EXHIBIT 48

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE

STATE OF CALIFORNIA

In Attendance: COMMISSIONER MICHAEL R. PEEVEY
COMMISSIONER MICHEL PETER FLORIO

ADMINISTRATIVE LAW JUDGES MELANIE M. DARLING and KEVIN DUDNEY, co-presiding

	)	EVIDENTIARY
	)	HEARING
Order Instituting Investigation on the Commission's Own Motion into the Rates, Operations, Practices, Services and Facilities of Southern California Edison Company and San Diego Gas and Electric Company Associated with the San Onofre Nuclear Generating Station Units 2 and 3.	)	Investigation 12-10-013
	)	Application 13-03-005
	)	Application 13-03-013
And Related Matters.	)	Application 13-03-014
	)	Application 13-01-016

REPORTER'S TRANSCRIPT
San Francisco, California
May 14, 2014
Pages 2655 - 2787
Volume - 15

Reported by: Alejandrina E. Shori, CSR No. 8856
Thomas C. Brenneman, CSR No. 9554
Michael J. Shintaku, CSR No. 8251

PUBLIC UTILITIES COMMISSION, STATE OF CALIFORNIA
SAN FRANCISCO, CALIFORNIA

MR. AGUIRRE: Your Honor, excuse me, but in the case of -- I have a case.

ALJ DARLING: No, I'm not going to entertain -- you know, under 451 or 452?

MR. AGUIRRE: 452.

ALJ DARLING: First of all, we don't subscribe to the Evidence Code. We use it as guidance.

MR. AGUIRRE: No, that's not true. You incorporate it. The official notice incorporates Evidence Codes 450 expressly.

ALJ DARLING: And I can tell you exactly that data requests would never be subject to official notice. Okay.

So I think what we're going to do is go off the record, take our ten-minute break. The judges will try to parse this into subsets, and we'll have to take it one by one, and you'll need to do an offer of proof to the extent you wish to use it.

MR. AGUIRRE: I'm not offering it. I'm just using it to examine the witness. I just want to mark it as an exhibit. I'm not offering it as evidence. It's just to be used as a document to assist in the examination of the witness so that he has readily available information about the questions I'm asking.

ALJ DARLING: Mr. Weissmann, do you have any objection to having it be marked?

MR. WEISSMANN: No, I don't have an objection to it being marked.

ALJ DARLING: All right. So Judge Dudney will mark it. We will take a ten-minute break and be back at about 10 after 3.

MR. AGUIRRE: Henricks No. 1.

ALJ DARLING: Off the record.

(Recess taken)

ALJ DARLING: Let's go back on the record.

And before we proceed with cross-examination, Judge Dudney.

ALJ DUDNEY: Mr. Geesman, we just wanted to have you introduce your exhibits.

MR. GEESMAN: Your Honor, I had two cross-examination exhibits which TURN and ORA stipulated to the admissibility of. I have inquired of both San Diego and Edison whether they have any objections. They indicate they do not. I've not inquired with the other parties, but I would move their admission into evidence.

ALJ DUDNEY: Let's take it a step at a time and get them marked first. From my notes I have labeled the TURN discovery

response as ANR-50 and the ORA discovery response as ANR-51.

MR. GEESMAN: So I would move A4NR-50.

ALJ DUDNEY: Any objections?

(No response)

ALJ DUDNEY: Hearing none.

MR. GEESMAN: I would move A4NR-51.

ALJ DUDNEY: Any objections?

(No response)

ALJ DUDNEY: Hearing no objections, ANR-50, the TURN discovery response is marked for identification and admitted into evidence, and ANR-51, the ORA discovery response, is marked for identification and admitted into evidence.

(Exhibit No. ANR-50 and ANR-51 were marked for identification.)

(Exhibit No. ANR-50 and ANR-51 were received into evidence.)

MR. GEESMAN: Thank you, your Honor.

ALJ DUDNEY: Thank you, Mr. Geesman.

Mr. Heiden, do you want to introduce the ORA -- or excuse me -- DRA exhibits as well.

MR. HEIDEN: Thank you, your Honor. I have a statement of qualifications. It's titled Qualifications and Prepared Testimony of Robert Mark Pocta. I gave copies to some

California Edison that ratepayers have that it acted unreasonably?

A I have not signed any declarations.

Q Have you provided any time sheets or time records illustrating your attorney's review of that question to the Commission?

A I have not.

Q Is there anything that you know of that's before the Commission that would establish the sufficiency of the settling parties' investigation into the extent to which SCE was responsible for the RSG design errors?

A Would you repeat that question?

Q I will. Is there anything before the Commission to establish the sufficiency of the settling parties' investigation into the extent to which Southern Cal Edison was responsible for the RSG design errors?

A There is not.

Q Okay. Now, did you conduct an investigation that if the Commission were to find that Southern California Edison acted unreasonably, that it would be -- that the potential recovery to ratepayers would not just be the cost of the replacement steam generators, but it would be the full costs of the failure of those generators rendering the

MR. AGUIRRE: Excuse me, your Honor. They make specific reference to this issue. In the factual findings, they talk about design errors. This is a design error. All I'm doing is examining him on that.

ALJ DARLING: We are looking at material contested issues of fact.

MR. AGUIRRE: This is. This is the material contested issue of fact.

ALJ DARLING: You're contesting whether there were design errors?

MR. AGUIRRE: I'm contesting whether there was an evaluation made of the claim against Southern Cal Edison that the Commission can evaluate one way or the other the strength of that claim in deciding whether this is a fair settlement, which is what their fiduciary obligation requires them.

MR. WEISSMANN: Can I be heard, your Honor?

ALJ DARLING: Are you finished, Mr. Aguirre?

MR. AGUIRRE: Yeah.

ALJ DARLING: Sounded like it.

Mr. Weissmann.

MR. WEISSMANN: It appears to us that counsel is attempting to transform this

MR. WEISSMANN: Object to the form of the question.

ALJ DARLING: It is argumentative. But I'm going to let that part go. But after this next question, Mr. Aguirre, you're going to have to give me an offer of proof of how this is going to lead to relevant evidence related to material contested issues of fact.

MR. AGUIRRE: Q Okay. Go ahead. Were you -- were they?

WITNESS LITZINGER: A Southern California Edison has ex parte communications with commissioners on multiple matters all the time.

Q How many times have you spoken to Mr. Peevey since November of 2012?

MR. WEISSMANN: Objection, your Honor. Relevance.

ALJ DARLING: Sustained.

MR. AGUIRRE: Let me give you my offer of proof. It's our contention that the representation by the Commission that there was going to be an investigation into the reasonableness of Southern California Edison's deployment of the defective steam generators was a promise of an investigation with the intent not to perform it.

It is our contention that you,

Ms. Darling, Judge Darling, entered a ruling that put the investigation off into the remote future in order to avoid any such investigation.]

It's our position that Mr. Peevey helped to orchestrate this settlement through Mr. Freedman and others, and it wasn't a settlement negotiation. It was a meeting to figure out how not to have the reasonableness investigation.

The rulings that you made prohibiting any kind of discovery into the relevant issues, when the dis- -- when the settlement was announced, the coordinated press releases that falsely stated, from Mr. Florio and Mr. Peevey, that the parties had settled which was picked up as part of the blitzkrieg in which the ratepayers were misinformed that they were going to get a $1.4 billion refund was a collusive, not bona fide basis for this settlement. And we have a right to try to develop that record, which you are not permitting us to do.

And let me just ask this.

ALJ DARLING: All right.

MR. AGUIRRE: Let me just ask Mr. Peevey a question.

ALJ DARLING: No. You don't have --

MR. AGUIRRE: Mr. Peevey --

ALJ DARLING: -- any questions.

MR. AGUIRRE -- did you have any discussions with any parties?

ALJ DARLING: No.

MR. AGUIRRE: -- about the settlement process while it was taking place, sir?

Will you put that on the record?

And same with Mr. Florio. Will you put that on the record?

ALJ DARLING: Mr. Aguirre, you are in the middle of an offer of proof. You segued into trying to interrogate people who are not under oath or on as witnesses in this proceeding. So let me just stop you here.

MR. AGUIRRE: They have an obligation to put that on the record --

ALJ DARLING: First of all, if your offer of proof is that you think by exploring that line of questioning that you may develop some evidence of collusion, that is not a material contested issue of fact --

MR. AGUIRRE: It is.

ALJ DARLING: -- as it relates to the settlement.

If you want to make some kind of allegation of bias, this is not the proceeding to do that.

ALJ DARLING: Any further recross -- redirect?

MR. WEISSMANN: No, your Honor.

ALJ DARLING: All right. Commissioner Florio, President Peevey, any comments?

COMMISSIONER PEEVEY: The only comment I would make is that I came here today hoping to be educated. I walk out of here without that happening. I am very disappointed by the whole back and forth here. It has not illuminated the settlement one iota.

As far as TURN goes, I think it's general knowledge my relationship with TURN is, to be fair, chilly. And I have never talked to Mr. Freedman on this topic during that whole time at all. Period. Mr. Freedman. That's it. Sorry.

MR. AGUIRRE: What about Southern Cal Edison?

COMMISSIONER PEEVEY: Sorry.

Edison?

MR. AGUIRRE: Yeah.

COMMISSIONER PEEVEY: I'm not here to answer your questions.

ALJ DARLING: Mr. Aguirre.

COMMISSIONER PEEVEY: I'm not here to answer your goddamn question. Now shut up. Shut up.

MR. AGUIRRE: Really. That's how you perform yourself?

COMMISSIONER PEEVEY: No. That's how the way you perform yourself for hours.

MR. AGUIRRE: No. Answer the question --

COMMISSIONER PEEVEY: -- that's how you performed yourself.

ALJ DARLING: Mr. Aguirre.

COMMISSIONER PEEVEY: I don't have to answer anything.

You asked me one specific question --

MR. AGUIRRE: No. I asked you --

COMMISSIONER PEEVEY: -- did I talk to Freedman, and I said no.

ALJ DARLING: Mr. Aguirre, if you do not stop talking right now, I'm asking to cite you for Rule 1, do you hear me?

Do you understand?

Mr. Aguirre, do you understand?

MR. AGUIRRE: I hear you.

ALJ DARLING: Thank you.

COMMISSIONER PEEVEY: You come here and berate this place. That's unfair and unreasonable on your part, and you know it.

MR. AGUIRRE: No. You are the one that should be ashamed for what you've done in

failing to sustain the public interest, sir, and for protecting the ratepayers, which is your sworn fiduciary duty. The travesty.

COMMISSIONER PEEVEY: We're not -- it's a political circus for you, but the rest of us take our job seriously.

MR. AGUIRRE: It's not political circus. This is a kangaroo court. That's not a political circus.

ALJ DARLING: Commissioner Florio?

COMMISSIONER FLORIO: I would simply add that at numerous points on the record of this proceeding, I urged the parties to pursue settlement and I was pleased when one was achieved.

I had no part in formulating the settlement and was not aware of it until it was published online in the 8-K.

MR. AGUIRRE: Thank you.

ALJ DARLING: All right. Judge Dudney, are there any exhibits -- they're all marked and admitted; right?

We're not admitting Henricks-1.

ALJ DUDNEY: All the exhibits have been marked and admitted.

ALJ DARLING: All right. Thank you. This hearing is adjourned.

(Whereupon, at the hour of 4:05 p.m., this matter having been

concluded, the Commission then adjourned.)

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BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE

STATE OF CALIFORNIA

Order Instituting Investigation on the Commission's Own Motion into the Rates, Operations, Practices, Services and Facilities of Southern California Edison Company and San Diego Gas and Electric Company Associated with the San Onofre Nuclear Generating Station Units 2 and 3.	Investigation 12-10-013
	Application 13-03-005
	Application 13-03-013
And Related Matters.	Application 13-03-014
	Application 13-01-016

CERTIFICATION OF TRANSCRIPT OF PROCEEDING

I, Alejandrina E. Shori, Certified Shorthand Reporter No. 8856, in and for the State of California do hereby certify that the pages of this transcript prepared by me comprise a full, true and correct transcript of the testimony and proceedings held in the above-captioned matter on May 14, 2014.

I further certify that I have no interest in the events of the matter or the outcome of the proceeding.

EXECUTED this 14th day of May, 2014.

_____

Alejandrina E. Shori
CSR No. 8856

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE

STATE OF CALIFORNIA

Order Instituting Investigation on the Commission's Own Motion into the Rates, Operations, Practices, Services and Facilities of Southern California Edison Company and San Diego Gas and Electric Company Associated with the San Onofre Nuclear Generating Station Units 2 and 3.	Investigation 12-10-013
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	Application 13-01-016

CERTIFICATION OF TRANSCRIPT OF PROCEEDING

I, Thomas C. Brenneman, Certified Shorthand Reporter No. 9554, in and for the State of California do hereby certify that the pages of this transcript prepared by me comprise a full, true and correct transcript of the testimony and proceedings held in the above-captioned matter on May 14, 2014.

I further certify that I have no interest in the events of the matter or the outcome of the proceeding.

EXECUTED this 14th day of May, 2014.

_____

Thomas C. Brenneman
CSR No. 9554

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE

STATE OF CALIFORNIA

Order Instituting Investigation on the Commission's Own Motion into the Rates, Operations, Practices, Services and Facilities of Southern California Edison Company and San Diego Gas and Electric Company Associated with the San Onofre Nuclear Generating Station Units 2 and 3.	Investigation 12-10-013
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And Related Matters.	Application 13-03-014
	Application 13-01-016

CERTIFICATION OF TRANSCRIPT OF PROCEEDING

I, Michael J. Shintaku, Certified Shorthand Reporter No. 8251, in and for the State of California do hereby certify that the pages of this transcript prepared by me comprise a full, true and correct transcript of the testimony and proceedings held in the above-captioned matter on May 14, 2014.

I further certify that I have no interest in the events of the matter or the outcome of the proceeding.

EXECUTED this 14th day of May, 2014.

Michael J. Shintaku
CSR No. 8251

EXHIBIT 49

Los usuarios con acceso al Internet podrán leer y descargar esta notificación en español en el sitio Web de SCE www.sce.com/avisos o escriba a:

Southern California Edison Company
P.O. Box 800
2244 Walnut Grove Avenue
Rosemead, CA 91770
Atención: Comunicaciones Corporativas

Para mas detalles en Español, llame al 1-800-441-2233 Monday - Sunday 8:00 a.m. - 8:00 p.m.
1-800-643-1000 ▲ 中文 1-800-843-8343 ▲ 한국어 1-800-628-3601 ▲ Tiếng Việt 1-800-327-3001 Monday - Friday 8:00 a.m. - 5:00 p.m.

SOUTHERN CALIFORNIA EDISON®

An *EDISON INTERNATIONAL®* Company

SOUTHERN CALIFORNIA EDISON COMPANY (SCE)

NOTICE OF ENERGY RESOURCE RECOVERY ACCOUNT (ERRA) FOR 2015 APPLICATION A.14-06-011

PROPOSAL TO INCREASE YOUR ELECTRIC RATES

Southern California Edison Company (SCE) has filed an Energy Resource Recovery Account (ERRA) forecast application with the California Public Utilities Commission (CPUC). This application is referred to as A.14-06-011. In an ERRA forecast application, SCE estimates the costs of fuel that it needs to generate electricity, and the costs of additional power it purchases for its customers for the following year. This information is provided to the CPUC to determine SCE's rates.

In addition to estimating the 2015 fuel and purchased power cost, the ERRA includes:

(1) A request to recover amounts in accounts authorized by the CPUC that did not have sufficient funds to cover costs (under-collected) in 2014, and

(2) other expenses recoverable in ERRA proceedings, such as expenses related to spent nuclear fuel.

In this application, SCE is requesting the Commission to authorize SCE's 2015 ERRA proceeding revenue requirement of $6.406 billion. This request represents an increase of $1.250 billion from SCE's 2014 ERRA revenue requirement (implemented on June 1, 2014).

The following table compares the current 2014 ERRA rates to the forecast 2015 ERRA rates:

Customer Group Revenue Impact
2015 ERRA Application Compared to
Current ERRA Rates

Customer Group	System			Bundled	
	Current Revenues ($000)	2015 ERRA Change ($000)	% Change	Current Rates (¢/kWh)	2015 ERRA Rates (¢/kWh)
Residential	5,121,426	512,246	10.0%	17.76	19.52
Lighting - Small and Medium Power	4,740,830	437,987	9.2%	18.28	20.08
Large Power	2,135,450	213,008	10.0%	12.99	14.50
Agricultural and Pumping	418,362	46,328	11.1%	14.67	16.30
Street and Area Lighting	136,623	8,981	6.6%	18.81	20.05
Standby	279,267	31,210	11.2%	10.96	12.30
Total	12,831,959	1,249,760	9.7%	16.70	18.40

If SCE's proposed ERRA rate change is approved as requested, an average non-CARE residential electric customer would see a bill increase of $11.29 per month, from $124.76 to $ 136.05.

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The Commission is also currently investigating SCE's actions regarding the long-term outages and ultimate retirement of the San Onofre Nuclear Generation Station (SONGS). This is a separate proceeding (I.12-10-013) and has a proposed settlement that is pending CPUC approval. If adopted, this would result in refunds that would offset a portion of SCE's proposed rate increase in this proceeding.

If this settlement is adopted by the CPUC, SCE's 2015 ERRA proceeding revenue requirement would be $5.624 billion, which would represent an increase of $468 million from SCE's 2014 ERRA revenue requirement (implemented on June 1, 2014).

The following table compares the current 2014 ERRA rates to the forecast 2015 ERRA rates if the SONGS settlement is approved:

Customer Group Revenue Impact
2015 ERRA Application With SONGS Settlement Compared to Current ERRA Rates

Customer Group	System			Bundled	
	Current Revenues ($000)	2015 ERRA Change ($000)	% Change	Current Rates (¢/kWh)	2015 ERRA Rates (¢/kWh)
Residential	5,121,426	163,484	3.2%	17.76	18.32
Lighting - Small and Medium Power	4,740,830	180,296	3.8%	18.28	19.02
Large Power	2,135,450	87,893	4.1%	12.99	13.61
Agricultural and Pumping	418,362	19,320	4.6%	14.67	15.35
Street and Area Lighting	136,623	4,567	3.3%	18.81	19.44
Standby	279,267	12,874	4.6%	10.96	11.51
Total	12,831,959	468,433	3.7%	16.70	17.33

If SCE's proposed ERRA rate change with SONGS settlement is approved as requested, an average non-CARE residential electric customer would see a bill increase of $3.60 per month, from $124.76 to $ 128.36.

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This Application is a forecast and is likely to change prior to including these costs in next year's electric rates. SCE expects to update this Application in November 2014.

FOR FURTHER INFORMATION FROM SCE

You may review a copy of this Application and related exhibits at SCE's corporate headquarters (2244 Walnut Grove Avenue, Rosemead, CA 91770). You may also view these materials at the following SCE business offices:

1 Pebbly Beach Rd. Avalon, CA 90704	1820 Rimrock Rd. Barstow, CA 92311	374 Lagoon St., Bishop, CA 93514
505 W. 14th Ave. Blythe, CA 92225	3001 Chateau Rd. Mammoth Lakes, CA 93546	510 S. China Lake Blvd., Ridgecrest, CA 93555
26364 Pine Ave. Rimforest, CA 92378	41694 Dinkey Creek Rd. Shaver Lake, CA 93664	421 W. J St., Tehachapi, CA 93561
120 Woodland Dr., Wofford Heights, CA 93285	6999 Old Woman Springs Rd. Yucca Valley, CA 92284	

Customers with Internet access may view and download SCE's application and the papers supporting it on SCE's website, **www.sce.com/applications** (type A.14-06-011 into the Search box and click "Go"). Anyone who would like to obtain more information about the application, please write to:

Southern California Edison Company
2015 ERRA Forecast Application
P.O. Box 800
Rosemead, CA 91770
Attention: Law Dept - Case Administration

CPUC PROCESS

The CPUC will evaluate and determine the ERRA forecast through its administrative law process where the proceeding is assigned to an Administrative Law Judge (Judge) who will direct the method in which the record, upon which the Commission bases its decisions, is made. The Judge **may** hold evidentiary hearings where parties to the proceeding provide testimony and other parties may cross-examine them. These hearings are open to the public, but only formal parties of record may participate. After considering all proposals and evidence presented, the assigned Judge will issue a proposed decision. The Commissioners may approve the proposed decision as written, modify it, approve another proposal written by a Commissioner or completely deny SCE's request.

The CPUC also would like to hear from you. You may submit informal comments to the CPUC's Public Advisor's Office at:

Write: California Public Utilities Commission
Public Advisor's Office
505 Van Ness Avenue
San Francisco, CA 94102

E-mail: Public.Advisor@cpuc.ca.gov

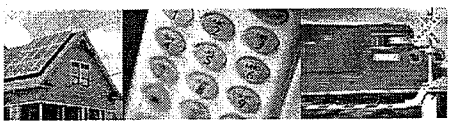
Telephone: 1-866-849-8390 or 1-415-703-2074

Please state that you are writing concerning SCE's application A.14-06-011. Your comments will become a part of the formal correspondence file for public comment in this proceeding.

You may also contact the CPUC Public Advisor's Office if you need advice on how to participate in this proceeding.

June 2014

EXHIBIT 50



California Public Utilities Commission

Actions to Limit Utility Cost and Rate Increases in Compliance with Public Utilities Code 748

ENERGY DIVISION

REPORT TO THE GOVERNOR AND LEGISLATURE

June 2014

I. Electric Utility Costs and Revenue Requirements

A. Work Area

Utilities file detailed descriptions of the costs of providing service (commonly referred to as revenue requirements to be collected from customers) in various proceedings and request the CPUC to approve their proposed revenue requirement. The CPUC strives to balance the electric utility customers' needs for safe, reliable, and environmentally responsible service and the utilities' financial health, while achieving the lowest possible rates. Since energy services are essential, the CPUC ensures that access is universal and affordable. The bulk of utility revenue requirement is requested in General Rate Cases (GRCs) and the Energy Resource Recovery Account (ERRA) proceedings. GRCs address a utility's revenue requirement for maintaining and enhancing their generation and distribution infrastructure. ERRA costs are primarily fuel and purchased power costs which carry no mark-up or rate of return for the utility. In addition to the GRCs and ERRA proceedings, some costs are requested by the utilities in specific proceedings related to program areas such as energy efficiency, renewables portfolio standard (RPS), California Solar Initiative (CSI), distributed generation (DG) and demand response (DR), which are described in other chapters of this report.

Table II-1
Total Authorized Electric Revenue Requirements effective January 1, 2014
($ Million)

PG&E	SCE	SDG&E
$13,032	$12,063	$3,545

The utilities file GRC applications every three or four years. CPUC decisions on utilities' GRC applications establish revenue requirements for an initial forecast year (test year), and two or three subsequent "attrition years" to account for cost escalation during the GRC cycle.

PG&E, SCE, and SDG&E file ERRA forecast applications annually to recover fuel and purchased power costs expected during a future annual period. Each utility also files an annual ERRA compliance application to address actual ERRA costs incurred during a prior annual period. The ERRA proceedings were established by the CPUC in 2002 in response to AB 57 (2001), which required that the utilities receive timely recovery of their electricity procurement costs.

All of the CPUC-approved GRC and ERRA costs are recovered through two main types of rate charges -- generation and distribution -- which appear on customer bills as separate line items. Transmission-related costs and revenue requirements are under the jurisdiction of the Federal

Energy Regulatory Commission (FERC) and are recovered in the transmission component of rates. The grouping of rates into generation, distribution, and transmission is primarily based on the costs of each of these functional areas of utility business. However, the distribution rate component includes costs of many public policy programs that should be paid for by all customers who use the utility distribution system.

A more detailed description of how utility revenue requirements are established can be found in the 2014 AB 67 Report.[3]

B. Activities and Proceedings in the next 12 months

1. Electricity General Rate Cases

The major components of costs that are reviewed and determined in the GRCs include operations and maintenance, depreciation, return on rate base, and taxes. The revenue requirements for 2014 authorized by the CPUC in recent GRCs for the three major utilities are listed below.

Table II-2
2014 Authorized Electric General Rate Case Revenue Requirements ($ Million)

	PG&E*	SCE	SDG&E
Operations and Maintenance	$2,202	$2,272	$658
Depreciation	$1,800**	$1,222	$274
Return on Rate Base	$1,008	$1,465	$300
Taxes	$451	$712	$207
Attrition ***		$478	$79
Total	**$5,461**	**$6,149**	**$1,518**

* The revenue requirements shown for PG&E do not reflect any increases proposed by PG&E in its pending 2014 GRC Application. The CPUC is expected to issue a decision in that case in the 2nd quarter of 2014.

**Includes $36 million for fossil decommissioning.

*** SCE's attrition allowances apply to years 2013 and 2014; attrition for both years is shown above. SDG&E's attrition allowances apply to years 2013 – 2015; attrition for years 2013 and 2014 is shown above.

[3] Electric and Gas Utility Cost Report to the Governor and Legislature, available at _____

a) PG&E 2014 GRC

In November 2012, PG&E filed its 2014 GRC application. PG&E is seeking an increase of $796 million over the currently authorized electric revenue requirement in that case. PG&E cites safety and reliability related reasons for its requested increase including the need for investments in its electric distribution system, and expenditures on its nuclear and hydroelectric facilities. The CPUC is expected to issue a decision in PG&E's 2014 GRC application in the 2nd quarter of 2014.

b) SCE 2015 GRC

In November 2013, SCE filed its 2015 GRC application. SCE is seeking an increase of $206 million over the currently authorized electric revenue requirement in that case. SCE cites the need to connect new customers to the system, upgrade its distribution infrastructure and business systems, test and replace distribution poles, and the increase in cost for removing depreciated assets as reasons for the increase it has requested. The CPUC is expected to issue a decision in SCE's 2015 GRC in late 2014 or early 2015.

c) SDG&E 2016 GRC

In the 4th quarter of 2014, SDG&E will file its 2016 GRC application. The CPUC will consider testimony and conduct hearings in that case during 2015. A decision is expected in late 2015 or early 2016.

2. Electric Fuel and Purchased Power Costs

The CPUC establishes PG&E's, SCE's, and SDG&E's revenue requirements to recover their costs for fuel for their power plants and to procure electricity under purchased power contracts in the annual ERRA forecast proceeding. The CPUC establishes an ERRA rate component based on a forecast of the costs, which are passed through to customers without any mark-up or profit for the utility. Fuel and purchased power costs fluctuate with the market prices.

Utilities' actual fuel and purchased power costs, and the revenues they collect from customers to pay these costs, are tracked in a balancing account and addressed in a subsequent ERRA or related CPUC proceeding. In the event that the revenues exceed the costs, then the account balance (difference between costs and revenues) is returned to the customers. If the costs exceed the revenues then the costs are recovered from customers.

The CPUC also has rules in place to ensure that the revenue requirement collected by the utilities tracks closely with the CPUC's pre-specified market price benchmarks for gas and actual purchased power costs. If a utility's ERRA account balance exceeds 4% of its actual generation revenues in the prior year (i.e., the "trigger" level) and the balance is expected to exceed 5% of those revenues, the utility is generally required to file an expedited application to propose to amortize the balance in rates, resulting in a rate reduction. If the balance is expected to decline

EXHIBIT 51

STATE OF CALIFORNIA EDMUND G. BROWN, JR, Governor

PUBLIC UTILITIES COMMISSION
LEGAL DIVISION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298
ID 94-3031253

July 31, 2014

VIA EMAIL

Mike Aguirre
maguirre@amslawyers.com

Re: California Public Records Act Request
CPUC Reference No.: PRA #1165

Dear Mr. Aguirre:

Upon further review, the Commission has decided not to assert the deliberative process privilege as a basis for refraining from providing the report from Dr. Budnitz to the Commission. A copy of the report is attached.

I hope this is helpful.

Sincerely,

Fred Harris

Fred Harris
Staff Counsel

Attachment:

Alviar, Janet

From: Bob Budnitz <budnitz@pacbell.net>
Sent: Monday, December 02, 2013 7:17 PM
To: Lafrenz, Donald J.
Subject: Budnitz to Lafrenz on DCISC eval. of SONGS SGs
Attachments: Budnitz to Lafrenz on DCISC eval. of SONGS SGs.doc

Dear Don,

Attached is my DRAFT. I am worried that it may seem too "flippant" or "casual." So your reaction is important lest I put something out that isn't satisfactory. Hence, your review is sought.

As the draft report itself notes, I am responding to the following in the CPUC contract's Scope of Work:

> *Within approximately 90 days of the commencement of the contract (the contract is expected to commence by the middle of September 2013) provide a report to the Energy Division with an analysis focusing on why the steam generators at DCPP and their design has been successful while the SGs design by Mitsubishi for SONGS resulted in excessive tube wear and tube failure.*

Well, this is hardly an "analysis" although it is an "evaluation" and it does explicitly answer the question "why."

Thanks, Bob

Home in Berkeley:
Robert J. Budnitz
734 The Alameda
Berkeley CA 94707
(Phone) 510-527-9775
Email: budnitz @ pacbell.net

Robert J. Budnitz
734 The Alameda, Berkeley California 94707
telephone 510-527-9775
fax 510-527-1203
e-mail: budnitz@pacbell.net

DRAFT FOR REVIEW BY DON LAFRENZ

1 December 2013

TO: Donald Lafrenz, CPUC

FROM: Robert Budnitz

SUBJECT:
An evaluation that explains why the performance of the replacement steam generators at Diablo Canyon Power Plant has been different than the performance of the replacement steam generators at SONGS

SCOPE

In the "Scope of Work" part of the CPUC agreement that engaged my consulting services, the first "Deliverable" is described as follows:

> *Within approximately 90 days of the commencement of the contract (the contract is expected to commence by the middle of September 2013) provide a report to the Energy Division with an analysis focusing on why the steam generators at DCPP and their design has been successful while the SGs design by Mitsubishi for SONGS resulted in excessive tube wear and tube failure.*

In my first meeting with you and your CPUC colleagues on 30 September 2013, you noted that one important part of this evaluation would be to review the findings and conclusions of the Diablo Canyon Independent Safety Committee (DCISC) on this same technical issue.

WHAT I DID

First I reviewed the DCISC's 2012 and 2013 Annual Reports to find what I could on this subject. (Of course, I am one of the 3 members of the DCISC, so this was easy for me to do.) Then, I reviewed the information that I had already learned from my study of several different documents that I had been reviewing anyway, so as to gain a full understanding of the technical issues related to the events at SONGS. These included documents from So. California Edison, from Mitsubishi, and from the US Nuclear Regulatory Commission, along with general information on steam generator performance that I had available to me.

Then I thought about the issue a bit, sat down, and I am writing this report.

MY ANALYSIS

The explanation of why the performance of the RSGs (replacement steam generators) at Diablo Canyon has been different than that of the RSGs at SONGS is on one level rather easy. A major part of the explanation is that the specifications for the DCPP and SONGS designs, while superficially similar, are quite different. The SONGS RSGs are much larger --- the SONGS reactor design uses two SGs per unit, while the DCPP design has four SGs per unit, so the amount of energy, power, water, etc. that the SGs at SONGS need to process and cope with at full power is about twice as large. (This is approximate – the DCPP reactors produce about 6-7% more power than did those at SONGS, a modest difference.)

This size difference by itself places very different constraints on the RSG design in terms of flows, stresses, material properties, and the like. The design solutions always need to embed "margin" in various attributes to assure that performance is adequate, but the way these margins are determined, the places where they are embedded, the amounts of the different margins, and the figures-of-merit used by the different designers are all different, sometimes markedly so. For example, there are margins in the heat-transfers, in the material strengths, in the configuration tolerances and clearances, in the allowances for manufacturing errors, and so on. Taken all together, these margins should produce a final design that will operate without the problems that were experienced at SONGS. And the fact that the SONGS and Diablo Canyon RSGs are so different in size means that these design solutions are surely very different in detail.

Second, the designs were executed and the SGs were built by different manufacturers, Mitsubishi (a Japanese firm) in the case of SONGS, and in the case of DCPP Equipos Nucleares SA (a Spanish firm, but with major parts made by subcontractors in Japan and Sweden.)* As is true of many other pairs of similar products made by different manufacturers (think of similar passenger cars by Ford and Toyota, or similar commercial aircraft by Boeing and Airbus, or even similar household refrigerators or furnaces), the design solutions arrived at by the various manufacturers are different enough that they are simply not comparable at the level of detailed engineering. Hence, only a minutely detailed comparison at the level of numerous specific design decisions (involving the numerous "tradeoffs" that are the real nitty-gritty of any complex design problem) could reveal genuine differences that would affect performance.

Third, and most importantly, it is clear that somewhere along the line as the SONGS RSGs went from conceptual design to detailed design to fabrication to testing to installation to operation, one or more errors was made. That this is so almost a tautology --- Mitsubishi itself has produced RSGs at other nuclear plants around the world that have performed satisfactorily, as have the RSGs made by several other SG manufacturers. On the part of everyone involved, there was every expectation that this successful

* The major forgings for DCPP's RSGs were made by Japan Steel Works and the tubing was made by Sandvick, a Swedish firm, all under subcontract to ENSA.

performance record would be true at SONGS also. It wasn't, and that implies one or more errors somewhere --- I am not sure where, but somewhere.

My insight from observing that different design solutions were found for a "similar design problem" for SONGS vs. DCPP is that, because of the differences (size, for one, but other differences too), the opportunity for a similar error was very small – not zero, but very small.

Most importantly, the RSGs at Diablo Canyon have performed very well so far, since 2008 (Unit 2) and 2009 (Unit 1), meaning into what is now Unit 2's third refueling cycle and Unit 2's fourth cycle. Based on this experience, it is clear that no similar error(s) occurred at DCPP. Thus my answer to the question in the "Scope of Work" ("*why the steam generators at DCPP and their design has been successful while the SGs design by Mitsubishi for SONGS resulted in excessive tube wear and tube failure*") is that at DCPP no comparable errors were committed.

That, in a nutshell, is my evaluation of the difference. If it sounds obvious – well, it is.

This was also the evaluation of the DCISC when the committee asked (and tried to answer) the same question. The DCISC's remit is evaluating the operational safety at Diablo Canyon, and to discharge that remit the DCISC reviewed the performance of the RSGs at DCPP after the adverse news from SONGS made it pressing to do so. Based on that review, the DCISC members convinced themselves that problems similar to those at SONGS had not occurred at DCPP. The DCISC then wrote that down and moved on – with the caveat that the DCISC has committed to reviewing the performance of the Diablo Canyon RSGs on an ongoing basis, after each outage for example, or whenever other information may arise. And to date, the information supports a continuing conclusion at DCPP of "so far so good."

The DCISC documented its conclusion on this technical topic in its May 2012 Fact Finding report, which conclusion was repeated verbatim in its 2011-2012 Annual Report (released in autumn 2012), to wit:

> *Because of the San Onofre Generating Station (SONGS) Steam Generator (SG) tube failures of relatively new SGs, the DCISC reviewed the health of DCPP's relatively new SGs. DCPP's SG tubes had shown excellent inspection and test results in Outages 2R15 and 1R16 and are considered to be in excellent health. DCPP's plant and SGs were designed and fabricated by a different manufacturer than SONGS. Although in excellent health, the DCISC will monitor SG inspection results during future outages.*

This simple conclusion is all that can be found in the DCISC's 2011-2012 annual report on this subject. Nothing that has arisen from inspections or other performance data at DCPP in the intervening year-plus has provided any information that would challenge this conclusion, and the subject is not discussed explicitly in the DCISC Annual Report for 2012-2013.

IS MORE DESIRED?

I have tried to provide as straightforward an answer as I can to the question asked ("*why the steam generators at DCPP and their design has been successful while the SGs design by Mitsubishi for SONGS resulted in excessive tube wear and tube failure.*")

If more is desired, then I can undertake it. But that would be addressing a different question. Such a question might be, for example, "*What error(s) led to the tube failure(s)?*" or "*At what stage were those errors made?*" or "*Who made those errors?*" or "*What might have been done, and by whom, and at what stage, to have averted those errors?*" or "*What arrangements in place elsewhere, technical or administrative or both, that were successful in averting these errors somehow didn't work adequately for the SONGS RSGs?*" Each of these is a much bigger question, one that I am developing insights into but on which my opinion(s) will only crystallize later as I dig into more information.

EXHIBIT 52

STATE OF CALIFORNIA EDMUND G. BROWN, JR. Governor

PUBLIC UTILITIES COMMISSION
LEGAL DIVISION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298
ID 94-3031353

August 26, 2014

VIA ELECTRONIC MAIL

Mike Aguirre
1050 West Broadway Suite 1050
San Diego, California 92101
maguirre@amslawyers.com

Re: **Records request re July 8, 2013 meeting at the California Club – Post SONGS Strategy Dinner**
CPUC Reference No.: PRA #1232

Dear Mr. Aguirre:

You ask the California Public Utilities Commission ("Commission") to provide you with:

> any writings showing whether Michael Peevey or any other CPUC Commission attended the meeting identified below held at the California Club. Please provide any record of payments, any writings related to the 8 July 2014 meeting identified below. Also please provide any form 700 showing who paid for the Strategy Dinner, who was in attendance, record of what was said.

The writings related to a July 8, 2013 dinner at the California Club, identified in a calendar entry as a "Post SONGS Strategy Dinner."

We consulted the staff from President Michael Peevey's office and they informed us that: (1) the dinner took place one month after the permanent closure of SONGS; (2) the purpose was to discuss reliability going forward; (3) no investor owned utility representatives were present; (4) the proposed settlement was not discussed; and (5) the attendees paid for their own dinners.

The Commission has no record of payments or records of what was said at the dinner. We are sending you a copy of President Peevey's Form 700 for 2013. As you will see, it includes no entries for the July 8, 2103 dinner President Peevey had with representatives of other governmental entities.

Please refer to PRA #1232 in all of your communications with the Commission regarding the above-referenced matter.

I hope this is helpful.

Sincerely,

Fred Harris
Staff Counsel

Attachment

EXHIBIT 53

MD2/KD1/ek4 9/11/2014

FILED
9-11-14
12:16 PM

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation on the Commission's Own Motion into the Rates, Operations, Practices, Services and Facilities of Southern California Edison Company and San Diego Gas and Electric Company Associated with the San Onofre Nuclear Generating Station Units 2 and 3.	Investigation 12-10-013 (Filed October 25, 2012)
And Related Matters.	Application 13-01-016 Application 13-03-005 Application 13-03-013 Application 13-03-014

ADMINISTRATIVE LAW JUDGES' RULING TAKING OFFICIAL NOTICE OF DOCUMENTS AND ADDRESSING VARIOUS MOTIONS

This Ruling takes official notice of several documents identified by the Administrative Law Judges (ALJ's) evidencing Final Actions by the United States Nuclear Regulatory Commission, and addresses the following motions:

- Alliance for Nuclear Responsibility's (A4NR) November 22, 2013 "Motion for Official Notice" (A4NR Motion);
- Coalition to Decommission San Onofre's (CDSO) May 12, 2014 "Motion to Strike Documents and Portions Thereof Ruled not in Scope of the Evidentiary Hearing" (CDSO Motion);
- Nine motions by Ruth Henricks (Henricks), filed between May 8 and May 27, 2014, that Request Official Notice of various documents (Henricks Motions 1 through 9);

- Women's Energy Matters (WEM) July 9, 2014 Motion for Official Notice (WEM's Motion)
- Henricks' and CDSO's August 5, 2014 Motion to Reopen the Record (Henricks/CDSO Motion); and
- Henricks' Motion to File a Reply to the Joint (Settling Parties)[1]Response to the Henricks/CDSO Motion.

1. Standard for Official Notice

Most of the motions addressed in this ruling seek official notice of various documents based on the Commission's discretionary Rule 13.9 of the Commission's Rules of Practice and Procedure (Rules). Rule 13.9 provides the Commission may "take official notice of such matters as may be judicially noticed" by California courts pursuant to California Evidence Code[2] § 450 *et seq.* Moving parties either explicitly, or implicitly, primarily rely on the discretionary terms of California Evidence Code § 452, which state:

> 452. Judicial notice may be taken of the following matters to the extent that they are not embraced within Section 451:[3]
>
> (a) The decisional, constitutional, and statutory law of any state of the United States and the resolutions and private acts of the Congress of the United States and of the Legislature of this state.

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[1] Settling Parties consist of Southern California Edison Company (SCE), San Diego Gas & Electric Company (SDG&E), Office of Ratepayer Advocates (ORA), The Utility Reform Network (TURN), Friends of the Earth (FOE), and Coalition of California Utility Employees (CCUE).

[2] Unless otherwise noted, all later statutory references in this ruling are to the Cal. Evid. Code.

[3] Evidence Code § 451 requires judicial notice of, *inter alia*, all United States and California public laws, California court rules of pleading, practice, and procedure, and facts of "generalized knowledge that are so universally known that they cannot reasonably be the subject of dispute."

(b) Regulations and legislative enactments issued by or under the authority of the United States or any public entity in the United States.

(c) Official acts of the legislative, executive, and judicial departments of the United States and of any state of the United States.

(d) Records of (1) any court of this state or (2) any court of record of the United States or of any state of the United States.

(e) Rules of court of (1) any court of this state or (2) any court of record of the United States or of any state of the United States.

(f) The law of an organization of nations and of foreign nations and public entities in foreign nations.

(g) Facts and propositions that are of such common knowledge within the territorial jurisdiction of the court that they cannot reasonably be the subject of dispute.

(h) Facts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.

We consider the various requests for official notice for relevance within the context of Rule 13.9.

2. ALJ Discretionary Official Notice

In connection with consideration of the provisions of the proposed settlement, we find it relevant to take official notice pursuant to Rule 13.9 and § 452(c), of final regulatory actions taken by the United States Nuclear regulatory Commission (NRC) related to the replacement steam generator project (SGRP) at San Onofre Nuclear Generating Station (SONGS). The documents are publicly available and we consider them in connection with the review of the proposed settlement in light of Rule 12.1.

The documents may be particularly relevant to issues of whether (1) adoption of a settlement prior to completion of Phase 3 is in the public interest; (2) SCE's imprudence can be inferred from NRC actions; and (3) SCE's legal position is so compromised by NRC actions that potential recovery from arbitration claims is unrealistic.

Therefore, we take official notice of the following publicly accessible NRC documents, with internet links thereto attached hereto and are appropriate for official notice under § 452(c):

- NRC Notice of Closure of Investigation (OI 4-2012-038) (July 28, 2014) Closure of Investigation into claims SCE employee(s) willfully failed to provide complete and accurate information to NRC inspectors after claims not substantiated.

  http://pbadupws.nrc.gov/docs/ML1423/ML14237A162.pdf

- NRC's Notice of Violation (December 23, 2013) (NOV), including the SCE Response to NRC which was incorporated by reference in NOV.

  NRC Notice:
  http://pbadupws.nrc.gov/docs/ML1335/ML13357A058.pdf
  incorporated SCE Reply:
  http://pbadupws.nrc.gov/docs/ML1401/ML14013A260.pdf

- NRC's Notice of Nonconformance (November 27, 2013) (NNC) to Mitsubishi on the subject: "Mitsubishi Heavy Industries Response to Nuclear Regulatory Commission Inspection Report No. 99901030/2013-201, Notice of Nonconformance," including the Mitsubishi Response to NRC which was incorporated by reference in NNC.

  NRC Notice:
  http://pbadupws.nrc.gov/docs/ML1331/ML13311B101.pdf
  incorporated MHI Reply:
  http://pbadupws.nrc.gov/docs/ML1329/ML13291A359.pdf

- San Onofre Nuclear Generating Station – NRC Augmented Inspection Team Report (July 18, 2012) 05000361/2012007 and 05000362/2012007 Docket No.: 50-361, 50-362; License No: NPF-10, NPF-15;

  www.nrc.gov/info-finder/reactor/songs/ML12188A748.pdf

- NRC's Grant of SCE License Amendment re U2 and U3 Technical Specifications Amendments 252 and 238 (June25, 2009)
  pbadupws.nrc.gov/docs/ML0916/ML091670298.pdf

3. A4NR Motion for Official Notice

The A4NR Motion requests official notice of the existence of (not the accuracy of) two documents: SCE's October 16, 2013 Request for Arbitration (Request for Arbitration)[4] with Mitsubishi Heavy Industries and Mitsubishi Nuclear Energy Systems (collectively "Mitsubishi") and SCE's October 21, 2013 response to the U.S. Nuclear Regulatory Commission (NRC) Preliminary White Finding (Response to NRC).

A4NR argues that Rule 13.9 and § 452 (h) allows official notice of the existence of these documents because they are posted on SCE's website. A4NR further argues that the existence of SCE's claims in these documents materially contradicts positions of SCE in Phase 2. In response,[5] SCE argues the A4NR motion should be denied because the claims within the documents do not contradict SCE's position and the documents are not relevant to the record to date in this proceeding.

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[4] The Request for Arbitration is included as Attachment A to the A4NR Motion and can be found online at: http://songscommunity.com/docs/101613_SCE_RFA_Redacted_Final.pdf

[5] SCE Response to A4NR Motion (December 9, 2013).

Neither document satisfies the criteria for judicial notice pursuant of § 451 or § 452, and we do not take notice pursuant to Rule 13.9. Merely because a document exists in a public space does not mean that the "facts and propositions" therein are of "common knowledge" or "not reasonably subject to dispute," as described by §452(g) and (h), respectively. The Joint Motion for Adoption of Settlement Agreement (Joint Motion) acknowledges the Utilities are seeking recovery from Mitsubishi and Nuclear Energy Insurance Limited includes provisions for ratepayer recovery arising from these claims.[6] Though the existence of the Request for Arbitration is relevant, the fact of its existence is undisputed within the record, so the record would not be enhanced by granting ANR's request for notice of the fact of the claim.

In addition, SCE's Response to NRC, as a stand-alone document is not an "official act" covered by the permissive terms of § 452.[7] The Court of Appeal has held that certain letters sent by an agency may be "official acts" under 452 (c), but the Court also found that documents filed by private companies with the agency are not "official acts" and, therefore, are not noticeable under § 452 (c).[8]

Based on the foregoing, the A4NR Motion is denied.

4. CDSO Motion to Strike

The CDSO Motion seeks to "strike all testimony and documents not included in scope of the evidentiary hearing scheduled for May 14, 2014." Although it is unclear exactly what documents CDSO intends by this statement, CDSO specifically identifies the Settlement Motion as part of what it proposes to

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[6] Joint Motion at 33; Agreement §§ 3.31-3.33.

[7] *See*, next section where it is noticed as part of a "Final Action" by NRC.

[8] *Stevens v. Superior Court*, 75 Cal.App.4 594, 607-608.

strike. A motion is a document stating the relief that the moving party seeks and supporting facts and argument. Accordingly, "striking" a motion is not a procedurally proper step. To the extent that CDSO's motion seeks to strike testimony related to the Settlement, the ALJs made rulings on the admissibility of such testimony at the May 14, 2014 hearing. CDSO's motion is moot and, therefore, denied.

5. Henricks' Motions 1-9

During May 2014, Henricks filed nine motions for official notice of over 100 documents of various types. The motions contained errors (e.g., documents misidentified or omitted), failed to establish the relevance of the identified documents, and omitted any argument as to the legal basis for admitting the documents into the record. These motions are identified and discussed below.

Date (all 2014)	Title	Abbreviated Title
May 8	Request for Official Notice of Documents to Support Cross-examination of Witnesses at 14 may 2014 Evidentiary Hearing	Henricks-1
May 13	Request for Official Notice of Various Filings with the Securities and Exchange Commission and Related Chart.	Henricks-2
May 13	Request for Official Notice of Southern California Edison's Responses to Ruth Henricks' Questions Numbers 1 through 80	Henricks-3
May 13	Request for Official Notice of Press Releases and Memoranda of California Public Utilities Commission	Henricks-4
May 13	Request for Official Notice of Ex Parte Communication Notices of Southern California Edison Company and The Utility Reform Network	Henricks-5
May 13	Joint Settling Parties-001 (Joint Testimony), SEC-54 (SCE Testimony), SCE Errata SCE-55, and SCE Errata SCE-57	Henricks-6
May 23	Excerpts from Requests for Official Notice and Request for Official Notice in Support of Ruth Henricks' Reply	Henricks-7

	Comments Pursuant to ALJ Darling Ruling of 24 April 2014	
May 23	Motion for Official Notice of Documents in Support of Ruth Henricks' Reply Comments Pursuant to ALJ Darling Ruling of 24 April 2014	Henricks-8
May 27	Motion for Official Notice of Documents in Support of Ruth Henricks' Reply Comments Pursuant to ALJ Darling Ruling of 24 April 2014	Henricks-9

A. Henricks Motion-1 requests official notice of three documents "in connection with the cross-examination . . . of witnesses" at the May 14, 2014 evidentiary hearing:

- a March 6, 2013 letter from the NRC to Mitsubishi and an undated, redacted copy of Mitsubishi's Root Cause Analysis (RCA) of the replacement steam generator (RSG) tube wear;[9]
- a November 20, 2004 letter from SCE to Mitsubishi discussing design considerations for the RSGs; and
- a May 13, 2013 Memorandum and Order of the Atomic Safety and Licensing Board (ASLB Order), a unit of the NRC that makes limited findings about the an intervenor's right to public hearing regarding SCE's proposed restart plan.

None of the documents were actually referenced in cross-examination during the hearing, nor does Henricks provide any legal basis for taking notice, other than Rule 13.9, nor explain the relevance of the documents to this proceeding. However, since the ASLB Order was mischaracterized by at least one party in Comments on the Settlement on a significant issue, we grant the

[9] Henricks Motion-1, Attachment 1 at i. (Mitsubishi expressly makes no determination in the RCA about the reasonableness or prudency of any actions taken.)

motion only as to this document. We take notice of this document is an "official act" of the federal government within the meaning of § 452(c). Henricks Motion-1 is otherwise denied.

B. Henricks Motion-2: requests official notice of portions of various Edison International (SCE's parent company, abbreviated herein as "EIX") filings with the Securities and Exchange Commission, portions of EIX's various annual reports to shareholders, and EIX's stock price since March 27, 2014. Henricks solely relies on Rule 13.9 as the legal basis for all identified documents, except for EIX's stock price, without explanation of how these documents are suitable for official notice. She mistakenly relies on a ruling by a federal district court considering a class action lawsuit against corporate officers for violations of federal securities law as the basis for claiming the stock prices here should be noticed.[10] No such obvious relevance is present or argued as a contested issue here. Henricks Motion-2 is denied.

C. Henricks Motion-3: seeks official notice of what she identifies as 80 data requests from Henricks to SCE, and SCE's responses. However, in the 116 pages, there are many duplicate pages, requests are out of numerical order, and missing attachments. Furthermore, Henricks provides no legal basis shown as to why any of these discovery responses are suitable for official notice pursuant to either § 451 or § 452.

Henricks had an opportunity to mark and submit relevant evidence, including discovery responses, at the May 14, 2014 evidentiary hearing. She initially presented a large document that included responses to data requests,

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[10] *In re Blue Rhino Corp. Sec. Litig.*, 2004 U.S. Dist. LEXIS 27941 at 8 (C.D. Cal.).

which had not been previously served on other parties as required by a pre-hearing ruling, and lacked both a Table of Contents and page numbers, as required by our Rules.[11] Although the document was marked for identification, it was neither referenced during her cross-examination of witnesses nor offered for submission into the record. Henricks' second run on some of the same documents is out of place under the discretionary rules of official notice. Based on the foregoing, Henricks Motion-3 is denied.

D. Henricks Motion-4: requests official notice of:

- an October 25, 2012 Commission press release announcing the commencement of this Investigation;
- a March 27, 2014 "memorandum" from the Office of Ratepayer Advocates announcing the proposed settlement; and
- a March 27, 2014 Commission press release that includes comments of Commission President Michael Peevey and Commissioner Mike Florio related to the announcement of the proposed settlement.

Henricks mistakenly relies on § 452(h) as the legal basis for taking notice of these three press releases, and provides no explanation of their relevance to the substantive review of this proceeding. Merely because a press release exists or has been viewed publicly, does not mean that the facts and propositions contained therein are common knowledge. Press releases and public comments, even by public officials, also do not qualify as "not reasonably subject to dispute" (Henricks herself disputes them in her arguments) and, accordingly, are not noticeable under § 452 (h). Based on the foregoing, Henricks Motion-4 is denied.

[11] Rule 13.7.

E. Henricks Motion-5: requests official notice of eight different notices of ex parte communication filed in this proceeding by various parties, and an email by ALJ Darling reminding parties of *ex parte* reporting rules. The Motion includes two documents not identified in the motion, and seeks notice of a non-existent document.[12]

Henricks provides no legal basis for taking notice, other than bare reference to Rule 13.9 and § 452, nor does she explain the relevance of these particular ex parte notices, a small selection of all such notices filed in the proceeding. Moreover, since these documents already appear in the docket, there is no need to take official notice of them. Henricks Motion-5 is denied.

F. Henricks Motion-6: requests official notice of four exhibits of Supplemental Testimony providing information to clarify the provisions of the proposed Agreement. These exhibits constitute only a portion of the testimony order by the ALJs and all volumes of the ordered Supplemental Testimony were submitted into the record at the evidentiary hearing on the settlement held May 14, 2014. Since all of these exhibits have been served by their sponsors, moved into evidence, and admitted into the record by the ALJs at the evidentiary hearing, it is unnecessary to officially notice these documents. Therefore, Henricks Motion-6 is moot and is denied.

G. Henricks Motion-7: requests official notice of excerpts of previous motions for official notice filed by Henricks. Specifically, Henricks Motion-7 appears to request official notice of excerpts of Henricks Motions 1 through 4. As

[12] SCE Notice of Ex Parte Communication December 12, 2013.

this portion of the motion is redundant to prior motions discussed above, this portion of her request is moot. Henricks further requests official notice of:

- certain court cases [*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal App. 4th 116; *Aquila Inc., v. Superior Court* (2007) 148 Cal App 4th 556; *In re Blue Rhino Corp* 2004 U.S. District Lexis 27941 (2004)];
- NRC's December 23, 2013 Notice of Violation to SCE;
- Remarks of Ted Craver at a March 27, 2014 conference call;
- November 2013 SCE Business Update;
- Excerpts from the transcript of the evidentiary hearings in this proceeding; and
- California Forms of Jury Instructions 107.

Henricks does not provide any legal basis for taking notice of any of these documents, other than Rule 13.9, nor explain the relevance of the documents to this proceeding. We do not need to take notice of court decisions or transcripts from hearings in these proceedings, which Henricks is free to use as supporting citation to arguments made in her comments and briefs. For one document, the ALJs agree with Henricks and have taken notice above of the NRC's Notice of Violation, as a final action by the NRC.[13] Neither the remarks of Ted Craver during a conference call nor SCE's Business Update presentation are officially noticeable under any subsection of §§ 451-452. Moreover, Henricks makes no attempt to explain why jury instructions are relevant to a jury-free, administrative regulatory proceeding. Henricks Motion-7 is denied.

H. Henricks Motion-8: seeks official notice of:

- TURN's press release about the settlement agreement;

[13] The NOV is included as Attachment 1 to this ruling, and is also available on the NRC's website.

- a Yahoo finance report on Ronald Litzinger's EIX stock transactions;
- materials from an EIX investor call on March 27, 2014 including a transcript of the call; and
- EIX stock prices.

Henricks does not provide any legal basis for taking notice of any of these documents, other than Rule 13.9, nor explain the relevance of the documents to this proceeding. One can establish that a newspaper article may exist but that does not establish the truth of the statements therein with reasonable indisputable accuracy as required by § 452(h).[14] Similarly, screen caches from the internet do not establish undisputed facts. Although previously recorded stock prices might be considered subject to discretionary official notice, per § 452(h), Henricks has not explained why the prices would be relevant, not established a link to the criteria for review of the proposed settlement, nor identified how any protected interests might be impacted. Henricks Motion-8 is denied.

I. **Henricks Motion-9**: seeks official notice of a March 28, 2014 newspaper article discussing the Settlement Agreement. Henricks does not provide any legal basis for taking notice of any of the document, other than Rule 13.9, nor explain the relevance of the document to this proceeding. As discussed above, the existence of a newspaper article does not establish the truth of the statements therein with reasonable indisputable accuracy as required by § 452(h). Henricks Motion-9 is denied.

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[14] *See, e.g., Edelstein v. City and Countyof San Francisco* (2002) 29 Cal. 4th 164, 171 fn. 3.

6. Henricks/CDSO Motion to Reopen the Record and Motion For Permission to File a Reply

On August 5, 2014, Henricks and CDSO filed a motion[15] asking the Commission to "reopen the record," pursuant to Rule 13.14, to take additional evidence: a Draft Report by the nuclear expert hired by Energy Division, primarily in connection with Phase 3 matters in the consolidated proceedings.[16] The Draft Report instead responded to Energy Division's first identified task of determining why the performance of the replacement steam generators (RSGs) at Diablo Canyon[17] has been different than that of the RSGs at SONGS. The expert, Dr. Robert Budnitz, concluded in the Draft Report that a key difference is the designs are significantly different.

Henricks/CDSO seeks to recognize the report in order to continue the proceedings by launching Phase 3, led by Dr. Budnitz. They support the motion with a "Declaration"[18] by Henricks' counsel, which describes and includes as attachments contract documents between the Commission and Dr. Budnitz, his resume, duplicate copies of one invoice for services, and apparent evidence of payment to Dr. Budnitz.

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[15] Motion to Reopen the Record by Ruth Henricks and The Coalition to Decommission San Onofre (Motion to Reopen, (August 5, 2014)).

[16] D.13-06-013 (Dr. Robert Budnitz was eventually hired.)

[17] Pacific Gas and Electric Company (PG&E) operates two nuclear reactors at Diablo Canyon.

[18] The "Declaration" by Michael Aguirre is deficient. It omits the key language of a declaration "I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct" set forth in Code of Civil Procedure §2015.5; *see* also, Judicial Council Form MC.030. It is also unclear whether he can personally authenticate the attached documents.

A Joint Response was filed by the six parties, known as "Settling Parties,"[19] who oppose the motion as both procedurally improper and a device to derail the settlement. According to the Joint Response, the crux of the motion is a re-argument of the Henricks/CDSO position that the Commission should reject the pending settlement proposal, set hearings for Phase 3, and that these parties would direct the work of the Commission's expert in a Phase 3.[20]

Rule 13.14 allows a party to move to reopen a proceeding submitted for decision, or of a record of consideration of a settlement, based on specified facts, including material changes of law or fact alleged to have occurred since conclusion of the hearing.[21] Since no hearings have been held on Phase 3, and the record has not been created (it cannot be reopened), the only plausible interpretation of the Motion to Reopen is that Moving Parties seek to reopen the record of our review of the proposed settlement.

However, the motion does not establish the Draft Report is "likely to have a substantial and material impact on the proposed settlement" as claimed by Henricks and CDSO.[22] Moving parties have offered no explanation of how the Draft Report's conclusion is relevant to the pending settlement, or any part of the records created in earlier phases. Instead, they take language out of context to

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[19] Settling Parties are SCE, San Diego Gas & Electric Company, The Utility reform Network, Office of Ratepayer Advocates, Friends of the earth and Coalition of California utility Employees.

[20] Joint Response of [Settling Parties] to Motion to Reopen (August 13, 2014) at 1.

[21] Rule 13.14(b).

[22] Motion to Reopen at 8.

imply that Dr. Bunitz identified work to be done "before any settlement is reached." This is inaccurate and misleading.[23]

The Motion to Reopen is denied, as well as the subsequent Henricks/CDSO Request to File Reply to Joint Response to Motion to Reopen.

7. WEM's Motion For Notice of SCE's Request to NRC for Emergency Planning Exemption

On July 9, 2014, WEM moved for official Notice of SCE's Emergency Planning Exemption Request (Exemption Request) to the NRC based on Rule 13.9 and § 452(h). Attached is SCE's Exemption Request. WEM argues the document should be noticed because its existence is not in dispute and it is publicly available.[24] WEM asserts the Exemption Request should be admitted because the proposed settlement does not include any provisions for extending emergency preparedness sought by some parties during Phase 1 of these proceedings. This is a re-argument of WEM's position opposing the proposed settlement.

Although SCE did not oppose the motion, we reviewed the Exemption Request. According to the request, SCE has certified to the NRC that Units 2 and 3 have been defueled and that it will permanently cease operations. SCE states the requested exemptions would allow SCE to reduce emergency planning requirements to reflect the permanently defueled condition of the station.

> The current 10 CFR Part 50 regulatory requirements for emergency planning (developed for operating reactors) ensure safety at SONGS. However, because the station is

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[23] Motion to Reopen, Aguirre Declaration, Attachment 4 (Draft Report) ("If more is desired, then I can undertake it. But that would be addressing a different question").

[24] http://www.nrc.gov/reading-rm/adams.html.

> permanently shutdown, defueled, and in a state of decommissioning, some of these requirements are excessive and no longer substantially contribute to public safety.[25]

We previously discussed that a letter from a private company to a government agency is not an official act of the type subject to judicial notice under Evidence Code § 452(c). We have also observed the very limited utility of taking notice of the mere existence of a document, such as a press release. The existence of a press release does not allow the Commission to weigh the accuracy of any of the representations therein. Therefore, we cannot assess by this document whether the exemption is warranted, or will be granted. In either case, WEM has not established that the document would affect the Commission's consideration of the proposed settlement. WEM and others have made the argument to add an expansion of the community education zone to the Settlement Agreement, and the Commission will consider it within the context of review of the settlement. Therefore, the WEM Motion is denied.

IT IS RULED that:

1. Official Notice is taken of the documents of final actions by the United States Nuclear Regulatory Commission identified in Section 2.
2. The Alliance for Nuclear Responsibility Motion is denied.
3. The Coalition to Decommission San Onofre (CDSO) Motion is denied.
4. Henricks Motion-1 is granted in part: *i.e.*, Official notice is taken of the Atomic Safety and Licensing Board Order. Henricks Motion-1 is denied in all other respects.
5. Henricks Motion-2 is denied.

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[25] WEM Motion for Official Notice, Request For Exemption, Enclosure 2 at 1.

6. Henricks Motion-3 is denied.

7. Henricks Motion-4 is denied.

8. Henricks Motion-5 is denied.

9. Henricks Motion-6 is denied.

10. Henricks Motion-7 is denied.

11. Henricks Motion-8 is denied.

12. Henricks Motion-9 is denied.

13. The Motions by Henricks and CDSO to reopen the record and to file a reply are denied.

14. The Women's Energy Matters' Motion for Official Notice is denied.

Dated September 11, 2014, at San Francisco, California.

/s/ MELANIE M. DARLING
Melanie M. Darling
Administrative Law Judge

/s/ KEVIN R. DUDNEY
Kevin R. Dudney
Administrative Law Judge

ATTACHMENT A

ATTACHMENT A

The following questions and requests for information are to clarify both the meaning of certain language in the Settlement Agreement (Agreement) and the basis for specific amounts of provisionally authorized and recorded expenses set forth as facts in the Agreement.

1. Section 2.6 provides a definition of "Base Plant" as "the Net Book Value of all-SONGS-related capital investments, except the SGRP, in the Utilities' rate bases....," including marine mitigation, and excluding Materials and Supplies (M&S), Cash working capital, and Nuclear Fuel Investment.

    - In what ways is this definition consistent or different from the list of weighted SONGS-related capital assets identified in Appendices A and C in exhibit SCE-36 submitted during the Phase 2 hearings in this OII?

2. In §3.48, the Agreement states that the total amount of deferred taxes on SONGS investment (excluding the SGRP) as of February 1, 2012, is $152 million for SCE, and $4.5 million for SDG&E.

    - What year dollars are these amounts (e.g., $2011)?

3. As set forth in §3.36, what portion of SCE's $597 million share, and SDG&E's $160.4 million share, of the Net Book Value of the SGRP as of February 1, 2012 is CWIP?

4. In §4.2, the Agreement provides that the Capital-Related Revenue Requirement for the SGRP will be terminated as of February 1, 2012, and "the Utilities shall refund to ratepayers all amounts collected in rates as the Capital-Related Revenue Requirement for the SGRP for all periods on or after February 1, 2012." Further, the Utilities shall not recover in rates the net Book Value of the SGRP as of February 1, 2012.

    Settling Parties shall prepare and serve an exhibit which contains the following information in table form for both SCE and SDG&E:

    - All amounts collected in rates as the Capital-Related Revenue Requirement for the SGRP through January 31, 2012, from February 1, 2012 through December 31, 2012, and from January 1, 2013 through December 31, 2013.

    - For each time period include a breakdown between the net book value or capital investment and other capital-related revenue requirement.

5. Section 4.3 of the Agreement provides that "the Utilities' respective shares of Base Plant will be removed from each utility's respective rate base as of February 1, 2012, but the utilities will retain all amounts collected in rates in respect of Capital-Related Revenue Requirements for Base Plant for periods prior to February 1, 2012."

    - Explain any difference in the components (e.g. deferred taxes, depreciation expenses, income and property tax, etc.) for Capital-Related Revenue Requirements for Base Plant

prior to February 1, 2012 and for assets removed from rate base as of February 1, 2012 which receive different a different amortization period and rate of return.

6. In §4.3(i), *inter alia*, the Agreement provides that each Utility will "factor in a gross-up for...income tax when calculating its revenue requirement.....In addition, the revenue requirement shall include franchise fees and uncollectibles." Appendix A provides an example of an adjustment for deferred taxes is applied as of February 1, 2012.

   Settling Parties shall prepare and serve an exhibit which contains the following information in table form for both SCE and SDG&E:

   - All amounts collected in rates as the Capital-Related Revenue Requirement for the Base Plant (excluding SGRP) from February 1, 2012 through December 31, 2012, and from January 1, 2013 through December 31, 2013.

   - For each time period include a breakdown between the net book value or capital investment and other capital-related revenue requirement.

7. Section 4.3(e) and (f) identify SCE's 2012 and 2013 reduced rates of return on SONGS Base Plant as 2.95% and 2.62%, respectively. In §4.3(i), the Agreement states these rates do not include gross-ups for taxes on the portion related to preferred equity.

   Settling Parties shall prepare and serve an exhibit which contains the following information in table form for both SCE and SDG&E:

   - The estimated Capital-Related Revenue Requirement for the Base Plant (excluding SGRP) from February 1, 2012 through December 31, 2012, and from January 1, 2013 through December 31, 2013.

   - For each time period include a breakdown between the net book value or capital investment and other capital-related revenue requirement.

8. In §4.5, the Agreement provides that each utility's share of the M&S investment as of the last day of the month of the Effective Date shall be amortized as a regulatory asset ratably over the amortization period set forth for Base Plant [February 1, 2012 through February 1, 2022] and earn the reduced rate of return.

   - Clarify whether the amortization period will run through February 1, 2022, or ten years from the last day of the month of the Effective Date.[2]

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[2] Per §2.14, Effective Date "means the day of the Commission's decision adopting the ratemaking proposal set forth in this Agreement."

9. Section §4.8 provides different treatment for "Completed CWIP" and for "Cancelled CWIP." For Completed CWIP, the Agreement provides that the balance shall include authorized AFUDC applied to the Completed CWIP balance from the date of the first recorded expense until January 31, 2012, and an AFUDC rate equal to the Base Plant reduced rate of return from February 1, 2012 through the last day of the month of the Effective Date.

    - Will the reduced rate of return applied to Completed CWIP after February 1, 2012 be identical to the reduced rate of return applied to Base Plant after February 1, 2012 (e.g., include a gross up for taxes associated with preferred equity, fees, etc.)?

10. For Cancelled CWIP, the Motion states the utilities may recover the authorized AFUDC until February 1, 2012, but "will not be allowed to recover any AFUDC after February 1, 2012, on those CWIP expenditures that are associated with projects that the utilities cancelled after the outages began." However, in Section 4.8(i) (C) and (D), the Agreement provides the same amortization period and reduced rate of return for Cancelled CWIP as for Completed CWIP, as of the last day of the month of the Effective Date.

    - Clarify whether there is a conflict between these documents as the reduced rate of return stands as a proxy for AFUDC when associated with Completed CWIP.

11. Similar to the question for M&S amortization, clarify whether the amortization periods identified in §4.8(ii) regarding Completed CWIP, and in §4.6(a) regarding Nuclear Fuel Investment , will run through February 1, 2022, or ten years from the last day of the month of the Effective Date.

12. Settling Parties shall prepare and serve an exhibit which identifies the amount of SGRP-related CWIP which is to be removed from the total CWIP balance of each Utility as of February 1, 2012.

13. The Motion states that CWIP excludes SGRP-related projects.[3] The amount of SGRP-related CWIP as of February 2012 is not separately stated in the Motion or in the Agreement.[4] Section 4.8 of the Agreement does not expressly provide that SGRP-related CWIP is excluded from the rate treatment of either Completed or Cancelled CWIP. Identify what language in the Agreement is consistent with the representation in the Motion that SGRP-related CWIP is excluded from rate recovery.

14. Section 4.9(b) of the Agreement provides that SCE will "retain all SONGS-related revenue collected pursuant to the revenue requirement for Non-O&M expenses provisionally authorized

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[3] Joint Motion at 29.

[4] In § 3.36 the NBV of each utility's share of the SGRP, including CWIP, is given as of February 1, 2012.

in D. 12-11-051 for calendar year 2012." But, SCE will refund to ratepayers any such SONGS-related rate revenues collected in 2012 "that exceed 2012 recorded Non-O&M expenses by more than $10 million." Also, at §4.9(c) states that SDG&E will retain rate revenue "sufficient to defray all recorded Non-O&M expenses." Non-O&M expenses are defined in §2.27 by what they are not, rather than specifically identified.

Settling Parties shall prepare and serve an exhibit which contains the following information in table form for both SCE and SDG&E:

- An itemized list of the referenced Non-O&M expenses (e.g., Pensions, benefits, regulatory, taxes, etc.), the FERC account where the expense is recorded, the 2012 and 2013 provisionally authorized amount for each expense category, and recorded expenses for 2012 and 2013 by expense category, using consistent types of dollars.

Furthermore, it is unclear whether the Agreement anticipates recovery of the $10 million benchmark in excess of 2012 allowed expenses is to be made against each individual Non-O&M expense category, or in the aggregate of all Non-O&M expense categories.

- Clarify the provision that SCE will refund rate revenues collected in 2012 "that exceed 2012 recorded Non-O&M expenses by more than $10 million."[5]

15. For §4.9(f), identify what year dollars are used to measure 2013 Base O&M (e.g., $2011).

16. Section 4.10(b) provides that the Utilities will recover in rates the entire SONGS-related portion of the under-collected balance in each Utility's respective ERRA account as of the last day of the month of the Effective Date, amortized from the first day of the month after the Effective Date through December 31, 2015. The Agreement expressly does not limit the Commission's ability to review, in an appropriate proceeding, the Utilities' request to similarly amortize recovery of the non-SONGS-related portion of the under-collected balance.

    - Clarify whether the recovered costs are to be based on original cost or other amounts, and whether the Compliance ERRA proceedings are the appropriate proceedings for review of recovery of under-collected non-SONGS-related power purchases.

17. In §4.11(a), the agreement provides that the SONGS Litigation Balance shall be determined by netting SONGS Litigation Costs from Litigation recoveries. The Utilities will each establish memorandum accounts to track litigation costs and recoveries from both NEIL and Mitsubishi. Section 4.11(b) provides the mechanism for each utility to distribute funds in excess of costs to ratepayers pursuant to identified formulas.

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[5] Settlement Agreement (Agreement) at §4.9(b).

- Is there any language in the Settlement Agreement which identifies when or how the Commission would undertake a reasonableness review of the litigation costs netted from recoveries?

18. In §4.11(g), the Agreement provides, "The Utilities shall promptly notify the CPUC of any such settlement, compromise, or resolution of their claims against NEIL or MHI, provided, however, that :

    (i) The Utilities may provide such notification in a manner that preserves the confidentiality thereof insofar as may be reasonably necessary to further the utilities' flexibility to settle, compromise, or otherwise resolve such claims;..."

    In §4.12, the Agreement provides that any amounts that the Utilities may be required to refund to ratepayers pursuant to the Agreement shall be refunded "via a reduction to each utility's under-collected ERRA balance as of the last day of the month of the Effective date."

    - Read as a whole, does the Agreement provide that evidence will be submitted in the ERRA proceedings to enable the Commission to confirm the actual amounts of recovery from NEIL and Mitsubishi as part of its review of the application of the ratepayer credit disbursements to the under-collections?

    - To the extent that refunds to ratepayers are credited against ERRA under-collections for any year, what language in the Agreement or elsewhere governs the application of credits in excess of under-collections to ratepayers in such circumstances (e.g., credit to BRRBA).

19. Section 4.14 provides that, except as expressly provided in the Agreement,

    "all costs recorded in SCE's SONGSMA, SDG&E's SONGSBA, and both Utility's SONGSOMA shall be recovered in rates and shall not be subject to any disallowance, refund, or any form of reasonableness review by the Commission.

    Settling Parties shall prepare and serve an exhibit which contains the following information in table form for each account:

    - A list of expense categories not expressly provided for in the Agreement which are referenced by this section (e.g., regulatory, seismic, etc.) and recorded 2012 and 2013 expenses by category.

    - Reference to where the expenses would otherwise be subject to reasonableness review.

20. In §3.42, the Agreement identifies SCE's share of O&M costs recorded in connection with the U2Cycle 17 Refueling Outage as $41.1 million, and SDG&E's recorded costs as $9.3 million, for a total of $50.4 million.

- What year dollars are used, and explain why this amount is in excess of the $45 million SCE asserted was provisionally authorized in the 2012 GRC.

(END OF ATTACHMENT A)

EXHIBIT 54

OFFICE OF THE INSPECTOR GENERAL

U.S. NUCLEAR REGULATORY COMMISSION

NRC Oversight of Licensee's Use of 10 CFR 50.59 Process To Replace SONGS' Steam Generators

Case No. 13-006

EVENT INQUIRY

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

OFFICE OF THE
INSPECTOR GENERAL

October 2, 2014

MEMORANDUM TO: Chairman Macfarlane

FROM: Hubert T. Bell
Inspector General

SUBJECT: NRC OVERSIGHT OF LICENSEE'S USE OF 10 CFR 50.59 PROCESS TO REPLACE SONGS' STEAM GENERATORS (OIG CASE NO. 13-006)

This accompanies the results of an Office of the Inspector General (OIG), U.S. Nuclear Regulatory Commission (NRC), event inquiry into concerns pertaining to NRC's oversight of Southern California Edison's application of the 10 CFR 50.59 process for the steam generator replacements in San Onofre Nuclear Generating Station (SONGS) Units 2 and 3. In addition, public interest groups and Congress specifically questioned SONGS' use of the 10 CFR 50.59 rule to replace the steam generators without first obtaining NRC prior approval through a license amendment. Therefore, OIG also sought to ascertain from NRC officials whether SONGS required a license amendment for the steam generator replacements and whether the problems at SONGS could have been identified through NRC's license amendment review process.

We have also provided this event inquiry report to the appropriate Majority and Ranking Members of Congress with oversight responsibilities for the NRC.

If you have any questions, please contact me, at 301-415-5930, or Joseph A. McMillan, Assistant Inspector General for Investigations, at 301-415-5929.

Attachment: As stated

cc: Commissioner Svinicki
Commissioner Ostendorff

Office of the Inspector General

EVENT INQUIRY

NRC Oversight of Licensee's Use of 10 CFR 50.59 Process To Replace SONGS' Steam Generators

Case No. 13-006

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SUMMARY

Basis and Scope

The Office of the Inspector General (OIG), U.S. Nuclear Regulatory Commission (NRC), initiated this event inquiry in response to concerns pertaining to NRC's oversight of replacement steam generators installed at San Onofre Nuclear Generating Station (SONGS) Units 2 and 3 in 2010 and 2011, respectively. Southern California Edison (SCE), the license holder for SONGS, replaced the steam generators subsequent to its application of the regulatory process described in 10 Code of Federal Regulations (CFR) 50.59, "Changes, Tests and Experiments." 10 CFR 50.59 establishes the conditions under which licensees may make changes to their facility or procedures and conduct tests or experiments without prior NRC approval (i.e., without an amendment to their NRC license).

In January 2012, approximately 1 year after SONGS replaced its Unit 3 steam generators, control room operators identified a leak in one of Unit 3's two steam generators, and the plant was shut down in accordance with plant procedures. Initial inspection confirmed one small leak in one tube in one of the two steam generators. Continuing inspections of all of the steam generator tubes in both Unit 3 steam generators discovered unexpected wear, including tubes rubbing against each other as well as against retainer bars. At the time the Unit 3 leak was identified, Unit 2 was shut down for a routine refueling outage. Subsequent inspections of all Unit 2 steam generator tubes also discovered unexpected wear.

Over the next approximate year and a half, SCE pursued evaluation of Unit 3 and restart of Unit 2; however, on June 7, 2013, SCE announced its decision to permanently cease operations of SONGS Units 2 and 3. SCE's June 12, 2013, letter to NRC conveying this decision did not provide the reason for the permanent shutdown.

OIG's event inquiry examined NRC's oversight of SCE's application of the 10 CFR 50.59 process for the replacement steam generators in SONGS Units 2 and 3. OIG also sought to ascertain from NRC officials whether SONGS required a license amendment for the steam generator replacements and whether the problems at SONGS could have been identified through NRC's license amendment review process.

Background

Nuclear power reactors are licensed based on a given set of requirements, depending primarily on the type of plant. This set of requirements is called the plant's "licensing basis." A principal licensing basis document is the plant's final safety analysis report (FSAR). The FSAR and the plant's NRC license and associated technical specifications are the principal regulatory documents describing how the plant is designed, constructed, and operated. The FSAR is also a key reference document used by NRC inspectors during both plant construction and operation, and it must be sufficiently

detailed to permit the staff to determine whether the plant can be built and operated without undue risk to public health and safety.

Because a plant's design and operation are not static, certain changes are necessary over the course of a facility's operating life. Reactor licensees must follow NRC regulations to justify and implement changes in the design basis and licensing basis for their facilities, and they are required to document such changes in the FSAR. 10 CFR 50.71(e) requires the FSAR to be periodically updated. The objectives of 10 CFR 50.71(e) are to ensure that licensees maintain the information in the updated FSAR (UFSAR) to reflect the current status of the facility and address new issues as they arise so that the UFSAR can be used as a reference document in safety analysis.

NRC has defined the changes that a licensee may make to a licensed facility without prior NRC approval. Pursuant to 10 CFR 50.59 (c)(1), the holder of a license may, without obtaining a license amendment, (1) make changes in the facility as described in the FSAR (as updated), or (2) make changes in the procedures as described in the FSAR (as updated), and conduct tests or experiments not described in the FSAR (as updated) as long as a change to the technical specifications incorporated in the license is not required, and the change, test, or experiment does not meet any of the eight 10 CFR 50.59 (c)(2) criteria. If any of the criteria in 10 CFR 50.59 are not met (i.e., the change involves modification to the technical specifications or involves one of the eight criteria), the license holder must apply to NRC for a license amendment and obtain NRC's approval before implementing the change. NRC staff document their safety analysis of a license amendment request in a safety evaluation providing the technical, safety, and legal basis for NRC's disposition of the license amendment request.

Licensee Implementation of 10 CFR 50.59 Process

The Nuclear Energy Institute's (NEI) November 2000 *Guidelines for 10 CFR 50.59 Implementation* (NEI 96-07)[1] identifies the three following steps in the 10 CFR 50.59 process:

- **Applicability and Screening.** Determine if a 10 CFR 50.59 evaluation is required. First licensee determines if an evaluation is applicable to the proposed activity and, if so, performs screening to determine if the activity should be evaluated against the 10 CFR 50.59 evaluation criteria.

- **Evaluation.** If it is determined that a given activity requires a 10 CFR 50.59 evaluation, the licensee applies the eight 10 CFR 50.59 evaluation criteria (10 CFR 50.59(c)(2) (i-viii)) to determine if a license amendment must be obtained from NRC. This is a written evaluation.

[1] In its November 2000 Regulatory Guide 1.187, *Guidance for Implementation of 10 CFR 50.59, Changes, Tests, and Experiments*, NRC states that NEI 96-07 provides methods that are acceptable to the NRC staff for complying with the provisions of 10 CFR 50.59.

- **Documentation and Reporting.** Document and report to NRC the activities implemented under 10 CFR 50.59. Records maintained must include a written evaluation that provides the basis for the determination that the change, test, or experiment does not require a license amendment.

Frequency of Use

Nuclear reactor licensees have used the 10 CFR 50.59 process thousands of times to make changes without NRC preapproval. Licensees conduct about 475 10 CFR 50.59 screenings per unit per year, and about five 10 CFR 50.59 evaluations per unit per year for a nationwide total of about 49,000 screenings and evaluations per year.

Since 1989, 53 of the 65 plants that utilize steam generators have replaced their steam generators under 10 CFR 50.59, while 6 replacements were made subsequent to a license amendment.

NRC Oversight of Licensees and Their Application of the 10 CFR 50.59 Process

NRC inspects licensees' application of the 10 CFR 50.59 process through an NRC Reactor Oversight Process (ROP) baseline inspection procedure (IP), IP 71111.17, "Evaluations of Changes, Tests, or Experiments and Permanent Plant Modifications." This triennial inspection is intended to provide assurance that required license amendments have been obtained.

Findings

Issue 1. Missed Opportunities During NRC Region IV 2009 Inspection

OIG found that NRC missed an opportunity during a 2009 triennial baseline inspection of SONGS' implementation of the 10 CFR 50.59 process to identify weaknesses in the SONGS steam generator 50.59 screening and evaluation package. While a Region IV inspection team selected the SONGS Unit 2 steam generator 10 CFR 50.59 screening and evaluation package as one of 35 items sampled during a 2009 triennial baseline ROP inspection at SONGS, the inspection team did not identify various shortcomings noted more recently by NRC subject matter experts who reviewed the steam generator screening and evaluation package subsequent to SONGS' shutdown due to problems with steam generator design.

The 2009 inspection team concluded from its review of the 35 items sampled that SONGS had correctly determined that the changes SONGS made could be made without a license amendment. However, the NRC subject matter experts who reviewed the Unit 2 steam generator screening and evaluation package following SONGS' shutdown identified questions pertaining to the Unit 2 steam generator 10 CFR 50.59 screening and evaluation, some of which NRC says cannot now be answered based on available information. The questions raised by the subject matter experts pertain to (1) insufficient support for 10 CFR 50.59 evaluation conclusions that contributed to the

decision that a license amendment was not needed and (2) methodology changes that should have been considered for screening but were not listed in the screening documentation. OIG found that (1) without knowing whether everything that should have been screened was screened, and the outcomes of these screenings, and (2) without reviewing additional information concerning the evaluation conclusions, there is no assurance that NRC reached the correct conclusion in its 2009 inspection that SONGS did not need a license amendment for its steam generator replacement.

OIG found that the primary inspector who reviewed the SONGS Unit 2 steam generator 10 CFR 50.59 screening and evaluation package during the 2009 baseline inspection (at approximately the same time installation of the Unit 2 steam generators commenced) described conducting a review that aligned with inspection guidance, but said that in hindsight, with the experience he now has, he might have probed further into certain aspects of the screening and evaluation package. This inspector, and others interviewed during the investigation, identified a need for improvement in training and guidance to inspectors for the 50.59 inspection. Although several senior managers acknowledged some of the shortcomings in the SONGS screening and evaluation package, they supported NRC's inspection approach, which relies on sampling and judgments made by inspectors with different backgrounds and experience levels. One senior manager expressed confidence in the 50.59 inspection process, and noted that the purpose of NRC's 50.59 inspection is not to identify design flaws, but rather to determine whether licensees are correctly implementing the 50.59 rule and reaching the correct conclusions as to the need for NRC preapproval. At the same time, senior managers, subject matter experts, and inspectors expressed general agreement that NRC needs to improve its 10 CFR 50.59 inspection training and guidance.

Issue 2. AIT Review of SCE's 10 CFR 50.59 Evaluation

OIG found that although an NRC Region IV[2] Augmented Inspection Team (AIT), established to assess the circumstances surrounding the tube leak and unexpected wear of tubes in the Unit 3 steam generators, included a review of the SONGS 50.59 steam generator package to determine whether SONGS needed a license amendment prior to installing the new steam generators, the AIT did not document an answer to this question. In its initial July 18, 2012, inspection report, the AIT communicated that the Office of Nuclear Reactor Regulation (NRR) Project Manager assigned to perform the review identified one unresolved item (URI number 10, "Change of methodologies associated with 10 CFR 50.59 review") for which additional information was needed to determine if performance deficiencies exist or if the issues constituted violations of NRC requirements. The URI described two instances that failed to adequately address whether the change involved a departure of the method of evaluation described in the UFSAR. Although NRC's November 9, 2012, AIT followup report documented the

[2]NRC's Region IV regional office in Arlington, Texas, oversees NRC regulatory activities in the western and southern mid-western United States.

closure of this URI, and stated that neither change would have required a license amendment, it did not answer the overall question of whether a license amendment was required.

The AIT Team Leader and the current Region IV Deputy Regional Administrator told OIG that based on what NRC reviewed during its inspections, the conclusion was that a license amendment was not needed, although each allowed that the sampling approach used to perform this assessment could have missed something. The Acting NRR Director said he could not determine if an amendment was needed or not due to the gaps that may exist regarding items that may require screening and/or evaluation. The current Region IV Deputy Regional Administrator said additional inspection would be required to answer whether a license amendment was required, and questioned whether it would be a prudent use of resources to go back and accomplish that. The former Region IV Deputy Regional Administrator said that in hindsight, he believes that SONGS should have requested a license amendment from NRC prior to making the change. He also believes the steam generator design was fundamentally flawed and would not have been approved as designed. He said the AIT discussed a potential 50.59 criteria violation because of the design issues; however, the AIT ultimately identified a design control violation.

OIG found that NRC's justification for closing out URI number 10 does not align with specific language in 10 CFR 50.59 concerning NRC approval for a change in methodology, but was based instead on Region IV's interpretation (in consultation with NRR) of the rule. 10 CFR 50.59 (a)(2)(ii) reflects that changes from a method described in the UFSAR to another method are permissible without NRC preapproval if that method has already been approved by the NRC for the "intended" application. In closing out the URI, however, the AIT followup report determined the change of methods would not have required a license amendment based on NRC's approval for the use of the method at other nuclear power plants in "similar" applications. OIG notes that while the AIT characterized the issue as a change in methodology, it justified closing the matter based on approval for a "similar" application rather than the "intended" application as stated by the rule.

OIG also notes that while the AIT inspection report identified an unresolved issue pertaining to the SONGS 10 CFR 50.59 screen and evaluation package, the NRR technical specialist who reviewed the package used a sampling approach and did not identify many of the shortcomings described under issue 1 of this report.

Issue 3. NRC Oversight of SONGS UFSAR

OIG found that NRC does not consistently use one of its primary oversight methods to assess whether licensees are keeping their power plant licensing basis documentation up to date as required by 10 CFR 50.71(e). Although licensees are required, per 10 CFR 50.71(e), to biannually submit UFSAR updates reflecting the current status of the facility so that the document can be used as a reference document in safety analysis, the NRR project managers tasked to review these submittals do not always conduct the

reviews within the required 90-day timeframe. Moreover, although licensees also must biannually submit, per 10 CFR 50.59(d)(2), information concerning changes made under 10 CFR 50.59 without NRC prior approval, NRR project managers – who are instructed to consider this information during their review of 10 CFR 50.71(e) submittals – do not always take the 10 CFR 50.59(d)(2) information into consideration during their reviews. OIG found that while NRC expects a plant's UFSAR to accurately reflect a plant's licensing basis, the former Region IV Deputy Regional Administrator said that during the SONGS AIT, Region IV staff noted the licensee had made many changes to the steam generators over a 25-year period that were not reflected in the UFSAR or consistent with the original Safety Analysis Report (SAR.)

OIG reviewed documentation of project manager reviews in two NRR branches and found project managers reviewed only 5 of the 21 most recently received licensee UFSAR submittals within the 90-day timeframe, while 7 were reviewed between 90 days and a year after receipt, and 9 reports more than a year after receipt. Moreover, only two of the project manager reviews contained a reference to review of 10 CFR 50.59 documentation submitted by licensees even though project manager guidance directs that this occurs. OIG also found that over a 10-year period, NRC staff documented two reviews of changes to SONGS' UFSAR, although the licensee submitted six UFSAR updates during this period as required, and neither NRC review mentioned consideration of 10 CFR 50.59 changes.

Although senior NRC managers expect the project managers to conduct the reviews within the required timeframe, and to consider changes made under 10 CFR 50.59 as part of that review, two NRR project managers interviewed said the reviews are considered a low priority. Neither of the project managers included the 10 CFR 50.59 information in their reviews of 50.71(e) submittals; one thought this review was conducted by a different NRR group and the other thought the 10 CFR 50.59 information was used by regional inspectors for a different purpose.

In contrast, the Deputy Executive Director for Reactor Preparedness Programs considers NRC's oversight of 10 CFR 50.71(e) to be critical for enabling NRC to know whether a plant is in compliance with its licensing basis, and considers the project manager review of 50.71(e) submittals to be a priority. While the former NRR Director also expected project managers to conduct the required reviews to assess whether changes made by the licensees have generally been updated into the FSAR, he viewed the project manager's review as a bookkeeping exercise that is based on the experience of the project manager. He noted that the FSAR review is a self-imposed requirement and if NRC is not meeting its own internal guidance, then it should either meet the requirement or change the guidance based on safety significance.