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PG&E Letter DCL-16-078

U.S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington, DC 20555-0001

10 CFR 54.15

Docket No. 50-275, OL-DPR-80
Docket No. 50-323, OL-DPR-82
Diablo Canyon Power Plant Units 1 and 2
Request for Exemption from 10 CFR 54.21(b) while NRC Review of the Diablo Canyon Power Plant License Renewal Application is Suspended

Dear Commissioners and Staff:

By Pacific Gas and Electric Company (PG&E) Letter DCL-09-079, "License Renewal Application," dated November 23, 2009, PG&E submitted an application to the Nuclear Regulatory Commission (NRC) for the renewal of Facility Operating Licenses DPR-80 and DPR-82, for Diablo Canyon Power Plant (DCPP) Units 1 and 2, respectively.

In PG&E Letter DCL-16-066, "Request to Suspend NRC Review of Diablo Canyon Power Plant License Renewal Application," dated June 21, 2016, PG&E requested that the NRC suspend activity on the DCPP license renewal application (LRA). PG&E has reached an agreement in principle with various stakeholders not to proceed with license renewal for DCPP. PG&E will support the State's policy preference to meet California's future electricity needs with renewable generation resources, energy efficiency, or storage. PG&E will continue to operate DCPP until expiration of the current operating licenses in 2024 and 2025 for Units 1 and 2, respectively.

The agreement in principle is subject to approval by the California Public Utilities Commission (CPUC). Accordingly, PG&E plans to file a proposal consistent with the agreement with the CPUC on August 11, 2016, and request CPUC approval by December 31, 2017. In accordance with PG&E's request, the NRC LRA review will be suspended through this period of CPUC review.

Pursuant to 10 CFR 54.15, "Specific Exemptions," which is governed by 10 CFR 50.12, "Specific Exemptions," PG&E requests an exemption from the requirement in 10 CFR 54.21(b) that PG&E submit an annual amendment to the LRA identifying changes to the current licensing basis of the facility that materially



affect the contents of the application. This exemption would apply while the NRC's review of the DCPD LRA is suspended. The enclosure to this letter provides the justification for the exemption.

PG&E makes no new or revised regulatory commitments (as defined by NEI 99-04) in this letter.

Please contact Mr. Philippe R. Soenen, Manager, Nuclear Engineering and Licensing Projects, at (805) 595-6461 with any questions about this letter.

Executed on August 1, 2016.

Sincerely,

A handwritten signature in black ink, appearing to read 'L. Jearl Strickland'.

L. Jearl Strickland,
Leader, Generation Technical Services

pns3
Enclosure

cc: Diablo Distribution
cc/enc: Kriss M. Kennedy, NRC Region IV Administrator
John P. Reynoso, NRC Acting Senior Resident Inspector
Balwant K. Singal, NRC Project Manager
Michael J. Wentzel, NRC Project Manager, License Renewal

Request for Exemption from 10 CFR 54.21(b)

1. Purpose

Pacific Gas and Electric Company (PG&E) requests an exemption from 10 CFR 54.21(b) to the extent necessary to allow PG&E to defer submitting an annual amendment to the license renewal application (LRA) identifying changes to the current licensing basis of the facility that materially affect the contents of the LRA, while the Nuclear Regulatory Commission (NRC) review of the Diablo Canyon Power Plant (DCPP) LRA is suspended.

This request for exemption provides the technical and regulatory basis to demonstrate that 10 CFR 54.15, and 50.12 requirements are met.

2. Background

By PG&E Letter DCL-09-079, "License Renewal Application," dated November 23, 2009, PG&E submitted an application to the NRC for the renewal of DCPP Units 1 and 2 operating licenses.

In connection with license renewal for DCPP, PG&E is required to obtain approvals from the California State Lands Commission and the California Coastal Commission. Based on discussions with various stakeholders involved in these state approval processes, PG&E has reached an agreement in principle not to proceed with license renewal for DCPP. In support of the State's policy preference to meet California's future electricity needs with renewable generation resources, energy efficiency, or storage, PG&E will continue to operate DCPP until expiration of the current operating licenses in 2024 and 2025 for Units 1 and 2, respectively.

The agreement in principle is subject to approval by the California Public Utilities Commission (CPUC). PG&E plans to file a proposal consistent with this agreement with the CPUC on August 11, 2016, and request CPUC approval by December 31, 2017. In PG&E Letter DCL-16-066, "Request to Suspend NRC Review of Diablo Canyon Power Plant License Renewal Application," dated June 21, 2016, PG&E requested that the NRC suspend activity on the DCPP LRA while PG&E awaits a decision from the CPUC.

10 CFR 54.21(b) requires the following:

[Current licensing bases] CLB changes during NRC review of the application. Each year following submittal of the license renewal application and at least 3 months before scheduled completion of the NRC review, an amendment to the renewal application must be submitted that identifies any change to the

CLB of the facility that materially affects the contents of the license renewal application, including the FSAR supplement.

PG&E is requesting that NRC grant an exemption from 10 CFR 54.21(b) to allow PG&E to defer the annual amendments to the LRA while the NRC review of the DCP LRA is suspended.

3. Justification

10 CFR 54.21(b) assumes the NRC's review of the LRA would remain active until a final determination is made by the NRC to either approve or deny renewal of the license. While an NRC review is ongoing, the NRC staff must remain aware of any CLB changes to determine any potential impacts to the information contained in the LRA.

PG&E has requested the NRC to suspend review of the DCP LRA, including review of any CLB changes during the suspension. If the CPUC were to deny PG&E's request and direct PG&E to pursue license renewal, PG&E would provide an amendment to the DCP LRA that identifies changes to the CLB of the facility that materially affect the contents of the LRA by a date agreed upon between PG&E and the NRC. This would provide the NRC with all the required information for an appropriate review at that time.

10 CFR 50.12 states that the Commission may grant exemptions from the regulatory requirements in 10 CFR Part 50 if the exemption is authorized by law, will not present an undue risk to public health and safety, and is consistent with the common defense and security. 10 CFR 50.12 also states that the Commission will not consider granting an exemption unless special circumstances are present. As discussed below, this exemption request satisfies the provisions of 10 CFR 50.12.

3.1 This exemption is authorized by law

Under 10 CFR 54.15, which is governed by 10 CFR 50.12, the NRC is authorized to grant exemptions that do not violate the Atomic Energy Act of 1954, as amended, or the Commission's regulations. Granting the requested exemption would not violate the Atomic Energy Act or any other statute or regulation and is therefore authorized by law.

3.2 This exemption will not present an undue risk to the health and safety of the public

The requested exemption will not alter the operation of any plant equipment or systems and therefore does not present an undue risk to safety. The proposed exemption does not introduce any new industrial, chemical, or

radiological hazards that would represent a public health or safety risk, nor would it modify or remove design or operational controls or safeguards that are intended to mitigate any on-site hazards. Furthermore, the proposed exemption would not allow for a new fission product release path, result in a new fission product barrier failure mode, or create a new sequence of events that would result in fuel cladding failures. Accordingly, the requested exemption from 10 CFR 54.21(b) would not present an undue risk to the health and safety of the public.

3.3 The exemption is consistent with the common defense and security

The proposed exemption from requirements of 10 CFR 54.21(b) would allow PG&E to defer submitting an annual amendment to the LRA while the NRC review of the DCPD LRA is suspended. The exemption does not alter the design, function, or operation of any structures or plant equipment that is necessary to maintain a safe and secure status of the plant. The proposed exemption has no impact on plant security or safeguards procedures.

Therefore, the requested exemption is consistent with the common defense and security.

3.4 Special Circumstances

10 CFR 50.12(a)(2) lists six "special circumstances" for which an exemption may be granted. Pursuant to the regulation, it is necessary for one of these special circumstances to be present in order for the NRC to consider granting an exemption request. The requested exemption meets the special circumstances of 10 CFR 50.12(a)(2)(v); the exemption "would provide only temporary relief from the applicable regulation and the licensee or applicant has made good faith efforts to comply with the regulation."

The rule under consideration in this request for exemption is 10 CFR 54.21(b), which requires that each year following submittal of the LRA and at least 3 months before scheduled completion of the NRC review, an amendment to the renewal application must be submitted that identifies any change to the CLB of the facility that materially affects the contents of the LRA. The underlying purpose of 10 CFR 54.21(b) is for the NRC to remain aware of any material changes to the CLB while its review is ongoing. The proposed exemption would eliminate the unnecessary expenditure of resources to prepare an annual amendment to the LRA while the NRC review of the DCPD LRA is suspended and where the LRA may ultimately not be pursued. This exemption merely avoids unnecessary administrative expense and NRC review time. It does not impact the ability of any structures, systems, or components to perform their functions or

negatively impact safety. And, in the event the license renewal review resumes, the necessary review of CLB changes will be completed.

Therefore, special circumstances are present, because PG&E has requested the NRC to suspend its review of the DCCP LRA. This request would provide only temporary relief from the applicable regulation while the NRC's review is suspended. PG&E has made good faith efforts to comply with the regulation while the NRC's review was active. Should the LRA review be resumed, PG&E would comply with the requirement to submit material CLB changes prior to completion of the LRA review.

4. Precedent

No precedent is identified

5. Environmental Consideration

Pursuant to 10 CFR 51.22(c)(25), an exemption from NRC regulations is subject to a categorical exclusion from the preparation of an environmental assessment or an environmental impact statement if:

- (i) there is no significant hazards consideration;
- (ii) there is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite;
- (iii) there is no significant increase in individual or cumulative public or occupational radiation exposure;
- (iv) there is no significant construction impact;
- (v) there is no significant increase in the potential for or consequences from radiological accidents; and
- (vi) the requirements from which an exemption is sought involve:
 - (I) other requirements of an administrative, managerial, or organizational nature.

As demonstrated below, each of these provisions in 10 CFR 51.22(c)(25) is satisfied by this exemption request.

5.1 This exemption does not involve a significant hazards consideration

As provided in 10 CFR 50.92, an action involves a significant hazards consideration if it would: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety. As demonstrated below, none of these criteria apply to the exemption.

The exemption does not involve any physical change in the facility or in the procedures governing operation of the plant. Therefore, the exemption does not create the possibility of a new or different kind of accident or a reduction in a margin of safety.

5.2 This exemption does not involve a significant change in the types or significant increase in the amounts of any effluents that may be released offsite

The exemption does not involve any physical change in the facility or in the procedures governing operation of the plant. Therefore, the exemption will not involve a significant change in the types or significant increase in the amounts of any effluents that may be released offsite.

5.3 This exemption does not involve a significant increase in individual or cumulative public or occupational radiation exposure

The exemption does not involve any physical change in the facility or in the procedures governing operation of the plant. Therefore, the exemption will not involve a significant increase in individual or cumulative public or occupational radiation exposure.

5.4 This exemption does not involve a significant construction impact

The exemption does not involve any physical change in the facility or the manner in which the plant will be constructed. Therefore, the exemption does not involve a significant construction impact.

5.5 This exemption does not involve a significant increase in the potential for or consequences from radiological accidents

The exemption does not involve any physical change in the facility or in the procedures governing operation of the plant. Therefore, the exemption will not involve a significant increase in the potential for or consequences from radiological accidents.

5.6 The requirements from which this exemption is sought involve requirements of an administrative, managerial, or organizational nature

This exemption pertains to allowing PG&E to not submit an annual amendment to the LRA while the NRC review of the DCP LRA is suspended. Therefore, the request involves the activities described in 10 CFR 51.22(c)(25)(vi)(I).

6. Conclusions

PG&E is requesting an exemption from 10 CFR 54.21(b) to allow PG&E to not submit an annual amendment to the LRA while the NRC review of the DCPD LRA is suspended. This exemption request will expire following receipt of the CPUC's decision and PG&E notification to the NRC regarding when the NRC's review of the DCPD LRA is no longer suspended. In accordance with 10 CFR 54.15, which is governed by 10 CFR 50.12, this exemption request is authorized by law, will not endanger life or property, and is otherwise in the public interest. Therefore, the NRC should approve this exemption request.