

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

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

I.12-10-013

**RESPONSE OF SAN DIEGO GAS & ELECTRIC COMPANY (U 902 E)  
TO ORDER INSTITUTING INVESTIGATION REGARDING  
SAN ONOFRE NUCLEAR GENERATING STATION  
UNITS 2 AND 3**

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Pursuant to the California Public Utilities Commission's ("Commission") Order Instituting Investigation ("OII") I.12-10-013, San Diego Gas & Electric Company ("SDG&E") submits its response thereto.

**I. GENERAL BACKGROUND**

SDG&E is a minority, non-operating owner of San Onofre Nuclear Generating Station ("SONGS") Units 2 and 3. Southern California Edison ("SCE"), as the majority-owner, plant manager and Nuclear Regulatory Commission ("NRC") licensed operator of SONGS, has primary control over plant operations and expenditures. These roles are reflected in the Second Amended San Onofre Operating Agreement ("Operating Agreement") that designates SCE as the SONGS Operating Agent. In that primary role, SCE supports the reasonableness and prudence of SONGS' costs.

SDG&E participates in the decision-making process at SONGS as a minority owner, and as such, has limited influence within the confines of the Operating Agreement. SDG&E relies upon SCE as the Operating Agent to operate the plant efficiently and economically.

## **II. THE OII REQUIREMENT FOR ADVICE LETTER FILINGS PRIOR TO THE CAPITAL PROJECT APPROVAL IN EXCESS OF \$10 MILLION SHOULD APPLY ONLY TO SCE AS THE SONGS OPERATING AGENT**

The OII requirement for an advice letter filing prior to capital project approval in excess of \$10 million (total expenditure before allocation to SCE, SDG&E, and City of Riverside)<sup>1</sup> should apply only to SCE. While SDG&E can approve or disapprove capital project improvements, the Operating Agreement provides that SCE as the Operating Agent “shall continue to take such reasonable actions and make such reasonable expenditures, which in its judgment, are necessary for the continued safe and reliable operation and maintenance of, and the making of Capital Improvements for, SONGS. The disputing Party(ies) shall continue to pay their respective shares of the costs.”<sup>2</sup> It is for this reason that the Commission should direct SCE (not SCE and SDG&E) to file a Tier 1 informational Advice Letter with the Energy Division Director before making any such major capital expenditures related to SONGS.

## **III. THE OII REQUIRED A “MEET AND CONFER” MEETING WITH THE ENERGY DIVISION AND THE DRA WHICH RESULTED IN AN AGREEMENT TO ALLOW SDG&E’S MONTHLY SONGS OMA BALANCES TO BE REPORT ON A 90-DAY LAGGED BASIS**

While the OII provides that SDG&E is to “track in SONGS Outage Memorandum Account (“OMA”) all SONGS costs and expenditures incurred on and after January 1, 2012”<sup>3</sup> going forward, this tracking must reflect the fact that the process of invoicing SONGS costs and expenditures by SCE to SDG&E (reflecting SDG&E’s 20% ownership interest in SONGS), plus SCE’s overheads, occurs over approximately a two-month time period. Thus, SDG&E requires 90 days from the end of the reportable period in order to provide reporting of its SONGS costs invoiced by SCE, per the OII. It is with this understanding that the Energy Division and the

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<sup>1</sup> *Id.*, Ordering Paragraph 4.e, Mimeo at page 23.

<sup>2</sup> *See* Operating Agreement §§ 6.2.6 and 21.1.

<sup>3</sup> *Ibid*, Ordering Paragraph 4.a, Mimeo at page 22.

Division of Ratepayer Advocates, through the “meet and confer” discussions the respondents have had pursuant to the OII, have agreed that costs and expenditures invoiced by SCE and paid by SDG&E should be reported to the Commission by SDG&E on a quarterly basis with a 90-day lag. SDG&E’s SONGS OMA will also include SDG&E’s own SONGS current costs and expenditures. These costs are reportable on a monthly basis; however, SDG&E recommends that it report these costs at the same time it reports the SCE-invoiced SONGS costs, on a quarterly basis and include each month’s amounts invoiced by SCE and paid by SDG&E indexed to the month reported by SCE with an adjustment to account for the invoice timing lag and true-up to the actual entry within the financial records of SDG&E. The Energy Division and DRA have indicated they support SDG&E’s proposed reporting process.

The OII further requires that the status reports include “any other relevant information that either utility believes is relevant and which impact the Commission’s consideration of safe and reliable service at just and reasonable rates.”<sup>4</sup> For the reasons described above, for SDG&E’s 20% share of capital cost and operating/variable cost information that SCE invoices to SDG&E and SDG&E pays, SDG&E will report this cost and expenditure information on a quarterly basis with a 90-day lag.

#### **IV. THE COMMISSION SHOULD DIRECT SCE AS THE SONGS OPERATING AGENT TO BE SOLELY RESPONSIBLE TO PROVIDE CERTAIN INFORMATION**

As a non-operating owner, SDG&E would not have first-hand knowledge regarding some of the information directed by the OII to be provided by respondents SCE and SDG&E. Under the Operating Agreement, this information is solely within the purview of SCE as the Operating Agent and, therefore, this information should be provided by SCE for itself and on behalf of SDG&E as a minority co-owner. For example, SCE as the Operating Agent through a wholly

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<sup>4</sup> *Id.*

owned affiliated company entered into a contract with Mitsubishi Heavy Industries (“MHI”) for MHI to design and manufacture the replacement steam generators. In this capacity, SCE is responsible, among other matters, to enforce contractual warranties. SCE, again as the Operating Agent, is the loss payee under the Nuclear Electric Insurance Limited (“NEIL”) insurance policy coverage pertaining to accidental property damage would receive from NEIL any payment for covered property damage.

SDG&E thus requests that the Commission designate SCE as the respondent for itself and on behalf of SDG&E to provide responses to the following items that the OII directs to be provided to the Commission:

- A. As shown in the ~~strikeout~~ and underlined text, SCE’s activities pertaining to those items listed below in Section 5 Preliminary Scoping Memo, Section 5.1 Issues at OII, Mimeo, pages 14 and 15:
  2. The reasonableness and prudence of SCE’s ~~each utility~~ action and expenditure as the Operating Agent with respect to the steam generator replacement program and subsequent activities related thereto.
  4. The cost-effectiveness of various options for repairing or replacing one or both units of SONGS.
  5. Any additional ratemaking issues associated with the above, including the availability of warranty coverage or insurance for any of costs associated with operational plant hardware damage related to the SONGS outage.
  6. The reasonableness and necessity of each SONGS-related operation and maintenance expense, and capital expenditure made, on and after January 1, 2012 reviewed within the context of the facts and circumstances of the extended outages of Units 2 and 3.

For the avoidance of doubt, SDG&E agrees that both SCE and SDG&E should be respondents for the issues listed as 1 and 3 on page 14-15 of the OII set forth below:

1. Whether or not rate adjustments should be made; if so, when they should start, the correct amount, and the correct accounting of those adjustments.
  3. The reasonableness and prudence of each utility action and expenditures in securing energy, capacity and other related services to replace the output of SONGS during the outage.
- B. As shown in the ~~strikeout~~ and underlined text, direct that SCE as the Operating Agent to provide the following information pursuant to Section 5.4 Schedule at OII, Mimeo, page 16:
- ...[D]irect that ~~the two respondent utilities~~ SCE as the Operating Agent provide background information before the PHC so all participants in the investigation have the same essential starting data (e.g., factual overview of SONGS 2 and 3; dates and causes of recent outages; status of investigation; current engineering and construction schedule to address outages; costs incurred to date with respect to the outages).
- C. Page 23 and 24, Ordering Paragraphs 4.e and 4.g at OII, Mimeo, pages 23 and 24:
- e. ~~SCE as the Operating Agent and SDG&E shall each~~ file and serve, no less than seven days before a utility management final decision to proceed with a major project, a Tier 1 informational Advice Letter with the Energy Division Director before making any major capital expenditures related to SONGS. For this purpose, a major capital expenditure is any amount in excess of \$10 million (total expenditure before allocation to SCE, SDG&E and City of Riverside).
  - g. SCE and SDG&E shall file a monthly status report with the Commission's Energy Division with service on the service list. The monthly report filed by SCE as the Operating Agent shall include an operational update for the units, description of any NRC actions, estimated replacement energy and capacity costs, estimated other operational expenses, estimated foregone revenues due to lost sales of excess energy, and any other relevant information that either utility believes is relevant and which may impact the Commission's consideration of safe and reliable service at just and reasonable rates, including any additional information directed by the Energy Division Director. The quarterly report filed by SDG&E as a non-operating minority owner shall include estimated replacement energy and capacity costs, estimated foregone revenues due to lost sales of excess energy, and any additional information directed by the Energy Division Director.

**V. CONSOLIDATION IS APPROPRIATE FOR CERTAIN BUT NOT ALL OF THE PROCEEDINGS LISTED IN THE OII**

Concerning the list of open rate-related proceedings involving SONGS costs found at pages 8 and 9 of the OII, some of these can be effectively consolidated with the OII, either in whole or in part. In this regard, SDG&E concurs with the comments on this topic submitted concurrently herewith by SCE, including its proposal that the Commission designate the OII as Phase 3 of SCE's next 2015 General Rate Case ("GRC") and should conduct hearings on Phase 3 following the hearings on revenue requirement (Phase 1) and rate design (Phase 2). The schedule and sequence for the proposed phases should be discussed at the Prehearing Conference.

SDG&E also concurs with SCE's comments as to those proceedings that should not be consolidated, including the 2012 test year GRCs (SCE A.10-11-015 and SDG&E A.10-12-005) since the Commission on November 29, 2012, issued D.12-11-051 in A.10-11-015 and the proposed decision in A.10-12-005 that has been fully briefed is anticipated to be issued shortly.

**VI. THE SUBJECT TO REFUND CONDITIONS SHOULD BE MODIFIED**

SDG&E concurs with SCE's comments on the OII submitted concurrently herewith that the costs associated with the facility are not to be removed from rates until the Commission "establish[es] rates," after hearings, *i.e.*, in SCE's 2015 test year GRC<sup>5</sup> or alternatively, if the Commission wishes to consider reducing rates sooner, it must hold an evidentiary hearing before implementing any such rate reduction. In such a Section 455.5 proceeding, the Commission must consider the directives found in Section 362(a) (the commission shall ensure that facilities needed to maintain the reliability of the electric supply remain available and operational). SONGS is such a facility that is currently needed to maintain the reliability of the California

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<sup>5</sup> See § 455.5(a) and (c).



electric supply in Southern California. Hence, any immediate rate adjustment and suggestions in the OII, *e.g.*, at page 2 and Ordering Paragraph h at page 24, that the Commission may consider removing all or a portion of SONGS costs from rates prior to such a hearing would contravene these directives.

SDG&E concurs with SCE's comments that the existing SCE GRC memorandum account was established to permit the Commission to adjust rates based on the outcome of the SCE GRC. SCE's reasoning applies equally to SDG&E's GRC memorandum account. These memorandum accounts do not authorize the Commission to refund SONGS costs based on the outage.

In addition, SDG&E concurs with SCE's comments filed concurrently herewith that the Commission's order to collect SONGS costs subject to refund retroactively from January 1, 2012 conflicts with settled Commission precedent, violates Section 455.5(c) and constitutes impermissible retroactive ratemaking. For these reasons, rates should not be subject to refund any earlier than November 1, 2012. Further, costs associated with functions that SCE as the SONGS Operating Agent must continue to undertake regardless of whether Units 2 and 3 are operating should not be subject to refund.

Respectfully submitted,

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