

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT



SOUTHERN CALIFORNIA )  
EDISON COMPANY, )  
 )  
Petitioner, )  
 )  
v. )  
 )  
UNITED STATES NUCLEAR )  
REGULATORY COMMISSION, )  
 )  
Respondent. )

MOTION TO DISMISS APPEAL  
NO. 79-7529  
NRC DKT. NO. P-564A

POINTS AND AUTHORITIES

Southern California Edison Company ("Edison") hereby moves to dismiss its appeal in this action.

Edison originally filed a petition for review in this Court on October 15, 1979. The Court granted two orders to stay briefing pending settlement negotiations. The second order was to expire on June 5, 1980. However, the settlement negotiations were successful and an agreement has been reached by stipulation. (See Exhibit "A")

Edison therefore respectfully requests that its motion to dismiss its appeal be granted, each party to bear its own costs, if any.

DATED: May 6, 1980

DAVID N. BARRY, III  
THOMAS E. TABER  
EUGENE WAGNER  
2244 Walnut Grove Avenue  
Rosemead, California 91770

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IRWIN F. WOODLAND  
ARTHUR L. SHERWOOD  
ROBERT A. RIZZI  
GIBSON, DUNN & CRUTCHER  
515 South Flower Street  
Los Angeles, California 90071

By Robert A. Rizzi  
Robert A. Rizzi  
Attorneys for Petitioner  
Southern California Edison Company

DECLARATION OF ROBERT A. RIZZI

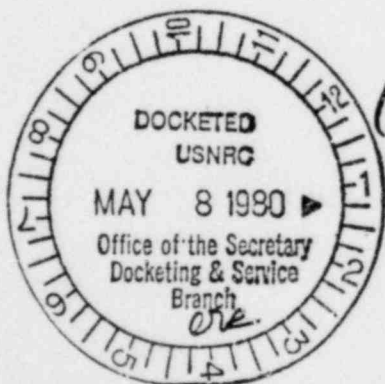
I, ROBERT A. RIZZI, declare as follows:

1. I am an attorney, a member of the bar of the State of California, and an associate of the law firm of Gibson, Dunn & Crutcher, 515 South Flower Street, Los Angeles, California 90071. I have personal first hand knowledge of the facts herein, and if called as a witness, I could and would testify competently thereto under oath.

2. The parties to this appeal have reached negotiated agreements, which have resulted in the settlement of their discovery dispute. A true and correct copy of the Stipulation to and Order of the Nuclear Regulatory Commission Licensing Board concerning these settlements are attached to this declaration as Exhibit "A".

Executed on the 6th day of May, 1980 at Los Angeles, California.

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



*Robert A. Rizzi*  
Robert A. Rizzi

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD



In the Matter of )

PACIFIC GAS AND ELECTRIC COMPANY )  
(Stanislaus Nuclear Project, )  
Unit 1) )

NRC Docket No. P-564A

STIPULATION CONCERNING THE PRODUCTION  
OF DOCUMENTS BY SOUTHERN CALIFORNIA EDISON COMPANY

BACKGROUND

On August 24, 1978, the State of California Department of Water Resources ("DWR") applied to the Licensing Board for issuance of a subpoena duces tecum directed to the Southern California Edison Company ("Edison") requiring the production of certain categories of documents. The Chairman of the Licensing Board signed the Subpoena Duces Tecum ("the subpoena") attached to DWR's application on August 28, 1978. DWR served the subpoena on Edison by mail on November 17, 1978, and Edison moved to quash the subpoena on December 29, 1978. DWR and the NRC Staff opposed Edison's motion to quash the subpoena. The Licensing Board issued an Order dated January 25, 1979, denying Edison's Motion to Quash and ordering Edison to produce the documents requested by the subpoena as conditioned by the Board's Order ("conditioned subpoena"). The Licensing Board's order was upheld by the Appeal Board in a Decision dated June 15, 1979, which the Commission declined to review.

Pursuant to the Licensing Board's August 15, 1979 order to the parties to narrow the scope of the subpoena, if possible, and in any event to submit a schedule for the production of documents by Edison, Edison and DWR reached an agreement embodied in the "Joint Statement of Southern California Edison Company and the State of California Department of Water Resources" ("Edison-DWR Joint Statement"), dated October 26, 1979. Similarly, Edison and the

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NRC Staff reached a separate agreement entitled "Agreement and Joint Statement of Southern California Edison Company and the Staff of the Nuclear Regulatory Commission" ("Edison-Staff Agreement"), dated April 1, 1980.

STIPULATION

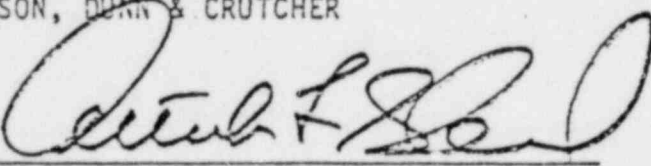
Based on the above facts, Edison, DWR and the NRC Staff hereby stipulate as follows:

- (1) The production of documents by Edison pursuant to the Edison-DWR Joint Statement and the Edison-Staff Agreement will be deemed to fully satisfy the subpoena in this proceeding;
- (2) Neither DWR nor Staff will otherwise seek enforcement of the subpoena, nor will either seek by any means, including subpoenas, to compel the production of any other documents by Edison in this docket; and
- (3) Edison will withdraw its appeal concerning the subpoena currently pending before the United States Court of Appeals for the 9th Circuit.

DATED: 4/10/80

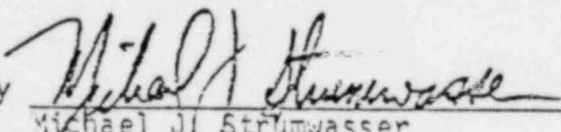
DAVID N. BARRY, III.  
THOMAS E. TABER  
EUGENE WAGNER

IRWIN F. WOODLAND  
ARTHUR L. SHERWOOD  
ROBERT A. RIZZI  
GIBSON, DUNN & CRUTCHER

By   
Arthur L. Sherwood  
Attorneys for Southern California  
Edison Company

DATED: 4/10/80

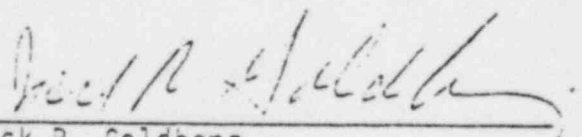
GEORGE DEUKMEJIAN, Attorney General  
of the State of California  
R.H. CONNETT,  
SANFORD N. GRUSKIN,  
Assistant Attorneys General  
of the State of California  
H. CHESTER HORN, JR.,  
MICHAEL J. STRUMWASSER,  
Deputy Attorneys General  
of the State of California

By   
Michael J. Strumwasser  
Deputy Attorney General

Attorneys for State of California  
Department of Water Resources

DATED: April 1, 1980

U.S. NUCLEAR REGULATORY COMMISSION STAFF

By   
Jack R. Goldberg  
Counsel for NRC Staff

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION



THE ATOMIC SAFETY AND LICENSING BOARD

Marshall E. Miller, Esquire, Chairman  
Sheldon J. Wolfe, Esquire, Member  
Seymour Wenner, Esquire, Member

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

ORDER APPROVING THE STIPULATION CONCERNING THE  
PRODUCTION OF DOCUMENTS BY SOUTHERN CALIFORNIA  
EDISON COMPANY  
(April 23, 1980)

The attached "Stipulation Concerning the Production of Documents  
by Southern California Edison Company" is hereby approved.

It is so ordered.

FOR THE ATOMIC SAFETY AND  
LICENSING BOARD

*Marshall E. Miller*  
Marshall E. Miller, Chairman

Dated at Bethesda, Maryland  
this 23rd day of April 1980.

EXHIBIT A

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UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

SOUTHERN CALIFORNIA	)	
EDISON COMPANY,	)	
	)	
Petitioner,	)	ORDER
	)	
v.	)	NO. 79-7529
	)	
UNITED STATES NUCLEAR	)	NRC DKT. NO. P-564A
REGULATORY COMMISSION,	)	
	)	
Respondent.	)	
_____	)	

It is hereby ordered that the appeal of petitioner Southern California Edison Company shall be dismissed. All parties to bear their own costs, if any.  
DATED: May , 1980.

\_\_\_\_\_  
Judge, United States Court  
of Appeals, Ninth Circuit



CERTIFICATE OF SERVICE

Betty Burke certifies as follows:

I am a citizen of the United States and am employed in the County of Los Angeles, State of California; I am over the age of eighteen years and am not a party to this action; my business address is 515 South Flower Street, Los Angeles, in said County and State; I am employed in the office of Robert A. Rizzi, a member of the bar of this Court, and at his direction on the 6th day of May, 1980, I served the within MOTION TO DISMISS APPEAL, DECLARATION OF ROBERT A. RIZZI, AND ORDER on the interested parties in this action, by placing \_\_\_\_\_ true copy(ies) thereof in an envelope addressed to their attorney(s) of record, addressed as follows:

(See attached list)

and by then sealing said envelope and depositing the same, with postage thereon fully prepaid, in the mail at Los Angeles, California.

I certify under penalty of perjury that the foregoing is true and correct.

Executed on May 6, 1980 at Los Angeles, California.

\_\_\_\_\_  
Declarant

Richard H. Deane, Esq.  
Clerk of Court  
United States Court of Appeals  
Ninth Judicial Circuit  
P. O. Box 547  
San Francisco, California 94101

Honorable Marshall E. Miller  
Chairman  
Atomic Safety and Licensing Board  
U. S. Nuclear Regulatory Commission  
Washington, D. C. 20555

Honorable Edward Luton  
Atomic Safety and Licensing Board  
U. S. Nuclear Regulatory Commission  
Washington, D. C. 20555

Honorable Alan S. Rosenthal  
Chairman  
Atomic Safety and Licensing Appeal  
Board  
U. S. Nuclear Regulatory Commission  
Washington, D. C. 20555

Honorable Michael C. Farrar  
Atomic Safety and Licensing Appeal  
Board  
U. S. Nuclear Regulatory Commission  
Washington, D. C. 20555

Honorable Jerome E. Sharfman  
Atomic Safety and Licensing Appeal  
Board  
U. S. Nuclear Regulatory Commission  
Washington, D. C. 20555

Atomic Safety and Licensing  
Board Panel  
U. S. Nuclear Regulatory Commission  
Washington, D. C. 20555

Docketing and Service Section  
Office of the Secretary  
U. S. Nuclear Regulatory Commission  
Washington, D. C. 20555

Joseph J. Saunders, Esq.  
Antitrust Division  
U. S. Department of Justice  
Washington, D. C. 20530

Mark Levin, Esq.  
Antitrust Division  
U. S. Department of Justice  
Washington, D. C. 20044

Jack R. Goldberg, Esq.  
Counsel to Staff  
U. S. Nuclear Regulatory Commission  
Washington, D. C. 20555

Benjamin H. Vogler, Esq.  
Counsel to Staff  
U. S. Nuclear Regulatory Commission  
Washington, D. C. 20555

Fredric D. Chanania, Esq.  
Counsel to Staff  
U. S. Nuclear Regulatory Commission  
Washington, D. C. 20555

Jerome Saltzman, Chief  
Antitrust and Indemnity Group  
U. S. Nuclear Regulatory Commission  
Washington, D. C. 20555

John C. Morrissey, Esq.  
Philip A. Crane, Jr., Esq.  
Glen West, Esq.  
Pacific Gas and Electric Company  
77 Beale Street  
San Francisco, CA 94106

Morris M. Doyle, Esq.  
Terry J. Houlihan, Esq.  
McCutchen, Doyle, Brown & Enersen  
Three Embarcadero Center  
San Francisco, CA 94111

George Spiegel, Esq.  
Robert C. McDiarmid, Esq.  
Daniel I. Davidson, Esq.  
Spiegel & McDiarmid  
2600 Virginia Avenue, N.W.  
Washington, D. C. 20037

Sandra J. Strebel  
Peter K. Matt, Esq.  
Bonnie S. Blair  
Spiegel & McDiarmid  
2600 Virginia Avenue, N.W.  
Washington, D. C. 20037

Clarice Turney, Esq.  
Office of the City Attorney  
3900 Main Street  
Riverside, CA 92521

Gordon W. Hoyt  
Utilities Director  
City of Anaheim  
P. O. Box 3222  
Anaheim, CA 92803

Everett C. Ross, Director  
Public Utilities Commission  
City Hall  
3900 Main Street  
Riverside, CA 92501

George Deukmejian  
Attorney General of the  
State of California  
Warren J. Abbott  
Robert H. Connett  
Assistant Attorneys General  
H. Chester Horn, Jr.  
Michael J. Strumwasser  
Deputy Attorneys General  
555 Capitol Mall, Suite 350  
Sacramento, CA 95814