

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

Application of Pacific Gas and Electric Company )	
(U 39 E) for Approval of Ratepayer Funding to )	A.10-01-014
Perform Additional Seismic Studies )	(Filed January 15, 2010)
Recommended by the California Energy )	
Commission. )	

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**SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338-E) OPENING BRIEF**

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Pursuant to Rule 13.11 of the California Public Utilities Commission's (Commission) Rules of Practice and Procedure,<sup>1</sup> Southern California Edison Company (SCE) respectfully submits this opening brief in connection with Pacific Gas & Electric Company's (PG&E) Application (A.) 10-01-014, which requests additional funding for seismic studies for PG&E's Diablo Canyon Nuclear Power Plant (Diablo Canyon or DCNPP).

**1. INTRODUCTION**

This opening brief addresses recommendations provided by Alliance for Nuclear Responsibility (A4NR) witness Dr. Douglas Hamilton for reviewing and recalculating the seismic design margins of safety-related Diablo Canyon components, and providing oversight of these activities independent of PG&E and the Nuclear Regulatory Commission (NRC).<sup>2</sup> As explained below, the Commission should reject these recommendations as they impermissibly

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<sup>1</sup> The opening brief also complies with the briefing schedule set by the Assigned Commissioner's Scoping Memo and Ruling (Scoping Memo) dated March 6, 2012, and Administrative Law Judge (ALJ) Barnett's instruction provided at the conclusion of the April 20, 2012 evidentiary hearing for the above-captioned proceeding.

<sup>2</sup> Exhibit A4NR-04, Hamilton Testimony, pp. 53-54.

interfere with the NRC's jurisdiction on seismic-safety issues for Diablo Canyon. SCE provides its recommendations for proposed findings of fact and conclusions of law in Appendix A.

## 2. **DISCUSSION**

### 2.1 **Scope of the Seismic and Tsunami Studies**

#### 2.1.1 **Dr. Hamilton's Recommendations Would Require Determining The Design Basis Event (Safe Shutdown Earthquake) For Diablo Canyon, Which Would Impermissibly Interfere With The Adequate Protection Determination Made Exclusively By The NRC.**

A4NR witness Dr. Hamilton objects to the scope of the proposed seismic and tsunami studies for Diablo Canyon, and provides recommendations for reviewing and recalculating the seismic design margins of safety-related Diablo Canyon components, and providing oversight of these activities independent of PG&E and the NRC.<sup>3</sup> A4NR takes the position that the state has the authority to implement these recommendations because the state has an economic interest in the reliability of Diablo Canyon's operations.<sup>4</sup> A4NR is incorrect, in that the recommendations involve activities within the exclusive jurisdiction of the NRC.

Although the state has an economic interest in the reliability of all the generation resources utilized in the state, the state (including this Commission) does not have the authority to implement recommendations related to seismic safety of nuclear plants and the NRC's oversight of seismic-safety determinations, as doing so would impermissibly interfere with the NRC's jurisdiction over this subject area.<sup>5</sup> As explained in SCE's rebuttal testimony, this is because a necessary step for reviewing and recalculating design margins for a nuclear plant

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<sup>3</sup> Exhibit A4NR-04, Hamilton Testimony, pp. 53-54.

<sup>4</sup> Exhibit A4NR-02, Becker Rebuttal Testimony, p. 9.

<sup>5</sup> Exhibit SCE-01, SCE Rebuttal Testimony, p. 6.

involves determining the underlying design basis event for which the margins are to be determined, which is central to the “adequate protection” determination made exclusively by the NRC under authority of the Atomic Energy Act of 1954 (AEA) as amended.<sup>6</sup> The Commission need not and should not interfere with the NRC’s regulation of these issues by engaging in an impermissible evaluation of the design basis event used to calculate design margins for safety-related Diablo Canyon components as recommended by Dr. Hamilton.<sup>7</sup>

### **2.1.2 The NRC’s Regulation of Seismic-Safety Issues Is Comprehensive And Pervasive.**

SCE’s rebuttal testimony explained the scope of the AEA and the NRC’s regulation of seismic-safety issues, including requirements recently issued by the NRC pursuant to 10 C.F.R. Section 50.54(f).<sup>8</sup> This regulatory framework demonstrates that the NRC is actively engaged in considering the seismic-safety and design margin issues raised by Dr. Hamilton.<sup>9</sup>

#### **2.1.2.1 The Atomic Energy Act Grants The NRC Exclusive Jurisdiction To Regulate The Construction And Operation Of Nuclear Power Plants.**

First, the AEA created a comprehensive and pervasive program of federal regulation and licensing that permitted the private use, control, ownership, and operation of commercial nuclear power plants.<sup>10</sup> The AEA gave the federal government “exclusive jurisdiction to license the transfer, delivery, receipt, acquisition, possession and use of nuclear materials,” and regarding

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<sup>6</sup> Exhibit SCE-01, SCE Rebuttal Testimony, p. 2. The purpose of the NRC’s “adequate protection” determination is to protect the radiological health and safety of the public, through acceptable design, construction, operation, maintenance, modification, and quality assurance requirements for licensed nuclear power plants . See 42 U.S.C. §§ 2133, 2232.

<sup>7</sup> Exhibit SCE-01, SCE Rebuttal Testimony, p. 2.

<sup>8</sup> Exhibit SCE-01, SCE Rebuttal Testimony, pp. 3-6.

<sup>9</sup> Exhibit SCE-01, SCE Rebuttal Testimony, p. 2.

<sup>10</sup> *Duke Power Co. v. Carolina Env'tl. Study Grp. Inc.*, 438 U.S. 59, 63 (1978); Exhibit SCE-01, SCE Rebuttal Testimony, p. 3.

these subjects, “no role was left for the states.”<sup>11</sup> The AEA specifically authorizes the NRC to regulate the construction and operation of nuclear reactor facilities in order to protect the public health and safety from radiological risks, and provides that the NRC may not cede this authority.<sup>12</sup> In particular, the NRC’s “prime area of concern in the licensing context . . . is national security, [and] public safety.”<sup>13</sup> Further, Congress’ decision to foreclose “states from conditioning the operation of nuclear plants with state-imposed safety standards” is based on “its belief that the [NRC] was more qualified to determine what type of safety standards should be enacted in this complex area.”<sup>14</sup>

### **2.1.2.2 The NRC’s Regulatory Framework Addresses Seismic-Safety Issues.**

Second, in keeping with its broad statutory mandate under the AEA, the NRC has established a correspondingly comprehensive and pervasive regulatory framework for addressing, among other matters, the seismic design of nuclear power reactors.<sup>15</sup> For example, the NRC-required analyses completed during the licensing of a nuclear plant result in the determination of the Operating Basis Earthquake (OBE) and Safe Shutdown Earthquake (SSE),<sup>16</sup> which is also commonly referred to as the design basis earthquake. The OBE and SSE provide

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<sup>11</sup> *Pac. Gas & Electric Co. v. State Energy Res. Conserv. & Dev. Comm’n*, 461 U.S. 190, 207 (1983) (citing 42 U.S.C. §§ 2014(e), (z), (aa), 2061-64, 2071-78, 2091-99, 2111-14).; Exhibit SCE-01, SCE Rebuttal Testimony, p. 3.

<sup>12</sup> See 42 U.S.C. § 2021(c)(1); Exhibit SCE-01, SCE Rebuttal Testimony, p. 3.

<sup>13</sup> *Pacific Gas*, 461 U.S. at 207; Exhibit SCE-01, SCE Rebuttal Testimony, p. 3.

<sup>14</sup> *Silkwood v. Kerr-McGee Corp*, 464 U.S. 238, 250-51 (1984); Exhibit SCE-01, SCE Rebuttal Testimony, p. 3.

<sup>15</sup> Exhibit SCE-01, SCE Rebuttal Testimony, p. 4.

<sup>16</sup> The SSE is defined in 10 C.F.R. Part 100, Appendix A, Sec. III (c) as:

The *Safe Shutdown Earthquake*<sup>1</sup> is that earthquake which is based upon an evaluation of the maximum earthquake potential considering the regional and local geology and seismology and specific characteristics of local subsurface material. It is that earthquake which produces the maximum vibratory ground motion for which certain structures, systems, and components are designed to remain functional. These structures, systems, and components are those necessary to assure:

- (1) The integrity of the reactor coolant pressure boundary,
- (2) The capability to shut down the reactor and maintain it in a safe shutdown condition, or
- (3) The capability to prevent or mitigate the consequences of accidents which could result in potential offsite exposures comparable to the guideline exposure of this part.

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<sup>1</sup> The *Safe Shutdown Earthquake* defines that earthquake which has commonly been referred to as the *Design Basis Earthquake*.



critical input into the design, construction and operation of nuclear reactors, and are driven by public radiological health and safety considerations, not the reliability of power generation.<sup>17</sup> Determining the OBE and SSE for nuclear plants is within the exclusive jurisdiction of the NRC.<sup>18</sup>

In addition, there are a number of other NRC regulatory guides that further demonstrate the pervasiveness of the NRC's regulation of seismic-safety issues, including:

- Regulatory Guide 1.29 - Seismic Design Classification;
- Regulatory Guide 1.60 - Design Response Spectra for Seismic Design of Nuclear Power Plants;
- Regulatory Guide 1.61 - Damping Values for Seismic Design of Nuclear Power Plants;
- Regulatory Guide 1.132 - Site Investigations for Foundations of Nuclear Power Plants;
- Regulatory Guide 1.206 - Combined License Applications for Nuclear Power Plants (LWR Edition);
- Regulatory Guide 1.208 - A Performance-Based Approach to Define the Site-Specific Earthquake Ground Motion; and,
- Regulatory Guide 4.7 - General Site Suitability Criteria for Nuclear Power Stations.

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<sup>17</sup> The NRC provides the following requirements for the OBE:

If vibratory ground motion exceeding that of the Operating Basis Earthquake occurs, shutdown of the nuclear power plant will be required. Prior to resuming operations, the licensee will be required to demonstrate that no functional damage has occurred to those features necessary for continued operation **without undue risk to the health and safety of the public.**

10 C.F.R. Part 100, Appendix A, Sec. V, (a)(2) (emphasis added). *See also* Sec. VI. (a)(2).

<sup>18</sup> 10 C.F.R. Part 100, Appendix A; Exhibit SCE-01, SCE Rebuttal Testimony, p. 4.

### **2.1.2.3 The NRC's Regulation Of Seismic Issues Is Active And Ongoing.**

Third, the NRC, consistent with its broad and plenary jurisdiction over the operations at nuclear plants, is implementing additional regulatory activities to address seismic-safety issues following the events at the Fukushima nuclear plants last year.

As explained in SCE's and PG&E's rebuttal testimony, the NRC issued a letter on March 12, 2012, pursuant to 10 C.F.R. § 50.54(f), requiring all reactor licensees to identify and provide information regarding the seismic and other external hazards (e.g. flooding) impacting the licensees' respective plants, in order "to verify the compliance with [the licensee's] plant's design basis and to determine if additional regulatory actions are appropriate."<sup>19</sup> Specifically, plants located in the western United States are required to develop seismic source and ground motion models to characterize their regional and site-specific seismic hazards.<sup>20</sup> Consistent with current practice for 10 C.F.R. Part 52 (new reactor licensing), the western plants also are required to perform a Senior Seismic Hazard Analysis Committee (SSHAC) Level 3 study to develop a probabilistic seismic hazard analysis.<sup>21</sup> The methodology to be used to perform the re-evaluation is also prescribed in the letter.<sup>22</sup>

The NRC expressly noted that the requirements set forth in the letter are needed to "undertake a comprehensive re-establishment of the design basis for existing plants to reflect the current state of knowledge or current licensing criteria."<sup>23</sup> The Commission should not interfere

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<sup>19</sup> March 12, 2012 NRC Letter to All Power Reactor Licensees et al., *Request for Information Pursuant to Title 10 of the Code of Federal Regulations 50.54(f) Regarding Recommendations 2.1, 2.3 and 9.3 of the Near-Term Task Force Review of Insights from the Fukushima Dai-Ichi Accident*, at p. 3; Exhibit SCE-01, SCE Rebuttal Testimony, p. 6; Exhibit PG&E-03, PG&E Rebuttal Testimony, p. 12.

<sup>20</sup> *Id.* (enclosures).

<sup>21</sup> *Id.* (enclosures). See also NUREG-2117, *Practical Implementation Guidelines for SSHAC Level 3 and 4 Hazards Studies* (February 2012); NUREG/CR-6372, *Recommendations for Probabilistic Seismic Hazard Analysis: Guidance on Uncertainty and Use of Experts* (April 1997).

<sup>22</sup> March 12, 2012 NRC Letter to All Power Reactor Licensees et al., *Request for Information Pursuant to Title 10 of the Code of Federal Regulations 50.54(f) Regarding Recommendations 2.1, 2.3 and 9.3 of the Near-Term Task Force Review of Insights from the Fukushima Dai-Ichi Accident* (enclosures).

<sup>23</sup> March 12, 2012 NRC Letter to All Power Reactor Licensees et al., *Request for Information Pursuant to Title 10 of the Code of Federal Regulations 50.54(f) Regarding Recommendations 2.1, 2.3 and 9.3 of the Near-Term Task Force Review of Insights from the Fukushima Dai-Ichi Accident* at p. 4.

with the NRC's active and ongoing regulation of these issues, as doing so would violate the NRC's exclusive jurisdiction over seismic-safety issues, and could create an unnecessary risk of regulatory uncertainty and instability.

SCE witness Mark Nelson emphasized that the seismic hazard analysis and SSHAC process completed to respond to the 50.54(f) requirements are within the NRC's jurisdiction, and explained the need to avoid undue state interference with the NRC's regulations:

The seismic hazard analysis . . . is included in the SSHAC, which is within the NRC 50.54(f) process. So I would say that is squarely inside the NRC's jurisdiction.<sup>24</sup>

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*The NRC is the sole regulator of nuclear public health and safety issues. And by having additional regulation, by having additional demands that are outside the NRC structure, it will create a more complex regulatory environment that . . . creates uncertainty and instability for the licensee.*<sup>25</sup>

The Commission should make clear that, by its orders in this proceeding, it does not intend to interfere with the NRC's requirements set forth in the NRC's March 12, 2012 50.54(f) letter.<sup>26</sup>

### **2.1.3 The Commission Should Not Substitute Its Judgments for The NRC's Judgments On Seismic-Safety Issues.**

Dr. Hamilton's recommendations essentially ask the Commission to render an impermissible judgment regarding Diablo Canyon seismic-safety issues (i.e. determining the adequate protection of the public's radiological health and safety) that would supplant (or second guess) the judgment of the NRC.<sup>27</sup> Indeed, as noted above, the determination of the OBE and

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<sup>24</sup> SCE, Nelson, Tr. p.162, lines 23-27.

<sup>25</sup> SCE, Nelson, Tr. p. 152, line 28 to p. 153, lines 1-7.

<sup>26</sup> Decision (D.) 12-05-004 (approving SCE's seismic funding application).

<sup>27</sup> Exhibit SCE-01, SCE Rebuttal Testimony, p. 7. A4NR also suggested during cross examination of SCE witness Mark Nelson that Dr. Hamilton's recommendations were not problematic because they were directed at the scientific community and not to the Commission for the Commission to act upon. If that is the case and the

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SSE for Diablo Canyon is precisely the exclusive NRC determination the Commission would impermissibly interfere with, if it chose to adopt Dr. Hamilton’s recommendation for reviewing and recalculating design margins for safety-related Diablo Canyon components and providing oversight of these activities.<sup>28</sup>

A4NR argues that these jurisdictional issues do not exist because Dr. Hamilton’s recommendations raise a permissible state-economic issue regarding the reliability of Diablo Canyon.<sup>29</sup> But A4NR cannot reasonably justify the recommendations on an economic rationale.<sup>30</sup> The recommendations clearly raise seismic-safety issues that are within the exclusive jurisdiction of the NRC.<sup>31</sup> As SCE’s rebuttal testimony demonstrated, Dr. Hamilton’s testimony is replete with statements that expressly acknowledge the seismic-safety issues that A4NR seeks to have the Commission render a judgment, all questioning PG&E’s original seismic analyses provided to the NRC:<sup>32</sup>

- Page 6 – “My testimony for this proceeding raises concerns regarding the seismic setting of the plant, ***both as it relates to public health and safety*** . . .”
- Page 6 – “My Testimony also questions relevance of much of PG&E’s extremely costly program of geology, geophysics and seismology research, to resolving or even addressing the important ***seismic safety issues affecting DCNPP***.”
- Page 7 – “This [PG&E’s prior studies] has resulted in non-recognition or non-acknowledgement by PG&E of what may well be the controlling seismic hazard to the ***seismic safety of DCNPP***.”

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recommendations are not directed to the Commission, the Commission can ignore Dr. Hamilton’s recommendations because there is nothing for the Commission to adopt. *See* A4NR, Geesman, Tr. pp. 153-157 (suggesting that Dr. Hamilton’s recommendations were not directed to the Commission).

<sup>28</sup> Exhibit SCE-01, SCE Rebuttal Testimony, p. 2.

<sup>29</sup> Exhibit A4NR-02, Becker Rebuttal Testimony, p. 9.

<sup>30</sup> Exhibit SCE-01, SCE Rebuttal Testimony, p. 7.

<sup>31</sup> Exhibit SCE-01, SCE Rebuttal Testimony, p. 7.

<sup>32</sup> Emphasis is added to the selected quotations from Exhibit A4NR-04, Hamilton Testimony. Dr. Hamilton uses the term “safety” at least twenty-six times in connection with his recommendations regarding the original Diablo Canyon seismic studies and findings, and the NRC’s oversight over them. In contrast, the term “reliability” is used just once, and even then, without any explanation of what “reliability” is affected and how.

- Page 7 – “This has the likely consequence of putting the safety of the plant, the electricity it provides to the state power grid, and potentially the health and property of the public at risk.
- Page 42 – “The most important such fault relative to the safety of the DCNPP is the Diablo Cove fault . . .”
- Page 43 – “This has resulted in non-recognition or non-acknowledgement by PG&E of what may well be the controlling seismic hazard to the seismic safety of DCNPP.”
- Page 43 – “This has the likely consequence of putting the safety of the plant, the electricity it provides to the State power grid, and potentially the health and safety of the public and its property at risk.”
- Page 44 – “During the 43 years since PG&E submitted the PSAR for a Construction Permit for DCNPP Unit1 to the AEC, it has made a series of submittals [to the NRC] with representations regarding geologic and seismic conditions that concern the seismic safety of the nuclear power plant.”

The numerous express references to seismic safety that Dr. Hamilton makes in his testimony remove any doubt that his recommendations regarding the seismic design margins for safety-related Diablo Canyon components are inconsistent with any purported economic or reliability concerns.<sup>33</sup> To the extent the Commission would consider these recommendations on the merits, the Commission’s action could only be reasonably interpreted as addressing seismic-safety concerns – a matter within the responsibility and jurisdiction of the NRC.<sup>34</sup>

A4NR cannot avoid these jurisdictional issues merely by trying to recharacterize Dr. Hamilton’s safety-related recommendations as economic or reliability concerns. That superficial recharacterization is unquestionably a pretext for an impermissible safety-related motive.

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<sup>33</sup> Exhibit SCE-01, SCE Rebuttal Testimony, p. 8.

<sup>34</sup> Exhibit SCE-01, SCE Rebuttal Testimony, p. 8.

*Entergy Nuclear Vt. Yankee, LLC v. Shumlin*, a recent district court decision that invalidated an attempt by the state of Vermont to regulate the continued operation of the Vermont Yankee Nuclear Plant, is applicable here. In *Entergy*, the United States District Court for the District of Vermont invalidated a Vermont regulation that required the state legislature to approve a certificate of public good for the continued operation of the Vermont Yankee Nuclear Power Plant beyond the expiration date of the operating license for the plant. The legislative record for the regulation made several references to nuclear safety concerns with the plant. Reviewing this record, the district court determined that the regulation was enacted for an impermissible safety-related purpose, even though the state offered a separate economic rationale. The *Entergy* court cited U.S. Supreme Court precedent to find that “if an allegedly preempted statute is enacted with multiple purposes, some permissible, others impermissible, the impermissible purposes will doom the statute and it will be preempted.”<sup>35</sup> The *Entergy* court also refused to “blindly accept” a proffered non-safety rationale because doing so would enable a state agency to “nullify nearly all unwanted federal legislation by simply publishing a . . . committee report articulating some state interest or policy—other than frustration of the federal objective—that would be tangentially furthered by the proposed state law.”<sup>36</sup>

A Commission decision in this proceeding addressing seismic-safety issues – such as requiring the review and re-calculation of design margins – must have “a non-safety rationale” and no underlying “safety rationale” - to escape a conflict with the AEA and the NRC’s jurisdiction.<sup>37</sup> Non-safety rationales may be based on the states’ “traditional authority over the need for additional generating capacity, the type of generating facilities to be licensed, land use, ratemaking,” reliability, cost, and economic feasibility.<sup>38</sup> But the proffered non-safety-rationale

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<sup>35</sup> *Entergy Nuclear Vt. Yankee, LLC v. Shumlin*, 2012 WL 162400, at \*35(D. Vt. Jan. 19, 2012) (citing *Gade v. Nat’l Solid Wastes Mgmt. Ass’n*, 505 U.S. 88, 106 (1992)).

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> *Id.* at p. 33.

cannot be mere pretext for safety-related concerns,<sup>39</sup> as is the case with Dr. Hamilton's recommendations regarding seismic design margins. Such an impermissible purpose is precisely what A4NR is seeking the Commission to engage in here in connection with Dr. Hamilton's seismic design margin recommendations.<sup>40</sup>

In addition, as noted above, a central purpose of Congress in passing the AEA was to ensure consistent and informed actions with regard to civilian nuclear activities.<sup>41</sup> PG&E is, by this application, seeking the Commission's approval of the cost of additional seismic studies.<sup>42</sup> The Commission can and should ensure that justification for and scope of these studies and the costs to ratepayers are reasonable.<sup>43</sup> But Dr. Hamilton's recommendations would have the Commission expand the scope of its review dramatically, impermissibly interfering with the NRC's exercise of its jurisdiction under the AEA.<sup>44</sup> The Commission should not do so here.

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<sup>39</sup> *Id.* at p. 35.

<sup>40</sup> Exhibit SCE-01, SCE Rebuttal Testimony, p. 9.

<sup>41</sup> *Silkwood v. Kerr-McGee Corp.*, 464 U.S. 238, 250-51 (1984); Exhibit SCE-01, SCE Rebuttal Testimony, p. 9

<sup>42</sup> Exhibit SCE-01, SCE Rebuttal Testimony, p. 9.

<sup>43</sup> Exhibit SCE-01, SCE Rebuttal Testimony, p. 9.

<sup>44</sup> Exhibit SCE-01, SCE Rebuttal Testimony, p. 9.

**2.2 Cost of the Studies and Whether They Should Be Capped**

N/A

**2.3 Cost Sharing**

N/A

**2.4 Outside Experts and Costs**

N/A

**2.5 Structure of Independent Peer Review Panel Authorized in Decision 10-08-003**

N/A

**3. Conclusion**

As explained above, the Commission should reject Dr. Hamilton's recommendations to recalculate the seismic design margins for safety-related Diablo Canyon components and provide oversight of these activities independent of PG&E and the NRC. The Commission's adopting of the recommendations, particularly as they relate to the determination of the design basis event for the adequate protection of the public's health and safety, would impermissibly interfere with the NRC's regulatory oversight of Diablo Canyon on this subject area.



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May 18, 2012

**Appendix A**

## **Appendix A**

Pursuant to Rule 13.11 of the Commission's Rules of Practice and Procedure, SCE makes the following recommendations for proposed findings of fact and conclusions of law:

### **Proposed Findings of Fact**

1. A necessary step for reviewing and recalculating design margins for a nuclear plant involves determining the design basis event for which the margins are to be determined—a determination that is central to the “adequate protection” determination made exclusively by the NRC under authority of the Atomic Energy Act of 1954 (AEA) as amended.

### **Proposed Conclusions of Law**

1. Although the state has an economic interest in the reliability of all the generation resources utilized in the state, the state, including this Commission, does not have the authority to implement recommendations related to seismic safety of nuclear plants and the NRC's oversight of seismic-safety determinations, as doing so would impermissibly interfere with the NRC's jurisdiction over this subject area.

2. A4NR's recommendations for reviewing and recalcuting the seismic design margins of safety-related Diablo Canyon components, and providing oversight of these activities independent of PG&E and the NRC, impermissibly interfere with the NRC's jurisdiction over seismic-safety issues.

3. The Commission need not and should not interfere with the NRC's regulation of these issues by engaging in an impermissible determination of the design basis event used to calculate design margins for safety-related Diablo Canyon components as recommended by Dr. Hamilton.

4. The Commission by its orders in this proceeding does not intend to interfere with the NRC's requirements set forth in the NRC's March 12, 2012 50.54(f) letter.