

ARIZONA



PUBLIC SERVICE COMPANY

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February 7, 1979

ANPP-12547-ACR/MDH

Office of Nuclear Reactor Regulation
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Atten: Chief, Antitrust and Indemnity Group

Subject: NRC's Request for Comments on Decision to Extend
Price-Anderson Indemnity to Spent Reactor Fuel
Stored at a Reactor Site Different From the One
Where it was Generated

Reference: 44 FR 1751-1752, January 8, 1979

Dear Sir:

The Arizona Public Service Company appreciates the opportunity to
comment on the referenced document. Our comments are as follows:

We support the Commission's proposed action to extend Price-Anderson
indemnity protection to spent fuel stored at a reactor site different
than the one where it was generated in each of the two specific situa-
tions cited in the Commission's published notice (44 FR 1751), i.e.,
the Duke Power Company (Duke) and Commonwealth Edison Company (Common-
wealth) cases. In our view, both pragmatic and policy considerations
provide impelling reasons to take such action.

We concur with the NRC staff view that, if the indemnity coverage were
not so extended and an accident occurred involving a storage pool with
both indemnified and unindemnified spent fuel, it would be virtually
impossible to determine whether the indemnified or unindemnified spent
fuel caused any resulting damages. Under such circumstances, those
features of the Price-Anderson program that were designed to assure and
expedite the financial protection of the public (e.g., establishment of
a very substantial fund for payment of damages, waiver of defenses and
other procedural measures) could be rendered ineffective.

On the other hand, if the indemnity agreements are amended as proposed,
the potential exposure of the Government for an extremely remote event
is very limited in both amount and time. With the current level of pri-
mary nuclear liability insurance available at \$160,000,000 and the amount
of insurance provided by the industry retrospective rating plan currently
in the neighborhood of \$355,000,000, the Government's original indemnity
would be only about \$45,000,000. Even this potential exposure will dimi-
nish as additional operating licenses are issued and probably will reach
zero within 1 to 1½ years.

Acknowledged by card. 2/26

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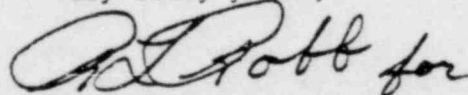


In our view the foregoing considerations should be determinative with respect to the proposed Commission action in the Duke and Commonwealth cases. We also feel that they should prevail over those other considerations which in the past have led to a refusal to extend Price-Anderson indemnification to uranium fuel fabrication activities.

We are also of the opinion that the considerations favoring the amendment of the Duke and Commonwealth indemnity agreements apply equally to the question whether the Commission should, on a generic basis, extend indemnity coverage to spent fuel generated at one reactor but stored at the site of another operating reactor. Since any storage of fuel not generated at that site can only occur in conformance with licensing restrictions, the presence of the fuel will not result in risks significantly different from those covered in the basic indemnity agreement for the facility. Any site or fuel-specific issues can be appropriately handled in these licensing proceedings and modifications to the indemnity agreement. Such considerations as ownership of fuel by different licensees, differences in fuel type and whether or not an operating license has yet been issued for the facility receiving the spent fuel are all amenable to such case by case resolution in these existing procedures. Indeed, we see no reason why it should not be extended also to sites where reactors are under construction.

We will be glad to answer any questions you may have regarding these comments.

Very truly yours,



E. E. Van Brunt, Jr.
APS Vice President,
Nuclear Projects
ANPP Project Director

EEVBJr/MDH/sb

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