

January 7, 2004

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

San Luis Obispo Mothers for Peace,
Santa Lucia Chapter of the Sierra Club,
and Peg Pinard,
Petitioners,

v.

U.S. Nuclear Regulatory Commission
and the United States of America,
Respondents,

and

Pacific Gas and Electric Company,
Proposed Intervenor.

No. 03-74628

MOTION OF PACIFIC GAS AND ELECTRIC COMPANY
FOR LEAVE TO INTERVENE

Pursuant to Rule 15(d) of the Federal Rules of Appellate Procedure, and Circuit Rule 15-3.2(c) of the United States Court of Appeals for the Ninth Circuit, Pacific Gas and Electric Company ("PG&E") hereby moves for leave to intervene as a party respondent in the captioned proceeding. In support of its motion, PG&E states as follows:

1. PG&E is the owner and operator of the Diablo Canyon Power Plant (“DCPP”). DCPP is a two-unit nuclear plant licensed and regulated by the United States Nuclear Regulatory Commission (“NRC” or “Commission”).

2. Petitioners San Luis Obispo Mothers for Peace, Santa Lucia Chapter of the Sierra Club, and Peg Pinard (collectively, “SLOMFP”) are seeking review of one or more decisions of the NRC. Specifically, SLOMFP cites three decisions in the Matter of Pacific Gas and Electric Co. (Diablo Canyon Power Plant Independent Spent Fuel Storage Installation), Docket No. 72-26-ISFSI: LBP-02-23, issued December 2, 2002; CLI-02-23, issued November 21, 2002; and CLI-03-1, issued January 23, 2003.

3. The NRC’s decisions relate to PG&E’s request for a license to construct and operate an independent spent fuel storage installation (“ISFSI”) at DCPP. The ISFSI would support continued operation of DCPP through the term of the current NRC licenses for the plant.

4. The NRC decisions at issue result from the administrative proceeding on PG&E’s ISFSI license application. In CLI-02-23, the Commission denied SLOMFP’s September 9, 2002, request to suspend the ISFSI administrative proceeding pending the Commission’s review of measures to protect against terrorist attack. In LBP-02-23 the NRC’s administrative board —the Atomic Safety and Licensing Board (“Licensing Board”) — rejected and referred to the

full Commission four contentions relating to the need for consideration of acts of terrorism and sabotage in the PG&E environmental report. In CLI-03-1, the Commission accepted the Licensing Board's referral of the decision to reject the terrorism contentions and affirmed the Board's rejection of those contentions. The Commission held that the National Environmental Policy Act ("NEPA") does not require a terrorism review in the context of a site-specific environmental assessment related to an ISFSI license application.

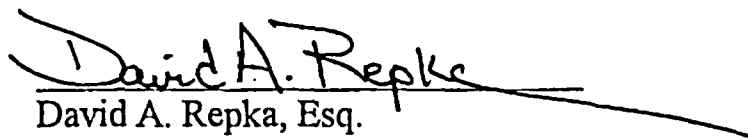
5. All other administrative appeals pertaining to the NRC's ISFSI proceeding were dispositioned in CLI-03-12, issued on October 15, 2003. Thereafter, on December 11, 2003, Petitioners filed in this Court their Petition for Review.

6. PG&E, as the owner and operator of DCP, and as the applicant for the ISFSI license, participated in the administrative proceedings before the NRC. PG&E's operations are directly implicated by the proposed licensing action and would be directly affected should the Court suspend, enjoin, or set aside the NRC's orders that are the subject of the Petition for Review. Accordingly, PG&E has a direct and substantial interest in the case. Although the NRC is a Respondent with respect to the petition for review, PG&E has a separate interest apart from the regulatory interests of the NRC.

7. Counsel for the NRC and SLOMFP have indicated that they do not object to PG&E's motion for leave to intervene.

Wherefore, PG&E requests that it be granted leave to intervene as a party respondent in the captioned proceeding.

Respectfully submitted,



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ATTORNEYS FOR PROPOSED
INTERVENOR
PACIFIC GAS & ELECTRIC COMPANY

Dated in Washington, District of Columbia
this 7th day of January 2004

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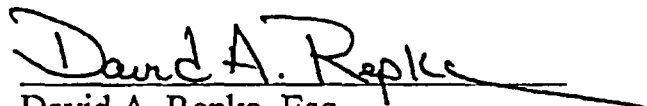
CORPORATE DISCLOSURE STATEMENT

Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure, Pacific Gas and Electric Company ("PG&E") hereby files this Disclosure Statement.

Intervenor PG&E is a corporation organized under the laws of the State of California, with its principal executive offices in San Francisco, California. PG&E is an operating public utility engaged principally in the business

of providing electricity and natural gas distribution and transmission services throughout most of Northern and Central California. Effective January 1, 1997, PG&E and its subsidiaries became subsidiaries of Pacific Gas and Electric Corporation, an energy-based holding company organized under the laws of the State of California, with its principal executive offices in San Francisco, California. Pacific Gas and Electric Corporation, PG&E's parent corporation, is the only publicly held corporation owning ten percent or more of PG&E's stock.

Respectfully submitted,



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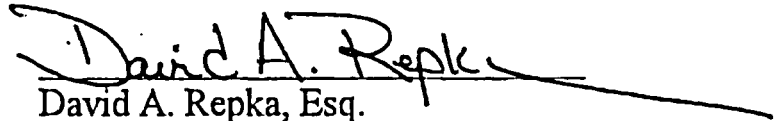
CERTIFICATE OF SERVICE

I hereby certify that copies of "Motion Of Pacific Gas And Electric Company For Leave To Intervene" and "Corporate Disclosure Statement" in the captioned proceeding have been served as shown below by United States mail, first class, this 7th day of January 2004.

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