

PUBLIC UTILITIES COMMISSION

SAN FRANCISCO, CA 94102-3298



August 26, 2003

Advice Letter: 1716-E

Akbar Jazayeri
Director of Revenue and Tariffs
Southern California Edison Company
P O Box 800
Rosemead, CA 91770

SEP 03 2003
REVENUE & TARIFFS DEPT.

Reference: Amendment of qualified and nonqualified nuclear decommissioning trust agreements to reflect new nuclear regulatory commission regulations

Dear Mr. Jazayeri:

Advice Letter 1716-E is effective August 21, 2003 by Resolution E-3840. A copy of the advice letter is included herewith for your records.

Sincerely,

A handwritten signature in cursive script that reads "Paul Clanon".

Paul Clanon, Director
Energy Division

Filed: 6/20/03
Effective: 8/21/03
Resolution E-3840

jir

June 20, 2003

ADVICE 1716-E
(U 338-E)

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
ENERGY DIVISION

SUBJECT: **Amendment of the Southern California Edison Company Qualified and Nonqualified Nuclear Decommissioning Trust Agreements to Reflect New Nuclear Regulatory Commission Regulations**

Southern California Edison Company (SCE), on behalf of its Nuclear Facilities Decommissioning Master Trust Committee (Committee), hereby submits Amendment No. 1 of both the Qualified and Nonqualified Decommissioning Trust Agreements (Amendments)^{1/} for approval pursuant to Section 2.12 of the Qualified Trust Agreement and Section 2.10 of the Nonqualified Trust Agreement.

PURPOSE

This advice filing requests the California Public Utilities Commission (Commission) to approve the Amendments and to authorize the Executive Director to sign the amendments on behalf of the Commission. The Amendments revise SCE's decommissioning trust agreements (SCE Trust Agreements) to reflect the changes required by Nuclear Regulatory Commission (NRC) regulations effective December 24, 2003.

^{1/} Proposed Amendment No. 1 of the Southern California Edison Company Nuclear Facilities Qualified CPUC Decommissioning Master Trust Agreement For San Onofre and Palo Verde Nuclear Generating Stations and proposed Amendment No. 1 of the Southern California Edison Company Nuclear Facilities Nonqualified CPUC Decommissioning Master Trust Agreement For San Onofre and Palo Verde Nuclear Generating Stations are attached to Exhibit A.

BACKGROUND

In Order Instituting Investigation No. 86 (OII 86), the Commission conducted an extensive investigation, on its own motion, into alternative methods of financing the ultimate cost of decommissioning the nuclear power plants owned by California utilities.^{2/} In Decision (D.) 87-05-062, the Commission adopted externally managed trust funds as the investment vehicles for accruing funds for the ultimate decommissioning of the nuclear power plants owned by California utilities.^{3/} In that decision, the Commission also established guidelines for preparing these trust agreements.^{4/}

In response to D.87-05-062, SCE established two trusts for its nuclear decommissioning costs. The Qualified Trust was established as the vehicle to hold the decommissioning funds for contributions that qualify for an income tax deduction under Section 468A of the Internal Revenue Code, and the Nonqualified Trust was designed to hold the remaining funds. On November 25, 1987, the Commission approved the SCE Trust Agreements by Resolution E-3057. The Trusts were initially funded on February 2, 1988 and the SCE Trust Agreements have been amended and restated from time-to-time thereafter with Commission approval. The most recent trust restatements were approved by the Commission on December 19, 2002.^{5/}

On December 24, 2002, the NRC published revisions to 10 CFR 50.75,^{6/} which provide new guidance in the management of decommissioning trust funds. Decommissioning trust agreements must be amended to reflect the new provisions by December 24, 2003, one year after appearing in the Federal Register. The new requirements are largely a result of deregulation and the NRC's concern that some decommissioning trusts may no longer be subject to state regulatory oversight. Because SCE is an "electric utility" as defined in 10 CFR 2, however, the new regulations have minimal impact on the SCE Trust Agreements. In such cases, trust agreements must only be amended to include a requirement that no withdrawal will be made from the trusts unless the NRC is notified at least 30 days in advance and no written objection from the NRC is received during the 30-day period. However, this notice requirement does not apply if the withdrawal is made for decommissioning or trust administrative expenses. The SCE Trust Agreements already provide that the trust assets may only be used for such expenses.

^{2/} OII 86, January 21, 1981, p. 3.

^{3/} D.87-05-062, May 29, 1987, Ordering Paragraph No. 2, pp. 37-38.

^{4/} Id. Conclusions of Law 5 and 6, p. 37.

^{5/} Resolution E-3795.

^{6/} Federal Register, Final Rule 10 CFR Parts 50 and 72, 67 Fed. Reg. 78332 (December 24, 2002).

The proposed amendments of the SCE Trust Agreements attached to Exhibit A incorporate changes intended to address the new notice requirement of the revised NRC regulations. They were approved at the June 9, 2003 Committee Meeting.

PROCEDURAL INFORMATION

Amendment of the SCE Trust Agreements requires Commission approval. The Committee is authorized to amend the SCE Trust Agreements thirty days after filing a copy of the proposed amendments with the Commission provided no written objections are filed within that period. The relevant text of the two sections is identical, and states in part:

“The Committee may also amend this agreement thirty days after filing a copy of the proposed amendment with the CPUC. No proposed amendment may be made if written objections to a proposed amendment are filed within the thirty-day period. Any party making written objections to a proposed amendment shall serve the written objections with a certificate of service on the Company, the Committee, the Trustee, and the CPUC Staff on the same day the written objections are filed with the CPUC.”^{7/}

A copy of the Committee resolution approving the proposed amendments is attached as Exhibit A.

No cost information is required for this advice filing.

This advice filing will not increase or decrease any rate or charge, conflict with other schedules or rules, or cause the withdrawal of service.

EFFECTIVE DATE

The Amendments are proposed to be executed by the Company and the trustee upon approval of the Commission. This advice filing also requests that the Commission authorize the Executive Director to execute the Amendments on behalf of the Commission.

^{7/} See, §2.12, p. 11 of the Qualified Trust as restated November 1, 2002, and §2.10, p. 10 of the Nonqualified Trust as restated November 1, 2002.

NOTICE

Anyone wishing to protest this advice filing may do so by letter via U.S. Mail, facsimile, or electronically, any of which must be received by the Energy Division and SCE no later than 20 days after the date of this advice filing. Protests should be sent to:

IMC Program Manager
c/o Jerry Royer
Energy Division
California Public Utilities Commission
505 Van Ness Avenue, Room 4002
San Francisco, California 94102
Facsimile: (415) 703-2200
E-mail: jjr@puc.ca.gov

A copy should also be sent to the attention of the Director, Energy Division, Room 4004, (same address as above).

In addition, protests and all other correspondence regarding this advice filing should be sent by letter to the Company, the Committee and the Trustee and transmitted via facsimile or electronically to the attention of:

Akbar Jazayeri
Director of Revenue and Tariffs
c/o Emelyn Lawler
Southern California Edison Company
2244 Walnut Grove Avenue, Rm. 303
Rosemead, California 91770
Facsimile: (626) 302-4829
E-mail: Emelyn.Lawler@sce.com

Bruce Foster
Vice President of Regulatory Operations
c/o Karyn Gansecki
Southern California Edison Company
601 Van Ness Avenue, Suite 2040
San Francisco, California 94102
Facsimile: (415) 673-1116
E-mail: Karyn.Gansecki@sce.com

There are no restrictions on who may file a protest, but the protest must set forth specifically the grounds upon which it is based and shall be submitted expeditiously.

In accordance with Section III, Paragraph G, of General Order No. 96-A, SCE is mailing copies of this advice filing to the interested parties shown on the attached service list. Address change requests to the attached GO 96-A Service List should be directed to Emelyn Lawler at (626) 302-3985 or by electronic mail at Emelyn.Lawler@sce.com.

Further, in accordance with Public Utilities Code Section 491, notice to the public is hereby given by filing and keeping the advice filing open for public inspection at SCE's corporate headquarters.

For questions, please contact Dave Ertel at (626) 302-4494 or by electronic mail at David.Ertel@sce.com.

Southern California Edison Company

Akbar Jazayeri

AJ:mdm
Enclosures

**RESOLUTION OF THE
SOUTHERN CALIFORNIA EDISON COMPANY NUCLEAR
FACILITIES DECOMMISSIONING TRUST COMMITTEE**

RESOLUTION OF THE
SOUTHERN CALIFORNIA EDISON COMPANY
NUCLEAR FACILITIES DECOMMISSIONING TRUST COMMITTEE

Adopted: June 9, 2003

RE: Master Trust Agreement Amendments

WHEREAS, the Nuclear Regulatory Commission has adopted final regulations requiring amendment of the qualified and nonqualified master trust agreements and it has been proposed to amend master trust agreements as reflected in the amendments attached to this resolution as Exhibits 1 and 2; and


WHEREAS, it is necessary to submit the proposed amendments to the California Public Utilities Commission for approval;

NOW, THEREFORE, BE IT RESOLVED, that the proposed master trust amendments are approved in substantially the form presented to this Committee and that Alan J. Fohrer or W. James Scilacci is hereby authorized to execute the Amendments on behalf of the Committee, or to execute any other document consistent with the intent of this resolution, and to take such other action deemed necessary or appropriate in his discretion to implement the proposed master trust amendments and secure CPUC approval.

APPROVED:



Chairman



Counsel

AMENDMENT NO. 1

**SOUTHERN CALIFORNIA EDISON COMPANY
NUCLEAR FACILITIES QUALIFIED
CPUC DECOMMISSIONING MASTER TRUST AGREEMENT**

**FOR SAN ONOFRE AND PALO VERDE
NUCLEAR GENERATING STATIONS**

As Amended and Restated November 1, 2002

WHEREAS, the California Public Utilities Commission, the Southern California Edison Company, and Mellon Bank, N.A. (the "Parties") have executed the Southern California Edison Company Nuclear Facilities Qualified CPUC Decommissioning Master Trust Agreement for San Onofre and Palo Verde Nuclear Generating Stations as Amended and Restated November 1, 2002 (the "Master Trust Agreement") and the Parties desire to amend the Master Trust Agreement;

NOW, THEREFORE, the Master Trust Agreement is amended as provided herein below effective December 23, 2003.

The introductory text of Article II is amended to read as follows:

**II.
DISPOSITIVE PROVISIONS**

After payment of the expenses described in Section 6.01 hereof, the Trustee shall distribute the Master Trust as provided in this Article II. Except for payments or disbursements made pursuant to Section 2.01 or as otherwise permitted under paragraph 50.82(a)(8) of Title 10 of the Code of Federal Regulations, no disbursement or payment may be made from the Master Trust until written notice of the intention to make disbursement or payment

has been given to the Nuclear Regulatory Commission Director of the Office of Nuclear Regulation, or Director of the Office of Nuclear Material Safety and Safeguards, as applicable, at least 30 working days before the date of the intended disbursement or payment.

IN WITNESS WHEREOF, the Parties have executed this Amendment No. 1 effective December 23, 2003.

CALIFORNIA PUBLIC UTILITIES COMMISSION

By: _____
Title: _____

SOUTHERN CALIFORNIA EDISON COMPANY

By: _____ Attest: _____
Title: _____ Title: _____

MELLON BANK, N.A.

By: _____ Attest: _____
Title: _____ Title: _____

AMENDMENT NO. 1

**SOUTHERN CALIFORNIA EDISON COMPANY
NUCLEAR FACILITIES NONQUALIFIED
CPUC DECOMMISSIONING MASTER TRUST AGREEMENT**

**FOR SAN ONOFRE AND PALO VERDE
NUCLEAR GENERATING STATIONS**

As Amended and Restated November 1, 2002

WHEREAS, the California Public Utilities Commission, the Southern California Edison Company, and Mellon Bank, N.A. (the "Parties") have executed the Southern California Edison Company Nuclear Facilities Nonqualified CPUC Decommissioning Master Trust Agreement for San Onofre and Palo Verde Nuclear Generating Stations as Amended and Restated November 1, 2002 (the "Master Trust Agreement") and the Parties desire to amend the Master Trust Agreement;

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CALIFORNIA PUBLIC UTILITIES COMMISSION

By: _____
Title: _____

SOUTHERN CALIFORNIA EDISON COMPANY

By: _____
Title: _____

Attest: _____
Title: _____

MELLON BANK, N.A.

By: _____
Title: _____

Attest: _____
Title: _____