2018 NDCTP PHASE 2 REBUTTAL TESTIMONY

Before the

Public Utilities Commission of the State of California

Rosemead, California
February 1, 2019
# 2018 NDCTP Phase 2 Rebuttal Testimony

Table Of Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
<th>Witness</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. INTRODUCTION</td>
<td>1</td>
<td>J. Perez</td>
</tr>
<tr>
<td>II. POLICY CONSIDERATIONS</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>A. Schedule Durations That Exceed Prior Estimates Are Not Necessarily Unreasonable</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>B. The Commission Should Continue To Apply The Prudent Manager Standard To Determine Whether Actions Taken And Costs Incurred By The Utilities To Perform Decommissioning Work Were Reasonable</td>
<td>6</td>
<td></td>
</tr>
<tr>
<td>C. Much Of TURN’s Testimony Addresses Issues That Have Been Assigned To Phase 3 Of This Proceeding Or Are Outside The Scope Of The NDCTP, And Should Therefore Be Disregarded</td>
<td>7</td>
<td></td>
</tr>
<tr>
<td>III. REBUTTAL TO CAL ADVOCATES’ RECOMMENDATIONS</td>
<td>9</td>
<td>D. Bauder</td>
</tr>
<tr>
<td>A. Cal Advocates’ Recommended $10.8 Million Disallowance For DGC Selection Costs Should Be Rejected Because SCE’s $13.8 Million Costs For Selecting The DGC Were Reasonable</td>
<td>9</td>
<td></td>
</tr>
<tr>
<td>1. SCE’s DGC Selection Activities Included Several Prudent Activities That Cal Advocates Overlooked</td>
<td>9</td>
<td></td>
</tr>
<tr>
<td>2. Cal Advocates Proposes an Incorrect Standard of Review</td>
<td>11</td>
<td></td>
</tr>
<tr>
<td>3. Cal Advocates Fails To Provide A Substantive Basis For The Amount Of The Proposed Disallowance</td>
<td>12</td>
<td></td>
</tr>
<tr>
<td>B. The Commission Should Reject Cal Advocates’ Other Proposed Disallowances</td>
<td>12</td>
<td></td>
</tr>
<tr>
<td>IV. REBUTTAL TO TURN’S RECOMMENDATIONS</td>
<td>15</td>
<td>J. Perez</td>
</tr>
<tr>
<td>A. TURN’s Recommendation To Defer Review Of The DGC Selection Costs Should Be Denied</td>
<td>15</td>
<td></td>
</tr>
<tr>
<td>B. TURN’s Recommendations To Defer The Reasonableness Reviews Of Certain SONGS 2&amp;3 2016-2017 Recorded Costs Should Also Be Denied</td>
<td>18</td>
<td></td>
</tr>
<tr>
<td>Section</td>
<td>Page</td>
<td>Witness</td>
</tr>
<tr>
<td>---------</td>
<td>------</td>
<td>---------</td>
</tr>
<tr>
<td>1. TURN Misconstrues The Commission’s Decision</td>
<td>18</td>
<td></td>
</tr>
<tr>
<td>2. TURN’s Recommendations Selectively Undermine The Milestone Framework</td>
<td>19</td>
<td></td>
</tr>
<tr>
<td>C. SCE’s $76.6 Million Expenditure For DGC Staffing Milestone Payments Challenged By TURN Are Reasonable</td>
<td>20</td>
<td></td>
</tr>
<tr>
<td>1. The Mobilization Efforts Were Necessary</td>
<td>21</td>
<td></td>
</tr>
<tr>
<td>2. The Payments Were Not Excessive</td>
<td>21</td>
<td></td>
</tr>
<tr>
<td>3. TURN Oversimplifies The Transition Process</td>
<td>22</td>
<td></td>
</tr>
<tr>
<td>4. The Costs Include More than Just the Program Preparation and Transition</td>
<td>22</td>
<td></td>
</tr>
<tr>
<td>D. The Commission Should Not Require SCE To Submit Additional Reports Regarding Decommissioning Schedule Status</td>
<td>23</td>
<td></td>
</tr>
<tr>
<td>V. CONCLUSION</td>
<td>25</td>
<td></td>
</tr>
</tbody>
</table>

Appendix A Response To Data Request

Appendix B Witness Qualifications
I.

INTRODUCTION

Southern California Edison Company (SCE) is submitting this rebuttal testimony to respond to testimony submitted by California Public Advocates (Cal Advocates) and The Utility Reform Network (TURN) in Phase 2 of A.18-03-009 (2018 NDCTP), which concerns the reasonableness review of 2016-2017 San Onofre Nuclear Generating Station (SONGS) decommissioning costs for SONGS 1 and SONGS 2&3.†

For SONGS 1 decommissioning costs, Cal Advocates and TURN recommend $0 disallowances.² For SONGS 2&3 decommissioning costs, Cal Advocates recommends three disallowances totaling $11.1 million (2014$, 100% share).³ TURN recommends that the recorded costs for certain decommissioning activities be re-categorized from undistributed costs to distributed costs and/or that their reasonableness reviews be deferred to future NDCTPs.⁴ TURN recommends that all other SONGS 2&3 decommissioning costs recorded in 2016-2017 be found reasonable.⁵ TURN also offers several observations on a variety of topics, including the decommissioning schedule and SCE’s agreement with its decommissioning general contractor (DGC), SONGS Decommissioning Solutions (SDS). In this rebuttal testimony, SCE explains why the Commission should reject Cal Advocates’ and TURN’s recommendations for disallowances, cost re-categorizations, and reasonableness review.

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† The Commission’s review of the decommissioning cost estimates (DCE) for SONGS 1 and SONGS 2&3 will occur in Phase 3 following the completion of various workshops related to the content of those DCEs.

² See Cal Advocates’ response to SCE-CalPa-01 Question 1 and TURN’s response to SCE-TURN-01 Question 1, which are provided as Appendix A to this rebuttal testimony.

³ A.18-03-009, Cal Advocates Testimony, pp. 1-2, Cal Advocates recommends a $10.8 million disallowance for DGC Selection costs, a $0.2 million disallowance for DGC Solicitation Issues costs, and a $0.1 million disallowance for SDS Contract Issues costs.

⁴ A.18-03-009, TURN Testimony, p. 2, TURN states, “All costs described by SCE in SCE-05C be found reasonable except for the following categories…” TURN then recommends that the reasonableness reviews of $13.8 million for DGC Selection costs, $81.1 million for Utility Staff costs, and $82.5 million for DGC Staff costs be deferred to future NDCTPs and/or that certain undistributed costs be re-categorized as distributed costs. Some of TURN’s recommendations are inconsistent with the Milestone Framework recently approved by the Commission.

⁵ Id.
deferrals. In addition, SCE notes that some of the issues raised by TURN concerning the decommissioning schedule and DGC Agreement will be addressed in Phase 3 of this proceeding, or in other cases, are outside the scope of this proceeding entirely.

Section II addresses various broad policy issues permeating Cal Advocates’ and TURN’s testimony, including TURN’s testimony regarding decommissioning schedule delays; Cal Advocates’ and TURN’s testimony invoking review standards that contravene the Commission’s prudent manager standard; and TURN’s testimony on a variety of topics that should be disregarded as out of scope in Phase 2. Section III rebuts Cal Advocates’ disallowance recommendations regarding DGC selection and other costs. Section IV rebuts TURN’s recommendations to defer the reasonableness reviews of certain costs. Section V concludes SCE’s rebuttal testimony.

SCE focused its rebuttal testimony on the major issues raised by parties and has not attempted to rebut each and every assertion made by Cal Advocates and TURN. However, the absence of rebuttal testimony on a particular assertion should not be interpreted as SCE’s agreeing with or conceding such assertion.

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II. POLICY CONSIDERATIONS

A. Schedule Durations That Exceed Prior Estimates Are Not Necessarily Unreasonable

TURN has consistently suggested in this and prior proceedings that the Commission should closely monitor and review schedule delays. SCE acknowledges that the Commission should review SONGS decommissioning activities, including schedule performance. However, TURN’s implicit position that any schedule delay is presumptively imprudent is too circumscribed and does not consider all of the elements necessary for reasonableness reviews. The Commission should continue to apply the well-established prudent manager standard when assessing the reasonableness of decommissioning activities and costs. Under this standard, the Commission reviews a utility’s actions based upon what the utility knew or should have known at the time the utility took the action or made a decision, not based on the utility’s strict adherence to schedule or scope included in a DCE. The Commission has determined that a reasonable and prudent act includes “a spectrum of possible acts” consistent with customer interests and reasonably expected by the utility to accomplish the desired result.

The Commission has further determined there are other informative and important factors besides schedule adherence that should be considered in reasonableness reviews including: (1) compliance; (2)

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2 A.18-03-009, TURN Testimony, pp. 2-3 (Section II), pp. 9-11 (Section IV); see also A.14-12-007 (2014 DCE Proceeding), TURN Testimony, pp. 10, 27. For example, in A.14-12-007, TURN’s testimony stated at page 15 of 27: “Delay in an activity whose costs are accounted for in a Distributed Activity may not increase the costs for that activity, but it will cause an increase in the costs of the Undistributed Activity simply by the passing of additional time.” At page 10 of 27, TURN further testified: “Edison also remains fully responsible for the success of decommissioning activities and should not be allowed to avoid this responsibility by claiming that the cost increases and time delays are due to poor performance of contractors and are therefore beyond the reasonable control of the utility.” See also A.16-03-004, (2015 NDCTP), TURN Testimony, pp. 3, 7, 10-17, 20-21 (TURN speculates on the impacts of schedule delays throughout its 2015 NDCTP testimony).

8 See D.18-11-034, p. 56, citing D.05-08-037 at 10-11; D.14-12-082 at 13-14; and D.17-05-020.

9 See D.05-08-037, pp. 9-10 (citing D.87-06-021) (emphasis added).
safety; (3) costs relative to the approved DCE; (4) industry expert review; (5) benchmarking; and (6)
emergent conditions and changed circumstances.\textsuperscript{10}

TURN also misunderstands the purpose of DCE schedules and how they should be reviewed in
the NDCTP.\textsuperscript{11} TURN incorrectly characterizes a DCE as though it is the decommissioning plan that
must be adhered to strictly in order to avoid an imprudence finding.\textsuperscript{12} The Commission should reject
this characterization, as it ignores the complexities of a large decommissioning project spanning several
decades, and would inappropriately limit SCE’s flexibility to respond to changed circumstances
(including regulatory changes), emergent conditions, and other factors. The estimated schedules
contained in the DCE provide directional information regarding the possible sequencing and length of
projects, but they do not necessarily reflect detailed planning of the DGC that remains ongoing and will
need to be modified from time to time as decommissioning proceeds. Furthermore, the estimated
schedules included in the DCE in many instances reflect best-case timeframes based on information
known at the time. However, industry experience would suggest that projects of this type may take
longer than estimated to complete. The Commission should allow for reasonable schedule changes to
implement the decommissioning project based upon further planning, changed circumstances, and other
factors. As such, the Commission should refrain from expecting or requiring strict schedule
adherence.\textsuperscript{13}

\textsuperscript{10} D.18-11-034, p. 53.
\textsuperscript{11} A.18-03-009, TURN Testimony, pp. 9-11 (referring to the schedule in the 2014 SONGS 2&3 DCE to identify
various delays).
\textsuperscript{12} TURN’s recommendations regarding schedule-delay issues should be considered in the context of what they
have said about DCEs in prior NDCTPs. See e.g. A.16-03-004, TURN Testimony, p. 28 (TURN stated that
“DCEs should provide significant insight into future decommissioning costs and give the Commission
confidence in establishing enforceable cost and schedule projections.”) TURN misstates the purpose of a
DCE. The DCE is an estimate for the purpose of budgeting and assessing the time to complete the tasks
required to decommission a nuclear plant. It does not attempt to set a project schedule based on detailed
project planning, nor can it capture emergent schedule and impacts of project risks that remain unknown at
the time the DCE is assembled. The DCE remains a tool that assists SCE in planning future work remaining
to be performed. However, using the DCE as a tool to measure historical schedule variances in
decommissioning successes and missteps does not accurately reflect whether or not SCE has taken reasonable
actions.
\textsuperscript{13} See D.18-11-034, p. 52 (discussing that the Commission does not expect strict adherence, and will apply the
prudent manager standard).
TURN further downplays the challenges and nuances of developing schedule and estimated costs for various decommissioning activities. Decommissioning is not limited to physical decontamination and dismantling (D&D) activities. It also includes vital pre-D&D activities – such as environmental reviews and/or the application for environmental permits from state agencies, and the selection of a DGC – that are foundational to the successful performance of the D&D work. Estimating the schedule and costs for D&D activities, for which material quantities, unit cost factors, available waste transportation and disposal options can readily be quantified, is relatively straightforward and generally more predictable (although perfect adherence is unreasonable to expect). In contrast, the schedule and costs required for completing DGC selection or obtaining regulatory permits are not as readily quantifiable and/or are subject to factors beyond SCE’s control. For the DGC selection process, for example, SCE could not have known in advance how many bidders would respond to the Request for Information (RFI) and Request for Proposal (RFP) and what issues their responses would raise, all of which may have extended the time required to complete the process. For regulatory permits, SCE’s activities are largely dictated by agency requirements and processes that SCE cannot always predict.

Following the requirements of the California Nuclear Facility Decommissioning Act of 1985, SCE, San Diego Gas & Electric Company (SDG&E) (collectively, “the Utilities”), and the vendor for the 2014 SONGS 2&3 DCE (EnergySolutions) exercised prudent and reasonable efforts to estimate the costs and schedules for such pre-D&D activities based on their prior experience. The unique nature of these activities makes it difficult to estimate the schedule and cost for pre-D&D activities with precision. Moreover, as a steward of its customers’ nuclear decommissioning trust (NDT) funds, SCE’s ultimate duty is to make sure that the NDTs are used appropriately. But this does not mean that SCE should be required or expected to rigidly adhere to the schedule estimated in the most recent DCE. Instead, as decommissioning proceeds, SCE is duty-bound to adjust its decommissioning schedule, as appropriate, to account for new or changing decommissioning requirements, technologies, and economic conditions. In some circumstances, for example, it may be reasonable for SCE to delay a decommissioning activity if doing so is reasonably expected to result in cost and/or schedule savings later in the project. The Commission should consider these nuances in its reasonableness reviews in the NDCTPs.
B. The Commission Should Continue To Apply The Prudent Manager Standard To Determine Whether Actions Taken And Costs Incurred By The Utilities To Perform Decommissioning Work Were Reasonable

A fundamental purpose of the NDCTP is for the Commission to determine whether decommissioning expenditures (i.e., costs) are reasonably incurred by the Utilities. In D.10-07-047, the Commission reaffirmed its reasonableness review standard for decommissioning expenditures:

[W]e define reasonableness for decommissioning expenditures consistent with prior Commission findings; i.e., that the reasonableness of a particular management action depends on what the utility knew or should have known at the time the managerial decision was made.

The Commission also identified additional factors for applying the prudent manager standard, including that a reasonable and prudent act includes:

- a spectrum of possible acts consistent with the utility system need, the interest of customers, and the requirements of governmental agencies of competent jurisdiction;
- the act or decision logically or reasonably expected by the utility to accomplish the desired result consistent with good utility practices.

Thus, reasonableness of a particular management action depends on what the utility knew or should have known at the time that the managerial decision was made, not how the decision holds up in light of future developments. Further, the utility need not demonstrate that it has undertaken the optimal act.

In connection with the review of the DGC selection process, Cal Advocates suggests the Commission should consider whether a particular action taken by SCE – the decision to negotiate with

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15 See D.10-07-047, p. 10; D.16-12-063, pp. 9-10; accord D.02-08-064, pp. 5-6.
16 See D.16-12-063, p. 9; D.02-08-064, p. 6.
17 See D.16-12-063, p. 10; D.02-08-064, p. 6.
18 See D.16-12-063, p. 10.
19 See D.02-08-064, p. 8.
three bidders instead of one – was foreseeable.\textsuperscript{20} Cal Advocates suggests that if work scope is foreseeable, but not included in the approved DCE, the recorded costs for that activity should be deemed excessive and unreasonable. TURN asserts more generally that certain actions taken by SCE justify “increased scrutiny” by the Commission.\textsuperscript{21} Although Cal Advocates and TURN did not explicitly define their proposed alternative review standards, they are essentially asking the Commission to apply different standards than the prudent manager standard. The Commission should reject TURN’s and Cal Advocates’ alternative review standards, and continue to apply the well-established prudent manager standard to determine the reasonableness of SONGS decommissioning expenditures. In sum, this review standard includes assessing the reasonableness of SCE’s actions based on: (1) what SCE knew at the time; (2) whether the action was within the spectrum of possible acts that could be deemed reasonable; and (3) whether SCE reasonably expected its actions to achieve the desired result consistent with good utility practices.

C. Much Of TURN’s Testimony Addresses Issues That Have Been Assigned To Phase 3 Of This Proceeding Or Are Outside The Scope Of The NDCTP, And Should Therefore Be Disregarded

TURN’s testimony is flawed on many levels. It substantially disregards and seeks to inappropriately expand the scope of NDCTPs as established by the California Nuclear Facility Decommissioning Act of 1985 and Commission precedent, and the Commission’s Scoping Memorandum for this proceeding. TURN’s inappropriate recommendations fall into one of three broad categories:

(1) Schedule Delays (Out of scope and/or Phase 3) – TURN recommends that the Commission review schedule delays relative to the 2014 SONGS 2&3 DCE without regard to corresponding decommissioning expenditures.\textsuperscript{22}

\textsuperscript{20} A.18-03-009, Cal Advocates Testimony, p. 9.
\textsuperscript{21} A.18-03-009, TURN Testimony, p. 22.
\textsuperscript{22} A.18-03-009, TURN Testimony, pp. 9-12 (Section IV). In any event, in many instances TURN’s assertions regarding certain schedule delays are wrong, and potentially confuse the reasonableness review of recorded costs being conducted in this proceeding. TURN, for example, incorrectly asserts that there were many Phase
(2) Spent Fuel Issues (Phase 3) – TURN makes several recommendations with respect to review of DOE damages claims and the storage of SONGS 1 fuel at Morris, IL.\footnote{A.18-03-009, TURN Testimony, pp. 13-21 (Section V).}

(3) DGC Agreement (Out of Scope) – TURN suggests that the Commission should review the SONGS DGC Agreement in this proceeding without regard to cost review;\footnote{Id., pp. 22-31 (Section VI); pp. 32-38 & 42 (Section VII).}

Each of these recommendations by TURN involves an issue that has either been deferred until Phase 3 of this proceeding,\footnote{See A.18-03-009, Joint Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge, dated December 19, 2018.} or is irrelevant to or beyond the scope of an NDCTP. In addition, none of these issues identified by TURN challenges the reasonableness of any specific decommissioning expenditure that has been submitted for Commission review in this proceeding. SCE, therefore, intends to submit a motion \textit{in limine} to request the removal of each of these sections of TURN’s testimony from the record for Phase 2 of this NDCTP.

\footnote{1 activities not completed in 2017 as scheduled. The assertion is based on TURN’s faulty comparison of the DGC costs submitted for reasonableness review in this proceeding versus the DGC costs identified in the DGC Agreement, Milestone Payment Schedule for Phase 1. In this reasonableness review, SCE only submitted Phase 1 milestone payments that were eligible for reasonableness review according to the Milestone Framework. All other Phase 1 milestone payments completed to date are a part of Major Projects not yet eligible for review under the Milestone Framework. Accordingly, the level of DGC spending being reviewed cannot be used to measure the schedule progress of Phase 1 milestones. TURN’s faulty schedule analysis underscores the importance of not considering perceived schedule delay issues to the extent the delay does not correspond to the recorded costs under review.}
III. REBUTTAL TO CAL ADVOCATES’ RECOMMENDATIONS

A. Cal Advocates’ Recommended $10.8 Million Disallowance For DGC Selection Costs Should Be Rejected Because SCE’s $13.8 Million Costs For Selecting The DGC Were Reasonable

Cal Advocates recommends a disallowance of $10.8 million for the DGC selection process (identified as the “Select DGC” activity in the 2014 SONGS 2&3 DCE), resulting in a reimbursement of $3.0 million. Cal Advocates’ proposed disallowance is not warranted.

Cal Advocates’ testimony provides a lengthy presentation discussing the fact that SCE’s DGC selection schedule and cost exceeded the schedule and cost provided in the 2014 DCE. SCE acknowledges that the schedule duration and costs increased for this activity. However, increased schedule durations and costs for a particular decommissioning activity do not necessarily indicate imprudence.

1. SCE’s DGC Selection Activities Included Several Prudent Activities That Cal Advocates Overlooked

First, it is evident that Cal Advocates misunderstood the full scope of the DGC selection process as their disallowance recommendation is premised on the project timeline and additional time it took to complete the selection process, not the reasonableness of the breadth of the activities involved. The DGC selection process completed by SCE was much more extensive than estimated in the 2014 DCE and included several activities completed from 2014-2016 to prepare for the selection process, to incorporate lessons learned from other decommissioning projects’ experiences with third-party decommissioning contractors, and to complete a high-quality selection process that would identify a qualified DGC and obtain favorable DGC agreement terms. This extensive process consisted of developing the RFI to identify qualified bidders; developing the RFP to obtain pricing and terms from the interested bidders; completing technical and commercial evaluations of bids; supporting the due

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27 Id., p. 12.
diligence by the bidders; and completing time-intensive contract negotiations with the three bidders.\textsuperscript{28}

These efforts and the associated cash flow are shown in Figure III-1 below.

\textbf{Figure III-1}

\textit{DGC Selection Activities and Recorded Cash Flow (In Millions, 2014$, 100\% Share)}

<table>
<thead>
<tr>
<th>Actual</th>
<th>2014</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
<th>Total</th>
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<tr>
<td>SCE</td>
<td>1.9</td>
<td>1.1</td>
<td>2.2</td>
<td>(0.4)</td>
<td>4.8</td>
</tr>
<tr>
<td>Consultants</td>
<td>0.0</td>
<td>2.9</td>
<td>2.3</td>
<td>0.4</td>
<td>5.6</td>
</tr>
<tr>
<td>Infrastructure</td>
<td>0.0</td>
<td>0.1</td>
<td>0.0</td>
<td>0.0</td>
<td>0.1</td>
</tr>
<tr>
<td>Legal Support</td>
<td>0.0</td>
<td>0.4</td>
<td>1.2</td>
<td>0.0</td>
<td>1.6</td>
</tr>
<tr>
<td>Financial Analysis</td>
<td>0.0</td>
<td>0.0</td>
<td>1.0</td>
<td>0.1</td>
<td>1.1</td>
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<td>Overheads</td>
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<td>0.3</td>
<td>0.4</td>
<td>0.0</td>
<td>0.7</td>
</tr>
<tr>
<td>Total</td>
<td>1.9</td>
<td>4.7</td>
<td>7.0</td>
<td>0.2</td>
<td>13.8</td>
</tr>
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</table>

As SCE moved forward with the DGC selection process, it became apparent that more extensive analysis and review than originally anticipated in the 2014 DCE would be required to achieve an optimum result. SCE was also aware that prior nuclear industry experience with several third-party decommissioning contractors had been unsuccessful, and desired to exercise additional diligence to ensure a successful outcome with the SONGS DGC. In addition, it became apparent that continuing negotiations with three bidders for the DGC agreement instead of one would maintain a competitive environment throughout the negotiation process and result in more commercially favorable terms for the benefit of customers. Therefore, SCE proactively and deliberately chose to invest a much more substantial level of effort into the DGC selection process than was initially estimated in the 2014 DCE.

It is also noteworthy that TURN did not recommend any disallowance regarding the reasonableness of SCE’s DGC selection costs. TURN only recommended that the reasonableness

\textsuperscript{28} See Exhibit SCE-05, pp. 14-19 for a discussion of the DGC selection process.
review for these costs be deferred to a future NDCTP.\textsuperscript{29} Indeed, TURN’s witness, Mr. Bruce Lacy, testified that his review of the DGC agreement “is cautiously favorable,”\textsuperscript{30} and that “[t]here may be merit in ensuring that adequate time and resources were devoted to this effort…These delays may be reasonable if the process yields a high quality agreement at a better price and a shorter overall physical decommissioning schedule than SCE anticipated in the 2014 DCE.”\textsuperscript{31} This is precisely the reason SCE decided to implement a more comprehensive DGC selection process – the expectation that doing so would optimize the DGC selection and achieve a higher quality DGC agreement at a better price. Again, one of the important factors the Commission applies in determining the reasonableness of a utility’s actions includes whether \textit{at the time} the action was taken, the utility \textit{reasonably expected} the action to achieve the desired outcome at a reasonable cost.\textsuperscript{32} The Commission should determine that SCE’s actions were reasonable when considering this factor here.

\textbf{2. Cal Advocates Proposes an Incorrect Standard of Review}

Cal Advocates argues that SCE should have known that the DGC selection process would have included negotiations with multiple bidders, independent peer reviews, consultations with expert attorneys and consultants, etc., all of which Cal Advocates claims should have been reflected in the 2014 DCE.\textsuperscript{33} Cal Advocates’ argument is based on SCE’s receipt of the CH2MHill technical report on the DGC selection process prior to the submission of the DCE. The Commission should reject this argument for two reasons.

First, it applies the wrong reasonableness review standard. As discussed above, the correct standard is the prudent manager standard, not whether higher costs were foreseeable and could have been included in a DCE.\textsuperscript{34} The Commission does not demand perfection in the development of a DCE, 

\textsuperscript{29} See Section IV.A infra for SCE’s response to this recommendation.

\textsuperscript{30} A.18-03-009, TURN Testimony, p. 6.

\textsuperscript{31} \textit{Id.}, p. 9, lines 31-36.

\textsuperscript{32} See D.16-12-063, pp. 9-10 (citing D.02-08-064).

\textsuperscript{33} A.18-03-009, Cal Advocates Testimony, p. 9.

\textsuperscript{34} This is not an instance in which SCE inadvertently omitted an activity cost in its entirety over several DCEs. Instead, SCE included the cost and scope for this activity in the DCE, but underestimated the scope and cost.
which seems to be what Cal Advocates is requiring. Rather, the Commission permits the expenditure of costs in excess of what was included in the DCE as long as the decision to incur those costs was reasonable and prudent based on what the utility knew at the time it made the decision.

Second, the argument presumes the DCE was still in development at the time the CH2MHiLL report was received, which is incorrect. The DCE was substantially completed in May 2014 and finalized in September 2014 for submittal to the Nuclear Regulatory Commission along with the Post Shutdown Decommissioning Activities Report and the Integrated Fuel Management Plan. Although the CH2MHiLL report was received in June 2014, SCE did not have enough time to analyze the information provided in the technical report, determine how it would respond to the information, and then communicate that information to the DCE vendor for incorporation into the 2014 SONGS 2&3 DCE before the DCE was finalized in September 2014.

3. **Cal Advocates Fails To Provide A Substantive Basis For The Amount Of The Proposed Disallowance**

Cal Advocates’ recommendation to disallow $10.8 million of the $13.8 million in DGC selection costs is further flawed because Cal Advocates does not provide a substantive basis for the proposed disallowance. Cal Advocates’ proposed tripling of the 2014 DCE line item ($0.8 million) for this activity to derive $3 million as the allowable amount is an arbitrary cost cap on the DGC selection process. While Cal Advocates provided simple arithmetic for their proposed disallowance, they did not identify which of the scopes of work performed as part of the DGC selection were imprudent.

B. **The Commission Should Reject Cal Advocates’ Other Proposed Disallowances**

Cal Advocates also recommends disallowances of $234,000 ($0.2 million) recorded for DGC solicitation issues and $147,000 ($0.1 million) recorded for SDS Agreement issues. Cal Advocates claims that these costs should have been included with the costs recorded for selecting the DGC, and that SCE’s testimony did not support the reasonableness of these costs. Cal Advocates’ argument

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37 Id., p. 13.
should be rejected. Whether or not the costs were recorded in the correct bookkeeping accounts is beside the point, so long as SCE has presented sufficient information to demonstrate that the costs were reasonable. SCE has so demonstrated. In any event, these costs were recorded in the proper accounts. These costs were not incurred as a part of the DGC bidding and/or selection process. As indicated in Exhibit SCE-05, the costs were recorded separately to legal matters in the SCE law department, providing greater visibility of the activities.

SCE incurred these costs due to the potential for litigation regarding the DGC selection process and the DGC Agreement. SCE obtained legal analysis and review from external law firms with expertise in these types of issues, as discussed below.

SCE incurred $234,000 to review and confirm that the DGC selection process had been conducted in a fair and appropriate manner. Based on feedback provided by third-party experts, SCE understood that in large procurements of this type, the unsuccessful bidder(s) may choose to challenge the outcome of the bidding process due to the significant investment in the process. SCE further estimated that the bidders may have incurred approximately $10-$15 million participating in this procurement, increasing the likelihood of a challenge. This level of investment created a risk that one or more of the unsuccessful bidders might initiate litigation against the SONGS participants. Accordingly, in an effort to mitigate this risk, SCE engaged legal counsel to review the process that SCE had followed during the RFP and negotiations so that SCE could correct any perceived deficiencies before it awarded the DGC Agreement.

SCE incurred $147,000 to engage the outside legal counsel who had negotiated the DGC Agreement to ensure that the transition of SONGS programs complied with the DGC Agreement. This transition included providing training to individuals involved with the administration and implementation of the Agreement. The training covered topics such as contract structure, key terms, and contract management procedures. It was important for SCE to ensure personnel were sufficiently trained so that SCE would appropriately enforce the contract terms, and protect the Participants’ and customers’ financial interests. Cal Advocates asserts that it is not clear why SCE required outside legal
counsel to provide this training when SCE had in-house counsel. Cal Advocates, however, overlooks that outside counsel had negotiated the contract and was better positioned to provide the training. Engaging outside counsel also was necessary because they possessed unique, specialized expertise regarding the complex legal issues raised by the contract. SCE did not have this experience in-house.

The Commission should therefore reject these disallowances proposed by Cal Advocates, and find that the $234,000 ($0.2 million) cost for DGC solicitation issues and the $147,000 ($0.1 million) cost for SDS (i.e., DGC) agreement issues were reasonable.

If the Commission chooses to include the $234,000 with the cost recorded for the DGC selection (i.e., the $13.8 million) as Cal Advocates recommends, the Commission should still find that all of the costs (the $13.8 million as well as the $0.234 million) were incurred prudently. The $147,000 was incurred well after the DGC Agreement was awarded and was already being implemented. It would therefore be improper to include this cost with the $13.8 million. In any event, regardless of where these costs were recorded, SCE has demonstrated that these costs were prudently incurred.

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38 Id., p. 12.
IV.

REBUTTAL TO TURN’S RECOMMENDATIONS

A. TURN’s Recommendation To Defer Review Of The DGC Selection Costs Should Be Denied

TURN observes that the selection of the DGC and negotiation of the DGC Agreement took approximately one year longer than originally estimated in the 2014 DCE, and asserts this delay may impact decommissioning costs. However, TURN acknowledges that DGC selection “delays may be reasonable if the process yields a high quality agreement at a better price and a shorter overall physical decommissioning schedule.” TURN recommends that the reasonableness review of the $13.8 million incurred for DGC selection be deferred until the outcome (i.e., how the contract performs) is known. TURN suggests that this review occur after DGC Phase 2 activities have commenced. The recommendation contravenes the prudent manager standard and ignores the Commission-approved Milestone Framework for the review of these costs. For these reasons, the Commission should reject TURN’s recommendation.

First, TURN again seeks to apply an incorrect reasonableness review standard by waiting for a future outcome to assess the reasonableness of SCE’s decisions and actions rather than assessing the reasonableness of SCE’s decisions and actions based on what SCE knew at the time the decisions and actions were made. As explained in Section III.A.1., it was reasonable for SCE to expand the scope of the DGC selection process, based on the complexity of the project and importance of obtaining optimum contract terms and pricing. Under the prudent manager standard, the Commission should be reviewing the reasonableness of SCE’s expectation that the expanded process could produce these optimum results, not whether the results actually occur. Moreover, even if it were appropriate to defer the

40 Id., p. 9, lines 31-36.
41 Id., p. 5 (Section III Recommendations 1.a and 2).
42 Id.
43 See D.16-12-063, p. 10 (reasonableness of a particular management action depends on what the utility knew or should have known at the time that the managerial decision was made, not how the decision holds up in light of future developments).
reasonableness review of these costs, to take TURN’s recommendation to its logical conclusion, the
timing of the reasonableness review for these costs would be at the completion of the entire SDS scope,
not at the end of SDS Phase 1. TURN’s recommendation (to defer until the end of SDS Phase 1) does
not make sense and should be rejected because it contradicts the Commission’s review standard.

Second, TURN seeks to selectively undo the Commission-approved Milestone Framework
negotiated by the parties over a one-year period through numerous face-to-face workshops and other
communications. SCE is now relying on this Milestone Framework for the scope and timing of future
decommissioning cost reasonableness reviews. If TURN is permitted to make recommendations that
would materially alter this Milestone Framework, even in part, none of the parties to this proceeding
would benefit from the structure and certainty it was intended to provide.44

The Milestone Framework explicitly identifies that the review of the DGC selection costs would
be performed in the 2018 NDCTP, as shown in the excerpt from D.18-11-034, Attachment A identified
as Figure IV-1 below:

44 SCE believes the Milestone Framework allows parties to recommend changes in the timing of reasonableness
reviews for activities that remain to be completed but should not allow parties to recommend changes in the
timing of reasonableness reviews for activities that have already been completed and scheduled for review in
this NDCTP.
Four completed distributed projects were designated for review in the 2018 NDCTP. The first of these projects is “DGC RFP & Preps” (*i.e.*, DGC selection costs). A fundamental aspect of the Milestone Framework is that each distributed project will be submitted for reasonableness review in the next available NDCTP after the project is completed. The DGC selection process was completed during 2016, and is therefore appropriately included in this proceeding for reasonableness review.

At the time the Commission adopted the Milestone Framework in D.18-11-034 (November 29, 2018), TURN did not challenge the inclusion of DGC selection costs\(^\text{45}\) in the Milestone Framework. Yet, less than three weeks after the Commission approved the Milestone Framework, TURN proposed to ignore the agreement it reached with the other parties to the 2015 NDCTP. The Commission should not allow this to occur. To allow a party to pick and choose which portions of an agreement they wish to enforce, absent additional information or new circumstances warranting change, would render the Milestone Framework agreement ineffectual. The Commission should therefore reject TURN’s recommendation to defer the reasonableness review of the DGC selection costs.

\(^{45}\) During the workshops in which the Milestone Framework was developed by the parties, TURN knew that the DGC selection process had been completed, and agreed to this activity being reviewed in the 2018 NDCTP.
B. TURN’s Recommendations To Deferr The Reasonableness Reviews Of Certain SONGS 2&3

2016-2017 Recorded Costs Should Also Be Denied

In Section III of its testimony, TURN makes two recommendations regarding the review of 2016-2017 recorded costs. First, TURN recommends that the $81.1 million of “Undistributed costs recorded for Utility Staff need to be reviewed in light of the Commission’s recent decision directing SCE to ‘create a mapping of costs incurred in prior DCEs’ that properly reflects staff support for Distributed Activities.” Second, TURN recommends that the $82.5 million of DGC Staff costs recorded by SCE as undistributed activities should be re-categorized as distributed activities and submitted for reasonableness review after all DGC Phase 1 activities have been completed. The Commission should reject TURN’s recommendations because: (1) TURN misconstrues the Commission’s direction in D.18-11-034 (2015 NDCTP Phase 2 and 3 Decision); and (2) TURN selectively seeks to undo the Milestone Framework.

1. TURN Misconstrues The Commission’s Decision

The Commission should reject TURN’s recommendations because they misconstrue the Commission’s Phase 2 and 3 decision in the 2015 NDCTP. The Commission stated:

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46 A.18-03-009, TURN Testimony, pp. 2, 6-7 (Section III Recommendations 1.b and 4).

47 It should be noted that whereas TURN correctly identified the $82.5 million for DGC Staff costs as being expressed in 2014 dollars, TURN incorrectly implies that the $76.6 million for DGC phase 1 milestone costs are also expressed in 2014 dollars, when they are actually expressed in nominal dollars. In 2014 dollars, the $82.5 million DGC staff costs consist of $71.8 million for DGC program transition milestone costs and $10.7 million for other DGC mobilization costs.

48 A.18-03-009, TURN Testimony, pp. 2, 7 (Section III Recommendations 1.c and 5).
...The Commission therefore directs SCE to meet with Energy Division Staff and interested parties to address how SCE will in the future provide more detailed directions and instructions to its staff so that record keeping will directly and transparently be reflected in the appropriate location, and with appropriate detail. This includes an understanding as to how SCE will provide sufficient support for Distributed activities, and a clear understanding of what activities will be categorized as Distributed and what activities will be categorized as Undistributed activities. This change must reflect how costs are reflected in the future, and in forecasted costs included in the DCE. This change applies to all future DCEs including A.18-03-009. SCE is to meet with Energy Division staff and interested parties to determine how to define Distributed and Undistributed activities as well as how to create a mapping of costs incurred in prior DCE for such activities with categories in future DCEs.  

There are two issues to consider: (1) the Commission’s review of recorded costs; and (2) the Commission’s review of DCEs. In regard to the review of recorded costs, the direction provided in D.18-11-034 reflects the Commission’s intent that the parties discuss cost-recording/cost-categorization practices in connection with recorded decommissioning costs that will be reviewed in future NDCTPs, not to retroactively re-categorize or re-baseline recorded decommissioning costs under review in the 2018 NDCTP. In regard to the review of DCEs, the direction reflects that the Commission intended for any agreed-upon changes to cost-categorization practices apply to the DCE pending review in the 2018 NDCTP (i.e., the 2017 DCE). By limiting the evaluation of distributed versus undistributed costs to only future costs and DCEs, the Commission correctly determined that the benefit of attempting to re-categorize costs that have already been recorded is minimal and therefore the significant effort required to do so is not justified. TURN conflates these two issues by improperly suggesting that the mapping should apply to the review of recorded costs under review in the 2018 NDCTP, when this was not the Commission’s direction. The Commission should reject TURN’s recommendation, as it confuses the Commission’s intent.

2. TURN’s Recommendations Selectively Undermine The Milestone Framework

Another problem with TURN’s recommendations is that they would, again, selectively undermine the recently approved Milestone Framework. As depicted in Figure IV-1 above, the

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49 D.18-11-034, p. 44.
Milestone Framework chart provided in Attachment A of D.18-11-034 specifically designates that “All Undistributed Costs” recorded during 2016-2017 will be reviewed in the 2018 NDCTP. Indeed, TURN stated unequivocally in its Phase 2 and 3 Opening Brief that the “[r]eview of Undistributed costs in the 2018, 2024, and 2030 NDCTPs would occur without any need to demonstrate satisfaction of a Check Point milestone.” TURN was instrumental in negotiating the Milestone Framework and agreed to it, as evidenced in the multiple filings they submitted in support of the framework. The Commission should not permit TURN to refuse to honor it now. To do otherwise would negate the “give and take” that was necessary to achieve the Milestone Framework in the first place (i.e., intervenors and the Utilities each received benefits in the agreed-upon framework). The Commission should allow SCE to receive the benefit of the agreement by enforcing it (in full, not selectively) and allowing a reasonableness review in this proceeding for the $81.1 million of Utility Staff costs and $82.5 million of DGC Staff costs recorded during 2016-2017.

In sum, the Commission should reject TURN’s recommendations for the reasons discussed above.

C. SCE’s $76.6 Million Expenditure For DGC Staffing Milestone Payments Challenged By TURN Are Reasonable

In Section VII of its testimony, TURN recommends that SCE be required to explain the reasonableness of the $76.6M included in the payment milestones for DGC Agreement Phase I activities. Although TURN did not recommend a disallowance, TURN suggests these costs may be unnecessary and excessive. This is incorrect as discussed below.

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50 The 2016-2017 undistributed costs include all Utility Staff and DGC Staff costs. The Milestone Framework identified $268.8 million for these costs. SCE recorded $282.9 million. See Exhibit SCE-05 for a detailed discussion of these undistributed costs.

51 A.16-03-004, TURN Phase 2 and 3 Opening Brief, p. 33.

52 Id., pp. 2, 28; TURN Phase 2 and 3 Reply Brief, p. 18.

53 A.18-03-009, TURN Testimony, p 32 (Section VII Recommendation 4).

54 TURN contradicts itself, because the $76.6 million costs incurred for DGC Agreement Phase 1 activities are a subset of the $82.5 million DGC Staff costs, meaning that TURN both asks that the review of these costs be
1. **The Mobilization Efforts Were Necessary**

As SCE explained in Exhibit SCE-05, the DGC staff began its mobilization efforts at the SONGS site in January 2017. A crucial component of the DGC mobilization process, as required by the DGC Agreement, was to transition the responsibility for most of the site management programs from SCE to the DGC. This transition enabled the DGC to direct its day-to-day work activities under programs that it took ownership of and conformed to its unique business practices. Because the DGC will be performing the decommissioning work, it is better positioned to implement the programs that are required to support decommissioning and meet regulatory requirements. In addition, the transition allowed SCE to focus on its oversight role.

2. **The Payments Were Not Excessive**

In addition to disputing the need to transition the programs, TURN asserts that SCE overpaid for the transition and offers the following reasons in support: (1) some of the programs were unnecessary; (2) the DGC should have already had programs in place that would either be immediately usable or easy to adapt to SONGS; and (3) existing programs should have been available to SCE at virtually no cost.\footnote{A.18-03-009, TURN Testimony, p. 40, lines 4-5 and fn. 66.} TURN’s assertions are not accurate, and ignore common-sense business principles. As explained below, each of the programs that were transferred were indeed necessary to meet regulatory or corporate requirements. Neither SCE’s programs used during SONGS plant operations or post-shutdown operations,\footnote{After SONGS 2&3 were permanently defueled, many of the SONGS programs were modified to eliminate requirements that were applicable only to an operating nuclear facility.} nor the DGC’s programs from other decommissioning projects, were portable or readily transferable as TURN suggests. But even if they were, as a matter of common-sense business, the DGC would be entitled to compensation for its work product, whether or not that work product was existing on-the-shelf work product the DGC had already performed for decommissioning projects generally or was for new work product performed uniquely for SONGS.

defered to a later proceeding and simultaneously asserts that SCE should have to defend the reasonableness of them in this proceeding.
3. **TURN Oversimplifies The Transition Process**

TURN oversimplifies the transition process, suggesting that it is limited to the mere preparation of program documents. However, this is not the case. The transition process included SDS’ preparation of program documents as well as a robust approval and transition process to assure SCE that SDS would be fully prepared and capable of performing every required function as the DGC. SDS did use existing SONGS program documents and AECOM and EnergySolutions documents as a baseline starting point in the development of the DGC programs, but even still, the programs required extensive modification to make them applicable to SONGS D&D activities. It was certainly more involved than just taking existing programs and reformatting them. There were multiple iterations of review, comment, and approval for program documents. The rigorous review and approval process involved program owners and sponsors, authorized representatives, contract compliance representative, transition team members, and oversight managers reviewing the transition plans and programs to assure the suitability of the plans and programs for SONGS decommissioning. Moreover, once each program was approved by SCE, the DGC staffed the project with qualified personnel, trained the DGC personnel on the program requirements, and demonstrated preparation for turnover to the DGC through program specific readiness reviews. Upon completion of the readiness reviews, the DGC presented an authorization request to the DGC to transfer the program to the DGC. Upon receipt of the approved program authorization, the DGC then officially took control of the program. The transition process consisted of twenty-one programs that SCE reviewed and approved prior to payment of the associated milestones.⁵⁷

4. **The Costs Include More than Just the Program Preparation and Transition**

SCE and the DGC negotiated the aggregate pricing for DGC Phase 1 activities with the mutual understanding that such activities would encompass a wide variety of planning, preparation, and mobilization activities by DGC personnel both at the SONGS site and at other locations, and their associated costs. As is typical with many large industrial projects, many DGC staff personnel are likely to have performed work for their respective companies (AECOM and EnergySolutions) in support of the

⁵⁷ Exhibit SCE-05, p. 33, lines 10-15.
SONGS decommissioning project without having specifically charged the time expended on those activities to a specific DGC Phase 1 milestone. Because it would have been impossible to identify in advance every possible activity that a DGC staff person may be required to perform in support of DGC Phase 1 activities, SCE and the DGC developed the Phase 1 milestones with the understanding that the pricing would also include overheads and other non-labor charges for such supporting activities. When SCE was satisfied that the DGC had completed the requirements for each DGC Phase 1 milestone, SCE paid the invoiced cost for that milestone.

For the reasons discussed above, the $76.6 million incurred for program transition costs is reasonable.

D. The Commission Should Not Require SCE To Submit Additional Reports Regarding Decommissioning Schedule Status

In Section III of its testimony, TURN also recommends that the Commission require SCE to report on the schedule status of all major projects defined in the Milestone Framework in regular advice letters and in the NDCTP. TURN suggests that these reports indicate which projects are on or near the critical path, and identify delays, their causes, and potential cost consequences.58

TURN’s recommendation is not necessary because SCE already submits two Tier 2 advice letters to the Commission each year in which it provides this type of information. SCE complied with the direction received from the Energy Division to ensure that these advice letters provide all information that was needed by or of interest to the Commission and its staff.59

SCE’s two annual advice letters provide comprehensive status updates of the decommissioning project cost and schedule performance, and fulfill the Energy Division’s requirements. In particular, Attachment 11 of SCE’s Fall 2018 Advice Letter (which will be updated in the Spring 2019 Advice Letter and provided in all future advice letters) provides detailed information regarding the status of SONGS decommissioning activities and spent fuel transfer operations. The advice letters are public

58 A.18-03-009, TURN Testimony, p. 8 (Section III Recommendation 6).
59 The relevant content of SCE’s advice letters regarding SONGS decommissioning will be discussed at workshops scheduled for this proceeding.
documents served to interested parties, and as such, are available to TURN. Because the advice letters are submitted at more frequent intervals than the triennial NDCTPs, a requirement to include such information in the NDCTP would be redundant. Information provided only at three-year intervals in an NDCTP would quickly become stale and provide little value for testimony, discovery, or cross examination. Conversely, information provided at intervals more frequent than the spring and fall advice letters would in many cases be redundant due to the substantial durations of many decommissioning activities. The content and frequency of SCE’s advice letters are sufficient and the Commission should reject TURN’s recommendation for a separate status update in the NDCTP.
V. CONCLUSION

In this rebuttal testimony, SCE explained that TURN’s implicit position that any schedule delay is presumptively imprudent is too circumscribed and does not consider the spectrum of elements necessary for reasonable reviews. The Commission should continue to apply the prudent manager standard and reject the recommendations by Cal Advocates and TURN that alternative standards be applied for certain decommissioning activities. SCE identified many sections of TURN’s testimony that have either been assigned to Phase 3 of this proceeding or are beyond the scope of the NDCTP; SCE recommends that they be disregarded from this Phase 2. SCE also explained the errors in TURN’s recommendations that the reasonableness reviews for certain decommissioning costs submitted in this proceeding be deferred until future NDCTPs, and that certain undistributed costs should be re-categorized as distributed costs. In addition, SCE demonstrated that its advice letters provide periodic detailed reporting of the decommissioning project status to Commission staff and other interested parties, and that SCE should not be required to provide additional status reports in NDCTPs.

For the reasons discussed in SCE’s opening and rebuttal testimony, the Commission should determine that all 2016-2017 SONGS decommissioning costs submitted for review in this proceeding should not be deferred and are reasonable.
Appendix A
Response To Data Request
PUBLIC ADVOCATES OFFICE
DATA RESPONSE
SCE/SDG&E 2018 NDCTP
A.18-03-009

Date: 28 December 2018
Response Due: 3 January 2019
To: Walker A. Matthews
Southern California Edison Company
walker.matthews@sce.com
Case_Admin@sce.com

From: Truman Burns, Project Coordinator
Public Advocates Office
505 Van Ness Avenue, Room 4205
San Francisco, CA 94102
xb@cpuc.ca.gov
415/703-2932

Data Request No: SCE-CalPa-01, dated 20 December 2018

SCE’s data request:

1. No testimony was submitted in A.18-03-009 by the Public Advocates Office regarding 2016-2017 SONGS 1 recorded decommissioning costs. Please confirm that this means the Public Advocates Office is recommending zero disallowances for 2016-2017 SONGS 1 recorded decommissioning costs.

Public Advocates Office response:

The Public Advocates Office Phase 2 direct testimony made no recommendations regarding 2016-2017 SONGS 1 recorded decommissioning costs. The Public Advocates Office did not oppose SCE’s 2016-2017 SONGS 1 recorded costs.

END OF RESPONSE
Data Request No: SCE-TURN-01

1. On page 1, TURN’s testimony states that it covers Phase 2 of A.18-03-009, the scope including, among other things, SONGS 1. No specific recommendations were made in TURN’s testimony regarding 2016-2017 SONGS 1 recorded decommissioning costs. Please confirm that this means TURN is recommending zero disallowances for 2016-2017 SONGS 1 recorded decommissioning costs.

Response to Question 1:

TURN made no specific recommendations in its testimony regarding 2016-2017 SONGS 1 recorded decommissioning costs. Based on information available at this time, TURN is not recommending any disallowances for 2016-2017 SONGS 1 recorded decommissioning costs.
Appendix B
Witness Qualifications
Q. Please state your name and business address for the record.
A. My name is Jose Luis Perez, and my business address is 2244 Walnut Grove Ave, Rosemead, CA 91770.

Q. Briefly describe your present responsibilities at the Southern California Edison Company.
A. I am a Principal Manager in the Regulatory Affairs organization responsible for CPUC regulatory activities for SONGS issues.

Q. Briefly describe your educational and professional background.
A. I earned an MBA from the University of California, Irvine in 1997. I earned a Bachelor of Science Degree in Civil Engineering from California State University, Long Beach in 1977. I am a Registered Professional Engineer in the State of California. Since joining Edison in 1982, I have held various management positions in nuclear generation business, finance, regulatory affairs, planning & strategy, and project controls organizations. In addition, I have managed various projects, including SONGS 1 decommissioning shortly after permanent shutdown and industry restructuring financial analysis. Prior to joining Edison, my professional background included various home office and jobsite positions in the civil engineering, nuclear power plant start-up, and project controls organizations of Bechtel Power Corporation and the collection and analysis of construction cost data for publication in cost estimating manuals for Marshall and Swift Publications.

Q. What is the purpose of your testimony in this proceeding?
A. The purpose of my testimony in this proceeding is to sponsor the portions of Exhibit SCE-08 as identified in the table of contents.

Q. Was this material prepared by you or under your supervision?
A. Yes, it was.

Q. Insofar as this material is factual in nature, do you believe it to be correct?
A. Yes, I do.

Q. Insofar as this material is in the nature of opinion or judgment, does it represent your best judgment?

A. Yes, it does.

Q. Does this conclude your qualifications and prepared testimony?

A. Yes, it does.
Q. Please state your name and business address for the record.
A. My name is Douglas R. Bauder, and my business address is 5000 Pacific Coast Highway, San Clemente, CA 92672.

Q. Briefly describe your present responsibilities at the Southern California Edison Company.
A. I am currently the Vice-President for the San Onofre Nuclear Generating Station (SONGS) Decommissioning and Chief Nuclear Officer.

Q. Briefly describe your educational and professional background.
A. I hold a bachelor’s degree in engineering from LeTourneau University in Longview, Texas, and served as a United States Naval Submarine Officer in Norfolk, Virginia. I am also a graduate of Edison International’s Executive Edge Program. Prior to my current position, I served as Vice President, Operational Services and Chief Procurement Officer for Southern California Edison. In this role, I was responsible for the strategic direction of Operational Services, including corporate security, supply chain management, supplier diversity and development, transportation services, corporate safety, environmental services, business resiliency, and corporate real estate. Prior to my role as the Chief Procurement Officer, I served as Vice-President and station manager for SONGS where I was responsible for providing oversight of day-to-day plant activities associated with the operation and maintenance of the plant, security, training, engineering, procurement, and the implementation of major projects. Before joining SCE in 2009, I served as the plant general manager for Calvert Cliffs Nuclear Power Plant in Maryland. During my 20 years at Calvert Cliffs, I led all aspects of plant management and implemented a site excellence plan and standard integrated program that directly contributed to improved business performance functions.

Q. What is the purpose of your testimony in this proceeding?
A. The purpose of my testimony in this proceeding is to sponsor the portions of Exhibit SCE-08 as identified in the table of contents.
Q. Was this material prepared by you or under your supervision?
A. Yes, it was.

Q. Insofar as this material is factual in nature, do you believe it to be correct?
A. Yes, I do.

Q. Insofar as this material is in the nature of opinion or judgment, does it represent your best judgment?
A. Yes, it does.

Q. Does this conclude your qualifications and prepared testimony?
A. Yes, it does.