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FOR IMMEDIATE RELEASE

CITIZENS OVERSIGHT SIGNS $873 MILLION SAN ONOFRE SHUTDOWN SETTLEMENT WITH SCE, SDG&E AND OTHER PARTIES

Ratepayer Payments to Shareholders for San Onofre to Stop as of Dec 19, 2017

Substantial relief to ratepayers: $873 million will not be paid to utilities over the next 5 years, resulting in $775 million reduction in net payments for SONGS

LOS ANGELES (2018-01-30) – Citizens Oversight, also operating as the "Coalition to Decommission San Onofre" today signed the settlement agreement with Southern California Edison (SCE), San Diego Gas and Electric (SDG&E) and other ratepayer advocates to bring to a close the dispute over the amount ratepayers are obligated to pay for the San Onofre Nuclear Generation Station (SONGS), which was subject to an emergency shutdown on January 31, 2012, and permanently shuttered on June 6, 2013.

This settlement agreement will be concurrently submitted to the California Public Utilities Commission (CPUC), and once it is approved, rates will no longer include payments for the failed SONGS plant as of December 19, 2017. The earlier 2014 settlement agreement of $3.3 billion provided that payments would continue until 2022. Without those payments, ratepayers will save about $873 million, netting in a reduction $775 million that would otherwise be applied to the regulatory asset of the shuttered plant. Although no change will occur until the settlement is approved by the CPUC after a thorough public review, the amount collected in the interim will be refunded to ratepayers using established mechanisms.

In our view, the "replacement power" which was purchased on the energy markets after SONGS stopped generating power and paid for by consumers should not be included in the analysis of the deal because ratepayers received the benefit of that power at current market prices. In round figures, the net cost of replacement power was estimated to be approximately $500 million. So the original settlement deal of $3.3 billion should be viewed as approximately 2.8 billion net cost to ratepayers. The current settlement further reduces this to approximately $1.9 billion cost to ratepayers, leaving an estimated $2.3 billion cost for shareholders, based on the original $4.7 billion estimate by the utilities.

Raymond Lutz, founder of Citizens Oversight, said, "Paying for a closed power plant makes no sense. This agreement stops these ridiculous payments by ratepayers. Putting an end to the dispute is beneficial so we can concentrate on the transition to renewable energy sources."

The net result is a reduction of what ratepayers would be obligated to pay for the plant by about $873 million compared with the existing 2014 settlement, which was thrown into question due to the revelation

that former CPUC president Michael Peevey had met improperly with SCE executive Stephen Pickett at the Hotel Bristol in Warsaw, Poland in early 2013, and developed a proposed term sheet which closely matched the structure of the terms in the 2014 settlement agreement. This hand-written term sheet was discovered in Peevey's top desk drawer, as if a souvenir, when his residence was searched in relation to the investigation of the 2010 San Bruno gas explosion, which killed 8 people and destroyed 24 homes, and resulted in a $1.6 billion fine.

Lutz said, "Without the fortuitous discovery of the RSG Note, it likely would not have been possible to achieve this win for the ratepayers. That was a lucky break."

Just before the 2014 settlement was approved by the CPUC, Citizens Oversight became the leading plaintiff in a federal lawsuit to undo the settlement. It also was one of only two parties that filed an application for rehearing at the CPUC just after it was approved.

The federal lawsuit was originally denied due to the acceptance of the argument that the 1934 Johnson Act, which limited taking regulatory matters to both state and federal courts, a habit of the regulated railroads of that time to tie up any case in legal proceedings virtually forever. But when appealed, the 9th circuit agreed to allow the case to proceed, since the Johnson Act was designed to limit the legal recourse available to the utilities, not ratepayer advocates. The fact that this case was allowed to proceed and was being headed up by the highly capable law firm of Aguirre & Severson LLP, played a role in convincing the utilities to settle the case. If the settlement agreement is approved by the CPUC, then this federal case will be dismissed.

In mid-2017, the lawsuit filed by SCE against their subcontractor, Mitsubishi Heavy Industries (MHI), for some $7 billion alleging fraud, was completed by the arbitration panel. The 1,100 page award document essentially ruled against SCE on every contention, resulting in the whole case costing more in legal fees (of nearly $150 million) compared with the contractually limited liability of MHI (about $138 million). Thus, the arbitration panel found that MHI was not at fault, and even though they did use the wrong computer model, the court found that the correct model would not have prevented the failure. Thus, both SCE and MHI say they did everything prudently and reasonably, and <u>still</u> the new steam generators failed.

Lutz, reflected, "We can learn a very important lesson from this case. The Replacement Steam Generator (RSG) project was well funded, had adequate time, was managed by a world-class corporation, utilized a subcontractor who had the relevant experience to complete the project, and utilized top engineering talent. Although, mistakes were made, the design was not actively sabotaged. Nevertheless, the four massive steam generators, which were supposed to last at least 40 years, suffered from such extreme vibration that they had to be shut down in as little as 11 months. The radioactive leak that prompted the shutdown was growing at 40% an hour and without that systematic shutdown, it could have been a much larger disaster.

"This nuclear plant did not shut down due to any external event like the earthquake and tsunami of Fukushima. It did not shut down due to operator error, such as occurred at Chernobyl and Three Mile Island. This plant shut down due to *design mistakes* that were not detected by traditional engineering and management techniques, nor detected by Nuclear Regulatory Commission (NRC) review. We must learn that even the best engineering practices and prudent management nevertheless may fail.

"But the consequences of nuclear plant failure is so high that design failure is not an option.

"Thus, nuclear plants, no matter how well designed on paper, may yet fail. Humans are fallible. Our ability to model complex systems is limited. Since the risk is unavoidable, the lesson is clear: Construction of new nuclear plants must be halted, existing plants should be shut down and

decommissioned in a systematic and expeditious manner.

We hope the utilities, and most importantly, Southern California Edison, will step forward and clearly state the same. Their own experience exemplifies this problem, and other utilities should take note and plan to exit the operation of these plants."

Fortunately, renewable energy solutions without these risks can quickly fill the energy deficit if we are serious about deploying them. They are already be much cheaper than nuclear power, particularly when you include the cost of nuclear waste, and allow failure, which we need as humans.

Other significant terms of the settlement:

- Edison and SDG&E forego recovery of $775 million in past investments in San Onofre. Had those costs been collected in rates, customers wold have paid $873 million between 2018 and 2022.
- Edison remains responsible for $16.74 million in sanctions imposed by the CPUC in 2015 for private discussions with regulators that violated the Ex Parte rules.
- Customers keep $370 million in credits from payments by Nuclear Energy Insurance Limited.
- SCE still owns an inventory of new nuclear fuel they had purchased based on the expectation that the plant would continue working for many years. The settlement allows SCE to sell and recover what they can from that inventory. The nuclear fuel market is currently at rock bottom and it is has questionable value particularly if the nuclear industry continues to decline.
- SCE will be able keep proceeds of the MHI case. But as stated, these recoveries were consumed by legal costs, resulting in zero or negative net proceeds.
- The agreement includes a provision that utility shareholders will provide $12.5 million to fund research at the California State University system to address mitigation and reduction of GHG emissions and to facilitate the adoption of renewable energy sources in rural and impoverished communities.
- There are provisions to exclude debts from the capital structure related to financing the regulatory asset which were included in the prior settlement. Those provisions are unchanged.
- Decommissioning is not affected, and parties to the agreement are at liberty to challenge decommissioning costs in other proceedings. This proceeding has no affect on nuclear spent fuel at the site.
- Two other agreements are being executed simultaneously.
    - First, an agreement between SDG&E and SCE which covers the costs of the new settlement when compared with the 2014 settlement from SDG&E standpoint. In other words, because SDG&E believes they were faultless in the *ex parte* violation of the "RSG Note" SCE will make SDG&E whole, even though their ratepayers will continue to have relief.
    - Second, there is a settlement agreement related to the federal lawsuit which will put lawsuit on hold and it will dismiss both defendants, SCE and CPUC with prejudice.

Citizens Oversight has developed a "Frequently Asked Questions" web page on the settlement which includes all the documents available and will be updated as soon as any new documents are available. The address is http://copswiki.org/Common/SanOnofreShutdownSettlementFAQS

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