

Citizens' Oversight Projects (COPs)

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August 10, 2015



OPEN LETTER TO PARTIES OF THE SAN ONOFRE SETTLEMENT

Greetings:

If you claim to be a rate-payer advocate and have signed on or endorsed the San Onofre settlement, now is the time to distance yourself from it and join the growing list of parties who now recognize the settlement should be set aside, and formally announce your position.

Why? Let me explain.

On April 3, 2014, a motion for adoption of a proposed settlement was filed, entitled: “Joint Motion Of Southern California Edison Company (U 338-E), San Diego Gas & Electric Company (U 902-E), The Utility Reform Network, The Office Of Ratepayer Advocates, Friends Of The Earth, And The Coalition Of California Utility Employees For Adoption Of Settlement Agreement”¹ Other parties have endorsed this settlement agreement, but it was not unanimous among the official parties in the proceeding.

This settlement was primarily negotiated by The Utility Reform Network (TURN) and the Office of Ratepayer Advocates (ORA) with Southern California Edison (SCE), and San Diego Gas and Electric (SDG&E) during 2013 and then revealed to the other parties in a March 27, 2014 meeting. After some revisions, the settlement was adopted on November 20, 2014 in Decision D.14-11-040².

We now know that the overarching terms of the deal were negotiated in improper ex parte meetings, most specifically one on March 26, 2013 at the Hotel Bristol in Warsaw, Poland, attended by CPUC President Michael Peevey, CPUC Executive Edward Randolph, and SCE General Counsel Stephen Pickett. After the handwritten term sheet was confiscated in a search of Peevey's residence, SCE late-filed a ex parte notice on February 9, 2015³, nearly two years late, which claimed that the meeting was mostly a one-way communication from Peevey to Pickett about his desired settlement terms.

Two parties, The Coalition to Decommission San Onofre (a project of Citizens Oversight) and Ruth Henricks jointly filed a timely request for rehearing⁴ of the settlement decision, and on February 10, 2015, the Alliance for Nuclear Responsibility filed a “Motion Seeking Investigation of the Extent of Sanctions to be Ordered against Southern California Edison Company for Violation of Commission Rules 1.1 and 8.4” and a “Petition For Modification Of D.14-11-040” on April 27. On June 24, 2015, TURN, who was the primary negotiator of the settlement agreement filed a response to the petition for modification⁵, saying that TURN “believes that the Commission should reopen the SONGS investigation

1 <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M089/K640/89640857.PDF>

2 <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M143/K336/143336799.PDF>

3 <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M146/K989/146989901.PDF>

4 <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M143/K914/143914364.PDF>

5 <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M152/K920/152920713.PDF>

to address the public perception that the outcome was a product of intervention by former President Michael Peevey and decide the allocation of costs related to the shutdown facility through litigation rather than via settlement.”

Just today (August 10, 2015), we received notice that ORA has also pulled their support⁶. That means no party that participated in negotiating the settlement still likes it.

Several days ago, Administrative Law Judge (ALJ) Melanie Darling filed a ruling⁷ regarding ten improper ex parte communications, including testimony by Randolph which stated that the March 26, 2013 Warsaw meeting was mostly conducted by Pickett, and thus was decidedly in violation of the Commission's ex parte rules.

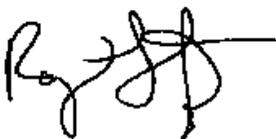
There are many other contributing factors which should buttress the conclusion that the proceeding should be reopened, as TURN suggests, such as apparent ex parte rule violations by ALJ Darling on December 4, 2012 in her conversation with SCE Executive Russell Worden; felony warrants issued by the California Supreme Court regarding the settlement; attempts by the State Assembly Committee on Energy and Commerce (chaired by Asm. Anthony Rendon) to gain access to all the communications surrounding the tainted settlement; qualms about the settlement expressed by CPUC President Michael Picker during testimony at the Assembly committee oversight hearing; added provisions for Greenhouse Gas research as desired by Peevey, and many other contributing factors.

Thus, we send this open letter to request that all remaining parties to the settlement reevaluate your endorsement. We believe that there is sufficient evidence for you to join with TURN, ORA, the Alliance for Nuclear Responsibility, Women Energy Matters, the Coalition to Decommission San Onofre, Ruth Henricks, and any other parties who have actively endorsed either a request for rehearing or a petition for modification, and endorse those actions.

Furthermore, in this open letter, we also reach out to parties who did not sign-on to the settlement, but who nevertheless did not actively oppose it, such **World Business Academy**, to join with our effort to revisit the settlement and process it in the full light of day rather than tacitly supporting the impropriety of the Warsaw, Poland negotiations through silence.

Now is the time to actively support what you already know is right. Full review of the failure of the San Onofre Nuclear Plant will provide lessons to be learned that will increase our safety as we can then avoid these same mistakes in the future. Reopening the investigation is the only way the CPUC can move past this very unpleasant phase and turn the corner toward reform. Please take this opportunity to formally endorse the reopening of the proceedings. Otherwise, your silence indicates to the world that you endorse the sort of back-room negotiations exemplified by the Bristol Hotel meeting. There is just too much evidence before us to ignore the unpleasant fact that we must reopen this case.

Sincerely,



Raymond Lutz
National Coordinator, Citizens' Oversight Projects
DBA Coalition to Decommission San Onofre

6 <http://www.sandiegouniontribune.com/news/2015/aug/10/ora-backs-away-san-onofre-settlement/>

7 <http://docs.cpuc.ca.gov/SearchRes.aspx?DocFormat=ALL&DocID=153703039>