

**BEFORE THE UNITED STATES
NUCLEAR REGULATORY COMMISSION**

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
)
PACIFIC GAS & ELECTRIC COMPANY)
)
(Diablo Canyon Nuclear Power Plant, Units 1 and 2) _____)

Docket No. 50-275-LR
Docket No. 50-323-LR

October 10, 2014

(License Renewal Application)

**FRIENDS OF THE EARTH’S PETITION FOR WAIVER OF 10 C.F.R. §§ 54.4, 54.21,
AND 54.29(a) AS APPLIED TO THE DIABLO CANYON LICENSE RENEWAL
PROCEEDING**

I. INTRODUCTION

Pursuant to 10 C.F.R. § 2.335(b), Friends of the Earth (“Petitioner”) hereby petitions for a limited waiver of 10 C.F.R. §§ 54.4, 54.21, and 54.29(a) to the extent the Nuclear Regulatory Commission (“Commission”) or Atomic Safety and Licensing Board (“ASLB”) interpret these regulations as precluding Petitioner from asserting in this proceeding that PG&E has not established Diablo Canyon can safely shut down following a potential earthquake.¹ Petitioner seeks a limited waiver of the application of 10 C.F.R. §§ 54.4, 54.21, and 54.29(a) to permit Petitioner to assert that a large earthquake that, following issuance of PG&E’s Central Coastal California Seismic Imaging Project report, is now known to be possible, would cause certain structures, systems, and components (“SSCs”) within Diablo Canyon to fail, preventing the plant’s reactors to remain safely shut down. As demonstrated in the attached Declaration of

¹ In its Request for Hearing and Petition to Intervene, attached to this Petition for Waiver, Petitioner asserts that the issues raised in its Petition to Intervene are within the scope of a license renewal proceeding. See Request for Hearing and Petition to Intervene, at 19-20, 27-29. In the event the Commission disagrees with this point, Petitioner has attached this Petition for Waiver. This Petition therefore assumes *arguendo* that the Contentions made in the Petition to Intervene are outside the scope of a license renewal proceeding.

Richard Ayres in Support of Petition for Waiver of 10 C.F.R. §§ 54.4, 54.21, and 54.29(a), the purpose of the regulations—“to ensure that important systems, structures, and components will continue to perform their intended function in the period of extended operation”²—would not be served by their application in this case.

II. STATUTORY AND REGULATORY FRAMEWORK

a. The Scope Of A License Renewal Proceeding

Generally, the Commission’s review of a license renewal application focuses on matters relevant to the extended period of operation requested by the licensee that are not reviewed on a continuing basis under existing NRC inspection and oversight programs.³ Under 10 C.F.R. Part 54, which governs license renewal proceedings, the safety review focuses on SSCs that will require an aging management review for the period of extended operation or are subject to an evaluation of time-limited aging analyses.⁴

Section 54.4 sets forth the SSCs that are within the scope of a license renewal proceeding:

(a) Plant systems, structures, and components within the scope of this part are--

(1) Safety-related systems, structures, and components which are those relied upon to remain functional during and following design-basis events (as defined in 10 CFR 50.49 (b)(1)) to ensure [certain safety-related] functions[.]

(2) All nonsafety-related systems, structures, and components whose failure could prevent satisfactory accomplishment of any of the [safety-related functions performed by SSCs identified in paragraph (a)(1)].

² Nuclear Power Plant License Renewal; Revisions, 60 Fed. Reg. 22,461, 22,463 (May 8, 1995).

³ See generally *Entergy Nuclear Generation Co. (Pilgrim Nuclear Power Station)*, CLI-10-14, 71 NRC 449, 454, (2010).

⁴ See 10 C.F.R. §§ 54.4, 54.21(a) and (c), and 54.29.

(3) All systems, structures, and components relied on in safety analyses or plant evaluations to perform a function that demonstrates compliance with the Commission's regulations for fire protection (10 CFR 50.48), environmental qualification (10 CFR 50.49), pressurized thermal shock (10 CFR 50.61), anticipated transients without scram (10 CFR 50.62), and station blackout (10 CFR 50.63)

(b) The intended functions that these systems, structures, and components must be shown to fulfill in § 54.21 are those functions that are the bases for including them within the scope of license renewal as specified in paragraphs (a)(1)–(3) of this section.⁵

The required contents of a license renewal application are set by 10 C.F.R. § 54.21. Each application must contain an “integrated plant assessment,” which must identify a list of SSCs that are subject to an aging management review.⁶ Generally, SSCs that are subject to an aging management review are passive SSCs that are not subject to replacement on a specified time period.⁷ For each SSC subject to aging management review, the applicant is required to “demonstrate that the effects of aging will be adequately managed so that the intended function(s) will be maintained consistent with the CLB for the period of extended operation.”⁸

A license renewal application also must contain “[a]n evaluation of time-limited aging analyses,” which consists of:

- (1) A list of time-limited aging analyses, as defined in § 54.3, must be provided. The applicant shall demonstrate that--
 - (i) The analyses remain valid for the period of extended operation;
 - (ii) The analyses have been projected to the end of the period of extended operation; or
 - (iii) The effects of aging on the intended function(s) will be adequately managed for the period of extended operation.

⁵ 10 C.F.R. § 54.4.

⁶ 10 C.F.R. § 54.21(a)(1).

⁷ 10 C.F.R. § 54.21(a)(1)(i)-(ii).

⁸ 10 C.F.R. § 54.21(a)(3).

(2) A list must be provided of plant-specific exemptions granted pursuant to 10 CFR 50.12 and in effect that are based on time-limited aging analyses as defined in § 54.3. The applicant shall provide an evaluation that justifies the continuation of these exemptions for the period of extended operation.⁹

The standards for issuance of a renewed license are contained in 10 C.F.R. § 54.29:

A renewed license may be issued by the Commission up to the full term authorized by § 54.31 if the Commission finds that:

(a) Actions have been identified and have been or will be taken with respect to the matters identified in paragraphs (a)(1) and (a)(2) of this section, such that there is reasonable assurance that the activities authorized by the renewed license will continue to be conducted in accordance with the CLB, and that any changes made to the plant's CLB in order to comply with this paragraph are in accord with the Act and the Commission's regulations. These matters are:

(1) managing the effects of aging during the period of extended operation on the functionality of structures and components that have been identified to require review under § 54.21(a)(1); and

(2) time-limited aging analyses that have been identified to require review under § 54.21(c).

(b) Any applicable requirements of subpart A of 10 CFR part 51 have been satisfied.¹⁰

b. Standards for Waiver of Application of NRC Rule or Regulation

Under 10 C.F.R. § 2.335(b), any “participant to an adjudicatory proceeding . . . may petition that the application of a specified Commission rule or regulation or any provision thereof . . . be waived or an exception be made for the particular proceeding.” Section 2.335(b) further provides that “[t]he sole ground for petition of waiver or exception is that special circumstances

⁹ 10 C.F.R. § 54.21(c).

¹⁰ 10 C.F.R. § 54.29.

with respect to the subject matter of the particular proceeding are such that the application of the rule or regulation (or a provision of it) would not serve the purposes for which the rule or regulation was adopted.”¹¹

In interpreting § 2.335(b), the Commission has articulated a four-factor test, sometimes referred to as the *Millstone* factors, which a waiver petitioner must satisfy.¹² To set aside a Commission rule or regulation in an adjudicatory proceeding, a petitioner must demonstrate that:

- (i) the rule’s strict application would not serve the purposes for which it was adopted;
- (ii) special circumstances exist that were not considered, either explicitly or by necessary implication, in the rulemaking proceeding leading to the rule sought to be waived;
- (iii) those circumstances are unique to the facility rather than common to a large class of facilities; and
- (iv) waiver of the regulation is necessary to reach a significant safety [or environmental]¹³ problem.¹⁴

All four *Millstone* factors must be met to justify a rule waiver.¹⁵

III. ARGUMENT

Petitioner satisfies the criteria for a limited waiver of 10 C.F.R. §§ 54.4, 54.21, and 54.29(a) to the extent those regulations are interpreted as precluding Petitioner from arguing that the ASLB should consider seismic issues in determining whether to grant PG&E’s license renewal request. The extraordinary seismic history of Diablo Canyon and recent significant advancement in the understanding of the vast and dangerous network of seismic faults

¹¹ 10 C.F.R. § 2.335(b).

¹² *Dominion Nuclear Connecticut, Inc.* (Millstone Nuclear Power Station, Units 2 and 3), CLI-05-24, 62 NRC 551, 559-60 & nn. 29-34 (2005).

¹³ See *Exelon Generation Co., LLC* (Limerick Generation Station, Units 1 and 2), CLI-13-07, 2013 WL 5872241 (Oct. 31, 2013), at *4 (“clarify[ing] . . . that the fourth *Millstone* factor also may apply to a significant environmental issue”).

¹⁴ *Id.*

¹⁵ *Id.*

underlying the plant favor a limited deviation in these circumstances from the usual scope of license renewal proceedings.

a. The Regulations' Strict Application Would Not Serve The Purposes For Which They Were Adopted.

Application of 10 C.F.R. §§ 54.4, 54.21, and 54.29(a) in this case to preclude Petitioner from asserting its Contentions would unjustifiably exclude important and relevant issues relating to the ability of Diablo Canyon to continue functioning properly during the additional 20-year period of operation sought by PG&E. Relays and snubbers are components that support major safety-related SSCs within the plant and are of vital importance in assuring that the plant can remain safely shut down following an earthquake.

In 1995, the Commission's regulations regarding license renewals were substantially revised.¹⁶ The stated purpose of the revision was to identify and eliminate from license renewal proceedings certain analysis that would be duplicative of the licensee's ongoing obligations to comply with Commission regulations and the plant's current licensing basis.¹⁷ The rule's paramount objective, however, remained the same as in the previous rule: "The final rule is intended to ensure that important systems, structures, and components will continue to perform their intended function in the period of extended operation."¹⁸ Accordingly, the Commission noted that the scope of a licensing renewal review must be broad enough to ensure continued plant safety throughout the extended term of the license, but narrow enough to ensure that the

¹⁶ 60 Fed. Reg. 22,461.

¹⁷ 60 Fed. Reg. at 22,462-63.

¹⁸ 60 Fed. Reg. at 22,463. *See also id.* at 22,462 ("The amendment will identify certain systems, structures, and components that require review in order to provide the necessary assurance that they will continue to perform their intended function for the period of extended operation."). The stated purpose of the amendment was to identify and eliminate from the license renewal proceeding certain analysis that is duplicative of the licensee's ongoing obligations to comply with Commission regulations and the plant's current licensing basis. *See id.* at 22,462-63. The new rule left in place the previous rule's safety-focused objective.

applicant was not required to conduct unnecessary and duplicative analysis to ensure continued safety.

The objective of a license renewal review is to determine whether the detrimental effects of aging, which could adversely affect the functionality of systems, structures, and components that the Commission determines require review for the period of extended operation, are adequately managed. The license renewal review is intended to identify any additional actions that will be needed to maintain the functionality of the systems, structures, and components in the period of extended operation.¹⁹

Accordingly, the Commission's new regulations took a broad view with regard to the SSCs that are within the scope of a license renewal proceeding.

Section 54.4 provides that three categories of SSCs are "within the scope of this part": (1) safety-related SSCs; (2) nonsafety-related SSCs whose failure could prevent satisfactory functioning of safety-related SSCs; and (3) certain other SSCs relied on to comply with Commission regulations regarding fire protection, environmental qualification, pressurized thermal shock, anticipated transients without scram, and station blackout.²⁰ In the final rule, the Commission elaborated on the importance of including within the scope all nonsafety-related SSCs that support safety-related SSCs:²¹

The inclusion of nonsafety-related systems, structures, and components whose failure could prevent other systems, structures, and components from accomplishing a safety function is intended to provide protection against safety function failure in cases where the safety-related structure or component is not itself impaired by age-related degradation but is vulnerable to failure from the failure of another structure or component that may be so impaired.²²

¹⁹ 60 Fed. Reg. at 22,464.

²⁰ 10 C.F.R. § 54.4(a).

²¹ This requirement is separate and in addition to the Aging Management Plan, which is limited to passive, long-lived SSCs. See 10 C.F.R. § 54.21(a); 60 Fed. Reg. at 22, 463 ("Only passive, long-lived structures and components are subject to an aging management review for license renewal.").

²² 60 Fed. Reg. at 22,467.

This requirement aids and is necessary to the license renewal rule's objective of ensuring safety during the extended term of operation.

In light of the license renewal rule's objectives to ensure the continued safe operation of the plant during the extended term and to cast a broad net with regard to the licensee's required evaluation of all SSCs that bear on this question, Petitioner should be granted a limited waiver to allow it to assert that the Commission can and should consider whether the plant's SSCs will continue to function properly during the extended period of operation in the face of increased risk revealed by newly discovered seismic data. Interpreting the Commission's rules to preclude Petitioner from arguing that the plant cannot withstand an earthquake due to the fact that the plant's relay switches and snubbers are no longer able to function properly would eviscerate the central objective of the license renewal rule—to ensure plant safety during the extended license term. Relay switches and snubbers play integral roles in supporting crucial safety-related SSCs by ensuring that these SSCs receive power and by absorbing seismic energy to prevent damage to these SSCs, respectively. Nothing could bear more directly on the ability of the plant to continue operating safely during the extended term of the license than the ability of crucial SSCs—SSCs that, under the Commission's regulations are within the scope of a license renewal proceeding—to continue to perform its supporting function following an earthquake.

b. Special Circumstances Exist In This Case That Were Not Considered In The Rulemaking Proceeding That Limited The Scope Of License Renewal Petitions To Age-Related Issues.

The unprecedented circumstances surrounding the seismic history of Diablo Canyon were not considered in the Commission's license renewal rulemaking proceeding. The license renewal rule was based on the assumption that a plant's seismic design basis would be static, and that no new seismic data, requiring alterations to the plant's current licensing basis, would be

discovered. Diablo Canyon’s unique seismic history constitutes special circumstances that warrant an analysis at the license renewal stage of whether the plant’s SSCs, in their aged condition, can continue to function properly during the extended period of operation.

i. *The Seismic History Of Diablo Canyon*

The history of Diablo Canyon is unlike that of any other nuclear power plant in the United States. Again and again, what was thought to be a thorough understanding of the seismic landscape around Diablo Canyon was shown to be thoroughly incomplete and inaccurate. Repeated seismic discoveries since the granting of the plant’s construction permits in 1968 and 1970 have caused PG&E and NRC seismologists to repeatedly revise upward their estimations of seismic risk to the plant.

In 1971, during the plant’s construction, a previously unknown fault was discovered. This fault, later named the Hosgri fault, was capable of producing far greater ground motion than the plant’s 0.4 g Double Design Earthquake/Safe Shutdown Earthquake. As a result of that discovery, a condition unique among U.S. nuclear power plants was inserted into Diablo Canyon’s operating license. That condition required PG&E to “develop and implement a program to reevaluate the seismic design bases used for [Diablo Canyon].”²³ To implement this program, PG&E modified the NRC’s standard earthquake design criteria used for all other plants and developed the Long Term Seismic Program (LTSP).

Rather than require PG&E to employ the assumptions that the company was required to use in the plant’s design basis earthquakes—the Double Design Earthquake (DDE) and Design Earthquake (DE)—the Commission treated the Hosgri Evaluation as a “special case,” permitting the seismic evaluation under the LTSP to use materially less conservative assumptions than in

²³ Diablo Canyon Nuclear Power Plant, Unit 1, Operating License, Condition 2(C)(7), ADAMS Accession No. ML053140349.

the NRC standard method.²⁴ The Commission also confirmed that the LTSP would not alter the current licensing basis or seismic qualification basis for Diablo Canyon.²⁵ The Commission permitted PG&E to conduct its seismic analysis of the Hosgri fault using the limited, less conservative Hosgri Evaluation, rather than the comprehensive methodology used in the DDE and DE analyses.

In November 2008, the U.S. Geological Survey discovered a previously unknown fault less than a quarter mile offshore from Diablo Canyon's intake structure. This line of epicenters became known as the Shoreline fault. A January 2011 PG&E report concluded that the Shoreline fault is capable of producing greater ground motion than any of the postulated earthquakes studied in Diablo Canyon's license.

The magnitude of deterministic earthquakes for the Shoreline fault (M6.5) is less than the magnitudes for the Hosgri (M7.1), but due to the shorter distance, the ground motions from the 84th percentile ground motions for Shoreline fault are greater than the updated ground motions from the Hosgri fault source.²⁶

The 2011 PG&E report concluded that the Shoreline fault was not connected to the Hosgri fault and that the Shoreline fault is divided into segments that would act as barriers to earthquake rupture.²⁷ Scientists agreed that an earthquake rupturing the Shoreline fault and a part of the Hosgri fault, which would be possible if the two faults are connected or are sufficiently close to each other that rupturing on one fault could trigger rupturing on the other, would produce a greater earthquake than by rupturing on only the Shoreline fault.

²⁴ The Hosgri Evaluation is a seismic analysis within the LTSP.

²⁵ Diablo Canyon Nuclear Power Plant, Units 1 and 2, Final Safety Analysis Report Update, Section 2.5, "Geology and Seismology," ADAMS Accession No. ML11145A034 (Rev. May 19, 2010), at 2.5-1 (hereinafter "FSARU"). See also NRC, "Additional Branch Chief Comments Related to NCP 2012-001 With Annotations," ADAMS Accession No. ML12284A066, at 3.

²⁶ PG&E Report to the NRC, "Report on the Analysis of the Shoreline Fault Zone, Central Coastal California," ADAMS Accession No. ML ML110140425 (Jan. 2011), at ES-2.

²⁷ See PG&E, Central Coastal California Seismic Imaging Project, <http://www.pge.com/en/safety/systemworks/dcpp/seismicsafety/report.page> (last accessed Oct. 1, 2014), Ch. 13, p. 19 (the "PG&E Seismic Report").

ii. *The September 2014 Central Coastal California Seismic Imaging Project Report*

In September 2014, PG&E issued another seismic report that concluded that previous estimations of seismicity around Diablo Canyon vastly underrepresented the capability of faults near the plant, illustrating that the seismic risk to the plant was far greater than previously thought.²⁸ PG&E scientists concluded that:

- The Hosgri and Shoreline faults are now assumed to intersect such that a linked rupture involving the full Hosgri fault and the full Shoreline fault is possible, making possible a magnitude 7.3 earthquake occurring within 600 meters of the plant.²⁹ This conclusion abrogates PG&E's previous assessment that such a linked rupture was not possible.
- The Shoreline fault is nearly double the previously assumed length. It is now found to be 45 km long rather than the previously presumed 23 km.³⁰ This revised estimation increases the potential magnitude of the earthquake from 6.5 to 6.7, resulting in a doubling of the energy output of the earthquake.³¹
- The "step-over" between the Hosgri fault and the San Simeon fault "is small enough that the two faults are assumed to rupture together rather than separately. Under previous PG&E analysis, a rupture on one fault was assumed not to be able to cause a rupture on another fault. This new finding revised the potential magnitude of a Hosgri earthquake from 7.1 to 7.3."³²

²⁸ See generally PG&E Seismic Report.

²⁹ PG&E Seismic Report, Ch. 13, at 17-18.

³⁰ PG&E Seismic Report, Technical Summary, at 6-7.

³¹ PG&E Seismic Report, Technical Summary, at 10.

³² PG&E Seismic Report, Technical Summary, at 10.

Despite these startling findings showing that PG&E’s previous estimations of the Hosgri fault were inaccurate and under-predicted the fault’s capability, PG&E concluded that the plant remained safe *on the basis that the ground motions based on the new information “remain bounded” by its previous evaluation of ground motion that can be caused by the Hosgri fault.*³³ PG&E does not explain how a previous evaluation of ground motion that has been shown to be inaccurate—the 1977 Hosgri Evaluation—can serve as a bounding evaluation for *another* evaluation that concludes the faults around Diablo Canyon are capable of greater earthquakes.

iii. *These Circumstances Were Not Considered In The Rulemaking Proceeding Leading To The Rule*

Excluding from evaluation SSCs that are monitored on an ongoing basis could be defended as reasonable, but only if one assumes that such ongoing monitoring is adequate and that no other circumstances arise that could place additional stress on these SSCs. Indeed, the rule assumes not only that the plant’s current licensing basis will be maintained in compliance with Commission regulations, but also that no other exceptions for outside-design-basis events will be added to the plant’s current licensing basis.

The case of Diablo Canyon demonstrates that these assumptions do not hold true in all instances. Where, as here, there exists an exception to the plant’s safe shutdown earthquake, the rule’s purpose of continued safety is not furthered by excluding from license renewal review certain SSCs that play an important part in ensuring that the plant is able to safely shut down and remain shut down following an earthquake. This is even more so where, as here, the exception to the plant’s licensing basis—the 1977 Hosgri evaluation—has been shown to rest on incomplete and inaccurate data regarding the seismic faults near Diablo Canyon. As evidenced by PG&E’s own scientists in its recent Seismic Report, the seismic data forming the basis of the

³³ PG&E Seismic Report, Executive Summary, at 1.

1977 Hosgri evaluation is now known to have greatly underestimated the capability of faults around the plant.

c. Special Circumstances Unique To Diablo Canyon Exist.

The circumstances described above are unique among U.S. nuclear power plants. No other nuclear power plant in the U.S. has been permitted to continue operations despite the existence and acknowledgement of a fault nearby that can produce far greater ground motion than the plant's safe shutdown earthquake. Nor does any other nuclear power plant have as a condition in its operating license a commitment to maintain a long-term seismic monitoring program.

Indeed, Diablo Canyon's seismic design basis differs in major respects from any other plant. Other plants' seismic design bases are simple, consisting primarily of a safe shutdown earthquake and a operating basis earthquake, each of which was developed in accordance with the requirements of 10 C.F.R. pt. 100, Appendix A.³⁴ This regulation provides criteria for implementing General Design Criterion 2, relating to seismic safety, by providing a method for licensees to employ in designating a safe shutdown earthquake:

The design of each nuclear power plant shall take into account the potential effects of vibratory ground motion caused by earthquakes. The design basis for the maximum vibratory ground motion and the expected vibratory ground motion should be determined through evaluation of the seismology, geology, and the seismic and geologic history of the site and the surrounding region. The most severe earthquakes associated with tectonic structures or tectonic provinces in the region surrounding the site should be

³⁴ "The Safe Shutdown Earthquake is that earthquake which is based upon an evaluation of the maximum earthquake potential considering the regional and local geology and seismology and specific characteristics of local subsurface material. It is that earthquake which produces the maximum vibratory ground motion for which certain structures, systems, and components are designed to remain functional." 10 C.F.R. pt. 100, App. A, § III(c) (footnote omitted). "The Operating Basis Earthquake is that earthquake which, considering the regional and local geology and seismology and specific characteristics of local subsurface material, could reasonably be expected to affect the plant site during the operating life of the plant; it is that earthquake which produces the vibratory ground motion for which those features of the nuclear power plant necessary for continued operation without undue risk to the health and safety of the public are designed to remain functional." 10 C.F.R. pt. 100, App. A, § III(d).

identified, considering those historically reported earthquakes that can be associated with these structures or provinces and other relevant factors. If faults in the region surrounding the site are capable faults, the most severe earthquakes associated with these faults should be determined by also considering their geologic history. The vibratory ground motion at the site should be then determined by assuming that the epicenters or locations of highest intensity of the earthquakes are situated at the point on the tectonic structures or tectonic provinces nearest to the site. The earthquake which could cause the maximum vibratory ground motion at the site should be designated the Safe Shutdown Earthquake.³⁵

Only Diablo Canyon deviates from this regulatory scheme.

Moreover, Diablo Canyon is the only operating nuclear power plant in California and the only such plant located along the Pacific coast, the United States' most active seismic region. These unique seismic conditions warrant a limited deviation from the usual scope of a license renewal proceeding.

d. Waiver Is Necessary To Reach A Significant Safety Problem.

The danger posed by an earthquake affecting a nuclear power plant is not subject to dispute. The Tōhoku earthquake and tsunami that occurred off Japan's northeast coast on March 11, 2011 killed approximately 19,000 people and, following full meltdown of three nearby nuclear reactors at the Fukushima Power Plant, caused a vast swath of land to be contaminated by radiation and rendered uninhabitable by humans for years. The Fukushima plant and a large area around the plant remain closed off to human activity today due to unsafe radiation levels. Meltdown caused by a seismic event or a tsunami triggered by an earthquake would cause unimaginable effects to human health and the environment, approaching or potentially exceeding the scale of the Fukushima disaster. The gravity of this threat cannot be gainsaid.

Waiver of these regulations is necessary to reach this significant safety issue because Petitioner has no other avenue by which it can assert that Diablo Canyon's relays and snubbers,

³⁵ 10 C.F.R. pt. 100, App. A, § V(a).

and the plant's SSCs considered in their entirety, have degraded to the point they will not be able to continue to function properly after an earthquake during the additional 20-year period of operation sought by PG&E. No other proceeding exists, and none can be initiated by Petitioner, in which it can assert that the plant's SSCs will be unable to continue to operate *during the extended period of operation*.³⁶

³⁶ For this reason, Petitioner cannot assert its position in a petition filed under 10 C.F.R. § 2.206. Petitioner is not seeking to “modify, suspend, or revoke a license” or initiate a proceeding for other action—the relief provided by § 2.206. Rather, Petitioner seeks to intervene in Diablo Canyon’s license renewal proceeding in order to assert that the plant’s aging analysis has not and cannot show that the plant’s SSCs will continue to function properly during the additional 20-year period sought by PG&E.

IV. CONCLUSION

For these reasons Petitioner respectfully requests the Commission waive the application of 10 C.F.R. §§ 54.4, 54.21, and 54.29(a) to the extent these regulations preclude Petitioner from asserting in this proceeding that PG&E has not established that Diablo Canyon can safely shut down following a potential earthquake.

Respectfully submitted,

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Counsel for Friends of the Earth

*Executed in accord with 10 C.F.R. §
2.304(d)*

Date: October 10, 2014

**BEFORE THE UNITED STATES
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PACIFIC GAS & ELECTRIC COMPANY)	Docket No. 50-275-LR
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(Diablo Canyon Nuclear Power Plant, Units 1 and 2))	
(License Renewal Application)		October 10, 2014

CERTIFICATE OF SERVICE

I hereby certify that the “Friends of the Earth’s Petition for Waiver of 10 C.F.R. §§ 54.4, 54.21, and 54.29(a) As Applied To The Diablo Canyon License Renewal Proceeding” and accompanying attachment in the above-captioned matter were filed through the Electronic Information Exchange (EIE) this 10th day of October, 2014, which to the best of my knowledge resulted in transmittal of the foregoing to those on the EIE Service List for the captioned proceeding.

Signed (electronically) by Jessica Olson
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Executed in accord with 10 C.F.R. § 2.304(d)