made to the Nuclear Decommissioning Fund under Treasury Regulation 1.468A-2(c)(1) for 1995 is \$5,655,012. The cost of service amount for the taxable year 1995 is \$5,655,012.

Attached is a schedule of Ruling amounts obtained by PECO Energy Company with respect to Unit 1 of the Limerick Generating Station.

s:\wp51\fitrtn95\election\468Algs1.doc

Internal Revenue Service

Department of the Treasury  
Washington, DC 20224

Patricia M. Healy  
Gerald P. Farano  
Reid & Priest  
701 Pennsylvania Ave., NW.  
Washington, D.C. 20004

Person to Contact:  
Paul Handleman  
Telephone Number:  
(202) 622-3110  
Refer Reply To:  
CC:DOM:P&SI:6 - TR-31-02631-95  
Date: FEB 27 1996

In Re: PECO Energy Company  
Revised Schedule of Ruling Amounts for  
Limerick Generating Station, Unit 1

Dear Ms. Healy and Mr. Farano:

The enclosed copy of a letter is sent to you under the provisions of a power of attorney currently on file with the Internal Revenue Service.

Sincerely yours,

*Charles B Ramsey/PC*

CHARLES B. RAMSEY  
Chief, Branch 6  
Office of the Assistant  
Chief Counsel  
(Passthroughs and Special  
Industries)

Enclosure:  
Copy of Letter

Letter 1690 (Rev. 10-90)

Index Number: 468A.04-02

P.O. Box 7604  
Ben Franklin Station  
Washington, DC 20044J. Barry Mitchell  
Vice President, Finance  
and Treasurer  
PECO Energy Company  
2301 Market Street  
Philadelphia, PA 19101

Person to Contact:

Paul Handleman  
Telephone Number:(202) 622-3110  
Refer Reply to:

CC:DOM:P&amp;SI:6 -- TR-31-02631-95

Date:

FEB 27 1996

In re: Revised Schedule of Ruling Amounts  
Limerick Generating Station, Unit 1

## Legend:

"This document may not be used or cited as precedent.  
Section 6110 (j) (3) of the Internal Revenue Code."

Taxpayer	=	PECO Energy Company E.I.N.: 23-0970240
Plant	=	Limerick Generating Station, Unit 1
Location	=	Saratoga, Pennsylvania
Commission A	=	Pennsylvania Public Utility Commission
Commission B	=	Federal Energy Regulatory Commission
State X	=	Pennsylvania
Firm	=	NUS Corporation Gaithersburg, Maryland
District	=	Philadelphia, Pennsylvania

Dear Mr. Mitchell:

This letter responds to your request dated November 17, 1995, and additional correspondence, that was submitted by your authorized legal representative on behalf of the Taxpayer. The request is for a revised schedule of ruling amounts under the mandatory review requirement of section 1.468A-3(i)(1)(ii)(A) of the Income Tax Regulations for the Taxpayer's nuclear decommissioning fund (the "Fund") under the jurisdiction of Commission A and Commission B (the "Commissions"). The required information for the schedule of ruling amounts was submitted on behalf of the Taxpayer pursuant to section 1.468A-3(h)(2).

The Taxpayer has represented the following facts and information:

The Taxpayer is incorporated in State X and is an operating utility providing electric and gas service in State X. The Taxpayer is subject to the audit jurisdiction of the District. The Taxpayer owns 100 percent of the Plant, which is situated at Location. The Plant began commercial operations in 1986 and the Plant's operating license issued by the Nuclear Regulatory Commission expires at midnight on October 26, 2024.

Commission A, in Docket No. R-891364, effective April 19, 1990 (the "1990 Order"), approved the amount of decommissioning costs included in the Taxpayer's cost of service for ratemaking purposes for electrical energy sales to State X customers. Commission A reviewed the components of the Taxpayer's cost of service, including the portion allocated to Commission B. In the 1990 Order, the jurisdictional percentages were allocated to Commission A in the amount of 93.822 percent of total electrical energy sales and to Commission B in the amount of 6.178 percent of total electrical energy sales for a total of 100 percent. The Commission B jurisdiction was further divided such that 4.563 percent was allocable to Commission B Power Sales and 1.615 percent was allocable to Commission B Wholesale Sales.

Commission B, in Docket No. ER91-478-000, effective October 1, 1991 (the "1991 Order"), increased the jurisdictional percentage allocated to Commission B Wholesale Sales to 2.1163 percent. Effective May 16, 1995, in Docket No. ER95-770-000, Commission B accepted an electric tariff (the "1995 Tariff") allowing the Taxpayer to enter into separate power sales agreements. The jurisdictional percentage allocated to Commission B Power Sales under the 1995 Tariff is 12.888 percent. Approval of these jurisdictional percentages is granted notwithstanding that the sum of the percentages for the Commissions exceeds 100 percent. Approval is granted based on

the Taxpayer's representation that this excess is due to difference in the timing and procedures of the Commission A and Commission B rate cases.

On August 28, 1991, the Internal Revenue Service last approved a formula under section 1.468A-3(a)(4) of the regulations for determining the Taxpayer's revised schedule of ruling amounts. In exercising our discretion under section 1.468A-3(a)(4), the revised schedule of ruling amounts was limited to a 5-year period under section 1.468A-3(i)(1)(ii)(A). Thus, the Taxpayer requests a new revised schedule of ruling amounts.

For the years 1995 through 1999, Commission A in the 1990 Order included decommissioning costs in the Taxpayer's cost of service in the amount of \$5,004,465 a year.

For the years 1995 through 1999, Commission B in the 1991 Order included decommissioning costs in the Taxpayer's cost of service under the Commission B Wholesale Sales in the amount of \$125,391 a year. For the year 1995, decommissioning costs are included under the Commission B Power Sales in the amount of \$90,688 and under the Commission B 1995 Tariff in the amount of \$434,476. For the years 1996 through 1999, decommissioning costs are included under the Commission B 1995 Tariff in the amount of \$692,505 a year.

Contrary to the required information under section 1.468A-3(h)(2)(vi)(B)(5), (6), (7), and (8) of the regulations, the Commissions have not stated the estimated total cost of decommissioning the Plant in future dollars; the estimated cost of decommissioning expressed in future dollars for each taxable year beginning in the estimated year in which substantial decommissioning costs will first be incurred and ending with the estimated year decommissioning will be substantially complete; the methodology used in converting the estimated cost of decommissioning expressed in current dollars to future dollars; and the assumed after-tax rate of return to be earned on the Fund assets. Instead, the Commissions use a methodology for decommissioning the Plant that is based solely on the current cost of decommissioning. This method is referred to as the Constant Current Accrual Method (the "Method"). Under the Method, there are no estimates made as to future inflation rates, future costs or (except for relatively short periods set at 7.0 percent) future interest rates.

The current cost of decommissioning the Plant is based upon a detailed engineering study prepared by the Firm that reflects the cost of decommissioning the Plant currently. This study is updated periodically. In the interim, the current decommissioning costs are redetermined by applying a series of

inflation indices intended to measure the cost increase within each of the various components of decommissioning. The Taxpayer claims that this is the most conservative approach to funding the future cost of decommissioning because it is based on actual facts that are known rather than on future earnings and the growth of costs.

The method of decommissioning the Plant is the immediate dismantling method. The estimated year in which substantial decommissioning costs will first be incurred is the year 2024. The estimated year in which the decommissioning of the Plant will be substantially completed is the year 2033. The estimated date in which the Plant will no longer be included in the Taxpayer's rate base for ratemaking purposes, as determined by the Commissions in establishing or approving rates during the first ratemaking proceed in which the Plant was included in the Taxpayer's rate base, is 2024.

For Commission A and Commission B Power Sales, the total estimated cost of decommissioning the Plant is \$196,265,000 (in 1990 dollars). For Commission B Wholesale Sales, the total estimated cost of decommissioning the Plant is \$217,255,000 (in 1991 dollars). For the Commission B 1995 Tariff, the total estimated cost of decommissioning the Plant is \$196,773,846 (the weighted average between \$196,265,000 and \$217,255,000). As of January 1, 1995, the asset balance of the Fund was \$45,274,396.

The funding period and funding limitation period began on January 1, 1986 and ends on December 31, 2024. The estimated period for which the Fund is to be in effect is 39 years (1986 through 2024) and the estimated useful life of the Plant is 39 years (1986 through 2024). Thus, the Taxpayer has calculated the qualifying percentage to be 100 percent.

Under the Method, the Taxpayer determines the current portion of the Taxpayer's cost of decommissioning the Plant. The cost is the product of the qualifying percentage and the total current decommissioning cost for the Plant. In order to determine the amount of any "underfunding," the Taxpayer subtracts the actual amount accumulated in the Fund from the amount that should be in the Fund. If "underfunding" occurs, the amount of the "underfunding" would be amortized over the same period approved by the Commissions. Thus, in determining the amount of the schedule of ruling amounts under the Method for the Taxpayer's 1995 through 1999 tax years, the following formula was used:

$$\frac{(TC \times QP)}{A} + \frac{(TC \times QP) \times B - QB}{A \times C}$$

Where:

- QB = balance in the Fund,
- QP = qualifying percentage,
- TC = the Taxpayer's share of the total cost to decommission currently,
- A = total number of years for the Taxpayer's collection of decommissioning costs,
- B = total number of years since the Taxpayer first began collecting decommissioning costs, and
- C = total number of years remaining for the Taxpayer's collection of decommissioning costs.

Because the effective date of the Commission B 1995 Tariff does not correspond to the beginning or end of a taxable year, computations under the formula for 1995 require the use of a weighted average. Although the Method and resulting formula would allow the Taxpayer to recompute the ruling amount each year, the Taxpayer represents that it only will perform the computation when either of the Commissions adjusts the amount of decommissioning costs included in the Taxpayer's cost of service for ratemaking purposes through a base rate proceeding. Thus, the Taxpayer requests specified dollar ruling amounts for the Commissions and is limiting its request to a 5-year period.

Section 468A 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 taxable year to the lesser of the amount of nuclear decommissioning costs allocable to the fund that is included in the taxpayer's cost of service for ratemaking purposes for the taxable year or the ruling amount applicable to that 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 taxable 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 taxable year if the payment is made on account of the taxable year within  $2\frac{1}{2}$  months after the close of the taxable year.

Section 1.468A-1(a) of the regulations provides, in part, 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, in part, that the maximum amount of cash payments made (or deemed made) to a nuclear decommissioning fund during any taxable year shall not exceed the lesser of (i) the cost of service amount applicable to the nuclear decommissioning fund for such taxable year; (ii) or the ruling amount applicable to the nuclear decommissioning fund for such taxable year.

Section 1.468A-3(a)(1) of the regulations generally provides, in part, that a schedule of ruling amounts for a nuclear decommissioning fund is a ruling specifying annual payments that, over the taxable 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 section 1.468A-3, each schedule of ruling amounts shall be based on the reasonable assumptions and determinations used by the applicable public utility commission(s) in establishing or approving the amount of decommissioning costs to be included in the cost of service for ratemaking purposes, taking into account amounts that are otherwise required to be included in the taxpayer's income under section 88 of the Code and the

regulations thereunder. Thus, for example, each schedule of ruling amounts shall be based on the public utility commission's reasonable assumptions concerning (i) the after-tax rate of return to be earned by the amounts collected for decommissioning; (ii) the total estimated cost of decommissioning the nuclear power plant; and (iii) the frequency of contributions to the nuclear decommissioning fund for a taxable year.

Under section 1.468A-3(a)(3) of the regulations, the Internal Revenue Service shall provide a schedule of ruling amounts that is identical to the schedule proposed by the taxpayer, but no such schedule shall be provided unless the taxpayer's proposed schedule is consistent with the principles and provisions of section 1.468A-3.

Section 1.468A-3(a)(4) of the regulations provides that if, in establishing or approving the amount of decommissioning costs to be included in cost of service for ratemaking purposes, the applicable public utility commission uses an estimated cost of decommissioning that is based on price levels in effect at the time of the ratemaking proceeding (i.e., the public utility commission does not estimate the cost of decommissioning in future dollars), the Service may, in its discretion, provide a formula or method for determining a schedule of ruling amounts (rather than a schedule specifying a dollar amount for each taxable year) that is consistent with the principles and provisions of section 1.468A-3.

Section 1.468A-3(b)(1) of the regulations provides that the ruling amount, specified in a schedule of ruling amounts, for any taxable year in the level funding limitation period shall not be less than the ruling amount specified in such schedule for any earlier taxable year. Under section 1.468A-3(b)(2)(i) and (ii), the level funding limitation period begins on the first day of the first taxable year for which a deductible payment is made to the nuclear decommissioning fund and ends on the last day of the taxable 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(c)(1)(i) and (ii) of the regulations provides that the funding period for a nuclear decommissioning fund is the period that begins on the first day of the first taxable year for which a deductible payment is made (or deemed to be made) to such nuclear decommissioning fund and ends the later of the last day of the taxable year that includes the estimated date on which decommissioning costs of the nuclear power plant to which the nuclear decommissioning fund relates will no longer be included in the taxpayer's cost of service for ratemaking purposes; or the last day of the taxable year that includes the estimated date on which the nuclear power plant to which the

nuclear-decommissioning fund relates will no longer be included in the taxpayer's rate base for ratemaking purposes.

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)(i) of the regulations provides, in part, that 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 the plant multiplied by the taxpayer's qualifying interest in the plant.

Section 1.468A-3(d)(4)(i) of the regulations provides that the qualifying percentage for any nuclear decommissioning fund is equal to the fraction, the numerator of which is the number of taxable years in the estimated period for which the nuclear decommissioning fund is to be in effect and the denominator of which is the number of taxable years in the estimated useful life of the applicable nuclear power plant.

Under section 1.468A-3(d)(4)(ii) of the regulations, the estimated period for which a nuclear decommissioning fund is to be in effect (A) begins on the later of the first day of the first taxable year for which a deductible payment is made to the nuclear decommissioning fund or the first day of the taxable year that includes the date that the nuclear power plant begins commercial operations; and (B) ends on the last day of the taxable year that includes the estimated date on which the nuclear power plant to which the nuclear decommissioning fund relates will no longer be included in the taxpayer's rate base for ratemaking purposes. Likewise, under section 1.468A-3(d)(4)(iii), the estimated useful life of a nuclear power plant (A) begins on the first day of the taxable year that includes the date that the plant begins commercial operations; and (B) ends on the last day of the taxable 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(e)(3) of the regulations provides that, for purposes of section 1.468A-3(d)(4)(ii) and (iii), the estimated

date on which the nuclear power plant to which the nuclear decommissioning fund relates will no longer be included in the taxpayer's rate base for ratemaking purposes is determined under the ratemaking assumptions used by the applicable public utility commission in establishing or approving rates during the first ratemaking proceeding in which the nuclear power plant was included in the taxpayer's rate base.

Section 1.468A-3(f)(1) of the regulations provides that if two or more public utility commissions establish or approve rates for electric energy generated by a single nuclear power plant, then the schedule of ruling amounts shall be separately determined pursuant to the rules of sections 1.468A-3(a) through (e) for each public utility commission that has determined the amount of decommissioning costs to be included in the cost of service for ratemaking purposes for this plant. Under section 1.468A-3(f)(2), this separate determination shall be based on the reasonable assumptions and determinations used by the relevant public utility commission and shall take into account only that portion of the total estimated cost of decommissioning that is properly allocable to the ratepayer whose rates are established or approved by the public utility commission. According to section 1.468A-3(f)(3), the ruling amounts for any tax year is the sum of the ruling amounts for such tax year determined under the separate schedules of ruling amounts.

Section 1.468A-3(g) of the regulations provides that the 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 to which the nuclear decommissioning fund relates has (1) determined the amount of decommissioning costs to be included in the taxpayer's cost of service for ratemaking purposes; and (2) 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(h)(2) of the regulations enumerates the information required to be submitted by a taxpayer in order to receive a ruling amount for any taxable year.

Under section 1.468A-3(i)(1)(ii)(A) of the regulations, any taxpayer that has obtained a formula or method for determining a schedule of ruling amounts for any taxable year under section 1.468A-3(a)(4) (which applies when a public utility commission estimates decommissioning costs in current dollars) must file a request for a revised schedule of ruling amounts on or before the deemed payment deadline for its fifth taxable year that begins after its taxable year in which the most recent formula or method was received.

Section 1.468A-3(i)(1)(iii) of the regulations provides that a taxpayer is required to request a revised schedule of ruling amounts for a nuclear decommissioning fund if (A) 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 the nuclear decommissioning fund relates (1) increases the proposed period over which decommissioning costs of the nuclear power plant will be included in cost of service for ratemaking purposes; (2) adjusts the estimated date on which the nuclear power plant will no longer be included in the taxpayer's rate base for ratemaking purposes; or (3) reduces the amount of decommissioning costs to be included in cost of service for any taxable year; and (B) the taxpayer's most recent request for a schedule of ruling amounts did not provide notice to the Service of the action by the public utility commission.

Section 1.468A-3(i)(2) of the regulations provides that any taxpayer that has obtained a schedule of ruling amounts pursuant to section 1.468A-3(h) can request a revised schedule of ruling amounts. Such a request must be made in accordance with the rules of section 1.468A-3(h); thus, the Service shall not provide a revised ruling amount applicable to a taxable year in response to a request for a schedule of ruling amounts that is filed after the deemed payment deadline date for such taxable year.

Section 1.468A-7(a) of the regulations provides, in general, that an eligible taxpayer is allowed a deduction for the taxable year in which the taxpayer makes a cash payment (or is deemed to make a cash payment) to a nuclear decommissioning fund only if the taxpayer elects the application of section 468A of the Code. A separate election is required for each nuclear decommissioning fund and for each taxable year with respect to which payments are to be deducted under section 468A. In the case of an affiliated group of corporations that join in filing a consolidated return for a taxable year, the common parent must make a separate election on behalf of each member whose payments to a nuclear decommissioning fund during such taxable year are to be deducted under section 468A. The election under section 468A for any taxable year is irrevocable and must be made by attaching a statement ("Election Statement") and a copy of the schedule of ruling amounts provided pursuant to the rules of section 1.468A-3 to the taxpayer's federal income tax return (or, in the case of an affiliated group of corporations that join in filing a consolidated return, the consolidated return) for such taxable year. The return to which the Election Statement and a copy of the schedule of ruling amounts is attached must be filed on or before the time prescribed by law (including extensions) for filing the return for the taxable year with respect to which payments are to be deducted under section 468A.

We have examined the representations and information submitted by the Taxpayer in relation to the requirements set forth in the section 468A of the Code and the regulations thereunder. Based solely on these representations, 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) of the regulations.
2. The Commissions have determined 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 has calculated the shares of the total decommissioning costs allocable to each of the Commissions, as required by section 1.468A-3(f)(2) of the regulations.
4. We are exercising our discretion under section 1.468A-3(a)(4) of the regulations by allowing the Taxpayer to use a formula for determining the 5-year schedule of ruling amounts. The approved formula is shown and explained on page 5 of this ruling and the resulting schedule of ruling amounts is shown below.
5. The maximum amount of cash payments made (or deemed made) to the 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.
6. The qualifying percentage under section 1.468A-3(d)(4) of the regulations is calculated to be 100 percent.

Based on the above determinations, we conclude that the Taxpayer's proposed schedule of ruling amounts satisfies the requirements of section 468A of the Code. The following schedule of ruling amounts is specifically approved for the Commissions:

APPROVED REVISED SCHEDULE OF RULING AMOUNTS  
TAXABLE YEARS 1995 THROUGH 1999

YEAR	COMMISSION A	COMMISSION B WHOLESALE SALES	COMMISSION B POWER SALES	COMMISSION B 1995 TARIFF	TOTAL
1995	\$5,036,282	\$131,309	\$91,264	\$415,342	\$5,674,197
EACH YEAR 1996 THROUGH 1999	\$5,036,282	\$131,309	-0-	\$662,008	\$5,829,599

In exercising our discretion under section 1.468A-3(a)(4) of the regulations, the approved schedule of ruling amounts is being limited to a 5-year period under section 1.468A-3(i)(1)(ii)(A). Moreover, 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) 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.

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 letter ruling is directed only to the taxpayer who requested it. Section 6110(j)(3) of the Code provides that this ruling may not be used or cited as precedent.

In accordance with the power of attorney on file, a copy of this letter is being sent to your authorized legal representative. 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.

Sincerely yours,

*Charles B. Ramsey/psk*  
CHARLES B. RAMSEY  
Chief, Branch 6  
Office of the Assistant  
Chief Counsel  
(Passthroughs and Special  
Industries)

Enclosure:  
6110 copy

**PECO ENERGY COMPANY**

**I.D. No.: 23-0970240**

**1995 Election Under Section 468A**

**Limerick Generating Station - Unit 2**

PECO Energy Company, EIN #23-0970240, located at 2301 Market Street, Philadelphia, PA 19101, hereby makes an election under Code Section 468A pursuant to Treasury Regulation 1.468A-7 for the taxable year 1995.

The election is made with respect to Unit 2 of the Limerick Generating Station located at Evergreen and Sanatoga Roads, P.O. Box A, Sanatoga, PA 19464. The employer identification number for the Limerick 2 Nuclear Decommissioning Fund is 23-2639658.

There were no actual cash payments made to the Nuclear Decommissioning Fund during the taxable year that were not treated as deemed cash payments under Treasury Regulation 1.468A-2(c)(1). The total amount of cash payments deemed made to the Nuclear Decommissioning Fund under Treasury regulation 1.468A-2(c)(1) for 1995 is \$4,624,860. The cost of service amount for the taxable year 1995 is \$4,626,924.

Attached is a schedule of Ruling amounts obtained by the PECO Energy Company with respect to Unit 2 of the Limerick Generating Station.

S:\wp51\fitrtn95\election\468A\gs2.doc

Internal Revenue Service

Department of the Treasury  
Washington, DC 20224

Patricia M. Healy  
Gerald P. Farano  
Reid & Priest  
701 Pennsylvania Ave., NW.  
Washington, D.C. 20004

Person to Contact:  
Paul Handleman  
Telephone Number:  
(202) 622-3110  
Refer Reply To:  
CC:DOM:P&SI:6 - TR-31-02632-95  
Date: FEB 28 1996

In Re: PECO Energy Company  
Revised Schedule of Ruling Amounts for  
Limerick Generating Station, Unit 2

Dear Ms. Healy and Mr. Farano:

The enclosed copy of a letter is sent to you under the provisions of a power of attorney currently on file with the Internal Revenue Service.

Sincerely yours,

*Charles B. Ramsey /PC*

CHARLES B. RAMSEY  
Chief, Branch 6  
Office of the Assistant  
Chief Counsel  
(Passthroughs and Special  
Industries)

Enclosure:  
Copy of Letter

Letter 1690 (Rev. 10-90)

Index Number: 468A.04-02

PO. Box 7604  
Ben Franklin Station  
Washington, DC 20044J. Barry Mitchell  
Vice President, Finance  
and Treasurer  
PECO Energy Company  
2301 Market Street  
Philadelphia, PA 19101Person to Contact:  
Paul Handleman  
Telephone Number:  
(202) 622-3110  
Refer Reply to:  
CC:DOM:P&SI:6 -- TR-31-02632-95  
Date:

FEB 28 1996

In re: Revised Schedule of Ruling Amounts  
Limerick Generating Station, Unit 2

## Legend:

This document may not be used or cited as precedent.  
Section 6110 (j) (3) of the Internal Revenue Code.

Taxpayer	=	PECO Energy Company E.I.N.: 23-0970240
Plant	=	Limerick Generating Station, Unit 2
Location	=	Saratoga, Pennsylvania
Commission A	=	Pennsylvania Public Utility Commission
Commission B	=	Federal Energy Regulatory Commission
State X	=	Pennsylvania
Firm	=	NUS Corporation Gaithersburg, Maryland
District	=	Philadelphia, Pennsylvania

Dear Mr. Mitchell:

This letter responds to your request dated November 17, 1995, and additional correspondence, that was submitted by your authorized legal representative on behalf of the Taxpayer. The request is for a revised schedule of ruling amounts under the mandatory review requirement of section 1.468A-3(i)(1)(ii)(A) of the Income Tax Regulations for the Taxpayer's nuclear decommissioning fund (the "Fund") under the jurisdiction of Commission A and Commission B (the "Commissions"). The required information for the schedule of ruling amounts was submitted on behalf of the Taxpayer pursuant to section 1.468A-3(h)(2).

The Taxpayer has represented the following facts and information:

The Taxpayer is incorporated in State X and is an operating utility providing electric and gas service in State X. The Taxpayer is subject to the audit jurisdiction of the District. The Taxpayer owns 100 percent of the Plant, which is situated at Location. The Plant began commercial operations in 1990 and the Plant's operating license issued by the Nuclear Regulatory Commission expires at midnight on October 26, 2029.

Commission A, in Docket No. R-891364, effective April 19, 1990 (the "1990 Order"), approved the amount of decommissioning costs included in the Taxpayer's cost of service for ratemaking purposes for electrical energy sales to State X customers. Commission A reviewed the components of the Taxpayer's cost of service, including the portion allocated to Commission B. In the 1990 Order, the jurisdictional percentages were allocated to Commission A in the amount of 93.822 percent of total electrical energy sales and to Commission B in the amount of 6.178 percent of total electrical energy sales for a total of 100 percent. The Commission B jurisdiction was further divided such that 4.563 percent was allocable to Commission B Power Sales and 1.615 percent was allocable to Commission B Wholesale Sales.

Commission B, in Docket No. ER91-478-000, effective October 1, 1991 (the "1991 Order"), increased the jurisdictional percentage allocated to Commission B Wholesale Sales to 2.1163 percent. Effective May 16, 1995, in Docket No. ER95-770-000, Commission B accepted an electric tariff (the "1995 Tariff") allowing the Taxpayer to enter into separate power sales agreements. The jurisdictional percentage allocated to Commission B Power Sales under the 1995 Tariff is 12.888 percent. Approval of these jurisdictional percentages is granted notwithstanding that the sum of the percentages for the Commissions exceeds 100 percent. Approval is granted based on

decommissioning costs are redetermined by applying a series of inflation indices intended to measure the cost increase within each of the various components of decommissioning. The Taxpayer claims that this is the most conservative approach to funding the future cost of decommissioning because it is based on actual facts that are known rather than on future earnings and the growth of costs.

The method of decommissioning the Plant is the immediate dismantling method. The estimated year in which substantial decommissioning costs will first be incurred is the year 2029. The estimated year in which the decommissioning of the Plant will be substantially completed is the year 2033. The estimated date in which the Plant will no longer be included in the Taxpayer's rate base for ratemaking purposes, as determined by the Commissions in establishing or approving rates during the first ratemaking proceed in which the Plant was included in the Taxpayer's rate base, is 2029.

For Commission A and Commission B Power Sales, the total estimated cost of decommissioning the Plant is \$170,185,000 (in 1990 dollars). For Commission B Wholesale Sales, the total estimated cost of decommissioning the Plant is \$188,893,000 (in 1991 dollars). For the Commission B 1995 Tariff, the total estimated cost of decommissioning the Plant is \$170,693,621 (the weighted average between \$170,185,000 and \$188,893,000). As of January 1, 1995, the asset balance of the Fund was \$20,098,044.

The funding period and funding limitation period began on January 1, 1990 and ends on December 31, 2029. The estimated period for which the Fund is to be in effect is 40 years (1990 through 2029) and the estimated useful life of the Plant is 40 years (1990 through 2029). Thus, the Taxpayer has calculated the qualifying percentage to be 100 percent.

Under the Method, the Taxpayer determines the current portion of the Taxpayer's cost of decommissioning the Plant. The cost is the product of the qualifying percentage and the total current decommissioning cost for the Plant. In order to determine the amount of any "underfunding," the Taxpayer subtracts the actual amount accumulated in the Fund from the amount that should be in the Fund. If "underfunding" occurs, the amount of the "underfunding" would be amortized over the same period approved by the Commissions. Thus, in determining the amount of the schedule of ruling amounts under the Method for the Taxpayer's 1995 through 1999 tax years, the following formula was used:

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 taxable year if the payment is made on account of the taxable year within 2½ months after the close of the taxable year.

Section 1.468A-1(a) of the regulations provides, in part, 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, in part, that the maximum amount of cash payments made (or deemed made) to a nuclear decommissioning fund during any taxable year shall not exceed the lesser of (i) the cost of service amount applicable to the nuclear decommissioning fund for such taxable year; (ii) or the ruling amount applicable to the nuclear decommissioning fund for such taxable year.

Section 1.468A-3(a)(1) of the regulations generally provides, in part, that a schedule of ruling amounts for a nuclear decommissioning fund is a ruling specifying annual payments that, over the taxable 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 section 1.468A-3, each schedule of ruling amounts shall be based on the reasonable assumptions and determinations used by the applicable public utility commission(s) in establishing or approving the amount of decommissioning costs to be included in the cost of service for ratemaking purposes, taking into account amounts that are otherwise required to be included in the taxpayer's income under section 88 of the Code and the

regulations thereunder. Thus, for example, each schedule of ruling amounts shall be based on the public utility commission's reasonable assumptions concerning (i) the after-tax rate of return to be earned by the amounts collected for decommissioning; (ii) the total estimated cost of decommissioning the nuclear power plant; and (iii) the frequency of contributions to the nuclear decommissioning fund for a taxable year.

Under section 1.468A-3(a)(3) of the regulations, the Internal Revenue Service shall provide a schedule of ruling amounts that is identical to the schedule proposed by the taxpayer, but no such schedule shall be provided unless the taxpayer's proposed schedule is consistent with the principles and provisions of section 1.468A-3.

Section 1.468A-3(a)(4) of the regulations provides that if, in establishing or approving the amount of decommissioning costs to be included in cost of service for ratemaking purposes, the applicable public utility commission uses an estimated cost of decommissioning that is based on price levels in effect at the time of the ratemaking proceeding (i.e., the public utility commission does not estimate the cost of decommissioning in future dollars), the Service may, in its discretion, provide a formula or method for determining a schedule of ruling amounts (rather than a schedule specifying a dollar amount for each taxable year) that is consistent with the principles and provisions of section 1.468A-3.

Section 1.468A-3(b)(1) of the regulations provides that the ruling amount, specified in a schedule of ruling amounts, for any taxable year in the level funding limitation period shall not be less than the ruling amount specified in such schedule for any earlier taxable year. Under section 1.468A-3(b)(2)(i) and (ii), the level funding limitation period begins on the first day of the first taxable year for which a deductible payment is made to the nuclear decommissioning fund and ends on the last day of the taxable 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(c)(1)(i) and (ii) of the regulations provides that the funding period for a nuclear decommissioning fund is the period that begins on the first day of the first taxable year for which a deductible payment is made (or deemed to be made) to such nuclear decommissioning fund and ends the later of the last day of the taxable year that includes the estimated date on which decommissioning costs of the nuclear power plant to which the nuclear decommissioning fund relates will no longer be included in the taxpayer's cost of service for ratemaking purposes; or the last day of the taxable year that includes the estimated date on which the nuclear power plant to which the

nuclear decommissioning fund relates will no longer be included in the taxpayer's rate base for ratemaking purposes.

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)(i) of the regulations provides, in part, that 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 the plant multiplied by the taxpayer's qualifying interest in the plant.

Section 1.468A-3(d)(4)(i) of the regulations provides that the qualifying percentage for any nuclear decommissioning fund is equal to the fraction, the numerator of which is the number of taxable years in the estimated period for which the nuclear decommissioning fund is to be in effect and the denominator of which is the number of taxable years in the estimated useful life of the applicable nuclear power plant.

Under section 1.468A-3(d)(4)(ii) of the regulations, the estimated period for which a nuclear decommissioning fund is to be in effect (A) begins on the later of the first day of the first taxable year for which a deductible payment is made to the nuclear decommissioning fund or the first day of the taxable year that includes the date that the nuclear power plant begins commercial operations; and (B) ends on the last day of the taxable year that includes the estimated date on which the nuclear power plant to which the nuclear decommissioning fund relates will no longer be included in the taxpayer's rate base for ratemaking purposes. Likewise, under section 1.468A-3(d)(4)(iii), the estimated useful life of a nuclear power plant (A) begins on the first day of the taxable year that includes the date that the plant begins commercial operations; and (B) ends on the last day of the taxable 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(e)(3) of the regulations provides that, for purposes of section 1.468A-3(d)(4)(ii) and (iii), the estimated

Section 1.468A-3(i)(1)(iii) of the regulations provides that a taxpayer is required to request a revised schedule of ruling amounts for a nuclear decommissioning fund if (A) 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 the nuclear decommissioning fund relates (1) increases the proposed period over which decommissioning costs of the nuclear power plant will be included in cost of service for ratemaking purposes; (2) adjusts the estimated date on which the nuclear power plant will no longer be included in the taxpayer's rate base for ratemaking purposes; or (3) reduces the amount of decommissioning costs to be included in cost of service for any taxable year; and (B) the taxpayer's most recent request for a schedule of ruling amounts did not provide notice to the Service of the action by the public utility commission.

Section 1.468A-3(i)(2) of the regulations provides that any taxpayer that has obtained a schedule of ruling amounts pursuant to section 1.468A-3(h) can request a revised schedule of ruling amounts. Such a request must be made in accordance with the rules of section 1.468A-3(h); thus, the Service shall not provide a revised ruling amount applicable to a taxable year in response to a request for a schedule of ruling amounts that is filed after the deemed payment deadline date for such taxable year.

Section 1.468A-7(a) of the regulations provides, in general, that an eligible taxpayer is allowed a deduction for the taxable year in which the taxpayer makes a cash payment (or is deemed to make a cash payment) to a nuclear decommissioning fund only if the taxpayer elects the application of section 468A of the Code. A separate election is required for each nuclear decommissioning fund and for each taxable year with respect to which payments are to be deducted under section 468A. In the case of an affiliated group of corporations that join in filing a consolidated return for a taxable year, the common parent must make a separate election on behalf of each member whose payments to a nuclear decommissioning fund during such taxable year are to be deducted under section 468A. The election under section 468A for any taxable year is irrevocable and must be made by attaching a statement ("Election Statement") and a copy of the schedule of ruling amounts provided pursuant to the rules of section 1.468A-3 to the taxpayer's federal income tax return (or, in the case of an affiliated group of corporations that join in filing a consolidated return, the consolidated return) for such taxable year. The return to which the Election Statement and a copy of the schedule of ruling amounts is attached must be filed on or before the time prescribed by law (including extensions) for filing the return for the taxable year with respect to which payments are to be deducted under section 468A.

We have examined the representations and information submitted by the Taxpayer in relation to the requirements set forth in the section 468A of the Code and the regulations thereunder. Based solely on these representations, 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) of the regulations.
2. The Commissions have determined 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 has calculated the shares of the total decommissioning costs allocable to each of the Commissions, as required by section 1.468A-3(f)(2) of the regulations.
4. We are exercising our discretion under section 1.468A-3(a)(4) of the regulations by allowing the Taxpayer to use a formula for determining the 5-year schedule of ruling amounts. The approved formula is shown and explained on page 5 of this ruling and the resulting schedule of ruling amounts is shown below.
5. The maximum amount of cash payments made (or deemed made) to the 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.
6. The qualifying percentage under section 1.468A-3(d)(4) of the regulations is calculated to be 100 percent.

Based on the above determinations, we conclude that the Taxpayer's proposed schedule of ruling amounts satisfies the requirements of section 468A of the Code. The following schedule of ruling amounts is specifically approved for the Commissions:

APPROVED REVISED SCHEDULE OF RULING AMOUNTS  
TAXABLE YEARS 1995 THROUGH 1999

YEAR	COMMISSION A	COMMISSION B WHOLESALE SALES	COMMISSION B POWER SALES	COMMISSION B 1995 TARIFF	TOTAL
1995.	\$4,094,392	\$103,251	\$74,196	\$353,391	\$4,625,230
EACH YEAR 1996 THROUGH 1999	\$4,094,392	\$103,251	-0-	\$563,265	\$4,760,908

In exercising our discretion under section 1.468A-3(a)(4) of the regulations, the approved schedule of ruling amounts is being limited to a 5-year period under section 1.468A-3(i)(1)(ii)(A). Moreover, 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) 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.

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 letter ruling is directed only to the taxpayer who requested it. Section 6110(j)(3) of the Code provides that this ruling may not be used or cited as precedent.

In accordance with the power of attorney on file, a copy of this letter is being sent to your authorized legal representative. 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.

Sincerely yours,

*Charles B. Ramsey/CR*

CHARLES B. RAMSEY  
Chief, Branch 6  
Office of the Assistant  
Chief Counsel  
(Passthroughs and Special  
Industries)

Enclosure:  
6110 copy

**END**