



March 25, 2009

Mr. Paul Clanon, Executive Director
C/O
Mr. Michael Rosauer
Energy Division
California Public Utilities Commission
505 Van Ness Avenue, Fourth Floor
San Francisco, California 94102

APR 01 2009

EXECUTIVE DIRECTOR'S OFFICE

RE: Appeal of Executive Director's Resolution finding SCE Moorpark-Newbury 66kV Subtransmission Line Project, Resolution No. E-4225 exempt from the Requirement to Obtain a Permit to Construct

Dear Mr. Clanon:

This letter formally appeals Executive Director's Resolution E-4225 accepting Advice Letter 2272-E as complete, requests the following actions: 1) Commission deny Executive Director's Resolution E-4225 and require the Project obtain a permit to construct; 2) Commission issue an Order Instituting Rulemaking to update GO 131-D to bring the General Order into conformance with Rule 2.4, (California Environmental Quality Act (CEQA) Compliance), and clarify the intent of exemption (g); 3) Commission institute changes to Commission policies for implementation of GO 131-D; and, 4) Commission undertake an investigation into SCE actions to determine if a violation of Rules of Practice and Procedure, (Rule 1.1) Ethics has occurred.

SCE is attempting to re-establish an exemption for projects that upgrade 50-200kV lines and facilities in existing rights of way that were eliminated in 1995 by the revision of GO 131-C. This attempt by a major utility to turn the clock back and ignore the environmental progress that has resulted from ever-increasing environmental disclosure and awareness under CEQA and has been accepted by every agency in California, except apparently, electrical utilities, must not be allowed to stand.

Argument for Appeal

GO 131-D was revised by ALJ hearings and decisions as reported in 55CPUC 2nd 87 and 61 CPUC 2nd 93. The revisions were to remove a pre-existing avoidance of CEQA for all lines and facilities involving 50-200kV (based on not being "projects" under CEQA, which was held to be an unlawful and unreasonable basis for not applying CEQA).¹ New principles of applicability of CEQA to 50-

¹First, the current general order (GO 131-C) operates to allow fairly large power lines to be constructed without any sort of environmental review. Because lines designed to operate at 200 kV or less do not require a CPCN, and because we continue to exercise exclusive statewide jurisdiction over the facilities of investor-owned public utilities, there is no issuance of a "lease, permit, license, certificate or other entitlement for use" (Pub. Res. Code § 21065(c)) to constitute a