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In the Matter of Pacific Gas and Electric Company  
(Diablo Canyon Nuclear Power Plant, Unit No. 2)  
Docket No. 50-323

Members of the Board:

In reviewing the staff's February 11, 1974 Answer to Scenic Shore-  
line Preservation Conference, Inc.'s revised petition, it appears  
that an extra page (page 7) was inadvertently included. This change  
supersedes those identified in our letter of February 13, 1974. In  
addition, on page 5, para. 2, line 7, the word "not" was omitted.

Enclosed is a revised copy of the staff's answer with the changes  
as described above. Please make the appropriate changes in your  
copies.

Sincerely,

Joseph F. Scinto  
Assistant Chief Hearing Counsel

Enclosure:  
Staff's Revised Answer

See Page 2 for cc

J.F.  
HEP/RLB

OFFICE>						
SURNAME>						
DATE>						



cc w/enclosure:  
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SURNAME	JFScinto/db					
DATE	2/27/74					

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BACKGROUND.

On November 6, 1973, the Commission issued a Memorandum and Order in the Niagara Mohawk proceeding <sup>2/</sup> providing that contentions concerned with the conservation of energy cannot be "altogether ruled out of licensing proceedings" and cannot be "barred at the threshold". It is on this basis that the Board conducted a prehearing conference, on January 3, 1974, and issued its January 16, 1974, Order, resulting in the subject petition.

On January 24, 1974, the Commission clarified the Niagara Mohawk decision in its Memorandum and Order in the Consumers Power Company proceeding, <sup>3/</sup> providing guidance on the applicability of the conservation of energy issue to licensing proceedings. In this context several matters should be noted. First, the contentions must have a "bearing on the applicant's or Regulatory Staff's projections of demand -- the basic issue to which energy conservation contentions are relevant ... ". Second, "Purported energy conservation issues must meet a threshold test -- they must relate to some action, methods or developments that would, in their aggregate effect, curtail demand for electricity to a level at which the proposed

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<sup>2/</sup> Niagara Mohawk Power Corporation (Nine Mile Point, Unit No. 2) Docket No. 50-410, CLI-73-28, RAI-73-11, 995.

<sup>3/</sup> Consumers Power Company (Midland Plant, Units 1 and 2), Docket Nos. 50-329 and 50-330, CLI-74-\_\_\_\_, RAI-74-1, \_\_\_\_.



facility would not be needed." Third, "the impact of proposed energy conservation alternatives on demand must be susceptible to a reasonable degree of proof. Largely speculative and remote possibilities need not be weighed against a convincing projection of demand."

In addition, the Commission has indicated the type of issues deemed appropriate for consideration in licensing proceedings. For example, the Commission has determined that contentions concerning customer uses of electricity are properly excluded. However, contentions relating to the creation of artificial demands for electricity through advertising and other promotional activities do "raise legitimate energy conservation issues." Also, the impact of the existing rate structure insofar as it may encourage rather than discourage demand is an appropriate issue for consideration. This is distinguished from the argument that the state's rate structure encourages construction of unneeded plants, an issue which "has, at best, a remote relationship to energy conservation." The Commission has pointed out that "prediction of the environmental effects of the uses of electricity is highly speculative and remote from the basic question whether the proposed plant should be authorized." Accordingly, "absent special circumstances, licensing boards are not required to entertain contentions concerning alleged environmental effects of consumer uses of electricity." (footnote omitted)



It is equally clear from the Commission Order that an intervenor incurs a certain burden with respect to raising issues regarding conservation of energy. It is incumbent that the contentions must meet the Commission's regulations with respect to specificity.

#### DISCUSSION

With the foregoing guidance of the Commission in mind, the staff submits the following comments with respect to the revised petition of Scenic Shoreline Preservation Conference, Inc.

1. Petitioner's first contention relates to "TRANSPORTATION Energy Conservation" and alleges that the statement fails to consider the "reduction of irresponsible waste of electric power" and the effect of curtailment of this waste on the demand for electricity. Petitioner also alleges the environmental impact statement should consider the reduction of energy expended in transportation by the use of car pools, mass transit, new freight handling systems, etc.

With respect to the first allegation, it is vague, failing to identify in any manner, the alleged "irresponsible waste". The second allegation (car pools, etc) has no connection to the first and provides no indication of any relationship to the need for the electric power projected for this facility. Whether such developments would have any effect on the demand projected for the power from Diablo Canyon Unit 2 is purely speculative.



As such, it is beyond the threshold test established by the Commission in its Consumers Power decision, cited supra, and should be rejected in this proceeding.

2. Petitioner's second contention relates to "RESIDENTIAL and Commercial Energy Conservation" and raises as issues, price elasticity; energy tax on fuels; inversion of the rate structure; improvement of efficiency of appliances; improvement in insulation and building design; tax deduction for energy conservation measures; use of waste heat from power plants and solar energy. Solar energy was considered in the FES and in the September hearing in this proceeding and should<sup>not</sup>/be included as a contention. The other issue in petitioner's second contention should be admitted.

3. The third contention relates to "ENERGY Conservation in Industry" and alleges that the Final Environmental Statement fails to consider energy conservation measures such as recycling solid wastes, rescheduling for off peak periods, conversion to higher voltages, lowering of thermostats, limiting of the manufacture of energy intensive goods, restricting the use of outdoor advertising and "other light-consuming projects". With the exception of the conversion to higher voltage the staff believes the contention to be an extension of contention no. 2 and, accordingly, appropriately considered in this proceeding. The staff believes the contention on voltage conversion to be vague and without basis and urges that it be rejected.



4. This contention is concerned with "REVISION of Advertising and Other Electricity Promotional Practices ... ". It alleges that the applicant encourages all-electric homes and increased use of electrical appliances. It further alleges that practices which foster energy consumption by large corporations and institutions, such as lower rates for customers who use electricity for heating, installation allowances, service and merchandizing subsidies and financial assistance should be investigated. It is the staff's belief that the effect of the alleged promotional practices may be considered in this proceeding insofar as they may relate to the projected need for the power to be produced by the facility.

5. Petitioner's fifth contention raises four points. First, it is alleged that the Final Environmental Statement should discuss and consider "revisions of the utility rate base and rate of return to promote improvement of existing plants rather than construction of new ones and an energy conservation measure". This allegation should be rejected as a contention because it contravenes the test laid down by the Commission in Midland, namely: that energy conservation issues must relate to some action that could result in a curtailment of the demand for electricity to a level at which the plant would not be needed. Speculative and remote possibilities such as that raised in the instant allegation need not be considered.



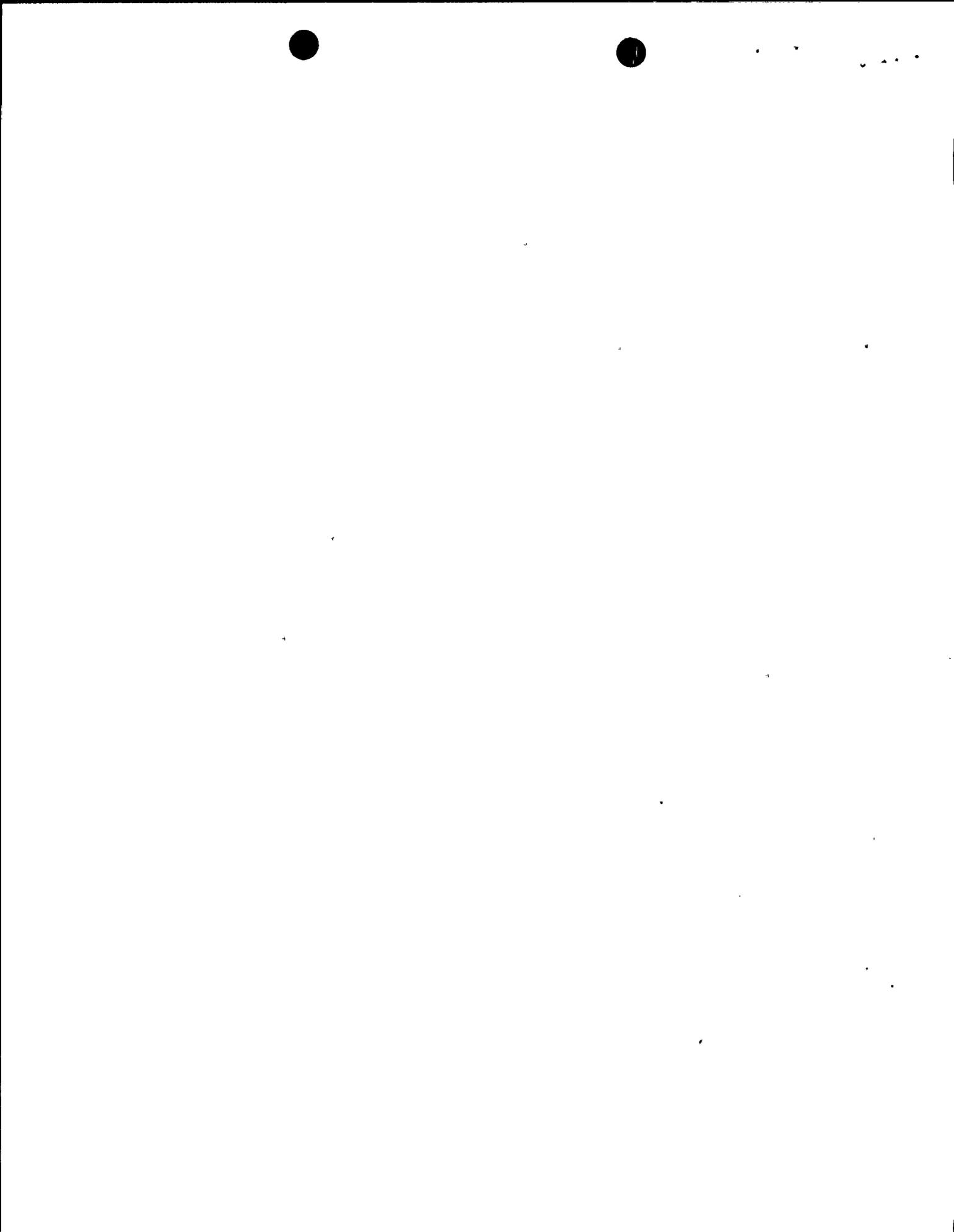
The second point alludes to unspecified use of the price mechanism to restrict demand and the inclusion of the real costs of nuclear accidents, waste disposal and thermal damage. These allegations do no more than raise in "price terminology, petitioner's previous allegations concerning these matters which have already been considered in this proceeding and should be rejected.

Third, the contention alleges that the true cost and availability of nuclear fuel has not been adequately considered. This is a cost-benefit contention, not related to energy conservation and should be rejected.

The last aspect of the contention relates to a peak pricing system. We believe that this is encompassed within contention no. 2 dealing with rate structure modifications and therefore should be consolidated with contention 2.

6. The sixth contention is concerned with "RESEARCH in Energy Conservation" and alleges that the statement fails to consider the effect of increased plant efficiency, transmission line efficiency, the energy required to produce nuclear power and the use of solar and geothermal energy, and the use of financial incentives to utilities for promoting energy conservation.

In regard to the use of geothermal and solar energy, these matters have been previously considered in this proceeding (especially in the September hearing). There are no new matters presented in the petition which would warrant reconsideration of these issues and they should be rejected.



The use of financial incentives to promote energy conservation is akin to the tax benefit suggested in contention no. 2 and should be consolidated with contention no. 2. The contentions concerning increased plant efficiency and transmission line efficiency and the energy necessary to produce nuclear power are vague and speculative. They do not meet the threshold acceptability test of the Commission's Midland decision, cited supra, nor do they meet the specificity requirements of the Commission's Regulations, (10 CFR § 2.714). Therefore they should be rejected.

#### CONCLUSION

For the foregoing reasons, the staff respectfully urges that contention 1 be rejected in its entirety; contention 2 should be admitted except that the solar issue should be rejected; contention 3 should be admitted except that the issue of conversion to higher voltage should be rejected; contention 4 should be admitted in its entirety; contention 5 should be rejected except that the issue of peak pricing should be consolidated with contention 2 and admitted; and, contention 6 should be rejected except that the issue of financial incentives to promote energy conservation should be consolidated with contention 2 and admitted.

Respectfully submitted,



Charles A. Barth  
Counsel for AEC Regulatory Staff

Dated at Bethesda, Maryland  
this 11th day of February, 1974

