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April 17, 1991

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

OFFICE OF SECRETARY
DOCKETING & SERVICE
(H-100)

In the Matter of

ARIZONA PUBLIC SERVICE
COMPANY, et al.

(Palo Verde Nuclear Generating
Station, Units 1, 2 and 3)

Nos. 50-528-OLA, 50-529-OLA,
and 50-530-OLA

(Shutdown Cooling Flowrate)

ASLBP No. 91-632-04-OLA

LICENSEES' MOTION TO DISMISS PETITIONERS
AND TERMINATE PROCEEDING

On February 6, 1991 Arizona Public Service Company, et al. ("APS" or "Licensees") filed their "Answer in Opposition to Petitions for Leave to Intervene and Requests for Hearing" ("Licensees' Answer"). The Answer opposed both a "Petition for Leave to Intervene and Request for Hearing" submitted by Myron L. Scott, Barbara S. Bush and the Coalition for Responsible Energy Education ("CREE") dated January 22, 1991 ("Scott/Bush/CREE Petition"), and also a similarly entitled document submitted by Allan L. Mitchell and Linda E. Mitchell dated January 21, 1991 ("Mitchell Petition"). Both petitions relate to a proposed amendment to each of the operating licenses for the three Palo Verde units which was noticed in the Federal Register on December 21, 1991. 55 Fed. Reg. 52,337. NRC Staff filed a Response on February 11, 1991 which concluded that the requests of both petitions should be denied. NRC Staff Response at 10.

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The Atomic Safety and Licensing Board issued a "Notice of Prehearing Conference and Order Scheduling Filing of Pleadings" on March 18, 1991 ("Order"). In this Order the Board mandated that "each petitioner . . . shall file no later than April 12, 1991 a Supplemental Petition which must include a list of contentions which petitioner seeks to have litigated in the hearing, and which satisfy the requirements of paragraph (b)(2) of § 2.714 of the Commission's Rules of Practice." Order at 2. Additionally, the pleadings were "to be in the hands of the Licensing Board and other parties on the due date." Order at 3.

In a "Notice of Voluntary Withdrawal of Petition for Leave to Intervene and Request for Hearing" dated April 11, 1991 the Mitchell Petition was voluntarily withdrawn from this proceeding. Licensees therefore request that the Board dismiss the Mitchell Petitioners.

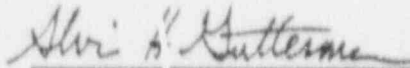
Although the Board expressly ordered that supplemental petitions be filed and in the hands of parties by April 12, 1991, Licensees have received no Supplemental Petition from or on behalf of the Scott/Bush/CREE Petitioners. We have also been advised that neither the members of this Board nor the NRC Staff have received such a Supplemental Petition. Therefore, Licensees request that the Licensing Board also dismiss the Scott/Bush/CREE Petition.

The Scott/Bush/CREE Petition should be dismissed because those petitioners have failed to set forth at least one litigable contention in accordance with paragraph (b)(2) of 10

CFR § 2.714. Additionally, the Petition should be dismissed for the reasons noted in Licensees' Answer and the NRC Staff Response to the Petition -- Petitioners have failed to demonstrate their interest in the proceeding, how the proceeding will affect that interest, and the specific aspect or aspects of the proceeding as to which they wish to intervene. Finally, the Board should dismiss the petition pursuant to 10 CFR § 2.707, because the petitioners have failed to comply with the Board's Order.

For the reasons set out above, Licensees move that the Board dismiss the petitioners and terminate this proceeding.

Respectfully submitted,



April 17, 1991

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April 17, 1991

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NUCLEAR REGULATORY COMMISSION

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CERTIFICATE OF SERVICE

I hereby certify that copies of "Licensees' Motion to Dismiss Intervenor and Terminate Proceeding" together with a transmittal letter to the Secretary of the Commission and this Certificate were served on the following by Federal Express, overnight delivery, on the date shown below.

U.S. Nuclear Regulatory Commission
Atomic Safety and Licensing Board Panel
Adjudicatory File
East West Towers Building
4350 East West Highway
Bethesda, MD 20814
(two copies)

Office of the Secretary
U.S. Nuclear Regulatory Commission
One White Flint North
11555 Rockville Pike
Rockville, MD 20852

Attention: Chief, Docketing and Service Section
(Original plus two copies)

Administrative Judge
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U.S. Nuclear Regulatory Commission
East West Towers Building
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Bethesda, MD 20814

Administrative Judge
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Atomic Safety and Licensing Board
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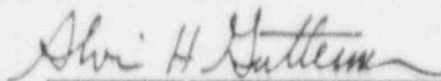
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April 17, 1991



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