

November 27, 2001

MEMORANDUM TO: Stephen Dembek, Section Chief
Project Directorate IV
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

FROM Patrick Madden, Section Chief */RA/*
Non-Power Reactors Section
Operational Experience and Non-Power Reactors Branch
Division of Regulatory Improvement Programs
Office of Nuclear Reactor Regulation

SUBJECT: SAFETY EVALUATION ON THE PROPOSED TRANSFER OF
DECOMMISSIONING TRUST FUNDS FROM PALO VERDE
NUCLEAR GENERATING STATION UNIT 1 TO PALO VERDE
NUCLEAR GENERATING STATION UNIT 3

The attached analysis constitutes the staff opinion on the request from Arizona Public Service Company to transfer up to \$5 million in decommissioning trust funds from the Palo Verde Nuclear Generating Station Unit 1 decommissioning trust, to the Palo Verde Nuclear Generating Station Unit 3 decommissioning trust.

Based on the analysis conducted on the information provided in the October 11, 2001, submittal, the request should be granted.

Contact: Michael A. Dusaniwskyj, REXB/DRIP
301-415-1260

November 21, 2001

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SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION

PALO VERDE NUCLEAR GENERATING STATION UNITS 1 AND 3

DOCKET NOS. STN 50-528 AND STN 50-530

UNIT 1 DECOMMISSIONING TRUST FUND BALANCE

AND

UNIT 3 DECOMMISSIONING TRUST FUND BALANCE

REQUEST FOR EXEMPTION

1.0 INTRODUCTION

By submittal dated October 11, 2001, Arizona Public Service Company (APS) notified the United States Nuclear Regulatory Commission (NRC) of a proposed transfer of up to \$5 million in assets from its nuclear decommissioning trust fund for Palo Verde Nuclear Generating Station Unit 1 (PV1) to its nuclear decommissioning trust fund for Palo Verde Nuclear Generating Station Unit 3 (PV3). APS is requesting authorization for this transfer.

APS is an electric utility that owns 29.10% of PV1 and PV3, and is responsible for its share of the decommissioning trust funds in the same proportion as its ownership shares. As of December 31, 2000, the actual dollars in the total decommissioning trust funds of PV1 and PV3 are approximately \$356 million and \$361 million respectively. Of the total decommissioning trust funds for PV1 and PV3, APS holds approximately \$69 million and \$61 million respectively.

2.0 DECOMMISSIONING FUNDING ASSURANCE

The NRC has determined that the requirements to provide assurance of decommissioning funding and provisions of an adequate amount of decommissioning funding are necessary to ensure the adequate protection of public health and safety.

Pursuant to the Arizona Nuclear Power Project (ANPP) Participation Agreement, the PV1 and PV3 owner participants committed to each other that they would accumulate and maintain certain minimum levels of funds in their nuclear decommissioning trusts for each unit, in accordance with a pre-established percentage commitment for each year through the end of plant life. Each participant's percentage funding commitment varies depending on their participation share and state regulatory requirements. Each participant has committed to minimum levels of accumulation, which cannot drop below a "Funding Floor" which is based on specified percentage of the participant's commitment.

According to the submittal, the ANPP participants have agreed to meet decommissioning financial assurance requirements that are currently more rigorous than NRC's minimum requirements in 10 CFR 50.75(c).

It is further stated in the submittal that, at the end of the year, the liquidation value (net after taxes and expenses) of APS's PV3 decommissioning trust fund may produce a shortfall in valuation for the purposes of meeting the more rigorous requirements of the ANPP Participation Agreement. At the same time the liquidation value of APS's PV1 decommissioning trust fund will likely produce a surplus within the terms of the ANPP Participation Agreement. The need for additional funds for APS's PV3 decommissioning trust fund is largely due to the increased site-specific cost estimate for PV3, which includes costs attributable to common facilities of PV1, PV2, and PV3. In addition, balances in APS's PV3 decommissioning trust fund do not have the advantages of a tax-qualified fund, resulting in a lower overall net after-tax rate of return. Transferring a portion of the surplus from APS's PV1 decommissioning trust fund to APS's PV3 decommissioning trust fund will enable APS to mitigate these tax effects and maintain appropriate balances in each unit's decommissioning trust fund.

APS proposes to transfer excess funds from its PV1 decommissioning trust fund to its PV3 decommissioning trust fund in order to better match the amount in each unit's decommissioning trust fund to the site-specific cost estimate, and to maintain the PV3 fund balance as specified in the ANPP Participation Agreement. Both prior to and after the transfer of up to \$5 million in assets from APS' PV1 decommissioning trust fund to PV3 decommissioning trust fund, the decommissioning trust funds for both units will continue to satisfy APS' decommissioning funding requirements pursuant to 10 CFR 50.75(e)(1)(ii) in that APS will continue to accumulate funds in an external sinking fund pursuant to a non-bypassable charge, the total amount of which will provide the funds estimated for decommissioning in accordance with applicable NRC requirements.

3.0 EVALUATION AND CONCLUSION

The staff finds that APS' decommissioning trust funds for PV1 and PV3 currently have excess balances when compared with the NRC's minimum funding requirements, as reflected in Reference 1 of the licensee's submittal dated October 11, 2001. These balances are consistent with the funding levels required under the terms of the ANPP Participation Agreement, and the accumulation of funds in the APS decommissioning trust funds is in accordance with the requirements of the Arizona Corporation Commission. Even after transferring up to \$5 million from APS' PV1 decommissioning trust fund to APS' PV3 decommissioning trust fund, the remaining balance in APS's PV1 decommissioning trust fund will continue to be in compliance with NRC's minimum funding requirements.

The staff believes that it is within the intent of the Commission's regulations to allow interfund transfers in that (1) funds would remain dedicated for use only for decommissioning (plus ordinary expenses relating to administering the decommissioning tasks); and (2) APS's decommissioning funds remain under the rate regulatory oversight of the Arizona Corporation Commission through a non-bypassable change mechanism.

Based on the foregoing, the staff finds that APS will continue to provide reasonable assurance of decommissioning funding, and that the staff has no objection to the transfer of up to \$5 million from PV1 decommissioning trust fund to PV3 decommissioning trust fund.

Principal Contributor: Michael A. Dusaniwskyj, NRR

Date: November 27, 2001