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Another Nuclear Rip-off: Unmasking Private Fuel Storage

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Another Nuclear Rip-off: Unmasking Private Fuel Storage

Executive Summary

As the nuclear industry positions itself to build new plants and relicense dozens of aging reactors, the question of what to do with high level nuclear waste must be scrutinized by Congress and the public. The efforts of a group of utilities to open a high level nuclear waste storage facility in Utah has received very little public attention, despite the major implications for the rebirth of the nuclear industry. As a result, the Nuclear Regulatory Commission should reject the license application, and Congress – not private industry – should determine national nuclear waste policy.

The 103 commercial nuclear reactors operating in America currently have no permanent facility to store their high-level nuclear waste; most reactor operators store the waste on-site. Eight energy companies with substantial nuclear waste inventories have joined forces in a consortium called Private Fuel Storage (PFS). This new company has applied for a license to construct and operate an offsite storage facility with enough capacity to handle the entire country's current volume of commercial high-level nuclear waste. The proposal would locate the facility on an impoverished Native American reservation 45 miles southwest of Salt Lake City, Utah.

State and federal elected leaders, government policy staff, consumer and environmental groups, Native Americans, and other concerned citizens have voiced strong opposition to this proposal for a number of reasons. First, the corporate members of the conglomeration behind PFS do not have an exemplary track record as responsible corporate citizens. PFS members have been: levied fines from the Nuclear Regulatory Commission for safety violations; sued because their toxic emissions from coal plants exceed amounts allowed by federal law; sued by employees for radiation-caused illnesses; fired whistleblowers for exposing safety problems; and are being investigated for price-gouging during the California electricity crisis.

Since this collection of corporations has more often than not betrayed the public's interest, one's confidence in their ability to manage 40,000 metric tons of nuclear waste is eroded. Considering their past appetite for billion-dollar bailouts of nuclear debt by consumers in the context of utility deregulation, one could interpret their planned nuclear waste dump as a ploy to get the public to pay again for nuclear power. More ominously, it signals future plans to increase reliance on nuclear energy. At the least, the PFS proposal is a cynical move to convince policymakers and the public that the nuclear waste problem is solved, and therefore nuclear energy is a viable energy option.

Second, there are significant dangers – all downplayed or dismissed by PFS – to transporting the tens of thousands of metric tons of nuclear waste from reactors in dozens of states to the planned storage facility in Utah. PFS has simply not been able to guarantee the safety of the hundreds of communities across the U.S. that could be devastated by a mishap during the transportation of the waste.

Third, PFS acknowledges that its planned site would only be a temporary storage facility. For the same reasons generals are criticized if they do not have a well-planned exit strategy at the abatement of hostilities, the PFS temporary proposal is dangerously shortsighted. Without specific plans for a facility that can guarantee the safe containment of nuclear waste throughout the hundreds of thousands of years it remains dangerously radioactive, the NRC should discard the PFS proposal.

Fourth, the PFS proposal process inappropriately grants private industry authority to dictate national nuclear waste policy without Congressional oversight. The NRC is evaluating the PFS license application as though it were a typical onsite storage facility for a single plant's waste of a few dry casks. But the PFS facility could handle the entire country's inventory of commercial high-level waste – an estimated 4,000 casks – and require an unprecedented cross-country nuclear shipping scheme. The PFS utilities are evading legislative scrutiny that should govern their proposal, which directly affects national energy policy.

Fifth, the questionable tactics employed by the consortium to forge a deal with the impoverished Skull Valley Band of Goshutes beg the question of whether the local community has had adequate input into the decision to build a nuclear waste parking lot on their land.

Introduction

The nuclear industry has been busy for several years now filling political campaign coffers in a successful effort to continue the taxpayer subsidies necessary for a “nuclear renaissance.” The industry received support from President Clinton, and the ascension of the Bush-Cheney administration placed the nuclear revival in the forefront of popular debate. All the promotion, however, cannot mask the problem of nuclear waste: if the industry can’t handle the waste they already have, what are they going to do when new reactors are built?

With no way to guarantee safe, permanent storage, nuclear waste has long been the Achilles’ heel of the commercial nuclear industry. The decades-long federally mandated process for investigating the feasibility of geologic disposal at Yucca Mountain in Nevada faces an uncertain future. Desperate to sell the public and policy makers on a “solution” to the nuclear waste storage dilemma, several nuclear power corporations have developed the Private Fuel Storage (PFS) proposal in order to start us down the slippery slope toward a centralized, permanent facility.

Private Fuel Storage, L.L.C., a consortium of eight commercial nuclear utilities, intends to establish an interim storage facility for high-level nuclear waste on the Skull Valley Goshute Reservation in Utah. The PFS facility would store 40,000 metric tons (44,000 short tons) of high-level waste above ground in 4,000 “dry cask” canisters. If the PFS license application is approved by the Nuclear Regulatory Commission, radioactive waste shipments to Skull Valley could begin as early as 2003. One hundred fifty to two hundred shipments per year would arrive at PFS in casks weighing up to 160 metric tons each.¹

The PFS proposal would introduce the risks of high-level radioactive waste to the state of Utah, which does not generate nuclear power. Opponents of the project worry about the possibility of radioactive contamination at the site, as well as the dangers of transporting nuclear waste across the country. The project has also been criticized from the perspective of environmental justice, since the Skull Valley Band of Goshutes – a minority community where poverty is the norm – would be disproportionately exposed to these risks.

PFS, however, claims to offer a “safe, clean solution” to the nation’s nuclear waste problem. The PFS corporate logo projects an environmental image, and the company’s web site (privatefuelstorage.com) describes the project as good public policy with national benefits.

PFS, formed solely for this project, has no track record itself. But the PFS member utilities do have established reputations: for heavy pollution, safety violations, and environmental injustice. These utilities are hiding their shameful track records behind the clean, green-washed mask of PFS’ public relations efforts. Consumers should beware that the PFS proposal merely continues the tradition of putting corporate profits ahead of public health and safety.

¹ Nuclear Regulatory Commission. *Draft Environmental Impact Statement for the Construction and Operation of an Independent Spent Fuel Storage Installation on the Reservation of the Skull Valley Band of Goshute Indians and the Related Transportation Facility in Toole County, Utah* (NUREG-1714). June 2000.

The Private Fuel Storage Proposal

Private Fuel Storage (PFS), L.L.C. is a consortium of eight commercial nuclear utilities that intends to establish an interim storage facility for high-level nuclear waste on 98 acres of the Skull Valley Goshute Reservation in Utah, only 45 miles southwest of Salt Lake City.² In July 1997, PFS filed a license application for this project with the Nuclear Regulatory Commission (NRC). A license decision from the NRC is expected next spring and, if the decision is favorable, PFS plans to complete construction of the facility and begin shipping nuclear waste in 2003.

The PFS facility would store waste from the reactors owned by its member companies, and would also accept waste from other utilities for a fee. The proposal involves 40,000 metric tons of high-level waste, a quantity roughly equivalent to the total amount of high-level radioactive waste that has been generated to date by commercial nuclear reactors in the U.S. Waste would be stored above ground in 4,000 “dry cask” canisters.

Currently, almost all commercial high-level radioactive waste is stored onsite near the reactors that generated it. By 1999, there were 40,000 metric tons of spent nuclear fuel stored at about 70 power plants around the U.S.. The typical nuclear reactor creates an average of 20-30 metric tons of spent fuel per year (the weight equivalent of nearly 4 adult male African elephants), which means the 103 operating reactors produce more than 2,000 metric tons of nuclear waste per year. Assuming no new reactors are built, there will be 60,000 metric tons of nuclear waste by 2010 and 80,000 metric tons by 2020 – a mass nearly comparable to an American Nimitz class aircraft carrier.

While most waste is currently stored under water in “fuel pools,” the NRC has approved “Independent Spent Fuel Storage Installations” at some nuclear power plants, where waste is stored in dry casks. Existing Independent Spent Fuel Storage Installations range in size from 1 to 38 dry casks, making the PFS proposal for 4,000 dry casks unprecedented in terms of scale.³ Also unprecedented is the nuclear transportation scheme that the PFS proposal for remote-site storage would launch. Since most commercial nuclear reactors in the U.S. are located in the eastern part of the country, an interim storage facility thousands of miles away in Utah would involve longer transportation routes for high-level radioactive waste through more communities.

The PFS project is being proposed as an *interim storage* option. The facility would be licensed to store waste for 20 years with a possible 20-year license extension. PFS claims that within this time the government will have approved a permanent repository for nuclear waste at Yucca Mountain, in neighboring Nevada.

History of PFS and the Regulatory Process

² Brent Israelsen, “Leavitt Fires Back in Suit On N-Waste”, *The Salt Lake Tribune*, 7/19/01.

³ Nuclear Regulatory Commission *Information Digest*, NUREG-1350, Vol. 12, June 2000, www.nrc.gov/NRC/NUREGS/SR1350/V12

PFS evolved from a plan developed by Xcel's Northern States Power in 1994. The utility began negotiations with the Mescalero Apache nation in south-central New Mexico to store up to 30,000 metric tons of nuclear waste on a 450 acre site on the side of Sierra Blanca, a 12,000 foot peak in the Sacramento Mountains. Despite promises of over \$100 million in investment, the tribe voted 490 to 362 against the proposal on February 1, 1995.⁴

Immediately after the "no" vote, PFS intensified negotiations with Utah's Skull Valley Goshutes. On December 27, 1996, PFS signed a lease with the Goshutes, which represented the first formal agreement between the Nation and PFS.

According to company financial reporting⁵ the utilities comprising PFS at the time (11 total) contributed \$1 million apiece from 1995 to 1997 "for engineering, licensing and legal studies for the preparation of a license submittal to the Nuclear Regulatory Commission."

Bolstered by these millions, PFS began the NRC licensing process in June 1997. The PFS license application was evaluated by the NRC under the regulatory requirements of 10 CFR Part 72, *Licensing Requirements for the Independent Storage of Spent Nuclear Fuel and High-level Radioactive Waste*. The NRC issued its Safety Evaluation Report in September 2000, which gave a favorable evaluation of PFS compliance with safety-related regulations.

The Atomic Safety Licensing Board (ASLB), is the NRC's adjudicatory body. In September 1997, the NRC appointed three judges to a panel to conduct hearings on the PFS license application. The ASLB Panel held preliminary hearings to determine standing in January 1998. The State of Utah, Confederated Tribes of Goshute Indians, and OGD Awareness, a community group within the Skull Valley Goshute Band, were among the intervenors granted standing. Evidentiary hearings were held in June 2000, and a second round is anticipated at the end of this year. The ASLB is expected to rule on the contentious matter next spring.

Under the National Environmental Policy Act (NEPA), the NRC is also required to conduct an environmental impact assessment of the PFS proposal. A draft Environmental Impact Statement was released in June 2000, which initiated a 90-day public comment period. Issuance of the final Environmental Impact Statement has been delayed while PFS provides additional information about seismic risks – although numerous requests for an extension on the comment period to provide time for additional information from the public were previously denied.

PFS anticipates a license decision from the NRC next spring. However, delays seem likely pending the outcome of lawsuits.

⁴ Utility Environment Report, "NSP to Study Alternate Nuclear Waste Storage Options After N.M Tribe Veto", 2/17/95.

⁵ Consolidated Edison's 10-K filing with the Securities and Exchange Commission on 3/28/97, page 14.

Who is PFS?

The following eight utilities are members of the PFS consortium and own or operate a combined total of 22 operating nuclear reactors and three decommissioned reactors in nine states.

Indiana-Michigan Power (subsidiary of American Electric Power)
Consolidated Edison Company of New York
Northern States Power (subsidiary of Xcel Energy)
GPU Nuclear Corporation
Florida Power and Light (subsidiary of FPL)
Southern Nuclear Operating Co. (subsidiary of Southern Company)
Southern California Edison (subsidiary of Edison International)
Genoa FuelTech ⁶

Original signatories on the PFS lease also included Boston Edison, Illinois Power, PG&E and Wisconsin Electric. Boston Edison withdrew from the consortium in March 1997 when Citizens Awareness Network (CAN), a grassroots citizens organization in New England, intervened before the Massachusetts Department of Public Utilities. CAN raised concerns about environmental contamination and decommissioning financing. Faced with the prospect of a hearing and public examination of their corporate records, Boston Edison withdrew from PFS. PG&E and Wisconsin Electric also withdrew. Illinois Power sold its equity in PFS to Florida Power and Light in May 2000.

The remaining companies have a consistent history of excessively and unlawfully polluting the air, land, and water; targeting poor communities and people of color for environmentally damaging projects; lying to residents, workers, and the federal government about the safety of energy projects; and exposing the public to the dangers inherent in the generation of nuclear power.

Now these utilities want the public to believe that their proposed nuclear waste parking lot on the Skull Valley Goshute Reservation will be a “safe, clean, temporary storage facility.”

⁶ Genoa Fuel Tech, owner of the decommissioned Dairyland Reactor in LaCrosse, Wisconsin, is not included in this report due to its lack of comparable corporate record, good or bad.

Problems with Private Fuel Storage

The Private Fuel Storage web site describes the PFS proposal as a “safe, clean, temporary solution” to the nation’s nuclear waste problem. But this company spin hardly resolves the negative impacts of this project, which would sacrifice health and safety and good public policy for the economic interests of the nuclear industry.

Radiation Risk

The PFS proposal would introduce the risks of high-level radioactive waste to the state of Utah, which does not generate nuclear power. High-level nuclear waste – i.e. irradiated fuel rods, or “spent” nuclear fuel – is dangerously hot, both thermally and radioactively. A person standing one yard away from an unshielded spent fuel assembly could receive a lethal dose of radiation (about 500 rems) in less than three minutes.⁷

Due to the extremely long half-lives of some isotopes, nuclear waste will remain hazardous for hundreds of thousands of years. Dry cask storage is a relatively new, unproven technology. If the storage casks fail due to human error during shipping or handling, natural hazards (such as an earthquake), gradual degradation, or an act of sabotage, people living near the PFS facility could be directly exposed to dangerous levels of radiation. Radioactive contamination of water and air could further threaten public health.

The contamination of groundwater is particularly and irrevocably serious. Unlike the explicit EPA standard for the federal government’s proposed Yucca Mountain nuclear waste repository, the groundwater at the private PFS facility would not be subject to specific radiation protection standards.

Transportation Dangers

The PFS proposal would launch an unprecedented nuclear transportation plan, requiring large volumes of radioactive waste to be transported over long distances, possibly more than once – since the Utah site is designed only as a temporary storage facility. Between 150-200 shipments per year would arrive at PFS, in rail casks weighing up to 160 metric tons.⁸ Transporting high-level radioactive waste is inherently dangerous because it elevates the risk of radioactive release and disperses this risk along shipment routes where police, firefighters, and hospital personnel often lack the training and equipment necessary to respond effectively to a radiological emergency.⁹

In addition to the inherent risks involved in transporting radioactive materials, railway safety groups warn that across the country many tracks are in poor repair and lax enforcement of safety regulations results in frequent train accidents. *Railwatch* (a non-profit organization dedicated to educating the public about railroad safety) reports that on

⁷ State of Nevada Nuclear Waste Project Office, “Transportation of Spent Nuclear Fuel and High-Level Radioactive Waste to a Repository Fact Sheet.” 5/20/99. Viewed 7/18/01 at www.state.nv.us/nucwaste/trans/trfact03.htm

⁸ Nuclear Regulatory Commission. *Draft Environmental Impact Statement for the Construction and Operation of an Independent Spent Fuel Storage Installation on the Reservation of the Skull Valley Band of Goshute Indians and the Related Transportation Facility in Toole County, Utah* (NUREG-1714). June 2000.

⁹ *Deadly Transit: The Federal Government’s Risky and Unnecessary Plan to Ship Spent Nuclear Fuel and Highly Radioactive Waste on the Nation’s Highways and Rail Roads*. State of Nevada Agency for Nuclear Projects, 7/12/01. www.state.nv.us/nucwaste/

average train accidents in the U.S. occur approximately once every ninety minutes, and a train carrying hazardous materials runs off the tracks, spills some of its load, and forces an evacuation about once every two weeks.¹⁰

Many nuclear plants are not connected to rail lines so some shipments to the PFS facility would likely be hauled by truck. The PFS proposal, however, indicates a preference for shipping nuclear waste by train, so the PFS Draft Environmental Impact Statement neglected to analyze the consequences of truck shipments.

The probability of a severe nuclear waste transportation accident involving radioactive release may be low, but the consequences of such an occurrence could be catastrophic, making it a high-risk activity. The economic costs alone for evacuation, clean-up, and compensation have been estimated to be in the range of \$145-271 billion dollars.¹¹ It is clear that either taxpayers (through the Price-Anderson Act¹²) or consumers will eventually be liable for the damages caused by a PFS nuclear waste accident.

Adding to the costs for communities en route, property values have been shown to decline along designated nuclear waste transportation routes even without an accident or act of sabotage.¹³ Furthermore, the potential consequences of terrorist attacks on nuclear waste shipments were not adequately addressed in the PFS Draft Environmental Impact Statement.

The NRC does not require physical testing of the nuclear waste transportation casks it licenses. Instead the NRC relies on computer modeling to predict cask response to accident conditions. Some of the parameters used in the computer models underestimate potential accident conditions. Because of these deficiencies, transportation risk estimates for the PFS proposal may be overly optimistic.

Despite the fact that high-level nuclear waste shipments would pass through populated areas in up to 43 states (24 if only counting waste owned by PFS member utilities, 43 if the facility accepts waste from other utilities) en route to the proposed PFS facility, no public hearings are to be held outside of Utah on either the Draft Environmental Impact Statement or the NRC licensing proceedings.¹⁴

Nuclear Waste and Environmental Racism

Low-income people and those of color would be disproportionately exposed to the radiation health risks associated with PFS' proposal. The Skull Valley Band of Goshutes is a small tribe that has historically lacked opportunities for economic development. Although their Chairman has approved the lease, the Band's General Council has never seen nor voted on the actual lease agreement. The Chairman receives undisclosed sums of money from PFS for his continued support. Several Band members have launched a

¹⁰ Why is There a Train Accident Every 90 Minutes?: Rail Safety Analysis. By M. Cubed (2/22/99, revised 3/99) <http://www.railwatch.org/sum.htm#anchor422661>

¹¹ Dr. Marvin Resnikoff, Radioactive Waste Management Associates, August 2000, unpublished paper.

¹² Price-Anderson is a federal law which provides subsidized insurance to owners of nuclear reactors.

¹³ Dan Jones & Associates, Inc., "Study conducted for Utah Association of Realtors". September 2000.

¹⁴ *State of Nevada Comments on the Draft EIS for the Skull Valley Goshute Spent Fuel Storage Project*.

Correspondence from Joseph Stroten to David L. Meyer, NRC, 9/21/00. www.state.nv.us/nucwaste/comments.htm

lawsuit against the Bureau of Indian Affairs (BIA) for its role in approving the lease agreement under such irregular circumstances, and Ohngo Guadedah Devia (OGD) Awareness, a Skull Valley community group, has intervened in the NRC licensing proceedings with an environmental justice contention. Pop music stars including the Indigo Girls and Bonnie Raitt headlined a concert in October 2000 in Salt Lake City to bring attention to the environmental racism issues inherent in locating nuclear waste on a Native American reservation.

Hot Waste Receives a Cool Reception in Utah

The state of Utah, through its Governor, legislature, and congressional delegation, strongly opposes the PFS proposal. The state does not have a direct role in the process, because the Skull Valley Goshute Reservation is the sovereign territory of the Skull Valley Band of Goshutes.

But that hasn't stopped the state legislature from trying: Utah lawmakers have passed bills designed to thwart the consortium's efforts to ship and store waste in the state. The legislature imposed a 75 percent tax rate on business transactions connected with bringing nuclear waste into the state, and would force PFS to put up a \$150 billion bond as insurance against accidents. PFS is suing the state, claiming that these laws are unconstitutional.

Utah Republican Governor Mike Leavitt remains undeterred, last year signing an executive order appropriating \$50,000 to create the Office of High Level Nuclear Waste Opposition to fight PFS. Pledging to ask the legislature for \$1 million annually to hire attorneys to fight the consortium, Leavitt said, "I will deploy every tool I can. We [Utah] don't produce this waste. We shouldn't store it. We are committed to fighting it legislatively, in the courts, on the environmental front and on the political front."¹⁵

The Skull Valley Goshute Chairman has endorsed the PFS proposal and agreed to lease Reservation land for the project. However, this was a contentious decision that is still being challenged through the legal actions of dissenting Band members against the Bureau of Indian Affairs (the Blackbear case), who claim that the PFS lease should be revoked.

Importing high-level nuclear waste could also have a negative economic impact in Utah. A survey commissioned by the Utah Association of Realtors indicated that property values would likely decline along high-level nuclear waste shipment routes.¹⁶ This is consistent with a 1992 ruling by the New Mexico Supreme Court that awarded John and Lemonia Komis \$888,192 for a decline in value of land adjacent to a Waste Isolation Pilot Plant (WIPP) shipment route.

PFS and the Yucca Mountain Project: Putting the Cart Before the Horse

The Draft Environmental Impact Statement for the PFS proposal, written by the Nuclear Regulatory Commission, states that waste stored temporarily at the PFS facility would eventually be transported to a repository at Yucca Mountain, in neighboring Nevada.

¹⁵ Vania Grandi, *Governor Signs Executive Order to Escalate Nuclear Waste Fight*. Associated Press, 12/7/00.

¹⁶ Dan Jones & Associates, Inc., "Study conducted for Utah Association of Realtors." September 2000.

Yucca Mountain is the only site under consideration as the location for a permanent repository to store high-level nuclear waste from U.S. atomic weapons facilities and commercial nuclear reactors.

No decision about the Yucca Mountain repository has been made, however, as technical, legislative, and regulatory approval is still pending. This has raised concern that if the Yucca Mountain repository is not approved, the waste temporarily stored at the PFS facility would have to be transported back to reactor sites or to another storage facility after the PFS license and lease expire. This scenario would needlessly magnify the risks of transporting nuclear waste by doubling the shipment miles.

Interim or Indefinite?

It is highly probable that PFS' "temporary" storage facility will, in all likelihood, become a permanent one if it is ever allowed to begin accepting waste. As a result, the current evaluation criteria do not employ realistic standards to protect the public. The implications of the possibility of permanent storage have not been addressed by either PFS or the NRC since it lies outside the scope of the current Environmental Impact Statement, license application, and lease arrangements. However, if PFS were to directly propose permanent waste storage at Skull Valley, it is unlikely that NRC could issue a license without Congressional approval.

Even if a nuclear waste repository does open in Nevada, existing legislation would limit its capacity to 70,000 metric tons. This is less than the total waste projected to be generated by currently operating commercial reactors. Trends for reactor license renewal and the nuclear industry's push to construct new nuclear power plants would add to the total quantity of high-level radioactive waste in the U.S. It therefore seems likely that a PFS facility, though designed to be temporary, could lapse into a secondary permanent storage facility for surplus waste, even if the Yucca Mountain proposal is approved.

In any case, the PFS proposal to construct an interim storage facility for nuclear waste in Utah is inseparable from the highly contentious Nevada repository debate. At a time when significant technical and policy questions related to the repository option remain unresolved, approval of the PFS proposal would put undue pressure on and undermine the integrity of the Yucca Mountain site characterization and licensing processes.

Given these concerns, the NRC has been criticized for its decision to consider the PFS license application under its routine procedure for approving Independent Spent Fuel Storage Installations. Typically these are orders of magnitude smaller and do not involve transporting the waste over long distances because they are onsite at nuclear plants. The Nuclear Waste Policy Act of 1982 assumes that decisions about remote-site nuclear waste storage will be made with careful Congressional oversight. The PFS consortium is doing an end-run around this legislative requirement, which would set a disturbing precedent for granting private industry the authority to direct national nuclear waste policy.

Nuclear Money Not Radioactive for Politicians

Not surprisingly, the same companies behind PFS also play a major role in encouraging the expansion of nuclear power. PFS has already registered with Congress to lobby and has retained the lobbying firm of Idaho's former Republican Senator James A. McClure, McClure Gerard & Neuenschwander. With headquarters just steps away from his old Senate office, McClure helps PFS' official lobbying arm spend \$100,000 every six months to push their nuclear waste agenda through both chambers of Congress.

But the PFS consortium's new federal lobbying entity is by far the tiniest link on a much larger special interest chain. According to the most recent federally-required lobbying disclosure forms, the seven PFS corporations directly spent more than \$14.4 million on lobbying expenses from January 1, 1999 through June 30, 2000. The new PFS lobbying arm represented only two percent – \$300,000 – of this total. The rest was spent by the individual corporations directly.

But that's not all. Members of the PFS consortium also pay dues in at least eight different energy associations which, in turn, conduct their own lobbying with the dues and contributions of members. These associations – ranging from the Nuclear Energy Institute to the Edison Electric Institute and the Coalition to Repeal PUHCA Now! –

Lobbying Expenses	Total	1/1/99-6/30/99	7/1/99-12/31/99	1/1/00-6/30/00
Southern Co	\$ 5,655,000	\$ 1,640,000	\$ 2,400,000	\$ 1,615,000
FPL	3,180,000	920,000	1,200,000	1,060,000
Edison International	1,700,000	660,000	680,000	360,000
GPU	1,450,000	460,000	460,000	530,000
Xcel	725,000	300,000	200,000	225,000
Con Ed	720,000	300,000	400,000	20,000
AEP	680,000	180,000	320,000	180,000
Private Fuel Storage	300,000	100,000	100,000	100,000
TOTAL	\$ 14,410,000	\$ 4,560,000	\$ 5,760,000	\$ 4,090,000
Lobbying Expenses for Associations in Which PFS Members Belong				
	Total	1/1/99-6/30/99	7/1/99-12/31/99	1/1/00-6/30/00
Edison Electric Institute	\$ 17,500,000	\$ 5,500,000	\$ 6,000,000	\$ 6,000,000
Nuclear Energy Institute	\$ 2,600,000	940,000	660,000	1,000,000
Coalition to Repeal PUHCA Now!	\$ 975,000	465,000	450,000	60,000
Alliance for Competitive Electricity	\$ 840,000	280,000	280,000	280,000
Electric Power Supply Assn	\$ 235,000	50,000	60,000	125,000
Energy Coalition	\$ 145,000	20,000	5,000	120,000
American Nuclear Society	\$ 140,000	40,000	60,000	40,000
Alliance for Power Privatization	\$ 20,000	20,000	-	-
TOTAL	\$ 22,455,000	\$ 7,315,000	\$ 7,515,000	\$ 7,625,000
<i>SOURCE: Public Disclosure Inc. (www.tray.com) data analyzed by Public Citizen</i>				

spent nearly \$22.5 million on lobbying expenses from 1999 through the first six months of 2000. When added together, the PFS consortium spent nearly \$37 million in lobbying money, either held directly or through membership in a lobbying association.

These lobbying expenditures don't include the two newest PFS-assisted energy associations –the National Electric Reliability Coordinating Council and the Alliance for Energy and Economic Growth – because their recent creation dates (June and May 2001, respectively) means that the public won't get access to their lobbying disclosure forms for another year. The watchdog group Center for Responsive Politics¹⁷ estimates that the recent television ad campaign sponsored by the Alliance for Energy and Economic Growth – asserting that without more oil drilling and increased reliance on nuclear power, our nation's security is at risk – cost \$1 million. Members of the Alliance for Energy and Economic Growth include the Nuclear Energy Institute, Edison Electric Institute and the Electric Power Supply Association, to which some members of PFS belong. The National Electric Reliability Coordinating Council is discussed in more detail under the Southern Company section of this report.

Hard & Soft Campaign Contributions to Federal Candidates, 1999-2000			
	TOTAL	% to DEM	% to GOP
Southern Co	\$ 1,499,265	26%	74%
Edison International	865,935	38%	62%
Florida Power & Light	820,592	10%	90%
Xcel	241,485	13%	86%
American Electric Power	227,700	34%	65%
GPU	128,117	31%	69%
Con Ed	3,600	86%	14%
TOTAL	\$ 3,786,694	25%	75%
<i>total \$ to DEM & GOP</i>		\$ 953,323	\$ 2,830,621
Hard & Soft Campaign Contribution to Federal Candidates, 1999-2000			
<i>Associations in Which PFS Members Belong</i>			
Edison Electric Institute	\$ 699,153	41%	59%
Nuclear Energy Institute	325,716	32%	68%
Electric Power Supply Assn	18,648	42%	58%
TOTAL	\$ 1,043,517	38%	62%
<i>total \$ to DEM & GOP</i>		\$ 400,108	\$ 643,409
SOURCE: Public Disclosure Inc. (www.tray.com) data analyzed by Public Citizen			

While these lobbying expenses represent the largest share of their efforts to ensure their message gets heard by the public, these PFS special interests know that the proven way to a politician's heart is through campaign contributions. These seven corporations gave a

¹⁷ *Power Struggle: The Campaign Behind the Bush Energy Plan*, www.opensecrets.org.

total of nearly \$3.8 million in hard and soft campaign contributions to both parties for the 2000 election cycle. Republicans received three-quarters of the total amount of legalized bribery, more than \$2.8 million. Democrats received just over \$950,000.

Again, the PFS conglomerate had the help of several associations into which many of the members pay dues. These PFS-associated member organizations contributed an additional \$1 million in hard and soft money to candidates of both parties in the 2000 election cycle. Sixty-two percent, or more than \$640,000, was handed over to Republican politicians. Thirty-eight percent went to Democrats. When added together, PFS members contributed more than \$4.8 million to candidates in the 2000 election – 72 percent dedicated to Republican politicians.

The Nuclear Revival Façade

The one-two punch of lobbying expenses and campaign contributions helped these nuclear power companies mask the true reasons for energy price spikes and power shortages in the past year: deregulation. President Clinton and his surrogates helped legitimize deregulation with his administration's active support of the process. Deregulation allows power plant owners (such as PFS members Southern Company and Xcel) to intentionally withhold supply to drive prices up, which contributed to California's rolling blackouts.

Instead of reminding lawmakers and consumers of the nuclear industry's crucial role in deregulating electricity markets, the PFS consortium and their colleagues manufacture the impression that America faces a critical power shortage. For example, the industry and their sympathizers in the White House argue that California's deregulation failure is partially attributable to a dearth of generation capacity.

To meet this alleged shortage, the nuclear industry claims new reactors must be built and existing reactors must be allowed to operate beyond their original license period. This assures PFS that their ill-conceived plan for offsite waste storage will be a long-term money maker.

One of the primary recommendations of Vice President Cheney's May 2001 *Report of the National Energy Policy Development Group* is for the president to "support the expansion of nuclear energy in the United States as a major component of our national energy policy."¹⁸ Nuclear power – the source of 20 percent of our nation's electricity – is among the most expensive forms of generation. When capital expenses are included with operation, maintenance and fuel outlays, nuclear energy costs \$2,080 per kilowatt hour (kWh), compared to \$1,200 per kWh for coal and \$500 per kWh for natural gas.¹⁹ Nuclear's high costs are actually understated, since they do not include the value of federal government subsidies, such as the Price-Anderson Act, under which the federal government provides subsidized insurance to commercial reactor operators, nor does it fully account for long-term costs of nuclear waste management.

Nuclear power is so much more expensive than other forms of electricity generation because ensuring the security of nuclear plants is costly. Because public safety and the environment are so egregiously threatened by the release of even minimal amounts of radiation, expensive prevention techniques are required. But the safety of America's 103 nuclear power plants is not guaranteed by our current regulatory framework, as evidenced by accidents such as the Three Mile Island meltdown, problems at FPL's Turkey Point, the explosion at Con Ed's Indian Point 2, the loss of nuclear fuel rods at the Millstone reactor, and countless other incidents.

It is important to note that the high cost of nuclear power was the reason many states pushed for electricity deregulation in the first place. States did so thinking it was a way to get out from under the massive debts incurred by utilities for expensive nuclear power plants. New nuclear power plant construction projects across the country experienced

¹⁸ Page 5-17.

¹⁹ Organization for Economic Co-operation & Development (OECD) - International Energy Agency, "Nuclear Power in the OECD", April 2001. Page 130-1, www.iea.org/public/studies/nucpow.htm

cost overruns as much as 700 percent in the 1980s.²⁰ These boondoggles saddled utilities with the majority of their debt. As the deregulation debate raged in America's state legislatures in the mid-1990s, utilities were able to convince lawmakers to have consumers pay 100 percent of these nuclear-related debts, estimated at \$86 billion.²¹ In exchange, the utilities agreed to allow electric rates charged to consumers to be frozen until these so-called "stranded cost" debts were paid off.

Research by Public Citizen²² shows that in the 19 states (and the District of Columbia) without a nuclear reactor, the 1999 average cost of electricity was 5.52 cents per kWh. The average cost of electricity in the 31 states that use nuclear power was 6.88 cents per kWh. In other words, consumers in states with nuclear power plants pay 25 percent more for their electricity than consumers in states without reactors.

Manufacturing a Crisis

The electricity "crisis" experienced in California, Montana and other states beginning in the summer of 2000 and extending through the early months of 2001, can be blamed simply on the failure of deregulation – not inadequate generation capacity, as the corporations behind PFS would like the public to believe. Rather, the skyrocketing prices and diminished reliability came as a direct result of the fact that states, for the first time in about 70 years, relinquished control over electricity markets.

Most lawmakers did not realize that once they deregulated electricity markets and began separating generation from transmission and distribution, states no longer could protect consumers by regulating fair prices for electricity or ensuring adequate reliability standards.

And with "big government" off their back, the energy companies and the utilities were unencumbered in their pursuit of ever higher profits. They were free to collude with each other, and conspired to choke off supply to create artificial shortages to drive the price of electricity ever skyward. That's why state investigations found evidence that the power generators had price gouged California utilities and consumers by billions of dollars.

So it's no surprise that the PFS corporations enjoyed healthy profits after deregulation began in California. AEP, Con Ed, FPL, GPU, Southern Company and Xcel, had combined 2000 after-tax profits of \$4.3 billion. Although Edison International posted losses because of rising wholesale prices in the California market, they had made out quite well under the first few years of deregulation. Instead of shoring up their California utility, Edison International instead shoveled money out of state into one of its new subsidiaries, Mission Energy. Mission went on a multi-billion-dollar spending spree, snapping up power projects everywhere but in California, and Edison International initiated expensive, but lucrative for its shareholders, share buyback plans. As a result of these massive investments, Mission Energy posted after-tax profits of over \$125 million in 2000.

²⁰ Wallace Roberts, The American Prospect, January-February 1999, page 71.

²¹ Tim Rice and Leslie Weiss, Mother Jones, January 1998, No. 1, Vol. 23, page 62.

²² "States Pay the Price for Relying on Nuclear Power", 6/12/01 www.citizen.org

Who Do You Trust? A Survey of the Corporate Citizen Records of PFS

The seven utility companies that form Private Fuel Storage have a consistent history of excessively and unlawfully polluting the air, land, and water; targeting poor communities and people of color for environmentally damaging projects; lying to residents, workers, and the federal government about the safety of energy projects; and failing to avoid the dangers inherent in the generation of nuclear power.

Now these utilities want us to believe that their proposed nuclear waste dump on the Skull Valley Goshute Indian Reservation will be a “safe, clean, temporary storage facility.” We should not risk our lives and our environment on the hope that this time they are actually telling the truth.

American Electric Power (AEP – www.aep.com)

“AEP strives to continually improve its commitment to the environment by going beyond what is legally required to preserve and enhance our natural surroundings.”

– Dale Heydlauff, AEP Senior Vice President²³

AEP has a poor record on nuclear safety, public health, and environmental justice. The company has been fined by the government for failure to comply with basic nuclear safety standards, and is the second worst utility polluter in America. These facts call into question AEP’s credibility to operate the PFS facility safely.

Columbus, Ohio-based AEP operates 54 fossil fuel and 2 nuclear power plants across 12 states. AEP’s major subsidiaries are Appalachian Power (Virginia), Central Power & Light (Texas), Columbus Southern (Ohio), Indiana Michigan Power, Kentucky Power, Ohio Power, Public Service Corporation of Oklahoma, Southwestern Electric Power and West Texas Utilities.

With \$47 billion in assets, AEP posted 2000 profits of \$869 million. After-tax profit for the first six months of 2001 was \$511 million, up 90 percent from the first half of 2000. As AEP’s President, CEO, and Chairman of the Board, E. Linn Draper, Jr. earned nearly \$1.5 million in cash compensation in 2000, and currently holds AEP stock worth \$18 million.

AEP’s interest in PFS comes from its ownership of four reactors at two nuclear power plants in Texas and Michigan. The D.C. Cook plant in Michigan has 885 metric tons of nuclear waste. AEP also owns a 25.2 percent stake in the South Texas nuclear plant, which gives it responsibility for 113 metric tons of waste at that facility.

AEP and Nuclear Safety

²³ AEP Press Release, “AEP Releases Environmental Performance Report,” 7/2/01, www.aep.com/News/PressRelease.asp?dbcommand=DisplayRelease&ID=820

According to AEP vice president John Sampson, the Cook nuclear power plant “[h]as a long history of safe and conservative operations.”²⁴ But in September 1997, AEP was forced to shut Cook down after its emergency core cooling system was declared inoperable. AEP officials rushed through a safety-systems checklist, pronounced the plant ready to resume full power, and prepared for restart in early 1998.

The NRC stopped them before they could. An investigation showed that for years Cook officials had failed to address numerous safety concerns.²⁵ In 1998, the NRC cited the plant for 37 separate safety violations and fined AEP \$500,000, one of the largest fines in nuclear history.²⁶ At the same time, the NRC noted that even this massive enforcement action did not encompass all the safety violations known to have been committed at Cook. Rather, these 37 violations were chosen to represent the systemic nature of the safety problems at the plant.²⁷

In January 2001, a group of AEP stockholders sued the utility, claiming that the company attempted for several years to cover up the severity of problems at the Cook nuclear plant. The suit alleges that the company issued misleading information, causing investors to buy AEP stock at “artificially high prices.” AEP news releases in the second half of 1997 characterized the shutdown of the plant's nuclear reactors as part of a routine maintenance program. In reality, AEP officials knew throughout this period that the NRC had serious concerns about safety at the plant.²⁸

AEP and the Environment

AEP is the second largest utility polluter in the country. In 1999, AEP's power plants emitted 848,727 tons of sulfur dioxide and 112 million tons of carbon dioxide, second only to Southern Company. AEP released 334,398 tons of nitrogen oxides in 1999, making it the 3rd largest producer of nitrogen oxides in the country. AEP's coal-fueled power plants emitted 6,660 pounds of toxic mercury in 1998, more than any other utility company in the nation except Southern Company.²⁹

AEP emitted 98 million pounds of toxic chemicals into the air, land, and water including hydrochloric acid, sulfuric acid, hydrofluoric acid, manganese, nickel, chromium, toluene, and hexane in 1998, second only to Southern Company. The typical AEP plant released 280 percent more toxic chemicals than the average U.S. power plant.³⁰

²⁴ Power Generation Technology & Markets, "NRC hears group's petition over Cook safety violations," Vol. 19, No. 35, 9/4/98.

²⁵ Matthew S. Galbraith, "Fission on the Brink," South Bend Tribune, 5/28/00.

²⁶ Power Generation Technology & Markets, "NRC hears group's petition over Cook safety violations," Vol. 19, No. 35, 9/4/98.

²⁷ Nuclear Regulatory Commission, Notice of Violation and Proposed Imposition of Civil Penalty - \$500,000 (NRC Inspection Reports 50-315(316)/97201(NRR), 50-315(316)/97017(DRP), 50-315(316)/98004(DRS), 50-315(316)/98005(DRS), and 50-315(316)/98009(DRS)), 10/13/98.

²⁸ Robert Ruth, "Cover-Up Hurt Investors, Suit Says," The Columbus Dispatch, 1/11/01.

²⁹ U.S. Public Interest Research Group, "Lethal Legacy: The Dirty Truth About The Nation's Most Polluting Power Plants," Pg. 34, April 2000, www.pirg.org/reports/enviro/lethal

³⁰ Thomas E. Natan, Richard Puchalsky, and Mark Wenzler, "Toxic Power: What the Toxics Release Inventory Tells Us About Power Plant Pollution," National Environmental Trust for Clear the Air, August 2000, www.cleartheair.org/proactive/newsroom/release.vtml?id=18980

And AEP is trying to emit even more. AEP, along with Southern Company, is leading the fight to overturn Clinton-era emission standards so their coal-fired power plants can spew even more toxins and carbon dioxide into the air.

Meanwhile, on behalf of the EPA, the Justice Department filed suit against power plants owned by AEP beginning in 1999, claiming that the utility was ignoring the New Source Review requirements. As part of the 1990 Clean Air Act, old coal power plants continued to be exempt from tougher emissions standards applied to newer plants, unless they upgraded their equipment. In that case, the EPA could determine that the upgrade constituted a "major modification" and therefore a New Source Review permit would be necessary. This permit would force the utility to reduce emissions.

While AEP and other utilities being sued have responded that their plant modifications were merely maintenance-related, the Justice Department cited a case in which a power plant owner claimed it replaced a 500-horsepower motor with a 900-horsepower one under the guise of maintenance. But the Justice Department noted that the increased horsepower injected far more air into the furnace, burning more coal and releasing far more toxins into the air. AEP has vowed to fight the rules.³¹

AEP and Environmental Justice

In 1998, when deciding where to build its new 765,000-volt transmission line, AEP chose the counties of Floyd, Giles, Bland, Montgomery, and Tazewell in West Virginia and Virginia. The residents of these areas were not consulted about the route, and the communities oppose it on the grounds that AEP deliberately chose to build its power line through communities with large numbers of poor and black residents.³² The communities claim that they will not benefit from the line, since it will be used to sell excess power to other states.³³ AEP denies that income or political power had anything to do with their plans. However, a 1991 planning document for another AEP transmission line urged avoiding Loudoun and Fauquier counties because "these properties are, for the most part, immaculately maintained horse farms."³⁴

³¹ Coal Week, "US Senators Take Aim at EPA's New Source Review Policies", Vol. 27, No. 16, 4/16/01.

³² Rex Bowman, "Power Line Hearing Sizzles," The Richmond Times Dispatch, Pg. B-1, 3/25/98.

³³ Robert Freis, "Montgomery Still Cautious On Power-Line Stand," Roanoke Times & World News, 8/14/97.

³⁴ Ron Nixon, "Residents Suspect Power Line Follows Path of Least Resistance – Theirs," Roanoke Times & World News, 3/1/98.

Consolidated Edison (www.conedison.com)

"We will continue to move forward...by providing true leadership in environmental, health and safety initiatives." – Eugene R. McGrath, Con Edison's chairman and CEO³⁵

While Con Ed's future with PFS remains in doubt due to their attempts to sell off their remaining nuclear assets, it is important to note that as current PFS members, they have an alarming record of recent nuclear safety violations. Con Ed recently placed citizens at risk when financial cost-cutting resulted in one of the most serious accidents at a nuclear power plant since Three Mile Island. This, combined with several significant incidents of fouling rivers with illegal toxic dumping, call into question the ability of Con Ed to safely handle responsibilities as a member of PFS.

New York-based Con Ed has \$16.7 billion in assets, operating only three power plants – all in New York. Its primary subsidiaries are Orange & Rockland Utilities and Rockland Power & Light. Con Ed posted 2000 profits of \$583 million. In the first six months of 2001, Con Ed already has after-tax profit of \$286.6 million, nearly nine percent higher than the first half of 2000. Con Ed chairman, president and CEO Eugene R. McGrath earned over \$2 million in 2000 cash compensation, and holds \$9 million worth of Con Ed stock.

Con Ed's interest in PFS stems from its ownership in two reactors at the Indian Point nuclear power plant, and the 450 metric tons of nuclear waste stored there. Con Ed, however, entered into an agreement with Entergy for the sale of Indian Point for \$602 million in November 2000. The sale must still be approved by the NRC and state regulatory officials. The outcome of this sale will probably determine Con Ed's continued involvement in PFS.

Nevertheless, the asset transfer is not yet final, so examining Con Ed's recent nuclear safety record is important. And their record on nuclear safety shows they prioritize profits over protecting the public.

Con Ed and Nuclear Safety

In October 1997, Con Ed financial planners recommended replacing the deteriorating steam generators at its Indian Point 2 nuclear power plant. Senior management at the company rejected this recommendation, however, choosing not to replace the generators because of uncertainty about whether replacement was a good financial decision in the deregulated electricity market that was developing.³⁶

Con Ed's senior management requested an amendment to their nuclear operator license to defer a mandatory June 1999 steam generator inspection at their Indian Point 2 nuclear

³⁵ Con Ed Press Release, "Con Edison Reinforces Environmental Commitment," 2/21/01, www.coned.com/about/news/pr20010221.asp

³⁶ Citizens Awareness Network, "Petition For Emergency Enforcement Action (10 CFR 2.206) With Regard To Systemic Mismanagement and Lack of Compliance With Nuclear Regulatory Regulation At Indian Point 2," 12/4/00, www.nukebusters.org

power plant until June 2000. The NRC granted the amendment based on data provided by Con Ed that was later deemed to be faulty.³⁷

In February 2000, Con Ed's Indian Point 2 nuclear plant had to be shut down when a corroded pipe burst in one of the steam generators. 20,000 gallons of superheated, radioactive water leaked inside the plant and radioactive steam escaped into the atmosphere.³⁸ It later became the first and only nuclear plant on the NRC's "red" list for issues of "high safety significance."³⁹

Con Ed officials have now admitted that they knew for months before the shutdown that one of the four steam generators inside Indian Point 2 had a rising rate of leaks, which allowed radioactive water to contaminate the water being heated to create steam.^{40 41} In addition, an investigation by the Office of the Inspector General revealed that for years before the accident Con Ed had knowledge of extensive ongoing degradation of safety-related equipment at the plant.⁴² Despite this knowledge, the company chose to continue operation of their deteriorating steam generators until the February 2000 failure.

For six months after the radiation leak, the utility insisted it could safely operate without replacing the plant's aging steam generators. However, the NRC repeatedly found flaws in the company's repairs and restart plans. The utility finally gave in to pressure from area residents, ratepayers, politicians, and the NRC and decided to bring in the new generators.⁴³

Con Ed and the Environment

Con Ed employees removing three transformers from a customer site in 1994 noticed an oil leak in the bottom of one of the transformers. A later test revealed an extremely high concentration of PCBs in the oil. None of the workers involved in the cleanup had been told to wear protective clothing. When one of the employees began to ask questions about his possible exposure to the PCBs, he was suspended without pay and falsified information was used by his supervisors to give him a negative performance review. Con Ed was later cited by the Occupational Safety and Health Administration for failing to provide the employee with exposure records.⁴⁴

³⁷ Citizens Awareness Network, "Petition For Emergency Enforcement Action (10 CFR 2.206) With Regard To Systemic Mismanagement and Lack of Compliance With Nuclear Regulatory Regulation At Indian Point 2," 12/4/00, www.nukebusters.org

³⁸ Citizens Awareness Network, "Petition To Close Indian Point 2 & 3," March 2001, www.nukebusters.org/html/ip_petition.html

³⁹ Newsday (New York, NY), "Concern Over Resignations at Plant," Pg. A49, 3/1/01.

⁴⁰ Winnie Hu, "Con Ed Memo Cites Flaws in Handling Radiation Leak," The New York Times, Pg. B6, 6/24/00.

⁴¹ Andrew C. Revkin, "Neighbors of A-Plant Lash Out at Con Ed," The New York Times, Pg. 6B, 3/15/00.

⁴² Citizens Awareness Network, "Petition For Emergency Enforcement Action (10 CFR 2.206) With Regard To Systemic Mismanagement and Lack of Compliance With Nuclear Regulatory Regulation At Indian Point 2," 12/4/00, www.nukebusters.org

⁴³ Jim Fitzgerald, "Indian Point 2 is brought back online," The Associated Press State & Local Wire, 1/3/01.

⁴⁴ Mary T. Prenon, "Con Ed makes discernible progress with court-ordered safety program," Westchester County Business Journal, Vol 35, No 14, Pg. 12, 4/1/96.

A Con Ed employee, Ronald Mecklosky, revealed in 1994 that the company was illegally dumping oily waste from a power plant into the Hudson River. Following the accusations, Mecklosky was fired in an attempt to send a message to other employees. In 1997, a court-appointed federal monitor issued a report accusing Con Ed of “blatant retaliation” against Mecklosky.⁴⁵

Between 1994 and 1996, Con Ed illegally dumped 61,500 gallons of oil in four separate spills, including two spills into the East River. And in 1996, Con Ed illegally discharged untreated wastewater from its Ravenswood steam plant into the East River.⁴⁶

⁴⁵ Al Guart, "Con Edison Slaps Pink Slip On Whistle-Blower," The New York Post, Pg. 28, 12/10/00.

⁴⁶ Jennifer Browne, "Con Ed Settles Spill Allegations," Newsday (New York, NY), Pg. A33, 10/26/97.

Southern California Edison (Edison International – www.edisonx.com)

"We seek environmental quality and economic health by promoting sustainable prosperity in our region." –Southern California Edison web site⁴⁷

Edison's early actions in California's deregulation debacle assured the utility of billions in profit from consumer's "stranded cost" overpayments and transfers of assets from its Southern California Edison subsidiary. Deregulation's failure also opened the door for nuclear's revival, making Edison's stake in the PFS project all the more potentially lucrative. While the state is in the process of another bailout – this time California taxpayers are buying overpriced electricity on Edison's behalf – the utility's environmental record also leaves much to be desired. These issues call into question the appropriateness of Edison's involvement in the controversial nuclear waste storage project.

Edison's interest in PFS stems from its ownership of two reactors at California's San Onofre nuclear plant, and Edison's 15.8 percent ownership of the three reactors at Arizona's Palo Verde nuclear plant. Edison's share of nuclear waste at these reactors was 854 metric tons as of the end of 1998.

Edison and Nuclear Safety

In 1994, Edison was sued by R.C. Tang, an employee at its San Onofre nuclear power plant. Tang had been diagnosed with chronic myelogenous leukemia, which resulted from exposure to radiation at the nuclear plant. The exposure was completely preventable. San Onofre's operators had identified 105 defective fuel rods, but chose to wait 18 months until the next scheduled overhaul to replace them.⁴⁸ The suit also alleged that Southern California Edison executives had misled workers and the NRC by covering up facts about the dangers of radioactive fuel fragments and the plant's ability to control them.⁴⁹ After the trial jury hung, Southern California Edison agreed to settle the case confidentially.⁵⁰

Edison, Deregulation and Profiteering

Although they posted a \$2 billion loss in 2000 stemming from California's deregulated market, Edison was one of its leading proponents and financial benefactors of the early years of deregulation. Edison exerted enormous lobbying power to get deregulation passed by the California state legislature. When it did pass, Edison CEO John Bryson said that it was "a great day for us" and he called deregulation "a large achievement and a sound achievement for the state in terms of giving customers choice."⁵¹

⁴⁷ "Southern California Edison Core Environmental Principles," Downloaded 7/10/01, www.sce.com/004_sce_comm/004e1_core_prin.shtml

⁴⁸ Gail Diane Cox, "Nuclear Reaction," The Recorder, Pg. 1, 9/5/00.

⁴⁹ Andrew Horan, "Trial in radiation case winds down," The Orange County Register, Pg. B0, 2/2/94.

⁵⁰ Gail Diane Cox, "Nuclear Reaction," The Recorder, Pg. 1, 9/5/00.

⁵¹ Craig Reem, "Edison's Future," OC Metro, Pg. 32, 10/15/96.

Although Southern California Edison now claims it is close to bankruptcy as a result of deregulation, its parent company, Edison International, has pulled money out of the utility and poured billions into other subsidiaries. An analysis by Public Citizen found that since 1999, Edison spent nearly \$10 billion – more than their alleged “debt” from deregulation – on non-California investments, including a \$300 million purchase of the telecommunications network Swiscom in September 2000, at the height of the California energy crisis.

In light of these discrepancies, it is appropriate to look at the earnings of Edison Capital (the purchaser of the telecommunications firm Swiscom) and Mission Energy, Edison’s unregulated power unit that racked up \$9.5 billion in purchases from March 1999 through March 2000.

As a result of these acquisitions, Mission Energy and Edison Capital posted a combined after-tax 2000 profit of \$260 million. In the first six months of 2001, the two divisions posted a combined profit of \$44.4 million. In 1996, the year California signed the deregulation law, Mission Energy and Edison Capital generated just 10 percent of Edison International’s revenue, held 27 percent of its assets, and made 19 percent of its profit. By 2000, their share of revenue climbed to 30 percent, they held 53 percent of its assets, and posted a \$260 million profit while the parent company reported losses.

Meanwhile, John E. Bryson – the Chairman, CEO and President – made over \$1.6 million in cash in 2000 and still holds \$18.6 million in stock.

Edison and the Environment

While Edison’s public relations department speaks of the corporation’s commitment to health and the environment, its actions do not. When Edison’s San Onofre nuclear plant was permitted to come online, it was contingent on the company’s submission to a comprehensive environmental impact study. At the time, Edison agreed to adhere to the results of the impact study, and to pay for any environmental damage caused by San Onofre.

Nevertheless, when the study’s findings indicated that the plant had caused significant damage to the marine life surrounding it, the company reneged. According to the Marine Review Committee, the power plant’s cooling system had destroyed 60 percent of the surrounding kelp bed and was killing 57 tons of fish and 4 billion eggs and larvae a year.⁵² However, rather than accepting the findings, Edison broke its promise and began a legal campaign to dispute the study and deny any obligations stemming from the agreement.⁵³

⁵² Utility Environment Report, “California Agency Extends Mitigation Deadline For San Onofre Nuclear Plant,” 1023/98.

⁵³ Linda Gunter, “Licensed To Kill: How the Nuclear Power Industry Destroys Endangered Marine Wildlife and Ocean Habitat to Save Money,” Safe Energy Communication Council, Winter 2001, www.safeenergy.org/wildlife.htm

Edison continues to refuse to comply with the California Coastal Commission's July 1991 instruction to construct a 150-acre wetlands restoration project and a 300-acre artificial reef to compensate for the damage caused by the San Onofre plant. Despite the agreement made when the plant was licensed, ten years later the utility has completed neither project. However, the utility did successfully argue that a rate increase was necessary to cover the anticipated remediation costs. The California Public Utilities Commission estimates that \$106 million was collected from ratepayers under the auspices of this program, only \$2.7 million of which has been spent on environmental restoration.^{54 55}

In addition to Edison's two nuclear power plants, the utility owns 34 fossil fuel plants across nine states. In 1998, these fossil fuel plants emitted 4,324 pounds of toxic mercury, more than any other utility company in the nation except Southern Company and AEP.⁵⁶ Mercury is a neurotoxin which can harm fetus development or cause developmental disorders in children.⁵⁷

Since the last study of mercury emissions in 1999, Edison acquired several new coal-fired plants which has increased its pollution output, especially mercury. In December 1999, Edison purchased a dozen fossil-fuel plants, including six coal-fired, in Illinois for \$4.1 billion from Exelon. In March 1999, Edison purchased GPU's share of the Homer City coal-fired plant in Pennsylvania for \$900 million.

The Homer City plant produced the 2nd highest mercury emissions, the 4th highest sulfur dioxide, the 30th highest carbon dioxide, and the 41st highest nitrogen oxide in the country. These major additions, for example, push Edison's mercury emissions up to 5,790 pounds.

Edison and Environmental Justice

Edison owns a 56 percent share (885 megawatts) of the Mojave coal-fired power plant in Clark County, Nevada. Mojave is the single largest source of sulfur dioxide pollution in the Southwest.⁵⁸ Sulfur dioxide causes acid rain and can also impair breathing and aggravate existing respiratory diseases.⁵⁹

⁵⁴ Steve La Rue, "N-Plant Mitigation Plan in Spotlight," San Diego Union-Tribune, 4/8/97.

⁵⁵ Linda Gunter, "Licensed To Kill: How the Nuclear Power Industry Destroys Endangered Marine Wildlife and Ocean Habitat to Save Money," Safe Energy Communication Council, Winter 2001, www.safeenergy.org/wildlife.htm

⁵⁶ Environmental Working Group, Clean Air Network, and the Natural Resources Defense Council, "Mercury Falling: An Analysis of Mercury Pollution From Coal-Burning Power Plants," November 1999, www.ewg.org/pub/home/reports/mercuryfalling/mercurypr.html

⁵⁷ Environmental Protection Agency, "Mercury Study Report to Congress," December 1997, www.epa.gov/ttn/oarpg/t3/reports/volume5.pdf

⁵⁸ Bobby Cuza, "Navajo Faction Urges Edison To Shut Down Power Plant," Los Angeles Times, Pg. A3, 4/21/00.

⁵⁹ Environmental Protection Agency, "1997 National Air Quality: Status and Trends," December 1998, www.epa.gov/oar/aqtrnd97/brochure/so2.html

The Mojave Generating Station is fueled entirely by coal that comes from a Hopi reservation in the Black Mesa region of Arizona. Native Americans in the area are dying from respiratory problems, such as black lung and silicosis, which are a direct result of these mining operations.⁶⁰

The coal is transported from the mine to the power plant through a slurry pipeline that passes through Hopi and Navajo reservations. The poor construction of the pipeline is causing it to drain billions of gallons of water from the tribal lands through which it passes, resulting in the destruction of local creeks and wildlife.⁶¹

Edison tried to sell its ownership share of Mojave to Virginia-based AES for \$533 million. But California legislation passed in January 2001 bars Edison from selling any generation-related facilities until 2006. The law also affected Edison's attempt to sell its 15.8 percent ownership in Palo Verde and its 48 percent interest in the Four Corners coal plant in New Mexico to Pinnacle West Energy for \$550 million.

The California legislature believed the law was necessary since Edison was threatening to file for bankruptcy. The state wanted guarantees that Edison would have assets available to cover debts in the event of insolvency.

Edison's Four Corners coal plant sits on Navajo Nation land. This is problematic, since Four Corners emitted 46,000 tons of nitrous oxides (15th highest amount nationally), nearly 17 million tons of carbon dioxide (15th highest nationally), and 564 pounds of mercury (37th highest) in 1998.

⁶⁰ Michael Gougis, "Walking Away; But the action could cause new problems for activists," New Times Los Angeles, 9/7/00.

⁶¹ James Rainey, "Tribes Battle MWD Over Tunnel Projects," Los Angeles Times, Pg. A1, 5/2/00.

Florida Power & Light (FPL – www.fplgroup.com)

"We will always do our part to preserve the environment." –James L. Broadhead, FPL's Chairman⁶²

FPL's record as a corporate citizen has been less than honorable. Fines of hundreds of thousands of dollars have been levied against the company for its poor nuclear safety record. When FPL employees reported the safety violations, they were fired instead of praised. The utility has been cited as one of the worst polluters in Florida. And its top executives received widespread condemnation after they engineered a \$62 million rip-off and refused to return the loot to shareholders or ratepayers. This troubling record creates doubt as to whether FPL can be entrusted to guarantee the safety of a private nuclear fuel waste dump.

FPL operates 19 fossil fuel and 2 nuclear power plants in seven states, and had \$704 million in 2000 profits, with an additional profit of \$329 million in the first six months of 2001.

FPL's interest in PFS stems from its ownership of four reactors at its Turkey Point and St. Lucie nuclear power plants in Florida. These four reactors have over 1,400 metric tons of nuclear waste.

FPL and Nuclear Safety

FPL does not have an acceptable nuclear safety record. Between 1995 and 1998, FPL's St. Lucie nuclear power plant was fined \$388,000 by the NRC for numerous safety problems including leaking radioactive water, broken equipment, inadequate fire protection, lack of emergency planning, and failure to make repairs.⁶³ In 1997, FPL nuclear plant employees had more complaints substantiated by federal investigators than any of the nation's other 65 nuclear plants.⁶⁴

When FPL employees discovered problems with nuclear safety, they were fired rather than praised. In 1994, then-Secretary of Labor Robert Reich ruled that FPL broke the law when it fired Thomas Saporito, an employee who reported numerous safety problems at the Turkey Point nuclear plant to the NRC.⁶⁵

Secretary Reich again ruled in 1996 that FPL broke the law when it fired Richard R. Robainas, an employee who filed complaints with the NRC about faulty warning systems at the Turkey Point nuclear plant. According to Reich, "the evidence of retaliatory intent

⁶² "People Making a Natural Choice," Downloaded 7/10/01, Last modified 3/29/00, www.fplgroup.com/html/environmental/natural.html

⁶³ Andy Reid, "Safety Concerns Reported At Plant," The Stuart News/Port St. Lucie News (Stuart, FL), Pg. A1, 12/10/98.

⁶⁴ Andy Reid, "NRC Investigation How Complaint Secrecy Failed," The Stuart News/Port St. Lucie News (Stuart, FL), Pg. A1, 2/27/98.

⁶⁵ Danielle Herubin, "FPL Wistle-Blower To Get New Hearing," The Palm Beach Post, Pg. 6B, 6/8/94.

was overwhelming."⁶⁶ In 1997, the NRC fined Florida Power & Light \$100,000 for firing Robainas, claiming that the company's actions were clearly discriminatory.⁶⁷

In 1999, FPL successfully defeated a legal attempt to hold nuclear utilities to tougher standards for protecting workers from radiation exposure. Bertram Roberts, a Florida Power & Light employee, filed a lawsuit claiming he had contracted leukemia because of radiation he was exposed to at the utility's Turkey Point nuclear power plant. However, Florida Power & Light argued successfully in court that even if their plant did cause Roberts' leukemia, they were invulnerable to lawsuits as long as they met federal nuclear safety standards.⁶⁸

FPL and Profiteering

Last year, FPL and Entergy announced a \$15 billion merger of the two energy corporations. In December 2000, when FPL's shareholders approved the Entergy merger, a "change of control" clause in the contracts of FPL's top executives immediately triggered \$62 million in early "incentive" payments as a reward for the merger.

But by April 2001, the merger collapsed. James L. Broadhead, FPL's Chairman, and seven other top executives refused to return the \$62 million "merger pay" back to shareholders. Analysts noted that, while "change of control" clauses are common, it was not standard protocol for such payments to be released before a merger is officially finalized.⁶⁹

When the Florida Public Service Commission (PSC) reviewed the controversial payments, they did not object, claiming that the bonuses were to be paid from lower shareholder dividends, not ratepayers. But the PSC overlooks the fact that, if FPL has so much extra money to siphon off to its executives, does not that indicate that the rates consumers pay to FPL are too high? Under increased political pressure, the PSC has begun examining whether to lower Florida consumers' "base rates", as the state is concerned that FPL is enjoying a rate of return higher than the 12 percent allowed under regulation⁷⁰ (Florida has yet to deregulate).

As a result of the contentious payout, Broadhead pocketed \$39.6 million in cash in 2000, and still has \$11.5 million worth of FPL stock. FPL's President and CEO, Lewis Hay III, made \$7.6 million in cash in 2000, and holds \$2.2 million worth of FPL stock. Selected other executives benefiting from the controversial package were Paul J. Evanson, President of Florida Power & Light (\$11.7 million in 2000 cash payments, and \$5.3 million in FPL shares); Dennis P. Coyle, FPL General Counsel (paid \$7.1 million in cash, and \$3.2 million in FPL stock); and Thomas F. Plunkett, President of FPL's Nuclear Division (paid \$6.5 million in cash, and holds \$2.6 million worth of FPL shares).⁷¹

⁶⁶ Sun-Sentinel Ft. Lauderdale, "Panel Says FP&L Should Be Fined Over Firing," 7/18/96.

⁶⁷ Yvette C Hammett, "Ex-FPL employee's hearing to begin today," Stuart News, 1/21/97.

⁶⁸ The Palm Beach Post, "FPL Wins Suit Over Safety At Nuclear Power Plants," 2/23/99.

⁶⁹ Diane Francis, "Time To Shut Down Option Mania", The National Post, 6/14/01.

⁷⁰ Jason Hall, "State May Cut FPL's Base Rates," Sarasota Herald-Tribune, 5/17/01.

⁷¹ FPL DEF-14A filing with the Securities and Exchange Commission, 04/11/01.

FPL and the Environment

FPL's record on clean air is problematic. FPL owns and operates five of the twelve worst polluting power plants in the state (Port Everglades, Riviera Beach, Fort Myers, Parrish, and Sanford).⁷² The American Lung Association criticized FPL for continuing to operate 30-plus-year-old plants that emit high levels of pollutants.⁷³

The Scherer plant FPL co-owns with Southern Company in Macon, GA, produced over 22 million tons of carbon dioxide (the 2nd highest of any plant in America) and 995 pounds of mercury (the 7th highest amount in the U.S.) in 1998.

A report by Abt Associates Inc. (a Cambridge, Mass. firm frequently used by the Environmental Protection Agency) indicates that the pollution from just two of FPL's aging power plants (Fort Lauderdale and Riviera Beach) kills more than 100 people a year through respiratory diseases.⁷⁴

Florida ranks fifth among the lower 48 states for deaths, hospitalizations, and asthma attacks associated with electric power pollution.⁷⁵

⁷² Rafael A. Olmeda, "FPL Holds 5 Spots On Dirty Dozen," Sun-Sentinel (Fort Lauderdale, FL), Pg. 2B, 5/5/00.

⁷³ Randy Schultz, "Power Firms Kept Florida Powerless," The Palm Beach Post, 6/3/01.

⁷⁴ David Fleshler, "Study: Power Plants Sicken Residents," Sun-Sentinel (Fort Lauderdale, FL), Pg. 6B, 10/18/00.

⁷⁵ Deborah Circelli, "FL Plants Contribute to Premature Deaths," The Palm Beach Post, Pg. 12B, 10/18/00.

GPU (www.gpu.com)

GPU turned the deregulation farce in New Jersey and Pennsylvania into a meal ticket of consumer-funded corporate welfare. The utility sold power plants that consumers paid for through electric rates for 2 ½ times their book value and pocketed the proceeds. GPU is also the only utility which has petitioned Pennsylvania regulators to increase electric rates. To top it all off, GPU's record on nuclear safety is among the worst in the country – after all, it was at the helm during the Three Mile Island disaster. If history is any indication, Utahans can be legitimately concerned about GPU's intentions regarding the PFS facility.

In August 2000, GPU entered into a merger agreement with FirstEnergy, an Ohio-based energy corporation. Under the agreement, FirstEnergy would acquire GPU for \$4.5 billion. The merger has been approved by the boards and shareholders of both corporations, by the Federal Energy Regulatory Commission and the Pennsylvania Public Utilities Commission. The Securities and Exchange Commission has yet to weigh in, and a decision by the New Jersey Board of Public Utilities is due shortly.

GPU's primary subsidiaries are Jersey Central Power & Light, Metropolitan Edison (PA) and Pennsylvania Electric. GPU posted after-tax profit of \$69 million in first three months of 2001, after enjoying profit of \$233.5 million in all of 2000. As GPU's chairman, president and CEO, Fred D. Hafer was paid \$1 million in 2000, and holds \$3.7 million in GPU stock.

Under deregulation, GPU is exiting the generating business and instead focusing on transmission and distribution. In August 2000, GPU sold the second of its two operating nuclear generating stations, Oyster Creek, to AmerGen, for \$10 million. AmerGen also purchased the Three Mile Island-1 reactor from GPU in 1999.

With GPU's divestiture of its nuclear generation assets, it is unclear as to whether the utility will remain a member of the PFS consortium. But the final outcome of their pending merger with FirstEnergy (which owns nuclear reactors) will likely determine whether or not the merged company will maintain GPU's equity in PFS.

GPU and Nuclear Safety

GPU owned and operated the Three Mile Island (TMI) nuclear reactor during the worst nuclear accident in United States history.⁷⁶ For six months prior to the accident, GPU falsified reactor coolant leak rate data sent to the NRC, thereby avoiding a shutdown order that would have averted the disaster.⁷⁷

Safety problems at Three Mile Island have continued to the present day. On February 26, 1998, the NRC wrote GPU that "...in numerous instances your organization has not taken appropriate and timely action to correct known adverse conditions." On October 10, 1997, the NRC fined GPU \$210,000 for numerous safety violations at TMI-1 including

⁷⁶ Terry McDermott, "Nuclear Power May Rise Again," *Los Angeles Times*, Pg. A1, 2/9/01.

⁷⁷ Three Mile Island Alert, "Three Mile Island Falsified Reactor Coolant Leak Rates," www.tmia.com/false.htm

inadequate design controls, inadequate verification of safety evaluations, improperly downgrading safety-related equipment, and a failed emergency training exercise.⁷⁸

In March 1993, GPU's then-president Phillip Clark testified before the U.S. Senate Subcommittee on Clean Air, Wetlands, Private Property, and Nuclear Safety that security had never been breached at Three Mile Island. He said this despite the fact that earlier that year an intruder had demonstrated the serious security weaknesses at the plant by driving past TMI's guarded entrance gate, crashing through the protected area fence, crashing through the turbine building roll-up door, and hiding in a darkened basement of the plant for nearly four hours before being apprehended by guards.⁷⁹ Government officials were deeply concerned about the security breach as it occurred shortly after the World Trade Center bombing in New York City and Timothy McVeigh's act of terrorism in Oklahoma City.

Until just months ago, GPU owned and operated Oyster Creek, one of the oldest and dirtiest nuclear power plants in the country.⁸⁰ According to a 1995 report by the New Jersey Department of Environmental Protection, Oyster Creek is one of the most dangerous nuclear power plants in the United States. The dry well surrounding the reactor is known to be corroded. Parts within the reactor vessel, including the reactor core shroud, are known to be cracking. Oyster Creek's 'thermo-lag' fire barriers have been found by the NRC to be combustible. Oyster Creek's Mark 1 radiation containment system is among the most heavily criticized in the industry and is widely considered to be far less capable of radiation containment than was Three Mile Island.⁸¹ In addition, the Union of Concerned Scientists places Oyster Creek on their short list of the nuclear plants most likely to have serious problems because of the age of its equipment and design.⁸²

GPU and Deregulation

Once Pennsylvania and New Jersey decided to deregulate their electricity markets, GPU – a traditional utility with a regulated monopoly – announced in October 1997 that it was exiting the generation business. By the end of 1999, GPU sold most of its power plants for \$2.62 billion – nearly 2 ½ times their book value. While GPU used some of the cash for stock buyback programs (like the one in January 1999 for \$350 million) to bolster its value on Wall Street, it lobbied state regulators to force consumers to pay for billions in so-called *stranded costs*. Stranded costs are the debts GPU and other utilities carry from their expensive power plant boondoggles from the past – primarily its Three Mile Island and Oyster Creek nuclear investments.

New Jersey granted GPU \$2.1 billion in stranded costs in May 1999. GPU collected the money from consumers through a surcharge.⁸³ Pennsylvania granted GPU over \$990

⁷⁸ Nuclear Regulatory Commission Integrated Inspection Report 50-289/97-10 & 50-320/97-03 & Notice of Violation.

⁷⁹ Three Mile Island Alert, "Three Mile Island North Gate," www.tmia.com/whygate.html

⁸⁰ Ernest P. Zorian, "Oyster Creek nuclear plant should have been shut down," Asbury Park Press (Neptune, NJ.), Pg. A17, 8/15/00.

⁸¹ Asbury Park Press (Neptune, NJ.), "A-Plant Faults Just Patched Up," Pg. A18, 10/8/00.

⁸² Ernest P. Zorian, "Oyster Creek nuclear plant should have been shut down," Asbury Park Press (Neptune, NJ.), Pg. A17, 8/15/00.

⁸³ The Wall Street Journal, "GPU Unit is Allowed to Regain \$2.1 billion Through Surcharges", 5/20/99.

million in stranded costs it also recovered through monthly charges to consumers. And Pennsylvania's settlement allowed GPU to "true-up" collections every five years – giving the utility the ability to extract more money from consumers for stranded costs beginning in 2005.

If that were not enough, state regulatory officials in Pennsylvania, in a failed attempt to encourage retail competition, set electric rates at which GPU could charge nearly \$100 million higher than before deregulation. The thought was that by allowing GPU to charge artificially high rates for electricity, competitors would be encouraged to enter the market by beating the falsely high price.⁸⁴ But even with this phony concept of "competition," only 4.7 percent of GPU's customers actually switched.

After soaking up these consumer-funded corporate welfare packages, GPU got hammered on the wholesale market in 2000. Since it was Pennsylvania's only major utility to sell off nearly all its generation capacity, GPU has been forced to purchase most of its power for its customers from unregulated power plants. These new power plant owners, free to set whatever price they wanted, charged GPU \$47 million more than it could pass on to its customers in Pennsylvania, and more than \$230 million in New Jersey in 2000.

As a result, GPU asked to hike electricity rates for its Pennsylvania consumers by 15 percent. Pennsylvania regulators essentially agreed to raise rates when part of their solution included raising the rate GPU charges its customers by between five and six percent – regulators, of course, included the rate increase as part of the "shopping credit" in a further attempt to increase incentives for retail competition. The deal also allows GPU to defer its losses through 2010. At that time, regulators will consider whether GPU should pass the full cost on to consumers.⁸⁵ New Jersey's Board of Public Utilities has allowed GPU to defer its losses in that state until 2003, when it will then be eligible to increase consumers' rates.⁸⁶

GPU and the Environment

GPU used to be among the highest polluting power producers in the country. But they have now dispersed that role to the several power companies which purchased nearly all of GPU's plants – including the Homer City coal plant, which is one of the dirtiest, to Edison International in March 1999 for \$900 million.

Since GPU now only owns one fossil fuel plant, it may be no longer relevant to hold the company's past air quality record against it. But the utility continues to have problems with the way it handles safety at its non-operational Three Mile Island facility. In addition, GPU's continued rate hike requests in Pennsylvania and New Jersey call into question the utilities commitments to treating consumers fairly.

⁸⁴ Northeast Power Report, "GPU Settles PA Restructuring Cases, Providing Higher Shopping Credits", 10/9/98.

⁸⁵ Northeast Power Report, "Pennsylvania PUC Allows GPU to Offset Wholesale Losses", 6/18/01.

⁸⁶ Tim O'Reiley, "Deregulation Continues to Haunt New Jersey-based Utility", The Asbury Park Press, 5/5/01.

Southern Company (www.southernco.com)

"We will continue to manage our business in a way that reduces our environmental impact. And we will back up our words with actions that demonstrate our commitment to activities that enhance the environment." –Southern Company web site⁸⁷

The public health record of Southern Company is the worst among utilities in America, they have been caught lying about problems at their nuclear facilities, and have been accused of manipulating California's deregulated electricity market to pad their own profits. Can they be trusted to handle tens of thousands of tons of radioactive waste?

Southern Company is an Atlanta-based energy corporation with 54 fossil fuel and 3 nuclear power plants in 13 states. It has assets of \$31.5 billion, and 2000 profits of over \$1.3 billion. Net income for the first six months of 2001 was \$475 million.

Henry Allen Franklin is Southern Company's President, CEO, and Chairman of the Board. He earned more than \$3.5 million in 2000 from salary, bonus, and company stock sales. He still holds more than \$29 million worth of Southern Company shares.

Southern Company's major subsidiaries are Mirant (an unregulated power and marketing company), Southern Nuclear, Alabama Power, Georgia Power, Gulf Power, Mississippi Power, Savannah Electric & Power, Southern Telecom and Southern LINC (wireless communications).

Southern Company's interest in PFS stems from its ownership of six reactors at three nuclear power plants in Georgia and Alabama. The three plants – Farley, Hatch, and Vogtle – currently hold more than 2,100 metric tons of nuclear waste combined.

Southern Company and Nuclear Safety

As part of PFS, Southern Company will be entrusted to handle thousands of tons of nuclear waste. But in light of its record managing its own nuclear reactors, that trust is put in doubt. In 1990, Southern Nuclear faked the results of safety tests and submitted the falsified information to the NRC. After an accident at its Vogtle-1 nuclear generator in which the emergency diesel back-up generators failed to start properly, the company was required by the NRC to run safety checks on its diesel generators. Southern Nuclear executives, however, conspired to conceal evidence that the diesel generators failed to start up as required in tests after the incident.⁸⁸ In 1994, the NRC fined the company \$200,000 for supplying the agency with falsified information.⁸⁹

Southern Company, California Deregulation and Profiteering

⁸⁷ "Goals: Our Environmental Commitment," Downloaded 7/10/2001, www.southerncompany.com/planetpower/moreinfo/goals.asp

⁸⁸ Wilson Dizard and Dave Airozo, "Grand Jury Probes Charges of Lies, Cover-Up Following Vogtle Incident," *Nucleonics Week*, Vol. 34, No. 2, Pg. 1, 1/14/93.

⁸⁹ Dave Airozo, "OI Report Notes Incidents of Subterfuge by Georgia Power Management," *Inside N.R.C.*, Vol. 16, No. 11, Pg. 13, 5/30/94.

Southern Company purchased three power plants – Contra Costa, Pittsburg and Potrero – from PG&E for \$800 million in April 1999, during the early days of California's deregulation. Public Citizen estimated that Southern Company was able to profit \$200 million in 2000 alone from operating the three plants. The California Public Utilities Commission is now investigating Southern Co. for intentionally shutting down the Pittsburg plant in order to drive up prices of electricity sold at the other two.⁹⁰

Indeed, Southern Company boasted to its shareholders in a June 18, 2001 Form S-4 filing with the Securities and Exchange Commission that "our assets are strategically located near major load centers and, in some cases, are located in markets in which electricity prices are more likely to be higher due to transmission constraints and shortages of low cost generation."⁹¹ Pursuing a deliberate strategy of commanding generation assets in high price areas with constrained transmission capacity, investigators believe, made it easy for Southern to manipulate prices and restrict the flow of electricity to California residents, leading to rolling blackouts.

Southern Company and the Environment

Southern Company has the worst record in the nation concerning air quality, as it is the single largest utility polluter in the United States.⁹² In 1999, Southern Company emitted 1.1 million tons of sulfur dioxide, 170 million tons of carbon dioxide, and 369,826 tons of nitrogen oxides – more than any other utility company in the nation.⁹³ This is not just a result of Southern Company's size. The average Southern Company fossil fuel plant emits 37 percent more sulfur dioxide than the average U.S. power plant.⁹⁴ Sulfur dioxide causes acid rain and can also impair breathing and aggravate existing respiratory diseases.⁹⁵ Carbon dioxide is the primary cause of global warming.⁹⁶ Nitrogen oxides create acid rain and, damage lung tissue, create ground-level ozone (a poison), and contribute to global warming.⁹⁷

In 1998, Southern Company emitted over 8,000 pounds of mercury, more than any other utility company in the nation. Mercury is a neurotoxin, which is especially damaging to children and can cause developmental disorders in fetuses.⁹⁸

⁹⁰ Michael Pena and Lynda Gledhill, "Company hesitant to build power plant" The San Francisco Chronicle, 6/2/01.

⁹¹ Page 8.

⁹² U.S. Public Interest Research Group, "Southern Company: A Giant Among Polluters," 4/3/01, www.pirg.org/reports/enviro/southern/giantpolluters.html

⁹³ U.S. Public Interest Research Group, "Lethal Legacy: The Dirty Truth About The Nation's Most Polluting Power Plants," Pg. 39, April 2000, www.pirg.org/reports/enviro/lethal/

⁹⁴ U.S. Public Interest Research Group, "Southern Company: A Giant Among Polluters," 4/3/01, www.pirg.org/reports/enviro/southern/giantpolluters.html

⁹⁵ Environmental Protection Agency, "1997 National Air Quality: Status and Trends," December 1998, www.epa.gov/oar/aqtrnd97/brochure/so2.html

⁹⁶ Environmental Protection Agency, "Global Warming: The Climate System," 4/6/01, www.epa.gov/globalwarming/climate/

⁹⁷ Environmental Protection Agency, "NOx - How Nitrogen Oxides affect the way we live and breathe," September 1998, www.epa.gov/oar/oaqps/nox/hlth.html

⁹⁸ Environmental Protection Agency, "Mercury Study Report to Congress," December 1997, www.epa.gov/ttn/oarpg/t3/reports/volume5.pdf

In total, Southern Company emitted 114 million pounds of toxic chemicals into the air, land, and water in 1998, including hydrochloric acid, sulfuric acid, hydrofluoric acid, manganese, nickel, chromium, toluene, and hexane. Again, this was more than any other utility company in the nation and was not just a result of Southern Company's size, since the average Southern Company plant releases 177 percent more toxic chemicals than the average U.S. power plant.⁹⁹

Southern's James Miller coal plant in Birmingham, AL, the Gaston plant in Wilsonville, AL, the Gorgas plant in Jasper, AL, the Bowen plant in Cartersville, GA and the Scherer coal plant it co-owns with FLP in Macon, GA are their worst polluting fossil fuel plants. The Scherer plant produced over 22 million tons of carbon dioxide (the 2nd highest of any plant in America) and 995 pounds of mercury (the 7th highest amount in the U.S.) in 1998. The Miller generator produced nearly 21 million tons of carbon dioxide (5th highest) and over 1,250 pounds of mercury (5th highest).

Although Southern Company may boast on its web site what good job it does to protect the environment, each year it spends millions of dollars on political battles to weaken, avoid, and reverse environmental policies that would force it to clean up its power plants. In 1999, Southern Company devoted more money to federal campaign contributions and lobbying activities than any other utility. The \$23.8 million spent by Southern Company on "Political and Related Activities" was used to oppose the use of modern pollution control technology, controls on greenhouse gases, health standards for soot and smog, and limits on toxic mercury emissions.¹⁰⁰

And Southern Company is trying to emit even more toxins by actively fighting new regulations which would force its oldest coal-fired plants to reduce their emissions. Southern Company has spearheaded the formation of a new lobbying group – the National Electric Reliability Coordinating Council – to fight so-called New Source Review Standards. The group is being represented by the DC lobbying firm O'Brien, Klink & Associates, headed by former Carter administration official David O'Brien and former Democratic Rep. Ron Klink. But this Democratic lobbying firm shows it has strong GOP connections, as the National Electric Reliability Coordinating Council's chairman is former Republican Party National Committee chairman Haley Barbour.¹⁰¹ In addition, Bush's spokesman during the Florida recount and former GOP Montana Gov. Marc Racicot represented the group at an EPA hearing, and C. Boyden Gray, White House counsel in the first Bush administration, is another Electric Reliability Coordinating Council spokesman.

Southern Company is dedicating so much lobbying effort to overturn the New Source Review standards because they are being sued for violating these standards. As part of

⁹⁹ Thomas E. Natan, Richard Puchalsky, and Mark Wenzler, "Toxic Power: What the Toxics Release Inventory Tells Us about Power Plant Pollution," National Environmental Trust for Clear the Air, August 2000, www.cleartheair.org/proactive/newsroom/release.vtml?id=18980

¹⁰⁰ U.S. Public Interest Research Group, "Abuse of Power: Southern Company's Campaign to Undo, Weaken, Delay and Circumvent Life-Saving Pollution Rules," May 2001, <http://cta.policy.net>

¹⁰¹ Utility Environment Report, "Utilities Hire GOP's Haley Barbour to Lobby New Source Review Issues", 6/15/01.

the 1990 Clean Air Act, old coal power plants continued to be exempt from tougher emissions standards applied to newer plants, unless they upgraded their equipment. In that case, the EPA could determine that the upgrade constituted a "major modification" and therefore a New Source Review permit would be necessary. This permit would force the utility to reduce emissions. On behalf of the EPA, the Justice Department filed suit against power plants owned by Southern Company beginning in 1998, claiming that the utility had made modifications which resulted in higher emissions of pollutants than was allowed under the Clean Air Act.¹⁰²

Southern Company and Employment Policies

In July 2000, seven Southern Company employees filed a racial discrimination lawsuit against the utility and its subsidiaries. The suit alleges that there is a "pattern of discriminating" against black employees at the company. It also accuses Southern Company executives of "reckless indifference" to obvious examples of workplace hostility including racial jokes and epithets, hangman's nooses, and inequalities in compensation and promotion.¹⁰³ When an attorney for the plaintiffs asked then-Southern CEO Bill Dahlberg, "It never occurred to you that a hangman's noose was a racial symbol which would be problematic for an African-American?", Dahlberg replied, "Not at that time, no, sir." The case is still pending.¹⁰⁴

¹⁰² Southeast Power Report, "DOJ Shifts Venue for Air Case Against Southern", 1/22/01.

¹⁰³ Matthew C. Quinn, "Ga. Power opposes class-action motion," The Atlanta Journal – Constitution, 6/2/01.

¹⁰⁴ National Public Radio *Morning Edition*, 4/30/01.

Xcel Energy (www.xcelenergy.com)

"[Xcel] has a strong tradition of environmental stewardship – protecting the delicate balance between the need for reliable energy and minimizing environmental impact from energy production and distribution." –Xcel web site¹⁰⁵

From Xcel's corporate literature, one is presented with a view that Xcel has been an excellent corporate citizen. But an analysis of Xcel's record on air, water, nuclear safety, consumer rights and environmental justice tells a much different story.

Xcel is a huge energy holding corporation based in Minneapolis, with assets of nearly \$22 billion – a growth of 65 percent from just four years ago. Their after-tax profits were \$528 million in 2000, and they already posted profits of over \$377 million in the first six months of 2001. Xcel was the lead utility in the formation of PFS.

Wayne H. Brunetti, President & CEO, made \$2 million in 2000 from his salary, bonus, and sale of stock. He still has \$22.4 million worth of Xcel shares. James J. Howard, Xcel's Chairman of the Board, made almost \$2.4 million in salary and stock sales, and still holds shares worth more than \$25 million.

Formed in August 2000 with the merger of New Century Energies and Northern States Power, Xcel operates 89 fossil fuel and two nuclear power plants in 20 states through its numerous subsidiaries. While its traditional businesses are involved in regulated electric utilities, Xcel's strongest growth is in its unregulated power and natural gas trading divisions. Some of the subsidiaries under the Xcel umbrella are NRG Energy (an unregulated power company); Public Service Company of Colorado; Southwestern Public Service Company; Black Mountain Gas Company; Cheyenne Light, Fuel & Power Company; Viking Gas Transmission Company, WestGas InterState, Seren Innovations (broadband telecommunications); and e prime (natural gas futures trading).

Xcel's interest in PFS stems from its ownership of three reactors at two nuclear power plants in Minnesota – Prairie Island and Monticello. As of December 31, 1998, these facilities had 770 metric tons of high-level nuclear waste. State law prohibits expanded on-site storage of waste, and Xcel is concerned about running out of room for its toxic garbage.

Xcel and Nuclear Safety

An investigation by the Minnesota Department of Public Service revealed that Northern States Power (a subsidiary of Xcel) hid problems with the Prairie Island nuclear plant from investigators in 1992. In testimony before a state hearing examiner, Xcel portrayed Prairie Island as a model facility whose reliability would remain stable or increase in the future. However, Xcel lawyers were at the same time preparing a suit against Westinghouse that alleged "serious defects" in the plant's steam generators.¹⁰⁶

¹⁰⁵ "Environment," Downloaded 7/10/2001, Last Updated 5/18/2001, www.nspco.com/co/co_en.htm

For years, Xcel denied that that pollution levels were increasing in the Mississippi River due to the Prairie Island nuclear power plant. Eventually Xcel conceded that tritium (a known carcinogen) had been released into the water near its plant. Fish were found near the discharge area with three fins on them. Xcel never compensated the Prairie Island Community for this contamination.¹⁰⁷

Xcel, California Deregulation, and Profiteering

When Xcel purchased several large power plants from San Diego Gas & Electric and Edison International, Craig Mataczynski, vice president of Xcel's unregulated NRG subsidiary said at the newly purchased El Segundo plant, "Consumers in California will begin to benefit from more competitively priced electricity and more vibrant economy."¹⁰⁸

But Xcel is being investigated for allegations of manipulating prices at its El Segundo power plant, in which it purchased a 50 percent stake (along with Houston-based Dynegy's 50 percent share) from Edison in April 1998. An El Segundo employee told investigators that managers, at times, told him to shutdown or reduce output at the facility. Such actions, according to state investigators, led to price spikes and helped contribute to the state's rolling blackouts.

In a May 2000 report, the California Energy Commission cited several plants, including El Segundo, as the "major beneficiaries of high real-time prices."¹⁰⁹ An analysis of NRG's balance sheet shows that in 1998 – the year they purchased El Segundo – net income was just over \$40 million. By 2000, their profit had jumped nearly 340 percent to \$183 million. And profits in the first three months of 2001 jumped an amazing 300 percent over the soaring 2000 numbers, as NRG enjoyed net income of over \$35 million from January to March, 2001.

West Coast Power is the NRG subsidiary that directly manages El Segundo and other California power plants. In documents filed with the Securities and Exchange Commission, West Coast Power reported an after-tax profit of \$29 million in 1999. In 2000 – the year prices for California electricity skyrocketed – West Coast Power reported that their profit soared 745 percent, to over \$245 million.

While the Federal Energy Regulatory Commission has tentatively ordered West Coast Power to refund up to \$45 million *just for alleged overcharges for January and February of 2001*, Xcel's subsidiary NRG complains in a quarterly SEC filing that since it is still owed \$217 million by the California Power Exchange, the California Independent System

¹⁰⁶ Tom Meersman, "NSP hid problems with Prairie Island reactor," Star Tribune (Minneapolis, MN), Pg. 6A, 3/2/94.

¹⁰⁷ Erick Highum, "Prairie Island nuclear concerns continue," The Circle, Vol. 20, No. 6, Pg. 8, 6/30/99.

¹⁰⁸ Robert J. Lopez and Rich Connell, "Energy Firms' Mixed Message is Focus of Inquiry", The Los Angeles Times, April 4, 2001.

¹⁰⁹ Christian Berthelsen and Scott Winokur, "Power Juggling Ramped up Price", The San Francisco Chronicle, 5/20/01.

Operator, and the three major California utilities, that its net income is lower than it should be.¹¹⁰

Xcel and the Environment

Xcel's French Island trash incinerator in LaCrosse, Wisconsin greatly exceeded EPA emission limits in 2001. Xcel's failure to install emission control technology led to the unnecessary and unlawful release of dangerous pollutants such as dioxin (an extremely toxic carcinogen) and mercury (a neurotoxin).¹¹¹ The dioxin emissions from another Xcel incinerator in Red Wing, MN, are so high that they have been identified as possibly one of the largest sources of dioxin contamination found in the breast milk of Inuit women in Nunavut, Canada, over 300 miles away.^{112 113} The company is currently being sued for refusing to control these illegal emissions. The EPA has also cited the company for exceeding emission limits for sulfur dioxide, hydrogen chloride and particulates.¹¹⁴

In January 2001, Xcel settled a lawsuit for unlawful emissions from the Craig coal-fired power plant in Colorado. After refusing to control the pollutants, Xcel and the other plant owners were forced to spend \$160 million to clean up the pollution from the plant and forced to pay a \$500,000 civil penalty to the federal government.¹¹⁵

Two Xcel electric plants in Becker, MN and Bayport, MN, are among the top 100 emitters of air pollutants in the nation. Its power plant in Becker is the 19th largest producer of carbon dioxide in the country.¹¹⁶

Xcel and Environmental Justice

The Prairie Island Indian Community was not fully consulted before Xcel gathered the necessary permits to locate a nuclear power plant next to their Dakota Reservation. They were only told the plant would be a "steam" generator.¹¹⁷

After a massive 1994 grassroots campaign by a coalition of organizations, Xcel was forced to make an agreement with the State of Minnesota and the Prairie Island Indian Community to limit the amount of nuclear waste that could be stored next to the reservation. Minnesota passed a law that allowed Xcel to store 17 dry casks of nuclear waste on-site at Prairie Island. The Prairie Island Indian Community was made a third-party beneficiary to the agreement and given standing to enforce it. However, Xcel is

¹¹⁰ NRG 10-Q filed with the Securities and Exchange Commission 5/15/01.

¹¹¹ La Crosse Tribune, "Environmental group suing Xcel over French Island incinerator," Pg. D1, 4/4/01.

¹¹² North American Commission for Environmental Cooperation, "Long-Range Air Transport of Dioxin from North American Sources to Ecologically Vulnerable Receptors in Nunavut, Arctic Canada," September 2000, www.cec.org/programs_projects/pollutants_health/develop_tools/dioxins/dioxrep.pdf

¹¹³ North American Commission for Environmental Cooperation, "Tracking Dioxins to the Arctic," Trio, Summer, 2001, www.cec.org/trio/stories/index.cfm?ID=3

¹¹⁴ Solid Waste Report, "EPA Cites Wisconsin Incinerator For Federal Clean-Air Violations," No. 18, Vol. 32, 5/3/01.

¹¹⁵ Deborah Frazier, "Lawyer with a cause," Rocky Mountain News (Denver, CO), Pg. 7A, 4/1/01.

¹¹⁶ Angela Greiling, "Group names top 100 power-plant air polluters," Star Tribune (Minneapolis, MN), Pg. 15A, 6/26/98.

¹¹⁷ Erick Highum, "Prairie Island nuclear concerns continue," The Circle, Vol. 20, No. 6, Pg. 8, 6/30/99.

currently pressuring the Minnesota state government to break this promise by passing a bill to expand nuclear waste storage on Prairie Island.¹¹⁸

Xcel is the largest customer of Manitoba Hydro, a hydroelectric generating company based in Canada. According to Pimicikamak Chief John Miswagon, Manitoba Hydro currently faces over 100 lawsuits concerning its mistreatment of Native peoples. In 1977, Manitoba Hydro signed the Northern Flood Agreement Treaty promising to mitigate the environmental and socioeconomic impacts of its projects on indigenous peoples. It has failed to honor few, if any, of these obligations.¹¹⁹

As a result, the Pimicikamak Cree Nation and other indigenous peoples are currently facing an ecological catastrophe. Manitoba Hydro's projects have involved the diversion of the entire river systems. In addition, its impoundment and seasonally-inverted controlled release of water has flooded millions of acres of boreal forest habitat and seriously damaged thousands of miles of shoreline.¹²⁰ Manitoba Hydro has been sharply criticized by human rights and environmental organizations for contributing to the destruction of indigenous communities. By continuing to be the primary supporter of these activities, Xcel makes itself complicit in environmental racism.

¹¹⁸ PR Newswire, "Prairie Island Indian Community Calls on State and Xcel to Honor Nuclear Waste Storage Agreement," 5/14/01.

¹¹⁹ AScribe Newswire, "Shareholders Challenge Company Xcel Energy Over Human Rights, Environmental Wrongs," 4/25/01.

¹²⁰ Electric Utility Week, "Xcel Hangs Tough On Manitoba Deal Despite Environmental Backlash," 10/23/00.

Conclusion

The Private Fuel Storage utilities have established histories of pollution, profiteering, safety violations and environmental injustice, that warrant skepticism about the PFS proposal.

PFS contends that its proposal would be a temporary solution to the nuclear waste problem. But the necessary first step in addressing this problem is to curb the generation of nuclear waste. PFS, to the contrary, advocates an increased dependence on nuclear power, which would inevitably add to the waste problem. Several of the PFS member utilities are seeking license renewals for their nuclear reactors, which would allow them to continue generating waste. The nuclear industry is also advocating the construction of new nuclear power plants although an acceptable solution for its long-term storage has not been identified.

The PFS utilities also claim that an interim storage facility is necessary because commercial reactors are running out of space onsite to store high-level waste. In reality, though, only one reactor in the U.S. - the Prairie Island reactor in Minnesota, operated by Xcel Energy (formerly Northern States Power) - faces potential shutdown due to nuclear waste storage issues.

The real motivation for PFS is corporate profit. Onsite storage of nuclear waste is expensive and the PFS consortium will be able to make money by offering non-member utilities an offsite storage option. Moreover, PFS member utilities hope to further their agenda for nuclear power expansion by exporting the problem of radioactive waste “out of *site*, out of mind” to the Skull Valley Goshute Reservation.

To allow this damaging corporate agenda to drive national energy policy is democratically unacceptable. Rather, the NRC should refer the PFS proposal to Congress for careful consideration under the terms of the Nuclear Waste Policy Act and, given its many failings, the PFS proposal should ultimately be rejected.

PFS amounts to yet another instance of the nuclear industry gambling with public health and safety. Member utilities should immediately withdraw from the PFS consortium, so as not to be implicated in such a dangerously flawed program. It’s time to turn away from nuclear power and invest in energy efficiency and sustainable, renewable energy options.