

July 10, 1981

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION



BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of )  
PACIFIC GAS & ELECTRIC COMPANY )  
(Stanislaus Nuclear Project, )  
Unit No. 1) )

Docket No. P-564A

NRC STAFF'S ANSWER TO PACIFIC GAS  
AND ELECTRIC COMPANY'S REQUEST FOR CERTIFICATION

By Memorandum and Order dated June 9, 1981, the Licensing Board herein denied the February 13, 1981 "Joint Motion By Pacific Gas And Electric Company And The NRC Staff To Suspend Discovery And Motion Activity" in the captioned matter. On June 25, 1981, PG&E, pursuant to 10 C.F.R. 2.718(i)<sup>1/</sup> of the Commission's Rules, requested the Licensing Board to certify its June 9, 1981 Memorandum and Order to the Commission. In its Request, PG&E contends that the Licensing board's Order raises a major issue concerning the propriety of compelling continuing cost expenditures in connection with a proceeding whose future is contingent on separate litigation beyond the Commission's control in a situation

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<sup>1/</sup> The Staff notes that under Section 2.785 the Commission has delegated to its Appeal Boards, inter alia, the authority which would otherwise have been exercised by the Commission under Section 2.718(i).

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where the prospective applicant has expressly accepted the risk of any project delay occasioned by a suspension to allow completion of that separate litigation. Request at 1. In addition, PG&E asserts that the Staff's intended withdrawal from the proceeding--absent suspension--will be damaging to the proceeding and to PG&E. Id. at 2. The Staff has reviewed PG&E's pending motion and interposes no objection to the requested certification.

While not opposing this present motion, the Staff does nonetheless feel compelled to clarify certain statements contained in PG&E's pleading. Specifically, contrary to PG&E's assertion (Request at 2) the Staff does not intend to withdraw from this proceeding if suspension is denied. Moreover, the Staff has not previously expressed such an intention. Rather, it is Staff's present intention to participate in the discovery phase of the proceeding to the extent possible, commensurate with its existing manpower and budget limitations, absent modification of the Board's Order of June 9, 1981.

Respectfully submitted,

*Ann P. Hodgdon*  
Ann P. Hodgdon  
Counsel for NRC Staff

Dated at Bethesda, Maryland,  
this 10th day of July, 1981.

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COMPANY

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S ANSWER TO PACIFIC GAS AND ELECTRIC COMPANY'S REQUEST FOR CERTIFICATION" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class or as indicated by an asterisk by deposit in the Nuclear Regulatory Commission internal mail system, this 10th day of July, 1981:

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