



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

March 4, 2021

EA-20-128

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

SUBJECT: PALO VERDE NUCLEAR GENERATING STATION, UNITS 1, 2, AND 3 –
NOTICE OF VIOLATION; NRC INSPECTION REPORT 05000528/2021090,
05000529/2021090, AND 05000530/2021090

Dear Mrs. Lacal:

This letter refers to the onsite inspection conducted from September 29 to October 3, 2020, at Palo Verde Nuclear Generating Station, Units 1, 2, and 3, with in-office inspection through November 19, 2020. The purpose of the inspection was to review the licensed operator requalification program and licensed operator performance. On November 19, 2020, the inspectors conducted a final telephonic exit briefing with Mr. Todd Horton, Senior Vice President, Site Operations, and other members of your staff. Details of this inspection and the apparent violation were provided to you in NRC Inspection Report 05000528/2020011, 05000529/2020011, and 05000530/2020011, dated December 15, 2020, NRC's Agencywide Documents Access and Management System (ADAMS) Accession No. ML20324A079.

On February 11, 2021, a predecisional enforcement conference (PEC) was conducted virtually with Mr. Horton and members of your staff to discuss the apparent violation, its significance, its root causes, and your corrective actions.

Based on the information developed during the inspection and the information that your staff provided during the conference, the NRC has determined that a violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding it are described in detail in the December 15, 2020, inspection report. The violation was evaluated in accordance with the NRC Enforcement Policy, which is available on the NRC's website at <http://www.nrc.gov/about-rc/regulatory/enforcement/enforce-pol.html>.

This violation impacted the NRC's ability to perform its regulatory function because a complete and accurate license application was not submitted, and the NRC did not have the opportunity to evaluate the medical condition of an applicant. At the PEC, your staff presented information that included a summary list of past NRC enforcement actions that were issued as Severity Level IV. Your staff provided a perspective that the apparent violation described in the December 15, 2020, inspection report, was similar to these past cases and should be processed as non-escalated enforcement.

The NRC reviewed the information provided by your staff at the PEC and noted that the list of past cases mostly involved licensed operators who failed to report a condition that would have required a license restriction to establish or maintain their medical qualification. The NRC's Enforcement Policy provides a Severity Level IV example (Policy Example 6.4.d.1.(d)) that recognizes that in these situations, licensees have limited opportunity to foresee or correct the incomplete information because it was not disclosed to them by the licensed operator or applicant. For the apparent violation described in our December 15, 2020, inspection report, the operator properly reported the medical condition but, because of internal process weaknesses, your staff failed to appropriately document the condition on NRC Form 396 "Certification of Medical Examination by Facility Licensee." As a result, the NRC issued an operator license without the appropriate restriction. The NRC's Enforcement Policy provides a Severity Level III example (Policy Example 6.4.c.4.(a)) that matches the circumstances of this violation. Therefore, the violation has been categorized in accordance with the NRC Enforcement Policy as Severity Level III.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$150,000 is considered for a Severity Level III violation.

Because your facility has not been the subject of escalated enforcement actions within the last 2 years, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment process in Section 2.3.4 of the NRC Enforcement Policy. The NRC has determined that *Corrective Action* credit is warranted for your prompt and comprehensive corrective actions that included: (1) submitting a revised NRC Form 396, (2) modifying procedures for licensed operator medical exams and the operator licensing and requalification process, (3) conducting a "stand down" for health services staff to discuss the events that led to the violation, (4) revising training for licensed operators regarding expectations for how license-related documentation is reviewed, (5) establishing a centralized position for oversight responsibilities for operator licensing and requalification, and (6) emphasizing expectations that licensed operators "own their license."

Therefore, to encourage prompt and comprehensive correction of the violation, and in recognition of the absence of previous escalated enforcement action, I have been authorized, after consultation with the Director, Office of Enforcement not to propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty.

The NRC has concluded that information regarding: (1) the reason for the violation; (2) the corrective actions that have been taken and the results achieved; and (3) the date when full compliance was achieved is already adequately addressed on the docket in the February 24, 2012, PEC meeting summary (ADAMS Accession No. ML21055A850) and in the December 15, 2020, inspection report. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice and Procedure," a copy of this letter, its enclosure, and your response, if you choose to provide one, will be made available for public inspection in the NRC Public Document Room or from the NRC's ADAMS, accessible from the NRC website at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy or proprietary information so that it can be made available to the public without redaction. The NRC also includes significant

enforcement actions on its website at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions>.

If you have any questions concerning this matter, please contact Mr. Gregory Werner of my staff at 817-200-1159.

Sincerely,

Scott A. Morris
Regional Administrator

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

Enclosure: Notice of Violation

PALO VERDE NUCLEAR GENERATING STATION, UNITS 1, 2, AND 3 – NOTICE OF VIOLATION; NRC INSPECTION REPORT 05000528/2021090, 05000529/2021090, AND 05000530/2021090 – DATED MARCH 4, 2021

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ADAMS ACCESSION NUMBER: **ML21062A304**

SUNSI Review ADAMS: Non-Publicly Available Non-Sensitive Keyword:
 By: PAJ Yes No Publicly Available Sensitive NRC-002

OFFICE	ES: ACES	TL:ACES	C:OB	C:PBD	RC:ORA	OE
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DATE	02/25/21	02/26/21	03/01/21	02/26/21	03/01/21	03/02/21
OFFICE	NRR	D:DRS	RA			
NAME	RFelts	GMiller	SMorris			
SIGNATURE	/RA/	/RA/	/RA/			
DATE	03/02/21	03/02/21	03/04/21			

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NOTICE OF VIOLATION

Arizona Public Service Company
Palo Verde Nuclear Generating
Station Units 1, 2, and 3

Docket Nos.: 50-528, 50-529, and 50-530
License Nos.: NPF-41, NPF-51, and NPF-74
EA-20-128

During an NRC inspection conducted from September 29 to October 3, 2020, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 50.9 requires, in part, that information provided to the NRC by a licensee shall be complete and accurate in all material respects.

10 CFR 55.3 requires, in part, that a person must be authorized by a license issued by the Commission to perform the function of an operator or senior operator as defined in 10 CFR Part 55.

10 CFR 55.21 requires, in part, that an applicant for a license shall have a medical examination by a physician and that the physician shall determine that the applicant meets requirements of 10 CFR 55.33(a)(1).

10 CFR 55.33(a)(1) requires, in part, that the Commission will approve an initial application for license if it finds that an applicant's medical condition and general health will not adversely affect the performance of assigned operator job duties or cause operational errors endangering public health and safety, as detailed in 10 CFR 55.23.

10 CFR 55.33(b) states, in part, that if an applicant's general medical condition does not meet the minimum standards under 10 CFR 55.33(a)(1), the Commission may approve the application and include conditions in the license to accommodate the medical defect based on supporting evidence provided by the facility licensee and examining physician as provided on NRC Form 396.

10 CFR 55.23 requires, in part, that to certify the medical fitness of the applicant, an authorized representative of the facility licensee shall complete and sign NRC Form 396. NRC Form 396 must certify that a physician has conducted the medical examination of the applicant as required in 10 CFR 55.21. When the certification requests a conditional license based on medical evidence, the medical evidence must be submitted on NRC Form 396 to the Commission and the Commission then makes a determination in accordance with 10 CFR 55.33.

Contrary to the above, on September 19, 2019, the licensee provided information to the NRC that was not complete and accurate in all material respects. Specifically, the licensee submitted a licensed reactor operator application with an NRC Form 396 that certified the medical fitness of the applicant and documented one medical condition that required a restricting license condition. The NRC Form 396 was not complete and accurate since the applicant had a second medical condition that required a restricting license condition and the licensee failed to include that condition. Based on the incomplete and inaccurate information, the NRC issued the applicant an operator license with only one of two restricting license conditions on November 12, 2019.

This is a Severity Level III violation (NRC Enforcement Policy, Section 6.4.c.4.(a)).

Enclosure

The NRC has concluded that information regarding: (1) the reason for the violation; (2) the corrective actions that have been taken and the results achieved; and (3) the date when full compliance was achieved is already adequately addressed on the docket in the February 24, 2012, PEC meeting summary and in the December 15, 2020, inspection report. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation; EA-20-128" and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001 with a copy to the Regional Administrator, Region IV, 1600 East Lamar Blvd., Arlington, Texas 76011-4511, and a copy to the NRC Resident Inspector at the Palo Verde Nuclear Generating Station, and email it to R4Enforcement@nrc.gov within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

If you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC website at <http://www.nrc.gov/reading-rm/adams.html>. Therefore, to the extent possible, the response should not include any personal privacy or proprietary information so that it can be made available to the public without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such information, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information).

Dated this 3rd day of March 2021