

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD PANEL

Before the Licensing Board:

Jeremy A. Mercer, Chair
Nicholas G. Trikouros
Dr. Gary S. Arnold

In the Matter of:

PACIFIC GAS AND ELECTRIC COMPANY

(Diablo Canyon Nuclear Power Plant, Units 1 and 2)

Docket Nos. 50-275 LR-2
50-323 LR-2

ASLBP No. 24-983-02-LR-BD01

April 2, 2024

MEMORANDUM AND ORDER
(Scheduling Initial Prehearing Conference)

The Licensing Board will conduct an initial prehearing conference in this license renewal proceeding on Wednesday, May 22, 2024, beginning at 1:00 p.m. Eastern Daylight Time to hear argument on the standing of and admissibility of contentions asserted by San Luis Obispo Mothers for Peace (“Mothers for Peace”), Friends of the Earth (“Friends”), and Environmental Working Group (“Group”) (collectively, “Petitioners”). The oral argument will be conducted in-person in the Panel’s Rockville Hearing Room, located on the third floor of Two White Flint North, 11555 Rockville Pike, Rockville, Maryland.¹ Members of the public are welcome to

¹ The Board thanks counsel for their positions relative to when to hold oral argument (unanimous agreement) and whether the non-evidentiary oral argument should be conducted in the Panel’s Hearing Room or at a location near the plant at issue. Each of the three submissions took a different position relative to where to hold the argument. Because all counsel who filed pleadings and all ASLBP judges and staff are located near the already equipped and secured Rockville, Maryland Hearing Room, and argument at a remote location would necessitate costs of obtaining, equipping, and securing a remote location (not to mention cross-country travel for all involved personnel), the Board has decided to hold the oral argument in the Hearing Room. But as discussed below, the Board will webcast the oral argument so that those not able to attend in-person can view/listen to the argument.

attend and observe this oral argument. No signs, banners, displays, or other demonstration materials will be permitted inside the Hearing Room.

No later than May 15, 2024, each counsel shall advise the Board's law clerk, Ms. Newman, by email (emily.newman@nrc.gov), with copy to all other counsel, how many counsel and experts (if any) will be attending the in-person hearing on behalf of each participant.

Anyone attending the oral argument in-person must enter through the main entrance of the One White Flint North building (11555 Rockville Pike, Rockville, Maryland). Visitors, i.e., anyone not an NRC employee, must have a valid government-issued picture ID and are required to submit to a security screening process to gain entrance to the building. Given the time needed for security screening and to be escorted to the Hearing Room, anyone attending the oral argument in person should plan to arrive at the main entrance to One White Flint North no later than 12:40 p.m. EDT.

The oral argument also will be webcast on the NRC's website and a listen-only telephone number will be provided. Additional details regarding viewing the webcast and accessing the listen-only call-in number will be provided in a subsequent order. Please note, though, that those who attend in-person (other than counsel), watch the webcast, or listen on the phone line will be permitted only to listen to or observe the argument; they will not be permitted to speak or participate in the oral argument.

The oral argument's primary purpose is to allow the Board to ask questions and obtain answers concerning standing and the admissibility of the petitioners' three proffered contentions. See, e.g., 10 C.F.R. § 2.309(d), (e), & (f). The Board will hear from counsel for Petitioners (we understand Ms. Curran will present argument on behalf of Petitioners jointly), counsel for Applicant, and counsel for the Nuclear Regulatory Commission Staff. Because the argument is not an evidentiary hearing, the participants should not attempt to introduce

evidence during the argument. Material not cited and arguments not advanced in the submissions should not be raised (with the exception of financial support of Group—see below).

In addition to whatever preparation counsel believes is necessary for the oral argument, counsel should be prepared to discuss two standing-related issues. First, counsel should be prepared to discuss standing of groups without members but with “supporters,” in light of Consolidated Edison Company of New York (Indian Point, Unit No. 2), LBP-82-25, 15 N.R.C. 715 (1982). That preparation should include, among other things, whether any of the three “supporters” who submitted Declarations in support of Group, or whether any of its “supporters” who may live within 50 miles of the Diablo Canyon plant, are financial supporters of Group.

Second, counsel should be prepared to address the discretionary intervention standards cited by Group and how Group meets/does not meet those standards, especially in the context of it being a joint Petitioner here who raises no contention not already raised by another Petitioner.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Jeremy A. Mercer, Chair
ADMINISTRATIVE JUDGE

Rockville, Maryland
April 2, 2024

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NUCLEAR REGULATORY COMMISSION

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PACIFIC GAS AND ELECTRIC COMPANY) Docket Nos. 50-275-LR-2
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(Diablo Canyon Nuclear Power Plant,)
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)
)

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **MEMORANDUM AND ORDER (Scheduling Initial Prehearing Conference)** have been served upon the following persons by Electronic Information Exchange.

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**Pacific Gas and Electric Company (Diablo Canyon Nuclear Power Plant, Units 1 and 2)
MEMORANDUM AND ORDER (Scheduling Initial Prehearing Conference)**

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Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 2nd day of April 2024.