



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

November 5, 1980

115 NRC  
DISTRIBUTION SERVICES  
BRANCH

1980 NOV 6 AM 8 34

RECEIVED DISTRIBUTION  
SERVICES UNIT

Marshall E. Miller, Esq., Chairman  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Sheldon J. Wolfe, Esq.  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Seymour Wenner, Esq.  
Atomic Safety and Licensing Board  
4807 Morgan Drive  
Chevy Chase, MD 20015

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

Dear Chairman Miller and Members of the Board:

At the May 15-17, 1979, conference with counsel, the Licensing Board directed the Staff to investigate the allegations that PG&E improperly transferred relevant documents to warehouse storage in order to preclude their discovery. The Staff has now completed its investigation and hereby reports to the Board.

The Staff began its investigation shortly after the May, 1979 conference by studying a large number of PG&E's warehouse transmittal records, which describe, with varying degrees of specificity, the documents transferred from company and employee files to warehouse storage, the date of transfer, the authorizing employee, etc. Based on this study, the Staff requested PG&E to provide Staff with specific information, to answer certain questions, and to produce to Staff and the intervenors certain documents which recently had been transferred to warehouse storage and which, based on PG&E's own description of the documents, appeared to be relevant to the issues in this antitrust proceeding. PG&E provided the requested information, answered the questions posed by Staff, and, with the exception of certain documents claimed by PG&E to be privileged, produced to Staff and intervenors all the requested documents. During this investigation Staff and the intervenors also were granted access to PG&E's records storage center to designate documents to be produced as part of PG&E's ongoing document production.

The Staff read and analyzed the information it requested and received from PG&E. Included were approximately 50,000 pages of documents which had been transferred to the warehouse. Then, on June 3 and 4, 1980, the Staff deposed eight PG&E employees. Each party to this proceeding was represented by counsel at each of these eight depositions. Five of the PG&E employees were examined "with respect to their own and PG&E's policies, practices, and

8011070051

procedures regarding: (1) document filing, storage, retention, and destruction, including but not limited to the transfer of documents from their personal files or PG&E's current or working files to PG&E's Records Storage Center; and (2) the production of documents during the discovery phase of litigation, including but not limited to this proceeding and the Department of Justice's Civil Investigation Demand No. 1562." (Notice of Taking Depositions, May 14, 1980.) The other three employees were examined "with respect to their own and PG&E's policies, practices, and procedures regarding: (1) document filing, storage, retention, and destruction; (2) the production of documents during the discovery phase of litigation, including but not limited to this proceeding and the Department of Justice's Civil Investigative Demand No. 1562; and (3) the request of Bart W. Shackelford (presently President of PG&E), on or about January 27, 1976, for their suggestions for avoiding the generation of documents which could prove detrimental to PG&E, including but not limited to their responses to that request as well as the implementation, if any, of any of their suggestions." (Notice of Taking Depositions, May 14, 1980.) Each party had an opportunity to cross-examine each of the eight deponents.

On October 22, 1980, the Staff deposed the current President and Chief Executive Officer of PG&E, Barton W. Shackelford. Mr. Shackelford was examined "with respect to his own and PG&E's policies, practices, and procedures regarding: (1) document filing, storage, retention, and destruction; (2) the production of documents during the discovery phase of litigation, including but not limited to this proceeding and the Department of Justice's Civil Investigative Demand No. 1562; and (3) his request, on or about January 27, 1976, for suggestions for avoiding the generation of documents which could prove detrimental to PG&E, including but not limited to responses to that request as well as the implementation, if any, of any of the suggestions." (Notice of Taking Deposition, August 27, 1980.) Every party to this proceeding was notified of this deposition and had an opportunity to attend and cross-examine Mr. Shackelford.

Finally, the Staff met with PG&E attorneys on October 23, 1980, concerning the warehouse documents which PG&E did not produce to Staff under a claim of privilege. The Staff and PG&E resolved their differences regarding those documents in such a manner as to satisfy the Staff that no information contained in the disputed documents was relevant to this special investigation.

The Staff believes it has conducted an intensive and thorough investigation into the allegations of PG&E's "manipulation" of discovery documents. Based on all the available information, the Staff concludes that there does not exist any substantial evidence of any intentional, improper conduct by PG&E concerning its document production obligations. The Staff therefore believes it is appropriate to conclude its investigation with this report to the Board.

In closing this investigation, the Staff would like to acknowledge the high degree of cooperation we received from PG&E throughout the investigation.

Respectfully submitted,

*Jack R. Goldberg / BHV.*

Jack R. Goldberg  
Counsel for NRC Staff

cc: All Parties on Service  
List