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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company in its 2015 Nuclear Decommissioning Cost Triennial Proceeding (U39E).

Application 16-03-006
(Filed March 1, 2016)

**JOINT SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER
AND ADMINISTRATIVE LAW JUDGE**

Summary

Pursuant to Rule 7.3 of the California Public Utilities Commission's Rules of Practice and Procedure (Rules),¹ this Scoping Memo and Ruling sets forth the procedural schedule, identifies the presiding officer, and addresses the scope of this proceeding and other procedural matters following the Prehearing Conference held on June 13, 2016.

1. Background

On March 1, 2016, PG&E filed this application for review of its updated nuclear decommissioning cost studies and ratepayer contribution analyses in support of requests to fully fund the nuclear decommissioning master trusts to the level needed to decommission the Diablo Canyon Power Plant (Diablo Canyon) and Humboldt Bay Power Plant Unit 3 (Humboldt Bay). In addition, funds for operations and maintenance costs associated with the requirements of the Humboldt Bay non-operating license were also included. PG&E requested Commission determination of the reasonableness of decommissioning projects at Humboldt Bay since the last Triennial proceeding.

¹ All references to rules are to the Commission's Rules of Practice and Procedure.

Specifically, PG&E sought Commission authorization, effective January 1, 2017, for PG&E to collect an estimated \$117.324 million in annual revenue requirements for contributions to the tax qualified Diablo Canyon Nuclear Decommissioning Trusts for Units 1 and 2, and \$62.924 million in annual revenue requirements for contributions to the tax qualified Humboldt Bay Trust.

In addition to revenue requirements for funding the decommissioning trusts, PG&E also sought approval of Humboldt Bay O&M revenue requirements² of \$4.493 million for 2017, \$4.475 million for 2018, and \$3.885 million in annual revenue requirements for 2019 and thereafter. The total estimated 2017 CPUC-jurisdictional revenue requirement for Nuclear Decommissioning is \$184.741 million, an increase of \$77.308 million over PG&E's currently authorized decommissioning revenue requirement of \$107.433 million.

PG&E requests findings of reasonableness for the following:

- (1) PG&E's expenditures of \$371 million for completed PG&E Self Perform and Plant System Removal decommissioning expenditures;
- (2) Its efforts to retain and utilize sufficient qualified and experienced personnel to effectively, safely, and efficiently pursue physical decommissioning related activities; and
- (3) The differences between forecast and recorded SAFSTOR O&M expenses for 2013 through 2015.

² When Humboldt Bay was permanently shut down in the mid-1980s, the NRC changed the wording of Humboldt Bay's (10 CFR) Part 50 operating license to state that while it is still an operating license it is not a license to operate. At that time, the NRC did not have a separate license for storage of spent nuclear fuel. PG&E had chosen the SAFSTOR (safe storage of spent fuel) method for the plant's future decommissioning. The other two options for dealing with a permanently shut down plant were DECON (decontamination) and ENTOMB. The requested O&M is for the SAFSTOR program.

PG&E provided ten chapters of prepared testimony in support of its application and requested an effective date of January 1, 2017.

On March 9, 2016, Southern California Edison Company (Edison) and San Diego Gas & Electric Company (SDG&E) moved for consolidation of this proceeding with Application (A.) 16-03-004, (Edison and SDG&E's Nuclear Decommissioning Triennial Review), as well as Applications 15-01-014 and 15-02-006 (2014 SONGS 2&3 Reasonableness Review).

On March 17, 2016, the Commission preliminarily categorized this proceeding as ratesetting with hearings required in Resolution ALJ 176-3374.

Protests were filed by Office of Ratepayer Advocates and The Utility Reform Network on April 4, 2016. The Alliance for Nuclear Responsibility filed a motion for party status on April 8, 2016.

On May 10, 2016, the assigned Administrative Law Judge issued a ruling scheduling a prehearing conference for June 13, 2016, requiring parties to meet and confer regarding the procedural schedule and scope of this proceeding, and to set forth any agreed-upon proposals in prehearing conference statements. The ruling also granted the Alliance for Nuclear Responsibility's motions for party status and to late-file responses.

On June 6, 2016, Edison and SDG&E filed and served their prehearing conference statement with attached Meet and Confer Report from all the parties to all proceedings. The Report proposed consolidation of all four proceedings but recommended three phases for actually addressing the applications. This application would comprise the first phase and would address only PG&E issues. The Report contained an agreed-upon list of issues for each phase and a proposed schedule. A limited number of disputed issues were also set forth in the Report.

On June 13, 2016, the assigned Administrative Law Judge convened a prehearing conference for this proceeding as well as Edison and SDG&E's Triennial proceeding, A.16-03-004. The parties discussed whether this application had sufficient factual and legal overlap with the other Edison and SDG&E proceedings.

2. Proceeding Category, Need for Hearing and *Ex Parte* Rules

As noted above, the Commission preliminarily categorized this Application as ratesetting as defined in Rule 1.3(a)(e) and anticipated that this proceeding would require evidentiary hearings. This ruling affirms the preliminary categorization of this proceeding as ratesetting with hearings required.

In a ratesetting proceeding, *ex parte* communications must comply with Rule 8.3(c).

3. Consolidation

As set forth above, Edison and SDG&E for consolidation of this proceeding with their Nuclear Decommissioning Triennial Review and 2014 SONGS 2&3 Reasonableness Review. The parties jointly recommended consolidation in the Meet and Confer Report.

The proposed schedule included in the Report called for the PG&E issues to be litigated in a Phase 1, to occur primarily in the second half 2016. In contrast, the issues related to SONGS were proposed for later phases of the proceeding. The proposed schedule showed minimal overlap of facts or issues between the two phases.

We find that the Meet and Confer Report has not shown a sufficient relationship between the facts or law to be applied in this application and the facts and law to be applied in the SONGS applications. Therefore, as authorized

by Rule 7.4 of the Commission's Rules of Practice and Procedure, we determine that Application 16-03-006 should not be consolidated with the SONGS applications. The schedule set below applies only to this application.

4. Scope of Proceeding

The scope of the matter properly before the Commission is whether or not PG&E has met its burden of justifying the requested relief.

Pursuant to Public Utilities Code § 8326,³ PG&E, as the owner of Humboldt Bay and Diablo Canyon plants, must prepare, submit, and periodically revise the Decommissioning Cost Estimate for these plants:

- (a) Each electrical utility owning, in whole or in part, or operating a nuclear facility, located in California or elsewhere, shall provide a decommissioning cost estimate to the commission or the board for all nuclear facilities which shall include all of the following:
 - (1) An estimate of costs of decommissioning.
 - (2) A description of changes in regulation, technology, and economics affecting the estimate of costs.
 - (3) A description of additions and deletions to nuclear facilities.
 - (4) Upon request of the commission or the board, other information required by the Nuclear Regulatory Commission regarding decommissioning costs.
- (b) The decommissioning costs estimate study shall be periodically revised in accordance with procedures adopted by the commission or the board pursuant to Section 8327.

The Commission's directive to review PG&E's Decommissioning Cost Estimate is set forth in § 8327:

The commission or the board shall review, in conjunction with each proceeding of the electrical utility held for the purpose of considering changes in electrical rates or charges, the decommissioning costs estimate for the electrical utility in order to

³ All references are to the Public Utilities Code.

ensure that the estimate takes account of the changes in the technology and regulation of decommissioning, the operating experience of each nuclear facility, and the changes in the general economy. The review shall specifically include all cost estimates, the basis for the cost estimates, and all assumptions about the remaining useful life of the nuclear facilities.

The burden of proof is on PG&E to demonstrate the reasonableness of the Decommissioning Cost Estimate and the resulting rate change requests. The standard of proof is that of a preponderance of evidence.

The parties submitted the following agreed-upon list of issues, and we adopt these listed issues as being within the scope of this proceeding:

1. Whether the Commission should find that PG&E's estimated updated cost to decommission Diablo Canyon Power Plant Units 1 and 2 of \$3,779.2 million (2014 \$) is reasonable.
2. Whether the Commission should find that PG&E's estimated remaining cost to decommission Humboldt Bay Power Plant Unit 3 of \$531.3 million (2014 \$) (total estimated cost of \$1,054.8 million) is reasonable.
3. Whether the Commission should find that PG&E's estimated forecast of \$3.4 million of O&M expenses (SAFSTOR) for Humboldt Bay for 2017, \$3.3 million for 2018, and \$2.7 million for 2019 is reasonable.
4. Whether the Commission should find that the variances in actual versus forecast SAFSTOR expenses for the previous period are reasonable.
5. Whether the Commission should find that PG&E's estimated rate of return on equity of 7.7% and PG&E's estimated rate of return on fixed income of 3.6% are reasonable.
6. Whether the Commission should find that PG&E's trust contribution analyses for Diablo Canyon and Humboldt Bay are reasonable and in accordance with §§ 8321 through 8330.

7. Whether the Commission should authorize PG&E to collect in rates its proposed revenue requirements (adjusted as described in its Prepared Testimony).
8. Whether the Commission should find that PG&E has complied with prior Commission directives as described in its Prepared Testimony.
9. Other issues that may arise during discovery.

The Report also set forth two issues where the parties were not in agreement whether or not that the issues should be included in the scope of the this proceeding. As set forth below, we include both issues in the scope, but with limitations on the relicensing issues. The two issues are:

1. The Utilities and ORA believe that “Whether PG&E’s activities and associated costs for completed projects with respect to Humboldt Bay decommissioning were reasonable and prudently incurred” should be addressed in Phase 1. TURN and UCAN believe it should be addressed in Phase 2.
2. TURN and Alliance for Nuclear Responsibility believe that the potential of Nuclear Regulatory Commission relicensing of Diablo Canyon should be addressed in Phase 1.

We find that the reasonableness of completed decommissioning projects at Humboldt Bay should be included in the scope of this proceeding. The facts and law necessary for this determination are substantially identical to the facts and law underlying the other issues in this proceeding.

The topic of possible relicensing of Diablo Canyon was resolved on June 21, 2016, when PG&E announced that it would not seek relicensing of the plant beyond its current operating authority. Therefore, we conclude that the possibility of relicensing Diablo Canyon is not properly within the scope of this proceeding.

5. Schedule

The schedule below is slightly modified from that proposed by the parties:

Event	Date
Intervenor Testimony Distributed	August 19, 2016
PG&E Rebuttal Testimony Distributed	September 2, 2016
Evidentiary Hearings	September 12 - 16, 2016
Opening Briefs	October 7, 2016
Reply Briefs	October 21, 2016

The proceeding will be submitted upon the filing of reply briefs, unless the assigned Commissioner or the assigned Judge directs further evidence or argument.

The assigned Commissioner or assigned Judge may modify this schedule as necessary to promote the efficient management and fair resolution of this proceeding. It is the Commission's intent to complete this proceeding within 18 months of the date this Scoping Memo is filed. This deadline may be extended by order of the Commission. (§ 1701.5(a).)

6. Presiding Officer

Pursuant to Rule 13.2(b), Judge Maribeth A. Bushey is designated the Presiding Officer.

7. Filing, Service, and Service List

The official service list has been created and is on the Commission's website. Parties should confirm that their information on the service list is correct, and serve notice of any errors on the Commission's Process office, the service list, and the Judge. Persons may become a party pursuant to Rule 1.4.

When serving any document, each party must ensure that it is using the current official service list on the Commission's website.

This proceeding will follow the electronic service protocols set forth in Rule 1.10. All parties to this proceeding shall serve documents and pleadings using electronic mail, whenever possible, transmitted no later than 5:00 p.m., on the date scheduled for service to occur. Parties are reminded, when serving copies of documents, the document format must be consistent with the requirements set forth in Rules 1.5 and 1.6. Additionally, Rule 1.10 requires service on the Judge of both an electronic and a paper copy of filed or served documents.

Rules 1.9 and 1.10 govern service of documents only and do not change the Rules regarding the tendering of documents for filing. Parties can find information about electronic filing of documents at the Commission's Docket Office at www.cpuc.ca.gov/PUC/efiling. All documents formally filed with the Commission's Docket Office must include the caption approved by the Docket Office, and this caption must be accurate.

Persons who are not parties but wish to receive electronic service of documents filed in the proceeding may contact the Process Office at process_office@cpuc.ca.gov to request addition to the "Information Only" category of the official service list pursuant to Rule 1.9(f).

8. Discovery

Discovery may be conducted by the parties consistent with Article 10 of the Rules. Any party issuing or responding to a discovery request shall serve a copy of the request or response simultaneously on all parties. Electronic service under Rule 1.10 is sufficient, except Rule 1.10(e) does not apply to the service of discovery, and discovery shall not be served on the Administrative Law Judge. Deadlines for responses may be determined by the parties. Motions to compel or limit discovery shall comply with Rule 11.3.

9. Public Advisor

Any person interested in participating in this proceeding who is unfamiliar with the Commission's procedures or who has questions about the electronic filing procedures is encouraged to obtain more information at <http://consumers.cpuc.ca.gov/pao/> or contact the commission's Public Advisor at 866-849-8390 or 415-703-2074 or 866-836-7825 (TTY), or send an e-mail to public.advisor@cpuc.ca.gov.

10. Settlement and Alternative Dispute Resolution

While the schedule does not include specific dates for settlement conferences, it does not preclude parties from meeting at other times, provided notice is given consistent with our Rules.

The Commission offers Alternative Dispute Resolution (ADR) services consisting of mediation, facilitation, or early neutral evaluation. Use of ADR is voluntary, confidential, and at no cost to the parties. Trained ALJs serve as neutrals. The parties are encouraged to visit the Commission's ADR webpage at <http://www.cpuc.ca.gov/adr/>, for more information.

If requested, the assigned Judge will refer this proceeding, or a portion of it, to the Commission's ADR Coordinator. Alternatively, the parties may contact the ADR Coordinator directly at adr_program@cpuc.ca.gov. The parties will be notified as soon as a neutral has been assigned; thereafter, the neutral will contact the parties to make pertinent scheduling and process arrangements. Alternatively, and at their own expense, the parties may agree to use outside ADR services.

11. Final Oral Argument

A party in a ratesetting proceeding in which a hearing is held has the right to make a Final Oral Argument before the Commission, if the argument is requested in the party's closing (reply) Brief. (Rule 13.13(b).)

IT IS RULED that:

1. The category of this proceeding is ratesetting. Appeals as to category, if any, must be filed and served within ten days from the date of this scoping memo.
2. Administrative Law Judge Maribeth A. Bushey is designated as the Presiding Officer. The assigned Commissioner or Presiding Officer may adjust this schedule as necessary for efficient management and fair resolution of this proceeding.
3. The scope of the issues for this proceeding is as stated in "5. Scope of Proceeding" above.
4. Hearings are necessary and are scheduled as above.
5. The schedule for the proceeding is stated in "6. Schedule" above.
6. With limited exceptions that are subject to reporting requirements, *ex parte* communications are prohibited. (*See* Public Utilities Code § 1701.3(c); Article 8 of the Commission's Rules of Practice and Procedure.)

7. A party shall submit request for Final Oral Argument in its closing(reply) brief, but the right to Final Oral Argument ceases to exist if hearing is not needed.

Dated July 15, 2016, at San Francisco, California.

/s/ MICHEL PETER FLORIO
Michel Peter Florio
Assigned Commissioner

/s/ MARIBETH A. BUSHEY
Maribeth A. Bushey
Administrative Law Judge