

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric
Company for Approval to Recover the Costs
Associated with Renewal of the Diablo
Canyon Power Plant Operating Licenses.

(U 39 E)

Application No. 10-01-022

**PACIFIC GAS AND ELECTRIC COMPANY (U 39 E)
REPLY TO PROTESTS**

WILLIAM V. MANHEIM
MARK D. PATRIZIO
JENNIFER K. POST

Pacific Gas and Electric Company
77 Beale Street, B30A
San Francisco, CA 94105
Telephone: (415) 973-9809
Facsimile: (415) 972-5952
E-Mail: JLKm@pge.com

Dated: March 22, 2010

Attorneys for
PACIFIC GAS AND ELECTRIC COMPANY

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric
Company to Recover the Costs Associated
with Renewal of the Diablo Canyon Power
Plant Operating Licenses.

Application No. 10-01-022

(U 39 E)

**PACIFIC GAS AND ELECTRIC COMPANY (U 39 E)
REPLY TO PROTESTS**

Pursuant to Rule 2.6 of the Rules of Practice and Procedure of the California Public Utilities Commission (“CPUC” or “Commission”), Pacific Gas and Electric Company (PG&E) responds to the protests of the Division of Ratepayer Advocates (“DRA”), The Utility Reform Network (“TURN”) and the Alliance for Nuclear Responsibility, Sierra Club, Environment California Research and Policy Center and CALPIRG (collectively, “ANR”).

I. THE COMMISSION SHOULD NOT SUSPEND CONSIDERATION OF THIS APPLICATION PENDING COMPLETION OF SEISMIC STUDIES.

ANR requests that the Commission suspend consideration of this Application until after PG&E completes certain seismic studies recommended by the California Energy Commission (“CEC”). ANR asserts that the failure of the Nuclear Regulatory Commission (“NRC”) to consider new seismic information in their license renewal process requires the CPUC and other state agencies to address that issue. (ANR, at p. 8.) ANR is incorrect. In fact, the CPUC and other state agencies do not have the responsibility or the authority to regulate nuclear safety. The NRC has exclusive and preemptive jurisdiction over nuclear safety and operations. *See* Federal Atomic Energy Act, 21 U.S.C. sec. 2021(c), 461 U.S. 190 (1983). More specifically, with regard to the argument ANR advances, that the state must step in to fill an alleged void in federal regulation, the United States Supreme Court has found the field of nuclear safety concerns to be occupied entirely by federal law and preemptive of state regulation:

State safety regulation is not pre-empted only when it conflicts with federal law. Rather, the federal government has occupied the entire field of nuclear safety concerns, except the limited power explicitly ceded to the states. When the federal government completely occupies a given field or an identifiable portion of it, as it has done here, the test of preemption is whether the matter on which the State asserts the right to act is in any way regulated by the federal act. 461 U.S. 190 at 212.

The NRC does not perform seismic review in the license renewal process because the NRC performs seismic review on an ongoing basis as part of its regulatory oversight process. Seismic safety is a critical component of the ongoing, safe operation of Diablo Canyon. PG&E takes seismic safety very seriously, as evidenced by the thorough, ongoing studies performed in connection with the Diablo Canyon Long Term Seismic Program (LTSP), a part of PG&E's licensing commitment with the NRC. The work undertaken in the context of the LTSP uses advanced technologies and experienced seismologists and geologists from within PG&E, as well as from outside agencies including the United States Geological Service (USGS), to gather and interpret data to inform PG&E's understanding of the seismic hazards at and around Diablo Canyon. As PG&E collects new data and makes new findings, as required by NRC regulations governing ongoing operations at Diablo Canyon, PG&E informs the NRC of PG&E's findings and any conclusions drawn from the data and findings and involves the NRC in determining what, if any, response may be required.

As an example, in November 2008, PG&E informed the NRC that preliminary results from its LTSP seismic hazard update indicated there was an alignment of micro-seismicity that might indicate a previously unidentified fault located about 1 kilometer offshore of Diablo Canyon. It was called the Shoreline Fault Zone. PG&E conducted an initial sensitivity study to evaluate the potential impact of the Shoreline Fault Zone on the seismic safety of Diablo Canyon using a seismic margin approach. The results of this sensitivity study showed that the Shoreline Fault Zone ground motion was lower than the

1991 LTSP ground motion for which the plant design had been evaluated and shown to have adequate safety margin. The NRC performed an independent study and also reached a preliminary conclusion that there is adequate seismic margin.

PG&E is committed to continuing its analysis of important new seismic information and to continuing to provide information to the NRC and to the public through normal regulatory means. PG&E has briefed the CEC and the California Coastal Commission on the status of the Shoreline Fault Zone investigation and other LTSP activities and has provided the CEC and the CPUC with the most up-to-date seismic information available. Additionally, PG&E has requested ratepayer funding to perform additional three-dimensional seismic imaging and mapping studies recommended by the CEC and Assemblyman Blakeslee. If funded, PG&E will move forward to apply that technology in its investigation of the Shoreline Fault Zone as soon as possible.

Finally, in April, PG&E will submit to the CPUC its Balance of Plant Seismic Reliability Report as well as a report addressing the lessons learned from the 2007 earthquake in Japan and its impact on the Kashiwazaki-Kariwa Nuclear Power Plant. These reports provide the results of the studies on the potential impacts of an earthquake on non-safety related structures, systems and components (SSCs) -- those SSCs required to ensure energy generated at Diablo Canyon reaches the transmission and distribution lines that bring it to PG&E's customers. These studies are appropriately considered by the CPUC in the context of its authority and obligation to oversee electric system reliability in California.

In light of the foregoing, PG&E requests that the Commission reject ANR's request to suspend this Application until CEC-recommended seismic studies are completed because PG&E has an ongoing LTSP that continually reviews and updates seismic hazards information as part of the ongoing operating license commitments.

CERTIFICATE OF SERVICE BY ELECTRONIC MAIL

I, the undersigned, state that I am a citizen of the United States and am employed in the City and County of San Francisco; that I am over the age of eighteen (18) years and not a party to the within cause; and that my business address is Pacific Gas and Electric Company, Law Department, 77 Beale Street - B30A, San Francisco, CA 94105.

I am readily familiar with the business practice of Pacific Gas and Electric Company for collection and processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, correspondence is deposited with the United States Postal Service the same day it is submitted for mailing.

On the 22nd day of March, 2010, I served a true copy of:

PACIFIC GAS AND ELECTRIC COMPANY'S (U 39 E) REPLY TO PROTEST

[XX] By Electronic Mail – serving the enclosed via e-mail transmission to each of the parties listed on the official service list for A.10-01-022.

I certify and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 22nd day of March, 2010 at San Francisco, California.

/s/

Amy S. Yu

THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA SERVICE LIST

Last Updated: March 15, 2010

CPUC DOCKET NO. A1001022

Total number of addressees: 16

CASE COORDINATION
PACIFIC GAS AND ELECTRIC COMPANY
PO BOX 770000; MC B9A
SAN FRANCISCO CA 94177
Email: regrelcpuccases@pge.com
Status: INFORMATION

FRANCES YEE
PACIFIC GAS AND ELECTRIC COMPANY
77 BEALE ST, MC B10A
SAN FRANCISCO CA 94105
Email: fsc2@pge.com
Status: INFORMATION

Robert A. Barnett
CALIF PUBLIC UTILITIES COMMISSION
DIVISION OF ADMINISTRATIVE LAW JUDGES
505 VAN NESS AVE RM 2208
SAN FRANCISCO CA 94102-3214
Email: rab@cpuc.ca.gov
Status: STATE-SERVICE

Eric Greene
CALIF PUBLIC UTILITIES COMMISSION
ENERGY DIVISION
505 VAN NESS AVE AREA 4-A
SAN FRANCISCO CA 94102-3214
Email: eg1@cpuc.ca.gov
Status: STATE-SERVICE

CALIFORNIA ENERGY MARKETS
425 DIVISADERO ST. STE 303
SAN FRANCISCO CA 94117-2242
Email: cem@newsdata.com
Status: INFORMATION

Rashid A. Rashid
CALIF PUBLIC UTILITIES COMMISSION
LEGAL DIVISION
505 VAN NESS AVE RM 4107
SAN FRANCISCO CA 94102-3214
FOR: DRA
Email: rhd@cpuc.ca.gov
Status: PARTY

CASE ADMINISTRATION
SOUTHERN CALIFORNIA EDISON COMPANY
2244 WALNUT GROVE AVE, PO BOX 800
ROSEMEAD CA 91770
Email: case.admin@sce.com
Status: INFORMATION

LAUREN ROHDE
PACIFIC GAS AND ELECTRIC COMPANY
77 BEALE ST, MC B9A
SAN FRANCISCO CA 94105
Email: LDRi@pge.com
Status: INFORMATION

JENNIFER K. POST
PACIFIC GAS AND ELECTRIC COMPANY
PO BOX 7442
SAN FRANCISCO CA 94105
FOR: Pacific Gas and Electric Company
Email: jlkm@pge.com
Status: PARTY

Truman L. Burns
CALIF PUBLIC UTILITIES COMMISSION
ENERGY COST OF SERVICE & NATURAL GAS BRANCH
505 VAN NESS AVE RM 4102
SAN FRANCISCO CA 94102-3214
Email: txb@cpuc.ca.gov
Status: STATE-SERVICE

Robert M. Pocta
CALIF PUBLIC UTILITIES COMMISSION
ENERGY COST OF SERVICE & NATURAL GAS BRANCH
505 VAN NESS AVE RM 4205
SAN FRANCISCO CA 94102-3214
Email: rmp@cpuc.ca.gov
Status: STATE-SERVICE

ANN L. TROWBRIDGE
DAY CARTER & MURPHY LLP
3620 AMERICAN RIVER DRIVE, STE 205
SACRAMENTO CA 95864
Email: atrowbridge@daycartermurphy.com
Status: INFORMATION

MRW & ASSOCIATES, LLC
1814 FRANKLIN ST, STE 720
OAKLAND CA 94612
Email: mrw@mrwassoc.com
Status: INFORMATION

WALKER A. MATTHEWS III
SOUTHERN CALIFORNIA EDISON COMPANY
2244 WALNUT GROVE AVE, RM 390
ROSEMEAD CA 91770
Email: walker.matthews@sce.com
Status: INFORMATION

THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA SERVICE LIST

Last Updated: March 15, 2010

CPUC DOCKET NO. A1001022

Total number of addressees: 16

ANGELICA M. MORALES
SOUTHERN CALIFORNIA EDISON COMPANY
2244 WALNUT GROVE AVE., PO BOX 800
ROSEMEAD CA 91770
FOR: Southern California Edison Company
Email: Angelica.Morales@sce.com
Status: PARTY

MATTHEW FREEDMAN ATTORNEY
THE UTILITY REFORM NETWORK
711 VAN NESS AVE, NO. 350
SAN FRANCISCO CA 94102
FOR: TURN
Email: matthew@turn.org
Status: PARTY