



BEFORE THE
PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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Joint Application of Southern California)
Edison Company (U 338-E) and San Diego)
Gas & Electric Company (U 902-E) For the)
2024 Nuclear Decommissioning Cost)
Triennial Proceeding.)
_____)

Application No. 24-12-003
(Filed December 6, 2024)

**ALLIANCE FOR NUCLEAR RESPONSIBILITY'S
REPLY BRIEF**

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SUMMARY OF RECOMMENDATIONS

The Commission should order that the SONGS Unit 1 and Units 2&3 DCEs submitted in SCE's and SDG&E's next NDCTP applications include analyses of:

- the 60-year post-shutdown period identified in the NRC's Generic Environmental Impact Statement for Continued Storage of Nuclear Fuel, NUREG-2157, as the end point for onsite "Short-Term Storage" at SONGS;
- the 160-year post-shutdown period identified in the GEIS as the end point for onsite "Long-Term Storage" at SONGS;
- the 110-year post-shutdown median point between GEIS-identified onsite "Short-Term Storage" and "Long-Term Storage" at SONGS;
- the specific assumptions made about the operation of the DOE queue – including the national volume of SNF/GTCC, available storage capacity, and whether shutdown sites are prioritized for SNF/GTCC removal – in any assessment of the length of time SNF/GTCC will remain onsite at SONGS, including the three GEIS-based scenarios identified above;
- whether the assumptions made about the operation of the DOE queue include monetized exchanges with other contract holders and, if so, what amounts have been included in the DCEs to pay for such exchanges; and
- continued inclusion in the DCEs of the Settlement Scenario that was required to be considered in this proceeding.

I. Introduction.

Pursuant to Rule 13.12 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission” or “CPUC”), and the briefing schedule established by the October 2, 2025 ruling of Administrative Law Judge Andrea D. McGarry, the Alliance for Nuclear Responsibility (“A4NR”) submits its Reply Brief in the Joint Application of Southern California Edison Company (“SCE”) and San Diego Gas & Electric Company (“SDG&E”) for the 2024 Nuclear Decommissioning Cost Triennial Proceeding (“2024 NDCTP”). A4NR’s Reply Brief focuses on statements made in the opening briefs filed by SCE and SDG&E (the “Utilities’ Joint Opening Brief”), The Utility Reform Network (“TURN”), and the Public Advocates Office (“PAO”).

II. The Utilities’ Joint Opening Brief mischaracterizes A4NR’s Settlement Scenario recommendation and falsely conflates continued analysis with required implementation.

The Joint Opening Brief filed by SCE and SDG&E grossly distorts A4NR’s recommendation that the Settlement Scenario continue to be analyzed in the 2027 NDCTP, instead mischaracterizing it as required implementation and pre-emptive rejection of the Utilities’ preferred Operational Scenario. A4NR’s recommendation in no way excludes the Utilities’ preferred Operational Scenario from the 2027 NDCTP, or contemplates a premature choice between the two scenarios before final action by the California Coastal Commission (“CCC”). Rather, A4NR seeks updated quantification of the cost effect of the CCC enforcing the terms of Special Condition 3 of CDP 9-19-0194 for the removal, to the extent feasible, of all remaining onshore structures at SONGS that may be exposed in the future due to coastal processes or that otherwise would have coastal impacts if they were to remain. The CCC will not take this issue up until after SCE submits a required amendment to CDP 9-19-0194, which is due no later than June 1, 2028, and A4NR does not ask this Commission to prejudge the outcome of the CCC process.

The Utilities, on the other hand, are seeking Commission concurrence in the Operational Scenario’s unsupported assumption, embraced by the 2024 Units 2&3 Decommissioning Cost

Estimate (“DCE”), that the CCC will defer this removal requirement indefinitely until all spent nuclear fuel (“SNF”) has been removed from the SONGS site. Notably, this ultra-speculative approach to timing varies significantly from the DCE’s treatment of the substantive requirement that all subsurface structures be removed. As noted by SCE’s chosen DCE experts, HKA Global, LLC, “Any determination in the 2024 DCE that accounts for only partial removal of substructures would be nonconservative, arbitrary and potentially inconsistent with a subsequent decision by the U.S. Navy under the terms of the easement, and without basis.”¹ This same principle is equally applicable to the timing of such work and the CCC’s future decision under the terms of Special Condition 3.

A prudent manager would continue to evaluate the DCE cost effect of the CCC being unwilling to accept an indefinite delay in removing subsurface structures. Such a manager would also recognize that the 2029 – 2031 planning and mobilization tasks that SCE assumed for the Settlement Scenario, followed by a 2032 – 2035 execution period, are identical to those embedded in the Operational Scenario (i.e., a 2048 – 2050 planning and mobilization tasks, followed by a 2051 – 2054 execution period²). Railing about “speculative, unrealistic assumptions that have no place in a DCE”³ – assumptions made by SCE which A4NR has not contested – takes aim at both the 2029 – 2035 estimate and the 2048 – 2054 estimate, but does not refute the need to evaluate both scenarios.

The Utilities are clearly flustered by the trivial cost difference between the two scenarios. \$12.1 million (2014 \$) is less than 0.26% of the total cost, and 0.55% of the remaining cost, of the Units 2&3 decommissioning, comparable to the amounts casually dismissed elsewhere for other DCE cost items by HKA Global, LLC.⁴ A relevant benchmark for the additional costs SCE attributes to the Settlement Scenario: \$12.1 million (2014 \$) is the cost of 5.26 months of slippage in the DCE’s hallucinatory 2034 assumed national start date for federal removal of SNF.⁵ But the slight cost difference between scenarios may understate the

¹ Exhibit 0004 (SCE), p. 0418.

² *Id.*, p. 0406.

³ Utilities’ Joint Opening Brief, p. 11.

⁴ Exhibit 0201 (A4NR), p. 0023, lines 3 – 13, citing Exhibit 0004 (SCE), pp. 0393 and 0467 – 0468, and Exhibit 0006 (SCE), p. 1079, footnote 41.

⁵ *Id.*, p. 0023, lines 13 – 14, citing Exhibit 0004 (SCE), p. 0313, footnote 13.

extent to which the Units 2&3 DCE is dependent upon investment earnings gained from the indefinite deferral of substructure removal. As SCE's prepared testimony explained,

The Settlement Scenario causes funds to be spent from the trust funds earlier than necessary, thus negatively impacting the trust funds as there would be less time to accumulate earnings in the trusts. In the Settlement Scenario, approximately \$360 Million (100% share, 2014\$) would be spent shortly after Phase 2 D&D ends to remove the substructures. This would negatively impact the SONGS trusts by reducing the decommissioning funding margin SCE has to cover future decommissioning costs using only the current funds in the trusts and without additional customer contributions.⁶

This is precisely the potential impact to the DCE that a prudent manager would seek to quantitatively analyze, and such evaluation is among the responsibilities the Legislature assigned to the Commission in the Nuclear Facilities Decommissioning Act of 1985.⁷

III. The Utilities' Joint Opening Brief fails to justify the reasonableness of refusing to analyze the financial consequences of pie-in-the-sky assumptions about the timing of SNF removal.

Notwithstanding the admission by the Utilities that they "generally agree with A4NR's testimony on the financial impact of the DOE's continued non-performance,"⁸ their Joint Opening Brief finds "the appropriate way to mitigate this impact is by continuing to authorize the Utilities to deposit proceeds from litigation with the DOE in their NDTs."⁹ A4NR agrees, but the extent to which such mitigation suffices should require proper quantification rather than simple assertions of faith. After all, the track record after four litigation cycles has left some 20% of SNF claims unreimbursed by DOE. The Utilities' profound complacency until A.22-02-016 about the financial consequences to the NDTs of DOE's ongoing breach of contract was a direct contributor to the Commission's crediting in D.19-10-039 and D.20-05-004 of \$67 million

⁶ Exhibit 0004 (SCE), p. 0342 – 0343.

⁷ Pub. Util. Code §§ 8321 – 8330. See §§ 8323 and 8327.

⁸ Utilities' Joint Opening Brief, p. 13.

⁹ *Id.*, pp. 13 – 14. DOE is an acronym for the U.S. Department of Energy and NDT is an acronym for Nuclear Decommissioning Trust.

(nominal \$) of DOE reimbursements to then-current ratepayers for SONGS NDT-paid expenses.¹⁰ These payments, while benefiting then-current ratepayers, were financed by shifting a slug of the financial risk of future NDT shortfalls to future ratepayers (who are less likely to have ever received electricity from SONGS). Now the Utilities' Joint Opening Brief incorrectly describes A4NR's recommendation that a tangible financial risk to the NDTs be prudently evaluated as "making speculative adjustments to the DCE."¹¹ To be clear, A4NR is not recommending any adjustment to the DCE yet. Instead, A4NR urges the Commission to require the financial stress-testing of SNF removal assumptions that a prudent manager would apply to its own resources.

As the Utilities' Joint Opening Brief acknowledges, the Legislature directed that the Commission develop regulations and guidelines to "promote realism in estimating costs, provide periodic review procedures that create maximum incentives for accurate cost estimations, and provide for decommissioning cost controls."¹²

That the Utilities' SNF removal assumptions are entangled with other financial risks to the NDTs stemming from future CCC decisions on subsurface structures and ISFSI relocation should be a red flag to a prudent manager: further analysis is needed to appropriately bound interconnected risks. But the Utilities' continued reliance on Pollyannaish timeframes for federal performance (in undisputed contradiction of the 2021 findings of SCE's heralded SNF experts¹³), combined with the \$414 million in hidden future SNF costs documented in A4NR's unrebutted testimony,¹⁴ is worse. The SNF-related portions of the DCEs seem assembled without review by a prudent manager, and massaging assumptions to ensure that numbers balance appears to have taken precedence over publicly assessing the financial risks posed to the NDTs from indefinite delay in SNF removal. A4NR hopes that the Utilities will continue to recover SNF costs from DOE. A4NR hopes that the percentage of such litigation costs recovered will increase from historical levels. A4NR hopes that Congress will arrive at some breakthrough that enables timely removal of all SNF from the SONGS site. A4NR hopes that this breakthrough will erase, or at

¹⁰ These are amounts from SCE's ERRA proceedings, as documented by SCE in A.22-02-016 (SCE-07, p. 6). Corresponding amounts for SDG&E are unknown to A4NR.

¹¹ Utilities' Joint Opening Brief, p. 14.

¹² *Id.*, pp. 2 – 3, citing Pub. Util. Code § 8323.

¹³ Exhibit 0201 (A4NR), p. 14, lines 14 – 23.

¹⁴ *Id.*, p. 5, lines 7 – 11.

least mitigate, the \$414 million in concealed future costs embedded in the Utilities' current schedule for SNF removals. But the Commission can easily recognize that hope alone is neither a reliable calculator of financial risk nor a coherent strategy for its management.

IV. TURN overlooks material SNF-related uncertainties in characterizing the NDTs as overfunded.

Enabled by the Utilities' failure to present a quantified analysis of the financial risks to the NDTs of continued nonperformance by DOE, TURN calculates that the NDTs are overfunded and that they can withstand "decades of additional spent fuel storage costs without any need to use DOE litigation proceeds or restart collections from customers."¹⁵ TURN's assessment focuses on the Utilities' shallow response to D.24-08-001's Ordering Paragraph 5, their refusal to provide additional detail, their omission of the 12-year delay scenario relied upon in A.22-02-016, and their assurance that no additional contributions to the NDTs are presently needed.¹⁶ In reaching its conclusions about whether the NDTs are adequately funded, however, TURN overlooks the following:

- embedded within the 2024 DCE SNF removal assumptions are some 15 years of unaddressed schedule slippage, with associated costs of \$414 million (2014 \$) not included in the 2024 DCE;¹⁷
- the two private interim storage projects, cited by TURN's Opening Brief as signs of "accelerated progress on the availability of options to begin moving fuel in the 2030s,"¹⁸ have both been abandoned by their sponsors due to state opposition;¹⁹
- the description of DOE activities in 2021 – 2022 to promote "operational consolidated interim storage (CIS) facilities by the mid- to late-2030s"²⁰ does not reflect the significant redirection of DOE's SNF policies announced after the changeover in federal administrations in 2025; and

¹⁵ TURN Opening Brief, p. 16.

¹⁶ *Id.*, pp. 18 – 19.

¹⁷ Exhibit 0201 (A4NR), p. 5, lines 7 – 11.

¹⁸ TURN Opening Brief, pp. 22 – 23.

¹⁹ Exhibit 0201 (A4NR), p. 13, footnote 11, and A4NR Opening Brief, p. 4, footnote 18.

²⁰ TURN Opening Brief, p. 22.

- potential new costs to the NDTs may materialize from CCC decisions on ISFSI relocation (post-2035) and subsurface structures removal (post-2028) stemming from the indeterminate end date for onsite SNF storage at SONGS.

The acknowledged tax law and trust agreement problems created by the commingling of NDTs in TURN's cash flows²¹ limit their usefulness in this proceeding. More significantly, the omissions identified above undermine their accuracy as a predictor of overfunded status. But, combined with the Utilities' refusal to be more transparent about the unfunded cost ramifications of the 2024 DCE SNF removal assumptions, TURN's analyses point to the urgent need for a more comprehensive assessment in the 2027 NDCTP of each SONGS NDT's financial exposure to SNF-related risks. A4NR joins TURN in that call, and believes Pub. Util. Code section 8323 compels it.

V. Intergenerational equity considerations should prioritize the avoidance of additional contributions to the SONGS NDTs, and it is premature to relitigate D.24-08-001's treatment of DOE litigation proceeds.

The TURN Opening Brief's discussion of intergenerational equity, premised on the belief that there are "already substantial surpluses in the decommissioning trust funds,"²² soft-pedals the effect of time on the different cohorts of ratepayers involved after a nuclear plant has shut down and its SNF storage costs are paid exclusively from an NDT. SCE's parent company declared the Units 2&3 decommissioning fully funded in its July 31, 2014 earnings call with financial analysts.²³ D.16-04-019 approved the Utilities' proposed Units 2&3 DCE and a zero-revenue requirement, directing the Utilities to refund any overcollections to customers.²⁴ For more than a decade, there have been no ratepayer contributions to the Units 2&3 NDTs and all SNF storage costs have been paid from the Units 2&3 NDTs. This source of payment is markedly

²¹ *Id.*, p. 32.

²² *Id.*, p. 44.

²³ <https://newsroom.edison.com/releases/san-onofre-community-engagement-panel-reviewing-nuclear-plant-draft-decommissioning-plan-environmental-report-and-cost-estimate>

²⁴ D.16-04-019, OP 3.

different from the SNF storage costs at an operating plant like Diablo Canyon, where the SNF storage costs are charged directly to ratepayers until decommissioning begins and access to the NDTs to pay such costs is authorized.²⁵

D.24-08-001 framed the intergenerational equity issue in a manner similar to TURN, not acknowledging the dwindling proportion of “current ratepayers” who received electricity from SONGS or the absolute certainty that an even smaller share of “future ratepayers” will have had that experience:

Because of the uncertainties caused by DOE’s delays, there is no clear solution that will adequately address the issues of intergenerational inequities. If the DOE litigation proceeds are flowed to ratepayers today, **current ratepayers** would receive a rate credit, but **future ratepayers** who most likely did not receive energy service from SONGS may have the burden to pay for the additional spent fuel storage costs at SONGS caused by DOE’s delays. On the other hand, if the DOE proceeds are deposited into the NQNDTs and the deposits are more than necessary to cover future spent fuel costs, **future ratepayers** who may not have paid for electric service from SONGS would receive credit that should have been returned to **past generations of ratepayers**. There are, however, approximately 10 NDCTPs until SONGS is fully decommissioned, allowing the Commission the opportunity to continually evaluate the NDCTP balances and forecasted costs in each subsequent NDCTP to minimize any potential intergenerational inequities.²⁶ (emphases added)

A4NR believes that Pub. Util. Code sections 8322 and 8323 should be read to prioritize the equitable interest of future ratepayers in avoiding additional SONGS costs above the equitable interest of that subset of current ratepayers who paid into the NDTs and would receive a rate credit for a sliver of those contributions before the full magnitude of NDT exposure to future decommissioning costs is known. Regarding the growing number of current ratepayers who received no SONGS electricity and made no payments into the NDTs, it seems inequitable to prioritize their interest in a windfall rate credit over the interest of future ratepayers in avoiding being charged for a SONGS cost they either never benefitted from or

²⁵ The Settlement Agreement adopted in PG&E’s 2021 NDCTP deferred until the next NDCTP a determination of the appropriate rate treatment of DOE litigation proceeds for SNF costs at Diablo Canyon and Humboldt Bay. D.23-09-004, p. 12.

²⁶ *Id.*, pp. 24 – 25.

were assured by the Utilities had been fully paid. The respective sizes of these cohorts changes over time, but the number of future ratepayers with equitable interests in cost avoidance consistently grows while the number of current ratepayers with equitable interests in reimbursement of their past NDT contributions consistently declines.

But the most compelling sentence in the D.24-08-001 excerpt quoted above is the perceived “opportunity to continually evaluate the NDCTP balances and forecasted costs in each subsequent NDCTP to minimize any potential intergenerational inequities.”²⁷ The evidentiary record in this proceeding, with none of the Cycle 5 or Cycle 6 DOE litigation proceeds yet available and the meager analysis of SNF-related costs by the Utilities undeniable, strongly suggests that it is too soon to relitigate the balance struck by D.24-08-001.

VI. PAO’s Opening Brief is unpersuasive in arguing against the Settlement Scenario and in favor of splitting SCE’s DOE litigation proceeds between current ratepayers and the NDTs.

PAO’s Opening Brief echoes the Utilities’ refusal to distinguish between analysis and implementation of the Settlement Scenario, and should be disregarded for the same reasons A4NR identified at pp. 1 – 3 above in response to the Utilities’ Joint Opening Brief. Additionally, the PAO Opening Brief makes the baseless claim that the Settlement Scenario “prevents an earlier return of the site to the Department of the Navy,”²⁸ recycling an inaccurate claim from SCE’s initial prepared testimony that was thoroughly debunked by A4NR’s responding testimony.²⁹ The PAO Opening Brief does not provide a compelling rationale against including the Settlement Scenario along with the Operating Scenario, both updated as necessary, in the 2027 NDCTP.

With no consideration of the demonstrable SNF-related cost risks embedded in the SONGS DCEs, the PAO Opening Brief characterizes its proposed 50-50 split of SCE’s estimated share of Cycle 5 and Cycle 6 litigation proceeds as “more than enough money to make the Nuclear Decommissioning Trusts (NDTs) whole and, in fact, the NDTs would have a surplus of

²⁷ Id., p. 25.

²⁸ PAO Opening Brief, p. 3.

²⁹ See Exhibit 0201 (A4NR), p. 18, line 14 – p. 22, line 25.

funds.”³⁰ The PAO testimony describing the proposal commingles the NDTs, appears confused as to the source of NDT funding, and seems indifferent to the prospect of required contributions to the NDTs from future ratepayers. It finds justification in “the principle of intertemporal equity which, in addition to requiring the customers of today to bear the cost of the programs in place today, should also mean that today’s customers should benefit from today’s refunds.”³¹ A further PAO objective is to “benefit current ratepayers by mitigating multiple rate increases and contributing to affordability.”³² Measured against the Commission’s administration over 40 years of the Nuclear Facilities Decommissioning Act of 1985, the PAO proposal is primitive and reckless and should be rejected.

VII. Conclusion.

For the reasons stated herein, and in its Opening Brief, A4NR respectfully urges the Commission to adopt the recommendations summarized above at p. iii.

Respectfully submitted,

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³⁰ PAO Opening Brief, p. 8.

³¹ Exhibit 0400 (PAO), p. 12, lines 5 – 8.

³² *Ibid.*, lines 9 – 10.