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October 25, 1993

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

OFFICE OF THE SECRETARY
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20545

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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|----------------------------------|---|------------------------|
| In the Matter of: |) | |
| |) | Docket Nos. 50-275-OLA |
| Pacific Gas and Electric Company |) | 50-323-OLA |
| |) | (Construction Period |
| (Diablo Canyon Nuclear Power |) | Recovery) |
| Plant, Units 1 and 2) |) | |
| |) | |

PACIFIC GAS AND ELECTRIC COMPANY'S
RESPONSE TO MOTION FOR EXTENSION OF TIME

On October 18, 1993, the San Luis Obispo Mothers for Peace ("MFP") filed a Motion^{1/} requesting a two-week extension of its time to file proposed findings of fact and conclusions of law in this proceeding. Pacific Gas and Electric Company ("PG&E") hereby responds to the extension request.

By Order dated August 24, 1993, the Board established its schedule for post-hearing filings by the parties. That schedule, based on discussions among the Board and parties at the hearing, already was premised on the complexity and volume of the record in this case, as well as the resources of MFP. PG&E believes the schedule, as previously adopted by the Board, adequately responded

^{1/} "San Luis Obispo Mothers for Peace's Motion for Extension of Time for Filing Proposed Findings of Fact and Conclusions of Law," October 18, 1993.

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to the interests of MFP and allowed sufficient time for MFP to prepare its post-hearing submittal.^{2/}

Under the Commission's Rules of Practice governing initial licensing proceedings (which presumably involve records far more complex and lengthy than that involved in this case), proposed findings of fact and conclusions of law are due within 30 (applicant), 40 (intervenor), and 50 (NRC Staff) days after the record is closed. 10 C.F.R. § 2.754(a). In this case, the Board adopted a significantly more relaxed schedule, allowing 45 (PG&E), 73 (MFP), and 94 (NRC Staff) days respectively for initial filings. Apparently in recognition of MFP's limited means, the schedule was not even proportional to that set out in the Rules of Practice, relaxing the schedule at a greater rate for MFP than for PG&E. The extension requested will allow 87 days for proposed findings by MFP -- more than twice the time specified in the Commission's rules.

Nevertheless, PG&E recognizes that in its Order of October 19, 1993, the Board stated that the MFP request appears to be "reasonable" and that the Board is prepared to grant the request absent a "compelling" reason to the contrary. While PG&E does not agree with the Board's assessment of the request or the implied

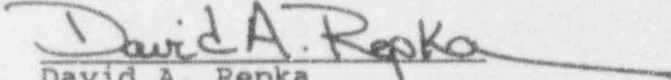
^{2/} The Commission has also provided policy guidance that encompasses this Motion. See Statement of Policy on Conduct of Licensing Proceedings, CLI-81-8, 13 NRC 452, 454 (1981) ("[T]he fact that a party may have personal or other obligations or possess fewer resources than others to devote to the proceeding does not relieve that party of its hearing obligations.").

standard for relief, PG&E will, in light of the Board's Order, not oppose the request. PG&E suggests, however, that MFP's lack of familiarity with the "complex and technical" documents which form its own case should not be accepted by the Board in the future as a justification for extending the schedule.^{3/}

^{3/} It is indeed ironic that MFP's request for more time is based on its "need" at this late date to review the very documents that form its own case-in-chief, and to "integrate" those documents with the testimony. An additional two weeks would seem to be unnecessary and irrelevant for a task that presumably should have been accomplished far earlier. It is not an undue burden to expect a party to formulate a cohesive theory of the case prior to hearing, to allow the witnesses to respond to that theory on the record. Cf. Tr. 698-99 (Judge Kline).

In light of the extension requested by MFP, and consistent with the Board's October 19th Order, PG&E requests that its date for reply findings be extended by a concomitant amount.

Respectfully submitted,


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Dated in Washington, DC
this 25th day of October, 1993

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

UNITED STATES
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD 93 OCT 26 P4:08

In the Matter of:)
Pacific Gas and Electric Company) Docket Nos. 50-275-OLA
(Diablo Canyon Power) 50-323-OLA
Plant, Units 1 and 2) (Construction Period
Recapture)

CERTIFICATE OF SERVICE

I hereby certify that copies of "PACIFIC GAS AND ELECTRIC COMPANY'S " OPPOSITION TO MOTION FOR EXTENSION OF TIME" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class, or, as indicated by an asterisk (*), by hand delivery, or, as indicated by two asterisks (**), by Federal Express, this 25th day of October, 1993.

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