

UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

In the Matter of)

PACIFIC GAS & ELECTRIC COMPANY)

Docket Nos. 50-275
50-323

Diablo Canyon Nuclear Power Plant)
Units 1 and 2)

REQUEST FOR INCLUSION OF SEISMIC MATTERS AT HEARING ON SUSPENSION OF CONSTRUCTION.

In "Memorandum and Order" (April 21, 1972), the Atomic Energy Commission asserts (p.2) that there is "no warrant in considering the question of the adequacy of seismic design for still another time" at the May 17-20, 1972 hearings. On grounds that the seismic issue is a primary issue in contention, Scenic Shoreline hereby requests inclusion of this matter on the hearing agenda in accordance with Section E.4(b) and E.2 of 10CFR 50 Appendix D.

Scenic Shoreline believes in conformance with Section E.2b and associated sections, that continued construction of Units 1 and 2 on the basis of inadequate seismic standards would foreclose alternative facility designs likely to be required as an outcome of the ongoing NEPA review.

On July 9, 1971, Scenic Shoreline submitted the duly sworn affidavit of Stanley H. Mendes, a structural engineer, on the subject of scientific data on structural design criteria then recently available after the San Fernando earthquake of February 9, 1971. Scenic Shoreline requests that the Commission take notice first, of the eminent qualifications of Mr. Mendes, listed in the affidavit, and second, of his findings therein cited as the basis for hearings that were subsequently denied.

The City of Los Angeles "Proposed Building Code Amendments", compiled on the basis of the San Fernando earthquake (Board File 12,501.5, April 28, 1972), now substantiate the original concern presented earlier by Mr. Mendes. The proposed code changes specify (p.10) a city building design criteria based on an acceleration of 0.50 gravity. This new trend toward more stringent design standards for conventional structures in California indicates the importance of even higher standards for

structures of critical and potential such as nuclear reactors. Seismic design criteria for the San Onofre additions and the proposed facility at Point Arena evidently reflect this new concern for higher standards. Since Diablo Canyon is in the same earthquake province as the Los Angeles Basin (Edition of the Uniform Building Code, 1955), it is imperative that the Diablo Units be reappraised in the light of the proposed City of Los Angeles building code revisions.

The present seismic design of the Diablo units fails to meet the code revisions even as they apply to conventional structures. In its comments on the Mendes affidavit ("Supplemental Reply of Pacific Gas and Electric Company to Motion of Scenic Shoreline Preservation Conference, Inc., dated July 9, 1971", July 28, 1971), Pacific observes (p. 7): "...Under the seismic design criteria developed by PG and E's consultant for the Diablo Canyon units, the design is such that the plant may be shut down safely after a ground acceleration of 0.40g (PSAR appendix D, pp. 8,9)." The proposed new code advocating a 0.50g standard warrants a reevaluation of the Diablo design at the upcoming hearings.

Scenic Shoreline takes exception to the Commission's assertion that our seismic contentions are "the very same allegations which petitioner advanced during the construction permit hearings for Unit 2." (Memorandum, April 21, 1972, p.2). Data submitted by Scenic Shoreline (Mendes Affidavit, July 9, 1971) on the San Fernando earthquake (February 9, 1971) were unavailable at construction permit hearings for Unit 2. The data, furthermore, were unavailable for the response, June 14, 1971, of the Atomic Safety and Licensing Appeal Board to Scenic Shoreline's request for reconsideration of the above decision. On August 16, 1971 the Appeal Board turned down Scenic Shoreline's new seismic contentions without granting the opportunity for a hearing, including cross-examination, necessary for an issue of such magnitude and significance.

Upon rejecting Scenic Shoreline's request for hearings on new seismic data in its "Memorandum and Order" (August 16, 1971, p.6), the Appeal Board left the door open, however, for further review of evidence in accordance with 10CFR 50.100, 50.109, and 2.204. The Appeal Board further stated (Memorandum, p.6):

"The Conference's Petition for Reconsideration and more particularly, the Amendment to its Supplemental Motion, raise the question of the Commission's proper response to the holding of the United States Court of Appeals for the District of Columbia Circuit in Calvert Cliff's Coordinating Committee, et al. v. United States Atomic Energy Commission, et al (July 23, 1971). The Commission has announced it intends to issue within the near future a revision to 10CFR Part 50, Appendix "D". It is therefore inappropriate to grant the requests concerning environmental matters submitted by Conference in the Petition for Reconsideration and Amendment to its Supplemental Motion. The questions raised therein will, of course, be subject to whatever rules the Commission issues on this subject."

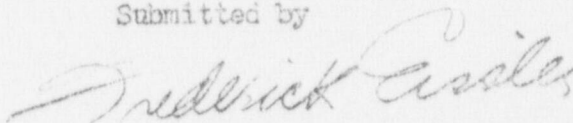
The NEPA rules now clearly mandate review of seismic data in conjunction with environmental considerations. No issue, especially in California and particularly in the coastal area in question, is more germane to the Section E provisions being reviewed at the forthcoming hearings. On August 11, 1971 Scenic Shoreline and Jan E. McMillan filed a petition before the Ninth Circuit Court of Appeals to review the Commission's issuance of the construction permits for Diablo 1 and 2. The grounds for relief included a request for reevaluation of seismic structural criteria at hearings such as those scheduled May 17-20, 1972. Subsequently, the case was remanded to the Commission. The Commission has, therefore, known that Scenic Shoreline has a specific and immediate interest in the seismic design issues and is entitled to a review of such matters under the terms of the Calvert Cliffs decision and the Section E provisions implementing the decision.

In an affidavit of July 21, 1971 attached to "Answer of AEC Regulatory Staff to Supplemental Motion for Reconsideration" (July 30, 1971), Leonard M. Murphy, Chief of the Seismology Group of the Earth Sciences Laboratories, stated that he "was responsible for the Diablo Canyon site seismic evaluation...which is attached to the AEC regulatory staffs' safety evaluation concerning Diablo Canyon Unit 2 dated November 18, 1969." Scenic Shoreline has the right and seeks the opportunity at the May hearing to cross-examine Mr. Murphy. The public is entitled to know the technical competence, philosophical assumptions, and scientific reservations and affirmations of this key participant in the decision process.

Scenic Shoreline also requests information on whether Pacific has instituted or contemplates any design modifications of Diablo Units 1 and 2 to compensate for the earthquake risks revealed by the San Fernando earthquake and the Los Angeles city building code proposals.

On the basis of ⁽¹⁾new information and concern about seismic design, ⁽²⁾the opportunity for further review of this issue anticipated by the Appeal Board's original decision (August 16, 1971), and ⁽³⁾the requirements of the courts and the NEPA mandate among other considerations, Scenic Shoreline requests the inclusion of the seismic issue on the agenda of the forthcoming May, 1972 hearings.

Submitted by



Frederick Eissler
President

Dated May 9, 1972