

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

September 1, 2010

NOTICE OF HEARING
(Application for License Renewal)

This proceeding concerns the November 23, 2009, application of Pacific Gas & Electric Company (PG&E) to renew Operating License Nos. DPR-80 and DPR-82 for the Diablo Canyon Nuclear Power Plant, Units 1 and 2, near San Luis Obispo, California. PG&E seeks to extend these licenses for an additional twenty years beyond the current expiration dates of November 2, 2024 and August 26, 2025.

On January 21, 2010, the Nuclear Regulatory Commission (NRC) published a notice of opportunity to request a hearing concerning the PG&E license renewal application. 75 Fed. Reg. 3493 (Jan. 21, 2010). On March 22, 2010, the San Luis Obispo Mothers for Peace (SLOMFP), a local public interest group, filed a request for hearing and asserted five contentions challenging various aspects of PG&E's application. On April 8, 2010, this Atomic Safety and Licensing Board was established to conduct this adjudication. See 75 Fed. Reg. 20,010 (Apr. 16, 2010). On May 26, 2010, the Board heard oral argument from SLOMFP, PG&E, and the NRC Staff in San Luis Obispo, California, relating to the admissibility of the proposed contentions. On August 4, 2010, the Board issued a memorandum and order granting

SLOMFP's request for a hearing and admitting four of its contentions. LBP-10-15, 72 NRC ___ (slip op.) (Aug. 4, 2010).

Pursuant to 10 C.F.R. § 2.105(e)(2), please take notice that the Atomic Safety and Licensing Board will conduct an evidentiary hearing on SLOMFP's challenge to PG&E's application to renew its licenses. The matters of fact and law to be considered at the hearing are the contentions that have been duly admitted. As of this time, the four admitted contentions are as follows:

CONTENTION EC-1: PG&E's Severe Accident Mitigation Alternatives ("SAMA") analysis fails to satisfy 40 C.F.R. § 1502.22 because it fails to consider information regarding the Shoreline fault that is necessary for an understanding of seismic risks to the Diablo Canyon nuclear power plant. Further, that omission is not justified by PG&E because it has failed to demonstrate that the information is too costly to obtain. As a result of the foregoing failures, PG&E's SAMA analysis does not satisfy the requirements of the National Environmental Policy Act ("NEPA") for consideration of alternatives or NRC implementing regulation 10 C.F.R. § 51.53(c)(3)(ii)(L).

CONTENTION EC-2: PG&E's Environmental Report is inadequate to satisfy NEPA because it does not address the airborne environmental impacts of a spent fuel pool accident caused by an earthquake adversely affecting DCNPP.¹

CONTENTION EC-4: The Environmental Report fails to satisfy the National Environmental Policy Act (NEPA) because it does not discuss the cost-effectiveness of measures to mitigate the environmental impacts of an attack on the Diablo Canyon reactor during the license renewal term.²

CONTENTION TC-1: The applicant, Pacific Gas & Electric Company (PG&E), has failed to satisfy 10 C.F.R. § 54.29's requirement to demonstrate a reasonable assurance that it can and will "manage the effects of aging" in accordance with the current licensing basis. PG&E has failed to show how it will address and rectify an ongoing adverse trend with respect to recognition, understanding, and management of the Diablo Canyon Nuclear Power Plant's design/licensing basis which undermines PG&E's ability to demonstrate that it will adequately manage aging in accordance with this same licensing basis as required by 10 C.F.R. § 54.29.

¹ Although the Board has determined that Contention EC-2 otherwise meets the admissibility criteria of 10 C.F.R. § 2.309(f)(1), no evidentiary hearing will be held on this contention unless the Commission rules that SLOMFP's request for waiver of certain key regulations is warranted under 10 C.F.R. § 2.335. That waiver request is now pending before the Commission.

² Pursuant to 10 C.F.R. § 2.323(f)(1) the Board referred Contention EC-4 to the Commission.

The authority under which the evidentiary hearing will be held is the Atomic Energy Act, 42 U.S.C. §§ 2231, 2239, and 2241. Unless otherwise indicated, the evidentiary hearing on the four admitted contentions will be conducted pursuant to the NRC hearing procedures set forth in 10 C.F.R. Part 2, Subpart L, 10 C.F.R. §§ 2.1200-2.1213. During the course of this adjudicatory proceeding, the Board may also hear oral arguments as provided in 10 C.F.R. § 2.331 and may hold various prehearing conferences pursuant to 10 C.F.R. § 2.329. These may be held via teleconference, video-conference, and/or in person. Except where certain legally privileged documents or testimony are being heard, all of the proceedings will be open to the public. See 10 C.F.R. § 2.328. Prior to the evidentiary hearing and to each oral argument or prehearing conference, the Board will issue an order, notice, and/or memorandum that specifies the date, time and place of such event. A copy of any such order, notice and/or memorandum will be made available to the public on the Diablo Canyon “Board Orders” section of the NRC Electronic Hearing Docket found at <http://ehd1.nrc.gov/EHD/>. The public should be aware that new documents are regularly added to this website as the parties file pleadings and the Board issues orders or notices. Therefore this website should be monitored regularly by interested members of the public. In addition, hard copies of Board orders, notices and/or memoranda are also available at the NRC Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Finally, the public is advised that the Secretary of the Commission will give notice of a hearing (and of other events in the proceeding) to any member of the public who requests it.³ See 10 C.F.R. § 2.315(b).

As provided in 10 C.F.R. § 2.315(a), any person who is not a party to the proceeding may, in the discretion of this Board, be permitted to submit a written limited appearance statement. Such statements should focus on the admitted contentions. Limited appearance statements do not constitute legal evidence, but they are placed in the docket for the hearing.

³ Any such request may be directed to the Secretary of the Commission by electronic mail at hearing.docket@nrc.gov or by telephone at 301-415-1677.

The limited appearance statement is an opportunity for a member of the public to inform the Board and/or the parties of his or her concerns, issues, and questions and suggestions relating to the matters at issue in the adjudicatory proceeding, i.e., relating to the admitted contentions.

A written limited appearance statement should be sent to the Office of the Secretary using one of the following methods: (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 Alex S. Karlin, the Chairman of this Licensing Board at Mail Stop T-3F23, 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 hearing.docket@nrc.gov, with a copy to the Board Chairman c/o Ashley Prange at ashley.prange@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 Chairman at 301-415-5599 (facsimile verification number: 301-415-7550).

The Board may, at a later time, schedule a meeting where members of the public may provide oral limited appearance statements. If any such session is scheduled, the Board will issue a prior order or notice, which will be posted in the Diablo Canyon Board Orders section of the Electronic Hearing Docket webpage at <http://ehd1.nrc.gov/EHD/>.

The time and date of the evidentiary hearing herein cannot be set at this time. This is because the law specifies that, in scheduling the evidentiary hearing, the Board must “take into consideration the NRC staff’s projected schedule for completion of its safety and environmental evaluations to ensure that the hearing schedule does not adversely impact the staff’s ability to complete its reviews in a timely manner.” 10 C.F.R. § 2.332(d). At the moment, the NRC Staff estimates that its Final Safety Evaluation Report will be considered by the NRC Advisory Committee on Reactor Safeguards in July 2011 and that the Staff will issue the Final Supplemental Environmental Impact Statement in August 2011. But the Staff’s schedule is

subject to change. The evidentiary hearing herein concerning environmental matters is not likely to commence until 3 or 4 months after August 2011. See 10 C.F.R. § 2.332(d).

Documents relating to this adjudicatory proceeding are available for public inspection in the NRC's Electronic Hearing Docket at <http://ehd1.nrc.gov/EHD/>. Those documents, and some documents relating to the Staff's review of this license application, are also available from the Commission's Public Document Room or electronically from the publicly available records component of NRC's document system (ADAMS). ADAMS is accessible from the NRC web site at www.nrc.gov/reading-rm/adams.html. Persons who do not have access to ADAMS, or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1-800-397-4209 or 301-415-4737, or by e-mail at PDR.Resource@nrc.gov.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Alex S. Karlin, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
September 1, 2010

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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

I hereby certify that copies of the foregoing NOTICE OF HEARING (APPLICATION FOR LICENSE RENEWAL) have been served upon the following persons by the Electronic Information Exchange.

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[Original signed by Christine M. Pierpoint]
Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 1st day of September 2010.