



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

MOTION TO POSTPONE HEARING

The Intervenor moves for an order postponing the hearing set for April 27, 1982, for a period of 30 days on the grounds of newly discovered material evidence. In support of this motion the Intervenor states that she very recently discovered this evidence; that the Applicant and it's Associate, The Salt River Project, have known of the evidence for a long time. That the evidence has been material to the construction and operating license Applicants; and that the very serious problem raised by this evidence was concealed by the Applicant. The problem suggested by this evidence cannot responsibly be either ignored or belittled by rushing to a hearing before it can be developed in a fair and proper way.

I. THE NEW EVIDENCE

1. The Intevenor has learned that at least fifteen years ago the Salt River Project (SRP) asserted in a lawsuit against the City of Phoenix that sewage effluent from the City's water treatment plant was reclamation project water so that the City was not legally entitled to sell it for use outside the Salt

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River Project boundaries. A copy of that lawsuit is attached as Exhibit A. SRP filed a legal brief in this suit explaining why the City could not sell the water.. This brief is attached as Exhibit B. SRP later dropped the suit voluntarily.

2. On January 22, 1971, the Regional Director of the U.S. Bureau of Reclamation wrote a memo to the Commissioner of Reclamation on this issue. It discussed the reason why SRP dropped it's lawsuit against Phoenix and discusses a 1969 agreement regarding the sewage effluent and says that this water is "return flow" and is subject to Bureau of Reclamation control. It says that: "The (Senate Interior) committee clearly states in Senate Report No. 408 that the United States should not abandon its rights to return flows from the Central Arizona Project or from any water stored or developed by any Reclamation Project." A copy of this memorandum is attached as Exhibit C.

3. In a bond prospectus dated March 1, 1980, the SRP stated that the lawyers for the Interior Department were studying the legality of using Salt River Project water for Palo Verde Nuclear Generating Station. A copy of the front page and page 15 of this prospectus are attached as Exhibit D.

4. By letter dated February 25, 1980, the Solicitor of the Department of Interior told the Justice Department about the proposed sale of effluent to the Palo Verde Plant and says flatly that he believes that the United States has priority over this Reclamation Project water. A copy of this letter is attached as Exhibit E.

These documents prove that the Salt River Project and the Interior Department have long known that Phoenix cannot sell effluent to Palo Verde.

The question now is whether the Intervenor should have found out about this matter a long time ago or whether APS and SRP should have disclosed this problem to the Commission a long time ago.

II. The Applicant and Salt River Project know about this matter but they insist that the Board refuse to allow us to take discovery on it. The Staff apparently has failed to make even superficial inquiry with the Interior Department about this problem.

Respectfully Submitted this 7th day of April, 1982,

By Patricia Lee Hourihan

Patricia Lee Hourihan
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CERTIFICATE OF SERVICE

I hereby certify that copies of The Motion to Postpone Hearing and The Motion for Order Requiring Admission and Production of Documents in Ten Days, submitted by the Intervenor, have been served on the following individuals by deposit in the United States mail, properly addressed and with postage prepaid, this 7th day of April, 1982.

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Washington, D.C. 20555

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