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

Implementing Senate Bill 846 Concerning Potential Extension of Diablo Canyon Power Plant Operations	Rulemaking 23-01-007

CALIFORNIA COMMUNITY CHOICE ASSOCIATION'S OPENING COMMENTS ON THE PROPOSED DECISION CONDITIONALLY APPROVING EXTENDED OPERATIONS AT DIABLO CANYON NUCLEAR PLANT PURSUANT TO SENATE BILL 846

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SUBJECT INDEX

TABLE OF AUTHORITIES

Statutes

Rules of Practice and Procedure

SUMMARY OF RECOMMENDATIONS

- The Commission should clarify that the accounting treatment described in these comments is the appropriate method of accounting for the volumetric performance fee collected from customers pursuant to Section 712.8(f)(5) of the California Public Utilities Code.

- The Commission should memorialize the agreement between CalCCA and PG&E that overcollections through the statewide non-bypassable charge should be returned to customers via an offset to the following year's statewide non-bypassable charge (NBC), and that such an offset could reduce the statewide NBC or cause it to go below zero.

- The Commission should clarify that a process that mirrors the CAM process—and not the CAM itself—should be used to allocate the costs and benefits of DCPP's extended operations.

- The Commission should direct PG&E to file a Tier 2 advice letter no later than June 1 of each year detailing the allocation of Resource Adequacy benefits associated with Diablo Canyon Power Plant's extended operations for the forecast year.

- The Commission should revise the PD to reflect the fact that CalCCA did not take a position on the presentment of the statewide NBC on customers' bills.

- The Commission should adopt the changes to the findings of fact, conclusions of law, and ordering paragraphs listed in Appendix A to these comments.

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The California Community Choice Association[1] (CalCCA) submits these comments on the *Proposed Decision Conditionally Approving Extended Operations at Diablo Canyon Nuclear Plant Pursuant to Senate Bill 846* (PD) pursuant to Rule 14.3 of the Rules of Practice and Procedure of the California Public Utilities Commission.

I. INTRODUCTION

CalCCA appreciates the Administrative Law Judge's significant efforts in crafting a well-balanced, reasoned PD that carefully addresses several thorny issues and resolves them in a manner that protects bundled and unbundled customers across the state. CalCCA largely supports the PD but offers these comments to recommend modest revisions that will help avoid unnecessary confusion or litigation in the future.

[1] California Community Choice Association represents the interests of 24 community choice electricity providers in California: Apple Valley Choice Energy, Ava Community Energy, Central Coast Community Energy, Clean Energy Alliance, Clean Power Alliance, CleanPowerSF, Desert Community Energy, Energy For Palmdale's Independent Choice, Lancaster 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.

First, CalCCA supports the PD's conclusion that the volumetric performance fee collected pursuant to Section 712.8(f)(5) of the California Public Utilities Code must be used to pay for Diablo Canyon Power Plant (DCPP) extended operations costs before it is used for any other purpose.[2] CalCCA however requests the Commission clarify the accounting treatment of the volumetric performance fee consistent with these comments in order to minimize party disputes over that issue in the upcoming annual DCPP Forecast cases.

Second, CalCCA and Pacific Gas & Electric Company (PG&E) agreed in this proceeding there should be no floor on the statewide DCPP non-bypassable charge (NBC) and that customer overcollections in one year should be returned to customers as an offset to the NBC over the following year.[3] CalCCA and PG&E agreed that in certain circumstances, that offset could result in the NBC going below zero (*i.e.*, a credit to customers). The PD, however, does not recognize or memorialize CalCCA and PG&E's agreement on this issue. Doing so in the final decision will provide clarity for parties to the DCPP Forecast cases going forward, avoiding the potential to need to litigate that portion of the calculation of the DCPP NBC on an annual basis.

Third, the PD's conclusion to allocate both DCPP's costs[4] and resource adequacy (RA) benefits[5] using a process modeled on the Cost Allocation Mechanism (CAM) process is sound and well-supported by the record. However, in a number of different places, the PD should be revised to make clear that DCPP is not a CAM resource per se, and that PG&E should use a process that mirrors the CAM process in order to allocate DCPP costs and benefits, but not the CAM itself.

2 PD at 90.

3 CalCCA-03 at 20; CalCCA Opening Br. at 42-44.

4 PD at 73.

5 *Id*. at 83-84.

Fourth, while the PD correctly concludes DCPP's RA benefits should be allocated as a load decrement using a process modeled on the CAM process, the Order should direct PG&E to file a Tier 2 advice letter no later than June 1 of each year detailing those allocations for the forecast year. This would allow load-serving entities to understand their DCPP RA allocations and procure necessary RA in a timely manner in advance of their annual RA showings.

Fifth, the PD incorrectly suggests that CalCCA took a position on the presentment of the NBC on customers' bills. CalCCA presented testimony regarding the calculation of the DCPP NBC, but not on its presentment on customers' bills. The Final Decision should correct this small error.

II. THE PD CORRECTLY CONCLUDES THAT THE VOLUMETRIC PERFORMANCE FEE COLLECTED PURSUANT TO SECTION 712.8(F)(5) MUST BE USED TO PAY FOR DCPP EXTENDED OPERATIONS COSTS BEFORE BEING USED FOR ANY OTHER PURPOSE, BUT THE ORDER SHOULD CLARIFY THE ACCOUNTING TREATMENT OF THOSE COSTS

The PD concludes the volumetric performance fee to be collected from ratepayers pursuant to Section 712.8(f)(5) of the California Public Utilities Code must be used to pay for DCPP extended operations costs before it is used for any other purposes.[6] The PD further states the volumetric fee revenue should be recorded to the Diablo Canyon Extended Operations Balancing Account as a credit.[7]

CalCCA agrees with the PD's conclusions on this issue. Requiring the volumetric performance fee be used to pay for DCPP extended operations costs before being used for "critical public purpose priorities" will save customers money. Importantly, CalCCA agrees with TURN that permitting PG&E to use the volumetric performance fee towards "critical public purpose

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6 PD at 90.

7 *Id*. at 91.

priorities" would create the risk of the utility using those funds to backfill underspending on work unrelated to DCPP that is approved in other proceedings, or allocating those funds to cover overspending on expense categories that would otherwise be the responsibility of shareholders.[8] The PD correctly diagnoses this risk, and by directing PG&E to use the volumetric performance fee to pay for DCPP extended operations costs before it is used for any other purpose, ensures PG&E cannot use those funds to inappropriately benefit its shareholders.

The PD, however, is susceptible to more than one interpretation with respect to the appropriate accounting treatment of the volumetric performance fee. In the interest of clarity, CalCCA requests the Commission clarify the appropriate accounting treatment of the volumetric performance fee.

Table 1 below illustrates CalCCA's interpretation of the appropriate accounting treatment of the volumetric performance fee, based on the PD's discussion at pages 90-91 ("PG&E shall record the full amount of the volumetric fee revenue it receives as a DCPP Extended Operations Balancing Account (DCEOBA) credit."), and using hypothetical numbers under three different CAISO market revenue scenarios. Under this interpretation, the volumetric performance fee does not impact net costs, but is a revenue source from customers, *i.e.*, it is included in the total NBC charges to customers. As shown in Scenarios 1 and 2, when DCPP net costs exceed CAISO market revenue, customer revenue collected through the volumetric performance fee and the NBC is used to offset DCPP's costs. Scenario 2 demonstrates that if DCPP net costs are less than the total volumetric performance fee revenue, there would be surplus revenue available for use toward public purpose priority projects. Scenario 3 demonstrates that if DCPP net costs are below CAISO

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8 *See id*. at 105, citing TURN-02 at 13.

market revenue, the excess CAISO market revenue would be passed back to customers and PG&E would also have surplus revenue available from the volumetric performance fee.

Table 1: Interpretation of Volumetric Performance Fee Accounting

Line	Category	Scenario 1 DCPP Net Costs are Above Market	Scenario 2 DCPP Net Costs are Above Market	Scenario 3 DCPP Net Costs are Below Market
1	DCPP Operating Costs	$1,000,000	$1,000,000	$1,000,000
2	Guaranteed Fixed Payment	$100,000	$100,000	$100,000
3	CAISO Market Revenue	($800,000)	($1,000,000)	($1,200,000)
4	**DCPP Net Costs**	**$300,000**	**$100,000**	**($100,000)**
5	Volumetric Performance Fee Revenue	$200,000	$200,000	$200,000
6	Additional NBC Revenue	$100,000	$0	($100,000)
7	**Total NBC Revenue from Customers**	**$300,000**	**$200,000**	**$100,000**
8	*Surplus Revenue From VPF*	*$0*	*$100,000*	*$200,000*
9	*Surplus Market Revenue*	*$0*	*$0*	*$100,000*

While CalCCA believes the accounting approach illustrated in Table 1 above—under which the volumetric performance fee is accounted for as customer revenue that reduces the need for additional NBC charges—is appropriate, the PD's discussion at pages 106-107 ("PG&E shall add the revenue collected pursuant to Section 712.8(f)(5) to its forecast of each year's market revenues . . . appearing in the DCEOBA.") may be interpreted to require a different application of the volumetric performance fee. CalCCA therefore requests the Commission clarify that the volumetric performance fee revenue is included in the NBC revenue from customers and will be recorded as a credit to the DCEOBA to first offset net DCPP costs.

III. THE ORDER SHOULD MEMORIALIZE THE AGREEMENT BETWEEN CALCCA AND PG&E ON HOW OVERCOLLECTIONS THROUGH THE STATEWIDE NBC SHOULD BE RETURNED TO CUSTOMERS

PG&E and CalCCA agree that excess CAISO market revenue should be returned to customers in PG&E's service territory.[9] Where forecasted CAISO market revenue exceeds DCPP's annual costs, the statewide NBC would be set at zero, but the NBC specific to PG&E's service territory could be negative as a result of the return of excess market revenues to customers in PG&E's service territory.[10]

Nevertheless, in certain circumstances, PG&E might *over-collect* the statewide NBC from customers, requiring a refund to customers. In those scenarios, the overcollection should offset the following year's statewide NBC, which would reduce the statewide NBC, and may even cause it to go below zero (requiring a credit to customers).

For instance, if DCPP's actual net costs are lower than the costs PG&E forecasted, retail customers will have paid too much, resulting in over-collections that should be refunded to customers.[11] Similarly, if actual DCPP costs and CAISO market revenues are equal to the amounts PG&E forecasted, but PG&E's retail sales are higher than forecast, retail customers would again have paid too much, and PG&E should refund that over-collection to customers.[12] As another example, if DCPP's actual costs and retail sales are equal to the forecasted amounts, but actual market prices result in CAISO market revenue that is higher than the forecast (but still lower than

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[9] CalCCA-03 at 18:15-17.

[10] *Id*. at 18:6-14.

[11] *Id*. at 18:21-19:1.

[12] *See id*. at 19:4-14.

actual costs), retail customers would have paid too much, and PG&E should refund that over-collection to customers.[13]

CalCCA witness Dickman's Phase 1 Track 2 rebuttal testimony illustrated these examples. It also cited to discovery in which PG&E agreed with CalCCA's approach.[14] In situations where PG&E over-collects the statewide NBC from customers, CalCCA and PG&E agree the overcollection should offset the next year's statewide NBC, and could even cause that NBC to go below zero.[15] No party disputes CalCCA and PG&E's understanding of—and agreement on—this issue.

The PD, however, does not address this aspect of the NBC where it discusses DCPP extended operations ratesetting. Specifically, it does not mention CalCCA and PG&E's agreement that overcollections through the statewide NBC should be returned to customers through an offset to the following year's NBC, including possible credits to customers when the offset causes the NBC to go below zero. The Commission should add the factual findings and conclusions of law in Appendix A[16] to reflect CalCCA and PG&E's agreement on this issue and avoid uncertainty in future DCPP Forecast cases.

IV. THE ORDER SHOULD CLARIFY DCPP IS NOT A CAM RESOURCE

The PD directs the allocation of both DCPP's costs[17] and RA benefits[18] using a process that mirrors the CAM process for ratesetting and conveying RA attributes. CalCCA applauds the

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13 *See* CalCCA-03 at 19:15-20:6.

14 *See id*., Attachment A (PG&E supplemental response to CalCCA data request 2.20).

15 CalCCA-03 at 20:8-12; CalCCA Opening Brief at 42-44.

16 *See* Appendix A to these comments.

17 PD at 73.

18 *Id*. at 83-84.

PD for its careful analysis and reasoned conclusions with respect to the allocation of both the costs and benefits associated with DCPP's extended operations and agree that the existing CAM process is a sensible way to make sure both costs and benefits flow evenly to customers.

However, in a handful of places, the PD appears to suggest DCPP is a CAM resource. Those places include:

- At page 73, the PD states: "The process for allocating these eligible costs to the LSEs *within* each IOU's territory should use the Cost Allocation Mechanism (CAM), as recommended by CalCCA and others."

- At page 74, the PD states: "Use of the CAM also aligns well with cost allocation among IOUs based on their share of 12-month peak coincident demand."

- At page 74, the PD states: "Because LSEs are familiar with CAM and it is a proven mechanism for allocating costs among the LSEs in a large electrical corporation's territory, it is reasonable to use the CAM to allocate DCPP extended operations costs within each IOU's territory. Each large electrical corporation shall use the CAM, as defined in D.06-07-029 and subsequent decisions, to allocate its own share of the DCPP extended operations costs to LSEs in its territory."

- At page 83, the PD states: "Allocating DCPP-related RA benefits using the CAM would therefore be efficient and requiring the least amount of new program design."

- At page 84, the PD states: "In order to make RA benefit allocation efficient and consistent with existing mechanisms, CalCCA's proposal is adopted, and RA benefits of DCPP extended operations, once allocated to each large electrical corporation, shall be allocated to LSEs as a load decrement using the CAM process."

- At page 84, the PD states: "Therefore, this decision concludes that using the CAM to distribute RA benefits to LSEs will account for the substitution capacity costs cited by PG&E."

- At page 90, the PD states: "The Commission is granted the authority to determine the nature of the DCPP extended operations NBC, and the Commission exercises that authority in this decision by: . . . (3) utilizing the CAM to allocate costs and benefits of DCPP extended operations among LSE customers within the territories of each of the large electrical corporations."

- At page 91, the PD states: "The allocation of these attributes among the LSEs of each large electrical corporation should utilize the CAM."

- At page 99, the PD states: "This decision previously determined that the CAM should be used to allocate DCPP extended operations costs and benefits within the service territories of PG&E, SCE, and SDG&E . . ."

- At page 99-100, the PD states: "Therefore, the Diablo Canyon Extended Operations Cost Forecast proceeding shall annually: (1) determine the allocation of costs, volumetric fee revenue, and benefits of DCPP extended operations among the large electrical corporations; (2) utilize the CAM to determine the price of the volumetric NBC to be charged by each of the large electrical corporations; and (3) utilize the CAM to determine the allocation of RA benefits among the LSEs in each large electrical corporation's service territory."

- At Finding of Fact 39, the PD states: "Allocating DCPP-related benefits as a load decrement using the CAM process requires the least amount of new program design."

- At Finding of Fact 40, the PD states: "Using the CAM to distribute RA benefits to LSEs accounts for substitution capacity costs."

- At Conclusion of Law 28, the PD states: "Each large electrical corporation should use the CAM, as defined in D.06-07-029 and subsequent decisions, to allocate its own share of the DCPP extended operations costs to LSEs in its territory."

- At Ordering Paragraph 9, the PD states: ". . . the resource adequacy benefits associated with Diablo Canyon Nuclear Power Plant extended operations shall be allocated . . . among all load-serving entities subject to the Commission's jurisdiction in each utility's territory as a load decrement using the Cost Allocation Mechanism process, in each of PG&E's annual Diablo Canyon Nuclear Power Plant Extended Operations Cost Forecast applications."

Given that DCPP is technically not a CAM resource (its costs will not be recorded to the New System Generation Balancing Account, and will not be recovered through the CAM), the Order should clarify that a process that mirrors the CAM process—and not the CAM itself—should be used to allocate the costs and benefits of DCPP's extended operations. CalCCA recommends revisions to the places listed above within the body of the PD, as well as to the findings of fact, conclusions of law and ordering paragraphs in Appendix A attached hereto to reflect this change.[19]

V. THE ORDER SHOULD DIRECT THE ALLOCATION OF THE RESOURCE ADEQUACY BENEFITS ASSOCIATED WITH DIABLO CANYON NUCLEAR POWER PLANT VIA A TIER 2 ADVICE LETTER FILED NO LATER THAN JUNE 1 OF EACH YEAR

While the PD correctly directs the allocation of DCPP's RA benefits as a load decrement using a process modeled on the Cost Allocation Mechanism process, the PD requires that allocation occur in each of PG&E's annual DCPP Extended Operations Cost Forecast applications. As CalCCA explained in its comments on the Order Instituting Rulemaking, however, LSEs submit annual filings on October 31 demonstrating their System, Local and Flexible RA procurement for the coming compliance year.[20] That means LSEs—including CCAs—will make their RA showings for the 2025 compliance year by October 31, 2024.[21] In order for an LSE to timely procure the RA resource necessary to meet its compliance obligations, it must know the RA it will be allocated from DCPP several months in advance of making its RA showing.[22] Thus, in. order to ensure that all LSEs have the information they need to procure necessary RA and make timely RA showings for the 2025 compliance year, the Order should direct PG&E to file a Tier 2 advice letter no later than June 1 of each year detailing the allocation of RA benefits associated with DCPP's extended operations for the forecast year. CalCCA proposes modifications to Ordering Paragraph 9 to reflect this change.[23]

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[19] *See* Appendix A to these comments.

[20] *See* California Community Choice Association's Verified Comments on Order Instituting Rulemaking to Consider Potential Extension of Diablo Canyon Power Plant Operations in Accordance with Senate Bill 846 at 6-7 (Feb. 21, 2023).

[21] *Id.*

[22] *Id.*

[23] *See* Appendix A to these comments.

VI. THE ORDER SHOULD REVISE THE PD TO REFLECT THAT CALCCA DID NOT TAKE A POSITION ON THE PRESENTMENT OF THE STATEWIDE NBC ON CUSTOMERS' BILLS

Finding of Fact 48 in the PD states that CalCCA took a position on the presentment of the statewide NBC on customers' bills. The PD (and parties) misunderstand CalCCA's testimony. CalCCA witness Dickman's opening testimony took positions on the recording of extended operations costs and the allocation of those costs across service territories and customer classes, but it did not make any recommendations regarding the manner in which LSEs should include or present that charge on customers' bills.[24] Finding of Fact 48 should be revised accordingly.

VII. CONCLUSION

CalCCA appreciates the Administrative Law Judge's efforts in resolving the several complex issues in this proceeding and respectfully requests the Commission adopt the revisions discussed in these comments and detailed in Appendix A, attached hereto.

Respectfully submitted,

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November 15, 2023

24 CalCCA-01 at 29:3-31:6.

APPENDIX A

Pursuant to Rule 14.3(b) of the Commission's Rules of Practice and Procedure, CalCCA provides this Appendix setting forth proposed changes to the *Proposed Decision Conditionally Approving Extended Operations at Diablo Canyon Nuclear Power Plant Pursuant to Senate Bill 846*, including proposed changes to the findings of fact, conclusions of law and ordering paragraphs. CalCCA's proposed revisions appear in underline and strike-through.

Findings of Fact

- Modify Finding of Fact 39 as follows: "Allocating DCPP-related RA benefits as a load decrement using ~~the~~ a process that mirrors the CAM process requires the least amount of new program design."
- Strike Finding of Fact 40 in its entirety and replace with the following: PG&E has experience procuring substitute capacity for CAM resources.
- Modify Finding of Fact 48 as follows: "The large electric IOUs ~~and CalCCA~~ provided various recommendations in this proceeding concerning how the DCPP extended operations NBC should appear on customer bills."
- Add Finding of Fact X: Because the statewide non-bypassable charge will be set based on forecasted expenses and revenues, it is possible lower than forecasted costs, higher than forecasted retail collections, higher than forecasted CAISO market revenue or other actual conditions will cause retail customers to be overcharged and require a refund via a reduced or negative statewide NBC.

Conclusions of Law

- Modify Conclusion of Law 28 as follows: "Each large electrical corporation should use a process that mirrors the CAM process, as defined in D.06-07-029 and subsequent decisions, to allocate its own share of the DCPP extended operations costs to LSEs in its territory."
- Modify Conclusions of Law 36 as follows: "It is reasonable to allocate RA benefits to LSEs as a load decrement using a process that mirrors the CAM process, once RA benefits have been allocated to each large electrical corporation on the basis of 12-month coincident peak demand."
- Modify Conclusion of Law 51 as follows: "The Diablo Canyon Extended Operations Cost Forecast proceeding should: (a) determine the allocation of costs and benefits of DCPP's extended operations among the large electrical corporations; (b) utilize a process that mirrors the CAM process to determine the price of the volumetric NBC to be charged by each of the large electrical corporations; and (c) utilize a process that mirrors the CAM process to determine the allocation of RA benefits among the LSEs in each large electrical corporation's territory."
- Add Conclusion of Law X: Where the statewide non-bypassable charge results in an overcollection in one year, the overcollection should be returned to customers as an offset to the statewide non-bypassable charge in the following year.

- Add Conclusion of Law X: Where overcollections through the statewide non-bypassable charge are returned to customers in the following year, there is no floor on the statewide non-bypassable charge, and the non-bypassable charge can be negative.
- Add Conclusion of Law X: PG&E should be allowed to recover the costs of procuring substitute capacity DCPP similar to how it recovers the costs of procuring substitute capacity for its CAM resources.

Ordering Paragraphs

- Modify Ordering Paragraph 9 as follows: "Excepting Bear Valley Electric Service, Inc., Liberty Utilities, and PacifiCorp d/b/a Pacific Power, the resource adequacy benefits associated with Diablo Canyon Nuclear Power Plant extended operations shall be allocated among Pacific Gas and Electric Company (PG&E), Southern California Edison Company, and San Diego Gas & Electric Company on the basis of 12-month coincident peak load, and then among all load-serving entities subject to the Commission's jurisdiction in each utility's territory as a load decrement using a process that mirrors the Cost Allocation Mechanism process~~, in each of PG&E's annual Diablo Canyon Nuclear Power Plant Extended Operations Cost Forecast applications~~. PG&E must file a Tier 2 advice letter demonstrating the year-ahead allocation among PG&E, SCE, and SDG&E no later than June 1 of each year."