

November 4, 2013

Dr. Robert B. Weisenmiller, Chairman
California Energy Commission
1516 Ninth Street
Sacramento, CA 95825

VIA EMAIL

Re: Response to PG&E Seismic Comments on Draft 2013 IEPR, Docket No. 13-IEP-1J

Dear Chairman Weisenmiller:

My client, the Alliance for Nuclear Responsibility ("A4NR"), has brought to my attention PG&E's October 29, 2013 comments regarding the Diablo Canyon seismic issues discussed in the Energy Commission's draft 2013 Integrated Energy Policy Report ("IEPR").

In the course of vituperatively condemning the draft IEPR discussion as "outdated", "inaccurate", "unsupported and incomplete", PG&E mischaracterizes the controversy over Diablo Canyon's Safe Shutdown Earthquake ("SSE") as merely "an internal NRC process issue".¹ PG&E is right to focus on the NRC's October 12, 2012 and November 19, 2012 letters, both of which were extensively discussed at pages 16 thru 20 of my earlier testimony,² as deferring SSE enforcement to completion of the post-Fukushima seismic assessment due in March 2015.³

But it is a deliberate attempt to mislead for PG&E's comments to make light of the refusal of either NRC letter to alter the Double Design Earthquake ("DDE") as the Safe Shutdown Earthquake,⁴ or the October 12 letter's stunning revelation:

The NRC recognizes that using the DDE as the basis of comparison *will most likely result in the Shoreline fault and the Hosgri earthquake being reported as having greater ground motion than the SSE.*⁵ (emphasis added)

¹ PG&E Comments to the CEC on *Draft 2013 Integrated Energy Policy Report*, p. 10.

² These are pages 18 thru 22 of item TN71511 in your 13-IEP-1J docket.

³ A4NR considers this an indefensible, multi-year waiver of a key requirement in an existing NRC license, but also considers the Energy Commission legally powerless to correct it.

⁴ PG&E's Comments state, at p. 14: "While PG&E does not agree with the NRC that the DDE should be considered to be the licensing basis 'safe shutdown earthquake' (that distinction belongs to the HE), the company acknowledges that the NRC does expect PG&E to use the licensing basis DDE for 'comparison' to the reevaluated seismic hazard ground motion response spectrum."

⁵ October 12, 2012 letter to PG&E signed by Joseph M. Sebrosky, Senior Project Manager for Plant Licensing Branch IV, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation. This letter is accessible on the NRC's website (<http://www.nrc.gov/reading-rm/adams.html>) as ADAMS Accession No. ML120730106. PG&E's

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NRC witness Clifford Munson confirmed this expectation at the Energy Commission's June 19, 2013 workshop on nuclear power plant issues affecting California's electricity supply.⁶

PG&E disingenuously attempts to divert attention to the larger ground motions attributed to the Hosgri Earthquake ("HE") element of Diablo Canyon's license, and away from the more conservative assumptions about damping and soil-structure interaction contained in the DDE and the Design Earthquake ("DE") requirements. My earlier testimony made use of the graphs prepared by Diablo Canyon's Senior Resident Inspector, Dr. Michael Peck, to demonstrate – in Dr. Peck's words -- that "(p)ortions of the reactor coolant pressure boundary were more limited by the DE and DDE than HE."⁷

The magnitude of PG&E's analytic contortions is best illustrated by a document it produced when it was trying to brazenly amend the DDE tests out of the Diablo license. Having never previously encountered a request to redefine a plant's Safe Shutdown Earthquake, the NRC asked PG&E to create a table comparing the proffered HE seismic review to the "applicable provisions" of the NRC's Standard Review Plan, which has been applied to new plants since 1997. PG&E provided a staggering 331-page list of deviations!⁸ I urge the Energy Commission to conduct its own evaluation of this document, and emphasize that the Standard Review Plan requirements pre-date by some two decades whatever will be expected after completion of the NRC's post-Fukushima review.⁹

PG&E combatively asserts that none of this is the Energy Commission's business, and invokes the red herring of "safety and operational issues that are subject to exclusive NRC jurisdiction."¹⁰ To my knowledge, no one has asked the Energy Commission to second guess the NRC on such issues.¹¹ But a close monitoring is necessary if the Energy Commission is to

Comments, at p 14, dismissively attribute this predicted failure to "*the age and conservatism of the assumptions and methodologies used in the DDE evaluations,*" an alibi not found in either NRC letter.

⁶ Transcript, p. 89.

⁷ These graphs, and discussion of them, are found in TN71511, pp. 10 - 12.

⁸ December 6, 2011, PG&E Letter DCL- 11-124 to the NRC, signed by James R. Becker, PG&E Site Vice President. This letter is accessible on the NRC's website (<http://www.nrc.gov/reading-rm/adams.html>) as ADAMS Accession No. ML11342A238.

⁹ PG&E acknowledges that the first phase of the post-Fukushima review "*is to perform a reevaluation of the seismic hazards at the site using updated seismic information, as well as **present day regulatory guidance and methodologies.***" (emphasis added) PG&E Comments, p. 14.

¹⁰ PG&E Comments, p. 15.

¹¹ That is not to deny that A4NR considers the comments attributed to Dr. Peck's supervisor by PG&E's internal account of a conference call, if accurate, to be reprehensible: "*...Neil then asked us if there is any technical reason*

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fulfill its planning responsibilities for California's electrical system. The likelihood of Diablo Canyon's continued operation, let alone its relicensing, may well turn on the extent (and estimated cost) of seismic modernization required. As PG&E acknowledged in its November 2011 10-Q filing about its efforts to evade the DDE requirements:

*If the NRC does not approve the request the Utility could be required to perform additional analyses of Diablo Canyon's seismic design which could indicate that modifications to Diablo Canyon would be required to address seismic design issues. The NRC could order the Utility to cease operations until the modifications were made or the Utility could voluntarily cease operations if it determined that the modifications were not economical or feasible.*¹²

The degree to which California's energy agencies have been forced to scramble these past two years to address the sudden shutdown of San Onofre strongly suggests that a full awareness of Diablo Canyon's unfolding vulnerabilities is highly preferable to inviting another surprise.

Sincerely,

/s/ John L. Geesman

cc: Andrew McAllister, 2013 IEPR Lead Commissioner
Joan Walter, Senior Nuclear Policy Advisor
Lynette Esternon-Green, 2013 IEPR Project Manager
Edward Randolph, CPUC Energy Division Director

*for leaving the DDE in the design basis. He stated that we had done a good job with the LAR of cleaning up the loose ends, but his advice is that we eliminate the DDE as our safe shutdown earthquake for our licensing basis. **His opinion is that by leaving it in, it appears as if we are covering something up. We need to be able to tell a simple story for people to be able to understand, and the simple story won't stand on its own if we leave the DDE in. We should be using the DE to show that we can continue to operate and the Hosgri using the latest technology for safe shutdown. Neil's greatest concern, and criticism of the POA, is that we cannot provide a good argument for why the analysis using the DDE can't be done. We don't make the argument for why it should be removed completely, but that's what we need to do, in Neil's opinion. He made the comment that it is better to be legally clean than legally correct but confusing (and added that both have to be technically correct)...*** " (emphasis added) TN71511, p. 18.

¹² PG&E Corporation, Form 10-Q filing, November 3, 2011, p. 63.