

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

Application of SOUTHERN CALIFORNIA
EDISON COMPANY (U 338-E) for Authority to,
Among Other Things, Increase Its Authorized
Revenues For Electric Service In 2012, And to
Reflect That Increase In Rates

A.11-04-006

OPENING BRIEF OF THE
ALLIANCE FOR NUCLEAR RESPONSIBILITY

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SUMMARY:

ANR, as ratepayer advocates, maintains and believes we have demonstrated that the CPUC and the DRA have inadequate expertise to thoroughly and accurately evaluate the reasonableness and prudence of the scope and costs of the seismic studies proposed by SCE. We also believe that our evidence and the statements of the ALJ have made it clear that any perceived lack of “mandate” or the “directive” for the required studies are moot. It is clear the CPUC intends the studies to be completed.

We agree with the ALJ that an Independent Peer Review Panel (IPRP) similar to the one created for PG&E’s seismic studies be created for SCE. To avoid some of the problems with PG&E’s initial panel, we believe that the funding mechanism for the IPRP be included in the initial decision. We also believe that the scope of work for the IPRP in the SCE studies should include *all* the areas of study recommended by the California Energy Commission in its AB 1632 Report recommendations, as was the case in the IPRP for PG&E. We also believe, as PG&E has indicated in its motion to re-open its case, that a representative at the county level—in this case, Orange County—should be included on the IPRP for SCE.

In the matter of evaluating the scope and cost of the studies, we believe that the CPUC must retain expert seismic consulting *before* assigning these costs to ratepayers. Of greater importance, as we will detail, is the fact that the Commission knew of the shortfalls in their internal seismic expertise as early as PG&E’s seismic funding case (10-01-014). The Governor (in January 2011) and the Legislature both acknowledged the deficiency in CPUC staff seismic expertise. The Legislative Analyst Office’s (LAO) initial recommendation against the \$500,000 budget proposal from the Governor to fund this seismic expertise for the CPUC indicated a recognition of this staffing deficiency.

Further, The CPUC itself appeared to recognize the absurdity of allowing continued ignorance on the part of its staff, since the rationale for their response in a Budget Change Proposal (BCP) is put in bold-faced type:

The CPUC has no in-house experts in geology and seismic analysis....

Outside help is needed to ensure that the enhanced seismic studies are scoped out properly at the front end and reviewed properly during the course of the studies pursuant to the recommendations in AB 1632.

ALJ Barnett Judge is advised to take administrative notice of both the above referenced LAO report and the Commission's Budget Change Proposal.

Will the CPUC actually forget that it made this argument in order to rush \$64 million of, without review, ratepayer money into the hands of SCE absent critical review of scope and costs of the proposed work? While the above mentioned LAO and BCP deal with the PG&E case, how could the CPUC recognize their mistake in PG&E's case, and knowing of SCE's filing of a similar application at the same time, failed to make the corrections for both cases? Since the Governor is on record as trying to correct CPUC staff deficiencies as early as his January 2011 Budget, what possible excuse can there be for no staff review whatsoever of the adequacy of SCE's proposed scope of work (the proverbial \$64 million question)? How is this lack of CPUC staff diligence any different from blindly accepting PG&E's assurances over all those years that its pipeline inspection program was perfect?

If the Commission does not have an adequate record to approve the SCE seismic program because they have not yet hired the consultants that would allow them to conduct an informed review, they must defer making a decision until they have done so. As the tragic headlines of San Bruno made clear last year, this is analagous to a gas pipeline safety report that the Commission is being asked to rubberstamp without adequate oversight. That the proper remedy involves additional time and delay in the overall process is a small price to pay in light of the potentially catastrophic consequences of misunderstanding the

confluence of earthquakes and nuclear power plants that the Fukushima tragedy has made all too clear. Ratepayers are willing to wait for sound judgment.

INTRODUCTION

The Alliance for Nuclear Responsibility (ANR) intervened in Application A1011015 as we did not believe ratepayers have been well served by the Division of Ratepayer Advocates (DRA) in recent nuclear proceedings.

As ratepayers, the most distressing information arising from the hearings and cross-examination involving this Application were the acknowledgment by DRA and the CPUC that neither body has on staff—or as consultant—in house or other seismic experts. Nor does it appear, based on the cross-examination, that either of those bodies has employed seismic experts in the past decade, during which other decisions involving seismic funding have been made.

We hope we understood ALJ Barnett correctly when he stated:

And I say this, and I'll say it on the record, that part of this is because I don't want the Commission to be in a position of just accepting what the utilities tell us without looking at it. We've gotten in that position too many times, and I feel that the way to avoid that problem that we are just taking the utility at its word without the expertise to determine the reasonableness of that. That is why I think the IPRP is valuable, and why they should have an expert witness to review this stuff.¹

ANR has three basic areas of concern affecting this Application in which SCE/SDGE requests funding for seismic studies:

1. Seismic issues are unresolved and uncertain

¹ CPUC Transcript, Application 1011015, San Francisco, CA, 11/9/11 pp. 263.

2. The DRA and the CPUC must seek and retain seismic and engineering expertise and consultation from the outset of the CPUC funding process upon which to inform and base reasonable ratemaking decisions
3. The CPUC has an obligation to conduct due diligence to guarantee that ratepayer dollars are spent to insure the stability and efficiency of the state's energy supply are spent prudently

ANR appreciates that ALJ Barnett believes an Independent Peer Review Panel (IPRP) should be created to oversee and monitor the proposed seismic studies of SCE/SDGE. ANR also supports the ALJ when he states:

I think the IPRP is valuable, and why they should have an expert witness to review this stuff.²

However, ANR believes that, chronologically, the time to have an expert witness "review this stuff," is not *after* the funding has been granted by the Commission, but before, in order to ascertain if the scope of the proposed work satisfies the recommendations of the CEC's AB 1632 report. Again, the scope will drive the costs, and absent a thorough review of the scope by knowledgeable seismic consultants, ratepayers will not know if they are paying for more or less than is required to meet the criteria upon which the CEC recommended these studies. As ANR will make clear in the "ISSUES" section of this brief, testimony and cross-examination reveal that DRA and the Commission are ill equipped to pass judgment on the seismic scope of the work, as they admittedly have no seismic expertise. Given that SCE's Application involves active nuclear power plants co-located in a known region of high seismicity, the consequences of these studies to detect seismic hazards have the potential to be devastating to California, especially in light of the Fukushima disaster that is still unfolding in Japan.

² Ibid.

The need for the Commission to conduct due diligence in this serious matter was referenced by ALJ Barnett in his closing remarks, when he stated:

And also I know this is concerning nuclear plants, and I know that safety of nuclear plants is in the NRC. However, those nuclear plants generate 4,000 megawatts of electricity which this state cannot do without, and which this Commission is responsible to make sure that the lights are on in California. And so we have an obligation to our ratepayers, to the citizens of the state to make sure that all plants are safe, nuclear plants included.³

The “obligation” referenced by ALJ Barnett, “to make sure all plants are safe...” should be of extreme concern to the CPUC in the wake of the tragedy at San Bruno, for which lax oversight by the regulator (CPUC) was cited in the report of the National Transportation Safety Board, wherein they conclude:

The investigation also determined that the California Public Utilities Commission, the pipeline safety regulator within the state of California, failed to detect the inadequacies in PG&E's integrity management program and that the Pipeline and Hazardous Materials Safety Administration integrity management inspection protocols need improvement.⁴

In order to restore the faith of the ratepaying public, **it is incumbent upon the CPUC to make sure that the Commission has the expertise to evaluate the scope and costs of the proposed seismic studies before granting ratepayer funding to the utilities.** Of historic precedent, the Commission would be prudent to remember the original ratemaking case for Diablo Canyon, in which the predecessor agency of the DRA dramatically and definitively documented the cost overruns attributable to PG&E’s failure to conduct due diligence regarding

³ Ibid p. 264

⁴ Pipeline Accident Report: Pacific Gas and Electric Company Natural Gas Transmission Pipeline Rupture and Fire, San Bruno CA, September 9, 2010, p.2.

seismic issues at the time those reactors were built. Those same CPUC Public Staff employees later admitted their agency's culpability before a California joint Senate-Assembly hearing on the matter. Given this history of seismic miscalculations, it is prudent for today's Commission to seriously consider not only the cost, but the technical and scientific scope of the proposed studies as well. Elaborate studies that look in the wrong places will be an expensive and ill-informed use of ratepayer money.

BACKGROUND

ANR is actively involved in local and state actions regarding the costs, benefits and risks of continuing to operate aging nuclear plants beyond their current license terms. Since 2005, the California Energy and Coastal Commission, the State Water Board and the legislature have been reviewing the costs, benefits and risks of the state's reliance of aging reactors on our seismically active coast. In 2006, the governor signed into law AB 1632, which mandated the CEC to analyze the costs, risks and benefits of relying on nuclear power, and from which the CEC published its AB 1632 report and seismic study recommendations. In 2007, eight thousand megawatts of nuclear generation was lost within 90 seconds due to an earthquake in Japan. Those reactors remained offline for over two years resulting in nearly \$20 billion dollars of replacement and repair costs for TEPCO. In 2008, PG&E announced that the USGS has discovered a new active earthquake fault a few hundred yards from Diablo's door. SCE, and to some extent SDG&E have been active in all state proceedings.

The above sister agencies of the CPUC have been gathering seismic information the directing both SCE and PG&E to update seismic studies before applying for license renewals. CPUC President Peevey also weighed in on the AB 1632 directives:

It has come to my attention that SCE has not undertaken steps to include a seismic study, nor the other studies recommended in the AB 1632 Report,

as part of its SONGS license extension studies for the CPUC. That deficiency prevents the CPUC from properly undertaking its AB 1632 obligations to ensure plant reliability, and in turn to ensure grid reliability, in the event SONGS has a prolonged or permanent outage.

SCE is obligated to address the above itemized issues in assessing SCE's plant relicensing applications for SONGS. This commission will not be able to adequately and appropriately exercise its authority to fund and oversee the SONGS' license extension without these AB 1632 issues being fully developed and addressed.⁵

Since 2005, the CPUC has been aware that California expects a clear picture of future investments in aging reactors on the state's fragile coast – especially absent an approved offsite waste facility. Yet we enter this proceeding to discover that *neither the CPUC, nor the DRA have seismic experts*. For six years it has been clear that updated seismic information would be a condition of any state or ratepayer investment in SONGS or Diablo. The California oversight agencies that directed the state's nuclear utilities to undertake updated seismic studies *all had seismic experts involved in their decision-making*. These agencies protect our water, our coast, our energy planning. Ratepayers deserve their oversight agency to have independent seismic experts. That the CPUC was unprepared to fully evaluate these applications and has not chosen to retain a seismic expert during these six years—considering that either PG&E or SCE have had open seismic applications—is an issue that needs to be remedied by the Commission, and not—with inherent potential consequences to ratepayers—overlooked in the name of expedience for the utilities.

Because the CPUC was not already equipped with seismic expertise, A4NR does not believe the Commission can meet its standard to:

⁵ Letter from Michael Peevey to Alan J. Fohrer, June 25, 2009.

...serve(s) the public interest by protecting consumers and ensuring the provision of safe, reliable utility service and infrastructure at reasonable rates, with a commitment to environmental enhancement and a healthy California economy.⁶

ISSUES:

1. REASONABLENESS OF SCOPE AND COSTS

1.1 Retaining Outside Experts

A4NR believes that the CPUC and its DRA do not have the expertise in seismic matters to determine the prudent reasonableness and scope of the costs associated with this Application. As the “scope” of the work drives the “costs,” the Commission must first determine if the scope of the work is prudent. ANR’s comments on this issue should be taken in context of ALJ Barnett’s statement that:

And I say this, and I'll say it on the record, that part of this is because I don't want the Commission to be in a position of just accepting what the utilities tell us without looking at it. We've gotten in that position too many times, and I feel that the way to avoid **that problem that we are just taking the utility at its word without the expertise to determine the reasonableness of that.**⁷ [emphasis added]

In fact, DRA does not seem to believe it needs to understand the scope of SCE’s seismic studies in order to establish a reasonable rate increase, and has made no attempt to seek expert counsel in this area. The following exchange between Ms. Becker of ANR (Q) and Mr. Logan, (A) witness for the DRA, bears this out:

⁶ CPUC mission statement (<http://www.cpuc.ca.gov/PUC/aboutus/pucmission.htm>)

⁷ CPUC Transcript, Application 1011015, San Francisco, CA, 11/9/11 pp. 263.

Q Are not the costs for SCE in these studies driven by the scope and the nature of the work?

A Well, the scope is essentially applies to the planning stage. And so that's what we have. That's where we're in right now. And so this, you know, controlling the costs really is addressing as they actually incur the costs and, you know, management decisions that they may be faced with during the course of the study activities.

Q I have asked several times if you have a seismic consultant. I just want to ask, do you think you could use one?

A ... At this point in time, it is just my personal judgment, it would be - -obviously it would be a DRA management decision to make, but if DRA management was to ask me at this point in time whether we should engage an expert consultant, which does involve cost, I would not recommend we engage in an expert consultant.⁸

As to ANR's concern that the contents of the study—the very scope—bears closer scrutiny, the exchange between Ms. Becker of ANR (Q) and Mr. Logan, witness of DRA (A), further continues with:

Q How can DRA assure that a cost cap or a cost-sharing program ensures that SCE actually completes the studies and provides good and valuable information crucial to maintaining reliable and reasonably priced stable electric generation if DRA has not evaluated the content of the study itself?

⁸ CPUC Transcript, Application 1011015, San Francisco, CA, 11/9/11 pp. 199.

A Well, I don't agree that we haven't evaluated the content. We've evaluated everything that Edison has presented both in the application, workpapers, and discovery.⁹

Mr. Logan's answer, "We've evaluated everything that Edison has presented both in the application, workpapers, and discovery," when combined with his previously quoted line, "I would not recommend we engage in expert consultation," seems to further validate the cautious query of ALJ Barnett referenced above, in which he reminded the participants in the hearing of the "...problem that we are just taking the utility at its word without the expertise to determine the reasonableness of that." In one specific instance, the question arises as to whether or not SCE has met the mandate of the CEC AB 1632 recommendation that SCE,

"...should develop an active seismic hazards research program for SONGS similar to PG&E's LTSP to assess whether there are sufficient design margins at the nuclear plant to avoid major power disruptions."¹⁰

ANR's Ms. Becker (Q) questions Mr. Logan of DRA (A) whether the program proposed by SCE, referred to as "SHAP" is indeed "similar to PG&E's LTSP."

Q Thank you. On page 10, line 13 through 17 – of DRA report it states: "The disparity in funding level between PG&E's Diablo Canyon \$16.7 million seismic program, approved by the Commission in D.10-08-003, and SCE/SDG&E's \$64 million SONGS seismic/tsunami program can be partially explained by differences in PG&E's existing long-term seismic program versus SCE's SHAP." S-H-A-P.

A Yes.

⁹ Ibid, p. 200.

¹⁰ An Assessment of California's Nuclear Power Plants, California Energy Commission Report, adopted November 20, 2008, page 9.

Q Okay. Does DRA have a written enumeration or comparison of both the LTSP side by side with the SCE SHAP?

A Not to the specifics, I think, the way you're asking the question. So no.

Q Okay. Then how did DRA arrive at its conclusion of a partial explanation for the differences between PG&E's LTSP and SCE's SHAP?

A Based on discussions with Edison.

Q Okay. And I think we've been asked and answered, but just to make it clear. Did DRA have a seismic expert review any of your findings?

A No.

Q Did you have a seismic expert in the room during any of these discussions with Edison?

A No.¹¹

Once again, this exchange indicates that DRA, in contrast to the ALJ's concern, *is accepting only the word of the utility and not engaging any expertise outside of its own department.*

As referenced in ANR's opening summary, the Commission has been aware for over a year of its seismic expertise shortfall. The first evidence of this is the Legislative Analyst Office's (LAO) initial recommendation against the \$500,000

¹¹ CPUC Transcript, Application 1011015, San Francisco, CA, 11/9/11, pp. 196-197.

budget proposal from the Governor (who can be said to have recognized the CPUC staffing deficiency back in January 2011). The report states:

CPUC Has No Seismic Technical Expertise But Would Like to Review PG&E's Study. CPUC lacks the technical expertise to interpret the study which they have required of PG&E. Nonetheless, they would like to review the study. As such, the CPUC is seeking approval for funds to contract with a third-party consulting firm to review PG&E's study.¹²

The CPUC then confirms this inadequate expertise in filing a Budget Change Proposal in which they write, under Section E, "justification:"

The CPUC has no in-house experts in geology and seismic analysis.

The CPUC needs to either hire an outside consultant or use the services of some other State agencies such as the CGS, CCC, CSSC, and the CEC who have the technical expertise to review PG&E's seismic studies at Diablo Canyon to satisfy the Commission's requirements in D.10-08-003. The enhanced studies are needed pursuant to the recommendations in AB 1632.

Outside help is needed to ensure that the enhanced seismic studies are scoped out properly at the front end and reviewed properly during the course of the studies pursuant to the recommendations in AB 1632.¹³

The Commission admits the need "to either hire an outside consultant or use the services of some other State agencies...." ANR requests the ALJ to take

¹² Summary of LAO Findings and Recommendations on the 2011-12 Budget
http://www.lao.ca.gov/laoapp/budgetlist/PublicSearch.aspx?PolicyAreaNum=0&Department_Number=8660&KeyCol=285&Yr=2011

¹³ State of California, Budget Change Proposal for Fiscal Year 2011-12; Department: Public Utilities Commission, p. 6.

administrative notice of both these documents, cited as footnotes 12 and 13, and make them part of the record in this case. Although these referenced documents deal with the funding for PG&E's proposed seismic studies, they are equally applicable to SCE's studies, as both were recommended equally by the CEC's AB 1632 report. That the CPUC knew they had this dearth of expertise and appear to have abdicated their responsibility to solve the problem, should in no way be allowed to cause detriment to ratepayers. Any delays in the proceedings land on the doorstep of the Commission for failing to follow through or expedite a solution to their own unmet internal needs.

It is not only DRA that fails to garner outside confirmation that the scope of work proposed by SCE/SDGE meets the requirements of the CEC AB 1632 study. SCE itself was unable to provide any conclusive evidence that it has received confirmation that the CEC has approved of the work plan.

In the following exchange between Ms. Becker of ANR (Q) and Mr. Nelson (A), witness for SCE, "confirmation" that the CEC has accepted SCE's scope and workplan is pinned to one email (SCE Exhibit SCE-7), and upon examination, that email consists of only two words, and those words are in reference to a different question.

Q Thank you. SCE's statement indicates that the seismic studies are, quote, "planned to be consistent with the CEC's AB 1632 recommendations." Is that correct?

A Yes, it does.

Q Okay. Has this consistency determination been validated by the Energy Commission?

A As recently as last week I've talked with Energy Division staff about

whether they had any comments or concerns, and they returned that they did not. So I'm assuming that it meets their needs. They've had numerous opportunities to comment, and this is public as well.

Q This was the California Energy Commission that you spoke to?

A It was the California Energy Commission.

Q And they indicated that everything is fine?

A I asked them if they had any concerns or if they had any other comments about our application and plans, and they indicated that they did not.

Q Can you tell me who you spoke to at the Energy Commission, please?

A Barbara Byron.

Q Barbara. Thank you. Has this consistency determination been finalized?

A Well, saying that it's – first off, I think consistency determination may have a term of art use, but we believe that what we have scoped is sufficient to meet those points that are in the CEC's recommendation, and we believe that it is consistent with it, and we filed that application. So, you know, we believe that this meets the need and that it in fact goes beyond specifically what's in there. So yes, we, you know, we believe that this is final. It doesn't mean that there won't be expanded scope at some point, you know, subject to, you come out of a study and you may find additional things to study. But based on the information we had, we developed a scope of work in this application.

Q Does Edison have a written document that says that the CEC said that? Because it's sort of contrary to a conversation that I had with the CEC last week. So I'm just wondering if you had confirmed that this has been validated?

A I actually traded e-mails with Barbara last week and just --

Q Could we put those in the record, the e-mail?

A I don't see any problem with that.

Q Okay. That would be great. Thank you.¹⁴

The email in question, exhibit SCE-7, was sent from Mr. Nelson of SCE to Barbara Byron of the CEC. In the "subject" line he writes: Hope this is still your email address" and then in the body of the email, adds, "If so....I have a quick seismic question for you" followed by a more detailed sentence in which he asks, "...I'm assuming that you think we've got the scope about right, since we've talked a few times since we've filed the application and you've never expressed any concern about the scope...."

In her response to Mr. Nelson's email, with the subject line "Hope this is still your email address" Ms. Byron replies simply with, "yes, thanks." In reading the actual exhibit it is clear that her answer, "Yes, thanks" *is a reply to his subject line asking if this is still her current email address*. It can no way be interpreted as an official sanctioning of the CEC for SCE's entire work proposal, summed up in two words, "yes, thanks." This email is from the nuclear policy advisor at the CEC and not an official document, on letterhead, or from any of the CEC commissioners either as a group or individually. The Commission is invited to

¹⁴ CPUC Transcript, Application 1011015, San Francisco, CA, 11/8/11, pp. 71-73.

subpoena Ms. Byron for a confirmation of her intent to merely affirm her email address, though ANR has obtained this verbally from Ms. Byron. That SCE bases the CEC's confirmation of their seismic work plan on an obvious mischaracterization of the words "yes, thanks," is both an insult to the intelligence of the ratepayers and the Commission.

Further, it appears that ALJ Barnett also falls prey to the contradiction of his own dictum that, "...we are just taking the utility at its word without the expertise to determine the reasonableness of that." In his concluding remarks, he stated:

On the reasonableness of scope and costs, the only evidence that I have in this case is the evidence put on by Edison. And so I start at that point, and right now I don't see any reason to shorten any of it. So essentially, unless I can -- in reading this over I find that I misinterpreted the evidence, I believe that I will adopt Edison's position on reasonableness of scope and costs.¹⁵

Thus, the ALJ, while excoriating the Commission for finding itself in a position of simply accepting the utility's assertions without independent expertise for verification, is at the same time willing to accept only the utility's evidence in this case. This seeming contradiction is one he feels compelled to justify, noting that the possible solution—the hiring of outside consultants—could be a burdensome process:

The retaining of outside experts, that is a real problem for the Commission for the simple reason that it takes so long to hire anybody, to go through the procedures that the -- I'm not sure how this is done. I just know that it is very cumbersome to get, to hire experts. And by the time you hire them, and they do their work, six months or a year can go by. So while I think that they should be retained, we should have experts in this area for

¹⁵ CPUC Transcript, Application 1011015, San Francisco, CA, 11/9/11, p. 261-262.

the purposes of this hearing, I don't see how we are going to retain outside experts. But in the future perhaps the Commission should have an outside expert that it can call on for seismic studies. I'm talking about seismic studies now.¹⁶

ANR does not believe ratepayers are disadvantaged if “six months or a year can go by” in the process of hiring and employing seismic experts and consultants. In fact, based on the CPUC’s previous licensing experience with with Diablo Canyon (in the 1980s), where a lack of oversight led to over \$4 billion in ratepayer funded cost overruns, the additional time, effort and expense to insure expert evaluation could, in fact, end up saving ratepayers money. As for the claim that such a process would delay the project, it should be remembered that both utilities have known these seismic studies would be required since the passage of AB 1632 in 2006, and certainly since Chairman Peevey wrote both utilities in June 2009. Ratepayers have created no roadblocks to this process, and only the Commission or the utilities can be faulted for delays. The CPUC must retain their own seismic experts—either permanently or on a consulting basis—to assure that the scope and cost of the proposed studies are reasonable and prudent.

2. IPRP

2.1: Costs

ANR agrees with ALJ Barnett when he said,

On the IPRP I'm going to recommend that there be an IPRP, and that it be essentially the same as the one that the Commission put in effect for PG&E.¹⁷

As such, ANR believes:

¹⁶ CPUC Transcript, Application 1011015, San Francisco, CA, 11/9/11, p. 262.

¹⁷ CPUC Transcript, Application 1011015, San Francisco, CA, 11/9/11, page 263.

1. An IPRP should be created to oversee the seismic studies at SONGS, However, to avoid some of the problems that arose from the fact that the earlier PG&E Decision 10-08-003 did not include a funding mechanism for the IPRP (thus requiring PG&E to file a motion to re-open that case) we suggest **that the Commission in this application include a funding mechanism for the IPRP from the outset.** In addition, as PG&E's motion to re-open their seismic study funding case A. 10-01-014 now indicates that the County of San Luis Obispo have an expert on the IPRP,¹⁸ **ANR requests that the IPRP for SONGS also reserve a seat for an expert to be chosen by the County of Orange.**

2. ANR believes the IPRP oversight for SONGS should include *all* the areas of study recommended by the CEC AB1632 *Report*, and not, as SCE believes, only the one area of study the report recommends that is common to both PG&E and SCE. CPUC D.10-08-003 created PG&E's IPRP, and in its Conclusions of Law, *the Commission made no differentiation or itemization* regarding which of the areas of CEC recommended study would or would not be reviewed by the IPRP.¹⁹ The assumption is that ALL areas of study would be reviewed by the IPRP. The same should be true for SCE, **and all areas of study** recommended by the CEC should be evaluated and reviewed by the IPRP.

3. As the IPRP should be similar to the one created for PG&E, the composition of the IPRP should include representatives from:

- The California Energy Commission
- The California Geologic Survey
- The California Coastal Commission
- The California Seismic Safety Commission
- California Emergency Management Agency
- The California Public Utilities Commission
- A seismic expert representing Orange County

¹⁸ Motion of Pacific Gas & Electric Company to Re-Open Application 10-01-014 to recover increased costs of seismic studies, September 23, 2011, p. 14.

¹⁹ California Public Utilities Commission Decision 10-08-003, August 12, 2010, p.15.

With regard to the IPRP sub-issue ALJ Barnett describes as “Costs:”

The CPUC’s role in this Application process is to determine the reasonableness and prudence of *the overall cost and scope of the studies*. DRA, during the hearings for this case, admits to having no in-house seismic expertise. ANR’s analysis of this lapse was detailed thoroughly in the preceding section 1. ANR maintains that the lack of seismic expertise hinders the CPUC or DRA from accurately gauging ratepayer responsibility for the costs and scope of the proposed seismic studies. **It is for the Commission to make an administrative decision to staff its own agency with the appropriate expert in this field.** Given that the Commission is weighing not only SCE’s application, but the re-opened seismic Motion of PG&E as well, there will be a need for an internal seismic expert for at least the next full year. Although ALJ Barnett stated, “...the Commission can't go out and hire experts without jumping through great many hoops and taking an extremely long length of time,”²⁰ we need to hear from the Commission that they are unable or unwilling to prioritize and expedite—*on an ad hoc basis if need be*—the hiring of required experts.

As ANR concluded in the preceding section, ratepayers are better served by waiting six months to a year for a full and complete seismic review by the Commission, than by hastily proceeding down an ill-planned and ill-mapped seismic path. ANR has placed into the record of both SCE and PG&E’s proceedings the historically documented archive of the CPUC’s failings to independently verify seismic claims by PG&E during the original licensing of Diablo Canyon, which led to exorbitant cost overruns paid for by ratepayers. ANR has also placed into the record the chastising given to CPUC staff at the time by the California Legislature (1987) for their lack of due diligence. In a post-San Bruno, post-Fukushima world, California can ill afford careless or potentially catastrophic decisions.

²⁰ CPUC Transcript, Application 1011015, San Francisco, CA, 11/9/11, page 263.

Having established that the CPUC must have a seismic expert to review the overall scope of the work and costs prior to authorizing ratepayer funds; ANR does agree with ALJ Barnett when he states:

...the IPRP may be able to do that, and may be able to hire experts, just hire them, go out and hire them, because they will be billing the utilities. I'm going to put a provision in that the IPRP can bill the utilities. The utilities will just treat it as another expense of their costs in the seismic investigation. And that is the way we will get outside experts to come in and overlook the work of Edison and PG&E.²¹

ANR believes **there is a vital role for a seismically trained cost estimation / project management expert consultant on the IPRP during its period of work**. Such an ombudsman would make sure that the study plan was being adhered to, and any changes that incurred cost or scope as the plan proceeded—perhaps due to outside forces such as the permitting requirement of maritime and land agencies—were appropriate and prudent. ANR wishes to make it clear that this proposed cost estimation / project management expert hired after-the-fact is not a substitute for an internal CPUC seismic expert to review the scope and costs of the Application, but would serve a similar role in an on-going fashion, and for the duration of the IPRP's work.

²¹ Ibid.

OTHER ISSUES:

3. COST CAP

ANR RESPONSE: N/A

4. SHAREHOLDER FUNDING OF COSTS

ANR RESPONSE: N/A

5. TIER 3 ADVICE LETTER

ANR RESPONSE: ANR supports inclination of ALJ Barnett to grant this request, but only under condition that it preserves a prescribed path for public input and questions.

6. BALANCING ACCOUNT

ANR RESPONSE: - same response as #5

FINDINGS OF FACTS:

- ANR, SCE and the CPUC find that there is directive and mandate for SCE to complete all the CEC AB 1632 recommended studies
- DRA and the CPUC admit to being bereft of internal or external seismic experience of consultation, and have been aware of the problem since at least January 2011
- SCE misrepresents the concurrence of the California Energy Commission with the utility's proposed scope of work
- An IPRP should be created for the SCE seismic studies, and it should be similar to the one for PG&E—including both a funding mechanism and a representative from the locally affected county—and include review and analysis of all the areas of study recommended by the CEC's AB 1632 report.

CONCLUSIONS OF LAW:

The CPUC believes that the absence of informed review by the Commission staff on a matter of such consequence as proper implementation of the AB 1632 work leaves the Commission with an inadequate evidentiary record to approve SCE's proposed seismic program, and therefore a ruling on that part of the Application must be suspended until the budgeted expert seismic consultants are hired and the staff review completed.

ORDERING PARAGRAPH:

The Commission will create a rate-based funding mechanism for the Energy Division to obtain the necessary seismic expertise required to determine the reasonableness and prudence of the proposed seismic studies. This Application is suspended until such time as this initial Commission review is completed.