

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

COMMISSIONERS:

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James K. Asselstine
Frederick M. Bernthal
Lando W. Zech, Jr.

DOCKETER
USNRC

'84 AGO 20 P3:19

OFFICE OF SECURITY
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In the Matter of
PACIFIC GAS AND ELECTRIC COMPANY,
(Diablo Canyon Nuclear Power Plant,
Units 1 and 2)

SERVED AUG 20 1984

Docket Nos. 50-275 OL
50-323 OL

ORDER

(CLI-84-14)

The Commission has reviewed the petitions for review of the Atomic Safety and Licensing Appeal Board's decision in ALAB-763 and determined not to review that decision, subject to the following reservation. This reservation relates to the Appeal Board's rationale for excluding from the reopened hearing contentions by the Joint Intervenors and Governor of California on whether Pacific Gas and Electric (PG&E) has a quality assurance program for the design of structures, systems and components that are "important to safety" within the meaning of Appendix A to 10 CFR Part 50.

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The record clearly shows that as early as 1974, PG&E's Final Safety Analysis Report (FSAR) publicly disclosed PG&E's classification of equipment for the purposes of complying with the NRC's quality assurance requirements. Moreover, it has been several years since the possible distinctions between "safety-related" and "important to safety" were fully aired by NRC staff. Nothing in the events which have transpired since then constitute new information regarding PG&E's scheme for classifying equipment for the purposes of complying with NRC regulations on quality assurance. Accordingly, as contended by the NRC staff below, the proposed contentions on PG&E's compliance with Appendix A were proffered grossly out of time.

The record also shows, as argued by the NRC staff below, that the proffered contentions, lack the requisite specificity. See 10 CFR 2.714(a). The contentions do not identify any particular structures, systems or components for which it is claimed that the quality assurance program was not commensurate with their safety function.^{1/}

Under these circumstances, the Commission finds that the record clearly shows that the proposed contentions regarding PG&E's compliance with Appendix A to Part 50 were raised far too late and without the requisite specificity for their admission into the reopened proceeding. Accordingly, the Commission finds no reason to review the Appeal Board's determination not to admit those contentions, but deems the Appeal Board's decision to be modified to the extent necessary for consistency with this Order.

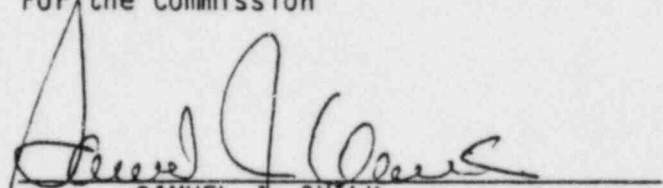
^{1/} See Long Island Lighting Company (Shoreham Nuclear Power Station, Unit 1), CLI-84-9, 19 NRC _____ (June 5, 1984).

Commissioner Asselstine disapproved this Order. Commissioner Zech did not participate.

It is so ORDERED.



For the Commission


SAMUEL J. CHILK
Secretary of the Commission

Dated at Washington, D.C.

this 20th day of August, 1984.