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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

OFFICE OF THE SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

BEFORE THE COMMISSION

In the Matter of:)
)
Pacific Gas and Electric Co.)
)
(Diablo Canyon Power Plant,)
Units 1 and 2))

Docket Nos. 50-275
50-323

ANSWER OF PACIFIC GAS AND ELECTRIC COMPANY TO NORTHERN CALIFORNIA
POWER AGENCY CONDITIONAL REQUEST FOR HEARING AND
SUGGESTION THAT PROCEEDING BE HELD IN ABEYANCE

I. INTRODUCTION

In accordance with 10 C.F.R. § 2.1307(a), Pacific Gas and Electric Company ("PG&E") herein answers the Petition for Leave to Intervene, Conditional Request for Hearing, and Suggestion that the Proceeding Be Held in Abeyance ("Petition") filed on February 6, 2002, by the Northern California Power Agency ("NCPA"). The Petition relates to PG&E's application for NRC approval, pursuant to Section 184 of the Atomic Energy Act and 10 C.F.R. § 50.80, of a proposed transfer of the operating licenses for the Diablo Canyon Power Plant, Units 1 and 2 ("DCPP"). As discussed below, NCPA's suggestion of a deferral of NRC action on the application and a deferral of this proceeding should be denied. With respect to NCPA's conditional hearing request, PG&E urges the Commission to accept the approach proposed by PG&E in its application regarding the existing DCPP antitrust license conditions, thereby mooted NCPA's request.

II. BACKGROUND

A. The License Transfer Application

In an application dated November 30, 2001, PG&E requested the NRC's approval of the direct transfer of the DCPD operating licenses currently held by PG&E. This request was made in support of a comprehensive Plan of Reorganization ("Plan") for PG&E. The Plan involves a disaggregation and restructuring of the businesses of PG&E and is intended to allow PG&E to emerge from bankruptcy.

On April 6, 2001, PG&E had filed a petition for relief under Chapter 11 of the United States Bankruptcy Code. PG&E's goal was to halt the deterioration of its financial position, restore the company to financial health, and continue supplying electricity and gas in the normal course of business. PG&E and its parent corporation, PG&E Corporation, subsequently filed the Plan (and associated Disclosure Statement) with the Bankruptcy Court.¹ The Plan must be approved by the Bankruptcy Court under Section 1129 of the Bankruptcy Code, 11 U.S.C. § 1129.

As a general matter, under the Plan, the current businesses of PG&E will be disaggregated and restructured. PG&E will divide its operations and the assets of its business lines among four separate operating companies. The majority of the assets and liabilities associated with the PG&E's electric transmission business will be contributed to ETrans LLC ("ETrans"); the majority of PG&E's gas transmission assets and liabilities will be contributed to GTrans LLC ("GTrans"); and the majority of the assets and liabilities associated with PG&E's generation business, including DCPD, will be contributed to Electric Generation LLC ("Gen") or

¹ The Plan was originally filed with the Bankruptcy Court on September 20, 2001. Various amendments to the Plan have been subsequently filed.

to its subsidiaries. Ownership of DCPD will be assigned to a wholly-owned subsidiary of Gen, Diablo Canyon LLC ("Nuclear").

After some intermediate steps described in the license transfer application, ETrans, GTrans and Gen will, under the Plan, become indirect wholly-owned subsidiaries of PG&E Corporation (which will change its name). PG&E will retain most of the remaining assets and liabilities, and will continue to conduct local electric and gas distribution operations and associated customer services. Once PG&E's businesses have been disaggregated, PG&E Corporation will declare a dividend and distribute the common stock of PG&E to its public shareholders, separating PG&E from PG&E Corporation. Through the proposed restructuring, PG&E anticipates that value realized will provide necessary cash and increased debt capacity to enable it to repay creditors, restructure existing debt, and emerge from the bankruptcy with new businesses, including Gen, that will be financially sound going forward.

Because the restructuring involves the transfer of ownership and operating authority for DCPD from PG&E to Nuclear and Gen respectively, NRC approval under 10 C.F.R. § 50.80 is required. In accordance with 10 C.F.R. § 50.90, PG&E is also requesting approval of certain administrative amendments to conform the operating licenses. In addition, with respect to the existing DCPD antitrust license conditions, PG&E is not proposing any substantive changes. The existing antitrust conditions would be carried forward and Gen, ETrans, and PG&E would become licensees specifically responsible for those conditions. (ETrans and PG&E will be licensees solely for the limited purpose of the antitrust conditions.) In effect, for NRC enforcement purposes, these three entities will be jointly and severally obligated to meet the antitrust conditions.

B. The Limited Scope of Subpart M Proceedings

Pursuant to 10 C.F.R. § 2.1301(b), on January 17, 2002, the NRC published a notice of consideration of approval of the license transfers and opportunity to request a hearing.² NCPA timely filed its petition on February 6, 2002.

Any hearing necessary in connection with this matter would be conducted in accordance with the hearing procedures of 10 C.F.R. Part 2, Subpart M. These procedures were expressly adopted by the Commission to assure that license transfer proceedings are resolved in an expedited manner, recognizing the time-sensitivity that accompanies license transfer cases. *See* Final Rule, Streamlined Hearing Process for NRC Approval of License Transfers, 63 Fed. Reg. 66,721, 66,722 (Dec. 3, 1998). These purposes directly apply to the present case, where there is a strong public interest in PG&E's timely exit from bankruptcy.

To intervene as of right in a Subpart M proceeding, a petitioner must first demonstrate that it has standing. To do so, a petitioner must:

- (1) identify an interest in the proceeding by
 - (a) alleging a concrete and particularized injury (actual or threatened) that
 - (b) is fairly traceable to, and may be affected by, the challenged action (*e.g.*, the grant of an application), and
 - (c) is likely to be redressed by a favorable decision, and
 - (d) lies arguably within the "zone of interests" protected by the governing statute(s) and
- (2) specify the facts pertaining to that interest.

² Pacific Gas and Electric Company, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2; Notice of Consideration of Approval of Transfer of Facility Operating Licenses and Conforming Amendments and Opportunity for a Hearing, 67 Fed. Reg. 2455 (Jan. 17, 2002).

10 C.F.R. §§ 2.1306, 2.1308; *see also Power Auth. of the State of N.Y.* (James A. FitzPatrick Nuclear Power Plant; Indian Point, Unit 3), CLI-00-22, 52 NRC 266, 293 (2000) (“Indian Point 3”); *GPU Nuclear, Inc.* (Oyster Creek Nuclear Generating Station), CLI-00-06, 51 NRC 193, 202 (2000) (“Oyster Creek”).

In addition, Subpart M establishes clear requirements for admissible issues. Under 10 C.F.R. § 2.1306(b)(2), a petitioner must:

- (1) set forth the issues (factual and/or legal) that petitioner seeks to raise,
- (2) demonstrate that those issues fall within the scope of the proceeding,
- (3) demonstrate that those issues are relevant to the findings necessary to a grant of the license transfer application,
- (4) show that a genuine dispute exists with the applicant regarding the issues, and
- (5) provide a concise statement of the alleged facts or expert opinions supporting petitioner’s position on such issues, together with references to the sources and documents on which petitioner intends to rely.

Consol. Edison Co. of N.Y. (Indian Point, Units 1 & 2), CLI-01-9, 54 NRC 109, 133-34 (2001) (“Indian Point 2”); *see also Indian Point 3*, CLI-00-22, 53 NRC at 295; *Oyster Creek*, CLI-00-06, 51 NRC at 203.

As discussed below, NCPA has identified its interest in this matter with respect to the continuity of the current DCPD antitrust license conditions. However, given that NCPA supports PG&E’s approach as proposed in the license transfer application, there is no genuine dispute that justifies a Subpart M hearing.

III. DISCUSSION

A. NCPA's "Suggestion" That Proceeding Be Held In Abeyance

Like the California Public Utilities Commission ("CPUC") in a separate petition, the NCPA in its Petition cites "uncertainty" surrounding the Plan. The "uncertainty" that it perceives stems principally from the ongoing proceeding at the Bankruptcy Court related to the confirmation of PG&E's Plan, and additionally on the fact that other regulatory approvals that will be necessary to implement the Plan — such as from the Federal Energy Regulatory Commission ("FERC") and the Securities and Exchange Commission ("SEC") — are pending. (Pet. at 5-6.) NCPA therefore suggests that the Plan is not "sufficiently final" to be a basis for NRC approval, especially given that the issues before the Bankruptcy Court are "quite serious." (Pet. at 7-8.) NCPA further suggests that the NRC "hold this proceeding in abeyance until the [Plan] is finalized for submission to the creditors and the submission to the creditors is approved by the court." (Pet. at 10.)

PG&E opposes NCPA's suggestion for a deferral for the same reasons that it opposes the similar motion from the CPUC. PG&E's NRC license transfer application is premised on the Plan in its current form, and requests that the NRC review the specific transfers that would be required to implement the Plan. Mindful of the possibility that the substance of the Plan may change in some respects prior to its confirmation by the Bankruptcy Court, the NRC has the authority to condition its approval of the transfers, as it considers appropriate, on (a) PG&E obtaining the necessary approvals, and/or (b) confirmation of specific elements of the Plan as may be relevant to the issues under review by the NRC. Consequently, the NRC transfer application need not — and should not — be dismissed pending confirmation of the Plan by the Bankruptcy Court or pending receipt of any other required regulatory approvals.

The NRC, in promulgating the Subpart M procedures, emphasized the importance of its timely review of license transfer applications: “Because of the need for expeditious decisionmaking from all agencies, including the Commission, for these kinds of transactions, timely and effective resolution of requests for transfers on the part of the Commission is essential.” Streamlined Hearing Process for NRC Approval of License Transfers, 63 Fed. Reg. at 66,721. Moreover, it is well settled that the pendency of parallel proceedings before other forums is not adequate grounds to stay an NRC license transfer review or adjudication. *Indian Point 3*, CLI-00-22, 52 NRC at 289; *Niagara Mohawk Power Corp.* (Nine Mile Point Nuclear Station, Units 1 & 2), CLI-99-30, 50 NRC 333, 343-44 (1999); *Consol. Edison Co. of N.Y.* (Indian Point, Units 1 & 2), CLI-01-08, 53 NRC 225, 228-30 (2001).

Moreover, as discussed in detail in PG&E’s response to a similar motion for dismissal or deferral by the CPUC, PG&E’s Plan remains viable and PG&E is continuing to aggressively pursue confirmation at the Bankruptcy Court. The Plan has widespread support and, in the five months since it was filed, has made substantial progress toward confirmation. On February 7, 2002, the Bankruptcy Court issued a ruling in which it rejected arguments of the CPUC and the State of California that the Plan is invalid on its face and cannot be confirmed because it relies on federal preemption of state law. *In re Pacific Gas & Elec. Co.*, No. 01-30923DM (Bankr. N.D. Cal. Feb. 7, 2002). The Bankruptcy Court also concluded that the Bankruptcy Code did not give “an absolute veto power to the State and the [CPUC],” *id.*, slip op. at 27 n.17, and rejected the arguments of the State and the CPUC that PG&E and PG&E Corporation are “abusing the bankruptcy process to escape the [CPUC’s] jurisdiction,” holding instead that “[u]sing bankruptcy reorganization to move from state regulation to federal regulation is not necessarily improper.” *Id.*, slip op. at 31-32. The Bankruptcy Court will permit

PG&E and PG&E Corporation to file a revised Plan and describe in a revised Disclosure Statement how enforcement of state laws barring the disaggregation contemplated by the Plan “would be an ‘obstacle to the accomplishment and execution of the full purposes of the bankruptcy laws.’” *Id.*, slip op. at 32 (citation omitted).

In sum, PG&E expects that it will be able to revise the Plan and Disclosure Statement to address the Bankruptcy Court’s directives and to establish preemption at confirmation. The NRC’s continued consideration of the license transfer application is necessary to assure timely implementation of the Plan, and the suggestion that NRC action on the application be deferred should be rejected.

B. NCPA’s “Conditional” Request For Hearing

1. *NCPA’s Interest*

In its Petition, NCPA states that its interest in this proceeding is based upon the antitrust license conditions presently included in the DCPD operating licenses (the so-called “Stanislaus Commitments”).³ NCPA recites past disputes with PG&E regarding the scope and meaning of certain of the Stanislaus Commitments, which NCPA understands to have been implemented in an NCPA-PG&E Interconnection Agreement filed with FERC in 1983. (Pet. at 12.) NCPA also states that in the past it has relied upon the NRC to enforce the DCPD antitrust license conditions.⁴ These previous disputes led to a Settlement Agreement between PG&E and

³ The Stanislaus Commitments originally resulted from a statement of commitments by PG&E to the United States Department of Justice in 1976 that were included in the DCPD operating license. References to the Stanislaus Commitments and the DCPD antitrust license conditions are, substantively, interchangeable.

⁴ NCPA specifically cites an NRC Director’s Decision and Notice of Violation (“NOV”) issued in June 1990, involving a “variant” of the NCPA-PG&E dispute related to the terms of the Stanislaus Commitments and the Interconnection Agreement.

NCPA in November 1991, where, among other things, PG&E agreed to certain procedures for implementing the Stanislaus Commitments until January 1, 2050.

PG&E does not contest NCPA's interest in this proceeding with respect to the license transfer application as it relates to the DCPD antitrust license conditions. However, with respect to antitrust issues, this NRC proceeding remains limited in scope. Specifically, consistent with Commission precedent, the NRC's antitrust review and this proceeding are limited to the NRC's *disposition* of the existing antitrust license conditions in connection with the proposed transfers. *See Kan. Gas & Elec. Co. (Wolf Creek Generating Station, Unit 1)*, CLI-99-19, 49 NRC 441, 466 (1999) ("Wolf Creek"). The NRC determined in *Wolf Creek* that, under the Atomic Energy Act, it is not required in post-operating license transfer cases to conduct new antitrust reviews, such as reviews of changes in the competitive environment since the operating licenses were issued. *Id.* at 459. Based on policy and legal considerations, including changes in the antitrust laws, the NRC further found no reason for it to conduct such reviews. *Id.* at 465.⁵ The NRC subsequently amended its rules to clarify its practice in this area. *See* Final Rule, Antitrust Review Authority: Clarification, 65 Fed. Reg. 44,649 (July 19, 2000) (amending 10 C.F.R. §§ 2.101(e), 50.42(b), and 50.80(b), such that antitrust information need be submitted only with an application for a construction permit or an initial operating license, and not for license transfer after an initial operating license has been issued).

The NRC also does not have jurisdiction over the NCPA-PG&E Interconnection Agreement or the pending proposal filed by PG&E at FERC to terminate that Interconnection

⁵ Principally, the NRC recognized that there are other agencies and other forums, such as FERC and the Department of Justice, with overlapping authority to remedy potential and existing anticompetitive conduct by NRC licensees. The NRC also found its authority to be somewhat "redundant and unnecessary" in light of FERC Order 888-A and its promise of open access to unbundled transmission service. *Id.* at 464-65.

Agreement.⁶ To the extent NCPA alleges a non-compliance by PG&E with the existing antitrust license conditions, that matter would need to be addressed — as it has been by NCPA in the past — by a petition to the NRC for enforcement action as provided by 10 C.F.R. § 2.206. Any ongoing disputes regarding the scope of the Stanislaus Commitments are beyond the scope of a license transfer review.

2. *NCPA's Issue*

In its Petition, NCPA recognizes and supports the proposal that PG&E has made in the DCPD license transfer application regarding the existing antitrust license conditions. Specifically, PG&E proposes to (a) retain the existing conditions with no substantive changes and (b) identify Reorganized PG&E, Gen, and ETrans in the license as the licensees for the purpose of continued compliance with the antitrust conditions. Under this approach, these entities in effect would be jointly and severally responsible to the NRC for compliance with the antitrust conditions. NCPA specifically requests that the NRC grant the transfer application in the manner proposed by PG&E. (Pet. at 28.)

PG&E welcomes NCPA's support of the proposed DCPD license transfer and the approach to the antitrust conditions proposed in PG&E's application. PG&E concludes that there is no dispute between NCPA and PG&E that would form the basis for a Subpart M hearing at the NRC. *See* 10 C.F.R. § 2.1306(b)(2)(iv). PG&E urges the Commission to adopt PG&E's proposal, mooted NCPA's conditional hearing request issue.⁷

⁶ As reflected in the Petition, NCPA has protested that proposed termination at FERC and FERC has not yet acted. (Pet. at 16.)

⁷ PG&E's proposed approach to the antitrust conditions is also consistent with a Stipulation that PG&E, NCPA and Palo Alto have agreed to submit to the Bankruptcy Court as a settlement. The Stipulation provides further specifics on how the Stanislaus Commitments will be implemented following the reorganization inherent in the Plan.

PG&E's proposal is consistent with the proposed disaggregation of PG&E's current businesses, in that Reorganized PG&E and ETrans will control the distribution and transmission assets, respectively.⁸ Gen, as a generating entity, will not be in a position to comply in its own right with many of the current conditions, given that many of those conditions relate to transmission and distribution functions. Likewise, Nuclear will be a company whose single purpose is to hold the ownership interest in DCP. PG&E's proposal assures the continuity of the conditions, substantively unimpaired, and additionally allows the NRC to retain a direct regulatory relationship with all of the entities that will, as a practical matter, have the ability to

PG&E agreed that — quite apart from the NRC antitrust license conditions — the rights of NCPA and Palo Alto under the Stanislaus Commitments will be unimpaired and pass through the bankruptcy unaffected. The Stipulation provides that PG&E will assign the 1991 Settlement Agreement to Reorganized PG&E, ETrans, and Gen, and that those entities will be jointly and severally responsible for the commitments. The Stipulation also identifies which of the three businesses will have primary responsibility for arranging to provide each of the various services referred to in the Stanislaus Commitments. Therefore, although each entity will have joint and several responsibility, the eligible customers will know which entity is expected to arrange for each service (*see* note 8 below).

⁸ As discussed in the license transfer application (at 13), PG&E is currently a participating transmission owner in the California Independent System Operator ("ISO"), the entity that operates and controls most of the electric transmission facilities owned by the State's three major investor-owned utilities and provides open access to electric transmission services on a non-discriminatory basis. The ISO uses PG&E's transmission facilities to provide open access transmission service. As part of the restructuring, PG&E will contribute its approximately 18,500 circuit miles of electric transmission lines and cables located in California to ETrans. ETrans will become principally responsible for interconnection and transmission service. PG&E will also assign to ETrans its contractual obligations as a participating transmission owner in the ISO. Reorganized PG&E will remain principally responsible for implementation of other services under the Stanislaus Commitments, including interconnection where the voltage is less than 60 kV, reserve coordination, and emergency power, power exchange and wholesale power sales for the first eleven years consistent with the proposed PSA. Gen will be principally responsible for emergency power, power exchange and wholesale power sales after year 11. To the extent applicable, Gen will also have primary responsibility with respect to the condition related to participation in new nuclear plants.

directly assure compliance with the antitrust conditions. The fact that the three entities will be jointly and severally responsible for compliance with the conditions closely replicates the status quo. Currently, PG&E, an integrated utility, controls compliance with all aspects of the conditions. In the proposed approach, all three entities will be effectively “bundled” for continued compliance with those conditions.

NCPA takes issue with one suggestion in the NRC’s *Federal Register* notice on the DCPD license transfer application. The NRC’s notice indicates that the NRC might consider approaches to the antitrust license conditions other than that proposed by PG&E. The notice states:

Notwithstanding the proposed changes to the antitrust conditions proffered as part of the amendments to conform the licenses to reflect their transfer from PG&E to Gen and Nuclear, the Commission is considering specifically whether to approve either all of the proposed changes to the conditions, or only some, but not all, of the proposed changes, as may be appropriate and consistent with the Commission’s decision in *Kansas Gas and Electric Co., et al. (Wolf Creek Generating Station, Unit 1)*, CLI-99-19, 49 NRC 441, 466 (1999). In particular, the Commission is considering approving only those changes that would accurately reflect Gen and Nuclear as the only proposed entities to operate and own Diablo Canyon.

Notice of Consideration of Approval of Transfer of Facility Operating Licenses and Conforming Amendments and Opportunity for a Hearing, 67 Fed. Reg. at 2456. This language contemplates that the Commission will at least consider an alternative whereby only Gen and Nuclear would be the DCPD licensees and therefore would be the only entities directly responsible to the NRC for compliance with the antitrust conditions.

PG&E finds the proposed alternative to be unnecessary. In its landmark *Wolf Creek* decision, the Commission explained that in a license transfer case it would “entertain submissions by licensees, applicants, and others with the requisite antitrust standing that propose the appropriate disposition of existing antitrust conditions.” *Wolf Creek*, CLI-99-19, 49 NRC at

466. One option the Commission hypothesized in that case was the option to “modify references to licensees in the conditions when existing licenses to whom the conditions apply merge among themselves or with other entities and new corporate licensees will result.” *Id.* Therefore, the Commission clearly contemplated modifying the antitrust licensees to conform to the post-reorganization situation.⁹ PG&E’s proposal is a license modification within the scope of options contemplated by the Commission in *Wolf Creek*.¹⁰

In addition, the present antitrust conditions apply by their terms to “Pacific Gas and Electric Company, any successor corporation, or any assignee of this license.” *See* Operating License, Appendix C (“Antitrust Conditions”), ¶ (1)a. Consistent with the Commission’s antitrust authority and the clear intent of the original license conditions imposed pursuant to that authority, the Commission should simply find Gen, ETrans, and Reorganized PG&E to be the “successors” to the current licensee (PG&E), and therefore designate those three entities in the license.¹¹ While designating only Gen in the license would be acceptable to PG&E and would serve the NRC’s policy interests, it would effectively force the NRC, if necessary, to

⁹ The Commission emphasized that it “plainly has continuing authority to modify or revoke its own validly imposed conditions.” *Id.* (citing *Ohio Edison Co.* (Perry Nuclear Power Plant, Unit 1), CLI-92-11, 36 NRC 47, 54-59 (1992)).

¹⁰ The NRC has also in the past retained a licensee, Mississippi Power and Light Company, in the Grand Gulf operating license after a license transfer for the limited purpose of the antitrust conditions. The NRC reached this result notwithstanding that Mississippi Power and Light was no longer either the owner or operator of the nuclear station, and where it had specifically requested that it be deleted from the license. Mississippi Power & Light Co., Notice of Denial of Amendments to Facility Licenses and Opportunity for Hearing, 55 Fed. Reg. 21,128, 21,129 (May 22, 1990). The Commission also specifically cited in that case its authority under Section 103.a of the Atomic Energy Act to impose conditions upon persons transferring nuclear facilities to others.

¹¹ Indeed, one alternative option would be to simply leave the license conditions unmodified and applicable to PG&E “and its successors.” This would have the same effect as PG&E’s proposal, but would perhaps lack the clarity of PG&E’s proposal.

enforce any violation of the antitrust conditions against Gen. Gen would need to enforce contractual commitments with ETrans (an affiliated company) and PG&E (a non-affiliated company) to restore compliance. In deference to NCPA and others that might share their “issue,” PG&E has proposed an approach which, as discussed above, most closely replicates the current situation and avoids this need for indirect enforcement.

PG&E disagrees, however, with NCPA’s suggestion that a full antitrust review with formal adjudicatory procedures would be necessary in order for the Commission to adopt any proposal with respect to the antitrust conditions other than PG&E’s proposal. A full review would be inconsistent with the Commission’s decision in *Wolf Creek* and would be inconsistent with the Commission’s objective in promulgating the Subpart M procedures of assuring a timely process on license transfers. Compare *Indian Point 3*, CLI-00-22, 52 NRC at 290-91; *Indian Point 2*, CLI-01-19, 54 NRC at 130 (observing that Subpart M rules cover *all* license transfer issues). Indeed, in the *Wolf Creek* case the Commission — after deciding the issue of the required scope of an antitrust review related to a post-operating license transfer — contemplated addressing the issue of the disposition of the existing antitrust conditions on papers (“submissions”), rather than in any formal Subpart G (or even Subpart M) evidentiary proceeding. *Wolf Creek*, CLI-99-19, 49 NRC at 466. The same “on-the-papers” approach would be justified here if, for some reason, there is further consideration of alternatives to PG&E’s antitrust proposal.

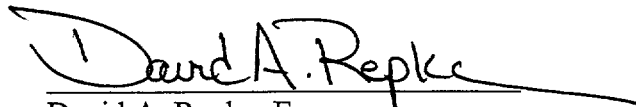
In sum, PG&E concludes that there is no dispute between it and NCPA that would merit a hearing. The Commission should adopt the amendments to the antitrust conditions essentially as proposed by PG&E and thereby moot NCPA’s “conditional” hearing request. If

further review of this matter is required, it should be based upon papers as contemplated in the *Wolf Creek* decision.

IV. CONCLUSION

For the reasons set forth above, NCPA's suggestion of a deferral of this proceeding should be denied. NCPA's conditional hearing request should also be denied.

Respectfully submitted,

A handwritten signature in black ink that reads "David A. Repka". The signature is fluid and cursive, with a long horizontal line extending from the end of the name.

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Dated in Washington, District of Columbia
This 15th day of February 2002

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

In the Matter of:)	
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Pacific Gas and Electric Co.)	Docket Nos. 50-275
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(Diablo Canyon Power Plant,)	
Units 1 and 2))	

CERTIFICATE OF SERVICE

I hereby certify that copies of "ANSWER OF PACIFIC GAS AND ELECTRIC COMPANY TO NORTHERN CALIFORNIA POWER AGENCY CONDITIONAL REQUEST FOR HEARING AND SUGGESTION THAT PROCEEDING BE HELD IN ABEYANCE" in the above captioned proceeding have been served as shown below by electronic mail, this 15th day of February 2002. Additional service by deposit in the United States mail, first class, has also been made this same day as shown below.

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