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New San Onofre deal reached between utilities, consumer groups

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Three-plus years after state regulators permitted Southern California Edison and San Diego Gas & Electric to start charging consumers billions of dollars for the failure of the San Onofre nuclear plant, utility executives and consumer advocates appear to have settled a long-running dispute over premature closure costs.

In a joint filing to the California Public Utilities Commission, key parties alerted regulators that mediation efforts paid off.

“The parties wish to make the following procedural communication,” Edison lawyer Henry Weissmann wrote to Judge Darcie Houck. “The parties have continued their mediated settlement discussions and anticipate serving a notice of settlement conference pursuant to Rule 12.1(b) within 15 days.”

Parties that signed off on the notice included Edison, SDG&E, the Utility Reform Network, the Alliance for Nuclear Responsibility, Citizens Oversight, and the utilities commission’s Office of Ratepayer Advocates.

Holding a settlement conference is the last step before announcing terms of a deal. The meetings allow other interested parties to weigh in on a proposal before it is submitted

to the commission for approval.



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Similar negotiations between Edison and TURN led to an agreement in 2014 that was approved by regulators later that year. But other groups complained they were shut out of the discussions and in 2015 it was disclosed that a framework for the deal had been outlined at an undisclosed meeting in Warsaw, Poland, in 2013.

San Diego attorney Michael Aguirre, who represents ratepayer Ruth Henricks and the Citizens Oversight advocacy group, sued the commission over its 2014 vote to allow the utilities to charge customers \$3.3 billion of the \$4.7 billion in costs related to the San Onofre plant closure.

He said Wednesday a new deal is all but formalized.

“There are several procedural steps that have to be taken and the public will come to understand the terms as we are permitted to disclose them under the rules,” Aguirre said. “I’m looking forward to the time to discuss in greater detail the terms and conditions of the settlement.”

Edison issued a brief statement saying it was among several parties to reach a preliminary agreement in the San Onofre case.

“Southern California Edison, along with other parties in the San Onofre nuclear plant closure proceeding, today advised a California Public Utilities Commission administrative law judge of their intent to serve notice of a settlement conference within 15 days,” spokeswoman Maureen Brown wrote in an email.

The company also alerted investors to the development through a U.S. Securities and Exchange Commission filing, although the five-page document warns shareholders that a decision is not final.

“There is no assurance that a settlement agreement will be signed, or if it is signed that it will be approved by the CPUC,” the SEC filing states. “Furthermore, even if a settlement agreement is signed, Southern California Edison Company cannot predict when the CPUC will reach a decision about its approval or disapproval.”

It is not clear how the settlement might affect a criminal investigation of the utilities commission, which has been under scrutiny by the Attorney General’s Office for its handling of the San Onofre plant failure and other proceedings. Backchannel dealings between regulators and utility executives are under review.

Also unclear is the agreement’s impact on a series of lawsuits Aguirre filed as a result of the San Onofre case, including a review by the 9th U.S. Circuit Court of Appeals and a state lawsuit seeking access to scores of San Onofre-related emails to and from the Governor’s Office.

The conceptual agreement comes after earlier mediation efforts failed to secure a deal last summer.

Even though neither side would discuss terms, the tentative deal likely involves suspending millions of dollars Edison and SDG&E have been charging customers every month under the 2014 commission decision.

The nuclear plant north of Oceanside leaked a small amount of radiation in January 2012, months after a steam generator replacement project was supposed to add decades to the life of the facility.

The settlement adopted by commissioners in 2014 effectively ended an investigation into what caused the plant breakdown. Last year, amid a looming federal court review and continuing criticism, the commission agreed to reconsider the division of costs.

According to Edison, the utility already recovered more than \$1.1 billion from ratepayers for the San Onofre breakdown.

SDG&E, which owns 20 percent of the shuttered nuclear plant, collected a proportionate amount of money from its customers.

Aguirre has been trying to stop those charges for years, through the commission, the courts and mediation.

Last summer, as the last round of mediation fizzled, he filed a motion requesting regulators suspend the monthly collections due to an improper meeting between Edison and former commission president Michael Peevey.

Aguirre said the private 2013 meeting in Warsaw, Poland, where Peevey and then-Edison executive Stephen Pickett sketched out a framework for settling the San Onofre costs at a hotel bar, was illegal and violated the due process rights of his clients.

“The plant has not been used or useful to utility customers since January 2012,” he wrote in the June filing. “There can be no more profiteering from this plant.”

Edison disclosed the Poland meeting nearly two years later than required by commission rules — days after The San Diego Union-Tribune reported that criminal

investigators found the Warsaw meeting notes during a search of Peevey's Los Angeles area home in early 2015.

The commission fined Edison \$16.7 million for 10 separate violations related to the Warsaw meeting.

The announcement Wednesday came two days after regulators released a revised schedule for the San Onofre proceeding that called for new hearings in April. If the deal is approved, that proceeding would likely be vacated.

Utility officials were anxious to avoid a fresh round of hearings because the \$680 million steam generator replacement project that led to the shutdown was never deemed a reasonable project even though the plant owners were permitted to start charging customers for their investment.

“Given the circumstances now before the commission, we have serious concerns as to whether the (2014) settlement meets the requirements of Rule 12.1(d),” the Monday ruling said. “We therefore will conduct the reasonableness review that the commission reserved the right to conduct.”

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