

The Coalition to Decommission San Onofre (CDSO) hereby Moves for Reconsideration of ALJ Darling's emailed Ruling of September 13, 2013, denying CDSO's August 15, 2013 Motion to Become a Party in these 2012 Nuclear Decommissioning Cost Triennial Proceedings:

"The motion is denied because it fails to meet the requirements of Rule 1.4(b). CDSO did not state the factual and legal contentions that it intends to make and show that the contentions will be reasonably pertinent to the issues already identified in the scoping memo. CDSO did not offer any description of its interests or intentions in the proceeding. Moreover, CDSO appears to misunderstand the nature of the triennial proceeding which is to review high-level cost estimates of future nuclear decommissioning activities and estimated rates of return on statutory trust funds established to cover those costs. The scope of the proceedings does not currently include review of any detailed decommissioning plans at SONGS, assuming that is what CDSO contemplates. According to SCE's most recent monthly report on SONGS (served in I.12-10-013 where CDSO is a party), SCE does not expect to submit its detailed decommissioning report to the Nuclear Regulatory Commission until June 2015."

CDSO apologizes to the Assigned Commissioner and Administrative Law Judge for not providing sufficient exposition of its intentions in originally seeking Party status in these proceedings. We should not have assumed that the brief description we provided in our Motion filed on August 15, 2013, would make our interests apparent and that we would not have to argue for a place at this table: (emphasis added)

"The Coalition to Decommission San Onofre (CDSO) is a grassroots project of Citizens Oversight, Inc., a 501(c)(3) public benefit corporation which encourages increased engagement by the public in the operation of their local, state and federal government to **reduce waste, fraud and abuse by public officials.**

"Citizens Oversight dba Coalition to Decommission San Onofre is unique in its localized, on-the-ground volunteer membership which affords **ready consultation with local elected officials and community members regarding the varied impacts of the San Onofre Nuclear Power Plant, as well as the implications of decommissioning.**

Citizens Oversight is based in San Diego and Orange Counties and we have no office in the S.F. Bay Area; therefore effective participation in the CPUC's decision-making process requires additional time, travel and communications expenses. We lack the ratepayer-funded facilities and resources of Southern California Edison, San Diego Gas & Electric and the Commission.

“Our communities in Orange and San Diego Counties most impacted by the San Onofre Nuclear Power Plant and its defective nuclear reactors, and now its decommissioning, depend upon us – unpaid community members who also have to tend to our businesses/jobs, kids, elderly parents – to represent them in these proceedings, as well as in the Commission’s Investigation into the San Onofre Outage over the past several months (in which CDSO is a Party and has participated fully), plus the U.S. Nuclear Regulatory Commission’s (NRC) decision-making process for the operation, and now decommissioning, of this defective nuclear power plant. Our neighbors, elected officials and the media increasingly call upon us with questions about San Onofre.”

The CDSO is the only ratepayer advocate organization **specifically representing San Diego and Orange County customers and residents** affected by the funding, operation and now, decommissioning, of the San Onofre Nuclear Power Plant. Given ALJ Darling’s expedient use of email to rule on our Motion a month after its filing and one week before Reply Testimony is due in this proceeding, we would have hoped that she could have reached out to us with her concerns sooner, since they can be very readily addressed.

Commission Rule 1.4(b) prescribes “A person seeking party status by motion pursuant to subsection (a)(3) or (a)(4) of this rule shall:

- (1) fully disclose the persons or entities in whose behalf the filing, appearance or motion is made, and the interest of such persons or entities in the proceeding; and
- (2) state the factual and legal contentions that the person intends to make and show that the contentions will be reasonably pertinent to the issues already presented.

Addressing ALJ Darling's stated reasons for denying our Motion for Party Status:

"CDSO did not state the factual and legal contentions that it intends to make and show that the contentions will be reasonably pertinent to the issues already identified in the scoping memo." [Referencing Commission Rule 1.4(b)(2)]

A. From the "Scoping Memo and Ruling of the Assigned Commissioner and Administrative Law Judge" filed on June 17, 2013: (emphasis added)

"The purpose of these proceedings is to *establish just and reasonable rates to adequately fund the nuclear decommissioning trusts in place for the benefit and protection of ratepayers* and to *verify that PG&E, SCE, and SDG&E are in compliance with all prior decisions applicable to decommissioning*. Further, these proceedings will *determine whether the costs expended to-date to decommission Humboldt Unit 3 and SONGS 1 were reasonable and prudent*, including funding Humboldt Unit 3 SAFSTOR O&M costs.

"To the extent necessary, these proceedings will examine *all underlying forecasts and assumptions to estimate the future costs of decommissioning the various nuclear generating stations; the costs and earnings associated with the decommissioning trust funds and review of the management of the trust funds; and other relevant data, policies or laws and regulations*. These proceedings will also include the standard *reasonableness review of managerial decisions and actions by PG&E, SCE, and SDG&E as they have pursued decommissioning either Humboldt Unit 3 or SONGS Unit 1*.

"*The applicants shall demonstrate that they are in compliance with all relevant decisions*, including D.10-07-047, the combined Phase 1 decision for the 2009 NDCTP, and D.11-07-003, which adopted the recommendations of the IRP in Phase 2. "

B. The “factual and legal contentions” that CDSO intends to make in this proceeding, and how these are “reasonably pertinent to the issues already identified in the scoping memo”:

1) In Exhibit SCE-40 SCE in I.12-10-013, et al (served August 14, 2013), SCE stated that it “plans to request permission in the very near future to have access to the SONGS decommissioning trusts to defray expenses at SONGS and reduce the cost to current customers.” Just as it has in I.12-10-013, CDSO intends to subject SCE’s impending request in THIS proceeding to scrutiny as to its impact on rates and adequate funding for decommissioning “*for the benefit and protection of ratepayers*”, as the only locally-based, active Intervenor. We cannot yet state what our “factual and legal contentions” will be relative to SCE’s impending request, but as we have clearly demonstrated in our active participation in I.12-10-013, et al, we WILL examine this request carefully in order to continue to provide a necessary reality-check on SCE’s and SDG&E’s self-interest.

2) Exhibit SCE-06 was submitted on July 22, 2013, to provide Supplemental Testimony ordered by the ALJ to represent decommissioning costs if San Onofre Units 2 and/or 3 were not restarted. SCE qualifies this early decommissioning cost estimate by saying it didn’t have sufficient time to reflect all of the implications of its June 7, 2013, permanent closure announcement, and asks to submit additional testimony, as well as stating its intent to prepare a new decommissioning cost estimate for San Onofre Units 2 and 3 after the development of a site-specific decommissioning plan. *While this Supplemental Testimony is before this Commission, due process demands that Parties with a demonstrated interest in SCE’s San Onofre decision-making and the consequences thereof, like CDSO has clearly shown in I.12-10-013, et al, should be afforded the opportunity to respond to it.* Factual and legal contentions that CDSO intends to make in this proceeding relate to the accuracy and reasonableness of SCE’s *underlying forecasts and assumptions to estimate the future costs of decommissioning*” San Onofre Units 2 and 3:

a) SCE proposes that SONGS be placed in SAFESTOR in 2015. However, if decommissioning is to commence the next year, SCE should proceed directly to DECON or plan to leave the plant in SAFESTOR for 30+ years to allow radiological

decay and thereby allow radiological hazards to decrease. *To move to SAFESTOR and then start active dismantling of the plant is a waste of money and unsafe for workers.*

b) Fuel placed in the Independent Fuel Storage Installation (ISFSI) should use canisters that are compatible with transporting to permanent repository. Current plans involve fully storing all spent fuel in the on-site ISFSI dry cask storage, and then eventually moving these to a permanent repository. Instead of building two type of casks, it would be prudent to adopt a single design that is compatible with the on-site ISFSI as well as for eventual transportation to a permanent repository.

c) SCE continues to assume that a permanent repository will be available although the U.S. Department of Energy (DOE) has no firm plans yet for any such site. This results in overly optimistic cost projections. Assumption that DOE will be ready to accept them in 2027 is optimistic. Worst case planning should assume decommissioning funds are required for 60 years of storage on site.

d) For about 16 years, the U.S. Nuclear Regulatory Commission (NRC) has allowed reactor operators, including SCE, to move to high burnup fuel (burnup >45 GWd/MTU or 45,000 MWd/tHM) because it can burn longer in the reactor, thereby increasing nuclear industry profits.¹ However, *high burnup fuel has unresolved serious waste storage issues, with serious implications for “the forecasts and assumptions for estimating the future costs of decommissioning the various nuclear generating stations”.*

Per SCE's 8/23/13 response to Women's Energy Matters' Data Request Question 40.d in I.12-10-013, et al² :

8 fuel assemblies exceeding 45 GWd/MTU are stored in dry cask storage
570 fuel assemblies exceeding 45 GWd/MTU are stored in the U2 Spent Fuel Pool
545 fuel assemblies exceeding 45 GWd/MTU are stored in the U3 Spent Fuel Pool

¹ U.S. Government Accountability Office: Spent Nuclear Fuel/Accumulating Quantities at Commercial Reactors Present Storage and Other Challenges, August 2012 <http://www.gao.gov/assets/600/593745.pdf>

² Data Request Set WEM-SCE-007, prepared by Steve Lelewer, SCE Nuclear Fuels Procurement Manager.

(1) The NRC has “insufficient data to support a licensing position” on high burnup dry cask storage per Dr. Robert E. Einziger, a Senior Materials Scientist in the NRC’s Division of Spent Fuel Storage & Transportation, earlier this year.³

(2) Nuclear engineers have long known of increased risks from high burn-up fuels. The U.S. Nuclear Waste Technical Review Board *December 2010 Report* stated insufficient information is available on high burnup fuels to allow reliable predictions of degradation processes during extended dry storage:

“Only limited references were found on the inspection and characterization of fuel in dry storage, and they all were performed on low-burnup fuel after only 15 years or less of dry storage. Insufficient information is available on high-burnup fuels to allow reliable predictions of degradation processes during extended dry storage, and no information was found on inspections conducted on high-burnup fuels to confirm the predictions that have been made. The introduction of new cladding materials for use with high-burnup fuels has been studied primarily with respect to their reactor performance, and little information is available on the degradation of these materials that will occur during extended dry storage.”⁴

(3) Elias Henna of SCE is quoted in the March/April 2003 “Radwaste Solutions Saving a Few Hundred Million Dollars” [A Session Report from the 2002 American Nuclear Society (ANS.org) Winter Meeting]:

“Henna noted that his company is learning a lot from the San Onofre-1 cleanup, because it has two operating units sharing the plant site. His major suggestion was one that might seem counterintuitive, he said: If you have already decided on a decommissioning date sometime in the future, toward the end of life, *switch to shorter refueling cycles and use lower burnup fuel*. That way you will have to cool the fuel in the pool only five years, *whereas high-burnup fuel has to cool for about*

³ See his presentation (slide 7) on Status of NRC Research on High Burnup Fuel Issues, at the March 13, 2013 Regulatory Information Conference session on W24- Storage and transportation of High Burnup Fuel. <http://www.nrc.gov/public-involve/conference-symposia/ric/past/2013/docs/abstracts/einziger-rev-2-onsite-w24-hv.pdf>

⁴ http://www.nwtrb.gov/reports/eds_rpt.pdf

15 years. In this way, he said, you will add a couple more refueling cycles but can shorten your decommissioning project by some four years (assuming no technological breakthroughs in canister design and no change in U.S. Nuclear Regulatory Commission regulations). You will add about \$191 million in fuel costs, he noted, but will save up to \$261 million in decommissioning costs.

“This idea is more appropriate for a plant operating in a regulated market not a free market, he conceded. SCE is current replanning the fuel cycles of Units 2 and 3 toward the end of plant life to incorporate this idea.

“Henna also touched on the issue of safety. One incident can shut down the whole project, and you may not be able to go back to work for a couple of years.” (at p. 69).

NOTE that Per SCE Testimony in I.12-10-013, SCE actually LENGTHENED the refueling cycles in installing the failed Steam Generator Replacement Project in Units 2 and 3, and there is no indication that they used lower burnup fuel. *These management decisions by SCE need to be scrutinized in light of their sizeable cost implications for the Decommissioning Trust Fund.*

(4) There is no ability to monitor inside dry casks. Uncertain what’s happening inside dry casks, DOE and the industry’s Electric Power Research Institute are embarking on a four-year, \$16 million project to develop instrumented lids that can report on the status of the spent rods inside.

- Fancy New Lids for Nuclear Waste Casks, As Contents Get Hotter – Forbes – May 2, 2013. <http://www.forbes.com/sites/jeffmcmahon/2013/05/02/fancy-new-lids-for-nuclear-waste-casks-as-contents-get-hotter/?view=pc>
- EPRI Press Release and Schedule, April 22, 2013, <http://www.epri.com/Press-Releases/Pages/-U-S--Department-of-Energy-Taps-Electric-Power-Research-Institute-to-Lead-Spent-Nuclear-Fuel-Storage-Project.aspx>
- NRC: The Use of a Demonstration Program as Confirmation of Integrity for Continued Storage of High Burnup Fuel Beyond 20 Years (Draft), <http://pbadupws.nrc.gov/docs/ML1305/ML13056A516.pdf>

3) CDSO continues to also be active in NRC oversight of the San Onofre Nuclear Power Plant, which is now shifting to decommissioning, commencing with a Public Meeting on September 26, 2013, in northern San Diego County (Carlsbad). Based upon a recent Request for Additional Information issued by NRC to SCE, *the NRC appears to exclude “non-radiological spent fuel management” from Decommissioning Trust Fund expenditures.*

RAI #1: Reporting Requirements: “Please confirm that the dollar amounts accumulated in the decommissioning trust fund (\$1,666,100,000 for SONGS 2 and \$1,890,800,000 for SONGS 3) are exclusively for radiological decommissioning. Specify if any of the accumulated fund balance is for nonradiological decommissioning costs such as spent fuel management or other non-radiological decommissioning activities.”

Our active participation in the Decommissioning decision-making processes of both the NRC and CPUC can help to facilitate understanding of how these parallel processes may impact one another.

Service of notices, orders and other communications and correspondence in these proceedings should be directed to the CDSO’s lead representative to the Commission, as set forth below.

Respectfully Submitted,

/s/ Martha Sullivan

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September 16, 2013