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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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USNRC

COMMISSIONERS:

'87 OCT 26 P3:44

Lando W. Zech, Jr., Chairman
Thomas M. Roberts
Frederick M. Bernthal
Kenneth M. Carr
Kenneth C. Rogers

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In the Matter of

PACIFIC GAS AND ELECTRIC COMPANY

(Diablo Canyon Nuclear Power Plant,
Units 1 and 2)

Docket Nos. 50-275-OLA
50-323-OLA

(Petition for Stay)

ORDER

On October 21, 1987, intervenor Sierra Club filed a request with the Commission seeking stays of two decisions issued September 2, 1987 and September 11, 1987 by the Atomic Safety and Licensing Board. The latter decision authorized the issuance of operating license amendments for the Diablo Canyon Nuclear Power Plant, Units 1 and 2. Pacific Gas and Electric Company (Diablo Canyon Nuclear Power Plant, Units 1 and 2), LBP-87-25, 26 NRC _____ (1987). Those amendments permit the installation of high-density racks in both spent fuel storage pools located at the facility.

On October 8, 1987, the Atomic Safety and Licensing Appeal Board ("Appeal Board") denied intervenor's almost identical request for a stay. Pacific Gas and Electric Company (Diablo Canyon Nuclear Power Plant, Units 1 and 2), ALAB-877, 26 NRC _____ (1987). For the reasons set forth in the October 8 Memorandum and Order of the Appeal Board,

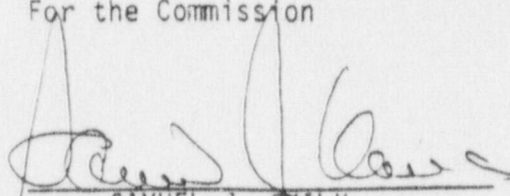
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intervenor Sierra Club's instant request for a stay of the effectiveness of LBP-87-25 is denied. In addition, in light of the above and given intervenor's own unexplained delay in seeking a stay from the Commission following the issuance of the Appeal Board's October 8 decision, Sierra Club's request for an interim, one-week stay is also denied.

It is so ORDERED.



For the Commission*


SAMUEL J. CHALK
Secretary of the Commission

Dated at Washington, D.C.,
this 26th day of October, 1987

*"Section 301 of the Energy Reorganization Act, 42 USC Section 5841, provides that action of the Commission shall be determined by a 'majority vote of the members present.' Commissioner Roberts was not present when this item was affirmed. Accordingly the formal vote of the Commission was 3-0 in favor of the decision. Commissioner Roberts, however, had previously indicated that he would approve this paper and had he been present he would have affirmed his prior vote." Commissioner Rogers did not participate.