



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. 50-133  
(Humboldt Bay Power Plant) ) License No. DPR-7

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ANSWER IN RESPONSE TO MOTION  
TO WITHDRAW APPLICATION FOR  
LICENSE AMENDMENT

The People of the State of California and the Public Utilities Commission of the State of California (California) hereby respond to the Motion to Withdraw Application for License Amendment of Pacific Gas and Electric Company (PG&E).

California opposes the Motion<sup>1/</sup> generally and, in particular is opposed to PG&E's request that the Nuclear Regulatory Commission (NRC) terminate the application proceedings without prejudice. (Motion, p. 3) California believes that the current proceedings, which have been going on for almost four years, should be the procedural vehicle which ultimately resolves the future of PG&E's

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<sup>1/</sup> PG&E's motion is dated December 31, 1980. Because it was served by mail, the parties have 15 days within which to answer, 10 C.F. C. Section 2.730(c); 2.710. California did not meet the 15 day deadline because it was waiting for the Nuclear Regulatory Commission (NRC) to acknowledge California's "Notice of Participation as Interested State" mailed on December 1, 1980, one month before PG&E's Motion was filed. Since it now appears that the NRC has not acknowledged California's official participation as soon as California had supposed, California will now submit a response to PG&E's motion.

Humboldt Bay nuclear facility.

The Humboldt Bay Unit No. 3 is a 63 Mwe boiling water reactor that operated in California between 1963 and 1976. In 1976 it was shut down for refueling and seismic modifications required by the NRC. It has not reopened. PG&E began this current proceeding in May of 1977 in an effort to get permission to return the unit to service. Although this proceeding has been going on for almost four years, this matter has not been resolved and in fact has not advance beyond the preliminary study stage. The delay has been primarily caused by the owner of the Humboldt Bay Plant, PG&E, which made several requests for continuances to study and investigate the geological and seismic issues cited by the NRC when the plant was ordered shut down in 1976. Only in October 1980 did PG&E finally submit a report by its experts, Woodward-Clyde Consultants, entitled Evaluation of the Potential for Resolving the Geologic & Seismic Issues at the Humboldt Bay Power Plant Unit No. 3 (WCC Report). This report concluded that "the seismic geologic issues raised by the NRC staff appear capable of resolution" (Motion, p. 2). Shortly thereafter, PG&E submitted another report by the Bechtel Power Corporation entitled "Humboldt Bay Power Plant - Unit 3: Future Licensing Requirement Cost Impact" which attempted to estimate how much it will cost the utility to bring the plant into compliance with the NRC requirements. This report found "that the potential costs of additional equipment and operating personnel are high when measured against the size of the facility and its remaining useful life." (Motion, p. 2) PG&E, using the conclusions of these reports now asks that the NRC allow it

to withdraw its May 1977 application but with the option of filing another application in the future.

California considers such a request to be unreasonable and instead believes that since the preliminary studies have been completed, now is the time for the NRC to begin deliberations on the future of the Humboldt Bay plant. To dismiss at this time and to allow the matter to be reopened in the future will only exacerbate the problems already faced by both PG&E and its rate payers as a result of the closure of Humboldt Bay plant.

For example, the California Public Utilities Commission (CPUC) from 1976 thru 1979 allowed the utility to continue including the Humboldt Bay plant in the rates paid by PG&E's customers because it considered the plant to be only temporarily out of service. However, in late 1979 the CPUC decided that because of the various problems that plagued the plant, including the delays in this NRC proceeding, it had serious doubts as to whether the Humboldt Bay plant would ever resume commercial service. Therefore, as of January 1, 1980, the CPUC excluded the plant-in-service sum of approximately \$15 million from PG&E's rate base. Also the CPUC allowed no recovery of depreciation expense, including the potential costs of decommissioning for ratemaking purposes. However, the CPUC, in making its decision to exclude all rate base components from rates, did allow PG&E to collect an Allowance for Funds Used During Construction (AFUDC) which amounted to approximately \$4 million per year. Also, the CPUC allowed PG&E to add approximately \$2 million a year in rates for maintenance expenses.

Clearly, both the utility and the rate payer's financial interests have been at risk during these past five years. Such a status cannot continue. An additional financial concern of the CPUC is how and when the plant will be decommissioned. Since the current inflation rate is well over 10% for nuclear projects, this concern is heightened as time passes.

Finally, California believes it is important to resolve the fate of the Humboldt Bay plant in this proceeding because not to do so interferes with the State of California's ability to plan for its energy future. After almost five years of waiting some certainty is needed.

If the NRC decides to reject California's request to continue this proceeding, California will seriously consider filing a petition under 10 CFR 2.206 to have the NRC institute a proceeding to revoke PG&E operating license for Humboldt Bay plant and to order PG&E to submit a plan to decommission the plant. California hopes that this will not be necessary and that all issues related to the plant can be decided within the context of this proceeding.

CONCLUSION

This Board should not allow PG&E to withdraw its application for license amendment but instead should insist that this matter be resolved permanently in an expeditious manner.

Respectfully submitted,

/s/ JANICE E. KERR

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January 22, 1981



CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all known parties of record in this proceeding by mailing by first-class mail a copy thereof properly addressed to each such party.

Dated at San Francisco, California, this 22nd day of January, 1981.

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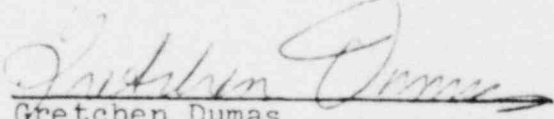
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