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OFFICE OF SECRETARY
RULEMAKINGS AND
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April 7, 2003

BY FEDERAL EXPRESS

Attn: Emile L. Julian
Office of the Secretary
U.S. Nuclear Regulatory Commission
One White Flint North
11555 Rockville Pike
Rockville, MD 20852-2738

Re: ***Pacific Gas & Elec. Co. (Diablo Canyon Power Plant Independent
Spent Fuel Storage Installation),
Docket No. 72-26-ISFSI***

Dear Mr. Julian:

Pursuant to 10 C.F.R. § 2.740a(e), please find enclosed a corrected and signed copy of the transcript for the February 27, 2003, deposition of Truman Burns in the captioned proceeding.

Respectfully submitted,



Brooke D. Poole
Counsel for Pacific Gas & Electric Co.

Enclosure

cc: Service list (w/o enclosure)

1 UNITED STATES OF AMERICA
2 NUCLEAR REGULATORY COMMISSION
3 BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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6 In the Matter of Docket No. 72-26-ISFSI
7 PACIFIC GAS AND ELECTRIC CO.
8 (Diablo Canyon Power Plant Independent
9 Spent Fuel Storage Installation)
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11 ---o0o---
12 DEPOSITION OF TRUMAN BURNS

13 THURSDAY, FEBRUARY 27, 2003

14 1:15 P.M.

15 ---o0o---
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18 Reported By: Lauri A. Gallagher, CSR No. 8726, RPR
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Examination by Mr. Repka

EXHIBITS

(None Marked)

1 be noted in short form without the
2 arguments. The officer shall not decide on
3 the competency, materiality, or relevancy of
4 evidence but shall record the evidence
5 subject to objection. Objections on
6 questions of evidence not made before the
7 officer shall not be deemed waived unless
8 the ground of the objection is one which
9 might have been obviated or removed if
10 presented at that time.

11 MR. CHASET: I take that to mean that I just need
12 to register a form objection.

13 I don't need to go into lots of detail about what
14 the basis for it is.

15 MR. REPKA: Correct.

16 The other thing is that the regulations do talk
17 about the witness having an opportunity after the
18 deposition to sign the transcript and --

19 MR. CHASET: That's fairly standard.

20 MR. REPKA: That's fairly standard and -- unless
21 it's waived.

22 And I would ask, for the record, do you want to
23 waive that signature opportunity or not?

24 MR. CHASET: No, I think we would like to have
25 him look at it.

1 MR. REPKA: Certainly we will make that
2 opportunity available, then.

3 Q Mr. Burns, my name is David Repka. I'm counsel
4 for PG&E in the NRC/ISFSI independent fuel storage
5 installation proceeding.

6 And I wanted you to understand that before we go
7 forward.

8 Your employer is the CPUC?

9 A Yes.

10 Q How long have you been employed there?

11 A Since 1986.

12 Q What's your position?

13 A Currently, I'm a Public Utility Regulatory
14 Analyst V.

15 Q And do you work for the Office of Ratepayer
16 Advocate?

17 A Yes, I do.

18 Q Can you explain what the Office of Ratepayer
19 Advocate is?

20 A Our mission is to review utility applications and
21 policy, to try and provide -- to scrutinize those to
22 achieve the best -- or the lowest rates with high service
23 quality, essentially.

24 Q Now, in your position are you -- your formal
25 position is with the Office of Ratepayer Advocate?

1 A Yes.

2 Q When you take positions, are those the positions
3 of ORA or are they positions of the CPUC?

4 A They are the positions of ORA.

5 Q And when you testify in the NRC licensing case,
6 are you speaking for the Office of Ratepayer Advocate or
7 the CPUC?

8 MR. CHASET: Objection.

9 THE WITNESS: As I understand it, I have been
10 asked to speak on behalf of the commission.

11 Q BY MR. REPKA: Do you have any relationship with
12 the California Energy Commission?

13 A I do not work for the energy commission. I am
14 not sure what you mean by relationship.

15 Q Do you represent the California Energy
16 Commission in any way?

17 A No, I do not.

18 Q Do you have any relationship with the
19 San Luis Obispo County or speak for San Luis Obispo County
20 in any way?

21 MR. CHASET: Objection.

22 But go ahead.

23 THE WITNESS: I do not work for San Luis Obispo
24 County.

25 We seem to be working together as joint parties.

1 Q BY MR. REPKA: Do you have any affiliation with
2 the San Luis Obispo Mothers for Peace?

3 A No, I do not.

4 Q Do you have any contact with San Luis Obispo
5 Mothers for Peace?

6 A Yes.

7 Q Who was that contact with?

8 A With Rochelle Becker. I am not sure if I have
9 talked to other members. I don't think so.

10 Q Do the San Luis Obispo Mothers for Peace have
11 particular issues that they would like you to advocate on
12 their behalf?

13 A Do you mean in this proceeding?

14 Q In this proceeding.

15 A I don't believe I have spoken with Mothers for
16 Peace about this proceeding.

17 About other proceedings.

18 Q When you have spoken with Rochelle Becker, is she
19 wearing San Luis Obispo Mothers for Peace hat or a
20 different hat?

21 A She has been wearing the Mothers for Peace hat.

22 Q Based upon the materials you provided in response
23 to discovery or the CPUC, in response to the discovery
24 requests, it's clear that you testified in a number of PG&E
25 matters?

1 A Yes.

2 Q And these are all rate-paying matters,
3 rate-making matters?

4 A Yes.

5 Q Have you testified at all in the bankruptcy case
6 involving plaintiff reorganization for PG&E?

7 A No, I have not.

8 Q Are you familiar with the CPUC's position in the
9 bankruptcy case?

10 A I think I am generally familiar with the
11 commission's position.

12 Q Have you ever testified at the NRC before?

13 A No, I have not.

14 Q Do you have any experience with NRC's regulations
15 relating to financial qualifications for its licensees?

16 A I'm not that familiar with the regulations, no.

17 Q Have you ever read the regulations related to the
18 financial qualifications for, let's just say
19 hypothetically, an ISFSI licensing?

20 A No, I have not.

21 Q Have you reviewed PG&E's license application to
22 the NRC for a site-specific license for the ISFSI at Diablo
23 Canyon?

24 A No, I have not.

25 Q Have you reviewed the supplemental letter that

1 PG&E sent to the NRC on financial qualifications issues
2 dated June 7th, 2002?

3 A No, I have not.

4 Q With respect to the June 7th, 2002, letter, and
5 the application, I will represent to you that there are
6 statements in there regarding estimated costs related to
7 construction, operation, maintenance, and decommissioning
8 of the ISFSI at Diablo Canyon.

9 Are you familiar with those cost estimates?

10 A I'm not familiar with cost estimates that have
11 been put into the NRC's. ✓ (record)

12 Q Have you attempted to do any independent cost
13 estimates related to construction, operation, maintenance,
14 or decommissions of the proposed ISFSI?

15 A Have I generated any estimated costs?

16 Q Correct.

17 A No, I have not.

18 Q Has anybody that you work with at the Office of
19 Ratepayer Advocate or the CPUC, generated such estimates?

20 A No, not that I know of.

21 Q Do you or the ORA or the CPUC take issue with the
22 cost estimates presented to the NRC with respect to the
23 construction, operation, maintenance, or decommissioning of
24 the ISFSI?

25 MR. CHASET: I will object.

1 But go ahead.

2 THE WITNESS: I don't believe we have taken any
3 position on the -- on PG&E's cost estimates.

4 Q BY MR. REPKA: If you don't take any issue with
5 respect to those cost estimates, are you willing to accept
6 those estimates for purposes of the NRC licensing
7 proceeding and then -- are you focusing instead on the
8 ability of PG&E to cover those cost estimates?

9 MR. CHASET: Objection. Calls for a legal
10 conclusion.

11 Go ahead.

12 THE WITNESS: I think we have not taken a
13 position on the validity of PG&E's cost estimates.

14 For the purpose here, we can work with these
15 numbers.

16 Q BY MR. REPKA: Your focus in this proceeding is
17 on the access to revenues or operating revenues or
18 rate-making or whatever it might be, inability to cover
19 those costs?

20 A Essentially, yes.

21 Q What's your understanding of the current rate
22 regulatory environment -- let me put it this way -- current
23 economic regulatory environment for PG&E?

24 MR. CHASET: Objection. Vague and ambiguous.

25 MR. REPKA: I will rephrase.

1 Q What's your understanding of the form of economic
2 regulation that currently applies to PG&E for Diablo
3 Canyon?

4 A The rates the PUC or the California rate-making
5 regime for Diablo Canyon, is that it is a cost of service
6 rate-making scheme at the moment. PG&E recovers its costs
7 of operations plus a profit margin.

8 We were previously in an incremental cost
9 incentive program regime, which ended, I think, in 2002.

10 So now its cost of service and those rates are
11 recovered from PG&E rate-payers.

12 Q You referred to the prior system, which was the
13 economic incentive for Diablo Canyon?

14 A Yes.

15 Q That existed for many years for Diablo Canyon?

16 A That's correct.

17 Q When you say in 2002, PG&E was returned to the --

18 A Cost of service rate-making, essentially.

19 Q That would have been a CPUC decision, returning
20 Diablo to the rate base?

21 A The incremental cost incentive program,
22 terminated at a specific age. It was a multi-year
23 agreement.

24 Then it went to cost of service.

25 There was also state legislation that referred to

1 the use of cost of service. It's been interpreted to be
2 cost of service rate-making.

3 Q Do you or CPUC have any objection to the return
4 to the rate base of Diablo Canyon?

5 A The return to --

6 Q In 2002 --

7 A Cost of service rate base.

8 Q -- the cost of service rate base?

9 A No, we don't have any objection to that,
10 essentially to the end of the incremental prices.

11 Q Now, you alluded to the fact that the cost of
12 service rate regulation is for the time being, I believe
13 your words were something along those lines?

14 A Yes.

15 Q When you say "for the time being," are you -- is
16 that qualifier because of the pending bankruptcy case and
17 the potential plans of reorganization?

18 A There are two reasons why I said that.

19 One is yes, the bankruptcy proceeding and
20 possible outcome. The other is that a state statute
21 requires PG&E to retain ownership of Diablo through 2006,
22 that it's not supposed to sell or do anything with it until
23 that time period.

24 Q So you are saying that after 2006, if there were
25 some transaction, perhaps that might end cost of service

1 rate regulation?

2 A If Diablo left the hands of PG&E by that means.

3 Q And conversely, if the PG&E plan of
4 reorganization were approved, what's your understanding of
5 what would happen then?

6 MR. CHASET: Objection.

7 But go ahead.

8 THE WITNESS: Then Diablo Canyon would be
9 transferred to a PG&E corporate affiliate known as GEN 4,
10 and PG&E would form something called Diablo Canyon Limited
11 Liability Corporation, and this would remove it from state
12 PUC regulation.

13 The PG&E distribution utility would have a
14 contract with GEN to buy power from Diablo Canyon, and then
15 would bill them back, and then would be done at a wholesale
16 regulation via FERC.

17 Q BY MR. REPKA: And FERC, you are referring to the
18 Federal Energy Regulatory Commission?

19 A Yes.

20 Q And FERC would be -- and that rate would be
21 specifically approved by FERC?

22 A As I understand it, yes.

23 Q Under the CPUC plan of reorganization, what's
24 your understanding of what would occur there?

25 A That the Diablo Canyon would stay with current

1 PG&E, that the commission would arrange for the payment of
2 the bankruptcy-related debts, and things would continue on
3 essentially as they are.

4 Q Essentially as they are.

5 Does that include the cost of service rate-making
6 system?

7 A Yes.

8 Q If the CPUC plan of reorganization would be
9 confirmed by the bankruptcy court and implemented, would
10 you or the CPUC have any objection to PG&E's financial
11 qualifications with respect to the proposed ISFSI?

12 MR. CHASET: Could you repeat the question.

13 Q BY MR. REPKA: If the CPUC plan of reorganization
14 were confirmed and implemented, would there be any
15 objection to the financial qualifications -- if we were
16 operating under the assumption that that was confirmed,
17 would there be any objection to the financial
18 qualifications of PG&E?

19 MR. CHASET: Fine.

20 Go ahead.

21 THE WITNESS: As I understand your hypothetical,
22 if the scenario where commission's plan were confirmed, the
23 transfer of Diablo to GEN would not occur.

24 We would probably continue with cost of service
25 rate-making, and I don't believe we would object to the

1 interim fuel storage facility.

2 Q BY MR. REPKA: You wouldn't object to the fuel
3 storage facility.

4 Do you mean to say that you wouldn't object to
5 the financial qualifications with respect to the fuel
6 storage facility?

7 MR. TEMPLE: Objection. He does not know what
8 NRC regulations are with respect to financial
9 qualifications.

10 MR. CHASET: You can answer the question, if it's
11 clear.

12 MR. REPKA: Let me try again.

13 Q You said that you would have -- that CPUC would
14 have no objections to the ISFSI. Right now, the only
15 objection that I know of with respect to the ISFSI, is
16 financial qualifications.

17 I guess what I want to do is confirm in my mind,
18 when you say "no objection," you mean no objection to PG&E
19 findings or qualifications with respect to the ISFSI?

20 A I think -- okay. As I understand it, given
21 commission of the commission's plan, then you would have
22 greater certainty as to how the regulatory would occur, it
23 would come through rate-payers, and the commission would be
24 retaining its regulation, and we would have greater
25 financial assurance.

1 Q When you say "greater assurance," greater than
2 what?

3 A Than the uncertainty of the current situation
4 with the pending bankruptcy proceeding.

5 Q That uncertainty that you refer to relates to the
6 bankruptcy proceeding.

7 Does it relate to anything more than that?

8 MR. CHASET: Let me object as to form.

9 Can we go off the record for a second?

10 (Discussion off the record.)

11 MR. REPKA: I apologize for that, if I was
12 casting confusion.

13 Q I think what we're trying to focus on was the
14 issue of the uncertainty.

15 A Yes.

16 Q And is it fair to say the uncertainty relates to
17 the possible outcomes in the bankruptcy proceeding?

18 A Yes.

19 Q To the fact that if the CPUC plan is approved,
20 PG&E would be on cost of service rate regulation?

21 A Yes, that's how I understand it.

22 Q And presently, PG&E is on cost of service rate
23 regulation?

24 A Yes.

25 Q So what we would have -- so the objection to the

1 present is not cost of service rate regulation, it's the
2 uncertainty related to the potential outcomes of the
3 bankruptcy case?

4 MR. CHASET: I will object as to form.

5 But go ahead.

6 THE WITNESS: Yes. I think our concern is that
7 if Diablo Canyon and the decommissioning trust funds are
8 transferred to Gen, then our concern is whether the
9 rate-payer should be paying for this installation when
10 ultimately the ownership will be in someone else's hands,
11 and the responsibility.

12 Q BY MR. REPKA: I want to ask some questions, and
13 I am going to be referring to the government participants'
14 responses to PG&E's interrogatories dated February 20th,
15 2003.

16 And some of this, you may have already clarified
17 based on my earlier questions, but just bear with me.

18 A Okay. I think I have -- I think I have a copy of
19 that response.

20 Q In response to Interrogatory 1, there is a
21 statement that:

22 The governmental participants contend that
23 until there is certainty that the ISFSI will
24 be constructed, operated and decommissioned
25 by a regulated entity the required

1 reasonable assurance finding cannot be made
2 based on the information presented in PG&E's
3 Application."

4 Do you see that sentence?

5 A Yes.

6 Q Again, the certainty or the converse, the
7 uncertainty that you are referring to there is the possible
8 outcome of the bankruptcy case related to GEN; is that
9 correct?

10 A Yes, I believe that's correct.

11 Let me also state that the responses were
12 prepared or submitted by counsel here, and I did have an
13 opportunity to review the responses but they weren't of my
14 draft.

15 Q So not necessarily your words?

16 A Yes.

17 Q And this sentence talks about there can be no
18 reasonable assurance until there's certainty that it will
19 be constructed by a regulated entity.

20 Do you have knowledge of that sentence, or is
21 that something you can speak to?

22 A Well, the sentence is there on the page, I think
23 the regulated entity they are referring to, as in
24 PUC-regulated.

25 Q Now, would it be your contention and the CPUC's

1 contention, that the licensee must be rate-regulated in
2 order for there to be reasonable assurance?

3 MR. CHASET: Objection. Relevance.

4 THE WITNESS: I think what was -- what they are
5 after in this response, was to point out the uncertainty
6 related to where the funding would come from.

7 Given a regulated -- a PUC-regulated situation,
8 we know the funding would come through rate-payers.

9 The question is, what about an entity that is
10 really only regulated through FERC?

11 Q BY MR. REPKA: So you are very comfortable with
12 the situation where the licensee is rate-regulated and
13 funding comes from the rate-payers?

14 A Yes.

15 Q And the uncertainty relates to a non-regulated
16 entity, or regulated by FERC --

17 A Not PUC-regulated.

18 MR. CHASET: Just for purposes of this
19 conversation, when we say "regulated," let's assume we mean
20 CPUC-regulated.

21 MR. REPKA: And non-regulated --

22 THE WITNESS: Non-regulated would not be non-CPUC
23 regulation.

24 FERC regulation is regulation ultra light, and I
25 think he can speak for the PUC, representing we don't have

1 a lot of confidence in FERC, quote, "regulation," unquote,
2 of wholesale generating facilities.

3 Q BY MR. REPKA: I think that's a perfectly valid
4 distinction.

5 Putting aside the ultra light aspects of that
6 FERC regulation.

7 But with that understanding, then, I think what
8 you said, was CPUC would be comfortable with PUC
9 rate-regulated, not so with non PUC-regulated, correct?

10 A Yes.

11 Q With respect to that non PUC rate-regulated, is
12 that categorical that there can be no reasonable assurance,
13 or is it you have greater concerns in that area but it's
14 not a categorical, won't work kind of position?

15 A Well, I think it's possible GEN could make a
16 defense and explain its financial assurance.

17 At this point, as I understand it, it's PG&E, the
18 commission-regulated utility making a claim.

19 Q With respect to the rate-regulated -- a PUC
20 rate-regulated entity, those entities are always subject to
21 prudence reviews; is that correct?

22 MR. CHASET: If you understand what it means, go
23 ahead.

24 THE WITNESS: If you are referring to
25 expenditures made by utility, are they always subject to

1 prudency review, not necessarily. Where sometimes I think
2 the commission decided they weren't worthwhile or they have
3 come up with some alternative means.

4 But prudency reviews are fairly common.

5 Q BY MR. REPKA: And I guess my point would be, the
6 fact that an entity is in cost of service rate regulation,
7 doesn't mean their expenses are automatically paid for in
8 the rate base. There's a process in which it may or may
9 not be reviewed, but there's a process in which the rate
10 base is reviewed?

11 A Yes, ultimately the commission will determine
12 what reasonable rates would be, whether by review or some
13 other means.

14 Q Does that process, in your mind, create any
15 uncertainty that would undermine a finding of reasonable
16 assurance in this case?

17 MR. CHASET: Again, objection. Ambiguous.

18 THE WITNESS: I don't think the process would be
19 a problem. I am not sure about the definition of
20 "financial assurance."

21 Q BY MR. REPKA: Returning again to the
22 interrogatory responses of February 20th, focus on the
23 response to Interrogatory No. 2, on page 3?

24 A Okay.

25 Q The statement is made that costs from electric

1 rates, PG&E must have approval from the California Public
2 Utility Commission to recover costs.

3 Do you see that in the second sentence?

4 A Yes, in the second sentence.

5 Q Now, is that referring to the process that we
6 were discussing, that cost the service rates are subject to
7 a PUC process for review and approval?

8 A Yes.

9 Q And that's a review against prudence
10 considerations?

11 A Yes.

12 Q And it states that: "This approval would be in
13 the form of a formal decision in the current rate case and
14 subsequent rate cases covering future years expenditures."

15 Do you know what current rate case that's
16 referring to?

17 A PG&E is in the middle of its test year 2003
18 General Rate Case. I don't think I have -- I do have an
19 application number, 02-11-017, and also application
20 02-09-005. That's the current rate case.

21 Q Now, how often are rate cases filed?

22 A Typically, every three years.

23 Q And how long do they cover?

24 A They set rates for the test year, and they may
25 set rates for the attrition years, which would be the one

1 to two years that follow the test year.

2 Q And then those attrition years, explain how that
3 process works?

4 A The utility will make a request for the attrition
5 years. For example, this would be attrition years 2004 and
6 2005. The commission may approve their request. They may
7 set up a mechanism for providing additional funds for the
8 attrition years.

9 That's really an escalation of the test year
10 numbers.

11 It's variants to what they do.

12 Q Now, this process, it's a formal process and
13 would apply to the other investor-owned utilities in
14 California; is that correct?

15 A Yes.

16 Q Now, the next sentence says: "In the current
17 rate case PG&E is requesting approval of \$12 million
18 dollars towards Phase I expenses."

19 Can you explain that to me?

20 A As I read the PG&E's rate case exhibit, they have
21 included pages that discuss the one-time operating --
22 operations and maintenance request for the interim --

23 Q Table 4-13, from, I believe it's Exhibit 10,
24 PG&E's Exhibit 10.

25 A Table 4-13 is actually where the numbers show up

1 for that.

2 I was referring to the text of the testimony,
3 which is at page 4-23, in Exhibit PG&E-10.

4 I know PG&E just recently released a revision to
5 Exhibit 10. So the page numbers would be different on
6 that.

7 And yes, looking at Table 4-13, that's where it
8 shows the one time O&M forecast for the interim fuel
9 storage installation.

10 Q Can you explain to me how you derive \$12 million
11 from Table 4-13 for Phase I expenses?

12 A If you look at line item 3 and look under the
13 2005 column, there's a \$12 million figure.

14 Q 2005?

15 A I'm sorry, 2005. There's a \$12 million figure.

16 Also, in a data request to PG&E, they responded
17 and explained how the \$12 million was made up.

18 Q Which data request are you referring to?

19 A This is data request 212, Question 5.

20 Q You know, you understand that -- maybe you don't,
21 since you haven't read the application.

22 But Phase I expenses cover a period through 2025
23 for the ISFSI.

24 Are you familiar with that?

25 A No, I'm not familiar with that.

1 Q And would it be normal for PG&E to ask for
2 expenses through 2025 in a current rate case?

3 A No.

4 Q So if PG&E is asking for something less than that
5 total, you wouldn't be surprised?

6 A No, I'm not surprised.

7 It's -- the 12 million that shows up for 2005, is
8 a partial cost as PG&E goes through this long process.

9 Q But in Table 4-13, it includes recorded
10 expenditures for 2001; correct? Of 8.9 million?

11 A Yes.

12 Q And do you see that there are adjustments made
13 for the subsequent years, 2002, 2003, 2004, and 2005?

14 A Yes, I do.

15 Q And how do you read those adjustments for 2002,
16 -3, and -4?

17 Do you read those as saying there are no expenses
18 being asked for in those years?

19 A As Mr. O'Flanagan from PG&E was explaining to me,
20 there's a recorded 8.9 million for 2001, and then there
21 were reductions in 2002 and -3, and then an additional
22 12 million in 2005.

23 So I think this is essentially incremental
24 additions and subtractions.

25 Q So with that explanation that would be -- that

1 there would be a 2002 estimate of 5.9 million; correct? If
2 you take the 8.9 million, record it and apply the deduction
3 of 3,000?

4 A May I look at your paper?

5 Q Sure.

6 If you look at Table 4-13, I think you should get
7 to the same result?

8 A Yes, I think that's how it works.

9 Looking at the table that O'Flanagan had provided
10 me earlier, I see how going through 2001, you go from
11 8.9 million minus 3, gets you to 5.9 million in 2002.

12 Q For 2000?

13 A For 2003, this paper shows 7.9 million, but
14 Table 4-13 shows a minus 1 million.

15 So I am not sure why that number is going up.

16 Q Let me submit to you that minus 1 million for '03
17 is the adjustment reported for '01 of 8.9.

18 So if you do the math, that would come to
19 7.9 million.

20 A I will assume this document is okay.

21 I see how you come to the ultimate total of
22 \$52 million.

23 Q So based on that understanding of the table, at
24 least as presented to you by PG&E, there are estimates
25 through 2005, for greater than \$12 million.

1 Would you agree with that?

2 A Yes.

3 Q Including approximately 20.9 million for 2005?

4 A Yes, that's what the page says although --

5 MR. CHASET: Let me just note for the record that
6 this line of questioning, I just want to object to for lack
7 of foundation.

8 Mr. Burns has been testifying with regard to
9 numbers that PG&E shared with him outside of the
10 deposition, and, you know, the validity or not of those
11 numbers or the interpretation of those numbers is lacking
12 in foundation.

13 But go ahead.

14 MR. REPKA: And that's fine. The objection is
15 noted.

16 But what I want to get at is, however, if you
17 read this table differently than what Mr. Burns would read
18 it, you would come to a different number.

19 And I think he's willing to acknowledge that?

20 THE WITNESS: Yes, it's possible that it comes to
21 a different number.

22 When I asked PG&E about the \$12 million, they
23 were able to explain to me the \$12 million for 2005 also.

24 Q BY MR. REPKA: So that has been explained to you
25 by PG&E?

1 A Yes.

2 Q And in the rate case, that's a fairly formal
3 thing that I would take it would occur as you would ask for
4 data through a data request and get responses from PG&E?

5 A Yes.

6 Q This interrogatory also, again, alludes to the
7 fact that in general, only expenses that are determined to
8 be prudently incurred may be recovered from rate-payer
9 fund.

10 Do you see that?

11 Interrogatory 2, the response, again, the last
12 sentence in that response?

13 A Yes, I see that.

14 Q Has ORA taken any position that any of the
15 expenses relating to the ISFSI have not been prudently
16 incurred?

17 A Not that I know of.

18 Q Do you have any -- do you have a view that
19 perhaps you have not yet articulated in a rate case, that
20 any of the expenses are not prudently incurred?

21 MR. CHASET: I'm just going to note an objection
22 that the position that ORA takes in a rate case is a matter
23 of ongoing discussion within ORA, and I am not sure that
24 the witness is in a position to state the ultimate position
25 that ORA will take in the rate case.

1 The rate case is ongoing. There's a certain
2 ongoing litigation and privilege with regard to ORA's
3 internal discussions at issue, and I will instruct the
4 witness not to answer the question if he feels that he is
5 revealing confidences that involve attorney-client
6 privilege with the attorneys for ORA.

7 MR. REPKA: Before we put the witness in a bind,
8 then, let me ask the question differently.

9 Q In your testimony, to be filed with the NRC, will
10 you take a position that a lack of financial qualifications
11 is in any way based upon an argument that costs are not
12 being prudently incurred and will be disallowed?

13 Will that be part of your position?

14 A I don't believe that will be part of our position
15 before the NRC.

16 Q Would that answer be the same if the contention
17 in the case goes to operation costs, maintenance costs,
18 construction costs, and decommissioning costs?

19 Is that answer the same for all of those kinds of
20 costs?

21 MR. CHASET: Could you --

22 Q BY MR. REPKA: The answer that you will be taking
23 a position with the NRC, that costs are not being prudently
24 incurred?

25 Is that the same for all varieties of costs?

1 A I think that's correct.

2 I don't believe we will be doing that.

3 MR. CHASET: Unclear of what all varieties of
4 costs are.

5 MR. REPKA: Operations.

6 MR. TEMPLE: Assume it's under the CPUC plan.

7 MR. REPKA: The current cost of service rate
8 case?

9 MR. TEMPLE: The current cost of service rate
10 case assumes that the bankruptcy litigation is over.

11 MR. REPKA: No, it assumes the current situation
12 If cost the service ends, there will be --
13 allowances will need to be made, but what is, is right now.

14 MR. TEMPLE: I object.

15 I don't think the witness understood that to be
16 the case.

17 THE WITNESS: I am not sure if the commission
18 would be making any assertions at NRC, about reasonable or
19 unreasonable costs for building installation, if that's
20 actually within the commission and rate-making situation.

21 Q BY MR. REPKA: You would not be making an
22 argument at NRC, that the costs are not imprudent, assuming
23 status quo with respect to cost of service rate regulation?

24 MR. CHASET: Again, I'm --

25 MR. REPKA: I'm having real trouble understanding

1 what exactly it is.

2 MR. CHASET: I'm going to object to your
3 characterization.

4 Let's assume that as the witness previously
5 testified, that if the bankruptcy case is resolved and the
6 PUC plan is approved by Judge Montally, Diablo Canyon
7 continues as a PG -- an asset of PG&E, an asset of a public
8 utility pursuant to cost of service rate-making.

9 I believe making those assumptions, the witness
10 has answered the question.

11 Q BY MR. REPKA: Is that right?

12 A I think so.

13 Q But given that the CPUC plan has not yet been
14 approved and we're going to be filing testimony in the NRC
15 case in just over a month's time, my question is, what's
16 the basis to conclude for a position that PG&E is not
17 presently financially qualified?

18 And I have heard one, the uncertainty created by
19 the competing plans of reorganization.

20 My second question was geared to whether or not
21 there would be any argument now, at this time, based upon
22 what we know that PG&E is not financially qualified, based
23 on the fact that the CPUC is going to make some argument
24 that costs are not being prudently incurred.

25 My question is, is that part of the CPUC's

1 position?

2 A I think the commission's position has been
3 narrowly cast as the uncertainty of whether PG&E's plan
4 will be adopted versus the commission's plan.

5 It's not been cast as uncertainty about the
6 reasonableness of the installation costs.

7 Q So we're not going to be in a situation in the
8 NRC proceeding, of arguing that a projected recovery in
9 2003 of \$7.9 million is not going to happen because the
10 CPUC is only going to authorize 7.5 million.

11 That's not the type of argument you are going to
12 make?

13 A Looking at the interrogatories, no, that's not
14 the path we would be taking.

15 Q With respect to the estimates of decommissioning
16 and the way that's being addressed in the rate-making
17 process, would there be any position that those costs are
18 not prudent, that estimate of cost for decommissioning the
19 ISFSI is not prudent and therefore, PG&E is not
20 qualified --

21 MR. CHASET: Again, we are assuming that the PUC
22 plan is approved?

23 Q BY MR. REPKA: I am assuming where we are right
24 now, we're making no assumption about one plan versus the
25 other. I understand the uncertainty argument that you are

1 making.

2 I want to know here, whether or not there's going
3 to be some argument that the estimates can't be recovered
4 because the CPUC believes that they are too high or
5 imprudent or whatever.

6 MR. TEMPLE: Can we go off the record?

7 (Discussion off the record.)

8 MR. REPKA: Before we went off the record, we
9 were trying to get to the nature of the CPUC's argument in
10 this NRC case.

11 And we understand the uncertainty argument.

12 Q And I am trying to get an understanding if
13 there's any argument related to the prudence of the costs,
14 and counsel for the county has explained, off the record,
15 that there may be an argument related to allocations; is
16 that correct? Somehow allocating costs properly?

17 A I am not sure about --

18 Q Why don't you explain for me your understanding
19 of what your position is in this case?

20 A Our position has been related to the uncertainty
21 during that pendency of the bankruptcy as to the result of
22 who would end up owning Diablo and the decommissioning
23 trust funds.

24 It has not been related to PG&E's estimates of
25 the ongoing costs of the installation. That is something

1 that is taken as a given.

2 At the commission we have an opportunity to
3 review the costs after the fact, and the reasonableness is
4 reviewed, but that's not what the NRC proceeding is about,
5 as I understand it.

6 Q Right. But I am trying -- I still don't
7 understand what position you are trying to articulate with
8 respect to particular estimates and recovery of particular
9 costs, what position you will take in this NRC case?

10 Is it no more than the fact that, for example,
11 the rate cases may have estimates for the ISFSI, reading
12 Table 4-13, for the attrition years of '04 and '05 of
13 8.9 million and 20.9 million respectively, that, you know,
14 are you just trying to tell me that if the plan of
15 reorganization, PG&E's plans go in effect, those should not
16 be in the rate base any longer?

17 Is that what you are trying to tell me?

18 A What we're trying to say, is because of the
19 pendency of the bankruptcy and the uncertainty of who will
20 be owning Diablo Canyon and the decommissioning trust
21 funds, we don't think it's appropriate for rate-payer funds
22 now or in the future to be used for something that
23 ultimately won't be for rate-payers' direct benefit.

24 It would be really GEN's responsibility in the
25 long run. And not knowing which plan is going to be

1 confirmed, raises that question for us.

2 Essentially, we don't want to be fixing someone
3 else's car that they are about to buy.

4 Q So that, then, would become, in your mind, a
5 question of how much or at what point you would cut off the
6 rate-payer funding for ISFSI costs, assuming the PG&E plan
7 were accepted.

8 Is that a way of characterizing it?

9 A Yes.

10 Q And under that scenario, the PG&E plan being
11 approved, your view is that something less than the full
12 decommissioning cost -- operation and maintenance and
13 decommissioning cost estimates should be paid for by GEN
14 and not the rate-payers?

15 MR. CHASET: I think you are putting words in his
16 mouth.

17 Can you read back the question --

18 MR. REPKA: Just strike the question.

19 Perhaps we're trying to deal with this too much
20 in the abstract.

21 Let me focus upon a few things.

22 Q Focusing on the year 2003 General Rate Case,
23 Table 4-13, there would be an estimate by PG&E's reading of
24 the table, at least of \$7.9 million for construction,
25 operation, maintenance, related to the fuel storage

1 installation.

2 Do you see that?

3 A Yes, I do.

4 Q Now, tell me how it is you would approach
5 allocating that cost in the rate case to what's in the rate
6 base now, versus what you might argue shouldn't be in the
7 rate base because of this reorganization plan of PG&E's.

8 Has there been any attempt to make an allocation?

9 A There hasn't been an attempt of an allocation,
10 but mainly because, as I understand it, this is a one-time
11 expense.

12 So I am not sure if anything is in rate base or
13 if it's just in expense.

14 Q So by that answer, you mean if it's a one-time
15 expense, it's not in rate base?

16 A Yes. I have been to the Diablo Canyon recently,
17 and there's actually nothing at the location except the
18 hillside. I know there's nothing there.

19 I know they have been working on preparation and
20 communicating at the NRC, but there's nothing actually
21 built.

22 Q So your view, then, is until something is built,
23 it's not in the rate base?

24 A Not necessarily.

25 The commission is also allowed, for example, like

1 hydro licenses can be capitalized and amortized over a
2 certain amount of time.

3 I don't know if that 8 million is actually in
4 rate base or if it's just an expense.

5 Q So that's something you are still looking at in
6 the context of the current rate case?

7 A Yes.

8 Q Are you familiar with PG&E's position that
9 expenses relating to the ISFSI, are currently accounted for
10 as expenses not capital costs?

11 A Yes.

12 Q And is that something that you are still
13 evaluating, whether you agree with that position or not?

14 A Yes. Mr. O'Flanagan actually just gave me a data
15 response which talked about using this as an expense not a
16 capital, and PG&E's rationale.

17 Q So you don't have a position yet as to what
18 position you are going to take on capital versus expense
19 from an accounting perspective?

20 A No, I don't.

21 Q If it were capitalized, and assuming that PG&E is
22 in the rate base and stayed in the rate base, those capital
23 expenses would be recoverable through rates?

24 A Yes. The reasonable amounts would be recoverable
25 over time through rates.

1 Q And again, the assumption that PG&E is
2 rate-regulated and stays that way, if it's ultimately
3 determined that it can be expensed, that would be
4 recoverable through the rate base?

5 MR. CHASET: Just for clarification, there's a
6 distinction between recovery through rates and being
7 rate-based.

8 So I think if you rephrase your question, that an
9 operating expense is normally recovered through rates, as
10 part of the revenue requirement of the facility, and it's
11 recoverable through rates, and it's not rate-based.

12 Rate-based implies a special treatment of capital
13 on which you earn a rate of return.

14 Truman, do you agree with my characterization and
15 distinction?

16 THE WITNESS: Yes.

17 Q BY MR. REPKA: So again, under my hypothetical
18 assumption, PG&E's rate-regulated utility stays that way,
19 the operating expenses to the ISFSI would be recoverable
20 through rates?

21 Did I say that correctly?

22 MR. CHASET: Yes, thank you.

23 THE WITNESS: Yes.

24 MR. REPKA: Good.

25 Q I'm going to turn now to the response to

1 interrogatory No. 4, this response relates to financial
2 assurance or financial arrangements related to
3 decommissioning funding.

4 Are you familiar with or are you involved in the
5 23 -- PG&E's 2002 triennial decommissioning proceeding?

6 A Yes, I have been involved in that proceeding.

7 Q Were you involved in the 1999 rate case for PG&E?

8 A I don't think so.

9 Q In your involvement in the 2002 decommissioning
10 proceeding, are you familiar with either the 1997 TLG study
11 for decommissioning on Diablo Canyon or on the 2002 TLG
12 study?

13 A I am familiar with the 2002 study.

14 Q Does the CPUC object to that study in any way in
15 the rate case or the specific cost estimates?

16 A Is the CPUC objecting?

17 Q Yes.

18 A I don't know what the commission's position on
19 that has been. ORA has taken a position in the
20 decommissioning proceeding.

21 Q What is the ORA position?

22 A I think essentially we did not oppose PG&E's
23 estimates of the ultimate decommissioning costs for Diablo
24 Canyon.

25 We did have concerns about the contingency

1 factors that they built into studies.

2 Q Is there any objection with respect to funding,
3 as estimated for the ISFSI commissioning?

4 MR. CHASET: I'm going to object to calls for
5 speculation.

6 Q BY MR. REPKA: If you know.

7 A I don't believe we had any objections to that.

8 Q This interrogatory response perhaps takes us
9 to -- PG&E to task or mischaracterizing the CPUC's position
10 and emphasizes that the governmental participants believe
11 that PG&E has failed to provide reasonable assurance that
12 PG&E will make necessary financial arrangements to provide
13 reasonable assurance after the removal of spent fuel.

14 Do you see that sentence?

15 A Yes, I do.

16 Q What are the necessary financial arrangements
17 that you or the governmental participants are referring to
18 there?

19 MR. CHASET: Before we go into this in any
20 detail, let me lodge a general objection on grounds of
21 calling for -- asking the witness to reach a legal
22 conclusion.

23 There's a -- an underlying legal issue or dispute
24 between PG&E and CPUC, regarding what happens to the
25 decommissioning trusts.

1 And, you know, it's our position that the PG&E
2 bankruptcy reorganization plan be approved or certainly the
3 spin-off of Diablo Canyon from PG&E, the utility company,
4 be approved by any agency without approval by the CPUC
5 itself, of the transfer of PG&E's beneficial interest in
6 those trusts in PG&E utility to whoever the subsequent
7 owner is going to be.

8 And I think Mr. Repka and I may respectfully
9 disagree with each other as to the legal interpretation of
10 that, but I am not sure that it's appropriate for this
11 witness to be asked questions about the legal contention
12 with regard to what happens to the decommissioning trust.

13 It is the CPUC's position that those trusts
14 cannot be legally transferred without an explicit approval
15 by this commission.

16 And I understand that Mr. Repka has argued in
17 another proceeding relating to the license transfer of the
18 Diablo Canyon.

19 It's also before the NRC, that it does not
20 require an explicit legally binding vote of this commission
21 to transfer those trust funds.

22 But we strenuously disagree with that view.

23 And with that understanding, you can proceed.

24 MR. REPKA: I believe that helps.

25 What I don't want to ask the witness about is

1 that dispute.

2 MR. CHASET: Right. And that's where it seems to
3 be going. I don't want you to be asking him about that.

4 MR. REPKA: I want to understand whether this was
5 alluded to in that debate, about legal authority or the
6 decommissioning fund, and whether it can be transferred or
7 not to support the plan of reorganization.

8 Let's disagree to disagree on that particular
9 issue.

10 Q When I want to find out from Mr. Burns, is there
11 anything else related to decommissioning funding, that the
12 CPUC plans to raise in testimony in the NRC, related to the
13 adequacy of the fund, the adequacy of the estimate of the
14 fund?

15 A We will take Mr. Chaset's comment that's on the
16 record.

17 As I understand, it was that plus the uncertainty
18 related to where Diablo Canyon and the decommissioning
19 trust funds would end up, essentially.

20 Q So that uncertainty creates what issue?

21 Is it just, again, the question of who should pay
22 the contributions?

23 A It was if PG&E is -- PG&E is proposing the
24 transfer of Diablo Canyon and the trust funds to GEN, as
25 part of the bankruptcy proceeding, then there's the

1 question of whether that will happen or not.

2 Q Right. There's the question in your mind and in
3 CPUC's mind whether that will and can happen.

4 But with respect to --

5 A And then there's --

6 Q And that relates to the transfer.

7 MR. CHASET: Let me add something here, because
8 this is something, again, that is in the nature of legal
9 discussion as much as it is a factual discussion that the
10 witness can talk about.

11 There's a question of whether the bankruptcy
12 court has the legal authority to transfer the trust, which
13 is the matter that we disagree on.

14 With regard to the ISFSI, an ancillary but
15 related question, let's say there is no legal authority in
16 the bankruptcy court to transfer the trust, to PG&E.

17 The testimony that we heard from the witness this
18 morning, suggested that funds for the decommissioning of
19 the ISFSI would -- small F funds, would come out of the
20 large F decommissioning trust Funds in some proportions,
21 because I think we can all agree that the funds that have
22 been collected in California, for Diablo, from California
23 rate-payers, for Diablo, go beyond what NRC regulations
24 require to be collected under NRC regulations for the
25 decommissioning for the plant.

1 California has strict standards for the
2 decommissioning of nuclear power plants that go with the --
3 that go beyond the regulations that NRC is concerned about.

4 So there are these extra moneys in the trust fund
5 beyond what the commission requires.

6 Those funds, small F, would presumably come from
7 the large F Funds. And if there is a fundamental legal
8 dispute about what's going to happen to the large F Funds,
9 there is equally a disagreement about when there is funding
10 available, whether there are appropriate fund arrangements
11 to use the term from the response to Interrogatory 4.

12 I hope that clarification helps.

13 Please go forward with the witness to the extent
14 that you can.

15 MR. REPKA: Let's again put that -- I think
16 that's fundamentally the uncertainty agreement.

17 That operates under the hypothesis that PG&E and
18 related utility is going to stay that way; it's putting
19 aside the uncertainty.

20 Q Does the CPUC have any issue with the estimate
21 that TLG has prepared over the years with respect to
22 decommissioning the ISFSI, either in the 1997 study or the
23 2002 study?

24 A Does the commission have any --

25 Q Or ORA have any dispute with respect to that

1 estimate?

2 A In the Diablo decommissioning trust fund
3 proceeding, ORA's testimony did raise some concerns about
4 TLG's decommissioning estimates, essentially that we
5 thought the contingency factors assumed were too high.

6 Q And the commission, the CPUC has not yet ruled on
7 that?

8 A There's no proposed decision in this proceeding
9 yet.

10 Q Does ORA have any objection to the ISFSI as a
11 prudently-incurred expense or reasonable expense, whatever
12 the standard might be?

13 MR. CHASET: We can put the caveat, assuming that
14 PG&E remains CPUC regulated entity.

15 Q BY MR. REPKA: Apart from completing plans of
16 reorganization?

17 A We have some concern about whether it's the
18 appropriate path to follow, as opposed to in the short
19 term, re-racking the spent fuel and higher density setting.

20 There's also been a question of whether it would
21 be appropriate to have spent fuel transferred to existing
22 facilities instead and not build an installation at
23 Diablo Canyon.

24 Q And those alternatives are still being evaluated
25 by ORA and the CPUC?

1 A By ORA, yes.

2 Q If ORA decided that some other path was better or
3 more prudent or more reasonable, what would the effect of
4 that be on the rate process?

5 A It would probably mean ORA would make a
6 recommendation to change how PG&E is proposing to deal with
7 its spent fuel and spent fuel installation.

8 Q Would that occur before PG&E started building an
9 ISFSI?

10 A Probably.

11 Q So if ORA and ultimately the CPUC were to take a
12 position on that issue, PG&E would have an opportunity to
13 change course to assure that its expenses are subject to
14 recovery and rates?

15 A Yes.

16 Q If the expenses are ultimately determined by the
17 commission to not be prudently incurred, what happens then?
18 What is the effect of that?

19 A Typically, expenses that are disallowed are
20 removed from the recommended requirement that PG&E
21 collects, and PG&E doesn't have the opportunity to recover
22 the costs from the rate-payers.

23 It becomes a shareholder cost.

24 Q Are you familiar with the PG&E's assertions that
25 it will be rely on debt financing with respect to the

1 construction and operation of the ISFSI?

2 A I don't believe I have seen an assertion that
3 PG&E would not rely on debt financing.

4 All I have seen is what they have put in the rate
5 case, that they would prefer to expense it. And
6 considering the -- these incremental amounts in the
7 \$10 million range, it's not necessarily that they would
8 have to use debt to finance something like that.

9 Q So you would acknowledge that it would not be
10 required as a business matter for these kinds of numbers?

11 A Not with the amount of cash PG&E has.

12 Q I have here a number of documents that were
13 provided by the governmental participants in response to
14 PG&E -- actually, these were provided in response to NRC
15 staff discovery requests.

16 There are a number of data requests -- response
17 to CPUC data requests in the 2003 GRC.

18 Are these with this document?

19 Were you involved in collecting the documents to
20 respond to the staff interrogatory?

21 And if you would like, I can show you --

22 A Yes, they came out of -- these data responses, if
23 that's what they are, came out of my files.

24 Q Were you the one who determined the relevance or
25 responsiveness of those documents?

1 A I essentially selected documents and talked to
2 counsel about what was appropriate.

3 Q Now, why did you consider documents to be
4 appropriate in general?

5 MR. CHASET: I'm going to object as vague and
6 ambiguous.

7 MR. REPKA: I will rephrase.

8 Q My specific question is going to be on each of
9 these. Why will you use it in this case and how?

10 MR. CHASET: I'm going to object on grounds that
11 we -- that the witness has not prepared his testimony yet.

12 We certainly haven't decided exactly what
13 documents we're going to be submitting in that testimony or
14 what exactly the witness is going to say.

15 The response to the interrogatories was our best
16 shot at informing you about what our position is at the
17 time by the date that the interrogatories answers were due.
18 And these documents at the time seemed like the documents
19 that might be relevant.

20 I am not going to represent that we're
21 necessarily going to use those documents in the testimony,
22 but they are documents that were responsive to the NRC
23 staff's document request, or appear to be.

24 This is the NRC staff?

25 THE WITNESS: I don't think so.

1 (Discussion off the record.)

2 Q BY MR. REPKA: With the understanding that the
3 CPUC has not determined what it's going to say, I will just
4 ask a few questions on these and see if I can get some
5 sense of perhaps whether or not it's going to be part of
6 your testimony.

7 The first is a data response to Request 14. It
8 relates to: Could additional space be freed up by
9 re-racking the spent fuel rods in the spent fuel pools?

10 I take it from this, that ORA and/or the CPUC is
11 still looking at issue of wet storage, whether that would
12 be an alternative to the ISFSI; is that correct?

13 A Yes, that's one consideration.

14 Q Are there other conversations relevant to this
15 proceeding, related to the wet versus dry issue and how
16 much space is available for wet storage?

17 A The conversations of wet versus dry storage are
18 essentially the space available in the spent fuel pools,
19 whether you can create additional space by re-racking the
20 fuel assemblies closer together, and also, practicality of
21 doing this, considering the labor involved and the chance
22 for error or problems.

23 Q Now, I understand that those are considerations
24 that would go into a decision whether to proceed with wet
25 storage or dry storage?

1 A Yes. And PG&E has made a decision they would
2 rather go with dry storage.

3 Q Is that relevant, in your mind, with the proper
4 qualifications to build the ISFSI?

5 A As I understand the financial qualifications,
6 that's not in the same area, no.

7 Q Data response to Question 10, referring to
8 Question 9: What percentage of the fuel assemblies are
9 typically replaced during a refueling outage?

10 Is there any issue related to the issue of
11 refueling outage that, in your mind, is relevant to the
12 financial qualifications to build an ISFSI?

13 A No, I don't think so.

14 That was essentially a background question.

15 Q Data response related to Question 14. Question
16 14 says: When does PG&E expect the federal spent fuel
17 repository to begin accepting spent fuel?

18 "The earliest the Yucca Mountain facility could
19 be licensed and built is 2010."

20 Is the timing and availability of Yucca Mountain
21 as a repository for spent fuel relevant with respect to
22 your position to the financial qualifications to build the
23 ISFSI?

24 A Considering how far in the future the start-up of
25 Yucca Mountain is, it's probably not.

1 MR. TEMPLE: Standard objection to his ability to
2 answer financial qualifications.

3 MR. REPKA: I will point out for the record, that
4 Mr. Burns is the expert that has been -- that will testify
5 at the NRC.

6 Q Data response to Question 5 relates to
7 Table 4-13, it says in it's clarification that:

8 "The table reflects the 2005 forecast
9 expenditures of \$12 million for the Interim
10 Fuel Storage Installation based upon the
11 current contract and current implementation
12 plan."

13 And breaks down the pad, cask and overpacks, and
14 ancillary equipment, and cask loading.

15 Is there something relevant about this particular
16 breakdown, that you would intend to rely upon with respect
17 to the financial qualifications of PG&E to build and
18 operate the ISFSI?

19 A That data response explains the makeup of the
20 \$12 million, which is the incremental cost in 2005.

21 So I think that would be relevant.

22 MR. REPKA: I don't have any further questions.

23 MS. COGGINS: No questions for me.

24 MR. CHASET: I don't have any.

25 MR. REPKA: No further questions.

(Proceedings ended at 2:40 P.M.)

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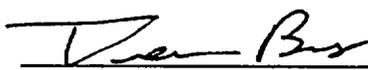
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1 I, TRUMAN BURNS, have read my deposition consisting of the
2 preceding 54 pages, taken on February 27, 2003, Court
3 Reporter's Job No. 9357, and I certify that:

4 (Check one)

5 I have no corrections.

6 X I have corrections as reflected on attached
7 Deponent's Correction Sheet and that I now approve my
8 deposition as true and correct.

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16 TRUMAN BURNS
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1 Deponent's Correction Sheet

2 To add testimony, indicate "Add," and print the exact words
3 you wish to add. To delete testimony, indicate "Delete,"
4 and print the exact words you wish to delete.

4 Deposition of: TRUMAN BURNS
Date of Deposition: FEBRUARY 27, 2003

5
6 I, TRUMAN BURNS, have the following changes to my
7 deposition:

7	PAGE	LINE	CHANGE: Add/Delete
8	<u>11</u>	<u>11</u>	<u>the NRC's record.</u>
9	<u>15</u>	<u>9</u>	<u>delete 4</u>
10	<u>15</u>	<u>15</u>	<u>wholesale rate</u>
11	<u>15</u>	<u>16</u>	<u>via FERC regulation.</u>
12	<u>15</u>	<u>25</u>	<u>delete the</u>
13	<u>17</u>	<u>22</u>	<u>delete commission of</u>
14	<u>17</u>	<u>22</u>	<u>regulatory recovery would</u>
15	<u>21</u>	<u>22</u>	<u>"The Witness" is really Chuset</u>
16	<u>22</u>	<u>25</u>	<u>by the utility</u>
17	<u>27</u>	<u>21</u>	<u>2002 and 2003,</u>
18	<u>38</u>	<u>16</u>	<u>the</u>
19	<u>48</u>	<u>20</u>	<u>revenue, not "recommended"</u>
20	---	---	---
21	---	---	---
22	---	---	---

24 Truman Burns Date 3/28/03

25 TRUMAN BURNS

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REPORTER'S CERTIFICATE

STATE OF CALIFORNIA)
) ss.
COUNTY OF SACRAMENTO)

I, LAURI A. GALALGHER, a Certified Shorthand Reporter, licensed by the state of California and empowered to administer oaths and affirmations pursuant to Section 2093 (b) of the Code of Civil Procedure, do hereby certify:

That the witness, TRUMAN BURNS, was present at the time and place herein set forth and was by me sworn to testify as to the truth;

That the said proceedings were recorded stenographically by me and were thereafter transcribed under my direction via computer-assisted transcription;

That the foregoing transcript is a true record of the proceedings which then and there took place;

That I am a disinterested person to said action.

IN WITNESS WHEREOF, I have subscribed my name on March 19, 2003.

Lauri A. Gallagher
Certified Shorthand Reporter No. 8726