

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company) Application 12-12-012
In its 2012 Nuclear Decommissioning Cost Triennial) (Filed December 21, 2012)
Proceeding (U39E))

Joint Application of Southern California Edison) Application 12-12-013
Company (U338E) and San Diego Gas & Electric) (Filed December 21, 2012)
Company (UU902E) for the 2012 Nuclear)
Decommissioning Cost Triennial Proceeding to Set)
Contribution Levels for the Companies' Nuclear)
Decommissioning Trust Funds and Address Other)
Related Decommissioning Issues.)

**MOTION OF THE COALITION TO
DECOMMISSION SAN ONOFRE FOR HEARING
*ERRATA***

January 27, 2014

Martha Sullivan, Organizer
Raymond Lutz, National Coordinator/
Citizens Oversight, Inc.
Coalition to Decommission San Onofre
2354 Carmel Valley Rd.
Del Mar, CA 92014
858/945-6273
marthasullivan@mac.com

I. OVERVIEW

1 In accordance with Rule 11.1, the Coalition to Decommission San Onofre (CDSO)
2 hereby requests a hearing in the 2012 Nuclear Decommissioning Cost Triennial Proceeding
3 (NDCTP) of the California Public Utilities Commission (CPUC, or "Commission"). *(This*
4 *1/25/14 Errata corrects three minor clerical errors in the original Motion, e-filed with the Commission*
5 *and served via e-mail on the Service List of this proceeding on 1/24/14.)*

6 The Coalition to Decommission San Onofre, a party in said proceeding, is a DBA of
7 Citizens Oversight, a 501(c)3 Delaware Corporation, with offices in Southern California.
8 Member organizations and individuals reside within the evacuation area of the San Onofre
9 Nuclear Generating Station (SONGS). CDSO/Citizens Oversight, Inc., encourages
10 **increased engagement by the public in the operation of their local, state and federal**
11 **government to reduce waste, fraud and abuse.**

12 The specific issues requiring hearing by the Commission have been raised by
13 Southern California Edison (SCE) in its Testimony and Reply Brief in Phase 2 of this
14 proceeding, as well as in its Advice Letter 2968-E filed with the Commission's Energy Division
15 on November 18, 2013. This Advice Letter has been protested by CDSO, the Office of
16 Ratepayer Advocates (ORA), and The Utility Reform Network (TURN); SCE responded to
17 these protests on January 22, 2014, as directed by the Energy Division.

18 These issues are:

- 19 **1. As required by D.11-07-003, the Commission has yet to “evaluate the Advice**
20 **Letter process for HBPP (the Humboldt Bay Power Plant) to determine whether it is**
21 **appropriate and sufficient review before extending it to other decommissioning**
22 **activities.”**
- 23 **2. This Commission has not yet approved a cost and schedule for**
24 **decommissioning San Onofre Units 2 and 3, as required prior to disbursement of**
25 **funds from the Trusts by the Qualified and Non-Qualified Master Trust**
26 **Agreements approved by this Commission by Resolution E-3057 in 1987 :**

27 One year prior to the time decommissioning of a Plant or Plants is estimated to
28 begin, the Company shall apply for CPUC approval of the estimated cost and

1 schedule for decommissioning each Plant or Plants. **Upon approval of the cost**
2 **and schedule for decommissioning each Plant or Plants, the CPUC shall**
3 **authorize Interim Disbursements from the applicable Fund to pay**
4 **Decommissioning Costs.** (Emphasis added.)

II. Facts and Law Supporting this Motion

A. SCE's Request for Interim Disbursements from the Trust

5 In Testimony and Briefs over the past several months in this proceeding and in I.12-10-
6 013, SCE has noticed its intent to request authority to withdraw funds from the San Onofre
7 Nuclear Decommissioning Trusts. During Evidentiary Hearings last October in I.12-10-013,
8 CDSO was prevented by the presiding Administrative Law Judge (ALJ) from questioning SCE
9 witnesses about this stated intent.¹ During Evidentiary Hearings last October in this NDCTP
10 proceeding, CDSO cross-examined SCE Witness Hunt at some length about the process by
11 which SCE could request authority to withdraw funds, although SCE had not yet filed a
12 request to do so.² During this cross-examination, SCE Witness Hunt agreed that a hearing
13 could be required by the Commission on such a request.³

14 SCE filed Advice Letter 2968-E on November 18, 2013, seeking to quickly institute
15 procedures -- with almost no review or discussion -- that will allow SCE to prematurely access
16 funds from the Decommissioning Trusts prior to completing the prescribed Post Shutdown
17 Activities Report (PSDAR) and the detailed site-specific decommissioning plans. SCE also
18 suggests a method to launder trust funds through a proposed "SONGS Operations and
19 Maintenance Balancing Account" (SOMBA) and then into the Energy Resource Recovery
20 Account (ERRA) to cover for overspending by SCE; and suggests an inappropriate allocation
21 of the trust funds so as to improperly over-allocate funds that SCE can spend on non-
22 radiological decommissioning, while under-allocating funds for U.S. Nuclear Regulatory
23 Commission (NRC)-mandated radiological decommissioning. These plans provide for an
24 inappropriate low level of oversight by both this Commission and the public, exemplifying
25 embarrassing disregard for the integrity of the decommissioning trust funds.

1 I.12-10-013, et al, Transcript at 2463-2467.

2 Transcript at 489-506.

3 Transcript at 497, Lines 25-27.

1 CDSO timely protested Advice Letter 2968-E on December 9, 2013, as did ORA; the
2 Commission's Energy Division granted TURN an extension and it protested this Advice Letter
3 on January 14, 2014. In accordance with the Commission's General Order 96-B, SCE
4 responded to these protests on January 22, 2014. All three protests call for the Advice Letter
5 to be rejected, and SCE's request heard in this NDCTP proceeding.

6 On December 16, 2013, SCE filed and served its Opening Brief in this proceeding,
7 devoting a section thereof to defending this Advice Letter filing. In Section VI of its Opening
8 Brief. SCE argues that it should not be accountable to this Commission and by extension, to
9 ratepayers, for its use of San Onofre Decommissioning Trust Funds. This 2012 NDCTP
10 Phase 2 proceeding demonstrates exactly why SCE should not continue to be granted what is
11 essentially a blank check for use of ratepayer funds collected in the San Onofre
12 Decommissioning Trust Fund.

13 In the Testimony of SCE Witness Hunt cited earlier herein, and in Section VI of its
14 Opening Brief, SCE asserts that "The Commission has an established approval process for
15 disbursement" pursuant to the Master Trust Agreements approved in Resolution E-3057 in
16 *November 1987*. However, in response to CDSO Data Request Set 2, Question 3 on
17 November 18, 2013, SCE responded: **"On November 18, 2013, SCE filed the attached
18 Advice Letter. No other Advice Letters have been filed with the CPUC regarding SONGS
19 Units 1, 2 or 3 decommissioning funding."** ⁴

20 SCE has argued in this proceeding that there is an established procedure and approval
21 process for disbursement using the advice letter procedure. However, it has NEVER
22 employed this procedure in the **26 years** since it was allegedly "established", by SCE's own
23 admission.

B. Commission D.11-07-003

24 As we presented in our NDCTP Opening Brief⁵:

25 In 2011, after the vast majority of work was already completed in the decommissioning
26 process for SONGS 1, the Commission published D.11-07-003 on July 14, 2011, entitled:

4 SCE Response to CDSO Data Request Set 2, Question 3, Prepared by Roberty Bledsoe, Manager, Project/Product,
11/18/13.

5 At pp. 29-31.

1 "Decision Adopting Recommendations Of The Independent Panel On Nuclear
2 Decommissioning Costs, Estimates, Assumptions, And Format"⁶

3 This decision provided a method for expressing information about the various plants so
4 they could be more conveniently compared, as well as steps to improve the oversight
5 available for the Humboldt Unit 3 decommissioning project, utilizing the "Advice Letter"
6 procedure already in use by the Commission for other purposes⁷.

7 At Page 37 of this decision, the Commission described problems with the process
8 used in SONGS 1 and proposed a new method based on Advice Letters, to be used in the
9 Humboldt Bay Power Plant Unit 3 Decommissioning project, as follows:

8. Transparency of Major Decommissioning Expenditures

To date, the Commission has only its experience with the decommissioning of SONGS 1 as a basis to develop its methods for exercising oversight of the utilities' decommissioning activities. PG&E, as its own contractor, has recently begun to decommission Humboldt Bay Power Plant and has used Advice Letters to communicate with the Commission about its activities. The procedures followed by PG&E and SCE for SONGS are different due to a lack of direction from the Commission. Further, PG&E's Advice Letters have not contained all of the information necessary for the Commission to adequately or promptly review how closely actual costs are following estimated costs during the major decommissioning phase where the vast majority of activities and expenses occur. We think this is an essential part of our oversight and waiting for triennial review after hundreds of millions of dollars may be spent, perhaps well in excess of what has been previously estimated, is unreasonable.

Therefore, at the March 14, 2011 evidentiary hearing in Phase 2 of this proceeding, representatives of the utilities agreed to meet with Energy Division to discuss the Advice Letter process for notice and authorization to withdraw funds from the nuclear decommissioning trust funds. PG&E agreed to a periodic Advice Letter process under Tier 2 to request approval for anticipated trust fund disbursements and which will include, inter-alia, specific information about the activities, prior cost estimates, actual costs, and whether trust fund reimbursement has been obtained. A description of the process and contents of the Advice Letters is attached hereto as Attachment B.

6 http://docs.cpuc.ca.gov/PublishedDocs/WORD_PDF/FINAL_DECISION/139321.PDF

7 CPUC General Order 96-B -- General Rules govern advice letters and information-only filings submitted to the Commission by public utilities that are gas, electrical, telephone, water, sewer system, pipeline, or heat corporations, as defined in the Public Utilities Code. -- http://docs.cpuc.ca.gov/word_pdf/GENERAL_ORDER/164747.pdf

SCE and SDG&E expressed their preference to not have this process apply to SONGS 1 until Phase 3 and commencement of SONGS 2 and 3 decommissioning. We agree at this time because the ongoing decommissioning expenses at SONGS 1 are minor, **giving the Commission time to evaluate the Advice Letter process for HBPP to determine whether it is appropriate and sufficient review before extending it to other decommissioning activities.** (Emphasis added.)

1 From the same decision, Conclusion of Law #2 is also relevant:

2. The Commission should establish the Advice Letter Process set forth in Attachment B for utilities to notify the Commission of decommissioning activities, expenses, and trust fund reimbursements related to nuclear decommissioning. **It is reasonable to first apply the process to PG&E, which has the only active decommissioning project within the Commission's jurisdiction, so the Commission may evaluate its efficacy for future decommissioning projects.** (Emphasis added.)

2 The advice letter process as described in D.11-07-003 is explicitly approved only for
3 the Humboldt Bay Power Plant Unit 3 decommissioning project on an experimental basis.
4 Per D.11-07-003 "Conclusion of Law #2": "It is reasonable to first apply the process to PG&E,
5 which has the only active decommissioning project within the Commission's jurisdiction, so
6 the Commission may evaluate its efficacy for future decommissioning projects."
7 **Unfortunately, the Commission has not yet evaluated its efficacy and SCE is proposing**
8 **to start using the same process without any evaluation or explicit direction to do so by**
9 **the Commission.**

C. San Onofre Decommissioning Master Trust Agreements

10 As mentioned in SCE's Advice Letter 2968-E, Section 2.01(7) of the Qualified and Non-
11 Qualified Master Trust Agreements state:

One year prior to the time decommissioning of a Plant or Plants is estimated to begin, the Company shall apply for CPUC approval of the estimated cost and schedule for decommissioning each Plant or Plants. Upon approval of the cost and schedule for decommissioning each Plant or Plants, the CPUC shall authorize Interim Disbursements from the applicable Fund to pay Decommissioning Costs.

1 Although it is true that SCE does not have the luxury of performing these actions prior
2 to actual shutdown, (such as the speculation that it would be done five years in advance), the
3 Master Trust agreements state that the company must have the estimated cost and schedule
4 completed BEFORE applying for funds. According to SCE in the Advice Letter,

"Under the sequence of events that was previously contemplated,
SCE would have submitted a site-specific decommissioning
activities plan and detailed cost estimate for review by NRC⁸ and
approval by this Commission at least five years prior to the
expiration of the operating licenses."⁹

5 So again, we see that the proper course of events is for SCE to first PLAN before
6 DOING. SCE wants to turn these plans on their heads, and start to spend \$200 million more
7 than necessary without an approved PLAN. In its Advice Letter 2968-E, SCE is asking for
8 \$214 million, but at this point SCE should only be requesting funds sufficient to plan
9 decommissioning, which is listed by SCE in their Advice Letter Attachment A as \$14 million
10 (through 2014), and that is extremely generous. Instead, SCE attempts to lump all kinds of
11 costs into this advice letter, including costs for employees that are not even directly
12 connected with SONGS, the "non-SONGS personnel."

III. Specific Relief Sought

13 CDSO requests that the Commission keep the record in this proceeding open, and:

- 14 1. Seek testimony and briefs from the Parties in this proceeding in order to evaluate the
15 efficacy of the advice letter process employed by PG&E for the HBPP, as required by
16 Conclusion of Law #2 in its D.11-07-033.
- 17 2. Based upon the conclusions it reaches as a result of completing Item 1, the
18 Commission should then direct SCE to request authorization for disbursement of funds
19 from the Decommissioning Trust Funds in accordance with the procedure it adopts
20 therefrom, and in consideration of the requirements of the Master Trust Agreements as
21 discussed herein.

8 10 CFR 50.75 Reporting and recordkeeping for decommissioning planning. <http://www.nrc.gov/reading-rm/doc-collections/cfr/part050/part050-0075.html>

9 Advice Letter 2968-E, at Page 3.

1 **As San Onofre enters actual decommissioning at least several years in advance**
2 **of planned commencement (2022), it is essential NOW to institute meaningful and**
3 **effective oversight policies and procedures for this expenditure of ratepayer funds**
4 **which will dwarf the two previous nuclear decommissioning projects** for PG&E's sole
5 Humboldt Bay reactor and for the partial decommissioning of San Onofre Unit 1.

6 NOW is the time to benefit from the experience of the past several years AND from
7 current knowledge about what nuclear decommissioning really entails; it is also the time to
8 honor ratepayers in the SCE and SDG&E service territories with meaningful, good-
9 government, independent oversight of the **\$3.4 billion** they have paid into the San Onofre
10 Decommissioning Trust Fund.

Respectfully submitted,

--/s/--

Martha Sullivan and

The Coalition to Decommission San Onofre
2354 Carmel Valley Rd
San Diego CA 92014
marthasullivan@mac.com
858/945-6273

--/s/--

Raymond Lutz, on behalf of

11 January 27, 2014