

TERA

In the Matter of  
PACIFIC GAS AND ELECTRIC COMPANY, ET AL.  
(Stanislaus Nuclear Project, Unit No. 1)  
Docket No. P-564A

Attached is a CORRECTED page 2 to attachment to letter from John Hoyle,  
Acting Secretary of the Commission to David N. Barry, III, Southern  
California Edison Company, dated August 16, 1979 regarding ALAB-550.

1127 302

7910050 679

Finally, the standard used by the Appeal Board offers little guidance to licensing boards or parties and, in my view, embodies a standard so broad as to be all-inclusive. I would have preferred that the Commission itself determine the appropriate standard to be applied for reimbursement when non-parties incur substantial search costs as a result of subpoenas arising out of NRC proceedings. At the very least, as a matter of equity, a non-party should not be required to absorb substantial search costs when the party seeking the documents is equally capable of reimbursement.

---

\*/ For example, in U.S. v. Farmers & Merchants Bank, 397 F. Supp 418 (C.D. Cal. 1975) the court explicitly addressed the question of the appropriate test for reimbursement of compliance costs to non-parties. The Court defined a cost of doing business as one predictably part of the business, one which falls upon all equally, and one which was specifically evaluated by the legislature and imposed by it upon those engaged in a given business. While this case also arose in the context of an IRS investigative summons there is little reason to believe that a standard less protective of non-parties should be imposed where the party seeking the documents is capable of reimbursing costs and is not a governmental entity which is charged by Congress with enforcing the governing statutory regime.

cc: Chairman Hendrie  
Commissioner Gilinsky  
Commissioner Bradford  
Commissioner Ahearne  
L. Bickwit, OGC

1127 303