MEMO# 2060

July 26, 1990

PROPOSED REGULATIONS UNDER SECTION 468A ON PERMISSIBLE INVESTMENTS OF NUCLEAR DECOMMISSIONING RESERVE FUNDS

- 1 - July 26, 1990 TO: TAX COMMITTEE NO. 19-90 RE: PROPOSED REGULATIONS UNDER SECTION 468A ON PERMISSIBLE INVESTMENTS OF NUCLEAR DECOMMISSIONING RESERVE FUNDS ____ The Treasury Department has recently released the attached proposed regulations under section 468A of the Internal Revenue Code dealing with permissible pooling arrangements for the investments of assets of qualified and nonqualified nuclear decommissioning reserve funds ("NDR Funds"). These NDR Funds are established to accumulate reserves for the eventual decommissioning of nuclear power plants. Although general tax principles prevent most taxpayers from deducting amounts placed in reserves, public utilities may deduct additions to these reserves for nuclear decommissioning so long as the requirements of Code section 468A are satisfied. Final regulations issued on March 3, 1988 contain the requirement that NDR Funds invest directly in permissible assets as well as a provision that permits one or more such funds to pool their assets for investment purposes. Permissible assets are defined as direct investments in public debt securities of the United States, obligations of a State or local government that are not in default as to pricipal or interest, and time or demand deposits in a bank or insured credit union. The preamble to the final regulations states that the direct investment requirement was intended to prevent NDR Funds from investing in regulated investment companies ("RICs"). The proposed regulations are intended to provide guidance as to the types of pooling arrangements which will satisfy the investment restrictions. Included in the permissible arrangements are investments in RICs which meet the following requirements: 1. The RIC invests only in permissible assets as described above. 2. All of the RIC's shareholders are qualified or nonqualified NDR Funds. - 2 - 3. The RIC does not engage in certain acts of self dealing defined in the regulation. The comment period for these regulations expires on August 13, 1990. Please let us know by August 6, 1990 if you would like the Institute to comment on these regulations. We will keep you informed of developments. David J. Mangefrida, Jr. Assistant General Counsel Attachment