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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company in its 2012 Nuclear Decommissioning Cost Triennial Proceeding (U39E).

Application 12-12-012
(Filed December 21, 2012)

(Not Consolidated)

Joint Application of Southern California Edison Company (U338E) and San Diego Gas & Electric Company (U902E) 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.

Application 12-12-013
(Filed December 21, 2012)

(Not Consolidated)

SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGE

Pursuant to Article 2.5 of the Commission's Rules of Practice and Procedure (Rules),¹ this Scoping Memo and Ruling addresses issues, schedule, and other matters necessary to scope these proceedings.

¹ The Commission's Rules are available on the Commission's website, (<http://www.cpuc.ca.gov/>), click on "Laws, Rules, Procedures."

1. Background

The purposes of the Nuclear Decommissioning Costs Triennial Proceedings (NDCTP) are to establish just and reasonable rates to adequately fund the nuclear decommissioning trusts² for the benefit and protection of ratepayers, verify that the utilities are in compliance with prior decisions applicable to decommissioning, and determine whether the costs expended decommissioning by the utilities are reasonable and prudent.³ On December 21, 2012, Southern California Edison (SCE) and San Diego Gas & Electric (SDG&E) filed a Joint Application, and Pacific Gas and Electric Company (PG&E) filed its Application, for the 2012 Nuclear Decommissioning Cost Proceedings.

On March 13, 2013, the Commission noticed a joint prehearing conference (PHC) for both Applications for March 27, 2013, to determine parties, create service lists, identify issues, consider the schedule, and address other matters as necessary to proceed with these applications. At the PHC, assigned Commissioner Mark Ferron and Administrative Law Judge (ALJ) Melanie M. Darling ordered supplemental testimony and that the proceedings be consolidated. The supplemental testimony consists, in part, of an early decommissioning cost estimate by SCE for San Onofre Nuclear Generation Station (SONGS) 2 and 3 under a permanent shutdown scenario.

² In Decision (D.) 87-05-062, the Commission adopted externally managed trusts as the vehicle for accruing decommissioning funds and established guidelines for the trust agreements. The trust Agreements were initially authorized in Resolution E-3048.

³ D.07-01-003 at 6-7.

On June 7, 2013, SCE announced that it would retire SONGS units 2 and 3. The implications of this announcement on the scope and schedule is addressed further, below.

2. The NDCTP Applications

A. SCE and SDG&E

In a Joint Application, Application (A.) 12-12-013, as amended on April 5, 2013, SCE and SDG&E request that the Commission:

- 1) find the \$14.9 million (100% share, 2011\$) cost of San Onofre Nuclear Generating Station (SONGS) Unit 1 nuclear decommissioning (ND) work completed between January 1, 2009 and December 31, 2012 is reasonable;
- 2) find the updated \$182.3 million (100% share, 2011\$) SONGS Unit 1 ND cost estimate for the Remaining Work is reasonable; and
- 3) find the updated \$4,119.0 million (100% share, 2011\$) SONGS Units 2 & 3 ND cost estimate is reasonable;

In addition, SCE requests the Commission:

- 1) find the updated \$513.5 million (SCE's share, 2010\$) Palo Verde ND cost estimate is reasonable; and
- 2) authorize rate recovery of its increased contribution of \$39.221 million for contributions to its Nuclear Decommissioning Trust Funds for SONGS Units 2 & 3 through the Nuclear Decommissioning Adjustment Mechanism (NDAM), effective January 1, 2014. The associated 2014 revenue requirement associated with this contribution is \$39.662 million.

In addition to the foregoing, SDG&E requests the Commission:

- 1) enter a finding that the updated estimates of SDG&E's ratable share of the ND costs for SONGS Units 1, 2 & 3 of \$36.46 million, \$400.625 million, and \$423.093 million, respectively, are reasonable;

- 2) authorize a revenue requirement for SDG&E's annual contribution to its Nuclear Decommissioning Trust Fund for SONGS Units 1, 2 & 3 in the amount of \$16.43 million, effective January 1, 2014;
- 3) authorize SDG&E to amortize the 2013 forecasted NDAM balancing account undercollection in rates for a 12-month period beginning January 1, 2014; and
- 4) authorize SDG&E to file an advice letter within fifteen (15) days after the effective date of the Commission's order approving this application to adjust SDG&E's NDAM rates to reflect the annual contributions and revenue requirements as may be approved by the Commission.

Based upon the application, SDG&E proposes a 2014 rate increase of \$8.3 million from current rates. Furthermore, if SDG&E's request in this proceeding for the amortization of the 2013 forecasted NDAM undercollection of \$0.200 million is approved for 2014 rates, the proposed NDAM rate would increase 93% from current rates. This increase reflects the transfer of funds from SDG&E's non-qualified trusts to its qualified trusts, an appropriate allowance for franchise fees and uncollectibles of 1.0275% and 0.1410%, respectively, and funds received from SCE representing SDG&E's ratable share of an award of civil damages related to the failure of the United States Department of Energy to begin accepting spent nuclear fuel from SONGS Units 1, 2 and 3.

B. PG&E

In a separate application, A.12-12-012, PG&E requests the Commission:

- 1) authorize PG&E to collect through Commission-jurisdictional electric rates effective January 1, 2014, \$82.517 million in annual revenue requirements for the Diablo Canyon Units 1 and 2 Nuclear Decommissioning Trusts, as adjusted by advice filing update;

- 2) authorize PG&E to collect through Commission-jurisdictional electric rates effective January 1, 2014, \$120.383 million in annual revenue requirements for the Humboldt Unit 3 Nuclear Decommissioning Trusts;
- 3) authorize PG&E to collect through Commission-jurisdictional electric rates for funding Humboldt Unit 3 Safe Long-term Protective Storage (SAFSTOR)⁴ operation and maintenance (O&M) costs an estimated \$9.997 million in 2014, \$9.876 million in 2015 and \$9.475 million in 2016 and thereafter;
- 4) find that the decommissioning cost estimates and associated trust contribution analyses are reasonable and in accordance with §§ 8321 through 8330 of the Cal. Pub. Util. Code;
- 5) authorize PG&E to continue to collect the revenue requirement associated with ND trust contributions and Humboldt Unit 3 SAFSTOR O&M costs through a non bypassable charge as specified in Pub. Util. Code § 379, and to continue to utilize the NDAM as authorized in D.99-10- 057;
- 6) find that PG&E has made all reasonable efforts to retain and utilize qualified and experienced personnel to effectively, safely, and efficiently pursue physical decommissioning related activities;
- 7) find that the \$25.923 million in costs incurred for completed decommissioning projects at Humboldt Unit 3 are reasonable and prudently incurred;

⁴ SAFSTOR is a method of decommissioning in which a nuclear facility is placed and maintained in a condition that allows the facility to be safely stored and subsequently decontaminated (deferred decontamination) to levels that permit release for unrestricted use. <http://www.nrc.gov/reading-rm/basic-ref/glossary/safstor.html>.

- 8) find that the variances in actual versus forecast SAFSTOR expenses are reasonable;
- 9) authorize PG&E to modify the manner in which it trues up actual and forecast SAFSTOR expenses so that SAFSTOR under-collections will be trued-up through additional withdrawals from the trusts, and over-collections will be credited against decommissioning costs otherwise recoverable from the trusts;
- 10) authorize PG&E, if actual expenditures on decommissioning of Humboldt should exceed the balance in the trust funds, to record any such excess amounts in an account for which it could seek recovery in the next NDCTP; and
- 11) affirm PG&E's treatment of revenue requirements and trust contributions in 2013.

The result is a total estimated 2014- Commission jurisdictional revenue requirement for nuclear decommissioning of \$212.897 million, which is \$168.627 million (381%) more than PG&E's currently authorized decommissioning revenue requirement of \$44.27 million.

3. Protests

Division of Ratepayer Advocates (DRA) filed a Protest in both proceedings asking the Commission to consolidate the proceedings and to review all of the utilities' requests. The Utility Reform Network (TURN) filed a Protest in both proceedings and for both applications identified the following issues:

- Review of the ND cost estimates to determine the extent to which each utility has accepted the findings of the Independent Review Panel (IRP) authorized by D.10-07-047 and made changes to its estimates based on the Report authored by the IRP;
- Analysis of the forecasted costs for burial of low-level radioactive waste; and

- Determination of the proper rate of return assumptions for the ND trust funds.

For SCE and SDG&E, TURN identified the following issues:

- The reasonableness of SCE's adjustments to the Palo Verde ND cost estimate;
- Review of the decommissioning progress at SONGS Unit 1 and the reasonableness of costs incurred since the prior NDCTP; and
- Assess the potential for engaging the U.S. Department of the Navy to clarify the extent of ND obligations at SONGS.

For PG&E, TURN identified the following issues:

- Review the basis for the major decommissioning cost increases forecasted for both Diablo Canyon and Humboldt Bay;
- Review the decommissioning progress at Humboldt Bay and the reasonableness of costs incurred since the prior NDCTP; and
- Determine whether PG&E has adequately considered the potential for federal damage payments associated with delays in the acceptance of spent nuclear fuel.

The Merced and Modesto Irrigation Districts filed a joint response that asked the Commission to review the scope and applicability of the ND non-bypassable charge under §379, as well as the updated ND cost estimates by PG&E. PG&E filed a Reply to the Protests.

4. Categorization

Applicants proposed that these proceedings be categorized as ratesetting. The Commission preliminarily categorized these matters as ratesetting in Resolution ALJ 176-3307, dated January 10, 2013. The categorization of these proceedings is determined herein to be ratesetting. This is the Assigned

Commissioner's Ruling on category, and appeals, if any, must be filed and served within 10 days. (Rule 7.6.)

5. Consolidation

No party opposed consolidation of the two proceedings. At the PHC, the Assigned Commissioner and ALJ consolidated A.12-12-012 and A.12-12-013 based on efficiencies that could be realized due to common issues and coordination by the parties. As deemed appropriate and efficient by the Presiding Officer, these applications may be addressed in either separate or combined decisions to expeditiously resolve the issues.

6. Supplemental Testimony

At the PHC, the Assigned Commissioner and ALJ directed the following Supplemental Testimony and exhibits be served:

- (1) PG&E shall prepare and serve an exhibit, no later than April 10, 2013, which contains PG&E's December 2012 Advice Letter that tracks ND expenses at Humboldt Bay Unit 3 from January 1, 2009 and compares recorded expenses by project to amounts given preliminary approval by project in the 2009 NDCTP;
- (2) SCE, in consultation with SDG&E, shall prepare and serve, no later than April 26, 2013, a ND cost estimate which reflects the potential scenario of early decommissioning following a permanent shutdown of one or both SONGS units;
- (3) SCE, SDG&E, and PG&E shall prepare and serve an exhibit, no later than April 10, 2013, that identifies all proceeds from litigation (*e.g.*, judgment, settlement) with the U.S. Department of Energy related to disposal of spent nuclear fuel, what periods the proceeds cover, and how the utility proposes to treat the funds, including estimated refunds to ratepayers and the anticipated mechanism for refund (*e.g.*, General Rate Case, Energy Resource Recovery

Account, Nuclear Decommissioning Adjustment Mechanism); and

- (4) SCE, SDG&E, and PG&E shall prepare and serve, no later than April 10, 2013, a summary of actual Trust Fund performance covering 2009-2012 and include a comparison with the prior NDCTP forecast performance, as ordered by D.13-01-039. It may be in chart or table form.

All three utilities submitted and served the exhibits and testimony requested by April 10, 2013. By April 19 e-mail, SCE provided a status report on the alternate ND scenario, and asked for an extension of time to serve the testimony. No party objected to the request, although TURN was concerned about adequate time for discovery and rebuttal. Therefore, on April 26, 2013, SCE received an extension until June 3, 2013 to serve its supplemental direct testimony on the alternate decommissioning scenario. The date was later extended to June 7, 2013. On June 7, SCE requested and received another extension to serve the supplemental testimony by June 24, 2013.

A telephonic status conference was held on June 12, 2013, attended by all parties, wherein SCE requested an additional extension to July 22, 2013 to serve this supplemental testimony. SCE's requested extensions require delays to the original timetable discussed and agreed to at the PHC. PG&E requested that HBPP cost reviews be heard on the original schedule in order to get a decision by December. All parties agreed to the following:

1. The reasonableness review of the identified past & future decommissioning costs at Humboldt Bay Power Plant (*i.e.*, decommissioning cost estimate, SAFSTOR O&M, and costs of completed decommissioning projects) will be heard on the original schedule; however, hearings will run two days beginning 8/7 instead of 8/5. (This is to avoid conflict with 8/5 to 8/6 hearings in the SONGS OII); and

2. The remainder of the issues in these proceedings, including rate of return on all ND Trust Funds and calculation of revenue requirements, will proceed under a delayed schedule, including service of the supplemental testimony by SCE on 7/22 and re-scheduled hearings on October 21-25. [The parties understood and agreed that with Reply Briefs not due until 12/13, there will be no decision in 2013.]

7. Hearing and Record; Restrictions on *Ex Parte* Communications

Applicants proposed that these proceedings might include hearings. The Commission preliminarily determined that these matters would require hearings.⁵ This Scoping Memo adopts a schedule that includes formal hearings. (See Rules 7.3(a) and 7.1(a).) The record will be composed of all documents filed and served on parties. It will also include testimony and exhibits received at hearing. Parties shall use the procedures contained in Resolution ALJ-164 to seek resolution of discovery disputes.⁶

Parties are required to comply with the Commission's rules regarding the reporting of *ex parte* communications set forth in Article 8 of the Commission's Rules of Practice and Procedure (Rules), particularly Rule 8.4.

8. Scope and Issues

The purpose of these proceedings is to establish just and reasonable rates to adequately fund the nuclear decommissioning trusts in place for the benefit and protection of ratepayers and to verify that PG&E, SCE, and SDG&E are in

⁵ ALJ Resolution 176-3307 (January 10, 2013).

⁶ This Resolution may be accessed via the following link:
http://www.cpuc.ca.gov/WORD_PDF/FINAL_RESOLUTION/2538.doc.

compliance with all prior decisions applicable to decommissioning. Further, these proceedings will determine whether the costs expended to-date to decommission Humboldt Unit 3 and SONGS 1 were reasonable and prudent, including funding Humboldt Unit 3 SAFSTOR O&M costs.

To the extent necessary, these proceedings will examine all underlying forecasts and assumptions to estimate the future costs of decommissioning the various nuclear generating stations; the costs and earnings associated with the decommissioning trust funds and review of the management of the trust funds; and other relevant data, policies or laws and regulations. These proceedings will also include the standard reasonableness review of managerial decisions and actions by PG&E, SCE, and SDG&E as they have pursued decommissioning either Humboldt Unit 3 or SONGS Unit 1.

The applicants shall demonstrate that they are in compliance with all relevant decisions, including D.10-07-047, the combined Phase 1 decision for the 2009 NDCTP, and D.11-07-003, which adopted the recommendations of the IRP in Phase 2.

The Commission will not address the joint request by the Merced and Modesto Irrigation Districts (Districts) to reconsider the scope and application of the non-bypassable charge (NBC) authorized by §379. The Districts ask the Commission to reverse its historical application of the NBC to customers who have departed the investor-owned utility service. This matter of statutory interpretation is more appropriate to a rulemaking where all affected parties have an opportunity to participate.

9. Standard of Review

The applicants alone bear the burden of proof to show that the rates they request are just and reasonable and the related ratemaking mechanisms are fair.

For the purposes of these proceedings and as used in the scope above, we define reasonableness for decommissioning expenditures consistent with prior Commission findings, *i.e.*, that the reasonableness of a particular management action depends on what the utility knew or should have known at the time that the managerial decision was made.⁷

10. Schedule

The bi-furcated schedule for this proceeding is set forth below. This schedule may be altered by the assigned Commissioner or ALJ as needed to promote the efficient and fair resolution of these consolidated proceedings. In any event, the Commission intends that this proceeding will be completed no later than 18 months from the date of issuance of this Scoping Memo, pursuant to § 1701.5.

Action	All Issues Except HBPP	HBPP Issues
SCE Supplemental Testimony Served	July 22, 2013	N/A
Parties Reply Testimony Served	September 20, 2013	July 12, 2013
Rebuttal Testimony Served	October 11, 2013	July 26, 2013
Evidentiary Hearings Commission Courtroom, State Office Building 505 Van Ness Avenue San Francisco, CA 94102	October 21 - October 25, 2013	August 7 - August 9, 2013

⁷ D.02-08-064, (August 22, 2002) at 5-8.

Concurrent Opening Briefs Filed	November 22, 2013	September 13, 2013
Concurrent Reply Briefs Filed (Projected Submission Date)	December 13, 2013	September 27, 2013
Proposed Decision	To be determined	Approximately November 19, 2013

Prior to the hearing dates set forth above, the parties are directed to meet and confer to settle issues to the extent they are able, and to determine the issues, if any, that must be adjudicated through the hearing process.

The proceeding will stand submitted for decision by the Commission upon the filing of reply briefs, unless the ALJ orders further evidence or argument. In such case, the proceeding will stand submitted upon conclusion of final argument. However, the ALJ may issue a ruling to change the submission date to a different date.

11. Final Oral Argument

Pursuant to Rule 13.13, any request for a final oral argument before the Commission must be filed and served at the same time as Opening Briefs.

12. Presiding Officer

ALJ Melanie M. Darling is hereby designated as the presiding officer of the consolidated proceedings pursuant to Rule 13.2.

IT IS RULED that:

1. The final categorization of these proceedings is ratesetting and hearings are required for the purpose of Article 2.5 of the Commission's Rules of Practice and Procedure (Rules).
2. Application 12-12-012 and Application 12-12-013 are consolidated.

3. *Ex parte* communications are permitted with restrictions and are subject to reporting requirements.

4. Southern California Edison and San Diego Gas & Electric shall file Supplemental Testimony no later than July 22, 2013 which provides a nuclear decommissioning cost estimate which reflects the scenario of early decommissioning following a permanent shutdown of one or both San Onofre Nuclear Generation Station units.

5. The record shall be composed of all filed and served documents, plus testimony and exhibits received at hearing.

6. The issues and schedule are as set forth in the body of this ruling unless amended by a subsequent ruling or order of the Presiding Officer.

7. Parties should begin discovery immediately.

8. Parties shall follow the procedure stated in the body of this ruling in making any request for Final Oral Argument.

9. An electronic Service Protocol is in effect.

10. Administrative Law Judge Melanie M. Darling is the Presiding Officer of the consolidated proceedings.

Dated June 17, 2013, at San Francisco, California.

/s/ MARK J. FERRON
Mark J. Ferron
Assigned Commissioner

/s/ MELANIE M. DARLING
Melanie M. Darling
Administrative Law Judge