

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE
STATE OF CALIFORNIA



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ADMINISTRATIVE LAW JUDGE ELAINE LAU, presiding

Joint Application of Southern California) EVIDENTIARY
Edison Company (U338E) and San Diego Gas) HEARING
& Electric Company (U902E) for the 2021)
Nuclear Decommissioning Cost Triennial)
Proceeding.)
)
) Application
) 22-02-016
)
)

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Virtual Proceeding
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1 VIRTUAL PROCEEDING

2 JANUARY 25, 2023 - 10:03 A.M.

3 * * * * *

4 ADMINISTRATIVE LAW JUDGE LAU: On the record.
5 The Commission will come to order. This is day two of
6 the evidentiary hearing in A.22-02-016. The Joint
7 Application of Southern California Edison Or Edison and
8 San Diego Gas & Electric, SDG&E, For the 2021, Nuclear
9 Decommissioning Cost Triennial Proceeding.

10 I am Administrative Law Judge Elaine Lau, and
11 the presiding officer of this proceeding.

12 This morning, we are joined with a new counsel
13 representing Southern California Edison so, before we
14 begin, I would like to new counsel to make attestations
15 appropriate for the attorneys, so can I ask IT to put
16 the attestations on screen, please?

17 Counsel, can you please introduce yourself. It
18 is now an opportunity to make known your preferred
19 pronouns if you so choose. This is not a requirement,
20 just -- but just an opportunity to make our preferences
21 known.

22 MS. MITCHELL: Thank you, your Honor.

23 Good morning. My name is Ann Mitchell on
24 behalf of Southern California Edison Company. My
25 preferred pronouns are she and her.

1 ALJ LAU: Thank you. Ms. Mitchell, do you see
2 the attestations on the screen? Can you acknowledge
3 that you've fully read it?

4 MS. MITCHELL: I see the attestations, and I
5 have fully read them and acknowledge them.

6 ALJ LAU: Do you agree to attestations set
7 forth on the screen?

8 MS. MITCHELL: I do.

9 ALJ LAU: Thank you.

10 Now, I would like to turn our attention to the
11 exhibits. Last night and yesterday, there were a series
12 of exhibits that were served, and at this time, I would
13 like to mark and identify them.

14 We will first mark and identify SCE-09E2, and
15 that is titled 2021 NDCTP Rebuttal Testimony.

16 (Exhibit SCE-09E2 was marked for
17 identification.)

18 ALJ LAU: Next, I have -- next exhibit I have
19 is TURN-5, which is entitled SCE/SDG&E Nuclear
20 Decommissioning Cost Triennial Proceeding.

21 Next exhibit I have is TURN-18 -- actually, let
22 me cross that -- or let me remark and reidentify TURN-5.
23 TURN-5 is entitled SCE Response to TURN Data Request 2,
24 Question 6.

25 ///

1 (Exhibit TURN-05 was marked for
2 identification.)

3 ALJ LAU: Next exhibit is TURN-18, which is
4 entitled Excerpts from SONGS 2 and 3 Final Environmental
5 Impact Report.

6 (Exhibit TURN-18 was marked for
7 identification.)

8 ALJ LAU: Next exhibit is Exhibit TURN-20,
9 which is MPR Report.

10 (Exhibit TURN-20 was marked for
11 identification.)

12 ALJ LAU: Next exhibit is Exhibit TURN-22,
13 SDG&E Responses to TURN Data Request 2, Questions 1, 2,
14 3 and 9.

15 (Exhibit TURN-22 was marked for
16 identification.)

17 ALJ LAU: So, those are exhibits that we have
18 for this morning. This morning, we will resume the
19 cross-examination of Mr. Douglas Bauder from Southern
20 California Edison, and Mr. Geesman from A4NR, Alliance
21 for Nuclear Responsibility will be examining Mr. Bauder.

22 Mr. Bauder, before we begin again, I would like
23 to ask IT to, again, put the attestations for the
24 witness on screen.

25 Mr. Bauder, you previously attested to the set

1 of attestations set forth on screen. Do you understand
2 that those attestations still remain in effect?

3 THE WITNESS: Yes, your Honor, I do.

4 ALJ LAU: Thank you.

5 So, now, if Mr. Geesman is ready, you may --
6 you may resume your cross-examination.

7 DOUGLAS BAUDER,
8 resumed the stand and testified further as
9 follows:

10 CROSS-EXAMINATION RESUMED

11 BY MR. GEESMAN:

12 Q Thank you, your Honor.

13 Good morning, Mr. Bauder.

14 A Good morning.

15 Q I would like to start with the exhibit marked
16 A4NR-X-27. It's a two-page excerpt from the minutes of
17 the May 2, 2019, meeting of the SONGS executive
18 committee.

19 At the bottom of the first page and carrying
20 over to the second page of the exhibit, I have
21 highlighted in green an indication that -- and I am
22 quoting, "The NRC forecasts providing SCE approval in
23 mid May 2019, at which time, the NRC will schedule a
24 public webinar and issue an initial notice of approval
25 to allow SCE to commence FTO."

1 Can you tell me precisely what the nature of
2 this NRC forecast was, and how Edison came to learn of
3 it?

4 A Yes. And I am on page 2 of Exhibit X-27 now.
5 So, in our communications with the NRC, through their
6 review of our canister data -- and in canister data,
7 what I mean is, as I mentioned in prior testimony, we
8 did robotic inspections of eight canisters installed in
9 the Holtec ISFSI system. We provided that data to the
10 NRC to prove that they were no structural challenges or
11 code challenges to the canister integrity as a result of
12 the incidental contact during downloading.

13 So, we provided that data to the NCR and the
14 NCR took some time to review it. The NCR communicated
15 to us in mid-May, I think roughly May 17th, that they
16 would be approving restart; and they would signal that
17 approval through a public meeting, the one that you
18 mentioned on June the 5th, and that we've reviewed other
19 content relating to it.

20 So, that's simply what this update has to do
21 with; that communication with the NRC.

22 Q These minutes are dated May 2nd, you said
23 May 17th. Did -- did you learn of the NRC forecast
24 prior to May 2nd?

25 A On or about the beginning of May, we knew that

1 the NRC was still reviewing out data but that, from
2 their perspective, the statistical analysis that we had
3 done on the canister data was looking good; and so, they
4 told us that they would continue to look at it, and
5 they -- you know, they expected to have a positive
6 outcome at that time.

7 Q Okay. Let's go to A4NR-X-28. That's a
8 three-page except from a PowerPoint presentation that
9 Vince Bilovsky made to the May 2, 2019, meeting of the
10 SONGS executive committee. The third page of that
11 exhibit, which has the number 12 in its lower right-hand
12 corner is entitled Milestones and Path to Restart FTO.

13 The four milestones are identified after the
14 March 28, 2019, engagement panel meeting, all four in
15 May, culminating with the indication "restart FTO,
16 estimated May."

17 Can you tell me what this timeframe was based
18 on?

19 A This was simply based on our estimate at the
20 time of -- of when we could restart.

21 As I discussed prior, in prior testimony, we
22 had a lot of activities to complete after the NRC, so to
23 speak, green-lighted our restart of fuel transfer
24 operations. Those activities had to do with
25 reestablishing our Holtec work crews on a 24-7 schedule

1 ensuring that any refresher training that was needed was
2 done and getting those things complete both to my
3 satisfaction, and as I indicated to the president of our
4 company, my boss, at the time, regarding restart.

5 So, this is simply an estimate using the
6 information that we had at the time, as presented to the
7 executive committee.

8 Q So, based upon that estimate, you were
9 projecting completion of that FTO between February 1 and
10 May 1 of 2020, correct?

11 A That's right.

12 Q And one of the items identified on
13 Mr. Bilovsky's PowerPoint slide that may affect
14 completion within the February 1 to May 1 time range
15 was, and I'm quoting, "ability to safely ramp up from
16 single to dual-unit operations use both spent fuel
17 pools."

18 Have I got that right?

19 A Yes.

20 Q Do you recall how quickly such a ramp up was
21 assumed to be possible?

22 A I don't recall the -- the exact timeframe for a
23 ramp up, what I do recall is that our plan, as I believe
24 I discussed previously, was to complete several fuel
25 canister downloading operations; that would be the

1 entire campaign from the wet pools to the dry storage
2 facility, and then do an assessment on those first
3 three; and pending that assessment, a revised timeframe
4 for moving to two-unit operation.

5 So, you know, that was the basis for this
6 comment.

7 Q And would that decision to move to two-unit
8 operation have required separate approval by Edison
9 senior management?

10 A You know, I can't recall if the two-unit
11 operation approval was mine only or mine -- and as well
12 as mine and my -- my boss at the time, the president of
13 Southern California Edison.

14 Certainly, I had discussions with my boss about
15 two-unit operation, and he concurred. My recollection
16 is we didn't have a distinct approval for that; in other
17 words, it was more a concurrence.

18 Q Okay. Let's turn to A4NR-X-29, which is a
19 three-page excerpt from PowerPoint presentation that
20 Vince Bilovsky made to the June 6, 2019, meeting of the
21 SONGS executive committee.

22 The third page of that exhibit, which has the
23 number 12[sic] in its lower right-hand corner is
24 entitled Milestones, Path to Restart Fuel Transfer
25 Operations, and Forecasts.

1 about March of 2020.

2 Q So focused on those completion dates, was there
3 anything that changed between the May 2019 meeting of
4 the executive committee and the June 2019 meeting of the
5 executive committee that motivated the change in
6 completion dates?

7 A Well, between the two meetings, I mean, our
8 team had received NRC approval. So we had that level of
9 confidence. The team was also able to, you know, sketch
10 out the schedule in more detail especially around
11 restart, which is -- as you know, is very close to the
12 July 8th date, and then just laying out the schedule for
13 fuel transfer operations. This is where the endpoint
14 looked at the time.

15 Q Okay. Let's go to A4NR-X-30, which is a
16 one-page excerpt from the minutes of the July 11th, 2019
17 meeting of the SONGS executive committee. I've
18 highlighted in green the mention in Vince Bilovsky's
19 report that -- and I'm quoting -- "On Monday, July 15th,
20 2019, SCE management will consider approving SONGS to
21 resume FTO." Close quote.

22 Can you tell me why nearly two months elapsed
23 between the NRC's approval of your canister scratch
24 evaluation and taking FTO restart to Edison management
25 for approval?

1 A First, I discussed, I think, already the
2 activities we had to do to ramp up the Holtec crews back
3 to a 24/7 schedule and to do all the final equipment
4 checks and walk-downs and other plant checks that we
5 needed to safely and effectively restart fuel transfer
6 operations.

7 I would also point out the July 15th date was a
8 final management approval date. We had presented -- I
9 had presented to my leadership many times through this
10 course of dates the exact status we were on restart, and
11 so the July 15th date happened to be the final date that
12 we achieved approval -- or I achieved approval from my
13 boss, the president of Southern California Edison.

14 My boss was well tuned in to all of the
15 activities we needed to get done safely and compliantly
16 to ensure a solid restart.

17 Q So if you were eager to get restart started and
18 you were waiting for the NRC to approve it and the NRC
19 gave you that approval in mid-May, why weren't you
20 prepared to get your senior management approval the next
21 day?

22 A Because our senior management approval followed
23 a whole series of final preparations. Think about it as
24 this large campaign just like when we started fuel
25 transfer operations back in January of 2018. From the

1 period November through January, there were a lot of
2 checks and reviews and activities that had to be done
3 prior to the actual start. This is pretty much the same
4 thing where you get the green light and then it takes
5 some time to, so to speak, ramp up the large team to
6 start the activities.

7 My boss was well-informed as to our progress
8 along here, and I want to also mention that this is a
9 case of balancing the desire to start something and
10 achieve something involving work in nuclear power with
11 checks and measures around achieving the highest levels
12 of safety and compliance.

13 And so, as you might expect, this is what we
14 were faced with. And while it might seem like you could
15 just jump into something when you're into a complex
16 campaign like this involving nuclear power requirements,
17 it really, really takes a nice -- a methodical approach
18 to ensure success.

19 ALJ LAU: Can I interject and ask a question.
20 So, Mr. Bauder, was there anything that Edison could
21 have done while waiting for NRC approval and somewhat
22 just simultaneously doing all the checks and whatnot so
23 that you're more prepared to just start rather than
24 waiting for, I think, a good two months to restart?

25 THE WITNESS: Yes, your Honor. So this is a

1 situation where we did not have final NRC approval, as
2 we discussed here. And so the Holtec crews, the Holtec
3 personnel, the project managers down through the labor
4 and riggers and operators from the union hall were in a
5 standby mode. We could have pushed all the crews back
6 to full 24/7 operations pending that NRC final approval,
7 but that would have -- we would have done that at great
8 commercial risk. So we wanted to get the approval first
9 before we went ahead with those activities, which were
10 quite costly, actually, to do after that approval.

11 ALJ LAU: Okay. Thank you. I may have further
12 questions, but I'll let Mr. Geesman go ahead.

13 BY MR. GEESMAN:

14 Q Let's move on to A4NR-X-31, which is a
15 four-page excerpt from a PowerPoint presentation that
16 Vince Bilovsky made to the July 11th, 2019 meeting of
17 the SONGS executive committee. The third page of that
18 exhibit, which has the No. 14 in its lower right-hand
19 corner, is entitled Milestones Path to Restart Fuel
20 Transfer Operations and Forecasts, and forecasts the FTO
21 restart for that very day, July 11th. But obviously
22 that didn't happen.

23 Can you explain why?

24 A My recollection of this is it was just a matter
25 of logistics. And that would be a few days to get the

1 final checklist in front of my boss so that we had good
2 confidence that he was approving the restart, and there
3 was some communications we took on internally in the
4 company to make sure stakeholders were well-informed on
5 the restart -- that took a couple of days to do --
6 stakeholders ranging from our political representatives
7 to community representatives, the community engagement
8 panel and others. So once we had all those complete, we
9 started on the July 15th date.

10 Q I notice that Mr. Bilovsky's PowerPoint slide
11 retains the February 15th through April 15th, 2020 range
12 for completion of FTO, but it deletes the ramp-up from
13 single to dual-unit operations as a cause of potential
14 delay. Why is that?

15 A I would have to go back and look at the -- you
16 know, we had several discussions about moving from
17 single-unit to dual-unit. We stuck to our -- we stuck
18 to our plan to move three canisters starting with No.
19 30, which was staged in the Unit 3 spent fuel pool and
20 then two additional canisters and then taking a two-week
21 assessment period. So we stuck to that plan. And after
22 we were able to get through that assessment and satisfy
23 ourselves and we could go to two-unit operations, we
24 did.

25 I'm not totally sure if I understand your

1 question. It just -- just because it's not on the slide
2 doesn't mean we didn't do it. We actually did that
3 assessment, and we did make a couple of improvements
4 before we restarted and went into dual-unit operations.

5 Q I believe previously you had identified it as a
6 source of potential delay, and then at this meeting, in
7 this slide, you're no longer identifying it as a source
8 of potential delay. Had your thinking changed on that
9 somehow?

10 A No. You're just -- I think you're asking me
11 why it's not on the slide. Well, okay. It's not on the
12 slide. I see that. But we still stuck to our original
13 plan.

14 Q Understood. The last page of the exhibit is
15 entitled Results of Final Practice Runs and contains a
16 finding feedback from craft regarding too many oversight
17 personnel and then an identified improvement -- and I'm
18 quoting, "Imposition of oversight personnel addressed
19 via crowd control procedure. Clear role and
20 responsibilities." Close quote.

21 Can you explain what this refers to?

22 A As you can imagine, when we did prepare for
23 final restart, we were faced with a situation where we
24 had multiple layers of oversight because we were really
25 focused on restarting the fuel transfer safely and

1 compliantly. So the workers identified a situation
2 where they had, in some cases, trouble identifying the
3 difference between oversight personnel and personnel
4 there to do the job. So we established some physical
5 boundaries. We established colored vests. So we used a
6 color scheme for those that were supervising, those that
7 were working and those that were there for oversight,
8 and we even established a color scheme for management
9 folks who were there to observe the fuel transfer
10 restart. So we wanted to make sure that the workers had
11 a clear line of sight as to who was doing what, and so
12 we made those improvements. And that's what it refers
13 to when it says "crowd control."

14 Q Okay. It wasn't a reduction in the number of
15 oversight personnel. It was just giving them colored
16 markers so people understood what the roles were?

17 A In most cases, yes. We did not reduce the
18 number. We just made sure the roles were very clear.

19 Q Understood. Let's go to A4NR-X-32.

20 A Okay. I'm there.

21 Q That's a two-page excerpt from the minutes of
22 the August 8th, 2019 meeting of the SONGS executive
23 committee. I've highlighted in green the mention in
24 Vince Bilovsky's report that FTO resumed on July 15th,
25 the two canisters had been safely transferred since then

1 that Edison had, quote:

2 Initiated an assessment and adjust period
3 to identify areas for improvement. Close
4 quote.

5 The minutes go on to say -- and I'm quoting:

6 Vince Bilovsky explained that other issues
7 were noted regarding water intrusion within
8 the multi-purpose canisters stored in
9 parking lot 4 prior to loading. It
10 appeared that rainwater had seeped through
11 the top of the protective covers. Initial
12 assessments conclude that the canisters
13 will need to be cleaned with demineralized
14 water resulting in additional schedule
15 delays to resume fuel transfer activities.
16 Close quote.

17 Can you explain how after all of the attention
18 focused on FTO after the August 3rd, 2018 incident
19 something like this rainwater intrusion could be allowed
20 to happen?

21 A So I'm reading through it now just to refresh
22 myself. I wouldn't classify it as rainwater intrusion
23 being allowed to happen. The canisters were stored in
24 compliance with standards in parking lot 4. They were
25 covered and actually sealed. Through the course of the

1 delay in fuel transfer operations, some water leaked
2 through the sealing system. That was remedied.

3 Further, we were able to successfully flush
4 these canisters and restore them to full compliance
5 before using them, and I would say that any delays
6 associated with rainwater leaking into canisters were
7 very minimal, if at all.

8 Q Okay. Let's turn to A4NR-X-33, which is the
9 November 22nd, 2019 two-page letter to you from the NRC
10 describing the results of several unannounced
11 inspections conducted between July 2019 and September
12 2019 by the NRC and then two pages excerpted from the
13 letter's attachment describing the rainwater intrusion
14 note. Page 3 of the exhibit, which has the No. 10
15 centered at the bottom of the page, states near the
16 middle -- and I'm quoting:

17 An SCE oversight individual, while
18 performing routine surveillances of
19 Holtec's activities, initiated AR
20 0119-19778 in January 2019, which detailed
21 that water had been observed pooling and
22 collecting on the covers of the MPCs stored
23 on site at SONGS at both storage locations.
24 The licensee determined that the
25 possibility of water intrusion into the

1 MPCs being stored at SONGS needed to be
2 addressed and evaluated for impacts to MPC
3 cleanliness and storage requirements.

4 Close quote.

5 Do you agree with this characterization in the
6 NRC inspection report?]

7 A Yes. Before I get to that, I'd like you -- to
8 take you to the same report on the first page of that
9 report dated November 22nd, the third paragraph down.
10 I'd like to read that into the record. So this was a
11 summary that the NRC concluded with -- after these
12 series of inspections, including unannounced
13 inspections.

14 So, quote, from the report:

15 During the on-site inspections, the NRC
16 observed and confirmed that site personnel
17 completed all required actions identified
18 through causal evaluations for the
19 August 3rd, 2018 canister misalignment
20 incident through return to fuel loading
21 and canister tran- -- excuse me, and
22 transfer operations. Specifically, the NRC
23 inspectors conducted unannounced on-site
24 inspections to evaluate classroom training,
25 pre-operational training exercises, and a

1 significant number of fuel loading,
2 processing -- processing, and dry cask
3 transfers -- excuse me, storage transfer
4 evolutions. The NRC inspectors concluded
5 the corrective actions were effectively
6 implemented to ensure the safe transfer of
7 spent fuel to the site ISFSI.

8 So that is the theme for this inspection --
9 (Crosstalk.)

10 THE WITNESS: Yeah. I'm sorry.

11 ALJ LAU: I'm just going to interject again.

12 Next time, if you read, please just kind of slow --
13 kindly slow down for the court reporter.

14 THE WITNESS: Okay.

15 ALJ LAU: Thank you.

16 THE WITNESS: Yes, your Honor. Thank you.

17 So it is true that an SCE oversight individual
18 initiated an AR with the water pooling and collecting;
19 however, it was collecting on the cover system. The
20 cover system was deemed to be appropriate. It was
21 later, when we removed the covers to get ready those
22 canisters for use, that we discovered rainwater. Now,
23 rainwater in and of itself is really not a -- a severe
24 thing, in terms of collect -- usability for the
25 canisters. They were simply flushed out with

1 demineralized water, and then used. So I feel that the
2 site personnel here did a proper job of identify --
3 identifying the pooling water, identifying the rainwater
4 intrusion, conducting the flushing operations, and
5 effectively using those canisters in a safe and
6 compliant measure.

7 This would be a whole different issue if site
8 personnel identified the rainwater, or -- or maybe
9 worse, did not identify it, and then tried to use that
10 can -- those canisters in the units two and three spent
11 fuel pools without conducting the flushing operations.
12 But, that's not what happened. The site's corrective
13 action program worked.

14 BY MR. GEESMAN:

15 Q So staying on page 3 of the exhibit, that's the
16 one with the number 10 centered at the bottom of the
17 page, the NRC report goes on to say, and I'm quoting:

18 Starting in April 2019, the licensee
19 initiated several condition reports that
20 identified that some of the protective
21 barriers and coverings on the MPCs had
22 failed. Specifically, the licensee
23 discovered moisture behind the green vapor
24 barrier sheeting during inspections
25 performed by the licensee, close quote.

1 The description continues on to page 4 of the
2 exhibit, which has the number 11 centered at the bottom
3 of the page, and it says, and I'm quoting:

4 The licensee's investigation determined
5 that the protective covers used for the
6 on-site storage of the MPCs failed due to
7 environmental condition during their
8 prolonged, parentheses, 11-month time
9 outdoors. The water identified inside the
10 MPCs had the potential to create adverse
11 conditions. Therefore, the condition
12 reports required that an engineering
13 evaluation be performed to determine the
14 effects of moisture intrusion on all MPCs
15 in the long-term storage, and to determine
16 a solution for the problem, close quote.

17 To the best of your knowledge, is that an
18 accurate description?

19 A Yes. I would also point out, this -- this
20 issue is identified by Edison oversight personnel. This
21 issue is identified and entered into the corrective
22 action program at Edison. This issue, like any issue
23 involving the canister system, was evaluated by
24 engineering. And the issue was resolved. And that's
25 the reason in this report that it's not an NRC finding.

1 The NRC is mentioning it in a report as a dialogue or a
2 chronology of what happened at the station, not as an
3 NRC issue, finding or violation.

4 Q Now, the NRC inspection report makes clear that
5 Holtec was responsible for MPC storage activities, and
6 says, at the bottom of page 4 of the exhibit, that of
7 the 14 MPCs Holtec had inspected at the time of the
8 NRC's August 12th through 14th visit, 10 of the 14 had
9 standing water in the fuel basket, ranging from 0.5 to
10 24 inches in depth.

11 Do you think it was reasonable to allow a
12 problem that Edison had discovered in January of 2019 to
13 fester unresolved in Holtec's hands until mid-August and
14 beyond?

15 A So there's a couple of points to be made here.
16 First of all, you mentioned the issue,
17 festered. It -- there was no festering here. The
18 canisters were flushed and utilized in the timing needed
19 for fuel transfer operations. The rainwater, through
20 our evaluation, posed no threat. What we wanted to make
21 sure of was that the rainwater was appropriately dealt
22 with before the canisters were used. The NRC mentions
23 that it's a Holtec issue, because Holtec stored the
24 canisters, and they were not transferred to Edison's
25 ownership until use. So that's the way the storage

1 ownership worked, in this case.

2 But, the issue itself, as I indicated before,
3 is noted in the inspection report as a process issue
4 that we dealt with, not as an NRC violation or finding.

5 Q Okay. Let's go to A4NR-X-34. That's a
6 one-page excerpt from the minutes of the September 5th,
7 2019 meeting of the SONGS executive committee. I've
8 highlighted in green the mention in Vince Bilovsky's
9 report that FTO had resumed, but that, and I'm quoting,
10 a second assess and adjust period is planned once
11 multi-purpose canister number 33 is downloaded to
12 provide a window for SONGS to evaluate if dual unit
13 operations is an option, based upon the recent contract
14 for performance, and to conduct other maintenance
15 activities that are necessary to support fuel transfer,
16 close quote.

17 Do you recall what the other necessary
18 maintenance activities were that required the second
19 assess and adjust period?

20 A No, I do not. I do recall that there were some
21 evaluation comments, some oversight comments, we had to
22 work through. There was also a couple of equipment
23 issues identified through this period. One of them had
24 to do with a shield cone misalignment that a worker
25 identified during one of the canister loading

1 operations, which we fixed.

2 And by the way, with the improvements that we
3 made, the fact that a worker identified this, and it was
4 entered into the corrective action program, I'm putting
5 in the win column, because this was worker-identified,
6 not oversight-identified.

7 Further, we identified through this time, is my
8 recollection, that would -- there was some welding
9 machine issues using the automated welding process, and
10 we wanted to get those issues corrected, so that we
11 would have good welds on the canister sealing operation,
12 which is done in the spent fuel pool area after the
13 canisters are removed from the pools to be sealed and --
14 and -- and vacuum dried.

15 So I considered, at this time that these issues
16 came up, were totally appropriate for taking another
17 stop to make sure we had everything in place before
18 moving to a -- moving to a more aggressive schedule.

19 Q Was there some reason why the evaluation of
20 dual unit operations couldn't take place while casks
21 were being loaded?

22 A I'm not sure what you're getting at there.

23 I --

24 Q Did you need to stop the load -- excuse me.

25 I -- I didn't mean to interrupt you.

1 A The loading process was not stopped, per se.
2 We just stayed in single unit operation. And for -- it
3 might be good to discuss single unit versus dual unit.

4 Single unit doesn't mean you're only in unit
5 two or only working in unit three. Single unit just
6 means you're only doing one canister loading operation
7 from one spent fuel pool, and then moving that canister
8 to the dry fuel storage installation at a time. Now,
9 when you're done with that, you go back and start with
10 another canister. It doesn't have to be in the same
11 spent fuel pool. That's the definition of single unit.

12 Dual unit would mean you have crews, Holtec
13 crews, working in both spent fuel pools at the same
14 time, so that essentially you have activities occurring
15 which could be duplicative for the canister operations.

16 And for us, dual unit was an important
17 consideration, because from the point of view of Holtec
18 personnel and things like welding machines, you could be
19 doing the same activities in two locations at the same
20 time. We wanted to make sure that we were ready for
21 that.

22 Q Okay. Let's go to A4NR-X-35.

23 A Okay.

24 Q That's a three-page excerpt from a PowerPoint
25 presentation that Vince Bilovsky made to the

1 September 5th, 2019 meeting of the SONGS executive
2 committee. The third page of that exhibit, which has
3 the number 14 in its lower right-hand corner, is
4 entitled "Fuel Transfer Operation Status and Forecast."
5 The assessment of dual unit readiness is identified as
6 taking place from September 9 through September 20. I
7 also note that the projected FTO completion date has
8 receded from the July 11th presentation, is now a range
9 from April 2020 to August 2020.

10 Can you explain any specific reasons for this
11 change in completion estimate?

12 A What I will say here is that we were -- based
13 on some additional improvements we identified, which
14 I've already discussed, we decided to take a more
15 careful approach to going to dual unit operations than
16 we originally anticipated, and that involved, in our
17 estimation, a schedule push, as indicated in the
18 right-hand block on this chart.

19 Q So is that why the phrase, demonstration for
20 readiness for dual unit operations, has reappeared on
21 the list of potential delays?

22 A I don't know that that's the reason, but it --
23 it -- for this communication to the executive committee,
24 that was a logic at the time, was that we had this
25 assessment year to do from the -- the 9th to the 20th.

1 We -- these -- these -- this presentation was dated on
2 the 5th, I believe. Yeah. So given that assessment, we
3 conservatively adjusted the date.

4 And I -- I will -- I will say that the issues
5 that we found and fixed pertaining to going to dual unit
6 operation, which I've already described, were
7 appropriate in achieving the highest levels of nuclear
8 safety and compliance, and we wanted to really really
9 make sure that we had no issues that would get in the
10 way of a con- -- continuing a successful campaign. So
11 we thought that going to dual unit early, before all
12 "Ts" were crossed and "Is" were dotted was not going to
13 be appropriate.

14 Q Okay. Let's -- let's turn to A4NR-X-36.

15 A Okay.

16 Q That's a -- that's a one-page excerpt from the
17 minutes of the October 3rd, 2019 meeting of the SONGS
18 executive committee. I've highlighted in green the
19 statement attributed to Mr. Bilovsky that, quote, until
20 two to three canisters are loaded without any incident,
21 SCE and Holtec have agreed to delay the dual unit
22 operations assessment, close quote.

23 Can you explain what happened between
24 Mr. Bilovsky's September 5th presentation and the
25 announced September 9th through 20 assessment that

1 caused this change in plans?]

2 A Well, I believe I already discussed a couple of
3 the issues that we identified, one of them being the
4 shield cone fix that we put in place based on a worker
5 identified issue; and then also we had some welding
6 machine and welding performance issues to correct.

7 There were other things that we identified
8 through the corrective action program in that window
9 before determining that we were okay to move to
10 dual-unit operation; and I want to emphasize again that
11 these decisions were prudent. They were prudent in
12 the -- in -- in the -- in light of maintaining high
13 levels of nuclear safety and ensures compliance with the
14 regulator and with our standards and with my boss and
15 making sure that the campaign would be successful once
16 we started. And it was quite a big deal for us to go
17 from single to dual-unit operation as I discussed
18 because, for dual-unit, you have workers doing
19 duplicative activities on both units at the same time;
20 and so, in reviewing, you know, the schedule, this is
21 why you see some of the schedule adjustments and some of
22 the comments that we reviewed here.

23 Q Now, in the original plan for FTO -- long
24 before the August 3, 2018, incident, the original plan
25 had contemplated dual-unit operation, did it not?

1 A So, I am not following you entirely. Before
2 the August 3rd event, we were in dual-unit operations.
3 So, it stands to reason that the plan would have
4 contemplated dual-unit operations, yes.

5 MR. GEESMAN: Those are all my questions. I
6 want to thank you very much for your responsiveness,
7 Mr. Bauder.

8 ALJ LAU: Okay. I just want to confirm,
9 Mr. Geesman, you are done with the cross-examination of
10 Mr. Bauder, correct?

11 MR. GEESMAN: I am.

12 ALJ LAU: All right. Thank you.

13 EXAMINATION

14 BY ALJ LAU:

15 Q Mr. Bauder, I do have several -- maybe just one
16 or two questions for you.

17 I am looking at your rebuttal testimony,
18 SCE-09, and I think what I will do is I will just read
19 the quote to you. I am on line 1 through 4 on page 25.

20 The question is, "Why did the NRC assess a
21 civil penalty?" And direct -- your response was, "The
22 penalty was imposed for the inadvertent disabling of the
23 redundant safety sling during downloading as required by
24 procedures. The redundant safety sling is required to
25 be in place at all times while a canister was suspended

1 in the air."

2 So, was there then an error committed by Edison
3 in not -- in not having a redundant safety sling that
4 caused the canister to be wedged onto the shield ring?

5 A Okay, your Honor. I think the best way to
6 answer this question is to look at another figure in
7 SCE-09, if you don't mind, going to page 6.

8 Q Okay.

9 A So, if you're there...

10 Q I am there.

11 A Okay. Thank you.

12 So, page 6, Figure 2.

13 One shows the vertical cask transporter, which
14 has been mentioned here a couple of times in terms of
15 equipment improvements in general.

16 So, here you see the vertical cask transporter
17 and you see a cask there, the big -- the round
18 cylindrical cask in the center of the transporter. You
19 don't see a canister, because the canister that would be
20 downloaded into the cavity enclosure container is inside
21 that cask. Attached to the canister are two slings in
22 the very middle. Do you see the two in the very middle
23 going down through the center --

24 Q Yes.

25 A -- of the cask?

1 Q Yes.

2 A So, essentially, when the slings are attached
3 to the canister, from the perspective that we're looking
4 right now at the picture, you can't see the canister at
5 all, but the slings are attached.

6 When the operator operates the machine from the
7 machine platform, which is on the side of the diagram.
8 If you look at 180 view, we would see that op -- those
9 operational controls. The operator lowers this top
10 beam -- the very top beam on the cask transporter and
11 verifies the beam is going down, which is an indication
12 of the canister inside the cask being lowered into the
13 cavity.

14 So, each of the slings are redundant; in other
15 words, those slings attached to the canister, if one
16 were to break for some reason, the other one can take
17 the full load, which is about a hundred thousand pounds.

18 So, the operators had procedures in place so
19 that if a canister became unloaded, they would quickly
20 retrieve the load by raising that top beam and
21 re-supporting the canister inside the cask.

22 Now, during that August 3rd event -- if you
23 don't mind switching pages over to page 8.

24 Q Okay.

25 A It's really 7 and 8.

1 Q I am there.

2 A It shows the enclosure and the shield ring and
3 Figure 2-3 shows where canister 29 became wedged in the
4 cavity enclosure container, and there's a circle that
5 shows a little triangle there, which is, like, a gusset
6 that supports the shield ring. There's a blow up of
7 that on Figure 2-4 on the next page, page 8.

8 So, during the downloading operation, the
9 canister essentially rested on one of those gussets --
10 those little triangular gussets and became lodged.

11 When the beam was being lowered -- going back
12 to page 6 -- the slings stayed -- looked the same to the
13 operator. The beam was being lowered, the slings looked
14 the same, but the canister was wedged on the ring; and
15 so, when the operators became aware that the canister
16 was wedged on the ring based on radiation safety
17 personnel telling them that the dose hadn't changed,
18 they, then, per their procedures, recovered the load and
19 re-supported the canister inside the cask.

20 So, it's an interesting situation, because the
21 operators followed their procedures to recover the load.
22 The violation -- and so, the operators in and of
23 themselves did not commit an error. The violation and
24 the penalty was associated with the inadvertent
25 disabling of the redundant safety sling, meaning both

1 slings were essentially unloaded.

2 So, maybe the wording is a little confusing on
3 page 25, but this is exactly the wording from the NRC
4 violation in that when the slings became unloaded
5 neither sling was in a position to be redundant to the
6 other one. Maybe that's the best way of saying it. So,
7 that that redundant safety feature was disabled.

8 Q Okay. So, I --

9 A Yeah.

10 Q -- am not part of the NRC world.

11 I -- then, you know, please explain to me why was a
12 penalty imposed if there was no error on the part of
13 Edison.

14 A So, the penalty is deterministic. The penalty
15 basically looks at -- under part 72 of the regulations,
16 which is how we operate the ISFSI systems or the loading
17 systems during field transfer. It's a Code of Federal
18 Regulations 50.72. That code basically states if you
19 have a system or an occurrence like this where you lose
20 redundant load protection, then you've violated the
21 requirements of the code.

22 It is deterministic. It -- it doesn't
23 necessarily look at did -- was an error committed here,
24 was an error committed there. Certainly, in assessing
25 the civil penalty, the NRC, for this particular

1 violation, severity level two, looks at "was it in
2 intentional?" It's not in this case. "Were the
3 corrective actions sufficient?" The NRC identified a
4 couple of additional corrective actions in hindsight
5 that we implemented, so we did not get credit for that.
6 And then did the -- "Was there an actual event?" No,
7 the canister had a potential to fall but it didn't,
8 hence the severity level two.

9 So, there's a matrix the NRC works through for
10 determining the severity level and the civil penalty,
11 and -- and that matrix is very deterministic.

12 So, you know, in hindsight looking at this
13 incident, could it have been prevented? Yes, if the
14 measures that we had implemented after the event
15 occurred were in place before it occurred, it -- it
16 would not have happened. But using the procedures that
17 the operators had at the time, and -- and the design
18 characteristic of the system where a canister could
19 become hung up on this shield ring gusset, which was not
20 anticipated in the original design, you know, I would be
21 hesitant to call it an operator error, per se.

22 Q Okay. Previously, you mentioned there's
23 usually a lot of checks throughout the process of
24 operations. I am wondering, you know, in this incident,
25 the wedging was identified by the radiation monitoring

1 personnel.

2 Is that the typical check to make sure that if
3 something was to go wrong, like, if something was to be
4 wedged or had a big fall, who was supposed to see that?
5 You know, was it -- was it supposed to be the radiation
6 personnel, or was there supposed to be -- could there be
7 another level -- well, that's another question, right?
8 Was there supposed to be another level of check, and
9 could there be another level of check?

10 A So, in this particular case, the radiation
11 safety personnel on the job, are there to just do that.
12 Make sure that the radiation dose is as expected; make
13 sure we're achieving as low as reasonably possible doses
14 of personnel working on the job, and they were doing
15 their job.

16 They simply said -- after the operator had
17 lowered the beam, they said, "Wait, the canister is" --
18 "something is wrong here, because we're still getting
19 dose readings as though the canister was not in the
20 cavity enclosure, which would then make the dose very
21 low." So, I give credit to the radiation safety
22 personnel for doing that.

23 I -- I just want to mention that, you know, 28
24 canisters had been loaded successfully by the operators
25 until this point using the very same procedures, very

1 same techniques, using an operator and a spotter; and in
2 this particular case, the fact that a canister could
3 become wedged on this -- this gusset for this shield
4 ring really took the operators off guard. They were not
5 ready for this possibility.

6 So, you know, when we look back at the event,
7 we found all these improvements that could be made to
8 prevent it from occurring in the future, but I will say
9 that it -- it -- the -- you know, the checks and
10 measures that we had in place at the time were working;
11 and then -- then, of course, we had this issue, which
12 is -- you know, I characterize is a latent design issue
13 with -- with the storage system itself, which caused
14 this challenge to the operators.

15 I -- I hope that helps.

16 ALJ LAU: Let's go off the record.

17 (Off the record.)

18 ALJ LAU: Back on the record.

19 Q We are currently looking at Exhibit A4NR-1,
20 page 4. It is testimony sponsored by John Geesman. On
21 page 4, line 28 -- line 28 were a series of answers to
22 the frequently asked questions on the NRC's webpage
23 regarding the cask loading incident, and I believe that
24 would be referred to the Edison August -- August 2018
25 incident; and I am going to quote this excerpt from

1 Mr. Geesman's testimony, which he said he got from the
2 NRC website.

3 It says, on line 28, "Dry cask personnel lacked
4 the proper training and certifications to operate the
5 important safety equipment," and then, if you skip to
6 the next sentence, it says, "Procedures did not include
7 qualitative or quantitative means to determine when the
8 slings were no longer supporting the load," and then it
9 says, "Finally, no licensee oversight staff were in
10 direct visual observation of important to safety
11 activities during the downloading operations."

12 And if I can take you to page 5 and line 39, it
13 also talked about there was a special inspection team
14 that found that there was a July 22nd event that had
15 never been entered into the corrective action program.

16 And so, it was talking about -- so, there are
17 two things -- maybe we will talk about one thing at
18 once.

19 One is, according to the NRC, there was a lack
20 of training -- proper training and certification, and
21 just throughout the testimony, I remember reading -- and
22 I can find it later -- that the operator did not --
23 yeah, I think on page -- pages 9 -- 8 to 9 of the
24 exhibit just discussed how the operator, which is the
25 VCT operator -- and you can define who -- what VCT is.

1 The VCT operators just did not have the appropriate
2 training.

3 So, on page 9, line 10, they said the VCT --
4 actually, it begins on line 9, it says, "The VCT
5 operator on August 3, 2018, had never been tested on or
6 exercised with the canister simulators during a
7 pre-operational testing "dry run" downloading operation.
8 The August 3, 2018, misalignment incident was the first
9 time the VCT operator had actually completed downloading
10 operations as a VCT operator," and continuing onto the
11 next line, "Neither the rigger or spotter nor VCT
12 operator was properly trained in determining a loss of
13 load condition during downloading operations."

14 And then, you know, line 20, the sentence
15 begins, "However, the VCT operator stated that he did
16 not use the VCT HMI screen to monitor the load of the
17 canister at any time during the August 3, 2018,
18 downloading operations."

19 So, in determining reasonableness, we -- we
20 talked about you know, not just the operator but Edison
21 as -- as, I guess, you know, not the specific operator,
22 but as an operator of this operation, you know, should
23 be ensuring appropriate training to make sure that their
24 staff is well-equipped to -- to conduct the field
25 transfer; and so, my question is, you know, given the

1 acknowledgment of -- or that it was identified that
2 there was the lack of training -- how about we do this:

3 Do you agree with the -- do you agree with the
4 assessment that there was a lack of training in the --
5 lack of training that caused this August 3rd incident?
6 August 3rd, right? Yes, August 3rd.

7 A So, maybe, just to go back very quickly to
8 describe on SCE09, page 8, what a VCT operator is.

9 So, if you look at that picture, your Honor.
10 The VCT operator would be on a platform on the other
11 side of this cask operating the machine, so that -- that
12 would be the person on the machine operating this
13 vertical cask transporter who was downloading the
14 canister responsible for that operation on August the
15 3rd 2018.

16 With respect to training, all the operators
17 involved in VCT operations were trained appropriately
18 for the conditions that they knew and were under -- and
19 met requirements prior to the August 3rd event.

20 The reason the inspection report mentions that
21 the operator had not done dry run downloading the
22 simulated canister is because those dry runs involving
23 the simulated canister were done in December of 2017
24 before the NCC authorized, through an inspection
25 process, starting the official campaign in January of

1 2018.

2 So, although this operator had never done that
3 directly, he was trained under the Holtec system, under
4 the supervision of other operators. This just happened
5 to be his first download by himself. The training
6 involves on-the-job training in cask performance
7 operations before being released to perform alone and --
8 and so, this was the operators first downloading
9 evolution using the Holtec procedures.

10 Q Well --

11 A Um --

12 Q Go ahead.

13 A So, in general, do I agree we the inspection
14 report? Yes, I do. Because the inspection report looks
15 backward at what happened with the benefit of the
16 perfect hindsight here that this canister was able to
17 hang up, and the operators did not identify it
18 immediately. They -- they did identify it and recover
19 the canister to a fully loaded condition and safely
20 downloaded that canister that evening.

21 But in perfect hindsight, looking back, was --
22 could it have been prevented? Yes, it could have had we
23 known this could have occurred before starting the
24 campaign or at any point in the campaign before the
25 August 3rd event.

1 Q And I -- I just -- we are talking about checks
2 and -- you know, checks throughout the system; and in
3 this incident, it was the radiation, you know,
4 inspection staff that raised the issue that something
5 was going wrong; that something was not going right.
6 But it seems from what I read on page 9 about the HMI
7 screens monitor the load of a canister that there were
8 actually provided, you know, throughout this operation,
9 a check where the VTC operator should be looking to
10 possibly -- you know, I am not sure. I am asking you.
11 Should he be looking at the HMI screen to monitor the
12 load, and was it an operator error that he did not see
13 that something was going wrong; that someone else had to
14 see that something was going wrong?

15 A Right. So, the HMI screen stands for human
16 machine interface. It is a screen that was selectable
17 by the operator. The operator could look at two things:
18 One, the evenness of the beam, that top beam on the
19 vertical cask transporter, on page 8, as it's lowered to
20 make sure that it stays level and is tracking during the
21 lowering operation. The operator had a selector switch
22 to look at hydraulic pressure, which -- which would be
23 an indication of an unloaded canister condition.

24 In this particular case, the operator was very
25 focused on evenly loading the canister down, make --

1 making sure that beam was level; and so, did not select
2 the hydraulic pressure indication in this particular
3 instance, and -- and -- but when we looked at it, since
4 this underload condition had not happened before to this
5 nat -- of this sort of condition, the operators, in
6 general, were very focused on the beam and the evenness
7 of the beam to make sure the canister went down straight
8 into the cavity enclosure. It was an improvement that
9 we made among many other in looking backward at the
10 event. We applied and implemented a series of load
11 shackles, so that -- which -- which gave readouts to
12 iPads and other ways to indicate independently the
13 condition of the loading on the slings after the event.

14 But before this event, the way the operators
15 were trained, and having successfully done numerous
16 canisters, the fact that they should continually select
17 back and forth on the HMI screen to look at hydraulic
18 loading was simply not an expectation that was
19 implemented. That's why I agree with the inspection
20 report. When you look backward at the event, you say,
21 okay, yeah, this -- this is something we -- you know, we
22 should have done had we known this condition could
23 occur. But I -- I just think it's a reach -- a little
24 bit of a reach to say, "If we knew it could occur, would
25 we do those things ahead of time?" Yes, if we had

1 known, we would have stopped field transfer and made
2 sure that the operators and the spotters were well aware
3 of it, and we would have made the other improvements we
4 made subsequent to the event, but we just were not aware
5 that this complete unloading condition could occur.

6 Q I am going to read to you another quote that I
7 want you to clarify. I am on page 10 of the same
8 exhibit, and I am going to start with line 7.

9 "The failure" -- are you there yet, Mr. Bauder?

10 A I am there. Thank you.

11 Q "The failure to ensure operators are adequately
12 qualified and proficiency tested when operating
13 important safety equipment and directing critical lift
14 program operations is a performance deficiency. The
15 licensee training program that allowed the
16 rigger/spotter and VCT operator to be placed into a
17 situation where their lack of training rendered them
18 incapable of meeting the requirements for the job
19 represented a failure of the licensee's training
20 program."

21 So, from what I am reading, you know -- and
22 this is basically what Mr. Geesman said he is quoting
23 from the NRC -- that NRC is saying -- is -- is not
24 really agreeing with what you said that, you know, it
25 was -- had we known, we would have implemented the --

1 the training -- that as part of training. But it was
2 the NRC, from this quote, seems to say that it was the
3 licensee, which is Southern California Edison, that had
4 a performance deficiency as quoted in line 9, and that
5 there was a failure of Edison's training program.

6 Can you explain?

7 A Sure. Thank you.

8 So, first, Edison completely accepts and
9 accepted the NRC violation for performance --
10 performance deficiencies identified at the time
11 completely; however, I just want to point out that the
12 NRC is looking at this through a backward lens after the
13 event occurred just like Edison did.

14 So, we took a look at it ourselves through a
15 backward lens, in perfect hindsight, we did an apparent
16 cause evaluation; we did a root-cause evaluation; we did
17 a number of corrective actions outlined in SCE-09 to
18 prevent something like this from this occurring on our
19 system.

20 This is a completely unexpected event that the
21 operators were not trained to anticipate, and -- and I
22 just want to point out, again, that the dry runs in the
23 training that started in -- before December 17, 2017,
24 and concluded with the NRC inspections before the
25 campaign starting were suitable for the condition that

1 we knew could have occurred at the time, which was not
2 this.

3 So, this is, like, trying to anticipate
4 something that could occur and trying to say is it
5 reasonable to anticipate that? We don't think it was
6 reasonable to anticipate a canister could do this with
7 respect to hanging up completely in a cavity and
8 enclosure system; therefore, we don't think it was
9 reasonable to pretrain the operators on this occurrence,
10 but we completely accept the violation, because when you
11 look backward at it, you can easily say, well, if this
12 had been done, if this had been done, the event would
13 have been prevented.

14 Q So, Mr. Bauder, you're saying that Edison, at
15 the time that it knew about, you know, this operation,
16 gave the best training it can; that, only in hindsight,
17 was there a failure in the training program?

18 A That's right. And this -- this really falls
19 into our overall discussion on the uniqueness of the
20 event and, in our opinion, you know, the -- the -- the
21 fact that prudent decisions were made in lining up the
22 Holtec crews and training and procedures to do the
23 campaign starting in January of 2018, and then prudent
24 decisions were made to stop and suspend fuel transfer
25 and put all these corrective actions in place that we

1 have talked about here in the last day or so.

2 ALJ LAU: Okay. Let's go off the record, so I
3 can find what I want to talk about.]

4 (Off the record.)

5 ALJ LAU: Let's go back on the record.

6 Q I'm on page 7 of the same exhibit, which is
7 A4NR-1. I am going to ask Mr. Bauder to turn to page --
8 I mean, to line 3 of page 7. And I will read to him
9 these next few sentences:

10 Holtec encountered difficulties that during
11 downloading of Canister MPC No. 26 resulted
12 in a 1.5-hour delay. The difficulties were
13 not entered into the corrective action
14 plan.

15 And then now I turn your attention, Mr. Bauder,
16 to line 27:

17 PTP project manager issued AR 0419-35707
18 documenting that various crews noted
19 hang-ups during downloading of 29
20 canisters.

21 And then now I turn your attention to line 33:
22 Prior to the August 2018 downloading event,
23 there were multiple errors made by Holtec
24 in the field that should have been
25 indicators of underlying performance

1 issues.

2 So what I'm gathering from the sentences I read
3 to you is that there were a series of what they call
4 hang-ups or issues that, you know, the crews observed
5 and they were not entered into the Corrective Action
6 Program. And I am thinking -- and I'm not -- you know,
7 I probably have to read the testimony a little bit
8 further that would -- if the crew were to note the
9 hang-ups, note the issues that were going on during the
10 previous download of the 29 canisters and, you know,
11 entered these difficulties into the Corrective Action
12 Program, would that have prevented the incident on
13 August 3rd?

14 A Yes, your Honor. So it's difficult to say
15 whether or not Corrective Action Program entries would
16 have prevented the incident. I want to point out in
17 this same testimony on line 29 a really important fact
18 here. There were no action requests or oversight
19 observations made regarding this fact because they
20 followed the 400 procedure. That's a Holtec procedure
21 that we reviewed that involved what we call hang-ups or
22 difficulties downloading the canister. The procedure
23 simply said, "If at any time during the downloading
24 operation the VCT operator or the spotter identifies an
25 issue to regain the load and potentially recenter the

1 canister and successfully download it into the cavity
2 enclosure system." And that's in reference to the
3 1.5-hour delay identified on page -- on line item 3 of
4 the same page, page 7.

5 So simply put, there was no knowledge by Holtec
6 or by us that a hang-up or an underload condition could
7 cause a canister to become completely suspended like
8 this in a cavity enclosure. It's a very tight clearance
9 to start with. So the canister goes down. It's got
10 roughly a quarter inch of space on each side. So by
11 nature of the procedure, with a shield ring, it's a very
12 tight tolerance, and it's an operation that the
13 operators new could involve some incidental contact by
14 the canister in parts of the cavity enclosure.

15 And so the procedures were built to accommodate
16 that, but there is no knowledge, nor was there an
17 expectation that a canister could become completely
18 lodged on the gusset for the shield ring like did occur
19 on August 3rd.

20 So once again, this is looking at the event
21 through a backward -- through a perfect lens of what
22 could have been done differently. And I think the
23 backward look is excellent. And we fully accept that --
24 the NRC violation as well. It's just that, once again,
25 it's hindsight in looking at what occurred.

1 ALJ LAU: All right. Thank you, Mr. Bauder.

2 Let's go off the record.

3 (Off the record.)

4 ALJ LAU: Let's go back on record.

5 I am still on Exhibit A4NR-1, page 9, and I

6 will read -- I will read line 32 to line 37 to

7 Mr. Bauder:

8 The licensees training program did not
9 provide a formal process to be qualified
10 for the rigger/spotter position during
11 downloading operations. The rigger/spotter
12 stated that he was not trained on and did
13 not know his roles and responsibilities
14 during the downloading evolution. The
15 August 3rd, 2018 misalignment incident was
16 the first time the spotter -- excuse me --
17 the rigger/spotter had attempted to perform
18 downloading operations as the
19 rigger/spotter in the JLG.

20 And my question is, we talked about -- we
21 talked about Edison's training program. And from the
22 NRC's report -- or from their website, there's -- NRC is
23 saying that it was not particularly a hindsight 20/20
24 training failure but that, you know, Edison's training
25 program did not even provide a formal process for the

1 rigger/spotter position. Is that true?

2 A Okay, your Honor. I'm looking at SCE-09 now so
3 that I can pull up the list of required training that --
4 here. So if you go to -- I'm sorry. If you have the
5 time to look at SCE-09 starting at page 13.

6 Q Yes.

7 A And then it starts with "SONGS specific
8 training," and then there's a portion of "Holtec
9 corporate training."

10 Q Mm-hm.

11 A And then you move down to "VCT operator
12 training" and then the rigger -- in this case,
13 "rigger/spotter successfully completed the following
14 trainings."

15 Q Okay.

16 A So the rigger was trained. And -- and so I
17 can't characterize why the rigger/spotter made those
18 statements to the NRC inspector. The rigger/spotter did
19 make them, so they are on record. But the
20 rigger/spotter was appropriately trained for this task.

21 Q From the management's perspective?

22 A Yes. Exactly. And I further want to point out
23 that the riggers come from the union, and there's a
24 pretty comprehensive training program there about how to
25 rig, how to spot during tasks and, in this case, use

1 lifting devices. The JLG here refers to a lifting
2 device.

3 Q Okay. I think that -- do you have anything to
4 add? Because those are all the questions I have.

5 A I don't think I do at this time. I appreciate
6 the questions. Thank you.

7 Q All right. Thank you, Mr. Bauder. I will
8 still ask you to remain on the stand because we will
9 have a round of redirect and then re-cross, but it is
10 now 11:25, which means that our hearing has been going
11 on for an hour and it is time to allow our court
12 reporters to take a 15-minute recess. So we will be
13 back at 11:40.

14 Let's go off the record.

15 (Off the record.)

16 ALJ LAU: Let's go back on record.

17 Mr. Jerman, you may begin your redirect of
18 Mr. Bauder.

19 MR. JERMAN: Okay. Thank you, your Honor.

20 REDIRECT EXAMINATION

21 BY MR. JERMAN:

22 Q Mr. Bauder, does it describe in testimony
23 someplace what the corrective actions were that were
24 implemented when fuel transfer operations resumed after
25 the August 3rd, 2018 misalignment event?

1 A Yes, it is. Actually, there's a -- a pretty
2 good description starting in SCE-09, page 16, line 10,
3 which is titled Misalignment Event, and then line 11
4 says, "What specific corrective actions were undertaken
5 as a result of the investigation into the misalignment
6 event?" And then it lists the corrective actions in
7 categories starting with procedures, training, equipment
8 then moving over to page 17, the Corrective Action
9 Program and Oversight. And there's a bulleted list in
10 figure 2-5 on page 17 as well. And then there's figures
11 on pages 18, 19 and 20 with descriptions that show, in
12 particular, the equipment improvements that were made.
13 And I think the equipment improvements are very
14 important to prevention of recurrence in this case.

15 Q And, Mr. Bauder, do you consider the corrective
16 action measures described here in the testimony to have
17 been successful?

18 A Yes, they worked.

19 Q Were they successful not just for SONGS
20 operations but for the industry as a whole?

21 A Yes. They were very successful for SONGS
22 operations but also for the industry with respect to
23 Holtec. So Holtec's a big company with a pretty broad
24 footprint. And so Holtec was able to use many of these
25 across its footprint in the United States and elsewhere.

1 Q Now, Mr. Bauder, you discussed a "design flaw"
2 I think was the term that was used with Mr. Parker, and
3 with the ALJ, you used the term "latent defect," I
4 believe, with the ISFSI.

5 Could you explain what you meant by those
6 terms?

7 A Yes. I was trying to accurately characterize
8 the mechanical situations built into the Holtec design
9 that caused the canister hang-up event on August the
10 3rd. And so I did use those terms. What I mean, in
11 particular, is, as we've looked at before, if you go to,
12 once again, SCE-09, page 8 and look at figure 2-4, you
13 see the photograph of the shield ring in the cavity
14 enclosure container.

15 In particular, the shield ring is protected by
16 welded gussets. Those gussets are triangular, and they
17 have a very steep -- or excuse me -- shallow -- shallow
18 slope to them. So that, you know, what we found in this
19 event was the canister was able to completely lodge on
20 the shield ring on one of the gussets, and so that
21 characteristic is what really is the root cause from an
22 equipment issue for this event.

23 Q So that design you just described was the
24 shield ring to the gussets, did
25 that -- prior to August 3rd, 2018, did that design exist

1 at any other ISFSIs in the United States?

2 A Yes. This particular design was used at
3 Callaway Station, another nuclear station in Missouri,
4 for their cavity enclosure system. Since that time,
5 Callaway Station has modified -- or excuse me -- Holtec
6 has modified the cavity enclosure design to prevent this
7 occurrence. And what they've done is with the gusset
8 system, they've changed its construction to make the
9 gussets longer with more of a tapered slope. And the
10 gusset actually overlaps the edge of the shield ring so
11 that if a canister was to touch or have incidental
12 contact with a gusset, it would simply be centered by
13 the gusset system and aligned into the cavity enclosure.

14 Q And was that -- just to confirm, was that
15 design change made after the August 3rd, 2018 incident?

16 A It was. For San Onofre, all of our 73 cavity
17 enclosures were already constructed, so it was not
18 possible for Holtec to make this design change to our
19 system but they have subsequently made it to their
20 cavity enclosure systems in use elsewhere.

21 MR. JERMAN: And your Honor, we have an exhibit
22 that's marked as SCE-12, which I -- yeah -- which was
23 just circulated, and it's photographs that demonstrates
24 the design change that Mr. Bauder just described. And
25 we'll seek admission of that exhibit on Thursday. But

1 with your permission, I'd ask Mr. Bauder to hold up a
2 photograph of that exhibit to show the --

3 ALJ LAU: Let's --

4 MR. JERMAN: -- you described.

5 ALJ LAU: All right. We will need to mark and
6 identify that exhibit before Mr. Bauder can use it. So
7 I just want to make sure that all the parties have --
8 you know, have that exhibit readily available to them.
9 If not, please speak up now. If not, we're just going
10 to admit it.

11 (No response.)

12 ALJ LAU: So hearing no response, I will now
13 mark and identify Exhibit SCE-12, which is titled
14 Divider Shells PowerPoint R1.

15 (Exhibit No. SCE-12 was marked for
16 identification.)

17 ALJ LAU: Hold on.

18 Let's go off the record.

19 (Off the record.)

20 ALJ LAU: Let's go back on the record.

21 Mr. Jerman, you may resume.

22 MR. JERMAN: Okay. Thank you, your Honor.

23 Q And, Mr. Bauder, just to confirm, do you have a
24 copy of that exhibit in front of you?

25 A Yes, I do.

1 Q And can you just briefly explain what's
2 represented in the -- in the photos in that exhibit?

3 A Right. So before I put it up so you can look
4 at it, it's titled Improved Shield Ring Design. It's a
5 Holtec design change that was made, and this design
6 change is in use at Ameren Missouri, which is the
7 Callaway Station that I mentioned earlier. And so I
8 mentioned the change in the gusset design to more of a
9 tapered style, and I'll show the picture now. So you
10 can actually see the taper starts way higher on the
11 inside of the canister enclosure. And so if the
12 canister was to impact any part of the gusset during a
13 download operation, the gusset wouldn't hang up the
14 canister anymore. It would simply be centered and
15 wouldn't hit the shield ring at all because of this
16 overlapping metal strip here.

17 So Holtec obviously took our situation
18 seriously and made this design change for their fleet
19 based on the August 3rd incident here.

20 Q Thank you, Mr. Bauder. You had a discussion
21 with Mr. Freedman about Edison's responsibility for
22 actions of its contractors, and I believe your testimony
23 was that Edison is responsible for actions, mistakes by
24 contractors at SONGS.

25 Does that testimony -- or does your position

1 apply to mistakes by contractors, such as design flaws
2 or latent defects?

3 A Thanks. So as a licensee, we are responsible
4 for the operational performance of our contractors for
5 sure. And that's why we have the programs and the
6 procedures in place to do that. In this particular
7 case, this issue with the gusset design and the ability
8 for a canister to hang up like it did could not have
9 been known to Edison through any reasonable process.
10 And so -- in fact, Edison doesn't design the canister
11 system or the enclosure containers. That's Holtec.
12 This is a Holtec design that was implemented through a
13 license approved by the NRC. Edison is a user of that
14 design or that system, like many others in the United
15 States.

16 So I would characterize it by saying Edison is
17 not responsible for the design -- specific design
18 characteristics of the system, such as this one.

19 Q And in your view, what standard would apply to
20 Edison's responsibility for defects in equipment
21 provided by contractors?

22 A So Edison, then utilizing our Appendix B
23 program, which is part of our license, is responsible
24 for inspecting the readiness of equipment, is
25 responsible for ensuring that the vendor has an

1 appropriate Appendix B program in place as well.

2 Q And did Edison do that for Holtec?

3 A Absolutely. Through all parts of the process.

4 Q Now, you had a conversation with Mr. Parker
5 about whether or not the delay in FTO could have been
6 avoided had we implemented approved oversight and some
7 other corrective measures prior to the August 3rd, 2018
8 misalignment event, but had we implemented such measures
9 before -- sorry -- had SCE, Southern California Edison,
10 implemented such measures before August 3rd, 2018, what
11 would the cost have been?

12 A Right. So a couple of times in my testimony I
13 indicated that if we had known about this potential
14 characteristic of the system that could cause a canister
15 hang-up, we would have implemented all of these stated
16 measures either before the campaign started or at any
17 time during the campaign had we identified them.

18 So the costs that otherwise would have been
19 incurred are actually outlined in SCE-09, our testimony
20 starting on page 29, and these costs will be covered
21 under the testimony of Jose Perez later in this
22 proceeding.

23 Q Thank you. And also with Mr. Parker, you
24 discussed in SCE-07 proceeds from litigation with the
25 DOE. Do you recall that discussion?

1 A Yes, I do.

2 Q And Mr. Parker asked you some specific
3 questions about Table 3-1 on page 6 in SCE-07.

4 A Right.

5 Q And he asked you specifically if there had been
6 any change in the -- if there had been any change since
7 the initial DOE rounds of litigation to now that would
8 impact SCE's ability to fund fuel storage from the
9 trust.

10 Do you recall that conversation?

11 A Yes, I do.

12 Q Has there been any change since 2013, which is
13 the first two rounds described in table 3-1 -- has there
14 been any change since 2013 in the funding or customer
15 contributions to the nuclear decommissioning trust?

16 A Yes. To my knowledge, the customers no longer
17 contribute to the nuclear decommissioning trust starting
18 in 2014 stemming from our announcement of permanent
19 plant closure in June of 2013.

20 Q You also had some discussions with a couple of
21 the intervenor counsel about management at SCE approval
22 of corrective action measures before fuel transfer
23 operations resumed following the August 3rd, 2018
24 incident. What was the purpose of having SCE's
25 president and other senior leaders at SCE approve the

1 restart of FTO?

2 A So with the suspension in fuel transfer
3 operations and the activities at San Onofre, to be
4 frank, the -- for Edison, the suspension and fuel
5 transfer operations and the subsequent actions were
6 receiving a lot of public attention, and so there was
7 company reputational issues at stake. And so, to put it
8 simply, my boss wanted to make sure that he got a chance
9 to put his eyes on everything that we were doing to
10 ensure successful restart of the fuel transfer
11 operations and ensure a successful campaign.

12 And I got to say I would do the same thing in
13 his position. I would want to know what's going on and
14 want to be involved since this was a significant period
15 in our path toward decommissioning.

16 Q Let me switch now to some questions that
17 Mr. Langley asked you. He referred you to a table in
18 his testimony, and I believe it's on page 2 of the
19 Public Watchdogs's testimony that purports to compare
20 decommissioning trust funds across nuclear plants.

21 Can you --

22 A Right.

23 Q Can you turn to that table.

24 A Yeah. I was just able to turn to it. Thank
25 you.

1 Q Okay. And do you see at the top of the table
2 it's titled Nuclear Decommissioning Trust Fund
3 Comparison?

4 A Yes.

5 Q And then you see on the row that applies to
6 SONGS, SONGS 2 and 3, there's a footnote next to the
7 dollar amount.

8 Do you see that?

9 A I do.

10 Q And that footnote is footnote No. 2, and it
11 references the DCE dollar amount.

12 Do you see that?

13 A Yes.]

14 Q All right. What -- what's -- what's the
15 difference between a DCE dollar amount, as described in
16 footnote two, and a -- a nuke -- a decommissioning trust
17 fund amount, as described in the -- the title to the
18 table?

19 A Yeah. So first, the table purports to provide
20 a comparison between San Onofre decommissioning costs or
21 trust fund requirements compared to other industry
22 nuclear plants, who may or may not be in regulated
23 environments, as San Onofre is.

24 The NRC has specific trust fund contribution
25 requirements that they actually inspect to. Those trust

1 fund contributions are primarily to cover the costs of
2 decommissioning from a radiological standpoint, not an
3 overall standpoint; in other words, not non-radiological
4 work, per se.

5 In the case of San Onofre, we're a regulated
6 utility. There are other regulated utilities that could
7 be used in this table, by the way, that were omitted,
8 such as Crystal River. But nonetheless, we're a
9 regulated utility, and our contributions are not just
10 for the NRC requirements to be met. They're also for --
11 to support the entire decommissioning cost estimate as
12 reviewed -- prepared for and reviewed by the Commission
13 every three years. So ours is an all-in cost for the
14 entire decommissioning process.

15 Q And do you know if the other dollar amounts
16 here represented in the decommissioning trust fund value
17 column represent all-in decommissioning costs?

18 A Are you referring to the other plants listed
19 here?

20 Q Yes.

21 A I -- I haven't done that research. They may,
22 in fact, be -- represent all-in costs in specific cases,
23 but I actually don't think they do.

24 Q And do you see any indication in that table or
25 in the testimony that would indicate one way or another?

1 A No, I do not.

2 Q In a conversation with Mr. Freedman, I believe
3 you testified that there was no -- no change in the cost
4 of the Holtec fixed price contract as a result of the
5 canister misalignment event.

6 Could you please turn to page 51 of SCE-3?

7 A Okay. I'm there.

8 Q And did you sponsor the testimony at this page
9 of SCE-3?

10 A Yes.

11 Q And let me direct your attention to the
12 testimony starting on line 9, and -- and I'll read it
13 now. It's starting on line 9. The testimony is: In
14 addition, after the canister handling event, Holtec --

15 A I'm sorry. I'm sorry. I'm at SCE-3. Should I
16 be in SCE-9?

17 Q No. It's -- it's -- it's SCE-3, at page 51.

18 A Okay.

19 Q And at the very top of that page, there's a
20 table that's marked Table 4-4.

21 A Right.

22 Q I want to direct you to line 9 on page 51.

23 A Oh, in addition -- I see the sentence now. I'm
24 sorry. Go ahead.

25 Q Okay. So I'll -- I'll continue reading that

1 sentence. It says, "In addition, after the canister
2 handling event, Holtec developed and implemented
3 enhanced on-the-job training and task performance
4 evaluations to ensure activities were performed safely
5 and in accordance with procedures."

6 Based on that testimony, does that indicate
7 that there may have been some increases in Holtec costs
8 as a result of the August 3rd misalignment event?

9 A Yes, it does.

10 Q And, Mr. Bauder, would those costs -- back up
11 for a second, and direct you first to SCE-9, and
12 specifically, page 28, Table 2-1.

13 A Okay. Right. I'm there.

14 Q So that the costs that we've just discussed
15 from SCE-3 -- are those costs reflected on -- in
16 Table 2-1 in SCE-9?

17 A Yes, they are. I'm looking at the table now.
18 I believe this testimony was going to be sponsored by
19 Jose Perez later. Somebody looks (inaudible) Perez.
20 But, they are, yes.

21 Q All right. And I understand that Mr. Perez
22 sponsors the testimony, but do you -- are you aware of
23 which line in Table 2-1 reflects the -- the costs we
24 just discussed from SCE-3?

25 A I'm actually trying to find the line item now.

1 It should be related to --

2 Q And -- and if you're not aware, it's -- my
3 question is --

4 A Okay.

5 Q -- just if -- if you are aware of the -- the
6 line item where the costs are reflected.

7 A I'm -- I'm going to say it's -- so -- so we --
8 we asked for some additional staffing by Holtec to
9 support employee concerns and some other matters. So,
10 subject to correction, it could be the utility -- well,
11 I don't want to say utility staff. I would rather defer
12 to Jose to -- to present the individual costs here.

13 Q Okay. Thank you.

14 A Thank you.

15 Q Mr. Freedman also had some questions for you
16 about depositing proceeds from litigation with the DOE
17 into the nuclear decommissioning trust.

18 Is SCE authorized to deposit those litigation
19 proceeds into the qualified decommissioning trust?

20 A No, we are not.

21 Q And do you know why we are not?

22 A I -- yes. It has to do with Internal Revenue
23 Service rules.

24 Q You -- you had a discussion with Mr. Geesman
25 about several excerpts from transcripts of meetings of

1 the CEP.

2 Could you tell us what -- what the CEP is and
3 what the purpose of the meetings is with the CEP that
4 were documented in the transcripts you discussed?

5 A Right. So CEP stands for Community Engagement
6 Panel meeting. It's an externally-facing meeting where
7 the panel, which is a volunteer panel with a -- a
8 chairperson, a vice president, and a -- and a secretary,
9 gets a chance to -- and other volunteer panel members
10 gets a chance to question Edison about decommissioning
11 in front of the public, and these meetings are held four
12 times a year, typically, and the transcripts are posted
13 and publicly accessible on our website,
14 songscommunity.com.

15 Q Okay. Thank you for that, Mr. Bauder.

16 That's all my questions, Judge Lau.

17 ALJ LAU: Thank you, Mr. Jerman.

18 So we will now begin the recross with
19 Mr. Parker.

20 Are you -- are you ready, Mr. Parker?

21 MR. PARKER: Yes, your Honor, I am prepared.
22 I'm a little confused, though. I didn't -- I thought
23 there was going to be a redirect by SDG&E 's counsel.

24 ALJ LAU: Oh, Mr. -- Mr. Allen (sic), are
25 you -- are you going to be doing some redirect for

1 Mr. Bauder?

2 MR. TRIAL: No, your Honor.

3 ALJ LAU: Okay. So you may proceed,
4 Mr. Parker.

5 MR. PARKER: Thank you, your Honor. Wayne
6 Parker for Cal Advocates.

7 RE CROSS-EXAMINATION

8 BY MR. PARKER:

9 Q Again, good afternoon, Mr. Bauder.

10 A Good afternoon.

11 Q Sir, I just want to -- I'm just going to keep
12 this short and direct. I wanted to ask you a question
13 about the container design.

14 You testified that the container -- yesterday,
15 and again today, that the container design was a design
16 by Holtec. Do you recall that testimony?

17 A Yes.

18 Q And that design was approved by the NRC. Do
19 you recall that testimony?

20 A That's right.

21 Q What steps, if any, did SEC (sic) take to
22 determine if the design was, in fact, the best design --
23 or let me rephrase -- was, in fact, a design that would
24 work without hang-ups prior to the container handling
25 incident?

1 A So the con- -- container design, as I
2 indicated, is licensed under Part 72 by the NRC through
3 what's called a Certificate of Compliance. Once that
4 licensing occurs, that allows users to use that design
5 at various nuclear stations. I indicated before that
6 Callaway station, owned by Ameren, and San Onofre are
7 currently using this particular design.

8 So what we do, as a licensee, is we review the
9 approval process for the design that the NRC has
10 undergone, and we do a site acceptance review, and what
11 that means for San Onofre is in areas like seismic
12 qualification, which we're obviously focused on. We
13 make sure that the canister design is robust enough to
14 survive, with margin, any potential seismic event we
15 might have. We look at other issues; the robustness of
16 the design itself. That's the process we go through.

17 We would -- it would be completely out of
18 normal expectations of prudence (phonetic) for -- to
19 expect that my engineers, who -- would review all of the
20 design characteristics, and identify this potential
21 issue, which I've shown now in some detail regarding the
22 gusset system and the shield ring, that could cause a
23 canister to hang up. That's an expertise area that
24 Holtec is -- specializes in, having designed these
25 systems, not just here, but all over the world.

1 Q Okay. So it's your testimony that your
2 engineers were not qualified to determine whether or not
3 that problem with the gussets would have occurred while
4 undertaking the fuel transfer operations. Is that
5 correct?

6 A I think you may have said, "not qualified."
7 I'm not sure if I used those words.

8 I said it would be completely out of normal
9 expectations for something like that. It would be the
10 equivalent of, you know -- I'll say this: You know,
11 buying a new car, the car breaks down, you're in an
12 accident, and then you ask yourself, well, you know, why
13 didn't -- why didn't I have the expertise to look at the
14 failed component that caused the accident?

15 It's -- it's part of an approved system, and
16 Holtec clearly has the expertise here, and Holtec was
17 the one who made the changes to the design, as I've
18 already shared.

19 Q So if I understand you correctly, SCE is
20 relying on Holtec's expertise in the design of the
21 container?

22 A We are. They're the (unintelligible) -- the
23 original equipment manufacturer.

24 We also rely on reviews. The NRC spends
25 considerable time reviewing the Holtec design, as they

1 do for other vendor designs before licensing those
2 designs.

3 Q Okay. And so SCE does not undertake an
4 independent testing of the containers that are being
5 used?

6 A No, we would -- we would not do that. We did
7 obviously do dry runs on the system to make sure all the
8 components worked. But, we wouldn't -- when you say,
9 "testing," that would be going down to the component
10 level, and looking at each component in the system to
11 make -- and then analyzing around a series of -- of
12 postulated events. That would be way beyond any normal
13 expectations.

14 Q Okay. And in light of the container handling
15 incident and the determination that -- that it was the
16 gussets that were creating a problem, in terms of the
17 angle of the gussets and the change that was made to the
18 design, do you believe that the design of the gussets
19 was -- the flawed design was something that SCE
20 engineers could have foreseen?

21 A No, I do not.

22 Q But, in light of the fact that we did have a
23 container handling incident in August of 2018, and there
24 was a change to the design, the slope of the gussets,
25 I'm having a hard time believing that engineers, basic

1 engineers, might not have questioned the angle on the
2 gussets, and why the question wasn't raised with regard
3 to that design during the review process.

4 Did your engineers ever talk about the design
5 of the gussets and the shield in -- internally of the
6 container?

7 A I -- you know, it would be really speculative
8 to try to understand if my engineers ever talked about
9 it. Obviously, my staff knew that there was a shield
10 ring there, which is used obviously for radiation
11 shielding, during the loading operation, in particular,
12 and my staff, in accordance with regulations, did a
13 review against the license to ensure its acceptability
14 here at San Onofre. That review would -- there would be
15 no expectation for that review to go down to the
16 component level, and -- and -- and postulate a potential
17 issue like this; not here, not in any nuclear station.

18 Q Okay, then. Shifting to a different subject,
19 and I've only got a few more questions, I just want to
20 confirm, when we talked about the DOE litigation
21 proceeds testimony that you offered yesterday, you
22 stated, when I asked about the start date, the delay in
23 start by the DOE in taking possession of spent fuel,
24 that that was not the rationale for SCE's request that
25 DOE litigation proceeds go into -- or no longer be

1 deposited into the -- the -- the nuclear decommissioning
2 trust. Did you recall that testimony?

3 A I'm a little bit lost here with your statement.
4 I recollect saying that we -- we don't know when
5 collections of this spent nuclear fuel will occur by the
6 DOE, as mandated by law, and since we don't know, we
7 need to plan for a condition where the trust will run
8 out, and will run out with its contingency, somewhere in
9 the 2051 timeframe, is what I recall saying, and that
10 our contingency would be small, you know, or
11 nonexistent, if DOE continued to non-perform. And so
12 that was the rationale for repurposing litigation
13 proceeds back into the non-qualified trust, to provide a
14 more sustainable environment for continuing to store the
15 nuclear fuel here pending a place in time when the DOE
16 could perform.

17 Q All right. Thank you, Mr. Bauder.

18 Your Honor, Cal Advocates has no further
19 recross questions.

20 ALJ LAU: Thank you.

21 Mr. Freedman from TURN, do you have any recross
22 for Mr. Bauder?

23 MR. FREEDMAN: I do, your Honor.

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RECROSS-EXAMINATION

BY MR. FREEDMAN:

Q Mr. Bauder, I'd like to follow up on a statement you made in response to questioning from the Administrative Law Judge where you were asked about statements in A4NR's testimony that were from the NRC's December 19, 2018 special inspection report.

Do you recall those questions that you were asked by the judge?

MR. JERMAN: I'm just going to object. I believe scope of recross exam is limited to my redirect, not questions that were asked on cross exam.

MR. FREEDMAN: Your Honor, I believe that you had indicated that parties could ask -- could ask follow-up questions to your questions. Am I wrong?

ALJ LAU: I -- I will allow it this time.

So Mr. Freedman, you can proceed.

And if -- if Mr. Jerman wants to do a round of redirect, if it's short, just based on the questions I've asked, that will be fine.

MR. FREEDMAN: Thank you, your Honor.

Q Mr. Bauder, do you remember the questions from the judge about that section of the NRC special inspection report?

A Yes, I do.

1 Q And that report, the specific section you were
2 asked to comment on, had to do with the statement that
3 the rigger and spotter stated he wasn't trained on and
4 didn't know his roles and responsibilities during the
5 downloading evolution.

6 And when asked about that, did you say -- did
7 you indicate that there's a portion of your rebuttal
8 testimony that has the training records for that Holtec
9 employee?

10 A That's right, or it has a summary of the
11 training, in fact. I recall going to the page numbers
12 and going through that training, yes.

13 Q And you said, am I correct, you don't know why
14 the Holtec employee made those statements to the NRC?

15 A That's right. And this is a case where the NRC
16 interviewed a series of employees. I guess you could
17 imagine being a worker, and being interviewed by a
18 regulator, and what you might say. I'll leave it there.

19 Q So --

20 A I don't know -- I don't know why the individual
21 chose to answer like that, and I may not ever know.
22 But, I do know what the training program requirements
23 were.

24 Q So are you saying that the employee lied to the
25 NRC?

1 A I'm not -- I'm saying one thing or the other
2 here, because I don't -- I don't want to speculate as to
3 intent. The individual may have been confused. It may
4 have been the nature of the question. It could be any
5 number of reasons. But, I'm not going to go there,
6 because I simply don't know. But, I do know what the
7 training requirements were.

8 Q So you're saying the Commission should
9 disregard that portion of the NRC's observations from
10 that report, based on the testimony they received from
11 Holtec employees?

12 A The Commission can come to conclusions about it
13 based on the report itself and the testimony here. I'm
14 not trying to direct the Commission to -- to any one
15 point, at all, in this discussion. I'm just letting you
16 know what I know about the training requirements and the
17 fact that I don't know why somebody would say that to an
18 NRC inspector.

19 Q Did Edison raise any concerns about that
20 statement in its feedback to the NRC?

21 A The NRC is our regulator. Edison -- Edison
22 accepted the report, and actually, we were very focused
23 on a whole series of corrective actions, which actually
24 included training based on the potential for an event
25 like this. And so we did strengthen the training

1 program. Once again, we did those things based on a --
2 a very good hindsight review of what had happened.

3 Q You were asked by your counsel about a
4 statement you had made during my cross-examination of
5 you yesterday regarding the difference between Edison's
6 liability for actions taken by its own staff versus
7 contractors.

8 And am I correct in understanding that it's
9 your position that Edison is not responsible for
10 performance failures that are caused by design defects
11 in items that are supplied by contractors?

12 A So I think this is an important point of
13 discussion.

14 So Edison -- we're the licensee. So when a --
15 an issue happens at the station, whether it's employee
16 performance, contractor performance, equipment
17 performance, we're ultimately responsible, under NRC
18 rules.

19 Do I think that it's reasonable that an Edison
20 engineer or somebody could identify a defect like this,
21 and take action on it before the fact? No, I do not.
22 It's -- you're -- you're kind of, I think, maybe trying
23 to put one answer to the question for another.

24 Yes, Edison is ultimately responsible.

25 Q Is it your position that the primary cause of

1 the fuel transfer incident was a design defect in a
2 Holtec-provided system?

3 A The primary cause for the fuel transfer effect
4 was -- incident was a canister got hung up on a cavity
5 enclosure system, which was a wholly and totally
6 unanticipated or postulated event, and the reason that
7 the canister got hung up on this particular gusset in
8 the cavity enclosure container had to do with the design
9 of the specific components. Yes, that's true.

10 Q And so, in your view, because it was based on
11 the design of the component, and that designed component
12 was provided by a contractor, there's a difference in
13 terms of Edison's liability?

14 A I don't know what you mean by liability. If
15 you could just --

16 (Crosstalk.)

17 BY MR. FREEDMAN:

18 Q The reasonableness standard that would apply.

19 A I think the reasonableness stand --
20 reasonableness standard all -- always needs to be looked
21 at when something like this happens.

22 For example, if we purchased a pump from a
23 vendor, and the pump failed in place in a system, I
24 would not expect before the failure, depending on the
25 failure type, for my staff to have analyzed the pump in

1 detail to understand could it fail. Equipment failures
2 occur. Design issues occur. It's really important to
3 understand them, of course, after the fact, and prevent
4 recurrence. But, it's -- it can be unreasonable to take
5 that hindsight view, and determine that a staff
6 should -- of the licensee should have identified them
7 first. It's just not possible, in many cases.

8 Q So are you saying that there's a difference
9 between a situation where Edison itself procures a
10 defective item versus a situation where a contractor to
11 Edison procures and uses a defective item?

12 A I don't understand the question.

13 Q Well, Mr. Bauder, I don't understand the
14 distinction you're trying to make in response to
15 questions from your counsel.

16 What is the difference between the actions
17 performed by a contractor and the actions performed by
18 Edison's own employees that you are trying to make?

19 MR. JERMAN: I'm going to object. I think
20 Mr. Freedman is mischaracterizing Mr. Bauder's testimony
21 to me. The testimony to me was specific to the design
22 of the equipment. And Mr. Bauder's position on -- on
23 that, Edison's responsibility for a design defect and
24 a -- and equipment provided by a contractor, has already
25 been addressed. It's asked and answered.

1 ALJ LAU: Mr. Freedman, can you just rephrase
2 your question to be --

3 MR. FREEDMAN: Your -- your Honor, I'm just
4 trying to figure out what Mr. Bauder said. He appears
5 to be trying to make a distinction between items that
6 are supplied by a contractor and those that might be
7 procured directly by Edison, and I'm trying to
8 understand if that's what he's saying, or if he's trying
9 to make some other point about the difference between
10 activities performed by Edison directly and Edison --
11 and activities that Edison performs through a
12 contractor.

13 ALJ LAU: So how about we go back? I know it's
14 asked, but let's -- let's -- let's have a -- a better
15 complete record of it.

16 Mr. Freedman, can you just take Mr. Bauder, you
17 know, point by point to -- so there's no confusion?

18 MR. FREEDMAN: Sure.

19 Q Mr. Bauder, what was your point in trying to
20 offer a distinction between actions performed by a
21 contractor and actions performed by Edison?

22 A So I think it's an important distinction.
23 Actions -- operational actions performed by a vendor
24 while they're on Edison's property are -- property are
25 under Edison's control. I think our -- it's reasonable

1 to -- to -- to take on the view that we are responsible.
2 We are always responsible for those actions, as a
3 licensee. Yet, when we utilize a system, whether it's
4 the component -- I mentioned you -- buying a pump, for
5 example, from a vendor, by the way, or we utilize, in
6 this case, the Holtec system, we were using it in
7 accordance with a license that was approved by the NRC.
8 It's unreasonable to think that my engineers or anybody
9 else on staff would have predetermined this potential
10 outcome. That's the difference.

11 Q And would that also apply to other items that
12 Edison purchases for the plant, generally, like, for
13 example, replacement steam generators?

14 A I can't speak to the replacement steam
15 generators, because I'm not very familiar with the
16 actual situation that occurred there. I -- I -- but, in
17 this case, there was a design flaw that caused the
18 failures of the steam generators. Yes, that's true.

19 Q Okay. Finally, Mr. Bauder, you were asked by
20 counsel whether Edison is authorized to deposit the DOE
21 litigation proceeds into the qualified trusts, and your
22 answer was no, and you mentioned Internal Revenue
23 Service rules.

24 Can you please be more specific about what
25 rules you are referring to, and how they apply?

1 A It's my understanding that we have an existing
2 Internal Revenue Service private letter ruling to
3 deposit DOE litigation proceeds into the qualified trust
4 through an -- I'm sorry.

5 We have an existing IR -- Internal Revenue
6 Service private letter ruling to take DOE proceeds
7 through the ERRA process, and directly refund those to
8 customers without paying, I'll say, a tax on the
9 proceeds. We do not have the ability, under current IRS
10 rules, to take those proceeds and put them directly into
11 the qualified trust, if I have that right.

12 Q Do you know whether Edison would need to seek
13 another private letter ruling to deposit those funds in
14 the non-qualified trust?

15 A I don't know that, for sure. I think the
16 likelihood would be high.

17 Q The -- that Edison would need to seek a PLR?

18 A I think so, but once again, I'm not really
19 qualified to answer that, in terms of knowing what the
20 details would be to -- with the IRS to know that we
21 could make those deposits directly into the qualified
22 trust.

23 ALJ LAU: Can I --

24 THE WITNESS: I know --

25 ALJ LAU: Can I --

1 THE WITNESS: -- that we -- I'm sorry.

2 ALJ LAU: Can I interject?

3 Mr. Jerman and/or Mr. Trial, is there a witness
4 that would be -- that could -- is more appropriate in
5 answering this -- these types of questions in terms of
6 IRS private letter ruling, you know, tax rules between
7 non-qualified and qualified trust funds?]

8 MR. JERMAN: Yep. Mr. Perez would be a more
9 appropriate witness for these questions.

10 ALJ LAU: And is Ms. Dalu -- am I pronouncing
11 it right? Ms. Dalu, is she appropriate to answer those
12 questions, Mr. Trial?

13 MR. TRIAL: Your Honor, in a limited context;
14 however, we do have testimony in SDGE-04 that addresses
15 this; however, none of the parties asked to cross those
16 witnesses. It would have been Mr. Jack Guidi --

17 ALJ LAU: Okay.

18 MR. TRIAL: -- who has a section on the
19 trust -- the financial modeling trust fund,
20 contributions, tax issues and regulatory accounting.
21 It's in SDGE-04.

22 ALJ LAU: Okay. So, let's; let's save those
23 questions, and we will try to -- if we have any
24 questions, we can save it for Mr. Perez and Ms. Dalu.

25 I am just curious if we have further questions,

1 if other witnesses would be available for cross. I
2 don't know, but we will go -- you know, when we get
3 there, we will decide.

4 Mr. Freedman, I am sorry I interrupted you.
5 You may continue.

6 MR. FREEDMAN: No, that's fine, your Honor.
7 Those are all my -- all my recross questions.

8 ALJ LAU: Thank you, Mr. Freedman.

9 Now, we have Public Watchdogs.

10 MS. BABIARZ: Good afternoon, Mr. Bauder.

11 Judge Lau, I have two lines of questions as I
12 indicated previously.

13 RECCROSS-EXAMINATION

14 BY MS. BABIARZ:

15 Q Earlier in your testimony to Mr. Freedman
16 yesterday, you indicated that you were the VP of
17 operations and chief procurement officer from
18 November of 2013, when the plant was closed, to late
19 2018 when you were quote/unquote, "back to San Onofre,"
20 is that correct?

21 MR. JERMAN: Objection. This is outside the
22 scope of my redirect and your cross, your Honor.

23 ALJ LAU: Yes, it is out of the scope.

24 Ms. Bab -- I'm sorry.

25 MS. BABIARZ: Babiarz.

1 ALJ LAU: Just be more focused in your
2 questions. I -- I remember last -- yesterday, you --
3 you did ask -- said something about Mr. Bauder's
4 experience.

5 BY MS. BABIARZ:

6 Q And in that capacity, were you aware of the
7 Holtec NRC certificate of compliance?

8 A I'm sorry? Did you mean in the capacity of my
9 prior job position?

10 Q Well, that's five years as -- as chief
11 procurement officer, correct?

12 A Right.

13 Q In those five years --

14 A I'm sorry.

15 Q -- were you aware of the Holtec NRC certificate
16 of -- of compliance that has been discussed?

17 A I was aware in general having worked in nuclear
18 power for many years that certificate of compliances are
19 required for part 72 spent nuclear fuel storage systems,
20 but I was not aware of the Holtec license itself, no.

21 Q The certificate of compliance?

22 A Yeah. So, in order for Holtec to get a license
23 under part 72, they have to have in possession a
24 certificate of compliance that is reviewed by the NRC;
25 and that's what Holtec had in our situation and still

1 has for their canister systems.

2 I was not aware of the specific NRC approval
3 for their system at San Onofre in my prior position, if
4 that helps.

5 Q So, you're saying that you were not aware that
6 there were no scratches or no gouges in the Holtec
7 certificate of compliance as the chief procurement
8 officer for those cans?

9 MR. JERMAN: Objection, beyond the scope.

10 ALJ LAU: I am going to allow it. I would like
11 to hear it, too.

12 THE WITNESS: I am not sure if I understand the
13 question. You seem to be implying that in my prior
14 position, before I came to the San -- back to work at
15 San Onofre Nuclear Station, I would have personally
16 reviewed the certificate of compliance approved by the
17 NRC for the Holtec system? No, I did not do that.

18 I was -- I was aware that the system was
19 approved, of course, because Holtec was an approved
20 vendor to be used by Edison. So, that part I was --
21 BY MS. BABIARZ:

22 Q After the Holtec redesigned, were you of the
23 certificate of compliance, and its current status at
24 this point with regard to no scratches and no gouges on
25 the certificate of compliance?

1 MR. JERMAN: Objection, foundation. I am not
2 sure what "redesign" is and, again, I think we are
3 outside the scope of the redirect and your cross, your
4 Honor.

5 ALJ LAU: Yeah. Can you just explain what --
6 what certification you're talking about regarding
7 Holtec? I know it's outside the scope, but we'll -- we
8 will allow it at this time.

9 MS. BABIARZ: Holtec's certificate of
10 compliance was required to be approved by the nuclear
11 regulatory commission as a part of the procurement of
12 the cans.

13 ALJ LAU: Can you restate your question,
14 counsel?

15 BY MS. BABIARZ:

16 Q As the chief procurement officer for the five
17 years during the period between the plant shutdown and
18 the downloading process of which you were taking back to
19 San Onofre, including the redesign of Holtec, were you
20 aware of this NRC approved certificate of compliance
21 that indicated cans Edison procured from Holtec would
22 have no scratches or gouges?

23 A Okay. I am having really a hard time following
24 the question. I don't know what Holtec redesign means.

25 In my prior position as a chief procurement

1 officer, I was fully aware that Holtec was on our
2 approved vendor list, and Holtec was available to bid on
3 work at San Onofre.

4 So, several vendors bid for the dry fuel
5 storage campaign and insulation work at San Onofre.
6 Holtec was one of those vendors, so I was aware that
7 Holtec was qualified to bid and on the approved list.

8 I -- in my job, nothing in my prior job would
9 imply or require or specify that I would take a deep
10 dive into Holtec's canister design or the approval
11 process for the NRC, no.

12 ALJ LAU: I think counsel --

13 BY MS. BABIARZ:

14 Q Can you tell us now, what was the -- what is
15 the criteria for Holtec's qualification to bid on those
16 cans? Was the criteria inclusive of an NRC approved
17 certificate of compliance that would indicate no
18 scratches and gouges?

19 MR. JERMAN: Objection. Objection, foundation.
20 I believe Mr. Bauder's testimony was that he wouldn't
21 have been of his -- in a position to know that in his --
22 in his prior position with SCE.

23 ALJ LAU: I am going to sustain it. I think
24 Mr. Bauder already answered the question to the best of
25 his knowledge.

1 BY MS. BABIARZ:

2 Q You also indicated that you were not clear or
3 aware if Holtec had a patent or not. That's your quote
4 yesterday to Mr. Freedman in the context of this
5 questioning.

6 And so, are you indicating that as chief
7 procurement officer for five years, that the patent that
8 Holtec would have on those cans was proprietary or not?
9 Did you determine if the -- if the patent or the lack
10 thereof was part of that procurement?

11 MR. JERMAN: And I would object, I think we're
12 on a new line of questioning here, which is also outside
13 the scope; and -- and there's -- I will also object on
14 foundation grounds, too. I don't think there's any
15 foundation for Mr. Bauder to opine on the
16 proprietariness[sic] or the patent -- whether or not
17 Holtec received a patent for the -- its design.

18 MS. BABIARZ: I will be happy to move on, Judge
19 Lau, with my next question.

20 ALJ LAU: Okay.

21 BY MS. BABIARZ:

22 Q Also, yesterday, you indicated in your
23 testimony to Mr. Freedman that the August 3, 2018,
24 event -- actually you said this twice -- that it was the
25 first of its kind event and -- and, additionally, the

1 first of its kind for Southern California Edison and the
2 entire nuclear industry.

3 So, I am just wondering in Mr. Geesman's A4NR
4 Exhibit Number 1, page 4 -- I am sorry -- page 5 --
5 sorry, Judge Lau -- page 5, line 39 -- the reference to
6 the special inspection report referencing the July 22nd
7 precursor event, are you saying that you were not aware
8 of the NRC special inspection report that Mr. Geesman
9 brought to your attention on the Exhibit A4NR-1, page 5,
10 line 39, the July 22nd event of 2018, the -- the
11 precursor that could have prevented the August 3rd
12 event?

13 MR. JERMAN: Objection. Compound. I think
14 there's a question in there about Mr. Geesman's
15 testimony, but also Mr. Bauder's awareness of the
16 special inspection report. If Ms. Babiarz can break her
17 question down into -- into individual components that --
18 that would be helpful.

19 ALJ LAU: Yeah, Ms. -- counsel, can you just --
20 it is kind of -- you know, break your -- can you please
21 simplify your question for Mr. Bauder?

22 BY MS. BABIARZ:

23 Q Well, Mr. Bauder, are you saying after review
24 of the NRC's special inspection report that you're still
25 unaware that there was a July 22, 2018, event that was

1 precursor to the August 3rd drop?

2 A Okay. This is -- okay. I am going to do my
3 best here.

4 There was no drop on August 3rd. There was a
5 potential for a canister to drop, but it never occurred.
6 The canister was lodged, in fact. The issue had to do
7 with slack rigging.

8 In the July 22nd event, there was never a slack
9 rigging condition. The crew was able to successfully
10 download the canister. We have covered the procedure
11 before, and how the crew had regained load; there was
12 tight tolerances involved and successfully and safely
13 downloaded these canisters.

14 The August 3rd event was special. I did say
15 that I don't think an event like August happened to --
16 that happened in San Onofre on August 3rd has happened
17 before across the industry. In particular, with this
18 rigging system.

19 Q Are you saying, then, that the July 22nd event
20 was a drop? That it was unlike a near drop -- a near
21 miss? Are you saying that the July the 22nd was a drop?

22 A No, I don't believe I ever said that. I said
23 that on July 22nd, there was never a slack rigging
24 condition. So, the requirements of part 72 were met and
25 the crew successfully -- following their procedures,

1 successfully downloaded the canister.

2 Q And then, in addition, from July 22nd to
3 August 2nd, was there any training specific to that
4 concern that you just expressed with regard to an event
5 on July 22nd?

6 A Okay. We're not -- the July 22nd issue was not
7 an event, per se. It was in the logs by the operators
8 who did the download, because they had a -- an
9 incidental contact condition, which -- which caused them
10 to regain the load fully and successfully download the
11 canister. There would not have been special training
12 down, because there was no knowledge by the crew then or
13 by Edison management or oversight that a full canister
14 hang up could occur.

15 Q How was it logged in on July 22nd?

16 A The operators kept logs of their activities and
17 signed offs on the procedures. So, every time they
18 would use the procedure, they would sign off the steps
19 and -- and that's how it was known just by a simple
20 backward look or backward review of everything that
21 happened up to the August -- the point of the August 3rd
22 incident.

23 Q Well --

24 A There was never a --

25 Q -- July 22nd happened before August 3rd, so how

1 was the July 22nd event logged in by the personnel?

2 MR. JERMAN: Objection, asked and answered.

3 ALJ LAU: I actually didn't get a clear answer.

4 How was the July 22nd event logged in Edison's system?

5 THE WITNESS: The July 22nd downloading along
6 with all the rest of the downloadings were kept track of
7 through sign-off procedures that were signed off and
8 retained by Holtec and reviewed by Edison.

9 There was also a log kept by personnel involved
10 in these downloading campaigns, and the NRC reviewed the
11 logs, Edison reviewed the logs after the August 3rd
12 event in particular, to identify anything that could
13 have been an indicator leading up to August 3rd. So, it
14 was a backward review after the August 3rd event. Once
15 again, there was never a drop, and the August -- excuse
16 me -- in the July 22nd event was a case where the
17 operator simply followed the procedure, they noted --
18 they noted a slight underload in the rigging, and they
19 regained it and downloaded the canister.

20 BY MS. BABIARZ:

21 Q In your reference to incidental contact, that
22 was the terminology, are you aware that that terminology
23 was not updated by the NRC until a couple of years
24 later?

25 MR. JERMAN: Objection. Foundation. And I

1 still --

2 ALJ LAU: I will sustain that.

3 MS. BABIARZ: He used it in the context of
4 2018, and it was never referred to by the NRC in that
5 timeframe, Judge Lau.

6 ALJ LAU: I -- witness, if you want to answer,
7 you can answer. But, you know, if we can move onto the
8 next -- like, if you want to answer, you can answer.
9 But I -- I will sustain the objection and ask that
10 counsel move onto the next line of questions if you do.

11 MS. BABIARZ: That -- that would be the end of
12 my questions, Judge Lau.

13 Thank you.

14 ALJ LAU: Thank you. And Mr. Jerman, I know
15 that it was beyond the scope of the redirect. So, I --
16 I -- I will allow you to, if you choose, to do a, you
17 know, redirect on the questions that were questions
18 that -- on -- on issues that -- you know, on -- on
19 issues pertaining to the questions I asked. Like, what
20 Mr. Freedman had and also redirect on questions that
21 Ms. Babiarz asked because that was kind of, like, cross;
22 so, maybe after -- after we end this round of recross,
23 then you can do another round of redirect.

24 MR. JERMAN: Okay. Thank you, your Honor.

25 ALJ LAU: So, we have A4NR?

1 MR. GEESMAN: Thank you, your Honor.

2 RE-CROSS-EXAMINATION

3 BY MR. GEESMAN:

4 Q Mr. Bauder, in your past capacity as the Edison
5 chief procurement officer, would you have been aware of
6 any review Edison had made of the Holtec design?

7 A No. I -- I indicated in prior questioning that
8 I was aware that Holtec was on an approved vendor list
9 to be used by Edison among other vendors.

10 In my past capacity, I would not have done an
11 individual review on the design characteristics of a --
12 in this case, a fuel storage system, no, I would not
13 have.

14 Q Would you have confirmed whether or not anyone
15 else at Edison had done such a review?

16 A "Such a review," meaning what?

17 Q Of the Holtec design and its suitability for
18 Edison's needs in the San Onofre cask-loading process?

19 A Well, as I indicated before, the staff here did
20 review the Holtec design among other vendors designs.
21 There was three vendors, I think, who bid on the -- on
22 the expansion project here. Holtec was one of them.
23 Another one happened to be Areva TN; another one was
24 NAC. I believe the engineering staff here reviewed
25 their designs and found them to be suitable to meet

1 the site characteristics here, which I covered before as
2 well, things like seismic qualifications, accessibility.
3 Would the design interfere with decommissioning
4 activities in any way, things like that.
5 and -- and those reviews were done, of course, before
6 awarding the contract to Holtec, and -- and those were
7 done by the staff here.

8 Q In regard to your testimony about design
9 defect, in response to NRC's notice of violation, did
10 you or anyone else at Edison make that design defect
11 argument to the NRC?

12 A So, two parts to that. First, the NRC was
13 completely aware of the condition to cause the canister
14 to hang up; in other words, the latent design condition,
15 and -- and -- and so -- after the fact, and so were we.
16 In looking at it, this -- this took everybody by
17 surprise.

18 I -- I missed the second part of your question,
19 though.

20 Q Well, you -- you've been very clear that you
21 believe that it was Holtec's responsibility not
22 Edison's.

23 My question is, did you or anyone else at
24 Edison make that argument to the NRC in response to the
25 notice of violation?

1 A So, once again, the NRC was fully aware. There
2 would be no reason to make the argument to the NRC
3 because the NRC's inspection and their subsequent
4 findings are purely deterministic. We had a part 72
5 qualified system where a canister was not supported by a
6 redundant rigging system; therefore, the violation.

7 So, while the NRC is fully aware of what
8 happened and the reasons for it happening, there's no --
9 there would be never a reason to argue back to our
10 regulator that, so to speak, we're not at fault because
11 Holtec did this to us. There's no rationale for that.

12 Q With respect to your testimony about the
13 individual who told the NRC he had not been properly
14 trained, I had initially understood you to testify that
15 you knew all of the riggers and spotters had to go
16 through particular training.

17 In your answers to -- to Mr. Freedman, you seem
18 to suggest that you knew that that specific individual
19 had received such training. Which is it?

20 A I am not sure if I conveyed that I have
21 personally looked at the individual's training or not.
22 I know what the requirements are and were, and I know
23 that that individual had to be trained and signed off
24 before performing independently in the field on that
25 equipment based on training program itself; and I think

1 maybe we're trying to dice it to too fine of a point
2 here.

3 I -- I am very -- quite familiar on the
4 training -- training program requirements. They are
5 listed in our -- our testimony, and not only do the
6 individuals selected get trained in the union hall, they
7 get the specific site training here as indicated in
8 SCE-09; and so, I hope that answers the question.

9 Q But you didn't specifically know -- don't
10 specifically know whether that individual himself was
11 trained, you know he had to be trained, but you don't
12 know whether he was or not; is that correct?

13 A That's correct. And also, I would say that in
14 the context of the individual's answer, even though he
15 or she may have been through the full training, they may
16 have felt unprepared for what happened and, thereby, you
17 know, shared that with the NRC.

18 Once again, I don't know, because this was an
19 interview done with the NRC with worker and not part of,
20 you know -- you know, what Edison individually looked at
21 with respect to these individuals. We did verify
22 training and, once again, I don't know why the
23 individual made that statement.

24 MR. GEESMAN: Your Honor, that completes my
25 recross.

1 Thank you.

2 ALJ LAU: Thank you, Mr. Geesman. We are
3 coming to -- close to 1:00, and I am thinking that
4 Mr. Jerman actually would appreciate a little time to
5 prepare any redirect.

6 Again, this redirect is very limited in scope.
7 It will be limited to questions or issues regarding the
8 questions I asked and, you know, in the re -- recross
9 that -- that parties have asked, which is, I think,
10 Mr. Freedman and Mr. -- Mr. Geesman. They have very
11 similar names, so I almost got them mixed up; and, also,
12 Ms. Babiarez, her line of questions; and then if parties
13 want, we can have a very, very limited recross after
14 that.

15 So, Mr. Bauder, thank you. You may have to
16 stick around for another few minutes after lunch.

17 So, it is now 12:55 -- around 12:55 p.m.

18 We will resume around 2:00 p.m. Let's go in
19 recess. Off the record.

20 (At the hour of 12:54 p.m., a recess was
21 taken until 2:08 p.m.)]

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AFTERNOON SESSION - 2:08 P.M.

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ALJ LAU: Let's go on the record. So, we will resume hearing with Mr. Jerman to do redirect, and the redirect is limited to the questions I asked and to Ms. Babiarz's questions; and then we will have very limited recross if parties have questions.

So, Mr. Jerman, please continue.

MR. JERMAN: Thank you, your Honor.

REDIRECT EXAMINATION

BY MR. JERMAN:

Q Mr. Bauder, before selecting Holtec as the ISFSI vendor, what information did SCE review?

A Yeah. So, Edison reviewed the fact that the Hol -- the vendor was qualified in our system, meaning they had, through our process, an appendix B program required by the NRC. Additionally, Edison reviewed Holtec's capabilities given their footprint nationally and worldwide and, therefore, Holtec was allowed to bid on the project.

With regard to the specific system that is utilized by Holtec at San Onofre, which is called the UMAX system, the engineers here at the station reviewed the specs for the system. Just like if you were able

1 to -- if you were going to buy a pump and another
2 component for the plant, you would review the
3 performance specs and establish that that system could
4 be used at your plant or your facility.

5 We have had quite a bit of discussion today
6 around should the engineers have taken a deep dive into
7 the individual component level of the system, and the
8 answer is simply no, that would not be an expectation
9 here or elsewhere for buying up product. Reviewing the
10 specs is -- is really important and reviewing the fact
11 that the system can meet the site requirements here as I
12 discussed previously.

13 Q Mr. Bauder, is there a -- a difference between
14 Edison's review and approval of products supplied by a
15 vendor in general as compared with services provided by
16 a vendor?

17 A Yes, there is. So, typically, if you're going
18 to buy hardware or you're going to buy a system. In
19 this case, the ISFSI expansion system. You look at the
20 specifications and will they meet your requirements.

21 If you're going to issue an RFP for a service
22 contract, you look at the prior performance of the
23 vendor in that space, you know, what kind of personnel
24 are they going to bring in to do the project, what are
25 their qualifications and the like. Very different from

1 buying components or a system which involves review of
2 specifications.

3 Q And, Mr. Bauder, what's your understanding of
4 the difference between the standard of review that was
5 applied by the NRC in its inspection report, and its
6 analysis of the August 3, 2018, misalignment event; and
7 the standard of review that is applied by the CPUC in
8 this proceeding?

9 A Right. So, my understanding here is that the
10 NRC, as -- as the regulator, applies a deterministic
11 standard for events that happen. In this case, we had
12 loss of redundant fall protection for a canister that
13 became lodged; that in and of itself is a violation. It
14 doesn't matter how we got there. It doesn't matter if
15 we were prudent in our actions before the event or
16 anything like that. The NRC looks at the system, looks
17 at what happened, and does a backward review, just like
18 we did after the incident, as part of their report. So,
19 we looked at excerpts today from their special
20 inspection report, and they looked back through all the
21 records, all the documents they could find, interviewed
22 people, and came to their conclusions in their report.

23 While we don't contest the report, as I
24 discussed previously, or the finding in terms of the
25 violation, it's really important to understand that that

1 backward look is different from the prudence standard,
2 as I understand it, that the CPUC would use.

3 MR. JERMAN: Thank you, Mr. Bauder.

4 Those are my questions, your Honor.

5 MR. WILLMAN: Judge Lau, you're muted.

6 ALJ LAU: I will now ask if -- let me try to
7 see -- to take a look at everyone.

8 I will now ask if parties have any recross, and
9 if you have any recross, it will have to be very narrow
10 in scope; and it just has to be narrow to Mr. Jerman's
11 redirect that he just asked now.

12 And if you -- if you have any recross, I would
13 like you to first just introduce yourself, state your
14 name and your organization for our court reporter.

15 MR. LANGLEY: Public Watchdogs has two
16 questions, your Honor.

17 ALJ LAU: Okay. Mr. Langley, you
18 can -- you may go, but as I -- as a reminder, as I just
19 said, it has to be just limited to --

20 MR. LANGLEY: Okay.

21 ALJ LAU: -- what Mr. Bauder just said.

22 MR. LANGLEY: I will turn it over the Nina
23 Babiarz.

24 MS. BABIARZ: Thank you, Charles. Thank you,
25 Judge Lau.

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RECROSS-EXAMINATION

BY MS. BABIARZ:

Q Mr. Jerman just asked you a question specific to the Holtec UMAX system and you identified, Mr. Bauder, that the Holtec was a UMAX system; is that correct?

MR. JERMAN: Objection. That was not within the scope of the questions I just asked.

ALJ LAU: Is that not within the scope? I -- I think that --

MS. BABIARZ: I just --

ALJ LAU: -- that was pretty related.

MS. BABIARZ: I just wrote down the specific system called the UMAX system as a quote. I am reading directly from the testimony of Mr. Bauder.

ALJ LAU: Okay. Let's overrule the -- the objection and have Mr. Bauder answer.

Can you -- can -- counsel, can you just repeat your question?

MS. BABIARZ: Certainly.

Q You just defined the Holtec UMAX as a system; is that correct, Mr. Bauder?

A That is the system that is in use here, yes.

Q And as a UMAX system, is it also correct that you procured both product and services from Holtec?]

1 A That's correct. We procured the system in
2 accordance with specifications, prior NRC approval of
3 that license, and we procured Holtec personnel to do the
4 fuel transfer operations.

5 MS. BABIARZ: That would be the conclusion of
6 my question, Judge Lau. Thank you.

7 ALJ LAU: Thank you. Any other parties?

8 MR. PARKER: Your Honor, Cal Advocates has no
9 questions -- or no further recross.

10 ALJ LAU: Thank you. Hearing none, I will
11 allow Mr. Bauder to step away from the witness stand --
12 the virtual witness stand. So now, Mr. Bauder, you're
13 excused as a witness.

14 We will call on our next witness, which, I
15 believe, is Mr. Bilovsky.

16 MR. JERMAN: Mr. Bilovsky, that's right, your
17 Honor.

18 ALJ LAU: Bilovsky.

19 (Reporter clarification.)

20 MR. JERMAN: So I just spoke. This is Ryan
21 Jerman for SCE. Mr. Bilovsky is also unmuted and
22 speaking as well.

23 ALJ LAU: Sorry, Doris. Yeah, I think they
24 were just trying to correct my pronunciation of
25 Mr. Bilovsky.

1 MR. JERMAN: That's Bilovsky.

2 ALJ LAU: Bilovsky. Okay. That's my
3 pronunciation. I may butcher your name. I'm sorry. I
4 really apologize.

5 THE WITNESS: That's not a problem.

6 ALJ LAU: So, you know, let us have
7 Mr. Bilovsky first identify yourself, the organization
8 you represent and also specify your preferred pronoun,
9 if you so choose.

10 THE WITNESS: Yeah. My name is Vince Bilovsky.
11 I'm the director of decommissioning with Southern
12 California Edison.

13 ALJ LAU: Okay. And, Mr. Bilovsky, can you --
14 do you see the attestations that are on the screen?

15 THE WITNESS: I do.

16 ALJ LAU: Have you read them in their entirety?

17 THE WITNESS: I have, your Honor.

18 ALJ LAU: And do you agree to the set of the
19 attestations?

20 THE WITNESS: I do.

21 ALJ LAU: Thank you.

22 VINCE BILOVSKY,
23 called as a witness by Southern California
24 Edison, having been sworn, testified as
25 follows:

1 ALJ LAU: Mr. Jerman, you may begin your direct
2 examination of your witness.

3 MR. JERMAN: Thank you, your Honor.

4 DIRECT EXAMINATION

5 BY MR. JERMAN:

6 Q Mr. Bilovsky, is the purpose of your testimony
7 here today to sponsor portions of SCE Exhibits 3 and 9
8 as specified in the tables of contents to those exhibits
9 and as amended by various errata that SCE has submitted
10 to those exhibits?

11 A Yes, it is.

12 Q Was the material in those exhibits that you are
13 sponsoring prepared by you or under your supervision?

14 A Under my supervision, yes.

15 Q And, Mr. Bilovsky, where that material is
16 factual in nature, do you believe it to be accurate?

17 A Yes, I do.

18 Q And where that material is opinion or
19 judgments, does it represent your best judgment?

20 A Yes, it does.

21 Q And, Mr. Bilovsky, do you adopt the sections of
22 Exhibits 3 and 9, as specified in the tables of contents
23 to those exhibits, as your sworn testimony here today?

24 A Yes, I do.

25 MR. JERMAN: And Mr. Bilovsky is available for

1 cross-examination.

2 ALJ LAU: All right. And thank you,
3 Mr. Jerman. And we haven't specified what the order is
4 for direct -- for cross-examination. I will now specify
5 that order. I would like TURN -- TURN to go first with
6 the cross followed by A4NR followed by Public Watchdogs.

7 So Mr. Freedman, are you ready to begin cross?

8 MR. FREEDMAN: Yes, your Honor.

9 ALJ LAU: Yes. You may proceed.

10 MR. FREEDMAN: Okay. Good afternoon,
11 Mr. Bilovsky.

12 THE WITNESS: Good afternoon.

13 MR. FREEDMAN: Your Honor, for the record, we
14 have circulated a series of exhibits related to
15 Mr. Bilovsky's appearance today, which would be Exhibit
16 TURN-8, TURN-9, TURN-10C, 11, 12C, 13 and 18.

17 CROSS-EXAMINATION

18 BY MR. FREEDMAN:

19 Q Mr. Bilovsky, have you received and reviewed
20 all of those exhibits?

21 A I have, yes.

22 Q Okay. Thank you. I'd like to start with your
23 rebuttal testimony on page 37.

24 A Okay.

25 Q And this is the page that was just subject to

1 an errata, was it not?

2 A Yes, it is.

3 Q And the errata corrected the date for the
4 commencement of the coastal processes study; is that
5 right?

6 A That's correct, on line 22.

7 Q On line 22. It changed it from the previous
8 characterization as it having begun in early 2017 to
9 2016, which is the correct date?

10 A That is correct, yes.

11 Q What was the purpose of the coastal processes
12 study?

13 A The coastal processes study was performed to
14 look at the affect of -- time-dependant affect of
15 different coastal developments as a function of time,
16 such as sea level rise and erosion to the sea floor.

17 Q And was Edison ordered by the California State
18 Lands Commission to perform this study?

19 A No, we were not.

20 Q And if I can ask you then to turn to what has
21 been marked as Exhibit TURN-9. That's one of the
22 cross-packets. I'll give you a moment to get there. It
23 will be the second data response in that packet.

24 A Okay. TURN-9. Okay. So data request TURN
25 SCE-17. Is that --

1 Q Yeah. This will be the third page in the
2 packet after the cover page. So it's Edison's response
3 to TURN Data Request, Set 17, Question 20 from the 2018
4 nuclear decommissioning cost triennial proceeding.

5 Do you see that?

6 A I do.

7 Q In that data response by Edison in the last
8 decommissioning proceeding, Edison indicated that the
9 need for this study to be conducted was to inform
10 Edison's end state proposal to the Navy as part of the
11 National Environmental Policy Act review that is
12 forecast to commence in 2035.

13 Do you agree with that statement?

14 A Yes, that's correct.

15 Q Why was this study needed in connection with
16 the National Environmental Policy Act review?

17 A I think it was in support -- yeah, in support
18 of the National Environmental Policy Act, and the reason
19 being that we -- the Navy had not defined -- has not
20 defined an end state for us, and therefore, we are
21 unaware of what -- how much substructure removal will be
22 required before the land can be turned over to the Navy.

23 Q So this study really was related to the
24 ultimate disposition of the Navy land requirements, the
25 ultimate resolution of what the Navy is going to

1 require?

2 A Yes, that's correct.

3 Q And when does Edison currently expect some
4 resolution of those requirements from the Navy?

5 A As of now, currently we don't have an
6 expectation for when that determination will be made,
7 but we expect it around 2035.

8 Q Okay. Did Edison perform a similar coastal
9 processes study in connection with obtaining a coastal
10 development permit for decommissioning activities at
11 SONGS Unit 1?

12 A I'm not aware of what was done for SONGS
13 Unit 1.

14 Q You don't know whether the coastal development
15 permit for SONGS Unit 1 included work related to
16 substructure removal and end state requirements?

17 A No, I cannot recall.

18 Q Would you agree that increased time was needed
19 for the CEQA, C-E-Q-A, process as a result of the new
20 information from the coastal processes study?

21 A Yes, I would agree with that in that we had
22 to -- when we got the initial results, we had to revise
23 our project description because it became clear to us
24 that the substructure removal would have to be pushed
25 out into the future as part of future work.

1 Q Okay. Well, let's -- let's move back to your
2 rebuttal testimony to page 45. This is Exhibit SCE-09.

3 A Okay. Okay.

4 Q And tell me when you're there at the top of
5 page 45 of Exhibit SCE-09.

6 A Okay. I'm there.

7 Q On line 2, you reference the issuance of a
8 revised project description in December of 2017. Can
9 you summarize what changed in the revised project
10 description?

11 A Yeah. So that -- the main change there was to
12 push out the substructure removal into future work
13 rather than have it kind of flow immediately following
14 the aboveground structure demolition decontamination.

15 Q And that change meant that that work would be
16 outside the scope of the environmental impact review
17 conducted at this time -- or at that time by the State
18 Lands Commission?

19 A I don't think it was outside of the scope of
20 review, but if there would be less of a focus on it, it
21 would -- I believe the way it works is that the State
22 Lands Commission would focus more on the work that was
23 imminent upon receiving the permit.

24 Q It was treated as future activities; is that
25 correct?

1 A Correct. Future activities. That's right.

2 Q And does that mean that Edison wasn't
3 specifically seeking approval for those future
4 activities at this time for a permit to conduct those
5 future activities?

6 A I think that's the case, yes.

7 Q Okay. I'd like you to turn to Exhibit TURN-13,
8 which is excerpts from the revised project description
9 from December 2017. I'd like you to first confirm that
10 this is, in fact, excerpts from the revised project
11 description that you reference in your testimony. I'll
12 give you moment to get there, of course.

13 A Yes, I've had time to review this, and it does
14 appear to be excerpts from that revised project
15 description.

16 Q Okay. If I can ask you to turn to page 2-3,
17 the numbers are at the bottom center of the pages.

18 A Yeah. I'm there.

19 Q And here in Table 2-1, there's a summary of the
20 proposed decommissioning plan, and there are three
21 categories of activities shown in the left-hand column,
22 the last of which is additional substructure removal and
23 final site restoration with a 2035 date.

24 Do you see that?

25 A Yeah. Approximately 2035, right.

1 Q Approximately. And does this represent the
2 category of work that we were just discussing that would
3 be treated as future activities?

4 A Yes, that's -- that's correct.

5 Q Okay. And if we move to page -- continuing in
6 this document, to page 2-64 -- again, this is an
7 excerpt -- it does not contain all of the pages from the
8 revised project description.

9 A Okay.

10 Q Does the section that begins 2.5.1 on line
11 24 -- does that identify the on-shore substructure
12 removal work to be performed on or after 2035?

13 A Yes, that's correct.

14 Q To the extent that you know, for substructure
15 removal work at San Onofre that's described here, is
16 that within the scope of the current decommissioning
17 general contractor agreement?

18 A Let me read real quick.

19 ALJ LAU: Let's go off the record.

20 (Off the record.)

21 ALJ LAU: Back on the record.

22 THE WITNESS: Yes. I would agree. This is
23 considered the scope of the future work.

24 BY MR. FREEDMAN:

25 Q My question, Mr. Bilovsky, is whether this

1 scope of work that is identified here, is this currently
2 covered under the existing contract with the
3 decommissioning general contractor, or would it be the
4 subject of a future contract?

5 A It would be the subject of a future contract.

6 Q And do you know when Edison would plan to
7 secure such a contract and lock in scope and pricing for
8 this kind of work?

9 A We do not know exactly when that would be or
10 could give an accurate prediction of when that would be
11 at this time.

12 Q Okay.

13 A Mainly --

14 Q I'm sorry. I didn't mean to cut you off.

15 A Yeah. There's a number of factors involved,
16 one of which being the fuel -- when the Federal
17 Government takes the responsibility of shipping and
18 receiving the fuel and how the fuel is removed off the
19 site. So that's one factor that would play into our
20 decision.

21 Q Okay. Let me turn you back to your rebuttal
22 testimony, Exhibit SCE-09, page 44, which is just the
23 page prior where I had you previously focus.

24 A Okay. I'm there.

25 Q And specifically, looking at footnote 50 -- and

1 you have two sentences -- in the second sentence, you
2 state:

3 In other words, it is very difficult to
4 predict how long regulatory reviews will
5 take and therefore appropriate to build in
6 cushion through contingency to ameliorate
7 the impacts of any delays.

8 Do you see that?

9 A I do see that.

10 Q Did Edison build in a financial contingency
11 related to the CEQA permitting process?

12 A We built it into the decommissioning general
13 contracts where we had an option to delay them -- the
14 start of what we call Phase 2, which is the
15 decontamination -- or decontamination demolition of
16 aboveground structures, and that was built into our
17 decommissioning general contract.

18 Q And that was the provision that allowed for
19 one-year delay in commencement of the work?

20 A That's correct, yes.

21 Q Did Edison incorporate any contingencies apart
22 from that related to the timing of the CEQA process?

23 A Are you asking if we incorporated them into the
24 contract?

25 Q No. I'm talking about in the planning process

1 to what extent Edison took into account contingencies
2 related to the time that it would take to complete the
3 permitting process?

4 A I'm not sure. With respect to what? I --

5 Q Well, here you reference in this footnote:

6 It is difficult to predict how long
7 regulatory reviews will take and therefore
8 appropriate to build in cushion through
9 contingency.

10 And I'm asking about whether there was a
11 time-based contingency built into the planning process?

12 A In the case of the CEQA permitting, we knew,
13 after making the decision to go into prompt
14 decommissioning and the commercial approach that we
15 took, it was on the critical path so -- for us to
16 perform that work. So it was really that we just had to
17 get it accomplished as soon as we possibly could.

18 Yeah. It doesn't. It -- other than -- other
19 than the contracts, I can't think of anything that it
20 would have impacted where we would have had to build in
21 contingency.

22 Q On that same page, page 44, you provide four
23 reasons at the top of the page for causes for delays
24 that you characterize as outside of SCE's control, and
25 you preface it on page 43. But the 4 reasons are

1 provided on page 44. In particular, I'd like to draw
2 your attention to No. 2, the strong public interest in
3 and opposition to the project as evidenced by the volume
4 of public comment on the draft EIR and CDP at attendance
5 at the public hearings.

6 Do you see that?

7 A I do.

8 Q Was Edison surprised by the amount of public
9 interest in the decommissioning project?

10 A Well, I can't speak for all of Edison. But I
11 think it did get some more attention than I would have
12 expected. We've had activists, you know, historically
13 that have wanted the plant to be shut down and
14 decommissioned and so any opposition or intervening with
15 respect to that process to start decommissioning was a
16 little bit surprising, I think.

17 Q Would you agree that the unexpected early
18 shutdown of the plant and subsequent events generated a
19 substantial amount of media and public attention related
20 to the facility?

21 A Yes, I think that's the case.

22 Q I'd like you to take a look at what's been
23 marked as Exhibit TURN-18. Again, I will concede that
24 we only served this last night, and I apologize for the
25 late service of it. But it is -- it's an eight-page

1 exhibit that has excerpts from the final environmental
2 impact report for the SONGS 2 and 3 decommissioning
3 project.

4 Is this a document that you're pretty familiar
5 with, Mr. Bilovsky?

6 A I wouldn't say I'm intimately familiar with it,
7 but I am familiar with it.

8 Q There's nothing here that -- well, anyway. Let
9 me ask you this: If I move you to -- if I ask you to
10 look at what has been -- what's page I-5 -- or it might
11 be 1-5. I'm not sure.

12 A I have it.

13 Q And here there's a timeline for the CEQA review
14 process that is identified, and one of -- the first
15 bullet point references July 12, 2016, and here there's
16 a reference to more than 45 organizations and
17 individuals submitting comments on the EIR scope. Was
18 that level of engagement on the EIR scope something that
19 was unexpected by Edison?

20 A Yeah. I really -- I really don't know what the
21 expectations were. I think it was probably more than --
22 more than I would have expected had I been there at the
23 time, but I haven't gotten briefed on other people's --
24 other folks' opinions here at Edison.

25 Q When did you begin your role in your current

1 capacity?

2 A That was January of 2019.

3 Q Okay. Thank you. And continuing on in this
4 document, there is -- a few pages down there's an
5 Appendix C excerpt, which is the public scoping
6 documents, and the first two pages, C1 and C2, which are
7 the last pages of this exhibit, just have a list of all
8 of the commenters that commented on the scope of the
9 EIR.

10 Do you see that?

11 A I do.

12 Q Would you agree this is a pretty extensive list
13 of commenters for an EIR scope?

14 A I don't have a lot of experience or actually
15 any experience with a -- the state -- California State
16 Lands Commission, their process for issuing a permit and
17 their public comment period. So I really can't make an
18 opinion on that matter.

19 Q Okay. I understand. Let's go back to your
20 rebuttal testimony. On that very same page, page 44 of
21 Exhibit SCE-09 --

22 A Yeah.

23 Q -- the very next line on 5 references the third
24 reason that you provide for causes outside of Edison's
25 control, references as changes in CSLC Commissioners

1 after the November 2018 election.

2 Do you see that?

3 A I do.

4 Q Are you referring to elections for statewide
5 offices such as lieutenant governor and controller?

6 A Yes. That's -- that's correct and then the
7 subsequent appointments of Commissioners.

8 Q Okay. Okay. Thank you. Let's go back in your
9 testimony. I'm going to go a few pages backwards to
10 page 39 in Exhibit SCE-09. And starting on line 7, from
11 lines 8 through 10, you reference an estimate for the
12 costs of this permitting activity of 7.9 million dollars
13 from the 2017 SONGS 2 and 3 DCE.

14 Do you see that?

15 A I do.

16 Q And you point out that the recorded costs came
17 in at 6.4 million; is that right?

18 A That is correct.

19 Q In your view, does the fact that the spending
20 came in below the forecast demonstrate that the spending
21 was reasonable?

22 A I think it's a contributor to demonstrating
23 that it's reasonable.

24 Q If spending came in above the forecasted
25 amount, would that be a contributor to a finding that

1 the spending was unreasonable?

2 A I think that would depend on the extent of the
3 variants.

4 Q I'd like you to look at what's been marked as
5 Exhibit TURN-11, and this is several documents, which
6 includes excerpts from two Edison advices letters and an
7 excerpt from the 2017 decommissioning cost estimate. So
8 I just have a couple of questions as we go through this.
9 Let me know when you're there.

10 A Okay. So TURN-11. Okay. I'm there.

11 Q Okay. So I'd like you to go to the fifth page
12 after the cover, and this is -- this is part of Edison's
13 Advice Letter 3285-E submitted on October 5, 2015,
14 requesting authorization of disbursements from the
15 decommissioning trusts for San Onofre Units 2 and 3.

16 A Is this labeled page 12 where you are?

17 Q It is labeled page 12 on the bottom right.

18 A Okay.

19 Q Yes. That is exactly the page.

20 A All right.

21 Q And I'd like to turn your attention to the fact
22 that -- to the second paragraph. It's actually the
23 first full paragraph on the page, but the second --
24 second paragraph that states:

25 The DCE did not contain an estimate for the

1 coastal development permitting processes
2 required by the California Coastal
3 Commission nor the CEQA review.

4 Do you see that?

5 A I do.

6 Q Is it your understanding that that reference
7 relates to the 2014 decommissioning cost estimate, which
8 was the one that had been in effect at the time this
9 advice letter was issued or submitted?

10 MR. JERMAN: I'm going to object on foundation
11 grounds.

12 ALJ LAU: Mr. Freedman, do you want to try to
13 establish the foundation of what the DCE that's
14 referenced in the advice letter is. I would think that
15 there is somewhere an advice letter that would establish
16 it.

17 MR. JERMAN: And also, Mr. Bilovsky's
18 familiarity with the advice letter as well.]

19 MR. FREEDMAN: Well, your Honor, Mr. Bilovsky's
20 referencing the costs that were estimated in the 2017
21 DCE, and what we are demonstrating here, and I believe
22 that there's no controversy about this, is that the 2014
23 DCE, which is referenced repeatedly in these advice
24 letters, because it was the only DCE in effect at the
25 time that the advice letters were issued, did not

1 contain any cost estimate for these activities.

2 ALJ LAU: I'm going to overrule the objection.

3 Mr. Bilovsky, please just answer to the best of
4 your knowledge. And I know that it may be, you know --

5 THE WITNESS: I -- yeah, I would have to -- I
6 would have to review to be able to answer that, review
7 the -- the 2014 -- the specific part of the 2014 DCE.

8 ALJ LAU: So we can move on to the question,
9 and, you know, maybe later on, then, if we have a break,
10 then Mr. Bilovsky can review the advice letter a little
11 bit more.

12 MR. FREEDMAN: Okay.

13 Q Well, let me ask this: As we go the next page
14 down in the document, there is a five-year look-ahead
15 schedule chart that appears as the next page. Do you
16 see that?

17 A I do.

18 Q And does this five-year look-ahead show that,
19 as of October 2015, Edison assumed that the CEQA
20 permitting would be complete by the middle of 2017, as
21 evidenced by the CEQA permitting line close to the
22 bottom of the page?

23 A CEQA permitting. Yeah, that looks correct.
24 Yes.

25 Q Continuing on to the next advice letter in the

1 next page, this is Advice Letter 35 -- 35-E submitted --

2 A Yeah, I'm there.

3 Q Submitted on December 20th, 2016, another
4 request for disbursements from the trust. And I'd like
5 you to turn to the second page of that, which is marked
6 as page 11 on the bottom right-hand corner.

7 A Okay.

8 Q Under Environmental Permitting, the very bottom
9 of that paragraph, it states that the DCE does not
10 include costs for obtaining the required permits and
11 approvals until 2023.

12 Is it your understanding, then, that this also
13 would be referring not to the 2017 DCE that you cite in
14 your testimony, but to a different DCE?

15 A Again, I'd have to review -- to do more review
16 to be clear about exactly what it's referring to.

17 Q It wouldn't be correct, would it, to suggest
18 that the DCE -- the 2017 DCE contained no cost estimate
19 for this work, would it?

20 A It would not be correct, that's -- yes, I agree
21 with that.

22 Q Okay. So you don't have any reason to believe
23 that Edison's advice letter filings that we've reviewed
24 here are inaccurate, do you?

25 A I do not have any reason to believe that.

1 Q Going to the next page, there is a -- another
2 decommissioning plan associated with this advice letter
3 filing. It is titled "Decommissioning Plan, 20-Year
4 Plan." Do you see this schedule document?

5 A I do.

6 Q If I look down at the bottom for the estimate
7 for CEQA permitting, does that show CEQA permitting is
8 expected to be complete by the end of 2017?

9 A Yes, it does.

10 Q Okay. Continuing on in this document, there is
11 an excerpt from the 2017 decommissioning cost estimate.

12 Is this the decommissioning cost estimate that
13 you reference in your testimony?

14 A And you're referring to the page 39 --

15 Q Yes.

16 A -- line 8 testimony?

17 Yes, it appears to be that.

18 Q Okay. And if I take you to the last page of
19 the exhibit, there is a Table 7 from this -- from the
20 2017 decommissioning cost estimate that has a -- a
21 forecast or estimate of costs for other distributed
22 projects, one of which is listed on line 6 as CEQA
23 permitting?

24 A That's right.

25 Q And the CEQA permitting estimate is

1 7.914 million.

2 Is this where you got the number that you cited
3 in your testimony?

4 A Yes, I think that's correct.

5 Q Okay. When you refer to recorded costs for the
6 activity that came in at 6.4 million, has Edison
7 provided a breakout of this recorded spending on this
8 project by year?

9 ALJ LAU: Let's go off the record so
10 Mr. Bilovsky can just look through his testimony.

11 (Off the record.)

12 ALJ LAU: Let's go back on the record.

13 THE WITNESS: I do not believe it was reported
14 on a -- a year to year breakdown.

15 BY MR. FREEDMAN:

16 Q Okay. Does your testimony also evaluate the
17 increase in undistributed and distributed
18 decommissioning costs resulting from delays in the
19 issuance of the Coastal Development Permit?

20 ALJ LAU: Mr. Bilovsky, do you want us to go
21 off record?

22 THE WITNESS: Yes, that would be appreciated
23 for just a minute.

24 ALJ LAU: Off the record.

25 (Off the record.)

1 ALJ LAU: On the record.

2 THE WITNESS: Yeah. I'd like to defer that
3 question to Mr. Perez.

4 BY MR. FREEDMAN:

5 Q Well, let me ask the question this way, then:
6 Your testimony references, as we discussed, the
7 \$7.9 million cost estimate for CEQA permitting and the
8 recorded costs of 6.4 million.

9 A Right.

10 Q That doesn't include any additional
11 undistributed costs or DGC-specific delay costs that
12 resulted from the longer than anticipated permitting
13 process, does it?

14 A That is correct.

15 Q That was really my question.

16 A Okay. Sorry.

17 Q Let's turn to page 46 of your rebuttal
18 testimony. And in this section, you were discussing the
19 issue of the proposal to disallow DGC delay payments,
20 and on page 46, on line 15, you state: During 2017,
21 management of the following programs transitioned from
22 SCE to the DGC.

23 Do you see that --

24 A I do.

25 Q -- line?

1 A Yeah.

2 Q And you list a series of programs, 21 separate
3 programs. Is that right?

4 A Yes.

5 Q Does the DGC report on the amount of staffing
6 that it dedicates to each of these programs?

7 A Does the "DG" -- in terms of the level of
8 efforts towards each one, specifically? Is that what
9 you're asking?

10 Q The number of staff that it has dedicated to
11 each of these programs.

12 A No, not that I'm aware of.

13 Q And are the payments to the DGC broken down
14 into program-specific payments or are they lump sum
15 payments that cover a broad range of activities?

16 A I would describe them as the latter, lump sum
17 payments that cover a broad range of activities.

18 Q And does the DGC report to Edison on the
19 specific work performed under each of these 21 programs
20 in each year to Edison?

21 A Not in a specific detailed way for each -- for
22 each item in a formal matter, no.

23 Q So with that in mind, I'd like you to turn to
24 what's been marked as TURN-10-C, and TURN-10-C has a
25 series of Edison data responses, and --

1 ALJ LAU: Can we go off --

2 BY MR. FREEDMAN:

3 Q -- I --

4 ALJ LAU: Can we go off the record?

5 (Off the record.)

6 ALJ LAU: Let's go back on the record.

7 Mr. Freedman, I think you agreed to move on to
8 the next question, and reserve your question for the
9 confidential portion or a closed section -- closed
10 session.

11 MR. FREEDMAN: Yes, your Honor. I will defer
12 my remaining questions to a confidential section later
13 today.

14 And those are all of my public questions that I
15 have for this witness.

16 ALJ LAU: Thank you, Mr. Freedman.

17 Public Watchdogs, if you are ready to begin
18 your cross, can you please introduce yourself before you
19 speak?

20 MR. LANGLEY: You've got to introduce yourself.

21 MS. BABIARZ: Good afternoon. This is Nina
22 Babiarez with Public Watchdogs.

23 Judge Lau, I thought you said the order was
24 TURN, A4R, and then Public Watchdogs.

25 ALJ LAU: Yes. But, because A4NR has -- has

1 confidential questioning, I want to reserve theirs at
2 the very end --

3 MS. BABIARZ: I see.

4 ALJ LAU: -- if you're okay with it.

5 MS. BABIARZ: Okay. Thank you.

6 CROSS-EXAMINATION

7 BY MS. BABIARZ:

8 Q Good afternoon, Mr. Bilovsky. This is Nina
9 Babiarz for Public Watchdogs. Thanks for taking the
10 time to be here today.

11 I want to go back, just briefly, to a statement
12 that you just made in -- I'll put it in a context.

13 I believe it was -- Mr. Freedman was asking you
14 about the TURN Exhibit 11, the advice letter, the
15 decommissioning cost estimate, just to put it in the
16 context of the recent, and you refer to the fact that
17 the 2000 -- that all subsequent decommissioning cost
18 estimates were based on the 2014 decommissioning cost
19 estimate. Is that correct?

20 A I -- I don't recall saying that. I could --
21 I'm not sure I understand the question.

22 Q Oh, you --

23 ALJ LAU: I believe that Mr. Bilovsky was going
24 to take a look at the advice letter to -- he needed time
25 to review the advice letter before he confirmed that

1 fact.

2 MS. BABIARZ: I'm sorry. I just couldn't hear
3 you.

4 ALJ LAU: Mr. Bilovsky said he needed time to
5 review the advice letter before he confirmed facts in
6 the advice letter; specifically, towards the -- the DCE
7 that was referred into the --

8 MS. BABIARZ: I'll be happy to wait until he
9 has an opportunity to do that, then.

10 ALJ LAU: Okay.

11 MR. LANGLEY: Are you done? Are you done?

12 MS. BABIARZ: Yes. I -- I believe I would need
13 to wait until he has an opportunity to do that, then.

14 ALJ LAU: Do you have any other cross?

15 MR. LANGLEY: No.

16 ALJ LAU: Okay.

17 MR. LANGLEY: Oh, do you?

18 MR. JERMAN: Could I clarify? Is --
19 Mr. Freedman had some questions that Mr. Bilovsky did
20 indicate he might need more time to look into. I mean
21 does Mr. Freedman intend to follow up on those
22 questions? I -- I just want to clarify, you know,
23 exactly what we're asking Mr. Bilovsky to do while he's
24 on the stand.

25 MR. FREEDMAN: Your Honor, Matt Freedman with

1 TURN.

2 I -- I was not asking for any follow-up on that
3 point. I believe that the -- the exhibit speaks for
4 itself, unless Edison plans to object to the admission
5 of its own advice letters into the record.

6 ALJ LAU: Okay. How about let's have
7 Ms. Babiarz from Public Watchdogs -- can you ask the
8 question again, and try to just help the witness kind of
9 orient himself as to where in TURN's cross that you're
10 referring to?

11 BY MS. BABIARZ:

12 Q There was a discussion for causes for a delay
13 outside of SCE's control.

14 ALJ LAU: Can you refer to the exhibit that you
15 were talking about again?

16 MS. BABIARZ: Oh, it's related to the abrupt
17 shutdown and the attraction that was garnered as a
18 result of the abrupt shutdown.

19 ALJ LAU: And Ms. Babiarz, you may have to
20 enunciate yourself a little bit more so that it'll be
21 easier for the court reporter to hear you.

22 MS. BABIARZ: I believe I need to defer my
23 question to further cross-examination of Mr. Bilovsky at
24 a later date, your Honor.

25 ALJ LAU: I -- so the -- the -- so what about

1 this? Let's have Mr. Geesman go first, and then you can
2 go after that. Do you want to do that?

3 MS. BABIARZ: That would be fine. Thank you.

4 ALJ LAU: Okay. Mr. Geesman, are you ready?

5 MR. GEESMAN: Yes, I am, your Honor.

6 CROSS-EXAMINATION

7 BY MR. GEESMAN:

8 Q Hello, Mr. Bilovsky.

9 A Hello.

10 Q I believe you told Mr. Freedman, in response to
11 one of his questions, that the results of the coastal
12 processes study was a causal factor in pushing out the
13 removal of subsurface structures to future activities,
14 taking them outside the -- the framework of the original
15 Coastal Development Permit. Is that correct?

16 A Yes, I think that is a accurate
17 characterization.

18 Q Can you tell me why the results of the coastal
19 processes study had that effect on Edison's scheduling
20 of removal of subsurface structures?

21 A I'll do my best. This isn't my area of
22 expertise.

23 But, the way I understand it is that the
24 effects of things like sea level rise and coastal
25 erosion would -- were -- were not as predictable as we

1 would have expected, based on the preliminary results
2 from the study. So at that time, we realized that
3 further model development and further data was
4 appropriate so we could have a better prediction of, you
5 know, how the -- the coast would be affected, as a
6 function of time, and therefore, that would have been
7 a -- a challenge to enter into the -- a recommendation
8 and discussions with the Navy about the end state. I
9 thought that would have been premature as we had
10 originally planned it.

11 Q My recollection of the contents of that study
12 was that it showed that a much larger portion of the
13 subsurface structures would likely have to be removed
14 because of their exposure through coastal processes. Is
15 that a fair summary?

16 A I don't know about much more. I -- I -- I'm
17 not sure how to characterize that. But, it -- it did
18 show more exposure than we had originally anticipated.

19 Q Now, is it correct that the DCE incorporates
20 funding for removal of 100 percent of the subsurface
21 structures?

22 A Yes, that is correct.

23 Q I note in your statement of qualifications, at
24 page A-3 of SCE-09, that you worked for a number of
25 years in spent fuel management at Holtec.

1 How did that prior experience from your
2 dealings with Holtec inform your -- your relationship
3 with them after you started at SONGS in January of 2019?

4 A I think I would say, first of all, there was
5 about a ten-year gap between the time that I left Holtec
6 and the time I started here at Southern California
7 Edison. So that's -- that's a long time.

8 But, it -- it informed -- I -- I was still very
9 familiar with a lot of aspects of the design, the
10 general design. Even though this was a newer design,
11 it's based on prior products that -- that Holtec has in
12 the market. So it really just informed me about an
13 understanding of the technology, the operations, a lot
14 of the licensing basis, because I was originally an
15 engineer, and worked on calculations for developing the
16 design basis and -- and the licensing of a lot of those
17 earlier products back in the early 2000s, when I -- when
18 I was an engineer.

19 And then as a project manager for Holtec in the
20 mid-2000s gave me information on -- on how a lot of this
21 equipment works, the overall process, those types of
22 things.]

23 Q You were in Chernobyl, were you not?

24 A Yes, I was. That would --

25 Q How does that compare -- how does that compare

1 to SONGS?

2 A It's very different.

3 Q If you would turn to the exhibit that's been
4 marked A4NR-X-37?

5 A Sure. Okay.

6 Q That's a three-page excerpt from a PowerPoint
7 presentation that Randy Besich made to the
8 February 18, 2021, meeting of the SONGS executive
9 committee. The third page of that exhibit, which has
10 the number 133 in its lower right-hand corner, is
11 entitled Risks and Key Assumptions, What is Not Included
12 in the EAC.

13 Now, EAC is an acronym for estimate at
14 conclusion, is it not?

15 A Estimate at completion or conclusion; that's
16 okay.

17 Q And that's a budgeting tool for the SONGS
18 decommissioning?

19 A I would refer to it as a project controls tool
20 rather than a budgeting tool, but it -- it helps inform
21 the budget, so.

22 Q Is it the same as the decommissioning cost
23 estimate?

24 A It is not the same as the decommission cost
25 estimate. It does use the decommissioning cost estimate

1 to inform some of its inputs.

2 Q I have highlighted in green, or attempted to on
3 these pages, three of the items on the not included
4 list. The very last page of the exhibit is what I am
5 referring to.

6 Can you confirm that none of these items with
7 the green highlighting are included in the DCE?

8 MR. JERMAN: Objection. It's outside the scope
9 of Mr. Bilovsky's testimony. Mr. Perez is our DCE
10 witness.

11 ALJ LAU: All right. Can you save --
12 Mr. Geesman, can you save those for -- these questions
13 for -- you know, this question for Mr. Perez?

14 MR. GEESMAN: Certainly, your Honor.

15 Q Now, could you look at Exhibit A4NR-X-38,
16 please?

17 A Okay.

18 Q It's a data response Edison provided A4NR
19 regarding three scenarios for the license termination
20 plan. I have highlighted in green, the description of
21 the scenarios. Are you familiar with Edison's
22 consideration of these scenarios?

23 A Yes, I am.

24 Q Could you turn to A4NR-X-39?

25 A Okay.

1 Q That's a three-page PowerPoint presentation
2 that you made to the April 9, 2020, meeting of the SONGS
3 executive committee on the role of the decommissioning
4 agent advisor.

5 Who did Edison retain as decommissioning
6 advisor?

7 A It's a rotating group that comes in generally
8 twice a year. It's led by -- it's been led by the same
9 person that -- that would be Wayne Norton, who is the
10 chief nuclear officer for the three Yankee plants in the
11 northeast that have all gone through the decommissioning
12 process, and are now in field-storage only status.

13 Q Do you recall when he started?

14 A Well, he was -- okay. So, there are other
15 members, too, and -- and sometimes they change. But we
16 select experts based on the -- the kind of work that
17 we're -- that we're doing at the time when they come
18 make their visit and do their reviews.

19 He started -- Wayne -- Wayne, he was a member
20 of the nuclear oversight board, which was the
21 predecessor advisory group to the DAA. So, he was on
22 that nuclear oversight board when I started in -- at
23 Edison in 2019 -- early 2019, and I think -- I'm not
24 sure exactly how long he had -- he had been on it before
25 then, but he has been on it for -- for four years,

1 including the transition.

2 Q Okay.

3 A He was not -- he was not the chairman of the
4 nuclear oversight board, but he -- he is the chairman of
5 the DAA.

6 Q And based on the third page of that PowerPoint,
7 which has the number 35 in its lower right-hand corner,
8 did he report directly to you?

9 A Yes, he -- he did.

10 Q Would you turn to the exhibit that has been
11 marked A4NR-X-40?

12 A Sure.

13 Q Let me know when you're there.

14 A Yeah, I am here. I'm sorry.

15 Q That's a two-page excerpt from a PowerPoint
16 presentation that Wayne Norton made to the May 27, 2021,
17 meeting of the SONGS executive committee.

18 The third page of the exhibit, which has the
19 number 39 in its lower right-hand corner, is entitled
20 SONGS DAA Overview.

21 Can you read the second bullet point on that
22 page out loud, please?

23 A Sure. "DAA reviewed the LTP and site
24 closure/end state strategies and believes the LTP
25 strategies is well founded and adequately informed.

1 Suggestions to integrate environmental closure
2 requirements with LTP strategy and decisions is
3 essential to total site restoration/closure in phase
4 III."

5 Q Thank you. If you would now turn to the
6 exhibit marked A4NR-X-41.

7 A Okay.

8 Q That's another data response Edison provided to
9 A4NR regarding the license termination plan. Would you
10 agree that based on this data response, Edison appears
11 to be in agreement with the advice it received from the
12 decommissioning agent advisor?

13 A Yes. Yes, I would.

14 MR. GEESMAN: Your Honor, that concludes the
15 public portion of my cross-examination.

16 ALJ LAU: Thank you.

17 Public Watchdogs, do you have any questions?
18 Please introduce yourself before you speak.

19 MR. LANGLEY: Your Honor.

20 MS. BABIARZ: Yes, your Honor, I do. This is
21 Nina Babiarz with Public Watchdogs with questions for
22 Mr. Bilovsky.

23 CROSS-EXAMINATION

24 BY MS. BABIARZ:

25 Q Earlier in your response to Mr. Freedman from

1 TURN, he inquired did Edison build-in funds for the CEQA
2 process. Your answer was that the -- that the process
3 was built-in to the decommissioning general contractor;
4 is that correct?

5 A No. That -- that's not what I said.

6 Q Oh, I wrote down what you said, so maybe we can
7 go to the court reporter and indicate that --

8 ALJ LAU: Why don't -- why don't you --
9 Mr. Bilovsky, can you -- would you correct what -- how
10 you -- counsel for --

11 THE WITNESS: If I heard you correctly, you
12 said it was built -- that that -- the CEQA -- CEQA
13 permitting activities were billed to the decommissioning
14 general contractor?

15 BY MS. BABIARZ:

16 Q No, the -- the cost of those was built into the
17 decommissioning general contractor?

18 A The cost of them, I think what you mean is that
19 it was built into the decommissioning cost estimate.

20 Q Yes, sir.

21 A Yes, okay.

22 Q Yes.

23 A Yeah.

24 Q Thank you.

25 A Yes.

1 Q Sir, who is the decommissioning general
2 contractor?

3 A The decommissioning general contract is the JV,
4 joint venture between Energy Solutions and AECOM, and
5 they're known as SONGS Decommissioning Solutions.

6 Q And Mr. Freedman also indicated that the 2014
7 decommissioning cost estimate is related to all
8 subsequent decommissioning cost estimates based on the
9 2014 decommissioning cost estimate; is that correct?
10 The 2017, I believe, is what was being discussed with
11 regard to CEQA to put it in context.

12 A Yeah. I think a way to -- to describe it is
13 that the subsequent decommissioning cost estimates are
14 built upon the previous ones; so, 2017, it would be
15 updated from 2014.

16 Q And who prepared the 2014 decommissioning cost
17 estimate?

18 MR. JERMAN: I will object as outside
19 Mr. Bilovsky's scope. Again, Mr. Perez is our witness
20 on DCEs.

21 ALJ LAU: Sustained. Ms. -- Ms. Babiarz, can
22 you just keep the questions for Mr. Perez?

23 MS. BABIARZ: Absolutely. Thank you, your
24 Honor. That's all I have.

25 ALJ LAU: Thank you. Do any other -- is any

1 other parties have cross for Mr. Bilovsky?

2 (No response.)

3 ALJ LAU: Hearing none. Then we are, again,
4 after one hour of cross. So, let us take a 15-minute
5 break, and we will come back at 3:40 for, I believe
6 Mr. Jerman probably wants some time to prepare
7 redirect -- or, actually, we have to go into
8 confidential session before we do the redirect.

9 So, then, when we come back, we will go into
10 confidential mode.

11 Okay. All right. Let's go into recess. Off
12 the record.

13 (Recess taken.)

14 ALJ LAU: On the record. We will -- we will
15 now go to confidential mode to allow Mr. Freedman and
16 Mr. Geesman to cross-examination Mr. Bilvosky on data
17 that Edison is requesting confidential treatment.

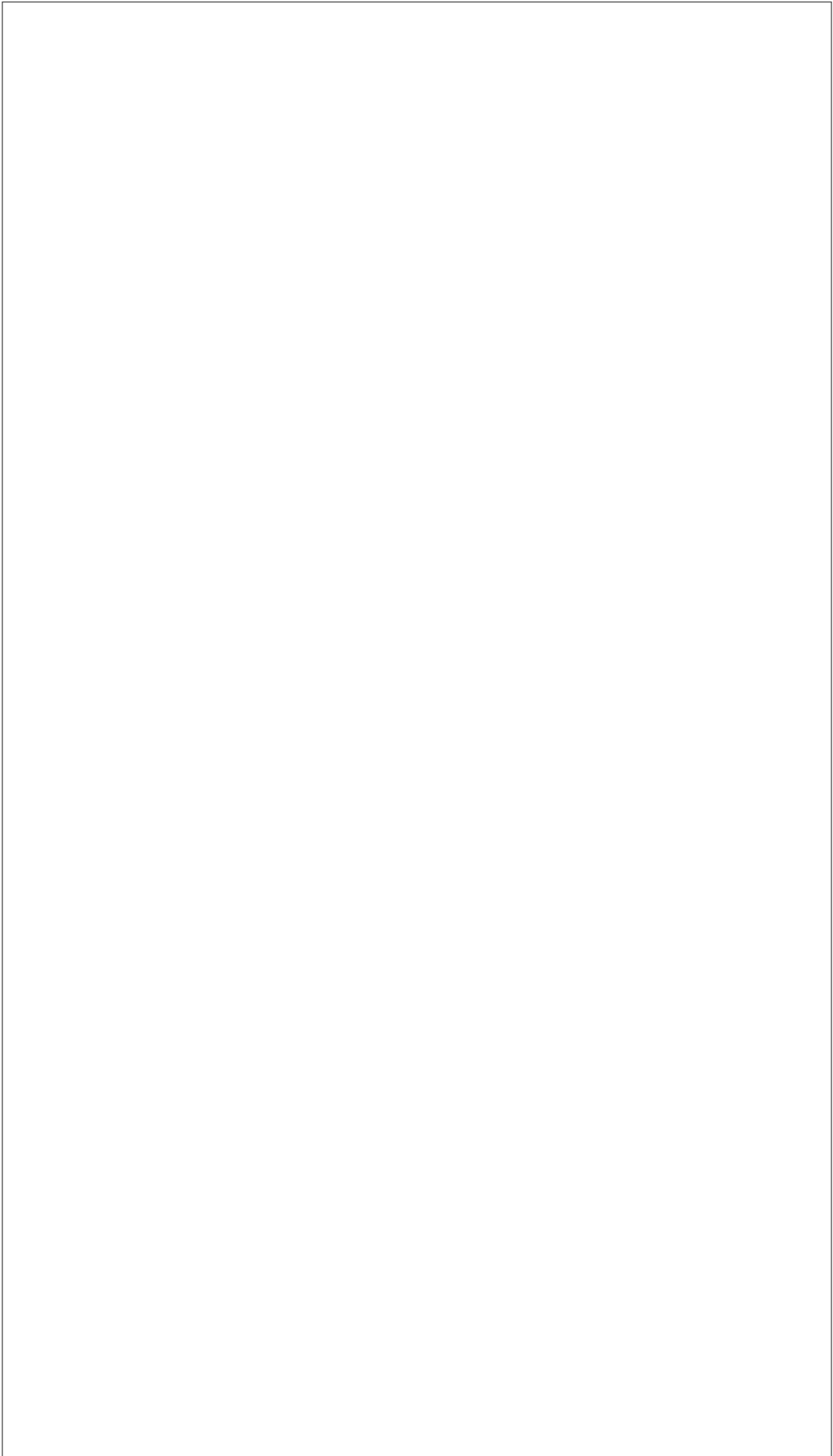
18 We will go off the record now, so that our IT
19 staff can get the confidential -- confidential session
20 ready.

21 Thank you. Off the record.

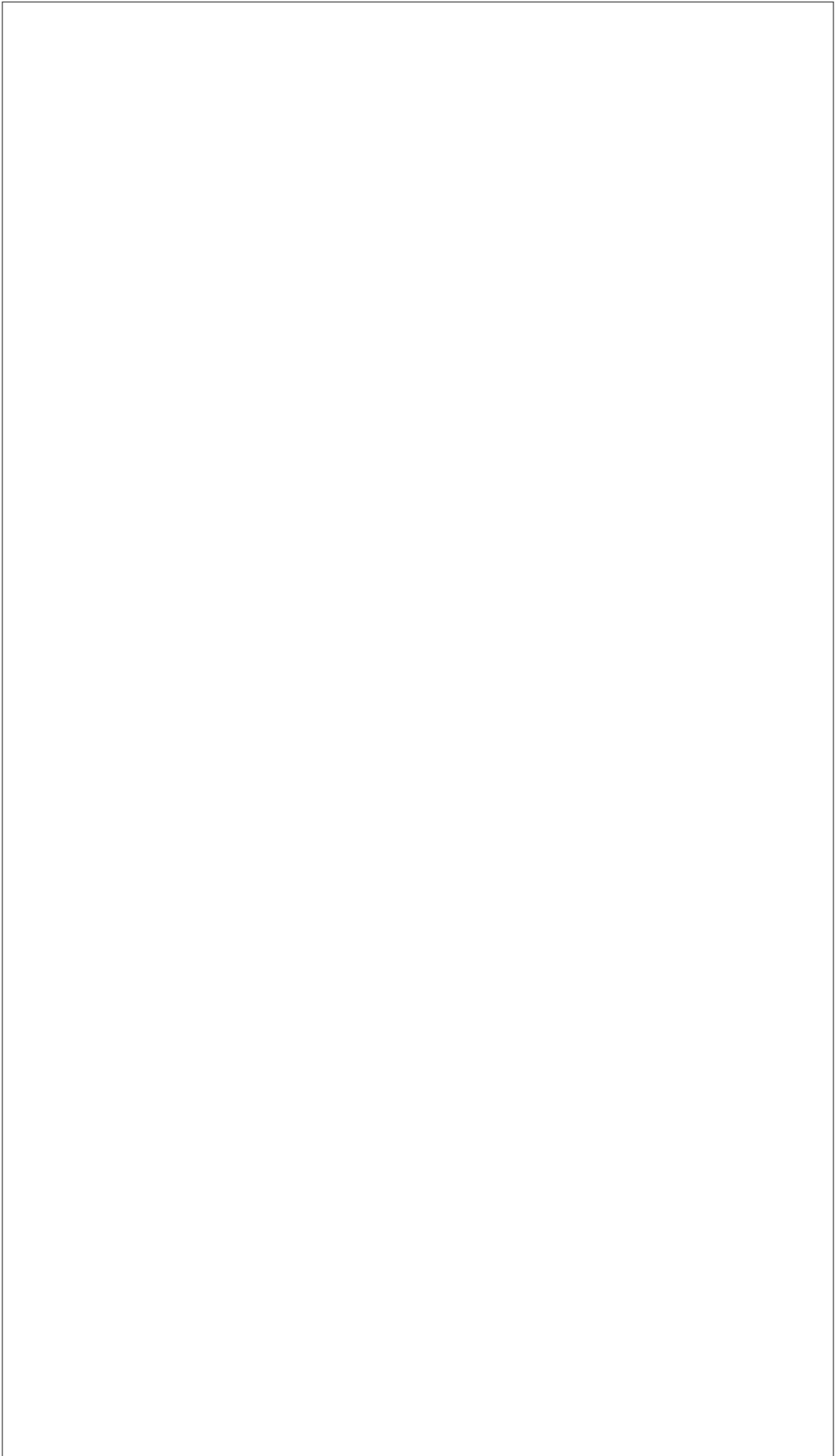
22 (Off the record.)

23 (The following material
24 was placed under seal by direction
25 of ALJ Lau.)

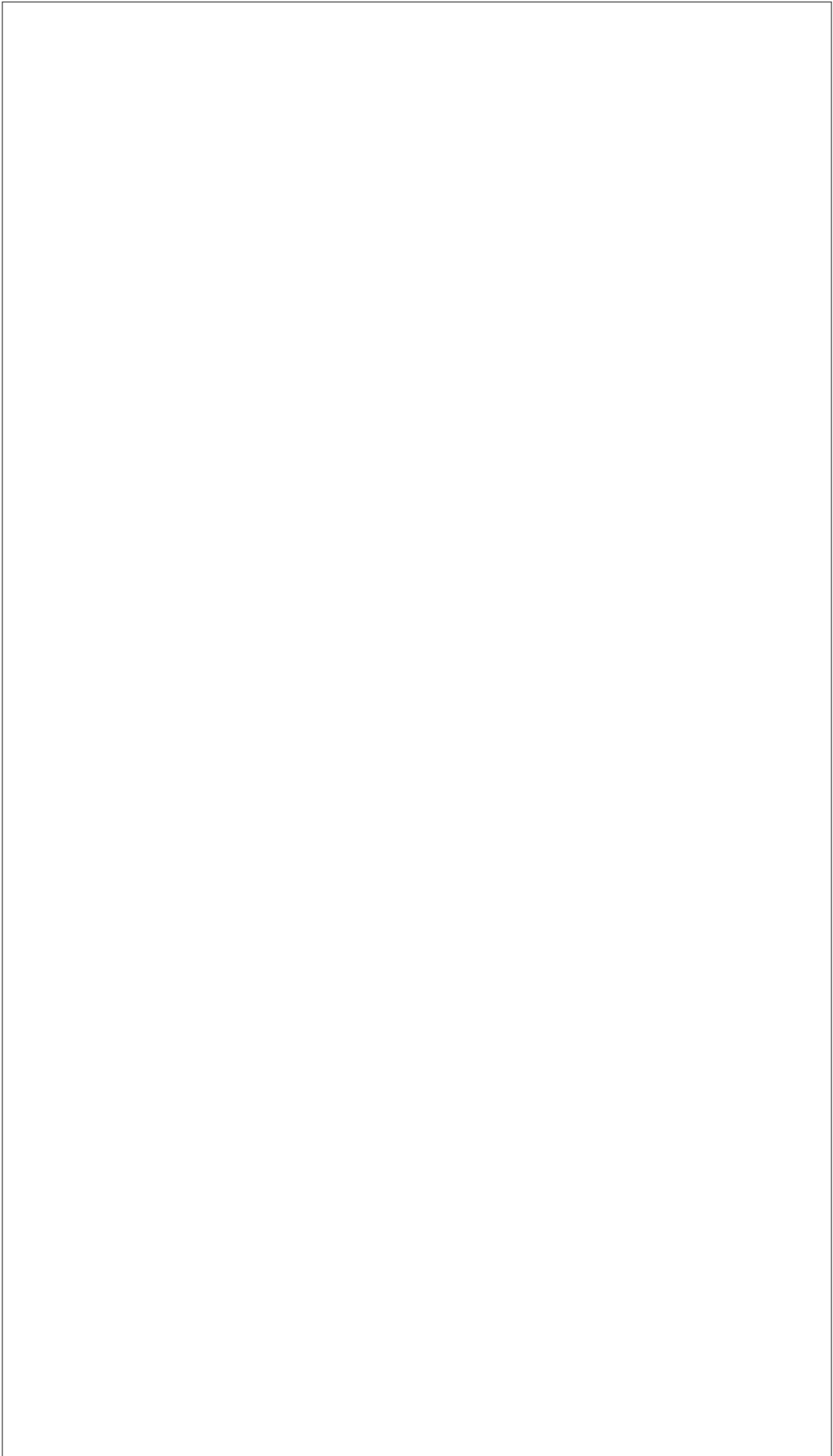
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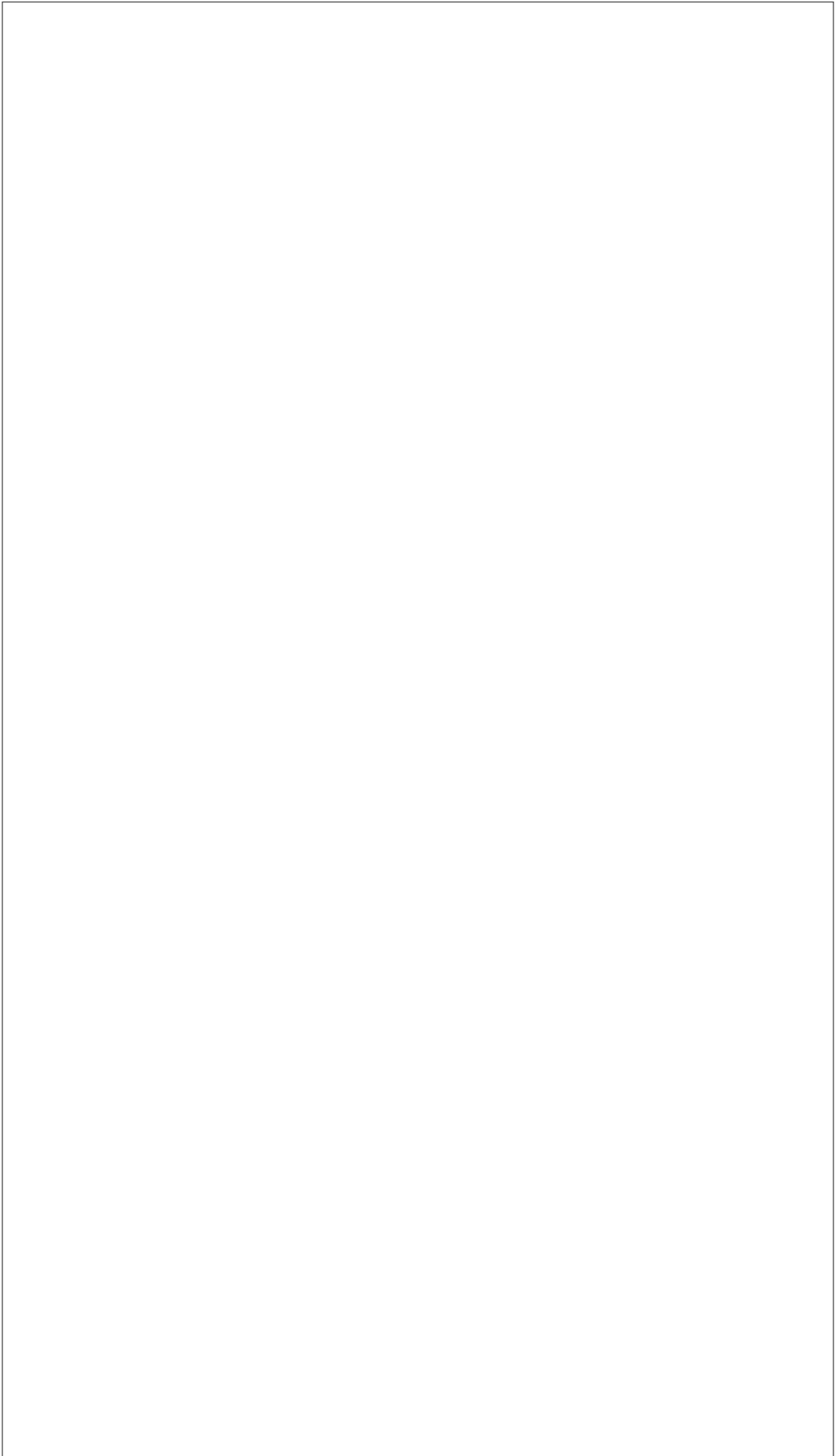
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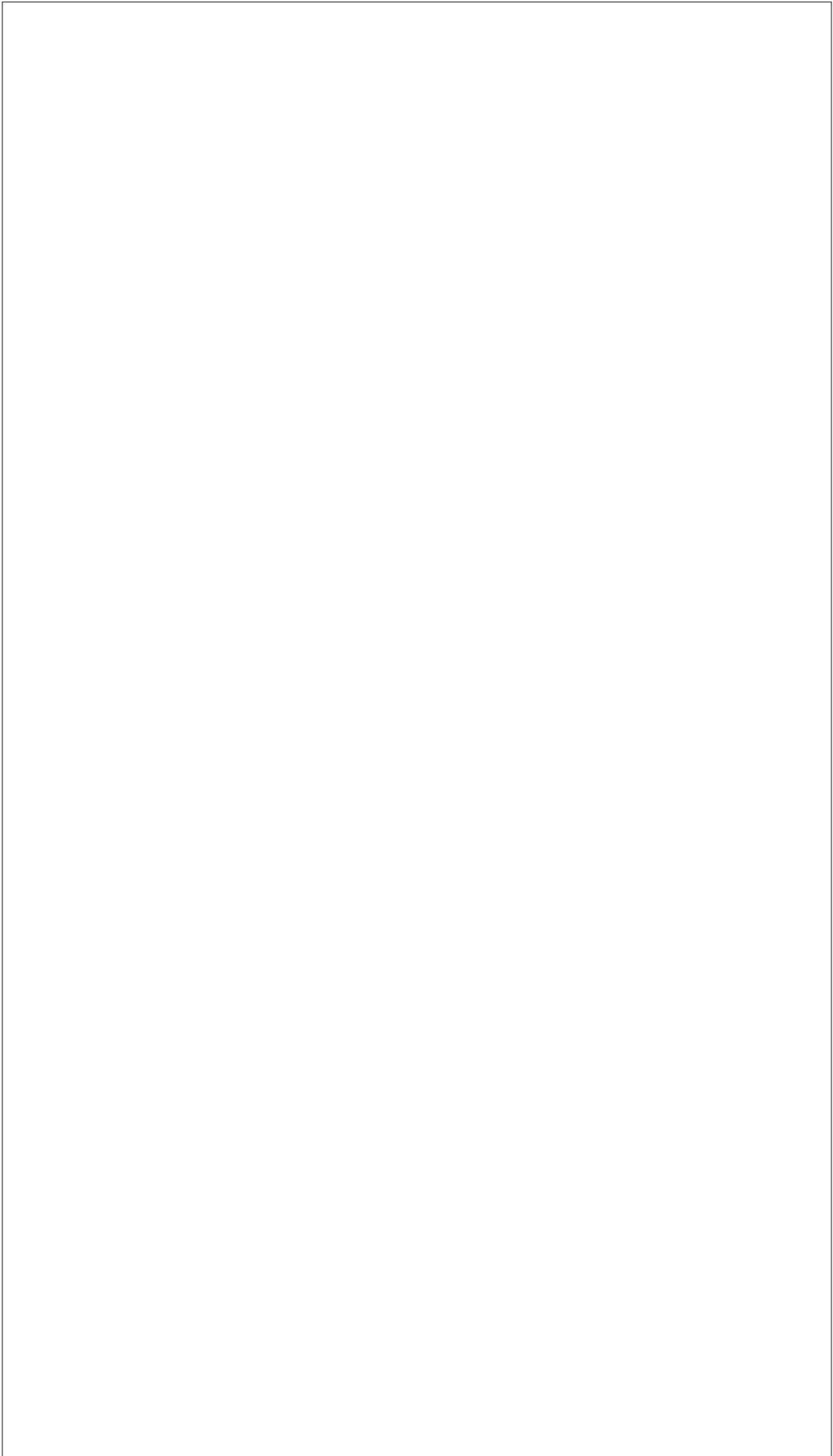
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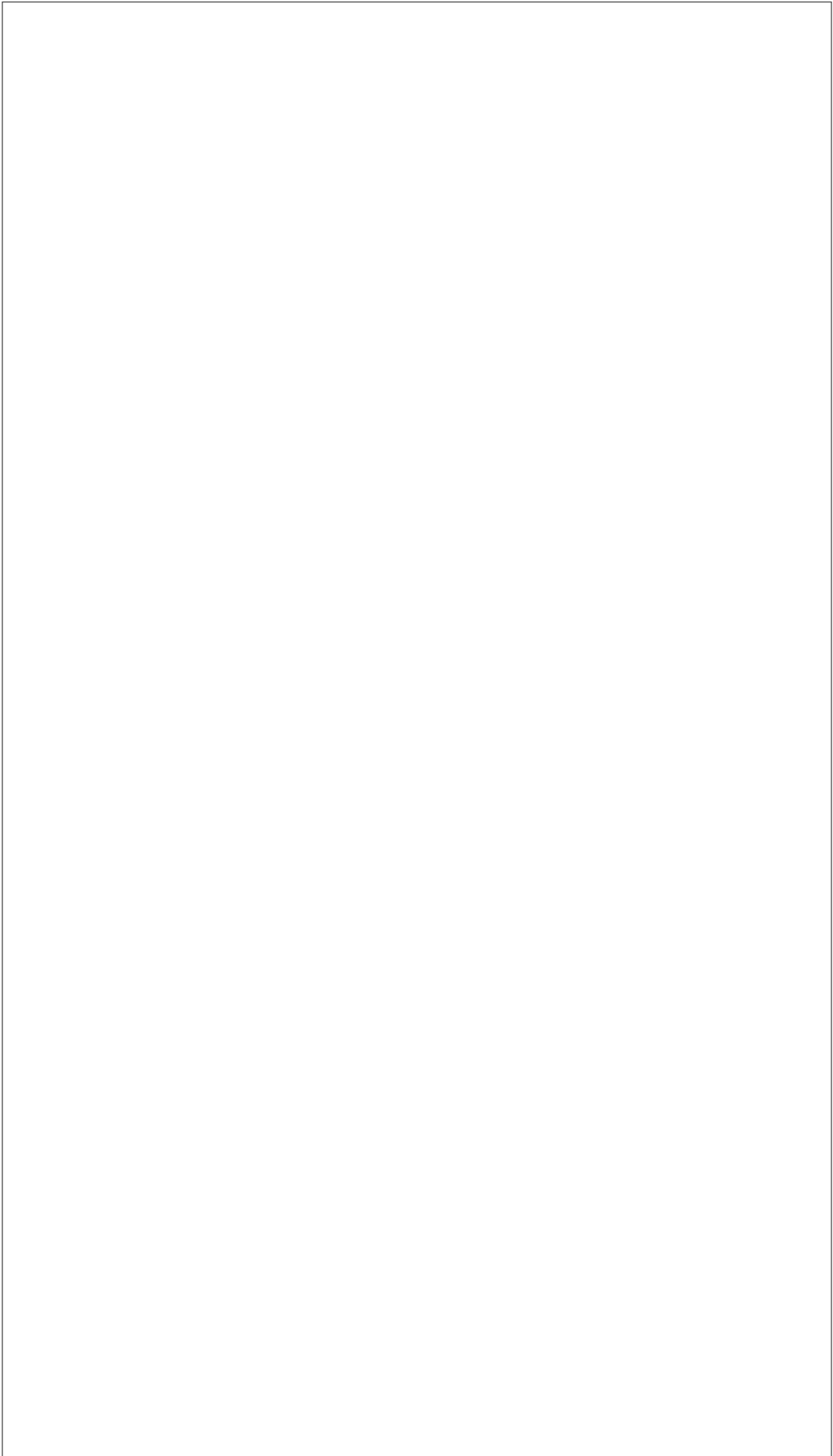
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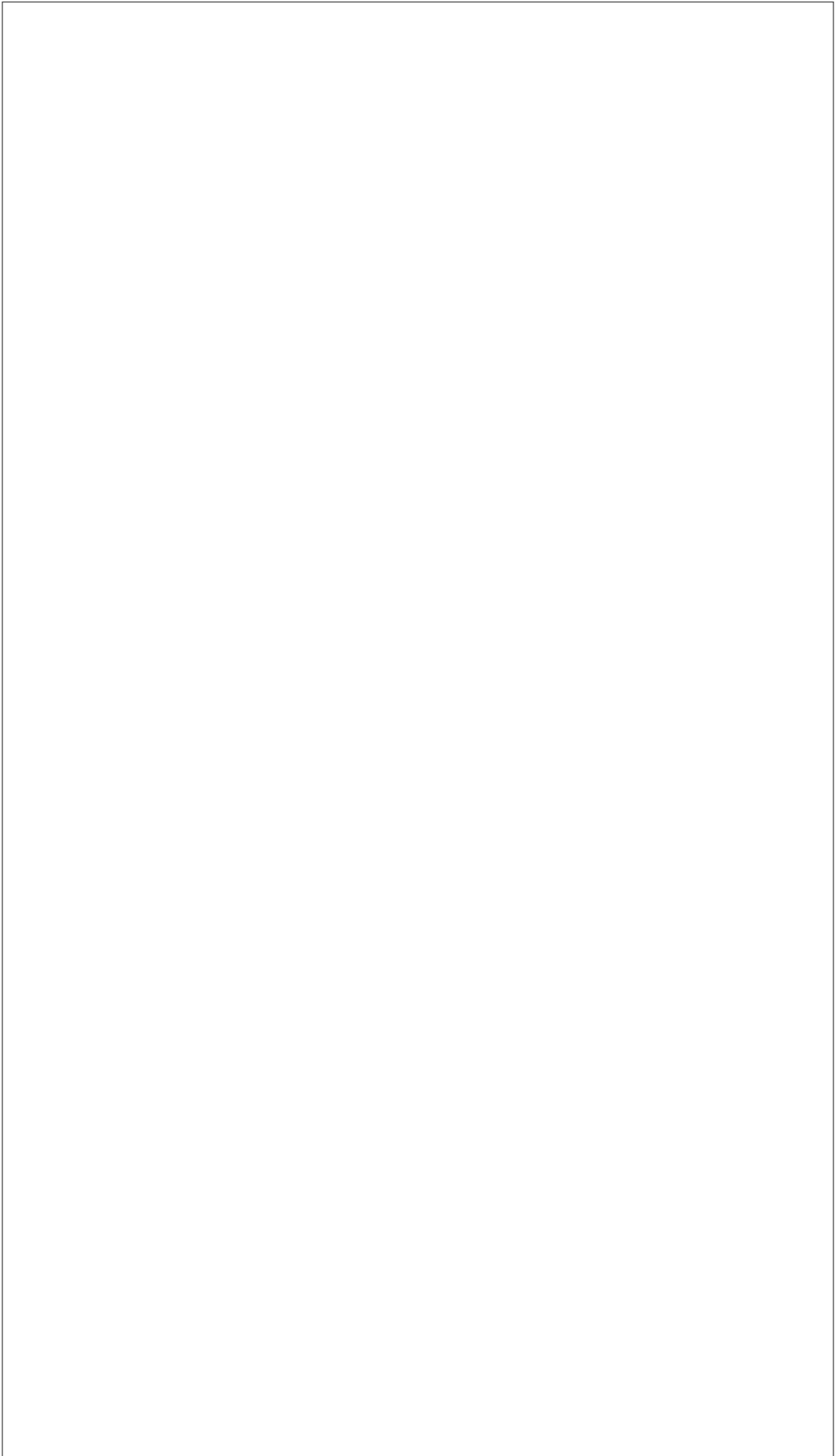
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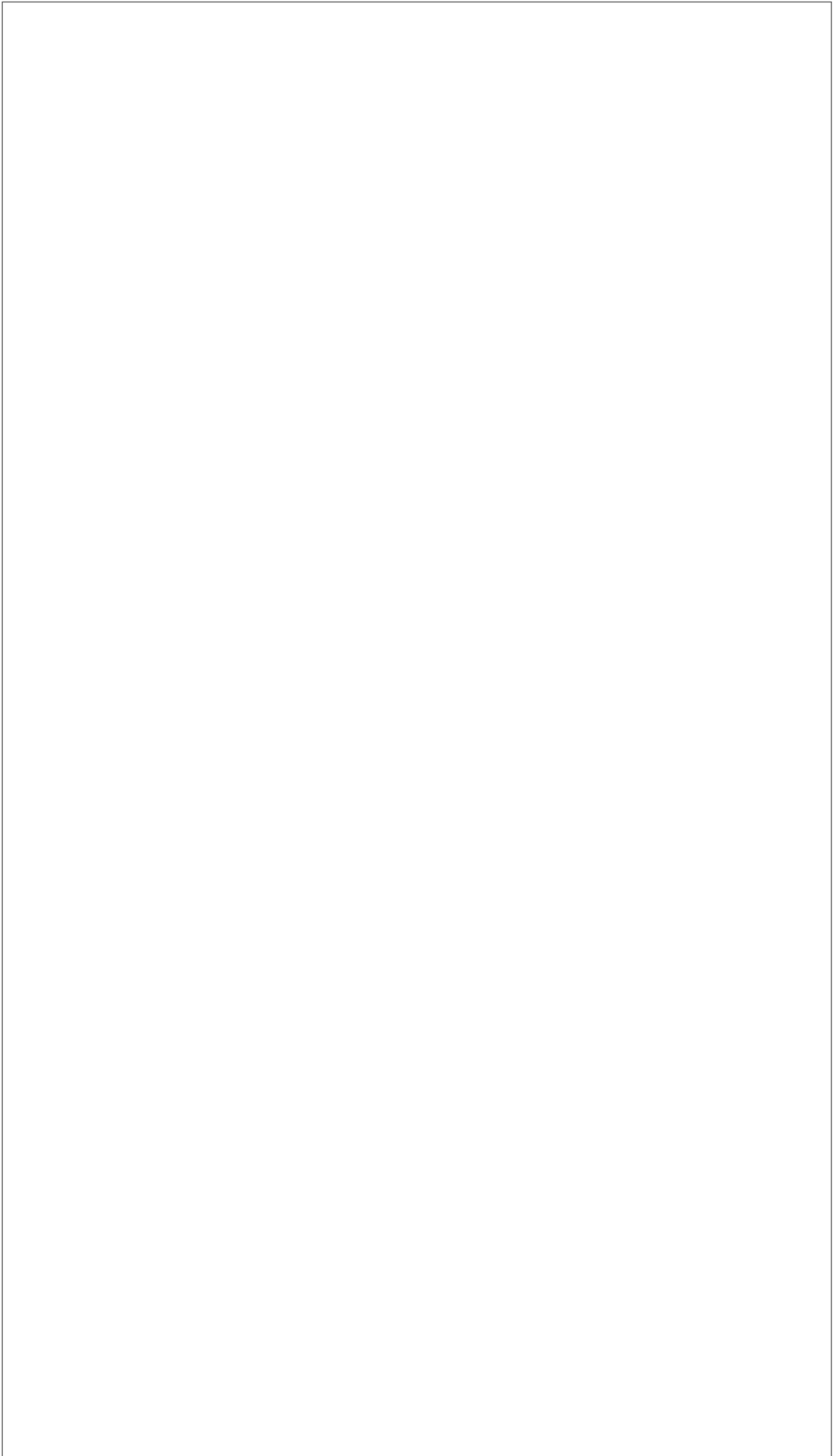
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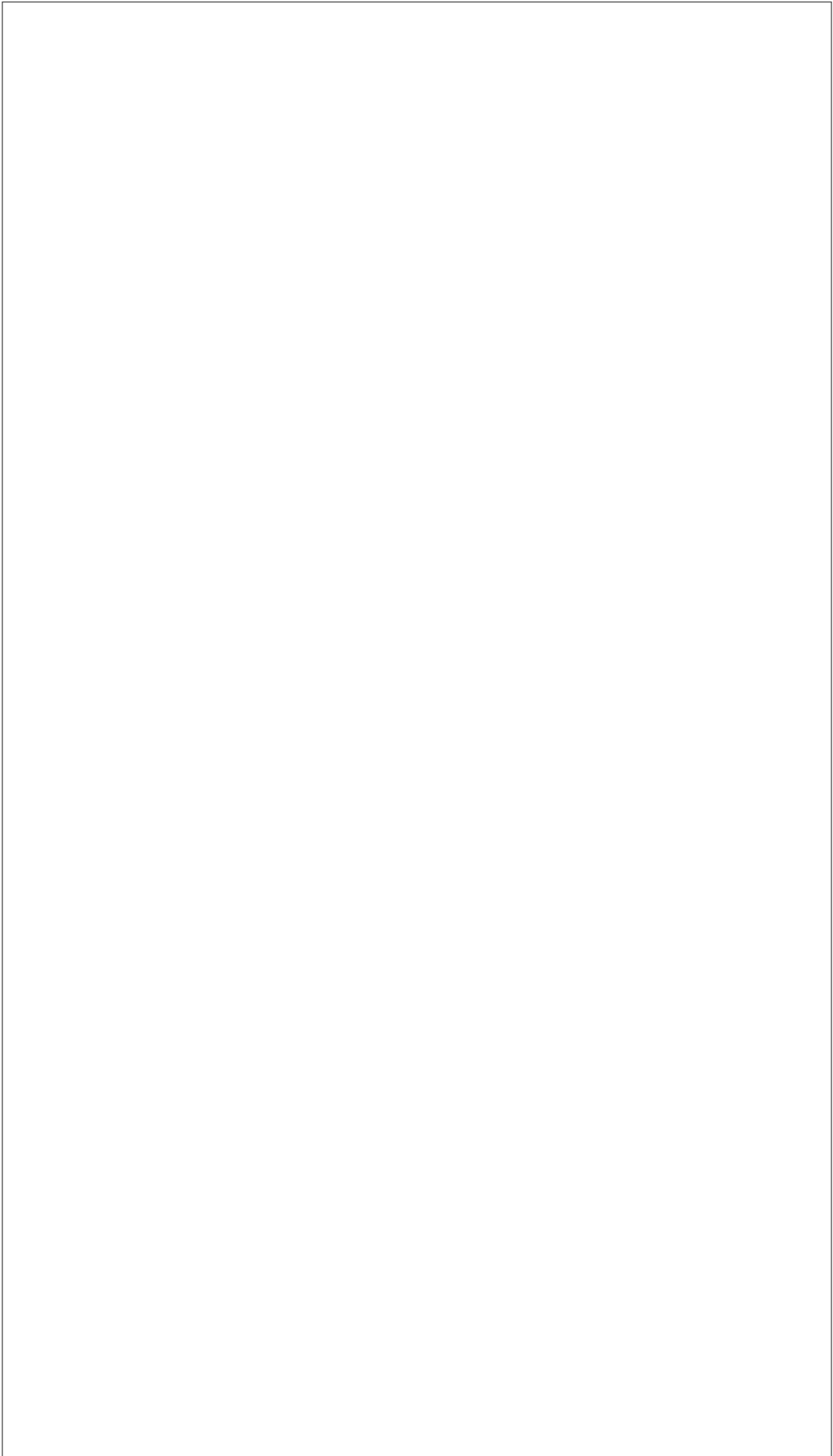
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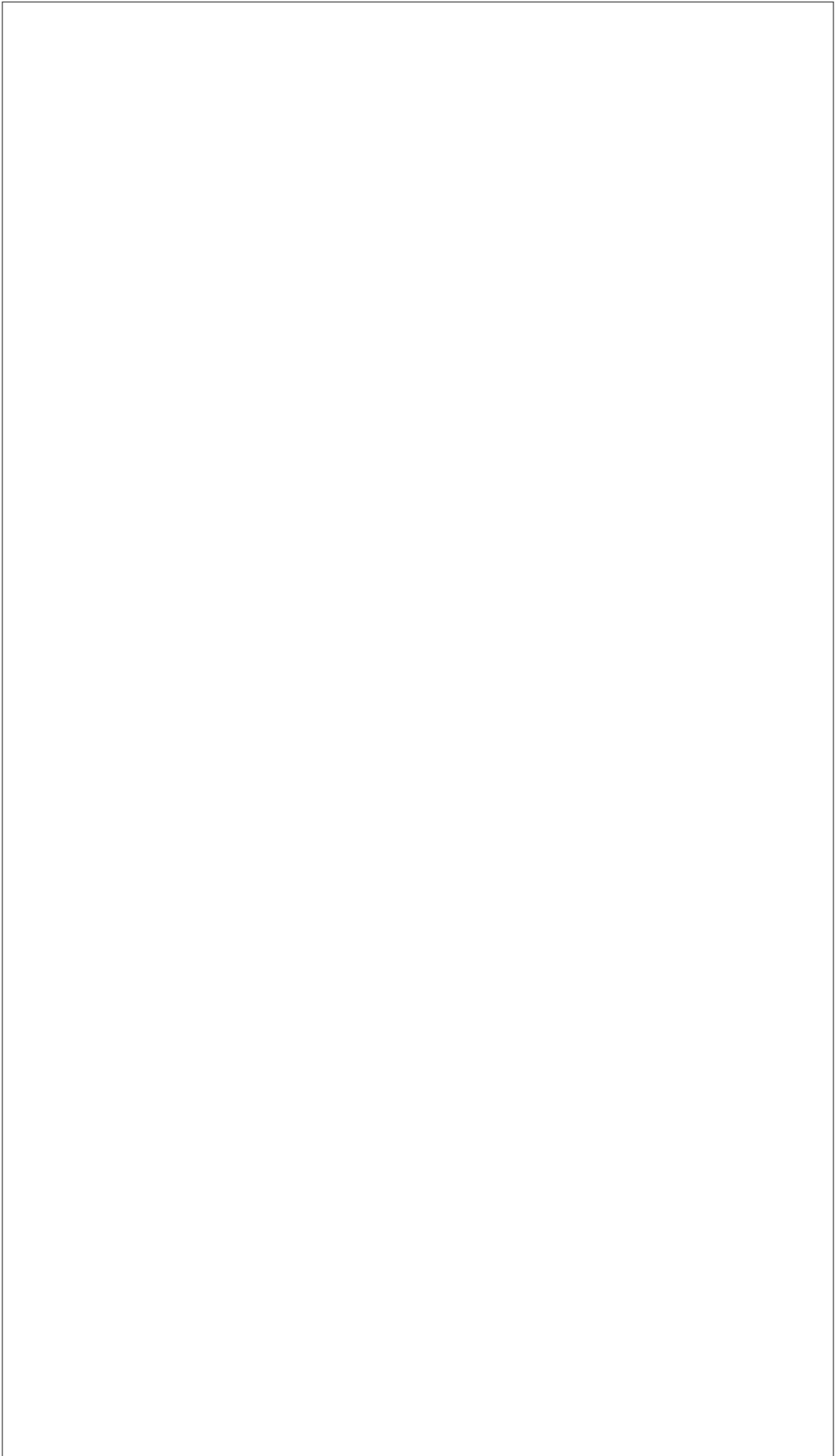
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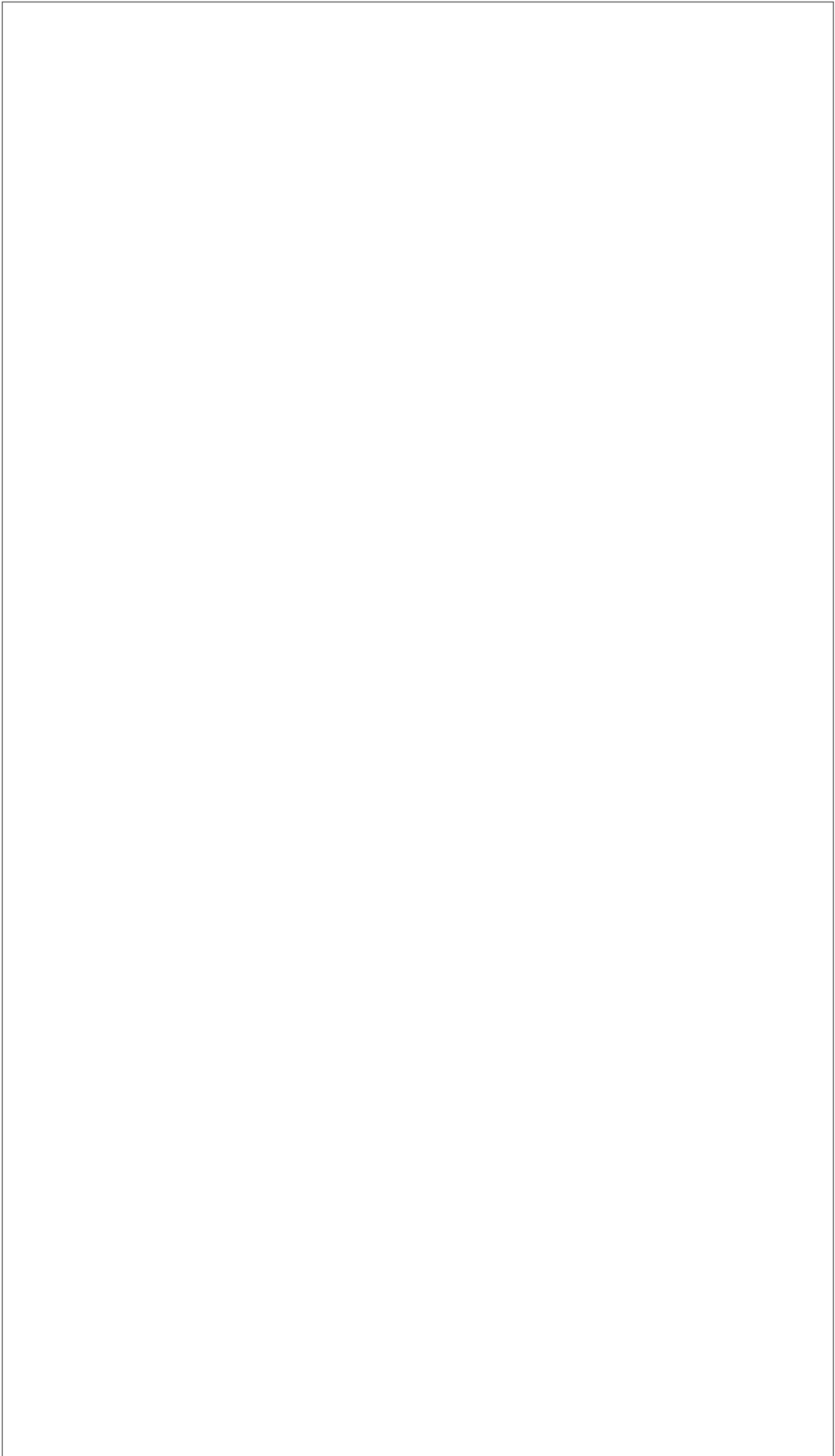
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(End sealed material.)

ALJ LAU: And Joe --

MR. HAGA: You're on mute, your Honor.

ALJ LAU: Okay. Sorry. Thank you. I forget that once you're back you're on mute. Jacob (sic), can you confirm that we're in public session now.

MR. HAGA: Good afternoon, Judge Lau. This is Joe Haga. Yes, we are back in public session.

ALJ LAU: All right. We just closed -- we just

1 closed our confidential session, and now we are back
2 into the public session. We just finished the cross of
3 Mr. Vince Bilovsky.

4 And, Mr. Jerman, are you ready to do any
5 redirect, or do you have any redirect?

6 MR. JERMAN: I do, your Honor. If you could
7 give me a second.

8 ALJ LAU: Okay. Let's go off the record.

9 (Off the record.)

10 ALJ LAU: Let's go back on record.

11 Mr. Jerman, do you have any redirect?

12 MR. JERMAN: I don't have any redirect.

13 ALJ LAU: All right. Thank you. It is now
14 4:11 p.m., and we are actually only scheduled to go to
15 4:30. We have two more witnesses, and that will be
16 Mr. Perez, Ms. -- actually, we have three witnesses,
17 Ms. Katie Chollet-Guibert and Mr. Perez and Ms. Dalu.

18 So let me first excuse Mr. Vince Bilovsky from
19 the witness stand. Thank you for attending and
20 participating.

21 THE WITNESS: Thank you, your Honor.

22 ALJ LAU: So we will be in recess soon, but for
23 tomorrow's schedule, we will start promptly at 10:00
24 a.m. again. Again, I ask that parties log on at 9:30
25 just so that if we have any housekeeping matters to take

1 care of we can do that. And my goal always is to go on
2 record at 10:00 a.m. sharp. And we will start with
3 Ms. Katie Chollet-Guibert. I'm very bad with names.

4 MS. CHOLLET-GUIBERT: That was a very good try.
5 Thank you.

6 ALJ LAU: Okay. And I believe we only have 30
7 minutes of cross from Mr. Freedman for
8 Ms. Chollet-Guibert; is that correct?

9 MR. FREEDMAN: That's correct, your Honor. It
10 could be less than that depending on how it goes.

11 ALJ LAU: Okay. And then we have an hour and a
12 half of cross for Mr. Perez. For Mr. Perez, would there
13 be any questions that would implicate confidential data.

14 MR. PARKER: Wayne Parker for Cal Advocates,
15 your Honor. I'm not sure who else you're addressing the
16 question to, but Cal Advocates does not intend to
17 question Mr. Perez on the confidential portions of his
18 testimony.

19 ALJ LAU: But you are scheduled for 30 minutes,
20 correct?

21 MR. PARKER: That is correct, your Honor.

22 ALJ LAU: What about Mr. Freedman? Do you have
23 any questions that would pertain to confidential data?

24 MR. FREEDMAN: I don't believe so, your Honor,
25 and the exhibits that we have for Mr. Perez are all

1 confidential -- all are public.

2 ALJ LAU: And Mr. Geesman.

3 MR. GEESMAN: Your Honor, I'm afraid that I've
4 got confidential exhibits for Mr. Perez. So I will need
5 to take most of my reserved time in a confidential
6 session.

7 ALJ LAU: Okay. So you will be last when we
8 come to Mr. Perez, and we'll have Cal Advocates first
9 with Mr. Perez, then TURN, and then Mr. Geesman with
10 A4NR, and then we will end with Ms. Dalu -- did I
11 pronounce her name right? I hope so -- Ms. Dalu with
12 Cal Advocates for 30 minutes.

13 Mr. Jerman, you've been keeping up the
14 schedule. So I think that concludes -- that would
15 conclude --

16 MR. LANGLEY: Your Honor, this is Charles
17 Langley with Public Watchdogs.

18 Could we ask Mr. Perez a couple of questions at
19 this late date?

20 ALJ LAU: Yes. What is your estimate of the
21 time needed?

22 MS. BABIARZ: Ten minutes.

23 MR. LANGLEY: Ten minutes.

24 ALJ LAU: Okay. That's fine. So I have on
25 schedule right now about 3 hours and 10 minutes of cross

1 for tomorrow.

2 Mr. Jerman, is that correct?

3 MR. JERMAN: I have 2 hours, 40 minutes. Yeah.
4 I have 2 hours, 40 minutes because SCE waived the cross
5 we had reserved for Mr. Geesman and Mr. Kinonian.

6 ALJ LAU: Okay. Actually, for Ms. Dalu, I have
7 to correct myself. There is -- Cal Advocates reserved
8 for 30 minutes, and TURN reserved for 30 minutes.
9 Actually, let's go off record.

10 (Off the record.)

11 ALJ LAU: Let's go back on record.

12 We will be in recess, and tomorrow we will have
13 Ms. Katie Chollet-Guibert come to the witness stand.
14 All right. Thank you.

15 Off the record.

16 (At the hour of 4:16 p.m., this matter having
17 been continued to 10:00 a.m., January 26,
18 2023, the Commission then adjourned.)

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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE
STATE OF CALIFORNIA

CERTIFICATION OF TRANSCRIPT OF PROCEEDING
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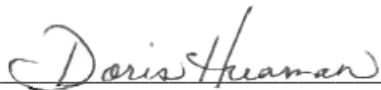

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