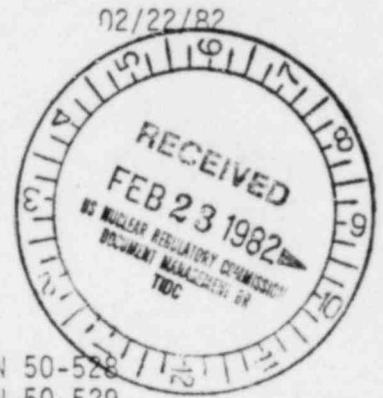


UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD



In the Matter of)
ARIZONA PUBLIC SERVICE)
COMPANY, ET AL.)
(Palo Verde Nuclear Generating)
Station, Units 1, 2 and 3))

Docket Nos. STN 50-528
STN 50-529
STN 50-530

STAFF'S RESPONSE IN SUPPORT OF APPLICANTS'
MOTION FOR SUMMARY DISPOSITION OF CONTENTION 7

I. INTRODUCTION

Staff herewith supports Joint Applicants' January 29, 1982 motion for summary disposition of Ms. Hourihan's Contention 7, involving financial qualifications. As part of its motion, pursuant to the requirements of 10 C.F.R. § 2.749 regarding NRC summary disposition procedures, Applicants have set forth a statement of material facts as to which it contends there is no genuine issue to be heard. They also have included with their motion a supporting affidavit by Albert A. Weinstein and certain other attachments relating to Contention 7.

In support of Applicants' motion for summary disposition for Contention 7, Staff includes the attached affidavits of Raghaw Prasad and Michael L. Karlowicz to demonstrate that there are no factual issues requiring adjudication of Contention 7 and that dismissal of this contention is warranted as a matter of law. The history of this proceeding and the operative legal principles underlying summary disposition are outlined in Staff's earlier submission for summary disposition motion in

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this proceeding of February 9, 1982.^{1/} As noted therein, once a motion for summary disposition has been made and supported by affidavit, a party opposing the motion may not rely on mere allegations, but instead must demonstrate that a genuine issue exists as to a material fact. 10 C.F.R. § 2.749(b); Virginia Electric and Power Company (North Anna Nuclear Power Station, Units 1 and 2), ALAB-584, 11 NRC 451, 453 (1980).

II. DISCUSSION

Ms. Hourihan's ("Intervenor") Contention 7 reads as follows:

The Applicants have failed to demonstrate their financial qualifications as required by 10 C.F.R. § 50.33(f) and have inadequately figured decommissioning costs.

The decommissioning costs that Intervenor attacks were prepared for the Applicants by the S. M. Stoller Corp. ("the Stoller study"). This study was based upon data gathered from actual experience from the decommissioning of the Elk River and Burns reactors and data from a study performed for the NRC by Battelle Pacific Northwest Labs (the "PNL Study"). The Intervenor contends that the Stoller study's estimated costs for decommissioning are too low when compared to estimates made by General Public Utilities Corp. and Northeast Utilities Corp. for their nuclear units.

In its motion for summary disposition the Applicants have submitted the affidavit of Albert A. Weinstein to establish, inter alia, that the higher costs for decommissioning estimated by General Public Utilities and

^{1/} These statements are incorporated herein by reference.

Northeast Utilities are not applicable to the Palo Verde units. Staff agrees with these conclusions. The attached affidavit of Raghaw Prasad specifically asserts that Applicants' conclusions concerning the decommissioning studies in question appear to be reasonable. Mr. Prasad also concludes that the Stoller study performed by Applicants is an accurate projection of decommissioning costs for the Palo Verde units.

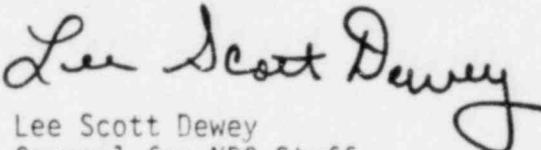
In support of Applicant's motion for summary disposition, Staff also submits the attached affidavit of Michael L. Karlowicz. Mr. Karlowicz points out that the financing for the Palo Verde decommissioning will be collected annually from the owners on a pro-rata basis over the operating life of the facility. This method of financing will adjust for inflation and possible increased costs for the decommissioning of the Palo Verde units by regularly being included in the utilities' rate bases. If necessary, Palo Verde owners will also be able to obtain additional capital for decommissioning from internal cash generation and from external capital stocks and bonds markets. Applicants' financing methods and their proven historical capability to raise large sums of money establish that there is reasonable assurance that they can obtain necessary funds for decommissioning the Palo Verde facility. Furthermore, contrary to Intervenor's assertion in Contention 7, Mr. Karlowicz concludes that even if greater decommissioning costs are incurred for the Palo Verde facility than are presently contemplated, Applicants have the ability to obtain sufficient funds to recover such costs.

III. CONCLUSION

For the above stated reasons, Applicants' motion for summary disposition regarding Contention 7 should be granted. As demonstrated

by Applicants' affidavit of Albert Weinstein and supported by Staff's affidavit of Raghaw Prasad, the studies relied upon by the Intervenor are not applicable to decommissioning of the Palo Verde units. Furthermore, as attested to in Staff's affidavit of Michael L. Karlowicz, even if decommissioning costs are greater than set forth in the Stoller study, Applicants should have little trouble in financing additional funds to safely decommission the Palo Verde facility.

Respectfully submitted,


Lee Scott Dewey
Counsel for NRC Staff

Dated at Bethesda, Maryland
this 22nd day of February, 1982.