

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric
Company for Approval of Ratepayer
Funding to Perform Additional Seismic
Studies Recommended by the
California Energy Commission.

(U39E)

Application 10-01-014
(Filed January 15, 2010)

**PROTEST
OF THE DIVISION OF RATEPAYER ADVOCATES**

I. INTRODUCTION

In accordance with Rule 2.6 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”), the Division of Ratepayer Advocates (“DRA”) hereby submits its protest in the above-captioned proceeding, the application of Pacific Gas and Electric Company (“PG&E”) for approval of ratepayer funding to perform additional seismic studies at Diablo Canyon Power Plant (“Diablo Canyon”). Notice of the filing of the application first appeared in the Commission’s Daily Calendar on January 20, 2010; accordingly, this protest is timely filed. (*See* Rule 2.6(a).)

PG&E has not provided sufficient justification for its request and, therefore, the application should be rejected.

II. PROTEST

PG&E seeks Commission authority to spend approximately \$16.73 million in ratepayer monies for additional seismic studies at Diablo Canyon, citing a 2008 report by the California Energy Commission (“CEC”) recommending such studies.¹ The report,

¹ *See* Application 10-01-014, p. 1.

entitled “An Assessment of California’s Nuclear Power Plants: AB 1632 Report,” was the result of the enactment of Assembly Bill 1632 in 2006.² PG&E has an “existing, ongoing commitment in connection with the operating licenses for Diablo Canyon issued by the Nuclear Regulatory Commission (NRC) to fund and implement a Long Term Seismic Program (LTSP).”³ In 2008, PG&E and U.S. Geological Survey studies “indicated the possibility of a minor offshore fault” near Diablo Canyon.⁴ According to PG&E:

*[T]he data shows that the fault is bounded by our existing seismic analysis; we believe that the result of any potential ground motions would be minor or have little, if any, impact on the plant. In 2009, the Nuclear Regulatory Commission conducted its own independent evaluation and concluded that potential seismic activity from the recently identified potential Shoreline Fault would be within the plant’s existing station designs and does not represent a new challenge to plant operations. The Shoreline Fault will continue to be studied by PG&E, the USGS as well as the NRC as part of PG&E’s Long Term Seismic Program activities.*⁵

It is DRA’s understanding that in the current legislative session, Assembly Member Blakeslee had been carrying AB 1536, which would have required the Commission to allow PG&E to recover its seismic study costs, but Assembly Member Blakeslee dropped the bill when PG&E filed its application.⁶

DRA initiated discovery and learned that PG&E has no testimony or workpapers supporting its application and that the \$16.7 million cost estimate is based on “preliminary cost estimates” from several academic and industry groups.⁷ The preliminary cost estimates provided by PG&E in response to DRA’s data request did not

² See Application at 1.

³ Application at 2.

⁴ Application at 4, fn. 2.

⁵ Application at 4, fn. 2 (emphasis added).

⁶ See http://info.sen.ca.gov/pub/09-10/bill/asm/ab_1501-1550/ab_1536_bill_20100113_status.html; see also Cal. Energy Markets No. 1061, Jan. 15, 2010, at 14, item 17 (copy appended to this protest as Attachment A).

⁷ PG&E response to DRA data request 1, Q.1 (emphasis added). PG&E’s data request responses are appended to this protest as Attachment B.

include any contingency amounts.⁸ PG&E’s Test Year 2011 general rate case (“GRC”) (A.09-12-020) does not include the cost of these additional seismic studies, but PG&E does have an NRC-mandated Long Term Seismic Program.² PG&E believes that its ratemaking application is exempt from California Environmental Quality Act (“CEQA”) requirements, but “if CEQA review (and/or an [Environmental Impact Report]) is required, it will be undertaken by the California Coastal Commission if a coastal development permit is required....”¹⁰ The \$16.7 million estimate does not appear to include any potential CEQA costs. Moreover, the estimate is for seismic studies only and does not include any subsequent remedial seismic activities. Finally, PG&E stated in response to DRA’s data request that “*the NRC has not required PG&E to perform these seismic studies.*”¹¹

Regarding ratemaking, PG&E requests a balancing account to recover its actual costs over three or more years (\$2.6 million in 2011, \$11.8 million in 2012 and \$2.3 million in 2013). Given that PG&E’s cost estimates are preliminary in nature and do not include contingencies, potential CEQA costs or potential remedial seismic activities, DRA finds the cost estimates to be incomplete.

DRA opposes PG&E’s request in light of the following: PG&E itself believes that the newfound fault would have little, if any, impact on Diablo Canyon; more importantly, subsequent to the CEC Report issued in 2008 the NRC has already performed its own independent evaluation in 2009 and is not requiring PG&E to perform additional seismic studies; PG&E has included ongoing Long Term Seismic Program costs in its Test Year 2011 GRC; and PG&E’s not-insignificant \$16.7 million cost estimate for the seismic studies is preliminary and incomplete. As previously stated, the NRC performed an independent evaluation in 2009 which concluded that potential seismic activity from the

⁸ See PG&E response to DRA data request 1, Q.2.

² See PG&E response to DRA data request 1, Q.3.

¹⁰ PG&E response to DRA data request 1, Q.4.

¹¹ PG&E response to DRA data request 1, Q.5 (emphasis added).

recently identified, potential Shoreline Fault would be within the plant's existing station designs and does not represent a new challenge to plant operations. With all due deference to the CEC's recommendations, the fact that the NRC is not requiring PG&E to perform additional seismic studies confirms that they are unnecessary. With the demise of AB 1536, there appears to be no statutory requirement that PG&E go forward with additional seismic studies at Diablo Canyon.

Accordingly, there is insufficient basis to grant PG&E's request for ratepayer funding to conduct the additional studies.

III. CATEGORIZATION AND HEARINGS

DRA agrees that this proceeding is properly categorized as ratesetting.

DRA does not request evidentiary hearings at this time, although a prehearing conference may be useful to determine whether there are other interested parties. There is sufficient factual information contained within PG&E's application and in DRA's protest for the Commission to issue a decision rejecting PG&E's request in this proceeding.

IV. CONCLUSION

For the reasons discussed above, DRA recommends that the Commission reject PG&E's request for ratepayer funding for additional seismic studies at Diablo Canyon.

Respectfully submitted,

/s/ MARION PELEO

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February 19, 2010

ATTACHMENT A

[17] Blakeslee Drops PG&E Seismic Study Bill, Supports Application at CPUC

Assm. Sam Blakeslee (R-San Luis Obispo) pulled AB 1536, a bill that would have required Pacific Gas & Electric to conduct seismic studies using updated mapping technology near the utility's Diablo Canyon nuclear power plant.

Rather than pursue a legislative mandate for the studies, Blakeslee said Thursday he has been working with the utility to seek immediate rate recovery for the studies.

The utility on Friday filed an application at the CPUC requesting expedited approval to spend \$16.7 million over three years to fund detailed onshore and offshore two-dimensional and three-dimensional seismic surveys of the area around the plant. That figure includes \$11 million for offshore studies, \$2.03 million for onshore studies, \$2.05 million to buy and install ocean-bottom seismometer units, and \$1.15 million to manage and administer the project.

The seismic studies would be in addition to PG&E's seismic hazards analysis conducted as part of its ongoing long-term seismic program. Costs associated with the LTSP were included in the utility's 2011 general rate case, filed in December (see *CEM* No. 1058 [8.1]).

On Jan. 8, Blakeslee sent a letter to CPUC President Michael Peevey saying he had reviewed the scope of PG&E's proposed studies and supports approval of the utility's application.

Two active faults lie near the 2,240 MW Diablo Canyon plant. Blakeslee, who earned a Ph.D. in seismic and earthquake-related research, authored AB 1632, a 2006 bill that directed the CEC to assess the vulnerability of the state's nuclear plants to disruptions from seismic and aging issues. The CEC recommended 3-D mapping studies to assess potential hazards at Diablo Canyon.

Those studies were never carried out, and Blakeslee last year introduced AB 42, which would have mandated PG&E carry out the studies. That bill failed, but Blakeslee resurrected the language in AB 1536 (see *CEM* No. 1060 [19.2]).

Even though AB 1536 included an urgency status clause and would have taken effect upon passage, the assemblyman "wants to see this get done in the quickest way possible," said Jennifer Gibbons, a spokeswoman for Blakeslee.

Blakeslee's support of PG&E's application at the CPUC comes not only against the backdrop of this week's catastrophic earthquake in Haiti and a 6.5 magnitude quake Jan. 9 in Humboldt County, but also as a local group in Fresno renewed efforts to see a nuclear power plant built in the Central Valley.

Despite California's three-decade-plus moratorium on new nuclear plants, the Fresno Nuclear Energy Group and French engineering firm Areva signed a letter of intent and this year will begin feasibility studies in the Central Valley.

California banned new nuclear plants in the late 1970s until a permanent storage solution could be found for spent fuel.

"Overturning the moratorium is going to be a challenging objective," said Jarret Adams, a spokesman for Areva U.S. But "the people at Areva believe in the Fresno group and the prospects of this project."

The moratorium "is going to collapse under its own weight, that is our position," said John Hutson, president of the Fresno Nuclear Energy Group.

His plan in the Central Valley calls for a 1,600 MW nuclear plant that would power four water-desalination plants and deliver excess power to a utility.

The moratorium, cost and dealing with spent fuel are all major hurdles. Bills to overturn the moratorium have been defeated four years running. Costs for two reactors proposed in Texas by NRG Energy have jumped to more than \$10 billion from \$8.7 billion estimated in 2007.

Hutson's group is self-financed, he said; he did not provide specifics on financing a multibillion-dollar plant.

If a nuclear plant is approved by the federal government, Hutson said, he would like to see spent fuel shipped to France for recycling.

Hutson, also executive secretary for a Central Valley AFL-CIO union, would likely run into fierce opposition over his intention to ship spent fuel to France through the San Francisco Bay.

"Mr. Hutson believes in nuclear power," said Rochelle Becker, executive director of the Alliance for Nuclear Responsibility, "but he is as wrong as you can be."

The Fresno Nuclear Energy Group made headlines in late 2006 when it announced a letter of intent with UniStar Nuclear Development LLC, now operated under UniStar Nuclear Energy LLC, a joint venture of Constellation and EDF.

Michael McGough, senior vice president of commercial operations at UniStar Nuclear Energy, said he started with the firm in early 2007 and was unsure of the status of that particular LOI.

But since early 2007, UNE has been working with the Fresno group, he said, to assess the possibility of siting an Areva European Pressurized Reactor there. Finding sufficient land with access to transmission, and local public and political support, are very important, McGough said.

The EPR reactor is marketed as an economically competitive reactor. McGough said such a plant could be built as merchant generation, similar to the Calvert Cliffs Unit No. 3 proposed in Calvert County, Md.

UniStar filed the first part of its application for that plant in July 2007; part two was filed in March 2008.

In total, eight Areva EPR plants are under consideration in the United States.

California needs more electricity, and clean energy, to meet state goals under AB 32, McGough said.

Elsewhere, interest in new nuclear plants has also been driven by federal subsidies and loan guarantees. The U.S. Nuclear Regulatory Commission is currently processing 21 applications for 31 new nuclear units.

The confluence of events is "making it more and more interesting for nuclear generation in spite of the existence of the moratorium," McGough said. "It's providing more of a driving force to get there sooner rather than later" [*Mavis Scanlon*].

**The moratorium
'is going to collapse
under its own weight.'**

ATTACHMENT B

**PACIFIC GAS AND ELECTRIC COMPANY
DIABLO SEISMIC STUDIES
Application 10-01-014
Data Response**

PG&E Data Request No.:	DRA_001-01		
PG&E File Name:	DiabloSeismicStudies_DR_DRA_001-Q01		
Request Date:	January 19, 2010	Requester DR No.:	001
Date Sent:	February 5, 2010	Requesting Party:	DRA
PG&E Witness:		Requester:	Truman Burns

QUESTION 1

Are there any testimonies, workpapers or stone tablets associated with the cost estimates for the seismic survey design, surveys, OBS installation and project management? If so, I would like copies.

ANSWER 1

PG&E does not have any testimony or workpapers associated with the cost estimates for the seismic survey design, surveys, OBS installation and project management. PG&E developed its cost estimate for the scope of work based on preliminary cost estimates received from several academic institutions and industry groups that have extensive experience in performing two- and three-dimensional seismic surveys and development of ocean bottom seismometers. PG&E's sources include: Woods Hole Oceanographic Institution, Scripps Institution of Oceanography, Guralp Systems Limited, Lamont-Doherty Earth Observatory, the U.S. Geological Survey, Fugro-West, and the University of Oregon. The cost estimate was developed to support PG&E's preliminary planning purposes until PG&E receives funding approval from the CPUC to go forward with these studies and is provided as Attachment1 below.

**PACIFIC GAS AND ELECTRIC COMPANY
DIABLO SEISMIC STUDIES
Application 10-01-014
Data Response**

**Attachment 1
Diablo Canyon Seismic Studies Cost Estimate**

1 Seismic Survey Design and Planning				
Purchase (Materials)	Industry seismic lines		\$75,000	
Data processing (Labor)	Reprocess Industry Seismic Lines		\$75,000	
Data Interpretation (Labor)	Design 2-D and 3-D surveys		\$250,000	
Purchase (Materials)	State Survey Permits and EIS		\$100,000	
			Subtotal	\$500,000
2 Offshore 3-D Seismic				
Deployment			\$1,000,000	
Data collection, processing, and interpretation (labor)	\$25,000/km ²	400 km ²	\$10,000,000	
			Subtotal	\$11,000,000
3 Onshore 2-D Seismic				
Deployment	\$2000/km	190 line km	\$380,000	
Data collection, processing, and interpretation (Labor)	\$5500/km	190 line km	\$1,645,000	
			Subtotal	\$2,025,000
4 Ocean Bottom Seismometers				
Purchase (Materials)			\$1,512,000	
Deployment			\$330,000	
Data collection and processing (Labor)			\$120,000	
Modeling and interpretation (Labor)			\$90,000	
			Subtotal	\$2,052,000
5 Project Management / Peer Review				
Report Writing			\$500,000	
Admin /Project Management			\$400,000	
DCPP personnel, facilities			\$250,000	
			Subtotal	\$1,150,000
			TOTAL	\$16,727,000

**PACIFIC GAS AND ELECTRIC COMPANY
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Data Response**

PG&E Data Request No.:	DRA_001-02		
PG&E File Name:	DiabloSeismicStudies_DR_DRA_001-Q02		
Request Date:	January 19, 2010	Requester DR No.:	001
Date Sent:	February 5, 2010	Requesting Party:	DRA
PG&E Witness:		Requester:	Truman Burns

QUESTION 2

What contingency amount and percentage was included in the cost estimates?

ANSWER 2

The estimates presented do not contain contingency because the cost information reflects price quotes gathered from industry consultants and institutions identified in the response to Question 1 of this data request.

**PACIFIC GAS AND ELECTRIC COMPANY
 DIABLO SEISMIC STUDIES
 Application 10-01-014
 Data Response**

PG&E Data Request No.:	DRA_001-03		
PG&E File Name:	DiabloSeismicStudies_DR_DRA_001-Q03		
Request Date:	January 19, 2010	Requester DR No.:	001
Date Sent:	February 5, 2010	Requesting Party:	DRA
PG&E Witness:		Requester:	Truman Burns

QUESTION 3

Why wasn't this project put into the TY 2011 GRC?

ANSWER 3

PG&E’s forecast included in the 2011 GRC includes estimates for activities PG&E plans to undertake in connection with PG&E’s Long Term Seismic Program (LTSP). The LTSP is a commitment attached to the DCPD operating licenses from the Nuclear Regulatory Commission. PG&E did not contemplate undertaking these additional 3-D seismic studies as part of the LTSP.

The California Energy Commission recommended that PG&E undertake surveys and studies using 3-D geophysical seismic reflection mapping and other advanced techniques in their Commission Report, “An Assessment of California’s Nuclear Power Plants: AB 1632 Report” issued in November 2008. Additionally, Assemblyman Blakeslee introduced legislation (AB 42 and, subsequently, AB 1536), requiring the performance of these additional studies. The legislation, as drafted, would have required the CPUC to approve cost recovery for these additional seismic studies within 120 days of PG&E filing the application.

PG&E submitted this separate cost recovery application for the additional seismic studies in light of the call for expedited treatment by the CEC and Assemblyman Blakeslee.

**PACIFIC GAS AND ELECTRIC COMPANY
DIABLO SEISMIC STUDIES
Application 10-01-014
Data Response**

PG&E Data Request No.:	DRA_001-04		
PG&E File Name:	DiabloSeismicStudies_DR_DRA_001-Q04		
Request Date:	January 19, 2010	Requester DR No.:	001
Date Sent:	February 5, 2010	Requesting Party:	DRA
PG&E Witness:		Requester:	Truman Burns

QUESTION 4

The bottom of p. 5 mentions "preparing an environmental impact report," while p. 10 argues that the application is exempt from CEQA. Is PG&E planning on conducting an EIR for the project?

ANSWER 4

PG&E's application to the CPUC is a ratemaking application, which is statutorily exempt from CEQA review. If CEQA review (and/or an EIR) is required, it will be undertaken by the California Coastal Commission if a coastal development permit is required for certain of the offshore surveys or studies..

**PACIFIC GAS AND ELECTRIC COMPANY
DIABLO SEISMIC STUDIES
Application 10-01-014
Data Response**

PG&E Data Request No.:	DRA_001-05		
PG&E File Name:	DiabloSeismicStudies_DR_DRA_001-Q05		
Request Date:	January 19, 2010	Requester DR No.:	001
Date Sent:	February 5, 2010	Requesting Party:	DRA
PG&E Witness:		Requester:	Truman Burns

QUESTION 5

Referring to footnote 2 on p. 4, has the NRC specifically asked PG&E to conduct these seismic studies?

ANSWER 5

No, the NRC has not required PG&E to perform these seismic studies.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of **PROTEST OF THE DIVISION OF RATEPAYER ADVOCATES** in Application 10-01-014 by using the following service:

E-Mail Service: sending the entire document as an attachment to all known parties of record who provided electronic mail addresses.

U.S. Mail Service: mailing by first-class mail with postage prepaid to all known parties of record who did not provide electronic mail addresses.

Executed on **February 19, 2010** at San Francisco, California.

/s/ NELLY SARMIENTO

Nelly Sarmiento

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