Rebuttal Testimony in Support of SONGS Seismic Application

Before the
Public Utilities Commission of the State of California

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Rebuttal Testimony in Support of SONGS Seismic Application

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INTRODUCTION

I.

This rebuttal testimony responds to testimony submitted by the Division of Ratepayer Advocates (DRA) and the Alliance for Nuclear Responsibility (A4NR) regarding funding for the San Onofre Nuclear Generating Station Unit Nos. 2 & 3 (SONGS 2 & 3) on-going seismic program and seismic studies described in Application (A.) 11-04-006. The funding is necessary for Southern California Edison Company (SCE) to continue the SONGS 2 & 3 on-going seismic program and perform seismic studies, as recommended by the California Energy Commission (CEC) in its AB 1632 Report and also directed by California Public Utilities Commission (Commission) President Michael R. Peevey.¹

Intervenors DRA and A4NR assert that they generally support funding for the SONGS 2 & 3 on-going seismic program and seismic studies.² Both, however, offer a number of opinions and recommendations regarding the scope of the planned study activities, costs, and review process. DRA says the studies are not required, and recommends a 90/10 cost-sharing mechanism and cost cap for the study activities. A4NR recommends that the Commission establish an independent peer review panel (IPRP) to review the SONGS 2 & 3 on-going seismic program and study activities, similar to the IPRP established by the Commission to review Pacific Gas & Electric Company’s (PG&E) seismic studies for Diablo Canyon Nuclear Generating Station (Diablo Canyon). As further explained below, the Commission should reject these recommendations.

¹ Commission June 25, 2009 letter to SCE.
² Exhibit DRA-1, p. 1; Testimony of R. Becker, p. 2.
II. THE COMMISSION SHOULD REJECT DRA'S RECOMMENDATION FOR A 90/10 COST-SHARING SPLIT BETWEEN RATEPAYERS AND SHAREHOLDERS

DRA recommends that the Commission apply a 90/10 cost-sharing split between SCE’s ratepayers and shareholders for the costs of the SONGS 2 & 3 seismic study activities.² The Commission should reject DRA’s cost-sharing proposal, which is inconsistent with established ratemaking policy for SONGS 2 & 3.

A. DRA’s Recommendation Is Inconsistent With Established Cost-of-Service Ratemaking Principles

Established cost-of-service ratemaking principles provide that an investor owned utility (IOU), such as SCE, invests in projects beneficial to ratepayers and earns an authorized rate of return on that investment. Ratepayers provide funding required to operate and maintain the IOU’s assets consistent with federal and state regulations and recommendations. The reasonableness of the funding is assessed in periodic general rate cases and special applications such as this one. SONGS 2 & 3 is operated under cost-of-service ratemaking.⁴ As explained in SCE’s opening testimony, the SONGS 2 & 3 on-going seismic program and seismic studies are planned to be consistent with the recommendations made by the CEC in its AB 1632 Report. This report specifically recommends seismic studies to determine the vulnerability and reliability of SONGS 2 & 3 operations following a seismic event.⁵

Accordingly, it is abundantly evident that SCE’s seismic study activities are related to SONGS 2 & 3 current operations. The activities will provide information regarding SONGS 2 & 3 safety and reliability, for the direct benefit of ratepayers and at the recommendation of the

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² Exhibit DRA-1, p. 1.
⁴ D. 04-07-022 (Commission’s 2003 General Rate Case decision re-establishing cost-of-service ratemaking for SONGS 2 & 3).
⁵ CEC AB 1632 Report, p. 1.
CEC. Given this ratepayer benefit, it is appropriate for ratepayers to bear all of the costs of SONGS 2 & 3 study activities, as a cost-of-service activity.

B. **The Planned Studies are Required and Prudent**

According to DRA, a cost-sharing mechanism is warranted because the “studies have no mandate by law, regulation, or . . . the Nuclear Regulatory Commission (NRC).” DRA also claims that cost-sharing recognizes supposed benefits that the studies will provide to SCE shareholders. These arguments are incorrect.

1. **The Studies Fulfill CEC Recommendations And Support Anticipated NRC Requirements**

DRA’s argument that there is no regulatory-mandated basis for the studies is misleading. The planned study activities support both state and federal regulatory objectives.

First, performing the studies further responds to the CEC’s AB 1632 recommendations, as directed by Commission President Peevey. DRA’s suggestion that the CEC’s recommendations do not constitute a regulatory requirement or mandate is overly-legalistic and wholly inconsistent with the direction provided by this Commission. Whether the CEC’s AB 1632 Report is denoted as recommendations or otherwise, this Commission has provided unequivocal direction to SCE to perform these studies. In addition to Commission President Peevey’s direction in his June 25, 2009 letter, the Commission issued a scoping memo for A.10-11-015 that directed SCE to submit a separate application requesting funding for SONGS 2 & 3 seismic study activities.

Second, the scope of the studies supports SCE’s current and on-going obligations to the NRC to ensure safe plant operations. Indeed, recently on September 1, 2011, the NRC
issued for public comment a draft generic letter, “NRC Generic Letter 2011-XX: Seismic Risk Safety Evaluations for Operating Reactors.” The purpose of the generic letter is to (1) require that plant operators evaluate their existing facilities to determine the current level of seismic risk and (2) collect the required information to facilitate the NRC’s determination if there is a need for additional regulatory action under the current operating licenses for the facilities. The NRC expects to issue a final generic letter by the end of the year. The planned seismic studies should provide sufficient information for SCE to respond to the NRC’s requirements for seismic hazard and risk analysis contained in the letter.

It would be inappropriate for the Commission to adopt a cost-sharing mechanism given that SCE’s seismic studies will provide information necessary to meet these state and federal regulatory objectives.

2. **DRA’s Reasoning Regarding Shareholder Benefits Is Flawed**

DRA argues that costs should be shared because SCE shareholders potentially will receive a financial benefit from the studies, by enabling SCE to successfully renew the operating licenses for SONGS,\(^{10}\) or avoid the costs of a catastrophe caused by a seismic event.\(^{11}\) DRA’s reasoning is flawed, and, in any event, not relevant here.

Cost-of-service ratemaking for SONGS 2 & 3 assures that SCE operates SONGS 2 & 3 for the benefit of its customers.\(^{12}\) As discussed above, DRA ignores the substantial ratepayer benefits resulting from performing the studies, and the guidance from the CEC and Commission President Peevey.

In addition, contrary to DRA’s suggestion that the seismic studies will assist in SCE’s SONGS 2 & 3 license renewal efforts,\(^{13}\) there is no connection between completing the

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\(^{10}\) Exhibit DRA-1, p. 8.

\(^{11}\) Exhibit DRA-1, p. 8.

\(^{12}\) D.04-07-022.

\(^{13}\) DRA incorrectly refers to SONGS 2 & 3 license renewal as “relicensing.”
seismic studies and SONGS 2 & 3 license renewal by the NRC. The seismic studies will be reviewed as necessary by the NRC under the current operating license regulatory processes, and not as part of license renewal. The NRC’s license renewal review focuses on the management of the aging effects for plant structures, systems, and components that serve or could impact safety functions during the period of extended operation. The NRC’s license renewal review does not assess seismic issues because these issues are already assessed under the current license.

Finally, the notion that the costs should be shared based on an unsupported claim of supposed shareholder benefits cannot be accepted without creating a precedent that would apply to many other SCE costs. Indeed, it can be reasoned, for example, that virtually all ratepayer funding enables SCE to continue safe and reliable system operations and avoid other costs, for which shareholders derive benefit resulting from SCE’s reasonable rate of return set by the Commission in general rate cases. For the reasons noted above, providing cost sharing for these costs (including the costs of the SONGS 2 & 3 on-going seismic program and seismic studies) would represent a radical and inappropriate departure from cost-of-service ratemaking principles, and is a precedent the Commission should not set.

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14 10 CFR § 54.
III.

THE COMMISSION SHOULD REJECT DRA’S RECOMMENDATION FOR A COST CAP

DRA also recommends that the Commission apply a cost cap to control study costs.\footnote{Exhibit DRA-1, pp. 1 and 7.}

The Commission should reject DRA’s cost-cap proposal.

A. A Cost Cap Is Inappropriate For SONGS Seismic Studies

DRA’s proposal ignores potential developments that may reasonably occur and require additional scope, as SCE performs the studies. Based upon the seismic studies that SCE performed prior to the issuance of the SONGS 2 & 3 operating licenses, the seismic conditions affecting SONGS 2 & 3 are reasonably well understood. However, there is inherent uncertainty regarding the results the proposed future studies ultimately will provide. This does not mean that the SONGS 2 & 3 seismic study activities are not planned well or are unreasonable. As with any scientific study, the seismic studies may provide results that require additional work to resolve questions that arise during the study. As has already been shown by PG&E’s motion requesting additional funding for the Diablo Canyon studies, the scope and cost of such seismic studies are subject to evolution as work progresses.

B. A Tier 3 Advice Letter Process For Requesting Additional Scope And Cost Are Reasonable

Consequently, SCE cannot reasonably predict, nor address in its cost estimate, all the necessary and prudent scope increases that could arise. Given this unavoidable uncertainty, SCE needs to have the ability to request funding to perform additional work as necessary. SCE’s request for authority to file Tier 3 advice letters to request additional funding is reasonable for this purpose. The Tier 3 advice letter process provides SCE an opportunity to recover costs for work that is unforeseeable at this time, but later determined to be necessary and prudent. Furthermore, as opposed to the separate application process that DRA recommends for recovery
of additional costs, the advice letter process will ensure timely Commission review so that SCE can perform the seismic studies without delay. The Tier 3 advice letter process does not guarantee recovery of additional costs, which would still be subject to Commission review and approval.
IV.
THE COMMISSION SHOULD REJECT A4NR’S RECOMMENDATIONS REGARDING THE ROLE OF AN INDEPENDENT PEER REVIEW PANEL

A4NR recommends the Commission establish an IPRP to review the SONGS 2 & 3 ongoing seismic program and seismic study plans and results, similar to the IPRP established by the Commission to review Diablo Canyon seismic studies.\textsuperscript{16} The Commission should reject this recommendation as proposed.

A. An IPRP Is Not Appropriate

SCE disagrees that an IPRP is appropriate. The NRC has exclusive jurisdiction over the nuclear and radiological safety aspects involved in the operation of a nuclear power plant, including questions concerning safety arising from seismic issues. NRC regulations provide requirements addressing seismic-safety issues. As noted above, the NRC issued draft NRC Generic Letter 2011-XX, indicating its intention to exercise that jurisdiction to review the seismic-risk safety of SONGS 2 & 3. Moreover, the SONGS Seismic Technical Advisory Board (STAB) has been reviewing the SONGS 2 & 3 seismic studies. The STAB is comprised of industry experts and academic professionals from California state universities. The STAB has met to evaluate the plans for SONGS studies, and, as necessary, may recommend areas for further investigation based upon their review of the results of the studies. Of particular importance, the NRC and STAB possess technical expertise regarding nuclear plant safety analyses.

B. If The Commission Establishes An IPRP, The IPRP’s Role Should Be Clearly Defined

If the Commission establishes an IPRP to review the SONGS 2 & 3 seismic studies, the Commission should ensure that the IPRP does not create a regulatory chokepoint that prevents

\textsuperscript{16} Testimony of R. Becker, p. 5.
SCE from timely discharging its obligations to perform the studies. To prevent this problem, the IPRP’s primary role should be to advise the Commission. The IPRP should not merely serve as an entity that SCE must satisfy with the alternative being an appeal to the Commission. The NRC must serve as the appropriate regulatory agency with jurisdiction over SONGS 2 & 3 seismic-safety issues.

The SONGS 2 & 3 scope of work described in SCE's application is broader in scope than the scope of work included in PG&E’s application for the Diablo Canyon studies. If an IPRP is established to review SONGS 2 & 3 seismic studies, the IPRP’s activities should be limited to the scope that is contained in both applications. The IPRP's review should not expanded further to include review of the SONGS 2 & 3 on-going seismic program as suggested by A4NR.

A4NR cites the licensing history for the Diablo Canyon LTSP (including the NRC’s prior required review of LTSP activities) to argue that the Commission, in the apparent absence of required NRC review of SONGS 2 & 3 on-going seismic program, should establish a state analog oversight process for the program. This is unnecessary for a number of reasons. First, when the NRC issues future requirements regarding SONGS 2 & 3 seismic issues, such as the draft generic letter referenced above, SCE will submit relevant seismic evaluations to the NRC to meet the requirements. Second, the SONGS 2 & 3 STAB will review SONGS 2 & 3 on-going-seismic-program activities. The STAB’s role is to identify new, credible seismic information, evaluate the conclusions of seismic updates, and, as necessary, recommend areas for further investigation. Third, Diablo Canyon involves a different site with different seismic conditions, and has a different prior history of seismic investigation. Therefore, it is inappropriate to reference Diablo Canyon requirements as a basis for what should be done at SONGS 2 & 3, and vice versa.

C. **SCE Possesses The Expertise To Run An Effective On-going Seismic Program**

A4NR also seems to be questioning SCE’s ability to run an effective on-going seismic program. The facts demonstrate that these questions are unwarranted. SCE has performed
extensive seismic study activities throughout SONGS 2 & 3 licensing and operating history to meet this obligation, and has substantial experience with these issues without IPRP oversight. Consistent with its past activities, SCE is committing substantial expertise and resources, including expert consultants, to the SONGS 2 & 3 on-going seismic program. A newly established IPRP would not provide any beneficial enhancement to the expertise already being provided by SCE.

From SCE’s perspective, establishing an IPRP to provide oversight for this program is unwarranted in light of the substantial experience SCE possesses. In addition, it would represent an unnecessary departure from the Commission’s practice to allow SCE to operate SONGS 2 & 3 and perform these type of activities without this type of oversight. As noted above, SCE needs to be able to run the SONGS 2 & 3 on-going seismic program in a manner that allows SCE to timely meet its obligations to operate the plant safely and reliably, and to respond to NRC requirements. An IPRP, if established, should not interfere with SCE’s ability to meet these obligations.
V.

SCE’S COST ESTIMATE DOES NOT OMIT IMPORTANT CATEGORIES

A4NR identifies what it perceives are certain omissions in SCE’s cost estimate in comparison to PG&E’s cost estimate. SCE has not omitted any important cost categories, and the estimate provided is complete for the scope that is foreseeable at this time. For example, contrary to A4NR’s suggestion that SCE overlooked costs for marine mitigation, SCE has included costs for mitigation in the cost estimate, but did not identify it as a separate line item. SCE has prepared a reasonable cost estimate for the scope of studies currently planned. To the extent SCE may require additional funding for unforeseen activities, the Commission should authorize SCE to submit a Tier 3 advice letter requesting the funding.

Testimony of R. Becker, p. 8. It is difficult and not useful to try to do a line-by-line comparison of cost estimates for SONGS 2 & 3 and Diablo Canyon studies given that the scope of the studies are necessarily different due to differences between the sites, seismic conditions, and history of seismic investigation. In addition, PG&E and SCE may identify costs differently, or include certain costs in different categories.