



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
1600 EAST LAMAR BOULEVARD
ARLINGTON, TEXAS 76011-4511

November 17, 2020

EA-20-054

Ms. Maria L. Lacal, Executive Vice President
Chief Nuclear Officer
Arizona Public Service Company
P.O. Box 52034, MS 7602
Phoenix, AZ 85072-2034

SUBJECT: CONFIRMATORY ORDER MODIFYING LICENSE - PALO VERDE NUCLEAR
GENERATING STATION

Dear Ms. Lacal:

The enclosed Confirmatory Order is being issued to Arizona Public Service Company (APS) as a result of a successful alternative dispute resolution mediation session. The Confirmatory Order (Enclosure 1) commitments were made as part of a settlement agreement between APS and the U.S. Nuclear Regulatory Commission (NRC).

The settlement agreement relates to apparent violations of NRC requirements as discussed in NRC Inspection Report 05000528/2020010, 05000529/2020010, 05000530/2020010, and 07200044/2020001 dated July 6, 2020 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML20168A355). The apparent violations involved APS' failure to: (1) perform a written evaluation for a change to the NAC MAGNASTOR dry cask storage system and obtain a license amendment for a change in methodology for performing tip-over calculations; and (2) adequately analyze the consequences of a hypothetical MAGNASTOR CC5 spent fuel cask tip-over accident on the independent spent fuel storage installation pad.

Our July 6, 2020, letter also informed you that the apparent violations were being considered for escalated enforcement action in accordance with the NRC's Enforcement Policy and provided the options of: (1) responding in writing; (2) attending a predecisional enforcement conference; or (3) requesting alternative dispute resolution with the NRC, in an attempt to resolve the issues.

In response to our letter, you requested an alternative dispute resolution. An alternative dispute resolution mediation session was held on September 16, 2020, and a preliminary settlement agreement was reached. The elements of that agreement, formulated and agreed to at the mediation session, are incorporated in the enclosed Confirmatory Order.

Subject to the satisfactory completion of the additional actions APS commits to take, as described in the Confirmatory Order, the NRC will not issue a Notice of Violation and will not issue an associated civil penalty for the apparent violations discussed in the NRC's letter dated July 6, 2020. The NRC is satisfied that its concerns will be adequately addressed based on the legally binding commitments APS will implement as documented in the enclosed Confirmatory Order. As evidenced by the signed "Consent and Hearing Waiver Form" (Enclosure 2), dated November 5, 2020, APS has agreed to the issuance of this Confirmatory Order.


Pursuant to Section 223 of the Atomic Energy Act of 1954, as amended, any person who willfully violates, attempts to violate, or conspires to violate, any provision of this Confirmatory Order shall be subject to criminal prosecution, as set forth in that section. Violation of this Confirmatory Order may also subject the person to civil monetary penalties.

In accordance with Title 10 of the *Code of Federal Regulations* (CFR) 2.390 of the NRC's "Rules of Practice and Procedure," a copy of this letter and its enclosures will be made available electronically for public inspection in the NRC Public Document Room or in the NRC's ADAMS, accessible from the NRC website at <http://www.nrc.gov/reading-rm/adams.html>. The NRC also includes significant enforcement actions on its website at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions>.

Sincerely,

**Scott A.
Morris**

Scott A. Morris
Regional Administrator

 Digitally signed by Scott A. Morris
Date: 2020.11.17 16:32:20 -06'00'

Docket Nos. 05000528, 05000529,
05000530, and 07200044
License Nos. NPF-41, NPF-51, NPF-74

Enclosures:

1. Confirmatory Order
2. Consent and Hearing Waiver Form

cc w/ encl: Distribution via LISTSERV®

CONFIRMATORY ORDER MODIFYING LICENSE - PALO VERDE NUCLEAR GENERATING STATION - DATED NOVEMBER 17, 2020

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ADAMS ACCESSION NUMBER: ML20323A035

SUNSI Review: ADAMS: Non-Publicly Available Non-Sensitive Keyword:
 By: JGK Yes No Publicly Available Sensitive OE-001

OFFICE	SES:ACES	C:DRP/D	C:RxiB	TL:ACES	RC	NMSS
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SIGNATURE	/RA/ E	/RA/ E	/RA/ E	/RA/ E	/RA/ E	/RA/ E
DATE	09/22/20	09/22/20	09/25/20	09/24/20	09/30/20	10/08/20
OFFICE	OGC	OE	D:DNMS	RA		
NAME	LBaer	DJones	MMuessle	SMorris		
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DATE	10/28/20	10/28/20	10/28/20	11/17/20		

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Arizona Public Service Company

**CONFIRMATORY ORDER
MODIFYING LICENSE**

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	Docket Nos. 50-528, 50-529,
)	50-530, 72-044
ARIZONA PUBLIC SERVICE COMPANY)	
)	License Nos. NPF-41, NPF-51,
PALO VERDE NUCLEAR GENERATING)	NPF-74
STATION)	
)	EA-20-054

CONFIRMATORY ORDER MODIFYING LICENSE
(EFFECTIVE UPON ISSUANCE)

I

Arizona Public Service Company (APS or Licensee) is the holder of Renewed Facility Operating License Nos. NPF-41, NPF-51, and NPF-74 issued on April 21, 2011, by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to Part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR), “Domestic Licensing of Production and Utilization Facilities.” The license authorizes the operation of Palo Verde Nuclear Generating Station (facility) in accordance with conditions specified therein. The facility is located on the Licensee’s site in Tonopah, Arizona.

This Confirmatory Order is the result of an agreement reached during an alternative dispute resolution (ADR) mediation session conducted on September 16, 2020.

II

On July 6, 2020, the NRC issued Inspection Report 05000528/2020010, 05000529/2020010, 05000530/2020010, and 07200044/2020001 to APS which documented the identification of two apparent violations that were being considered for escalated enforcement action in accordance with the NRC Enforcement Policy. The apparent violations

included: (1) an apparent violation of 10 CFR 72.48(c)(2)(viii) for the failure to perform a written evaluation for a change to the NAC MAGNASTOR dry cask storage system and obtain a license amendment for a change in methodology for performing tip-over calculations; and (2) an apparent violation of 10 CFR 72.146(a) for the failure to adequately analyze the consequences of a hypothetical MAGNASTOR CC5 spent fuel cask tip-over accident on the independent spent fuel storage installation pad.

By letter dated July 6, 2020, the NRC notified APS of the results of the inspection with an opportunity to: (1) provide a response in writing, (2) attend a predecisional enforcement conference; or (3) to participate in an ADR mediation session in an effort to resolve these concerns.

In response to the NRC's offer, APS requested the use of the NRC's ADR process to resolve differences it had with the NRC. On September 16, 2020, the NRC and APS met in an ADR session mediated by a professional mediator, arranged through Cornell University's Institute on Conflict Resolution. The ADR process is one in which a neutral mediator, with no decision-making authority, assists the parties in reaching an agreement on resolving any differences regarding the dispute. This Confirmatory Order is issued pursuant to the agreement reached during the ADR process.

III

During the ADR session, APS and the NRC reached a preliminary settlement agreement. The elements of the agreement include the following:

APS acknowledged that it: (1) failed to perform a written evaluation for a change to the NAC MAGNASTOR dry cask storage system and obtain a license amendment for a change in methodology for performing tip-over calculations; and (2) failed to adequately analyze the consequences of a hypothetical MAGNASTOR CC5 spent fuel cask tip over accident on the Independent Spent Fuel Storage Installation (ISFSI) pad.

Corrective actions already implemented by APS included:

- A. Prior to loading fuel in the first MAGNASTOR cask at the Palo Verde Nuclear Generating Station (Palo Verde), APS directed NAC to perform a new tip-over analysis of the Palo Verde plant specific vertical concrete MAGNASTOR CC5 cask on the Palo Verde ISFSI pad using the NAC final safety analysis report (FSAR) described method of evaluation, LS-DYNA.
- B. On February 28, 2020, APS revised 10 CFR 72.48 screening 72.48 S-20-001 to no longer accept the linear scaling method that was originally done for the MAGNASTOR tip-over analysis. The revision of the screening was done to review and accept the tip-over analysis using the NAC FSAR-described method of evaluation, LS-DYNA.
- C. On February 28, 2020, APS revised the Palo Verde ISFSI 10 CFR 72.212 Evaluation Report for the MAGNASTOR System to incorporate the revised 10 CFR 72.48 screening that accepted the tip-over analysis using the NAC FSAR-described method of evaluation, LS-DYNA.
- D. APS completed a Level 1 Root Cause Analysis that was approved by the Palo Verde Corrective Action Review Board. The root cause analysis addressed the failure to

identify a change in a MAGNASTOR FSAR required methodology resulting in APS not complying with 10 CFR 72.48(c)(2)(viii) and 10 CFR 72.146(a).

- E. As part of the root cause analysis, APS performed a review of the tip-over analysis for the UMS dry cask system, used at Palo Verde prior to MAGNASTOR, and confirmed that the UMS tip-over analysis was performed using LS-DYNA as required by the NAC FSAR.

- F. As part of the root cause analysis, APS performed an extent of condition review of the 10 CFR 72.48 and 10 CFR 50.59 screenings and evaluations performed over the last 5 years. Of the over 600 screenings and evaluations reviewed, APS identified three items of interest that required additional evaluation and were entered into the APS corrective action program.

Additional commitments made in the preliminary settlement agreement, as signed by both parties, consist of the following:

Communications

- A. Within 2 months of the issuance date of the Confirmatory Order, APS will develop a communication that will include: a summary of the ISFSI event that resulted in the Confirmatory Order, the root and contributing causes, the corrective actions from the root cause evaluation, and the additional corrective actions from the Confirmatory Order, and APS will submit the proposed communication to the NRC for its review. The NRC will provide any comments to APS on the communication within 1 month from the date of

the submittal. APS will consider the NRC's comments and incorporate those comments that APS agrees are appropriate.

- B. Within 4 months of the issuance date of the Confirmatory Order, APS will issue the Condition A communication as a stand-alone communication from the Chief Nuclear Officer to all qualified personnel in the development, review, and approval of 10 CFR 50.59/72.48 "Changes, test, and experiments" documents. APS will retain a copy of the communication presented and verifiable evidence of the personnel receiving the communication. APS will document the reason for any person not obtaining the communication and the additional efforts used to provide the communication.

- C. Within 6 months of the issuance date of the Confirmatory Order, APS will develop a presentation and will submit the proposed presentation to the NRC for its review. The NRC will provide any comments to APS on the presentation within 1 month from the date of the submittal. APS will consider the NRC's comments and incorporate those comments that APS agrees are appropriate. The presentation will:
 - 1. Include a summary of the ISFSI event that resulted in the Confirmatory Order, the root and contributing causes, the corrective actions from the root cause evaluation, additional corrective actions from the Confirmatory Order, and a discussion on what a Methodology is and what are input parameters.

 - 2. Emphasize a General Licensee's requirement to adequately review a vendor's 10 CFR 72.48 analysis through its 10 CFR 50.59/72.48 program for acceptance prior to being implemented at the General Licensee's site.

- D. Within 15 months of the issuance date of the Confirmatory Order, APS will deliver the presentation to: (1) the INPO Engineering VP Forum, (2) the NEI Used Fuel Conference, and (3) the NEI High Level Waste Working Group (subject to acceptance of the forum or conference organizing committee) as allowed by current COVID-19 considerations.

Training

- E. Within 6 months of the issuance date of the Confirmatory Order, APS will develop a refresher training on 10 CFR 50.59/72.48 requirements and processes and will submit the proposed training to the NRC for its review. The NRC will provide any comments to APS on the proposed training within 1 month from the date of the submittal. APS will consider the NRC's comments and incorporate those comments that APS agrees are appropriate.
- F. Within 9 months of the issuance date of the Confirmatory Order, APS will provide the training to all qualified personnel in the development, review, and approval of 10 CFR 50.59/72.48 changes. APS will continue to provide the refresher training at intervals not to exceed 15 months until December 31, 2024. APS will retain a copy of the training and verifiable evidence of the personnel receiving the training. APS will document the reason for any person not obtaining the training and the additional efforts used to provide the training.

Reviews

- G. Within 4 months of the issuance date of the Confirmatory Order, APS will create a challenge review board consisting of three 10 CFR 50.59 program single point of contact

(SPOC) members who will review 10 CFR 72.48 screenings and evaluations prior to the change implementation until December 31, 2024. By March 31 of the calendar year following the Condition G reviews, APS will send a copy of the previous calendar reviews and a copy of any additional corrective actions developed from the reviews to the NRC.

- H. APS will utilize a design review board to review NAC's design changes with experienced qualified 10 CFR 50.59/72.48 individuals on both NAC MAGNASTOR and NAC UMS systems, applicable to APS, prior to all loading campaigns through December 31, 2024. By March 31 of the calendar year following the Condition H reviews, APS will send a copy of the previous calendar year reviews and a copy of any additional corrective actions developed from the reviews to the NRC.

Training Assessment

- I. Within 12 months of the issuance date of the Confirmatory Order, APS will perform a training needs analysis to determine what training should be provided to engineering personnel relative to software quality assurance. The training needs analysis will consider procedures and processes related to the APS software quality assurance program and aspects of the Spent Fuel Project Office Interim Staff Guidance – 21 (ISG-21), "Use of Computational Modeling Software," NRC's Agencywide Documents Access and Management System (ADAMS) Accession No. ML061080669. APS will send the results of the training needs analysis and proposed training to the NRC for its review. The NRC will provide any comments to APS on the training within 1 month from the date of the submittal. APS will consider the NRC's comments and incorporate those comments that APS agrees are appropriate.

- J. Within 24 months of the issuance date of the Confirmatory Order, APS will provide the training resulting from the training needs analysis discussed in Paragraph I to qualified personnel in the development, review, and approval of 10 CFR 50.59/72.48 changes.

Effectiveness Reviews

- K. By December 31 of calendar years 2021 and 2023, APS will perform an effectiveness review of the implemented root cause evaluation corrective actions, and actions associated with the Confirmatory Order. The effectiveness review will include lessons learned from each action implementation or completion, new operating experience since issuance of the Confirmatory Order, and training feedback associated with 10 CFR 50.59/72.48 which occurred during the effectiveness review period. APS will modify its corrective actions, as needed and consistent with this Confirmatory Order, based on the results of the effectiveness review. By March 31 of each year following the effectiveness review, APS will send a copy of the effectiveness review and a copy of any additional corrective actions developed from the effectiveness review to the NRC.

Administrative Items

- L. Until December 31, 2026, APS will retain a copy of all documentation created during the implementation of the Confirmatory Order Conditions.
- M. Documents that are required to be sent to the NRC as a result of the Confirmatory Order Conditions will be sent the Director, Division of Nuclear Materials Safety, U.S. Nuclear Regulatory Commission, Region IV, 1600 E. Lamar Blvd., Arlington, TX 76011-4511 and emailed to R4Enforcement@nrc.gov.

- N. In consideration of the Conditions delineated above, the NRC agrees that the issuance of this Confirmatory Order will not be considered as escalated enforcement. However, for any future escalated enforcement actions involving 10 CFR 72.48 or 10 CFR 72.146, the NRC will consider this Confirmatory Order for the civil penalty assessment purposes as discussed in the NRC Enforcement Policy.

- O. In consideration of the Conditions delineated above, the NRC agrees not to issue a notice of violation and not impose a civil penalty for the apparent violations discussed in the NRC inspection report to APS dated July 6, 2020.

- P. In the event of the transfer of the license of APS to another entity, the terms and conditions set forth hereunder shall continue to apply to the new entity and accordingly survive any transfer of ownership or license.

- Q. The NRC and APS agree that the above elements will be incorporated into a Confirmatory Order.

Based on the completed actions described above, and the commitments described in Section V below, the NRC agrees to not pursue any further enforcement action based on the apparent violations identified in the NRC's July 6, 2020, letter.

On November 5, 2020, APS consented to issuing this Confirmatory Order with the commitments, as described in Section V below. APS further agreed that this Confirmatory Order is to be effective upon issuance, the agreement memorialized in this Confirmatory Order settles the matter between the parties, and that it has waived its right to a hearing.

IV

I find that APS's actions completed, as described in Section III above, combined with the commitments as set forth in Section V are acceptable and necessary, and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that APS's commitments be confirmed by this Confirmatory Order. Based on the above and APS's consent, this Confirmatory Order is effective upon issuance.

V

Accordingly, pursuant to Sections 103, 161b., 161i., 161o., 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 50, IT IS HEREBY ORDERED, EFFECTIVE UPON ISSUANCE, THAT LICENSE NOS. NPF-41, NPF-51, AND NPF-74 ARE MODIFIED AS FOLLOWS:

Communications

- A. Within 2 months of the issuance date of the Confirmatory Order, APS will develop a communication that will include: a summary of the ISFSI event that resulted in the Confirmatory Order, the root and contributing causes, the corrective actions from the root cause evaluation, and the additional corrective actions from the Confirmatory Order, and APS will submit the proposed communication to the NRC for its review. The NRC will provide any comments to APS on the communication within 1 month from the date of the submittal. APS will consider the NRC's comments and incorporate those comments that APS agrees are appropriate.

- B. Within 4 months of the issuance date of the Confirmatory Order, APS will issue the Condition A communication as a stand-alone communication from the Chief Nuclear Officer to all qualified personnel in the development, review, and approval of 10 CFR 50.59/72.48 “Changes, test, and experiments” documents. APS will retain a copy of the communication presented and verifiable evidence of the personnel receiving the communication. APS will document the reason for any person not obtaining the communication and the additional efforts used to provide the communication.
- C. Within 6 months of the issuance date of the Confirmatory Order, APS will develop a presentation and will submit the proposed presentation to the NRC for its review. The NRC will provide any comments to APS on the presentation within 1 month from the date of the submittal. APS will consider the NRC’s comments and incorporate those comments that APS agrees are appropriate. The presentation will:
1. Include a summary of the ISFSI event that resulted in the Confirmatory Order, the root and contributing causes, the corrective actions from the root cause evaluation, additional corrective actions from the Confirmatory Order, and a discussion on what a Methodology is and what are input parameters.
 2. Emphasize a General Licensee’s requirement to adequately review a vendor’s 10 CFR 72.48 analysis through its 10 CFR 50.59/72.48 program for acceptance prior to being implemented at the General Licensee’s site.
- D. Within 15 months of the issuance date of the Confirmatory Order, APS will deliver the presentation developed in Condition C to: (1) the INPO Engineering VP Forum, (2) the NEI Used Fuel Conference, and (3) the NEI High Level Waste Working Group (subject

to acceptance of the forum or conference organizing committee) as allowed by current COVID-19 considerations.

Training

- E. Within 6 months of the issuance date of the Confirmatory Order, APS will develop a Systematic Approach to Training refresher training on 10 CFR 50.59/72.48 requirements and processes and will submit proposed training to the NRC for its review. The NRC will provide any comments to APS on the training within 1 month from the date of the submittal. APS will consider the NRC's comments and incorporate those comments that APS agrees are appropriate.

- F. Within 9 months of the issuance date of the Confirmatory Order, APS will provide the training developed in Condition E above to all qualified personnel in the development, review, and approval of 10 CFR 50.59/72.48 changes. APS will continue to provide the refresher training at intervals not to exceed 15 months until December 31, 2024. APS will retain a copy of the training and verifiable evidence of the personnel receiving the training. APS will document the reason for any person not obtaining the training and the additional efforts used to provide the training.

Reviews

- G. Within 4 months of the issuance date of the Confirmatory Order and until December 31, 2024, APS will create a challenge review board consisting of three 10 CFR 50.59 program single point of contact (SPOC) members who will review 10 CFR 72.48 screenings and evaluations prior to the implementation of a design change. By

March 31 of the calendar year following the Condition G reviews, APS will send a copy of the previous calendar year reviews and a copy of any additional corrective actions developed from the reviews to the NRC.

- H. Within 4 months of the issuance date of the Confirmatory Order and until December 31, 2024, APS will utilize a design review board to review NAC's design changes with experienced, qualified 10 CFR 50.59/72.48 individuals on both NAC MAGNASTOR and NAC UMS systems applicable to APS prior to all loading campaigns. By March 31 of the calendar year following the Condition H reviews, APS will send a copy of the previous calendar year reviews and a copy of any additional corrective actions developed from the reviews to the NRC.

Training Assessment

- I. Within 12 months of the issuance date of the Confirmatory Order, APS will perform a training needs analysis to determine what training should be provided to engineering personnel relative to software quality assurance. The training needs analysis will consider procedures and processes related to the APS software quality assurance program and aspects of NUREG-2215, "Standard Review Plan for Spent Fuel Dry Storage Systems and Facilities," Appendix 4A, "Computational Modeling Software Technical Review Guidance," NRC's Agencywide Documents Access and Management System (ADAMS) Accession No. ML20121A190. APS will send the results of the training needs analysis and proposed training to the NRC for its review. The NRC will provide any comments to APS on the training within 1 month from the date of the submittal. APS will consider the NRC's comments and incorporate those comments that APS agrees are appropriate.

- J. Within 24 months of the issuance date of the Confirmatory Order, APS will provide the training resulting from the training needs analysis discussed in Condition I to qualified personnel in the development, review, and approval of 10 CFR 50.59/72.48 changes.

Effectiveness Reviews

- K. By December 31 of calendar years 2021 and 2023, APS will perform an effectiveness review of the implemented root cause evaluation corrective actions, and actions associated with the Confirmatory Order. The effectiveness review will include lessons learned from each action implementation or completion, new operating experience since issuance of the Confirmatory Order, and training feedback associated with 10 CFR 50.59/72.48 which occurred during the effectiveness review period. APS will modify its corrective actions, as needed and consistent with the Confirmatory Order, based on the results of the effectiveness review. By March 31 of each year following the effectiveness review, APS will send a copy of the effectiveness review and a copy of any additional corrective actions developed from the effectiveness review to the NRC.

Administrative Items

- L. Until December 31, 2026, APS will retain a copy of all documentation created during the implementation of the Confirmatory Order Conditions.
- M. Documents that are required to be sent to the NRC as a result of the Confirmatory Order Conditions will be sent to the Director, Division of Nuclear Materials Safety, U.S. Nuclear Regulatory Commission, Region IV, 1600 E. Lamar Blvd., Arlington, TX 76011-4511 and emailed to R4Enforcement@nrc.gov.

N. In consideration of the Conditions delineated above, the NRC agrees that the issuance of this Confirmatory Order will not be considered as escalated enforcement. However, for any future escalated enforcement actions involving 10 CFR 72.48 or 10 CFR 72.146, the NRC will consider this Confirmatory Order for the civil penalty assessment purposes as discussed in the NRC Enforcement Policy.

O. In consideration of the Conditions delineated above, the NRC agrees not to issue a notice of violation and not impose a civil penalty for the apparent violations discussed in the NRC inspection report to APS dated July 6, 2020.

In the event of the transfer of the license of APS to another entity, the terms and conditions set forth hereunder shall continue to apply to the new entity and accordingly survive any transfer of ownership or license. The Regional Administrator, Region IV, may, in writing, relax, rescind, or withdraw any of the above conditions upon demonstration by APS or its successors of good cause.

VI

In accordance with 10 CFR 2.202 and 10 CFR 2.309, any person adversely affected by this Confirmatory Order, other than APS, may request a hearing within thirty (30) calendar days of the date of issuance of this Confirmatory Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding

prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC Web site at <https://www.nrc.gov/site-help/e-submittals.html>. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at hearing.docket@nrc.gov, or by telephone at 301-415-1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/getting-started.html>. Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public Web site at

<http://www.nrc.gov/site-help/electronic-sub-ref-mat.html>. A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the "Contact Us" link located on the NRC's public Web site at <https://www.nrc.gov/site-help/e-submittals.html>, by e-mail to MSHD.Resource@nrc.gov, or by a toll-free call at 1-866-672-7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the

Secretary, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at <https://adams.nrc.gov/ehd>, unless excluded pursuant to an Order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click "Cancel" when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the

Presiding Officer. A notice granting a hearing will be published in the *Federal Register* and served on the parties to the hearing.

If a person (other than APS) requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Confirmatory Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).


If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 30 days from the date of this Confirmatory Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

For the Nuclear Regulatory Commission

**Scott A.
Morris**

Scott A. Morris
Regional Administrator
NRC Region IV

 Digitally signed by Scott A. Morris
Date: 2020.11.17 16:33:30 -06'00'

Dated this 17th day of November 2020

CONSENT AND HEARING WAIVER FORM

CONSENT AND HEARING WAIVER FORM

Arizona Public Service Company hereby agrees to comply with the terms and conditions of this Confirmatory Order arising out of an alternative dispute resolution mediation session on September 16, 2020, to be issued relating to Enforcement Action EA-20-054. This Confirmatory Order will be effective upon its issuance. By signing below, Arizona Public Service Company consents to the issuance of the referenced Confirmatory Order, and, by doing so, agrees to waive the right to request a hearing on all or any part of this Confirmatory Order.

Rash, Bruce
(Z77439)

Digitally signed by Rash, Bruce
(Z77439)
DN: cn=Rash, Bruce (Z77439)
Date: 2020.11.05 12:54:48
-07'00'

Bruce Rash
Vice President Nuclear Engineering/Regulatory
Arizona Public Service Company

Date