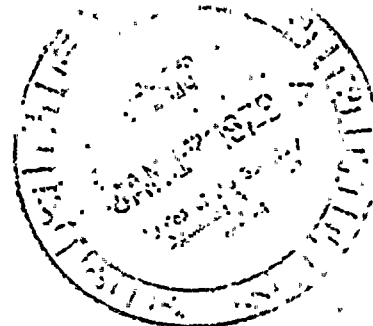


UNITED STATES OF AMERICA  
 NUCLEAR REGULATORY COMMISSION



BEFORE THE NUCLEAR REGULATORY COMMISSION

1/12/78

In the Matter of  
 PACIFIC GAS AND ELECTRIC COMPANY  
 Units 1 and 2 - Diablo Canyon Site

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Docket No. 50-275-OL  
 Docket No. 50-323-OL

REPLY OF PGandE TO CLIPI REQUEST  
 DATED JANUARY 3, 1978

This concerns the letter addressed to the Commissioners, dated January 3, 1978, from the Center for Law in the Public Interest (CLIPI), which represents certain of the Intervenor in the Diablo Canyon licensing proceeding. For the reasons set forth below PGandE submits that CLIPI's request, which patently is made only to further delay this already protracted proceeding, should be denied.

Procedurally, in accordance with NRC regulations CLIPI's request should have been addressed to the Atomic Safety and Licensing Board to which the Commission has delegated the conduct of the Diablo Canyon proceeding (10 CFR 2.730(a); 39 F.R. 3844). However, in the interests of time a response to the merits of the request is set forth below, which can be referred to the ASLB along with the CLIPI letter.

Basically, CLIPI requests that the Commission order PGandE to stop all work on certain plant modifications it is performing

". . . until the NRC staff can document that it has adequately reviewed the modifications and has informed the Advisory Committee on Reactor Safeguards that the modifications are proceeding."

CLIPI goes on to express their concern that



". . . by allowing the applicant to proceed with the modifications before the staff has reviewed and approved them, the staff is, as a practical matter, precluding any effective review."

CLIPPI's concern is misplaced and continuation of work on the modifications will have no effect on NRC Staff review.

a. PGandE is well aware that it is proceeding with the modifications at its own risk. In this respect the modifications are no different than construction of the power plant itself, which is also at PGandE's risk (Power Reactor Development Co. v. International Union et al., 367 U.S. 396 (1961)) as is the cost of "backfitting" (10 CFR 50.109). If detailed staff review and approval were required before commencing work, construction schedules would be immeasurably protracted.

b. PGandE is proceeding with the work now to avoid the possibility of having it delay the plant startup date and thus increase the substantial costs of continued plant delays. Should additional work be required by the Staff it probably would be additive to the work now being performed, rather than in substitution for it, and thus performance of the modifications now should not interfere with any additional work which may be required by the Staff.

c. The procedure being followed by PGandE has no adverse safety consequences since the modifications are subject to definitive NRC Staff review and approval, and since they will make the plant more, rather than less, safe.

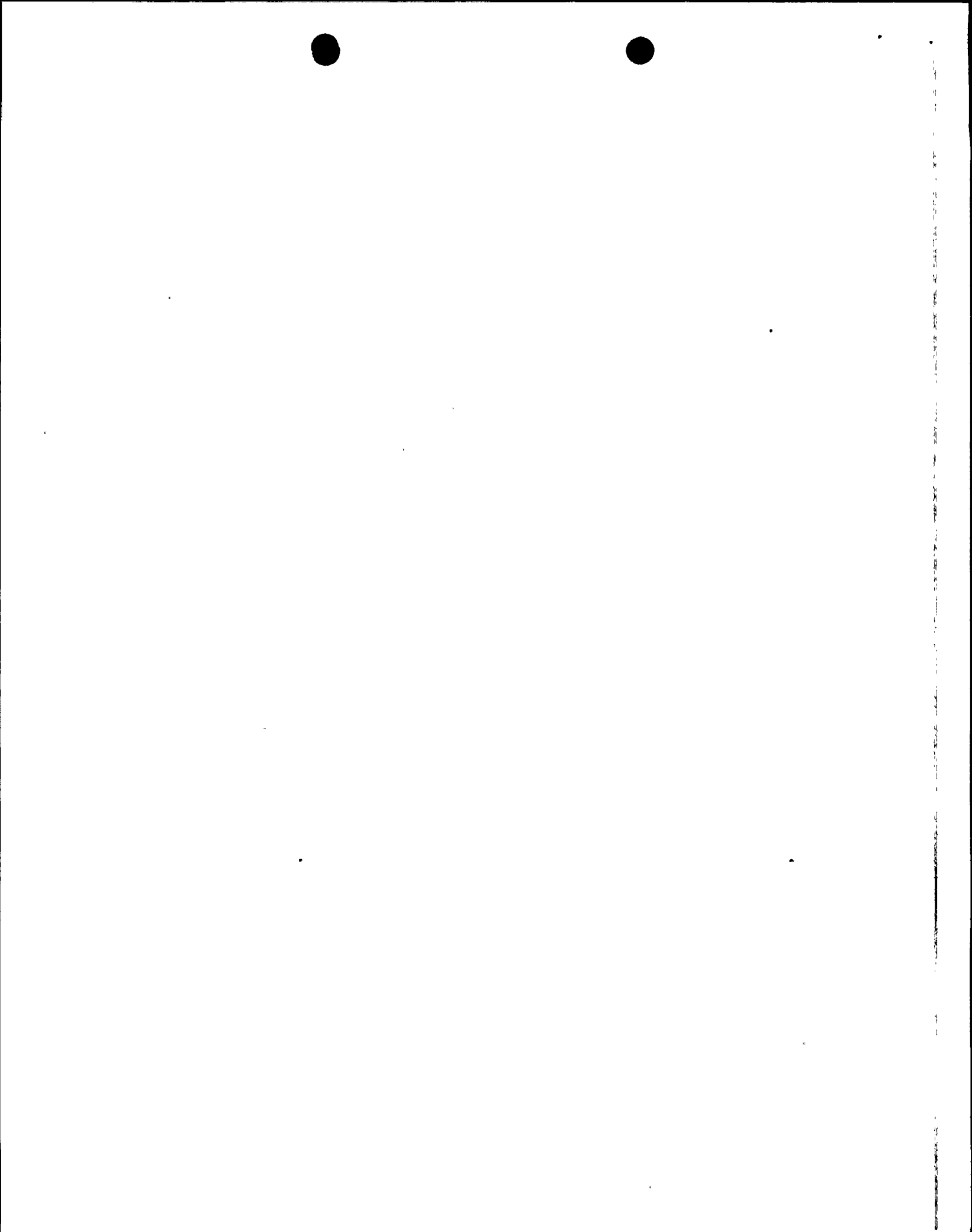
d. Contrary to CLIPPI's allegations both the NRC Staff and the ACRS subcommittee have been advised of the nature of the



modifications (FSAR Amendments 50, 56, Hosgri Seismic Evaluation, Chapter 13; Transcript, ACRS Subcommittee Meeting, June 22, 1977, p. 456 et seq.). Whether or not the ACRS Subcommittee has been officially advised that PGandE is proceeding with the modifications is immaterial since, as indicated earlier, they are being made at PGandE's risk. In any event, the fact that PGandE is proceeding with the modifications is contained on page 3 of the NRC Staff summary of the meeting held on November 3, 1977.

e. Furthermore, the review CLIPI requests be made is scheduled to be completed January 16, 1978 - February 1, 1978 (see copy of NRC notice attached). Thus the CLIPI request effectively will become moot within the next three weeks.

Finally, in substance the CLIPI letter amounts to a request for a stay. The showing required to support such a request is well established (In the Matter of the Petition of Natural Resources Defense Council, 3 NRC 76 (1976); Southern California Edison Company, (San Onofre, Units 2 and 3), 7 AEC 478 (1974); Wisconsin Electric Power Company (Point Beach Nuclear Plant Unit 2), 4 AEC 951 (1972); Virginia Petroleum Jobbers Assoc. v. FPC, 259 F 2d 921, 925 (D.C. Cir. 1958). CLIPI's letter in support of its request totally lacks the required



showing, and on this ground alone their request should be denied.

Dated: January 12, 1978

Respectfully submitted,

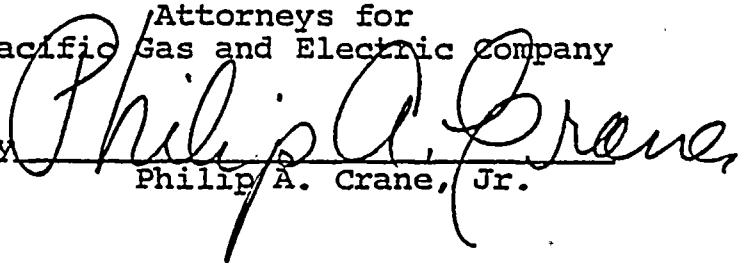
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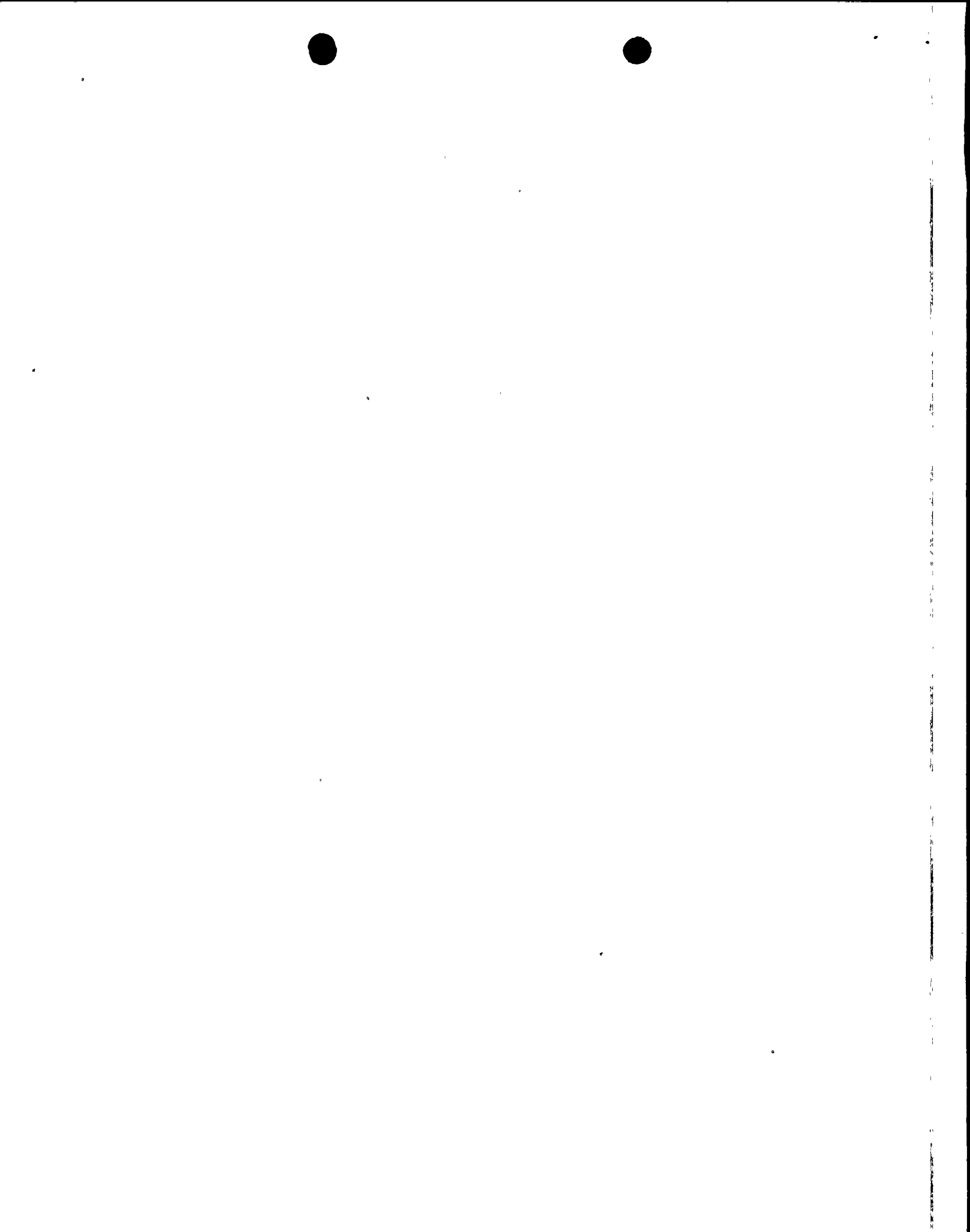
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UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

DEC 28 1977

Docket Nos. 50-275  
and 50-323

John F. Stolz, Chief, Light Water Reactors Branch No. 1, DPM

FORTHCOMING MEETING WITH PACIFIC GAS AND ELECTRIC COMPANY (PG&E)  
DIABLO CANYON NUCLEAR POWER STATION, UNITS 1 & 2 (DIABLO CANYON)

DATE AND TIME:\* January 16, 1978 - February 1, 1978

LOCATION:\*

1. PG&E Headquarters  
77 Beale Street, San Francisco, CA
2. Diablo Canyon plant site
3. Westinghouse offices  
Monroeville, PA

\* See attachments for specific dates, times and locations.

ATTENDEES: NRC Staff - (D. Allison, J. Knight, I. Sihweil, D. Jeng, P. Kuo, R. Lipinski, R. Bosnak, P. Chen, E. Sullivan, L. Vorderbrueggen-Region V, D. Kirsch-Region V, J. Hanchett-Region V, W. Hall-staff consultant)

PG&E - (J. Hoch, V. Ghio, J. Gormly, M. Williamson, R. Laverty, et. al., W. Gangloff et. al.-Westinghouse, J. Blume et. al.-Blume Associates)

ACRS - (Several consultants to be determined later)

Intervenors - (R. Hubbord-consultant to intervenors)

PURPOSE: NRC staff review of seismic design work. To review selected calculations and other work that is more detailed than the criteria and descriptions included in the Safety Analysis Report. To determine, in further detail, how the design criteria and procedures contained in the Safety Analysis Report are being implemented.

*D. Allison*

D. Allison, Project Manager  
Light Water Reactors Branch No. 1  
Division of Project Management

Enclosures:  
Schedule



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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of )  
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PACIFIC GAS AND ELECTRIC COMPANY )  
)  
Units 1 and 2 )  
)  
Diablo Canyon Site )  
)

Docket Nos. 50-275-OL  
50-323-OL

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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U. S. Nuclear Regulatory Commission  
Washington, D. C. 20555

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Washington, D. C. 20555



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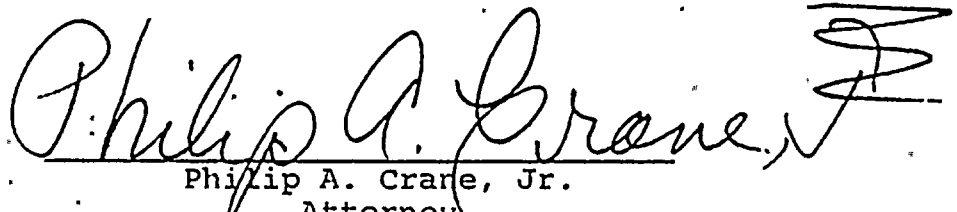
Chairman  
Atomic Safety and Licensing  
Appeal Panel  
U. S. Nuclear Regulatory Commission  
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Secretary  
U. S. Nuclear Regulatory Commission  
Washington, D. C. 20555

Attn.: Docketing and Service Section

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Attorney  
Pacific Gas and Electric Company

Date: January 13, 1978



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