

Stop the \$3.3 Billion Ripoff

Do not reward Imprudent Decision-making



Introduction

OPPONENTS TO THE \$3.3 Billion Ratepayer Ripoff REPRESENT RATEPAYERS' INTERESTS

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DISCLAIMER: This presentation was created by Ray Lutz of CDSO/COPS. Other parties who oppose the settlement may have many similar views but may not agree with all details and stated positions in this presentation, as this is the view of one party, CDSO.

TIMELINE

- 15 December 2005, the CPUC issued Decision D.05-12-040 approving the Steam Generator Replacement Project (SGRP)
- January 31, 2012 – A radiation leak in Unit 3 resulted in an emergency shutdown. Unit 2 was already off line due to a refueling outage.
- Nine months later – SCE and SDG&E submitted notices to the CPUC regarding the shutdown per requirements of PUC 455.5.
- The CPUC instituted an investigation into the outage, breaking the investigation into four phases.
 - Phase 1 – response of SCE to the outage during 2012
 - Did not cover the response during 2013 up to the announcement of permanent shutdown.
 - Phase 1A – Replacement Power
 - This entire phase became moot once the plant was permanently abandoned.
 - Phase 2 – Ratemaking treatment of the remaining plant
 - Phase 3 – Investigation into the causes of the outage – NEVER STARTED
 - Included two other investigations folded into this phase, both reasonableness reviews of the SGRP
 - Phase 4 – was a catch all for loose ends.
- SCE and SDG&E Started secret settlement negotiations in May, 2013 with TURN and ORA.
- SCE announced the permanent shutdown of the plant on June 6, 2013
- March 27, 2014, the final settlement agreement was disclosed in a settlement conference.
- May 14, 2014, a half-day evidentiary hearing was conducted regarding the terms of the \$3.3 billion settlement.

PART I.

**SETTLEMENT PROCESS
NOT PROPER**

Reasonableness review was to occur but did not

- CPUC Decision D.05-12-040 approving the Steam Generator Replacement Project (SGRP)
 - Order #5: If the SGRP cost exceeds \$680 million, or the Commission later finds that it has reason to believe the costs may be unreasonable regardless of the amount, the entire SGRP cost shall be subject to a reasonableness review.
 - Since the Steam Generators failed, a reasonableness review is in order, as this is certainly “reason to believe that the costs may be unreasonable” and the OII stated such a reasonableness review would occur.
- The settlement avoids the reasonableness review.
- CPUC is a “Kangaroo Court” that jumps to conclusions!

Settlement was Improper

- The settlement was negotiated in secret with only one outside party, starting in May 2013, before the official shutdown.
- Other parties were not invited to the negotiations. Our proposal was never requested for review.
- Settlement Conference provided no real participation by other parties as the settlement was already set in cement.
- Commissioners may have carried on *ex parte* communications during the settlement process, and when asked, Commissioner Peevey exploded with expletives and “shut up.”
- TURN had no right to negotiate for other parties without their written authorization.

Record Insufficient to evaluate the settlement

- Commission Policy is that the settlement will be evaluated with respect to the “whole record” but Phase 3 was never started, and so the record is incomplete.
- There is nothing in the record to provide the Commission with sufficient evidence that the settlement is a fair conclusion of claims of ratepayers.
 - SCE President Ron Litzinger admitted this was the case in the evidentiary hearings on May 14.
- There is nothing in the record that provides any evidence of the risks and potential revenue from insurance carrier NEIL and MHI litigation, yet settlement wants ratepayers to get in the middle.
- Commission has no means to oversee litigation, which is a serious problem with the 3rd party returns element.

Any Settlement Should:

- **... Not Be Based On Future Events**
 - Settle the matter now, if possible. No requirement that we trust the company will act properly in the future
 - No ratepayer or Commission involvement in litigation with MHI and insurance carrier NEIL.
 - No payments for the next 10 years.
- **... Incentivize Actors**
 - No one does anything without money at stake.
 - SCE is proposing that the ratepayers cover their butts now and then be reimbursed later. SCE has no incentive to salvage the plant effectively nor to seek settlement with 3rd parties over the first threshold.
- **... Be Open and Verifiable By The Public**
 - No secrets.
 - Litigation is all closed to oversight by the Commission and the public.
- **THIS SETTLEMENT FAILS ON ALL COUNTS.**

The Commission should complete the investigation

- Nuclear power is very dangerous. Failures of this magnitude must be investigated to root out the failure of the system.
- The CPUC approved the SGRP and should review its own procedures.
- The cost of the investigation to ratepayers is far less than the \$3.3 billion settlement that is proposed, and far more was already lost in this debacle.
- Two of the investigations folded into this proceeding were not even started, have no evidence in the record, and were added to the proceeding just over a year before the date of the settlement. The Commission has no business ignoring these important investigations.
- Commission has no reason to accept the settlement and stop this important investigation.
- The NRC completed their investigation into the outage at SONGS. Our CPUC should also do as they promised and complete their investigation.

PART II

**PROPOSED SETTLEMENT --
FAR OUTSIDE THE NORM**

- > UNFAIR TO RATEPAYERS**
- > BAD COMMISSION POLICY**

UNPRECEDENTED FAILURE

- There are no other cases of an engineering failure resulting in the abandonment of an entire power plant.
- Similar plants ARE retired early due to regulatory or risk assessment changes. These are prudent.
 - All returned net investment in base plant with no return on investment.
- A number of projects failed but the plant was repaired.
 - The Commission did not help the utility get out of their mess.
- The proposed settlement provides the net investment return and a return on investment.
- The Utilities expect the ratepayer to bail them out of their imprudent business decisions. To do so is bad policy as it encourages such imprudent decisions to continue.

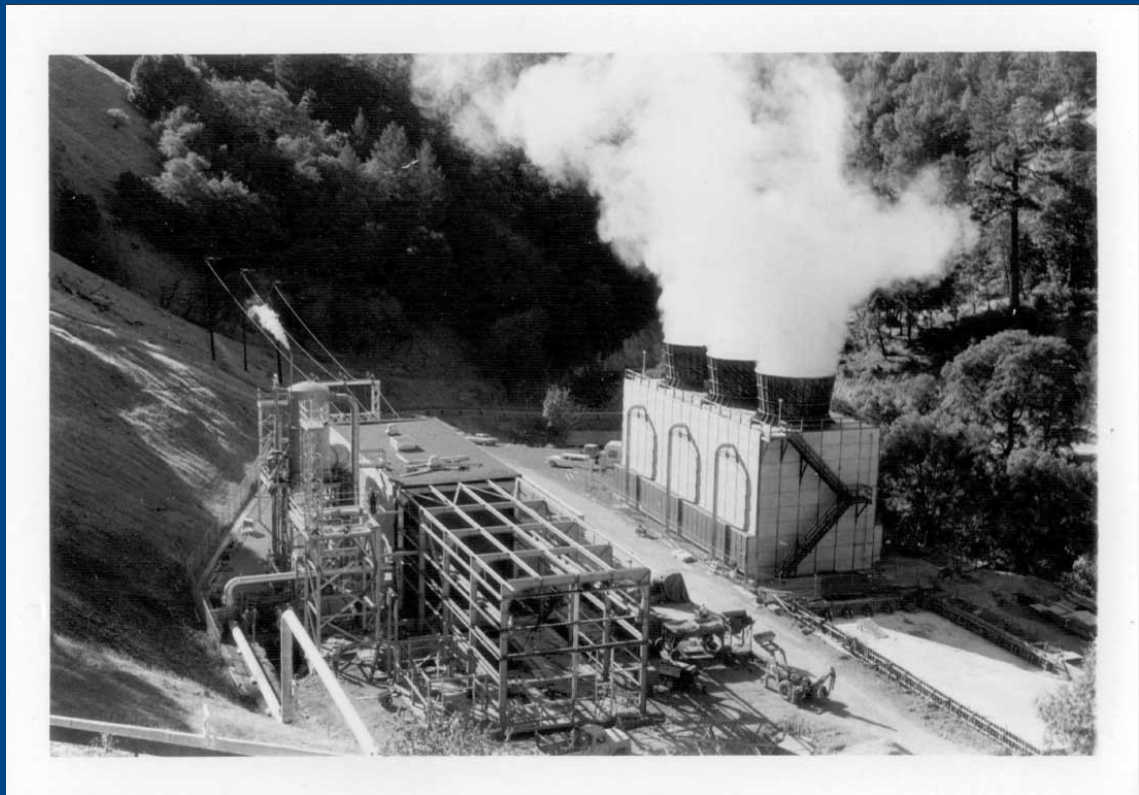
**RECENT
COMMISSION
DECISIONS ON
SIMILAR CASES**

Humboldt Bay Unit 3



- Humboldt Bay Power Plant Unit No. 3, located near Eureka, CA, was a natural circulation boiling water nuclear reactor.
- Began commercial operation in August, 1963
- Shut down in 1976 for a planned refueling outage.
- On May 21, 1976, the NRC issued an order modifying Unit 3's operating license based on new information about seismic activity and risk.
- Plant was prudently retired early. There was no emergency shut down. There were no engineering mistakes.
- Operator PG&E received 100% net investment value at 0% ROI.

PG&E Geysers 15



- Geysers geothermal generating facility started in 1960.
- Steam generation peaked and then fell dramatically, PG&E retired Unit 15 in 1989 for this reason.
- Prudent retirement. No engineering mistakes or imprudent management decisions.
- PG&E Received 100% net asset value of the plant with 0% ROI.

Other Plants Abandoned Due to Regulation or Risk Changes

- **SDG&E Encina 1, Silvergate and LNG facilities**
 - Prudent retirements due to Sunrise Powerlink completion
 - 100% Net investment returned, 0% ROI
- **Hill Street Water Facility**
 - Prudent retirement due to overcapacity and cost for upgrades
 - 100% Net Investment returned, 0% ROI
- **Mohave Generating Station 2005 Closure**
 - Prudent retirement due to Clean Air Act
 - 100% Net Investment returned, 0% ROI

Mohave Generating Station – 1985 Accident



- Mohave was a coal-fired power plant near Laughlin, NV operated primarily by SCE.
- In 1985, a weld in a high-pressure 30 inch diameter steam pipe ruptured, blasting steam over 1000°F through a six foot by 20 foot breach, damaging the control room and other areas of the plant. Six people were killed and ten other people were seriously injured.
- Commission investigation into this failure found that SCE acted unreasonably and imprudently.
- The Commission left it up to SCE to repair the plant and did not provide any monetary assistance, from ratepayers.
- The plant was not shut down permanently due to this failure, unlike SONGS. (But it was later retired prudently, due to Clean Air Act).

Helms Pumped Storage Project



- Located 50 mi east of Fresno, it uses Helms Creek and the pumped-storage hydroelectric method to generate electricity.
- Although largely successful, the "Lost Canyon Crossing" was initially a failure and resulted in litigation with the subcontractor(s).
- The Commission said "PG&E should not look to ratepayers in the first instance to bear any portion of the Lost Canyon reconstruction costs."
- We believe this "hands off" approach is appropriate for SONGS as well.

Songs Prop. Settlement is a Ripoff

CASE	PRUDENT?	Net Investment	ROI
Humbolt Bay PP Unit 3	YES Seismic Risks	100%	0%
PG&E Geysers 15	YES Steam Too Low	100%	0%
SDG&E Encina 1, Silvergate	YES No longer needed	100%	0%
Hill Street Water Facility	YES No longer needed	100%	0%
Mohave 2005 Closure	YES Clean Air Act	100%	0%
Mohave 1985 Accident	NO	0%	0%
Helms Lost Canyon Crossing	NO	0%	0%
SONGS Failure (Proposed Settlement)	NO	WE SAY: 29%* PS SAYS: 100%	WE: 0% PS: 2.50+%

* OUR PLAN PROVIDES 29% coverage of total loss but not by all by ratepayers, and we rely on SCE's insurance and MHI Litigation to cover the rest.

SCE was Imprudent

- **Presumption is imprudence;**
 - utility bears burden of proof of prudence in reasonableness reviews
 - SCE is avoiding the investigation and the opportunity to show they were prudent, and this the presumption prevails.
- **Common Law Doctrine of *res ipsa loquitur***
 - It was SCE's responsibility to build the steam generators that failed, and therefore they carry the burden of the fault.
- **Avoiding the License Amendment Process was Imprudent**
 - Cited by NRC for violating the “like for like” regulations (10 CFR 50.59)
 - This was the key SCE management decision that led to the failure
- **SCE knew about the problems long ago**
 - “as far back as 2005-2006, the joint Southern California Edison/Mitsubishi anti-vibration bar design team had identified worrisome problems with Edison’s proposed design for the steam generators MHI was contracted to build.” (Friends of the Earth)
 - SCE wanted to avoid a license amendment process and directed MHI to ignore the concerns.
- **Conclusion: Imprudent**

PART III: OUR POSITION...
**The Investigation should be
completed.**

**But, if a settlement is the only option,
we recommend the following...**

Steam Generator Replacement Project (SGRP)

- How useful were the RSGs?
 - Original Steam Generators (OSGs) would have lasted until 2016 according to 2005 estimates.
- Rebate to ratepayers for imprudent SGRP decision making.
 - SGRP was of no value prior to Feb 1, 2012 either.
 - Ratepayers should pay ZERO for this project!
- Penalty to SCE for imprudent emergency shutdown.
 - Costs were incurred due to the emergency shutdown that would not have happened had the original steam generators been used and the plant shut down without any emergency.
- Penalty to SCE for causing loss of the entire plant.
 - SCE should not be rewarded a penny for their imprudent practices that resulted in loss of the entire plant.

Base Plant

- Remaining Value of the Base Plant
 - “Nuclear Waste Operation” is the only valuable portion of the plant.
 - Includes Fuel Pools and related cooling, dry cask storage facility, Security, and related functions.
 - About 7.5% of the net asset value of the plant.
- Transfer the NWO to the Decommissioning Activity
 - Essentially “sell” this portion of the plant that is still useful to the decommissioning activity, taking funds from the Decommissioning Trusts. Our estimate is about \$420 million.
- Other than this, we propose:
 - No return of net asset value and 0% ROI from ratepayers.

CWIP - Construction Work in Progress

- Separate CWIP into NWO-related CWIP and non-NWO-related CWIP.
- NWO-CWIP - credited to the cost basis of the NWO and be used to calculate the value of the NWO so it can be transferred to the Decommissioning operation.
- Non-NWO CWIP - aggressively salvaged by SCE that will retain 100% of the proceeds. All other amounts are written off with the net asset value of the plant.
- Proposed Settlement suggests that CWIP that was not related to steam generators was still legitimate, we disagree. Only NWO-related CWIP is legitimate.

Materials and Supplies (“M&S”) Inventory

- Salvaged by the utility owners
- 100% of the proceeds to benefit the owners
- Places the incentives in the right place.
 - Utilities suggest 95% ratepayer / 5% utility split means they won't care if they even do this as 5% of the proceeds is almost nothing, and instead, this will be a giveaway to their friends and neighbors!

Nuclear Fuel Inventory

- Utilities say the net book value of nuclear fuel investments was \$593 million as of December 31, 2013.
- The utilities should salvage what they can and write off the rest as losses.
- Unit 2 should not have been refueled:
 - Fuel that SCE loaded into the core of Unit 2 in February, 2012 (\$121 million) should be disallowed any return of the net investment nor any ROI, because SCE should not have loaded that fuel into the core, as this occurred AFTER the emergency shutdown and AFTER the initial results were in regarding extensive tube wear indications in Unit 2.

Replacement Power

- Replacement power should be paid at market rates
- No foregone sales should be included
- This is mainly a bookkeeping entry that would only be useful if the plant was restarted, but now the question is moot.
- We can note that the entire replacement power proceeding was a waste of time and a distraction from the main issues in Phase 3.

Base O&M

("Operations and Maintenance")

- Separate into NWO-related and nonNWO-related. This will likely wind up with a result similar to what ORA suggested in Phase 1:
 - O&M costs that were not security- and safety-related be removed from rates—without explicitly adopting SCE's cost estimates, it estimated a disallowance of about \$192 million (\$283 million in 2012 base O&M costs minus \$91.5 million classified as security- and safety-related).
 - We accept this as a starting place for further negotiations and refinement.

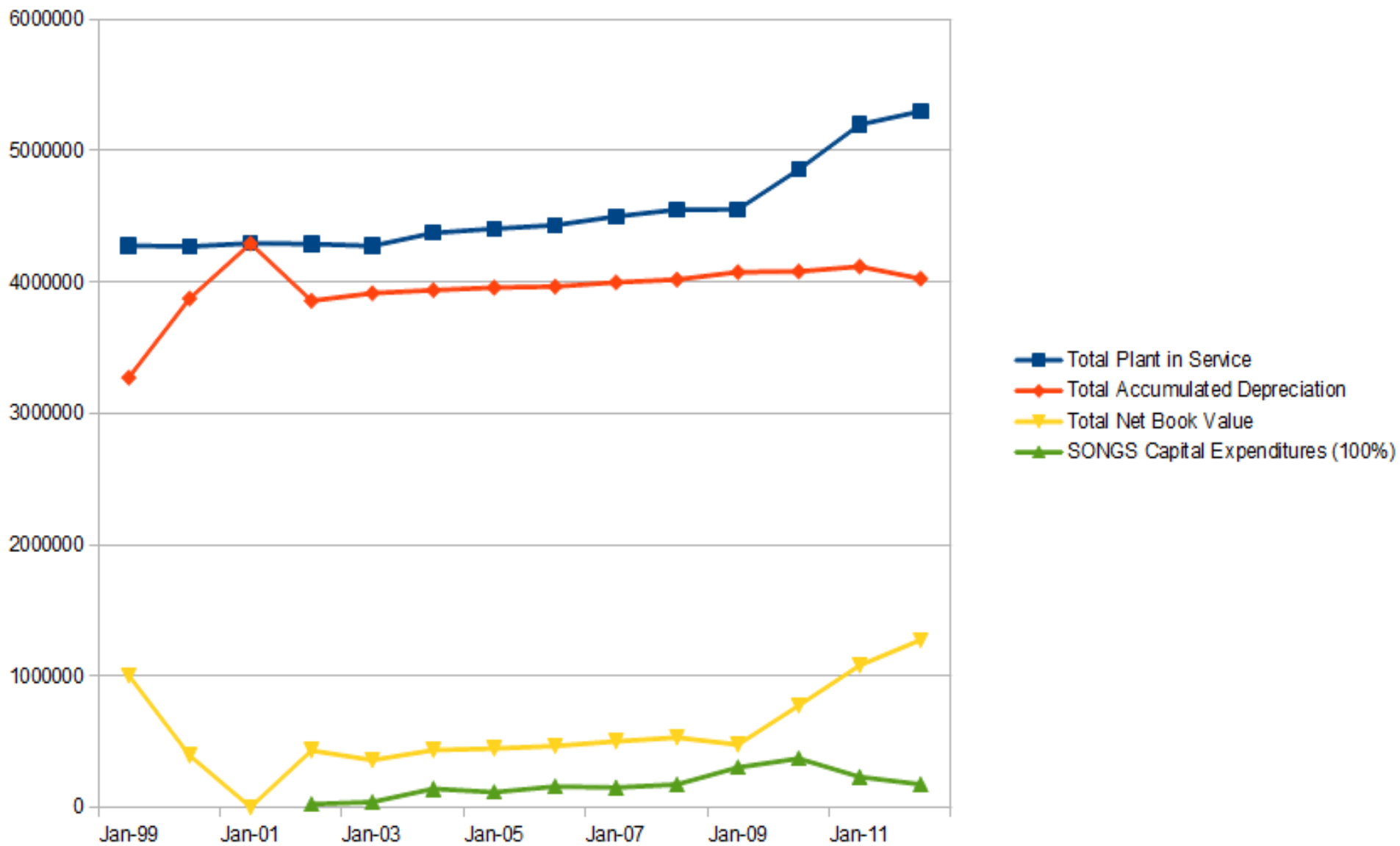
Third Party Recoveries

- Third-party recoveries are SCE's internal business and ratepayers should not be involved in this litigation nor in any way benefit.
- We have no reason to believe that SCE was not imprudent and so to take their side in this matter is ridiculous, as it implicitly sends the signal that they were prudent. There is nothing in the record to support that finding.
- Utilities suggest ratepayers should cover their losses up front, and then share in the proceeds of the insurance and MHI litigation.
- We suggest that we not cover their losses, and let them cover it themselves.
- Our suggestion: 0% involvement by ratepayers, utilities recover all they can from their insurance and subcontractors.
- This is similar to the Commission rulings in other engineering failures such as HELMS and MOHAVE.

SCE should not be “babied”

- Failed Projects Must Be Disincentivized
 - It is bad policy to allow investors to recover their principle plus a return on an imprudent abandonment.
 - This case is unprecedented.
- SCE may come out about even anyway
 - Will show the breakdown in an upcoming slide.
- Original Investors have already recovered the original investment in SONGS
 - Most of the net asset value is either a myth or recent investments predicting long extended life of the plant.

Original Investors Already Paid



SCE comes out even (or ahead) “on their own” (our proposal)

Item Description	Amount (\$Millions)
April 3, 2014, Proposed Settlement Ratepayer Bailout	3299
CDSO Suggested Ratepayer Cost (Replacement power and CWIP applied to NWO)	564
CDSO Proposed Decom. Fund Purchase of NWO including NWO-related CWIP	419
=Net Loss (pre salvaging and pre 3rd party recoveries)	2316
NEIL insurance maximum loss coverage	980
Salvaging Operation of O&M, Canceled CWIP, Fuel (CDSO Estimate)	300
MHI Suit Proceeds (CDSO Estimate, 25% of demand)	1000
=Net Loss after Salvaging and 3rd party recoveries	35

If we must settle...

Settlement Category	Recommendation	Proposed Settlement (PS)
1. Steam Generator Replacement Project (SGRP)	The entirety of the SGRP was imprudent and the RSGs did not last as long as the OSGs would have. Investors get \$0 at 0% ROI, plus refund to ratepayers the amount already paid pre-2/2012 (\$45.39 million savings over PS??)	Pre-2/2012 payments to investors were at full ROI and post 1/2012 amount written off.
2. Base Plant	\$420M paid from Decommissioning Trusts for NWO, including NWO-related CWIP (\$69M). Rest of the plant salvaged, and then written off by investors.	\$1.359G amortized over ten years at ~2.95%

If we must settle...

Settlement Category	Recommendation	Proposed Settlement (PS)
3. CWIP	NWO-related CWIP of \$69M + AFUDC added to sale of NWO to decommissioning trusts. Remaining CWIP stops earning AFUDC on Feb 1, 2012, then salvaged with 100% of proceeds to utilities, rest written off.	Canceled CWIP no longer earns AFUDC after Feb 1, 2012. Noncanceled CWIP continues to earn AFUDC. All CWIP is then treated like the Base Plant.
4. M&S	Salvaged with 100% of proceeds to investors.	Salvaged with proceeds split 95% to ratepayers and 5% to investors.
5. Nuclear Fuel	Salvaged with 100% of proceeds to investors.	Entire cost of fuel returned to investors from ratepayers with ROI equal to commercial paper. Salvage fuel encouraged with proceeds split 95/5 in favor of ratepayers.

Settlement Category	Recommendation	Proposed Settlement (PS)
6. Replacement Power	Eliminated from the "loss" as it is already paid by ratepayers at market prices, and no payment for "forgone sales". \$517M of replacement power is covered by ratepayers.	The same.
7&8. O&M	Split into NWO-related and nonNWO-related. We accept ORA's analysis stating that \$92M was safety and security, related to the NWO. Ratepayers cover this amount normal return. Ratepayers save about \$832M.	Split into Base O&M and Steam Generator Inspection and Repair. All O&M is covered up to Provisionally Authorized Rate Recovery amount, and no more. Total is \$940M.
9. Third Party Recoveries	SCE can pursue any entity it wants to in court or by settling, and retain 100% of any proceeds. This is really their problem, and the Commission and Ratepayers should stay out of it.	Return is split between ratepayers and investors using a very complex sharing model. There is no way to control or effectively monitor this. Utilities may realize something between \$458 million up to \$4 billion, and ratepayers may still see almost nothing based on the tiered structure and the fact that costs come off the top.

Settlements Compared

	PS-SCE	PS-SDGE	PS-TOTAL	CDSO POSITION Ratepayer Pays	CDSO POSITION Decom. Fund pays
1. RSG	0	0	0	-45.39	0
2. Base Plant	1115	244.5	1359.5	0	350
3. CWIP				0	69
4. M&S				0	0
5. Nuclear Fuel	394	88.3	482.3	0	0
6. Replacement Power	389	128.2	517.2	517.2	0
7&8. O&M	673	266.6	939.6	92	0
9. 3rd Parties	0	0	0	0	0
TOTAL			3298.6	563.8	419

TURN and other settling parties continue to claim that \$3.3 billion is a savings of \$1.4 billion, but that is a falsehood, since the \$1.4 billion is the reduction from the original absurd SCE request of \$4.7 billion.

UNDER THE SAME CONCEPT, our proposal saves ratepayers \$4.2 billion!

The Commission Should...

1. Immediately take the plant out of rates! The fact that ratepayers are still paying for this as if it were running is an embarrassment!
REFUND ALL RATES COLLECTED BACK TO FEB 1, 2012!
2. Deny approval of the Proposed Settlement of April 3, 2014.
3. Continue to process the investigation, which should not be discontinued, even if a settlement is reached!
4. Define a set of guidelines such as the "Proposed Mandatory Settlement Criteria".
5. If the settlement negotiations are to occur:
 1. appoint a magistrate judge, who can carry on frank discussions with all parties.
 2. Initiate additional settlement meetings with all parties so as to find a satisfactory settlement of this proceeding, which we believe will be along the lines of what we have proposed.

CONCLUSION

- \$3.3 Billion bailout is a rip-off, and has never been the case even in prudent retirements.
- OUR PROPOSAL:
 - **Saves Ratepayers \$4.2 billion** over the original SCE request.