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June 3, 2009

Michael Rosauer and Jack Mulligan  
Energy Division and Legal Division  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

Re: Comments on Draft Resolution No. E-4243  
Commission Meeting--June 18, 2009  
I.D. #8518

Dear Gentlemen:

The Executive Director's Draft Resolution E-4243 is misguided in exempting the proposed project from the Permit to Construct (PTC) requirements and CEQA. It relies on rationale that is factually inapposite for this specific right of way (ROW).

Decision No. 97-03-058 in 71 CPUC 2d 339, upon which the Draft Resolution relies, clearly delineates: The rationale for exempting projects from PTCs and CEQA is **based on the assumption that the locations are "already improved and the original environment disturbed by virtue of the construction of the streets and associated public uses such as curbs, gutters, sidewalks, sewers and other facilities."** This decision contemplates exemption for ROWs where significant public improvements exist.

**There are no "public improvements" in the north-south run of the ROW in question.** The north-south run **traverses only native brush and private farm land, and twice rises and drops more than 1,000 feet over two different hilltops.** Agriculture and open space sprawl for more than 2 miles to its west. There is **no public access or improvement**; the only "disturbance" within the 5+ mile north-south run is the 220 kV tower footings. Private driveways and dirt farm roads provide the only access to these widely spaced tower bases, which have **remained in their current configuration—virtually untouched—for more than 35 years.** There are **no SCE improvements in the span between tower bases.** Eleven of the 13 sets of **towers have crops, orchards and native brush growing between their legs.** Therefore, the rationale for Exemption g. is completely inapplicable to this

project. The Director's reliance on that decision to justify this exemption is misplaced.

We are alarmed that the CPUC—a consumer protection agency established to watchdog the overreaching actions of monitored corporations—so willingly accepts out-of-hand each of the assertions of a company it is meant to scrutinize. Every SCE assertion seems to be taken at face value, while the public's cries of "foul play" fall away, like pebbles hurled at a giant. SCE has an army of lawyers and experts working fulltime to smooth the way for its projects. The CPUC seems to have shifted the burden to the citizens—those it has a duty to protect—to prove the negative impact of potential projects. We don't have the economic resources, expertise or manpower. It is the CPUC charge to scrutinize the operations of such mega-corporations in their pursuit of profit.

Yet, without so much as requesting a schematic or site design, this Draft Resolution accepts that the project cannot be moved to the alternate ROW, 1,800 feet to the west (a viable location according to SCE's own project designer), or at least to the west side of the towers in the subject ROW (further away from the greatest number of homes). While such may be more costly alternatives (although SCE has never disclosed cost differentials), the Draft Resolution never weights such undisclosed additional expense against the rights and interests of affected citizens.

Further, the Draft Resolution ignores that the number and severity of wildfires rises annually in Southern California, with more than a fair share of them ignited by power lines. How can placing an additional ignition source lower to the ground and closer to homes not demand deeper scrutiny?

Finally, the Draft Resolution accepts without scrutiny that the "Notice" was "adequate." It accepts that the average citizen should understand the "Notice," while hundreds of citizens have highlighted its inadequacies in both content and form. We would challenge the Director to place the 1,000+ word "Notice" on a stake, at knee-height, and ask one of its mail clerks to kneel down and decipher it. That would be the "average reader" test.

Moreover, **nowhere in the notice does it specify that new poles will be closer to homes.** The ROW is 200 feet wide. The existing towers are located roughly in its middle. While residents knew to which ROW the "Notice" referred, there was no way to know which side of the towers (east vs. west) SCE intended to flank with TSPs. That information came only in subsequent private meetings with SCE personnel. **To this day, there are still homeowners affected by this project with absolutely no notice of that fact.**

We sincerely hope the Director will take a deeper look at the potential environmental impact of this project and deny SCE's assertion that this project should be exempt from the PTC requirements and CEQA. We also urge that any alternative site for the TSPs (i.e., in the existing ROW 1,800 feet to the west, or to the west of the 220 kV towers) be more meaningfully explored, rather than relying on the off-the-cuff SCE assertions that the more westerly ROW is not wide enough, and that relocation would result in "engineering, construction, and safety complications." "Complications" and "additional expense" do not always equal "prohibitive."

Sincerely,

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ALAN LUDINGTON

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PEGGY LUDINGTON