

Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these

requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's PDR, located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike, Rockville, Maryland, by the above date. Because of continuing disruptions in delivery of mail to United States Government offices, it is requested that petitions for leave to intervene and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301-415-1101 or by e-mail to [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov). A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and because of continuing disruptions in delivery of mail to United States Government offices, it is requested that copies be transmitted either by means of facsimile transmission to 301-415-3725 or by e-mail to [OGCMailCenter@nrc.gov](mailto:OGCMailCenter@nrc.gov). A copy of the request for hearing and petition for leave to intervene should also be sent to William D. Johnson, Vice President and Corporate Secretary, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North

Carolina 27602, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated January 16, 2003, which is available for public inspection at the Commission's PDR, located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike, Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC web site <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

Dated at Rockville, MD, this 17th day of January 2003.

For the Nuclear Regulatory Commission.

**Chandu P. Patel,**

*Project Manager, Section 2, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

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## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-346]

### FirstEnergy Nuclear Operating Co; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of FirstEnergy Nuclear Operating Company (the licensee) to withdraw its March 30, 2001, application for proposed amendment to Facility Operating License No. NPF-3 for the Davis-Besse Nuclear Power Station, Unit No. 1, located in Ottawa County, Ohio.

The proposed amendment would have revised the Technical Specifications regarding surveillance

testing of the watertight enclosure for Decay Heat Removal System valves DH-11 and DH-12 to decrease the frequency of functional testing.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on May 30, 2001 (66 FR 29355). However, by letter dated December 20, 2002, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated March 30, 2001, and the licensee's letter dated December 20, 2002, which withdrew the application for license amendment. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike, Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams/html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1-800-397-4209, or 301-415-4737 or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

Dated at Rockville, MD, this 17th day of January 2003.

For the Nuclear Regulatory Commission.

**Jon Hopkins,**

*Senior Project Manager, Section 2, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

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## NUCLEAR REGULATORY COMMISSION

[Docket No. 72-26-ISFSI; ASLBP No. 02-801-01-ISFSI]

### Atomic Safety and Licensing Board; Pacific Gas and Electric Co.; (Diablo Canyon Power Plant Independent Spent Fuel Storage Installation); Notice (Notice of Opportunity To Make Oral or Written Limited Appearance Statements)

January 16, 2003.

*Before Administrative Judges:* G. Paul Bollwerk, III, Chairman, Dr. Jerry R. Kline, Dr. Peter S. Lam.

The Atomic Safety and Licensing Board hereby gives notice that, in accordance with 10 CFR 2.715(a), the

Board will conduct sessions to provide the public with an opportunity to make oral limited appearance statements in connection with this proceeding regarding the December 21, 2001 application of Pacific Gas and Electric Company (PG&E) under 10 CFR part 72 for permission to construct and operate an independent spent fuel storage installation (ISFSI) at its Diablo Canyon Power Plant (DCPP) site near San Luis Obispo, California.

#### A. Date, Time, and Location of Oral Limited Appearance Statement Sessions

These sessions will be on the following dates at the specified location and times:

1. *Date:* Sunday, March 23, 2003.

*Time:* Afternoon Session (if there is sufficient interest)—3 p.m. to 7 p.m. Pacific Standard Time (PST).

*Location:* Embassy Suites Hotel, San Luis Obispo Room, 333 Madonna Rd., San Luis Obispo, California 93405.

2. *Date:* Monday, March 24, 2003.

*Times:* Morning Session (if there is sufficient interest)—10 a.m. to Noon PST, Afternoon Session—1:30 p.m. to 4:30 p.m. PST, Evening Session—6:30 p.m. to 9:30 p.m. PST.

*Location:* Same as Session 1 above.

#### B. Participation Guidelines for Oral Limited Appearance Statements

Any person not a party, or the representative of a party, to the proceeding will be permitted to make an oral statement setting forth his or her position on matters of concern relating to this proceeding. Although these statements do not constitute testimony or evidence, they nonetheless may help the Board and/or the parties in their consideration of the issues in this proceeding.

Oral limited appearance statements will be entertained during the hours specified above, or such lesser time as may be necessary to accommodate the speakers who are present. In this regard, if all scheduled and unscheduled speakers present at a session have made a presentation, the Licensing Board reserves the right to terminate the session before the ending time listed above. The Licensing Board also reserves the right to cancel the Sunday afternoon and/or Monday morning sessions scheduled above if there has not been a sufficient showing of public interest as reflected by the number of preregistered speakers.

The time allotted for each statement normally will be no more than five minutes, but may be further limited depending on the number of written requests to make an oral statement that

are submitted in accordance with section C below and/or the number of persons present at the designated times. In addition, although an individual may request an opportunity to speak at more than one session, the Licensing Board reserves the right to defer an additional presentation by the same individual until after it has heard from speakers who have not had an opportunity to make an initial presentation.

#### C. Submitting a Request To Make an Oral Limited Appearance Statement

Persons wishing to make an oral statement who have submitted a timely written request to do so will be given priority over those who have not filed such a request. To be considered timely, a written request to make an oral statement must be mailed, faxed, or sent by e-mail so as to be received by close of business (4:30 p.m. EST) on *Friday, March 14, 2003*. The request must specify the date (March 23 or March 24) and the session on that day (morning, afternoon or evening) during which the requester wishes to make an oral statement. Based on its review of the requests received by March 14, 2003, the Licensing Board may decide that the Sunday afternoon and/or Monday morning sessions will not be held due to lack of adequate interest in those sessions.

Written requests to make an oral statement should be submitted to:

*Mail:* Office of the Secretary, Rulemakings and Adjudications Staff, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

*Fax:* (301) 415-1101 (verification (301) 415-1966).

*E-mail:* [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov).

In addition, using the same method of service, a copy of the written request to make an oral statement should be sent to the Chairman of this Licensing Board as follows:

*Mail:* Administrative Judge G. Paul Bollwerk, III, Atomic Safety and Licensing Board Panel, Mail Stop T-3F23, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

*Fax:* (301) 415-5599 (verification (301) 415-7550).

*E-mail:* [pah@nrc.gov](mailto:pah@nrc.gov) and [gpb@nrc.gov](mailto:gpb@nrc.gov).

#### D. Submitting Written Limited Appearance Statements

As the Board noted previously in its December 27, 2002 notice of hearing (68 FR 391 (Jan. 3, 2003)), a written limited appearance statement can be submitted at any time. Such statements should be sent to the Office of the Secretary using