

ARIZONA



PUBLIC SERVICE COMPANY

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(46 FR 41786)  
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Secretary of the Commission  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Attention: Docketing and Service Branch

Re: Proposed Rule on Financial Qualifications  
46 Federal Register 41786 (August 18, 1981)  
File: 81-056-026 and 81-003-419.06

Dear Sir:

The purpose of this letter is to provide the comments of the Arizona Public Service Company on the Nuclear Regulatory Commission's proposal respecting its regulations concerning requirements for financial qualifications review. Our comments are given on the enclosure entitled "Arizona Public Service Company Comments, Proposed Rule on Financial Qualifications, 46 Federal Register 41786."

Very truly yours,

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

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Enclosure



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Jim Petersen

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ARIZONA PUBLIC SERVICE COMPANY  
COMMENTS ON PROPOSED RULE ON FINANCIAL QUALIFICATIONS  
46 FEDERAL REGISTER 41786

I. General

Arizona Public Service Company ("APS") endorses Alternative 1 of the proposed rule which would eliminate entirely the financial qualifications review and findings as to electric utilities that are applying for construction permits and operating licenses for production or utilization facilities. Under long standing principles respecting public utility regulation, a public utility is entitled to receive just and reasonable rates for the use of its property. In setting just and reasonable rates, a utility's total revenue should be sufficient to meet its operating costs and to give the utility and its investors a reasonable rate of return on the utility's investment sufficient to attract capital in competition with other demands for investment funds. See Federal Power Commission v. Hope Natural Gas Company, 320 U.S. 591 (1944). Costs associated with serving the public are to be recovered through the ratemaking process. These legal requirements lead to the presumption that regulated public utilities will be able to meet the costs for safe construction and operation of a production or utilization facility. Such presumption provides the rationale for eliminating the financial qualifications review as to electric utilities applying for construction permits or operating licenses.

The supplementary information accompanying the proposed rule contains a discussion of other factors which help to assure safety in the construction and operation of nuclear reactors. Factors discussed include (1) the licensee's self-interest in constructing and operating a plant which will provide long-term operation reliably and safely in accordance with NRC regulations and (2) ongoing NRC inspections of construction and operation. These factors, together with the licensee's own quality assurance program, argue against the likelihood of a utility "cutting-corners" in construction or operation in an effort to achieve financial savings.

For the foregoing reasons, the present financial qualifications review is one of limited usefulness in assuring safe construction and operation, and should be eliminated.

## II. Decommissioning

The principles discussed above respecting public utility rate regulation also provide the basis for eliminating the financial qualifications review as to the decommissioning of nuclear power plants. Decommissioning is an NRC safety requirement which a nuclear power plant licensee is obligated to meet. The legal requirements imposed on public utility commissions, as articulated in decisions such as the Hope Natural Gas Company case, constitute reasonable assurance that the licensee will be able to recover the reasonable costs associated with decommissioning. The manner in which

such costs are recovered, or distributed among different classifications of customers, both existing and future, is a matter over which the NRC has no jurisdiction. However, the NRC is obligated to adopt and enforce its rules and regulations in a manner that presumes that sister agencies having such jurisdiction will exercise that jurisdiction in full compliance with the law.

In this regard, the NRC must take cognizance of the fact that rate-regulating agencies have indeed traditionally recognized that the cost of decommissioning non-nuclear facilities is a recoverable cost of providing electricity and have prescribed rules for accounting for such costs. In general, such rules can be described as designed to spread and distribute the estimated costs of decommissioning over the life of the facilities so that all customers, present and future, will be charged with the payment of the estimated costs. To the extent that actual costs may deviate from the estimate, the rules provide for accounting adjustments which in effect either benefit or penalize those who are customers at the time of decommissioning. Nuclear facilities present no need for the adoption of different accounting rules or principles. The sole difference is that the cost of decommissioning for a nuclear facility may be greater on a KWH basis than for a non-nuclear facility<sup>1/</sup> and, therefore, the size of the estimated

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<sup>1/</sup> No studies are available comparing decommissioning costs of nuclear and non-nuclear facilities. With respect to the latter, however, there could be significant differences depending on whether or not the facility is a "mine-mouth plant"; further decommissioning of waste piles (ashes, etc.) could create significant costs.

costs may be more apt to provoke an issue in ratemaking cases.<sup>2/</sup> Nonetheless, the cost of decommissioning, currently estimated at around \$50 million for a large pressurized water reactor, see R. I. Smith, et al., Technology, Safety and Costs of Decommissioning a Reference Pressurized Water Reactor Power Station, NUREG/CR-0130 (June 1978), is small in comparison to the cost to construct the nuclear generating facility and will increase customers' bills only 0.2 to 0.7 percent, depending on the decommissioning method chosen. See R. S. Wood, Assuring the Availability of Funds for Decommissioning Nuclear Facilities, NUREG-0584, Rev. 2, p. 26 (October 1980).

It is recognized that, in the event of an accident requiring premature decommissioning, the combined costs of decontamination and decommissioning would likely far exceed the costs of decommissioning alone. The costs associated with premature decommissioning probably can be addressed only on an industry-wide insurance program basis. APS' comments on the interim rule which would require licensees to maintain the maximum amount of on-site property damage insurance follow.

### III. Damage Insurance

The proposed rule as an interim requirement is a useless gesture. It is APS' understanding that all utilities with operating reactors, with the exception of TVA, are purchasing the maximum available coverage from either the nuclear pools

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<sup>2/</sup> It would be expected that, since only present customers can intervene in any rate case, the arguments made would be that the estimated costs are excessive.

or Nuclear Mutual Limited ("NML"), the only two markets currently available. TVA is presently evaluating quotations from both insurance markets for property coverage.

The Edison Electric Institute, through a Task Force effort, is organizing an offshore insurance facility to provide \$500 million coverage in excess of the currently available maximum amount of nuclear property insurance. The American Nuclear Insurers and the Mutual Atomic Energy Reinsurance Pool ("Pools") also are implementing an excess nuclear property insurance program of \$500 million in excess of current available levels of coverage.

A utility can now obtain \$800 million coverage by using NML in the primary layer and the Pools in the secondary position and perhaps structure one or both of the proposed excess facilities over that \$800 million.

The proposed rule of "maintain the maximum available amount of insurance" could be construed to require all reactor operators to structure their insurance programs to obtain that capacity. This, in effect, would require utilities currently insured with the Pools to change their primary capacity to NML to enable them to obtain the secondary layer from the Pools. The net result would be the destruction of the commercial insurance industry in the nuclear property area.

The quoted premium for a two-unit site of \$1 million per year is totally erroneous. August 1981 premium quotations from both markets for \$450 million in coverage on one operating

unit and two under construction approximate \$4 million a year; two operating units and one under construction costs \$6 million annually and three operating units are projected to cost \$8 million per year. These numbers do not reflect the \$500 million excess layer which is priced at approximately \$1.5 million annually per reactor and carries an assessability clause which could call for additional payments of 7.5 times that annual premium. These costs are not "relatively small in comparison to total utility resources" as stated in the proposed rule change. It must be remembered that, with the exception of the Pools' primary coverage, all the insurance capacity cited is utility financed through either assessments or retrospectively rated programs. The Pools primary insurance is also designed to recover the majority of losses paid through its facilities.

The rule would require maximum available insurance with no recognition of the maximum probable loss from perils other than decontamination. A \$1 billion fire or turbine loss is doubtful but the rule as proposed requires this coverage at a significant cost to the rate payer. The rule as proposed does not address deductibles, cross contamination, decommissioned units, whether the limits are required per unit or per site, or the ability to concentrate the nuclear property insurance on the power block rather than ancillary facilities.

The rule would in effect require expenditure of funds to purchase insurance which might more appropriately be used in the area of decommissioning or power replacement. The requirement for maximum available insurance should be modified to reflect language requiring coverage as standard in the industry.