

OPY

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of:)	Docket No. P-564-A
)	
Pacific Gas and Electric Company)	STIPULATION CONCERNING
(Stanislaus Nuclear Project Unit 1))	PRODUCTION OF DOCUMENTS
)	
)	

Introduction

It is stipulated by and between the parties that the outlined procedures will govern document production from the files of PG&E. Compliance with this procedure by Pacific Gas & Electric Company will constitute a complete response to the board's document production order, dated January 18, 1978, as to all files in PG&E's headquarters buildings. It is further understood that the use of these procedures obviates the need for separate answers by PG&E to the second set of interrogatories except as required by part V of this stipulation. Satisfactory completion of the procedures set forth in this stipulation will be considered by the parties to comply with the "one massive search" rule discussed by the board at the prehearing conference on July 8, 1977. (Prehearing Tr. July 8, 1977, pp. 121-178.) It is understood that the "one massive search" rule does not preclude the additional document production requests provided for by part IV of this stipulation and does not preclude additional document production requests by intervenors or staff so long as they do not require another massive search of PG&E's files or a second search of files reviewed pursuant to this stipulation.

I

Definitions

1. "Central files" means all files maintained by each department in a central location convenient to each department in PG&E's headquarters buildings.
2. "Noncentral office files" means all other files maintained by PG&E at its headquarters buildings.

II

Production by PG&E

PG&E will produce all documents located on the 33rd floor of its headquarters building located at 77 Beale Street in San Francisco, California, and documents from the central files of the following departments and their subdivisions

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according to the procedures described immediately below:

Planning and Research Department (including
Engineering Research Department);

Internal Auditing;

Electric Operations Department (excluding
Communications Department);

Government Relations Department;

Rates and Valuation Department;

Office of the Vice President, Engineering;

Civil Engineering Department;

Electrical Engineering Department;

Mechanical and Nuclear Engineering Department;

Engineering Quality Control Department;

Customer Operations Department;

Public Relations Department;

Financial Planning and Analysis Department.

For all central files maintained in the above-listed departments and offices the following procedure will constitute an accepted method of compliance with the board's document production order, dated January 18, 1978.

A reasonable number of representatives of intervenors and staff will be given access to these files, accompanied by a sufficient number of PG&E attorneys. PG&E reserves the right to limit the number of individuals who can physically occupy the smaller file rooms, where necessary. PG&E will make these files available to intervenors and staff commencing on a date agreed upon by all parties and will produce these files at a rate agreeable to all parties to the extent practicable.

Intervenors and staff will review file drawer titles and titles of file folders, and, based on these titles, determine whether the documents therein should or should not be produced. Where this judgment cannot be made from the title of the file, the accompanying PG&E attorney will flip through the file to determine whether any document that is privileged, subject to special protection from disclosure, or both irrelevant and sensitive is included therein. If any such document is noted, the PG&E attorney may direct that the file be set aside for a later determination of whether any of its contents should be withheld from production for one of the aforementioned reasons. A copy of

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Each document from such set aside files will be produced if a copy has not previously been produced in this proceeding and if the document is not deemed to be privileged, subject to special protection from disclosure, or both irrelevant and sensitive. Any file not set aside by the PGandE attorney in this manner will be given to the intervenors and staff who may then review its contents. Based on this review a determination will be made by intervenors and staff of whether all or some of the documents therein need to be produced. Copies of any or all documents from files so designated will be produced if neither previously produced in this proceeding nor deemed to be privileged, subject to special protection from disclosure, or both irrelevant and sensitive.

A description of each document withheld from production from a designated file or from a file set aside for special handling by a PGandE attorney will be provided by PGandE, together with an explanation of the basis for withholding each such document, so that a decision may be sought from the board as to whether the document was properly withheld from production.

Mechanically, PGandE will produce dry paper copies of documents from designated files into a document depository for review at the convenience of the staff and intervenors. Each document produced will be identified as responsive to one paragraph of the document production order or as nonresponsive. PGandE will provide forms sufficient to show where files and discrete documents begin and end. Upon reasonable request, PGandE will make available for inspection the filed document from which a particular copy is made.

Documents produced will be numbered for identification purposes by PGandE. If any of the parties desires to limit the number of documents which it will review in the depository, it is invited to devise with PGandE attorneys a method of identifying documents during the file review process to ensure the receipt of only the desired documents. PGandE will be provided with a copy or listing of each document copied by any party.

III

Law Department and Executive Office Central Files

PG&E will itself immediately commence producing documents responsive to the document production order of January 18, 1978, in the sequence in which they are found and which are located in its law department and in current executive office central files, 32nd floor, 77 Beale Street (including all senior and executive vice presidents, the vice president and assistant to the executive vice president and the assistants to the vice presidents).

IV

Other Central Files

Intervenors and staff reserve the right at some future date to request production of documents from the Vice President

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and Comptroller and each department under his jurisdiction and the Manager of Computer Systems and Services as indicated on the Pacific Gas & Electric Company organization chart dated February 1, 1978. Central files for departments not specifically mentioned in this stipulation will not be reviewed or produced except as permitted by paragraph 1 of part IX of this stipulation.

v

Category One - Noncentral Office Files

PG&E will produce documents from the following non-central office files, according to the procedure described immediately below:

Executive Offices (including all senior and executive vice presidents, the vice president and assistant to the executive vice president and the assistants to the president);

Planning and Research Department (excluding Engineering Research Department);

Internal Auditing Department;

Electric Operations Department (excluding Communications Department);

Government Relations Department;

Law Department (excluding the Safety, Health and Claims Department);

Rates and Valuation Department.

Intervenors and staff will give PG&E a list of PG&E personnel in these departments for whose office files they wish PG&E to provide a list of file folder titles. The personnel selected will constitute a substantially smaller group than the group identified as "relevant personnel" for purposes of the document preservation order applicable to PG&E. PG&E will provide a list of file folder titles for any files maintained by persons in this subgroup which fall under the decimal file system categories listed in the second set of interrogatories and a list of file folder titles for any files not maintained under the decimal file system which files relate to electric bulk power services. In the case of the Government Relations Department, the list of file folder titles provided by PG&E need only include files maintained by members of the subgroup under the decimal file category 000 and its subparts and files not maintained under the decimal file system which relate to electric bulk power

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services. Upon receipt of this list of file folder titles, intervenors and staff will provide a list of file folders with respect to which the second set of interrogatories will be answered. Upon receipt of this list from intervenors and staff, PG&E will commence production from these offices and will produce documents responsive to and in accordance with the board's document production order dated January 18, 1978.

VI

Category Two - Noncentral Office Files

PG&E will produce documents from the files of "relevant personnel" (as defined for purposes of the document preservation order applicable to PG&E) in the offices listed below. PG&E will produce documents responsive to and in accordance with the board's document production order, dated January 18, 1978.

Engineering Department (excluding Engineering Services and Design Drafting Departments)

Customer Operations Department;

Public Relations Department;

Financial Planning and Analysis Department.

VII

Other Noncentral Office Files in Headquarters Buildings

No other noncentral office files in the PG&E headquarters buildings need be searched.

VIII

Warehouse Files

PG&E has agreed to produce for inspection by intervenors and staff all transmittal slips dated January 1, 1960 or thereafter describing documents sent to warehouse storage. These transmittal slips identify, with varying degrees of specificity, documents in storage cartons in the warehouse. After review of these slips, intervenors and staff will determine which, if any, boxes they desire PG&E to review for documents responsive to the document production request. PG&E reserves any right it may have to object to such search and production requests when they are made.

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Further Conditions

Intervenors and staff retain the right to request production of additional documents wherever located, add to any of the lists described above, or request reclassification of any department from one category to another. PG&E retains the right to object to any such requests, additions or reclassifications.

By agreeing to these procedures, PG&E does not waive its right to request a ruling as to whether any particular document, withheld from production and identified because of PG&E's claim that it is either privileged, subject to special protection from disclosure, or both irrelevant and sensitive, must be produced.

By allowing access to its files and review of documents pursuant to the described procedure, PG&E waives neither the attorney-client privilege, the work product privilege, nor any other special protection from disclosure, even if confidential documents subject to such protection are inadvertently disclosed in the process.

Production of any document shall not constitute a waiver of any objection to the admissibility of the document as evidenced in this or any other proceeding. For example, should PG&E produce documents concerning activities which are arguably within the scope of some immunity from the antitrust laws, such as that delineated by the so-called Noerr-Pennington Doctrine, such production shall not constitute a waiver of any objection PG&E may have to use of those documents in this or subsequent proceedings or of PG&E's right to assert that evidence of any activity in which it may have engaged is not admissible or lacks probative value.

It is understood that although the particulars of the above-described procedure apply only to PG&E, comparable procedures which are substantively similar will be agreed to for the production of documents from the files of the NCPA, its member cities, (if they become subject to a discovery order by the Board), the Cities of Anaheim and Riverside, and the Department of Water Resources of the State of California. However, before the procedures for the production of documents by intervenors are finalized, PG&E reserves the right to a preliminary inspection of these parties' filing arrangements to determine to what extent the above outlined procedures are adaptable thereto.

PG&E will produce documents from central files in the sequence of departments agreed upon by intervenors and staff except that PG&E may, upon a showing that such sequence will substantially disrupt PG&E's ability to conduct its daily operations, produce documents in a different sequence. PG&E

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will produce all documents in a document depository containing adequate facilities for review of all such documents by intervenors and staff, as well as adequate facilities to enable reproduction of such documents. Within seven days after entering this stipulation, PG&E shall supply to intervenors and staff the name of a person whose function it will be to coordinate visits with PG&E and to see that adequate physical facilities are provided.

Any file subject to this stipulation which is located in central files to be reviewed by intervenors and staff, and which is removed from its present location shall be replaced by a marker indicating such removal or the file is accounted for on a sign-out sheet. PG&E will issue instructions that no document shall be removed from any such file unless the file itself is removed. Intervenors and staff retain the right to require production of all such files.

In order to ensure completion and avoid duplication of effort, all files reviewed by intervenors and staff will upon completion of such review be marked in a fashion to indicate that such review has been accomplished and the disposition of each file.

4/25/78

Date

W. W. ...

Pacific Gas & Electric Co.

4/25/78

Date

David ...

Northern California Power Agency

4/25/78

Date

J. C. ...

California Department of Water Resources

4/25/78

Date

Peter H. ...

City of Anaheim

4/25/78

Date

Peter H. ...

City of Riverside

4/25/78

Date

Jack ...

Nuclear Regulatory Commission Staff

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CERTIFICATE OF SERVICE BY MAIL

Mary Tobias certifies that she is not a party to the within cause; that her business address is Three Embarcadero Center, San Francisco, California 94111; and that she caused an envelope to be addressed to each of the following named persons, enclosed and sealed in each envelope a copy of the foregoing document(s) and deposited each envelope with postage thereon, fully prepaid, in the United States mail at San Francisco, California on July 19, 1979.

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