

DRAFT

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
I.D.# 8197
ENERGY DIVISION **RESOLUTION E-4219**
January 29, 2009

R E S O L U T I O N

Resolution E-4219: The President of California Public Utilities Commission [Commission] has reviewed the applications of candidates for the July 1, 2009 vacancy at the Diablo Canyon Independent Safety Committee [Safety Committee] and selected William F. Conway, Arnold Gundersen, and Peter Lam for consideration by the California Energy Commission [CEC].

The selection is approved.

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

SUMMARY

This Resolution confirms the Commission President's selection of William F. Conway, Arnold Gundersen, and Peter Lam for consideration by the CEC for appointment to the July 1, 2009 vacancy on the Safety Committee.

BACKGROUND

The Safety Committee Independently Monitors the Operations of PG&E's Diablo Canyon Nuclear Generating Station

The Commission created the Safety Committee in D.88-12-083 [30 CPUC 2d 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 PG&E's ratepayers [D.88-12-083, App. C, Paragraph 16]. The settlement agreement also established the qualifications and procedures for appointment of members to the Safety Committee, and defined the scope of the Committee's operations and

responsibilities [D.88-12-83, App. C, Attachment A]. As implied above, the Commission approved the settlement agreement in 1988.

Recent Changes to the Safety Committee Nomination Process

On October 24, 2006, the Safety Committee submitted Application [A.] 06-10-024, the 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, Attach. 1, Exhibit B]. Section 1.B of the new charter concerns appointments 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 incumbent member shall be deemed an additional member if he or she consents. The Commission shall provide for public comment on the applicants' qualifications and potential conflicts of interest. 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 and circulate for public comment, and place on the Commission's public agenda a resolution ratifying the President's selection of candidates.

The Nomination Process for the 2009 Safety Committee Vacancy

On October 17, 2008 the Energy Division posted on the Commission website an announcement seeking applicants for the July 1, 2009 vacancy on the Safety Committee. It received applications from William F. Conway [the incumbent who seeks re-nomination], Arnold Gundersen, and Pete Lam.

After evaluating their qualifications, the Energy Division, on November 19, 2008, posted on the Commission website, for public comment, a summary of the applicants' higher education and work experience relevant to the position and the disclosure that their applications did not reveal any potential conflicts of interest with their intended undertaking.

Public Comment on the Applicants for the 2009 Committee Vacancy.

The following sent in their written support of Mr. Gundersen.

- Dr. Sandy Waters of Crescent City, CA.
- Natalie Kettwig of Carmichael, CA.
- Hugo Lizarraga of Pasadena, CA.
- Jim Riccio, on behalf of Greenpeace, Washington, DC.

- Greg Mills of San Diego, CA.
- Christine Bell of Crescent City, CA.
- Peter Bradford of Peru, Vermont.
- Randolph Thompson of Nevada City, CA.
- Roy W. Michel of Fair Oaks, CA.
- Peter Shumlin, Vermont State President Pro Tem, Montpelier, Vt.
- Jane Swanson, of Pismo Beach, CA, on behalf of Mothers for Peace.

The Safety Committee charter authorizes the Commission President to recommend to the CEC, who is the appointing authority for the 2009 vacancy, up to three qualified candidates, in addition to the incumbent member. The CEC is to select one from among them to occupy the vacancy on the Safety Committee.

The President of the Commission has chosen the aforementioned three candidates for recommendation to the CEC.

The purpose of this resolution is to evaluate and confirm the selection according to D.07-01-028, Exhibit B, Attach. 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 the applicants and to the service list in A.06-10-24, the Safety Committee's restated charter application.

DISCUSSION

Energy Division has reviewed the qualifications of William F. Conway, Arnold Gundersen, and Peter Lam. Appendix A to this resolution is a summary of their curriculum vitae prepared by the Energy Division staff.

Conway, Gundersen, and Lam are qualified candidates

The three candidates have indicated their willingness to serve on the Safety Committee if confirmed, as shown in their applications' declaration. The three

applicants have no current or past relationships with PG&E that could be perceived as creating a conflict with their acting independently in ensuring that Diablo Canyon plant is operating safely. Their resumes show that they have knowledge, background, and experience in the field of nuclear power plants and nuclear safety issues.

The Energy Division recommends that the Commission ratify the selection of Conway, Gundersen, and Lam and recommend them to the CEC as qualified appointees to the Safety Committee.

COMMENTS

PU Code section 311(g)(1) generally provides that draft resolutions be subject to at least 30-day public review and comment prior to a vote on the Commission. Accordingly, on December 19, 2008 this draft resolution was sent to the three candidates, those submitting comments on the candidates, and the service list in A.06-10-024 and made available for comment.

FINDINGS

1. D.88-12-083 created the Independent Safety Committee for the Diablo Canyon Nuclear Generating Station.
2. The Safety Committee is an independent three-member committee responsible for monitoring the safety of PG&E's operation of Diablo Canyon Generating Station.
3. D.07-01-028 adopted new procedures for appointment of Safety Committee members.
4. On October 17, 2008, in compliance with D.07-01-028, the Energy Division announced the July 2009 vacancy on the Safety Committee and invited applications for the position.
5. Three persons, William F. Conway, Arnold Gundersen, and Peter Lam responded to the announcement.

6. The three applicants are qualified candidates and have no conflicts of interest
7. The qualifications of the three candidates were put on the Commission website for public comment on November 19, 2008. Eleven interested individuals sent comments in support of Arnold Gundersen.
8. The President of the Commission has chosen the three candidates as his nominees for consideration by the CEC for appointment to the July 2009 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 Commission President's selection of qualified candidates for the Safety Committee.

THEREFORE IT IS ORDERED THAT:

1. President Michael Peevey's selection of William F. Conway, Arnold Gundersen, and Peter Lam as qualified candidates for consideration by the California Energy Commission for appointment to the July 1, 2009 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 January 29, 2009; the following Commissioners voting favorably thereon:

Paul Clanon
Executive Director

Appendix A

Summary of the Candidates' Qualifications

William F. Conway

Mr. Conway has been serving as a DCISC member since February 2005. His term will expire on July 1, 2009. He has applied for reappointment to the Committee.

Mr. Conway joined the Arizona Public Service Company in May 1989 as executive vice president – nuclear, having overall responsibility for the Palo Verde Nuclear Generating Station. He retired from that position in July 1994.

From 1988 to 1989 William Conway was senior vice president of nuclear operations at Florida Power and Light Company where he was responsible for their four nuclear units. Prior to that he served as the group vice president for industry and government relations at the Institute of Nuclear Power Operations [INPO] in Atlanta where he was responsible for the Institute's interaction with the Nuclear Regulatory Commission [NRC] and the Department of Energy, and had responsibility for personnel performing periodic evaluations of U.S. nuclear power plants. Previous to the above, he has also been a CEO of Vermont Yankee Nuclear Power Corporation where he worked for 18 years.

William Conway has been an executive member of several Institutes and Societies, such as American Nuclear Society [ANS], EPRI, &c. He attended the University of Rhode Island and was a captain in the Air National Guard. He resides in Scottsdale, Arizona.

Arnold Gundersen

Since 1970 Arnold Gundersen has been an expert witness in nuclear litigations at the Federal and State hearings such as Three Mile Island, US NRC ASLB, Vermont State Public Service Board, Western Atlas Nuclear Litigation, U.S. Senate Nuclear Safety Hearings, Peach Bottom Nuclear Power Plant Litigation, and other such places. He has also testified at the Senate of the Czech Republic on nuclear matters.

Mr. Gundersen is currently with Fairewinds Associates, Inc., where since 1990 he has been engaged as a Nuclear Engineering safety and reliability expert.

From 1979 to 1990 Mr. Gundersen was with Nuclear Energy Services, a Division of PCC [a Fortune 500 Company] where he rose in ranks to become a Corporate Officer and Senior Vice President. He was responsible for overall performance of the company's In-service Inspection [ASME XI] and Quality Assurance [SNTC 1A] with up to 300 employees at various nuclear sites.

Prior to 1979 Gundersen was a Reliability Engineering Supervisor with New York State Electric and Gas Corporation.

Arnold Gundersen attended Rensselaer Polytechnic Institute where he earned a B.S. [Cum Laude] in Nuclear Engineering and a Master of Engineering in Nuclear Engineering, on a U.S. Atomic Energy Commission Fellowship. He is a licensed Reactor Operator and resides in Burlington, Vermont.

Peter Lam

Peter Lam is Principal of EMM International Consulting, Rockville, Maryland. In that capacity he provides expert consulting services in the areas of nuclear reactor safety, probabilistic risk analysis, and vulnerability evaluation. His services include analysis and evaluation of nuclear reactor operations and advice on litigation strategies in nuclear reactor licensing.

Peter Lam served as an Administrative Judge of the Atomic Safety and Licensing Board Panel of the Nuclear Regulatory Commission [NRC] for 18 years [1990 - 2007], during which time he adjudicated safety issues in public proceedings mandated by the Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974. These public proceedings were conducted to examine, evaluate, and ultimately resolve significant safety issues related to granting, suspending, revoking, or amending licenses issued by the NRC.

From 2002 to 2003 Judge Lam sat on the Atomic Safety and Licensing Board which conducted the proceeding concerning the application of PG&E to construct and operate an independent spent fuel storage installation at the Diablo Canyon Power Plant.

Peter Lam attended Stanford University, on various Fellowships, where he earned an M.S. and a Ph.D. degree in Nuclear Engineering. He has numerous publications in scholarly journals in the areas of reactor safety and risk analysis of nuclear power plants. Dr. Lam has also participated in more than 110 judicial decisions involving some 50 docketed cases since 1990, all of which were published by the NRC. He resides in Rockville, Maryland.

STATE OF CALIFORNIA

ARNOLD SCHWARZENEGGER, *Governor*

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



December 22, 2008

Agenda ID # 8197
Resolution E-4219
January 29, 2009

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

Enclosed is draft Resolution E-4219 of Energy Division. It is in compliance with D.07-01-028 and will appear on the agenda at the Commission meeting to be held on January 29, 2009. The Commission may vote on this Resolution at that time or it may postpone a vote until a later date. When the Commission votes on a draft resolution, it may adopt all or part of it as written, amend, modify 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 January 9, 2009. 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 Avenue
San Francisco, CA 94102
E-mail: jnj@cpuc.ca.gov

Massis Galestan

Energy Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Email: mgm@cpuc.ca.gov

And to parties describe above [see attached]

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 [i.e. received by the Energy Division] by January 16, 2009, 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 me at 415-703-1760 if you have questions or need assistance.

Sincerely,

Massis Galestan
Energy Division
California Public Utilities Commission

Encl. Service List
Certificate of Service

Service List for A.06-10-024

bbyron@energy.state.ca.us; lau@cpuc.ca.gov; paj@cpuc.ca.gov; mgm@cpuc.ca.gov;
ljt@cpuc.ca.gov; txb@cpuc.ca.gov; rochelle489@charter.net; wvn3@pge.com;
jlm@pge.com; and the following:

County Clerk
County San Luis Obispo
County Government Center
1055 Monterey Street
San Luis Obispo, CA 93408

Peterlam1@aol.com; arnie@sailchamplain.net; wconway2@cox.net; janeslo@kcbx.net;
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jim.riccio@wdc.greenpeace.org; hlga@sbcglobal.net; watersgtc@yahoo.com;
natdoginchina@hotmail.com;

CERTIFICATE OF SERVICE

I certify that I have by electronic mail this day served a true copy of draft Resolution E-4219 on all parties on the service list for A.06-10-024 as shown on the attached list.

Dated December 22, 2008 at San Francisco, California.

Massis Galestan

NOTICE

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