

BEFORE THE
PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric)	
Company for Compliance Review of Utility)	
Owned Generation Operations, Electric Energy)	
Resource Recovery Account Entries, Contract)	Application 14-02-008
Administration, Economic Dispatch of Electric)	(Filed February 28, 2014)
Resources, Utility Retained Generation Fuel)	
Procurement, and Other Activities for the Period)	
January 1 through December 31, 2013.)	
(U 39 E))	
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ALLIANCE FOR NUCLEAR RESPONSIBILITY’S PROTEST

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D.12-05-0045

I. INTRODUCTION.

Pursuant to Rule 2.6 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission” or “CPUC”), the Alliance for Nuclear Responsibility (“A4NR”) files its protest to a portion of the 2013 Energy Resource Recovery Account Compliance (“ERRA Compliance”) application filed by the Pacific Gas and Electric Company (“PG&E”). Specifically, A4NR objects to PG&E’s recovery of certain balances recorded in the Diablo Canyon Seismic Studies Balancing Account (“DCSSBA”) for 2013 costs which fail to comply with D.12-09-008 and, consequently, were not reasonably incurred.

In 2013, PG&E unilaterally shrunk the scope of the studies it had been directed to perform¹ and abruptly halted at midyear its interaction with the Commission’s Independent Peer Review Panel (“IPRP”).² PG&E’s 2013 ERRA Compliance filing, as it relates to transfers from the DCSSBA, is nine pages of narrative virtually identical to its 2012 ERRA Compliance filing and largely irrelevant to any justification of the reasonableness of 2013 costs. The minimal adjustments to wording lifted from the 2012 ERRA Compliance filing are exceedingly opaque and fall considerably short of meeting PG&E’s burden of proof.

II. PG&E’S ASLB FILINGS PROVIDE A REVEALING NARRATIVE.

¹ D.12-09-008 is unmistakable about the origin of the seismic studies: “PG&E is conducting the studies addressed in this application on the recommendation of the CEC and at the direction of the CPUC” (p. 22) and “it [a hard cost cap] makes even less sense when you consider that the Commission itself has directed PG&E to perform these seismic studies.” (p. 21)

² D.12-09-008 was clear in its expectations regarding the IPRP’s role: “The record developed in this proceeding demonstrates that PG&E has been meeting regularly with the IPRP to review the seismic survey plans and has revised those plans in response to IPRP comments. We expect PG&E to continue to meet with the IPRP to present and review changes to the seismic study pans, to provide process updates to the IPRP regarding implementation of the studies, and to receive IPRP comments.” (p. 16)

The monthly updates which PG&E is required to file with the Atomic Safety and Licensing Board (“ASLB”) of the U.S. Nuclear Regulatory Commission (“NRC”) in the suspended Diablo Canyon relicensing proceeding³ provide one explanation of the D.12-09-008 seismic studies’ demise. PG&E’s December 11, 2012 filing reported that the California Coastal Commission “decided on November 14, 2012 to deny PG&E’s permit application for certain 3D High Energy Marine Studies, and does not appear likely to support high energy seismic research.”⁴ As PG&E went on to explain,

³ “Notice of 52-Month Delay and Order Requiring Status Reports,” ASLB Docket Nos. 50-275-LR and 50-323-LR, June 7, 2011, p. 4. In describing PG&E’s request for delay, the ASLB Order observed, “PG&E noted that NRC’s review includes consideration of whether the license would be consistent with the Coastal Zone Management Act (CZMA) and stated that ‘PG&E has decided it is most prudent to have completed certain seismic studies at DCNPP prior to issuance of the coastal consistency certification.’” *Id.*, p. 1.

⁴ PG&E December 2012 Status Report to ASLB on Seismic Studies, p. 1, accessible on PG&E’s web site at <http://www.pge.com/includes/docs/pdfs/shared/edusafety/systemworks/dcpp/StatusReportDecember2012.pdf>

The Coastal Commission staff, in recommending denial, had criticized PG&E’s insistence that the high energy surveys commence before year-end 2012:

“In assessing these alternatives, staff determined that there was insufficient information available to the Commission at this time to conclude PG&E’s proposed project is the least damaging feasible alternative, due largely to the need to complete ongoing data acquisition and analysis that may allow for a reduced survey or no survey and other deficiencies in available information. Regarding the use of alternative equipment, staff determined that PG&E has not provided sufficient information to show that additional geophones are infeasible or less environmentally damaging. Although PG&E stated that its evaluation showed additional geophones would not reduce the number or length of survey transects, PG&E did not provide that evaluation to staff. Regarding the additional analysis of previously-obtained data, while PG&E has conducted some re-assessment of those data, most of that re-assessment was done at least a decade ago and appears to have covered only part of the available data. Staff therefore believes additional analysis of the full set of available data using updated techniques may result in the opportunity for a smaller or shorter proposed survey.

“Regarding the evaluation of the more recently-acquired data, staff notes that these data were collected as part of a coordinated seismic characterization effort that includes the currently proposed survey. During the past few months, PG&E has already modified its proposed survey in response to evaluating some of this recently-acquired data, and staff believes the currently proposed survey could be further reduced based on completing the full analysis of the recent data. Regarding the use of alternative survey techniques, the proposed project is subject to an investigation funded by the CPUC to independently evaluate the feasibility of alternative streamer and vessel configurations for conducting the survey. This independent review, which has not yet been completed, may lead to further reductions of the proposed survey extent or duration. However, without the results of this review, staff believes the Commission does not have sufficient information to determine whether the currently proposed survey is the least environmentally damaging alternative.” Addendum to Staff Report for CDP Application E-12-005 and Consistency Certification CC-027-12, November 13, 2012, p. 12, accessible on the Coastal Commission’s web site at

*Accordingly, PG&E will not complete the Phase 1 and Phase 2 high energy surveys previously shown on the schedule. Instead PG&E will be conducting a thorough evaluation of the available seismic data, including the data collected from the recently completed advanced onshore and low energy offshore studies. The revised schedule incorporates a new milestone for this evaluation, by which PG&E will determine whether and how to proceed with any additional seismic data collection.*⁵

PG&E's December 2012 Status Report identified, for the first time, an item labeled "*Evaluate Adequacy of Seismic Data Acquired*" with estimated completion in "*June, 2013.*"⁶

The reference to this data adequacy evaluation was deleted in PG&E's February 12, 2013 filing, never to appear again. The filing noted

*PG&E is in the processing and interpretation phase of the data collected onshore and offshore. Completion dates for the processing and interpretation of the offshore and onshore data have been added to the schedule.*⁷

Without explanation, the February 2013 Status Report eliminated reference to the previously scheduled April 2013 "*Preliminary Report*" for the offshore and onshore assessments. Instead, a "*Data Processing and Interpretation Complete*" milestone was identified as moving from April 2013 to October 2013 for the low energy offshore studies, and from April 2013 to June 2014 for the high energy onshore studies. Those completion dates have remained intact in every subsequent update PG&E has filed with the ASLB.

III. PG&E PLAYED HIDE-THE-BALL WITH THE IPRP.

<http://documents.coastal.ca.gov/reports/2012/11/W13b-11-2012.pdf> A more detailed discussion of these Coastal Commission staff objections can be found at pp. 71 – 76.

⁵ PG&E December 2012 Status Report to ASLB on Seismic Studies, p. 1.

⁶ *Id.*, p. 3.

⁷ PG&E February 2013 Status Report to ASLB on Seismic Studies, p. 1, accessible on PG&E's web site at <http://www.pge.com/includes/docs/pdfs/shared/edusafety/systemworks/dcpp/StatusReportFebruary2013.pdf>

Despite what it reported to the ASLB, PG&E’s February 25, 2013 briefing to the IPRP omitted any mention of a pending data adequacy evaluation or the deletion of the preliminary reports or the curtailment of future IPRP review. Page 6 of the seven-page PG&E presentation packet⁸ is comprised of the following table:

Central Coastal California Seismic Imaging Project Technical Report Schedule

TASK	REPORT	IPRP DUE DATE
Point Buchon 2D/3D Low Energy Seismic Surveys (LESS)	Technical Report	February 2013
2D/3D MARINE LESS Point Buchon, San Luis Bay, Point Sal, Estero Bay	Draft Technical Report	August 2013
2D/3D ONSHORE Seismic Surveys Eastern and Western Irish Hills	Draft Technical Report	February 2014

After demonstrating in late February 2013 no inhibition from providing conflicting information to the IPRP, compared to what had been filed 13 days earlier with the ASLB, PG&E’s April 9, 2013 ASLB filing took one very large step further. The milestone for *“Issue Final Seismic Report to the NRC and ASLB”* was moved from November 2013 to June 2014 *“to allow sufficient time to integrate the 2D/3D low energy and 2D onshore high energy datasets, to complete independent peer reviews, and to resolve comments.”*⁹ While the June 2014 date for

⁸ “Central Coastal California Seismic Imaging Project Activities and Schedule 2013,” February, 25, 2013, accessible on the CPUC’s web site at http://www.cpuc.ca.gov/NR/rdonlyres/F4778D4D-3F52-40C5-94B4-45A42523B3F4/0/2013IPRP_PGEDCPPseismicstudies.pdf

⁹ PG&E April 2013 Status Report to ASLB on Seismic Studies, p. 1, accessible on PG&E’s web site at

such “*Final Seismic Report*” has remained constant in PG&E’s subsequent monthly filings with the ASLB, the IPRP has yet to be convened to review any PG&E work product associated with the “*processing and interpretation phase*” proclaimed by the company in early 2013. Needless to say, it is impossible “*to resolve comments*” if no opportunity is ever provided to lodge them.

To A4NR, PG&E’s apparently willful evasion of the IPRP is a far cry from the process the Commission had in mind:

It was envisioned by the Commission that the IPRP would be a body of technical expert scientists who would in a collegial interaction be able to talk and discuss amongst themselves, develop ideas, comments and suggestions, and make recommendations to the utility.¹⁰

IV. IPRP REPORT NO. 6 MAY HAVE ENDED ANY PRETENSE THAT PG&E WOULD FACILITATE FURTHER IPRP INPUT OR TIMELY REVIEW.

PG&E’s last meeting with the IPRP, held on July 11, 2013, was devoted entirely to an unsolicited – and clearly unwelcome -- critique by the California Geological Survey of PG&E’s ground motion modeling at Diablo Canyon. This analysis was subsequently published as “*IPRP Report No. 6, August 12, 2013*”¹¹ and casts doubt upon the very cornerstone of PG&E’s seismic assessment of the Diablo Canyon site. A brief overview of its most salient points:

- To prioritize the main targets of the AB 1632 onshore and offshore geophysical studies, the IPRP earlier asked PG&E for sensitivity analyses of the probabilistic hazards. PG&E’s 2011 response ranked uncertainty in the slip rate of the Hosgri Fault as clearly

¹⁰ D. 12-09-008, p. 15, quoting D.12-05-004.

¹¹ Accessible on the CPUC web site at <http://www.cpuc.ca.gov/NR/rdonlyres/B882E69C-758D-476E-A62D-6FCEC63BD277/0/IPRPRReportno6.pdf>

the most significant, with a *“calculated ground motion hazard that varies by a factor of nearly 2.”*¹²

- Changing PG&E’s base case ground motion characterization of V_{S30} of 1200 m/s to a generic site with a V_{S30} of 760 m/s (*“more consistent with other soft rock sites in California”*¹³) *“increases the hazard by more than a factor of 3”*¹⁴ and changing PG&E’s assumed site condition to a generic site with a V_{S30} of 1000 m/s *“increases hazard by a factor of 2.”*¹⁵
- *“Compared to traditional approaches, the PG&E method resulted in lower ground motion hazard estimates, particularly in the spectral period range important to [Diablo Canyon] ... “ In contrast, “(a) lower V_{S30} brings the estimated ground motion hazards beyond the original design level when used in typical, state-of-the-practice seismic hazard analysis...”*¹⁶
- The IPRP questioned whether PG&E’s approach adequately captured shear wave velocities at different depths beneath the plant: *“With only three profiles, it is unlikely that one of them represents the lowest velocity material underlying the plant. Some of the variability seen in the 1978 data may reflect poor quality of the V_S measurements made 35 years ago. Interpretations of that data, however, appear to include unconservative assumptions of velocity in boreholes where no velocity was recorded...”*¹⁷
- Nor was newer data from the ISFSI¹⁸ site without problem: *“these two profiles do not give consistent V_S measurements at given depths. Considerable variability exists at some depth ranges ... they do not help constrain the lower bound or range of velocity at the plant site.”*¹⁹
- *“A complete consideration of site conditions across the plant footprint requires additional V_S measurements using modern technology to constrain the uncertainty and yield more reliable site V_S values.”*²⁰

To date, the only direct response (other than severing contact) which PG&E has made to

IPRP Report No. 6 is found in two newly crafted, but cryptic, paragraphs of its 2013 ERRA

Compliance testimony:

¹² IPRP Report No. 6, p. 17.

¹³ *Id.*, p. 3.

¹⁴ *Id.*, p. 18.

¹⁵ *Id.*

¹⁶ *Id.*, p. 3.

¹⁷ *Id.*, p. 6.

¹⁸ “ISFSI” is an acronym for Independent Spent Fuel Storage Installation.

¹⁹ IPRP Report No. 6, pp. 6 – 7.

²⁰ *Id.*, p. 6.

*Seismic reflection (and other geophysical) data collected in the vicinity of DCPD was used in 2013 to address the questions raised by Dr. Hamilton. **These data will also be used to address inquiries from the IPRP concerning site conditions and shear-wave velocity profiles (Vs30) at the plant site.*** (emphasis added)

*Activities in 2013 involved the processing and interpretation of the onshore 2D/3D seismic reflection data sets as part of the Central Coastal California Seismic Imaging Plan Onshore Seismic Interpretation Project. **Additional potential field (i.e., gravity) surveys were conducted in the study area during 2013 to further constrain seismic velocity models used in the onshore reflection data processing and interpretation.***²¹ (emphasis added)

In light of PG&E's effective embargo of further IPRP review after the July 11, 2013 meeting, A4NR strongly doubts this claimed work has been performed in a manner adequate to address the criticisms (not mere inquiries) lodged in IPRP Report No. 6.²²

V. IF PG&E CAN THROW THE IPRP UNDER THE BUS, WHAT DID THEY DO WITH DR. HAMILTON?

Of even greater concern, since he was A4NR's expert witness in A.10-01-014, is PG&E's choice to lump "*the questions raised by Dr. Hamilton*" with the smoky language used to "*address*" the "*inquiries from the IPRP*". Just as D.12-09-008 was emphatic about the role envisioned for the IPRP, it was unequivocal about the points raised by Dr. Hamilton's testimony in A.10-01-014:

²¹ PG&E 2013 ERRA Compliance Prepared Testimony, p. 6-7.

²² CPUC Energy Division Director Edward Randolph described the reliance which the CPUC places on the IPRP in correspondence with A4NR which PG&E introduced as PG&E-4 in A.10-01-014: "*I would like to assure you that the safety at nuclear plants in the state is of paramount concern to the CPUC. It was with that goal that the CPUC created the IPRP in Decision D.10-03-008 to review and evaluate PG&E's seismic imaging project for its Diablo Canyon Power Plant (DCPP). Given the importance of the seismic imaging project, it is critical that the CPUC have a panel of experts we can rely on to independently advise the CPUC on the seismic risks at Diablo Canyon.*"

A4NR offered the testimony of Dr. Douglas Hamilton, a member of PG&E's geoseismic licensing team for Diablo Canyon from 1971 to 1991. Dr. Hamilton's testimony focused on what he considered two major gaps in PG&E's studies:

- *A continued lack of interest in the Diablo Cove Fault, a local fault on the Diablo Canyon Nuclear Power Plant site running from offshore directly under the turbine building and Unit 1 containment foundations.*
- *The "San Luis Range/Inferred Offshore Fault" in San Luis Obispo Bay, which A4NR says falls outside PG&E's target zone for enhanced studies. Dr. Hamilton testified that the existence of this structure is required in order to account for the level uplift of the Irish Hills/San Luis Range.*

A4NR recommends that we should direct PG&E to configure its onshore and offshore seismic surveys to specifically address Dr. Hamilton's testimony concerning the Diablo Cove Fault and the San Luis Range/Inferred Offshore Fault and their interaction.

A PG&E witness testified that PG&E was investigating both the Diablo Cove Fault and the San Luis Range/Inferred Onshore Fault. Therefore, PG&E says we need not take any action other than approving this application in order to implement A4NR's recommendations. We agree with PG&E. PG&E has said it will address the concerns of Dr. Hamilton. We expect PG&E to do so.²³

PG&E's successful avoidance during 2013 of meaningful IPRP review, despite Commission direction to the contrary, causes A4NR to strongly doubt whether the Company has been any more faithful to D.12-09-008's direction concerning Dr. Hamilton's testimony.

VI. WHY PG&E'S UNREASONABLE MANAGEMENT OF ITS SEISMIC STUDIES IN 2013 IS SIGNIFICANT, BEYOND THE DCSSBA TRANSFERS IT SEEKS.

CPUC President Michael Peevey's recent letter to PG&E President Christopher Johns, enumerating the issues PG&E must address prior to seeking ratepayer funding to relicense

²³ D.12-09-008, pp. 7 – 8.

Diablo Canyon, emphasized the plant's "geographic location in a seismic hazard zone."²⁴ First on the list was the instruction to report on the major findings and conclusions of the "enhanced seismic studies, including the 2-D and 3-D surveys in the vicinity of Diablo Canyon,"²⁵ and the implications of these findings and conclusions for the long-term seismic vulnerability and reliability of the plant. As the Peevey letter concluded,

*I would like to assure you that the safety of nuclear power plants in the state is of paramount concern to the CPUC. This Commission is obligated to address the above itemized issues related to any proposals for DCP's license extension. This Commission would not be able to adequately and appropriately exercise its authority to fund and oversee DCP's license extension without these issues being fully developed.*²⁶

The ramifications of PG&E's ambiguous and opaque mid-2013 "data adequacy" evaluation, and of the apparent reduction in scope of the seismic assessment previously directed by the CPUC, are exemplified by the controversy over the Shoreline Fault. In late 2012, the NRC staff embraced PG&E's position that the deterministic seismic ground motions associated with the Shoreline Fault are smaller than those for which the plant was previously reviewed, i.e., the Hosgri Earthquake ("HE") and Long-Term Seismic Program ("LTSP") ground motion response spectra.²⁷ Instrumental to this result was the NRC staff's conclusion about the possibility of joint rupture of the Shoreline and Hosgri Faults:

The NRC did not consider a scenario in which an earthquake on the Shoreline fault continues to rupture onto the Hosgri fault. Large earthquakes from simultaneous rupture on the two faults (i.e., those greater than M7) would produce large surface

²⁴ Letter from CPUC President Michael Peevey to PG&E President Christopher Johns, February 19, 2014, p. 1.

²⁵ *Id.*

²⁶ *Id.*, p. 2.

²⁷ "Confirmatory Analysis of Seismic Hazard at the Diablo Canyon Power Plant from the Shoreline Fault Zone," Research Information Letter 12-01, NRC Office of Nuclear Research, September 2012, accessible on the NRC's website at <http://pbadupws.nrc.gov/docs/ML1212/ML121230035.pdf>

*displacement, which are not evident in the geologic record. The NRC concludes that the lack of significant horizontal displacement across the Shoreline fault rules out the possibility of joint rupture.*²⁸

Conversely, USGS research geophysicist Dr. Jeanne Hardebeck has emphasized the potential for such a joint rupture, estimating a moment magnitude of 7.2–7.5 for an earthquake rupturing the Shoreline Fault and the section of the Hosgri Fault north of the Hosgri–Shoreline junction.²⁹ Rather than blindly accept the premise that indications on the surface of the sea floor are determinative of what occurs at seismogenic depth, D.12-09-008 envisioned a process that would illuminate:

*The low-energy survey provides high-resolution imagery at subsurface depths of approximately ½ kilometer (km). The high-energy survey provides imagery at depths of up to 12 km, but provides poor resolution imagery at shallow depths, so the high- and low-energy technologies complement each other. PG&E plans to perform high- and low-energy 2-D and 3-D surveys to illuminate shallow and deep structures and resolve uncertainties related to the Shoreline, Los Osos, and Hosgri/San Simeon fault zones. Understanding the geometry of these faults at seismogenic depths, coupled with slip rate information that PG&E hopes to obtain from the low-energy surveys, will improve PG&E's ability to define the seismic hazard in the region. (footnotes omitted)*³⁰

And this prospect was not lost on the NRC staff, either. Simultaneous with the public release of RIL 12-01, its Shoreline Fault Research Information Letter, the NRC staff sent PG&E a letter significantly hedging:

The NRC staff understands that the seismic evaluations described in the March 12, 2012, request for information are currently in progress at DCP, and PG&E plans to acquire new offshore and onshore two- and three-dimensional seismic reflection data to

²⁸ *Id.*, p. 35.

²⁹ "Geometry and Earthquake Potential of the Shoreline Fault, Central California," Jeanne L. Hardebeck, *Bulletin of the Seismological Society of America*, Vol. 103, No. 1, February 2013, pp. 447 – 462.

³⁰ D.12-09-008, p. 9.

*identify and characterize faults in the vicinity of DCP. If during the collection of the data, new faults are discovered or information is uncovered that would suggest the Shoreline fault is more capable than currently believed, the staff expects that the licensee will provide the NRC with an interim evaluation that describes actions taken or planned to address the higher seismic hazard relative to the design basis, as appropriate, **prior to completion of the evaluations requested in the NRC's March 12, 2012 request for information.** The staff will use this information to independently assess whether the new fault or new information related to the Shoreline fault challenges or changes the staff's current position that the motions associated with the Shoreline fault are at or below those levels of the HE and LTSP ground motions. (emphasis added)³¹*

VII. WHY A4NR PROTESTS.

Within three months from the date of this Protest, PG&E plans to issue its “*Final Seismic Report*” to the NRC. Whether the IPRP will be convened for “*review*” of this work before then is unknown, but such a hollow ceremony at this late date would be useless in meeting the responsibilities established for both PG&E and the IPRP by D.12-09-008. Key decisions were made and/or carried out by PG&E in 2013 to truncate what was conceived by the Commission as a robust scientific inquiry. The effect on A4NR and all PG&E customers, if the application is

³¹ Letter from Joseph M. Sebrosky, NRC Senior Project Manager for Plant Licensing Branch IV, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation, to Edward D. Halpin, PG&E Senior Vice President and Chief Nuclear Officer, October 12, 2012, p. 4, accessible on the NRC web site at <http://pbadupws.nrc.gov/docs/ML1207/ML120730106.pdf>

PG&E's quarterly financial disclosures, filed less than three weeks later, materially misstated the timing of any potential response to this NRC staff directive: “*On October 12, 2012, the NRC notified the Utility that the NRC agreed with the Utility's seismic analysis. The NRC also noted that the Utility was conducting offshore and onshore two-and three-dimensional seismic studies and stated that if, during the collection of the data, new faults are discovered or information is uncovered that would suggest the Shoreline fault is more capable than currently believed, the staff expects that the Utility will provide the NRC with an interim evaluation that describes actions taken or planned to address the higher seismic hazard relative to the design basis, as appropriate, **as part of the evaluations requested in the NRC staff's March 12, 2012 request for information.***” (emphasis added) PG&E Form 10-Q, October 29, 2012, p. 59, accessible on PG&E's web site at <http://pge.q4cdn.com/5d3b3faf-7552-45bc-a44c-b651baac4835.pdf?noexit=true>

granted as filed, will be to pay for a Potemkin village seismic review. The consequences for A4NR members (and others) living in communities near the plant, should the abridged seismic analysis misstate actual risk, could be much worse than that.

A4NR will conduct discovery and sponsor testimony elaborating on the facts and information contained in this Protest. Assuming timely responsiveness by PG&E to legitimate discovery requests – although PG&E has repeatedly forced A4NR to bring successful motions to compel in past proceedings dealing with DCPD seismic assessments – A4NR has no objection to the schedule proposed in PG&E’s application.

The undersigned will be the A4NR’s principal contact in this proceeding, but A4NR also asks that the following two individuals be placed in the “information only” category of the Service List:

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Respectfully submitted,

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