

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE
STATE OF CALIFORNIA

ADMINISTRATIVE LAW JUDGE MARIBETH A. BUSHEY, presiding

Joint Application of Southern
California Edison Company (U338E)
and San Diego Gas & Electric Company
(U902E) to Find the 2014 SONGS Units
2 and 3 Decommissioning Cost
Estimate Reasonable and Address
Other Related Decommissioning
Issues.

) EVIDENTIARY
) HEARING
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) Application
) 14-12-007
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Reported by: Thomas C. Brenneman, CSR No. 9554
Wendy M. Pun, CSR No. 12891

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SAN FRANCISCO, CALIFORNIA
AUGUST 27, 2015 - 9:00 A.M.

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ADMINISTRATIVE LAW JUDGE BUSHEY: The Commission will come to order.

This is the time and place set for the continued evidentiary hearing in Application 14-12-007.

Good morning. Today we are going to have cross-examination of San Diego Gas and Electric Company's witnesses. While we were off the record we identified all of their exhibits. The titles of these exhibits have been slightly modified. I will read to you the official title that we're going to use and also tell you what has been excised from the title.

Exhibit 18 is titled Prepared Direct Testimony in Support of the 2014 Decommissioning Cost Estimates on Behalf of San Diego Gas and Electric Company. We have removed from the title the words "second errata to revised."

(Exhibit No. 18 was marked for identification.)

ALJ BUSHEY: Exhibit 19 is titled Rebuttal Testimony in Support of the 2014 Decommissioning Cost Estimates on Behalf of

1 San Diego Gas and Electric Company. We have
2 removed from that title "errata to prepared."

3 (Exhibit No. 19 was marked for
4 identification.)

5 ALJ BUSHEY: Exhibit 20 is Rebuttal
6 Testimony, Trust Funds, Regulatory Balancing
7 and Memorandum Accounts, and Ratemaking on
8 Behalf of San Diego Gas and Electric Company.
9 We removed from that title "errata to
10 prepared."

11 (Exhibit No. 20 was marked for
12 identification.)

13 ALJ BUSHEY: Exhibit 21 is Prepared
14 Direct Testimony Financial Modeling, Trust
15 Fund Contributions and Ratemaking on Behalf
16 of San Diego Gas and Electric Company. We
17 removed from that title "second errata to
18 revised."

19 (Exhibit No. 21 was marked for
20 identification.)

21 ALJ BUSHEY: Exhibit 22 is entitled
22 Supplemental Direct Testimony of Jonathan
23 Atun, SONGS 2 and 3 Updated Equity Scale Down
24 and Trust Allocations on Behalf of San Diego
25 Gas and Electric Company. We added the word
26 "direct" to that title.

27 (Exhibit No. 22 was marked for
28 identification.)

1 ALJ BUSHEY: Exhibit 23 is San Diego
2 Gas and Electric Company Workpapers for
3 Witness De Marco.

4 (Exhibit No. 23 was marked for
5 identification.)

6 ALJ BUSHEY: Exhibit 24 are Workpapers
7 for Witness Atun.

8 (Exhibit No. 24 was marked for
9 identification.)

10 ALJ BUSHEY: Anything further?

11 Hearing none then, Ms. Salustro,
12 would you like to call your first witness.

13 MS. SALUSTRO: Yes. Thank you, your
14 Honor.

15 SDG&E calls Adam Levin.

16 ADAM H. LEVIN, called as a witness
17 by San Diego Gas and Electric Company,
18 having been sworn, testified as
19 follows:

19 ALJ BUSHEY: Please be seated. State
20 your full name for the record and spell your
21 last name.

22 THE WITNESS: My name is Adam H. Levin.
23 Last named is spelled L-e-v-i-n.

24 ALJ BUSHEY: Ms. Salustro.

25 MS. SALUSTRO: Thank you.

26 DIRECT EXAMINATION

27 BY MS SALUSTRO:

28 Q Good morning, Mr. Levin. Mr.

1 Levin, a moment ago the judge identified
2 several exhibits, specifically Exhibit 18,
3 Exhibit 19, and Exhibit 20. Do you have
4 those documents in front of you?

5 A Yes, I do.

6 Q You're sponsoring sections as
7 indicated in the table of contents within
8 each of these three exhibits, correct?

9 A That is correct.

10 Q And was this testimony prepared by
11 you and under your supervision?

12 A Yes, it was.

13 Q Do you have any additional changes
14 or corrections to make at this time?

15 A I do not.

16 Q To the extent that these documents
17 contain facts, are those facts true and
18 correct to the best of your information,
19 knowledge, and belief?

20 A Yes, they are.

21 Q And to the extent these documents
22 contain opinions, do those opinions
23 constitute your best professional judgment?

24 A Yes, they do.

25 Q Do you adopt these exhibits as your
26 sworn testimony in this proceeding?

27 A Yes, I do.

28 MS. SALUSTRO: Your Honor, the witness

1 is available for cross-examination.

2 ALJ BUSHEY: Thank you. Let's start
3 with Mr. Freedman.

4 CROSS-EXAMINATION

5 BY MR. FREEDMAN:

6 Q Good morning, Mr. Levin.

7 A Good morning, Mr. Freedman.

8 Q Mr. Levin, I'd like to ask you to
9 take a look at your rebuttal testimony,
10 Exhibit 20, page 12.

11 A I'm sorry. Exhibit number?

12 Q 20.

13 A 20. Yes.

14 Q And on this page you discuss the
15 NRC Nuclear Regulatory Commission oversight
16 of the decommissioning trust funds, and you
17 state that the NRC oversight prohibits any
18 return of trust funds until final
19 decommissioning has been completed; is that
20 correct?

21 A That is correct.

22 Q What does final decommissioning
23 mean?

24 A Final decommissioning is the point
25 at which the NRC's Part 50 license,
26 licensee's Part 50 license is terminated.

27 Q So when does SDG&E expect that the
28 Part 50 license will be terminated for SONGS

1 Units 2 and 3?

2 A Assuming that the Part 50 license
3 remains in place as long as spent nuclear
4 fuel is on site, it would be in 2052.

5 Q Are you familiar with the
6 provisions of the SONGS master trust that
7 addressed the disbursement of excess funds
8 from the trust and the termination of the
9 trusts?

10 MS. SALUSTRO: Objection. Your Honor,
11 this witness is a decommissioning NRC
12 witness. He doesn't work for SDG&E or
13 Sempra. So master trust agreements for
14 Sempra are outside the scope of his
15 testimony.

16 MR. FREEDMAN: Your Honor, the witness
17 is free to say that he does not know about
18 them. However, this question is directly
19 relevant to his contention regarding NRC
20 requirements that govern master trusts and
21 the termination of such trusts.

22 ALJ BUSHEY: He was referencing IRS
23 requirements.

24 MS. SALUSTRO: NRC requirements, your
25 Honor.

26 MR. FREEDMAN: My questions, your
27 Honor, go to the Nuclear Regulatory
28 Commission requirements. I'm not asking him

1 about Internal Revenue Service code
2 requirements.

3 ALJ BUSHEY: The testimony you're
4 referencing is about the Internal Revenue
5 Code, though.

6 MR. FREEDMAN: No. Your Honor, I'm
7 actually asking about the prior section,
8 Section C, in which Mr. Levin makes
9 contentions regarding the Nuclear Regulatory
10 Commission requirements.

11 ALJ BUSHEY: Oh, I see. I see. Yes,
12 you're absolutely correct. Yes. If the
13 witness doesn't know, he can say he doesn't
14 know.

15 THE WITNESS: I have read the master
16 trust agreement for San Diego Gas and
17 Electric.

18 MR. FREEDMAN: Q And are you aware
19 then that the master trust agreement
20 addresses a threshold -- it references a
21 point at which SDG&E would initiate a filing
22 with the California Public Utilities
23 Commission for return of any remaining funds
24 in the trust, does it not?

25 A No, it does not.

26 Q So you're not familiar with a
27 reference to the 90 percent threshold of
28 costs incurred?

1 A I am familiar with that reference.

2 Q From your perspective, what does it
3 mean?

4 A As I understand the trust
5 agreement, it says that at the 90 percent
6 threshold of costs that have been
7 anticipated, any further disbursements
8 require the -- require a submission to the
9 CPUC for any further disbursements for costs
10 incurred.

11 Q Don't all disbursements require a
12 filing with the Public Utilities Commission?

13 A I don't know if I can answer that.

14 Q So you don't know what the
15 difference would be regarding PUC filing
16 requirements before and after the 90 percent
17 threshold?

18 A I do not have complete knowledge of
19 that.

20 Q And so to the extent that there
21 were any provisions in the master trust that
22 called for a potential termination of the
23 trust prior to the termination of the Part 50
24 license, it's your contention that that would
25 be a violation of NRC requirements?

26 A Can you repeat that? There was
27 something I didn't quite catch in the middle.

28 Q So to the extent that there's any

1 provision of the master trust that specifies
2 the potential termination of the trust prior
3 to the termination of the Part 50 license, is
4 it your contention that that would violate
5 NRC rules?

6 A I'm not aware of anything in the
7 trust that potentially talks about
8 termination of the trust prior to termination
9 of the NRC license.

10 Q Are you familiar with, when you're
11 referencing NRC rules, are you referencing 10
12 CFR Part 50.75?

13 A And associated guidance.

14 Q Now, the NRC guidance, doesn't it
15 mention that transfers are permissible to
16 another financial assurance method prior to
17 the completion of decommissioning?

18 A I make that statement in my
19 testimony. That is correct.

20 Q And what other financial assurance
21 methods are acceptable under the NRC rules?

22 A Financial assurance methods under
23 NRC regulations are either a sinking fund or
24 a nonbypassable surcharge, a letter of
25 credit, or another method as approved by the
26 Nuclear Regulatory Commission.

27 Q And does that also include
28 prepayment? Is that one of the methods

1 that's permissible?

2 A That is correct.

3 Q And dose the NRC also permit a
4 surety method, insurance, or other guarantee
5 method?

6 A I recall that being part of 10 CFR
7 50.75 financial assurance methods, but I
8 believe that that method was something that
9 the NRC has removed from 50.75.

10 Q So if I were to look at the current
11 version of 50.75 subpart (e)(1) little 3 that
12 states a surety method, insurance, or other
13 guarantee method is permissible, you're
14 saying that that doesn't exist anymore if I
15 were to look for that subdivision?

16 A If that is the current regulation,
17 then you are correct.

18 Q So is it fair to say that the NRC
19 allows multiple methods of complying with
20 these requirements for adequacy of
21 decommissioning funding?

22 A Yes.

23 Q And that the maintenance of an
24 external sinking fund is not the sole method
25 that satisfies NRC requirements?

26 A That's correct.

27 MR. FREEDMAN: Thank you. I have one
28 cross-examination exhibit at this time, your

1 Honor, I'd like to distribute.

2 ALJ BUSHEY: Okay. We'll be off the
3 record.

4 (Off the record.)

5 ALJ BUSHEY: We'll be back on the
6 record.

7 While we were off the record we
8 numbered Exhibit 25, TURN cross-examination
9 exhibit.

10 (Exhibit No. 25 was marked for
11 identification.)

12 ALJ BUSHEY: Mr. Freedman.

13 MR. FREEDMAN: Thank you, your Honor.

14 Q This exhibit contains the response
15 by SDG&E to TURN Data Request Set 1, Question
16 3. Mr. Levin, are you sponsoring or are you
17 the author of this response?

18 A I am sponsoring this response.

19 Q Great. And in this response SDG&E
20 is asked what approvals might be required
21 from the NRC for transfer of funds between
22 qualified nuclear decommissioning trust
23 funds, and the answer is:

24 At a minimum a temporary
25 exemption request from 10 CFR
26 50.82(a)(8) would have to be
27 approved by the NRC in order to
28 move a facility's funds from

1 one unit's trust to another
2 unit's trust.

3 Do you see that?

4 A Yes, I do.

5 Q Why would an exemption from 10 CFR
6 50.82 be required?

7 A NRC regulations require that
8 licensees have a dedicated decommissioning
9 trust fund for each nuclear unit for each
10 nuclear license. And 10 CFR 50.82 identifies
11 the limitations with respect to the
12 expenditures of those funds. One part of 10
13 CFR 50.82 identifies that withdrawals from
14 those funds can be made for legitimate
15 decommissioning expenses.

16 The NRC has taken the position that
17 transfer of trust funds from one unit to
18 another does require an exemption. And I'll
19 cite that by talking about an exemption that
20 was filed that I'm familiar with by Arizona
21 Public Service for Palo Verde, the Palo Verde
22 site which has three units. And in that
23 exemption request APS requested the ability
24 to move decommissioning funds up to \$5
25 million from Unit 1 decommissioning trust to
26 the Unit 3 decommissioning trust. And as I
27 said, that required an exemption approval by
28 the NRC.

1 Q Mr. Levin, was that request for an
2 exemption for Palo Verde approved?

3 A Yes, it was.

4 MR. FREEDMAN: Thank you. Thank you,
5 Mr. Levin. Those are all my questions.

6 ALJ BUSHEY: Mr. Peffer.

7 MR. PEFFER: Your Honor, Ms. Gilmore
8 will be conducting questioning.

9 ALJ BUSHEY: Okay.

10 MS. GILMORE: Okay. Sorry. Didn't
11 have my glasses on.

12 MR. PEFFER: Your Honor, if it's
13 possible, I'd like to reserve five minutes
14 possibly after the break for this witness.

15 ALJ BUSHEY: For what purpose?

16 MR. PEFFER: I'd like to ask some
17 followup questions potentially, but we need
18 to do some printing first. We will subtract
19 that from this. So there shouldn't be any --

20 ALJ BUSHEY: We'll be off the record.

21 (Off the record.)

22 ALJ BUSHEY: We'll be back on the
23 record.

24 Ms. Gilmore. Ms. Gilmore, are you
25 ready to begin your questioning?

26 MS. GILMORE: Yes.

27 MR. PEFFER: Your Honor, Ms. Gilmore
28 would like to approach the bench. She has

1 some exhibits.

2 ALJ BUSHEY: Exhibits.

3 We'll be off the record.

4 (Off the record.)

5 ALJ BUSHEY: We'll be back on the
6 record.

7 Ms. Gilmore, your first question.

8 CROSS-EXAMINATION

9 BY MS. GILMORE:

10 Q Okay. My first question is, all
11 right, on page 7 it starts, line 16, you
12 know, Witness Gilmore argues spent fuel pools
13 are only viable method to remediate a failed
14 spent fuel canister. And then on the next
15 page I reference the DOE document stating in
16 order to repackage a used nuclear fuel waste,
17 that's another term for spent fuel canister,
18 that it would require, according to the DOE,
19 it would require either a storage pool or a
20 hot cell facility.

21 MS. SALUSTRO: Objection, your Honor.
22 I understand that Ms. Gilmore is reading what
23 she --

24 MS. GILMORE: Yeah. I just was putting
25 it in reference for the question.

26 ALJ BUSHEY: Okay. Ms. Gilmore, you
27 don't need to do that.

28 MS. GILMORE: Okay.

1 ALJ BUSHEY: You don't need to read
2 anything. It's already in the record.

3 MS. GILMORE: Okay. All right. Okay.

4 Q So regarding your mention of
5 repairing a canister as an option, what were
6 you using as your interpretation of failed
7 spent fuel canister when you were responding
8 to that?

9 MS. SALUSTRO: Objection. Could we get
10 a reference to --

11 MS. GILMORE: He's saying -- he's
12 saying that repairing is an option.

13 ALJ BUSHEY: Ms. Gilmore, a line
14 reference, please.

15 MS. GILMORE: Q Okay. I'm sorry.
16 Line 3 references a failed spent fuel
17 canister. So you're making a statement that
18 I should have considered the canister can be
19 repaired. I'm asking you what your
20 definition is of a failed spent fuel
21 canister. You were responding to that.

22 MS. SALUSTRO: And your Honor, I have
23 to object here. This is twisting not only
24 Mr. Levin's written testimony, but also Ms.
25 Gilmore seems to be twisting her own
26 testimony that's quoted here.]

27 MS. GILMORE: Okay. I'm making it
28 simple.

1 Q What is your -- what is your
2 definition -- on line 3 it says failed spent
3 fuel canister. What is your understanding of
4 the term, "failed spent fuel canister," when
5 you were responding to this?

6 MS. SALUSTRO: And again, your Honor, I
7 have to object because all he's doing is
8 quoting Ms. Gilmore on the previous page.

9 ALJ BUSHEY: Right. Sustained.

10 Ms. Gilmore, he's just quoting you.

11 MS. GILMORE: All right. I'll go
12 further down, and we'll get to this. Okay.
13 All right.

14 Q Down in tools to repair a flawed
15 canister, line 26. Are you aware of any
16 tools that are currently available today to
17 repair a canister -- successfully repair a
18 canister filled with spent nuclear fuel?

19 A In my testimony on lines 25 and 26,
20 I've said, "my experience absent tools to
21 repair a flaw." So that is correct. I am
22 not aware of any tools.

23 Q Okay. All right. So -- okay. So
24 you're not aware of any tools. Okay.

25 So are you aware of any other
26 options besides future repair tools or pools
27 or hot cell to deal with a failed canister?

28 MS. SALUSTRO: Objection, there's a

1 lack of foundation. I'm not sure any of
2 those methods have been substantiated.

3 MS. GILMORE: Okay. Well, I have to
4 learn how to ask questions better.

5 ALJ BUSHEY: Okay. Ms. Gilmore, hold
6 on.

7 Isn't the answer, Mr. Levin, to the
8 question found at the top of the next page?

9 THE WITNESS: Yes, it is, your Honor.

10 ALJ BUSHEY: Okay.

11 MS. GILMORE: Okay.

12 ALJ BUSHEY: Ms. Gilmore, this is
13 already in the record.

14 MS. GILMORE: Well, I'm trying to
15 understand -- okay -- his point here. Okay.
16 All right.

17 Q Let's go to line 10 on page 9 where
18 you say that -- your belief that the DOE will
19 proceed with developing tools for repairs.
20 Are you aware of any projects -- you know,
21 what -- is your belief based on any documents
22 or knowledge of -- of project in place to --
23 to do this?

24 A I'm sorry. Can you repeat which
25 line you're on?

26 Q On number -- line 10, where you
27 state, "It is my belief DOE will proceed with
28 developing tools for making any needed

1 repairs down the road."

2 A Yes, I stated that in line 9 that
3 DOE has programs in flight to develop tools
4 for inspecting canister surfaces, and I
5 identified a reference by Dr. Marshman at
6 Idaho National Laboratory.

7 Q No, my question is regarding tools
8 for making repairs, not for inspecting. It's
9 the second part of your statement.

10 A And my response is that you need to
11 have tools to identify the flaw. And down
12 the road, DOE will follow on with development
13 of tools to repair the flaws.

14 Q Okay. But my question is are you
15 aware of any projects that are in the queue
16 for the repair part.

17 A I'm not aware of any.

18 Q Okay. All right. That's what I
19 needed to know there.

20 Okay. This may go -- this may go
21 -- this may go quicker than I thought.

22 And -- and your -- wait a minute.
23 Okay. Page 9, line 4. So you say that it
24 can be placed in a larger canister, oversized
25 concrete storage module. Are you aware of
26 any NRC-licensed cask or canisters to do
27 this?

28 A It would require an amendment to

1 any of the existing systems as I know about
2 them today.

3 Q Okay. Are you aware of any
4 currently licensed vendor that has a larger
5 canister available that they could put into a
6 slightly oversized concrete storage module?

7 A Again, it would require an
8 amendment to the systems that I'm aware of
9 today in order to do that.

10 Q Okay. Could it possibly require a
11 new license as opposed to just an amendment?
12 Are you sure it's just an amendment?

13 MS. SALUSTRO: Objection, your Honor,
14 it's asks for hypotheticals based on --

15 MS. GILMORE: I'm just asking -- I'm
16 just trying to clarify that he said a license
17 amendment, and I'm asking is it possible that
18 it could require a new license versus an
19 amendment.

20 ALJ BUSHEY: Ms. Gilmore, when a
21 witness' attorney objects --

22 MS. GILMORE: Oh, I'm sorry. I'm
23 sorry.

24 ALJ BUSHEY: Let's hear the objection.

25 MS. SALUSTRO: My objection is it's a
26 hypothetical based on uncertain facts. In
27 addition, we've asked several questions on
28 this point. I'm not sure if this line of

1 questioning is helpful getting to the
2 determination of the reasonableness of the
3 estimate.

4 ALJ BUSHEY: The witness has provided
5 testimony asserting that the failed canister
6 could be addressed by this means and is being
7 cross-examined on what it would take to get
8 permission to do that. That seems to be
9 within the scope of the witness' testimony.

10 Whether that -- how that plays, if
11 at all, into the reasonableness determination
12 is another story. This witness has presented
13 testimony, and questions are being asked
14 regarding his testimony. So on that basis,
15 I'm going to overrule your objection. The
16 witness can answer if he knows.

17 THE WITNESS: It is my opinion that it
18 would require a license amendment and not a
19 new license.

20 MS. GILMORE: Q Okay. Can you give an
21 example of a -- a canister that would --
22 would have a -- that could get a license
23 amendment for this?

24 MS. SALUSTRO: That one I have to
25 object to, your Honor.

26 MS. GILMORE: Because a license
27 amendment assumes --

28 ALJ BUSHEY: Ms. Gilmore, we have

1 another objection.

2 MS. GILMORE: I'm sorry. I'm sorry.
3 Objection. I'm sorry.

4 ALJ BUSHEY: Okay. And the objection
5 is?

6 MS. GILMORE: Calls for speculation and
7 in addition is calling for the witness to
8 speculate about an NRC action determining
9 whether -- what kind of license amendment
10 would be needed for what kind of canister.

11 ALJ BUSHEY: I was kind of thinking
12 asked and answered was where I was going with
13 this.

14 Ms. Gilmore, he's already said he's
15 not aware of anyone whose done this.

16 MS. GILMORE: Well, he's -- he said --
17 can I rephrase?

18 ALJ BUSHEY: Yes, Mr. Peffer?

19 MR. PEFER: Your Honor, can I ask
20 that Ms. Gilmore be allowed to complete her
21 question before objections are lodged. She
22 was in the middle of the question, and she
23 was interrupted.

24 ALJ BUSHEY: I believe it was
25 completed.

26 Ms. Gilmore, had you completed your
27 question?

28 MS. GILMORE: Yeah. Well, yeah. Can I

1 just -- maybe there was a thought missed
2 there. He -- we're here to kind of validate
3 the witnesses; right? To -- the credibility
4 or their knowledge; right? That's the part
5 of what --

6 ALJ BUSHEY: Right.

7 MS. GILMORE: Okay. So when he says
8 that, "Oh, you need a license amendment,"
9 that means existing canisters that are
10 currently approved by the NRC would be the
11 only ones eligible for an amendment.
12 Otherwise you need a new license.

13 ALJ BUSHEY: Okay. Ms. Gilmore, now
14 you're testifying.

15 MS. GILMORE: No, but I was trying to
16 explain where I was going with my question,
17 but --

18 ALJ BUSHEY: The purpose of
19 cross-examination is not to explain where
20 you're going.

21 MS. GILMORE: Okay. All right.

22 ALJ BUSHEY: You get a fact on the
23 record, and then you use that in your brief.

24 MS. GILMORE: Right.

25 ALJ BUSHEY: And you explain in the
26 brief.

27 MS. GILMORE: Right. And I was trying
28 to get another fact on the record.

1 ALJ BUSHEY: Okay. What fact that's
2 not now in the record that you would like to
3 get in the record?

4 MS. GILMORE: I would like for him to
5 say what -- what approved canisters or casks
6 might be eligible for this license amendment.
7 He's saying a license amendment. To what --
8 to -- to -- to what existing canister, what
9 existing system?

10 ALJ BUSHEY: Let's see if the witness
11 has particular system in mind for an
12 amendment, or would any licensed --

13 THE WITNESS: Any licensed
14 canister-based dry cask storage system could
15 seek an amendment to allow that system to be
16 packed into a -- an oversized canister.

17 ALJ BUSHEY: Does that complete the
18 facts that you require, Ms. Gilmore?

19 MS. GILMORE: Q Would a transfer cask
20 be one of those for a license amendment?

21 A The transfer cask is a different
22 entity.

23 Q Okay. I just want --

24 A The transfer cask is licensed with
25 -- typically licensed with a system in its
26 original license in order to move canisters
27 between a storage overpack in the spent fuel
28 pool.

1 Q Correct. I understand. What I'm
2 asking is -- would -- so would a -- just kind
3 of yes or no. Would a transfer cask
4 potentially be a cask that could get a
5 license amendment to store a failed canister?
6 Just yes or no.

7 A What would need to change for a
8 transfer cask is the certificate of
9 compliance and operations associated with the
10 transfer cask in the final safety analysis
11 report that says how long a canister can
12 reside in a transfer cask. And so it would
13 likely not be a new license. It would likely
14 not be a license amendment. It would be a
15 change of operating system requirements that
16 may or may not necessarily require the
17 license amendment.

18 Q Would it require an -- a license
19 exemption?

20 A Possibly, but I would expect it to
21 be an engineering change that's performed
22 under 10 CFR 72.48.

23 Q Okay. Would a transport -- a
24 transportation cask be a possible option for
25 a license amendment?

26 MS. SALUSTRO: Objection, asked and
27 answered.

28 MS. GILMORE: No, that was a transfer

1 cask -- sorry. Sorry.

2 MS. SALUSTRO: Now we're getting to
3 transfer cask. I'm not sure how that relates
4 back to his testimony about packaging into a
5 storage module.

6 ALJ BUSHEY: Ms. Gilmore, we're --
7 we've gotten quite a long ways from the
8 witness's direct testimony.

9 MS. GILMORE: Well, he's -- he's
10 claiming that you can do this, so that's --

11 ALJ BUSHEY: Right. And you're
12 quizzing him on exactly what type of
13 permission would you need from the NRC. That
14 may or may not have any bearing on whether
15 this is technically feasible at all.

16 MS. GILMORE: Well, I -- I -- you know,
17 can I -- can I have a little latitude on
18 these questions because I --

19 ALJ BUSHEY: I've given you quite a bit
20 of latitude.

21 MS. GILMORE: All right. All right.
22 Because this is extremely relevant to -- to
23 the decommissioning -- the decommissioning.

24 ALJ BUSHEY: We'll be off the record.

25 (Off the record.)

26 ALJ BUSHEY: We'll be back on the
27 record.

28 Mr. Geesman?

1 MR. GEESMAN: Thank you, your Honor.

2 CROSS-EXAMINATION

3 BY MR. GEESMAN:

4 Q Good morning, Mr. Levin?

5 A Good morning, Mr. Geesman.

6 Q I'm John Geesman for the Alliance
7 for Nuclear Responsibility.

8 I would like to turn your attention
9 to Exhibit 18, which is your prepared direct
10 testimony. And go to page 9, lines 18
11 through 22 where you're talking about the DOE
12 pilot ISF program. And I believe ISF is
13 identified in your testimony as an acronym
14 for interim storage facilities.

15 Your reference is to a pilot
16 program, and my question is is your belief
17 that 2024 is a reasonable assumption for the
18 commencement of DOE acceptance of spent
19 nuclear fuel -- is your belief premised on
20 this pilot program taking place?

21 A I discussed the pilot program in my
22 testimony in as much as I used that to help
23 me validate the position that the
24 decommissioning cost estimate has taken that
25 2024 as a reasonable date. And based upon
26 that validation, I've concluded that the 2024
27 date is a reasonable date.

28 Q If there were no pilot program,

1 would you reach the same conclusion?

2 A If there were no pilot program
3 today, I would reach the same conclusion.
4 However, I expect that -- as I've mentioned
5 in my testimony that legislation will be in
6 place by 2017, which will allow a pilot
7 program to be enacted and to begin in 2024.

8 Q I'd like to turn to page 8 of that
9 same exhibit. At lines 18 through 21, you
10 make reference to a Executive Order by
11 Governor Gray Davis from 2002. Could you
12 elaborate a bit more on what that Executive
13 Order does and how it relates to the
14 decommissioning cost estimate?

15 A Without the order in front of me, I
16 cannot at this time elaborate completely.
17 However, my familiarity with it tells me that
18 it potentially prevents municipal landfill
19 waste by governor order to be disposed of
20 from a nuclear facility in the state of
21 California.

22 Q And that would then focus the plant
23 owners on scrap metal recyclers or a
24 out-of-state municipal landfill?

25 A That is my understanding as
26 reflected in the decommissioning cost
27 estimate.

28 Q Do you know whether or not the

1 plant owners have sought any variance from
2 this Executive Order?

3 A I do not.

4 Q I'd like to go to Exhibit 20, which
5 is your rebuttal testimony, and turn to page
6 11?

7 A I'm focused on Section B, which
8 occupies lines 1 through 19 of page 11. And
9 I'd like to make certain I've got the
10 arithmetic correct.

11 I look at line 6 and 7 where you
12 attribute to turn an estimate of
13 \$441 million, and then you at line 16
14 indicate that 95 million of that is for the
15 intake and discharge conduit. So you believe
16 that ought to be subtracted from the
17 \$441 million, which if I do that math is 441
18 minus 95, or \$346 million attributable to the
19 Navy easement.

20 MS. SALUSTRO: Objection, your Honor.
21 I think Mr. Geesman is looking at the -- I
22 withdraw that objection.

23 ALJ BUSHEY: Well, I have just a -- I
24 didn't hear an actual question in there.
25 What is the question?

26 MR. GEESMAN: Q Is my math correct?
27 \$346 million should be attributable to the
28 requirements in the Navy easement for Site

1 Restoration Period 5?

2 A I'll assume your math is correct.

3 Q Thank you. Then I would like to go
4 to pages 6 and 7. On page 6 --

5 A Excuse me, Mr. Geesman. Which
6 exhibit?

7 Q Oh, I'm sorry. I'm still on
8 Exhibit 20.

9 A Thank you, sir.

10 Q On page 6 I'm looking at that
11 numbered Paragraph 2. On line 14, you say,
12 "The SONGS DCE assumes all clean concrete
13 demolition debris is disposed of at an
14 out-of-state Class 3 landfill."

15 I want to clarify when you say,
16 "all," you mean not just that which is
17 three feet below the subsurface. You mean
18 all?

19 A Beyond three feet below existing
20 grade, yes.

21 Q Okay. And in line 17, you
22 attribute a cost impact of 237.8 million to
23 that requirement, including the contingency?

24 A The \$237.8 million is the disposal
25 cost for that material.

26 Q Okay. Then I go to page 7, lines 2
27 and 3. You indicate that the SONGS estimated
28 cost impact is 297.8 million, including the

1 contingency. And I believe that also
2 includes, does it not, the intake and outfall
3 facilities as well? Is that correct?

4 A That is correct.

5 Q I want to go through another
6 arithmetic question, and I'm focused on
7 Footnote 21 on page 7. And I start with the
8 441.5 million. That includes the intake and
9 outfall facilities; correct?

10 A For the complete disposition,
11 including labor, burial, et cetera, that is
12 correct.

13 Q I subtract 297.8 million to cover
14 that below three feet of the subsurface
15 requirement that only applies to SONGS. Am I
16 correct in doing so?

17 A I don't understand what you're
18 saying when you say, "Am I correct in doing
19 so?" Is there something --

20 Q Where I'm trying to go is a cost
21 number to attribute to this Executive Order,
22 the Executive Order which forces the plant
23 owners to find scrap recyclers or an
24 out-of-state landfill in which to dispose of
25 this uncontaminated rubble.

26 And I believe based on your
27 testimony, the correct way for me to do that
28 is 441.5 million minus 297.8 million. I'm

1 asking if that is the appropriate way to look
2 at the effect of this Executive Order?

3 A I understand what you're looking
4 for. Without my workpapers in front of me
5 and the cost estimate to look at -- there may
6 be some other costs that should be in or out
7 associated with that, so I'm afraid I cannot
8 give you an answer at this time.

9 Q Do you know what the general
10 magnitude of those other costs would be? Is
11 it 10 percent? 20 percent?

12 MS. SALUSTRO: Objection. If
13 Mr. Geesman could be more clear about what he
14 means by those other costs?

15 MR. GEESMAN: Q The other costs that
16 you are concerned that without access to your
17 workpapers you can't give me a precise
18 number.

19 A I refrain from doing so without
20 having that information in front of me.

21 MR. GEESMAN: Thank you very much.

22 THE WITNESS: Sure.

23 MR. GEESMAN: That completes my;
24 questioning, your Honor.

25 ALJ BUSHEY: Okay.

26 Ms. Gilmore?

27 MS. GILMORE: Okay.

28 ALJ BUSHEY: Are you ready with your

1 last questions?

2 MS. GILMORE: Okay.

3 CROSS-EXAMINATION (Resumed.)

4 BY MS. GILMORE:

5 Q Page 10.

6 ALJ BUSHEY: Of what exhibit?

7 MS. GILMORE: Of Exhibit 19.

8 Q And a paragraph that starts on line
9 13 of page 10. You're -- let's see. Is the
10 paper that you're referencing here in
11 Footnote 35 for -- for what kind of
12 repository? What kind of facility?

13 A The document I'm referencing in --
14 in Footnote 35 here simply is a discussion of
15 how the DOE may go about picking up canisters
16 from retired nuclear units.

17 Q Does it relate to interim storage
18 facilities or permanent repositories?

19 A I do not recall any discussion in
20 that document about a permanent repository.
21 I -- and with respect to the interim storage
22 facility, it addresses it only from the
23 standpoint that it would be the intent that
24 these canisters would go to an interim
25 storage facility.

26 Q Could you describe what an interim
27 storage facility is?

28 A An interim storage facility is a

1 facility that will allow spent nuclear fuel
2 to be picked up from nuclear -- commercial
3 nuclear plants in advance of there being
4 available a deep geologic repository for
5 disposal. The interim storage purpose is
6 exactly that, for storage until a repository
7 is available.

8 Q And what kind of storage is used
9 for interim storage? What type?

10 A The technology would be very
11 similar to if not the same as the technology
12 that's currently used at commercial nuclear
13 plants.

14 Q So could you describe -- describe
15 at a very high level the process of moving
16 the existing fuel to the interim? Just a
17 very high level. I'm sure the Judge will
18 appreciate I said very high level.

19 A Are you requesting that I identify
20 the fuel that is in dry storage at a nuclear
21 plant?

22 Q Yeah, yeah, in dry storage.

23 A Or in wet storage?

24 Q Already in dry storage.

25 A The way that would happen is that
26 the Department of Energy would provide a
27 transportation cask of some sort into which a
28 canister of spent fuel at a retired reactor

1 site or at an operating reactor site would be
2 transferred to be transported to the
3 Department of Energy.]

4 Q And would this be using the
5 existing canisters that are there?

6 A That is the discussion that is in
7 this document.

8 Q Correct. Okay. Would those
9 canisters be inspected for any corrosion or
10 cracks prior to being transported?

11 A It's not a question or something I
12 can answer.

13 Q Okay.

14 A I'm not aware of it.

15 Q All right. Now, if it wasn't an
16 interim facility using the existing
17 canisters, if it was to take to a permanent
18 repository, which is what the current, you
19 know, law is, would the process be the same?
20 Would they be taking the canisters in the
21 existing canisters?

22 A That's speculation. I don't know.

23 Q We don't know. Okay. That's what
24 I wanted to -- that's what I wanted to --

25 On page 9, line 7, would you
26 describe what a transportation overpack is,
27 what the purpose of it and what it is?

28 A A transportation overpack, the

1 purpose of it is to provide a conveyance of
2 package that allows spent nuclear fuel to be
3 moved outside or off of the plant site
4 boundary.

5 Q To?

6 A Wherever it may go.

7 Q Okay. Now, is the -- is this
8 normally -- what is this normally made out
9 of?

10 A It's normally made out of steel and
11 lead.

12 Q Is the steel normally thicker than
13 the thin canisters that it's currently in?

14 A You'll have to help me identify
15 what you're talking about.

16 Q Well, the -- we're putting here the
17 failed canister into a transport overpack.
18 So the thin canister goes into an overpack
19 for transport. Does this canister have any
20 additional barriers for, say, radiation or
21 requirements that the thin canister doesn't
22 have?

23 A The purpose of the thick canister
24 is threefold. It provides radiation
25 shielding. It provides structural support.

26 Q Is it designed to be reusable?

27 MS. SALUSTRO: Your Honor, if the
28 witness could -- I'm not sure if he was done

1 with his answer.

2 MS. GILMORE: Sorry, sorry.

3 ALJ BUSHEY: All right. Ms. Gilmore,
4 why don't we let the witness finish his
5 answer.

6 MS. GILMORE: Okay.

7 ALJ BUSHEY: Okay. And let's confine
8 it to the reference he's made in his
9 testimony and not ask him to speculate about
10 other things.

11 MS. GILMORE: Okay.

12 ALJ BUSHEY: Okay. So if the witness
13 would complete his answer.

14 THE WITNESS: The transportation
15 overpack provides three functions. The first
16 is radiation shielding. The second is
17 structural support. And the third is
18 confinement.

19 MS. GILMORE: Q Are these designed to
20 be reusable?

21 A Typically that is the goal.

22 Q Is the cost ratio between the thin
23 canisters and the transport overpacks
24 significantly different?

25 A Yes.

26 Q In page 10, okay, on page 10 on the
27 paragraph 7 starting on line 7. Let me know
28 when you're there.

1 A Yes.

2 Q Okay.

3 A Same exhibit?

4 Q Yes. Same exhibit. Yeah. Okay.

5 Now, where you reference that the spent fuel
6 pool gave Crystal River the ability to reopen
7 and repackage the fuel into any size
8 DOE-provided system, how would we -- is there
9 any way to do that without a pool?

10 A It may be possible.

11 Q And what might that be?

12 A It would require an in-air transfer
13 of spent fuel assemblies, shielded spent fuel
14 assemblies.

15 Q Is there a name that they usually
16 call these facilities?

17 A Not that I can think of.

18 Q Okay. Dry transfer. Are you aware
19 of any of these? I'll just call it dry --
20 you said like a dry transfer type.

21 Are you aware of any of these
22 facilities that exist that are large enough
23 to perform this function?

24 A There was an experimental design
25 that I'm aware of that was up at the Idaho
26 National Laboratory.

27 Q Does that facility still exist?

28 A I do not know.

1 Q Do you know what the cost of
2 roughly of building one of those facilities
3 would be in order to perform this function?

4 A I do not.

5 Q Would you think it would be
6 significant?

7 MS. SALUSTRO: Objection. Vague and
8 ambiguous.

9 ALJ BUSHEY: The witness says he
10 doesn't know.

11 MS. GILMORE: Okay. All right.

12 Q And do you, you know, do you know
13 why Crystal River would want to be able to
14 repackage the fuel in a DOE-provided system?

15 A Yes, I do.

16 Q And what is that reason?

17 A The reason is if the Department of
18 Energy provided a transportation system that
19 required a smaller package or a smaller
20 amount of spent fuel in it.

21 Q Okay. Is there a current
22 requirement that the utilities be able to do
23 that, provide the fuel to be put in a DOE
24 canister?

25 A No.

26 Q Would their standard contract?

27 A The standard contract simply
28 identifies a standard waste form, which is a

1 fuel assembly. It does not specify package
2 sizes.

3 Q No. But it specifies that you need
4 to be able to put the -- it doesn't specify
5 the container it goes in. I understand that.
6 But that the fuel assemblies need to be able
7 to go into a DOE canister. Is that what
8 you're saying? I'm trying to make sure I
9 understand.

10 A It does not specify that.

11 Q It does not. Does the NRC require
12 that spent fuel assemblies be retrievable
13 from a canister?

14 A The NRC is currently reviewing what
15 retrievability means.

16 Q But under the current existing
17 requirements?

18 A Retrievability is on an assembly
19 basis.

20 Q Yes. Okay. Thank you for that.
21 Okay. In terms of, are you -- in terms of --
22 so do you know how long the thin type of
23 canisters have been in use roughly?

24 MS. SALUSTRO: Your Honor, I'm going to
25 object. I'm not sure what relevance that is
26 to Mr. Levin's testimony.

27 ALJ BUSHEY: Ms. Gilmore, do you have
28 a --

1 MS. GILMORE: Q Well, we're talking
2 about -- okay. Let's go down to page 9, line
3 9. Okay. The whole paragraph there. Okay.
4 So in here we're discussing developing tools
5 to inspect, developing tools to repair. This
6 obviously assumes something went wrong. So
7 what would you -- how do --

8 MS. SALUSTRO: Your Honor, objection.

9 MS. GILMORE: Hold on. I need to
10 gather my thoughts here.

11 ALJ BUSHEY: We'll be off the record.

12 (Off the record.)

13 ALJ BUSHEY: We'll be back on the
14 record.

15 Mr. Lutz.

16 MR. LUTZ: Thank you.

17 CROSS-EXAMINATION

18 BY MR. LUTZ:

19 Q Ray Lutz with Citizens Oversight.
20 Good morning.

21 A Good morning.

22 Q I'm looking at your testimony
23 regarding the pilot ISF operation, and this
24 is on page 9, lines 15 through 18. I'm not
25 sure what exhibit number this had on it.
26 Sorry. My eyes are getting bad. Let me get
27 my glasses out. Okay. Here you say that --

28 A I'm sorry. Can you clarify the

1 exhibit for me, please.

2 Q It's SDG&E-01-R-E-A.

3 MR. GEESMAN: Exhibit 18.

4 MR. LUTZ: Is that No. 19?

5 MR. GEESMAN: 18.

6 MR. LUTZ: 18 is the number that you
7 guys have assigned.

8 ALJ BUSHEY: What page?

9 MR. LUTZ: Page 9 and lines 15 through
10 18 is what I'm referring to.

11 Q Do you see those lines starting
12 with, "The DOE-assumed start date"?

13 A Yes.

14 Q Okay. In this passage it
15 references that it was predicate -- the start
16 date was predicated on work beginning by
17 January 2014, but then it goes on to say it
18 has yet to be launched. So is the schedule
19 slipping for the pilot ISF program?

20 A As I've mentioned in my testimony
21 here, DOE recognizes that federal legislation
22 will be in order for them to move forward,
23 and federal -- it's reasonable to make an
24 assumption at this point that legislation can
25 be acted, enacted by 2017. That legislation
26 is already in process.

27 Q Has the -- are you aware of any
28 investigation by the utilities into an

1 in-state off-site ISFSI, or what we call it
2 here, a interim storage facility within
3 California?

4 MS. SALUSTRO: Objection, your Honor.
5 By investigation, if Mr. Lutz could clarify
6 what he means by that.

7 MR. LUTZ: Q Well, in other words, in
8 order to create a interim storage facility,
9 you would have to have a site for it, a
10 location, transportation to it and so forth.
11 So there was a lot of issues regarding where
12 it might be. Has there been any discussion
13 or investigation into a location in
14 California that you are aware of regarding
15 those issues?

16 A The only thing I'm aware of is what
17 I've read in the newspaper.

18 Q Okay. So all right. Because
19 you're not really part. Have you read
20 anything in the newspaper about a -- since
21 you're an expert in this area, on a interim
22 storage facility within California?

23 A That's about the level of my
24 knowledge, yes.

25 Q So you haven't heard anything?

26 A Not in detail, no.

27 MR. LUTZ: Okay. Thank you very much.

28 ALJ BUSHEY: All right. Ms. Gilmore,

1 are you prepared?

2 MS. GILMORE: Yeah.

3 CROSS-EXAMINATION (resumed)

4 BY MS. GILMORE:

5 Q Okay. Page 9, line 7.

6 A Of which exhibit?

7 Q Exhibit 19.

8 A I'm sorry. You said page?

9 Q Page 9, line 7. It's the third
10 bullet.

11 A Yes.

12 Q Ready? Okay. All right. Once you
13 have this canister in the transport overpack,
14 then what do you do with it? How do you --
15 you know, what's the plan for it after that
16 to -- you know, what would you do with it
17 after you do that?

18 A Research the options as to whether
19 it needs to be repaired.

20 Q Okay. You don't have repair
21 technology yet?

22 A I would first search the options to
23 see if it needs to be repaired.

24 Q Okay. Well, that's -- it's a
25 failed canister. And so what you're saying
26 is you would -- okay. Assume it needs --
27 assume it needs repairing or assume it is a
28 failed canister, meaning it has cracks. So

1 then what do you do after you have it in this
2 transport overpack? Then what do you do with
3 it?

4 A Well, again, I would first evaluate
5 it to see if it needs to be repaired and if
6 necessary either seek an exemption from the
7 NRC to accept the canister as is or determine
8 what my repair technology might be.

9 Q Okay. Assuming we don't have the
10 repair technology yet, which is what's in
11 your statement, if there was a site for it to
12 go to, which is the eventual plan, would we
13 be able to transport a -- would you be able
14 to transport a failed canister in this
15 transport overpack, canister with cracks in
16 it?

17 A To be able to provide an opinion on
18 that requires somebody with some structural
19 engineering background, and I'm not of that
20 ilk.

21 Q Or have you read any technical
22 specifications for any of these canisters to
23 see what the requirement is or what the
24 requirements are for transportation
25 overpacks, that they would allow a transport
26 of a cracked canister?

27 MS. SALUSTRO: Your Honor, can I
28 object. This is going pretty far afield.

1 His testimony here we've discussed quite a
2 bit, and his testimony was just laying out
3 something that Exelon staff had identified as
4 what to do if there was a suspected failed
5 canister. It doesn't go into transporting to
6 off-site storage and so on.

7 ALJ BUSHEY: I'll sustain your
8 objection. The witness has already said he
9 doesn't know. He's not qualified to opine on
10 this.

11 MS. GILMORE: He doesn't know. Okay.
12 That's fair. Okay.

13 Q Do you have any knowledge of how
14 long it's going to take to develop inspection
15 technology?

16 A No.

17 Q No. Okay. Or how long it would
18 take to develop repair technology?

19 A No.

20 Q No. Okay. All right.

21 ALJ BUSHEY: Does that conclude your
22 questions, Ms. Gilmore?

23 MS. GILMORE: Yeah. Let's see.

24 ALJ BUSHEY: Redirect?

25 MS. GILMORE: I think that's -- I think
26 that's it.

27 ALJ BUSHEY: Good. Thank you, Ms.
28 Gilmore.

1 Redirect, Ms. Salustro.

2 MS. SALUSTRO: Yes, your Honor.

3 REDIRECT EXAMINATION

4 BY MS. SALUSTRO:

5 Q Mr. Levin, do you recall the line
6 of questionings that TURN asked you about the
7 SDG&E master trust agreements?

8 A Yes, I do.

9 Q For clarification, you did not
10 author the SDG&E six master trust agreements,
11 did you?

12 A I did not.

13 Q Are you at all responsible for
14 administering the master trust agreements?

15 A I am not.

16 Q Or interpreting the master trust
17 agreements' meaning?

18 A I am not.

19 Q Mr. Levin, do you acknowledge that
20 the nuclear decommissioning trusts, again
21 that you were discussing with Mr. Freedman
22 earlier, are not only subject to NRC rules
23 but also subject to IRS rules?

24 A Yes.

25 Q Ms. Gilmore asked you several
26 questions about the availability or the
27 existence of tools to repair canisters. Do
28 you recall your response of the existence of

1 these tools?

2 A I believe I responded that the
3 tools for repair do not exist.

4 Q Thank you. Mr. Geesman from A for
5 NR asked you several questions about numbers
6 as they related to navy easements. If I
7 could take you back to those pages. I'm
8 sorry. I don't have the reference
9 immediately handy. Oh, I'm sorry.
10 Exhibit 20, pages 6 and 7.

11 A Yes.

12 Q On page 6, paragraph 2, which runs
13 from 14 to line 18, isn't it true, Mr. Levin,
14 that this paragraph is discussing the
15 estimated cost of disposal as that relates to
16 the California executive order?

17 A That is correct. And I believe I
18 made that statement previously.

19 Q And then further down on lines, on
20 page 6, paragraph 3, starting at line 19
21 which carries over to the next page, this
22 paragraph and your estimate here relates to
23 site restoration; is that correct?

24 A That is correct. Including all
25 costs associated with that.

26 Q And when you say all costs, I
27 believe that was a reference to line 21 --
28 I'm sorry -- footnote 21 on page 7?

1 A That's correct.

2 Q And for clarity you said that the
3 number that appears in footnote 21 included
4 not only the costs mentioned in paragraph 3
5 about site restoration but also costs such as
6 labor that would be associated with that?

7 A That is correct. Labor, equipment,
8 materials, etcetera.

9 MS. SALUSTRO: One moment, your Honor.

10 ALJ BUSHEY: Off the record.

11 (Off the record.)

12 ALJ BUSHEY: Back on the record.

13 Ms. Salustro.

14 MS. SALUSTRO: Yes. Thank you.

15 Q Mr. Levin, were you present for Tom
16 Palmisano's testimony?

17 A Yes, I was.

18 Q Do you recall this statement in his
19 testimony on the stand that repair technology
20 exists although tools would need to still be
21 developed?

22 A Yes. His statement is, was that,
23 technology exists, the tools need to be
24 developed.

25 Q Do you agree with that statement?

26 A Yes, I do.

27 MS. SALUSTRO: No further questions.

28 ALJ BUSHEY: Thank you. Final

1 questions? Mr. Geesman.

2 MR. GEESMAN: Recross.

3 ALJ BUSHEY: Yes. Of course confined
4 to the new material.

5 RE-CROSS-EXAMINATION

6 BY MR. GEESMAN:

7 Q Mr. Levin, based on the numbers in
8 your testimony and your responses to Ms.
9 Salustro's redirect, how would you isolate
10 the additional costs for compliance with the
11 navy easement attributable to the executive
12 order you cite in your testimony?

13 MS. SALUSTRO: Your Honor, that's a
14 mischaracterization. The executive order is
15 about waste disposal. The navy easement is
16 about as Mr. -- when Mr. Geesman was walking
17 through the numbers, he was referencing
18 numbers for the navy easement about site
19 restoration. They're two separate
20 categories.

21 ALJ BUSHEY: Well, it would help the
22 record I think if we were clear as to whether
23 or not -- how these numbers work together,
24 how the numbers in paragraph 2 and paragraph
25 3 work together. Is that where you're going,
26 Mr. Geesman?

27 MR. GEESMAN: That is.

28 ///

EXAMINATION

1
2 BY ALJ BUSHEY:

3 Q Yes. I will just share with you my
4 understanding, and feel free to correct me if
5 this is wrong. I'm understanding that these
6 two numbers are additive. So that
7 237.8 million plus 297.8 million gets us the
8 total of the executive order and the site
9 remediation; is that correct?

10 A I wish it were that simple.

11 Q Okay.

12 A The discussion in paragraph 2 not
13 only addresses the costs of disposing of the
14 material that needs to be removed because of
15 the navy easement but also discusses other
16 material that may be removed down to the
17 3-foot mark as an example. So it encompasses
18 not only the material that's below 3 feet but
19 all the other material at the site that ends
20 up going to a municipal landfill.

21 Q How does that relate to the
22 297.8 million then?

23 A Okay. The total costs for doing
24 the remediation to meet the navy easement as
25 well as the removal of the intake and
26 outfalls is \$441 million. That's given in my
27 footnote. Subtracted from that is a portion
28 of the \$237 million.

1 Q Right. So the disposal costs --

2 A Which is applicable only to that
3 piece of the work.

4 Q Right. So the disposal costs have
5 already been taken out, right, of the 441
6 million?

7 A No, no, no. The disposals costs
8 are in there. Okay. So there's a piece of
9 the 237 which is the total cost of the site.
10 There's a piece that's associated with the
11 441. And what I did was backed that piece
12 out in order to come up with the 297.

13 Q So the 297 number doesn't include
14 the disposal costs?

15 A That is correct. Because I did
16 not -- I had included the disposal cost in
17 that Item 2.

18 Q Right.

19 A And so I didn't want to double
20 count for it as I looked through all of these
21 items here and added them up.

22 ALJ BUSHEY: All right. Okay. All
23 right. Ms. Geesman, questions?

24 RECROSS-EXAMINATION

25 BY MR. GEESMAN:

26 Q So how much of the 237 is
27 attributable to the executive order?

28 A Again, without my workpapers I

1 can't tell you because that -- when you talk
2 about that piece associated with the
3 executive -- oh, excuse me. Let me step
4 back. You're asking of the 237 what is
5 associated with the cost of disposal?

6 Q That's correct.

7 A Associated with that executive
8 order?

9 Q Correct.

10 A It would be difference between the
11 441.5 million and 297.8 million.

12 MR. GEESMAN: Thank you very much.

13 ALJ BUSHEY: Okay.

14 THE WITNESS: Thank you.

15 ALJ BUSHEY: Ms. Gilmore.

16 RE-CROSS-EXAMINATION

17 BY MS. GILMORE:

18 Q One cross question, recross.
19 Regarding Tom Palmisano's statement yesterday
20 bringing up the repair tools, he mentioned
21 that Calvert Cliffs had a license renewal
22 approved. Are you aware if there's any
23 requirements in the renewal for repairing or
24 inspecting in that license renewal?]

25 A I know there are some inspection
26 requirements. I do not know exactly what
27 they are.

28 MS. GILMORE: Okay. Thank you.

1 ALJ BUSHEY: Mr. Lutz?

2 RECROSS-EXAMINATION

3 BY MR. LUTZ:

4 Q Okay. In the redirect, there was
5 mention made of Tom Palmisano's testimony
6 regarding technology but not tools available,
7 and the reference was to repair. There was
8 also another reference in that his testimony
9 which was regarding inspection. And from my
10 memory, I remembered that inspection was
11 possible, but the tools weren't available.
12 Do you agree that with inspection, the tools
13 are not available?

14 MS. SALUSTRO: Objection, your Honor,
15 this goes beyond my limited --

16 MR. LUTZ: Well, I disagree with you
17 that the -- I'm sorry.

18 ALJ BUSHEY: I understand that you
19 disagree with it. But when you're on
20 recross, you have been confined just to the
21 new material. And Ms. Salustro only asked
22 about a narrow range of Mr. Palmisano's
23 testimony.

24 MR. LUTZ: Well, let me just say that
25 -- before I ask, can I go off the record for
26 a second?

27 ALJ BUSHEY: We'll be off the record.

28 (Off the record.)

1 ALJ BUSHEY: We'll be back on the
2 record.

3 Final questions for this witness?

4 (No response.)

5 ALJ BUSHEY: Hearing none, then the
6 witness is excused.

7 Ms. Salustro, would you like to call
8 your next witness?

9 MS. SALUSTRO: Yes, your Honor.

10 MR. LUTZ: Here you go.

11 MS. SALUSTRO: Thank you.

12 Yes, your Honor. SDG&E calls
13 Ms. Tracy Dalu.

14 TRACY M. DALU, called as a witness
15 by San Diego Gas and Electric Company,
16 having been sworn, testified as
17 follows:

18 THE WITNESS: I do.

19 ALJ BUSHEY: Please be seated.

20 State your full name for the record
21 and state your last name.

22 THE WITNESS: My name is Tracy M. Dalu,
23 and my last name is spelled D-a-l-u.

24 ALJ BUSHEY: Ms. Salustro?

25 MS. SALUSTRO: Thank you.

26 DIRECT EXAMINATION

27 BY MS. SALUSTRO:

28 Q Ms. Dalu, do you have Exhibits 18
and 19 in front of you?

1 A I do.

2 Q You're sponsoring sections in both
3 exhibits as indicated in the table of
4 contents; correct?

5 A Correct.

6 Q Were these sections prepared by you
7 or under your supervision?

8 A Yes.

9 Q Do you have any changes or
10 corrections to make at this time?

11 A I do not.

12 Q To the extent that these documents
13 contain facts, are those facts true and
14 correct to the best of your information,
15 knowledge, and belief?

16 A Yes.

17 Q And to the extent these documents
18 contain opinions, do those opinions
19 constitute your best professional judgment?

20 A Yes.

21 Q And do you adopt these exhibits as
22 your sworn testimony in this proceeding?

23 A I do.

24 MS. SALUSTRO: Your Honor, the witness
25 is available for cross-examination at this
26 time.

27 ALJ BUSHEY: Thank you.

28 Mr. Freedman.

1 MR. FREEDMAN: Your Honor, I have a
2 cross exhibit. Can I hand it out at this
3 time?

4 ALJ BUSHEY: We'll be off the record.
5 (Off the record.)

6 ALJ BUSHEY: We'll be back on the
7 record.

8 While we were off the record, we
9 identified Exhibit 26. It's a TURN
10 cross-examination exhibit that is an SDG&E
11 advice letter.

12 (Exhibit No. 26 was marked for
13 identification.)

14 ALJ BUSHEY: Mr. Freedman?

15 MR. FREEDMAN: Thank you.

16 CROSS-EXAMINATION

17 BY MR. FREEDMAN:

18 Q Good morning, Ms. Dalu.

19 A Good morning, Mr. Freedman.

20 Q I'd like to turn to your direct
21 testimony, Exhibit 18, pages 17 and 18.

22 A Okay. I'm there.

23 Q Great. So in this section,
24 Section 9, where you discuss the nuclear
25 decommissioning trust disbursement advice
26 letters, you referenced SDG&E's Tier 3 Advice
27 Letter 2724-E; is that correct?

28 A Yes.

1 Q Were you involved in the
2 preparation of that advice letter?

3 A I provided some of the information
4 in that advice letter.

5 Q And you cite this as an example of
6 a request for interim trust disbursements by
7 SDG&E; is that right?

8 A Correct.

9 Q Okay. Let's take a look. This is
10 the cross exhibit that's been provided,
11 Exhibit 26. Do you recognize this as
12 selected pages from that advice letter?

13 A I do.

14 Q I'd like to ask you to turn to the
15 second page, which actually is page 16 from
16 the advice letter. There's a section,
17 Section 6. It's titled, "Comparison of
18 Recorded Costs to the DCE." Do you see that?

19 A Yes.

20 Q So does this section compare the --
21 the costs that are requested for disbursement
22 from the trust to those estimated in the DCE
23 for the relevant time period?

24 A Yes, it does.

25 Q And what's the relevant time period
26 that's being addressed in this advice letter?

27 A The advice letter is I believe
28 June 7th, 2013, to December 31st, 2013.

1 Q Okay. And does the -- does this
2 section of the advice letter essentially
3 identify one of the key challenges to such a
4 reconciliation being that the DCE includes
5 costs over a much longer period than the six
6 months for which SDG&E is requesting the
7 trust disbursement?

8 A Yes, it does.

9 Q So SDG&E here is requesting costs
10 for six months from a period that runs for
11 approximately two years in the DCE; is that
12 right?

13 A No, SDG&E is requesting costs
14 through December 31st, 2013.

15 Q I understand. I guess my question
16 is -- but the period in the DCE to which this
17 cost is being compared runs for approximately
18 two years rather than six months; isn't that
19 right?

20 A That's correct.

21 Q And that's part of the challenge
22 with providing an accurate comparison for
23 just that six-month period?

24 A Correct.

25 Q Correct?

26 A We had to allocate the costs
27 included in the DCE to compare that to our
28 2013 numbers.

1 Q And how did -- how did SDG&E
2 perform this allocation for a shorter time
3 period?

4 A I wasn't directly involved in that
5 allocation.

6 Q So you don't know whether it's just
7 a prorated share based on time?

8 A I believe it would be a prorated
9 share based on time.

10 Q Okay. And in the third paragraph
11 here there's a reference in -- the very first
12 sentence references SDG&E's limited ability
13 to directly compare estimated costs in the
14 early shutdown study to its own incurred
15 decommissioning costs. Do you see that
16 sentence?

17 A I do.

18 Q Does SDG&E have a strategy or a
19 plan for addressing this limitation in future
20 trust disbursement advice letters?

21 A SDG&E is currently working to
22 develop their own accounting system that
23 would align with Edison's accounting system
24 and allow us to report in the format included
25 in the decommissioning cost estimate.

26 Q Okay. So let me continue on in
27 this exhibit.

28 If you continue turning through the

1 pages, the next page is titled, "Attachment
2 B," and then the next page after that shows
3 an estimate of costs recorded during the last
4 six months of 2013 versus what was in the
5 DCE; is that correct?

6 A Correct.

7 Q And if you were to look at the next
8 two pages, it shows Attachment C, and that is
9 followed by a graph that outlines cumulative
10 estimated spending versus actual cumulative
11 spending; is that correct?

12 A That's correct.

13 Q Is this -- the detail contained in
14 Attachments B and C consistent with what
15 SDG&E intends to provide in future advice
16 letters requesting trust disbursements?

17 A I believe this is consistent with
18 what we would provide, but as we receive
19 additional information, we -- we could -- we
20 will be able to provide more information.

21 Q And does SDG&E intend to provide
22 information that would allow costs to be
23 tracked by activity?

24 A Yes, we do.

25 Q So that's a lot more detail than is
26 contained in this advice letter; isn't that
27 right?

28 A That's correct.

1 Q And looking at your testimony,
2 again back on page 17, you identify elements
3 that SDG&E will strive to provide at the
4 bottom of the page there at the bullet point
5 list to the best of its ability.

6 A Correct.

7 Q What -- are there any specific
8 limitations on SDG&E's ability to provide
9 this information?

10 A We're currently working with Edison
11 to obtain a complete mapping of all the costs
12 billed to us and be able to identify those
13 costs with lines and decommissioning cost
14 estimate. Once we receive that information,
15 we will be able to provide most of the
16 information included in this section of my
17 testimony.

18 Q How long has SDG&E been working on
19 this effort to obtain this information from
20 Edison?

21 A We started discussions with them in
22 I believe February of 2015.

23 Q And if I look at page 18, the last
24 bullet point at the very top of the page
25 there, you reference a description of
26 activities for which a variance of plus or
27 minus 10 percent between the decommissioning
28 cost estimate and actual costs incurs. What

1 do you mean by a description? Do you mean
2 simply you would list activities that may be
3 over or under budget?

4 A Yes, that's how I would interpret
5 that.

6 Q Does that mean there would be a
7 narrative description or just a list of here
8 are the activities for which this condition
9 is true?

10 A I'm not sure I can answer that
11 question at this point.

12 Q And does SDG&E intend to provide
13 information on adherence to schedules that
14 are included in the DCE?

15 A We will provide schedules as long
16 as we have the information from Southern
17 California Edison.

18 Q And do you know whether that
19 information will show whether individual
20 activities are ahead of or behind schedule?

21 A I believe we will receive a report
22 that would give us that information.

23 Q And would it also show whether
24 individual activities are above or below the
25 cost forecasted in the latest DCE?

26 A I believe it will.

27 Q And to the extent that Edison
28 provides that information to SDG&E, would

1 that -- would that information be then
2 included in the trust disbursement advice
3 letters?

4 A We are happy to provide whatever
5 the Commission asks us to provide.

6 MR. FREEDMAN: Okay. Thank you,
7 Ms. Dalu. Those are all my questions.

8 THE WITNESS: Thank you.

9 ALJ BUSHEY: Ms. Dalu, I have a
10 follow-up question for you.

11 EXAMINATION

12 BY ALJ BUSHEY:

13 Q On line 13, page 17, you say, "The
14 2014 costs have been paid with ratepayer
15 funds"?

16 A Correct.

17 Q Are these not the same cost that's
18 are pending in the Application 15-02-006?

19 A I'm sorry? What is the
20 Application 15-02-0 --

21 Q 2014 SONGS O&M and non-O&M costs.
22 I'm on line 13 of your testimony. I'm trying
23 to understand how those costs could have been
24 paid with ratepayer funds.

25 A Those costs were billed to us as
26 O&M and capital costs.

27 Q Uh-huh.

28 A And were recovered through the

1 SONGS balancing account or through the SONGS
2 regulatory asset.

3 Q Decommissioning costs went to --

4 A We weren't billed in a
5 decommissioning format until -- the
6 decommissioning agreement wasn't signed until
7 April of 2015, so we were continuing to be
8 billed as O&M and capital up until January
9 of 2015.

10 Q So then what's in the application?

11 MS. SALUSTRO: Your Honor, I might be
12 able to provide clarification here. I'm not
13 sure Ms. Dalu is the right person here.

14 Oh, I'm sorry. So I believe that
15 the ratepayer funds discussed here are still
16 from our GRC; right?

17 Yeah they're still from our GRC.
18 The --

19 ALJ BUSHEY: Wait a minute. What do
20 you mean from your GRC?

21 MS. SALUSTRO: We have a authorized
22 revenue requirement from our 2012 GRC for
23 SONGS costs.

24 ALJ BUSHEY: Okay. So these
25 decommissioning costs are a line item in your
26 revenue requirement?

27 MS. SALUSTRO: They -- the SONGS costs
28 is a better way to describe them.

1 ALJ BUSHEY: SONGS costs?

2 MS. SALUSTRO: Yes.

3 ALJ BUSHEY: And because you didn't
4 have a decommissioning agreement, these early
5 decommissioning costs were rolled into
6 generic SONGS costs?

7 MS. SALUSTRO: When we -- our
8 application for the 2012 GRC requested a
9 revenue requirement for SONGS costs as we had
10 always done. That was before -- that
11 proceeding was going on prior to and then
12 during shutdown. So our request remained the
13 same, and it was approved. And so we had a
14 revenue requirement for SONGS costs through
15 the 2012 GRC Decision.

16 Some of those costs are
17 decommissioning costs granted. And so when
18 we received the approval to reach trust funds
19 to pay for those costs through the advice
20 letter process, which was just recently
21 approved, the advice letter lays out how
22 those funds are then given back to ratepayers
23 in order to make everything whole for the
24 ratepayer.

25 ALJ BUSHEY: Okay. So you're going to
26 take money out of the decommissioning trust
27 and sort of pay back revenue requirement, if
28 you will? Or it will be a credit in a

1 balancing account somewhere?

2 MS. SALUSTRO: I believe that's right.
3 We have Norma Jasso up next. She might be
4 able to describe this better than I can.

5 ALJ BUSHEY: I just want to make sure
6 there isn't any double-counting.

7 MS. SALUSTRO: No, no, no. We were
8 very careful not to engage in double
9 counting.

10 ALJ BUSHEY: That was my only question.

11 Final questions for the witness?
12 Hearing none --

13 Mr. Matthews.

14 MR. MATTHEWS: If I could briefly add
15 to what Ms. Salustro explained?

16 The ratemaking treatment is
17 addressed in the SONGS OII settlement. And
18 at least the way it works for SCE, there is a
19 -- there is a refund mechanism through our
20 ERRRA of any costs that are deemed to be
21 decommissioning costs.

22 ALJ BUSHEY: Okay. Thank you I guess
23 for that testimony. So the witness then is
24 excused.

25 We're going to take a brisk break
26 until exactly 11:00 o'clock.

27 We'll be off the record.

28 (Off the record.)

1 ALJ BUSHEY: The Commission will come
2 to order.

3 Ms. Salustro would you like to call
4 your next witness?

5 MS. SALUSTRO: Yes. SDG&E calls Norma
6 Jasso.

7 NORMA G. JASSO, called as a witness
8 by San Diego Gas and Electric Company,
9 having been sworn, testified as
10 follows:

11 THE WITNESS: Yes.

12 ALJ BUSHEY: Please be seated.

13 State your full name for the record
14 and spell your last name.

15 THE WITNESS: Norma G. Jasso,
16 J-a-s-s-o.

17 ALJ BUSHEY: Ms. Salustro.

18 MS. SALUSTRO: Thank you.

19 DIRECT EXAMINATION

20 BY MS. SALUSTRO:

21 Q Ms. Jasso, do you have Exhibits 20
22 and 21 in front of you?

23 A I do.

24 Q And you're sponsoring sections as
25 indicated in the table of contents within
26 both of these exhibits; correct?

27 A Correct.

28 Q Were these sections prepared by you
or under your supervision?

1 A Yes.

2 Q Do you have any changes or
3 corrections to make at this time?

4 A I do.

5 Q Could you please direct us to your
6 particular change or correction?

7 A In Exhibit 21, on page 11, line 3,
8 I'm adding two words,
9 "decommissioning-eligible." And I will read
10 the sentence how it reads right now and then
11 the revised sentence.

12 "SDG&E will cease recording entries
13 in the SONGSBA for costs incurred on or after
14 January 1st, 2015."

15 The new sentence will read, "SDG&E
16 will cease recording entries in the SONGSBA
17 for decommissioning-eligible costs incurred
18 on or after January 1st, 2015."

19 Q Do you have any additional
20 corrections to make at this time?

21 A No.

22 Q With this correction, to the extent
23 that these documents contain facts, are those
24 facts true and correct to the best of your
25 knowledge, information, and belief?

26 A Yes.

27 Q And to the extent these documents
28 contain opinions, do those opinions

1 constitute your best professional judgment?

2 A Yes.

3 Q Do you adopt these exhibits as your
4 sworn testimony in this proceeding?

5 A I do.

6 MS. SALUSTRO: Thank you.

7 Your Honor, the witness is available
8 for cross-examination.

9 ALJ BUSHEY: Thank you.

10 Mr. Lee.

11 MR. LEE: Thank you, your Honor.

12 CROSS-EXAMINATION

13 BY MR. LEE:

14 Q Good morning, Ms. Jasso.

15 A Good morning.

16 Q Ms. Jasso, I wasn't quite following
17 your correction because I was looking at
18 Exhibit 20. I direct your attention to
19 Exhibit 20.

20 A No, Exhibit 21.

21 ALJ BUSHEY: Good. Because that's
22 where I made the correction.

23 MR. LEE: Oh, Exhibit 21. I'm sorry.

24 Q And Exhibit 21 is labeled

25 SDG&E-02-R-E-A?

26 A Yes.

27 Q Thank you.

28 And your correction was on page 10?

1 A Would you like me to repeat it?

2 Q Yes, please.

3 A Yes, on page 11.

4 Q Page 11, yes.

5 A Line 3.

6 Q Yes.

7 A I will add two words. It currently
8 reads, "SDG&E will cease recording entries in
9 the SONGSBA for costs incurred on or after
10 January 1st, 2015." In front of the word
11 "costs" I'm adding
12 "decommissioning-eligible."

13 Q Thank you. Thank you.

14 Ms. Jasso, your job title is
15 Regulatory Accounts Analyst Manager; is that
16 correct?

17 A Regulatory Accounts Analysis
18 Manager.

19 Q Thank you. What are your job
20 responsibilities with regard to maintaining
21 the SONGSBA balancing account? Did you
22 understand the question?

23 A Could you be --

24 Q Certainly.

25 Ms. Jasso, as part of your job
26 duties, are you responsible for maintaining
27 the SONGS -- not the -- the SONGSBA,
28 S-O-N-G-S-B-A, SONGSBA balancing account?

1 Are you responsible for maintaining that
2 balancing account?

3 A So with the word "maintaining," I
4 don't know if you mean accounting journal
5 entries or what specifically you mean by
6 maintaining. I don't do accounting journal
7 entries, but I am responsible for compliance
8 with the mechanism for the SONGSBA.

9 Q Thank you.

10 Now, when you say you are
11 responsible for compliance, does that include
12 a responsibility to see that the SONGSBA
13 balancing account is in compliance with
14 Commission orders?

15 A Yes.

16 Q And how long have you had this as
17 part of your job responsibility?

18 A I have had this position for two
19 years.

20 Q So your responsibility as described
21 regarding SONGSBA began in 2013?

22 A Yes.

23 Q I direct your attention now to
24 Exhibit 20, Ms. Jasso. Page 16, lines 8
25 through 11.

26 A I'm there.

27 Q What do you mean on line 9 when you
28 say that the costs in the SONGSBA balancing

1 account are, quote, "generally related"?

2 What does that mean, "generally related"?

3 A In my testimony, I included on the
4 same page -- if you go to line 23, I've
5 included what we are currently recording in
6 SONGSBA.

7 Q Uh-huh.

8 A And so when I said generally
9 related is because I have four bullets here.

10 Q Uh-huh.

11 A And generally those are related to
12 the events which occurred prior to June 2013.

13 Q And so the activities on page 16,
14 lines 23 to 31 and then going on to page 17
15 are the activities that are recorded in
16 SONGSBA?

17 A Yes, these are the activities.

18 Q Thank you.

19 Now, I turn your attention to
20 Exhibit 21, page 10.

21 A I'm there.

22 Q At lines 20 to 22.

23 A Yes.

24 Q That information indicates to me
25 that the Commission ordered SCE to maintain
26 the SONGSBA balancing account open to support
27 its application for reasonableness regarding
28 costs incurred for 2014; is that correct?

1 A In this Decision that I mention on
2 lines 20 -- starting on line 20, the
3 Commission ordered SDG&E to retain the
4 SONGSBA open until the Commission directs us
5 to close it.

6 Q Thank you. Now, since the date of
7 that Decision, D -- excuse me -- D.14-11-040,
8 has the Commission issued an order directing
9 SCE -- SDG&E to close the SONGSBA balancing
10 account?]

11 A No.

12 Q Thank you. Now, I direct your
13 attention to Exhibit 21, page 11.

14 A I'm there.

15 Q Thank you. Lines 3 to 4.

16 A Yes.

17 Q You use terms -- well, I direct
18 your attention to the term "will cease
19 recording entries." And would you also look
20 at the term "for costs incurred"?

21 A Yes.

22 Q Those are two different events, are
23 they not, recording and when costs are
24 incurred?

25 Let me ask you your definition.
26 What do you understand when you say costs
27 incurred? When are costs incurred?

28 A Cost, for the SONGS for the costs

1 are incurred when we are -- when we
2 receive -- in our case when we receive the
3 information, the details of the cost from
4 Edison, then we record them. So if we
5 receive them, we stop, we record them, and we
6 consider them incurred at that time.

7 Q And normally when costs are
8 received and hence incurred, do you also
9 record them at the same time? I mean do
10 those two events take place normally on the
11 same day?

12 A In the same accounting period, yes.

13 Q Okay. Is there any time lag
14 between when you receive the details of a
15 cost and when you subsequently record the
16 costs in the SONGSBA balancing account?

17 A No.

18 Q Okay. So they generally would
19 happen on the day when you receive sufficient
20 details to say that the costs incurred, and
21 then you would promptly record it in the
22 SONGSBA balancing account?

23 A Yes.

24 Q Thank you. What are you going to
25 do with the costs that are incurred
26 subsequent to January 1st, 2015, and recorded
27 after January 1st, 2015?

28 Let me rephrase my question. I may

1 have been mixing my dates.

2 You state on lines 3-4, page 11,
3 Exhibit 21, that SDG&E will stop recording
4 entries for SONGSBA regarding costs incurred
5 on or after January 1st, 2015?

6 MS. SALUSTRO: Your Honor, this was the
7 one correction that Ms. Jasso had. So the
8 sentence is actually that we'll stop
9 recording entries in the SONGSBA for
10 decommissioning eligible costs.

11 ALJ BUSHEY: Right. That was the
12 correction.

13 MR. LEE: Thank you. I stand
14 corrected.

15 Q So my question again, if you're
16 going to stop recording these decommissioning
17 eligible costs that are incurred after
18 January 1st, 2015, what happens to them?

19 A Yes. On that same page in my
20 testimony, page 11.

21 Q Yes.

22 A As we continue reading after that
23 sentence that we've been discussing, I do
24 explain that we are using the SONGS 2 and 3
25 Permanent Closure Non-Investment-Related
26 Expense Memorandum Account, otherwise known
27 as SPCEMA. That's the account where we are
28 recording the decommissioning eligible cost.

1 Q Now, I asked you a question about
2 the ineligible decommissioning costs that are
3 incurred and recorded in the SONGSBA
4 balancing account after January 1st, 2015.
5 What are you going to do with those
6 ineligible decommissioning costs?

7 A So the cost that will not go into
8 SPCEMA will go into SONGSBA.

9 Q I understand. So you only stop
10 using SONGSBA for decommissioning eligible
11 costs but not for ineligible decommissioning
12 costs?

13 A We're stopping for decommissioning
14 cost, yes.

15 Q Eligible costs?

16 A Yes.

17 Q But you're still using the SONGSBA
18 balancing account for ineligible
19 decommissioning costs?

20 A I am using SONGSBA for costs that
21 are not decommissioning eligible.

22 Q Thank you. Yes. I hope we're
23 saying the same thing. Thank you.

24 Is there at all a possibility that
25 a cost, a noneligible, decommissioning
26 noneligible cost, could be incurred before
27 January -- strike the question. I think I
28 understand. Thank you.

1 Now, I'd like to ask you to explain
2 something that appeared at first to me
3 inconsistent. On Exhibit 20 at page 16,
4 lines 8 through 9, you stated, continues to
5 record nondecommissioning cost in SONGSBA,
6 and then in Exhibit 21 at line 11 lines 3 to
7 4 you say it will cease recording entries in
8 SONGSBA for decommissioning eligible costs?

9 A Right.

10 Q So maybe in light of this
11 correction they're not inconsistent, are
12 they?

13 A Correct. That's why I made the
14 correction.

15 MR. LEE: Thank you, Ms. Jasso. You
16 saved me a lot of time. End of
17 cross-examination. Thank you.

18 ALJ BUSHEY: You've completed
19 cross-examination?

20 MR. LEE: I did. Thank you.

21 ALJ BUSHEY: Thank you.

22 Redirect?

23 MS. SALUSTRO: No thank you.

24 ALJ BUSHEY: Witness is excused.

25 Ms. Salustro, would you like to call
26 your next witness?

27 MS. SALUSTRO: Yes. Thank you.

28 Your Honor, SDG&E calls Randy Rose.

1 RANDALL G. ROSE, called as a witness
2 by San Diego Gas and Electric Company,
3 having been sworn, testified as
4 follows:

5 ALJ BUSHEY: Please be seated. State
6 your full name for the record and spell your
7 last name.

8 THE WITNESS: My name is Randall G.
9 Rose, R-o-s-e like a flower.

10 ALJ BUSHEY: Ms. Salustro.

11 MS. SALUSTRO: Thank you.

12 DIRECT EXAMINATION

13 BY MS. SALUSTRO:

14 Q Mr. Rose, you have Exhibits 20 and
15 21 in front of you?

16 A I have Exhibits 18 and 19. I don't
17 have 20 and 21, at least what I've numbered
18 as 18 and 19.

19 MS. SALUSTRO: Your Honor, may I
20 approach and make sure he has the right?

21 ALJ BUSHEY: We'll go of the record.

22 (Off the record.)

23 ALJ BUSHEY: We'll be back on the
24 record.

25 Ms. Salustro.

26 MS. SALUSTRO: Yes. Thank you.

27 Q So Mr. Rose, this time do you have
28 Exhibits 20 and 21 in front of you?

29 A I do.

1 Q Thank. And you're sponsoring
2 sections as indicated in the table of
3 contents in both of these exhibits, correct?

4 A That's correct.

5 Q Were these sections prepared by you
6 or under your supervision?

7 A Yes.

8 Q Do you have any additional changes
9 or corrections to make at this time?

10 A I don't.

11 Q To the extent that these documents
12 contain facts, are those facts true and
13 correct to the best of your information,
14 knowledge, and belief?

15 A Yes.

16 Q And to the extent that these
17 documents contain opinions, do those opinions
18 constitute your best professional judgment?

19 A Yes.

20 Q Do you adopt these exhibits as your
21 sworn testimony in this proceeding?

22 A Yes.

23 MS. SALUSTRO: Your Honor, Mr. Rose is
24 available for cross-examination.

25 ALJ BUSHEY: Thank you.

26 Mr. Freedman.

27 MR. FREEDMAN: Yes, your Honor. I have
28 two cross exhibits to distribute.

1 ALJ BUSHEY: We'll be off the record.

2 (Off the record.)

3 ALJ BUSHEY: We'll be back on the
4 record.

5 While we were off the record we
6 identified Exhibit 27, which is a TURN data
7 request and SDG&E response. It's Question 1,
8 2, 11.

9 (Exhibit No. 27 was marked for
10 identification.)

11 ALJ BUSHEY: Exhibit 28 is TURN
12 cross-examination exhibit. It is also a TURN
13 data request and an SDG&E response. It is
14 Question 8 and its associated response.

15 (Exhibit No. 28 was marked for
16 identification.)

17 ALJ BUSHEY: So those are Exhibits 27
18 and 28.

19 Mr. Freedman.

20 MR. FREEDMAN: Thank you.

21 CROSS-EXAMINATION

22 BY MR. FREEDMAN:

23 Q Good morning, Mr. Rose.

24 A Good morning.

25 Q I'd like to ask you to turn to your
26 rebuttal testimony, which I believe is
27 Exhibit 20, page 14. Page 13.

28 A Page 13? Okay.

1 Q And at the bottom of page 12
2 carrying over to page 13 you reference IRS
3 Section 468A(e)(4). And you state that the
4 IRS code limits the use of funds in qualified
5 nuclear decommissioning trusts to the three
6 purposes that you quote from the IRS
7 regulations on the next page; is that right?

8 A That's right.

9 Q Does the IRS also allow for the
10 termination of a nuclear, of a qualified
11 nuclear decommissioning trust fund upon
12 substantial completion of decommissioning?

13 A You could request a private letter
14 ruling from the IRS.

15 Q I'm asking a different question,
16 Mr. Rose.

17 A Okay.

18 Q There is a point where a qualified
19 nuclear decommissioning trust fund is
20 ultimately terminated?

21 A Yes.

22 Q Isn't that right?

23 A Yes.

24 Q And the IRS rules do provide for
25 that occurrence, do they not?

26 A Yes. That's in the regulation.

27 Q And what happens at that point to
28 any unspent balances that are no longer

1 needed for decommissioning at the point that
2 the qualified trust is terminated?

3 A The assumption is those funds are
4 withdrawn from the trust.

5 Q And what is the IRS treatment of
6 that withdrawal? How do they --

7 A They tax it.

8 Q So the withdrawals are taxed?

9 A Yes.

10 Q Are withdrawals taxed when they are
11 taken from the fund at all times?

12 A They are generally -- yes. I think
13 at all times. There's a certain symmetry in
14 the tax code. The taxpayer gets a deduction
15 when they contribute funds to the
16 decommissioning trust. And so when funds are
17 withdrawn from the trust, they have to take
18 that into income.

19 Q So when SDG&E currently receives a
20 disbursement from the trust, that's
21 considered taxable income?

22 A Yes. And then there's an equal and
23 offsetting deduction for the underlying
24 decommissioning cost.

25 Q But the deduction is due to costs
26 being incurred. It's not related to the
27 disbursement mechanism itself, is it?

28 A That's correct.

1 Q And so when a disbursement occurs
2 at the end of the trust's life, that
3 disbursement is similarly taxed; am I right?

4 A That's correct.

5 Q But there may be no offsetting
6 expense in that year to effectively
7 neutralize the tax impact; am I correct?

8 A That's right. That deduction that
9 would neutralize that impact occurred when
10 the contribution was originally made to the
11 trust.

12 Q And there's no penalty at the end
13 of the life of the trust when it's finally
14 terminated, is there?

15 A No. The only penalty specified in
16 the internal revenue code are for acts of
17 self-dealing.

18 Q And what is an act of self-dealing
19 at a general level? What does that mean?

20 A Well, that's where a disqualified
21 person would engage in transactions with the
22 fund.

23 Q So that's effectively the taxpayer
24 raiding the fund for their personal benefit?

25 A Yes. I mean that's one way to put
26 it, yes.

27 Q Acts of bad faith, would that be a
28 way to understand it?

1 A Yeah. If there was an act -- if
2 for example, the corporation used the trust
3 funds for some purpose that benefited the
4 corporation, the IRS would deem that as a --
5 as an act of self-dealing. There would be an
6 excise tax or a penalty. And if they didn't
7 correct it, then the fund would be deemed
8 disqualified.

9 Q Okay. Thank you. On page 13 of
10 your testimony on line 15 you reference
11 private letter rulings that are sought from
12 time to time from the IRS. Have you been
13 involved in requests for private letter
14 rulings on behalf of SDG&E?

15 A I have.

16 Q Okay. Well, let's take a look at
17 the first cross-examination exhibit, which
18 has been marked Exhibit 27. And there's a
19 couple of responses here I'd like to just
20 walk you through. Have you seen these
21 responses previously or were you the author
22 of them?

23 A I've seen them and authored them.

24 Q Great. And in answer to Question 1
25 there's a question about whether a nuclear
26 decommissioning trust fund has lost qualified
27 status during the course of nuclear power
28 plant decommissioning. And am I correct in

1 understanding your response is that you're
2 unaware of any instance where such a trust
3 has lost its qualified status during
4 decommissioning?

5 A Yes. With that caveat, during
6 decommissioning.

7 Q Right. And you state that the
8 consequences are so severe that a responsible
9 company would correct a violation prior to
10 disqualification.

11 What are the consequences of
12 disqualification?

13 A The market value of the funds
14 remaining in the trust become immediately
15 taxable.

16 Q And there would not be sufficient
17 offsetting expenses in that year to
18 neutralize the tax impact; is that right?

19 A That's correct.

20 Q So it's just, it all becomes
21 taxable at one time?

22 A That's right.

23 Q Okay. And going to page -- the
24 second page of this exhibit, there are
25 questions about transfers and IRS approval
26 for transfers between two qualified trust
27 funds. And here you explain that through a
28 private letter ruling companies may request

1 IRS authorization to move funds between
2 qualified trusts; is that right?

3 A Yes. A company could request the
4 IRS permission to transfer between funds, but
5 doing so would be asking the IRS to, is it
6 okay if we violate the regulations, because
7 the regulations are quite proscriptive about
8 what the funds can be used for.

9 Q If the money is being moved from
10 one trust to another to pay for
11 decommissioning expenses, you're saying that
12 that would violate the trust, the
13 requirements of the IRS code?

14 A Yes. That would be my opinion.

15 Q And is that something that's backed
16 up by any particular rulings that you've
17 read?

18 A Yes. Code Section 468A broadly
19 defines the terms of a nuclear
20 decommissioning trust. In other words, a
21 nuclear -- a qualified nuclear
22 decommissioning trust is a creation of the
23 Internal Revenue Code, and specifically
24 Section 468A. And that lays out the broad
25 concepts. Then the regulations under 468A
26 define specifically what you can do in terms
27 of putting money into a trust and what you
28 can do in terms of taking money out of the

1 trust.

2 And let me see if I've got it here.
3 If I were to go to the regulations,
4 specifically regulation 1.468A-5, it says in
5 Section 1.1 little i -- here's what it says.
6 An electing taxpayer can maintain only one
7 nuclear decommissioning fund for each nuclear
8 power plant with respect to which the
9 taxpayer elects the application of 468A. So
10 what it's saying is that you can set up one
11 qualified fund for each power plant. And
12 referring back to plant, in the code section
13 it says plant or unit thereof. So in terms
14 of SONGS we have three power plants, Units 1,
15 Unit 2, and Unit 3. Then over in section --

16 ALJ BUSHEY: I'm sorry. We'll be off
17 the record for a minute.

18 (Off the record.)

19 ALJ BUSHEY: We'll be back on the
20 record.

21 THE WITNESS: In Section 3 of that
22 regulation which is entitled Limitation on
23 Use of Fund it says:

24 The assets of the nuclear
25 decommissioning fund are said to
26 be used -- are to be used
27 exclusively to satisfy in whole
28 or in part the liability of the

1 electing taxpayer for
2 decommissioning costs of the
3 nuclear power plant to which the
4 nuclear decommissioning fund
5 relates.

6 So in my opinion that would
7 preclude the company from transferring funds
8 from one fund to the other fund because it
9 doesn't relate to the same unit or power
10 plant.

11 MR. FREEDMAN: Q And if the taxpayer
12 were to create a new trust for the same unit
13 and transfer money from the old trust to the
14 new trust and extinguish the old trust at the
15 moment of the transfer, wouldn't there still
16 be one, only one trust attached to that unit?

17 A There would only be one trust in
18 existence at the time.

19 Q And do you know whether the IRS has
20 issued any rulings relating to that type of a
21 transfer for an individual unit?

22 A Not to my knowledge.

23 Q Let's move to the next page in the
24 data response here, Question 11. SDG&E is
25 asked to provide copies of any communications
26 with the Internal Revenue Service regarding
27 nuclear decommissioning trust funds since the
28 shutdown of San Onofre in 2013.

1 And in response, several documents
2 are provided. I have only attached one, and
3 that relates to a request by SDG&E that
4 received a private letter ruling, I believe
5 138136-14. Do you see that?

6 A Yes. Yes.

7 Q And in this request am I correct in
8 understanding that SDG&E sought a private
9 letter ruling regarding the permissibility of
10 using nuclear decommissioning trust funds to
11 pay for the costs associated with spent fuel
12 storage at an independent spent fuel storage
13 facility in Morris, Illinois, that stores
14 fuels from the SONGS Unit 1?

15 A That's correct.

16 Q And in response did the IRS raise
17 concerns about whether these were
18 reimbursable from the trust funds?

19 A Yes. I think to give context to my
20 answer you need to understand exactly how
21 these private letter rulings work. A
22 taxpayer if he has questions about whether
23 funds can be withdrawn from the trust and
24 still meet the provisions of Code Section
25 468A may request a private letter ruling from
26 the IRS. The IRS will inform the taxpayer if
27 it intends to rule adversely on the request.

28 And that's what happened in this

1 situation. The IRS said, "Yeah, we have
2 concerns based on the facts and the law. We
3 plan to rule adversely." And our response
4 was, "Can we come back and meet with you and
5 try and talk you out of it," and which we
6 did. And ultimately what the IRS came back
7 with was a no ruling letter which said,
8 "We're not sure that we're the right branch
9 of the IRS to be dealing with the issues that
10 you have asked us to opine on. And so what
11 we're going to do is allow you to withdraw
12 your request and resubmit it to another
13 branch that's better qualified to rule on
14 your issue. If you get a positive ruling on
15 that specific issue, then we'll allow you to
16 come back to us and see whether or not we
17 agree with you on the other issues that were
18 in the ruling request."

19 Q And what has SDG&E done subsequent
20 to that conversation?

21 A Mull it over and think about how we
22 want to respond to the IRS.

23 Q Understood. But notwithstanding
24 the ultimate resolution of this issue, which
25 I understand is pending, is it fair to say
26 that the concern identified in this private
27 letter ruling related to whether funds could
28 be reimbursed if there was also a likelihood

1 that they could be obtained from another
2 source, namely, through litigation against
3 the United States Government?

4 A That was one of the concerns
5 expressed by the IRS. And that was the
6 concern that they agreed with us that they
7 did not have expertise to rule on.

8 Q So at this point it's unresolved
9 whether SDG&E can withdraw money from the
10 trusts that relate to costs for spent fuel
11 management that may also be included in a
12 damage claim against the United States
13 Government?

14 A That's right. They haven't ruled
15 against us, and yet they haven't said that
16 those are decommissioning costs.

17 Q And does part of the issue hinge
18 upon the likelihood of recovery?

19 A Well, that was our argument with
20 the IRS because what happened is they were
21 applying to standard that exists in a
22 particular code section that deals with
23 abandonment losses. And for example, this is
24 really a good example, with respect to SONGS,
25 we know that there's -- the SONGS was shut
26 down because of the failure of the steam
27 generator replacements. We have an action as
28 does Edison against the manufacturer of those

1 steam generators.

2 While we're waiting for that
3 proceeding to conclude, we're not eligible to
4 take an abandonment loss under the Internal
5 Revenue Code. And that's Section 165. Our
6 argument to the IRS is, this isn't a 165
7 issue. This is a 162 issue. Storage of
8 spent nuclear fuel costs are an ordinary and
9 necessary business expense. They're not an
10 abandonment loss. So therefore, you're
11 applying a standard that exists in a code
12 section that is irrelevant to our request.

13 And then they said, "Gee, I think
14 maybe you have something there. We're not
15 really experts in that area. Why don't you
16 resubmit your request to somebody else in the
17 IRS that is more expert in that particular
18 code section."

19 Q And this is obviously an issue, is
20 it not, that pertains to a large number of
21 utilities facing similar facts?

22 A I don't know how many utilities
23 have the specific facts that we do because
24 this deals specifically with off-site storage
25 at this Morris facility in Illinois. And I
26 don't know how many companies store spent
27 nuclear fuel at that facility.

28 Q I'm actually asking about a

1 different issue that's identified there which
2 has to do with this single issue of recovery
3 of whether disbursements can occur for costs
4 that have a likelihood of recovery and to the
5 extent that's applicable to SONGS Units 2 and
6 3?

7 A That could be an issue that a
8 number of companies face depending on their
9 facts and circumstances.

10 Q Well, if it turns out that the IRS
11 does not bend on this issue and confirms the
12 earlier ruling that we've reviewed here, what
13 would happen to funds that have already been
14 collected and deposited into the trust funds
15 and that are expected to be used for this
16 purpose?

17 MS. SALUSTRO: Objection.
18 Mischaracterizes. There's no ruling from the
19 IRS, as Mr. Rose has explained.

20 MR. FREEDMAN: If the IRS rules --

21 THE WITNESS: The IRS issued a no
22 ruling. So they didn't actually rule.

23 But I think to get to your question,
24 what we were asking for is to be able to
25 withdraw funds from the trust to pay for
26 these spent nuclear fuel storage costs.
27 Currently through 2015 those spent nuclear
28 fuel costs are in the revenue requirement in

1 a general rate case. They're not part of the
2 nuclear decommissioning trust.

3 MR. FREEDMAN: Q I guess my question
4 is, and I understand the IRS resolution has
5 not yet been complete and it may go different
6 ways, but I'm asking you to envision a
7 situation in which the IRS rules adversely on
8 this issue against SDG&E. Now, in that
9 situation does that mean that any money in
10 the trust funds that had been assumed to be
11 available for use for this purpose could not
12 be withdrawn for any purpose?

13 MS. SALUSTRO: Objection, your Honor.
14 Not only is it compound and vague, but it
15 also again misstates that there's some type
16 of subsequent ruling expected by the IRS. As
17 Mr. Rose explained, we received a no ruling.
18 We have not submitted or asked for an
19 additional ruling from the IRS at this point.
20 So there's nothing to indicate that the IRS
21 will speak further on this particular issue.

22 ALJ BUSHEY: Well, if that happens,
23 then what's the plan, right? Isn't that the
24 question?

25 MR. FREEDMAN: Yes, your Honor.

26 ALJ BUSHEY: So it's sort of, it's
27 almost what is the status quo? If the status
28 quo continues, if there's no change, what is

1 SDG&E's plan for the costs associated with
2 that offsite storage?

3 MR. FREEDMAN: Your Honor, my question
4 pertains to the onsite storage at Units 2 and
5 3. The issue that's raised in this private
6 letter ruling. There are different issues.
7 The one I'm interested is the onsite.

8 ALJ BUSHEY: The onsite. Okay.

9 THE WITNESS: Okay. This deals solely
10 with the offsite storage, not the onsite
11 storage. So there are two different issues.
12 The IRS has never given us an indication that
13 they would disapprove of decommissioning
14 costs for onsite storage. They seem to draw
15 a distinction between offsite and onsite
16 storage costs and whether or not they're
17 decommissioning costs.

18 MR. FREEDMAN: Q Mr. Rose, with all
19 due respect, the first issue presented in the
20 letter here that was presented, if you look
21 at the second paragraph of the first page,
22 about halfway down it states, the first issue
23 presented is your request, and your request
24 is primarily factual because of the requested
25 ruling would require a determination of the
26 likelihood of recovery of all or a portion of
27 the payments in question from the Department
28 of Energy. If a taxpayer has a right to

1 recover such amount, they are not otherwise
2 deductible and are thus not nuclear
3 decommissioning costs.

4 A Okay.

5 Q So is this kind of a separate
6 issue --

7 A It is.

8 Q -- that is teed up?

9 A It's a separate issue. There's
10 really two questions going on here. First of
11 all, in order for you to treat a cost as a
12 decommissioning cost, it has to be deductible
13 for federal income tax purposes. So there
14 were a couple of questions presented, and one
15 is whether storage costs at all were
16 decommissioning costs.]

17 And we were limiting our request to
18 the IRS specifically to offsite storage. But
19 with respect to onsite or offsite storage,
20 whether or not you had a right to collect
21 from the IRS -- that would be nice. If you
22 have a right to collect from DOE, then
23 there's a question about whether you can
24 deduct the spent fuel storage costs as long
25 as you had a right to deduct. That was our
26 whole case with the IRS because we do not
27 have a right. We have a right to file a suit
28 in hopes of collecting, but we don't have a

1 fixed right.

2 Q So just to follow on then with what
3 the judge was -- was asking, what would be
4 the alternative strategy if the IRS rules
5 adversely or does not permit in any form
6 SDG&E to remove money from the trusts for
7 spent fuel management that may be sought from
8 the U.S. Government?

9 A Well, my understanding is that in
10 the past, those costs have been recovered in
11 the general rate case. If we couldn't
12 recover those costs through the trust, we'd
13 have to seek recovery from ratepayers.

14 Q Okay. Thank you. Let me ask you
15 about the next exhibit, which has been marked
16 as TURN-28. And this -- this response asks
17 questions about the nuclear decommissioning
18 trust committees and the master trust
19 agreement. I understand you are not an
20 expert on the master trust agreement; is that
21 correct?

22 A You are correct.

23 Q So I'm not going to ask you to be
24 an expert about the trust agreement, but I
25 would like to turn your attention to the
26 response to Question 8B, which includes an
27 excerpt from the trust agreement. And in
28 particular, I just want to draw your

1 attention to the first few sentences which
2 describe the master trust agreement
3 description of how SDG&E may file an
4 application prior to the end of
5 decommissioning for final disbursements from
6 the trust. Do you see that?

7 A You want to go ahead and read the
8 section you're referring to?

9 Q Sure.

10 The company shall apply for and
11 acquire CPUC approval of the
12 estimated final costs for
13 decommissioning each plant or
14 plants. Such application shall
15 be made one year in advance of
16 the time the company estimates
17 use of funds exceeding 90 percent
18 of the forecast of
19 decommissioning costs approved by
20 the CPUC will be required. Upon
21 approval of the final cost of
22 decommissioning each plant, the
23 CPUC shall authorize final
24 disbursements from the applicable
25 funds to pay the decommissioning
26 costs.

27 A Okay. Thank you.

28 Q Are you familiar with this

1 provision of the trust, or is this your first
2 time learning about it?

3 A This is my first time reading it.

4 Q Okay. So to the extent that SDG&E
5 were to file an application consistent with
6 this provision of the trust after 90 percent
7 of the funds have been expended, then the
8 return of those funds would be effectively
9 taxable, any remaining funds as we discussed
10 earlier consistent with the IRS code, would
11 they not?

12 A Yes, I believe they would be.

13 Q And when you read this paragraph,
14 do you see anything here that is inconsistent
15 with your understanding of the IRS
16 requirements governing qualified nuclear
17 decommissioning trust funds?

18 A I don't see anything inconsistent,
19 no.

20 MR. FREEDMAN: Okay. Great. Thank
21 you, Mr. Rose. That's all my questions.

22 ALJ BUSHEY: Redirect?

23 MS. SALUSTRO: None.

24 ALJ BUSHEY: Thank you. The witness is
25 not quite excused. I just have to follow-up,
26 on this one just to confirm that should there
27 be a recovery from the Department of Energy
28 and should costs have been included in

1 revenue requirements, the recovery from the
2 DOE will be credited to revenue requirement
3 as well?

4 THE WITNESS: Yes, yes, that's right.
5 You know, the real question that was being
6 asked here is whether we could take the
7 deduction and then if we get recovery, take
8 that back into taxable income so that there
9 again would be symmetry.

10 The IRS seemed to think that we
11 would need to wait until the final resolution
12 by the courts on whether DOE had to reimburse
13 us. And for whatever DOE didn't reimburse
14 us, then we could withdraw the remainder of
15 the trust.

16 ALJ BUSHEY: Right. We'll leave those
17 issues in the capable hands of the Internal
18 Revenue Service. And I'll be focused on
19 revenue requirement. Okay? Sounds good.

20 The witness is excused. Would you
21 like to call your next witness, Ms. Salustro?

22 MS. SALUSTRO: Your Honor, that
23 actually concludes SDG&E's witnesses at this
24 time.

25 ALJ BUSHEY: Yes. Mr. Freedman, hold
26 on.

27 We'll be off the record.

28 (Off the record.)

1 ALJ BUSHEY: We'll be back on the
2 record.

3 Ms. Salustro.

4 MS. SALUSTRO: Thank you, your Honor.
5 Your Honor, there were several SDG&E
6 witnesses that did not appear during the
7 hearings because their presence had been
8 waived. They had sponsored various sections
9 of what's been marked as SDG&E exhibit -- or
10 marked as exhibits for identification ranging
11 from what's been marked Exhibit 18 through
12 Exhibit 24. So at this time SDG&E would --
13 moves for the admission of the entirety of
14 SDG&E's testimony, which is Exhibits 18
15 through 24 into the record.

16 ALJ BUSHEY: Does any party object?

17 (No response.)

18 ALJ BUSHEY: Hearing none, those
19 exhibits are received into evidentiary
20 record.

21 (Exhibit No. 18 was received into
22 evidence.)

23 (Exhibit No. 19 was received into
24 evidence.)

25 (Exhibit No. 20 was received into
26 evidence.)

27 (Exhibit No. 21 was received into
28 evidence.)

1 (Exhibit No. 22 was received into
2 evidence.)

3 (Exhibit No. 23 was received into
4 evidence.)

5 (Exhibit No. 24 was received into
6 evidence.)

7 ALJ BUSHEY: We also have TURN
8 Cross-Examination Exhibits 25, 26, 27, and
9 28. Does any party object to having those
10 moved into the evidentiary record?

11 (No response.)

12 ALJ BUSHEY: Hearing none, then they
13 are received.

14 (Exhibit No. 25 was received into
15 evidence.)

16 (Exhibit No. 26 was received into
17 evidence.)

18 (Exhibit No. 27 was received into
19 evidence.)

20 (Exhibit No. 28 was received into
21 evidence.)

22 ALJ BUSHEY: That brings us to
23 Exhibit 29, which will be the ORA Report on
24 2014 SONGS Units 2 and 3 Decommissioning Cost
25 Estimate. That will be Exhibit 29.

26 (Exhibit No. 29 was marked for
27 identification.)

28 ALJ BUSHEY: And Exhibit 30 will be the

1 Southern California Edison Company Responses
2 to ORA Data Request 1, Questions 10B, 12A,
3 and 12B.

4 (Exhibit No. 30 was marked for
5 identification.)

6 ALJ BUSHEY: I understand that all
7 parties have waived cross examination of the
8 ORA witnesses, so we will just receive these
9 documents into the record.

10 (Exhibit No. 29 was received into
11 evidence.)

12 (Exhibit No. 30 was received into
13 evidence.)

14 ALJ BUSHEY: That takes care of ORA's
15 exhibits and brings us to TURN.

16 Mr. Freedman.

17 MR. FREEDMAN: Yes, your Honor. TURN
18 would call to the stand our witness, Bruce
19 Lacy.

20 ALJ BUSHEY: Please come forward,
21 Mr. Lacy.

22 We'll get him sworn in, and then
23 we'll circulate the documents.

24 BRUCE A. LACY, called as a witness
25 by The Utility Reform Network, having
been sworn, testified as follows:

26 THE WITNESS: I do.

27 ALJ BUSHEY: Please be seated.

28 State your full name for the record

1 and spell your last name.

2 THE WITNESS: I'm Bruce A. Lacy,
3 L-a-c-y.

4 ALJ BUSHEY: Thank you, Mr. Lacy.

5 We'll be off the record.

6 (Off the record.)

7 ALJ BUSHEY: We'll be back on the
8 record.

9 While we were off the record, we
10 identified Exhibit 31, which is Testimony of
11 Bruce Lacy on Behalf of The Utility Reform
12 Network Addressing Issues Related to the
13 Decommissioning Costs for the San Onofre
14 Nuclear Generating Station.

15 (Exhibit No. 31 was marked for
16 identification.)

17 ALJ BUSHEY: Mr. Freedman.

18 MR. FREEDMAN: Yes, your Honor.

19 Just for clarification, we had
20 submitted errata to the service list
21 approximately one week ago. The exhibit that
22 we have today is a clean version that
23 includes the errata. We are not asking for
24 those two versions to be separately marked.

25 ALJ BUSHEY: Thank you.

26 DIRECT EXAMINATION

27 BY MR. FREEDMAN:

28 Q Okay. Mr. Lacy, are you sponsoring

1 direct testimony that has been marked as
2 Exhibit 31, the Testimony of Bruce Lacy on
3 behalf of TURN.

4 A Yes.

5 Q And did you prepare -- was this
6 testimony prepared by you?

7 A Yes.

8 Q And do you have any corrections
9 that you wish to make at this time?

10 A Yes, I have two pages that I would
11 like to offer some small corrections on.
12 They do not change the conclusions or
13 recommendations of the report, but in the
14 spirit of precision on some of the numbers
15 being used in the proceeding, I'd like to
16 make those corrections.

17 The first correction is on page 2
18 of my testimony. And if we look at the
19 second paragraph, third line, it begins,
20 "Government begins removing." And it says,
21 "Government begins removing S and F from the
22 site in 2024." And that should be corrected
23 to say, "removing S and F from SONGS in
24 2024." The reason for the change there is
25 that the early years of fuel removal take
26 place from the Morris facility in Illinois
27 that we were just talking about, but that is
28 fuel that was produced by SONGS. So I just

1 want to be very specific there.

2 The second correction that I wanted
3 to offer is on page 25 of 27, and there are
4 several here. But all of these corrections
5 relate to the exchange that took place
6 between Mr. Geesman and Mr. Levin. And I
7 will go to the fifth paragraph answer where
8 it says, "Changes to the U.S. Navy lease
9 conditions are a very real possibility."
10 Move down to the fourth line of that
11 paragraph. There's a number that says "441
12 million." I would like to change that to the
13 arithmetically proven result of Mr. Geesman
14 and Mr. Levin's discussion of "346."

15 And then going on down to the next
16 to the last paragraph that says, "In addition
17 to the specific amounts of 441 million,"
18 change that number to the arithmetically
19 correct "346 million."

20 And then in the next to the last
21 line of that paragraph, it says, "It is
22 important to note that these two numbers
23 alone represent a 10 percent reduction in the
24 overall project cost."

25 Those are my corrections. Thank
26 you.

27 Q And with those corrections,
28 Mr. Lacy, are the facts presented in your

1 testimony true and correct to the best of
2 your knowledge?

3 A They are.

4 Q And do the opinions expressed in
5 your testimony represent your best
6 professional judgment?

7 A They do.

8 Q And do you adopt this testimony as
9 your own?

10 A I do.

11 MR. FREEDMAN: Thank you.

12 Your Honor, Mr. Lacy is available
13 for cross-examination.

14 ALJ BUSHEY: Thank you, Mr. Freedman.

15 Mr. Matthews?

16 CROSS-EXAMINATION

17 BY MR. MATTHEWS:

18 Q Hello. Good morning, Mr. Lacy. My
19 name is Walker Matthews, and I represent
20 Southern California Edison.

21 A Good morning. We just got that
22 good morning in by five minutes.

23 Q Sure enough.

24 I wanted to clarify the corrections
25 that you just made to your testimony. And
26 first take you to page 25 of 27 of what has
27 been marked as Exhibit 31. Are you on page
28 25?

1 A Yes.

2 Q And you had changed the number from
3 441 million. I wanted to confirm whether you
4 had changed it to 346 million or 336 million.
5 I didn't quite hear it.

6 A If I spoke incorrectly, I
7 apologize, but I intended to say 346.

8 Q Okay. Thank you. I may have
9 misheard.

10 MR. MATTHEWS: Your Honor, can we go
11 off the record? I have two cross exhibits.

12 ALJ BUSHEY: We'll be off the record.

13 (Off the record.)

14 ALJ BUSHEY: We'll be back on the
15 record.

16 While we were off the record, we
17 identified two exhibits. The first
18 cross-examination exhibit from Edison is an
19 Excerpt of the Report on Nuclear
20 Decommissioning dated February 28th, 2011.
21 This will be Exhibit 32.

22 (Exhibit No. 32 was marked for
23 identification.)

24 ALJ BUSHEY: And then Exhibit 33 is
25 Edison's cross exhibit, Excerpt from its
26 Nuclear Facilities Qualified CPUC
27 Decommissioning Master Trust Agreement.
28 That's Exhibit 33.

1 Mr. Matthews?

2 (Exhibit No. 33 was marked for
3 identification.)

4 MR. MATTHEWS: Okay. Thank you.

5 Q Mr. Lacy, you participated in the
6 preparation of the February 28, 2011, Report
7 on Nuclear Decommissioning for the California
8 Public Utilities Commission; correct?

9 A Yes, I did.

10 Q And excerpts of that report have
11 been marked as Exhibit 32; is that correct?

12 A I assume the material you have
13 given me is correct. It looks familiar.

14 Q Okay. Thank you.

15 The conclusions contained in the
16 February 28th, 2011, report were unanimous
17 among the three preparers listed on the title
18 page of that report; correct?

19 A That's correct.

20 Q And you were one of the preparers
21 of that report; correct?

22 A That's correct.

23 Q The report considered among other
24 things differences between --

25 A Is there a page you would like me
26 to look at?

27 Q Not at this time. I'm still asking
28 general questions.

1 A Okay.

2 Q The report considered among other
3 things the differences between the
4 decommissioning cost estimates for SONGS 2
5 and 3 and Diablo Canyon that were being
6 considered in the 2009 nuclear
7 decommissioning triennial proceeding;
8 correct?

9 A That's correct.

10 Q Okay. Please refer to page 14 of
11 the report, which is excerpted in Exhibit 32?

12 A I have page 14 here.

13 Q And it in the first paragraph
14 explains the panels', you know, consideration
15 of the two estimates. One of the differences
16 between the estimates identified by the panel
17 related to the quantity of material assumed
18 to be removed from the respective sites;
19 correct?

20 A Yes.

21 Q Now, as shown on the bottom of the
22 page -- or please confirm that what's shown
23 on the bottom of the page is the panel's
24 calculation of the difference between the
25 removal costs included in the SONGS 2 and 3
26 and Diablo Canyon estimates; is that right?

27 A Are you talking about the footnote
28 or the last paragraph?

1 Q I'm referring to the last paragraph
2 on the bottom of page 14 of Exhibit 32.

3 A Sure. Okay. Let me just take a
4 look at this.

5 I've read that.

6 Q And the panel's calculation of that
7 difference was about 1.335 billion; correct?

8 A Yes, I think that's the sum of the
9 three numbers there.

10 Q And in fact, that's also confirmed
11 on page Roman 1, which is also excerpted in
12 Exhibit 33 -- excuse me, Exhibit 32.

13 A Can you tell me where you're
14 looking?

15 Q Page Roman 1, which is the
16 Executive Summary.

17 A Oh, I'm sorry. Okay.

18 Q It's the third paragraph. The
19 bottom of the third paragraph, you see the
20 1.335 figure?

21 A It's in the -- what you're talking
22 about is in the third paragraph near the end
23 of that paragraph?

24 Q Yes. Yes.

25 A Okay.

26 Q And that's the figure that the
27 panel calculated as the difference in removal
28 costs between the SONGS 2 and 3 and Diablo

1 Canyon estimates considered in the 2009
2 nuclear decommissioning triennial proceeding;
3 correct?

4 A I want to be careful of the word
5 you used there. I want to go back and look
6 at page 14 for just a moment.

7 I -- I'd just be careful here. I
8 don't think I regard this -- in fact, I'm
9 confident that the 1.3 billion there is not
10 just material. I mean, there's a significant
11 indirect cost. And what's not shown in the
12 handout here is that we did a breakdown of
13 these additional costs. And. There's a pie
14 chart as I recall from the study. I have not
15 looked at it, but it details those additional
16 -- what those additional indirect costs are.
17 But I do agree that we identified a total gap
18 between the two of 1.3 billion.

19 Q Okay. Thank you for that
20 clarification.

21 The panel made this calculation
22 based on its understanding of the SONGS 2 and
23 3 and Diablo Canyon estimates being
24 considered in the 2009 nuclear
25 decommissioning triennial cost proceeding; is
26 that correct?

27 A Yes, I believe that's the basis for
28 the estimates used.

1 Q Now, in the second paragraph on
2 page 14, the panel noted that the SONGS 2 and
3 3 decommissioning cost estimate did not
4 contain sufficient information to readily
5 determine the exact cost; is that correct?

6 A Yes, that's what it says.

7 Q So I want to understand the
8 recommendation that's at the bottom of page
9 14 of Exhibit 32, which was a recommendation
10 by the panel that a more accurate value be
11 determined for future NDCTP, nuclear
12 decommissioning cost triennial proceeding, by
13 developing a decommissioning cost estimate
14 specifically for the desired scope?

15 A I see those words.

16 Q Is it correct to say that the panel
17 was recommending that the California Public
18 Utilities Commission review and approve a
19 more accurate estimate of the SONGS 2 and 3
20 removal costs in a future proceeding?

21 A I believe that's what this intends.

22 Q Would you agree that this
23 proceeding is an opportunity for the
24 Commission to review a more accurate estimate
25 of the removal costs?

26 A I just want to make sure I
27 understand your question. Are you asking me
28 if I think the 2014 decommissioning cost

1 estimate is more accurate than the one we
2 looked at in 2009?

3 Q No. I'm asking you to confirm that
4 this proceeding is an opportunity for the
5 Commission to review an updated estimate as
6 recommended on the bottom of page 14.

7 A I believe the answer is yes.

8 Q If you could turn to page 19 of
9 Exhibit 32?

10 A I'm there.

11 Q The panel begins a discussion that
12 -- that compares SONGS 2 and 3, Diablo
13 Canyon, and Palo Verde decommissioning cost
14 estimates that were being considered in the
15 2009 nuclear decommissioning cost triennial
16 proceeding for other cost estimates for units
17 across the United States; correct?

18 A Yes, that's the beginning of the
19 first paragraph.

20 Q The panel also stated that "The
21 comparison also requires care to not
22 oversimplify and to not get lost in details."
23 Do you see that statement?

24 A I do. Those are my own words.

25 Q Do you still agree with that
26 statement as in relation to any comparisons
27 of the current 2014 SONGS 2 and 3
28 decommissioning cost estimate --

1 A I do.

2 Q -- to other estimates?

3 A I do.

4 Q On the middle of page 19, the panel
5 further states that "An equally important and
6 challenging objective was to obtain
7 decommissioning cost estimates that are
8 reasonably current." Do you see that
9 statement?

10 A I do.

11 Q Do you still agree with that
12 statement in regard to comparing the current
13 2014 SONGS 2 and 3 decommissioning cost
14 estimate to other estimates?

15 A Yes.

16 Q You cite the estimated
17 decommissioning costs for St. Lucie in your
18 current testimony; is that correct?

19 A Yes.

20 Q The St. Lucie estimate cited in
21 your testimony refers to a 2010 estimate;
22 correct?

23 A Yes.

24 Q You also cite to a Turkey Point
25 estimate in your testimony?

26 A Yes.

27 Q The Turkey Point estimate cited in
28 your testimony refers to a 2010 estimate; is

1 that right?

2 A What I'm going to do is look at the
3 -- what page are you looking at, just to make
4 sure that --

5 Q It's on page 23 of 27 of your
6 testimony, Mr. Lacy.

7 A Right. I don't believe the
8 testimony specified those dates, but I'm not
9 disputing the dates that you're offering
10 here.

11 Q You would agree to the dates
12 subject to check?

13 A Yes.

14 Q And would you also agree subject to
15 check that the South Texas Project cited in
16 your testimony refers to a 2012 estimate?

17 A I believe that's correct.

18 Q On page 23 of Exhibit 32, in the
19 first paragraph about midway through, the
20 panel also describes potential explanations
21 for variations in decommissioning cost
22 estimates considered in -- in this report;
23 correct?

24 A In the independent panel report?

25 Q Yes.

26 A Let me read that.

27 I've read that paragraph. Can you
28 remind me of your question, please?

1 Q And the potential explanations for
2 variations include such things as the size of
3 the facilities, seismic design issues, and
4 other site and design factors; correct?

5 A Yes.

6 Q Do you still agree that those
7 potential variations are valid when
8 considering or comparing the 2014 SONGS 2 and
9 3 decommissioning cost estimate to other
10 decommissioning cost estimates?

11 A Yes.

12 Q St. Lucie is a smaller facility
13 than SONGS 2 and 3; correct?

14 A I -- it is smaller, but I don't
15 recall how much smaller it is.

16 Q Would you agree, with all other
17 things being equal, that a smaller facility
18 would tend to reduce the estimated
19 decommissioning cost for that facility?

20 A Yes.

21 Q SONGS 2 and 3 is located in a high
22 demand seismic area; correct?

23 A Yes.

24 Q Would you agree that, all things
25 being equal, a facility located in a high
26 seismic demand area would tend to result in a
27 higher decommissioning cost estimate than a
28 facility located in a lower seismic demand

1 area?

2 A Yes. In the spirit of the
3 generalities that we've been speaking, I
4 would say yes.

5 Q Can you turn back to page 15 of
6 your report -- excuse me -- of the panel's
7 report, the independent report?

8 A Sure. I'm on page 15.

9 Q I'm looking at the third and fourth
10 paragraphs where there's a discussion of
11 SONGS security costs. Do you see that
12 discussion?

13 A I do.

14 Q Do you want to take an opportunity
15 to briefly review those two paragraphs?

16 A Sure.

17 I've read them. Thank you.

18 Q And on this page of the independent
19 panel report, the panel acknowledged that due
20 to SONGS location adjacent to a public Beach
21 and interstate highway, that SONGS security
22 requirements during decommissioning present a
23 number of challenges.]

24 A I apologize. Where are you
25 reading?

26 Q I'm paraphrasing.

27 A Oh, okay. Thank you.

28 Q Would you agree with that

1 paraphrasing?

2 A Yes. Basically a constrained site.

3 Q Would you also agree that the SONGS
4 security requirements and challenges may tend
5 to increase estimated decommissioning costs
6 when compared to other facilities?

7 A Again, in the spirit of the general
8 line, yes, but I think in security we
9 actually could get into a little more of a
10 detailed discussion there, but generally I'll
11 say yes.

12 Q You turn to page 3 of Exhibit 32.

13 A I'm on page 3.

14 Q At the bottom half of page 3 the
15 panel identifies a number of cost drivers.
16 Do you see that?

17 A Yes.

18 Q And these are cost drivers that
19 will impact the cost of decommissioning,
20 correct?

21 A Yes.

22 Q Do you still agree that these are
23 cost drivers that will impact SONGS 2 and 3
24 decommissioning?

25 A Well, let me take a look. I'm
26 assuming the answer will be yes, but let me
27 just look at it to make sure there's nothing
28 significantly changed. Yes. I would say

1 generally yes.

2 Q Okay. Mr. Lacy, can you please
3 turn to Exhibit 31, which is TURN's
4 testimony, Attachment B, which is in the back
5 of the testimony, and specifically turn your
6 attention to a TURN-SCE-2 Data Request
7 Question 1A, which provides the question and
8 SCE's response to Question 1A.

9 A Hold on.

10 ALJ BUSHEY: Mr. Matthews, is this
11 about account numbers?

12 MR. MATTHEWS: This particular set of
13 questions relates to the master trust
14 agreements where there's been some discussion
15 about the 90 percent threshold.

16 ALJ BUSHEY: Question 1A has to do with
17 account numbers.

18 MR. MATTHEWS: Are you --

19 ALJ BUSHEY: I'm in Attachment B.

20 MR. MATTHEWS: Q Are you at the back
21 where -- well, on the top of the page does it
22 say TURN-SCE-2, or does it say TURN SCE 1 in
23 the header?

24 A You said SCE-2 question what
25 number?

26 MR. MATTHEWS: Perhaps we can go off
27 the record briefly.

28 ALJ BUSHEY: We'll be off the record.

1 (Off the record.)

2 ALJ BUSHEY: We will be back on the
3 record.

4 Mr. Matthews.

5 MR. MATTHEWS: Q Mr. Lacy, SCE's
6 response to Question 1A to Data Request Set
7 A.14-012-007 TURN-SCE-002 provides a response
8 to a data request that had been propounded by
9 TURN regarding the potential of return of
10 excess amounts from the trust funds.

11 Have you had an opportunity to
12 review SCE's response to Question 1A? And
13 I'm speaking in regard to the preparation of
14 your testimony.

15 A Well, I do believe I used this. In
16 fact, I think I referenced it in my
17 testimony, which I believe is why it's
18 attached as part of this packet to
19 Exhibit 31.

20 Q So the response was prepared by Dr.
21 Hunt, which is indicated at the top of the
22 page. Do you see that?

23 A Yes.

24 Q The response references the
25 90 percent -- I'll read the sentence. I'm
26 reading from the response, second paragraph.

27 The master trust agreements do
28 not contemplate any distribution

1 of trust funds to ratepayers
2 prior to the payment of at least
3 90 percent of CPUC-approved
4 forecast decommissioning costs.

5 Do you see that?

6 A I do.

7 Q Do you understand that to mean that
8 prior to any refund of excess funds that at
9 least SCE's position is that the threshold
10 that must be reached is 90 percent spend of
11 CPUC-approved forecast?

12 A That's what I understand SCE is
13 saying in their current situation.

14 Q Thank you. I'd like to have you
15 please turn your attention to what's been
16 marked as Exhibit 33, which provides an
17 excerpt from SCE's nuclear facilities
18 qualified CPUC decommissioning master trust
19 agreement.

20 A I have Exhibit 33 here.

21 Q Now, I assume that you may have
22 never seen this page from SCE's master trust
23 agreement?

24 A I don't believe I have.

25 Q In paragraph 8, which discusses
26 final disbursements, there's a reference to a
27 90 percent threshold. Do you see that
28 figure?

1 A I do.

2 Q Is the 90 percent figure shown here
3 consistent with the 90 percent that SCE has
4 offered as its understanding of the threshold
5 requirement prior to the refunding of excess
6 funds?

7 A Well, let me just take a moment and
8 see if I can look at both documents and see
9 if I can support what you are asking me to
10 support. Well, aside from some differences
11 in extraction of wording in the response to
12 the data request, it appears to me to be the
13 same. And the circumstances and condition
14 and so forth appears to me to be the same.

15 Q Okay. Mr. Lacy, do you have
16 Exhibit 28 in front of you?

17 A I do not.

18 ALJ BUSHEY: We'll be off the record.

19 (Off the record.)

20 ALJ BUSHEY: We'll be back on the
21 record.

22 Mr. Matthews.

23 MR. MATTHEWS: Q Mr. Lacy, can you
24 look at the bottom of the first page to
25 Exhibit 28, which provides SDG&E's response
26 to Question 8. I'm looking at Section B, and
27 there's a paragraph --

28 A I see that.

1 Q -- provided there.

2 A Would you like me to read that?

3 Q Yes. To yourself. And then it
4 continues to the top of the next page.

5 A Yes. I've read that.

6 Q Is the language in paragraph 8 from
7 Exhibit 33 which provides an excerpt of SCE's
8 master trust agreement nearly identical to
9 the quotation provided on the bottom of
10 Exhibit 28 which provides a quotation from
11 San Diego's master trust agreement?

12 A If they're not identical, they're
13 certainly very similar.

14 MR. MATTHEWS: Thank you for your time,
15 Mr. Lacy. I have no further questions.

16 ALJ BUSHEY: Thank you.

17 THE WITNESS: Thank you.

18 ALJ BUSHEY: Ms. Salustro.

19 MS. SALUSTRO: Yes. Thank you.

20 CROSS-EXAMINATION

21 BY MS. SALUSTRO:

22 Q Mr. Lacy, if I could have you
23 return to Exhibit 31, your testimony, page
24 22.

25 A Just a moment.

26 Q Take your time.

27 A I have Exhibit 31. The page number
28 again, please?

1 Q 22.

2 A I'm on page 22.

3 Q Starting on page 22 for several
4 pages you describe your proposal for -- or
5 your recommendation to establish a process
6 for the timely return of excess balances in
7 the nuclear -- in the decommissioning trust
8 fund; is that correct?

9 A That's correct.

10 Q How do you define excess in this
11 context?

12 A Well, I guess my thought is to not
13 try to be too complicated here. Excess
14 basically means that there are -- the trust
15 fund balance is greater than the need. And
16 that excess amount could be small. It could
17 be large.

18 Q Are you recommending that any time
19 there is any excess, which by your definition
20 would be a dollar more than the need, that
21 the Commission should consider returning the
22 funds, the trust funds to ratepayers at that
23 time?

24 A No. I think that would be a
25 ridiculous proposition, and I don't support
26 that.

27 Q I guess I'm confused exactly what
28 the recommendation is. Could you clarify

1 what --

2 A The recommendation is that as I
3 look at the cost estimate comparison. And by
4 the way, let me just clarify. My comparison
5 here is not intended to be a precise
6 reconciliation between these other cost
7 estimates and the SONGS estimate as we
8 attempted in the independent panel report.

9 But again, looking at the magnitude
10 of the difference and identifying two
11 examples of areas where there may be possible
12 reduction in liability in the future, this
13 could result in some excess amount that's
14 meaningful, and you're going to ask me, what
15 do I mean by meaningful, but I think we're
16 talking about maybe something on the order of
17 a couple of hundred million dollars more or
18 less. And there are certainly circumstances
19 that have been talked about in the last two
20 days where that number might be even higher.

21 But the recommendation is to begin
22 work on a process on how the Commission would
23 approach that. And I think part of that
24 process would be some assessment of what
25 constitutes an excess amount, at what time
26 would it be appropriate for the Commission to
27 consider that. So beyond that, I'm offering
28 no recommendation other than that we begin

1 working on a process to deal with this
2 potential issue.

3 Q A moment ago you said -- and I
4 tried to write it down, but I might have
5 gotten it wrong -- that there might be
6 possibly some reduction in liability in the
7 future. Is that essentially accurate?

8 A Yes.

9 Q But there's no definite reduction
10 in liability that you know of right now?

11 A I'm not suggesting there is, but
12 there's certainly examples of issues out
13 there where the liability could be reduced if
14 there were favorable actions that took place.
15 And those actions should they come about
16 could result in this opportunity for excess.
17 And it's very clear that returning any excess
18 will be involved with a lot of complicated
19 issues. And these complicated issues would
20 take time to prepare for. So anyway, long
21 answer to a short question. Thank you.

22 Q Mr. Lacy, would you agree that the
23 balance of the nuclear decommissioning trust
24 funds varies depending on the performance of
25 the different asset classes that the trust is
26 invested in?

27 A Yes. We just look at the earlier
28 part of this week.

1 Q Yes. Indeed. And would you also
2 agree that the decommissioning period
3 specifically for SONGS is pretty extensive,
4 currently estimated to run until I believe
5 2052?

6 A Could you repeat your question,
7 please?

8 Q Sure. I'll rephrase it. Would you
9 agree that the SONGS decommissioning period
10 is currently estimated to run until 2052?

11 A Yes. That's the current 2014 cost
12 estimate.

13 Q And so that is approximately how
14 many years from now? I'm not very good at
15 math.

16 A Yeah. 37. Something like that.

17 Q 37 years?

18 A Over the period of time the nature
19 of that spending also changes significantly
20 too.

21 Q So you would agree that the
22 spending varies over time?

23 A Yes.

24 Q And would you also agree that the
25 decommissioning cost estimate is likely to
26 vary over time?

27 A Yes.

28 Q Mr. Lacy, I know a moment ago you

1 said that the plants that you list on page 23
2 as a comparison to the SONGS 2 and 3 plants
3 are not supposed to be identical, identical
4 comparison?

5 A Yeah. I'm not attempting to
6 provide a precise reconciliation.

7 Q Would you agree that none of the
8 four plants here that you use as a comparison
9 have decommissioning -- have site restoration
10 costs that include removing building
11 structures more than 3 feet below the surface
12 or below grade?

13 A I think that's correct.

14 Q And would you also agree that among
15 these four plants that you have chosen as a
16 comparison, none of them includes site
17 restoration for removing conduits running
18 underground between the plant and the cooling
19 water supply intakes and outfalls?

20 A On that point I'd want to be more
21 careful. I mean I generally agree with the
22 thrust of your question, but all of these
23 plants are involved with large body of water
24 locations. There may be conduits at some of
25 the other sites, may be smaller. So I want
26 to be careful here, but I generally agree
27 with the thrust of your question.

28 Q Switching topics, if we could turn

1 to page 25.

2 A Okay. I'm there.

3 Q I'm looking at the third paragraph
4 which starts with an A.

5 A I'm there.

6 Q And I'll just read exactly what's
7 written here.

8 A Please.

9 Q "The Commission should anticipate
10 the day when such claims will not be
11 considered speculative."

12 Is it correct to assume that by
13 claims here you're referring to the utility's
14 claims against the US Government for the
15 failure of the DOE to pick up spent fuel?

16 A Yes. And that's suggested in the
17 earlier paragraphs, I believe.

18 Q Thank you. What do you mean by the
19 day when such claims will not be considered
20 speculative? What do you mean by "not
21 considered speculative"?

22 A Well, I raised this issue in the
23 last nuclear decommissioning cost triennial
24 proceeding, and maybe we didn't use the word
25 speculative, but Judge Darling ordered that
26 it was, you know, still not a certainty that
27 we should assume that there will be a
28 continuing stream of these damage payments in

1 the future. And that's what I'm referring to
2 here.

3 Q Do you have any additional
4 information since Judge Darling's ruling,
5 which I concur that was her finding, that
6 would lead you to believe that there is some
7 specific event on the horizon when these DOE
8 claims, litigation claims would no longer be
9 speculative?

10 A Well, I think the key event on the
11 horizon here that you and I are both -- would
12 need to look at would be a decision by the
13 California Commission.

14 Q And by California Commission, are
15 you referring to the PUC?

16 A California Public Utility
17 Commission. So.

18 Q I'm trying to understand your
19 answer. Are you saying that if the
20 California Public Utilities Commission
21 determines that DOE litigation success of
22 these claims is no longer speculative, then,
23 I guess it's roundabout, but then they'd no
24 longer be speculative?

25 A That's what I believe.

26 Q Are you asking the Commission today
27 to find that -- or in this proceeding to find
28 that DOE litigation claims are no longer

1 speculative --

2 A No.

3 Q -- in their success?

4 A No. I just offer this, that this
5 is an important issue ahead of us. There's
6 this opportunity.

7 Q Are you, Mr. Lacy, aware of
8 Edison's current claims pending before the
9 courts against the DOE?

10 A Yes. I think that's been the
11 subject of some data requests, and I think
12 it's been discussed in some of the earlier
13 testimony in this proceeding.

14 Q And to the best of your knowledge,
15 those claims continue to be litigated?

16 A That's correct.

17 Q Mr. Lacy, just to return briefly to
18 the idea of the excess funds and your
19 recommendation for a plan, you're not today
20 stating that you believe that there are
21 excess funds in Units 2 and 3 that should be
22 returned to ratepayers, are you?

23 A Yeah. I think I understand your
24 question clearly, and the answer is no, I'm
25 not suggesting that there are excess funds
26 today. If I thought there were excess funds
27 today, I would have challenged the cost
28 estimate.

1 Q Mr. Lacy, in your profession you
2 are familiar with the post-shutdown
3 activities report or PSDAR NRC requirement,
4 correct?

5 A Yes. For you to file that report
6 with them.

7 Q Yes. And --

8 A Or Edison, actually, but yeah. The
9 operator on behalf of the owners.

10 Q Yes. And it's true, is it not,
11 that the PSDAR must be submitted to the NRC
12 inclusive of the decommissioning cost
13 estimate; is that correct?

14 A I think you're saying that it must
15 include the decommissioning cost estimate?

16 Q Yes.

17 A Yes, I believe I agree with that.

18 Q Are you aware that in September of
19 2012 Edison on behalf of the co-owners
20 submitted the PSDAR including the
21 decommissioning cost estimate to the NRC?

22 A I don't recall the precise date,
23 but I know that a PSDAR was submitted, and I
24 know it was submitted by Edison, and I know
25 it included a cost estimate. Now, if it was
26 submitted in 2012, did I --

27 Q I'm sorry. 2014.

28 A Okay. Thank you. Yes. I'm more

1 comfortable with that date.

2 Q And are you aware that on August
3 20th, so just last week of 2015 NRC accepted
4 the PSDAR including the DCE for SONGS 2 and
5 3?

6 A I was not aware of that, but I'm
7 not surprised.

8 MS. SALUSTRO: Those are all my
9 questions.

10 ALJ BUSHEY: Thank you, Ms. Salustro.

11 Mr. Freedman. Oh, Mr. Geesman.

12 MR. GEESMAN: Thank you, your Honor.

13 CROSS-EXAMINATION

14 BY MR. GEESMAN:

15 Q Good afternoon, Mr. Lacy.

16 A Good afternoon.

17 Q John Geesman on behalf of the
18 Alliance for Nuclear Responsibility.

19 I'd like to go to the Exhibit 32,
20 which was one of those Edison
21 cross-examination exhibits Mr. Matthews used.
22 And on the very first page of Exhibit 32,
23 which appears to be the title page to the
24 independent panel report, could you explain
25 who the members of this independent panel
26 were and how they were selected?

27 A Yes. Some background on the
28 composition of the panel. As was suggested

1 in some of the cross-examination earlier in
2 my time, during the course of the 2009
3 nuclear decommissioning triennial proceeding
4 the issue was raised about the significant
5 difference between the Diablo Canyon and the
6 San Onofre cost estimate. And various
7 questions and issues were discussed during
8 the course of the proceeding.

9 The result of all of that was the
10 formation of the panel. And so the
11 suggestion was the panel could be composed of
12 three people who had experience and knowledge
13 in the area of nuclear decommissioning. And
14 so three parties here. Nicholas Capik from
15 ABZ Corporation, he was a lead person in the
16 development of the nuclear cost estimate, the
17 cost estimate for San Onofre. Mr. Geoffrey
18 Griffiths of TLG Associates, and he had an
19 important role in the development of the
20 Diablo Canyon cost estimate. And I was asked
21 to be part of the panel also because of my
22 work with TURN and involvement in the
23 proceeding.

24 So basically we had two experts
25 from the industry who have substantial
26 background in decommissioning cost estimating
27 and myself who also has some background and
28 experience in the area and represented

1 supposedly an independent or neutral
2 perspective.

3 Q This panel was established by a
4 Commission decision?

5 A Yes.

6 Q And your report was requested by a
7 Commission decision?

8 A I believe the answer to that is
9 correct.

10 Q If I go to Roman numeral i, which
11 is the first page of the executive summary,
12 still in Exhibit 32, I see in the second
13 paragraph the figure \$3,659 million as the
14 2008 estimated cost to decommission the SONGS
15 site. Was that for SONGS Units 2 and 3?

16 A You know, at this point I don't
17 remember exactly, but I believe it was just
18 for Units 2 and 3.

19 Q Well, the sentence that leads off
20 the paragraph suggests that the subject of
21 the panel was 2 and 3.]

22 A Right. I -- I mean the intent was
23 not to involve the SONGS 1.

24 Q And that's in 2008 dollars?

25 A Well, the -- probably, but with the
26 estimate in 2008, it might have been 2007
27 dollars. But it would certainly be 2007 or
28 2008. I don't remember at this point.

1 Q Let me go down to the --

2 A It's not going to be anything other
3 than that.

4 Q Let me go down to the third
5 paragraph where you identify -- and
6 Mr. Matthews asked you about this -- the
7 \$1,335 million number associated with the
8 Navy easement requirements. You say that's
9 in 2008 dollars?

10 A Oh, there it is. Yes. Thank you.

11 Q So both numbers are in 2008
12 dollars?

13 A Yes.

14 Q And would you accept my rough math
15 that 1.335 is a little more than 36 percent
16 of 3.659?

17 A Sure.

18 Q So if I turn to your testimony,
19 which has been marked as Exhibit 31, and I go
20 to page 25 of 27, you made the correction at
21 the beginning of your testimony that the
22 number you now associate with the Navy
23 easement is 346 million. That's in 2014
24 dollars; am I correct?

25 A Yes.

26 Q So in order to compare apples to
27 apples, I'd have to escalate this 1.3 billion
28 from 2008 dollars to 2014 dollars in order to

1 make it a fair comparison with the 346
2 million?

3 A I disagree with that.

4 Q Okay. Could you -- could you
5 explain why?

6 A Yes. Setting aside the issue of
7 escalation, which I understand is an
8 important consideration, if one is trying to
9 do certain kinds of comparisons over time --
10 what I want to emphasize is again what I said
11 earlier in my testimony this year. My
12 purpose was not to do a precise
13 reconciliation between the SONGS estimate and
14 these other plants. My purpose was really
15 very simple.

16 It was to, number one, again,
17 illustrate the very large size of the SONGS
18 estimate compared to a body of other plants.
19 And number two, to provide a few examples of
20 where there may be opportunity in the future
21 for reduction in cost or liability. I'm
22 confident if Mr. Griffiths and Mr. Capik and
23 I spent two months going over the SONGS
24 estimate, that we would be able to come up
25 with a lot more detailed explanation of the
26 gap. And I believe it's possible that
27 additional elements of that might be related
28 to the Navy lease.

1 But my purpose in my testimony was
2 to use a number that I could pluck out of the
3 study very easily, very quickly. This comes
4 right out of one of the periods just to
5 illustrate this is kind of a low end. You
6 might look at the independent panel as maybe
7 a high end. But again, I would not support
8 directly comparing these numbers. I used the
9 number to purely illustrate the possibility
10 that there may be future excess.

11 Q Okay. I will not directly compare
12 the two numbers. I'll compare the two
13 percentages.

14 A I would disagree with that also.
15 I'm sorry. Go ahead. I'm cutting you off.
16 I apologize.

17 Q In the independent panel's report,
18 the Navy lease was attributable for -- or
19 accounted for about 36-and-a-half percent of
20 the total decommissioning cost. In your
21 testimony today, you identify it as about
22 10 percent.

23 What accounts for that substantial
24 reduction in the proportion of total
25 decommissioning costs attributable to the
26 Navy easement requirements?

27 A Well, I'd go back to what I said
28 just a moment ago. The 1.3 billion was the

1 result of two months worth of effort going
2 through on a detailed, fine-tooth comb basis
3 of the two estimates by myself and two other
4 experts in the industry. The number I
5 offered in my testimony that you're referring
6 to does not represent anything even close to
7 that kind of effort. So the numbers really
8 are apples and oranges.

9 Q You indicate again at page 25 about
10 mid way through the page, "Changes to the
11 U.S. Navy lease conditions are a very real
12 possibility." Why do you believe that?

13 A Very real possibility. Well,
14 there's a -- a lease with these -- as I
15 understand it from testimony in the last
16 day-and-a-half of some potentially ambiguous
17 aspects of the lease. We have Edison
18 actively engaged in a discussion with the
19 Navy, and I would be the first to say that
20 there's no guarantee of success.

21 But with an applied effort here, I
22 think there's a possibility of success. And
23 even if Edison is not fully successful in --
24 let's assume this 346 or whatever it is
25 represents a 100 percent version of success.
26 Even if they're only 50 percent successful,
27 then you're talking about -- what?
28 \$180 million. I still believe \$180 million

1 is a meaningful number.

2 Q So you would regard altering the
3 Navy easement requirement as a good thing?

4 A From the point of view of being
5 able to return money to customers, I believe
6 it's a very good thing.

7 Q Then on page 9 of 27 of your
8 testimony, which is Exhibit 31, your very
9 first answer, second sentence, says, "The
10 large size of the project, over \$4 billion,
11 decades long-time frames calls for elevated
12 attention by the Commission to ensure that
13 customers receive what they have paid for."
14 And then you go on, "completion of the
15 project," and so on.

16 Haven't Edison and San Diego's
17 customers since the trusts were established
18 in 1988 been paying for the complete removal
19 of subsurface structures on the Navy
20 easement?

21 A Well, I don't know about the
22 complete history, but I think that's a
23 reasonable assumption.

24 MR. GEESMAN: Thank you very much.

25 That's all I have, your Honor.

26 ALJ BUSHEY: Thank you, Mr. Geesman.

27 Redirect, Mr. Freedman?

28 MR. FREEDMAN: Thank you, your Honor.

1 REDIRECT EXAMINATION

2 BY MR. FREEDMAN:

3 Q Mr. Lacy, you were just asked by
4 Mr. Geesman about the likelihood -- Mr. Lacy,
5 you were just asked by Mr. Geesman about the
6 likelihood of potential renegotiation of the
7 terms of the Navy lease. Do you recall that?

8 A Yes.

9 Q Are you suggesting that this
10 Commission should make any particular
11 assumption regarding the outcome of the
12 ongoing negotiations over the lease?

13 A No, other than that there's a
14 possibility that it might be favorable.

15 Q Are you suggesting that in the
16 event that there are changes in the lease
17 terms, that those would be relevant for
18 purposes of understanding the likelihood of
19 excess funds that could occur in the trust?

20 A Yes.

21 Q You were asked by counsel from
22 SDG&E about the PSDAR that was submitted to
23 the Nuclear Regulatory Commission. Are you
24 familiar with the PSDAR acceptance criteria
25 that the NRC applies?

26 A I might need my memory refreshed a
27 little bit on that, but generally.

28 Q Is it your understanding that the

1 Nuclear Regulatory Commission reviews the
2 reasonableness of the cost estimate that is
3 presented as part of that process?

4 A I believe that's correct.

5 Q That is correct that what?

6 A That they do a review of the cost
7 estimate.

8 Q And do you know whether the cost
9 estimate there is consistent with what Edison
10 and SDG&E have presented in this proceeding?

11 A I believe it's the same.

12 Q You were asked about whether DOE
13 litigation claims are -- whether litigations
14 claims by the utilities against the U.S.
15 Government are speculative or are -- and you
16 were asked several questions about that. And
17 I wanted to know what's your assessment about
18 the likelihood that the utilities will
19 recover some damages from the United States
20 Government over the breach of the spent fuel
21 obligation?

22 A Experience to date suggests that
23 their success will be -- the probability of
24 their success is very high.

25 Q Could you say a little bit more
26 that would be the basis for your making that
27 claim?

28 A Well, every utility in the country

1 who has filed a claim has been successful to
2 some degree. And in many cases, the level of
3 success has been significant. The legal
4 foundation for the claims has been
5 established. This has been through several
6 U.S. Courts of Appeals, so much of the claims
7 process at this point is item by item, line
8 by line claims rebutting DOE opposition to
9 those claims. And then the Court's ruling.
10 But the success rate overall has been quite
11 high.

12 Q Just to return to the question
13 about the Nuclear Regulatory Commission
14 review of the PSDAR for one moment. Is the
15 Nuclear Regulatory Commission concerned about
16 whether the cost estimate is too high?

17 A No.

18 Q Is their primary concern whether
19 there are -- the cost estimate satisfies a
20 minimum threshold for adequacy?

21 A Well, actually there are two
22 things. One is that the NRC has a formula
23 that they use for establishing a minimum
24 number. But the NRC uses the estimates
25 provided by the utilities. They put a lot of
26 reliance on that. And so they'll go through
27 and they have their staff. They will do an
28 independent calculation on the performance of

1 the trust fund, and they basically forecast
2 these out and they say does the trust fund
3 balance exceed the current estimate. If it
4 does, they're happy.

5 Q But they're not making -- they're
6 not reviewing the estimate to determine
7 whether it is excessive, are they?

8 A No.

9 Q You were asked -- you were asked by
10 counsel from SDG&E about recommendations were
11 making for potential return of excess funds
12 in the future. Are you recommending that the
13 utilities in the coming years explore options
14 for the way in which excess funds could be
15 returned prior to 2052?

16 A I think -- yes, I think that's
17 another way of saying what I'm suggesting
18 here is provide a plan. This takes time to
19 think it through, develop options, figure out
20 what's reasonable. I'm sure many options
21 will require effort. It takes time to go
22 through all of that, but that's the purpose,
23 yes.

24 Q So your recommendation is based on
25 the assumption that there would be
26 substantial advanced planning required as
27 part of any such exercise?

28 A I think there is significant merit

1 in having advanced time for planning.

2 Q You were asked by counsel from
3 Edison about the decommissioning cost
4 estimates for other plants that are contained
5 in your testimony and the dates of those
6 estimates being between 2010 and 2012.

7 Do the dates of those estimates --
8 are they relevant for the purposes for which
9 you included them in your testimony?

10 A Well, obviously a more current
11 estimate is more desirable than an older
12 estimate. But over the time period here, I
13 don't believe that's a significant factor in
14 the point I was trying to make.

15 Q You're not asking the Commission to
16 adopt some average of those other estimates
17 as the basis for finding Edison's estimate to
18 be unreasonable, are you?

19 A I am not.

20 MR. FREEDMAN: Great. Thank you.

21 Those are all my redirect questions.

22 ALJ BUSHEY: Final questions?

23 MS. SALUSTRO: Very limited.

24 ALJ BUSHEY: Very limited.

25 MS. SALUSTRO: Yeah. Thank you.

26 RE-CROSS-EXAMINATION

27 BY MS. SALUSTRO:

28 Q Mr. Lacy, back to the DOE

1 litigation damages. A moment ago you gave
2 your opinion that the utilities that have
3 brought claims against the U.S. Government
4 have been in some form or another successful;
5 is that --

6 A That's correct.

7 Q And would you agree that those past
8 claims were in general for claims related to
9 operating nuclear facilities?

10 A I'm not sure I understand. Can you
11 clarify, please?

12 Q Well, that they were for claims
13 related to -- for facilities that have not
14 yet entered into decommissioning.

15 A Let me just say that I think the
16 majority of the claims, as you are
17 suggesting, have been for plants that were
18 continuing -- that were operating. However,
19 I believe there are also claims associated
20 with plants that were shutdown. And while
21 they represent a minority of the claims, I --
22 my opinion is that there's been this general
23 level of success.

24 Q Are you aware of the change in the
25 strategy by the U.S. Government when
26 litigating these claims for decommissioning
27 plants?

28 A I'm not familiar specifically with

1 that. That sounds like something I'd like to
2 learn more about.

3 MS. SALUSTRO: Thank you.

4 ALJ BUSHEY: Final questions for the
5 witness?

6 (No response.)

7 ALJ BUSHEY: Hearing none, then the
8 witness is excused.

9 We'll be off the record.

10 (Off the record.)

11 ALJ BUSHEY: We'll be back on the
12 record.

13 While we were off the record, we
14 identified four exhibits from the Utility
15 Consumer Action Network.

16 Exhibit 34 is the testimony of Mark
17 Fulmer and Laura Norin.

18 (Exhibit No. 34 was marked for
19 identification.)

20 ALJ BUSHEY: Exhibit 35 is the errata
21 to the testimony of Mark Fulmer and Laura
22 Norin.

23 (Exhibit No. 35 was marked for
24 identification.)

25 ALJ BUSHEY: Exhibit 36 is the
26 attachments to the testimony of Mark Fulmer
27 and Laura Norin.

28 (Exhibit No. 36 was marked for
identification.)

1
2 ALJ BUSHEY: And Exhibit 37 is rebuttal
3 testimony of Mark Fulmer and Laura Norin.

4 (Exhibit No. 37 was marked for
5 identification.)

6 ALJ BUSHEY: Are there any objections
7 to those four exhibits being received into
8 the evidentiary record?

9 (No response.)

10 ALJ BUSHEY: Hearing none, then they
11 are so received.

12 (Exhibit No. 34 was received into
13 evidence.)

14 (Exhibit No. 35 was received into
15 evidence.)

16 (Exhibit No. 36 was received into
17 evidence.)

18 (Exhibit No. 37 was received into
19 evidence.)

20 ALJ BUSHEY: We also have exhibits from
21 TURN. Those are exhibits --

22 We'll be off the record.

23 (Off the record.)

24 ALJ BUSHEY: We'll be back on the
25 record. We have Exhibit 30 and Exhibit 30 --
26 I'm sorry. Exhibit 29, the ORA testimony,
27 and Exhibit 30, an ORA data response from
28 Edison. Those two documents are received

1 into the evidentiary record. I hear no
2 objections. Good. 29, 30 are received.

3 Now we begin the TURN Exhibits. 31,
4 32 -- 31 is the only TURN exhibit. And then
5 there are the cross exhibits from Edison, 32
6 and 33.

7 Are there any objections from any
8 party for Exhibits 31 through 33.

9 (No response.)

10 ALJ BUSHEY: Hearing none, they are all
11 received into evidence.

12 (Exhibit No. 31 was received into
13 evidence.)

14 (Exhibit No. 32 was received into
15 evidence.)

16 (Exhibit No. 33 was received into
17 evidence.)

18 ALJ BUSHEY: There were TURN
19 cross-examination exhibits earlier on. 25,
20 26, 27, 28.

21 MR. FREEDMAN: I think those were
22 already entered into evidence, your Honor.

23 ALJ BUSHEY: I've already done those.
24 Good. Okay.

25 We'll be off the record.

26 (Off the record.)

27 ALJ BUSHEY: We'll be back on the
28 record.

1 While we were off the record, we
2 identified Exhibit 38. That is the prepared
3 testimony of John Geesman on behalf of the
4 Alliance for Nuclear Responsibility.

5 (Exhibit No. 38 was marked for
6 identification.)

7 ALJ BUSHEY: Any objections to this
8 being received into the evidentiary record?

9 (No response.)

10 ALJ BUSHEY: Hearing none, then
11 Exhibit 38 is received.

12 We'll be off the record.

13 (Exhibit No. 38 was received into
14 evidence.)

15 (Off the record.)

16 ALJ BUSHEY: We'll be back on the
17 record.

18 While we were off the record, we
19 discussed the Gilmore testimony and the
20 Gilmore cross-examination exhibits. On
21 August 24th I issued a ruling denying
22 Edison's motion to strike the testimony from
23 the Gilmore party, however, indicating to
24 Gilmore that they would need to make a
25 demonstration linking the proposed testimony
26 to specific cost assumptions or contingency
27 planning in the record of this proceeding
28 before we would receive the testimony into

1 the evidentiary record.

2 Mr. Peffer is now prepared to offer
3 oral argument on that point.

4 MR. PEFFER: Your Honor, I would ask
5 for one point of clarification.

6 ALJ BUSHEY: Yes.

7 MR. PEFFER: What is the degree of
8 detail you are looking for in terms of tie
9 ins? Are you looking for specific line items
10 or -- that is something that we would prefer
11 to argue in our brief. We are prepared to
12 make arguments at an issue level now.

13 ALJ BUSHEY: Okay. Make it at an issue
14 level.

15 MR. PEFFER: Okay. So Section 1 of the
16 Gilmore testimony is a introduction. I think
17 it's fairly straightforward and doesn't need
18 a tie-in.

19 Section 2 is the dry storage system
20 lifespan. That speaks directly to the
21 reasonableness of the decommissioning cost
22 estimate, which relies -- per the discussion
23 that we've had several times over the course
24 of -- of these proceedings, relies on the
25 assumption that the DCE is based on that the
26 dry storage system will last for the duration
27 of the decommissioning process. That
28 assumption has been established. We've

1 established that the DCE relies on that
2 assumption. And each element of this
3 Section 2 directly addresses that.

4 So the first -- these questions
5 aren't numbered but if you go to page 3, line
6 9 through page 5, line 11, there is
7 discussion of the canister that was selected
8 by SoCal Edison, the High Storm UMAX Holtec
9 System. That discussion is relevant to the
10 lifespan of the dry storage system and the
11 reasonableness of that assumption because it
12 provides specific information regarding the
13 actual system that was selected and the
14 actual system that will be in use.

15 The next question again provides
16 specifications, that is page 513 through page
17 618.

18 The next question, which is page
19 620, addresses the design type of the
20 canisters that will be -- will be and are
21 being used in SONGS. They're thin steel
22 canisters, and that is a significant factor
23 in the lifespan -- determining the
24 lifespan -- determining the probability of a
25 shorter lifespan than the duration of the
26 decommissioning process.

27 Page 7 discusses whether the DCE
28 directly assesses the lifespan of the dry

1 storage system, which is relevant.

2 And line 23, we discuss SCE's claims
3 regarding the lifespan of the Holtec dry
4 storage system. Again, all of this ties into
5 that assumption. And that assumption is
6 something that has huge cost implications
7 because of the possibility that if some of
8 these canisters need replacement mid
9 lifespan, that is a significant unaccounted
10 for cost.

11 Page 8, this ties into the prior
12 discussion. 14, this is one of the bases
13 that SCE -- the Holtec FSAR identified as a
14 basis for its assumption that the system will
15 last for the duration of the decommissioning
16 process.

17 824 discusses whether the dry
18 storage system lifespan assumption is
19 consistent with the Holtec canister's NRC
20 license. If you recall that Mr. Palmisano
21 raised the NRC licensing as one of the bases
22 that he had offered for believing that the
23 dry storage system lifespan assumption was
24 reasonable.

25 Page 10, Question 24, this begins to
26 discuss actual real world information
27 regarding the lifespan of the Holtec System
28 that was selected.

1 And page 11, line 24, what is a
2 through-wall crack. Through-wall cracking is
3 one of the -- as this testimony establishes,
4 one of the primary mechanisms for aging for
5 this type of system. And it's one of the
6 most likely possibilities for -- that would
7 lead to casks being unusable.

8 And the next page, page 12 describes
9 how through-wall cracks affect the dry
10 storage system lifespan, so it directly ties
11 the through-wall cracking discussion into the
12 lifespan assumption.

13 Page 13, what conditions cause
14 through-wall cracks to develop, the same
15 argument.

16 Page 15, are the conditions for the
17 through-wall cracks present in San Onofre?

18 ALJ BUSHEY: You're just reading the
19 testimony to me.

20 MR. PEFFER: I'm making arguments point
21 by point.

22 ALJ BUSHEY: I'm looking for it to be
23 tied to the decommissioning cost estimate.
24 Ideally, the -- the Attachment A I think to
25 Exhibit 01, line items.]

26 MR. PEFFER: Right, your Honor. The
27 dry storage system assumption is -- life span
28 assumption is not something that is

1 specifically stated in the DCE. As we
2 established in the cross-examination earlier,
3 it is an implicit built-in assumption. And
4 what we would argue is to the extent that
5 that implicit assumption, because it has such
6 a significant effect on cost, to the extent
7 that that implicit assumption is not stated,
8 that's an error and a reason to find a DCE
9 unreasonable.

10 Would you like me to continue, your
11 Honor?

12 ALJ BUSHEY: I mean are you just going
13 to continue reading?

14 MR. PEFFER: Well, you asked for a
15 point-by-point connection. Like I said, we
16 don't have line item connections at this
17 point. That is something we are prepared to
18 offer in briefing.

19 ALJ BUSHEY: Well, we can't make
20 evidence in briefs. We only have arguments
21 there.

22 MR. PEFFER: Your Honor, I would object
23 to the fact that I think we're being held to
24 a more strenuous standard than other parties.
25 A lot of testimony has been offered in this
26 proceeding that is not line item specific.

27 ALJ BUSHEY: Like for example?

28 MR. PEFFER: Like, for example, most of

1 Palmisano's testimony.

2 ALJ BUSHEY: He was supporting the
3 whole thing.

4 MR. PEFFER: And this is directly --
5 what we would say is this is directly
6 relevant to the whole thing.

7 ALJ BUSHEY: Okay. So?

8 MR. PEFFER: Let me ask you, your
9 Honor. How you would you like me to proceed
10 on this?

11 ALJ BUSHEY: I was hoping that you were
12 going to tell me that, you know, there's a
13 particular number, and that is -- that needs
14 to change.

15 MR. PEFFER: Your Honor, what we can
16 say is all of the dry storage system cost
17 assumption relates to the \$405 million.

18 ALJ BUSHEY: Okay.

19 MR. PEFFER: ISFSI costs.

20 ALJ BUSHEY: Okay.

21 MR. PEFFER: So we don't have -- and
22 the 25 percent contingency that goes into
23 that.

24 ALJ BUSHEY: Is there 25 to support?

25 MR. PEFFER: I believe it's 25 percent
26 across the board. I may be --

27 ALJ BUSHEY: It averages to that, I
28 think. Is the 25 percent included in the

1 405?

2 MR. PEFFER: I'm sorry, your Honor?

3 ALJ BUSHEY: Does the 405 include the
4 25 percent contingency?

5 MR. PEFFER: That is my understanding,
6 and I believe that's what was testified to.

7 ALJ BUSHEY: Okay. So it's your
8 position that the 25 percent contingency is
9 insufficient?

10 MR. PEFFER: That is something that,
11 yes, your Honor, but that's something we'd
12 like to cover in briefing.

13 ALJ BUSHEY: But you're going to need
14 some sort of factual basis for your
15 recommendation.

16 MR. PEFFER: Yes, your Honor. This is
17 the factual basis for that.

18 ALJ BUSHEY: This being the testimony.
19 So somewhere in this testimony there's a
20 number that says not 25 percent contingency
21 but something else?

22 MR. PEFFER: No, your Honor. I didn't
23 know that we were required to include that in
24 the testimony. This is the factual basis for
25 the recommendations that we make in the
26 briefing.

27 ALJ BUSHEY: But you don't have one
28 yet?

1 MR. PEFFER: At the moment, no. But
2 your Honor, my understanding is that many
3 parties in this proceeding have not offered
4 specific line item adjustments for all of
5 their arguments.

6 ALJ BUSHEY: Most of the parties aren't
7 opposing the estimate itself. For example,
8 ORA is opposing some of the procedural
9 mechanisms. TURN is suggesting that there
10 needs to be a, for want of a better word, a
11 refund mechanism adopted. You know, that's
12 where they're focusing.

13 MR. PEFFER: Right, your Honor. But
14 this isn't within the scope. I mean
15 challenging the reasonable notice of the
16 ISFSI assumption in the DCE, that is
17 clearly -- clearly pertains to the
18 reasonableness of the DCE.

19 ALJ BUSHEY: Okay. All right. Do you
20 want to conclude, and then we'll go to Mr.
21 Matthews.

22 MR. PEFFER: Your Honor, there are
23 other issues besides the life span issue.

24 ALJ BUSHEY: But don't they all relate
25 to the reasonableness of the system, the
26 casks?

27 MR. PEFFER: No. There are a couple of
28 issues that relate to -- at least one issue,

1 excuse me -- that relates to the -- well, we
2 have a spent fuel pool retirement.

3 ALJ BUSHEY: Okay. And I see concrete
4 degradation as well.

5 MR. PEFFER: Concrete degradation, your
6 Honor, is an issue that falls within the
7 scope of the dry storage system life span
8 assumption.

9 ALJ BUSHEY: Okay. Okay. All right.
10 Does that conclude your presentation?

11 MR. PEFFER: No, your Honor. I'd also
12 note that we have a section on reliance on
13 speculative technologies for inspection.
14 That's a matter that's been discussed in
15 detail over these hearings. And it relates
16 directly to whether or not the scheduling
17 cost estimates that do to some extent rely on
18 the availability of inspection technology are
19 consistent with Assumption 3 of the DCE,
20 which provides that -- I can actually read
21 that, which essentially states that all
22 decommissioning cost activities will be
23 performed using currently available
24 technology.

25 Your Honor, we also have testimony,
26 this is page 27, Item 7, regarding the 2024
27 waste acceptance date. And that's an issue
28 that's been well covered here. And items,

1 page 29, Item 8, which is dry storage system
2 costs. And then page 31, Item 10. These
3 again directly address the reasonableness of
4 the 405 million dry storage system cost. And
5 I would note that SoCal Edison did not object
6 to these and did not -- did not ask for these
7 to be stricken in a motion to strike.

8 ALJ BUSHEY: Okay. Thank you, Mr.
9 Peffer.

10 Mr. Matthews.

11 MR. FREEDMAN: Your Honor, I'd like to
12 offer an argument in support of Ms. Gilmore's
13 position.

14 ALJ BUSHEY: Okay.

15 MR. FREEDMAN: Your Honor, we're not
16 taking a position on the specific relief
17 requested by Ms. Gilmore in this proceeding.
18 However, we would point out that in past
19 nuclear decommissioning cost triennial
20 proceedings there have been substantial
21 arguments about specific assumptions
22 including operational assumptions that
23 utilities have made in providing their cost
24 forecasts.

25 For example, in the Humboldt Bay 3
26 decommissioning proceeding, the last NDCTP
27 was divided into two phases. The first phase
28 dealt with Humboldt 3, which was in active

1 decommissioning. There was a dispute about a
2 specific assumption PG&E had made regarding
3 the removal of the underground structures at
4 the facility. And TURN raised very specific
5 concerns about the particular measures that
6 PG&E was proposing to take and whether or not
7 they represented a least-cost solution.

8 Those issues were within the scope of that
9 case, and there was no debate about whether
10 those issues could or could not be litigated.

11 In the last NDCTP when the cost
12 estimate for Diablo Canyon was presented,
13 PG&E had made a number of assumptions
14 regarding specific actions that they would
15 take in the decommissioning, and those were
16 the subject of a litigation. And the
17 Commission ultimately found that PG&E had not
18 justified many of those very specific choices
19 they were claiming were reasonable.

20 In this case we're presented with a
21 very difficult issue where it's not clear
22 when a specific decision related to the
23 selection of waste canisters would ever be
24 found within the scope. As I understand it,
25 the issue that was raised by Ms. Gilmore
26 relates to a potential situation far down the
27 line well after the initial expenditures for
28 these canisters had been found to be

1 reasonable when Edison and SDG&E may decide
2 that they need to seek a lot more money
3 because of a decision that previously had
4 been found reasonable.

5 This leaves the Commission in a
6 difficult situation where a decision to find
7 this project reasonable early might end up
8 having to be undone by a subsequent
9 reasonableness determination. And I'm sure
10 the litigation around that would be quite
11 thorny.

12 I raise this because I think it's
13 important for the Commission to at least
14 consider this issue now. And again, we're
15 not taking a position on whether or not the
16 selection of the Holtec system is not
17 reasonable or is reasonable, but in a project
18 of this magnitude it is hard to understand
19 how such an important decision would simply
20 be deemed outside the scope of the proceeding
21 and be ineligible for review really at any
22 time.

23 If it were a construction project
24 for a new facility, the Commission would
25 exact -- would undertake this exact type of
26 review and would find this exact type of
27 operational decision relevant. So we think
28 it's within the scope of this case, and we

1 think Ms. Gilmore should be allowed to
2 present her arguments.

3 ALJ BUSHEY: Mr. Matthews.

4 MR. MATTHEWS: Thank you, your Honor.
5 I think the statements from TURN's counsel
6 are -- would be more appropriately addressed
7 in the upcoming 2014 reasonableness review
8 proceeding as well as subsequent
9 reasonableness review proceedings. In this
10 proceeding it's focused on the reasonableness
11 of the SONGS 2 and 3 decommissioning cost
12 estimates.

13 And as SCE understands your Honor's
14 ruling, what you are seeking is for Ms.
15 Gilmore to tie her testimony to a specific,
16 you know, recommended, you know, cost
17 estimate number or adjustment to the SONGS 2
18 and 3 decommissioning cost estimate that is
19 before your Honor in this proceeding.

20 Gilmore hasn't done that, but if I
21 could compare that to what some of the other
22 parties have done. And this responds to one
23 of the arguments from Ms. Gilmore's counsel
24 is I think some of the other parties actually
25 have presented some real numbers. A for NR,
26 you know, counsel in cross-examination, you
27 know, definitely made their, you know, their
28 assertion as to what the removal cost would

1 be. You know, that was done during
2 cross-examination. SCE doesn't necessarily
3 agree with the calculation, but the
4 recommendation was made.

5 I think, you know, TURN, the witness
6 as well has identified real numbers in their
7 testimony. And I think that that's the kind
8 of testimony that the, you know, the
9 Commission should be focusing on in this
10 proceeding. I also think that it would be
11 inappropriate for this to be done in brief.
12 I think it would be certainly out of order
13 the way things are normally done.

14 You know, if there was such a tie-in
15 done in brief, SCE and SDG&E would not have
16 an opportunity to conduct cross-examination.
17 So I think it's flipping it and putting it
18 out of order, and it would be inappropriate.

19 I'd also note that, you know, so far
20 all we've done is talk about the, you know,
21 the body of the testimony. We haven't talked
22 about the attachments. Now, there's 45
23 attachments to this testimony. It's quite --
24 it's quite voluminous. Most of the materials
25 are, you know, copies of, you know, the
26 various government agency letters. I think
27 those types of materials don't necessarily
28 need to be received into evidence and can be

1 cited, you know, in brief.

2 I also think that, you know, the
3 attachments are cumulative. This, you know,
4 your Honor has discretion in order to, you
5 know, to reduce the volume of evidence that's
6 received, does not have to hear or consider
7 cumulative evidence. I mean there's dozens
8 of various reports and letters regarding
9 stress corrosion cracking and things of that
10 sort. And I don't think we need -- I think
11 it would be inappropriate to have that
12 cumulative evidence in the record.

13 There also are a number of documents
14 in the attachments that have not been
15 authenticated. I don't think there's any way
16 for Ms. Gilmore to authenticate them at the
17 time. There's a number of purported
18 presentations that were presented in NRC
19 meetings or DOE meetings. We don't know who
20 presented those, those presentations. We
21 don't know if it was the NRC. We don't know
22 if it's members of the public. And there's
23 not an opportunity for cross-examination on
24 those things.

25 I'll list those exhibits before you
26 with attachments. It's 10, 17, 20, 22, 24,
27 27. I'd also note that Attachment 14 is a
28 declaration of Ms. Gilmore. It provides her

1 version of a transcript of statements made by
2 a Holtec representative during a October 14th
3 community engagement panel meeting. I think
4 that attachment is hearsay.

5 There's just lots of problems with
6 these attachments. Again, they're
7 cumulative. They're out of scope. They
8 haven't been authenticated, and a number of
9 the attachments are hearsay. And I think to
10 receive this into the record would, you know,
11 would be a mistake and would be an incorrect
12 ruling.

13 ALJ BUSHEY: Thank you, Mr. Matthews.
14 I'm going to rule unequivocally that the
15 reasonableness of the Holtec system is not
16 within the scope of this proceeding, and that
17 is not something that is going to be included
18 in the proposed decision. That's not --
19 that's completely consistent with the scoping
20 memo.

21 So that leaves us, though, with the
22 cost estimate. Mr. Peffer, you have focused
23 in on the \$405 million and whether that's a
24 reasonable -- whether that's a reasonable
25 number.

26 MR. PEFFER: Yes, your Honor.

27 ALJ BUSHEY: You believe there are
28 reasons that it should be higher.

1 MR. PEFFER: Yes, your Honor.

2 ALJ BUSHEY: That means that the
3 25 percent contingency factor, that's the
4 obvious place to adjust that. You are not
5 prepared today and your witness has not made
6 a specific recommendation?

7 MR. PEFFER: No, your Honor.

8 ALJ BUSHEY: And presumably, your
9 recommendation, which you believe you will be
10 able to make in your brief?

11 MR. PEFFER: Yes, your Honor.

12 ALJ BUSHEY: Okay.

13 MR. PEFFER: Your Honor, may I make a
14 point very briefly. The scoping memo
15 includes as one of the areas for the --
16 within scope of this proceeding is the
17 reasonableness of the assumptions. Now, is
18 that something that you're saying -- so to
19 make an argument regarding the reasonableness
20 of an assumption, are parties required then
21 to connect those arguments to specific cost
22 figures?

23 ALJ BUSHEY: No. You have to tell me
24 what assumption it is that you believe to be
25 unreasonable. I understand it to be -- your
26 position to be that the \$405 million for the
27 dry cask system is unreasonably low. It
28 should be higher. Is that a fair summary of

1 your position?

2 MR. PEFFER: Yes, your Honor.

3 ALJ BUSHEY: Okay.

4 MR. PEFFER: I would also say, go back
5 and restate my argument regarding there being
6 an implicit assumption regarding life span.
7 It should have been stated in the DCE. To
8 the extent that it wasn't, the DCE is flawed.
9 So I would tie --

10 ALJ BUSHEY: But that would go to this
11 number. This number should be something
12 else, right?

13 MR. PEFFER: Yes, your Honor.

14 ALJ BUSHEY: Because that's all we're
15 doing is looking at a cost estimate. If you
16 can't tie your testimony to a specific number
17 and ask the Commission to do something with
18 that number, then it's not relevant to this
19 proceeding, because we're not going to look
20 at the reasonableness of operational
21 decisions. You know. Those are dealt with
22 elsewhere. We're just looking at the
23 reasonableness of the cost estimate.

24 This is what I'm thinking. I'm
25 thinking that we will grant your request to
26 let you make your numerical recommendation in
27 your brief.

28 MR. PEFFER: Yes, your Honor.

1 ALJ BUSHEY: We will allow you to move
2 the testimony into the record, the testimony
3 alone.

4 MR. PEFER: Okay.

5 ALJ BUSHEY: With its factual
6 assertions and its references, because most
7 of the references to the attachments are
8 readily available materials. But we will not
9 move in the attachments.

10 MR. PEFER: So your Honor, there are a
11 couple of attachments that I do believe are
12 essential.

13 ALJ BUSHEY: Okay. Which ones would
14 those be?

15 MR. MATTHEWS: May I approach, your
16 Honor?

17 ALJ BUSHEY: Yes. What do you have?

18 We'll be off the record.

19 (Off the record.)

20 ALJ BUSHEY: We'll be back on the
21 record.

22 While we were off the record we
23 discussed the attachments to the Gilmore
24 testimony. This is what we're going to do.
25 We're going to mark the testimony as next in
26 order, which is 39.

27 (Exhibit No. 39 was marked for
28 identification.)

1 ALJ BUSHEY: It will be received into
2 evidence.

3 (Exhibit No. 39 was received into
4 evidence.)

5 ALJ BUSHEY: And we will have
6 late-filed Exhibit No. 40, which will be
7 provided within ten days by Gilmore. That
8 will be a compendium of the data responses
9 that were included in their proposed
10 attachments. That will be late-filed Exhibit
11 No. 40.

12 (Exhibit No. 40 was marked for
13 identification.)

14 ALJ BUSHEY: We'll be off the record.

15 (Off the record.)

16 ALJ BUSHEY: We'll be back on the
17 record.

18 While we were off the record we
19 discussed briefing schedule. Concurrent
20 opening briefs will be due on October 15th.
21 Concurrent reply briefs will be due on
22 November 5th. We've made a special exception
23 for the Gilmore party to include their
24 recommendation on the contingency factor to
25 be applied to the dry cask storage system.
26 If the utilities wish to respond to that
27 factual assertion, they will have five days
28 after receiving the brief to make that

1 response.

2 And the proceeding will be submitted
3 with the filing of reply briefs on
4 November 5th.

5 MR. PEFFER: And your Honor, we have a
6 couple more comments.

7 ALJ BUSHEY: Comments on what?

8 MS. GILMORE: Yes. The 400 million was
9 about the dry casks. The category of spent
10 fuel management is what we're focused on.
11 And a big part of that of course is the
12 canister cost, but there's other parts that
13 are integrated in that. So the one that we
14 want to address is that almost \$1.3 billion
15 spent management category because it deals
16 with the pools, and it deals with the dry
17 cask system. They're interrelated. So if we
18 can have this at a higher level, at the
19 category level, then that's what we would be
20 addressing.

21 ALJ BUSHEY: So in your brief you will
22 address what the spent fuel management cost
23 estimate should be in your recommendation.

24 MS. GILMORE: Right.

25 ALJ BUSHEY: Okay.

26 MS. GILMORE: Okay. And then on the --
27 when the testimony was prepared, if we're
28 just going to include the name of the

1 document, some of these are hard for people
2 to find that may actually want to look at
3 documents to determine, you know, the
4 evidence. If we could provide the link, we
5 could do it as part of what we submit is the
6 list of the items and just provide the name
7 and the link to that document. It would make
8 it easier for anybody that's trying to review
9 this.

10 ALJ BUSHEY: We understand what your
11 testimony is, and we understand the source
12 documents that you're referring to, but we're
13 not going to bring the source documents into
14 the evidentiary record. So.

15 MS. GILMORE: Right.

16 ALJ BUSHEY: But as a practical matter,
17 everyone has a copy of them now anyway
18 because you distributed them. So I think the
19 practicalities are addressed. And I think
20 this way we keep the record fairly clean.
21 And you have an opportunity that no other
22 party has to basically make your case in
23 chief in your briefs. So I think that's a
24 pretty good deal.

25 MS. GILMORE: Okay.

26 ALJ BUSHEY: Okay.

27 MR. PEFFER: Just one other matter. I
28 don't know if this was included in the data

1 request responses. But Attachment 42 is an
2 e-mail that SCE provided us in response to a
3 data request. I'd like to include that in
4 the --

5 ALJ BUSHEY: In the late-filed exhibit?
6 Okay.

7 MR. PEFFER: Yes.

8 ALJ BUSHEY: Mr. Lutz.

9 MR. LUTZ: Yes, your Honor. Citizens
10 Oversight is planning to make arguments in
11 our brief regarding spent fuel management
12 especially with respect to the various
13 options that were considered by the utilities
14 about where they're putting the spent fuel
15 dry cask system which was explained in their
16 responses to some of our questions. We're
17 planning to include those in our briefs. So.

18 ALJ BUSHEY: That's what you do in
19 briefs. Yes.

20 MR. LUTZ: So I just wanted to make
21 sure that that wasn't excluded by your ruling
22 just now.]

23 ALJ BUSHEY: No we want to hear your
24 arguments --

25 MR. LUTZ: Thank you, your Honor.

26 ALJ BUSHEY: -- legal and policy in
27 your briefs.

28 Is there anything further to come

1 before the Commission?

2 Yes, Mr. Geesman.

3 MR. GEESMAN: Mr. Matthews distributed
4 a common briefing format, and I wonder if it
5 would be appropriate to discuss that?

6 MR. MATTHEWS: I was going to raise it.
7 I don't know if we want to do it on the
8 record or off the record.

9 ALJ BUSHEY: We'll be off the record.

10 (Off the record.)

11 ALJ BUSHEY: We'll be back on the
12 record.

13 While we were off the record, we
14 discussed a proposed common briefing outline
15 offered by Edison. The parties will meet and
16 confer over the next 20 days to arrive at a
17 common briefing outline to the extent that
18 they can. If they cannot, the parties are
19 free to address these issues in whichever
20 manner they deem best for their client. I
21 will let you know that I will be following
22 something similar to this, so that will
23 assist you.

24 Is there anything further to come
25 before the Commission?

26 Yes?

27 MR. PEFFER: Yes, your Honor. There
28 were two additional exhibits that were

1 cross-examination exhibits yesterday for
2 Bledsoe.

3 ALJ BUSHEY: Right. And you read all
4 of those into the record that were relevant,
5 the components of those.

6 MR. PEFFER: Well, we would like to
7 move to put those into the record.

8 ALJ BUSHEY: Why don't you include
9 those with your late-filed exhibit?

10 MR. PEFFER: And just another
11 clarification. So when we do include the
12 late-filed exhibit, is that something that's
13 going to be open to argument, will be ruled
14 on or --

15 ALJ BUSHEY: No, as long as you comply
16 with I've said.

17 MR. PEFFER: Yes, your Honor.

18 ALJ BUSHEY: And if you don't, there
19 will be motions to strike.

20 MR. PEFFER: Yes, your Honor.

21 And sorry. One other item. Will
22 there be an exhibit matrix distributed? Is
23 anyone preparing that?

24 ALJ BUSHEY: An exhibit matrix?

25 MR. MATTHEWS: SCE has been preparing
26 one. Maybe when we do the common briefing
27 outline, we'll send it to the parties --
28 we'll send what we have as our exhibit list.

1 ALJ BUSHEY: Okay. Sounds good.

2 Final matters?

3 (No response.)

4 ALJ BUSHEY: Hearing none, this
5 evidentiary hearing is concluded, and this
6 matter will be submitted with the filing of
7 reply briefs.

8 (Whereupon, at the hour of 1:43
9 p.m., this matter having been submitted
10 upon receipt of reply briefs November
11 5, 2015, the Commission then
12 adjourned.)

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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE
STATE OF CALIFORNIA

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)	
Joint Application of Southern)	
California Edison Company (U338E))	
and San Diego Gas & Electric Company)	
(U902E) to Find the 2014 SONGS Units)	Application
2 and 3 Decommissioning Cost)	14-12-007
Estimate Reasonable and Address)	
Other Related Decommissioning)	
Issues.)	
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CERTIFICATION OF TRANSCRIPT OF PROCEEDING

I, Thomas C. Brenneman, Certified Shorthand Reporter No. 9554, in and for the State of California do hereby certify that the pages of this transcript prepared by me comprise a full, true and correct transcript of the testimony and proceedings held in the above-captioned matter on August 27, 2015.

I further certify that I have no interest in the events of the matter or the outcome of the proceeding.

EXECUTED this 27th day of August, 2015.

Thomas C. Brenneman
CSR No. 9554

BEFORE THE PUBLIC UTILITIES COMMISSION
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Issues.)	
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CERTIFICATION OF TRANSCRIPT OF PROCEEDING

I, Wendy M. Pun, Certified Shorthand Reporter No. 12891, in and for the State of California do hereby certify that the pages of this transcript prepared by me comprise a full, true and correct transcript of the testimony and proceedings held in the above-captioned matter on August 27, 2015.

I further certify that I have no interest in the events of the matter or the outcome of the proceeding.

EXECUTED this 27th day of August, 2015.

Wendy M. Pun
CSR No. 12891