

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**



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Application of Pacific Gas and Electric  
Company to Recover the Costs Associated  
with Renewal of the Diablo Canyon Power  
Plant Operating Licenses.

(U 39 E)

Application No. 10-01-\_\_

**A1001022**

**APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY (U 39 E)**

WILLIAM V. MANHEIM  
MARK D. PATRIZIO  
JENNIFER K. POST

Pacific Gas and Electric Company  
77 Beale Street, B30A  
San Francisco, CA 94105  
Telephone: (415) 973-9809  
Facsimile: (415) 972-5952  
E-Mail: JLKm@pge.com

Dated: January 29, 2010

Attorneys for  
PACIFIC GAS AND ELECTRIC COMPANY

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**APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY (U 39 E)**

**I. INTRODUCTION AND REQUESTED AUTHORITY**

Pursuant to Rules 2.1 and 3.2 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”), and as directed by Decision 07-03-044, Pacific Gas and Electric Company (“PG&E”) submits this Application requesting that the Commission find that it is cost effective and in the best interest of PG&E’s customers to preserve the option to operate Diablo Canyon Power Plant (“Diablo Canyon” or “DCPP”) for an additional 20 years beyond the expiration of the current operating licenses for Units 1 and 2, which are 2024 and 2025, respectively. In turn, PG&E requests authority to recover in rates the costs to obtain the state and federal approvals related to renewal of the Diablo Canyon operating licenses (referred to as the “License Renewal project”). PG&E estimates the total cost of the License Renewal project at \$85 million.

As discussed below, PG&E’s economic analysis suggests that the potential benefit to customers of operating Diablo Canyon an additional 20 years ranges from \$3.5 billion to \$16.3 billion. Based on this tremendous potential upside benefit and the successful completion of its technical analysis, PG&E has concluded that it is reasonable and prudent to incur up to \$85 million in costs to apply to the NRC to renew the operating licenses for Diablo Canyon.

## **II. THE LICENSE RENEWAL FEASIBILITY STUDY**

In PG&E's 2007 General Rate Case, PG&E requested customer funding of a Diablo Canyon License Renewal Feasibility Study ("LRFS"), the results of which would guide PG&E's decision as to whether to file a license renewal application with the United States Nuclear Regulatory Commission ("NRC"). In D.07-03-044, the Commission, among other things, adopted a generation revenue requirement for PG&E that included funding for the LRFS, ordered PG&E to address the findings and recommendations of the California Energy Commission ("CEC") in the nuclear assessment required of the CEC by Assembly Bill 1632 ("AB 1632 Report"), and directed PG&E to file an application with the Commission, no later than June 30, 2011, including the LRFS and addressing whether license renewal is cost effective and in the best interest of ratepayers.

Over the past three years, PG&E reviewed the plant's structures, systems and components in accordance with the NRC's license renewal requirements and found no conditions precluding operation of Diablo Canyon beyond expiration of the current licenses in 2024 and 2025. Likewise, PG&E performed an environmental assessment and prepared an environmental report addressing the extended period of operations, including a review of the environmental impact of alternative generation resources and a severe accident mitigation analysis. The review concluded that the environmental impact of operations during the extended license period would be small, as that term is defined by the National Environmental Policy Act and NRC guidance documents.

PG&E also performed a cost effectiveness analysis to determine whether it makes economic sense to continue operating Diablo Canyon or to replace the energy and capacity provided by Diablo Canyon with alternative resources. That analysis shows that continued operation of Diablo Canyon (assuming a 90 percent operating capacity factor) during 2025-2045 provides customers a present value of revenue requirement (PVRR) benefit of \$3.5 billion to \$16.3 billion over alternate generation resources.

Upon completion of the majority of the LRFS in May 2009, with findings that

there were no engineering or environmental impediments to proceeding with license renewal, and with a preliminary economic analysis demonstrating the tremendous benefit of license renewal to PG&E's customers, PG&E made the decision to prepare an NRC license renewal application. PG&E completed the application and on November 11, 2009, received authorization from PG&E management to proceed with the NRC filing. The license renewal application was submitted to the NRC on November 23, 2009. As explained in more detail in the testimony supporting this Application, PG&E expects the NRC process, which includes extensive safety, technical and environmental evaluation by the NRC, as well as multiple opportunities for public participation, to span multiple years. PG&E anticipates receiving a final decision from the NRC no later than 2014. As such, it was important to begin the license renewal process now, in order to support energy planning decisions in the event the NRC denies PG&E's license renewal application, requiring replacement of Diablo Canyon's energy and capacity with alternate resources.

### **III. AB 1632 REPORT RECOMMENDATIONS**

In 2006, the California legislature enacted AB 1632 (Blakeslee, Chapter 722, Statutes of 2006), which was codified as Public Resources Code 25303. AB 1632 directed the CEC to: (1) assess the potential vulnerability of California's largest base load power plants, Diablo Canyon and San Onofre Nuclear Generating Station, to a major disruption due to a major seismic event or plant aging; (2) assess the impacts of such a major disruption on system reliability, public safety, and the economy; (3) assess the costs and impacts from nuclear waste accumulating at these plants; and (4) evaluate other major issues related to the future role of these plants in the state's energy portfolio. The CEC undertook this assessment and included the results and recommendations in "An Assessment of California's Nuclear Power Plants: AB 1632 Report" (AB 1632 Report), issued along with its Integrated Energy Policy Report (IEPR) in November 2008.

While PG&E is taking actions responsive to all of the AB 1632 Report recommendations applicable to Diablo Canyon, some of those recommendations addressed issues that are not specifically related to license renewal, but instead, affect ongoing operations at Diablo Canyon. By letter dated June 25, 2009, Commissioner Peevey requested that PG&E provide to the CPUC information responsive to the following AB 1632 Report Recommendations:

- Report on the major findings and conclusions from Diablo Canyon's seismic/tsunami studies, as recommended in the AB 1632 Report (pp. 6, 7, 10 and 13), as well as studies that are directed by any subsequent legislative mandates, and report on the implications of these findings and conclusions for the long-term seismic vulnerability and reliability of the plant.
- Summarize the lessons learned from the Kashiwazaki-Kariwa plant experience in response to the 2007 earthquake and discuss the implications that an earthquake of the same, or greater, magnitude could have on Diablo Canyon. In particular, the CPUC needs PG&E to evaluate whether there are any additional preplanning or mitigation steps that the utility could take for the power plant that could minimize plant outage times following a major seismic event.
- Reassess the adequacy of access roads to the Diablo Canyon plant and surrounding roadways for allowing emergency personnel to reach the plants and local communities and plant workers to evacuate. This assessment needs to consider today's local population and not rely on the situation extant when the plant was constructed.
- Conduct a detailed study of the local economic impacts that would result from a shut-down of the nuclear plant and compare that impact with alternate uses of the Diablo Canyon site.
- Assess low-level waste disposal costs for waste generated through a 20-year plant license extension,

including the low-level waste disposal costs for any major capital projects that might be required during this period. In addition, PG&E should include its plans for storage and disposal of low-level waste and spent fuel through decommissioning of the Diablo Canyon plant as well as the cost associated with the storage and disposal.

- Study alternative power generation options to quantify the reliability, economic and environmental impacts of replacement power options.
- Include PG&E's responses to nuclear-related data requests and recommendations in future IEPRs.

PG&E responded to the above request by letter sent to President Peevey simultaneous with this Application. For items related to ongoing operations, e.g., seismic safety and emergency planning procedures, PG&E provided responsive information to the CPUC in its letter and the attachments thereto. PG&E also provided the Commission PG&E's response to the CEC's nuclear-related data requests, dated July 22, 2009.

For other items, PG&E has addressed AB 1632 recommendations in the testimony supporting this Application as follows: Chapter 7 includes: (1) a description of and the preliminary findings of PG&E's balance of plant (BOP) seismic reliability study; (2) a description of the lessons learned from the KKNPP earthquake and PG&E's preliminary findings regarding the lessons learned; and (3) a description of the local economic impact study PG&E is undertaking. PG&E will provide final reports to the Commission as they are available, but not later than April 2010.

Low-level radioactive waste disposal costs associated with the extended period of operations are included in the costs presented in Chapter 3, "Ongoing Costs to Operate Diablo Canyon Power Plant." The economic and reliability impacts of alternate generation resources are addressed in Chapter 4, "Replacement Energy Costs." The federal Environmental Report, which among other things addresses the environmental impacts of alternative generation resources, is provided as Attachment 6.1 to the Prepared

Testimony.

**IV. IT IS REASONABLE AND PRUDENT TO PRESERVE THE OPTION TO OPERATE DIABLO CANYON FOR AN ADDITIONAL 20 YEARS**

Diablo Canyon’s current operating licenses for Units 1 and 2 expire on November 2, 2024 and August 26, 2025, respectively. Diablo Canyon provides over 2200 MW of operating capacity for PG&E customers. Since 1985, Diablo Canyon has operated safely and reliably, earning high performance and safety ratings from the NRC and the Institute of Nuclear Power Operations. Diablo Canyon’s virtually carbon-free energy is essential to meeting California's aggressive greenhouse gas emission reduction goals. In addition to preserving the option to continue operating DCP, PG&E is aggressively expanding its renewable resource portfolio, and is pursuing all cost effective energy efficiency. Pursuing renewal of the operating licenses now preserves the option for PG&E to continue operating DCP, keeping a safe, reliable, clean energy resource in PG&E's generation resource portfolio.

DCP provides approximately 6 percent of the energy generated in California annually, enough to meet the energy needs of more than three million northern and central Californians. Diablo Canyon has become an even more valuable, environmentally beneficial resource to PG&E’s customers with the advent of GHG emissions regulation in California, which will require reductions of GHG emissions to 1990 levels by 2020. Diablo Canyon avoids 6 to 7 million total tons per year of GHG emissions that would otherwise be produced by conventional generation resources.

**V. DIABLO CANYON LICENSE RENEWAL FEASIBILITY STUDY RESULTS SUPPORT PRESERVING THE OPTION TO CONTINUE DCP OPERATIONS**

The NRC has established rigorous requirements for analyses to be conducted by commercial power reactor licensees to support license renewal. These safety, technical and environmental evaluations specifically determine whether a reactor can be operated safely for up to an additional 20 years and address any unique site-specific environmental

impacts of extended operation.<sup>1/</sup> The NRC license renewal rule was issued in its current form in May 1995. The agency's requirements do not revisit the initial licensing basis for the plant and are not a substitute for the ongoing regulatory process. Rather, for license renewal the NRC focuses its safety review on the potential adverse effects of equipment aging. The required analyses are designed to confirm that safety systems, structures, and components will continue to perform their intended function during the period of extended operation. By focusing on aging effects in the license renewal process, the NRC has focused its review on those matters uniquely relevant to protecting the public health and safety during the period of extended operation.

However, the NRC does not ignore other safety matters. Any issues that implicate safety that are not related to aging effects must be addressed on an ongoing basis as part of the normal regulatory oversight process — whether in the period of the present license or during the period of the extended license. For example, equipment maintenance issues must be addressed at all times and are not issues unique to license renewal. The licensee's programs and performance in this area are subject to continuous NRC oversight during the current license terms and during the period of extended operation. Performance weakness and violations are at all times also subject to the NRC's Reactor Oversight Process and its enforcement program. Also, if new information were to arise at any time suggesting the existence of a new safety issue (*e.g.*, new seismic information), that information must be addressed by the licensee and the NRC under the terms of the license, whenever that issue arises. The NRC's regulatory processes give the agency ample authority and tools to impose new requirements and to

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<sup>1/</sup> The NRC has issued extensive guidance documents based on its review of license renewal issues. These include a Generic Aging Lessons Learned (GALL) report (NUREG-1801); a Standard Review Plan for license renewal (NUREG-1800); and Regulatory Guide 1.188, which sets out the issues to be included in a license renewal application. The agency guidance documents addressing the environmental aspects of license renewal include the Standard Review Plan for Operating License Renewal (NUREG-1555, Supplement No. 1) and Regulatory Guide 4.2, Supplement No.1, along with the Generic Environmental Impact Statement for License Renewal of Nuclear Plant GEIS), (NUREG-1437).

compel any further actions that may be necessary, independent of the license renewal process.

For license renewal, the NRC also requires licensees to address environmental considerations. The agency previously completed a Generic Environmental Impact Statement for License Renewal (GEIS) (NUREG-1437).<sup>2/</sup> The GEIS includes an evaluation of the environmental impacts of extended operation of nuclear power plants with respect to issues that are common (or “generic”) to all plants. The GEIS leaves for further evaluation a number of issues that can only be considered on a plant-by-plant basis, because any environmental impacts may depend on the specific plant or site. The issues requiring further evaluation are identified in 10 C.F.R. Part 51.

With the focus of license renewal being on equipment aging effects unique to extended operation and environmental impacts that are plant-specific, the NRC’s license renewal rules (10 C.F.R. Parts 51 and 54) establish a series of evaluations to be completed by the licensee. Following are the evaluations PG&E completed for the license renewal feasibility study:

### **Integrated Plant Assessment**

The Integrated Plant Assessment (IPA), performed in accordance with 10 C.F.R. §54.21(a), is a detailed review of the plant’s systems, structures, and components to determine the scope of equipment potentially subject to aging effects that are unique to the license renewal period. In the IPA the licensee must identify “passive” structures and components — those that perform their *intended* functions without moving parts or change in configuration — that are “long lived” and that serve or could impact various safety functions. These passive structures and components include equipment that is not necessarily subject to routine surveillance, maintenance, and replacement. (The

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<sup>2/</sup> The NRC is in the process of updating NUREG-1437, the General Environmental Impact Statement (GEIS) addressing license renewal. It issued a proposed rulemaking in July 2009, and will issue a final rule in 2011.

operability of active equipment or equipment with a defined replacement term is assured on a routine basis by ongoing surveillance and maintenance programs and is not subject to aging effects unique to the period of extended operation.) The IPA includes, for example, the reactor vessel, steam generators, and piping.

### **Aging Management Review**

For equipment identified by the IPA to be within the scope of a license renewal review, the licensee must complete an Aging Management Review (AMR). The AMR must identify the applicable aging mechanisms for the equipment and demonstrate that aging effects from those mechanisms will be adequately managed to assure safe operation during the period of extended plant life. 10 C.F.R. § 54.21(a) (3). The details of the NRC guidance addressing AMRs are described in various NRC documents (see below). The AMR includes a review of plant and industry operating experience to identify potential aging effects applicable to the equipment, and evaluates existing aging management programs at the plant to assure that all in-scope equipment and all relevant aging effects will be managed. The AMR may also demonstrate the need for additional equipment inspections or additional aging management programs.

### **Time Limited Aging Analyses**

Plant equipment designs and licensing history must be reviewed to identify any time-limited aging analyses (TLAAs). 10 C.F.R. § 54.21(c) (1). TLAAs are defined in the NRC's regulations and essentially include any calculations or engineering evaluations for equipment within the scope of the rule that originally assumed a 40 year operating term and were relied upon by the NRC in its licensing actions. In other words, a TLAA is the calculation or evaluation that demonstrated that the equipment was adequate for the assumed operating life of the plant (40 years) without replacement. For each TLAA identified in the license renewal evaluation, the licensee must verify that the

analysis remains valid for 60 years; or that the analysis can be revised and projected for the period of extended operation; or that the effects of aging for the equipment involved will be managed (such as by surveillance, inspection, or replacement).

To meet NRC requirements, the licensee must also identify any exemptions from NRC regulations that were previously granted based on a time-limited aging analysis. For any such exemptions, the licensee must determine whether the exemption can be justified for the extended period of operation.

### **Environmental Report**

The licensee must also complete an environmental evaluation, documented in an Environmental Report, for plant-specific issues identified in NRC's regulations. 10 C.F.R. § 51.53(c) and Table B-1. This includes a requirement to identify and evaluate any "new and significant" environmental information since the plant began operation. 10 C.F.R. § 51.53(c)(3)(iv).

The LRFS necessarily involved performing much of the analytical and engineering work required by the NRC for a license renewal application. By completing an IPA, appropriate AMRs, a review of TLAAs and exemptions, and the environmental review for the NRC-defined scope of issues, PG&E has been able to evaluate the feasibility of operations during the period of extended operations and the feasibility of successful completion of the NRC licensing process. PG&E has concluded that it can and will meet NRC requirements and that it can demonstrate to the regulator and the public that the plant can be safely operated during the extended period of operations. Additionally, the NRC can conclude based on its generic and supplemental environmental evaluations for DCPD that the environmental impacts of renewing the Diablo Canyon operating licenses are not so great that preserving the option of continued operations for energy planning decision makers is reasonable.

Chapter 2 of testimony supporting this Application summarizes the LRFS and its results; Attachment 2.1 to Chapter 2 is the LRFS.

**VI. THE COSTS TO REPLACE DCCP ENERGY AND CAPACITY WITH ALTERNATIVE GENERATION RESOURCES SIGNIFICANTLY EXCEED THE COSTS TO EXTEND DIABLO CANYON OPERATIONS**

To evaluate the cost effectiveness of license renewal, PG&E examined the changes in costs to customers resulting from continuing Diablo Canyon operations versus shutting the Units down and replacing Diablo Canyon energy and capacity. The costs of continued operations include forecasted capital expenditures and operations and maintenance (O&M) expense. In addition to those forecasted costs, PG&E identified and included in its cost effectiveness analysis the cost of specific capital projects that may be necessary to continue plant operations if identified by the aging management and monitoring programs implemented as part of license renewal. The \$85 million cost estimate for the license renewal project for which PG&E requests recovery in this Application was also included as a cost of continued operation. In the alternate scenario, contemplating the shut down of the Units in 2024 and 2025, and replacement of Diablo Canyon energy and capacity, these forecast capital expenditures and O&M expenses and capital project costs would be avoided and are, therefore, reflected as a credit against replacement energy costs.

PG&E analyzed replacing DCCP energy and capacity with: new gas-fired combined cycle plants, energy efficiency programs, renewable generation, and coal-fueled integrated gasification combined cycle plants with carbon capture and sequestration. In order to avoid debate about the most likely cost of new generation alternatives, PG&E relied on public data from sources including the CEC's cost estimates of new generation technologies and the CPUC's 33% Renewable Portfolio Standard Calculator.

In all scenarios, continuing Diablo Canyon operations (assuming a 90 percent operating capacity factor) provides significant savings to PG&E customers, from a low of

\$3.5 billion to a high of \$16.3 billion.

## **VII. THE COMMISSION SHOULD ADOPT PG&E'S PROPOSED RATEMAKING AND COST RECOVERY PROPOSALS**

PG&E estimates the total cost to obtain the state and federal regulatory approvals related to renewal of the Diablo Canyon operating licenses at \$85 million, which PG&E expects to incur between June 2009 and December 2014. As described in Chapters 6 and 7, this \$85 million estimate includes the fees and costs of the NRC license renewal application process, including the NRC's safety, technical and environmental reviews, and the fees and costs associated with state review and approvals related to the NRC license renewal application, i.e. coastal consistency and environmental review, and the costs of implementing several of the recommendations made by the CEC its AB 1632 Report.<sup>3/</sup> The estimate also includes an estimate of project management costs, which reflect the cost of PG&E employees and outside consultants dedicated to completing the required tasks associated with processing the federal and state applications.

PG&E developed the cost estimates for the NRC process using benchmarking information provided through PG&E's participation in Strategic Teaming and Resource Sharing (STARS), a consortium of utilities each of whom own and operate a single nuclear power station and who act together to create operational efficiencies. As a member of STARS, PG&E has access to information that allows it to benchmark against the costs incurred by utilities similar to PG&E who have already been through, or are currently going through, the NRC license renewal process for their nuclear plants, e.g., Arizona Public Service Company's Palo Verde nuclear power plant.

PG&E developed the cost estimates for the coastal consistency and environmental review based on its recent experience obtaining coastal development permits for the Independent Spent Fuel Storage Installation and the Steam Generator Replacement project at Diablo Canyon. PG&E believes that these recent experiences with the

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<sup>3/</sup> <http://www.energy.ca.gov/2008publications/CEC-100-2008-009/CEC-100-2008-009-CMF.PDF>.

environmental and coastal review processes of San Luis Obispo County and the California Coastal Commission provide a good basis for estimating the cost if a similar processes is applied to license renewal.

Nevertheless, PG&E's ratemaking proposal reflects the inherent uncertainty associated with these processes, in particular the mitigation component of the state environmental process. Specifically, it is difficult to predict the cost of environmental mitigation measures that may be imposed by the state and local agencies who may assert authority over license renewal. Accordingly, in addition to its request that the Commission authorize a total cost estimate of \$85 million for the License Renewal project, PG&E requests that the Commission establish a Diablo Canyon License Renewal Environmental Mitigation Balancing Account in which PG&E would accrue and recover the actual costs of mitigating environmental impacts that are not included in the \$85 million cost estimate presented in this Application.

PG&E requests that the Commission adopt \$21.6 million as an initial revenue requirement for the DCPD License Renewal project. This amount will begin to accrue in the Utility Generation Balancing Account as of the day of the issuance of renewed licenses by the NRC, and will be included in rates at the beginning of the following year. PG&E also requests that the Commission adopt \$85 million as reasonable and prudent estimate of the initial capital cost of the License Renewal project, and that PG&E be allowed to recover in rates that actual cost of the License Renewal project without further review.

The \$21.6 million revenue requirement is based on recovery of the estimated initial capital costs. PG&E requests that it be able to request revisions to the initial capital cost estimate by advice letter in the event of a delay in the NRC decision to renew the DCPD operating licenses or for an increase related to new or modified regulatory requirements or other external events. In any event, PG&E will only collect revenues based on the actual cost of license renewal.

## VIII. THIS APPLICATION IS EXEMPT FROM CEQA REQUIREMENTS

The California Environmental Quality Act (“CEQA”) does not apply to this Application. First, the regulatory proceedings for which PG&E requests funding in this Application do not meet the definition of a “project” subject to CEQA. Second, regardless of whether those proceedings constitute a “project” under CEQA, these proceedings are statutorily exempt from CEQA review, pursuant to California Public Resources Code Section 21080(b)(8) for ratemaking, and are categorically exempt from CEQA, pursuant CEQA Guidelines Section 15301 for the maintenance of existing facilities.

### A. The License Renewal Regulatory Processes for which PG&E Requests Funding in this Application Do Not Constitute A “Project” Under CEQA.

PG&E’s ratemaking application to the CPUC does not meet the definition of a “project” under CEQA. CEQA applies only when a government agency considers a discretionary approval for a project. CEQA defines a “project” as:

an activity which may cause either a direct or physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and which is any of the following:

- (a) An activity which is directly undertaken by any public agency.
- (b) An activity by a person which is supported, in whole or in part, through contracts, grants, subsidies, loans or other forms of assistance from one or more public agencies.
- (c) An activity that involves the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.

(California Public Resources Code Section 21065.) A “project” is “the whole of an action”; “the term ‘project’ does not mean each separate governmental approval.”

(CEQA Guidelines Section 15378.)

PG&E’s request does not meet the threshold requirement of an activity that may

cause direct or indirect physical changes in the environment. Where the agency's action merely establishes its ability or, as is the case here, the ability of other agencies to take a later action that could affect the environment, but does not commit those later reviewing agencies to a definite course of action, that agency's action is not a "project" subject to CEQA.<sup>4/</sup> Because PG&E's request in this proceeding is limited to recovery of the costs for regulatory processes related to obtaining renewed operating licenses for Diablo Canyon, the CPUC decision on this Application will not affect whether the NRC or any state or local agency will ultimately grant those approvals. In short, CPUC action on this Application will not commit subsequent regulatory agencies to any definite course of action. Those other reviewing agencies would retain full discretion when reviewing PG&E's requests for extended operations to determine whether alternatives or mitigation must be analyzed in connection with those requests.

**B. The CPUC's Ratemaking Proceedings Are Exempt from CEQA.**

**1. Statutory Exemption**

Regardless of whether PG&E's cost recovery request is considered a "project" under CEQA, it nevertheless is statutorily exempt from CEQA. In enacting a statutory exemption from CEQA for ratemaking in 1978, the California legislature determined that the approval of rates by public agencies for the purpose of obtaining funds to maintain service within existing service areas should not be subject to CEQA review. Specifically, California Public Resources Code Section 21080(b)(8) provides that CEQA does not apply to:

The establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, or other charges by public agencies which the public agency finds are for the purpose of . . . (D) obtaining funds for capital projects necessary to maintain service within existing service areas . . .

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<sup>4/</sup> See *Kaufman & Broad v. Morgan Hill Unified School District*, (1992) 9 Cal.App.4<sup>th</sup> 464, citing to *Bozung v. Local Agency Formation Commission*, (1975) 13 Cal.3d 263; *Fullerton Joint Union High Sch. Dist. V. State Bd. Of Edu.* 32 C3d 779, 796 (1982).

(Emphasis added; *See also* CEQA Guidelines Section 15273(a)(4).) PG&E’s Application falls squarely within this exemption. PG&E is applying to the CPUC for an “approval of rates” for the purpose of recovering costs, or “obtaining funds,” for a “capital project,” i.e., seeking federal and state approvals to operate DCPD Units 1 and 2 for an additional twenty years. Furthermore, the ratemaking relates to PG&E’s request to “maintain service” for an additional twenty years only within “existing service areas.” PG&E’s ratemaking application satisfies all of the elements of Section 21080(b)(8) and therefore is statutorily exempt from CEQA.

## **2. Categorical Exemption**

The CPUC’s ratemaking proceedings also qualify for an “existing facilities” categorical exemption under CEQA. CEQA Guidelines Section 15301 provides an exemption for the:

operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency’s determination.

(Emphasis added.) Among the examples of existing facilities that are covered by this exemption are “[e]xisting facilities of both investor and publicly-owned utilities used to provide electric power, natural gas, sewerage, or other public utility services.” (CEQA Guidelines Section 15301(b).) The applicability of the statutory exemption for ratemaking proceedings supports the applicability of the “existing facilities” categorical exemption as well. Just as these proceedings are statutorily exempt from CEQA to allow for the approval of rates to “maintain service within existing service areas,” the approval of ratemaking to allow PG&E to obtain funds for the maintenance of existing public utility services where there is no expansion of use is likewise categorically exempt from CEQA.

The “existing facilities” categorical exemption is available even though DCPD did not undergo CEQA review prior to commencing operations. This is because DCPD did receive full environmental review by the Atomic Energy Commission (“AEC”), predecessor-in-interest to the current NRC, which prepared an environmental impact statement pursuant to the National Environmental Policy Act (“NEPA”) in connection with its original approval of the plant's construction and licensing. CEQA recognizes that federal NEPA review can be used to satisfy state CEQA review requirements and further discourages duplication between different levels of government. (*See* CEQA Guidelines Sections 15220 to 15229.)

As stated above, approval of ratemaking will not foreclose the ability of regulatory agencies with authority over DCPD’s extended operations to analyze environmental considerations associated with extended operations and to study alternatives and mitigation, as may be required.<sup>5/</sup>

## **IX. OVERVIEW OF PREPARED TESTIMONY**

PG&E’s prepared testimony in support of this Application consists of one Exhibit, PG&E-1. Exhibit (PG&E-1) consists of the following chapters:

Chapter 1: Introduction and Policy. This chapter summarizes all of the testimony supporting this Application and discusses the benefits of obtaining renewal operating licenses for Diablo Canyon.

Chapter 2: Diablo Canyon License Renewal Feasibility Study and Results. This chapter describes the safety, technical, environmental and economic analyses performed as part of the LRFS and summarizes the results. The LRFS itself is attached as Attachment 2.1.

Chapter 3: Ongoing Costs to Operate Diablo Canyon Power Plant. This chapter

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<sup>5/</sup> PG&E does not intend by this submission to waive any arguments available under California law that subsequent state and local discretionary approvals that may be required in connection with extended operations at DCPD are exempt from CEQA review.

presents a forecast of the base capital, O&M and fuel expense costs associated with operating Diablo Canyon during the period of extended operations. Additionally, this chapter presents a forecast of capital costs for capital projects above the forecasted base capital amounts. In addition to the \$85 million for the License Renewal project, these are the costs used in the cost effectiveness study presented in Chapter 5.

Chapter 4: Replacement Energy Costs. This chapter evaluates the cost of resource alternatives that could replace the energy and capacity produced by Diablo Canyon.

Chapter 5: Cost Effectiveness Study. This chapter compares the energy prices presented in Chapter 4 to the costs to operate Diablo Canyon during the period of extended operations.

Chapter 6: Nuclear Regulatory Commission (NRC) Process and Associated Costs. This chapter describes the NRC license renewal process and presents the License Renewal project cost estimate associated with the process.

Chapter 7: State Process and Associated Costs. This chapter describes the state environmental and coastal reviews that may be required in connection with the NRC issuing renewed operating licenses for Diablo Canyon.

Chapter 8: Revenue Requirement and Ratemaking Proposal. This chapter presents the annual revenue requirement and ratemaking proposal for the \$85 million cost estimate for the License Renewal project.

## **X. INFORMATION REQUIRED BY THE COMMISSION'S RULES OF PRACTICE AND PROCEDURE**

### **A. Statutory and Other Authority (Rule 2.1)**

PG&E files this Application pursuant to Sections 451 and 701 of the Public Utilities Code of the State of California, the Commission's Rules of Practice and Procedure, and prior decisions, orders and resolutions of the Commission.

**B. Legal Name and Principal Place of Business (Rule 2.1(a))**

The legal name of the Applicant is Pacific Gas and Electric Company. PG&E's principal place of business is 77 Beale Street, San Francisco, California 94105.

**C. Correspondence, Communications, and Service (Rule 2.1(b))**

All correspondence, communications, and service of papers regarding this Application should be directed to:

Jennifer K. Post  
Law Department  
PACIFIC GAS AND ELECTRIC COMPANY  
P.O. Box 7442  
San Francisco, CA 94120-7442  
Telephone: (415) 973-9809  
Facsimile: (415) 972-5952  
E-Mail: JLKm@pge.com

Frances Yee  
Operations Proceedings  
PACIFIC GAS AND ELECTRIC COMPANY  
P.O. Box 770000  
San Francisco, CA 94177-0001  
Telephone: (415) 973-6057  
Facsimile: (415) 973-6272  
E-Mail: FSC2@pge.com

**D. Categorization, Hearings, Issues, and Schedule (Rule 2.1(c))**

**1. Proposed Categorization**

PG&E proposes that this Application be categorized as a ratesetting proceeding.

**2. Need for Hearings**

PG&E anticipates that hearings will be requested. PG&E's proposed schedule is set forth in subsection 4 below.

**3. Issues to Be Considered**

The principal issues to be considered in this proceeding are:

(a) Is it cost effective and in the best interest of PG&E's customers to preserve the option to operate Diablo Canyon for an additional 20 years beyond the current expiration dates of the licenses for Units 1 and 2, which are 2024 and 2025, respectively?

(b) Is the proposed revenue requirement associated with obtaining the federal and state approvals necessary to preserve the option to operate Diablo Canyon for an additional 20 years just and reasonable and should the Commission authorize PG&E to reflect the adopted revenue requirement in rates?

**4. Procedural Schedule**

PG&E proposes the following procedural schedule:

Protests filed	March 3, 2010
Prehearing Conference	April 2, 2010
Scoping Memo	April 16, 2010
Parties' testimony	August 4, 2010
Rebuttal testimony	September 2, 2010
Evidentiary hearings	September 20, 2010]
Opening briefs	October 8, 2010
Reply briefs	October 22, 2010
Proposed decision	January 7, 2011
Comments on PD	January 27, 2011
Reply Comments on PD	February 4, 2011
Final Decision	February, 2011

**E. Articles of Incorporation (Rule 2.2)**

PG&E is, and since October 10, 1905, has been, an operating public utility corporation organized under California law. It is engaged principally in the business of furnishing electric and gas services in California. A certified copy of PG&E's Restated Articles of Incorporation, effective April 12, 2004, was filed with the Commission on May 3, 2004 with PG&E's Application 04-05-005. These articles are incorporated herein by reference.

**F. Authority to Increase Rates (Rule 3.2)**

This Application requests an increase in electric rates and is not a general rate increase application, so Rule 3.2 applies except for subsections (4), (6), (7), (8), and (9) of Rule 3.2(a).

**G. Balance Sheet and Income Statement (Rule 3.2(a)(1))**

PG&E's most current balance sheet and income statement were filed with the Commission on December 21, 2009, as part of PG&E's 2011 General Rate Case No. 09-12-020, and are incorporated herein by reference.

**H. Statement of Presently Effective Rates (Rule 3.2(a)(2))**

PG&E's presently effective electric rates were filed with the Commission on January 15, 2010, as part of PG&E's Diablo Seismic Studies Application No. 10-01-014,

and are incorporated herein by reference.

**I. Statement of Proposed Increases or Changes In Rates (Rule 3.2(a)(3))**

This statement is not required since the proposed changes in revenues do not exceed one percent.

**J. Summary of Earnings (Rule 3.2(a)(5))**

PG&E's recorded year 2008 revenues, expenses, rate base, and rate of return for PG&E's Electric Department were filed with the Commission on December 21, 2009, as part of PG&E's 2011 General Rate Case No. 09-12-020, and are incorporated herein by reference.

**K. Type of Rate Change Requested (Rule 3.2(a)(10))**

The rate changes sought in this Application reflect and pass through to customers only increased cost to PG&E for the services or commodities furnished by it.

**L. Notice to Governmental Entities (Rule 3.2(b))**

The list of governmental entities, including the State of California and cities and counties served by PG&E, to whom PG&E will mail a notice stating in general terms the proposed revenues, rate changes, and ratemaking mechanisms requested in this Application, within ten days of filing was filed with the Commission on December 21, 2009, as part of PG&E's 2011 General Rate Case No. 09-12-020, and is incorporated herein by reference.

**M. Publication (Rules 3.2(c))**

Within ten days of filing this Application PG&E will publish in newspapers of general circulation in each county in its service territory a notice of filing, and within ten days of publication PG&E will file proof of compliance.

**N. Notice to Customers (Rule 3.2(d))**

Within 45 days of filing this Application PG&E will include notices with the regular bills mailed to all customers affected by the proposed changes, and within ten days of mailing. PG&E will file proof of compliance.



## VERIFICATION

I, the undersigned, say:

I am an officer of PACIFIC GAS AND ELECTRIC COMPANY, a corporation, and am authorized to make this verification for and on behalf of said corporation, and I make this verification for that reason; I have read the foregoing Application and am informed and believe that the matters contained therein are true and on that ground I allege that the matters stated herein are true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at San Francisco, California, this 29<sup>th</sup> day of January 2010.

/s/ Jane Yura  
JANE YURA  
VICE PRESIDENT – Regulation and Rates

CERTIFICATE OF SERVICE BY ELECTRONIC MAIL OR U.S. MAIL

I, the undersigned, state that I am a citizen of the United States and am employed in the City and County of San Francisco; that I am over the age of eighteen (18) years; and that my business address is Pacific Gas and Electric Company, Law Department, 77 Beale Street - B30A, San Francisco, CA 94105.

I am readily familiar with the business practice of Pacific Gas and Electric Company for collection and processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, correspondence is deposited with the United States Postal Service the same day it is submitted for mailing.

On the 29<sup>th</sup> day of January, 2010, I served a true copy of:

**APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY (U 39 E)**

**[XX]** By Electronic Mail – serving the enclosed via e-mail transmission to each of the parties listed on the official service list for A.05-12-002 and I.06-03-003 with an e-mail address.

**[XX]** By U.S. Mail – by placing the enclosed for collection and mailing, in the course of ordinary business practice, with other correspondence of Pacific Gas and Electric Company, enclosed in a sealed envelope, with postage fully prepaid, addressed to those parties listed on the official service lists for A.05-12-002 and I.06-03-003 without an e-mail address.

I certify and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 29<sup>th</sup> day of January, 2010 at San Francisco, California.

/s/ Amy S. Yu

\_\_\_\_\_  
AMY S. YU

# THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA SERVICE LIST

Last Updated: January 6, 2010

## CPUC DOCKET NO. A0512002/I0603003

Total number of addressees: 95

CASE COORDINATION  
**PACIFIC GAS AND ELECTRIC COMPANY**  
PO BOX 770000; MC B9A  
SAN FRANCISCO CA 94177  
Email: regrelcpuccases@pge.com  
Status: INFORMATION

GRANT GUERRA ATTORNEY  
**PACIFIC GAS AND ELECTRIC COMPANY**  
77 BEALE ST, RM 3171, B30A  
SAN FRANCISCO CA 94105  
Email: gxgw@pge.com  
Status: INFORMATION

PETER P. VAN MIEGHEM LAW DEPARTMENT  
**PACIFIC GAS AND ELECTRIC COMPANY**  
PO BOX 7442 / 77 BEALE ST, RM 3107  
SAN FRANCISCO CA 94120  
Email: ppv1@pge.com  
Status: INFORMATION

KAREN TERRANOVA  
**ALCANTAR & KAHL, LLP**  
33 NEW MONTGOMERY ST, STE 1850  
SAN FRANCISCO CA 94105  
Email: filings@a-klaw.com  
Status: INFORMATION

DELETTE OLBERG CHIEF OF STAFF  
**ASSEMBLYMAN SAM BLAKESLEE**  
STATE CAPITOL, RM 5158  
SACRAMENTO CA 95814  
Email: delette.olberg@asm.ca.gov  
Status: INFORMATION

**CALIFORNIA ENERGY MARKETS**  
425 DIVISADERO ST., STE 303  
SAN FRANCISCO CA 94117  
Email: cem@newsdata.com  
Status: INFORMATION

TANYA GULESSERIAN  
**ADAMS BROADWELL JOSEPH & CARDOZO**  
601 GATEWAY BLVD., STE 1000  
SOUTH SAN FRANCISCO CA 94080  
FOR: Coalition of California Utility Employees  
Email: mdjoseph@adamsbroadwell.com  
Status: INFORMATION

ROOM FILE  
**PACIFIC GAS AND ELECTRIC COMPANY**  
PO BOX 7442  
SAN FRANCISCO CA 94120-7442  
Email: lawcpuccases@pge.com  
Status: INFORMATION

DEBORAH S. SHEFLER LAW DEPARTMENT B30A  
**PACIFIC GAS AND ELECTRIC COMPANY**  
77 BEALE ST., RM 3105 , PO BOX 7442  
SAN FRANCISCO CA 94120  
Email: dss8@pge.com  
Status: INFORMATION

DAVID MARCUS  
**ADAMS BROADWELL & JOSEPH**  
PO BOX 1287  
BERKELEY CA 94701  
Email: dmarcus2@sbcglobal.net  
Status: INFORMATION

JOHN R. REDDING  
**ARCTURUS ENERGY CONSULTING**  
44810 ROSEWOOD TERRACE  
MENDOCINO CA 95460  
Email: johnredding@earthlink.net  
Status: INFORMATION

REED V. SCHMIDT  
**BARTLE WELLS ASSOCIATES**  
1889 ALCATRAZ AVE  
BERKELEY CA 94703-2714  
Email: rschmidt@bartlewells.com  
Status: INFORMATION

KAREN LINDH  
**CALIFORNIA ONSITE GENERATION**  
7909 WALERGA ROAD, NO. 112, PMB 119  
ANTELOPE CA 95843  
Email: karen@klindh.com  
Status: INFORMATION

JUDY PAU  
**DAVIS WRIGHT TREMAINE LLP**  
505 MONTGOMERY ST, STE 800  
SAN FRANCISCO CA 94111-6533  
Email: judypau@dwt.com  
Status: INFORMATION

# THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA SERVICE LIST

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## CPUC DOCKET NO. A0512002/I0603003

Total number of addressees: 95

CLARENCE BINNINGER DEPUTY ATTORNEY GENERAL  
**DEPARTMENT OF JUSTICE**  
455 GOLDEN GATE AVE, STE 11000  
SAN FRANCISCO CA 94102  
Email: clarence.binninger@doj.ca.gov  
Status: INFORMATION

WENDY L. ILLINGWORTH  
**ECONOMIC INSIGHTS**  
320 FEATHER LANE  
SANTA CRUZ CA 95060  
Email: wendy@econinsights.com  
Status: INFORMATION

CAROLYN KEHREIN  
**ENERGY MANAGEMENT SERVICES**  
2602 CELEBRATION WAY  
WOODLAND CA 95776  
Email: cmkehrein@ems-ca.com  
Status: INFORMATION

JACK LYNCH  
600 SELKIRK RANCH ROAD  
ANGELS CAMP CA 95222  
Email: jackplynch@sbglobal.net  
Status: INFORMATION

DAVID WHITE  
**GAS TRANSMISSION NORTHWEST**  
1400 SW FIFTH AVE.  
PORTLAND OR 97201  
Email: david\_white@transcanada.com  
Status: INFORMATION

RAJ N. PANKHANIA  
**HERCULES MUNICIPAL UTILITY**  
111 CIVIC DRIVE  
HERCULES CA 94547  
Email: raj.pankhania@ci.hercules.ca.us  
Status: INFORMATION

RICHARD MC CANN  
**M.CUBED**  
2655 PORTAGE BAY ROAD, STE 3  
DAVIS CA 95616  
Email: rmccann@umich.edu  
Status: INFORMATION

DAVID BEYER  
**EAST BAY MUNICIPAL UTILITY DISTRICT**  
375 11TH ST  
OAKLAND CA 94607  
Email: dbeyer@ebmud.com  
Status: INFORMATION

GREGGORY L. WHEATLAND ATTORNEY  
**ELLISON, SCHNEIDER & HARRIS, LLP**  
2600 CAPITOL AVE, STE 400  
SACRAMENTO CA 95816-5905  
Email: glw@eslawfirm.com  
Status: INFORMATION

KEVIN J. SIMONSEN  
**ENERGY MANAGEMENT SERVICES**  
646 EAST THIRD AVE  
DURANGO CO 81301  
Email: kjsimonsen@ems-ca.com  
Status: INFORMATION

BEVIN HONG  
**GAS TRANSMISSION NOROTHWEST CORPORATION**  
43 WOODLAND CT.  
SAN RAMON CA 94583  
Email: bevin\_hong@transcanada.com  
Status: INFORMATION

KENECHUKWU OKOCHA  
**THE GREENLINING INSTITUTE**  
1918 UNIVERSITY AVE, 2ND FLR  
BERKELEY CA 94704  
FOR: Greenlining Institute  
Email: kenechukwu@greenlining.org  
Status: INFORMATION

ROGER LEVY  
**LEVY AND ASSOCIATES**  
2805 HUNTINGTON ROAD  
SACRAMENTO CA 95864  
Email: roger147@aol.com  
Status: INFORMATION

RANDALL W. KEEN ATTORNEY  
**MANATT, PHELPS & PHILLIPS, LLP**  
11355 WEST OLYMPIC BLVD  
LOS ANGELES CA 90064  
Email: rkeen@manatt.com  
Status: INFORMATION

# THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA SERVICE LIST

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## CPUC DOCKET NO. A0512002/I0603003

Total number of addressees: 95

SUSIE BERLIN ATTORNEY  
**MC CARTHY & BERLIN, LLP**  
100 W SAN FERNANDO ST., STE 501  
SAN JOSE CA 95113  
Email: sberlin@mccarthyllaw.com  
Status: INFORMATION

**MRW & ASSOCIATES, INC.**  
1814 FRANKLIN ST, STE 720  
OAKLAND CA 94612  
Email: mrw@mrwassoc.com  
Status: INFORMATION

ANNADEL ALMENDRAS  
**OFFICE OF THE ATTORNEY GENERAL**  
455 GOLDEN GATE AVE, STE 11000  
SAN FRANCISCO CA 94102  
Email: annadel.almendras@doj.ca.gov  
Status: INFORMATION

KEITH MELVILLE ATTORNEY  
**SAN DIEGO GAS & ELECTRIC COMPANY**  
101 ASH ST, HQ 13D  
SAN DIEGO CA 92112  
Email: KMelville@sempra.com  
Status: INFORMATION

BRUCE FOSTER SENIOR VICE PRESIDENT  
**SOUTHERN CALIFORNIA EDISON COMPANY**  
601 VAN NESS AVE, STE. 2040  
SAN FRANCISCO CA 94102  
Email: bruce.foster@sce.com  
Status: INFORMATION

ANDREW E. STEINBERG REGULATORY CASE  
MANAGER  
**SOUTHERN CALIFORNIA GAS CO.**  
555 W. FIFTH ST, GT 14D6  
LOS ANGELES CA 90013-1034  
Email: asteinberg@semprautilities.com  
Status: INFORMATION

CASE ADMINISTRATION  
**SOUTHERN CALIFORNIA EDISON COMPANY**  
2244 WALNUT GROVE AVE.  
ROSEMEAD CA 91770  
FOR: SOUTHERN CALIFORNIA EDISON COMPANY  
Email: case.admin@sce.com  
Status: INFORMATION

THOMAS S KIMBALL  
**MODESTO IRRIGATION DISTRICT**  
1231 11TH ST  
MODESTO CA 95352-4060  
Email: tomk@mid.org  
Status: INFORMATION

MARTIN A. MATTES ATTORNEY  
**NOSSAMAN, LLC**  
50 CALIFORNIA ST, 34TH FLR  
SAN FRANCISCO CA 94111-4799  
Email: mmattes@nossaman.com  
Status: INFORMATION

JAYNE BATTEY  
**PACIFIC FOREST AND WATERSHED LANDS STEWA**  
303 VINTAGE PARK DRIVE, STE 150  
FOSTER CITY CA 94404  
Email: jbattey@stewardshipcouncil.org  
Status: INFORMATION

MORGAN RAFFERTY  
**SAN LUIS OBISPO MOTHERS FOR PEACE**  
PO BOX 164  
PISMO BEACH CA 93448  
Email: mrafferty805@charter.net  
Status: INFORMATION

JAMES M. LEHRER SENIOR ATTORNEY  
**SOUTHERN CALIFORNIA EDISON COMPANY**  
2244 WALNUT GROVE AVE  
ROSEMEAD CA 91770  
Email: james.lehrer@sce.com  
Status: INFORMATION

RUSSELL G. WORDEN DIRECTOR  
**SOUTHERN CALIFORNIA EDISON COMPANY**  
2244 WALNUT GROVE AVE  
ROSEMEAD CA 91770  
Email: russell.worden@sce.com  
Status: INFORMATION

DAN GEIS  
**THE DOLPHIN GROUP**  
925 L ST, STE 800  
SACRAMENTO CA 95814  
Email: dgeis@dolphingroup.org  
Status: INFORMATION

# THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA SERVICE LIST

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## CPUC DOCKET NO. A0512002/I0603003

Total number of addressees: 95

ROBERT GNAIZDA POLICY DIRECTOR/GENERAL  
COUNSEL

**THE GREENLINING INSTITUTE**  
1918 UNIVERSITY AVE, SECOND FLR  
BERKELEY CA 94704  
FOR: THE GREENLINING INSTITUTE  
Email: robertg@greenlining.org  
Status: INFORMATION

MICHAEL KERKORIAN  
**UTILITY COST MANAGEMENT LLC**  
6475 N. PALM AVE., STE 105  
FRESNO CA 93704  
Email: mk@utilitycostmanagement.com  
Status: INFORMATION

ROBERT RATHIE  
**WELLINGTON LAW OFFICE**  
857 CASS ST, STE D  
MONTEREY CA 93940  
Email: attys@wellingtonlaw.com  
Status: INFORMATION

Paul Angelopulo  
**CALIF PUBLIC UTILITIES COMMISSION**  
LEGAL DIVISION  
505 VAN NESS AVE RM 4107  
SAN FRANCISCO CA 94102-3214  
Email: pfa@cpuc.ca.gov  
Status: PARTY

Laura J. Tudisco  
**CALIF PUBLIC UTILITIES COMMISSION**  
LEGAL DIVISION  
505 VAN NESS AVE RM 5032  
SAN FRANCISCO CA 94102-3214  
Email: ljt@cpuc.ca.gov  
Status: PARTY

JAMES WEIL DIRECTOR  
**AGLET CONSUMER ALLIANCE**  
PO BOX 1916  
SEBASTOPOL CA 95473  
FOR: Aglet Consumer Alliance  
Email: jweil@aglet.org  
Status: PARTY

RONALD LIEBERT ATTORNEY  
**CALIFORNIA FARM BUREAU FEDERATION**  
2300 RIVER PLAZA DRIVE  
SACRAMENTO CA 95833  
FOR: California Farm Bureau Federation  
Email: rliebert@cxbf.com  
Status: PARTY

MICHAEL SHAMES  
**UTILITY CONSUMERS ACTION NETWORK**  
3100 FIFTH AVE, STE B  
SAN DIEGO CA 92103  
Email: mshames@ucan.org  
Status: INFORMATION

PAUL KERKORIAN  
**UTILITY COST MANAGEMENT, LLC**  
6475 N PALM AVE., STE. 105  
FRESNO CA 93704  
FOR: UTILITY COST MANAGEMENT LLC  
Email: pk@utilitycostmanagement.com  
Status: INFORMATION

PATRICK G. GOLDEN ATTORNEY  
**PACIFIC GAS AND ELECTRIC COMPANY**  
77 BEALE ST, MAIL CODE B30A  
SAN FRANCISCO CA 94105  
FOR: Pacific Gas and Electric Company  
Email: pgg4@pge.com  
Status: PARTY

Gregory Heiden  
**CALIF PUBLIC UTILITIES COMMISSION**  
LEGAL DIVISION  
505 VAN NESS AVE RM 5039  
SAN FRANCISCO CA 94102-3214  
Email: gxh@cpuc.ca.gov  
Status: PARTY

PETER W. HANSCHEN ATTORNEY  
**MORRISON & FOERSTER, LLP**  
101 YGNACIO VALLEY ROAD, STE 450  
WALNUT CREEK CA 94596  
FOR: AECA  
Email: phansch@mofo.com  
Status: PARTY

ROCHELLE BECKER EXECUTIVE DIRECTOR  
**ALLIANCE FOR NUCLEAR RESPONSIBILITY**  
PO BOX 1328  
SAN LUIS OBISPO CA 93406  
FOR: Alliance for Nuclear Responsibility  
Email: rochelle@a4nr.org  
Status: PARTY

ROBERT NEENAN  
**CALIFORNIA LEAGUE OF FOOD PROCESSORS**  
1755 CREEKSIDE OAKS DRIVE, STE 250  
SACRAMENTO CA 95833  
FOR: California League of Food Processors  
Email: rob@clfp.com  
Status: PARTY

# THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA SERVICE LIST

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KEITH R. MCCREA ATTORNEY  
**SUTHERLAND, ASBILL & BRENNAN, LLP**  
1275 PENNSYLVANIA AVE., NW  
WASHINGTON DC 20004-2415  
FOR: California Manufacturers & Technology Association  
Email: keith.mccrea@sablaw.com  
Status: PARTY

STEPHEN A.S. MORRISON ATTORNEY  
**CITY AND COUNTY OF SAN FRANCISCO**  
1 DR. CARLTON B. GOODLETT PLACE, RM 234  
SAN FRANCISCO CA 94102-4682  
FOR: City and County of San Francisco  
Status: PARTY

JAMES ROSS  
**RCS, INC.**  
500 CHESTERFIELD CENTER, STE 320  
CHESTERFIELD MO 63017  
FOR: Cogeneration Association of California  
Email: jimross@r-c-s-inc.com  
Status: PARTY

DAVID FORKEL  
**DELTA WETLANDS PROJECT**  
1660 OLYMPIC BLVD., STE 350  
WALNUT CREEK CA 94596  
FOR: Delta Wetlands Properties  
Email: dforkel@deltawetlands.com  
Status: PARTY

KARLA GILBRIDE  
**DISABILITY RIGHTS ADVOCATES**  
2001 CENTER ST, 3RD FLR  
BERKELEY CA 94704-1204  
FOR: Disability Rights Advocates  
Email: pucservice@dralegal.org  
Status: PARTY

NORA SHERIFF ATTORNEY  
**ALCANTAR & KAHL, LLP**  
33 NEW MONTGOMERY ST, STE 1850  
SAN FRANCISCO CA 94015  
FOR: Energy Producers & Users Coalition  
Email: nes@a-klaw.com  
Status: PARTY

S. NANCY WHANG ATTORNEY  
**MANATT, PHELPS & PHILLIPS, LLP**  
11355 WEST OLYMPIC BLVD.  
LOS ANGELES CA 90064  
FOR: Gas Transmission Northwest Corp.  
Email: nwhang@manatt.com  
Status: PARTY

JAMES D. SQUERI ATTORNEY  
**GOODIN, MACBRIDE, SQUERI, DAY & LAMPREY**  
505 SANSOME ST, STE 900  
SAN FRANCISCO CA 94111  
FOR: California Retailers Association  
Email: jsqueri@gmssr.com  
Status: PARTY

MARC D. JOSEPH ATTORNEY  
**ADAMS, BROADWELL, JOSEPH & CARDOZO**  
601 GATEWAY BLVD., STE. 1000  
SOUTH SAN FRANCISCO CA 94080  
FOR: Coalition of California Utility Employees  
Email: mdjoseph@adamsbroadwell.com  
Status: PARTY

PETER J. KIEL  
**ELLISON, SCHNEIDER & HARRIS L.L.P.**  
2600 CAPITOL AVE, STE 400  
SACRAMENTO CA 95816-5905  
FOR: Delta Wetlands Properties  
Email: pjke@eslawfirm.com  
Status: PARTY

MELISSA W. KASNITZ ATTORNEY  
**DISABILITY RIGHTS ADVOCATES**  
2001 CENTER ST, FOURTH FLR  
BERKELEY CA 94704-1204  
Email: pucservice@dralegal.org  
Status: PARTY

LYNN HAUG ATTORNEY  
**ELLISON, SCHNEIDER & HARRIS, LLP**  
2600 CAPITOL AVE, STE 400  
SACRAMENTO CA 95816-5905  
FOR: East Bay Municipal Utility District  
Email: lmh@eslawfirm.com  
Status: PARTY

NORMAN J. FURUTA ATTORNEY  
**FEDERAL EXECUTIVE AGENCIES**  
1455 MARKET ST., STE 1744  
SAN FRANCISCO CA 94103-1399  
FOR: Federal Executive Agencies  
Email: norman.furuta@navy.mil  
Status: PARTY

DAVID L. HUARD  
**MANATT, PHELPS & PHILLIPS, LLP**  
ONE EMBARCADERO CENTER, STE 2900  
SAN FRANCISCO CA 94111-3736  
FOR: Gas Transmission Northwest Corporation  
Email: dhuard@manatt.com  
Status: PARTY

# THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA SERVICE LIST

Last Updated: January 6, 2010

## CPUC DOCKET NO. A0512002/I0603003

Total number of addressees: 95

JOY A. WARREN REGULATORY ADMINISTRATOR  
**MODESTO IRRIGATION DISTRICT**  
1231 11TH ST  
MODESTO CA 95354  
FOR: Modesto Irrigation District  
Email: joyw@mid.org  
Status: PARTY

CLYDE S. MURLEY  
**INDEPENDENT CONSULTANT**  
1031 ORDWAY ST  
ALBANY CA 94706  
FOR: San Luis Obispo Mothers for Peace  
Email: clyde.murley@comcast.net  
Status: PARTY

JEFFREY P. GRAY ATTORNEY  
**DAVIS WRIGHT TREMAINE, LLP**  
505 MONTGOMERY ST, STE 800  
SAN FRANCISCO CA 94111-6533  
FOR: South San Joaquin Irrigation District  
Email: jeffgray@dwt.com  
Status: PARTY

FRANCIS MCNULTY ATTORNEY  
**SOUTHERN CALIFORNIA EDISON COMPANY**  
2244 WALNUT GROVE AVE  
ROSEMEAD CA 91770  
Email: francis.mcnulty@sce.com  
Status: PARTY

ROBERT FINKELSTEIN LITIGATION DIRECTOR  
**THE UTILITY REFORM NETWORK**  
115 SANSOME ST, STE 900  
SAN FRANCISCO CA 94104  
Email: bfinkelstein@turn.org  
Status: PARTY

MARCEL HAWIGER ENERGY ATTORNEY  
**THE UTILITY REFORM NETWORK**  
115 SANSOME ST, STE 900  
SAN FRANCISCO CA 94104  
FOR: TURN  
Email: marcel@turn.org  
Status: PARTY

DONALD BROOKHYSER ATTORNEY  
**ALCANTAR & KAHL LLP**  
1300 S.W. 5TH AVE, STE 1750  
PORTLAND OR 97201  
FOR: Western States Petroleum Association  
Email: deb@a-klaw.com  
Status: PARTY

ANN L. TROWBRIDGE ATTORNEY  
**DAY CARTER MURPHY LLC**  
3620 AMERICAN RIVER DRIVE, STE 205  
SACRAMENTO CA 95864  
FOR: Sacramento Municipal Utility District/Merced Irrigation  
Email: atrowbridge@daycartermurphy.com  
Status: PARTY

JOHNNY PONG  
**SEMPRA ENERGY**  
555 WEST FIFTH ST NO. 1400  
LOS ANGELES CA 90013-1011  
Email: jpong@sempra.com  
Status: PARTY

EDWARD W. O'NEILL ATTORNEY  
**DAVIS WRIGHT TREMAINE, LLP**  
505 MONTGOMERY ST, STE 800  
SAN FRANCISCO CA 94111-6533  
FOR: South San Joaquin Irrigation District  
Email: edwardoneill@dwt.com  
Status: PARTY

MICHAEL ROCHMAN MANAGING DIRECTOR  
**SPURR**  
1430 WILLOW PASS ROAD, STE 240  
CONCORD CA 94520  
FOR: SPURR  
Email: Service@spurr.org  
Status: PARTY

HAYLEY GOODSON ATTORNEY  
**THE UTILITY REFORM NETWORK**  
115 SANSOME ST, STE 900  
SAN FRANCISCO CA 94104  
FOR: TURN  
Email: hayley@turn.org  
Status: PARTY

GAYATRI SCHILBERG  
**JBS ENERGY**  
311 D ST, STE A  
WEST SACRAMENTO CA 95605  
FOR: TURN  
Email: gayatri@jbsenergy.com  
Status: PARTY

Nilgun Atamturk  
**CALIF PUBLIC UTILITIES COMMISSION**  
POLICY & PLANNING DIVISION  
505 VAN NESS AVE RM 5119  
SAN FRANCISCO CA 94102-3214  
Email: nil@cpuc.ca.gov  
Status: STATE-SERVICE

# THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA SERVICE LIST

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## CPUC DOCKET NO. A0512002/I0603003

Total number of addressees: 95

Timothy Kenney  
**CALIF PUBLIC UTILITIES COMMISSION**  
DIVISION OF ADMINISTRATIVE LAW JUDGES  
505 VAN NESS AVE RM 5021  
SAN FRANCISCO CA 94102-3214  
Email: tim@cpuc.ca.gov  
Status: STATE-SERVICE

Amy C. Yip-Kikugawa  
**CALIF PUBLIC UTILITIES COMMISSION**  
EXECUTIVE DIVISION  
505 VAN NESS AVE RM 2106  
SAN FRANCISCO CA 94102-3214  
Email: ayk@cpuc.ca.gov  
Status: STATE-SERVICE

Donald J. Lafrenz  
**CALIF PUBLIC UTILITIES COMMISSION**  
ENERGY DIVISION  
505 VAN NESS AVE AREA 4-A  
SAN FRANCISCO CA 94102-3214  
FOR: Energy Division  
Email: dlf@cpuc.ca.gov  
Status: STATE-SERVICE

Laura A. Martin  
**CALIF PUBLIC UTILITIES COMMISSION**  
ENERGY DIVISION  
505 VAN NESS AVE AREA 4-A  
SAN FRANCISCO CA 94102-3214  
FOR: Energy Division  
Email: lra@cpuc.ca.gov  
Status: STATE-SERVICE

Laura Lei Strain  
**CALIF PUBLIC UTILITIES COMMISSION**  
ENERGY DIVISION  
320 WEST 4TH ST STE 500  
LOS ANGELES CA 90013  
FOR: Energy Division  
Email: lls@cpuc.ca.gov  
Status: STATE-SERVICE

RON WETHERALL ELECTRICITY ANALYSIS OFFICE  
**CALIFORNIA ENERGY COMMISSION**  
1516 9TH ST MS 20  
SACRAMENTO CA 96814-5512  
Email: rwetherall@energy.state.ca.us  
Status: STATE-SERVICE

Bernard Ayanruoh  
**CALIF PUBLIC UTILITIES COMMISSION**  
ENERGY COST OF SERVICE & NATURAL GAS BRANCH  
505 VAN NESS AVE RM 4205  
SAN FRANCISCO CA 94102-3214  
FOR: DRA  
Email: ben@cpuc.ca.gov  
Status: STATE-SERVICE

Truman L. Burns  
**CALIF PUBLIC UTILITIES COMMISSION**  
ENERGY COST OF SERVICE & NATURAL GAS BRANCH  
505 VAN NESS AVE RM 4102  
SAN FRANCISCO CA 94102-3214  
FOR: DRA  
Email: txb@cpuc.ca.gov  
Status: STATE-SERVICE

Robert M. Pocta  
**CALIF PUBLIC UTILITIES COMMISSION**  
ENERGY COST OF SERVICE & NATURAL GAS BRANCH  
505 VAN NESS AVE RM 4205  
SAN FRANCISCO CA 94102-3214  
FOR: DRA  
Email: rmp@cpuc.ca.gov  
Status: STATE-SERVICE

Rashid A. Rashid  
**CALIF PUBLIC UTILITIES COMMISSION**  
LEGAL DIVISION  
505 VAN NESS AVE RM 4107  
SAN FRANCISCO CA 94102-3214  
FOR: DRA  
Email: rhd@cpuc.ca.gov  
Status: STATE-SERVICE

Clayton K. Tang  
**CALIF PUBLIC UTILITIES COMMISSION**  
ENERGY COST OF SERVICE & NATURAL GAS BRANCH  
505 VAN NESS AVE RM 4205  
SAN FRANCISCO CA 94102-3214  
FOR: DRA  
Email: ckt@cpuc.ca.gov  
Status: STATE-SERVICE