



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

January 25, 2022

Ms. Kelly A. Tomblin
Chief Executive Officer
El Paso Electric Company
P.O. Box 982
El Paso, TX 79960-0982

SUBJECT: PALO VERDE NUCLEAR GENERATING STATION, UNITS 1, 2, AND 3 AND
THE INDEPENDENT SPENT FUEL STORAGE INSTALLATION - ORDER
APPROVING INDIRECT TRANSFER OF CONTROL OF LICENSES
(EPID L-2021-LLM-0002)

Dear Ms. Tomblin:

The U.S. Nuclear Regulatory Commission (NRC) staff has completed its review of the application dated March 18, 2021 (Agencywide Documents Access and Management System Accession No. ML21077A256), filed by El Paso Electric Company (EPE) pursuant to Title 10 of the *Code of Federal Regulations* Sections 50.80, "Transfer of licenses," and 72.50, "Transfer of license," requesting approval of the indirect transfer of control of Renewed Facility Operating License Nos. NPF-41, NPF-51, and NPF-74 for Palo Verde Nuclear Generating Station (Palo Verde), Units 1, 2, and 3, respectively, and the general license for the Palo Verde Independent Spent Fuel Storage Installation (ISFSI) (collectively, the NRC licenses).

According to the application, EPE currently owns a 15.8 percent tenant-in-common interest and holds possession-only rights in the NRC licenses. The indirect transfer of control of EPE's possession only non-operating interests in the NRC licenses resulted from the acquisition of an approximately 33.3 percent membership interest in IIF US Holding 2 GP, LLC (IIF US 2 GP), the general partner of IIF US Holding 2 LP, by a private individual, Anne Cleary, a U.S. citizen, subsequent to the retirement and relinquishment of an approximately 33.3 percent IIF US 2 GP membership interest held by Dennis Clarke, a U.S. citizen. Arizona Public Service Company (APS) owns a 29.1 percent tenant-in-common interest and holds both operating and possession rights in the NRC licenses. Further, APS operates, and will continue to operate, each of the Palo Verde units and the ISFSI pursuant to the operating rights granted to it under the license of each Palo Verde unit. The remaining tenant-in-common co-owners that hold possession-only rights in the NRC licenses are: Salt River Project Agricultural Improvement and Power District (17.49 percent); Southern California Edison Company (15.8 percent); Public Service Company of New Mexico (10.2 percent); Southern California Public Power Authority (5.91 percent); and Los Angeles Department of Water and Power (5.7 percent).

The transaction involved the issuance of the approximately 33.3 percent interest in IIF US 2 GP that was relinquished by Dennis Clarke on September 30, 2020, to Anne Cleary pursuant to that certain resolution dated September 30, 2020, of the IIF US 2 GP Owners, Rita J. Sallis and Christopher Ward. As a result of the transaction, as of December 17, 2020, Anne Cleary became an approximately 33.3 percent owner of IIF US 2 GP and indirect owner of EPE. The

approximately 33.3 percent interests of each of Rita J. Sallis and Christopher Ward were unaffected by the transaction.

The transaction implicated only an indirect upstream change in control over EPE's possession-only rights in the NRC licenses. The transaction did not involve or implicate any change in EPE's rights and obligations under any of the NRC licenses, nor did it implicate APS's or any other possession-only co-owners' rights and obligations under any of the NRC licenses.

The NRC staff has completed its review of the application. The Order in Enclosure 1 approves the indirect transfer of control of the NRC licenses for Palo Verde, Units 1, 2, and 3 and the ISFSI. Enclosure 2 is the NRC staff's safety evaluation related to the application.

The Order has been forwarded to the Office of the Federal Register for publication.

Sincerely,

/RA/

Siva P. Lingam, Project Manager
Plant Licensing Branch IV
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket Nos. STN 50-528, STN 50-529,
STN 50-530, and 72-44

Enclosures:

1. Order
2. Safety Evaluation

cc: Listserv

ENCLOSURE 1

ORDER APPROVING INDIRECT TRANSFER OF CONTROL OF

LICENSES

PALO VERDE NUCLEAR GENERATING STATION, UNITS 1, 2, AND 3

AND INDEPENDENT SPENT FUEL STORAGE INSTALLATION

ADAMS ACCESSION NO. ML22003A106

ENCLOSURE 2

SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION
FOR INDIRECT TRANSFER OF CONTROL OF
RENEWED FACILITY OPERATING LICENSE NOS. NPF-41, NPF-51, AND NPF-74 AND
GENERAL LICENSE FOR THE INDEPENDENT SPENT FUEL STORAGE INSTALLATION
PALO VERDE NUCLEAR GENERATING STATION, UNITS 1, 2, AND 3
DOCKET NOS. STN 50-528, STN 50-529, STN-50-530, AND 72-44



UNITED STATES
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WASHINGTON, D.C. 20555-0001

SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION
FOR INDIRECT TRANSFER OF CONTROL OF
RENEWED FACILITY OPERATING LICENSE NOS. NPF-41, NPF-51, AND NPF-74 AND
GENERAL LICENSE FOR THE INDEPENDENT SPENT FUEL STORAGE INSTALLATION
PALO VERDE NUCLEAR GENERATING STATION, UNITS 1, 2, AND 3
DOCKET NOS. STN 50-528, STN 50-529, STN 50-530, AND 72-44

1.0 INTRODUCTION

By application dated March 18, 2021 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML21077A256), El Paso Electric Company (EPE) requested consent from the U.S. Nuclear Regulatory Commission (NRC, the Commission) to the indirect transfer of control of Renewed Facility Operating License Nos. NPF-41, NPF-51, and NPF-74 for Palo Verde Nuclear Generating Station (Palo Verde), Units 1, 2, and 3, respectively, and the general license for the Palo Verde Independent Spent Fuel Storage Installation (ISFSI) (collectively, the NRC licenses).

According to the application, EPE currently owns a 15.8 percent tenant-in-common interest and holds possession-only rights in the NRC licenses. The indirect transfer of control of EPE's possession only non-operating interests in the NRC licenses resulted from the acquisition of an approximately 33.3 percent membership interest in IIF US Holding 2 GP, LLC (IIF US 2 GP), the general partner of IIF US Holding 2 LP (IIF US 2), by a private individual, Anne Cleary, a U.S. citizen (the Owner and, together with EPE, the Applicants), subsequent to the retirement and relinquishment of an approximately 33.3 percent IIF US 2 GP membership interest held by Dennis Clarke, a U.S. citizen. Arizona Public Service Company (APS) owns a 29.1 percent tenant-in-common interest and holds both operating and possession rights in the NRC licenses. Further, APS operates, and will continue to operate, each of the Palo Verde units and the ISFSI pursuant to the operating rights granted to it under the license of each Palo Verde unit. The remaining tenant-in-common co-owners that hold possession-only rights in the NRC licenses are: Salt River Project Agricultural Improvement and Power District (17.49 percent); Southern California Edison Company (15.8 percent); Public Service Company of New Mexico (10.2 percent); Southern California Public Power Authority (5.91 percent); and Los Angeles Department of Water and Power (5.7 percent).

The transaction involved the issuance of the approximately 33.3 percent interest in IIF US 2 GP that was relinquished by Dennis Clarke on September 30, 2020, to Anne Cleary pursuant to that certain resolution dated September 30, 2020, of the IIF US 2 GP Owners, Rita J. Sallis and Christopher Ward. As a result of the transaction, as of December 17, 2020, Anne Cleary

became an approximately 33.3 percent owner of IIF US 2 GP and indirect owner of EPE. The approximately 33.3 percent interests of each of Rita J. Sallis and Christopher Ward were unaffected by the transaction.

The IIF US 2 is an infrastructure investment fund managed and controlled by its general partner, IIF US 2 GP. IIF US 2 GP is a general partner formed under the laws of the state of Delaware. The IIF US 2 GP is owned and controlled by three private individuals, each of whom is a U.S. citizen. Prior to the transaction, the IIF US 2 GP Owners were Rita J. Sallis, Christopher Ward, and Dennis Clarke. On and after December 17, 2020, with the replacement of Dennis Clarke by Anne Cleary pursuant to the September 30, 2020 Resolution, the IIF US 2 GP Owners are Rita J. Sallis, Christopher Ward, and Anne Cleary.

The transaction implicated only an indirect upstream change in control over EPE's possession-only rights in the NRC licenses. The transaction did not involve or implicate any change in EPE's rights and obligations under any of the NRC licenses, nor did it implicate APS's or any other possession-only co-owners' rights and obligations under any of the NRC licenses.

The Notice of Consideration of Approval of Transfer of Licenses was published in the *Federal Register* (FR) on May 4, 2021 (86 FR 23757).

2.0 BACKGROUND

The Palo Verde facility consists of three operating pressurized-water reactors (i.e., Units 1, 2, and 3), with each generating approximately 1,300 megawatts electric. Located in Wintersburg, Arizona, construction began in 1976 on all three reactors, with Units 1, 2, and 3 operating licenses being issued by the NRC in 1985, 1986, and 1987, respectively. Renewed operating licenses were issued on April 21, 2011, for all three reactors, with license expiration dates of 2045, 2046, and 2047, for Units 1, 2, and 3, respectively.

As addressed in the application, IIF US 2 through counsel alerted NRC staff (Joel Matteson and Siva Lingam) on March 4, 2021, that (i) in the course of developing responses to certain questions posed by the NRC to IIF US 2, IIF US 2 had discovered that the potential replacement of Dennis Clarke identified in footnote 4 of the August 2019 application requesting approval for IIF US 2's acquisition of EPE (ADAMS Accession No. ML19225D197) took place on December 17, 2020, inadvertently without having obtained the prior approval of the NRC and (ii) EPE would be submitting contemporaneously with the responses to those questions a request for prospective approval of the indirect license transfer over EPE's Palo Verde NRC licenses resulting from the replacement of Dennis Clarke by Anne Cleary as one of the three private individuals who indirectly owns and controls IIF US 2 GP. The application represents that Anne Cleary, IIF US 2, and EPE are acting to promptly rectify this inadvertent noncompliance going forward and that appropriate steps are being taken to ensure that noncompliance with the NRC license transfer requirements does not happen again.

3.0 REGULATORY EVALUATION

The Applicants' request for NRC approval of the indirect transfer of control of EPE's possession-only non-operating interests in the Palo Verde NRC licenses, as discussed in this safety evaluation (SE), is made under Title 10 of the *Code of Federal Regulations* (10 CFR) Sections 50.80, "Transfer of licenses," and 72.50, "Transfer of license."

The regulation at 10 CFR 50.80(a) states, in part:

No license for a . . . utilization facility . . . , or any right thereunder, shall be transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, unless the Commission gives its consent in writing.

In addition, the regulations at 10 CFR 50.80(b) and (c) apply. The regulation at 10 CFR 50.80(b) states, in part, that an application for a license transfer shall include as much of the information described in 10 CFR 50.33, "Contents of applications; general information," and 10 CFR 50.34, "Contents of applications; technical information," "with respect to the identity and technical and financial qualifications of the . . . transferee as would be required by those sections if the application were for an initial license." The regulation at 10 CFR 50.80(c) states, in part:

. . . the Commission will approve an application for the transfer of a license, if the Commission determines: (1) That the . . . transferee is qualified to be the holder of the license; and (2) That transfer of the license is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

The regulation at 10 CFR 50.33(f) states, in part:

Except for an electric utility applicant for a license to operate a utilization facility of the type described in [10 CFR] 50.21(b) or [10 CFR] 50.22, [each application shall state] information sufficient to demonstrate to the Commission the financial qualification of the applicant to carry out, in accordance with regulations in this chapter, the activities for which the permit or license is sought.

The regulation at 10 CFR 50.2, "Definitions," states, in part, that an electric utility means:

[A]ny entity that generates or distributes electricity and which recovers the cost of this electricity, either directly or indirectly, through rates established by the entity itself or by a separate regulatory authority.

The regulation at 10 CFR 50.33(k)(1) states, in part:

For an application for an operating license . . . , information in the form of a report, as described in [10 CFR] 50.75[, "Reporting and recordkeeping for decommissioning planning"], indicating how reasonable assurance will be provided that funds will be available to decommission the facility.

The regulation at 10 CFR 50.75 specifies how a licensee will provide reasonable assurance that funds will be available for the decommissioning process. Specifically, 10 CFR 50.75(b) requires that decommissioning financial assurance be provided in an amount not less than the minimum formula amount in 10 CFR 50.75(c). In 10 CFR 50.75(e), the NRC includes the methods acceptable to the agency for covering this decommissioning financial assurance amount, including using a decommissioning trust fund. Finally, 10 CFR 50.75(f) and (h) provide additional requirements for the reporting and management of decommissioning trust funds.

In 10 CFR 50.34(b)(6), the NRC requires that applicants provide certain information on facility operation. It requires, in part, that the information provided by the applicant includes the following:

- (i) The applicant's organizational structure, allocations or responsibilities and authorities, and personnel qualification requirements.
- (ii) Managerial and administrative controls to be used to assure safe operation.

In 10 CFR 50.34(b)(7), the NRC requires that applicants provide the following information in the final safety analysis report:

The technical qualifications of the applicant to engage in the proposed activities in accordance with the regulations in this chapter.

In addressing foreign ownership, control, or domination (FOCD) issues, Section 103d of the Atomic Energy Act of 1954, as amended (the Act), states, in part:

No license may be issued to an alien or any corporation or other entity if the Commission knows or has reason to believe it is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government.

The regulation at 10 CFR 50.33(d)(3) states that if the applicant is a corporation or an unincorporated association, the application shall state:

- (i) The state where it is incorporated or organized and the principal location where it does business;
- (ii) The names, addresses and citizenship of its directors and of its principal officers;
- (iii) Whether it is owned, controlled, or dominated by an alien, a foreign corporation, or foreign government, and if so, give details.

The regulation at 10 CFR 50.38, "Ineligibility of certain applicants," is the regulatory provision that implements the FOCD provisions of the Act. The NRC staff evaluates license transfer applications in a manner that is consistent with the guidance provided in the "Final Standard Review Plan on Foreign Ownership, Control, or Domination" (64 FR 52355; September 28, 1999) to determine whether the transferee is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government.

The regulation at 10 CFR 72.50 is analogous to the regulation at 10 CFR 50.80 and also states that "[t]he application shall describe the financial assurance that will be provided for the decommissioning of the facility under [10 CFR] 72.30." The regulation at 10 CFR 72.30, "Financial assurance and recordkeeping for decommissioning," paragraph (e)(5), states:

In the case of licensees who are issued a power reactor license under part 50 of this chapter or ISFSI licensees who are an electric utility, as defined in part 50 of this chapter, with a specific license issued under this part, the methods of 10 CFR 50.75(b), (e), and (h), as applicable. In the event that funds remaining to be placed into the licensee's ISFSI decommissioning external sinking fund are no

longer approved for recovery in rates by a competent rate making authority, the licensee must make changes to provide financial assurance using one or more of the methods stated in paragraphs (1) through (4) of this section.

The NRC staff reviews information that relates to the Price-Anderson insurance and indemnity requirements under Section 170 of the Act, "Indemnification and Limitation of Liability," and 10 CFR Part 140, "Financial Protection Requirements and Indemnity Agreements," and reviews the onsite property insurance requirements under 10 CFR 50.54, "Conditions of licenses," paragraph (w).

The regulation at 10 CFR 140.11, "Amounts of financial protection for certain reactors," paragraph (a)(4), provides requirements for the appropriate amount of insurance. The regulation at 10 CFR 140.21, "Licensee guarantees of payment of deferred premiums," provides requirements for financial protection.

NUREG 1307, Revision 18, "Report on Waste Burial Charges: Changes in Decommissioning Waste Disposal Costs at Low-Level Waste Burial Facilities," dated January 2021 (ADAMS Accession No. ML21027A302), contains burial cost escalation factors updated to the year 2020 for the reference pressurized-water and boiling-water reactors.

The NRC staff applies guidance in NUREG-1577, Revision 1, "Standard Review Plan on Power Reactor Licensee Financial Qualifications and Decommissioning Funding Assurance" (ADAMS Accession No. ML013330264), to evaluate the financial qualifications and methods of providing decommissioning funding assurance for licensees affected by license transfers.

The NRC staff uses the guidance in Chapter 13, "Conduct of Operations," of NUREG-0800, "Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants: LWR [Light-Water Reactor] Edition," from the following sections:

- Section 13.1.1, Revision 6, "Management and Technical Support Organization," dated August 2016 (ADAMS Accession No. ML15005A449), which describes the process used for the review of the corporate-level management and technical support organization of applicants.

This Section states, in part, that "[t]he review for license transfer will examine the acceptability of any changes to the technical organization or personnel qualifications proposed as a result of a license transfer" It also states that "[t]he objective of this review is to ensure that the corporate management is involved with, informed of, and dedicated to the safe design, construction, testing, and operation of the nuclear plant. In addition, the review is to ensure that sufficient technical resources have been, are being, and will continue to be provided to adequately accomplish these objectives."

- Sections 13.1.2 - 13.1.3, Revision 7, "Operating Organization," dated August 2016 (ADAMS Accession No. ML15007A296), which describes the process used for the review of the operating organization of applicants, including the structure, functions, and responsibilities of the onsite organization established to safely operate and maintain the facility.

These sections state, in part, that "[t]he review for a transfer of an [operating license] should focus on evaluating changes to the operating organization proposed as a result of the transfer." They also state that "[t]he [NRC staff] reviewer should ensure that the

proposed changes will result in an organization that will continue to meet the relevant review criteria.”

4.0 TECHNICAL QUALIFICATIONS

4.1 Management and Technical Support Organization

The NRC staff reviewed the application to determine whether the corporate management is involved in, informed of, and dedicated to the safe operation of Palo Verde, Units 1, 2, and 3 and the ISFSI. For this review, the NRC staff used, in part, the applicable guidance provided in NUREG-0800, Section 13.1.1, Revision 6, as stated in Section 3.0 of this SE.

Based on its review of the application, the NRC staff finds that the management and technical support organization of Palo Verde and its associated ISFSI will continue to support the safe operation of the facility and will retain responsibility for the operation of Palo Verde and the ISFSI after the indirect license transfer.

4.2 Operating Organization

The NRC staff reviewed the application to determine whether sufficient technical resources will continue to be provided to adequately operate Palo Verde and the ISFSI as a result of the indirect license transfer. For this review, the NRC staff used, in part, the applicable guidance provided in NUREG-0800, Sections 13.1.2 - 13.1.3, Revision 7, as stated in Section 3.0 of this SE.

As provided in the application, APS will continue to be the licensed operator of Palo Verde and its ISFSI. With the consummation of the transaction, the NRC staff concludes that the technical qualifications of the APS operating organization will not be adversely affected by the transaction, and that APS will continue to safely operate Palo Verde and the ISFSI.

Based on its evaluation as summarized above, the NRC staff concludes that the indirect license transfer satisfies 10 CFR 50.80 and 10 CFR 72.50 with respect to technical qualifications.

5.0 FINANCIAL QUALIFICATIONS

According to the application, following the indirect license transfer, APS and EPE continue to generate, transmit, and distribute electricity to ratepayers and recover their costs for such activities through rates authorized by their respective public utilities commissions and the Federal Energy Regulatory Commission. As such, APS and EPE continue to be electric utilities as defined in 10 CFR 50.2 following the indirect license transfer. Accordingly, for the operating Palo Verde facility and for the affiliated generally licensed ISFSI, the application is not subject to financial qualifications review under 10 CFR 50.33(f)(2). This is consistent with the guidance in NUREG-1577.

In consideration of the foregoing, the NRC staff finds that the financial qualifications of APS and EPE are not adversely impacted by the indirect license transfer. Therefore, the NRC staff concludes that the indirect license transfer satisfies 10 CFR 50.80 and 10 CFR 72.50 with respect to financial qualifications.

6.0 DECOMMISSIONING FUNDING

According to the application, EPE continues to maintain its existing nuclear decommissioning trust funds (NDTs) for the full 15.8 percent interest in the Palo Verde NRC license for which it has been historically responsible. Along with retaining the NDTs, EPE is still retaining its 15.8 percent share of liability and regulatory responsibility for the decommissioning costs for the NRC licenses.

As provided in 10 CFR 50.75(f)(1), licensees are required to report to the NRC, by March 31, 1999, and at least once every 2 years thereafter, on the status of their decommissioning funding for each reactor or part of a reactor that they own. The most recent EPE decommissioning funding status report for its 15.8 percent share of ownership of the Palo Verde NRC licenses was provided to the NRC by APS on March 26, 2021 (ADAMS Accession No. ML21085A877). APS's submittal provides comprehensive decommissioning funding status report information for each of the seven owners of Palo Verde.

The APS decommissioning funding status report provided information to the NRC on the status of decommissioning trust funding for the Palo Verde NRC licenses, as of December 31, 2020. Per the submittal, the total amount of decommissioning funds required for each Palo Verde unit, using the table of minimum amounts formula under 10 CFR 50.75, was \$530 million (in 2020 dollars). Based on EPE's 15.8 percent ownership of the Palo Verde NRC licenses, the amount of decommissioning funds estimated to be required by EPE pursuant to 10 CFR 50.75(b) and (c) was approximately \$54 million per unit (in 2020 dollars); per the APS submittal, EPE reported trust fund balances of approximately \$119 million, \$119 million, and \$113 million, for Palo Verde, Units 1, 2, and 3, respectively, as of December 31, 2020.

The NRC staff evaluated these funding amounts using guidance provided in NUREG-1307, Revision 18. The NRC staff determined that the current funding amounts, which were retained following the indirect transfer, exceed the NRC minimum decommissioning funding requirements based on current trust fund balances and future compounding of fund assets within the trust funds through the operating licenses' expiration dates. Also, the ISFSI at Palo Verde is a generally licensed ISFSI and the Palo Verde licensee owners currently rely on excess funds from the 10 CFR 50.75 decommissioning trust funds as financial assurance for ISFSI decommissioning, a method authorized by 10 CFR 50.75(e) and 10 CFR 72.30(e)(5). The NRC staff finds that the aggregate dollar amount of financial instruments provides adequate financial assurance to cover the cost estimates and, therefore, these financial instruments are acceptable for ISFSI decommissioning.

In consideration of the above, the NRC staff finds that the decommissioning funding arrangements currently in place for the Palo Verde NRC licenses are not affected by the indirect license transfer. The information provided in the application and in the biennial decommissioning funding status report for Palo Verde conforms to the guidance in NUREG-1577 for the NRC staff's review of decommissioning funding assurance. Therefore, the NRC staff concludes that APS and EPE have complied with the regulations at 10 CFR 50.75 and 10 CFR 72.30 with respect to providing decommissioning funding assurance for Palo Verde and its ISFSI.

Based in its evaluation as summarized above, the NRC staff concludes that the indirect license transfer satisfies 10 CFR 50.33(k)(1), 10 CFR 50.80 and 10 CFR 72.50 with respect to decommissioning funding.

7.0 ANTITRUST

The Act does not require or authorize antitrust reviews of post-operating license transfer applications.¹ The application postdates the issuance of the operating licenses for the facility under consideration in this SE and, therefore, no antitrust review is required or authorized.

8.0 FOREIGN OWNERSHIP, CONTROL, OR DOMINATION

Consistent with 10 CFR 50.33(d)(3), the application provided that IIF US 2 is an infrastructure investment fund managed and controlled by its general partner, IIF US 2 GP. Prior to the indirect license transfer, the IIF US 2 GP Owners were Rita J. Sallis, Christopher Ward, and Dennis Clarke. With the replacement of Dennis Clarke by Anne Cleary pursuant to the September 30, 2020 Resolution, the IIF US 2 GP Owners are Rita J. Sallis, Christopher Ward, and Anne Cleary.

According to the application, IIF US 2's limited partners and their upstream investors constitute the investors providing capital for IIF US 2's activities. IIF US 2's limited partners and their upstream investors are passive and do not have the ability to direct the management or control of IIF US 2 or any of its subsidiaries. The passive economic interests held by IIF US 2's limited partners and upstream investors are broadly held (i.e., are held by both domestic and foreign investors). As of January 31, 2021, approximately 57 percent of the passive limited partner investors are: United States (19.78 percent); Canadian (12.04 percent); and United Kingdom (U.K.) (25.20 percent) entities. The remaining passive limited partner investors are distributed in the aggregate by region as follows: Europe excluding the U.K. (approximately 17 percent); Japan (10.36 percent); Middle East (approximately 9 percent); Australia (approximately 4 percent); Asia excluding Japan (approximately 2 percent); and all "Other" regions (less than 1 percent). Further, only four countries have aggregated passive economic interests in the fund above 5 percent. These are: U.K.; United States; Canada; and Japan. To IIF US 2's knowledge, no single foreign passive upstream limited partner investor in IIF US 2 holds directly or indirectly through affiliates more than a 5 percent passive economic interest in the aggregate in IIF US 2.

According to the application, after the transaction described above, EPE retained its own board of directors and principal officers all of whom are U.S. citizens. Also, all of EPE's upstream owners are U.S. entities controlled by U.S. citizens that are ultimately controlled by the IIF US 2 GP Owners, all of whom are U.S. citizens. Lastly, the limited partners in IIF US 2 and their passive upstream investors (foreign or domestic) are expressly prohibited from participating or taking part in the management or control of IIF US 2's business and have no power or authority to act for or on behalf of, or to bind, IIF US 2, or its subsidiaries, including EPE.

The NRC staff reviewed the information provided in the application. Based on this review, the NRC staff concludes that it does not know or have reason to believe that any of the parties related to the indirect license transfer are owned, controlled, or dominated by a foreign interest and that the transfer meets the FOCD requirement of 10 CFR 50.38.

9.0 NUCLEAR INSURANCE AND INDEMNITY

¹ Kansas Gas and Electric Co., et al. (Wolf Creek Generating Station, Unit 1), CLI-99-19, 49 NRC 441 (1999).

Upon review of the requirements of the Price-Anderson Act (Section 170 of the Act) and the NRC's implementing regulations at 10 CFR Part 140, the NRC staff finds that the current indemnity agreement does not need to be modified to reflect the indirect license transfer since there is no change to the named license holders. Additionally, the financial protection currently provided by APS in the form of offsite liability insurance and onsite property insurance continues to remain in effect unchanged. APS remains required to provide, maintain, and report the appropriate amount of insurance in accordance with 10 CFR 50.54(w), 10 CFR 140.11(a)(4), and 10 CFR 140.21.

10.0 CONCLUSION

EPE holds possession-only rights in the Palo Verde NRC licenses. APS continues to be the operator for Palo Verde following the indirect license transfer such that the relationship of the nuclear-oriented parts of the organization to the rest of the corporate organization remains the same. The license transfer does not require or involve any change in APS's management or staffing of its nuclear organization or procedures. The license transfer does not affect APS's technical qualifications to operate Palo Verde as originally licensed. Moreover, APS's nuclear organization continues to have clear and direct lines of responsibility and authority such that the technical support for operations remains uninterrupted.

Based on its review of the information provided in the application and its independent analysis, the NRC staff finds that the indirect transfer of control of licenses satisfies the NRC's technical qualifications; financial qualifications; decommissioning funding; antitrust; FOCD; and nuclear insurance and indemnity requirements.

The Commission has concluded, based on the considerations discussed above, that (1) the transferee is qualified to be the holder of the licenses and (2) transfer of the licenses is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

Principal Contributors: T. Wertz, NMSS
S. McCarthy, NMSS
D. Ki, NRR

Date: January 25, 2022

SUBJECT: PALO VERDE NUCLEAR GENERATING STATION, UNITS 1, 2, AND 3 AND THE INDEPENDENT SPENT FUEL STORAGE INSTALLATION - ORDER APPROVING INDIRECT TRANSFER OF CONTROL OF LICENSES (EPID L-2021-LLM-0002) DATED JANUARY 25, 2022

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RidsNrrLAPBlechman Resource	CNolan, OEDO
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ADAMS Accession Nos.:

Package: ML22003A102

Letter/SE: ML22003A105

Order: ML22003A106

FRN (not in pkg): ML22003A104

*by e-mail

**by memorandum

OFFICE	NRR/DORL/LPL4/PM*	NRR/DORL/LPL4/LA*	NMSS/REFS/FAB/BC*	NRR/DRO/IOLB/BC**
NAME	SLingam	PBlechman	FMiller	CCowdrey
DATE	1/03/2022	1/04/2022	11/10/2021	4/23/2021
OFFICE	OGC – NLO*	NRR/DORL/LPL4/BC*	NRR/DORL/D*	NRR/DORL/LPL4/PM*
NAME	JWachutka	JDixon-Herrity	BPham (BWittick for)	SLingam
DATE	1/20/2022	1/21/2022	1/25/2022	1/25/2022

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