

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
ATOMIC SAFETY AND LICENSING BOARD

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Administrative Judges:

Robert M. Lazo, Chairman  
Dr. Richard F. Cole  
Dr. A. Dixon Callihan

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

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

March 3, 1982



MEMORANDUM AND ORDER

CONCERNING JOINT APPLICANTS' MOTIONS FOR SUMMARY  
DISPOSITION OF INTERVENOR'S CONTENTIONS

On January 15, 1982, Joint Applicants filed motions for summary disposition of Intervenor's Contentions No. 5 and No. 6B. A similar motion pertaining to Contention No. 7 was filed on January 29, 1982. Pursuant to the provisions of 10 C.F.R. § 2.749, answers to the first two motions were due on February 9, 1982. Answers to the January 29, 1982 motion were due on February 23, 1982.<sup>1/</sup> The NRC Staff has filed timely responses, in each case supporting Joint Applicants Motions. No answers have yet been filed by Ms. Hourihan, the Intervenor.

<sup>1/</sup> The computation of time includes five days added to the prescribed period for papers served by mail. (10 C.F.R. § 2.710)

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On February 5, 1982, Ms. Hourihan by telephone informed the Board Chairman that because of a recent illness she would require a 20-day extension of time to answer the first two motions for summary disposition. She advised the Chairman that she had spoken to counsel for the Staff who had no objection. The Chairman asked Ms. Hourihan to put her request in writing for the record and suggested that she ascertain whether Joint Applicants' counsel had any objection and to so indicate in her motion for an extension of time.

Ms. Hourihan again contacted the Chairman by telephone on February 9, 1982 to state that Mr. Gehr had told her that Joint Applicants would not object to an extension of the time for filing answers to all three motions to February 26, 1982. The Chairman indicated that the Board would grant the requested extension to February 26, 1982 and asked the Intervenor to file a simple pleading documenting her request. No request in writing for an extension of time has been received as of this date.

Today the Board Chairman received a telephone call from counsel for the Staff to advise the Chairman that counsel had spoken with Ms. Hourihan on February 25, 1982 and learned that she believed that her answers to the three outstanding motions were not due until twenty days after February 22, 1982 (the date the Board had set in its December 11, 1981 Memorandum and Order as the last day for filing responses to any motions for summary disposition).

In view of the direct communications between the Board Chairman and the Intervenor, it is difficult to understand how Ms. Hourihan could have reached such a mistaken conclusion. Under the circumstances, we believe that

the best course of action now is to set a new date certain for the filing of answers to Joint Applicants' motions so that there can be no further misunderstanding.

The starting date for any evidentiary hearing in this proceeding will be determined based upon the Board's rulings on the three outstanding motions for the summary disposition of Intervenor's contentions.

ORDER

For the foregoing reasons and in consideration of the entire record in this matter, it is, this 3rd day of March 1982

ORDERED

That Intervenor's answers to Joint Applicants' motions for summary disposition of Intervenor's Contentions No. 5, No. 6B and No. 7 be filed so that they will be in the hands of the Board not later than March 15, 1982.

FOR THE ATOMIC SAFETY AND  
LICENSING BOARD

*Robert M. Lazo*  
Robert M. Lazo, Chairman  
ADMINISTRATIVE JUDGE