

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

Paul S. Ryerson, Chairman
Dr. Gary S. Arnold
Nicholas G. Trikouros

In the Matter of

PACIFIC GAS & ELECTRIC COMPANY

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

Docket No. 50-275

Docket No. 50-323

ASLBP No. 15-941-05-LA-BD01

June 2, 2015

NOTICE AND ORDER
(Scheduling Oral Argument)

Before the Board is a limited portion, as referred by the Commission,¹ of a hearing request and petition to intervene submitted by Friends of the Earth (FoE) alleging a de facto license amendment to the operating licenses held by Pacific Gas & Electric Company (PG&E) for Diablo Canyon Power Plant Units 1 and 2.²

The Board will hear oral argument on July 9, 2015 at 1:00 p.m. EDT or at such time as a prior oral argument is concluded.³ The argument will be held in the Atomic Safety and Licensing

¹ See Pacific Gas & Electric Co. (Diablo Canyon Nuclear Power Plant, Units 1 and 2), CLI-15-14, 81 NRC __, __, __ (slip op. at 2, 7) (May 21, 2015).

² Petition to Intervene and Request for Hearing by Friends of the Earth (Aug. 26, 2014) (Hearing Request).

³ See Licensing Board Notice and Order (Scheduling Oral Argument), Pacific Gas & Electric Co. (Diablo Canyon Nuclear Power Plant, Units 1 and 2), Nos. 50-275-LR/50-323-LR (June 2, 2015) (unpublished).

Board Panel's hearing room, located within the Nuclear Regulatory Commission's headquarters at 11555 Rockville Pike, Rockville, Maryland 20852.

The Board emphasizes that the purpose of the Commission's referral is "to determine whether Friends of the Earth has identified an NRC activity that requires an opportunity to request an adjudicatory hearing pursuant to section 189a. of the Atomic Energy Act of 1954, as amended (AEA)."⁴ The Commission's referral also includes such threshold issues as standing, timeliness (including the timeliness of arguments raised in FoE's reply), and satisfaction of the contention admissibility standards of 10 C.F.R. § 2.309.⁵

The argument shall consist primarily of questions from the Board. However, the parties will be permitted to make brief opening statements, not to exceed ten minutes. Specific questions from the Board may be forthcoming prior to the argument.

The Board will consider the pleadings previously submitted to the Commission.⁶ Additionally, in accordance with the Commission's direction, PG&E and the NRC Staff may, if they wish, respond on or before June 15, 2015 to FoE's assertion "that the Staff has 'approved' PG&E's Final Safety Analysis Report Update, Revision 21, and this action, standing alone, grants PG&E greater operating authority and alters the terms of the operating licenses."⁷

⁴ Diablo Canyon, CLI-15-4, 81 NRC at ___ (slip op. at 2); see also id. at ___ (slip op. at 7) ("The scope of the referral is limited to whether the NRC granted PG&E greater authority than that provided by its existing licenses or otherwise altered the terms of PG&E's existing licenses, thereby entitling Friends of the Earth to an opportunity to request a hearing pursuant to AEA section 189a.").

⁵ See id. at ___ (slip op. at 8).

⁶ Hearing Request; Pacific Gas and Electric Company's Answer to Friends of the Earth Hearing Request (Oct. 6, 2014); NRC Staff Answer to Petition to Intervene and Request for Hearing by Friends of the Earth (Oct. 6, 2014); Friends of the Earth's Reply to NRC Staff's and Pacific Gas & Electric Company's Answers and Proposed Amicus Curiae Nuclear Energy Institute's Brief in Response to Petition to Intervene and Request for Hearing (Oct. 14, 2014).

⁷ Diablo Canyon, CLI-15-4, 81 NRC at ___ (slip op. at 8) (citing Friends of the Earth's Reply to NRC Staff's and Pacific Gas & Electric Company's Answers and Proposed Amicus Curiae Nuclear Energy Institute's Brief in Response to Petition to Intervene and Request for Hearing (Oct. 14, 2014) at 11-19).

Finally, no timely opposition having been expressed, the Nuclear Energy Institute (NEI) Motion for Leave to File Amicus Curiae Brief⁸ is granted.⁹ The Board contemplates no further written submissions.

All participants in the July 9, 2015 oral argument, as well as members of the public who wish to observe, should arrive at least fifteen minutes early to pass through security at One White Flint North and to proceed to the hearing room, located on the third floor of Two White Flint North.

Members of the public that wish to view the oral argument via webstreaming, or listen by telephone, should contact the Board's law clerk, Alana Wase at Alana.Wase@nrc.gov or 301-415-6693 no later than July 2, 2015.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Paul S. Ryerson, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
June 2, 2015

⁸ Nuclear Energy Institute Motion for Leave to File Amicus Curiae Brief (Oct. 6, 2014) at 1 n.2.

⁹ See Diablo Canyon, CLI-15-4, 81 NRC at ___ n.12 (slip op. at 5 n.12) (granting the Licensing Board jurisdiction over NEI's request).

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **NOTICE AND ORDER (Scheduling Oral Argument)** have been served upon the following persons by the Electronic Information Exchange.

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Diablo Canyon Nuclear Power Plant - Docket Nos. 50-275 and 50-323
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[Original signed by Clara Sola]
Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 2nd day of June, 2015