



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D. C. 20555

October 3, 1988

docket

Docket No. 50-275 and 50-323

Mr. J. D. Shiffer, Vice President
Nuclear Power Generation
c/o Nuclear Power Generation, Licensing
Pacific Gas and Electric Company
77 Beale Street, Room 1451
San Francisco, California 94106

Dear Mr. Shiffer:

SUBJECT: DIABLO CANYON NUCLEAR POWER PLANT, UNITS 1 AND 2 - TEMPORARY
EXEMPTION FROM THE SCHEDULAR REQUIREMENTS OF THE PROPERTY
INSURANCE RULE EFFECTIVE OCTOBER 4, 1988 (10 CFR 50.54(w)(5)(i))

The Commission has issued the enclosed temporary exemption from the schedular requirements of the property insurance rule effective October 4, 1988 (10 CFR 50.54(w)(5)(i)) for the Diablo Canyon Nuclear Power Plant, Units 1 and 2. This part of the rule requires licensees to obtain insurance policies that prioritize insurance proceeds for stabilization and decontamination after an accident and provide for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose.

The Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, because it is unlikely that this rulemaking action will be completed by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

The Commission, pursuant to 10 CFR 50.12(a), hereby grants a temporary exemption from the schedular requirements of 10 CFR 50.54(w)(5)(i). This temporary exemption is valid until April 1, 1989 or until such time as action on this rulemaking is completed.

8810110208 881003
PDR ADOCK 05000275
J FDC

DF01
1/1

2/P3

In granting the exemption, the staff has determined that this action is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest.

A copy of this exemption is being filed with the Office of the Federal Register for publication.

Sincerely,

A handwritten signature in black ink, appearing to read "Harry Rood". The signature is fluid and cursive, with the first name "Harry" and last name "Rood" clearly distinguishable.

Harry Rood, Senior Project Manager
Project Directorate V
Division of Reactor Projects - III,
IV, V and Special Projects
Office of Nuclear Reactor Regulation

Enclosure: As stated

cc w/enclosure:
See next page

In granting the exemption, the staff has determined that this action is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest.

A copy of this exemption is being filed with the Office of the Federal Register for publication.

Sincerely,

original signed by

Harry Rood, Senior Project Manager
Project Directorate V
Division of Reactor Projects - III,
IV, V and Special Projects
Office of Nuclear Reactor Regulation

Enclosure: As stated

cc w/enclosure:
See next page

DISTRIBUTION

Docket File
NRC & Local PDRs
PD5 Reading
TMurley/JSniezek
DMCrutchfield
CRossi
GMHolahan
MJVirgilio
JLee
HRood
OGC (for info only)
EJordan
BGrimes
TBarnhart (8)
ACRS (10)
~~Secy (Orders only)~~
ARM/LFMB
ETourigny

DRSP/PD5
JLee
9/29/88

DRSP/PD5
HRood:dr
9/30/88

RPZ
DRSP/D:PD5
GWKnighton
9/30/88

M
(A)AD:DRSP35
MJVirgilio
10/2/88

(A)D:DRSP
GMHolahan
10/5/88

OFFICIAL RECORD COPY

Mr. J. D. Shiffer
Pacific Gas and Electric Company

Diablo Canyon

cc:
Richard F. Locke, Esq.
Pacific Gas & Electric Company
Post Office Box 7442
San Francisco, California 94120

NRC Resident Inspector
Diablo Canyon Nuclear Power Plant
c/o U.S. Nuclear Regulatory Commission
P. O. Box 369
Avila Beach, California 93424

Janice E. Kerr, Esq.
California Public Utilities Commission
350 McAllister Street
San Francisco, California 94102

Mr. Dick Blakenburg
Editor & Co-Publisher
South County Publishing Company
P. O. Box 460
Arroyo Grande, California 93420

Ms. Sandra A. Silver
660 Granite Creek Road
Santa Cruz, California 95065

Bruce Norton, Esq.
c/o Richard F. Locke, Esq.
Pacific Gas and Electric Company
Post Office Box 7442
San Francisco, California 94120

Mr. W. C. Gangloff
Westinghouse Electric Corporation
P. O. Box 355
Pittsburgh, Pennsylvania 15230

Dr. R. B. Ferguson
Sierra Club - Santa Lucia Chapter
Rocky Canyon Star Route
Creston, California 93432

Managing Editor
San Luis Obispo County Telegram
Tribune
1321 Johnson Avenue
P. O. Box 112
San Luis Obispo, California 93406

Chairman
San Luis Obispo County Board of
Supervisors
Room 270
County Government Center
San Luis Obispo, California 93408

Mr. Leland M. Gustafson, Manager
Federal Relations
Pacific Gas and Electric Company
1726 M Street, N. W.
Washington, DC 20036-4502

Director
Energy Facilities Siting Division
Energy Resources Conservation and
Development Commission
1516 9th Street
Sacramento, California 95814

Dian M. Grueneich
Marcia Preston
Law Office of Dian M. Grueneich
380 Hayes Street, Suite 4
San Francisco, California 94102

Ms. Jacquelyn Wheeler
3033 Barranca Court
San Luis Obispo, California 93401

Pacific Gas & Electric Company

- 2 -

Diablo Canyon

cc:

Ms. Laurie McDermott, Coordinator
Consumers Organized for Defense
of Environmental Safety
731 Pacific Street, Suite 42
San Luis Obispo, California 93401

Mr. Jack McGurk, Acting Chief
Radiological Health Branch
State Department of Health
Services
714 P Street, Office Building #8
Sacramento, California 95814

Regional Administrator, Region V
U.S. Nuclear Regulatory Commission
1450 Maria Lane
Suite 210
Walnut Creek, California 94596

Ms. Nancy Culver
192 Luneta Street
San Luis Obispo, California 93401

President
California Public Utilities
Commission
California State Building
350 McAllister Street
San Francisco, California 94102

Michael M. Strumwasser, Esq.
Special Assistant Attorney General
State of California
Department of Justice
3580 Wilshire Boulevard, Room 800
Los Angeles, California 90010

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of

PACIFIC GAS AND ELECTRIC COMPANY

Diablo Canyon Nuclear Power Plant,
Units 1 and 2Docket Nos. 50-275
and 50-323EXEMPTION

I.

Pacific Gas and Electric Company (the licensee) is the holder of Facility Operating Licenses No. DPR-80 and No. DPR-82, which authorize operation of the Diablo Canyon Nuclear Power Plant, Units 1 and 2. The license provides, among other things, that it is subject to all rules, regulations, and orders of the Commission now or hereafter in effect.

The facility consists of two pressurized water reactors at the licensee's site located in San Luis Obispo County, California.

II.

On August 5, 1987, the NRC published in the FEDERAL REGISTER a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking,

881 0050226 400 XA

the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988).

However, because it is unlikely that this rulemaking action will be completed by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

III.

Pursuant to 10 CFR 50.12, "The Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of the regulations of [10 CFR Part 50], which are ... Authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security." Further, Section 50.12(a)(2) provides inter alia, "The Commission will not consider granting an exemption unless special circumstances are present. Special circumstances are present whenever ... (v) The exemption would provide only temporary relief from the applicable regulation and the licensee has made good faith efforts to comply with the regulation."

Despite a good faith effort to comply with the provisions of the rule, insurers providing property damage insurance for nuclear power facilities and licensees insured by such insurers have not been able to comply with the regulation and the exemption provides only temporary relief from the applicable regulation.

As noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of Section 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry \$1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage is already prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

IV.

Accordingly, the Commission has determined, pursuant to 10 CFR 50.12(a), that (1) a temporary exemption as described in Section III. is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security and (2) in this case, special circumstances are present as described in Section III. Therefore, the Commission hereby grants the following exemption:

Pacific Gas and Electric Company is exempt from the requirements of 10 CFR 50.54(w)(5)(i) until the completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking the licensee shall comply with the provisions of such rule.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not result in any significant environmental impact (53 FR 38382).

This exemption is effective upon issuance.

Dated at Rockville, Maryland this 3rd day of October, 1988.

FOR THE NUCLEAR REGULATORY COMMISSION

A handwritten signature in cursive script, appearing to read "Gary M. Holahan".

Gary M. Holahan, Acting Director
Division of Reactor Projects - III,
IV, V and Special Projects
Office of Nuclear Reactor Regulation