

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Christopher T. Hanson, Chair
David A. Wright
Annie Caputo
Bradley R. Crowell

In the Matter of

PACIFIC GAS AND ELECTRIC COMPANY

(Diablo Canyon Independent Spent Fuel
Storage Installation)

Docket No. 72-26-ISFSI-MLR

CLI-23-04

MEMORANDUM AND ORDER

On August 14, 2023, Pacific Gas and Electric Company (“PG&E”) filed a Notice of Appeal of the Atomic Safety and Licensing Board’s (“Board”) July 19, 2023, Memorandum and Order LBP-23-7, which granted a hearing request by San Luis Obispo Mothers for Peace’s (“SLOMFP”).¹ The appeal has become moot and accordingly, we dismiss it.

This proceeding involves PG&E’s application to renew its license to store spent nuclear fuel in the Diablo Canyon Independent Spent Fuel Storage Installation for an additional 40 years beyond the current license expiration date of March 22, 2024. The Board’s decision admitted a single contention which challenged PG&E’s analysis of financial qualifications because the analysis was based on the outdated assumption that PG&E would not seek renewal of the licenses to operate the Diablo Canyon reactors.²

¹ *Pacific Gas and Electric Company’s Notice of Appeal and Brief in Support of Appeal of LBP-23-7* (Aug. 14, 2023); LBP-23-7, 98 NRC __ (July 19, 2023) (slip op.).

² LBP-23-7, 98 NRC at __ (slip op. at 15).

On August 10, 2023, PG&E updated the financial analysis in its application, and on August 24, 2023, it moved to dismiss the contention as moot.³ On September 11, 2023, SLOMFP moved to withdraw the contention.⁴ Subsequently, on September 15, 2023, the Board dismissed the contention and terminated the proceeding.⁵

We therefore find that PG&E's appeal has become moot. Accordingly, we vacate the Board's decision and dismiss the appeal.⁶

IT IS SO ORDERED.

For the Commission



Tomas E Herrera

Tomas E. Herrera
Acting Secretary of the Commission

Dated at Rockville, Maryland,
this 19th day of October 2023.

³ Letter from M. Zawalick, PG&E, to NRC Document Control Desk, Diablo Canyon Independent Spent Fuel Storage Installation License Renewal Application, Rev. 1 (Aug. 10, 2023) (ML23222A287); *Pacific Gas and Electric Company's Motion to Dismiss or for Summary Disposition of Contention A as Moot* (Aug. 24, 2023); see also *NRC Staff Answer to Pacific Gas and Electric Company's Motion to Dismiss or for Summary Disposition of Contention A as Moot* (Sept. 5, 2023).

⁴ *San Luis Obispo Mothers for Peace's Notice of Withdrawal of Contention A* (Sept. 11, 2023).

⁵ LBP-23-8, 98 NRC ___ (Sept. 15, 2023) (slip op.).

⁶ See *Southern California Edison Co.* (San Onofre Nuclear Generating Station, Units 2 and 3), CLI-13-9, 78 NRC 551, 558-59 (2013) (the Commission's customary practice is to vacate a challenged licensing board decision when the proceeding becomes moot).

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
PACIFIC GAS AND ELECTRIC COMPANY) Docket No. 72-26-ISFSI-MLR
)
(Diablo Canyon Independent Spent Fuel)
Storage Installation))
)

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **COMMISSION MEMORANDUM AND ORDER (CLI-23-04)** have been served upon the following persons by Electronic Information Exchange.

U.S. Nuclear Regulatory Commission
Office of Commission Appellate Adjudication
Mail Stop: O-16B33
Washington, DC 20555-0001
E-mail: ocaamail.resource@nrc.gov

U.S. Nuclear Regulatory Commission
Office of the Secretary of the Commission
Mail Stop: O-16B33
Washington, DC 20555-0001
E-mail: hearingdocket@nrc.gov

U.S. Nuclear Regulatory Commission
Atomic Safety and Licensing Board Panel
Mail Stop: T-3F23
Washington, DC 20555-0001
E. Roy Hawkens, Chairman
Nicholas G. Trikouros, Administrative Judge
Dr. Gary S. Arnold, Administrative Judge
Noel M. Johnson, Law Clerk
Emily G. Newman, Law Clerk
Allison R. Wood, Law Clerk
E-mail: roy.hawkens@nrc.gov
nicholas.trikouros@nrc.gov
gary.arnold@nrc.gov
noel.johnson@nrc.gov
emily.newman@nrc.gov
allison.wood@nrc.gov

U.S. Nuclear Regulatory Commission
Office of the General Counsel
Mail Stop - O-14A44
Washington, DC 20555-0001
Adam S. Gendelman
Catherine E. Kanatas
Mauri T. Lemoncelli
E-mail: adam.gendelman@nrc.gov
catherine.kanatas@nrc.gov
mauri.lemoncelli@nrc.gov
brian.newell@nrc.gov
georgiann.hampton@nrc.gov

Counsel for Pacific Gas and Electric
Company
Morgan, Lewis & Bockius, LLC
1111 Pennsylvania Ave NW
Washington, DC 20004
Ryan K. Lighty
Paul Bessette
Timothy Matthews
E-mail: ryan.lighty@morganlewis.com
paul.bessette@morganlewis.com
timothy.matthews@morganlewis.com

**Pacific Gas and Electric Company (Diablo Canyon Independent Spent Fuel Storage Installation) - Docket No. 72-26-ISFSI-MLR
COMMISSION MEMORANDUM AND ORDER (CLI-23-04)**

Counsel for San Luis Obispo Mothers for Peace
Hamon, Curran, Spielberg, & Eisenberg, LLP
1725 DeSales Street, N.W.
Suite 500
Washington, DC 20036
Diane Curran
E-mail: dcurran@harmoncurran.com

Jill ZamEk
San Luis Obispo Mothers for Peace
1123 Flora Rd.
Arroyo Grande, CA 93420
E-mail: jzamek@gmail.com

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 19th day of October 2023