

NOTICE OF VIOLATION
AND
PROPOSED IMPOSITION OF CIVIL PENALTY

Arizona Public Service Company
Palo Verde Nuclear Generating Station

Docket Nos. 50-528; 50-529; 50-530
License Nos. NPF-41; NPF-51; NPF-74
EA 93-159

As the result of an NRC investigation completed in May 1994, a violation of NRC requirements was identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," NUREG-1600, the Nuclear Regulatory Commission proposes to impose a civil penalty pursuant to Section 234 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2282, and 10 CFR 2.205. The particular violation and associated civil penalty are set forth below:

10 CFR 50.7, Employee Protection, prohibits discrimination by a Commission licensee against any employee for engaging in certain protected activities. Discrimination includes discharge and other actions that relate to compensation, terms, conditions, and privileges of employment. Protected activities are described in Section 210 (now 211) of the Energy Reorganization Act of 1974, as amended, and in general are related to the administration or enforcement of a requirement imposed under the Atomic Energy Act or Energy Reorganization Act.

Contrary to the above, in December 1991, Arizona Public Service Company (APS) discriminated against a contract employee based on the employee's engaging in protected activities. Specifically, in August 1993, an APS maintenance supervisor admitted that he decided not to hire a contract instrumentation and control technician for a Palo Verde Nuclear Generating Station, Unit 1 outage in December 1991 because he had learned that the technician had raised nuclear safety concerns while employed at Palo Verde and at another nuclear facility. (01013)

This is a Severity Level III violation (Supplement VII).
Civil Penalty - \$100,000

The NRC has concluded that information regarding the reason for the violation, the actions taken and planned to correct the violation and prevent recurrence, and the date when full compliance was achieved is already adequately addressed on the docket in APS's letter dated January 11, 1996, and in previous correspondence referenced therein. However, APS is required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect the corrective actions or APS' position. In that case, or if APS chooses to respond, clearly mark the response as a "Reply to a Notice of Violation," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555 with a copy to the Regional Administrator, Region IV, ATTN: Enforcement Officer, and a copy to the NRC Resident Inspector at the Palo Verde Nuclear Generating Station within 30 days of the date of the letter transmitting this Notice. Under the authority of Section 182 of the Act, 42 U.S.C. 2232, this response shall be submitted under oath or affirmation.

Within the same time as provided for the response described above under 10 CFR 2.201, the Licensee may pay the civil penalty by letter addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, with a check, draft, money order, or electronic transfer payable to the Treasurer of the United States in the amount of the civil penalty proposed above, or may protest imposition of the civil penalty in whole or in part, by a written answer addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission. Should the Licensee fail to answer within the time specified, an order imposing the civil penalty will be issued. Should the Licensee elect to file an answer in accordance with 10 CFR 2.205 protesting the civil penalty, in whole or in part, such answer should be clearly marked as an "Answer to a Notice of Violation" and may: (1) deny the violation listed in this Notice, in whole or in part, (2) demonstrate extenuating circumstances, (3) show error in this Notice, or (4) show other reasons why the penalty should not be imposed. In addition to protesting the civil penalty in whole or in part, such answer may request remission or mitigation of the penalty.

In requesting mitigation of the proposed penalty, the factors addressed in Section VI.B.2 of the Enforcement Policy should be addressed. Any written answer in accordance with 10 CFR 2.205 should be set forth separately from the statement or explanation in reply pursuant to 10 CFR 2.201, but may incorporate parts of the 10 CFR 2.201 reply by specific reference (e.g., citing page and paragraph numbers) to avoid repetition. The attention of the Licensee is directed to the other provisions of 10 CFR 2.205, regarding the procedure for imposing a civil penalty.

Upon failure to pay any civil penalty due which subsequently has been determined in accordance with the applicable provisions of 10 CFR 2.205, this matter may be referred to the Attorney General, and the penalty, unless compromised, remitted, or mitigated, may be collected by civil action pursuant to Section 234c of the Act, 42 U.S.C. 2282c.

The responses noted above (Reply to Notice of Violation, letter with payment of civil penalty, and Answer to a Notice of Violation) should be addressed to: James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738, with a copy to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011 and a copy to the NRC Resident Inspector at the Palo Verde facility.

Because the Licensee's response will be placed in the NRC Public Document Room (PDR), to the extent possible, it should not include any personal privacy, proprietary, or safeguards information so that it can be placed in the PDR without redaction. However, if the Licensee finds it necessary to include such information, it should clearly indicate the specific information that it desires not to be placed in the PDR, and provide the legal basis to support the request for withholding the information from the public.

Dated at Arlington, Texas,
this 7th day of March 1996