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***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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I.

INTRODUCTION

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.

1 **II.**

2 **THE COMMISSION SHOULD REJECT DRA'S RECOMMENDATION FOR A 90/10**
3 **COST-SHARING SPLIT BETWEEN RATEPAYERS AND SHAREHOLDERS**

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

8 **A. DRA's Recommendation Is Inconsistent With Established Cost-of-Service**
9 **Ratemaking Principles**

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

20 Accordingly, it is abundantly evident that SCE's seismic study activities are related to
21 SONGS 2 & 3 current operations. The activities will provide information regarding SONGS 2 &
22 3 safety and reliability, for the direct benefit of ratepayers and at the recommendation of the

³ 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.

1 CEC. Given this ratepayer benefit, it is appropriate for ratepayers to bear all of the costs of
2 SONGS 2 & 3 study activities, as a cost-of-service activity.

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

4 According to DRA, a cost-sharing mechanism is warranted because the “studies have no
5 mandate by law, regulation, or . . . the Nuclear Regulatory Commission (NRC).”⁶ DRA also
6 claims that cost-sharing recognizes supposed benefits that the studies will provide to SCE
7 shareholders.⁷ These arguments are incorrect.

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

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

12 First, performing the studies further responds to the CEC’s AB 1632
13 recommendations, as directed by Commission President Peevey.⁸ DRA’s suggestion that the
14 CEC’s recommendations do not constitute a regulatory requirement or mandate is overly-
15 legalistic and wholly inconsistent with the direction provided by this Commission. Whether the
16 CEC’s AB 1632 Report is denoted as recommendations or otherwise, this Commission has
17 provided unequivocal direction to SCE to perform these studies. In addition to Commission
18 President Peevey’s direction in his June 25, 2009 letter, the Commission issued a scoping memo
19 for A.10-11-015 that directed SCE to submit a separate application requesting funding for
20 SONGS 2 & 3 seismic study activities.⁹

21 Second, the scope of the studies supports SCE’s current and on-going obligations
22 to the NRC to ensure safe plant operations. Indeed, recently on September 1, 2011, the NRC

⁶ Exhibit DRA-1, p. 7.

⁷ Exhibit DRA-1, pp. 1 and 11.

⁸ Commission June 25, 2009 letter to SCE.

⁹ March 1, 2010 Scoping Memo for A.10-11-015 (SCE’s 2012 GRC).

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

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

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

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

17 Cost-of-service ratemaking for SONGS 2 & 3 assures that SCE operates SONGS
18 2 & 3 for the benefit of its customers.¹² As discussed above, DRA ignores the substantial
19 ratepayer benefits resulting from performing the studies, and the guidance from the CEC and
20 Commission President Peevey.

21 In addition, contrary to DRA’s suggestion that the seismic studies will assist in
22 SCE’s SONGS 2 & 3 license renewal efforts,¹³ there is no connection between completing the

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.”

1 seismic studies and SONGS 2 & 3 license renewal by the NRC. The seismic studies will be
2 reviewed as necessary by the NRC under the current operating license regulatory processes, and
3 not as part of license renewal. The NRC's license renewal review focuses on the management of
4 the aging effects for plant structures, systems, and components that serve or could impact safety
5 functions during the period of extended operation.¹⁴ The NRC's license renewal review does not
6 assess seismic issues because these issues are already assessed under the current license.

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

¹⁴ 10 CFR § 54.

1 III.

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

3 DRA also recommends that the Commission apply a cost cap to control study costs.¹⁵
4 The Commission should reject DRA’s cost-cap proposal.

5 **A. A Cost Cap Is Inappropriate For SONGS Seismic Studies**

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

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

18 Consequently, SCE cannot reasonably predict, nor address in its cost estimate, all the
19 necessary and prudent scope increases that could arise. Given this unavoidable uncertainty, SCE
20 needs to have the ability to request funding to perform additional work as necessary. SCE’s
21 request for authority to file Tier 3 advice letters to request additional funding is reasonable for
22 this purpose. The Tier 3 advice letter process provides SCE an opportunity to recover costs for
23 work that is unforeseeable at this time, but later determined to be necessary and prudent.
24 Furthermore, as opposed to the separate application process that DRA recommends for recovery

¹⁵ Exhibit DRA-1, pp. 1 and 7.

1 of additional costs, the advice letter process will ensure timely Commission review so that SCE
2 can perform the seismic studies without delay. The Tier 3 advice letter process does not
3 guarantee recovery of additional costs, which would still be subject to Commission review and
4 approval.

1 IV.

2 **THE COMMISSION SHOULD REJECT A4NR'S RECOMMENDATIONS**
3 **REGARDING THE ROLE OF AN INDEPENDENT PEER REVIEW PANEL**

4 A4NR recommends the Commission establish an IPRP to review the SONGS 2 & 3 on-
5 going seismic program and seismic study plans and results, similar to the IPRP established by the
6 Commission to review Diablo Canyon seismic studies.¹⁶ The Commission should reject this
7 recommendation as proposed.

8 **A. An IPRP Is Not Appropriate**

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

21 **B. If The Commission Establishes An IPRP, The IPRP's Role Should Be Clearly**
22 **Defined**

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

¹⁶ Testimony of R. Becker, p. 5.

1 SCE from timely discharging its obligations to perform the studies. To prevent this problem, the
2 IPRP's primary role should be to advise the Commission. The IPRP should not merely serve as
3 an entity that SCE must satisfy with the alternative being an appeal to the Commission. The
4 NRC must serve as the appropriate regulatory agency with jurisdiction over SONGS 2 & 3
5 seismic-safety issues.

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

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

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

25 A4NR also seems to be questioning SCE's ability to run an effective on-going seismic
26 program. The facts demonstrate that these questions are unwarranted. SCE has performed

1 extensive seismic study activities throughout SONGS 2 & 3 licensing and operating history to
2 meet this obligation, and has substantial experience with these issues without IPRP oversight.
3 Consistent with its past activities, SCE is committing substantial expertise and resources,
4 including expert consultants, to the SONGS 2 & 3 on-going seismic program. A newly
5 established IPRP would not provide any beneficial enhancement to the expertise already being
6 provided by SCE.

7 From SCE's perspective, establishing an IPRP to provide oversight for this program is
8 unwarranted in light of the substantial experience SCE possesses. In addition, it would represent
9 an unnecessary departure from the Commission's practice to allow SCE to operate SONGS 2 &
10 3 and perform these type of activities without this type of oversight. As noted above, SCE needs
11 to be able to run the SONGS 2 & 3 on-going seismic program in a manner that allows SCE to
12 timely meet its obligations to operate the plant safely and reliably, and to respond to NRC
13 requirements. An IPRP, if established, should not interfere with SCE's ability to meet these
14 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.¹⁷ 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.

¹⁷ 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.