

RELATED CORRESPONDENCE

February 7, 2003

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USNRC

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

February 19, 2003 (2:38PM)

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

In the Matter of: )  
 )  
Pacific Gas and Electric Co. )  
 )  
(Diablo Canyon Power Plant Independent )  
Spent Fuel Storage Installation) )

Docket No. 72-26-ISFSI

ASLBP No. 02-801-01-ISFSI

SAN LUIS OBISPO COUNTY'S FIRST SET OF INTERROGATORIES  
AND REQUESTS FOR PRODUCTION OF DOCUMENTS DIRECTED TO  
PACIFIC GAS AND ELECTRIC COMPANY

In accordance with the schedule established in the Atomic Safety and Licensing Board ("Licensing Board") Memorandum and Order LBP-02-25, dated December 26, 2002,<sup>1</sup> San Luis Obispo County ("SLOC") hereby requests that Pacific Gas and Electric Company ("PG&E"): (1) answer this set of interrogatories fully, in writing and under oath, and (2) produce the documents requested below. These responses and documents should be provided within 10 days after service of this request pursuant to the schedule set forth in LBP-02-25.

<sup>1</sup> Pac. Gas & Elec. Co. (Independent Spent Fuel Storage Installation), LBP-02-25, 56 NRC  
— (slip op. Dec. 26, 2002).

## I. DEFINITIONS AND INSTRUCTIONS

### A. Scope of Discovery

These interrogatories and document production requests cover all information in the possession, custody, and control of PG&E, including information in the possession of employees, agents, representatives, attorneys, consultants, or other persons directly or indirectly employed or retained by them or voluntarily working with them, or anyone else acting on PG&E's behalf or otherwise subject to their control. The discovery sought by this request encompasses material contained in, or that might be derived or ascertained from, the personal files of PG&E's employees, agents, representatives, investigators, attorneys, consultants, or other persons directly or indirectly employed or retained by them or voluntarily working with them, or anyone else acting on PG&Es' behalf or otherwise subject to their control.

### B. Lack of Information

If PG&E currently lacks information to answer any interrogatory completely, please state:

1. the reasons for the lack of information;
2. the responsive information currently available;
3. the responsive information identified but currently unavailable;  
and
4. when PG&E anticipate receiving such information currently unavailable.

Each of the following requests requires supplementation in accordance with 10 C.F.R. §§ 2.740(e)(1) – (2). SLOC therefore requests that, in the event PG&E obtains or

discovers any additional information that is responsive to any discovery request, PG&E promptly supplements its responses to these requests.

C. Objections

In the event that PG&E objects to any interrogatory or document production request under claim of privilege, immunity, or for any other reason, please indicate the basis for asserting the objection, the person on whose behalf the objection is asserted, and describe the factual basis for asserting the objection in sufficient detail so as to permit SLOC to consider, and the Licensing Board to adjudicate, the validity of such objection.

D. Privilege Log

For any document covered by this request that is withheld under a claim of privilege, please furnish a privilege log identifying each document for which the privilege is asserted, together with the following information: date, author and affiliation, recipient and affiliation, persons to whom copies were furnished and their affiliation, the subject matter of the document, and the basis for asserting the privilege.

E. Basis and Description

When an interrogatory requires PG&E to “state the basis” or give a “description” of a claim, contention, request for remedy, allegation or the like, please provide a complete summary in which the rationale for the position and all pertinent facts, including the identity of persons, dates, documents, and events, are included.

F. PG&E

References to PG&E, “you,” and “your” refer to any branch, department, division, or other affiliate of PG&E, including their employees, agents, representatives, attorneys,

consultants, or other persons directly or indirectly employed or retained by them or voluntarily working with them, or anyone else acting on PG&E' behalf or otherwise subject to their control.

G. Documents

References to "documents" mean the complete original or a true, correct, and complete copy and any non-identical copies, whether different by reason of any notation or otherwise, of any written or graphic matter of any kind, or any data compilation, no matter how produced, recorded, stored, or reproduced (including electronic or mechanical records or representation of any kind) including, but not limited to, any writing, letter, telegram, facsimile, meeting minutes, meeting notes, memorandum, statement, computer file, book, record, survey, map, study, handwritten note, working paper, chart, tabulation, graph, tape, data sheet, database, data processing card, printout, microfilm or microfiche, interoffice and intraoffice communications, instructions, reports, demands, schedules, notices, recordings, analyses, sketches, manuals, brochures, telephone minutes, calendars, accounting ledgers, invoices, indices, notebooks, personal notes, diary entries, electronic mail, notes of interview, communication, contracts, any other agreements, data compilations, and all other writings and papers similar to any of the foregoing, however designated by you, including all drafts of all such documents.

H. Date

"Date" means the specific day, month, and year, if ascertainable, or if not, the best approximation thereof (including by relationship to other events), and the basis for such approximation.

I. Discussion

“Discussion” means communication of any kind, including, but not limited to, any spoken, written, or signed form of communication.

J. Person

“Person” means any individual, association, group, corporation, partnership, joint venture, or any other business or legal entity.

K. Describe or Identify

The words “describe” or “identify” shall have the following meanings:

1. In connection with a person, the words “describe” or “identify” mean to state the name, last known business address, last known business telephone number, and last known place of employment and job title;
2. In connection with a document, the words “describe” or “identify” mean to give a description of each document sufficient to uniquely identify it among all of the documents related to this matter, including, but not limited to, the name of the author of the document, the name of each person or entity signing or approving the document, the date on which the document was prepared, signed, and/or executed, and any other information necessary to adequately identify the document;
3. In connection with any activity, occurrence, or communication, the words “describe” or “identify” mean to describe the activity, occurrence, or communication, the date of its occurrence, the identity of each person alleged to have had any involvement with

or knowledge of the activity, occurrence, or communication, and the identity of any document recording, referencing or documenting such activity, occurrence, or communication; and

4. In connection with an entity other than a natural person (*e.g.*, corporation, partnership, limited partnership, association, institution, etc.), the words “describe” or “identify” mean to state the full name, address, and telephone number of the principal place of business of such entity.

## II. INTERROGATORIES

### Interrogatory 1

State whether PG&E currently has funds on hand to cover ongoing capital investments and costs associated with development, construction, operation and/or decommissioning of the ISFSI during the pendency of the bankruptcy proceeding and explain why PG&E believes that until the ongoing bankruptcy proceeding is concluded, the Bankruptcy Court will permit PG&E to disburse those funds to pay for the design, construction, operation or decommissioning of the proposed independent spent fuel storage installation (“ISFSI”).

### Interrogatory 2

State the basis for PG&E’s belief that it has or will have sufficient revenue or operating income to cover ongoing capital investments and costs associated with development, construction, operation and/or decommissioning of the ISFSI during the pendency of the bankruptcy proceeding and explain why PG&E believes that until the ongoing bankruptcy proceeding is concluded, either the California Public Utility Commission (“CPUC”), in the

pending or subsequent rate proceeding, and/or the Bankruptcy Court will permit PG&E to apply revenues derived from electric rates to pay for the design, construction, operation or decommissioning of the proposed independent spent fuel storage installation (“ISFSI”).

Interrogatory 3

Describe the extent to which PG&E expects to rely on debt financing to pay for ISFSI-related capital investments and expenses until the bankruptcy proceeding is concluded, why PG&E believes that such financing can be obtained despite the pendency of the bankruptcy proceeding, and why PG&E believes that the bankruptcy court will approve such financing.

Interrogatory 4

Identify the expert(s) and document(s) on which PG&E intends to rely in responding to the questions raised in Interrogatories 1 – 3, and in establishing its position with respect to the contention admitted in Licensing Board Memorandum and Order LBP-02-23 (“SLOMFP Contention TC-2”).

Interrogatory 5

Describe how PG&E will demonstrate financial qualification under 10 C.F.R. 72.22(e) during the pendency of the bankruptcy proceeding if the CPUC does not have ratepayer funding available for ISFSI-related expenditures.

### III. DOCUMENT PRODUCTION REQUESTS

#### Request 1

All documents that are identified, or referred to, in responding to Interrogatory 4.

#### Request 2

All documents that PG&E intends to use, exhibit, or otherwise rely upon in this Subpart K proceeding to support its position on SLOMFP Contention TC-2.

#### Request 3

All documents suggesting that PG&E will be able to provide ongoing funding to design, construct, operate and/or decommission the ISFSI during the pendency of the bankruptcy proceeding, because PG&E either already has the funds, can obtain the funds through the rate-making process and will be permitted to expend those funds by the bankruptcy court, or can obtain the funds through debt financing and will be permitted to expend those funds by the bankruptcy court.

Respectfully submitted,



Robert K. Temple, Esq.  
Sheldon L. Trubatch,  
Counsel for the County of  
San Luis Obispo

Dated this 7th day of February 2003



UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of: )  
)  
Pacific Gas and Electric Co. ) Docket No. 72-26-ISFSI  
)  
(Diablo Canyon Power Plant Independent ) ASLBP No. 02-801-01-ISFSI  
Spent Fuel Storage Installation) )

CERTIFICATE OF SERVICE

I hereby certify that copies of the "San Luis Obispo County's First Set of Interrogatories and Requests for Production of Documents Directed to Pacific Gas And Electric Company" have been served as shown below by electronic mail, this 7<sup>th</sup> day of February 2003. Additional service has also been made this 8<sup>th</sup> day of February 2003, by deposit in the United States mail, first class, as shown below.

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Dated this 7<sup>th</sup> day of February 2003



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