

Florida Energy Consultants, Inc.

1620 North U.S. 1, Suite 6
Jupiter, Florida 33469-3241

Telephone: (407) 745-1186
Facsimile: (407) 745-1186

May 18, 1994

Hon. James Lieberman, Director
Office of Enforcement
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Re: APS letter dated May 5, 1994 from W.F. Conway, APS to
J. Lieberman, NRC; Palo Verde Nuclear Generating
Station; Docket Nos. STN 50-528/529/530

Dear Mr. Lieberman:

This serves to acknowledge receipt of Arizona Public Service Company ("APS") letter dated May 5, 1994 authored by W.F. Conway, APS Executive Vice President, regarding the above referenced matter.

The May 5, 1994 APS letter was sent to the NRC pursuant to the NRC's request by letter dated March 8, 1994 which stated, in part, that:

"...The NRC has recently received a letter (petition) from Thomas J. Saporito dated February 1, 1994 requesting that certain actions be taken pursuant to 10 CFR 2.206...."

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The subject "petition" was, in fact, authored by the undersigned and requested specific performance on the part of the U.S. Nuclear Regulatory Commission ("NRC") with respect to its licensee APS. In particular, the petition requested, in part, that:

"...the NRC initiate appropriate actions to cause the licensee to recognize the Buckeye, Arizona Regional Office of the National Whistleblower Center as an agency which employees of the licensee may identify safety concerns about operations at the Palo Verde Nuclear Generating Station without fear of retaliation by the licensee..."

"...the NRC initiate appropriate actions to cause the licensee to encourage employees at the Palo Verde Nuclear Generating Station to contact the Buckeye, Arizona Regional Office of the National Whistleblower Center to identify safety concerns about operations at the Palo Verde Nuclear Generating Station as part of the licensee's procedural requirements to ensure a working environment the licensee's facility which is free of hostility and which promotes the raising of safety concerns by licensee employees without fear of retaliation..."

"...the NRC initiate appropriate actions to cause the licensee to encourage employees at the Palo Verde Nuclear Generating Station to contact the NRC to identify safety concerns about operations at the Palo Verde Nuclear Generating Station as part of the licensee's procedural requirements to ensure a working

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environment at the licensee's facility which is free of hostility and which promotes the raising of safety concerns by licensee employees without fear of retaliation..."

In review of APS's response to this petition by letter dated May 5, 1994, it appears that APS policies and procedures clearly authorize all APS employees that they may take their safety concerns to the NRC without fear of retaliation. See, APS Enclosure 3, Site Access Training Page 11, RCTS No. 038572 "Employee Communication with the NRC". This APS policy/procedure states, in part, relevant hereto that:

"...*Important Note: THE EMPLOYEE CAN GO DIRECTLY TO THE NRC WITHOUT FOLLOWING THE SUGGESTED FLOW PATH..."

Although the undersigned supports APS's encouraging its employees to raise safety concerns directly to the NRC, if they so desire, I am gravely disturbed that APS policy/procedures fail to apply this very important concept to contract employees at the Palo Verde nuclear station. Indeed, APS vendor contractor purchase orders may not adequately require specific performance on the part of labor contractors such as "The Atlantic Group" to insure that contractor employees are afforded the same avenues to raise health and safety concerns to the NRC.

Additionally, the APS policy/procedures as they relate to employee site access training, appear to be deficient in clearly providing the appropriate avenues available to APS and contractor employees to seek a make-whole remedy through the filing of a Section 211 complaint with the U.S. Department of Labor ("DOL"). Although this information is available to all employees through the required licensee posting of NRC Form-3, the licensee should be required by the NRC to incorporate this information into its employee site access training procedures. Furthermore, the NRC

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should require the licensee to incorporate this information into the site access training class's enabling objectives and provide test questions relative to this information as part of the course curriculum.

The NRC should also require licensee contractors like "The Atlantic Group" to also provide this information to their contract employees as part of their normal employment package, (employee handbook), and company policies & procedures. Additionally, licensee contractors should also be required by the NRC and/or the licensee to properly post the NRC Form-3 in and around the contractor's place of business and the contractor's site business trailers and offices.

APS's response in its May 5, 1994 letter to the NRC regarding specific comments made by APS employee Mark Fallon appear to be defensive in nature and **nonresponsive** to the petition's concern in this area. Mr. Conway stated, in part relevant hereto, that:

"...Mr. Fallon speaks with Mr. Nowicki periodically (typically three times per week), and on the occasion of this call, Mr. Nowicki inquired if Mr. Fallon had any comment regarding the National Whistleblower Center's announcement that it was opening a "regional office" in Buckeye, Arizona (near PVNGS). Mr. Fallon noted that APS was taking a number of steps to foster an atmosphere at PVNGS in which employees feel free to raise concerns. He further indicated that APS expected its efforts to be effective, and therefore, he hoped that employees would not feel the need to go to the Buckeye center..."

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The licensee's response is unpersuasive and suspect. I request that the NRC affirm APS's statements made to Mr. Nowicki by Mr. Fallon and whether or not Mr. Fallon speaks with Mr. Nowicki "typically three times per week". The fact that Mr. Fallon's comments do not encourage APS employees to raise safety concerns through the National Whistleblower Center ("NWC"), Buckeye regional office discourages APS employees from utilizing this confidential avenue to the NRC.

Recent DOL Section 211 complaints filed against APS and The Atlantic Group only strengthen the undersigned's concern that the overall environment at the Palo Verde nuclear station remains "**chilled**" and that employees continue to be subjected to retaliation for raising health and safety concerns to the NRC. Therefore, it is of paramount importance that the NRC encourage and require APS to incorporate into their site access training police/procedure the NWC as an alternative method to confidentially communicate their safety concerns to the NRC.

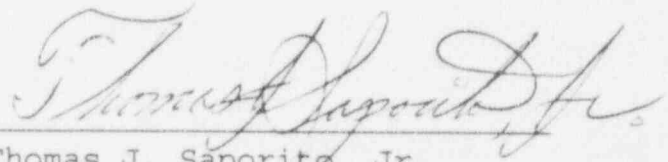
In closing, APS President and Chief Executive Officer, O. Mark DeMichele is to be commended for his exemplary efforts to address employee concerns in this area at various "all hands" meetings at the PVNGS facility. The NRC ~~will~~ encourage Mr. DeMichele to appropriately follow-up and personally resolve the remaining concerns illustrated above. To this extent, the undersigned suggests that Mr. DeMichele begin by authoring a letter to all Palo Verde employees similar to his letter dated August 10, 1993 enclosed with the APS May 5, 1994 W.F. Conway letter.

In accordance with 10 C.F.R. 2.206, I look forward to the NRC's timely response to this letter which should be considered as a supplement to the original petition file in February of 1994.

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Please insure that any further communications be forwarded to my attention at the business and address shown above. Thank you for your attention to this matter.

For the Environment,

A handwritten signature in cursive script, reading "Thomas J. Saporito, Jr.", written in dark ink.

Thomas J. Saporito, Jr.
President and Chief
Executive Officer
Florida Energy Consultants, Inc.

cc: Ken E. Perkins, NRC
Oscar DeMiranda, NRC
O. Mark DeMichele, APS
Linda E. Mitchell, NWC
NWC Exec. Dir., Washington, D.C.
Hon. Joseph I. Lieberman
Hon. John D. Dingell