

February 1, 1986

Coalition for Responsible  
Energy Education  
315 W. Riviera Drive  
Tempe, AZ 85282

Commissioners  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

In the Matter of:  
Arizona Public Service, et al.  
(Arizona Nuclear Power Project-  
Palo Verde Nuclear Generating  
Station Unit Nos. 1 and 2)

DOCKET NOS. 50-528;  
50-529  
(2.206)  
Emergency Relief Petition

RE: Show Cause Petition Pursuant to 10 CFR 2.206(a) re: PVNGs-2  
License Suspension Request, Management Competence and Character  
Proceedings Initiation Filed with NRR January 17, 1986

I.

1. The Coalition for Responsible Energy Education (hereinafter  
referred to as "CREE" or "the Coalition"), hereby petitions the  
Commissioners for emergency relief pursuant to 10 CFR 2.206(a),  
as regards Palo Verde Nuclear Generating Station (PVNGS) Unit No.  
2. The Coalition seeks an Order from the Commissioners suspending  
nuclear operation of PVNGS No. 2 and the PVNGS No. 2 operating  
license issued December 9, 1985, until such time as the Director,  
Office of Nuclear Reactor Regulation (NRR), shall issue an initial  
response to CREE's Petition to Show Cause, dated January 17, 1986,  
and the Addendum thereto, dated January 21, 1986.

II. FACTS

2. On or about January 17, 1986, the Coalition filed with NRR  
a Petition requesting relief in the form of temporary suspension  
of the PVNGS-2 operating license, pending completion of hearings  
and requested regulatory actions related to the issue of Arizona  
Public Service Company/Arizona Nuclear Power Project (APS/ANPP)  
management competence and character at PVNGS-1. The Petition was

1 amended by an Addendum of added facts filed on or about January 21,  
2 1986.

3 3. Said Petitions urged regulatory actions regarding NRC-  
4 identified deficiencies which, in the opinion of the Petitioner,  
5 demonstrated a pattern of repeated failures in areas directly under  
6 the control of plant management, thereby raising the issue of  
7 management competence and character. Petitioners urged actions  
8 beyond the scope of routine regulatory and enforcement actions, as  
9 discussed in said petitions, including commencement of hearings.  
10 In addition, CREE requested suspension of the PVNGS-2 operating  
11 license, pending completion of the requested relief actions.

12 4. As set forth in the Petitions, CREE's reasoning for  
13 requesting an Order to Show Cause affecting PVNGS-2, as well as  
14 PVNGS-1, was the belief and concern that pending Unit 2 startup and  
15 power ascension testing, conducted simultaneously with Unit 1  
16 operation, would overtax management resources unacceptably and  
17 thereby compromise safety at both reactors.

18 5. Although it is not possible for CREE to establish a certain  
19 date for PVNGS-2 initial criticality, low-power physics testing and  
20 power ascension testing, startup of Unit 2 appears to be immanent.  
21 However, NRR has not yet issued an initial assessment of CREE's  
22 Petitions, such as would be expected to include a preliminary  
23 determination affecting immediate activities at PVNGS-2.

24 6. While the concerns regarding Unit 1 management competence  
25 and character raised by CREE remain relevant after Unit 2 startup,  
26 the effect of simultaneous operations was one of the central

1 concerns raised by CREE.

2 7. While CREE is content to await a final Director's  
3 Determination through normal channels from NRR and, further, to  
4 rely for that determination on the facts set forth in its two  
5 previous petitions, additional facts have come to light which  
6 CREE regards as demonstrating the urgency of this emergency  
7 relief request to the Commissioners.

8 8. Specifically, CREE calls the Commissioners' attention to  
9 the Nuclear Regulatory Commission (NRC) Inspection Report dated  
10 January 30, 1986, dealing with the NRC inspection of PVNGS-1 and  
11 -2 conducted on November 13 through December 27, 1985 (Inspection  
12 Report Nos. 50-528/85-43 and 50-529/85-44). Said period post-  
13 dates both the period covered by the latest Systematic Assessment  
14 of Licensee Performance and CREE's Show Cause Petition and the  
15 Addendum thereto. Therefore, the Inspection Report updates the  
16 previous information regarding management competence and  
17 character relied upon by CREE.

18 9. In CREE's opinion, that Inspection Report clearly  
19 supports its concerns that there exists a pattern of repeated  
20 failures affecting diverse areas for which management is  
21 responsible and which reflect negatively on management competence  
22 and character. E.g.:

23 10. In the cover letter, Region V Administrator John B. Martin  
24 comments: "...We are concerned with the level of thoroughness  
25 applied to your post trip review process... increased effort is  
26 warranted in ensuring that all off-normal conditions identified are

1 evaluated with regard to safety significance, and appropriate,  
2 thorough corrective action is implemented." NRC Inspection Report,  
3 supra, cover letter p. 1.

4 11. The Inspection Report identified two late-submitted LERs,  
5 constituting a repetitive violation (528/85-43-01).

6 12. In this context, inspector review of management corrective  
7 action report (CAR) MA-85-0002 initiated on August 13, 1985,  
8 resulted in the following comment: "The inspector stated that  
9 the lack of timeliness in implementing corrective action for CAR  
10 MA-85-0002 was disturbing, considering it addressed a violation of  
11 Technical Specifications; although minor in safety significance."

12 13. Regarding an identified instance of poor procedural  
13 adherence, the Report noted: "The inspector expressed concern that  
14 basic procedure adherence must be understood and appreciated at  
15 all levels of the organization for company policy to be effective-  
16 ly carried out. The area of procedure adherence will continue to  
17 be evaluated...." (NRC Inspection Report, supra, p. 13).

18 14. Also, Mr. Martin commented: "Our concern regarding the  
19 post trip review process should be viewed broadly with respect to  
20 to ensuring self critical appraisals are performed in areas  
21 necessitating improvements. The early phase of plant operation is  
22 a critical period which requires management's attention to  
23 ensure that the proper attitude toward carrying out plant  
24 activities is developed and implemented." (NRC Inspection Report,  
25 cover letter, p. 2; emphasis added.)

26 . . . . .

1 15. The concerns identified above are not exhaustive of those  
2 expressed in the Report, but are selected as illustrating  
3 instances in which management-related deficiencies identified in  
4 the SALP Report and/or complained of in CREE's previous petitions  
5 have continued to reoccur.

6 16. Because the emphasis of CREE's concerns is the pattern  
7 of repetitive errors, we wish to emphasize that individual  
8 incidents should not be judged in isolation from one another in  
9 arriving at a decision on the urgency of this emergency relief  
10 request.

11 17. The Commissioners' attention is also directed to three  
12 apparent subsequent late-field LERs identified in the LPDR by CREE:  
13 LER Nos. 85-077 (2 days late); 85-091 (1 day); and 85-092 (1 day).

14 18. Taken together, CREE regards these incidents as strongly  
15 supporting its concerns with PVNGS management competence and  
16 character and suggesting that management continues to fail to  
17 learn from previous errors and appears overburdened. These  
18 conclusions emphasize the urgency of this emergency relief request.

### 19 III. AUTHORITY

20 19. Title 10 of the Code of Federal Regulations 2.206(a)  
21 establishes the right of the public to petition the Commission or  
22 appropriate directors to institute proceedings pursuant to  
23 10 CFR 2.202. The Commission may, pursuant to 10 CFR 2.206(a),  
24 institute a proceeding by serving upon the licensee an Order to  
25 Show Cause.

26 . . . . .

1 20. The Atomic Energy Act of 1954 gives discretion to revoke,  
2 suspend or modify the license or permit of an NRC licensee.  
3 (42 U.S.C. 2236.)

4 21. Notwithstanding the discretionary aspect of 42 U.S.C. 2236,  
5 the NRC has a manadatory duty to exercise its authority when  
6 necessary, and is required to determine that there will be  
7 adequate protection of the public health and safety. See  
8 Natural Resources Defense Council vs. U.S. Nuclear Regulatory  
9 Commission, 528 F. 2d 166 (2d Cir., 1978).

10 22. The NRC has recognized the significance of the issue of  
11 management competence and character, when there exists a pattern  
12 of repetitive failures for which management is responsible, as  
13 raising significant safety concerns. See Houston Lighting and  
14 Power Co. (South Texas Project Units 1 and 2), CLI-80-32,  
15 12 NRC 281 (1980).

16 23. 10 CFR 2.206(b) establishes that the appropriate  
17 director shall respond to show cause petitions and institute  
18 appropriate proceedings, or advise the person requesting said  
19 proceeding in writing of the the reasons for denying the  
20 request, "within a reasonable time."

21 IV. CONCLUSIONS OF LAW

22 24. 42 U.S.C. §2236(a) and 10 CFR 50.100 provide that a  
23 license or permit may be revoked, modified or suspended because  
24 of "conditions which would warrant the Commission to refuse to  
25 grant a license on an original application..." or "for failure to  
26 construct or operate a facility in accordance with the terms of

1 the construction permit or license...."

2 25. The evidence in this and prior petitions, particularly  
3 repetitive violations of the Technical Specifications for PVNGS-1  
4 and failure to effectively implement timely corrective actions on  
5 repeated occasssions, meets the criteria of the Atomic Energy Act  
6 and Chapter 10 of the Code of Federal Regulations as set forth in  
7 paragraphs 38 and 39 for suspension of a license or permit.


8 V. RELIEF REQUESTED

9 26. WHEREFORE, Petitioners pray that the Commissioners,  
10 pursuant to 10 CFP 2.202(a) temporarily suspend the PVNGS No. 2  
11 operating license, pending the intial assessment of the Director,  
12 NRR, on CREE's aforementioned Show Cause Petitions.

13 27. Should the Director, NRR, act, in at least preliminary  
14 fashion, on CREE's Petitions prior to expeditious Commission  
15 action in the instant case and prior to PVNGS-2 initial criticali-  
16 ty, this Emergency Relief Petition to the Commissioners would, of  
17 course, become moot.

18 RESPECTFULLY SUBMITTED this 1<sup>st</sup> day of February, 1986.

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