

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



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Application of Pacific Gas and Electric
Company to Recover in Customer Rates the
Costs to Support Extended Operation of
Diablo Canyon Power Plant from September
1, 2023 through December 31, 2025 and for
Approval of Planned Expenditure of 2025
Volumetric Performance Fees

(U 39 E)

Application No. 24-03-018

**CALIFORNIA COMMUNITY CHOICE ASSOCIATION'S
PROTEST TO THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY**

Evelyn Kahl
General Counsel and Director of Policy
CALIFORNIA COMMUNITY CHOICE
ASSOCIATION
One Concord Center
2300 Clayton Road, Suite 1150
Concord, CA 94520
Telephone: (510) 980-9459
E-Mail: regulatory@cal-cca.org

Nikhil Vijaykar
Tim Lindl
KEYES & FOX LLP
580 California Street, 12th Floor
San Francisco, CA 94104
Telephone: (408) 621-3256
E-mail: nvijaykar@keyesfox.com
tlindl@keyesfox.com

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SUMMARY OF RECOMMENDATIONS

- The California Public Utilities Commission should not consider Pacific Gas and Electric Company's (PG&E) proposal to modify the Commission-approved methodology for allocating the Resource Adequacy and Greenhouse Gas-Free benefits of Diablo Canyon Power Plant's extended operations in this proceeding.
- The Commission should set PG&E's application for hearing.
- The Commission should modify PG&E's proposed procedural schedule consistent with CalCCA's recommendations.

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Application of Pacific Gas and Electric Company to Recover in Customer Rates the Costs to Support Extended Operation of Diablo Canyon Power Plant from September 1, 2023 through December 31, 2025 and for Approval of Planned Expenditure of 2025 Volumetric Performance Fees

(U 39 E)

Application No. 24-03-018

**CALIFORNIA COMMUNITY CHOICE ASSOCIATION'S
PROTEST TO THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY**

The California Community Choice Association¹ (CalCCA) hereby protests the relief sought in the above-captioned *Application of Pacific Gas and Electric Company (PG&E) to Recover Costs to Support Extended Operation of Diablo Canyon Power Plant from September 1, 2023 through December 31, 2025 and for Approval of Planned Expenditure of 2025 Volumetric Performance Fees (U 39 E)* (Application) pursuant to Rule 2.6 of the Rules of Practice and Procedure of the California Public Utilities Commission.

The California Public Utilities Commission (Commission) and parties enter unfamiliar territory in this proceeding. Through its Application, PG&E requests, for the first time, approval of rates intended to recover the forecasted costs of extended operations at Diablo Canyon Power

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 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.

Plant (DCPP). The Application requires the Commission and parties to evaluate PG&E’s forecasted costs and revenues; analyze PG&E’s proposed accounting; scrutinize the new non-bypassable charge (NBC) PG&E, Southern California Edison Company (SCE), and San Diego Gas & Electric Company (SDG&E) propose; and ensure each of those proposals comply with applicable laws, rules, regulations and Commission decisions. Completing those tasks will require the Commission and parties to resolve unforeseen, but inevitable, ambiguity in Decision (D.) 23-12-036.² Compounding the challenges this proceeding presents, the Commission must issue a decision before the end of the year, such that the new NBC can go into effect on January 1, 2025. In short, this inaugural DCP Forecast proceeding is a significant undertaking.

PG&E makes that undertaking more onerous by wedging two major additional requests into its Application. First, and most concerning, PG&E requests the Commission modify the methodologies D.23-12-036 established to allocate the Resource Adequacy (RA) and Greenhouse Gas-Free (GHG-Free) benefits associated with DCP’s extended operations to load serving entities (LSE).³ PG&E claims a modification to those methodologies is necessary based on the false premise that the methodologies “do not consider the higher costs to customers in PG&E’s service area”, which Section 712.8(q) of the Public Utilities Code permits the Commission to consider. Second, PG&E requests approval of its planned expenditures of the “volumetric performance fee” (VPF) revenues it will collect from customers in 2025.⁴ While the Commission directed PG&E to file an application requesting approval for its planned expenditure of VPF

² D.23-12-036, Decision Conditionally Approving Extended Operations at Diablo Canyon Nuclear Power Plant Pursuant to Senate Bill 846.

³ Application at 15-16.

⁴ *Id.* at 17.

revenues “no later than March 1, 2026”,⁵ it did not require—or even suggest—PG&E to combine that application with its inaugural cost forecast application.

While PG&E’s request for approval of its planned expenditures of VPF revenues will strain an already-accelerated proceeding, CalCCA does not object to that request being within scope. However, the Commission should not entertain PG&E’s request to modify the Commission-approved methodologies for allocating the attributes associated with DCP’s extended operations. Parties already addressed, and D.23-12-036 already resolved, the question PG&E raises. Several parties, including CalCCA and SCE, expended time and resources building a robust record regarding a methodology for allocating DCP’s RA and GHG-free attributes to LSEs in Phase 1 of Rulemaking (R.) 23-01-007. Those parties specifically addressed Public Utilities Code Section 712.8(q) within the context of putting forward attribute allocation methodologies. PG&E, like all other parties, had an opportunity to propose a methodology for allocating DCP’s attributes in that Phase of R.23-01-007—the issue was certainly in scope.⁶ Despite this, PG&E focused instead on insisting the Commission *should not allocate any* of DCP’s attributes during extended operations. The utility should not get a second bite at the apple. PG&E’s request not only threatens to stretch this accelerated proceeding past its breaking point; it is also an impermissible collateral attack on D.23-12-036.⁷ The Commission should therefore exclude PG&E’s request from the scope of this proceeding.

⁵ D.23-12-036, Ordering Paragraph 15.

⁶ R.23-01-007, Assigned Commissioner’s Scoping Memo and Ruling at 5-6 (Apr. 6, 2023) (emphasis added).

⁷ Moreover, to the extent the Commission determines PG&E’s proposal to modify the allocation of DCP’s attributes is within the scope of this proceeding (and it should not), PG&E has not met its burden and demonstrated the Commission should adopt its attribute allocation methodology.

With respect to PG&E’s requests *within* the scope of this proceeding, PG&E, as the applicant, has the burden of proof⁸ and must satisfy that burden based on a preponderance of the evidence.⁹ The Commission should carefully consider the impact of PG&E’s Application on both departed and bundled customers under the applicable standards of review. CalCCA protests the Application on the grounds PG&E has fallen short of demonstrating the entirety of the relief PG&E seeks meets the utility’s burden. CalCCA has identified certain issues below that should prevent immediate adoption of the relief requested in the Application without further examination before the Commission, including in particular: PG&E’s forecast of over \$76 million in substitution capacity costs during the forecast period (November 3, 2024 through December 31, 2025); PG&E’s planned prioritization and use of its VPF revenues; and PG&E’s allocation of costs between investor-owned utilities (IOU) and customer classes. CalCCA respectfully requests the Commission set this matter for hearing to fully examine those issues together with any other issues that may arise during the course of this proceeding.

I. CALCCA’S INTEREST

A. Background on CalCCA

As noted above, CalCCA represents the interests of 24 community choice aggregators (CCAs) in California, including 11 CCAs that serve PG&E’s delivery service customers, five CCAs that serve SCE customers, and two CCAs that serve SDG&E’s delivery service customers. While CalCCA’s advocacy frequently benefits both bundled and unbundled customers, the CCAs are the sole advocates for their customers and their local energy programs before this Commission.

⁸ D.12-12-030 at 42; Application at 4.
⁹ D.16-04-006; Application at 4.

B. Background on CCAs

CCA customers receive generation services from their local CCA and receive transmission, distribution, billing, and other services from the IOU. As such, CCA customers must pay the same electric distribution, transmission and non-bypassable rates as the IOU's bundled customers. However, CCA customers pay CCA-specific generation rates, which vary and are partially influenced by local mandates to increase electric vehicle use, procure and maintain clean electricity portfolios that in many cases exceed state requirements for renewable generation, and achieve other local goals. CCA and other unbundled customers are also subject to several NBCs, including the Power Charge Indifference Adjustment (PCIA) and the Cost Allocation Mechanism (CAM).

C. CalCCA has several direct, material, pecuniary interests in the outcome of this proceeding.

CalCCA and the customers of the CCAs it represents have several direct, material, pecuniary interests in the outcome of this proceeding. First, this proceeding will establish the 2025 levels of the Diablo Canyon Non-bypassable charge (DCNBC), a new NBC that will apply to all CCA customers across the state and will be billed through the IOUs. CCA customers who are PG&E delivery service customers will pay a DCNBC that includes an additional volumetric performance fee component required by Public Utilities Code section 712.8(f)(5). CalCCA therefore has an interest in ensuring the costs recovered through the DCNBC and the 2025 levels of the DCNBC are just and reasonable, correctly calculated, in accordance with law and Commission decisions.

Second, in its Application, PG&E proposes to modify the allocations of DCP's RA and GHG-free benefits established by D.23-12-036. PG&E's request is a collateral attack on D.23-12-036 and should not be considered in this proceeding as CalCCA mentioned above and explains in more detail below. To the extent the Commission considers PG&E's request, that

request would impact CCA customers' interests because it concerns the benefits those customers will receive from DCP's extended operations. The allocations of RA from DCP's extended operations to LSEs, for example, will impact the amount of RA those LSEs will have to procure from the market, and thus impact the costs CCAs bear and the rates their customers pay.

Third, in its Application, PG&E presents a plan for prioritizing the use of VPF revenues it earns in 2025 and also proposes to utilize a Tier 3 advice letter process in future years to report VPF revenues, how those funds were spent, and a prioritization plan. Section 712.8(s)(1) directs PG&E to use VPF revenues to accelerate or increase spending on certain public purpose priorities, and D.23-12-036 requires that PG&E first use VPF revenues to offset any actual recorded operating costs that exceed 115 percent of the approved forecast. CCA customers who are PG&E delivery service customers will be directly impacted by PG&E's use and prioritization of VPF revenues, and therefore, CalCCA has an interest in ensuring that PG&E's planned usage of VPF revenues collected in 2025 is appropriate, reasonably benefits both bundled and unbundled customers, and complies with both the letter and spirit of Section 712.8(s)(1).

II. GROUNDS FOR PROTEST

CalCCA has identified several preliminary issues in the Application that impact the interests described above. CalCCA is still examining the Application, conducting discovery, and communicating with PG&E to better understand and analyze the utility's requests. CalCCA reserves the right to address and protest additional issues within the scope of this proceeding as they arise

through continued review, analysis, discovery and investigation of all aspects of the Application and supporting testimony.

A. PG&E’s Proposal to Modify Resource Adequacy and Greenhouse-Gas Free Attribute Allocations Is a Collateral Attack on D.23-12-036 and the Commission Should Not Allow PG&E to Relitigate That Issue Here.

1. The development of methodologies to allocate the benefits of DCP’s extended operations was squarely within the scope of Phase 1 of R.23-01-007.

The Commission recently considered methodologies to allocate the costs and benefits associated with extended operations at DCP. Those issues were squarely within Phase 1 of R.23-01-007, Scoping Issues 3 and 5. Phase 1 Scoping Issue 3 asks: If the Commission directs and authorizes extended operations at Diablo Canyon, what are the new processes to authorize annual recovery of all reasonable Diablo Canyon extended operations costs and expenses on a forecast basis, including allocation of forecast costs among Commission-jurisdictional load-serving entities?¹⁰ Phase 1 Scoping Issue 5 asks whether and how the benefits of extended operations, including resource adequacy and greenhouse gas-free attributes, should be allocated among the LSEs and customers paying for extended operations.¹¹ Parties to R.23-01-007—including PG&E—therefore, had an opportunity to advance cost and benefit allocation proposals in Phase 1.

2. Parties developed a robust record regarding methodologies to allocate the benefits of extended operations at DCP in Phase 1 of R.23-01-007.

Several parties—including PG&E¹² and CalCCA¹³—submitted substantial testimony on both cost and benefit allocation issues in Phase 1 of R.23-01-007. CalCCA witness Dickman’s testimony, for example, made specific cost and benefit allocation proposals. Importantly, that

¹⁰ See Assigned Commissioner’s Scoping Memo and Ruling at 5-6 (Apr. 6, 2023) (emphasis added).

¹¹ *Id.*

¹² See PG&E-02 at 5-1 to 5-3 and PG&E-04 at 2-17 to 2-26 (each addressing attribute allocation).

¹³ See CalCCA-01 at 3-20, CalCCA-02 and CalCCA-03 at 6-15 (each addressing attribute allocation); CalCCA-01 at 30-31 (addressing cost allocation).

testimony directly addressed Public Utilities Code section 712.8(q)—the very statute PG&E insists the Commission failed to address in R.23-01-007 and must address in this proceeding. Mr. Dickman noted CalCCA’s interest in finding a fair way for the Commission to act on section 712.8 (q). Witness Dickman observed his attribute allocation proposal achieves a fair result because customers of LSEs in PG&E’s service territory (unlike customers of LSEs *outside* of PG&E’s service territory) benefit from surplus wholesale market revenue and the return of excess funds paid into the liquidated damages balancing account by all customers:¹⁴

Lastly, SB 846 states: “To the extent the commission decides to allocate any benefits or attributes from extended operations of the Diablo Canyon powerplant, the commission may consider the higher cost to customers in the operator’s service area.” [citing Public Utilities Code Section 712.8(q)] As a trade association with members that are both within and outside of “the operator’s service area,” CalCCA has a deep interest in finding the fairest way for the Commission to act upon such considerations.

Under SB 846, PG&E will assign a small portion of the costs authorized for recovery directly to customers of LSEs in its service territory. Those customers are also the sole beneficiaries of surplus wholesale market revenue and the return of excess funds paid into the liquidated damages balancing account by all customers. For example, half of the volumetric payment in lieu of a rate-based return (\$6.50, in 2022 dollars, for each megawatt hour generated by DCPD during the period of extended operations) is to be paid only by the customers of LSEs in PG&E service territory. In exchange for this cost responsibility, customers of LSEs in PG&E service territory will receive a credit for all surplus wholesale market revenue remaining after offsetting DCPD’s annual operating costs.

CalCCA was not the only party to propose a benefit allocation methodology and address section 712.8(q) in R.23-01-007. SCE witness Walsh presented a benefit allocation methodology that mirrored Mr. Dickman’s proposal, and stated¹⁵:

Although the Commission is permitted to consider the higher costs to customers in PG&E’s service area in allocating the benefits and

¹⁴ CalCCA-01 at 27-29.

¹⁵ SCE-01 at 12-13 (emphasis added).

attributes of Diablo Canyon's extended operations, SCE recommends that the Commission allocate RA benefits to all LSEs whose customers pay for extended operations based solely on peak load share.

Customers in PG&E's service area already receive other significant benefits for the additional costs they will pay for extended operations under SB 846. In particular, if the market revenues for extended operations exceed the costs and expenses, any available surplus revenues are credited solely to customers in PG&E's service area. In other words, despite making significant payments toward the operation and maintenance of Diablo Canyon, under SB 846, non-PG&E service area customers have no chance of upside benefits from the CAISO market. Similarly, at the conclusion of extended operations, any funds remaining in the Diablo Canyon Extended Operations liquidated damages balancing account, which could total \$300 million, shall be returned to customers in PG&E's service area.

Because customers in PG&E's service area have statutory advantages over other customers in receiving excess funds, the Commission should not treat LSEs and customers in PG&E's service area any differently with respect to RA allocation than other LSEs and customers who pay for extended operations. Moreover, allocating RA benefits based on peak load share is a simple approach that is already being implemented by Energy Division staff for CAM resources.

Other parties, including the Direct Access Customer Coalition, the Alliance for Retail Energy Markets,¹⁶ and Green Power Institute¹⁷ also submitted testimony discussing methodologies for allocating DCP's benefits during extended operations.

While PG&E submitted direct and rebuttal testimony addressing benefit allocation issues, that testimony focused on arguing the Commission should not allocate any RA or GHG-free benefits during DCP's extended operations, rather than advancing a methodology for allocating benefits. However, PG&E's testimony *did* make certain specific recommendations related to the allocation of DCP's attributes during extended operations in the event the Commission decided

¹⁶ R.23-01-007, AReM-01 at 5-8.

¹⁷ *Id.*, GPI-01 at 1-4.

to allocate those attributes at all. In its direct testimony, PG&E recommended “attributes should be allocated in a way that reflects cost responsibility upfront (e.g., no allocations only to LSEs that are short).”¹⁸ In its rebuttal testimony, PG&E was more specific, and opposed RA allocation based on 12 month coincident peak.¹⁹ Curiously, PG&E’s testimony supported attribute allocation based on load share, rather than allocation based on proportionate forecast cost responsibility, as it now proposes. PG&E’s testimony in Phase 1 of R.23-01-007 did not mention the proposal it now makes, nor did it mention section 712.8(q). It appears somewhere along the way, PG&E changed its mind on its preferred methodology for allocating DCP’s attributes, and in the process, conveniently forgot that the Commission had extensively considered attribute allocation methodologies in R.23-01-007.

3. D.23-12-036, issued just five months ago, establishes the methodology PG&E must use to allocate the RA and GHG-free benefits associated with DCP’s extended operations.

D.23-12-036 conclusively resolves the allocation of costs and benefits associated with DCP’s extended operations. That Decision adopts the allocation methodologies CalCCA proposed in Phase 1 of R.23-01-007. Specifically, it directs the allocation of DCP’s extended operations costs and RA benefits to IOUs based on each IOU’s share of 12-month coincident peak demand, and to LSEs within each IOU’s service territory based on a process that mirrors the CAM.²⁰ It also concludes PG&E should use its existing GHG-free benefit allocation process—which allocates those benefits based on each LSE’s monthly load forecast compared to the IOU’s total load forecast—to allocate GHG-free benefits.²¹ Having lost on the benefit allocation issue in R.23-01-007, PG&E now seeks to grab a larger slice of the attribute pie in this proceeding. But the

¹⁸ PG&E-02 at 5-3.

¹⁹ PG&E-04 at 2-26.

²⁰ D.23-12-036, Conclusions of Law 28, 29, 30, 34, 35, 38 and 42; Ordering Paragraphs 7, 9 and 10.

²¹ *Id.* at 91.

Commission should not require parties to expend resources relitigating benefit allocation methodologies in this proceeding just because PG&E is hungry.

4. PG&E’s proposal to modify the methodologies used to allocate RA and GHG-free benefits associated with DCP’s extended operations is an impermissible collateral attack on D.23-12-036.

PG&E ignores the robust record on benefit allocation methodologies in R.23-01-007 and disingenuously asserts “the allocation processes established by D.23-12-036 did not consider the higher costs to customers in PG&E’s service area.”²² It proposes to modify the allocation methodologies adopted in D.23-12-036 such that a greater proportion of DCP’s attributes flow to PG&E. Specifically, PG&E proposes to allocate RA and GHG-free attributes to each IOU service territory based on the proportion of total forecast costs customers in each service territory will bear.²³ Because customers in PG&E’s service territory will pay an additional \$6.50/MWh volumetric performance fee, and therefore bear a greater proportion of DCP’s total forecast costs, PG&E’s proposal results in a greater proportion of RA and GHG-free attributes being assigned to PG&E’s service territory.

PG&E’s proposal is an impermissible collateral attack on D.23-12-036 and the Commission should reject it. A collateral attack is an attempt to impeach the judgment or order in a proceeding other than that in which the judgment was rendered.²⁴ The Commission prohibits collateral attacks on its decisions—Public Utilities Code Section 1709 requires that “[i]n all collateral actions or proceedings, the orders and decisions of the commission which have become final shall be conclusive.”²⁵ The California Supreme Court has stated that conclusiveness “arises

²² PG&E Prepared Testimony at 2-21.

²³ *Id.*

²⁴ *Harley v. Superior Ct.*, 226 Cal. App. 2d 432, 435 (1964); *Clark v. Deschamps*, 109 Cal. App. 2d 765, 769 (1952).

²⁵ Public Utilities Code section 1709.

by operation of law. It is the order and not the reasons for it that establishes its effectiveness.”²⁶ The prohibition on collateral attacks serves to protect the integrity of the Commission’s decision-making process and promote certainty.

In A.08-06-006, for example, the South Coast Air Quality Management District (SCAQMD) and Southern California Generation Coalition (SCGC) raised certain issues related to air quality and an index known as the “Wobbe Index.” The Commission found those issues had already been adjudicated in prior decision, D.06-09-039, issued in a separate proceeding. It stated: “SCAQMD was an active participant in the gas quality phase in R.04-01-025 where it raised the same air quality, gas quality, and Wobbe Index issues that it now seeks to relitigate in this proceeding.”²⁷ Further, it concluded SCAQMD and SCGC had failed to distinguish the issues they raised in A.08-06-006 from the issues adjudicated in D.06-09-039.²⁸ Therefore, the Commission stated SCAQMD and SCGC’s attempt to revisit the air quality and Wobbe Index issues in A.08-06-006 amounted to a collateral attack on D.06-09-039 that is barred by Public Utilities Code section 1709.²⁹

Like the arguments SCAQMD and SCGC raised in A.08-06-006, PG&E’s Application is a textbook example of a prohibited collateral attack. It seeks to undo attribute allocation methodologies the Commission established just five months ago in a separate proceeding (R.23-01-007). Like SCAQMD and SCGC, PG&E participated in the proceeding it collaterally attacks (R.23-01-007) and addressed the very issue it addresses again here (methodologies for attribute allocation); it does not distinguish the issue it raises here from the issues the Commission

²⁶ *People v. Western Airlines, Inc.*, 42 Cal. 2d 621, 632-633 (1954).

²⁷ A.08-06-006, D.09-06-019, 2009 Cal. PUC LEXIS 280 at *23; Conclusion of Law 2 (Jun. 6, 2008).

²⁸ *Id.* at *31.

²⁹ *Id.* at *23.

considered and adjudicated in R.23-01-007. Nor does PG&E allege any changes in the relevant law or facts since D.23-12-036 that might require the Commission to revisit the allocation methodologies it recently established, and indeed, even if relevant law or facts *had* changed, a petition for modification would be the appropriate procedural vehicle. PG&E’s request is therefore procedurally improper and would waste parties’ and the Commission’s resources. The Commission should exclude PG&E’s request from the scope of this proceeding.

B. Substitution Capacity Pricing

In its testimony, PG&E presents a methodology for forecasting its RA substitution capacity forecast costs during the forecast period. Briefly, PG&E proposes to determine the amount of capacity PG&E will need to acquire during periods when DCPD is expected to be offline or curtailed during planned outages, tunnel cleaning, and/or other short-term curtailment events; then PG&E multiplies those capacity amounts by the 2024 forecast market price benchmark for system RA to estimate the total procurement costs associated with meeting DCPD’s RA substitution capacity obligations during the forecast period.³⁰ PG&E forecasts \$76.4 million in substitution capacity costs during the forecast period, and will update its forecasts to reflect the 2024 actual and 2025 forecast market price benchmarks for system RA.³¹

PG&E’s Application and testimony do not sufficiently explain why or how PG&E forecasts such a high level of substitution capacity costs, given that PG&E generally schedules known and/or foreseeable outages at DCPD during times when the grid is less likely to be constrained. In R.23-01-007, PG&E specifically noted that DCPD’s refueling outages will occur in the spring (April or May) or in the fall (October or November) (i.e., the “shoulder months”) and

³⁰ PG&E Prepared Testimony at 4-4.

³¹ Application at 2.

not during the summer months during which the RA market tends to be particularly tight.³² CalCCA will investigate PG&E’s calculation of forecasted substitution capacity costs through discovery, examine whether PG&E’s forecast is reasonable, assess whether PG&E’s proposal is accurate (or whether PG&E should use a monthly RA price or other more accurate price), and submit testimony on this issue as necessary.

C. Planned Expenditure of VPFs

Section 712.8(s)(1) of the Public Utilities Code directs PG&E to use VPF revenue—collected from customers pursuant to section 712.8(f)(5) of the Public Utilities Code—on certain “public purpose priorities.”³³ PG&E’s testimony presents its plan for spending and prioritizing the VPF revenue it collects from customers in 2025. PG&E concedes D.23-12-036 requires it to first use VPF revenues to offset any actual recorded operating costs that are more than fifteen percent above the approved forecast.³⁴ Assuming actual costs are not more than fifteen percent above the approved forecast, PG&E proposes a “waterfall” of priority uses. The waterfall starts with defined “customer-benefitting” programs, followed by an allocation of funds for “key risk and safety programs”, and finally followed by contribution of any remaining funds to offset Diablo Canyon operating costs.³⁵ PG&E’s specific planned uses of VPF revenues are as follows, in order of priority:

1. Comprehensive pole inspection program;
2. Accelerated enhancements of asset management, inspection and maintenance activities required for safe and reliable operations of hydro system infrastructure;

³² See R.23-01-007, CalCCA Reply Brief at 8.

³³ Public Utilities Code section 712.8(s)(1).

³⁴ PG&E Prepared Testimony at 9-3, citing D.23-12-036 at 110-111.

³⁵ *Id.* at 9-1.

3. Accelerated interconnections and actions to reduce operational risk and modernize the grid more efficiently through operating system enhancements;
4. PG&E contingency uses for safety and risk, and;
5. Usage for DCPD operational cost.³⁶

CCA customers will contribute to PG&E's VPF revenues by paying the DCNBC and should also benefit from PG&E's expenditures of those revenues on "critical public purpose priorities." CalCCA will assess PG&E's proposed usage of VPF revenues and examine not only whether those uses are consistent with SB 846 and D.23-12-036, but also whether PG&E's proposals are consistent with the spirit of the law and treat both bundled and unbundled customers fairly.

D. Other Issues that Require Further Investigation and Analysis

CalCCA hopes to work with PG&E over the course of this proceeding to review PG&E's workpapers and better understand, investigate and potentially submit testimony regarding various components of the Application, including but not limited to:

- Whether PG&E only included eligible costs in its forecast revenue requirement;
- Whether PG&E correctly allocated costs of DCPD extended operations to IOUs;
- Whether PG&E correctly allocated costs of DCPD extended operations to customer classes;
- Whether PG&E's application correctly applies the average plant escalation factor;
- Whether PG&E's proposal to update Department of Energy (DOE) litigation proceeds to the Portfolio Allocation Balancing Account (PABA) in 2024 and 2025, as compared to the allocation of DOE litigation proceeds adopted in the 2023 General Rate Case (GRC), is reasonable, and;³⁷
- Whether PG&E's intended Tier 3 advice letter process to true-up 2025 forecast revenue requirement and rates with actual costs, billed revenues, IOU remitted

³⁶ PG&E Prepared Testimony at 9-6 to 9-15.

³⁷ *Id.* at 3-31 to 3-33.

revenues and CAISO market revenues will allow parties a sufficient opportunity to conduct an audit-level review of PG&E's entries.

III. ISSUES, CATEGORIZATION OF PROCEEDING, NEED FOR HEARINGS AND PROPOSED PROCEDURAL SCHEDULE

A. The Commission Should Not Consider PG&E's Proposal to Modify RA and GHG-Free Allocations in This Proceeding

As explained above, PG&E's request to modify RA and GHG-free allocations in this proceeding is an impermissible collateral attack on D.23-12-036. The Commission should therefore exclude PG&E's request from the list of issues to be considered in this proceeding, while maintaining the *implementation* of the RA allocation methodology established by D.23-12-036 in the scope of this proceeding. In other words, PG&E is required to allocate the RA associated with DCP's extended operations among IOU service areas in this proceeding³⁸, but its request to *modify* the allocation methodology established by D.23-12-036 should not be considered in the scope of this proceeding.

CalCCA does not object to any other issue on PG&E's proposed list of issues to be considered in this proceeding, but recommends the Commission modify PG&E's proposed scoping issue 4 to clarify PG&E's planned expenditures of VPFs will be evaluated against both the law and relevant Commission decisions³⁹ For clarity, CalCCA's recommended list of issues to be considered in this proceeding is as follows:

1. Whether PG&E's forecast cost of operations and revenue requirement over the Record Period for DCP is just and reasonable?
2. Whether the calculation of the non-bypassable charge and rate proposals by PG&E, SCE, and SDG&E comply with D.23-12-036?
3. The implementation of the methodology established by D.23-12-036 for allocating the RA attributes associated with DCP's extended operations;

³⁸ D.23-12-036, Ordering Paragraph 9.

³⁹ Application at 23-24.

4. Whether PG&E's planned expenditure of VPFs during the November 3, 2024 to December 31, 2025 period comply with section 712.8(s)(1) requirements and relevant Commission decisions?
5. Whether PG&E's proposal to utilize a Tier 3 advice letter process reporting VPFs, how the funds were spent, and prioritization plan properly implements section 712(f)(5) and 712(s)(1)?

B. Categorization

CalCCA agrees with the categorization of this proceeding as ratesetting.⁴⁰

C. Need for Hearings

While CalCCA shares PG&E's hope to resolve the issues raised by this Application without hearings,⁴¹ CalCCA believes that evidentiary hearings may be necessary to present facts and develop the record related to those issues, several of which are issues of first impression for this Commission. CalCCA therefore requests that the Commission set this matter for hearing.

D. Schedule

CalCCA appreciates the importance of a Final Decision by November 2024, but recommends modest changes to PG&E's proposed schedule within that constraint.

First, CalCCA recommends that intervenor testimony be due no earlier than August 5, 2024. As explained above, this is PG&E's first DCPD Forecast case filing. While certain parties, including CalCCA, have experience participating in PG&E's annual ERRA Forecast proceedings, this Application presents several issues that do not arise in the context of those proceedings (for example, the establishment of non-bypassable charges in each IOU's service territory). It is therefore reasonable to give intervenors more time to review the Application, conduct discovery, and develop testimony. The Commission can do so by shortening the period of time between the

⁴⁰ See Application at 23.

⁴¹ *Id.*

service of rebuttal testimony and evidentiary hearing, and between the evidentiary hearing and opening briefs.

Second, CalCCA recommends allowing additional time for parties to prepare and file comments to PG&E’s update to prepared testimony. Based on CalCCA’s experience participating in PG&E’s annual ERRA Forecast proceedings—on which PG&E’s proposed procedural schedule is modeled—the fall update to prepared testimony will require parties’ scrutiny. In fall updates to ERRA Forecast proceedings, prepared testimony routinely results in significant changes to PG&E’s balancing account balances and resulting rates. Moreover, in past ERRA Forecast proceedings, PG&E and other investor-owned utilities have unreasonably made new proposals for the first time in their updates to prepared testimony, requiring parties to conduct discovery and develop positions on those proposals. PG&E’s proposed schedule gives parties only 13 days to review PG&E’s updated testimony and supporting workpapers, conduct discovery, and prepare comments; whereas it gives parties a month to prepare replies. CalCCA submits the Commission should flip those timelines. Parties require at least a month to undertake the significant work likely necessary to evaluate and address PG&E’s update, whereas a shorter timeline (13 days) is appropriate for reply comments.

For clarity, CalCCA’s proposed changes to PG&E’s procedural schedule are below:

Date	Event
July 8, 2024 <u>August 5, 2024</u>	Intervenor testimony served
August 6, 2024 <u>August 27, 2024</u>	Rebuttal testimony served
August 16, 2024 <u>September 3, 2024</u>	Rule 13.9 Meet and Confer
August 29, 2024 <u>September 9, 2024</u>	Evidentiary Hearings (if needed)
September 27, 2024	Opening Briefs
October 1, 2024	Market Price Benchmarks issued
By October 8, 2024	Update to Prepared Testimony served
October 21, 2024 <u>November 8, 2024</u>	Comments to Update to Prepared Testimony

November 21, 2024	Reply briefs and Reply comments to Update to Prepared Testimony served; proceeding submitted
November 2024	Proposed Decision issued 20 days before Commission voting meeting
+ 5 days after Proposed Decision	Comments on Proposed Decision
+ 3 days after Comments on Proposed Decision	Reply Comments
December 5, 2024	Final Decision

IV. COMMUNICATIONS

CalCCA consents to “email only” service and requests that the following individuals be added to the service list for A.24-03-018 on behalf of CalCCA:

Party Representative for CalCCA:

Nikhil Vijaykar
KEYES & FOX LLP
580 California St., 12th Floor
San Francisco, CA 94104
Telephone: (408) 621-3256
E-mail: nvijaykar@keyesfox.com

Requested Information-Only Service List Additions for CalCCA:

Brian Dickman
NEWGEN STRATEGIES & SOLUTIONS LLC
225 Union Boulevard, Suite 450
Lakewood, CO 80228
Telephone: (303) 828-4035
E-mail: bdickman@newgenstrategies.net

Tim Lindl
KEYES & FOX LLP
580 California St., 12th Floor
San Francisco, CA 94104
Telephone: (510) 314-8385
E-mail: tlindl@keyesfox.com

Evelyn Kahl
General Counsel and Director of Policy
CALIFORNIA COMMUNITY CHOICE
ASSOCIATION
One Concord Center
2300 Clayton Road, Suite 1150
Concord, CA 94520
Telephone: (510) 980-9459
Email: regulatory@cal-cca.org

Brian Shuey
NEWGEN STRATEGIES &
SOLUTIONS LLC
225 Union Boulevard, Suite 450
Lakewood, CO 80228
Telephone: (720) 823-0105
Email: bshuey@newgenstrategies.net

Willie Calvin
Regulatory Case Manager
CALIFORNIA COMMUNITY CHOICE
ASSOCIATION
One Concord Center
2300 Clayton Road, Suite 1150
Concord, CA 94520
Telephone: (510) 980-9504
Email: willie@cal-cca.org

V. CONCLUSION

For all the foregoing reasons, CalCCA respectfully requests the Commission set this matter for hearing to fully examine the issues discussed above.

Respectfully submitted,



Nikhil Vijaykar

KEYES & FOX LLP
580 California Street, 12th Floor
San Francisco, CA 94104
Telephone: (408) 621-3256
E-mail: nvijaykar@keyesfox.com

Counsel to
CALIFORNIA COMMUNITY CHOICE
ASSOCIATION

Dated: May 8, 2024