



**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE
STATE OF CALIFORNIA**

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Joint Application of Southern California
Edison Company (U 338-E) and San Diego
Gas & Electric Company (U 902-E) For the
2021 Nuclear Decommissioning Cost
Triennial Proceeding.

Application No. 22-02-016

**JOINT RESPONSE OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E)
AND SAN DIEGO GAS & ELECTRIC COMPANY (U 902-E) TO PUBLIC
WATCHDOGS' NOTICE OF INTENT TO CLAIM INTERVENOR COMPENSATION**

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Dated: **June 15, 2022**

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Pursuant to Rule 17.1(g) of the California Public Utilities Commission's (Commission) Rules of Practice and Procedure, Southern California Edison Company (SCE) and San Diego Gas & Electric Company (SDG&E) (collectively, the "Utilities") jointly submit the following in response to Public Watchdogs' May 31, 2022 Notice of Intent to Claim Intervenor Compensation (NOI). The NOI raises issues that are beyond the scope of the proceeding. Under the Public Utilities Code and Commission precedent, Public Watchdogs may not receive intervenor compensation for work on issues that are beyond the scope of the proceeding.

I. THE NOI RAISES ISSUES BEYOND THE SCOPE OF THE PROCEEDING

The May 24, 2022 Assigned Commissioner's Scoping Memo and Ruling (Scoping Memo) established, among other things, a list of "issues to be determined or otherwise considered" in the proceeding.¹ The list of scoping issues is limited to issues raised in the Utilities' Joint Application as well as the protests filed by intervenors, including the reasonableness of the 2020 Decommissioning Cost Estimate (DCE) for San Onofre Nuclear Generating Station Unit 1 and Units 2 & 3, the reasonableness of costs recorded during the 2018-2020 review period, and whether

¹ Scoping Memo at 3.

proceeds from litigation with the Department of Energy should be deposited in the Utilities' Non-Qualified Nuclear Decommissioning Trusts or refunded to customers through the Utilities' Energy Resource Recovery Accounts.² Public Watchdogs did not object to these scoping issues when they were presented at the Prehearing Conference³ and did not move for rehearing of the Scoping Memo.

Public Watchdogs states in the NOI it intends to raise two issues at hearing that are beyond the scope established in the Scoping Memo. The first is a supposed conflict of interest related to the 2014 DCE,⁴ which was developed by a consortium of *EnergySolutions* and Chicago Bridge & Iron Company.⁵ Public Watchdogs claims that *EnergySolutions* may have had a conflict of interest in developing the 2014 DCE because *EnergySolutions* later became a member of the joint venture created to act as decommissioning general contractor for SONGS 2 & 3, SONGS Decommissioning*Solutions*.⁶ However, the 2014 DCE has already been reviewed and approved by the Commission; it was submitted for review in Application 14-12-007 and adopted in Decision (D.) 16-04-019. Further, the 2020 SONGS 1 and SONGS 2 & 3 DCEs that are at issue in this proceeding were prepared by The Kenrich Group, an HKA Company (Kenrich), and not by *EnergySolutions*.⁷ The 2014 DCE is not within the scope of issues identified in the Scoping Memo and is not relevant to any matter within the scope of the proceeding.

The second outside-the-scope issue Public Watchdogs raises in the NOI is the performance of certain steam generators installed at SONGS while the plant was an operating generating facility. Public Watchdogs states it intends to present evidence of the steam generators' design.⁸ SONGS 1 was permanently retired in 1992 and SONGS 2 & 3 were permanently retired in 2013.⁹ The purpose of the proceeding is not to review the operations of the plant when it was in service.

² Scoping Memo at 3-4.

³ May 2, 2022 Tr. at 20, lines 3-4.

⁴ NOI at 4-5.

⁵ Exhibit SCE-04 at 5.

⁶ NOI at 5. SCE entered into a contract with SONGS Decommissioning*Solutions* to serve as Decommissioning General Contractor in December 2016. Exhibit SCE-03 at 4.

⁷ Exhibit SCE-04 at 4. Kenrich also developed the 2017 SONGS 1 and SONGS 2 & 3 DCEs. *Id.*

⁸ NOI at 5-6.

⁹ Exhibit SCE-01 at 4.

Rather, as provided in the Nuclear Facilities Decommissioning Act of 1985 and prior Commission decisions, the purpose is to set the annual revenue requirements for the decommissioning trusts for the nuclear power plants owned by the Utilities, including review of the DCEs and financial assumptions for reasonableness, and to determine whether the expenses incurred by the Utilities for decommissioning activities are reasonable and prudent.¹⁰ Performance of generators when the plant was operational is not included within the list of issues in the Scoping Memo and is not relevant to any matter within the scope of the proceeding.

II. PUBLIC WATCHDOGS MAY NOT RECEIVE INTERVENOR COMPENSATION FOR WORK ON ISSUES OUTSIDE THE SCOPE OF THE PROCEEDING

Under the Public Utilities Code, an intervenor in a Commission proceeding may recover “reasonable advocate’s fees, reasonable expert witness fees, and other reasonable costs of preparation for and participation in a hearing or proceeding” only if its presentation “makes a substantial contribution to the adoption, in whole or in part, of the commission’s order or decision” and its participation “without an award of fees or costs imposes a significant financial hardship.”¹¹ Consistent with these statutory requirements, the Commission does not allow recovery of intervenor compensation for work on issues outside the scope of the proceeding. “Sections 1801-1806 of the California Public Utilities Code state the requirements for intervenor compensation. To grant compensation for work performed outside the scope of the present proceeding would directly contradict the requirements of the code.”¹² “[T]he extent of a party’s participation in its request for compensation should reflect the scope established in the scoping memo ruling.”¹³ Where an intervenor provides a substantial contribution to a Commission decision and also addresses issues outside the scope of a proceeding, the Commission will reduce the compensation award equal to the

¹⁰ Cal. Pub. Util. Code §§ 8326-8327; D. 21-12-026, pp. 5-7.

¹¹ Cal. Pub. Util. Code § 1803.

¹² D. 14-11-037 at 25.

¹³ D. 15-09-021 at 7 (internal citation omitted).

amount of time spent on issues that are outside the scope.¹⁴ Consistent with the Public Utilities Act and Commission decisions, Public Watchdogs should not receive intervenor compensation for work related to the 2014 DCE, the replacement steam generators at SONGS, or any other matter outside scope of the proceeding as established in the Scoping Memo.

III. CONCLUSION

For the reasons stated above, Public Watchdogs should not receive intervenor compensation for the issues identified in the NOI that are outside the scope of the proceeding as well as any other issues that are outside the scope of the proceeding.

Respectfully submitted,

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¹⁴ E.g., D. 10-10-013 at 4-5, 7 (In a proceeding docketed to consider a Pacific Gas & Electric application for a photovoltaic (PV) program, the Commission reduced an award of intervenor compensation to the Greenlining Institute by 9%, equal to the amount of professional and witness hours spent considering the economic development benefits of the proposed PV program, an issue that was outside the scope of the proceeding as determined in the scoping memo.).