



FILED
6-06-16
04:59 PM

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

U 39 E

Application No. 16-03-006
(Filed March 1, 2016)

**PACIFIC GAS AND ELECTRIC COMPANY (U 39 E)
PREHEARING CONFERENCE STATEMENT**

WILLIAM V. MANHEIM
CRAIG M. BUCHSBAUM
Pacific Gas and Electric Company
77 Beale Street
San Francisco, CA 94105
Telephone: (415) 973-4844
Facsimile: (415) 973-0516
E-mail: cmb3@pge.com

LINDSEY HOW-DOWNING
Law Offices
3060 El Cerrito Plaza #175
El Cerrito, CA 94530
Telephone: (510) 525-6039
Facsimile: (775) 562-6124
Email: lhowdowning@sbcglobal.net

Attorneys for
PACIFIC GAS AND ELECTRIC COMPANY

June 6, 2016

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric
Company in its 2012 Nuclear
Decommissioning Cost Triennial
Proceeding

U 39 E

Application No. 16-03-006
(Filed March 1, 2016)

**PACIFIC GAS AND ELECTRIC COMPANY (U 39 E)
PREHEARING CONFERENCE STATEMENT**

Pursuant to Administrative Law Judge (“ALJ”) Maribeth A. Bushey’s May 10, 2016 Ruling Setting a Prehearing Conference and Directing Parties to Meet and Confer and File Prehearing Conference Statements (“Ruling”) and Rule 7.2(a) of the California Public Utilities Commission’s (“Commission”) Rules of Practice and Procedure, Pacific Gas and Electric Company (“PG&E”) hereby submits its Prehearing Conference Statement responding to the issues raised in ALJ Bushey’s Ruling. PG&E participated in the May 26, 2016 Meet and Confer and PG&E supports the recommendations concerning the consolidation, sequencing, procedural schedule and scope contained in the Meet and Confer Report for 2015 NDCTP and Related Dockets (“Report”) which is being concurrently filed by Southern California Edison Company (“SCE”) and San Diego Gas and Electric Company (“SDG&E”).

I. PG&E’S RESPONSES TO SPECIFIC QUESTIONS IN THE RULING.

The ruling directed that each party file prehearing conference statements which address specified areas. PG&E’s responses are as follows:

1. *A statement on which, if any, of the four proceedings should be consolidated, setting forth the efficiencies expected to be gained by the parties and the Commission.*

PG&E concurs with the recommendation in the Report that all four dockets should be consolidated, and believes that the phasing of issues as set forth in the Report will maximize the efficient use of the Commission’s and parties’ time and resources.

2. *A report of the meet and confer, with proposed procedural schedule and scope.*

SCE/SDG&E are filing the Report.

3. *A list of the specific issues that should be included in the scoping memo and decided in the Commission's decision.*

PG&E believes that the specific issues that should be included in the scoping memo are:

(1) a ruling addressing the consolidation of Dockets A.16-03-006, A.15-01-014, A.15-02-006 and A.16-03-004; (2) a ruling addressing the proposed phasing of the proceedings; (3) a ruling addressing the scope of the proceedings, including the disputed issues identified in the Report; and (4) a ruling addressing the proposed procedural schedules. PG&E sets forth its position on the disputed issues in Section II of this Prehearing Conference Statement.

4. *A description of the documents and information that would be expected to be presented and included in the record of this proceeding in order to provide a sufficient record for the Commission to render an informed decision.*
5. *A statement on whether an evidentiary hearing is needed. Any party that states an evidentiary hearing is needed shall (a) list and describe the specific material factual issues to be heard, (b) summarize the evidence that the party plans to introduce at the hearing.*

Based on PG&E's experiences in prior NDCTPs, PG&E believes that an evidentiary hearing will be necessary. The issues specific to PG&E are set forth in Section III.B of the Report.

PG&E intends to present the following evidence in support of its positions:

Pacific Gas and Electric Company Prepared Testimony

- Chapter 1 - Introduction and Policy
- Chapter 1, Attachment A - 2015 Diablo Canyon NRC Assurance of Funding Letter
- Chapter 1, Attachment B – 2015 Humboldt Bay Power Plant Unit 3 NRC Assurance of Funding Letter
- Chapter 2 – Updated Diablo Canyon Power Plant Nuclear Decommissioning Cost Study
- Chapter 2, Attachment A – 2016 TLG Diablo Canyon Units 1 & 2 Decommissioning Cost Study
- Chapter 3 – Diablo Canyon Power Plant Updated Assumptions

- Chapter 4 – Humboldt Bay Power Plant Unit 3 Updated Nuclear Decommissioning Cost
- Chapter 4, Attachment A – 2016 Humboldt Bay Power Plant Unit 3 Decommissioning Project Report
- Chapter 4, Attachment B – 2012 and 2016 Humboldt Bay Power Plant Unit 3 Decommissioning Project Report Costs Comparison Table
- Chapter 4, Attachment C – Humboldt Bay Power Plant Unit 3 Site Restoration Rendering 1
- Chapter 4, Attachment D – Humboldt Bay Power Plant Unit 3 Site Restoration Rendering 2
- Chapter 4, Attachment E – Humboldt Bay Power Plant Unit 3 Decommissioning Schedule
- Chapter 4, Attachment F – Humboldt Bay Power Plant Unit 3 Post Shut Down Activities Report
- Chapter 5 – Humboldt Bay Power Plant Unit 3 Review of Decommissioning Activities
- Chapter 5, Attachment A – Humboldt Bay Power Plant Unit 3 Decommissioning Pictorial Summary
- Chapter 5, Attachment B – Humboldt Bay Power Plant Unit 3 Complete Activities Report
- Chapter 5, Attachment C – Completed Decommissioning Activities Costs
- Chapter 6 – Humboldt Bay Power Plant Unit 3 Nuclear Production Expenses
- Chapter 7 – Nuclear Decommissioning Trust Fund Rates of Return Forecast and Asset Liability Study Results
- Chapter 8 – Diablo Canyon Power Plant Units 1 and 2 and Humboldt Bay Power Plant Unit 3 Trusts Funding Requirements
- Chapter 9 – Revenue Requirement
- Chapter 10 – Rate Treatment of Department of Energy Litigation and Claims Proceeds

Appendix A – Statements of Witness Qualifications

Workpapers Supporting Chapter 7 Testimony

Workpapers Supporting Chapter 8 Testimony

Workpapers Supporting Chapter 9 Testimony

Rebuttal Testimony

6. *A statement on whether alternative dispute resolution (ADR) would be useful.*

PG&E is not requesting ADR at this time.

7. *A proposed schedule with dates for all proceeding-related events contemplated by the party, such as filing and serving written comments and other pleadings; serving written testimony and rebuttal testimony; discovery cutoff; holding evidentiary hearings; and filing and serving briefs and reply briefs.*

The Report contains the procedural schedule agreed upon by the parties.

8. *Any other matters that are relevant to scope, schedule, and orderly conduct of this proceeding.*

PG&E has not identified any other matters at this time.

II. PG&E'S POSITION ON DISPUTED ISSUES

A. The Commission Should Consider HBPP Completed Projects Along with The Other HBPP Issues.

PG&E proposes that all issues with respect to PG&E be considered together. In general, all parties agree that PG&E issues should be considered in Phase 1. However, TURN proposes that the reasonableness review of Humboldt Bay Power Plant Unit 3 ("HBPP") completed work be separated from the other HBPP and Diablo Canyon Power Plant ("Diablo Canyon") issues and instead be considered in Phase 2, which incorporates issues associated with San Onofre Nuclear Generating Station ("SONGS") reasonableness.

1. The Commission Has Already Established the Reasonableness Standard for Nuclear Decommissioning Costs.

TURN seeks to justify its extraordinary request by arguing that there is an "absence of clarity regarding the standards to be used to determine reasonableness."¹ TURN ignores the Commission's prior determinations. In Phase 1 of the 2012 NDCTP, which addressed HBPP-specific issues, the Commission expressly determined that:

The applicable standard of review for [HBPP] completed decommissioning projects, is whether the actual expenditures were reasonable and prudent.[] Consistent with prior Commission findings, the prudence of a particular management action (e.g., decision to undertake a specific activity) depends on what the

¹ TURN Protest filed on April 4, 2016 at 4.

utility knew or should have known at the time that the managerial decision was made. [fn omitted]²

The Commission adopted the same standard of review for SONGS in Phase 2 of the 2012 NDCTP.³ Thus, the Commission has definitively set forth its standard for reviewing the reasonableness of decommissioning work. There is no lack of “clarity” regarding the standard, and no reason why the reasonableness review of work completed at two completely different facilities should be considered together to ensure that “uniform standards”⁴ are applied.

2. The Commission Rejected TURN’s Approach in Phase 1 Of The 2012 NDCTP.

The Commission has already considered and rejected TURN’s proposal with respect to HBPP. In Phase 1 of the 2012 NDCTP, TURN requested that the Commission not consider the completed projects which PG&E had presented for reasonableness review but instead adopt new review procedures and consider those projects in the 2015 NDCTP.⁵ The Commission did not accept TURN’s request but instead found that PG&E had demonstrated that the actual expenditures for those projects were reasonable and prudent.⁶

TURN proposed that, for purposes of reasonableness review, the Commission divide HBPP decommissioning into “work packages” subject to success criteria and set schedules. In addressing TURN’s proposal, the Commission stated:

The Commission shares TURN’s interest in cost containment and accountability when a utility seeks after-the-fact review of its decommissioning decisions, activities, and expenditures. We consider it necessary to protect ratepayers’ interests going forward by establishing clear guidelines for what is expected of a utility which seeks to obtain review of disbursements and completed projects in the future.⁷

² D.14-02-024, *mimeo* at 18, citing D.10-07-047, Conclusion of Law 2; D.02-08-064 at 5-8.

³ D.14-12-082, *mimeo* at 13-14.

⁴ TURN Protest at 4.

⁵ *See Opening Brief of the Utility Reform Network On Decommissioning Cost Estimates for The Humboldt Bay Nuclear Power Plant* filed September 13, 2013 in A.12-12-012 at 16-17.

⁶ D.14-02-024 Conclusion of Law 7.

⁷ *Id.*

The Commission then “examine[d] TURN’s recommendations,” and did not adopt them. The Commission took other steps to ensure robust review of completed work. With respect to categorizing decommissioning costs, the Commission required PG&E to develop in consultation with the Energy Division a spreadsheet which “shall identify the 11 major cost categories identified by PG&E [fn omitted] with additional subcategories for the four major civil works projects” and to submit the spreadsheet template by Advice Letter.⁸ Advice Letter 4379-E, providing the spreadsheet template, was authorized effective March 21, 2014. The Commission also adopted other measures, including adding additional reporting requirements in PG&E’s annual decommissioning advice letter filings and directing that PG&E keep a written log of key decisions about the cost, scope and timing of a major project or activity.⁹

In Phase 2 of the 2012 NDCTP, addressing future SONGS reasonableness, the Commission found that SCE should “follow a similar process for providing continuity of cost tracking and documenting costs as set forth in the Phase 1 decision, D.14-02-024, applicable to PG&E.”¹⁰ The Commission directed SCE to develop a structure for tracking decommissioning expenditures and to present it as supplemental testimony in its 2014 detailed site-specific decommissioning cost estimate in Application 14-12-007.¹¹ Thus, it is clear that any ongoing efforts related to the cost categorization for SONGS decommissioning are applicable only to SONGS, not to HBPP, and that the Commission has already addressed the issue for HBPP.

The Commission has already determined the legal standards by which completed projects will be reviewed and the categories in which HBPP completed costs are to be presented; PG&E’s HBPP Decommissioning Complete Activities Report presents expenditures in the manner authorized by the Commission. TURN’s request that the Commission not consider the HBPP completed work presented in PG&E’s Prepared Testimony, but instead reconsider the way

⁸ *Id.* at 49-50; Ordering Paragraph 2.

⁹ *Id.* Ordering Paragraphs 2, 4.

¹⁰ D.14-12-082 Conclusion of Law 13.

¹¹ *Id.* Ordering Paragraph 6.

PG&E reports these costs, constitutes an impermissible collateral attack on the 2012 NDCTP Phase 1 decision.¹²

3. There Would Be No Efficiencies Gained By Consolidating Review Of HBPP and SONGS.

There are no common issues of law¹³ or fact which would justify consolidating review of HBPP and SONGS completed work. The work performed to decommission a nuclear power plant is extremely site specific; this is particularly true at HBPP. The Commission has long recognized that conditions at HBPP present a number of unique challenges impacting the types of tasks and the way decommissioning work must be performed. Thus, any cost categorization structure to be developed for SONGS would simply have no relevance to the decommissioning work performed at HBPP. Likewise, the specific decommissioning work which has been completed at HBPP is not comparable to decommissioning work at SONGS.

Further, decommissioning work has been underway at HBPP for several years. PG&E is presenting for review in this NDCTP the entire major phase of Self Perform Work at HBPP covering the period 2009 through 2014. PG&E understands that TURN is requesting that its proposed recharacterization be applied retroactively to this phase. Any “milestones” which TURN might ultimately convince the Commission to adopt would thus be implemented several years after the work had been completed.

There is no reason to delay the timely consideration of PG&E’s HBPP decommissioning expenditures and they should be considered along with the other elements of PG&E’s application.

¹² Pub. Util. Code §1709.

¹³ Other than the overall Commission standard of review, which as discussed above has already been determined.

B. TURN’s Request That The Commission Consider Possible License Extensions For Diablo Canyon Power Plant Units 1 And 2 Is Beyond The Scope Of This NDCTP And Contrary To Statutory Requirements.

For purposes of its decommissioning cost estimate, PG&E assumes that Diablo Canyon decommissioning will commence at the expiration of the current licenses in 2024 and 2025. TURN, joined by the Alliance for Nuclear Responsibility (“A4NR”), asserts that the potential of Nuclear Regulatory Commission (“NRC”) relicensing of Diablo Canyon should be addressed in Phase 1.

This suggestion is far afield from the scope of the NDCTP. With respect to Diablo Canyon, the sole issue in this proceeding is the review of PG&E’s updated nuclear decommissioning cost study, assumptions and ratepayer contribution analyses in order to determine the revenue requirements necessary to fund the nuclear decommissioning master trusts to the level needed to decommission Diablo Canyon.¹⁴ This NDCTP is emphatically not a forum for considering PG&E’s plans with respect to license extension. That decision involves many complex resource planning issues that are clearly outside the scope of this proceeding.

Additionally, the California Nuclear Facility Decommissioning Act of 1985¹⁵ mandates that the Commission ensure that rates are adequate to fully fund the nuclear decommissioning trusts, and further provides:

The commission shall authorize an electrical corporation to collect sufficient revenues in rates to make the maximum contributions to the fund established pursuant to Section 468A of the United States Internal Revenue Code and applicable regulations, that are deductible for federal and state income tax purposes. . . .¹⁶

Pursuant to Internal Revenue Service regulations, maximum contributions are determined based on the facilities’ expected remaining useful life, which for Diablo Canyon is through the current license termination dates. Artificially reducing the revenue requirement based on

¹⁴ See D.14-12-082, *mimeo* at 3.

¹⁵ Cal. Pub. Util. Code §§8321 *et seq.*

¹⁶ Cal. Pub. Util. Code §8325(c).

speculation that PG&E might have a longer period of time to recover unfunded trust liabilities would not comply with the requirements of Section 8325(c)). Further, in the event PG&E were to announce its intent to proceed with relicensing, there is no guarantee PG&E would ultimately be successful; therefore, such a reduction carries a substantial risk that customers ultimately would need to continue funding the decommissioning trusts after the useful life of the facilities.

For the purpose of determining the appropriate revenue requirement to fully fund the nuclear decommissioning trusts in this NDCTP, the Commission must assume the current license termination dates. There will be up to three future NDCTP cycles to evaluate any changes in circumstances before the Diablo Canyon licenses terminate.

III. CONCLUSION

Wherefore, PG&E respectfully requests that the Commission adopt the recommendations contained in the Report as to consolidation, phasing, scope and procedural dates; find that HBPP reasonableness review should be conducted in Phase 1; and find that issues regarding the potential relicensing of Diablo Canyon are outside the scope of this proceeding.

Respectfully Submitted,

LINDSEY HOW-DOWNING

By: /s/ Lindsey How-Downing
LINDSEY HOW-DOWNING

Law Offices
3060 El Cerrito Plaza #175
El Cerrito, CA 94530
Telephone: (510) 525-6039
Facsimile: (775) 562-6124
Email: lhowdowning@sbcglobal.net

June 6, 2016

Attorney for
PACIFIC GAS AND ELECTRIC COMPANY