Order Instituting Investigation on the Commission’s Own Motion into the Rates, Operations, Practices, Services and Facilities of Southern California Edison Company and San Diego Gas and Electric Company Associated with the San Onofre Nuclear Generating Station Units 2 and 3.

And Related Matter

A.13-01-016
A.13-03-005
A.13-03-014
A.13-03-013

MOTION OF THE DIVISION OF RATEPAYER ADVOCATES TO AMEND THE SCOPING MEMO AND FOR SUMMARY DISPOSITION TO IMMEDIATELY REMOVE SPECIFIED SONGS UNITS 2 AND 3 REVENUE REQUIREMENT FROM RATES

1. INTRODUCTION & SUMMARY OF RECOMMENDATIONS

Pursuant to Rule 11.1 of the Commission’s Rules of Practice and Procedure, the Division of Ratepayer Advocates (DRA) hereby moves for an order or ruling revising the Scoping Memo issued on January 28, 2013 for this Order Instituting Investigation (OII). Specifically, DRA asks that the Scoping Memo be amended to advance for summary disposition the immediate removal of specific costs associated with the San Onofre Nuclear Generating Station (SONGS).

Currently, the Scoping Memo has scheduled consideration of whether reductions to rate base are warranted, and whether the utilities’ 2013 revenue requirement should be adjusted to reflect lower-than-forecast Operations and Maintenance (O&M) expenses and capital
expenditures to later phases of this OII. However, based on evidence already in the record, and the recent public announcement by Southern California Edison Company (SCE) that it has permanently shut down both Unit 2 and Unit 3, there is no reason to delay disposition of these issues and matters regarding the current rate recovery associated with the SONGS revenue requirement. Therefore, DRA asks that the Commission issue an order or ruling amending the Scoping Memo, and immediately removing from rates the General Rate Case (GRC) revenue requirement and Steam Generator (SG) Replacement revenue requirement associated with SONGS Units 2 and 3 as discussed below.

II. BACKGROUND

The Scoping Memo in this case divided the investigation into four phases. Among other things, Phase 1 would consider the “nature and effects of the steam generator failures in order to assess the reasonableness of SCE’s consequential actions and expenditures…”; Phase 2 would consider “whether any reductions to SCE’s rate base and SCE’s 2012 revenue requirement are warranted or required due to the extended SONGS outages;” Phase 3 would consider “causes of the SG damage and allocation of responsibility;” and Phase 4 would consider “…whether SCE’s 2013 revenue requirement should be adjusted to reflect lower-than-forecast O&M, Capex, … and other SONGS expenditures.”

Circumstances have changed dramatically since January 2013, when the Scoping Memo was issued. The Scoping Memo was developed with the expectation that SONGS would ultimately return to commercial operation. At that time, SCE held out hope that one or both SONGS Units might restart and return to service. Now, even SCE has abandoned that hope. On June 7, 2013, SCE publicly announced the permanent shutdown of both SONGS Units 2 and 3.

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1 Scoping Memo, p. 4.
4 Scoping Memo, p. 3.
5 Scoping Memo, p. 4.
6 Scoping Memo, p. 4.
7 Scoping Memo, p. 4.
On June 12, 2013, SCE certified through a letter to the United States Nuclear Regulatory Commission (NRC) that it permanently ceased power operation of the SONGs Units 2 and 3 effective June 7, 2013.9

The annual revenue requirement associated with the SONGs Units 2 and 3 should be removed from rates immediately as described below. The Scoping Memo should be revised accordingly and an order or ruling issued to that effect.

III. STATE LAW AND COMMISSION POLICY REQUIRE THE IMMEDIATE REMOVAL OF SONGS COSTS FROM RATES

When the Assigned Commissioner and Administrative Law Judge (ALJ) issued the January 28, 2013 Scoping Memo, they invited SCE, San Diego Gas & Electric Company (SDG&E)10 and any other interested party to file briefs “… to develop and expand legal arguments regarding the scope and timing of the Commission’s authority to order different types of rate reductions related to the extended outages” at SONGS.11 The Ruling on the Legal Questions concluded as follows:

1. Pursuant to Pub. Util. Code §455.5, the Commission has authority to reduce SCE’s and SDG&E’s electric rates to reflect the value of any portion of the SONGS facility which has been out of service for more than nine months and, further, to exclude from rate recovery any expenses related to that facility, effective November 1, 2012.

2. Prior to issuing an order pursuant to §455.5, the Commission must hold a hearing to review, inter alia, the revenue, expenses, and rate base at SONGS as part of this OII, a designated general rate proceeding.12

These threshold requirements, as described in the Ruling relating to Section 455.5, have been met. As of the filing date of this Motion, SONGS Units 2 and 3 have been out of service for

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9 Id.
10 SCE is the operating agent of SONGS; SDG&E has a 20% ownership portion of SONGS.
a year and a half.\textsuperscript{13} In May 2013, the Commission held five days of evidentiary hearings to consider, among other things, evidence provided by SCE of expenses at SONGS in 2012.\textsuperscript{14} In addition to the Commission’s authority under Public Utilities Code §455.5, it also has the authority under Public Utilities Code §701 to do all things necessary and convenient to exercise its regulatory powers.

This is not just a matter of authority granted the Commission. Indeed, the Commission has a duty under Public Utilities Code §451 to ensure that all utility charges are just and reasonable. Allowing a non-operational plant to be part of rate base, and charging ratepayers expenses for non-operational plant is so clearly \textit{un}reasonable that failure to remove SONGS costs from rates immediately would be a violation of Section 451.

SCE identified and commented on the current inequity by asserting that it is inappropriate for customers to pay for both the investment and expenses associated with the SONGS units and replacement power. During the shareholder/analyst call of June 7, 2013, Edison International Chief Financial Officer, Executive Vice President and Treasurer William James Scilacci stated:

\begin{quote}
And just -- so bear in mind here on the principle, so the fact -- you don't want a situation where we’re paying -- our customers are paying twice for power and paying for the investment. And so there’s a current principle, if you’re not -- if you shut down a plant, there’s going to be replacement power. And you have a plant that’s operating, you just have to make sure you don’t include it in any kind of projections that there’s some exposure for double recovery.\textsuperscript{15}
\end{quote}

During the June 7, 2013 call, SCE said it “…estimate[s] a pretax impairment charge between $450 million to $650 million to be recorded during the second quarter of 2013.”\textsuperscript{16}

Therefore, absent removal of the SONGS revenue requirement from customer rates, SCE will be

\begin{itemize}
\item \textsuperscript{13} SONGS Unit 1 was shut down on November 30, 1992. The matter was addressed by the Commission in D.92-08-036.
\item \textsuperscript{14} See Ex. SCE-4.
\end{itemize}
taking a pretax impairment charge for a facility that has ceased power operation but continues to
generate a full rate of return on its investment through its customer rates. To allow this scenario
to continue would be to allow charges that are unjust and unreasonable.

Going forward, the Commission should act now to remove the SONGS Units 2 and 3 revenue requirement from customer rates. These costs are described below.

**IV. SONGS COSTS TO BE REMOVED FROM RATES**

With the permanent shutdown of SONGS Units 2 and 3, DRA recommends that the Commission order the immediate removal of SONGS-related revenue requirements from rates. As required by the OII, SCE has provided monthly status reports which list, among other things, costs it is including in the SONGS Units 2 and 3 Outage Memorandum Account. These reports show the monthly amounts being tracked in the memorandum account and the currently authorized revenue requirement. DRA provides below the approximate revenue requirement that should be removed from rates based on 2012 adopted figures.

**A. SONGS REVENUE REQUIREMENT GOING FORWARD TO BE REMOVED FROM CUSTOMER RATES**

SCE’s SONGS–related revenue requirement can be divided into the following primary segments: the General Rate Case (GRC) revenue requirement and the Steam Generation Replacement (SGR) Project revenue requirement. The 2012 GRC revenue requirement for SCE was $498.1 million, and the 2012 SGR revenue requirement was $115.2 million. This is a total revenue requirement of $613.3 million. This figure is consistent with the figure set forth in SCE’s SONGS Conference Call presentation. DRA recommends that the Commission direct SCE to immediately remove from its customers rates the entire GRC revenue requirement except essential safety and security costs and SGR revenue requirement. Based on the 2012 authorized

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18 SCE Monthly Report in Compliance with I.12-10-013, (May 31, 2013), attached as Appendix C to this Motion.


amounts, SCE would be required to remove approximately $613.3 million (less safety and security costs) from rates. The actual annualized figure for 2013 will be slightly higher. There are also additional costs associated with nuclear fuel carrying costs, replacement power costs, and seismic studies costs. DRA’s recommendations for each of these are discussed below.

1. **GRC REVENUE REQUIREMENT**

   SCE’s May 31, 2013 Monthly Report shows that the Authorized GRC Revenue Requirement for 2012 was $498.087 million. The 2013 authorized figure is likely a somewhat higher amount given the post-test year increases granted to SCE in its Test Year 2012 GRC Decision (D.12-11-051). At this time, the 2012 authorized figure does not appear to be in dispute. The Commission should direct SCE to remove the currently adopted and authorized GRC revenue requirement (except essential safety and security costs) associated with SONGS from customer’s rates. The currently authorized GRC revenue requirement includes depreciation, taxes and shareholders’ return on the non-SGR investment in the SONGS Units 2 and 3. It also includes the operation and maintenance (O&M) expenses and other GRC-related costs associated with the SONGS Units 2 and 3. The Commission should terminate SCE’s recovery in customer rates of the revenue requirement associated with any GRC base capital costs and GRC O&M expenses adjusted for essential safety and security costs. Consistent with the removal of the previously authorized SONGS GRC revenue requirement from rates, SCE should be directed to make appropriate adjustments to its GRC balancing accounts.

   SDG&E’s May 6, 2013 Revision to its Quarterly Report in Compliance with I.12-10-013 shows an authorized revenue requirement of $185.4 million for 2012 in its SONGS Units 2 and 3 Outage Memorandum Account. SDG&E should be required to make the same adjustment to its rates as SCE by removing the SONGS revenue requirement less essential safety and security costs from its customer’s rates.

2. **STEAM GENERATOR REPLACEMENT PROJECT REVENUE REQUIREMENT**

   SCE’s May 31, 2013 Monthly Report shows that the interim Authorized SGR Revenue Requirement for 2012 was $115.239 million. The SGR revenue requirement represents the authorized depreciation, income taxes, ad valorem taxes and return on the SGRP

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rate base amount of $464.6 million. Since the failure of the SGR resulted in the permanent shutdown of SONGS Units 2 and 3, SCE and SDG&E should no longer receive revenue requirements for the SGR, and the Commission should remove the current SGR revenue requirement from customer rates. At this juncture, SCE and SDG&E should look to their insurance carriers and Mitsubishi Heavy Industries for SGRP sunk cost recovery, not ratepayers.

3. NUCLEAR FUEL CARRYING COSTS

Regarding nuclear fuel carrying costs, SCE’s Monthly Report shows $349,000 in nuclear fuel carrying costs in April 2013.\(^{23}\) With the permanent shutdown of SONGS Units 2 and 3, the Commission should order SCE and SDG&E to stop recovering nuclear fuel carrying costs.

4. SEISMIC STUDY COSTS

In D.12-05-004, the Commission authorized SCE and SDG&E to recover the costs of SONGS-related seismic research recommended by the California Energy Commission (CEC).\(^{24}\) According to SCE’s Monthly Report, SCE spent $435,000 on seismic safety in April 2013.\(^{25}\) With the permanent shutdown of SONGS Units 2 and 3, the purpose of the SONGS Units 2 and 3-related seismic studies is no longer valid. SCE has informed the CEC that “[t]he seismic reliability evaluation of SONGS required by AB 1632 was completed and provided in our February 2011 Report. Current seismic activities are under review and will likely be

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\(^{24}\) D.12-05-004, mimeo at 2-3: “In 2006, the California legislature enacted Assembly Bill (AB) 1632 (Blakeslee, Chapter 722, Statutes of 2006), which was codified as Public Resources Code Section 25303. AB 1632 directed the California Energy Commission (CEC) to: assess the potential vulnerability of California’s largest baseload power plants, Diablo Canyon Power Plant (Diablo Canyon) and San Onofre Nuclear Generating Station (SONGS), to a major disruption due to a major seismic event or plant aging; assess the impacts of such a major disruption on system reliability, public safety, and the economy; assess the costs and impacts from nuclear waste accumulating at these plants; evaluate other major issues related to the future role of these plants in the state’s energy portfolio; and include the assessment in the CEC’s “2008 Integrated Energy Policy Report Update” (2008 Integrated Energy Policy Report (IEPR) Update). In response to AB 1632, as part of its 2008 IEPR update released in November 2008, the CEC issued the AB 1632 Report.

In response to that report Southern California Edison Company (SCE), in this application, seeks $64 million to continue its seismic research projects in conformity with the recommendations of the CEC. SCE requests authority to establish balancing accounts and memorandum accounts to record and recover its seismic research costs.

San Diego Gas & Electric Company (SDG&E), as a minority owner of 20% of San Onofre Nuclear Generating Station Unit Nos. 2 and 3 (SONGS Units 2 and 3), expects a 20% share of the costs of these activities will be allocated and billed to SDG&E by SCE pursuant to an agreement between SCE and SDG&E.”

terminated.”

SCE’s SONGS-related seismic studies were not mandated by the CEC or NRC, therefore, termination of continued seismic studies at SONGS Units 2 and 3 does not violate a CEC or NRC order or statute. The Commission should direct SCE and SDG&E to immediately stop additional spending on SONGS Units 2 and 3 seismic safety studies.

5. **MARINE MITIGATION COSTS**

Regarding marine mitigation costs, SCE’s SONGS-related marine mitigation efforts are under the jurisdiction of the California Coastal Commission (CCC)²⁷. SCE has informed the CEC that “[f]low through the intake and discharge conduits will be approximately 25% of that at full power operations.”²⁸ With the permanent shutdown of SONGS Units 2 and 3, the Commission should direct SCE to petition the CCC for relief or a reduction of its marine mitigation obligations. SCE’s ratepayers should no longer be responsible for these costs.

**B. EFFECTIVE DATE FOR REMOVAL OF COSTS FROM RATES**

For the effective date for removal of the SONGS revenue requirement from rates going forward, DRA recommends the date of the ruling or order on this Motion.

The SCE Test Year (TY) 2012 General Rate Case decision, D.12-11-051, authorized a SONGS Memorandum Account, effective on January 1, 2012, before the SONGS Unit 2 maintenance outage started on January 9, 2012 and the SONGS Unit 3 forced outage occurred on January 31, 2012:

Therefore, we authorize SCE to establish a SONGS Memorandum Account (SONGSMA) **effective January 1, 2012**, to track for post-2011:

- 100% of O&M;
- 100% of cost savings from scheduled personnel reductions;
- 100% of maintenance and refueling outage expenses, if any; and
- 100% of capital expenditures.

²⁶ “Briefing on San Onofre Nuclear Generating Station, Units 2 and 3, Retirement Plans,” SCE Briefing to the CEC June 19, 2013, p. 5. See Appendix D to this Motion.

²⁷ California Coastal Commission coastal development permit number 6-81-330. SCE discussed 2012 marine mitigation costs in Ex. SCE-4, pp. 112-113.

²⁸ “Briefing on San Onofre Nuclear Generating Station, Units 2 and 3, Retirement Plans,” SCE Briefing to the CEC June 19, 2013, p. 6. See Appendix D
No later than January 30, 2013, SCE shall file an application for a reasonableness review of the expenses tracked in the SONGSMA. All expenses disallowed by the reasonableness review will be refunded to ratepayers. The SONGSMA application will be consolidated with the SONGS Order Instituting an Investigation (SONGS OII), Investigation (I.) 12-10-013, which, inter alia, will examine the facts and circumstances of the Unit 2 and 3 shutdowns and SCE’s operational response.29

The SONGS OII continued the SONGSMA and expanded SCE and SDG&E’s reporting requirements:

SCE and SDG&E should each establish a memorandum account for this purpose, called the SONGS Outage Memorandum Account (SONGS OMA). SONGS OMA should contain subaccounts that separately identify:

a. existing SONGS fixed costs (e.g., capital costs in rate base);

b. revenue requirements for SONGS rate base costs (e.g., depreciation, return, taxes);

c. existing SONGS variable costs (e.g., fuel, operation, maintenance);

d. existing SONGS seismic safety program costs;

e. SGRP costs;

f. other existing SONGS costs;

g. outage investigation costs;

h. replacement generation costs;

i. safety-related program costs implemented pursuant to NRC findings or orders;

j. the cost of other energy products or services to provide reliable electric service during the period of the outage (including Demand Response programs);

k. the cost of other transmission upgrades or other system improvements to provide reliable electric service during the period of the outage (including substation or line related work);

29 Decision on Test Year 2012 General Rate Case for Southern California Edison Company (2012) D.12-11-051, mimeo at 30, emphasis added.
l. other repair costs (separately identified as fixed and variable);
m. other routine operational costs;
n. regulatory costs;
o. litigation costs; and
p. any other costs related to SONGS.

The subaccounts should include reasonable and appropriate subdivisions as necessary to further identify costs and cost categories. The memorandum account should record all costs incurred beginning January 1, 2012 and thereafter with the exception of the SGRP subaccount. The SGRP subaccount should track all SGRP costs.\textsuperscript{30}

Given the SONGSMA established in SCE’s TY 2012 GRC by D.12-11-051, and continued in the SONGS OII, the Commission has the authority to order refunds to ratepayers of the costs incurred by SCE and SDG&E from January 1, 2012 through the date that the Commission directs SCE to remove from customer’s rates the revenue requirement associated with SONGS Units 2 and 3. DRA reserves the right to address that issue later.

\textbf{V. CONCLUSION}

For all the foregoing reasons, DRA asks that the Scoping Memo of January 28, 2013 be amended to remove from rates immediately the GRC revenue requirement and the SGR revenue requirement associated with SONGS Units 2 and 3, except the sessential safety and security costs as described above.

\textsuperscript{30}I.12-10-013, pp. 10-11, emphasis added.
Respectfully submitted,

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June 25, 2013
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