

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 and Electric Company Associated with the San Onofre Nuclear Generating Station Units 2 and 3.

Investigation 12-10-013  
(Filed October 25, 2012)

And Related Matters.

Application 13-01-016  
Application 13-03-005  
Application 13-03-013  
Application 13-03-014

**MOTION TO SET ASIDE RULING TO RESCIND THE  
JULY 18, 2018 PUBLIC PARTICIPATION HEARING (PPH)**

Pursuant to Rule 11.1 of the Commission's Rules of Practice and Procedure, Public Watchdogs requests a ruling setting aside the June 28, 2018 Administrative Law Judge's Ruling Modifying Schedule and Providing Information To Public Regarding Comment on Proposed Decision (June 28 Ruling) which states:

This ruling vacates the tentative public participation hearing noted in the schedule in the March 22, 2018 Joint Ruling.<sup>1</sup> The proposed decision (PD) for this proceeding was issued on June 22, 2018. Parties have 20 days (July 12, 2018) to provide comment and 5 days (July 17, 2018) after comments are due to file reply comments.

Public Watchdogs requests a ruling (1) to reschedule the rescinded July 18, 2018 Laguna Niguel Public Participation Hearing (PPH) to a date that will enable sufficient time for Southern California Edison (SCE) and San Diego Gas & Electric (SDG&E) to notify all ratepayers of the

rescheduled PPH through bill inserts;<sup>1</sup> (2) scheduling one or more PPHs in San Diego County that will enable SDG&E ratepayers the opportunity to attend and provide public comments at a geographically suitable location; and (3) postponing the Commission’s vote on the proposed decision until the public and ratepayers have the opportunity to make public comments at the requested PPHs, and the Commission has time to properly consider those comments it previously and publicly claimed to be: ‘information useful to reaching conclusions and making decisions.’

Here are ten reasons to set aside the June 28 ruling in favor of public participation:

### **1. Public Participation adds value to the deliberative process**

At the May 2, 2018 PPH, Assigned ALJ Houck said, “The Public Participation Hearing is an opportunity for stakeholders and ratepayers to provide the Commission with information useful to reaching conclusions and making decisions.”<sup>2</sup> This assessment is especially valid in this case because the public has not been given the opportunity to attend any meaningful public hearings. In fact, the entire case was settled behind closed doors in secret negotiations, without a public review of the evidence against Southern California Edison, as is customary in most regulatory courts. The notable lack of public hearings has limited the ability of the media and the public to witness the “public” ratemaking process at the California *Public* Utilities Commission.

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<sup>1</sup> See Public Watchdogs’ June 12, 2018 Motion for Ruling to Improve Notice of the July 18, 2018 Public Participation Hearing

<sup>2</sup> Transcript p. 2960: 23-27.

## **2. It is an error to refer to the rescinded meeting as “tentative”**

The June 28 ruling states “This ruling vacates the *tentative* public participation hearing noted in the schedule ...” (emphasis ours). To characterize this meeting as “tentative” is a misnomer. It was originally scheduled as part of the March 22 Joint Ruling, more than three months ago. Further, Public Watchdogs can find no reference to the “tentative” nature of this meeting in any of the notices or documentation of the meeting. The Commission also posted public notice of the July 18, 2018 6:00 pm Laguna Niguel Public Participation Hearing (July 18 PPH) in its daily calendar from April 19, 2018<sup>3</sup> until at least June 22, 2018.<sup>4</sup> At no time was there a warning that the event and the date were “tentative” and subject to change.

## **3. The previous PPH provided inadequate notice**

The Commission did hold one PPH in Southern California on May 2, 2018. However, this meeting was also improperly noticed. The official CPUC media advisory is dated Monday, April 30, roughly 48 hours prior to the actual meeting.<sup>5</sup> While the Commission’s efforts to convene a PPH are laudable, it is our contention that expecting ratepayers to arrive at a PPH on such short notice is unreasonable. We further assert that given the history of this case, it is a denial of the public’s right to due process.

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<sup>3</sup> <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M213/K263/213263330.PDF> at 6.

<sup>4</sup> <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M216/K798/216798644.PDF> at 7.

<sup>5</sup> See *CPUC To Hold Public Forum* at the CPUC Web Site at <https://bit.ly/2zojAkt>

#### **4. Public Watchdogs is being denied due process**

The March 22 Ruling states:

Nothing in this ruling prevents Public Watchdogs from submitting public comment regarding this proceeding as to the remaining issues raised in its motion for party status. We intend to hold at least one public participation hearing in Southern California, and Public Watchdogs will have an opportunity to state its position at that time.<sup>6</sup>

At the hastily-convened May 2 PPH, Public Watchdogs was denied the opportunity to state its position. Public Watchdogs was informed at the door, and in the hearing, that it would not be allowed to address the Commission because it was a public participation hearing, only for the general public. It is noteworthy that Southern California Edison was allowed to make a half hour PowerPoint Presentation prior to public comments. This PowerPoint omitted vital information, including the fact that the nuclear reactors at SONGS were shut down due to a radiation leak. We contend that this denial of Public Watchdogs' right to speak, in accordance with the March 22 ruling, is also denial of due process. We further contend that this denial was in violation of the March 22 Ruling, which states "Nothing in this ruling prevents Public Watchdogs from submitting public comment regarding this proceeding as to the remaining issues raised in its motion for party status. We intend to hold at least one public participation hearing in Southern California, and Public Watchdogs will have an opportunity to state its position at that time."

#### **5. The ratepayers have been denied due process**

The publicly funded bailout of SONGS will cost ratepayers, at minimum, the remaining balance of \$2.25 billion. This sum was negotiated and in secret closed-door meetings with no

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<sup>6</sup> See CPUC [Joint Ruling of Assigned Commissioner](https://bit.ly/2N8s55o) and Administrative Law Judge, March 22, 2018 at <https://bit.ly/2N8s55o>

public review of the evidence against SCE in open Commission hearings. There was never a public finding as to whether or not SCE acted prudently, and whether or not the Commission has met the regulatory standard for “used and useful” in allowing SCE to keep billions of dollars in ratepayer money. The public has a right to due process, and a right to view the significant evidence against SCE in open public hearings. The sudden termination of one of the few remaining public hearings that was scheduled for both the public benefit and the CPUC’s information useful to its decision-making process, fuels a pattern of obstructive behavior demonstrating that the Commission has become a captured agency by the very industry it is required to regulate. The proposed decision demonstrates an inability to stand up to powerful utility interests. It forces the public to bear the cost and burden of unregulated utility rate increases negotiated by questionable legal representation. It further rewards the perpetrators with an unprecedented amount of Intervenor Compensation within the final settlement now awaiting the Commission’s final approval.

#### **6. The size of the bailout requires public participation.**

The bailout of the San Onofre Nuclear Generating Station at ratepayer expense involves staggering numbers. The costs of SCE’s failed Replacement Steam Generators is estimated at least \$5 billion. The budget for decommissioning the nuclear reactors through the CPUC administered Decommissioning Trust Fund (DTF) is estimated at another \$4.2 billion. Given the enormity of the numbers involved, the Commission is obligated by its own mission statement, traditions, and practices to hold public hearings.

## **7. The financial burden to ratepayers demands a properly-noticed PPH**

Historically, the Commission has compelled utilities asking for billions of dollars in ratepayer money to give at least a one-month notice of a PPH. In this case, which has awarded an estimated \$2.25 billion to SCE, the last and only PPH was convened 48 hours after the public was notified. The second PPH was scheduled months in advance and then terminated without explanation by the Commission. CPUC precedent and tradition demands that in a rate cases involving billions of ratepayer dollars that the Commission hold legitimate and properly-noticed public hearings.

## **8. Termination of the PPH sends the wrong message to the public.**

Rescinding the July 18 PPH sends a clear message to the public that the Commission does not value, respect or desire the public's input.

Reneging on the promise and public notification of a PPH weakens the public's trust and perception of the Commission's integrity.

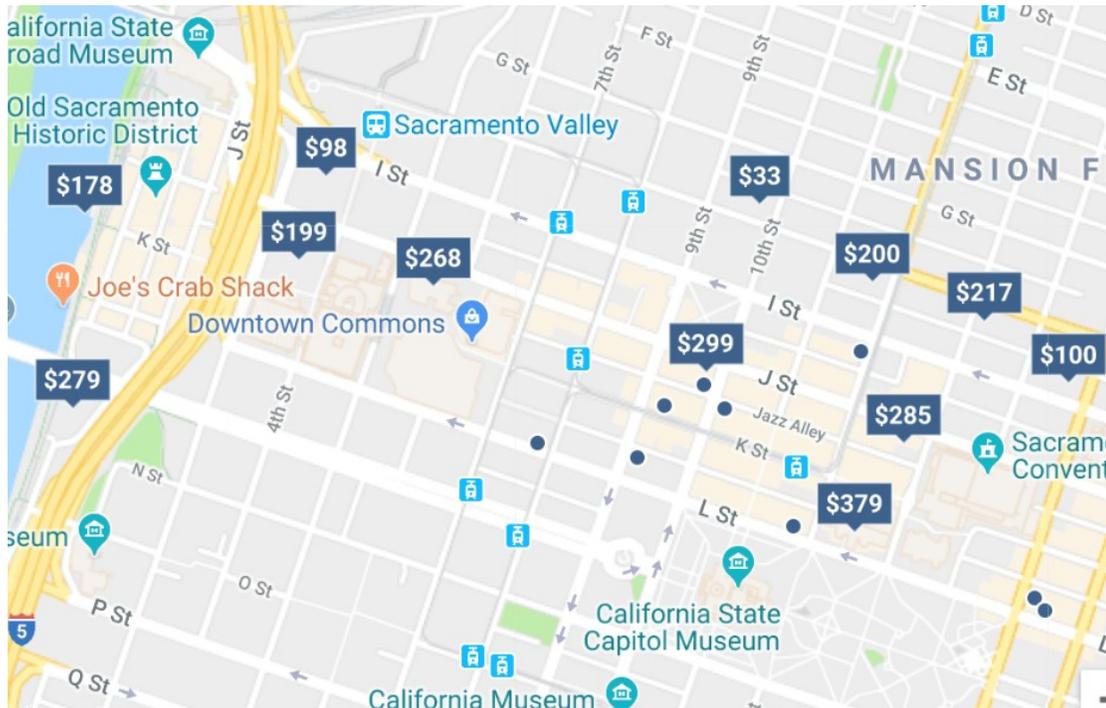
## **9. The July 26 meeting is cost prohibitive to attend**

Forcing ratepayers and small non-profits to attend the July 26 meeting in Sacramento imposes an onerous financial burden. Driving to this meeting from San Clemente represents a seven hour, 445-mile trip without stopping for gas, food, or lodging. At 54.5¢ per mile, the total vehicle round trip cost is \$485.<sup>7</sup> The cost to fly round trip from San Diego to Sacramento also averages about \$500. Then there is the cost of a hotel. Most flights do not arrive in Sacramento early enough in the morning to allow a traveler time to get from the airport to the Commission Voting Meeting at the State Personnel Board Auditorium. Add on another \$218 for a hotel. This

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<sup>7</sup> Assuming the General Services Administration (GSA) per diem vehicle deduction.

brings the total average cost of attending the July 26 Commission hearing to more than \$700 per attendee, not including food and beverage costs, or lost wages. We respectfully submit that requiring fixed-income seniors, working parents, and the self-employed to spend at least \$700 for a *chance* to speak to the commission for fewer than three minutes is unfair.



The average cost of the 10 hotels closest to CPUC Sacramento meeting on July 26, 2018, is \$218.00 a night. The \$33 option is for a hostel and was not included in the average.

**10. Termination of the PPH makes a mockery of the Commission’s processes**

The Commission’s action to terminate the July 18<sup>th</sup> PPH in Laguna Niguel contradicts claims made in the CPUC’s Public Advisor’s Office brochure on Participating at CPUC Public Participation Hearing and Workshops. The brochure touts “Your Participation Can Make a Difference.”<sup>8</sup>

The public has the right to be heard in public participation hearings. Anything less denies due process protections to the ratepayers and access to make public comments to the

<sup>8</sup> <http://www.cpuc.ca.gov/WorkArea/DownloadAsset.aspx?id=11316>

Commission at the PPHs. Compelling SCE and SDG&E ratepayers to travel hundreds of miles to make comments at the July 26 Commission presents huge, cost prohibitive obstacles and completely undermines public participation and public comments that would otherwise be part of the record.

## **I. Rulings Requested**

### **The Commission should schedule additional PPHs with fair notice to all ratepayers**

In place of the erroneous ruling, Public Watchdogs requests the Commission schedule public participation hearings in San Diego and Orange County to allow ratepayers the opportunity to make in person comments that the Commission will rely on as part of making its decision in this investigation.

On its website, the Commission states, “We require utilities to let consumers know about upcoming public hearings through notices in your bills. Therefore, it is very important to read bill inserts!”<sup>9</sup>

SCE and SDG&E will have plenty of time to announce upcoming PPHs in bill inserts that can be provided to all ratepayers. Since SCE in its joint response indicated that Public Watchdogs’ motion should be denied because the relief sought is ‘unnecessary and improper’, rescheduling the July 18<sup>th</sup> PPH may even give SCE opportunity to post the Public Advisor’s Office approved notices in SCE offices as indicated in their joint response.

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<sup>9</sup>Providing Public Comments to the CPUC, <http://www.cpuc.ca.gov/general.aspx?id=4524>

**SCE and SDG&E must improve public notice for a rescheduled July 18, 2018 PPH**

Public Watchdogs requests a ruling that SCE and SDG&E provide fair notice to the public and ratepayers of the requested future PPHs in Laguna Niguel and San Diego County by using bill inserts to all ratepayers in addition to posting notices in local offices and newspaper publication, as they did for the February 21, 2013 PPH and October 1, 2013 PPH.

Prior to the February 21, 2013 and October 1, 2013 PPHs, SCE and SDG&E provided notice of the hearings through bill inserts to all ratepayers, newspaper publication, and posting in the utilities' local offices. More than 80 people made public comments at each PPH.

Prior to the May 2, 2018 PPH, SCE and SDG&E provided notice of the hearings through newspaper publication and posting in the utilities' local offices. SCE also posted notice of the hearing on its website. Neither utility provided notices of the PPH using bill inserts. Only 14 people made public comments at the May 2, 2018 PPH.

Had notices of the May 2, 2018 PPH through bill inserts to all SCE and SDG&E ratepayers been made, as had been for the February 1, 2013 and October 1, 2013 PPHs, the public participation at the May 2, 2018 most likely would have exceeded 14 participants.

In order to increase participation at the requested unscheduled PPHs, SCE and SDG&E should provide, in addition to other methods, notice of the PPH through bill inserts to all ratepayers.

Therefore, Public Watchdogs requests a ruling that SCE and SDG&E improve their notices to the public and ratepayers for requested unscheduled PPHs in Laguna Hills and San Diego County by using bill inserts to all ratepayers in addition to posting notices in local offices and newspaper publication.

Public Watchdogs contends that for the public to make informed comments at future PPHs, it must be empowered to do so with formal plain language notices.

We further contend that such notices be made public in paper billing inserts, plain-language emails and full-page newspaper advertisements.

## **II. Conclusion**

For the forgoing reasons, the Commission should grant the relief requested and reschedule public participation hearings with suitable notice and at a geographically appropriate location.

Dated: July 10, 2018

Respectfully submitted,

/s/ Charles Langley

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