

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE
STATE OF CALIFORNIA

PRESIDENT JOHN REYNOLDS, in attendance
COMMISSIONER DARCIE L. HOUCK, in attendance
COMMISSIONER MATTHEW BAKER, in attendance
COMMISSIONER KAREN DOUGLAS, in attendance
COMMISSIONER CHRISTINE HARADA, in attendance

ASSISTANT CHIEF ADMINISTRATIVE LAW JUDGE
ZITA KLINE, in attendance

ADMINISTRATIVE LAW JUDGE ANDREA MCGARY, presiding

Joint Application of Southern California	)	ORAL ARGUMENT
Edison Company (U 338-E) and San Diego	)	
Gas & Electric Company (U 902-E) for the	)	
2024 Nuclear Decommissioning Cost	)	Application
Triennial Proceeding.	)	24-12-003

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21
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24
25

INDEX	
ARGUMENT	PAGE
MR. BAILLY	128
MR. WAIDELICH	134
MR. GEESMAN	134
MR. FREEDMAN	140
MR. PARKER	148
REBUTTAL ARGUMENT	PAGE
MR. JERMAN	154
MR. WAIDELICH	158
MR. GEESMAN	160
MR. FREEDMAN	163
MR. PARKER	168

SAN FRANCISCO, CALIFORNIA

AUGUST 10, 2026 - 1:05 P.M.

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ADMINISTRATIVE LAW JUDGE McGARY: We can go ahead and go on the record.

Welcome, everyone, we're called to order. This is the time and place for the oral argument in Case Number A.24-12-003, the Joint Application of Southern California Edison Company and San Diego Gas & Electric Company for the 2024 Nuclear Decommission Cost Triennial Proceeding.

My name is Andrea McGary. I'm the assigned Commission- -- assigned administrative law judge -- I gave myself a promotion -- the assigned administrative law judge (sic) is the Honorable Darcie Houck, who's seated next to me.

There is a quorum of commissioners here today. But the quorum is three of five the -- all five commissioners are here, actually. But there will be no decisions made today.

Commissioner -- President John Reynolds is present. Commissioner Matthew Baker is present. Commissioner Karen Douglas is present. Commissioner Christine Harada is present. And Commissioner Darcie L. Houck is present.

1 Prior to going on record, we did play emergency
2 instructions. Please do familiarize yourself with the
3 exits in the event -- hopefully, in the non-event that
4 an emergency does happen.

5 We are being transcribed today. But we are not
6 being recorded or video-ed, but we are being transcribed
7 by our court reporters Jacquelyn Haupt and Karly Powers.
8 Thank you so much. Please, for the benefit of our court
9 reporters, please do speak slowly and clearly. I have
10 to remind myself of that often. And the first time you
11 speak, please state and spell your last name.

12 If you have a cell phone, please do silence it.
13 And please also note, only one person at a time should
14 speak to allow the court reporters to take down
15 everything that is said today.

16 The purpose of today's oral argument is
17 pursuant to the Commission's Rules of Practice and
18 Procedure, Rule 13.14 -- sorry.

19 Does everyone hear me okay?

20 Sorry about that.

21 Rule 13.14(B), a party in a ratesetting
22 proceeding may request oral argument before a quorum of
23 the Commission, provided any such motion is filed no
24 later than the deadline for opening briefs. Intervenor
25 Association for Nuclear Responsibility, timely filed a

1 motion for oral argument, which was granted on
2 June 30, 2026.

3 The category of this proceeding is Ratesetting.
4 Accordingly, all Rule 8 -- Commission Rule 8, regarding
5 ex-parte communications and communications with
6 decision-makers, please do familiarize yourself with
7 that.

8 I'm going to briefly just let -- preview our
9 agenda. For anyone who joined us later, there are also
10 printed copies of the agenda in the back table
11 (inaudible).

12 So, with that, we're called to order. We're
13 now going to move on to introductory remarks by
14 Commissioner Houck. Thereafter, I'll give a short
15 procedural overview. Then we will move on to initial
16 statements by the parties, and then response to initial
17 statements. Then we'll take a short break. And then
18 there will be a commissioner question-and-answer period.
19 Then we'll move on to Joint Applicants' final statement.
20 And then we will adjourn.

21 So, having previewed that, we now like
22 Commissioner Houck -- will now make our introductory
23 remarks.

24 COMMISSIONER HOUCK: Good afternoon. I'm going
25 keep my remarks brief. As the judge indicated, we're

1 here today for the oral arguments for Application
2 24-12-003, the Joint Application of Southern California
3 Edison and San Diego Gas & Electric for Nuclear
4 Decommissioning Triennial proceeding. I want to thank
5 the parties for their robust and active participation in
6 the proceeding. And I want to thank Judge McGary for
7 her management of the proceeding, and my fellow
8 commissioners for being here today for the oral
9 argument.

10 And, with that, I will turn it back over to the
11 judge as we're here to hear from the parties today. So,
12 thank you.

13 ALJ MCGARY: So, I will make it as brief as
14 possible, as well.

15 Again, I note that there's an agenda on the
16 table in the back. There's also a facts sheet for the
17 proceeding, if you don't want to take notes about what
18 we're here for today.

19 So, big picture for our proceeding is: The
20 CPUC is a state agency that regulates privately-owned
21 utilities, like Southern California Edison and San Diego
22 Gas & Electric -- which from time to time we will refer
23 to as SCE and SDG&E -- which provide essential services
24 for electric, gas, and water. The five commissioners,
25 including Commissioner Houck, are the people who vote

1 and decide on the application. I, as the ALJ, will
2 review the applications based on the evidence presented
3 and the applicable law. I draft a proposed decision for
4 the commissioners to consider. The commissioner will
5 vote to adopt my proposed decision or an alternate
6 decision, if put forth by a commissioner.

7 We'll move on to a quick procedural overview,
8 as -- today the parties will be -- excuse me -- arguing
9 the scoped issues in the proceeding. But the proceeding
10 itself was initiated on December 6, 2024. The subject
11 matter of the proceeding is the CPUC Nuclear
12 Decommissioning Cost Triennial proceeding, which we'll
13 also shorten to NDCPT from time to time.

14 And this is a review and determination of the
15 reasonableness of decommissioning cost estimates,
16 decommissioning activities, and actual decommissioning
17 costs incurred for the 2021 review period -- which is
18 January 1, 2021, to December 31st, 2023. And we will be
19 reviewing for plants owned by regulated utilities SCE
20 and SDG&E, respectively, related to San Onofre Nuclear
21 Generation Station, which we do sometimes refer to as
22 SONGS, Units 1, 2, and 3; and as to SCE only, the Palo
23 Verde Nuclear Generation Station, sometimes PVNGS or
24 Palo Verde Units 1, 2 and 3. (Inaudible) excuse me --
25 and Palo Verde is co-owned by Southern California Edison

1 and the Arizona Public Service. Our Commission does not
2 regulate the Arizona Public Service.

3 The applicants are SCE and SDG&E. Parties who
4 filed protests and responses and became parties in the
5 proceeding, which we from time to time refer to as
6 intervenors, are: The Utility Reform Network, TURN, the
7 Alliance for Nuclear Responsibility, acronym A4NR, the
8 Public Advocates Office of the California Public
9 Utilities Commission, Cal Advocates.

10 A scoping memo was issued on June 3rd, 2026 --
11 excuse me -- June 3rd, 2025. The assigned
12 commissioner's scoping memo can be found on the
13 Commission's website.

14 There were public participation hearings held
15 on July 16th and July 17th of 2025. There was also a
16 site visit to SONGS that occurred on
17 July (inaudible) 2025.

18 This proceeding is currently -- the evidence
19 process by party stipulation is by a document-only
20 evidence process, which means there was no in-person or
21 no evidentiary hearing -- excuse me. The final exhibits
22 in this proceeding can be found on the Commission's
23 website as well. A shortcut to that is Appendix A to
24 the January 13, 2026, Administrative Law Judge's Ruling
25 Entering Stipulated Exhibits Into the Evidentiary

1 Record. Again, that can be found on the Commission's
2 website in the docket for this proceeding at
3 cpuc.ca.gov.

4 Today's oral argument was set pursuant to my
5 June 30, 2026 ruling granting A4NR's motion for oral
6 argument and setting in-person oral argument and related
7 dates for today, August 20, 2026 at 1:00 p.m.

8 The scope limits of the oral arguments have --
9 are limited -- the proposed decision has not been yet
10 been mailed. The arguments today are limited to scoped
11 issues. The issues to be determined or otherwise
12 considered, there are 13 of them -- I won't recite them
13 on the record, but they are in the assigned
14 commissioner's scoping memo. If we -- during oral
15 argument, we need to do so or need to interrupt, we will
16 do so.

17 Now that I've given a procedural overview,
18 we'll take appearances from the parties. Let's start
19 with San Diego Gas & Electric -- I mean, excuse me --
20 Southern California Edison Company.

21 MR. JERMAN: Good morning, commissioners and
22 good morning, Judge McGary. My name is Ryan Jerman, and
23 I'm appearing on behalf of Southern California Edison
24 Company. And with me is Frederic Bailly, who's our Vice
25 President of Generation and Chief Nuclear Officer. And

1 Mr. Bailly will be providing SCE's opening comment.

2 ALJ McGARY: Thank you.

3 I'll move on to San Diego Gas & Electric.

4 MR. WAIDELICH: Good afternoon, commissioners
5 and ALJ McGary. Thank you again for your time today.

6 I'm Chris Waidelich, Senior Counsel at SDG&E.
7 I'll be representing SDG&E today.

8 ALJ McGARY: Thank you.

9 And we'll move on to -- I have -- I'm a very
10 short person. Apologies.

11 TURN. Counsel for TURN, please make your
12 appearance.

13 MR. FREEDMAN: Thank you, your Honor.
14 Matthew Freedman, Senior Staff Attorney with The Utility
15 Reform Network.

16 ALJ McGARY: Thank you, Counsel Freedman.

17 And, A4NR, Alliance for -- oh, no. Sorry. I
18 skipped you, Counsel Parker.

19 Cal Advocates Office?

20 MR. PARKER: Thank you, your Honor and
21 commissioners. My name is Wayne Parker, spelled
22 P-a-r-k-e-r, and I'm the attorney representing
23 Cal Advocates in this proceeding.

24 ALJ McGARY: Thank you.

25 And last but not least, Counsel Geesman, for

1 Alliance for Nuclear Responsibility?

2 MR. GEESMAN: Thank you, Judge McGary and
3 commissioners. John Geesman, attorney for the Alliance
4 for Nuclear Responsibility. And I will refer to the
5 alliance primarily as A4NR.

6 ALJ MCGARY: I tried to pay you some respect,
7 it's a lot of words. But at least we got it on the
8 record one time with all those words.

9 Okay. So I think -- are there any questions,
10 before we move on to initial statements?

11 MR. JERMAN: Your Honor, I did have just one
12 thing I wanted to note. Mr. Bailly needs to leave a
13 little bit early. So, he may leave shortly after his
14 opening comment. And I just wanted to note that, for
15 the record.

16 ALJ MCGARY: Okay. That's fine.

17 Thank you, Mr. Bailly. Safe travels.

18 Okay. So let's get started with our initial
19 statements. We'll start with SCE.

20 (Crosstalk.)

21 ALJ MCGARY: Oh, I'm sorry. I think we had a
22 discussion, and it was decided that the parties would
23 make their statement from the seats rather than the
24 podium. So it may look a little different, but that's
25 how we're doing it today.

1 ARGUMENT BY MR. BAILLY

2 Thank you. Good afternoon. I would like to
3 thank the Commission and Judge McGary for the
4 opportunity to address you regarding SCE's and SDG&E's
5 2024 Nuclear Decommissioning Cost Triennial Proceeding.

6 My name is Frederic Bailly, and I'm the Vice
7 President for Generation and Chief Nuclear Officer for
8 SCE, with responsibility for the safe decommissioning of
9 the San Onofre Nuclear Generation Station, or SONGS.

10 As you are aware, the utilities are using
11 existing trust funds, established through customers'
12 contributions over the operating life SONGS to pay for
13 both the decommissioning activities and spent fuel
14 management, ensuring that those funds remain adequate to
15 meet future obligations, these fundamental objectives of
16 this proceeding, and an important responsibility shared
17 by the utilities and the Commission.

18 The central issue before the Commission is
19 straightforward: How to ensure adequate funding for
20 spent fuel management at SONGS, as long as the U.S.
21 Department of Energy continues to delay performance of
22 its obligations to remove that fuel. The utilities'
23 position is equally straightforward: The Commission
24 should continue its prior directive, that DOE litigation
25 proceeds be disposed into the nuclear decommissioning

1 trust and used for spent fuel management.

2 This approach is prudent, because it addresses
3 financial consequences of the continued delay using
4 that -- using funds that are directly related to the
5 Federal government's failure to perform. And it also
6 helps preserve trust adequacy without requiring future
7 generations of customers to bear costs resulting from
8 delays that are beyond the utilities' control.

9 The facts supporting that approach have not
10 changed. In 1983, the utilities entered into a contract
11 with the U.S. Government and The Department of Energy,
12 where DOE agreed to begin removing fuel in 1998. Nearly
13 three decades after, DOE still has not began removing
14 fuel from San Onofre or from any other nuclear plant in
15 the United States. And as a result, 123 spent fuel
16 canisters are being safely stored at SONGS. And
17 approximately -- and 270 fuel assemblies are remaining
18 in storage in Morris, Illinois. Maintaining that fuel
19 comes at a cost. The SONGS participants spend annually,
20 approximately, \$32 million to manage and maintain that
21 fuel.

22 The current decommissioning cost estimate
23 assumes DOE would begin ac- -- accepting spent fuel in
24 2034 and complete removing in 2054. However, the
25 Commission has seen this pattern before. Since 2014,

1 each Triennial proceeding has incorporated additional
2 delays in DOE performance. While many assumptions in a
3 decommissioning cost estimate change from one cycle to
4 the next, one fact has remained constant: DOE continues
5 to delay fulfillment of its obligation.

6 We can safely manage the fuel, maintain the
7 facilities, perform decommissioning, prudently
8 administer the trusts. What we cannot control is when
9 the Federal Government directly fulfills its obligation
10 to accept and remove the spent fuel. As a result, the
11 utilities remain exposed to the risks that DOE
12 performance will again be delayed beyond the assumptions
13 used in the current decommissioning plan. That risk is
14 important, because SCE's trust contains funding for
15 spent fuel only through 2054. And if DOE delays beyond
16 that, additional funding would be required.]

17 The Commission recognized this issue in the
18 last NDCTP and adopted a prudent solution. It directed
19 that future DOE litigation proceeds be deposited into
20 the nuclear decommissioning trust and dedicated to spent
21 fuel management. That decision remains sound today.

22 Importantly, the Commission's prior directive
23 has not yet been implemented because DOE litigation
24 remains unresolved. When the 2021 NDCTP was filed, a
25 Round 4 -- Round 5 claim valued at approximately

1 \$168 million was pending. That claim remains unresolved
2 today. The circumstances that led the Commission to
3 adopt its prior policy, therefore, remains unchanged.

4 And continuing that policy also protects
5 customers. If litigation proceeds are not used to
6 support future spent fuel management costs, additional
7 customer collections may eventually be required.
8 Depositing litigation proceeds into the trust helps
9 avoid that outcome and supports an important principle
10 of intergenerational equity.

11 Just as importantly, it aligns the source of
12 funding with the source of the cost. These expenses
13 arise because DOE has not performed. Applying
14 litigation recoveries associated with that delay towards
15 future spent fuel management obligations is both
16 reasonable and equitable. SONGS stopped generating
17 electricity over a decade ago. Many future customers
18 who could be asked to fund spent fuel management will
19 never have received power from the plant. The
20 Commission's existing approach helps protect those
21 customers from bearing the cost of continued federal
22 delay.

23 A few parties oppose continuation of the
24 Commission's prior decision. TURN argues that
25 additional funding is unnecessary because overall trust

1 balances are currently forecast to exceed expected
2 decommissioning costs. However, that view overlooks the
3 changing nature of decommissioning. Historically, SCE
4 has been able to offset increases in spent fuel
5 management costs through underruns or unused contingency
6 associated with major decommissioning projects. As
7 active decommissioning activities conclude, these
8 opportunities diminish significantly. Over time, spent
9 fuel management will become the primary remaining
10 activity, and delays in DOE performance will affect
11 trust adequacy.

12 Cal Advocates proposes allocating future DOE
13 litigation proceeds equally between the trust and the
14 customer refunds. While that proposal is more
15 reasonable than eliminating trust funding altogether, it
16 still fails to ensure sufficient funding would be
17 available if DOE delays continue beyond the current
18 assumptions. The most prudent course remains the same
19 one adopted by the Commission previously.

20 Before concluding, I would like to briefly
21 address one additional issue raised by A4NR concerning
22 the so-called settlement scenario under which Units 2
23 and 3 substructures will be removed in advance. It
24 would be removed before Unit 1 substructures. SCE does
25 not believe this scenario should be included in the 2027

1 decommissioning cost estimate. The scenario is no
2 longer practically implementable. Procurement
3 activities necessary to support that approach would
4 already need to be underway, and they are not.

5 In addition, this scenario increases costs by
6 more than \$10 million. That accelerates trust
7 withdrawals and creates additional environmental impacts
8 that are avoided under the current plan. It also does
9 not support an earlier return of the site to the Navy.
10 For these reasons, SCE does not believe the settlement
11 scenario should be carried forward in the next DCE.

12 In closing, the underlying facts have not
13 changed. DOE continues to delay expected spent fuel.
14 The trust contains no funding for delays beyond 2054.
15 The Commission's prior directive has not been yet
16 implemented because the relevant litigation remains
17 unresolved. And future customers who likely never
18 received power from San Onofre should not be asked to
19 bear the cost of continued federal nonperformance.

20 For all of these reasons, the utilities
21 respectfully request that the Commission continues
22 existing policy, directing DOE litigation proceeds into
23 the decommissioning trust for spent fuel management.
24 Doing so represents a prudent, equitable, and
25 forward-looking approach that protects customers while

1 helping ensure adequate funding remains available for
2 the safe management of spent fuel for as long as
3 necessary.

4 Thank you for the opportunity to present SCE's
5 position. We will be pleased to answer any questions.

6 ALJ McGARY: Thank you, Mr. Bailly.

7 Now we'll hear from San Diego Gas & Electric.

8 ARGUMENT BY MR. WAIDELICH

9 Chris Waidelich on behalf of San Diego Gas &
10 Electric.

11 Thank you, ALJ McGary, Commissioners, for your
12 time. ALJ McGary's order for this hearing expressly
13 noted that we were encouraged to not make repetitive
14 arguments. So at this time, SDG&E is going to join
15 SoCal Edison's initial statement while reserving our
16 time to respond.

17 ALJ McGARY: Thank you.

18 Now we can move on to A4NR.

19 ARGUMENT BY MR. GEESMAN

20 Thank you, your Honor. John Geesman on behalf
21 of the Alliance for Nuclear Responsibility.

22 I may surprise you in saying that other than
23 his comments about the scenario at the very end of his
24 presentation, the Alliance is in complete agreement with
25 the way Mr. Bailly described the spent nuclear fuel

1 disposal challenge presented by the DCE. And we do not
2 believe that it would be appropriate at this stage to
3 abandon the Commission's decision from the last NDCTP to
4 recycle DOE litigation proceeds back into the trust in
5 order to fund spent nuclear fuel storage. My principal
6 focus in my remarks and the Alliance's principal focus
7 in the proceeding has been what we regard as the
8 unreasonable assumptions about the length of time spent
9 nuclear fuel is likely to remain on site that are
10 embedded in the decommissioning cost estimate for SONGS
11 Unit 1 and SONGS Units 2 and 3.

12 What is the deficiency in the DCEs that A4NR is
13 trying to correct? At the outset, let me clarify that
14 when I speak of spent nuclear fuel, I'm also including
15 the greater-than-Class C waste that is subject to the
16 same storage and removal requirements. That is the way
17 the DCEs treat greater-than-Class C waste, so I will
18 too.

19 For the past two decades, Edison has used what
20 it calls, quote, "the standard practice" for
21 recalculating the date by which all spent fuel will be
22 removed from the SONGS site. What it does is simply add
23 the amount of time that has passed since the last
24 decommissioning cost estimate onto the total.
25 Typically, that's been about three years per case. In

1 embracing this standard practice, Edison has
2 overextended a metric that may have been plausible
3 before the demise of the Yucca Mountain project but has
4 been completely arbitrary since the early years of the
5 Obama administration.

6 Now, the Alliance first pointed this out to the
7 Commission in the 2014 proceeding. We warned that this
8 was a course of action that was likely to cause trouble
9 in the future. The rejoinder from the Commission's
10 decision was, well, nobody else has a better assumption
11 about when the waste will be gone. And that's very much
12 true. But the burden of proof remains on the applicant,
13 and the Commission needs to ensure, consistent with the
14 1985 Nuclear Decommissioning Act, that it adopts
15 procedures designed to encourage the accurate estimates
16 of costs.

17 Edison's standard practice for estimating how
18 long spent fuel will remain on site at SONGS is directly
19 contradicted by the analysis performed for its
20 \$4 million strategic plan, which was published in 2021.
21 That was the result of settlement of court litigation.
22 And under that settlement, Edison agreed to convene a
23 panel of experts with a budget of up to \$4 million to
24 determine what were the likely scenarios for on-site
25 storage of spent fuel at SONGS. Compared to even the

1 most optimistic scenario in Edison's strategic plan,
2 this decommissioning cost estimate understates the
3 likely on-site storage time by an estimate of ten years.

4 Now, Mr. Bailly indicated they're spending
5 \$32 million per year. He didn't indicate whether that
6 was 2014 dollars or current dollars. I used the 22. --
7 excuse me -- \$27.6 million 2014-dollars estimate that
8 Edison has placed in the record. And the sum total of
9 that misestimate, a ten-year difference, adds
10 \$276 million to the SONGS DCEs. That's embedded in the
11 estimate but not clearly articulated.

12 Edison claims to use the same assumptions about
13 the operation of the DOEQ for spent fuel pickups that it
14 did in its 2014 shutdown filing with the NRC. But
15 they've never given any explanation over the years for
16 why that 2014 estimate has been shaved by five years.
17 It used to be a 26-year pickup schedule. Now it's a
18 21-year pickup schedule. That's an additional five
19 years, \$27.6 million that's embedded in the DCE but not
20 obvious. If this ever explained five-year acceleration
21 as no more than wishful thinking, the DCE understates
22 the cost of on-site storage by an additional
23 \$138 million.

24 After being confronted with these anomalies,
25 Edison's briefing agreed to be more transparent in the

1 next DCEs about the assumptions used concerning the
2 DOEQ. But the bottom line remains stark. Unrealistic,
3 unsupported assumptions in the current DCEs understate
4 future on-site storage costs by as much as \$414 million
5 in 2014 dollars using Edison's own cost estimate. And
6 by the way, if I use the CPI to convert 2014 dollars to
7 2026 dollars, that 414 million translates into 584
8 million today.

9 What's A4NR's proposed approach to that
10 deficiency? We suggest that the Commission require the
11 next DCEs to analyze the time frames for on-site storage
12 that were developed for the NRC's Generic Environmental
13 Impact Statement. The NRC uses a 60-year post-shutdown
14 period to define the end point for what it calls, quote,
15 "short-term storage" and a 160-year period to define the
16 end point for what it calls, quote, "long-term storage."
17 It contrasts the current DCE's assumptions that all
18 on-site spent fuel is removed by 2054. A4NR's
19 recommendation would require Edison's next filing to
20 analyze the cost impacts of final removal not occurring
21 until sometime between 2073 and 2173. We also suggest
22 that Edison look at a median between those two end
23 points at 2123.

24 We also recommend the next DCEs be required to
25 clarify the assumptions about the DOEQ by specifying the

1 nationwide volumes of spent fuel assumed, the available
2 nationwide storage capacity assumed, whether shutdown
3 sites are assumed to be prioritized for spent fuel
4 removal, whether monetized exchanges between DOE
5 contractor holders are assumed, and, if so, the amounts
6 included in the DCEs to pay for such exchanges.

7 Why should the Commission adopt A4NR's proposed
8 approach? A4NR is not recommending any change to the
9 current DCEs, only that the next DCEs reflect the
10 financial stress testing of spent fuel removal
11 assumption that the Commission should expect from a
12 prudent manager.

13 As acknowledged in the utilities' joint opening
14 brief, California's Nuclear Facilities Decommissioning
15 Act of 1985 directed the Commission to structure its
16 review of decommissioning costs to promote realism in
17 estimating costs and to provide periodic review
18 procedures that create maximum incentives for accurate
19 cost estimations. Clearly, continued reliance on
20 unsupported, feel-good assumptions in the current DCEs
21 falls considerably short of that standard. Thank you
22 very much.]

23 ALJ McGARY: Thank you, Counsel Geesman.

24 Next up, we have TURN.

25 ///

ARGUMENT BY MR. FREEDMAN

Thank you, your Honor, commissioners. Matthew Freedman on behalf of TURN.

In the current proceeding, TURN's testimony and briefs address two sets of issues. The first involves the reasonableness of the decommissioning cost estimates for San Onofre. And we do recommend modest adjustments to align with historical reported data, and to reduce or eliminate excessive and unsupported contingency factors.

Factual and policy bases for our adjustments are laid out in our testimony and briefs, and I am not going to repeat them at the oral argument. Although, the total impact of our adjustments is relatively small compared to the total forecast expenditures, making these changes sends the important message that the Commission is paying attention, applying scrutiny, and not serving as a rubber stamp for the utilities.

Our second issue is far more consequential, with respect to near-term ratepayer impacts, intergenerational equity, and fidelity to decades of relevant Commission precedents. The utilities seek to deny ratepayers bill credits for their shares of approximately \$600 million in litigation claims against the U.S. Government. The utility's proposal represents a backdoor rate increase and is indistinguishable from

1 requesting a new revenue requirement to fund
2 decommissioning costs.

3 The Commission is well aware of the ongoing
4 crisis of affordability relating to utility bills. And
5 this crisis requires urgent action to find all possible
6 methods of placing downward pressure on rates. These
7 proceeds have historically been provided to customers as
8 a rate credit. Ratepayers continue to receive credits
9 or litigation proceeds relating to Palo Verde, Diablo
10 Canyon, and Humboldt Bay. Instead of continuing this
11 treatment, the utilities asked the Commission to allow
12 their shares of \$600 million to be diverted and to be
13 parked for decades in the San Onofre non-qualified
14 nuclear decommissioning trust funds.

15 In making this request, the utilities asked the
16 Commission to ignore the normal and long-standing
17 processes for determining whether additional
18 contributions to the trust are warranted. Under state
19 law and long-standing Commission practice, the utilities
20 first submit a decommissioning cost estimate. Whether
21 additional contributions to the trust are needed is
22 determined by evaluating the trust fund balances,
23 projecting future trust fund returns and escalation, and
24 considering the timing and amount of disbursements from
25 those trusts, based on the approved cost estimate.

1 In this proceeding, the utilities are unable to
2 identify any need for additional trust fund
3 contributions using this long-standing approach. The
4 potential incremental spent fuel management costs the
5 utilities cite to justify their proposed diversion of
6 the litigation proceeds, they are not included in the
7 decommissioning cost estimates. In fact, the utilities
8 opposed modifying those estimates to assume even an
9 additional 10-year delay in spent fuel pickup, as
10 proposed by the Alliance for Nuclear Responsibility.
11 The inconsistency of their arguments demonstrates a
12 fundamental weakness of their position.

13 The utilities' attempt to subvert a normal
14 review process by not including these hypothetical
15 future costs in their cost estimate. The Commission has
16 never fully allowed the utilities to seek funding for
17 decommissioning trusts, based on costs that are not
18 included in the estimate and aren't even quantified in
19 front of the Commission. And, most importantly, the
20 utilities don't offer any analysis showing that the
21 existing trust fund balances, combined with investment
22 returns in the future decades, will be inadequate to
23 support additional spent fuel management costs. Instead
24 of offering a formula or a method for establishing how
25 much money should be stockpiled in the trusts, the

1 utilities simply say that the Commission allowed this
2 treatment last time, and they don't need to provide any
3 data driven analysis in this case.

4 In my 25 years as a litigator in front of this
5 Commission, and in the course of working on nuclear
6 decommissioning since 2009, I've never seen the
7 utilities make such a weak case in support of such a
8 large monetary request. Let's review what the
9 Commission actually said in the last case.

10 The Commission held that depositing these
11 litigation proceeds in the trust was justified. Because
12 the utilities argued that if spent fuel pickup was
13 delayed just two years, ratepayer collections would need
14 to incr- -- would need to restart. Those
15 representations were wrong. The utilities have now
16 extended the timeline for spent fuel pickup by three
17 years; and they still failed to demonstrate that the
18 ratepayer contributions would be needed to support the
19 trusts -- or any contributions.

20 In the last case, the Commission directed the
21 utilities to present more comprehensive showing of the
22 need for additional trust funding in additional cases.
23 And they held that the disposition of these proceeds
24 would be considered in future proceedings. Instead of
25 providing this more comprehensive showing envisioned by

1 the Commission, the utilities offer virtually no
2 evidence in this case to support their request. They
3 don't model the adequacy of their trust funds to cover
4 additional spent fuel pickup delays, and they don't
5 model the impacts of depositing up to \$600 million into
6 the trusts.

7 Not only did they not perform the analysis,
8 they objected to TURN's requests and data requests that
9 they do perform the analysis. Why? Because they know
10 the modeling would show that a massive -- they would
11 show a massive forecasted trust fund surplus that far
12 exceeds the additional cost of spent fuel management
13 under any plausible future scenario.

14 But, we don't want to speculate about what that
15 modeling would show. We did it. TURN's testimony
16 analyzed the impact of additional spent fuel costs and
17 DOE litigation proceeds on the trust funds. And we used
18 the same cash-flow models developed by the utilities to
19 determine decommissioning trust fund adequacy. I
20 encourage the commissioners and the staff to read our
21 testimony and briefs explaining how we performed this
22 work, the conservative assumptions that were used, and
23 the results of the analysis.

24 Our modeling shows that even without adding a
25 single dollar of litigation proceeds to the trust, the

1 trusts are projected to support additional spent fuel
2 pickup delays of at least 36 years for Edison and
3 54 years for San Diego Gas & Electric. If you add the
4 DOE litigation proceeds they seek in this case, the
5 trust funds are projected to support delays of almost
6 46 years for Edison and 63 years for San Diego Gas &
7 Electric. And by comparison, in this case, the
8 utilities have thrown around the possibility of a
9 12-year delay. TURN's arguments and analysis
10 demonstrate that this 12-year delay would be easily
11 covered by the existing trust fund balances.

12 And although the utilities refuse to perform
13 their own modeling, they do critique TURN's analysis. I
14 don't have time to discuss these critiques in the
15 opening statement, but they are fully addressed in our
16 briefs. I would be happy to discuss them in response to
17 any questions, or in rebuttal. The bottom line is, none
18 of the utility critiques are valid; and none of them go
19 to the core analytical framework that we put forward,
20 which is to use their own models to demonstrate that
21 there's no need for the money.

22 The utilities made several other arguments
23 against returning these funds to ratepayers that just
24 don't hold up to any scrutiny. First, the utilities are
25 arguing that the Commission should adopt the finding

1 that the trusts are underfunded. Because when you
2 compare the amount of money in the trusts today to
3 future decommissioning costs, the current balances may
4 appear inadequate. Well, it sounds reasonable; but they
5 are essentially hoping the Commission suffers a bout of
6 amnesia and forgets or ignores the history and
7 long-standing practices to determining trust fund
8 adequacy. Our briefs review 40 years of Commission
9 decisions, all of which consistently affirm that future
10 trust fund investment returns are an integral part of
11 decommissioning trust fund adequacy.

12 In other words, the money in the trust is
13 invested in the market. It yields returns over time.
14 The utilities wish to ignore all of that and say -- in
15 terms of determining adequacy. But the Commission has
16 never ever determined trust fund adequacy without
17 considering future investment returns. It's a central
18 part of the analysis.

19 Secondly, the utilities have said: Well,
20 additional trust funds are needed as a contingency to
21 address potential deviations from cost escalation and
22 investment returns. The Commission has never approved
23 such a contingency. And, in fact, no utility has ever
24 made such a proposal. And despite offering this
25 justification in their rebuttal testimony, the utilities

1 refuse to explain how this financial contingency would
2 be developed, what level would be appropriate. They are
3 not making any specific transparent or comprehensible
4 proposal that can be scrutinized or even adopted. It's
5 a distinctly un-serious request and should be treated as
6 touch.

7 And, third, the utilities say that this issue
8 is simply outside the scope of the proceeding,
9 particularly for the round five claim. This argument is
10 nonsensical. The Commission's scoping memo found the
11 treatment of DOE litigation proceeds to be within the
12 scope of the case. Moreover, the Commission clarified
13 in the last case that the disposition of these proceeds
14 may be reviewed in any future proceeding; this being one
15 of those future proceedings.

16 In closing, TURN strongly urges the Commission
17 to reject efforts to divert DOE litigation proceeds and
18 deny ratepayers badly-needed relief. The utilities seek
19 to override the normal review process, offer no
20 analytical support for their proposals, and propose new
21 rationales that contradict decades of practice and
22 precedent. This is not a hard issue. The Commission
23 needs to put ratepayer interests first by directing the
24 utilities to flow through up to \$600 million in
25 litigation Proceeds to ratepayers, once they are

1 received.

2 Thank you.

3 ALJ MCGARY: Thank you.

4 THE REPORTER: I can't hear you, Judge.

5 (Reporter clarification.)

6 ALJ MCGARY: Can you hear me now?

7 Perfect. Well, Counsel Parker, you can --
8 because your mic is working, so we'll start with you.
9 Go ahead.

10 ARGUMENT BY MR. PARKER

11 Good afternoon, Commissioners and Judge McGary.
12 My name is Wayne Parker, and I'm the attorney
13 representing Cal Advocates in this proceeding. Cal
14 Advocates has five specific courses of action to
15 recommend -- excuse me -- five specific courses of
16 action for the Commission regarding this NDCTP.

17 First, in the application, SCE proposes both an
18 operational scenario and a settlement scenario for SONGS
19 units 2 and 3. The Commission should approve the
20 operational scenario.

21 Number two, SCE's SONGS 2 and 3 decommissioning
22 cost estimate, or DCE, for other projects includes
23 \$8.7 million for Mesa, M-e-s-a, post-release Work
24 activities. The Commission should remove \$1.4 million
25 from the DCE. And the items in the Mesa post-release

1 work activities should be reevaluated when final
2 determinations are made by the Department of the Navy.

3 Number three, the Commission should remove
4 \$7.4 million from the DCE IT, Information Technology
5 estimate. Furthermore, items in the IT -- excuse me --
6 IT DCE should be reevaluated. And more supporting
7 documentation should be provided if there are increased
8 needs for IT when the decommissioning is in progress.

9 Number four, SCE's 2023 Palo Verde nuclear
10 generating station, or PVNGS DCE, totals \$632.1 million.
11 This includes an increase of \$29.5 million for
12 "contingency" expenses. The Commission should maintain
13 the PVNGS contingency of 19.4 percent and remove the
14 \$29.5 million increase requested by SCE and SDG&E.

15 Point five, the DOE is legally and
16 contractually obligated to remove spent fuel from SONGS.
17 And as we all know, so far, DOE has failed to meet its
18 legal and contractual obligations. SCE has consequently
19 incurred substantial costs to safely store spent nuclear
20 fuel generated by SONGS until the DOE takes steps --
21 excuse me -- steps up and takes possession of the
22 nuclear waste. SCE has filed lawsuits against the DOE
23 to recoup these costs and prevailed in many of these
24 lawsuits. To date, SCE has returned a portion of these
25 litigation proceeds to customers via the Energy Resource

1 Recovery Account, or ERRA, E-R-R-A process. The
2 Commission should split the proceeds from litigation
3 with the Department of Energy equally, i.e. 50/50
4 between funding the Non-Qualified Nuclear
5 Decommissioning Trust, or NQNDT, and a refund to SCE
6 customers through the existing ERRA mechanism.

7 I will address each of these recommendations in
8 greater detail. Afterwards, I will also answer any
9 questions any of the commissioners or the judge may
10 have.

11 The first issue I would like to discuss is the
12 Commission's adoption of the operational scenario.
13 SCE's operational scenario forecasts a total of \$4.709
14 billion in 2014 dollars for remaining anticipated
15 decommissioning expenses. This estimate is based on
16 SCE's stated plan to remove all substructures for SONGS
17 1, 2, and 3 in a single campaign at the end of
18 decommissioning to reduce substructure removal costs and
19 environmental impacts.

20 SCE's settlement scenario is an alternative
21 plan, whereby the SONGS 2 and 3 subsurface structures
22 will be removed before the end of decommissioning in
23 campaigns separate from those for SONG 1's
24 Substructures. This results in an increased cost of
25 \$12.5 million. The Commission should approve the

1 operational scenario; because the settlement scenario
2 needlessly increases the cost of decommissioning,
3 negatively impacts the SONGS trust funds, due to growing
4 expenditure of funds, creates additional environmental
5 impacts, and prevents an earlier return of the site to
6 the Department of the Navy.

7 Point number two, the DCE for Mesa post-lease
8 work activities: SCE's SONGS 2 and 3 DCE for "other
9 projects" includes \$8.7 million for Mesa post-release
10 work activities associated with investigation and
11 cleanup of certain chemical substances, including
12 probable maximum flood, easement surrender, and cleanup
13 and surrender of parcels, 3, 8, 9 and 14, as well as
14 contingency expenses. Cal Advocates recommends the
15 Commission reduce the DCE by \$1.4 million for the
16 expenses related to parcels 8 and 9. Because there is
17 considerable uncertainty as to whether the Department of
18 the Navy will actually require some of the specific
19 items including in the estimated \$8.7 million for the
20 Mesa post-release work activities. Given these
21 ambiguities regarding the U.S. Navy requirements, Cal
22 Advocates therefore recommends the Commission remove
23 that \$1.4 million from the DCE for items from the
24 post- -- excuse me -- Mesa post-release work activities
25 list, until the Department of the Navy confirms what

1 specific activities, if any, will be required for
2 parcels 8 and 9.

3 Point number three, SONGS 2 and 3 DCE for
4 non-labor IT: SONGS 2 and 3 DCE for non-labor IT for
5 the 2024 DCE is estimated at \$49.1 million, which is an
6 increase of \$7.4 million or 17.75 percent from the 2020
7 DCE IT estimate. SCE asserts the increased cost is the
8 result of a change in assumptions associated with the
9 later part of the decommissioning project. The
10 Commission should remove \$7.4 million from the DCE, and
11 items in the IT section should be reevaluated.

12 Point number 4, 2023 Palo Verde Nuclear
13 Generating Station DCE: SCE requests the Commission
14 authorize an increase in contingency expenses from the
15 current 19.4 percent to 25 percent in light of what it
16 calls, and I quote, "Significant uncertainties"
17 surrounding the decommissioning of PVNGS. PVNGS
18 decommission is not expected to commence until 2045, at
19 the earliest, which means there is considerable time
20 before the decommissioning commences; and during which,
21 SCE could update the DCE with more accurate estimates.
22 These later estimates would also lower the possibility
23 of unforeseen circumstances, i.e. the very significant
24 uncertainties mentioned by SCE that the contingency
25 would cover. In prior decisions, the Commission has so

1 stated, and I quote: The Commission finds the
2 reasonableness of a contingency amount is significantly
3 related to the stage of decommissioning, and the
4 activities projected, including particular site-specific
5 challenges. Consequently, the reasonable contingency
6 factor may vary between nuclear plants, and at different
7 stages of decommissioning. Therefore, the Commission
8 should not authorize SCE's request for an increase of
9 \$29.5 million for the contingency.

10 Lastly, with regard to DOE litigation proceeds,
11 until the DOE selects and builds an appropriate nuclear
12 storage facility in accordance with the Nuclear Waste
13 Policy Act of 1982, SCE will continue to incur costs to
14 safely store the spent nuclear fuel generated by SONGS,
15 until the DOE of course takes possession. SCE received
16 roughly 80 percent of its claims and currently has two
17 claims pending. To date, SCE has returned those
18 litigation proceeds, as I mentioned, via the ERRA
19 process.

20 During the discovery phase of this proceeding,
21 SCE provided Cal Advocates with information in a table
22 format detailing the trust funds versus to-go funds.
23 This table has been submitted and admitted to the record
24 as Exhibit CA-0400. As shown in Table 1-5, found in
25 that exhibit, the overage -- that's o-v-e-r-a-g-e -- for

1 SONGS 1 and the qualified and non-qualified trust is
2 approximately \$147 million; while SONGS 2 and 3 is
3 underfunded by \$224.5 million under the operational
4 scenario.]

5 For these reasons, Cal Advocates recommends the
6 Commission split the proceeds from litigation with the
7 DOE equally fifty-fifty between funding the NQNDT and a
8 refund to SCE customers through the ERRA process. Thank
9 you, your Honor.

10 ALJ McGARY: Thank you, Counsel Parker.

11 We can now move on to the response statements.
12 And we'll start with SCE.

13 REBUTTAL ARGUMENT BY MR. JERMAN

14 Thank you, Judge McGary. Let me start by
15 responding to some of Mr. Freedman's comments.

16 Mr. Freedman mentioned a \$600 million deposit
17 in the trust from DOE litigation proceeds. That number
18 appears to come from combining Round 5 litigation
19 proceeds, which are about \$168 million -- that's the
20 amount of the claim we've submitted -- with the pending
21 Round 6 claim, which is significantly higher. The
22 Round 6 claim was recently submitted. Round 5 is the
23 claim that's been pending since our last -- since the
24 2021 NDCTP.

25 There's no guarantee the utilities will recover

1 any of that money. There's a high likelihood we will
2 recover some. But the amount won't be known until the
3 proceedings are concluded and the amounts are actually
4 deposited in our trust.

5 The structure the Commission set up to review
6 the DOE litigation proceeds in the last NDCTP provides
7 for review of the funded adequacy after the Round 5
8 claim is processed and the funds are received. We
9 expect to receive those proceeds before the next NDCTP
10 is filed. And it's likely the Round 6 proceeds will not
11 be received before that proceeding is filed.

12 I also want to address Mr. Freedman's point on
13 affordability. Affordability is certainly a primary
14 concern for the utilities. A primary concern in the
15 NDCTP, however, is ensuring adequate funds are available
16 in trusts to support costs through the end of
17 decommissioning. And depositing litigation proceeds in
18 the trust supports affordability because it protects
19 current and future customers from having to pay for --
20 from having to make additional contributions to the
21 trust to support spent fuel management. It also
22 supports affordability because it will allow SCE to pay
23 for storage of spent fuel at a facility in Morris,
24 Illinois from the trust. Those costs are currently paid
25 through ERRA by customers in the current rates.

1 Mr. Freedman claimed that there was
2 insufficient evidence of adequacy of the trust to
3 support spent fuel management beyond the period of the
4 DCE. That's simply not true. It's in the record for
5 this proceeding. It's in Edison's direct testimony.
6 It's in our rebuttal testimony. There's no funding for
7 spent fuel management beyond 2054, which is the assumed
8 date of funding removal -- sorry -- of spent fuel
9 removal assumed in the DCE.

10 And the last point I want to address on
11 Mr. Freedman's comments is a criticism of our modeling.
12 So the modeling that is done in the NDCTP is based on
13 known trust fund balances prior to the submission of the
14 NDCTP. We do not -- we have not updated the modeling
15 based on speculative or hypothetical balance amounts.
16 We did not do so here. Again, that's something that the
17 Commission addressed in its decision in its last NDCTP
18 because the utilities will be required to address
19 additional litigation proceeds received in advance of
20 the NDCTP and include those funds in the updated
21 modeling that's done in the next NDCTP.

22 And the primary disagreement on the analyses
23 between our funding results from how margins are treated
24 in the analysis. What the margins are is a contingency
25 that's applied that the utilities apply to address

1 potential discrepancies in rate of return assumptions,
2 in escalation assumptions. And these margins are small
3 amounts. So in the utilities' analysis -- or SCE's
4 analysis, our margins or extra funds resulted in about
5 15 percent of the total trust fund balance. And the way
6 that the escalation is calculated -- it's compounded
7 annually throughout the 30-year remaining life of the
8 decommissioning project. Any small discrepancy in
9 escalation or rate of return assumption could result in
10 a complete loss of the margins. So for us, it's --
11 a 1 percent discrepancy in rate of return assumptions or
12 escalation assumptions would result in the loss of the
13 margin.

14 And with my few remaining minutes, I'd like to
15 turn to a few of Mr. Geesman's comments. Mr. Geesman
16 focused on utilities' work in the strategic planning on
17 spent fuel removal versus the utilities' consideration
18 of spent fuel removal in the DCE. These are two very
19 different purposes. In strategic planning, the
20 utilities are not waiting passively for DOE to begin
21 removing spent fuel from the site, but we're engaging
22 strategic partners and planning for the eventual
23 removal, regardless of when that might be.

24 In contrast, in the DCE, we need to make
25 reasonable and realistic assumptions for future

1 decommissioning costs to support a trust fund adequacy
2 analysis. And it's just not consistent with that
3 purpose for the DCE to make multiple assumptions
4 regarding when spent fuel might be removed.

5 I see that's my time.

6 ALJ MCGARY: We're at time, Counsel. Thank
7 you.

8 Oh, I'm sorry. Counsel Waidelich?

9 MR. WAIDELICH: Chris Waidelich on behalf of --

10 ALJ MCGARY: I'm sorry. "Waidelich."

11 REBUTTAL ARGUMENT BY MR. WAIDELICH

12 Thank you. Chris Waidelich on behalf of SDG&E.
13 I'll first note that I'm in agreement with my colleague
14 at Edison and the points that he raised. But in
15 addition, I would like to talk just about something that
16 Mr. Geesman from A4NR raised that I think kind of
17 highlights really what this proceeding is about.

18 It's not unlike other proceedings. There's a
19 great deal of uncertainty here. There's a lot of
20 assumptions. I think what's a little more unique here
21 than other proceedings is the time horizon of that
22 uncertainty. For many proceedings, we're looking three,
23 four, five years in the future. Here we're looking
24 decades in the future. We have a lot of unknowns
25 related to spent fuel and related to the trust.

1 I think the other difference here is in the
2 consequences. If the trusts are too large, you may have
3 a windfall for future ratepayers. But on the other
4 hand, if the trust funds are not adequate, then we're
5 going to have to go to ratepayers and collect money for
6 a power plant that they didn't benefit from. So there
7 is a risk there.

8 Now, with all this uncertainty, the utilities
9 in their joint application really took the time to make
10 a reasonable and prudent approach. And I think it's
11 noteworthy here that the intervenors in this proceeding
12 are actually on both sides. On one hand, A4NR has
13 questions related to whether we're looking at a long
14 enough time horizon or if we need to think about
15 additional costs in the future; whereas, on the other
16 hand, Cal Advocates and TURN are looking at a shorter
17 timeline potentially or other assumptions in a more
18 favorable way.

19 And I think that the fact that these arguments
20 are being put forth on both sides helps to justify and
21 focus in on the time that was spent by the joint
22 utilities in preparing our application ensuring that
23 it's a reasonable and prudent approach to managing the
24 trust. So as such, I would really encourage the
25 commissioners here to approve the application and not

1 dip into the DOE litigation funds at this time.

2 ALJ MCGARY: Thank you, Counsel.

3 And we'll hear from A4NR.

4 REBUTTAL ARGUMENT BY MR. GEESMAN

5 Thank you, your Honor. John Geesman on behalf
6 of the Alliance for Nuclear Responsibility.

7 The 1985 Decommissioning Act attempts to have
8 the costs of decommissioning internalized in the price
9 of electricity that is sold to customers that benefit
10 from that electricity. In terms of decommissioning
11 funding or the expenses for spent nuclear fuel in
12 particular, something changes when a plant enters into
13 decommissioning status. Before that, current ratepayers
14 are paying for the spent fuel costs. So it is logical
15 that DOE litigation proceeds should go to current
16 ratepayers. But after a plant is in decommissioning
17 status, it's not taking money from current ratepayers
18 anymore. The funding for spent nuclear fuel comes
19 entirely from the trust corpus. As a consequence, if
20 you're not replenishing that trust corpus with DOE
21 litigation proceeds, you're draining it down.

22 Those of you that are parents might think very
23 seriously about what alternatives might be available for
24 use of your college savings fund. Maybe your child
25 isn't going to go to college. Or maybe it would be

1 better to use those proceeds on something else between
2 now and the time when that child goes to college. You
3 should recognize the fiduciary obligation that both the
4 utilities and the Commission have in terms of the
5 preservation of decommissioning trust proceeds.

6 A4NR disagrees with TURN's assessment and, I
7 believe, the Public Advocates' assessment that the SONGS
8 decommissioning trusts are currently overfunded. TURN's
9 arithmetic overlooks four material considerations.

10 First, embedded within Edison's spent fuel
11 removal assumptions are the 15 years of unaddressed
12 schedule slippage that I talked about earlier with
13 associated costs of \$414 million in 2014 dollars.

14 Second, the two private interim storage
15 projects cited by TURN's opening brief has signs of
16 accelerated progress on the availability of options to
17 begin moving fuel in the 2030s have both been abandoned
18 by their sponsors due to state government opposition in
19 Texas and New Mexico.

20 Third, TURN's reliance on DOE activities in '21
21 and '22 to promote operational consolidated storage
22 facilitates by the mid to late 2030s does not reflect
23 the significant redirection of DOE's policies since the
24 Trump administration came into office.

25 And, fourth, potential new costs to the

1 decommissioning trusts may materialize, are likely to
2 materialize from Coastal Commission decisions on
3 subsurface structure removal after 2028 and potential is
4 FISI relocation after 2035. Both of those stem from the
5 indeterminate end date for on-site storage of spent
6 nuclear fuel at SONGS.

7 Edison and the public advisor -- Public
8 Advocates are wrong to suggest that the Commission
9 should choose between the two scenarios analyzed in the
10 current DCE for the timing of the removal of subsurface
11 structures. That's not something that is in front of
12 the Commission. It's not an exercise of discretion on
13 your part or on the utilities' part. Rather, it is a
14 question of analytic preparation for a scenario that may
15 very well flow from the Coastal Commission.

16 The Coastal Commission will not take this up
17 until after Edison submits its required amendment to the
18 applicable coastal development permit, which is due no
19 later than June 1st, 2028, which is after the next DCE.
20 A4NR doesn't ask the Commission to prejudge the outcome
21 of Coastal Commission process but simply to require the
22 analysis of the two scenarios that were performed in
23 this round be updated for the next round.

24 And if Mr. Bailly is right that conditions have
25 changed, change your assumptions. The Commission ought

1 to be equipped with an analytic framework for what
2 happens if the Coastal Commission says, as the permit
3 reads, do it now.

4 Edison would have you believe that the Coastal
5 Commission will be persuaded to wait until all spent
6 fuel is removed from the site. Well, you tell me when
7 that's going to be. Do you think for a minute that
8 68 acres at the center of the fourth most popular state
9 park in California can be quarantined indefinitely while
10 Edison abandons the decommissioning project in place
11 until spent fuel is removed? I don't. A prudent
12 utility manager would do this anyway. And Sections 8323
13 and 8327 of the Public Utilities Code require nothing
14 less. Thank you.

15 ALJ MCGARY: Thank you, Counsel Geesman.

16 Okay. So next we'll hear from Counsel Freedman
17 for TURN.

18 REBUTTAL ARGUMENT BY MR. FREEDMAN

19 Thank you, your Honor. Well, a lot to respond
20 to here. I'll start with Edison's initial statement.

21 They said their proposal protects trust
22 adequacy in future generations, arguing that there's
23 simply not enough money in the trusts to fund
24 incremental spent fuel storage costs. It's just not
25 true. Edison did not present any analysis to support

1 that claim. And in the rebuttal statement, Mr. Jerman
2 says, oh, it's in our testimony. It's not. Edison
3 basically looked at the amount of money in the trust
4 funds today and ignored future trust fund returns.

5 We think that that is a fundamentally incorrect
6 way to do the analysis. And don't take my word for it.
7 Read any of the decisions the Commission has issued in
8 the last 40 years on this topic, all of which say of
9 course you have to look at the money that the trust fund
10 is going to make over time.

11 So we did that. And we did it by using the
12 utilities' own models. We did not create our own
13 analysis. And the utilities did not want us to do this
14 analysis, refused to do it themselves. We got the
15 models from them. We had to pull teeth to get the data.
16 We got it. And we said let's take look at what happens
17 if we add more time for spent fuel pickup, five years,
18 ten years, twenty years, thirty years. What happens to
19 the trust funds? Turns out they have enough money under
20 the models the utilities themselves prepared. That's
21 the analysis in the record.

22 The utilities and the other parties with which
23 we disagree on this want you to ignore models. They
24 want you to ignore the analysis. They want you to come
25 up with a completely different framework, which is

1 there's uncertainty in the universe, uncertainty that we
2 haven't put in here. Let's just ignore the analysis and
3 put more money into the trust. How much more money? We
4 don't know. All the money. Put it all in there.

5 There's a point at which this becomes a huge
6 ratepayer problem. The governor issued an executive
7 order in late 2024, said find unused money. Return it
8 to ratepayers. We have a crisis on our hands. In the
9 face of that, for the utilities to say let's stockpile
10 as much money as we can the ratepayers would otherwise
11 have access to into trust funds where they will not be
12 available for 40 years is negligence from my
13 perspective. It is absolutely in conflict with what the
14 Commission is supposed to be doing in this situation.

15 The other comments from Edison that I will
16 respond to -- Edison says, well, there's no guarantee
17 we're going to get the money from the DOE. You never
18 know how much you're going to get. That's true. But we
19 do know how much they've gotten so far. They've had
20 four rounds of claims. What was their success rate?
21 88 percent. Meaning 88 cents out of every dollar they
22 claimed ended up going back to ratepayers after
23 deducting the costs of litigation. And that's
24 consistent with the amounts we've seen for PG&E.

25 What did we assume in our analysis that we put

1 in the testimony? We assumed an 85 percent success
2 rate. So we assumed they would be less successful in
3 the future than they have been in the past.

4 Edison also says, well, yeah, but we apply this
5 margin to our trust fund analysis, a margin because
6 there's uncertainty about what the future is going to
7 look like. That statement suggests they've done it
8 before or that they even included it in their actual
9 testimony, their direct testimony. They did not, and
10 they have not. No utility has ever asked for or
11 received a margin on top of their existing trust fund
12 balance analysis.

13 So don't be deceived. This is a brand-new
14 proposal that, by the way, came in in rebuttal testimony
15 for the first time. So it's not an analytical approach.
16 It's not a reasoned, careful, considered way to think
17 about this. It's a response to TURN's critique and
18 request to return the money and the analysis that we
19 did.

20 I'd like to remind the Commission that there
21 are ten future NDCTPs between now and the end of
22 decommissioning at least. That means every three years
23 we come back and argue about this. There's plenty of
24 time to continue to look at this issue and see whether
25 the forecasted concerns are going to materialize.

1 Putting \$600 million or some portion of that into the
2 trust now is -- would simply deny ratepayers access to
3 these funds in the near term.

4 And let me put this into stark terms. We did
5 our analysis. How much money did we find would be left
6 over in the trusts in 2056? It's in our testimony, in
7 our brief. But I'll just read it. Even without adding
8 a single dollar of DOE litigation proceeds, in 2056
9 dollars in 2056, Edison is projected to have
10 \$1.85 billion left over. San Diego Gas & Electric,
11 \$770 million left over. And that assumes five
12 additional years of delay, which aren't even in the
13 decommissioning cost estimates.

14 So how much money is needed? None of the other
15 parties will tell you. We're the only ones who have
16 actually done the analysis. And so the Commission
17 should look at the data that's in the record and act
18 consistent with how it has always addressed this issue.
19 Don't go rouge in this case and decide that you're going
20 to authorize additional money just because the utilities
21 ask for it when you have a longstanding tradition of how
22 to think about this issue. Thank you.

23 ALJ MCGARY: Thank you, Counsel.

24 And now we'll hear from Counsel Parker,
25 Cal Advocates.

1 REBUTTAL ARGUMENT BY MR. PARKER

2 Thank you, your Honor. Wayne Parker for Cal
3 Advocates. My remarks will be short.

4 I would direct the Commission's attention to
5 the exhibit marked as CA-0400. And specifically on
6 page 11, you will find Table 1-5, which is entitled
7 Trust Funds Versus To-Go Costs. This table summarizes
8 the Cal Advocates' analysts' assessment -- excuse me --
9 of the potential overage or underfunding of the trust
10 funds. And what you will see in the fifth column is
11 that under the operational scenario, they estimated a
12 220 -- excuse me -- \$224.5 million underfunding of the
13 trust funds.]

14 I simply wanted to point this out, because
15 there does seem to be a dispute -- factual dispute here
16 over whether or not there would be underfunding and what
17 the scope of that would be. And I believe that our
18 analysts provide the necessary background and a neutral
19 assessment of what they have determined, based on
20 information received from Joint Applicants.

21 Thank you, your Honor.

22 ALJ MCGARY: Thank you.

23 COMMISSIONER HOUCK: Can you repeat the exhibit
24 number?

25 MR. PARKER: Yes, your Honor. That is CA --

1 excuse me, your Honor. Commissioner Houck, that is
2 CA-0400, page 11.

3 COMMISSIONER HOUCK: Thank you.

4 ALJ MCGARY: Okay. I think we've gotten to the
5 part where we get a short break before the commissioners
6 and I may have some questions for you. Let's take --
7 let me check the time. The time is 2:17. Let's come
8 back at 2:30.

9 COMMISSIONER HOUCK: Can I ask --

10 ALJ MCGARY: Oh, go ahead.

11 COMMISSIONER HOUCK: Could -- I was going to
12 ask: When we come back, could you be prepared to
13 provide the exhibit numbers for the direct and rebuttal
14 testimony you referenced as well?

15 MR. JERMAN: Yes.

16 COMMISSIONER HOUCK: Thank you.

17 THE REPORTER: Are we off the record, Judge?

18 ALJ MCGARY: Apologies. We're off the record
19 and adjourned in recess until 2:30 p.m.

20 (Recess taken.)

21 ALJ MCGARY: We're back on the record. The
22 time is 2:31. We took a sort recess for a break. And
23 we'll move on to the part of our agenda for commissioner
24 question-and-answer period, maybe a couple from me.

25 So do we want to start with President Reynolds?

1 MR. JERMAN: And, Judge McGary, I'm sorry to
2 interrupt. But there was time on the agenda for a final
3 statement by utilities.

4 ALJ MCGARY: That's going to be after --

5 MR. JERMAN: Oh, I'm sorry.

6 ALJ MCGARY: So, number six was the break.
7 Number seven, commissioner question-answer, and then the
8 final statement.

9 Do you have a preference to do the final
10 statement before you're asking questions?

11 MR. JERMAN: No, that's fine. Let's stick to
12 the agenda that I should have looked at more closely
13 than I did.

14 ALJ MCGARY: Okay. And for anybody who's
15 joined us, there's a fact sheet and an agenda on the
16 back table where you would usually find the speech
17 documents. We made our own little special oral argument
18 table.

19 So, let's -- Commissioner -- excuse me --
20 President Reynolds, would you like to start?

21 PRESIDENT REYNOLDS: I wonder if the assigned
22 commissioner might prefer if they go first?

23 COMMISSIONER HOUCK: Thank you, President
24 Reynolds. So, first, were you able to get the exhibit
25 numbers from the direct and rebuttal?

1 MR. JERMAN: Yeah. So -- and was this
2 specifically on the margin issue, Commissioner Houck?

3 COMMISSIONER HOUCK: Yes.

4 MR. JERMAN: Yeah. So, SCE-06 is our direct
5 testimony exhibit, where we do our financial trust
6 analysis. And that exhibit identifies margins to resume
7 contributions to the trusts. So those are the margin
8 amounts that's produced in our financial analysis
9 that -- that addresses both an assumed rate of return,
10 so assumed rate of return on investments in the trust.
11 And then, also, assumed escalation rates for costs of
12 decommissioning.

13 And then, those same margins are addressed
14 again in our rebuttal testimony, which is SCE-09. And
15 that's the volume where SCE explained that those margins
16 should be considered akin to a contingency for modeling
17 purposes.

18 COMMISSIONER HOUCK: Thank you.

19 Another question for SCE: You mentioned that
20 the round five claim is pending, and you expect to
21 receive that before the next NDTCP. And I wasn't clear
22 if you were saying that we should wait to receive that
23 information before assessing what should or shouldn't
24 stay in the fund and go back to ratepayers.

25 So, could you just provide a little more

1 information about the significance of round five and
2 round six?

3 MR. JERMAN: Yeah. So, my point there was that
4 we expect to receive the round-five claim soon.
5 Although, admittedly, it has been pending for quite a
6 while. But, certainly, we expect to receive any funds
7 from that round before we receive the round six claims.
8 So I was pushing back on Mr. Freedman's assertion that
9 there would be \$600 million of DOE litigation proceeds
10 deposited before the next NDTCP. I don't think that's
11 likely.

12 I think, I hope, the round-five claims will be
13 resolved and received -- that litigation proceeds will
14 be received before the next NDTCP. So our financial
15 modeling will reflect receipt of these proceeds, but not
16 yet receipt of the round-six proceeds, which I think
17 likely will not be received before the next NDTCP.

18 COMMISSIONER HOUCK: Thank you. And I think
19 you responded to Mr. Freedman's arguments, but could you
20 provide a little more comment on your response to
21 Mr. Geesman's comment? I think we've got one intervenor
22 suggesting we need to have refunds back to customers.
23 And one that there may be more money that needs to go
24 into the trust, if I'm hearing that correctly.

25 So could you provide some response to

1 Mr. Geesman's arguments?

2 MR. JERMAN: Sure. I think the best response
3 to Mr. Geesman's claim that there is continuing
4 uncertainty regarding the DOE's ability to remove spent
5 fuel from the SONGS site, the utilities don't dispute
6 that. The best way to address that continuing
7 uncertainty is to allow us to deposit the litigation
8 proceeds into the trust. That will provide a funding
9 source for the spent fuel management if the DOE
10 continues to delay.

11 Regarding modeling the specific assumptions
12 that Mr. Geesman proposes, we don't think there's value
13 in doing that for a couple reasons. So, one, as I
14 mentioned in my rebuttal, we don't think it's consistent
15 with how the DCE has historically been done -- which is
16 identify specific assumptions, use those assumptions to
17 identify estimated costs to complete the decommission,
18 and then compare that against the trust fund balances.
19 And -- give me a second to -- That's the primary
20 concern. I'm sorry. I lost my train of thought on the
21 second point there.

22 COMMISSIONER HOUCK: Thank you.

23 And, Mr. Waidelich, did you have anything to
24 add to Mr. Jerman's response?

25 MR. WAIDELICH: Not on that point.

1 ALJ MCGARY: And then, Mr. Freedman, can you
2 also provide any additional response to Mr. Geesman's
3 arguments regarding the amounts not being sufficient?

4 And what happens if we return this money, and
5 we find out in five or six years that there's going to
6 be additional money needed?

7 MR. FREEDMAN: Thank you for the question,
8 Commissioner.

9 In the event that future developments lead to a
10 determination that trust fund -- that the trust fund
11 balances are forecasted to be inadequate to meet
12 identified future costs, the Commission will have two
13 options:

14 One, the Commission could direct the utilities
15 to deposit future DOE litigation proceeds into the
16 trusts, as they asked today. In this case, they really
17 haven't done their homework to identify under what
18 circumstances the trusts would be inadequate. If they
19 did the homework in a future case, and we have a greater
20 clarification of those costs, the Commission could
21 direct the utilities to take more DOE litigation
22 proceeds and deposit it.

23 And why would that be possible? Because the
24 utilities continue to seek recovery for the spent fuel
25 costs caused by the government's breach of the standard

1 contract. There are pending claims all the utilities
2 have been filing and will continue to file. So, that is
3 a source.

4 The alternative source is to collect the money
5 from ratepayers, when and if there's demonstration that
6 the money is needed. No such demonstration has been
7 made at this point.

8 COMMISSIONER HOUCK: And then, one last
9 question for you Mr. Freedman; and then I will just ask
10 you, Mr. Geesman, if you have additional comment.

11 But as far as, if we were to leave the status
12 quo as it is for this proceeding, what would you
13 recommend we require of SCE to provide -- to get more
14 specific or accurate information, based on the
15 deficiencies you've identified in your comments for the
16 next NDTCP.

17 MR. FREEDMAN: Just a clarification request.
18 When you say the status quo, do you mean return the
19 money to ratepayers, or do you mean something else?

20 COMMISSIONER HOUCK: I mean if we were to leave
21 things exactly the way they are right now, as far as how
22 we handle the DOE funds.

23 MR. FREEDMAN: Well, okay. The way that it has
24 been handled historically and for the other utilities
25 and for the other units is the money gets returned to

1 ratepayers. If the question is: Should we keep
2 returning the money to ratepayers, what do we ask for in
3 the future; or if we let them deposit the \$600
4 million-ish.

5 COMMISSIONER HOUCK: It was the first one. But
6 why don't you tell me what you would do in both
7 situations.

8 MR. FREEDMAN: Thank you.

9 So, if the Commission directs the utilities to
10 act consistent with historical practice and return the
11 money to ratepayers, I would -- we would recommend that
12 the utilities be directed to come back in the next
13 NDTCP, which I believe is going to be filed next year,
14 and to identify changed circumstances, updated cost
15 estimates, updated projections of trust fund balances.
16 And as part of that, for them to model several
17 sensitivities. Sensitivities could involve different
18 lengths of delay in the pickup of spent fuel, 5 years,
19 10 years, 20 years, pick your sensitivity; and run those
20 through their trust fund cash flow models that they use
21 to determine adequacy. Those models would then yield
22 useful data as to whether the trusts are actually
23 expected to be underfunded.

24 In addition, the utilities could model
25 sensitivities where they add certain amounts of DOE

1 litigation proceeds to the trusts over time to see how
2 that affects the adequacy of the trust funds. They
3 didn't do any of this in the current case. So that
4 would be our primary recommendation, is to actually do
5 that.

6 In the event that the Commission disagrees with
7 TURN and allows the utilities to divert the money into
8 the trusts, our recommendation would be that the utility
9 should be required in the next case to demonstrate that
10 the money is needed, not through speculative hand-waving
11 about who knows what the future is going to bring, but
12 through actual analysis; and any excess money be
13 returned to ratepayers immediately. But I'm really not
14 excited about this alternative proposals, because it's
15 completely unnecessary, and it prevents ratepayers from
16 getting relief now when they really need it. And,
17 again, there's so much time left to address this issue.
18 And the spent fuel delay costs really don't hit under
19 Edison's own modeling until deep into the future. So
20 there's no near-term impact to the trusts for many of
21 these determinations.

22 COMMISSIONER HOUCK: Thank you, Mr. Freedman.
23 I just wanted to see if Mr. Geesman or Mr. Parker have
24 anything they wanted to add.

25 MR. GEESMAN: Thank you, Commissioner. I guess

1 the one thing that I would add is that in the 19 years
2 that elapsed between the time that I was the Executive
3 Director at the Energy Commission, and then later served
4 at the Energy Commission, I spent those 19 years in the
5 capital markets largely as a financial advisor to most
6 of the municipal utilities in the west for their bond
7 issues. It's a frightening prospect to hear
8 Mr. Freedman, who I generally agree with, to say the
9 utilities haven't done their homework; and Mr. Jerman
10 indicating they don't want to do this particular type of
11 analysis, when the size of the amounts of money are so
12 large, and the level of uncertainty and the
13 ramifications, financially, are so great.

14 I don't think a head-in-the-sand approach is
15 appropriate. And if you end up charging future
16 ratepayers, who had no benefit from SONGS, to pay for
17 the cost of decommissioning -- as history has forced you
18 to do in Humboldt Bay, because the trust fund wasn't
19 established early enough -- but if you do that with
20 SONGS, it will be a major confession of failure on the
21 part of Edison and on the part of the Commission to
22 properly carry out the tasks that the 1985 Nuclear
23 Decommissioning Act contemplates for you.

24 COMMISSIONER HOUCK: Thank you.

25 And, Mr. Parker, did you want to add anything?

1 MR. PARKER: Thank you, Commissioner Houck. I
2 would simply note Cal Advocates' position is something
3 of a compromise here. We're recommending a 50/50 split
4 of the litigation proceeds going to the non-qualified
5 nuclear decommissioning trust; and the other 50 percent
6 being refunded to customers through the ERRA process.
7 This, in light of the information we have today, is
8 probably the best position that the Commission could
9 take. And that's all I have to add, your Honor.

10 ALJ MCGARY: Thank you.

11 And I don't have any other questions. I can
12 pass it back to the judge or to you, President Reynolds.

13 PRESIDENT REYNOLDS: No questions for me.

14 MR. JERMAN: Would it be okay if I responded to
15 that question, Commissioner Houck?

16 COMMISSIONER HOUCK: Is that okay?

17 Yeah. Sure. Go ahead.

18 MR. JERMAN: Yeah. The question of if the
19 status quo is maintained, I think the Commission
20 addressed that in its order in the last proceeding. So
21 the Commission directed the utilities to include
22 received DOE litigation proceeds in its analysis in the
23 next proceeding, which is this proceeding. I think the
24 assumption in the last NDTCP is that we would have
25 received around five litigation proceeds by then, and

1 our analysis would be updated to reflect those proceeds.
2 That didn't happen; but those requirements should be
3 continued into the next NDTCP. We'll update our
4 analysis to reflect any DOE litigation proceeds received
5 then.

6 On the question of additional analyses,
7 Edison's position is that what we presented in this case
8 shows conclusively that there's insufficient funding in
9 the trust to support spent fuel management beyond 2054.
10 That's shown in SCE-06 that has our margin to resume
11 contributions. So, for example, that exhibit shows that
12 there's an \$85-million margin for SONGS Unit 2. We
13 don't think that should be considered as money to
14 support spent fuel management beyond 2054. That's
15 explained in our rebuttal testimony.

16 But even if you do consider that money as
17 excess money to support spent fuel managements, it would
18 only support an additional three years, at best, beyond
19 2054. And that's because of our record evidence
20 supporting the costs of spent fuel management, the
21 annual costs. So if the question is: Should the
22 utilities include additional analyses that assume even
23 longer periods of DOE failure to remove the spent
24 nuclear fuel from this SONGS site, there's really
25 nothing to be explained from those additional analyses,

1 because we already show funding as inadequate as of a
2 certain date. Of course, if spent fuel stays on the
3 site beyond that date, funding will also be inadequate
4 to support it.

5 It also brings in a whole host of questions
6 about what other assumptions should be made about
7 continuing fuel on the site beyond 2054, which may be
8 2057 in the next NDTCP, if we incorporate another 3-year
9 delay. Additional questions about what funding sources
10 would be available, in light of, you know, hundred-year
11 spent fuel -- whatever the assumptions are that we've
12 heard today, it's just that a difficult analysis that we
13 don't think provides any real benefit to the Commission
14 or to our customers, because we have already identified
15 when the spending shortfall occurs.

16 Thank you.]

17 COMMISSIONER HOUCK: Thank you.

18 And I saw Mr. Freedman kind of shaking his
19 head. If you want to very briefly make one additional
20 comment.

21 MR. FREEDMAN: Yeah. The contribution margin
22 that Edison cited is not -- is not indicative of the
23 amount of additional spent fuel costs that could be
24 recovered or the extent to which the trust funds could
25 be able to handle delays. The way that that analysis is

1 done is using the models. The models have a
2 year-by-year projection of trust fund balances,
3 disbursements, costs that would be included. You can
4 even add additional costs to any years you want.

5 Under Edison's own data that they provided to
6 us in this case, they show that additional costs start
7 being incurred in 2052. So we did that. We used their
8 data. We used their model. We came to the result that
9 there were decades of additional -- decades of
10 additional delays that could be accommodated by the
11 trust funds. And the fact that the utilities refuse to
12 use their own models the way they would normally use for
13 this purpose tells you all you need to know about the
14 strength of their case.

15 ALJ MCGARY: Thank you, Counsel.

16 Apologies, Commissioner Houck, for getting the
17 order -- going out of order with questioning.

18 I do have two short questions -- oh, I'm sorry.
19 I'm going to apologize to Commissioner Baker as well.
20 Commissioner Baker has some questions.

21 COMMISSIONER BAKER: Yeah, the first for the
22 joint applicants.

23 Is there a net present value calculation in
24 your testimony? And if so, what discount rate did you
25 use?

1 MR. JERMAN: I don't have the discount rates
2 off the top of my head.

3 COMMISSIONER BAKER: But it was probably a
4 weighted average cost of capital?

5 MR. JERMAN: I don't think it is the weighted
6 average cost of capital. There's a rate assumed for the
7 cost escalation throughout the decommissioning project.
8 And there's also assumptions about the rate of return
9 for the funds in the trusts that are invested.

10 And to answer your first question, yes, we did
11 do that present value calculation.

12 COMMISSIONER BAKER: I guess this is kind of
13 a -- well, why wouldn't you use the weighted average
14 cost of capital in the calculation when we use it for
15 resource acquisition and other long-term --

16 MR. JERMAN: Well, the point of the analysis is
17 to determine the adequacy of the trusts and the returns
18 on the trust. The trust funds are invested in the
19 market. So to determine the adequacy, we think the best
20 measure is an expected return on those market
21 investments. So those are the assumptions we use. We
22 try to come up with a reasonable estimate for what that
23 return will be.

24 COMMISSIONER BAKER: And I -- the -- I'm not
25 sure how to word this question. But the -- it -- for

1 me, it seems like the question before me is how to
2 value, you know, what we're paying today versus what
3 future ratepayers would pay in the future. And, you
4 know, we think about it in terms of, well, we shouldn't
5 have intergenerational disparities. But we also are
6 paying for a lot right now forward, whether it's
7 wildfire mitigation or a lot of our climate work or
8 things like that. And so I guess my question is, you
9 know, how -- what is your -- I don't want to be leading.
10 But how -- you know, how should we think about this?

11 I think this gets to Mr. Waidelich's answer on
12 over and under. Like, let's say the worst thing is
13 we're \$1 billion off 50 years from now -- or in 2054.
14 That's not 50 years. Twenty-five years from now. We're
15 also assuming that we'll be richer at that time. Why
16 wouldn't we have the future pay for part of it if we
17 miscalculate it?

18 MR. JERMAN: Yeah. And the Commission
19 acknowledged in its decision in the last NDCTP that
20 there are competing intergenerational equity concerns
21 here. To Edison, we think the primary concern is to
22 ensure that the customers who actually receive the power
23 from the plant pay for the costs of decommissioning that
24 plant. We think that's a more important
25 intergenerational equity concern than the potential that

1 future customers may receive some benefit from the trust
2 if all those funds aren't used.

3 I would also say, Commissioner Baker, I think
4 the California Nuclear Decommissioning Act supports that
5 reading. I think the intent of the act is that funds to
6 decommission should be fully provided by users of the
7 power of the facility.

8 And I guess one other point too -- sorry to
9 keep stepping on you, Chris.

10 One other point is, you know, we also think
11 that, you know, by depositing the DOE litigation
12 proceeds into the trust, you know, it really avoids the
13 need for anyone to have to make additional
14 contributions. So it's not a question of, you know,
15 should it be future customers? Should it be current
16 customers? The idea is that the deposit of the funds
17 tracks the mechanism that's used to pay the spent fuel
18 management costs. It's an offset to the funds.

19 And, you know, one final point. I think that's
20 consistent with how the Commission handles spent fuel
21 management for nuclear -- other nuclear plants in the
22 state. I mean, for Edison, we have another nuclear
23 plant that's not in California. It's in Arizona. But
24 spent fuel management costs are paid through rates there
25 by our current customers. DOE litigation proceeds would

1 also be an offset to current rates. I believe that's
2 how PG&E handles it as well for Diablo Canyon. The DOE
3 litigation proceeds are an offset to current rates.
4 Because that plant is not in decommissioning, current
5 rates are used to fund spent fuel management.

6 COMMISSIONER BAKER: And the flip side of that
7 is that if there is an over-collection, that future --
8 those future generations are going to benefit from that
9 and the interest accrued through that.

10 MR. JERMAN: That is true. But the Commission
11 reviews that possibility every three years. And we're
12 required to update our analysis at least every three
13 years.

14 MR. WAIDELICH: I was just going to say,
15 Commissioner Baker, I think you hit the nail on the
16 head. I think everybody at this table would agree that
17 if we could have a perfect financial model and perfect
18 understanding of future costs, it would be that model
19 where, yes, those that incurred the benefit would have
20 paid towards the trust account, and there would be no
21 future windfall. Unfortunately, the stock market is
22 anything but a perfect model where we know exactly where
23 it's going to end up in the future. And we have all
24 these DOE litigations. There's a lot of unknowns, a lot
25 of uncertainty over the next 50, 60 years.

1 I think one point that might be a helpful data
2 point to look at is if you go back and look at prior
3 statements where we use the same model. And that same
4 model at different points in time show different things
5 when we go out 25, 26 years just based on where the
6 trust is at a certain point. I think that helps to just
7 emphasize that we do really our best to make a
8 reasonable and prudent approach to this. It's not an
9 exact science.

10 So there is going to be -- if we can hit a
11 perfect nail on the head, we would do it. But if you're
12 going to miss one way or another, it's which side do you
13 want to miss on? I think generally we don't want to
14 burden future ratepayers with a cost they didn't benefit
15 from.

16 COMMISSIONER BAKER: Mr. Freedman, what's in it
17 for the utilities to over-collect versus
18 under-collecting?

19 MR. FREEDMAN: It reduces their perceived
20 potential liabilities in the event they overspend on
21 decommissioning because they've already got the money in
22 the trusts. The utilities would like nothing more than
23 to have the trusts massively overfunded with the money
24 not coming back to ratepayers until some deep future
25 date because their primary concern is that they worry

1 about the risk that overspending on decommissioning
2 could create shareholder liability. That's my view of
3 it, having worked on this issue for about 20 years.

4 COMMISSIONER BAKER: What do you think the
5 appropriate discount rate should be for the NPV
6 calculation?

7 MR. FREEDMAN: I'm not sure that the NPV
8 calculation is the way to think about this. I think
9 that the modeling that does the year-by-year analysis,
10 that looks at it is the way to understand the adequacy.
11 By the time you get to the end-year surplus, you could
12 certainly discount that back. But the trust funds all
13 have different rates of return attached to them.

14 I think in terms of -- one data point that's
15 been useful for this back-and-forth is the utilities are
16 proposing to put the money in the nonqualified trust.
17 There's two different trusts. There's the qualified
18 trust, which is tax advantaged, and the nonqualified,
19 which is not tax advantaged. The nonqualified trust
20 invests all of its money in fixed income assets. So the
21 utilities are projecting about a 3-and-a-half percent
22 return on every dollar of DOE litigation proceeds that
23 goes in. When you spend that forward over 30, 40 years,
24 it's basically a destruction of value from a ratepayer
25 perspective. Ratepayers' discount rate, no matter how

1 you look at it, is a lot higher than 3-and-a-half
2 percent. So the money left at the end of the day is a
3 lot less than we would hope. And I think that's an
4 important thing to keep in mind.

5 COMMISSIONER BAKER: Thank you.

6 ALJ MCGARY: Oh, I'm up? Do we have any
7 other commissioners?

8 COMMISSIONER HARADA: Okay. So I understand
9 that -- so I'm still newer to the Commission, newer to
10 this topic. It sounds like you all have done some
11 amount of scenario analyses with respect to the trust
12 funds. I guess I'm just curious if you all have
13 considered -- does that include things like a
14 multiprobalistic risk analysis? Coming from an
15 engineering world, we do Monte Carlo solution
16 simulations all the time, especially in these kinds
17 of -- we don't know what's going to happen in the rest
18 of the world for the next 20, 30, 50 years kind of
19 situations. Is that something that you all have done
20 previously and/or you might be interested to pursue?

21 MR. FREEDMAN: If I may start, my understanding
22 is that the utilities typically do a Monte Carlo
23 analysis for projecting future trust fund returns.
24 Like, what's the rate of return they want to look at?
25 That's a typical thing that happens in these cases

1 because they don't know -- you know, you have to pick a
2 number and -- so you can look at deviations. But I
3 think that's the way to do it.

4 And in terms of, you know, doing sensitivity or
5 Monte Carlo simulations on costs, that becomes very
6 problematic because there's sort of one set of costs in
7 here. You could do sort of flat adders or subtracters.
8 As Edison pointed out, they've actually been spending
9 less than they projected on -- for decommissioning
10 costs. And they said they've been using savings to
11 cover incremental spent fuel costs. Do you think in the
12 future they're going to spend more or less than they
13 project on core decommissioning? I don't know. You
14 could pick your scenario.

15 MR. WAIDELICH: And also in response to that,
16 we actually did do some of that type of analysis in our
17 reply on page 18 where we look at TURN's analysis. And
18 if you drop -- I believe it's 1 percent off of that,
19 that entire margin disappears. So in thinking about a
20 small change and the impact that that has, we do think
21 about those things.

22 MR. JERMAN: And I was going to say that -- the
23 same thing, Commissioner Harada. I don't think we do a
24 specific Monte Carlo analysis. But our treasury
25 department and our financial experts certainly do a

1 robust analysis of the trust fund adequacy. And it's
2 their testimony in our rebuttal exhibit where they
3 support the thinking that the contingency amounts and
4 contribution to a margin be considered as a contingency
5 to address the unforeseen outcomes in the rates of
6 return and escalation costs.

7 ALJ MCGARY: Do you have any questions,
8 Commissioner Douglas?

9 COMMISSIONER DOUGLAS: No.

10 ALJ MCGARY: I just have a few questions, but
11 they might turn into a little bit longer time than we
12 thought. So if you could get in there and answer these
13 briefer, that would be helpful.

14 I'm going to take it out of order because we're
15 already talking about issue number 7, which is whether
16 the proceeds paid by the DOE for litigation for delay in
17 spent fuel management storage costs for SONGS should
18 continue to be deposited into SCE and SDG&E's respective
19 nonqualified decommissioning trust as ordered in
20 Commission Decision 24-08-001 or be refunded to their
21 respective customers through the ERRA process. And
22 we've heard each person's proposal. Cal Advocates had a
23 proposal for a fifty-fifty split. We have TURN's
24 proposal for 100 percent. So you don't have to repeat
25 that. But I just have some clarifying questions for

1 each party.

2 So in Commission Decision 16-04-019, the
3 Commission authorized SDG&E to cease collection of
4 customer contributions on January 1, 2016, and
5 immediately for SCE. So there were two different
6 requests. What I would like to hear from SCE and SDG&E
7 is the last date of -- the actual last date of those
8 annual contributions from customers. And then I have
9 some other questions about item 6.

10 So starting with SCE, what's the last day of
11 the annual contributions collected from customers?

12 MR. JERMAN: Yeah. I don't know, Judge McGary.
13 It would have been in 2014. But if you're looking for
14 an exact date, we don't have that. We can certainly get
15 it for you, though.

16 ALJ MCGARY: I did look through testimony. I
17 didn't see the exact date. But I did find it in what we
18 actually authorized. I just want to know when it
19 actually happened.

20 For SDG&E, Counsel --

21 MR. WAIDELICH: ALJ McGary, based on the
22 information -- just speaking with my experts behind me,
23 they think it is January 2016.

24 ALJ MCGARY: Okay. Great. So as ordered, you
25 proceeded at that time.

1 Okay. And related to claim -- the proposals, I
2 read them and found a little bit of ambiguity. So I'll
3 start with TURN.

4 So, TURN, you are asking that if we do deviate
5 from the previous decision in place right now,
6 D.24-08-001, and return 100 percent of the DOE
7 litigation net proceeds -- so after the litigation
8 costs -- when do you propose that to start? Were you
9 starting with Claim 5? Were you starting with Claim 6?
10 Are you starting with things after Claim 6? If you
11 could, please clarify that.

12 MR. FREEDMAN: Thank you, your Honor. I don't
13 believe that our proposal requires the Commission to
14 deviate from the last decision. The last decision
15 specifically teed up this issue for consideration in
16 subsequent NDCTPs where the Commission could determine
17 the disposition of the proceeds. We believe that this
18 is not a deviation but rather a natural consequence from
19 the last decision for the Commission to take a look at
20 the state of play, whether money is needed, and what to
21 do with the DOE litigation proceeds.

22 With that preamble, our position would be that
23 once the money is received -- and as Edison and SDG&E
24 point out, the money has not been received from the
25 Round 5 or 6 claims. When the money comes in, it would

1 be credited to the ERRA in the next calendar year, as
2 has been done traditionally, at least for Edison and the
3 other utilities. So --

4 ALJ McGARY: So it's a proposal to start with
5 when the claim proceeds for Claim 5 are actually
6 received?

7 MR. FREEDMAN: That's correct because our --
8 (Crosstalk.)

9 MR. FREEDMAN: -- because our modeling shows
10 that the money is not needed. There's absolutely no
11 basis for putting that money in the trust.

12 So our view is that when the Commission issued
13 its last decision, it did so saying we're going to take
14 another look at this the next time around. And this is
15 the next time around. So we don't think the utilities
16 are entitled to any presumption that either the Round 5
17 or 6 claims should have any particular treatment.

18 ALJ McGARY: Okay. So you're starting with
19 Claim 5 --

20 MR. FREEDMAN: That's correct.

21 ALJ McGARY: -- if Claim 5 is received after
22 the current 2024 NDCTP decision is entered?

23 MR. FREEDMAN: At any point that the claim is
24 received, yes.

25 ALJ McGARY: Okay. And, Cal Advocates, Counsel

1 Parker, can you speak to that at well? Based on your
2 proposal, the fifty-fifty split between ERRA and the
3 NDTs, when are you proposing that start?

4 MR PARKER: Thank you, your Honor. We would
5 also support TURN's recommendation that it starts when
6 the funds are received. This is driven, in part, by the
7 concern that we have. And this is why we suggested the
8 fifty-fifty split because there's a lot of uncertainty
9 that we've all seen now with the various estimates as to
10 whether or not funds will be over or under. And our
11 concern is we'd like to give some relief to ratepayers
12 now. And having -- as soon as the money comes in,
13 having the fifty-fifty split and then having 50 percent
14 of that money return to the ERRA process to ratepayers,
15 we believe would help with relieving them after, you
16 know, multiple rate increases that they've experienced
17 as well as an affordability crisis that everybody here
18 is very well aware of. Thank you.

19 ALJ MCGARY: Thank you.

20 Then I have another question unless -- Counsel
21 Geesman, did you want to add anything?

22 MR. GEESMAN: (Inaudible.)

23 ALJ MCGARY: Okay. All right. So my other
24 question has to do with scoped issue number 12, which
25 is -- put you on the hot seat here, Cal Advocates. So

1 there is a concern about the 19.42 percent versus
2 25 percent for the contingency for PVN -- Palo Verde.

3 So my question about that -- well, actually,
4 I'm going to start with you, but then I definitely want
5 to hear from SCE about this. You noted that you didn't
6 feel it was supported by the record. And I wanted to
7 hear just a little bit more about that and why. And
8 then I'd like to hear from SCE your sort of response and
9 why.]

10 MR. PARKER: Thank you, your Honor. I'm going
11 to go to -- I'm going to recommend and focus -- or
12 direct your attention to Cal Advocates' Exhibit CA-0400.
13 If you go to pages 8 and 9, you will see that there is a
14 fuller discussion than I feel that I would be able to
15 offer here with regard to exactly why we feel that the
16 PVNGS estimate is overstated by 25 percent; and that the
17 current percentage, which is 19.4, for contingency
18 should stay. And, therefore, the \$29.5-million increase
19 should be denied.

20 ALJ MCGARY: Mm-hm. I did review your opening
21 brief (inaudible) your responsive briefs at (inaudible),
22 your Exhibit 0400 at Bates 5 to 8, and (inaudible). So,
23 I definitely have read it; but I'm just curious in --
24 well, not curious. It's my job.

25 I have some questions about -- you know, our

1 job in these situations is forecasting. And there's a
2 methodology to it. And there's always this question
3 mark in the middle of that forecasting. So, rate -- you
4 know, I understand your point -- the 19.4 percent, we
5 don't see a reason to raise it to 25 percent; but I just
6 want a little bit more from you about that reason.

7 MR. PARKER: Your Honor, from what I was told
8 by the analysts and the experts on this, their concern
9 was that the utilities didn't take into account any new
10 factors or resources to support this 25 percent
11 contingency estimate. The lack of data from them meant
12 they felt it was not justified and that the utilities
13 hadn't met their burden of proof to establish why
14 25 percent would be justified. And they, therefore,
15 defaulted to the 19 -- the 19.4 percent rate.

16 ALJ MCGARY: Okay. Thank you, Counsel Parker.

17 And, Counsel Jerman, do you want to speak to
18 that?

19 MR. JERMAN: Sure. The -- so, there really is
20 no new information regarding decommissioning assumptions
21 and cost of Palo Verde. And the reason for that is
22 because it's an operating facility. If the current NRC
23 licenses expire without being renewed, the plant would
24 not begin to go through the decommissioning phase until
25 2045 for the first unit. So decommissioning so far off

1 into the future, it's appropriate to have a
2 relatively-high contingency amount attached to the DCE.
3 And the Commission has reviewed the DCE contingency for
4 Palo Verde and multiple NDTCPs and has always
5 supported -- or always approved that 25-percent
6 contingency.

7 ALJ MCGARY: Any other commissioners have
8 questions on that before I move on?

9 (No response.)

10 ALJ MCGARY: All right. So, this is my last
11 question. And, hopefully, we can get out of here
12 relatively soon.

13 So, this is related to Scoped Issue Number 4:
14 Is the 2024 DCE for SONGS 2 and 3 reasonable?

15 And I have some questions, to put Counsel
16 Geesman to the spotlight, related to your proposals or
17 suggestion to shore up the assumptions a little bit by
18 using the Nuclear Regulatory Commission's GIS modeling.
19 I note that the modeling involves 60 years, 110 years,
20 and -- I noted that in the briefing. SCE does not
21 support doing modeling on all three.

22 So, I would like to hear a little bit more from
23 you about why that's a better approach to the removal
24 delays for both the -- granted in Class C and the spent
25 nuclear fuel removal delays -- functions for those two

1 things.

2 MR. GEESMAN: The Commission in the 2014 NDCTP
3 recognized the uncertainty about how long spent fuel
4 would stay onsite. If I recall correctly, the decision
5 actually commended several of the parties for
6 questioning these assumptions that said: No one has got
7 a better assumption than simply adding three years to
8 what was used previously.

9 In response to that lack of a better
10 assumption, we searched for and found the Nuclear
11 Regulatory Commission's Generic Environmental Impact
12 Statement as to how it framed the uncertainty. And it
13 determined that a short storage period onsite would be
14 60 years for analytic purposes; and that a long onsite
15 storage period would be 160 years. And it bounded its
16 analysis -- doesn't say so, but I believe based upon its
17 expected assumptions about the life of the dry storage
18 casks, it bounded its assessment between 60 and 160
19 years post-shutdown.

20 Now, under state law, CEQA, a
21 California-permitting agency can in fact rely on -- and
22 is expected to rely on a Federal environmental impact
23 statement. So, we considered that to be a legitimate
24 source of attempting to frame the analytic question.
25 But it's more a function of: "What's your source for

1 the assumption?"; than, "Is this ideally how you should
2 do it?" Perhaps the period of time should be longer.

3 I'm sensitive to what Mr. Jerman says in terms
4 of: It should be some kind of limit where there's no
5 practical benefit from continuing to assess this in a
6 single proceeding. And as Mr. Freedman suggests,
7 economists use discount rates to determine that. So,
8 there is a judgment call involved on the Commission's
9 part by how best to frame the useful analytic task of
10 assessing this uncertainty. The status quo clearly
11 isn't working.

12 As Edison pointed out in the last NDTCP, the
13 DOE's failure to perform its contractual obligation has
14 already caused -- and this is three years ago --
15 \$100 million of expenditure of funds that had been held
16 in contingency. That's a hundred-million-dollar
17 unplanned expenditure, they indicated they've repeated
18 in this proceeding, the inability to sustain that kind
19 of hit going forward.

20 So, A4NR's belief was: You need to impose a
21 better, more-searching form of analysis. The best
22 source we could find was that used by the Nuclear
23 Regulatory Commission to frame the long-term storage and
24 the short-term storage.

25 ALJ McGARY: Now, one other follow-up question

1 before we go to you, Counsel Jerman and
2 Counsel Waidelich.

3 If we were to include that modeling type in --
4 with -- is that an addendum to the current
5 reasonableness framework and cost categorization, that
6 grouping we have right now as a Commission process, to
7 receive NDCTPs? Or would it be a separate proposed way
8 of approaching the DCEs?

9 I'm just -- some of it is kind of curiosity.
10 But the other was: If we were to consider it, or if I
11 was to recommend it to the commissioners in some way,
12 practical application, how does that happen? Just...

13 MR. GEESMAN: Rather than attempt a change on
14 an ongoing basis, I would simply focus on the next round
15 of NDTCP, and ask the applicant to include that certain
16 analysis in the next round and determine then: Did this
17 work for you or not? Was it of value, or was it
18 completely marginal?

19 ALJ MCGARY: Okay. Thank you for that. I just
20 wanted a little clarity on that. I have read all of
21 your papers.

22 MR. GEESMAN: Thank you, you Honor.

23 ALJ MCGARY: So, Counsel Jerman and
24 Counsel Waidelich, would you like to respond to any part
25 of that related to Scoped Issue Number 4, proposal for

1 modeling using some part of the NRC National -- Nuclear
2 Regulatory Commission's GIS modeling?

3 MR. JERMAN: Sure. Yeah. As I mentioned
4 before, we don't see a benefit to doing that modeling;
5 because we've already identified when the funds for
6 spent fuel management expire.

7 I should point out though that we have agreed
8 to do, sort of, expanded modeling on spent fuel
9 management in the next NDTCP; where if we receive the
10 round-five litigation proceeds before that NDTCP, we'll
11 do an analysis of the number of years we'd be able to
12 support spent fuel management with those funds. So, in
13 other words -- you know, assuming we fully exhaust all
14 funds for spent fuel management, how many years would
15 that get us to maintain spent fuel management of the
16 SONGS site?

17 ALJ MCGARY: Okay. Thank you.

18 I see a little bit of a head nod from you,
19 Counsel Freedman. Do you want to add anything?

20 MR. FREEDMAN: No, thank you.

21 ALJ MCGARY: Okay.

22 Do the commissioners have any more questions?

23 (No response.)

24 ALJ MCGARY: Well, with that, we are adjourned.

25 Thank you for the extra 16 minutes. And we are

1 off record.

2 (At the hour of 3:16 p.m., this matter having
3 been concluded, the Commission then
4 adjourned.)

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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE
STATE OF CALIFORNIA

CERTIFICATION OF TRANSCRIPT OF PROCEEDING

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CSR NO. 13964

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	1-5 153:24 168:6	19.42 196:1	2045 152:18 197:25
\$	10 117:17 119:2 176:19 204:12 205:12	1982 153:13	205 117:17
\$1 184:13	10-year 142:9	1983 129:10	2052 182:7
\$1.4 148:24 151:15,23	100 191:24 193:6	1985 136:14 139:15 160:7 178:22	2054 129:24 130:15 133:14 138:18 156:7 180:9,14,19 181:7 184:13
\$1.85 167:10	11 168:6 169:2	1998 129:12	2056 167:6,8,9
\$10 133:6	110 198:19	1:00 125:7	2057 181:8
\$100 200:15	117 117:17	1:05 119:2	2073 138:21
\$12.5 150:25	12 195:24	1st 162:19	21 161:20
\$138 137:23	12-year 145:9,10	2	21-year 137:18
\$147 154:2	123 129:15	2 123:22,24 132:22 135:11 148:19,21 150:17,21 151:8 152:3, 4 154:2 180:12 198:14	2123 138:23
\$168 131:1 154:19	128 118:2	20 125:7 176:19 188:3 189:18	2173 138:21
\$224.5 154:3 168:12	13 124:24 125:12	2009 143:6	22 137:6 161:21
\$27.6 137:7,19	13.14 120:18	2014 129:25 136:7 137:6,14,16 138:5,6 150:14 161:13 192:13 199:2	220 168:12
\$276 137:10	13.14(B) 120:21	2014-dollars 137:7	24-08-001 191:20
\$29.5 149:11,14 153:9	134 118:3	2016 192:4,23	24-12-003 117:11 122:2
\$29.5-million 196:18	13964 117:24 204:8,21	2020 152:6	25 143:4 152:15 187:5 196:2,16 197:5,10,14
\$32 129:20 137:5	13991 117:24 205:8	2021 123:17,18 130:24 136:20 154:24	25-percent 198:5
\$4 136:20,23	14 151:13	2023 123:18 149:9 152:12	26 187:5
\$4.709 150:13	140 118:4	2024 117:11 119:10 123:10 128:5 152:5 165:7 194:22 198:14	26-year 137:17
\$414 138:4 161:13	148 118:4	2025 124:11,15,17	270 129:17
\$49.1 152:5	15 157:5 161:11	2026 117:17 119:2 121:2 124:10,24 125:5, 7 138:7 204:12,15 205:12,15	2:17 169:7
\$600 140:23 141:12 144:5 147:24 154:16 167:1 172:9 176:3	154 118:6	2027 132:25	2:30 169:8,19
\$632.1 149:10	158 118:7	2028 162:3,19	2:31 169:22
\$7.4 149:4 152:6,10	16 202:25	2030s 161:17,22	3
\$770 167:11	16-04-019 192:2	2034 129:24	3 117:18 123:22,24 132:23 135:11 148:19, 21 150:17,21 151:8,13 152:3,4 154:2 198:14
\$8.7 148:23 151:9,19	160 118:7 199:15,18	2035 162:4	3-and-a-half 188:21 189:1
\$85-million 180:12	160-year 138:15		3-year 181:8
0	163 118:8		30 121:2 125:5 188:23 189:18
0400 196:22	168 118:8		30-year 157:7
1	16th 124:15		
1 123:18,22,24 132:24 135:11 150:17 154:1 157:11 190:18 192:4	17 204:15 205:15		
1's 150:23	17.75 152:6		
	17th 124:15		
	18 190:17		
	19 178:1,4 197:15		
	19.4 149:13 152:15 196:17 197:4,15		

31st 123:18	196:13,22	accurate 136:15	addressed 145:15
338-E 117:10	80 153:16	139:18 152:21 175:14	156:17 167:18 171:13
36 145:2	8323 163:12	acknowledged 139:13	179:20
3:16 203:2	8327 163:13	184:19	addresses 129:2 171:9
3rd 124:10,11	85 166:1	acquisition 183:15	adds 137:9
	88 165:21	acres 163:8	adequacy 129:6
		acronym 124:7	132:11 144:3,19 146:8,
4		act 136:14 139:15	11,15,16 155:7 156:2
	9	153:13 160:7 167:17	158:1 163:22 176:21
4 130:25 152:12 198:13	9 151:13,16 152:2	176:10 178:23 185:4,5	177:2 183:17,19 188:10
201:25	196:13	action 136:8 141:5	191:1
40 146:8 164:8 165:12	902-E 117:10	148:14,16	adequate 128:14,19
188:23		active 122:5 132:7	134:1 155:15 159:4
414 138:7	A	activities 123:16	adjourn 121:20
46 145:6		128:13 132:7 133:3	adjourned 169:19
	A.24-12-003 119:8	148:24 149:1 151:8,10,	202:24 203:4
5	A4nr 124:7 126:17	20,24 152:1 153:4	adjustments 140:7,10,
	127:5 132:21 134:18	161:20	13
5 130:25 154:18,22	135:12 139:8 158:16	activity 132:10	administer 130:8
155:7 176:18 193:9,25	159:12 160:3 161:6	actual 123:16 166:8	administration 136:5
194:5,16,19,21 196:22	162:20	177:12 192:7	161:24
50 179:5 184:13,14	A4nr's 125:5 138:9,18	add 135:22 145:3	administrative 117:7,
186:25 189:18 195:13	139:7 200:20	164:17 173:24 176:25	8 119:4,13,14 124:24
50/50 150:3 179:3	abandon 135:3	177:24 178:1,25 179:9	admitted 153:23
54 145:3	abandoned 161:17	182:4 195:21 202:19	admittedly 172:5
584 138:7	abandons 163:10	addendum 201:4	adopt 123:5 131:3
	ability 173:4	adders 190:7	139:7 145:25
6	absolutely 165:13	adding 144:24 167:7	adopted 130:18 132:19
	194:10	199:7	147:4
6 123:10 154:21,22	ac- 129:23	addition 133:5 158:15	adoption 150:12
155:10 192:9 193:9,10,	accelerated 161:16	176:24	adopts 136:14
25 194:17	accelerates 133:6	additional 130:1,16	advance 132:23
60 186:25 198:19	acceleration 137:20	131:6,25 132:21 133:7	156:19
199:14,18	accept 130:10	137:18,22 141:17,21	advantaged 188:18,19
60-year 138:13	accepting 129:23	142:2,9,23 143:22	advisor 162:7 178:5
63 145:6	access 165:11 167:2	144:4,12,16 145:1	Advocates 124:8,9
68 163:8	accommodated	146:20 151:4 155:20	126:19,23 132:12
	182:10	156:19 159:15 167:12,	148:13,14 151:14,22
7	accordance 153:12	20 174:2,6 175:10	153:21 154:5 159:16
	account 150:1 186:20	180:6,18,22,25 181:9,	162:8 167:25 168:3
7 191:15	197:9	19,23 182:4,6,9,10	191:22 194:25 195:25
	accrued 186:9	185:13	Advocates' 161:7
8		address 128:4 132:21	168:8 179:2 196:12
		140:5 146:21 150:7	affect 132:10
8 121:4 151:13,16 152:2		155:12 156:10,18,25	
		173:6 177:17 191:5	

affects 177:2	ambiguities 151:21	apologize 182:19	121:1 122:9 125:4,6,15
affirm 146:9	ambiguity 193:2	appearance 126:12	128:1 134:8,19 140:1,
affordability 141:4 155:13,18,22 195:17	amendment 162:17	appearances 125:18	12 147:9 148:10 154:13
afternoon 121:24 126:4 128:2 148:11	amnesia 146:6	appearing 125:23	158:11 160:4 163:18
agency 122:20 199:21	amount 135:23 141:24 146:2 153:2 154:20	appears 154:18	168:1 170:17
agenda 121:9,10 122:15 169:23 170:2, 12,15	155:2 164:3 181:23	Appendix 124:23	arguments 122:1
agree 178:8 186:16	189:11 198:2	applicable 123:3 162:18	125:8,10 134:14 142:11
agreed 129:12 136:22 137:25 202:7	amounts 139:5 155:3 156:15 157:3 165:24	applicant 136:12 201:15	145:9,22 159:19 172:19
agreement 134:24 158:13	171:8 174:3 176:25	applicants 124:3 168:20 182:22	173:1 174:3
ahead 119:5 148:9 169:10 179:17	178:11 191:3	Applicants' 121:19	arise 131:13
akin 171:16	analyses 156:22 180:6, 22,25 189:11	application 117:9,11 119:8 122:1,2 123:1	arithmetic 161:9
align 140:8	analysis 136:19 142:20 143:3 144:7,9,23 145:9, 13 146:18 156:24	148:17 159:9,22,25	Arizona 124:1,2 185:23
aligns 131:11	157:3,4 158:2 162:22	201:12	articulated 137:11
ALJ 122:13 123:1 126:2,5,8,16,24 127:6, 16,21 134:6,11,12,17	163:25 164:6,13,14,21, 24 165:2,25 166:5,12, 18 167:5,16 171:6,8	applications 123:2	assemblies 129:17
139:23 148:3,6 154:10	177:12 178:11 179:22	applied 156:25	assertion 172:8
158:6,10 160:2 163:15	180:1,4 181:12,25	apply 156:25 166:4	asserts 152:7
167:23 168:22 169:4, 10,18,21 170:4,6,14	183:16 186:12 188:9	applying 131:13 140:16	assess 200:5
174:1 179:10 182:15	189:14,23 190:16,17,24	approach 129:2,9 131:20 133:3,25 138:9	assessing 171:23 200:10
189:6 191:7,10 192:16, 21,24 194:4,18,21,25	191:1 199:16 200:21	139:8 142:3 159:10,23	assessment 161:6,7 168:8,19 199:18
195:19,23 196:20	201:16 202:11	166:15 178:14 187:8	assets 188:20
197:16 198:7,10 200:25	analysts 168:18 197:8	198:23	assigned 119:12,13,14 124:11 125:13 170:21
201:19,23 202:17,21,24	analysts' 168:8	approaching 201:8	ASSISTANT 117:7
alliance 124:7 126:17 127:1,3,5 134:21,24	analytic 162:14 163:1 199:14,24 200:9	approve 148:19 150:25 159:25	Association 120:25
136:6 142:10 160:6	analytical 145:19 147:20 166:15	approved 141:25 146:22 198:5	assume 142:8 165:25 180:22
Alliance's 135:6	analyze 138:11,20	approximately 129:17,20 130:25	assumed 139:1,2,3,5 156:7,9 166:1,2 171:9, 10,11 183:6
allocating 132:12	analyzed 144:16 162:9	140:23 154:2	assumes 129:23 167:11
allowed 142:16 143:1	and/or 189:20	arbitrary 136:4	assuming 184:15 202:13
alternate 123:5	Andrea 117:8 119:12	argue 166:23	assumption 136:10 139:11 157:9 179:24
alternative 150:20 175:4 177:14	annual 180:21 192:8,11	argued 143:12	199:7,10 200:1
alternatives 160:23	annually 129:19 157:7	argues 131:24	assumptions 130:2,12 132:18 135:8 137:12
altogether 132:15	anomalies 137:24	arguing 123:8 145:25 163:22	138:1,3,17,25 139:20
	anticipated 150:14	argument 117:9 118:2, 6 119:7 120:16,22	144:22 152:8 157:1,2, 11,12,25 158:3,20
	anymore 160:18		159:17 161:11 162:25
	Apologies 126:10 169:18 182:16		173:11,16 181:6,11

183:8,21 197:20 198:17 199:6,17	24 185:3 186:6,15 187:16 188:4 189:5	breach 174:25	campaign 150:17
attached 188:13 198:2	balance 156:15 157:5 166:12	break 121:17 169:5,22 170:6	campaigns 150:23
attempt 142:13 201:13	balances 132:1 141:22 142:21 145:11 146:3	brief 191:13	canisters 129:16
attempting 199:24	156:13 173:18 174:11 176:15 182:2	briefing 137:25 198:20	Canyon 141:10 186:2
attempts 160:7	based 123:2 141:25 142:17 150:15 156:12, 15 168:19 175:14 187:5 192:21 195:1 199:16	briefly 121:8 132:20 181:19	capacity 139:2
attendance 117:4,5,6, 7	bases 140:10	briefs 120:24 140:5,11 144:21 145:16 146:8 196:21	capital 178:5 183:4,6, 14
attention 140:16 168:4 196:12	basically 164:3 188:24	bring 177:11	careful 166:16
attorney 126:14,22 127:3 148:12	basis 194:11 201:14	brings 181:5	Carlo 189:15,22 190:5, 24
August 117:17 119:2 125:7 204:12,15 205:12,15	Bates 196:22	budget 136:23	carried 133:11
authorize 152:14 153:8 167:20	Bay 141:10 178:18	builds 153:11	carry 178:22
authorized 192:3,18	bear 129:7 133:19	burden 136:12 187:14 197:13	case 119:7 135:25 143:3,7,9,20 144:2 145:4,7 147:12,13 167:19 174:16,19 177:3,9 180:7 182:6,14
availability 161:16	bearing 131:21	C	cases 143:22 189:25
average 183:4,6,13	began 129:13	CA 168:25	cash 176:20
avoid 131:9	begin 129:12,23 157:20 161:17 197:24	CA-0400 153:24 168:5 169:2 196:12	cash-flow 144:18
avoided 133:8	behalf 125:23 134:9,20 140:3 158:9,12 160:5	Cal 124:9 126:19,23 132:12 148:13 151:14, 21 153:21 154:5 159:16 167:25 168:2,8 179:2 191:22 194:25 195:25 196:12	casks 199:18
avoids 185:12	belief 200:20	calculated 157:6	categorization 201:5
aware 128:10 141:3 195:18	benefit 120:8 159:6 160:9 178:16 181:13 185:1 186:8,19 187:14 200:5 202:4	calculation 182:23 183:11,14 188:6,8	category 121:3
B	big 122:19	calendar 194:1	caused 174:25 200:14
back 121:10 122:10,16 135:4 165:22 166:23 169:8,12,21 170:16 171:24 172:8,22 176:12 179:12 187:2,24 188:12	bill 140:22	California 117:3,9,16 119:1,9 122:2,21 123:25 124:8 125:20,23 163:9 185:4,23 204:3,8 205:3,8	cease 192:3
back-and-forth 188:15	billion 150:14 167:10 184:13	California's 139:14	cell 120:12
backdoor 140:25	bills 141:4	California-permitting 199:21	center 163:8
background 168:18	bit 127:13 191:11 193:2 196:7 197:6 198:17,22 202:18	call 200:8	central 128:18 146:17
badly-needed 147:18	bond 178:6	called 119:6 121:12	cents 165:21
Bailly 118:2 125:24 126:1 127:12,17 128:1, 6 134:6,25 137:4 162:24	bottom 138:2 145:17	calls 135:20 138:14,16 152:16	CEQA 199:20
Baker 117:5 119:22 182:19,20,21 183:3,12,	bounded 199:15,18		CERTIFICATION 204:6 205:6
	bout 146:5		CERTIFIED 204:7 205:7
	brand-new 166:13		CERTIFY 204:9,13 205:9,13
			challenge 135:1
			challenges 153:5
			change 130:3 139:8 152:8 162:25 190:20 201:13

changed 129:10 133:13 162:25 176:14	coastal 162:2,15,16,18, 21 163:2,4	Commission's 120:17 124:13,22 125:1 130:22 131:20,24 133:15 135:3 136:9 147:10 150:12 168:4 198:18 199:11 200:8 202:2	COMPRISE 204:10 205:10
changing 132:3	Code 163:13		compromise 179:3
charging 178:15	colleague 158:13		concern 155:14 173:20 184:21,25 187:25 195:7,11 196:1 197:8
check 169:7	collect 159:5 175:4	Commission- 119:13	concerns 166:25 184:20
chemical 151:11	collected 192:11	commissioner 117:4, 5,6 119:21,22,23,24 121:14,18,22,24 122:25 123:4,6 168:23 169:1,3, 9,11,16,23 170:7,19,22, 23 171:2,3,18 172:18 173:22 174:8 175:8,20 176:5 177:22,25 178:24 179:1,15,16 181:17 182:16,19,20,21 183:3, 12,24 185:3 186:6,15 187:16 188:4 189:5,8 190:23 191:8,9	conclude 132:7
Chief 117:7 125:25 128:7	collection 192:3		concluded 155:3 203:3
child 160:24 161:2	collections 131:7 143:13		concluding 132:20
choose 162:9	college 160:24,25 161:2		conclusively 180:8
Chris 126:6 134:9 158:9,12 185:9	column 168:10	commissioner's 124:12 125:14	conditions 162:24
Christine 117:6 119:24	combined 142:21	commissioners 119:17,19 122:8,24 123:4 125:21 126:4,21 127:3 134:11 140:2 144:20 148:11 150:9 159:25 169:5 189:7 198:7 201:11 202:22	confession 178:20
circumstances 131:2 152:23 174:18 176:14	combining 154:18		confirms 151:25
cite 142:5	commence 152:18		conflict 165:13
cited 161:15 181:22	commences 152:20		confronted 137:24
claim 130:25 131:1 147:9 154:20,21,22,23 155:8 164:1 171:20 172:4 173:3 193:1,9,10 194:5,19,21,23	commended 199:5		consequence 160:19 193:18
claimed 156:1 165:22	comment 126:1 127:14 172:20,21 175:10 181:20		consequences 129:3 159:2
claims 137:12 140:23 153:16,17 165:20 172:7,12 175:1 193:25 194:17	comments 134:23 154:15 156:11 157:15 165:15 175:15	communications 121:5	consequential 140:18
clarification 148:5 174:20 175:17	Commission 117:1 120:23 121:4 124:1,9 128:3,17,18,23 129:25 130:17 131:2 132:19 133:21 136:7,13 138:10 139:7,11,15 140:16,21 141:3,11,16,19 142:15, 19 143:1,5,9,10,20 144:1 145:25 146:5,8, 15,22 147:12,16,22 148:16,19,24 149:3,12 150:2,25 151:15,22 152:10,13,25 153:1,7 154:6 155:5 156:17 161:4 162:2,8,12,15,16, 20,21,25 163:2,5 164:7 165:14 166:20 167:16 174:12,14,20 176:9 177:6 178:3,4,21 179:8, 19,21 181:13 184:18 185:20 186:10 189:9 191:20 192:2,3 193:13, 16,19 194:12 198:3 199:2 200:23 201:6 203:3 204:1 205:1	Company 117:10 119:9,10 125:20,24	conservative 144:22
clarified 147:12		compare 146:2 173:18	considerable 151:17 152:19
clarify 135:13 138:25 193:11		compared 136:25 140:14	considerably 139:21
clarifying 191:25		comparison 145:7	consideration 157:17 193:15
clarity 201:20		complete 129:24 134:24 157:10 173:17	considerations 161:9
Class 198:24		completely 136:4 164:25 177:15 201:18	considered 125:12 143:24 166:16 171:16 180:13 189:13 191:4 199:23
cleanup 151:11,12		completing 184:20	consistent 136:13 158:2 165:24 167:18 173:14 176:10 185:20
clear 171:21		compounded 157:6	consistently 146:9
climate 184:7		comprehensible 147:3	consolidated 161:21
closely 170:12		comprehensive 143:21,25	constant 130:4
closing 133:12 147:16			contemplates 178:23
co-owned 123:25			

contingency 132:5 140:9 146:20,23 147:1 149:12,13 151:14 152:14,24 153:2,5,9 156:24 171:16 191:3,4 196:2,17 197:11 198:2, 3,6 200:16	correctly 172:24 199:4	credit 141:8	14,17
continuation 131:23	cost 117:11 119:10 123:12,15 128:5 129:19,22 130:3 131:12,21 133:1,19 135:10,24 137:2,22 138:5,20 139:19 140:6 141:20,25 142:7,15 144:12 146:21 148:22 150:24 151:2 152:7 167:13 176:14 178:17 183:4,6,7,14 187:14 197:21 201:5	credited 194:1	dates 125:7
continue 128:24 132:17 141:8 153:13 166:24 174:24 175:2 191:18	costs 123:17 129:7 131:6 132:2,5 133:5 136:16 138:4 139:16,17 141:2 142:4,15,17,23 144:16 146:3 149:19,23 150:18 153:13 155:16, 24 158:1 159:15 160:8, 14 161:13,25 163:24 165:23 168:7 171:11 173:17 174:12,20,25 177:18 180:20,21 181:23 182:3,4,6 184:23 185:18,24 186:18 190:5,6,10,11 191:6,17 193:8	credits 140:22 141:8	day 189:2 192:10
continued 129:3 131:21 133:19 139:19 180:3	Counsel 126:6,11,16, 18,25 139:23 148:7 154:10 158:6,8 160:2 163:15,16 167:23,24 182:15 192:20 194:25 195:20 197:16,17 198:15 201:1,2,23,24 202:19	crisis 141:4,5 165:8 195:17	DCE 133:11 135:1 137:19,21 148:22,25 149:4,6,10 151:7,8,15, 23 152:3,4,5,7,10,13,21 156:4,9 157:18,24 158:3 162:10,19 173:15 198:2,3,14
continues 128:21 130:4 133:13,21 173:10	couple 169:24 173:13	criticism 156:11	DCE's 138:17
continuing 131:4 141:10 173:3,6 181:7 200:5	courses 148:14,15	critique 145:13 166:17	DCES 135:12,17 137:10 138:1,3,11,24 139:6,9,20 201:8
contract 129:10 175:1	court 120:7,8,14 136:21	critiques 145:14,18	deadline 120:24
contractor 139:5	cover 144:3 152:25 190:11	Crosstalk 127:20 194:8	deal 158:19
contractual 149:18 200:13	covered 145:11	CSR 117:24 204:21 205:21	decade 131:17
contractually 149:16	CPI 138:6	curiosity 201:9	decades 129:13 135:19 140:20 141:13 142:22 147:21 158:24 182:9
contradict 147:21	CPUC 122:20 123:11	curious 189:12 196:23, 24	deceived 166:13
contradicted 136:19	cpuc.ca.gov. 125:3	current 129:22 130:13 132:17 133:8 137:6 138:3,17 139:9,20 140:4 146:3 152:15 155:19,25 160:13,15,17 162:10 177:3 185:15,25 186:1,3,4 194:22 196:17 197:22 201:4	December 123:10,18
contrast 157:24	create 139:18 164:12 188:2	customer 131:7 132:14 192:4	decide 123:1 167:19
contrasts 138:17	creates 133:7 151:4	customers 129:7 131:5,17,21 133:17,25 141:7 149:25 150:6 154:8 155:19,25 160:9 172:22 179:6 181:14 184:22 185:1,15,16,25 191:21 192:8,11	decided 127:22
contribution 181:21 191:4		customers' 128:11	decision 123:3,5,6 125:9 130:21 131:24 135:3 136:10 156:17 184:19 191:20 192:2 193:5,14,19 194:13,22 199:4
contributions 128:12 141:18,21 142:3 143:18,19 155:20 171:7 180:11 185:14 192:4,8, 11		cycle 130:3	decision-makers 121:6
control 129:8 130:8			decisions 119:20 146:9 152:25 162:2 164:7
convene 136:22		D	decommission 119:10 152:18 173:17 185:6
convert 138:6		D.24-08-001 193:6	decommissioning 117:11 122:4 123:12, 15,16 128:5,8,13,25 129:22 130:3,7,13,20 132:2,3,6,7 133:1,23 135:10,24 136:14 137:2 139:14,16 140:6 141:2, 14,20 142:7,17 143:6
copies 121:10		Darcie 117:4 119:15,24	
core 145:19 190:13		data 140:8 143:3 144:8 164:15 167:17 176:22 182:5,8 187:1 188:14 197:11	
corpus 160:19,20		date 135:21 149:24 153:17 156:8 162:5 181:2,3 187:25 192:7,	
correct 135:13 194:7, 20 204:10 205:10			

144:19 146:3,11 148:21 149:8 150:5,15,18,22 151:2 152:9,17,20 153:3,7 155:17 157:8 158:1 160:7,8,10,13,16 161:5,8 162:1 163:10 166:22 167:13 171:12 178:17,23 179:5 183:7 184:23 185:4 186:4 187:21 188:1 190:9,13 191:19 197:20,24,25	depositing 131:8 143:10 144:5 155:17 185:11 designed 136:15 destruction 188:24 detail 150:8 detailing 153:22 determination 123:14 174:10 determinations 149:2 177:21 determine 136:24 144:19 176:21 183:17, 19 193:16 200:7 201:16 determined 125:11 141:22 146:16 168:19 199:13 determining 141:17 146:7,15 developed 138:12 144:18 147:2 development 162:18 developments 174:9 deviate 193:4,14 deviation 193:18 deviations 146:21 190:2 Diablo 141:9 186:2 Diego 117:10 119:9 122:3,21 125:19 126:3 134:7,9 145:3,6 167:10 difference 137:9 159:1 difficult 181:12 diminish 132:8 dip 160:1 direct 156:5 166:9 168:4 169:13 170:25 171:4 174:14,21 196:12 directed 130:18 139:15 143:20 176:12 179:21 directing 133:22 147:23 directive 128:24	130:22 133:15 directly 129:4 130:9 136:18 Director 178:3 directs 176:9 disagree 164:23 disagreement 156:22 disagrees 161:6 177:6 disappears 190:19 disbursements 141:24 182:3 discount 182:24 183:1 188:5,12,25 200:7 discovery 153:20 discrepancies 157:1 discrepancy 157:8,11 discretion 162:12 discuss 145:14,16 150:11 discussion 127:22 196:14 disparities 184:5 disposal 135:1 disposed 128:25 disposition 143:23 147:13 193:17 dispute 168:15 173:5 distinctly 147:5 diversion 142:5 divert 147:17 177:7 diverted 141:12 docket 125:2 document-only 124:19 documentation 149:7 documents 170:17 DOE 128:24 129:12,13, 23 130:2,4,11,15,19,23 131:13 132:10,12,17 133:13,22 135:4 139:4 144:17 145:4 147:11,17	149:15,17,20,22 153:10,11,15 154:7,17 155:6 157:20 160:1,15, 20 161:20 165:17 167:8 172:9 173:9 174:15,21 175:22 176:25 179:22 180:4,23 185:11,25 186:2,24 188:22 191:16 193:6,21 DOE's 161:23 173:4 200:13 DOEQ 137:13 138:2,25 dollar 144:25 165:21 167:8 188:22 dollars 137:6 138:5,6,7 150:14 161:13 167:9 Douglas 117:5 119:23 191:8,9 downward 141:6 draft 123:3 draining 160:21 driven 143:3 195:6 drop 190:18 dry 199:17 due 151:3 161:18 162:18
E			
E-R-R-A 150:1			
earlier 133:9 151:5 161:12			
earliest 152:19			
early 127:13 136:4 178:19			
easement 151:12			
easily 145:10			
economists 200:7			
Edison 117:10 119:9 122:3,21 123:25 125:20,23 135:19 136:1,22 137:8,12 138:22 145:2,6 158:14 162:7,17 163:4,10,25 164:2 165:15,16 166:4			

167:9 178:21 181:22 184:21 185:22 190:8 193:23 194:2 200:12	entitled 168:6 194:16	eventual 157:22	16 152:14 160:11
Edison's 134:15 136:17 137:1,25 138:5, 19 156:5 161:10 163:20 177:19 180:7 182:5	environmental 133:7 138:12 150:19 151:4 199:11,22	eventually 131:7	experienced 195:16
efforts 147:17	envisioned 143:25	evidence 123:2 124:18,20 144:2 156:2 180:19	experts 136:23 190:25 192:22 197:8
elapsed 178:2	equally 128:23 132:13 150:3 154:7	evidentiary 124:21,25	expire 197:23 202:6
electric 117:10 119:9 122:3,22,24 125:19 126:3 134:7,10 145:3,7 167:10	equipped 163:1	ex-parte 121:5	explain 147:1
electricity 131:17 160:9,10	equitable 131:16 133:24	exact 187:9 192:14,17	explained 137:20 171:15 180:15,25
eliminate 140:9	equity 131:10 140:20 184:20,25	exceed 132:1	explaining 144:21
eliminating 132:15	ERRA 150:1,6 153:18 154:8 155:25 179:6 191:21 194:1 195:2,14	exceeds 144:12	explanation 137:15
embedded 135:10 137:10,19 161:10	escalation 141:23 146:21 157:2,6,9,12 171:11 183:7 191:6	excess 177:12 180:17	exposed 130:11
embracing 136:1	essential 122:23	excessive 140:9	expressly 134:12
emergency 120:1,4	essentially 146:5	exchanges 139:4,6	extended 143:16
emphasize 187:7	establish 197:13	excited 177:14	extent 181:24
encourage 136:15 144:20 159:24	established 128:11 178:19	excuse 123:8,24 124:11,21 125:19 137:7 148:15 149:5,21 151:24 168:8,12 169:1 170:19	extra 157:4 202:25
encouraged 134:13	establishing 142:24	EXECUTED 204:15 205:15	F
end 134:23 138:14,16, 22 150:17,22 155:16 162:5 166:21 178:15 186:23 189:2	estimate 129:22 130:3 133:1 135:10,24 137:2, 3,7,11,16 138:5 141:20, 25 142:15,18 148:22 149:5 150:15 152:7 183:22 196:16 197:11	exercise 162:12	face 165:9
end-year 188:11	estimated 151:19 152:5 168:11 173:17	exhaust 202:13	facilitates 161:22
ended 165:22	estimates 123:15 136:15 140:6 142:7,8 152:21,22 167:13 176:15 195:9	exhibit 153:24,25 168:5,23 169:13 170:24 171:5,6 180:11 191:2 196:12,22	facilities 130:7 139:14
Energy 128:21 129:11 149:25 150:3 178:3,4	estimating 136:17 139:17	exhibits 124:21,25	facility 153:12 155:23 185:7 197:22
engaging 157:21	estimations 139:19	existing 128:11 131:20 133:22 142:21 145:11 150:6 166:11	fact 130:4 142:7 146:23 159:19 170:15 182:11 199:21
engineering 189:15	evaluating 141:22	exits 120:3	factor 153:6
ensure 128:19 132:16 134:1 136:13 184:22	event 120:3 174:9 177:6 187:20	expanded 202:8	factors 140:9 197:10
ensuring 128:14 155:15 159:22	EVENTS 204:14 205:14	expect 139:11 155:9 171:20 172:4,6	facts 122:16 129:9 133:12
entered 129:10 194:22		expected 132:1 133:13 152:18 176:23 183:20 199:17,22	factual 140:10 168:15
Entering 124:25		expenditure 151:4 200:15,17	failed 143:17 149:17
enters 160:12		expenditures 140:14	fails 132:16
entire 190:19		expenses 131:12 149:12 150:15 151:14,	failure 129:5 178:20 180:23 200:13
			falls 139:21
			familiarize 120:2 121:6
			favorable 159:18
			federal 129:5 130:9 131:21 133:19 199:22

feel 196:6,14,15	forecasted 144:11 166:25 174:11	139:1,3,10 142:4,9,23 143:12,16 144:4,12,16 145:1 149:16,20 153:14 155:21,23 156:3,7,8 157:17,18,21 158:4,25 160:11,14,18 161:10,17 162:6 163:6,11,24 164:17 173:5,9 174:24 176:18 177:18 180:9, 14,17,20,24 181:2,7,11, 23 185:17,20,24 186:5 190:11 191:17 198:25 199:3 202:6,8,12,14,15	182:11 183:9,18 185:2, 5,16,18 188:12 189:12 195:6,10 200:15 202:5, 12,14
feel-good 139:20	forecasting 197:1,3		future 128:15 129:6 130:19 131:6,15,17 132:12 133:17 136:9 138:4 141:23 142:15,22 143:24 144:13 146:3,9, 17 147:14,15 155:19 157:25 158:23,24 159:3,15 163:22 164:4 166:3,6,21 174:9,12,15, 19 176:3 177:11,19 178:15 184:3,16 185:1, 15 186:7,8,18,21,23 187:14,24 189:23 190:12 198:1
fellow 122:7	forecasts 150:13		
felt 197:12	forgets 146:6		
fidelity 140:20	form 200:21		
fiduciary 161:3	format 153:22		
fifty-fifty 154:7 191:23 195:2,8,13	formula 142:24		
file 175:2	forward 133:11 145:19 184:6 188:23 200:19	fulfillment 130:5	
filed 120:23,25 124:4 130:24 149:22 155:10, 11 176:13	forward-looking 133:25	fulfills 130:9	
filing 137:14 138:19 175:2	found 124:12,22 125:1 147:10 153:24 193:2 199:10	FULL 204:10 205:10	
final 121:19 124:21 138:20 149:1 170:2,8,9 185:19	fourth 161:25 163:8	fuller 196:14	
financial 129:3 139:10 147:1 171:5,8 172:14 178:5 186:17 190:25	frame 199:24 200:9,23	fully 142:16 145:15 185:6 202:13	G
financially 178:13	framed 199:12	function 199:25	gas 117:10 119:9 122:3, 22,24 125:19 126:3 134:7,9 145:3,6 167:10
find 141:5 165:7 167:5 168:6 170:16 174:5 192:17 200:22	frames 138:11	functions 198:25	gave 119:14
finding 145:25	framework 145:19 163:1 164:25 201:5	fund 131:18 135:5 141:1,22,23 142:2,21 144:11,19 145:11 146:7,10,11,16 156:13 157:5 158:1 160:24 163:23 164:4,9 166:5, 11 171:24 173:18 174:10 176:15,20 178:18 182:2 186:5 189:23 191:1	Geesman 118:3,7 126:25 127:2,3 134:19, 20 139:23 157:15 158:16 160:4,5 163:15 173:12 175:10 177:23, 25 195:21,22 198:16 199:2 201:13,22
finds 153:1	Francisco 117:16 119:1	fundamental 128:15 142:12	Geesman's 157:15 172:21 173:1,3 174:2
fine 127:16 170:11	Frederic 125:24 128:6	fundamentally 164:5	generally 178:8 187:13
FISI 162:4	Freedman 118:4,8 126:13,14,16 140:1,3 154:16 156:1 163:16,18 174:1,7 175:9,17,23 176:8 177:22 178:8 181:18,21 187:16,19 188:7 189:21 193:12 194:7,9,20,23 200:6 202:19,20	funded 155:7	generated 149:20 153:14
five-year 137:20	Freedman's 154:15 155:12 156:11 172:8,19	funding 128:19 130:14, 16 131:12,25 132:15,16 133:14 134:1 142:16 143:22 150:4 154:7 156:6,8,23 160:11,18 173:8 180:8 181:1,3,9	generating 131:16 149:10 152:13
fixed 188:20	frightening 178:7	funds 128:11,14 129:4 141:14 144:3,17 145:5, 23 146:20 151:3,4 153:22 155:8,15 156:20 157:4 159:4 160:1 164:4,19 165:11 167:3 168:7,10,13 172:6 175:22 177:2 181:24	Generation 123:21,23 125:25 128:7,9
flat 190:7	front 142:19 143:4 162:11		generations 129:7 163:22 186:8
flip 186:6	fuel 128:13,20,22 129:1,12,14,15,17,18, 21,23 130:6,10,15,21 131:6,15,18 132:4,9 133:13,23 134:2,25 135:5,9,14,21 136:18, 25 137:13 138:18		Generic 138:12 199:11
flood 151:12			GIS 198:18 202:2
flow 147:24 162:15 176:20			give 121:14 173:19 195:11
focus 135:6 159:21 196:11 201:14			good 121:24 125:21,22 126:4 128:2 148:11
focused 157:16			
follow-up 200:25			
forced 178:17			
forecast 132:1 140:14			

government 129:11 130:9 140:24 161:18	163:16 167:24 178:7 192:6 196:5,7,8 198:22	179:1,15,16 181:17 182:16	in-person 124:20 125:6
government's 129:5 174:25	heard 181:12 191:22	hour 203:2	inability 200:18
governor 165:6	hearing 124:21 134:12 172:24	huge 165:5	inadequate 142:22 146:4 174:11,18 181:1, 3
granted 121:1 198:24	hearings 124:14	Humboldt 141:10 178:18	inaudible 121:11 123:24 124:17 195:22 196:21,22
granting 125:5	held 124:14 143:10,23 200:15 204:11 205:11	hundred-million- dollar 200:16	incentives 139:18
great 158:19 178:13 192:24	helpful 187:1 191:13	hundred-year 181:10	include 156:20 179:21 180:22 189:13 201:3,15
greater 150:8 174:19	helping 134:1	hypothetical 142:14 156:15	included 132:25 139:6 142:6,18 166:8 182:3
greater-than-class 135:15,17	helps 129:6 131:8,20 159:20 187:6	I	includes 148:22 149:11 151:9
grouping 201:6	high 155:1	i.e. 150:3 152:23	including 122:25 135:14 142:14 151:11, 19 153:4
growing 151:3	higher 154:21 189:1	idea 185:16	income 188:20
guarantee 154:25 165:16	highlights 158:17	ideally 200:1	inconsistency 142:11
guess 177:25 183:12 184:8 185:8 189:12	historical 140:8 176:10	identified 174:12 175:15 181:14 202:5	incorporate 181:8
H	historically 132:3 141:7 173:15 175:24	identifies 171:6	incorporated 130:1
hand 159:4,12,16	history 146:6 178:17	identify 142:2 173:16, 17 174:17 176:14	incorrect 164:5
hand-waving 177:10	hit 177:18 186:15 187:10 200:19	ignore 141:16 146:14 164:23,24 165:2	incr- 143:14
handle 175:22 181:25	hold 145:24	ignores 146:6	increase 140:25 149:11,14 152:6,14 153:8 196:18
handled 175:24	holders 139:5	Illinois 129:18 155:24	increased 149:7 150:24 152:7
handles 185:20 186:2	homework 174:17,19 178:9	immediately 177:13 192:5	increases 132:4 133:5 151:2 195:16
hands 165:8	Honor 126:13,20 127:11 134:20 140:2 154:9 160:5 163:19 168:2,21,25 169:1 179:9 193:12 195:4 196:10 197:7 201:22	impact 138:13 140:13 144:16 177:20 190:20 199:11,22	incremental 142:4 163:24 190:11
happen 120:4 180:2 189:17 201:12	Honorable 119:15	impacts 133:7 138:20 140:19 144:5 150:19 151:3,5	incur 153:13
happened 192:19	hope 172:12 189:3	implementable 133:2	incurred 123:17 149:19 182:7 186:19
happy 145:16	hoping 146:5	implemented 130:23 133:16	indefinitely 163:9
Harada 117:6 119:24 189:8 190:23	horizon 158:21 159:14	important 128:16 130:14 131:9 140:15 184:24 189:4	indeterminate 162:5
hard 147:22	host 181:5	importantly 130:22 131:11 142:19	INDEX 118:1
Haupt 117:24 120:7 204:7,21	hot 195:25	impose 200:20	indicating 178:10
head 181:19 183:2 186:16 187:11 202:18	Houck 117:4 119:15,25 121:14,22,24 122:25 168:23 169:1,3,9,11,16 170:23 171:2,3,18 172:18 173:22 175:8,20 176:5 177:22 178:24		indicative 181:22
head-in-the-sand 178:14			
hear 120:19 122:11 134:7 148:4,6 160:3			

indistinguishable 140:25	issue 128:18 130:17 132:21 140:18 147:7,22 150:11 166:24 167:18, 22 171:2 177:17 188:3 191:15 193:15 195:24 198:13 201:25	June 121:2 124:10,11 125:5 162:19	lengths 176:18
information 149:4 153:21 168:20 171:23 172:1 175:14 179:7 192:22 197:20	issued 124:10 164:7 165:6 194:12	justification 146:25	level 147:2 178:12
initial 121:15,16 127:10,18 134:15 163:20	issues 123:9 125:11 140:5 178:7	justified 143:11 197:12,14	liabilities 187:20
initiated 123:10	item 192:9	justify 142:5 159:20	liability 188:2
instructions 120:2	items 148:25 149:5 151:19,23 152:11	K	licenses 197:23
insufficient 156:2 180:8	J	Karen 117:5 119:23	life 128:12 157:7 199:17
integral 146:10	Jacquelyn 117:24 120:7 204:7,21	Karly 117:24 120:7 205:7,21	light 152:15 179:7 181:10
intent 185:5	January 123:18 124:24 192:4,23	kind 158:16 181:18 183:12 189:18 200:4,18 201:9	likelihood 155:1
interest 186:9 204:13 205:13	Jerman 118:6 125:21, 22 127:11 154:13 164:1 169:15 170:1,5,11 171:1,4 172:3 173:2 178:9 179:14,18 183:1, 5,16 184:18 186:10 190:22 192:12 197:17, 19 200:3 201:1,23 202:3	kinds 189:16	limit 200:4
interested 189:20	Jerman's 173:24	KLINE 117:7	limited 125:9,10
interests 147:23	job 196:24 197:1	L	limits 125:8
intergenerational 131:10 140:20 184:5, 20,25	John 117:4 119:21 127:3 134:20 160:5	lack 197:11 199:9	list 151:25
interim 161:14	join 134:14	laid 140:11	litigation 128:24 130:19,23 131:5,8,14 132:13 133:16,22 135:4 136:21 140:23 141:9 142:6 143:11 144:17,25 145:4 147:11,17,25 149:25 150:2 153:10,18 154:6,17,18 155:6,17 156:19 160:1,15,21 165:23 167:8 172:9,13 173:7 174:15,21 177:1 179:4,22,25 180:4 185:11,25 186:3 188:22 191:16 193:7,21 202:10
internalized 160:8	joined 121:9 170:15	large 143:8 159:2 178:12	litigations 186:24
interrupt 125:15 170:2	joint 117:9 119:8 121:19 122:2 139:13 159:9,21 168:20 182:22	largely 178:5	litigator 143:4
intervenor 120:24 172:21	judge 117:7,8 119:4,13, 15 121:25 122:6,11 125:22 127:2 128:3 148:4,11 150:9 154:14 169:17 170:1 179:12 192:12	Lastly 153:10	logical 160:14
intervenors 124:6 159:11	Judge's 124:24	late 161:22 165:7	long 128:20 134:2 136:18 159:13 199:3,14
introductory 121:13, 22	judgment 200:8	law 117:7,8 119:4,13,15 123:3 124:24 141:19 199:20	long-standing 141:16, 19 142:3 146:7
invested 146:13 183:9, 18	July 124:15,17	lawsuits 149:22,24	long-term 138:16 183:15 200:23
investigation 151:10		lead 174:9	longer 133:2 180:23 191:11 200:2
investment 142:21 146:10,17,22		leading 184:9	longstanding 167:21
investments 171:10 183:21		leave 127:12,13 175:11,20	looked 164:3 170:12
invests 188:20		led 131:2	loss 157:10,12
involve 176:17		left 167:5,10,11 177:17 189:2	lost 173:20
involved 200:8		legal 149:18	lot 127:7 158:19,24 163:19 184:6,7 186:24
involves 140:5 198:19		legally 149:15	
		legitimate 199:23	
		length 135:8	

189:1,3 195:8	market 146:13 183:19, 20 186:21	Mesa 148:23,25 151:7, 9,20,24	modifying 142:8
lower 152:22	markets 178:5	message 140:15	monetary 143:8
	massive 144:10,11	met 197:13	monetized 139:4
M	massively 187:23	method 142:24	money 142:25 145:21 146:2,12 155:1 159:5 160:17 163:23 164:3,9, 19 165:3,4,7,10,17 166:18 167:5,14,20 172:23 174:4,6 175:4,6, 19,25 176:2,11 177:7, 10,12 178:11 180:13, 16,17 187:21,23 188:16,20 189:2 193:20,23,24,25 194:10,11 195:12,14
	material 161:9	methodology 197:2	Monte 189:15,22 190:5, 24
M-E-S-A 148:23	materialize 162:1,2 166:25	methods 141:6	more-searching 200:21
made 119:20 145:22 146:24 149:2 170:17 175:7 181:6	matter 123:11 188:25 203:2 204:12,14 205:12,14	metric 136:2	morning 125:21,22
mailed 125:10	Matthew 117:5 119:22 126:14 140:2	Mexico 161:19	Morris 129:18 155:23
maintain 129:20 130:6 149:12 202:15	maximum 139:18 151:12	mic 148:8	motion 120:23 121:1 125:5
maintained 179:19	Mcgary 117:8 119:4,12 122:6,13 125:22 126:2, 5,8,16,24 127:2,6,16,21 128:3 134:6,11,17 139:23 148:3,6,11 154:10,14 158:6,10 160:2 163:15 167:23 168:22 169:4,10,18,21 170:1,4,6,14 174:1 179:10 182:15 189:6 191:7,10 192:12,16,21, 24 194:4,18,21,25 195:19,23 196:20 197:16 198:7,10 200:25 201:19,23 202:17,21,24	mid 161:22	Mountain 136:3
maintaining 129:18	Mcgary's 134:12	middle 197:3	move 121:13,15,19 123:7 126:3,9 127:10 134:18 154:11 169:23 198:8
major 132:6 178:20	Meaning 165:21	million 129:20 131:1 133:6 136:20,23 137:5, 7,10,19,23 138:4,7,8 140:23 141:12 144:5 147:24 148:23,24 149:4,10,11,14 150:25 151:9,15,19,23 152:5,6, 10 153:9 154:2,3,16,19 161:13 167:1,11 168:12 172:9 200:15	multiple 158:3 195:16 198:4
make 121:22 122:13 126:11 127:23 134:13 143:7 155:20 157:24 158:3 159:9 164:10 181:19 185:13 187:7	means 124:20 152:19 166:22	million-ish 176:4	moving 161:17
making 140:14 141:15 147:3	meant 197:11	mind 189:4	municipal 178:6
manage 129:20 130:6	measure 183:20	minute 163:7	
management 122:7 128:14,20 129:1 130:21 131:6,15,18 132:5,9 133:23 134:2 142:4,23 144:12 155:21 156:3,7 173:9 180:9,14,20 185:18,21,24 186:5 191:17 202:6,9,12,14, 15	mechanism 150:6 185:17	minutes 157:14 202:25	N
managements 180:17	median 138:22	miscalculate 184:17	
manager 139:12 163:12	meet 128:15 149:17 174:11	misestimate 137:9	nail 186:15 187:11
managing 159:23	memo 124:10,12 125:14 147:10	mitigation 184:7	National 202:1
margin 157:13 166:5, 11 171:2,7 180:10,12 181:21 190:19 191:4	mentioned 152:24 153:18 154:16 171:19 173:14 202:3	Mm-hm 196:20	nationwide 139:1,2
marginal 201:18		model 144:3,5 176:16, 24 182:8 186:17,18,22 187:3,4	natural 193:18
margins 156:23,24 157:2,4,10 171:6,13,15		modeling 144:10,15,24 145:13 156:11,12,14,21 171:16 172:15 173:11 177:19 188:9 194:9 198:18,19,21 201:3 202:1,2,4,8	nature 132:3
mark 197:3		models 144:18 145:20 164:12,15,20,23 176:20,21 182:1,12	Navy 133:9 149:2 151:6,18,21,25
marked 168:5		modest 140:7	

NDCPT 123:13	noted 134:13 196:5 198:20	occurs 181:15	outcomes 191:5
NDCTP 130:18,24 135:3 148:16 154:24 155:6,9,15 156:12,14, 17,20,21 184:19 194:22 199:2	notes 122:17	offer 142:20 144:1 147:19 196:15	outset 135:13
NDCTPS 166:21 193:16 201:7	noteworthy 159:11	offering 142:24 146:24	over-collect 187:17
NDTCP 171:21 172:10, 14,17 175:16 176:13 179:24 180:3 181:8 200:12 201:15 202:9,10	NPV 188:5,7	office 124:8 126:19 161:24	over-collection 186:7
NDTCPS 198:4	NQNDT 150:5 154:7	Officer 125:25 128:7	overage 153:25 168:9
NDTS 195:3	NRC 137:14 138:13 197:22 202:1	offset 132:4 185:18 186:1,3	overextended 136:2
near-term 140:19 177:20	NRC's 138:12	on-site 136:24 137:3, 22 138:4,11,18 162:5	overfunded 161:8 187:23
needed 141:21 143:18 146:20 167:14 174:6 175:6 177:10 193:20 194:10	nuclear 117:11 119:10 120:25 122:3 123:11, 20,23 124:7 125:25 127:1,4 128:5,7,9,25 129:14 130:20 134:21, 25 135:5,9,14 136:14 139:14 141:14 142:10 143:5 149:9,19,22 150:4 152:12 153:6,11, 12,14 160:6,11,18 162:6 178:22 179:5 180:24 185:4,21,22 198:18,25 199:10 200:22 202:1	ongoing 141:3 201:14	overlooks 132:2 161:9
needlessly 151:2	number 119:8 148:21 149:3,9 151:7 152:3,12 154:17 168:24 170:6,7 190:2 191:15 195:24 198:13 201:25 202:11	Onofre 123:20 128:9 129:14 133:18 140:7 141:13	override 147:19
negatively 151:3	numbers 169:13 170:25	onsite 199:4,13,14	overspend 187:20
negligence 165:12		opening 120:24 126:1 127:14 139:13 145:15 161:15 196:20	overspending 188:1
net 182:23 193:7		operating 128:12 197:22	overstated 196:16
Network 124:6 126:15		operation 137:13	overview 121:15 123:7 125:17
neutral 168:18		operational 148:18,20 150:12,13 151:1 154:3 161:21 168:11	owned 123:19
newer 189:9		opportunities 132:8	
NO.#13991 205:21		opportunity 128:4 134:4	P
nod 202:18	O	oppose 131:23	P-A-R-K-E-R 126:22
non-event 120:3	o-v-e-r-a-g-e 153:25	opposed 142:8	p.m. 119:2 125:7 169:19 203:2
non-labor 152:4	Obama 136:5	opposition 161:18	pages 117:17 196:13 204:9 205:9
non-qualified 141:13 150:4 154:1 179:4	objected 144:8	optimistic 137:1	paid 155:24 185:24 186:20 191:16
nonperformance 133:19	objectives 128:15	options 161:16 174:13	Palo 123:22,24,25 141:9 149:9 152:12 196:2 197:21 198:4
nonqualified 188:16, 18,19 191:19	obligated 149:16	oral 117:9 119:7 120:16,22 121:1 122:1, 8 125:4,5,6,8,14 140:12 170:17	panel 136:23
nonsensical 147:10	obligation 130:5,9 161:3 200:13	order 119:6 121:12 134:12 135:5 165:7 179:20 182:17 191:14	papers 201:21
normal 141:16 142:13 147:19	obligations 128:15,22 131:15 149:18	ordered 191:19 192:24	parcels 151:13,16 152:2
note 120:13 122:15 127:12,14 158:13 179:2 198:19	obvious 137:20	outcome 131:9 162:20 204:14 205:14	parents 160:22
	occurred 124:16		park 163:9
	occurring 138:20		parked 141:13
			Parker 118:4,8 126:18, 20,21 148:7,10,12 154:10 167:24 168:1,2, 25 177:23 178:25 179:1 195:1,4 196:10 197:7, 16

part 146:10,18 152:9 162:13 169:5,23 176:16 178:21 184:16 195:6 200:9 201:24 202:1	period 121:18 123:17 138:14,15 156:3 169:24 199:13,15 200:2	193:24 194:23 197:4 202:7	preference 170:9
participants 129:19	periodic 139:17	pointed 136:6 190:8 200:12	prejudge 162:20
participation 122:5 124:14	periods 180:23	points 138:23 158:14 187:4	preparation 162:14
parties 121:16 122:5, 11 123:8 124:3,4 125:18 127:22 131:23 164:22 167:15 199:5	permit 162:18 163:2	policies 161:23	prepared 164:20 169:12 204:10 205:10
partners 157:22	person 120:13 126:10	policy 131:3,4 133:22 140:10 153:13	preparing 159:22
party 120:21 124:19 192:1	person's 191:22	popular 163:8	present 119:22,23,24, 25 134:4 143:21 163:25 182:23 183:11
pass 179:12	perspective 165:13 188:25	portion 149:24 167:1	presentation 134:24
passed 135:23	persuaded 163:5	position 128:23 134:5 142:12 179:2,8 180:7 193:22	presented 123:2 135:1 180:7
passively 157:20	PG&E 165:24 186:2	possession 149:21 153:15	preservation 161:5
past 135:19 166:3	phase 153:20 197:24	possibility 145:8 152:22 186:11	preserve 129:6
pattern 129:25	phone 120:12	post- 151:24	President 117:4 119:21 125:25 128:7 169:25 170:20,21,23 179:12,13
pay 127:6 128:12 139:6 155:19,22 178:16 184:3,16,23 185:17	pick 176:19 190:1,14	post-lease 151:7	presiding 117:8
paying 140:16 160:14 184:2,6	pickup 137:17,18 142:9 143:12,16 144:4 145:2 164:17 176:18	post-release 148:23, 25 151:9,20,24	pressure 141:6
pending 131:1 153:17 154:20,23 171:20 172:5 175:1	pickups 137:13	post-shutdown 138:13 199:19	presumption 194:16
people 122:25	picture 122:19	potential 142:4 146:21 157:1 161:25 162:3 168:9 184:25 187:20	prevailed 149:23
perceived 187:19	place 119:7 163:10 193:5	potentially 159:17	prevents 151:5 177:15
percent 149:13 152:6, 15 153:16 157:5,11 165:21 166:1 179:5 188:21 189:2 190:18 191:24 193:6 195:13 196:1,2,16 197:4,5,10, 14,15	placing 141:6	power 131:19 133:18 159:6 184:22 185:7	preview 121:8
percentage 196:17	plan 130:13 133:8 136:20 137:1 150:16,21	Powers 117:24 120:7 205:7,21	previewed 121:21
perfect 148:7 186:17, 22 187:11	planning 157:16,19,22	practical 200:5 201:12	previous 193:5
perform 129:5 130:7 144:7,9 145:12 200:13	plant 129:14 131:19 159:6 160:12,16 184:23,24 185:23 186:4 197:23	practically 133:2	previously 132:19 189:20 199:8
performance 128:21 130:2,12 132:10	plants 123:19 153:6 185:21	practice 120:17 135:20 136:1,17 141:19 147:21 176:10	price 160:8
performed 131:13 136:19 144:21 162:22	plausible 136:2 144:13	practices 146:7	primarily 127:5
	play 120:1 193:20	preamble 193:22	primary 132:9 155:13, 14 156:22 173:19 177:4 184:21 187:25
	pleased 134:5	precedent 147:22	principal 135:5,6
	plenty 166:23	precedents 140:21	principle 131:9
	podium 127:24	prefer 170:22	printed 121:10
	point 138:14,16 149:15 151:7 152:3,12 155:12 156:10 165:5 168:14 172:3 173:21,25 175:7 183:16 185:8,10,19 187:1,2,6 188:14		prior 120:1 128:24 130:22 131:3,24 133:15 152:25 156:13 187:2
			prioritized 139:3
			private 161:14

privately-owned 122:20	Procurement 133:2	provided 120:23 141:7 149:7 153:21 182:5 185:6	question-answer 170:7
probable 151:12	produced 171:8	providing 126:1 143:25	questioning 182:17 199:6
problem 165:6	progress 149:8 161:16	prudent 129:2 130:18 132:18 133:24 139:12 159:10,23 163:11 187:8	questions 127:9 134:5 145:17 150:9 159:13 169:6 170:10 179:11,13 181:5,9 182:18,20 191:7,10,25 192:9 196:25 198:8,15 202:22
problematic 190:6	project 136:3 152:9 157:8 163:10 183:7 190:13	prudently 130:7	quick 123:7
procedural 121:15 123:7 125:17	projected 145:1,5 153:4 167:9 190:9	public 117:1 124:1,2,8, 14 161:7 162:7 163:13 204:1 205:1	quo 175:12,18 179:19 200:10
Procedure 120:18	projecting 141:23 188:21 189:23	published 136:20	quorum 119:17,18 120:22
procedures 136:15 139:18	projection 182:2	pull 164:15	quote 135:20 138:14,16 152:16 153:1
proceeded 192:25	projections 176:15	purpose 120:16 158:3 182:13	
proceeding 117:11 119:11 120:22 121:3 122:4,6,7,17,19 123:9, 11,12 124:5,18,22 125:2 126:23 128:5,16 130:1 135:7 136:7 140:4 142:1 147:8,14 148:13 153:20 155:11 156:5 158:17 159:11 175:12 179:20,23 200:6,18 204:6,14 205:6,14	projects 132:6 148:22 151:9 161:15	purposes 157:19 171:17 199:14	R
proceedings 143:24 147:15 155:3 158:18, 21,22 204:11 205:11	promote 139:16 161:21	pursuant 120:17 125:4	raise 197:5
proceeds 128:25 130:19 131:5,8 132:13 133:22 135:4 141:7,9 142:6 143:11,23 144:17,25 145:4 147:11,13,17,25 149:25 150:2 153:10,18 154:6, 17,19 155:6,9,10,17 156:19 160:15,21 161:1,5 167:8 172:9,13, 15,16 173:8 174:15,22 177:1 179:4,22,25 180:1,4 185:12,25 186:3 188:22 191:16 193:7,17,21 194:5 202:10	promotion 119:14	pursue 189:20	raised 132:21 158:14, 16
proceedings 143:24 147:15 155:3 158:18, 21,22 204:11 205:11	proof 136:12 197:13	pushing 172:8	ramifications 178:13
proceeds 128:25 130:19 131:5,8 132:13 133:22 135:4 141:7,9 142:6 143:11,23 144:17,25 145:4 147:11,13,17,25 149:25 150:2 153:10,18 154:6, 17,19 155:6,9,10,17 156:19 160:15,21 161:1,5 167:8 172:9,13, 15,16 173:8 174:15,22 177:1 179:4,22,25 180:1,4 185:12,25 186:3 188:22 191:16 193:7,17,21 194:5 202:10	properly 178:22	put 123:6 145:19 147:23 159:20 165:2,3, 4,25 167:4 188:16 195:25 198:15	rate 140:25 141:8 157:1,9,11 165:20 166:2 171:9,10 182:24 183:6,8 188:5,25 189:24 195:16 197:3,15
process 124:19,20 142:14 147:19 150:1 153:19 154:8 162:21 179:6 191:21 195:14 201:6	proposal 132:14 140:24 146:24 147:4 163:21 166:14 191:22, 23,24 193:13 194:4 195:2 201:25	putting 167:1 194:11	ratepayer 140:19 143:13,18 147:23 165:6 188:24
processed 155:8	proposals 147:20 177:14 193:1 198:16	PVN 196:2	ratepayers 140:22 141:8 145:23 147:18,25 159:3,5 160:13,16,17 165:8,10,22 167:2 171:24 175:5,19 176:1, 2,11 177:13,15 178:16 184:3 187:14,24 195:11,14
processes 141:17	propose 147:20 193:8	PVNGS 123:23 149:10, 13 152:17 196:16	Ratepayers' 188:25
	proposed 123:3,5 125:9 138:9 139:7 142:5,10 201:7	Q	rates 141:6 155:25 171:11 183:1 185:24 186:1,3,5 188:13 191:5 200:7
	proposes 132:12 148:17 173:12	qualified 154:1 188:17	ratesetting 120:21 121:3
	proposing 188:16 195:3	quantified 142:18	
	prospect 178:7	quarantined 163:9	
	protect 131:20	question 162:14 171:19 174:7 175:9 176:1 179:15,18 180:6, 21 183:10,25 184:1,8 185:14 195:20,24 196:3 197:2 198:11 199:24 200:25	
	protects 131:4 133:25 155:18 163:21	question-and-answer 121:18 169:24	
	protests 124:4		
	provide 122:23 139:17 143:2 168:18 169:13 171:25 172:20,25 173:8 174:2 175:13		

rationales 147:21	recognized 130:17 199:3	refused 164:14	135:22 138:18 150:22 158:4 163:6,11
read 144:20 164:7 167:7 193:2 196:23 201:20	recommend 138:24 140:7 148:15 175:13 176:11 196:11 201:11	regard 135:7 153:10 196:15	removing 129:12,13, 24 157:21
reading 185:5	recommendation 138:19 177:4,8 195:5	regulate 124:2	renewed 197:23
reads 163:3	recommendations 150:7	regulated 123:19	repeat 140:12 168:23 191:24
real 181:13	recommending 139:8 179:3	regulates 122:20	repeated 200:17
realism 139:16	recommends 151:14, 22 154:5	Regulatory 198:18 199:11 200:23 202:2	repetitive 134:13
realistic 157:25	record 119:5 120:1 125:1,13 127:8,15 137:8 153:23 156:4 164:21 167:17 169:17, 18,21 180:19 196:6 203:1	reject 147:17	replenishing 160:20
reason 197:5,6,21	recorded 120:6	rejoinder 136:9	reply 190:17
reasonable 131:16 132:15 146:4 153:5 157:25 159:10,23 183:22 187:8 198:14	recoup 149:23	related 123:20 125:6 129:4 151:16 153:3 158:25 159:13 193:1 198:13,16 201:25	reported 117:24 140:8
reasonableness 123:15 140:6 153:2 201:5	recover 154:25 155:2	relating 141:4,9	reporter 148:4,5 169:17 204:7 205:7
reasoned 166:16	recovered 181:24	relatively-high 198:2	reporters 120:7,9,14
reasons 133:10,20 154:5 173:13	recoveries 131:14	relevant 133:16 140:21	REPORTERS' 117:16
rebuttal 118:6 145:17 146:25 154:13 156:6 158:11 160:4 163:18 164:1 166:14 168:1 169:13 170:25 171:14 173:14 180:15 191:2	recovery 150:1 174:24	reliance 139:19 161:20	representations 143:15
recalculating 135:21	recycle 135:4	relief 147:18 177:16 195:11	representing 126:7,22 148:13
recall 199:4	redirection 161:23	relieving 195:15	represents 133:24 140:24
receipt 172:15,16	reduce 140:8 150:18 151:15	relocation 162:4	request 120:22 133:21 141:15 143:8 144:2 147:5 153:8 166:18 175:17
receive 141:8 155:9 171:21,22 172:4,6,7 184:22 185:1 201:7 202:9	reduces 187:19	rely 199:21,22	requested 149:14
received 131:19 133:18 148:1 153:15 155:8,11 156:19 166:11 168:20 172:13,14,17 179:22,25 180:4 193:23,24 194:6,21,24 195:6	reevaluated 149:1,6 152:11	remain 128:14 130:11 135:9 136:18	requesting 141:1
recently 154:22	refer 122:22 123:21 124:5 127:4	remained 130:4	requests 144:8 152:13 192:6
recess 169:19,20,22	referenced 169:14	remaining 129:17 132:9 150:14 157:7,14	require 138:10,19 151:18 162:21 163:13 175:13
recite 125:12	reflect 139:9 161:22 172:15 180:1,4	remains 130:21,24 131:1,3 132:18 133:16 134:1 136:12 138:2	required 130:16 131:7 138:24 152:1 156:18 162:17 177:9 186:12
recognize 161:3	Reform 124:6 126:15	remarks 121:13,23,25 135:6 168:3	requirement 141:1
	refund 150:5 154:8	remind 120:10 166:20	requirements 135:16 151:21 180:2
	refunded 179:6 191:20	removal 135:16 138:20 139:4,10 150:18 156:8, 9 157:17,18,23 161:11 162:3,10 198:23,25	requires 141:5 193:13
	refunds 132:14 172:22	remove 128:22 130:10 148:24 149:3,13,16 150:16 151:22 152:10 173:4 180:23	requiring 129:6
	refuse 145:12 147:1 182:11	removed 132:23,24	reserving 134:15

resolved 172:13	183:17 189:23	126:3 128:9 129:14	seats 127:23
resource 149:25 183:15	revenue 141:1	133:18 134:7,9 140:7 141:13 145:3,6 167:10	section 152:11
resources 197:10	review 123:2,14,17 139:16,17 142:14 143:8 146:8 147:19 155:5,7 196:20	savings 160:24 190:10	Sections 163:12
respect 127:6 140:19 189:11	reviewed 147:14 198:3	SCE 122:23 123:19,22 124:3 127:19 128:8 132:3,24 133:10 148:17 149:14,18,22,24 150:5 152:7,13,21,24 153:13, 15,17,21 154:8,12 155:22 171:15,19 175:13 191:18 192:5,6, 10 196:5,8 198:20	seek 140:21 142:16 145:4 147:18 174:24
respectfully 133:21	reviewing 123:19	SCE's 126:1 128:4 130:14 134:4 148:21 149:9 150:13,16,20 151:8 153:8 157:3	selects 153:11
respective 191:18,21	reviews 186:11	SCE-06 171:4 180:10	sends 140:15
respond 134:16 163:19 165:16 201:24	Reynolds 117:4 119:21 169:25 170:20, 21,24 179:12,13	SCE-09 171:14	Senior 126:6,14
responded 172:19 179:14	richer 184:15	scenario 132:22,25 133:1,5,11 134:23 137:1 144:13 148:18,20 150:12,13,20 151:1 154:4 162:14 168:11 189:11 190:14	sensitive 200:3
responding 154:15	risk 130:13 159:7 188:1 189:14	scenarios 136:24 162:9,22	sensitivities 176:17,25
response 121:16 145:16 154:11 166:17 172:20,25 173:2,24 174:2 190:15 196:8 198:9 199:9 202:23	risks 130:11	schedule 137:17,18 161:12	sensitivity 176:19 190:4
responses 124:4	robust 122:5 191:1	science 187:9	separate 150:23 201:7
responsibility 120:25 124:7 127:1,4 128:8,16 134:21 142:10 160:6	rouge 167:19	scope 125:8 147:8,12 168:17	served 178:3
responsive 196:21	roughly 153:16	scoped 123:9 125:10 195:24 198:13 201:25	Service 124:1,2
rest 189:17	round 130:25 147:9 154:18,21,22 155:7,10 162:23 171:20 172:1,2, 7 193:25 194:16 201:14,16	scoping 124:10,12 125:14 147:10	services 122:23
restart 143:14	round-five 172:4,12 202:10	scrutinized 147:4	serving 140:17
result 129:15 130:10 136:21 152:8 157:9,12 182:8	round-six 172:16	scrutiny 140:16 145:24	set 125:4 155:5 190:6
resulted 157:4	rounds 165:20	SDG&E 122:23 123:20 124:3 126:6,7 134:14 149:14 158:12 192:3,6, 20 193:23	sets 140:5
resulting 129:7	rubber 140:17	SDG&E's 128:4 191:18	setting 125:6
results 144:23 150:24 156:23	Rule 120:18,21 121:4	searched 199:10	settlement 132:22 133:10 136:21,22 148:18 150:20 151:1
resume 171:6 180:10	Rules 120:17	seat 195:25	shaking 181:18
return 133:9 151:5 157:1,9,11 165:7 166:18 171:9,10 174:4 175:18 176:10 183:8, 20,23 188:13,22 189:24 191:6 193:6 195:14	ruling 124:24 125:5	seated 119:16	shared 128:16
returned 149:24 153:17 175:25 177:13	run 176:19		shareholder 188:2
returning 145:23 176:2	Ryan 125:22		shares 140:22 141:12
returns 141:23 142:22 146:10,13,17,22 164:4	S		shaved 137:16
	safe 127:17 128:8 134:2		sheet 122:16 170:15
	safely 129:16 130:6 149:19 153:14		shore 198:17
	San 117:10,16 119:1,9 122:3,21 123:20 125:19		short 121:14,17 126:10 139:21 168:3 169:5 182:18 199:13
			short-term 138:15 200:24
			shortcut 124:23
			shorten 123:13
			shorter 159:16
			shortfall 181:15

SHORTHAND 204:7 205:7	slowly 120:9	spelled 126:21	163:8 185:22 193:20 199:20 204:3,8 205:3,8
shortly 127:13	small 140:13 157:2,8 190:20	spend 129:19 188:23 190:12	stated 150:16 153:1
show 144:10,11,15 181:1 182:6 187:4	so-called 132:22	spending 137:4 181:15 190:8	statement 121:19 127:23 134:15 138:13 145:15 163:20 164:1 166:7 170:3,8,10 199:12,23
showing 142:20 143:21,25	Socal 134:15	spent 128:13,20 129:1, 15,23 130:10,15,20 131:6,15,18 132:4,8 133:13,23 134:2,25 135:5,8,14,21 136:18, 25 137:13 138:18 139:1,3,10 142:4,9,23 143:12,16 144:4,12,16 145:1 149:16,19 153:14 155:21,23 156:3,7,8 157:17,18,21 158:4,25 159:21 160:11,14,18 161:10 162:5 163:5,11, 24 164:17 173:4,9 174:24 176:18 177:18 178:4 180:9,14,17,20, 23 181:2,11,23 185:17, 20,24 186:5 190:11 191:17 198:24 199:3 202:6,8,12,14,15	statements 121:16,17 127:10,19 154:11 187:3
shown 153:24 180:10	sold 160:9		States 129:15
shows 144:24 180:8,11 194:9	solution 130:18 189:15		station 123:21,23 128:9 149:10 152:13
shutdown 137:14 139:2	SONG 150:23		status 160:13,17 175:11,18 179:19 200:10
sic 119:15	SONGS 123:22 124:16 128:9,12,20 129:16,19 131:16 135:10,11,22 136:18,25 137:10 148:18,21 149:16,20 150:16,21 151:3,8 152:3,4 153:14 154:1,2 161:7 162:6 173:5 178:16,20 180:12,24 191:17 198:14 202:16		stay 171:24 196:18 199:4
side 186:6 187:12	sort 169:22 190:6,7 196:8 202:8		stays 181:2
sides 159:12,20	sound 130:21		stem 162:4
significance 172:1	sounds 146:4 189:10		stepping 185:9
significant 152:16,23 161:23	source 131:11,12 173:9 175:3,4 199:24, 25 200:22	split 150:2 154:6 179:3 191:23 195:2,8,13	steps 149:20,21
significantly 132:8 153:2 154:21	sources 181:9	sponsors 161:18	stick 170:11
signs 161:15	Southern 117:9 119:8 122:2,21 123:25 125:20,23	spotlight 198:16	Stipulated 124:25
silence 120:12	speak 120:9,11,14 135:14 195:1 197:17	staff 126:14 144:20	stipulation 124:19
simply 135:22 143:1 147:8 156:4 162:21 163:23 167:2 168:14 179:2 199:7 201:14	speaking 192:22	stage 135:2 153:3	stock 186:21
simulations 189:16 190:5	special 170:17	stages 153:7	stockpile 165:9
single 144:25 150:17 167:8 200:6	specific 147:3 148:14, 15 151:18 152:1 173:11,16 175:14 190:24	stamp 140:17	stockpiled 142:25
site 124:16 133:9 135:9, 22 136:18 151:5 157:21 163:6 173:5 180:24 181:3,7 202:16	specifically 168:5 171:2 193:15	standard 135:20 136:1, 17 139:21 174:25	stopped 131:16
site-specific 153:4	speculate 144:14	stark 138:2 167:4	storage 129:18 135:5, 16 136:25 137:3,22 138:4,11,15,16 139:2 153:12 155:23 161:14, 21 162:5 163:24 191:17 199:13,15,17 200:23,24
sites 139:3	speculative 156:15 177:10	start 125:18 127:19 148:8 154:12,14 163:20 169:25 170:20 182:6 189:21 193:3,8 194:4 195:3 196:4	store 149:19 153:14
situation 165:14	speech 170:16	started 127:18	stored 129:16
situations 176:7 189:19 197:1	spell 120:11	starting 192:10 193:9, 10 194:18	straightforward 128:19,23
size 178:11		starts 195:5	strategic 136:20 137:1 157:16,19,22
skipped 126:18		state 117:3 120:11 122:20 141:18 161:18	strength 182:14
slippage 161:12			stress 139:10

strongly 147:16	supporting 129:9 149:6 180:20	Texas 161:19	traditionally 194:2
structure 139:15 155:5 162:3	supports 131:9 155:18,22 185:4	thing 127:12 178:1 184:12 189:4,25 190:23	train 173:20
structures 150:21 162:11	supposed 165:14	things 175:21 184:8 187:4 189:13 190:21 193:10 199:1	transcribed 120:5,6
subject 123:10 135:15	surplus 144:11 188:11	thinking 137:21 190:19 191:3	TRANSCRIPT 117:16 204:6,9,11 205:6,9,11
submission 156:13	surprise 134:22	thirty 164:18	translates 138:7
submit 141:20	surrender 151:12,13	thought 173:20 191:12	transparent 137:25 147:3
submits 162:17	surrounding 152:17	thrown 145:8	travels 127:17
submitted 153:23 154:20,22	sustain 200:18	time 119:7 120:10,13 122:22 123:13 124:5 126:5 127:8 132:8 134:12,14,16 135:8,23 137:3 138:11 143:2 145:14 146:13 152:19 158:5,6,21 159:9,14,21 160:1 161:2 164:10,17 166:15,24 169:7,22 170:2 177:1,17 178:2 184:15 187:4 188:11 189:16 191:11 192:25 194:14,15 200:2	treasury 190:24
subsequent 193:16	T	timeline 143:16 159:17	treat 135:17
substances 151:11	table 121:10 122:16 153:21,23,24 168:6,7 170:16,18 186:16	timely 120:25	treated 147:5 156:23
substantial 149:19	takes 149:20,21 153:15	timing 141:24 162:10	treatment 141:11 143:2 147:11 194:17
substructure 150:18	taking 160:17	to-go 153:22 168:7	Triennial 117:11 119:10 122:4 123:12 128:5 130:1
substructures 132:23, 24 150:16,24	talk 158:15	today 119:17,20 120:5, 15 122:1,8,11,18 123:8 125:7,10 126:5,7 127:25 130:21 131:2 138:8 146:2 164:4 174:16 179:7 181:12 184:2	trouble 136:8
subsurface 150:21 162:3,10	talked 161:12	today's 120:16 125:4	true 136:12 156:4 163:25 165:18 186:10 204:10 205:10
subtracters 190:7	talking 191:15	told 197:7	Trump 161:24
subvert 142:13	task 200:9	top 166:11 183:2	trust 128:11 129:1,6 130:14,20 131:8,25 132:11,13,15 133:6,14, 23 135:4 141:14,18,21, 22,23 142:2,21 143:11, 22 144:3,11,17,19,25 145:5,11 146:7,10,11, 12,16,20 150:5 151:3 153:22 154:1,17 155:4, 18,21,24 156:2,13 157:5 158:1,25 159:4, 24 160:19,20 161:5 163:21 164:3,4,9,19 165:3,11 166:5,11 167:2 168:7,9,13 171:5, 10 172:24 173:8,18 174:10 176:15,20 177:2 178:18 179:5 180:9 181:24 182:2,11 183:18 185:1,12 186:20 187:6 188:12,16,18,19 189:11,23 191:1,19 194:11
success 165:20 166:1	task 200:9	topic 164:8 189:10	trusts 130:8 141:25 142:17,25 143:19 144:6 145:1 146:1,2 155:16
successful 166:2	tasks 178:22	total 135:24 137:8 140:13,14 150:13 157:5	
suffers 146:5	tax 188:18,19	totals 149:10	
sufficient 132:16 174:3	Technology 149:4	touch 147:6	
suggest 138:10,21 162:8	ted 193:15	tracks 185:17	
suggested 195:7	teeth 164:15	tradition 167:21	
suggesting 172:22	tells 182:13		
suggestion 198:17	ten 137:3 164:18 166:21		
suggests 166:7 200:6	ten-year 137:9		
sum 137:8	term 167:3		
summarizes 168:7	terms 146:15 160:10 161:4 167:4 184:4 188:14 190:4 200:3		
support 131:6 133:3,9 142:23 143:7,18 144:2 145:1,5 147:20 155:16, 21 156:3 158:1 163:25 180:9,14,17,18 181:4 191:3 195:5 197:10 198:21 202:12	testimony 140:4,11 144:15,21 146:25 156:5,6 164:2 166:1,9, 14 167:6 169:14 171:5, 14 180:15 182:24 191:2 192:16 204:11 205:11		
supported 196:6 198:5	testing 139:10		

159:2 161:8 162:1
163:23 167:6 171:7
174:16,18 176:22
177:1,8,20 183:9,17
187:22,23 188:17

turn 122:10 124:6
126:11 131:24 139:24
140:3 147:16 157:15
159:16 163:17 177:7
191:11 193:3,4

TURN's 140:4 144:8,15
145:9,13 161:6,8,15,20
166:17 190:17 191:23
195:5

Turns 164:19

twenty 164:18

Twenty-five 184:14

type 178:10 190:16
201:3

typical 189:25

typically 135:25
189:22

U

U 117:10

U.S. 128:20 129:11
140:24 151:21

un-serious 147:5

unable 142:1

unaddressed 161:11

uncertainties 152:16,
24

uncertainty 151:17
158:19,22 159:8 165:1
166:6 173:4,7 178:12
186:25 195:8 199:3,12
200:10

unchanged 131:3

under-collecting
187:18

underfunded 146:1
154:3 176:23

underfunding 168:9,
12,16

underlying 133:12

underruns 132:5

understand 188:10
189:8 197:4

understanding 186:18
189:21

understate 138:3

understates 137:2,21

underway 133:4

unforeseen 152:23
191:5

unique 158:20

unit 132:24 135:11
180:12 197:25

United 129:15

units 123:22,24 132:22
135:11 148:19 175:25

universe 165:1

unknowns 158:24
186:24

unlikely 158:18

unnecessary 131:25
177:15

unplanned 200:17

Unrealistic 138:2

unreasonable 135:8

unresolved 130:24
131:1 133:17

unsupported 138:3
139:20 140:9

unused 132:5 165:7

update 152:21 180:3
186:12

updated 156:14,20
162:23 176:14,15 180:1

urgent 141:5

urges 147:16

users 185:6

utilities 117:1 122:21
123:19 124:9 128:10,17
129:10 130:11 133:20
140:17,21 141:11,15,19

142:1,5,7,16,20 143:1,
7,12,15,21 144:1,18
145:8,12,22,24 146:14,
19,25 147:7,18,24
154:25 155:14 156:18,
25 157:20 159:8,22
161:4 163:13 164:13,
20,22 165:9 167:20
170:3 173:5 174:14,21,
24 175:1,24 176:9,12,
24 177:7 178:6,9
179:21 180:22 182:11
187:17,22 188:15,21
189:22 194:3,15 197:9,
12 204:1 205:1

utilities' 128:22 129:8
139:13 142:13 157:3,
16,17 162:13 164:12

utility 124:6 126:14
141:4 145:18 146:23
163:12 166:10 177:8

utility's 140:24

V

valid 145:18

valued 130:25

vary 153:6

Verde 123:23,24,25
141:9 149:9 152:12
196:2 197:21 198:4

versus 153:22 157:17
168:7 184:2 187:17
196:1

Vice 125:24 128:6

video-ed 120:6

view 132:2 188:2
194:12

virtually 144:1

visit 124:16

volume 117:18 171:15

volumes 139:1

vote 122:25 123:5

W

Waidelich 118:3,7

126:4,6 134:8,9 158:8,
9,10,11,12 173:23,25
186:14 190:15 192:21
201:2,24

Waidelich's 184:11

wait 163:5 171:22

waiting 157:20

wanted 127:12,14
168:14 177:23,24 196:6
201:20

warned 136:7

warranted 141:18

waste 135:15,17
136:11 149:22 153:12

water 122:24

Wayne 126:21 148:12
168:2

weak 143:7

weakness 142:12

website 124:13,23
125:2

weighted 183:4,5,13

west 178:6

wildfire 184:7

windfall 159:3 186:21

wishful 137:21

withdrawals 133:7

word 164:6 183:25

words 127:7,8 146:12
202:13

work 144:22 148:23
149:1 151:8,10,20,24
157:16 184:7 201:17

worked 188:3

working 143:5 148:8
200:11

world 189:15,18

worry 187:25

worst 184:12

wrong 143:15 162:8

Y

year 137:5 176:13
194:1

year-by-year 182:2
188:9

years 135:25 136:4
137:3,15,16,19 143:4,
13,17 145:2,3,6 146:8
158:23 161:11 164:8,
17,18 165:12 166:22
167:12 174:5 176:18,19
178:1,4 180:18 182:4
184:13,14 186:11,13,25
187:5 188:3,23 189:18
198:19 199:7,14,15,19
200:14 202:11,14

yield 176:21

yields 146:13

Yucca 136:3

Z

ZITA 117:7