BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Investigation on the Commission's Own Motion into the Rates, Operations, Practices, Services and Facilities of Southern California Edison Company and San Diego Gas and Electric Company Associated with the San Onofre Nuclear Generating Station Units 2 and 3.	Investigation 12-10-013 (Filed October 25, 2012)
And Related Matters.	Application 13-01-016 Application 13-03-005 Application 13-03-013 Application 13-03-014

RESPONSE OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) TO AMENDED ADMINISTRATIVE LAW JUDGE'S RULING FINDING VIOLATIONS OF RULE 8.4, REQUIRING REPORTING OF EX PARTE COMMUNICATIONS, AND ORDERING SOUTHERN CALIFORNIA EDISON COMPANY TO SHOW CAUSE

J. ERIC ISKEN
WALKER A. MATTHEWS, III
RUSSELL A. ARCHER
Southern California Edison Company
2244 Walnut Grove Avenue
Post Office Box 800
Rosemead, CA 91770
Telephone: (626) 302-6879
Facsimile: (626) 302-3990
E-mail: *Walker.Matthews@sce.com*

HENRY WEISSMANN
Munger, Tolles & Olson LLP
355 South Grand Avenue, 35th Floor
Los Angeles, CA 90071
Telephone: (213) 683-9150
Facsimile: (213) 683-5150
E-mail: *Henry.Weissmann@mto.com*

Attorneys for
SOUTHERN CALIFORNIA EDISON COMPANY

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Pursuant to Ordering Paragraph 2 of the Amended Administrative Law Judge's Ruling Finding Violations of Rule 8.4, Requiring Reporting of Ex Parte Communications, and Ordering Southern California Edison Company to Show Cause Why It Should Not Also Be Found In Violation of Rule 1.1 And Be Subject To Sanctions For All Rule Violations ("Amended Ruling"), Southern California Edison Company ("SCE") respectfully submits this response.

I. INTRODUCTION

SCE largely agrees with the legal analysis contained in the Amended Ruling, as well as its conclusion that the vast majority of communications raised in the Amended Motion for Sanctions filed by the Alliance for Nuclear Responsibility ("A4NR") were not reportable under Rule 8.4 of the Rules of Practice and Procedure of the California Public Utilities Commission ("Commission" or "CPUC").

SCE acknowledges, as it has since filing its late-filed notice of ex parte communication on February 9, 2015, that the March 26, 2013, Warsaw meeting was reportable based on new information obtained from Mr. Pickett. SCE evaluated whether an ex parte notice should be filed upon Mr. Pickett's return from Poland. At that time, senior SCE executives pressed Mr. Pickett about whether he had engaged in a substantive communication with President Peevey, and Mr. Pickett insisted that the communication was one-way.[1] It was not until early 2015, after further interviews of Mr. Pickett prompted by the seizure of notes from President Peevey's home, that SCE concluded that Mr. Pickett's original characterization may have been incorrect, leading to SCE's voluntary disclosure of the communication in its late-filed ex parte notice.

[1] SCE's April 29 Response, Appendix D at #00186 (Ron Litzinger pressed Steve Pickett, who "said he did not engage.").

In the immediate aftermath of the late-filed notice, SCE took additional steps to further comply with the Commission's ex parte rules. SCE strengthened its internal procedures, including providing training on the Commission's requirements, promoting increased awareness, incorporating more layers of review, and adopting recordkeeping requirements.

Parties' assertions that SCE's failure to file a timely ex parte notice of the March 26, 2013, Warsaw meeting had an impact on the settlement are baseless. There is no evidence that the meeting adversely affected the settlement negotiations or the Commission's evaluation of the settlement. In fact, Mr. Randolph's declaration confirms that President Peevey and Mr. Pickett did not reach any agreement in that meeting, and that Mr. Pickett made clear that he did not have authority to do so in any case. The settlement resulted from a hard-fought negotiation among the settling parties over many months, not from any "deal" in Warsaw.

Parties calling for massive penalties ignore the fact that the Commission has *never* imposed a penalty for a failure to file an ex parte notice. The largest penalty the Commission has ever imposed for any violation of the ex parte rules was the $1.05 million penalty for PG&E's violation of the rule prohibiting ex parte communications on ALJ assignment. Parties do not explain why a violation of the rule requiring notice of permitted ex parte communications should be punished more severely than the violation of the rule that prohibits an ex parte communication altogether. Parties who argue vociferously for the Commission to impose a huge penalty on SCE lack credibility, as at least some have themselves engaged in ex parte communications that either violate the rules or come perilously close to the line.

Apart from the March 26, 2013, Warsaw meeting, SCE respectfully disagrees with the Amended Ruling's conclusion that nine other communications were reportable. Six of the communications were one-way, and the Amended Ruling's contrary finding is based on

inferences that are not supported by the record. In particular, the suggestion that Messrs. Litzinger and Craver communicated substantively to President Peevey about his demand that SCE add a UC contribution to the settlement is contrary to fact. On the contrary, both of them told President Peevey that they could not engage on that topic. The remaining three communications are accurately described in the Amended Ruling, but did not rise to the level of an attempt to influence the outcome of any issue in the OII and should be regarded as not reportable.

The Commission should not find that SCE violated Rule 1.1. Mr. Pickett's declaration provides his best recollection, and SCE submitted it only after conducting interviews of Mr. Pickett. The suggestion that Mr. Litzinger's conduct amounts to a Rule 1.1 violation is completely unjustified. SCE respectfully submits, in the strongest possible terms, that such a finding would be wrong and should not be adopted.

SCE agrees with the observation in the Amended Ruling that whether reporting is required is often a "fact-specific inquiry" that requires analysis of each communication.[2] SCE conducted such inquiries. Most notably, SCE investigated whether the Warsaw meeting was reportable at the time, and then did further investigation and ultimately reported the meeting when it learned new facts. The ex parte rules are complex and ambiguous, and the judgments about whether a particular communication is reportable are not always straightforward. SCE worked in good faith to comply with the rules at all times. In this context, even if the Commission were to find that SCE should have reported additional communications, SCE respectfully submits that penalties are not warranted.

[2] Amended Ruling, p. 24.

II. THE AMENDED RULING'S LEGAL ANALYSIS IS LARGELY CORRECT

The Amended Ruling reflects a thorough analysis of the statutes, rules, and precedents applicable to communications with CPUC decisionmakers. The Amended Ruling appropriately recognizes that the purpose of the Commission's ex parte rules is to balance fairness to parties with the need for decisionmakers to obtain important information.[3] On this basis, the Amended Ruling correctly distinguishes between "ordinary and administrative communications," which are permissible and do not require reporting, and communications "made to influence the outcome of disputed issues in an open proceeding," which must be reported.[4]

A4NR erroneously claims that Public Utilities Code section 1701.3(c) bans all communications with decisionmakers in ratesetting proceedings unless they fall within one of three enumerated exceptions.[5] A4NR's extreme view cannot be reconciled with its own actions in this proceeding—an inconsistency that A4NR makes no attempt to explain away. As SCE has previously noted, A4NR's intervenor compensation request disclosed that its counsel, John Geesman, had a phone call with Commissioner Peevey.[6] Although the subject was not identified, it must have related to the SONGS OII, since A4NR represented that it was eligible for intervenor compensation. A4NR also sought compensation for time spent by its executive

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[3] Amended Ruling, p. 23 ("some appropriate communications will occur with industry representatives because the agency is charged with important and constant oversight duties . . . informal contacts are necessary to 'the process of administration and completely appropriate *so long as they do not frustrate judicial review or raise serious issues of fairness*'" (emphasis added by Amended Ruling, citation omitted)); *see also id.*, p. 21 (quoting *Re Commission's Rules of Practice and Procedure*, 41 CPUC 2d 162, 170 (July 31, 1991)).

[4] *Id.*, p. 23; *see also id.*, p. 25 (disclosure of a one-way communication would not "serve fairness, because no party's position was offered to influence the decisionmaker outside the awareness of other interested persons") and *id.*, p. 30 ("the question is whether the 'notice' involves an objective, non-justiciable fact or is a subjective interpretation and argument meant to influence").

[5] A4NR's Response to ALJ's Ruling (Aug. 10, 2015), pp. 1-3 ("A4NR Aug. Response").

[6] SCE's Response to A4NR's Amended Motion for Sanctions (May 21, 2015), p. 4 & n.5.

director, Rochelle Becker, emailing to Commissioner Florio's staff "re: NRC meet and OII."[7] A4NR did not file ex parte notices with respect to either of these communications, nor has it otherwise disclosed what was discussed. In the five months since SCE pointed out these communications, A4NR has not provided any explanation of why these communications were permissible if—as A4NR claims—the statute establishes a "bright-line standard" that prohibits all communications to decisionmakers other than those occurring in all-party meetings, in writing copied to all parties, or noticed in advance. As A4NR's communications do not fall within any of those exceptions, and as the communications must relate to the SONGS OII, the only conclusion that can be drawn is that A4NR agrees with the Amended Ruling's conclusion that the statute does not actually prohibit all communications to decisionmakers that fall outside the three enumerated exceptions.

The Amended Ruling correctly concludes that a communication to a decisionmaker, even if within the scope of the proceeding, is not a reportable ex parte communication if it is not "substantive."[8] The Code defines "ex parte communication," in relevant part, as a communication "between a decisionmaker and a person with an interest in a matter before the Commission concerning substantive, but not procedural issues…."[9] A4NR claims that a communication is an ex parte communication if it concerns a substantive issue, even if the communication itself is non-substantive.[10] This purported distinction is illusory. If a party's comment is non-substantive, it is not a communication between a decisionmaker and a party

[7] *Id*.

[8] Amended Ruling, p. 27 ("In practical terms, the seminal question in determining whether an 'ex parte communication' has occurred is usually whether the communication concerned a 'substantive' issue in a formal proceeding.").

[9] Public Utilities Code § 1701.1(c)(4). *See also* Rule 8.1(c)(1).

[10] A4NR Aug. Response, p. 2.

about a substantive issue. The Amended Ruling correctly notes that "[n]either § 1701.1(c)(4) nor Rule 8.1 define 'substantive,'"[11] and reasonably concludes that "the appropriate queries for determining whether a 'substantive' communication has been made to a decisionmaker are whether (i) it involved an issue to be decided in the proceeding, and (ii) other parties might dispute, contest, or comment on the communication if known."[12] The Commission has discretion to interpret the statute in this manner.

Finally, the Amended Ruling correctly concludes that one-way communications are not reportable under Rule 8.4.[13] A communication is properly classified as one-way, and not reportable, as long as the party does not respond in a substantive way, i.e., in a way that constitutes an attempt to influence the outcome of a pending matter in an open proceeding.[14] SCE does not agree, however, that any "positive or negative response" necessarily meets this standard.[15] As further discussed below, a brief positive or negative reaction that is designed to steer the conversation to another topic should not be regarded, per se, as an attempt to influence the outcome.

The Amended Ruling's legal analysis is largely correct, and its application of those legal principles to find that the vast majority of communications described in SCE's April 29, 2015 and July 3, 2015 filings were not reportable under Rule 8.4 is also correct.

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[11] Amended Ruling, p. 27.

[12] *Id.*

[13] *Id.*, p. 26 ("our Rules single out substantive communications made by a party to a decisionmaker as reportable, distinguishable from a non-substantive communication").

[14] *Id.*

[15] *Id.*, p. 25.

III. THE AMENDED RULING'S FINDINGS THAT SCE VIOLATED RULE 8.4 ARE LARGELY INCORRECT

SCE acknowledges that the communication between then-President Peevey and Mr. Pickett on March 26, 2013, should have been reported but emphasizes that this conclusion was based on new information not learned until 2015. In April 2013, Mr. Pickett characterized the discussion around a possible resolution of the OII as one-way, even after being pressed by Mr. Litzinger. In early 2015, SCE learned additional facts from Mr. Pickett indicating that he expressed a brief reaction to President Peevey's remarks, which suggested that he may have crossed into a substantive communication. SCE did not learn of Mr. Randolph's recollection of the meeting until the issuance of the Amended Ruling attaching his declaration.

SCE respectfully disagrees that any of the remaining nine communications identified by the Amended Ruling finds were reportable. SCE submits that two of those communications—the May 29, 2013 Starck email and the November 15, 2013 Craver-Peevey dinner—did not rise to the level of an attempt to influence the outcome of the proceeding. With respect to the September 6, 2013 Chino Hills lunch, SCE believes that Mr. Litzinger's brief remark did not rise to the level of a substantive communication. As for the remaining six communications, the Amended Ruling's inference that SCE engaged in a substantive communication is unsupported and contrary to the known facts.

A. Standard of Proof

The Amended Ruling orders SCE to show cause why SCE should not be held in contempt and subject to penalty for the purported ten violations of Rule 8.4.[16] Before any penalties can be imposed, however, the party seeking sanctions (here, A4NR) must satisfy its

[16] Amended Ruling, p. 40.

burden of proving the violations "by a preponderance of the evidence."[17] The same burden applies in the context of an order to show cause: the party advocating for the imposition of a penalty has the burden of proof.[18]

Regardless of where the burden of proof lies, findings must be based on the record. The factfinder "must look to the direct evidence," and although "reasonable inferences" can be derived from the evidence, inferences based on "speculation, conjecture, imagination or guesswork" are impermissible.[19] As courts have also stated, the "judgment should not be based on guesses or conjectures"; "a finding of fact must be an inference drawn from evidence rather than on a mere speculation as to probabilities without evidence."[20] "If the existence of an essential fact upon which a party relies is left in doubt or uncertainty the party upon whom the burden rests to establish that fact must suffer, and not his adversary."[21]

Apart from the March 26, 2013, Warsaw meeting, the evidence discussed by the Amended Ruling is insufficient to meet the standard of a preponderance of evidence to support a conclusion that SCE engaged in a communication that was reportable under Rule 8.4. In particular, many of those findings are based on impermissible speculation.

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[17] D.03-01-087, p. 8; D.87-12-067, pp. 45-46 (27 CPUC 2d 1); D.91952, pp. 25-26 (4 CPUC 2d 37).

[18] D.94-11-018, p. 30 ("Past decisions of this Commission make it quite clear that in an investigation proceeding, such as this one, the party claiming that a carrier has violated the law or an order of the Commission has the burden of proof. Thus, the staff has the burden of proof in the six OSC." (citations omitted)).

[19] D.11-06-003, 2011 WL 2410438, at *24 n.27 (June 3, 2011).

[20] *Dobson v. Indus. Accident Comm'n*, 114 Cal. App. 2d 782, 786-87 (1952).

[21] *Id.*

B. Analysis of Ten Communications Identified In The Amended Ruling

1. March 26, 2013 meeting in Warsaw. SCE acknowledges that an ex parte notice should have been filed with respect to this meeting. Again, SCE's contrary conclusion in April 2013 was reasonable and made in good faith, based on Mr. Pickett's description at that time.

2. March 27, 2013 group dinner in Warsaw. The Amended Ruling infers that Mr. Pickett engaged in a substantive communication to President Peevey at the group dinner on March 27, 2013.[22] The record does not support this inference. The Amended Ruling relies on Mr. Pickett's contemporaneous email, which states: "Now sitting next to Peevey at dinner in Warsaw working Chino Hills and SONGS."[23] Mr. Pickett's declaration states that he does not recall "anything of substance relating to the SONGS OII being discussed,"[24] and nothing in the email indicates otherwise. President Peevey and/or Mr. Pickett could have discussed "SONGS" without touching on matters within the scope of the OII. There is no basis for concluding otherwise, especially in the face of Mr. Pickett's sworn declaration that he does not recall anything of substance relating to the SONGS OII being discussed at the dinner.

It is implausible that Mr. Pickett would have communicated substantively to President Peevey regarding the SONGS OII on March 27. The March 27 dinner was attended by a number of individuals who were part of the CFEE group, including Mr. Randolph. The dinner was a celebration of the wedding anniversary of Dr. Patrick Mason, CFEE's President and CEO. SCE is submitting concurrently herewith a declaration from Dr. Mason, who states that he was sitting

[22] Amended Ruling, p. 36.

[23] SCE's July 3, 2015 Response to ALJs' June 26, 2015 Ruling ("SCE's July 3 Response"), p. SCE 00000282.

[24] SCE's April 29 Response to ALJs' April 14, 2015 Ruling ("SCE's April 29 Response"), Appendix F (Declaration of Stephen Pickett), ¶ 15.

next to President Peevey and does not recall any discussion of the SONGS OII at the March 27, 2013 dinner.[25]

The ruling notes that, after his return from the Poland trip, Mr. Pickett stated that he discussed "possible settlement partners" with President Peevey, and the ruling suggests that this discussion must have occurred on March 27, 2013. But there is no reason to disbelieve Mr. Pickett's testimony that President Peevey referenced parties with whom SCE should consider negotiating a settlement during the March 26, 2013, meeting, and that there was no discussion of settlement during the March 27 group dinner.[26]

In sum, the Amended Ruling's conclusion that Mr. Pickett engaged in a substantive communication to President Peevey on March 27, 2013, is based on inferences that are not supported by the record and which do not justify a finding that SCE violated Rule 8.4.

3. May 29, 2013 Starck email. The Amended Ruling concludes that SCE's press release responding to Senator Boxer raised issues within the scope of future phases of the OII.[27] SCE does not contend otherwise, but did not believe that Rule 8 was intended to apply to the forwarding of a press release.[28] The press release was a public action occurring in the context of well-publicized events, and in this instance, the forwarding of the press release to the Commissioners did not have the intent or the potential "to influence the outcome of disputed issues"[29] in the OII.

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[25] Appendix C hereto (Declaration of Dr. Patrick Mason).

[26] SCE's April 29 Response, Appendix F, ¶ 12. In addition, Mr. Pickett's typewritten notes of the March 26, 2013, meeting, created on April 1, 2013, specifically identifies "Players in deal" as including "Geesman (A4NR)." SCE's April 29 Response, Appendix D at #00004.

[27] Amended Ruling, p. 36.

[28] SCE Opposition to A4NR's Amended Motion for Sanctions, pp. 14-15.

[29] *See* Amended Ruling, p. 23.

4. May 29, 2013 Brown-Hoover communication. The Amended Ruling refers to Mr. Hoover's email, which reports that Ms. Brown stated that "Pickett was well prepared in Poland with specifics, but then nothing has happened."[30] The ruling concludes that it is not credible that the Hoover-Brown communication was one-way, because it came in response to a substantive press release. There is no evidence, however, that the subject matter of the press release—which was a response to Senator Boxer's claims with respect to SCE's oversight of the replacement steam generator design—had anything to do with the communication in question, which was about the Warsaw meeting. The ruling further observes that the "topic upon which Pickett was 'well-prepared' is much more likely to be possible settlement terms" than about restart.[31] Whatever the potential merits of that inference, it does not support the conclusion drawn by the ruling, i.e., that Mr. Hoover engaged in a substantive response to Ms. Brown's comment. And to the best of Mr. Hoover's recollection, he "did not respond in any substantive way to Ms. Brown's comment."[32] Mr. Hoover did not know what Ms. Brown was referring to, as he was not aware of the content of the discussion between President Peevey and Mr. Pickett in Warsaw.[33]

In sum, the Amended Ruling's conclusion that Mr. Hoover engaged in a substantive communication to Ms. Brown on May 29, 2013, is based on speculation and conjecture, which does not support a finding of a violation of Rule 8.4.

5. June 26, 2013 Litzinger-Florio discussion. The Amended Ruling states that Mr. Litzinger's communication to Commissioner Florio concerned the substance of bargaining with

[30] Amended Ruling, p. 37, quoting SCE's April 29 Response, Appendix D at #00187.

[31] Amended Ruling, p. 37.

[32] Appendix B hereto (Declaration of Michael Hoover).

[33] *Id.*

represented SONGS employees, and concludes that the cost recovery of severance would be an issue in a future phase. Mr. Litzinger, however, did not discuss the terms of severance or associated costs. As his supplemental declaration filed herewith confirms, Mr. Litzinger's communication was limited to the *schedule* for bargaining, i.e., the anticipated timing of the actual bargaining outcomes.[34] The communication of the anticipated timing of the bargaining outcomes was not intended to, and did not, "influence the outcome of disputed issues"[35] in the OII. Instead, it was intended to enable Commissioner Florio to plan future proceedings in the OII in a manner that would take into account when the severance issue would probably be resolved.

The evidence shows that the June 26, 2013, communication was not reportable under Rule 8.4. Any contrary finding would be based on speculation and conjecture.

6. September 6, 2013 Chino Hills lunch. The Amended Ruling concludes that Mr. Litzinger's brief reaction to President Peevey's comments about cost recovery rose to the level of a substantive communication. Mr. Litzinger's supplemental declaration provides the context of this event and demonstrates why such a finding is unwarranted. As Mr. Litzinger explains, he expected the lunch discussion to be about the Chino Hills event, but President Peevey addressed other subjects as well. One of those subjects was the SONGS OII, as to which President Peevey stated that a decision would permit recovery of the capital costs of the steam generator replacement project, or replacement power, but not both. Mr. Litzinger did not wish to have any discussion about the SONGS OII, being acutely aware of the ex parte rules. As a means of deflecting the discussion, Mr. Litzinger said "or somewhere in between." This brief remark,

[34] Appendix A hereto, ¶ 3.

[35] *See* Amended Ruling, p. 23.

which was a statement of the obvious, was not the expression of a "view in opposition" or an attempt to influence President Peevey's thinking about the OII—to the contrary, it was intended simply to change the topic. Mr. Litzinger's remark did result in the topic being changed, as President Peevey moved on to ask about the status of settlement negotiations, to which Mr. Litzinger responded that SCE was in negotiations but could not divulge any specifics. Mr. Litzinger recalls that the entire discussion of the OII and settlement lasted two minutes or less.

The Amended Ruling refers to an email in which a question was raised about whether the ex parte rules required a report.[36] This question related to Mr. Starck's comment regarding the timing of the now-closed ERRA proceeding, not to Mr. Litzinger's brief remark. In any case, however, the fact that a question was raised does not demonstrate that the communication should have been reported.[37]

Mr. Litzinger's brief remark did not rise to the level of a substantive communication that was reportable under Rule 8.4.

7. November 15, 2013 Peevey-Craver dinner. The Amended Ruling concludes that Mr. Craver's discussion of SCE's efforts to bring MHI to the negotiating table were within the scope of a future phase of the OII. That was not clear, however, at the time of the communication. The first scoping memo did not identify the reasonableness of SCE's actions to pursue third-party recoveries as an issue for a future phase. The reference in the OII to "ratemaking issues associated with the above, including the availability of warranty coverage"[38] can reasonably be construed as merely acknowledging that any final ratemaking might need to

[36] Amended Ruling, p. 38, quoting SCE's April 29 Response, Appendix D at #00203.

[37] In response to the question, Mr. Starck considered the matter and determined that the communication was procedural because it related to the timing of the decision.

[38] I.12-10-013, p. 15.

reflect any warranty payments. Given that Phases 1 and 2 of the OII, which were pending at the time of this meeting, did not address the issue, and that it was not clear that future phases would address it, SCE reasonably concluded that no ex parte notice was required.

8. May 28, 2014 Peevey-Hoover communication. This item, along with items 9 and 10, relate to President Peevey's campaign to convince SCE to modify the settlement to add a provision for funding greenhouse gas ("GHG") research at the University of California ("UC"). SCE steadfastly refused to engage on this topic with President Peevey.

The Amended Ruling cites a May 28, 2014, meeting between Mr. Hoover and President Peevey, and concludes that President Peevey's statement to Mr. Hoover indicates that Mr. Litzinger had previously engaged in a substantive communication to President Peevey about a UCLA contribution as part of the SONGS settlement. There is no basis for this inference, which is contrary to fact.

The first communication between President Peevey and Mr. Litzinger regarding UC or the SONGS settlement occurred on May 2, 2014, and Commissioner Florio and SCE's Nichols were also in attendance.[39] President Peevey asked SCE to make a voluntary contribution to the UC, stating that the contribution should total $25 million over five years, with $4 million a year coming from SCE and $1 million a year coming from SDG&E.[40] According to Mr. Litzinger: "My recollection is that, to avoid engaging on the topic, I told President Peevey that we would get back to him. I made a point not to respond to President Peevey's suggestion that the settlement should include a contribution to the UC."[41] Mr. Litzinger further described his

[39] Appendix A hereto, ¶ 5.a.

[40] SCE's April 29 Response, Appendix G, ¶ 8.

[41] *Id.*, ¶ 9.

follow-up call to Commissioner Florio, who stated that he agreed that Mr. Litzinger was "in listening mode and did not say anything substantive regarding SONGS in the May 2 meeting."[42]

The second communication occurred on May 14, 2014, and Commissioner Florio again was in attendance. Mr. Litzinger's declaration states that he told President Peevey, "I could not engage in a substantive conversation on that topic [UC contribution]."[43]

There is no basis to disbelieve Mr. Litzinger's sworn declaration on these points, and indeed the Amended Ruling appears to accept Mr. Litzinger's account.[44]

The Amended Ruling's conclusion appears to be based on a suspicion that Mr. Litzinger communicated to President Peevey on another occasion prior to May 28, apart from the May 2 and May 14 meetings. Mr. Litzinger's supplemental declaration filed herewith addresses this directly and states that he did not engage in any substantive communication to President Peevey in this time period regarding a UC contribution or GHG research.[45]

The Amended Ruling does not explain the basis for its conclusion that Mr. Litzinger communicated to President Peevey on a UC contribution. The fact that President Peevey was unhappy that "SCE was hesitant" certainly does not support that conclusion. That comment is entirely consistent with Mr. Litzinger's refusal to engage in a communication with President Peevey on the subject.

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[42] *Id.*, ¶ 10.

[43] *Id.*, ¶ 11.

[44] Amended Ruling, p. 32 ("In response to the ALJ's request for additional information, Mr. Litzinger stated he was seeking a 'respectful way to terminate the conversation,' and that no 'follow-up' occurred, despite several attempts by Commissioner Peevey to engage SCE on the issue. None of these statements constitute an attempt by SCE to influence decisionmakers on open issues in the OII and no contrary inferences arise from the evidence. Therefore, it appears no substantive communication occurred between SCE and either Commissioner, primarily due to SCE's position of non-response." (footnote omitted)).

[45] Appendix A hereto, ¶ 5.d.

The record is clear that Mr. Litzinger did not engage in a substantive communication to President Peevey about the UC contribution as part of the SONGS settlement prior to May 28, 2014. The Amended Ruling's contrary finding is impermissibly based on speculation and conjecture.

9. June 11, 2014 Peevey-Hoover communication. The Amended Ruling concludes that because President Peevey stated to Mr. Hoover on June 11, 2014, that he was lowering the requested contribution amount, Mr. Litzinger must have engaged in a substantive communication to President Peevey about the UC contribution as part of the SONGS settlement. Again, this inference is contrary to fact.

President Peevey spoke to Mr. Litzinger by phone on June 5, 2014. Mr. Litzinger told President Peevey that he could not discuss a contribution to UC for GHG research in the context of the settlement, but that he could address Edison International's charitable contribution process in general outside the context of the settlement. President Peevey angrily criticized what he viewed as SCE's unwillingness to seriously address climate change. Mr. Litzinger returned the discussion to Edison International's charitable contribution policy outside the context of the SONGS OII. President Peevey asked Mr. Litzinger to make a commitment to voluntarily fund GHG research, which Mr. Litzinger said he was not in a position to make because the funding levels President Peevey had requested would require Board approval. President Peevey told Mr. Litzinger that the Board would approve a contribution, the contribution amount could be lowered, and President Peevey could raise the remaining funds elsewhere. Mr. Litzinger again stated that he could make no commitments as to charitable contributions in general and could not discuss the issue at all in the context of the SONGS settlement. President Peevey expressed

frustration with Mr. Litzinger's refusal to engage on the topic and demanded to meet with Mr. Craver.

Again, Mr. Litzinger did not engage in a substantive communication to President Peevey about the UC contribution in the context of the SONGS OII.[46] The Amended Ruling's contrary finding is based on speculation and conjecture. There is no evidence that would support a finding that Mr. Litzinger engaged in a substantive communication to President Peevey about the UC contribution in the context of the SONGS OII.

10. June 17, 2014 Peevey-Craver meeting. The Amended Ruling concludes that Mr. Craver engaged in a substantive communication to President Peevey about the UC contribution. Once again, this inference is contrary to fact.

On June 17, 2014, President Peevey attended a meeting at SCE with a large group on a matter unrelated to SONGS. In the course of the day, President Peevey restated to Mr. Litzinger his demand to speak with Mr. Craver. Mr. Litzinger relayed that demand to Mr. Craver, who came down to the conference room and greeted President Peevey. The two went to Mr. Craver's office, where President Peevey once again raised the UC contribution.[47] Like Mr. Litzinger, Mr. Craver declined to engage in any substantive communication with President Peevey on this subject. In fact, Mr. Craver specifically told President Peevey that, on advice of counsel, he

[46] Mr. Litzinger's comments in the June 5, 2014 call about Edison International's philanthropy program in general—and specifically his refusal to commit to make a contribution—were expressly made outside the context of the OII. As such, those comments did not "concern[] a 'substantive' issue in a formal proceeding." Amended Ruling, p. 27. Edison International's philanthropic giving was not "an issue to be decided in the [OII] proceeding." *Id*. Mr. Litzinger made amply clear that he would not and could not discuss a contribution in the context of the SONGS settlement.

[47] SCE's April 29 Response, p. 12 & Appendix G, ¶ 14.

could not engage in a substantive conversation on President Peevey's request for a UC contribution.[48]

This fact is corroborated by President Peevey's subsequent communication to Mr. Olson.[49] The only reason for President Peevey to meet with Mr. Olson was to test Mr. Craver's statement that his refusal to engage in a substantive communication on President Peevey's request for a UC contribution was based on advice of counsel. The Ruling appropriately does not question SCE's report that Mr. Olson reiterated that SCE could not engage with President Peevey about President Peevey's request for a UC contribution.[50] It is unreasonable to infer that this conversation would have occurred, or that Mr. Olson would have made this statement to President Peevey, if Mr. Craver had engaged in a substantive communication.

The ruling cites an email which states that Mr. Craver "got Peevey" and that the meeting was "about UCLA."[51] There is no dispute that Mr. Craver escorted President Peevey from a meeting on an unrelated subject at SCE to his office.[52] Nor is there a dispute that President Peevey raised the topic of UCLA, reiterating his request for a contribution to UCLA.[53] But neither fact suggests that Mr. Craver engaged in a substantive communication to President Peevey on this topic, and in fact no such communication occurred.

In sum, Mr. Craver specifically declined to engage in any substantive communication to President Peevey about the UC contribution. The Amended Ruling's contrary finding is based

[48] SCE's April 29 Response, Appendix G, ¶ 14.

[49] Mr. Olson is a partner at the law firm of Munger, Tolles & Olson LLP.

[50] SCE's April 29 Response, Appendix C, p. 32; SCE's July 3 Response, p. 5.

[51] Amended Ruling, p. 39.

[52] SCE's April 29 Response, Appendix G, ¶ 14.

[53] *Id.*

on speculation and conjecture. There is no evidence that would support a finding that Mr. Craver engaged in a substantive communication to President Peevey about the UC contribution.

IV. THE AMENDED RULING'S SUGGESTION OF TWO RULE 1.1 VIOLATIONS IS INCORRECT AND SHOULD BE WITHDRAWN

A. Standard for Rule 1.1 Violations

Rule 1.1 states that "[a]ny person who signs a pleading or brief, enters an appearance, offers testimony at a hearing, or transacts business with the Commission, by such act represents that he or she is authorized to do so and agrees to comply with the laws of this State; to maintain the respect due to the Commission, members of the Commission and its Administrative Law Judges; and never to mislead the Commission or its staff by an artifice or false statement of fact or law."

As with a Rule 8.4 violation, a Rule 1.1 violation must be proved by a "preponderance of the evidence" and cannot be based on guesswork or speculative inference.[54]

While the Court of Appeal recently affirmed the Commission's conclusion that proof of intent to mislead the Commission is not an absolute prerequisite to finding a violation of Rule 1.1, the Court also recognized that the Commission "has explained that Rule 1 inquiries look to the reasonableness of a utility's conduct … That is not to say intent is not considered at all. However, it goes to the weight to be assigned to a violation. That is, it may be weighed as an aggravating or mitigating factor."[55] Moreover, in cases in which the Commission has found a violation of Rule 1.1, the Commission has generally required proof of at least reckless or grossly

[54] D.94-11-018, p. 30; *see also* D.11-06-003, 2011 WL 2410438, at *24 n.27 (June 3, 2011); *supra*, p. 8.

[55] *Pacific Gas and Electric Company v. Public Utilities Commission*, 237 Cal. App. 4th 812, 854 (June 16, 2015) (internal citations omitted).

negligent conduct.[56] Indeed, in the *PG&E* case, the Commission found that the utility knew or should have known of the record discrepancies and should have filed the correction earlier—a finding that amounts to at least negligence, if not a greater degree of scienter.[57] Particularly because the Court of Appeal's decision post-dated the events in question, it would be unfair to retroactively find that SCE violated Rule 1.1 without proof of intent or at least reckless or grossly negligent conduct.[58] As discussed below, SCE did not act intentionally, recklessly, or in a grossly negligent manner.

B. The Facts Do Not Support A Finding Of A Rule 1.1 Violation

1. Pickett

The Amended Ruling suggests that Mr. Pickett's April 29, 2015 declaration may have violated Rule 1.1 in two ways.[59] First, the Amended Ruling notes that Mr. Pickett's description of the March 26, 2013 meeting differs from the account set forth in Mr. Randolph's declaration in one respect: the extent to which Mr. Pickett expressed his thoughts about a settlement structure.[60] It was not misleading, however, for SCE to present Mr. Pickett's declaration, which sets forth his recollection of the March 26, 2013 meeting. Perhaps Mr. Pickett's recollection was not complete, or perhaps Mr. Randolph's recollection is incorrect, but a difference in recollection is not a basis to find that SCE misled the Commission, particularly absent any evidence of intentional, reckless, or grossly negligent conduct.

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[56] D.94-11-018, p. 82; D.15-04-021, 2015 WL 1687668, at *82 (Apr. 9, 2015); *see also PG&E*, 237 Cal. App. 4th at 833-834, 849.

[57] *PG&E*, 237 Cal. App. 4th at 833-834.

[58] *Cf. FCC v. Fox TV Stations, Inc.*, 132 S. Ct. 2307, 2317 (2012) (setting aside agency's finding that certain broadcasters violated agency policy against indecent speech, because agency's standards were vague and failed to provide parties fair notice).

[59] Amended Ruling, p. 44.

[60] *Id.*, pp. 43-44.

The focus of the Rule 1.1 issue, moreover, is SCE's conduct, and SCE submitted Mr. Pickett's declaration only after conducting interviews of Mr. Pickett. In fact, Mr. Pickett was the only source of information available to SCE about what occurred at the March 26, 2013, meeting. SCE did not have the benefit of interviewing either President Peevey or Mr. Randolph to obtain their recollections of the meeting. SCE's conduct in submitting the declaration after this inquiry was not intentionally misleading, reckless or grossly negligent, and these facts should be considered in mitigation of any finding of a Rule 1.1 violation and/or any penalty that might be considered.

Second, the Amended Ruling suggests that Mr. Pickett's declaration was misleading because it stated that he did not recall anything of substance regarding the SONGS OII being discussed at the social dinner on March 27, 2013.[61] As discussed above, the Amended Ruling's inference that Mr. Pickett engaged in a substantive communication regarding the SONGS OII at this group dinner is speculative and incorrect. Even if the Commission were to conclude otherwise—and it cannot do so based on the record—there is no basis for a finding that SCE violated Rule 1.1. SCE's due diligence with respect to the Pickett declaration negates any inference of intentional, reckless, or grossly negligent conduct.

The Amended Ruling expresses concern about two other items, neither of which undermines Mr. Pickett's credibility or supports a finding of a Rule 1.1 violation. The Amended Ruling notes that Mr. Pickett told Mr. Litzinger on April 11, 2013, that President Peevey felt strongly about including a particular party (A4NR) in settlement discussions.[62] The Amended Ruling notes that SCE did not disclose any contact between Mr. Pickett and President Peevey

[61] *Id.*, p. 44.

[62] Amended Ruling, pp. 44-45.

from March 27, 2013, to April 11, 2013, implying that there must have been an undisclosed communication between Mr. Pickett and President Peevey about A4NR during that period. But Mr. Pickett's declaration provides the answer: it explains that President Peevey had suggested that SCE involve Mr. Geesman on March 26, 2013.[63]

Finally, the Amended Ruling expresses doubt as to Mr. Pickett's claim that the April 16, 2013, dinner was social.[64] The Amended Ruling states: "according to an e-mail, Mr. Pickett scheduled a meeting with a senior SCE attorney immediately after the dinner," and concludes that this suggests that "substantive topics were covered which necessitated review by SCE's counsel."[65] The Amended Ruling does not identify the email, but SCE infers that the Amended Ruling is referring to an email sent by Mr. Pickett to Elizabeth Matthias, who was then a Senior Attorney at SCE.[66] Mr. Pickett, however, was not seeking legal advice from Ms. Matthias. The two were then dating and subsequently married.[67] In any case, even if Mr. Pickett had sought legal advice in connection with the dinner (and there is no evidence that he did so), no inference can be drawn from such consultation.[68]

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[63] SCE's April 29 Response, Appendix F, ¶ 12. In addition, Mr. Pickett's typewritten notes of the March 26, 2013 meeting, created on April 1, 2013, specifically identifies "Players in deal" as including "Geesman (A4NR)." SCE's April 29 Response, Appendix D at #00004.

[64] Amended Ruling, p. 45.

[65] *Id.*

[66] SCE's July 3 Response, Appendix A at #00321.

[67] For this reason, SCE redacted a number of emails between Mr. Pickett and Ms. Matthias, which contain private information not relevant to this proceeding.

[68] "[N]o presumption shall arise because of the exercise of the privilege, and the trier of fact may not draw any inference therefrom as to the credibility of the witness or as to any matter at issue in the proceeding." Cal. Evid. Code § 913(a). *See also infra*, pp. 41-43, for a fuller discussion of this issue.

2. Litzinger

The Amended Ruling suggests that Mr. Litzinger's May 14, 2014 testimony may have misled the Commission because he failed to reference the two communications that the Amended Ruling finds constituted reportable ex parte communications.[69] As discussed above, one of those communications was limited to the timing of collective bargaining and was not a substantive communication, and the other communication was a brief remark that did not rise to the level of a communication intended to influence the outcome of the proceeding. Even if the Commission were to find otherwise, it should not find that SCE violated Rule 1.1.

Mr. Litzinger subjectively believed that the two communications cited in the Amended Ruling were not reportable as ex parte communications under Rule 8.4.[70] That belief was reasonable given the lack of clarity regarding the application of the Commission's rules, the nuanced and ultimately legal determination of whether Rule 8.4 applies (and the fact that Mr. Litzinger is not a lawyer), and the unanticipated nature of the question. In short, it did not occur to Mr. Litzinger to mention the two communications in question, as he in good faith did not think of them as reportable ex parte communications.[71] There is no basis to conclude that Mr. Litzinger's conduct was in any way culpable; he did not engage in intentional, reckless, or grossly negligent conduct in providing the answer on May 14, 2014.

The Amended Ruling also refers to Mr. Litzinger's declaration, submitted on April 29, 2015, and suggests that its failure to reference the two communications in question may have misled the Commission. Such a finding would be erroneous. Mr. Litzinger's April 29

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[69] Amended Ruling, p. 45.

[70] Declaration of Ron Litzinger ¶ 6, attached to SCE's Response to A4NR's Amended Motion for Sanctions (May 21, 2015).

[71] *Id*., ¶ 7.

declaration described certain specific events: his communications with Mr. Pickett in April 2013, and President Peevey's communications to Mr. Litzinger in May and June 2014. Mr. Litzinger's declaration did not purport to describe all communications he ever had with decisionmakers, and it would not be reasonable to construe it as doing so. Mr. Litzinger's April 29 declaration was submitted as an appendix to SCE's filing, which explicitly disclosed the two communications in question.[72] Read on its own terms, and in the context of the April 29 filing as a whole, there is no possible way to conclude that Mr. Litzinger's declaration misled the Commission by failing to disclose the two communications that SCE described *in the same filing*.[73]

Even if the Commission were to find that one or both of the communications in question should have been reported, SCE respectfully submits, in the strongest possible terms, that a finding that Mr. Litzinger's testimony or declaration violated Rule 1.1 would be inappropriate, unnecessary, and carries the potential to unfairly damage the reputation of an accomplished and honorable individual.

V. THERE IS NO BASIS TO FIND CONTEMPT

The Amended Ruling orders SCE to show cause why it should not be held in contempt for violating Rule 8.4. No finding of contempt should be made.

A violation of a Commission rule such as Rule 8.4 can be the subject of sanctions, including penalties under Public Utilities Code section 2017, even absent proof of intent. By contrast, the "burden of proof in a contempt proceeding is higher than in any other type of

[72] SCE's April 29 Response, Appendix C, ¶¶ 14, 16.

[73] The Amended Ruling notes that it identifies seven ex parte communications between SCE and decisionmakers prior to May 14, 2014. Amended Ruling, p. 46. While SCE contests those findings, they are in any case irrelevant to the Rule 1.1 issue because Mr. Litzinger's testimony was limited to *his own* ex parte communications, not those of SCE as a whole. *See* Transcript of May 14, 2014 Evidentiary Hearing, pp. 2771-2772.

proceeding before the Commission."[74] All the evidence "must be construed in [the alleged contemnor's] favor." And "[s]ince a contempt proceeding is criminal or quasi-criminal in nature, the contempt must be proved beyond a reasonable doubt."[75] "For the Commission to find someone in contempt," moreover, "the person's conduct must have been willful in the sense that the conduct was inexcusable, or that the person accused of the contempt had an indifferent disregard of the duty to comply."[76]

The record does not support a finding of contempt, as the evidence does not establish beyond a reasonable doubt that there was any willful violation or an indifferent disregard of the duty to comply with the Rules. In the case of the March 26, 2013, Warsaw meeting, SCE based its decision not to file an ex parte notice at the time on Mr. Pickett's description of the meeting as one-way—a description that he adhered to after being questioned a second time by Mr. Litzinger on April 11, 2013.[77] After the notes of that meeting were seized from President Peevey's home, SCE conducted further interviews of Mr. Pickett, which led to the conclusion that Mr. Pickett may have engaged in a substantive communication on the topic. This does not reflect "inexcusable" conduct or an "indifferent disregard of the duty to comply." On the contrary, it shows that SCE was diligent and that its officers were operating with an independent mindset.

With respect to the remaining nine communications, SCE respectfully submits that they were not reportable for the reasons stated above. But even if the Commission concludes otherwise, it cannot fairly be said that those communications were reportable beyond a

[74] D.84-03-110, 14 CPUC 2d 538 (Mar. 21, 1984).

[75] *Id.*; *see also* D.94-11-018.

[76] D.94-11-018.

[77] SCE's April 29 Response, Appendix D at #00186 (Litzinger email).

reasonable doubt—let alone that SCE's failure to file reports of those communications reflected a willful violation beyond a reasonable doubt.

VI. PENALTY

While the following analysis of the Commission's penalty jurisprudence is necessarily extensive, a salient point bears mention at the outset. The largest penalty the Commission has ever imposed for a violation of any of the ex parte rules was the $1.05 million penalty recently imposed on PG&E for its ex parte communications regarding ALJ assignment. It would be extremely unfair to impose on SCE a more severe penalty for failing to timely report a *permitted* communication than the penalty imposed on PG&E for a communication that was completely *prohibited*. The unfairness of such an outcome is magnified by the fact that the Commission has never imposed a monetary penalty for a violation of the reporting requirements of Rule 8.4.

A. The Commission Should Not Find A Continuing Violation For Any Violation of Rule 8.4

The Amended Ruling notes that A4NR recommends that SCE's failure to file an ex parte notice with respect to the March 26, 2013, Warsaw meeting be treated as a continuing violation, but that the remaining violations be treated as single violations.[78] The Commission should treat the March 26, 2013 Warsaw meeting, as well as any other communications that it finds were subject to reporting, as single violations of Rule 8.4, not continuing violations.

Public Utilities Code section 2108 permits the Commission to treat each day as a separate violation where the violation is "continuing." The Commission has found continuing violations only when the utility had a continuing obligation, such that each day's failure to act or refrain from acting constituted a separate and distinct violation. "Where the Commission has found

[78] Amended Ruling, p. 42.

continuing violations, it has most often found that the utility had an ongoing duty to act (or refrain from acting) which it failed to comply with over a specified period of time."[79]

In determining whether a particular violation is continuing so as to render section 2108 applicable, the Commission has been guided by the California Supreme Court's decision in *People ex rel. Younger v. Superior Court* ("*Younger*") 16 Cal. 3d 30 (1976). In *Younger*, the Court interpreted a statute that is similar to Public Utilities Code section 2108, in that it imposes a separate fine per day for each day in which the violation or deposit occurs. The question presented in *Younger* was whether each day's failure to clean up an oil spill constituted a separate violation. The Court concluded that it did not: the statute "imposes liability . . . for each day in which oil *is deposited* in the waters of the state and not for each day during which such oil *remains* in the waters."[80]

The Commission, following *Younger*, has stated that "for a continuing violation to occur under Section 2108, *it is the violation itself that must be ongoing, not its result*."[81] The Commission has found a violation ongoing when there was an ongoing duty, typically an ongoing duty to maintain utility equipment in a safe manner. For example, the Commission

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[79] D.15-06-035, 2015 WL 3879844, at *3-4 (June 11, 2015).

[80] *Younger*, 16 Cal. 3d at 44 (italics in original); *see also* D.15-04-023, 2015 WL 1687681, at *39 (Apr. 9, 2015) (discussing *Younger*).

[81] D.15-04-023, 2015 WL 1687681, at *39 (Apr. 9, 2015) (considering a continuing violation under Pub. Util. Code § 2108) (italics added). In D.15-04-024, p. 208, issued the same day, the Commission stated: "PG&E's Appeal does not explain how any word in Section 2108 is like the word 'deposit' that the *Younger* Court was construing. Nor does the Appeal explain how PG&E's construction of 2108 is consistent with the ordinary meaning of the words used, or in harmony with the overall statutory scheme or legislative purpose." D.15-04-024 goes on to discuss why the violations were continuing based on the fact that they were "not one-time occurrences, but ongoing obligations." *Id.*, p. 209. The question in this case, however, is not the meaning of section 2108, but whether any violation of Rule 8.4 is a continuing violation so as to trigger the application of section 2108. The Commission has cited and applied the reasoning of *Younger* in making that determination in decisions considering the same nucleus of facts as above. *See, e.g.*, D.15-04-021, p. 261; D.15-04-022, p. 50.

found that PG&E engaged in a number of continuing violations based on its ongoing failure to correct conditions that involved the unsafe operation of its gas pipeline.[82] Because a utility has an ongoing duty to maintain its equipment safely—a duty that exists every day—each day's failure to correct unsafe conditions constitutes a separate violation. "To complete the analogy to the *Younger* facts, each new day—for 19,611 days—that PG&E allowed the unsafe condition of Segment 180 to persist was the equivalent of each new day on which the unlawful deposit of oil on the water continued to occur."[83]

As far as SCE is aware, the Commission has never found that a failure to file an ex parte notice under Rule 8.4 is a continuing violation, and it should not do so now. Rule 8.4 imposes a discrete and one-time obligation to file a report of an ex parte communication at a specific point in time—within three business days of the communication.[84] The obligation under Rule 8.4 arises from the ex parte communication, and the violation is complete when the notice is not filed. In the words of *Younger*, the failure to file a notice required by Rule 8.4 "deposits" on the third business day after an ex parte communication occurs. Thereafter, the failure to file a notice "remains on the water," but no additional violation has occurred because no additional "deposit" has taken place.

The status of the duty under Rule 8.4 as one-time, rather than continuing, is illustrated by how parties comply with the rule. Once a party files a notice under Rule 8.4, its duty to report is

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[82] D.15-04-023. *See also* D.13-12-053, pp. 12-20 (slip op.) (finding continuing violations where a utility failed to meet its ongoing duty to report pipeline safety *and* specification data, and failed to correct a misleading and factually incomplete filing); Resolution ALJ-277, pp. 2-4, 6 (slip op.) (finding a continuing violation where a utility failed to meet its ongoing duty to conduct leak surveys); D.02-10-059, p. 40 (slip op.) (finding a continuing violation where a utility failed to meet its ongoing duty to file compliance reports).

[83] D.15-04-023, p. 216.

[84] Rule 8.4.

complete. By contrast, a utility's duty to maintain its equipment in a safe condition is not complete when the utility maintains safety on one day. The utility's safety duty continues each and every day. For Rule 8.4, the duty with respect to a particular communication is either met on a single day, or it is not met on that day, and in the latter case, there is but one violation.

In prior cases finding violations of the ex parte rules, and Rule 8.4 in particular, the Commission has not found continuing violations. For example, in D.08-01-021, the Commission found that PG&E violated the ex parte rules by failing to provide advance notice and by filing inadequate and incorrect notices after the fact (presumably in violation of Rule 8.4). The Commission made no reference to continuing violations, and instead directed PG&E to develop better internal procedures to ensure compliance with the ex parte rules. In another proceeding in which the utility violated Rule 8.4 by failing to report an ex parte communication, there was no discussion of continuing violations, and the remedy imposed was the retention of a consultant to conduct training.[85] In D.14-11-041, the Commission found that PG&E violated Rule 8.3(f) by engaging in ex parte communications regarding ALJ assignment, and that these violations were not continuing. On rehearing, the Commission affirmed that conclusion, noting that the violation of an "outright ban" on ex parte communications does not involve an "ongoing duty."[86] While that decision went on to observe that the requirement to report ex parte communications "could perhaps suggest an ongoing duty,"[87] it reached no conclusion on that question. The Commission should resolve that question now, and should hold that a violation of Rule 8.4 is not continuing. Indeed, it would be perverse to conclude that engaging in a communication that is altogether

[85] February 16, 2012, Joint Assigned Commissioner and Administrative Law Judge's Ruling, A.08-05-022 et al. [Southern California Gas Company].

[86] D.15-06-035, 2015 WL 3879844, at *3.

[87] *Id.*

prohibited (as in the PG&E case) should or must be punished less severely than failing to report a permitted communication (as is at issue in this case).

The Commission's determination in D.13-12-053 that PG&E's violation of Rule 1.1 was continuing does not apply in this case. In D.13-12-053, the Commission found that PG&E violated Rule 1.1 in two ways. First, the Commission found that PG&E's failure timely to correct a pleading that contained material misstatements of fact violated Rule 1.1. The Commission recently explained that determination by noting that PG&E "failed to meet its ongoing duty to report pipeline safety and specification data."[88] As explained above, there is no comparable ongoing duty to report under Rule 8.4, which instead imposes a one-time duty to do so. Second, D.13-12-053 found that the title, content and submission date of PG&E's "errata" document violated Rule 1.1, and that the failure to correct this violation constituted a continuing violation under section 2108.[89] The Commission did not explain the basis for this conclusion. On rehearing, the Commission stated that section 2108 "treats each day of any single breach as separate and distinct violations,"[90] without referencing the established Commission precedent holding that section 2108 applies only when there is an ongoing duty.[91] SCE respectfully submits that D.13-12-053 was incorrectly decided on this point, and that a violation of Rule 1.1

[88] D.15-06-035, p. 4 (discussing D.13-12-053). *See also* D.14-05-034, p. 10 (noting that failure to correct misstatement presented potential safety concern); *PG&E*, 237 Cal. App. 4th at 858 (noting that PG&E "was under a continuing duty to advise the Commission of the information concerning Lines 101 and 147").

[89] D.13-12-053, p. 18.

[90] D.14-05-034, p. 12.

[91] Commission precedent supports the finding of a continuing violation of Rule 1.1 only where there is an ongoing duty beyond the mere passage of time between the violative conduct and its discovery or correction. *See* D.15-04-008, pp. 13, 21 (slip op.) (finding a continuing violation of Rule 1.1 and assessing a penalty based on the number of undisclosed projects, not the time that elapsed between the violation of Rule 1.1 and its discovery); D.01-08-019, pp. 12-13 (slip op.) (finding a continuing violation of Rule 1 and assessing a penalty based on the number of offenses at issue "in terms of each separate data element that Sprint PCS failed to disclose in its data response.").

is complete upon the submission of the offending paper.[92] The filing of a misleading pleading is the "deposit," and the lingering effects of that filing "remain on the water." Nevertheless, D.13-12-053 is distinguishable to the extent that a misleading pleading has the potential to continue to mislead every day that it remains on file, whereas the failure to file a notice as required by Rule 8.4 is a discrete, one-time event that carries no similar risk.

Accordingly, the Commission should conclude that any violation of Rule 8.4 is subject to a single penalty, and should not be treated as a continuing violation. If, however, the Commission finds that a violation of Rule 8.4 could be treated as a continuing violation, it should exercise its discretion not to do so.[93]

B. The Penalty Factors Counsel In Favor Of a Modest Sanction

The Commission's standards for the imposition of penalties, articulated in D.98-12-075, support a penalty toward the lower end of the permissible range, if at all, when applied to SCE's conduct.

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[92] Though the Commission has noted its authority to penalize a continuing violation of Rule 1.1 based on the passage of time from violation to cure, it has rarely done so. *See* D.03-01-079, pp. 23-25 (slip op.) (finding a Rule 1 continuing violation for the failure to disclose two items and assessing a $500 per day, per item penalty for each of the two offenses); D.95-01-044, 1995 WL 82378 (holding that the Commission is empowered to find a Rule 1 continuing violation for each day of the violation but declining to do so); *see also* D.08-09-038, pp. 101-03 (slip op.) (finding a continuing violation to arise from violations of several rules and regulations, including Rule 1.1, but assessing single-sum penalty without finding as to whether the violation of Rule 1.1 was a continuing violation or noting the portion of the penalty apportioned to the violation of Rule 1.1).

[93] The Commission has discretion to determine that a violation is not continuing, or that certain violations are continuing and others are not. R.14-05-013, 2014 WL 2430115, at *18 ("Pursuant to § 2108, each violation is a separate and distinct offense and ongoing violations are separate and distinct offenses which are not cured until a satisfactory repair is made. Thus, penalties shall be assessed on a daily basis pursuant to § 2108 until a satisfactory repair is made. However, the Commission grants Staff the discretion to assess the maximum penalties required by § 2107 on less than a daily basis…."); D.99-08-007, 1999 WL 702262, at *7 ("[W]hile we could find a continuing violation, and assess additional fines, we will use our discretion to assess a penalty of $8,000.00 for one offense…"); D.01-04-038, 2001 WL 873620, p.7 (similar, and citing additional precedents). *See also* D.07-09-041, p. 40 (citing Sections 2107 and 2108 and noting that "[t]he Commission, however, has broad discretion in administering this section of the code, and even while we hold utilities 'subject' to a penalty, we may elect to suspend the whole or portion of a penalty, or decline to impose a penalty altogether.").

1. What harm was caused by virtue of the violation?

Any violation of Commission rules, including Rule 8.4, harms the integrity of the regulatory process.[94] The harm in this case, however, is less severe than the violation considered in D.14-11-041, which involved PG&E's violation of the prohibition on ex parte communication involving ALJ assignment. As the Commission explained in that decision: "However, while other illegal *ex parte* communications taint the regulatory process …by attempting to influence an individual Commissioner without affording other parties notice and an opportunity to do the same, *ex parte* attempts to circumvent Rule 9.2 [involving peremptory challenges] … potentially compromises the integrity of the entire record of a proceeding."[95]

The failure to report the March 26, 2013, Warsaw meeting did not significantly harm the regulatory process, beyond the harm inherent in any rule violation. As SCE has discussed in prior pleadings,[96] and will discuss further in response to ORA's petition for modification, there is no evidence that the communication in Warsaw on March 26, 2013, adversely affected the negotiation of the settlement. Mr. Randolph's declaration confirms that President Peevey and Mr. Pickett did not make any statements that led Mr. Randolph to believe that they had reached an agreement, and in addition notes that Mr. Pickett stated that he had no authority to do so in any case.[97] The settlement in this proceeding was negotiated at arms-length between SCE and SDG&E, and TURN and ORA, without any participation by President Peevey. Nor is there evidence that the March 26, 2013, meeting influenced the Commission's consideration of the settlement, which was based on an extensive and public record. As the Amended Ruling

[94] D.14-11-041, p. 7.

[95] *Id*.

[96] SCE's Response to A4NR's Petition for Modification (June 2, 2015), pp. 5-13.

[97] Amended Ruling, Appendix A, p. 2.

observes, "decisionmakers at administrative agencies are accorded a presumption of impartiality."[98]

There is no basis for suggesting that any of the other nine communications that the Amended Ruling suggests should have been reported harmed the regulatory process, beyond the impact of any rule violation. Four touched on matters that the Amended Ruling finds were within the scope of Phase 3,[99] which was never conducted. Three involved President Peevey's request for a contribution to UC as part of the settlement.[100] SCE never engaged in a substantive discussion of that request. Indeed, SCE did not desire the UC funding provisions at all, which were essentially forced on SCE by the Assigned Commissioners' and ALJs' ruling requesting changes to the settlement. And, one involved the comment that "nothing has happened."[101] In none of these communications did SCE ask a decisionmaker to take action (as was the case in D.14-11-041, with respect to ALJ assignment), and none of them could have actually influenced the Commission's action with respect to the settlement.

2. What was the utility's conduct in preventing, detecting, correcting, disclosing, and rectifying the violation?

The Commission has stated that, in determining a penalty, it must consider the utility's "investigatory efforts, level of self-reporting and cooperation, and corrective measures, to avoid the unintended consequence of discouraging such behavior in the future…"[102]

With respect to the March 26, 2013 Warsaw meeting, SCE acted reasonably in preventing a Rule 8.4 violation. At the time, Mr. Pickett reported that he believed the

[98] Amended Ruling, p. 22.

[99] Amended Ruling, pp. 36-38 (items 3, 5, 6, and 7).

[100] *Id.*, pp. 38-39 (items 8-10).

[101] *Id.*, p. 37 (item 4).

[102] D.08-09-038, p. 108.

communication was one-way, and the April 11, 2013 email from Mr. Litzinger demonstrates that SCE took the extra step of reconfirming that conclusion.[103] In 2015, SCE initiated further inquiries with Mr. Pickett, which led to the detection of the possible violation of Rule 8.4 and the filing of the late-filed ex parte notice.

The remaining nine communications identified by the Amended Ruling as possible Rule 8.4 violations were disclosed by SCE on April 29, 2015. The April 29 filing followed an extensive review of documents, and included disclosures that went well beyond the requirements of the April 14, 2015 ruling. While the April 14, 2015 ruling required SCE to produce documents reflecting communications with decisionmakers regarding settlement, SCE's April 29, 2015, filing also described other communications with decisionmakers, despite SCE's belief that they were not reportable under Rule 8.4, and despite the fact that the April 14, 2015 ruling did not require such disclosure.

In D.14-11-041, the Commission "acknowledge[d] PG&E's voluntary disclosure of the violations and its announced steps to improve compliance with our rules going forward."[104] Similarly, in D.08-09-038 the Commission emphasized that "[w]e expect and demand cooperation and will reward it appropriately," ultimately imposing a smaller-than-available penalty "because of SCE's excellent cooperation" after its violations had come to light.[105] The same factors mitigate any penalty in this case.

[103] SCE's April 29 Response, Appendix D at #00186.

[104] D.14-11-041, p. 11.

[105] D.08-09-038, p. 108; *see* D.07-05-054, p. 3 (approving the penalty amounts within a settlement and noting the companies' cooperation in the investigation).

Another mitigating factor is that SCE also has adopted additional policies to promote compliance with the Commission's ex parte rules. In September 2014, Edison International and SCE adopted two procedural steps regarding compliance: (1) an employee who intends to initiate a conversation with a decisionmaker about a pending ratemaking or adjudicatory proceeding must notify and seek guidance from the Law Department to determine if the ex parte rules apply to the communication, and arrange for the Law Department to prepare and file any required notices; and (2) an employee should promptly report to the Law Department a substantive conversation initiated by a decisionmaker about a pending proceeding that is either covered or potentially covered by the ex parte rules.[106] In October 2014, employees underwent mandatory training regarding ex parte compliance.

In February 2015, in an updated internal policy statement, SCE reemphasized the changes announced in September and prohibited any employee from engaging in a communication with a decisionmaker unless authorized by the Law Department.[107] The policy also imposed limitations on interactions with decisionmakers—for example, under the policy, in-person interactions with a decisionmaker may only occur during normal business hours or at widely-attended events like seminars, recognition ceremonies, or other public events; private dinners are not allowed.

In March 2015, SCE held a training session for employees likely to have communications with the Commission, which provided an overview of the new SCE policy regarding

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[106] *See* Memorandum re: CPUC's Ex Parte Communication Rules (Sept. 25, 2014), available at http://www.edison.com/content/dam/eix/documents/newsroom/news-releases/CPUC_Ex-Parte_Communication_Rules_092514.pdf; *see generally* Press Release (Feb. 9, 2015), available at http://newsroom.edison.com/releases/southern-california-edison-files-notice-with-state-utilities-commission-announces-strengthened-policies-governing-contacts-with-the-commission.

[107] SCE Internal Policy, "Communications and Interactions with the California Public Utilities Commission"), available at http://www.edison.com/content/dam/eix/documents/newsroom/news-releases/Communications_and_Interactions_with_the_CPUC_Policy_v_1.pdf.

communication with decisionmakers, along with best practices for communicating with the Commission. This training will be augmented by additional web-based training on communicating with decisionmakers in 2016.

Finally, in August 2015, SCE launched a logging system for tracking communications with the Commission. The log tracks communications between SCE employees and decisionmakers, and SCE employees who communicate with decisionmakers are trained and expected to document the date, time, participants, and content of those communications.

These strengthened policies should mitigate any penalties to be imposed on SCE. In addressing ex parte reporting violations, the Commission has noted a preference for "adopt[ing] a constructive remedial action" in lieu of financial penalties.[108] In D.08-01-021, the Commission supported the "development of written best practices to document, control, and report on ex parte contacts" and emphasized this outcome as "in the long-term best interests of the ratepayers and all other parties."[109] Similarly, in D.99-06-080, the Commission emphasized that "PG&E's actions to disclose and rectify these problems mitigate against applying high penalties."[110] Though the changes to policy and procedure undertaken by PG&E were implemented after the violations had occurred, they were nonetheless credited by the Commission as mitigating against "a more onerous fine."[111]

[108] D.08-01-021, pp. 14-15.

[109] *Id.*, p. 15.

[110] D.99-06-080, 1999 WL 742684 (June 24, 1999).

[111] *Id.*

Another mitigating factor is that, to SCE's best information, the Commission has not previously found SCE to have violated the ex parte rules.[112] In contrast, in the context of the ex parte violations the Commission found PG&E committed in D.14-11-041, the Commission had previously found that PG&E had violated the ex parte rules.[113]

3. Commission Precedent

The Commission discussed its precedents on the imposition of penalties for ex parte violations in D.14-11-041, which it summarized as follows: "Commission precedent in sanctioning *ex parte* violations has ranged from imposing relatively minor fines, or none at all, to requiring training on ethics and the Commission's *ex parte* rules, to mere admonishments."[114] As far as SCE is aware, the Commission has never imposed a monetary penalty on a party for violating Rule 8.4. With respect to other violations of the ex parte rules, the highest fine ever imposed was in D.14-11-041, involving prohibited communications on ALJ assignment in violation of Rule 8.3, in which the Commission imposed a penalty of $1,050,000.[115] As discussed in that decision, the highest monetary penalty the Commission had previously imposed for an ex parte violation was $40,000.[116] Commission precedent would support, at most, only a modest penalty in this case.

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[112] *See* Amended Ruling, p. 47, OP 2 (directing SCE to "take into consideration SCE's past violations of the ex parte rules"). SCE has searched Commission precedents and has not found any decisions finding SCE to have violated the ex parte rules. SCE has on occasion filed late-filed ex parte notices.

[113] *See* D.08-01-021.

[114] D.14-11-041, p. 11.

[115] *Id.*, p. 33, OP 1.

[116] *Id.*, pp. 11-13 (citing D.07-07-020 as modified by D.08-06-023, in which party violated the ban against ex parte communications in adjudicatory proceeding by participating in two meetings, and was fined $20,000 per meeting).

While not directly relevant, Commission precedent under Rule 1.1 also would not support a large penalty. As far as SCE is aware, the largest penalty the Commission has ever imposed for a Rule 1.1 violation alone was in D.13-12-053, which involved what the Commission found were PG&E's failure timely to correct errors in safety-related information and the submission of an errata whose title, content and submission date were found to be misleading.[117] These facts, which involved matters of public safety, resulted in a fine of $14,350,000.[118] Any potential penalty in this case should be significantly smaller.

4. What amount of fine or penalty will achieve the objective of deterrence based on the utility's financial resources?

While SCE's financial resources are significant, this factor by itself does not justify imposing a fine that is disproportionate to the harm caused, the utility's conduct, and precedent.[119] The consideration of financial resources is not a standalone consideration but is

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[117] In D.08-09-038 the commission assessed a $30,000,000 fine against SCE for violations of "several statutes, Commission decisions, and Rule 1.1." D.08-09-038, p. 99. While this decision penalized SCE for a continuing violation of Rule 1.1, it did not specify the amount of the fine attributable to that penalty. Though not precedential, similar logic underpinned the Commission's approval of a settlement in D.13-09-028, which assessed a $20,000,000 penalty against SCE for numerous violations but "[did] not specify how much of the $20 million is attributable to SCE's admitted violations of Rule 1.1." D.13-09-028, p. 43.

[118] D.13-12-053, p. 28, OP 1. In other decisions, the Commission imposed far smaller penalties for Rule 1.1 violations. *See* D.15-04-008, p. 21 (assessing a $15,000 per violation penalty to violations of Rule 1.1); D.14-12-051, p. 5 (approving a settlement agreement assessing a $6,000 penalty for a Rule 1.1 violation); D.00-06-067, 2000 WL 1027393 (finding a Rule 1 violation to arise from misrepresentations in testimony but imposing no monetary penalty); D.99-04-027, 1999 WL 667573, at *8 (finding a Rule 1 violation to arise from the submission of a misleading pleading but assessing no monetary penalty where the "comments fail[ed] to achieve [the company's] goal, and ratepayers are not harmed"); D.96-09-083, 1996 WL 634351 (finding two violations of Rule 1 to arise from false or misleading statements made to the Commission and assessing a $2,000 penalty).

[119] *See* D.08-06-022, pp. 5-6 (imposing a fine of $1,000 despite the utility's $170 million in financial resources where the Commission found that the "unique facts and circumstances" of the case weighed toward a lower fine based in part on a finding that the degree of wrongdoing was small as it involved an "unintentional" violation of the Rules); D.08-02-016, pp. 11-12 (choosing to impose a lower-than-maximum penalty based in part on a finding that the "scope of the violation was relatively small," even though the Commission also found that the utility "is a profitable company" and that its financial resources "indicate[d] that a larger fine may be needed to deter future violations."); D.03-06-069, pp. 17-
(footnote continued)

used by the Commission as a means of calibrating deterrence and avoiding the assessment of an excessive fine.[120] The difference in potential harm or consequence dictates the degree of importance of the deterrence achieved through the penalty.[121] In this case, the conduct did not risk "severe consequences," and as such deterrence is a less significant factor.

5. Under the totality of the circumstances, and evaluating the harm from the perspective of the public interest, what is the appropriate fine/penalty or sanction?

In evaluating the appropriate penalty, the Commission should consider that its ex parte rules are unclear and their application to particular situations is fraught with difficulty. The Amended Order's detailed analysis of the rules is the first time many of the interpretive issues have been explained by the Commission. With the exception of the March 26, 2013 Warsaw meeting, SCE continues to believe that the other nine communications identified in the Amended Ruling were not reportable. If the Commission were to conclude otherwise, it should at least recognize that such a conclusion is far from clear-cut. Parties' expectations and understandings of the rules have evolved since the communications in question occurred. While SCE will strive to comply with that evolved understanding (and any clarifications to the rules the Commission adopts) going forward, it would be unfair to apply those new views retroactively to conduct that occurred at a different time.

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19 (imposing a fine "at the low end of the range" despite the utility's "substantial" financial resources where the Commission was "strongly influenced by the lack of economic harm to customers" and by the utility's compliance with reporting requirements).

[120] *See Final Opinion Adopting Enforcement Rules* (1998) 84 CPUC 2d 167, 189 ("The Commission intends to adjust fine levels to achieve the objective of deterrence, without becoming excessive, based on each utility's financial resources.").

[121] *Id.* at 188 ("Effective deterrence creates an incentive for public utilities to avoid violations. Deterrence is particularly important against violations which could result in public harm, and particularly against those where severe consequences could result.").

The need for restraint in adopting a sanction for any violations of the ex parte rules the Commission may find SCE committed is illustrated by the conduct of other parties in this case, including those clamoring most loudly for SCE to be punished. As noted, A4NR, which is the moving party on this motion, engaged in communications with decisionmakers regarding this proceeding, without filing ex parte notices and without explaining why no such notices were required. On August 12, 2015, ORA and TURN advocated their views at a meeting that was not noticed in this proceeding and at which each of the Commissioners was present. Despite the Amended Ruling's express ban on ex parte communications about the Ruling,[122] ORA argued to the Commissioners that the interpretation of the rules as not requiring reporting of one-way communications is "not supported in the law"[123]—even though the Amended Ruling addresses (and rejects) this very point; [124] and TURN asserted that the "secret deal making" and "private, indeed secret communications" "need to stop"[125]—an apparent reference to the March 26, 2013, Warsaw meeting. On August 19, 2015, Mark Toney, TURN's Executive Director, testified at the Senate Rules Committee hearing on the confirmation of President Picker and Commissioner Randolph (both of whom were in attendance). Mr. Toney asserted that a SONGS deal was cut in Poland[126]—which is both false and about an issue addressed in Mr. Randolph's declaration. No ex parte notices have been filed with respect to either the August 12 or the August 19 communications. The Coalition to Decommission San Onofre ("CDSO") and Ruth Henricks

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[122] Amended Ruling, pp. 40 and 47, OP 3.

[123] Appendix D hereto.

[124] Amended Ruling, pp. 25-26.

[125] Appendix D hereto.

[126] Senate Rules Committee Hearing (August 19, 2015), available at http://calchannel.granicus.com/MediaPlayer.php?view_id=7&clip_id=3135**.** The relevant passage appears at 2:31:30.
(footnote continued)

sent numerous emails to the service list (including decisionmakers), including a CDSO email sent on August 10, 2015. Yet no ex parte notices were filed for these communications, as required by the rules.[127] This conduct is part of the totality of the circumstances and counsels against the imposition of an overly harsh penalty that singles out SCE.

One final comment is warranted with respect to A4NR's wholly inappropriate argument that an adverse inference should be drawn from an attorney-client privileged communication identified on SCE's privilege log titled "CPUC Cost Recovery," sent on April 9, 2013 from Edison International's General Counsel Robert Adler to outside counsel Henry Weissmann.[128] A4NR speculates that because this communication occurred eight days after Mr. Pickett met with Edison executives about his meeting with President Peevey, the communication should lead the Commission to conclude the Warsaw meeting "permeated" the SONGS OII. The law prohibits drawing this kind of negative inference from an assertion of attorney-client privilege, and for good reason.

California law expressly prohibits any court or counsel even from commenting on the fact that a party invokes privilege and provides that "no presumption shall arise because of the exercise of the privilege, and the trier of fact may not draw any inference therefrom as to the credibility of the witness or as to any matter at issue in the proceeding."[129] This rule against

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[127] *See* Rule 8.3(c) ("In any ratesetting proceeding, ex parte communications are subject to the reporting requirements set forth in Rule 8.4."). This directive applies to written ex parte communications as set forth in Rule 8.3(c)(3). On August 17, 2015, CDSO sent an email to the service list asserting that its prior emails do not qualify as ex parte communications because they were not sent to CPUC decisionmakers. CDSO acknowledges, however, that it sent the emails to ALJ Darling, and overlooks Rule 8.1(b), which defines "Decisionmaker" to include "the assigned Administrative Law Judge."

[128] A4NR Response, p. 11.

[129] Cal. Evid. Code § 913(a); *see People v. Jackson*, 189 Cal. App. 4th 1461, 1467 n.3 (2010) (noting decision to invoke attorney-client privilege is protected under Evidence Code § 913).

drawing any inference from the invocation of attorney-client privilege is widely recognized, and for good reason.[130]

The reason for refusing to allow adverse inferences from the invocation of attorney-client privilege—and for prohibiting counsel from commenting on such an invocation—is clear: Allowing the sort of inference that A4NR urges the Commission to draw would seriously chill SCE's right to seek legal advice and would put it in the untenable position of being unable to respond to A4NR's accusation without waiving privilege. As one court stated: "An individual in a free society should be encouraged to consult with his attorney whose function is to counsel and advise him and he should be free from apprehension of compelled disclosures by his legal advisor. To protect that interest, a client asserting the privilege should not face a negative inference about the substance of the information sought."[131] A4NR's request that the Commission draw this type of prohibited inference from SCE's privilege log should be rejected.

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The relevant circumstances counsel against any large penalty. The failure to report the March 26, 2013, Warsaw meeting did not cause harm to the regulatory process beyond the harm inherent in any rule violation, which the Commission previously has concluded in analogous circumstances warrants either no monetary penalty or a small one. SCE respectfully submits that

[130] *Knorr-Bremse Systeme Fuer Nutzfahrzeuge GmbH v. Dana Corp*., 383 F.3d 1337, 1345 (Fed. Cir. 2004) ("courts have declined to impose adverse inferences on invocation of the attorney-client privilege"); *Nabisco, Inc. v. PF Brands, Inc.,* 191 F.3d 208, 225–26 (2d Cir. 1999) (no adverse inference from refusal to disclose privileged attorney opinion letter), *abrogated on other grounds sub nom. Moseley v. Secret Catalogue,* 537 U.S. 418 (2003); *Parker v. Prudential Insurance Co.*, 900 F.2d 772, 775 (4th Cir. 1990) (no adverse inference from assertion of attorney-client privilege).

[131] *Parker*, 900 F.2d at 775 (citation and internal quotation marks omitted); *see also Nabisco*, 191 F.3d at 226 ("If refusal to produce an attorney's opinion letter based on claim of the privilege supported an adverse inference, persons would be discouraged from seeking opinions, or lawyers would be discouraged from giving honest opinions. Such a penalty for invocation of the privilege would have seriously harmful consequences.").

it was not required to report the other nine communications, but even if it were, there was no significant harm to the regulatory process beyond the harm resulting from any rule violation. SCE made reasonable and informed judgments about whether the communications in questions were reportable, it voluntarily disclosed the communications in question, and the Commission has not previously found SCE to have violated the ex parte rules. The Commission has never imposed a monetary penalty for a violation of the reporting requirements of Rule 8.4 and has never imposed a penalty for any ex parte rule violation of more than $1.05 million. The ambiguities in the rules and their application, and the evolving understandings around their requirements, would make the imposition of a severe sanction on SCE in these circumstances particularly unfair.

C. Other Remedies

The Amended Ruling notes that sanctions may include, in addition to monetary penalties, "required ex parte training for SCE's executives, credits to ratepayers, and supplemental recordkeeping requirements."[132] SCE respectfully submits that these sanctions are not warranted, particularly in light of the additional reporting and recordkeeping requirements SCE has implemented as described above. SCE has provided training regarding compliance with the ex parte rules and will continue to do so. In addition, SCE has adopted a policy requiring consultation with the Law Department before initiating a communication with a decisionmaker about a pending ratemaking or adjudicatory proceeding, and also requiring a prompt report of a substantive communication initiated by a decisionmaker. SCE is initiating a process of requiring those engaging in communications with decisionmakers to maintain records of such

[132] Amended Ruling, p. 40.

communications. These practices are part of SCE's commitment to compliance with the Commission's rules and do not need to be specifically ordered by the Commission.

No "credits to ratepayers" are appropriate. In D.14-11-041, PG&E's ex parte communications required the Commission to reassign the proceeding to another ALJ, resulting in a delay in the resolution of the proceeding.[133] As a result, the amortization period for revenue collection was potentially shortened.[134] The Commission indicated that a ratemaking adjustment might be imposed to address this harm.[135] No similar alleged harm occurred in this case. The OII was not delayed, the settlement resulted from arm's-length negotiations, and the Commission's evaluation of the settlement was unaffected by any of the ten communications at issue. A ratemaking adjustment would contradict D.14-11-040, the Commission's decision approving the settlement as a full and complete resolution of all ratemaking issues in the OII.

VII. CONCLUSION

Except for the March 26, 2013, Warsaw meeting, SCE did not engage in any communications that were reportable under Rule 8.4. SCE did not engage in contempt and did not violate Rule 1.1. Any violation was not continuing, and a large penalty is not warranted. No other sanction should be imposed.[136]

[133] D.14-11-041, pp. 8-9.

[134] *Id.*, p. 10.

[135] *Id.*, p. 34, OP 3.

[136] In response to Ordering Paragraph 3 of the Amended Ruling, SCE does not request a hearing regarding the Order to Show Cause.

Date: August 20, 2015

Respectfully Submitted,

J. ERIC ISKEN
WALKER A. MATTHEWS
RUSSELL A. ARCHER
HENRY WEISSMANN

/s/ Henry Weissmann
By: Henry Weissmann

Attorneys for
SOUTHERN CALIFORNIA EDISON COMPANY

Appendix A

DECLARATION OF RONALD L. LITZINGER

I, Ronald L. Litzinger, do hereby declare as follows:

1. I am President of Edison Energy Group, Inc. I joined Southern California Edison ("SCE") as an engineer in 1987, and over the years held various positions at SCE, Edison Mission Energy and Edison International. From January 2011 until the end of September 2014, I was President of SCE.

2. The purpose of this declaration is to respond to the Amended Administrative Law Judge's Ruling dated August 5, 2015.

3. The Amended Ruling suggests that my communication to Commissioner Florio on June 26, 2013, was reportable under the ex parte rules because "SCE's employee compensation commitment and cost recovery of employee severance costs were substantive topics because their reasonableness would be considered by the Commission when reviewing 2013 SONGS Operations and Maintenance expenses."[1] The communication, however, did not address those substantive topics. On that date, after the conclusion of an oral argument in the Chino Hills case, I approached Commissioner Florio. I recall stating that I understood that Commissioner Florio was working on the schedule for the SONGS OII, and that I wanted him to know that negotiations with the labor unions were ongoing and expected to be completed within the next few months. I stated that it would probably be better for the Commission to review the final agreement, and that I thought Commissioner Florio would want the schedule of the proceeding to line up with the anticipated conclusion of the negotiations. I recall that Commissioner Florio stated that this made sense. The conversation lasted 5 minutes or less. I did not discuss the amount of severance that was being paid or any other issue in the negotiations; my communication was limited to the anticipated schedule for the negotiations.

4. The Amended Ruling suggests that, at the September 6, 2013, lunch with President Peevey and SCE's Les Starck, I "offered [my] view in opposition to Peevey's approach by which SCE would get either replacement power costs or its capital investment but not both."[2] My expectation was that the September 6, 2013, lunch discussion would be about choreographing the public event in the City of Chino Hills that occurred later in the afternoon. In the course of the lunch, Mr. Starck raised a question about the timing of a decision in the ERRA docket. President Peevey responded that the Commission would not issue an ERRA decision until the SONGS OII was settled. President Peevey then directed a remark to me to the effect that a decision in the SONGS OII would permit recovery of capital (which I understood referred to the investment in the replacement steam generators) or replacement power, but not both. I did not wish to discuss the OII given the ex parte restrictions applicable to that proceeding. As a means of deflecting the discussion, I responded: "or somewhere in between." I believed this remark was stating the obvious. I was not attempting to influence President Peevey in any way or to oppose what he had said. Rather, my intent was to politely end the discussion

[1] Amended Ruling, p. 37.

[2] *Id.*, pp. 37-38.

about the SONGS OII and move on to another topic. My remark did result in the topic being changed, as President Peevey then asked me about the status of settlement negotiations, to which I responded that we were in negotiations but I could not divulge any specifics. I believe that the entire discussion about the OII and settlement lasted two minutes or less.

5. The Amended Ruling suggests "an unreported communication occurred between Litzinger and Peevey in which the substantive issue of a possible settlement provision to address GHG impacts was discussed."[3]

a. As discussed in my prior declaration, President Peevey first raised the subject of a contribution to UC for GHG (greenhouse gas) research at a meeting on May 2, 2014, which was also attended by Commissioner Florio and SCE's R.O. Nichols.[4] To the best of my recollection, in that meeting, President Peevey stated that the proposed settlement of the SONGS OII was missing a provision about GHG research. President Peevey said that the utilities should make a voluntary charitable contribution of $25 million to UCLA to conduct GHG research, with $4 million per year being paid by SCE and $1 million per year being paid by San Diego Gas & Electric Company ("SDG&E"). My immediate thought was that a discussion of this issue would not be appropriate given the pendency of the OII and the settlement. As a result, I did not respond to President Peevey's request for a contribution, other than to say we would get back to him.

b. I believe that the next communication about this subject with President Peevey was at a meeting on May 14, 2014, which was also attended by Commissioner Florio. When President Peevey raised the issue of SCE making a voluntary charitable contribution to UC for GHG research, I stated I could not engage in a substantive conversation on that topic.

c. It was not entirely clear whether President Peevey was suggesting that the utilities add a provision regarding GHG research to the SONGS OII settlement, or instead was asking the utilities to consider making a voluntary charitable contribution to UCLA as part of their general philanthropy program, separate from the settlement. I contacted my counterpart, Jeff Martin, at SDG&E, to discuss the proposed charitable contribution. He opposed adding a provision to the SONGS OII settlement for a contribution to GHG research, and noted that contributions relating to sustainability were already part of SDG&E's normal philanthropy program.

d. Between May 14, 2014, and June 5, 2014, President Peevey made several calls to me repeatedly, but I do not recall speaking with him until June 5, 2014. In fact, I do not recall any other communications with President Peevey on the subject of a UC contribution or GHG research between May 2, 2014 and June 5, 2014, though it is possible that I had a brief phone conversation with President Peevey during that time period. If any such communications occurred, I am confident that I would not have communicated anything to President Peevey other than that we could not engage in a substantive conversation on the topic because I was very

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[3] *Id.*, p. 39.

[4] SCE's April 29, 2015 Response, App. G, ¶¶ 8-9.

aware of a need to avoid engaging with President Peevey on the subject of a UC contribution or GHG research in connection with the SONGS OII settlement.

6. The Amended Ruling suggests that the call between President Peevey and me, referenced in Mr. Hoover's June 11, 2014 email, was two-way.[5] Mr. Hoover's email states that President Peevey referred to a conversation he had with me "last week."[6] I infer that this refers to the call I had with President Peevey on June 5, 2014. To the best of my recollection, in this call, the following occurred: President Peevey again raised the issue of SCE making a voluntary contribution to UC for GHG research. I reported what I understood to be SDG&E's position as summarized above, and President Peevey asked me to explain SCE's position. I said that, similar to SDG&E, I could not discuss a contribution as part of the SONGS OII settlement, but I could discuss Edison International's charitable contribution process in general outside the context of the settlement. President Peevey stated, in substance, that the absence of any commitment by the utilities to address the climate change impacts of the closure of SONGS could delay or affect the approval of the settlement. President Peevey angrily criticized what he characterized as SCE's unwillingness to seriously address climate change. I returned the discussion to Edison International's charitable contribution policy outside the context of the SONGS OII. President Peevey asked me for a commitment to voluntarily fund GHG research, which I said I was not in a position to make because the funding levels President Peevey had requested would require Board approval. President Peevey stated that the Board would approve a contribution, the contribution amount could be lowered, and he could raise the remaining funds elsewhere. As far as I recall, he did not mention a specific dollar amount in this call, although he had mentioned a total of $25 million during the May 2, 2014, meeting. I again stated that I could make no commitments as to charitable contributions in general and could not discuss the issue at all in the context of the SONGS OII settlement. President Peevey expressed frustration with me and demanded to discuss the issue directly with Ted Craver. I did not engage in a substantive communication to President Peevey regarding a UC contribution as part of the SONGS OII settlement in this call (or at any other time).

7. Throughout the time period starting on May 2, 2014, I was acutely aware that any discussion of a UC contribution as part of the SONGS OII settlement would be potentially problematic, and I was extremely careful not to engage in any substantive communication to President Peevey (or any other CPUC decisionmaker) with regard to this topic.

8. The Amended Ruling suggests that my May 14, 2014, testimony may have been misleading because I did not reference two communications that the Amended Ruling finds were reportable ex parte communications. I set forth above the facts that I believe indicate that these two communications were not in fact reportable. As I stated in a prior declaration,[7] based on my general understanding of the rules, I genuinely believed that these communications were not reportable ex parte communications. During the May 14, 2014, hearing, it never crossed my

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[5] Amended Ruling, p. 39.

[6] SCE's April 29, 2015 Response, App. D, page SCE-CPUC-00000250.

[7] SCE's Response to A4NR's Amended Motion for Sanctions (May 21, 2015), Attachment, ¶¶ 3-7.

mind that either of those events could be regarded as reportable ex parte communications under the Commission's rules.

9. Throughout my tenure as President of SCE, including in the context of each of the communications addressed in the Amended Ruling and my testimony on May 14, 2015, I have done my utmost to comply with the Commission's rules and with the highest standards of ethics and integrity. I have sometimes found the interpretation and application of the Commission's ex parte rules to be difficult, and throughout 2013-14, prior to any discussion with any decisionmaker on any topic, I routinely sought advice as to what I could say if a SONGS question should arise. I have always acted in accordance with my good faith belief as to what the rules required. In addition, I embrace and do everything possible to comply with the Commission's rule that prohibits parties from misleading the Commission. In answering questions during the May 14, 2014, hearing, I made every effort to be accurate and truthful, and I did not intend to mislead the Commission in any way.

Executed at Rosemead, California on August 20, 2015.

Ronald L. Litzinger

Appendix B

DECLARATION OF MICHAEL HOOVER

I, Michael Hoover, do hereby declare as follows:

1. I am Senior Director of State Energy Regulation for Southern California Edison ("SCE").

2. The purpose of this declaration is to respond to the Amended Administrative Law Judge's Ruling dated August 5, 2015.

3. The Amended Ruling refers to my May 29, 2013, e-mail to Les Starck, in which I summarized comments made to me by Carol Brown, who was then President Peevey's Chief of Staff.[1] Ms. Brown called me after SCE's press release, which responded to Senator Boxer. However, I do not recall Ms. Brown raising anything in relation to the press release, nor do I recall raising that subject with her. As reflected in my May 29, 2013, e-mail, Ms. Brown stated that Mr. Pickett "was well prepared in Poland with specifics, but then nothing has happened." At the time, I did not know what Ms. Brown was referring to. While I was aware that Mr. Pickett had met with President Peevey, I was unaware that they discussed SONGS. I believe I told Ms. Brown that I would pass along her comment. To the best of my recollection, I did not respond in any substantive way to Ms. Brown's comment.

Executed at San Francisco, California on August 19, 2015.

Michael Hoover

[1] Amended Ruling, p. 37, citing SCE's April 29, 2015, Filing, App. D, page SCE-CPUC-00000186.

Appendix C

DECLARATION OF DR. PATRICK MASON

I, Patrick Mason, do hereby declare as follows:

1. I am President and CEO of the California Foundation on the Environment and the Economy (CFEE), a non-profit institution that works closely with the California State Legislature and State regulatory agencies to develop consensus on energy, environmental, water, transportation, telecommunications, and economic growth issues. The foundation, based in San Francisco, is a non-partisan coalition of business, labor, environmental, and community leaders in California.

2. Among other things, CFEE organizes study travel projects. CFEE organized a trip in March 2013 to Poland. I was a participant on this trip along with a substantial number of other people, representing a wide array of organizations and interests. Michael Peevey, who was then the President of the California Public Utilities Commission (CPUC), participated in this trip, as did Stephen Pickett, who was then employed at Southern California Edison.

3. I attended a group dinner in Warsaw Poland with others on the trip, including President Peevey and Mr. Pickett, on March 27, 2013. I remember this dinner because it was my wedding anniversary, and President Peevey organized a surprise celebration at the dinner. A number of the trip participants, whom I have known for many years, gave toasts or speeches at the dinner in honor of my anniversary. The celebration was very thoughtful but caught me by surprise. I estimate the dinner was attended by 15 to 20 people.

4. I sat next to President Peevey at the dinner. I do not recall any discussion of the CPUC proceeding regarding the San Onofre Nuclear Generating Station (SONGS) at this dinner.

Executed at San Francisco, California on August 20, 2015.

Patrick Mason

Appendix D

DECLARATION OF OLIVIA D. GUTIERREZ

I, Olivia D. Gutierrez, do hereby declare as follows:

1. I am employed at Southern California Edison Company as a Legal Administrative Assistant 1.

2. I viewed a video recording (located at http://www.californiaadmin.com/cgi-bin/cali/cpuc_view.cgi?name=CPUC_OM081215&part=1) of the California Public Utilities Commission's Committee on Policy and Governance meeting that took place at the Commission's San Francisco offices on August 12, 2015.

3. I created a transcript of the statements provided by Joseph P. Como, Acting Director of the Office of Ratepayer Advocates of the California Public Utilities Commission, and Thomas J. Long, Legal Director of The Utility Reform Network,, a true and accurate copy of which is attached to my declaration and entitled "CPUC's Committee on Policy and Governance (August 12, 2015).

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

Executed on August 19, 2015 at Rosemead, California.

/s/ Olivia D. Gutierrez
Olivia D. Gutierrez

CPUC's Committee on Policy and Governance
(August 12, 2015)

Public Comments from Joe Como of ORA (@ minute 68:48):

Since time is limited I'll just hit the high points of my comments. I think Mr. O'Neill and Mr. Strumwasser did a really good job and I support both of their reports as being very thoughtful. Mr. Strumwasser especially got it right with regard to ex parte communications that the PUC has, basically the process fundamentally undermines the record based decision making of the Commission the way it's practiced right now and that basically the PUC does have the worst of both worlds. You have this very long, expensive litigation process. At the same time you have this process which could potentially undermine the reasons you make decisions at the last moment, which are unverified, un-vetted communications behind closed doors, and that you have really good tools to avoid that type of information exchange. I know that coming from my former positions as an advisor, as a legal division attorney, both advisory and advocacy and more indirectly as a former practitioner, it is really important to me to have a complete record, but you have really good tools. You have the staff here at the Commission. Mr. O'Neill talked about this issue very well. The staff here, your advisors are really good. Incidentally, your advisors are good because they come from a very good staff. Your advisors are good but they exemplify what the staff is here at the Commission. You have about 800 people in this building who are the best advice givers you have. It's one of the most professional and intelligent and biggest group of industry professionals that there are in the United States. You should use them to give you advice. It also goes to the issue that Mr. O'Neill talked about, which is basically this dissidence and siloing issue. If you're using that staff the way you should be using them to give you the unbiased advice that they are prepared to give you, then you shouldn't have a, basically you're solving that same problem. There needs to be employing more oral communications, sorry, oral arguments in all party meetings and also the issue of really quickly, the fact that you have this issue of one way communications with the loophole about the decisionmaker making a comment that is not reported, that's not supported in the law. The actual decisionmaker's comments is not reported but the actual event is reportable and that's what Mr. Strumwasser has articulated in his report that I think we should take that to heart. And basically I would support Mr. O'Neill's recommendations and also I would support limitations, excuse me, opening up the Bagley-Keene rules to make them more liberal at the same time that you clamp down on the ex parte rules. Thank you.

Question from Commissioner Florio: Just one clarification, I assume you were talking about advisory staff that ORA, if you're a party you would be subject to the same ex parte rules.

Response from Mr. Como: Exactly the same ex parte rules.

Commissioner Florio: That's what I thought you meant but I just didn't want to have any confusion.

Mr. Como: Yeah, no. ORA is not your advisory staff and I strongly support your using industry division people, SED, and all the talent that's already there.

Public Comments from Tom Long of TURN (@ minute 74:41):

Tom Long for TURN. Good afternoon Commissioners and thank you for this opportunity. Well, I'm tall is part of the problem, I think. I'm trying to get there. But, anyway, it's good to hear that the Commission is finally talking about ex parte reform. I'll have to keep my comments high level as well. From our perspective, the crux of the problem is that now private, indeed secret, communications between the decisionmakers and the parties are far too significant a part of the process and that needs to stop. The private emails that have been revealed in the last year have shown many disturbing things: secret deal making with the utilities, reliance on getting information from the utilities without allowing the parties a chance to respond, a disdain for the formal public record of the case, basing decisions on interest group politics rather than the merits of the cases, and that's why the Commission's credibility has plunged. TURN agrees with the Strumwasser report that shifting the debate from the hearing room to private meetings gives facts in evidence short shrift in favor of a personal and negotiated approach to finding an acceptable outcome. The Commission's legitimacy derives from rendering expert findings and conclusions based on a fair, complete and transparent record. Basing decisions on private meetings with regulated entities destroys the Commission's legitimacy. That doesn't mean that in appropriate cases we're opposed to Commissioners hearing from the parties in somewhat informal meetings such as all party meetings, letters served on all parties, but the bottom line is that the private, secret communications need to stop. Thank you.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Investigation on the Commission's Own Motion into the Rates, Operations, Practices, Services and Facilities of Southern California Edison Company and San Diego Gas and Electric Company Associated with the San Onofre Nuclear Generating Station Units 2 and 3.	Investigation 12-10-013 (Filed October 25, 2012)
And Related Matters.	Application 13-01-016 Application 13-03-005 Application 13-03-013 Application 13-03-014

SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338-E)
NOTICE OF EX PARTE COMMUNICATION

J. ERIC ISKEN
WALKER A. MATTHEWS, III
RUSSELL A. ARCHER
Southern California Edison Company
2244 Walnut Grove Avenue
Post Office Box 800
Rosemead, CA 91770
Telephone: (626) 302-6879
Facsimile: (626) 302-3990
E-mail: *Walker.Matthews@sce.com*

HENRY WEISSMANN
Munger, Tolles & Olson LLP
355 South Grand Avenue, 35th Floor
Los Angeles, CA 90071
Telephone: (213) 683-9150
Facsimile: (213) 683-5150
E-mail: *Henry.Weissmann@mto.com*

Attorneys for
SOUTHERN CALIFORNIA EDISON COMPANY

Dated: August 20, 2015

Pursuant to the Amended Administrative Law Judge's Ruling Finding Violations of Rule 8.4, Requiring Reporting of Ex Parte Communications, and Ordering Southern California Edison Company to Show Cause Why It Should Not Also Be Found In Violation of Rule 1.1 And Be Subject To Sanctions For All Rule Violations ("Amended Ruling"), Southern California Edison ("SCE") submits this Notice of Ex Parte Communication with respect to Item No. 1 in Section 5.4 of the Amended Ruling.

As SCE has previously disclosed,[1] on March 26, 2013, former SCE Executive Vice President of External Relations, Stephen Pickett, met with then-President Michael Peevey at the Bristol Hotel in Warsaw, Poland in connection with an industry event. To the best of Mr. Pickett's recollection, the meeting lasted approximately 30 minutes. Ed Randolph, Director of the Energy Division, also was present for some or all of the meeting.

As to the content of the communication, recollections vary.

Attached hereto as Exhibit A is a sworn declaration of Mr. Pickett, originally filed by SCE on April 29, 2015, which sets forth his recollection of the meeting.[2] Attached hereto as Exhibit B is a sworn declaration of Edward Randolph, originally filed with the Amended Ruling, which describes his recollection of the same meeting.[3] Attached hereto as Exhibit C is a copy of notes taken at the meeting by Mr. Pickett and annotated by President Peevey.[4]

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[1] SCE submitted a late-filed ex parte notice regarding this meeting on February 9, 2015. *See* Southern California Edison Company's (U 338-E) Late-Filed Notice of Ex Parte Communication (Feb. 9, 2015). A copy of this notice is attached hereto as Exhibit D.

[2] SCE's Response to ALJ's April 14, 2015 Ruling, Appendix F (Declaration of Stephen Pickett).

[3] ALJ's Order to Show Cause at Attachment A (Declaration of Edward F. Randolph in Response to Administrate Law Judge Questions Received by Email on June 1, 2015).

[4] SCE first obtained a copy of the notes when they were filed by plaintiffs in *Citizens Oversight, Inc. v. California Public Utilities Commission*, Case No. 14-cv-2703-CAB (NLS) (U.S. District Court, Southern District of California) on April 10, 2015. On April 13, 2015, SCE filed a supplement to its February 9, 2015 late-filed notice attaching a copy of the notes.

The Amended Ruling finds as follows:

> 3/26/13 – Poland meeting: Pickett's statements that Peevey did all the talking about the possibility of settlement of the SONGS OII in a "one-way" meeting are not credible in light of other evidence. In particular, Pickett admits he disagreed with Peevey over treatment of replacement power costs and thus, engaged in a substantive communication with a decisionmaker, which was not reported until nearly two years later, after a decision had been adopted.[5]

Respectfully Submitted,

Date: August 20, 2015

J. ERIC ISKEN
WALKER A. MATTHEWS
RUSSELL A. ARCHER
HENRY WEISSMANN

/s/ Henry Weissmann
By: Henry Weissmann

Attorneys for
SOUTHERN CALIFORNIA EDISON COMPANY

[5] Amended Ruling, pp. 35-36 (citations omitted).

EXHIBIT A

DECLARATION OF STEPHEN PICKETT

I, Stephen Pickett, do hereby declare as follows:

1. I retired from Southern California Edison ("SCE") on November 30, 2013, after working thirty-five years for the company. I held many positions at SCE over time, including General Counsel of SCE. As of March 2013 and until my retirement, I was Executive Vice President of External Relations.

2. In March 2013, I traveled to Poland as part of a study tour organized by the California Foundation on the Environment and Economy ("CFEE"). Approximately twenty to thirty individuals took part in this CFEE study tour. Michael Peevey, who at the time was the President of the California Public Utilities Commission ("CPUC" or the "Commission"), was one of those individuals. No other SCE employees traveled to Poland with the CFEE group.

3. Prior to my departure to Poland, President Peevey asked SCE for a briefing about the status of its efforts to restart SONGS, and SCE management assigned me the task of updating President Peevey on this issue at some point during the Poland trip. I did not expect to discuss settlement of the SONGS Order Instituting Investigation ("OII"), or a resolution of any of the issues in the OII, with President Peevey in Poland. I did not have any settlement authority from SCE, and I did not reach or attempt to reach any agreement, tentative or otherwise, with President Peevey about the SONGS OII.

4. On March 26, 2013, I met with President Peevey for approximately half an hour in the Bristol Hotel in Warsaw, Poland, in order to give President Peevey the update about SCE's efforts to restart SONGS. My recollection is that Ed Randolph, Director of the Energy Division at the CPUC, was also present for some or all of the meeting.

5. I provided President Peevey with an update about the status of SCE's efforts to restart SONGS, including SCE's efforts with the Nuclear Regulatory Commission ("NRC") to get approval to restart SONGS Unit 2. I told President Peevey that it appeared that the NRC was going down the path of requiring a license amendment in order to restart SONGS. I indicated that if the NRC required a license amendment that could result in a significant delay before SCE could restart Unit 2.

6. President Peevey expressed concern that such a delay in the restart of SONGS would potentially have a negative impact on the power grid and SCE's ability to serve its customers in the summer of 2013. He noted that the CPUC and possibly other government agencies would have to continue the efforts they had undertaken in the summer of 2012 to help avoid this possibility. I recall President Peevey noting that at some point SCE would have to consider the possibility of permanently shutting down SONGS. I agreed that was a possibility, but noted that SCE was still continuing to make every effort possible to restart SONGS.

7. President Peevey pursued his line of thought about a possible permanent shut down of SONGS and began to consider the many ramifications if SONGS were to be shut down, noting that it would be a long and difficult proceeding before the Commission. He stated his views on how to resolve some of these issues, including the various areas of costs that would

have to be addressed, referring at times to how the CPUC had dealt with these issues in the past, including in the resolution of the SONGS 1 shutdown, the PG&E bankruptcy proceeding, and the SCE energy crisis settlement.

8. President Peevey's comments on these issues were stated in broad terms. I recall that he made a statement to the effect that the cost of the replacement steam generators ("RSGs") should be written off, and the remaining investment recovered in a manner similar to SONGS 1. I was familiar with the SONGS 1 settlement, and I understood that comment to mean that SCE would recover the non-RSG investment with a rate of return on the entire undepreciated balance equal to its authorized cost of debt. President Peevey did not address this issue more specifically. I do not recall him mentioning, for example, certain other specific categories of investment of which I was aware, such as the recovery of construction work in progress and nuclear fuel.

9. With regard to operations and maintenance ("O&M") costs, I recall President Peevey stating that employees should be treated fairly and receive reasonable severance payments. He stated that O&M expenses had already been approved in SCE's general rate cases. I also recall him stating that the amounts authorized in the general rate case for SONGS O&M could continue through a future shut-down date plus another period of time of about 6 months. I also recall President Peevey saying that he wanted to address the greenhouse gas impacts of the shutdown of SONGS. He mentioned a charitable contribution for greenhouse gas research as a possible way to address this issue.

10. I did not understand President Peevey's comments to be a directive on how a settlement should be structured, nor did they appear to me to reflect a prejudgment as to the outcome of the OII. Instead, I understood them as President Peevey's general thoughts on how, based on prior commission decisions, he thought the cost responsibility for SONGS might ultimately be sorted out.

11. At some point well into the meeting, I obtained a pad of paper from the hotel and began taking notes in an effort to organize President Peevey's comments for my own benefit. As noted, President Peevey's remarks were quite general, and my notes reflect my interpretation of President Peevey's statements. My notes are not a verbatim record of President Peevey's comments, do not reflect the order of the conversation, and were not a term sheet. I do not know if President Peevey agreed with my characterization of his comments. At some point near the end of the meeting, President Peevey asked me to give him the notes, and he wrote on the notes. I did not see what he wrote. President Peevey kept the notes after the meeting.

12. I did not engage in settlement negotiations with President Peevey. President Peevey made it clear, however, that in the event of a permanent shutdown of SONGS he thought it would be best for SCE to engage in settlement negotiations with appropriate consumer groups and other interested parties, and bring a settlement proposal to the CPUC for consideration. President Peevey specifically mentioned John Geesman, who represents the Alliance for Nuclear Responsibility, as one possible party. I did not understand President Peevey's comments on cost responsibility, as outlined above, to constitute a direction to SCE to settle on those terms.

13. The substance of the communication about the resolution of the issues involved if SONGS were to shutdown was, in the main, from President Peevey to me. To the best of my recollection, I did not react or respond to President Peevey's comments, with one exception: at one point, President Peevey stated that there should be a disallowance of both replacement power costs and replacement steam generator investment costs. I do not recall exactly what I said in response, but I believe I very briefly expressed disagreement. I did not consider my reaction to have risen to the level of a substantive communication to President Peevey.

14. After this meeting with President Peevey, I went to dinner with the CFEE group. There was no discussion about SONGS at that dinner.

15. On March 27, 2013, I attended another dinner with the CFEE group. President Peevey was also in attendance. I believe President Peevey may have mentioned SONGS during the dinner, but I do not recall anything of substance relating to the SONGS OII being discussed. To the best of my recollection, settlement of the OII was not mentioned.

16. When I returned to the United States, I briefed senior executives on April 1, 2013, about what President Peevey had said to me about SONGS in Poland. These executives were SCE President Ron Litzinger, Edison International CEO Ted Craver, Edison International CFO Jim Scilacci, and Edison International General Counsel Robert Adler. At some point during the meeting, the issue was raised of whether my meeting with President Peevey constituted a reportable ex parte communication. I did not believe it was reportable, based on my general understanding of the ex parte rules. After the April 1 meeting I consulted with SCE's counsel on the ex parte reporting issue, and no ex parte notice was filed at that time.

17. After my meeting with the executives, I summarized the points raised by President Peevey in a document that I titled "Elements of a SONGS Deal," which I sent to the executives whom I had briefed that day. The title of the document was not meant to convey that I had entered into any "deal" with President Peevey. Rather, the document reflected President Peevey's comments about the framework of a possible resolution of SONGS issues with parties to the OII. The document was intended to be an internal outline that could serve as a basis for discussing a potential settlement in a deal with consumer and other groups should SCE's efforts to restart SONGS prove unsuccessful. I also asked several SCE employees to take these ideas and work on them further.

18. After the trip to Poland, I did not speak with President Peevey about a SONGS settlement, nor did I speak with any other CPUC decision maker regarding a SONGS settlement, prior to its being publicly announced. I have seen and spoken to President Peevey a number of times at social and other occasions since the Poland trip. However, the only other communication I had with President Peevey or any other CPUC decision maker about settlement of the OII was at a social dinner with President Peevey and others in the summer of 2014, in which President Peevey made a passing comment to the effect that he liked the settlement (which had by that time been filed with the Commission), but that an element was missing – specifically something to address greenhouse gas issues – and he was going to work to get it added. I did not respond to President Peevey's comment on the SONGS settlement. I was retired from SCE at that point. I did not convey President Peevey's comment to anyone at SCE.

19. I was not a part of the group of executives who oversaw settlement discussions relating to the SONGS OII. I understand that Edison International General Counsel Robert Adler oversaw those settlement negotiations. I was not involved in, and do not have any knowledge about, the settlement discussions that eventually resulted in the SONGS settlement.

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

Executed at La Cañada, California on April 28, 2015.

Stephen Pickett

EXHIBIT B

FILED
8-05-15
02:02 PM

APPENDIX A

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Investigation on the Commission's Own Motion into the Rates, Operations, Practices, Services and Facilities of Southern California Edison Company and San Diego Gas and Electric Company Associated with the San Onofre Nuclear Generating Station Units 2 and 3.	I.12-10-013 (Filed October 25, 2012)
And Related Matters.	A.13-01-016 A.13-03-005 A.13-03-014 A.13-03-013

DECLARATION OF EDWARD F. RANDOLPH IN RESPONSE TO ADMINISTRATIVE LAW JUDGE QUESTIONS RECEIVED BY EMAIL ON JUNE 1, 2015.

Q. Please state your name, title, and business address.

A. My name is Edward F. Randolph. I am the Director of the Energy Division at the California Public Utilities Commission. My business address is 505 Van Ness Avenue, San Francisco, California, 94102.

Q. What is the purpose of your declaration?

A. The purpose of this declaration is to respond to questions I received via email on June 1, 2015 from the assigned Administrative Law Judges (ALJs), Melanie M. Darling and Kevin Dudney, in the above-captioned proceeding. These questions relate to Southern California Edison's (SCE) Late-Filed Notice of Ex Parte Communication filed February 9, 2015 in Investigation (I.)12-10-013 ("the SONGS OII").

Q. The first question from the assigned ALJs asks: "Were you present for some or all of the March 26, 2013 meeting referenced in SCE's 2/9/15 Late-Filed Notice? Describe the date, location, and identity of all those in attendance for the meeting, as well as the times you were present." What is your response?

A. Yes, I was present at the meeting described in the SCE's late-filed notice. The meeting occurred on March 26, 2013 in the Hotel Bristol in Warsaw Poland. I was present along with the Commission President at the time, Michael Peevey, and Stephen Pickett. I was present for the entire duration of the meeting.

Q. The second question from the assigned ALJs asks: "Did Mr. Pickett make any statements regarding substantive matters related to the SONGS OII, including potential settlement? If so, please describe those statements." What is your response?

A. President Peevey initiated the meeting for the purpose of encouraging SCE to make a decision soon if it would seek to restart the San Onofre Nuclear Generating Station (SONGS) or permanently shut down the plant. Ongoing uncertainty over whether the plant would operate in the long-term was causing negative ratepayer impacts because SCE and the CAISO were both forced to make continued short term investments to ensure reliability in Southern California, and planning for

permanent solutions to replace the output of the plant could not begin until a decision was made on the long term operations. Mr. Pickett stated that SCE was in the process of making a decision on that issue and he did not make any specific commitment during the meeting.

After this discussion a conversation was initiated about a possible settlement agreement on cost recovery in the OII. Mr. Pickett initially stated his opinion of what he thought a settlement agreement would look like in the SONGS OII. He emphasized that he had not communicated this vision with his management. After Mr. Pickett presented his vision of a settlement agreement, President Peevey stated that any settlement agreement should include protections for the workers and funding to help offset the increased greenhouse gas (GHG) emissions created by the need to replace power generated by SONGS.

Q. The third question from the assigned ALJs asks: "Did Mr. Pickett make any statements about substantive matters related to other pending Commission proceedings?" What is your response?

A. No. Other than the conversations I describe above, I do not recall discussions about any other topics occurring at that meeting.

Q. The fourth question from the assigned ALJs asks: "Do you have any recollection of notes being taken of the meeting, and by whom? Did you create or keep any notes?" What is your response?

A. No, I do not recall notes being taken at the meeting. No, I did not take notes of the meeting.

Q. The fifth question from the assigned ALJs asks: "Did Mr. Pickett make any statements which led you to believe that he and President Peevey had reached an agreement about any matter then pending before the Commission?" What is your response?

A. No. Mr. Pickett made it clear that he did not have authority to make an agreement on a SONGS settlement. No other issues were raised regarding any matter pending before the Commission.

Q. Does this conclude your responses to the Assigned ALJ's questions?

A. Yes.

Declaration of Witness

I, Edward F. Randolph, declare under penalty of perjury that the statements contained in the forgoing Declaration of Edward F. Randolph in Response to Administrative Law Judge Questions Received by Email on June 1, 2015, are true and correct to the best of my knowledge, information, and belief.

Executed on this 4 day of June, 2015.

Edward F. Randolph

EXHIBIT C

1. Pre-RSG investment: recover w/ debt-level return through 2022.
2. RSG and post-RSG investment: disallow "retroactively out of rate base" effective 2/1/2012
3. Replacement power responsibility: customer
4. NEIL/insurance recoveries: to customers
5. MHI recovery: 1st to SCE to the extent of the disallowance
   2d to customers

Next page

6. Decommissioning costs: remain in rates through time of decommissioning -- periodic redetermination in CPUC proceedings as before
7. O&M: a) Already approved GRC amounts through shutdown + 6 months
   b) OII to determine shutdown O&M through end of 2017 (i.e., not in GRC)
   c) shutdown O&M 2018 and beyond determined in GRC's
   d) Shutdown O&M to include reasonable severance for SONGS employees - Appox of $50 million

+48 22 55 11 000 telephone / telefon
+48 22 625 25 77 facsimile / fax
KRAKOWSKIE PRZEDMIEŚCIE 42/44
00-325 WARSZAWA, POLAND
luxurycollection.com/bristolwarsaw

8. Environmental offset: SCE to donate $~~5.0~~ 10 million per year 2014-2022 to _____ {an agreed upon GHG, climate, or environmental academic research fund, institution, etc.}

9. Process a) settlement agreement approved in OII
b) balance of OII closed except for shutdown O&M phase
c) new OII phase for shutdown O&M per 7(b) and 7(d) above
d) 2018 GRC for shutdown O&M 2018 and beyond
e) Usual CPUC proceedings for review of decommissioning costs

MHI Reserv

1- First $200 million — 50% custo
— 50% SCE
2- Next $200 million — 70% S
— 30% cust
3- Any above $400 million — 80% to S
up to disallowance — 20% to c
4- Above disallowance — 25% SCE
— 75% custo

+48 22 55 11 000 telephone / telefon
+48 22 625 25 77 facsimile / fax
KRAKOWSKIE PRZEDMIEŚCIE 42/44
00-325 WARSZAWA, POLAND
luxurycollection.com/bristolwarsaw

EXHIBIT D

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Investigation on the Commission's Own Motion into the Rates, Operations, Practices, Services and Facilities of Southern California Edison Company and San Diego Gas and Electric Company Associated with the San Onofre Nuclear Generating Station Units 2 and 3.	Investigation 12-10-013 (Filed October 25, 2012)
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SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338-E) LATE-FILED NOTICE OF EX PARTE COMMUNICATION

J. ERIC ISKEN
WALKER A. MATTHEWS, III
RUSSELL A. ARCHER
Southern California Edison Company
2244 Walnut Grove Avenue
Post Office Box 800
Rosemead, CA 91770
Telephone: (626) 302-6879
Facsimile: (626) 302-3990
E-mail: *Walker.Matthews@sce.com*

HENRY WEISSMANN
Munger, Tolles & Olson LLP
355 South Grand Avenue, 35th Floor
Los Angeles, CA 90071
Telephone: (213) 683-9150
Facsimile: (213) 683-5150
E-mail: *Henry.Weissmann@mto.com*

Attorneys for
SOUTHERN CALIFORNIA EDISON COMPANY

Dated: February 9, 2015

Southern California Edison (SCE) respectfully submits this late-filed Notice of Ex Parte Communication. On or about March 26, 2013, former SCE Executive Vice President of External Relations, Stephen Pickett, met with then-President Michael Peevey at the Bristol Hotel in Warsaw, Poland in connection with an industry event. To the best of Mr. Pickett's recollection, the meeting lasted approximately 30 minutes. Mr. Pickett recalls that Ed Randolph, Director of the Energy Division, also was present for some or all of the meeting.

The meeting was initiated by Mr. Peevey, who had requested an update on the status of SCE's efforts to restart San Onofre Nuclear Generating Station (SONGS) Unit 2. Mr. Pickett provided the requested update. Thereafter, in the course of the meeting, Mr. Peevey initiated a communication on a framework for a possible resolution of the Order Instituting Investigation (OII) that he would consider acceptable but would nonetheless require agreement among at least some of the parties to the OII and presentation to and approval of such agreement by the full Commission. Mr. Pickett believes that he expressed a brief reaction to at least one of Mr. Peevey's comments. Mr. Pickett took notes during the meeting, which Mr. Peevey kept; SCE does not have a copy of those notes.

An ex parte notice was not filed at that time because it was believed that (a) Mr. Pickett's update on SONGS restart efforts was permissible and not reportable, and (b) based on Mr. Pickett's recounting of the conversation, the substantive communication on a framework for a possible resolution of the OII was made by Mr. Peevey to Mr. Pickett, and not from Mr. Pickett to Mr. Peevey. However, based on further information received from Mr. Pickett last week, while Mr. Pickett does not recall exactly what he communicated to Mr. Peevey, it now appears that he may have crossed into a substantive communication. While SCE believes that it is not clear cut whether Rule 8.4 requires this meeting to be reported, SCE provides this notice.

Respectfully Submitted,

Date: February 9, 2015

J. ERIC ISKEN
WALKER A. MATTHEWS
RUSSELL A. ARCHER
HENRY WEISSMANN

/s/ Henry Weissmann
By: Henry Weissmann

Attorneys for
SOUTHERN CALIFORNIA EDISON COMPANY

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J. ERIC ISKEN
WALKER A. MATTHEWS, III
RUSSELL A. ARCHER
Southern California Edison Company
2244 Walnut Grove Avenue
Post Office Box 800
Rosemead, CA 91770
Telephone: (626) 302-6879
Facsimile: (626) 302-3990
E-mail: *Walker.Matthews@sce.com*

HENRY WEISSMANN
Munger, Tolles & Olson LLP
355 South Grand Avenue, 35th Floor
Los Angeles, CA 90071
Telephone: (213) 683-9150
Facsimile: (213) 683-5150
E-mail: *Henry.Weissmann@mto.com*

Attorneys for
SOUTHERN CALIFORNIA EDISON COMPANY

Dated: August 20, 2015

Pursuant to the Amended Administrative Law Judge's Ruling Finding Violations of Rule 8.4, Requiring Reporting of Ex Parte Communications, and Ordering Southern California Edison Company to Show Cause Why It Should Not Also Be Found In Violation of Rule 1.1 And Be Subject To Sanctions For All Rule Violations ("Amended Ruling"), Southern California Edison ("SCE") submits this Notice of Ex Parte Communication with respect to Item No. 2 in Section 5.4 of the Amended Ruling. By filing this ex parte notice in compliance with the Amended Ruling, SCE does not intend to waive its objections to certain aspects of the Amended Ruling, which are set forth in SCE's separately filed response to the Amended Ruling. As set forth in SCE's separately filed response, SCE does not agree with the conclusion that a reportable ex parte communication occurred.

In Item No. 2, the Amended Ruling finds that a reportable ex parte oral communication occurred between former SCE Executive Vice President of External Relations Stephen Pickett and then-President Michael Peevey at a dinner on March 27, 2013 in Warsaw, Poland. This dinner was attended by President Peevey, Mr. Pickett, Edward Randolph, Fong Wan, Karen Edson, Ron Cochran, Jan Smutny-Jones, Patrick Mason, Jim Pope, Marcie Milner, Julie Gill, several members of the California legislature, and others. The Amended Ruling finds as follows:

> 3/27/13 – Pickett admits he continued communication with Peevey the following night during dinner with others and wrote an internal e-mail that he was "working" SONGS at the dinner. Pickett also admitted discussing possible settlement partners with Peevey. Pickett's later statement that he did not recall discussing SONGS is less reliable than his contemporaneous internal e-mail. Pickett's credibility is adversely impacted by his failure to disclose the true nature of the 3/26/13 meeting. Thus, the evidence weighs in favor of concluding that Pickett communicated with Peevey on the substantive issues relating to the potential allocation of some costs to be determined in the proceeding.[1]

[1] Amended Ruling, p. 36 (citations omitted).

Attached hereto as Exhibit A is a sworn declaration of Mr. Pickett, originally filed by SCE on April 29, 2015, which sets forth his recollection of this March 27, 2013 dinner in Poland.[2] Attached hereto as Exhibit B are copies of the two emails referenced and cited in the Amended Ruling, originally submitted by SCE on April 29, 2015, and July 23, 2015.[3]

Respectfully Submitted,

Date: August 20, 2015

J. ERIC ISKEN
WALKER A. MATTHEWS
RUSSELL A. ARCHER
HENRY WEISSMANN

/s/ Henry Weissmann
By: Henry Weissmann

Attorneys for
SOUTHERN CALIFORNIA EDISON COMPANY

[2] SCE's Response to ALJ's April 14, 2015 Ruling, Appendix F (Declaration of Stephen Pickett).

[3] SCE's Response to ALJ's April 14, 2015 Ruling, Appendix D at #00186; SCE Response to ALJ's June 26, 2015 Ruling, Appendix A at #00282.

EXHIBIT A

DECLARATION OF STEPHEN PICKETT

I, Stephen Pickett, do hereby declare as follows:

1. I retired from Southern California Edison ("SCE") on November 30, 2013, after working thirty-five years for the company. I held many positions at SCE over time, including General Counsel of SCE. As of March 2013 and until my retirement, I was Executive Vice President of External Relations.

2. In March 2013, I traveled to Poland as part of a study tour organized by the California Foundation on the Environment and Economy ("CFEE"). Approximately twenty to thirty individuals took part in this CFEE study tour. Michael Peevey, who at the time was the President of the California Public Utilities Commission ("CPUC" or the "Commission"), was one of those individuals. No other SCE employees traveled to Poland with the CFEE group.

3. Prior to my departure to Poland, President Peevey asked SCE for a briefing about the status of its efforts to restart SONGS, and SCE management assigned me the task of updating President Peevey on this issue at some point during the Poland trip. I did not expect to discuss settlement of the SONGS Order Instituting Investigation ("OII"), or a resolution of any of the issues in the OII, with President Peevey in Poland. I did not have any settlement authority from SCE, and I did not reach or attempt to reach any agreement, tentative or otherwise, with President Peevey about the SONGS OII.

4. On March 26, 2013, I met with President Peevey for approximately half an hour in the Bristol Hotel in Warsaw, Poland, in order to give President Peevey the update about SCE's efforts to restart SONGS. My recollection is that Ed Randolph, Director of the Energy Division at the CPUC, was also present for some or all of the meeting.

5. I provided President Peevey with an update about the status of SCE's efforts to restart SONGS, including SCE's efforts with the Nuclear Regulatory Commission ("NRC") to get approval to restart SONGS Unit 2. I told President Peevey that it appeared that the NRC was going down the path of requiring a license amendment in order to restart SONGS. I indicated that if the NRC required a license amendment that could result in a significant delay before SCE could restart Unit 2.

6. President Peevey expressed concern that such a delay in the restart of SONGS would potentially have a negative impact on the power grid and SCE's ability to serve its customers in the summer of 2013. He noted that the CPUC and possibly other government agencies would have to continue the efforts they had undertaken in the summer of 2012 to help avoid this possibility. I recall President Peevey noting that at some point SCE would have to consider the possibility of permanently shutting down SONGS. I agreed that was a possibility, but noted that SCE was still continuing to make every effort possible to restart SONGS.

7. President Peevey pursued his line of thought about a possible permanent shut down of SONGS and began to consider the many ramifications if SONGS were to be shut down, noting that it would be a long and difficult proceeding before the Commission. He stated his views on how to resolve some of these issues, including the various areas of costs that would

have to be addressed, referring at times to how the CPUC had dealt with these issues in the past, including in the resolution of the SONGS 1 shutdown, the PG&E bankruptcy proceeding, and the SCE energy crisis settlement.

8. President Peevey's comments on these issues were stated in broad terms. I recall that he made a statement to the effect that the cost of the replacement steam generators ("RSGs") should be written off, and the remaining investment recovered in a manner similar to SONGS 1. I was familiar with the SONGS 1 settlement, and I understood that comment to mean that SCE would recover the non-RSG investment with a rate of return on the entire undepreciated balance equal to its authorized cost of debt. President Peevey did not address this issue more specifically. I do not recall him mentioning, for example, certain other specific categories of investment of which I was aware, such as the recovery of construction work in progress and nuclear fuel.

9. With regard to operations and maintenance ("O&M") costs, I recall President Peevey stating that employees should be treated fairly and receive reasonable severance payments. He stated that O&M expenses had already been approved in SCE's general rate cases. I also recall him stating that the amounts authorized in the general rate case for SONGS O&M could continue through a future shut-down date plus another period of time of about 6 months. I also recall President Peevey saying that he wanted to address the greenhouse gas impacts of the shutdown of SONGS. He mentioned a charitable contribution for greenhouse gas research as a possible way to address this issue.

10. I did not understand President Peevey's comments to be a directive on how a settlement should be structured, nor did they appear to me to reflect a prejudgment as to the outcome of the OII. Instead, I understood them as President Peevey's general thoughts on how, based on prior commission decisions, he thought the cost responsibility for SONGS might ultimately be sorted out.

11. At some point well into the meeting, I obtained a pad of paper from the hotel and began taking notes in an effort to organize President Peevey's comments for my own benefit. As noted, President Peevey's remarks were quite general, and my notes reflect my interpretation of President Peevey's statements. My notes are not a verbatim record of President Peevey's comments, do not reflect the order of the conversation, and were not a term sheet. I do not know if President Peevey agreed with my characterization of his comments. At some point near the end of the meeting, President Peevey asked me to give him the notes, and he wrote on the notes. I did not see what he wrote. President Peevey kept the notes after the meeting.

12. I did not engage in settlement negotiations with President Peevey. President Peevey made it clear, however, that in the event of a permanent shutdown of SONGS he thought it would be best for SCE to engage in settlement negotiations with appropriate consumer groups and other interested parties, and bring a settlement proposal to the CPUC for consideration. President Peevey specifically mentioned John Geesman, who represents the Alliance for Nuclear Responsibility, as one possible party. I did not understand President Peevey's comments on cost responsibility, as outlined above, to constitute a direction to SCE to settle on those terms.

13. The substance of the communication about the resolution of the issues involved if SONGS were to shutdown was, in the main, from President Peevey to me. To the best of my recollection, I did not react or respond to President Peevey's comments, with one exception: at one point, President Peevey stated that there should be a disallowance of both replacement power costs and replacement steam generator investment costs. I do not recall exactly what I said in response, but I believe I very briefly expressed disagreement. I did not consider my reaction to have risen to the level of a substantive communication to President Peevey.

14. After this meeting with President Peevey, I went to dinner with the CFEE group. There was no discussion about SONGS at that dinner.

15. On March 27, 2013, I attended another dinner with the CFEE group. President Peevey was also in attendance. I believe President Peevey may have mentioned SONGS during the dinner, but I do not recall anything of substance relating to the SONGS OII being discussed. To the best of my recollection, settlement of the OII was not mentioned.

16. When I returned to the United States, I briefed senior executives on April 1, 2013, about what President Peevey had said to me about SONGS in Poland. These executives were SCE President Ron Litzinger, Edison International CEO Ted Craver, Edison International CFO Jim Scilacci, and Edison International General Counsel Robert Adler. At some point during the meeting, the issue was raised of whether my meeting with President Peevey constituted a reportable ex parte communication. I did not believe it was reportable, based on my general understanding of the ex parte rules. After the April 1 meeting I consulted with SCE's counsel on the ex parte reporting issue, and no ex parte notice was filed at that time.

17. After my meeting with the executives, I summarized the points raised by President Peevey in a document that I titled "Elements of a SONGS Deal," which I sent to the executives whom I had briefed that day. The title of the document was not meant to convey that I had entered into any "deal" with President Peevey. Rather, the document reflected President Peevey's comments about the framework of a possible resolution of SONGS issues with parties to the OII. The document was intended to be an internal outline that could serve as a basis for discussing a potential settlement in a deal with consumer and other groups should SCE's efforts to restart SONGS prove unsuccessful. I also asked several SCE employees to take these ideas and work on them further.

18. After the trip to Poland, I did not speak with President Peevey about a SONGS settlement, nor did I speak with any other CPUC decision maker regarding a SONGS settlement, prior to its being publicly announced. I have seen and spoken to President Peevey a number of times at social and other occasions since the Poland trip. However, the only other communication I had with President Peevey or any other CPUC decision maker about settlement of the OII was at a social dinner with President Peevey and others in the summer of 2014, in which President Peevey made a passing comment to the effect that he liked the settlement (which had by that time been filed with the Commission), but that an element was missing – specifically something to address greenhouse gas issues – and he was going to work to get it added. I did not respond to President Peevey's comment on the SONGS settlement. I was retired from SCE at that point. I did not convey President Peevey's comment to anyone at SCE.

19. I was not a part of the group of executives who oversaw settlement discussions relating to the SONGS OII. I understand that Edison International General Counsel Robert Adler oversaw those settlement negotiations. I was not involved in, and do not have any knowledge about, the settlement discussions that eventually resulted in the SONGS settlement.

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

Executed at La Cañada, California on April 28, 2015.

Stephen Pickett

EXHIBIT B

From: ronald litzinger/sce/eix;nsf;ron.litzinger@sce.com;smtp
Sent: Thu Apr 11 2013 16:21:45 PDT
To: ted craver/sce/eix@sce;robert adler/sce/eix@sce;jim scilacci/sce/eix@sce
CC:
Subject: Discussion with SP
Attachments:

Importance: Low
Priority: Normal
Sensitivity: None

I met Steve face to face this morning and reinforced that there can be no discussions with the CPUC on settlement that is not sanctioned by us. There will only be one spokesperson appointed by us. I noted we are in listen mode only--Steve has yet another "social dinner" with President Peevey this weekend??

I pressed Steve as to whether his two previous meeting were listen only given we have heard whispers of leaks from the CPUC of significant SCE presence on the issue. He said he did not engage. He said the CPUC leaks like a sieve to which I commented that only reinforced my no unsanctioned engagement statement. By the way, Ed Randolph is currently in the hot seat for recording a private meeting with legislators without gaining prior consent and then getting caught.

For what it is worth, he volunteered independently that we should only engage with TURN at first (he mentioned Matt Friedman). I used that as an opportunity to seek out the answer to our question on "TURN without DRA". Steve said that can be done, but would likely result in a "protested settlement" with a hearing--DRA of course filing the protest. He would recommend considering inviting DRA in later in the process. I took it all under advisement. He said President Peevey feels strongly about Geesman. I merely responded his testimony shows him to be merely a "bomb thrower". He said is smart and could be trusted--"at least when he was in a superior position as a regulator". I again stated his testimony was inflammatory.

I left meeting uneasy. I am pondering another conversation clearly stating that unauthorized engagement would result in dismissal--but common sense would dictate that without saying it. Any thoughts would be appreciated.

From: stephen e pickett/sce/eix
Sent: Wed Mar 27 2013 14:28:25 PDT
To: polly l gault/sce/eix@sce
CC:
Subject: Re: Sent the wrong attachment earlier. Here's the agenda. Sorry.
Attachments:

Importance: Low
Priority: Normal
Sensitivity: None

The following message body may have embedded images.

Hung out, visited friends, went to Stonehenge. Now sitting next to Peevey at dinner in Warsaw working Chino Hills and SONGS. Deserve combat pay. Will get nothing. Moderately pissed off. And you?
Sent from my Blackberry

From:
Polly L Gault
To:
Stephen Pickett
Date:
03/27/2013 02:21 PM PDT
Subject:
Re: Sent the wrong attachment earlier. Here's the agenda. Sorry.

Redacted - NonResponsive

From:
Stephen E Pickett
To:
Polly Gault
Date:
03/27/2013 02:07 PM PDT
Subject:
Re: Sent the wrong attachment earlier. Here's the agenda. Sorry.

Redacted - NonResponsive
Sent from my Blackberry

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Investigation on the Commission's Own Motion into the Rates, Operations, Practices, Services and Facilities of Southern California Edison Company and San Diego Gas and Electric Company Associated with the San Onofre Nuclear Generating Station Units 2 and 3.	Investigation 12-10-013 (Filed October 25, 2012)
And Related Matters.	Application 13-01-016 Application 13-03-005 Application 13-03-013 Application 13-03-014

SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338-E)
NOTICE OF EX PARTE COMMUNICATION

J. ERIC ISKEN
WALKER A. MATTHEWS, III
RUSSELL A. ARCHER
Southern California Edison Company
2244 Walnut Grove Avenue
Post Office Box 800
Rosemead, CA 91770
Telephone: (626) 302-6879
Facsimile: (626) 302-3990
E-mail: *Walker.Matthews@sce.com*

HENRY WEISSMANN
Munger, Tolles & Olson LLP
355 South Grand Avenue, 35th Floor
Los Angeles, CA 90071
Telephone: (213) 683-9150
Facsimile: (213) 683-5150
E-mail: *Henry.Weissmann@mto.com*

Attorneys for
SOUTHERN CALIFORNIA EDISON COMPANY

Dated: August 20, 2015

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In Item No. 3, the Amended Ruling finds that a reportable ex parte written communication occurred when SCE's former Senior Vice President of Regulatory Policy & Affairs Les Starck sent an email on May 29, 2013, to five Commissioners (Michael Peevey, Catherine Sandoval, Mike Florio, Mark Ferron, and Carla Peterman) forwarding an SCE press release that provided SCE's response to Senator Boxer's allegations that SCE made errors related to the design of the replacement steam generators. The Amended Ruling finds as follows:

> 5/28/13 - Starck sent an e-mail to all five Commissioners with an SCE press release that provided SCE's response to U.S. Senator Boxer's allegations, made in reliance on two letters from SCE to MHI from 2004 and 2005, that the NRC and SCE made errors related to the design of the RSGs. Although Phase 3 had not yet begun, the Preliminary Scope in the initial OII and the Phase 1 scoping memo clearly indicated that the prudency of SCE's actions related to the RSG design were likely to be a factor in determining whether the SGRP costs, including for postshutdown repairs, were reasonable. The press release includes substantive and argumentative content about SCE's actions and constitutes a

> substantive communication regarding matters to be determined in the SONGS OII.[1]

Attached hereto as Exhibit A is a copy of Mr. Starck's May 29, 2013 email to the CPUC Commissioners with the press release that was attached to the email.

Respectfully Submitted,

Date: August 20, 2015

J. ERIC ISKEN
WALKER A. MATTHEWS
RUSSELL A. ARCHER
HENRY WEISSMANN

/s/ Henry Weissmann
By: Henry Weissmann

Attorneys for
SOUTHERN CALIFORNIA EDISON COMPANY

[1] Amended Ruling, pp. 36-37 (citations omitted).

EXHIBIT A

From: les starck/sce/eix;nsf;les.starck@sce.com;smtp
Sent: Wed May 29 2013 07:34:29 PDT
To: mp1@cpuc.ca.gov;catherine.sandoval@cpuc.ca.gov;mike.florio@cpuc.ca.gov;mark.ferron@cpuc.ca.gov;cap@cpuc.ca.gov
CC: efr@cpuc.ca.gov;"lindh, frank" <frank.lindh@cpuc.ca.gov>;pac@cpuc.ca.gov
BCC: laura genao/sce/eix
Subject: SONGS Press Release: SCE Exercised Responsible Oversight for Replacement Steam Generators at the San Onofre Nuclear Plant
Attachments: ATT08G19.pdf

Importance: Low
Priority: Normal
Sensitivity: None

Commissioners, FYI, attached is SCE's press release released yesterday regarding SONGS.

SCE Exercised Responsible Oversight for Replacement Steam Generators
at the San Onofre Nuclear Plant

ROSEMEAD, Calif., May 28, 2013 — Letters released today by Southern California Edison (SCE) demonstrate that it exercised responsible oversight of the vendor of the San Onofre nuclear plant replacement steam generators before any designs were completed or approved.

SCE is restating its position after allegations from U.S. Sen. Barbara Boxer at a press conference this afternoon regarding correspondence from SCE to Mitsubishi Heavy Industries (MHI), the manufacturer of the replacement steam generators. SCE provided the November 2004 correspondence referenced by Sen. Boxer and a June 2005 letter from SCE to MHI to the Nuclear Regulatory Commission (NRC) in April in connection with ongoing NRC proceedings.

"In response to Sen. Boxer's statement, we believe that the determination for restart must be made based on technical merits, through the established nuclear regulatory process," said Pete Dietrich, SCE senior vice president and chief nuclear officer.

"SCE's own oversight of MHI's design review complied with industry standards and best practices." He added. "SCE would never, and did not, install steam generators that it believed would impact public safety or impair reliability."

The November 2004 and June 2005 letters have also been provided to parties involved in a California Public Utilities Commission investigation and are now posted online.

These letters emphasize the importance of careful attention to the design of the steam generators. Recognizing that SCE was not the designer of the steam generators and that there were limitations on the assistance SCE could provide, the letters identify a number of design issues that SCE asked MHI to focus on to ensure that design flaws were not inadvertently introduced.

SCE took numerous steps to ensure that MHI appropriately addressed these concerns, including design review meetings, executive oversight meetings, and meetings of many other groups of SCE and MHI personnel.

"We take very seriously our responsibility to ensure we protect the public's health and safety," Dietrich said. "These documents demonstrate the type of careful oversight that SCE exercised during the replacement steam generator project and also served to establish our expectations of MHI."

In the November 2004 letter, SCE emphasized the care that would be needed during the design phase because of the differences between the new and old units. These differences—which were intended to improve the overall performance of the new units—were permitted under the NRC's 50.59 process, which allows changes to a nuclear facility if certain criteria are met. Contrary to Sen. Boxer's suggestion, Section 50.59 does NOT require that replacement equipment be "like for like" or identical to the equipment being replaced.

Instead, the very purpose of the regulation is to permit certain types of design changes. In general, a licensee may

make a change to the design of a licensed facility without prior NRC approval if the change does not require a change to the plant's NRC-approved technical specifications or if the change would not change the facility "as described in the safety analysis report." This report is the official description of the nuclear plant that was approved by the NRC in the initial licensing, as updated throughout the life of the plant.

SCE advised the NRC that the San Onofre steam generators contained a number of different features from the previous design. In fact, safety evaluations prepared by the NRC in connection with amendments to the San Onofre license associated with the steam generator replacements described the most important of those changes in detail. At no time did SCE hide the differences from the NRC, nor did it seek to mislead the NRC concerning the applicability of Section 50.59 to the project. Any suggestion that seeks to draw from the November 2004 letter a contrary conclusion is simply incorrect and relies on the fundamental error of viewing Section 50.59 as applying to identical, or "like for like" replacements.

A leak occurred in one of the San Onofre steam generators in January 2012, and both units have remained shut down since then. The NRC has determined that the problems in the steam generators were associated with errors in MHI's computer modeling, which led to underestimation of thermal hydraulic conditions in the generators.

The San Onofre nuclear plant is the largest source of baseload generation and voltage support in the region and is a critical asset in meeting California's clean energy needs. Both units at the plant are currently safely shut down. Unit 2 was taken out of service Jan. 9, 2012, for a planned outage. Unit 3 was safely taken offline Jan. 31, 2012, after station operators detected a leak in a steam generator tube.
More information is available at www.edison.com/SONGSupdate and at www.SONGScommunity.com. San Onofre is jointly owned by SCE (78.21 percent), San Diego Gas & Electric (20 percent) and the city of Riverside (1.79 percent). Follow us on Twitter (www.twitter.com/SCE) and Facebook (www.facebook.com/SCE).
About Southern California Edison
An Edison International (NYSE:EIX) company, Southern California Edison is one of the nation's largest electric utilities, serving a population of nearly 14 million via 4.9 million customer accounts in a 50,000-square-mile service area within Central, Coastal and Southern California.

SOUTHERN CALIFORNIA EDISON
An EDISON INTERNATIONAL Company

NEWS

Media Contact: Media Relations, (626) 302-2255
Investor Relations Contact: Scott Cunningham, (626) 302-2540

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"SCE's own oversight of MHI's design review complied with industry standards and best practices." He added. "SCE would never, and did not, install steam generators that it believed would impact public safety or impair reliability."

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These letters emphasize the importance of careful attention to the design of the steam generators. Recognizing that SCE was not the designer of the steam generators and that there were limitations on the assistance SCE could provide, the letters identify a number of design issues that SCE asked MHI to focus on to ensure that design flaws were not inadvertently introduced.

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"We take very seriously our responsibility to ensure we protect the public's health and safety," Dietrich said. "These documents demonstrate the type of careful oversight that SCE exercised during the replacement steam generator project and also served to establish our expectations of MHI."

In the November 2004 letter, SCE emphasized the care that would be needed during the design phase because of the differences between the new and old units. These differences—which were intended to improve the overall performance of the new units—were permitted under the NRC's 50.59 process, which allows changes to a nuclear facility if certain criteria are met. Contrary to Sen. Boxer's suggestion, Section 50.59 does NOT require that replacement equipment be "like for like" or identical to the equipment being replaced.

Instead, the very purpose of the regulation is to permit certain types of design changes. In general, a licensee may make a change to the design of a licensed facility without prior NRC approval if the change does not require a change to the plant's NRC-approved technical specifications or if the change would not change the facility "as described in the safety analysis report." This report is the official description of the nuclear plant that was approved by the NRC in the initial licensing, as updated throughout the life of the plant.

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More information is available at www.edison.com/SONGSupdate and at www.SONGScommunity.com. San Onofre is jointly owned by SCE (78.21 percent), San Diego Gas & Electric (20 percent) and the city of Riverside (1.79 percent). Follow us on Twitter (www.twitter.com/SCE) and Facebook (www.facebook.com/SCE).

About Southern California Edison

An Edison International (NYSE:EIX) company, Southern California Edison is one of the nation's largest electric utilities, serving a population of nearly 14 million via 4.9 million customer accounts in a 50,000-square-mile service area within Central, Coastal and Southern California.

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OF THE STATE OF CALIFORNIA

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J. ERIC ISKEN
WALKER A. MATTHEWS, III
RUSSELL A. ARCHER
Southern California Edison Company
2244 Walnut Grove Avenue
Post Office Box 800
Rosemead, CA 91770
Telephone: (626) 302-6879
Facsimile: (626) 302-3990
E-mail: *Walker.Matthews@sce.com*

HENRY WEISSMANN
Munger, Tolles & Olson LLP
355 South Grand Avenue, 35th Floor
Los Angeles, CA 90071
Telephone: (213) 683-9150
Facsimile: (213) 683-5150
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Attorneys for
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Pursuant to the Amended Administrative Law Judge's Ruling Finding Violations of Rule 8.4, Requiring Reporting of Ex Parte Communications, and Ordering Southern California Edison Company to Show Cause Why It Should Not Also Be Found In Violation of Rule 1.1 And Be Subject To Sanctions For All Rule Violations ("Amended Ruling"), Southern California Edison ("SCE") submits this Notice of Ex Parte Communication with respect to Item No. 4 in Section 5.4 of the Amended Ruling. By filing this ex parte notice in compliance with the Amended Ruling, SCE does not intend to waive its objections to certain aspects of the Amended Ruling, which are set forth in SCE's separately filed response to the Amended Ruling. As set forth in SCE's separately filed response, SCE does not agree with the conclusion that a reportable ex parte communication occurred.

In Item No. 4, the Amended Ruling finds that a reportable ex parte oral communication occurred between SCE's Senior Director of State Energy Regulation Mike Hoover and Carol Brown, Chief of Staff to then-President Michael Peevey, on or about May 29, 2013. The Amended Ruling finds as follows:

> 5/29/13 - Hoover's communication with Peevey's Chief of Staff, Carol Brown: In connection with SCE's e-mail of the press release, Hoover talked to Brown and reported to Starck that she told him Pickett was "well prepared in Poland with specifics," but complained that "nothing has happened." It is not credible that this is a non-substantive "one-way" discussion. The press release which prompted the communication was substantive, the topic upon which Pickett was "well-prepared" is much more likely to be possible settlement terms because the status report on the restart request was mostly limited to NRC's regulatory process, i.e., not "specifics" or something that SCE could make "happen."[1]

[1] Amended Ruling, p. 37 (citations omitted).

Attached hereto as Exhibit A is the email from Mr. Hoover to Les Starck that is quoted and cited in the Amended Ruling.[2]

As explained in SCE's separately filed response to the Amended Ruling, Ms. Brown called Mr. Hoover on or around May 29, 2015. Mr. Hoover believes he told Ms. Brown that he would pass along her comment that Mr. Pickett was well prepared in Poland with specifics, but that nothing has happened. Mr. Hoover does not recall responding in any substantive way to Ms. Brown's comment.

Respectfully Submitted,

Date: August 20, 2015

J. ERIC ISKEN
WALKER A. MATTHEWS
RUSSELL A. ARCHER
HENRY WEISSMANN

/s/ Henry Weissmann
By: Henry Weissmann

Attorneys for
SOUTHERN CALIFORNIA EDISON COMPANY

[2] SCE's Response to ALJ's April 14, 2015 Ruling, Appendix D at #00187.

EXHIBIT A

From: michael hoover/sce/eix
Sent: Wed May 29 2013 19:22:50 PDT
To: les starck/sce/eix@sce
CC:
Subject: Re: SONGS Press Release: SCE Exercised Responsible Oversight for Replacement Steam Generators at the San Onofre Nuclear Plant
Attachments:

Importance: Low
Priority: Normal
Sensitivity: None

In talking with Carol, she indicated that Pickett was well prepared in Poland with specifics, but then nothing has happened. Not making a decision is a decision not to move forward. Mike also told me that Pickett is very frustrated....

From: Les Starck
Sent: 05/29/2013 07:08 PM PDT
To: Michael Hoover
Subject: Re: SONGS Press Release: SCE Exercised Responsible Oversight for Replacement Steam Generators at the San Onofre Nuclear Plant

We need to talk with Pickett ASAP to let him know about your discussions with Peevey. Time is running out. I also have no idea if Ron and Ted are even thinking this way.

Sent from my iPhone

On May 29, 2013, at 6:43 PM, "Michael Hoover" <Michael.Hoover@sce.com> wrote:

We have a small window of opportunity to work with parties to implement a shutdown in exchange for getting our money back. That window will close soon and we will loose a very good opportunity.

From: Les Starck
Sent: 05/29/2013 03:03 PM PDT
To: Michael Hoover
Subject: Re: SONGS Press Release: SCE Exercised Responsible Oversight for Replacement Steam Generators at the San Onofre Nuclear Plant

Boxer has come unhinged...she's done this before to SCE back in the days of the energy crisis. I just heard that she said she would "disembowel" the
NRC if they allow restart. What we need is someone with courage at the NRC to stand up to her and do the right thing. We'll see, but my hope is fading.

Sent from my iPhone

On May 29, 2013, at 4:07 PM, "Michael Hoover" <Michael.Hoover@sce.com> wrote:

Peevey was made aware of the letters last Thursday. He is really unhappy with the way we handled this. He views the release of the letters as just another salvo, his real frustration is with how we are dealing with the whole thing. I can fill you in next week.
Les Starck---05/29/2013 07:34 AM PDT---Commissioners, FYI, attached is SCE's press release released yesterday regarding SONGS.

From:
Les Starck
To:
mp1@cpuc.ca.gov; catherine.sandoval@cpuc.ca.gov; mike.florio@cpuc.ca.gov; mark.ferron@cpuc.ca.gov; cap@cpuc.ca.gov
Cc:
EFR@cpuc.ca.gov; "Lindh, Frank" <frank.lindh@cpuc.ca.gov>; pac@cpuc.ca.gov
Date:
05/29/2013 07:34 AM PDT
Subject:
SONGS Press Release: SCE Exercised Responsible Oversight for Replacement Steam Generators at the San Onofre Nuclear Plant

Commissioners, FYI, attached is SCE's press release released yesterday regarding SONGS.

[attachment "SCE Press Release 5-28-13 FINAL .pdf" deleted by Michael Hoover/SCE/EIX]

SCE Exercised Responsible Oversight for Replacement Steam Generators
at the San Onofre Nuclear Plant

ROSEMEAD, Calif., May 28, 2013 — Letters released today by Southern California Edison (SCE) demonstrate that it exercised responsible oversight of the vendor of the San Onofre nuclear plant replacement steam generators before any designs were completed or approved.

SCE is restating its position after allegations from U.S. Sen. Barbara Boxer at a press conference this afternoon regarding correspondence from SCE to Mitsubishi Heavy Industries (MHI), the manufacturer of the replacement steam generators. SCE provided the November 2004 correspondence referenced by Sen. Boxer and a June 2005 letter from SCE to MHI to the Nuclear Regulatory Commission (NRC) in April in connection with ongoing NRC proceedings.

“In response to Sen. Boxer’s statement, we believe that the determination for restart must be made based on technical merits, through the established nuclear regulatory process,” said Pete Dietrich, SCE senior vice president and chief nuclear officer.

“SCE’s own oversight of MHI’s design review complied with industry standards and best practices.” He added. “SCE would never, and did not, install steam generators that it believed would impact public safety or impair reliability.”

The November 2004 and June 2005 letters have also been provided to parties involved in a California Public Utilities Commission investigation and are now posted online.

These letters emphasize the importance of careful attention to the design of the steam generators. Recognizing that SCE was not the designer of the steam generators and that there were limitations on the assistance SCE could provide, the letters identify a number of design issues that SCE asked MHI to focus on to ensure that design flaws were not inadvertently introduced.

SCE took numerous steps to ensure that MHI appropriately addressed these concerns, including design review meetings, executive oversight meetings, and meetings of many other groups of SCE and MHI personnel.

"We take very seriously our responsibility to ensure we protect the public's health and safety," Dietrich said. "These documents demonstrate the type of careful oversight that SCE exercised during the replacement steam generator project and also served to establish our expectations of MHI."

In the November 2004 letter, SCE emphasized the care that would be needed during the design phase because of the differences between the new and old units. These differences—which were intended to improve the overall performance of the new units—were permitted under the NRC's 50.59 process, which allows changes to a nuclear facility if certain criteria are met. Contrary to Sen. Boxer's suggestion, Section 50.59 does NOT require that replacement equipment be "like for like" or identical to the equipment being replaced.

Instead, the very purpose of the regulation is to permit certain types of design changes. In general, a licensee may make a change to the design of a licensed facility without prior NRC approval if the change does not require a change to the plant's NRC-approved technical specifications or if the change would not change the facility "as described in the safety analysis report." This report is the official description of the nuclear plant that was approved by the NRC in the initial licensing, as updated throughout the life of the plant.

SCE advised the NRC that the San Onofre steam generators contained a number of different features from the previous design. In fact, safety evaluations prepared by the NRC in connection with amendments to the San Onofre license associated with the steam generator replacements described the most important of those changes in detail. At no time did SCE hide the differences from the NRC, nor did it seek to mislead the NRC concerning the applicability of Section 50.59 to the project. Any suggestion that seeks to draw from the November 2004 letter a contrary conclusion is simply incorrect and relies on the fundamental error of viewing Section 50.59 as applying to identical, or "like for like" replacements.

A leak occurred in one of the San Onofre steam generators in January 2012, and both units have remained shut down since then. The NRC has determined that the problems in the steam generators were associated with errors in MHI's computer modeling, which led to underestimation of thermal hydraulic conditions in the generators.

The San Onofre nuclear plant is the largest source of baseload generation and voltage support in the region and is a critical asset in meeting California's clean energy needs. Both units at the plant are currently safely shut down. Unit 2 was taken out of service Jan. 9, 2012, for a planned outage. Unit 3 was safely taken offline Jan. 31, 2012, after station operators detected a leak in a steam generator tube.

More information is available at www.edison.com/SONGSupdate and at www.SONGScommunity.com. San Onofre is jointly owned by SCE (78.21 percent), San Diego Gas & Electric (20 percent) and the city of Riverside (1.79 percent). Follow us on Twitter (www.twitter.com/SCE) and Facebook (www.facebook.com/SCE).

About Southern California Edison
An Edison International (NYSE:EIX) company, Southern California Edison is one of the nation's largest electric utilities, serving a population of nearly 14 million via 4.9 million customer accounts in a 50,000-square-mile service area within Central, Coastal and Southern California.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Investigation on the Commission's Own Motion into the Rates, Operations, Practices, Services and Facilities of Southern California Edison Company and San Diego Gas and Electric Company Associated with the San Onofre Nuclear Generating Station Units 2 and 3.	Investigation 12-10-013 (Filed October 25, 2012)
And Related Matters.	Application 13-01-016 Application 13-03-005 Application 13-03-013 Application 13-03-014

SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338-E)
NOTICE OF EX PARTE COMMUNICATION

J. ERIC ISKEN
WALKER A. MATTHEWS, III
RUSSELL A. ARCHER
Southern California Edison Company
2244 Walnut Grove Avenue
Post Office Box 800
Rosemead, CA 91770
Telephone: (626) 302-6879
Facsimile: (626) 302-3990
E-mail: *Walker.Matthews@sce.com*

HENRY WEISSMANN
Munger, Tolles & Olson LLP
355 South Grand Avenue, 35th Floor
Los Angeles, CA 90071
Telephone: (213) 683-9150
Facsimile: (213) 683-5150
E-mail: *Henry.Weissmann@mto.com*

Attorneys for
SOUTHERN CALIFORNIA EDISON COMPANY

Dated: August 20, 2015

Pursuant to the Amended Administrative Law Judge's Ruling Finding Violations of Rule 8.4, Requiring Reporting of Ex Parte Communications, and Ordering Southern California Edison Company to Show Cause Why It Should Not Also Be Found In Violation of Rule 1.1 And Be Subject To Sanctions For All Rule Violations ("Amended Ruling"), Southern California Edison ("SCE") submits this Notice of Ex Parte Communication with respect to Item No. 5 in Section 5.4 of the Amended Ruling. By filing this ex parte notice in compliance with the Amended Ruling, SCE does not intend to waive its objections to certain aspects of the Amended Ruling, which are set forth in SCE's separately filed response to the Amended Ruling. As set forth in SCE's separately filed response, SCE does not agree with the conclusion that a reportable ex parte communication occurred.

In Item No. 5, the Amended Ruling finds that a reportable ex parte oral communication occurred on June 26, 2013, between then-SCE President Ron Litzinger and Commissioner Florio. The Amended Ruling finds as follows:

> 6/26/13 – Litzinger gave Florio a "brief" update on the status of bargaining efforts regarding employee severance after announcement of the permanent shutdown of SONGS. The question of SCE's employee compensation commitments and cost recovery of employee severance costs were substantive topics because their reasonableness would be considered by the Commission when reviewing 2013 SONGS Operations and Maintenance expenses.[1]

As explained in SCE's response to the ALJ's April 14, 2015 Ruling,[2] and as further discussed in SCE's separately filed response to the Amended Ruling, on or about June 26, 2013, Ron Litzinger and Commissioner Florio were in attendance at an oral argument at the CPUC in San Francisco in a proceeding relating to Chino Hills. After the conclusion of the argument, Mr.

[1] Amended Ruling, p. 37 (citations omitted).

[2] SCE's Response to ALJ's April 14, 2015 Ruling, Appendix C at 26 (¶ 14).

Litzinger approached Commissioner Florio and stated that he understood that Commissioner Florio was working on the schedule for the SONGS OII, and that he wanted Commissioner Florio to know that negotiations with the labor unions were ongoing and expected to be completed within the next few months. Mr. Litzinger stated that it would probably be better for the Commission to review the final agreement, and that he thought Commissioner Florio would want the schedule of the proceeding to line up with the schedule for the negotiations. The discussion lasted 5 minutes or less.

Respectfully Submitted,

Date: August 20, 2015

J. ERIC ISKEN
WALKER A. MATTHEWS
RUSSELL A. ARCHER
HENRY WEISSMANN

/s/ Henry Weissmann
By: Henry Weissmann

Attorneys for
SOUTHERN CALIFORNIA EDISON COMPANY

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Investigation on the Commission's Own Motion into the Rates, Operations, Practices, Services and Facilities of Southern California Edison Company and San Diego Gas and Electric Company Associated with the San Onofre Nuclear Generating Station Units 2 and 3.	Investigation 12-10-013 (Filed October 25, 2012)
And Related Matters.	Application 13-01-016 Application 13-03-005 Application 13-03-013 Application 13-03-014

SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338-E)
NOTICE OF EX PARTE COMMUNICATION

J. ERIC ISKEN
WALKER A. MATTHEWS, III
RUSSELL A. ARCHER
Southern California Edison Company
2244 Walnut Grove Avenue
Post Office Box 800
Rosemead, CA 91770
Telephone: (626) 302-6879
Facsimile: (626) 302-3990
E-mail: *Walker.Matthews@sce.com*

HENRY WEISSMANN
Munger, Tolles & Olson LLP
355 South Grand Avenue, 35th Floor
Los Angeles, CA 90071
Telephone: (213) 683-9150
Facsimile: (213) 683-5150
E-mail: *Henry.Weissmann@mto.com*

Attorneys for
SOUTHERN CALIFORNIA EDISON COMPANY

Dated: August 20, 2015

Pursuant to the Amended Administrative Law Judge's Ruling Finding Violations of Rule 8.4, Requiring Reporting of Ex Parte Communications, and Ordering Southern California Edison Company to Show Cause Why It Should Not Also Be Found In Violation of Rule 1.1 And Be Subject To Sanctions For All Rule Violations ("Amended Ruling"), Southern California Edison ("SCE") submits this Notice of Ex Parte Communication with respect to Item No. 6 in Section 5.4 of the Amended Ruling. By filing this ex parte notice in compliance with the Amended Ruling, SCE does not intend to waive its objections to certain aspects of the Amended Ruling, which are set forth in SCE's separately filed response to the Amended Ruling. As set forth in SCE's separately filed response, SCE does not agree with the conclusion that a reportable ex parte communication occurred.

In Item No. 6, the Amended Ruling finds that a reportable ex parte oral communication occurred during a lunch meeting with then-SCE President Ron Litzinger, SCE's former Senior Vice President of Regulatory Policy & Affairs Les Starck, and then-President Michael Peevey on September 6, 2013. This September 6, 2013 lunch was attended by President Peevey, Mr. Litzinger, and Mr. Starck. The Amended Ruling finds as follows:

> 9/6/13 - Lunch meeting with Peevey, Litzinger and "the Chino Hills team" during which they discussed, inter alia, delaying any decision on SCE's 2012 ERRA proceeding regarding replacement power costs until a settlement was adopted in the SONGS OII. Starck's internal e-mail to Pickett states that Litzinger offered his view in opposition to Peevey's approach by which SCE would get either replacement power costs or its capital investment but not both. Litzinger and Peevey engaged in a substantive discussion of possible outcomes of SCE's cost recovery claims for replacement power and capital investment at SONGS. Notably, at least one person at SCE advised Starck to check with Hoover about whether to report the "potential ex parte communication," to which Hoover replied that Starck "should not put this in his notes." These latter

> e-mails also suggest that some SCE personnel were not committed to full disclosure of ex parte communications.[1]

As explained in SCE's response to the ALJ's April 14, 2015 Ruling,[2] and as further discussed in SCE's separately filed response to the Amended Ruling, on September 6, 2013, Ron Litzinger and Les Starck attended a public event in the City of Chino Hills with regard to the CPUC's decision to require the undergrounding of transmission lines in that city. Before the public event, Messrs. Litzinger and Starck had lunch with President Peevey at Lucille's Smokehouse BBQ in Chino Hills. At the lunch, President Peevey initiated a communication about cost recovery in the SONGS OII. Mr. Litzinger did not wish to discuss the OII, and as a means of deflecting the topic, Mr. Litzinger said that the outcome could be somewhere in between the two possible outcomes mentioned by President Peevey, which were the utilities recovering their capital investment in the replacement steam generators or recovering their replacement power cost. President Peevey then initiated a communication about the status of settlement negotiations, and Mr. Litzinger responded that the settlement negotiations were progressing but that he could not divulge any specifics. The discussion about the SONGS OII lasted two minutes or less.

Attached hereto as Exhibit A is a copy of Mr. Starck's email to Mr. Pickett referenced and cited in the Amended Ruling, originally submitted by SCE on April 29, 2015.[3]

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[1] Amended Ruling, pp. 37-38 (citations omitted).

[2] SCE's Response to ALJ's April 14, 2015 Ruling, Appendix C, p. 27 (¶ 16).

[3] SCE's Response to ALJ's April 14, 2015 Ruling, Appendix D at #00201.

Respectfully Submitted,

Date: August 20, 2015

J. ERIC ISKEN
WALKER A. MATTHEWS
RUSSELL A. ARCHER
HENRY WEISSMANN

/s/ Henry Weissmann
By: Henry Weissmann

Attorneys for
SOUTHERN CALIFORNIA EDISON COMPANY

EXHIBIT A

From: les starck/sce/eix
Sent: Fri Sep 06 2013 19:00:06 PDT
To: stephen e pickett/sce/eix@sce
CC:
Subject: Re: So?
Attachments:

Importance: Low
Priority: Normal
Sensitivity: None

You beat me to it! Tried calling...your line's busy. Call me cell anytime at Redacted--Privacy. Meeting went well. Nice lunch with Peevey. Friendly and cordial. Mike says no ERRA until SONGS settled. He also said that the boundaries of any decision would be that we get all our capital and no replacement fuel, or none of our capital and all replacement fuel. Ron responded that it would be a combination of disallowances of the two...no reaction from Mike. Ron did say that he felt good about the progress of settlement discussions with multiple parties. Mike asked about timing...Ron couldn't say. I told Mike that no action by the Commission on ERRA is placing us in extremely difficult financial situation. Told him we're undercollecting $100 million each month...same situation as under the energy crisis. He was very surprised to hear the numbers are that large.

Photo Op a non-event. Mike got a plaque from the city. Ed Royce just reviewed the history and patted himself on the back for their field hearing on the matter. He said that the "people won"...that "the process worked". Said SCE played by the rules, and is now proceeding to build the project on a positive footing. Ron's comments brief...about us working with the city to ensure safety and minimize disruptions.

From:
Stephen E Pickett
To:
Les Starck
Cc:

Date:
09/06/2013 05:45 PM PDT
Subject:
So?

How did it go?

I heard a blurb on NPR about the photo op, and I saw your note in the officer's memo. What happened with Peevey out there?

If you don't want to put it in an e mail, call me. I'm at home and you can reach me thru the Edison Op., or Redacted--Privacy
Redacted--Privacy

BEFORE THE PUBLIC UTILITIES COMMISSION
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Order Instituting Investigation on the Commission's Own Motion into the Rates, Operations, Practices, Services and Facilities of Southern California Edison Company and San Diego Gas and Electric Company Associated with the San Onofre Nuclear Generating Station Units 2 and 3.	Investigation 12-10-013 (Filed October 25, 2012)
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J. ERIC ISKEN
WALKER A. MATTHEWS, III
RUSSELL A. ARCHER
Southern California Edison Company
2244 Walnut Grove Avenue
Post Office Box 800
Rosemead, CA 91770
Telephone: (626) 302-6879
Facsimile: (626) 302-3990
E-mail: *Walker.Matthews@sce.com*

HENRY WEISSMANN
Munger, Tolles & Olson LLP
355 South Grand Avenue, 35th Floor
Los Angeles, CA 90071
Telephone: (213) 683-9150
Facsimile: (213) 683-5150
E-mail: *Henry.Weissmann@mto.com*

Attorneys for
SOUTHERN CALIFORNIA EDISON COMPANY

Dated: August 20, 2015

Pursuant to the Amended Administrative Law Judge's Ruling Finding Violations of Rule 8.4, Requiring Reporting of Ex Parte Communications, and Ordering Southern California Edison Company to Show Cause Why It Should Not Also Be Found In Violation of Rule 1.1 And Be Subject To Sanctions For All Rule Violations ("Amended Ruling"), Southern California Edison ("SCE") submits this Notice of Ex Parte Communication with respect to Item No. 7 in Section 5.4 of the Amended Ruling. By filing this ex parte notice in compliance with the Amended Ruling, SCE does not intend to waive its objections to certain aspects of the Amended Ruling, which are set forth in SCE's separately filed response to the Amended Ruling. As set forth in SCE's separately filed response, SCE does not agree with the conclusion that a reportable ex parte communication occurred.

In Item No. 7, the Amended Ruling finds that a reportable ex parte oral communication occurred during a dinner meeting between Edison International CEO Ted Craver and then-President Michael Peevey on November 15, 2013. The Amended Ruling finds as follows:

> 11/15/13 Craver had a dinner meeting with Peevey where he discussed efforts to bring MHI to the negotiating table regarding SCE's warranty claim, and efforts to gain written support from federal officials. Some aspects of SCE's litigation of its claims against MHI is within the Preliminary Scope of "ratemaking issues related to warranty coverage…of SONGS costs.["] The diligence of SCE's actions to pursue alternate sources of funds to cover shutdown-related costs were relevant to the reasonableness of its actions after shutdown and funds recovered from MHI would be considered by the Commission to offset cost allocations to ratepayers in a later phase. Therefore, the communication was substantive because it concerned matters to be determined in the OII and of interest to other parties.[1]

[1] Amended Ruling, p. 38 (citations omitted).

As explained in SCE's response to the ALJ's April 14, 2015 Ruling,[2] and as further discussed in SCE's separately filed response to the Amended Ruling, on November 15, 2013, Ted Craver attended a dinner meeting with CPUC President Mike Peevey. During the dinner, Mr. Craver initiated a brief discussion about SCE's efforts to get MHI to the table to discuss a financial settlement with respect to the defective replacement steam generators. Mr. Craver outlined SCE's efforts to secure letters of support from various federal elected officials for MHI to engage with SCE on the matter.

Respectfully Submitted,

Date: August 20, 2015

J. ERIC ISKEN
WALKER A. MATTHEWS
RUSSELL A. ARCHER
HENRY WEISSMANN

/s/ Henry Weissmann
By: Henry Weissmann

Attorneys for
SOUTHERN CALIFORNIA EDISON COMPANY

[2] SCE's Response to ALJ's April 14, 2015 Ruling, Appendix C, p. 27 (¶ 17) (email attached as Exhibit 4 of Appendix).

BEFORE THE PUBLIC UTILITIES COMMISSION
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Order Instituting Investigation on the Commission's Own Motion into the Rates, Operations, Practices, Services and Facilities of Southern California Edison Company and San Diego Gas and Electric Company Associated with the San Onofre Nuclear Generating Station Units 2 and 3.	Investigation 12-10-013 (Filed October 25, 2012)
And Related Matters.	Application 13-01-016 Application 13-03-005 Application 13-03-013 Application 13-03-014

SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338-E)
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J. ERIC ISKEN
WALKER A. MATTHEWS, III
RUSSELL A. ARCHER
Southern California Edison Company
2244 Walnut Grove Avenue
Post Office Box 800
Rosemead, CA 91770
Telephone: (626) 302-6879
Facsimile: (626) 302-3990
E-mail: *Walker.Matthews@sce.com*

HENRY WEISSMANN
Munger, Tolles & Olson LLP
355 South Grand Avenue, 35th Floor
Los Angeles, CA 90071
Telephone: (213) 683-9150
Facsimile: (213) 683-5150
E-mail: *Henry.Weissmann@mto.com*

Attorneys for
SOUTHERN CALIFORNIA EDISON COMPANY

Dated: August 20, 2015

Pursuant to the Amended Administrative Law Judge's Ruling Finding Violations of Rule 8.4, Requiring Reporting of Ex Parte Communications, and Ordering Southern California Edison Company to Show Cause Why It Should Not Also Be Found In Violation of Rule 1.1 And Be Subject To Sanctions For All Rule Violations ("Amended Ruling"), Southern California Edison ("SCE") submits this Notice of Ex Parte Communication with respect to Item No. 8 in Section 5.4 of the Amended Ruling. By filing this ex parte notice in compliance with the Amended Ruling, SCE does not intend to waive its objections to certain aspects of the Amended Ruling, which are set forth in SCE's separately filed response to the Amended Ruling. As set forth in SCE's separately filed response, SCE does not agree with the conclusion that a reportable ex parte communication occurred.

In Item No. 8, the Amended Ruling finds that a reportable ex parte oral communications occurred between then-SCE President Ron Litzinger and then-President Michael Peevey prior to May 28, 2014, in which the issue of a possible settlement provision to address greenhouse gas (GHG) impacts was discussed. The Amended Ruling finds as follows:

> 5/28/14 –Hoover met with Peevey who said he "talked to you [SCE Senior Vice President for Regulatory Affairs R.O. Nichols] and Ron about [the GHG provision] and was not pleased that SCE was hesitant to contribute funds to the Center For Sustainable Communities at UCLA as part of the SONGS settlement." Peevey asked Hoover to tell SCE he would hate to see the tight schedule for the settlement slip, but no evidence that Hoover responded substantively. SCE's disclosures and the e-mail support that an unreported communication occurred between Litzinger and Peevey in which the substantive issue of a possible settlement provision to address GHG impacts was discussed. However, the evidence does not support that the communication between Hoover and Peevey was substantive.[1]

[1] Amended Ruling, pp. 38-39 (first alteration added, second alteration in original, and citations omitted).

Attached hereto as Exhibit A is a copy of Mr. Hoover's May 28, 2014 email to Mr. Nichols cited and quoted in the Amended Ruling, originally submitted by SCE on April 29, 2015.[2]

In SCE's Response to the ALJ's April 14, 2015 Ruling, SCE described two meetings at which President Peevey and Mr. Litzinger were present where President Peevey initiated communications about GHG research—one on May 2, 2014 attended by President Peevey, Commissioner Florio, Mr. Litzinger, and Mr. Nichols, and the other on May 14, 2014, attended by President Peevey, Commissioner Florio, and Mr. Litzinger.

As described in SCE's Response to the ALJ's April 14, 2015 Ruling,[3] and as further discussed in SCE's separately filed response to the Amended Ruling, on May 2, 2014, Mr. Litzinger and R.O. Nichols, SCE Senior Vice President Regulatory Affairs, met with President Peevey and Commissioner Florio at the Commission's Los Angeles office for the purpose of providing an update on SCE's preferred resources pilot that had been requested by the Commissioners. President Peevey then initiated a discussion about the SONGS settlement and in particular about the absence of a provision to address the GHG impacts of the SONGS retirement. Mr. Litzinger told President Peevey that they would get back to him on the subject of a voluntary contribution to the University of California for GHG research, and Mr. Nichols remained silent. The entire meeting lasted approximately 45 minutes; the portion of the meeting in which the SONGS settlement was raised lasted approximately 10 minutes or less.[4]

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[2] SCE's Response to ALJ's April 14, 2015 Ruling, Appendix D at #00223.

[3] SCE's Response to ALJ's April 14, 2015 Ruling, Appendix C, p. 30 (¶ 23).

[4] In an order issued on June 26, 2015, the ALJ asked SCE: "Did Litzinger or any other SCE employee 'get back' to Peevey about his request for GHG research funds?" SCE filed its response to that order on July 3, 2015, in which it responded: "Mr. Litzinger intended his expression as a respectful way of terminating the communication. Neither Mr. Litzinger nor any other SCE employee initiated any further (footnote continued)

As described in SCE's Response to the ALJ's April 14, 2015 Ruling,[5] and as further discussed in SCE's separately filed response to the Amended Ruling, on May 14, 2014, Mr. Litzinger met with President Peevey and Commissioner Florio at the Commission's San Francisco office. The meeting was initiated by President Peevey. President Peevey initiated a communication about the issue of SCE making a contribution to UC for GHG research. Mr. Litzinger stated he could not engage in a substantive conversation on that topic. The meeting lasted approximately 15 minutes, approximately half of which was devoted to topics unrelated to the contribution for GHG research.[6]

Respectfully Submitted,

Date: August 20, 2015

J. ERIC ISKEN
WALKER A. MATTHEWS
RUSSELL A. ARCHER
HENRY WEISSMANN

/s/ Henry Weissmann
By: Henry Weissmann

Attorneys for
SOUTHERN CALIFORNIA EDISON COMPANY

communication with President Peevey about his request for GHG Research funds. President Peevey initiated further communication about his request for GHG research funds with Mr. Litzinger, Mr. Hoover, and Mr. Craver. These communications, and Messrs. Litzinger's, Hoover's, and Craver's responses thereto, are described in paragraphs 25-29 of Appendix C to SCE's April 29 Response." SCE Response to ALJ's June 26, 2015 Ruling, p. 4; *see also* SCE's Notices of Ex Parte Communication, filed August 20, 2015, regarding Items No. 9 and No. 10 in the ALJ Ruling.

[5] SCE's Response to ALJ's April 14, 2015 Ruling, Appendix C, p. 30 (¶ 25).

[6] In an order issued on June 26, 2015, the ALJ asked SCE to "Identify what 'topics unrelated to GHG research,' but related to the SONGS OII were discussed?" SCE filed its response to that order on July 3, 2015, in which it responded: "No topics unrelated to GHG research but related to the SONGS OII were discussed during this meeting. The other topic unrelated to GHG research that was discussed was a potential power purchase contract with Watson Cogeneration." SCE's Response to ALJ's June 26, 2015 Ruling, p. 4.

EXHIBIT A

From: michael hoover/sce/eix;nsf;michael.hoover@sce.com;smtp
Sent: Wed May 28 2014 09:14:44 PDT
To: r.o. nichols/sce/eix@sce
CC:
Subject: Peevey
Attachments:

Importance: Low
Priority: Normal
Sensitivity: None

Hi Ron,

You were right about Peevey and the funding issue. He does not understand why we will not fund the UC data analysis program. He said Florio is supportive as well as he. He says he has talked to you and Ron about it and he is frustrated. He wanted me to pass along that SONGS is on a "tight schedule" and he would hate to see that "slip". He views SCE as just taking and not giving to a matter that is very important to him, Florio, and others.

I told him it's above my pay grade but he asked me to pass his frustration on to you, only. So there you have it.

Mike Hoover

(Sent from an extremely small keyboard on my iPhone)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Investigation on the Commission's Own Motion into the Rates, Operations, Practices, Services and Facilities of Southern California Edison Company and San Diego Gas and Electric Company Associated with the San Onofre Nuclear Generating Station Units 2 and 3.	Investigation 12-10-013 (Filed October 25, 2012)
And Related Matters.	Application 13-01-016 Application 13-03-005 Application 13-03-013 Application 13-03-014

SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338-E)
NOTICE OF EX PARTE COMMUNICATION

J. ERIC ISKEN
WALKER A. MATTHEWS, III
RUSSELL A. ARCHER
Southern California Edison Company
2244 Walnut Grove Avenue
Post Office Box 800
Rosemead, CA 91770
Telephone: (626) 302-6879
Facsimile: (626) 302-3990
E-mail: *Walker.Matthews@sce.com*

HENRY WEISSMANN
Munger, Tolles & Olson LLP
355 South Grand Avenue, 35th Floor
Los Angeles, CA 90071
Telephone: (213) 683-9150
Facsimile: (213) 683-5150
E-mail: *Henry.Weissmann@mto.com*

Attorneys for
SOUTHERN CALIFORNIA EDISON COMPANY

Dated: August 20, 2015

Pursuant to the Amended Administrative Law Judge's Ruling Finding Violations of Rule 8.4, Requiring Reporting of Ex Parte Communications, and Ordering Southern California Edison Company to Show Cause Why It Should Not Also Be Found In Violation of Rule 1.1 And Be Subject To Sanctions For All Rule Violations ("Amended Ruling"), Southern California Edison ("SCE") submits this Notice of Ex Parte Communication with respect to Item No. 9 in Section 5.4 of the Amended Ruling. By filing this ex parte notice in compliance with the Amended Ruling, SCE does not intend to waive its objections to certain aspects of the Amended Ruling, which are set forth in SCE's separately filed response to the Amended Ruling. As set forth in SCE's separately filed response, SCE does not agree with the conclusion that a reportable ex parte communication occurred.

In Item No. 9, the Amended Ruling finds that a reportable ex parte oral communication occurred between then-SCE President Ron Litzinger and then-President Michael Peevey about a contribution to the University of California to support greenhouse gas ("GHG") research the week prior to June 11, 2014. The Amended Ruling finds as follows:

> 6/11/14 – Peevey called Hoover to his office to discuss the GHG issue, asked Hoover to deliver his letter to Litzinger which had several letters attached. The letters were written to the Commission by several public officials urging the Commission to support GHG research. Hoover transmitted the materials to Litzinger. The evidence is that "Peevey talked with Ron last week" and then lowered the requested annual research amount to $3 million. It is more credible that such a discussion was two-way because a significant change occurred in the parameters of a disputed issue related to the settlement of the OII. The public officials' letters may also have been unreported ex parte communications but are not at issue as to SCE.[1]

[1] Amended Ruling, p. 39 (citations omitted).

Attached hereto as Exhibit A are copies of the June 11, 2014 emails sent by Mr. Hoover to Mr. Nichols, cited and quoted in the Amended Ruling, which were originally submitted by SCE on April 29, 2015.[2]

As explained in SCE's response to the ALJ's April 14, 2015 Ruling,[3] and as further discussed in SCE's separately filed response to the Amended Ruling, on June 5, 2014, President Peevey called Mr. Litzinger and initiated a communication about the issue of SCE's making a voluntary contribution to UC for GHG research. On the call, Mr. Litzinger reported what he understood to be SDG&E's position with respect to a contribution to UC for GHG research and stated that, similar to SDG&E, Mr. Litzinger could not discuss a contribution as part of the SONGS OII settlement. Mr. Litzinger stated that he could discuss Edison International's charitable contribution process in general outside the context of the settlement. Mr. Litzinger said that he was not in a position to make a commitment to voluntarily fund GHG research and that the funding levels President Peevey had requested would require Board approval. The call lasted approximately five to ten minutes.

Respectfully Submitted,

Date: August 20, 2015

J. ERIC ISKEN
WALKER A. MATTHEWS
RUSSELL A. ARCHER
HENRY WEISSMANN

/s/ Henry Weissmann
By: Henry Weissmann

Attorneys for
SOUTHERN CALIFORNIA EDISON COMPANY

[2] SCE's Response to ALJ's April 14, 2015 Ruling, Appendix D, pp. #00225-235, #00250-251.

[3] SCE's Response to ALJ's April 14, 2015 Ruling, Appendix C, p. 31 (¶ 27).

EXHIBIT A

From: michael hoover/sce/eix;nsf;michael.hoover@sce.com;smtp
Sent: Wed Jun 11 2014 10:00:03 PDT
To: michelle morales/sce/eix@sce
CC: r.o. nichols/sce/eix@sce
Subject: President Peevey Requested that this be sent to Ron right away
Attachments: Peevey GHG 06 11 14.pdf

Importance: Low
Priority: Normal
Sensitivity: None

Hi Ron,

President Peevey called me over this morning regarding the UCLA research effort that he has been talking about for some time. He wanted to make certain that you had the attached letters fromGarcetti,Yaroslavsky, and others. He also wanted me to convey that he views this as a charitable contribution and that the amount of that contribution is open to discussion and could be less than his original suggestion.

Thanks and let me know if you need me to do anything.

Michael R. Hoover
Director, Regulatory Affairs
(415) 929 - 5541
San Francisco Office

PUBLIC UTILITIES COMMISSION

STATE OF CALIFORNIA
505 VAN NESS AVENUE
SAN FRANCISCO, CALIFORNIA 94102

MICHAEL R. PEEVEY
PRESIDENT

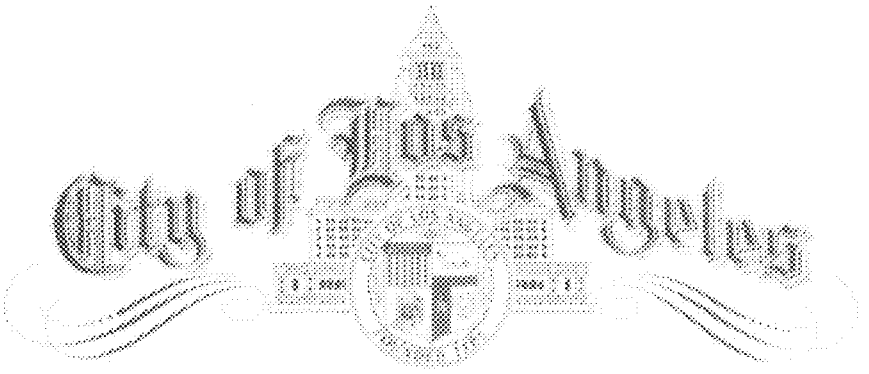
TEL: (415) 703-3703
FAX: (415) 703-5091

6/11/14

Ron –

Support for GHG reduction efforts in S Cal from Garcetti, et. al.

Mike



ERIC GARCETTI
MAYOR

June 10, 2014

Mr. Michael Peevey, President
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Dear President Peevey:

I am writing to urge the Commission to fund a UCLA-led energy research effort that will create practical and valuable tools that can be used by the City of Los Angeles and other local governments in Southern California. If funded, UCLA's work can help improve the accuracy and effectiveness of investments in energy efficiency, clean distributed generation and demand response programs.

In the wake of the San Onofre Nuclear Generating Station (SONGS) closure, it is important to our region's economy, environment, and quality of life that Southern California Edison replace electricity previously provided by SONGS in a way that does not increase greenhouse gas emissions (GHGs) or other harmful pollutants. UCLA's research will also help my administration as we prepare and implement our first ever sustainable city plan, a central focus of which will be climate action.

UCLA has done important work in using data provided by the Los Angeles Department of Water and Power. UCLA's research program can also help address key elements of current and future energy use in response to the SONGS closure.

I appreciate your consideration of this request and thank you for your support and continuing diligence to effectively address Southern California's energy challenges.

Sincerely,

ERIC GARCETTI
Mayor

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

821 KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET / LOS ANGELES, CALIFORNIA 90012
PHONE (213) 974-3333 / FAX (213) 625-7360
zev@bos.lacounty.gov / http://zev.lacounty.gov

ZEV YAROSLAVSKY
SUPERVISOR, THIRD DISTRICT

June 6, 2014

Michael R. Peevey
President
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, California 94102

Dear Mr. Peevey:

The closure of the San Onofre Nuclear Generating Station (SONGS) represents both a critical challenge and opportunity as your Commission reconsiders the future of Southern California's energy supply. The first principles of this effort should be ensuring that replacing the electricity supplies previously provided by SONGS do not result in increased emissions of greenhouse gases (GHGs), and that the region's new energy infrastructure is more reliable and cost-effective than ever before.

Physical infrastructure and technology alone, however, will not be sufficient to meet these goals. Decisionmakers must also develop market-based approaches that create incentives for individuals and businesses to reduce GHG emissions and, by so doing, maximize benefits to multiple stakeholders including ratepayers, utilities and State agencies responsible for achieving California's ambitious GHG reduction goals.

Building upon its far-reaching and precedent-setting energy and GHG research conducted over the past few years, the California Center for Sustainable Communities at UCLA has developed an innovative proposed research program which responds to the SONGS challenge by improving energy efficiency, reducing carbon and other harmful emissions, and strengthening the region's power grid. The multi-year interdisciplinary research led by UCLA, and conducted in collaboration with partner institutions including UC San Diego and UC Irvine, would include extensive regional energy data analysis, technology research and advancement, program and policy evaluation, as well as economic analysis, to ensure that policy and program recommendations are both feasible and likely to be implemented.

In short, the proposed UCLA-led effort will focus on creating tangible tools for local governments and other regional entities that will improve the accuracy, effectiveness and efficiency of climate and energy action plans, as well as energy efficiency,

distributed generation, and peak demand response program investments. The overall intent of the UCLA-led program is to work in close collaboration with multiple partners to ensure that the tools and products this effort creates can accelerate the action needed to meet the long-term energy needs of the region while reducing GHG emissions and other pollutants.

I respectfully urge your Commission to fund the proposed UCLA-led research program. Doing so will ensure the creation of the sophisticated energy data analysis and the practical tools and templates we will need to reduce the carbon intensity of our region's evolving power system.

Thank you for your consideration of this request.

Sincerely,

ZEV YAROSLAVSKY
Supervisor, Third District

San Gabriel Valley Council of Governments

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Dear President Peevey:

In the wake of the San Onofre Nuclear Generating Station (SONGS) closure, it is critically important to the economic health and quality of life in Southern California that measures which are taken to replace the electricity supplies that were previously provided by SONGS. The SONGS closure should be seen as a unique and timely opportunity for a reconsideration of energy supply and energy use in Southern California and the implementation of new and innovative approaches that increase the reliability and cost-effectiveness of our power system.

Any new power supply system will require a significantly heightened focus on reducing electricity demand through broader and deeper energy efficiency and peak demand reduction initiatives as well as development of an infrastructure that is more responsive and more adaptive to clean distributed generation sources. Infrastructure and technology alone, however, are not sufficient. Decision-makers must also develop market-based approaches that create incentives for individuals and businesses to take actions that reduce energy usage and, by so doing, maximize benefits to multiple stakeholders including ratepayers, utilities and State agencies responsible for achieving California's ambitious GHG reduction goals.

Building upon its far-reaching and precedent-setting energy and GHG research conducted over the past few years, the California Center for Sustainable Communities at UCLA has developed an innovative proposed research program which responds to the SONGS challenge and comprehensively addresses key elements of current energy use in the region that must be examined and understood to achieve increased energy efficiency, reduction in carbon and other harmful emissions, improved power grid reliability and long-term multi-stakeholder benefits. The multi-year interdisciplinary research led by UCLA, and in collaboration with partner institutions including UC San Diego and UC Irvine, would include extensive regional energy data analysis, technology research and advancement, program and policy evaluation as well as economic analysis to ensure that policy and program recommendations are both feasible and likely to be implemented.

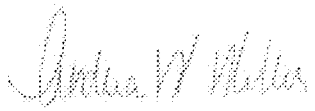
The proposed UCLA-led effort will focus on creating tangible and useful tools for local governments and other regional entities that will improve the accuracy, effectiveness and efficiency of climate and energy action plans as well as energy efficiency, distributed generation and peak demand response program investments. The overall intent of the UCLA-led program is to work in close collaboration with multiple partners to ensure that the tools and products that are created can be applied quickly and effectively to support and accelerate actions to meet the long-term energy needs of the region.

The San Gabriel Valley Council of Governments (SGVCOG) urges the Commission to fund the proposed UCLA-led research program and ensure creation of the sophisticated energy data analysis and the practical tools and templates that can lead to widespread and effective regional actions to reduce the carbon intensity of our power system.

Thank you for your time and consideration of this application.

Should you have any questions, please contact me at (626) 457-1800.

Sincerely,



Andrea Miller
Executive Director

City of
Santa Monica®

Pam O'Connor
Mayor

City Council
1685 Main Street
Room 209
Santa Monica
CA 90401

June 4, 2014

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Dear President Peevey:

In the wake of the San Onofre Nuclear Generating Station (SONGS) closure, it is critically important to the economic health and quality of life in Southern California that measures which are taken to replace the electricity supplies that were previously provided by SONGS do not result in increased emissions of greenhouse gases (GHGs) and other harmful pollutants. Rather, the SONGS closure should be seen as a unique and timely opportunity for a bold reconsideration of energy supply and energy use in Southern California and the implementation of new and innovative approaches that not only create fewer GHGs but also increase the reliability and cost-effectiveness of our power system.

Achieving a less carbon intensive power system will require a significantly heightened focus on reducing electricity demand through broader and deeper energy efficiency and peak demand reduction initiatives as well as development of an infrastructure that is more responsive and more adaptive to clean distributed generation sources. Infrastructure and technology alone, however, are not sufficient. Decision-makers must also develop market-based approaches that create incentives for individuals and businesses to take actions that reduce GHG emissions and, by so doing, maximize benefits to multiple stakeholders including ratepayers, utilities and State agencies responsible for achieving California's ambitious GHG reduction goals.

Building upon its far-reaching and precedent-setting energy and GHG research conducted over the past few years, the California Center for Sustainable Communities at UCLA has developed an innovative proposed research program which responds to the SONGS challenge and comprehensively addresses key elements of current energy use in the region that must be examined and understood to achieve increased energy efficiency, reduction in carbon and other harmful emissions, improved power grid reliability and long-term multi-stakeholder benefits. The multi-year interdisciplinary research led by UCLA, and in collaboration with partner institutions including UC San Diego and UC Irvine, would include extensive regional energy data analysis, technology research and advancement, program and policy evaluation as well as economic analysis to ensure that policy and program recommendations are both feasible and likely to be implemented.

The proposed UCLA-led effort will focus on creating tangible and useful tools for local governments and other regional entities that will improve the accuracy, effectiveness and efficiency of climate and energy action plans as well as energy efficiency, distributed generation and peak demand response program investments. The overall intent of the UCLA-led program is to work in close collaboration with multiple partners to ensure that the tools and products that are created can be applied quickly and effectively to support and accelerate actions to meet the long-term energy needs of the region while reducing GHG emissions and other pollutants.

The Commission is urged to fund the proposed UCLA-led research program and ensure creation of the sophisticated energy data analysis and the practical tools and templates that can lead to widespread and effective regional actions to reduce the carbon intensity of our power system.

Very sincerely yours,

Pam O'Connor
Mayor

tel: 310 458-8201 • fax: 310 458-1621 • e-mail: pam.oconnor@smgov.net

Local
Government
SUSTAINABLE ENERGY
Coalition

P.O. Box 3629 · Oakland · California · 94609
510/459-0667 · www.lgsec.org

June 5, 2014

President Michael Peevey
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

SUBJECT: Research on Energy Use and Planning

Dear President Peevey:

The Local Government Sustainable Energy Coalition, a statewide membership organization of cities, counties, associations and councils of government, special districts, and non-profit organizations that support government entities, is writing to offer its support for a research initiative that will partner local governments with university research institutions on energy planning. Local governments have responded to the State's ambitious environmental goals by adopting local climate action plans and energy plans that engage our immediate communities in reducing greenhouse gas emissions through programs that are responsive to local needs and priorities.

In the wake of the San Onofre Nuclear Generating Station ("SONGS") closure, it is critically important to the economic health and quality of life in Southern California that measures which are taken to replace the electricity supplies that were previously provided by SONGS do not result in increased emissions of greenhouse gases ("GHGs") and other harmful pollutants. Rather, the SONGS closure should be seen as a unique and timely opportunity for a bold reconsideration of energy supply and energy use in Southern California, and the implementation of new and innovative approaches that not only reduce GHGs but also increase the reliability and cost-effectiveness of our power system.

Achieving a less carbon intensive power system will require a significantly heightened focus on reducing electricity demand through broader and deeper energy efficiency and peak demand reduction initiatives, as well as development of an infrastructure that is more responsive and more adaptive to clean distributed generation sources. These are goals equally shared across the State. Infrastructure and technology alone, however, are not sufficient. Decision-makers must also develop market-based approaches that create incentives for individuals and businesses to take actions that reduce GHG emissions and, by so doing, maximize benefits to multiple stakeholders including ratepayers, utilities, and State and local agencies responsible for achieving California's ambitious GHG reduction goals.

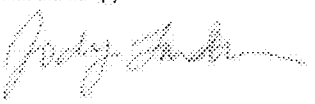
Building upon its far-reaching and precedent-setting energy and GHG research conducted over the past few years, the California Center for Sustainable Communities at UCLA has developed an innovative proposed research program which responds to the SONGS challenge and comprehensively addresses key elements of current energy use in the region that must be examined and understood to achieve increased energy efficiency, reduction in carbon and other harmful emissions, improved power grid reliability, and long-term multi-stakeholder benefits. The interdisciplinary research by UCLA, and partner institutions, would include extensive regional

energy data analysis, technology research and advancement, and program and policy evaluation, as well as economic analysis to ensure that policy and program recommendations are both feasible and likely to be implemented.

The proposed UCLA effort will focus on creating tangible and useful tools for local governments and other regional entities that will improve the accuracy, effectiveness, and efficiency of climate and energy action plans as well as energy efficiency, distributed generation, and peak demand response program investments. The overall intent of the UCLA program is to work in close collaboration with multiple partners to ensure that the tools and products that are created can be applied quickly and effectively to support and accelerate actions to meet the long-term energy needs of the region while reducing GHG emissions and other pollutants. This innovative development is applicable and replicable across the State.

The LGSEC urges the Commission to fund the proposed UCLA research program and ensure creation of the sophisticated energy data analysis and the practical tools and templates that can lead to widespread and effective regional actions to reduce the carbon intensity of our power system. The LGSEC also urges the Commission to pursue similar research opportunities across the State, as all local governments need the type of data and planning that will come from this collaboration. The Commission is uniquely positioned to facilitate this partnership. The LGSEC stands ready to partner with you and California's higher education research community in support of our mutual goals.

Sincerely,



Jody London
Regulatory Consultant

Cc: Commissioner Michael Florio
Commissioner Catherine Sandoval
Commissioner Carla Peterman
Commissioner Michael Picker

County of Los Angeles
INTERNAL SERVICES DEPARTMENT
1100 North Eastern Avenue
Los Angeles, California 90063

JIM JONES
Director

Telephone: (323) 267-2006
FAX: (323) 260-5237

"To enrich lives through effective and caring service"

June 9, 2014

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Dear Commissioners:

The Los Angeles County Office of Sustainability has partnered with UCLA since the advent of the American Recovery and Reinvestment Act funding to develop tools which combine discrete energy usage data with publicly available building, parcel and sociodemographic information. These tools and information are made available to local governments throughout the County to stimulate a new level of thinking about local and regional policies to mitigate GHG production. This work continues on between UCLA and the County using funding from the Southern California Regional Energy Network provided through the Commission.

Building upon this far-reaching and precedent-setting energy and GHG research conducted over the past few years, the California Center for Sustainable Communities at UCLA has developed an innovative proposed research program which responds to the SONGS challenge and comprehensively addresses key elements of current energy use in the region that must be examined and understood to achieve increased energy efficiency, reduction in carbon and other harmful emissions, improved power grid reliability and long-term multi-stakeholder benefits. The interdisciplinary research by UCLA, and partner institutions, would include extensive regional energy data analysis, technology research and advancement, program and policy evaluation as well as economic analysis to ensure that policy and program recommendations are both feasible and likely to be implemented.

The proposed UCLA effort will focus on creating tangible and useful tools for local governments and other regional entities that will improve the accuracy, effectiveness and efficiency of climate and energy action plans as well as energy efficiency, distributed generation and peak demand response program investments. The overall intent of the UCLA program is to work in close collaboration with multiple partners to ensure that the tools and products that are created can be applied quickly and effectively to support and accelerate actions to meet the long-term energy needs of the region while reducing GHG emissions and other pollutants.

The Commission is urged to fund the proposed UCLA research program and ensure creation of the sophisticated energy data analysis and the practical tools and templates that can lead to widespread and effective regional actions to reduce the carbon intensity of our power system.

Very truly yours,

Howard Choy, General Manager
County Office of Sustainability

From: Michael Hoover <michael.hoover@sce.com>
Sent: Wed Jun 11 2014 12:40:00 PDT
To: R.O. Nichols <ron.nichols@sce.com>
CC:
Subject: Re: President Peevey Requested that this be sent to Ron right away
Attachments: 02733243.gif;02873205.gif;graycol.gif

Importance: Normal
Priority: Normal
Sensitivity: None

Yes. Ron L. Peevey is lowering the ask to 3 million. He talked with Ron last week.

Michael R. Hoover
Director, Regulatory Affairs
(415) 929 - 5541
San Francisco Office

Inactive hide details for R.O. Nichols---06/11/2014 12:32:04 PM---Which "Ron" was Peevey referring to? I assume Ron LR.O. Nichols---06/11/2014 12:32:04 PM---Which "Ron" was Peevey referring to? I assume Ron L

From: R.O. Nichols/SCE/EIX
To: Michael Hoover/SCE/EIX@SCE,
Date: 06/11/2014 12:32 PM
Subject: Re: President Peevey Requested that this be sent to Ron right away

---

FOR INTERNAL USE ONLY

Which "Ron" was Peevey referring to? I assume Ron L

Inactive hide details for Michael Hoover---06/11/2014 10:00 AM PDT---Hi Ron, President Peevey called me over this morning regarMichael Hoover---06/11/2014 10:00 AM PDT---Hi Ron, President Peevey called me over this morning regarding the UCLA research effort that he has

From: Michael Hoover
To: Michelle Morales
Cc: R.O. Nichols
Date: 06/11/2014 10:00 AM PDT
Subject: President Peevey Requested that this be sent to Ron right away

---

Hi Ron,

President Peevey called me over this morning regarding the UCLA research effort that he has been talking about for some time. He wanted to make certain that you had the attached letters fromGarcetti,Yaroslavsky, and others. He also wanted me to convey that he views this as a charitable contribution and that the amount of that contribution is open to discussion and could be less than his original suggestion.

Thanks and let me know if you need me to do anything.

[attachment "Peevey GHG 06 11 14.pdf" deleted by R.O. Nichols/SCE/EIX]

Michael R. Hoover
Director, Regulatory Affairs

(415) 929 - 5541
San Francisco Office

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Investigation on the Commission's Own Motion into the Rates, Operations, Practices, Services and Facilities of Southern California Edison Company and San Diego Gas and Electric Company Associated with the San Onofre Nuclear Generating Station Units 2 and 3.	Investigation 12-10-013 (Filed October 25, 2012)
And Related Matters.	Application 13-01-016 Application 13-03-005 Application 13-03-013 Application 13-03-014

SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338-E)
NOTICE OF EX PARTE COMMUNICATION

J. ERIC ISKEN
WALKER A. MATTHEWS, III
RUSSELL A. ARCHER
Southern California Edison Company
2244 Walnut Grove Avenue
Post Office Box 800
Rosemead, CA 91770
Telephone: (626) 302-6879
Facsimile: (626) 302-3990
E-mail: *Walker.Matthews@sce.com*

HENRY WEISSMANN
Munger, Tolles & Olson LLP
355 South Grand Avenue, 35th Floor
Los Angeles, CA 90071
Telephone: (213) 683-9150
Facsimile: (213) 683-5150
E-mail: *Henry.Weissmann@mto.com*

Attorneys for
SOUTHERN CALIFORNIA EDISON COMPANY

Dated: August 20, 2015

Pursuant to the Amended Administrative Law Judge's Ruling Finding Violations of Rule 8.4, Requiring Reporting of Ex Parte Communications, and Ordering Southern California Edison Company to Show Cause Why It Should Not Also Be Found In Violation of Rule 1.1 And Be Subject To Sanctions For All Rule Violations ("Amended Ruling"), Southern California Edison ("SCE") submits this Notice of Ex Parte Communication with respect to Item No. 10 in Section 5.4 of the Amended Ruling. By filing this ex parte notice in compliance with the Amended Ruling, SCE does not intend to waive its objections to certain aspects of the Amended Ruling, which are set forth in SCE's separately filed response to the Amended Ruling. As set forth in SCE's separately filed response, SCE does not agree with the conclusion that a reportable ex parte communication occurred.

In Item No. 10, the Amended Ruling finds that a reportable ex parte oral communication occurred on June 17, 2014 between Edison International CEO Ted Craver and then-President Michael Peevey about a contribution to University of California to support greenhouse gas ("GHG") research. The Amended Ruling finds as follows:

> 6/17/14 - Peevey met with Craver about the GHG issue but Craver states he responded that he could not engage with Peevey on that topic. Although characterized by SCE as "one-way," the evidence indicates that it was more likely two-way and substantive. The e-mail states, "Ted just came and got Peevey" and the meeting was "about UCLA." This is a substantive topic to be determined in the OII and other parties might seek to contest the issue.[1]

Attached hereto as Exhibit A is a copy of the June 17, 2014 email exchange between Mr. Hoover and Ms. Choi cited and quoted in the Amended Ruling, which was originally submitted by SCE on April 29, 2015.[2]

[1] Amended Ruling, p. 39 (citations omitted).

[2] SCE's Response to ALJ's April 14, 2015 Ruling, Appendix D, p. #00252.

As explained in SCE's response to the ALJ's April 14, 2015 Ruling,[3] and as further discussed in SCE's separately filed response to the Amended Ruling, on June 17, 2014, President Peevey initiated a meeting with Mr. Craver. Mr. Craver escorted President Peevey from a meeting at SCE to his office. President Peevey raised the issue of SCE making a voluntary contribution to University of California for GHG research. Mr. Craver responded that, on the advice of counsel, he could not engage in a substantive conversation on that topic with President Peevey.

Respectfully Submitted,

Date: August 20, 2015

J. ERIC ISKEN
WALKER A. MATTHEWS
RUSSELL A. ARCHER
HENRY WEISSMANN

/s/ Henry Weissmann
By: Henry Weissmann

Attorneys for
SOUTHERN CALIFORNIA EDISON COMPANY

[3] SCE's Response to ALJ's April 14, 2015 Ruling, Appendix C, p. 31 (¶ 29).

EXHIBIT A

From: Caroline Choi <caroline.choi@sce.com>
Sent: Tue Jun 17 2014 13:59:00 PDT
To: Michael Hoover <michael.hoover@sce.com>
CC:
Subject: Re: Ted just came and got Mike Peevey
Attachments: ecblank.gif;graycol.gif

Importance: Normal
Priority: Normal
Sensitivity: None

Peevey came back. RO says the mtg was about UCLA...

Inactive hide details for Michael Hoover---06/17/2014 01:54 PM PDT---Michael Hoover---06/17/2014 01:54 PM PDT---

From: Michael Hoover
To: Caroline Choi
Cc:
Date: 06/17/2014 01:54 PM PDT
Subject: Re: Ted just came and got Mike Peevey

Interesting.....

Mike Hoover

(Sent from an extremely small keyboard on my iPhone)

On Jun 17, 2014, at 1:37 PM, "Caroline Choi" <Caroline.Choi@sce.com> wrote: