

DRAFT

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

I.D. #6881
RESOLUTION E-4109
September 6, 2007

R E S O L U T I O N

Resolution E-4109; President of the California Public Utilities Commission [CPUC] has reviewed the applications of candidates for the vacancy at the Diablo Canyon Independent Safety Committee [Safety Committee] and selected Robert J. Budnitz and the incumbent Per Peterson for consideration by the Attorney General.

The selection is approved.

As required by Decision [D.] 07-01-028 dated January 25, 2007.

SUMMARY

This Resolution confirms the CPUC President's selection of Robert J. Budnitz and Per Peterson for consideration by the Attorney General of California for appointment to the vacancy on the Safety Committee.

BACKGROUND

Genesis of the Safety Committee

The Commission created the Safety Committee in D.88-12-083, 30 CPUC2d 189, as one part of the overall settlement of the ratemaking issues for the Diablo Canyon Nuclear Generating Station [Diablo Canyon], which is owned and operated by Pacific Gas and Electric Company [PG&E]. The settlement agreement established the Safety Committee as an independent three-member committee responsible for monitoring the safety of PG&E's operation of Diablo Canyon. Its budget is paid from PG&E's revenues and is thus charged to the ratepayers. [D.88-12-083, App. C, Paragraph 16.] A statement setting the qualifications and procedures for appointment of members to the Safety Committee, and defining the scope of the Committee's operations and

responsibilities was attached to the settlement agreement and approved by the Commission. [D.88-12-083, App. C, Att. A.]

Recent Developments

On October 24, 2006 the Safety Committee submitted Application [A.] 06-10-024, Exhibit B of which was their proposed *restated* charter. The Commission in D.07-01-028, dated January 25, 2007 adopted the modified charter. [D.07-01-028, Att. 1, Exhibit B.] Section 1.B of the new charter concerns appointment of committee members. It states that candidates for the Committee membership shall be selected from those persons responding to an open request for application. The CPUC shall provide for public comment on qualified applicants' qualifications and potential conflicts of interest. The incumbent member shall be deemed an additional member if he or she consents. The President of the Commission 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, background, and experience in the field of nuclear power plants and nuclear safety issues. The Energy Division shall prepare, circulate for public comment and place on the CPUC's public agenda a resolution ratifying the President's selection of candidates.

On January 31, 2007, the Energy Division posted on its website an announcement seeking applicants for the vacancy beginning July 1, 2007. The only application received was that of the incumbent.

On June 25, 2007 the Energy Division put an announcement on the CPUC website seeking applications from qualified applicants who wanted to be considered as an alternative to the reappointment of the incumbent for the vacancy that was to come about the following month. Robert J. Budnitz was the only applicant. After evaluating his qualifications, the Energy Division posted on the website, for public comment, a summary of his higher education and work experience which were relevant to the position and the disclosure that his application did not reveal any potential conflicts of interest with his intended undertaking.

There were no public comments on Mr. Budnitz's application.

As the Safety Committee charter authorizes the CPUC President to recommend up to three qualified candidates in addition to the incumbent member, the President of the Commission, Michael Peevey has selected Mr. Budnitz as a qualified candidate whose name should be forwarded to the Attorney General (the appointing authority for this vacancy) as an alternative to the reappointment of the incumbent to occupy the currently vacant position on the Safety Committee.

The purpose of this resolution is to evaluate and confirm the selection according to D.07-01-028, Exhibit B, Att. 1, Section 1 B (3), which states:

...The CPUC Energy Division shall prepare, circulate for public comment, and place on the CPUC's public agenda a resolution ratifying the President's selection ... of qualified candidates ...

NOTICE

Notice of this resolution was made by publication in the Commission's Daily Calendar. In addition, copies of the draft resolution were sent to Mr. Budnitz and Mr. Peterson and to the service list in A.06-10-024

DISCUSSION

Robert J. Budnitz has indicated his willingness to serve on the Safety Committee if confirmed, as shown in the declaration in his application.

Budnitz has outstanding technical and educational background

Energy Division has reviewed the qualifications of Mr. Budnitz. Attached as Appendix A to this resolution is a summary of his resume prepared by the Energy Division's staff.

The statement of Mr. Budnitz's qualifications declares that he has held a variety of positions related to nuclear power plants and has recent experience in the field of nuclear safety. He holds a PhD in Physics from Harvard University and has publications on nuclear power plants and safety. He was recently called upon by the Government of Armenia to inspect and consult on the safety of their nuclear power plants.

Budnitz has no conflict of interest

Mr. Budnitz has no current or past relationship with PG&E that could be perceived as creating a conflict with his acting independently in the

Diablo Canyon plant's best interest as well as that of public at large that benefit from a safe nuclear plant.

The Energy Division believes that Mr. Budnitz could be counted on to demonstrate independence, competence, and integrity while serving on the Safety Committee. As a committee member, he should be able to represent the ratepayers and the public who are intended to be the ultimate beneficiaries of the plant.

The Energy Division recommends that the Commission ratify Budnitz's selection as an alternative to reappointment of the incumbent and recommend him to the Attorney General of California as a qualified appointee to the Safety Committee.

Per Peterson is a qualified candidate

The incumbent member, Mr. Peterson, has applied for reappointment. A qualified candidate, he has already served on the Safety Committee for three years and has no conflict of interest. Accordingly, Mr. Peterson's name should also be forwarded to the Attorney General along with Mr. Budnitz's.

COMMENTS

PU Code section 311(g) (1) generally provides that draft resolutions must be subject to at least 30 days public review and comment prior to a vote on the Commission.

Accordingly, this draft resolution was sent to the two candidates and to the service list in A. 06-10-024 and made available for comment to parties on August 7, 2007. It is scheduled for a vote on September 6, 2007.

FINDINGS

1. D.88-12-083 created the Safety Committee of Diablo Canyon Nuclear Generation Station.
2. The Safety Committee is an independent three-member committee responsible for monitoring the safety of PG&E's operation of Diablo Canyon.

3. D.07-01-028 adopted new procedures for appointment of the Safety Committee members.
4. In compliance with D.07-01-028, the Energy Division announced the vacancy created on the Safety Committee and invited applications for the position on January 31, 2007 and again on June 25, 2007.
5. Only one person, Robert J. Budnitz, responded to the June 25, 2007 announcement. The Energy division posted his qualifications on the Commission website for public comment.
6. Per Peterson, the incumbent, responded to the January 31, 2007 announcement. The incumbent member is considered an additional candidate.
7. Peterson and Budnitz are qualified candidates and have no conflict of interest.
8. The President of the Commission has chosen Messrs Budnitz and Peterson as his nominees for consideration by the Attorney General for appointment to the vacancy on the Safety Committee.
9. D.07-01-028 requires that the Energy Division prepare, circulate for public comment, and place on the public agenda a resolution ratifying the President of the Commission's selected qualified candidates.

THEREFORE IT IS ORDERED THAT:

1. President Michael R. Peevey's selection of Robert J. Budnitz and Per F. Peterson as qualified candidates for consideration by the Attorney General of California for appointment to the vacancy on the Safety Committee is hereby approved.

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 September 6, 2007; the following Commissioners voting favorably thereon:

Paul Clanon
Executive Director

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Appendix A

Summary Qualifications of Robert J. Budnitz

After receiving his PhD in Physics from Harvard University in 1968, Dr. Budnitz joined Lawrence Berkeley Laboratory [LBL] as a post doctoral fellow and stayed there as a physicist until 1974 when he became a Program Leader and later an Associate Director of LBL [1975 - 78].

During 1978 - 1980 he took a leave of absence from LBL to assume directorship of the Office of Nuclear Regulatory Research in the US Nuclear Regulatory Commission [NRC] in Washington, D.C.

During 1980 - 81 Budnitz was the Vice President and Director of the Energy and Environmental Technologies division of Teknekron, Inc., Berkeley, California.

For more than 20 years, 1981 - 2002, Budnitz was the president of Future Resources Associates, Inc., Berkeley, California.

Recent Experience

For two years, 2002 - 2004, Mr. Budnitz was at the US Department of Energy [DOE] Washington, D.C., responsible for the Science and Technology program, DOE Yucca Mountain Project.

Starting in 2005, he has been with Lawrence Livermore National Laboratory, University of California, Livermore, as Leader, Nuclear & Risk Science Group, Energy & Environment Directorate; Associate Program Leader for Nuclear Systems Safety and Security, Energy and Environment Directorate.

Mr. Budnitz is an elected Fellow of the American Association for the Advancement of Science; holder of Standards Service Award, and Award for Reactor Safety, both from American Nuclear Society; and numerous other awards from distinguished scientific organizations. He has published in major scientific papers and is a member of many reputable scientific organizations.

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



August 7, 2007

I.D. #6881
RESOLUTION E-4109
Commission Meeting on September 6, 2007

TO: PARTIES TO DIABLO CANYON INDEPENDENT SAFETY
COMMITTEE A.06-10-024

Enclosed is a draft Resolution No.E-4109 of the Energy Division. It is in compliance with D.07-01-028 and will appear on the agenda at next Commission meeting held 30 days after the date of this letter. The Commission may vote on this Resolution at the time or may postpone a vote until a later meeting.

When the Commission votes on a draft Resolution, it may adopt all or part of it as written, amend or set it aside and prepare a different Resolution. Only when the Commission acts does the Resolution become binding on the parties.

All Comments on the draft Resolution are due by August 27, 2007.
Comments shall be served on parties, as outlined below.

An original and two copies, along with a certificate of service to:

Honesto Gatchalian,
Energy Division,
California Public Utilities Commission,
505 Van Ness Ave,
San Francisco, CA 94102
E-mail: ijnj@cpuc.ca.gov

Parties described above [see attached]
Massis Galestan, Energy Division, California Public Utilities Commission,
505 Van Ness Ave., San Francisco, CA 94102. E-mail: mgm@cpuc.ca.gov

Comments shall be limited to five pages in length plus a subject index listing the recommended changes to the draft Resolution, a table of authorities and an appendix setting forth the proposed findings and ordering paragraphs.

Comments shall focus on factual, legal, or technical errors in the proposed draft Resolution.

Replies to comments on the draft resolution may be filed [received by the Energy Division] on August 31, 2007, and shall be limited to identifying misrepresentations of law or fact contained in the comments of other parties. Replies shall not exceed five pages in length, and shall be filed and served as set forth above for comments.

Late submitted comments or replies will not be considered.

An accompanying declaration under penalty of perjury shall be submitted setting forth all the reasons for the late submission.

Please contact Massis Galestan at 415-703-1760 if you have questions or need assistance.

Sincerely,

Bruce Kaneshiro
Demand Response Programs, Supervisor
Energy Division

Enclosure: Service List
Certificate of Service

CERTIFICATE OF SERVICE

I certify that I have by electronic mail this day served a true copy of Draft Resolution E-4109 on all parties on the service list for Application 06-10-024 as shown on the attached list.

Dated August 7, 2007 at San Francisco, California.

Massis Galestan

NOTICE

Parties should notify the Energy Division, Public Utilities Commission, 505 Van Ness Avenue, Room 4002 San Francisco, CA 94102, of any changes of address to insure that they continue to receive documents. You must indicate the Resolution number on the service list on which your name appears.

Service list for **A.06-10-24**

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