

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKET

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COMMISSIONERS:

Nunzio J. Palladino, Chairman
Victor Gilinsky
Thomas M. Roberts
James K. Asselstine
Frederick M. Bernthal

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SERVED FEB 4 1984

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

Docket Nos. 50-275
50-323

ORDER
(CLI-84-4)

This order concerns the issue of the consideration of complicating effects of earthquakes on emergency planning in the Diablo Canyon licensing proceedings.

In the San Onofre proceeding, the Commission declared that

current regulations do not require consideration of the impacts on emergency planning of earthquakes which cause or occur during an accidental radiological release. Whether or not emergency planning requirements should be amended to include these considerations is a question to be addressed on a generic, as opposed to a case-by-case, basis.

Southern California Edison Co. (San Onofre Nuclear Generating Station, Units 2 and 3), CLI-81-33, 14 NRC 1091, 1091-1092 (1981). In the interim, the Commission precluded consideration of this issue in individual licensing adjudications. Thus, the boards have properly excluded this issue from this adjudication.

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In response to the Commission's San Onofre decision, the NRC staff reported its view that generic consideration was neither necessary nor appropriate, but appears to believe that some specific consideration of the effects of seismic events on emergency planning may be warranted for plants located in areas of relatively high seismicity. See NRC staff memoranda, dated June 22, 1982 and January 13, 1984, attached hereto.

In view of this development, the Commission has decided to address whether to allow such consideration under the circumstances in this case. With respect to low-power operation, however, the Commission is satisfied that, pursuant to 10 C.F.R. 50.47(d), this issue need not be reviewed further because it pertains primarily to offsite emergency planning requirements which are not essential to low-power license decisions.

To help the Commission with its consideration of this issue, the parties are requested to provide their views on the following issues no later than 30 days after the date of this order.

Issues:

1. whether NRC emergency planning regulations can and should be read to require some review of the complicating effects of earthquakes on emergency planning for Diablo Canyon;
2. if the answer to question (1) is no, should such a review be performed for Diablo Canyon on the ground that it presents special circumstances under 10 C.F.R. 2.758. If so, what are the special circumstances that would permit consideration of the effects of earthquakes on emergency planning for Diablo Canyon?
3. if the answer to (1) or (2) is yes, then the following information should be provided:

- (a) The specific aspects of emergency planning at Diablo Canyon on which the impacts of earthquakes should be considered.
- (b) The specific deficiencies in the consideration already given to the impacts of earthquakes on emergency plans for Diablo Canyon. In this regard the NRC staff is directed to serve on the parties to the proceeding a copy of the Licensee's submittal regarding effects of earthquake on emergency planning. However, the Commission is not requesting the filing of contentions in response to this order. The matter of contentions will be handled by a Licensing Board if a proceeding is to be held.
- (c) The appropriateness of limiting to the Safe Shutdown Earthquake the magnitude of the largest earthquake to be considered.
- (d) The substantive criteria for reviewing the effects of earthquakes on emergency planning.
- (e) The necessity for litigation of this matter, including the general scope of (i) proceedings, if any, that should be held, and (ii) issues that should be litigated.

The Commission notes that it is not now deciding whether any requirement for further proceedings would require that interim operation of the plant be stayed. The final determination, if and when it is presented, will be a matter for the equitable discretion of the Commission or Appeal Board. See e.g., Public Service Company of New Hampshire

(Seabrook Station, Units 1 and 2), CLI-77-8, 5 NRC 503 (1977). Parties need not address the stay question at this time.

Commissioner Gilinsky abstained from this decision.

It is so ORDERED.



For the Commission¹

Samuel J. Chilk
SAMUEL J. CHILK
Secretary of the Commission

Dated at Washington, DC,

this 3^d day of April, 1984.

¹Commissioner Asselstine was not present when this Order was affirmed, but had previously indicated his approval.