

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

Alex S. Karlin, Chairman
Nicholas G. Trikouros
Dr. Paul B. Abramson

In the Matter of

PACIFIC GAS & ELECTRIC COMPANY

(Diablo Canyon Nuclear Power Plant, Units 1
and 2)

Docket Nos. 50-275-LR and 50-323-LR

ASLBP No. 10-890-01-LR-BD01

May 5, 2010

MEMORANDUM AND ORDER
(Setting Oral Argument)

On May 26, 2010, commencing at 8:30 AM local time the Board will hear oral argument on the petition to intervene and petition for waiver filed by the San Luis Obispo Mothers for Peace (SLOMFP). The oral argument will be held in the San Luis Obispo County Board Chambers of the County Government Center, located at 1055 Monterey St. in San Luis Obispo, California. Only those attorneys who represent SLOMFP, Pacific Gas & Electric Co. (PG&E), and the staff of the Nuclear Regulatory Commission (NRC Staff) and who have entered an appearance pursuant to 10 C.F.R. § 2.314 will be entitled to participate. The Board will extend the oral argument into the evening if necessary.

The oral argument will proceed as follows. First, we will hear a ten-minute opening statement from each participant. Second, the Board will hear argument on the admissibility of each of the contentions. Oral argument concerning the petition for waiver will be combined with the oral argument regarding each of the affected contentions (EC-2 and EC-3). The Board will not entertain oral argument on the standing of the Petitioners. Third, we will entertain a short closing statement, limited to five minutes, from each participant.

For each of the contentions that do not entail a waiver petition (TC-1, EC-1 and EC-4) the Board expects to question SLOMFP for approximately thirty minutes, PG&E for approximately twenty minutes, and the NRC Staff for approximately ten minutes. The Board may permit SLOMFP to reserve up ten minutes for rebuttal.

For each of the contentions that do entail a waiver petition (EC-2 and EC-3), the same rules apply, except that the Board expects to allocate forty minutes to questioning SLOMFP, twenty-five minutes to PG&E, and fifteen minutes to the NRC Staff.

In formulating their arguments, participants should keep in mind that the Board will have read their pleadings. Participants should focus on the critical points in controversy, as those issues have emerged in the pleadings. The main purpose of the oral argument is to allow the Board to clarify its understanding of legal and factual points to assist it in deciding the issues presented by the pleadings. Thus, the participants should expect that their oral argument will be devoted primarily to responding to questions from the Board. Such questioning is part of, and does not expand, a participant's allotted time.

Given that the sole purpose of this proceeding is to evaluate the admissibility of the contentions, the waiver petition, and the legal issues presented in the participants' pleadings, oral argument will only be heard from the attorneys representing the participants. However, members of the public and representatives of the media are welcome to attend and observe this proceeding. As this is an adjudicatory proceeding, the Board intends to conduct an orderly hearing. Signs, banners, posters, and displays are prohibited in accordance with NRC policy. See Procedures for Providing Security Support for NRC Public Meetings/Hearings, 66 Fed. Reg. 31,719 (June 12, 2001). All interested persons should arrive at least fifteen minutes early so as to allow sufficient time to pass through security screening.

As an informational matter, the participants are advised that the Board is attempting to arrange for the oral argument to be made available for live viewing via an internet webstreaming

feed. As currently planned, the webstreaming feed will be at:

<http://www.slocounty.ca.gov/clerk/BoardofSupervisors.htm>.

Oral limited appearance statements in accord with 10 C.F.R. § 2.315(a) will not be heard at this time. If contentions are ultimately admitted, then the Board may hear oral limited appearance statements regarding those contentions at a later date. In the interim, interested individuals may submit written limited appearance statements related to the issues in this proceeding. Such written statements may be submitted at any time and should be sent either by (1) mail to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, Attention: Rulemakings and Adjudications Staff, with a copy to the Chairman of this Licensing Board at Mail Stop T-3E15, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001; (2) e-mail to the Office of the Secretary at hearingdocket@nrc.gov, with a copy to this Board (c/o Wen Bu, wen.bu@nrc.gov) or (3) fax to the Office of the Secretary at 301-415-1101 (facsimile verification number: 301-415-1966), with a copy to the Board (c/o Wen Bu) at 301-415-5599 (facsimile verification number: 301-415-7550).

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Alex S. Karlin, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
May 5, 2010

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NUCLEAR REGULATORY COMMISSION

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(Diablo Canyon Nuclear Power Plant,)
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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing MEMORANDUM AND ORDER (SETTING ORAL ARGUMENT) have been served upon the following persons by the Electronic Information Exchange.

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Docket Nos. 50-275-LR and 50-323-LR
MEMORANDUM AND ORDER (SETTING ORAL ARGUMENT)

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[Original signed by Christine M. Pierpoint]

Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 5th day of May 2010.