UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

SAN LUIS OBISPO MOTHERS FOR PEACE, SIERRA CLUB, and PEG PINARD, Petitioners,	)	
v.	)	No. 03-74628
UNITED STATES NUCLEAR REGULATORY COMMISSION and the UNITED STATES OF AMERICA, Respondents	)	
PACIFIC GAS & ELECTRIC CO. Intervenor-Respondent	)	

PETITIONERS' MOTION FOR CLARIFICATION OF BRIEFING SCHEDULE

Petitioners, San Luis Obispo Mothers for Peace, Sierra Club, and Peg Pinard, hereby move for clarification of the Court's briefing schedule in this proceeding. Petitioners request clarification that their reply brief is due 28 days after service of the answering brief by Respondent, the U.S. Nuclear Regulatory Commission ("NRC").

Factual Background

The Court issued its first Schedule Order on December 12, 2003. Petitioners' opening brief was due March 1, 2004; the NRC's answering brief was due March 31, 2004; and Petitioners' optional reply was due 14 days after service of the NRC's brief.

By Order dated January 15, 2004, the Court admitted Pacific Gas & Electric Company ("PG&E") as Intervenor-Respondent, and ordered that PG&E's brief would be due April 14, 2004, *i.e.,* 14 days after the NRC's brief.

On February 25, 2004, the Court orally granted Petitioners an extension of time for filing their opening brief until March 15, 2004. Subsequently, in a written Order dated March 25, 2004, the clerk sua sponte amended the briefing schedule to require that the Intervenors' brief would be due 14 days from service of the NRC's brief, and the Petitioner's reply brief would be due 28 days after service of the NRC's brief.

In an Order dated April 6, 2004, the Court granted a motion by the NRC for an extension of the deadline for filing its answering brief, until May 12, 2004. The Court also stated that "the optional reply brief is due 14 days from service of answering brief." Pursuant to this Order, Petitioners' reply brief and PG&E's brief in support of the NRC's position would be due on the same day.

Discussion

In the April 6 Order, the Court appears to have overlooked its previous orders admitting PG&E as Intervenor and requiring it to file a brief 14 days after service of the NRC's brief. Petitioners do not believe the Court intended them to have to file their reply brief simultaneously with PG&E, but instead to have a reasonable period of time in which to reply to both the NRC and PG&E. Therefore

Petitioners respectfully request that the Court clarify that their reply brief is not due until 28 days after service of the NRC's responsive brief.

Petitioners' counsel has consulted counsel for the NRC and PG&E, who have authorized her to state that they do not object to this motion.

Respectfully submitted,

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May 17, 2004

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CERTIFICATE OF SERVICE

I certify that on May 17, 2004, copies of the foregoing Petitioners' Motion for Clarification of Briefing Schedule were served on the following by Federal Express:

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