

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

12/2/76

In the Matter of )

PACIFIC GAS AND ELECTRIC COMPANY )

Units 1 and 2 )

Diablo Canyon Site )

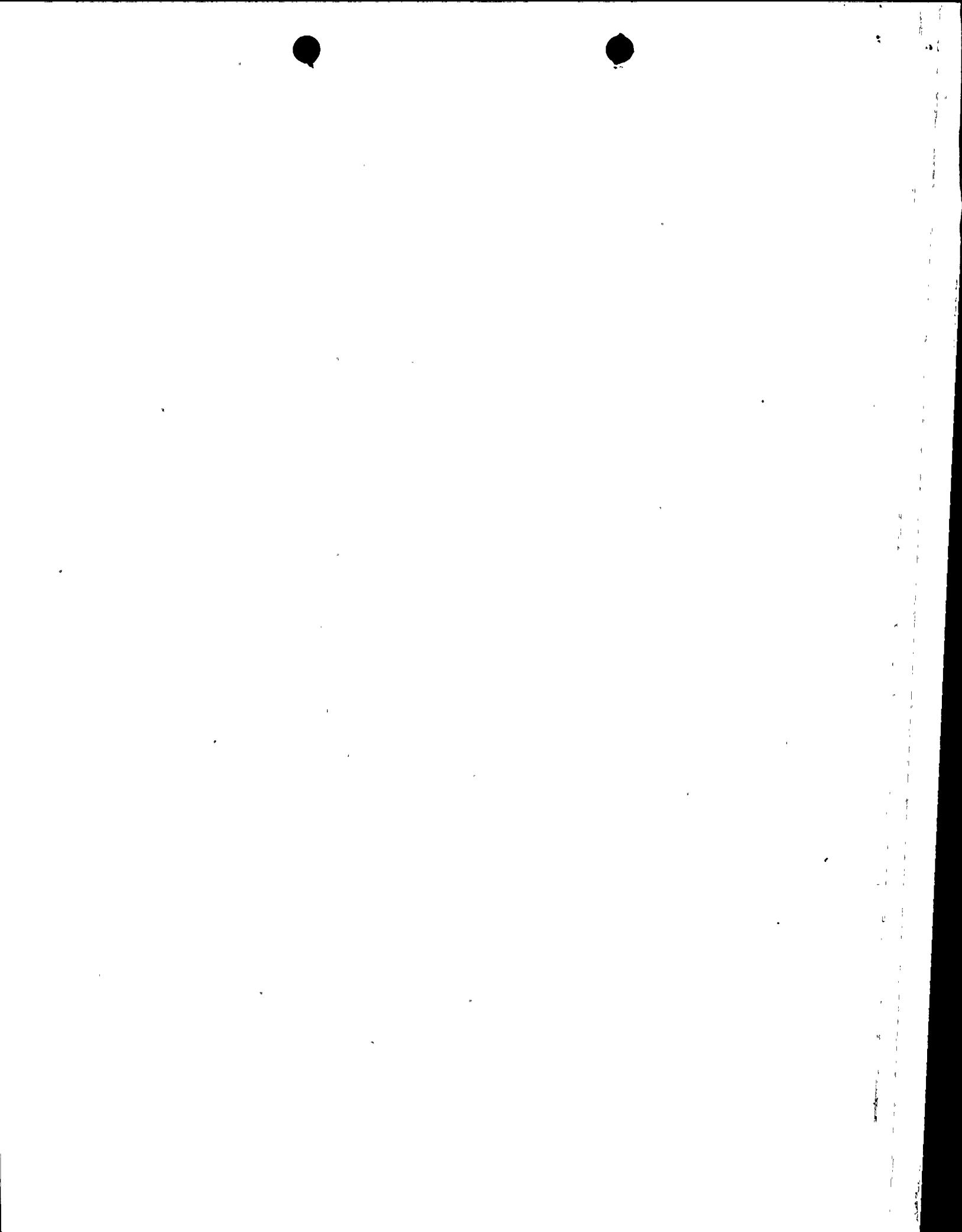
Dockets 50-275-OL  
50-323-OL

REPLY OF PACIFIC GAS AND ELECTRIC COMPANY TO  
INTERVENORS' MOTION FOR RECONSIDERATION OF  
THREE NEW CONTENTIONS

On November 17, 1976 Center for Law in the Public Interest (CLPI) on behalf of various Intervenors filed a motion for reconsideration of the ASLB's order dated October 12, 1976 which essentially repeats its original request dated September 7, 1976 to add three new contentions for the environmental hearings.

Proposed Contentions 1 and 2 deal with seismic matters which are not yet ripe for consideration. As stated by the ASLB in its order dated October 12, 1976 relevant seismic matters will be considered at the safety hearing. At the end of its memorandum of points and authorities CLPI appears to accept this position assuming all environmental risks and hazards are thoroughly canvassed (Memorandum pp. 13, 14). There thus appears to be no controversy on this issue.

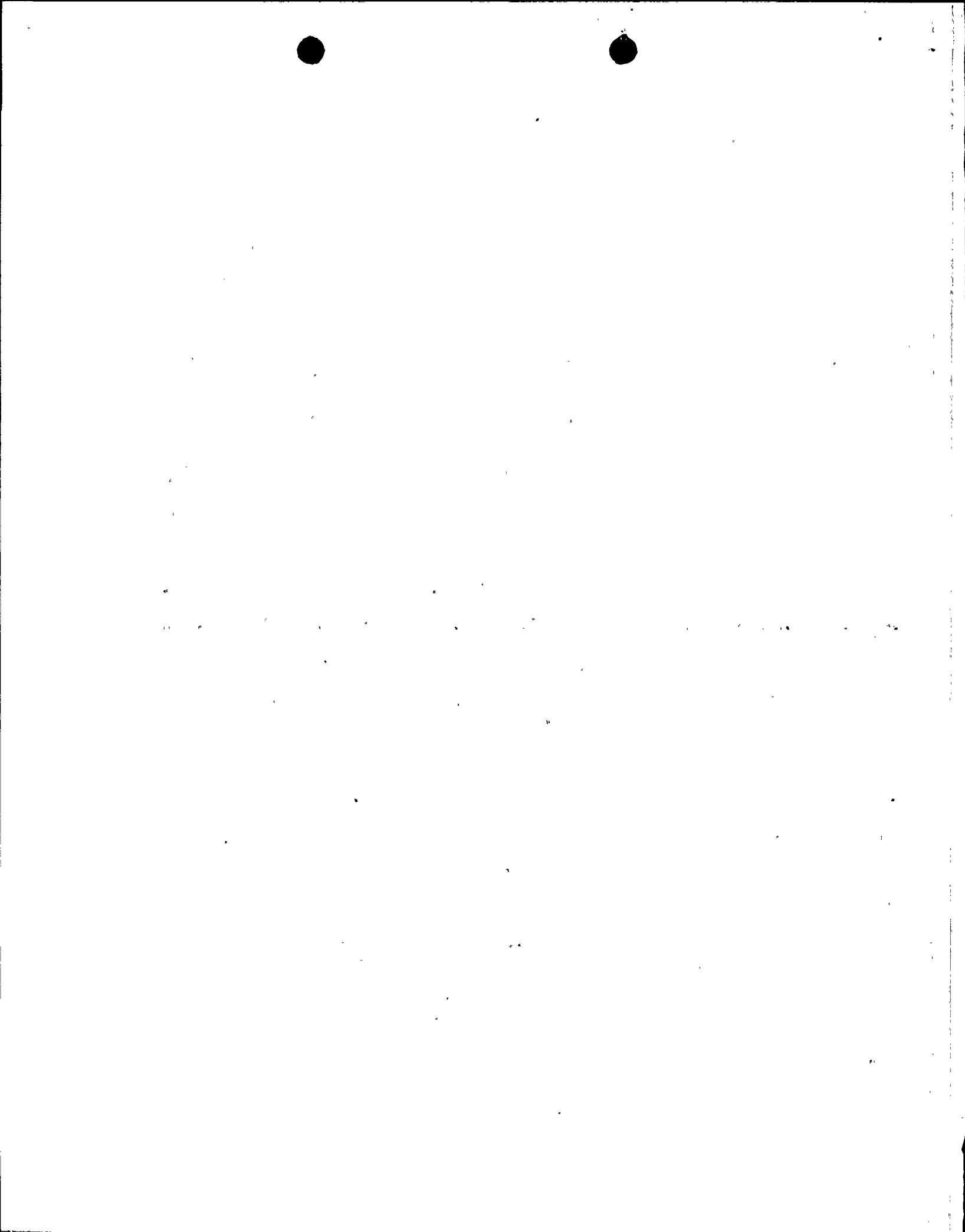
Moreover, the seismic contentions are based upon a faulty hypothesis. Following completion of the ongoing seismic reevaluation it can be established whether the plant will resist an earthquake of the size postulated to occur on the Hosgri Fault by the United States



Geological Survey, consultants to the NRC Staff. (See Supplement No. 4 to the NRC Staff Safety Evaluation Report, p. 2-4.) Assuming that the analysis will show that the plant can resist the forces generated by such an earthquake, there is no basis for considering "possible earthquake caused accidents, including . . . Class 9 accidents" and the affidavits of Messrs. Bridenbaugh and Finston are completely irrelevant. If the analysis indicates that the plant cannot resist such an earthquake, presumably the NRC would have to require that changes be made before it could find that issuance of an operating license would not be inimical to the health and safety of the public. In this event, the Bridenbaugh and Finston affidavits likewise are irrelevant.

Incidentally, in its memorandum of points and authorities and prior pleadings CLPI constantly seeks to characterize the Diablo Canyon site as an area of high seismicity. The Bridenbaugh affidavit does not support this assertion and, as has been testified to in prior proceedings in these dockets, the area in fact is classified as an area of low seismicity.

With regard to proposed Contention 3, PGandE concurs with the ASLB characterization of this contention as "untimely in the extreme" (ASLB order dated October 12, 1976 p. 4). There has been no showing of due cause for the failure to advance the contention sooner, and, in fact, Scenic Shoreline Preservation Conference, Inc. advanced similar contentions at the NEPA hearing for Unit 2. As the Board pointed out in its order, the parties, including Scenic Shoreline, were given ample opportunity at a series of prehearing conferences to amend their petitions



for intervention to add new contentions (Tr. 1 - 433).

In any event, an operating license proceeding appears to be a little late to consider at length alternatives to the construction and operation of a proposed facility at least where, as here, the facility is substantially complete and ready to operate. Obviously, the environmental impacts from completing construction of an almost completed facility are minimal as compared to the benefits to be derived from the energy the facility is ready to produce. To pretend there are any viable alternatives to operation of the Diablo Units at this stage of the proceeding, in view of the evidence in the FES Addendum as to need for the power from the Units, which PG&E will update at the hearing, is to lose contact with reality.

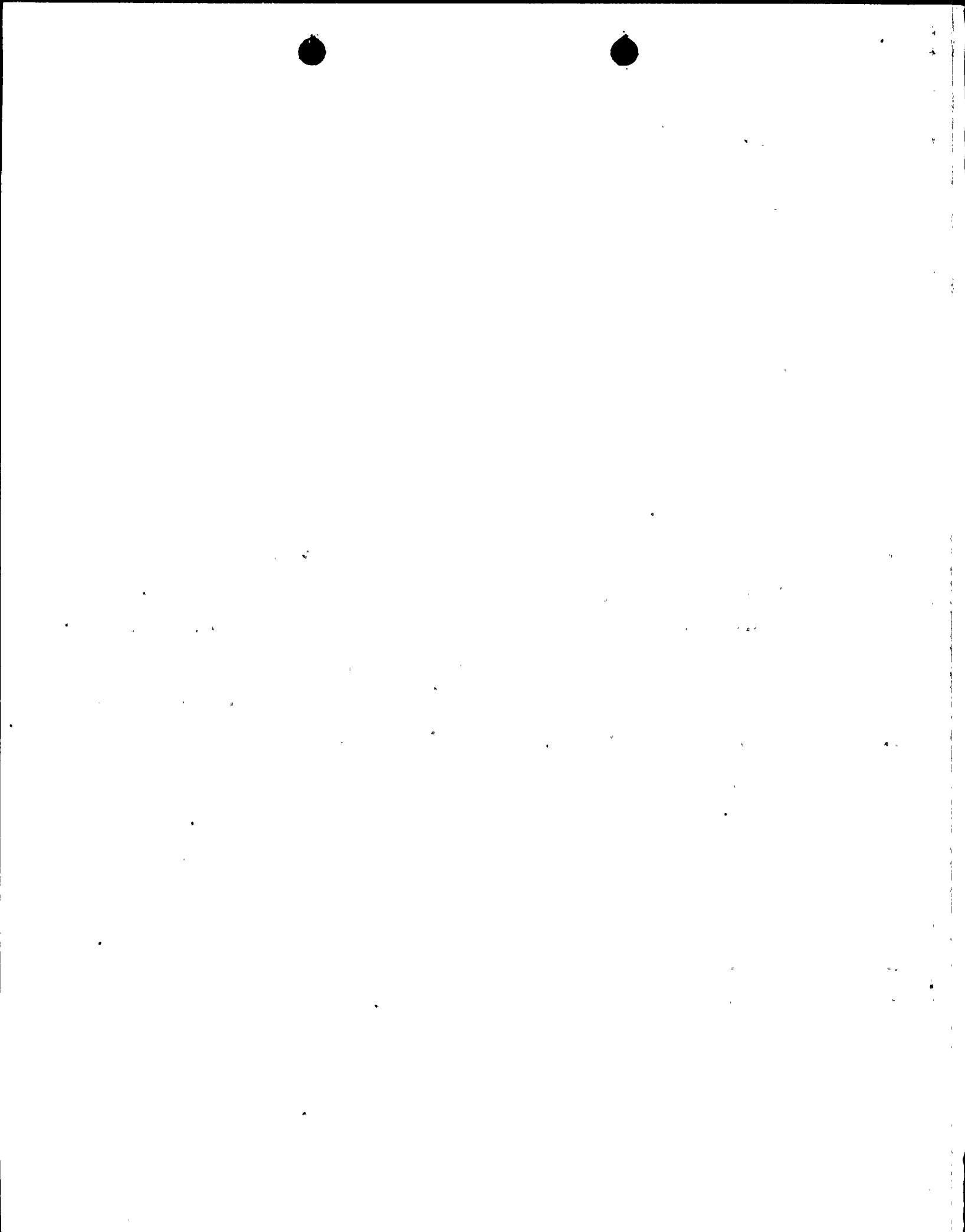
The much-cited Aeschilman v. NRC (slip opinion), (D. C. Cir. No. 73-1776, July 21, 1976) held, among other things, that agencies

"... are not required to consider alternatives which are 'remote and speculative' . . . . 'but may deal with circumstances as they exist and are likely to exist' . . . ." (slip opinion p. 2)

A review of the affidavits submitted by CLPI in support of the proposed contention fails to indicate any alternatives that are not remote, speculative, hypothetical, impractical, or contrary to evidence in the record. For example, the Doctor/Harding affidavit concludes (pp. 6, 7) that various alternatives

"... are likely to result in substantially lower growth forecasts than those made by the NRC staff and demonstrates that the need for power from the Diablo Canyon plant is much less pressing than the NRC staff claims" (emphasis added).

Earlier (p. 2) the affidavit states this estimate is "conditional and



subject to change."

Similarly the Bryant affidavit concludes that by

". . . the late 1980's, solar energy systems in buildings should supply a significant portion of Northern California's energy needs." (emphasis added)

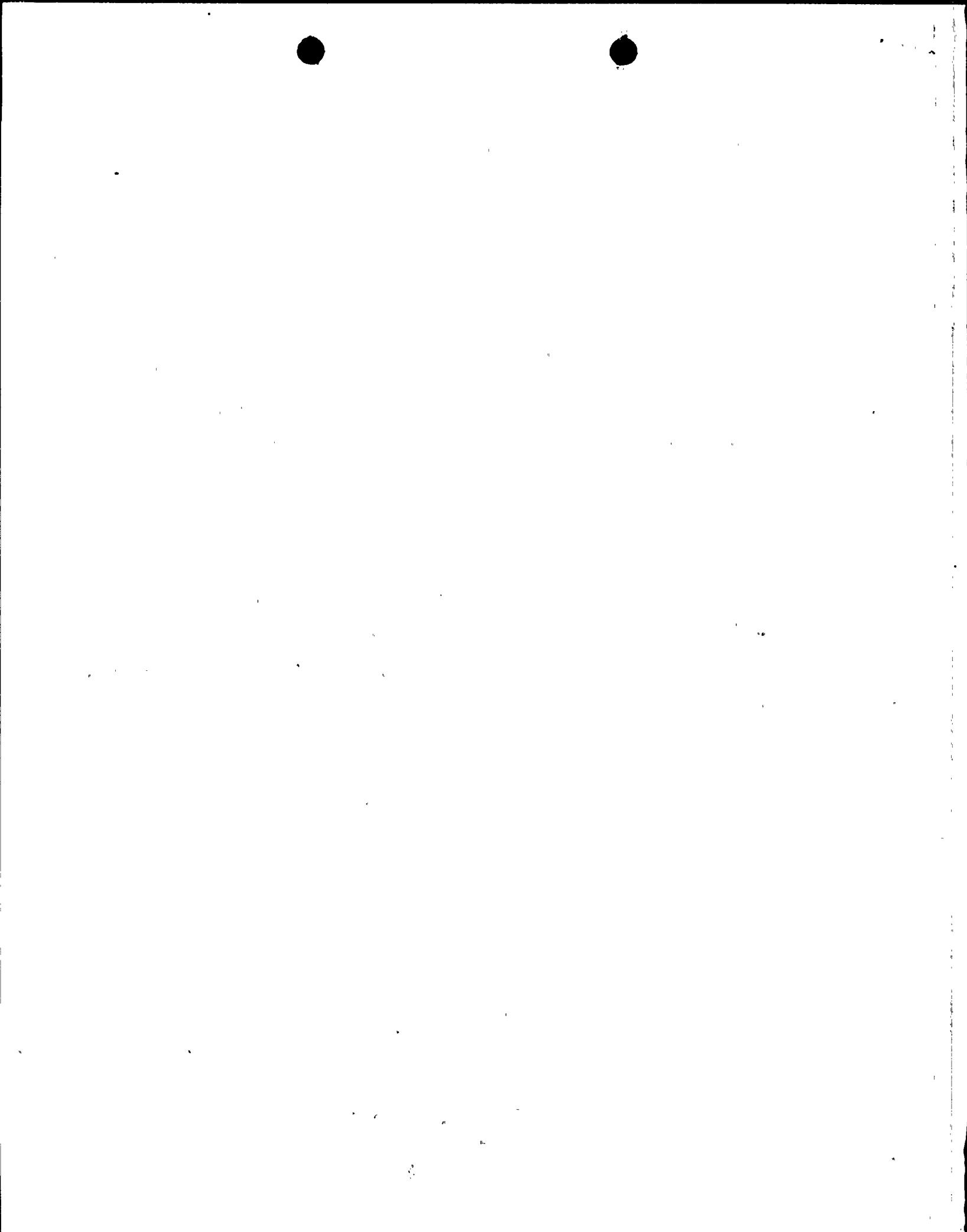
Assuming this statement is accurate, the assertion is not made, as it cannot be, that these systems would constitute a substitute for the Diablo Units.

The Clear affidavit contests the accuracy of PG&E's forecasts in only one of three sectors of its demand forecasts and concludes

". . . PG&E may have significantly over predicted the demand for electrical power in the residential sector of its service area." (emphasis added)

Again, this presents no alternative to the Diablo Units.

Finally, the affidavit of O. J. M. Smith presents the design of a solar electric power generation plant. The allegations of the affidavit and its attachments compel rejection of this suggested alternative wholly apart from the fact that it does not even pretend to present an alternative to the Diablo Canyon Units until 1985. In the first place, such a plant apparently has never been constructed. This makes suspect the very optimistic cost figures which are based upon unexplained assumptions. Attachment 2 to the affidavit (p. 15) provides that a 100 MWe power plant would require a field of 1000 towers and produce annually 389,000 megawatt hours (MWH). (Page 1 of Attachment 2 states that such a plant would require 1,100 towers but the lower figure will be used.) According to page 1 of the attachment each of these towers is 35 meters, or approximately 137 feet, high, and 1000 of them cover



480 acres (affidavit p. 4). Diablo Canyon Unit 1, at 1130 MWe and 70% capacity factor, will produce 6,929,000 MWH per year. Thus, to provide the same energy as one Diablo Canyon Unit 18 of Dr. Smith's plants would be required, which means 18,000 modules 137 feet high spread over an area of 8,640 acres or 13½ square miles. These figures would have to be doubled to include the second Diablo Unit. The adverse environmental impact of such a facility is obvious on its face. Furthermore, Dr. Smith's plant operates only four hours in the evening at full load or six hours at 66% load (affidavit p. 4). To maintain support to the PGandE system comparable to that afforded by the Diablo Units would thus require the installation of additional power plant facilities. In short, there is nothing in the Smith affidavit or any of the other affidavits that would alter the previous finding of this Board

" . . . that neither solar energy nor fusion energy are presently available as feasible alternatives to the Diablo Canyon Nuclear Plant." (8 AEC 309)

In conclusion, PGandE hereby incorporates herein its response dated September 16, 1976 to the earlier CLPI motion which, in an effort to contain the currently raging paper war, it will not repeat here.

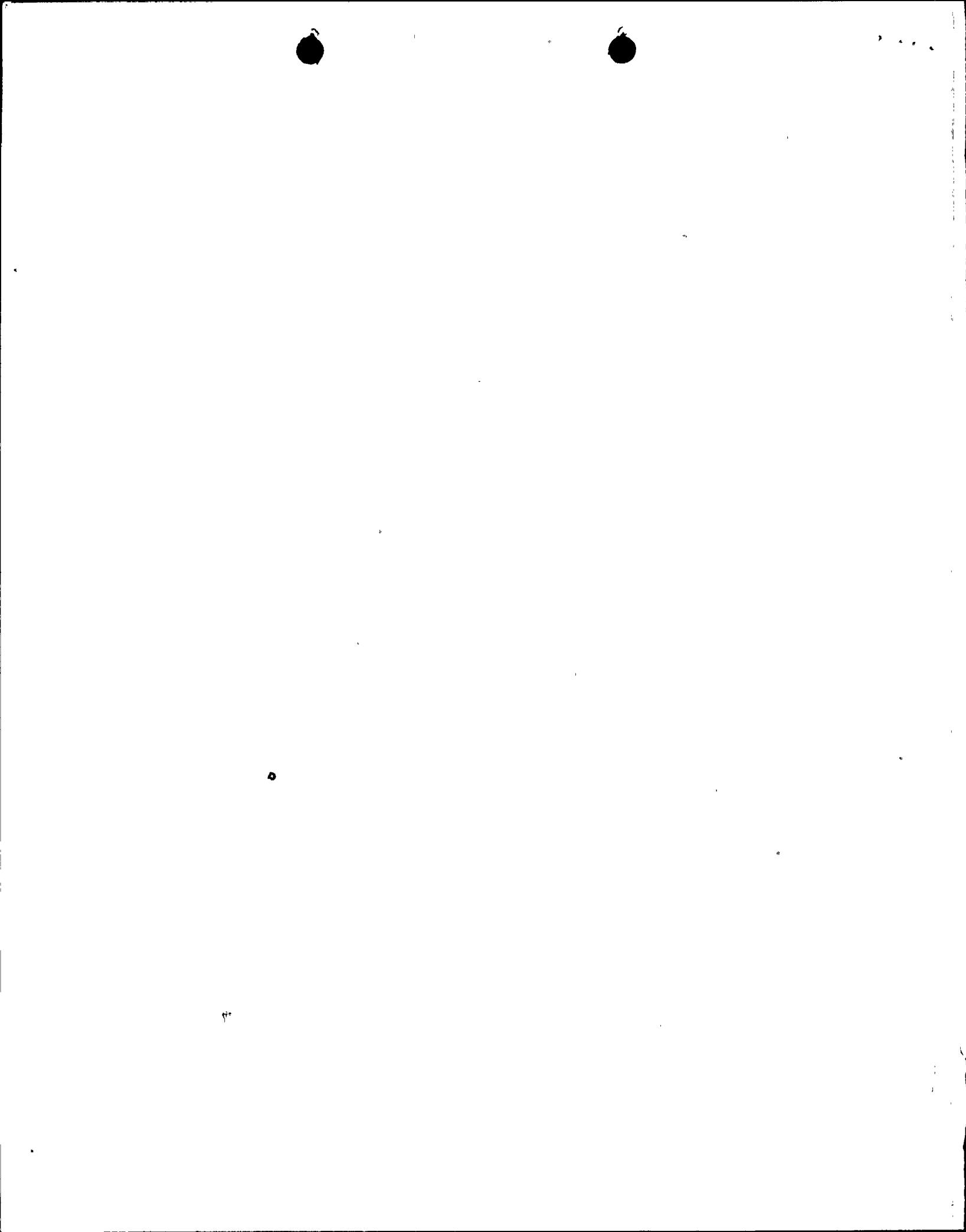
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Dated: December 2, 1976



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CERTIFICATE OF SERVICE

The foregoing document(s) of Pacific Gas and Electric Company has (have) been served today on the following by deposit in the United States mail, properly stamped and addressed:

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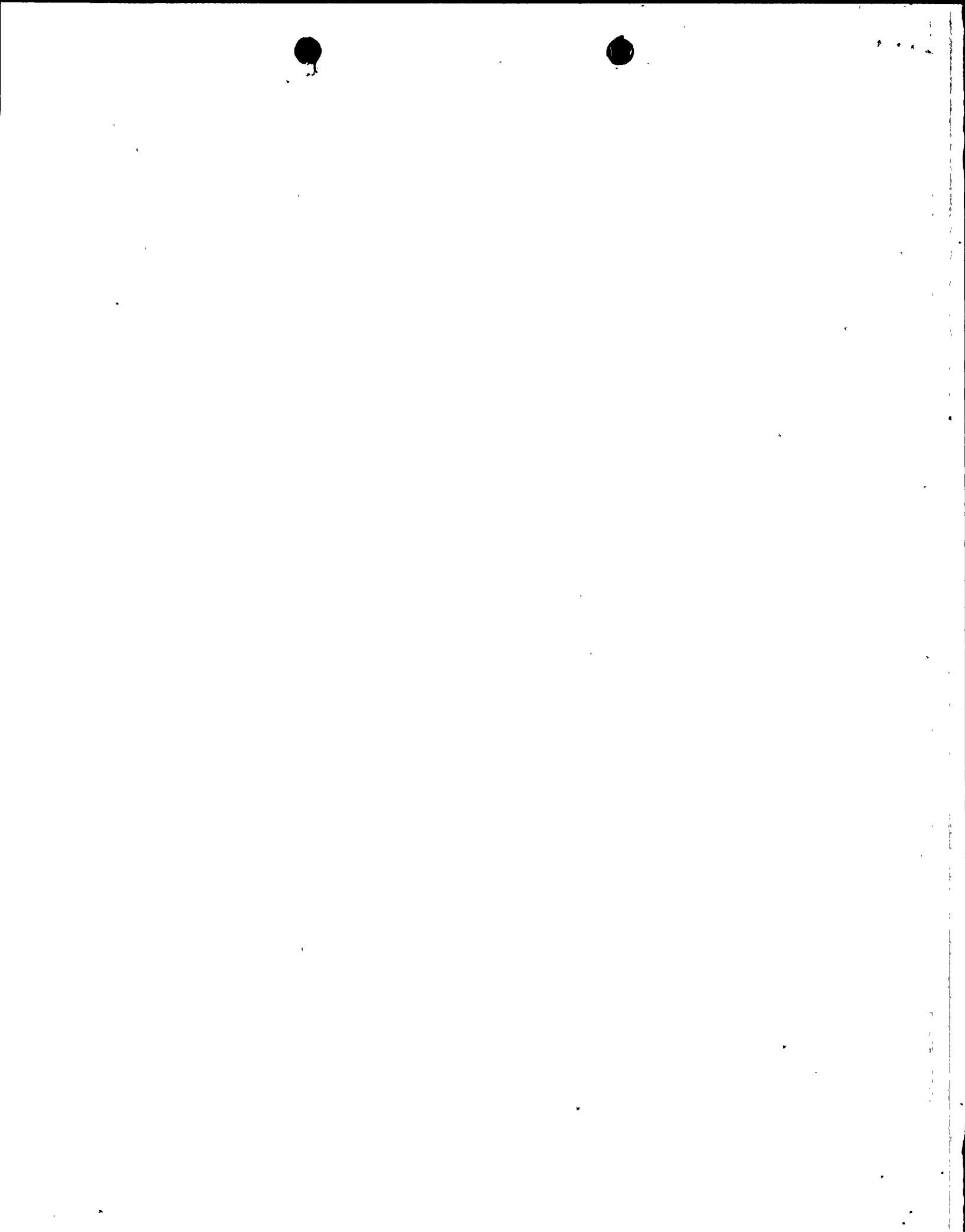
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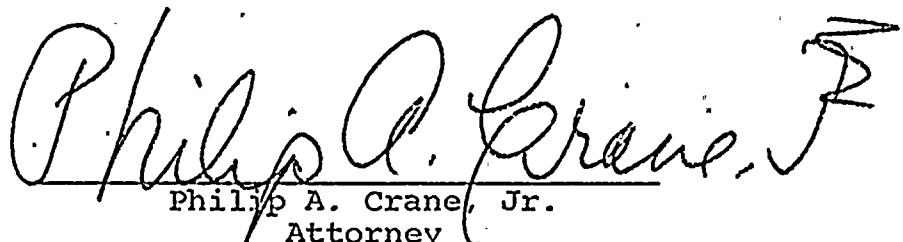
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