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Decision 91-10-020: October 11, 1991
 BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company, for Authorization to Establish a Rate Adjustment Procedure for its Diablo Canyon Nuclear Power Plant; to Increase its Electric Rates to Reflect the Costs of Owning, Operating, Maintaining, and Eventually Decommissioning Units 1 and 2 of the Plant; and to Reduce Electric Rates Under its Energy Cost Adjustment Clause and Annual Energy Rate to Reflect Decreased Fuel Expenses.

Application 84-06-014
 (Petition to Modify,
 filed June 12, 1991)

And Related Matter.

Application 85-08-025

OPINION

The San Luis Obispo Mothers for Peace, Life on Planet Earth, and Rochelle Becker (petitioners) seek to modify Decision (D.) 89-03-062 & D.88-12-083 to rectify what they allege to be an intolerable situation created by the CPUC's adoption of an innovative performance-based settlement for Diablo Canyon. Petitioners request that we suspend performance-based pricing for Diablo Canyon power and disband the Independent Safety Committee.

Petitioners allege:

1. The Independent Safety Committee's single mandate is an annual report. Although the Settlement Agreement was adopted in December 1988, the Committee's report is yet to be seen, even in draft form.
2. In the 2-1/2 years since the adoption of Diablo Canyon Settlement Agreement, the Safety Committee, an inseparable part of the agreement, has met publicly only twice.

3. The transcript from the first meeting of the Committee took over six months to appear in the public document room. This transcript was first sent to PG&E for correction to their portion of the meeting. The transcript from the second meeting, the first week of November 1990, is still not in the public document room.
4. Letters to the Committee from the public go unanswered.
5. There is no correspondence from the committee to anyone, including the utility, in the public document room. Only responses from PG&E are in the public document room. These responses do not allow the public to know what the committee has asked and if the answers are responsive to their questions.
6. The community most closely impacted by the safety implications of the unique settlement agreement has requested, but has been unable to persuade the committee, that an office in San Luis Obispo would be valuable.
7. Several safety-related problems during routine operation and refueling have arisen since the adoption of the Settlement Agreement and yet no action or comment by the Committee has resulted.
8. The performance-based Settlement Agreement adopted by the CPUC in 1988 has resulted in millions of dollars in profit for PG&E from the operation of their Diablo Canyon Nuclear Power Plant.
9. Ratepayers are currently forced to pay 9.5 cents a kwh for power produced at Diablo Canyon, while the price per kwh of renewables (sic) is 7 cents, fossil fuel is 3.5 cents and hydro is 1-3 cents a kWh.

10. Above and beyond the exorbitant price of electrical power ratepayers must pay, the CPUC added an excess of \$500,000 per year for an "Independent Safety" committee which is nothing less than a cruel hoax.
11. The settlement adopted by the California Public Utilities Commission clearly has safety and financial implications for California ratepayers. The CPUC decided that NRC was not sufficient to deal with these safety implications and promised an "additional assurance of safety" by requiring that a Safety Committee be an inseparable part of the Settlement Agreement. The current committee members have done nothing to provide ratepayers with any "additional assurance of safety."

Petitioners argue that safety problems and violations have been due in part to the absence of a viable safety committee. The Settlement Agreement created an imminent danger to the residents of San Luis Obispo. They believe that safety violations may be related to performance-based ratemaking. They assert that over \$500,000 of ratepayer dollars are being wasted each year on a committee that serves no purpose and provides no "additional assurance of safety." Petitioners pray that the Commission immediately suspend performance-based payments for Diablo Canyon and disband the Safety Committee.

The Diablo Canyon Independent Safety Committee (the Committee) and PG&E responded, denying the allegations and requesting that the petition be dismissed.

The Committee's Response

The Committee's response states that the Committee was not formed until late December 1989. Its first committee member, Dr. William Kastenbergh, was appointed by the governor in September 1989 and the second member, Warren Owen, was appointed by the chairman of the Energy Commission in late December, 1989. The Committee had to organize itself, prepare rules and procedures,

retain a staff, and do those other housekeeping functions needed before it could be effective. The Committee held its first meeting in May 1990 and its second meeting the following November. It adopted its first report on the safety of Diablo Canyon operations in June, 1991. The report would have been adopted much earlier but for the illness of one of its two members which prevented a quorum for a meeting. A draft of the report was filed in the public document room at the California Polytechnic State University at San Luis Obispo library on June 3, 1991. The first report covered the period of plant operations from January 1 through June 30, 1990. A second report, which will deal with fiscal year 1990-1991, through June 30, 1991, is presently being drafted by the Committee and will be presented for consideration and final approval at its next scheduled meeting on October 3, 1991.

The public meetings of the Committee are lengthy and include reports on Committee business matters, technical presentations by representatives of PG&E on topics requested by the Committee, and public comments and communications. Meetings last from six to 10 hours a day. Notice of the meetings is given through a mailing to interested parties, publication of ads in local newspapers, and notices over radio and television stations. In addition to official meetings, the chairman of the Committee has met with numerous members of the public, including representatives of petitioners, on a number of occasions.

The Committee prepares a transcript of its meetings, although a transcript is not required to be made, and permits those who have made presentations, especially technical presentations, to review the transcript for errors and omissions. The Committee maintains that this review is comparable to the review of depositions and is not an unusual practice. The Committee responds to written and telephone communications. The Committee points out that petitioners have not alleged any specific communications which

failed to elicit a response; the Committee in its filing has provided examples of responses it has made.

The Committee has considered opening an office in San Luis Obispo but has determined that such an office is not necessary at this time to the fulfillment of its objectives and obligations to review and assess the safety of operations at the nuclear power plant. The Committee notes that it has established a 24-hour 800 toll free telephone number to receive questions and concerns. The Committee believes that at this time it is preferable to spend available funds on the experts and consultants necessary to assist and advise the Committee on safety and operations issues rather than on an office which will be of limited use.

In regard to Allegation 7 of the petition that several safety related problems have arisen at Diablo Canyon without any action on the part of the Committee, the Committee asserts that this allegation is misleading, unsubstantiated, and untrue. No specific instances are cited by petitioners. The Committee states that numerous safety-related issues and problems at Diablo Canyon have been reviewed and examined at length by the Committee's members and its consultants. Some of these matters have been commented upon in the Committee's first interim report and others will be discussed in the forthcoming second annual report. The Committee has taken action.

The Committee explains, for example, that its members and consultants reviewed the NRC Augmented Inspection Report concerning a loss of off-site power event which occurred on March 7, 1991. At its June 1991 meeting, the Committee requested and received a further report on this incident from PG&E. Also at its June meeting, the Committee heard a report from PG&E which it specifically had requested regarding recent problems with steam dump valves. At this same meeting, the Committee acted to retain a metallurgical engineer for the purpose of reviewing and advising the Committee concerning cracks which have developed in the Unit 2

Chemical and Volume Control Systems (CVCS) let-down lines. Committee members spent a full day in August at Diablo Canyon inspecting the CVCS lines and reviewing the pipe thinning monitoring program. In further response to public requests and concerns of its own, the Committee also acted at its June meeting to retain the services of a geotechnical engineer to advise it on plant-related seismic issues, and a Committee member and a consultant were present at a recent meeting in Washington, D.C. at which time the U.S.G.S. report concerning the Diablo Canyon Long-Term Seismic Program was presented to the NRC Advisory Committee on Reactor Safeguards.

PG&E

PG&E supports the statements made by the Committee. It states that the Committee has adopted an annual report on Diablo operations, has met publicly since beginning operations in January 1990, has prepared transcripts of its meetings and made them available to the public in an open manner, and has been responsive to the public in San Luis Obispo County. PG&E asserts that it is operating Diablo Canyon safely and that it is committed to operating Diablo Canyon safely for the entire term of the settlement and the life of the plant.

Discussion

This is the second petition by petitioners regarding the settlement of the Diablo Canyon prudence review. In April 1989, petitioners filed a petition seeking to modify D.89-03-062 and D.88-12-083 (the decisions that approved the settlement of the Diablo Canyon prudence review) by suspending the performance-based payments for Diablo Canyon. At that time, the petitioners alleged that the Independent Safety Committee was not appointed or functioning. In D.90-04-008, we denied the petition.

Petitioners are again before us, this time asserting that the Committee is ineffective. We have set out in detail petitioners' allegations and the response of the Committee, and in

summary form, the response of PG&E. Petitioners have presented no facts which would cause us to suspend performance-based pricing for Diablo Canyon power and disband the Independent Safety Committee. We conclude that the petition should be denied.

O R D E R

IT IS ORDERED that the petition of the San Luis Obispo Mothers for Peace, Life on Planet Earth, and Rochelle Becker is denied.

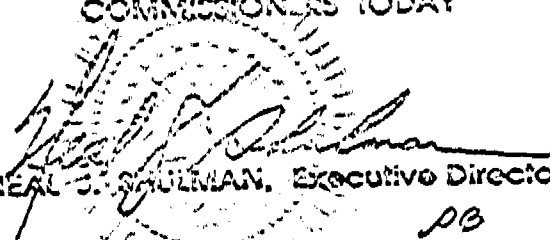
This order is effective today.

Dated October 11, 1991, at San Francisco, California.

JOHN B. OHANIAN
DANIEL Wm. FESSLER
NORMAN D. SHUMWAY
Commissioners

Commissioner Patricia M. Eckert,
being necessarily absent, did not
participate.

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY


NEAL J. SHULMAN, Executive Director