

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

Order Instituting Rulemaking to Improve
Public Access to Public Records Pursuant
to the California Public Records Act.

R. 14-11-001

(Filed
November 6, 2014)

**IMPERIAL IRRIGATION DISTRICT'S REPORT ON THE CPUC'S
HISTORY RELATING TO ACCESS TO PUBLIC RECORDS AND
COMMENTS FOLLOWING WORKSHOP**

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Following a Workshop hosted by the Public Utilities Commission, and thereafter an “Energy Group” meeting at the offices of Southern California Gas in Los Angeles in which counsel for Imperial Irrigation District was in attendance, the Imperial Irrigation District (IID) submits the following report and recommendation of procedures to be adopted by the California Public Utilities Commission (“CPUC”).

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I. PUBLIC RECORD AT THE CPUC

In 1968, the legislature issued this directive to the CPUC: “The following state ** bodies shall establish written guidelines for accessibility of records ** Public Utilities Commission (CPUC).” Govt. Code § 6253.4(a). The CPUC guidelines “shall be consistent” with all other Public Records Act (PRA) sections and “shall reflect the intention of the Legislature to make the records accessible to the public.” Govt. Code § 6253.4 (b).

Forty-eight years later, in November 2014, the CPUC issued an Order Instituting Rulemaking (OIR) for the PRA in which the CPUC admitted its existing record access order (General Order 66-C) adopted in 1972 “**does not articulate the process and procedure for obtaining Commission records.**” In the OIR, the CPUC admitted General Order 66-C “identifies several exemptions from public disclosure that are inconsistent with the [C]PRA. In its Order Instituting Rulemaking, the CPUC announced its intent “to address improving the public’s access to records that are not exempt under the California Public Records Act or other state or federal law.” R.14-11-001, p. 1.

The CPUC’s PRA practice has been to withhold records from the public in systematic violation of the PRA. The CPUC claims its decision to withhold records under claimed PRA exemptions is not subject to the “in camera” review required under the PRA. However, when public records appear to be improperly withheld from a member of the public, a Superior Court is authorized to order the records produced if the Court determines the records are not exempt after conducting a review of the records.

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Govt Code § 6259 provides:

(a) Whenever it is made to appear by verified petition to the superior court of the county where the records or some part thereof are situated that certain public records are being improperly withheld from a member of the public, the court shall order the officer or person charged with withholding the records to disclose the public record or show cause why he or she should not do so. The court shall decide the case after examining the record in camera, if permitted by subdivision (b) of Section 915 of the Evidence Code, papers filed by the parties and any oral argument and additional evidence as the court may allow.

As late as November 2014, the CPUC contended Section 6259(a) does not apply to the CPUC because Public Utility Code § 1759 does not allow the Superior Courts to review the CPUC's regulatory decisions. The CPUC contends CPUC decisions to withhold claimed public records can only be reviewed by appellate courts under Public Utilities Code § 1757. The practical effect of the CPUC's contention is to remove even an in camera review of the withheld records to determine if the exemption is well taken. This position to narrowly and not broadly construe the Public Records Act requirements has significant impact on the ability to obtain records in matters in which the public bears significant costs. For example, in the San Onofre test case discussed below, the CPUC is withholding 124 records related to a closed nuclear plant for which the CPUC is requiring the public to pay over \$3.3 billion in lost profits and costs.

The CPUC has not used its authority to allow for "greater access to records than prescribed by the [PRA's] minimum standards." Govt. Code § 6253(e). Further, the CPUC in practice has ignored the rule that CPUC-held information is presumed to be public information 2006 Cal. PUC LEXIS 222, *8-9. The party producing information used to make CPUC decisions is supposed to bear a strong burden of proof for the CPUC to grant confidential treatment. 2006 Cal. PUC

LEXIS 222, *8-9. Instead of reading legal authority broadly to expand access to CPUC records, the CPUC practice is to read exemptions broadly to restrict access. See Art I, Sec 3 Cal State Const. (authority shall be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access)

The CPUC has adopted the practice of reading Pub. Util. Code § 583, which empowers the CPUC to release documents filed by utilities with the CPUC, to say such documents cannot be released. Pub. Util. Code § 583. Instead, the CPUC has allowed a provision protecting confidentiality of “market sensitive [procurement] information” to provide blanket secrecy for documents that have no material impact on a procuring party's market price for electricity. 2006 Cal. PUC LEXIS 222, *10-12.

The CPUC Commissioners are systematically denying the people’s “right of access to information concerning the conduct of the people's business [at the CPUC].” Cal. State Const. Art I, Sec 3. The meetings at which CPUC decisions are made and the writings of the CPUC public officials making them are not “open to public scrutiny;” accordingly, they are in violation of the State Constitution. See, Art I, Sec 3 (b)(1).

The CPUC does not construe the PRA, Commission orders, rules or authority broadly if they further the people's right of access, and narrowly if they limit the right of access. Its approach is in violation of Art I, Sec 3(b)(1) of the California State Constitution.

II. INVESTOR-OWNED UTILITIES DOMINATE THE CPUC

The stock exchange traded electric and gas utilities have taken over the government of the State, as Governor Hiram Johnson warned 100 years ago. Instead of “regulation of the [utilities], as the framers of the new Constitution fondly hoped, the [utilities have] regulated the State.” The takeover was made

possible by the California Public Utilities Commission's (CPUC) wholesale disregard of the public records act.

III. STOCK EXCHANGE UTILITIES HEAVILY CAPITALIZED

The three stock exchange traded companies -- San Diego Gas & Electric (SDG&E), Southern California Edison (SCE) and Pacific Gas & Electric (PG&E) -- dominate the CPUC; they have a combined market capitalization of \$66,000,000,000:

Utility	Shares	Market Value
SDG&E	249,215,763	\$24,500,000,000
Edison (SCE)	325,811,206	\$18,100,000,000
PG&E	492,830,471	\$23,628,000,000
	1,067,857,440	\$66,228,000,000

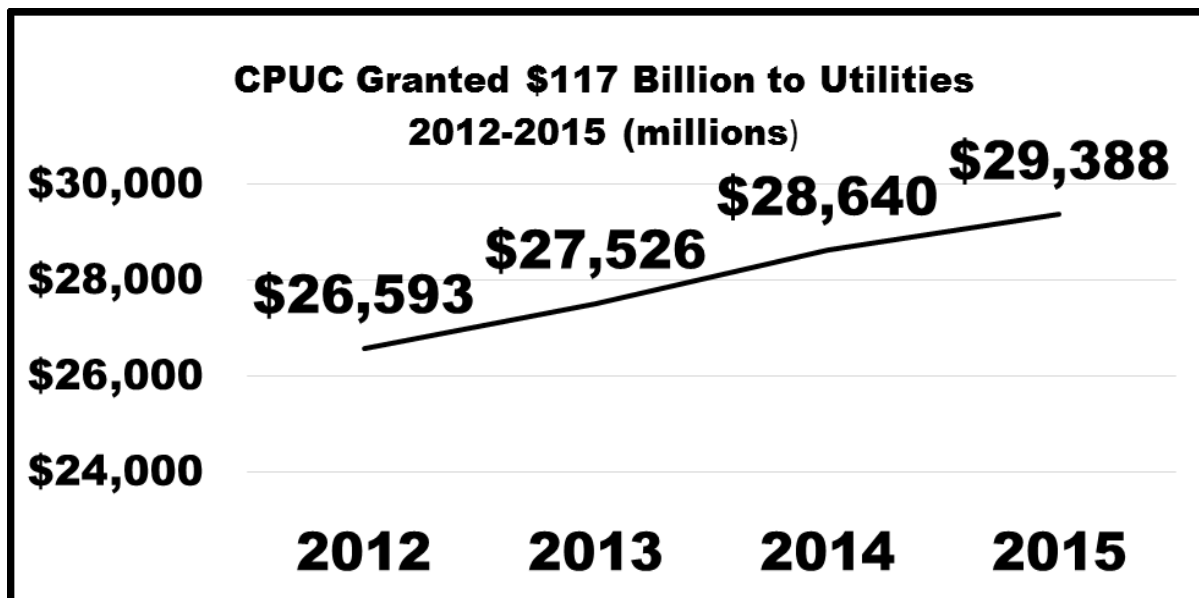
More than 300,000 investors own over 1,067,857,440 shares in the three utilities (an average of 3,559 shares): 249,215,763 (Sempra, for SDG&E), 325,811,206 (SCE) and 492,830,471 (PG&E). SCE has the fewest shareholders, and Sempra the most:

Year	SCE	PG&E	Sempra	Total
2012	45,430	71,943	245,000	364,385
2013	41,000	67,982	230,000	340,995
2014	41,000	64,972	205,000	312,986
2015	41,000	61,989	195,000	300,004
2016	35,375	59,317	175,000	271,708

The three utilities have over 22,000,000 customers, with PG&E having the most customers and SCE the fewest:

Utility	Meters/Accounts
PGE	9,700,000
Sempra	7,300,000
SCE	5,200,000
	22,200,000

The CPUC allowed the three investor-owned utilities to charge their customers over \$117,000,000,000 since 2012:



From this cash flow, the three investor-owned utilities paid out over \$7.5 billion in dividends since 2012:

Year	2015	2014	2013	2012	
SCE	\$544	\$463	\$486	\$424	
Sempra	\$628	\$598	\$606	\$550	
PG&E	\$856	\$828	\$782	\$746	
Total (in millions)	\$2,038	\$1,889	\$1,874	\$1,720	Total \$7,521

SCE (Edison) and Sempra both reported recent increases in their dividends. In December 2015, SCE (Edison) declared a 15% increase to the annual dividend rate from \$1.67 per share to \$1.92 per share. In February 2016, Sempra approved an 8% increase in its dividend.

Four of the 300,000 investors (T. Rowe Price, State Street Corp., Franklin, and Vanguard) collectively hold stock in the three companies (Sempra, SCE and PG&E) with a total market value exceeding \$16,000,000,000:

Shareholder	Sempra	SCE	PG&E	Total
Price (T.Rowe)	\$2,377,813,321	\$795,907,023	\$2,377,813,321	\$5,551,533,665
Vanguard	\$1,561,511,406	\$1,273,983,121	\$1,561,511,406	\$4,397,005,933
State Street Corp	\$1,218,462,188	\$1,492,391,695	\$1,218,462,188	\$3,929,316,071
Franklin Resources	\$783,021,903	\$370,703,738	\$1,443,271,634	\$2,596,997,275
			Total	\$16,474,852,944

Representatives from these four companies and others were in constant contact with CPUC Commissioners. Two examples, one from 29 February 2012 and the other from 10 September 2012, had the following seeking an audience with the Commissioners in San Francisco:

29 Feb 2012		10 September 2012	
Charlie Hebbard	(Fidelity)	Brian Chin, Amit Marwaha	Citi Investment Research
Matt Litwin	Blackrock	John Kohli	Franklin
Leslie Rich	JP Morgan	Eric Fogarty	Goldman Sachs Asset Management
Ryan Burgess	T Rowe Price	Matt Fallon	Talon Capital

IV. A “GREAT PROFUSION DAILY”

On 6 June 2014, CPUC Commissioner/now-President Picker expressed his “deep gratitude” to Wall Street analyst Julien Dumoulin-Smith “whose many research products reach my inbox in great profusion daily.” Those many research products were a fraction of the ones Wall Street utility investor interests regularly send to Commissioners. A review of a sample of 7,500 such communications shows Wall Street utility investor interests shapes the body of knowledge used by commissioners make utility decisions affecting the public.

Wall Street flows information to Commissioners in a number of ways, in addition to emails:

(1) Commissioners meet in secret in New York with Wall Street players to discuss pending regulatory matters;

(2) Wall Street players meet in secret in San Francisco with CPUC Commissioners to discuss pending regulatory matters;

(3) Wall Street analysts, investment bankers, and utility investors direct a constant flow of ex parte investment information to CPUC Commissioners regarding matters pending before the CPUC; and

(4) the utilities fund free travel to foreign countries for Commissioners where utility executives and CPUC Commissioners decide, in secret, issues pending before the Commission.

In September 2012, former CPUC Commissioner Mark Ferron asked for the research from Wall Street as a quid pro quo for agreeing to meet with Morgan Stanley bankers:

While I enjoy meeting with equity analysts and investors, I have only one stipulation before agreeing to a meeting: that I am put on the distribution list for research pertaining to California utilities. Is

this something that you are able to agree to? If so, could you also please send me any recent research (say over the last 6-12 months) on the sector that you think might be relevant?

A. Peevey-New York

Former CPUC Commissioner Michael Peevey's emails and calendar show Peevey regularly visited key Wall Street players while he served as CPUC President. On 12 March 2012, Credit Suisse Vice President Gavin H. Wolfe wrote that Peevey would be "flying into NY in the afternoon, doing a sellside analyst dinner, then the next morning a big open investor breakfast presentation, and then a run around the city seeing the big CA utility investors." Wolfe continued: "I will likely be with you [Peevey] the entire trip as would Don Eggers, our research analyst. I will call you to discuss and other matters. Best G"

Peevey assisted Picker, his replacement as CPUC President, to gain access to Peevey's Wall Street connections. In May 2014, Peevey asked Bank of America investment banker Gavin Wolfe to help Picker **"to get a read on the investment community view of California regulation."** Peevey asked Wolfe to set up "a luncheon or other meeting with him and several of your colleagues, not only from BofA, but other investment houses."

Wall Street favored Peevey's lax attitude toward enforcing the CPUC regulations against offending utility executives. Their sentiment is documented in a consumer research blog: ¹

¹ <http://smartmeterharm.org/2016/01/05/more-email-revelations-jp-morgan-deutsche-bank-citigroup-boa-and-ubs-oppose-cpuc-reform-want-continued-supportive-agency/>

- Steve Fleishman, Bank of America/Merrill Lynch Bank:
Viewed Michael Peevey remaining as CPUC President “as key given the consistent influence Peevey has provided the Commission”
- Jonathan Arnold, Deutsche Bank:
Hoped there’d be “no major change in the regulatory tone and direction”
- Jim von Riesemann, UBS:
“We hope the new CPUC will continue to equitably balance consumer and shareholder interests; we believe Chairman Peevey has done just that and has been a stabilizing balance on the commission.”
- J. P. Morgan report:
 - “[W]e anticipate that more consumer-friendly policies could be detrimental for the California utilities, and could impair their ability to recover the significant capital investments that the utilities are looking to make in the next several years.”
 - “Fear of a more consumer-friendly CPUC may well be realized. It was not clear to us that California Governor Jerry Brown was going to go down the path of appointing a less supportive Commission...”
 - “We caution that [Michael Peevey’s] potential departure from the PUC would create additional turnover and could allow for an even greater shift in California’s overall regulatory framework. This, in our view, would be perceived as a negative by the market. Recall that Peevey has extensive experience in the utility industry, which many observers had perceived as quintessential for his reasonable and even-keeled stewardship of the Commission.”
 - “[W]e had previously assigned premium valuation to PCG shares on supportive regulation in CA.”

B. Picker-New York

Bank of America’s Wolfe accommodated Peevey’s request, and by 12 May 2014, directed Brian Chin (also at Bank of America) to offer investor meetings for Commissioner Picker: “Based on our prior conversation, for Monday June 23 and/or Tuesday June 24, I recommend the following options for meetings with investors.” The options offered included “One Large Venue” or “Half day of 1x1

meetings + Venue” or “Full day of 1x1 meetings + intimate group meeting.” Wolfe reminded Picker “President Peevey thought it might make more sense to have Mike (Picker) meet with the broader research and investor community.” Wolfe suggested that Bank of America Investment “organize a Wall Street Research and Investor Luncheon” for Picker in New York. On 23 May 2014, Bank of America’s Brian Chin was told Picker had “chosen the last option, the ‘full day of 1x1 meetings + intimate group meeting.’” Picker set his Wall Street insider meetings for the 23rd and 24th of June 2014.

On those two days in June 2014, Picker went on the Bank of America roadshow with more than 20 Wall Street kingpins:



Roadshow Schedule
CMR Picker
Monday, June 23, 2014

C. Wall Street to San Francisco and Beyond

While Picker and Peevey paid visits to Wall Street, Wall Street players returned the favor with regular visits to Peevey, Picker and other Commissioners in San Francisco. A 31 October 2013 email from CitiBank’s Sophie Karp to Michael Peevey is a typical example. Ms. Karp told Peevey she was on Shar Pourreze’s North American Power group team, and said CitiBank was planning “our 2014 annual investors’ trip to California” with 15-20 representatives of large institutional investors who will be accompanied by two Citi analysts.” Karp told Peevey CitiBank’s “priority to meet with Commissioners and their advisors as our clients are extremely focused on the regulatory environment in the state.” Karp told Peevey his group “currently [have] meetings with Commissioners Peterman, Ferron and Florio (advisors) on January 15 at 10am, 11am, and 1:30pm.”

CitiBank was not unique in organizing private meetings with Commissioners in San Francisco. UBS, Bank of America, and many other Wall

Street players were granted insider access to CPUC Commissioners there. In some cases, Wall Street bankers met Commissioners in other cities. For example, after Picker's June 23 and 24, 2014 meetings, Bank of America continued its road show in New York. UBS's Julien Dumoulin-Smith met with Peevey in Sacramento on 11 August 2014.

D. Wall Street Wines and Dines Commissioners

Commissioners also meet with Wall Street executives over dinner at expensive restaurants. For example, Gavin Wolfe, the Wall Street insider Peevey asked to help set up Picker's 23 and 24 June 2014 New York meetings with Wall Streeters, made a dinner date with Peevey in San Francisco in October 2013. Wolfe told Peevey Ray Wood, Bank of America's head of Power & Renewables, would be joining the dinner party. Wolfe and Peevey opted in favor of the Slanted Door over the Kokkari Restaurant:



Kokkari



Slanted Door

E. CFEE-Domestic and Foreign Junkets

The utilities carry their message and receive the inside information they seek during junkets sponsored by the utility-funded California Foundation for the Environment and the Economy (CFEE). There, they provide private accommodations for CPUC Commissioners and utility executives to conduct CPUC business outside public scrutiny. These sessions are held for the ostensible

purpose of discussing general issues, but in many instances, serve as nothing more as pretexts for collusive decision making. Here is a list of the CEFE “conferences” since 2007:

CONFERENCE TITLE	DATE OF EVENT	CONFERENCE LOCATION
Roundtable Conference on Water Restructure: The Path Toward a Drought-Resilient California	Nov 19-20, 2015	Omni La Costa Conference Center, Carlsbad
Roundtable Conference on California's Transportation Infrastructure <i>Attacking the Transportation Infrastructure Funding Gap: Do we have the weapons?</i>	Apr 30-May 1, 2015	Silverado Conference Center, Napa
Roundtable Conference on Information and Communications Technologies (ICT): Technological Advances and Social Expectations	March 5-6, 2015	The Lodge at Sonoma
Electrifying Transportation Workshop	October 7-8, 2014	Cavallo Point Conference Center, Sausalito
Roundtable Conference on California Water and the Drought - Challenges, Actions, and Pragmatic Lessons from Other Nations	Sept 29-30, 2014	Meritage Conference Center, Napa
Roundtable Conference on California's Transportation Infrastructure: How Do We Get to Success?	May 15-16, 2014	The Lodge at Sonoma
Information and Communications Technologies (ICT) Infrastructure for an Advancing Economy and Future Jobs	February 27-28, 2014	Meritage Hotel Conference Center, Napa
Achieving California's Energy and Climate Goals Evolution or Revolution?	December 9-10, 2013	Cavallo Point Conference Center, Sausalito

CONFERENCE TITLE	DATE OF EVENT	CONFERENCE LOCATION
Roundtable Conference on Local Water Supply and Quality: Doing More With Less	October 29-30, 2013	La Quinta Conference Center, La Quinta
Energy Workshop - Rate Design for a 21st Century Electricity System: How does it all add up?	March 6, 2012	Harvest Inn, St. Helena
Roundtable Conference on Information & Communications Technology (ICT)	February 23-24, 2012	Carneros Inn, Napa
Advanced Communications Roundtable Conference: Making Sense of Today's Converging Information and Communications Technologies (ICT) Ecosystem	March 17-18, 2011	The Lodge at Sonoma
Energy Roundtable Summit on Distributed Generation	December 8-9, 2011	Cavallo Point Conference Center, Sausalito
Roundtable Conference on California's Infrastructure — A Path to Economic Recovery and Jobs	October 10-11, 2011	Terranea Conference Center, Palos Verdes
Strategies for Water Supply Reliability and Sustainability: "What is the Long-Term Solution?"	March 3-4, 2011	The Lodge at Sonoma
Navigating the Changing Landscape: IP, Broadband, and the Wireless Revolution	April 29-30, 2010	Silverado Conference Center, Napa
Roundtable Conference on Building Partners to Finance and Deliver Infrastructure Projects in California	March 4-5, 2010	Silverado Conference Center, Napa
Roundtable Conference on California's Clean and Reliable Energy Goals: Getting to 2020 – A Reality Check	December 9-10, 2010	Carneros Inn, Napa

CONFERENCE TITLE	DATE OF EVENT	CONFERENCE LOCATION
Roundtable Conference on Goods Movement	May 20-21, 2010	The Lodge at Sonoma
Roundtable Workshop on Ensuring Reliability and Sustainability for California's Water Supply: "Putting Your Own Oxygen Mask on First"	October 4-5, 2010	Silverado Conference Center, Napa
Infrastructure Financing and Project Delivery Conference	March 12-13, 2009	Silverado Conference Center, Napa
Roundtable Conference on California's Clean and Reliable Energy Goals: How Do We Develop the Infrastructure to Achieve Them?	December 7-8, 2009	Cavallo Point, Sausalito
Roundtable Conference on California's Water Supply and Infrastructure	October 8-9, 2009	The Lodge at Sonoma
Roundtable Conference on Goods Movement	April 23-24, 2009	Renaissance Hotel, Long Beach
Roundtable Conference on Information & Communication Technologies (ICT), Practical Applications and Policy Environment	June 18-19, 2009	Silverado Conference Center, Napa
Roundtable Conference on Transportation Fuels	May 7-8, 2009	The Lodge at Sonoma
Roundtable Conference on Telecommunications and Advanced Communications Technologies	May 29-30, 2008	Silverado Conference Center, Napa
Roundtable Conference on California's Water Supply: The "Big Fix," Interim Solutions and How We Get There	Oct 5-7, 2008	Ojai Valley Inn, Ojai
Roundtable Conference on Energy & Environmental Initiatives	December 11-12, 2008	Ritz-Carlton Conference Center,

CONFERENCE TITLE	DATE OF EVENT	CONFERENCE LOCATION
		Half Moon Bay
Roundtable Conference on Infrastructure	Jan 24-25, 2008	The Lodge at Sonoma
Roundtable Conference on Natural Gas and Integration of Renewable Energy "The Blue Bridge to a Green Future"	April 17-18, 2008	Silverado Conference Center, Napa
Conference on Implementation of AB32 - The CA Greenhouse Gas Initiative	Jan 25-26, 2007	Silverado Conference Center, Napa
Roundtable Conference on California's Water Supply-Forging Opportunity in the Face of Crisis	Sept 24-25, 2007	Silverado Conference Center, Napa
Roundtable Conference on State and Regional Energy Issues: Managing the Transition	Oct 9-10, 2007	Silverado Conference Center, Napa
Roundtable Conference on the California Emerging Technology Fund	Mar 15-16, 2007	Vintage/Villagio Inns, Yountville
Roundtable Conference on Transportation and Water Infrastructure: The Role of Public Private Partnerships	Mar 22-23, 2007	Silverado Conference Center, Napa
Workshop on Environmental Initiatives and Energy Adequacy	Aug 30-31, 2007	Meadowood, St. Helena
Public Private Partnerships Workshop	2-Jul-07	The Sterling Hotel, Sacramento
Roundtable Conference on Transportation and Water Infrastructure: The Role of Public Private Partnerships	Mar 22-23, 2007	Silverado Conference Center, Napa
Roundtable Conference on the California Emerging Technology Fund	Mar 15-16, 2007	Vintage/Villagio Inns, Yountville
Conference on Implementation of AB32 -	Jan 25-26,	Silverado Conference

CONFERENCE TITLE	DATE OF EVENT	CONFERENCE LOCATION
The CA Greenhouse Gas Initiative	2007	Center, Napa

CFEE “conducts travel study projects for state and local elected and appointed officials, labor and environmental leaders.” CFEE officials claim these “study tours facilitate the exchange of information between public and private sectors in the United States and their counterparts in foreign countries.” There have been 25 CFEE-sponsored and utility paid for junkets to foreign countries for CPUC and other state officials since 2000:

Date	Study Topic	Country
2015	Water Resources, Climate Change, Infrastructure	Australia
2015	Water Resources, Information and Communication Technologies, Climate Change, Infrastructure	Singapore
2014	Energy and Infrastructure	Chile
2014	Carbon Capture and Storage Technologies, Alternative Delivery and Finances of Transportation Infrastructure	Canada
2013	Carbon Capture and Storage (CCS), Energy from Waste (EFW), Energy Efficiency Technologies, and Long-term Nuclear Waste Storage	Sweden and Norway
2013	Status of European Climate Programs, Renewable Energy and Stability of Electricity Transmission Grid, Structure of Regional Energy Markets, Transition from Coal to Natural Gas via Hydraulic Fracturing	Poland

Date	Study Topic	Country
2012	California Low-Carbon Fuel Standards and the Role of Brazilian Ethanol and other Biofuels, Advanced "Smart Cities" Technologies, the Reduced Emissions from Deforestation and Forest Degradation (REDD) Program and the Cap & Trade Program	Brazil
2011	Regulatory Structure, Renewable Energy, Smart Meters, Natural Gas Vehicles	Italy
2011	Public Private Partnerships, Water, and Waste-to-Energy Projects	UK and Ireland
2010	Renewable Energy, Infrastructure, Public Private Partnerships, Desalination, Rail	Spain
2010	Renewables & Clean Energy Technology, Public Infrastructure Projects	Canada
2009	Advanced Energy, Low Carbon Vehicle, Public Private Partnerships, Broadband Technologies	China and Hong Kong
2008	Climate Change Issues Regarding Water, Energy and Transportation Infrastructure	New Zealand and Australia
2008	Water, High Speed Rail, Public Private Partnerships	Spain
2007	Energy, Public Private Partnerships	South Africa
2007	Telecommunications & Energy	Japan
2006	Infrastructure & Public Private Partnerships	The Netherlands and Ireland
2006	Renewable Energy Technologies	Brazil, Argentina, and Chile
2005	Renewable Energy Technologies	Belgium, Germany, Denmark, and Ireland

Date	Study Topic	Country
2004	Transportation Infrastructure and Renewable Energy	Italy
2004	Liquefied Natural Gas	South Korea and Australia
2003	Energy Colloquium, Liquefied Natural Gas and Water Policy	France, Spain, Portugal, Germany, Austria, Hungary
2002	Transportation and Sustainable Growth	Berlin, The Hague, Paris
2001	Environmental and Energy Technologies Trade Delegation	China and Inner Mongolia
2000	Natural Resources, Energy and Telecommunications	South Africa

V. EXAMPLES OF CPUC DECISIONS MADE IN SECRET

The CPUC’s narrow interpretation of its responsibility to the public in releasing public records, coupled with its practice of meeting outside CPUC open proceeding hearings with investor-owned utilities and the Wall Street banks that work behind the scenes to ensure investors (nor ratepayers) get rewarded, has negatively affected the public and publicly-owned utilities, as discussed below.

A. Example 1: Used and Useful – Nuclear Power Plants

Michael Peevey served as CPUC President for 12 years, from December 2002 to December 2014. Peevey had previously served as President of SCE’s parent company, Edison International. In 2004, Peevey supported a fundamental change in the way the CPUC funds major capital expenditures. Under the “used and useful” test, the CPUC determines whether to permit a utility to recover its invested capital after the fact. The utility and its shareholders bear the risk of the

investment. Under Peevey, the CPUC did not employ the used and useful test in two major capital expenditure cases (the replacement of steam generators at the Diablo Canyon and San Onofre nuclear power plants). Instead, **for example in the case of San Onofre**, the CPUC allowed SCE to spend up to \$680 million for the new steam generators. If the costs exceeded \$680,000,000, or if the CPUC later found reason to believe the costs may be unreasonable, the entire cost of the project would be subject to a reasonableness review. (Decision 05-12-040 Page 2)

Under Peevey, the CPUC favored utility investors over utility customers, sparing investors the risk of the steam generator replacement project:

From an investor point of view, \$427 million would be a very large amount to place at risk of cost recovery, especially since it is concentrated in a single project. By way of rough comparison, SCE's total system ratebase in 2003 is about \$9 billion, so that if replacement generators were added today, they would comprise about 5% of SCE's total 2003 ratebase. Because this investment is so large, it is essential for SCE to seek, and the Commission to grant, pre-approval of SONGS 2 & 3 SGRP. Pre-approval of SONGS 2 & 3 SGRP means that the Commission finds it reasonable for SCE to replace SONGS 2 & 3 steam generators as described in this Application. While the Commission will retain its full authority, at the completion of SGRP, to review the reasonableness of SCE's construction expenditures and practices, pre-approval means that the Commission may not disallow construction costs, CFC, and Removal and Disposal Costs or their recovery in rates on the ground that SONGS 2 & 3 SGRP was itself unreasonable. Although SCE has recovered its \$3.6 billion of past procurement costs, investors and credit rating agencies still remain concerned that regulatory support for SCE's creditworthiness may be withdrawn. SCE must have reasonable assurance that it can recover its investors' money, including a full return of and on the reasonable investment. (Application in SGRP pp. 10-11)

The project failed, causing the plant to close with resulting costs exceeding \$4.7 billion. Under Peevey and Picker, the CPUC did not conduct a reasonableness review. Instead, Peevey negotiated -- and Picker ratified -- a secret deal made with SCE in March 2013 in a Warsaw, Poland hotel room. When the

matter came under criminal investigation, under Picker, the CPUC authorized over \$5,000,000 to block both the investigation and requests for public records. Under Picker, the CPUC refuses to produce records responsive to a Public Records Act request for the 124 related writings it holds.

The CPUC allowed SCE to conduct the proceedings before the CPUC outside public scrutiny. Many of the documents the CPUC used to decide the issues in the failed generator case are kept from the public as “confidential.” The meetings and communications amongst Commissioners Peevey, Florio and Picker were held, and conducted, in secret.

When San Onofre’s new steam generators failed 11 months after final installation, causing a shut-down of the plant in January 2012, the CPUC reassured Wall Street investors. On 4 October 2012, Morgan Stanley reported meeting with all Commissioner offices at the CPUC. This meeting occurred before the CPUC issued its San Onofre Order Instituting Investigation (OII) in late October 2012.

OCTOBER 04, 2012 GMT

Regulated Utilities

California Visit Takeaways

[Download the complete report](#) (12 pgs)

The key takeaway from our meeting with all Commissioner offices at the CPUC is that regulation will remain balanced. We expect ROEs to remain above-average with supportive rate case resolution this quarter. We are also upgrading EIX to OW, but maintaining ratings on SRE (OW) and PCG (EW).

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San Bruno resolution getting close, but San Onofre just starting. A settlement relating to the San Bruno explosion is progressing. An agreement may not include all parties, which the CPUC noted some comfort with. We believe our \$500mn fine estimate remains appropriate. Conversely, a San Onofre nuclear plant investigation is likely, but the CPUC appears to be reserving judgment on the cause/recovery. As a result, we do not expect a near-term EPS hit to EIX/SRE.

The CPUC would eventually ratify a deal made between Southern California Edison executives and CPUC officials in at the Bristol Hotel in Warsaw, Poland, making utility customers pay the majority of costs of the closed plant -- not the shareholders.

B. Example 2: San Bruno Gas Explosion

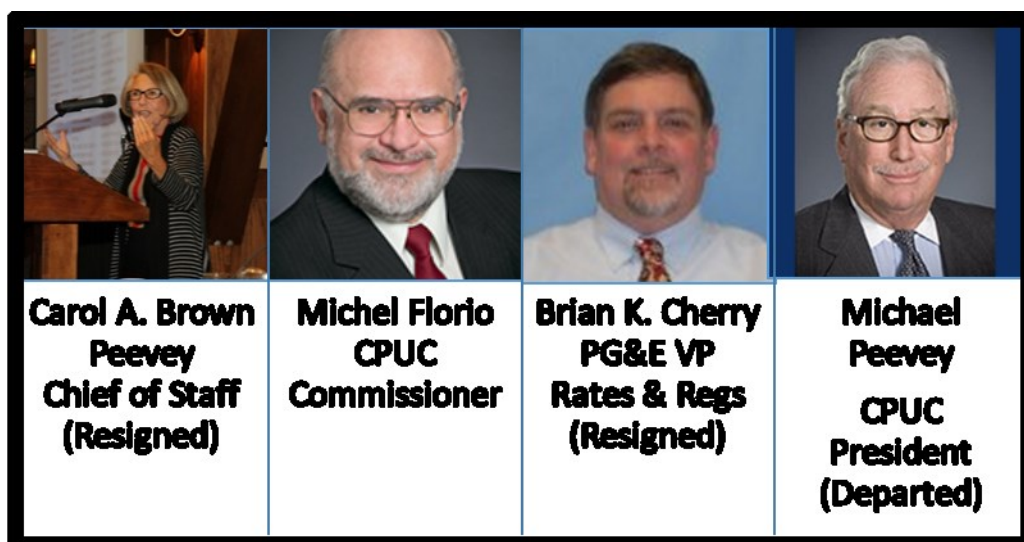
On 9 September 2010 at approximately 6:11 p.m., a portion of gas Line 132 (Segment 180) ruptured in a residential neighborhood of the City of San Bruno. Gas escaping from the rupture ignited, causing a fire that killed eight people and injured 58 others. The fire also damaged 108 homes, 38 of which were completely destroyed.

In December 2013, PG&E filed its 2015 Gas Transmission and Storage (GTS) Rate Case, asking the CPUC to impose \$1,209, 000,000 in rates to maintain and modernize PG&E's pipelines. PG&E's request to the CPUC to take more money from ratepayers was a sensitive issue. In May 2013, seven months before PG&E's rate increase filing, CPUC staff proposed to order PG&E to pay \$2,250,000,000 in fines for failing to maintain its gas main in San Bruno, California. It was PG&E's line failure that resulted in the September 2010 catastrophic explosion that leveled the Bay Area neighborhood and killed eight people:



The morning after the 2010 explosion in San Bruno, a PG&E utility inspector looks at the gas main that ruptured.
(Don Bartletti / Los Angeles Times)

PG&E officials wanted Commissioners Florio, Peevey and their staff to make sure PG&E’s preferred Administrative Law Judge (ALJ) was appointed to hear PG&E’s GTS rate increase case. On 14 January 2014, PG&E Vice President of Rates and Regulation, Brian K. Cherry, wrote to Peevey’s Chief of Staff: “As long as ALJ Wong has the case (which Florio confirms), we are ok with what Mike (Peevey) wants to do on the assignment.” Cherry asked Peevey’s Chief of Staff, Carol Brown, “Can you get it done ASAP please?” Cherry, Brown, Peevey and Florio are pictured here:



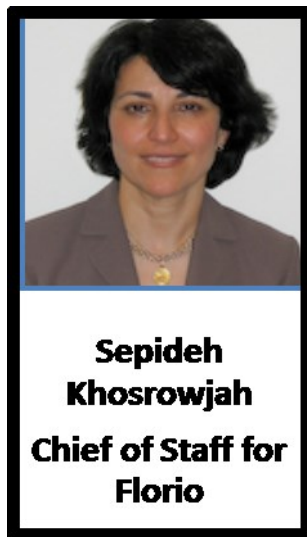
At 8:42 a.m. on 17 January 2014, PG&E Regulatory Manager, Eileen Cotroneo, emailed Brian K. Cherry: “The GTS Case assignment appeared on the daily calendar -Assigned to ALJ Long and Commissioner Peterman. I will issue a note to our team.” PG&E’s Vice President found this to be disturbing news. Thirty-seven (37) minutes after Ms. Controneo notified Cherry of Long’s appointment, Cherry emailed Peevey’s Chief of Staff, Carol Brown: “Is this right? Judge Long? What happened to Wong?”

At 9:49 a.m. that day -- about an hour later -- PG&E Cherry wrote Peevey’s Chief of Staff, Brown: “Please, please check. This is a major problem for us. Florio said he would agree to help Peterman if Wong got it.”

PG&E’s Cherry then turned to Commissioner Peevey at 9:55 a.m. that same day, 17 January 2014: “This is a problem. Hope Carol can fix it.” Two hours later, Cherry again wrote her: “There is a huge world of difference between Long and Wong. I’m not sure we could get someone worse. This is a very important case that is now in jeopardy.” A few hours later, Commissioner Florio joined the back-room wheeling and dealing and told Cherry at 1:18 p.m.:

“I’m horrified! He still has not produced a PD for Sempra’s Psep/TCAP after much prodding and cajoling—we are considering asking that another ALJ be assigned to finish for him. Plus he may retire any day, and uses that as a threat to deflect any direction. Sepideh spoke to John Wong and he said he’s just too overloaded, which we didn’t know. John is a true workhorse so it must be true. If I were you I would bump him—you really can’t do any worse! Even a brand new ALJ would at least work hard and try—you’ll get neither from him ... Keep me posted and I’ll do what I can on this end...

Florio referred to his Chief of Staff, Sepideh Khosrowjah, contacting John Wong. She is pictured here:



Ten days later on 27 January 2014, at 3:36 p.m., Peevey's Chief of Staff, Carol Brown, sent a cryptic note with two names: "Wong and Peterman" -- the ALJ and Commissioner PG&E wanted assigned to its GTS case. In fact, *those two were assigned* those roles. Two minutes later at 3:38 p.m., PG&E's Brian Cherry wrote Carol Brown with profuse thanks: "Thank You, Thank You. Thank You."

This judge-shopping scheme to give PG&E its preferred judge was an example of CPUC policy to please utility investors, even when it meant breaking the rules. Another email from an owner of five million PG&E shares of stock captured the point:

And the CA Commission, staff, Governor and legislature **have to convince institutional investors it's still a good place to put money** into. Right now one would have to say CA went from being one of the better regulatory environments, to average. AT BEST! Evidence has been provided by EIX and SRE being relative underperformers as well. If all relevant parties in CA believe that there is what I would characterize as a "captive" audience of utility investors, I would emphatically say that is a mistaken view. Go back to the mid-1990's, you couldn't get anyone to buy utilities.

Even when PG&E rule violations caused the San Bruno gas explosion, one Commissioner argued strict accountability would raise the price of capital. In October 2013, Commissioner Ferron made a revealing statement about San Bruno and San Onofre. Ferron admitted in early October he met with groups of utility investors “every few quarters or so.” According to Ferron, the investor groups represented “over \$3 trillion dollars in assets under management.” Ferron described the groups as knowledgeable about utilities, “These specific individuals are the ones within their respective organizations that eat, sleep and breathe public utilities across the country and around the world.” (referring to the Wall Street \$3 Trillion Group)

Ferron reported the Wall Street \$3 Trillion Group was “very focused on learning more about the two big “headline issues” in California: San Bruno and San Onofre.” Despite their focus on learning more about San Bruno and San Onofre issues, Ferron invited incredulity when he claimed he “could not and, of course, would not talk about these cases in any way shape or form” with the Wall Street \$3 Trillion Group.

Ferron then claimed “these investors did not attempt to engage in a discussion of pending adjudicatory cases and were very respectful of our ex parte rules.” The written record shows the groups did not report a single conversation about the content of discussions with Ferron and commissioners under CPUC ex parte rules.

Ferron reported the Wall Street \$3 Trillion Group was concerned about “politics surrounding” the San Bruno and San Onofre cases which had “played out in a dramatic and public manner in the press.” Their “collective judgment” was President Peevey had “rehabilitated” California’s image as a “banana republic.” Through “the actions of this Commission over a wide range of cases watched closely by the investment community, California has moved from being a

high-risk outlier to being somewhere in the middle of the pack in terms of risk perception.” With no empirical support, Ferron argued:

[T]his reduction in risk has led to a direct reduction in the cost of financing capital for the utility sector in California. If you do the math, the reduction in the risk premium -- the reduction in the incremental cost of capital to our utilities -- when applied to the balance sheet of our utilities, is equal to several hundred million dollars every year in direct savings to rate-paying customers. In short, the ratepayer is ultimately the direct benefactor of this Commission making decisions that improve the investment climate in California.

Ferron argued SCE and PG&E should not be required to fully pay for the consequences of the San Onofre and San Bruno disasters to keep investors from seeing California as “unfriendly place.” If not, investors could demand “an incremental risk premium for an extended period of time” which would “cost ratepayers multiple billions of dollars in added expense.”

Ferron, a London banker at Deutsche Bank for 20 years, was put on the CPUC to deliver this message. In January 2011, the early days of the Brown administration, Wall Street worried Brown would restore consumer control of the CPUC. In late January 2011, Brown appointed to the CPUC two new commissioners the utilities perceived as consumer-friendly. Brown’s third appointment could have tipped the balance on the 5 member board in favor of consumers, leaving Peevey without a majority.

On 11 January 2011, a senior investment analyst at PG&E reported that a frequent visitor of Peevey, Brian Chin of Citigroup, downgraded two out of the three utilities in California, Edison International and PG&E, on the uncertainty and potential shifting dynamics in the regulatory arena. Chin cited the appointment of three new Commissioners could result in a significant change to the current constructive regulatory environment.

Chin, according to the PG&E analyst, was concerned about: 1) the CPUC has been criticized in the media for being too close to the Utilities, and may “pull back” to quiet some of the critics, and 2) President Peevey may reconsider his role at the CPUC as a result of the Commissioners who are appointed by Governor Brown.

A major risk cited by Chin about the potential new appointees to the Commission was that there may not be a balance between the need for regulatory oversight while still allowing the Utilities to earn a reasonable rate of return. Media reports had referenced potential candidates whose backgrounds are in politics and environment/wildlife advocacy, which historically do not align with constructive regulatory policies, so reported PG&E’s analyst.

On the day it was sent, PG&E executive Brian Cherry forwarded that 11 January 2011 analyst report to Peevey. The response from Peevey to Cherry: “You should find a way to get this info to Brown as he makes his decisions on Commissioners ASAP. Probably best coming from a non-utility source, such as investment banker(s).” In response, Cherry wrote Peevey: “Done.” Peevey told Cherry later on the same day: “You may have reason for concern. Major changes coming and I fear lack of knowledge of subject matter. You will miss Arnold.”

On 26 January 2011 the PG&E investment analyst reported continued speculation by the stock analysts following California utilities:

Key questions raised by analysts in published reports, as exemplified by the Deutsche Bank and UBS reports attached, as well as questions we’ve received in IR include:

- Will Mike Peevey continue as President of the commission?
- Who will be the third commissioner appointed to the CPUC?
- With three new commissioners, what will be the overall direction of the 5-member Commission; and whether it will be much more consumer oriented to the detriment of investors?

On 27 January 2011, PG&E's senior investment analyst reported JP Morgan had downgraded PGE from a "buy" to "hold." PG&E's Cherry forwarded the report to Peevey, who wrote back: "As I suggested before, this info should go to the Governor's office, probably best to Nancy McF. Jerry has to be made aware that actions have consequences and the economy is best off with a stable utility sector." At 12:46 p.m., Cherry wrote Peevey: "Nancy asks if you have any names you would recommend. You can call her directly if you'd like."

In March 2011, Jerry Brown made his decision not to appoint a consumer advocate, but instead, chose a long-time investment banker, Mark Ferron. Ferron in October 2013 delivered Wall Street's message for the CPUC to go easy on SCE and PG&E for the San Onofre and San Bruno disasters. Ms. McFadden, a former PG&E legislative advocate, did not recuse herself from the decision on who to appoint to the CPUC, despite her ownership of PG&E stock options.

In his statement, Ferron admitted he met with three groups of investors but claimed he did not discuss the San Onofre and San Bruno cases in "any way, shape or form." However, on 18 June 2013 (four months before Ferron's October 2013 remarks to the CPUC), Greg Gordon, though his assistant, told Ferron the topics of discussion would include: "[T]he legal framework regarding the CPUC's ability and flexibility to implement fines and penalties."

The Gordon email is quite remarkable because it gives great insight into the true nature of the sub-rosa discussion between CPUC Commissioners and Wall Street:

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From: Susan Davies [SDavies@isigrp.com]
Sent: 6/18/2013 5:42:11 PM
To: 'Banks, Julianc' [julianc.banks@cpuc.ca.gov]
Subject: RE: Meeting with Commissioner Ferron Wed 6/19 at 11am in San Francisco

Hi Juliane,

Thanks for asking and I can also give you some history as well.

Greg Gordon has hosted meetings before with other California Commissioners including President Peevey and Carol Brown, both in person and via video phone from our offices here in NY.

He has been covering the CPUC's policy decisions for 20 years, first as a regulatory analyst at Regulatory Research Associates and since at several other institutions. ISI Group is a research only organization, although the members of the group that is attending include both equity and credit investors in CA's utility infrastructure.

Greg realizes there are several pending cases in front of the CPUC, including PG&E's electric rate case, the Pipeline case, the SCE case regarding the San Onofre plant, etc. and that your office cannot/will not "predict the future" on cases that have not yet been decided.

The issues/topics we will want to cover will focus on is Commissioner Ferron's philosophical position, given his record as a Commissioner at the CPUC, as it pertains to different matters that may be before the Commission now or in the future, NOT specific questions as to how he might rule "up or down" on any pending or future issues before the Commission. Some attendees might want to pose hypothetical questions to your team on how they think the Commissioner would respond to different economic or regulatory scenarios, given his regulatory philosophy and decision making framework.

These issues might include:

Historic decisions and protocol with regard to the prudence and usefulness of assets and the precedence of those decisions.

The current ROE/Cap structure framework and its durability.

The need/desire for continued infrastructure investment in power and gas and how that gets paid for under different economic forecasts.

Rate design issues and how they are resolved as it pertains to solar tariffs and other rates.

The legal framework regarding the CPUC's ability and flexibility to implement fines and penalties.

The group looks forward to seeing you on Wednesday.

C. Example 3: IID Renewable Energy

The Imperial Irrigation District (IID) is a public entity organized in 1911 under the California Irrigation District Law.² The IID, referred to as a “balancing authority,” has the power under law to provide electric service within its 6,483 square mile boundaries. As a balancing authority, IID has the responsibility for integrating resource plans ahead of time, maintaining load interchange and generation balance within the IID territory, and supporting Interconnection frequency in real time.³ IID serves electricity to more than 150,000 customers in Imperial County and parts of Riverside and San Diego counties.⁴ The IID balancing area adjoins the California Independent Systems Operator (ISO) balancing area⁵:



² Codified at Division 11 of the California Water Code.

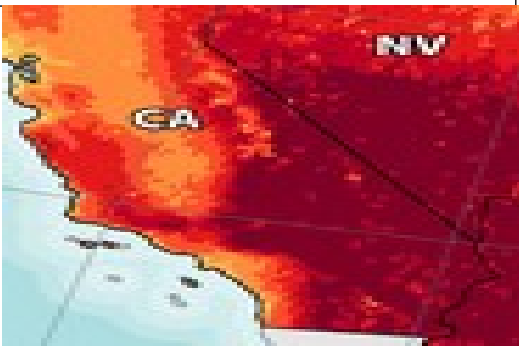
³ http://www.nerc.com/files/glossary_of_terms.pdf

⁴ <http://www.iid.com/about-iid/an-overview/iid-history>

⁵ http://www.energy.ca.gov/maps/serviceareas/balancing_authority_areas.pdf

Over **8,480** megawatts (MW) of renewable energy has been identified as available for development in Imperial County, according to California's lead energy agencies. Further, the United States government's primary laboratory for renewable energy, energy efficiency research, and development -- the National Renewable Energy Laboratory (NREL) -- has identified Imperial County as some of the most favorable regions for solar and geothermal energy in the nation, as shown here on two NREL energy potential maps:

NREL Map Solar Resources Concentrated in Imperial



NREL Gives Imperial County Most Favorable Geothermal



The CPUC issued rulings and decisions committing access to the California power grid for IID to develop its renewable energy in the Imperial Valley. However, after San Onofre went down, the CPUC, under Picker, blocked IID's effort to fully develop Imperial County renewables. Picker was involved in the issue while still a senior adviser to the Governor of California. On 8 July 2013, Peevey arranged a secret meeting at the members-only California Club to discuss what energy sources would be called upon to replace that lost at San Onofre. The invitation to Picker read: "President Peevey has reserved a private room on the 3rd floor of the California Club** Time: 6:00-9:00pm (6:00 Drinks 6:30 pm Dinner):"





**Monday 8 July 13
California Club 538 S. Flower**



**California Club, Third Floor
Private Dining Room**

The participants in the 8 July 2013 meeting included the following government officials:

					
CALISO President Stephen Berberich	CPUC President Michael Peevey	Chair California Air Resources Board Mary Nichols	Gov Brown Energy Adviser Michael Picker	Chair Cal Energy Commission Robert Weisenmiller	Gov Brown Adviser Jobs, Business Michael E. Rossi

Picker was on an email chain relating to his opposition to IID gaining access to the California grid for the Imperial County renewables. The email chain started on 8 August 2014 (4:09 PM) with ISO Director of State Government Affairs, Mary McDonald, writing to Governor Brown's Deputy Legislative Secretary, Martha Guzman-Aceves. The email related to IID's efforts to increase transportation of its geothermal, solar and other renewable energy sources through the ISO to energy supply markets:

At this week's Assembly Appropriations Committee hearing on SB 1139 (Hueso), Kevin Kelley the General Manager of Imperial Irrigation District stated that a recent ISO technical addendum finds that 462 MW of export capacity available from IID into the ISO

(<http://www.caiso.com/Documents/TechnicalAddendumImperialCountyDeliverability.pdf>). However, that 462 MW that he referenced is being used to import existing generation from IID into the ISO (Maximum Import Capability, MIC). As explained in the addendum, transmission additions approved in the ISO's 2013-14 transmission planning cycle will enable future additional amount of deliverability for the overall Imperial zone of up to 1,000 MW. Based on a review of the CPUC's approved power purchase agreements we have determined that all of the 1,000 MW is expected to be used by generation that is already moving forward as a result of having CPUC approval and are connecting directly to the ISO.

On 8 August 2014 at 4:22 p.m. -- thirteen minutes after Ms. McDonald sent her email -- ISO's Vice President for Policy and Client Services, Karen Edson, forwarded Ms. McDonald's email to CPUC Commissioner Michael Picker (previously on the Governor's renewable energy staff) accusing IID General Manager, Kevin Kelley, of making "incorrect representations to the Legislature." Commissioner Picker sent a reassuring email to ISO policy chief Edson mocking, but not copying, GM Kelley:

He (GM Kelley) still believes that you guys (the ISO) told him that there was adequate transmission capacity to move 500 MW of geothermal to the coast; and that (not clear that he actually asked the question) geothermal from Imperial is just what is needed to replace San Onofre. I said that Kevin Kelley was wrong about how to reach the Imperial County deliverability and that the physics of the system made it unlikely that additional remove resources help with reliability on the coast without another set of transmission improvements that provide delivery (or VARS) at someplace near San Onofre. He said that the didn't understand what a VAR was, and then went on to complain about the CPUC leg staff's testimony about economic impacts.

Again, the work of this special group was carried out in secret; their decisions resulted in SCE (Edison) replacing most of San Onofre's lost power with electricity based on natural gas. One example of the closed-door meetings at which the energy regulators conducted business occurred on 17 June 2014 at the home of Air Resources Board Chair, Mary Nichols. An email from California

Energy Commission (CEC) Chairman Robert Weisenmiller notified participants the meeting was scheduled for Tuesday, June 17, 2014, 3:15 PM-5:00PM at Mary Nichols' residence. Those scheduled to attend the meeting were Air Resources Board Chair Mary Nichols, CEC Executive Director Rob Oglesby, CEC Commissioner Janea Scott, CEC Chair Bob Weisenmiller, ISO President Steve Berberich, CPUC Commissioners Peevey and Picker, and Senior Adviser to Governor Brown, Cliff Rechtschaffen.

VI. CPUC VIOLATES PUBLIC RIGHT OF ACCESS

A. Public Denied Access

The California Public Records Act (PRA) expressly governs and provides for the public to have access to the writings of the CPUC. See, Govt. Code §§ 6252, 6253(g) and 6253.4. The public has a right to inspect public records of state agencies, which includes every state Commission. See, Govt. Code §§ 6253(g), and 6252. The legislature directed the CPUC to establish written guidelines for the public to obtain access to CPUC records. Govt. Code § 6253.4(a).

B. Vast Collection of Secret Records at the CPUC

The writings at the CPUC consist of those it creates and those it receives. The records the CPUC generates track the collective concurrence decision making process. The records it receives influence the decision making process at the CPUC. Instead of releasing records under the PRA, the CPUC Commissioners and staff work in tandem with the utilities to deny public access to the CPUC's decision making process.

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VII. RECOMMENDED PRA REFORMS

Based on this record, the following course of action is recommended in the instant OIR proceeding, both retroactively and prospectively. First, the CPUC should issue a report identifying all records granted confidential treatment. Second, any record used by the CPUC to make financial decisions that placed a financial burden on utility customers should be ordered released to the public. Third, the CPUC should release all of its private communications with Wall Street interests.

Fourth, on a going forward basis, the CPUC should discontinue the practice of receiving and participating in private emails and private visitations from Wall Street investor interests. Fifth, the CPUC should agree that its assertion of public record exemptions are subject to Superior Court review under the Public Records Act. As for records relating to matters not involving requests for utility customers to pay money, the CPUC should adopt the procedures the Securities & Exchange Commission uses under the Freedom of Information Act.

The IID respectfully submits that the only records of the CPUC which may not be subject to immediate disclosure would be those requests of “market participants” for data or documents that fit the narrow definition of having a material impact on a procuring party’s market price for electricity, recognizing that the burden rests upon the filing party to prove the submittal to be eligible for confidential treatment.

Specifically, IID submits that the below listed data/records should be subject to public disclosure:

- *Third party documentation subject to an NDA unless otherwise exempt;
- *Documents subject to attorney-client privilege unless otherwise exempt;
- *Pricing data to the same extent required to be disclosed in the public sector;

- *Evaluation criteria utilized for project ranking;
- *Energy procurement data not specifically exempt under state or federal law;
- *RPS solicitation process data;
- *Reports/data relevant to the transmission planning process;

In light of the above, IID respectfully objects to any carte blanche disclosure exemption that extends beyond the parameters as set forth above. In addition, in regards to any data or records that might be so restricted, such should be subject to disclosure upon approval action by the Commission or within a very brief period thereafter.

The IID believes a procedure that adds steps beyond that required by the Public Records Act – such as the Working Group’s proposal for a first look by the utilities, is not needed and represents another way in which the Wall Street-run investor-owned utilities unduly influence and control the actions of the Public Utilities Commission. Rather, the CPUC should follow the California Constitution and Public Records Act that requires statutes and procedures that limit public access to be narrowly construed, and broadly construe those that provide access.

A presumptive matrix identifying documents predetermined to be confidential or public would impermissibly replace the process set forth under the PRA and the authority of the California Constitution. IID’s position as to matrix documents is attached as Appendix 1, hereto.

VIII. CONCLUSION

James Madison taught us that knowledge will forever govern ignorance, and a people who mean to be their own governors must arm themselves with the power knowledge gives. A popular government without popular information or the means of acquiring it is but a prologue to a farce, or a tragedy, or perhaps both.

The CPUC cannot lawfully stop a review of whether it is legitimately withholding documents from the public by misconstruing a provision of law that assigned review of the CPUC's regulatory decisions to the appellate court.. As our Constitution states, "The people have the right of access to information concerning the conduct of the people's business, and, therefore, ** the writings of public officials and agencies shall be open to public scrutiny." Cal State Const. Art 1, Sect 3.

AGUIRRE & SEVERSON LLP

Dated: March 16, 2016

By: /s/Maria C. Severson
Michael J. Aguirre
Maria C. Severson