



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**FILED**

05-08-09

04:59 PM

Joint Application of Southern California Edison Company and San Diego Gas & Electric Company for the 2009 Nuclear Decommissioning Cost Triennial Proceeding to Set Contribution Levels for the Companies' Nuclear Decommissioning Trust Funds and Address Other Related Decommissioning Issues.

A.09-04-009  
(Filed April 3, 2009)

**PROTEST OF  
THE DIVISION OF RATEPAYER ADVOCATES**

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May 8, 2009

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Joint Application of Southern California Edison Company and San Diego Gas & Electric Company for the 2009 Nuclear Decommissioning Cost Triennial Proceeding to Set Contribution Levels for the Companies' Nuclear Decommissioning Trust Funds and Address Other Related Decommissioning Issues.

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Pursuant to Rule 2.6 of the Rules of Practice and Procedure of the California Public Utilities Commission (Commission), the Division of Ratepayer Advocates (DRA) files this Protest to Southern California Edison Company's (SCE) and San Diego Gas and Electric Company's (SDG&E) Joint 2009 Nuclear Decommissioning Costs Triennial Proceeding (NDCTP) Application (A.) 09-04-009.

**I. BACKGROUND**

The purpose of this proceeding is to establish just and reasonable rates to adequately fund the nuclear decommissioning trusts in place for the benefit and protection of ratepayers, to verify that SCE and SDG&E are in compliance with all prior decisions applicable to decommissioning, and to determine whether the costs expended to date by SCE and SDG&E were reasonable and prudent.<sup>1</sup>

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<sup>1</sup>D.07-01-003, p. 7.

SCE and SDG&E filed their joint application on April 3, 2009, and the application was calendared on April 8, 2009. SCE and SDG&E jointly request that the Commission find reasonable \$207.2 million for the cost of the San Onofre Nuclear Generation Station (SONGS) Unit 1 decommissioning work from July 1, 2005 through December 31, 2008, approve the updated \$184.4 million decommissioning cost estimate for SONGS 1, and approve the updated \$3,658.8 million decommissioning cost estimate for SONGS 2 and 3. SCE and SDG&E also request that the Commission approve disposing in a subsequent proceeding, any damages recovered from the U.S. Department of Energy (DOE) regarding the spent fuel litigation.

SCE requests Commission approval for its updated \$708.7 million decommissioning cost estimate for Palo Verde and for its authorized rate of recovery, through the Nuclear Decommissioning Cost Charge, of its increased revenue requirement of \$66.4 million for SONGS 2 and 3 and Palo Verde Units 1, 2, and 3 (Palo Verde).

SDG&E requests the Commission to find reasonable the updated estimate of \$731.8 million decommissioning costs for SONGS Units 2 and 3. SDG&E further requests an annual revenue requirement of \$15.284 million for SONGS Units 2 and 3, effective May 1, 2010.<sup>2</sup> SDG&E requests Commission approval to reasonably rely on SCE for a list of activities regarding SONGS 1, 2, and 3, as provided on pages 3-4 of the Joint Application. SDG&E further requests that the Commission find that it is currently unnecessary to transfer funds from the non-qualified SONGS Unit 1 trust fund to the decommissioning of SONGS Units 2 and 3.

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<sup>2</sup> SDG&E proposes and requests approval to (a) omit any rate impacts from the increase in the nuclear decommissioning revenue requirement in 2010 and utilize the overcollection in its Nuclear Decommissioning Adjustment Mechanism (NDAM) balancing account, forecasted to be \$2.336 million for the period ending December 31, 2009, to offset the revenue requirement increase in 2010 partially, and (b) address the resulting net balance in the NDAM balancing account as part of SDG&E's annual electric regulatory account update advice filing filed in October of each year for rate effective January 1 of the following year. In addition, SDG&E intends to utilize overcollections in other balancing accounts (e.g., the Transition Cost Balancing Account) or offset any nuclear-decommissioning rate change with revenues from other regulatory accounts.

SCE's total requested funding for its decommissioning activities is a \$20 million increase above the current authorized amount. And, SDG&E's total requested funding for its decommissioning activities is a \$6 million increase above the current authorized amount.

During the last consolidated NDTCP proceeding, the Commission issued Decision (D.) 07-01-003, which adopted an all-party settlement and provided several directives for the utilities in the instant proceeding. In D.07-01-003, the Commission directed the utilities to demonstrate in the instant proceeding that they have made all reasonable efforts to retain and utilize sufficient qualified and experienced personnel to effectively, safely, and efficiently pursue any physical decommissioning related activities for the nuclear generation facilities under their control.<sup>3</sup> The Commission also ordered the utilities to demonstrate that they have made all reasonable efforts to conservatively forecast the cost of Low Level Radioactive Waste (LLRW) Storage.<sup>4</sup> Finally, the utilities were ordered to demonstrate that they have made all reasonable efforts to conservatively establish an appropriate contingency factor for inclusion in the decommissioning revenue requirements.<sup>5</sup>

## II. ISSUES

DRA is conducting discovery at this time. DRA intends to determine the reasonableness of all the above-mentioned requests made by SCE and SDG&E. While DRA has also identified some specific issues listed below, it respectfully requests the right to identify additional issues at the Prehearing Conference (PHC). The Commission should set for hearing, at minimum, the following issues:

- The increased decommissioning funding for SONGS 2 and 3: The Commission must determine whether these increased forecasts are reasonable.
- The increased decommissioning funding for Palo Verde: The Commission must determine whether these increased forecasts are reasonable.

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<sup>3</sup> D.07-01-003, Ordering Paragraph # 6.

<sup>4</sup> *Id.*, Ordering Paragraph # 7.

<sup>5</sup> *Id.*, Ordering Paragraph # 8.

- Ratemaking treatment for the over-collection of SONGS 1 trust fund balance: The Commission must determine whether this request is reasonable.
- Decommissioning cost estimates and assumptions: The Commission must determine whether the utilities used the proper assumptions to reach their requested cost estimates.
- Nuclear waste burial cost assumptions: –The Commission directed the utilities to demonstrate that they have made all reasonable efforts to conservatively forecast the costs of low-level radioactive waste storage. As such, the Commission must determine whether the utilities have reasonably complied.
- Escalation assumptions and possible contingency on escalation: The Commission must find reasonable the assumptions and contingency used by SCE and SDG&E.
- Trust fund estimates and rate of return assumptions: The Commission must determine whether the utilities annual equity turnover rate is reasonable.
- Rate of return assumptions: The Commission must determine the reasonableness of the forecasted rates of return rates for equity and fixed incomes.

### **III. CONSOLIDATION OR COORDINATION WITH PG&E’S APPLICATION**

Pacific Gas and Electric Company (PG&E) has simultaneously filed its NDCTP application, A.09-04-007, with the instant application. Since there are common issues of fact and law in both the joint SCE/SDG&E and PG&E’s NDCTP applications, the Commission should consolidate these applications. It is more reasonable to litigate both applications simultaneously, because all three utilities have requested the same schedule and have the same assigned Administrative Law Judge and Commissioner. In the previous NDCTP proceeding, the Commission consolidated the applications, because it found conducting seriatim hearings could complicate ensuring all necessary evidence was appropriately included in two separate records. And indeed, the consolidation resulted in a more efficient litigation of the previous NDCTP. Therefore, the Commission should again consolidate the applications of both PG&E and SCE/SDG&E

#### **IV. CATEGORIZATION, NEED FOR HEARING, AND SCHEDULE**

DRA agrees with SCE and SDG&E that the instant proceeding be categorized as “ratesetting.” DRA also agrees that hearings will be necessary.

SCE and SDG&E have proposed an aggressive schedule for this proceeding. DRA must address and submit testimony on the numerous issues listed above for SDG&E and SCE, as well as PG&E, and cannot file its testimony in approximately thirty days. Other parties such as Scott Fielder have also expressed concern with the proposed aggressive schedule.<sup>6</sup> DRA proposes that the Commission adopt a timeline similar to that provided by the Commission in the previous NDTCP. In the previous NDTCP, the Commission adopted a schedule that provided approximately three months between the PHC and the due date for intervenor testimony. The Commission should again allocate the same timeframe so that parties can reasonably prepare their testimonies. Below is DRA’s proposed schedule, which will allow adequate review of the issues:

##### **DRA’s Proposed Schedule**

August 28, 2009	Intervenor Testimony
September 21, 2009	Rebuttal Testimony
October 12, 2009	Evidentiary Hearings Begin (3-5 days)
November 9, 2009	Opening Briefs
November 23, 2009	Reply Briefs

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#### **V. CONCLUSION**

DRA respectfully recommends that the proceeding be categorized as ratesetting, set for hearing, and that the scope of the proceeding include, but not be limited to, the issues identified in this protest.

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<sup>6</sup> See PHC Statement of Intervenor Scott L. Fielder (Filed May 4, 2009 to docket A.09-04-007).

Respectfully submitted,

/s/ Rashid Rashid

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May 8, 2009

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of “**PROTEST OF THE DIVISION OF RATEPAYER ADVOCATES**” by using the following service **A.09-04-009 and A.05-11-008**:

**E-Mail Service:** sending the entire document as an attachment to an e-mail message to all known parties of record to this proceeding who provided electronic mail addresses.

**U.S. Mail Service:** mailing by first-class mail with postage prepaid to all known parties of record who did not provide electronic mail addresses.

Executed on **8<sup>th</sup> Day of May, 2009** at San Francisco, California.

\_\_\_\_\_  
/s/ Joanne Lark  
Joanne Lark

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address and/or e-mail address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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**A.09-04-009**

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**A05-11-008**

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