

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

ENERGY DIVISION

RESOLUTION E-4307  
February 25, 2010

**R E S O L U T I O N**

**Resolution E-4307. Pacific Gas and Electric Company [PG&E].**

**PROPOSED OUTCOME:** President of California Public Utilities Commission [the Commission] has reviewed the applications of candidates for the July 1, 2010 vacancy at the Diablo Canyon Independent Safety Committee [Safety Committee] and selected Arnold Gundersen and Robert Budnitz for consideration by the appointing authority, the Attorney General of California.

**ESTIMATED COST:** None.

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

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**SUMMARY**

This Resolution confirms the Commission President's selection of Robert Budnitz and Arnold Gundersen for consideration by the Attorney General of California for appointment to the July 1, 2010 vacancy on the Safety Committee.

**BACKGROUND**

**The Safety Committee independently monitors the operations of PG&E's Diablo Canyon nuclear generation plant [Diablo Canyon].**

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 station 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 thus charged to PG&E's ratepayers [D.88-12-083, Appendix 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.88-12-083,

Appendix C, Attachment A]. 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, Exhibit B of which was their proposed *restated* charter. The Commission adopted the modified charter in D.07-01-028, dated January 25, 2007. [See Attachment 1, Exhibit B]

Section 1.B of the new charter concerns appointments of the Committee members. It states that candidates for the Committee membership shall be selected from those applicants responding to an open request for application. The incumbent member whose term is about to expire shall be deemed an applicant 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 2010 Safety Committee vacancy.**

On October 5, 2009 the Energy Division posted on the Commission website an announcement seeking applicants for the July 1, 2010 vacancy on the Safety Committee. It received applications from Robert Budnitz [the incumbent] and Arnold Gundersen.

After evaluating their qualifications, the Energy Division, on November 16, 2009 posted on the Commission website, for public comment, a summary of the applicants' credentials 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 2010 Committee vacancy.**

The following sent their written support of Mr. Gundersen.

1. Rochelle Becker, Executive Director, Alliance for Nuclear Responsibility, San Luis Obispo, CA.

2. Ernest Goitein, Atherton, CA.
3. Jane Swanson, Spokesperson, San Luis Obispo Mothers for Peace.  
Pismo Beach, CA.
4. Fred Frank, Atascadero, CA.
5. Peter Bradford, former Commissioner US Nuclear Regulatory  
Commission, now Professor at Vermont Law School, Peru, VT.
6. Peter Shumlin, Vermont Senate President Pro Tem, Montpelier, VT.

The Safety Committee charter authorizes the Commission President to recommend to the Attorney General of California, who is the appointing authority for the 2010 vacancy, up to three qualified candidates, in addition to the incumbent member. The Attorney General is to select one from among them to occupy the vacancy on the Safety Committee.

The President of the Commission has chosen the aforementioned two candidates for recommendation to the Attorney General.

The purpose of this resolution is to evaluate and confirm the selection according to D.07-01-028, Exhibit B, Attachment 1, Section 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. Copies of the draft resolution were sent to the applicants and those who commented on their qualifications.

## **DISCUSSION**

Energy Division has reviewed the qualifications of Arnold Gundersen and Robert Budnitz. Appendix A to this resolution contains a summary of their curriculum vitae prepared by the Energy Division staff.

**Budnitz and Gundersen are qualified candidates.**

Both candidates have indicated their willingness to serve on the Safety Committee if confirmed, as shown in their applications' declarations. The 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 Budnitz and Gundersen and recommend them to the Attorney General of California as qualified appointees to the Safety Committee.

**COMMENTS**

PU Code section 311(g) (1) generally provides that draft resolution be subject to at least 30-day public review and comment prior to a vote of the Commission. Accordingly, on January 11, 2009, this draft resolution was made available for comment by sending it to the two candidates, to those submitting comments on the candidates, and to those on the service list in A.06-10-024.

No comments were received on Resolution E-4307.

**FINDINGS AND CONCLUSION**

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 appointments of Safety Committee members.

4. On October 5, 2009, in compliance with D.07-01-028, the Energy Division announced the July 2010 vacancy on the Safety Committee, inviting applications for the position.
5. Robert Budnitz [the incumbent] and Arnold Gundersen responded to the announcement.
6. The two applicants are qualified candidates and have no conflicts of interest.
7. The qualifications of the candidates were put on the Commission website for public comment on November 16, 2009. Six interested individuals sent their comments in support of Arnold Gundersen.
8. The President of the Commission has chosen the two candidates as his nominees for consideration by the Attorney General of California for appointment to the July 2010 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 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 Robert Budnitz and Arnold Gundersen as qualified candidates for consideration by the Attorney General of California for appointment to the July 1, 2010 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 February 25, 2010; the following Commissioners voting favorably thereon:

/s/ Paul Clanon

Paul Clanon  
Executive Director

MICHAEL R. PEEVEY  
PRESIDENT  
DIAN M. GRUENEICH  
JOHN A. BOHN  
TIMOTHY ALAN SIMON  
NANCY E. RYAN  
Commissioners

## **Appendix A**

### Summary of the Candidates' Qualifications

#### **Arnold Gundersen**

Since 1970 Arnold Gundersen has been an expert witness in nuclear litigation in 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, and Peach Bottom Nuclear Power Plant Litigation. He has also testified on nuclear matters in Czech Republic.

Mr. Gundersen is currently with Fairewinds Associates, Inc., where he has been a nuclear engineering safety and reliability expert since 1990.

From 1979 to 1990, Mr. Gundersen was with Nuclear Energy Services, a Division of PCC [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. In 1971, he earned a B.S. [Cum Laude] in Nuclear Engineering. He earned a Master of Engineering in Nuclear Engineering, on a U.S. Atomic Energy Commission Fellowship, in 1972. He is a licensed Reactor Operator. Mr. Gundersen resides in Burlington, Vermont.

#### **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. He 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. 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.

From 2005 to late 2007, he was with the 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. Since fall 2007, he has been with the Lawrence Berkeley National Laboratory, University of California, Berkeley.

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 scientific organizations.

Mr. Budnitz is currently serving his 3-year term as a DCISC member. His term will expire on July 1, 2010. He has applied for reappointment to the position. He lives in Berkeley, California.