

and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Patricia D. Batie, at (202) 295-1500.

Dated: April 15, 2008.

Victor M. Fortuno,

Vice President & General Counsel.

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NUCLEAR REGULATORY COMMISSION

[Docket No. 50-529]

Arizona Public Service Company; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (NRC, the Commission) is considering issuance of an amendment to Facility Operating License No. STN 50-529 to Arizona Public Service Company (APS or the licensee) for operation of the Palo Verde Nuclear Generating Station (Palo Verde), Unit 2, located in Maricopa County, Arizona.

The proposed amendment in the licensee's application dated April 10, 2008, would revise Technical Specification (TS) 3.5.5, Refueling Water Tank (RWT), to increase the minimum required RWT level indications and the corresponding borated water volumes in TS Figure 3.5.5-1, "Minimum Required RWT Volume," by 3 percent. This change will ensure that there is adequate water volume available in the RWT to ensure that the engineered safety feature (ESF) pumps and the new containment recirculation sump strainers will meet their design functions during loss-of-coolant accidents (LOCAs).

This condition is exigent for Unit 2, as it entered into a refueling outage on March 29, 2008, and during that outage the new containment sump strainers will be installed as part of the licensee's commitments related to NRC Generic Letter 2004-02, "Potential Impact of Debris Blockage on Emergency Recirculation during Design Basis Accidents at Pressurized-Water Reactors." Without this amendment, the necessary modifications cannot be completed before startup from the refueling outage. Palo Verde is scheduled to restart on or about May 11, 2008.

Before issuance of the proposed license amendment, the Commission will have made findings required by the

Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change would raise the RWT minimum level by 3% to ensure that there is adequate water volume available at the containment recirculation sumps for the limiting small break LOCA scenario for submergence of the new strainer designs that are being installed in Unit 2 in the spring 2008 outage. The new strainers are designed and tested to operate submerged at the start of recirculation actuation post-LOCA. This change ensures that the level of water at the strainers supports this assumption of the design.

The RWT water volume is not an initiator of any accident previously evaluated. As a result, the probability of an accident previously evaluated is not affected. The proposed change does not alter or prevent the ability of structures, systems, and components from performing their intended function to mitigate the consequences of an initiating event within the assumed acceptance limits.

The effect on containment flood level, equipment qualification, and containment sump pH [potential of hydrogen] remains within the limits assumed in the design and accident analyses. The calculated maximum containment flood level is based on the RWT water level associated with the bottom of the RWT overflow nozzle. This change does not revise the location of the RWT overflow nozzle and there is no change in the calculated maximum flood level. As a result, the proposed change has no impact on the qualification of equipment above the maximum containment flood level. For the same reason the impact of the proposed change on post-LOCA sump pH is bounded by the current analysis for post-LOCA sump

pH. In that analysis, the calculated minimum post-LOCA sump pH is based on the maximum RWT water level associated with the bottom of the RWT overflow nozzle. The maximum flood level is not affected by this change. In addition, the change is conservative with respect to the calculated maximum post-LOCA sump pH since it is increasing the minimum required RWT volume.

The proposed change does not affect the source term, containment isolation, or radiological release assumptions used in evaluating the radiological consequences of an accident previously evaluated. Further, the proposed change does not increase the types or amounts of radioactive effluent that may be released offsite, nor significantly increase individual or cumulative occupational/public radiation exposures. The proposed change is consistent with the safety analysis assumptions and resultant consequences.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The change does not involve a physical alteration of the plant (*i.e.*, no new or different components or physical changes are involved with this change) or a change in the methods governing normal plant operation. The change does not alter any assumptions made in the safety analysis.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed change to raise the required RWT minimum water volume does not alter the manner in which safety limits, limiting safety system settings or limiting conditions for operation are determined. The safety analysis acceptance criteria are not affected by this change. The proposed change will not result in plant operation in a configuration outside of the design basis.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the

expiration of the 14-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 14-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rulemaking, Directives and Editing Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

Within 60 days after the date of publication of this notice, a person(s) may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person(s) whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request via electronic submission through the NRC E-filing system for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the

NRC Web site, <http://www.nrc.gov/reading-rm/doc-collections/cfr/>. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner/requestor is aware and on which the petitioner/requestor intends to rely to establish those facts or expert opinion. The petitioner/requestor must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner/requestor to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for hearing or a petition for leave to intervene must be filed in accordance with the NRC E-Filing rule, which the NRC promulgated on August 28, 2007 (72 FR 49139). The E-Filing process requires participants to submit and serve documents over the Internet or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least five (5) days prior to the filing deadline, the petitioner/requestor must contact the Office of the Secretary by e-mail at hearingdocket@nrc.gov, or by calling (301) 415-1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances in which the petitioner/requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each petitioner/requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at <http://www.nrc.gov/site-help/e-submittals/install-viewer.html>. Information about applying for a digital ID certificate is available on NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>. Once a petitioner/requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the filer submits its documents through EIE. To be timely, an electronic filing must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary

that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the "Contact Us" link located on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html> or by calling the NRC technical help line, which is available between 8:30 a.m. and 4:15 p.m., Eastern Time, Monday through Friday. The help line number is (800) 397-4209 or locally, (301) 415-4737. Participants who believe that they have a good cause for not submitting documents electronically must file a motion, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at http://ehd.nrc.gov/EHD_Proceeding/home.asp, unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, Participants are requested not to include copyrighted materials in their submissions.

Non-timely requests and/or petitions and contentions will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request should be granted and/or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)-(viii). To be timely, filings must be submitted no later than 11:59 p.m. Eastern Time on the due date.

For further details with respect to this exigent license application, see the application for amendment dated April 10, 2008, from Arizona Public Service Company which is available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site <http://www.nrc.gov/reading-rm.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1-800-397-4209, or 301-415-4737, or by e-mail to pdr@nrc.gov.

Dated at Rockville, Maryland, this 11th day of April, 2008.

For the Nuclear Regulatory Commission.

Michael T. Markley,

Senior Project Manager, Plant Licensing Branch LPL4, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

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NUCLEAR REGULATORY COMMISSION

Conduct of New Reactor Licensing Proceedings; Final Policy Statement

AGENCY: Nuclear Regulatory Commission.

ACTION: Final policy statement.

SUMMARY: The Nuclear Regulatory Commission (NRC or the Commission) is adopting a statement of policy concerning the conduct of new reactor licensing proceedings.

DATES: This policy statement becomes effective April 17, 2008.

FOR FURTHER INFORMATION CONTACT: Robert M. Weisman, Senior Attorney, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone

301-415-1696, e-mail Robert.Weisman@nrc.gov.

SUPPLEMENTARY INFORMATION: On June 11, 2007 (72 FR 32139), the Commission published in the **Federal Register** a request for public comment on the draft statement of policy on Conduct of New Reactor Licensing Proceedings (draft Policy Statement). The Commission received eight letters transmitting comments on the draft Policy Statement by the deadline set in the June 11, 2007, notice for receipt of comments. Commenters included a law firm (Morgan Lewis on behalf of five energy companies), a lawyer (Diane Curran), two advocacy groups, (Beyond Nuclear/ Nuclear Policy Research Institute (BN/ NPRI) and the Union of Concerned Scientists (UCS)), an industry organization (the Nuclear Energy Institute (NEI)), a vendor (GE-Hitachi Nuclear Energy), and one individual energy company (UniStar Nuclear)(two letters). BN/NPRI endorsed Ms. Curran's comments, and UCS incorporated them by reference in the UCS comments. Similarly, GE-Hitachi and UniStar endorsed the NEI comments.

The comments fell primarily in the following three categories. First, many comments related to 10 CFR 2.101(a)(5), which permits an applicant to submit its application in two parts filed no more than eighteen months apart. The comments were primarily concerned with whether the NRC should issue a Notice of Hearing (required by 10 CFR 2.104) for each part of the application or just one Notice of Hearing when the application is complete. Second, many comments related to the NRC's consideration of applications that propose to build and operate reactors of identical design (except for site-specific elements). The comments addressed the implementation of the "design-centered review approach" in the NRC Staff's (Staff) review of the applications and the adjudicatory proceedings on the applications before the Atomic Safety and Licensing Board (Licensing Board). Third, many comments requested rulemaking to implement a variety of measures that the commenters believe desirable or necessary for the effectiveness or efficiency of the review or adjudicatory processes. Below, the Commission summarizes and responds to the comments beginning with these three categories of comments. Discussion of additional comments follows. In response to the comments, the Commission has revised the policy statement in several respects, as noted below. The Commission has also corrected the Policy Statement or added explanatory text in a few instances.