

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



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Implementing Senate Bill 846 Concerning
Potential Extension of Diablo Canyon
Power Plant Operations

R.23-01-007

**CALIFORNIA COMMUNITY CHOICE ASSOCIATION'S REPLY BRIEF ON
PHASE 1 TRACK 2 ISSUES**

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SUMMARY OF RECOMMENDATIONS

- The Commission should allocate Diablo Canyon Power Plant's (DCPP) resource adequacy (RA) attributes to all load-serving entities (LSE) contributing to the costs of DCPP's extended operation.
 - California Community Choice Association (CalCCA) does not object to Pacific Gas and Electric Company's (PG&E) proposal that Diablo Canyon's RA capacity should not be allocated to customers during months when the plant undergoes a known and/or foreseeable maintenance outage.
 - PG&E should be permitted to recover prudently incurred costs of DCPP substitution capacity provided pursuant to the California Independent System Operator tariff, following the pattern established for Cost Allocation Mechanism eligible resources in Decision 14-06-050.
 - While CalCCA maintains DCPP's RA attributes should be allocated to LSEs based on respective contributions to overall 12-month coincident peak demand (12-CP), CalCCA does not object to the allocation of DCPP's RA attributes to LSEs based on load share.
 - The Commission should require PG&E to offer an annual voluntary allocation of DCPP's greenhouse-gas (GHG)-free attributes to all Commission-jurisdictional LSEs contributing to the costs of DCPP's continued operation.
 - While CalCCA maintains DCPP's net costs should be allocated to LSEs based on respective contributions to 12-CP, CalCCA does not object to an equal cents per kilowatthour statewide non-bypassable charge, provided the Commission allocates the benefits associated with DCPP's extended operations to the LSEs whose customers fund DCPP's extension.
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Potential Extension of Diablo Canyon Power
Plant Operations.

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**CALIFORNIA COMMUNITY CHOICE ASSOCIATION’S REPLY BRIEF ON PHASE 1
TRACK 2 ISSUES**

The California Community Choice Association¹ (CalCCA) submits this Reply Brief on Phase 1 Track 2 issues in *Rulemaking (R.) 23-01-007 Implementing Senate Bill 846 Concerning Potential Extension of Diablo Canyon Power Plant Operations* pursuant to Rule 13.12 of the California Public Utilities Commission’s Rules of Practice and Procedure, the Administrative Law Judge’s (ALJ) August 14, 2023 E-mail Ruling, and the ALJ’s September 13, 2023 E-mail Ruling Partially Granting Request to Extend Deadlines in Phase 1 Track 2 of this proceeding.

In this proceeding, the Commission must determine whether the customers paying for Diablo Canyon Power Plant’s (DCPP) continued operation should receive the substantial benefits DCPP’s extension will generate.² The overwhelming majority of parties to this proceeding, including Pacific Gas and Electric Company (PG&E),³ agree Senate Bill (SB 846) authorizes the

¹ California Community Choice Association represents the interests of 24 community choice electricity providers in California: Apple Valley Choice Energy, Central Coast Community Energy, Clean Energy Alliance, Clean Power Alliance, CleanPowerSF, Desert Community Energy, East Bay Community Energy, Energy For Palmdale’s Independent Choice, Lancaster Choice Energy, Marin Clean Energy, Orange County Power Authority, Peninsula Clean Energy, Pico Rivera Innovative Municipal Energy, Pioneer Community Energy, Pomona Choice Energy, Rancho Mirage Energy Authority, Redwood Coast Energy Authority, San Diego Community Power, San Jacinto Power, San José Clean Energy, Santa Barbara Clean Energy, Silicon Valley Clean Energy, Sonoma Clean Power, and Valley Clean Energy.

² Assigned Commissioner’s Scoping Memo and Ruling at 6 (Apr. 6, 2023) (Phase 1: Track 2 Scoping Issue 5).

³ Ex. PG&E-04R at 2-24 line 35 to 2-25 line 2.

Commission to allocate DCP's benefits. Most of those parties, with the notable exception of PG&E, recommend the Commission allocate DCP's resource adequacy (RA) and greenhouse-gas free (GHG-free) attributes to the customers paying for DCP's extended operations. The table below demonstrates the parties' broad support for attribute allocation.

Table 1: Party Positions in Opening Briefs Regarding Allocation of DCP's Attributes

Party	Should the Commission allocate DCP's RA attributes?	Should the Commission allocate DCP's GHG-Free attributes?
CalCCA	Yes ⁴	Yes ⁵
Southern California Edison (SCE)	Yes ⁶	Yes ⁷
San Diego Gas & Electric Company (SDG&E)	Yes ⁸	Yes ⁹
Alliance for Retail Energy Markets and the Direct Access Customer Coalition (AReM/DACC)	Yes ¹⁰	Yes ¹¹
Green Power Institute (GPI)	Yes ¹²	Yes ¹³
Public Advocates Office at the California Public Utilities Commission (Cal Advocates)	Yes ¹⁴	Did not discuss in opening brief
Small Business Utility Advocates	Yes ¹⁵	
Bear Valley Electric Service, Inc., Liberty Utilities, and Pacificorp (Small and Multi Jurisdictional Utilities or SMJU)	Yes ¹⁶	
Pacific Gas and Electric Company (PG&E)	No ¹⁷	No ¹⁸
Women's Energy Matters (WEM)	No ¹⁹	No ²⁰
Alliance for Nuclear Responsibility (A4NR)	No ²¹	No ²²

⁴ CalCCA Opening Brief at 14-33.

⁵ *Id.* at 33-39.

⁶ SCE Opening Brief at 9-22.

⁷ *Id.* at 22-26.

⁸ SDG&E Opening Brief at 7-9.

⁹ *Id.*

¹⁰ AReM/DACC Opening Brief at 2-11.

¹¹ *Id.* at 12.

¹² GPI Opening Brief at 11-16.

¹³ *Id.*

¹⁴ Cal Advocates Opening Brief at 7-11.

¹⁵ SBUA do not specify support for the allocation of any particular attribute associated with DCP's extended operations, but state "the benefits and costs of the extended operations of Diablo Canyon must be

Should the Commission adopt the majority position, it would effectively continue the status quo: customers currently paying for DCP's operations receive the benefits of DCP's attributes, and costs and benefits would continue to flow evenly to customers once DCP enters extended operations. Importantly, by allocating DCP's attributes, the Commission would avoid further squeezing the State's RA market—which, as the record demonstrates²³ and as PG&E admits,²⁴ is already tight—thereby partially offsetting the substantial costs customers will bear to fund DCP's extension.

In contrast, if the Commission were to decide not to allocate DCP's attributes consistent with PG&E's recommendation, it would increase customers' bills by approximately **\$200 million**²⁵ per year (a total of over \$1 billion over the five-year extended operations period) while

allocated among all impacted load-serving entities and their respective customers.” SBUA Opening Brief at 5.

¹⁶ SMJU do not specify support for the allocation of any particular attribute associated with DCP's extended operations, but state “equitable principles support providing DCP benefits to all LSEs paying for DCP's extended operations”, and “to the extent customers pay for DCP extended operations, customers should receive benefits for such payments[.]” SMJU Opening Brief at 14.

¹⁷ PG&E Opening Brief at 41-46.

¹⁸ *Id.* at 46-47.

¹⁹ WEM Opening Brief at 14.

²⁰ *Id.*

²¹ A4NR Opening Brief at 10.

²² *Id.*

²³ *See* CalCCA Opening Brief at 14-21.

²⁴ Ex. PG&E-04R at 2-19, lines 28-29; Tr. at 252:22-25 (Sep. 5, 2023) (witness Kikuyama stating “[PG&E]. . . does agree there is tightness within the RA market.”).

²⁵ *See* CalCCA Opening Brief at 5 (calculating \$200 million in annual costs from RA procurements if DCP's RA is not allocated); *see also* SCE Opening Brief at 18 (estimating DCP's RA value as “approximately \$202 million per year”); A4NR Opening Brief at 10 (acknowledging that “[d]eclining to credit LSEs with resource adequacy capacity that may be valued at more than \$1 billion over the five-year extended operations period may add to the already steep price for the reliability enhancements sought by SB 846[.]”).

providing zero commensurate increase in reliability. This would undermine the intent of the General Assembly, which specifically contemplated DCP's RA being a "ratepayer relief measure."²⁶ The Commission should therefore reject PG&E's position and provide customers the relief the Legislature intended by allocating DCP's RA and GHG-free attributes to LSEs paying for extended operations.

I. THE COMMISSION SHOULD ENSURE CUSTOMERS PAYING FOR DCP'S EXTENDED OPERATIONS RECEIVE THE BENEFITS DCP'S EXTENSION WILL GENERATE (SCOPING ISSUE 5)

A. Allocating DCP's RA attributes will offset some of the burden ratepayers will bear to fund DCP's continued operation, consistent with the Legislature's intent

PG&E opposes the allocation of DCP's RA attributes primarily because the utility believes RA allocation would undermine the Legislature's intent.²⁷ PG&E misinterprets that intent. As CalCCA explained in its opening brief, the plain language of Senate Bill (SB) 846—which is the best indicator of legislative intent²⁸—indicates the Commission has the authority to allocate the attributes associated with DCP's extended operations,²⁹ which even PG&E concedes.³⁰ Moreover, to the extent the Commission finds ambiguity in the statute's plain language, the bill's

²⁶ Senate Rules Committee, Office of Senate Floor Analyses, SB 846, Sep. 1, 2022, at 11, at: https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=202120220SB846#; see also Senate Third Reading, SB 846, Aug. 28, 2022, at 12, at: https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=202120220SB846#.

²⁷ PG&E Opening Brief at 41-46.

²⁸ *Center for Biological Diversity v. Dep't of Conservation, etc.*, 36 Cal. App. 5th 210, 231 (3d Dist. 2019).

²⁹ CalCCA Opening Brief at 7-8.

³⁰ Ex. PG&E-04R at 2-24 line 35 to 2-25 line 2.

legislative history makes it clear the Legislature intended DCPD to count towards LSEs' short-term RA compliance obligations as a ratepayer relief measure.³¹

PG&E nevertheless argues allocating DCPD's RA would be inconsistent with legislative direction to improve statewide reliability because, according to the utility, allocation would provide LSEs a "procurement reprieve."³² PG&E is incorrect. The record does not demonstrate any relationship, let alone any conflict, between allocating DCPD's RA and the State's policy goal of improving statewide reliability. Importantly, allocation would not provide any LSE a "procurement reprieve" because integrated resource planning, not short-term RA compliance obligations, drives LSEs' long-term procurement of new clean energy resources.³³ As PG&E witness Kikuyama acknowledges, under the statutory framework, LSEs cannot consider DCPD (or its RA attributes) as a part of the IRP framework.³⁴ Far from threatening reliability, therefore, allocating DCPD's RA would merely maintain the status quo—in which customers paying for DCPD's operation receive the benefit of DCPD's RA attributes—until new capacity resources are built and in operation. As the California Energy Commission's (CEC) September 2023 Draft Report finds, "[t]here is no mix of resources that can adequately replace DCPD's 2.2 GW of net peak capacity by 2025. However, continued investments by LSEs in clean resources to meet IRP procurement orders, which includes resources to replace DCPD, can position the state to replace

³¹ CalCCA Opening Brief at 9; *see also* Cal Advocates Opening Brief at 9-10 (stating "SB 846's plain language and legislative history show that allocation of RA benefits is consistent with SB 846").

³² PG&E Opening Brief at 41.

³³ CalCCA Opening Brief at 21-24; *see* SCE Opening Brief at 16 (stating "new capacity resources are not developed through the short-term RA market, which is where DCPD's attributes will be used. New resources are developed through procurement authorizations in the IRP proceeding[.]" (citations omitted)).

³⁴ Ex. PG&E-04R at 3-6, lines 15-16 (citing Cal. Pub. Util. Code § 454.53(b)(5)).

the energy and capacity provided by DCPD by or before 2030.”³⁵ Those “continued investments” to meet IRP procurement orders will continue notwithstanding the allocation of DCPD’s RA attributes because, again, DCPD’s RA attributes *cannot be considered* in the IRP framework per SB 846.

PG&E also opposes the allocation of DCPD’s RA attributes because if DCPD’s RA continues to be counted towards LSEs’ System RA compliance obligations, PG&E will be required to procure RA substitution capacity in the event DCPD undergoes an outage.³⁶ PG&E suggests those substitute capacity transactions “could further tighten the capacity market[.]” PG&E’s argument is a red herring. First, RA allocation would not impose any new requirement on PG&E; the utility is already responsible for procuring substitution capacity when DCPD undergoes an outage.³⁷ Second, any “tightening” of the capacity market during DCPD’s maintenance outage pales in comparison to the immense strain the capacity market would experience if DCPD’s capacity were *removed* from that market altogether as PG&E proposes. Put differently, the benefits of keeping DCPD in the system RA market and allocating the plant’s RA attributes easily overwhelm the incremental substitution capacity costs PG&E would incur in that scenario. In response to a CalCCA discovery request, PG&E estimated it would incur between \$25.7 and \$35.6 million in substitution capacity costs if DCPD’s RA is allocated to LSEs.³⁸ Assuming PG&E’s estimate is correct, the benefits of allocating DCPD’s RA attributes are approximately **8 times**

³⁵ Attachment to ALJ E-Mail Ruling Incorporating the CEC’s Draft Senate Bill 846 Diablo Canyon Power Plant Extension Cost Comparison into the Proceeding Record, Draft CEC Report at 2 (Sep. 2023).

³⁶ PG&E Opening Brief at 43-44.

³⁷ CalCCA Opening Brief at 27.

³⁸ Ex. CalCCA-04 (PG&E response to CalCCA discovery request 3.15).

greater than PG&E's projected substitution capacity costs (\$200 million in avoided RA, versus \$25.7-\$35.6 million in substitution capacity costs, if DCP's RA is allocated).

B. CalCCA does not object to PG&E's recommended modifications to CalCCA's RA allocation proposal

While PG&E does not support the allocation of DCP's RA attributes, it proposes the Commission make a series of modifications to CalCCA's RA allocation proposal should the Commission decide to adopt that proposal. First, PG&E recommends the Commission "clarify that Diablo Canyon's RA capacity should not be allocated to customers during months when there is a known and/or foreseeable maintenance outage."³⁹ CalCCA does not object to PG&E's proposed clarification. In response to a CalCCA discovery request, PG&E clarified it generally schedules known and/or foreseeable outages at DCP during times when the grid is less likely to be constrained.⁴⁰ PG&E specifically noted according to its long-range plan for DCP's refueling outages those outages will occur in the spring (April or May) or in the fall (October or November)⁴¹ and not during the summer months during which the RA market tends to be particularly tight.

Second, PG&E recommends the Commission authorize the utility to fully recover any administrative and RA and/or energy procurement costs associated with meeting substitution capacity obligations when DCP undergoes an unplanned or extended outage.⁴² CalCCA agrees PG&E should be permitted to recover prudently incurred costs of DCP substitution capacity provided pursuant to the California Independent System Operator tariff, following the pattern established for Cost Allocation Mechanism (CAM) eligible resources in Decision 14-06-050.⁴³

³⁹ PG&E Opening Brief at 45.

⁴⁰ Ex. CalCCA-04 (PG&E response to CalCCA discovery request 3.09).

⁴¹ *Id.*

⁴² PG&E Opening Brief at 45.

⁴³ CalCCA Opening Brief at 29.

Third, PG&E recommends DCP's RA attributes should be allocated to Commission-jurisdictional LSEs based on load share, and not on the LSEs' contribution to combined 12-month coincident peak demand (12-CP) as CalCCA recommends.⁴⁴ While allocating DCP's RA attributes based on LSE contribution to 12-CP is both straightforward and consistent with the Commission's approach to allocating the RA attributes of CAM resources, CalCCA does not object to the allocation of DCP's RA attributes based on load share. The Commission should not, however, consider any adjustments to allocation amounts in Phase 2 of this proceeding as PG&E proposes.⁴⁵ PG&E and other parties to this proceeding have had ample opportunity to make proposals and develop a record with respect to attribute allocation in Phase 1 Track 2 of this proceeding. The Commission should not require parties to expend additional resources in re-litigating the same issue in Phase 2 of this proceeding.

C. The Commission should direct PG&E to offer voluntary allocations of DCP's GHG-free attributes to the LSEs whose customers fund DCP's extended operations

PG&E opposes the allocation of DCP's GHG-free attributes for two reasons, neither of which are supported by the record or by California law. First, PG&E states "GHG-free attribute allocation can reduce the urgency with which LSEs need to act to make progress towards the state's GHG-free goals."⁴⁶ The only support PG&E offers in support of its speculation is another equally

⁴⁴ PG&E Opening Brief at 45. Cal Advocates also supports the allocation of DCP's RA attributes to LSEs based on load share. Cal Advocates Opening Brief at 11. Cal Advocates' position, however, appears to be predicated on its assumption that the costs associated with DCP's continued operation will be allocated to LSEs based on load share. Cal Advocates Opening Brief at 11 (stating "Cal Advocates recommends that the Commission allocate the RA benefits to each LSE in the same proportion as the LSE's share of the potential extended operations cost burden under SB 846.") CalCCA agrees the costs and benefits associated with DCP's extended operations should be allocated to LSEs in a consistent manner, but proposes both costs and benefits be allocated to LSEs based on contribution to 12-CP.

⁴⁵ PG&E Opening Brief at 46.

⁴⁶ *Id.*

speculative assertion: PG&E claims allowing LSEs to report DCP's GHG-free attributes on their Power Content Labels⁴⁷ “can reduce the pressure on LSEs to engage in incremental procurement to meet the State’s long-term decarbonization goals[.]” The Commission should disregard PG&E’s theoretical concern. Integrated resource planning—not the CEC’s Power Source Disclosure program—drives LSEs’ clean energy procurement activities.⁴⁸ Moreover, by law, the Commission, the CEC, and the California State Air Resources Board cannot consider DCP’s GHG-free attributes in achieving the State’s zero carbon targets.⁴⁹ There is, therefore, no risk of the Commission compromising the State’s decarbonization targets by allocating DCP’s GHG-free attributes.

Second, PG&E asserts allocation of GHG-free attributes would “result in additional costs on PG&E[.]”⁵⁰ As a threshold matter, as SCE points out, “[t]he potential administrative burden to implement any allocation framework should not outweigh the fundamental fairness of reimbursing LSEs and their customers for part of the substantial costs of extended operations.”⁵¹ But even putting aside that question of fundamental fairness, the record indicates PG&E’s concern is overstated. Almost half of the 49 LSEs statewide are in PG&E’s service territory and are therefore already eligible to receive an allocation of GHG-free energy from DCP under PG&E’s existing annual voluntary allocation process.⁵² Expanding PG&E’s existing interim allocation process to

⁴⁷ LSEs disclose the mix of resources used to provide electricity during the previous calendar year, as well as the GHG emissions intensity of their respective generation portfolios, on “Power Content Labels” under the CEC’s Power Source Disclosure program.

⁴⁸ Ex. CalCCA-03 at 15:5-7.

⁴⁹ Cal. Pub. Util. Code §§ 454.53(a), (b)(5); § 712.8(q).

⁵⁰ PG&E Opening Brief at 46.

⁵¹ SCE Opening Brief at 26.

⁵² CalCCA Opening Brief at 35-36 (describing PG&E’s existing “interim allocation process”, originally approved in Resolution E-5046 and modified in Resolution E-5111).

the remaining Commission-jurisdictional LSEs would simply require PG&E to enter into additional standard form agreements with LSEs outside of its service territory.⁵³ PG&E may be reluctant to incur any incremental cost associated with expanding its existing allocation process, but that reluctance should not dissuade this Commission from ensuring customers funding DCP's extended operations receive a fair deal.

II. CALCCA DOES NOT OBJECT TO AN EQUAL CENTS PER KILOWATTHOUR STATEWIDE RATE (SCOPING ISSUE 4)

In order to ensure the costs and benefits of DCP's extended operations flow to customers as consistently as possible, PG&E should allocate DCP's net costs to LSEs based on their respective contribution to the group's combined 12-CP, assuming the Commission allocates DCP's benefits to LSEs based on 12-CP.⁵⁴ The investor-owned utilities, however, favor a statewide non-bypassable charge (NBC) designed as an equal cents per kilowatthour (kWh) rate across all LSEs, even if the resultant cost allocation does not match the manner in which the Commission allocates DCP's benefits.⁵⁵ While CalCCA maintains the most appropriate methodology for allocating DCP's net costs to LSEs would be based on each LSE's respective contribution to 12-CP, CalCCA does not object to an equal cents per kWh statewide NBC—provided the benefits associated with DCP's extended operations are allocated to the LSEs whose customers contribute to the costs of DCP's extension.

III. CONCLUSION

For the reasons described in CalCCA's briefs and testimony, the Commission should adopt CalCCA's recommendations.

⁵³ *Id.* at 36.

⁵⁴ *Id.* at 41.

⁵⁵ PG&E Opening Brief at 31-35; SCE Opening Brief at 6; SDG&E Opening Brief at 2-4.

Respectfully submitted,



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