

Settlement over nuclear plant shutdown to save ratepayers \$775M

By Mark Armao
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A long-standing dispute stemming from the failure of the San Onofre nuclear plant ended last month when plant owners and consumer attorneys agreed to a settlement that will save ratepayers \$775 million in costs related to the 2012 shutdown.

The agreement revises a 2014 settlement approved by the California Public Utilities Commission that passed \$3.3 billion of the estimated \$4.7 billion in costs related to the failure onto utility customers instead of shareholders.

The revised settlement, which requires CPUC approval, would also end a federal lawsuit filed

by the San Diego-based law firm Aguirre & Severson in 2014.

Under the settlement agreement, Southern California Edison and San Diego Gas & Electric will cease rate-recovery collections through February 2022, when the assessments were set to end under the original settlement.

"This is a win for the ratepayers because it means that they don't have to pay for San Onofre anymore when it's not producing electricity," said Michael Aguirre, owner and partner at Aguirre & Severson.

"They'll have, in the aggregate, [roughly \$775 million] to spend for something else," Aguirre added.

Edison, which owns 80 percent of the plant, also agreed to reim-

burse minority owner SDG&E for \$151 million of the \$775 million.

With a federal court hearing looming, the deal was announced last month after a settlement conference in San Francisco between attorneys for the utility companies and the consumer groups.

Aguirre, the former San Diego city attorney, sued the CPUC and Edison on behalf of Citizens Oversight in 2014, alleging that the initial deal represented an illegal taking of property.

The initial deal was questioned in part because some of its terms were sketched out in an undisclosed meeting between former CPUC President Michael Peevey and an Edison executive in a hotel room in Warsaw, Poland, in 2013.

Notes from the meeting were

seized from Peevey's home by state agents during an unrelated judge-fixing investigation.

Edison was subsequently fined \$16.7 million for the ex parte communications and related violations.

Aguirre's suit was rejected in U.S. District Court, but the 9th U.S. Circuit Court of Appeals took up the case, scheduling oral arguments for Feb. 13.

"When the CPUC head has met with the other side in Warsaw, Poland, I think that got the 9th Circuit's attention," Aguirre said.

"I think it offends most judges, who are very protective of the integrity of the court system," he added.

Following nearly 10 months of mediation between attorneys for

the utilities and the consumer groups, which included the Office of Ratepayer Advocates and The Utility Reform Network, the final settlement was reached with the help of Robert Fairbank of Phillips ADR.

"I was extremely pleased to be able to bring these two very complicated disputes to a successful resolution after nine months of hard-fought negotiation involving more than 10 parties," Fairbank said, adding that the settlement is likely one of the largest in the nation this year.

Aguirre said Fairbank pulled off a "miracle" in getting the various parties to strike a deal.

"Fairbank listened to everybody and made them feel like he understood their point of view," Aguirre

said.

"The numbers changed considerably over time ... but he kept the momentum going [and helped us] find rational pathways to a conclusion," he added.

The San Onofre Nuclear Generating Station was producing 2,200 megawatts of electricity until January 31, 2012, when a newly replaced steam generator leaked radiation, prompting the shutdown.

Edison claims the failure was caused by design flaws in the replacement steam generator, which was manufactured by Mitsubishi Heavy Industries.

In an arbitration case with Mitsubishi Heavy Industries, Edison was awarded \$125 million.

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