



**UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TEXAS 76011-4005**

October 18, 2005

James Levine, Executive Vice
President, APS
Arizona Public Service Company
P.O. Box 52034
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SUBJECT: DENIAL OF A REQUEST FOR ENFORCEMENT DISCRETION BY ARIZONA PUBLIC SERVICE COMPANY (APS) REGARDING PALO VERDE NUCLEAR GENERATING STATION (PVNGS), UNITS 2 AND 3 (TAC MC8598, MC8599, MC8600)

Dear Mr. Levine:

By telephone on October 11, 2005, at 9 p.m. (CDT), you requested that the NRC exercise discretion to not enforce compliance with the actions required in Technical Specifications 3.0.3, 3.5.5, and 3.6.6, in order to maintain Units 2 and 3 in Mode 3, hot standby, until the pending design question was resolved. As discussed in detail below, the NRC denied this request at approximately 11:55 p.m. (CDT) on October 11, 2005, because the request did not meet any one of the criteria specified in NRC Inspection Manual Part 9900: Technical Guidance, "Operations - Notices of Enforcement Discretion," dated February 7, 2005, for the existing plant condition (hot standby). In addition, it was not clear that all aspects of the potential risk had been completely considered by your staff.

Nuclear Regulatory Commission participants in the October 11, 2005, telephone conference in which you requested enforcement discretion included Bruce Mallett, Regional Administrator, Region IV (RIV); Art Howell, Director, Division of Reactor Projects (DRP), RIV; Dwight Chamberlain, Director, Division of Reactor Safety (DRS), RIV; Herbert N. Berkow, Director, Project Directorate IV, Office of Nuclear Reactor Regulation; Mel Fields, Senior Project Manager, Office of Nuclear Reactor Regulation; Troy Pruett, Chief, DRP Branch D, RIV; Greg Warnick, Senior Resident Inspector, DRP Branch D, RIV; Russ Bywater, Senior Reactor Analyst, DRS, RIV; and Jim Drake, Senior Project Engineer, DRP Branch D, RIV. APS participants included yourself; Cliff Eubanks, Vice President, Nuclear Operations, PVNGS; David Mauldin, Vice President, Nuclear Engineering, PVNGS; David Smith, Plant Manager, PVNGS; Ken Mann, Senior Attorney, APS; Terry Radtke, Operations Director, PVNGS; Scott Bauer, Nuclear Regulatory Affairs Department Leader, PVNGS; and other members of the APS staff.

During the telephone conversation, your staff stated that both trains of the emergency core cooling systems (ECCS) for Units 2 and 3 were inoperable and that PVNGS Units 2 and 3 would need to be in compliance with Technical Specifications 3.0.3, 3.5.5, and 3.6.6, which required the plants to be in Mode 5 on October 13, 2005, at 4:33 a.m. (CDT). At the time the conference call began, Units 2 and 3 were in Mode 3 (hot standby), as required by the

Technical Specification noted above. You requested that a Notice of Enforcement Discretion (NOED) be granted pursuant to the NRC's policy regarding exercise of discretion for an operating facility, set out in Section VII.C of the NRC Enforcement Policy, and be effective for the period of October 13 at 4:33 a.m. (CDT) until October 21, 2005, at 4 p.m. (CDT). This letter documents our telephone conversation on October 11, 2005, starting at 9 p.m. (CDT) when we denied this request for an NOED.

During an NRC inspection, a question arose about original design-basis assumptions used in the ECCS analysis as it relates to the post-recirculation actuation signal water level in the refueling water tank (RWT). This question focused on whether there was reasonable assurance that air would not be ingested into the safety injection pump suctions while the RWT remained unisolated following a post-recirculation actuation signal being generated during certain postulated accident scenarios. Specifically, during a loss-of-coolant accident (LOCA), the ECCS pumps take a suction from the RWT and inject borated water into the reactor coolant system (RCS). At approximately 7.4 percent RWT level, the ECCS pump suction automatically shifts from the RWT to the containment sump. The containment pressure and water level should provide sufficient pressure to close the RWT outlet check valve. Closure of the check valve (or motor-operated valve) prevents the introduction of air into the ECCS system if the baffles in the bottom of the RWT become uncovered. Originally, on October 6, 2005, given this design question, you determined the system was operable. However, on October 11, 2005, based on new information, your engineering personnel determined that, for certain LOCA scenarios, there may be insufficient containment pressure to ensure that the check valve seats. This would allow inventory to continue being drawn from the RWT, resulting in the baffles in the bottom of the RWT being uncovered. With the RWT baffles uncovered, there is a possibility that air could be introduced into operating ECCS pumps, which could render them inoperable. Based on this operability determination, your staff shut down Units 2 and 3 until the design issue could be resolved.

You requested enforcement discretion to not further cool down Units 2 and 3 to cold shutdown conditions as required by the applicable Technical Specifications while you pursued actions to address this condition. We understood that actions that you were considering included possible plans to submit a license amendment request to rely on manual operator action to close the RWT isolation valve in the event that a recirculation action signal occurs. Reliance on this manual action was also part of the basis for your request for enforcement discretion. On the basis of the staff's evaluation of your request, we concluded that granting this NOED was not consistent with the Enforcement Policy and staff guidance. Specifically, Units 2 and 3 were already shut down in Mode 3 and did not meet the applicable NOED criteria for an operating plant. Also, the NOED criterion for a shutdown plant was not satisfied because the request was not intended to reduce shutdown risk, since the proposed course of action of remaining in Mode 3 placed the units at greater risk than proceeding to Mode 5 (cold shutdown). Therefore, you were unable to show that the proposed relief would result in no net increase in radiological risk to the public. Specifically, as a result of our denial, on October 12, 2005, you completed the cooldown of Units 2 and 3 in accordance with Technical Specifications 3.0.3, 3.5.5, and 3.6.6 by placing the units in a cold shutdown condition.

Consistent with the Enforcement Policy, enforcement action will normally be taken for the root causes, to the extent that violations were involved that led to your request for enforcement discretion.

If you should have any questions regarding this denial, please contact Troy W. Pruett at (817) 860-8173.

Sincerely,

/RA/

Bruce S. Mallett
Regional Administrator

Dockets: 50-528
50-529
50-530
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NPF-51
NPF-74

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K. Fuller, RC/ACES, Region IV (**KSF**)

NOED

OEWEB

SISP Review Completed: twp ADAMS: : Yes ☐ No Initials: twp
: Publicly Available ☐ Non-Publicly Available ☐ Sensitive : Non-Sensitive

S:\DRP\DRPDIR\PV NOED Denial.wpd

RIV:SPE:DRP/D	C:DRP/D	D:DRP	D:PDIV/NRR	RC/ACES	DRA
JFDrake;df	TWPruett	ATHowell III	HNBerkow	KSFfuller	TPGwynn
/RA/	GEWerner	AVegel for	E - GEWerner	/RA/	/RA/
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