August 11, 2003

Director, TA&I – FSP Financial Accounting Standards Board 401 Merritt 7 P.O. Box 5116 Norwalk, CT 06856-5116

RE: Proposed FSP – Applicability of FASB Statement No. 143, Accounting for Asset Retirement Obligations, to Legislative Requirements on Property Owners to Remove and Dispose of Asbestos or Asbestos-Containing Materials

We are writing to provide our comments on the above-noted proposed FSP. As an electric utility holding company and the second largest owner of nuclear generating capacity in the US, Entergy was significantly affected by SFAS 143. We devoted significant resources to its interpretation, application and implementation, including considering the very issue dealt with in the proposed FSP. We reached a different conclusion than that reached in the proposed FSP, and we would like to share our perspectives on these issues with you.

## Comparison with Nuclear Decommissioning

Entergy is the second largest owner of nuclear generating capacity in the US, and our most significant ARO relates to the decommissioning of our nuclear generating facilities. A brief comparison of our analysis of the decommissioning ARO as compared to the obligation to remove and dispose of RACM might help to clarify our view of these issues.

Nuclear decommissioning is governed by significant regulations at both the Federal and State levels. These regulations include specific technical requirements regarding the performance of decommissioning tasks, as well as financial requirements regarding the collection of these costs from customers and the legal obligations that result from these collections. Among other things, these regulations provide for specific dates by which decommissioning must be performed.

Conversely, the obligation to remove and dispose of RACM is wholly dependent upon future events, often the demolition of the involved facility, which demolition is not required by any law or regulation. In our view, this is a profound difference. A reporting entity cannot have a legal obligation to incur a demolition-related cost if there is not a legal obligation to demolish the related asset.

## Definition of a Liability

The proposed FSP indicates that the obligation to remove and dispose of RACM meets the definition of a liability in SFAC 6. We disagree. As we understand the regulations, the obligation in question only becomes an obligation when the asbestos becomes friable, or has a high likelihood of becoming friable. In our view, unless these circumstances exist at the present time, there is no *present* legal obligation to remove and dispose of the RACM.

The obligation to remove and dispose of RACM is contingent on another event occurring (e.g., demolition of the facility or RACM otherwise becoming friable). This obligation is not a "conditional" obligation, as described in paragraph A17 of SFAS 143. Rather, it is a *contingent* obligation that depends upon the occurrence of a future event, and the event in question is often in the control of the reporting entity.

The proposed FSP notes that, though this is true, "events outside of the control of the owner could require that RACM be removed from a building at any time." This demonstrates our very point – a future event is necessary in order for RACM removal to be required, and GAAP does not permit accruals for general, unspecified business risks of the type mentioned in the proposed FSP. Rather, this obligation should be attached to the event that creates it, whether it is a decision to demolish a facility, an unexpected event, or RACM otherwise becoming friable.

Based on the above concepts, we believe that the obligation to remove and dispose of RACM does not meet the definition of a liability contained in SFAC 6:

- In our view, there is not a <u>present</u> duty or responsibility, for the reasons outlined above:
- The reporting entity does have discretion to avoid the future transfer for a potentially extended period, through simply continuing to use the facility in operations; and
- 3. The obligating event has not already happened.

While each of these criteria could be separately debated, it appears clear to us that the cumulative weight of these issues suggests that all of the criteria have not been met until the RACM becomes friable or a demolition plan has been committed to, whichever is earlier.

## Other Comments

The proposed FSP includes a discussion of various scenarios that purports to demonstrate the unavoidable, certain nature of the RACM removal and disposal obligation. However, we have a somewhat different view of these scenarios.

First, scenario (a) in the proposed FSP asserts that an "as is" sale of a building with RACM will, of necessity, entail the acceptance of a lower sales price. In our view, actual transactions involve dynamics that are often not quite so clear cut. If the buyer perceives the RACM obligation as a very distant obligation (as it often is, which will be discussed

below), it may well be *ignored* in his valuation of the building to be purchased. Second, the scenarios listed exclude one important option – simply *holding the facility after it is retired* for an indeterminate period of time. In our experience, this is quite common.

In our view, a building owner has three fundamental options in managing his asset, whether it is in use or retired – the building can be held, sold, or demolished (usually to be replaced by an updated, modern facility). In each case, the actual incurrence of RACM removal and disposal costs, if any, is *driven by a discrete event or management decision*. The recognition of these costs should accompany the event or decision, and should not instead be accelerated into periods long before these events or decisions occur.

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We appreciate the opportunity to comment on this proposed FSP, and would welcome the opportunity to discuss these issues with you further.

Sincerely,

/s/ Nathan E. Langston

Nathan E. Langston Senior Vice President and Chief Accounting Officer