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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 COMMENTS ON THE PROPOSED DECISION CONDITIONALLY APPROVING EXTENDED OPERATIONS AT DIABLO CANYON NUCLEAR PLANT PURSUANT TO SENATE BILL 846

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SUMMARY OF RECOMMENDATIONS

- Any costs resulting from the prioritization of replacement resources for Diablo Canyon Nuclear Power Plant (DCPP) should be recovered from all load-serving entities (LSE), including Pacific Gas and Electric Company (PG&E), because all LSEs will benefit from the allocation of DCPP's Resource Adequacy (RA);

- The Commission should reject PG&E's proposal to reconsider RA allocations in Phase 2 of this proceeding; and

- PG&E should present its extended operations applications in the Major Work Categories, not the Electric Utility Cost Group format.

I. INTRODUCTION

The California Community Choice Association[1] (CalCCA) submits these reply 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.

Opening comments demonstrate parties' broad support for the well-reasoned PD, including the PD's conclusions that Diablo Canyon Nuclear Power Plant's (DCPP) resource adequacy (RA) and greenhouse gas-free energy (GHG-free) benefits should be allocated during extended operations. Pacific Gas and Electric Company (PG&E), the primary opponent of benefit allocation in this proceeding, barely devotes two sentences of its opening comments to opposing the PD's conclusions on benefit allocation. Instead, PG&E recommends certain changes to the PD assuming the Commission allocates DCPP's RA benefits during extended operations. In particular, PG&E requests the Commission: (1) suspend RA allocations during outages at DCPP; (2) allow PG&E to recover all administrative and RA and/or energy procurement costs associated with meeting substitution capacity obligations—including all penalties and costs borne by non-DCPP resources—if RA is allocated during outages; (3) clarify that Commission Staff, not PG&E, should perform RA allocations, and (4) consider adjustments to LSEs' RA allocations in Phase 2 of this proceeding in order to address the "increased costs borne by PG&E service territory customers."[2]

CalCCA does not object to the Commission suspending RA allocations from DCPP during known or foreseeable maintenance outage months, or to PG&E recovering the prudently-incurred costs of DCPP substitution capacity procured for an unplanned outage. CalCCA also agrees it is reasonable for Commission Staff to perform RA allocations consistent with the process and timeline established for CAM resources. However, PG&E further proposes: "[a]ny costs incurred to prioritize DCPP to the detriment of PG&E's bundled customers should be equitably allocated among all **non-PG&E LSEs** with cost responsibility for DCPP's extended operations."[3] The Commission should reject this proposal. PG&E bundled customers will benefit from receiving an allocation of DCPP RA, and as such, all LSEs (including PG&E) that benefit from DCPP's RA should share any downstream costs associated with allocation (including penalties). The

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[1] California Community Choice Association represents the interests of 24 community choice electricity providers in California, listed at footnote 1 in CalCCA' Opening Comments on the PD.

[2] PG&E Opening Comments on the PD at 9-12.

[3] *Id.* at 11 (emphasis added).

Commission should also reject PG&E's request that the Commission consider adjustments to RA allocations in Phase 2 of this proceeding because PG&E had ample opportunity to make proposals and develop a record with respect to attribute allocation in Phase 1 of this proceeding.

While these reply comments respond primarily to PG&E's proposed changes to the PD's conclusions regarding benefit allocation, CalCCA also responds briefly to three other narrow issues raised in opening comments. First, while CalCCA supports the allocation of DCPP's extended operations costs based on coincident peak demand (12-CP), CalCCA does not object to PG&E's proposal that a single equal cents-per-kWh charge be established in each IOU's respective service territory (after the IOU-specific revenue requirement is allocated based on 12-CP). Second, the Commission should reject PG&E's opposition to the PD's treatment of the volumetric performance fee. While PG&E argues that the fee cannot be used to benefit shareholders, the PD ensures PG&E cannot use spending on "critical public purpose priorities" to shore up shareholder profits. Third, CalCCA agrees with PG&E that applications utilize the Major Work Category (MWC) and not the Electric Utility Cost Group (EUCG), format.

II. REPLY COMMENTS ON BENEFIT AND COST ALLOCATION ISSUES

A. PG&E Should Be Permitted To Recover The Prudently-Incurred Costs of Substitution Capacity, But Any Costs Resulting from Prioritizing DCPP Should Be Paid by All LSEs Including PG&E

PG&E requests authority to recover all administrative and RA and/or energy procurement costs associated with meeting substitution capacity obligations, including all penalties and costs borne by non-DCPP resources, should the Commission require PG&E to allocate DCPP's RA capacity during outages.[4] PG&E is permitted to recover prudently-incurred substitution capacity costs for CAM-eligible resources, per D.14-06-050. PG&E should recover its prudently-incurred DCPP-related substitution capacity costs in a similar manner, assuming the Commission concludes DCPP's RA should be allocated following a process that mirrors the CAM process.

However, PG&E also proposes that only non-PG&E LSEs be forced to cover the downstream costs (including any penalties) resulting from the prioritization of DCPP-replacement over RA capacity for bundled customer purposes.[5] That proposal is not equitable. All LSEs (including PG&E) benefit from the allocation of DCPP's RA, and all LSEs (including PG&E) should have to pay for any costs (including downstream costs) resulting from allocation. To the

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4 PG&E Opening Comments at 11.

5 *Id.*

extent PG&E seeks clarification from the Commission that it should be permitted to prioritize the procurement of capacity for its bundled customers over procuring replacement resources for DCPP (in the unlikely scenario those two needs compete), CalCCA does object to that clarification.

B. The Commission Should Not Revisit RA Allocations in Phase 2

Despite failing to propose any specific RA allocations in this proceeding, PG&E alleges the PD "errs by not considering the applicability of §712.8(q) of the California Public Utilities Code, which permits the CPUC to consider the higher cost to customers in PG&E's service territory as a part of any attribute allocation."[6] PG&E asks the Commission to consider adjustments to RA allocations in Phase 2 of this proceeding.[7] The Commission should reject this proposal. Parties have expended significant resources litigating every aspect of RA allocation in this Phase. Moreover, the RA allocation methodology adopted in the PD is reasonable and consistent with § 712.8(q) because customers in PG&E's service territory are entitled to the excess revenues from DCPP. Parties should not be forced to expend additional resources retreading RA allocation in Phase 2.

C. PG&E Proposals to Which CalCCA Does Not Object

The list below briefly summarizes certain PG&E proposals to which CalCCA does not object.

- PG&E recommends the Commission should "suspend RA allocations during any month in which there is an outage or when an existing outage is extended beyond the planned period, so that the operational and safety needs of DCPP are not compromised in favor of reducing RA compliance obligations of LSEs."[8] As a preliminary matter, PG&E's recommendation differs from the proposal it made in its rebuttal testimony[9] and opening brief,[10] where it recommended the Commission suspend RA allocations during *known or foreseeable* maintenance outage months. CalCCA does not object to the suspension of RA allocation during known or foreseeable maintenance outage months, because as PG&E clarified in response to a CalCCA discovery request, the utility generally schedules known and/or foreseeable outages at DCPP during times

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6 PG&E Opening Comments at 11-12.
7 *Id*.
8 PG&E Opening Comments on the PD at 9.
9 PG&E-04R at 2-26:2-4.
10 PG&E Opening Brief at 45.

when the grid is less likely to be constrained.[11] During an unplanned outage, PG&E should procure substitution capacity (and recover costs of replacement resources, as discussed above).

- PG&E recommends that any RA allocations from DCPP be implemented by Commission Staff and not by PG&E. PG&E notes that under the CAM mechanism, it is the Commission, and not the utility, that allocates debits/credits to non-utility load serving entities (LSE).[12] CalCCA does not object to PG&E's proposal. In opening comments on the PD, CalCCA recommended PG&E file a Tier 2 advice letter by June 1 of each year making year-ahead allocations among PG&E, SCE and SDG&E.[13] CalCCA agrees Energy Division should carry out further allocations to LSEs within each IOU's service territory, and should do so on the same timeline as CAM, which will allow LSEs to receive the information they need to make timely year-ahead RA showings.
- The PD directs the allocation of DCPP's extended operations costs based on 12-CP. PG&E recommends a minor revision to the PD's conclusion—it supports the allocation of DCPP's annual revenue requirement among IOUs based on 12-CP, but an equal cents-per-kWh rate for each IOU service territory.[14] CalCCA supports the allocation of DCPP's costs based on 12-CP so that DCPP's costs and benefits flow evenly to customers, but does not object to a single cents-per-kWh charge across each service territory once RA is allocated to IOUs based on 12-CP.

III. REPLY COMMENTS ON OTHER ISSUES

A. The Commission Should Adopt The PD's Conclusions with Respect to The VPF

Cal. Pub. Util. Code § 712.8(s)(1) prohibits PG&E from paying out to shareholders the compensation it receives from the Volumetric Performance Fee (VPF) it collects from ratepayers pursuant to § 712.8(f)(5). § 712.8(s)(1) further requires PG&E use VPF revenue on certain "critical

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[11] Ex. CalCCA-04 (PG&E response to CalCCA discovery request 3.09). PG&E specifically noted according to its long-range plan for DCPP's refueling outages those outages will occur in the spring (April or May) or in the fall (October or November) and not during the summer months during which the RA market tends to be particularly tight.

[12] PG&E Opening Comments at 11.

[13] CalCCA Opening Comments at 10.

[14] PG&E Opening Comments at 12-13.

public purpose priorities" to the extent it is not needed for Diablo Canyon. Without additional guardrails, however, VPF revenue could nevertheless benefit PG&E's shareholders rather than its ratepayers. If PG&E were permitted to use VPF revenue towards "critical public purpose priorities" before offsetting the costs of DCPP's operations, those revenues could be used to backfill underspending on investments approved in other proceedings. It also risks PG&E allocating those revenues to cover overspending on other investments (as a result of poor management or other imprudent actions) that would otherwise have been covered by shareholders.[15] Thus, even if SB 846 requires PG&E use the VPF revenue towards specific investments, that spending may nevertheless allow PG&E to pay dividends to shareholders *it would not have been able to pay in the absence of VPF revenue*.

PG&E argues the language of § 712.8(s)(2) "precludes PG&E shareholders from earning a rate of return on investments using these payments" and "precludes PG&E from spending the volumetric payments received on projects for which PG&E has already requested and received cost recovery in rates."[16] The promise is empty, however, because—as PG&E has noted in other proceedings—cash is effectively fungible. In its Application to transfer non-nuclear generation assets to Pacific Generation LLC (PacGen), PG&E observed it is infeasible to track or "earmark" proceeds from its sale.[17] PG&E has not demonstrated that tracking VPF revenues would be feasible, nor explained how it would earmark VPF revenues to ensure those revenues are not used to shore up shareholder earnings. The Commission should therefore adopt the PD's conclusions with respect to the VPF and clarify the accounting of that fee consistent with CalCCA's opening comments.[18]

B. PG&E Should Present Extended Operations Applications in The MWC Format, Not EUCG Format

PG&E asks the Commission to "strike the requirement that PG&E present its upcoming 2024 extended operations application in the EUCG format."[19] The Commission should approve this request. PG&E should present its extended operations applications in the MWC format, consistent with other filings.

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15 *See* CalCCA Opening Comments at 3-4 (citing PD at 105; TURN-02 at 13).
16 PG&E Opening Comments at 2.
17 *See* A.22-09-018, CalCCA Opening Br. at 61-62 (citing PG&E's response to CalCCA discovery request 1.04).
18 *See* CalCCA Opening Comments at 4-5.
19 PG&E Opening Comments at 15.

IV. CONCLUSION

For the reasons described in CalCCA's comments on the PD and in these reply comments, CalCCA continues to respectfully request the Commission adopt the PD with the modifications described in the Appendix to CalCCA's opening comments.

Respectfully submitted,

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