

Congress of the United States**House of Representatives**
Washington, DC 20515-2105

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The Honorable Elisse B. Walter
U.S. Securities and Exchange Commission
100 F St. NE
Washington, DC 20549

Dear Chairman Walter:

I write to you today to draw your attention to recent news regarding an entity registered with the Securities and Exchange Commission ("SEC"): Southern California Edison Company ("Edison"). A report has recently come to light that Edison was "aware of serious problems with the design of San Onofre nuclear power plant's replacement steam generators before they were installed." Further, the report asserts that Edison ". . . rejected enhanced safety modifications and avoided triggering a more rigorous license amendment and safety review process."¹

To my knowledge, this is new information to investors; I have not found in Edison's SEC filings any allusions to this strategy of forgoing additional safety to shorten the licensing process.² Instead, Edison's SEC filings suggest that the company was surprised when a leak developed in the San Onofre nuclear power plant's Unit 3 steam generators.³ Yet, the report appears to suggest that Edison knew there were potential safety problems with the generators but explicitly opted against making recommended safety modifications for fear that those modifications would prove troublesome to the licensing process. "Among the difficulties, associated with the potential changes was the possibility that making them could impede the ability to justify the RSG [replacement steam generator] design" during the licensing process.⁴

I believe this information may be significant enough that it could be deemed a material fact. The Securities Act of 1933 Act prohibits companies offering securities for sale from omitting material facts – information that a reasonable investor would consider important – from security filings. Investors presumably want to know whether a company is choosing not to implement additional safety protocols because such actions might require a nuclear reactor to go through a more strenuous licensing process. Such choices could be evidence of poor management or even possible future civil liability. I also note the existence of a second

¹ Letter from Sen. Barbara Boxer and Rep. Edward J. Markey to Nuclear Regulatory Commission Chairman Allison M. McFarlane, (February 6, 2013), available at

http://markey.house.gov/sites/markey.house.gov/files/documents/Markey_2.6.13_SanOnofre.pdf.

² See Form 10-K, Southern California Edison Company, (February 29, 2012), page 25, available at www.sec.gov/Archives/edgar/data/92103/000009210312000008/sce201110k.htm; Form 8-K, Southern California Edison Company, (November 1, 2012), page 28, available at

<http://www.sec.gov/Archives/edgar/data/92103/000009210312000049/sce2012q3.htm>.

³ Form 8-K, Southern California Edison Company, (November 1, 2012), page 28, available at

<http://www.sec.gov/Archives/edgar/data/92103/000009210312000049/sce2012q3.htm>.

⁴ See Report on San Onofre nuclear power plant, on file with authors.

allegation that Edison may have reported inaccurate information to its investors, with a recent disclosure of a complaint filed against the California Public Utilities Commission that asserts that Edison “violated federal securities law by misrepresenting the authorized inflation adjustment by as much as \$100 million in filings with the U.S. Securities and Exchange Commission, and might have overbilled customers using the inflated figures.”⁵

Additionally, Rule 10b-5 also prohibits any person from recklessly omitting “a material fact necessary in order to make the statements made . . . not misleading.” Given the dangers inherent to nuclear power, Edison’s failure to take all prudent safety precautions could be considered a reckless action.

I have attached a letter that I, along with Senator Barbara Boxer, wrote to the Nuclear Regulatory Commission (“NRC”) on this subject, with the document in question, along with the NRC’s response. I bring this matter to your attention so that you can analyze this issue in the context of your agency’s responsibilities to ensure compliance with all relevant securities laws and regulations.

In order to better understand this subject, I also request that you respond to the following questions:

- 1) What are the penalties that may be levied against a company for violating Section 17 of the Securities Act of 1933?
- 2) What are the penalties that may be levied against a company for violating Rule 10b-5?
- 3) Has the SEC ever commenced an enforcement action against an energy company for failing to disclose that it had prior knowledge that one of its facilities faced potential safety issues and that the company declined to address those issues for pecuniary reasons related to the additional regulatory requirements implementing the safety issues would entail? If so, please provide us with a summary of each such instance, including the nature of the enforcement action and the resolution thereof.

Thank you very much for your attention to this important matter. I request that you respond to this letter by March 15, 2013. If you have any questions or concerns, please have your staff contact Justin Slaughter or Michal Freedhoff of my staff at 202-225-2836.

Sincerely,



Edward J. Markey

⁵ [http://latimesblogs.latimes.com/lanow/2013/02/san-onofre-steam-generator-costs.html?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+lanowblog+\(L.A.+Now\)](http://latimesblogs.latimes.com/lanow/2013/02/san-onofre-steam-generator-costs.html?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+lanowblog+(L.A.+Now))