

PUBLIC UTILITIES COMMISSION

305 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

April 27, 1992

Mr. Donnie H. Grimsley
Director
Division of Freedom of Information and
Publication Services
Office of Administration
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

FREEDOM OF INFORMATION
ACT REQUESTFOIA-92-218
Rec'd 5-1-92

Dear Mr. Grimsley:

Pursuant to the Freedom of Information Act, and the implementing regulations in 10 CFR §9.23(b), I hereby request the certain Nuclear Regulatory Commission (NRC) documents. The documents requested relate to one or both of the following letters which are attached.

Letter A May 22, 1990 letter to Mr. James M. Taylor, NRC Executive Director for Operations, from Mr. William Conway of the Arizona Public Service Company for a "clarifying letter" concerning certain Diagnostic Evaluation Team observations.

Letter B July 13, 1990 letter from Mr. James M. Taylor, NRC Executive Director for Operations, to Mr. Conway, Executive Vice President Nuclear at Arizona Public Service Company and/or the matters discussed in that letter.

We hereby request the following documents:

1. Copies of all memoranda, letters or other NRC correspondence written by, for or to:
 - the Executive Director for Operations,
 - the Deputy Executive Director for Operations,
 - the Director of Nuclear Reactor Regulation,
 - the NRC Commissioners,
 - the members of the Palo Verde Diagnostic Evaluation Team,
 - the Director of the Office of Analysis and Evaluation of Operational Data, and
 - the Administrator and Deputy Administrator of NRC Region V,which addressed or discussed, at least in part, the request in the attached letter A.

2. Copies of the notes, minutes, transcripts or reports of all meetings of the NRC Commissioners and/or staffmembers identified in Request 1 above, which addressed or discussed, at least in part, the request in the attached letter A.
3. Copies of all memoranda, letters or other NRC correspondence written by, for, or to:
 - the Executive Director for Operations,
 - the Deputy Executive Director for Operations,
 - the Director of Nuclear Reactor Regulation,
 - the NRC Commissioners,
 - the members of the Palo Verde Diagnostic Evaluation Team,
 - the Director of the Office of Analysis and Evaluation of Operational Data, and
 - the Administrator and Deputy Administrator of NRC Region V,which addressed or discussed the attached letter B and/or the matters discussed in that letter.
4. Copies of the notes, minutes, transcripts or reports of all meetings of the NRC Commissioners and/or staffmembers identified in Request 3 above, which addressed or discussed, at least in part, the attached letter B and/or the matters discussed in that letter.
5. Copies of the notes, minutes, transcripts or reports of all telephone conversations between representatives of Arizona Public Service Company and the NRC Commissioners and/or staffmembers identified in Request 3 above which addressed or discussed either letter A and/or the matters discussed in those letters.

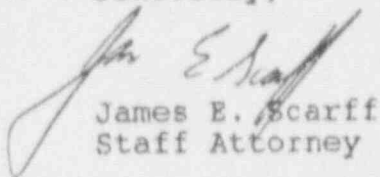
These records are sought to aid in an investigation being conducted by the California Public Utilities Commission, a state agency, into the operation of the Palo Verde Nuclear Generating Stations (CPUC Docket No. I.89-12-018). Accordingly, if the search costs exceed the minimum specified in 10 CFR §9.39, we request that any search fee be waived pursuant to 10 CFR §9.41(c). The information requested will be used by the Commission to better understand the manner in which the NRC regulates Palo Verde in relation to the CPUC's regulation of Southern California Edison's ownership share of the plant.

If you have any questions regarding this request, please do not hesitate to contact me at (415) 703-1440.

Mr. Donnie H. Grimsley
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Thank you in advance for your prompt attention to this request.

Sincerely,

A handwritten signature in dark ink, appearing to read "James E. Scarff", is written over the typed name.

James E. Scarff
Staff Attorney

Attorney for the Division of Ratepayer Advocates

Attachments

JES:ldk

Arizona Public Service Company

P.O. BOX 53996 • PHOENIX, ARIZONA 85072-0999

WILLIAM F. CONWAY
EXECUTIVE VICE PRESIDENT
NUCLEAR

161-03239-WFC
May 22, 1990

Docket Nos. 50-528/529/530

Mr. James M. Taylor
Executive Director for Operations
U. S. Nuclear Regulatory Commission
One White Flint North
11555 Rockville Pike
Rockville, Maryland 20852

Dear Mr. Taylor:

Subject: State Regulatory Use of NRC Reports
File: 90-056-026

As you know, the NRC Staff has recently had several meetings with the Commission, in which the Commission has expressed concern about the potential impact of state economic regulation on the safe operation of nuclear power plants and, in particular, the misuse of Commission evaluations of licensee performance by state Public Utility Commissions. The purpose of this letter is to bring to your attention two such recent instances where Commission evaluation findings have been taken out of context and misused, and to request your assistance in obtaining a clarifying letter from the NRC. (Both matters, incidentally, have received extensive media coverage.)

The Palo Verde facility is the subject of a recent Diagnostic Evaluation by the NRC Staff and its consultants. The Diagnostic Evaluation Report (DER) contains constructive criticism and notes opportunities for improvement which Arizona Public Service (APS) is addressing. The DER, however, also includes retrospective observations regarding APS' preparation for and readiness to undertake commercial operation, as well as observations about the effects of the decline in the stock of APS' parent, Pinnacle West Capital Corporation (Pinnacle West), on the stability of Palo Verde's work force and organization.

As to the former, the DER's language concerning APS' preparation for and readiness to undertake commercial operation has already been seized upon by the Arizona Corporation Commission (ACC), which will be considering the prudence of Palo Verde construction later this year (see enclosed article from Arizona Republic; March 21, 1990), and has been referred to in proceedings before the Texas PUC involving one of Palo Verde's co-owners, El Paso Electric Company. In addition, the ACC has used observations in the DER about the effects of the declining Pinnacle West stock on Palo Verde in a complaint filed with the Securities and Exchange Commission (see enclosed excerpts from The Arizona Corporation Commission's Complaint, Petition for Revocation or Modification of Pinnacle West Capital Corporation's Exemption, Request for Hearing and Petition to Intervene, May 1, 1990).

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May 22, 1990

The DER's observations regarding the preoperational period are reflected throughout, but the essential observations are captured in the DER cover letter, which purports to connect the root causes and alleged problems in the preoperational era to:

- (1) insufficient technical and management depth to support startup and operation of a three-unit facility, [and]
- (2) during startup, management and technical resources were focused on the next unit to go on line at the expense of the operational units resulting in a backlog of technical and programmatic issues.

I was not with APS during this early period but, being aware of the excellent reputation enjoyed by the project throughout this era and the Commission's deliberative process in considering the issuance of operating licenses, I was surprised at these observations and somewhat skeptical, particularly because the DER does not cite supporting facts.

Because of our concern regarding these retrospective observations and their potentially damaging effect in pending state proceedings, APS undertook a comprehensive review of contemporaneous analyses and conclusions by the Commission, the NRC Staff and the ACRS regarding the readiness of APS to operate the Palo Verde units. The record shows that Palo Verde was subject to intensive scrutiny by the Commission, the Staff and the ACRS as clearly reflected in the transcripts of numerous Commission and ACRS meetings, operational readiness inspections, safety evaluation reports and related documents. On the basis of these reviews, the Commission, the Staff and the ACRS reached judgments concerning the very issues which are the subject of the DER's observations regarding the preoperational era.

The underlying record of the NRC findings, taken as a whole, fairly reflects:

- (1) APS senior management was deeply involved in virtually every phase of preparations for commercial operation.
- (2) APS demonstrated substantial organizational depth and experience in support of operations.
- (3) Testing, fuel loading and startup of each unit were done in a deliberate, cautious and conservative manner.
- (4) Management applied the "lessons learned" from preoperational testing and startup. This operated prospectively and retrospectively; i.e., corrective measures to address problems identified during the testing and startup were applied to subsequent unit(s); subsequently identified problems were "fixed" on previously licensed units.

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May 22, 1990

- (5) APS staffing of the Palo Verde units with operating personnel exceeded NRC requirements in both numbers and qualifications.
- (6) Operating personnel generally performed well and were complimented from time to time for their demeanor, professional attitude and adherence to procedures.
- (7) Outage management was well organized and several scheduled and unscheduled outages were effectively and efficiently managed.
- (8) Operational procedures were upgraded as experience was gained from the initial operation of each unit.
- (9) Quality assurance activities were emphasized throughout the entire organization in connection with the testing and initial operation of the Palo Verde units.

Moreover, SALP reports and SERs in the 1983-87 period reflect confidence on the part of the NRC, its Staff and the ACRS in the operational readiness of the Palo Verde units and the APS staff.

Excerpts from NRC inspection reports, SERs, SALP reports, transcripts of ACRS subcommittee and full committee meetings and reports of NRC "full power" meetings indexed to the foregoing areas are enclosed for your consideration.

It was not surprising in the review of this record to find favorable determinations in each of these areas, because positive findings on such matters must be made by the Commission before authorizing operations. What is impressive, however, is that the record reflects that the APS organization and its preparations for operation were not merely minimally adequate but generally regarded by the Commission, its Staff and the ACRS as especially effective. It does not appear that the DER weighs Palo Verde's past record; indeed, it is not referred to. Although it is not clear why the preoperational period is germane to the DER, if it is included, it should fairly reflect the available record as do other areas of the DER.

The ACC also used the DER's observations regarding the effects of the decline in Pinnacle West stock on the stability of Palo Verde in a request to the SEC for revocation of Pinnacle West's status as an exempt holding company. Although APS recognizes that the NRC cannot control the use to which its observations may be put, the use of these observations in the ACC's Complaint is particularly disturbing.

Commissioner
U. S. Nuclear Regulatory Commission
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May 22, 1990

APS acknowledges that the decline in the value of Pinnacle West stock may be, or have been, of concern to some employees, but no evidence exists to show that the decline contributed to instability or insecurity in the Palo Verde work force. Clearly, significant "instability" or "insecurity" would have been manifest in abnormal attrition and/or hiring problems. A review of data during the period of Pinnacle West's financial difficulties (1988-1990) reveals no abnormal attrition nor evidence that Palo Verde personnel left the employ of APS for this reason. Moreover, during this same period, APS has, as noted in the DER, hired an extremely well-qualified group of officers and senior managers.

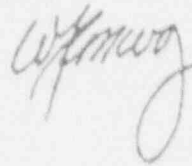
The ACC Complaint also quotes the DER to the effect that APS' new management team was on board and improvement initiatives were being implemented, but notes that the rate of improvement is inhibited by, among other things, "organizational instability, uncertainty and insecurity." However, the DER made clear that:

the team found no evidence to suggest that financial difficulties at Pinnacle West or APS appropriation levels had jeopardized safety systems or the safe operation of the units... The resources (money, people, equipment, materials and facilities) provided to Palo Verde by APS were generally adequate to meet needs.

Again, while some individuals may have conveyed insecurity and uncertainty about the organization in the course of their interviews with NRC team members, that is to be expected in a period of significant management change. The comments in the DER appear to have been derived from interviews and not otherwise supported in the DER. Additionally, they have been presented in a way which allows them to be elevated to general conclusions and to be otherwise misused.

APS believes that clarification of the DER, by issuance of a supplemental letter from the NRC Staff, is both necessary and appropriate in the circumstances. APS is greatly concerned that unless the DER is clarified to reflect the facts outlined in this letter, it will be misunderstood and misused to penalize APS and its co-owners. I believe the NRC shares this concern, never intended its DER to be used in this manner, and, therefore, I urgently request your assistance in this matter. Should you desire further information in preparing a clarifying letter along the lines discussed above, please advise me. In any event, I would appreciate an opportunity to meet with you on this matter at your earliest convenience.

Sincerely,



Enclosures

cc: J. B. Martin, Region V



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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

July 13, 1990

90-036-02

RECEIVED

JUL 19 1990

J. N. BAILEY

Mr. William F. Conway
Executive Vice President
Nuclear
Arizona Public Service Company
P. O. Box 53999
Phoenix, Arizona 85072-3999

Dear Mr. Conway:

I am responding to your letter dated May 22, 1990, in which you refer to recent instances where you believe that diagnostic evaluation findings associated with Palo Verde have been taken out of context and misused. Your letter also requested clarification on information documented in the Palo Verde Diagnostic Evaluation Team (DET) report. The purpose of this letter is to respond to these areas.

As background, and as discussed in the Palo Verde report, a primary objective of the evaluation was to determine the probable root causes for any performance problems observed by the DET at the time of the evaluation. Knowledge of the probable root causes enables the Commission staff to evaluate the adequacy and completeness of the ongoing or planned corrective actions and thus the likelihood for sustained and permanent performance improvement.

The two observations contained in the DER cover letter and in the report that you find troublesome are:

- (1) insufficient technical and management depth to support startup and operation of a three-unit facility, and
- (2) during startup, management and technical resources were focused on the next unit to go on line at the expense of the operational units resulting in a backlog of technical and programmatic issues.

In retrospect, I would agree that the statements would be clearer and more useful if placed in an overall context. During the startup and operation of the Palo Verde units, the question of management depth and technical capability was a topic of discussion. Improvements were made by Palo Verde during the course of this progression; however, with each additional unit, the demands grew as well. Except for the scale of the Palo Verde project, there is nothing unusual about this compared to other new plants going through the initial startup and operation. Although the issue of improvements in management and technical depth was discussed during this period, the staff repeatedly found that the capability was satisfactory. Comparing the startup and initial operation of Palo Verde with others in the Region such as San Onofre, Diablo Canyon, and WNP-2, Palo Verde is considered about average.

Mr. William F. Conway

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Learning item (2), we agree that there was, in general, a diligent effort to resolve problems on each unit and forward fit these resolutions prior to startup of subsequent units. But in the context of continually increasing management and technical challenges, associated with the magnitude of the increasing project, the staff believes there were some areas that were not dealt with completely and subsequently became urgent (system engineering programs, maintenance). Again, this has been a situation common to other multi unit sites. The problem was that at the end of the startup phase, the reorganization in 1987 did not position the utility well to complete resolution of the backlog of technical and programmatic issues expeditiously.

Another area you requested be reconsidered was the comments regarding "instability" and "insecurity" at Palo Verde due to the Pinnacle West business situation. The staff agrees that this is not a significant concern and would not appear to be having any adverse affect on plant personnel. As you point out, the staff made this clear in the report. The staff agrees that any insecurity or uncertainty that exists is considered normal to the usually attending management changes and improvements.

Finally, the NRC has expressed its concern regarding the misuse of staff evaluations. This concern has principally been directed at the potential safety effects of performance incentives established by State Public Utility Commissions for nuclear power plants. In order to make their views known on this issue, the Commission, following a briefing on April 3, 1990, directed the staff to develop a policy statement on the potential impacts of the policies and actions of state regulatory bodies, emphasizing that such actions can have either a positive or negative impact on safety and to establish a tracking system to monitor proposals for, and implementation of, performance incentives applicable to nuclear power plants.

In conclusion, as I stated in my March 16, 1990 letter which transmitted the Palo Verde DET report to you, we believe APS now has a good understanding of the major performance problems affecting Palo Verde. We also believe that the 1989 management changes combined with the numerous initiatives underway have shown progress in resolving Palo Verde management issues. I look forward to receiving your formal response to the DET report.

Sincerely,


James M. Taylor

Executive Director for Operations