

DRAFT

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

**ITEM 13
I.D. # 12124
RESOLUTION E-4588 (Rev. 1)
June 27, 2013**

R E S O L U T I O N

Resolution E-4588. Confirmation of candidates for appointment by the Attorney General of the State of California (AG) to the Diablo Canyon Independent Safety Committee (DCISC) for a three-year term beginning July 1, 2013.

PROPOSED OUTCOME: The California Public Utilities Commission (CPUC) ratifies the President's selection of Dr. Robert J. Budnitz and Mr. Paul M. Blanch for consideration by the AG for reappointment and first-time appointment, respectively, to the DCISC.

SAFETY CONSIDERATIONS: The appointed candidate will serve a three-year term on the DCISC, which is responsible for reviewing operations at PG&E's Diablo Canyon Power Plant for the purpose of assessing the safety of operations and suggesting any recommendations for safe operations.

ESTIMATED COST: None.

As required by Decision (D.) 07-01-028 dated January 25, 2007.

SUMMARY

This Resolution ratifies the California Public Utilities Commission (CPUC) President's selection of Dr. Robert J. Budnitz and Mr. Paul M. Blanch as candidates for reappointment and first-time appointment, respectively, to the Diablo Canyon Independent Safety Committee (DCISC) for a three-year term commencing on July 1, 2013. The appointing authority is the Attorney General of the State of California (AG).

BACKGROUND

The DCISC independently monitors the operations of Pacific Gas and Electric Company's Diablo Canyon Power Plant.

The CPUC created the DCISC in Decision (D.)88-12-083 as part of the overall settlement of the ratemaking issues for the Diablo Canyon Power Plant (DCPP), which is owned and operated by Pacific Gas and Electric Company (PG&E). The DCISC is an independent, three-member committee responsible for monitoring the safety of PG&E's operation of DCPP. The DCISC's budget is paid out of PG&E's revenues and charged to PG&E's ratepayers.¹ D.88-12-083 established the qualifications and procedures for appointment of members to the DCISC and defined the scope of the Committee's operations and responsibilities.²

The DCISC consists of three members, one each appointed by the Governor of the State of California, the AG, and the Chair of the California Energy Commission, serving staggered three-year terms.

D.07-01-028 approved changes to the DCISC nomination process.

On October 24, 2006, the DCISC submitted Application (A.)06-10-024 to propose a restated charter. The CPUC adopted the restated charter in D.07-01-028 on January 25, 2007.

Section 1.B of the restated charter concerns appointments of DCISC members. It states that candidates for DCISC membership shall be selected from those applicants responding to an open request for applications. The incumbent member whose term is about to expire shall be deemed an additional candidate if he or she consents. The CPUC shall provide for public comment on the applicants' qualifications and potential conflicts of interest. The President of the CPUC shall review the applicants' qualifications, experience, and background, including any conflict of interest, together with any public comments, and shall propose as candidates to the appointing authority only persons with knowledge,

¹ D.88-12-083, Appendix C, Paragraph 16

² D.88-12-083, Appendix C, Attachment A

background, and experience in the field of nuclear power plants and nuclear safety issues. The Energy Division shall prepare and circulate for public comment, and place on the CPUC's public agenda, a resolution ratifying the President's selection of candidates and an incumbent member.

An open request for applications to fill the July 1, 2013 vacancy on the DCISC was posted on the CPUC's website. Dr. Robert J. Budnitz, the incumbent member of the DCISC whose term is expiring on June 30, 2013, consented to reappointment for another term. Mr. Paul M. Blanch, a professional nuclear energy consultant, also submitted an application for consideration. No other responses to the open request for applications were received.

In accordance with the nomination process approved in D.07-01-028, an announcement was posted on the CPUC's website on January 8, 2013 seeking applications for the July 1, 2013 vacancy on the DCISC.³ The AG will appoint a candidate to fill this vacancy.

The open request for applications asked that applications be submitted to the Energy Division by February 19, 2013. In a letter dated February 10, 2013, Dr. Robert J. Budnitz confirmed his willingness to continue to serve as a member of the DCISC.⁴ Dr. Budnitz also provided a synopsis of his technical experience and professional activities relating to nuclear reactor and radioactive waste safety, including his experience as a researcher and consultant both independently and with various federal government entities. Dr. Budnitz was originally appointed to the DCISC on October 10, 2007 by then AG Edmund G. Brown Jr., who on

³ A link to the announcement posted on the CPUC's website was sent to the service list in A.09-04-007, A.10-01-014, and A.10-01-022 to assure that parties interested in issues relating to DCPD were aware of the announcement. A.09-04-007 addresses PG&E's 2009 Nuclear Decommissioning Cost Triennial Proceeding. A.10-01-014 addresses PG&E's request for funding of seismic studies at Diablo Canyon. A.10-01-022 addresses PG&E's request for funding its DCPD relicensing application at the Nuclear Regulatory Commission.

⁴ Section I.B of the restated charter adopted in D.07-01-028 sets forth that the CPUC President may select up to three qualified candidates from those responding to the open request for applications for consideration by the appointing authority as alternatives to the reappointment of Safety Committee member whose term is expiring. The restated charter provides that the incumbent, if he or she consents, shall be considered an additional candidate. The restated charter does not require that the incumbent submit an application.

April 15, 2010 reappointed Dr. Budnitz to a second three-year term on the DCISC commencing July 1, 2010. Dr. Budnitz's second term is set to expire June 30, 2013.

Mr. Paul M. Blanch submitted an application for DCISC candidacy on February 19, 2013. In his application materials, Mr. Blanch summarized his technical experience as a consultant, expert witness, and utility nuclear plant supervisor; listed his major accomplishments in the field of nuclear safety; and provided copies of representative presentations given to state and federal government entities. Mr. Blanch was previously a candidate for the Governor of California-appointed DCISC vacancy beginning on July 1, 2008.⁵

Comments were received both in support of Dr. Budnitz's reappointment and Mr. Blanch's first-time appointment to the DCISC.

On March 12, 2013, an announcement was posted on the CPUC's website inviting comments on the candidacies of Dr. Budnitz and Mr. Blanch.⁶ Summaries of the two candidates' qualifications were included with the announcement. Comments were accepted through April 10, 2013.

On March 13, 2013, comments in support of Dr. Budnitz's reappointment were submitted to the CPUC's Energy Division by Dr. Peter Lam, Dr. Budnitz's colleague on the DCISC. Dr. Lam stated that Dr. Budnitz is an internationally recognized expert on nuclear reactor seismic risks, noting his service on numerous technical and policy committees on nuclear reactor seismic risk assessments both domestically and abroad, and declaring that Dr. Budnitz "truly is the dean of his specialty in the nuclear reactor risk assessment community." Dr. Lam also praised the professionalism and collegiality Dr. Budnitz has displayed as a member of the DCISC, and stated that the guidance and support Dr. Budnitz provides during DCISC inquiries "has greatly contributed to the Committee's charter of conducting safety review of the DCP."

⁵ See Resolution E-4141, dated January 10, 2008.

⁶ A link to the announcement was also sent to the service lists in A.09-04-007, A.10-01-014, and A.10-01-022. See footnote 3 above.

The Energy Division received several comments in support of Mr. Blanch's appointment to the DCISC. The comments confirmed Mr. Blanch's experience, knowledge, and reputation in the field of nuclear safety. Comments were submitted by US Congressman Ed Markey's office, the Executive Director of the Alliance for Nuclear Responsibility, the Director of the Union of Concerned Scientists' Nuclear Safety Project, representatives from other nuclear safety non-profits including the New England Coalition, the C-10 Foundation, Pilgrim Watch, and San Luis Obispo-based Mothers for Peace, current and former Nuclear Regulatory Commission (NRC) inspectors and risk managers, independent nuclear safety consultants, and nuclear plant operators. The most frequently repeated statements in the comments highlight Mr. Blanch's commitment to public and employee safety; his technical, hands-on knowledge of and experience with nuclear plant operations and NRC regulations; his record of integrity; his commitment and disciplined approach to resolving safety issues; and the fresh, objective perspective Mr. Blanch would provide to the oversight of DCP.

The President of the CPUC nominates Dr. Budnitz and Mr. Blanch to be considered by the AG for the vacancy on the DCISC beginning July 1, 2013.

The CPUC's President, Michael Peevey, has reviewed the qualifications, experience, and background of Dr. Budnitz and Mr. Blanch. President Peevey has chosen to provide the names of Dr. Budnitz and Mr. Blanch to the AG as candidates for the three-year DCISC position beginning July 1, 2013.

The purpose of this Resolution is to evaluate and ratify President Peevey's selection in accordance with Section I.B of the restated charter adopted in D.07-01-028.

NOTICE

Notice of this Resolution was made by publication in the CPUC's Daily Calendar. A copy of the Draft Resolution was sent to those submitting comments on behalf of Dr. Budnitz and Mr. Blanch, the California AG's office, Dr. Budnitz, and Mr. Blanch. A copy of the Draft Resolution was also sent to the service lists in PG&E's A.09-04-007, A.10-01-014, and A.10-01-022.

DISCUSSION

Summaries of the qualifications of Dr. Budnitz and Mr. Blanch are included in Appendix A of this Resolution.

The restated charter adopted in D.07-01-028 requires that candidates for appointment to the DCISC be persons with knowledge, background and experience in the field of nuclear power facilities and nuclear safety issues who demonstrate they have no conflict of interest.⁷

Dr. Budnitz is qualified to be reappointed to the DCISC.

Dr. Budnitz is an incumbent member of the DCISC, having been appointed for a first term October 10, 2007 and reappointed for a full three-year term beginning July 1, 2010 by the AG. Dr. Budnitz is on the scientific staff of Lawrence Berkeley National Laboratory (LBNL), where he works on nuclear power safety and security and radioactive waste management issues. Prior to his current position at LBNL, Dr. Budnitz spent more than 20 years as president of Future Resources Associates, Inc., a private consulting company that he founded which specialized in reactor safety, radioactive waste, and related subjects. This was followed by employment with Lawrence Livermore National Laboratory, which included two years with the Department of Energy's Office of Civilian Radioactive Waste Management developing a new Science and Technology Program for the Yucca Mountain Project. Dr. Budnitz began his career at LBNL in 1967, where he eventually rose to the positions of Associate Director and Head of the Energy and Environment Division, followed by two years as a senior officer at the NRC, during which time he served as the technical coordinator for the NRC's inquiry into the 1979 Three Mile Island accident. Dr. Budnitz earned a Ph.D. in physics from Harvard University in 1968.

⁷ Conflicts of interest are set forth in Section I.C of the restated charter. They establish limits on income and gifts from PG&E or an affiliated company, and investments in PG&E or an affiliate for DCISC members. They also prohibit members of the Committee from attempting to use their position to influence action of the Committee in which they have a financial interest. DCISC members are required to file a Statement of Economic Interest in the same manner as designated CPUC employees. No person shall serve on the DCISC who has a prior history of supporting or opposing PG&E as a witness or intervenor in nuclear licensing or CPUC proceedings associated with Diablo Canyon.

Dr. Budnitz has no conflicts of interest that would preclude his continuing to serve on the DCISC.⁸ His qualifications show that he has knowledge, background, and experience in the field of nuclear power plants and nuclear safety issues. The comments received from the public support Dr. Budnitz's reappointment to the DCISC.

Mr. Blanch is qualified to be appointed to the DCISC.

Mr. Blanch is a professional nuclear energy consultant. He has served as an expert witness and conducted research in a number of relicensing cases for nuclear plants in the Northeast (since 2004); in *Finestone vs. Florida Power and Light* (2003-2006); and in proceedings related to the 1979 Three Mile Island accident (1995-1998). From 1997 to 2002, Mr. Blanch provided consultation for a number of nuclear plant operators on evaluating and implementing safety programs, especially in the form of Safety Conscious Work Environment Programs (SCWEP) and Employee Concerns Programs. During this time, Mr. Blanch assisted in the recovery of the three Millstone Units in Connecticut that had been shut down due to safety problems, established a SCWEP at the facility, and facilitated and resolved differences between employees and management. Mr. Blanch has consulted the NRC, Department of Labor, and other clients on modifications to Federal Regulations governing the protection of whistleblowers who identify safety issues at nuclear facilities. Prior to this, from 1972 to 1993 Mr. Blanch was the Supervisor of Electrical Engineering at Northeast Utilities (NU), where he was responsible for plant reliability programs, compliance with NRC regulations, and supervising safety and compliance during the design and construction of Units 2 and 3 at Millstone Nuclear Power Plant. Towards the end of his tenure with NU, Mr. Blanch directed the development of the first real-time instrumentation monitoring system for practical use in commercial nuclear plants to assess the overall safety status of the plant and to provide information to remote facilities during emergency events. This effort resulted in the identification of many instrumentation problems not previously recognized or considered "undetectable failures," and prompted a number of industry-wide monitoring and design changes. Mr. Blanch attended the US Navy's Electronics Technician School (1964), Nuclear Power School (1965), and Submarine School

⁸ By email to Energy Division staff dated February 11, 2013, Dr. Budnitz confirmed that he has no conflicts of interest as set forth in Section I.C of the restated charter.

(1968), and earned a B.S. in electrical engineering from the University of Hartford in 1972.

Mr. Blanch has no conflicts of interest that would preclude his service on the DCISC. His qualifications show that he has knowledge, background, and experience in the field of nuclear power plants and nuclear safety issues. The comments received from the public support Mr. Blanch's reappointment to the DCISC.

President Peevey's selection of Dr. Budnitz and Mr. Blanch as candidates for the July 1, 2013 vacancy on the DCISC is ratified.

President Peevey's selection of Dr. Budnitz and Mr. Blanch as candidates for reappointment and first-time appointment, respectively, to the DCISC for a three-year term beginning July 1, 2013 is ratified. The President's selection shall be provided to the AG.

COMMENTS

Public Utilities Code section 311 (g)(1) generally requires resolutions to be served on all parties and subject to at least 30 days public review and comment prior to a vote of the CPUC. Accordingly, the Draft Resolution was served on parties and issued for public review and comment no later than 30 days prior to a vote of the CPUC.

No comments were submitted on the Draft Resolution.

FINDINGS AND CONCLUSIONS

1. D.88-12-083 created the Diablo Canyon Independent Safety Committee (DCISC).
2. The DCISC is an independent, three-member committee responsible for monitoring the safety of PG&E's operation of the Diablo Canyon Power Plant.
3. D.07-01-028 adopted a restated charter for the DCISC including revised procedures for appointments of DCISC members.

4. On January 8, 2013, in accordance with D.07-01-028, an announcement was posted on the CPUC's website seeking applications for the July 1, 2013 vacancy on the DCISC.
5. The Attorney General of the State of California (AG) is the appointing authority for the July 1, 2013 vacancy on the DCISC.
6. Dr. Robert J. Budnitz, the incumbent member of the DCISC whose term expires on June 30, 2013, responded to the CPUC's January 8, 2013 announcement and consents to being a candidate for reappointment to the DCISC.
7. Mr. Paul M. Blanch, a professional nuclear energy consultant, responded to the CPUC's January 8, 2013 announcement, and submitted an application on February 19, 2013 to be considered as a candidate for appointment to the DCISC.
8. The CPUC invited comments on Dr. Budnitz and Mr. Blanch's qualifications in an announcement posted on the CPUC's website on March 12, 2013.
9. Comments in support of Dr. Budnitz's reappointment to the DCISC were submitted by Dr. Peter Lam, a DCISC member, on March 13, 2013.
10. Comments in support of Mr. Blanch's appointment to the DCISC were submitted by several parties between the March 12, 2013 opening of the comment period and the April 10, 2013 deadline.
11. The CPUC's President, Michael Peevey, has reviewed the qualifications, experience, and background of Dr. Budnitz and Mr. Blanch.
12. President Peevey has chosen to provide the names of Dr. Budnitz and Mr. Blanch to the AG as candidates for reappointment and first-time appointment, respectively, to the DCISC for a three-year term beginning July 1, 2013.
13. Dr. Budnitz and Mr. Blanch both have knowledge, background, and experience in the field of nuclear power plants and nuclear safety issues, and are qualified candidates for appointment to the DCISC.

14. President Peevey's selection of Dr. Budnitz and Mr. Blanch as candidates for appointment to the DCISC for a three-year term beginning July 1, 2013 should be ratified and provided to the AG.

THEREFORE IT IS ORDERED THAT:

President Michael Peevey's selection of Dr. Robert J. Budnitz and Mr. Paul M. Blanch as qualified candidates for consideration by the Attorney General of the State of California for reappointment and first-time appointment, respectively, to the Diablo Canyon Independent Safety Committee for a three-year term beginning July 1, 2013 is hereby ratified.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on June 27, 2013; the following Commissioners voting favorably thereon:

PAUL CLANON
Executive Director

APPENDIX A

Qualifications of Dr. Robert J. Budnitz

Dr. Budnitz is a member of the Diablo Canyon Independent Safety Committee (DCISC). He was appointed to an initial term from October 2007 through June 2010, and was reappointed for a second three-year term which runs through June 2013. The California Attorney General appointed Dr. Budnitz to each term on the DCISC.

Dr. Budnitz is on the scientific staff at the University of California's (U.C.) Lawrence Berkeley National Laboratory (LBNL), where he works on nuclear power safety and security and radioactive waste management matters.

From 2002 to 2007, Dr. Budnitz was employed at U.C.'s Lawrence Livermore National Laboratory. During that time he worked on a special assignment in Washington D.C. to assist the Director of the Department of Energy's Office of Civilian Radioactive Waste Management to develop a new Science & Technology Program for the Yucca Mountain Project.

From 1980 until 2002, Dr. Budnitz was president of Future Resources Associates, Inc., a private consulting company that he founded which specialized in reactor safety, radioactive waste, and related subjects for industrial and governmental organizations. His work included research for the NRC, the U.S. Department of Energy, and the U.S. Environmental Protection Agency, as well as international and inter-governmental organizations such as the International Atomic Energy Agency, the Organization for Economic Cooperation and Development's Nuclear Energy Agency, and the European Bank for Reconstruction and Development.

From 1978 to 1980, Dr. Budnitz was a senior officer on the staff of the NRC. He was Deputy Director of the Office of Nuclear Regulatory Research from 1978 to 1979, and Director of that office in 1979 and 1980. He was responsible for assuring that reactor safety research, waste management research, and fuel cycle safety research were adequately supported. In 1979 Dr. Budnitz was the technical coordinator of the NRC to investigate the Three Mile Island accident in Pennsylvania in 1979.

From 1967 to 1978, Dr. Budnitz was on the staff of the LBNL, serving in 1975-1978 as Associate Director of LBNL and Head of LBNL's Energy & Environment Division. Programs under his direction included energy efficiency, deep geologic radioactive waste disposal, solar energy, geothermal energy, fusion energy, transportation technology, chemical-engineering for alternate fuels, environmental instrumentation, air pollution phenomena, and energy policy analysis.

Dr. Budnitz remains active in consulting on nuclear issues. He recently consulted an electric company in Argentina on the designs of nuclear reactors and their ability to withstand

earthquakes. Dr. Budnitz also served on a panel appointed by the U.S. Secretary of Energy and the President's Science Adviser after the Fukushima reactor accident in March 2011 to advise on how to interpret technical information coming from Japan about the accident and how to assist the Japanese in responding. Dr. Budnitz has consulted for U.S. and international utilities about the seismic aspects of their nuclear plant designs and has written and presented papers on external events and seismic probabilistic risk assessment.

Dr. Budnitz has a Ph.D. and an M.A. in physics from Harvard University, and a B.A. in physics from Yale University.

Qualifications of Mr. Paul M. Blanch

Mr. Blanch is a professional energy consultant. Since 2004, he has served as an expert witness in nuclear relicensing cases for the Indian Point power plant in New York on behalf of the State of New York, the Seabrook power plant in New Hampshire for various public interest groups, and the Vermont Yankee power plant for the New England Coalition. From 2003 to 2006, he was an expert witness for plaintiffs in *Finestone vs. Florida Power and Light* and conducted research on the quality and quantity of unmonitored releases from the St. Lucie nuclear plant.

From 1997 to 2002, Mr. Blanch worked as a consultant to nuclear plant operators to evaluate and implement safety programs. In 2001 and 2002 he reported to the Chief Nuclear Officer at Indian Point Unit 2 and assisted in evaluating the plant's Employee Concerns Program (ECP), assessing its Safety Conscious Work Environment Program (SCWEP), and investigating safety issues. In 2000 and 2001 he reported to the President of the Maine Yankee Atomic Power Company where he re-established a SCWEP, evaluated and recommended improvements to the ECP, conducted independent investigations of allegations received at the plant and referred by the Nuclear Regulatory Commission (NRC), and facilitated and resolved differences between employees and management.

From 1997 to 2001, Mr. Blanch reported to the President of Northeast Nuclear Energy Company and assisted in the recovery of the three Millstone Units in Connecticut that had been shut down due to safety problems. He established a SCWEP and facilitated and resolved differences between employees and management. He also assisted with regulatory compliance and corporate communication efforts by providing information to the NRC and the public about the plant recovery and the SCWEP. In addition, Mr. Blanch made presentations to public interest groups, State of Connecticut oversight organizations and the NRC on the work environment at Millstone and the status of corrective actions. He also conducted presentations to the ECP Forum on how management should address whistleblower issues, and to the NRC on how to resolve high profile whistleblower situations.

From 1995 to 1998, Mr. Blanch was an expert witness for plaintiffs in proceedings related to the 1979 Three Mile Island accident. He conducted research to determine the quality and quantity of releases from the plant as part of this work.

From 1993 to 1997, Mr. Blanch was a consultant to the NRC and other clients. In that capacity he worked with the NRC on modifications to Federal Regulations for the protection of individuals who identify safety issues at nuclear facilities. He also advised clients on NRC and the U.S. Department of Labor regulations governing the protection of whistleblowers.

From 1972 to 1993, Mr. Blanch was the Supervisor of Electrical Engineering responsible for programs on plant reliability and compliance with NRC regulations. He supervised safety and compliance during the design and construction of the Millstone Units 2 and 3.

Mr. Blanch was one of the three qualified candidates selected by the California Public Utilities Commission for consideration by the California Governor for appointment to the Diablo Canyon Independent Safety Committee for the term beginning July 1, 2008 (see CPUC Resolution E-4141 dated January 10, 2008).

Mr. Blanch has a B.S. in electrical engineering from the University of Hartford. He also attended the U.S. Navy Submarine School, Nuclear Power School, and Electronics Technician School.

END OF APPENDIX