

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

Petition of Black Economic Council, National
Asian American Coalition, and Latino Business
Chamber of Greater Los Angeles to Adopt,
Amend, or Repeal a Regulation Pursuant to
Public Utilities Code § 1708.5

Petition 12-02-_____

**BLACK ECONOMIC COUNCIL, NATIONAL ASIAN AMERICAN COALITION AND
LATINO BUSINESS CHAMBER OF GREATER LOS ANGELES**

PETITION FOR RULEMAKING (RULE 6.3)

Faith Bautista, President
National Asian American Coalition

Jorge Corralejo, Chairman and President
Latino Business Chamber of Greater Los Angeles

Len Canty, Chairman,
Black Economic Council

Robert Gnaizda, Of Counsel
Shalini Swaroop, Senior Staff Attorney

1758 El Camino Real,
San Bruno, CA 94066
(650) 952-0522
RobertGnaizda@gmail.com

February 23, 2012

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

Petition of Black Economic Council, National Asian American Coalition, and Latino Business Chamber of Greater Los Angeles to Adopt, Amend, or Repeal a Regulation Pursuant to Public Utilities Code § 1708.5

Petition 12-02-_____

**BLACK ECONOMIC COUNCIL, NATIONAL ASIAN AMERICAN COALITION AND
LATINO BUSINESS CHAMBER OF GREATER LOS ANGELES**

PETITION FOR RULEMAKING (RULE 6.3)

I. INTRODUCTION

Pursuant to § 1708.5 of the California Public Utilities Code and Section 6.3 of the Commission’s Rules of Practice and Procedure, the Black Economic Council, the National Asian American Coalition, and the Latino Business Chamber of Greater Los Angeles (hereinafter “Joint Parties”) hereby petitions the Commission (the “CPUC” or the “Commission” to issue an Order Instituting Rulemaking (“OIR ”) regarding the verification of information by outside auditors criticized by PCAOB who are used by investor -owned utilities (IOUs) as it affects the accuracy of rate increases, executive compensation and all other audits. This petition is filed in the context of growing concerns about the accuracy of CPA audits.

In the ongoing Sempra rate proceeding, the Joint Parties have previously raised the issue of the Public Company Accounting Oversight Board’s (PCAOB’s) determination that Deloitte & Touche’s so-called independent audits of Sempra are suspect. ¹ These independent audits are

¹ Please see A.10-12-005 and A.10-12-006, *Motion of the Joint Parties to Compel Testimony of Auditing Partner of Deloitte & Touche, Mr. K. Alan Lonbom.*

likely to affect future rate increases, executive bonuses and diversions of ratepayer funding from intended purposes. The auditors for the big three utilities have all been determined to be suspect by the PCAOB. (See, Wall Street Journal, December 21, 2011, “Accounting Board Finds Faults in Deloitte Audits,” New York Times, 10/17/11, “Accounting Board Criticizes Deloitte’s Auditing System” and Wall Street Journal, 10/18/11, “Audit Watchdog Criticized Deloitte Quality Controls in '08.”)

However, based upon the ruling in the Sempra case discussed below, it appears that this Commission believes that there are better avenues for the exploration of this issue. If this issue cannot be raised in ongoing general rate cases, then it should instead be raised within another forum within the CPUC. With this in mind, the Joint Parties urge an expedited Order Instituting a Rulemaking (OIR) to ascertain the impact, if any, of faulty independent audits by Deloitte & Touche, PricewaterhouseCoopers, Ernst & Young, and KPMG (known as the Big Four CPA firms) on utilities with one billion dollars or more in revenue.

This rulemaking request is also consistent with the January 18th, 2012 pledges by Commissioners Florio and Sandoval at their Senate Rule Committee confirmation hearings. Both committed to “making more information available regarding the Commission’s oversight of Pacific Gas and Electric and other utilities.” (San Francisco Chronicle, 1/19/12, “Regulators Pledge to Be More Open.”) It is also consistent with all of the Commissioners’ position that we need “to step up [our] safety auditing....” (Commissioner Sandoval comments, San Francisco Chronicle, *id.*)

As set forth in the section of this petition, “These Concerns Are Not Isolated to the California Utility Industry, as Evidenced by the Public Company Accounting Oversight Board” (p. 10), the Chairs of the Black Economic Council, the Latino Business Chamber of Greater Los

Angeles and the National Asian American Coalition raised these issues throughout meetings occurring on their trip to Washington D.C. during the week of February 13, 2012. These meetings were held with the Public Company Accounting Oversight Board (PCAOB), the Anti-Trust Division of the Department of Justice, and the Anti-Trust and Consumer Divisions of the Federal Trade Commission.

As set forth in the same section, there is a duopoly controlling the utility industry's audits. Nationwide, nine of the ten largest utilities by customers use either Deloitte & Touche or PricewaterhouseCoopers (PWC). As set forth herein, PG&E and Semptra use Deloitte & Touche and Southern California Edison (SCE) uses PWC.

The duopoly concern is similar to the concern this Commission raised in the AT&T/T-Mobile case. However, the Federal Trade Commission concerns are dual. The first is whether consumers (ratepayers) are adversely affected. The second is the major impact of the duopoly on the future for the public.

On February 21, 2012, Assembly Utilities and Commerce Committee Chairman Steven Bradford's office asked that the Joint Parties provide updates on this proceeding and on any actions by the Joint Parties before federal regulatory bodies that may affect this petition for rulemaking.

II. THE PETITIONERS

All three of the organizations have interrelated expertise relating to small business issues and minority issues. The Joint Parties also have overlapping expertise regarding a wide range of consumer and low-income issues are currently participating in a number of proceedings before the CPUC, including general rate cases, the smart grid deployment cases, the rulemaking in

regards to the San Bruno gas pipeline explosion, and the consolidated CARE and ESA Program cases.

The Black Economic Council (BEC), perhaps more than any other Black business organization in California, conducts a wide range of technical assistance and capacity building programs participated in by many of the utilities. They receive continual input from the Black small business community relating to the availability of contracts and CPUC utility procedures pursuant thereto. They are also one of the leading Black advocacy voices for the nation's 40 million Blacks, including the almost three million in California. As a result, they are in constant contact with a wide range of Black and other minority, consumer and community groups on issues affecting ratepayers in rate proceedings, including low-income issues, since the Chairman of the BEC previously served on the Low Income Oversight Board.

The National Asian American Coalition (NAAC) advocates for a broad range of small Asian American businesses through technical assistance and capacity building programs. The President & CEO of NAAC is presently on the CPUC's Low Income Oversight Board, a former member of the Sempra Consumer Advisory Council and the federal Office of Thrift Supervision's Minority Depository Institutions Advisory Committee. As with the BEC, NAAC conducts numerous technical assistance and capacity building seminars and is one of the more influential Asian American organizations relating to the Asian American consumers' and ratepayers' needs throughout California. The NAAC has conducted surveys relating to ratepayers in general, including relating to the Sempra rate increase and the PG&E gas explosion issues, has daily outreach with Asian American ratepayer homeowners (having served over 5,000 California homeowners in distress in 2010) and has met with officials from Edison, Sempra and PG&E recently on key consumer/ratepayer and low-income issues. The NAAC also hosts a

twice weekly prime time TV program entitled “Asian News in America.” It highlights key issues affecting both small business and consumer issues among our nation’s estimated 18 million Asian Americans and two million small Asian American owned businesses.

The Latino Business Chamber of Greater Los Angeles (LBCGLA) directly or indirectly serves 500,000 Latino owned businesses, 98% of whom qualify as small businesses. The LBCGLA is one of the nation’s most respected minority small business institutions and the largest Latino chamber in California. For example, in June 2010, President Obama invited the LBCGLA to a private meeting with his most senior officials on the affairs of the Latino community. LBCGLA was the only Latino business chamber invited.

III. COMMUNICATIONS

Pleadings and other communications pertaining to this proceeding should be served on the three parties:

Len Canty
Black Economic Council
484 LakePark Ave. Suite 338
Oakland, California 94610
(510)452-1337
(510) 835-8621 (fax)
Email: lencanty@blackeconomiccouncil.org

Faith Bautista, President
National Asian American Coalition
1758 El Camino Real
San Bruno, CA 94066
(650) 953-0522
(650) 952-0530 (fax)
Email: fbautista@naacoalition.org

Jorge Corralejo, Chairman and President
Latino Business Chamber of Greater Los Angeles
634 S. Spring Street, Suite 600
Los Angeles, California 90014
(213) 347-0008
(213) 347-0009 (fax)
Email: jcorralejo@lbcgla.org

as well as a copy to their counsel:

Robert Gnaizda
1758 El Camino Real
San Bruno, CA 94066
(650) 953-0522
(650) 952-0530 (fax)
Email: robertgnaizda@gmail.com

Shalini Swaroop
1758 El Camino Real
San Bruno, CA 94066
(650) 953-0522
(650) 952-0530 (fax)
Email: sswaroop@naacoalition.org

IV. BASIS FOR PETITION

A. THE FINANCIAL AUDITS RELIED UPON BY THE CPUC FACE SERIOUS CONCERNS AS TO INDEPENDENCE AND IMPARTIALITY

The San Francisco Chronicle front-page article of January 13th, “State Calls PG&E Lawbreaker: Utility Diverted Safety Funds Into Profit,” is a stark reminder of the importance of this Commission receiving reliable and accurate independent audits, not just for Pacific Gas & Electric (PG&E), but for all utilities.² (Both PG&E and Sempra use Deloitte & Touche for data

² In the PG&E case, for example, the audits failed to uncover or note the diversion of 100 million dollars in gas, safety and operations money over a 15 -year period to shareholders and for executive bonuses. There is every reason

submitted to the CPUC. Deloitte & Touche has been singled out by the PCAOB for unreliable data, not following generally accepted accounting principles and being a pawn of management.³⁾

There may be numerous problems relating to data that this Commission has relied on. This may one day haunt and damage this Commission's reputation and cost the ratepayers billions of dollars. This will be unfair to this Commission, especially because the Joint Parties recognize that all the commissioners are highly dedicated and have impeccable integrity.

For far too long, this Commission and other commissions across the country have unduly relied on the accuracy of so-called independent audits of financial data prepared by the Big Four CPA firms. The Joint Parties are unaware of any major California utility that has not been audited by the Big Four; Deloitte & Touche alone is estimated to be the auditor of 40 percent of all major utility and energy companies, including the auditor for both PG&E and Sempra Energy, which includes San Diego Gas & Electric and Southern California Gas.

The evidence that the three minority business and community organizations have as to the utilities and their suspect CPA firms is as follows:

- a. Sempra has used the same auditor, Deloitte & Touche, for more than fifty consecutive years.⁴ As to PG&E, the Joint Parties do not yet have the information as to how long PG&E has used Deloitte & Touche, but the relationship goes back to at least 2006 or for

to assume similar problems exist at the other major utilities. The online version of this article can be found at: <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2012/01/13/MNUS1MOSUC.DTL>

³ PG&E's financial data that this Commission relies upon for rate increases and executive bonuses, is audited by its long-term auditor, Deloitte & Touche. Deloitte & Touche has been the auditor for Sempra for more than fifty years and its audit may affect the proposed 2.4 billion dollar Sempra rate increase. Deloitte & Touche, more than any other CPA firm, has been consistently and recently criticized by the PCAOB for the inaccuracy of its data, its cozy relationship with its management and its lack of independence. See, Wall Street Journal, December 21, 2011, "Accounting Board Finds Faults in Deloitte Audits," New York Times, 10/17/11, "Accounting Board Criticizes Deloitte's Auditing System" and Wall Street Journal, 10/18/11, "Audit Watchdog Criticized Deloitte Quality Controls in '08."

⁴ Please see "Annual Report to Security Holders, page 138, located at: <http://www.sec.gov/Archives/edgar/vpr/08/9999999997-08-017859>

the last five years.⁵ The Joint Parties have no information at this point as to Southern California Edison's (SCE's) timeframe in using PricewaterhouseCoopers. However, contemporaneous to this filing, the Joint Parties will inquire of all the utilities, to secure information and other pertinent information that may be helpful in this considering this proposed OIR.

- b. The Joint Parties know for a certainty, because of their involvement in the present pending general rate cases, that the auditors used by SCE and Sempra (PricewaterhouseCoopers and Deloitte & Touche, respectively), provide cozy management type consultant services. These cozy relationships are of concern to the PCAOB because they affect the independence and accuracy of the audits. It is therefore likely that Deloitte & Touche provides a similar cozy type management services for PG&E. However, the Joint Parties will be seeking further information.

Deloitte & Touche receives an average of seven million dollars a year in audit and other service fees from Sempra.⁶ The Joint Parties will soon secure the amounts paid by PG&E and SCE for its auditors. However, these amounts may be insignificant if they produce independent and accurate audits, particularly since some of these costs may be covered by the shareholders. The key issue, however, is not cost, but independence and accuracy.

⁵ Southern California Edison, which is seeking a 4.6 billion dollar rate increase, is also audited by PricewaterhouseCoopers, which was criticized by the PCAOB in its report on 2010 audits. See Wall Street Journal, December 21, 2011, "Accounting Board Finds Faults in Deloitte Audits," New York Times, 10/17/11, "Accounting Board Criticizes Deloitte's Auditing System" and Wall Street Journal, 10/18/11, "Audit Watchdog Criticized Deloitte Quality Controls in '08."

⁶ This information was provided to the Joint Parties through a data response to the Joint Parties that is currently on file in the Sempra general rate case (A.10-12-005 and A.10-12-006) as Exhibit 282.

B. THESE CONCERNS ARE NOT ISOLATED TO THE CALIFORNIA UTILITY INDUSTRY, AS EVIDENCED BY THE PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD (PCAOB)

The PCAOB report for the year 2010 demonstrates very substantial concerns as to three of the four Big Four firms, PricewaterhouseCoopers, Deloitte & Touche, and KPMG . Ernst and Young was fined 2 million dollars by the PCAOB on February 8, 2012 for similar violations. Most importantly, the big three California utilities, Sempra, Southern California Edison and PG&E, have had long term and cozy relationships with their Big Four CPA firms that are unlikely to have been independent. Further, according to the PCAOB, many have failed to use generally accepted accounting principles (GAAP). It should be noted that Deloitte & Touche has been singled out for the harshest criticism the PCAOB has ever expressed as to any large CPA firm.⁷

The PCAOB, in its pending Docket No. 37 on independence of audits, expressed concerns and offered suggestions about this lack of independence and apparent “partnerships” between a so -called independent CPA firm and the management of the company they are auditing. As part of this docket, the PCAOB has raised questions⁸ as to:

- a. The rotation of CPA firms on a regular basis to prevent cozy management relationships and promote independence;

⁷ See, Wall Street Journal, December 21, 2011, “Accounting Board Finds Faults in Deloitte Audits, New York Times, 10/17/11, “Accounting Board Criticizes Deloitte’s Auditing System” and Wall Street Journal, 10/18/11, “Audit Watchdog Criticized Deloitte Quality Controls in '08.”

⁸ The Black Economic Council, the Latino Business Chamber of Greater Los Angeles and the National Asian American Coalition have all intervened in this docket before the PCAOB, as of January 13, 2011, and have filed the attached PCAOB comments, which may be of assistance to this Commission and DRA.

- b. Whether a CPA firm can be independent when it does consulting work for management, while at the same time performing its independent audit work;⁹ and
- c. Creating greater competition among independent auditors that may include more diverse CPA firms.¹⁰

On February 21, 2012, Assembly Utilities and Commerce Committee Chairman Steven Bradford's office asked that the Joint Parties provide updates on this proceeding and on any actions by the Joint Parties before federal regulatory bodies that may affect this petition for rulemaking.

C. THE JOINT PARTIES PREVIOUSLY RAISED THESE ISSUES IN A.10-12-005 AND A.10-12-006

Pursuant to Rule 6.3 of the Rules of Practice and Procedure of the CPUC, the Joint Parties hereby set forth the history of these issues before the CPUC in A.10-12-005 and A.10-12-006. The Joint Parties attempted, despite the general opposition of Sempra's counsel, to raise these issues in the Sempra rate case once the PCAOB's report denouncing Deloitte & Touche was publicly exposed on October 17, 2011.¹¹ The Joint Parties subsequently alerted CPUC Assigned Commissioner Ferron, President Peevey and Executive Director Paul Clanon as to this matter, and invited Executive Director Clanon to participate in any conversations we had with the

⁹ See PCAOB Docket No. 37, "Concept Release on Auditor Independence and Audit Firm Rotation," for full information.

¹⁰ The Big Four have never been willing to provide their ethnic/racial data and are believed to be far less diverse than most smaller competitors. In 2010, as part of the OIR on diversity, the Black Economic Council, the Latino Business Chamber of Greater Los Angeles and the National Asian American Coalition initiated an unsuccessful effort to directly gather data from the Big Four for the then ongoing OIR on diversity. All four firms declined to respond, much less cooperate. Similar data was requested by the Joint Parties on February 6, 2012.

¹¹ Please see A.10-12-005 and A.10-12-006, *Motion of the Joint Parties to Compel Testimony of Auditing Partner of Deloitte & Touche, Mr. K. Alan Lonbom*.

PCAOB, including our conversation of January 5th with one of its board members and its general counsel. The Joint Parties also invited the Division of Ratepayer Advocates (DRA) to participate, but DRA, given its huge witness list and extraordinary responsibilities in this case, understandably declined to participate at this point. However, the Joint Parties believe, based on other evidence in the rate cases, that DRA and other ratepayer advocates may share these concerns.

In the Sempra general rate case, it was also determined (and similar findings may exist for the other affected utilities) that management is not actively involved in ascertaining the validity of the audits. For example, in the Sempra case, the COOs of both SDG&E and SoCal Gas stated that they knew nothing of the PCAOB October 17th findings and were not involved in the impact of PCAOB findings on Sempra's proposed rate increase. Similarly, the acting controller of Sempra, when cross-examined by the Joint Parties, admitted that he too was not knowledgeable regarding the impact and like the CEOs, did not know whether Deloitte & Touche's audit of Sempra was a suspect audit. Further, none of these three top Sempra officials could definitively state whether Deloitte & Touche had informed them of the PCAOB investigation and findings and/or whether Sempra was among the more than two-dozen suspect corporate audits by Deloitte & Touche.

Although the Joint Parties do not concur with the ALJ's ruling of January 12th denying the Joint Parties' motion to further inquire as to the legitimacy of the data relied on by Sempra, we do not appeal. (The Joint Parties' motion, which was denied, was to cross-examine Deloitte & Touche's principal auditor for Sempra who works out of their San Diego office near Sempra's headquarters.) The Joint Parties do not appeal the ruling because it appears that the ALJ ruling in

its present form has the full support of the Assigned Commissioner, the President of the CPUC and perhaps of other commissioners.¹²

D. FEDERAL REGULATORS ARE LOOKING TO THE CPUC FOR LEADERSHIP

In order to be of assistance to the CPUC in this petition for rulemaking, the Chairs of the Black Economic Council, the Latino Business Chamber of Greater L.A. and the National Asian American Coalition, accompanied by their counsel, Robert Gnaizda, met in Washington D.C. from February 13th to 16th on this issue with numerous federal regulators, including: the Federal Trade Commission, the Antitrust Division of the Department of Justice and, most importantly, with a senior board member from the Public Company Accounting Oversight Board. In addition, the Joint Parties compiled and submitted to them a list of the auditors for the ten largest utilities ranked by customers. The attached list demonstrates that Deloitte & Touche and PricewaterhouseCoopers are the only auditors used for nine of the top ten electric utilities in the United States based on customers served.

¹² Both the Assigned Commissioner and the President were alerted by the Joint Parties after the cross examination of COOs Niggli and Smith as to our concerns as to the accuracy of the proposed 2.4 billion dollar rate increase.

Top 10 Electric Utilities in the U.S

Utility	Accounting Firm	Consumers (millions) as of 11/30/2011
Pacific Gas & Electric	Deloitte & Touche	4,655
Southern California Edison	PWC	4,270
NextEra Energy (formerly Florida Power Light Company)	Deloitte & Touche	3,999
EXC (formerly Commonwealth Edison Co)	PWC	3,433
Consolidated Edison Co-NY	PWC	2,271
Virginia Electric and Power Co	Deloitte & Touche	2,057
Georgia Power Co.	Deloitte & Touche	2,049
Detroit Edison Co (DTE Energy Co.)	PWC	1,920
Public Service Electric & Gas Co	Deloitte & Touche	1,855
Genon Energy	KPMG	1,851

During these meetings in Washington D.C., the three groups met with two Federal Trade Commission (FTC) Commissioners, Edith Ramirez and Thomas Rosch; the Director of the Bureau of Consumer Protection, David Vladeck; senior officials from the Department of Justice; PCAOB board member, Steve Harris; and other key federal officials concerned about the accuracy of CPA audits. This included Federal Reserve Governor Sarah Raskin, Deputy Comptroller Barry Wides, Assistant Secretary of Treasury Mary Miller, and senior staff from the Consumer Financial Protection Bureau.

The three major issues discussed were:

1. How inadequate CPA audits affect consumers and ratepayers at regulated utilities;
2. Whether the presence of only two CPA firms auditing the top nine utilities indicated duopoly concerns or quasi-monopolistic concerns similar to those raised by many of the CPUC commissioners in the recently concluded AT&T/T-Mobile case; and
3. What role could the PCAOB and the FTC (specifically its consumer public interest staff) play in assisting the CPUC, should it determine to initiate an OIR as requested herein.

In addition, the PCAOB has agreed to cooperate with the three parties' expert in gathering additional information on who audits any utilities among the Fortune 500 corporations. Updated information may be available within the next two weeks and the parties will submit additional inquiries to the PCAOB should such be requested by the CPUC staff.

E. RECOMMENDATIONS AND NEXT STEPS

The Wall Street Journal of January 14, 2012, "One Cure for Accounting Shenanigans," sets forth one simple cure for this problem: *limit the terms of these auditors*. As the chairman of the PCAOB stated, "Without independence, it's unlikely you are going to get skepticism or a healthy look for disconfirming evidence."

Although the Wall Street Journal's emphasis is on protecting investors, it is even more important to protect ratepayers who are far more vulnerable and lack the resources to demand independent audits when facing rate increases.¹³

Another issue that should be covered by the OIR relates to the potential of an inaccurate or suspect CPA audit on proposed rate increases. As set forth in the Sempra case in particular, the limitations of the rate proceeding as interpreted by the ALJ prevented us from fully exploring

¹³ The Wall Street Journal of January 14, 2012 states, "for the sake of investors, we should phase out auditors -for-life too."

this matter in the context of the 2.4 billion dollar rate increase. ¹⁴ Nor was the matter properly explored in regards to the 4.6 billion dollar proposed SCE rate increase. This was largely because all evidentiary hearings and briefs were completed before the PCAOB report was made publicly available.

However, the Joint Parties recognize that this request for an OIR may not directly affect the pending rate cases of SCE and Sempra. However, it is our hope that an expeditious OIR will enable this Commission, particularly if it works with the DRA, to develop appropriate ground rules for future engagements of independent auditor CPA firms. This could include, for example, issues raised by the Black Economic Council, the Latino Business Chamber of Greater Los Angeles and the National Asian American Coalition, in our attached January 13th PCAOB filing, such as:

- (a) CPA firms that are engaged in an audit be barred from providing any other paid services, such as management consulting;
- (b) CPA firm engagements be limited to six consecutive years for companies with one billion dollars or more in revenue;
- (c) What portions of a CPA audit are used to bolster proposed rate increases and/or executive compensation bonuses and incentives; and
- (d) How this Commission can secure greater certainty as to the reliability of the data upon which rate increases are predicated or executive bonuses are determined.¹⁵

¹⁴ See A.10-12-005 and A.10-12-006, January 20, 2012 “Administrative Law Judge’s Ruling Regarding Joint Parties’ Motion to Compel Testimony of Deloitte & Touche”

¹⁵ This could perhaps include ascertaining the feasibility of allowing the CPUC to do an independent audit of the figures provided by the IOUs, as was recently suggested by CPUC staff in a straw proposal on how to incorporate safety issues into the regulatory structure.

To the best of our knowledge, no other utility regulatory commission has yet looked into these issues. However, as set forth in our PCAOB comments, Enron -type scandals could be avoided if there were truly independent audits. See for example comments of John Biggs, the former chairman and CEO of TIAA-CREF, quoted in our PCAOB remarks. He testified that:

“Had Arthur Andersen in 1996 known that Peat Marwick was going to come in 1997, there would have been a very different kind of relationship between them and Enron....There is a very high probability that had rotation been in place at Enron with Arthur Andersen you would not have had the accounting scandal that I think we now have....”

F. PROPOSED LANGUAGE TO INCLUDE IN AN OIR

The proposed language is similar to what the Joint Parties are urging in their comments filed January 13th before the PCAOB (the PCAOB on January 5th urged the parties to file such comments).

- “All CPA firms hired to do an annual audit shall be barred from providing any other paid services with particular reference to management and consulting services. This will help ensure that the CPA audit firm and the utility it audits are free from any appearance of and/or actuality of conflicts of interest and/or partnerships.”
- “No utility shall maintain the same CPA auditing firm for more than six consecutive years. This rotation of auditors is likely to maximize the independence of the auditors

and prevent the type of lifetime ‘partnerships’ that appear at many companies who use their auditors for long periods of time.”

- “No CPA firm may be hired to perform an independent audit after its six year term until at least twelve years thereafter. This will further promote independence of auditing firms and promote more competition.”
- “This Commission recognizes the importance of competition in promoting cost reductions, independence and diversity efforts to encourage use of firms other than the Big Four are likely to create far greater competition and long term cost reductions among independent auditors. It is also likely given the lack of diversity among partners at the Big Four firms to also promote another goal of this Commission diversity pursuant to GO 156.”
- The matter could cover all utilities with one billion dollars in revenue or more, or as little as fifty million in revenue or more.

V. SERVICE OF PETITION

Pursuant to Rule 6.3(c) of the Commission’s Rules of Practice and Procedure, this Petition for Rulemaking has been served on the Executive Director, the Chief Administrative Law Judge, the Director of the Energy Division, and the Public Advisor. The Public Advisor was consulted by phone in January 2012 as to whom the petition should be served upon. She suggested Parties that would perhaps be interested in the petition would be those involved in the Southern

California Edison (A.10-11-015) and Sempra Energy (A.10-11-005 and A.10-11-006) general rate cases, and those involved in the PG&E's gas pipeline safety rulemaking (R.11-02-019).

VI. CONCLUSION

In conclusion, this Commission has a well-deserved reputation and a great responsibility to the ratepayers of California. The Joint Parties therefore urge that it would be appropriate to open an OIR on this matter as soon as possible, in the context of the PCAOB's findings as to the lack of independence and integrity of CPA firms used by the three largest California utilities and also the data demonstrating a duopoly of auditors for energy utilities. This will not only ensure the accuracy and reliability of the figures provided by the IOUs, but will also have a major impact on utility safety and transparency before the CPUC.

Dated: February 23, 2012

Respectfully submitted,

/s/ Len Canty
Len Canty, Chairman
Black Economic Council

/s/ Faith Bautista
Faith Bautista, President and CEO
National Asian American Coalition

/s/ Jorge Corralejo
Jorge Corralejo, Chairman
Latino Business Chamber of Greater Los Angeles

/s/Robert Gnaizda
Robert Gnaizda, Of Counsel

/s/ Shalini Swaroop
Shalini Swaroop, Senior Staff Attorney

VERIFICATION BY ATTORNEY

I, Robert Gnaizda, declare:

I am an attorney for the Petitioners in this matter. The Petitioners are three different parties in three different counties in California. Two of the parties do not have offices in the same county where I am located. Therefore, in accordance with Rule 1.11 of Practice and Procedure before the California Public Utilities Commission, I make this verification on their behalf for that reason.

I have read the foregoing document. I am informed and believe, and on that ground allege, that the matters stated in it are true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true of my own knowledge, except as to matters that are stated on information or belief, and as to those matters that I believe them to be true.

Executed on February 23, 2012, at San Bruno, California.



Robert Gnaizda