

Decision 18-11-034 November 29, 2018

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Joint Application of Southern California Edison Company (U338E) and San Diego Gas & Electric Company (U902E) for the 2015 Nuclear Decommissioning Cost Triennial Proceeding.

Application 16-03-004

And Related Matters.

Application 15-01-014

Application 15-02-006

DECISION ON PHASES 2 AND 3 OF SOUTHERN CALIFORNIA EDISON COMPANY (U338E) AND SAN DIEGO GAS & ELECTRIC COMPANY (U902E) 2015 NUCLEAR DECOMMISSIONING COST TRIENNIAL PROCEEDING AND RELATED PROCEEDING

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DECISION ON PHASE 2 AND 3 OF SOUTHERN CALIFORNIA EDISON COMPANY (U338E) AND SAN DIEGO GAS & ELECTRIC COMPANY (U902E) 2015 NUCLEAR DECOMMISSIONING COST TRIENNIAL PROCEEDING AND RELATED PROCEEDINGS

Summary

Southern California Edison Company (SCE) and San Diego Gas & Electric Company (SDG&E) (collectively “the Utilities”) filed a joint application [Application 16-03-004] seeking review of decommissioning costs of San Onofre Nuclear Generating Station (SONGS) Unit 1 and Units 2 & 3 and Palo Verde Nuclear Generating Station (PVNGS) Units 1, 2, and 3. The proceeding was conducted in three (3) phases.¹ Phases 2 and 3 issues of the proceeding are addressed in this decision.

The Phase 2 issues are:

- 1) SONGS 1 decommissioning cost estimate (DCE);
- 2) PVNGS DCE; and
- 3) major project/milestone framework for SONGS.

Phase 3 issues addressed here are:

- 1) Reasonableness review of 2014 and 2015 SONGS Units 2 and 3 decommissioning costs; and
- 2) Compliance with prior Commission decisions.

SCE and SDG&E bear the burden of proof to establish the reasonableness of costs incurred by a preponderance of the evidence. This decision finds, as discussed below, that the decommissioning cost estimates (DCE) for SONGS 1 and PVNGS are generally reasonable with certain disallowances. We disallow the

¹ The issues addressed in Phase 1 of the proceeding were: 1) reasonableness review of 2009-2012 SONGS 1 decommissioning costs; 2) reasonableness review of 2013-2015 SONGS 1 decommissioning costs; and 3) reasonableness of nuclear fuel contract cancellation costs.

cost estimate for full removal of the SONGS 1 intake/discharge conduits in the amount of \$35.7 million. We also disallow \$112.2 million for the PVNGS estimated cost for low level radioactive waste onsite disposal. The nuclear trust funds are currently fully funded and therefore it is reasonable for the customer annual contribution to remain at \$0.00.

This decision finds \$136.1 million of SONGS 2&3 decommissioning expenses for 2014, and \$221.6 million of SONGS 2&3 decommissioning expenses for 2015 reasonable. The parties have proposed, and we adopt the Milestone Framework and principles for review of DCE and recorded cost as set forth below. Finally, the decision finds the Utilities are in compliance with prior California Public Utilities Commission decisions.

1. Background

The Nuclear Regulatory Commission (NRC) exercises exclusive jurisdiction as to nuclear power plants for radiological health and safety issues. In accordance with NRC requirements, nuclear power plant operators or licensees must provide financial assurances (through a trust, guarantee from parent company, or other acceptable mechanism) that necessary funds for all decommissioning costs of the facility are available. These funds must cover all activities to safely achieve license termination. The nuclear power plant operator or licensee is responsible for complying with the NRC's rules and regulations to ensure radiological health and safety of the public. The NRC rules and regulations generally preempt state regulations in this area.

California adopted the California Nuclear Decommissioning Act of 1985 (the Decommissioning Act) to establish a regulatory framework to ensure adequate financial resources for safe decommissioning of California's nuclear power plants. The Decommissioning Act mandates that the California Public

Utilities Commission (Commission) adopt regulations and guidelines to protect ratepayers and shareholders from decommissioning related financial risks. The Commission meets this statutory mandate through the Nuclear Decommissioning Cost Triennial Proceeding (NDCTP).²

In Application (A.) 14-12-007 (2014 San Onofre Nuclear Generating Station (SONGS) Units 2&3 Decommissioning Cost Estimates (DCE)) parties presented possible frameworks for future reasonableness reviews of SONGS decommissioning costs.³ D.16-04-019 found, consistent with the Public Advocate's Office of the Public Utilities Commission (Cal Advocates)⁴ recommendation, that decommissioning cost reviews should occur in the NDCTP. This same decision also agreed with The Utility Reform Network (TURN) that project-based milestones or "milestones" present a "logical point to review decommissioning costs."⁵ As directed by D.16-04-019, Southern California Edison Company (SCE) and San Diego Gas & Electric Company (SDG&E) (collectively "the Utilities"), TURN, and Utility Consumers' Action Network (UCAN) met and conferred, as well as held six in-person workshops to address development of the Milestone Framework presented in Phase 2 of this proceeding.⁶

² For further background on federal and state regulation of decommissioning, and funding assurances for decommissioning *see* Section 1, Background, of the Phase 1 Decision (D.)18-10-010.

³ D.16-04-019 at 23.

⁴ Senate Bill 854 (Stats 2018, Ch 51) amended Pub. Util. Code Section 309.5(a) so that the Office of Ratepayer Advocates (ORA) is now named the Public Advocate's Office of the Public Utilities Commission. We will refer to this party as Cal Advocate's except for exhibits and citations to party filings where we continue to use the designated label of ORA.

⁵ D.16-04-019 at 24.

⁶ Cal Advocates was present for these meetings and does not oppose the Milestone Framework.

On March 1, 2016, the Utilities filed this joint application requesting a two-phase procedural schedule seeking the following Commission actions in regard to the 2015 Decommissioning Cost Triennial Proceedings:

Phase 1

- 1) Approve as reasonable the \$13.9 million (100% share, 2011\$) for SONGS 1⁷ decommissioning expenses incurred between January 1, 2009 and December 31, 2012;⁸
- 2) Approve as reasonable the \$6.2 million (100% share, 2011\$) for SONGS 1 decommissioning expenses incurred between January 1, 2013 and December 31, 2015;
- 3) Approve as reasonable the updated \$239.4 million (100% share, 2014\$) 2016 SONGS 1 DCE for remaining SONGS 1 decommissioning work;
- 4) Approve as reasonable SONGS 2&3⁹ decommissioning expenses for activities completed between January 1, 2014 and December 31, 2014 (the Utilities stated that they would provide additional testimony identifying the 2014 decommissioning expenses at a later date);¹⁰
- 5) On February 17, 2017, the Utilities served supplemental testimony. On March 3, 2017, SDG&E filed an updated

⁷ SCE holds an 80% interest and SDG&E holds a 20% interest in SONGS 1 decommissioning liability.

⁸ D.14-12-082 did not allow \$13.9 million (100% share) in 2009-2012 SONGS 1 decommissioning expenses and directed SCE (and SDG&E) to return the funds to SONGS 1 Non-Qualified nuclear decommissioning trust (NDT).

⁹ SCE holds an approximately 75.74% interest, SDG&E holds a 20% interest, the City of Anaheim holds an approximately 2.47% interest, and the City of Riverside holds a 1.79% interest in SONGS 2&3 decommissioning liability, respectfully.

¹⁰ The Utilities note in the Application that a motion to consolidate A.15-01-014 and A.15-02-006 (SONGS 2&3 Costs Reasonableness Review Proceeding) with this proceeding will be filed. The motion to consolidate was filed with the Commission on March 9, 2016. The proceedings were consolidated on February 23, 2017 during the Prehearing Conference. The consolidation of these proceedings is confirmed here and discussed further below.

Application to provide an updated relief section in the form of a slip sheet.

- 6) Approve as reasonable SONGS 2&3 decommissioning expenses for activities completed between January 1, 2015 and December 31, 2015 (the Utilities stated that they would provide additional testimony identifying the 2014 decommissioning expenses at a later date).

In addition, SCE separately requests that the Commission:

- 1) Approve as reasonable the updated \$521.9 million (SCE share, 2013\$) 2016 PVNGS Unit Nos. 1,2, &3¹¹ DCE;
- 2) Approve SCE's request to maintain its annual contributions to its PVNGS nuclear decommissioning trusts (NDTs) at \$0.0 (zero), based upon the current estimate of decommissioning costs for PVNGS, current level of funding of the PVNGS NDTs, projected escalation rates, and financial market conditions known at this time; and
- 3) Approve SCE's request to maintain its annual contributions to its SONGS 1 NDTs at \$0.00 (zero), based upon the current estimate of decommissioning costs for SONGS 1, current level of funding of the SONGS 1 NDTs, projected escalation rates, and financial market conditions known at this time.

In addition, SDG&E separately requests that the Commission:

- 1) Approve as reasonable the \$2.8 million (SDG&E share, 2011\$) for SONGS 1 decommissioning expenses incurred between January 1, 2009 and December 31, 2012;
- 2) Approve as reasonable the \$1.3 million (SDG&E share, nominal \$) for SONGS 1 decommissioning expenses invoiced to SDG&E between January 1, 2013 and December 31, 2015;

¹¹ SCE holds a 15.8% interest in PVNGS decommission liability as noted in the Application at footnote 5.

- 3) Approve as reasonable the \$47.9 million (SDG&E share, 2014\$) of the 2016 SONGS 1 decommissioning cost estimate for remaining SONGS 1 decommissioning work;
- 4) Approve as reasonable the \$42.6 million (2014\$) in future SDG&E-only costs for SONGS 1, 2, & 3;
- 5) Approve as reasonable SDG&E's share of the SONGS 2&3 decommissioning expenses invoiced to SDG&E for activities completed between January 1, 2014 and December 31, 2015 and SDG&E-only costs for SONGS 1, 2, and 3 incurred during this time period (SDG&E will provide supplemental testimony to be submitted at a later date); and
- 6) Approve SDG&E's request to maintain its annual contributions to its SONGS 1 NDTs at \$0.00 (zero), based upon the current estimate of decommissioning costs for SONGS 1, current level of funding of the SONGS 1 NDTs, projected escalation rates, and financial market conditions known at this time.

Phase 2

The Utilities propose that the 2016 SONGS 2&3 DCE be reviewed in the second phase of the proceeding.¹²

On March 9, 2016, the Utilities moved for consolidation of this proceeding with A.16-03-006, [Pacific Gas & Electric Company's (PG&E) Nuclear Decommissioning Cost Triennial Review], as well as A.15-01-014 and A.15-02-006 (2014 SONGS 2&3 Reasonableness Review).

On March 17, 2016, the Commission preliminarily categorized this proceeding as ratesetting with hearings required in Resolution ALJ 176-3374.

¹² The parties submitted a subsequent list of issues and schedule that included three rather than two phases. The issues presented for each proposed phase are discussed below.

Protests were filed by Cal Advocates and TURN on April 4, 2016. The Alliance for Nuclear Responsibility (A4NR) filed a response to the application on April 6, 2016. A4NR also filed a motion for party status and a motion seeking permission to late file its response on April 7, 2016. On April 14, 2016, the Utilities jointly filed a reply to the protests and response.

On May 10, 2016, the assigned Administrative Law Judge (ALJ) issued a ruling scheduling a prehearing conference (PHC) for June 13, 2016, requiring parties to meet and confer regarding the procedural schedule and scope of this proceeding, and to set forth any agreed-upon proposals in PHC statements. The ruling also granted A4NR's motions for party status and to late-file responses.

On June 6, 2016, the Utilities filed and served their PHC statement with attached Meet and Confer Report (the Report). The Report proposed consolidation of all four proceedings but recommended three phases for addressing the applications. The Report contained an agreed-upon list of issues for each phase and a proposed schedule. A limited number of disputed issues were also set forth in the Report.

On June 13, 2016, the assigned ALJ convened a PHC for this proceeding as well as PG&E's Triennial proceeding, A.16-03-006. The parties discussed whether the applications had sufficient factual and legal overlap with the other proceedings.

On October 20, 2016, A.16-03-004, A.15-01-014, and A.15-02-006 were reassigned from ALJ Maribeth A. Bushey to ALJ Darcie L. Houck. On January 27, 2017, the assigned ALJ issued a Ruling directing the parties to meet and confer and file an updated Report as to the parties' positions and proposed schedule. The Utilities filed a joint updated Meet and Confer Report (Updated Report) on February 10, 2017.

On February 23, 2017, a second PHC was held to discuss the parties, scope of proceeding, and schedule for proceeding. On February 23, 2017, during the PHC, PG&E requested party status in the proceeding. Also, on February 23, 2017, Ruth Henricks filed a motion for party status in the proceeding. PG&E's request was granted. Ruth Henricks motion for party status was also granted.

The parties were directed to file a second updated meet and confer report that included a proposed schedule that would be based on the three-phase model proposed by SDG&E in the February 10, 2017 Report. The parties filed the second updated Report on March 1, 2017.

On March 23, 2017 a scoping memo was issued in the proceeding. The scoping memo affirmed the preliminary categorization of the proceeding as ratesetting with hearings required. The scoping memo also consolidated A.15-01-014, A.15-02-006 with this application (A.16-03-004).

The parties submitted several agreed upon issues and several disputed issues. The scoping memo accepted some of these issues and rejected others. The initial scoping memo divided the proceeding into three phases.¹³

The scoping memo was amended on June 16, 2017 to include in Phase 1 the reasonableness review of 2009-2012 SONGS 1 decommissioning costs of \$13.9 million previously disallowed in D.14-12-082, modified by D.17-05-017. At the June 22, 2017 PHC it was determined that the Utilities would file the updated SONGS 2&3 DCE with the 2018 NDCTP. The assigned ALJ directed the Utilities

¹³ The initial scoping memo for the proceeding covered the following issues: Phase 1- a) SONGS Unit 1 Reasonableness Review of 2013-2015 decommissioning costs and b) reasonableness of nuclear fuel contract cancellation costs; Phase 2- a) SONGS 1 decommissioning cost estimate (DCE), b) PVNGS DCE, and Milestones; Phase 3- a) updated SONGS 2&3 DCE, and b) reasonableness review of SONGS 2&3 2014 and 2015 decommissioning costs.

to file the 2018 NDCTP no later than March 15, 2018.¹⁴ The scoping memo was again amended on August 10, 2017 to include the issue of compliance with prior Commission decisions in Phase 3 of the proceeding. With these changes in scope the issues to be addressed in Phases 2 and 3 of the proceeding were amended as set forth above in the Summary section of this decision.

The intervenor testimony was served on July 28, 2017 with rebuttal testimony served August 22, 2017. Hearings for Phase 1 of the proceeding occurred the week of September 18, 2017. The parties filed opening briefs for Phase 1 on November 2, 2017 and reply briefs on November 17, 2017. D.18-10-010 resolved all Phase 1 issues.

On October 3, 2017, via email from SCE's counsel, the parties requested to combine Phases 2 and 3 so that testimony, hearings and briefing would occur together (given the deferral of review for the SONGS 2&3 DCE to the 2018 NDCTP). This request and a modified schedule were granted via email ruling on October 4, 2017. Intervenor testimony was served for Phases 2 and 3 on October 20, 2017, and rebuttal testimony was served on November 17, 2017. Hearings for Phases 2 and 3 were held the week of December 4, 2017. Opening briefs for Phases 2 and 3 were filed on January 19, 2018 and reply briefs were filed on February 2, 2018 at which time the proceeding was submitted.

2. Positions of the Parties

2.1. The Utilities

The Utilities assert that they have met their burden of proof in establishing the reasonableness of the decommissioning costs incurred, and that the costs requested in Phases 2 and 3 should be deemed reasonable, with zero

¹⁴ The Utilities did file the 2018 NDCTP on March 15, 2018. See A.18-03-009.

disallowances.¹⁵ The Utilities recommend that the Commission adopt the Milestone Framework as proposed and reject adoption of the guiding principles recommended by TURN and UCAN. The Milestone Framework has the NDCTP serving as the venue for reasonableness review of recorded decommissioning costs and provides the timing and scope of recorded costs to be considered for review in each NDTCP. These costs include SCE distributed and undistributed costs and SDG&E costs as discussed in more detail below.

SCE specifically recommends that the Commission make the following findings:

Phase 2

1. Find as reasonable the 2016 SONGS 1 DCE of \$239.4 million (100% share, 2014%\$) for remaining SONGS 1 decommissioning work;
2. Find as reasonable SCE's request to maintain annual contributions to its SONGS 1 NDT at \$0.00 (zero), based upon the 2016 SONGS 1 DCE, current level of funding of the respective SONGS 1 NDTs, forecast returns on the NDTs, and projected escalation rates at this time;
3. Find as reasonable the 2016 PVNGS DCE of \$608.3 million (SCE share, 2016\$);
4. Find as reasonable SCE's request to maintain its annual contributions to its Palo Verde nuclear decommissioning trusts (NDTs) at \$0.0 (zero), based upon the 2016 PVNGS DCE, current level of funding of the PVNGS NDTs, forecast returns on the NDTs, and projected escalation rates at this time; and

¹⁵ See SCE Phase 1 Opening Brief filed November 2, 2017 at 33-34; and SDG&E Phase 1 Opening Brief filed November 2, 2017 at 1-2 and 24.

5. Adopt the proposed Milestone Framework for reasonableness reviews of SONGS 2&3 decommissioning costs, as agreed to by the parties in this proceeding.¹⁶

Phase 3

1. Find as reasonable \$136.3 million¹⁷ (100% share, 2014\$) of SONGS 2&3 decommissioning expenses for activities completed between January 1, 2014 and December 31, 2014;
2. Find as reasonable \$221.6 million (100% share, 2014\$) of SONGS 2&3 decommissioning expenses for activities completed between January 1, 2015 and December 31, 2015; and
3. Find that SCE has complied with prior Commission decisions in the NDCTP.¹⁸

SDG&E recommends that the Commission make the following findings:

Phase 2

1. Find as reasonable the 2016 SONGS Unit 1 DCE for remaining SONGS Unit 1 decommissioning work and SDG&E's 20% share of the costs (\$47.9 million, 2014\$);
2. Find as reasonable the \$2.9 million SDG &E share (2014\$) estimate of future SDG&E-only costs for SONGS Unit 1;

¹⁶ SCE Opening Brief for Phases 2 and 3, filed January 19, 2018 at Summary of Recommendations and 64-65.

¹⁷ SCE notes in the Summary of Recommendations in its Opening Brief, filed January 18, 2018, that "If the Commission adopts the Milestone Framework presented jointly by the parties, the review of \$0.2 million for the Independent Spent Fuel Storage Installation (ISFSI) Pad Study completed in 2014 will be deferred until a subsequent NDCTP, and the amount of 2014 SONGS 2&3 decommissioning expenses to be approved in the 2015 NDCTP would be \$136.1 million (100% share, 2014\$)."

¹⁸ SCE Opening Brief for Phases 2 and 3, filed January 19, 2018 at Summary of Recommendations and 65.

3. Find as reasonable SDG&E's request to maintain its annual contribution to its SONGS Unit 1 NDTs at \$0, based upon the current estimate of decommissioning costs for SONGS Unit 1, current level of funding of the SONGS Unit 1 NDTs, projected escalation rates, and financial market conditions known at the time this application was filed (March 1, 2016); and
4. Adopt the proposed Milestone Framework for reasonableness.¹⁹

Phase 3

1. Find as reasonable the \$33.9 million (SDG&E share, 2014\$) for SONGS 2&3 decommissioning expenses invoiced to SDG&E by SCE between January 1, 2014 and December 31, 2014;
2. Find as reasonable the \$3.7 million (2014\$) in SDG&E-only costs for SONGS Units 2&3 incurred January 1, 2014 through December 31, 2014;
3. Find as reasonable the \$34.3 million (SDG&E share, 2014\$) for SONGS Unit 2&3 decommissioning expenses invoiced to SDG&E between January 1, 2015 and December 31, 2015;
4. Find as reasonable the \$2.6 million (2014\$) in SDG&E-only costs for SONGS Units 2&3 incurred January 1, 2015 through December 31, 2015; and
5. Find that SDG&E has complied with prior Commission decisions in the NDCTP.

The Utilities argue that approval of their request is straightforward and should be adopted consistent with their recommendations. SCE asserts that the

¹⁹ SDG&E Phase 1 Opening Brief, filed November 2, 2018 at ii and 24.

NDT are sufficiently funded and that a zero-customer contribution should be maintained. The Utilities advocate for adoption of the Milestone Framework proposed jointly by the parties. SCE states that the SONGS 2&3 decommissioning costs should be found reasonable, noting that no party recommended any disallowances of these costs.²⁰

The Utilities oppose the following intervenors recommendations:

1) Cal Advocates and TURN recommendation to reduce the SONGS 1 and Palo Verde DCEs; 2) TURN and UCAN recommendation to adopt “guiding principles” for SONGS 2&3 reasonableness reviews; 3) TURN recommendation to shift a portion of the 2014 and 2015 SONGS 2&3 undistributed costs to distributed activities to be reviewed in future NDCTPs; and 4) TURN recommendation that the 2016 SONGS 1 DCE costs for disposing of the SONGS 1 reactor pressure vessel (RPV) be changed to reflect the pricing contained in SCE’s contract with SONGS Decommissioning *Solutions* (SDS).²¹

2.2. Cal Advocates

Cal Advocates recommends that the Commission exclude \$35.7 million from the SONGS 1 DCE. The \$35.7 million estimate would cover the cost for a possible future removal of the underwater intake/discharge conduits (conduits).²²

²⁰ SCE Opening Brief at 5.

²¹ See SCE Opening Brief at 3-9; and also see SDG&E Opening Brief throughout.

²² In 2005 an amendment was made to SCE’s lease with the California State Lands Commission (CSLC) that was understood to eliminate the prior requirement to fully remove the offshore conduits. The 2005 amendment was understood to instead only require removal of vertical structures above the seafloor. Further support for this understanding is shown in that the full removal of these conduits was not assumed in the 2009 or 2012 DCEs. See SCE-13, Appendix 4, SONGS 1 Offshore Conduit Lease at 4-19; See ORA Opening Brief for Phases 2-3 at 1-3; and TURN Opening Brief for Phases 2 and 3 at 8-11.

Cal Advocates argues that for SCE to expend any amount of money on full removal of the conduits the CSLC would need to make a determination that the conduits will “become a public safety hazard.”²³ Cal Advocates also argues that SCE has conceded that no more ratepayer funds are needed to complete the decommissioning of SONGS 1, therefore the DCE should not be increased by the \$35.7 million recommended by SCE unless or until the CSLC makes a finding that the conduits are a public safety hazard that must be removed.²⁴ Cal Advocates also does not oppose the adoption of the proposed Milestone Framework.

2.3. TURN

TURN recommends reductions to the SONGS 1 DCE, and the PVNGS DCE. TURN recommends that the Commission adopt the Milestone Framework submitted jointly by the parties, as well as “guiding principles” for the review of DCE and recorded expenditures. TURN does not recommend any disallowances of recorded costs for 2014 and 2015 SONGS 2&3. TURN’s specific recommendations are as follows:²⁵

1. SONGS 1 DCE

- a. \$69 million proposed increase is not well supported or documented and therefore should be denied;
- b. \$37 million increase in undistributed activity costs should be denied;
- c. \$35.7 million increase to account for full removal of intake and discharge conduits should be denied;

²³ See ORA Opening Brief filed on January 19, 2018, citing to RT Vol 3 at 135:15-16 and SCE-13, Appendix 4, SONGS 1 Offshore Conduit Leases at 4-19; and RT Vol 3 at 135:7-12.

²⁴ ORA Opening Brief at 4 citing to RT Vol 3 at 76:16-19.

²⁵ See TURN Opening Brief at 1-4.

- d. \$10.4 million increase for license termination activities cannot be reconciled with prior DCE and should be denied;
 - e. \$13.7 million increase for “miscellaneous” activities should be denied;
 - f. \$88 million estimated cost for disposition of Reactor Pressure Vessel should be reduced to reflect the cost included for this project in the DGC contract;
 - g. Spent Fuel Storage (SFS) costs should be reduced by \$9 million to reflect the assumption that all maintenance and operating costs for the ISFSI will be assigned to SONGS 2&3 after SONGS 1 spent fuel has been removed in 2034; and
 - h. Estimated cost of future DCE updates should be limited to \$70,000.
2. PVNGS DCE
- a. \$112.2 million adjustment to the DCE to account for assumed increases in waste burial volumes should be denied;
 - b. \$43 million adjustment to the DCE to eliminate any future reliance on Department of Energy (DOE) reimbursements should be denied;
 - c. The 25% automatic contingency factor is unreasonable and should be rejected; and
 - d. The likelihood of excess funds in PVNGS NDTs should be considered and addressed in future NDCTPs.
3. Milestone Framework
- a. Adopt the joint proposal for a milestone framework to address the timing and scope of activities included in reasonableness reviews for decommissioning costs.
4. Reasonableness of 2014 and 2015 Recorded Costs for SONGS 2&3
- a. No disallowances of recorded costs for 2014 and 2015;
 - b. Apply Milestone Framework to the 2014 and 2015 reasonableness review of costs with one exception;

- c. Recorded costs should be explicitly tracked to DCE line items to permit more transparent and meaningful review process;
 - d. SCE should be directed to reevaluate its practice of recording disproportionate amounts of staff time to undistributed activities and submit an Advice Letter (AL) proposing reassignment of 2014 and 2015 costs that are more properly attributed to distributed activities; and
 - e. Additional reporting by SCE should be required to address potential delays in two major projects that would increase overall decommissioning costs
5. Principles for the Review of DCE and Recorded Costs
- a. Require SCE to incorporate the schedule provisions of the Decommissioning General Contract (DGC) contract into the 2018 SONGS 2&3 DCE or provide a compelling reason why the cost and schedule for SONGS 2&3 should not recognize the assumptions and projections embedded in the contract;
 - b. Affirm that the Commission's right to examine the reasonableness of SONGS 2&3 costs will not be impaired due to the existence of the DGC contract;
 - c. Affirm that the dates, scopes of work, planning assumptions, and Distributed/Undistributed Activity costs in an approved DCE are useful and acceptable inputs to reasonableness determinations by the Commission;
 - d. Affirm that the changes in future DCEs that modify milestone dates, scopes of work, planning assumptions, distributed/undistributed costs, or formats are within the scope of issues to be considered by the Commission in future NDCTPs;
 - e. Affirm that the reasonableness of recorded costs can be challenged even if they are less than those identified in a prior DCE;
 - f. Recognize that delays occurring in one time period can result in increased costs in another area during a later time period and that any delays in one proceeding

should be considered in determining the reasonableness of costs in a subsequent proceeding;

- g. Affirm that use of a contractor does not shield a utility from consequences of actions taken by the contractor;
 - h. Recognize the important roles of the 2014 and 2018 DCEs in benchmarking undistributed costs over time; and
 - i. Order SCE to increase its reporting in semi-annual AL to include more detailed reporting on cost and schedule forecasts and performance affecting future cost and schedule
6. Other Issues
- a. Continue to monitor efforts of nuclear utilities to successfully obtain damages from the federal government for its breach of the obligation to pick-up spent nuclear fuel; and
 - b. Consider what actions or strategies should be pursued to avoid the accumulation of excess funds in the decommissioning trusts that would result in a significant transfer between different generations of ratepayers.

2.4. UCAN

UCAN participated in the party meet and confer prior to the February 23, 2017 PHC as reflected in the Meet and Confer Report submitted by SCE and SDG&E.²⁶ UCAN did not participate in evidentiary hearings but did serve testimony and briefs in Phases 2 and 3 of this proceeding.

UCAN recommends that the Commission:

- 1. Adopt the joint proposed Milestone Framework
- 2. Adopt additional guidelines to protect ratepayers
 - a. reiterate that SCE is responsible for its contractor's activities;

²⁶ SCE and SDG&E Meet and Confer Report filed February 10, 2017.

- b. reiterate that SCE is responsible for the provisions of all agreements that it signs, or has signed, with its contractors;
- c. with each new DCE the utilities should be required to provide a line-by-line comparison of activities, costs, and schedules in the new DCE with those from the previously approved DCE, with explanations for all changes;
- d. Specify that if a delay, unexpected cost, cost increase, or other event is deemed to be the responsibility of the utilities, any distributed and undistributed cost increases associated with the event shall also be the responsibility of utility shareholders and unrecoverable from ratepayers, including associated cost increases that may occur years after the event; and
- e. When the projected schedule for a decommissioning Major Project is delayed by more than six months, the reason for the delay should be established and cost responsibility should be assigned to either ratepayers or shareholders. If shareholders bear the cost responsibility, an evaluation of the incremental costs associated with the delay should be made during each subsequent NDCTP, and this amount should be ineligible for ratepayer recovery

2.5. The Alliance for Nuclear Responsibility

A4NR submitted a PHC statement in this proceeding on June 6, 2016 responding to the items listed in the May 10, 2016 Ruling. A4NR also participated in the party meet and confer sessions prior to the February 23, 2017 PHC as reflected in the February 10, 2017 SCE and SDG&E Updated Report.²⁷ A4NR did not submit testimony or file briefs in Phases 2-3 of this proceeding.

2.6. Other Parties

²⁷ A4NR's Prehearing Conference Statement, filed June 6, 2016; and SCE and SDG&E Meet and Confer Report filed February 10, 2017.

No other parties served testimony, participated in hearings, or filed briefs for Phases 2 and 3 of the proceeding.

3. Legal Requirements

Pursuant to Pub. Util. Code § 451 each public utility in California must:

[f]urnish and maintain such adequate, efficient, just and reasonable service, instrumentalities, equipment and facilities ...as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public.

The duty to furnish and maintain safe equipment and facilities falls squarely on California public utilities, including electric utilities, such as SCE and SDG&E. This duty remains with the Utilities regardless of whether decommissioning activities are conducted directly by the Utilities or by entities or individuals that the Utilities contract with to carry out decommissioning activities.

Also pursuant to Pub. Util. Code § 451 all rates and charges collected by a public utility must be “just and reasonable,” and a public utility may not change any rate “except upon a showing before the commission and a finding by the commission that the new rate is justified.” (Pub. Util. Code § 454.) The Commission requires that the public utility demonstrate with admissible evidence that the costs it seeks to include in revenue requirement are reasonable and prudent. The Commission is charged with the responsibility of ensuring that all rates demanded or received by a public utility are just and reasonable.

Pursuant to Pub. Util. Code § 8326, SCE (for SONGS and PVNGS) and SDG&E (for its share of SONGS), must prepare, submit, and periodically revise their DCEs:

- (a) Each electrical utility owning, in whole or in part, or operating a nuclear facility, located in California or elsewhere, shall provide a decommissioning cost estimate

to the commission or the board for all nuclear facilities which shall include all of the following:

- (1) An estimate of costs of decommissioning.
 - (2) A description of changes in regulation, technology, and economics affecting the estimate of costs.
 - (3) A description of additions and deletions to nuclear facilities.
 - (4) Upon request of the commission or the board, other information required by the Nuclear Regulatory Commission regarding decommissioning costs.
- (b) The decommissioning costs estimate study shall be periodically revised in accordance with procedures adopted by the commission or the board pursuant to Section 8327.

The Commission's directive to review the Utilities' Decommissioning Cost

Estimate is set forth in § 8327:

The commission or the board shall review, in conjunction with each proceeding of the electrical utility held for the purpose of considering changes in electrical rates or charges, the decommissioning costs estimate for the electrical utility in order to ensure that the estimate takes account of the changes in the technology and regulation of decommissioning, the operating experience of each nuclear facility, and the changes in the general economy. The review shall specifically include all cost estimates, the basis for the cost estimates, and all assumptions about the remaining useful life of the nuclear facilities.

The burden of proof is on the Utilities to demonstrate the reasonableness of the DCE and the resulting rate change requests. The standard of proof is that of a preponderance of evidence, which means such evidence as, when weighed with

that opposed to it, has more convincing force and the greater probability of truth.²⁸

The Utilities justify their proposed annual customer contribution rate with their contention that the SONGS Units 2 & 3 NDTs (SCE also contends that the PVNGS NDT is fully funded) are currently sufficiently funded, with projected asset returns and inflation, to pay all decommissioning costs plus a contingency.

As set forth below, we have analyzed the Utilities' presentation along with the parties and conclude that the Utilities have met their burden of proof generally as to the forecasted costs in the SONGS 1 DCE, and the forecasted costs in the PVNGS DCE. We also find that the activity costs incurred in 2014 and 2015 for SONGS 2 & 3 are reasonable.

The Utilities are required to demonstrate that all activities or expenses incurred are reasonable or even needed. We again affirm our prior conclusions and orders requiring the Utilities to show that all nuclear decommissioning expenses incurred are the result of appropriate actions and reasonable costs:

We deny the utilities' request to accord a presumption of reasonableness to cost elements where the actual costs are no greater than the amount reflected in the Decommissioning Cost Estimate. Accurately forecasting the cost of an activity does not necessarily lead to the conclusion that the particular activity is reasonable or even needed. The utilities must show for all their nuclear decommissioning expenditures that they have taken the appropriate actions and at a reasonable cost.²⁹

Here we find that the Utilities have met their burden in demonstrating that the reimbursements requested, and costs incurred are the result of appropriate

²⁸ D.16-04-019 at 16.

²⁹ D.16-04-019 at 17.

actions and reasonable costs. We adopt the proposed Milestone Framework and approve the SONGS 1 DCE and PVNGS DCE with certain disallowances as set forth below.

4. SONGS 1 DCE and Customer Contribution

The Utilities request that the Commission approve as reasonable the 2016 SONGS 1 DCE of \$239.4 million (100% share, 2014\$).³⁰ The DCE is a tool used to determine the sufficiency of the NDTs and customer contribution levels needed to maintain sufficiency of the NDTs.³¹ SCE has determined that the SONGS 1 NDT is fully funded at this time. This determination is “based on the current 2016 SONGS 1 DCE, the SONGS 1 NDTs’ liquidated values, forecast returns, and projected escalation rates.”³² The Utilities request that the current annual customer contribution of zero continue for SONGS 1 NDTs.³³ No party opposes this request.

SDG&E testified that it independently reviewed and determined that the activities conducted in 2014 and 2015 were reasonable, and that the current annual customer contribution of zero should continue for SONGS 1 NDTs.

Cal Advocates reviewed SCE’s testimony and workpapers regarding 2016 SONGS 1 Trust Fund Contributions and Financial Assumptions. Cal Advocates does not oppose a finding by the Commission that the continued zero

³⁰ SCE Opening Brief at 10 citing to Exhibit SCE-04 at 1; and SDG&E Opening Brief at 1, 3, and 33 and SDG&E 04 at 3; SDG&E requests that the Commission authorize its 20% share of the remaining SONGS Unit 1 decommissioning work in the amount of \$47.9 million (2014\$) and the \$2.9 million (SDG&E share 2014\$) estimate for future SDG&E-only costs for SONGS 1.

³¹ Pub. Util. Code §§ 8326 and 8327.

³² SCE Opening Brief at 10 citing to SCE-06 Rev 1, at 1-4 and 19-20.

³³ SCE Opening Brief at 10.

contribution is reasonable. Cal Advocates recommends that the 2016 SONGS 1 DCE be reduced by \$35.7 million, elimination of the full removal of SONGS 1 intake/discharge conduits pending a final lease termination agreement between SCE and the CSLC.³⁴

TURN does not oppose a reasonableness finding for a continued customer contribution of zero. However, TURN does not believe SCE has met its burden as to the proposed \$69 million increase from the 2012 to 2016 DCE. TURN recommends a reduction of \$97.3 million to the 2016 SONGS 1 DCE. This reduction would be achieved by the following reductions: 1) \$35.7 million for complete removal of the SONGS 1 intake/discharge conduits; 2) \$37.4 million for Undistributed Costs; 3) \$10.4 million for License Termination activities; 4) \$13.4 million for Miscellaneous activities; and 5) \$0.4 million for updating the DCE.³⁵ TURN also recommends reducing the cost for disposition of the reactor pressure vessel “to the amount assumed in the DCG contract executed in late 2016.”³⁶

No party opposes the Utilities proposed continuance of a zero ratepayer contribution to the NDTs, based on the sufficiency of the funding for the SONGS 1 NDTs. We find that it is reasonable to maintain a zero ratepayer contribution for the SONGS 1 NDTs.

In A.16-03-004, the Utilities request that the Commission approve an increase from the 2012 DCE of \$169.9 million to the proposed 2016 DCE amount

³⁴ ORA-02 at 2 and 5-9.

³⁵ TURN Opening Brief at 5-13.

³⁶ TURN Opening Brief at 13 citing to TURN-3C at 37. TURN notes that the exact amount is not referenced in its Opening Brief as it did not wish to file a confidential brief. The specific amount is provided in TURN’s confidential testimony.

of \$239.4 million for the estimated cost to complete decommissioning work at SONGS 1. The \$69.5 million increase is based on the estimated costs variance for the following activities:

1. Undistributed costs	\$37.4 Million
2. Full Removal of intake/discharge conduits	\$35.7 Million
3. License termination	\$10.4 Million
4. Subsurface structure removal	(\$38.4 Million)
5. Miscellaneous	\$13.4 Million
6. Escalation	\$11 Million
Total Increase	\$69.5 Million³⁷

4.1. SONGS 1 DCE - Undistributed Costs

Cal Advocates does not oppose the \$37.4 million variance in the DCE for Undistributed Costs.³⁸ TURN argues that SCE has not supported the cost increase, including the \$37.4 million for undistributed costs.³⁹ According to TURN, SCE has not demonstrated that the cost drivers for this category were excluded from the 2012 DCE as it was “difficult to determine the extent to which these cost items are truly incremental and justify a change in the overall estimate.”⁴⁰ TURN argues that there is no way to determine, based on the evidence presented in Phases 2 and 3, whether the undistributed costs in the 2016 DCE was “inadvertently overlooked” in prior DCEs or whether it was actually

³⁷ SCE-04B at 13, Table IV-3; Also see ORA -02 at 5. Also *see* SCE-13B at 3.

³⁸ ORA Opening Brief and ORA-02.

³⁹ TURN Opening Brief at 5.

⁴⁰ TURN Opening Brief at 6-7.

included in these prior DCEs.⁴¹ TURN recommends decreasing the proposed 2016 SONGS 1 DCE by \$37 million for undistributed costs.

We share TURN's concern as to the difficulty in determining what dollars were actually spent for what activities when SCE combines multiple cost items into limited categories. The evidence presented does not allow the Commission to assess the exact expense for each cost item, only for each cost category. Adoption of the joint proposed Milestone Framework (discussed below) should address these concerns going forward.

As to the undistributed costs for the 2016 SONGS 1 DCE, we believe that SCE could have provided better tracking of these costs by task rather than lumping the costs into larger categories that make assessing the expenditures of these costs more difficult. However, SCE did provide detailed variance explanations of the 2016 DCE compared against the 2012 DCE. SCE has consistently represented in Phase 1 and Phases 2 and 3 of this proceeding that these costs were inadvertently omitted in the 2012 DCE but were appropriately included in the 2016 DCE. Therefore, SCE could not provide a line by line comparison between the 2012 and 2016 DCEs. TURN's argument here is circular – expenses in Phase 1 should be disallowed as they were omitted from the DCE, whereas here TURN argues that the same items should be excluded from the DCE because they were not included in the last DCE. SCE would never be able to recover what are legitimate decommissioning expenses if we were to exclude these costs because they were not able to be compared on a line by line basis to a prior DCE where the items were inadvertently omitted.

⁴¹ *Id* at 7.

The costs included in the undistributed category of the SONGS 1 DCE include necessary decommissioning activities such as: insurance; NRC fees; energy, utilities and other; ground water monitoring; and lease/easement fees. NRC regulations require SCE to maintain nuclear liability and property insurance for SONGS.⁴² SCE also maintains non-nuclear liability insurance, nuclear workers' compensation policy, and property insurance.⁴³ NRC regulations, 10 C.F.R. 171, requires SCE to pay annual fees as an NRC license holder. These fees are for inspections conducted during the course of each year based on an hourly rate set forth in 10 C.F.R. 170 until the license is terminated.⁴⁴ Prior to the permanent shutdown of SONGS 2 & 3 SCE used generation from the SONGS facility to power the site. Now that the facility is permanently shut down SCE purchases electricity from the grid at retail rates to power the site.⁴⁵ The undistributed activities category also includes necessary decommissioning costs such as water utilities, materials and services, DGC staff, telecommunications equipment, non-process computers, and personal computers.⁴⁶ Nuclear Energy Institute (NEI) 05-07, Ground Water Protection Initiative is implemented by nuclear plant's to satisfy the requirements of 10 C.F.R. § 20.1406(c). Consistent

⁴² See SCE-13 at 5 citing to 10 C.F.R. 140 Financial Protection Requirements and Indemnity Agreements, and 10 C.F.R. § 50.54(w), Conditions of licenses.

⁴³ *Id.*

⁴⁴ SCE-13 at 5 citing Annual Fees for Reactor Licenses and Fuel Cycle Licenses and Materials Licenses, Including Holders of Certificates of Compliance Registrations, and Quality Assurance Program Approvals and Government Agencies Licensed by the NRC; and Fees for Facilities, Materials, Import and Export Licenses and Other Regulatory Services Under the Atomic Energy Act of 1954 as Amended.

⁴⁵ See SCE-13 at 5.

⁴⁶ *Id.*

with this requirement SCE installed wells to sample and monitor the ground water for radiological materials, such as tritium.⁴⁷ SCE also has lease payments to both the Navy for the property where SONGS is located, and the CSLC for the property where the intake and discharge conduits are located.⁴⁸

These are all necessary decommissioning activities. SCE has provided sufficient support for the variances between the 2012 DCE and 2016 DCE as to the undistributed category.⁴⁹ Each of the items included in the undistributed category of \$37.4 million are justified costs as demonstrated by SCE's testimony set out in SCE-02, SCE-03, SCE-11, SCE-04 at Appendix 1-43; and SCE-13 at 3-12. We also find SDG&E's share of the undistributed activity costs category reasonable.⁵⁰

4.2. SONGS 1 DCE - Full Removal of intake/discharge conduits

The Utilities request that the Commission find an increase to the 2016 SONGS DCE of \$35.7 million for full removal of the SONGS 1 intake/discharge

⁴⁷ *Id* at 5-6.

⁴⁸ *Id* at 6.

⁴⁹ SCE Reply Brief at 20-23.

⁵⁰ SCE when discussing spent nuclear fuel (SNF) management references management of the SNF onsite "or at an alternative site". We note that there is no evidence in the record to support maintaining SNF on any site other than the SONGS site. Nothing in this decision authorizes SCE or SDG&E to expend funds to move or maintain fuel anywhere outside of the SONGS site consistent with NRC approval. Without appropriate federal approvals it would be unlawful for SCE to move SNF off of the SONGS site. If at some point in the future SCE or SDG&E propose to expend ratepayer funds, including decommissioning funds to move SNF to a location outside of the SONGS site the proposal would need to be presented to the Commission for approval prior to any such relocation of SNF.

conduits.⁵¹ Cal Advocates and TURN recommend that the Commission exclude the \$35.7 million for removing the SONGS 1 conduits from the 2016 SONGS 1 DCE.⁵²

The Utilities argue that because the current lease obligates the Utilities to provide sufficient “financial assurance to guarantee faithful performance of the lease termination agreement”⁵³ the \$35.7 million should be included in the 2016 SONGS 1 DCE. However, the Utilities do not sufficiently explain why this item was not included in previous DCEs (as the lease has been in place with this language since 2005), nor the basis for the amount given it is speculative as to whether the conduit will or will not have to be removed.

Cal Advocates points out that the CSLC environmental study determined that not removing the conduits is the environmentally preferable alternative.⁵⁴ SCE conceded that as such it is possible that the conduits may never have to be removed, and that the need for the estimated \$37.5 million is speculative (no probability analysis was conducted as to the likelihood that the conduits would actually need to be removed).⁵⁵ The conduits would only need to be removed if the CSLC deems the conduits to be a public hazard, which to date it has not. To the contrary the CSLC environmental study found that the environmentally

⁵¹ SCE Opening Brief at 16; SDG&E Opening Brief 9-11; SCE-13, Appendix 4 at Appendix 4-5, and Appendix 4-19; SCE-13 at 6.

⁵² ORA-2 at 5-9; TURN-04 at 29 and 36; ORA Opening Brief at 1-4; TURN Opening Brief at 8-11.

⁵³ SCE-13, Appendix 4 at Appendix 4-5 (Paragraph 12 of 2005 lease) and Appendix 4-19 (Paragraph 10 of 2016 lease amendment).

⁵⁴ RT Vol 3 at 135-136:20-1.

⁵⁵ ORA Opening Brief at 3-4.

preferred alternative is to not remove the conduits.⁵⁶ This item was last included as a decommissioning cost in the 2002 DCE and later removed from the SONGS 1 DCE beginning in 2005 after the amendment to the lease agreement was entered into between CSLC and SCE.⁵⁷ SCE now wants to argue that this same agreement that led it to remove these costs from the estimate in the 2005 SONGS 1 DCE establishes the likelihood that it will need to remove the conduits.⁵⁸ SCE cannot have it both ways. SCE has not demonstrated that the remaining portions of the conduits are “a public safety hazard” or that the CSLC has changed its position as to the environmentally preferred option that leaves the conduits in place. There is no evidence in the current record that the existing lease agreement requires the removal of the conduits or is likely to require such removal.

Additionally, the current CSLC expired on September 23, 2018 and SCE will be able to further address the costs impact of any renewed or amended lease in the next NDCTP.⁵⁹ SCE may submit additional information in future NDCTPs to further its position as to whether this cost should or should not be included in the SONGS 1 DCE once it has reached final terms and agreements with the CSLC as to the new lease agreement or lease termination agreement.⁶⁰

We also agree that there is no harm at this stage of the decommissioning to exclude this amount from the estimate given the Utilities will be able to readdress

⁵⁶ RT Vol 3 at 135-136.

⁵⁷ TURN-03 at 36.

⁵⁸ TURN Opening Brief at 8-11.

⁵⁹ SCE-13, Appendix 4 at Appendix 4 at Appendix 4-5 (paragraph 12 of 2005 lease) and Appendix 4-19 (paragraph 10 of 2016 lease amendment); also see SCE Opening Brief at 19.

⁶⁰ ORA-02 at 8.

this issue in future NDCTPs, and given “the market value of the SONGS 1 NDT is \$308 million, which equates to a net liquidation value of \$271 million.”⁶¹ The current estimate (including conduit removal) for decommissioning SONGS 1 is a total of \$239.4 million for both utilities. SCE’s share of this amount \$191.5 million. Sufficient funding exists in the SONGS 1 NDTs to cover these costs without increasing customer contributions, therefore there is no need to include this item now when a more accurate assessment of whether it will be needed and what it may cost can be determined in a future NDCTP.

SCE has not met its burden of proof as to the proposed increase of \$35.7 million for removal of the intake/discharge conduits. We therefore will exclude the \$35.7 million from the 2016 SONGS 1 DCE at this time.

Nothing in this decision prevents SCE from including costs for removal of the intake/discharge conduits in future DCEs to the extent additional information becomes available. In doing so SCE must provide the following additional information: the revised Lease Termination Agreement between SCE and CSLC; details regarding the specific legal obligations accepted by SCE in the revised Lease Termination Agreement; any financial assurances for such obligations agreed to between SCE and CSLC; and an explanation as to why the costs were removed from the DCE after 2002 and should now be included the DCE going forward.

⁶¹ ORA-02 at 8 citing SCE-06 at 1:17-19.

4.3. SONGS 1 DCE - License Termination

SCE included an estimate of \$15.2 million for License Termination activities. This is a \$10.4 million variance from the 2012 DCE. TURN argues that the \$10.4 million increase should be excluded from the SONGS 1 DCE. We reject TURN's recommendation and find that SCE has met its burden as to the additional \$10.4 million for license termination activities.

SCE asserts that the 2012 DCE included an allowance for this category, whereas the 2016 DCE contained a detailed estimate that reflects the "appropriate scope of work based on EnergySolutions' decommissioning experience."⁶² The license termination activities identified by SCE include: 1) ISFSI Decommissioning (\$1.8 million); 2) License Termination Plan (\$0.7 million); 3) Final Site Survey (\$5.6 million); 4) NRC approval (\$0.9 million); 5) Environmental analysis for lease termination (\$0.2 million); 6) equipment final site grading, and shoreline protection (\$5.6 million); and 7) permits and approvals (\$0.4 million).

These costs are justified decommissioning activities. TURN does not argue that any of these activities are inappropriate decommissioning activities. The focus of TURN's argument to exclude these activities is that SCE did not provide a specific breakdown of these costs in the 2012 DCE that allows for a comparison of the changes in input assumptions relative to the 2016 DCE.⁶³ For the same reasons as set forth above we reject this argument.

4.4 SONGS 1 DCE - Subsurface Structure Removal

SCE includes a variance of \$38.4 million less than the amount authorized in the 2012 NDCTP for the subsurface structure removal activity costs in the

⁶² See SCE Reply Brief at 24; SCE-04 at 15, SCE-13 at 8-10; and SCE-13B, Table III-1.

⁶³ TURN Reply Brief at 8-9.

SONGS 1 DCE.⁶⁴ No party opposes the reduced estimate for this decommissioning activity category. We find the proposed activity costs in the SONGS 1 DCE here reasonable.

4.5 SONGS 1 DCE – Miscellaneous

SCE requests an increase of \$13.4 million in a category identified as Miscellaneous.⁶⁵ This category represents “a summary of various increases and decreases other than those identified in lines 1-4 of Table IV-3” found in SCE-04.”⁶⁶ This category represents roughly 5% of the SONGS 1 DCE. This category includes items such as “scope of security, decommissioning agent staff, G[reater] T[han] C[lass] C waste disposal, DCE preparation...”⁶⁷ As noted in SCE’s testimony the 2016 SONGS 1 DCE format has changed which SCE asserts made it “not prudent and in some cases not feasible to reconcile each of these 30 items.”⁶⁸ We note that TURN’s witness Mr. Lacy testified that “[t]he revised format of the 2016 SONGS 1 DCE appears to be a positive step and accomplishes its stated goal of providing a format consistent with that used for SONGS 2&3.”⁶⁹

The Miscellaneous category was provided by SCE to address areas that had no logical grouping and are outside the scope of the other three categories of costs (Undistributed, Removal of SONGS 1 Conduits, and SONGS 1 License

⁶⁴ SCE-013 at 3, Table III-1 2016 SONGS 1 DCE and TURN’s Recommended Reductions 100% Share, 2014\$ in Millions; also see TURN-03 at 4.

⁶⁵ SCE-04 at Appendix 1 at Appendix 1-12, Table IV-3 (line 5); SCE-13 at 10-11; SCE-13B at 10 and Table III-1

⁶⁶ SCE-13B at 10.

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ TURN-03 at 3.

Termination Activities). SCE recommends, and we agree, that “the Commission should review the entire 2016 SONGS 1 DCE and its components as a whole.”⁷⁰ The activities set out in the Miscellaneous category are necessary decommissioning activities and we find that the costs presented by the Utilities are reasonable.

4.6 SONGS 1 DCE – Escalation

SCE includes an increase of \$11 million on \$169.9 million over three years for the SONGS 1 DCE. TURN testifies that SCE does not support its proposed amount in this category. However, TURN also testifies that \$11 million on \$169.9 million over three years is about 2.1% per year of inflation and should be allowed.⁷¹ No party opposes the proposed escalation factor. The record supports a finding that the escalation factor proposed by SCE is reasonable, we therefore find the escalation variance proposed by SCE reasonable with adjustment for disallowances in the DCE amounts set forth in this decision.

4.7 SONGS 1 DCE - Reactor Pressure Disposition

SCE proposes to leave this activity category the same as proposed in the 2012 DCE. TURN argues that the Commission should reduce the amount to reflect the proposed activity cost set forth in the recent DGC contract. TURN points out that the DGC contract has two-line items that address SONGS 1 decommissioning. These two lines reference Transportation and Disposal of Unit 1 Rx Vessel which describe the reactor pressure vessel (RPV) internals and package decommissioning and removal of Unit 1 reactor pressure vessel from the SONGS site. This represents the same scope described in Decon Period 7 in the

⁷⁰ SCE-13 at 11.

⁷¹ TURN-03 at 29 and 36.

2016 DCE. The 2016 DCE lists this activity at a cost of \$88.2 million. The DGC contract lists an amount less than the \$88.2 million for this activity.⁷² SCE in its testimony concurs that the amount listed for this activity in the DGC contract is less than the amount proposed in the 2016 DCE. SCE states it is unnecessary to reduce the amount authorized for this DCE and that it “will revise the estimated cost for RPV disposition in the next update to the SONGS 1 DCE with the best information available at that time (*i.e.* the estimated cost in the DGC contract).”⁷³

We disagree with SCE in that information known prior to approval of the DCE should be considered when approving the proposal. We will therefore follow the alternative recommendation from SCE as set forth in its rebuttal testimony.

SCE states in footnote 20 of its rebuttal testimony, SCE-13, that “[s]hould the Commission choose to update, the value included in the 2016 DCE, SCE proposes that the Commission allow SCE to submit a confidential exhibit providing this value, including contingency.”⁷⁴ SCE is to provide an update to the DCE for the RPV disposition activity cost through the advice letter process and service of a confidential exhibit consistent with this decision.

5. Palo Verde DCE and Customer Contribution

SCE’s 2016 PVNGS DCE is based on the 2016 TLG Services, Inc. (TLG) decommissioning cost study prepared for Arizona Public Service (APS), and

⁷² See TURN-03 at 37.

⁷³ See SCE-13 11-12.

⁷⁴ SCE-13 at footnote 20.

provided to SCE as a co-owner.⁷⁵ Decommissioning for PVNGS is not projected to commence until at least 2048. Therefore, there is uncertainty with any proposed decommissioning cost estimate so far in advance of decommissioning. SCE asserts that it has attempted to accurately estimate its share of PVNGS decommissioning expenses. After decommissioning is complete for PVNGS, SCE will return any remaining PVNGS (NDT) funds to customers as required by Commission Resolution E-3057, dated November 25, 1987, which adopted the Nuclear Decommissioning Master Trust agreements.⁷⁶

SCE requested that the Commission approve as reasonable the 2016 PVNGS DCE of \$608.3 million (SCE share, 2016\$).⁷⁷ SCE also testifies that the PVNGS NDTs are sufficiently funded at this time, and that the Commission should continue to authorize zero annual customer contributions for the Palo Verde NDTs.⁷⁸ Cal Advocates did not recommend any disallowance for SCE's 2016 PVNGS DCE.⁷⁹

TURN recommends a reduction to the 2016 PVNGS DCE in the following categories: 1) \$112.2 million for waste burial; 2) \$43.6 million for Spent Fuel

⁷⁵ SCE owns 15.80% interest in Palo Verde. The other Palo Verde co-owners in interest are as follows: Arizona Public Service Company (operating agent) with a 29.10% interest; Salt River Project with a 17.49% interest; El Paso Company with a 15.80% interest; Public Service Company of New Mexico with a 10.20% interest; the Southern California Public Power Authority with a 5.91% interest; and Los Angeles Department of Water and Power with a 5.70% interest. (*See* SCE-05 at 15.)

⁷⁶ *See* SCE-05 at 1.

⁷⁷ SCE-06 Rev.1 at 3.

⁷⁸ SCE-06 Rev.1 at 1-3 and 19-20.

⁷⁹ ORA-02 at 1 and SCE Opening Brief at 12.

Management; and 3) \$19.7 million for Contingency.⁸⁰ TURN raises concerns regarding the justification for the adjustments and concerns as to overfunding of SCE's NDTs for PVNGS as compared to the levels for other co-owners of PVNGS.⁸¹

SCE argues in its reply brief that its proposed 2016 DCE for PVNGS is "almost \$10 million (in 2016\$) lower the (sic) Palo Verde DCE deemed reasonable by the Commission in the 2012 NDCTP."⁸² SCE also asserts that it provided sufficient testimony in exhibit SCE-06 Rev. 1 supporting the reasonableness of its PVNGS NDT contribution, and the reasonableness of the 2016 PVNGS DCE in Exhibit SCE-05 Rev. 1, including the decommissioning activities and schedule.⁸³

As to the \$112.2 million for waste burial we find that SCE has not supported the proposed increase. SCE does not sufficiently address its recent experience with packaging and shipping of legacy waste at SONGS 2 & 3. SCE relies exclusively on prior experience at SONGS 1.⁸⁴ SCE asserts that its adjustment is reasonable because the TLG estimates of low level radioactive waste (LLRW) are significantly lower than the recently approved DCE for SONGS 2 & 3. SCE sole argument is that because prior adjustments have been approved any new adjustment should be approved.

Here we find that SCE fails to give sufficient weight to recent experience at SONGS 2 & 3 that resulted in significant cost reductions. We agree with TURN

⁸⁰ TURN-03 at 4, 39-52.

⁸¹ TURN-03 at 39-42.

⁸² SCE Reply Brief at 32, citing to SCE-13 at 13 and Appendix 5.

⁸³ SCE Reply Brief at 32.

⁸⁴ TURN Reply Brief at 13.

that SCE should incorporate recent information from the actual experience at SONGS 2 & 3, and not solely rely on a comparison between the last SONGS 2 & 3 DCE. As stated by SCE in its brief, the first step to develop a reasonable DCE is to examine scope, site conditions, economics, available technologies, and regulations, reflecting independent analysis and decommissioning experience.⁸⁵ Here SCE has not sufficiently addressed available technologies, or its prior experience at SONGS 2 & 3 as to improvements in industry practice over time.

We therefore deny the proposed increase for waste burial. SCE may provide additional testimony to support a proposed adjustment in this category in the next NDCTP.

TURN argues that the \$43.6 million for Spent Fuel Management should be excluded from the 2016 Palo Verde DCE. TURN asserts that the adjustment to eliminate reliance on future DOE reimbursements for damages to cover spent fuel storage, transfer and maintenance costs after the plant is retired should be denied. SCE has made adjustments in the past and here proposed to increase the 2012 DCE amount by \$16 million.⁸⁶

SCE disagrees with TURN's recommendation and asserts it would be speculative to assume that DOE will reimburse 100% of the costs of spent fuel management once the plant is shutdown. SCE asserts that it has no information or experience supporting an assumption that DOE will reimburse 100% of the spent fuel management costs claimed in litigation. SCE asserts that TLG's assumption is unreasonable.⁸⁷ In D.14-12-082 the Commission stated that it:

⁸⁵ SCE Reply Brief at 35-36.

⁸⁶ TURN Reply Brief at 15.

⁸⁷ SCE Reply Brief at 40.

does not agree to delete the costs for post-shutdown dry storage of spent fuel included in the utilities' cost estimates because the speculative proceeds of future litigation, incurred perhaps over decades, is not sufficiently supported to establish a substantial likelihood of recovery and amounts.⁸⁸

We agree with SCE that nothing has changed to provide support for 100% recovery from DOE for spent fuel management costs. No additional funds are being requested from ratepayers to cover this increased estimate. There is continued uncertainty as to how long and how much cost will be incurred for spent fuel management, we therefore agree with SCE and find this activity cost to be reasonable.

TURN also recommends denying the \$19.7 million adjustment for contingency proposed by SCE.⁸⁹ SCE adjusted the TLG estimate to 25%. SCE has made this same adjustment in prior NDCTPs. According to SCE, this adjustment is appropriate as the TLG contingency only accounts for performance risks and does not address risks as to performance, scope, regulatory, and financial risks.⁹⁰

The Commission has found that a reasonable contingency amount is significantly tied to the stage of decommissioning and the activities projected, including the particular site-specific challenges. "The Commission found that the reasonable contingency factor may vary between nuclear plants and at different stages of decommissioning."⁹¹ As we stated in D.14-12-082 and cited in D.17-05-020:

⁸⁸ D.14-12-082 at 37.

⁸⁹ TURN-03 at 4.

⁹⁰ SCE Reply Brief at 43.

⁹¹ D.17-05-020 at 46.

...the utilities have established that 25% may be reasonable for SONGS 2 and 3, [Diablo Canyon Power Plant] DCP, and PV [PVNGS] , as projected in the prior NDCTP, because... Phase 1 activities had not yet commenced, and the utilities had not undertaken the more detailed site-specific cost analysis...⁹²

We find here, consistent with D.17-05-020, that SCE has supported its position for a 25% contingency for PVNGS as to this NDCTP because Palo Verde is several years from active decommissioning. SCE should not rely on its argument going forward that the Commission will merely rubber stamp a 25% contingency for any nuclear facility under the Commission's jurisdiction merely because the Commission has authorized a 25% contingency in the past. As stated in D.17-05-020 citing to D.14-12-082:

The Commission finds the reasonableness of a contingency amount is significantly related to the stage of decommissioning and the activities projected, including particular site-specific challenges. Consequently, the reasonable contingency factor may vary between nuclear plants and at different stages of decommissioning.⁹³

Even though we reject TURN's request for a reduction in the contingency at this time, we put SCE on notice that we will carefully consider whether to reduce the overall contingency estimates from the current level account for less uncertainty over time and greater industry experience in future NDCTPs.

We find that SCE has not met its burden as to the adjustment TLG's DCE for waste burial. We find all other proposed adjustments for PVNGS reasonable with the understanding that SCE cannot rely on prior Commission approvals of a

⁹² D.17-05-020 at 46-47 citing D.14-12-082 at 38.

⁹³ D.17-05-020 at 47 citing to D.14-12-082.

25% contingency as the sole basis for approving a 25% contingency going forward.

6. Reasonableness of SONGS 2 & 3 2014-2015 Recorded Costs

SCE requested approval as reasonable the 2014 SONGS 2 & 3 decommissioning expenses of \$136.1 million and \$221.6 million for 2015 SONGS 2 & 3 decommissioning expenses.⁹⁴ No party advocates for a disallowance of any of the proposed recorded costs for SONGS 2 & 3 2014-2015.⁹⁵ Cal Advocates conducted an audit of SCE's financial records. Cal Advocates concludes that both the distributed and undistributed SONGS 2&3 decommissioning activities during this time are reasonable.⁹⁶

We find that the 2014 and 2015 SONGS 2 & 3 decommissioning costs are reasonable and should be approved. SCE provided detailed testimony supporting the costs incurred, description of completed activities, and explanation of variances against the 2014 DCE in accordance with D.14-12-082.

TURN includes four (4) recommendations in relation to the SONGS 2&3 2014-2015 recorded costs.⁹⁷ These recommendations are as follows: 1) adopt Milestone Framework developed by the Utilities and intervenors for its review of the 2014 and 2015 SONGS 2&3 costs; 2) require costs submitted for reasonableness

⁹⁴ SCE-09 at 1 and SCE-08 at 1. With adoption of the Milestone Framework the review of \$0.2 million for the ISFSI Pad Study completed in 2014 will be deferred and the amount of the 2014 SONGS 2 & 3 decommissioning expenses to be approved in the 2015 NDCTP is \$136.1 million (100% share, 2014\$).

⁹⁵ SCE Opening Brief at 56 citing to ORA-03 at 1, Appendix 6; TURN Response to SCE-TURN-03, Data Request No. 1.d and 1.e.

⁹⁶ ORA-3 at 1 and 8; and ORA-04 at 3 and 14-15.

⁹⁷ ORA

review to include specific references to the 2014 DCE line numbers; 3) emphasize the importance of recording utility staff costs to the applicable distributed or undistributed activity, and 4) order SCE to provide schedule performance information for, ISFSI Major Project and Initial Decontamination and Dismantlement (D&D) Major Project, as part of the annual advice letter process and next NDCTP.⁹⁸

We adopt TURN's first recommendation set out above. As this decision adopts the proposed Milestone Framework it is reasonable to apply this framework to distributed activity, SNF-2-D-8.07, ISFSI Pad Study. The review of this activity will be conducted when the Major Project that it is assigned to in the Milestone Framework (ISFSI) is reviewed. The anticipated review is to take place during the 2021 NDCTP. This adjustment is to be incorporated into the 2014 activity costs review for this NDCTP for SONGS 2&3, which will reduce this item by \$0.2 million (100% share, 2014\$).⁹⁹ The Utilities are not opposed to this recommendation.¹⁰⁰

TURN's second recommendation would require SCE to include references to specific activities in the most recently approved DCE for all costs submitted.¹⁰¹ TURN argues that these references are needed to allow for a comparison of recorded costs and activities with the costs and activities originally identified in the DCE. TURN asserts that SCE failed to include such specific references to distributed and undistributed activity numbers in the prior DCE to support the

⁹⁸ TURN-03 at 2.

⁹⁹ TURN-03 at 17.

¹⁰⁰ TURN-03 at 2 and 16; SCE Opening Brief at 57; and SDG&E Opening Brief at 26.

¹⁰¹ TURN-03 at 16.

costs presented for reasonableness review. TURN correctly points out that this is problematic as multiple DCE activity numbers are combined into summary categories or project groupings.

As to TURN's recommendation number two (2), SCE is directed to provide specific references to DCE line numbers when submitting future costs for reasonableness review. This includes providing a specific connection as to the narrative set out in testimony and the accounting detail provided for each item.

TURN, in recommendation 3, proposes that the Commission emphasize the importance of SCE staff costs reporting transparency as to applicable Distributed and Undistributed Activity. TURN specifically requests that the Commission "direct SCE to reevaluate its practice of recording disproportionate amounts of utility staff time to Undistributed Activities."¹⁰² TURN also requests that the Commission "direct SCE to file an advice letter providing specific reallocation of the Undistributed Activity costs for 2014 and 2015 that more appropriately reflects the portion of staff time that is tied to Distributed Activities."¹⁰³

TURN is requesting that the Commission use the reallocated costs among Distributed and Undistributed Activities to be applied to this proceeding. We reject this recommendation as applied to this proceeding and concur with the position set forth by SDG&E in its opening brief¹⁰⁴ that any re-evaluation of the incurred costs from four years ago would likely not provide any better result than what SCE recorded at the time the activity occurred.

¹⁰² TURN-03 at 16.

¹⁰³ TURN-03 at 20.

¹⁰⁴ SDG&E Opening Brief at 26-27.

We also agree with SDG&E that TURN's recommendation 3 should be adopted on a going forward basis.¹⁰⁵ The Commission therefore directs SCE to meet with Energy Division Staff and interested parties to address how SCE will in the future provide more detailed directions and instructions to its staff so that record keeping will directly and transparently be reflected in the appropriate location, and with the appropriate detail. This includes an understanding as to how SCE will provide sufficient support for Distributed activities, and a clear understanding of what activities will be categorized as Distributed and what activities will be categorized as Undistributed activities. This change must be reflected in how costs are recorded in the future, and in forecasted costs included in the DCE. This change applies to all future DCEs including A.18-03-009. SCE is to meet with Energy Division staff and interested parties to determine how to define Distributed and Undistributed activities as well as how to create a mapping of costs incurred in prior DCE for such activities with categories presented in future DCEs. This is necessary to ensure there is transparency in assessing the reasonableness of proposed decommissioning costs with prior estimates. If SCE does not provide sufficient detail going forward to support such costs, we will disallow the amounts not properly recorded.

TURN's recommendation 4 is that the Commission memorialize the possibility that expected declines in future Undistributed Activity costs may be delayed and therefore result in increased total decommissioning costs. Specifically TURN requests that the Commission order SCE to provide in its annual AL process and next NDCTP application a report on the schedule

¹⁰⁵ SDG&E Opening Brief at 27.

performance of the following Major Projects: 1) completion of the ISFSI Major Project with movement of spent nuclear fuel into the ISFSI; and 2) completion of Initial D&D Major Project activities and modifications to prepare the plant for physical decommissioning. SCE is required to identify any expected impact on delays with Undistributed Activity and plans to avoid or minimize such schedule and cost impacts in its annual AL process.

7. Milestone Framework and Principles for Review of DCE and Recorded Costs

The Utilities, TURN, and UCAN jointly propose that the Commission adopt what the parties refer to as a Milestone Framework.¹⁰⁶ Cal Advocates does not oppose the Milestone Framework.¹⁰⁷ The parties provided testimony summarizing the Milestone Framework, including an Appendix to their testimony that sets forth the joint SONGS Decommissioning Proposed Reasonableness Framework.¹⁰⁸ Each party submitted separate testimony stating their support for the Milestone Framework.

¹⁰⁶ Consistent with D.16-04-019, the Utilities, ORA, TURN, and UCAN conducted six (6) in person public workshops and numerous teleconferences to discuss the Milestone Framework. The in person workshops occurred on June 13, 2016, July 19, 2016, April 5, 2017, June 22, 2017, August 8, 2017, and September 19, 2017. Teleconferences among the parties occurred during the proceeding with the last being held on October 3, 2018. (See SCE-SDG&E-01 at 2.)

¹⁰⁷ Cal Advocates attend the workshops and participated in the teleconferences that led to the development of the Milestone Framework proposed. Cal Advocates has not specifically joined with the parties to present the Milestone Framework but does not oppose the process developed. Cal Advocates states that it does not oppose the Milestone Framework, and that it “appears to be a flexible means of evaluating distributed and undistributed costs in the future NDCTPs.” ORA-2 at 9.

¹⁰⁸ See SCE-SDG&E -01, including Appendix 1 (with Attachment A); and TURN-04, including Appendix B (with Attachment A).

This decision adopts the Milestone Framework jointly proposed by the parties. The Milestone Framework adopted herein is attached to this decision as Appendix 1 (hereafter referred to as Milestone Framework or Appendix 1).

The parties all agree that the NDCTP shall continue to serve as the vehicle for reasonableness reviews of the recorded decommissioning costs and that such review will continue to occur every three (3) years. The Utilities filed their application for the 2018 NDCTP in March 2018.¹⁰⁹ The Milestone Framework sets out the timing and scope of recorded costs to be considered in each NDCTP. The Milestone Framework includes the following:

1. **Proposed Milestone Framework for Reasonableness Review of SONGS Decommissioning Costs¹¹⁰**- the Milestone Framework provides a scope and timeline for review of SONGS decommissioning activities and costs. This includes all Distributed Activities, Undistributed costs, and SDG&E costs from 2014 through roughly 2030. The Milestone Framework groups similar distributed activities into Major Projects. The “mapping” of these activities may be updated in each NDCTP. The Milestone Framework identifies Undistributed Activities for review based on completing certain Major Projects and calendar based intervals. A Major Project becomes eligible for reasonableness review after all distributed activities included in that Major Project are complete;
2. **Timing and Scope of Reasonableness Review¹¹¹** – the NDCTP, which will continue to occur every three (3) years, will serve as the venue for reasonableness reviews of recorded decommissioning costs. The Milestone

¹⁰⁹ See A.18-03-009.

¹¹⁰ See Appendix 1 (same as SCE-SDG&E-01 at Appendix 1; and TURN-04 at Appendix B).

¹¹¹ See Appendix 1 (same as SCE-SDG&E-01 at Appendix 1; and TURN-04 at Appendix B).

Framework provides the timing and scope of recorded costs to be considered for review in each NDCTP (*See* Attachment A to Appendix 1 of this decision). Each NDCTP will include a review of an updated DCE.

3. **Distributed Activities**¹¹²– the Milestone Framework groups similar activities to form Major Projects. A Major Project becomes eligible for reasonableness review after all distributed activities included in the Major project are complete. The Major Project is complete when all physical work, including disposal of any associated waste has been completed and all associated costs have been recorded. The Milestone Framework recognizes the need for flexibility and allows for movement of a DCE activities, and adjustments to schedule that may need to be addressed and approved by the Commission in future NDCTPs.
4. **Undistributed Activities**¹¹³ These costs are not directly related or chargeable to a specific Distributed Activity but may be impacted by the timing of “checkpoints.” Three Major Projects mark the “checkpoints” for reasonableness review of all incurred Undistributed Activity Costs. These “checkpoints” serve as indicators of SONGS’ schedule performance. All undistributed costs incurred during the prior three-year period will be reviewed in the 2018, 2024, and 2030 NDCTPs and not subject to “checkpoints.” All Undistributed Activity costs incurred during the three-year period under review in each of the 2021, 2027, and 2033 NDCTPs is subject to the “checkpoints.” If the “checkpoint” is met, all Undistributed Activity Costs will be reviewed. If the “checkpoint” is not met, then the Undistributed Activity Costs incurred in the last three (3) year review period will not be reviewed and will be held for review in the next

¹¹² See Appendix 1 (same as SCE-SDG&E-01 at Appendix 1; and TURN-04 at Appendix B).

¹¹³ See Appendix 1 (same as SCE-SDG&E-01 at Appendix 1; and TURN-04 at Appendix B).

NDCTP after the “checkpoint” is met. For specific checkpoints see Appendix 1 and Attachment A to Appendix 1.

5. **SDG&E Costs** –¹¹⁴ costs billed from SCE to SDG&E will be reviewed in the NDCTP consistent with the proposed Milestone Framework for SCE’s distributed activities and undistributed costs. All SDG&E only internal costs incurred during the prior three-year period will be reviewed for reasonableness in the NDCTP consistent with the treatment of SCE’s undistributed costs in the proposed Milestone Framework.

This decision finds the Milestone Framework provides a flexible and predictable scope and timeline for review of decommissioning activities. The Milestone Framework covers all SONGS 2&3 decommissioning activities forecasted through 2031. The Milestone Framework addressed Distributed and Undistributed Activity costs in a manner that all parties find acceptable. We find this approach proposed by the Utilities, TURN, and UCAN to be reasonable, comprehensive, and in compliance with the directive set out in D.16-04-019. This decision directed the parties to address in the next NDCTP a future review process that both continued to review decommissioning costs in the NDCTP, while recognizing that the completion of major projects (Milestones) represents “a logical point to review decommissioning costs”¹¹⁵

We therefore adopt the Milestone Framework jointly proposed by the parties. The Milestone Framework adopted herein is attached to this decision as **Appendix 1** (hereafter referred to as Milestone Framework or **Appendix 1**).

¹¹⁴ See Appendix 1 (same as SCE-SDG&E-01 at Appendix 1; and TURN-04 at Appendix B).

¹¹⁵ D.16-04-019 at 21-25; and Ordering Paragraph 9 at 35-36.

TURN, in addition to the Milestone Framework, recommends a set of principles that address development of future DCEs and the conduct of reasonableness reviews. These recommended principles are discussed below.

UCAN also proposes the Commission adopt guidelines in addition to the Milestones Framework. The proposed recommendations are discussed below.

8. TURN and UCAN Recommendation to Adopt Additional Principles

TURN and UCAN request that the Commission adopt a number of principles to guide future development of DCEs and conduct reasonableness reviews (“guiding principles”).¹¹⁶ SCE argues that these guiding principles are unnecessary and have no bearing on the Milestone Framework.¹¹⁷

Many of the guiding principles proposed by TURN and UCAN reflect existing Commission policy as to the development of DCEs and conduct for reasonableness review. In fact, TURN and UCAN request that the Commission “reiterate” principles that are reflected in prior NDCTP decisions that remain applicable to the review of all NDCTP applications. Where TURN and UCAN request that the Commission affirm existing policy or clarify application of policy applied to NDCTPs we provide further discussion/clarification below.

In some cases, TURN and UCAN request that the Commission adopt hard and fast rules to future circumstances that could pre-determine outcomes in future NDCTPs. We are reluctant to tie our hands as to the outcome of future NDCTPs and will apply Commission policy as directed herein given the specific facts and circumstances before the Commission at the time it is conducting the

¹¹⁶ TURN-03 at 24-28; TURN Opening Brief at 42-50; UCAN-01; UCAN Opening Brief at 3 and 6-12.

¹¹⁷ SCE Opening Brief at 7 and 44-54.

review of a DCE or reasonableness review of incurred decommissioning activity expenses.

TURN requests that the Commission address the following nine (9) guiding principles:

A. Incorporation of DGC contract milestone dates into the 2018 DCE

SCE argues that this guiding principle is outside the scope of this proceeding and that TURN mischaracterizes the purpose of the decommissioning cost estimate.¹¹⁸ TURN argues that the Commission often provides directive to utilities regarding future filing requirements, and that it is important “to ensure alignment between SCE’s contractual expectations from its DGC and the schedule and cost estimates in the DCE presented to the Commission.”¹¹⁹ We agree that it is important to ensure an alignment between the utilities contractual expectations from its DGC and the schedule and cost estimates presented in the DCE. We expect SCE to incorporate the DGC contract milestones into the 2018 DCE, and we will carefully consider whether SCE’s contractual expectations from its DGC are aligned with schedule and cost estimates presented in the proposed DCE in the 2018 NDCTP.

B. Guarantee the right to challenge reasonableness of the DGC contract

TURN recommends that the Commission affirm its right to examine the reasonableness of SONGS 2&3 costs will not be impaired due to the existence of the DGC. To the extent SCE is using ratepayer dollars for costs incurred under the contract, the Commission has an obligation to examine all decommissioning costs for reasonableness whether paid for activities are conducted by SCE directly

¹¹⁸ SCE Opening Brief at 45-46 and SCE Reply Brief at 44-45.

¹¹⁹ TURN Reply Brief at 19-20.

or its contractor. As stated in prior NDCTP decisions the Commission must complete reasonableness reviews of actual decommissioning costs. The reasonableness review occurs regardless of whether the activity was performed by the utility or its contractor.¹²⁰ This decision affirms the Commission's right to examine the reasonableness of SONGS 2&3 costs regardless of whether these costs were incurred directly by SCE or its contractor, and the right to examine the reasonableness of these costs is not impaired by the existence of the DGC.

C. Adapting the DCE to serve as an oversight and planning tool rather than merely providing a mechanism to assess trust fund adequacy

TURN argues that the DCE needs to be adapted to serve as a comprehensive oversight and planning tool now that active decommissioning has commenced. TURN recommends that "the Commission should affirm that dates, scopes of work, planning assumptions and Distributed/Undistributed Activity costs in an approved DCE are useful and acceptable inputs to reasonableness determinations by the Commission."¹²¹ The DCE cannot rely solely on basic financial projections for decommissioning activities. Actual decommissioning work expected to be accomplished and the reasonable anticipated costs and schedule for completing such activities must be addressed in each DCE.¹²²

SCE argues that this recommendation is vague. In its testimony, SCE states that it "agrees with the recommendation to the extent TURN is referring to the Commission's review of updated DCEs, as these type of issues are properly in the

¹²⁰ D.17-05-020 at 14; D.14-12-082 at 11 and 13-14; and D.16-04-019 at 27 and COL 15.

¹²¹ TURN Opening Brief at 43-45.

¹²² TURN-03 at 25-26; and TURN Opening Brief at 43-44.

scope of a DCE review.”¹²³ SCE, however, disagrees with the recommendation to the extent TURN is requesting that “the Commission should also affirm that SCE’s strict adherence to the DCE’s schedule and scopes of work should be factors considered in the Commission’s reasonableness reviews of actual costs...”¹²⁴ SCE recommends that the Commission consider the following factors: 1) apply the reasonable manager standard; 2) in addition to reviewing activities and costs by DCE line item, the Commission also compares overall recorded project costs to the DCE total for the review period; and 3) that the Commission consider a variety of factors when determining reasonableness.¹²⁵ SCE appears to lump the areas discussed in subsections C-E of this section of the decision into one category therefore its recommendations here would also apply to items D and E below.

Here we agree with TURN that dates, scopes of work, planning assumptions and Distributed/Undistributed Activity costs in an approved DCE are useful and acceptable inputs to consider for reasonableness determinations by the Commission. We also agree with SCE that the reasonable manager standard continues to apply to the extent we need to consider circumstances and the Utilities (or contractors) knowledge at the time an action is taken. This does not mean that we find adherence to the DCE’s schedule and scope irrelevant, to the contrary we believe that the DCE schedule and scope are relevant to the Commission’s reasonableness review, however this does not mean that we will

¹²³ SCE-13 at 30.

¹²⁴ SCE-13 at 30-31.

¹²⁵ SCE-13 at 30-32; SCE Opening Brief at 46-47; and SCE Reply Brief at 45-47.

not also apply the reasonable or prudent manager standard when conducting a reasonableness review. The two factors are not mutually exclusive.

D. Ability to challenge DCE updates that modify milestone dates, scopes of work, planning assumptions, Distributed/Undistributed Activity costs, or formats

TURN argues that DCEs have a meaningful role in the reasonableness review process. TURN asserts that parties should have the ability “to dispute changes in schedules, scopes of work, planning assumptions, costs and formats.”¹²⁶ TURN recommends that “the Commission should affirm that changes in future DCEs that modify milestone dates, scopes of work, planning assumptions, Distributed/Undistributed Activity costs, or formats are within the scope of issues to be considered by the Commission in future NDCTPs.”¹²⁷

SCE argues that the DCEs scope and schedule “should be largely irrelevant, as the Commission should consider the circumstances existing at the time SCE takes an action or makes a decision, not simply whether SCE has adhered to the DCE schedule or scope.”¹²⁸ SCE offers several factors that it believes should be considered rather than the DCE scope and schedule. These factors are: 1) compliance; 2) safety; 3) costs relative to the approved DCE; 4) industry expert review; 5) benchmarking; and 6) emergent conditions and changed circumstances.¹²⁹

We agree with both parties in that changes in future DCEs that modify milestone dates, scope of work, planning assumptions,

¹²⁶ TURN Opening Brief at 44.

¹²⁷ TURN-03 at 26 and TURN Opening Brief at 45.

¹²⁸ SCE Opening Brief at 46-47.

¹²⁹ SCE Opening Brief at 47.

Distributed/Undistributed Activity costs, or formats are within the scope of issues to be considered by the Commission in future NDCTPs. The Commission may consider all relevant matters concerning decommissioning activities and costs in the NDCTP. The parties may raise such issues consistent with the Commission's Rules of Practice and Procedure and scope as determined by the assigned Commissioner for each proceeding. We also agree that the factors provided by SCE are informative and important factors that will also be considered by the Commission in NDCTPs.

A change in future DCEs that modifies milestone dates, scope of work, planning assumptions, Distributed/Undistributed Activity costs, or formats in and of itself is not unreasonable. Therefore, parties may raise these issues if circumstances demonstrate such changes have been proposed. However, the Commission will also consider factors such as compliance, safety, costs relative to the approved DCE, industry expert review, benchmarking, and emergent conditions and changed circumstances when making its reasonableness determinations in future NDCTPs.

E. Reasonableness should not be presumed when actual recorded costs do not exceed previously approved forecasts

In D.16-04-019 we summarily denied the "[U]tilities' request to accord a presumption of reasonableness to cost elements where the actual costs are no greater than the amount reflected in the [DCE]." ¹³⁰ In D.16-04-019 we stated:

Accurately forecasting the cost of an activity does not necessarily lead to the conclusion that the particular activity is reasonable or even needed. The utilities must show for all

¹³⁰ D.16-04-019 at 25.

their nuclear decommissioning expenditures that they have taken the appropriate actions and at a reasonable cost.¹³¹

Nothing in this decision changes our conclusion in D.16-04-019 and therefore we affirm that the reasonableness of recorded costs can be challenged even if they are less than those identified in a prior DCE. However, we caution parties not to challenge what are otherwise reasonable costs included within the approved DCE merely to raise a challenge. Parties should carefully consider such challenges and base any challenge on facts that demonstrate the unreasonableness of such costs.

F. Addressing the impact of delays on overall costs

TURN recommends that the Commission consider the impact of delays on overall decommissioning costs. TURN argues that the reasonableness review process should consider “all relevant actions that contribute to delays, and increased costs, regardless of when the actions occurred.”¹³² To address this concern TURN offers the following recommendation:

The Commission should explicitly recognize that delays occurring in one time period can result in increased costs in another area during a later time period. To address this concern, the Commission should permit any delays identified in one proceeding to be considered in determining the reasonableness of costs in a subsequent proceeding.¹³³

SCE also acknowledges an overall concern that delays could impact overall decommissioning costs.¹³⁴ TURN argues that it may be difficult to assess the “real-world implications” a delay may have on the overall decommissioning

¹³¹ D.16-04-019 at 25-26.

¹³² TURN Opening Brief at 46.

¹³³ TURN-3 at 27; TURN Opening Brief at 46.

¹³⁴ RT Vol. 3 at 228-229.

process and decommissioning costs. SCE also argues that TURN's recommendation should be rejected as it would allow any delay identified in a prior review period, by itself, to automatically justify a disallowance for costs incurred in a subsequent review period. SCE asserts that this position is contrary to the Nuclear Decommissioning Act, Commission precedent, relies on a false premise, and would be unfair as in its proposed application.¹³⁵

We agree with SCE that a delay identified in one review in and of itself should not automatically require a disallowance for costs incurred in a subsequent review period. The Commission will consider the delay in the prior period and to what extent such delay was responsible for increased costs. However, this will not be the only factor considered by the Commission. The Commission will examine the totality of the circumstances at the time the decision was made to delay an activity and whether the decision to delay meets the prudent manager standard.¹³⁶

SCE raises important points as to the decommissioning planning process as a delay of a specific activity depending on the circumstances may provide overall benefits to schedule, safety, or cost. To the extent SCE (and its DGC) are acting prudently and the activity is a justified decommissioning activity the NDTs should cover such costs in accordance with the Nuclear Decommissioning Act. To automatically require a disallowance in future NDCTPs based on a delay regardless of the circumstances in a prior review would create an incentive for the Utilities to follow a schedule that may not be consistent with the facts on the ground at the time action is being taken which could have negative implications

¹³⁵ SCE Opening Brief 47-48.

¹³⁶ D.05-08-037 at 10-11; D.14-12-082 at 13-14; and D.17-05-020.

as to safety, environmental protection, and costs. To the extent a delay is not justified and causes increased costs such costs or the incremental increase in costs will be disallowed.

We find consistent with the parties recommendations that the Commission should allow for delay in one proceeding to be considered in subsequent proceedings, along with other relevant factors that may have contributed to delay in subsequent proceedings (for example did an initial delay ultimately result in cost savings or expediting the schedule in another area; or did such delay increase costs or delay the schedule in another area).

G. The utility should not be permitted to delegate liability for performance to an outside contractor

TURN recommends that “[t]he Commission provide up-front clarification that the utility stands in the shoes of any contractor or vendor relied upon in the decommissioning process.”¹³⁷ TURN argues that even if the utility reasonably manages or oversees the third-party contractor, the utility is to be held liable for any mistakes or poor performance by the third party contractor. TURN argues this is particularly important given the broad scope of the DGC contract. The DGC contract includes almost all decommissioning activities excluding fuel movement. TURN therefore recommends that:

The Commission should affirm that use of a contractor does not shield a utility from consequences of actions taken by the contractor.¹³⁸

TURN raises concerns that the Utilities may try to use the contractor, in the event that a mistake or poor performance occurs to relieve themselves of responsibility

¹³⁷ TURN Opening Brief at 47.

¹³⁸ TURN-03 at 27 and TURN Opening Brief at 47.

for the mistake or poor performance.¹³⁹ TURN argues that SCE cannot use the DGC as a shield for liability as to mistakes or poor performance in the decommissioning of its nuclear facilities.

SCE argues that the Commission should only consider whether the utility has acted prudently in its oversight of the DGC, not whether the DGC acted prudently. SCE asserts that disallowances for decommissioning activities conducted by the DGC should only occur if the utility itself acts imprudently. SCE would have the Commission not consider at all the activity of the DGC when considering disallowances, regardless of the mistake or poor performance, or potential impact in cost to the public or the safety to the public or environment.

The California legislature in enacting laws concerning the decommissioning of nuclear facilities was clear that costs to ratepayers be minimized to acceptable levels and that ratepayers are only charged for costs that are reasonably and prudently incurred.¹⁴⁰ The legislature also intended that electric customers, both present and future, be protected from “risks of unreasonable costs associated with ownership and operation of nuclear powerplants.”¹⁴¹ The legislature therefore charged the Commission with developing “regulations and guidelines that promote realism in estimating costs, provide periodic review procedures that create maximum incentives for accurate cost estimations, and provide for decommissioning cost controls.”¹⁴²

¹³⁹ TURN Opening Brief at 47.

¹⁴⁰ Pub.Util. Code § 8322.

¹⁴¹ Pub.Util. Code §8323.

¹⁴² Pub.Util. Code §8323.

We have also previously concluded in D.17-05-020 the utility remains responsible for all decommissioning activities whether conducted by utility employees or a contractor.¹⁴³ To the extent a mistake or poor performance occurs in the decommissioning of a nuclear facility, the Commission will need to carefully assess the circumstances, the reasonableness of the contract terms, actions that were taken by the DGC, oversight of the DGC by the utility, and subsequent actions by the utility once the mistake, poor performance, or other negative action occurred/was discovered. However, we reiterate that the utility has the ultimate responsibility for all decommissioning activities, and to the extent something goes wrong with a decommissioning activity the utility will need to pursue appropriate action, ensure contract provisions that safeguard ratepayers, and ensure it maintains ongoing and meaningful oversight of its DGC.

Ongoing and meaningful oversight of a DGC is important so that if there is a mistake or performance is poor it will come to the immediate attention of the utility. The utility will then be able to act quickly to remedy the situation. The expectation is that the utility will have an active oversight role of decommissioning. A utility cannot wholesale transfer liability for decommissioning activities to a DGC by contract. As the owner and regulated utility it remains ultimately responsible for all decommissioning activities.

H. Undistributed costs should be benchmarked to the 2014 and 2018 DCEs

TURN and SCE both agree that the DCE is an important factor in the review of decommissioning recorded costs. SCE asserts that it should not be the only factor considered. The intent of the Decommissioning Act is to protect both

¹⁴³ D.16-04-019 at 27 and COL 15; and D.17-05-020 COL 29.

customers and investors from decommissioning related financial risks. DCEs are required to be updated on a regular basis with the most reliable information concerning changes in site operations, economic conditions, available technology, and regulations and industry guidelines.

We agree with SCE's assessment as to updating DCEs on a regular basis and that the DCE is not a cost cap or not-to-exceed amount. However, we do not believe consideration of the factors referenced by SCE results in disregarding the recommendation by TURN. The purpose of the DCE is to create a benchmark for assessing changes in scope, costs and schedule over time. This does not mean that the DCE is set in stone; it means that any changes must be explained and addressed in subsequent NDCTPs. We therefore require SCE to provide a comparison of any new DCE with the two-prior approved DCEs consistent with D.17-05-020.

The comparison of the 2018 DCE with the last two-prior approved DCEs poses some difficulties given the change in format for recording costs, prior errors/omissions acknowledged by SCE, and the need for more clarity as to what items may be categorized as Undistributed and Distributed activities. However, in order for parties and the Commission to adequately consider proposed changes in the DCE. SCE is directed to meet with Energy Division staff and any interested parties to discuss how the necessary information to ensure transparency and properly consider the 2018 proposed DCE going forward, including in

A.18-03-009.¹⁴⁴

¹⁴⁴ At a minimum the parties and the Commission need to understand how dollars have been shifted between categories and what categories reflect which activities from DCE to DCE. This information is necessary to determine whether costs proposed are reasonable

Footnote continued on next page

I. Providing additional regular reporting on decommissioning cost and schedule progress

This decision adopts the parties proposed Milestone Framework which maintains review and approval of DCEs and recorded costs in the NDCTP. However, it changes the nature of the timing of review with a focus on completion of Major Projects and Checkpoints. We are concerned that with this change additional information or a change in how information is reported in the annual AL process may be required. The Commission's Energy Division is responsible for the review of the annual ALs and is in the best position to assess what additional information or changes to the annual reporting process may be required.

The Utilities and any interested party are to meet with Energy Division within 45 days of the issuance of this decision to discuss what if any changes to the annual AL process should be required. The Utilities are to submit a summary of the results of the meeting with Energy Division in proceeding A.18-03-009. Consideration of changes to the reporting requirements in the annual AL process will be addressed in the 2018 NDCTP.

UCAN requests that the Commission adopt five (5) guiding principles for review of the decommissioning process. Some of these principles overlap with TURN's recommendations set forth above. To the extent we have addressed the request above we refer to our response to TURN. UCAN proposes the following five principles:

J. The Commission should reiterate that SCE is responsible for its contractor's activities

and to ensure costs are not being double counted if activities have shifted between categories.

The response above to TURN's recommendation that the Commission should affirm that use of a contractor does not shield a utility from consequences of actions taken by the contractor addresses this proposed recommendation by UCAN. We agree with UCAN that the Commission has already addressed this issue in D.16-04-019 where it held that SCE is "responsible for all decommissioning activities whether conducted by Edison employees or a contractor."¹⁴⁵

- K. The Commission should state that SCE is responsible for the provisions of all agreements that it signs, or has signed, with its contractors

The response above to UCAN's recommendation that the Commission should reiterate that SCE is responsible for its contractor's activities and the response to TURN's recommendation regarding the use of a contractor not shielding a utility from consequences of actions taken by the contractor sufficiently addresses this proposal, when taking into account our response to TURN's recommendation that parties have the ability to challenge the reasonableness of the DGC contract.

- L. With each new DCE the utilities should be required to provide a line-by-line comparison of activities, costs and schedules in the new DCE with those from the previously approved DCE, with explanations for all changes¹⁴⁶

Consistent with our response to TURN above, regarding the role of the 2014 and 2018 DCEs, we find that the purpose of the DCE is to create a benchmark for assessing changes in scope, costs and schedule over time. This

¹⁴⁵ D.16-04-09 at 27 and COL 15.

¹⁴⁶ UCAN-01 at 12 and UCAN Opening Brief at 10.

does not mean that the DCE is set in stone; it means that any changes would be explained and addressed in subsequent NDCTPs. We therefore require SCE to provide a comparison of any new DCE with the two-prior approved DCEs consistent with D.17-05-020. We find the requirement to provide a comparison of any DCE with the two-prior approved DCEs sufficient to address the concern raised here by UCAN.

M. UCAN requests that the Commission specify that if a delay, unexpected cost, cost increase, or other event is deemed to be the responsibility of the utilities, any distributed and undistributed cost increases associated with the event shall also be the responsibility of utility shareholders and unrecoverable from ratepayers, including associated costs increases that may occur years after the event

This recommendation addresses the same or similar concern raised by TURN in its recommendation that the Commission recognize that delays occurring in one time period can result in increased costs in another area during a later time period, and that the Commission should permit any delays identified in one proceeding to be considered in determining the reasonableness of costs in a subsequent proceeding. The response above to TURN's recommendation sufficiently addresses the issue raised here by UCAN, as to how the Commission will consider potential delays in schedule. We also find that the application of the prudent manager standard as applied by the Commission will sufficiently address any imprudent actions by the Utility (and its DGC). However, we are reluctant to issue a decision that authorizes a blanket ongoing disallowance of potential cost increases years after the imprudent decision, particularly where there may be other factors that contribute to cost increase. We therefore affirm consistent with our response to TURN's similar recommendation that we will

consider each circumstance on a case by case basis consistent with the relevant facts and applicable law, regulations, and policy.

N. When the projected schedule for a decommissioning Major Project is delayed by more than six months, the reason for the delay should be established and cost responsibility should be assigned to either ratepayers or shareholders. If shareholders bear the cost responsibility, an evaluation of the incremental costs associated with the delay should be made during each subsequent NDCTP, and this amount should be ineligible for ratepayer recovery

We decline to adopt this recommendation and agree with SCE that it is contrary to the purpose of the Milestone Framework. To the extent an imprudent delay occurs as a result of SCE's decisionmaking the matter can be addressed in the appropriate NDCTP where the relevant Major Project is being reviewed. Any delay or change in schedule should be documented through the annual AL process to preserve information for later review. The parties may discuss what level of information should be included in the AL process as part of the meeting with Energy Division referenced above.

9. Compliance with Prior Commission Decisions

SCE submitted testimony¹⁴⁷ regarding its compliance with prior Commission NDCTP decisions. No party objected to SCE's compliance activities. We find that SCE has provided sufficient evidence to meet its burden in demonstrating that it has complied with prior Commission decisions.

10. Other Issues

TURN requests that the Commission address three additional issues.

A. Invoices Protested by SDG&E

¹⁴⁷ SCE-01; SCE Opening Brief at 56.

TURN in its testimony recommended that the Commission direct SCE to forgo NDT disbursements and charging its customers for SCE's share of costs that were protested by SDG&E as to five (5) invoices.¹⁴⁸ TURN does not provide argument in either its Opening Brief or Reply Brief advocating for this recommendation. Based on the testimony of SDG&E¹⁴⁹ and Cal Advocate's¹⁵⁰ and SCE's argument set out in its Reply Brief¹⁵¹ we decline to adopt this recommendation.

B. Spent Nuclear Fuel Damage Claims

TURN recommends that the Utilities provide updated information regarding SNF damage claims. SCE and SDG&E were ordered to "disclose as part of the next NDCTP applications, all settlements, awards, or other resolution of damage claims completed in the triennial period, based on DOE's failure to accept spent nuclear fuel."¹⁵² The Utilities were also ordered to

establish how the recoveries were allocated to the Unit that incurred the cost to ensure that the appropriate share of net proceeds were commensurate with payments of the

¹⁴⁸ TURN-03 at 3 which identifies five (5) specific invoices that SDG&E successfully challenged for SONGS 2&3 2014 and 2015 expenditures: 1) \$ 113,228.83 (20%) credit to SDG&E on \$198,079.69 + \$56,347.20 (20%) claim related to severance charges billed to SONGS 2&3 that were outside of the nuclear organization; 2) \$ 97,591.43 (20%) credit to SDG&E as part of larger \$7,242,406.90 (100%) results sharing challenge, part of a 3/23/15 settlement; 3) \$ 61,807.00 (20%) credit to SDG&E on \$223,690.88 (20%) claim related to insufficient detail in legal billings; 4) \$ 7,926.00 (20%) credit to SDG&E out of an audit of SCE decommissioning costs for the period of interest; and 5) \$ 371,732.62 (20%) increased billing to SDG&E as partner in SONGS 2&3. TURN cites to SDG&E response to TURN Data #1 to SDG&E, Question 1 as the source of the information as to the challenged invoices.

¹⁴⁹ SDG&E-11 at 5.

¹⁵⁰ ORA-04 at 2.

¹⁵¹ SCE Reply Brief at 64.

¹⁵² D.14-12-082 at OP12.

underlying costs supporting the resolved claims, and to the extent appropriate, placed into related nuclear decommissioning trust funds or returned to ratepayers in the manner approved by the Commission.¹⁵³

The Utilities are directed here to continue to report this information as set forth above in the 2018 NDCTP.

C. Treatment of Excess Funds in the Nuclear Decommissioning Trusts

TURN recommends that the Commission consider actions that could be taken to return what it refers to as excess funds in the NDTs.¹⁵⁴ TURN raises concerns regarding intergenerational inequity. TURN argues that since the Utilities oppose consideration of returning funds in the NDTs, the Commission should adopt guidance, such as directing the Utilities to report on challenges concerning withdrawal and return of funds from the NDTs.¹⁵⁵ TURN also recognizes that the return of any funds should wait until the remaining costs of decommissioning are known.¹⁵⁶

The Utilities oppose this recommendation and argue that returning trust fund monies to ratepayers prior to completion of decommissioning is inconsistent with NRC regulations.¹⁵⁷ SCE also argues that it would be “unsound policy to consider returning trust funds when decommissioning is not projected to

¹⁵³ D.14-12-082 at OP 12.

¹⁵⁴ TURN-03 at 52; and Opening Brief at 51-52.

¹⁵⁵ TURN Opening Brief at 52.

¹⁵⁶ TURN Opening Brief at 52.

¹⁵⁷ SDG&E Opening Brief at 17; and SCE Reply Brief at 65.

complete for another 33 years in the case of SONGS 1, 2&3 and another 61 years in the case of Palo Verde..."¹⁵⁸

Given the current uncertainty as to the actual costs to decommissioning each of these facilities we decline to adopt TURN's recommendation at this time. This is particularly true as to the SONGS units, as the land is owned by the U.S. Department of the Navy and it is unclear as to standards that will need to be met prior to license termination and return of the land.¹⁵⁹ To the extent that we risk return of NDTs monies at a later date to the benefit of a future generation, we find that risk more acceptable than the alternative of having the NDTs underfunded.

Decommissioning is too far off in the future to accurately assess the complete cost for decommissioning any one of these units. Additionally, in this case the NDTs are fully funded and the ratepayer contribution is set at \$0.0 therefore no additional cost is currently being incurred by ratepayers. As we said in D.17-05-020, "[t]he Commission takes nuclear decommissioning costs very seriously, and has no intention of cutting corners or underfunding reasonable nuclear decommissioning costs."¹⁶⁰

11. Standard of Review for Nuclear Decommissioning Cost Estimates and Presumption of Reasonableness

We reiterate what was held in D.16-04-019 in that there is no presumption of reasonableness to cost elements even where the actual costs are no greater than the amount reflected in the DCE. "Accurately forecasting the cost of an activity

¹⁵⁸ SCE Reply Brief at 65.

¹⁵⁹ D.14-12-082 at 132.

¹⁶⁰ D.17-05-020 at 73.

does not necessarily lead to the conclusion that the particular activity is reasonable or even needed.”

The utilities have the burden to demonstrate that all their nuclear decommissioning expenditures reflect appropriate actions at a reasonable cost.¹⁶¹ This does not, however, mean that if a reasonable expenditure that reflects an appropriate action is inadvertently omitted the utilities should automatically receive a 100% or 50% disallowance for otherwise reasonable expenditures. To the extent that a utility has numerous and ongoing omissions for routine costs, or project costs that could reasonably be anticipated at the time the DCE was prepared, we will consider these factors (number of omissions, costs omitted, on-going and continuous omissions without justification) when allowing or disallowing costs for preparation of the DCE. To the extent that omissions are numerous, on-going and without justification we will also consider whether such omissions would result in a finding that the Utilities have failed to comply with prior Commission decisions, and whether such omissions warrant other action, such as an Order to Show Cause or an investigation. The omissions reflected in Phase 2 and 3 of this proceeding raise concerns but are not so egregious as to warrant further action, beyond a warning to the Utilities that we expect future DCEs to include information that is known or reasonably should be known to SCE at the time the DCE is prepared. Additionally, to the extent that SCE or SDG&E seek to include costs in future DCEs that were disallowed in a DCE approved in a prior proceeding, the Utilities must present compelling new

¹⁶¹ D.16-04-019 at 17.

information to support such request beyond what was presented in the NDCTP where the cost item was disallowed.

12. Categorization and Need for Hearing

The Commission preliminarily categorized this Application as ratesetting as defined in Rule 1.3(a)(e) and anticipated that this proceeding would require evidentiary hearings in ALJ 176-3374 on March 17, 2016. The assigned Commissioner's scoping ruling affirmed the preliminary categorization of this proceeding as ratesetting and the need for hearings.

13. Comments on Proposed Decision

The proposed decision of the Administrative Law Judge (ALJ) in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on November 19, 2018 jointly by SCE and SDG&E, and by TURN, and reply comments were filed on November 26, 2018 by jointly by SCE and SDG&E, TURN, A4NR and Cal Advocates.

Rule 14.3 requires that Comments "focus on factual, legal or technical errors in the proposed or alternate decision and in citing such errors shall make specific references to the record or applicable law. Comments which fail to do so will be accorded no weight." We give no weight to comments that do not comply with this rule.

To the extent required, revisions have been incorporated herein to reflect the substance of these comments. Technical corrections identifying typographical, grammatical, and other miscellaneous errors addressed by the parties have been corrected in this decision.

Revisions herein include the elimination of the 45-day time period for the parties to meet with Energy Division regarding the content of advice letters. The 45-day requirement has been replaced with the Utilities proposal to set an April 1, 2019 deadline for the parties to complete discussions.

The Revisions also include clarification that the requirement to provide sufficient information to ensure transparency and changes for recorded costs between DCEs applies to A.18-03-009. We acknowledge that there may be difficulties in coming up with a clean (“apples to apples”) comparison given the differences in how expenses were recorded in the past as compared to going forward. We have directed the Utilities to meet with Energy Division staff and any interested parties to come up with a mechanism that will allow parties and the Commission to adequately assess the reasonableness of costs for activities proposed in A.18-03-009.

TURN in its reply comments requests that the Commission “additionally clarify that the decision to rely upon a DGC, and the reasonableness of the contractual allocation of liability between the utility and the DGC, may be reviewed for reasonableness.” The decision is clear that the reasonableness of SONGS 2&3 cost will not be impaired by any delegation of responsibility to the DGC, and that the utility “has the ultimate responsibility for all decommissioning activities.” This includes the Commission’s ability to review the reasonableness of the contractual allocation of liability between the utility and DGC. SCE cannot hand off liability to a third party and expect ratepayers to cover additional costs in the event the DGC does not perform adequately or the costs for activities by the DGC are unreasonable.

The revisions recognize that TURN's recommendation to allow for delay in one proceeding to be considered in another proceeding is not at odds with the Utilities recommendations or the determination in this decision.

The reply comments of A4NR address consistency between DCEs that allow for comparisons from one NDCTP to the next, removal of the subsurface conduits, and transparency for information considered by the parties and the Commission in the NDCTP. We reiterate the need for transparency to adequately assess the reasonableness of costs incurred, and the proposed DCE in each NDCTP. This requires adequate information for the parties and Commission to compare prior DCEs with proposed DCEs. The revisions also clearly recognize SCE may revisit the cost for removal of the subsurface conduits for SONGS 1. In doing so additional information must be provided consistent with this decision.

14. Assignment of Proceeding

Martha Guzman-Aceves is the assigned Commissioner and Darcie L. Houck is the assigned ALJ and presiding officer in this proceeding.

Findings of Fact

1. SCE holds an 80% interest and SDG&E holds a 20% interest in SONGS 1 decommissioning liability.
2. SCE holds an approximately 75.74% interest, SDG&E holds a 20% interest, the City of Anaheim holds approximately 2.47% interest, and the City of Riverside holds a 1.79% interest in SONGS 2 and 3 decommissioning liability respectfully.
3. On January 30, 2015 SCE filed Application 15-01-014 for Commission reasonableness review of 2014 SONGS 2&3 expenses.

4. On January 30, 2015 SDG&E filed Application 15-02-006 for a reasonableness determination and recovery of 2014 operations and maintenance (O&M) and non-O&M SONGS costs.

5. On March 1, 2016 SCE and SDG&E filed joint A.16-03-004 for the 2015 NDCTP.

6. SCE and SDG&E demonstrated that the annual contributions to SONGS 1 NDTs should be maintained at \$0.0 (zero) based upon the 2016 SONGS 1 DCE, current level of funding of the respective SONGS 1 NDTs, forecast returns on the NDTs, and projected escalation rates.

7. The SONGS 1 DCE does not include the most up to date cost estimate for the reactor pressure vessel removal. This estimate should be updated with the estimate included in the DGC contract.

8. SCE and SDG&E did not demonstrate that the full removal of intake/discharge conduits for SONGS 1 is reasonable.

9. SCE demonstrated that the annual contributions to Palo Verde NDTs should be maintained at \$0.0 (zero) based upon the current level of funding of the Palo Verde NDTs, forecast returns on the NDTs, and projected escalation rates at this time.

10. SCE, SDG&E, TURN, and UCAN submitted a proposed Milestone Framework for reasonableness reviews of SONGS 2&3 decommissioning costs. The proposed Milestone Framework is attached to this decision as Appendix 1.

11. Cal Advocates does not object to the proposed Milestone Framework.

12. SCE did not demonstrate that the Palo Verde DCE should be increased by \$112.2 million for class A LLRW Disposal.

13. It is reasonable to allow \$136.1 million (100% share) of SONGS 2&3 decommissioning expenses for activities completed between January 1, 2014 and December 31, 2014.

14. It is reasonable to allow \$221.6 million (100% share) of SONGS 2&3 decommissioning expenses for activities completed between January 1, 2015 and December 31, 2015.

15. It is reasonable to allow the 2016 SONGS 1 DCE for remaining SONGS Unit 1 decommissioning work, including SDG&E's share, consistent with the disallowance set forth in this decision.

16. It is reasonable to allow the \$2.9 million (SDG&E share 2014\$) estimate of future SDG&E-only costs for SONGS 1.

17. It is reasonable to allow the \$33.9 million (SDG&E share 2014\$) for SONGS 2&3 decommissioning expenses invoiced to SDG&E by SCE between January 1, 2014 and December 31, 2014.

18. It is reasonable to allow the \$3.7 million (2014\$) in SDG&E-only costs for SONGS 2&3 incurred January 1, 2014 through December 31, 2014.

19. It is reasonable to allow the \$34.3 million (SDG&E share, 2014\$) for SONGS Unit 2&3 decommissioning expenses invoiced to SDG&E by SCE between January 1, 2015 and December 31, 2015.

20. It is reasonable to allow the \$2.6 million (2014\$) in SDG&E-only costs for SONGS 2&3 incurred January 1, 2015 through December 31, 2015.

21. SDG&E has complied with prior Commission decisions.

22. SCE and SDG&E provided evidence to support the current escalation rates.

23. It is reasonable for the Commission to adopt guiding principles as to conducting reasonableness reviews in future NDCTPs.

24. Cal Advocates and TURN provided evidence in support of decreasing the SONGS 1 DCE by \$35.7 million, the cost of the full removal of intake/discharge conduits.

25. TURN provided persuasive evidence supporting the need for an updated reduced SONGS 1 2012 DCE cost estimate for removal of the SONGS 1 reactor pressure vessel, consistent with the DGC contract.

26. TURN provided persuasive evidence to support decreasing the Palo Verde DCE by \$112 million for removal of class A LLRW waste.

27. The Utilities established by a preponderance of the evidence that \$136.1 million (100% share, 2014\$) in SONGS 2&3 decommissioning expenses for activities completed between January 1, 2014 to December 31, 2014 are reasonable and prudent.

28. The Utilities established by a preponderance of the evidence that \$221.6 million (100% share, 2014\$) in SONGS 2&3 decommissioning expenses for activities completed between January 1, 2015 and December 31, 2015 are reasonable and prudent.

29. To be useful to the Commission and parties, the two annual Tier 2 ALs must be tied to the nuclear DCE and show expenditures and related progress toward specific major milestones in the decommissioning process. The Forecast and Recorded Decommissioning Disbursements ALs must include direct references to the DCEs to tie forecasted and recorded disbursements to the DCE as well as include status reports that show progress in terms of costs and timelines for each major component of the decommissioning plan.

30. The Tier 2 AL process should be updated to address information consistent with the Milestone Framework.

31. The Milestone Framework provides a scope and timeline for review of SONGS decommissioning activities and costs; including Distributed Activities, Undistributed costs, and SDG&E costs from 2014 through roughly 2030.

32. The Milestone Framework identifies Undistributed Activities for review based on completing certain Major Projects and calendar-based intervals.

33. All disbursements from the NDTs are provisional and subject to an obligation to refund any improper costs to the NDTs.

34. After the fact reasonableness reviews of expenditures for decommissioning SONGS 2&3 should be conducted in the NDCTP, unless otherwise scheduled.

Conclusions of Law

1. The overall applicable standard of review for the requests in the Application filed by SCE and SDG&E in this proceeding is one of reasonableness, specifically whether the decommissioning cost assumptions are reasonable, decommissioning activities are reasonable and prudent, and proposed customer contribution requirements result in just and reasonable rates.

2. The Atomic Energy Act of 1954, 42 U.S.C. § 2011, provides the federal government with exclusive jurisdiction to license the transfer, delivery, receipt, acquisition, possession, and use of nuclear materials; states retain traditional responsibilities in the field of regulating electrical utilities for determining questions of need, reliability, cost, non-radiological safety, and other related concerns.

3. The California Nuclear Facility Decommissioning Act of 1985, Pub. Util. Code § 8321 et seq. requires, inter alia, each electrical utility owning, in whole or part, or operating a nuclear facility, located in California or elsewhere, to provide the Commission with periodic decommissioning cost estimates which include descriptions of changes in regulation, technology, and economics affecting the

estimate, descriptions of additions and deletions to the facility, and all assumptions about the remaining useful life of the facilities.

4. Assumptions suitable for high level cost estimation purposes do not compel the same assumptions by the utilities when considering the prudence and reasonableness of future actual decommissioning decisions and resulting costs.

5. The reasonableness of a contingency factor may vary between nuclear plants and at different stages of decommissioning.

6. SCE is in compliance with prior Commission NDCTP decisions.

7. SDG&E is in compliance with prior Commission NDCTP decisions.

8. It is reasonable to reduce SCE's 2015 DCE for SONGS Unit 1 by \$35.7 million on the grounds that the request lacked adequate support to demonstrate the request is reasonable in nature and amount at this time.

9. It is reasonable to reduce SCE's 2015 DCE for SONGS Unit 1 by the difference between the proposed estimated cost for removal of the SONGS 1 reactor pressure vessel and the proposed estimate for the same activity as set forth in the DGC contract.

10. It is reasonable to reduce SCE's DCE for PVNGS by \$112 million on the grounds that the request lacked adequate support to demonstrate the request is reasonable in nature and amount at this time.

11. TURN and Cal Advocates established a reasonable basis for reductions to the SONGS 1 DCE as identified in this decision.

12. TURN established a reasonable basis for reductions in the Palo Verde DCE as identified in this decision.

13. The NDTs of SCE and SDG&E for SONGS 1 are sufficiently funded, plus forecasted return on assets, to meet current DCEs.

14. The NDTs of SCE for Palo Verde are sufficiently funded, plus forecasted return on assets, to meet current DCEs.

15. SCE and SDG&E are authorized to maintain their respective annual customer contributions at \$0.0 for the NDT.

16. SCE's decommissioning costs of \$136.1 million¹⁶² (100% share) of SONGS 2&3 decommissioning expenses for activities completed between January 1, 2014 and December 31, 2014 are reasonable.

17. SCE's decommissioning costs of \$221.6 million (100% share, 2014\$) of SONGS 2&3 decommissioning expenses for activities completed between January 1, 2015 and December 31, 2015 are reasonable.

18. The SONGS 1 DCE cost estimate for the reactor pressure vessel removal should be updated with the estimate included in the DGC contract.

19. The Utilities bear the burden of proof to demonstrate actual decommissioning expenditures incurred are reasonable and prudent.

20. All disbursements from the Nuclear Decommissioning Trust Funds are provisional and subject to an obligation to refund any improper costs to the Trust Fund.

21. Discharging our duty to review decommissioning costs pursuant to Pub. Util. Code §§ 451 and 8327 requires that SCE file after-the-fact reasonableness reviews of expenditures for decommissioning SONGS Units 1, 2 and 3 in the Nuclear Decommissioning Cost Triennial Proceedings.

¹⁶² Review of \$0.2 million of the ISFSI Pad Study completed in 2014 is deferred until a subsequent NDCTP consistent with adoption of the Milestone Framework. This leaves \$136.1 million of the study reviewed in this NDCTP.

22. Discharging our duty to review decommissioning costs as pursuant to Pub. Util. Code §§ 451 and 8327 requires that when SCE completes a major component of nuclear decommissioning for SONGS Units 2 &3, SCE should submit a comprehensive showing as to the reasonableness of the decommissioning activities and costs from the conceptual plan through the actual recorded costs tied to line items in the Decommissioning Cost Estimate in the NDCTP consistent with the timing and scope set forth in the Milestone Framework attached to this decision as Appendix 1.

23. It is reasonable to adopt the Milestone Framework attached to this decision as Appendix 1.

24. It is reasonable to affirm applicable Commission policy and practice as to review of proposed DCEs and reasonableness of completed decommissioning activity costs incurred consistent with this decision.

25. Further scheduling for reasonableness reviews of nuclear decommissioning costs for SONGS Units 2 & 3 will be set in the NDCTPs.

26. There is no presumption of reasonableness as to cost elements where the actual costs are no greater than the amount reflected in the DCE. All cost elements are subject to a reasonableness review.

27. SCE remains responsible for all decommissioning activities whether conducted by SCE employees or a contractor.

28. Pub. Util. Code § 451 requires safe operation of an electric system. It is a long-standing and continuing responsibility, not a one-time obligation.

29. The burden of proof is on SCE and SDG&E to demonstrate the reasonableness of the expenses incurred for decommissioning activities.

30. The standard of proof is that of a preponderance of evidence, which means such evidence as, when weighed with that opposed to it, has more convincing force and the greater probability of truth.

31. The proceeding should be closed upon adoption of this decision.

O R D E R

IT IS ORDERED that:

1. The 2015 Decommissioning Cost Estimate (DCE) for San Onofre Nuclear Generating Station (SONGS) Unit No. 1 is adopted consistent with the exclusions set forth in this decision. Southern California Edison Company and San Diego Gas & Electric Company shall use this DCE for all decommissioning planning for SONGS Unit 1.

2. San Diego Gas & Electric Company is authorized to add to its share of the 2015 Decommissioning Cost Estimate for San Onofre Nuclear Generating Station Unit 1 the additional amount authorized in this decision.

3. Southern California Edison Company and San Diego Gas & Electric Company are authorized to maintain their respective annual customer contributions at \$0.0 for San Onofre Nuclear Generating Station Unit 1 Nuclear Decommissioning Trust.

4. Southern California Edison Company (SCE) and San Diego Gas & Electric Company (SDG&E) are to meet with Energy Division staff and any interested parties no later than April 1, 2019 to discuss what if any modifications will be needed for the annual Tier 2 Advice Letter process referenced in Ordering Paragraphs 4 and 5 of this decision consistent with the adoption of the Milestone Framework set out in Appendix 1 to this decision. No later than April 30, 2019, SCE, SDG&E and any interested parties participating in the discussion shall file a

joint report in Application 18-03-009 summarizing the discussion and providing the modifications, if any, agreed to for the annual Tier 2 Advice Letter process.

5. Southern California Edison Company (SCE) and San Diego Gas & Electric Company (SDG&E) shall meet with Energy Division staff and interested parties to develop protocols and guidance for recording staff time designated to Distributed activities, and to define what activities will be considered Undistributed and Distributed activities. SCE, SDG&E, and any interested parties participating in the discussion shall file a report in Application 18-03-009 setting forth the protocols and guidance agreed by the parties. If no protocols and guidance are agreed to by the parties each party shall submit recommendation as to what and how such protocols and guidance should be adopted in Application 18-03-009 consistent with the schedule to be issued in that application. The assigned Commissioner or assigned Administrative Law Judge may alter the schedule consistent with the Commission's Rules of Practice and Procedure.

6. Southern California Edison Company (SCE), San Diego Gas & Electric Company, and any interested parties are to meet with Energy Division staff to address how SCE will meet the requirement to provide transparency as to costs authorized in prior DCEs with those proposed in future DCEs (including application (A.) 18-03-009). The results of this meeting shall be submitted in a joint report in A.18-03-009 consistent with the schedule adopted in the scoping memo for that proceeding.

7. Southern California Edison Company is to submit supplemental testimony in application 18-03-009 if needed to ensure parties have sufficient information to address changes in costs between the two most recent DCEs in A.18-03-009. The supplemental testimony shall be submitted in accordance with the schedule set forth in A.18-03-009.

8. All disbursements from the Nuclear Decommissioning Trust Funds (Trust Funds) are provisional and subject to an obligation to refund any improper costs to the Trust Funds.

9. Further scope of applications and scheduling for reasonableness reviews of nuclear decommissioning costs for San Onofre Nuclear Generating Station Units 2&3 will be set in the Nuclear Decommissioning Cost Triennial Proceedings consistent with the Milestone Framework adopted herein and attached to this decision as Appendix 1.

10. Southern California Edison Company must file annually Forecast and Recorded Decommissioning Disbursements Tier 2 Advice Letters (AL); each such AL must show information supporting the requested disbursement tied to the Nuclear Decommissioning Cost Estimate and include expenditures and related progress toward specific major milestones in the decommissioning process consistent with the Milestone Framework and the decision adopted herein.

11. San Diego Gas & Electric Company (SDG&E) must file annually Forecast and Recorded Decommissioning Disbursement Tier 2 Advice Letters (AL) consistent with its share of San Onofre Nuclear Generating Station 2 and 3 decommissioning costs as presented by Edison and billed to SDG&E by Edison, plus include any additional administrative costs unique to SDG&E. Each such AL must show information supporting the requested disbursements consistent with the Milestone Framework adopted herein.

12. Southern California Edison Company (SCE) shall, consistent with this decision, in consultation with Energy Division staff and other interested parties, update its cost categorization structure for tracking expenditures as discussed herein, which includes a reasonable path to compare the decommissioning costs previously estimated to actual costs expended. SCE shall provide more detailed

directions and instructions to its staff so that record keeping will directly and transparently reflect the appropriate location, and the appropriate detail, and support for Distributed activities. The revised cost categorization structure must set forth how costs will be recorded in the future, in a manner that can efficiently compare to forecasted costs included in the DCE. The revised cost categorization is to be submitted as testimony in the 2018 Nuclear Decommissioning Cost Triennial Proceeding consistent with this decision and the schedule set forth in A.18-03-009.

13. In the next Nuclear Decommissioning Triennial Proceeding, Southern California Edison Company and San Diego Gas & Electric Company shall provide testimony to demonstrate 1) compliance with prior Commission decisions; and 2) disclosure of settlements, awards, or other resolutions of damage claims completed in the triennial period, based on the United States Department of Energy's failure to accept spent nuclear fuel. The Utilities shall also establish how the recoveries were allocated to the Unit that incurred the cost to ensure that the appropriate share of net proceeds were commensurate with payment of the underlying costs supporting the resolved claims, and to the extent appropriate, placed into the related nuclear decommissioning trust funds or returned to ratepayers in the manner approved by the Commission.

14. Southern California Edison Company (SCE) is to file a copy of any new executed Lease Termination Agreement (Agreement) between SCE and the California State Lands Commission with the application for the nuclear decommissioning cost triennial proceeding that follows finalization of such agreement. To the extent such agreement is finalized prior to submission of the proceeding in application 18-03-009, SCE is to file and serve the executed Agreement in that proceeding within five (5) days of execution of the Agreement.

15. The 2016 Palo Verde Nuclear Generating Station decommissioning cost estimate is adopted consistent with the findings set forth in this decision.

16. All outstanding matters requested by any party not specifically addressed herein are deemed denied for purposes of this Nuclear Decommissioning Cost Triennial Proceeding.

17. Application (A.)16-03-004, A.15-01-014 and A.15-02-006 are closed.

This order is effective today.

Dated November 29, 2018, at San Francisco, California.

MICHAEL PICKER

President

CARLA J. PETERMAN

LIANE M. RANDOLPH

MARTHA GUZMAN ACEVES

CLIFFORD RECHTSCHAFFEN

Commissioners

APPENDIX 1
SONGS Decommissioning Reasonableness Framework