

Wen  
5-27-16

ORIGINAL

1 PAMELA NAUGHTON (Bar No. 97369)  
2 REBECCA ROBERTS (Bar No. 225757)  
3 **DLA PIPER LLP (US)**  
4 401 B Street, Suite 1700  
5 San Diego, California 92101-4297  
6 Tel: 619.699.2700  
7 Fax: 619.699.2701

8 Attorneys for Movant  
9 California Public Utilities Commission

FILED  
Superior Court of California  
County of Los Angeles

MAY 20 2016

SHERRIE CARTER, EXPLORING OFFICER/CLERK  
BY *[Signature]* Deputy  
Stacy Number

10 SUPERIOR COURT OF CALIFORNIA  
11 COUNTY OF LOS ANGELES

12 In re June 5, 2015 Search Warrant issued to  
13 California Public Utilities Commission

14 CASE NO. SW-70763 BY FAX  
15 CPUC PRIVILEGE LOG

16 FILED UNDER SEAL PURSUANT TO  
17 COURT ORDER MARCH 24, 2016

18 *Vol I*

19 The CPUC is herein producing a privilege log which identifies the documents withheld  
20 from its production in response to the Attorney General's June 5, 2015/ March 9, 2016 search  
21 warrants on privileged grounds. This production represents the vast majority of privileged entries  
22 however, the CPUC is producing this log on a rolling basis and will provide an updated log once  
23 completed. This pleading and the log are filed under seal.

24 Dated: May 25, 2016

25 DLA PIPER LLP (US)

26 By *[Signature]*  
27 PAMELA NAUGHTON  
28 REBECCA ROBERTS  
Attorneys for Movant  
California Public Utilities Commission

1 I, Bonnie K. Lott, declare:

2 I am a citizen of the United States and employed in San Diego County, California. I am  
3 over the age of eighteen years and not a party to the within-entitled action. My business address  
4 is DLA Piper LLP (US), 401 B Street, Suite 1700, San Diego, California 92101-4297. On  
5 May 25, 2016, I served a copy of the within document(s):

6 **CPUC PRIVILEGE LOG**

- 7  by transmitting via facsimile the document(s) listed above to the fax number(s) set  
8 forth below on this date before 5:00 p.m.
- 9  by placing the document(s) listed above in a sealed envelope with postage thereon  
10 fully prepaid, the United States mail at San Diego, California addressed as set forth  
11 below.
- 12  by placing the document(s) listed above in a sealed Delivery Service envelope and  
13 affixing a pre-paid air bill, and causing the envelope to be delivered to a Delivery  
14 Service agent for delivery.
- 15  by personally delivering the document(s) listed above to the person(s) at the  
16 address(es) set forth below.
- 17  by transmitting via e-mail or electronic transmission the document(s) listed above  
18 to the person(s) at the e-mail address(es) set forth below.

19 Persons Served

20 Amanda Plisner, Esq.  
21 Deputy Attorney General  
22 Office of Attorney General  
23 300 South Spring Street, Suite 1702  
24 Los Angeles, CA 90013-1230  
25 Tel: 213.897.2000  
26 [amanda.plisner@doj.ca.gov](mailto:amanda.plisner@doj.ca.gov)

Maggy Krell, Esq.  
Office of Attorney General  
Deputy Attorney General  
1300 I Street  
Sacramento, CA 95814  
Tel: 916.445.0896  
[maggy.krell@doj.ca.gov](mailto:maggy.krell@doj.ca.gov)

James Root, Esq.  
Deputy Attorney General  
Office of Attorney General  
300 South Spring Street, Suite 1702  
Los Angeles, CA 90013-1230  
Tel: 213.897.2000  
[jim.root@doj.ca.gov](mailto:jim.root@doj.ca.gov)

1 I am readily familiar with the firm's practice of collection and processing correspondence  
2 for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same  
3 day with postage thereon fully prepaid in the ordinary course of business. I am aware that on  
4 motion of the party served, service is presumed invalid if postal cancellation date or postage  
5 meter date is more than one day after date of deposit for mailing in affidavit.

6 I declare under penalty of perjury under the laws of the State of California that the above  
7 is true and correct.

8 Executed on May 25, 2016, at San Diego, California.

9   
10 \_\_\_\_\_  
11 Bonnie K. Lott

1 PAMELA NAUGHTON (Bar No. 97369)  
 2 REBECCA ROBERTS (Bar No. 225757)  
 3 **DLA PIPER LLP (US)**  
 401 B Street, Suite 1700  
 3 San Diego, California 92101-4297  
 Tel: 619.699.2700  
 4 Fax: 619.699.2701

5 Attorneys for Movant  
 6 California Public Utilities Commission

**FILED**  
 Superior Court of California  
 County of Los Angeles

APR 11 2016

SHERRI R. CARTER, EXECUTIVE OFFICER/CLERK  
 BY *Sherryl Ritchey Humber* Deputy  
 Sherryl Ritchey Humber

8 SUPERIOR COURT OF CALIFORNIA  
 9 COUNTY OF LOS ANGELES

10 In Re June 5, 2015 Search Warrant No.  
 11 70763 issued to California Public Utilities  
 Commission

CASE NO. SW-70763

**DECLARATION OF REBECCA ROBERTS  
 IN SUPPORT OF CPUC OPPOSITION FOR  
 AN ORDER COMPELLING CALIFORNIA  
 PUBLIC UTILITIES COMMISSION TO  
 COMPLY WITH SEARCH WARRANT**

Date: April 18, 2016  
 Time: 10:00 a.m.  
 Place: Department 56  
 Judge: Hon. William C. Ryan

**FILED UNDER SEAL PURSUANT TO  
 COURT ORDER MARCH 24, 2016**

19 I, Rebecca S. Roberts, declare as follows:

20 1. I am an attorney at DLA Piper LLP, which represents the California Public  
 21 Utilities Commission ("CPUC") in the government investigations. I have personal knowledge of  
 22 the facts I state below except where they are stated on information and belief. If called upon by  
 23 this Court, I could competently testify as follows:

24 2. Attached as Exhibit 1 is a true and correct copy of the November 5, 2014 search  
 25 warrant which issued out of San Francisco Superior Court. Attached as Exhibit 2 is a true and  
 26 correct of a grand jury subpoena issued by the Attorney General on February 5, 2015. Attached  
 27 as Exhibit 3 is the second grand jury subpoena issued by the Attorney General on February 5,  
 28 2015. Attached as Exhibit 4 is the third grand subpoena issued by the Attorney General on

ORIGINAL

BY FAX

1 February 18, 2015. Attached as Exhibit 5 is the second search warrant executed by this Court on  
2 June 5, 2015 ("SONGS Search Warrant.") Attached as Exhibit 6 is the third search warrant  
3 executed by this Court on March 9, 2016, which sought to correct the misstatements the CPUC  
4 previously pointed out.

5 3. In addition to the six demands from the Attorney General's office, the CPUC  
6 received five grand subpoenas from the Department of Justice ("DOJ"). Specifically, the DOJ  
7 issued grand jury subpoenas on October 7, 2014, October 17, 2014, November 13, 2014,  
8 November 20, 2014, and June 5, 2015.

9 4. Attached as Exhibit 7 is a true and correct copy of January 15, 2015 email  
10 correspondence between CPUC counsel and the Attorney General's office concerning the agreed  
11 upon filter terms and initial time frame for production. Attached as Exhibit 8 is a true and correct  
12 copy of February 4, 2015 email correspondence between the CPUC and the Attorney General's  
13 office concerning the production of approximately 845,000 documents to it on January 20, 2015  
14 and further review. Attached as Exhibit 9 is a true and correct copy of March 2015  
15 correspondence between CPUC counsel and the Attorney General's office.

16 5. It is my understanding that the CPUC produced tens of thousands of documents in  
17 response to the Attorney General's grand jury subpoenas in March and April 2015. It is also my  
18 understanding that the CPUC produced nearly 34,000 documents in May 2015 and over 42,000  
19 documents in July 2015 in response to the first search warrant. Meanwhile, it is my  
20 understanding that since January 2015, the CPUC's review team has been processing, reviewing  
21 and producing hundreds of thousands of documents on a monthly basis to the DOJ.

22 6. Attached as Exhibit 10 is a true and correct copy of June 21, 2015 email  
23 correspondence between CPUC counsel and the Attorney General providing an update on the  
24 production and the SONGS search warrant. Attached as Exhibit 11 is a copy of a search warrant  
25 return filed by Special Agent Diaz.

26 7. Attached as Exhibit 12 is a true and correct copy of the August 27, 2015 letter  
27 which accompanied a production by the CPUC to the Attorney General in response to the first  
28 and second grand jury subpoenas it issued.

1           8.       Attached as Exhibit 13 is a true and correct copy of a September 8, 2015 letter  
2 from DLA Piper to the Attorney General which accompanied a production of over 19,000  
3 documents in response to the SONGS Search Warrant. Attached as Exhibit 14 is a true and  
4 correct copy of a September 24, 2015 letter from DLA Piper to the Attorney General which  
5 accompanied a production of nearly 55,000 documents in response to the first search warrant.  
6 Attached as Exhibit 15 is a true and correct copy of a September 29, 2015 letter from DLA Piper  
7 to the Attorney General providing an update of all document productions, expressing concern  
8 about the vagueness of the SONGS Search Warrant, and describing in detail how the production  
9 in response to this search warrant was being conducted.

10           9.       In early October 2015, my colleague, Pamela Naughton, and I had a telephone  
11 conference with Deputy Attorney General Deborah Halberstadt and Special Agent Reye Diaz  
12 during which we discussed ways to streamline the remaining documents to be reviewed, the  
13 CPUC's vast production to date, and the substantial financial and personnel burden imposed on  
14 the CPUC by the Attorney General's demands. We also discussed, and Ms. Halberstadt  
15 acknowledged, that the SONGS Search Warrant was vague. Ms. Halberstadt represented that  
16 further instruction concerning how the SONGS Search Warrant should be interpreted would be  
17 forthcoming. However, to date, we have not received any further instruction from the Attorney  
18 General's office. We also discussed and the Attorney General agreed, that we could further limit  
19 the documents remaining to be reviewed, using search terms. We circulated the proposed search  
20 terms in an October 16, 2015 letter, a true and correct copy of which is attached as Exhibit 16.  
21 Attached as Exhibit 17 is a true and correct copy of the Attorney General's October 22, 2015  
22 response to our letter. This letter did not provide any additional search terms for further filtering.  
23 However, the Attorney General demanded that the CPUC complete production in response to the  
24 first search warrant issued in November 2014 by December 28, 2015. Attached as Exhibit 18 is a  
25 true and correct copy of our November 12, 2015 response letter further detailing the CPUC's  
26 production to date.

27           10.       Attached as Exhibit 19 is a true and correct copy of a December 11, 2015 letter  
28 DLA Piper sent to the Attorney General which accompanied another production in response to

1 the SONGS search warrant of over 6,700 documents. Attached as Exhibit 20 is a true and correct  
2 copy of a December 18, 2015 letter DLA Piper sent to the Attorney General which accompanied  
3 reproduction of over 25,000 documents in response to the SONGS Search Warrant. The CPUC  
4 had already produced these documents to the Attorney General in response to the first search  
5 warrant and had identified them by Bates number for the Attorney General. However, the  
6 Attorney General requested that the CPUC produce these documents yet again. Attached is  
7 Exhibit 21 is a true and correct copy of another December 18, 2015 letter DLA Piper sent to the  
8 Attorney General which accompanied what we had anticipated was the remaining documents to  
9 be produced in response to the November 2014 Search Warrant, approximately 13,720  
10 documents.

11 11. Attached as Exhibit 22 is a true and correct copy of a December 22, 2015 letter  
12 from the Attorney General's office to DLA Piper. In this letter, the Attorney General proposed  
13 14 additional search terms to be used to identify documents to be reviewed in response to the  
14 SONGS Search Warrant. Several of the proposed terms triggered results of tens of thousands of  
15 documents which are not likely relevant to the SONGS Search Warrant. While the Attorney  
16 General agreed the CPUC could somewhat limit the documents to be reviewed, searches  
17 generated on our document review platform indicate that our review team will need to review an  
18 additional 160,000 documents, approximately 74,000 of which are attributable to the newly-  
19 broadened scope of the SONGS Search Warrant.

20 12. Attached as Exhibit 23 is a true and correct copy of a February 24, 2016 letter  
21 from DLA Piper to the Attorney General's office which accompanied the last production in  
22 response to the SONGS Search Warrant. Attached as Exhibit 24 is a true and correct copy of a  
23 March 3, 2016 letter from DLA Piper to the Attorney General which accompanied the final  
24 production in response to the second grand jury subpoena. The CPUC has completed production  
25 in response to all three grand jury subpoenas issued by the Attorney General. Attached as  
26 Exhibit 25 is a true and correct copy of a March 7, 2016 letter from DLA Piper to the Attorney  
27 General which accompanied the entire production of the filtered Recovered Documents.

28





**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

**DEPT 100**

Date: March 01, 2016

Honorable James R. Brandlin,  
None

Judge  
Bailiff

M. Seals  
None

Judicial Assist  
Reporter

(Parties and Counsel checked if present)

THE PEOPLE OF THE STATE OF  
CALIFORNIA

VS

Counsel for Petitioner:

Counsel for Respondent:

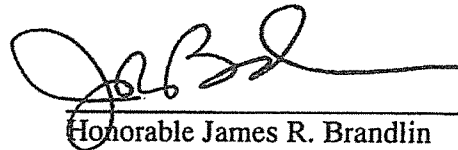
\*UNKNOWN\*

CASE NO. (unknown)

**NATURE OF PROCEEDING:**

**Request for SEALED / HOBBS Search Warrant # SW-70763**

It is hereby ordered by Supervising Judge James R. Brandlin in Department 100 of the Criminal Justice Center that the original Search Warrant #70763 be transported to Department 100. The search warrant will be reviewed by the Court as it relates to a MOTION TO VIEW SEARCH WARRANT AFFIDAVIT *IN CAMERA* on calendar in Department 100 on March 24, 2016 at 8:30 a.m.

  
Honorable James R. Brandlin

Date: 3/1/16



**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

DEPT 56W

Date: 3/24/16

Honorable: WILLIAM C. RYAN  
D. PALAU

Judge  
Bailiff

S. HUMBER #282371  
A. BLANCO, CSR #10775

J.A.  
Reporter

(Parties and Counsel checked if present)

SW-70763  
IN RE SEARCH WARRANT FOR  
CALIFORNIA PUBLIC UTILITIES  
COMMISSION

Counsel for People: NOT PRESENT

Counsel for Defendant: NOT PRESENT

**NO LEGAL FILE**

Nature of Proceedings: (1) MOTION TO VIEW SEARCH WARRANT AFFIDAVIT IN CAMERA,

(2) MOTION TO SEAL PLEADINGS AND RECORDS (FILED BY THE CALIFORNIA PUBLIC UTILITIES COMMISSION)

\*\*\*\*\*

NO LEGAL FILE-RED JACKET ONLY

MATTER IS CALLED FOR HEARING IN A CLOSED PROCEEDING.

PAMELA NAUGHTON AND REBECCA S. ROBERTS ARE PRESENT ON BEHALF OF THE CALIFORNIA PUBLIC UTILITIES COMMISSION.

DEPUTY ATTORNEY GENERAL, AMANDA PLISNER IS PRESENT ON BEHALF OF THE DEPARTMENT OF JUSTICE.

- 1) THE MATTER IS OFF CALENDAR AS MOOT.
- 2) MOTION IS GRANTED AS PRAYED.

COUNSEL ARE DIRECTED TO WORK OUT DISLOSURE.

MS. NAUGHTON INFORMS THE COURT THAT SHE INTENDS TO FILE A MOTION. SUCH MOTION WILL BE HEARD ON 4/18/16 IN THIS DEPARTMENT. COUNSEL FOR THE ATTORNEY GENERAL AGREES TO ACCEPT SERVICE VIA ELECTRONIC MAIL.

THE PETITION FOR ORDER COMPELLING COMPLIANCE WITH THE SEARCH WARRANT, FILED BY THE ATTORNEY GENERAL IS SET FOR HEARING ON APRIL 18, 2016 AT 11:00 A.M. IN THIS DEPARTMENT.

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

**DEPT 56W**

Date: 3/24/16

Honorable: WILLIAM C. RYAN  
D. PALAU

Judge  
Bailiff

S. HUMBER #282371  
A.BLANCO, CSR #10775

J.A.  
Reporter

(Parties and Counsel checked if present)

SW-70763  
IN RE SEARCH WARRANT FOR  
CALIFORNIA PUBLIC UTILITIES  
COMMISSION

Counsel for People: NOT PRESENT

Counsel for Defendant: NOT PRESENT

**NO LEGAL FILE**

**ADDITIONALLY, THE SEALED SEARCH WARRANT IN THIS MATTER REMAINS UNOPENED  
AND IS ORDERED TO RETURNED TO THE CLERK'S OFFICE.**

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

**DEPT 56**

Date: 04/27/16

Honorable: WILLIAM C. RYAN  
PALAU

Judge D.CALLICOATTE,  
Bailiff A. BLANCO, 10075

Clerk  
Reporter

(Parties and Counsel checked if present)

IN RE,  
SEARCH WARRANT #70763

DAG:AMANDA PILSNER  
DAG: MAGGY KRELL

CALIFORNIA PUBLIC  
UTILITIES COMMISSION

PVT: PAMELA NAUGHTON AND REBECCA  
ROBERTS APPEARING FOR CPUC

AROCLES AGUILAR, GENERAL COUNSEL FOR  
THE CPUC ALSO PRESENT IN COURT.

ADDITIONALLY, THE SEAL SEARCH WARRANT DATED 6/5/16 IS UNSEALED THIS DATE AND VIEWED BY THE COURT.

SUCH SEARCH WARRANT IS ORDERED RE-SEALED BY THE COURT AND RETURNED TO THE CLERK'S OFFICE.

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

DEPT 56

Date: 04/27/16

Honorable: WILLIAM C. RYAN  
PALAU

Judge D. CALLICOATTE,  
Bailiff A. BLANCO, 10075

Clerk  
Reporter

(Parties and Counsel checked if present)

IN RE,  
SEARCH WARRANT #70763

DAG: AMANDA PILSNER  
DAG: MAGGY KRELL

CALIFORNIA PUBLIC  
UTILITIES COMMISSION

PVT: PAMELA NAUGHTON AND REBECCA  
ROBERTS APPEARING FOR CPUC

AROCLES AGUILAR, GENERAL COUNSEL FOR  
THE CPUC ALSO PRESENT IN COURT.

Nature of Proceedings: SPECIAL MASTER SEARCH WARRANT (NO LEGAL FILE)  
CLOSED SESSION

THE MATTER IS CALLED FOR HEARING. THE COURT NOTES THE MATTER IS ASSIGNED TO JUDGE WILLIAM C. RYAN.

THE MATTER OF CALIFORNIA PUBLIC UTILITIES COMMISSION'S (CPUC) MOTION TO QUASH SUBPOENA COMES BEFORE THE COURT. THE COURT HEARS ARGUMENT FROM BOTH SIDES. PARTIES SUBMIT. THE COURT TAKES THE MATTER UNDER SUBMISSION.

THE MATTER OF THE ATTORNEY GENERAL'S MOTION TO COMPEL COMPLIANCE WITH SUBPEONA COMES BEFORE THE COURT. THE COURT HAS READ AND CONSIDERED MOVING AND OPPOSITION PAPPERS AND HEARS ARGUMENT. COUNSEL FOR CPUC WILL PREPARE PRIVILEGE LOGS FOR DOCUMENTS UNDER "SONGS WARRANT" AND PROVIDE THEM TO THE ATTORNEY GENERAL'S OFFICE WITHIN 4 WEEKS.

THE COURT WILL DEFER RULING ON THE MOTION TO COMPEL UNTIL PRIVILEGE LOGS HAVE BEEN PROVIDED AND REVIEWED.

COURT ORDERS AN ORIGINAL TRANSCRIPT PLUS TWO COPIES OF THESE PROCEEDINGS. OFFICIAL COURT REPORTER, ANNETTE BLANCO, CSR 10075, PROVIDED WITH A COPY OF THESE MINUTES.

SUPERIOR COURT OF CALIFORNIA

County of Los Angeles

Rollback  
70763

SEARCH WARRANT RETURN  
and  
INVENTORY

Search Warrant No. 70763

Issuing Magistrate: David V. Herriford

Date warrant issued: 6/5/15

Date warrant executed: 6/5/15

Location/Vehicles/Persons served and title:

California Public Utilities Commission  
San Francisco Office (HQ)  
505 Van Ness Ave.  
San Francisco, CA 94102

Manner of service: Served CPUC Legal Counsel/Sheppard Mullin via email.

FILED  
2015 AUG 7 AM 9 28  
LOS ANGELES COUNTY

I, Special Agent Reye Diaz, Office of the Attorney General, the affiant for this search warrant, state: The information listed above is correct and during the execution of the search warrant, the following property was seized:

On June 24, 2015, your affiant reported to the court: Unable to obtain evidence at this time. CPUC legal counsel advises that due to limited resources, and the concurrent demands of federal subpoenas and public records act requests, the evidence is not currently available. Despite requests, CPUC has still not provided a specific time frame as to when documents will be provided as ordered by the Court. Your affiant will update the Court with a filing of an additional search warrant return.

As of August 7, 2015, after multiple requests, and two months after the search warrant was served on CPUC, no records have been produced to your affiant as required by California law. No extension has been requested and no indication has been given as to when the records will be produced to your affiant. Your affiant will update the Court with a filing of an additional search warrant return.

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

Date: 8/7/2015



*[Signature]*  
Special Agent Reye Diaz AG#10  
Affiant

*[Signature]*  
Judge of the Court  
MICHAEL E. PASTOR

SUPERIOR COURT OF CALIFORNIA

P 70763

County of Los Angeles

SEARCH WARRANT RETURN  
and  
INVENTORY

Search Warrant No.

Issuing Magistrate: David V. Herriford

Date warrant issued: 6/5/15

Date warrant executed: 6/5/15

Location/Vehicles/Persons served and title:

California Public Utilities Commission  
San Francisco Office (HQ)  
505 Van Ness Ave.  
San Francisco, CA 94102

Manner of service: Served CPUC Legal Counsel/Sheppard Mullin via email.

I, Special Agent Reye Diaz, Office of the Attorney General, the affiant for this search warrant, state: The information listed above is correct and during the execution of the search warrant, the following property was seized:

Unable to obtain evidence at this time. CPUC legal counsel advises that due to limited resources, and the concurrent demands of federal subpoenas and public records act requests, the evidence is not currently available. Despite requests, CPUC has still not provided a specific time frame as to when documents will be provided as ordered by the Court. Your affiant will update the Court with a filing of an additional search warrant return.

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

Date: 6/24/2015

*Reye Diaz* AG #10

Special Agent Reye Diaz AG#10  
Affiant

*David R. Fields*  
Judge of the Court

FILED  
2015 JUN 24 AM 9 16  
GENERAL COUNSEL  
LOS ANGELES COUNTY SUPERIOR COURT

Penal Code § 1537

DAVID R. FIELDS



70763

Reviewed by: Deputy Attorney General Maggy Krell

SW No. 70763

STATE OF CALIFORNIA - COUNTY OF LOS ANGELES

SEARCH WARRANT AND AFFIDAVIT

(AFFIDAVIT)

Special Agent Reye Diaz, California Department of Justice, swears under oath that the facts expressed by him/her in this Search Warrant, and in the attached and incorporated statement of probable cause consisting of 20 pages, are true and that based thereon he/she has probable cause to believe and does believe that the property and/or person described below is lawfully seizable pursuant to Penal Code Section 1524, as indicated below, and is now located at the locations set forth below. Wherefore, affiant requests that this Search Warrant be issued.

NIGHT SEARCH REQUESTED: YES [ ] NO [X] - Justification on page(s) \_\_\_\_\_

*[Signature]*  
(Signature of Affiant) 6/5/15

FILED  
JUN 24 AM 9 16  
CLERK OF SUPERIOR COURT  
LOS ANGELES COUNTY

(SEARCH WARRANT)

THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY SHERIFF, POLICEMAN OR PEACE OFFICER IN THE COUNTY OF LOS ANGELES: proof by affidavit having been made before me by Special Agent Reye Diaz, that there is probable cause to believe that the property described herein may be found at the locations set forth herein and that it is lawfully seizable pursuant to Penal Code Section 1524 as indicated below by "x"(s) in that it:

- \_\_\_\_\_ it was stolen or embezzled
- it was used as the means of committing a felony
- it is possessed by a person with the intent to use it as means of committing a public offense or is possessed by another to whom he or she may have delivered it for the purpose of concealing it or preventing its discovery
- it tends to show that a felony has been committed or that a particular person has committed a felony
- \_\_\_\_\_ it tends to show that sexual exploitation of a child, in violation of Section 311.3, or depiction of sexual conduct of a person under the age of 18 years, in violation of Section 311.11, has occurred or is occurring
- \_\_\_\_\_ there is a warrant for the person's arrest;

YOU ARE THEREFORE COMMANDED TO SEARCH:

See attached Exhibit "A"

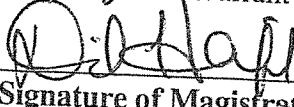
FOR THE FOLLOWING PROPERTY:

See attached Exhibit "A"



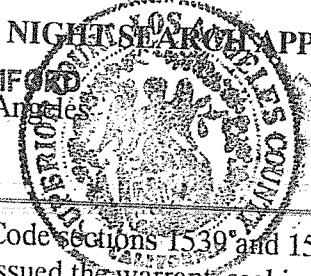
SEARCH WARRANT (Page 2)

AND TO SEIZE IT IF FOUND and bring it forthwith before me, or this court, at the courthouse of this court. This Search Warrant and incorporated Affidavit was sworn to as true and subscribed before me this 5<sup>th</sup> day of June, 2015, at 10:57 A.M. Wherefore, I find probable cause for the issuance of this Search Warrant and do issue it.



(Signature of Magistrate)

DAVID V. HERRIFORD  
Judge of the Superior Court – County of Los Angeles



NIGHT SEARCH APPROVED: YES [ ] NO [ X ]

(Magistrate's Initials)

Be advised that pursuant to California Penal Code sections 1539 and 1540, you may file a written motion in the court of the above-mentioned judge who issued the warrant, seeking return of the property seized pursuant to this warrant.

For further information concerning this search warrant, contact the officer whose name appears on the warrant, Special Agent Reye Diaz at (916) 916-322-2686 or at [reye.diaz@doj.ca.gov](mailto:reye.diaz@doj.ca.gov)

EXHIBIT "A"

California Public Utilities Commission  
San Francisco Office (Headquarters)  
Or Legal Representatives of CPUC  
505 Van Ness Avenue  
San Francisco, CA 94102  
MAY BE SERVED VIA EMAIL or FAX

FOR THE FOLLOWING PROPERTY:

Any and all records from January 31, 2012 until January 31, 2015, involving the San Onofre Nuclear Generating Station (SONGS) closure settlement agreement, the 2013 meeting between Stephen PICKETT and Michael PEEVEY in Poland, communication(s) pertaining to the determination of when and why SONGS would be closed, commitment of monies for research as a result of the closure of SONGS, and communication(s) pertaining to the settlement of the SONGS Order Instituting Investigation (OII). These records are to include:

1. CPUC will search emails to or from the following individuals:
  - a. Robert Adler – General Counsel, Edison International (now retired)
  - b. Ted Craver – Chairman, President, and Chief Executive Officer, Edison International
  - c. Laura Genao – Director, Regulatory Affairs, SCE
  - d. Michael Hoover – Senior Director of State Energy Regulation, SCE
  - e. Ron Litzinger – President, SCE (now President of Edison Energy)
  - f. R.O. Nichols – Senior Vice President for Regulatory Affairs, SCE
  - g. Stephen Pickett – Executive Vice President, External Relations, SCE (now retired)
  - h. Gary Schoonyan – Director, Strategic Policy Analysis, SCE (now retired)
  - i. Jim Scilacci – Chief Financial Officer, Edison International
  - j. Les Starck – Senior Vice President Regulatory Policy & Affairs, SCE (now retired)
  - k. Bert Valdman – Senior Vice President, Strategic Planning, Edison International (no longer employed)
  - l. Gaddi Vasquez – Senior Vice President, Government Affairs, Edison International
  - m. Russ Worden – Director of External Relations, SCE
  - n. Ron Olson, former Board member, Edison and Edison International
  - o. Michael Peevey (former President of CPUC)
  - p. Michel Florio (Commissioner, CPUC)
  - q. Melanie Darling (ALJ, CPUC)
  - r. Sepideh Khosrowjah (Chief of Staff, Commissioner Florio)
  - s. Paul Clanon (Executive Director, CPUC)
  - t. Carol Brown (former Chief of Staff to President Peevey)
  - u. Audrey Lee (former Advisor to President Peevey)
  - v. Edward Randolph (Director of Energy, CPUC)
2. CPUC will identify employees who were involved in the implementation of the greenhouse gas research provisions of the SONGS OII settlement, specifically with respect to CPUC's understandings or intentions with regard to directing funding to UICIA CPUC

## SEARCH WARRANT (Page 4)

Attorney General's Office additional employees whose email they will collect for this purpose.

3. CPUC will collect and review emails from the above 22 custodians, plus any other custodians identified pursuant to paragraph 2, that are dated from January 31, 2012 through January 31, 2015.
4. Handwritten notes, documents saved to a hard drive or to a network location, and data on smart phones that is not believed to exist in other locations. CPUC will advise the Attorney General's Office of its progress and plan for collection and review of any such documents.
5. With respect to the categories of documents specified in the search warrant, CPUC will search for, review and produce responsive documents as follows:
  - a. As to documents involving the SONGS settlement, CPUC will produce (1) documents constituting or referring to communications with SCE about the OII prior to execution of the settlement on March 27, 2014 (excluding on-the-record communications such as SCE pleadings filed with the CPUC); and (2) documents constituting communications with TURN or ORA referencing communications from Peevey regarding SONGS or UC in the context of the settlement negotiations up to March 27, 2014.
  - b. As to documents pertaining to the Poland trip in March 2013, CPUC will produce documents constituting or referring to communications during that trip that relate to SONGS. These documents will include any communications or materials regarding SONGS made in anticipation of the trip, any documents or communications regarding SONGS that occurred during the trip, and any communications or materials regarding SONGS created after the trip ended.
  - c. As to the documents regarding funding of research in connection with the SONGS settlement, CPUC will produce documents and all communications that (1) constitute or refer to communications with SCE or UCLA regarding greenhouse gas research as part of the SONGS settlement (excluding on-the-record communications such as pleadings filed with the CPUC and drafts of same; (2) refer to SCE's contributing to the UCLA Luskin Institute at UCLA, the University of California, UCLA's Institute of the Environment and Sustainability, or the California Center for Sustainable Communities at UCLA, in connection with the SONGS settlement; and (3) constitute advocacy directed to the CPUC by local governmental agencies in support of greenhouse gas research as part of the SONGS settlement.

SUPERIOR COURT OF CALIFORNIA  
County of Los Angeles

70763  
Rollback -

**SEARCH WARRANT RETURN  
and  
INVENTORY**

Search Warrant No. 70763

Issuing Magistrate: David V. Herriford

Date warrant issued: 6/5/15

Date warrant executed: 6/5/15

Location/Vehicles/Persons served and title:

California Public Utilities Commission  
San Francisco Office (HQ)  
505 Van Ness Ave.  
San Francisco, CA 94102

Manner of service: Served CPUC Legal Counsel/Sheppard Mullin via email.

FILED  
2016 JUN 1 AM 9 25  
CLERK OF SUPERIOR COURT  
LOS ANGELES COUNTY

I, Special Agent Reve Diaz, Office of the Attorney General, the affiant for this search warrant, state: The information listed above is correct and during the execution of the search warrant, the following property was seized:

As of July 1, 2016, full compliance to search warrant has not been made by CPUC. Additional records are still outstanding.

Your Affiant will update the court on this matter.

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

Date: 07/01/2016

Special Agent Supervisor Reve Diaz AG#10  
Affiant

William C. Ryan  
Judge of the Court

WILLIAM C. RYAN

Penal Code § 1537



ROLLBACK 70763

SUPERIOR COURT OF CALIFORNIA

County of Los Angeles

SEARCH WARRANT RETURN  
and  
INVENTORY

Search Warrant No. 70763

Issuing Magistrate: David V. Herriford

Date warrant issued: 6/5/15

Date warrant executed: 6/5/15

Location/Vehicles/Persons served and title:

California Public Utilities Commission  
San Francisco Office (HQ)  
505 Van Ness Ave.  
San Francisco, CA 94102

Manner of service: Served CPUC Legal Counsel/Sheppard Mullin via email.

2015 JUN 22 09 11 38  
711503  
M

I, Special Agent Reye Diaz, Office of the Attorney General, the affiant for this search warrant, state: The information listed above is correct and during the execution of the search warrant, the following property was seized:

On November 12, 2015, CPUC legal representatives, DLA Piper US LLP, delineated 25,156 documents previously provided to the Office of the Attorney General which were responsive to this search warrant served on June 5, 2015.

On December 21, 2015 the Office of the Attorney General received numerous records related to: The San Onofre Nuclear Generating Station (SONGS) closure. The Office of the Attorney General continues to work with CPUC on obtaining all records until full compliance with the June 5, 2015 search warrant. Your affiant will continue to update the court on this matter.

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

Date: 12/22/2015

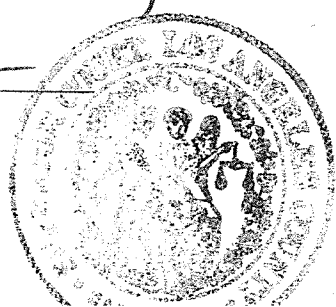
[Signature]  
Special Agent Reye Diaz AG#10  
Affiant

12/22/15

[Signature]  
Judge of the Court

Penal Code § 1537

MICHAEL TYNAN



8

SUPERIOR COURT OF CALIFORNIA

County of Los Angeles

ROLLBACK  
70763

**SEARCH WARRANT RETURN  
and  
INVENTORY**

Search Warrant No. 70763

Issuing Magistrate: David V. Herriford

Date warrant issued: 6/5/15

Date warrant executed: 6/5/15

Location/Vehicles/Persons served and title:

California Public Utilities Commission  
San Francisco Office (HQ)  
505 Van Ness Ave.  
San Francisco, CA 94102

Manner of service: Served CPUC Legal Counsel/Sheppard Mullin via email.

FILED  
2015 SEP 25 AM 9 51  
LOS ANGELES COURT

I, Special Agent Reye Diaz, Office of the Attorney General, the affiant for this search warrant, state: The information listed above is correct and during the execution of the search warrant, the following property was seized:

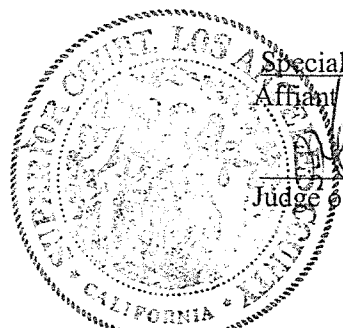
**On June 24, 2015, your affiant reported to the court: Unable to obtain evidence at this time. CPUC legal counsel advises that due to limited resources, and the concurrent demands of federal subpoenas and public records act requests, the evidence is not currently available. Despite requests, CPUC has still not provided a specific time frame as to when documents will be provided as ordered by the Court. Your affiant will update the Court with a filing of an additional search warrant return.**

**As of August 7, 2015, after multiple requests, and two months after the search warrant was served on CPUC, no records have been produced to your affiant as required by California law. No extension has been requested and no indication has been given as to when the records will be produced to your affiant. Your affiant will update the Court with a filing of an additional search warrant return.**

**On September 10, 2015, CPUC legal representatives, DLA Piper US LLP, in response to this search warrant, submitted documents and records to the California Attorney General's Office. As more documents are received, your affiant will update the Court with a filing of an additional search warrant return.**

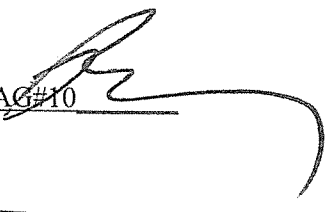
I declare under penalty of perjury that the foregoing is true.

Date: 9/24/2015



Special Agent Reye Diaz AG#10  
Affiant

Judge of the Court



Rollback  
70763

SUPERIOR COURT OF CALIFORNIA  
County of Los Angeles

**SEARCH WARRANT RETURN  
and  
INVENTORY**

Search Warrant No. 70763

Issuing Magistrate: **David V. Herriford**

Date warrant issued: 6/5/15

Date warrant executed: 6/5/15

Location/Vehicles/Persons served and title:

California Public Utilities Commission  
San Francisco Office (HQ)  
505 Van Ness Ave.  
San Francisco, CA 94102

Manner of service: Served CPUC Legal Counsel/Sheppard Mullin via email.

FILED  
2015 JUN 7 AM 9:28  
LOS ANGELES COUNTY CLERK'S OFFICE

I, Special Agent Reye Diaz, Office of the Attorney General, the affiant for this search warrant, state: The information listed above is correct and during the execution of the search warrant, the following property was seized:

On June 24, 2015, your affiant reported to the court: Unable to obtain evidence at this time. CPUC legal counsel advises that due to limited resources, and the concurrent demands of federal subpoenas and public records act requests, the evidence is not currently available. Despite requests, CPUC has still not provided a specific time frame as to when documents will be provided as ordered by the Court. Your affiant will update the Court with a filing of an additional search warrant return.

As of August 7, 2015, after multiple requests, and two months after the search warrant was served on CPUC, no records have been produced to your affiant as required by California law. No extension has been requested and no indication has been given as to when the records will be produced to your affiant. Your affiant will update the Court with a filing of an additional search warrant return.

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

Date: 8/7/2015



*[Signature]*  
Special Agent Reye Diaz AG#10  
Affiant

*[Signature]*  
Judge of the Court  
MICHAEL E. PASTOR

SUPERIOR COURT OF CALIFORNIA

County of Los Angeles

70763

SEARCH WARRANT RETURN  
and  
INVENTORY

Search Warrant No.

Issuing Magistrate: David V. Herriford

Date warrant issued: 6/5/15

Date warrant executed: 6/5/15

Location/Vehicles/Persons served and title:

California Public Utilities Commission  
San Francisco Office (HQ)  
505 Van Ness Ave.  
San Francisco, CA 94102

Manner of service: Served CPUC Legal Counsel/Sheppard Mullin via email.

I, Special Agent Reye Diaz, Office of the Attorney General, the affiant for this search warrant, state: The information listed above is correct and during the execution of the search warrant, the following property was seized:

Unable to obtain evidence at this time. CPUC legal counsel advises that due to limited resources, and the concurrent demands of federal subpoenas and public records act requests, the evidence is not currently available. Despite requests, CPUC has still not provided a specific time frame as to when documents will be provided as ordered by the Court. Your affiant will update the Court with a filing of an additional search warrant return.

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

Date: 6/24/2015

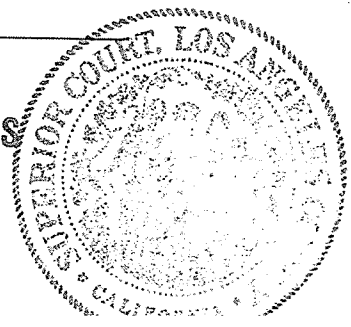
*Reye Diaz* AG #10  
Special Agent Reye Diaz AG#10  
Affiant

*David R. Fields*  
Judge of the Court

FILED  
2015 JUN 24 AM 9 16  
LOS ANGELES COUNTY  
SUPERIOR COURT

Penal Code § 1537

DAVID R. FIELDS



Reviewed by: Deputy Attorney General Maggy Krell



SW No. 70763

STATE OF CALIFORNIA – COUNTY OF LOS ANGELES

SEARCH WARRANT AND AFFIDAVIT

(AFFIDAVIT)

Special Agent Reye Diaz, California Department of Justice, swears under oath that the facts expressed by him/her in this Search Warrant, and in the attached and incorporated statement of probable cause consisting of 20 pages, are true and that based thereon he/she has probable cause to believe and does believe that the property and/or person described below is lawfully seizable pursuant to Penal Code Section 1524, as indicated below, and is now located at the locations set forth below. Wherefore, affiant requests that this Search Warrant be issued.

NIGHT SEARCH REQUESTED: YES [ ] NO [X] - Justification on page(s) 6/5/15

[Signature]  
(Signature of Affiant)

FILED  
JUN 24 PM 9 16  
CLERK OF SUPERIOR COURT  
LOS ANGELES

(SEARCH WARRANT)

THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY SHERIFF, POLICEMAN OR PEACE OFFICER IN THE COUNTY OF LOS ANGELES: proof by affidavit having been made before me by Special Agent Reye Diaz, that there is probable cause to believe that the property described herein may be found at the locations set forth herein and that it is lawfully seizable pursuant to Penal Code Section 1524 as indicated below by "x"(s) in that it:

- it was stolen or embezzled
- it was used as the means of committing a felony
- it is possessed by a person with the intent to use it as means of committing a public offense or is possessed by another to whom he or she may have delivered it for the purpose of concealing it or preventing its discovery
- it tends to show that a felony has been committed or that a particular person has committed a felony
- it tends to show that sexual exploitation of a child, in violation of Section 311.3, or depiction of sexual conduct of a person under the age of 18 years, in violation of Section 311.11, has occurred or is occurring
- there is a warrant for the person's arrest;

YOU ARE THEREFORE COMMANDED TO SEARCH:

See attached Exhibit "A"

FOR THE FOLLOWING PROPERTY:

See attached Exhibit "A"

SEARCH WARRANT (Page 2)

AND TO SEIZE IT IF FOUND and bring it forthwith before me, or this court, at the courthouse of this court. This Search Warrant and incorporated Affidavit was sworn to as true and subscribed before me this 5<sup>th</sup> day of June, 2015, at 10:57 A.M./P.M. Wherefore, I find probable cause for the issuance of this Search Warrant and do issue it.

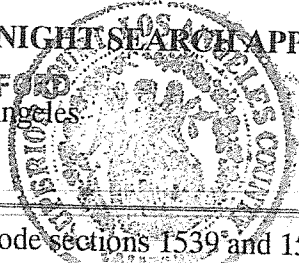


(Signature of Magistrate)

Judge of the Superior Court – County of Los Angeles

NIGHT SEARCH APPROVED: YES [ ] NO [ X ]

(Magistrate's Initials)



Be advised that pursuant to California Penal Code sections 1539 and 1540, you may file a written motion in the court of the above-mentioned judge who issued the warrant, seeking return of the property seized pursuant to this warrant.

For further information concerning this search warrant, contact the officer whose name appears on the warrant, Special Agent Reye Diaz at (916) 916-322-2686 or at [reye.diaz@doj.ca.gov](mailto:reye.diaz@doj.ca.gov)

**SEARCH WARRANT (Page 3)**

**EXHIBIT "A"**

**California Public Utilities Commission  
San Francisco Office (Headquarters)  
Or Legal Representatives of CPUC  
505 Van Ness Avenue  
San Francisco, CA 94102  
MAY BE SERVED VIA EMAIL or FAX**

**FOR THE FOLLOWING PROPERTY:**

Any and all records from January 31, 2012 until January 31, 2015, involving the San Onofre Nuclear Generating Station (SONGS) closure settlement agreement, the 2013 meeting between Stephen PICKETT and Michael PEEVEY in Poland, communication(s) pertaining to the determination of when and why SONGS would be closed, commitment of monies for research as a result of the closure of SONGS, and communication(s) pertaining to the settlement of the SONGS Order Instituting Investigation (OII). These records are to include:

1. CPUC will search emails to or from the following individuals:
  - a. Robert Adler – General Counsel, Edison International (now retired)
  - b. Ted Craver – Chairman, President, and Chief Executive Officer, Edison International
  - c. Laura Genao – Director, Regulatory Affairs, SCE
  - d. Michael Hoover – Senior Director of State Energy Regulation, SCE
  - e. Ron Litzinger – President, SCE (now President of Edison Energy)
  - f. R.O. Nichols – Senior Vice President for Regulatory Affairs, SCE
  - g. Stephen Pickett – Executive Vice President, External Relations, SCE (now retired)
  - h. Gary Schoonyan – Director, Strategic Policy Analysis, SCE (now retired)
  - i. Jim Scilacci – Chief Financial Officer, Edison International
  - j. Les Starck – Senior Vice President Regulatory Policy & Affairs, SCE (now retired)
  - k. Bert Valdman – Senior Vice President, Strategic Planning, Edison International (no longer employed)
  - l. Gaddi Vasquez – Senior Vice President, Government Affairs, Edison International
  - m. Russ Worden – Director of External Relations, SCE
  - n. Ron Olson, former Board member, Edison and Edison International
  - o. Michael Peevey (former President of CPUC)
  - p. Michel Florio (Commissioner, CPUC)
  - q. Melanie Darling (ALJ, CPUC)
  - r. Sepideh Khosrowjah (Chief of Staff, Commissioner Florio)
  - s. Paul Clanon (Executive Director, CPUC)
  - t. Carol Brown (former Chief of Staff to President Peevey)
  - u. Audrey Lee (former Advisor to President Peevey)
  - v. Edward Randolph (Director of Energy, CPUC)
2. CPUC will identify employees who were involved in the implementation of the greenhouse gas research provisions of the SONGS OII settlement, specifically with respect to CPUC's understandings or intentions with regard to directing funding to UCLA. CPUC will propose to the

## SEARCH WARRANT (Page 4)

Attorney General's Office additional employees whose email they will collect for this purpose.

3. CPUC will collect and review emails from the above 22 custodians, plus any other custodians identified pursuant to paragraph 2, that are dated from January 31, 2012 through January 31, 2015.
4. Handwritten notes, documents saved to a hard drive or to a network location, and data on smart phones that is not believed to exist in other locations. CPUC will advise the Attorney General's Office of its progress and plan for collection and review of any such documents.
5. With respect to the categories of documents specified in the search warrant, CPUC will search for, review and produce responsive documents as follows:
  - a. As to documents involving the SONGS settlement, CPUC will produce (1) documents constituting or referring to communications with SCE about the OII prior to execution of the settlement on March 27, 2014 (excluding on-the-record communications such as SCE pleadings filed with the CPUC); and (2) documents constituting communications with TURN or ORA referencing communications from Peevey regarding SONGS or UC in the context of the settlement negotiations up to March 27, 2014.
  - b. As to documents pertaining to the Poland trip in March 2013, CPUC will produce documents constituting or referring to communications during that trip that relate to SONGS. These documents will include any communications or materials regarding SONGS made in anticipation of the trip, any documents or communications regarding SONGS that occurred during the trip, and any communications or materials regarding SONGS created after the trip ended.
  - c. As to the documents regarding funding of research in connection with the SONGS settlement, CPUC will produce documents and all communications that (1) constitute or refer to communications with SCE or UCLA regarding greenhouse gas research as part of the SONGS settlement (excluding on-the-record communications such as pleadings filed with the CPUC and drafts of same; (2) refer to SCE's contributing to the UCLA Luskin Institute at UCLA, the University of California, UCLA's Institute of the Environment and Sustainability, or the California Center for Sustainable Communities at UCLA, in connection with the SONGS settlement; and (3) constitute advocacy directed to the CPUC by local governmental agencies in support of greenhouse gas research as part of the SONGS settlement.

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**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

**DEPT 56W**

Date: DECEMBER 09, 2016

Honorable: WILLIAM C. RYAN

D. PALAU

Judge

S. HUMBER #282371

Bailiff

NONE

J.A.

Reporter

(Parties and Counsel checked if present)

SW-70763

IN RE SEARCH WARRANT FOR  
CALIFORNIA PUBLIC UTILITIES  
COMMISSION

Counsel for People: NONE

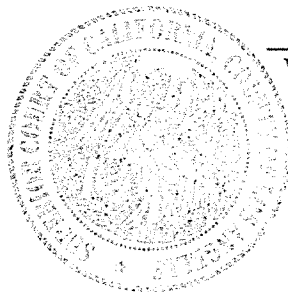
Counsel for Defendant: NONE

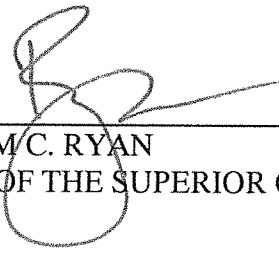
**NO LEGAL FILE: SEALED/HOBBS SEARCH WARRANT #70763**

IT IS HEREBY ORDERED THAT THE ORIGINAL SEARCH WARRANT #70763, IS RETURNED TO THE CLERK'S OFFICE WITH THE CASE FILE CONTAINING ALL PROCEEDINGS RELATED TO THIS MATTER.

SUCH FILE IS ORDERED SEALED AND SHALL NOT BE MADE AVAILABLE FOR VIEWING OR COPYING BY THE PUBLIC.

DATED: 12-9-16



  
WILLIAM C. RYAN  
JUDGE OF THE SUPERIOR COURT

"KB"

SUPERIOR COURT OF CALIFORNIA

County of Los Angeles

SEARCH WARRANT RETURN  
and  
INVENTORY

Search Warrant No. 70763

Issuing Magistrate: David V. Herriford

Date warrant issued: 6/5/15

Date warrant executed: 6/5/15

Location/Vehicles/Persons served and title:

California Public Utilities Commission  
San Francisco Office (HQ)  
505 Van Ness Ave.  
San Francisco, CA 94102

Manner of service: Served CPUC Legal Counsel/Sheppard Mullin via email.

FILED  
2017 MAR 24 AM 9 20  
OFFICE OF THE CLERK  
SUPERIOR COURT  
LOS ANGELES COUNTY

I, Special Agent Reye Diaz, Office of the Attorney General, the affiant for this search warrant, state: The information listed above is correct and during the execution of the search warrant, the following property was seized:

As of December 2016, all records have been provided by CPUC.

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

Date: 03/23/2017



Special Agent Supervisor Reye Diaz AG#10  
Affiant

Michael Garcia  
Judge of the Court

MICHAEL GARCIA

Penal Code § 1537

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

**DEPT 56W**

Date: November 17, 2017

Honorable: William C. Ryan

D. Palau

Judge

S. Humber #282371

Bailiff

None

J.A.

Reporter

(Parties and Counsel checked if present)

BH011315

IN RE SEARCH WARRANT FOR  
CALIFORNIA PUBLIC UTILITIES

COMMISSION

SW70603, SW70763, SW71801

Counsel for Petitioner: NONE

Counsel for Defendant: NONE

**NO LEGAL FILE**

Nature of Proceedings: SEARCH WARRANT UNSEALING

\*\*\*\*\*

(IN CHAMBERS)

Pursuant to the Memorandum of Decision issued on 10/20/17 and in the presence of Judicial Assistant, Sheryl Humber, the sealed box containing Search Warrant 70763 and the related file are unsealed by Judge William C. Ryan.

Such document is ordered permanently unsealed. The purchase of copies can be made through the Los Angeles Superior Court, Public Information Office.

Counsel are notified this date via electronic mail.



**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

**DEPT 56W**

Date: November 7, 2017

Honorable: WILLIAM C. RYAN  
D. PALAU

Judge S. HUMBER  
Bailiff NONE

J.A.  
Reporter

(Parties and Counsel checked if present)

IN RE: SW70603, SW70763 AND  
SW71801  
X-REF BH011315  
CALIFORNIA PUBLIC UTILITIES  
COMMISSION

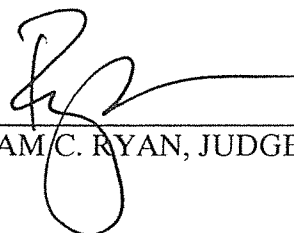
Counsel for People: NONE

Counsel for Defendant: NONE

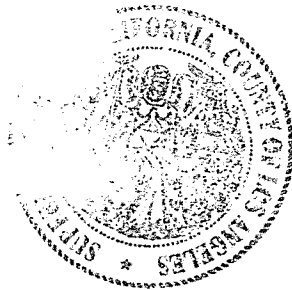
Nature of Proceedings: (IN CHAMBERS)

The Court orders that sealed Search Warrants, SW70603, SW70763 and SW71801 be released to Department 56W for the purpose of permanent unsealing.

Dated: 11-07-2017



WILLIAM C. RYAN, JUDGE



**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

**DEPT 56**

Date: 04/27/16

Honorable: WILLIAM C. RYAN  
PALAU

Judge D.CALLICOATTE,  
Bailiff A. BLANCO, 10075

Clerk  
Reporter

(Parties and Counsel checked if present)

IN RE,  
SEARCH WARRANT #70763

DAG:AMANDA PILSNER  
DAG: MAGGY KRELL

CALIFORNIA PUBLIC  
UTILITIES COMMISSION

PVT: PAMELA NAUGHTON AND REBECCA  
ROBERTS APPEARING FOR CPUC

AROCLES AGUILAR, GENERAL COUNSEL FOR  
THE CPUC ALSO PRESENT IN COURT.

ADDITIONALLY, THE SEAL SEARCH WARRANT DATED 6/5/16 IS UNSEALED THIS DATE AND VIEWED BY THE COURT.

SUCH SEARCH WARRANT IS ORDERED RE-SEALED BY THE COURT AND RETURNED TO THE CLERK'S OFFICE.

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

**DEPT 56**

Date: 04/27/16

Honorable: WILLIAM C. RYAN  
PALAU

Judge D.CALLICOATTE,  
Bailiff A. BLANCO, 10075

Clerk  
Reporter

(Parties and Counsel checked if present)

IN RE,  
SEARCH WARRANT #70763

DAG:AMANDA PILSNER  
DAG: MAGGY KRELL

CALIFORNIA PUBLIC  
UTILITIES COMMISSION

PVT: PAMELA NAUGHTON AND REBECCA  
ROBERTS APPEARING FOR CPUC

AROCLES AGUILAR, GENERAL COUNSEL FOR  
THE CPUC ALSO PRESENT IN COURT.

Nature of Proceedings: SPECIAL MASTER SEARCH WARRANT (NO LEGAL FILE)  
CLOSED SESSION

THE MATTER IS CALLED FOR HEARING. THE COURT NOTES THE MATTER IS ASSIGNED TO JUDGE WILLIAM C. RYAN.

THE MATTER OF CALIFORNIA PUBLIC UTILITIES COMMISSION'S (CPUC) MOTION TO QUASH SUBPOENA COMES BEFORE THE COURT. THE COURT HEARS ARGUMENT FROM BOTH SIDES. PARTIES SUBMIT. THE COURT TAKES THE MATTER UNDER SUBMISION.

THE MATTER OF THE ATTORNEY GENERAL'S MOTION TO COMPEL COMPLIANCE WITH SUBPEONA COMES BEFORE THE COURT. THE COURT HAS READ AND CONSIDERED MOVING AND OPPOSITION PAPPERS AND HEARS ARGUMENT. COUNSEL FOR CPUC WILL PREPARE PRIVILEGE LOGS FOR DOCUMENTS UNDER "SONGS WARRANT" AND PROVIDE THEM TO THE ATTORNEY GENERAL'S OFFICE WITHIN 4 WEEKS.

THE COURT WILL DEFER RULING ON THE MOTION TO COMPEL UNTIL PRIVILEGE LOGS HAVE BEEN PROVIDED AND REVIEWED.

COURT ORDERS AN ORIGINAL TRANSCRIPT PLUS TWO COPIES OF THESE PROCEEDINGS. OFFICIAL COURT REPORTER, ANNETTE BLANCO, CSR 10075, PROVIDED WITH A COPY OF THESE MINUTES.

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

**DEPT 56W**

Date: 3/24/16

Honorable: WILLIAM C. RYAN  
D. PALAU

Judge  
Bailiff

S. HUMBER #282371  
A.BLANCO, CSR #10775

J.A.  
Reporter

(Parties and Counsel checked if present)

SW-70763  
IN RE SEARCH WARRANT FOR  
CALIFORNIA PUBLIC UTILITIES  
COMMISSION

Counsel for People: NOT PRESENT

Counsel for Defendant: NOT PRESENT

**NO LEGAL FILE**

ADDITIONALLY, THE SEALED SEARCH WARRANT IN THIS MATTER REMAINS UNOPENED AND IS ORDERED TO RETURNED TO THE CLERK'S OFFICE.

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

**DEPT 56W**

Date: 3/24/16

Honorable: WILLIAM C. RYAN  
D. PALAU

Judge S. HUMBER #282371  
Bailiff A. BLANCO, CSR #10775

J.A.  
Reporter

(Parties and Counsel checked if present)

SW-70763  
IN RE SEARCH WARRANT FOR  
CALIFORNIA PUBLIC UTILITIES  
COMMISSION

Counsel for People: NOT PRESENT

Counsel for Defendant: NOT PRESENT

**NO LEGAL FILE**

Nature of Proceedings: (1) MOTION TO VIEW SEARCH WARRANT AFFIDAVIT IN CAMERA,  
(2) MOTION TO SEAL PLEADINGS AND RECORDS (FILED BY THE CALIFORNIA PUBLIC UTILITIES COMMISSION)

\*\*\*\*\*  
NO LEGAL FILE-RED JACKET ONLY

MATTER IS CALLED FOR HEARING IN A CLOSED PROCEEDING.

PAMELA NAUGHTON AND REBECCA S. ROBERTS ARE PRESENT ON BEHALF OF THE CALIFORNIA PUBLIC UTILITIES COMMISSION.

DEPUTY ATTORNEY GENERAL, AMANDA PLISNER IS PRESENT ON BEHALF OF THE DEPARTMENT OF JUSTICE.

- 1) THE MATTER IS OFF CALENDAR AS MOOT.
- 2) MOTION IS GRANTED AS PRAYED.

COUNSEL ARE DIRECTED TO WORK OUT DISCLOSURE.

MS. NAUGHTON INFORMS THE COURT THAT SHE INTENDS TO FILE A MOTION. SUCH MOTION WILL BE HEARD ON 4/18/16 IN THIS DEPARTMENT. COUNSEL FOR THE ATTORNEY GENERAL AGREES TO ACCEPT SERVICE VIA ELECTRONIC MAIL.

THE PETITION FOR ORDER COMPELLING COMPLIANCE WITH THE SEARCH WARRANT, FILED BY THE ATTORNEY GENERAL IS SET FOR HEARING ON APRIL 18, 2016 AT 11:00 A.M. IN THIS DEPARTMENT.

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**  
**DEPT 100**

Date: March 01, 2016

Honorable James R. Brandlin,  
 None

Judge  
 Bailiff

M. Seals  
 None

Judicial Assist  
 Reporter

(Parties and Counsel checked if present)

THE PEOPLE OF THE STATE OF  
 CALIFORNIA

VS

Counsel for Petitioner:

Counsel for Respondent:


\*UNKNOWN\*

CASE NO. (unknown)

**NATURE OF PROCEEDING:**

**Request for SEALED / HOBBS Search Warrant # SW-70763**

It is hereby ordered by Supervising Judge James R. Brandlin in Department 100 of the Criminal Justice Center that the original Search Warrant #70763 be transported to Department 100. The search warrant will be reviewed by the Court as it relates to a MOTION TO VIEW SEARCH WARRANT AFFIDAVIT *IN CAMERA* on calendar in Department 100 on March 24, 2016 at 8:30 a.m.

  
 \_\_\_\_\_  
 Honorable James R. Brandlin

Date: 3/1/16



70763

SUPERIOR COURT OF CALIFORNIA

County of LOS ANGELES

Search Warrant  
Sealing Order

FILED  
2015 JUN 24 AM 9 16  
LOS ANGELES COUNTY CLERK

Warrant No. \_\_\_\_\_

Place to be searched: CALIFORNIA PUBLIC UTILITIES COMMISSION  
505 VAN NESS AVE. SF, CA 94102

Application for Sealing Order: I hereby request that the following document(s) submitted in support of the requested search warrant be sealed pending further order of the court:

Affidavit

Grounds for order: I believe that the sealing of the above document(s) is warranted for the following reasons:

PUBLIC INTEREST: Sealing serves the following public interest:

- Protect a confidential informant (Evid. Code § 1041)
- Conceal official information: (Evid. Code § 1040)

PREJUDICE TO PUBLIC INTEREST: There exists a substantial probability that this public interest would be prejudiced if the information contained in this document(s) is not sealed.

NARROWLY TAILORED: I do not believe it would be possible to release any of the sealed information without prejudicing this public interest.

Declaration: I declare under penalty of perjury that the above information is true.

6/15/15  
Date

[Signature]  
Affiant

Order: Pursuant to Rule 2.550 of the California Rules of Court, the document(s) identified above shall be sealed and retained in the following manner pending further order of the court:

- (1) The document(s) shall be sealed in an envelope with a copy of this Order affixed to the front of the envelope; and
- (2) The Clerk of the Court shall retain custody of the envelope in a secure place and shall not permit it to be opened by anyone except as authorized by written order of the Court.

**AFFIDAVIT OF REYE EUGENE DIAZ  
IN SUPPORT OF SEARCH WARRANT**

That your affiant, Reye Eugene Diaz, has been employed by the Department of Justice since 1997.

I am currently a Special Agent and "investigative or law enforcement officer" of the State of California within the meaning of 830.1 of the California Penal Code who is empowered by law to conduct investigations and make arrests for offenses committed within the State of California.

From November 1999 until January of 2003, I was assigned to the California Department of Justice, Bureau of Narcotic Enforcement, San Francisco Regional Office. During this time, my primary assignment was to conduct narcotic investigations which routinely required me to work in an undercover capacity, conduct surveillance on suspects, develop and handle informants, as well as author and serve search warrants. During this time, I also served as case agent on mid level narcotic investigations and assisted with numerous high level narcotic investigations.

From February 2003 until November 2014, I was assigned to the California Department of Justice, Bureau of Gambling Control and Bureau of Investigation. During my time with both the Gambling Control and Bureau of Investigation, I served as case agent on numerous investigations pertaining to the following crimes: Pimping, Human Trafficking, prostitution, violent loan sharks/extortion, murder for hire, corruption, embezzlement, grand theft, burglary, illegal lottery, counterfeiting, identity theft, forgery, fraud, embezzlement, and political corruption. I routinely worked with the Federal Bureau of Investigation, the United States Secret Service, the Internal Revenue Service,



the Department of Homeland Security, and local law enforcement personnel on numerous major investigations. During these aforementioned investigations, I have conducted numerous hours of surveillance, routinely utilized sophisticated investigative equipment, conducted numerous interviews and interrogations, conducted numerous undercover operations, arrested hundreds of suspects, routinely worked with informants, written numerous search warrants, and have routinely testified in court.

I am cross designated as a task force agent with the FBI and have received the California Attorney General Peace Officer Award for my work as a criminal investigator.

I am currently assigned to the California Attorney General's Financial Fraud Section and Special Prosecutions Unit where I am tasked by the California Attorney General's Office to combat human trafficking, sex trafficking related crimes, as well as conduct financial fraud investigations.

I. Introduction

This affidavit is submitted in support of a request for a search warrant to be executed at the headquarters of the California Public Utilities Commission (CPUC), in San Francisco, California. Your affiant believes there is probable cause to conduct this search warrant for the following reasons:

1) There is probable cause to believe Stephen PICKETT, former Executive President of External Relations at SCE and Michael PEEVEY, former President of the California Public Utilities Commission, knowingly engaged in and conspired to engage in prohibited *ex parte* communications regarding the closure of a nuclear facility, to the advantage of SCE and to the disadvantage of other interested parties. And there is probable cause to believe that evidence showing that PICKETT knowingly engaged in prohibited *ex parte* communications with PEEVEY will be found with PICKETT's former employer, SCE.

2) There is probable cause to believe that PEEVEY utilized his position to influence SCE's commitment of millions of dollars to UCLA to fund a research program. And there is probable cause to believe that evidence documenting the commitment of research money to UCLA or the University of California as part of settlement negotiations associated with the closure of the nuclear facility will be found at SCE headquarters.

3) There is probable cause to believe CPUC would maintain general records, internal communications, communications with SCE, records of meetings,

correspondence, and other relevant documents related to a secret, undisclosed meeting between PICKETT and PEEVEY, communications and negotiations pertaining to the potential and actual closure of the San Onofre Nuclear Generating Station (SONGS), the commitment of research money to UCLA or the University of California, and other issues related to the settlement of SONGS.

## II. BACKGROUND

In **January 2012**, Southern California Edison (SCE) announced that a radiation leak likely occurred in a steam generator at the San Onofre Nuclear Generating Station (SONGS). As a result, SONGS' two reactor units, referred to as Unit 2 and Unit 3, remained offline until it could be determined whether the issues with the steam generators could be corrected. SONGS has not been operational since.

On **November 1, 2012**, the CPUC initiated a proceeding through an Order Instituting Investigation (OII) in order to determine, among other issues, how to allocate the financial burden associated with the closure between rate payers and SCE shareholders.

On **June 7, 2013**, SCE announced the permanent shut-down of SONGS. SCE participated in settlement negotiations with rate payer advocacy groups including The Utility Reform Network (TURN) and the California Office of Ratepayer Advocates (ORA). SCE negotiated on behalf of SDG&E. Any agreed upon settlement was required to be submitted to CPUC for approval.

On **April 4, 2014**, the settling parties filed their proposed settlement with CPUC for approval. CPUC Commissioner Michel FLORIO and Administrative Law Judge (ALJ) Melanie DARLING were assigned oversight of the proceedings.

On **September 5, 2014**, Commissioner FLORIO and ALJ DARLING issued a ruling that the proposed settlement could not be accepted unless amended to include a \$25 million dollar commitment by SCE to the University of California over five years to address environmental offsets and greenhouse gas mitigation.

On **November 25, 2014**, after the settling parties agreed to the amendments, CPUC issued a decision approving the settlement.

## **II. LEGAL FRAMEWORK**

### **A. The California Public Utilities Commission**

The California Public Utilities Commission (CPUC) is a state regulatory agency. According to its website, CPUC regulates privately owned electric, natural gas, telecommunications, water, railroad, rail transit, and passenger transportation companies. The CPUC's mission is to serve 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. The CPUC is located in San Francisco, CA.

### **B. Public Utilities Code Prohibitions on *Ex Parte* Communications**

*Ex parte* communications are defined in the Public Utilities Code as "any oral or written communication between a decision maker and a person with an interest in a matter before the commission concerning substantive, but not procedural issues, that does not occur in a public hearing, workshop, or other public proceeding, or on the official record of the proceeding on the matter." (Pub. Util. Code §1701.1(c)(4).) *Ex parte* communications are prohibited in adjudicatory cases. (Pub. Util. Code . § 1701.2.) The SONGS OII and associated settlement discussions are considered

adjudicatory. Violation of this prohibition is a misdemeanor. (Public Util. Code § 2110.)

**C. Obstruction of Justice and Conspiracy to Obstruct Justice**

Under California law, "every judicial officer, court commissioner, or referee who commits any act that he or she knows perverts or obstructs justice, is guilty of a public offense punishable by imprisonment in a county jail for not more than one year." (Cal. Penal Code § 96.5). Penal Code section 182 (a) (5) further criminalizes a conspiracy to "commit any act injurious to the public health, to public morals, or to pervert or obstruct justice, or the due administration of the laws." Conspiracy to commit a misdemeanor offense can also be charged as a felony, pursuant to Penal Code Section 182 (a) (1).

**III. FACTUAL EVIDENCE IN SUPPORT OF SEARCH WARRANT**

**A. PEEVEY and PICKETT Secretly Discussed Specific Terms of SONGS Settlement at Hotel Bristol in Poland.**

**1. PEEVEY and PICKETT *ex parte* conversation**

On **March 26, 2013**, while SONGS was still offline and CPUC OII proceedings were still ongoing, Stephen PICKETT, then the Executive Vice President of External Relations at SCE, met with Michael PEEVEY, then the President of the CPUC, at an unrelated fact finding mission in Warsaw, Poland. According to handwritten notes memorialized on stationery from Warsaw's Bristol Hotel, PICKETT and PEEVEY discussed settlement terms related to the closure of SONGS which included, among other things, decommissioning costs, investment recoveries, shutdown procedures, employee severance packages, rate payer costs, and a \$25 million dollar donation to an agreed upon greenhouse gas or environmental academic research fund. Your affiant obtained these notes in a home-office desk while executing a search warrant at PEEVEY's residence in La Canada, California, on January 27, 2015.

PICKETT reported back to his management at SCE within one week of his meeting with PEEVEY in Poland, and subsequently provided his management with his own version of the notes based on his recollection of the meeting with PEEVEY.

The notes seized from PEEVEY's residence address the following nine topics with additional information pertaining to each topic:

1. Pre-RSG Investment;
2. RSG and post – RSG investment;
3. Replacement Power Responsibility;
4. Neil Insurance Recoveries;
5. MHI Recovery;
6. Decommissioning Costs;
7. O&M;
8. Environmental Offset;
9. Process.

PICKETT's typed notes, entitled "Elements of a SONGS Deal," contain the same nine topics, in almost the exact same order, as the Hotel Bristol notes. PICKETT's notes also contain one additional topic entitled "Other Notes." Copies of both notes are included as Attachment #1.

## **2. SCE Filed a Notice of Ex Parte Communications Two Years Late, Only After the Poland Meeting was Publicly Disclosed.**

On **January 27, 2015** your affiant executed a search warrant at PEEVEY's residence in La Canada, California, at which time your affiant seized the handwritten notes on Hotel Bristol stationery associated with the SONGS closure. Your affiant subsequently filed a search warrant return with the San Francisco County Superior Court and attached a copy of the property receipt. The Superior Court ordered the declaration sealed, but the property receipt remained publicly available.

On **January 30, 2015**, as a result of the search warrant return, the *San Diego Union-Tribune* reported the details of the search warrant and emphasized that law enforcement had seized "RSG notes on Hotel Bristol stationery."

On **February 9, 2015**, nine days after the *San Diego Union-Tribune* reported the seizure of the notes, and approximately two years after the actual meeting took place between PICKETT (SCE) and PEEVEY (CPUC), SCE belatedly disclosed that PICKETT met privately with PEEVEY in Poland on March 26, 2013, and that SCE failed to disclose the *ex parte* communication. According to the late-filed notice of *ex parte* communication, PEEVEY initiated the communication on a framework for a possible resolution of the pending OII regarding the closure of SONGS. SCE also reported that PICKETT took notes during the meeting, and PEEVEY kept the notes. According to SCE, it did not originally report the *ex parte* communication based on an understanding that "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." SCE further stated, "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."

**3. LITZINGER and PICKETT did not file *ex parte* report.**

On March 20, 2015, your affiant interviewed Ron LITZINGER, President of SCE. According to LITZINGER, he told PICKETT after the Poland trip that PICKETT was not authorized to engage in negotiations with PEEVEY regarding the closure of SONGS. LITZINGER claimed that when PICKETT came back from the trip and notified him about

the conversation, LITZINGER wondered why there was a “conversation taking place” while there was an active proceeding. Nevertheless, LITZINGER did not file, nor did he request that PICKETT file, a notice of *ex parte* communication.

Although SCE did not decide to close SONGS until May 2013, LITZINGER said he had to reinforce to PICKETT on April 11<sup>th</sup> that he (PICKETT) was not going to be part of the settlement team and that the settlement process was going to be very tightly controlled. LITZINGER said that he had to remind PICKETT of this fact, as PICKETT was “still talking like he was going to be part of the settlement team.”

**4. PEEVEY pressured LITZINGER to make commitment to UCLA as part of SONGS settlement agreement.**

LITZINGER also stated that, in a conversation with PEEVEY on **May 2, 2014**, while SONGS settlement proceedings were ongoing, PEEVEY requested that SCE make a \$25 million commitment to UCLA as part of the settlement. According to LITZINGER, PEEVEY emphasized the fact that he had discussed the matter with PICKETT in Poland. LITZINGER told your affiant that PEEVEY waved hand written notes. LITZINGER stated that he told PEEVEY, “I was aware that conversation took place, but Steve [PICKETT] was not authorized to speak on behalf of the company.”

**5. Edward RANDOLPH’s description of the Poland meeting**

Your affiant also interviewed Edward RANDOLPH, the current Director of Energy at the CPUC. RANDOLPH advised your affiant that he was present during the discussion between PEEVEY and PICKETT in Poland. RANDOLPH told your affiant that there were “ground rules” as to what they could talk to SCE about on the trip. When asked if these ground rules would prohibit substantive discussion on “pending proceedings,” RANDOLPH stated yes. RANDOLPH stated that there was an “offline



discussion” between RANDOLPH, PEEVEY, and PICKETT at a bar at the Bristol Hotel in Poland. When asked what pending proceeding they discussed, RANDOLPH answered, “The prime point of the discussion was to discuss the timing of a determination of if Southern California Edison was going to permanently shut down the San Onofre Nuclear Generation Facility.” RANDOLPH said that the discussion, in itself, did not relate to a proceeding in his opinion. According to RANDOLPH, the reason they were discussing the permanent shut down of SONGS is that it was already heading into a second summer in which the plant had been shut down, and SCE had not made a long term determination of what they would do if the plant closed permanently.

RANDOLPH said CPUC wanted SCE to do a long term determination so it could do long term planning and not short term “patchwork” which would be more expensive for the rate payers.

When RANDOLPH was asked if there was a more specific conversation about a settlement agreement, RANDOLPH answered, “Sort of, after we finished the discussion about making a determination about the plant closing, which was probably about a ten minute conversation, the conversation did drift into a conversation on what the financials on closing a plant would look like.” When asked who was led the conversation, RANDOLPH stated that the first part of the conversation, regarding a determination being needed on if the plant was going to be permanently closed, was led by PEEVEY. According to RANDOLPH, the second part of the conversation, regarding the financials of a plant closure, was led by PICKETT. RANDOLPH’s recollection of events contradicts PICKETT’s assertion that the discussion with PEEVEY was just one-way.

RANDOLPH told your affiant that, in his opinion, the discussion in Poland was an *ex parte* communication, and SCE should have reported it.

#### **5. Effects of Poland Conversation on Other Interested Parties**

As a result of a recent public disclosure of the PEEVEY notes your affiant seized at PEEVEY's residence, both ratepayer settlement parties (ORA and TURN) that negotiated with SCE, without the advantage of being aware of the PICKETT meeting with PEEVEY in Poland, issued the following separate statements on April 17, 2015:

##### ORA STATEMENT:

*"ORA has reviewed the Hotel Bristol Notes and has made a comparative analysis with the final SONGS settlement agreement. The Hotel Bristol Notes appear to set a framework for settlement that is similar to the elements of the settlement that was ultimately accepted by the CPUC. The Hotel Bristol Notes appear to demonstrate the degree to which Peevey and Pickett collaborated to orchestrate a settlement of the SONGS outage investigation. Based on ORA's analysis of the Hotel Bristol Notes and the final settlement agreement, customers still saved at least \$780 million more than the "deal" that Peevey and Pickett had described. However, ORA cannot honestly say that it got the best deal for ratepayers. Edison was likely able to use its knowledge of Peevey's position to steer the settlement in the direction it wanted. While ORA believes it worked to strike a good deal for ratepayers based on legal precedents, we are troubled by the possibility that we might have been able to strike a better deal."*

##### TURN STATEMENT:

*"The Warsaw meeting was a flagrant violation of CPUC rules governing ex parte contacts," said TURN staff attorney Matt Freedman. "The CPUC has properly ordered SCE to turn over all documents relating to communications with CPUC decision makers about the possible settlement of SONGS. Based on the responses to this ruling, TURN may seek a reopening of the case. At a minimum, TURN will urge the CPUC to assess the maximum sanction on SCE for its ex parte violations and apply any financial penalties toward reducing customer rates."*

The Utilities and Commerce Committee of the California Assembly also formally requested that John GEESMAN, Attorney for Alliance for Nuclear Responsibility, analyze the PEEVEY notes and make an assessment of the differences between the terms outlined in the notes and the actual settlement proposal. According to

GEESMAN, *"Prompt disclosure of ex parte communications like that between Mr. PICKETT and Mr. PEEVEY is an essential prerequisite for a level playing field in a regulatory proceeding."*

In regards to the advantage SCE had going into the negotiations as a result of the PEEVEY and PICKETT meeting and SCE's failure to disclose the meeting as required by law, GEESMAN stated, *"It appears to me that SCE managed to improve its position by at least \$919 million, and arguable \$1.522 billion, from what CPUC President PEEVEY had identified at the Hotel Bristol as a framework for a possible resolution."*

#### **B. PEEVEY's Request for UCLA Research Funds**

The University of California, Los Angeles (UCLA), has recently disclosed that while the SONGS closure settlement negotiations were still ongoing, and prior to a proposal being submitted to CPUC, PEEVEY requested that Stephanie PINCETL, the Director of UCLA's California Center for Sustainable Communities and Professor-in-Residence at UCLA's Institute of the Environment and Sustainability, submit a proposal for exactly \$25 million dollars that would be available as a result of the closure of SONGS.

On **April 4, 2014**, the settlement parties filed their proposed settlement to CPUC for approval. CPUC Commissioner Michel FLORIO and ALJ Melanie DARLING oversaw the settlement proceedings. The initial settlement proposal did not include, as stated in PEEVEY's Hotel Bristol notes, \$25 million dollars towards greenhouse gas research.

As noted, LITZINGER advised your affiant that PEEVEY told him on **May 2, 2014**, right after the settlement proposal was submitted to CPUC, that SCE needed to make a \$25 million dollar commitment to UCLA. PEEVEY referenced the fact that he had discussed the matter with PICKETT in Poland and waved hand written notes. According to LITZINGER, Commissioner FLORIO, the CPUC commissioner presiding over the matter, was also present at this conversation. LITZINGER advised your affiant that he refused to engage in conversation with PEEVEY on this matter. According to a LITZINGER declaration, after this meeting, he called FLORIO to advise that SCE was considering filing an *ex parte* notice. LITZINGER claimed that Commissioner FLORIO later told him he had discussed the matter with PEEVEY's chief of staff, and they had concluded there was no reason to disclose that the two sides had met. According to LITZINGER, over the next several weeks, PEEVEY attempted multiple times to pressure SCE to make this financial commitment directly to UCLA. Ultimately, PEEVEY told LITZINGER that he was going to bypass him and go straight to his boss Ted CRAVER.

Your affiant subsequently interviewed Ted CRAVER who confirmed that PEEVEY "went at him hard," telling him that they (SCE) did not get the importance of combatting climate change and this was an opportunity to do something, and if they were smart, they would figure out how to "wrap this in a cloak" and it would be good for public relations. CRAVER told PEEVEY that he knew PEEVEY has already been told this, but he (CRAVER) could not talk to PEEVEY about this matter. SCE never agreed to formally commit money to research.

On **May 19, 2014**, in response to an email from Stephanie PINCETL (UCLA) asking about the status of project funding, PEEVEY stated that SCE had advised him that her request was “a lot of money” and would have to be taken to SCE’s board for approval. PEEVEY added in his response to PINCETL, “I am, of course, exploring another option.”

In addition to PEEVEY’s in-person lobbying efforts, PEEVEY appeared to be organizing a letter-writing campaign to support a UCLA research program. Your affiant has reviewed documents on PEEVEY’S personal computer drafted as letters from Los Angeles-area elected officials to the CPUC, dated in early June 2014. The letters urge, as part of the pending SONGS settlement, that CPUC fund a proposed UCLA research program (California Center for Sustainable Communities at UCLA) involving the creation of a “sophisticated energy data analysis” which would result in reduction of GHG emissions. Similar letters were also delivered to SCE executives during the same time period.

On **August 15, 2014**, while CPUC was still considering the proposed SONGS settlement, the Luskin Center for Innovation at UCLA’s Luskin School of Public Affairs invited PEEVEY to serve on its advisory board and become a member of the sustainable energy working group. The Luskin Center’s mission is “organized around initiatives that seek to conduct and translate world-class research and expertise into real-world policy solutions. Initiatives are linked by the themes of sustainability, energy and environmental health justice.” The Luskin Center asked PEEVEY to “advise the center on how its resources can be best directed to maximize impact, including helping to identify and prioritize research projects; help facilitate strategic partnerships.”

PEEVEY accepted the invitation. (According to publicly available information on its website, PEEVEY remains a Luskin Center advisory board member today.)

On **September 5, 2014**, Commissioner FLORIO and ALJ DARLING issued a ruling that the proposed SONGS closure settlement could not be supported without two amendments, including a \$25 million dollar commitment to the University of California over five years.

LITZINGER told your affiant that SCE was not surprised, based on what had happened since May 2014, that the commitment to fund a center at UCLA was a prerequisite to approval of the settlement. LITZINGER told your affiant that SCE internally debated the amendments and met with the Board of Directors to discuss the new terms. LITZINGER said SCE agreed to the terms because "our investors wanted the uncertainty of SONGS behind them." According to LITZINGER, "The benefit of eliminating the uncertainty associated with SONGS far outweighed agreeing to the \$5 million a year."

On October 2, 2014 Stephanie PINCETL (UCLA) emailed PEEVEY to request a language modification that would enhance UCLA's ability to get the funding. As a result, PEEVEY emailed FLORIO that same day asking for the proposed language to be modified in order to accommodate UCLA. FLORIO emailed PEEVEY back, stating that his Chief of Staff spoke to ALJ Darling and had a "fairly difficult conversation" with her. FLORIO further stated in the email, "*Melanie (DARLING) seems to be in a particularly sour mood! Bottom line, she said she used the language she got from Lester in her ordering paragraph. I think that is the same as what you handed me today. We will try to clean this up before the PD mails tomorrow, or worst case in the final decision. I*

*don't sense any disagreement about the substance, just another ALJ resisting interference by those pesky commissioners. I am confident we will get there."*

On **November 25, 2014**, the SONGS settlement was formally approved, including the \$25 million dollar research grant to the University of California.

#### IV. SUMMARY

Based on the above evidence and facts, there is probable cause to believe that PICKETT knowingly engaged and conspired to engage in a reportable *ex parte* communication with PEEVEY in POLAND to the overall advantage of SCE in the subsequent settlement process pertaining to the closure of SONGS. It is also evident that PEEVEY utilized his position to influence SCE's commitment of millions of dollars to UCLA to fund a research program. The facts indicate that PEEVEY conspired to obstruct justice by illegally engaging in *ex parte* communications, concealed *ex parte* communications, and inappropriately interfered with the settlement process on behalf of California Center for Sustainable Communities at UCLA during the same time frame that he was accepting a position as an advisory board member at UCLA's Luskin Institute. PEEVEY executed this plan through back channel communications and exertion of pressure, in violation of CPUC *ex parte* rules, and in obstruction of the due administration of laws.

There is probable cause to believe that further evidence showing PICKETT knowingly engaged in a reportable *ex parte* communication with PEEVEY, will be found with the CPUC.

There is probable cause to believe that the CPUC would maintain general records, internal CPUC communications, CPUC communications with SCE executive

staff, decision maker(s), records of meeting, documents, board meeting minutes, sign in logs, and correspondence related to the meeting between PICKETT and PEEVEY, communications and negotiations pertaining to the potential closure and closure of SONGS, research money being committed to UCLA or the University of California, and the settlement of the SONGS OII.

Your affiant requests search warrant authorization from the Superior Court of Los Angeles County. Because SCE is headquartered in Rosemead, CA, there is probable cause to believe that at least a portion of the suspected criminal activity occurred in the County of Los Angeles.

Your affiant believes it is reasonable to request any and all records pertaining to the events surrounding the settlement of the SONGS closure, especially communications regarding the SONGS settlement from January 31, 2012 until January 31, 2015. It is reasonable to limit the search from January 31, 2012 to January 31, 2015 because that is when SONGS stopped being operational.

**SEAL AFFIDAVIT AND WARRANT:**

It is further requested by your affidavit, due to the high profile nature of the investigation and the suspects, as well as the ongoing investigation into the matter, and other potential suspects, that a sealing order be granted for this affidavit and search warrant.

Your affiant believes there is sufficient probable cause that the property described herein may be found at the locations set forth herein and that it is lawfully seizable pursuant to Penal Code Section 1524.



**LOCATION #1:**

**California Public Utilities Commission  
San Francisco Office (Headquarters)  
Or Legal Representatives of CPUC  
505 Van Ness Avenue  
San Francisco, CA 94102  
MAY BE SERVED VIA EMAIL or FAX**

**FOR THE FOLLOWING PROPERTY:**


Any and all records from January 31, 2012 until January 31, 2015, involving the San Onofre Nuclear Generating Station (SONGS) closure settlement agreement, the 2013 meeting between Stephen PICKETT and Michael PEEVEY in Poland, communication(s) pertaining to the determination of when and why SONGS would be closed, commitment of monies for research as a result of the closure of SONGS, and communication(s) pertaining to the settlement of the SONGS Order Instituting Investigation (OII). These records are to include:

1. CPUC will search emails to or from the following individuals:
  - a. Robert Adler – General Counsel, Edison International (now retired)
  - b. Ted Craver – Chairman, President, and Chief Executive Officer, Edison International
  - c. Laura Genao – Director, Regulatory Affairs, SCE
  - d. Michael Hoover – Senior Director of State Energy Regulation, SCE
  - e. Ron Litzinger – President, SCE (now President of Edison Energy)
  - f. R.O. Nichols – Senior Vice President for Regulatory Affairs, SCE
  - g. Stephen Pickett – Executive Vice President, External Relations, SCE (now retired)
  - h. Gary Schoonyan – Director, Strategic Policy Analysis, SCE (now retired)
  - i. Jim Scilacci – Chief Financial Officer, Edison International
  - j. Les Starck – Senior Vice President Regulatory Policy & Affairs, SCE (now retired)
  - k. Bert Valdman – Senior Vice President, Strategic Planning, Edison International (no longer employed)
  - l. Gaddi Vasquez – Senior Vice President, Government Affairs, Edison International
  - m. Russ Worden – Director of External Relations, SCE
  - n. Ron Olson, former Board member, Edison and Edison International
  - o. Michael Peevey (former President of CPUC)
  - p. Michel Florio (Commissioner, CPUC)
  - q. Melanie Darling (ALJ, CPUC)
  - r. Sepideh Khosrowjah (Chief of Staff, Commissioner Florio)
  - s. Paul Clanon (Executive Director, CPUC)
  - t. Carol Brown (former Chief of Staff to President Peevey)
  - u. Audrey Lee (former Advisor to President Peevey)

- v. Edward Randolph (Director of Energy, CPUC)
- 2. CPUC will identify employees who were involved in the implementation of the greenhouse gas research provisions of the SONGS OII settlement, specifically with respect to CPUC's understandings or intentions with regard to directing funding to UCLA. CPUC will propose to the Attorney General's Office additional employees whose email they will collect for this purpose.
- 3. CPUC will collect and review emails from the above 22 custodians, plus any other custodians identified pursuant to paragraph 2, that are dated from January 31, 2012 through January 31, 2015.
- 4. Handwritten notes, documents saved to a hard drive or to a network location, and data on smart phones that is not believed to exist in other locations. CPUC will advise the Attorney General's Office of its progress and plan for collection and review of any such documents.
- 5. With respect to the categories of documents specified in the search warrant, CPUC will search for, review and produce responsive documents as follows:
  - a. As to documents involving the SONGS settlement, CPUC will produce (1) documents constituting or referring to communications with SCE about the OII prior to execution of the settlement on March 27, 2014 (excluding on-the-record communications such as SCE pleadings filed with the CPUC); and (2) documents constituting communications with TURN or ORA referencing communications from Peevey regarding SONGS or UC in the context of the settlement negotiations up to March 27, 2014.
  - b. As to documents pertaining to the Poland trip in March 2013, CPUC will produce documents constituting or referring to communications during that trip that relate to SONGS. These documents will include any communications or materials regarding SONGS made in anticipation of the trip, any documents or communications regarding SONGS that occurred during the trip, and any communications or materials regarding SONGS created after the trip ended.
  - c. As to the documents regarding funding of research in connection with the SONGS settlement, CPUC will produce documents and all communications that (1) constitute or refer to communications with SCE or UCLA about greenhouse gas research as part of the SONGS settlement (excluding on-the-record communications such as pleadings filed with the CPUC and drafts of same; (2) refer to SCE's contributing to the UCLA Luskin Institute at UCLA, the University of California, UCLA's Institute of the Environment and Sustainability, or the California Center for Sustainable Communities at UCLA, in connection with the SONGS settlement; and (3) constitute advocacy directed to the CPUC by local governmental agencies in support of greenhouse gas research as part of the SONGS settlement.

I declare under penalty of perjury, under the laws of the State of California, that foregoing facts are true and correct to the best of my knowledge and belief.

Reviewed by Deborah Halberstadt  
Deputy Attorney General  
California Department of Justice

 6/5/15  
Special Agent Reye Eugene Diaz  
Criminal Law Division  
California Department of Justice

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

**DEPT 56W**

Date: November 17, 2017

Honorable: William C. Ryan  
D. Palau

Judge S. Humber #282371  
Bailiff None

J.A.  
Reporter

(Parties and Counsel checked if present)

BH011315  
IN RE SEARCH WARRANT FOR  
CALIFORNIA PUBLIC UTILITIES  
COMMISSION  
SW70603, SW70763, SW71801

Counsel for Petitioner: NONE

Counsel for Defendant: NONE

NO LEGAL FILE

Nature of Proceedings: SEARCH WARRANT UNSEALING

\*\*\*\*\*

(IN CHAMBERS)

Pursuant to the Memorandum of Decision issued on 10/20/17 and in the presence of Judicial Assistant, Sheryl Humber, the sealed envelope containing Search Warrant 71801 is unsealed by Judge William C. Ryan.

Such document is ordered permanently unsealed. The purchase of copies can be made through the Los Angeles Superior Court, Public Information Office.

Counsel are notified this date via electronic mail.

71801

EXHIBIT "B"  
&  
ATTACHMENT "B"

Microsoft Corporations  
Attn: Online Services Custodian of Records  
One Microsoft Way  
Redmond, WA 98052  
Fax: 425-708-0096

Or any email provider managing/servicing [StephenPickettSEPickett@outlook.com](mailto:StephenPickettSEPickett@outlook.com)

And/or email accounts belonging to:

Stephen Evan Pickett, DOB: 08/07/1950, [REDACTED]  
Residence: 389 Flintridge Oaks Dr., LA Canada, CA.

ATTACHMENT "B"

Microsoft Corporations  
Attn: Online Services Custodian of Records  
One Microsoft Way  
Redmond, WA 98052  
FAX: 425-708-0096

Or any email provider managing [StephenPickettSEPickett@outlook.com](mailto:StephenPickettSEPickett@outlook.com)

and/or email accounts belonging to:

Stephen Evan Pickett, DOB: 08/07/1950, SSN: 546-72-4033  
Residence: 389 Flintridge Oaks Dr., LA Canada, CA.



**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

**DEPT 56W**

Date: November 17, 2017  
Honorable: William C. Ryan  
D. Palau

Judge S. Humber #282371  
Bailiff None

J.A.  
Reporter

(Parties and Counsel checked if present)

BH011315  
IN RE SEARCH WARRANT FOR  
CALIFORNIA PUBLIC UTILITIES  
COMMISSION  
SW70603, SW70763, SW71801

Counsel for Petitioner: NONE

Counsel for Defendant: NONE

NO LEGAL FILE

Nature of Proceedings: SEARCH WARRANT UNSEALING

\*\*\*\*\*

(IN CHAMBERS)

Pursuant to the Memorandum of Decision issued on 10/20/17 and in the presence of Judicial Assistant, Sheryl Humber, the sealed envelope containing Search Warrant 70603 is unsealed by Judge William C. Ryan.

Such document is ordered permanently unsealed. The purchase of copies can be made through the Los Angeles Superior Court, Public Information Office.

Counsel are notified this date via electronic mail.

70603

**AFFIDAVIT OF REYE EUGENE DIAZ  
IN SUPPORT OF SEARCH WARRANT**

That your affiant, Reye Eugene Diaz, has been employed by the Department of Justice since 1997.

I am currently a Special Agent and "investigative or law enforcement officer" of the State of California within the meaning of 830.1 of the California Penal Code who is empowered by law to conduct investigations and make arrests for offenses committed within the State of California.

From November 1999 until January of 2003, I was assigned to the California Department of Justice, Bureau of Narcotic Enforcement, San Francisco Regional Office. During this time, my primary assignment was to conduct narcotic investigations which routinely required me to work in an undercover capacity, conduct surveillance on suspects, develop and handle informants, as well as author and serve search warrants. During this time, I also served as case agent on mid level narcotic investigations and assisted with numerous high level narcotic investigations.

From February 2003 until November 2014, I was assigned to the California Department of Justice, Bureau of Gambling Control and Bureau of Investigation. During my time with both the Gambling Control and Bureau of Investigation, I served as case agent on numerous investigations pertaining to the following crimes: Pimping, Human Trafficking, prostitution, violent loan sharks/extortion, murder for hire, corruption, embezzlement, grand theft, burglary, illegal lottery, counterfeiting, identity theft, forgery, fraud, embezzlement, and political corruption. I routinely worked with the Federal Bureau of Investigation, the United States Secret Service, the Internal Revenue Service,

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the Department of Homeland Security, and local law enforcement personnel on numerous major investigations. During these aforementioned investigations, I have conducted numerous hours of surveillance, routinely utilized sophisticated investigative equipment, conducted numerous interviews and interrogations, conducted numerous undercover operations, arrested hundreds of suspects, routinely worked with informants, written numerous search warrants, and have routinely testified in court.

I have worked as a task force agent with the FBI since 2008, and I received the California Attorney General Peace Officer Award for my work as a criminal investigator.

I am currently assigned to the California Attorney General's Financial Fraud Section and Special Prosecutions Unit where I am tasked by the California Attorney General's Office to combat human trafficking, sex trafficking related crimes, as well as conduct financial fraud investigations.

## I. Introduction

This affidavit is submitted in support of a request for a search warrant to be executed at the headquarters of Southern California Edison (SCE) in Rosemead, California. Your affiant believes there is probable cause to conduct this search warrant for the following reasons:

1) There is probable cause to believe Stephen PICKETT, former Executive President of External Relations at SCE and Michael PEEVEY, former President of the California Public Utilities Commission, knowingly engaged in and conspired to engage in prohibited *ex parte* communications regarding the closure of a nuclear facility, to the advantage of SCE and to the disadvantage of other interested parties. And there is probable cause to believe that evidence showing that PICKETT knowingly engaged in prohibited *ex parte* communications with PEEVEY will be found with PICKETT's former employer, SCE.

2) There is probable cause to believe that PEEVEY utilized his position to influence SCE's commitment of millions of dollars to UCLA to fund a research program. And there is probable cause to believe that evidence documenting the commitment of research money to UCLA or the University of California as part of settlement negotiations associated with the closure of the nuclear facility will be found at SCE headquarters.

3) There is probable cause to believe SCE would maintain general records, internal communications, communications with CPUC, records of meetings,

correspondence, and other relevant documents related to a secret, undisclosed meeting between PICKETT and PEEVEY, communications and negotiations pertaining to the potential and actual closure of the San Onofre Nuclear Generating Station (SONGS), the commitment of research money to UCLA or the University of California, and other issues related to the settlement of SONGS.

## II. BACKGROUND

In **January 2012**, Southern California Edison (SCE) announced that a radiation leak likely occurred in a steam generator at the San Onofre Nuclear Generating Station (SONGS). As a result, SONGS' two reactor units, referred to as Unit 2 and Unit 3, remained offline until it could be determined whether the issues with the steam generators could be corrected. SONGS has not been operational since.

On **November 1, 2012**, the CPUC initiated a proceeding through an Order Instituting Investigation (OII) in order to determine, among other issues, how to allocate the financial burden associated with the closure between rate payers and SCE shareholders.

On **June 7, 2013**, SCE announced the permanent shut-down of SONGS. SCE participated in settlement negotiations with rate payer advocacy groups including The Utility Reform Network (TURN) and the California Office of Ratepayer Advocates (ORA). SCE negotiated on behalf of SDG&E. Any agreed upon settlement was required to be submitted to CPUC for approval.

On **April 4, 2014**, the settling parties filed their proposed settlement with CPUC for approval. CPUC Commissioner Michel FLORIO and Administrative Law Judge (ALJ) Melanie DARLING were assigned oversight of the proceedings.

On **September 5, 2014**, Commissioner FLORIO and ALJ DARLING issued a ruling that the proposed settlement could not be accepted unless amended to include a \$25 million dollar commitment by SCE to the University of California over five years to address environmental offsets and greenhouse gas mitigation.

On **November 25, 2014**, after the settling parties agreed to the amendments, CPUC issued a decision approving the settlement.

## **II. LEGAL FRAMEWORK**

### **A. The California Public Utilities Commission**

The California Public Utilities Commission (CPUC) is a state regulatory agency. According to its website, CPUC regulates privately owned electric, natural gas, telecommunications, water, railroad, rail transit, and passenger transportation companies. The CPUC's mission is to serve 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. The CPUC is located in San Francisco, CA.

### **B. Public Utilities Code Prohibitions on Ex Parte Communications**

*Ex parte* communications are defined in the Public Utilities Code as “any oral or written communication between a decision maker and a person with an interest in a matter before the commission concerning substantive, but not procedural issues, that does not occur in a public hearing, workshop, or other public proceeding, or on the official record of the proceeding on the matter.” (Pub. Util. Code §1701.1(c)(4).) *Ex parte* communications are prohibited in adjudicatory cases. (Pub. Util. Code . § 1701.2.) The SONGS OII and associated settlement discussions are considered

*NEP*

adjudicatory. Violation of this prohibition is a misdemeanor. (Public Util. Code § 2110.)

**C. Obstruction of Justice and Conspiracy to Obstruct Justice**

Under California law, “every judicial officer, court commissioner, or referee who commits any act that he or she knows perverts or obstructs justice, is guilty of a public offense punishable by imprisonment in a county jail for not more than one year.” (Cal. Penal Code § 96.5). Penal Code section 182 (a) (5) further criminalizes a conspiracy to “commit any act injurious to the public health, to public morals, or to pervert or obstruct justice, or the due administration of the laws.” Conspiracy to commit a misdemeanor offense can also be charged as a felony, pursuant to Penal Code Section 182 (a) (1).

**III. FACTUAL EVIDENCE IN SUPPORT OF SEARCH WARRANT**

**A. PEEVEY and PICKETT Secretly Discussed Specific Terms of SONGS Settlement at Hotel Bristol in Poland.**

**1. PEEVEY and PICKETT *ex parte* conversation**

On **March 26, 2013**, while SONGS was still offline and CPUC OII proceedings were still ongoing, Stephen PICKETT, then the Executive Vice President of External Relations at SCE, met with Michael PEEVEY, then the President of the CPUC, at an unrelated fact finding mission in Warsaw, Poland. According to handwritten notes memorialized on stationery from Warsaw’s Bristol Hotel, PICKETT and PEEVEY discussed settlement terms related to the closure of SONGS which included, among other things, decommissioning costs, investment recoveries, shutdown procedures, employee severance packages, rate payer costs, and a \$25 million dollar donation to an agreed upon greenhouse gas or environmental academic research fund. Your affiant obtained these notes in a home-office desk while executing a search warrant at PEEVEY’s residence in La Canada, California, on January 27, 2015.

MAJ

PICKETT reported back to his management at SCE within one week of his meeting with PEEVEY in Poland, and subsequently provided his management with his own version of the notes based on his recollection of the meeting with PEEVEY.

The notes seized from PEEVEY's residence address the following nine topics with additional information pertaining to each topic:

1. Pre-RSG Investment;
2. RSG and post – RSG investment;
3. Replacement Power Responsibility;
4. Neil Insurance Recoveries;
5. MHI Recovery;
6. Decommissioning Costs;
7. O&M;
8. Environmental Offset;
9. Process.

PICKETT's typed notes, entitled "Elements of a SONGS Deal," contain the same nine topics, in almost the exact same order, as the Hotel Bristol notes. PICKETT's notes also contain one additional topic entitled "Other Notes." Copies of both notes are included as Attachment #1.

**2. SCE Filed a Notice of Ex Parte Communications Two Years Late, Only After the Poland Meeting was Publicly Disclosed.**

On **January 27, 2015** your affiant executed a search warrant at PEEVEY's residence in La Canada, California, at which time your affiant seized the handwritten notes on Hotel Bristol stationery associated with the SONGS closure. Your affiant subsequently filed a search warrant return with the San Francisco County Superior Court and attached a copy of the property receipt. The Superior Court ordered the declaration sealed, but the property receipt remained publicly available.

On **January 30, 2015**, as a result of the search warrant return, the *San Diego Union-Tribune* reported the details of the search warrant and emphasized that law enforcement had seized "RSG notes on Hotel Bristol stationery."

On **February 9, 2015**, nine days after the *San Diego Union-Tribune* reported the seizure of the notes, and approximately two years after the actual meeting took place between PICKETT (SCE) and PEEVEY (CPUC), SCE belatedly disclosed that PICKETT met privately with PEEVEY in Poland on March 26, 2013, and that SCE failed to disclose the *ex parte* communication. According to the late-filed notice of *ex parte* communication, PEEVEY initiated the communication on a framework for a possible resolution of the pending OII regarding the closure of SONGS. SCE also reported that PICKETT took notes during the meeting, and PEEVEY kept the notes. According to SCE, it did not originally report the *ex parte* communication based on an understanding that "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." SCE further stated, "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."

**3. LITZINGER and PICKETT did not file *ex parte* report.**

On March 20, 2015, your affiant interviewed Ron LITZINGER, President of SCE. According to LITZINGER, he told PICKETT after the Poland trip that PICKETT was not authorized to engage in negotiations with PEEVEY regarding the closure of SONGS. LITZINGER claimed that when PICKETT came back from the trip and notified him about

the conversation, LITZINGER wondered why there was a “conversation taking place” while there was an active proceeding. Nevertheless, LITZINGER did not file, nor did he request that PICKETT file, a notice of *ex parte* communication.

Although SCE did not decide to close SONGS until May 2013, LITZINGER said he had to reinforce to PICKETT on April 11<sup>th</sup> that he (PICKETT) was not going to be part of the settlement team and that the settlement process was going to be very tightly controlled. LITZINGER said that he had to remind PICKETT of this fact, as PICKETT was “still talking like he was going to be part of the settlement team.”

**4. PEEVEY pressured LITZINGER to make commitment to UCLA as part of SONGS settlement agreement.**

LITZINGER also stated that, in a conversation with PEEVEY on **May 2, 2014**, while SONGS settlement proceedings were ongoing, PEEVEY requested that SCE make a \$25 million commitment to UCLA as part of the settlement. According to LITZINGER, PEEVEY emphasized the fact that he had discussed the matter with PICKETT in Poland. LITZINGER told your affiant that PEEVEY waved hand written notes. LITZINGER stated that he told PEEVEY, “I was aware that conversation took place, but Steve [PICKETT] was not authorized to speak on behalf of the company.”

**5. Edward RANDOLPH’s description of the Poland meeting**

Your affiant also interviewed Edward RANDOLPH, the current Director of Energy at the CPUC. RANDOLPH advised your affiant that he was present during the discussion between PEEVEY and PICKETT in Poland. RANDOLPH told your affiant that there were “ground rules” as to what they could talk to SCE about on the trip. When asked if these ground rules would prohibit substantive discussion on “pending proceedings,” RANDOLPH stated yes. RANDOLPH stated that there was an “offline



discussion” between RANDOLPH, PEEVEY, and PICKETT at a bar at the Bristol Hotel in Poland. When asked what pending proceeding they discussed, RANDOLPH answered, “The prime point of the discussion was to discuss the timing of a determination of if Southern California Edison was going to permanently shut down the San Onofre Nuclear Generation Facility.” RANDOLPH said that the discussion, in itself, did not relate to a proceeding in his opinion. According to RANDOLPH, the reason they were discussing the permanent shut down of SONGS is that it was already heading into a second summer in which the plant had been shut down, and SCE had not made a long term determination of what they would do if the plant closed permanently.

RANDOLPH said CPUC wanted SCE to do a long term determination so it could do long term planning and not short term “patchwork” which would be more expensive for the rate payers.

When RANDOLPH was asked if there was a more specific conversation about a settlement agreement, RANDOLPH answered, “Sort of, after we finished the discussion about making a determination about the plant closing, which was probably about a ten minute conversation, the conversation did drift into a conversation on what the financials on closing a plant would look like.” When asked who was led the conversation, RANDOLPH stated that the first part of the conversation, regarding a determination being needed on if the plant was going to be permanently closed, was led by PEEVEY. According to RANDOLPH, the second part of the conversation, regarding the financials of a plant closure, was led by PICKETT. RANDOLPH's recollection of events contradicts PICKETT's assertion that the discussion with PEEVEY was just one-way.

RANDOLPH told your affiant that, in his opinion, the discussion in Poland was an *ex parte* communication, and SCE should have reported it.

#### **5. Effects of Poland Conversation on Other Interested Parties**

As a result of a recent public disclosure of the PEEVEY notes your affiant seized at PEEVEY's residence, both ratepayer settlement parties (ORA and TURN) that negotiated with SCE, without the advantage of being aware of the PICKETT meeting with PEEVEY in Poland, issued the following separate statements on April 17, 2015:

##### ORA STATEMENT:

*"ORA has reviewed the Hotel Bristol Notes and has made a comparative analysis with the final SONGS settlement agreement. The Hotel Bristol Notes appear to set a framework for settlement that is similar to the elements of the settlement that was ultimately accepted by the CPUC. The Hotel Bristol Notes appear to demonstrate the degree to which Peevey and Pickett collaborated to orchestrate a settlement of the SONGS outage investigation. Based on ORA's analysis of the Hotel Bristol Notes and the final settlement agreement, customers still saved at least \$780 million more than the "deal" that Peevey and Pickett had described. However, ORA cannot honestly say that it got the best deal for ratepayers. Edison was likely able to use its knowledge of Peevey's position to steer the settlement in the direction it wanted. While ORA believes it worked to strike a good deal for ratepayers based on legal precedents, we are troubled by the possibility that we might have been able to strike a better deal."*

##### TURN STATEMENT:

*"The Warsaw meeting was a flagrant violation of CPUC rules governing ex parte contacts," said TURN staff attorney Matt Freedman. "The CPUC has properly ordered SCE to turn over all documents relating to communications with CPUC decision makers about the possible settlement of SONGS. Based on the responses to this ruling, TURN may seek a reopening of the case. At a minimum, TURN will urge the CPUC to assess the maximum sanction on SCE for its ex parte violations and apply any financial penalties toward reducing customer rates."*

The Utilities and Commerce Committee of the California Assembly also formally requested that John GEESMAN, Attorney for Alliance for Nuclear Responsibility, analyze the PEEVEY notes and make an assessment of the differences between the terms outlined in the notes and the actual settlement proposal. According to

GEESMAN, *"Prompt disclosure of ex parte communications like that between Mr. PICKETT and Mr. PEEVEY is an essential prerequisite for a level playing field in a regulatory proceeding."*

In regards to the advantage SCE had going into the negotiations as a result of the PEEVEY and PICKETT meeting and SCE's failure to disclose the meeting as required by law, GEESMAN stated, *"It appears to me that SCE managed to improve its position by at least \$919 million, and arguable \$1.522 billion, from what CPUC President PEEVEY had identified at the Hotel Bristol as a framework for a possible resolution."*

**B. PEEVEY's Request for UCLA Research Funds**

The University of California, Los Angeles (UCLA), has recently disclosed that while the SONGS closure settlement negotiations were still ongoing, and prior to a proposal being submitted to CPUC, PEEVEY requested that Stephanie PINCETL, the Director of UCLA's California Center for Sustainable Communities and Professor-in-Residence at UCLA's Institute of the Environment and Sustainability, submit a proposal for exactly \$25 million dollars that would be available as a result of the closure of SONGS.

On **April 4, 2014**, the settlement parties filed their proposed settlement to CPUC for approval. CPUC Commissioner Michel FLORIO and ALJ Melanie DARLING oversaw the settlement proceedings. The initial settlement proposal did not include, as stated in PEEVEY's Hotel Bristol notes, \$25 million dollars towards greenhouse gas research.

As noted, LITZINGER advised your affiant that PEEVEY told him on **May 2, 2014**, right after the settlement proposal was submitted to CPUC, that SCE needed to make a \$25 million dollar commitment to UCLA. PEEVEY referenced the fact that he had discussed the matter with PICKETT in Poland and waved hand written notes. According to LITZINGER, Commissioner FLORIO, the CPUC commissioner presiding over the matter, was also present at this conversation. LITZINGER advised your affiant that he refused to engage in conversation with PEEVEY on this matter. According to a LITZINGER declaration, after this meeting, he called FLORIO to advise that SCE was considering filing an *ex parte* notice. LITZINGER claimed that Commissioner FLORIO later told him he had discussed the matter with PEEVEY's chief of staff, and they had concluded there was no reason to disclose that the two sides had met. According to LITZINGER, over the next several weeks, PEEVEY attempted multiple times to pressure SCE to make this financial commitment directly to UCLA. Ultimately, PEEVEY told LITZINGER that he was going to bypass him and go straight to his boss Ted CRAVER.

Your affiant subsequently interviewed Ted CRAVER who confirmed that PEEVEY "went at him hard," telling him that they (SCE) did not get the importance of combatting climate change and this was an opportunity to do something, and if they were smart, they would figure out how to "wrap this in a cloak" and it would be good for public relations. CRAVER told PEEVEY that he knew PEEVEY has already been told this, but he (CRAVER) could not talk to PEEVEY about this matter. SCE never agreed to formally commit money to research.

On **May 19, 2014**, in response to an email from Stephanie PINCETL (UCLA) asking about the status of project funding, PEEVEY stated that SCE had advised him that her request was “a lot of money” and would have to be taken to SCE’s board for approval. PEEVEY added in his response to PINCETL, “I am, of course, exploring another option.”

In addition to PEEVEY’s in-person lobbying efforts, PEEVEY appeared to be organizing a letter-writing campaign to support a UCLA research program. Your affiant has reviewed documents on PEEVEY’S personal computer drafted as letters from Los Angeles-area elected officials to the CPUC, dated in early June 2014. The letters urge, as part of the pending SONGS settlement, that CPUC fund a proposed UCLA research program (California Center for Sustainable Communities at UCLA) involving the creation of a “sophisticated energy data analysis” which would result in reduction of GHG emissions. Similar letters were also delivered to SCE executives during the same time period.

On **August 15, 2014**, while CPUC was still considering the proposed SONGS settlement, the Luskin Center for Innovation at UCLA’s Luskin School of Public Affairs invited PEEVEY to serve on its advisory board and become a member of the sustainable energy working group. The Luskin Center’s mission is “organized around initiatives that seek to conduct and translate world-class research and expertise into real-world policy solutions. Initiatives are linked by the themes of sustainability, energy and environmental health justice.” The Luskin Center asked PEEVEY to “advise the center on how its resources can be best directed to maximize impact, including helping to identify and prioritize research projects; help facilitate strategic partnerships.”

PEEVEY accepted the invitation. (According to publicly available information on its website, PEEVEY remains a Luskin Center advisory board member today.)

On **September 5, 2014**, Commissioner FLORIO and ALJ DARLING issued a ruling that the proposed SONGS closure settlement could not be supported without two amendments, including a \$25 million dollar commitment to the University of California over five years.

LITZINGER told your affiant that SCE was not surprised, based on what had happened since May 2014, that the commitment to fund a center at UCLA was a prerequisite to approval of the settlement. LITZINGER told your affiant that SCE internally debated the amendments and met with the Board of Directors to discuss the new terms. LITZINGER said SCE agreed to the terms because "our investors wanted the uncertainty of SONGS behind them." According to LITZINGER, "The benefit of eliminating the uncertainty associated with SONGS far outweighed agreeing to the \$5 million a year."

On October 2, 2014 Stephanie PINCETL (UCLA) emailed PEEVEY to request a language modification that would enhance UCLA's ability to get the funding. As a result, PEEVEY emailed FLORIO that same day asking for the proposed language to be modified in order to accommodate UCLA. FLORIO emailed PEEVEY back, stating that his Chief of Staff spoke to ALJ Darling and had a "fairly difficult conversation" with her. FLORIO further stated in the email, "*Melanie (DARLING) seems to be in a particularly sour mood! Bottom line, she said she used the language she got from Lester in her ordering paragraph. I think that is the same as what you handed me today. We will try to clean this up before the PD mails tomorrow, or worst case in the final decision. I*

*Amf*

*don't sense any disagreement about the substance, just another ALJ resisting interference by those pesky commissioners. I am confident we will get there."*

On **November 25, 2014**, the SONGS settlement was formally approved, including the \$25 million dollar research grant to the University of California.

#### **IV. SUMMARY**

Based on the above evidence and facts, there is probable cause to believe that PICKETT knowingly engaged and conspired to engage in a reportable *ex parte* communication with PEEVEY in POLAND to the overall advantage of SCE in the subsequent settlement process pertaining to the closure of SONGS. It is also evident that PEEVEY utilized his position to influence SCE's commitment of millions of dollars to UCLA to fund a research program. The facts indicate that PEEVEY conspired to obstruct justice by illegally engaging in *ex parte* communications, concealed *ex parte* communications, and inappropriately interfered with the settlement process on behalf of California Center for Sustainable Communities at UCLA during the same time frame that he was accepting a position as an advisory board member at UCLA's Luskin Institute. PEEVEY executed this plan through back channel communications and exertion of pressure, in violation of CPUC *ex parte* rules, and in obstruction of the due administration of laws.

There is probable cause to believe that further evidence showing PICKETT knowingly engaged in a reportable *ex parte* communication with PEEVEY, will be found with PICKETT's former employer Southern California Edison.

There is probable cause to believe that Southern California Edison (SCE) would maintain general records, internal SCE communications, SCE communications with

CPUC decision maker(s), records of meeting, documents, board meeting minutes, sign in logs, and correspondence related to the meeting between PICKETT and PEEVEY, communications and negotiations pertaining to the potential closure and closure of SONGS, research money being committed to UCLA or the University of California, and the settlement of the SONGS OII.

Your affiant requests search warrant authorization from the Superior Court of Los Angeles County. Because SCE is headquartered in Rosemead, CA, there is probable cause to believe that at least a portion of the suspected criminal activity occurred in the County of Los Angeles.

Your affiant believes it is reasonable to request any and all records pertaining to the events surrounding the settlement of the SONGS closure, especially communications regarding the SONGS settlement from January 2012 to the present. It is reasonable to limit the search from January 2012 to the present because that is when SONGS stopped being operational.

**SEAL AFFIDAVIT AND WARRANT:**

It is further requested by your affidavit, due to the high profile nature of the investigation and the suspects, as well as the ongoing investigation into the matter, other potential suspects, that a sealing order be granted for this affidavit and search warrant.

Your affiant believes there is sufficient probable cause that the property described herein may be found at the locations set forth herein and that it is lawfully seizable pursuant to Penal Code Section 1524.



**LOCATION #1:**

**SOUTHERN CALIFORNIA EDISON COMPANY (SCE)  
or Legal Representatives of SCE  
2244 Walnut Grove Avenue  
Rosemead, California 91770  
MAY BE SERVED VIA EMAIL or FAX**

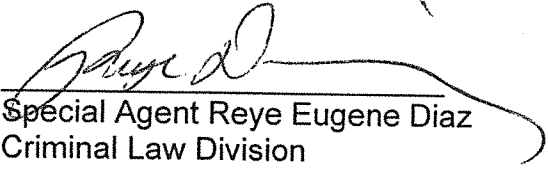
**FOR THE FOLLOWING PROPERTY:**

Any and all records from January 2012 until current, involving the San Onofre Nuclear Generating Station (SONGS) closure settlement agreement, the 2013 meeting between Stephen PICKETT and Michael PEEVEY in Poland, communication(s) pertaining to the determination of when and why SONGS would be closed, commitment of monies for research as a result of the closure of SONGS, and communication(s) pertaining to the settlement of the SONGS Order Instituting Investigation (OII). These records are to include:

1. Internal correspondence, emails, text messages, logs, support letters, letters, documentation, as well as correspondence, emails, text messages, logs, support letters, letters, documentation between SCE officials and CPUC officials, decision makers, Michel FLORIO, Michael PEEVEY, Edward RANDOLPH, and CPUC ALJs as they relate to the UCLA Luskin Institute at UCLA, University of California, UCLA's Institute of the Environment and Sustainability, California Center for Sustainable Communities at UCLA, the SONGS closure, the SONGS settlement, the SONGS OII investigation, and commitment of research funds involving the CPUC, and any and all lobbying efforts on any of these topics.
2. Internal SCE communications between SCE executive staff, including but not limited to Ron LITZINGER, Ted CRAVER, and Stephen PICKETT, regarding the meeting between PICKETT and PEEVEY in Poland, the SONGS settlement, the SONGS OII investigation, and monies committed to a research fund as a result of the SONGS closure.

I declare under penalty of perjury, under the laws of the State of California, that foregoing facts are true and correct to the best of my knowledge and belief.

Reviewed by Deborah Halberstadt  
Deputy Attorney General  
California Department of Justice

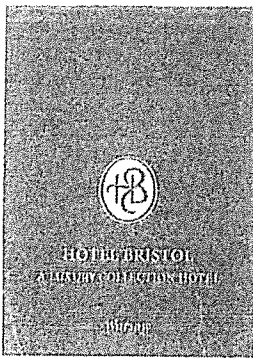
  
Special Agent Reye Eugene Diaz  
Criminal Law Division  
California Department of Justice

---

# ATTACHMENT 1

---

1001



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 ~~2/1/2011~~
3. Replacement power responsibility: customer
4. NEIL/insurance recoveries: to customers
5. MHI recovery: 1<sup>st</sup> to SCE to the extent of the disallowance  
2<sup>d</sup> to customers
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 - A pro of \$50 million

Next page

+48 22 55 11 000 telephone / telefonia  
+48 22 625 25 77 facsimile / fax

KRAKOWSKIE PRZEDMIEŚCIE 42/44  
00-325 WARSZAWA, POLAND

[luxurycollection.com/bristolwarsaw](http://luxurycollection.com/bristolwarsaw)

224

Elements of a SONGS Deal

1. Recover pre-RSG investment on a "SONGS 1" basis through 2022 (i.e., with a debt level return).
2. Disallow RSG investment entirely ("out of rate base retroactively").

Note: not clear whether the post-leak investment that is not directly related to the RSG's is included (e.g., the new heads, HP turbine, etc.)

3. Customers responsible for all replacement power costs (no disallowance).
4. Any NEIL proceeds go to customers.
5. MHI recovery: to SCE to the extent of any disallowance, then to customers, with some as yet undefined incentive mechanism to encourage SCE to go after MHI to the maximum extent possible for as long as it takes (thinking about the energy crisis settlement as a model).
6. O&M:
  - a. Already approved GRC amounts to shutdown plus some reasonable period beyond (+/- 6 months)
  - b. Ramp down to shutdown level of O&M thereafter.
  - c. Use a subsequent phase of the OII or a separate proceeding to determine the level of ongoing shutdown O&M.
  - d. Shutdown O&M to include "reasonable but generous" severance for affected SONGS employees.
7. Environmental offset: SCE to pay \$5-10 million per year for the remaining life of SONGS (i.e. through 2022) to an agreed upon GHG, climate, or environmental research fund or academic institution. Structured as a charitable donation.
8. Decommissioning to continue to be collected in rates as before through 2022, with reviews as before in triennial CPUC proceedings.

9. Process:

- a. Settlement agreement approved in OII.
- b. Balance of OII closed (except possibly a subsequent phase to determine level of ongoing shutdown O&M).

10. Other notes:

- a. Players in deal: Geesman (A4NR), FOE, TURN.
- b. Protecting labor brings TURN along (Carl Wood chair of TURN board).
- c. Privately stated complaints of SDG&E.
- d. Ron Olson involvement per energy crisis.

1526

On Feb 11, 2015, at 8:24 AM, Brett Morris <[Brett.Morris@doj.ca.gov](mailto:Brett.Morris@doj.ca.gov)> wrote:

Good morning. I missed your call last night.  
I am in my office this morning, I will stay off the phone.  
I am ready to chat, call at your earliest convenience.

Brett J. Morris  
Deputy Attorney General  
(510) 622-2176

---

**From:** Krystal Bowen [<mailto:KBowen@sheppardmullin.com>]  
**Sent:** Tuesday, February 10, 2015 3:35 PM  
**To:** Brett Morris  
**Cc:** Raymond Marshall; Deborah Halberstadt; Maggy Krell  
**Subject:** Re: CPUC Documents

Counsel,

I am in receipt of your email of 1:55 today requesting a meeting before 4:00. I was, and still am, in a meeting. I will try to reach you when I am out.

Krystal

On Feb 10, 2015, at 3:25 PM, Brett Morris <[Brett.Morris@doj.ca.gov](mailto:Brett.Morris@doj.ca.gov)> wrote:

Counsel-

I have called and left messages, and will call again today. I need to speak to you today about an important matter.  
If not today, first thing tomorrow morning would be an excellent time to talk as well.  
If you both would like to be on the call, let me know.

Brett J. Morris  
Deputy Attorney General  
(510) 622-2176

---

**From:** Krystal Bowen [<mailto:KBowen@sheppardmullin.com>]  
**Sent:** Wednesday, February 04, 2015 7:49 AM  
**To:** Brett Morris  
**Cc:** Raymond Marshall; Deborah Halberstadt; Maggy Krell  
**Subject:** RE: CPUC Documents

Mr. Morris,

I did not attempt to reach you yesterday because during or call on Monday evening, you indicated that you would not be in the office then. Therefore, I was waiting until this morning – when we might actually have an opportunity to connect – to reach out to you.

As indicated in an earlier email, on January 20 we produced approximately 845,917 documents to you, leaving approximately

247,646 potentially privileged documents (of the 1,093,654 that you provided to us from your execution of the search warrant) for us to review. Additionally, as you are aware, we are also in the process of producing documents responsive to requests from other authorities.

The CPUC has been – and continues to be – cooperative with your agency. To that end, to the extent that there is overlap in the materials that we have already produced in response to a subpoena and those that are called for by your search warrant, we will identify them and produce them to you. While we will not be able to do that today, we will be able to make that production next week. We will then continue to review and produce to you any other potentially privileged documents that we determine are not in fact privileged on a rolling basis. Following next week's production, we expect to be able to make another production by the end of this month, and will keep you apprised of the status of further productions.

As always, I am happy to discuss this with you further. Please let me know if there is a time today that you would like to speak. I can be available at any time other than noon - 2 p.m.

Best regards,  
Krystal

---

**From:** Brett Morris [mailto:[Brett.Morris@doj.ca.gov](mailto:Brett.Morris@doj.ca.gov)]  
**Sent:** Wednesday, February 04, 2015 6:39 AM  
**To:** Krystal Bowen  
**Cc:** Raymond Marshall; Deborah Halberstadt; Maggy Krell  
**Subject:** CPUC Documents

Ms. Bowen-

After our call Monday evening, I believe Mr. Marshall said that you would be contacting me on Tuesday with information about the CPUC documents.

I was away from the office yesterday, but checking this morning I have not found any correspondence or communications from you or your office.

Could you please let me know this morning if documents will be made available to us today?

Also, I am still waiting for some update on the process and expectations of timing and finality.

Thank you for your attention to this matter.

Brett J. Morris  
Deputy Attorney General  
(510) 622-2176

**CONFIDENTIALITY NOTICE:** This communication with its contents may contain confidential and/or legally privileged

information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.

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# EXHIBIT 10

**From:** Raymond Marshall [<mailto:RMarshall@sheppardmullin.com>]  
**Sent:** Sunday, June 21, 2015 3:53 PM  
**To:** Maggy Krell; Brett Morris; Reye Diaz; Deborah Halberstadt  
**Cc:** [jason.reiger@cpuc.ca.gov](mailto:jason.reiger@cpuc.ca.gov); Aguilar, Arocles; Naughton, Pamela; Krystal Bowen  
**Subject:** CPUC Update Status

Counsel,

Per your request, we are writing to provide you an update on our review and production process in response to your office's numerous requests for documents. In doing so, we note the following:

First, as a preliminary matter we feel it important to reiterate our guiding principles for responding to the multiple document requests we have received from you, the U.S. Attorney's Office and tens of Public Record Act Requests. They are simple: (1) review and produce documents as quickly, efficiently and economically as possible; (2) err on the side of transparency and disclosure without unintentionally waiving the CPUC's right to maintain any privileges it is entitled to assert under the law; and (3) communicate and cooperate with all requesting parties in the CPUC's ongoing efforts to timely review and produce documents.

Second, it is important to put into context the CPUC's production to date. As you are aware, following your execution of a search warrant on the CPUC in November 2014, we identified approximately 247,646 documents (of the 1,093,654 that we requested from you from your execution of the search warrant) as potentially privileged. In accordance with our March 13, 2015 email, we made a partial production of the documents (from those which we had previously designated as "potentially privileged") responsive to your 2014 search warrant in May. We will make another production of these materials in late-June/early-July. Unless you direct otherwise, we will then focus efforts on completing that production, begin the review and production of the deleted and recovered files and provide you with a privilege log of all documents currently being withheld on the basis of privilege.

Third, to expedite production we will continue or practice of making "rolling productions", as well as prioritizing for immediate production all documents previously reviewed and produced in response to requests by other parties or already part of the public record. Likewise, we will do a "rolling production" of a privilege log, which we will update as appropriate and called for in connection with future productions by the CPUC.

Fourth, as you are further aware, since the execution of the search warrant, your office has served three subpoenas, and an additional search warrant (served on June 5, 2015) on the CPUC. We are continuing to work diligently on these requests. However, given the large volume of materials sought and the overlapping requested due dates, we are requesting additional guidance from you on your prioritization of these requests. Importantly, we have significant concerns and questions about the breadth and scope of your June 5, 2015 Search Warrant. As we advised Agent Diaz, my former partner, Pam Naughton, will be handling the CPUC's response to the warrant and will contact you directly to discuss the various questions we have about the requests. As it currently stands, the new requests in the June 5 search warrant will delay our review and productions of Grand Jury Subpoenas #1 and #2, as well as the remaining documents that were previously identified as "potentially privileged" from the execution of your 2014 search warrant.

In sum, as stated previously, we are continuing to work diligently to review and produce the materials you are requesting, given limited resources and the concurrent demands of federal subpoenas and Public Records Act requests. However, we would benefit greatly from a dialogue with you about how best to

prioritize the requested materials. At that point, we will be in a better position to give you a more detailed timeline regarding our ability to be able to respond to your numerous requests.

Finally, I will be out of the country on vacation the next two weeks, returning to the office July 6. In the interim, Krystal Bowen and Pam McNaughton will be able to address any questions you may have in my absence.

Best regards,

Ray

Attention: This message is sent by a law firm and may contain information that is privileged or confidential. If you received this transmission in error, please notify the sender by reply e-mail and delete the message and any attachments.

Attention: This message is sent by a law firm and may contain information that is privileged or confidential. If you received this transmission in error, please notify the sender by reply e-mail and delete the message and any attachments.

# EXHIBIT 11

70763

SUPERIOR COURT OF CALIFORNIA

County of Los Angeles

SEARCH WARRANT RETURN  
and  
INVENTORY

Search Warrant No.

Issuing Magistrate: David V. Herriford

Date warrant issued: 6/5/15

Date warrant executed: 6/5/15

Location/Vehicles/Persons served and title:

California Public Utilities Commission  
San Francisco Office (HQ)  
505 Van Ness Ave.  
San Francisco, CA 94102

Manner of service: Served CPUC Legal Counsel/Sheppard Mullin via email.

I, Special Agent Reve Diaz, Office of the Attorney General, the affiant for this search warrant, state: The information listed above is correct and during the execution of the search warrant, the following property was seized:

Unable to obtain evidence at this time. CPUC legal counsel advises that due to limited resources, and the concurrent demands of federal subpoenas and public records act requests, the evidence is not currently available. Despite requests, CPUC has still not provided a specific time frame as to when documents will be provided as ordered by the Court. Your affiant will update the Court with a filing of an additional search warrant return.

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

Date: 6/24/2015

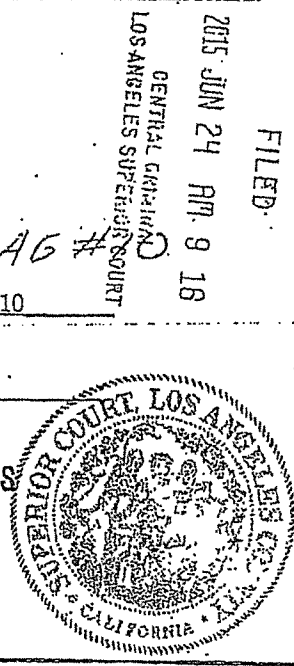
*Reve Diaz* AG #10  
 Special Agent Reve Diaz AG#10  
 Affiant

*[Signature]*  
 Judge of the Court

DAVID R. FIELDS

Penal Code § 1537

Reviewed by: Deputy Attorney General Maggy Krell



# EXHIBIT 12



DLA Piper LLP (US)  
401 B Street, Suite 1700  
San Diego, California 92101-4297  
www.dlapiper.com

Rebecca Roberts  
rebecca.roberts@dlapiper.com  
T 619.699.2776  
F 619.764.6626

August 27, 2015  
VIA UPS

OUR FILE NO. 393011-000001

Ms. Maggy Krell  
Office of the Attorney General  
1300 I Street  
Sacramento, California 95814  
maggy.krell@doj.ca.gov

CONFIDENTIAL/ SUBJECT TO GRAND JURY SECRECY

**Re: CPUC Production in Response to State Grand Jury Subpoenas**

Dear Ms. Krell:

Enclosed please find two encrypted disks containing the California Public Utilities Commission's ("CPUC") production in response to the first and second subpoenas issued by your office. The first disk contains documents Bates labeled CPUC CALAG 1688902 – CPUC CALAG 1689206, which are being produced in response to the first subpoena issued by your office for all emails, correspondence, and documents exchanged between: (1) Paul Clanon and Mark Wetzell, (2) Amy Yikugawa and Paul Clanon and (3) Paul Clanon and Mike Florio, concerning OII matters for the time period 2/15/12 to 9/15/13. This production includes all responsive, non-privileged documents (except as discussed below) that the CPUC has identified at this time. Thus, the CPUC deems its production in response to this first subpoena to be complete.

The second disk contains documents bates labeled CPUC CALAG 1689207 – CPUC CALAG 1692236, which are being produced in response to the second subpoena issued by your office concerning ALJ assignments between the time period 10/15/13 to 3/15/14. The CPUC recently identified additional documents which may be responsive to this subpoena. The CPUC will continue to produce, on a rolling basis, non-privileged documents to the extent they are responsive to this subpoena.

Some of the documents being produced in response to both subpoenas are subject to the Deliberative Process Privilege. Both federal and state law recognize this privilege, which extends to a public agency's materials that reflect deliberative or decision making processes. See Cal. Gov't Code section 6255; FTC v. Warner Comms., Inc., 742 F.2d 1156, 1161 (9th Cir. 1984); Wilson v. Super. Ct., 51 Cal. App. 4th 1136, 1142 (1996). See also Office of Attorney General "Summary of the California Public Records Act 2004", Section X(A) (recognizing the "Deliberative Process Privilege.")

The documents that are subject to this privilege have been designated "Deliberative Process Privilege" on their footers. In general, the CPUC is entitled to withhold these documents from any production. However, since CPUC is being compelled to produce these documents in response to grand jury subpoenas and grand juries are subject to strict secrecy requirements, the CPUC is producing these privileged documents to the grand jury.



Maggy Krell  
August 27, 2015  
Page Two

**However, this limited compelled production to the secret grand jury does not by any means constitute a waiver of the privilege, voluntary or otherwise.** Nor does it in any way hinder the CPUC's right or ability to assert this privilege in other proceedings. See, e.g., The Regents of University of California v. Super. Ct., 165 Cal. App. 4th 627 (2008); Regents of the University of California v. Workers' Comp. Appeals Bd., 226 Cal. App. 4th 1530 (2014).

As you well know, state grand jury proceedings are subject to strict secrecy requirements such that the information and evidence provided to a grand jury may only be further disclosed, by court order, in the limited contexts designated by the California Penal Code. See Goldstein v. Super. Ct., 45 Cal. 4th 218, 221 (2008). Thus, by law, the documents must be treated confidentially and not disseminated to any person without judicial or statutory authority. Indeed, grand jurors who unlawfully disclose information received by the grand jury may be subject to a misdemeanor. See, e.g., Cal. Penal Code sections 924.1, 924.2. All of the documents herein produced, which have been designated "Confidential" in their footers, must be kept secret as required by the California Penal Code. The same is true of all other CPUC documents, whether initially seized by your office or produced by the CPUC.

Furthermore, CPUC's compelled production of documents protected by the deliberative process privilege should in no way be construed as a waiver of the attorney-client, work product or other applicable privileges. The CPUC reserves all rights to assert applicable privileges in response to the grand jury subpoenas and search warrants. Any inadvertent production of any privileged material to the grand jury does not in any way constitute a waiver of the applicable privilege.

Per the CPUC's agreement with your office, we will continue to produce non-privileged materials in response to the two search warrants and the second subpoena on a rolling basis. The encryption for the disks will be sent separately via email.

Please do not hesitate to contact me if you have any questions.

Very truly yours,

**DLA Piper LLP (US)**

A handwritten signature in black ink, appearing to read 'Rebecca Roberts'.

Rebecca Roberts  
Associate

Enclosures

WEST260075193.1





Maggy Krell  
September 29, 2015  
Page Two

communications, your office provided us with copies of the seized documents in order to filter through agreed upon search terms to identify potentially privileged documents.

It is well settled that privileged documents may be withheld from a government investigation, even if those documents are subject to a search warrant. People v. Sup. Ct., 25 Cal. 4th 703 (2001) (government not entitled to documents protected by the attorney-client privilege and/or work product doctrine that were seized pursuant to a search warrant). Indeed, the Attorney General's Office itself withholds documents subject to subpoenas on the grounds of deliberative process and attorney-client privilege. Notably, Prime Healthcare Serv. v. Harris, No. 5:15-cv-01934-GHK-DTB (C.D. Cal. Sept. 21, 2015); Coleman v. Schwarzenegger, No. C01-1351 THE 2007, WL 4328476 (E.D. Cal. 2007); Coito v. Sup. Ct., 54 Cal. 4th 480 (2012).

The filtering process identified approximately 255,000 documents containing "potentially privileged" terms. The remaining documents (approximately 845,000) were immediately produced back to you. Since then, approximately 131,186 of the "potentially privileged" documents have been produced to you, leaving approximately 10% of the original 1.1 million yet to be reviewed. The nature of this review is time consuming. Unfortunately, there is no way to streamline this process unless your office allows us to suspend our review and deem the search warrant to have been complied with. Now that you have seen 90% of the documents from this search warrant, please let us know whether you wish us to continue our review or if you are, at this point, satisfied with the production.

If we need to review this last batch of documents, we estimate completion would require approximately an additional 65 working days. Notably, this estimate assumes current staffing levels, including the contract attorneys working 7 days a week, and working only on this search warrant and no other state or federal subpoenas or search warrants, which, of course, is not currently the case. If budgetary constraints force us to limit the number of hours of reviewers, which appears highly likely, then obviously the time to completion is lengthened.

In addition to the active files which we filtered and are currently reviewing, we were able to recover over 321,000 deleted documents from the copies your office provided to us. A good portion of these documents appear to be spam and/or junk email. However, approximately 60% contained privileged search terms. After a preliminary analysis, only 13% of the total deleted documents triggered key terms covering the subject matter addressed in the warrants (e.g., SONGS, utility domain name addresses, etc.). However, given our limited resources, we have not yet begun any review of them and thus have no estimate for completion. The completion date would obviously depend on whether we have to review all 321,000 or only the 13% which contained subject matter key terms.

## II. SONGS Search Warrant

Preliminarily, we wish to point out that the SONGS search warrant is vague and has caused confusion among our reviewers. Although not numbered, the search warrant vaguely identifies 5 broad categories for production. It calls for any and all records between January 31, 2012 through January 31, 2015: (1) involving the SONGS OII settlement agreement, (2) the 2013 meeting between Pickett and Peevey in Poland, (3) communications as to when and why the San Onofre facility would be closed, (4) commitment of monies for greenhouse gas research as a result of the SONGS settlement, and (5) communications with parties to the settlement of SONGS OII.

**quivix**  
QUIVIX CORPORATION  
16500 QUIVIX DRIVE  
DALLAS, TEXAS 75244  
TEL: 972.382.1100  
WWW.QUIVIX.COM

Reference:

CPUC: Cal AG Seized Materials

Date: 8/19/2015

Client:

DLA Piper

Date of Production: 08/19/2015

QC Pre-Production: 08/19/2015

Order Number: 260425

Encrypted with TrueCrypt

Relativity/Text/Native Files

Bates Range: CPUC CALAG 1688902

CPUC CALAG 1688902 -

**quivix**  
QUIVIX CORPORATION  
16500 QUIVIX DRIVE  
DALLAS, TEXAS 75244  
TEL: 972.382.1100  
WWW.QUIVIX.COM

Reference:

CPUC: CAL AG Seized Materials

Date: 8/19/2015

Client:

DLA Piper

Order Number: 260426

Date of Production: 08/19/2015

QC Pre-Production Subpoena 2

Encrypted with TrueCrypt

Relativity/Text/Text File Production with

Bates Range: CPUC CALAG 1689207 -

CPUC CALAG 1692236

# EXHIBIT 13



DLA Piper LLP (US)  
401 B Street, Suite 1700  
San Diego, California 92101-4297  
www.dlapiper.com

Rebecca Roberts  
rebecca.roberts@dlapiper.com  
T 619.699.2776  
F 619.764.6626

September 8, 2015  
VIA UPS

OUR FILE NO. 393011-000001

Ms. Maggy Krell  
Office of the Attorney General  
1300 I Street  
Sacramento, California 95814  
maggy.krell@doj.ca.gov

CONFIDENTIAL/ SUBJECT TO GRAND JURY SECRECY

**Re: CPUC Production in Response to SONGS Search Warrant**

Dear Ms. Krell:

Enclosed please find a production drive which includes documents the California Public Utilities Commission (CPUC) is producing in response to the search warrant your office issued on June 5, 2015 concerning the San Onofre Nuclear Generating Station settlement agreement ("SONGS search warrant"). This drive contains documents Bates labeled CPUC CALAG 1692237 – CPUC CALAG 01870835. These documents contain SONGS references produced in prior productions to federal authorities. The CPUC will continue to produce, on a rolling basis, non-privileged documents which are responsive to the SONGS search warrant.

Some of the documents being produced in response to the SONGS search warrant may be subject to the deliberative process privilege. Both federal and state law recognize this privilege, which extends to a public agency's materials that reflect deliberative or decision making processes. See Cal. Gov't Code section 6255; FTC v. Warner Comms., Inc., 742 F.2d 1156, 1161 (9th Cir. 1984); Wilson v. Super. Ct., 51 Cal. App. 4th 1136, 1142 (1996). See also Office of Attorney General "Summary of the California Public Records Act 2004", Section X(A) (recognizing the "Deliberative Process Privilege.")

The CPUC is being compelled to produce these documents in response the SONGS search warrant. **This limited compelled production does not by any means constitute a waiver of the privilege, voluntary or otherwise.** Nor does it in any way hinder the CPUC's right or ability to assert this privilege in other proceedings. See, e.g., The Regents of University of California v. Super. Ct., 165 Cal. App. 4th 627 (2008); Regents of the University of California v. Workers' Comp. Appeals Bd., 226 Cal. App. 4th 1530 (2014).

As you well know, state grand jury proceedings are subject to strict secrecy requirements such that the information and evidence provided to a grand jury may only be further disclosed, by court order, in the limited contexts designated by the California Penal Code. See Goldstein v. Super. Ct., 45 Cal. 4th 218, 221 (2008). Thus, by law, the documents must be treated confidentially and not disseminated to any person without judicial or statutory authority. Indeed, grand jurors who unlawfully disclose information received by the grand jury may be subject to a misdemeanor. See, e.g., Cal. Penal Code sections 924.1,



Maggy Krell  
September 8, 2015  
Page Two

924.2. All of the documents herein produced, which have been designated "Confidential" in their footers, must be kept secret as required by the California Penal Code. The same is true of all other CPUC documents, whether initially seized by your office or produced by the CPUC.

Furthermore, CPUC's compelled production of documents protected by the deliberative process privilege should in no way be construed as a waiver of the attorney-client, work product or other applicable privileges. The CPUC reserves all rights to assert applicable privileges in response to the grand jury subpoenas and search warrants. Any inadvertent production of any privileged material does not in any way constitute a waiver of the applicable privilege.

Per the CPUC's agreement with your office, we will continue to produce non-privileged materials in response to the two search warrants and the second subpoena on a rolling basis. The encryption for the drive will be sent separately via email.

Please do not hesitate to contact me if you have any questions.

Very truly yours,

**DLA Piper LLP (US)**

Rebecca Roberts  
Associate

Enclosures

WEST\261221070.1

# EXHIBIT 14



**DLA Piper LLP (US)**  
401 B Street, Suite 1700  
San Diego, California 92101-4297  
www.dlapiper.com

Rebecca Roberts  
rebecca.roberts@dlapiper.com  
T 619.699.2776  
F 619.764.6626

September 24, 2015  
VIA UPS

OUR FILE NO. 393011-000001

Ms. Maggy Krell  
Deputy Attorney General  
California Department of Justice  
Office of the Attorney General  
1300 I Street  
Sacramento, California 95814  
maggy.krell@doj.ca.gov

CONFIDENTIAL/ SUBJECT TO GRAND JURY SECRECY

**Re: CPUC Production in Response to First Cal. AG Search Warrant**

Dear Ms. Krell:

Enclosed please find a production drive which includes documents the California Public Utilities Commission (CPUC) is producing in response to the search warrant your office issued on November 5, 2014. This drive contains documents Bates labeled CPUC CALAG 1870836 – CPUC CALAG 2122870. Pursuant to our agreement with the Attorney General's office, the CPUC will continue to produce, on a rolling basis, documents which are responsive to the November 2014 search warrant.

Some of the documents being produced may be subject to the deliberative process privilege. Both federal and state law recognize this privilege, which extends to a public agency's materials that reflect deliberative or decision making processes. See Cal. Gov't Code section 6255; FTC v. Warner Comms., Inc., 742 F.2d 1156, 1161 (9th Cir. 1984); Wilson v. Super. Ct., 51 Cal. App. 4th 1136, 1142 (1996). See also Prime Healthcare Services, Inc. v. Office of the Attorney General, No. 5:15-cv-01934-GHK-DTB (C.D. Cal. Sept. 21, 2015).

The Attorney General's office seizure of these documents **does not by any means constitute a waiver of the privilege, voluntary or otherwise by the CPUC.** Nor does it in any way hinder the CPUC's right or ability to assert this privilege in other proceedings. See, e.g., The Regents of University of California v. Super. Ct., 165 Cal. App. 4th 627 (2008); Regents of the University of California v. Workers' Comp. Appeals Bd., 226 Cal. App. 4th 1530 (2014).

As you well know, state grand jury proceedings are subject to strict secrecy requirements such that the information and evidence provided to a grand jury may only be further disclosed, by court order, in the limited contexts designated by the California Penal Code. See Goldstein v. Super. Ct., 45 Cal. 4th 218, 221 (2008). Thus, by law, the documents must be treated confidentially and not disseminated to any person without judicial or statutory authority. Indeed, grand jurors who unlawfully disclose information received by the grand jury may be subject to a misdemeanor. See, e.g., Cal. Penal Code sections 924.1, 924.2. All of the documents herein produced, which have been designated "Confidential" in their footers,



Maggy Krell  
September 24, 2015  
Page Two

must be kept secret as required by the California Penal Code. The same is true of all other CPUC documents, whether initially seized by your office or produced by the CPUC.

Furthermore, CPUC's compelled production of documents protected by the deliberative process privilege should in no way be construed as a waiver of the attorney-client, work product or other applicable privileges. The CPUC reserves all rights to assert applicable privileges in response to the grand jury subpoenas and search warrants. Any inadvertent production of any privileged material does not in any way constitute a waiver of the applicable privilege.

Per the CPUC's agreement with your office, we will continue to produce materials in response the two search warrants and the second subpoena on a rolling basis. The encryption for the drive will be sent separately via email.

Please do not hesitate to contact me if you have any questions.

Very truly yours,

**DLA Piper LLP (US)**

A handwritten signature in black ink that reads 'Rebecca Roberts'.

Rebecca Roberts  
Associate

Enclosure

WEST261764069.1



# EXHIBIT 15



DLA Piper LLP (US)  
401 B Street, Suite 1700  
San Diego, California 92101-4297  
www.dlapiper.com

Pamela Naughton  
pamela.naughton@dlapiper.com  
T 619.699.2775  
F 619.764.6625

September 29, 2015

OUR FILE NO. 393011-000001

*VIA EMAIL AND US MAIL*

Ms. Maggy Krell  
Deputy Attorney General  
California Department of Justice  
Office of the Attorney General  
1300 I Street  
Sacramento, CA 95814

**Re: California Public Utilities Commission**

Dear Ms. Krell:

On behalf of the CPUC, we are providing you with updates of the CPUC's production of documents to your office and our plans to complete the productions.

As you know, your office served 2 search warrants and 3 grand jury subpoenas on the CPUC between November 4, 2014 and June 5, 2015. In addition to these demands, the CPUC has received 5 grand jury subpoenas from the United States Attorney's Office. The SONGS search warrant, served by your office, was the last of no less than 10 formal demands for information from two different prosecuting agencies.

The CPUC is a public agency that is integral to the safe, fair and effective operation of California's utilities. Although, as a state agency, it cannot be criminally charged, the CPUC has nevertheless fully cooperated with the ongoing investigations and will continue doing so. However, the excessive demands by the Attorney General and the US Attorney's Office are impinging on the CPUC's already limited resources and threatening its very ability to carry out its constitutionally mandated duties.

To date, the CPUC has produced well over a million documents to the Attorney General. Since January, the CPUC has continue to produce documents nearly every month, on a rolling basis. We have produced documents in response to each and every demand your office has issued. We have completed our production in response to subpoenas 1 and 3.

Now that you have received, and presumably reviewed, the over 1 million documents produced to date and, no doubt, have a better sense of the types of documents requested and how pertinent they may or may not be, it seems an appropriate time to evaluate the remaining document demands to make sure you truly need more documents and, if so, to explain how we intend to go about review and production in the most efficient way possible.

What follows is a summary of the status as to each document demand.

I. **Search Warrant Executed In November 2014**

In November 2014 state agents seized computers and hardware containing approximately 1.1 million live documents. Because of the likelihood of some of these documents containing privileged



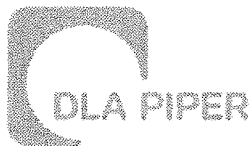
Maggy Krell  
September 29, 2015  
Page Three

It also specifies 22 custodians (8 of whom are CPUC employees) and requires the CPUC to further identify additional CPUC custodians who were involved in the implementation of the greenhouse gas research provisions and also gather hard copy documents from the identified custodians, which we are in the process of completing.

Section 5 of the search warrant further details what documents should be provided as to three of the demands:(1), (2) and (4):

<b>Introductory Paragraph</b>	<b>Section 5 Further Specifications</b>
(1) SONGS closure settlement agreement	(5)(a): (1)documents constituting or referring to communications with SCE about the OII prior to the execution of the settlement on March 27, 2014 (excluding on-the-record communications such as SCE pleadings filed with the CPUC); and (2) documents constituting communications with TURN or ORA referencing communications from Peevey regarding SONGS or UC in the context of the settlement negotiations up to March 27, 2014
(2) the 2013 meeting between Stephen PICKETT and Michael PEEVEY in Poland	(5)(b): As to documents pertaining to the Poland trip in March 2013, CPUC will produce documents constituting or referring to communications during that trip that relate to SONGS. These documents will include any communications or materials regarding SONGS made: (1) in anticipation of the trip, (2) any documents or communications regarding SONGS that occurred during the trip, and (3) any communications or material regarding SONGS created after the trip ended.
(4) commitment of monies for research as a result of the closure of SONGS	(5)(c): As to the documents regarding funding of research in connection with the SONGS settlement, CPUC will produce documents and all communications that: (1) constitute or refer to communications with SCE or UCLA regarding greenhouse gas research as part of the SONGS drafts of same; (2) refer to SCE's contributing to the UCLA Luskin Institute at UCLA, the University of California, UCLA's Institute of the Environment and Sustainability, or the California Center for Sustainable Communities at UCLA, in connection with the SONGS settlement; and (3) constitute advocacy directed to the CPUC by local governmental agencies in support of greenhouse gas research as part of the settlement.

However, the search warrant does not provide any further guidance as to demands (3) (communication(s) pertaining to the determination of when and why SONGS would be closed) and (5) (communication(s)



Maggy Krell  
September 29, 2015  
Page Four

pertaining to the settlement of the SONGS OII), which are very broad and vague. Practically anything produced or created for the OII proceeding could be considered to relate as to why SONGS would be closed or the ultimate settlement of the OII itself. Yet, subsection (5)(a) indicates that the CPUC is not required to produce public filings, at least as to the settlement agreement.

To respond to the search warrant, CPUC pulled emails and documents from its servers from the specified CPUC employees, plus other CPUC employees known to be involved with the SONGS OII settlement or greenhouse gas provisions. We also extracted communications to, from, and/or copying the SoCal Edison employees listed in the search warrant. This data was exported into a larger database. There are currently several million documents in this database.

To efficiently and effectively respond to the search warrant, the CPUC compiled SONGS search terms, based on the demands of the search warrant and the detailed requests of section 5, and applied these terms to the emails and other documents of the 22 identified custodians, plus the additional employees identified by the CPUC. This produced several hundred thousand documents which will be reviewed for relevance. We have also applied the agreed upon privileged terms to identify any potentially privileged documents and will review those documents for privilege. We are still in the process of collecting and processing documents from all possible sources. At this point, we do not have an estimate of the total volume, or anticipated completion date.

Finally, as we explained in our last telephone call with you, at least 20,000 of the documents **already produced** to the Attorney General's office in response to the first search warrant and earlier subpoenas triggered SONGS search terms. Moreover, on September 8, 2015, the CPUC produced approximately 19,335 additional documents to the Attorney General's office that referenced SONGS search terms and had been produced in prior productions to federal authorities. Thus, over 40,000 documents have been produced responsive to this search warrant. Since these facts clearly contradict agent Diaz's statement filed with the return of the search warrant, we ask that his affidavit be corrected and refiled with an errata.

### III. Second Grand Jury Subpoena

The CPUC has already produced nearly two thousand documents in response to this subpoena. To fully respond to this subpoena, the CPUC has isolated all correspondence among all ALJs during the relevant time period and searched for all documents that trigger the term "assign" or "assignment". These search parameters encompassed over 17,000 documents, which will need to be reviewed for relevance and privilege.

We are open to discussing any suggestions you have as to how we could further prioritize or downsize the review tasks and get truly pertinent documents to you more quickly. We are happy to meet and confer regarding the scope of your requests and our productions.



Maggy Krell  
September 29, 2015  
Page Five

Please call me with any questions or concerns.

Very truly yours,

**DLA Piper LLP (US)**

A handwritten signature in black ink, appearing to read 'Pamela Naughton', written over a horizontal line.

Pamela Naughton  
Partner

PN:mev

WEST261656856.1

# EXHIBIT 16



DLA Piper LLP (US)  
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www.dlapiper.com

Pamela Naughton  
pamela.naughton@dlapiper.com  
T 619.699.2775  
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October 16, 2015

OUR FILE NO. 393011-000001

*CONFIDENTIAL*

Ms. Maggy Krell, Deputy Attorney General  
Ms. Deborah Halberstadt, Deputy Attorney General  
Reye Diaz, Special Agent  
Office of the Attorney General  
1300 I Street  
Sacramento, California 95814  
maggy.krell@doj.ca.gov  
deborah.halberstadt@doj.ca.gov  
reye.diaz@doj.ca.gov

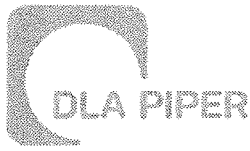
Dear All,

As we discussed with Special Agent Diaz and Ms. Halberstadt on Tuesday, October 13, below is a summary of the CPUC's production to date in response to the SONGS search warrant issued on June 5, 2015. Also below is a summary of our proposal to streamline the review and production of (1) the deleted emails recovered from the data seized pursuant to the first search warrant issued in November 2014 and (2) the approximately 100,000 documents that remain to be reviewed in response to this search warrant.

I. **Compliance with the SONGS Search Warrant**

First, as we informed you during our call and explained in our September 29, 2014 letter, the California Attorney General has a substantial volume of documents responsive to the SONGS search warrant (by our estimate, over 20,000 documents) already in its possession due to the fact that it initially seized a number of computers and hard drives as a result of the November 5, 2014 warrant. The items seized were computers, hard drives, and other devices of certain custodians such as former Commission President Michael Peevey, Michel Florio, Carol Brown, etc. Since your office seized these documents, it obtained everything on them, including any documents relating to SONGS. Per the CPUC's prior agreement with the Attorney General's office, you provided us with copies of everything initially seized and allowed us to review documents that triggered certain terms which may indicate that a document is privileged. Following this agreed upon protocol, we have produced over a million documents back to your office to date (approximately 845,000 which did not trigger any potentially privileged terms and approximately 131,000 which were reviewed for privilege and then produced.)

Using our document review platform tool, we applied relevant SONGS terms to the documents we had already produced back to you as of July 31, 2015 from the first search warrant. Our term search results identified approximately 20,373 documents. So, even before the CPUC made any production to your office specifically in response to the SONGS search warrant, your office already had a substantial volume of responsive documents in your possession. Please note that this search result does NOT include



Ms. Maggy Krell, Deputy Attorney General  
October 16, 2015  
Page Two

additional documents the CPUC produced to you in response to the November 5, 2014 search warrant on September 24, 2015. So, it is highly likely you have even more SONGS responsive documents in your possession.

Second, on September 8, 2015, the CPUC produced approximately 19,335 documents to your office in response to the SONGS search warrant. This production consisted of documents that referenced SONGS search terms that had been produced in prior productions to federal authorities.

Third, the CPUC intends to make another production in response to the SONGS search warrant by the end of the month. In order to respond to the SONGS search warrant, CPUC pulled emails and documents from its servers from the specified CPUC employees, plus other CPUC employees known to be involved with the SONGS Oil settlement or greenhouse gas provisions. We also extracted communications to, from, and/or copying the SoCal Edison employees listed in the search warrant. This data was exported into a larger database. There are currently several million documents in this database.

To efficiently and effectively respond to the search warrant, the CPUC applied SONGS search terms to the emails and other documents of the 22 identified custodians, plus the additional employees identified by the CPUC. We have also gathered hard copy documents from the identified custodians and will be producing these documents in the next production.

We will continue to produce documents responsive to the SONGS search warrant on a rolling basis, after we have completed our production in response to the November 2014 search warrant, per your instruction.

II. **Streamlining Production on the November 5, 2014 Search Warrant**

As we discussed on our call, the CPUC has identified approximately 321,000 deleted and recovered emails from the material initially seized pursuant to the November 5, 2014 search warrant. You agreed that the CPUC may limit its review and production of these documents to only those which trigger terms related to the first search warrant and the SONGS search warrant. Our proposed terms are attached as Exhibit A.

Additionally, we estimate that we have approximately 100,000 documents that remain to be reviewed in response to the November 2014 search warrant. It will greatly streamline the process and reduce expenses to filter those 100,000 documents using the terms in Exhibit A. We are open to discussing any additional search terms with you. In the meantime, we will proceed with the filtering process.

Once we finalize the most recent production on SONGS, our priority will be completing our review of the documents responsive to the first search warrant. Once we have completed that review, we will discuss





Ms. Maggy Krell, Deputy Attorney General  
October 16, 2015  
Page Three

our next steps for completing production in response to grand jury subpoena #2 and the SONGS search warrant.

Please let us know if you have any questions, concerns or comments regarding the proposed search terms. Thank you.

Very truly yours,

**DLA Piper LLP (US)**

A handwritten signature in black ink, appearing to read 'Pamela Naughton', followed by a horizontal line.

Pamela Naughton  
Partner

Admitted In California Bar

WEST262193877.1

## EXHIBIT A

SONGS\*

"San Onofre"

"12-10-013"

"1210013"

Unit2\*

"Unit 2"

Poland

Warsaw

"Bristol Hotel"

"greenhouse"

(green\* w/3 house)

"ghg"

(fund\* w/3 research)

"UC"

"UCLA"

(University w/3 California)

"Luskin"

"IES"

(Institute w/3 Environment w/3 Sustainability)

((Institute w/3 Environment) w/2 Sustainability)

"CCSC"

(California w/3 Center w/3 Sustainable w/3 Communities)

((California w/3 Center) w/2 Sustainable) w/3 Communities)

"CFEE"

(California w/3 Foundation w/5 Environment w/5 Economy)

((California w/3 Foundation) w/2 Environment) w/3 Economy)

HECA

Annual w/3 dinner

Cherry

Judge w/3 Long

Judge w/3 Wong

\*sce.com

\*edisonintl.com

\*sdge.com

\*pge.com

\*Semprautilities.com

# EXHIBIT 17

*KAMALA D. HARRIS*  
*Attorney General*

*State of California*  
**DEPARTMENT OF JUSTICE**



1300 I STREET, SUITE 125  
P.O. BOX 944255  
SACRAMENTO, CA 94244-2550

Public: (916) 445-9555  
Telephone: (916) 322-0896  
Facsimile: (510) 622-2270  
E-Mail: [Deborah.Halberstadt@doj.ca.gov](mailto:Deborah.Halberstadt@doj.ca.gov)

October 22, 2015

Ms. Pamela Naughton  
DLA Piper, LLP  
401 B Street, Suite 1700  
San Diego, California 92101-4297

**RE: California Public Utilities Commission**

Dear Ms. Naughton:

Thank you for speaking with us last week, and for your follow up letter. We appreciate this ongoing conversation, as we have been deeply concerned regarding CPUC's compliance with our November 4, 2014 and June 5, 2015 search warrants.

We recognize that there are voluminous documents to be reviewed. To give you some background, as the third CPUC counsel we have worked with, in December of 2014 after waiting over a month for initial production from our first CPUC search warrant, we offered to create an internal "taint team" within the Office of the Attorney General, completely separate from the investigating team, to review the seized evidence for privilege. We have successfully used this methodology with other entities in this and in other cases. However, CPUC opposed this option and insisted that CPUC be the ones to conduct the review. Moreover, during these initial discussions, CPUC counsel committed to producing evidence efficiently on a rolling basis.

Concerned about CPUC's time table, we also proposed, drafted, and circulated a Confidentiality Agreement, whereby CPUC and the Office of the Attorney General would have agreed that any potentially privileged information obtained from CPUC by the Office of the Attorney General could be reviewed without waiver of any privilege, and that any privileged material would be maintained as confidential investigatory material. This solution too has worked in other cases. CPUC refused to agree to this option.

On March 2, 2015, Deputy Attorney General Maggy Krell personally met with President Picker to re-offer the Confidentiality Agreement and explain the difficulty we were having investigating this case while being delayed and hampered by the CPUC's lack of compliance. While expressing an interest in cooperating, on advice of several attorneys, President Picker would not agree to the Confidentiality Agreement.

October 22, 2015

Page 2

Over the subsequent months, we repeatedly requested the production of documents responsive to the November 4, 2014 search warrant. In February 2015 we were told we would receive a production of the potentially privileged documents that had already been screened, by the end of the month. No such production was made. In March, we requested an update and were informed that CPUC expected to begin a rolling production of materials responsive to the November search warrant in May. On May 26, 2015 we requested another update; at that point we still had not received any privilege-reviewed material in response to the search warrant. CPUC finally made its first production of privilege-reviewed material on May 29, 2015. In late June, CPUC notified us that it intended to make another partial production of potentially privileged material in late June or early July. Despite numerous requests from our office in June and July 2015 for a timeline as to when CPUC intended to complete its responses to the November search warrant, we were told only that CPUC was "well on its way." Meanwhile, CPUC was served with a further search warrant on June 5, 2015, where the court ordered CPUC to turn over records related to SONGS. Despite multiple requests, CPUC failed to provide any specific time line or production relevant to that search warrant, stating only that they "are working on it" and are "overwhelmed" with requests.

In late August, 2015, we received notification that CPUC had hired a new law firm, and that your firm, DLA Piper would now be representing CPUC. We renewed our request for a time line and specifics about how many documents were still in the queue to be privilege reviewed.

Finally, on September 29, 2015, we received your letter stating, "there is no way to streamline this process unless your office allows us to suspend our review and deem the search warrant complied with." As I noted in our call, given the history of CPUC's dilatory response to the search warrant, we do not intend to suspend review, and we do not deem the search warrant complied with. In order to streamline the process, we again offered to provide an internal taint team or to sign a confidentiality agreement. You appeared to decline both options. You stated that you believed CPUC could finalize its review of the 103,000 documents, and the additional 20,000 retrieved from deleted files, within 55 to 75 days. Consequently, we expect to receive, on a rolling basis, all relevant documents no later than December 28, 2015.

We also discussed the alternative of you providing a list of search terms for our review, which could limit the number of documents you must review. You have provided a list of 36 search terms, the vast majority of which relate to the second search warrant of June 5, 2015. We will provide you with any additional search terms relevant to both search warrants. In the meantime, we expect that you will continue reviewing the 103,000 documents in order to complete the review by December 28, 2015.

Regarding the June 5, 2015 search warrant, in our conversation you stated that some of the documents provided in response to the November 4, 2014 search warrant were also responsive to the June search warrant. We asked you to delineate which documents from the November search warrant you believed were responsive, so that we may inform the court. Please provide us with written documentation of the Bates numbers of the documents you believe are responsive to both search warrants.

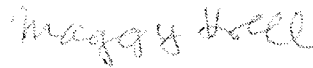
October 22, 2015

Page 3

You requested clarification regarding certain terms in the search warrant. We will be providing answers to your questions shortly. We also agreed to allow CPUC to complete its responses to the November 4, 2014 search warrant first, with the understanding that documents responsive to both search warrants will be identified as such.

In close, please understand that this investigation is a significant one. Asking us to suspend the search or be satisfied with 90% compliance is unacceptable in this context, where the integrity of a public agency is at stake. We will do everything we can to work with you and simplify our requests, but if deadlines continue to go unmet our only option will be to bring an Order to Show Cause. Please feel free to contact me at (916) 322-8096 with any questions you may have. Thanks very much and we look forward to working with you on this.

Sincerely,



DEBORAH R. HALBERSTADT  
Deputy Attorney General

MAGGY KRELL  
Deputy Attorney General

For KAMALA D. HARRIS  
Attorney General

DRH:

LA2014118251  
32253898

# EXHIBIT 18



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Pamela Naughton  
pamela.naughton@dlapiper.com  
T 619.699.2775  
F 619.764.6625

November 12, 2015  
VIA E-MAIL AND US MAIL

OUR FILE NO. 393011-1

Ms. Deborah Halberstadt  
Deputy Attorney General  
California Department of Justice  
1300 I Street, Suite 125  
P.O. Box 944255  
Sacramento, CA 94244-2550

**Re: Document Productions of the California Public Utilities Commission**

Dear Ms. Halberstadt:

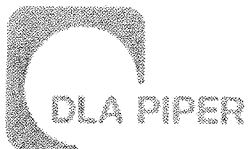
This responds to several statements made in your letter of October 22, 2015 and also further explains our compliance with the search warrants and subpoenas served by your office on the CPUC.

Your letter states that your office waited for "over a month" for the initial production on the first search warrant. This is not true. In November 2014, the same day your agents served the search warrant, they chose and physically took computers and electronic data from the premises of CPUC. The judge issuing the warrant and the parties all agreed that the data taken had to first be reviewed for privilege before investigating agents could examine them. We agreed that once you provided us with copies of what had been seized, we would run filters through the documents using search terms we mutually agreed upon. Those which contained privileged search terms, we would review and those which did not, we would produce in bulk without review. It took your office **more than two months** to produce to us the electronic data that had been seized. We received those three hard drives on January 14, 2015. The very next day we filtered the electronic data through the privileged search terms. Six days after receiving the three hard drives from you, on January 20, 2015, we processed, bates stamped and produced to you over 845,000 documents, just as we said we would. The vendor's records confirm your receipt. Therefore, our first production did not take months -- it took only six days.

Although it is true that your office proposed that the 1.1 million documents seized could be reviewed by a "taint" team from your office, it was never explained who would comprise the "taint team", their experience level, their numbers or their expenses. As I explained in our last telephone call, our review team is comprised of 14 attorneys -- 10 of whom have been working since the inception of this matter an average of 9 hours per day, 7 days per week in order to complete the review of a data base now containing over 6.5 million documents in order to respond to 5 formal document demands from your office and 5 from the federal grand jury. It is doubtful that any "taint team" would have included more resources than what the CPUC has itself devoted to this mission.

You also stated in your letter that this review would not have been necessary if the CPUC had simply given over privileged documents to your office upon entry into a Confidentiality Agreement.





Ms. Deborah Halberstadt  
November 12, 2015  
Page Two

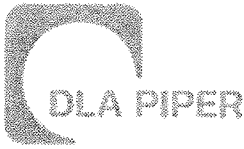
Unfortunately, even if a prosecutor agrees to keep privileged material confidential, the courts may deem the privileged waived by the producing party at the time it surrenders the material to the prosecutor. In re Pacific Pictures Corp., 679 F.3d 1121 (9<sup>th</sup> Cir. 2012). This can have serious repercussions in the civil and administrative arenas. As you are aware, the CPUC, in addition to being a party in countless civil disputes, is also a quasi-judicial body which renders decisions in very complex matters involving billions of dollars. It cannot risk a future adverse ruling that the waiver of privilege to your formal document demands constitutes a universal waiver, no matter how unintended by your office or by us. Finally, the investigatory leaks to the press, as demonstrated by the presence of TV cameras at the execution of the first search warrant, gives serious pause to valuing the promised confidentiality on either the waiver issue, or the taint team proposal.

Your letter goes on to claim that after the first production of the 845,000 documents, your entreaties to us regarding further production went unheeded. This also is not true. What your letter omits is that in February 2015 your office served on us 3 grand jury subpoenas each seeking more documents. Your office instructed us to first produce all documents that had been produced to the federal jury (in response to subpoena three) or already released to third parties. **Two days** after service of that subpoena, on February 17, 2015, we produced the documents called for in subpoena number two. **Two weeks** later, on March 3, 2015, we produced 16,000 documents in response to subpoena number three. This can hardly be called foot-dragging.

Therefore, by early March, the AG's office had in its possession over 935,000 to review. In correspondence, counsel for the CPUC explained in March that the requested shifting of resources from the first search warrant to the three subpoenas would result in a delay in producing the next batch of documents responsive to the first search warrant. Counsel twice informed your office to expect the next production in May 2015 -- which indeed occurred on May 28, 2015 in the form of tens of thousands of documents. Another 42,000 were produced approximately one month later, responsive to the first search warrant.

When we were served with the June 2015 search warrant related to SONGS, we asked in a lengthy correspondence of June 22, 2015 for guidance as to exactly the interpretation of some of the requests in the search warrant, and for guidance as to your priorities as to which of the document demands was most pressing. We did not receive the requested guidance.

Despite the change in counsel representing the CPUC in August, the document review and production continued with productions on August 27, 2015, September 8, 2015 and 55,000 documents on September 24. We certainly have not been dilatory. The problem has been the breadth of the requests and the volume of responsive documents. We appreciate you working with us in our last telephone conversation to apply the subject matter filters, which has decreased the number of documents to be



Ms. Deborah Halberstadt  
November 12, 2015  
Page Three

reviewed and increased the production efficiency. We believe now we can easily produce all of the remaining documents for the first search warrant by the deadline set in your letter.

You asked that we provide you with the Bates numbers of the documents already produced to you which included the SONGS search terms we provided to you. On November 12, 2015, I forwarded a list of all of those Bates numbers to you. As you can see, there are over 25,000 documents already in your possession which have the SONGS search terms in them. In addition to those, we earlier provided on September 8, 2015 approximately 19,000 documents which also contained the SONGS search terms and had already been produced to the federal grand jury. These were produced to you with Bates numbers.

In addition to the 44,000 SONGS related documents you already have, we anticipate producing several thousand more documents pertaining to SONGS by the end of this month.

Finally, you asked us to "identify" documents responsive to both search warrants. We are confused by this request. Each batch of documents that is produced specifies which search warrant or subpoena it relates to. However, keep in mind that as to the first search warrant, we did not search for documents nor review them for relevance. We only reviewed what your office chose to seize that contained potentially privileged material. Frankly, the overwhelming majority of those documents are likely irrelevant to your investigation, but we leave that to your capable determination.

Should Mr. Diaz need to file an update on the return of search warrant, or you communicate with the court for any other reason concerning the CPUC, we request that he/you include the contents of this letter and our letter of September 29, 2015 so that the judge will have a thorough and clear understanding of our compliance to date and our position in these matters.

Please call me with any questions or concerns.

Very truly yours,

**DLA Piper LLP (US)**

A handwritten signature in cursive script, appearing to read 'Pamela Naughton'.

Pamela Naughton  
Partner

PN:bkI

# EXHIBIT 19



DLA Piper LLP (US)  
401 B Street, Suite 1700  
San Diego, California 92101-4297  
www.dlapiper.com

Rebecca Roberts  
rebecca.roberts@dlapiper.com  
T 619.699.2776  
F 619.764.6626

December 11, 2015  
Via UPS

OUR FILE NO. 393011-000001

Ms. Maggy Krell, Deputy Attorney General  
Ms. Deborah Halberstadt, Deputy Attorney General  
Mr. Reye Diaz, Special Agent  
Office of the Attorney General  
1300 I Street  
Sacramento, California 95814  
[maggy.krell@doj.ca.gov](mailto:maggy.krell@doj.ca.gov)  
[deborah.halberstadt@doj.ca.gov](mailto:deborah.halberstadt@doj.ca.gov)  
[reye.diaz@doj.ca.gov](mailto:reye.diaz@doj.ca.gov)

CONFIDENTIAL/ SUBJECT TO GRAND JURY SECRECY

**Re: CPUC Production in Response to SONGS Search Warrant and Energy Crisis Litigation**

Dear Ms. Krell:

I. **SONGS PRODUCTION**

Enclosed please find a DVD which includes electronic and hard copy documents the California Public Utilities Commission ("CPUC") is producing in response to the search warrant your office issued on June 5, 2015 concerning the San Onofre Nuclear Generating Station settlement agreement ("SONGS search warrant"). This drive contains documents Bates labeled CPUC CALAG 02122877- CPUC CALAG 02130852. The CPUC will continue to produce, on a rolling basis, non-privileged documents which are responsive to the SONGS search warrant. Please note that the CPUC is producing these documents in native format. The native files are named the same as their Bates label. Confidentiality or other designations are included in the load file. We will send the password for the DVD in a separate email.

Some of the documents being produced in response to the SONGS search warrant may be subject to the deliberative process privilege. Both federal and state law recognize this privilege, which extends to a public agency's materials that reflect deliberative or decision making processes. See Cal. Gov't Code section 6255; FTC v. Warner Comms., Inc., 742 F.2d 1156, 1161 (9th Cir. 1984); Wilson v. Super. Ct., 51 Cal. App. 4th 1136, 1142 (1996). See also Office of Attorney General "Summary of the California Public Records Act 2004", Section X(A) (recognizing the "Deliberative Process Privilege.")

The CPUC is being compelled to produce these documents in response the SONGS search warrant. **This limited compelled production does not by any means constitute a waiver of the privilege, voluntary or otherwise.** Nor does it in any way hinder the CPUC's right or ability to assert this privilege in other proceedings. See, e.g., The Regents of University of California v. Super. Ct., 165 Cal. App. 4th 627 (2008); Regents of the University of California v. Workers' Comp. Appeals Bd., 226 Cal. App. 4th 1530 (2014).



Maggy Krell  
December 11, 2015  
Page Two

As you well know, state grand jury proceedings are subject to strict secrecy requirements such that the information and evidence provided to a grand jury may only be further disclosed, by court order, in the limited contexts designated by the California Penal Code. See Goldstein v. Super. Ct., 45 Cal. 4th 218, 221 (2008). Thus, by law, the documents must be treated confidentially and not disseminated to any person without judicial or statutory authority. Indeed, grand jurors who unlawfully disclose information received by the grand jury may be subject to a misdemeanor. See, e.g., Cal. Penal Code sections 924.1, 924.2. All of the documents herein produced, which have been designated "Confidential" in their footers, must be kept secret as required by the California Penal Code. The same is true of all other CPUC documents, whether initially seized by your office or produced by the CPUC.

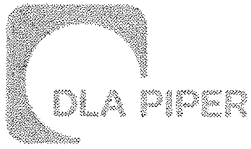
Furthermore, CPUC's compelled production of documents protected by the deliberative process privilege should in no way be construed as a waiver of the attorney-client, work product or other applicable privileges. The CPUC reserves all rights to assert applicable privileges in response to the grand jury subpoenas and search warrants. Any inadvertent production of any privileged material does not in any way constitute a waiver of the applicable privilege.

## II. ENERGY CRISIS LITIGATION

Some of the documents that were previously produced to your office may concern the Western Energy Crisis litigation, which consists of dozens of cases before the Federal Energy Regulatory Commission ("FERC") and hundreds of appeals cases pending in federal court (collectively "the Energy Crisis Litigation"). In this litigation, the CPUC, the three utilities (PG&E, Edison and SDG&E), the California Department of Water Resources ("DWR"), and your office collectively sued 60+ power generators and other market participants on behalf of California's rate payers. These aligned parties, including your office, entered into joint litigation agreements as the "California Parties". Thus, communications and work product between the California Parties concerning the Energy Crisis Litigation are protected. While a substantial portion of this litigation has settled, several cases and appeals remain active. Public release of any of the joint litigation documents could compromise the California Parties' litigation and settlement positions, resulting in substantial harm to California ratepayers. It would also violate the terms of the agreements.

Documents concerning the Energy Crisis Litigation are not at all relevant to your investigation of the CPUC. Nevertheless, since your office initially seized computers and other devices from the CPUC without regard to subject matter, your office undoubtedly has in its possession documents concerning this litigation. These documents cannot be publically or otherwise released. We ask that your office adhere to its obligations under the joint litigation agreements.

Furthermore, as we have discussed with you, we are close to completing our review of the seized active files (which we further filtered using search terms identified in our October 16, 2015 letter) and intend to



Maggy Krell  
December 11, 2015  
Page Three

produce these documents to you shortly. A number of these documents pertain to the Energy Crisis Litigation. **Since your office was a party to these communications and they are irrelevant to your office's investigation of the CPUC as far as we can tell, do you want the CPUC to produce these documents?**

If your office insists on production of these documents, we ask that your office adhere to its obligations under the joint litigation agreements and ensure that they are not further released. We again emphasize that any further release of these documents could substantially compromise the California Parties' position in pending actions.

Please do not hesitate to contact me if you have any questions.

Very truly yours,

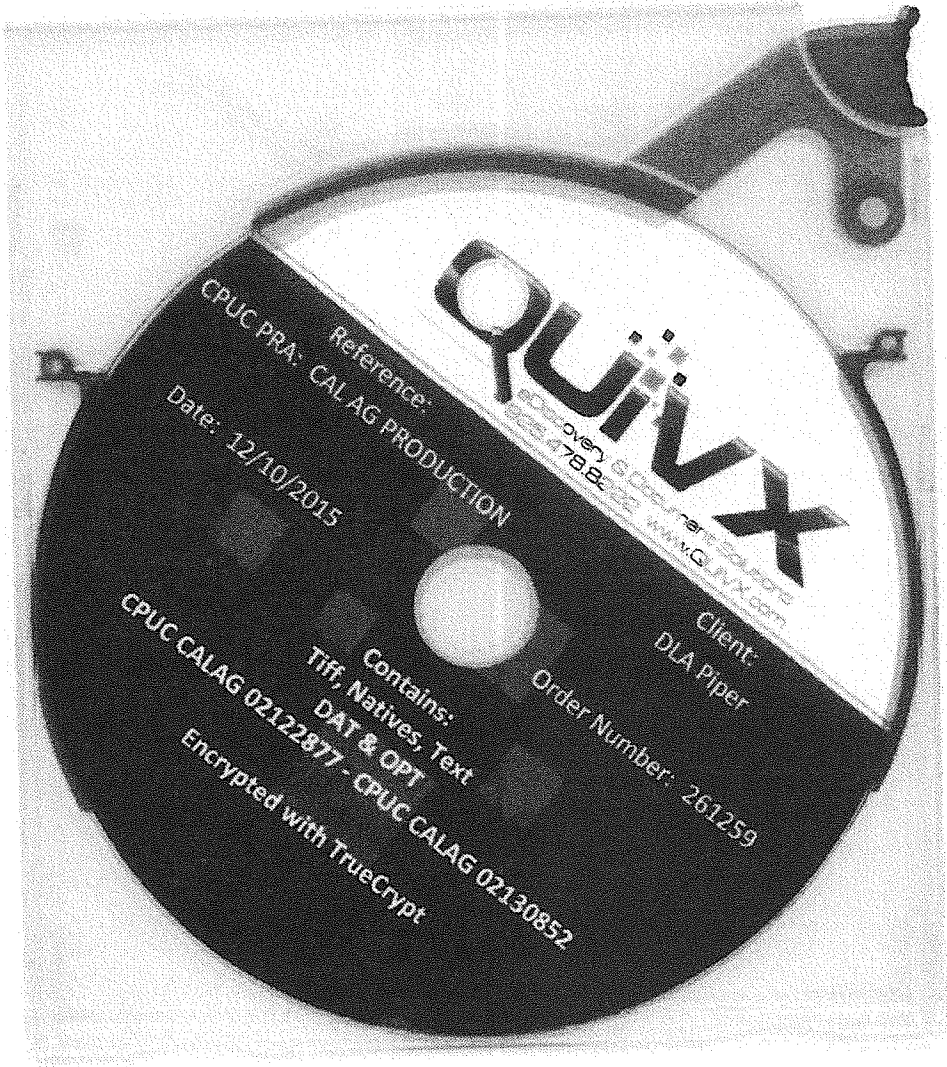
**DLA Piper LLP (US)**

A handwritten signature in black ink, appearing to read 'Rebecca Roberts', with a long horizontal flourish extending to the right.

Rebecca Roberts  
Associate

Enclosures

WEST266764148.1



# QUIVIX

Discover & Capture  
Data  
2005-2015  
www.QUIVIX.com

Reference:  
CPUC PRA- CAL AG PRODUCTION

Date: 12/10/2015

Client:  
DLA Piper

Order Number: 261259

Contains:  
Tiff, Natives, Text  
DAT & OPT  
CPUC CALAG 02122877 - CPUC CALAG 02130852  
Encrypted with TrueCrypt

# EXHIBIT 20





DLA Piper LLP (US)  
401 B Street, Suite 1700  
San Diego, California 92101-4297  
www.dlapiper.com

Rebecca Roberts  
rebecca.roberts@dlapiper.com  
T 619.699.2776  
F 619.764.6626

December 18, 2015  
VIA UPS

OUR FILE NO. 393011-000001

Ms. Deborah Halberstadt, Deputy Attorney General  
Office of the Attorney General  
1300 I Street  
Sacramento, California 95814  
[deborah.halberstadt@doj.ca.gov](mailto:deborah.halberstadt@doj.ca.gov)

CONFIDENTIAL/ SUBJECT TO GRAND JURY SECRECY

**Re: CPUC Reproduction in Response to SONGS Search Warrant**

Dear Ms. Halberstadt:

On Monday, December 14, 2015, we spoke on the phone and you requested that the CPUC reproduce documents that it had already produced in response to the November 5, 2014 search warrant ("November 2014 Search Warrant") in response to the June 5, 2015 search warrant ("SONGS Search Warrant"). In prior correspondence to you and specifically in the list and letter we sent to you on November 12, 2015, we identified over 25,000 documents by Bates label that the CPUC produced in response to the November 2014 search warrant which also triggered SONGS terms. You explained that since the search warrants issued out of different courts, San Francisco Superior Court and Los Angeles Superior Court respectively, your office needed two separate productions for procedural reasons.

Pursuant to your request, the CPUC is herein reproducing the documents it previously produced in response to the November 2014 search warrant which also triggered SONGS terms and thus, are also responsive to the SONGS search warrant. These documents are on the enclosed hard drive and Bates labeled CPUC CALAG 00001781 – CPUC CALAG 2122826. These numbers are not consecutive since we are only reproducing the documents that triggered SONGS terms. These are the same documents we identified by Bates label in our November 12 list.

Please note that the CPUC is producing these documents in native format. The native files are named the same as their Bates label. Confidentiality or other designations are included in the load file. We will send the password for the hard drive in a separate email. The CPUC has made three voluminous productions in response to the SONGS search warrant.

Some of the documents being produced in response to the SONGS search warrant may be subject to the deliberative process privilege. Both federal and state law recognize this privilege, which extends to a public agency's materials that reflect deliberative or decision making processes. See Cal. Gov't Code section 6255; *FTC v. Warner Comms., Inc.*, 742 F.2d 1156, 1161 (9th Cir. 1984); *Wilson v. Super. Ct.*, 51 Cal. App. 4th 1136, 1142 (1996). See also Office of Attorney General "Summary of the California Public Records Act 2004", Section X(A) (recognizing the "Deliberative Process Privilege.")



Deborah Halberstadt  
December 18, 2015  
Page Two

The CPUC is being compelled to produce these documents in response to the SONGS search warrant. This limited compelled production does not by any means constitute a waiver of the privilege, voluntary or otherwise. Nor does it in any way hinder the CPUC's right or ability to assert this privilege in other proceedings. See, e.g., *The Regents of University of California v. Super. Ct.*, 165 Cal. App. 4th 627 (2008); *Regents of the University of California v. Workers' Comp. Appeals Bd.*, 226 Cal. App. 4th 1530 (2014).

As you well know, state grand jury proceedings are subject to strict secrecy requirements such that the information and evidence provided to a grand jury may only be further disclosed, by court order, in the limited contexts designated by the California Penal Code. See *Goldstein v. Super. Ct.*, 45 Cal. 4th 218, 221 (2008). Thus, by law, the documents must be treated confidentially and not disseminated to any person without judicial or statutory authority. Indeed, grand jurors who unlawfully disclose information received by the grand jury may be subject to a misdemeanor. See, e.g., Cal. Penal Code sections 924.1, 924.2. All of the documents herein produced, which have been designated "Confidential" in their footers, must be kept secret as required by the California Penal Code. The same is true of all other CPUC documents, whether initially seized by your office or produced by the CPUC.

Furthermore, CPUC's compelled production of documents protected by the deliberative process privilege should in no way be construed as a waiver of the attorney-client, work product or other applicable privileges. The CPUC reserves all rights to assert applicable privileges in response to the grand jury subpoenas and search warrants. Any inadvertent production of any privileged material does not in any way constitute a waiver of the applicable privilege.

Also on our call, you agreed that the CPUC does not need to produce any documents concerning the Energy Crisis Litigation. Accordingly, we will withhold these documents from our productions.

Please do not hesitate to contact me if you have any questions.

Very truly yours,

**DLA Piper LLP (US)**

A handwritten signature in black ink, appearing to read 'Rebecca Roberts', written over a white background.

Rebecca Roberts  
Associate

Enclosures

WEST268862590.1

UPS CampusShip: View/Print Label

1. Ensure there are no other shipping or tracking labels attached to your package. Select the Print button on the print dialog box that appears. Note: If your browser does not support this function select Print from the File menu to print the label.
2. Fold the printed label at the solid line below. Place the label in a UPS Shipping Pouch. If you do not have a pouch, affix the folded label using clear plastic shipping tape over the entire label.
3. GETTING YOUR SHIPMENT TO UPS  
**Customers with a Daily Pickup**  
 Your driver will pickup your shipment(s) as usual.

**Customers without a Daily Pickup**

Take your package to any location of The UPS Store<sup>®</sup>, UPS Access Point<sup>(TM)</sup> location, UPS Drop Box, UPS Customer Center, UPS Alliances (Office Depot<sup>®</sup> or Staples<sup>®</sup>) or Authorized Shipping Outlet near you. Items sent via UPS Return Services<sup>(SM)</sup> (including via Ground) are also accepted at Drop Boxes. To find the location nearest you, please visit the Resources area of CampusShip and select UPS Locations.

Schedule a same day or future day Pickup to have a UPS driver pickup all your CampusShip packages.


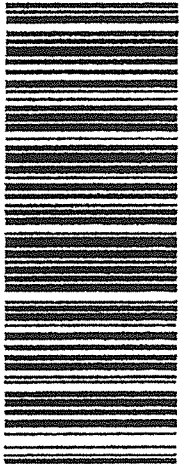

Hand the package to any UPS driver in your area.

UPS Access Point<sup>TM</sup>  
THE UPS STORE  
501 W BROADWAY  
SAN DIEGO ,CA 92101

UPS Access Point<sup>TM</sup>  
THE UPS STORE  
1041 MARKET ST  
SAN DIEGO ,CA 92101

UPS Access Point<sup>TM</sup>  
THE UPS STORE  
333 W HARBOR DR  
SAN DIEGO ,CA 92101

FOLD HERE

REBECCA ROBERTS, ESQ. 6196992700 DLAPPER LLP (US) 401 B STREET, STE 1700 SAN DIEGO CA 92101	2 LBS DWT: 13.11.2 1 OF 1	SHIP TO: DEBORAH HALBERSTADT, DEPUTY AG OFFICE OF THE ATTORNEY GENERAL 1300 I STREET SACRAMENTO CA 95814-2919	CA 958 9-03 	UPS NEXT DAY AIR SAVER 1P TRACKING #: 1Z 02Y 747 13 9920 2715 	BILLING: P/P Client-Matter: 393011-000001 Attorney ID: 36566  <small>CS 17A.04. WVENVS0 09.04.10/2015</small>
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1539-C Third Ave.  
Walnut Creek, CA 94597  
925-478-8222

Quivx Job #: 261301

Client Matter: CPUC: CALAG Seized Materials

Contains: TIFF\Native\Text File Production  
With Relativity Load Files (DAT)  
CPUC CALAG 00001781 - CPUC CALAG 2122826

# EXHIBIT 21



DLA Piper LLP (US)  
401 B Street, Suite 1700  
San Diego, California 92101-4297  
www.dlapiper.com

Rebecca Roberts  
rebecca.roberts@dlapiper.com  
T 619.699.2776  
F 619.764.6626

December 18, 2015  
VIA UPS

OUR FILE NO. 393011-000001

Ms. Deborah Halberstadt, Deputy Attorney General  
Office of the Attorney General  
1300 I Street  
Sacramento, California 95814  
[deborah.halberstadt@doj.ca.gov](mailto:deborah.halberstadt@doj.ca.gov)

CONFIDENTIAL/ SUBJECT TO GRAND JURY SECRECY

**Re: CPUC Production in Response to First Search Warrant**

Dear Ms. Halberstadt:

Enclosed please find a DVD of the remaining filtered active files responsive to the November 5, 2014 search warrant, Bates labeled CPUC CALAG 02130833 – CPUC CALAG 02144600. As we discussed and explained in our October 16, 2015 letter, we further culled the remaining documents to be reviewed in response to the November 2014 search warrant using search terms identified in Exhibit A of that letter. We are producing these documents 10 days ahead of the deadline you set in your October 22, 2015 letter - December 28, 2015. Please note that the CPUC is producing these documents in native format. The native files are named the same as their Bates label. Confidentiality or other designations are included in the load file. We will send the password for the DVD in a separate email. This completes our production of active files in response to the November 2014 search warrant.

The only documents which remain to be produced in response to the November 2014 search warrant are the documents we forensically recovered from the copy of the seized material you provided us. As we discussed and you agreed, we further culled this volume down as well using the search terms identified in Exhibit A of the October 16 letter. We are in the process of finalizing this production.

Some of the documents being produced in response to the SONGS search warrant may be subject to the deliberative process privilege. Both federal and state law recognize this privilege, which extends to a public agency's materials that reflect deliberative or decision making processes. See Cal. Gov't Code section 6255; *FTC v. Warner Comms., Inc.*, 742 F.2d 1156, 1161 (9th Cir. 1984); *Wilson v. Super. Ct.*, 51 Cal. App. 4th 1136, 1142 (1996). See also Office of Attorney General "Summary of the California Public Records Act 2004", Section X(A) (recognizing the "Deliberative Process Privilege.")

The CPUC is being compelled to produce these documents in response the November 2014 search warrant. This limited compelled production does not by any means constitute a waiver of the privilege, voluntary or otherwise. Nor does it in any way hinder the CPUC's right or ability to assert this privilege in other proceedings. See, e.g., *The Regents of University of California v. Super. Ct.*, 165 Cal. App. 4th 627



Deborah Halberstadt  
December 18, 2015  
Page Two

(2008); *Regents of the University of California v. Workers' Comp. Appeals Bd.*, 226 Cal. App. 4th 1530 (2014).

As you well know, state grand jury proceedings are subject to strict secrecy requirements such that the information and evidence provided to a grand jury may only be further disclosed, by court order, in the limited contexts designated by the California Penal Code. See *Goldstein v. Super. Ct.*, 45 Cal. 4th 218, 221 (2008). Thus, by law, the documents must be treated confidentially and not disseminated to any person without judicial or statutory authority. Indeed, grand jurors who unlawfully disclose information received by the grand jury may be subject to a misdemeanor. See, e.g., Cal. Penal Code sections 924.1, 924.2. All of the documents herein produced, which have been designated "Confidential" in their footers, must be kept secret as required by the California Penal Code. The same is true of all other CPUC documents, whether initially seized by your office or produced by the CPUC.

Furthermore, CPUC's compelled production of documents protected by the deliberative process privilege should in no way be construed as a waiver of the attorney-client, work product or other applicable privileges. The CPUC reserves all rights to assert applicable privileges in response to the grand jury subpoenas and search warrants. Any inadvertent production of any privileged material does not in any way constitute a waiver of the applicable privilege.

Please do not hesitate to contact me if you have any questions.

Very truly yours,

**DLA Piper LLP (US)**

A handwritten signature in cursive script that reads 'Rebecca Roberts'.

Rebecca Roberts  
Associate

Enclosures

WEST266868052.1

UPS CampusShip: View/Print Label

1. **Ensure there are no other shipping or tracking labels attached to your package.** Select the Print button on the print dialog box that appears. Note: If your browser does not support this function select Print from the File menu to print the label.
2. **Fold the printed label at the solid line below.** Place the label in a UPS Shipping Pouch. If you do not have a pouch, affix the folded label using clear plastic shipping tape over the entire label.
3. **GETTING YOUR SHIPMENT TO UPS**  
**Customers with a Daily Pickup**  
 Your driver will pickup your shipment(s) as usual.

**Customers without a Daily Pickup**

Take your package to any location of The UPS Store<sup>®</sup>, UPS Access Point(TM) location, UPS Drop Box, UPS Customer Center, UPS Alliances (Office Depot<sup>®</sup> or Staples<sup>®</sup>) or Authorized Shipping Outlet near you. Items sent via UPS Return Services(SM) (including via Ground) are also accepted at Drop Boxes. To find the location nearest you, please visit the Resources area of CampusShip and select UPS Locations.

Schedule a same day or future day Pickup to have a UPS driver pickup all your CampusShip packages.


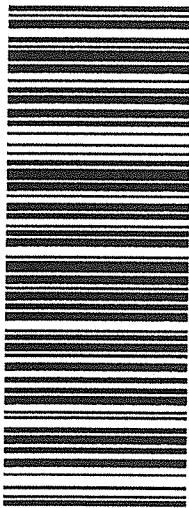

Hand the package to any UPS driver in your area.

UPS Access Point<sup>™</sup>  
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SAN DIEGO ,CA 92101

UPS Access Point<sup>™</sup>  
THE UPS STORE  
1041 MARKET ST  
SAN DIEGO ,CA 92101

UPS Access Point<sup>™</sup>  
THE UPS STORE  
333 W HARBOR DR  
SAN DIEGO ,CA 92101

FOLD HERE

REBECCA ROBERTS, ESQ. 6196992700 DLA PIPER LLP (US) 401 B STREET, STE 1700 SAN DIEGO CA 92101	0.0 LBS LTR 1 OF 1	<b>SHIP TO:</b> DEBORAH HALBERSTADT, DEPUTY AG OFFICE OF THE ATTORNEY GENERAL 1300 I STREET SACRAMENTO CA 95814-2919	<b>CA 958 9-03</b> 	<b>UPS NEXT DAY AIR SAVER 1P</b> TRACKING #: 1Z 02Y 747 13 9909 1327 	BILLING: P/P Client-Matter: 393011-000001 Attorney ID: 36566  <small>CS 17.6.06. WNTD159 69.0A.10/2015</small>
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# QUIVX

eDiscovery & Document Solutions  
925.478.8222 www.QUIVX.com

Reference:

CPUC: CAL AG Seized Materials  
PRODUCTION

Client:

DLA Piper

Date: 12/17/2015

Order Number: 261311

Contains: Natives, Tiff, Text  
DAT & OPT

CPUC CALAG 02130833 - CPUC CALAG 02144600

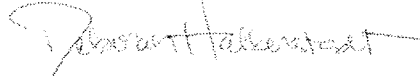
Encrypted with TrueCrypt

# EXHIBIT 22

Geesman  
Mitsubishi  
Japan  
TURN  
ORA  
"\$25 million"  
"25 million"  
"\$20 million"  
"20 million"

Please do not hesitate to contact me with any questions.

Sincerely,



DEBORAH R. HALBERSTADT  
Deputy Attorney General

For KAMALA D. HARRIS  
Attorney General

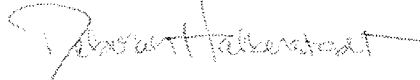
DRH:

LA2014118251

Geesman  
Mitsubishi  
Japan  
TURN  
ORA  
"\$25 million"  
"25 million"  
"\$20 million"  
"20 million"

Please do not hesitate to contact me with any questions.

Sincerely,



DEBORAH R. HALBERSTADT  
Deputy Attorney General

For KAMALA D. HARRIS  
Attorney General

DRH:

LA2014118251

# EXHIBIT 23



DLA Piper LLP (US)  
401 B Street, Suite 1700  
San Diego, California 92101-4297  
www.dlapiper.com

Rebecca Roberts  
rebecca.roberts@dlapiper.com  
T 619.699.2776  
F 619.764.6626

February 24, 2016  
VIA UPS

OUR FILE NO. 393011-000001

Ms. Maggy Krell, Deputy Attorney General  
Ms. Amanda Plisner, Deputy Attorney General  
Mr. Reye Diaz, Special Agent  
Office of the Attorney General  
1300 I Street  
Sacramento, California 95814  
[maggy.krell@doj.ca.gov](mailto:maggy.krell@doj.ca.gov)  
[amanda.plisner@doj.ca.gov](mailto:amanda.plisner@doj.ca.gov)  
[reye.diaz@doj.ca.gov](mailto:reye.diaz@doj.ca.gov)

CONFIDENTIAL/ SUBJECT TO GRAND JURY SECRECY

**Re: CPUC Production in Response to SONGS Search Warrant**

Dear Ms. Krell:

Enclosed please find a DVD which includes electronic and hard copy documents the California Public Utilities Commission ("CPUC") is producing in response to the search warrant your office issued on June 5, 2015 concerning the San Onofre Nuclear Generating Station settlement agreement ("SONGS Search Warrant"). This disk contains documents Bates labeled CPUC CALAG 02144601 – CPUC CALAG 02153033. This production consists of the remaining documents we identified as responsive to the SONGS Search Warrant using the search terms provided to you in our October 2015 correspondence. This represents the fourth production the CPUC has made to you in response the SONGS Search Warrant. (The prior productions were made on September 8, 2015, December 11, 2015 and December 18, 2015.) The CPUC has now produced approximately 59,546 documents in response to the SONGS Search Warrant and approximately 1,072,937 documents in total to you.

Please note that the CPUC is producing these documents in native format. The native files are named the same as their Bates label. Confidentiality or other designations are included in the load file. We will send the password for the DVD in a separate email.

Some of the documents being produced in response to the SONGS search warrant may be subject to the deliberative process privilege. Both federal and state law recognize this privilege, which extends to a public agency's materials that reflect deliberative or decision making processes. See Cal. Gov't Code section 6255; *FTC v. Warner Comms., Inc.*, 742 F.2d 1156, 1161 (9th Cir. 1984); *Wilson v. Super. Ct.*, 51 Cal. App. 4th 1136, 1142 (1996). See also Office of Attorney General "Summary of the California Public Records Act 2004", Section X(A) (recognizing the "Deliberative Process Privilege.")

The CPUC is being compelled to produce these documents in response the SONGS search warrant. **This limited compelled production does not by any means constitute a waiver of the privilege.**



Maggy Krell  
February 24, 2016  
Page Two

**voluntary or otherwise.** Nor does it in any way hinder the CPUC's right or ability to assert this privilege in other proceedings. See, e.g., *The Regents of University of California v. Super. Ct.*, 165 Cal. App. 4th 627 (2008); *Regents of the University of California v. Workers' Comp. Appeals Bd.*, 226 Cal. App. 4th 1530 (2014).

As you well know, state grand jury proceedings are subject to strict secrecy requirements such that the information and evidence provided to a grand jury may only be further disclosed, by court order, in the limited contexts designated by the California Penal Code. See *Goldstein v. Super. Ct.*, 45 Cal. 4th 218, 221 (2008). Thus, by law, the documents must be treated confidentially and not disseminated to any person without judicial or statutory authority. Indeed, grand jurors who unlawfully disclose information received by the grand jury may be subject to a misdemeanor. See, e.g., Cal. Penal Code sections 924.1, 924.2. All of the documents herein produced, which have been designated "Confidential" in their footers, must be kept secret as required by the California Penal Code. The same is true of all other CPUC documents, whether initially seized by your office or produced by the CPUC.

Furthermore, CPUC's compelled production of documents protected by the deliberative process privilege should in no way be construed as a waiver of the attorney-client, work product or other applicable privileges. The CPUC reserves all rights to assert applicable privileges in response to the grand jury subpoenas and search warrants. Any inadvertent production of any privileged material does not in any way constitute a waiver of the applicable privilege.

Please do not hesitate to contact me if you have any questions.

Very truly yours,

**DLA Piper LLP (US)**

A handwritten signature in black ink, appearing to read 'Rebecca Roberts'.

Rebecca Roberts  
Associate

Enclosure

WEST\268350721.1



401 B Street, Suite 1700  
San Diego, CA 92101 USA  
T: (619) 699-2700

2/24/2016

Production in Response to SONGS June 2015 Search  
Warrant No. 70763  
CPUC CALAG 02144601 – CPUC CALAG 02153033



# EXHIBIT 24



DLA Piper LLP (US)  
401 B Street, Suite 1700  
San Diego, California 92101-4297  
www.dlapiper.com

Rebecca Roberts  
rebecca.roberts@dlapiper.com  
T 619.699.2776  
F 619.764.6626

March 3, 2016  
VIA UPS

OUR FILE NO. 393011-000001

Ms. Maggy Krell, Deputy Attorney General  
Ms. Amanda Plisner, Deputy Attorney General  
Mr. Reye Diaz, Special Agent  
Office of the Attorney General  
1300 I Street  
Sacramento, California 95814  
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[amanda.plisner@doj.ca.gov](mailto:amanda.plisner@doj.ca.gov)  
[reye.diaz@doj.ca.gov](mailto:reye.diaz@doj.ca.gov)

CONFIDENTIAL / SUBJECT TO GRAND JURY SECRECY

**Re: CPUC Production in Response to Grand Jury Subpoena # 2**

Dear Ms. Krell:

Enclosed please find a DVD which includes electronic documents the California Public Utilities Commission ("CPUC") is producing in response to the grand jury subpoena your office issued on February 5, 2015 concerning ALJ assignments ("Grand Jury Subpoena #2"). This disk contains documents Bates labeled CPUC CALAG 02153034 – CPUC CALAG 02153740. The CPUC has made three prior productions in response to this subpoena. This production consists of the remaining documents we identified as responsive to Grand Jury Subpoena #2 and thus completes our response.

Please note that the CPUC is producing these documents in native format. The native files are named the same as their Bates label. Confidentiality or other designations are included in the load file. We will send the password for the DVD in a separate email.

Some of the documents being produced in response to the SONGS search warrant may be subject to the deliberative process privilege. Both federal and state law recognize this privilege, which extends to a public agency's materials that reflect deliberative or decision making processes. See Cal. Gov't Code section 6255; *FTC v. Warner Comms., Inc.*, 742 F.2d 1156, 1161 (9th Cir. 1984); *Wilson v. Super. Ct.*, 51 Cal. App. 4th 1136, 1142 (1996). See also Office of Attorney General "Summary of the California Public Records Act 2004", Section X(A) (recognizing the "Deliberative Process Privilege.")

The CPUC is being compelled to produce these documents in response the SONGS search warrant. **This limited compelled production does not by any means constitute a waiver of the privilege, voluntary or otherwise.** Nor does it in any way hinder the CPUC's right or ability to assert this privilege in other proceedings. See, e.g., *The Regents of University of California v. Super. Ct.*, 165 Cal. App. 4th 627 (2008); *Regents of the University of California v. Workers' Comp. Appeals Bd.*, 226 Cal. App. 4th 1530 (2014).



Maggy Krell  
March 3, 2016  
Page Two

As you well know, state grand jury proceedings are subject to strict secrecy requirements such that the information and evidence provided to a grand jury may only be further disclosed, by court order, in the limited contexts designated by the California Penal Code. See *Goldstein v. Super. Ct.*, 45 Cal. 4th 218, 221 (2008). Thus, by law, the documents must be treated confidentially and not disseminated to any person without judicial or statutory authority. Indeed, grand jurors who unlawfully disclose information received by the grand jury may be subject to a misdemeanor. See, e.g., Cal. Penal Code sections 924.1, 924.2. All of the documents herein produced, which have been designated "Confidential" in their footers, must be kept secret as required by the California Penal Code. The same is true of all other CPUC documents, whether initially seized by your office or produced by the CPUC.

Furthermore, CPUC's compelled production of documents protected by the deliberative process privilege should in no way be construed as a waiver of the attorney-client, work product or other applicable privileges. The CPUC reserves all rights to assert applicable privileges in response to the grand jury subpoenas and search warrants. Any inadvertent production of any privileged material does not in any way constitute a waiver of the applicable privilege.

Please do not hesitate to contact me if you have any questions.

Very truly yours,

DLA Piper LLP (US)

A handwritten signature in black ink, appearing to read 'Rebecca Roberts', with a horizontal line extending to the right.

Rebecca Roberts  
Associate

Enclosure

WEST268427440.1

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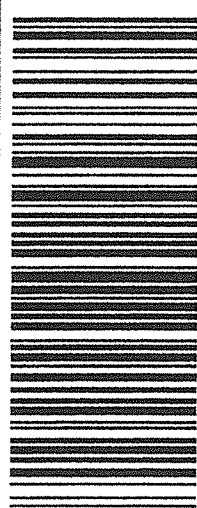

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SAN DIEGO ,CA 92101

UPS Access Point™  
THE UPS STORE  
333 W HARBOR DR  
SAN DIEGO ,CA 92101

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<p>REBECCA ROBERTS 6196992700 DLA PAPER LLP (US) 401 B STREET, STE 1700 SAN DIEGO CA 92101</p> <p><b>SHIP TO:</b> MAGGY KRELL, A. PLISNER, R. DIAZ OFFICE OF THE ATTORNEY GENERAL 1300 I STREET SACRAMENTO CA 95814-2919</p>	<p>0.0 LBS LTR</p> <p>1 OF 1</p>	<p>CA 958 9-03</p> 	<p><b>UPS NEXT DAY AIR</b></p> <p>TRACKING #: 1Z 02Y 747 01 9584 3633</p> <p><b>1</b></p>		<p>BILLING: P/P</p> <p>Client-Matter: 393011-000001 Attorney ID: 365566</p> <p>CS 18.0.22. WNTNV50 72.0A 01/2016</p> 
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401 B Street, Suite 1700  
San Diego, CA 92101 USA  
T: (619) 699-2700

3/3/2016

Production in Response to Grand Jury Subpoena #2  
CPUC CALAG 02153034 - CPUC CALAG 02153740

# EXHIBIT 25



DLA Piper LLP (US)  
401 B Street, Suite 1700  
San Diego, California 92101-4297  
www.dlapiper.com

Rebecca Roberts  
rebecca.roberts@dlapiper.com  
T 619.699.2776  
F 619.764.6626

March 7, 2016  
Via UPS

OUR FILE NO. 393011-000001

Ms. Maggy Krell, Deputy Attorney General  
Ms. Amanda Plisner, Deputy Attorney General  
Mr. Reye Diaz, Special Agent  
Office of the Attorney General  
1300 I Street  
Sacramento, California 95814  
[maggy.krell@doj.ca.gov](mailto:maggy.krell@doj.ca.gov)  
[amanda.plisner@doj.ca.gov](mailto:amanda.plisner@doj.ca.gov)  
[reye.diaz@doj.ca.gov](mailto:reye.diaz@doj.ca.gov)

CONFIDENTIAL/ SUBJECT TO GRAND JURY SECRECY

**Re: CPUC Production of Recovered Emails in Response to Search Warrant No. 1**

Dear Ms. Krell:

Enclosed please find a DVD which includes electronic documents the California Public Utilities Commission ("CPUC") is producing in response to the November 2014 search warrant issued by your office. This production consists of the documents we forensically recovered from the data you provided to us, subject to the agreed upon term filters. Your office agreed to the scope of this production on October 13, 2015, which is also further documented in our October 16, 2015 correspondence. This disk contains documents Bates labeled CPUC CALAG 02153741 - CPUC CALAG 02200118. The CPUC has now produced approximately 1,119,968 documents to you in response to your various demands and has produced all documents it indicated it would in our October 2015 correspondence.

Please note that the CPUC is producing these documents in native format. The native files are named the same as their Bates label. Confidentiality or other designations are included in the load file. We will send the password for the DVD in a separate email.

Some of the documents being produced in response to the November search warrant may be subject to the deliberative process privilege. Both federal and state law recognize this privilege, which extends to a public agency's materials that reflect deliberative or decision making processes. See Cal. Gov't Code section 6255; *FTC v. Warner Comms., Inc.*, 742 F.2d 1156, 1161 (9th Cir. 1984); *Wilson v. Super. Ct.*, 51 Cal. App. 4th 1136, 1142 (1996). See also Office of Attorney General "Summary of the California Public Records Act 2004", Section X(A) (recognizing the "Deliberative Process Privilege.")

The CPUC is being compelled to produce these documents in response to the SONGS search warrant. **This limited compelled production does not by any means constitute a waiver of the privilege, voluntary or otherwise.** Nor does it in any way hinder the CPUC's right or ability to assert this privilege in other proceedings. See, e.g., *The Regents of University of California v. Super. Ct.*, 165 Cal. App. 4th



Ms. Maggy Krell, Deputy Attorney General  
Ms. Amanda Plisner, Deputy Attorney General  
Mr. Reye Diaz, Special Agent  
March 7, 2016  
Page Two

627 (2008); *Regents of the University of California v. Workers' Comp. Appeals Bd.*, 226 Cal. App. 4th 1530 (2014).

As you well know, state grand jury proceedings are subject to strict secrecy requirements such that the information and evidence provided to a grand jury may only be further disclosed, by court order, in the limited contexts designated by the California Penal Code. See *Goldstein v. Super. Ct.*, 45 Cal. 4th 218, 221 (2008). Thus, by law, the documents must be treated confidentially and not disseminated to any person without judicial or statutory authority. Indeed, grand jurors who unlawfully disclose information received by the grand jury may be subject to a misdemeanor. See, e.g., Cal. Penal Code sections 924.1, 924.2. All of the documents herein produced, which have been designated "Confidential" in their footers, must be kept secret as required by the California Penal Code. The same is true of all other CPUC documents, whether initially seized by your office or produced by the CPUC.

Furthermore, CPUC's compelled production of documents protected by the deliberative process privilege should in no way be construed as a waiver of the attorney-client, work product or other applicable privileges. The CPUC reserves all rights to assert applicable privileges in response to the grand jury subpoenas and search warrants. Any inadvertent production of any privileged material does not in any way constitute a waiver of the applicable privilege.

Please do not hesitate to contact me if you have any questions.

Very truly yours,

**DLA Piper LLP (US)**

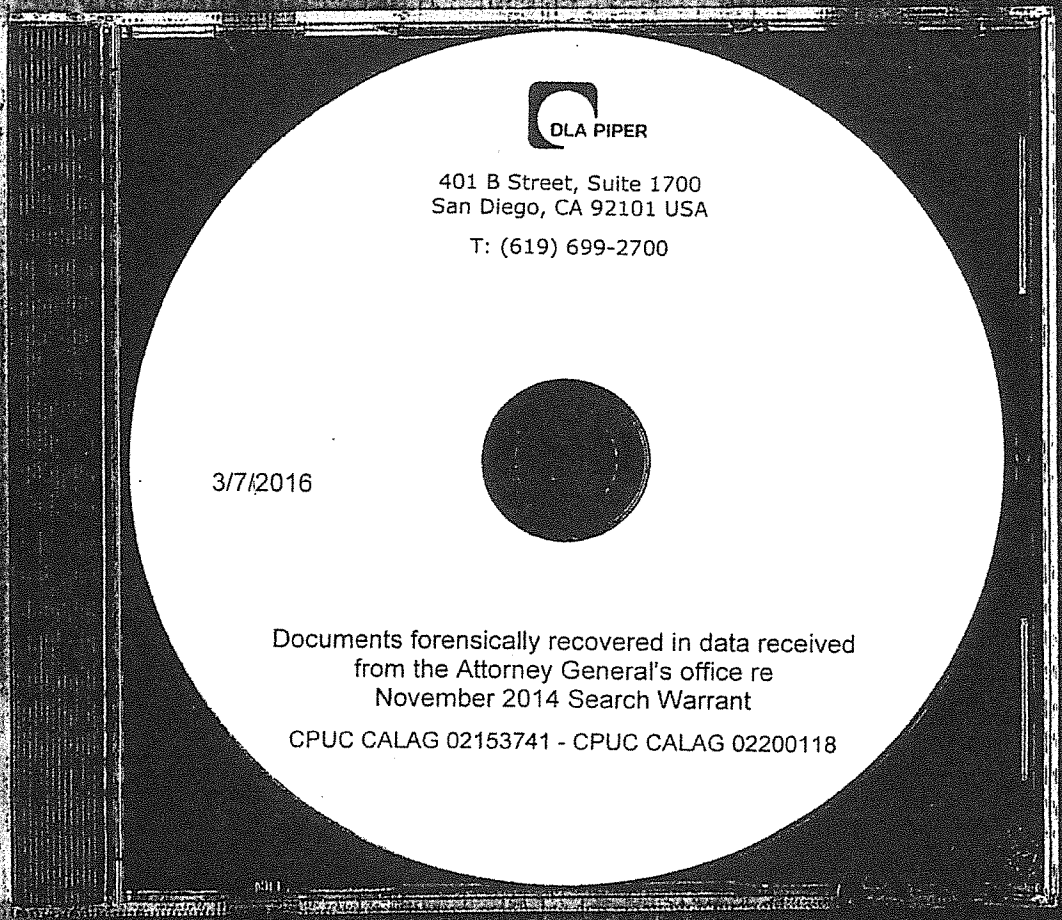
A handwritten signature in black ink, appearing to read 'Rebecca Roberts'.

Rebecca Roberts  
Associate

Enclosure

WEST268451945.1





401 B Street, Suite 1700  
San Diego, CA 92101 USA  
T: (619) 699-2700

3/7/2016

Documents forensically recovered in data received  
from the Attorney General's office re  
November 2014 Search Warrant  
CPUC CALAG 02153741 - CPUC CALAG 02200118

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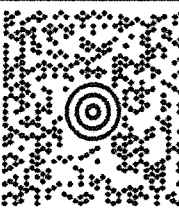
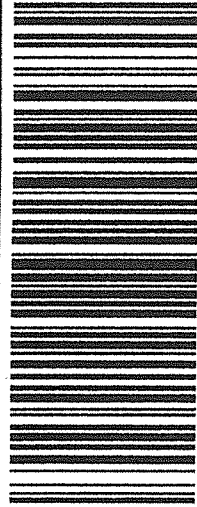

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REBECCA ROBERTS, ESQ. 6196992700 DLA PIPER LLP (US) 401 B STREET, STE 1700 SAN DIEGO CA 92101	0.0 LBS LTR 1 OF 1  <b>SHIP TO:</b> MAGGY KRELL, A. PLISNER, R. DIAZ OFFICE OF THE ATTORNEY GENERAL 1300 I STREET SACRAMENTO CA 95814-2919	CA 958 9-03 		<b>UPS NEXT DAY AIR</b> TRACKING #: 1Z 02Y 747 01 9532 5498 <b>1</b>		BILLING: P/P  Client-Matter: 393011-000001 Attorney ID: 36566   <small>CS 18.0.33. WNTNVS0 72.0A.01/2016</small>
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1 PAMELA NAUGHTON (Bar No. 97369)  
2 REBECCA ROBERTS (Bar No. 225757)  
3 **DLA PIPER LLP (US)**  
401 B Street, Suite 1700  
San Diego, California 92101-4297  
Tel: 619.699.2700  
Fax: 619.699.2701

5 Attorneys for Movant  
6 California Public Utilities Commission

**FILED**  
Superior Court of California  
County of Los Angeles

APR 11 2016

SHERYL RICHHEY, CLERK OF COURT  
BY Sheryl Richey Humber Deputy  
Sheryl Richey Humber

7  
8 SUPERIOR COURT OF CALIFORNIA  
9 COUNTY OF LOS ANGELES

10 In re June 5, 2015 Search Warrant issued to  
11 California Public Utilities Commission

CASE NO. SW-70763

**CPUC OPPOSITION TO PETITION FOR  
AN ORDER COMPELLING CALIFORNIA  
PUBLIC UTILITIES COMMISSION TO  
COMPLY WITH SEARCH WARRANT**

Date: April 18, 2016

Time: 10:00 a.m.

Place: Department 56

Judge: Hon. William C. Ryan

**FILED UNDER SEAL PURSUANT TO  
COURT ORDER MARCH 24, 2016**

12  
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18 Here is what the Attorney General failed to tell this Court:

- 19
- 20 • To date, the CPUC has produced over **1.1 million documents** to the Attorney General and  
21 over **1.7 million documents** in total to government authorities.
  - 22 • The CPUC has produced documents every single month since the start of these  
23 investigations.
  - 24 • The CPUC has repeatedly requested in writing that the Attorney General prioritize which  
25 search warrants or subpoenas they wish the CPUC to comply with first, second, etc. The  
26 Attorney General has consistently refused to answer this question.
  - 27 • The CPUC has produced approximately **60,000 documents** to the Attorney General in  
28 response to the SONGS search warrant.

- 1 • Contrary to the “return” filed by the agent, the CPUC did not refuse to produce documents  
2 for the SONGS search warrant. The CPUC responded timely, and in writing to the  
3 Attorney General requesting guidance for priorities and definitions.
- 4 • The CPUC’s review team, which on average consists of 9 contract attorneys billed at a  
5 rate of \$45.00 an hour, has been reviewing documents 7 days a week, 8-12 hours day.
- 6 • The CPUC has exhausted the funds designated to pay for the document collection, review  
7 and production.
- 8 • The most recently issued search warrant – March 9, 2016 – is the last one of 11 demands  
9 for documents served on the CPUC by various government authorities.
- 10 • The CPUC has kept the Attorney General fully informed as to how it was conducting its  
11 searches, review, its progress, and provided estimates as to time of completion. During  
12 the fall of 2015, the CPUC put all resources towards completing the outstanding Attorney  
13 General demands, and diverted all its resources away from the federal grand jury  
14 subpoenas in order to satisfy the Attorney General’s staff. However, the Attorney  
15 General recently altered the search terms and demanded even more documents – requiring  
16 the CPUC to search for and review additional documents that go way beyond the  
17 parameters of the search warrant order and affidavit.
- 18 • The Deputy Attorney General admitted that the Special Agent investigating this matter is  
19 not actually looking at each document produced, but merely scanning and running  
20 searches. Why, then has the CPUC been forced to endlessly produce, and re-produce,  
21 documents that no one is looking at?

22  
23 As explained in its motion to quash, the CPUC believes that the search warrant lacks probable  
24 cause because there is no factual or legal basis for a criminal violation. Regardless of the  
25 outcome of that motion, the CPUC believes that it has fully complied with all outstanding  
26 demands for documents by the Attorney General and requests that the Court deny the Attorney

27 ////

28 ////

1 General's motion to compel and deem its production in response to the SONGS search warrant  
2 complete.

3

4 Dated: April 11, 2016

5

DLA PIPER LLP (US)

6

By 

7

PAMELA NAUGHTON  
REBECCA ROBERTS  
Attorneys for Movant  
California Public Utilities Commission

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**MEMORANDUM OF POINTS AND AUTHORITIES**

**I.**  
**BACKGROUND OF DOCUMENT DEMANDS**

The specific search warrant at issue here was signed on March 9, 2016 and is the latest of eleven demands for documents issued by various government entities. On November 5, 2014, the Attorney General executed a search warrant, which issued out of San Francisco Superior Court and seized hard drives and other devices from the CPUC’s headquarters in San Francisco and another Los Angeles location. (Declaration of Rebecca Roberts (“Roberts Decl.”) ¶2, Ex. 1.) Several months later, in February 2015, the Attorney General served 3 more grand jury subpoenas for documents on the CPUC. (Roberts Decl. ¶2, Exs. 2-4.) Then, on June 5, 2015, the Attorney General sought and obtained a second search warrant against the CPUC which issued out of this Court. (*Id.* Ex. 5.) When the CPUC filed its motion for in camera inspection of the affidavit and alleged the warrant likely lacked probable cause, the Attorney General reacted by striking one sentence of that affidavit and then sought a new search warrant in March 2016. (*Id.* ¶2, Ex. 6.)

The Attorney General’s investigation has actually come on the heels of the federal investigation. The first document demand served on the CPUC was issued by the federal grand jury in the Northern District of California in October 2014. Upon receiving the subpoena, the CPUC wrote to the Attorney General requesting to be represented, since the Attorney General typically represents the CPUC in litigation. The Attorney General refused to represent the CPUC, instead informing the CPUC that the Attorney General’s office had decided to conduct its own criminal investigation. Thus, the CPUC was forced to retain outside counsel with experience in state and federal criminal proceedings and document production. The U.S. Department of Justice (“DOJ”) served 5 very broad grand jury subpoenas on the CPUC. Specifically, these subpoenas were served on the CPUC on October 7, 2014, October 17, 2014, November 13, 2014, November 20, 2014, and June 3, 2015. (Roberts Decl. ¶3.) So, the DOJ’s demands largely predate the Attorney General’s demands.

1 Following on the heels of the federal action, the Attorney General applied for a search  
 2 warrant in San Francisco Superior Court. The CPUC is based in San Francisco. The Attorney  
 3 General's office did not simply serve the warrant and wait for production, but instead sent  
 4 numerous agents to raid the offices of the CPUC, naturally attracting television news crews. The  
 5 agents physically seized computers, cell phones and other documents. Because the CPUC is an  
 6 adjudicatory body and involved in numerous litigations and policy decisions, the parties  
 7 recognized that the electronic data that was seized likely contained some privileged data.  
 8 Specifically, the parties agreed that the Attorney General would provide the CPUC with copies of  
 9 all the data that had been seized and the CPUC would run filters through the documents using  
 10 mutually agreed upon search terms that would likely identify any that were potentially privileged.  
 11 (Roberts Decl. ¶4, Ex. 7.) The documents which contained privileged search terms would be  
 12 reviewed by the CPUC's review team (approximately 247,646 documents) and those which did  
 13 not would be produced in bulk. (*Id.* Exs. 7-8.)

14 It took the Attorney General's office more than two months to produce a copy of  
 15 electronic data that had been seized. The CPUC received the hard drives on January 14, 2015 and  
 16 filtered the data the very next day. Six days after receiving the three hard drives, on January 20,  
 17 2015, the CPUC processed, bates stamped and produced to the Attorney General over 845,000  
 18 documents. (*Id.* Ex. 8.) Thus, the CPUC produced a substantial volume of documents to the  
 19 Attorney General within days of receiving the data to filter.

20 Shortly after the CPUC produced over 845,000 documents in response to the first search  
 21 warrant, the Attorney General issued three grand jury subpoenas, two on February 5 and one on  
 22 February 18. Following the Attorney General's instructions, CPUC gave priority to complying  
 23 with the subpoenas and produced over 20,000 additional documents by mid-March. (Roberts  
 24 Decl. ¶4, Ex. 9.) The CPUC explained in correspondence that because the Attorney General  
 25 requested resources to be shifted from the first search warrant to the grand jury subpoenas, the  
 26 rolling production of documents that needed to be reviewed for privilege in response to the first  
 27 search warrant would be delayed and that it could expect the next production in May 2015. (*Id.*)  
 28 True to its word, the CPUC produced nearly 34,000 documents to the Attorney General at the end

1 of May 2015 and continued rolling productions on a monthly basis. Meanwhile, the CPUC's  
2 review team was also processing, reviewing, and producing hundreds of thousands of documents  
3 on a monthly basis to the federal DOJ. (Roberts Decl. ¶5.)

4 Shortly after the Attorney General served its fifth demand for documents, i.e. the SONGS  
5 search warrant in June 2105, CPUC counsel provided the Attorney General with an update as to  
6 the status of the overall document production and requested guidance from the Deputy Attorney  
7 General as to how to prioritize responding to its various demands as well as clarification of the  
8 breadth and scope of the new search warrant. On June 21, 2015, CPUC counsel wrote:

9 [A]s you are further aware, since the execution of the search  
10 warrant, your office has served three subpoenas, and an additional  
11 search warrant (served on June 5, 2015) on the CPUC. We are  
12 continuing to work diligently on these requests. However, given  
13 the large volume of materials sought and the overlapping requested  
14 due dates, **we are requesting additional guidance from you on**  
15 **your prioritization of these requests. Importantly, we have**  
16 **significant concerns and questions about the breadth and scope**  
17 **of your June 5, 2015 Search Warrant.** As we advised Agent  
18 Diaz, my former partner, Pam Naughton, will be handling the  
19 CPUC's response to the warrant and will contact you directly to  
20 discuss the various questions we have about the requests. As it  
21 currently stands, the new requests in the June 5 search warrant will  
22 delay our review and productions of Grand Jury Subpoenas #1 and  
23 #2, as well as the remaining documents that were previously  
24 identified as "potentially privileged" from the execution of your  
25 2014 search warrant.

26 In sum, as stated previously, we are continuing to work diligently to  
27 review and produce the materials you are requesting, given limited  
28 resources and the concurrent demands of federal subpoenas and  
Public Records Act requests. **However, we would benefit greatly**  
**from a dialogue with you about how best to prioritize the**  
**requested materials.**

29 (Roberts Decl. ¶6, Ex. 10.) (Emphasis added.) Nowhere did CPUC counsel ever say the CPUC  
30 could not or would not produce the SONGS documents.

31 The Attorney General did not provide any response or further guidance. Instead, on  
32 June 24, 2015, the special agent filed a completely erroneous "return" of search warrant stating  
33 that CPUC was refusing to produce documents because of lack of resources. Specifically, the  
34 return reads:



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Unable to obtain evidence at this time. CPUC legal counsel advises that due to limited resources, and the concurrent demands of federal subpoenas and public records act requests, the evidence is not currently available. Despite requests, CPUC has still not provided a specific time frame as to when documents will be provided as ordered by the Court. Your affiant will update the Court with a filing of an additional search warrant return.

(Roberts Decl. ¶6, Ex. 11.) News outlets were apparently alerted to this publically filed "return" because stories appeared the following days alleging CPUC non-compliance.

Regardless, the CPUC continued to produce documents to the Attorney General, producing over 42,000 documents in July 2015 in response to the first search warrant, and documents in response to the first and second grand jury subpoenas on August 19, 2015.

(Roberts Decl. ¶¶5, 7, Ex. 7.)

Several weeks later, on September 8, 2015, the CPUC produced over 19,000 documents to the Attorney General in response to the SONGS Search Warrant. (*Id.* ¶8, Ex. 13.) Moreover, as CPUC counsel explained to the Attorney General on the phone in mid-September and again in correspondence on September 29, the Attorney General **already had** over 20,000 documents responsive to the SONGS search warrant in its possession since the data the Attorney General initially seized (and which the CPUC had already reproduced back) was not topic specific. In other words, since the Attorney General had all of Peevey's emails because they seized his devices (and the CPUC had reproduced them after the filtering process), it already had any SONGS related correspondence attributed to Peevey.<sup>1</sup> So, by the end of September 2015, the Attorney General had over 40,000 documents responsive to the SONGS Search Warrant in its possession. (Roberts Decl. ¶8, Exs. 13,15.) Moreover, at the same time, the CPUC produced nearly 55,000 documents to the Attorney General in response to the first search warrant on September 24, 2015. (Roberts Decl. ¶8, Ex. 14.)

The CPUC kept the Attorney General fully informed of its progress and its plans for completing the review, repeatedly emphasized the substantial financial and labor burden its demands imposed, and presented ways the process could be streamlined, in writing and in phone

<sup>1</sup> The CPUC ran SONGS search terms across the documents that had already been produced to Attorney General to identify these documents. In response to the Attorney General's requests, the CPUC identified these documents by Bates label and then later reproduced them. (Roberts Decl. ¶10, Ex. 20.)

1 conversations. (Roberts Decl. ¶¶8-9, Exs. 15-18.) Specifically, the CPUC explained in detail  
2 what had been produced, what remained to be produced, how it was conducting the review  
3 (including a list of search terms used to identify possibly relevant material), and informed the  
4 Attorney General that it would prioritize completing production in response to the first search  
5 warrant (since it was first in time) and then turn to finalizing productions in response to the grand  
6 jury subpoenas and the SONGS Search Warrant. (*Id.*)

7         Going above and beyond in its cooperation, the CPUC informed that Attorney General  
8 that it had been able to forensically recover several hundred thousand deleted documents from the  
9 copy of the seized devices the Attorney General provided (“Recovered Documents”) and  
10 requested instruction as to how these documents should be reviewed. (*Id.* ¶9, Exs. 16-18.) The  
11 CPUC suggested that these documents, as well as the documents remaining to be reviewed in  
12 response to the first search warrant, be filtered using search terms related to both search warrants,  
13 e.g., “SONGS”, “greenhouse gas”, ALJ “Wong”, etc. and provided a list of the suggested terms  
14 to the Attorney General on October 16, 2016. (Roberts Decl. ¶9, Ex. 16.) **The Attorney**  
15 **General agreed that the CPUC could use this filtering process to streamline production on**  
16 **the Recovered Documents.** (*Id.* Exs. 16-18.)

17         Believing that it had reached a resolution with the Attorney General, the CPUC review  
18 team, during the fall of 2015, focused entirely on the Attorney General’s demands, to the  
19 exclusion of the federal productions, and produced: (1) all of the search term filtered documents  
20 remaining to be reviewed in response to the first search warrant, (2) all of the search term filtered  
21 Recovered Documents, (3) all remaining documents responsive to the three grand jury subpoenas,  
22 and (4) all responsive documents that triggered the identified SONGS search terms. Thus, to  
23 date, the CPUC has produced over **1.1 million documents** to the Attorney General, **nearly**  
24 **60,000** in response to the SONGS search warrant. The CPUC Review team has produced over  
25 **1.7 million** documents in total to government entities. (Roberts Decl. ¶¶9-10, 12, Exs. 19-21,  
26 23-25.)

27         On December 18, 2015, **two months** after the parties’ discussion as to how to complete  
28 the review using the term filtering process and weeks after the CPUC made substantial

1 productions following the exact terms specified, the Attorney General reversed course and  
2 demanded that the CPUC: (1) produce all remaining unfiltered documents responsive to the first  
3 search warrant (the CPUC estimates this volume is around 86,000 documents) and (2) apply 14  
4 additional search terms to its database and review any further documents that trigger these terms.  
5 (Roberts Decl. ¶11, Ex. 22.)

6 While the dispute concerning CPUC's production to the first search warrant is not subject  
7 to this motion since the first search warrant was issued by the San Francisco Superior Court, not  
8 this Court (the CPUC herein reserves all rights to object to this warrant), it is notable that the  
9 Attorney General did not object to the filtering process as applied to the Recovered Documents  
10 but does as to the remaining active files from the first search warrant. This position is  
11 inconsistent and does not make sense.

12 The additionally proposed SONGS search terms exceed the scope of the search warrant.  
13 For example, the Attorney General's terms include "Aguirre", a reference to Michael Aguirre, a  
14 civil attorney who claims to represent state rate payers and has civilly sued the CPUC concerning  
15 various requests he has issued under the California Public Records Request Act (the California  
16 Court Appeals recently stayed his case), and who has been a sounding board for various media  
17 outlets covering the investigation.

18 The same is true for the other generic terms proposed by Attorney General, such as  
19 "ORA", "TURN", "Japan", "Mitsubishi", "25 million" and "20 million." Rate payer public  
20 interest groups such as ORA and TURN, and ANR, appear in many different proceedings before  
21 the CPUC, not just the SONGS OII, and thus these terms are more likely to pull countless waves  
22 of irrelevant documents rather than produce anything new. Moreover, the term TURN will pull  
23 in any iteration of the word "turn", such as "turn around" or "turn right". The same is true for "25  
24 million" or "20 million", which will pull in any document that references these amounts. "Japan"  
25 and "Mitsubishi" are also broad in scope and likely to pull in a substantial volume of documents  
26 that have no relationship at all to the SONGS OII or the Attorney General's allegations.  
27 Moreover, like the terms "Aguirre" and "Geesman", it is not at all clear how "Japan" and  
28 "Mitsubishi", which are likely meant to target the dispute Edison had with Mitsubishi concerning

1 the faulty tubing which caused the San Onofre power plant to be shut down, have anything to do  
2 with the alleged ex parte communications or settlement terms. These additional terms proposed  
3 by the Attorney General are nothing more than a fishing expedition for documents that are not  
4 even called for by the underlying search warrant.

5 The Attorney General complains that the CPUC rejected its proposal for a “taint team”  
6 from its office to review for and exclude privileged documents. The Attorney General has never  
7 explained who would comprise the “taint team”, their experience level, their numbers or their  
8 expenses. The CPUC’s review team, which on average consists of 9 contract attorneys billed at a  
9 rate of \$45.00 an hour, has been reviewing documents 7 days a week, 8-12 hours day in order to  
10 complete the review of a database now containing over 6.5 million documents. It is doubtful that  
11 any “taint team” would have included more resources than what the CPUC has itself devoted to  
12 this mission. Thus, the “taint team” notion is a non-starter.

13 The Attorney General also complains that the CPUC rejected its proposal to sign a  
14 confidentiality agreement and just turn over all documents and not review for privilege. This is  
15 not feasible for several reasons. First, it is well settled that privileged documents may be  
16 withheld from a government investigation, even if those documents are subject to a search  
17 warrant. *People v. Sup. Ct.*, 25 Cal. 4th 703 (2001) (government not entitled to documents  
18 protected by the attorney-client privilege and/or work product doctrine that were seized pursuant  
19 to a search warrant). Indeed, when subpoenaed, the Attorney General’s Office itself withholds its  
20 own documents on the grounds of deliberative process and attorney-client privilege. *Prime*  
21 *Healthcare Serv. v. Harris*, No. 5:15-cv-01934-GHK-DTB (C.D. Cal. Sept. 21, 2015); *Coleman*  
22 *v. Schwarzenegger*, No. C01-1351 THE 2007, WL 4328476 (E.D. Cal. 2007); *Coito v. Sup. Ct.*,  
23 54 Cal. 4th 480 (2012).

24 Second, even if a prosecutor agrees to keep privileged material confidential, the courts  
25 have deemed the privileged waived by the producing party at the time it surrenders the material to  
26 the prosecutor. *In re Pacific Pictures Corp.*, 679 F.3d 1121 (9<sup>th</sup> Cir. 2012). This can have serious  
27 repercussions in the civil and administrative arenas. The CPUC, in addition to being a party in  
28 countless civil disputes, is also a quasi-judicial body which holds hearings, receives evidence,

1 deliberates and renders decisions in very complex matters involving billions of dollars. It cannot  
2 risk a future adverse ruling that the waiver of privilege to the Attorney General's formal  
3 document demands constitutes a universal waiver, no matter how unintended. The CPUC is a  
4 quasi-judicial body. Requiring it to produce its privileged communications and work product  
5 would be like requiring the California superior court system to produce the privileged  
6 communications and deliberative work product of its judges, law clerks and staff. Finally, the  
7 investigatory leaks to the press, as demonstrated by the presence of TV cameras at the execution  
8 of the first search warrant as well as the recent media coverage shortly after the CPUC filed its  
9 sealed motion to quash, gives serious pause as to the sincerity of the Attorney General's promises  
10 of confidentiality.

11 **II.**  
12 **IF THE COURT GRANTS THE MOTION, IT OUGHT TO SHIFT COSTS OF**  
13 **PRODUCTION TO THE ATTORNEY GENERAL'S OFFICE**

14 The CPUC has had to cut over \$5 million from its operation budget in the past fiscal year  
15 to comply with these unreasonable and unending document demands. That money could have  
16 been better spent on safety inspections, green initiatives and other far more worthwhile  
17 endeavors. This court has powers in equity allowing it to shift the costs of compliance to the  
18 prosecuting agency. Prosecuting agencies must pay 10 cents a copy for bank records, for hospital  
19 records, etc. There is no reason why the Attorney General's Office ought not to pay here. They  
20 are insisting that all of the remaining documents seized in the first search warrant be produced  
21 without filtering them for any relevance. Complying with that unreasonable demand would force  
22 the CPUC to pay for the review of another approximately 86,000 documents. Over the course of  
23 the document review, the cost of first level review has been roughly an average of \$.83 per  
24 document (not page). Thus, to satisfy the Attorney General on the first search warrant would cost  
25 an additional \$71,380. As to the SONGS search warrant, if the CPUC is forced to search for,  
26 collect, review and produce every single document that mentions "Japan" or "ORA" or "TURN",  
27 etc., the cost would be inestimable. If the CPUC is ordered to apply those 14 new search filter

5/10


1 terms, but allowed to exclude unique<sup>2</sup> hits for terms "ORA," "TURN," "Japan," and "Mitsubishi"  
 2 as the Attorney General agreed, the additional number of documents that must be reviewed totals  
 3 approximately 74,000 at a cost of roughly \$61,420.

4 **III.**  
 5 **CONCLUSION**

6 Enough is enough. The Court should stop this runaway train, deny the Attorney General's  
 7 petition to compel, and deem the SONGS search warrant to be satisfied.

8  
 9 Dated: April 11, 2016

10 DLA PIPER LLP (US)

11 By   
 12 \_\_\_\_\_  
 13 PAMELA NAUGHTON  
 14 REBECCA ROBERTS  
 15 Attorneys for Movant  
 16 California Public Utilities Commission

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<sup>2</sup>"Unique Hits" refers to documents that only hit these terms and none of the other SONGS terms.

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**FILED**  
Superior Court of California  
County of Los Angeles

APR 11 2016

EXECUTIVE OFFICER/CLERK  
Deputy  
Number

8 SUPERIOR COURT OF CALIFORNIA  
9 COUNTY OF LOS ANGELES

10 In re June 5, 2015 Search Warrant  
11 No. 70763 issued to California Public  
Utilities Commission

CASE NO. SW-70763

**PROOF OF SERVICE**

**FILED UNDER SEAL**

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ORIGINAL

By Fax

1 I, Bonnie K. Lott, declare:

2 I am a citizen of the United States and employed in San Diego County, California. I am  
3 over the age of eighteen years and not a party to the within-entitled action. My business address  
4 is DLA Piper LLP (US), 401 B Street, Suite 1700, San Diego, California 92101-4297. On  
5 April 11, 2016, I served a copy of the within document(s):

6 **CPUC OPPOSITION TO PETITION FOR AN ORDER COMPELLING**  
7 **CALIFORNIA PUBLIC UTILITIES COMMISSION TO COMPLY WITH**  
8 **SEARCH WARRANT;**

9 **DECLARATION OF REBECCA ROBERTS IN SUPPORT OF CPUC**  
10 **OPPOSITION FOR AN ORDER COMPELLING CALIFORNIA PUBLIC**  
11 **UTILITIES COMMISSION TO COMPLY WITH SEARCH WARRANT**

- 12  by transmitting via facsimile the document(s) listed above to the fax number(s) set  
13 forth below on this date before 5:00 p.m.
- 14  by placing the document(s) listed above in a sealed envelope with postage thereon  
15 fully prepaid, the United States mail at San Diego, California addressed as set forth  
16 below.
- 17  by placing the document(s) listed above in a sealed Delivery Service envelope and  
18 affixing a pre-paid air bill, and causing the envelope to be delivered to a Delivery  
19 Service agent for delivery.
- 20  by personally delivering the document(s) listed above to the person(s) at the  
21 address(es) set forth below.
- 22  by transmitting via e-mail or electronic transmission the document(s) listed above  
23 to the person(s) at the e-mail address(es) set forth below.

24 Persons Served

25 Maggy Krell, Esq.  
26 Deputy Attorney General  
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I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on April 11, 2016, at San Diego, California.

  
\_\_\_\_\_  
Bonnie K. Lott

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FILED  
Superior Court of California  
County of Los Angeles

APR 05 2016

SHERRIE CARTER, EXECUTIVE OFFICER/CLERK  
BY: Sheryl Ritchey Humber Deputy  
Sheryl Ritchey Humber

10 SUPERIOR COURT OF CALIFORNIA  
11 COUNTY OF LOS ANGELES

12 In re June 5, 2015 Search Warrant issued to  
13 California Public Utilities Commission

CASE NO. SW-70763

14 **CPUC NOTICE OF MOTION AND MOTION  
15 TO QUASH SEARCH WARRANT**

16 Date: April 18, 2016  
17 Time: 10:00 a.m.  
18 Place: Department 56  
19 Judge: Hon. William C. Ryan

20 **FILED UNDER SEAL PURSUANT TO  
21 COURT ORDER MARCH 24, 2016**

22 PLEASE TAKE NOTICE that on April 18, 2016 at the hour of 10:00 a.m. or as soon  
23 thereafter as counsel may be heard, the California Public Utilities Commission (“the CPUC” or  
24 “the Commission”) will move the Court to quash the search warrant issued by the Attorney  
25 General’s office on June 5, 2015 (“SONGS Search Warrant”) on the grounds that there is no  
26 probable cause that a crime has been committed. The conduct alleged is simply not criminal.

27 After the CPUC filed its previous motion pointing out that the affidavit filed in support of  
28 a similar search warrant contained materially false statements that *ex parte* communications were  
prohibited in the SONGS proceedings, the Attorney General obtained a new search warrant which  
allegedly excised the “misstatements.” **However, the new affidavit is even weaker than the  
prior one because it does not allege that the *ex parte* communications violated any rule,  
much less a criminal statute.** Since there is no alleged criminal violation, there can be no basis

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By Fax

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*Demanded by writhe order*

1 for a misdemeanor or for a criminal felony conspiracy. There is also no probable cause for an  
2 obstruction of justice charge when the alleged conduct does not even violate a CPUC rule, much  
3 less a criminal law. The Attorney General's position raises substantial due process concerns. The  
4 decision as to whether justice was allegedly "obstructed" or denied, e.g., whether ex parte  
5 communications regarding the SONGS settlement discussions violated any CPUC rule or statute  
6 governing the conduct of the CPUC proceedings, is one that is squarely before the CPUC itself  
7 and rightfully so. The law gives the CPUC exclusive jurisdiction over that decision. Since the  
8 affidavit points to no rule, order, statute, investigation, or other proceeding that was allegedly  
9 violated or obstructed, there exists no probable cause to support a search warrant.

10 To date, the CPUC has produced over 1.1 million documents to the Attorney General and  
11 59,546 documents specifically in response to the SONGS search warrant. The CPUC's contract  
12 attorneys have reviewed approximately 1.5 million documents at the expense of millions of  
13 dollars of public funds. The CPUC fully informed the Attorney General how it would conduct  
14 and complete the search and review and, has done exactly what it indicated it would do. The  
15 Attorney General now seeks to compel the CPUC to search for and review tens of thousands of  
16 more documents that trigger search terms that go well beyond the terms of the search warrant.  
17 Should the Court deny the CPUC's motion to quash, the CPUC requests that the Court modify the  
18 search warrant so as to deem its production complete or, in the alternative, order the Attorney  
19 General to pay for all additional costs that will be incurred to complete the demanded review.

20 This motion will be based on this notice of motion and supporting memorandum of points  
21 and authorities, all the papers and records on file in this action including but not limited the prior  
22 papers filed in support of its March 28, 2016 motion to view the affidavit *in camera*, and on such  
23 oral and documentary evidence as may be presented at any hearing on this motion.

24 Dated: April 4, 2016

DLA PIPER LLP (US)

By 

PAMELA NAUGHTON

REBECCA ROBERTS

Attorneys for Movant

California Public Utilities Commission

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**I.**  
**ARGUMENT**

**A. The Search Warrant Lacks Probable Cause**

Search warrants should be quashed when there is no probable cause to support the issuance of the search warrant. Cal. Penal Code § 1538.5(a); *People v. Alcorn*, 15 Cal. App. 4<sup>th</sup> 652 (1993). The requirement that the affidavit supporting a search warrant must contain facts establishing probable cause is contained in both the United States Constitution, the California Constitution and is codified in the Penal Code. U.S. Const. Amend. IV; Cal. Const., art. I, § 13; Cal. Penal Code § 1525. Probable cause exists when, based on the totality of circumstances described in the affidavit, “there is a fair probability that contraband or evidence **of a crime** will be found in a particular place” at the time of the search. *Illinois v. Gates*, 462 U.S. 213, 238, 103 S. Ct. 2317, 76 L. Ed. 2d 527 (1983); *Zurcher v. Stanford Daily*, 436 U.S. 547, 556, 98 S. Ct. 1970, 56 L. Ed. 2d 525 (1978)). There are two probable cause prerequisites for the issuance of a search warrant. The first is the “commission element,” that is, **probable cause to believe a crime has been committed** and, second, the “nexus” element, that is, a factual showing that evidence related to the suspected criminal activity probably will be found at the location to be searched at the time of the search and not some other time. *U.S. v. Zayas-Diaz*, 95 F.3d 105, 111 (1st Cir. 1996); *U.S. v. Grubbs*, 547 U.S. 90, 95, 126 S. Ct. 1494, 164 L. Ed. 2d 195 (2006); *Zurcher v. Stanford Daily*, 436 U.S. 547, 556, 98 S. Ct. 1970, 56 L. Ed. 2d 525 (1978); *United States v. Rubio*, 727 F.2d 786 (9<sup>th</sup> Cir. 1983) (search warrant lacked probable cause when there was no evidence of a nexus between criminal activity and the defendant’s association with a motorcycle club).

**B. The Affidavit Does Not Allege That the Ex Parte Communications Violated Anything**

The background facts concerning the SONGS OII, the issuance of the SONGS search warrant, and initial misrepresentations contained in the Diaz Affidavit concerning the nature of the CPUC’s ex parte rules and the mischaracterization of the SONGS OII as adjudicatory, not ratesetting, are described in detail in the CPUC’s motion for in camera review of the supporting



1 affidavit and supporting papers, which are herein incorporated. After the CPUC filed its motion,  
 2 the Attorney General obtained a new warrant, which allegedly excised the misstatements. On  
 3 March 28, 2016, this Court allowed CPUC counsel to review both affidavits *in camera*.  
 4 Both affidavits allege that there is probable cause for the search warrant for 2 reasons:  
 5 (1) Peevey and Pickett knowingly engaged and conspired to engage in prohibited ex parte  
 6 communications, and (2) Peevey utilized his position to influence SCE to commit research  
 7 monies to UCLA as part of the settlement negotiations. In its pertinent part, the new affidavit  
 8 alleges:

9 1. There is probable cause to believe Stephen Pickett, former  
 10 Executive President of External Relations at SCE and Michael  
 11 Peevey, former President of CPUC, knowingly engaged in and  
 12 conspired to engage in prohibited ex parte communications  
 13 regarding the closure of a nuclear facility to the advantage of SCE  
 14 and to the disadvantage of other interested parties. And there is  
 15 probable cause to believe the evidence showing that Pickett  
 16 knowingly engaged in prohibited ex parte communications will  
 17 be found.

18 2. There is probable cause to believe Peevey utilized  
 19 his position to influence SCE's commitment of millions of dollars  
 20 to UCLA to fund the research program and there is probable cause  
 21 to believe such evidence documenting the commitment of research  
 22 money to UCLA or University of California as part of settlement  
 23 negotiations associated with closure of the nuclear facility will be  
 24 found.

25 (Diaz Affidavit in Support of Search Warrant Issued on March 9, 2016) (Emphasis added.)  
 26 The affidavits conclude:  
 27 Based on the above evidence and facts, there is probable cause to  
 28 believe that PICKETT knowingly engaged and conspired to engage  
 29 in a reportable ex parte communication with PEEVEY in  
 30 POLAND to the overall advantage of SCE..."  
 31 The facts indicate that PEEVEY conspired to obstruct justice by  
 32 illegally engaging in ex parte communications, concealed ex  
 33 parte communications and inappropriately interfered with the  
 34 settlement process on behalf of the California Center for  
 35 Sustainable Communities at UCLA's Luskin Institute.

36 \_\_\_\_\_  
 37 ' The Attorney General did not provide the CPUC with a copy of the affidavit, CPUC counsel was only allowed to  
 38 review the affidavits in camera. The quoted passages were recorded in counsel's handwritten notes during the in  
 39 camera review and thus the affidavit itself has not been attached as an exhibit here.

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PEEVEY executed this plan through back channel communications and exertion of pressure, in violation of CPUC ex parte rules, and in obstruction of the due administration of laws.

Unlike the first affidavit, which at least (wrongly) claimed that the alleged ex parte communications violated CPUC rules and constituted a misdemeanor under Public Utilities Code section 2110, the new affidavit simply alleges and concludes that the ex parte communications were "prohibited" and "illegal" without citing any rule, law, or regulations prohibiting them. The applicable portion of the "Legal Framework" section, which was the only section the Attorney General revised to address the misstatements, only defines what an ex parte communication is; it does not cite any authority at all indicating that such communications were prohibited, much less criminal. The revised section solely provides:

Public Utilities Code Prohibitions on Ex Parte Communications

Ex parte communications are defined in the Public Utilities Code as "any oral or written communication between a decision maker and a person with an interest in a matter before the commission concerning substantive, but not procedural issues, that does not occur in a public hearing, workshop, or other public proceeding, or on the official record of the proceeding on the matter." (Pub. Util. Code §1701.1(c)(4)).

The section is a non sequitur: it concludes that the ex parte communications were prohibited but provides absolutely no authority or reason for this point. There cannot be

probable cause to justify a search warrant when the affidavit completely fails to identify what rule the alleged conduct violated, much less a basis for why this constitutes a crime. The affidavit claims that there is probable cause that a crime was committed because Pevey and Pickett engaged in "unlawful" ex parte communications in Warsaw, Poland concerning what the terms of the SONGS settlement should cover. However, it utterly fails to establish that the ex parte communications were unlawful (as explained in the CPUC's original motion, they weren't) or how this amounts to criminal conduct.

The affidavit also fails to acknowledge that California Public Utilities Code 1701.3(c) and CPUC Rules of Practice and Procedure 8.3(c) permit ex parte communications in ratesetting cases such as the SONGS proceedings, with certain notice requirements to other parties, and that

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1 it is the sole responsibility of the party, not the CPUC Decision-maker such as a Commissioner,  
2 to file and serve notice of the ex parte communication.

3 The Diaz Affidavit asserts that Peevey and Pickett allegedly “conspired to engage in a  
4 reportable ex parte communication.” Assuming for the sake of argument they did agree to engage  
5 in a reportable communication, this is not illegal. The California Public Utilities Code and CPUC  
6 rules permit ex parte communications and require the party, not the CPUC official, to file notice  
7 to other parties following the communication about the substance of the party’s, not the CPUC  
8 Decision maker’s, communication or its content. Cal. Pub. Util. Code § 1701.1(c)(iii). In its  
9 December 2015 Decision, the CPUC fined SCE \$16,740,000 for failing to report ex parte  
10 communications, including the March 2013 discussion between Pickett and Peevey, and for  
11 failing to serve the handwritten notes on the other parties. (Roberts Decl. ¶10, Ex. G.) SCE was  
12 fined for failing to report, not for engaging in, the communications, further confirming that the  
13 communication itself was permitted and not illegal. It is a legal impossibility that the  
14 communications between Peevey and Pickett were a crime as the communications were permitted  
15 when they took place. *People v. Jerome*, 160 Cal. App. 3d 1087, 1094 (1984) (“It follows that if  
16 the statute only prohibited certain conduct, it is legally impossible to violate it by engaging in  
17 different conduct.”)

18 Ex parte meetings in CPUC ratesetting proceedings are commonplace. In fact, there were  
19 72 reportable ex parte communications between the Commissioners and various parties to the  
20 SONGS settlement. (Roberts Decl. ¶9.) They were entirely proper. One cannot commit a crime  
21 by agreeing to do something which is not a crime. **“It is fundamental that no one can be held**  
22 **criminally liable for conspiracy to do acts that are perfectly lawful and to which there is no**  
23 **criminal objective.”** *Fleming v. Superior Court*, 191 Cal. App. 4<sup>th</sup> 73, 101 (2010). Parties  
24 cannot specifically intend to conspire or intend to commit an offense that is not illegal. *People v.*  
25 *Redd*, 228 Cal. App. 4<sup>th</sup> 449, (2014); *People v. Jurado*, 38 Cal. 4<sup>th</sup> 72, 123 (2006); *U.S. v.*  
26 *Vaghela*, 169 F.3d 729, 732 (11<sup>th</sup> Cir. 1999); *United States v. Galardi*, 476 F.3d 1072, 1079 (9<sup>th</sup>  
27 Cir. 1973) (holding that when the statute does not apply to the alleged unlawful conduct, the  
28 defendant cannot be charged with conspiracy to violate it).

1 The alleged ex parte meetings are lawful as determined by the state legislature and the  
2 CPUC under California Public Utilities Code section 1701.3(c) and the CPUC Rules of Practice  
3 and Procedure 8.3. The Attorney General cannot transmogrify a lawful meeting into a crime.  
4 Thus, there is no criminal predicate for the search warrant.

5 **C. There is No Probable Cause for Obstruction of Justice**

6 Since it appears that the Attorney General has abandoned Public Utilities Code section  
7 2110 as a predicate for the search warrant, the only other alleged criminal basis for the search  
8 warrant is “obstruction of justice” pursuant to Cal. Penal Code section 182(a)(5), which makes it  
9 a felony “to commit any act injurious to public health, to public morals, or to pervert or obstruct  
10 justice, or the due administration of laws.” The affidavit alleges there is probable cause that  
11 Peevey obstructed justice by: (1) engaging in prohibited ex parte communications with Pickett  
12 concerning the possible SONGS settlement terms; and (2) pressuring SCE to include a  
13 commitment of \$25 million to fund greenhouse gas research after the settlement had been fully  
14 negotiated and agreed to by all parties. The extra money for the greenhouse gas research was  
15 provided by SCE and its shareholders, not by ratepayers. Since none of this alleged conduct  
16 violated any rule or law, administrative, civil or criminal, it cannot serve as a basis for an  
17 obstruction of justice charge.

18 The California Supreme Court in *Lorenson v. Superior Court*, 35 Cal. 2d 49 (1950)  
19 defined “obstruction of justice” by looking at common law and Title 7 of the Penal Code, which  
20 addresses offenses such as bribery, escapes, rescues, perjury, and falsifying evidence:

21 Generally speaking, conduct which constitutes an offense against  
22 public justice, or the administration of law includes both  
23 malfeasance and nonfeasance by an officer in connection with the  
24 administration of his public duties, and also anything done by a  
25 person in hindering or obstructing an officer in the performance of  
26 his official obligations.

25 In California, the statutes relating to ‘Crimes Against Public  
26 Justice’ are found in part I, title [7], of the Penal Code. Bribery,  
27 escapes, rescues, perjury, falsifying evidence, and other acts which  
28 would have been considered offenses against the administration of  
justice at common law are made criminal by legislative enactment.  
*Section 182, subdivision 5,*<sup>[7]</sup> is a more general section making  
punishable a conspiracy to commit any offense against public  
justice. The meaning of the words ‘to pervert or obstruct justice, or

1 the due administration of the laws' is easily ascertained by reference  
2 either to the common law or to the more specific crimes enumerated  
in part I, title [7].

3 *Lorenson v. Superior Court*, 35 Cal. 2d 49, 60 (1950) (upholding conviction of police officer who  
4 conspired with other officers and criminal organization to assault and rob a victim and then hide  
5 evidence of their collaboration concluding “[a] conspiracy with or among public officials not to  
6 perform their official duty to enforce criminal laws is an obstruction of justice and an indictable  
7 offense at common law .”) Thus, an obstruction of justice charge requires a criminal objective to  
8 commit a specified unlawful act. *See People v. Redd*, 228 Cal. App. 4th 449, 457 (2014)  
9 (explaining the limitations of obstruction of justice charges as outline in *Lorenson* and *Davis*).  
10 Courts are clear that section 182(a)(5) is not so expansive as to criminalize any conspiracy to  
11 commit an unlawful act, especially when the underlying conduct is not criminal. *See Redd*, 228  
12 Cal. App. 4th at 463-64 (reversing conviction of conspiracy to obstruct justice charge based on  
13 prisoner’s alleged conspiracy with prison cook to smuggle cell phones and tobacco into prison  
14 because act of smuggling tobacco was not a crime under title 7 of the Penal Code or common law  
15 and there was no evidence that the act perverted or obstructed justice or the due administration of  
16 the laws).

17 *Fleming vs. Superior Court* is insightful. In this case, a school superintendent was  
18 charged with misusing public funds and conspiracy to obstruct justice per Penal Code section  
19 182(a)(5) for compiling lists of individuals who were circulating petitions to recall school district  
20 board members. The Court concluded that because the superintendent was within his lawful  
21 authority as superintendent to research the nature of the discontent and unrest within the district,  
22 his conduct was not criminal and could not serve as a basis for a conspiracy to obstruct justice  
23 charge, regardless of his political motive for gathering the information. The Court held:

24 [T]he conspiracy allegations under Penal Code section 182,  
25 subdivision (a)(5) fails because Fleming and his assistant  
26 superintendent agreed to do nothing more than acts which (1) they  
27 had a legal right do in the first place, (2) they had no criminal  
objective in doing, and (3) do not come anywhere near to  
obstructing justice or the due administration of law in the first  
place.

28 . . . .

1 The district attorney's office has presented no evidence whatsoever  
2 that the lists were used in any political campaign, or that they were  
3 used to intimate anybody, or that any child in the District was in  
any way affected by those lists or their preparation. Their  
4 compilation was *not criminal*.

5 *Id.* at 105. See also *United States v. Goyal*, 629 F.3d 912, 922 (9th Cir. 2010) (conc. Opn. Of  
6 Kozinski, J.) ("This case has consumed an inordinate amount of taxpayer resources, and has no  
7 doubt devastated the defendant's personal and professional life . . . . This is just one of a string of  
8 recent cases in which courts have found that federal prosecutors overreached by trying to stretch  
9 criminal law beyond its proper bounds. [Citations Omitted.] This is not the way criminal law is  
10 supposed to work. Civil law often covers conduct that falls in gray area of arguable legality. But  
criminal law should clearly separate conduct that is criminal from conduct that is legal.")

11 The same concerns arise here. The affidavit fails to cite any authority which even  
12 suggests the alleged *ex parte* communications violated any rule, much less a criminal one. There  
13 is also nothing unlawful about a Commissioner, who is a gubernatorial appointee appointed to a  
14 policy position to lead and run the Commission, engaging in settlement discussions. No section  
15 of the *ex parte* rules or the settlement rules in the Public Utilities Code or the CPUC Rules of  
16 Practice and Procedure prohibit *ex parte* communications with a Commissioner about settlements.  
17 Neither does a Commissioner's participation in an *ex parte* discussion regarding settlement  
18 dictate his recusal from voting on any proposed settlement. See *Decision Adopting Settlements*  
19 *On Marginal Cost, Revenue Allocation, and Rate Design*, No. 09-08-028 (August 20, 2009) at  
20 pp. 50-51 available at  
21 [http://docs.cpuc.ca.gov/PublishedDocs/WORD\\_PDF/FINAL\\_DECISION/106088.PDF](http://docs.cpuc.ca.gov/PublishedDocs/WORD_PDF/FINAL_DECISION/106088.PDF); *Morongo*  
22 *Band of Mission Indians v. State Water Resources Control Bd.*, 45 Cal. 4th 731, 737 (2009)  
23 (decision-makers at administrative agencies are accorded a presumption of impartiality); *Assoc. of*  
24 *Nat. Advertisers, Inc. v. Fed. Trade Comm'n*, 627 F.2d 1151, 1170 (D.C. Cir. 1979). Indeed,  
25 even in civil court proceedings, judges engage in settlement discussions all the time. Are they  
26 obstructing justice?

27 It should also be noted that the affidavit fails to reveal the truth: that the utilities, SCE and  
28 SDG&E negotiated an arms-length settlement with the settling parties, which was reached on

1 March 27, 2014. *See Joint Motion of SCE, SDG&E, TURN, ORA, Friends of the Earth and*  
2 *Coalition of California Utility Employees for Adoption of Settlement Agreement*, Investigation  
3 No. 12-10-013 (April 3, 2014), Attachment 1 *available at*  
4 <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M089/K640/89640857.PDF>. The rate to be  
5 paid by ratepayers had already been determined by the settling parties and was not changed. The  
6 affidavit does not allege anywhere that Peevey, or anyone else, interfered with the settlement  
7 negotiations among the parties. Rather, the Attorney General's complaint is that after the  
8 settlement agreement was reached, Peevey further pressured the utilities to contribute an  
9 additional \$25 million of shareholder funds towards funding existing greenhouse gas emission  
10 research and that this was a modification suggested by the CPUC, prior to its approval of the  
11 settlement agreement. *See Proposed Decision Approving Settlement Agreement As Amended and*  
12 *Restated by Settling Parties*, Investigation No. 12-10-013 (October 9, 2014) *available at*  
13 <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M119/K054/119054541.PDF>. All of the  
14 settling parties agreed to this term, which was a cost the utilities, e.g. SCE and SDG&E, not the  
15 ratepayers absorbed. This provision was to fund greenhouse gas emission research since these  
16 harmful emissions would increase due to the shutdown of the nuclear power plant and the  
17 increased reliance on electric power plants, and thus served to benefit state residents. This  
18 alleged conduct reflected the policy judgment of then-Commissioner Peevey, which was  
19 ultimately supported by all of the CPUC Commissioners in their unanimous vote finding that the  
20 amendment requiring SCE and SDG&E to pay for the research was in the public interest. *See*  
21 *Decision Approving Settlement Agreement As Amended and Restated by Settling Parties* No.14-  
22 11-040 (November 20, 2014) *available at*  
23 <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M143/K336/143336799.PDF>; CPUC  
24 Rules of Practice and Procedure 13.1(d) ("The Commission will not approve settlements, whether  
25 contested or uncontested, unless the settlement is reasonable in light of the whole record,  
26 consistent with the law, and in the public interest.")

27 The Attorney General does not allege that then-Commissioner Peevey's communications  
28 about the greenhouse gas research were an illegal quid pro quo and cites no law or rules that

1 prohibit a Commissioner from suggesting amendments to a settlement to ensure that it serves the  
2 public interest. The alleged conduct simply does not amount to criminal obstruction of justice.

3 The Attorney General's position that the alleged conduct, e.g., engaging in ex parte  
4 communications and settlement negotiations, constitutes a crime raises serious due process  
5 concerns. It is well established that due process is violated when a criminal statute does not give  
6 fair warning of the conduct it intends to punish or when it is expanded to an interpretation beyond  
7 what it says on its face. *Rogers v. Tennessee*, 532 U.S. 451, 457 (2001) ("A criminal statute must  
8 give fair warning of the conduct it makes a crime.") (citing *Bouie v. City of Columbia*, 378 U.S.  
9 347, 350 (1964)). *Marks v. United States*, 430 U.S. 188, 191-92 (1977) ("Deprivation of the right  
10 to fair warning can result both from vague statutory language and from an unforeseeable and  
11 retroactive judicial expansion of statutory language that appears narrow and precise on its face.  
12 That persons have a right to fair warning of that conduct which will give rise to criminal penalties  
13 is fundamental to our concept of constitutional liberty. As such, that right is protected against  
14 judicial action by the Due Process Clause of the Fifth Amendment."); *Rathert v. Galaza*, 203 F.  
15 App'x 97, 99 (9th Cir. 2006).

16 The Attorney General's attempt to transform lawful conduct, e.g., ex parte  
17 communications permitted by statute and the CPUC rules, into the basis for alleging unlawful  
18 conduct, distorts civil laws that permit ex parte meetings, into a mistaken basis for criminal  
19 charges. These civil laws give no warning that failure to comply would result in criminal charges  
20 for engaging in conduct the civil law permits. The Attorney General's assertion that a search  
21 warrant should be issued based on its mischaracterization of the permissible nature of conduct at  
22 issue under civil law presents grave due process concerns, and is at odds with the California and  
23 U.S. Constitution bedrock concepts of constitutional and civil liberty.

24 **D. The CPUC, not Superior Court, Is the Appropriate Forum For Any Claims that the**  
25 **Settlement Impeded Justice**

26 The "administration of justice" which was allegedly obstructed was a CPUC  
27 administrative proceeding. The CPUC is unaware of any authority holding that the obstruction of  
28 an administrative process can serve as a basis for a criminal obstruction of justice charge. Quite



1 the contrary. *See United States v. Meltsaf*, 435 F.3d 754, 756 (9th Cir. 1970) (federal obstruction  
2 of justice charge is limited to pending **judicial** proceedings).<sup>2</sup>

3 The question of whether justice was obstructed or denied to non-participating parties or  
4 the settling parties in the SONGS OII due to Peevey's conversations with SCE officials is one  
5 currently and squarely before the CPUC. The legislature has invested the CPUC with the power  
6 to enforce laws affecting public utilities. *Southern Cal. Edison Co. v. Peevey*, 31 Cal. 4th 781,  
7 800 (2003) ("The PUC's authority derives not only from statute but from the California  
8 Constitution which creates the agency and expressly gives it the power to fix rates for public  
9 utilities.")

10 The California Public Utilities Code and the CPUC Rules of Practice and Procedure  
11 expressly provide that a CPUC decision can be challenged by either an Application for  
12 Rehearing, CPUC Rules 16.1-16.3, or a Petition for Modification, CPUC Rule 16.4, which  
13 provides that an Application for Rehearing "shall set forth specifically the grounds on which the  
14 applicant considers the order or decision of the Commission to be **unlawful or erroneous**, and  
15 must make specific references to the record or law." (emphasis added); *see also* CPUC Rule  
16 16.1(c); Cal. Pub. Util. Code §§ 1701, 1731-1733, 1735. A Petition for Modification "asks the  
17 Commission to **make changes to an issued decision**" and "must concisely state the justification  
18 for the requested relief." (emphasis added) CPUC Rules 16.4(a) and (b), *see also* Cal. Pub. Util.  
19 Code §§ 1701 and 17-8, Cal. Const., art. XII, § 2. The Commission "may at any time, upon  
20 notice to the parties, and with opportunity to be heard as provided in the case of complaints,  
21 rescind, alter or amend any order or decision made by it." Cal. Pub. Util. Code § 1708.

22 Two parties to the SONGS OII proceedings have filed Petitions for Modifications seeking  
23 to undo the settlement based on the very same ex parte communications between Peevey and SCE  
24 officials. These petitions are currently pending before the CPUC. *See Alliance for Nuclear*

25 \_\_\_\_\_  
26 <sup>2</sup> The Ninth Circuit in *Meltsaf* held that, **although the statute refers to the broad range of "administration of**  
27 **justice," it only prohibits specific types of impending acts and "[T]hus, not only must the broad term**  
28 **administration of justice be limited to pending judicial proceedings, but also the manner in which the statute may**  
**be violated would only seem to be limited to intimidating actions. This conclusion would appear necessarily to**  
**follow from the proposition that Section 1503, since it is a criminal statute, must be, and should be, construed**  
**narrowly so that it can be upheld against the charges of vagueness.** *Meltsaf*, 435 F.2d at 757.

1 *Responsibility's Petition for Modification of D.14-11-040*, Investigation No. 12-10-103 (April 27,  
2 2015) available at  
3 <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M151/K340/151340427.PDF>; *Office of*  
4 *Ratepayer Advocates Petition for Modification of D.14-11-04*, Investigation No. 12-10-104  
5 (August 11, 2015) available at  
6 <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M154/K072/154072678.PDF>.

7 In December 2015, after President Peevey's term had ended, the CPUC severely  
8 sanctioned SCE in the amount of \$16,740,000 for failing to report (but not for engaging in) the ex  
9 parte communications with Peevey. (Roberts Decl. ¶10, Ex. G.) The pending administrative  
10 challenges to the Decision will not be heard by former Commissioner Peevey, who has served his  
11 term and has been replaced by Commissioner Liane M. Randoph. The Commission thus has the  
12 authority to determine the propriety of the ex parte communications and can rescind or amend the  
13 Decision approving the settlement if it finds its process or justice to have been impeded, or that  
14 the settlement was not "reasonable in light of the whole record, consistent with law, and in the  
15 public interest." CPUC Rules of Practice and Procedure 12.1(d). Indeed, how incongruous  
16 would it be if a prosecutor could unilaterally conclude, using a heightened criminal standard, that  
17 a conversation obstructed justice, when the very body conducting the proceeding itself concluded,  
18 using a lesser civil standard of proof, that the conversation did not even impede or affect its  
19 administration of justice?

20 Notably, the only state courts having jurisdiction to review, correct, or annul a CPUC  
21 decision are the Courts of Appeal and Supreme Court. Public Utilities Code section 1759  
22 expressly provides:

23 **No court of this state, except the Supreme Court and the court**  
24 **of appeal, to the extent specific in this article, shall have**  
25 **jurisdiction to review, reverse, correct, or annul any order or**  
26 **decision of the commission or to suspend or delay the execution**  
**or operation thereof, or to enjoin, restrain, or interfere with the**  
**commission in the performance of its official duties, as provided**  
**by law and the rules of court.**

27 Thus, the proper forum for determining whether Peevey's communications with SCE  
28 officials were at all improper or caused an unfair result is the CPUC, not the superior court. If the

1 parties are unhappy with the settlement, they can file with the CPUC a petition for modification,  
2 as two parties have already done. After the CPUC determines the disposition of those pending  
3 motions and petitions, those parties can appeal through the channels the state legislature has  
4 deemed appropriate – the Court of Appeal or the California Supreme Court.

5 **E. The CPUC Has Fully Complied With the Search Warrant**

6 To date, the CPUC has produced over 1.1 million documents to the Attorney General,  
7 nearly 60,000<sup>3</sup> of which have been produced in response to the SONGS search warrant. Its  
8 review team has reviewed nearly 1.5 million documents. This production has cost the CPUC  
9 millions of dollars. Throughout the entire process, the CPUC has kept the Attorney General fully  
10 informed as to the status of its review and production, explained in detail how it was conducting  
11 the review, and completed what it said it would within the time frame it specified. (*See* Roberts  
12 Decl. ¶¶11-16, Exs. H-P.) The Attorney General now requests that the CPUC search for and  
13 review tens of thousands of additional documents, using fourteen additional search terms – only  
14 recently provided the Attorney General. Many of these terms are not even called for by the  
15 search warrant. For example, the Attorney General demands that the CPUC now search for and  
16 review documents that trigger terms like “Aguirre”, “TURN”, “ORA”, “Japan” and “Mitsubishi”,  
17 which extend **well beyond** the scope of the search warrant itself. (*Cf.* Roberts Decl. ¶4, Ex. C  
18 with ¶16, Ex. P.) These new demands are nothing more than a fishing expedition by the Attorney  
19 General, a last ditch effort to try to find some piece of evidence to justify a lengthy and expensive  
20 investigation into conduct which was simply not criminal. Moreover, the Deputy Attorney  
21 General admitted that the Special Agent investigating this matter is not actually looking at each  
22 document produced, but merely scanning and running searches. Why, then has the CPUC been  
23 forced to endlessly produce, and re-produce, documents that **no one** is looking at?

24 Currently, the outside attorney vendor charges \$45 an hour for attorney review of  
25 documents. At the current rate of review, the charge comes to about \$.83 to review and  
26 categorize a document. This is a per document, not per page rate. The CPUC estimates that the

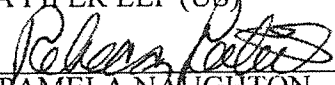
27 \_\_\_\_\_  
28 <sup>3</sup> 20,000 of these were documents the AG already had through another CPUC search warrant, but the AG insisted on  
the CPUC re-producing.

1 most recent demands by the Attorney General will require review of an additional 160,000  
2 documents. We estimate the cost to review these documents will approximate \$132,800. These  
3 costs should be borne by the Attorney General if the CPUC is compelled to further review and  
4 produce these documents. Cal. Civ. Proc. Code § 1033.5(c)(4). The CPUC also requests that any  
5 further demands for documents by the Attorney General be presented to and approved by this  
6 Court.

7  
8 **II.**  
**CONCLUSION**

9 For the reasons discussed above, the CPUC requests that the Court quash the SONGS  
10 search warrant. Alternatively, the CPUC requests that the Court order the Attorney General to  
11 pay for any additional costs incurred to review the remaining documents demanded and for the  
12 Court to approve and monitor any additional demands made by the Attorney General.

13 Dated: April 4, 2016

DLA PIPER LLP (US)  
By   
PAMELA NAUGHTON  
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Attorneys for Movant  
California Public Utilities Commission

Last Day:

Superior Court of California		CASE ACTION SUMMARY			Clerk: Sheryl Humber # 282371	
Defendant's Name <b>IN RE: SEARCH WARRANT CPUC</b>					Case Number: SW-70763	
Date: 3/24/16	Div: 56W	Judge: William C. Ryan # R0158	Prosecutor:	Defense Atty:	Reporter:	Inter/ Language

Defendant In Court \_\_\_\_\_

Defendant 977(A) \_\_\_\_\_

Case called for: 1) MOTION TO VIEW SEARCH WARRANT AFFIDAVIT  
IN CAMERA  
2) MOTION TO SEAL PLEADINGS AND RECORDS , EACH  
FILED BY MOVANT, CALIFORNIA PUBLIC UTILITIES  
COMMISSION

3) <sup>PEITION</sup> ~~MOTION~~ TO ORDER PUC to comply w/ SEARCH WARRANT. —  
Set for 4/18/16

#1 o/c as moot.

#2 granted



*Pamela Huntington*

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**FILED**  
Superior Court of California  
County of Los Angeles

MAR 21 2016

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By DR. [Signature] Deputy  
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15 E-mail: Maggy.Krell@doj.ca.gov

*Jackie*  
*445 0028*

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 COUNTY OF LOS ANGELES

14 **IN RE: JUNE 5, 2015 SEARCH WARRANT**  
15 **NO. 70763 ISSUED TO CALIFORNIA**  
16 **PUBLIC UTILITIES COMMISSION**

Case No.

**PETITION FOR AN ORDER  
COMPELLING CALIFORNIA PUBLIC  
UTILITIES COMMISSION TO COMPLY  
WITH SEARCH WARRANT**

Date: April 18, 2016  
Time: 10:00 a.m.  
Department: 56  
Judge: Hon. David V. Herriford

**FILED UNDER SEAL**

21 **TO THE HONORABLE JUDGE OF THE SUPERIOR COURT OF LOS ANGELES,**  
22 **AND TO RESPONDENT AND ITS ATTORNEY OF RECORD:**

23 The California Department of Justice, representing the People of the State of California,  
24 hereby petitions the Court for an Order Compelling the California Public Utilities Commission to  
25 comply with the search warrants issued by this Court on June 5, 2015, and March 9, 2016.

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ORIGINAL

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## POINTS AND AUTHORITIES

On June 5, 2015, the California Department of Justice (DOJ) served a search warrant on the California Public Utilities Commission (CPUC) seeking documents relevant to its criminal investigation. The warrant was signed by the Honorable David V. Herriford of the Los Angeles Superior Court after presentation by DOJ Special Agent Reye Diaz. CPUC was immediately served with the warrant. CPUC claimed that the materials sought were protected by the attorney client and deliberative process privileges. CPUC proposed a screening process whereby it would review evidence for privilege, and submit screened evidence to DOJ on a rolling basis.

Since the service of the warrant on June 5, 2015, DOJ and CPUC have communicated on an ongoing basis. DOJ has repeatedly expressed concerns over the speed of CPUC's compliance and the lack of timely productions. CPUC has countered that it does not have the resources to move faster and that it also needs to respond to numerous Public Records Act Requests and federal subpoenas. DOJ has offered to use its own internal taint team to screen for privilege and has offered to sign a confidentiality agreement to speed the process and preserve CPUC's claim of privilege. The CPUC has rejected these proposals and insisted on its own review. To streamline the process, DOJ agreed that search terms could be used to cull relevant information and limit CPUC's universe. CPUC submitted responsive records to the June 5 search warrant to DOJ in September and December of 2015. However, CPUC has failed to provide a privilege log to DOJ, detailing which records are being withheld due to privilege claims.

Based on its investigation, DOJ submitted additional search terms to CPUC in December of 2015. However, CPUC has refused to produce further evidence responsive to the search warrant. Instead, CPUC now indicates that it intends to challenge the warrant based on a misstatement contained therein. While DOJ submits that the June 5, 2015 search warrant is legally sufficient and CPUC is obligated to comply, DOJ nonetheless submitted a new search warrant for the same items to the Court, excising the sentence that CPUC deemed to be incorrect.

On March 9, 2016, the Honorable David V. Herriford signed the new search warrant and CPUC was served. CPUC indicated that it did not intend to provide further records absent an order from the court.

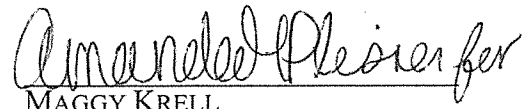


1 Under Penal Code section 1523, a "search warrant is an order in writing, in the name of the  
2 people, signed by a magistrate, directed to a peace officer, commanding him or her to search for a  
3 person or persons, a thing or things, or personal property, and, in the case of a thing or things or  
4 personal property, bring the same before the magistrate." By virtue of the warrant, CPUC is  
5 obligated to produce the evidence described therein.

6 Therefore, the Attorney General's Office respectfully requests that this Court compel  
7 CPUC to allow DOJ to complete its search of property described in the warrant, and to provide a  
8 privilege log to DOJ describing which documents are being withheld.

9  
10 Dated: March 21, 2016

Respectfully Submitted,

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13 MAGGY KRELL  
14 Deputy Attorney General

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1 KAMALA D. HARRIS  
Attorney General of California  
2 AMANDA PLISNER  
Deputy Attorney General  
3 MAGGY KRELL  
Deputy Attorney General  
4 State Bar No. 226675  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 327-1995  
7 Fax: (916) 322-2368  
E-mail: Maggy.Krell@doj.ca.gov

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF LOS ANGELES

11  
12 **IN RE: JUNE 5, 2015 SEARCH WARRANT**  
13 **NO. 70763 ISSUED TO CALIFORNIA**  
14 **PUBLIC UTILITIES COMMISSION**

Case No.

**DECLARATION OF SPECIAL AGENT**  
**REYE DIAZ**  
**FILED UNDER SEAL**

15  
16 I declare as follows:

17 1. That I, REYE DIAZ, am a Special Agent with the California Department of Justice  
18 currently assigned to investigate whether crimes were committed by individuals employed by the  
19 California Public Utilities Commission and others.

20 2. That on June 5, 2015, I served the CPUC and their legal representatives with search  
21 warrant #70763, signed by this Court. (See Exhibit A, June 5, 2015 Search Warrant.)

22 3. That as of June 24, 2015, I reported to the Court that CPUC's legal counsel advised of  
23 its inability to comply with the search warrant because of limited resources and concurrent  
24 demands of federal subpoenas and public records act requests. (See Exhibit B, Search Warrant  
25 Return and Inventory.)

26 4. That as of August 7, 2015, I reported to the Court that CPUC's legal counsel advised  
27 that CPUC was still unable to comply with the search warrant. (See Exhibit C, Search Warrant  
28 Return and Inventory.)

1           5.     That as of September 8, 2015, CPUC's new legal representatives, DLA Piper,  
2 submitted documents and records responsive to search warrant #70763. Counsel for CPUC also  
3 indicated that they would continue reviewing documents and provide additional records to the  
4 Attorney General's Office. (See Exhibit D, Search Warrant Return and Inventory.)

5           6.     That on October 13, 2015, I participated in a call with CPUC legal representatives to  
6 discuss their lack of compliance with the search warrant. In response, DLA Piper sent our office  
7 a summary of evidence produced responsive to other search warrants and subpoenas, claiming  
8 that at least 20,373 previously produced documents were responsive to search warrant #70763. In  
9 their letter, CPUC's counsel proposed a list of search terms and stated that they would finish  
10 production of an earlier search warrant, and then produce the remaining evidence responsive to  
11 search warrant #70763 on a rolling basis. (See Exhibit E, October 16, 2015 letter from DLA  
12 Piper.)

13           7.     That on October 22, 2015, our office sent CPUC legal representatives a letter  
14 memorializing our October 13, 2015 conversation, and laying out our expectation that the  
15 remaining evidence be produced in a timely manner. (See Exhibit F, October 22, 2015 letter to  
16 DLA Piper)

17           8.     That on December 21, 2015, CPUC produced evidence related to search warrant  
18 #70763 using the search terms provided in Exhibit E. (See Exhibit G, Search Warrant Return and  
19 Inventory.)

20           9.     That following an earlier discussion of the search terms used by DLA Piper, and  
21 based on our review of the evidence, the Attorney General's Office provided CPUC's legal  
22 representatives with additional search terms. (See Exhibit H, December 22, 2015 letter to DLA  
23 Piper.)

24           10.    That following our December 22, 2015 letter, I was advised by Deputy Attorney  
25 General Deborah Halberstadt of a phone call she had with CPUC counsel on January 4, 2016.  
26 During that call, counsel for CPUC stated that she was moving our search warrant to "the end of  
27 the line." She refused to agree to a timeline for production on our additional search terms, and  
28

1 refused our alternative proposal that CPUC forego search terms and send us all non-privileged  
2 evidence responsive to our warrant.

3 11. That on February 17, 2016, CPUC legal counsel served the Attorney General's Office  
4 with a sealed motion to view the affidavit for search warrant #70763 indicating that they planned  
5 to challenge this warrant based on an incorrect statement contained therein.

6 12. That on February 24, 2016, CPUC's legal counsel mailed the Attorney General's  
7 office what it characterized as "the remaining documents we identified as being responsive to the  
8 SONGS search warrant" referring to search warrant #70763. (See Exhibit I, February 24, 2016  
9 letter from DLA Piper.) However, the enclosed evidence did not include documents responsive  
10 to the search terms provided by the Attorney General on December 22, 2015. (See Exhibit H,  
11 December 22, 2015 letter to DLA Piper.)

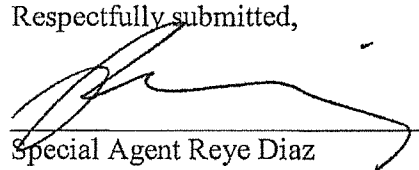
12 13. That on March 9, 2016, the Attorney General's deputies met with DLA Piper  
13 attorneys in person to discuss their sealed motion and whether CPUC was still refusing to finish  
14 compliance with search warrant #70763. I was not present during this discussion, but our Deputy  
15 Attorneys General informed me that the CPUC attorneys indicated that they would not comply,  
16 and that they intended to challenge the underlying search warrant, based on a misstatement  
17 contained within the warrant.

18 14. That on March 9, 2016, the Attorney General's Office obtained a new search warrant  
19 from this Court for the same records sought in warrant #70763. The new warrant excluded the  
20 statement that CPUC counsel had alleged was incorrect. (See Exhibit J, March 9, 2016 Search  
21 Warrant.)

22 15. That after serving CPUC legal representatives with the new search warrant, CPUC  
23 counsel stated unequivocally that they still did not intend to comply with either warrant.  
24

25 Dated: March 21, 2016

Respectfully submitted,

26  
27   
Special Agent Reye Diaz

28 LA2014118251/12174264.doc

# **EXHIBIT A**

STATE OF CALIFORNIA - COUNTY OF LOS ANGELES

SEARCH WARRANT AND AFFIDAVIT

(AFFIDAVIT)

Special Agent Reye Diaz, California Department of Justice, swears under oath that the facts expressed by him/her in this Search Warrant, and in the attached and incorporated statement of probable cause consisting of 20 pages, are true and that based thereon he/she has probable cause to believe and does believe that the property and/or person described below is lawfully seizable pursuant to Penal Code Section 1524, as indicated below, and is now located at the locations set forth below. Wherefore, affiant requests that this Search Warrant be issued.

NIGHT SEARCH REQUESTED: YES [ ] NO [X] - Justification on page(s) \_\_\_\_\_

[Signature] 6/5/15  
(Signature of Affiant)

FILED  
JUN 24 AM 9 16  
CENTRAL CRIMINAL  
LOS ANGELES SUPERIOR COURT

(SEARCH WARRANT)

THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY SHERIFF, POLICEMAN OR PEACE OFFICER IN THE COUNTY OF LOS ANGELES: proof by affidavit having been made before me by Special Agent Reye Diaz, that there is probable cause to believe that the property described herein may be found at the locations set forth herein and that it is lawfully seizable pursuant to Penal Code Section 1524 as indicated below by "x"(s) in that it:

- it was stolen or embezzled
- it was used as the means of committing a felony
- it is possessed by a person with the intent to use it as means of committing a public offense or is possessed by another to whom he or she may have delivered it for the purpose of concealing it or preventing its discovery
- it tends to show that a felony has been committed or that a particular person has committed a felony
- it tends to show that sexual exploitation of a child, in violation of Section 311.3, or depiction of sexual conduct of a person under the age of 18 years, in violation of Section 311.11, has occurred or is occurring
- there is a warrant for the person's arrest;

YOU ARE THEREFORE COMMANDED TO SEARCH:

See attached Exhibit "A"

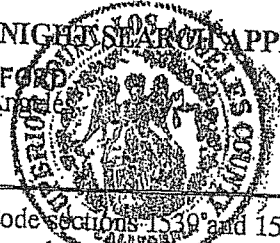
FOR THE FOLLOWING PROPERTY:

See attached Exhibit "A"

SEARCH WARRANT (Page 2)

AND TO SEIZE IT IF FOUND and bring it forthwith before me, or this court, at the courthouse of this court. This Search Warrant and incorporated Affidavit was sworn to as true and subscribed before me this 5<sup>th</sup> day of June, 2015, at 10:57 AM P.M. Wherefore, I find probable cause for the issuance of this Search Warrant and do issue it.

[Signature], NIGHT SEARCH APPROVED: YES [ ] NO [ X ]  
(Signature of Magistrate) DAVID V. HERRIFORD (Magistrate's Initials)  
Judge of the Superior Court - County of Los Angeles



Be advised that pursuant to California Penal Code sections 1539 and 1540, you may file a written motion in the court of the above-mentioned judge who issued the warrant, seeking return of the property seized pursuant to this warrant.

For further information concerning this search warrant, contact the officer whose name appears on the warrant, Special Agent Reye Diaz at (916) 916-322-2686 or at [reye.diaz@doj.ca.gov](mailto:reye.diaz@doj.ca.gov)

EXHIBIT "A"

California Public Utilities Commission  
San Francisco Office (Headquarters)  
Or Legal Representatives of CPUC  
505 Van Ness Avenue  
San Francisco, CA 94102  
MAY BE SERVED VIA EMAIL or FAX

FOR THE FOLLOWING PROPERTY:

Any and all records from January 31, 2012 until January 31, 2015, involving the San Onofre Nuclear Generating Station (SONGS) closure settlement agreement, the 2013 meeting between Stephen PICKETT and Michael PEEVEY in Poland, communication(s) pertaining to the determination of when and why SONGS would be closed, commitment of monies for research as a result of the closure of SONGS, and communication(s) pertaining to the settlement of the SONGS Order Instituting Investigation (OII). These records are to include:

1. CPUC will search emails to or from the following individuals:
  - a. Robert Adler – General Counsel, Edison International (now retired)
  - b. Ted Craver – Chairman, President, and Chief Executive Officer, Edison International
  - c. Laura Genao – Director, Regulatory Affairs, SCE
  - d. Michael Hoover – Senior Director of State Energy Regulation, SCE
  - e. Ron Litzinger – President, SCE (now President of Edison Energy)
  - f. R.O. Nichols – Senior Vice President for Regulatory Affairs, SCE
  - g. Stephen Pickett – Executive Vice President, External Relations, SCE (now retired)
  - h. Gary Schoonyan – Director, Strategic Policy Analysis, SCE (now retired)
  - i. Jim Scilacci – Chief Financial Officer, Edison International
  - j. Les Starck – Senior Vice President Regulatory Policy & Affairs, SCE (now retired)
  - k. Bert Valdman – Senior Vice President, Strategic Planning, Edison International (no longer employed)
  - l. Gaddi Vasquez – Senior Vice President, Government Affairs, Edison International
  - m. Russ Worden – Director of External Relations, SCE
  - n. Ron Olson, former Board member, Edison and Edison International
  - o. Michael Peevey (former President of CPUC)
  - p. Michel Florio (Commissioner, CPUC)
  - q. Melanie Darling (ALJ, CPUC)
  - r. Sepideh Khosrowjahi (Chief of Staff, Commissioner Florio)
  - s. Paul Clanon (Executive Director, CPUC)
  - t. Carol Brown (former Chief of Staff to President Peevey)
  - u. Audrey Lee (former Advisor to President Peevey)
  - v. Edward Randolph (Director of Energy, CPUC)
2. CPUC will identify employees who were involved in the implementation of the greenhouse gas research provisions of the SONGS OII settlement, specifically with respect to CPUC's understandings or intentions with regard to directing funding to UCLA. CPUC will propose to the



SEARCH WARRANT (Page 4)

Attorney General's Office additional employees whose email they will collect for this purpose.

3. CPUC will collect and review emails from the above 22 custodians, plus any other custodians identified pursuant to paragraph 2, that are dated from January 31, 2012 through January 31, 2015.
4. Handwritten notes, documents saved to a hard drive or to a network location, and data on smart phones that is not believed to exist in other locations. CPUC will advise the Attorney General's Office of its progress and plan for collection and review of any such documents.
5. With respect to the categories of documents specified in the search warrant, CPUC will search for, review and produce responsive documents as follows:
  - a. As to documents involving the SONGS settlement, CPUC will produce (1) documents constituting or referring to communications with SCE about the OII prior to execution of the settlement on March 27, 2014 (excluding on-the-record communications such as SCE pleadings filed with the CPUC); and (2) documents constituting communications with TURN or ORA referencing communications from Peevey regarding SONGS or UC in the context of the settlement negotiations up to March 27, 2014.
  - b. As to documents pertaining to the Poland trip in March 2013, CPUC will produce documents constituting or referring to communications during that trip that relate to SONGS. These documents will include any communications or materials regarding SONGS made in anticipation of the trip, any documents or communications regarding SONGS that occurred during the trip, and any communications or materials regarding SONGS created after the trip ended.
  - c. As to the documents regarding funding of research in connection with the SONGS settlement, CPUC will produce documents and all communications that (1) constitute or refer to communications with SCE or UCLA regarding greenhouse gas research as part of the SONGS settlement (excluding on-the-record communications such as pleadings filed with the CPUC and drafts of same; (2) refer to SCE's contributing to the UCLA Luskin Institute at UCLA, the University of California, UCLA's Institute of the Environment and Sustainability, or the California Center for Sustainable Communities at UCLA, in connection with the SONGS settlement; and (3) constitute advocacy directed to the CPUC by local governmental agencies in support of greenhouse gas research as part of the SONGS settlement.

**LOCATION #1:**

**California Public Utilities Commission  
San Francisco Office (Headquarters)  
Or Legal Representatives of CPUC  
505 Van Ness Avenue  
San Francisco, CA 94102  
MAY BE SERVED VIA EMAIL or FAX**

**FOR THE FOLLOWING PROPERTY:**

Any and all records from January 31, 2012 until January 31, 2015, involving the San Onofre Nuclear Generating Station (SONGS) closure settlement agreement, the 2013 meeting between Stephen PICKETT and Michael PEEVEY in Poland, communication(s) pertaining to the determination of when and why SONGS would be closed, commitment of monies for research as a result of the closure of SONGS, and communication(s) pertaining to the settlement of the SONGS Order Instituting Investigation (OI). These records are to include:

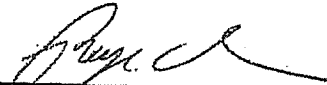
1. CPUC will search emails to or from the following individuals:
  - a. Robert Adler – General Counsel, Edison International (now retired)
  - b. Ted Craver – Chairman, President, and Chief Executive Officer, Edison International
  - c. Laura Genao – Director, Regulatory Affairs, SCE
  - d. Michael Hoover – Senior Director of State Energy Regulation, SCE
  - e. Ron Litzinger – President, SCE (now President of Edison Energy)
  - f. R.O. Nichols – Senior Vice President for Regulatory Affairs, SCE
  - g. Stephen Pickett – Executive Vice President, External Relations, SCE (now retired)
  - h. Gary Schoonyan – Director, Strategic Policy Analysis, SCE (now retired)
  - i. Jim Scilacci – Chief Financial Officer, Edison International
  - j. Les Starck – Senior Vice President Regulatory Policy & Affairs, SCE (now retired)
  - k. Bert Valdman – Senior Vice President, Strategic Planning, Edison International (no longer employed)
  - l. Gaddi Vasquez – Senior Vice President, Government Affairs, Edison International
  - m. Russ Worden – Director of External Relations, SCE
  - n. Ron Olson, former Board member, Edison and Edison International
  - o. Michael Peevey (former President of CPUC)
  - p. Michel Florio (Commissioner, CPUC)
  - q. Melanie Darling (ALJ, CPUC)
  - r. Sepideh Khosrowjah (Chief of Staff, Commissioner Florio)
  - s. Paul Cianon (Executive Director, CPUC)
  - t. Carol Brown (former Chief of Staff to President Peevey)
  - u. Audrey Lee (former Advisor to President Peevey)

v. Edward Randolph (Director of Energy, CPUC)

2. CPUC will identify employees who were involved in the implementation of the greenhouse gas research provisions of the SONGS OII settlement, specifically with respect to CPUC's understandings or intentions with regard to directing funding to UCLA. CPUC will propose to the Attorney General's Office additional employees whose email they will collect for this purpose.
3. CPUC will collect and review emails from the above 22 custodians, plus any other custodians identified pursuant to paragraph 2, that are dated from January 31, 2012 through January 31, 2015.
4. Handwritten notes, documents saved to a hard drive or to a network location, and data on smart phones that is not believed to exist in other locations. CPUC will advise the Attorney General's Office of its progress and plan for collection and review of any such documents.
5. With respect to the categories of documents specified in the search warrant, CPUC will search for, review and produce responsive documents as follows:
  - a. As to documents involving the SONGS settlement, CPUC will produce (1) documents constituting or referring to communications with SCE about the OII prior to execution of the settlement on March 27, 2014 (excluding on-the-record communications such as SCE pleadings filed with the CPUC); and (2) documents constituting communications with TURN or ORA referencing communications from Peevey regarding SONGS or UC in the context of the settlement negotiations up to March 27, 2014.
  - b. As to documents pertaining to the Poland trip in March 2013, CPUC will produce documents constituting or referring to communications during that trip that relate to SONGS. These documents will include any communications or materials regarding SONGS made in anticipation of the trip, any documents or communications regarding SONGS that occurred during the trip, and any communications or materials regarding SONGS created after the trip ended.
  - c. As to the documents regarding funding of research in connection with the SONGS settlement, CPUC will produce documents and all communications that (1) constitute or refer to communications with SCE or UCLA about greenhouse gas research as part of the SONGS settlement (excluding on-the-record communications such as pleadings filed with the CPUC and drafts of same); (2) refer to SCE's contributing to the UCLA Luskin Institute at UCLA, the University of California, UCLA's Institute of the Environment and Sustainability, or the California Center for Sustainable Communities at UCLA, in connection with the SONGS settlement; and (3) constitute advocacy directed to the CPUC by local governmental agencies in support of greenhouse gas research as part of the SONGS settlement.

I declare under penalty of perjury, under the laws of the State of California, that foregoing facts are true and correct to the best of my knowledge and belief.

Reviewed by Deborah Halberstadt  
Deputy Attorney General  
California Department of Justice

 6/5/15  
Special Agent Reye Eugene Diaz  
Criminal Law Division  
California Department of Justice

# **EXHIBIT B**

70763

SUPERIOR COURT OF CALIFORNIA

County of LOS ANGELES

Search Warrant  
Sealing Order

FILED  
2015 JUN 24 AM 9 16  
LOS ANGELES SUPERIOR COURT

Warrant No. \_\_\_\_\_

Place to be searched: CALIFORNIA PUBLIC UTILITIES COMMISSION  
505 VAN Ness AVE. SF, CA 94102

Application for Sealing Order: I hereby request that the following document(s) submitted in support of the requested search warrant be sealed pending further order of the court:

Affidavit

Grounds for order: I believe that the sealing of the above document(s) is warranted for the following reasons:

PUBLIC INTEREST: Sealing serves the following public interest:

- Protect a confidential informant (Evid. Code § 1041)
- Conceal official information: (Evid. Code § 1040)

PREJUDICE TO PUBLIC INTEREST: There exists a substantial probability that this public interest would be prejudiced if the information contained in this document(s) is not sealed.

NARROWLY TAILORED: I do not believe it would be possible to release any of the sealed information without prejudicing this public interest.

Declaration: I declare under penalty of perjury that the above information is true.

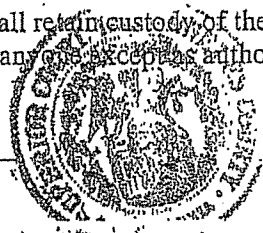
Date 6/15/15

Affiant [Signature]

Order: Pursuant to Rule 2.550 of the California Rules of Court, the document(s) identified above shall be sealed and retained in the following manner pending further order of the court:

- (1) The document(s) shall be sealed in an envelope with a copy of this Order affixed to the front of the envelope; and
- (2) The Clerk of the Court shall retain custody of the envelope in a secure place and shall not permit it to be opened by anyone except as authorized by written order of the Court.

Date June 5, 2015



[Signature]  
Judge of the Superior Court  
DAVID V. HERRIFORD

# **EXHIBIT C**

SUPERIOR COURT OF CALIFORNIA

70763

County of Los Angeles

SEARCH WARRANT RETURN  
and  
INVENTORY

Search Warrant No.  
Issuing Magistrate: David V. Herriford  
Date warrant issued: 6/5/15  
Date warrant executed: 6/5/15  
Location/Vehicles/Persons served and title:  
California Public Utilities Commission  
San Francisco Office (HQ)  
505 Van Ness Ave.  
San Francisco, CA 94102  
Manner of service: Served CPUC Legal Counsel/Sheppard Mullin via email.

I, Special Agent Reye Diaz, Office of the Attorney General, the affiant for this search warrant, state: The information listed above is correct and during the execution of the search warrant, the following property was seized:

Unable to obtain evidence at this time. CPUC legal counsel advises that due to limited resources, and the concurrent demands of federal subpoenas and public records act requests, the evidence is not currently available. Despite requests, CPUC has still not provided a specific time frame as to when documents will be provided as ordered by the Court. Your affiant will update the Court with a filing of an additional search warrant return.

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

Date: 6/24/2015

*Reye Diaz* AG # 10  
Special Agent Reye Diaz AG#10  
Affiant

*DAVID R. FIELDS*  
Judge of the Court

Penal Code § 1537

DAVID R. FIELDS



FILED  
2015 JUN 24 AM 9 16  
CENTRAL CRIMINAL  
LOS ANGELES SUPERIOR COURT

Reviewed by: Deputy Attorney General Maggy Krell



SUPERIOR COURT OF CALIFORNIA

County of Los Angeles

Rollback  
10763

SEARCH WARRANT RETURN  
and  
INVENTORY

Search Warrant No. 70763

Issuing Magistrate: David V. Herriford

Date warrant issued: 6/5/15

Date warrant executed: 6/5/15

Location/Vehicles/Persons served and title:

California Public Utilities Commission  
San Francisco Office (HQ)  
505 Van Ness Ave.  
San Francisco, CA 94102

Manner of service: Served CPUC Legal Counsel/Sheppard Mullin via email.

FILED  
2015 AUG 7 AM 9 28  
CENTRAL CRIMINAL  
LOS ANGELES SUPERIOR COURT

I, Special Agent Reye Diaz, Office of the Attorney General, the affiant for this search warrant, state: The information listed above is correct and during the execution of the search warrant, the following property was seized:

On June 24, 2015, your affiant reported to the court: Unable to obtain evidence at this time. CPUC legal counsel advises that due to limited resources, and the concurrent demands of federal subpoenas and public records act requests, the evidence is not currently available. Despite requests, CPUC has still not provided a specific time frame as to when documents will be provided as ordered by the Court. Your affiant will update the Court with a filing of an additional search warrant return.

As of August 7, 2015, after multiple requests, and two months after the search warrant was served on CPUC, no records have been produced to your affiant as required by California law. No extension has been requested and no indication has been given as to when the records will be produced to your affiant. Your affiant will update the Court with a filing of an additional search warrant return.

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

Date: 8/7/2015



Special Agent Reye Diaz AG#10  
Affiant

Michael E. Pastor  
Judge of the Court  
MICHAEL E. PASTOR

Penal Code § 1537

# **EXHIBIT D**

SUPERIOR COURT OF CALIFORNIA

County of Los Angeles

ROLLBACK  
70763

SEARCH WARRANT RETURN  
and  
INVENTORY

FILED  
2015 SEP 25 AM 9 51  
GENERAL  
LOS ANGELES COUNTY COURT

Search Warrant No. 70763

Issuing Magistrate: David V. Herriford

Date warrant issued: 6/5/15

Date warrant executed: 6/5/15

Location/Vehicles/Persons served and title:

California Public Utilities Commission  
San Francisco Office (HQ)  
505 Van Ness Ave.  
San Francisco, CA 94102

Manner of service: Served CPUC Legal Counsel/Sheppard Mullin via email.

I, Special Agent Reye Diaz, Office of the Attorney General, the affiant for this search warrant, state: The information listed above is correct and during the execution of the search warrant, the following property was seized:

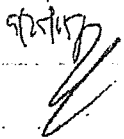
On June 24, 2015, your affiant reported to the court: Unable to obtain evidence at this time. CPUC legal counsel advises that due to limited resources, and the concurrent demands of federal subpoenas and public records act requests, the evidence is not currently available. Despite requests, CPUC has still not provided a specific time frame as to when documents will be provided as ordered by the Court. Your affiant will update the Court with a filing of an additional search warrant return.

As of August 7, 2015, after multiple requests, and two months after the search warrant was served on CPUC, no records have been produced to your affiant as required by California law. No extension has been requested and no indication has been given as to when the records will be produced to your affiant. Your affiant will update the Court with a filing of an additional search warrant return.

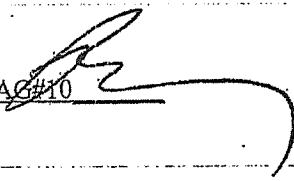
On September 10, 2015, CPUC legal representatives, DLA Piper US LLP, in response to this search warrant, submitted documents and records to the California Attorney General's Office. As more documents are received, your affiant will update the Court with a filing of an additional search warrant return.

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

Date: 9/24/2015



Special Agent Reye Diaz AG#10



Judge of the Court



M.L. VILLAS

Penal Code § 1537

# **EXHIBIT E**



DLA Piper LLP (US)  
401 B Street, Suite 1700  
San Diego, California 92101-4297  
www.dlapiper.com

Pamela Naughton  
pamela.naughton@dlapiper.com  
T 619.699.2775  
F 619.764.6625

October 16, 2015

OUR FILE NO. 393011-000001

*CONFIDENTIAL*

Ms. Maggy Krell, Deputy Attorney General  
Ms. Deborah Halberstadt, Deputy Attorney General  
Reye Diaz, Special Agent  
Office of the Attorney General  
1300 I Street  
Sacramento, California 95814  
maggy.krell@doj.ca.gov  
deborah.halberstadt@doj.ca.gov  
reye.diaz@doj.ca.gov

Dear All,

As we discussed with Special Agent Diaz and Ms. Halberstadt on Tuesday, October 13, below is a summary of the CPUC's production to date in response to the SONGS search warrant issued on June 5, 2015. Also below is a summary of our proposal to streamline the review and production of (1) the deleted emails recovered from the data seized pursuant to the first search warrant issued in November 2014 and (2) the approximately 100,000 documents that remain to be reviewed in response to this search warrant.

I. **Compliance with the SONGS Search Warrant**

First, as we informed you during our call and explained in our September 29, 2014 letter, the California Attorney General has a substantial volume of documents responsive to the SONGS search warrant (by our estimate, over 20,000 documents) already in its possession due to the fact that it initially seized a number of computers and hard drives as a result of the November 5, 2014 warrant. The items seized were computers, hard drives, and other devices of certain custodians such as former Commission President Michael Peevey, Michel Florio, Carol Brown, etc. Since your office seized these documents, it obtained everything on them, including any documents relating to SONGS. Per the CPUC's prior agreement with the Attorney General's office, you provided us with copies of everything initially seized and allowed us to review documents that triggered certain terms which may indicate that a document is privileged. Following this agreed upon protocol, we have produced over a million documents back to your office to date (approximately 845,000 which did not trigger any potentially privileged terms and approximately 131,000 which were reviewed for privilege and then produced.)

Using our document review platform tool, we applied relevant SONGS terms to the documents we had already produced back to you as of July 31, 2015 from the first search warrant. Our term search results identified approximately 20,373 documents. So, even before the CPUC made any production to your office specifically in response to the SONGS search warrant, your office already had a substantial volume of responsive documents in your possession. Please note that this search result does NOT include



Ms. Maggy Krell, Deputy Attorney General  
October 16, 2015  
Page Two

additional documents the CPUC produced to you in response to the November 5, 2014 search warrant on September 24, 2015. So, it is highly likely you have even more SONGS responsive documents in your possession.

Second, on September 8, 2015, the CPUC produced approximately 19,335 documents to your office in response to the SONGS search warrant. This production consisted of documents that referenced SONGS search terms that had been produced in prior productions to federal authorities.

Third, the CPUC intends to make another production in response to the SONGS search warrant by the end of the month. In order to respond to the SONGS search warrant, CPUC pulled emails and documents from its servers from the specified CPUC employees, plus other CPUC employees known to be involved with the SONGS Oil settlement or greenhouse gas provisions. We also extracted communications to, from, and/or copying the SoCal Edison employees listed in the search warrant. This data was exported into a larger database. There are currently several million documents in this database.

To efficiently and effectively respond to the search warrant, the CPUC applied SONGS search terms to the emails and other documents of the 22 identified custodians, plus the additional employees identified by the CPUC. We have also gathered hard copy documents from the identified custodians and will be producing these documents in the next production.

We will continue to produce documents responsive to the SONGS search warrant on a rolling basis, after we have completed our production in response to the November 2014 search warrant, per your instruction.

II. **Streamlining Production on the November 5, 2014 Search Warrant**

As we discussed on our call, the CPUC has identified approximately 321,000 deleted and recovered emails from the material initially seized pursuant to the November 5, 2014 search warrant. You agreed that the CPUC may limit its review and production of these documents to only those which trigger terms related to the first search warrant and the SONGS search warrant. Our proposed terms are attached as Exhibit A.

Additionally, we estimate that we have approximately 100,000 documents that remain to be reviewed in response to the November 2014 search warrant. It will greatly streamline the process and reduce expenses to filter those 100,000 documents using the terms in Exhibit A. We are open to discussing any additional search terms with you. In the meantime, we will proceed with the filtering process.

Once we finalize the most recent production on SONGS, our priority will be completing our review of the documents responsive to the first search warrant. Once we have completed that review, we will discuss



Ms. Maggy Krell, Deputy Attorney General  
October 16, 2015  
Page Three

our next steps for completing production in response to grand jury subpoena #2 and the SONGS search warrant.

Please let us know if you have any questions, concerns or comments regarding the proposed search terms. Thank you.

Very truly yours,

DLA Piper LLP (US)

A handwritten signature in black ink, appearing to read 'Pamela Naughton', with a long horizontal flourish extending to the right.

Pamela Naughton  
Partner

Admitted In California Bar

WEST262193877.1

EXHIBIT A

SONGS\*

"San Onofre"

"12-10-013"

"1210013"

Unit2\*

"Unit 2"

Poland

Warsaw

"Bristol Hotel"

"greenhouse"

(green\* w/3 house)

"ghg"

(fund\* w/3 research)

"UC"

"UCLA"

(University w/3 California)

"Luskin"

"IES"

(Institute w/3 Environment w/3 Sustainability)

((Institute w/3 Environment) w/2 Sustainability)

"CCSC"

(California w/3 Center w/3 Sustainable w/3 Communities)

((((California w/3 Center) w/2 Sustainable) w/3 Communities)

"CFEE"

(California w/3 Foundation w/5 Environment w/5 Economy)

((((California w/3 Foundation) w/2 Environment) w/3 Economy)

HECA

Annual w/3 dinner

Cherry

Judge w/3 Long

Judge w/3 Wong

\*sce.com

\*edisonintl.com

\*sdge.com

\*pge.com

\*Semprautilities.com



# **EXHIBIT F**

*KAMALA D. HARRIS*  
*Attorney General*

*State of California*  
**DEPARTMENT OF JUSTICE**



1300 I STREET, SUITE 125  
P.O. BOX 944255  
SACRAMENTO, CA 94244-2550

Public: (916) 445-9555  
Telephone: (916) 322-0896  
Facsimile: (510) 622-2270  
E-Mail: Deborah.Halberstadt@doj.ca.gov

October 22, 2015

Ms. Pamela Naughton  
DLA Piper, LLP  
401 B Street, Suite 1700  
San Diego, California 92101-4297.

**RE: California Public Utilities Commission**

Dear Ms. Naughton:

Thank you for speaking with us last week, and for your follow up letter. We appreciate this ongoing conversation, as we have been deeply concerned regarding CPUC's compliance with our November 4, 2014 and June 5, 2015 search warrants.

We recognize that there are voluminous documents to be reviewed. To give you some background, as the third CPUC counsel we have worked with, in December of 2014 after waiting over a month for initial production from our first CPUC search warrant, we offered to create an internal "taint team" within the Office of the Attorney General, completely separate from the investigating team, to review the seized evidence for privilege. We have successfully used this methodology with other entities in this and in other cases. However, CPUC opposed this option and insisted that CPUC be the ones to conduct the review. Moreover, during these initial discussions, CPUC counsel committed to producing evidence efficiently on a rolling basis.

Concerned about CPUC's time table, we also proposed, drafted, and circulated a Confidentiality Agreement, whereby CPUC and the Office of the Attorney General would have agreed that any potentially privileged information obtained from CPUC by the Office of the Attorney General could be reviewed without waiver of any privilege, and that any privileged material would be maintained as confidential investigatory material. This solution too has worked in other cases. CPUC refused to agree to this option.

On March 2, 2015, Deputy Attorney General Maggy Krell personally met with President Picker to re-offer the Confidentiality Agreement and explain the difficulty we were having investigating this case while being delayed and hampered by the CPUC's lack of compliance. While expressing an interest in cooperating, on advice of several attorneys, President Picker would not agree to the Confidentiality Agreement.

Over the subsequent months, we repeatedly requested the production of documents responsive to the November 4, 2014 search warrant. In February 2015 we were told we would receive a production of the potentially privileged documents that had already been screened, by the end of the month. No such production was made. In March, we requested an update and were informed that CPUC expected to begin a rolling production of materials responsive to the November search warrant in May. On May 26, 2015 we requested another update; at that point we still had not received any privilege-reviewed material in response to the search warrant. CPUC finally made its first production of privilege-reviewed material on May 29, 2015. In late June, CPUC notified us that it intended to make another partial production of potentially privileged material in late June or early July. Despite numerous requests from our office in June and July 2015 for a timeline as to when CPUC intended to complete its responses to the November search warrant, we were told only that CPUC was "well on its way." Meanwhile, CPUC was served with a further search warrant on June 5, 2015, where the court ordered CPUC to turn over records related to SONGS. Despite multiple requests, CPUC failed to provide any specific time line or production relevant to that search warrant, stating only that they "are working on it" and are "overwhelmed" with requests.

In late August, 2015, we received notification that CPUC had hired a new law firm, and that your firm, DLA Piper would now be representing CPUC. We renewed our request for a time line and specifics about how many documents were still in the queue to be privilege reviewed.

Finally, on September 29, 2015, we received your letter stating, "there is no way to streamline this process unless your office allows us to suspend our review and deem the search warrant complied with." As I noted in our call, given the history of CPUC's dilatory response to the search warrant, we do not intend to suspend review, and we do not deem the search warrant complied with. In order to streamline the process, we again offered to provide an internal taint team or to sign a confidentiality agreement. You appeared to decline both options. You stated that you believed CPUC could finalize its review of the 103,000 documents, and the additional 20,000 retrieved from deleted files, within 55 to 75 days. Consequently, we expect to receive, on a rolling basis, all relevant documents no later than December 28, 2015.

We also discussed the alternative of you providing a list of search terms for our review, which could limit the number of documents you must review. You have provided a list of 36 search terms, the vast majority of which relate to the second search warrant of June 5, 2015. We will provide you with any additional search terms relevant to both search warrants. In the meantime, we expect that you will continue reviewing the 103,000 documents in order to complete the review by December 28, 2015.

Regarding the June 5, 2015 search warrant, in our conversation you stated that some of the documents provided in response to the November 4, 2014 search warrant were also responsive to the June search warrant. We asked you to delineate which documents from the November search warrant you believed were responsive, so that we may inform the court. Please provide us with written documentation of the Bates numbers of the documents you believe are responsive to both search warrants.

October 22, 2015  
Page 3

You requested clarification regarding certain terms in the search warrant. We will be providing answers to your questions shortly. We also agreed to allow CPUC to complete its responses to the November 4, 2014 search warrant first, with the understanding that documents responsive to both search warrants will be identified as such.

In close, please understand that this investigation is a significant one. Asking us to suspend the search or be satisfied with 90% compliance is unacceptable in this context, where the integrity of a public agency is at stake. We will do everything we can to work with you and simplify our requests, but if deadlines continue to go unmet our only option will be to bring an Order to Show Cause. Please feel free to contact me at (916) 322-8096 with any questions you may have. Thanks very much and we look forward to working with you on this.

Sincerely,



DEBORAH R. HALBERSTADT  
Deputy Attorney General

MAGGY KRELL  
Deputy Attorney General

For KAMALA D. HARRIS  
Attorney General

DRH:

LA2014118251  
32253898

# EXHIBIT G

ROLLBACK 70763

SUPERIOR COURT OF CALIFORNIA

County of Los Angeles

SEARCH WARRANT RETURN  
and  
INVENTORY

Search Warrant No. 70763

Issuing Magistrate: David V. Herriford

Date warrant issued: 6/5/15

Date warrant executed: 6/5/15

Location/Vehicles/Persons served and title:

California Public Utilities Commission  
San Francisco Office (HQ)  
505 Van Ness Ave.  
San Francisco, CA 94102

Manner of service: Served CPUC Legal Counsel/Sheppard Mullin via email.

FILED 2  
2015 DEC 22 AM 11 36  
LOS ANGELES SUPERIOR COURT

I, Special Agent Rey Diaz, Office of the Attorney General, the affiant for this search warrant, state: The information listed above is correct and during the execution of the search warrant, the following property was seized:

On November 12, 2015, CPUC legal representatives, DLA Piper US LLP, delineated 25,156 documents previously provided to the Office of the Attorney General which were responsive to this search warrant served on June 5, 2015.

On December 21, 2015 the Office of the Attorney General received numerous records related to: The San Onofre Nuclear Generating Station (SONGS) closure. The Office of the Attorney General continues to work with CPUC on obtaining all records until full compliance with the June 5, 2015 search warrant. Your affiant will continue to update the court on this matter.

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

Date: 12/22/2015

Rey Diaz  
Special Agent Rey Diaz AG#10  
Affiant

Michael Tynan  
Judge of the Court

Penal Code § 1537

MICHAEL TYNAN



# EXHIBIT H

KAMALA D. HARRIS  
Attorney General

State of California  
DEPARTMENT OF JUSTICE



1300 I STREET, SUITE 125  
P.O. BOX 944255  
SACRAMENTO, CA 94244-2550

Public: (916) 445-9555  
Telephone: (916) 322-0896

Facsimile:  
E-Mail: Deborah.Halberstadt@doj.ca.gov

December 22, 2015

Ms. Rebecca Roberts  
DLA Piper, LLP  
401 B Street, Suite 1700  
San Diego, California 92101-4297

RE: California Public Utilities Commission

Dear Ms. Roberts:

Thank you for your recent productions of 1) documents responsive to the November 5, 2014 search warrant (CPUC CALAG 02130833-02144600) and 2) the reproduction of documents in response to the June 5, 2015 search warrant (CPUC CALAG 00001781-2122826, though not consecutive). I appreciate your quick turnaround on these items.

In our December 14, 2015 conversation, we also discussed the search terms CPUC is employing to identify responsive documents. As I understood from our conversation, CPUC is currently using Exhibit A to identify documents responsive to the November warrant. Exhibit A includes some terms related to SONGS, and some terms related primarily to the judge-shopping issue with PG&E. In discussing the use of this list of terms further with my office, we have concluded that these limited search terms are insufficient for purposes of response to the November warrant. We respectfully request that you provide all non-privileged documents in response to the November warrant, not just those captured by searching the terms found in Exhibit A. We understand that as of October 16, 2015, you had approximately 103,000 emails left to review for privilege, and on December 21, you produced 13,767 documents. We recognize that this request will require additional time for you to respond, and we will so note in the return to the court.

Furthermore, in our conversation, you explained that the terms found in Exhibit A related to SONGS are the same terms you are using to respond to the June warrant. We respectfully ask you to search for the following additional terms in responding to the June warrant:

Unit3\*  
"Unit 3"  
Bristol  
Pincefl  
Aguirre



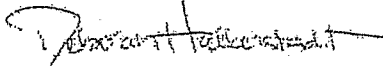
December 22, 2015  
Page 2

Geesman  
Mitsubishi  
Japan  
TURN  
ORA

"\$25 million"  
"25 million"  
"\$20 million"  
"20 million"

Please do not hesitate to contact me with any questions.

Sincerely,



DEBORAH R. HALBERSTADT  
Deputy Attorney General

For KAMALA D. HARRIS  
Attorney General

DRH:

LA2014(1825)

# **EXHIBIT I**



DLA Piper LLP (US)  
401 B Street, Suite 1700  
San Diego, California 92101-4297  
www.dlapiper.com

Rebecca Roberts  
rebecca.roberts@dlapiper.com  
T 619.699.2776  
F 619.764.6626

February 24, 2016  
VA, UPS

OUR FILE NO. 393011-000001

Ms. Maggy Krell, Deputy Attorney General  
Ms. Amanda Plisner, Deputy Attorney General  
Mr. Reye Diaz, Special Agent  
Office of the Attorney General  
1300 I Street  
Sacramento, California 95814  
[maggy.krell@doj.ca.gov](mailto:maggy.krell@doj.ca.gov)  
[amanda.plisner@doj.ca.gov](mailto:amanda.plisner@doj.ca.gov)  
[reye.diaz@doj.ca.gov](mailto:reye.diaz@doj.ca.gov)

e>V\ '1-

CONFIDENTIAL/ SUBJECT TO GRAND JURY SECRECY

Re: CPUC Production in Response to SONGS Search Warrant

Dear Ms. Krell:

Enclosed please find a DVD which includes electronic and hard copy documents the California Public Utilities Commission ("CPUC") is producing in response to the search warrant your office issued on June 5, 2015 concerning the San Onofre Nuclear Generating Station settlement agreement ("SONGS Search Warrant"). This disk contains documents Bates labeled CPUC CALAG 02144601 - CPUC CALAG 02153033. This production consists of the remaining documents we identified as responsive to the SONGS Search Warrant using the search terms provided to you in our October 2015 correspondence. This represents the fourth production the CPUC has made to you in response the SONGS Search Warrant. (The prior productions were made on September 8, 2015, December 11, 2015 and December 18, 2015.) The CPUC has now produced approximately 59,546 documents in response to the SONGS Search Warrant and approximately 1,072,937 documents in total to you.

Please note that the CPUC is producing these documents in native format. The native files are named the same as their Bates label. Confidentiality or other designations are included in the load file. We will send the password for the DVD in a separate email.

Some of the documents being produced in response to the SONGS search warrant may be subject to the deliberative process privilege. Both federal and state law recognize this privilege, which extends to a public agency's materials that reflect deliberative or decision making processes. See Cal. Gov't Code section 6255; *FTC v. WarnerComms., Inc.*, 742 F.2d 1156, 1161 (9th Cir. 1984); *Wilson v. Super. Ct.*, 51 Cal. App. 4th 1136, 1142 (1996). See also Office of Attorney General "Summary of the California Public Records Act 2004", Section X(A) (recognizing the "Deliberative Process Privilege.")

The CPUC is being compelled to produce these documents in response the SONGS search warrant. This limited compelled production does not by any means constitute a waiver of the privilege.



Maggy Krell  
February 24, 2016  
Page Two

voluntary or otherwise. Nor does it in any way hinder the CPUC's right or ability to assert this privilege in other proceedings. See, e.g., *The Regents of University of California v. Super. Ct.*, 165 Cal. App. 4th 627 (2008); *Regents of the University of California v. Workers' Comp. Appeals Bd.*, 226 Cal. App. 4th 1530 (2014).

As you well know, state grand jury proceedings are subject to strict secrecy requirements such that the information and evidence provided to a grand jury may only be further disclosed, by court order, in the limited contexts designated by the California Penal Code. See *Goldstein v. Super. Ct.*, 45 Cal. 4th 218, 221 (2008). Thus, by law, the documents must be treated confidentially and not disseminated to any person without judicial or statutory authority. Indeed, grand jurors who unlawfully disclose information received by the grand jury may be subject to a misdemeanor. See, e.g., Cal. Penal Code sections 924.1, 924.2. All of the documents herein produced, which have been designated "Confidential" in their footers, must be kept secret as required by the California Penal Code. The same is true of all other CPUC documents, whether initially seized by your office or produced by the CPUC.

Furthermore, CPUC's compelled production of documents protected by the deliberative process privilege should in no way be construed as a waiver of the attorney-client, work product or other applicable privileges. The CPUC reserves all rights to assert applicable privileges in response to the grand jury subpoenas and search warrants. Any inadvertent production of any privileged material does not in any way constitute a waiver of the applicable privilege.

Please do not hesitate to contact me if you have any questions.

Very truly yours,

DLA Piper LLP (US)

A handwritten signature in black ink, appearing to read 'R. Roberts', followed by a period and the text 'ft 11 11'.

Rebecca Roberts  
Associate

Enclosure

WEST268350721.1

tlJIPER

401 B Street, Suite 1700  
San Diego, CA 92101 USA  
T: (619) 699-2700

2/24/2016

Production *in* Response to SONGS June 2015 Search  
Warrant No. 70763  
CPUC CALAG 02144601 - CPUC CALAG 02153033

STATE OF CALIFORNIA – COUNTY OF LOS ANGELES

SEARCH WARRANT AND AFFIDAVIT

(AFFIDAVIT)

Special Agent Reye Diaz, California Department of Justice, swears under oath that the facts expressed by him/her in this Search Warrant, and in the attached and incorporated statement of probable cause consisting of 20 pages, are true and that based thereon he/she has probable cause to believe and does believe that the property and/or person described below is lawfully seizable pursuant to Penal Code Section 1524, as indicated below, and is now located at the locations set forth below. Wherefore, affiant requests that this Search Warrant be issued.

NIGHT SEARCH REQUESTED: YES [ ] NO [X] - Justification on page(s) \_\_\_\_\_

Reye Diaz 3/9/16  
(Signature of Affiant)

(SEARCH WARRANT)

THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY SHERIFF, POLICEMAN OR PEACE OFFICER IN THE COUNTY OF LOS ANGELES: proof by affidavit having been made before me by Special Agent Reye Diaz, that there is probable cause to believe that the property described herein may be found at the locations set forth herein and that it is lawfully seizable pursuant to Penal Code Section 1524 as indicated below by "x"(s) in that it:

- \_\_\_\_\_ it was stolen or embezzled
- X \_\_\_\_\_ it was used as the means of committing a felony
- X \_\_\_\_\_ it is possessed by a person with the intent to use it as means of committing a public offense or is possessed by another to whom he or she may have delivered it for the purpose of concealing it or preventing its discovery
- X \_\_\_\_\_ it tends to show that a felony has been committed or that a particular person has committed a felony
- \_\_\_\_\_ it tends to show that sexual exploitation of a child, in violation of Section 311.3, or depiction of sexual conduct of a person under the age of 18 years, in violation of Section 311.11, has occurred or is occurring
- \_\_\_\_\_ there is a warrant for the person's arrest;

YOU ARE THEREFORE COMMANDED TO SEARCH:

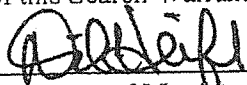
See attached Exhibit "A"

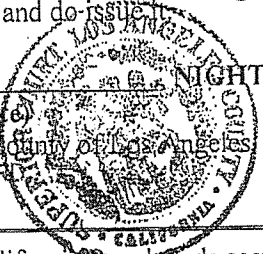
FOR THE FOLLOWING PROPERTY:

See attached Exhibit "A"

SEARCH WARRANT (Page 2)

AND TO SEIZE IT IF FOUND and bring it forthwith before me, or this court, at the courthouse of this court. This Search Warrant and incorporated Affidavit was sworn to as true and subscribed before me this 9<sup>th</sup> day of March, 2016, at 11:25 A.M./P.M. Wherefore, I find probable cause for the issuance of this Search Warrant and do issue it.

  
(Signature of Magistrate)  
Judge of the Superior Court – County of Los Angeles  
DAVID V. HERRIFORD



NIGHT SEARCH APPROVED: YES [ ] NO [ X ]  
(Magistrate's Initials)

Be advised that pursuant to California Penal Code sections 1539 and 1540, you may file a written motion in the court of the above-mentioned judge who issued the warrant, seeking return of the property seized pursuant to this warrant.

For further information concerning this search warrant, contact the officer whose name appears on the warrant, Special Agent Reye Diaz at (916) 916-322-2686 or at [reye.diaz@doj.ca.gov](mailto:reye.diaz@doj.ca.gov)

SEARCH WARRANT (Page 3)

EXHIBIT "A"

LOCATION #1:

California Public Utilities Commission  
San Francisco Office (Headquarters)  
505 Van Ness Avenue  
San Francisco, CA 94102  
MAY BE SERVED VIA EMAIL or FAX

FOR THE FOLLOWING PROPERTY:

Any and all records from January 31, 2012 until January 31, 2015, involving the San Onofre Nuclear Generating Station (SONGS) closure settlement agreement, the 2013 meeting between Stephen PICKETT and Michael PEEVEY in Poland, communication(s) pertaining to the determination of when and why SONGS would be closed, commitment of monies for research as a result of the closure of SONGS, and communication(s) pertaining to the settlement of the SONGS Order Instituting Investigation (OII). These records are to include:

1. CPUC will search emails to or from the following individuals:

- a. Robert Adler – General Counsel, Edison International (now retired)
- b. Ted Craver – Chairman, President, and Chief Executive Officer, Edison International
- c. Laura Genao – Director, Regulatory Affairs, SCE
- d. Michael Hoover – Senior Director of State Energy Regulation, SCE
- e. Ron Litzinger – President, SCE (now President of Edison Energy)
- f. R.O. Nichols – Senior Vice President for Regulatory Affairs, SCE
- g. Stephen Pickett – Executive Vice President, External Relations, SCE (now retired)
- h. Gary Schoonyan – Director, Strategic Policy Analysis, SCE (now retired)
- i. Jim Scilacci – Chief Financial Officer, Edison International
- j. Les Starck – Senior Vice President Regulatory Policy & Affairs, SCE (now retired)
- k. Bert Valdman – Senior Vice President, Strategic Planning, Edison International (no longer employed by EIX)
- l. Gaddi Vasquez – Senior Vice President, Government Affairs, Edison International
- m. Russ Worden – Director of External Relations, SCE
- n. Ron Olson, former Board member, Edison and Edison International
- o. Michael Peevey (former President of CPUC)
- p. Michel Florio (Commissioner, CPUC)
- q. Melanie Darling (ALJ, CPUC)
- r. Sepideh Khosrowjah (Chief of Staff, Commissioner Florio)
- s. Paul Clanon (Executive Director, CPUC)
- t. Carol Brown (former Chief of Staff to President Peevey)
- u. Audrey Lee (former Advisor to President Peevey)
- v. Edward Randolph (Director of Energy, CPUC)

2. CPUC will identify employees who were involved in the implementation of the greenhouse gas research provisions of the SONGS OII settlement, specifically with respect to CPUC's understandings or intentions with regard to directing funding to UCLA. CPUC will propose to the Attorney General's



SEARCH WARRANT (Page 4)

Office additional employees whose email they will collect for this purpose.

3. CPUC will collect and review emails from the above 22 custodians, plus any other custodians identified pursuant to paragraph 2, that are dated from January 31, 2012 through January 31, 2015.

4. Handwritten notes, documents saved to a hard drive or to a network location, and data on smart phones that is not believed to exist in other locations. CPUC will advise the Attorney General's Office of its progress and plan for collection and review of any such documents.

5. With respect to the categories of documents specified in the search warrant, CPUC will search for, review and produce responsive documents as follows:

a. As to documents involving the SONGS settlement, CPUC will produce (1) documents constituting or referring to communications with SCE about the OII prior to execution of the settlement on March 27, 2014 (excluding on-the-record communications such as SCE pleadings filed with the CPUC); and (2) documents constituting communications with TURN or ORA referencing communications from Peevey on settlement or UC in the context of the settlement negotiations up to March 27, 2014.

b. As to documents pertaining to the Poland trip in March 2013, CPUC will produce documents constituting or referring to communications during that trip that relate to SONGS. These documents will include any communications or materials regarding SONGS made in anticipation of the trip, any documents or communications regarding SONGS that occurred during the trip, and any communications or materials regarding SONGS created after the trip ended.

c. As to the documents regarding funding of research in connection with the SONGS settlement, CPUC will produce documents that (1) constitute or refer to communications with SCE or UCLA about greenhouse gas research as part of the SONGS settlement that occurred prior to November 25, 2014 (excluding on-the-record communications such as pleadings filed with the CPUC and drafts of same; (2) refer to SCE's contributing to the UCLA Luskin Institute at UCLA, the University of California, UCLA's Institute of the Environment and Sustainability, or the California Center for Sustainable Communities at UCLA, in connection with the SONGS settlement; and (3) constitute advocacy directed to the CPUC by local governmental agencies in support of greenhouse gas research as part of the SONGS settlement.

**DECLARATION OF SERVICE BY U.S. MAIL**

Case Name: **CPUC/PG&E**

No.:

I declare:


I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On March 21, 2016, I served the attached **PETITION FOR AN ORDER COMPELLING CALIFORNIA PUBLIC UTILITIES COMMISSION TO COMPLY WITH SEARCH WARRANT; DECLARATION OF SPECIAL AGENT REYE DIAZ, FILED UNDER SEAL** by placing a true copy thereof enclosed in a sealed envelope in the internal mail collection system at the Office of the Attorney General at 300 South Spring Street, Suite 1702, Los Angeles, CA 90013, addressed as follows:

DLA Piper, San Diego  
Attn: Pamela Naughton  
401 B. Street, Suite 1700  
San Diego, CA 92101

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on March 21, 2016, at Los Angeles, California.

\_\_\_\_\_  
M. Moore  
Declarant

\_\_\_\_\_  
  
Signature

1 KAMALA D. HARRIS  
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 2 JAMES ROOT  
 Senior Assistant Attorney General  
 3 AMANDA PLISNER  
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*Attorneys for People*

**FILED**  
 LOS ANGELES SUPERIOR COURT

MAR 21 2016

Sherri R. Carter, Executive Officer/Clerk  
 By B. Perez Deputy

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 11 COUNTY OF LOS ANGELES

13 **IN RE: JUNE 5, 2015 SEARCH**  
 14 **WARRANT NO. 70763 ISSUED TO**  
 15 **CALIFORNIA PUBLIC UTILITIES**  
 16 **COMMISSION**

Case No.

**NO OPPOSITION TO CALIFORNIA  
 PUBLIC UTILITY COMMISSION'S  
 MOTIONS TO VIEW SEARCH  
 WARRANT AFFIDAVIT *IN CAMERA*  
 AND TO SEAL ALL DOCUMENTS AND  
 HEARINGS RELATED TO ITS MOTION**

**UNDER SEAL FILING**

19  
20  
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22  
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24  
25

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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF LOS ANGELES  
10

11 **IN RE JUNE 5, 2015 SEARCH WARRANT**  
12 **NO. 70763 ISSUED TO CALIFORNIA**  
13 **PUBLIC UTILITIES COMMISSION**

Case No.

**NO OPPOSITION TO CALIFORNIA  
PUBLIC UTILITY COMMISSION'S  
MOTIONS TO VIEW SEARCH  
WARRANT AFFIDAVIT *IN CAMERA*  
AND TO SEAL ALL DOCUMENTS AND  
HEARINGS RELATED TO ITS MOTION**

Date: March 24, 2016  
Time: 8:30 a.m.  
Dept: 100  
Judge: Hon. James Brandlin

**FILED UNDER SEAL**

14  
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20 **INTRODUCTION**

21 On June 5, 2015, the California Department of Justice (DOJ) served a search warrant on the  
22 California Public Utilities Commission (CPUC) seeking documents relevant to a pending criminal  
23 investigation regarding the shutdown of San Onofre Nuclear Generating Station (SONGS). The  
24 warrant was signed by the Honorable David V. Herriford of the Los Angeles Superior Court after  
25 presentation by DOJ Special Agent Reye Diaz. CPUC has partially complied with the warrant,  
26 however responsive documents remain outstanding. Special Agent Diaz filed warrant returns on  
27 June 24, 2015, August 7, 2015, September 24, 2015, and December 22, 2015.  
28



1 **II. The Department of Justice Does Not Oppose California Public Utility's Motion to**  
2 **Seal All Documents and Hearings Related to its Motion to View Search Warrant**  
3 **Affidavit *in Camera***

4 CPUC requests that the pleadings and hearings related to its Motion to View Search  
5 Warrant Affidavit *in Camera* be sealed. DOJ does not object to this request. As CPUC points  
6 out in its pleadings, the affidavit at issue was sealed to protect the integrity of DOJ's ongoing  
7 investigation. Because the warrant that is the subject of the hearing is sealed, DOJ agrees that it  
8 is appropriate for the proceedings and related pleadings to be sealed as well.

9 **III. California Public Utility's Assertion that the Department of Justice's June 5, 2015**  
10 **Warrant Lacks Probable Cause is Not Properly Before This Court**

11 CPUC, throughout its moving papers, suggests that DOJ's June 5, 2015 search  
12 warrant is not supported by adequate probable cause. While DOJ does not contest that the  
13 warrant does contain a misstatement, it strongly opposes the argument that the error negates the  
14 probable cause in support of the warrant. DOJ maintains that its June 5, 2015 warrant is valid  
15 and, in an effort to demonstrate this fact, has obtained a new warrant supported by an affidavit  
16 from which the misstatement is excised. If, despite the issuance of the March 9, 2016 warrant,  
17 CPUC wishes to challenge the probable cause in support of the June 5, 2015 warrant, it must do  
18 so through the appropriate motion.

19 Dated: March 21, 2016

Respectfully Submitted,

20 KAMALA D. HARRIS  
21 Attorney General of California  
22 JIM ROOT  
23 Supervising Assistant Attorney General

24 

25 AMANDA PLISNER  
26 Deputy Attorney General

27 LA2014118251  
28 61899112.doc

**DECLARATION OF SERVICE BY U.S. MAIL**

Case Name: **CPUC/PG&E**

No.:

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On March 21, 2016, I served the attached **NO OPPOSITION TO CALIFORNIA PUBLIC UTILITY COMMISSION'S MOTIONS TO VIEW SEARCH WARRANT AFFIDAVIT *IN CAMERA* AND TO SEAL ALL DOCUMENTS AND HEARINGS RELATED TO ITS MOTION** by placing a true copy thereof enclosed in a sealed envelope in the internal mail collection system at the Office of the Attorney General at 300 South Spring Street, Suite 1702, Los Angeles, CA 90013, addressed as follows:

DLA Piper, San Diego  
Attn: Pamela Naughton  
401 B. Street, Suite 1700  
San Diego, CA 92101

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on March 21, 2016, at Los Angeles, California.

M. Moore

Declarant



Signature

ORIGINAL

FILED  
LOS ANGELES SUPERIOR COURT

FEB 17 2016

Sherri R. Carter, Executive Officer/Clerk  
By [Signature] Deputy  
M. Seals

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8  
9 SUPERIOR COURT OF CALIFORNIA  
10 COUNTY OF LOS ANGELES

11 In Re June 5, 2015 Search Warrant No.  
12 70763 issued to California Public Utilities  
13 Commission

CASE NO. SW-70763

14 NOTICE OF MOTION AND MOTION TO  
15 VIEW SEARCH WARRANT AFFIDAVIT  
16 *IN CAMERA*; MEMORANDUM OF POINTS  
17 AND AUTHORITIES

18 Date: <sup>24 mg</sup> 3/18/16  
19 Time: 8:30 am  
20 Place: Department 100

21 FILED UNDER SEAL

22 PLEASE TAKE NOTICE that on <sup>24 mg</sup> 3/18/16 at the hour of <sup>8:30</sup> 8:30 or as soon thereafter as  
23 AM  
24 counsel may be heard, the California Public Utilities Commission (“the CPUC” or “the  
25 Commission”) will move the Court to allow its counsel to view *in camera* the sealed affidavit  
26 filed in support of a June 5, 2015 search warrant served on the CPUC (“SONGS Search  
27 Warrant”). The Attorney General is investigating whether *ex parte* settlement discussions  
28 between a Commissioner and a company executive violated any order or rule of the CPUC such  
that they could be charged with a misdemeanor (Cal. Penal Code §2110) and perhaps even felony  
conspiracy to commit the misdemeanor (Cal. Penal Code §182(a)(1)).

Recently, an affidavit written by California Department of Justice Special Agent Reye  
Diaz (“Agent Diaz Affidavit”) was published in the media. This affidavit supported a similar  
search warrant issued for the company executive’s personal emails. The same criminal statutes

*No opposition*



1 cited in that affidavit serve as the criminal predicate for the SONGS Search Warrant.  
2 Unfortunately, the Agent Diaz Affidavit contains several material, uninformed and incorrect  
3 statements and assertions regarding CPUC rules pertaining to *ex parte* communications. The  
4 CPUC requests to view the sealed affidavit in support of the SONGS Search Warrant in order to  
5 determine if it contains the same inaccuracies and flaws.

6 Because the CPUC is a public agency working in the public interest, it feels compelled to  
7 file this motion in order to inform this Court of these inaccuracies which form the basis for the  
8 warrant.

9 Furthermore, complying with this very broad warrant (and the companion three subpoenas  
10 and additional search warrant) has so far cost the CPUC millions of dollars and diverted its  
11 resources from its mandated functions. The CPUC has already produced over one million  
12 documents to the Attorney General and believed its compliance to be substantially completed.  
13 However, the Attorney General recently made further demands on the CPUC for yet more  
14 searches, review, and production of documents, ostensibly pursuant to this warrant.  
15 Before expending more public funds and launching into yet another round of searching for and  
16 reviewing hundreds of thousands of documents, the Court should understand and consider the  
17 possibility that the allegations and underpinnings in the affidavit supporting the search warrant  
18 are legally baseless. Alternatively, the CPUC requests an *in camera* hearing pursuant to *People v.*  
19 *Hobbs*, 7 Cal. 4th 948 (1994).

20 This motion will be based on this notice of motion and supporting memorandum of points  
21 and authorities, all the papers and records on file in this action and on such oral and documentary  
22 evidence as may be presented at any hearing on this motion.

23 Dated: February 17, 2016

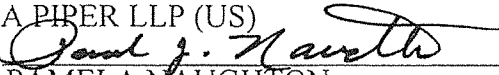
24 DLA PIPER LLP (US)  
By   
25 PAMELA NAUGHTON  
26 REBECCA ROBERTS  
27 Attorneys for Movant  
28 California Public Utilities Commission

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1 Decision". Under Public Utilities Code section 1701.1(b), the Commission is directed to  
2 designate an Assigned Commissioner to each proceeding to manage the overall scope of the  
3 proceeding and work directly with the ALJ. A prehearing conference is scheduled and, after it is  
4 held, a "Scoping Memo" is issued which describes the issues to be considered and the applicable  
5 timetable for resolution.

6 After all evidence is received and arguments made by the parties, the Proposed Decision  
7 is then considered by all of the Commissioners who vote on it or offer amendments. A  
8 Commissioner may also draft an Alternative Proposed Decision for consideration by the other  
9 Commissioners.

10 **B. The SONGS OII**

11 In 2012, the San Onofre Nuclear Generating Station ("SONGS") experienced leaks of  
12 contaminated steam. The facility was temporarily shut down and the CPUC filed an Order  
13 Instituting Investigation ("SONGS OII") (Declaration of Rebecca Roberts ("Roberts Decl.") ¶2,  
14 Ex. A.) The scope of the OII included rates, operations, practices, replacement energy, services,  
15 and facilities associated with the closure of SONGS. The OII was subsequently consolidated with  
16 other SONGS cost-related proceedings. The OII itself, as well as the following consolidated  
17 "Scoping Memo", clearly categorized the proceeding as ratesetting - not adjudicatory. Pursuant  
18 to this categorization, *ex parte* discussions were permitted (subject to requirements for notice,  
19 equal time, and timely reporting by the party). *See* Rules 8.3(c) and 8.4.

20 On March 26, 2013 at an energy conference in Warsaw, Poland, Stephen Pickett  
21 ("Pickett"), an executive of Southern California Edison ("SCE"), majority owner of SONGS, had  
22 a drink at the hotel bar with CPUC President/Commissioner Peevey ("Peevey") and the Director  
23 of the Energy Division, Ed Randolph ("Randolph"). Peevey was not the Assigned Commissioner  
24 for the SONGS OII. Noting that replacement energy costs were getting very expensive, President  
25 Peevey asked Pickett whether SCE intended to permanently shut down SONGS, and if so, when.  
26 Pickett acknowledged that closure was being considered and then went on to describe the various  
27 categories of costs associated with the shutdown which would need to be addressed in any  
28 settlement of the OII. (*See* Declaration of Edward Randolph attached to Roberts Decl. ¶3, Ex. B.)



1 Pickett failed to report this *ex parte* conference within the three-day period required under the  
2 rules. The obligation to report an *ex parte* conversation rests with the party – not the  
3 Commissioner.

4 SONGS was permanently shut down in June 2013 and SCE and minority owner SDG&E  
5 negotiated a complex settlement agreement of the SONGS OII with ratepayer advocate groups  
6 and other interested parties. The settlement agreement was approved by the Commission on  
7 November 25, 2014. In early February 2015, the Warsaw discussion was reported in the media.  
8 On February 9, 2015, Pickett/SCE reported the *ex parte* communication regarding the Warsaw  
9 meeting.<sup>2</sup>

10 On June 5, 2015, Special Agent Diaz served on the CPUC the search warrant at issue.  
11 The SONGS Search Warrant, which is very broad and vague, generally concerns all records  
12 involving the SONGS settlement agreement, the 2013 Poland Meeting, the determination of when  
13 and why SONGS would be closed, commitment of monies for research as a result of the closure  
14 of SONGS, and communications pertaining to the settlement of the SONGS OII. (Roberts Decl.  
15 ¶4, Ex. C.) The supporting affidavit was filed and remains under seal.

16 **C. Incorrect Statements In Special Agent Diaz’s Publicly Filed Affidavit**

17 On December 29, 2015, the San Diego Union Tribune published the Agent Diaz Affidavit  
18 in support of a similar search warrant for Pickett’s personal emails (“Pickett Search Warrant”).  
19 (*Id.* ¶5, Ex. D.) The demands of the Pickett Search Warrant are very similar to the demands of  
20 the CPUC SONGS search warrant, e.g., it seeks production of all records pertaining to the  
21 SONGS settlement, the Poland Meeting, the determination of when and why SONGS would be  
22

---

23 <sup>2</sup> Meanwhile, the Attorney General was investigating allegations against Pacific Gas & Electric (“PG&E”) involving CPUC proceedings regarding the San Bruno gas explosion. The CPUC has been cooperating in that investigation and has provided a criminal Joint Task force team, including the U.S. Department of Justice and the State Attorney General, with documents associated with that separate investigation. In November 2014, the Attorney General served and executed a broad search warrant on the CPUC, issued by the Superior Court in San Francisco. It also served 3 grand jury subpoenas on the CPUC. To date, the CPUC has produced over 1,064,000 documents to the Attorney General. Although the affidavit in support of that search warrant was sealed and is likely very similar to the affidavit issued in support of the SONGS Search Warrant because it was issued by a different court, it is not the subject of this motion. The CPUC is headquartered in San Francisco. It is unclear why the SONGS Search Warrant was issued from Los Angeles.

1 closed, the commitment of research monies, and the settlement of the SONGS OII investigation.  
2 (*Cf.* Ex. C with Ex. D.)

3 As explained below, the Agent Diaz Affidavit in support of the Pickett Search Warrant  
4 contains materially inaccurate statements about the nature of the SONGS OII and the CPUC's *ex*  
5 *parte* rules. These statements form the basis of the assertions of violations of criminal law.

6 During a call with CPUC counsel in early January 2016, Agent Diaz confirmed that the same  
7 penal code violations alleged in support of the Pickett Search Warrant were alleged in support of  
8 the issuance of the CPUC SONGS Search Warrant. (Roberts Decl. ¶6.) He also confirmed that  
9 the affidavit filed in support of the Pickett Search Warrant is the only one that has been publically  
10 filed. (*Id.*)

11 The Agent Diaz Affidavit alleges that there is probable cause to believe that Peevey and  
12 Pickett knowingly engaged and conspired to engage in *ex parte* communications which constitute  
13 a violation of California Penal Code section 2110. Specifically, it alleges that Peevey and Pickett:  
14 “knowingly engaged in and conspired to engage in prohibited *ex parte* communications regarding  
15 the closure of a nuclear facility, to the advantage of SCE and to the disadvantage of the other  
16 interested parties.” (*Id.* ¶5, Ex. D at p. 3.) Under section II “Legal Framework”, the affidavit  
17 further claims that “**[t]he SONGS OII and associated settlement discussions are considered**  
18 **adjudicatory**”, that *ex parte* communications were **prohibited**, and the conspiracy to commit *ex*  
19 *parte* violations amounts to a felony because the *ex parte* communications were **prohibited** by  
20 Public Utilities Code section 1701.2. Specifically, the affidavit reads:

21 *Ex parte* communications are prohibited in adjudicatory cases.  
22 (Pub. Util. Code §1701.2). The SONGS OII and associated  
23 settlement discussions are considered adjudicatory. Violation of  
24 this prohibition is a misdemeanor. (Pub. Util. Code §2110.) . . .  
Conspiracy to commit a misdemeanor offense can also be charged  
as a felony, pursuant to Penal Code Section (a)(1).

25 (*Id.* at pp. 5-6.)

26 It concludes:

27 Based on the above evidence and facts, there is probable cause to  
28 believe that PICKETT knowingly engaged and conspired to engage  
in a reportable *ex parte* communication with PEEVEY in POLAND

1 to the overall advantage to SCE in the subsequent settlement  
2 process pertaining to the closure of SONGS. . . . The facts indicate  
3 that PEEVEY conspired to obstruct justice by illegally engaging in  
4 *ex parte* communications, concealed *ex parte* communications, and  
5 inappropriately interfered with the settlement process on behalf of  
6 California Center for Sustainable Communities at UCLA.  
7 PEEVEY executed this plan through back channel communications  
8 and exertion of pressure, in violation of CPUC *ex parte* rules, and  
9 in obstruction of the due administration of laws.

10 (*Id.* at p. 16.)

11 **II. THE AGENT DIAZ AFFIDAVIT IN SUPPORT OF THE PICKETT SEARCH**  
12 **WARRANT CONTAINS MATERIALLY INCORRECT STATEMENTS OF FACT**  
13 **AND LAW**

14 The Agent Diaz Affidavit claims that the SONGS OII was adjudicatory and that *ex parte*  
15 communications were prohibited. This is wrong. From its initiation, SONGS OII was a  
16 ratesetting proceeding, not adjudicatory. In ratesetting proceedings, *ex parte* communications,  
17 like the settlement discussions which occurred between Peevey and Pickett in Poland, are  
18 allowed, they just need to be reported. The CPUC fined SCE \$16,520,000 for belatedly  
19 reporting these communications but specifically not for engaging in them.

20 **A. SONGS OII is Ratesetting NOT Adjudicatory**

21 From in its initiation on October 25, 2012, the SONGS OII, an investigation into the rates,  
22 operations, practices, services and facilities associated with the closure of SONGS Units 2 and 3,  
23 was designated as ratesetting, not adjudicatory. (Roberts Decl. ¶2, Ex. A (“Order Instituting  
24 Investigation Regarding San Onofre Nuclear Generating Station Units 2 and 3”, at p. 15 (“**5.2**  
25 **Category: We determine that the category of this proceeding is ratesetting.** (Rules 1.3(e) and  
26 7.1(c).) This is consistent with the preliminary issues focusing on the economic consequences of  
27 the outages, repairs, source of replacement electricity, cost of replacement electricity, and cost  
28 responsibility.”) (Emphasis added)).)

29 Numerous orders issued by the CPUC, both prior to and after the March 26, 2013 Poland  
30 Meeting, including the Scoping Memo, which specifically identified the issues to be addressed in  
31 SONGS OII, further confirmed that the proceeding was ratesetting. (*Id.* ¶7, Ex. E (January 28,  
32 2013 Scoping Memo, at p. 10 (“**The OII categorized this proceeding as ratesetting.**”)  
33 (emphasis added)); Ex. F (April 30, 2013 Ruling on Legal Questions Set Forth in Scoping Memo

1 and Ruling, at p. 8 (“This OII was opened as a ratesetting proceeding to consider various issues  
2 related to the extended outages at SONGS Units 2 and 3 . . . .[T]he Scoping Memo for the OII  
3 underscores the general ratemaking tasks of the proceeding by identifying the ratesetting elements  
4 of each Phase.”).<sup>3</sup> No party appealed the determination that the SONGS OII was ratesetting.  
5 See Rule 7.1(c); Pub. Util. Code §1701.1 (“The commission's decision as to the nature of the  
6 proceeding shall be subject to a request for rehearing within 10 days of the date of that decision.  
7 If that decision is not appealed to the commission within that time period it shall not be  
8 subsequently subject to judicial review.”)

9 The difference between a ratesetting, as opposed to an adjudicatory proceeding, is  
10 significant. While *ex parte* communications are prohibited in adjudicatory proceedings, they are  
11 allowed in ratesetting proceedings, they just need to be timely noticed and/or reported. *Cf.*  
12 Commission Rule 8.3(b) (“In any adjudicatory proceeding, *ex parte* communications are  
13 prohibited.”) with Commission Rule 8.3(c)<sup>4</sup> (“in any ratesetting proceeding, *ex parte*  
14 communications are subject to the reporting requirements set forth in Rule 8.4.”)

15 Commission Rule 8.4, which outlines the reporting requirements for *ex parte*  
16 communications in ratesetting cases, generally provides that if a substantive *ex parte*  
17 communication occurs between an interested person and a decision maker, the interested party  
18 must provide notice of the communication within three working days of the communication.<sup>5</sup>  
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23 <sup>3</sup> All of these orders are available on the CPUC website which was accessible to Agent Diaz and all  
24 members of the public. See <http://www.cpuc.ca.gov/documents/>

25 <sup>4</sup> Commission Rule 8.3 specifies other limitations on scheduled oral *ex parte* communications for  
26 ratesetting cases, including prior notice and equal time. See Rule 8.3(c)(2). Since Peevey requested that  
27 Pickett meet him in the hotel bar, the 3-day notice requirement prior to the encounter was not applicable.  
28 However, Pickett violated the rules by failing to report the *ex parte* communication after it occurred. The  
Commission found violations of Rule 8.4 – the post-meeting reporting requirements – as opposed to the  
pre-meeting notice requirements – 8.3.(c)(2).

<sup>5</sup> 8.4. (Rule 8.4) Reporting Ex Parte Communications provides:

1 The Scoping Memo for the SONGS OII, issued on January 28, 2013, acknowledged that *ex parte*  
2 communications were permitted, subject to the Commission's reporting requirements. (Roberts  
3 Decl. ¶7, Ex. E, at p. 12 ("*Ex Parte* Communications: In a ratesetting proceeding involving  
4 hearings, *ex parte* communications are permitted only if consistent with certain restrictions and  
5 are subject to reporting requirements.").)

6 Indeed, approximately 72 *ex parte* communications were reported in the SONGS OII,  
7 over one half of which (41) were filed by nonprofits, consumer groups, or other public interest  
8 groups. (Roberts Decl. ¶9.) *Ex parte* communications were certainly not prohibited in the  
9 SONGS OII but rather were common occurrences in this ratesetting proceeding.

10 **B. The CPUC Penalized SCE For Failing to Report the *Ex Parte***  
11 **Communications**

12 Under the Public Utilities Code and its Rules of Practice and Procedure, the CPUC may  
13 investigate and impose penalties for *ex parte* violations and did precisely this. See Pub. Util.  
14 Code §2107; Rule 8.3(j). The Commission investigated the propriety of the Warsaw meeting and  
15 other related contacts between SCE and its decision-makers and accepted extensive evidence and  
16

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17 Ex parte communications that are subject to these reporting requirements  
18 shall be reported by the interested person, regardless of whether the  
19 communication was initiated by the interested person. Notice of *ex parte*  
20 communications shall be filed within three working days of the  
21 communication. The notice may address multiple *ex parte*  
22 communications in the same proceeding, provided that notice of each  
23 communication identified therein is timely. The notice shall include the  
24 following information:

25 (a) The date, time, and location of the communication, and whether it was  
26 oral, written, or a combination;

27 (b) The identities of each decisionmaker (or Commissioner's personal  
28 advisor) involved, the person initiating the communication, and any  
persons present during such communication;

(c) A description of the interested persons, but not the decisionmaker's (or  
Commissioner's personal advisor's), communication and its content, to  
which description shall be attached a copy of any written, audiovisual, or  
other material used for or during the communication.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section  
1701.1(c)(4)(C)(i)-(iii), Public Utilities Code.

1 briefing from all parties. On December 3, 2015, the Commission issued a decision, D.15-12-016,  
2 penalizing SCE in the amount of \$16,520,000 related to these contacts and ordered SCE to keep  
3 public logs of all its *ex parte* contacts in the SONGS OII. (Roberts Decl. ¶10, Ex. G.)

4 Significantly, the Commission found that the Warsaw meeting and other contacts were allowed  
5 under the Commission's *ex parte* rules, but ruled that SCE should have reported the contacts  
6 when they occurred:

7 This decision affirms eight violations of Rule 8.4 of the  
8 Commission's Rules of Practice and Procedure (Rules) by Southern  
9 California Edison Company (SCE) stemming from the failure to  
report, before or after *ex parte* communications which occurred  
between and SCE executive(s) and a Commissioner.

10 . . . .

11 We conclude SCE violated Rule 8.4 eight times during this  
12 proceeding by failing to acknowledge and disclose *ex parte*  
13 communications pursuant to Rule 8.4. The Commission affirms the  
14 findings . . . based on a preponderance of evidence, because the  
15 communications concerned a substantive issue in SONGS OII, took  
place between an interested person and a decision maker, and did  
not occur in a public hearing, workshop, or other public forum  
noticed by ruling or order in the proceeding, or on the record of the  
proceeding.

16 (*Id.* at pp. 2, 12-13 (emphasis added).)

17 The fines imposed by the CPUC are expressly tied to SCE's failure to report the  
18 communications within the requisite time and the penalty is calculated based on the number of  
19 days that passed before it was reported, further confirming that its failure to report the  
20 communication, not the communication itself, violated CPUC Rules. (*Id.* at pp. 46-51.)

21 The Commission's decision penalizing SCE for *ex parte* violations is not an isolated  
22 occurrence. Indeed, the Commission has consistently interpreted violations of its *ex parte* and  
23 reporting requirement rules in both ratesetting and adjudicatory cases. (*Id.* at pp. 44-46 (Section  
24 6.1.3 "Commission Precedent" (describing Commission precedent in imposing sanctions for *ex*  
25 *parte* violations)).) It is notable that the Public Utilities Code sections allowing the CPUC to  
26 impose penalties do not prohibit their application even in an adjudicatory case. Whether an *ex*  
27 *parte* communication was permitted with reporting or prohibited altogether is a factor that goes to  
28 the weight of the violation and the penalty, not whether a penalty can be imposed under the

1 Public Utilities Code or CPUC Rules.

2 **III. EX PARTE COMMUNICATIONS IN A RATESETTING PROCEEDING DO NOT**  
3 **APPEAR TO MEET THE ELEMENTS OF THE MISDEMEANOR CITED AS**  
4 **THE BASIS FOR THE SEARCH WARRANT**

5 A search warrant is only available in **criminal**, not civil or administrative investigations.  
6 The warrant issues on a showing that there is probable cause to believe that the place to be  
7 searched contains evidence of a **crime**. Cal. Penal Code §§1524(a)(2)(3)&(4).

8 The Agent Diaz Affidavit asserts that the Warsaw meeting violated California Penal Code  
9 section 2110 because it violated an order or rule of the CPUC and thus could be prosecuted as a  
10 misdemeanor. Section 2110 provides:

11 **Every public utility and every officer, agent, or employee of any**  
12 **public utility**, who violates or fails to comply with, or who  
13 procures, aids, or abets any violation by any public utility of any  
14 provision of the California Constitution or of this part, or who fails  
15 to comply with any part of any order, decision, rule, direction,  
16 demand, or requirement of the commission, or who procures, aids,  
17 or abets any public utility in the violation or noncompliance **in a**  
18 **case in which a penalty has not otherwise been provided**, is  
19 guilty of a misdemeanor and is punishable by a fine not exceeding  
20 five thousand dollars (\$5,000), or by imprisonment in a county jail  
21 not exceeding one year, or by both fine and imprisonment.

22 Pub. Util. Code §2110 (emphasis added).

23 The Warsaw meeting did not violate any order, decision or rule of the Commission  
24 because the proceeding under discussion was **ratesetting** and not adjudicatory, contrary to Agent  
25 Diaz's assertion. In ratesetting proceedings, *ex parte* meetings are permissible, but must be  
26 disclosed, and thus no order or decision was violated. Furthermore, Penal Code section 2110  
27 states that the misdemeanor is only available when "a penalty has not otherwise been provided".  
28 In other words, the predicate for any possible criminal charge under section 2110 is that no other  
penalty exists or has been imposed. *Cf. Fleming v. Sup. Ct.*, 191 Cal. App. 4th 73, 82 (2010) (no  
basis for a criminal charge under Penal Code section 424 – misappropriation of public funds –  
when statute contained a predicate clause "without authority of law" and defendant school  
superintendent could legally compile lists of names to recall petitioners.) The Commission has  
already fined SCE for failure to timely disclose the substantive communications by an SCE  
employee at the Warsaw meeting and certain other communications. Therefore, since the

1 Warsaw meeting itself did not violate any order or rule of the Commission, and the failure of  
2 timely disclosure occurred in a case in which a penalty was provided and imposed, how could it  
3 constitute a misdemeanor? It would seem the criminal predicate for issuance of a search warrant  
4 would be absent.

5 Section 2110 is part of Chapter 11 of the Public Utilities Code passed in 1951, which was  
6 intended to vest the Commission with the power to enforce laws affecting public utilities. For  
7 example, Chapter 11 grants the Commission the right to enforce laws affecting public utilities by  
8 suing in the name of the people of the State of California and to request the assistance of the  
9 Attorney General or District Attorney to institute or prosecute actions or proceedings. *See, e.g.*,  
10 Pub. Util. Code §2101. Other sections in Chapter 11 similarly provide that criminal causes  
11 of action against corporations, or officers, agents, or employees of corporations which violate the  
12 Public Utilities Code, a Commission Rule or Order, may be pursued only if “a penalty has not  
13 otherwise been provided.” Pub. Util. Code §§2111, 2112; *see also* Comm. Rep. CA Assemb. Bill  
14 1703 2011-2012 Reg. Sess. (Cal. 2011) (explaining purpose of bill to authorize monetary and  
15 imprisonment penalties up to one year for failure to comply with Commission orders and rules, “in  
16 a case in which a penalty has not otherwise been provided.”). In interpreting a statute, it must be  
17 construed “with reference to the entire scheme of law of which it is part so that the whole may be  
18 harmonized and retain effectiveness.” *Clean Air Constituency v. California State Air Resources*  
19 *Bd.*, 11 Cal. 3d 801, 814 (1974); *People v. Pieters*, 52 Cal. 3d 894, 899 (1991). The misdemeanor  
20 provision of the Public Utilities Code essentially serves as a catch-all, should culpable conduct not  
21 otherwise be addressed by CPUC rules, regulations or action. *People v. Simon*, 9 Cal. 4th 493, 517  
22 (1995) (“adopt the construction more favorable to the offender”).

23 As explained above, the CPUC was expressly authorized to, and in fact did, penalize the  
24 utility for failing to report permissible *ex parte* communications. Pub. Util. Code §2107;  
25 Commission Rule 8.3(j); (Roberts Decl. ¶10, Ex. G.) It would therefore seem the misdemeanor  
26 provisions in section 2110 are inapplicable.

27 Courts have long accepted the principle that “the commission's interpretation of the Public  
28 Utilities Code should not be disturbed unless it fails to bear a reasonable relation to statutory



1 purposes and language....” *PG&E Corp. v. Pub. Util. Comm’n*, 237 Cal. App. 4th 812, 839-40  
2 (2015) (citing *Greyhound Lines, Inc. v. Pub. Util. Comm’n*, 68 Cal. 2d 406, 410 (1968)); *accord*,  
3 *S. Cal. Edison Co. v. Peevey*, 31 Cal. 4th 781, 796 (2003); *PG&E Corp. v. Pub. Util. Comm’n*,  
4 118 Cal. App. 4th 1174, 1194 (2004). This judicial deference acknowledges a role for the  
5 Commission's administrative expertise: “[W]e give presumptive value to a public agency's  
6 interpretation of a statute within its administrative jurisdiction because the agency may have  
7 ‘special familiarity with satellite legal and regulatory issues,’ leading to expertise expressed in its  
8 interpretation of the statute.” *Id.* (citing *Pac. Bell Wireless, LLC v. Pub. Util. Comm’n*, 140 Cal.  
9 App. 4th 718, 729 (2006); *S. Cal. Edison Co. v. Pub. Util. Comm’n*, 227 Cal. App. 4th 172  
10 (2014); *SFPP, L.P. v. Pub. Util. Comm’n*, 217 Cal. App. 4th 784, 794 (2013)).

11 The rules concerning *ex parte* communications and reporting requirements are CPUC  
12 Rules of Practice and Procedure. “The deference may, if anything, be even greater with  
13 regulations promulgated by the agency. ‘[T]he PUC's interpretation of its own regulations and  
14 decisions is entitled to consideration and respect by the courts.’” *PG&E Corp.*, 237 Cal. App. 4th  
15 at 840 (citing *S. Cal. Edison Co. v. Pub. Util. Com’n*, 85 Cal. 4th 1086, 1096 (2000)); *accord*,  
16 *Yamaha Corp. of Am. v. State Bd. of Equalization*, 19 Cal. 4th 1, 7 (1998). ““A court is more  
17 likely to defer to an agency's interpretation of its own regulation than to its interpretation of a  
18 statute, since the agency is likely to be intimately familiar with regulations it authored, and  
19 sensitive to the practical implications of one interpretation over another.”” *Id.*; *accord*, *Yamaha*  
20 *Corp. of Am.*, 19 Cal. 4th at 16; *The Util. Reform Network v. Pub. Util. Comm’n*, 223 Cal. App.  
21 4th 945, 958 (2014) (The Commission's interpretation of its own rules and regulations “is entitled  
22 to consideration and respect by the courts.’”)

23 The problem with the Attorney General’s position that *ex parte* violations constitute a  
24 crime is that it is **criminalizing permissible conduct**. *Ex parte* communications, like Peevey’s  
25 and Pickett’s alleged settlement negotiations, are allowed in ratesetting proceedings so long as  
26 they are noticed and/or reported.

27 It should also be noted that no section of the *ex parte* rules or the settlement rules in the  
28 Public Utilities Code or the CPUC Rules of Practice and Procedure prohibit *ex parte*

1 communications with a decision-maker about settlements. Neither does a decision-maker's  
2 participation in an *ex parte* discussion regarding settlement dictate that decision-makers' recusal  
3 from voting on any proposed settlement. *See Decision Adopting Settlements On Marginal Cost,*  
4 *Revenue Allocation, and Rate Design*, No. 09-08-028 (August 20, 2009) at pp. 50-51 available at  
5 [http://docs.cpuc.ca.gov/PublishedDocs/WORD\\_PDF/FINAL\\_DECISION/106088.PDF](http://docs.cpuc.ca.gov/PublishedDocs/WORD_PDF/FINAL_DECISION/106088.PDF); *Morongo*  
6 *Band of Mission Indians v. State Water Resources Control Bd.*, 45 Cal. 4th 731, 737 (2009)  
7 (decision-makers at administrative agencies are accorded a presumption of impartiality); *Assoc. of*  
8 *Nat. Advertisers, Inc. v. Fed. Trade Comm'n*, 627 F.2d 1151, 1170 (D.C. Cir. 1979).

9 Put simply, a decision-maker's discussion of a settlement in an *ex parte* communication is  
10 neither prohibited by statute, nor by the CPUC's Rules of Practice and Procedure, nor is it an  
11 independent ground for recusal of that decision-maker. Such communications may be subject to  
12 administrative penalties if they are not properly reported, but not criminal penalties.

13 Criminalizing permitted conduct would chill the CPUC's ability to conduct business  
14 based on its own rules and would unfairly subject its employees to criminal inquiries of conduct  
15 that is permissible.<sup>6</sup> Such interpretations would raise grave due process concerns and contradict  
16 the clear language of the statute and the rules.

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19 \_\_\_\_\_  
20 <sup>6</sup> We leave for another day discussion of the other two criminal statutes cited in the Pickett Search  
21 Warrant. At this point, it is unclear how a permitted discussion of settlement constituted an obstruction of  
22 "justice". The "due administration" of its own laws was adequately interpreted and handled by the CPUC.  
23 Courts have refused to sustain convictions for conspiracy to do acts that are perfectly lawful and to which  
24 there is no criminal objective. *Fleming v. Sup. Ct.*, 191 Cal. App. 4th 73, 105 (2011) (defendant who had  
25 lawful authority to authorize staff to prepare lists of names of people who circulated recall petitions could  
26 not conspire to do acts "to pervert or obstruct justice, or the due administration of laws"); *People v. Redd*,  
27 228 Cal. App. 4th 449, 463 (2014) (conspiring to smuggle tobacco into a state prison did not constitute a  
28 perversion or obstruction of justice—"It is not enough to show that the object of the conspiracy was not  
lawful."). Notably, the Agent Diaz Affidavit does not cite a public corruption statute such as California  
Penal Code section 1090, presumably because there is no evidence of any *quid pro quo*. *Skilling v. United*  
*States*, 130 S. Ct. 2896, 2929 (2010) (limiting federal "honest-services" statute to actual bribery or  
kickback scheme to avoid unconstitutionality for vagueness).

Likewise, reliance on Penal Code section 96.5 as a justification for the warrant seems misplaced as it only  
applies to "judicial officers, court commissioners, or referees." The CPUC is unaware of any instance  
where a Commissioner, as a gubernatorial appointee appointed to lead and run the Commission, has ever  
been designated as a "judicial officer."

1           **IV. THE RETURN OF THE SEARCH WARRANT FAILS TO ACCURATELY**  
2           **DESCRIBE CPUC COMPLIANCE AND EXPENSE**

3           The CPUC has been diligently working to comply with the various demands by the  
4           Attorney General at great expense. Since approximately January 2015, on average, 9 contract  
5           attorneys have been reviewing documents 7 days a week, 8-12 hours a day. Since January 2015,  
6           the CPUC has been making almost monthly productions to the Attorney General ranging from  
7           several hundred to tens of thousands of documents each production. (Roberts Decl. ¶11.) As of  
8           January 6, 2016, CPUC's review team has produced approximately 1,064,618 documents to the  
9           Attorney General. (*Id.*)

10          The CPUC has kept the Attorney General well informed of its progress and the nature of  
11          its review. For example, in fall 2015, the CPUC provided detailed information of what volume of  
12          documents remained to be reviewed and when it anticipated completing the production. (*Id.* ¶12,  
13          Exs. H-I.) The CPUC also described in detail how it was conducting the production in response  
14          to the SONGS search warrant and identified the search terms it used to cull the data to be  
15          reviewed. (*Id.* ¶¶12-13, Exs. I-J.) It also pointed out, and the Attorney General agreed, that the  
16          scope of the SONGS search was vague and confusing. (*Id.*) The Attorney General's  
17          representatives promised to provide a more specific explanation of the scope of the search  
18          warrant. (*Id.* ¶13.) However, as of this date this filing, no explanation has been provided. (*Id.*  
19          ¶13, Exs. J-K.)

20          True to its word, the CPUC completed production in response to the first search warrant  
21          on December 18, 2015, ten days ahead of the deadline set by the Attorney General's office. (*Id.*  
22          ¶14, Ex. O.) Moreover, the CPUC has produced more than 51,000 documents in response to the  
23          SONGS Search Warrant. Indeed, 25,000 of these were documents the Attorney General had  
24          already received pursuant to the first search warrant. In response to the SONGS Search Warrant,  
25          the CPUC identified these documents by Bates number to the Attorney General for ease of  
26          reference. Nevertheless, the Attorney General's Office insisted that the same 25,000 documents  
27          be reproduced yet again. (Roberts Decl. ¶14, Exs. L-N.) Based on the terms it outlined in the  
28          October 2015 correspondence, the CPUC anticipated completing production in response to all

1 outstanding Attorney General demands by the end of February 2016, including the SONGS  
2 search warrant. (*Id.* ¶15.)

3         However, on December 22, 2015, two months after the CPUC had explained in detail its  
4 process and what remained to be reviewed, the Attorney General moved the goal posts by  
5 demanding that the CPUC produce additional documents in response to both search warrants.  
6 (Roberts Decl. ¶16, Ex. P.) In regard to the SONGS search warrant, it demanded that the CPUC  
7 filter the documents using 14 additional search terms, many of which are so broad as to trigger  
8 tens of thousands of documents that are irrelevant, e.g., “TURN” (The Utility Reform Network),  
9 and “ORA” (Office of Ratepayer Advocates), both frequent parties in a multitude of CPUC  
10 proceedings. (*Id.* ¶16.) While the Attorney General agreed the CPUC could somewhat limit the  
11 documents to be reviewed, the CPUC estimates that the new demands by the Attorney General  
12 will require review of an additional 160,000 documents, approximately 74,000 of which are  
13 attributable to the newly-broadened scope of the SONGS Search Warrant. (*Id.*)

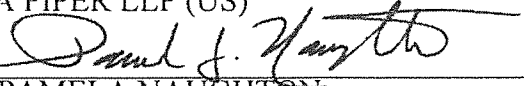
14         Complying with the Attorney General’s demands has been incredibly costly for the  
15 CPUC. It has spent millions of dollars to search for, identify, process, review, and produce these  
16 documents. This cost has put incredible strain on CPUC’s financial and personnel resources to  
17 the point where it has affected the CPUC’s ability to carry out its constitutionally-mandated  
18 duties. The CPUC has repeatedly pointed out this substantial burden to the Attorney General,  
19 whose response was to demand more documents. (*Id.* ¶16.) If the SONGS Search Warrant is  
20 deemed not to be supported by evidence of an actual crime, then all of this effort and expense will  
21 have been an enormous waste of public resources.

22 **I. CONCLUSION**

23         Agent Diaz’s Affidavit inaccurately describes the SONGs proceeding as adjudicatory and  
24 prohibiting *ex parte* meetings, when the SONGs OII was ratesetting and permitted *ex parte*  
25 meetings, subject to reporting requirements, and made non-reporting otherwise subject to penalty.  
26 This materially inaccurate statement calls into question the factual and legal basis for the SONGS  
27 Search Warrant. Thus, for the reasons discussed above, the CPUC requests that it be allowed to  
28 review the affidavit, statement of probable cause and other documents submitted in support of the

1 SONGS Search Warrant *in camera* so that it may determine the most appropriate course of  
2 action.

3 Dated: February 17, 2016

DLA PIPER LLP (US)  
By   
PAMELA NAUGHTON  
REBECCA ROBERTS  
Attorneys for Movant  
California Public Utilities Commission

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ORIGINAL

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**FILED**  
LOS ANGELES SUPERIOR COURT

FEB 17 2016

Sherri R. Carter, Executive Officer/Clerk  
By M. Seals Deputy

8 SUPERIOR COURT OF CALIFORNIA

9 COUNTY OF LOS ANGELES

10 In re June 5, 2015 Search Warrant  
11 No. 70763 issued to California Public  
Utilities Commission

CASE NO.

**PROOF OF SERVICE**

**FILED UNDER SEAL**

1 I, Bonnie K. Lott, declare:

2 I am a citizen of the United States and employed in San Diego County, California. I am  
3 over the age of eighteen years and not a party to the within-entitled action. My business address  
4 is DLA Piper LLP (US), 401 B Street, Suite 1700, San Diego, California 92101-4297. On  
5 February 17, 2016, I served a copy of the within document(s):

6 **MOTION TO SEAL PLEADINGS AND RECORD;**

7 **DECLARATION OF REBECCA ROBERTS IN SUPPORT OF MOTION**  
8 **TO SEAL PLEADINGS AND RECORD;**

9 **[PROPOSED] ORDER GRANTING CPUC MOTION TO SEAL**  
10 **PLEADINGS AND RECORD**

- 11  by transmitting via facsimile the document(s) listed above to the fax number(s) set  
12 forth below on this date before 5:00 p.m.
- 13  by placing the document(s) listed above in a sealed envelope with postage thereon  
14 fully prepaid, the United States mail at San Diego, California addressed as set forth  
15 below.
- 16  by placing the document(s) listed above in a sealed Delivery Service envelope and  
17 affixing a pre-paid air bill, and causing the envelope to be delivered to a Delivery  
18 Service agent for delivery.
- 19  by personally delivering the document(s) listed above to the person(s) at the  
20 address(es) set forth below.
- 21  by transmitting via e-mail or electronic transmission the document(s) listed above  
22 to the person(s) at the e-mail address(es) set forth below.

23 Persons Served

24 Mr. Gerald Engler  
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Sacramento, CA 95814  
Tel: 916.445.0896

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on February 17, 2016, at San Diego, California.

  
\_\_\_\_\_  
Bonnie K. Lott



ORIGINAL

1 PAMELA NAUGHTON (Bar No. 97369)  
2 REBECCA ROBERTS (Bar No. 225757)  
3 **DLA PIPER LLP (US)**  
4 401 B Street, Suite 1700  
San Diego, California 92101-4297  
Tel: 619.699.2700  
Fax: 619.699.2701

5 Attorneys for Movant  
6 California Public Utilities Commission  
7

**FILED**  
LOS ANGELES SUPERIOR COURT

FEB 17 2016

Sherri R. Carter, Executive Officer/Clerk  
By M. Scals, Deputy

8 SUPERIOR COURT OF CALIFORNIA  
9 COUNTY OF LOS ANGELES

10 In Re June 5, 2015 Search Warrant No.  
11 70763 issued to California Public Utilities  
Commission

CASE NO.

**DECLARATION OF REBECCA ROBERTS  
IN SUPPORT OF MOTION TO VIEW  
SEARCH WARRANT AFFIDAVIT *IN*  
*CAMERA***

Date:  
Time:  
Place:

**FILED UNDER SEAL**

17 I, Rebecca S. Roberts, declare as follows:

18 1. I am an attorney at DLA Piper LLP, which represents the California Public  
19 Utilities Commission ("CPUC") in the government investigations. I have personal knowledge of  
20 the facts I state below except where they are stated on information and belief. If called upon by  
21 this Court, I could competently testify as follows:

22 2. Attached as Exhibit A are true and correct excerpts from "Order Instituting  
23 Investigation Regarding San Onofre Nuclear Generating Station Units 2 and 3" No. 12-10-013,  
24 filed October 25, 2012 ("SONGS OII"). A complete copy of this order is available at  
25 *Investigation* 12-10-01, 2012 Cal. PUC LEXIS 483 (Oct. 25, 2012). A complete copy can also be  
26 provided upon request.

*no opposition*

1           3.       Attached as Exhibit B is a true and correct copy of “the Declaration of Edward F.  
2 Randolph in Response to Administrative Law Judge Questions Received by Email on June 1,  
3 2015” submitted in SONGS OII.

4           4.       Attached as Exhibit C is a true and correct copy of the June 5, 2015 search warrant  
5 issued to the CPUC (“SONGS Search Warrant”). It is my understanding that the affidavit in  
6 support of this search warrant was filed and remains under seal.

7           5.       Attached as Exhibit D is a true and correct copy of a search warrant and supporting  
8 affidavit, submitted by Agent Diaz, for SCE executive Stephen Pickett’s personal emails (“Pickett  
9 Search Warrant”). I obtained a copy of this search warrant and affidavit from the San Diego  
10 Union Tribune’s website on or about December 30, 2015.

11          6.       On or about January 4, 2016, my colleague, Pamela Naughton, and I spoke with  
12 Deputy Attorney General Deborah Halberstadt and Special Agent Diaz on the phone. During our  
13 call, Mr. Diaz confirmed that the affidavit filed in support of the SONGS search warrant remained  
14 under seal. He also confirmed that his affidavit, filed in support of the Pickett Search Warrant,  
15 was the only affidavit to be publicly filed in the pending investigation. Mr. Diaz also confirmed  
16 that the same penal code violations alleged in his affidavit in support of the Pickett Search  
17 Warrant served as the criminal predicate of the SONGS Search Warrant.

18          7.       Attached as Exhibit E are true and correct excerpts from “Scoping Memo and  
19 Ruling of Assigned Commissioner and Administrative Law Judge Determining the Scope,  
20 Schedule, and Need for Hearing in Phase 1 of this Proceeding” issued on January 28, 2013. A  
21 complete copy of this order is able at:  
22 <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M042/K157/42157052.PDF> A complete copy  
23 can also be provided upon request.

24          8.       Attached as Exhibit F are true and correct excerpts from “Assigned  
25 Commissioner’s and Administrative Law Judge’s Ruling on Legal Questions Set Forth in  
26 Scoping Memo and Ruling” filed on April 30, 2013. A complete copy of this ruling is available  
27 at: <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M064/K268/64268299.PDF> A complete  
28 copy can also be provided upon request.

1           9.       Below is a list of the *ex parte* communications reported in SONGS OII prepared  
2 by CPUC in house counsel. Each *ex parte* communication is available at the hyperlink provided.

3 Copies of all of these *ex parte* communications are also available upon request.

4 Filed on 12-23-15 by World Business Academy:

<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M157/K541/157541748.PDF>

5 Filed on 12-15-15 by University of California:

<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M157/K362/157362193.PDF>

6 Filed on 11-20-15 by World Business Academy:

<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M155/K980/155980560.PDF>

7 Filed on 11-16-15 by World Business Academy:

<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M156/K051/156051469.PDF>

8 Filed on 11-06-15 by World Business Academy:

<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M156/K011/156011360.PDF>

9 Filed on 8-20-15 by SCE:

<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M154/K226/154226064.PDF>

10 Filed on 8-20-15 by SCE:

<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M154/K225/154225742.PDF>

11 Filed on 8-20-15 by SCE:

<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M154/K226/154226061.PDF>

12 Filed on 8-20-15 by SCE:

<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M154/K224/154224757.PDF>

13 Filed on 8-20-15 by SCE:

<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M154/K225/154225732.PDF>

14 Filed on 8-20-15 by SCE:

<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M154/K225/154225735.PDF>

15 Filed on 8-20-15 by SCE:

<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M154/K226/154226087.PDF>

16 Filed on 8-20-15 by SCE:

<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M154/K225/154225867.PDF>

17 Filed on 8-20-15 by SCE:

<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M154/K225/154225747.PDF>

18 Filed on 8-20-15 by SCE:

<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M154/K224/154224768.PDF>

19 Filed on 7-09-15 by SCE:

<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M153/K576/153576626.PDF>

20 Filed on 4-13-15 by SCE:

<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M151/K169/151169943.PDF>

21 Filed on 3-12-15 by University of California

<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M151/K169/151169552.PDF>

22 Filed on 2-09-15 by SCE:

<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M146/K989/146989901.PDF>

23 Filed on 2-02-15 by Alliance for Nuclear Responsibility:

<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M151/K533/151533115.PDF>

24 Filed on 1-26-15 by SCE:

<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M151/K339/151339976.PDF>

25 Filed on 1-14-15 by SCE:

<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M151/K305/151305040.PDF>

26 Filed on 1-09-15 by SCE:

<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M151/K305/151305701.PDF>

27 Filed on 11-03-14 by CIEE (UC Berkeley):

<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M143/K986/143986916.PDF>

28 Filed on 10-22-14 by CSC (UCLA):

<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M127/K294/127294769.PDF>

1 Filed on 9-05-14 by SCE:  
<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M105/K647/105647647.PDF>  
2 Filed on 7-14-14 by Alliance for Nuclear Responsibility:  
<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M099/K565/99565705.PDF>  
3 Filed on 5-14-14 by World Business Academy:  
<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M091/K637/91637285.PDF>  
4 Filed on 4-29-14 by SCE, ORA, Friend of the Earth:  
<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M090/K550/90550324.PDF>  
5 Filed on 4-17-14 by SCE, ORA, Friend of the Earth:  
<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M090/K127/90127274.PDF>  
6 Filed on 4-11-14 by TURN:  
<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M090/K049/90049834.PDF>  
7 Filed on 2-27-14 by SCE:  
<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M088/K662/88662103.PDF>  
8 Filed on 1-23-14 by Women Energy Matters:  
<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M087/K821/87821989.PDF>  
9 Filed on 1-21-14 by Coalition to Decommission San Onofre:  
<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M087/K822/87822923.PDF>  
10 Filed on 1-21-14 by ORA:  
<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M087/K821/87821987.PDF>  
11 Filed on 1-21-14 by ORA:  
<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M087/K072/87072324.PDF>  
12 Filed on 1-21-14 by SDG&E:  
<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M087/K351/87351921.PDF>  
13 Filed on 1-17-14 by SCE:  
<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M087/K267/87267323.PDF>  
14 Filed on 1-16-14 by Alliance for Nuclear Responsibility:  
<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M088/K961/88961758.PDF>  
15 Filed on 1-14-14 by Women Energy Matters:  
<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M087/K351/87351920.PDF>  
16 Filed on 1-14-14 by ORA:  
<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M085/K389/85389025.PDF>  
17 Filed on 1-14-14 by ORA:  
<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M087/K882/87882941.PDF>  
18 Filed on 1-14-14 by TURN:  
<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M087/K821/87821982.PDF>  
19 Filed on 1-13-14 by TURN:  
<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M087/K351/87351913.PDF>  
20 Filed on 1-09-14 by World Business Academy:  
<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M087/K822/87822915.PDF>  
21 Filed on 1-08-14 by ORA:  
<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M087/K262/87262219.PDF>  
22 Filed on 1-08-14 by ORA:  
<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M087/K351/87351912.PDF>  
23 Filed on 12-24-13 by SCE:  
<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M084/K893/84893682.PDF>  
24 Filed on 12-16-13 by Alliance for Nuclear Responsibility:  
<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M088/K662/88662097.PDF>  
25 Filed on 12-13-13 by World Business Academy:  
<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M087/K262/87262175.PDF>  
26 Filed on 12-11-13 by SCE:  
<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M087/K048/87048925.PDF>  
27 Filed on 12-06-13 by SCE:  
<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M086/K947/86947445.PDF>  
28 Filed on 10-15-13 by TURN:

1 <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M085/K971/85971278.PDF>  
Filed on 10-02-13 by Ecumenical Center for Black Church Studies, Chinese  
2 American Institute for Empowerment, Latino Business Chamber of Greater Los  
Angeles, National Asian American Coalition:  
3 <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M084/K772/84772568.PDF>  
Filed on 9-11-13 by TURN:  
4 <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M085/K789/85789112.PDF>  
Filed on 8-23-13 by Alliance for Nuclear Responsibility:  
5 <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M088/K966/88966740.PDF>  
Filed on 8-15-13 by SDG&E:  
6 <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M081/K788/81788164.PDF>  
Filed on 7-23-13 by SDG&E:  
7 <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M079/K286/79286625.PDF>  
Filed on 7-22-13 by SCE:  
8 <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M078/K062/78062099.PDF>  
Filed on 6-24-13 by Alliance for Nuclear Responsibility:  
9 <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M076/K843/76843306.PDF>  
Filed on 6-14-13 by SCE:  
10 <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M073/K726/73726604.PDF>  
Filed on 5-24-13 by Ecumenical Center for Black Church Studies, Chinese  
11 American Institute for Empowerment, Latino Business Chamber of Greater Los  
Angeles, National Asian American Coalition:  
12 <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M076/K841/76841422.PDF>  
Filed on 05-06-13 by DRA (ORA):  
13 <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M075/K723/75723767.PDF>  
Filed on 5-03-13 by Friends of the Earth:  
14 <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M077/K434/77434417.PDF>  
Filed on 4-16-13 by SDG&E:  
15 <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M064/K471/64471281.PDF>  
Filed on 3-22-13 by Alliance for Nuclear Responsibility:  
16 <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M064/K354/64354821.PDF>  
Filed on 3-20-13 by Alliance for Nuclear Responsibility:  
17 <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M063/K373/63373697.PDF>  
Filed on 3-13-13 by Friends of the Earth:  
18 <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M064/K660/64660173.PDF>  
Filed on 2-22-13 by Friends of the Earth:  
19 <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M060/K848/60848224.PDF>  
Filed on 2-12-13 by Friends of the Earth:  
20 <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M062/K373/62373996.PDF>  
Filed on 12-07-12 by SCE:  
21 <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M039/K600/39600668.PDF>  
Filed on 12-06-12 by SCE:  
22 <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M039/K597/39597786.PDF>

23 10. Attached as Exhibit G are true and correct excerpts from “Decision Affirming  
24 Violations of Rule 8.4 and Rule 1.1 and Imposing Sanctions on Southern California Edison  
25 Company” issued on December 8, 2015. A complete copy of this order is available at *Decision*  
26 15-12-016, 2015 Cal. PUC LEXIS 758 (December 8, 2105). A complete copy can also be  
27 provided upon request.

1           11.     Since approximately August 2015, I have been overseeing the CPUC's document  
2 production to the Attorney General. It is my understanding that since approximately January  
3 2015, on average, 9 contract attorneys have been reviewing documents 7 days week, 8-12 hours a  
4 day. Since January 2015, the CPUC has been making almost monthly productions to the  
5 Attorney General ranging from seven hundred to tens of thousands of documents each  
6 production. As of January 6, 2016, I estimate that the CPUC's review team has produced  
7 approximately 1,064,618 documents to the Attorney General.

8           12.     Attached as Exhibit H is a true and correct copy of a September 8, 2015 letter from  
9 DLA Piper to the Attorney General which accompanied a production of over 19,000 documents  
10 in response to the SONGS Search Warrant. Attached as Exhibit I is a true and correct copy of  
11 September 29, 2015 letter from DLA Piper to the Attorney General providing an update of all  
12 document productions, expressing concern about the vagueness of the SONGS Search Warrant,  
13 and describing in detail how the production in response to this search warrant was being  
14 conducted.

15           13.     In early October 2015, my colleague, Pamela Naughton, and I had a telephone  
16 conference with Deputy Attorney General Deborah Halberstadt and Special Agent Reye Diaz  
17 during which we discussed ways to streamline the remaining documents to be reviewed, the  
18 CPUC's vast production to date, and the substantial financial and personnel burden imposed on  
19 the CPUC by the Attorney General's demands. We also discussed, and Ms. Halberstadt  
20 acknowledged, that the SONGS Search Warrant was vague. Ms. Halberstadt represented that  
21 further instruction concerning how the SONGS Search Warrant should be interpreted would be  
22 forthcoming. However, to date, we have not received any further instruction from the Attorney  
23 General's office. We also discussed and the Attorney General agreed, that we could further limit  
24 the documents remaining to be reviewed, using search terms. We circulated the proposed search  
25 terms in a October 16, 2015 letter, a true and correct copy of which is attached as Exhibit J.  
26 Attached as Exhibit K is a true and correct copy of the Attorney General's October 22, 2015  
27 response to our letter. This letter did not provide any additional search terms for further filtering.  
28

1 However, the Attorney General demanded that the CPUC complete production in response to the  
2 first search warrant issued in November 2014 by December 28, 2015. Attached as Exhibit L is a  
3 true and correct copy of our November 12, 2015 response letter further detailing the CPUC's  
4 production to date.

5  
6 14. Attached as Exhibit M is a true and correct copy of a December 11, 2015 letter  
7 DLA Piper sent to the Attorney General which accompanied another production in response to  
8 the SONGS search warrant of over 6,700 documents. Attached as Exhibit N is a true and correct  
9 copy of a December 18, 2015 letter DLA Piper sent to the Attorney General which accompanied  
10 reproduction of over 25,000 documents in response to the SONGS Search Warrant. The CPUC  
11 had already produced these documents to the Attorney General in response to the November 2014  
12 Search Warrant ("November 2014 Search Warrant") which issued out of the San Francisco  
13 Superior Court and had identified them by Bates number for the Attorney General. However, the  
14 Attorney General requested that the CPUC produce these documents yet again. Thus, to date the  
15 CPUC has produced over 51,000 documents responsive to the SONGS Search Warrant. Attached  
16 is Exhibit O is a true and correct copy of another December 18, 2015 letter DLA Piper sent to the  
17 Attorney General which accompanied what we had anticipated was the remaining documents to  
18 be produced in response to the November 2014 Search Warrant, approximately 13,720  
19 documents.

20 15. Under the parameters we disclosed to the Attorney General in our September and  
21 October 2015 correspondence, we had anticipated completing production to the SONGS Search  
22 Warrant by mid-February 2016. We are in fact in the process of finalizing several other  
23 substantial productions to the Attorney General.

24  
25 16. Attached as Exhibit P is a true and correct copy of a December 22, 2015 letter  
26 from the Attorney General's office to DLA Piper. In this letter, the Attorney General proposed  
27 14 additional search terms to be used to identify documents to be reviewed in response to the  
28 SONGS Search Warrant. Several of the proposed terms triggered results of tens of thousands of

1 documents which are not likely relevant to the SONGS Search Warrant. While the Attorney  
2 General agreed the CPUC could somewhat limit the documents to be reviewed, searches  
3 generated on our document review platform indicate that our review team will need to review an  
4 additional 160,000 documents, approximately 74,000 of which are attributable to the newly-  
5 broadened scope of the SONGS Search Warrant.

6  
7 I declare under penalty of perjury of the laws of the State of California that the foregoing  
8 is true and correct.

9 Executed this 17<sup>th</sup> day of February 2016 in San Diego, California.

10  
11 By   
12 REBECCA ROBERTS

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# EXHIBIT A

COM/MF1/sbf

Date of Issuance 11/1/2012

**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.

FILED  
PUBLIC UTILITIES COMMISSION  
OCTOBER 25, 2012  
IRVINE, CA  
INVESTIGATION 12-10-013

**ORDER INSTITUTING INVESTIGATION REGARDING  
SAN ONOFRE NUCLEAR GENERATING STATION  
UNITS 2 AND 3**

All costs tracked in the SONGS OMA are subject to audit by the Commission.

The Commission recognizes that SONGS Units 2 and 3 may be out of service for some time, and may or may not return to full service. This situation requires that the Commission consider long term options regarding each utility's provision of safe and reliable electric service without SONGS. These long term resource issues are most appropriately considered in the Commission's Long Term Procurement Planning (LTPP) proceeding (Rulemaking (R.) 12-03-014). While issues regarding long term planning without SONGS will be addressed in the LTPP, issues regarding short and medium term service and reliability should be part of this proceeding. Issues regarding costs for replacement power or expanded demand side management programs in the absence of SONGS should also be discussed as part of this proceeding.

## **5. Preliminary Scoping Memo**

Pursuant to Rule 7.1(c), we include a preliminary Scoping Memo to provide an initial determination of this proceeding's scope, schedule, need for hearing, and other procedural matters. The determination of category may be appealed as described below.

### **5.1. Issues**

The general scope of this OII is to review the effect on safe and reliable service at just and reasonable rates on and after January 1, 2012 of the outages at SONGS Units 2 and 3. The issues include:

1. Whether or not rate adjustments should be made; if so, when they should start, the correct amount, and the correct accounting of these adjustments.

2. The reasonableness and prudence of each utility action and expenditure with respect to the steam generator replacement program and subsequent activities related thereto.
3. The reasonableness and prudence of each utility action and expenditures in securing energy, capacity and other related services to replace the output of SONGS during the outage.
4. The cost-effectiveness of various options for repairing or replacing one or both units of SONGS.
5. Any additional ratemaking issues associated with the above, including the availability of warranty coverage or insurance for any costs related to the SONGS outage.
6. The reasonableness and necessity of each SONGS-related operation and maintenance expense, and capital expenditure made, on and after January 1, 2012 reviewed within the context of the facts and circumstances of the extended outages of Units 2 and 3.

#### **5.2. Category**

We determine that the category of this proceeding is ratesetting.

(Rules 1.3(e) and 7.1(c).) This is consistent with the preliminary issues focusing on the economic consequences of the outages, repairs, source of replacement electricity, cost of replacement electricity, and cost responsibility. This determination may be appealed under the procedures stated in Rule 7.6.

#### **5.3. Need for Hearing**

We expect disputed issues of material fact over which parties will seek to cross-examine others. Therefore, we preliminarily determine that a hearing will be needed. (Rule 7.1(c).)

#### **5.4. Schedule**

Appeals of the categorization of this proceeding, if any, are to be filed and served within 10 days of the date this OII was issued. (Rule 7.6(a).) As required by our rules, an appeal shall state why the designated category is wrong as a

**EXHIBIT B**



**FILED**  
8-05-15  
02:02 PM

## APPENDIX A

**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 OI").

**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 OI, 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.



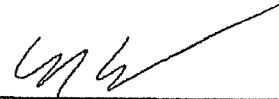
**Q. Does this conclude your responses to the Assigned ALJ's questions?**

**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 8 day of June, 2015.



\_\_\_\_\_  
Edward F. Randolph

**EXHIBIT C**

STATE OF CALIFORNIA – COUNTY OF LOS ANGELES

SEARCH WARRANT AND AFFIDAVIT

(AFFIDAVIT)

Special Agent Reye Diaz, California Department of Justice, swears under oath that the facts expressed by him/her in this Search Warrant, and in the attached and incorporated statement of probable cause consisting of 20 pages, are true and that based thereon he/she has probable cause to believe and does believe that the property and/or person described below is lawfully seizable pursuant to Penal Code Section 1524, as indicated below, and is now located at the locations set forth below. Wherefore, affiant requests that this Search Warrant be issued.

NIGHT SEARCH REQUESTED: YES [ ] NO [X] - Justification on page(s) \_\_\_\_\_

Reye Diaz 6/5/15  
(Signature of Affiant)

(SEARCH WARRANT)

THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY SHERIFF, POLICEMAN OR PEACE OFFICER IN THE COUNTY OF LOS ANGELES: proof by affidavit having been made before me by Special Agent Reye Diaz, that there is probable cause to believe that the property described herein may be found at the locations set forth herein and that it is lawfully seizable pursuant to Penal Code Section 1524 as indicated below by "x"(s) in that it:

- \_\_\_\_\_ it was stolen or embezzled
- X \_\_\_\_\_ it was used as the means of committing a felony
- X \_\_\_\_\_ it is possessed by a person with the intent to use it as means of committing a public offense or is possessed by another to whom he or she may have delivered it for the purpose of concealing it or preventing its discovery
- X \_\_\_\_\_ it tends to show that a felony has been committed or that a particular person has committed a felony
- \_\_\_\_\_ it tends to show that sexual exploitation of a child, in violation of Section 311.3, or depiction of sexual conduct of a person under the age of 18 years, in violation of Section 311.11, has occurred or is occurring
- \_\_\_\_\_ there is a warrant for the person's arrest;

YOU ARE THEREFORE COMMANDED TO SEARCH:

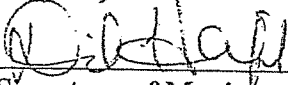
See attached Exhibit "A"

FOR THE FOLLOWING PROPERTY:

See attached Exhibit "A"

SEARCH WARRANT (Page 2)

AND TO SEIZE IT IF FOUND and bring it forthwith before me, or this court, at the courthouse of this court. This Search Warrant and incorporated Affidavit was sworn to as true and subscribed before me this 5<sup>th</sup> day of June, 2015, at 10:55 A.M./P.M. Wherefore, I find probable cause for the issuance of this Search Warrant and do issue it.

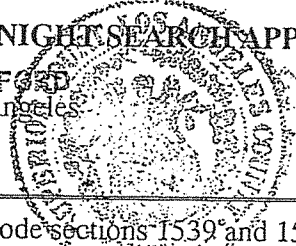


(Signature of Magistrate)

DAVID V. HERRIFORD  
Judge of the Superior Court – County of Los Angeles

NIGHT SEARCH APPROVED: YES [ ] NO [ X ]

(Magistrate's Initials)



Be advised that pursuant to California Penal Code sections 1539 and 1540, you may file a written motion in the court of the above-mentioned judge who issued the warrant, seeking return of the property seized pursuant to this warrant.

For further information concerning this search warrant, contact the officer whose name appears on the warrant, Special Agent Reye Diaz at (916) 916-322-2686 or at [reye.diaz@doj.ca.gov](mailto:reye.diaz@doj.ca.gov)

EXHIBIT "A"

California Public Utilities Commission  
San Francisco Office (Headquarters)  
Or Legal Representatives of CPUC  
505 Van Ness Avenue  
San Francisco, CA 94102  
MAY BE SERVED VIA EMAIL or FAX

FOR THE FOLLOWING PROPERTY:

Any and all records from January 31, 2012 until January 31, 2015, involving the San Onofre Nuclear Generating Station (SONGS) closure settlement agreement, the 2013 meeting between Stephen PICKETT and Michael PEEVEY in Poland, communication(s) pertaining to the determination of when and why SONGS would be closed, commitment of monies for research as a result of the closure of SONGS, and communication(s) pertaining to the settlement of the SONGS Order Instituting Investigation (OII). These records are to include:

1. CPUC will search emails to or from the following individuals:
  - a. Robert Adler – General Counsel, Edison International (now retired)
  - b. Ted Craver – Chairman, President, and Chief Executive Officer, Edison International
  - c. Laura Genao – Director, Regulatory Affairs, SCE
  - d. Michael Hoover – Senior Director of State Energy Regulation, SCE
  - e. Ron Litzinger – President, SCE (now President of Edison Energy)
  - f. R.O. Nichols – Senior Vice President for Regulatory Affairs, SCE
  - g. Stephen Pickett – Executive Vice President, External Relations, SCE (now retired)
  - h. Gary Schoonyan – Director, Strategic Policy Analysis, SCE (now retired)
  - i. Jim Scilacci – Chief Financial Officer, Edison International
  - j. Les Starck – Senior Vice President Regulatory Policy & Affairs, SCE (now retired)
  - k. Bert Valdman – Senior Vice President, Strategic Planning, Edison International (no longer employed)
  - l. Gaddi Vasquez – Senior Vice President, Government Affairs, Edison International
  - m. Russ Worden – Director of External Relations, SCE
  - n. Ron Olson, former Board member, Edison and Edison International
  - o. Michael Peevey (former President of CPUC)
  - p. Michel Florio (Commissioner, CPUC)
  - q. Melanie Darling (ALJ, CPUC)
  - r. Sepideh Khosrowjah (Chief of Staff, Commissioner Florio)
  - s. Paul Clanon (Executive Director, CPUC)
  - t. Carol Brown (former Chief of Staff to President Peevey)
  - u. Audrey Lee (former Advisor to President Peevey)
  - v. Edward Randolph (Director of Energy, CPUC)
2. CPUC will identify employees who were involved in the implementation of the greenhouse gas research provisions of the SONGS OII settlement, specifically with respect to CPUC's understandings or intentions with regard to directing funding to UCLA. CPUC will propose to the

## SEARCH WARRANT (Page 4)

Attorney General's Office additional employees whose email they will collect for this purpose.

3. CPUC will collect and review emails from the above 22 custodians, plus any other custodians identified pursuant to paragraph 2, that are dated from January 31, 2012 through January 31, 2015.
4. Handwritten notes, documents saved to a hard drive or to a network location, and data on smart phones that is not believed to exist in other locations. CPUC will advise the Attorney General's Office of its progress and plan for collection and review of any such documents.
5. With respect to the categories of documents specified in the search warrant, CPUC will search for, review and produce responsive documents as follows:
  - a. As to documents involving the SONGS settlement, CPUC will produce (1) documents constituting or referring to communications with SCE about the OII prior to execution of the settlement on March 27, 2014 (excluding on-the-record communications such as SCE pleadings filed with the CPUC); and (2) documents constituting communications with TURN or ORA referencing communications from Peevey regarding SONGS or UC in the context of the settlement negotiations up to March 27, 2014.
  - b. As to documents pertaining to the Poland trip in March 2013, CPUC will produce documents constituting or referring to communications during that trip that relate to SONGS. These documents will include any communications or materials regarding SONGS made in anticipation of the trip, any documents or communications regarding SONGS that occurred during the trip, and any communications or materials regarding SONGS created after the trip ended.
  - c. As to the documents regarding funding of research in connection with the SONGS settlement, CPUC will produce documents and all communications that (1) constitute or refer to communications with SCE or UCLA regarding greenhouse gas research as part of the SONGS settlement (excluding on-the-record communications such as pleadings filed with the CPUC and drafts of same; (2) refer to SCE's contributing to the UCLA Luskin Institute at UCLA, the University of California, UCLA's Institute of the Environment and Sustainability, or the California Center for Sustainable Communities at UCLA, in connection with the SONGS settlement; and (3) constitute advocacy directed to the CPUC by local governmental agencies in support of greenhouse gas research as part of the SONGS settlement.

**EXHIBIT D**



SUPERIOR COURT OF CALIFORNIA

71801

County of Los Angeles

SEARCH WARRANT RETURN  
and  
INVENTORY

Search Warrant No. 71801

Issuing Magistrate: M.L. Villar

Date warrant issued: 9/25/2015

Date warrant executed: 9/25/2015

Location/Vehicles/Persons served and title:

Microsoft Corporation  
One Microsoft Way  
Redmond, WA 98052

For personal email records of Stephen Pickett

Manner of service: Faxed to 425-708-0096

FILED  
2015 NOV 13 AM 11 21

I, Special Agent Reye Diaz, Office of the Attorney General, the affiant for this search warrant, state: The information listed above is correct and during the execution of the search warrant, the following property was seized:

On September 25, 2015, your affiant served Microsoft Corporation with the search warrant authorized by the Honorable M.L. Villar, Los Angeles County Superior Court on September 25, 2015.

On October 28, 2015, Microsoft Corporation provided me approximately 1,400 emails related to Stephen PICKETT. These emails were subsequently turned over to the Office of the Attorney General's Litigation Support Unit and will be loaded into a database for my review after the emails are reviewed by others for attorney client privilege.

Microsoft has complied to the search warrant as ordered by the court.

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

Date: 11/13/2015

*Reye Diaz* 11/13/15  
Special Agent Reye Diaz AG#10  
Affiant

*Edmund Willcox Clarke, Jr.*  
Judge of the Court  
EDMUND WILLCOX CLARKE, Jr.



Penal Code § 1537

SW No. 71801

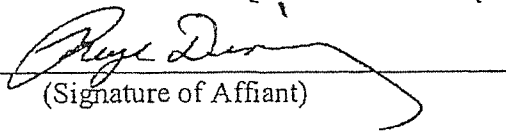
STATE OF CALIFORNIA – COUNTY OF LOS ANGELES

SEARCH WARRANT AND AFFIDAVIT

(AFFIDAVIT)

Special Agent Reye Diaz, California Department of Justice, swears under oath that the facts expressed by him/her in this Search Warrant, and in the attached and incorporated statement of probable cause consisting of 18 pages, are true and that based thereon he/she has probable cause to believe and does believe that the property and/or person described below is lawfully seizable pursuant to Penal Code Section 1524, as indicated below, and is now located at the locations set forth below. Wherefore, affiant requests that this Search Warrant be issued.

NIGHT SEARCH REQUESTED: YES [ ] NO [X] - Justification on page(s) \_\_\_\_\_

  
(Signature of Affiant)

(SEARCH WARRANT)

THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY SHERIFF, POLICEMAN OR PEACE OFFICER IN THE COUNTY OF LOS ANGELES: proof by affidavit having been made before me by Special Agent Reye Diaz, that there is probable cause to believe that the property described herein may be found at the locations set forth herein and that it is lawfully seizable pursuant to Penal Code Section 1524 as indicated below by "x"(s) in that it:

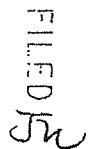
- \_\_\_\_\_ it was stolen or embezzled
- X \_\_\_\_\_ it was used as the means of committing a felony
- X \_\_\_\_\_ it is possessed by a person with the intent to use it as means of committing a public offense or is possessed by another to whom he or she may have delivered it for the purpose of concealing it or preventing its discovery
- X \_\_\_\_\_ it tends to show that a felony has been committed or that a particular person has committed a felony
- \_\_\_\_\_ it tends to show that sexual exploitation of a child, in violation of Section 311.3, or depiction of sexual conduct of a person under the age of 18 years, in violation of Section 311.11, has occurred or is occurring
- \_\_\_\_\_ there is a warrant for the person's arrest;

YOU ARE THEREFORE COMMANDED TO SEARCH:

See attached Exhibit "A" "B"

FOR THE FOLLOWING PROPERTY:

See attached Exhibit "A" "B"

RECEIVED 13 APR 11 21  
FILED 

SEARCH WARRANT (Page 2)

AND TO SEIZE IT IF FOUND and bring it forthwith before me, or this court, at the courthouse of this court. This Search Warrant and incorporated Affidavit was sworn to as true and subscribed before me this 9/25/15 day of 9/25/15, 2015, at 9:40 A.M./P.M. Wherefore, I find probable cause for the issuance of this Search Warrant and do issue it.

*M.L. Villar*

M.L. VILLAR

(Signature of Magistrate)

Judge of the Superior Court – County of Los Angeles



NIGHT SEARCH APPROVED: YES [ ] NO [ X ]

(Magistrate's Initials)

Be advised that pursuant to California Penal Code sections 1639 and 1540, you may file a written motion in the court of the above-mentioned judge who issued the warrant, seeking return of the property seized pursuant to this warrant.

For further information concerning this search warrant, contact the officer whose name appears on the warrant, Special Agent Reye Diaz at (916) 916-322-2686 or at reye.diaz@doj.ca.gov

FILED  
2015 NOV 13 AM 11 21

EXHIBIT "A"

LOCATION #1:

Stephen Pickett email account:

See Attached "B" for specific email information:

MAY BE SERVED VIA EMAIL or FAX

FOR THE FOLLOWING PROPERTY:

Any and all email records and correspondence occurring between January 2012 through current on any, and all, email account(s) belonging to Stephen PICKETT, to specifically include the email account listed in Attachment "B".

Upon receipt of all emails from Microsoft Corporations or any other provider:

Upon receipt, the emails will be reviewed by California Attorney General personnel for the following items: Any and all records and correspondence from January 2012 until current, involving the San Onofre Nuclear Generating Station (SONGS) closure settlement agreement, the 2013 meeting between Stephen PICKETT and Michael PEEVEY in Poland, communication(s) pertaining to the determination of when and why SONGS would be closed, commitment of monies for research as a result of the closure of SONGS, and communication(s) pertaining to the settlement of the SONGS Order Instituting Investigation (OII). These records are to include:

1. Internal correspondence, emails, text messages, logs, support letters, letters, documentation, as well as correspondence, emails, text messages, logs, support letters, letters, documentation between SCE officials and CPUC officials, decision makers, Michel FLORIO, Michael PEEVEY, Edward RANDOLPH, and CPUC ALJs as they relate to the UCLA Luskin Institute at UCLA, University of California, UCLA's Institute of the Environment and Sustainability, California Center for Sustainable Communities at UCLA, the SONGS closure, the SONGS settlement, the SONGS OII investigation, and commitment of research funds involving the CPUC, and any and all lobbying efforts on any of these topics.
2. SCE communications between SCE executive staff, including but not limited to Ron LITZINGER, Ted CRAVER, and Stephen PICKETT, regarding the meeting between PICKETT and PEEVEY in Poland, the SONGS settlement, the SONGS OII investigation, and monies committed to a research fund as a result of the SONGS closure.

It is further ordered that Microsoft Corporation, and/or any email provider, not notify any person of the existence of this order until further order of this court. Affiant submits that such an order is justified because notification of the existence of this order could seriously jeopardize the ongoing investigation. Such a disclosure could give account holder(s) an opportunity to destroy evidence.

71801

SUPERIOR COURT OF CALIFORNIA

County of Los Angeles

Search Warrant  
Sealing Order

FILED  
2015 NOV 13 AM 11:11  
LOS ANGELES

Warrant No. \_\_\_\_\_

Place to be searched: STEPHEN PICKETT EMAIL ACCOUNTS

Application for Sealing Order: I hereby request that the following document(s) submitted in support of the requested search warrant be sealed pending further order of the court:

EXHIBIT "B" OF SEARCH WARRANT  
ATTACHMENT "D" OF AFFIDAVIT

Grounds for order: I believe that the sealing of the above document(s) is warranted for the following reasons:

PUBLIC INTEREST: Sealing serves the following public interest:

- Protect a confidential informant (Evid. Code § 1041)
- Conceal official information: (Evid. Code § 1040)

PREJUDICE TO PUBLIC INTEREST: There exists a substantial probability that this public interest would be prejudiced if the information contained in this document(s) is not sealed.

NARROWLY TAILORED: I do not believe it would be possible to release any of the sealed information without prejudicing this public interest.

Declaration: I declare under penalty of perjury that the above information is true.

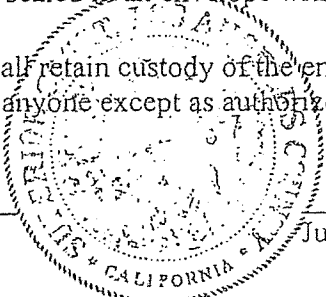
9/25/15  
Date

[Signature]  
Affiant REYER DIAZ

Order: Pursuant to Rule 2.550 of the California Rules of Court, the document(s) identified above shall be sealed and retained in the following manner pending further order of the court:

- (1) The document(s) shall be sealed in an envelope with a copy of this Order affixed to the front of the envelope; and
- (2) The Clerk of the Court shall retain custody of the envelope in a secure place and shall not permit it to be opened by anyone except as authorized by written order of the Court.

9/25/15  
Date



[Signature]  
M.L. VILLAR  
Judge of the Superior Court

**AFFIDAVIT OF REYE EUGENE DIAZ  
IN SUPPORT OF SEARCH WARRANT**

That your affiant, Reye Eugene Diaz, has been employed by the Department of Justice since 1997.

I am currently a Special Agent and "investigative or law enforcement officer" of the State of California within the meaning of 830.1 of the California Penal Code who is empowered by law to conduct investigations and make arrests for offenses committed within the State of California.

From November 1999 until January of 2003, I was assigned to the California Department of Justice, Bureau of Narcotic Enforcement, San Francisco Regional Office. During this time, my primary assignment was to conduct narcotic investigations which routinely required me to work in an undercover capacity, conduct surveillance on suspects, develop and handle informants, as well as author and serve search warrants. During this time, I also served as case agent on mid level narcotic investigations and assisted with numerous high level narcotic investigations.

From February 2003 until November 2014, I was assigned to the California Department of Justice, Bureau of Gambling Control and Bureau of Investigation. During my time with both the Gambling Control and Bureau of Investigation, I served as case agent on numerous investigations pertaining to the following crimes: Pimping, Human Trafficking, prostitution, violent loan sharks/extortion, murder for hire, corruption, embezzlement, grand theft, burglary, illegal lottery, counterfeiting, identity theft, forgery, fraud, embezzlement, and political corruption. I routinely worked with the Federal Bureau of Investigation, the United States Secret Service, the Internal Revenue Service,

the Department of Homeland Security, and local law enforcement personnel on numerous major investigations. During these aforementioned investigations, I have conducted numerous hours of surveillance, routinely utilized sophisticated investigative equipment, conducted numerous interviews and interrogations, conducted numerous undercover operations, arrested hundreds of suspects, routinely worked with informants, written numerous search warrants, and have routinely testified in court.

I am cross designated as a task force agent with the FBI and have received the California Attorney General Peace Officer Award for my work as a criminal investigator. I am currently assigned to the California Attorney General's Financial Fraud Section and Special Prosecutions Unit where I am tasked by the California Attorney General's Office to combat human trafficking, sex trafficking related crimes, as well as conduct financial fraud investigations.

## I. Introduction

This affidavit is submitted in support of a request for a search warrant to be issued and executed for email records belonging to Stephen PICKETT, the former Executive Vice President of External Relations at Southern California Edison (SCE). Your affiant believes there is probable cause to conduct this search warrant for the following reasons:

1) There is probable cause to believe that Michael PEEVEY, former President of the California Public Utilities Commission, utilized his position to influence SCE's commitment of millions of dollars to UCLA to fund a research program. There is also probable cause to believe Stephen PICKETT, former Executive President of External Relations at SCE, and PEEVEY knowingly engaged in and conspired to engage in prohibited *ex parte* communications regarding the closure of a nuclear facility, to the advantage of SCE and to the disadvantage of other interested parties. And there is probable cause to believe that evidence showing that PICKETT knowingly engaged in prohibited *ex parte* communications with PEEVEY will be found in personal emails belonging to Stephen PICKETT.

## I. BACKGROUND

In January 2012, Southern California Edison (SCE) announced that a radiation leak likely occurred in a steam generator at the San Onofre Nuclear Generating Station (SONGS). As a result, SONGS' two reactor units, referred to as Unit 2 and Unit 3,



remained offline until it could be determined whether the issues with the steam generators could be corrected. SONGS has not been operational since.

On November 1, 2012, the CPUC initiated a proceeding through an Order Instituting Investigation (OII) in order to determine, among other issues, how to allocate the financial burden associated with the closure between rate payers and SCE shareholders.

On June 7, 2013, SCE announced the permanent shut-down of SONGS. SCE participated in settlement negotiations with rate payer advocacy groups including The Utility Reform Network (TURN) and the California Office of Ratepayer Advocates (ORA). SCE negotiated on behalf of SDG&E. Any agreed upon settlement was required to be submitted to CPUC for approval.

On April 4, 2014, the settling parties filed their proposed settlement with CPUC for approval. CPUC Commissioner Michel FLORIO and Administrative Law Judge (ALJ) Melanie DARLING were assigned oversight of the proceedings.

On September 5, 2014, Commissioner FLORIO and ALJ DARLING issued a ruling that the proposed settlement could not be accepted unless amended to include a \$25 million dollar commitment by SCE to the University of California over five years to address environmental offsets and greenhouse gas mitigation.

On November 25, 2014, after the settling parties agreed to the amendments, CPUC issued a decision approving the settlement.

## II. LEGAL FRAMEWORK

### A. The California Public Utilities Commission

The California Public Utilities Commission (CPUC) is a state regulatory agency. According to its website, CPUC regulates privately owned electric, natural gas, telecommunications, water, railroad, rail transit, and passenger transportation companies. The CPUC's mission is to serve 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. The CPUC is located in San Francisco, CA.

**B. Public Utilities Code Prohibitions on Ex Parte Communications**

*Ex parte* communications are defined in the Public Utilities Code as "any oral or written communication between a decision maker and a person with an interest in a matter before the commission concerning substantive, but not procedural issues, that does not occur in a public hearing, workshop, or other public proceeding, or on the official record of the proceeding on the matter." (Pub. Util. Code §1701.1(c)(4).) *Ex parte* communications are prohibited in adjudicatory cases. (Pub. Util. Code . § 1701.2.) The SONGS OII and associated settlement discussions are considered adjudicatory. Violation of this prohibition is a misdemeanor. (Public Util. Code § 2110.)

**C. Obstruction of Justice and Conspiracy to Obstruct Justice**

Under California law, "every judicial officer, court commissioner, or referee who commits any act that he or she knows perverts or obstructs justice, is guilty of a public offense punishable by imprisonment in a county jail for not more than one year." (Cal. Penal Code § 96.5). Penal Code section 182 (a) (5) makes it a felony to "commit any act injurious to the public health, to public morals, or to pervert or obstruct justice, or the due administration of the laws." Conspiracy to commit a misdemeanor offense can also

be charged as a felony, pursuant to Penal Code Section 182 (a) (1).

### III. FACTUAL EVIDENCE IN SUPPORT OF SEARCH WARRANT

#### A. PEEVEY and PICKETT Secretly Discussed Specific Terms of SONGS Settlement at Hotel Bristol in Poland.

##### 1. PEEVEY and PICKETT *ex parte* conversation

On March 26, 2013, while SONGS was still offline and CPUC OII proceedings were still ongoing, Stephen PICKETT, then the Executive Vice President of External Relations at SCE, met with Michael PEEVEY, then the President of the CPUC, at an unrelated fact finding mission in Warsaw, Poland. According to handwritten notes memorialized on stationery from Warsaw's Bristol Hotel, PICKETT and PEEVEY discussed settlement terms related to the closure of SONGS which included, among other things, decommissioning costs, investment recoveries, shutdown procedures, employee severance packages, rate payer costs, and a \$25 million dollar donation to an agreed upon greenhouse gas or environmental academic research fund. Your affiant obtained these notes in a home-office desk while executing a search warrant at PEEVEY's residence in La Canada, California, on January 27, 2015.

PICKETT reported back to his management at SCE within one week of his meeting with PEEVEY in Poland, and subsequently provided his management with his own version of the notes based on his recollection of the meeting with PEEVEY.

The notes seized from PEEVEY's residence address the following nine topics with additional information pertaining to each topic:

1. Pre-RSG Investment;
2. RSG and post – RSG investment;
3. Replacement Power Responsibility;
4. Neil Insurance Recoveries;
5. MHI Recovery;

6. Decommissioning Costs;
7. O&M;
8. Environmental Offset;
9. Process.

PICKETT's typed notes, entitled "Elements of a SONGS Deal," contain the same nine topics, in almost the exact same order, as the Hotel Bristol notes. PICKETT's notes also contain one additional topic entitled "Other Notes." Copies of both notes are included as Attachment #A.

**2. SCE Filed a Notice of Ex Parte Communications Two Years Late, Only After the Poland Meeting was Publicly Disclosed.**

On January 27, 2015 your affiant executed a search warrant at PEEVEY's residence in La Canada, California, at which time your affiant seized handwritten notes on Hotel Bristol stationery associated with the SONGS closure. Your affiant subsequently filed a search warrant return with the San Francisco County Superior Court and attached a copy of the property receipt. The Superior Court ordered the declaration sealed, but the property receipt remained publicly available.

On January 30, 2015, as a result of the search warrant return, the *San Diego Union-Tribune* reported the details of the search warrant and emphasized that law enforcement had seized "RSG notes on Hotel Bristol stationery."

On February 9, 2015, nine days after the *San Diego Union-Tribune* reported the seizure of the notes, and approximately two years after the actual meeting took place between PICKETT (SCE) and PEEVEY (CPUC), SCE belatedly disclosed that PICKETT met privately with PEEVEY in Poland on March 26, 2013, and that SCE failed to disclose the *ex parte* communication. According to the late-filed notice of *ex parte* communication, PEEVEY initiated the communication on a framework for a possible

resolution of the pending OII regarding the closure of SONGS. SCE also reported that PICKETT took notes during the meeting, and PEEVEY kept the notes. According to SCE, it did not originally report the *ex parte* communication based on an understanding that "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." SCE further stated, "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."

**3. April 4, 2013 email from PICKETT to SCE personnel.**

Your affiant reviewed an email, dated April 4, 2013, one week after the meeting in Poland and approximately 1-2 days after PICKETT developed his own version of the notes, from PICKETT to two specific individuals that work for Southern California Edison. In this email, PICKETT advises, "First, we should take my notes and turn it into a simple term sheet we could use to help guide the negotiations."

**4. LITZINGER and PICKETT did not file *ex parte* report.**

On March 20, 2015, your affiant interviewed Ron LITZINGER, President of SCE. According to LITZINGER, he told PICKETT after the Poland trip that PICKETT was not authorized to engage in negotiations with PEEVEY regarding the closure of SONGS. LITZINGER claimed that when PICKETT came back from the trip and notified him about the conversation, LITZINGER wondered why there was a "conversation taking place" while there was an active proceeding. Nevertheless, LITZINGER did not file, nor did he request that PICKETT file, a notice of *ex parte* communication.

Although SCE did not decide to close SONGS until May 2013, LITZINGER said he had to reinforce to PICKETT on April 11<sup>th</sup> that he (PICKETT) was not going to be part of the settlement team and that the settlement process was going to be very tightly controlled. LITZINGER said that he had to remind PICKETT of this fact, as PICKETT was "still talking like he was going to be part of the settlement team."

**5. PEEVEY pressured LITZINGER to make commitment to UCLA as part of SONGS settlement agreement.**

LITZINGER also stated that, in a conversation with PEEVEY on May 2, 2014, while SONGS settlement proceedings were ongoing, PEEVEY requested that SCE make a \$25 million commitment to UCLA as part of the settlement. According to LITZINGER, PEEVEY emphasized the fact that he had discussed the matter with PICKETT in Poland. LITZINGER told your affiant that PEEVEY waved hand written notes. LITZINGER stated that he told PEEVEY, "I was aware that conversation took place, but Steve [PICKETT] was not authorized to speak on behalf of the company."

**6. Edward RANDOLPH's description of the Poland meeting**

Your affiant also interviewed Edward RANDOLPH, the current Director of Energy at the CPUC. RANDOLPH advised your affiant that he was present during the discussion between PEEVEY and PICKETT in Poland. RANDOLPH told your affiant that there were "ground rules" as to what they could talk to SCE about on the trip. When asked if these ground rules would prohibit substantive discussion on "pending proceedings," RANDOLPH stated yes. RANDOLPH stated that there was an "offline discussion" between RANDOLPH, PEEVEY, and PICKETT at a bar at the Bristol Hotel in Poland. When asked what pending proceeding they discussed, RANDOLPH answered, "The prime point of the discussion was to discuss the timing of a

determination of if Southern California Edison was going to permanently shut down the San Onofre Nuclear Generation Facility.” RANDOLPH said that the discussion, in itself, did not relate to a proceeding in his opinion. According to RANDOLPH, the reason they were discussing the permanent shut down of SONGS is that it was already heading into a second summer in which the plant had been shut down, and SCE had not made a long term determination of what they would do if the plant closed permanently. RANDOLPH said CPUC wanted SCE to do a long term determination so it could do long term planning and not short term “patchwork” which would be more expensive for the rate payers.

When RANDOLPH was asked if there was a more specific conversation about a settlement agreement, RANDOLPH answered, “Sort of, after we finished the discussion about making a determination about the plant closing, which was probably about a ten minute conversation, the conversation did drift into a conversation on what the financials on closing a plant would look like.” When asked who led the conversation, RANDOLPH stated that the first part of the conversation, regarding a determination on if the plant was going to be permanently closed, was led by PEEVEY. According to RANDOLPH, the second part of the conversation, regarding the financials of a plant closure, was led by PICKETT. RANDOLPH’s recollection of events contradicts PICKETT’s assertion to his management that the discussion with PEEVEY was just one-way. RANDOLPH told your affiant that, in his opinion, the discussion in Poland was an *ex parte* communication, and SCE should have reported it.

#### 7. Effects of Poland Conversation on Other Interested Parties

As a result of a recent public disclosure of the PEEVEY notes your affiant seized at PEEVEY's residence, both ratepayer settlement parties (ORA and TURN) that negotiated with SCE, without the advantage of being aware of the PICKETT meeting with PEEVEY in Poland, issued the following separate statements on April 17, 2015:

ORA STATEMENT:

*"ORA has reviewed the Hotel Bristol Notes and has made a comparative analysis with the final SONGS settlement agreement. The Hotel Bristol Notes appear to set a framework for settlement that is similar to the elements of the settlement that was ultimately accepted by the CPUC. The Hotel Bristol Notes appear to demonstrate the degree to which Peevey and Pickett collaborated to orchestrate a settlement of the SONGS outage investigation. Based on ORA's analysis of the Hotel Bristol Notes and the final settlement agreement, customers still saved at least \$780 million more than the "deal" that Peevey and Pickett had described. However, ORA cannot honestly say that it got the best deal for ratepayers. Edison was likely able to use its knowledge of Peevey's position to steer the settlement in the direction it wanted. While ORA believes it worked to strike a good deal for ratepayers based on legal precedents, we are troubled by the possibility that we might have been able to strike a better deal."*

TURN STATEMENT:

*"The Warsaw meeting was a flagrant violation of CPUC rules governing ex parte contacts," said TURN staff attorney Matt Freedman. "The CPUC has properly ordered SCE to turn over all documents relating to communications with CPUC decision makers about the possible settlement of SONGS. Based on the responses to this ruling, TURN may seek a reopening of the case. At a minimum, TURN will urge the CPUC to assess the maximum sanction on SCE for its ex parte violations and apply any financial penalties toward reducing customer rates."*

The Utilities and Commerce Committee of the California Assembly also formally requested that John GEESMAN, Attorney for Alliance for Nuclear Responsibility, analyze the PEEVEY notes and make an assessment of the differences between the terms outlined in the notes and the actual settlement proposal. According to GEESMAN, *"Prompt disclosure of ex parte communications like that between Mr. PICKETT and Mr. PEEVEY is an essential prerequisite for a level playing field in a regulatory proceeding."*



In regards to the advantage SCE had going into the negotiations as a result of the PEEVEY and PICKETT meeting and SCE's failure to disclose the meeting as required by law, GEESMAN stated, *"It appears to me that SCE managed to improve its position by at least \$919 million, and arguable \$1.522 billion, from what CPUC President PEEVEY had identified at the Hotel Bristol as a framework for a possible resolution."*

**B. PEEVEY's Request for UCLA Research Funds**

The University of California, Los Angeles (UCLA), has disclosed that while the SONGS closure settlement negotiations were still ongoing, and prior to a proposal being submitted to CPUC, PEEVEY requested that Stephanie PINCETL, the Director of UCLA's California Center for Sustainable Communities and Professor-in-Residence at UCLA's Institute of the Environment and Sustainability, submit a proposal for exactly \$25 million dollars that would be available as a result of the closure of SONGS.

On **April 4, 2014**, the settlement parties filed their proposed settlement to CPUC for approval. CPUC Commissioner Michel FLORIO and ALJ Melanie DARLING oversaw the settlement proceedings. The initial settlement proposal did not include \$25 million dollars towards greenhouse gas research.

As noted, LITZINGER advised your affiant that PEEVEY told him on **May 2, 2014**, right after the settlement proposal was submitted to CPUC, that SCE needed to make a \$25 million dollar commitment to UCLA. PEEVEY referenced the fact that he had discussed the matter with PICKETT in Poland and waved hand written notes. According to LITZINGER, Commissioner FLORIO, the CPUC commissioner presiding over the matter, was also present during this conversation. LITZINGER advised your

affiant that he refused to engage in conversation with PEEVEY on this matter.

According to a LITZINGER declaration, after this meeting, he called FLORIO to advise that SCE was considering filing an *ex parte* notice. LITZINGER claimed that Commissioner FLORIO later told him he had discussed the matter with PEEVEY's chief of staff, and they had concluded there was no reason to disclose that the two sides had met. According to LITZINGER, over the next several weeks, PEEVEY attempted multiple times to pressure SCE to make this financial commitment directly to UCLA. Ultimately, PEEVEY told LITZINGER that he was going to bypass him and go straight to his boss Ted CRAVER, President and Chief Executive Officer of Southern California Edison (SCE) International.

Your affiant interviewed Ted CRAVER who confirmed that PEEVEY "went at him hard," telling him that they (SCE) did not get the importance of combatting climate change and this was an opportunity to do something, and if they were smart, they would figure out how to "wrap this in a cloak" and it would be good for public relations. CRAVER told PEEVEY that he could not talk to PEEVEY about this matter. SCE never agreed to formally commit money to research.

On **May 19, 2014**, in response to an email from Stephanie PINCETL (UCLA) asking about the status of project funding, PEEVEY stated that SCE had advised him that her request was "a lot of money" and would have to be taken to SCE's board for approval. PEEVEY added in his response to PINCETL, "I am, of course, exploring another option."

In addition to PEEVEY's in-person lobbying efforts, PEEVEY appeared to be organizing a letter-writing campaign to support a UCLA research program. Your affiant

has reviewed documents drafted as letters from Los Angeles-area elected officials to the CPUC, dated in early June 2014. The letters urge, as part of the pending SONGS settlement, that CPUC fund a proposed UCLA research program (California Center for Sustainable Communities at UCLA) involving the creation of a "sophisticated energy data analysis" which would result in reduction of GHG emissions. Similar letters were also delivered to SCE executives during the same time period.

On **September 5, 2014**, Commissioner FLORIO and ALJ DARLING issued a ruling that the proposed SONGS closure settlement could not be supported without two amendments, including a \$25 million dollar commitment to the University of California over five years.

LITZINGER told your affiant that SCE was not surprised, based on what had happened since May 2014, and that the commitment to fund research was a prerequisite to approval of the settlement. LITZINGER told your affiant that SCE internally debated the amendments and met with the Board of Directors to discuss the new terms. LITZINGER said SCE agreed to the terms because "our investors wanted the uncertainty of SONGS behind them." According to LITZINGER, "The benefit of eliminating the uncertainty associated with SONGS far outweighed agreeing to the \$5 million a year."

On October 2, 2014 Stephanie PINCETL (UCLA) emailed PEEVEY to request a language modification that would enhance UCLA's ability to get the funding. As a result, PEEVEY emailed FLORIO that same day asking for the proposed language to be modified in order to accommodate UCLA. FLORIO emailed PEEVEY back, stating that his Chief of Staff spoke to ALJ Darling and had a "fairly difficult conversation" with her.

FLORIO further stated in the email, "*Melanie (DARLING) seems to be in a particularly sour mood! Bottom line, she said she used the language she got from Lester in her ordering paragraph. I think that is the same as what you handed me today. We will try to clean this up before the PD mails tomorrow, or worst case in the final decision. I don't sense any disagreement about the substance, just another ALJ resisting interference by those pesky commissioners. I am confident we will get there.*"

On November 25, 2014, the SONGS settlement was formally approved, including the \$25 million dollar research grant to the University of California.

**C. CPUC Business conducted on personal emails:**

On February 20, 2015, your affiant served a search warrant on PEEVEY's personal email account. I have observed numerous CPUC business related emails on PEEVEY's personal email account. Although PICKETT departed SCE on November 30, 2013, both continued to correspond with each other. In one email, dated February 4, 2015, approximately one month after PEEVEY departed from the CPUC and a week after a search warrant was served at PEEVEY's house, PEEVEY sent an email to PICKETT's personal outlook email account suggesting that they meet for a glass of wine. PICKETT responded by telling PEEVEY that he was sorry he hadn't responded to his earlier voice mails and would be willing to meet with him. However, PICKETT further advised that he could not engage in "substantive discussion" on the matters currently under investigation.

**IV. SUMMARY**

Based on the above evidence and facts, there is probable cause to believe that PICKETT knowingly engaged and conspired to engage in a reportable *ex parte*

communication with PEEVEY in POLAND to the overall advantage of SCE in the subsequent settlement process pertaining to the closure of SONGS. It is also evident that PEEVEY utilized his position to influence SCE's commitment of millions of dollars to UCLA to fund a research program. The facts indicate that PEEVEY conspired to obstruct justice by illegally engaging in *ex parte* communications, concealed *ex parte* communications, and inappropriately interfered with the settlement process on behalf of California Center for Sustainable Communities at UCLA. PEEVEY executed this plan through back channel communications and exertion of pressure, in violation of CPUC *ex parte* rules, and in obstruction of the due administration of laws.

There is probable cause to believe that further evidence showing PICKETT knowingly engaged in a reportable *ex parte* communication with PEEVEY, will be found, if not deleted, in PICKETT's personal outlook email account which will be listed and sealed under Attachment B.

Your affiant requests search warrant authorization from the Superior Court of Los Angeles County. Because SCE is headquartered in Rosemead, CA, and PICKETT resides in Los Angeles County, there is probable cause to believe that at least a portion of the suspected criminal activity occurred in the County of Los Angeles.

Your affiant believes it is reasonable to request any and all records pertaining to the events surrounding the settlement of the SONGS closure, especially communications regarding the SONGS settlement from January 2012 to the present. It is reasonable to limit the search from January 2012 to the present because that is when SONGS was no longer operational. Your affiant is also requesting all emails on PICKETT's email account, as your Affiant was advised by Microsoft Corporations, the

provide of PICKETT's email account, they do not have the ability to filter specific information from email accounts Microsoft Corporations manages.

**SEAL AFFIDAVIT AND WARRANT:**

It is further requested by your affiant, due to the high profile nature of the investigation and the suspects, that a sealing order be granted in sections within the search warrant that specifically cite PICKETT's personal email address.

Your affiant believes there is sufficient probable cause that the property described herein may be found at the locations set forth herein and that it is lawfully seizable pursuant to Penal Code Section 1524.

**LOCATION #1:**

**Stephen PICKETT's personal Email Address:  
See Attachment "B"**

**FOR THE FOLLOWING PROPERTY:**

**Any and all email records and correspondence occurring between January 2012 through current on any, and all, email account(s) belonging to Stephen PICKETT, to specifically include the email account listed in Attachment "B".**

Upon receipt, the emails will be reviewed California Attorney General personnel for the following items: Emails and correspondence involving the San Onofre Nuclear Generating Station (SONGS) closure settlement agreement, the 2013 meeting between Stephen PICKETT and Michael PEEVEY in Poland, communication(s) pertaining to the determination of when and why SONGS would be closed, commitment of monies for research as a result of the closure of SONGS, and communication(s) pertaining to the settlement of the SONGS Order Instituting Investigation (OII). These records are to include:

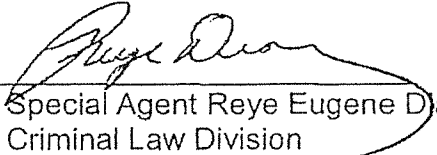
1. Internal correspondence, emails, text messages, logs, support letters, letters, documentation, as well as correspondence, emails, text messages, logs, support letters, letters, documentation between SCE officials and CPUC officials, decision makers, Michel FLORIO, Michael PEEVEY, Edward RANDOLPH, and CPUC ALJs as they relate to the UCLA Luskin Institute at UCLA, University of California, UCLA's Institute of the Environment and Sustainability, California Center for Sustainable Communities at UCLA, the SONGS closure, the SONGS settlement, the SONGS OII investigation, and

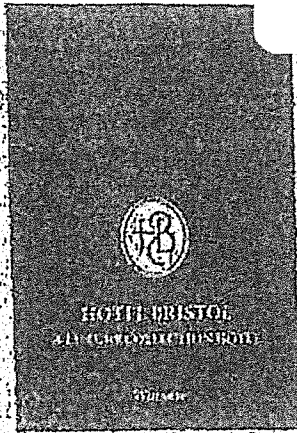
commitment of research funds involving the CPUC, and any and all lobbying efforts on any of these topics.

2. SCE communications between SCE executive staff, including but not limited to Ron LITZINGER, Ted CRAVER, and Stephen PICKETT, regarding the meeting between PICKETT and PEEVEY in Poland, the SONGS settlement, the SONGS OII investigation, and monies committed to a research fund as a result of the SONGS closure.

I declare under penalty of perjury, under the laws of the State of California, that foregoing facts are true and correct to the best of my knowledge and belief.

Reviewed by Maggy Krell  
Deputy Attorney General  
California Department of Justice

  
Special Agent Reye Eugene Diaz  
Criminal Law Division  
California Department of Justice



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 ~~2/1/2012~~
3. Replacement power responsibility: customer
4. NEIL/insurance recoveries: to customers
5. MHI recovery: 1<sup>st</sup> to see to the extent of the disallowance  
2<sup>d</sup> to customers
6. Decommissioning costs: remain in rates through time of decommissioning - periodic redetermination in CPOC proceedings as before
7. O&M:
  - a) Already approved GRC amounts through shutdown + 6 months
  - b) O&M 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 SONAS employees - A pool of \$50 million

Notes  
P&G





HOTEL BRISTOL  
A LUXURY COLLECTION HOTEL

Warsaw

10

8. Environmental offset SCE to donate \$50 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 OGM phase
  - c) new OII phase for shutdown OGM per 7(b) and 7(d) above
  - d) 2018 GPC for shutdown OGM 2018 and beyond
  - e) Usual CPUC proceedings for review of decommissioning costs

*Mike Perry*

- 1 - First \$200 million - 50% customer, 50% SCE
- 2 - Next \$200 million - 70% SCE, 30% customer
- 3 - Any above \$400 million - 80% to SCE, 20% to customer

+48 22 55 11 000 telephone / telefax

+48 22 625 25 977 telex / fax

KRAKOWSKIE PRZEDMIEŚCIE 71  
00-325 WARSZAWA, POLAND

### Elements of a SONGS Deal

1. Recover pre-RSG investment on a "SONGS 1" basis through 2022 (i.e., with a debt level return).
2. Disallow RSG investment entirely ("out of rate base retroactively").

Note: not clear whether the post-leak investment that is not directly related to the RSG's is included (e.g., the new heads, HP turbine, etc.)

3. Customers responsible for all replacement power costs (no disallowance).
4. Any NEIL proceeds go to customers.
5. MHI recovery: to SCE to the extent of any disallowance, then to customers, with some as yet undefined incentive mechanism to encourage SCE to go after MHI to the maximum extent possible for as long as it takes (thinking about the energy crisis settlement as a model).
6. O&M:
  - a. Already approved GRC amounts to shutdown plus some reasonable period beyond (+/- 6 months)
  - b. Ramp down to shutdown level of O&M thereafter.
  - c. Use a subsequent phase of the OII or a separate proceeding to determine the level of ongoing shutdown O&M.
  - d. Shutdown O&M to include "reasonable but generous" severance for affected SONGS employees.
7. Environmental offset: SCE to pay \$5-10 million per year for the remaining life of SONGS (i.e. through 2022) to an agreed upon GHG, climate, or environmental research fund or academic institution. Structured as a charitable donation.
8. Decommissioning to continue to be collected in rates as before through 2022, with reviews as before in triennial CPUC proceedings.

*Handwritten mark*

9. Process:

- a. Settlement agreement approved In OII.
- b. Balance of OII closed (except possibly a subsequent phase to determine level of ongoing shutdown O&M).

10. Other notes:

- a. Players in deal: Geesman (A4NR), FOE, TURN.
- b. Protecting labor brings TURN along (Carl Wood chair of TURN board).
- c. Privately stated complaints of SOG&E.
- d. Ron Olson involvement per energy crisis.

# EXHIBIT E



**FILED**

01-28-13  
04:25 PM

MF1/MD2/jv1 1/28/2013

**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)

**SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGE DETERMINING THE SCOPE, SCHEDULE, AND NEED FOR HEARING IN PHASE 1 OF THIS PROCEEDING**

Pursuant to Rule 7.3(a) of the Commission's Rules of Practice and Procedure and following the prehearing conference (PHC) held on January 8, 2013, this scoping memo sets forth the schedule, issues and procedural requirements for Phase 1 of this proceeding.

**Background**

On November 1, 2012, the Commission issued this Order Instituting Investigation (OII). The Commission will investigate the ongoing shutdown of nuclear generation at the San Onofre Nuclear Generating Station (SONGS), and the resulting effects on the provision of safe and reliable electric service at just and reasonable rates. Specifically, this investigation will consolidate and consider issues raised by the operations, practices, and conduct of Southern California Edison Company (SCE) and San Diego Gas & Electric Company (SDG&E) related to and following the extended outages of SONGS Units #2 and

§§ 1801-1812 should file and serve a notice of intent to claim compensation no later than February 7, 2013, 30 days after the January 8, 2013 PHC. The notice of intent shall conform with the requirements set forth in Rule 17.1, subsections (c), (d), and (e). Responses may be filed pursuant to Rule 17.1(g). Under the Commission's Rules, future opportunities may arise for such filings but such an opportunity is not guaranteed.

In this proceeding, parties intending to seek an award of intervenor compensation must maintain daily record keeping for all hours charged and a sufficient description for each time entry. Sufficient means more detail than just "review correspondence" or "research" or "attend meeting". In addition, intervenors must classify time by issue. When submitting requests for compensation, the hourly data should be presented in an Excel spreadsheet found on the Commission's webpage under "Intervenor Compensation Program." As reflected in the provisions set forth in § 1801.3(f) and § 1802.5, all parties seeking an award of intervenor compensation must coordinate their analysis and presentation with other parties to avoid duplication.

### ***Ex Parte* Communications**

In a ratesetting proceeding involving hearings, *ex parte* communications are permitted only if consistent with certain restrictions and are subject to reporting requirements. (§ 1701.3(c); Rules 8.1 through 8.5.)

### **Filing, Service and Service List**

In this proceeding, there are several different types of documents participants may prepare. Each type of document carries with it different obligations with respect to filing and service. Parties must file certain documents as required by the Rules or in response to rulings by either the assigned Commissioner or the ALJ. All formally filed documents must be filed with the

the CEC's Executive Director may continue to jointly review and refine the terms of the staff collaboration, as necessary.

### **Category of Proceeding and Need for Hearings**

The OII categorized this proceeding as ratesetting. No party appealed that determination pursuant to Rule 7.1(c). The OII preliminarily stated that this matter would require evidentiary hearings, and such hearings are set by this scoping memo for Phase 1.

### **Other Issues and Pending Matters**

Some parties asked the Commission to make available online some or all of the record of Application (A.) 04-02-026, where the Commission gave preliminary approval to SCE for its SGRP. This matter is being explored and we will issue a notice or ruling in the future addressing this issue.

Joint Parties moved to expand the scope of the OII to include review of SCE's and SDG&E's community relations and outreach related to SONGS. These activities would be included in our review of 2012 O&M expenses recorded in the SONGSMA. However, to ensure that review of community outreach is considered in conjunction with local emergency preparedness activities, this Scoping Memorandum and Ruling explicitly authorizes review of SCE's actions and expenditures for community outreach related to the SONGS. To that extent, Joint Parties' motion is granted.

SCE and SDG&E jointly moved for a blanket protective order to govern access to information produced by the utilities which each might claim is either proprietary or "confidential." Several parties oppose the joint motion. At the PHC, we instead directed the utilities to follow the Commission's more usual process generally described in Rules 11.4 and 11.5, and make a motion to file

**EXHIBIT F**



MF1/MD2/jv1 4/30/2013



**FILED**

04-30-13  
02:45 PM

**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

**ASSIGNED COMMISSIONER'S AND ADMINISTRATIVE  
LAW JUDGE'S RULING ON LEGAL QUESTIONS SET FORTH IN SCOPING  
MEMO AND RULING**

In the January 28, 2013 Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge (Scoping Memo), Southern California Edison Company (SCE), San Diego Gas & Electric Company (SDG&E), and other parties were invited to file briefs to develop and expand legal arguments regarding the scope and timing of the Commission's authority to order different types of rate reductions related to the extended outages at the San Onofre Nuclear Operating Station (SONGS).

nuclear decommissioning).<sup>5</sup> Therefore, the current measure of a general rate proceeding is whether it will assess revenues, costs, and rate base to determine just and reasonable rates.

This OII was opened as a ratesetting proceeding to consider various issues related to the extended outages at SONGS Units 2 and 3, including; (1) reasonable operating & capital costs for the Utilities for 2012 (a test year for rates); (2) what portions of the SONGS facility should reasonably remain in rate base; and (3) what SGRP costs are reasonable to recover in rates. The OII itself includes as a primary task whether “to order immediate removal effective today of all costs related to SONGS” from SCE’s and SDG&E’s rates.<sup>6</sup> Thus, the Commission clearly intended the OII to serve as a general rate proceeding to consider all aspects and cost consequences of the extended outages, including rate recovery.

Additionally, the Scoping Memo for the OII underscores the general ratemaking tasks of the proceeding by identifying the ratesetting elements of each Phase. For example, Phase 2 will examine whether the Commission should remove any portion of SONGS plant from rate base, and expenses from the revenue requirement, due to the extended outages.

The Commission’s general ratemaking intent is confirmed by D.12-11-051 (SCE’S 2012 GRC) where the Commission deferred reasonableness review and final approval of SCE’s SONGS-related revenue requirement to this OII because

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<sup>5</sup> Id. at 48.

<sup>6</sup> OII at 2.

# EXHIBIT G

ALJ/MD2/jt2

Date of Issuance 12/8/2015

Decision 15-12-016 December 3, 2015

**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

**DECISION AFFIRMING VIOLATIONS OF RULE 8.4 AND RULE 1.1 AND  
IMPOSING SANCTIONS ON SOUTHERN CALIFORNIA EDISON COMPANY**

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Attachment 1 - Notes

**DECISION AFFIRMING VIOLATIONS OF RULE 8.4 AND RULE 1.1 AND IMPOSING SANCTIONS ON SOUTHERN CALIFORNIA EDISON COMPANY**

**Summary**

This decision affirms eight violations of Rule 8.4 of the Commission's Rules of Practice and Procedure (Rules) by Southern California Edison Company (SCE) stemming from failure to report, before or after, ex parte communications which occurred between an SCE executive(s) and a Commissioner. In addition, this decision finds that SCE twice violated Rule 1.1, the Commission's Ethics Rule, as a result of the acts and omissions of SCE and its employees which misled the Commission, showed disrespect for the Commission's Rules, and undermined public confidence in the agency.

To reach the conclusions in this decision, we repeated the discussion and weighing of the evidence and arguments contained in the Administrative Law Judge's Ruling and Order to Show Cause (OSC),<sup>1</sup> as modified by information submitted by SCE and other parties in response to the OSC. Due to these rule violations, the decision imposes a total financial penalty on SCE of \$16,740,000. This decision affirms, in part, the Ruling and OSC<sup>2</sup> which initially found ten violations of Rule 8.4 of the Commission's Rules by SCE.

The single biggest penalty of \$16,520,000 is based on finding that a continuing Rule 1.1 violation was set in motion by Mr. Pickett's grossly negligent failure to accurately and timely report his ex parte communications in Warsaw,

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<sup>1</sup> Issued August 5, 2015.

<sup>2</sup> Amended Administrative Law Judge's Ruling Finding Violations of Rule 8.4, Requiring reporting of Ex Parte Communications, and Ordering SCE 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 (Ruling and OSC) (August 5, 2015).

between individuals, as “between” is used in § 1701.1 and Rule 8.1. We affirm this view and expect it to result in more complete reporting.

Lastly, Ruth Henricks filed an “Objection to the OSC” which combines a restatement of her objections to the adopted decision, and unsupported speculation about alleged improper conduct by ALJ Melanie Darling. Ms. Henricks requests removal of the ALJ for any of several reasons not fully discussed here. We find no merit to these arguments, and further observe that the claims include misrepresentations of facts.<sup>21</sup> Moreover, her allegations related to the ALJ’s December 2012 procedural communications with SCE’s Mr. Worden, and a short set of e-mails to consider whether SCE should file an ex parte notice as to a few statements, fail to note that a timely filing was made disclosing the communications. This latter set of facts has been previously rejected by the Chief ALJ and the Commission President as providing a basis in the rules to re-assign ALJ Darling.<sup>22</sup>

## 5. Discussion

We conclude that SCE violated Rule 8.4 eight times during this proceeding by failing to acknowledge and disclose ex parte communications pursuant to

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<sup>21</sup> For example, Ms. Henricks invoked an “ethical cloud” over the ALJ and stated, “...[a] Judge of the San Francisco Superior Court found there to be probable cause to believe a felony had been committed and that ALJ Darling is in possession of related evidence.” She cites “5 June 2015 Search Warrant” but does not attach it or provide information to get it, or disclose the subpoena included many people who worked on SONGS and carries no imputation of misconduct.

<sup>22</sup> Chief Administrative Law Judge’s Ruling Denying Motion for Reassignment (July 15, 2015) at 2 (The [moving party] does not identify any provision of law or order or rule of the Commission that Judge Darling may have violated, and none is apparent); Ms. Henricks made a previous unsuccessful motion to remove the ALJ for cause, which was denied based on the plain language of Rule 9.4 (see, Chief Administrative law Judge’s Ruling Denying Request for Reassignment for Cause (June 26, 2014); see below, Section 7 Other Rulings.

Rule 8.4. The Commission affirms the findings in the Ruling and OSC, based on a preponderance of evidence, because the communications concerned a substantive issue in the SONGS OII, took place between an interested person and a decisionmaker, and did not occur in a public hearing, workshop, or other public forum noticed by ruling or order in the proceeding, or on the record of the proceeding. On the other hand, after careful review of the evidence, explanations, and argument submitted, we do not find sufficient evidence to conclude that unreported ex parte communications occurred on May 29, 2013 or on June 17, 2014. These facts are discussed below in Section 6.1.1.

In Comments on the Proposed Decision, SCE requests some clarifications of the ex parte rules, but the decision is essentially clear. For example, SCE fears uncertainty because the term “substantive issue” is not defined in the statute or rules. However, we affirm herein the finding in the ALJ’s Ruling and OSC that, at a minimum, the term refers to issues referenced in one or more scoping rulings issued in a formal proceeding, including broad issues identified for future phases of a proceeding.

Furthermore, the Commission concludes that SCE has twice violated Rule 1.1 based on the acts and omissions of SCE and its representatives. Mr. Pickett’s failure to accurately describe, or to properly serve notice of the Poland Meeting or reveal the existence of the Notes until they became publicly known by other means, set in motion a series of misleading filings by SCE. As discussed below, we find an additional violation of Rule 1.1 based on the untrue and misleading statement by Mr. Litzinger during his testimony made under oath.



SCE's Legal Department in determining whether the ex parte rules apply to achieve a permanent privilege claim applied to all such records, thus blocking oversight and investigative access by the Commission. Thus, SCE's proposal is of unknown benefit or accessibility.

### **6.1.3. Commission Precedent**

Commission precedent in imposing sanctions for ex parte violations has ranged from relatively minor fines, or none at all, to requiring training on ethics and the Commission's ex parte rules. In D.14-11-041, the Commission described several relevant examples which are presented below:

- In a ratesetting proceeding in which the utility failed to report its ex parte communications with each of the Commissioners' energy advisors, the ALJ required the utility to file notice of its ex parte communications and to retain an independent firm, at its shareholders' expense, to conduct four training sessions on Rule 1.1 and Article 8 of the Rules of Practice and Procedure, and no penalty was imposed.<sup>98</sup>
- In a ratesetting proceeding in which Pacific Gas and Electric Company (PG&E) met with two Commissioners and their advisors without providing the requisite three-day advance notice of the grant of the individual meetings with the Commissioners or post-meeting notices of the ex parte communications, PG&E was required to develop and institute a control system which reflects best practices for compliance with the ex parte rules, and no penalty was imposed.<sup>99</sup>
- Where two utilities in an adjudicatory proceeding violated the ban against ex parte communications by participating in two

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<sup>98</sup> February 16, 2012, Joint Assigned Commissioner and ALJ's Ruling, A.08-05-022 et al.

<sup>99</sup> D.08-01-021.

separate ex parte meetings, each with two Commissioners' advisors, the Commission fined them each \$20,000 per meeting.<sup>100</sup>

- In an adjudicatory proceeding in which a party sent a written ex parte communication to all Commissioners (and concurrently served it on all parties), the ALJ chastised the party and no penalty was imposed.<sup>101</sup>
- The highest fine ever was imposed on PG&E for engaging in prohibited communications about ALJ assignment in violation of Rule 8.3. The Commission imposed a \$1,050,000 penalty.<sup>102</sup>

SCE asks the Commission to bear in mind that the largest penalty the Commission has ever imposed for a violation of an ex parte rule was that \$1.05 million penalty recently imposed on PG&E. SCE argues that it would be unfair to impose a higher fine on SCE for late reporting of permitted ex parte communications.

On the other hand, A4NR and ORA have expressed significant outrage over the possibilities of deal-making occurring during unreported ex parte communications. Although the actual content of the communications, to the extent known, is neither detailed nor reflective of agreement, these parties are committed to imposition of the statutory maximum penalties for each and every rule violation.

The Commission has tended to impose higher financial penalties in connection with violations of Rule 1.1, particularly for continuing violations:

- In a rulemaking involving natural gas safety, the Commission fined PG&E \$14,350,000 for not promptly correcting a material

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<sup>100</sup> D.07-07-020 as modified by D.08-06-023.

<sup>101</sup> May 3, 2002, Administrative Law Judge's Ruling, I.00-11-052.

<sup>102</sup> D.14-11-041.

misstatement of fact in a pleading filed with the Commission and by mischaracterizing the correction submitted for filing as a routine and non-substantive correction.<sup>103</sup>

- In an investigation, the Commission fined a transportation agency \$210,500 for violating Rule 1.1 when it disobeyed the subpoena duces tecum by not producing the unredacted copies of the requested records.<sup>104</sup>
- Pursuant to a settlement, the Commission approved the Applicant's payment of a penalty of \$ 10,000 for making a misrepresentation on a Commission form in violation of Rule 1.1 by failing to disclose a previous sanction by the Ohio Public Utilities Commission for failure to file a detariffing application.<sup>105</sup>

#### **6.1.4. Amount of Fine or Penalty Will Achieve Objective of Deterrence**

Based on the provisions of § 2107, the maximum fine for the eight ex parte violations and one non-continuing Rule 1.1 violation (Litzinger's false statement) is \$450,000, or \$50,000 per violation. We have concluded that the Poland Meeting Rule 1.1 violation launched a continuing violation, therefore, the penalty will be calculated for the period of March 29, 2013, the date by when SCE should have filed its ex parte notice, through July 3, 2015, the last date in which SCE repeated the erroneous statements of Mr. Pickett. The total is 826 days. If we apply the maximum fine of \$50,000 per day for 826 days, the aggregate maximum penalty fine would be \$41.3 million. Altogether, SCE's maximum exposure pursuant to § 2107 is a combined total financial penalty of \$41,750,000.

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<sup>103</sup> D.13-12-053 at 1 (Order Instituting Rulemaking to Adopt New Safety and Reliability Regulations for Natural Gas Transmission and Distribution Pipelines and Related Ratemaking Mechanisms, R.11-02-019).

<sup>104</sup> D.15-08-032 \*55, 2015 Cal. PUC LEXIS 521, I.13-09-012.

<sup>105</sup> D.09-11-010; 2009 Cal. PUC LEXIS 587 \*3.

SCE argues that application of the maximum fine would be inappropriate notwithstanding its significant financial resources, because such a fine would be disproportionate to the harm caused, the utility's conduct, and precedent. According to SCE, financial resources are used by the Commission "as a means of calibrating deterrence and avoiding the assessment of an excessive fine."<sup>106</sup> SCE argues that its conduct did not risk "severe consequences" so that deterrence is a less significant factor.

A4NR states it has "no illusions" that any fine will achieve a deterrent effect. In D.14-11-041, the Commission acknowledged the limited deterrence value of our penalties when applied to a company such as SCE.<sup>107</sup> As the Commission previously remarked when it declined to impose a penalty for PG&E's prior ex parte violation, "In terms of financial resources, PG&E is an extremely large company... even imposing the maximum penalty" would have little likelihood of a discernable financial impact.<sup>108</sup> Instead, we observe that the primary deterrence value is when financial penalties are sufficiently large that the utility must report them to investors.

#### **6.1.5. Totality of Circumstances**

The Commission has held that a fine should be tailored to the unique facts, or totality of circumstances of each case. When making this assessment, the Commission considers facts that tend to mitigate or exacerbate the degree of

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<sup>106</sup> SCE's Response to Ruling and OSC at 39.

<sup>107</sup> D.14-11-041 at 13

<sup>108</sup> D.08-01-021 at 14.

wrongdoing. In all cases, the harm will be evaluated from the perspective of the public interest.<sup>109</sup>

SCE argues for a modest penalty due to several mitigating factors:

- The Ruling was new information - the Ruling and OSC was the first time "many of the interpretive issues have been explained." SCE continues to believe that only the March 26, 2013 Poland meeting constitutes a reportable ex parte communication. Since the Commission has determined otherwise, SCE asks the Commission to recognize that parties' expectations and understanding of the rules have evolved since the communications in question have occurred. Thus, SCE asserts it would be unfair to apply this new understanding retroactively.

We acknowledge this as a mitigating factor, particularly in relation to the Rule 1.1 violation from Mr. Litzinger's testimony. However, in each of the Rule 8.4 violations, there was evidence and inference to support that, perhaps briefly, an ex parte communication occurred. The utility also has a duty to comply with the Commission's Rules. Therefore, if faced with uncertainty or ambiguity, SCE should have sought guidance or favored disclosure instead of parsing exceptions.

- Informality - The overall impression from the internal and external emails produced, is that SCE has lax oversight of its executives who are permitted, if not encouraged, to meet with Commissioners at "social" occasions, industry activities, and other non-office settings. The executives then engage in conversations that may briefly touch on substantive issues in a formal proceeding, but do not report them on the grounds they are short, or not substantive enough.

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<sup>109</sup> D.15-08-032 at 43.

We treat this as an exacerbating factor due to the continuing risk that SCE has become too informal, too casual about what is permissible, permissible if reported, and what is wholly prohibited.

- SCE's new policy – SCE has adopted a new policy which limits contact with Commissioners to normal business hours or “at widely-attended events like seminars, recognition ceremonies, or other public events; private dinners are not allowed.”<sup>110</sup>

We treat this as a mitigating factor because it indicates SCE understands the problem and is acting to reduce or eliminate it.

- Everybody else does it - SCE requests restraint in adopting sanctions given the quantity of ex parte and Rule 1.1 violations SCE alleges have been committed by other parties, “including those clamoring most loudly for SCE to be punished.”<sup>111</sup> SCE provided numerous examples.<sup>112</sup>

It is tempting to treat this as a mitigating factor because it is true that this has been a boisterous, contentious, and complex proceeding in which several parties accused each other of misconduct. However, SCE is a large company with many resources and a long history with the Commission. We expect it to be able to fulfill its own regulatory duties and not look for excuse in the alleged bad acts of others. Therefore, we consider this neither mitigating nor exacerbating.

## **6.2. Conclusions re Penalties and Sanctions**

Based on the discussion above, the facts and circumstances of this proceeding require that we impose financial penalties for the eight Rule 8.4 violations and two Rule 1.1 violations.

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<sup>110</sup> SCE's response to Ruling and OSC at 35.

<sup>111</sup> SCE's Response to Ruling and OSC at 40.

<sup>112</sup> *Id.* at 40-42.

SCE has a duty to comply with our rules, and the burden is on the utility to determine its legal obligations and fulfill them. However, SCE's argument that it could hardly be expected to know whether these communications fit the definition of ex parte communications prior to issuance of the Ruling and OSC, is not entirely without weight given the apparent confusion among the parties.

It is remarkable that parties advanced such differing views of the decades-old language defining an ex parte communication. SCE's submissions exposed a range of previously unknown, rather informal, communications between SCE executives and Commissioners, advisors, and other decisionmakers in which a substantive issue may have received briefly passing comments between them. Nonetheless, if the other elements are present, this is a reportable ex parte communication.

In any event, SCE's arguments are inapplicable to the late and inaccurate Late Notice regarding the March 26, 2013 Poland meeting which is the most egregious violation, and which led to SCE repeating the false characterization of this now-admitted ex parte communication. Thus we identify no mitigating factors for this violation. A lower penalty is suitable for the other seven violations due to mitigating factors, including SCE's new policy limiting after-hours social occasions between SCE executives and Commissioners. However, the violations are still significant because these particular communications were established as "two-way" between SCE and one or more Commissioners on a substantive issue related to the SONGS OIL.

Therefore, we calculate the fines for Rule 8.4 violations as follows:

- March 26, 2013 - \$50,000
- All others -  $\$20,000 \times 7 = \$140,000$

We calculate the fines for the two Rule 1.1 violations as follows:

We found that SCE's and Mr. Pickett's series of grossly negligent actions and omissions resulting in false and misleading statements made to the Commission is a continuing violation. We begin the calculation on March 29, 2013, the date by which SCE should have filed its ex parte notice of the March 26 meeting and disclosed the Notes, and end the calculation on July 3, 2015, the latest date in which SCE continued to repeat Mr. Pickett's erroneous version of the Poland Meeting. Actions and omissions which mislead the Commission, and continue for a period of time to mislead the Commission, should result in significant penalties. We assess \$20,000 per day for this continuing violation based on the history of this proceeding as set forth above. The financial penalty is  $\$20,000 \times 826 \text{ days} = \$16,520,000$ .

The second Rule 1.1 violation is the false testimony by Mr. Litzinger which is also subject to mitigating factors. A reasonable inference from the evidence is that he did not mislead the Commission by intention, recklessness, or gross negligence. It is also reasonable to infer that he believed he was responding accurately, and was relying on advice of his counsel. However, as discussed above, these facts do not excuse that he gave untrue testimony under oath and misled the Commission, the public and other parties. Making a false statement to the Commission, especially under oath, favors the maximum penalty. However, we apply a lesser amount in recognition that Mr. Litzinger's false testimony does not appear to be intentional, reckless, or grossly negligent, but at a minimum it was unreasonably uninformed and unreflective. Therefore, we impose a substantial penalty of \$30,000 for this violation.

The grand aggregated total financial penalty for SCE and its shareholders is \$16,740,000.



In Comments on the PD, both SCE and A4NR asked the Commission to alter the proposed penalties, albeit in different directions. However, the decision reaches a reasonable conclusion based on the facts in evidence, the criteria established by D.98-12-078, and is consistent with Commission precedent. SCE's request was based on unaccepted arguments to reduce the number of violations. A4NR's requests for the maximum penalties are based on its unaccepted arguments, and reference to two decisions which are factually distinguishable.<sup>113</sup> Consequently, we decline to make any adjustments to the proposed penalties.

It is the Commission's intent to highlight to SCE and all parties that we are committed to achieving full compliance with our governing laws and rules. Anything less damages the agency's regulatory mission and undermines the public's confidence in due process, fair hearings, and just and reasonable rates.

In addition to financial penalties, we consider the steps SCE has taken to improve tracking and recordkeeping of communications between SCE employees, agents, and representatives and Commission decisionmakers and advisors to Commissioners. As noted previously, we are concerned that this vital information will not be accessible to the public, parties, and the Commission.

Therefore, effective the date this decision is issued, in connection with the SONGS OII (and its consolidated proceedings) SCE shall begin collecting information on all non-public individual communications where both SCE and

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<sup>113</sup> For example, D.08-09-038, wherein the Commission adopted a \$30 million penalty, was in response to finding that SCE employees and management had manipulated and submitted false data which was used to determine certain rewards for a period of seven years. The penalty amount was the equivalent of \$12,000/day for the continuing violation, lower than the \$20,000 per day imposed in this decision.

one or more Commissioners, and/or their advisors, and/or CPUC decisionmakers (per Rule 8.1(b)) are present. SCE shall immediately develop an internal tracking system which results in a public log which shall include the identity of all participants, general subject matter, the relevant SONGS OII or consolidated proceeding(s), meeting date, length of time, location, whether written materials were used, if an ex parte notice was filed, and if not, then an explanation. SCE shall make the log available to the public, preferably by posting it on the website and keeping it current throughout the remainder of the SONGS OII and consolidated proceedings, unless superseded by future Commission action.

No later than March 1, 2016, SCE shall file a Tier 1 Advice Letter with the Executive Director which describes the implementation of the tracking, features of the log, accessibility to the public, and the internal mechanisms to ensure accuracy.

## **7. Other Rulings**

On November 24, 2015, Chief ALJ Karen V. Clopton issued a Ruling that denied Coalition to Decommission San Onofre's (Coalition) July 14, 2015, and October 21, 2015 motions to reassign ALJ Melanie Darling and to recuse Chief Judge Clopton from ruling on these matters. These motions follow the Coalition's July 2, 2015, motion to reassign Judge Darling and Chief Judge Clopton's July 10, 2015, ruling denying that motion. The Commission affirms these rulings.

## **8. Comments on Proposed Decision**

The proposed decision of the ALJ in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure.

# EXHIBIT H



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September 8, 2015  
VIA UPS

OUR FILE NO. 393011-000001

Ms. Maggy Krell  
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maggy.krell@doj.ca.gov

CONFIDENTIAL/ SUBJECT TO GRAND JURY SECRECY

**Re: CPUC Production in Response to SONGS Search Warrant**

Dear Ms. Krell:

Enclosed please find a production drive which includes documents the California Public Utilities Commission (CPUC) is producing in response to the search warrant your office issued on June 5, 2015 concerning the San Onofre Nuclear Generating Station settlement agreement ("SONGS search warrant"). This drive contains documents Bates labeled CPUC CALAG 1692237 – CPUC CALAG 01870835. These documents contain SONGS references produced in prior productions to federal authorities. The CPUC will continue to produce, on a rolling basis, non-privileged documents which are responsive to the SONGS search warrant.

Some of the documents being produced in response to the SONGS search warrant may be subject to the deliberative process privilege. Both federal and state law recognize this privilege, which extends to a public agency's materials that reflect deliberative or decision making processes. See Cal. Gov't Code section 6255; FTC v. Warner Comm., Inc., 742 F.2d 1156, 1161 (9th Cir. 1984); Wilson v. Super. Ct., 51 Cal. App. 4th 1136, 1142 (1996). See also Office of Attorney General "Summary of the California Public Records Act 2004", Section X(A) (recognizing the "Deliberative Process Privilege.")

The CPUC is being compelled to produce these documents in response the SONGS search warrant. **This limited compelled production does not by any means constitute a waiver of the privilege, voluntary or otherwise.** Nor does it in any way hinder the CPUC's right or ability to assert this privilege in other proceedings. See, e.g., The Regents of University of California v. Super. Ct., 165 Cal. App. 4th 627 (2008); Regents of the University of California v. Workers' Comp. Appeals Bd., 226 Cal. App. 4th 1530 (2014).

As you well know, state grand jury proceedings are subject to strict secrecy requirements such that the information and evidence provided to a grand jury may only be further disclosed, by court order, in the limited contexts designated by the California Penal Code. See Goldstein v. Super. Ct., 45 Cal. 4th 218, 221 (2008). Thus, by law, the documents must be treated confidentially and not disseminated to any person without judicial or statutory authority. Indeed, grand jurors who unlawfully disclose information received by the grand jury may be subject to a misdemeanor. See, e.g., Cal. Penal Code sections 924.1,



Maggy Krell  
September 8, 2015  
Page Two

924.2. All of the documents herein produced, which have been designated "Confidential" in their footers, must be kept secret as required by the California Penal Code. The same is true of all other CPUC documents, whether initially seized by your office or produced by the CPUC.

Furthermore, CPUC's compelled production of documents protected by the deliberative process privilege should in no way be construed as a waiver of the attorney-client, work product or other applicable privileges. The CPUC reserves all rights to assert applicable privileges in response to the grand jury subpoenas and search warrants. Any inadvertent production of any privileged material does not in any way constitute a waiver of the applicable privilege.

Per the CPUC's agreement with your office, we will continue to produce non-privileged materials in response to the two search warrants and the second subpoena on a rolling basis. The encryption for the drive will be sent separately via email.

Please do not hesitate to contact me if you have any questions.

Very truly yours,

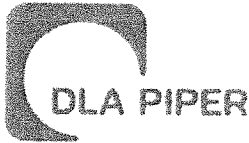
**DLA Piper LLP (US)**

Rebecca Roberts  
Associate

Enclosures

WEST261221070.1

# EXHIBIT I



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September 29, 2015

OUR FILE NO. 393011-000001

*VIA EMAIL AND US MAIL*

Ms. Maggy Krell  
Deputy Attorney General  
California Department of Justice  
Office of the Attorney General  
1300 I Street  
Sacramento, CA 95814

**Re: California Public Utilities Commission**

Dear Ms. Krell:

On behalf of the CPUC, we are providing you with updates of the CPUC's production of documents to your office and our plans to complete the productions.

As you know, your office served 2 search warrants and 3 grand jury subpoenas on the CPUC between November 4, 2014 and June 5, 2015. In addition to these demands, the CPUC has received 5 grand jury subpoenas from the United States Attorney's Office. The SONGS search warrant, served by your office, was the last of no less than 10 formal demands for information from two different prosecuting agencies.

The CPUC is a public agency that is integral to the safe, fair and effective operation of California's utilities. Although, as a state agency, it cannot be criminally charged, the CPUC has nevertheless fully cooperated with the ongoing investigations and will continue doing so. However, the excessive demands by the Attorney General and the US Attorney's Office are impinging on the CPUC's already limited resources and threatening its very ability to carry out its constitutionally mandated duties.

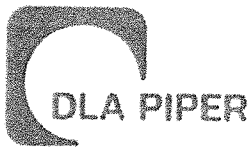
To date, the CPUC has produced well over a million documents to the Attorney General. Since January, the CPUC has continue to produce documents nearly every month, on a rolling basis. We have produced documents in response to each and every demand your office has issued. We have completed our production in response to subpoenas 1 and 3.

Now that you have received, and presumably reviewed, the over 1 million documents produced to date and, no doubt, have a better sense of the types of documents requested and how pertinent they may or may not be, it seems an appropriate time to evaluate the remaining document demands to make sure you truly need more documents and, if so, to explain how we intend to go about review and production in the most efficient way possible.

What follows is a summary of the status as to each document demand.

I. **Search Warrant Executed In November 2014**

In November 2014 state agents seized computers and hardware containing approximately 1.1 million live documents. Because of the likelihood of some of these documents containing privileged



Maggy Krell  
September 29, 2015  
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communications, your office provided us with copies of the seized documents in order to filter through agreed upon search terms to identify potentially privileged documents.

It is well settled that privileged documents may be withheld from a government investigation, even if those documents are subject to a search warrant. People v. Sup. Ct., 25 Cal. 4th 703 (2001) (government not entitled to documents protected by the attorney-client privilege and/or work product doctrine that were seized pursuant to a search warrant). Indeed, the Attorney General's Office itself withholds documents subject to subpoenas on the grounds of deliberative process and attorney-client privilege. Notably, Prime Healthcare Serv. v. Harris, No. 5:15-cv-01934-GHK-DTB (C.D. Cal. Sept. 21, 2015); Coleman v. Schwarzenegger, No. C01-1351 THE 2007, WL 4328476 (E.D. Cal. 2007); Coito v. Sup. Ct., 54 Cal. 4th 480 (2012).

The filtering process identified approximately 255,000 documents containing "potentially privileged" terms. The remaining documents (approximately 845,000) were immediately produced back to you. Since then, approximately 131,186 of the "potentially privileged" documents have been produced to you, leaving approximately 10% of the original 1.1 million yet to be reviewed. The nature of this review is time consuming. Unfortunately, there is no way to streamline this process unless your office allows us to suspend our review and deem the search warrant to have been complied with. Now that you have seen 90% of the documents from this search warrant, please let us know whether you wish us to continue our review or if you are, at this point, satisfied with the production.

If we need to review this last batch of documents, we estimate completion would require approximately an additional 65 working days. Notably, this estimate assumes current staffing levels, including the contract attorneys working 7 days a week, and working only on this search warrant and no other state or federal subpoenas or search warrants, which, of course, is not currently the case. If budgetary constraints force us to limit the number of hours of reviewers, which appears highly likely, then obviously the time to completion is lengthened.

In addition to the active files which we filtered and are currently reviewing, we were able to recover over 321,000 deleted documents from the copies your office provided to us. A good portion of these documents appear to be spam and/or junk email. However, approximately 60% contained privileged search terms. After a preliminary analysis, only 13% of the total deleted documents triggered key terms covering the subject matter addressed in the warrants (e.g., SONGS, utility domain name addresses, etc.). However, given our limited resources, we have not yet begun any review of them and thus have no estimate for completion. The completion date would obviously depend on whether we have to review all 321,000 or only the 13% which contained subject matter key terms.

## II. SONGS Search Warrant

Preliminarily, we wish to point out that the SONGS search warrant is vague and has caused confusion among our reviewers. Although not numbered, the search warrant vaguely identifies 5 broad categories for production. It calls for any and all records between January 31, 2012 through January 31, 2015: (1) involving the SONGS OII settlement agreement, (2) the 2013 meeting between Pickett and Peevey in Poland, (3) communications as to when and why the San Onofre facility would be closed, (4) commitment of monies for greenhouse gas research as a result of the SONGS settlement, and (5) communications with parties to the settlement of SONGS OII.





Maggy Krell  
 September 29, 2015  
 Page Three

It also specifies 22 custodians (8 of whom are CPUC employees) and requires the CPUC to further identify additional CPUC custodians who were involved in the implementation of the greenhouse gas research provisions and also gather hard copy documents from the identified custodians, which we are in the process of completing.

Section 5 of the search warrant further details what documents should be provided as to three of the demands: (1), (2) and (4):

<b>Introductory Paragraph</b>	<b>Section 5 Further Specifications</b>
(1) SONGS closure settlement agreement	(5)(a): (1) documents constituting or referring to communications with SCE about the Oil prior to the execution of the settlement on March 27, 2014 (excluding on-the-record communications such as SCE pleadings filed with the CPUC); and (2) documents constituting communications with TURN or ORA referencing communications from Peevey regarding SONGS or UC in the context of the settlement negotiations up to March 27, 2014
(2) the 2013 meeting between Stephen PICKETT and Michael PEEVEY in Poland	(5)(b): As to documents pertaining to the Poland trip in March 2013, CPUC will produce documents constituting or referring to communications during that trip that relate to SONGS. These documents will include any communications or materials regarding SONGS made: (1) in anticipation of the trip, (2) any documents or communications regarding SONGS that occurred during the trip, and (3) any communications or material regarding SONGS created after the trip ended.
(4) commitment of monies for research as a result of the closure of SONGS	(5)(c): As to the documents regarding funding of research in connection with the SONGS settlement, CPUC will produce documents and all communications that: (1) constitute or refer to communications with SCE or UCLA regarding greenhouse gas research as part of the SONGS drafts of same; (2) refer to SCE's contributing to the UCLA Luskin Institute at UCLA, the University of California, UCLA's Institute of the Environment and Sustainability, or the California Center for Sustainable Communities at UCLA, in connection with the SONGS settlement; and (3) constitute advocacy directed to the CPUC by local governmental agencies in support of greenhouse gas research as part of the settlement.

However, the search warrant does not provide any further guidance as to demands (3) (communication(s) pertaining to the determination of when and why SONGS would be closed) and (5) (communication(s)



Maggy Krell  
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pertaining to the settlement of the SONGS OII), which are very broad and vague. Practically anything produced or created for the OII proceeding could be considered to relate as to why SONGS would be closed or the ultimate settlement of the OII itself. Yet, subsection (5)(a) indicates that the CPUC is not required to produce public filings, at least as to the settlement agreement.

To respond to the search warrant, CPUC pulled emails and documents from its servers from the specified CPUC employees, plus other CPUC employees known to be involved with the SONGS OII settlement or greenhouse gas provisions. We also extracted communications to, from, and/or copying the SoCal Edison employees listed in the search warrant. This data was exported into a larger database. There are currently several million documents in this database.

To efficiently and effectively respond to the search warrant, the CPUC compiled SONGS search terms, based on the demands of the search warrant and the detailed requests of section 5, and applied these terms to the emails and other documents of the 22 identified custodians, plus the additional employees identified by the CPUC. This produced several hundred thousand documents which will be reviewed for relevance. We have also applied the agreed upon privileged terms to identify any potentially privileged documents and will review those documents for privilege. We are still in the process of collecting and processing documents from all possible sources. At this point, we do not have an estimate of the total volume, or anticipated completion date.

Finally, as we explained in our last telephone call with you, at least 20,000 of the documents **already produced** to the Attorney General's office in response to the first search warrant and earlier subpoenas triggered SONGS search terms. Moreover, on September 8, 2015, the CPUC produced approximately 19,335 additional documents to the Attorney General's office that referenced SONGS search terms and had been produced in prior productions to federal authorities. Thus, over 40,000 documents have been produced responsive to this search warrant. Since these facts clearly contradict agent Diaz's statement filed with the return of the search warrant, we ask that his affidavit be corrected and refiled with an errata.

### III. Second Grand Jury Subpoena

The CPUC has already produced nearly two thousand documents in response to this subpoena. To fully respond to this subpoena, the CPUC has isolated all correspondence among all ALJs during the relevant time period and searched for all documents that trigger the term "assign" or "assignment". These search parameters encompassed over 17,000 documents, which will need to be reviewed for relevance and privilege.

We are open to discussing any suggestions you have as to how we could further prioritize or downsize the review tasks and get truly pertinent documents to you more quickly. We are happy to meet and confer regarding the scope of your requests and our productions.



Maggy Krell  
September 29, 2015  
Page Five

Please call me with any questions or concerns.

Very truly yours,

DLA Piper LLP (US)

A handwritten signature in black ink, appearing to read 'Pamela Naughton'.

Pamela Naughton  
Partner

PN:mev

WEST\261656856.1

**EXHIBIT J**



DLA Piper LLP (US)  
401 B Street, Suite 1700  
San Diego, California 92101-4297  
www.dlapiper.com

Pamela Naughton  
pamela.naughton@dlapiper.com  
T 619.699.2775  
F 619.764.6625

October 16, 2015

OUR FILE NO. 393011-000001

*CONFIDENTIAL*

Ms. Maggy Krell, Deputy Attorney General  
Ms. Deborah Halberstadt, Deputy Attorney General  
Reye Diaz, Special Agent  
Office of the Attorney General  
1300 I Street  
Sacramento, California 95814  
maggy.krell@doj.ca.gov  
deborah.halberstadt@doj.ca.gov  
reye.diaz@doj.ca.gov

Dear All,

As we discussed with Special Agent Diaz and Ms. Halberstadt on Tuesday, October 13, below is a summary of the CPUC's production to date in response to the SONGS search warrant issued on June 5, 2015. Also below is a summary of our proposal to streamline the review and production of (1) the deleted emails recovered from the data seized pursuant to the first search warrant issued in November 2014 and (2) the approximately 100,000 documents that remain to be reviewed in response to this search warrant.

I. **Compliance with the SONGS Search Warrant**

First, as we informed you during our call and explained in our September 29, 2014 letter, the California Attorney General has a substantial volume of documents responsive to the SONGS search warrant (by our estimate, over 20,000 documents) already in its possession due to the fact that it initially seized a number of computers and hard drives as a result of the November 5, 2014 warrant. The items seized were computers, hard drives, and other devices of certain custodians such as former Commission President Michael Peevey, Michel Florio, Carol Brown, etc. Since your office seized these documents, it obtained everything on them, including any documents relating to SONGS. Per the CPUC's prior agreement with the Attorney General's office, you provided us with copies of everything initially seized and allowed us to review documents that triggered certain terms which may indicate that a document is privileged. Following this agreed upon protocol, we have produced over a million documents back to your office to date (approximately 845,000 which did not trigger any potentially privileged terms and approximately 131,000 which were reviewed for privilege and then produced.)

Using our document review platform tool, we applied relevant SONGS terms to the documents we had already produced back to you as of July 31, 2015 from the first search warrant. Our term search results identified approximately 20,373 documents. So, even before the CPUC made any production to your office specifically in response to the SONGS search warrant, your office already had a substantial volume of responsive documents in your possession. Please note that this search result does NOT include



Ms. Maggy Krell, Deputy Attorney General  
October 16, 2015  
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additional documents the CPUC produced to you in response to the November 5, 2014 search warrant on September 24, 2015. So, it is highly likely you have even more SONGS responsive documents in your possession.

Second, on September 8, 2015, the CPUC produced approximately 19,335 documents to your office in response to the SONGS search warrant. This production consisted of documents that referenced SONGS search terms that had been produced in prior productions to federal authorities.

Third, the CPUC intends to make another production in response to the SONGS search warrant by the end of the month. In order to respond to the SONGS search warrant, CPUC pulled emails and documents from its servers from the specified CPUC employees, plus other CPUC employees known to be involved with the SONGS OII settlement or greenhouse gas provisions. We also extracted communications to, from, and/or copying the SoCal Edison employees listed in the search warrant. This data was exported into a larger database. There are currently several million documents in this database.

To efficiently and effectively respond to the search warrant, the CPUC applied SONGS search terms to the emails and other documents of the 22 identified custodians, plus the additional employees identified by the CPUC. We have also gathered hard copy documents from the identified custodians and will be producing these documents in the next production.

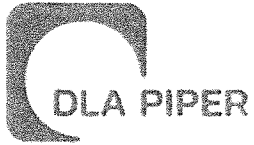
We will continue to produce documents responsive to the SONGS search warrant on a rolling basis, after we have completed our production in response to the November 2014 search warrant, per your instruction.

## II. Streamlining Production on the November 5, 2014 Search Warrant

As we discussed on our call, the CPUC has identified approximately 321,000 deleted and recovered emails from the material initially seized pursuant to the November 5, 2014 search warrant. You agreed that the CPUC may limit its review and production of these documents to only those which trigger terms related to the first search warrant and the SONGS search warrant. Our proposed terms are attached as Exhibit A.

Additionally, we estimate that we have approximately 100,000 documents that remain to be reviewed in response to the November 2014 search warrant. It will greatly streamline the process and reduce expenses to filter those 100,000 documents using the terms in Exhibit A. We are open to discussing any additional search terms with you. In the meantime, we will proceed with the filtering process.

Once we finalize the most recent production on SONGS, our priority will be completing our review of the documents responsive to the first search warrant. Once we have completed that review, we will discuss



Ms. Maggy Krell, Deputy Attorney General  
October 16, 2015  
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our next steps for completing production in response to grand jury subpoena #2 and the SONGS search warrant.

Please let us know if you have any questions, concerns or comments regarding the proposed search terms. Thank you.

Very truly yours,

DLA Piper LLP (US)

A handwritten signature in black ink, appearing to read 'Pamela Naughton', followed by a horizontal line.

Pamela Naughton  
Partner

Admitted In California Bar

WEST262193877.1

EXHIBIT A

SONGS\*

"San Onofre"

"12-10-013"

"1210013"

Unit2\*

"Unit 2"

Poland

Warsaw

"Bristol Hotel"

"greenhouse"

(green\* w/3 house)

"ghg"

(fund\* w/3 research)

"UC"

"UCLA"

(University w/3 California)

"Luskin"

"IES"

(Institute w/3 Environment w/3 Sustainability)

((Institute w/3 Environment) w/2 Sustainability)

"CCSC"

(California w/3 Center w/3 Sustainable w/3 Communities)

((California w/3 Center) w/2 Sustainable) w/3 Communities)

"CFEE"

(California w/3 Foundation w/5 Environment w/5 Economy)

((California w/3 Foundation) w/2 Environment) w/3 Economy)

HECA

Annual w/3 dinner

Cherry

Judge w/3 Long

Judge w/3 Wong

\*sce.com

\*edisonintl.com

\*sdge.com

\*pge.com

\*Semprautilities.com



# EXHIBIT K

*KAMALA D. HARRIS*  
*Attorney General*

*State of California*  
**DEPARTMENT OF JUSTICE**



1300 I STREET, SUITE 125  
P.O. BOX 944255  
SACRAMENTO, CA 94244-2550

Public: (916) 445-9555  
Telephone: (916) 322-0896  
Facsimile: (510) 622-2270  
E-Mail: Deborah.Halberstadt@doj.ca.gov

October 22, 2015

Ms. Pamela Naughton  
DLA Piper, LLP  
401 B Street, Suite 1700  
San Diego, California 92101-4297

**RE: California Public Utilities Commission**

Dear Ms. Naughton:

Thank you for speaking with us last week, and for your follow up letter. We appreciate this ongoing conversation, as we have been deeply concerned regarding CPUC's compliance with our November 4, 2014 and June 5, 2015 search warrants.

We recognize that there are voluminous documents to be reviewed. To give you some background, as the third CPUC counsel we have worked with, in December of 2014 after waiting over a month for initial production from our first CPUC search warrant, we offered to create an internal "taint team" within the Office of the Attorney General, completely separate from the investigating team, to review the seized evidence for privilege. We have successfully used this methodology with other entities in this and in other cases. However, CPUC opposed this option and insisted that CPUC be the ones to conduct the review. Moreover, during these initial discussions, CPUC counsel committed to producing evidence efficiently on a rolling basis.

Concerned about CPUC's time table, we also proposed, drafted, and circulated a Confidentiality Agreement, whereby CPUC and the Office of the Attorney General would have agreed that any potentially privileged information obtained from CPUC by the Office of the Attorney General could be reviewed without waiver of any privilege, and that any privileged material would be maintained as confidential investigatory material. This solution too has worked in other cases. CPUC refused to agree to this option.

On March 2, 2015, Deputy Attorney General Maggy Krell personally met with President Picker to re-offer the Confidentiality Agreement and explain the difficulty we were having investigating this case while being delayed and hampered by the CPUC's lack of compliance. While expressing an interest in cooperating, on advice of several attorneys, President Picker would not agree to the Confidentiality Agreement.

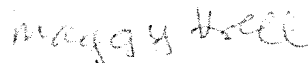
October 22, 2015

Page 3

You requested clarification regarding certain terms in the search warrant. We will be providing answers to your questions shortly. We also agreed to allow CPUC to complete its responses to the November 4, 2014 search warrant first, with the understanding that documents responsive to both search warrants will be identified as such.

In close, please understand that this investigation is a significant one. Asking us to suspend the search or be satisfied with 90% compliance is unacceptable in this context, where the integrity of a public agency is at stake. We will do everything we can to work with you and simplify our requests, but if deadlines continue to go unmet our only option will be to bring an Order to Show Cause. Please feel free to contact me at (916) 322-8096 with any questions you may have. Thanks very much and we look forward to working with you on this.

Sincerely,



DEBORAH R. HALBERSTADT  
Deputy Attorney General

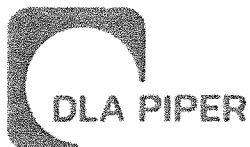
MAGGY KRELL  
Deputy Attorney General

For KAMALA D. HARRIS  
Attorney General

DRH:

LA2014118251  
32253898

**EXHIBIT L**



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San Diego, California 92101-4297  
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F 619.764.6625

November 12, 2015  
VIA E-MAIL AND US MAIL

OUR FILE NO. 393011-1

Ms. Deborah Halberstadt  
Deputy Attorney General  
California Department of Justice  
1300 I Street, Suite 125  
P.O. Box 944255  
Sacramento, CA 94244-2550

**Re: Document Productions of the California Public Utilities Commission**

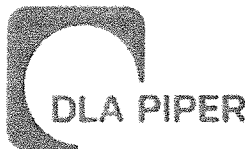
Dear Ms. Halberstadt:

This responds to several statements made in your letter of October 22, 2015 and also further explains our compliance with the search warrants and subpoenas served by your office on the CPUC.

Your letter states that your office waited for "over a month" for the initial production on the first search warrant. This is not true. In November 2014, the same day your agents served the search warrant, they chose and physically took computers and electronic data from the premises of CPUC. The judge issuing the warrant and the parties all agreed that the data taken had to first be reviewed for privilege before investigating agents could examine them. We agreed that once you provided us with copies of what had been seized, we would run filters through the documents using search terms we mutually agreed upon. Those which contained privileged search terms, we would review and those which did not, we would produce in bulk without review. It took your office **more than two months** to produce to us the electronic data that had been seized. We received those three hard drives on January 14, 2015. The very next day we filtered the electronic data through the privileged search terms. Six days after receiving the three hard drives from you, on January 20, 2015, we processed, bates stamped and produced to you over 845,000 documents, just as we said we would. The vendor's records confirm your receipt. Therefore, our first production did not take months -- it took only six days.

Although it is true that your office proposed that the 1.1 million documents seized could be reviewed by a "taint" team from your office, it was never explained who would comprise the "taint team", their experience level, their numbers or their expenses. As I explained in our last telephone call, our review team is comprised of 14 attorneys -- 10 of whom have been working since the inception of this matter an average of 9 hours per day, 7 days per week in order to complete the review of a data base now containing over 6.5 million documents in order to respond to 5 formal document demands from your office and 5 from the federal grand jury. It is doubtful that any "taint team" would have included more resources than what the CPUC has itself devoted to this mission.

You also stated in your letter that this review would not have been necessary if the CPUC had simply given over privileged documents to your office upon entry into a Confidentiality Agreement.



Ms. Deborah Halberstadt  
November 12, 2015  
Page Two

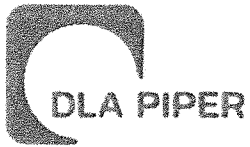
Unfortunately, even if a prosecutor agrees to keep privileged material confidential, the courts may deem the privileged waived by the producing party at the time it surrenders the material to the prosecutor. In re Pacific Pictures Corp., 679 F.3d 1121 (9<sup>th</sup> Cir. 2012). This can have serious repercussions in the civil and administrative arenas. As you are aware, the CPUC, in addition to being a party in countless civil disputes, is also a quasi-judicial body which renders decisions in very complex matters involving billions of dollars. It cannot risk a future adverse ruling that the waiver of privilege to your formal document demands constitutes a universal waiver, no matter how unintended by your office or by us. Finally, the investigatory leaks to the press, as demonstrated by the presence of TV cameras at the execution of the first search warrant, gives serious pause to valuing the promised confidentiality on either the waiver issue, or the taint team proposal.

Your letter goes on to claim that after the first production of the 845,000 documents, your entreaties to us regarding further production went unheeded. This also is not true. What your letter omits is that in February 2015 your office served on us 3 grand jury subpoenas each seeking more documents. Your office instructed us to first produce all documents that had been produced to the federal jury (in response to subpoena three) or already released to third parties. **Two days** after service of that subpoena, on February 17, 2015, we produced the documents called for in subpoena number two. **Two weeks** later, on March 3, 2015, we produced 16,000 documents in response to subpoena number three. This can hardly be called foot-dragging.

Therefore, by early March, the AG's office had in its possession over 935,000 to review. In correspondence, counsel for the CPUC explained in March that the requested shifting of resources from the first search warrant to the three subpoenas would result in a delay in producing the next batch of documents responsive to the first search warrant. Counsel twice informed your office to expect the next production in May 2015 -- which indeed occurred on May 28, 2015 in the form of tens of thousands of documents. Another 42,000 were produced approximately one month later, responsive to the first search warrant.

When we were served with the June 2015 search warrant related to SONGS, we asked in a lengthy correspondence of June 22, 2015 for guidance as to exactly the interpretation of some of the requests in the search warrant, and for guidance as to your priorities as to which of the document demands was most pressing. We did not receive the requested guidance.

Despite the change in counsel representing the CPUC in August, the document review and production continued with productions on August 27, 2015, September 8, 2015 and 55,000 documents on September 24. We certainly have not been dilatory. The problem has been the breadth of the requests and the volume of responsive documents. We appreciate you working with us in our last telephone conversation to apply the subject matter filters, which has decreased the number of documents to be



Ms. Deborah Halberstadt  
November 12, 2015  
Page Three

reviewed and increased the production efficiency. We believe now we can easily produce all of the remaining documents for the first search warrant by the deadline set in your letter.

You asked that we provide you with the Bates numbers of the documents already produced to you which included the SONGS search terms we provided to you. On November 12, 2015, I forwarded a list of all of those Bates numbers to you. As you can see, there are over 25,000 documents already in your possession which have the SONGS search terms in them. In addition to those, we earlier provided on September 8, 2015 approximately 19,000 documents which also contained the SONGS search terms and had already been produced to the federal grand jury. These were produced to you with Bates numbers.

In addition to the 44,000 SONGS related documents you already have, we anticipate producing several thousand more documents pertaining to SONGS by the end of this month.

Finally, you asked us to "identify" documents responsive to both search warrants. We are confused by this request. Each batch of documents that is produced specifies which search warrant or subpoena it relates to. However, keep in mind that as to the first search warrant, we did not search for documents nor review them for relevance. We only reviewed what your office chose to seize that contained potentially privileged material. Frankly, the overwhelming majority of those documents are likely irrelevant to your investigation, but we leave that to your capable determination.

Should Mr. Diaz need to file an update on the return of search warrant, or you communicate with the court for any other reason concerning the CPUC, we request that he/you include the contents of this letter and our letter of September 29, 2015 so that the judge will have a thorough and clear understanding of our compliance to date and our position in these matters.

Please call me with any questions or concerns.

Very truly yours,

**DLA Piper LLP (US)**

A handwritten signature in cursive script, appearing to read 'Pamela Naughton'.

Pamela Naughton  
Partner

PN:bkl

WEST\266095318.2

# EXHIBIT M





DLA Piper LLP (US)  
401 B Street, Suite 1700  
San Diego, California 92101-4297  
www.dlapiper.com

Rebecca Roberts  
rebecca.roberts@dlapiper.com  
T 619.699.2776  
F 619.764.6626

December 11, 2015  
VIA UPS

OUR FILE NO. 393011-000001

Ms. Maggy Krell, Deputy Attorney General  
Ms. Deborah Halberstadt, Deputy Attorney General  
Mr. Reye Diaz, Special Agent  
Office of the Attorney General  
1300 I Street  
Sacramento, California 95814  
[maggy.krell@doj.ca.gov](mailto:maggy.krell@doj.ca.gov)  
[deborah.halberstadt@doj.ca.gov](mailto:deborah.halberstadt@doj.ca.gov)  
[reye.diaz@doj.ca.gov](mailto:reye.diaz@doj.ca.gov)

CONFIDENTIAL/ SUBJECT TO GRAND JURY SECRECY

**Re: CPUC Production in Response to SONGS Search Warrant and Energy Crisis Litigation**

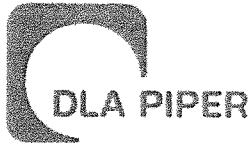
Dear Ms. Krell:

I. **SONGS PRODUCTION**

Enclosed please find a DVD which includes electronic and hard copy documents the California Public Utilities Commission ("CPUC") is producing in response to the search warrant your office issued on June 5, 2015 concerning the San Onofre Nuclear Generating Station settlement agreement ("SONGS search warrant"). This drive contains documents Bates labeled CPUC CALAG 02122877- CPUC CALAG 02130852. The CPUC will continue to produce, on a rolling basis, non-privileged documents which are responsive to the SONGS search warrant. Please note that the CPUC is producing these documents in native format. The native files are named the same as their Bates label. Confidentiality or other designations are included in the load file. We will send the password for the DVD in a separate email.

Some of the documents being produced in response to the SONGS search warrant may be subject to the deliberative process privilege. Both federal and state law recognize this privilege, which extends to a public agency's materials that reflect deliberative or decision making processes. See Cal. Gov't Code section 6255; FTC v. Warner Comms., Inc., 742 F.2d 1156, 1161 (9th Cir. 1984); Wilson v. Super. Ct., 51 Cal. App. 4th 1136, 1142 (1996). See also Office of Attorney General "Summary of the California Public Records Act 2004", Section X(A) (recognizing the "Deliberative Process Privilege.")

The CPUC is being compelled to produce these documents in response the SONGS search warrant. **This limited compelled production does not by any means constitute a waiver of the privilege, voluntary or otherwise.** Nor does it in any way hinder the CPUC's right or ability to assert this privilege in other proceedings. See, e.g., The Regents of University of California v. Super. Ct., 165 Cal. App. 4th 627 (2008); Regents of the University of California v. Workers' Comp. Appeals Bd., 226 Cal. App. 4th 1530 (2014).



Maggy Krell  
December 11, 2015  
Page Two

As you well know, state grand jury proceedings are subject to strict secrecy requirements such that the information and evidence provided to a grand jury may only be further disclosed, by court order, in the limited contexts designated by the California Penal Code. See Goldstein v. Super. Ct., 45 Cal. 4th 218, 221 (2008). Thus, by law, the documents must be treated confidentially and not disseminated to any person without judicial or statutory authority. Indeed, grand jurors who unlawfully disclose information received by the grand jury may be subject to a misdemeanor. See, e.g., Cal. Penal Code sections 924.1, 924.2. All of the documents herein produced, which have been designated "Confidential" in their footers, must be kept secret as required by the California Penal Code. The same is true of all other CPUC documents, whether initially seized by your office or produced by the CPUC.

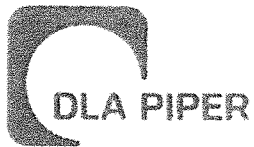
Furthermore, CPUC's compelled production of documents protected by the deliberative process privilege should in no way be construed as a waiver of the attorney-client, work product or other applicable privileges. The CPUC reserves all rights to assert applicable privileges in response to the grand jury subpoenas and search warrants. Any inadvertent production of any privileged material does not in any way constitute a waiver of the applicable privilege.

## II. ENERGY CRISIS LITIGATION

Some of the documents that were previously produced to your office may concern the Western Energy Crisis litigation, which consists of dozens of cases before the Federal Energy Regulatory Commission ("FERC") and hundreds of appeals cases pending in federal court (collectively "the Energy Crisis Litigation"). In this litigation, the CPUC, the three utilities (PG&E, Edison and SDG&E), the California Department of Water Resources ("DWR"), and your office collectively sued 60+ power generators and other market participants on behalf of California's rate payers. These aligned parties, including your office, entered into joint litigation agreements as the "California Parties". Thus, communications and work product between the California Parties concerning the Energy Crisis Litigation are protected. While a substantial portion of this litigation has settled, several cases and appeals remain active. Public release of any of the joint litigation documents could compromise the California Parties' litigation and settlement positions, resulting in substantial harm to California ratepayers. It would also violate the terms of the agreements.

Documents concerning the Energy Crisis Litigation are not at all relevant to your investigation of the CPUC. Nevertheless, since your office initially seized computers and other devices from the CPUC without regard to subject matter, your office undoubtedly has in its possession documents concerning this litigation. These documents cannot be publically or otherwise released. We ask that your office adhere to its obligations under the joint litigation agreements.

Furthermore, as we have discussed with you, we are close to completing our review of the seized active files (which we further filtered using search terms identified in our October 16, 2015 letter) and intend to



Maggy Krell  
December 11, 2015  
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produce these documents to you shortly. A number of these documents pertain to the Energy Crisis Litigation. **Since your office was a party to these communications and they are irrelevant to your office's investigation of the CPUC as far as we can tell, do you want the CPUC to produce these documents?**

If your office insists on production of these documents, we ask that your office adhere to its obligations under the joint litigation agreements and ensure that they are not further released. We again emphasize that any further release of these documents could substantially compromise the California Parties' position in pending actions.

Please do not hesitate to contact me if you have any questions.

Very truly yours,

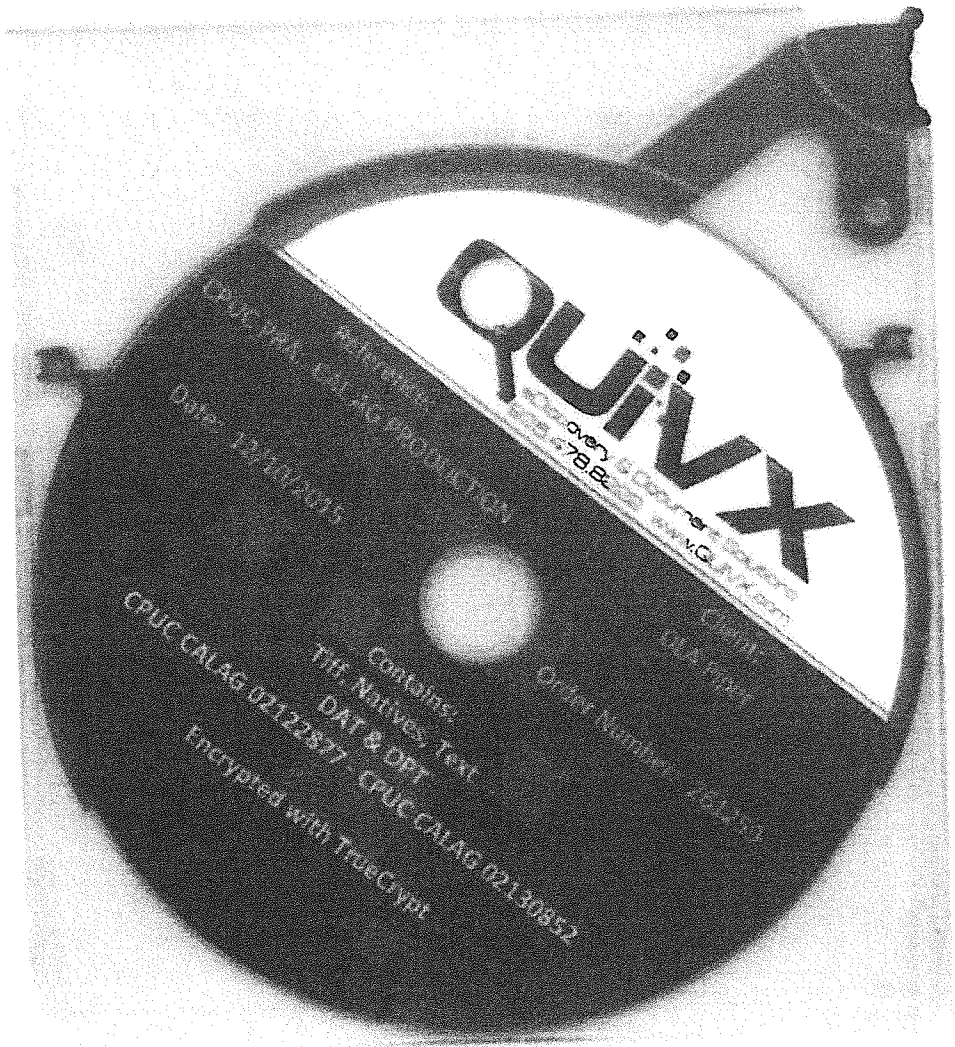
**DLA Piper LLP (US)**

A handwritten signature in black ink, appearing to read 'Rebecca Roberts', with a long horizontal flourish extending to the right.

Rebecca Roberts  
Associate

Enclosures

WEST266764148.1

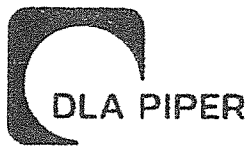


**QUINIX**  
www.QUINIX.com

CPUC CALAG 02130852  
Date: 12/10/2005  
Production

Client: CALAG  
Order Number: 02130852  
Contains:  
TIFF, Native, Text,  
DAT & DIT  
CPUC CALAG 02130852 - CPUC CALAG 02130852  
Encrypted with TrueCrypt

**EXHIBIT N**



DLA Piper LLP (US)  
401 B Street, Suite 1700  
San Diego, California 92101-4297  
www.dlapiper.com

Rebecca Roberts  
rebecca.roberts@dlapiper.com  
T 619.699.2776  
F 619.764.6626

December 18, 2015  
VIA UPS

OUR FILE NO. 393011-000001

Ms. Deborah Halberstadt, Deputy Attorney General  
Office of the Attorney General  
1300 I Street  
Sacramento, California 95814  
[deborah.halberstadt@doj.ca.gov](mailto:deborah.halberstadt@doj.ca.gov)

CONFIDENTIAL/ SUBJECT TO GRAND JURY SECRECY

**Re: CPUC Reproduction in Response to SONGS Search Warrant**

Dear Ms. Halberstadt:

On Monday, December 14, 2015, we spoke on the phone and you requested that the CPUC reproduce documents that it had already produced in response to the November 5, 2014 search warrant ("November 2014 Search Warrant") in response to the June 5, 2015 search warrant ("SONGS Search Warrant"). In prior correspondence to you and specifically in the list and letter we sent to you on November 12, 2015, we identified over 25,000 documents by Bates label that the CPUC produced in response to the November 2014 search warrant which also triggered SONGS terms. You explained that since the search warrants issued out of different courts, San Francisco Superior Court and Los Angeles Superior Court respectively, your office needed two separate productions for procedural reasons.

Pursuant to your request, the CPUC is herein reproducing the documents it previously produced in response to the November 2014 search warrant which also triggered SONGS terms and thus, are also responsive to the SONGS search warrant. These documents are on the enclosed hard drive and Bates labeled CPUC CALAG 00001781 – CPUC CALAG 2122826. These numbers are not consecutive since we are only reproducing the documents that triggered SONGS terms. These are the same documents we identified by Bates label in our November 12 list.

Please note that the CPUC is producing these documents in native format. The native files are named the same as their Bates label. Confidentiality or other designations are included in the load file. We will send the password for the hard drive in a separate email. The CPUC has made three voluminous productions in response to the SONGS search warrant.

Some of the documents being produced in response to the SONGS search warrant may be subject to the deliberative process privilege. Both federal and state law recognize this privilege, which extends to a public agency's materials that reflect deliberative or decision making processes. See Cal. Gov't Code section 6255; *FTC v. Warner Comms., Inc.*, 742 F.2d 1156, 1161 (9th Cir. 1984); *Wilson v. Super. Ct.*, 51 Cal. App. 4th 1136, 1142 (1996). See also Office of Attorney General "Summary of the California Public Records Act 2004", Section X(A) (recognizing the "Deliberative Process Privilege.")



Deborah Halberstadt  
December 18, 2015  
Page Two

The CPUC is being compelled to produce these documents in response to the SONGS search warrant. This limited compelled production does not by any means constitute a waiver of the privilege, voluntary or otherwise. Nor does it in any way hinder the CPUC's right or ability to assert this privilege in other proceedings. See, e.g., *The Regents of University of California v. Super. Ct.*, 165 Cal. App. 4th 627 (2008); *Regents of the University of California v. Workers' Comp. Appeals Bd.*, 226 Cal. App. 4th 1530 (2014).

As you well know, state grand jury proceedings are subject to strict secrecy requirements such that the information and evidence provided to a grand jury may only be further disclosed, by court order, in the limited contexts designated by the California Penal Code. See *Goldstein v. Super. Ct.*, 45 Cal. 4th 218, 221 (2008). Thus, by law, the documents must be treated confidentially and not disseminated to any person without judicial or statutory authority. Indeed, grand jurors who unlawfully disclose information received by the grand jury may be subject to a misdemeanor. See, e.g., Cal. Penal Code sections 924.1, 924.2. All of the documents herein produced, which have been designated "Confidential" in their footers, must be kept secret as required by the California Penal Code. The same is true of all other CPUC documents, whether initially seized by your office or produced by the CPUC.

Furthermore, CPUC's compelled production of documents protected by the deliberative process privilege should in no way be construed as a waiver of the attorney-client, work product or other applicable privileges. The CPUC reserves all rights to assert applicable privileges in response to the grand jury subpoenas and search warrants. Any inadvertent production of any privileged material does not in any way constitute a waiver of the applicable privilege.

Also on our call, you agreed that the CPUC does not need to produce any documents concerning the Energy Crisis Litigation. Accordingly, we will withhold these documents from our productions.

Please do not hesitate to contact me if you have any questions.

Very truly yours,

**DLA Piper LLP (US)**

A handwritten signature in black ink, appearing to read 'Rebecca Roberts', written over a white rectangular background.

Rebecca Roberts  
Associate

Enclosures

WEST\266862590.1

UPS CampusShip: View/Print Label

1. Ensure there are no other shipping or tracking labels attached to your package. Select the Print button on the print dialog box that appears. Note: If your browser does not support this function select Print from the File menu to print the label.
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3. **GETTING YOUR SHIPMENT TO UPS**  
**Customers with a Daily Pickup**  
 Your driver will pickup your shipment(s) as usual.

**Customers without a Daily Pickup**

Take your package to any location of The UPS Store<sup>®</sup>, UPS Access Point(TM) location, UPS Drop Box, UPS Customer Center, UPS Alliances (Office Depot<sup>®</sup> or Staples<sup>®</sup>) or Authorized Shipping Outlet near you. Items sent via UPS Return Services(SM) (including via Ground) are also accepted at Drop Boxes. To find the location nearest you, please visit the Resources area of CampusShip and select UPS Locations.

Schedule a same day or future day Pickup to have a UPS driver pickup all your CampusShip packages.


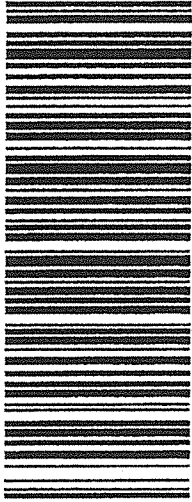

Hand the package to any UPS driver in your area.

UPS Access Point<sup>™</sup>  
 THE UPS STORE  
 501 W BROADWAY  
 SAN DIEGO ,CA 92101

UPS Access Point<sup>™</sup>  
 THE UPS STORE  
 1041 MARKET ST  
 SAN DIEGO ,CA 92101

UPS Access Point<sup>™</sup>  
 THE UPS STORE  
 333 W HARBOR DR  
 SAN DIEGO ,CA 92101

FOLD HERE

REBECCA ROBERTS, ESQ. 6196992700 DLA PIPER LLP (US) 401 B STREET, STE 1700 SAN DIEGO CA 92101	2 LBS 1 OF 1 DWT: 13.11.2	<b>SHIP TO:</b> DEBORAH HALBERSTADT, DEPUTY AG OFFICE OF THE ATTORNEY GENERAL 1300 I STREET SACRAMENTO CA 95814-2919	<b>CA 958 9-03</b> 	<b>UPS NEXT DAY AIR SAVER 1P</b> TRACKING #: 1Z 02Y 747 13 9920 2715 	BILLING: P/P Client-Matter: 393011-000001 Attorney ID: 36566 
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1539-C Third Ave.  
Walnut Creek, CA 94597  
925-478-8222

Quivx Job #: 261301

Client Matter: CPUC: CAL AG Seized Materials

Contains: TIFF\Native\Text File Production  
With Relativity Load Files (DAT)  
CPUC CALAG 00001781 - CPUC CALAG 2122826

**EXHIBIT O**



DLA Piper LLP (US)  
401 B Street, Suite 1700  
San Diego, California 92101-4297  
www.dlapiper.com

Rebecca Roberts  
rebecca.roberts@dlapiper.com  
T 619.699.2776  
F 619.764.6626

December 18, 2015  
VIA UPS

OUR FILE NO. 393011-000001

Ms. Deborah Halberstadt, Deputy Attorney General  
Office of the Attorney General  
1300 I Street  
Sacramento, California 95814  
[deborah.halberstadt@doj.ca.gov](mailto:deborah.halberstadt@doj.ca.gov)

CONFIDENTIAL/ SUBJECT TO GRAND JURY SECRECY

**Re: CPUC Production in Response to First Search Warrant**

Dear Ms. Halberstadt:

Enclosed please find a DVD of the remaining filtered active files responsive to the November 5, 2014 search warrant, Bates labeled CPUC CALAG 02130833 – CPUC CALAG 02144600. As we discussed and explained in our October 16, 2015 letter, we further culled the remaining documents to be reviewed in response to the November 2014 search warrant using search terms identified in Exhibit A of that letter. We are producing these documents 10 days ahead of the deadline you set in your October 22, 2015 letter - December 28, 2015. Please note that the CPUC is producing these documents in native format. The native files are named the same as their Bates label. Confidentiality or other designations are included in the load file. We will send the password for the DVD in a separate email. This completes our production of active files in response to the November 2014 search warrant.

The only documents which remain to be produced in response to the November 2014 search warrant are the documents we forensically recovered from the copy of the seized material you provided us. As we discussed and you agreed, we further culled this volume down as well using the search terms identified in Exhibit A of the October 16 letter. We are in the process of finalizing this production.

Some of the documents being produced in response to the SONGS search warrant may be subject to the deliberative process privilege. Both federal and state law recognize this privilege, which extends to a public agency's materials that reflect deliberative or decision making processes. See Cal. Gov't Code section 6255; *FTC v. Warner Comms., Inc.*, 742 F.2d 1156, 1161 (9th Cir. 1984); *Wilson v. Super. Ct.*, 51 Cal. App. 4th 1136, 1142 (1996). See also Office of Attorney General "Summary of the California Public Records Act 2004", Section X(A) (recognizing the "Deliberative Process Privilege.")

The CPUC is being compelled to produce these documents in response to the November 2014 search warrant. This limited compelled production does not by any means constitute a waiver of the privilege, voluntary or otherwise. Nor does it in any way hinder the CPUC's right or ability to assert this privilege in other proceedings. See, e.g., *The Regents of University of California v. Super. Ct.*, 165 Cal. App. 4th 627



Deborah Halberstadt  
December 18, 2015  
Page Two

(2008); *Regents of the University of California v. Workers' Comp. Appeals Bd.*, 226 Cal. App. 4th 1530 (2014).

As you well know, state grand jury proceedings are subject to strict secrecy requirements such that the information and evidence provided to a grand jury may only be further disclosed, by court order, in the limited contexts designated by the California Penal Code. See *Goldstein v. Super. Ct.*, 45 Cal. 4th 218, 221 (2008). Thus, by law, the documents must be treated confidentially and not disseminated to any person without judicial or statutory authority. Indeed, grand jurors who unlawfully disclose information received by the grand jury may be subject to a misdemeanor. See, e.g., Cal. Penal Code sections 924.1, 924.2. All of the documents herein produced, which have been designated "Confidential" in their footers, must be kept secret as required by the California Penal Code. The same is true of all other CPUC documents, whether initially seized by your office or produced by the CPUC.

Furthermore, CPUC's compelled production of documents protected by the deliberative process privilege should in no way be construed as a waiver of the attorney-client, work product or other applicable privileges. The CPUC reserves all rights to assert applicable privileges in response to the grand jury subpoenas and search warrants. Any inadvertent production of any privileged material does not in any way constitute a waiver of the applicable privilege.

Please do not hesitate to contact me if you have any questions.

Very truly yours,

**DLA Piper LLP (US)**

A handwritten signature in cursive script that reads 'Rebecca Roberts'.

Rebecca Roberts  
Associate

Enclosures

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 Your driver will pickup your shipment(s) as usual.

**Customers without a Daily Pickup**

Take your package to any location of The UPS Store®<sup>SM</sup>, UPS Access Point™ location, UPS Drop Box, UPS Customer Center, UPS Alliances (Office Depot® or Staples®) or Authorized Shipping Outlet near you. Items sent via UPS Return Services(SM) (including via Ground) are also accepted at Drop Boxes. To find the location nearest you, please visit the Resources area of CampusShip and select UPS Locations.

Schedule a same day or future day Pickup to have a UPS driver pickup all your CampusShip packages.


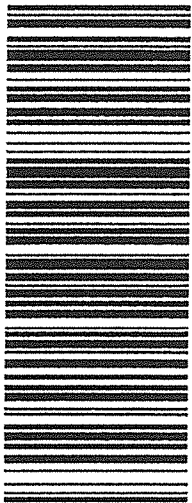

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SAN DIEGO ,CA 92101

UPS Access Point™  
THE UPS STORE  
1041 MARKET ST  
SAN DIEGO ,CA 92101

UPS Access Point™  
THE UPS STORE  
333 W HARBOR DR  
SAN DIEGO ,CA 92101

FOLD HERE

<p>REBECCA ROBERTS, ESQ. 619692700 DLA PIPER LLP (US) 401 B STREET STE 1700 SAN DIEGO CA 92101</p> <p>SHIP TO: DEBORAH HALBERSTADT, DEPUTY AG OFFICE OF THE ATTORNEY GENERAL 1300 I STREET SACRAMENTO CA 95814-2919</p>	<p>0.0 LBS LTR</p> <p>1 OF 1</p>	<p>CA 958 9-03</p> 	<p>UPS NEXT DAY AIR SAVER 1P</p> <p>TRACKING #: 1Z 02Y 747 13 9909 1327</p> 	<p>BILLING: P/P</p> <p>Client-Matter: 393011-000001 Attorney ID: 365566</p> <p>CS 17.6.06. WNTJWS0 09.0A 10/2015</p> 
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**QUIVX**

eDiscovery & Document Solutions  
925.478.8222 www.QUIVX.com

Reference:

CPUC: CAL AG Seized Materials  
PRODUCTION

Client:

DLA Piper

Date: 12/17/2015

Order Number: 261311

Contains: Natives, Tiff, Text  
DAT & OPT

CPUC CALAG 02130833 - CPUC CALAG 02144600

Encrypted with TrueCrypt

**EXHIBIT P**



1300 I STREET, SUITE 125  
P.O. BOX 944255  
SACRAMENTO, CA 94244-2550

Public: (916) 445-9555  
Telephone: (916) 322-0896  
Facsimile:  
E-Mail: Deborah.Halberstadt@doj.ca.gov

December 22, 2015

Ms. Rebecca Roberts  
DLA Piper, LLP  
401 B Street, Suite 1700  
San Diego, California 92101-4297

**RE: California Public Utilities Commission**

Dear Ms. Roberts:

Thank you for your recent productions of 1) documents responsive to the November 5, 2014 search warrant (CPUC CALAG 02130833-02144600) and 2) the reproduction of documents in response to the June 5, 2015 search warrant (CPUC CALAG 00001781-2122826, though not consecutive). I appreciate your quick turnaround on these items.

In our December 14, 2015 conversation, we also discussed the search terms CPUC is employing to identify responsive documents. As I understood from our conversation, CPUC is currently using Exhibit A to identify documents responsive to the November warrant. Exhibit A includes some terms related to SONGS, and some terms related primarily to the judge-shopping issue with PG&E. In discussing the use of this list of terms further with my office, we have concluded that these limited search terms are insufficient for purposes of response to the November warrant. We respectfully request that you provide all non-privileged documents in response to the November warrant, not just those captured by searching the terms found in Exhibit A. We understand that as of October 16, 2015, you had approximately 103,000 emails left to review for privilege, and on December 21, you produced 13,767 documents. We recognize that this request will require additional time for you to respond, and we will so note in the return to the court.

Furthermore, in our conversation, you explained that the terms found in Exhibit A related to SONGS are the same terms you are using to respond to the June warrant. We respectfully ask you to search for the following additional terms in responding to the June warrant:

Unit3\*  
"Unit 3"  
Bristol  
Pincetl  
Aguirre



Geesman  
Mitsubishi  
Japan  
TURN  
ORA  
"\$25 million"  
"25 million"  
"\$20 million"  
"20 million"

Please do not hesitate to contact me with any questions.

Sincerely,



DEBORAH R. HALBERSTADT  
Deputy Attorney General

For KAMALA D. HARRIS  
Attorney General

DRH:

LA2014118251

ORIGINAL

FILED  
LOS ANGELES SUPERIOR COURT

FEB 17 2016

Sherri R. Carter, Executive Officer/Clerk  
By \_\_\_\_\_, Deputy

1 PAMELA NAUGHTON (Bar No. 97369)  
2 REBECCA ROBERTS (Bar No. 225757)  
3 **DLA PIPER LLP (US)**  
4 401 B Street, Suite 1700  
5 San Diego, California 92101-4297  
6 Tel: 619.699.2700  
7 Fax: 619.699.2701

8 Attorneys for Movant  
9 California Public Utilities Commission

10 SUPERIOR COURT OF CALIFORNIA  
11 COUNTY OF LOS ANGELES

12 In re June 5, 2015 Search Warrant  
13 No. 70763 issued to California Public  
14 Utilities Commission

CASE NO.  
**PROOF OF SERVICE**  
**FILED UNDER SEAL**

ORIGINAL

FILED  
LOS ANGELES SUPERIOR COURT

FEB 17 2016

Sherri R. Carter, Executive Officer/Clerk  
By \_\_\_\_\_, Deputy

1 PAMELA NAUGHTON (Bar No. 97369)  
2 REBECCA ROBERTS (Bar No. 225757)  
3 **DLA PIPER LLP (US)**  
4 401 B Street, Suite 1700  
5 San Diego, California 92101-4297  
6 Tel: 619.699.2700  
7 Fax: 619.699.2701

8 Attorneys for Movant  
9 California Public Utilities Commission

10 SUPERIOR COURT OF CALIFORNIA

11 COUNTY OF LOS ANGELES

12 In re June 5, 2015 Search Warrant  
13 No. 70763 issued to California Public  
14 Utilities Commission

CASE NO.

**PROOF OF SERVICE**

**FILED UNDER SEAL**

1 I, Bonnie K. Lott, declare:

2 I am a citizen of the United States and employed in San Diego County, California. I am  
3 over the age of eighteen years and not a party to the within-entitled action. My business address  
4 is DLA Piper LLP (US), 401 B Street, Suite 1700, San Diego, California 92101-4297. On  
5 February 17, 2016, I served a copy of the within document(s):

6 **NOTICE OF MOTION AND MOTION TO VIEW SEARCH WARRANT**  
7 **AFFIDAVIT *IN CAMERA*; MEMORANDUM OF POINTS AND**  
8 **AUTHORITIES;**

9 **DECLARATION OF REBECCA ROBERTS IN SUPPORT OF MOTION**  
10 **TO VIEW SEARCH WARRANT AFFIDAVIT *IN CAMERA*; and**

11 **[PROPOSED] ORDER GRANTING CPUC MOTION TO VIEW SEARCH**  
12 **WARRANT AFFIDAVIT *IN CAMERA***

- 13  by transmitting via facsimile the document(s) listed above to the fax number(s) set  
14 forth below on this date before 5:00 p.m.
- 15  by placing the document(s) listed above in a sealed envelope with postage thereon  
16 fully prepaid, the United States mail at San Diego, California addressed as set forth  
17 below.
- 18  by placing the document(s) listed above in a sealed Delivery Service envelope and  
19 affixing a pre-paid air bill, and causing the envelope to be delivered to a Delivery  
20 Service agent for delivery.
- 21  by personally delivering the document(s) listed above to the person(s) at the  
22 address(es) set forth below.
- 23  by transmitting via e-mail or electronic transmission the document(s) listed above  
24 to the person(s) at the e-mail address(es) set forth below.

25 Persons Served

26 Mr. Gerald Engler  
27 Chief Assistant Attorney General for the Criminal Division  
28 455 Golden Gate, Suite 11000  
San Francisco, CA 94102-7004  
Tel: 415.703.1361

Ms. Maggy Krell  
Deputy Attorney General  
1300 I Street  
Sacramento, CA 95814  
Tel: 916.445.0896

1 Ms. Deborah Halberstadt  
2 Deputy Attorney General  
3 1300 I Street  
4 Sacramento, CA 95814  
5 Tel: 916.445.0896

6 I am readily familiar with the firm's practice of collection and processing correspondence  
7 for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same  
8 day with postage thereon fully prepaid in the ordinary course of business. I am aware that on  
9 motion of the party served, service is presumed invalid if postal cancellation date or postage  
10 meter date is more than one day after date of deposit for mailing in affidavit.

11 I declare under penalty of perjury under the laws of the State of California that the above  
12 is true and correct.

13 Executed on February 17, 2016, at San Diego, California.

14   
15 \_\_\_\_\_  
16 Bonnie K. Lott

ORIGINAL

1 PAMELA NAUGHTON (Bar No. 97369)  
2 REBECCA ROBERTS (Bar No. 225757)  
3 **DLA PIPER LLP (US)**  
4 401 B Street, Suite 1700  
5 San Diego, California 92101-4297  
6 Tel: 619.699.2700  
7 Fax: 619.699.2701  
8 Attorneys for Movant  
9 California Public Utilities Commission

**FILED**  
LOS ANGELES SUPERIOR COURT

FEB 17 2016

Sherri R. Carter, Executive Officer/Clerk  
By [Signature], Deputy  
M. Seals

8 SUPERIOR COURT OF CALIFORNIA

9 COUNTY OF LOS ANGELES

10 In re June 5, 2015 Search Warrant No.  
11 70763 issued to California Public Utilities  
12 Commission

CASE NO. SW 70763

**MOTION TO SEAL PLEADINGS AND  
RECORD**

**FILED UNDER SEAL**

14 **I. INTRODUCTION**

15  
16 The California Public Utilities Commission moves to seal: (1) this Motion to Seal and all  
17 related documents, (2) its Motion to View Search Warrant Affidavit *In Camera* and all related  
18 documents, (3) any responsive pleadings or documents filed by the CPUC or the Attorney  
19 General's office relating to these pending motions, and (4) any hearing related to the CPUC's  
20 pending motion.

21 The CPUC moves to seal these documents and hearings to remain consistent with other  
22 filings made by the Attorney General in this ongoing criminal investigation by the Attorney  
23 General's office, which has sought to seal all records pertaining to its investigation and the  
24 issuance of various search warrants and grand jury subpoenas. Such records relating to an  
25 ongoing investigation are subject to the "official information" privilege and may not be publically  
26 disclosed. Cal. Evid. Code §1040(b)(2). Moreover, the rules governing grand jury secrecy apply  
27 to ancillary proceedings to prevent disclosure of matters occurring before the grand jury. *Los*  
28 *Angeles Times v. Sup. Ct.*, 114 Cal. App. 4<sup>th</sup> 247, 262 (2004).

1 All supporting affidavits issued by the Attorney General's office (with one exception)  
2 pertaining to this investigation remain under seal. The CPUC does not wish to interfere with the  
3 Attorney General's confidential investigation by publically filing this motion. Accordingly, the  
4 CPUC requests that its motions, related pleadings or proceedings be sealed so as not to prejudice  
5 the Attorney General's investigation.

6 **II. BACKGROUND: ATTORNEY GENERAL INVESTIGATION AND GRAND**  
7 **JURY PROCEEDINGS**

8 In 2014, the California Attorney General's office began a criminal investigation and  
9 thereafter convened a secret, investigating grand jury in San Francisco, California. In November  
10 2014, the Attorney General executed a first search warrant on the CPUC which issued out of San  
11 Francisco Superior Court. In February 2015, it issued 3 grand jury subpoenas to the CPUC.  
12 Then, in June 2015, the Attorney General, sought and obtained a second search warrant ("SONGS  
13 Search Warrant") which issued out of this court concerning the San Onofre Nuclear Generating  
14 System investigation initiated by the CPUC ("SONGS OII"). The underlying motion filed by the  
15 CPUC concerns the SONGS Search Warrant. The CPUC has been complying with all  
16 outstanding demands and has produced over a million documents to the Attorney General.

17 It appears that the affidavits in support of the two search warrants issued to the CPUC  
18 were filed and remain under seal. (Declaration of Rebecca S. Roberts in Support of Motion to  
19 Seal ("Roberts Decl. re Seal") ¶¶2-3, Exs. 1-2.) Although the CPUC does not have a copy of the  
20 order sealing these documents, it appears that the Los Angeles Superior Court has ordered that  
21 other affidavits filed in support of similar search warrant be sealed pursuant to California  
22 Evidence Code section 1040. (*Id.* ¶¶ 4-5, Exs. 3-4.) The investigating agent, California  
23 Department of Justice Special Agent Rey Diaz ("Agent Diaz"), confirmed that all affidavits filed  
24 in support of the various search warrants issued by the Attorney General, with one exception,  
25 were filed and remain under seal. (*Id.* ¶6.) The CPUC's underlying motion addresses the sealed  
26 affidavits.

27 // // // //

1     **III.     THE CPUC REQUESTS THAT THE RECORD RELATING TO ITS MOTIONS**  
2     **BE FILED UNDER SEAL SO AS NOT TO INTERFERE WITH THE ATTORNEY**  
3     **GENERAL'S INVESTIGATION AND GRAND JURY PROCEEDINGS**

4             Pursuant to California Evidence Code section 1040, "official information" may be  
5     concealed when the necessity for preserving the confidentiality of the information outweighs the  
6     necessity for disclosure in the public interest. Cal. Evid. Code §1040(b)(2). "Ongoing  
7     investigations fall under the privilege for official information." *People v. Suff*, 58 Cal. 4<sup>th</sup> 1013,  
8     1059 (2014); *People v. Jackson*, 110 Cal. App. 4<sup>th</sup> 280, 287 (2003) (same); Cal. Penal Code  
9     §1054.7 ("possible compromise of other investigations by law enforcement" constitutes good  
10    cause to deny, restrict or defer disclosure.)

11            The Attorney General has argued, and the issuing courts have agreed, that the information  
12    contained in the supporting affidavits constitute official information which shall remain sealed.  
13    (Roberts Decl. re Seal ¶¶4-5, Exs. 3-4.) This investigation has garnered a lot of media of  
14    attention and the Attorney General obviously has its own reasons for sealing its confidential  
15    information. Since the CPUC's motion addresses these affidavits, it requests that its motions, all  
16    records, and any related hearing also be sealed so as not to interfere with the government's  
17    investigation.

18            The grand jury proceedings are subject to strict secrecy requirements. Cal. Penal Code §§  
19    911, 915, 924.1, 924.2, 924.3, 939, 939.1. The law is clear that the rules governing grand jury  
20    secrecy apply to ancillary proceedings, such as discovery matters. *Los Angeles Times v. Sup. Ct.*,  
21    114 Cal. App. 4<sup>th</sup> 247, 262 (2003) ("We conclude that this *ancillary proceeding should be closed*  
22    *and sealed to the extent necessary to prevent disclosure of matters occurring before the grand*  
23    *jury, which would prevent disclosure of information that might reveal the nature, scope or*  
24    *direction of the grand jury's investigation.")* (Emphasis in the original). *See also* Cal. Criminal  
25    Defense Practice §40.04[f][i] (2015) ("The filings and hearings concerning motion to quash grand  
26    jury subpoena are to be closed and sealed, to the extent necessary to prevent disclosure of matters  
27    occurring before the grand jury."); CRC 2.550 Advisory Committee Comment ("The rules do not  
28    apply to records that courts must keep confidential by law. Examples of confidential records to



1 which public access is restricted by law are records . . . and search warrant affidavits sealed under  
2 *People v. Hobbs*, 7 Cal. 4<sup>th</sup> 948 (1994).”)

3 It is the CPUC’s understanding that the search warrants relate to an ongoing secret grand  
4 jury investigation. Since the CPUC’s motion may also affect the grand jury proceeding, the  
5 CPUC requests the record be sealed for this reason as well.

6 **IV. CPUC REQUESTS THAT THE COURT RETURN THE LODGED RECORD**  
7 **SHOULD THE MOTION TO SEAL BE DENIED**

8 Pursuant to CRC 2.551(b)(4), the lodged record should be conditionally filed under seal  
9 until the court has ruled on the pending motion to seal. CRC 2.551(b)(6) further requires the  
10 clerk to “return the lodged record to the submitting party and not place it in the case file unless  
11 the party notifies the clerk in writing that the record is to be filed.”


12 Should the Court deny this motion to seal, the CPUC requests that the court clerk  
13 immediately return all conditionally lodged documents to it as required by CRC 2.551(b)(6).

14 **V. CONCLUSION**

15 For the reasons discussed above, the CPUC requests that the court seal: (1) this Motion to  
16 Seal and all related documents, (2) its Motion to View Search Warrant Affidavit *In Camera* and  
17 all related documents, (3) any responsive pleadings or documents filed by the CPUC or the  
18 Attorney General’s office relating to these pending motions, and (4) any hearing related to the  
19 CPUC’s pending motion.

20 Dated: February 17, 2016

21 DLA PIPER LLP (US)

22 By 

23 PAMELA NAUGHTON  
24 REBECCA ROBERTS  
25 Attorneys for Movant  
26 California Public Utilities Commission

# EXHIBIT 1

No. \_\_\_\_\_

# SUPERIOR COURT OF CALIFORNIA

## County of San Francisco

SEARCH WARRANT and AFFIDAVIT



SPECIAL AGENT Bradley Bautista swears under oath that the facts expressed by him in this Search Warrant and Affidavit and the attached and incorporated Statement of probable cause, are true and that based there on he has probable cause to believe and does believe that the property and/or person described below is lawfully seizable pursuant to Penal Code Section 1524, as indicated below, and is now located at the locations set forth below. Wherefore, Affiant requests that this Search Warrant be issued.

Bradley Bautista  
(Signature of Affiant)

NIGHT SEARCH REQUESTED: YES [ ] NO [X]  
NON DISCLOSURE YES [X] NO [ ]

(SEARCH WARRANT) 11/5/2014 1345 hours

THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY SHERIFF, POLICE OFFICER OR PEACE OFFICER IN THE COUNTY OF SAN FRANCISCO: proof by affidavit having been made before me by Special Agent Bradley Bautista, California Department of Justice, Bureau of Investigations, that there is probable cause to believe that the property described herein may be found at the locations set forth herein and that it is lawfully seizable pursuant to Penal Code Section 1524 as indicated below by "X" (s) in that it:

- was stolen or embezzled,
- was used as the means of committing a felony,
- is possessed by a person with the intent to use it as a means of committing a public offense or is possessed by another to whom he or she may have delivered it for the purpose of concealing it or preventing its discovery,
- tends to show that a felony has been committed or that a particular person has committed a felony,
- it tends to show that sexual exploitation of a child in violation of Section 311.3, or depiction of sexual conduct of a person under the age of 18 years, in violation of Section 311.11, has occurred or is occurring,
- there is a warrant for the person's arrest;

THE ANNEXED INSTRUMENT IS A  
CORRECT COPY OF THE ORIGINAL  
ON FILE IN MY OFFICE.  
ATTEST: CERTIFIED

YOU ARE THEREFORE COMMANDED TO SEARCH:  
See Attachment #1 thru #6.

NOV 05 2014

FOR THE FOLLOWING PROPERTY/PERSON:  
See Attachment #1, thru #6.

CLERK OF THE COURT  
Superior Court of California, County of San Francisco  
By: [Signature]  
DEPUTY CLERK

AND TO SEIZE IT IF FOUND and bring it forth before me, or this court, at the courthouse of this court. This Search Warrant and incorporated Affidavit was sworn to as true and subscribed before me on this 5<sup>th</sup> Day of March, 2014 at 1:52 AM (PM). Wherefore, I find probable cause for the issuance of this Search Warrant and do issue it.

YOU ARE ORDERED TO PROVIDE INFORMATION WITHIN  
10 DAYS OF SIGNED DATE.

[Signature]

Judge of the San Francisco County Superior Court

DONALD SULLIVAN  
H J - 10

NIGHT SEARCH APPROVED: YES [ ] NO [X]  
NON DISCLOSURE

YES [X] NO [ ] 11/5/2014  
1 5:00 PM @ 1:52 PM 1345-125

# EXHIBIT 2

STATE OF CALIFORNIA – COUNTY OF LOS ANGELES

SEARCH WARRANT AND AFFIDAVIT

(AFFIDAVIT)

Special Agent Reye Diaz, California Department of Justice, swears under oath that the facts expressed by him/her in this Search Warrant, and in the attached and incorporated statement of probable cause consisting of 20 pages, are true and that based thereon he/she has probable cause to believe and does believe that the property and/or person described below is lawfully seizable pursuant to Penal Code Section 1524, as indicated below, and is now located at the locations set forth below. Wherefore, affiant requests that this Search Warrant be issued.

NIGHT SEARCH REQUESTED: YES [ ] NO [X] - Justification on page(s) \_\_\_\_\_

[Signature] 6/15/15  
(Signature of Affiant)

FILED  
JUN 24 AM 9 16  
CLERK OF SUPERIOR COURT  
LOS ANGELES COUNTY

(SEARCH WARRANT)

THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY SHERIFF, POLICEMAN OR PEACE OFFICER IN THE COUNTY OF LOS ANGELES: proof by affidavit having been made before me by Special Agent Reye Diaz, that there is probable cause to believe that the property described herein may be found at the locations set forth herein and that it is lawfully seizable pursuant to Penal Code Section 1524 as indicated below by "x"(s) in that it:

- \_\_\_\_\_ it was stolen or embezzled
- X \_\_\_\_\_ it was used as the means of committing a felony
- X \_\_\_\_\_ it is possessed by a person with the intent to use it as means of committing a public offense or is possessed by another to whom he or she may have delivered it for the purpose of concealing it or preventing its discovery
- X \_\_\_\_\_ it tends to show that a felony has been committed or that a particular person has committed a felony
- \_\_\_\_\_ it tends to show that sexual exploitation of a child, in violation of Section 311.3, or depiction of sexual conduct of a person under the age of 18 years, in violation of Section 311.11, has occurred or is occurring
- \_\_\_\_\_ there is a warrant for the person's arrest;

YOU ARE THEREFORE COMMANDED TO SEARCH:

See attached Exhibit "A"

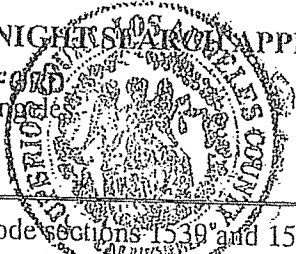
FOR THE FOLLOWING PROPERTY:

See attached Exhibit "A"

SEARCH WARRANT (Page 2)

AND TO SEIZE IT IF FOUND and bring it forthwith before me, or this court, at the courthouse of this court. This Search Warrant and incorporated Affidavit was sworn to as true and subscribed before me this 5<sup>th</sup> day of June, 2015, at 10:55 A.M. Wherefore, I find probable cause for the issuance of this Search Warrant and do issue it.

[Signature], NIGHT SEARCH APPROVED: YES [ ] NO [ X ]  
(Signature of Magistrate) DAVID V. HERRIFORD (Magistrate's Initials)  
Judge of the Superior Court - County of Los Angeles



Be advised that pursuant to California Penal Code sections 1539 and 1540, you may file a written motion in the court of the above-mentioned judge who issued the warrant, seeking return of the property seized pursuant to this warrant.

For further information concerning this search warrant, contact the officer whose name appears on the warrant, Special Agent Reye Diaz at (916) 916-322-2686 or at [reye.diaz@doj.ca.gov](mailto:reye.diaz@doj.ca.gov)

EXHIBIT "A"

California Public Utilities Commission  
San Francisco Office (Headquarters)  
Or Legal Representatives of CPUC  
505 Van Ness Avenue  
San Francisco, CA 94102  
MAY BE SERVED VIA EMAIL or FAX

FOR THE FOLLOWING PROPERTY:

Any and all records from January 31, 2012 until January 31, 2015, involving the San Onofre Nuclear Generating Station (SONGS) closure settlement agreement, the 2013 meeting between Stephen PICKETT and Michael PEEVEY in Poland, communication(s) pertaining to the determination of when and why SONGS would be closed, commitment of monies for research as a result of the closure of SONGS, and communication(s) pertaining to the settlement of the SONGS Order Instituting Investigation (OII). These records are to include:

1. CPUC will search emails to or from the following individuals:
  - a. Robert Adler – General Counsel, Edison International (now retired)
  - b. Ted Craver – Chairman, President, and Chief Executive Officer, Edison International
  - c. Laura Genao – Director, Regulatory Affairs, SCE
  - d. Michael Hoover – Senior Director of State Energy Regulation, SCE
  - e. Ron Litzinger – President, SCE (now President of Edison Energy)
  - f. R.O. Nichols – Senior Vice President for Regulatory Affairs, SCE
  - g. Stephen Pickett – Executive Vice President, External Relations, SCE (now retired)
  - h. Gary Schoonyan – Director, Strategic Policy Analysis, SCE (now retired)
  - i. Jim Scilacci – Chief Financial Officer, Edison International
  - j. Les Starck – Senior Vice President Regulatory Policy & Affairs, SCE (now retired)
  - k. Bert Valdman – Senior Vice President, Strategic Planning, Edison International (no longer employed)
  - l. Gaddi Vasquez – Senior Vice President, Government Affairs, Edison International
  - m. Russ Worden – Director of External Relations, SCE
  - n. Ron Olson, former Board member, Edison and Edison International
  - o. Michael Peevey (former President of CPUC)
  - p. Michel Florio (Commissioner, CPUC)
  - q. Melanie Darling (ALJ, CPUC)
  - r. Sepideh Khosrowjah (Chief of Staff, Commissioner Florio)
  - s. Paul Clanon (Executive Director, CPUC)
  - t. Carol Brown (former Chief of Staff to President Peevey)
  - u. Audrey Lee (former Advisor to President Peevey)
  - v. Edward Randolph (Director of Energy, CPUC)
2. CPUC will identify employees who were involved in the implementation of the greenhouse gas research provisions of the SONGS OII settlement, specifically with respect to CPUC's understandings or intentions with regard to directing funding to UCLA. CPUC will propose to the

SEARCH WARRANT (Page 4)

Attorney General's Office additional employees whose email they will collect for this purpose.

3. CPUC will collect and review emails from the above 22 custodians, plus any other custodians identified pursuant to paragraph 2, that are dated from January 31, 2012 through January 31, 2015.
4. Handwritten notes, documents saved to a hard drive or to a network location, and data on smart phones that is not believed to exist in other locations. CPUC will advise the Attorney General's Office of its progress and plan for collection and review of any such documents.
5. With respect to the categories of documents specified in the search warrant, CPUC will search for, review and produce responsive documents as follows:
  - a. As to documents involving the SONGS settlement, CPUC will produce (1) documents constituting or referring to communications with SCE about the OII prior to execution of the settlement on March 27, 2014 (excluding on-the-record communications such as SCE pleadings filed with the CPUC); and (2) documents constituting communications with TURN or ORA referencing communications from Peevey regarding SONGS or UC in the context of the settlement negotiations up to March 27, 2014.
  - b. As to documents pertaining to the Poland trip in March 2013, CPUC will produce documents constituting or referring to communications during that trip that relate to SONGS. These documents will include any communications or materials regarding SONGS made in anticipation of the trip, any documents or communications regarding SONGS that occurred during the trip, and any communications or materials regarding SONGS created after the trip ended.
  - c. As to the documents regarding funding of research in connection with the SONGS settlement, CPUC will produce documents and all communications that (1) constitute or refer to communications with SCE or UCLA regarding greenhouse gas research as part of the SONGS settlement (excluding on-the-record communications such as pleadings filed with the CPUC and drafts of same; (2) refer to SCE's contributing to the UCLA Luskin Institute at UCLA, the University of California, UCLA's Institute of the Environment and Sustainability, or the California Center for Sustainable Communities at UCLA, in connection with the SONGS settlement; and (3) constitute advocacy directed to the CPUC by local governmental agencies in support of greenhouse gas research as part of the SONGS settlement.



# EXHIBIT 3

SUPERIOR COURT OF CALIFORNIA

County of LOS ANGELES

Search Warrant  
Sealing Order

FILED  
2015 JUN 5 PM 11 13  
LOS ANGELES SUPERIOR COURT

Warrant No. \_\_\_\_\_

Place to be searched: Southern California Edison Company

Application for Sealing Order: I hereby request that the following document(s) submitted in support of the requested search warrant be sealed pending further order of the court:

Affidavit

Grounds for order: I believe that the sealing of the above document(s) is warranted for the following reasons:

PUBLIC INTEREST: Sealing serves the following public interest:

- Protect a confidential informant (Evid. Code § 1041)
- Conceal official information: (Evid. Code § 1040)

PREJUDICE TO PUBLIC INTEREST: There exists a substantial probability that this public interest would be prejudiced if the information contained in this document(s) is not sealed.

NARROWLY TAILORED: I do not believe it would be possible to release any of the sealed information without prejudicing this public interest.

Declaration: I declare under penalty of perjury that the above information is true.

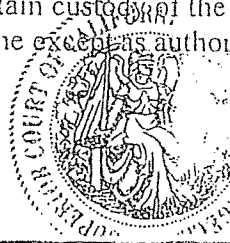
5/19/15  
Date

[Signature]  
Affiant

Order: Pursuant to Rule 2.550 of the California Rules of Court, the document(s) identified above shall be sealed and retained in the following manner pending further order of the court:

- (1) The document(s) shall be sealed in an envelope with a copy of this Order affixed to the front of the envelope; and
- (2) The Clerk of the Court shall retain custody of the envelope in a secure place and shall not permit it to be opened by anyone except as authorized by written order of the Court.

19 May 2015  
Date



Michael E. Pastor  
Judge of the Superior Court  
MICHAEL E. PASTOR

# EXHIBIT 4

71801

SUPERIOR COURT OF CALIFORNIA

County of Los Angeles

Search Warrant  
Sealing Order

FILED  
2015 MAR 13 AM 11  
JW

Warrant No. \_\_\_\_\_

Place to be searched: STEPHEN PICKETT EMAIL ACCOUNTS

Application for Sealing Order: I hereby request that the following document(s) submitted in support of the requested search warrant be sealed pending further order of the court:

EXHIBIT "B" OF SEARCH WARRANT  
ATTACHMENT "D" OF AFFIDAVIT

Grounds for order: I believe that the sealing of the above document(s) is warranted for the following reasons:

PUBLIC INTEREST: Sealing serves the following public interest:

- Protect a confidential informant (Evid. Code § 1041)
- Conceal official information: (Evid. Code § 1040)

PREJUDICE TO PUBLIC INTEREST: There exists a substantial probability that this public interest would be prejudiced if the information contained in this document(s) is not sealed.

NARROWLY TAILORED: I do not believe it would be possible to release any of the sealed information without prejudicing this public interest.

Declaration: I declare under penalty of perjury that the above information is true.

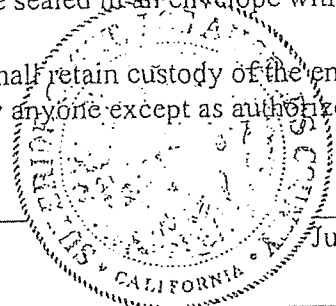
9/25/15  
Date

[Signature]  
Affiant REYE DIAZ

Order: Pursuant to Rule 2.550 of the California Rules of Court, the document(s) identified above shall be sealed and retained in the following manner pending further order of the court:

- (1) The document(s) shall be sealed in an envelope with a copy of this Order affixed to the front of the envelope; and
- (2) The Clerk of the Court shall retain custody of the envelope in a secure place and shall not permit it to be opened by anyone except as authorized by written order of the Court.

9/25/15  
Date



[Signature]  
M.L. VILLAR  
Judge of the Superior Court

ORIGINAL

1 PAMELA NAUGHTON (Bar No. 97369)  
2 REBECCA ROBERTS (Bar No. 225757)  
3 DLA PIPER LLP (US)  
4 401 B Street, Suite 1700  
San Diego, California 92101-4297  
Tel: 619.699.2700  
Fax: 619.699.2701

**FILED**  
LOS ANGELES SUPERIOR COURT

FEB 17 2016

Sherri R. Carter, Executive Officer/Clerk  
By [Signature], Deputy  
M. Scals

5 Attorneys for Movant  
6 California Public Utilities Commission

8 SUPERIOR COURT OF CALIFORNIA  
9 COUNTY OF LOS ANGELES

10 In Re June 5, 2015 Search Warrant No.  
11 70763 issued to California Public Utilities  
12 Commission

CASE NO. SW-70763

**DECLARATION OF REBECCA ROBERTS  
IN SUPPORT OF MOTION TO SEAL  
PLEADINGS AND RECORD**

**FILED UNDER SEAL**

15 I, Rebecca S. Roberts, declare as follows:

16 1. I am an attorney at DLA Piper, LLP, which represents the California Public  
17 Utilities Commission ("CPUC") in the government investigations. I have personal knowledge of  
18 the facts I state below except where they are stated on information and belief. If called upon by  
19 this Court, I could competently testify as follows:

20 2. Attached as Exhibit 1 is a true and correct copy of the first page of the November  
21 5, 2014 search warrant issued by San Francisco Superior Court Judge Donald Sullivan. This page  
22 references an attached affidavit and statement of probable cause. I am informed and believe that  
23 these documents were filed and remain unseal.

24 3. Attached as Exhibit 2 is a true and correct copy of the June 5, 2015 search warrant  
25 issued by Los Angeles Superior Court Judge David Herriford. The first page of this search  
26 warrant references a 20 page statement of probable cause submitted by California Department of  
27  
28

1 Justice Special Agent Reye Diaz. I am informed and believe that this document was filed and  
2 remains under seal.

3 4. Attached as Exhibit 3 is a copy of the Search Warrant Sealing Order sealing the  
4 supporting affidavit of a search warrant issued to Southern California Edison ("SCE") Company  
5 which I obtained from the San Diego Union Tribune website.

6 5. Attached as Exhibit 4 is a copy of the Search Warrant Sealing Order sealing  
7 attachments to a search warrant issued for SCE Executive Stephen Pickett's personal emails  
8 which I obtained from the San Diego Union Tribune website.

9 6. On or about January 4, 2016, my colleague, Pamela Naughton, and I spoke with  
10 Deputy Attorney General Deborah Halberstadt and Special Agent Diaz on the phone. During our  
11 call, Mr. Diaz confirmed that the affidavits filed in support of both of the search warrants issued  
12 to CPUC were filed and remained under seal. He also confirmed that his affidavit, filed in  
13 support of the Pickett Search Warrant, was the only affidavit to be publicly filed in the pending  
14 investigation.

15 I declare under penalty of perjury of the laws of the State of California that the foregoing  
16 is true and correct.

17 Executed this 17th day of February 2016 in San Diego, California.

18  
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27  
28

By   
REBECCA ROBERTS

# EXHIBIT 1

No. \_\_\_\_\_

# SUPERIOR COURT OF CALIFORNIA

## County of San Francisco

**SEARCH WARRANT and AFFIDAVIT**



SPECIAL AGENT Bradley Bautista swears under oath that the facts expressed by him in this Search Warrant and Affidavit and the attached and incorporated Statement of probable cause, are true and that based there on he has probable cause to believe and does believe that the property and/or person described below is lawfully seizable pursuant to Penal Code Section 1524, as indicated below, and is now located at the locations set forth below. Wherefore, Affiant requests that this Search Warrant be issued.

Bradley Bautista, NIGHT SEARCH REQUESTED: YES  NO   
(Signature of Affiant) NON DISCLOSE YES  NO

(SEARCH WARRANT) 11/5/2014 1345 hours

THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY SHERIFF, POLICE OFFICER OR PEACE OFFICER IN THE COUNTY OF SAN FRANCISCO: proof by affidavit having been made before me by Special Agent Bradley Bautista, California Department of Justice, Bureau of Investigations, that there is probable cause to believe that the property described herein may be found at the locations set forth herein and that it is lawfully seizable pursuant to Penal Code Section 1524 as indicated below by "X" (s) in that it:

- was stolen or embezzled,
- was used as the means of committing a felony,
- is possessed by a person with the intent to use it as a means of committing a public offense or is possessed by another to whom he or she may have delivered it for the purpose of concealing it or preventing its discovery,
- tends to show that a felony has been committed or that a particular person has committed a felony,
- it tends to show that sexual exploitation of a child in violation of Section 311.3, or depiction of sexual conduct of a person under the age of 18 years, in violation of Section 311.11, has occurred or is occurring,
- there is a warrant for the person's arrest;

THE ANNEXED INSTRUMENT IS A CORRECT COPY OF THE ORIGINAL ON FILE IN MY OFFICE. ATTEST: CERTIFIED

**YOU ARE THEREFORE COMMANDED TO SEARCH:**  
See Attachment #1 thru #6.

NOV 05 2014

**FOR THE FOLLOWING PROPERTY/PERSON:**  
See Attachment #1, thru #6.

CLERK OF THE COURT  
Superior Court of California, County of San Francisco  
BY: C. Galante  
DEPUTY CLERK

**AND TO SEIZE IT IF FOUND** and bring it forth before me, or this court, at the courthouse of this court. This Search Warrant and incorporated Affidavit was sworn to as true and subscribed before me on this 5<sup>th</sup> Day of November, 2014 at 1:52 AM (PM) Wherefore, I find probable cause for the issuance of this Search Warrant and do issue it.

**YOU ARE ORDERED TO PROVIDE INFORMATION WITHIN 10 DAYS OF SIGNED DATE.**

Donald Sullivan

Judge of the San Francisco County Superior Court  
DONALD SULLIVAN  
11/5/2014

NIGHT SEARCH APPROVED: YES  NO   
NON DISCLOSE YES  NO   
1 5:52 PM 11/5/2014 1345 hours



## ATTACHMENT #1

### FURTHER ORDERS:

The Court appoints Don Willenburg (SBN:116377), attorney at law, as the special master pursuant to Penal Code section 1524 subdivision (d) to conduct the search of location #1, California Public Utilities Commission, 505 Van Ness, San Francisco, CA 94102 and location #2, California Public Utilities Commission, 320 West 4th Street, Suite 500, Los Angeles, CA 90013.

A special master can determine whether the documents and items found during the search should be released to searching officers as evidence in this investigation. Any information deemed by the special master to be subject to the attorney-client privilege shall be placed under seal and delivered to the Court. This will include any information between the subjects of this investigation and attorneys representing them in this ongoing investigation.

Should a claim of privilege arise at the Los Angeles location, the agents seizing such items are ordered to seal such items without searching, and transfer custody to the special master.

Further, the Court also orders that the special masters may retain computer forensic assistants to assist in the searching and collection of such computer data, and this be done without further court order. Any and all data found to be within the scope of the search warrant is to be released to the investigating agency. Anything found not to be within the scope of this warrant shall remain on the seized computer and computer data materials.

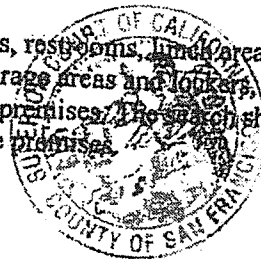
If necessary, searching officers are authorized to employ the use of outside experts, acting under the control of the investigating officers, to access, preserve and examine any data seized.

The court orders that any items seized during the lawful service of this search warrant be disposed of in accordance with the law by the California Department of Justice upon adjudication of the case. The officers serving the search warrant are also hereby authorized, without necessity of further court order, to return seized items to any known victim(s) if such items have been photographically documented.

### PLACES TO BE SEARCHED:

1. **505 VAN NESS AVENUE, SAN FRANCISCO, CALIFORNIA**, which is further, described as a multi-story office building constructed of concrete gray in color, Headquarters to the California Public Utilities Commission (PUC). The building is located on the northwest curb line. The number # 505 VAN NESS AVENUE is etched into the concrete wall to the right of the entry walk way. The front door is made of wood brownish yellow in color with a glass pane. The word "Main Lobby" is labeled just above the door. There are security guards and a security checkpoint beyond the main entrance inside the main lobby. The elevators are situated west of the lobby area and security checkpoint. The front door is facing east towards Van Ness.

The search is to include all offices, rooms, attics, patios, basements, service areas, restrooms, lunch areas, out-buildings, mailboxes, trash containers (attached or unattached), debris boxes, storage areas and lockers, cabinets, closets, and all desks, filing cabinets, safes, and other containers in the premises. The search shall also include the inspection of any computer-based storage media contained within the premises.



## ATTACHMENT #2

2. **320 W. 4TH STREET, SUITE 500, LOS ANGELES, CALIFORNIA**, which is, further described as a multi-story office building constructed of concrete and brick with large windows with gray metal frames. The brick and concrete is beige in color with blue-gray trim throughout columns, glass and door frames on the ground floor. The building is located on the south side of 4th Street between Broadway Avenue to the east and Hill Street to the west. The words, "Junipero Serra Building" in white trim on blue-gray trim is posted on top of a double glass entry doors that faces 4th street. The numbers "320" in white trim is posted on a large glass window above the double entry doors and below the words, "Junipero Serra Building". The United States flag is posted to the east and the California state flag is posted to the west of the main entry way facing 4th street. There are security guards and a security checkpoint beyond the main entrance inside the main lobby. The elevators are situated east of the lobby area and security checkpoint. Suite 500 is situated on the 5th floor of the "Junipero Serra Building". Suite 500 is west of the elevator lobby area. There is a directory sign posted inside the elevator lobby area on the 5th floor. The directory sign has the words, "5th Floor" in white trim and orange background. In addition, the words, "Public Utilities Commission" and the numbers, "500" in brown trim and beige background is listed on the directory sign. Suite 500 has a single wood door with bright orange wood stain and a glass siding in white metal frame to its left. A sign with the numbers, "500" in white trim and brown background and the words, "Public Utilities Commission" in brown trim and white background is posted adjacent and to the left of the single wood door and glass siding. An office lobby can be seen inside Suite 500 through the glass sidings.

The search is to include all offices, rooms, attics, patios, basements, service areas, restrooms, lunch areas, out-buildings, mailboxes, trash containers (attached or unattached), debris boxes, storage areas and lockers, cabinets, closets, and all desks, filing cabinets, safes, and other containers in the premises. The search shall also include the inspection of any computer-based storage media contained within the premises.

### FOR THE FOLLOWING PROPERTY:

- A.) For the time period from May 1, 2010 through September 30 2014, all stored electronic communications, including email, digital images, buddy lists, and any other files associated with user accounts identified as:

Michael.peevey@cpuc.ca.gov  
 Frank.lindh@cpuc.ca.gov  
 Michelpeter.florio@cpuc.ca.gov  
 Carol.brown@cpuc.ca.gov  
 Karen.clopton@cpuc.ca.gov  
 Paul.clanon@cpuc.ca.gov

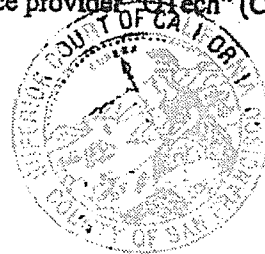
- B.) For the time period from May 1, 2010 through September 30 2014 all connection logs and records of user activity for each such account including:

1. Connection dates and times.
2. Disconnect dates and times.
3. Method of connection (e.g., telnet, ftp, http)
4. Data transfer volume.
5. User name associated with the connections.



## ATTACHMENT #3

6. Telephone caller identification records.
  7. Any other connection information, such as the Internet Protocol address of the source of the connection.
  8. Connection information for the other computer to which the user of the above-referenced accounts connected, by any means, during the connection period, including the destination IP address, connection time and date, disconnect time and date, method of connection to the destination computer, and all other information related to the connection from PUC.
- C.) For the time period from May 1, 2010 through September 30 2014, any other records or accounts related to the above-referenced names and user names, including but not limited to, correspondence, billing records, records of contact by any person or entity regarding the above-referenced names and user names, and any other subscriber information, referenced name, and any other subscriber information.
- D.) All cellular telephones or computers assigned or issued to, or located in offices formerly assigned to Michael Peevey, Frank Lindh, Michel Florio, Carol Brown, Karen Clopton and Paul Clanon, for the presence of documents, letters, photographs, text messages, email correspondences or other electronic messages which tend to establish the possessors involvement in criminal activity. To listen, note and record any messages left on any telephone answering devices and/or machines inside the location and to answer any incoming telephone calls during the service of this search warrant.
- E.) The viewing, photographing, recording and copying of any data and programs on any cellular telephone(s), as well as on any data storage devices and or mediums attached to those cell phones, including, but not limited to: A. Data that may identify the owner or user of the above-described cellular telephone(s); B. Address books and calendars including names and/or nicknames and associated telephone numbers listed in the "Phone Book" or "Contacts" feature of the device; C. Audio, photographic and video clips or images; D. Call histories and call logs including dates, times and telephone numbers; E. Text, e-mail and recorded messages (including voice mail messages) and subscriber information modules [SIM card].
- F.) Due to the fact that at times a law enforcement agency does not have the right equipment to view or record technical devices such as computers, digital cameras and cellular telephones, after the search warrant has been executed the executing law enforcement officer may enlist the aid of a law enforcement computer forensics lab to assist in the searching, downloading, viewing, photographing, recording and copying of any and all of the information described in the items listed above.
- G.) Provide all electronically stored digital files to include but not limited to:
1. All subscriber records, in any form, pertaining to the outside source provider "OTech" (California Office of Technology Services) who stores them,
    - a. including applications and account type,
    - b. subscribers' full names,
    - c. all screen names associated with the subscribers and/or account,
    - d. all account names associated with the subscribers,
    - e. methods of payment,
    - f. telephone numbers, addresses
    - g. any/all e-mail addresses,



## ATTACHMENT #4

- h. detailed billing records,
- i. all records indicating the services purchased,
- j. all contacts, imported contacts, invited friends,
- k. all security verification methods,
- l. all devices linked to the account,
- m. all apps linked to the account and
- n. all subscriber account photos.

H.) All stored electronic communications, existing print outs, and other files reflecting communications to or from the above-referenced accounts, including electronic communications in electronic storage, any and all records.

- 3. All transactional information and/or "session data" of all activity of the user described above, including log files, dates, times, methods of connecting, ports, IP addresses, dial-ups and/or location data.
- 4. All "sharing" or "link" data related to which files and folders are shared and with whom.
- 5. All "events" data showing a timeline of changes made to any CPUC folder.
- 6. All "notifications" data.
- 7. All files stored in the CPUC account.

CPUC shall disclose responsive data, if any, by sending this information to:

California Department of Justice  
Bureau of Investigation, San Francisco Regional Office  
2720 Taylor Street, Suite 300  
San Francisco, CA 94133  
Attn: Special Agent Bradley Bautista  
510-772-2491  
Bradley.bautista@doj.ca.gov



## ATTACHMENT #5

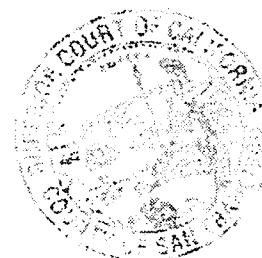
- I.) **Request for Off-Site Search Authorization:** For the following reasons, I request authorization to remove the listed computers and computer-related equipment on the premises and search them at a secure location:
- (1) The amount of data that may be stored in hard drives and removable storage devices is enormous, and I do not know the number or size of the hard drives and removable storage devices that will have to be searched pursuant to this warrant.
  - (2) The data to be seized may be located anywhere on the hard drives and removable storage devices, including hidden files, program files, and "deleted" files that have not been overwritten.
  - (3) The data may have been encrypted, it may be inaccessible without a password, and it may be protected by self-destruct programming, all of which will take time to detect and bypass.
  - (4) Because data stored on a computer can be easily destroyed or altered, either intentionally or accidentally, the search must be conducted carefully and in a secure environment.
  - (5) To prevent alteration of data and insure the integrity of the search, I plan to make clones of all drives and devices, then search the clones; this, too, will take time and special equipment.
  - (6) Finally, a lengthy on-site search may pose a severe hardship on all people who [live][work] on the premises, as it would require the presence of law enforcement officers to secure the premises while the search is being conducted.
- J.) **Order Authorizing Off-Site Search:** Good cause having been established in the affidavit filed herein, the officers who execute this warrant are authorized to remove the computers and computer-related equipment listed in this warrant and search them at a secure location.
- K.) I am also asking for authorization to copy digital evidence stored on a server(s) in another location if the server can be remotely accessed from a computer(s) located at the site authorized to be searched by the approval of this court order. This authorization gives law enforcement the ability to preserve the integrity of the evidence and prevent it from being tampered with or destroyed. This is required for the following reasons:
- a. Companies are starting to use remote service providers who provide the service of storing digital records and other data on a remote server for their customer who can access the data via a remote connection: This allows the customer to connect to the server from typically anywhere there is service to the internet. In doing so, an employee at the customer company can view, alter, create, copy and print the data from the remote server as if it was at the same location as the employee. The customer typically owns and controls the data stored at the remote server while the service provider owns the server on which the data is stored.
  - b. Law enforcement typically does not find out about the existence of the remote server until the service of the initial search warrant takes place. I have unsuccessfully attempted to elicit this information prior to obtaining this warrant.
  - c. The server is often times found to be located in another city or state from the site of the service (PREMISES) making it difficult for law enforcement to preserve the evidence. It takes hours and sometimes days to determine the location of the remote computer and gather the details containing the specificity necessary for the issuance of a second search warrant. Depending on the size of the evidence, it can take seconds to delete it from a system.

## ATTACHMENT #6

- d. If evidence is located and obtained from a remote server that is not located on PREMISES, I will note this in the property receipt for those items that were seized remotely. I will attempt to determine the location of the remote system and include this information in the property receipt. I will also obtain additional authorization from this Court or the consent from the appropriate parties prior to searching this evidence.

### **NON-DISCLOSURE/DISCLOSURE ORDER**

It is further ordered that PUC not to notify any person (including the subscriber or customer to which the materials relate) of the existence of this order for 90 days in that such a disclosure could give the subscriber an opportunity to destroy evidence, notify confederates, or flee or continue his flight from prosecution. It is further ordered that affiant be allowed to share information with federal and state and criminal and civil law enforcement authorities who are also investigating this matter.



STATE OF CALIFORNIA

DEPARTMENT OF JUSTICE

Page \_\_\_\_\_ of \_\_\_\_\_

DIVISION OF LAW ENFORCEMENT

Investigation No. \_\_\_\_\_

PROPERTY RECEIPT

Date: \_\_\_\_\_

Property Received From:

Name: \_\_\_\_\_ Address: \_\_\_\_\_

I HEREBY ACKNOWLEDGE RECEIPT OF THE BELOW DESCRIBED PROPERTY

Item No.	Description (include serial number)	Exact Location found (if applicable)

Receiving Individual (print or type)

Receiving Individual (signature)

Witnessing Individual (print or type)

Witnessing Individual (signature)

# CALIFORNIA DEPARTMENT OF JUSTICE

## DIVISION OF LAW ENFORCEMENT

### NOTICE

On 11/5/09, Agents of the California Department of Justice, Division of Law Enforcement, served a search warrant at 525 VAN NESS AVE, S.F., CA

The items listed on the property receipt were seized pursuant to the search warrant.

The search warrant was issued on 11/5/09 by the Honorable JUDITH S. LUCAS Judge of the 1<sup>ST</sup> DISTRICT COURT. The search warrant number is \_\_\_\_\_ . (If a number is not provided contact the clerk of the issuing court for information regarding this incident.)

For further information concerning this search warrant or the return of property contact SA BERNISIA at (510) 772-749.

Pursuant to California Penal Code sections 1539 and 1540, you may file a written motion with the court where the warrant was issued seeking return of the property seized pursuant to this search warrant.

### AVISO

El día \_\_\_\_\_, Agentes del Departamento de Justicia del Estado de California, Division de Procuracion de Justicia ejecutaron una orden de cateo en \_\_\_\_\_ y embargaron la propiedad identificada en el recibo.

La orden de cateo fue expedida en \_\_\_\_\_ por el Honorable Juez \_\_\_\_\_ de la corte \_\_\_\_\_ y fue archivado bajo el numero de corte \_\_\_\_\_ (si no hay numero, puede hablar con el archivero de la corte). Para mas informacion acerca de esta orden de cateo, llame a \_\_\_\_\_ al telefono (\_\_\_\_) \_\_\_\_\_.

Se le avisa que bajo la ley de Código Penal del Estado de California 1539 y 1540, usted puede pedir por escrito a la corte que se le regrese la propiedad, siempre y cuando lo haga el juez que firmó la orden de cateo.



# EXHIBIT 2

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <b>Maggy Krell (SBN 226675)</b> <b>Office of the Attorney General</b> <b>1300 I Street</b> <b>Sacramento, CA 95814</b> TELEPHONE NO.: (916) 327-1995 FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): <b>State of California</b>	FOR COURT USE ONLY          CASE NUMBER:
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Francisco</b> STREET ADDRESS: <b>400 McAllister St., Department 218</b> MAILING ADDRESS: <b>ATTN: Patricia Kilkenny, Deputy Jury Commissioner</b> CITY AND ZIP CODE: <b>San Francisco, 94102</b> BRANCH NAME: <b>Civic Center Courthouse, Room 008</b>	
CASE NAME: <b>An Investigation Before the San Francisco Grand Jury</b>	
<b>ORDER TO ATTEND COURT OR PROVIDE DOCUMENTS:</b> <b>Subpoena/Subpoena Duces Tecum</b>	

You must attend court or provide to the court the documents listed below. Follow the orders checked in item 2 below. If you do not, the judge can fine you, send you to jail, or issue a warrant for your arrest.

- To: (name or business) California Public Utilities Commission - #1
- You must follow the court order(s) checked below:
  - Attend the hearing.
  - Attend the hearing and bring all items checked in c. below.
  - Provide a copy of these items to the court (Do not use this form to obtain Juvenile Court records):
    - (1) \_\_\_\_\_
    - (2) \_\_\_\_\_
    - (3) \_\_\_\_\_
  - If this box is checked, provide all items listed on the attached sheet labeled "Provide These Items."
  - If someone else is responsible for maintaining the items checked in c. above, that person (the Custodian of Records) must also attend the hearing.
  - If this box is checked and you deliver all items listed above to the court within 5 days of service of this order, you do not have to attend court if you follow the instructions in item 5.

<b>Court Hearing Date:</b> Date: <u>02/17/15</u> Time: <u>10:00 am</u> Dept.: <u>Dept 218</u> Rm.: _____	<b>The court hearing will be at (name and address of court):</b> <u>ATTN: Patricia Kilkenny, Deputy Jury Commissioner</u> <u>400 McAllister St, Room 218, San Francisco, CA 94102</u>
Call the person listed in item 4 below to make sure the hearing date has not changed. If you cannot go to court on this date, you must get permission from the person in item 4. You may be entitled to witness fees, mileage, or both, in the discretion of the court. Ask the person in item 4 after your appearance.	

4. The person who has required you to attend court or provide documents is:

Name: Maggy Krell Phone No.: 916-327-1995

Address: 1300 I Street  
Number, Street, Apt. No.  
Sacramento, CA 95814  
 \_\_\_\_\_  
 City State Zip

Date: 2-5-15 Signature *Maggy Krell*  
 \_\_\_\_\_  
 Name and Title

FOR COURT USE ONLY

**PROVIDE THESE ITEMS:**

1. All emails, correspondence and documents exchanged between Paul Clanon and Mark Wetzell that discuss OII matters from the time period 2/15/12 to 9/15/13.
  2. All emails, correspondence and documents exchanged between Amy Yip-Kikugawa and Paul Clanon from the time period 2/15/12 to 9/15/13.
  3. All emails, correspondence and documents exchanged between Paul Clanon and Mike Florio on OII matters from the time period 2/15/12/ to 9/15/13.
-

# EXHIBIT 3

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <b>Maggy Krell (SBN 226675)</b> <b>Office of the Attorney General</b> <b>1300 I Street</b> <b>Sacramento, CA 95814</b> TELEPHONE NO.: (916) 327-1995 FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): <b>State of California</b>		FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF <b>San Francisco</b> STREET ADDRESS: <b>400 McAllister St., Department 218</b> MAILING ADDRESS: <b>ATTN: Patricia Kilkenny, Deputy Jury Commissioner</b> CITY AND ZIP CODE: <b>San Francisco, 94102</b> BRANCH NAME: <b>Civic Center Courthouse, Room 008</b>		
CASE NAME: <b>An Investigation Before the San Francisco Grand Jury</b>		
<b>ORDER TO ATTEND COURT OR PROVIDE DOCUMENTS:</b> <b>Subpoena/Subpoena Duces Tecum</b>		CASE NUMBER:

You must attend court or provide to the court the documents listed below. Follow the orders checked in item 2 below. If you do not, the judge can fine you, send you to jail, or issue a warrant for your arrest.

1. To: (name or business) California Public Utilities Commission - #2

2. You must follow the court order(s) checked below:

- a.  Attend the hearing.
- b.  Attend the hearing and bring all items checked in c. below.
- c.  Provide a copy of these items to the court (Do not use this form to obtain Juvenile Court records):
  - (1) \_\_\_\_\_
  - (2) \_\_\_\_\_
  - (3) \_\_\_\_\_
- If this box is checked, provide all items listed on the attached sheet labeled "Provide These Items."
- d.  If someone else is responsible for maintaining the items checked in c. above, that person (the Custodian of Records) must also attend the hearing.
- e.  If this box is checked and you deliver all items listed above to the court within 5 days of service of this order, you do not have to attend court if you follow the instructions in item 5.

3. Court Hearing Date: \_\_\_\_\_ The court hearing will be at (name and address of court):  
 Date: 02/17/15 Time: 10:00 am ATTN: Patricia Kilkenny, Deputy Jury Commissioner  
 Dept: Dept 218 Rm.: \_\_\_\_\_ 400 McAllister St., Room 218, San Francisco, CA 94102

Call the person listed in item 4 below to make sure the hearing date has not changed. If you cannot go to court on this date, you must get permission from the person in item 4. You may be entitled to witness fees, mileage, or both, in the discretion of the court. Ask the person in item 4 after your appearance.

4. The person who has required you to attend court or provide documents is:

Name: Maggy Krell Phone No.: 916-327-1995  
 Address: 1300 I Street  
Number, Street, Apt. No.  
Sacramento, CA 95814  
 City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Date: 2-5-15 Signature Maggy Krell  
 Name and Title \_\_\_\_\_

FOR COURT USE ONLY

**PROVIDE THESE ITEMS:**

1. All documents, including handwritten notes created by or shared between ALJs, relating to proposed ALJ assignments discussed at weekly meetings from the time period 10/15/13 to 3/15/14.
2. All memoranda, emails, reports, and documents, including handwritten notes and minutes, that related to discussions held at weekly ALJ assignment meetings from the time period 10/15/13 to 3/15/14.
3. All spreadsheets, tables, databases and other lists of ALJ assignments made at ALJ weekly meetings from the time period 10/15/13/ to 3/15/14.

# EXHIBIT 4

CR-125/JV-525

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <b>Brett J. Morris (SBN 158408)</b> Office of the Attorney General 1515 Clay Street, 20th Floor Oakland, CA 94612 TELEPHONE NO: (510) 622-2176 FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): State of California		FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Francisco STREET ADDRESS: 400 McAllister St. MAILING ADDRESS: ATTN: Courtroom 503 CITY AND ZIP CODE: San Francisco, 94102 BRANCH NAME: Civic Center Courthouse, Court Room 503		
CASE NAME: An Investigation Before the San Francisco County Grand Jury		
<b>ORDER TO ATTEND COURT OR PROVIDE DOCUMENTS:</b> <b>Subpoena/Subpoena Duces Tecum</b>		CASE NUMBER:

You must attend court or provide to the court the documents listed below. Follow the orders checked in item 2 below. If you do not, the judge can fine you, send you to jail, or issue a warrant for your arrest.

1. To: (name or business) California Public Utilities Commission - #3

2. You must follow the court order(s) checked below:

- a.  Attend the hearing.
- b.  Attend the hearing *and* bring all items checked in c. below.
- c.  Provide a copy of these items to the court (Do not use this form to obtain Juvenile Court records):
  - (1) All documents, emails, and paper and electronic evidence authorized by the SF Superior Court to
  - (2) be seized and searched by state DOJ investigators on November 5, 2014, which CPUC has
  - (3) previously produced, provided or disclosed to any other entity or person since January 1, 2014.
- If this box is checked, provide all items listed on the attached sheet labeled "Provide These Items."
- d.  If someone else is responsible for maintaining the items checked in c. above, that person (the Custodian of Records) must also attend the hearing.
- e.  If this box is checked and you deliver all items listed above to the court **within 5 days of service of this order**, you do not have to attend court if you follow the instructions in item 5.

3. **Court Hearing Date:** Date: 03/03/15 Time: 10:00 am **The court hearing will be at (name and address of court):** 400 McAllister Street  
 Dept.: Ct. Room 503 Rm.: \_\_\_\_\_ San Francisco, CA 94102

Call the person listed in item 4 below to make sure the hearing date has not changed. If you cannot go to court on this date, you must get permission from the person in item 4. You may be entitled to witness fees, mileage, or both, in the discretion of the court. Ask the person in item 4 after your appearance.

4. The person who has required you to attend court or provide documents is:  
 Name: Brett J. Morris Phone No.: 510-622-2176  
 Address: 1515 Clay Street, 20th Floor  
 Number, Street, Apt. No. \_\_\_\_\_  
Oakland CA 94612  
 City State Zip  
 Date: 2-18-15 Signature Brett J. Morris, Deputy A.G.  
 Name and Title

FOR COURT USE ONLY



CR-125/JV-525

CASE NAME: An Investigation Before the San Francisco County Grand Jury	CASE NUMBER:
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- 5 a. Put all items checked in item 2c and your completed *Declaration of Custodian of Records* form in an envelope. (You can ask the person in item 4 where to get this form.) Attach a copy of page 1 of this order to the envelope.
- b. Put the envelope inside another envelope. Then, attach a copy of page 1 of this form to the outer envelope or write this information on the outer envelope:
- (1) Case name
  - (2) Case number
  - (3) Your name
  - (4) Hearing date, time, and department
- c. Seal and mail the envelope to the Court Clerk at the address listed in  item 3 or  The court address in the caption on page 1. You must mail these documents to the court within five days of service of this order.
- d. If you are the Custodian of Records, you must also mail the person in item 4 a copy of your completed *Declaration of Custodian of Records*. Do not include a copy of the documents.

— The server fills out the section below. —

### Proof of Service of CR-125/JV-525

1. I personally served a copy of this subpoena on:

Date: February 18, 2015 Time: 9:45  a.m.  p.m.

Name of the person served: Ray Marshall, Esq. Attorney for CPUC - agreed/authorized to accept service

At this address: RMarshall@SheppardMullin.com

After I served this person, I mailed or delivered a copy of this Proof of Service to the person in item 4 on (date): 2-18-15

Mailed from (city): Oakland, CA

2. I received this order for service on (date): \_\_\_\_\_ and was not able to serve (name of person) \_\_\_\_\_ after (number of attempts) \_\_\_\_\_ attempts because:
- a.  The person is not known at this address.
  - b.  The person moved and the forwarding address is not known.
  - c.  There is no such address.
  - d.  The address is in a different county.
  - e.  I was not able to serve by the hearing date.
  - f.  Other (explain): \_\_\_\_\_

3. Server's name: \_\_\_\_\_ Phone no. \_\_\_\_\_

4. The server (check one)

- a.  is a registered process server.
- b.  is not a registered process server.
- c.  is a sheriff, marshal, or constable.
- d.  works for a registered process server.
- e.  is exempt from registration under Business and Professional Code section 22350(b).

5. Server's address: \_\_\_\_\_

If server is a registered process server:

County of registration: \_\_\_\_\_ Registration no.: \_\_\_\_\_

I declare under penalty of perjury under the laws of the State of California that I am at least 18 years old and not involved in this case and the information above is true and correct.

Date: 2-18-15

▶ Brett J. Morris  
TYPE OR PRINT NAME OF SERVER

▶ Brett J. Morris  
SIGNATURE OF SERVER

# EXHIBIT 5

SW No. \_\_\_\_\_

STATE OF CALIFORNIA – COUNTY OF LOS ANGELES

SEARCH WARRANT AND AFFIDAVIT

(AFFIDAVIT)

Special Agent Reye Diaz, California Department of Justice, swears under oath that the facts expressed by him/her in this Search Warrant, and in the attached and incorporated statement of probable cause consisting of 20 pages, are true and that based thereon he/she has probable cause to believe and does believe that the property and/or person described below is lawfully seizable pursuant to Penal Code Section 1524, as indicated below, and is now located at the locations set forth below. Wherefore, affiant requests that this Search Warrant be issued.

NIGHT SEARCH REQUESTED: YES [ ] NO [X] - Justification on page(s) \_\_\_\_\_

Reye Diaz 6/5/15  
(Signature of Affiant)

(SEARCH WARRANT)

THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY SHERIFF, POLICEMAN OR PEACE OFFICER IN THE COUNTY OF LOS ANGELES: proof by affidavit having been made before me by Special Agent Reye Diaz, that there is probable cause to believe that the property described herein may be found at the locations set forth herein and that it is lawfully seizable pursuant to Penal Code Section 1524 as indicated below by "x"(s) in that it:

- \_\_\_\_\_ it was stolen or embezzled
- X \_\_\_\_\_ it was used as the means of committing a felony
- X \_\_\_\_\_ it is possessed by a person with the intent to use it as means of committing a public offense or is possessed by another to whom he or she may have delivered it for the purpose of concealing it or preventing its discovery
- X \_\_\_\_\_ it tends to show that a felony has been committed or that a particular person has committed a felony
- \_\_\_\_\_ it tends to show that sexual exploitation of a child, in violation of Section 311.3, or depiction of sexual conduct of a person under the age of 18 years, in violation of Section 311.11, has occurred or is occurring
- \_\_\_\_\_ there is a warrant for the person's arrest;

YOU ARE THEREFORE COMMANDED TO SEARCH:

See attached Exhibit "A"

FOR THE FOLLOWING PROPERTY:

See attached Exhibit "A"

JUDGE WILLIAM C. RYAN  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF LOS ANGELES  
CRIMINAL WRITS CENTER

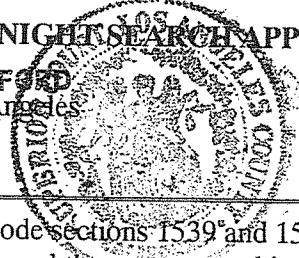
**SEARCH WARRANT (Page 2)**

**AND TO SEIZE IT IF FOUND** and bring it forthwith before me, or this court, at the courthouse of this court. This Search Warrant and incorporated Affidavit was sworn to as true and subscribed before me this 5<sup>th</sup> day of June, 2015, at 10:57 AM P.M. Wherefore, I find probable cause for the issuance of this Search Warrant and do issue it.



(Signature of Magistrate) **DAVID V. HERRIFORD**

Judge of the Superior Court – County of Los Angeles



NIGHT SEARCH APPROVED: YES [ ] NO [ X ]

(Magistrate's Initials)

Be advised that pursuant to California Penal Code sections 1539 and 1540, you may file a written motion in the court of the above-mentioned judge who issued the warrant, seeking return of the property seized pursuant to this warrant.

For further information concerning this search warrant, contact the officer whose name appears on the warrant, Special Agent Reye Diaz at (916) 916-322-2686 or at reye.diaz@doj.ca.gov

**SEARCH WARRANT (Page 3)****EXHIBIT "A"**

**California Public Utilities Commission  
San Francisco Office (Headquarters)  
Or Legal Representatives of CPUC  
505 Van Ness Avenue  
San Francisco, CA 94102  
MAY BE SERVED VIA EMAIL or FAX**

**FOR THE FOLLOWING PROPERTY:**

Any and all records from January 31, 2012 until January 31, 2015, involving the San Onofre Nuclear Generating Station (SONGS) closure settlement agreement, the 2013 meeting between Stephen PICKETT and Michael PEEVEY in Poland, communication(s) pertaining to the determination of when and why SONGS would be closed, commitment of monies for research as a result of the closure of SONGS, and communication(s) pertaining to the settlement of the SONGS Order Instituting Investigation (OII). These records are to include:

1. CPUC will search emails to or from the following individuals:
  - a. Robert Adler – General Counsel, Edison International (now retired)
  - b. Ted Craver – Chairman, President, and Chief Executive Officer, Edison International
  - c. Laura Genao – Director, Regulatory Affairs, SCE
  - d. Michael Hoover – Senior Director of State Energy Regulation, SCE
  - e. Ron Litzinger – President, SCE (now President of Edison Energy)
  - f. R.O. Nichols – Senior Vice President for Regulatory Affairs, SCE
  - g. Stephen Pickett – Executive Vice President, External Relations, SCE (now retired)
  - h. Gary Schoonyan – Director, Strategic Policy Analysis, SCE (now retired)
  - i. Jim Scilacci – Chief Financial Officer, Edison International
  - j. Les Starck – Senior Vice President Regulatory Policy & Affairs, SCE (now retired)
  - k. Bert Valdman – Senior Vice President, Strategic Planning, Edison International (no longer employed)
  - l. Gaddi Vasquez – Senior Vice President, Government Affairs, Edison International
  - m. Russ Worden – Director of External Relations, SCE
  - n. Ron Olson, former Board member, Edison and Edison International
  - o. Michael Peevey (former President of CPUC)
  - p. Michel Florio (Commissioner, CPUC)
  - q. Melanie Darling (ALJ, CPUC)
  - r. Sepideh Khosrowjah (Chief of Staff, Commissioner Florio)
  - s. Paul Clanon (Executive Director, CPUC)
  - t. Carol Brown (former Chief of Staff to President Peevey)
  - u. Audrey Lee (former Advisor to President Peevey)
  - v. Edward Randolph (Director of Energy, CPUC)
2. CPUC will identify employees who were involved in the implementation of the greenhouse gas research provisions of the SONGS OII settlement, specifically with respect to CPUC's understandings or intentions with regard to directing funding to UCLA. CPUC will propose to the

**SEARCH WARRANT (Page 4)**

Attorney General's Office additional employees whose email they will collect for this purpose.

3. CPUC will collect and review emails from the above 22 custodians, plus any other custodians identified pursuant to paragraph 2, that are dated from January 31, 2012 through January 31, 2015.
4. Handwritten notes, documents saved to a hard drive or to a network location, and data on smart phones that is not believed to exist in other locations. CPUC will advise the Attorney General's Office of its progress and plan for collection and review of any such documents.
5. With respect to the categories of documents specified in the search warrant, CPUC will search for, review and produce responsive documents as follows:
  - a. As to documents involving the SONGS settlement, CPUC will produce (1) documents constituting or referring to communications with SCE about the OII prior to execution of the settlement on March 27, 2014 (excluding on-the-record communications such as SCE pleadings filed with the CPUC); and (2) documents constituting communications with TURN or ORA referencing communications from Peevey regarding SONGS or UC in the context of the settlement negotiations up to March 27, 2014.
  - b. As to documents pertaining to the Poland trip in March 2013, CPUC will produce documents constituting or referring to communications during that trip that relate to SONGS. These documents will include any communications or materials regarding SONGS made in anticipation of the trip, any documents or communications regarding SONGS that occurred during the trip, and any communications or materials regarding SONGS created after the trip ended.
  - c. As to the documents regarding funding of research in connection with the SONGS settlement, CPUC will produce documents and all communications that (1) constitute or refer to communications with SCE or UCLA regarding greenhouse gas research as part of the SONGS settlement (excluding on-the-record communications such as pleadings filed with the CPUC and drafts of same; (2) refer to SCE's contributing to the UCLA Luskin Institute at UCLA, the University of California, UCLA's Institute of the Environment and Sustainability, or the California Center for Sustainable Communities at UCLA, in connection with the SONGS settlement; and (3) constitute advocacy directed to the CPUC by local governmental agencies in support of greenhouse gas research as part of the SONGS settlement.

# EXHIBIT 6

SW No. \_\_\_\_\_

STATE OF CALIFORNIA -- COUNTY OF LOS ANGELES

SEARCH WARRANT AND AFFIDAVIT

(AFFIDAVIT)

Special Agent Reve Diaz, California Department of Justice, swears under oath that the facts expressed by him/her in this Search Warrant, and in the attached and incorporated statement of probable cause consisting of 20 pages, are true and that based thereon he/she has probable cause to believe and does believe that the property and/or person described below is lawfully seizable pursuant to Penal Code Section 1524, as indicated below, and is now located at the locations set forth below. Wherefore, affiant requests that this Search Warrant be issued.

NIGHT SEARCH REQUESTED: YES [ ] NO [X] - Justification on page(s) \_\_\_\_\_

*Reve Diaz* 3/9/16  
(Signature of Affiant)

(SEARCH WARRANT)

THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY SHERIFF, POLICEMAN OR PEACE OFFICER IN THE COUNTY OF LOS ANGELES: proof by affidavit having been made before me by Special Agent Reve Diaz, that there is probable cause to believe that the property described herein may be found at the locations set forth herein and that it is lawfully seizable pursuant to Penal Code Section 1524 as indicated below by "x"(s) in that it:

- \_\_\_\_\_ it was stolen or embezzled
- X \_\_\_\_\_ it was used as the means of committing a felony
- X \_\_\_\_\_ it is possessed by a person with the intent to use it as means of committing a public offense or is possessed by another to whom he or she may have delivered it for the purpose of concealing it or preventing its discovery
- X \_\_\_\_\_ it tends to show that a felony has been committed or that a particular person has committed a felony
- \_\_\_\_\_ it tends to show that sexual exploitation of a child, in violation of Section 311.3, or depiction of sexual conduct of a person under the age of 18 years, in violation of Section 311.11, has occurred or is occurring
- \_\_\_\_\_ there is a warrant for the person's arrest;

YOU ARE THEREFORE COMMANDED TO SEARCH:

See attached Exhibit "A"

FOR THE FOLLOWING PROPERTY:

See attached Exhibit "A"



## SEARCH WARRANT (Page 3)

## EXHIBIT "A"

## LOCATION #1:

California Public Utilities Commission  
 San Francisco Office (Headquarters)  
 505 Van Ness Avenue  
 San Francisco, CA 94102  
 MAY BE SERVED VIA EMAIL or FAX

## FOR THE FOLLOWING PROPERTY:

Any and all records from January 31, 2012 until January 31, 2015, involving the San Onofre Nuclear Generating Station (SONGS) closure settlement agreement, the 2013 meeting between Stephen PICKETT and Michael PEEVEY in Poland, communication(s) pertaining to the determination of when and why SONGS would be closed, commitment of monies for research as a result of the closure of SONGS, and communication(s) pertaining to the settlement of the SONGS Order Instituting Investigation (OII). These records are to include:

## 1. CPUC will search emails to or from the following individuals:

- a. Robert Adler – General Counsel, Edison International (now retired)
- b. Ted Craver – Chairman, President, and Chief Executive Officer, Edison International
- c. Laura Genao – Director, Regulatory Affairs, SCE
- d. Michael Hoover – Senior Director of State Energy Regulation, SCE
- e. Ron Litzinger – President, SCE (now President of Edison Energy)
- f. R.O. Nichols – Senior Vice President for Regulatory Affairs, SCE
- g. Stephen Pickett – Executive Vice President, External Relations, SCE (now retired)
- h. Gary Schoonyan – Director, Strategic Policy Analysis, SCE (now retired)
- i. Jim Scilacci – Chief Financial Officer, Edison International
- j. Les Starck – Senior Vice President-Regulatory Policy & Affairs, SCE (now retired)
- k. Bert Valdman – Senior Vice President, Strategic Planning, Edison International (no longer employed by EIX)
- l. Gaddi Vasquez – Senior Vice President, Government Affairs, Edison International
- m. Russ Worden – Director of External Relations, SCE
- n. Ron Olson, former Board member, Edison and Edison International
- o. Michael Peevey (former President of CPUC)
- p. Michel Florio (Commissioner, CPUC)
- q. Melanie Darling (ALJ, CPUC)
- r. Sepideh Khosrowjeh (Chief of Staff, Commissioner Florio)
- s. Paul Clanon (Executive Director, CPUC)
- t. Carol Brown (former Chief of Staff to President Peevey)
- u. Audrey Lee (former Advisor to President Peevey)
- v. Edward Randolph (Director of Energy, CPUC)

2. CPUC will identify employees who were involved in the implementation of the greenhouse gas research provisions of the SONGS OII settlement, specifically with respect to CPUC's understandings or intentions with regard to directing funding to UCLA. CPUC will propose to the Attorney General's

**DECLARATION OF SERVICE BY U.S. MAIL**

Case Name: CPUC/PG&amp;E

No.:

I declare:

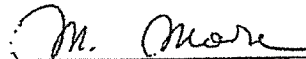
I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On March 21, 2016, I served the attached **PETITION FOR AN ORDER COMPELLING CALIFORNIA PUBLIC UTILITIES COMMISSION TO COMPLY WITH SEARCH WARRANT; DECLARATION OF SPECIAL AGENT REYE DIAZ, FILED UNDER SEAL** by placing a true copy thereof enclosed in a sealed envelope in the internal mail collection system at the Office of the Attorney General at 300 South Spring Street, Suite 1702, Los Angeles, CA 90013, addressed as follows:

DLA Piper, San Diego;  
Attn: Pamela Naughton  
401 B. Street, Suite 1700  
San Diego, CA 92101

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on March 21, 2016, at Los Angeles, California.

M. Moore  
Declarant

  
Signature

# EXHIBIT 7

**From:** Krystal Bowen  
**Sent:** Thursday, January 15, 2015 2:30 PM  
**To:** Brett Morris  
**Cc:** Maggy Krell; Deborah Halberstadt; Raymond Marshall  
**Subject:** RE: Privilege Search Term String

I've spoken with our vendor. Due to the way the forensic images need to be processed (they have to export the files and then process the data), it will take the vendor until Monday to complete. They will then run the search terms and have the load files (without privilege hits) available for you on Monday.

We have added a search term to the end of our string. The new string is:

"Deliberative process" OR "deliberat\* w/5 process" OR "Proposed decision" OR "Agenda review" OR "Closed session" OR "Alternate proposed decision" OR "Alternate Decision" OR APD OR "Attorney-Client" OR "Attorney-Client Privilege" OR "Attorney Client" OR "Attorney Client Privilege" OR "Work Product" OR Allen OR Angelopulo OR Bawa OR Berdge OR Bondonno OR Bone OR Bromson OR "Allison Brown" OR "Lindsay Brown" OR Castro OR Clay OR Dorman OR Dryvynsyde OR Filchev OR Foley OR Foss OR Gasser OR Ghaffarian OR Gruen OR Haga OR Hammond OR Harris OR Hayashida OR Heiden OR Holzschuh OR Hook OR Koltz OR Kwasny OR Lee OR Lippi OR McCrary OR McQuillan OR Mickiewicz OR Miley OR Moldavsky OR Morey OR Morris OR "Harvey Morris" OR Mulligan OR Nataloni OR Obiora OR "Sophia Park" OR Park OR Paull OR Peleo OR Poirier OR Pratt OR "James Ralph" OR Ralph OR Rashid OR Reiger OR Reynolds OR Salvacion OR Shapson OR Shek OR Sher OR Sun OR Jonady OR Thomas OR "Sarah Thomas" OR Tudisco OR Vo OR "Hien Vo" OR Witteman OR Yee OR Youngsmith OR Yun OR Aguilar OR Arth OR Barrera OR Cagen OR Chaset OR Dumond OR Edminister OR Elkins OR Fairchild OR Gallagher OR Guerrero OR Johnson OR "Catherine Johnson" OR Knapp OR Lindh OR Mason OR McKenzie OR Perez OR Perlstein OR "Joel Perlstein" OR Rood OR Scarff OR Vlahos OR Wilson OR Lionel OR Zeller OR Bemederfer OR Burcham OR Bushey OR Clopton OR Colbert OR Darling OR "Melanie Darling" OR DeAngelis OR Duda OR Dudley OR Ebke OR Edmister OR Farrar OR Gamson OR Halligan OR Hecht OR Hymes OR Kenney OR Kersten OR Kim OR "Kimberly Kim" OR Lirag OR Long OR "Douglas Long" OR MacDonald OR Mason OR Mckinney OR Miles OR "Patricia Miles" OR Moosen OR Pulsifer OR Rochester OR Roscow OR Semcer OR Simon OR "Anne Simon" OR Smith OR Sullivan OR Tsen OR Vieth OR Weatherford OR Wilson OR Wong OR Yacknin OR "Yip-Kikugawa" OR Barnett OR Clark OR "Richard Clark" OR Cooke OR Deberry OR Econome OR Fukutome OR Galvin OR Grau OR Henderson OR Jones OR "Karen Jones" OR Kolakowski OR Koss OR Kotz OR Lakritz OR Mattson OR McKenzie OR McVicar OR Minkin OR O'Donnell OR Patrick OR Prestidge OR Ryerson OR TerKeurst OR Thomas OR "Sarah Thomas" OR Walwyn OR Weismehl OR Weissman OR Wetzell OR KJB OR DB3 OR MAB OR KVC OR MCG OR MD2 OR RMD OR DOT OR KD1 OR MEB OR TOD OR EDF OR DMG OR JMH OR JHE OR KHY OR TIM OR CEK OR KK2 OR RL8 OR dug OR KK3 OR RIM OR JMO OR PM6 OR im2 OR SCR OR UNC OR AES OR RS1 OR SUL OR SPT OR XJV OR GW2 OR SMW OR JSW OR HSY OR AYK OR JDA OR PVA OR PFA OR NB2 OR PSB OR BON OR TBO OR JAB OR ALY OR LMB OR LC2 OR CEC OR EDD OR GBD OR LAF OR SF2 OR TTF OR LGX OR PXG OR DJG OR RWH OR CDH OR FNH OR HBH OR GXH OR DAH OR CHH OR JK5 OR IAK OR CWL OR DIL OR KJL OR MLM OR EMM OR HMM OR MM2 OR edm OR CJM OR HYM OR JM4 OR JPN OR NAO OR SJP OR KPP OR map OR mpo OR cgp OR jr8 OR rhd OR jzr OR jr5 OR Lms OR SHA OR SEL OR NMS OR SUN OR SRT OR LJT OR HCV OR WIT OR YEE OR EMY OR SJY OR RAB OR CAB OR RWC OR MLC OR BMD OR JJJ OR DKF OR MFG OR JLG OR KKH OR KAJ OR VSK OR KLK OR KOT OR JOL OR BWM OR MCK OR JCM OR ANG OR JPO OR BDP OR TOM OR VDR OR CFT OR SRT OR CMW OR PSW OR SAW OR MSW OR Dumas OR GBD OR Stoddard OR FJS OR LB3 OR RCC OR LAU OR LE1 OR PGF OR CAJ OR JP8 OR FRL OR RIM OR JTP OR OMV OR LW OR JJZ OR ARO OR PAJ OR CAD OR TOE OR SHG OR ACG OR MFM OR MPG OR JSR OR JES OR "ALL\_LEG" OR "ALL LEG"

In answer to your other question below, we will have to run the produced docs against the ones with privilege hits to determine which docs have already been shared, and can thus be produced to you.

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**From:** Brett Morris [mailto:Brett.Morris@doj.ca.gov]  
**Sent:** Thursday, January 15, 2015 7:20 AM  
**To:** Krystal Bowen  
**Cc:** Maggy Krell; Deborah Halberstadt; Raymond Marshall  
**Subject:** RE: Privilege Search Term String

One other pressing request: Can you give us a time window for retrieval from you of the load files then once these terms are run?

We should have materials by end of day Friday, so we can load and run over the weekend.

Then, we'll push on the privilege estimate of timing.

BTW – once you have hits for these privileged items, how do you plan to Non-privilege those materials, emails, etc that have been copied/forwarded/cc'd or other sharing with outside CPUC folks (such as PG&E)?

Brett J. Morris  
Deputy Attorney General  
(510) 622-2176

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**From:** Krystal Bowen [mailto:KBowen@sheppardmullin.com]  
**Sent:** Thursday, January 15, 2015 7:13 AM  
**To:** Brett Morris  
**Cc:** Maggy Krell; Deborah Halberstadt; Raymond Marshall  
**Subject:** Re: Privilege Search Term String

I think that then answers my question. It sounds like your staff only used two of the three drives provided. We wanted to make sure that the third drive was intentionally not needed/used.

On Jan 15, 2015, at 7:10 AM, Brett Morris <Brett.Morris@doj.ca.gov> wrote:

Thank you.

Did you find out from your vendor about the compression of the material?

Our tech staff indicates that only on 2TB hard drive contained copied material, plus one of the smaller drives provided.

Brett J. Morris  
Deputy Attorney General  
(510) 622-2176

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**From:** Krystal Bowen [mailto:KBowen@sheppardmullin.com]  
**Sent:** Thursday, January 15, 2015 7:08 AM  
**To:** Brett Morris; Maggy Krell; Deborah Halberstadt  
**Cc:** Raymond Marshall  
**Subject:** Privilege Search Term String

Brett,

Below (at the bottom of this email) please find the search term string we intend to run on the materials you provided. This string is based on the names of attorneys and ALJs dating back to 2008, and the following terms:

Attorney-client privilege  
 Work product  
 Agenda review  
 APD  
 Alternate proposed decision  
 Alternate decision  
 Proposed decision  
 Closed session  
 Deliberative process privilege

We reserve the right to make changes to this list as necessary. Should we do so, we will let you know. Please let me know if you have any questions.

Best,  
 Krystal

### **Privilege Search Term String**

"Deliberative process" OR "deliberat\* w/5 process" OR "Proposed decision" OR "Agenda review" OR "Closed session" OR "Alternate proposed decision" OR "Alternate Decision" OR APD OR "Attorney-Client" OR "Attorney-Client Privilege" OR "Attorney Client" OR "Attorney Client Privilege" OR "Work Product" OR Allen OR Angelopulo OR Bawa OR Berdge OR Bondonno OR Bone OR Bromson OR "Allison Brown" OR "Lindsay Brown" OR Castro OR Clay OR Dorman OR Dryvynsyde OR Filchev OR Foley OR Foss OR Gasser OR Ghaffarian OR Gruen OR Haga OR Hammond OR Harris OR Hayashida OR Heiden OR Holzschuh OR Hook OR Koltz OR Kwasny OR Lee OR Lippi OR McCrary OR McQuillan OR Mickiewicz OR Miley OR Moldavsky OR Morey OR Morris OR "Harvey Morris" OR Mulligan OR Nataloni OR Obiora OR "Sophia Park" OR Park OR Paull OR Peleo OR Poirier OR Pratt OR "James Ralph" OR Ralph OR Rashid OR Reiger OR Reynolds OR Salvacion OR Shapson OR Shek OR Sher OR Sun OR Jonady OR Thomas OR "Sarah Thomas" OR Tudisco OR Vo OR "Hien Vo" OR Witteman OR Yee OR Youngsmith OR Yun OR Aguilar OR Arth OR Barrera OR Cagen OR Chaset OR Dumond OR Edminister OR Elkins OR Fairchild OR Gallagher OR Guerrero OR Johnson OR "Catherine Johnson" OR Knapp OR Lindh OR Mason OR McKenzie OR Perez OR Perlstein OR "Joel Perlstein" OR Rood OR Scarff OR Vlahos OR Wilson OR Lionel OR Zeller OR Bemesserfer OR Burcham OR Bushey OR Clopton OR Colbert OR Darling OR "Melanie Darling" OR DeAngelis OR Duda OR Dudley OR Ebke OR Edmister OR Farrar OR Gamson OR Halligan OR Hecht OR Hymes OR Kenney OR Kersten OR Kim OR "Kimberly Kim" OR Lirag OR Long OR "Douglas Long" OR MacDonald OR Mason OR Mckinney OR Miles OR "Patricia Miles" OR Moosen OR Pulsifer OR Rochester OR Roscow OR Semcer OR Simon OR "Anne Simon" OR Smith OR Sullivan OR Tsen OR Vieth OR Weatherford OR Wilson OR Wong OR Yacknin OR "Yip-Kikugawa" OR Barnett OR Clark OR "Richard Clark" OR Cooke OR Deberry OR Econome OR Fukutome OR Galvin OR Grau OR Henderson OR Jones OR "Karen Jones" OR Kolakowski OR Koss OR Kotz OR Lakritz OR Mattson OR McKenzie OR McVicar OR Minkin OR O'Donnell OR Patrick OR Prestidge OR Ryerson OR TerKeurst OR Thomas OR "Sarah Thomas" OR Walwyn OR Weismehl OR Weissman OR Wetzell OR KJB OR DB3 OR MAB OR KVC OR MCG OR MD2 OR RMD OR DOT OR KD1 OR MEB OR TOD OR EDF OR DMG OR JMH OR JHE OR KHY OR TIM OR CEK OR KK2 OR RL8 OR dug OR KK3 OR RIM OR JMO OR PM6 OR im2 OR SCR OR UNC OR AES OR RS1 OR SUL OR SPT OR XJV OR GW2 OR SMW OR JSW OR HSY OR AYK OR JDA OR PVA OR PFA OR NB2 OR PSB OR BON OR TBO OR JAB OR ALY OR LMB OR LC2 OR CEC OR EDD OR GBD OR LAF OR SF2 OR TTF OR LGX OR PXG OR DJG OR RWH OR CDH OR FNH OR HBH OR GXH OR DAH OR CHH OR JK5 OR IAK OR CWL OR DIL OR KJL OR MLM OR EMM OR HMM OR MM2 OR edm OR CJM OR HYM OR JM4 OR JPN OR NAO OR SJP OR KPP OR map OR mpo OR cgp OR jr8 OR rhd OR jzr OR jr5 OR Lms OR SHA OR SEL OR NMS OR SUN OR SRT OR LJT OR HCV OR WIT OR YEE OR EMY OR SJY OR RAB OR CAB OR RWC OR MLC OR BMD OR JJJ OR DKF OR MFG OR JLG OR KKH OR KAJ OR VSK OR KLK OR KOT OR JOL OR BWM OR MCK OR JCM OR ANG OR JPO OR BDP OR TOM OR VDR OR CFT OR SRT OR CMW OR PSW OR SAW OR MSW OR Dumas OR GBD

OR Stoddard OR FJS OR LB3 OR RCC OR LAU OR LE1 OR PGF OR CAJ OR JP8 OR FRL OR RIM OR JTP OR  
OMV OR LW OR JJZ OR ARO OR PAJ OR CAD OR TOE OR SHG OR ACG OR MFM OR MPG OR JSR OR JES

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# EXHIBIT 8



**From:** Krystal Bowen  
**Sent:** Wednesday, February 04, 2015 7:49 AM  
**To:** 'Brett Morris'  
**Cc:** Raymond Marshall; 'Deborah Halberstadt'; 'Maggy Krell'  
**Subject:** RE: CPUC Documents

Mr. Morris,

I did not attempt to reach you yesterday because during or call on Monday evening, you indicated that you would not be in the office then. Therefore, I was waiting until this morning – when we might actually have an opportunity to connect – to reach out to you.

As indicated in an earlier email, on January 20 we produced approximately 845,917 documents to you, leaving approximately 247,646 potentially privileged documents (of the 1,093,654 that you provided to us from your execution of the search warrant) for us to review. Additionally, as you are aware, we are also in the process of producing documents responsive to requests from other authorities.

The CPUC has been – and continues to be – cooperative with your agency. To that end, to the extent that there is overlap in the materials that we have already produced in response to a subpoena and those that are called for by your search warrant, we will identify them and produce them to you. While we will not be able to do that today, we will be able to make that production next week. We will then continue to review and produce to you any other potentially privileged documents that we determine are not in fact privileged on a rolling basis. Following next week's production, we expect to be able to make another production by the end of this month, and will keep you apprised of the status of further productions.

As always, I am happy to discuss this with you further. Please let me know if there is a time today that you would like to speak. I can be available at any time other than noon - 2 p.m.

Best regards,  
Krystal

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**From:** Brett Morris [<mailto:Brett.Morris@doj.ca.gov>]  
**Sent:** Wednesday, February 04, 2015 6:39 AM  
**To:** Krystal Bowen  
**Cc:** Raymond Marshall; Deborah Halberstadt; Maggy Krell  
**Subject:** CPUC Documents

Ms. Bowen-

After our call Monday evening, I believe Mr. Marshall said that you would be contacting me on Tuesday with information about the CPUC documents.

I was away from the office yesterday, but checking this morning I have not found any correspondence or communications from you or your office.

Could you please let me know this morning if documents will be made available to us today?  
Also, I am still waiting for some update on the process and expectations of timing and finality.

Thank you for your attention to this matter.

Brett J. Morris  
Deputy Attorney General  
(510) 622-2176

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# EXHIBIT 9

**From:** Krystal Bowen  
**Sent:** Friday, March 13, 2015 5:56 AM  
**To:** Brett Morris  
**Cc:** Raymond Marshall; Deborah Halberstadt; Maggy Krell  
**Subject:** Re: CPUC Documents

Counsel,

We are continuing to work diligently to review and produce the non-privileged documents responsive to your office's numerous requests (in addition to those required to be produced to other sources).

We expect to be able to complete review and production of the tens of thousands of potentially responsive documents to your Grand Jury Subpoena #1 by mid-late April. Within that same timeframe, we also expect to complete any additional/supplemental production of documents responsive to your Grand Jury Subpoena #2. Further, it is our goal to complete production of documents responsive to your Grand Jury Subpoena #3 by the end of March.

As we have previously indicated to you, our review of the potentially privileged documents identified by our team following your office's execution of the search warrant has been delayed by our need to respond to the 3 subpoenas you have served (each with specified dates of production) in the interim. As a result – and assuming that there are no additional subpoenas served by your office that require a response before then – we expect to be able to start a rolling production of that material in May.

Best regards,

Krystal

On Mar 12, 2015, at 7:25 AM, Brett Morris <[Brett.Morris@doj.ca.gov](mailto:Brett.Morris@doj.ca.gov)> wrote:

Counsel-

Do you have a status update that you could provide this morning? Specifically, I am interested in your progress on:

- Review of the potentially privileged documents isolated by your team on January 20, 2015.
- Documents responsive to GJ Subpoena #1.
- Additional/supplemental documents responsive to Subpoena #2.
- Completion of production for documents responsive to Subpoena #3.

Thank you for any information that you can provide this morning.

Brett J. Morris  
Deputy Attorney General  
(510) 622-2176

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**From:** Brett Morris  
**Sent:** Friday, February 13, 2015 11:38 AM  
**To:** 'Krystal Bowen'  
**Cc:** Raymond Marshall; Deborah Halberstadt; Maggy Krell  
**Subject:** RE: CPUC Documents

Counsel-

I write to confirm points discussed and commitments made during our telephone conversation.

You proposed that within one month you would start producing to us those non-privileged items after review by your team of the documents contained within the 247,646 potentially privileged documents that you isolated on January 20, 2015. We understand that these non-privileged documents will be provided on a rolling basis.

I stressed that documents, or the information contained within those documents, should not be considered privileged or isolated from that evidence authorized to be seized by the search warrant where the documents or the information contained with those documents had been sent, shared, forwarded or otherwise provided to other parties.

I encouraged you on behalf of CPUC to produce to us any of the CPUC documents that had been previously produced, released or provided pursuant to other requests such as governmental investigations, formal records requests or other informal means of obtaining CPUC materials. I suggested that previous release of these documents would indicate a waiver of any claim of privilege and may shorten considerably the physical amount of documents to review as well as the amount of resources needed to review those previously-released documents again.

You expressed that there are difficulties for you to simply copy previously-produced materials. You indicated that logistics were involved such as technical issues.

Thank you for your attention to this matter. Any time that you have documents to provide to us in less than your one-month time frame for production, please let me know so that we can arrange for the expedited receipt of that material.

Brett J. Morris  
Deputy Attorney General  
(510) 622-2176

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**From:** Krystal Bowen [<mailto:KBowen@sheppardmullin.com>]  
**Sent:** Wednesday, February 11, 2015 10:39 AM  
**To:** Brett Morris  
**Cc:** Raymond Marshall; Deborah Halberstadt; Maggy Krell  
**Subject:** Re: CPUC Documents

Good morning. We will give you a call @ 11:15. Thanks.