BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U338E) to Recover O&M Costs Associated with San Onofre Nuclear Generating Stations Units Nos. 2 and 3 On-going Seismic Program, and New Seismic Research Projects and Analysis	Application 11-04-006 (Filed April 15, 2010)
Application of San Diego Gas and Electric Company (U902E) to Recover Certain Costs of Seismic Studies for San Onofre Nuclear Generating Stations Units Nos. 2 and 3	Application 11-05-011 (Filed May 9, 2011)

OPENING BRIEF OF THE DIVISION OF RATEPAYER ADVOCATES

I. INTRODUCTION

In accordance with Rule 13.11 of the Rules of Practice and Procedure (Rules) of the California Public Utilities Commission (Commission) and pursuant to the instructions provided by Administrative Law Judge (ALJ) Barnett, the Division of Ratepayer Advocates (DRA) hereby submits its Opening Brief for the above-captioned consolidated proceeding. Yesterday, on December 5, 2011, ALJ Barnett provided permission for parties to file the instant opening brief today.

Southern California Edison Company (SCE) and San Diego Gas & Electric Company (SDG&E), or the "Joint Utilities",[1] request a total of $62.7 million for ongoing seismic research, new seismic research projects, and specific analysis and project

[1] SCE is the operating agent for SONGS Units 2 and 3 Generating units. SDG&E has a 20% share of the units (1 Reporter's Transcript (R.T.) 26:7 (SCE/Nelson)) and SCE has a 78.21% interest and is also the controlling entity (1 R.T. 16:3 (SDG&E/Parise); Exhibit SCE-05).

management for San Onofre Nuclear Generating Station (SONGS).[2] The request is based on the forecast budget submitted by SCE totaling $64 million.[3]

Applicants filed their applications in the spring of 2011, which were subsequently consolidated. DRA and parties filed their respective testimonies and the Commission held hearings on November 8 and 9, 2011. Essentially, DRA accepts the applicants' study cost estimates. DRA's recommendations all ensure proper cost oversight, without impeding the studies' ability to identify safety issues. The Commission should adopt DRA's 90% ratepayer/10% shareholder cost sharing oversight mechanisms due to the numerous cost unknowns.

DRA respectfully requests that the ALJ consider the Tier 3 Advice Letter process and the modest cost/sharing mechanism between shareholders and ratepayers.

II. RECOMMENDATIONS

DRA's recommendations remain the same as its Report served on September 30, 2011.

The issues for this proceeding include 1) the reasonableness and scope of the expense forecast for the planned studies, 2) whether the Commission should retain outside experts to review study costs, 3) whether shareholders should pay a portion of the costs, 4) whether cost overruns should be addressed through a new application of the Tier 3 advice letter process, and 5) whether balancing account treatment is appropriate.

The rationale for the joint utilities' application is essentially to increase "the scientific understanding of the seismic and tsunami conditions" at SONGS[4], and is responsive to the California Energy Commission's (CEC) recommendations resulting from its AB 1632 Report. These requests were originally in SCE's Test Year 2012 General Rate Case (GRC).

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[2] Exh. DRA-4, p. 1.

[3] Exh. DRA-4, p. 4. The City of Riverside is responsible for 1.79% of SONGS expenses based on its ownership share, or $1.3 million of the forecast budget.

[4] Exh SCE-1, p. 1.

According to SCE, the company completed a probabilistic seismic hazard analysis (PSHA) in 1995, concluding, "The overall seismic risk for SONGS 2 & 3 is low."[5] SCE also states that follow-up PSHA reviews in 2001 and 2010 "confirm that the overall seismic risk for SONGS 2 & 3 remains low."[6]

A. DRA recommends that the Commission approve the seismic and tsunami studies identified by the applicants

The study program should advance the assessment of potential safety hazards associated with SONGS. Despite inherent cost risk with this ambitious study program, as discussed below, DRA recommends that the Commission adopt the applicants' cost estimate of $64 million (100% share).[7] DRA notes that the applicants' cost estimates contained significant contingencies, which was one reason why DRA did not retain outside experts to review the costs and the study plans that are the subject of this proceeding. The costs in question are a forecast, and the conceptual study plans are subject to change and modification.[8] Further, the process to hire an consultant is lengthy and would have been impracticable in this proceeding's time-frame.

B. Transparency and Communication is Essential

Transparency and oversight are essential for these studies to be both meaningful and productive. SCE will be given significant control over the costs and conditions of these studies and, importantly, control over the information about costs and conditions. In order to prevent abuse by the utilities, the Legislature has given the Commission broad powers of investigation intended to make the real costs and conditions of monopoly service transparent. The Commission should ensure that costs are in fact reasonably related to costs prudently incurred.

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[5] Exh. SCE-1, p. 3.

[6] Id., p. 4.

[7] Exh. DRA-4, p.1.

[8] See RT 176-196.

C. Balancing Account Treatment

The Joint Utilities propose one-way balancing account treatment for the expenses approved in this proceeding. DRA agrees, with one modification. DRA recommends that only 90 percent of the funding approved in this proceeding be recovered by SCE and SDG&E through the balancing account. [9] This cost recovery mechanism will give the Joint Utilities a financial incentive to implement the study activities prudently and efficiently. The cost sharing between ratepayers and shareholders strikes a balance which reflects the expected benefits to be provided by these important studies and their results.[10]

D. 90% Ratepayer/10% Shareholder Sharing Mechanism

While DRA supports the study plans and the cost forecast, DRA believes that SCE's and SDG&E's ratepayers should not bear 100% of the cost responsibility. The study program should yield valuable information to benefit the citizens living and working, including the utility employees, in the SONGS area and broader Southern California, and the State of California. This is beneficial to SCE's and SDG&E's ratepayers. It is also beneficial to SCE's and SDG&E's *shareholders*. The Utilities earn a rate of return on their investments in these nuclear facilities. In the case that the seismic studies may ultimately be utilized to support continued operation and/or extension of the Nuclear Regulatory Commission license for the operation of these facilities, then this will ensure that the utilities continue to earn a return on these facilities. DRA recommends that the Commission recognize that the study program will provide significant benefits to the utilities' shareholders, both short-term and long-term. DRA recommends that the Commission apply a cost-sharing mechanism to the program costs to recognize the mutual benefit of these important studies. DRA recommends a 90/10 percent cost-sharing split between ratepayers/shareholders.[11]

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[9] Exh. DRA-4, pp. 11-12.

[10] Exh. DRA-4, p. 8.

[11] Exh. DRA-4, p.1.

E. DRA Opposes a Tier 3 Advice Letter as a Mechanism to Ask for Additional Funding

DRA seeks to ensure that there is sufficient transparency about the estimated costs. DRA recommends that any request for authorization to incur additional and/or new seismic expenses beyond the $64 million be requested through a new application or within a future GRC application. The filing on an application with testimony supporting the request is the appropriate procedural vehicle for a new rate increase beyond any request within this current case.

III. CONCLUSION

DRA's recommendations strike a reasonable balance between ratepayers, shareholders and the public interest and safety. DRA does not oppose the seismic/tsunami activities, but is concerned that given the uncertainty of the current cost estimates, actual costs may exceed current estimates, with little or no cost controls or protection for ratepayers. DRA's recommendations will provide some incentive for SCE to control costs, implement the study program efficiently, and make wise choices for this non-mandated activity. The Commission should therefore respectfully adopt DRA's proposal.

Respectfully submitted,

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Findings of Fact

1. SCE intends on filing for a renewal of its license for SONGS 2 and 3 in the near future.
2. SCE is the operating agent for SONGS with significant ownership shares, and SDG&E owns approximately 20% of the facilities in question.
3. The Commission, adopts the joint applications where the utilities seek to perform seismic studies, tsunami studies, and various other studies to determine the current status of SONGS 2 and 3
4. Despite the uncertainty and the cost risk involved, the Commission adopts the applicants' cost estimate of $64 million for SONGS 2 and 3.
5. These studies, including 2-dimensional and 3-dimensional mapping, are novel and the first to be undertaken by any utility in the United States concerning nuclear plants.
6. These studies, while guided by other agencies not including the NRC, who has the safety expertise for these types of studies, have been developed by SCE and its consultants.
7. These studies have not been mandated by any agency, regulation or law.
8. President Peevey's June 25, 2009 letter invites SCE to perform these studies "as part of its SONGS license renewal extension studies."
9. Due to the cost risks and current economic situation, oversight, transparency, and cost containment are necessary.
10. Shareholders will benefit from the increase in rate base by having the SONGS NRC license extended. There are other shareholder benefits as well.
11. Due to the shareholder benefits and the need to contain costs, the Commission will place a very modest cost sharing mechanism of 90% ratepayer/10% shareholder.

Conclusions of Law

1. Shareholders will either benefit from any license renewal or will either avoid significant costs in the event that the licenses may not be renewed. In either scenario, ratepayers will pay approximately $62.7 million for an activity that is not part of the regular course of business.

2. The Commission can adopt a very modest sharing mechanism of 90% ratepayer/10% shareholder.

3. The cost-sharing mechanism also provides the benefit of cost containment, which is an issue due to the uncertainty of the costs.

ORDER

IT IS ORDERED that:

1. Southern California Edison Company (SCE), San Diego Gas & Electric Company (SDG&E) shall begin the studies and ensure that every step of the process is transparent to the public.