



Palo Verde Nuclear
Generating Station

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OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

Mr John C. Hoyle
Secretary
Attention: Docketing and Service Branch
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555-0001

DOCKET NUMBER
PROPOSED RULE PR 50
(61FR49711)

Dear Mr. Hoyle:

Subject: **Palo Verde Nuclear Generating Station (PVNGS)
Unit 1, 2, and 3
Docket Nos. STN 50-528/529/530
Comments on the NRC's Draft Policy Statement on the
Restructuring and Economic Deregulation of the Electric Utility
Industry
(61 Federal Register 49711)**

Arizona Public Service Company (APS), as owner and operator of the Palo Verde Nuclear Generating Station (PVNGS), submits the following comments in response to the NRC's Draft Policy Statement. APS is responding in its individual capacity and not as an agent for the other owners of PVNGS. In addition to the comments contained in this letter, APS also supports the comments submitted by the Nuclear Energy Institute (NEI).

APS believes that Palo Verde will play a very important role in the competitive electric energy market. We will continue to operate this facility in the safest possible manner while constantly striving to improve efficiency. Nuclear power will be critical to the future viability of the United States' energy mix and the NRC has a key role to play in ensuring the health and safety of the public.

The commission has authority under the Atomic Energy Act of 1954, as amended, to assure adequate protection of the public health and safety as it relates to commercial nuclear power. The existing regulation and inspection program has proven to be an effective method for the NRC to perform this function. Changes to these regulations and inspection programs should not unnecessarily impair the ability of nuclear plants to continue to offer safe and reliable energy in a competitive market. We appreciate the

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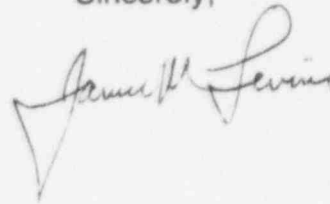
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opportunity to provide these comments and will work with the regulator throughout the process.

Should you have any questions, please contact Angela Krainik at (602) 393-5421.

Sincerely,

A handwritten signature in dark ink, appearing to read "James H. Levine". The signature is written in a cursive style with a large, stylized initial "J".

JML/AKK/rjh

cc: W.H. Rasin - NEI

Enclosure

APS Response to the NRC Draft Policy Statement on the
Restructuring and Economic Deregulation of the Electric Utility Industry

All alpha and numeric references refer to Federal Register Volume 61 49711

III. Policy Statement

Arizona Public Service (APS) supports the NRC's intent to clarify existing policies and regulation as they relate to the electrical industry restructuring. Each utility, that has an ownership stake in nuclear power, requires a clear and stable regulatory process through this period of transition. In addition, the NRC can work with State and Federal regulators to assure adequate funding for decommissioning and the safe operation of the nations, nuclear facilities.

APS does not believe that the transition to a competitive market and associated restructuring of the industry will have an adverse impact on the safe and reliable operation of nuclear facilities. Competition will bring change to electrical utilities, but APS is committed to operate the Palo Verde Nuclear Generating Station in the safest manner, while still achieving low costs. The nuclear industry has proven that safe, well managed plants can produce power that is competitive with other energy alternatives.

APS believes that the current NRC regulations and inspection program provide adequate safeguards to assure the public health and safety of nuclear plants. The impact that deregulation will have on the ultimate structure of the industry is unknown and some changes or refinements to regulations may be required once assessments have been completed. APS encourages the NRC to include licensees in this process, with a recommended goal to ensure that additional unnecessary regulation that overly burdens and reduces the competitiveness of the nuclear industry be avoided.

IV. Issues Related to Restructuring and Economic Deregulation of the Electric Utility Industry

A. NRC Responsibilities vis-à-vis State and Federal Economic Regulators

APS continues to believe that prudent management of the variable costs (operating, maintenance and fuel) will assure a role for nuclear generating plants within the national energy mix. The proposed rules dated October 10, 1996 currently being considered by the Arizona Corporation Commission (ACC), address the topics of stranded cost recovery and decommissioning costs. We anticipate that the ACC will take into account the safe operation of the Palo Verde nuclear facility and the impacts to Arizona. This will form the basis for determinations that are made on the important topics under consideration, including stranded cost recovery, decommissioning costs, obligation to serve, standard offers and unbundling of rates.

APS supports the NRC's action to cooperate with the State and Federal rate and financial regulators in the discussions that will help facilitate the transition to a more competitive energy market. The NRC can use its expertise to educate and promote a logical evolution that addresses some of the economic and operating issues associated with nuclear energy.

B. Co-owner Division of Responsibility

Co-owned facilities can provide additional assurance of financial stability and lessen any risk associated with the financial difficulties of any one owner, particularly where ownership shares are widely held. Palo Verde did not experience any financial difficulties during the bankruptcy of one of its owners, El Paso Electric Company. In addition, the plant continued to operate in a safe and reliable manner. The diversity achieved through co-ownership is more likely to reduce any risks associated with the availability of operating and decommissioning funds.

C. Financial Qualifications Reviews

APS believes that the current NRC financial qualification assurance rules are reasonable. The current ACC proposed rules do not mandate divestiture of any business segment. Under the proposed rules, functional unbundling appears adequate, and APS would continue to meet the definition of an "electric utility." As the industry changes, it would be reasonable to evaluate the need to develop different requirements to assure that business entities will not dilute the capability for safe operation and decommissioning.

As the electric industry moves toward a competitive environment, the ability to change and react to the market will be critical to the success of future energy providers. APS recognizes the need for Section 184 of the Atomic Energy Act and 10 CFR 50.50. We support the continuance of NRC review of license transfers and the determination of the potential impact on the licensee's ability to maintain adequate technical qualifications and to provide adequate funds for safe operation and decommissioning. However, we believe it is imperative that such license reviews be performed in a reasonable and timely fashion as not to impede the energy provider's ability to react, and effectively compete, in a deregulated environment.

D. Decommissioning Funding Assurance Compliance Reviews

APS provided comments to the NRC on its proposed rule making on decommissioning funding review (letter 102-03721-WLS/GRO/DSM, dated June 24, 1996) and will continue to work with the Commission on this issue.

E. Anti-trust Reviews

Future license transfers, as a result of changes in control may become more frequent as the industry realigns itself to become more competitive. Ultimately, such changes will strengthen both the market and the individual sellers of electric energy. Extensive anti-trust reviews will be performed by both the Department of Justice and FERC in most cases. The NRC should not impose any additional standards that would unnecessarily impede this realignment in the industry.

We recommend that the NRC should ultimately relinquish its responsibility in the antitrust area by working with the appropriate jurisdictional committees to amend the Atomic Energy Act.

F. License Amendments and Transfers

APS supports the position of NEI that license transfers need to be "seamless" where there is no de facto transfer of control. The exact format and makeup of the electric industry is still being defined and there may be a need for disaggregation. This process in the nuclear industry needs to be flexible and not overly cumbersome. License transfer proceedings currently involve a lengthy and complex process that may not be necessary where there is no real change in control of the underlying owner or operator. APS suggests that the NRC propose criteria for license transfer changes where change in control is made, and exclude other changes from regulatory review.

G. Summary

APS is supportive of the NRC and its involvement in industry restructuring as it relates to continued safe Nuclear Plant operation. This is a good start to provide some clarity for nuclear licensees. Continued flexibility on the part of the NRC is essential to allow nuclear facilities to make the appropriate business decisions. Although we feel current regulations are adequate, the NRC should review its involvement in antitrust reviews and look at streamlining the license amendment transfer process.