

December 11, 2001

Mr. Gregg R. Overbeck
Senior Vice President, Nuclear
Arizona Public Service Company
P. O. Box 52034
Phoenix, AZ 85072-2034

SUBJECT: PALO VERDE NUCLEAR GENERATING STATION, UNIT 1 -
DECOMMISSIONING TRUST FUND BALANCE (TAC NO. MB3158)

Dear Mr. Overbeck:

By letter dated October 11, 2001, Arizona Public Service Company (APS or the licensee) notified the Commission of a proposed transfer in assets from the Palo Verde Nuclear Generating Station (PVNGS), Unit 1 nuclear decommissioning trust (NDT) to the PVNGS, Unit 3 NDT. The transfer is needed to comply with the Arizona Nuclear Power Project Participation Agreement which was committed to by each of the PVNGS owner participants. The owner participants are APS, the Salt River Project Agricultural Improvement and Power District, El Paso Electric Company, Southern California Edison Company, Public Service Company of New Mexico, Los Angeles Department of Water and Power, and Southern California Public Power Authority.

The Nuclear Regulatory Commission (NRC) staff has completed its review of your submittal. Based on its review, the NRC staff finds that APS will continue to provide reasonable assurance of decommissioning funding for both the units associated with the transfer. Therefore, the NRC staff has no objection to the transfer of up to \$5 million in assets from the PVNGS, Unit 1 NDT to the PVNGS, Unit 3 NDT.

Sincerely,

/RA/

L. Raynard Wharton, Project Manager, Section 2
Project Directorate IV
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket No. STN 50-528

Enclosure: Safety Evaluation

cc w/encl: See next page

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*See previous concurrence

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Palo Verde Generating Station, Unit 1

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DISTRIBUTION FOR THE PALO VERDE NUCLEAR GENERATING STATION, UNIT 1 -
DECOMMISSIONING TRUST FUND BALANCE (TAC NO. MB3158)

Dated: December 11, 2001

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SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION

RELATED TO DECOMMISSIONING TRUST FUND BALANCE

ARIZONA PUBLIC SERVICE COMPANY, ET AL.

PALO VERDE NUCLEAR GENERATING STATION, UNIT 1

DOCKET NO. STN 50-528

1.0 INTRODUCTION

By letter dated October 11, 2001, Arizona Public Service Company (APS or the licensee) 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 (NDF) for Palo Verde Nuclear Generating Station (PVNGS), Unit 1 to its NDF for PVNGS, Unit 3. APS is requesting authorization for this transfer. APS submitted this request on behalf of itself, the Salt River Project Agricultural Improvement and Power District, Southern California Edison Company, El Paso Electric Company, Public Service Company of New Mexico, Los Angeles Department of Water and Power, and Southern California Public Power Authority.

APS owns 29.10 percent of PVNGS, 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 Unit 1 and Unit 3 are approximately \$356 million and \$361 million respectively. Of the total decommissioning trust funds for Unit 1 and Unit 3, 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 PVNGS 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 the 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' Unit 3 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 Unit 1's decommissioning trust fund will likely produce a surplus within the terms of the ANPP Participation Agreement. The need for additional funds for Unit 3's decommissioning trust fund is largely due to the increased site-specific cost estimate for Unit 3, which includes costs attributable to common facilities of Units 1, 2, and 3. In addition, balances in Unit 3's 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 Unit 1's decommissioning trust fund to Unit 3's 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 Unit 1 decommissioning trust fund to its Unit 3 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 Unit 3 fund balance as specified in the ANPP Participation Agreement. Both prior to and after the transfer of up to \$5 million in assets from Unit 1's decommissioning trust fund to Unit 3's 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

The NRC staff finds that APS' decommissioning trust funds for Unit 1 and Unit 3 currently have excess balances when compared with the NRC's minimum funding requirements, as reflected in the APS letter, "Status of Decommissioning Funding," dated March 29, 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 Unit 1's decommissioning trust fund to Unit 3's decommissioning trust fund, the remaining balance in Unit 1's decommissioning trust fund will continue to be in compliance with NRC's minimum funding requirements.

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

4.0 CONCLUSION

The Commission has concluded, based on the considerations discussed above, that APS will continue to provide reasonable assurance of decommissioning funding, and that the NRC staff

has no objection to the transfer of up to \$5 million from the PVNGS, Unit 1 decommissioning trust fund to the PVNGS, Unit 3 decommissioning trust fund.

Principal Contributor: M. Dusaniwskyj

Date: December 11, 2001