

**UNITED STATES COURT OF APPEALS  
FOR THE  
DISTRICT OF COLUMBIA CIRCUIT**

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Northern California Power Agency, )

Petitioner, )

v. )

Nuclear Regulatory Commission, et al., )

Respondents. )

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Case No. 03-1038

**RESPONSE OF  
THE CITY OF SANTA CLARA, CALIFORNIA,  
TO THE COURT'S APRIL 9, 2003 ORDER**

The City of Santa Clara, California ("Santa Clara"), by and through its attorneys.

James D. Pembroke and Lisa S. Gast, Duncan, Weinberg, Genzer & Pembroke, P.C., 1615 M Street, N.W., Suite 800, Washington, DC 20036, hereby submits its Response to the Court's April 9, 2003 Order and states as follows:

Santa Clara notifies the Court that it supports the position of the Petitioner, Northern California Power Agency ("NCPA").

Santa Clara currently intends to raise the following issues, each of which is reflected in NCPA's "Statement of Issues to Be Raised" filed in this case on March 28, 2003:

1. Whether the Nuclear Regulatory Commission erred in finding that it lacked any legal authority to transfer the antitrust license conditions in the present license for the Diablo Canyon Nuclear Power Plant to the new entities proposed to be created under Pacific Gas & Electric Company's reorganization plan.

2. Whether the Commission's proposed removal of antitrust conditions from a nuclear license without holding a hearing, or conducting an antitrust review, is contrary to the Atomic Energy Act and to Commission regulations.
3. Whether the Commission's conscious deprecation of its statutory antitrust mission, as evidenced in its order below, is arbitrary, capricious, and contrary to law.
4. Whether the Commission may allow a licensee that shuffles assets among corporate affiliates to thereby escape the constraints of antitrust conditions which the licensee accepted as term of its license, without conducting a hearing into whether the licensee's corporate reorganization would in any way affect the concerns which led to the imposition of the antitrust conditions.

Additionally, Santa Clara may raise the following issue:

1. Whether Commission erred in determining that its proposed removal of the antitrust conditions would not adversely affect Santa Clara's and others' ability to enforce those antitrust conditions.

Dated: April 16, 2003

Respectfully submitted,



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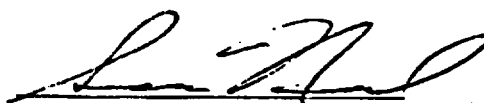
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Attorneys for the City of Santa Clara, California

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Response of the City of Santa Clara, California, to the Court's April 9, 2003 Order was served upon each of the parties reflected on the attachment hereto by United States Mail, postage prepaid, this 16<sup>th</sup> day of April 2003.

Dated at Washington, D.C., this 16th day of April, 2003.



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