

ARIZONA



PUBLIC SERVICE COMPANY

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DOCKET NUMBER

PROPOSED RULE

PR-2

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(46 FR 20215)

ANPP-17945-EEVBJr/JAW
May 12, 1981

Secretary of the Commission
U. S. Nuclear Regulatory Commission
Washington, D.C. 20555

Attn: Docketing and Service Branch

Subject: Immediate Effectiveness Rule
46 Federal Register 20215 (April 3, 1981)
File: 81-024-026



Dear Sir:

The comments of the Arizona Public Service Company on the above-referenced proposed rule are given in the enclosure entitled, "Comments of Arizona Public Service Company, Immediate Effectiveness Rule."

Very truly yours,

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



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Encl.

cc: G. C. Andognini
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Acknowledged by card. 5/20/81..mdv

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COMMENTS OF ARIZONA PUBLIC SERVICE COMPANY
IMMEDIATE EFFECTIVENESS RULE
46 FEDERAL REGISTER 20215 (APRIL 3, 1981)

Arizona Public Service Company (APS) agrees with the Commission that post-TMI licensing requirements are sufficiently established that the full Appendix B reviews of operating license decisions are no longer necessary. Delays in licensing decisions for nuclear power plants are expensive and in many cases unwarranted. The public welfare is best served by avoiding such delays and permitting plants to operate when construction is complete. Restoring the immediate effectiveness rule would be a welcome and significant improvement in the licensing process.

The proposal published by the Commission contains two alternative modifications to Appendix B as it applies to operating licenses. The first option (Option A) calls for expedited Commission review of a Licensing Board decision to determine whether a stay is needed. This review would ordinarily be completed within 10 days of a decision relating to a fuel loading/low power testing license and within 30 days after a full power operating license decision. The Appeal Board would not be involved in this expedited stay review, although the Appeal Board would review any stay applications filed pursuant to 10 C.F.R. § 2.788 concurrently with the Commission review. The second option (Option B) would allow favorable Licensing Board decisions to become effective immediately. The license would be issued within 10 days of the decision. Appeal Board and Commission stay review would follow under current Appendix B procedures, except that the plant would be operating pending these reviews.

APS supports the adoption of Option B in lieu of Option A. The basic reason for this preference is that, whereas Option B would permit an operating license to be effective immediately, Option A would require prior Commission review. There is no reason to deny immediate effectiveness where the application has undergone thorough review by the NRC Staff and, in the case of a contested proceeding, has been subjected to a full adjudicatory hearing before an Atomic Safety and Licensing Board. Furthermore, a party appealing the Licensing Board decision could obtain a stay even if Option B is adopted, if the showing required by 10 C.F.R. § 2.788 is made.

A major fault with Option A is that it would require prior Commission review even in the case of the issuance of a fuel loading/low power testing license. There is no basis for staying the immediate effectiveness of a decision authorizing such license considering that the risk to the public is substantially less in the case of a low power testing license compared to a full power license. There are two major reasons for this lower risk. First, in the event of an accident or transient

condition, reactor operators would have additional time during low power operation to take corrective action. For example, in the case of a loss of feedwater, it takes substantially longer for the steam generators to boil dry. Thus, the probability of a serious event is substantially reduced. Second, the fission product inventory resulting from low power operation is substantially less than at full power. This results in a reduction in potential public exposure because of the reduced potential release magnitudes. The combination of these factors results in a major reduction in risk to the public. Based on these considerations, staying the effectiveness of Licensing Board decisions authorizing the issuance of a fuel loading/low power testing license is unwarranted.

In addition to improving the licensing process by restoring the immediate effectiveness rule, the Commission should give consideration to restricting the grounds which may be asserted in an application for a stay of a decision authorizing the issuance of an operating license. APS submits that in a case where the Licensing Board has acted favorably on an application for an operating license, an application for a stay should be granted only in rare instances where a potentially serious safety question exists. Certain matters do not present suitable grounds for issuance of a stay at the operating license stage and should be prohibited by the Commission from being used as such. First, stay applications based on the National Environmental Policy Act (NEPA) should be prohibited. The plant has already been constructed and is ready for operation. Alternatives to the proposed action, as well as other considerations required by NEPA, would have already been thoroughly examined at the construction-permit stage. It would be highly unlikely that an environmental issue could be postulated that would cause the cost-benefit analysis to weigh in favor of not operating the facility. The possible lone exception to this statement may be a situation where, for a particular site, the environmental impacts attributable to accident sequences that can result in inadequate cooling of reactor fuel and to melting of the reactor core could be shown to constitute adequate grounds for issuance of a stay.

Second, the Commission should prohibit stay applications based on the grounds that the licensee is not financially qualified to operate the facility. Because the facility would have already been constructed, it would be important for the licensee to be permitted to operate it, thereby displacing more expensive sources of generation. Staying the operation of a nuclear power plant based on financial qualifications considerations would have the effect of requiring the utility to spend more money in order to meet its power requirements than would be required if it were permitted to operate the nuclear facility. The expenditures of such additional funds would, of course, have a negative impact on the utility's financial condition.

In summary, APS urges the Commission to restore the immediate effectiveness rule and to adopt Option B. In addition, the Commission should prohibit an application for stay to be grounded on matters not appropriate for consideration at the operating license stage. As illustrated above, such matters would include issues based on NEPA and the financial qualifications of the licensee.