

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
)
PACIFIC GAS AND ELECTRIC COMPANY) Docket Nos. 50-275-LR/ 50-323-LR
)
(Diablo Canyon Nuclear Power Plant,)
Units 1 and 2))

NRC STAFF ANSWER TO SAN LUIS OBISPO MOTHERS FOR PEACE'S MOTION TO FILE
AMENDED CONTENTION C

INTRODUCTION

Pursuant to 10 C.F.R. § 2.309(i)(1) and the Atomic Safety and Licensing Board's ("Board") revised scheduling order,¹ the staff of the U.S. Nuclear Regulatory Commission ("Staff") hereby files its answer to San Luis Obispo Mothers for Peace's ("SLOMFP") "Motion to File Amended Contention C" ("Motion").² In its Motion, SLOMFP seeks leave to amend its original Contention C, which claimed that Pacific Gas and Electric Company's ("PG&E") discussion of seismic risk in its severe accident mitigation alternatives ("SAMA") analysis supporting the license renewal application ("LRA") for Diablo Canyon Nuclear Power Plant, Units 1 and 2 ("Diablo Canyon") was inadequate.³ SLOMFP now argues that despite recent updates to the SAMA analysis, the discussion of seismic risk remains insufficient.

¹ Revised Scheduling Order, at 8-10 (Nov. 19, 2012) (unpublished) (Agencywide Documents Access and Management System ("ADAMS") Accession No. ML12324A214).

² San Luis Obispo Mothers for Peace's Motion to File Amended Contention C (Inadequate Consideration of Seismic Risk in SAMA Analysis as Supplemented by SHU-SAMA Evaluation) (July 31, 2015) (ADAMS Accession No. ML15212A959) ("Motion"). The Motion is supported by the Declaration of Dr. David D. Jackson. See Declaration of Dr. David D. Jackson In Support of San Luis Obispo Mothers for Peace's Amended Contention C (July 31, 2015).

³ See [SLOMFP's] Motion to File New Contentions Regarding Adequacy of [SAMA] Analysis for Diablo Canyon License Renewal Application [LRA] (Apr. 15, 2015) (ADAMS Accession No. ML15105A633). The Diablo Canyon LRA (2009) is *available at* <http://www.nrc.gov/reactors/operating/licensing/renewal/applications/diablo-canyon.html>.

As more fully set forth below, the Staff opposes the admission of SLOMFP's proposed amended contention because it does not meet the Commission's contention admissibility standards for new or amended contentions. First, SLOMFP's proposed Amended Contention C does not meet the Commission's contention admissibility requirements in 10 C.F.R. § 2.309(f)(1) because it does not raise a genuine dispute with respect to a material SAMA issue.⁴ Second, SLOMFP has not demonstrated that there is good cause for filing portions of its Motion after the initial deadline to intervene in this proceeding or that those arguments are timely. Therefore, SLOMFP's Motion should be denied.

BACKGROUND

This proceeding concerns PG&E's November 23, 2009 application to renew its operating licenses for Diablo Canyon for an additional twenty years from the current expiration dates of November 2, 2024, and August 26, 2025.⁵ The Staff's Answer to SLOMFP's Motion to Admit Contention C previously discussed the procedural history for this proceeding, including the

⁴ 10 C.F.R. § 2.309(c); 2.309(f)(1)(iv). See *also* Memorandum and Order (Denying Motions to File New Contentions) at 16-17 (Aug. 6, 2015) (unpublished) (ADAMS Accession No. ML15218A517) ("August 6 Order") (finding Contention C inadmissible insofar as it raised out of scope challenges and because it failed to establish a genuine dispute with respect to a material SAMA issue).

⁵ LRA at Section 1.0, Page 1.1-1.

revised SAMA analysis in PG&E's Environmental Report⁶ and PG&E's March 2015 response to the NRC's March 2012 10 C.F.R. § 50.54(f) letter,⁷ so the Staff will not unduly repeat it here.⁸

As relevant here, SLOMFP's Contention C claimed that PG&E's revised SAMA analysis was inadequate and failed to satisfy the National Environmental Policy Act ("NEPA").⁹ Specifically, Contention C claimed that PG&E's revised SAMA analysis did not account for the revised seismic hazard in PG&E's 2015 seismic hazards analysis, and even if PG&E were to incorporate the results of the 2015 seismic hazards analysis, the SAMA analysis would be inadequate because of methodological flaws in the 2015 seismic hazards analysis.¹⁰

On July 1, 2015, PG&E submitted another update to its LRA, evaluating the impacts of the 2015 seismic hazards analysis on its revised SAMA analysis.¹¹ PG&E concluded that "while the use of the updated seismic hazard probabilistic risk assessment model does have a small

⁶ PG&E Letter DCL-15-027, Update to the Diablo Canyon Power Plant License Renewal Application (LRA) Amendment 49 and LRA Appendix E, "Applicant's Environmental Report – Operating License Renewal Stage," Amendment 2 (Feb. 25, 2015) (ADAMS Package Accession No. ML15057A102) ("ER update"). The revised SAMA is in Enclosure 2, Attachment 2 – Environmental Report, Amendment 2, Section 4.20 Appendix E and Attachment F (ADAMS Accession Nos. ML15056A755, ML15056A756, ML15056A758, ML15056A759, ML15056A763, ML15056A765, ML15056A769) ("February 2015 SAMA analysis").

⁷ Request for Information Pursuant to Title 10 of the *Code of Federal Regulations* 50.54(f) Regarding Recommendations 2.1, 2.3, and 9.3, of the Near-Term Task Force Review of Insights from the Fukushima Dai-Ichi Accident at Enclosure 2 at 4 (Mar. 12, 2012) (ADAMS Accession No. ML12053A340) ("March 2012 Letter"); PG&E Letter DCL-15-035, Response to NRC Request for Information Pursuant to 10 CFR 50.54(f) Regarding the Seismic Aspects of Recommendation 2.1 of the Near-Term Task Force Review of Insights from the Fukushima Dai-Ichi Accident: Seismic Hazard and Screening Report, at 1 (Mar. 11, 2015) (ADAMS Accession No. ML15070A607) ("2015 seismic hazards analysis").

⁸ NRC Staff Answer to San Luis Obispo Mothers For Peace's Motion to File New Contentions Regarding the Adequacy of the Severe Accident Mitigation Alternatives Analysis for Diablo Canyon, at 2-6 (May 11, 2015) (ADAMS Accession No. ML15131A536).

⁹ San Luis Obispo Mothers for Peace's Motion to File New Contentions Regarding Adequacy of Severe Accident Mitigation Alternatives Analysis for Diablo Canyon License Renewal Application (Apr. 15, 2015) (ADAMS Accession No. ML15105A633) ("Motion to Admit Proposed Contentions C and D").

¹⁰ Motion to Admit Proposed Contentions C and D, at 5-11.

¹¹ PG&E Letter DCL-15-080, Diablo Canyon Power Plant License Renewal [SAMA] Analysis Evaluation of the 2015 Seismic Hazard Results (July 1, 2015) (ADAMS Accession No. ML15182A452) ("July 1, 2015 submittal").

impact on the maximum averted cost-risk and averted cost-risk results, it does not change the conclusions of the SAMA analysis.”¹²

On July 31, 2015, SLOMFP filed the instant Motion seeking to amend Contention C. SLOMFP argues that PG&E’s July 1, 2015 submittal “failed to resolve the concerns raised by the original Contention C regarding the inadequacy of PG&E’s underlying seismic hazards analysis.”¹³ SLOMFP also argues that PG&E “failed to consider a range of earthquake characteristics and intensity measures that could affect the outcome of the SAMA Analysis, even though the relevant data and analysis tools are readily available.”¹⁴

On August 2, 2015, the Board issued an order denying, *inter alia*, the admission of Contention C.¹⁵ The Board held that Contention C was inadmissible because: (1) although SLOMFP favored the seismic evaluation methods suggested by its expert, Dr. Jackson, it failed to show that PG&E’s approach in preparing the SAMA was unreasonable;¹⁶ and (2) it failed to raise a genuine dispute on the material issue of whether any additional SAMA would be cost-beneficial to implement.¹⁷ The Board also ruled that Contention C was inadmissible to the extent it raised out of scope deficiencies in the 2015 seismic hazards analysis not connected to the SAMA analysis.¹⁸

¹² *Id.* at 2. Specifically, the evaluation found that “the initiating event frequencies for all but one of the seismic hazard intervals are smaller for the DC03SA model [incorporating the 2015 seismic hazards analysis] than for the DC03 model [used in the revised SAMA analysis]. The exception is that for events with g levels greater than 4.0, the DC03SA model frequency, though still very low, is almost twice as large as the DC03 frequency.” *Id.* at Enclosure, Page 1 of 73.

¹³ Motion at 2.

¹⁴ *Id.*

¹⁵ August 6 Order. The Board’s August 6 Order also denied SLOMFP’s other proposed new contentions. *Id.*

¹⁶ *Id.* at 16.

¹⁷ *Id.* at 17.

¹⁸ *Id.* at 16.

LEGAL STANDARDS

The initial deadline for filing contentions in this proceeding has passed.¹⁹ Therefore, to be admissible, a new or amended contention must satisfy the “good cause” criteria of 10 C.F.R. § 2.309(c)(1)(i)-(iii) and the admissibility criteria of 10 C.F.R. § 2.309(f)(1)-(vi).²⁰

To satisfy the “good cause” criteria of 10 C.F.R. § 2.309(c)(1), the intervenor must show that the information upon which a new contention is based was not previously available, the information upon which a new contention is based is materially different from information previously available, and the new contention has been submitted in a timely fashion based on the availability of the subsequent information.²¹ Pursuant to the Board’s Revised Scheduling Order, a new contention is “deemed timely under 10 C.F.R. § 2.309(f)(2)(iii) if it is filed within thirty (30) days of the date when the new and material information on which it is based first became available.”²²

Pursuant to § 2.309(f)(1), a contention must:

- (i) Provide a specific statement of the issue of law or fact to be raised . . . ;
- (ii) Provide a brief explanation of the basis for the contention;
- (iii) Demonstrate that the issue raised in the contention is within the scope of the proceeding;
- (iv) Demonstrate that the issue raised in the contention is material to the findings the NRC must make to support the action that is involved in the proceeding;
- (v) Provide a concise statement of the alleged facts or expert opinions which support the requestor’s/petitioner’s position . . . ;
- (vi) . . . provide sufficient information to show that a genuine dispute exists with the applicant/licensee on a material issue of law or fact. This information must include references to specific portions of the application²³

¹⁹ The initial period for filing a petition for intervention or request for hearing regarding Diablo Canyon’s license renewal application closed on March 22, 2010. See Notice of Acceptance for Docketing of the Application, Notice of Opportunity for Hearing for Facility Operating License Nos. DPR-80 and DPR-82 for an Additional 20-Year Period; Pacific Gas & Electric Company, Diablo Canyon Nuclear Power Plant, Units 1 and 2; and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information (SUNSI) for Contention Preparation, 75 Fed. Reg. 3493 (Jan. 21, 2010).

²⁰ Revised Scheduling Order at 8-9.

²¹ 10 C.F.R. § 2.309(c)(1)(i)-(iii).

²² Revised Scheduling Order at 9.

²³ August 6 Order at 6 n.23.

“A failure to meet any of these criteria renders the contention inadmissible.”²⁴

DISCUSSION

SLOMFP’s Motion to Amend Contention C should be denied because SLOMFP has not demonstrated that its claims meet the Commission’s contention admissibility requirements or that portions of its new claims support a late-filed contention.²⁵

I. SLOMFP’s Amended Contention C Does Not Meet the Admissibility Requirements of 10 C.F.R. § 2.309(f)(1)

A. SLOMFP’s Reasserted Contention C Claims Raise Issues Outside the Scope of License Renewal and Do Not Raise a Genuine Material Dispute

In support of proposed Amended Contention C, SLOMFP reasserts its initial Contention C claims, arguing that they were not resolved by PG&E’s July 1, 2015 submittal. SLOMFP claims that the July 1, 2015 submittal only “cites” the “results” of the allegedly deficient 2015 seismic hazards analysis in the SAMA analysis and does not “cure the significant defects in the underlying data and analyses.”²⁶ Specifically, SLOMFP reasserts its claims that the 2015 seismic hazards analysis fails to account for reasonably foreseeable earthquakes located closer to Diablo Canyon and of greater magnitude than PG&E had assumed.²⁷

However, SLOMFP’s reasserted claims should once again be rejected by this Board because they are outside the scope of license renewal or fail to raise a genuine material dispute with the SAMA analysis. As the Board explained in its August 6 Order, to the extent SLOMFP challenges PG&E’s response to the NRC’s March 2012 letter, such claims are outside the scope of license renewal.²⁸ Further, while PG&E’s revised SAMA is within the scope of license

²⁴ *Northern States Power Co.* (Prairie Island Nuclear Generating Plant Independent Spent Fuel Storage Installation), LBP-12-24, 76 NRC 503, 509 (2012).

²⁵ See 10 C.F.R. § 2.309(f)(1); 10 C.F.R. § 2.309(c)(1).

²⁶ Motion at 3-4.

²⁷ *Id.* at 7-13. See also Motion to Admit Proposed Contentions C and D, at 5-11.

²⁸ August 6 Order at 16.

renewal, it is not enough for SLOMFP to point to another possible analytical approach.²⁹ Instead, to raise a genuine material dispute, SLOMFP must show that the approach taken by PG&E is not plausibly reasonable.³⁰ Moreover, SLOMFP must show how its preferred methodology would materially affect the conclusions of the SAMA analysis.³¹ SLOMFP's Motion does not show that PG&E's approach is unreasonable or demonstrate that its preferred approach would materially affect the conclusions of the SAMA analysis. Therefore, SLOMFP has not raised a genuine material dispute with the revised SAMA analysis.

B. SLOMFP's New Claims Are Inadmissible

SLOMFP also raises new claims in support of Amended Contention C.³² SLOMFP argues that PG&E's SAMA analysis is deficient because it is "unreasonably restricted to the consideration of the effects of spectral acceleration" on Diablo Canyon, and fails to measure earthquake magnitude using ground displacement, ground velocity, and duration of shaking, which are "measures of ground motion" that could cause impacts that "are more extreme than or different from the impacts of spectral acceleration."³³ SLOMFP also argues that PG&E's revised SAMA analysis fails to consider the possibility of surface fault rupture—a hazard that could be caused by an earthquake.³⁴ However, as explained below, SLOMFP has not shown that these claims meet the Commission's contention admissibility standards or that they are timely filed.

²⁹ *Id.* at 16-17.

³⁰ *Id.*

³¹ *Id.* at 17.

³² Motion at 13-18.

³³ Motion at 13. *See id.* at 17-18 (claiming that PG&E already "possesses the data and analytical tools" to consider what SLOMFP believes is missing in the SAMA analysis).

³⁴ *See id.* at 13, 15. Initially, SLOMFP appears to state that surface fault rupture is an earthquake characteristic or measure of ground motion like ground velocity, displacement, and shaking duration. *Id.* at 13. However, as is made clearer elsewhere in the Motion, surface fault rupture is a hazard that could be caused by an earthquake, not a way of measuring vibratory ground motion. *See id.* at 14-15, 18.

1. SLOMFP’s Arguments Concerning Alternative Earthquake Measurement Methods Do Not Raise a Genuine Material Dispute

SLOMFP argues that measuring ground acceleration is not sufficient to properly determine the magnitude of the seismic hazard used as an input in PG&E’s SAMA analysis. SLOMFP maintains that PG&E must also express the physical characteristics of potential earthquakes by measuring ground displacement, ground velocity, and duration of shaking.³⁵ In support of this claim, SLOMFP notes that many analysts believe that ground velocity “is better correlated with overall structure damage” than ground acceleration.³⁶ SLOMFP also claims that an Electric Power Research Institute (“EPRI”) document suggested that ground displacement and velocity may be the most effective way to measure the sloshing of fluid in the spent fuel pool.³⁷ Finally, SLOMFP asserts that the duration of shaking has been an important factor in the level of damage caused by many large earthquakes.³⁸

However, in order to raise an admissible issue, it is not enough to advance a preferred possible method for performing the SAMA analysis. Instead, SLOMFP must show that the existing SAMA analysis is unreasonable.³⁹ As the Board explained in its August 6 Order, ruling

³⁵ *Id.* at 13-17.

³⁶ *Id.* at 16.

³⁷ *Id.*

³⁸ *Id.* at 16-17 (stating that “the safety of the structure may depend upon more than just the peak response” looked at in a design response spectrum) (emphasis omitted). SLOMFP also argues that EPRI has recognized the significance of ground displacement for performing the post-Fukushima seismic evaluations. *Id.* at 15. However, the EPRI document cited uses the term “fault displacement” to refer to surface fault rupture, and is not discussing fault displacement as a method of characterizing ground motion. SLOMFP’s claims regarding surface fault rupture, including the EPRI guidance, are discussed *infra* at Section I.B.2.

³⁹ *Entergy Nuclear Generation Co. & Entergy Nuclear Operations, Inc.* (Pilgrim Nuclear Power Station), CLI-12-1, 75 NRC 39, 57-58 (2012) (stating that “[t]here is questionable benefit to spending considerable agency resources in an attempt to fine-tune a NEPA mitigation analysis,” and that a SAMA contention will not present a material issue unless it is “submitted with adequate factual, documentary, or expert support,” and raises a “potentially *significant deficiency* . . . that could credibly render the SAMA analysis altogether unreasonable under NEPA standards.”). *See also NextEra Energy Seabrook, LLC*

on Contention C, “[A]lthough SLOMFP favors the analytical approach suggested by its expert, Dr. Jackson, it fails to show that the approach taken by PG&E is not plausibly reasonable.”⁴⁰ The Board’s holding applies here as well. SLOMFP provides alternative ways to characterize vibratory ground motion, and argues that they are superior to ground acceleration, but this alone “does not establish a genuine dispute as to whether PG&E’s choice was unreasonable.”⁴¹ Similarly, SLOMFP does not explain what effect, if any, its methods will have on the conclusions of the SAMA analysis. SLOMFP does not allege, for example, that considering ground displacement, velocity, and shaking duration would materially change the conclusions of the SAMA analysis with respect to the cost-effectiveness of particular SAMAs.⁴² Therefore, SLOMFP’s claims do not raise a genuine material dispute.

SLOMFP also argues that PG&E has the “data and analytical tools” to consider the effects of these alternative methods on the SAMA analysis.⁴³ But as the Commission has explained, a SAMA analysis is not a “research document” at the frontiers of science, but a reasonable study of risk and mitigation alternatives.⁴⁴ PG&E may have the tools to perform additional analyses, but that does not mean NEPA requires it to do so. SLOMFP has not shown

(Seabrook Station, Unit 1), CLI-12-5, 75 NRC 301, 323-24 (2012), *appeal denied*, CLI-13-3, 77 NRC 51 (2013).

⁴⁰ August 6 Order at 16.

⁴¹ *Id.* at 17.

⁴² See *id.* (citing *Entergy Nuclear Generation Co. & Entergy Nuclear Operations, Inc.* (Pilgrim Nuclear Power Station), CLI-10-11, 71 NRC 287, 291 (2010)).

⁴³ Motion at 17-19. SLOMFP suggests that PG&E can only justify screening out the alternative measurement methods and surface fault rupture from consideration in the SAMA analysis if it provides a “rigorous quantitative analysis.” *Id.* at 18. But SLOMFP offers no support for this claim and 10 C.F.R. § 51.53(c)(3)(ii)(L), which provides for SAMA analyses, does not require a particular approach or methodology.

⁴⁴ *Entergy Nuclear Generation Co. & Entergy Nuclear Operations, Inc.* (Pilgrim Nuclear Power Station), CLI-10-22, 72 NRC 202, 208 (2010).

that its suggested inputs would have any effect on the bottom line—“that is, whether any particular safety enhancement would ‘be cost-effective to implement.’”⁴⁵

2. SLOMFP’s Arguments Concerning Surface Fault Rupture Do Not Raise a Genuine Material Dispute

SLOMFP argues that PG&E’s SAMA analysis must consider the possibility of surface fault rupture, an accident scenario which “can cause permanent displacements of several meters, resulting in the failure of structural foundations directly above the ruptured fault.”⁴⁶ SLOMFP maintains that although surface fault rupture is unusual, it is relevant to Diablo Canyon because of the plant’s proximity to the Shoreline and other faults.⁴⁷ Specifically, SLOMFP contends that the precise location of the Shoreline and other faults is uncertain, and if one of them were located directly beneath Diablo Canyon, “an earthquake on that fault could cause surface fault rupture.”⁴⁸

However, SLOMFP does not explain how incorporation of surface fault rupture into the SAMA analysis would make a material difference or how the analysis is unreasonable because it does not consider it.⁴⁹ Instead, SLOMFP simply claims that surface fault rupture is a possibility.⁵⁰ But in fact, PG&E’s studies have found that surface fault rupture is not a credible hazard at the Diablo Canyon site. Notably, PG&E’s Updated Final Safety Analysis Report (“UFSAR”) recounts that surface faulting (another term for surface fault rupture) was

⁴⁵ August 6 Order at 17 (citing *Pilgrim*, CLI-10-11, 71 NRC at 291).

⁴⁶ Motion at 14-15.

⁴⁷ *Id.* at 15.

⁴⁸ *Id.* at 8.

⁴⁹ See August 6 Order at 16-17; *Pilgrim*, CLI-12-1 at 57-58; *Entergy Nuclear Generation Co. & Entergy Nuclear Operations, Inc.* (Pilgrim Nuclear Power Station), CLI-12-15, 75 NRC 704, 714 (2012).

⁵⁰ See Motion at 8, 14-15.

investigated,⁵¹ and, “Substantive geologic evidence . . . indicates that the ground at and near the site has not been displaced by faulting for at least 80,000 to 120,000 years.”⁵² Additionally, when the Shoreline Fault was discovered, PG&E analyzed whether a secondary fault could form off the primary Shoreline Fault and rupture the surface underneath the Diablo Canyon site.⁵³ PG&E concluded that secondary surface faulting was not a credible hazard,⁵⁴ and the NRC performed an analysis confirming PG&E’s findings.⁵⁵ SLOMFP has not provided any information that would indicate otherwise.⁵⁶ Thus, SLOMFP has not explained how surface faulting is a reasonable scenario, and how the failure of the SAMA analysis to consider it renders the analysis unreasonable.⁵⁷ In any event, SLOMFP has not shown how consideration

⁵¹ Diablo Canyon Power Plant Units 1 and 2 Final Safety Analysis Report Update, at 2.5-2 (Sept. 2013) (ADAMS Accession No. ML15098A461).

⁵² *Id.* at 2.5-67.

⁵³ PG&E Letter DCL-11-005, Report on the Analysis of the Shoreline Fault Zone, Central Coastal California, Chapter 6.0 - Seismic Hazard Analysis - Appendix A-3, at 7-1 (Jan. 2011) (ADAMS Accession No. ML110140420; Document Package No. ML110140431) (“2011 Shoreline Fault Report”). See also PG&E Letter No. DCL-10-019, Requested Documents From the NRC – PG&E Shoreline Fault Zone Meeting, at Enclosure 1 Evaluation of Secondary Fault Rupture Hazard From The Shoreline Fault Zone (Feb. 26, 2010) (ADAMS Accession No. ML100680564) (providing a more detailed analysis). Direct rupture of the main Shoreline Fault under the plant is of negligible concern because the fault is located offshore 600 meters from the plant’s power block. Research Information Letter (“RIL”) 12-01, *Confirmatory Analysis of Seismic Hazard at [DCPP] from the Shoreline Fault Zone*, at 91 (Sept. 2012) (ADAMS Accession No. ML121230035) (“RIL-12-01”).

⁵⁴ 2011 Shoreline Fault Report at 7-1 (“The results of these investigations accurately document not only the location of the Shoreline fault zone 300 m west of the Intake structure, but also the absence of either primary or secondary faulting through the DCPD site area.”).

⁵⁵ RIL-12-01 at 93.

⁵⁶ SLOMFP argues that the Shoreline Fault or another fault could be located directly underneath the plant, see Motion at 8, but this appears to be speculation based on an older study that looked only at the location uncertainty of some earthquakes occurring on the Shoreline Fault. See *id.* SLOMFP does not acknowledge the more recent, detailed offshore mapping investigations that were used to accurately locate the Shoreline Fault for the current seismic hazard analyses, see PG&E Report on Seismic Source Characterization for the Diablo Canyon Power Plant, San Luis Obispo County, California (March, 2015) at 5-17, available at <http://www.pge.com/en/safety/systemworks/dcpp/sshac/index.page>.

⁵⁷ See *Pilgrim*, CLI-12-1, 75 NRC at 57-58. Cf. *Pilgrim*, CLI-12-15, 75 NRC at 708 (holding that neither NEPA nor the Commission’s regulations require a worst-case accident scenario analysis).

of surface fault rupture would make a material difference to the conclusions of the SAMA analysis.

SLOMFP also argues that the SAMA analysis must consider surface fault rupture because NRC-endorsed EPRI guidance requests that licensees assess whether they need to consider the effects of fault displacement (another term for surface-fault rupture) in the seismic PRA that will eventually be performed for the post-Fukushima seismic reevaluations.⁵⁸ However, the EPRI guidance does not support SLOMFP's argument regarding surface fault rupture. In fact, the guidance itself explains that fault displacement can be screened out of the evaluation, and states, "If significant fault displacements are not identified in the plant UFSAR, that should be considered an adequate methodology for screening them out for SPRA [seismic PRA] impacts."⁵⁹ As noted above, PG&E's UFSAR does not identify any significant surface fault displacements.⁶⁰ Additionally, the EPRI guidance addresses a seismic PRA that PG&E must submit by June 2017 to satisfy the separate 10 C.F.R. § 50.54(f) current operating reactor process and the seismic portion of Near-Term Task Force (NTTF) Recommendation 2.1.⁶¹ It does not pertain to a SAMA analysis, which is prepared pursuant to NEPA and is governed by different standards. As discussed above, NEPA analyses are governed by a rule of reason, and

⁵⁸ Motion at 15, *citing* EPRI, *Seismic Evaluation Guidance: Screening, Prioritization and Implementation Details (SPID) for the Resolution of Fukushima Near-Term Task Force Recommendation 2.1: Seismic*, at 6-38 (Nov. 2012) (ADAMS Accession No. ML12333A170) ("EPRI guidance"). The NRC staff endorsement letter for this guidance is found at ADAMS Accession No. ML12319A074. *See also* Motion at 18 ("At the very least, PG&E should follow the EPRI guidelines to determine whether ground displacement is a significant factor given the close proximity of the Diablo Canyon reactors to the Shoreline Fault.").

⁵⁹ EPRI guidance at 6-38.

⁶⁰ UFSAR at 2.5-67.

⁶¹ *See* EPRI guidance at 6-1. *See also* Screening and Prioritization Results for the Western United States Sites Regarding Information Pursuant to Title 10 of the *Code of Federal Regulations* 50.54(f) Regarding Seismic Hazard Re-Evaluations for Recommendation 2.1 of the Near Term Task Force Review of Insights from the Fukushima Daiichi Accident, at 4 (May 13, 2015) (ADAMS Accession No. ML15113B344).

a petitioner cannot raise an admissible challenge to a SAMA analysis unless the petitioner shows that it is materially deficient.⁶² SLOMFP has not met these requirements.

3. SLOMFP's New Arguments Do Not Meet the Good Cause Criteria

As noted above, SLOMFP's proposed amended contention must satisfy the "good cause" criteria of 10 C.F.R. § 2.309(c)(1)(i)-(iii) for new or amended contentions filed after the initial deadline in this license renewal proceeding.⁶³ In order to show "good cause," SLOMFP must demonstrate that the information upon which its amended contention is based was not previously available, that such information is materially different from information previously available, and that it submitted the amended contention in a timely fashion based on the availability of the information.⁶⁴ The Board's revised scheduling order provides that a new or amended contention filed by a party to the proceeding, such as SLOMFP, will be timely "if it is filed within thirty (30) days of the date when the new and material information on which it is based first became available."⁶⁵

SLOMFP argues that its Motion satisfies the "good cause" criteria because (1) the July 1, 2015 submittal was not previously available; (2) the July 1, 2015 submittal is materially different because the "SHU-SAMA Evaluation constitutes the first document in which PG&E has updated its SAMA Analysis based on the results of the SHA and SSC" and it contains PG&E's "assertion that its seismic hazards analysis does not affect the conclusions of the SAMA Analysis"; and (3) SLOMFP submitted its Motion within 30 days of July 1, 2015.⁶⁶

⁶² See, e.g., *Pilgrim*, CLI-10-22, 72 NRC at 208; *Seabrook*, CLI-12-5, 75 NRC at 323.

⁶³ The initial period for filing a petition for intervention or request for hearing regarding Diablo Canyon's license renewal application closed on March 22, 2010. See 75 Fed. Reg. at 3493.

⁶⁴ 10 C.F.R. § 2.309(c)(1)(i)-(iii).

⁶⁵ Revised Scheduling Order at 9.

⁶⁶ Motion at 25.

Even assuming that SLOMFP's reasserted claims from its initial Contention C satisfy the "good cause" criteria, SLOMFP does not demonstrate that its new arguments do. Notably, SLOMFP's new claims are not based on PG&E's July 1, 2015 evaluation of the impact of the 2015 seismic hazards analysis on the SAMA analysis. Thus, SLOMFP cannot tie its new claims to allegedly materially different information in that submittal or base the timing of filing its new claims on the July 1, 2015 date. Importantly, the SAMA analysis, which was first submitted in November 2009, has never discussed surface fault rupture or characterized earthquakes using SLOMFP's preferred ground displacement, ground velocity, or shaking duration metrics.⁶⁷ And the information SLOMFP relies on in support of including these metrics in the SAMA analysis indicates that SLOMFP could have raised these issues as claimed deficiencies long ago.⁶⁸ For these reasons, SLOMFP's new arguments do not meet the "good cause" criteria.

CONCLUSION

The Staff respectfully submits that SLOMFP's proposed Amended Contention C does not meet the Commission's contention admissibility standards for late-filed contentions. Instead, SLOMFP's Motion raises issues that are outside the scope of license renewal, do not raise a genuine material dispute with the SAMA analysis, or are untimely. Therefore, the Motion should be denied.

⁶⁷ See *infra* note 3 (citing 2009 LRA); February 2015 SAMA analysis; and July 1, 2015 submittal.

⁶⁸ See Motion at 19-24 (providing list of references that date from 1984 to April 2015 as support for Amended Contention C). As discussed above, surface fault rupture was discussed in PG&E's UFSAR, PG&E's 2011 Shoreline Fault Report, and the NRC's RIL-12-01, which have all been publicly available for more than 30 days.

Respectfully submitted,

/Signed (electronically) by/

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Executed in Accord with 10 CFR 2.304(d)

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
)
PACIFIC GAS & ELECTRIC COMPANY) Docket Nos. 50-275-LR/ 50-323-LR
)
(Diablo Canyon Nuclear Power Plant,)
Units 1 and 2))

CERTIFICATE OF SERVICE

Pursuant to 10 C.F.R. § 2.305 (revised), I hereby certify that copies of the "NRC STAFF ANSWER TO SAN LUIS OBISPO MOTHERS FOR PEACE'S MOTION TO FILE AMENDED CONTENTION C" have been served upon the Electronic Information Exchange, the NRC's E-Filing System, in the above captioned proceeding, this 25th day of August, 2015.

/Signed (electronically) by/

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