

**PUBLIC UTILITIES COMMISSION**505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298**FILED**

01/02/25

09:22 AM

A2202016

January 2, 2025

**Agenda ID #23228**  
**Ratesetting**

TO PARTIES OF RECORD IN APPLICATION 22-02-016:

This is the proposed decision of Administrative Law Judge Elaine C. Lau. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's February 20, 2025 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties to the proceeding may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure. Electronic copies of comments should also be sent to the Intervenor Compensation Program at [icompcoordinator@cpuc.ca.gov](mailto:icompcoordinator@cpuc.ca.gov).

/s/ MICHELLE COOKE

Michelle Cooke

Chief Administrative Law Judge

MLC: avs

Attachment

Decision **PROPOSED DECISION OF ALJ LAU** (Mailed 1/2/2025)

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

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

Application 22-02-016

**DECISION DENYING COMPENSATION TO PUBLIC WATCHDOGS**

<b>Intervenor:</b> Public Watchdogs	<b>For contribution to Decision (D.)</b> 24-08-001
<b>Claimed:</b> \$105,150.00 <sup>1</sup>	<b>Awarded:</b> \$0.00
<b>Assigned Commissioner:</b> Darcie L. Houck	<b>Assigned ALJ:</b> Elaine Lau

<sup>1</sup> The correct total request is \$106,262.50. For further clarification, please see the footnote in Part III.B.

**PART I: PROCEDURAL ISSUES**

<p><b>A. Brief description of Decision:</b></p>	<p>This decision approves recorded costs of \$3.11 million for San Onofre Nuclear Generating Station (SONGS) 1 projects and \$606.7 million for SONGS 2 &amp; 3 projects but disallows \$30 million of these recorded costs as a result of the Settlement Agreement. This decision also approves the 2020 SONGS 1 Decommissioning Cost Estimate (DCE) of \$225.9 million, 2020 SONGS 2 &amp; 3 DCE of \$4,712 million, and 2019 PVNGS (Palo Verde Nuclear Generating Station) 1, 2 &amp; 3 DCE of \$594.2 million.</p> <p>“On May 2, 2022, a prehearing conference (PHC) was held, during which party status was granted to Pacific Gas &amp; Electric Company (PG&amp;E) and Public Watchdogs.</p> <p>The Decision adopted a Settlement Agreement that Public Watchdogs did not participate in. However, in Section 3.4. of the Decision, it is noted that “... Public Watchdogs examined the decommissioning costs of the SONGS 2 &amp; 3 units using forensic auditing techniques and noted that the SONGS decommissioning costs are significantly larger than other nuclear power plants.” And that “ Additionally, Public Watchdogs recommended deducting \$115,000 from the 2020 DCE for the SONGS Units 2 and 3 for the costs of a third-party independent review of SCE’s Inspection and Maintenance Program mandated by the California Coastal Commission. According to Public Watchdogs, SCE refused to accept the recommendations put forth by the third-party independent reviewer.”</p> <p>The Commission accepted Southern California Edison’s argument that a third-party independent review of SCE’s “Inspection and Maintenance Program” should be deferred until 2027.</p>
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**B. Intervenor must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812:<sup>2</sup>**

	<b>Intervenor</b>	<b>CPUC Verification</b>
<b>Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):</b>		
1. Date of Prehearing Conference:	5/2/2022	Verified
2. Other specified date for NOI:		
3. Date NOI filed:	05/31/2022	Verified
4. Was the NOI timely filed?		Yes
<b>Showing of eligible customer status (§ 1802(b)) or eligible local government entity status (§§ 1802(d), 1802.4):</b>		
5. Based on ALJ ruling issued in proceeding number:	I1210113	A.22-02-016
6. Date of ALJ ruling:	Pending	October 31, 2022
7. Based on another CPUC determination (specify):	<p>Public Watchdogs was previously granted intervenor status on March 22, 2018, in Investigation 12-10-013 Joint Ruling of Assigned Commissioner and Administrative Law Judge Granting Limited Party Status to Public Watchdogs.</p> <p>In CPUC proceeding A22-02-016, Public Watchdogs has been classified as a Category 3 group or organization. As such, Public Watchdogs is authorized, pursuant to its articles of incorporation or bylaws, to represent the interests of residential ratepayers as well as small commercial customers.</p> <p>The California Legislature requires the CPUC to adjust the utility's rates so that utilities can collect any amounts paid to</p>	Noted

<sup>2</sup> All statutory references are to California Public Utilities Code unless indicated otherwise.

	<b>Intervenor</b>	<b>CPUC Verification</b>
	<p>intervenors. Therefore, it's actually the ratepayers who pay for the awards of intervenor compensation. Only the utility, subject to the proceeding, is responsible for the payment of intervenor compensation. The utility will then increase its rate accordingly to cover any awards paid.</p> <p>Conversely, when a CPUC proceeding applies to an entire industry, awards of compensation are paid by the CPUC out of ratepayer fees collected by all utilities. Because Public Watchdogs asserted successfully that the Diablo Canyon Nuclear Power Plant (DCNPP) triennial review be appropriately assessed separately from 'SONGS, the ratepayer fees collected by all utilities is not applicable to this A22-02-016 triennial review specific to SONGS.</p> <p>Because Public Watchdogs is in direct alignment of the intention of the CPUC Intervenor Compensation program and has met the requirements set forth in the Public Utilities Code to request compensation, Public Watchdogs is considered an intervenor for purposes of the applicable Public Utilities Code. As such, we have provided the CPUC in proceeding A22-02-016 an opportunity to 'better make informed decisions' by considering the perspective and impact of this triennial proceeding on the ratepayer as well as the</p>	

	<b>Intervenor</b>	<b>CPUC Verification</b>
	utility’s small commercial ratepayer’s business operating costs.	
8. Has the Intervenor demonstrated customer status or eligible government entity status?		Yes
<b>Showing of “significant financial hardship” (§1802(h) or §1803.1(b)):</b>		
9. Based on ALJ ruling issued in proceeding number:	pending	Not verified
10. Date of ALJ ruling:	Pending	Not verified
11. Based on another CPUC determination (specify):		
12. Has the Intervenor demonstrated significant financial hardship?		No, see Comment A.
<b>Timely request for compensation (§ 1804(c)):</b>		
13. Identify Final Decision:		D.24-08-001
14. Date of issuance of Final Order or Decision:		August 5, 2024
15. File date of compensation request:		October 7, 2024
16. Was the request for compensation timely?		No, see Comment B.

**C. Additional Comments on Part I:**

<b>#</b>	<b>Intervenor’s Comment(s)</b>	<b>CPUC Discussion</b>
A		<p>Public Watchdogs failed to make a showing of significant financial hardship, as was required under §1804(a)(2)(B) to be eligible for an award of intervenor compensation.</p> <p>Public Watchdogs filed their notice of intent (NOI) on May 31, 2022. Part III of the NOI has two sections where intervenors state the basis for their significant financial hardship. In Section A, Public Watchdogs claimed “that participation or intervention in this proceeding without an award of fees or costs imposes a significant financial hardship” on the basis that</p>

#	Intervenor’s Comment(s)	CPUC Discussion
		<p>“the economic interest of the Individual members of the group or organization is small in comparison to the costs of effective participation in the proceeding. (§ 1802(h)).” However, Public Watchdogs left Section B blank where they were instructed to explain the factual basis for their claim of significant financial hardship.</p> <p>The ALJ’s Ruling on Public Watchdog’s Showing of Significant Public Hardship, dated October 31, 2022, stated that:</p> <p style="padding-left: 40px;">Public Watchdogs must explain the factual basis for its assertion of significant financial hardship. Additionally, Public Watchdogs is required to provide a statement of whether Public Watchdogs has received any grant, contribution or other forms of the financial support purported to fund this intervenor’s participation in this proceeding. If such funding has taken place, Public Watchdogs is required to disclose the amount(s) and name(s) of the contributors. Individual donations in the amounts of less than \$5,000 must not be included. A showing of significant financial hardship must be included in an intervenor compensation claim filed in this proceeding pursuant to Section 1804(c).<sup>3</sup></p> <p>In this intervenor compensation claim, Public Watchdogs noted that the status of the showing of their significant financial hardship is “pending,” but did not provide the necessary information to “explain the factual basis for its assertion of significant hardship,” as directed in the October 31, 2022 ALJ Ruling. Public Watchdogs has not made a showing of significant financial hardship in their NOI or in this claim as required by § 1804 (a)(2)(B).</p>

<sup>3</sup> Administrative Law Judge’s Ruling on Public Watchdogs’ Showing of Significant Financial Hardship at 8.

#	Intervenor’s Comment(s)	CPUC Discussion
		Therefore, we find that Public Watchdogs is ineligible to claim intervenor compensation, and this claim is denied.
B		<p>Public Watchdogs’ claim for Intervenor Compensation is untimely.</p> <p>Intervenors have 60 days after the issuance of a decision to request an award for compensation. § 1804(c) and Rule 17.3.<sup>4</sup> If that “day falls on a Saturday, Sunday, holiday or other day when the Commission offices are closed, the time limit is extended to include the first day thereafter.” Rule 1.15.</p> <p>Decision (D.) 24-08-001 was issued on August 5, 2024, making the statutory deadline to file a claim for Intervenor Compensation October 4, 2024. Public Watchdogs filed this claim on October 7, 2024, three days after the statutory deadline.</p> <p>Therefore, in addition to failing to demonstrate significant financial hardship, Public Watchdogs’ claim is also untimely and is denied in full.</p>

**PART II: SUBSTANTIAL CONTRIBUTION**

**A. Did the Intervenor substantially contribute to the final decision (see § 1802(j), § 1803(a), 1803.1(a) and D.98-04-059):**

Intervenor’s Claimed Contribution(s)	Specific References to Intervenor’s Claimed Contribution(s)	CPUC Discussion
1. Public Watchdogs compared SONGS Decommissioning Trust Fund deposits and overall decommissioning costs to other decommissioning nuclear power plants, noting that costs	“Public Watchdogs examined the decommissioning costs of the SONGS 2 & 3 units using forensic auditing techniques and noted that the SONGS decommissioning costs are significantly larger than other nuclear power plants. ”	N/A. As per the findings in Part I.C, Comment A and Comment B, Public Watchdog’s intervenor

<sup>4</sup> All rule references are to California Code of Regulations Title 20, Division 1, Chapter 1 unless indicated otherwise.



Intervenor’s Claimed Contribution(s)	Specific References to Intervenor’s Claimed Contribution(s)	CPUC Discussion
at SONGS are inexplicably higher than every other nuclear power plant in the USA.		compensation claim is denied in full.
<p>2. Public Watchdogs examined SCE’s Inspection and Maintenance Plan (IMP) and Aging Management Plan (AMP). SCE argued that these costs must not be reviewed until 2027. CPUC agreed.</p> <p>Accordingly, Public Watchdogs has not included any expenses associated with IMP or AMP in this claim</p>	<p>Public Watchdogs is not claiming compensation in deference to CPUC’s assessment that ...</p> <p>“Upon review, we agree with SCE that the Commission should review the reasonableness of the cost of the third-party independent review, which is recorded in the NDCTP as part of the ISFSI Aging Management project, after the completion of the project”</p>	<p>N/A. As per the findings in Part I.C, Comment A and Comment B, Public Watchdog’s intervenor compensation claim is denied in full.</p>
<p>3. Public Watchdogs’ participation helped prevent combining the Diablo Canyon and SONGS decommissioning processes into a single, simultaneous hearing for both nuclear power plants.</p>		<p>N/A. As per the findings in Part I.C, Comment A and Comment B, Public Watchdog’s intervenor compensation claim is denied in full.</p>

**B. Duplication of Effort (§ 1801.3(f) and § 1802.5):**

	Intervenor’s Assertion	CPUC Discussion
<p>a. Was the Public Advocates Office of the Public Utilities Commission (Cal Advocates) a party to the proceeding?</p>	Yes	N/A
<p>b. Were there other parties to the proceeding with positions similar to yours?</p>	No	N/A
<p>c. If so, provide name of other parties:</p>		
<p>d. Intervenor’s claim of non-duplication:</p> <p>There was no duplication of effort</p>		<p>N/A. As per the findings in Part I.C, Comment A and Comment B, Public Watchdog’s</p>

	Intervenor’s Assertion	CPUC Discussion
<b>a. Was the Public Advocates Office of the Public Utilities Commission (Cal Advocates) a party to the proceeding?</b>	Yes	N/A
		intervenor compensation claim is denied in full.

**PART III: REASONABLENESS OF REQUESTED COMPENSATION**

**A. General Claim of Reasonableness (§ 1801 and § 1806):**

	CPUC Discussion
<p><b>a. Intervenor’s claim of cost reasonableness:</b> Public Watchdogs has not charged for any of the work product or evidence that was submitted and rejected for procedural reasons. We have billed our hours based on our direct participation in activities that we believe to be relevant to the Decision.</p>	N/A. As per the findings in Part I.C, Comment A and Comment B, Public Watchdog’s intervenor compensation claim is denied in full.
<p><b>b. Reasonableness of hours claimed:</b>  Public Watchdogs has included the significant time its advocates have spent at Southern California Edison’s Community Engagement Panel (CEP) meetings, since August 9, 2018. These meetings provide status reports to the public for the decommissioning of the San Onofre Nuclear Generating Station.  Public Watchdogs verified immediately upon SONGS abrupt and premature 2012 closure, that the costs, estimated at \$3 million per year for SCE’s Community Engagement Panel (CEP) quarterly meetings are funded by the utilities’ “ratepayer contributions” into the SONGS Decommissioning Trust Fund (DTF). The estimated CEP meeting costs were incorporated into Southern California Edison’s (SCE) 2014 SONGS Decommissioning Cost Estimate that were required to accompany SCE’s “Post-Shutdown Decommissioning Activities Report” (PSDAR) to the Nuclear Regulatory Commission (NRC) for its approval.  SCE’s CEP charter states that its “Purpose” is for the SONGS Co-owners (SCE and SDGE) to recognize the importance of open and transparent dialogue with the local community with respect to decommissioning</p>	N/A. As per the findings in Part I.C, Comment A and Comment B, Public Watchdog’s intervenor compensation claim is denied in full.

	CPUC Discussion
<p>activities. Each and every one of those decommissioning activities represent a cost funded by the utilities’ <i>“ratepayer contributions.”</i></p> <p>CEP meetings are <i>“intended to serve as a conduit for public information and encourage community involvement and communication with the SONGS Co-owners on matters related to SONGS decommissioning.”</i> As such, SONGS Co-owners “provide regular decommissioning updates” and “... serve the interests of area communities by acting as a sounding-board on decommissioning issues and activities”; each of which have a cost that is paid for by <i>“ratepayer contributions.”</i></p> <p>As a Category 3 organization, <i>“... authorized in its articles of incorporation or bylaws to represent the interests of residential ratepayers as well as small commercial customers”</i>, Public Watchdogs’ CEP meeting attendance and relevant testimony clearly demonstrates Public Watchdogs’ ratepayer representation in relation to SONGS’ Co-owners overall decommissioning costs. Public Watchdogs established that those costs exceed other decommissioning projects of comparable size throughout the U.S.</p> <p>Public Watchdogs’ observations on SONGS’ decommissioning costs are what warranted our decision to apply Benford’s Law analyses to the overall decommissioning costs at SONGS in proceeding A22-02-016. These decommissioning costs were paid for by the residential ratepayers’ and small commercial customers. The Utilities have been authorized by the CPUC’s Energy Division, which administers access to the SONGS decommissioning Trust Fund.</p> <p>Therefore, Public Watchdogs’ application of a Benford’s Law analysis in proceeding A22-02-016 is a direct demonstration of our representation regarding the interests of the ratepayers and small commercial customers.</p> <p><b>BACKGROUND:</b></p> <p>On August 9, 2018, SCE’s Chief Nuclear Officer (CNO) falsely claimed during a CEP meeting that decommissioning was halted at San Onofre to “give the crews a rest.” This claim, was made by the CNO on page 15, line 15 of the <a href="#">Transcript</a> and is available at this hyperlink: <a href="https://bit.ly/4ey0li8">https://bit.ly/4ey0li8</a>.</p> <p>The CNO’s false statement was later contradicted by a worker at San Onofre who revealed that the work stoppage was caused by what the Nuclear Regulatory Commission (NRC), would characterize later as a “near-miss” or “near-hit,” when a 100,000 pound canister of nuclear waste</p>	

	<b>CPUC Discussion</b>
<p>was left dangling on a quarter inch thick steel flange, eighteen feet above the floor of a nuclear waste storage silo.</p> <p>This “Red Flag” incident, and the deception surrounding it have spurred widespread public outrage and <a href="#">concern</a>. This red flag was also a warning that requires further scrutiny of all decommissioning costs. Consequently, Public Watchdogs has monitored all of the CEP meetings that have followed the August 9, 2018 CEP meeting. We have therefore included the hours we have spent at CEP meetings in this request for intervenor compensation.</p>	
<p><b>c. Allocation of hours by issue:</b> Public Watchdogs has only logged time in direct relation to activities that are relevant to the defined scope of this proceeding.</p>	<p>N/A. As per the findings in Part I.C, Comment A and Comment B, Public Watchdog’s intervenor compensation claim is denied in full.</p>

**B. Specific Claim:\***

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Langley	2024	2.75	\$300	See comments	\$825	0.00 [1]	N/A [2]	\$0.00
Babiarz	2023	58	\$300	See comments	\$17400	0.00 [1]	N/A [2]	\$0.00
Langley	2023			See comments	\$20475	0.00 [1]	N/A [2]	\$0.00
Vogt	2023	26.75	\$350	See Comments	\$9362.50	0.00 [1]	N/A [2]	\$0.00
Langley	2022	67	\$300		\$19250 <sup>5</sup>	0.00 [1]	N/A [2]	\$0.00
Babiarz	2022	16	\$300		\$4800	0.00 [1]	N/A [2]	\$0.00
Langley	2021	9	\$300		\$2700	0.00 [1]	N/A [2]	\$0.00
Babiarz	2021	11.5	\$300	See "BACKGROUND" above	\$3450	0.00 [1]	N/A [2]	\$0.00
Langley	2020	12		See "BACKGROUND" above	\$3600	0.00 [1]	N/A [2]	\$0.00
Babiarz	2020	12	\$300	" "	\$3600	0.00 [1]	N/A [2]	\$0.00
Langley	2019	25.5	\$300	" "	\$7650	0.00 [1]	N/A [2]	\$0.00
Babiarz	2019	29	\$300	" "	\$8700	0.00 [1]	N/A [2]	\$0.00
Langley	2018	6	\$300		\$1800	0.00 [1]	N/A [2]	\$0.00

<sup>5</sup> The correct total for Langley's 2022 work is \$20,100.

CLAIMED						CPUC AWARD		
Babiarz	2018	6	\$300	“ “	\$1800	0.00 [1]	N/A [2]	\$0.00
<i>Subtotal: \$105,413<sup>6</sup></i>						<i>Subtotal: \$0.00</i>		
<b>TOTAL REQUEST: \$</b>						<b>TOTAL AWARD: \$0.00</b>		

\*We remind all intervenors that Commission staff may audit the records and books of the intervenors to the extent necessary to verify the basis for the award (§1804(d)). Intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Intervenors’ records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.

\*\*Travel and Reasonable Claim preparation time are typically compensated at ½ of preparer’s normal hourly rate

**C. Attachments Documenting Specific Claim and Comments on Part III:**

**D.**

Attachment or Comment #	Description/Comment
1	Certificate of Service
2	Excel Spreadsheet

**E. CPUC Comments, Disallowances, and Adjustments**

Item	Reason
[1] Total Hours	As explained in Part I.C, Public Watchdogs is ineligible for compensation. We therefore deny Public Watchdog’s intervenor compensation claim in full.
[2] Hourly Rates	Because Public Watchdog’s intervenor compensation claim is denied in full for the reasons noted in Part I.C., we do not assess the reasonableness of the requested hourly rates.

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<sup>6</sup> The correct claimed subtotal and request total is \$106,262.50.

**PART IV: OPPOSITIONS AND COMMENTS**  
**Within 30 days after service of this Claim, Commission Staff**  
**or any other party may file a response to the Claim (see § 1804(c))**

<b>A. Opposition: Did any party oppose the Claim?</b>	No
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<b>B. Comment Period: Was the 30-day comment period waived (see Rule 14.6(c)(6))?</b>	No
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If not:

<b>Party</b>	<b>Comment</b>	<b>CPUC Discussion</b>

**FINDINGS OF FACT**

- Public Watchdogs failed to make a showing of significant financial hardship in their notice of intent and in this claim.
- Public Watchdogs’ claim is untimely, filed 63 days after the issuance of a decision closing the proceeding.

**CONCLUSION OF LAW**

- The Claim fails to satisfy all requirements of Pub. Util. Code §§ 1801-1812 and should be denied.

**ORDER**

- Public Watchdogs is awarded \$0.00.

2. The comment period for today's decision is not waived.

This decision is effective today.

Dated \_\_\_\_\_, at Sacramento, California.



## APPENDIX

## Compensation Decision Summary Information

<b>Compensation Decision:</b>		<b>Modifies Decision?</b>	No
<b>Contribution Decision(s):</b>	D2408001		
<b>Proceeding(s):</b>	A2202016		
<b>Author:</b>	ALJ Lau		
<b>Payer(s):</b>	N/A		

## Intervenor Information

Intervenor	Date Claim Filed	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Public Watchdogs	October 7, 2024	\$105,150.00	\$0.00	N/A	See Part I.C - Additional Comments on Part I:

## Hourly Fee Information

First Name	Last Name	Attorney, Expert, or Advocate	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Charles	Langley	N/A	\$300.00	2024	N/A
Nina	Babiarz	N/A	\$300.00	2023	N/A
Charles	Langley	N/A	N/A	N/A	N/A
N/A	Vogt	N/A	\$350.00	2023	N/A
Charles	Langley	N/A	\$300.00	2022	N/A
Nina	Babiarz	N/A	\$300.00	2022	N/A
Charles	Langley	N/A	N/A	2021	N/A
Nina	Babiarz	N/A	\$300.00	2021	N/A
Charles	Langley	N/A	\$300.00	2020	N/A
Nina	Babiarz	N/A	\$300.00	2020	N/A
Charles	Langley	N/A	\$300.00	2019	N/A
Nina	Babiarz	N/A	\$300.00	2019	N/A
Charles	Langley	N/A	\$300.00	2018	N/A
Nina	Babiarz	N/A	\$300.00	2018	N/A

(END OF APPENDIX)