



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

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Application of Pacific Gas and Electric
Company for Approval of the Retirement
of Diablo Canyon Power Plant,
Implementation of the Joint Proposal, And
Recovery of Associated Costs Through
Proposed Ratemaking Mechanisms.

(U39E)

Application 16-08-006
(Filed August 11, 2016)

**PROTEST OF THE CITY OF SAN LUIS OBISPO, CITY OF PISMO BEACH, CITY OF
PASO ROBLES, CITY OF ARROYO GRANDE, CITY OF MORRO BAY, AND CITY
OF ATASCADERO TO APPLICATION 16-08-006**

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September 15, 2016

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I. INTRODUCTION

In accordance with Rule 2.6 of the California Public Utilities Commission (“Commission”) Rules of Practice and Procedure (“Rules”), the City of San Luis Obispo, City of Pismo Beach, City of Paso Robles, City of Arroyo Grande, City of Morro Bay, and City of Atascadero (together, the “Nearby Cities”), submit this protest (“Protest”) to the Application of Pacific Gas and Electric Company for Approval of the Retirement of Diablo Canyon Power Plant, Implementation of the Joint Proposal, And Recovery of Associated Costs Through Proposed Ratemaking Mechanisms (the “Application” or “Joint Proposal”).¹

¹ The “Joint Parties,” who joined in the Application, include PG&E, the Natural Resources Defense Council, Friends of the Earth, Environment California, International Brotherhood of Electrical Workers Local 1245, Coalition of California Utility Employees, and (footnote continued)

The Nearby Cities are all located in the vicinity of the Diablo Canyon Power Plant (“Diablo Canyon”) and each of the Nearby Cities will be significantly affected in both the short- and long-term by Diablo Canyon’s closure. Indeed, with the exception of the citizens and communities served by San Luis Obispo County and the San Luis Coastal School District, it is difficult to imagine a group of stakeholders more interested in plans related to Diablo Canyon’s closure than the Nearby Cities. The Nearby Cities do not oppose PG&E’s decision to retire Diablo Canyon and appreciate the important and hard work of the PG&E employees who are dedicated to safely operate and eventually decommission Diablo Canyon, as well as the past contributions PG&E has made, and hopefully will continue to make, to the fabric of their communities. Nonetheless, PG&E never engaged in any dialogue with any of the Nearby Cities regarding the Application prior to its public release on June 21, 2016. As a result, the Nearby Cities were completely blindsided when PG&E publicly announced the terms and conditions of the Application. In spite of repeated requests, no meetings, discussions, or negotiations took place between PG&E and any of the Nearby Cities regarding the significant and undeniable impacts associated with the retirement of Diablo Canyon between the public release of the Joint Proposal and the official submission of the Application. In fact, in spite of repeated requests from elected officials, senior officials, and staff from one of the Nearby Cities (the City of San Luis Obispo), no PG&E officials authorized to discuss and negotiate the terms and conditions of the Application met with City representatives until September 14, 2016 on the afternoon of the day before this Protest was due to be submitted. That meeting did not result in any commitments or considerations that warrant foregoing this Protest.

the Alliance for Nuclear Responsibility. The California Energy Efficiency Industry Council also “indicated that it supports the Joint Proposal.”

Because the Nearby Cities have not had time to engage the appropriate expertise to forecast accurately the significant impacts of the Application, this Protest necessarily represents only a preliminary analysis of the adequacy of the Application. Specifically, the Nearby Cities object to their exclusion from the process to inform, comment upon, and/or participate in the negotiations concerning the Joint Proposal prior to its public release and filing. Additionally, the Nearby Cities strenuously object to the expedited schedule proposed by PG&E for approval of the Joint Proposal prior to the Nearby Cities being afforded an opportunity to obtain relevant information about the clearly significant impacts on their residents and communities and to propose mechanisms by which those impacts can be mitigated fairly and adequately. The Nearby Cities therefore request the CPUC afford them a full and equal opportunity to provide further analysis and comment on this matter before the Commission makes its decisions.

Further, even a preliminary review of the Joint Proposal shows the Application provides very little detailed information about such important matters as the decommissioning of Diablo Canyon, the demolition of structures, the removal of materials and hazardous waste, the re-use of 12,820 buffer acres, consideration of the future use of desalination facilities, the removal of KV transmission lines, and the continued operation of a nuclear spent fuel facility *ad infinitum*. Given the complexity and importance of the issues that were either not addressed or only superficially addressed by the Joint Proposal, it is perhaps unsurprising PG&E preferred to negotiate the Joint Proposal in secret and then submit the Application without the informed input and advocacy of the Nearby Cities representing the majority of the citizens, public safety providers, and business communities that will be most impacted by the Joint Proposal. The only certainty the Application appears to provide is it does very little to address the significant and

adverse economic, fiscal, emergency preparedness and response, and environmental effects of shutting down Diablo Canyon on the Nearby Cities.

By this Protest, the Nearby Cities respectfully demand the significant and adverse impacts of the Proposal on their respective communities be given equal consideration to those of the Joint Parties in these proceedings and the private shareholders of PG&E. When the Nearby Cities first acceded to the construction and operation of a major nuclear facility in their backyards, they reasonably assumed that in exchange for bearing the substantial burdens associated with hosting the facility, they would receive certain benefits. Chief among those benefits would be the long-term, stable presence of a reliable economic partner and environmental steward that would recognize and be accountable to its host communities for the long term economic and environmental impacts of its operation and closure. At a minimum, the Nearby Cities reasonably expected that they would be treated as substantial and equal stakeholders in any significant decisions regarding Diablo Canyon's operation or disposition. Now, however, PG&E plans to shutter Diablo Canyon after the first license renewal, denying the Nearby Cities the benefits, and leaving them with only the burden of an uncertain economic and environmental future in which they have had no voice to date.

Again, the Nearby Cities do not oppose, within the context of this proceeding, PG&E's decision to close Diablo Canyon. However, as currently drafted, the Application leaves the Nearby Cities with no independently verified economic or environmental data or analysis on which to base informed decisions about how best to serve the surrounding communities the Nearby Cities represent. Moreover, the Application inappropriately excludes any resources to plan and implement measures to address the considerable challenges ahead related to the closure and decommissioning of Diablo Canyon. Simply put, the Nearby Cities are left to fend for

themselves in the face of potentially devastating impacts that are known (*i.e.*, loss of emergency preparedness resources and direct property taxes loss) as well as those that are unknown or unquantified (*i.e.*, loss of head-of-household jobs, future use of the land, indirect and induced economic losses). This outcome does not reflect the long-standing and respectful working relationship that has been developed since it was decided to site Diablo Canyon. The only certainties are that the short- and long-term impacts of the closure will be considerable and that it would be irresponsible to allow this process to conclude without sound information, a data-driven plan, and resources to implement it.

Pursuant to CPUC Rule 2.6, the Nearby Cities submit this Protest because a preliminary review shows the Application does not adequately and equitably consider, or provide for the mitigation of, significant adverse effects from the proposed action on the Nearby Cities.² Due to the artificially expedited proposed schedule submitted by PG&E, the Nearby Cities also reserve the right to submit further responses and analysis as more information regarding the Application becomes available and request any other impacted public agency that wishes to join this Protest, at a later date, be permitted to do so. The Nearby Cities also request the CPUC set a reasonable time line for public agency consideration, sufficiently in advance of any decisions to be made by the CPUC considering public meeting and noticing requirements, to be incorporated into any processing schedule approved by the CPUC.

² The Nearby Cities represent that other local public entities have been considering joining this Protest, but may not have been able to do so by the Joint Parties' proposed deadline because they did not have sufficient time to consider the issues raised in this Protest due to constraints on already strained public resources and the requirements of open-meeting laws. The Joint Parties' proposed (and unilateral) deadline is not a proper basis for denying those public agencies the right to participate in this proceeding.

II. INTEREST IN THIS PROCEEDING

The Nearby Cities — each located within no more than forty (40) miles of Diablo Canyon — have a vital interest in this proceeding as a result of their duty on behalf of their citizens to ensure the Application appropriately mitigates the significant and adverse economic, fiscal, emergency preparedness and response, and environmental effects that will result from the closure of Diablo Canyon. The significance of those effects is a direct result of both Diablo Canyon’s prominent role in the local economy and the long-term challenges associated with decommissioning any nuclear power plant, including the long term storage of spent fuel.

First, the economic and fiscal effects of Diablo Canyon’s closure on the Nearby Cities will be enormous. As the Application points out, “Diablo Canyon is one of the largest employers, taxpayers, and charitable contributors in the San Luis Obispo County area.” An economic impact study PG&E itself produced in June 2013³ estimated the total annual payroll for Diablo Canyon employees at the time was over \$202 million, the annual expenditures from Diablo Canyon for local goods and services were over \$18 million, and the annual local expenditures by Diablo Canyon retirees were over \$19 million. The study estimated Diablo Canyon created 3,358 local jobs in 2011, including 1,483 jobs at Diablo Canyon itself, and that Diablo Canyon is “one of the few providers of a large number of well-paying, head-of-household jobs in the region.”⁴ The study further noted “[m]ost of [Diablo Canyon’s] employees live in San Luis Obispo County or Northern Santa Barbara County” and “[w]ages employees receive

³ Patrick Mayeda & Dr. Kenneth Riener, in cooperation with PG&E, *Economic Benefits of Diablo Canyon Power Plant: An Economic Impact Study* (June 2013) (“Economic Impact Study”), available at: https://www.pge.com/includes/docs/pdfs/shared/edusafety/systemworks/dcpp/PGE_Economic_Impact_Report_Final.pdf.

⁴ *Id.* at 3.

are mainly spent in their area of residence.”⁵ The study also found the “Total Economic Impact” of Diablo Canyon on the local economy in 2011 was nearly \$1 billion.

Shutting Diablo Canyon down will remove that significant economic activity from the local areas that have hosted and borne the risks associated with the facility, and will also eliminate other economic benefits produced as a result of its presence, including the funding and operation of the San Luis Obispo County Office of Emergency Services (“OES”), \$1 million of annual charitable grants within the County from PG&E, and 32,000 volunteer hours. The Nearby Cities have an obligation on behalf of their citizens to ensure any plan to retire Diablo Canyon includes appropriate measures to mitigate those significant adverse effects, considering all legitimate interests in this process, not just those of PG&E shareholders and the Joint Parties

Second, the environmental effects of shutting down Diablo Canyon — and the costs of addressing those effects — are a significant source of concern for the Nearby Cities. For example, it appears from the Application PG&E plans to continue to store spent nuclear fuel at the Diablo Canyon site following its decommissioning. As PG&E is well aware, long-term storage of spent nuclear fuel is an enormously complex and expensive endeavor. Since the spent nuclear fuel from Diablo Canyon will be stored in their backyards, the Nearby Cities have a vital interest on behalf of their citizens in ensuring the storage is well-managed and adequately funded. That is especially the case because the Application makes no mention of how, or how long, PG&E plans to use the Diablo Canyon site for spent fuel storage. Since the timeline for storage of that material is potentially indefinite, the provisions in the Application related to the funding for that storage must be appropriately detailed and robust. Any finally-approved agreement must have concrete and enforceable assurances of financial and safety mitigations for

⁵ *Id.* at 25.

such storage that are commensurate with the long-term risks assumed by the surrounding communities and the life of the mitigations must match the life of the proposed storage.

III. PROTEST

A. **The Application Ignores The Local Cities Entirely**

Given the obvious interests of the Nearby Cities in ensuring the process for decommissioning Diablo Canyon is conducted properly, it is hard to imagine how PG&E and the Joint Parties could draft and submit an application laying out such a process without the Nearby Cities' input. Nevertheless, they did. Indeed, the Nearby Cities first found out about the details of the Application and Joint Proposal not from PG&E, but only through traditional media sources and in the same timeframe as the general public. PG&E representatives did not meet with representatives of the Nearby Cities until after public release of the Joint Proposal – and even then, only to answer questions about the details and timing for its submittal to the CPUC. In short, preceding one of the most consequential proposed actions in the region in recent memory (perhaps rivaled only by the opening of Diablo Canyon), PG&E made no effort whatsoever to engage the Nearby Cities or to consider the potential impacts on them in advance of the proposed filing of the Joint Proposal. The CPUC should not condone this level of closed door negotiation, unilateral hoarding of information, and willful exclusion of the affected public, and PG&E should be required to remedy it prior to the conclusion of these proceedings.

The Nearby Cities note PG&E has been warned before about the need to communicate with local stakeholders. In connection with a recent investigation into PG&E's compliance with applicable laws and regulations regarding its maintenance of records related to its natural gas distribution system in Carmel-by-the-Sea, the CPUC Modified Presiding Officer found:

We address the specific incident elsewhere in today's decision, and here focus on the critical role of local elected officials in communications with public utilities generally, but most acutely as regards dangerous facilities located in the officials' jurisdiction and

often in public right-of-way. As was the case here, concerned residents after experiencing an unexpected and frightening event turn to their local officials to represent them in resolving the new-found threat. *Being responsive and cooperative to inquiries from local officials, especially after a utility-caused explosion, is an essential component of “adequate, efficient, just and reasonable service” necessary to “promote the safety, health, comfort, and convenience of its patrons, employees, and the public.”*

Rebuffing and ignoring requests from the highest ranking local official, and abruptly cancelling a much-anticipated executive meeting, is not adequate service that promotes the safety, health, comfort and convenience of PG&E’s customers. We find that PG&E violated the requirements of § 451 by its lack of communication with and respect for the City’s elected officials after the March 3, 2014 explosion.

Modified Presiding Officer’s Decision Regarding Investigation of Pacific Gas and Electric Company’s Gas Distribution Facilities Records, CPUC Investigation 14-11-008 (Filed November 20, 2014), at p. 42 (emphasis added).

Despite that clear warning, PG&E and the Joint Parties flatly ignored the Nearby Cities and gave no consideration whatsoever to local and significant community interests in putting together the Application. It is no surprise, then, a preliminary review of the Application shows it does not address the Nearby Cities’ significant concerns about Diablo Canyon’s closure (as discussed further below). PG&E’s decision to negotiate and submit the Application excluding any representative of any affected local governmental entity (not only the Nearby Cities, but apparently even the clearly and directly impacted County of San Luis Obispo and the San Luis Coastal Unified School District) was ill-advised and tone deaf at best, and willfully calculated to limit or exclude relevant impacts analysis and mitigation negotiation at worst. Basic notions of fairness and informed community decision-making require the Nearby Cities be given further opportunities to obtain data in the sole possession and control of PG&E and, using that data, to conduct and submit informed analyses and comments as additional information becomes available. In order to create a fair and equitable process, the CPUC must allow that to be done prior to any final approvals being granted. The Nearby Cities’ unique interests in this matter also

call for them to be able to participate in these proceedings on an equal basis to the settling parties to ensure all impacted important community interests are considered and addressed. The impacts of the decision before the CPUC are simply too significant and far reaching for an entire region and all affected entities to permit the process to proceed based on the inputs solely of a narrow set of interests that were hand-selected by the Party with the most to gain from the closure. Where the obvious community impacts of a decision are so great, expedience and corporate profit alone cannot justify the exclusion of the Nearby Cities and other impacted agencies from the process.

B. The Application Does Not Adequately Lessen the Short- and Long-Term Economic and Fiscal Impacts to the Nearby Cities

As discussed below, preliminary review of the Application shows it completely fails to realistically acknowledge, much less ameliorate, the significant and adverse economic and fiscal impacts of Diablo Canyon's closure on the Nearby Cities.

Economic Impact. The prominent role of Diablo Canyon as one of the region's largest employers (PG&E directly employs approximately 1,500 workers at Diablo Canyon, and estimates the facility created another approximately 1,800 jobs in the local area) means its closure will eliminate the source of many of the region's most high-paying, attractive jobs. However, though the Application states in general terms the years between now and the date of Diablo Canyon's closure will provide "essential time" for "PG&E's valued employees and the community to effectively plan for the future," and states it will "propose a fair and equitable employee package as part of its Joint Proposal Application," it does not provide a sufficient level of detail regarding its proposal for the Nearby Cities to make an informed analysis of its adequacy. It is also worth noting the Application allows PG&E to make an interim decision about the continued operation of Diablo Canyon (prior to the expiration of its existing license in

2024). If PG&E decides to jump-start the decommission process and cease operations before 2024, then its assertion there is ample time for the local jurisdictions to plan and implement mitigation measures will most certainly prove to be false.

As an initial matter, in an effort to address the Nearby Cities' glaring informational disadvantage, PG&E should be directed to make available at no cost to the Nearby Cities the most recent version of IMPLAN (or equivalent) software and all applicable data sets, as identified by an independent consultant to the Nearby Cities, so the Nearby Cities can verify data and perform their own models of the economic impacts in each of their communities and the financial impacts to each jurisdiction. Also, PG&E's economic experts and forecasters should be directed to reasonably assist the Nearby Cities at no cost.

In any event, the Application should not be approved unless and until it adequately provides reasonable assistance for the diversification of the local economy, as well as job creation to help mitigate the devastating loss to our local economic engine. Examples of ways in which the Application could be improved include support for a plan to address the economic impacts to the Nearby Cities, funding for relevant economic programs and opportunities located in San Luis Obispo County, creation of a research and development facility located in the region, training related to, and concrete investment in, alternative energy generation technologies, and infrastructure development to support the long-term economic recovery in the region. Those opportunities could involve direct funding and commitments for a certain number of jobs remaining in the community for a specified amount of time. Overall, the Application should encourage creative solutions that will lessen the short- and long-term economic impacts to the community while being sufficiently flexible to encourage innovation. The Joint Proposal must also include enforceable and quantifiable benchmarks for performance by PG&E

Fiscal Impacts. The Application states PG&E and the Joint Parties “will support funding of continuing revenue streams to address community needs and concerns,” but it explicitly includes only \$49.5 million in compensation over a nine-year period to San Luis Obispo County “for the loss of property taxes associated with the declining rate base in Diablo Canyon through a transition period.” As an initial matter, that payment is wholly insufficient to cover the loss it purportedly addresses; local property taxes alone over the same period if Diablo Canyon remained in operation would have approximated, by PG&E’s own estimation, nearly \$200 million.⁶

PG&E acknowledges no impacts on the Nearby Cities in its calculations and proposes no consideration of mitigation of such impacts. At a minimum, PG&E should be required to make in-lieu payments to all local taxing jurisdictions in amounts equal to the current combined tax receipts of property, sales, and other local taxes in order to adequately compensate the Nearby Cities and allow for orderly economic transition. Those payments could be structured in several ways and the Nearby Cities look forward to the opportunity to explore any and all options and solutions that mitigate the impacts outlined above.

C. The Application Does Not Adequately Address the Long-Term Emergency Preparedness, Emergency Response, and Environmental Impacts to the Nearby Cities

The Application fails to provide sufficient detail regarding the funding for a number of different costs related to managing the environmental impact of closing Diablo Canyon. For example, the Application describes the process for addressing the long-term storage costs of spent nuclear fuel in only vague, generalized terms. It states PG&E will seek funds for a site-

⁶ Application, p. 11 (estimating that Diablo Canyon “currently pays approximately \$22 million in annual property taxes to the local community.”)

specific decommissioning study, which will include a plan for “expedited post-shut-down transfer of spent fuel to Dry Cask Storage as promptly as is technically feasible.” It also states PG&E expects to file a license renewal application for its Independent Spent Fuel Storage Installation (“ISFSI”) no less than five years prior to the expiration of its current license in 2024. However, it does not make any commitments as to how the long-term management of spent fuel storage will be funded, much less how safe that storage will be for the Nearby Cities. As PG&E and many of the Joint Parties are well aware, determining the potential costs associated with spent nuclear fuel storage is an enormously complex process. *See, e.g., Costing of Spent Nuclear Fuel Storage*, International Atomic Energy Agency (Sept. 2009). The Nearby Cities have a vital interest in making sure the storage efforts will be appropriately managed and funded and, at a bare minimum, having a clearly articulated understanding of what long-term solutions are being considered and agreed to as part of the Joint Proposal.

At a minimum, the Application should include detailed plans regarding funding for spent fuel management, decommissioning, hazardous waste disposal, and maintaining and enhancing emergency preparedness and response capabilities to address what is essentially a nuclear graveyard, which will remain in the region for a presently undefined period. It should also provide further details regarding a number of other key issues related to the long-term environmental health of the Nearby Cities, including the aspects of the decommissioning process that implicate environmental concerns, the demolition of structures, ongoing emergency preparedness and response training and funding, the removal of materials and hazardous waste, any restrictions on the re-use of 12,820 buffer acres, and the removal of KV transmission lines.

D. The Application Does Not Provide Sufficient Detail About the Future Use of Diablo Canyon Land

The Application is disturbingly vague regarding the future use of the land on which Diablo Canyon sits. Under other circumstances, dealing with this issue at the outset might not be as crucial, because the land would be essentially usable. Here, however, there are a number of issues that must be carefully evaluated before the future uses of the land can be determined, due to its past use for nuclear power generation, and its potential ongoing use for spent nuclear fuel storage.

At a minimum, the Commission should require PG&E continue to provide for the careful and safe maintenance of the site, including maintaining current levels of effort and funding for the County OES to enhance community-wide safety until removal of all spent nuclear fuel. It should also require PG&E provide annual reports to the legislative body of each of the Nearby Cities and in fact, all local political jurisdictions, on the progress of decommissioning the site and the status of spent nuclear fuel stored on-site.

The Commission should also require PG&E work with the Nearby Cities and all local jurisdictions to assess any and all possible future re-use of the facilities and the surrounding 12,820 acres of the Diablo Canyon site. The Nearby Cities respect that this land is within the jurisdiction of San Luis Obispo County and the County should have the lead in this effort. There are many possibilities about the use of existing facilities and the surrounding undeveloped land. Future use should be determined through a San Luis Obispo County-led effort which respects the needs of the entire region. Decisions about future use should include consideration of the re-use of existing facilities to enhance economic recovery in the region, other options for the future use and protection of open space and marine resources, cultural resources, historic sites, and related facilities. The Nearby Cities specifically request this process include a particularly close look at the possibility of using Diablo Canyon's desalination plant to supply water to local communities,

many of which are facing uncertainty with regard to their continued water supply due to ongoing drought conditions (a PG&E spokesperson publicly rejected that idea after the plan to close Diablo Canyon was announced,⁷ but did not provide an explanation of PG&E's reasoning).

IV. REQUEST FOR HEARING

For the foregoing reasons, an evidentiary hearing is necessary for the Nearby Cities to present facts regarding, and for the Commission to fully and properly evaluate, the deficiencies in the Application. The Nearby Cities respectfully protest the Application and request the Commission deny the Application as currently drafted, including the proposed expedited schedule, and require further consultation with and revision of the Application to address the Nearby Cities' and other local agencies' input and impact mitigation. PG&E and the Joint Parties should be required to revise the Application to adequately address the Nearby Cities' concerns as outlined herein and as may be proposed during subsequently ordered negotiations.

The Nearby Cities further request that they be permitted to fully and equally participate in the Commission's review of the settlement agreement that the Joint Parties have stated they intend to execute and submit. As stated in another protest of the Application, "Settlements are not meant to be decided as a *fait accompli* by a limited set of interested parties."⁸ Neither Commission rules, nor basic notions of fairness, allow the Joint Parties to force a settlement

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⁷ David Sneed, *Diablo Canyon Closure Kills Desalination Plant Expansion*, San Luis Obispo Tribune (June 21, 2016).

⁸ Green Power Institute Protest of PG&E Joint Application, CPUC A. 16-08-006, p. 11.

without allowing the Nearby Cities – who will be significantly more affected by the settlement’s outcome – a voice in determining its terms.

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