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OF THE
COMMITTEE ON ENERGY AND COMMERCE
WASHINGTON, DC 20515

June 10, 1985

The Honorable Nunzio J. Palladino
Chairman
Nuclear Regulatory Commission
1717 H Street, NW
Washington, D. C. 20555

Dear Mr. Chairman:

On June 27, 1985 at 10:00 a.m. the Subcommittee will hold an oversight hearing on the Commission's Diablo Canyon licensing process. The Commission is invited to attend and testify at the hearing.

The focus of the hearing will be questions raised by the Commission's February 25, 1985 letter and Commissioner Asselstine's March 19, 1985 letter to the Subcommittee concerning NRC's handling of the issue of the possible complicating effects of earthquakes on emergency planning for Diablo Canyon. Your prepared testimony should include a detailed chronology of NRC's handling of this issue both at Diablo Canyon and generically. Additionally, your testimony should respond to the seven specific charges that Commissioner Asselstine has forwarded to Congress regarding the Diablo Canyon licensing process. Your response to the attached questions raised by our previous correspondence is also requested.

While your detailed written statement for insertion in the hearing record may be of any length you deem appropriate, it should be double-spaced and include a one-page summary.

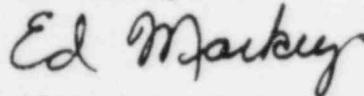
A minimum of 25 copies of your statements and response to questions needs to be provided to the Subcommittee by 12:00 p.m. on June 24, 1985. Please bring an additional 80 copies of your testimony to the hearing room by 9:30 a.m. on the day of the hearing for distribution to Members of the Subcommittee, the public and the press.

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If you have any questions concerning your hearing appearance,
please contact Richard A. Udell (202) 226-2424 of the Energy
Conservation and Power Subcommittee.

Sincerely,

A handwritten signature in cursive script that reads "Ed Markey".

Edward J. Markey,
Chairman

EJM:mw

Attachment

Questions for the Nuclear Regulatory Commission

1. The Commission majority's February 25, 1985 letter states:

"There is record support for the Commission majority's finding that the Diablo Canyon site is 'at most, one of moderate seismicity.' CLI-84-12 at 8, J.A.S. at 258. As the Appeal Board noted 'the region is at most one of low to moderate seismicity.' ALAB-664, 13 NRC 903, 994 (1981)."

- a. What is the on the record support for the conclusion of the Commission and its licensing boards that the Diablo Canyon site is of low to moderate seismicity? Please provide any citations to that aspect of the hearing record which supports the conclusion of the Commission and licensing boards.
 - b. Compared to other reactor sites, is the Diablo Canyon site of low to moderate seismicity?
 - c. Compared to other reactors, is Diablo Canyon built to more or less stringent seismic standards? Specifically what, if any, reactors have more stringent seismic design requirements?
 - d. What is the Commission majority's response to Commissioner Asselstine's charge in his March 19, 1985 letter that: "In basing a decision on a finding that the Diablo Canyon area is one of low to moderate seismicity, the Commission misunderstood what the Licensing Board and NRC staff experts meant by that phrase."
2. Please state the factual basis for the Commission's conclusion that the issue of seismic complications on emergency response should be treated in a generic fashion. Provide a chronology of the views of the NRC staff and the Advisory Committee on Reactor Safeguards on whether this issue is generic or site specific?
 3. In deciding not to consider the possible complicating effects of earthquakes on emergency preparedness in its 1981 decision to license San Onofre Unit 2, the Commission stated that it would instead consider the issue on a generic basis. This approach was repeated in the Commission's 1984 decision to license Diablo Canyon. Please explain why the Commission apparently did not address this issue in a generic fashion in the intervening years as originally proposed and provide all documents detailing any actions that were taken.
 4. Why did the NRC require Pacific Gas & Electric to prepare a report on the complicating effects of earthquakes on

emergency preparedness--the TERA report--and why did the NRC staff require California licensees to consider earthquakes smaller than the SSE in their emergency plans, if this issue was not material to public health and safety and to licensing determinations?

5. Were the parties to the Diablo Canyon licensing proceeding provided an opportunity to challenge on the record the Commission's conclusion that emergency plans for the facility are sufficiently flexible to allow for the complicating effects of an earthquake on emergency response. State the factual basis for the Commission's conclusion that such flexibility exists and provide any citations to the on the record proceeding that support this view.
6. What was the factual basis of the Commission's 1981 decision to exclude consideration of seismic complications on emergency response in the San Onofre licensing proceeding?
7. What, if any, analysis was conducted by the Commission or its staff to establish whether an earthquake smaller than the SSE could initiate an accident requiring the implementation of the Diablo Canyon emergency preparedness plan? Please provide any citations to the on the record proceeding on this issue.
8. What is the basis for the conclusion of the Commission that an earthquake smaller than the SSE requiring emergency response is less likely than other accident initiators requiring emergency response? Please provide any citations to the on the record proceeding that support the Commission's position.
9. Please state whether the Commission believes that, for the Diablo Canyon plant, the simultaneous or proximate occurrence of a major earthquake and a radiological emergency is less probable than the simultaneous or proximate occurrence of a hurricane and a radiological emergency, a tornado and a radiological emergency or a volcanic eruption and a radiological emergency. State the factual basis for the Commission's view and provide any citations to the on the record proceeding that support the Commission's position.
10. The Commission's Brief for the Respondents before the U.S. Court of Appeals stated that "when the relevant probabilities are considered, the Commission's decision is well supported."
 - a. Specifically what relevant probabilities did the Commission consider?
 - b. What relevant probabilities are part of the on the record proceeding? Please provide any citations.
 - c. Does the Commission agree with the assertions of the

General Counsel during the Commission deliberations that there is "no convincing rational basis for the Commission's view that the complicating effects of earthquakes on emergency response deserves no consideration." If the Commission does not agree, what is the basis for such disagreement? Please provide any citations to the factual on the record proceeding that support the Commission's position.

11. Does the Commission believe that a potential licensing delay that could result from the public hearing process is a relevant consideration in the Commission's deliberations of whether a contested safety issue is material to a licensing decision?
12. Did the Commission consider or rely on extra-record information in its deliberations concerning issuance of a Diablo Canyon full power license.
13. Please provide a listing of all schedule slippages and licensing delays since the issuance of the construction permit at Diablo Canyon. This list should indicate the cause and length of each delay.