

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-528, 50-529, and 50-530]

NRC-2009-0012

**Notice of Acceptance for Docketing of the Application and
Notice of Opportunity for Hearing Regarding Renewal of
Facility Operating License Nos. NPF-41, NPF-51, and NPF-74
for an Additional 20-Year Period
Arizona Public Service Company
Palo Verde Nuclear Generating Station, Units 1, 2, and 3**

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering an application for the renewal of operating licenses NPF-41, NPF-51, and NPF-74, which authorize Arizona Public Service Company (APS), to operate the Palo Verde Nuclear Generating Station (PVNGS), Units 1, 2, and 3, at 3,990 megawatts thermal. The renewed license would authorize the applicant to operate the PVNGS for an additional 20 years beyond the period specified in the current license. PVNGS is located in Maricopa County, AZ, near Phoenix and its current operating licenses expire at midnight June 1, 2025, April 24, 2026, and November 25, 2027, respectively.

APS submitted the application dated December 11, 2008, pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Parts 50, 51, and 54, to renew operating licenses NPF-41, NPF-51, and NPF-74 for PVNGS. A notice of receipt and availability of the license renewal application (LRA) was published in the *Federal Register* on January 21, 2009 (74 FR 3655).

Supplemental information to the application was submitted by APS by letter dated April 14, 2009. The Commission's staff has determined that APS has submitted sufficient information in accordance with 10 CFR 54.19, 54.21, 54.22, 54.23, 51.45, and 51.53(c) to enable the staff to undertake a review of the application, and the application is therefore acceptable for docketing. The current Docket Nos. 50-528, 50-529, and 50-530, for operating licenses NPF-41, NPF-51, and NPF-74, will be retained. The determination to accept the LRA for docketing does not constitute a determination that a renewed license should be issued and does not preclude the NRC staff from requesting additional information as the review proceeds.

Before issuance of the requested renewed license, the NRC will have made the findings required by the Atomic Energy Act of 1954 (the Act), as amended, and the Commission's rules and regulations. In accordance with 10 CFR 54.29, "Standards for Issuance of a Renewed License," the NRC may issue a renewed license on the basis of its review if it finds that actions have been identified and have been or will be taken with respect to (1) managing, during the period of extended operation, the effects of aging on the functionality of structures and components that have been identified as requiring aging management review and (2) time-limited aging analyses that have been identified as requiring review, such that there is reasonable assurance that the activities authorized by the renewed license will continue to be conducted in accordance with the current licensing basis and that any changes made to the plant's current licensing basis will comply with the Act and the Commission's regulations.

Additionally, in accordance with 10 CFR 51.95(c), the NRC will prepare an environmental impact statement that is a supplement to the Commission's NUREG-1437, "Generic Environmental Impact Statement for License Renewal of Nuclear Power Plants," issued May 1996. In considering the LRA, the Commission must find that the applicable requirements of Subpart A of 10 CFR Part 51, "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions," have been satisfied, and that matters

raised under 10 CFR 2.335, "Consideration of Commission Rules and Regulations in Adjudicatory Proceedings," have been addressed. Pursuant to 10 CFR 51.26, "Requirement to Publish Notice of Intent and Conduct Scoping Process," and as part of the environmental scoping process, the staff intends to hold a public scoping meeting. Detailed information regarding the environmental scoping meeting will be the subject of a separate *Federal Register* notice.

Within 60 days after the date of publication of this *Federal Register* notice, any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene with respect to the renewal of the license. Requests for a hearing or petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.309, "Hearing Requests, Petitions to Intervene, Requirements for Standing, and Contentions," which is available at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, MD, 20852 and is accessible from the NRC's Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to the Internet or who encounter problems in accessing the documents located in ADAMS should contact the NRC's PDR reference staff by telephone at 1-800-397-4209, or 301-415-4737, or by e-mail at PDR.Resource@nrc.gov. If a request for a hearing/petition for leave to intervene is filed within the 60-day period, 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 Panel will issue a notice of a hearing or an appropriate order. If no request for a hearing or

petition for leave to intervene is filed within the 60-day period, the NRC may, upon completion of its evaluations and upon making the findings required under 10 CFR Part 51 and 10 CFR Part 54, "Requirements for Renewal of Operating Licenses for Nuclear Power Plants," renew the license without further notice.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding, taking into consideration the limited scope of matters that may be considered pursuant to 10 CFR Parts 51 and 54. The petition shall specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition shall also set forth the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention shall consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner must briefly explain the bases of each contention and state concisely the alleged facts or the expert opinion that supports the contention on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the requestor/petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinions. The requestor/petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue

of law or fact.¹ Contentions shall be limited to matters within the scope of the action under consideration. The contention shall be one that, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

The Commission requests that each contention be given a separate numeric or alphabetic designation within one of the following groups: (1) technical (primarily related to safety concerns), (2) environmental, or (3) miscellaneous.

As specified in 10 CFR 2.309, if two or more requestors/petitioners seek to co-sponsor a contention or propose substantially the same contention, the requestors/petitioners will be required to jointly designate a representative who will have the authority to act for the requestors/petitioners with respect to that contention.

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. A request for hearing or a petition for leave to intervene shall be filed in accordance with the NRC E-Filing rule, which the NRC officially announced in the *Federal Register* on August 28, 2007 (72 FR 49139). The E-Filing process requires participants to submit and serve all adjudicatory 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 an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the petitioner/requestor should 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

¹ If the application contains attachments and supporting documents that are not publicly available because they are asserted to contain safeguards or proprietary information, petitioners desiring access to this information should contact the applicant or applicant's counsel to discuss the need for a protective order.

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) the 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 available at <http://www.nrc.gov/site-help/e-submittals/install-viewer.html>. Information about applying for a digital ID certificate is available on the NRC's public website 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 website 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 shall 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 using the agency's adjudicatory e-filing system may seek assistance through the "Contact Us" link located on the NRC website at <http://www.nrc.gov/site-help/e-submittals.html> or by calling the NRC electronic filing Help Desk, which is available between 8:00 a.m. and 8:00 p.m. Eastern Time, Monday through Friday, excluding government holidays. The toll-free help line number is (866) 672-7640. A person filing electronically may also seek assistance by sending an e-mail to the NRC electronic filing Help Desk at MSHD.Resource@nrc.gov.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, 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 shall 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, MD 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.

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 shall be submitted no later than 11:59 p.m. Eastern Time on the due date.

Documents submitted in adjudicatory proceedings will appear in the 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, unless an NRC regulation or other law requires submission of such information. 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 submission.

Detailed information about the license renewal process can be found under the Nuclear Reactors icon at <http://www.nrc.gov/reactors/operating/licensing/renewal.html> on the NRC's Web site. Copies of the application to renew the operating license for PVNGS, Units 1, 2, and 3, are available for public inspection at the Commission's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, MD 20852-2738, and at the NRC's website, <http://www.nrc.gov/reactors/operating/licensing/renewal/applications.html>, while the application is under review. The application may be accessed in ADAMS through the NRC's Public Electronic Reading Room on the Internet at <http://www.nrc.gov/reading-rm/adams.html> under ADAMS Accession Nos. ML083510627 and ML091130221 (for the April supplement). As stated above, persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS may contact the NRC PDR reference staff by telephone at 1-800-397-4209 or 301-415-4737, or by e-mail to PDR.Resource@nrc.gov.

The NRC staff has verified that a copy of the LRA is also available to local residents near PVNGS at the Litchfield Park Branch Library, 101 West Wigwam Boulevard, Litchfield Park, AZ 85340, and the Sam Garcia Western Avenue Library, 495 East Western Avenue, Avondale, AZ 85323.

Attorney for Arizona Public Service Company: Michael G. Green, Senior Regulatory Counsel, Pinnacle West Capital Corporation, P.O. Box 52034, Mail Station 8695, Phoenix, AZ 85072-2034.

Dated at Rockville, Maryland, this 11th day of May, 2009.

For the Nuclear Regulatory Commission

/RA/

Brian E. Holian, Director
Division of License Renewal
Office of Nuclear Reactor Regulation