

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter Of:)
)
Pacific Gas and Electric Company) Docket No. P-564A
(Stanislaus Nuclear Project,)
Unit No. 1))
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)

NORTHERN CALIFORNIA POWER AGENCY'S MOTION FOR
PROTECTIVE ORDER REGARDING PACIFIC GAS AND ELECTRIC
COMPANY'S FIFTH SET OF INTERROGATORIES

Pursuant to rule 2.740(c) of this Commission's rules, 10 C.F.R. §2.740(c), Intervenor Northern California Power Agency and its members ("NCPA") hereby move the Atomic Safety and Licensing Board for a protective order, as set forth below, and requests that the Board sustain its objections to certain questions in Pacific Gas and Electric Company's ("PG&E") Fifth Set of Interrogatories to NCPA.

Interrogatory Nos. 4(f), 8(c), 9(c), 12(f), 15(c), 16(c), 17:

These interrogatories ask for identification of all documents relevant to the answer to the substantive portions of the interrogatory. In accordance with the orders and procedures established by the Board, NCPA and its members are producing documents to PG&E as part of "one massive sweep" through their files. NCPA submits that the burden is

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substantially the same for PG&E as for NCPA to derive or ascertain which documents relate to particular interrogatories and, accordingly, submits that these interrogatories are fully answered pursuant to Rule 33 of the Federal Rules of Civil Procedure. NCPA submits that any further requirement that NCPA categorize its documents for the benefit of PG&E in response to these interrogatories would be unduly burdensome.

Interrogatory Nos. 5, 6, 7, 8, 9, 13, 14, 15, 16:

NCPA is answering these interrogatories concerning outstanding bond issues, bonding capacity, other sources of funding and efforts to utilize such funding on behalf of NCPA itself, but objects to providing individual responses from each member of NCPA on the grounds that the interrogatory is unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Clearly, the member cities of NCPA have issued bonds from time to time and may have other funding sources available to them. However, NCPA submits that such information is not sufficiently related to the issues in this proceeding to warrant its compilation in response to these interrogatories. Of course, the information is a matter of public record, should PG&E be sufficiently interested in this data to undertake the effort required to compile it. Furthermore, to the extent such information is responsive to PG&E's documentary discovery

requests in this proceeding, the information would be, or would have been, provided as part of the "one massive sweep" of NCPA's and its members' files.

Interrogatory No. 17:

In addition to the above objection to this interrogatory, insofar as it requests production of documents, NCPA objects to this interrogatory as premature. The interrogatory duplicates Interrogatory Nos. 45-52 in PG&E's Fourth Set of Interrogatories in this proceeding, which the Board has already ruled should be deferred for the present time. The same reasons that formed the basis for that ruling also compel deferring the answers to the interrogatory here.

However, in a good faith effort to provide useful responses, NCPA has provided examples of refusals responsive to this interrogatory, including identification of specific documents. NCPA objects to the interrogatory insofar as it seeks any additional information at this time.

INTERROGATORY NO. 18

NCPA objects to Interrogatory No. 18 as overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. To respond to Interrogatory No. 18 would require identification of every lease and contract through which NCPA and each of its members obtained such diverse

items as parcels of land or easements for rights of way, electrical equipment and replacement parts for it, and legal and technical consulting services. To the extent that any such "agreement or understanding" is in any way relevant to the issues in this proceeding, the information will be provided in the course of ongoing discovery in the form of document production by NCPA and its members. No list of the "agreements or understandings" responsive to this interrogatory exists. Accordingly, NCPA submits that its discovery document production in this proceeding constitutes a complete response to this Interrogatory pursuant to Rule 33 of the Federal Rules of Civil Procedure, as the burden of deriving or ascertaining the answer is substantially the same for PG&E as for NCPA.

Interrogatory No. 23:

NCPA objects to this interrogatory as premature. The interrogatory seeks information responsive to numerous interrogatories in PG&E's Fourth Set of Interrogatories in this proceeding, including, specifically, Interrogatory Nos. 45-68 and 117-22. The Board has ruled previously that the Fourth Set of Interrogatories should be deferred for the present time, and the same ruling should be applied here.

Nevertheless, in a good faith effort to provide useful responses, NCPA has responded with examples of refusals of PG&E to sell power at wholesale or to provide services of which NCPA is currently aware. NCPA's response

includes identification of specific documents.

NCPA objects to Interrogatory No. 23 and requests that a protective order be granted sustaining its objection insofar as the interrogatory seeks any additional information at this time.

INTERROGATORY NO. 62

NCPA objects to Interrogatory No. 62 as over-broad, burdensome and not reasonably calculated to lead to the discovery of admissible evidence. It would be virtually impossible to identify each occasion since 1960 on which any of NCPA's "employees, attorneys, agents, lobbyists or members of any of [its] City Councils have discussed with any member of the State legislature or any member of the staff of any State legislator any matter related to electric power generation or transmission...." As would be expected in the course of their activities as elected public officials, many NCPA City Council members have contact with state legislators and their staff members. In any event, NCPA notes that PG&E on July 25, 1979 noticed depositions of some 84 NCPA representatives which include all NCPA member utility directors and city council members. Furthermore, to the extent such contracts may have been recorded and are relevant to this proceeding, documents are being produced by NCPA and each of its members in this proceeding. Since the burden of deriving or ascertaining the answer is substantially the same for PG&E as for

NCPA, NCPA submits that its document production constitutes a complete response to Interrogatory No. 62, to the extent any answer may be required. Accordingly, NCPA requests a protective order and requests that its objection to this interrogatory be sustained.

INTERROGATORY NO. 64

NCPA objects to Interrogatory No. 64 as over-broad, burdensome and not reasonably calculated to lead to the discovery of admissible evidence. The interrogatory seeks the method by which NCPA and each of its members determine the price charged to customers for electrical energy. NCPA objects to the interrogatory, because it seeks all past changes in the pricing methods without limitation to any relevant time period and because it seeks needless details in the form of descriptions for each category of customers to the extent pricing methods vary by customers.

NCPA is, in good faith, responding to Interrogatory No. 64 by describing the method by which prices charged to customers for electrical energy is determined. NCPA believes this to be a complete response. However, because in other proceedings PG&E has argued that, unless NCPA specifically objects to an interrogatory, no practical limitations or "rule of reason" applies in determining the adequacy of a reasonable response to an impossibly broad or partially unanswerable interrogatory, NCPA requests a protective order

and requests that its objection to this interrogatory be sustained insofar as the interrogatory seeks information concerning past changes in pricing methods and insofar as it seeks irrelevant details with respect to the pricing methods for individual categories of customers.

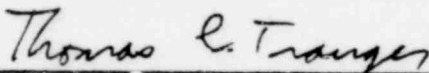
Interrogatory Nos. 65-70:

NCPA has submitted what it believes to be a full and complete response to Interrogatory Nos. 65-70. However, because PG&E has taken the position in other proceedings that failure to object expressly to interrogatories results in an obligation to provide all information which PG&E believes is called for by the interrogatories, NCPA hereby objects to these interrogatories insofar as they call for additional information beyond that which has been provided. NCPA objects on the ground that further responses to these interrogatories would be unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. NCPA requests that a protective order be issued which sustains its objection.

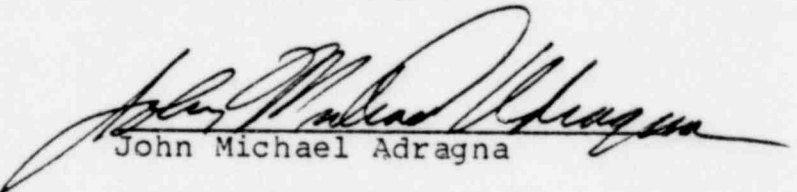
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For the foregoing reasons, NCPA respectfully requests that a protective order be issued which sustains its objections to the specific interrogatories as set forth above

Respectfully submitted,



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October 15, 1979

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CERTIFICATE OF SERVICE

John Michael Adragna certifies that he has this 15th day of October, 1979, caused to be served the foregoing document upon the following parties in accordance with the requirements of Section 2.701 of the Commission's Rules of Practice.

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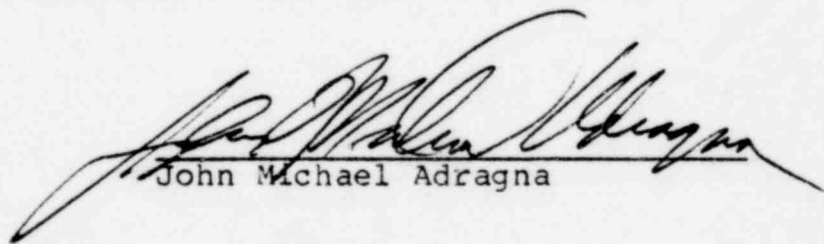
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