

Nuclear Regulatory Commission, Washington, DC 20555-0001, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011, and to APS. Because of the possible disruptions in delivery of mail to United States Government offices, it is requested that answers and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301-415-1101 or by e-mail to [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov) and also to the Office of the General Counsel either by means of facsimile transmission to 301-415-3725 or by e-mail to [OGCMailCenter@nrc.gov](mailto:OGCMailCenter@nrc.gov). If such a person requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this 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 hearing. 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 20 days from the date of this 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. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated this 19th day of October 2007.

For the Nuclear Regulatory Commission.

**Elmo E. Collins,**

*Regional Administrator.*

[FR Doc. E7-21212 Filed 10-26-07; 8:45 am]

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## NUCLEAR REGULATORY COMMISSION

[IA-07-039]

### In the Matter of Mr. Mark Sharp; Confirmatory Order (Effective Immediately)

#### I

Mr. Mark Sharp was previously the holder of a senior operator's license pursuant to 10 CFR Part 55 granted by

the Nuclear Regulatory Commission (NRC or Commission). License No. SOP-43795 (Docket No. 55-31662) was granted to Mr. Sharp on December 6, 1996, and it expired, at the request of Arizona Public Service Company, on December 11, 2006. This senior operator license allowed Mr. Sharp to direct the licensed activities of licensed operators at, and to manipulate the controls of the Palo Verde Nuclear Generating Station, Unit Nos. 1, 2 and 3. Under the provisions of 10 CFR Part 55, and while his license was in effect, Mr. Sharp was required to observe all applicable rules, regulations, and orders of the Commission.

#### II

On November 9, 2006, the managers at Palo Verde Nuclear Generating Station informed the NRC that Mr. Mark Sharp, a qualified senior operator, may have falsified a record related to a steam generator blowdown. Specifically, on November 8, 2006, Mr. Sharp mistakenly entered an incorrect blowdown constant into the plant computer and subsequently attempted to cover up the mistake by falsifying the blowdown record. As a result, the NRC Office of Investigations (OI), Region IV, conducted an investigation into the circumstances surrounding this matter.

Based on the results of the OI investigation, the NRC identified an apparent violation to Mr. Sharp by letter dated July 12, 2007. The letter informed Mr. Sharp that the NRC was considering the apparent violation for escalated enforcement action in accordance with the NRC Enforcement Policy. Specifically, the apparent violation involved Mr. Sharp's failure to observe license condition 10 CFR Part 55.53(d) in that he engaged in deliberate misconduct prohibited by 10 CFR 50.5 when he caused a required plant record to be inaccurate, thereby causing Arizona Public Service Company to be in violation of 10 CFR 50.9.

In the NRC's July 12, 2007, letter to Mr. Sharp, the NRC offered Mr. Sharp a choice to (1) attend a Pre-decisional Enforcement Conference, or (2) request Alternative Dispute Resolution (ADR) with the NRC in an attempt to resolve any disagreement.

#### III

In response to the July 12 letter, Mr. Sharp requested ADR to resolve the matter with the NRC. ADR is a process in which a neutral mediator, with no decision-making authority, assists the parties in reaching an agreement to resolve any differences regarding the dispute.

An ADR session was conducted between Mr. Mark Sharp and the NRC in Arlington, Texas, on August 21, 2007. During that ADR session, a settlement agreement was reached. The elements of the Agreement in Principle consisted of the following.

Whereas, Mr. Mark Sharp and the NRC agree that Mr. Sharp deliberately violated NRC requirements on November 8, 2006, by falsifying a steam generator blowdown log to cover up a mistake while licensed as a senior reactor operator at Palo Verde Nuclear Generating Station;

Whereas, the NRC has determined that this was an anomalous, isolated incident and is not reflective of his performance in the industry, neither NRC nor Mr. Sharp believe these factors justify or minimize the significance of deliberately falsifying a required record to cover up his mistake. NRC acknowledges Mr. Sharp's 25 years of performance in the nuclear industry without a similar incident; and

Whereas, these terms and conditions shall not be binding on either party until memorialized in a Confirmatory Order issued by the NRC to Mr. Sharp relating to this matter.

Therefore, the parties agree to the following terms and conditions:

1. Mr. Sharp will not participate in activities requiring a 10 CFR Part 55 license until items 2-4 of this agreement are completed. Mr. Sharp is not prohibited from engaging in activities related to training of operators or any other 10 CFR Part 50 regulated activities.

2. Mr. Sharp will submit a letter to the NRC Region IV Regional Administrator, to be docketed, articulating why the NRC should have confidence that he can be trusted to engage in activities under NRC jurisdiction in the future with the integrity such activities demand. This letter will be submitted within 30 days of the date of the Confirmatory Order.

3. Mr. Sharp agrees to submit an article to the "Communicator" (a publication of the Professional Reactor Operator Society) articulating lessons learned from this incident and emphasizing the importance of self-reporting and not covering up errors. This article will be submitted within 60 days of the date of the Confirmatory Order with a copy submitted to the NRC at least 7 days earlier.

4. Mr. Sharp agrees to prepare and submit an operating experience report to the Institute for Nuclear Power Operations regarding his actions on November 8, 2006, and the lessons learned from that experience. This report will be submitted within 60 days of the date of the Confirmatory Order

with a copy submitted to the NRC at least 7 days earlier.

5. Mr. Sharp agrees to continue to incorporate his lessons learned into the training opportunities afforded him in the nuclear industry for a minimum period of 1 year from the date of the Confirmatory Order.

6. Mr. Sharp and the NRC agree that Mr. Sharp may share the terms of this Agreement in Principle with his current workplace supervisors prior to the issuance of the Confirmatory Order.

7. The NRC agrees not to pursue any further enforcement action in connection with the NRC's July 12, 2007, letter to Mr. Mark Sharp. This does not prohibit NRC from taking enforcement action in accordance with the NRC Enforcement Policy if Mr. Sharp commits a similar violation in the future or violates this order.

On October 16, 2007, Mr. Mark Sharp consented to issuing this Order with the commitments, as described in Section V below. APS further agreed that this Order is to be effective upon issuance and that it has waived its right to a hearing.

#### IV

Since Mr. Sharp has agreed to take actions to address NRC concerns, as set forth in item III above, the NRC has concluded that its concerns can be resolved through issuance of this Order.

I find that Mr. Sharp's 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 Mr. Sharp's commitments be confirmed by this Order. Based on the above and Mr. Sharp's consent, this Order is immediately effective upon issuance.

#### V

Accordingly, pursuant to sections 104, 161b, 161i, 161o, and 186 of the Atomic Energy Act of 1954, as amended, the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 55, *It is hereby ordered*, effective immediately, that:

1. Mr. Sharp will not participate in activities requiring a 10 CFR Part 55 license until items 2–4 below are completed. Mr. Sharp is not prohibited from engaging in activities related to training of operators or any other 10 CFR Part 50 regulated activities.

2. Mr. Sharp will submit a letter to the NRC Region IV Regional Administrator, to be included in his docket file, articulating why the NRC should have confidence that he can be trusted to engage in activities under NRC

jurisdiction in the future with the integrity such activities demand. This letter will be submitted within 30 days of the date of this Confirmatory Order.

3. Mr. Sharp will submit an article to the "Communicator" (a publication of the Professional Reactor Operator Society) articulating lessons learned from this incident and emphasizing the importance of self-reporting and not covering up errors. This article will be submitted within 60 days of the date of this Confirmatory Order with a copy submitted to the NRC Region IV Regional Administrator at least 7 days before submission to the "Communicator."

4. Mr. Sharp will prepare and submit an operating experience report to the Institute for Nuclear Power Operations regarding his actions on November 8, 2006, and the lessons learned from that experience. This report will be submitted within 60 days of the date of this Confirmatory Order with a copy submitted to the NRC Region IV Regional Administrator at least 7 days before submission to the Institute.

5. Mr. Sharp will continue to incorporate his lessons learned into the training opportunities afforded him in the nuclear industry for a minimum period of one year from the date of this Confirmatory Order.

The Regional Administrator, NRC Region IV, may relax or rescind, in writing, any of the above conditions upon a showing by Mr. Sharp of good cause.

#### VI

Any person adversely affected by this Confirmatory Order, other than Mr. Mark Sharp, may request a hearing within 20 days of its issuance. 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 20555-0001, and include a statement of good cause for the extension. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, *Attn:* Chief, Rulemakings and Adjudications Staff, Washington, DC 20555-0001. Copies of the hearing request shall also be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011-4005, and to Mr. Mark Sharp. Because of the possible

disruptions in delivery of mail to United States Government offices, it is requested that answers and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301-415-1101 or by e-mail to [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov) and also to the Office of the General Counsel either by means of facsimile transmission to 301-415-3725 or by e-mail to [OGCMailCenter@nrc.gov](mailto:OGCMailCenter@nrc.gov). If a person other than Mr. Sharp requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this 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 hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

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An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated this 19th day of October 2007.

For the Nuclear Regulatory Commission.

**Elmo E. Collins,**

*Regional Administrator.*

[FR Doc. E7-21211 Filed 10-26-07; 8:45 am]

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## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Reactor Safeguards (ACRS); Meeting of the ACRS Subcommittee on Reliability and Probabilistic Risk Assessment; Notice of Meeting

The ACRS Subcommittee on Reliability and Probabilistic Risk Assessment (PRA) will hold a meeting on November 27, 2007, Room T-2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

*Tuesday, November 27, 2007—8:30 a.m. until the conclusion of business*