

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



FILED
9-15-16
04:59 PM

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 OFFICE OF RATEPAYER ADVOCATES**

LAURA TUDISCO

Attorney for the
Office of Ratepayer Advocates

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Telephone: (415) 703-2164
E-mail: ljt@cpuc.ca.gov

September 15, 2016

I. INTRODUCTION

Pursuant to Rule 2.6 of the Rules of Practice and Procedure of the California Public Utilities Commission (CPUC or Commission), the Office of Ratepayer Advocates (ORA) submits this Protest to the Application of Pacific Gas and Electric Company (PG&E) for approval of the retirement of the Diablo Canyon Power Plant (DCPP or Diablo Canyon), implementation of the Joint Proposal, and recovery of associated costs through proposed ratemaking mechanisms.

PG&E filed Application (A.) 16-08-006 on August 11, 2016. PG&E had been pursuing a 20-year license extension, but has now asked the Nuclear Regulatory Commission (NRC) to suspend its request.¹ In A.16-08-006, PG&E requests Commission authorization for procurement authority and revenue increases associated with its electric operations.

Pursuant to Rule 2.6 of the Commission's Practice and Procedure, Protests must be filed within 30 days of the date the notice of filing the Application first appears in the Daily Calendar. Since the Application was first noticed on the Commission's calendar on August 16, 2016, this Protest is timely filed.

ORA is reviewing PG&E's proposals and requests, and is conducting discovery. Below, ORA lists some of the areas where it expects to make recommendations. ORA requests that its testimony be served on January 27, 2017 instead of the date proposed by PG&E in its Application.

II. BACKGROUND

In 2024 and 2025, licenses issued by the NRC for Diablo Canyon will expire. PG&E and other parties (Joint Parties²) together developed a proposal (Joint Proposal³) designed to increase investment in energy efficiency (EE), renewable resources, and other greenhouse-gas (GHG)-free resources while phasing out nuclear power in California within 10 years.

¹ PG&E Application (A.) 16-08-006, pp. 5, 7.

² Joint Parties include PG&E, the Natural Resources Defense Council (NRDC), Friends of the Earth, Environment California, International Brotherhood of Electrical Workers (IBEW) Local 1245, Coalition of California Utility Employees (CUE), and the Alliance for Nuclear Responsibility (A4NR).

³ A copy of the Joint Proposal is included as Attachment A to A.16-08-006.

III. JOINT PARTIES' PROPOSAL

According to PG&E, the Joint Proposal is intended to facilitate the retirement of Diablo Canyon and replace it with EE, Renewables Portfolio Standard (RPS)-eligible, and other GHG-free energy resources. The Joint Proposal includes three tranches of EE and GHG-free energy resource procurement to be implemented between 2018 and 2045, and addresses how the costs associated with such procurement will be allocated.

PG&E seeks Commission approval of its plan (based on an anticipated need or special accommodation) to replace a portion of Diablo Canyon with GHG-free resources procured in three tranches over a 15-year period:⁴

- **Tranche #1:** Includes one or more competitive solicitations and potentially new utility programs to add 2,000 gross Gigawatt-hours (GWh) of EE to be installed by the end of 2024. This tranche is intended to reduce load with a GHG-free resource before Diablo Canyon retires.
- **Tranche #2:** Includes a competitive solicitation for 2,000 GWh of GHG-free energy for delivery in 2025-2030. EE and RPS energy resources, as well as other GHG-free energy resources, will compete to fill this opportunity.
- **Tranche #3:** Includes a voluntary 55 percent RPS commitment, which is 5 percent above the 2030 RPS mandate in Senate Bill 350. The commitment would start in 2031 and terminate the earlier of 2045 or when superseded by law or a CPUC decision.

PG&E seeks to recover \$1.3 billion as authorized EE funding for administration and acquisition of Tranche #1 energy efficiency procurement. These funds would be collected over a 7-year period through an annual expense-only revenue requirement of \$187 million beginning January 1, 2019 through December 31, 2025 through the electric Public Purpose Program (PPP) rate component.⁵ Unspent funds would be returned to ratepayers.

PG&E seeks to recover Tranche #2 procurement costs for EE resources through the PPP rate component.⁶

⁴ A.16-08-006, p. 9.

⁵ A.16-08-006, p. 12.

⁶ A.16-08-006, p. 12.

PG&E requests full cost recovery of the remaining Diablo Canyon investment and costs associated with:⁷

- Retaining approximately 1,500 employees at Diablo Canyon, an expense of \$352.1 million (\$51 million/year revenue requirement beginning January 1, 2018, for 7 years);
- Re-training eligible employees at Diablo Canyon, an expense of \$11.3 million (\$2.3 million/year revenue requirement beginning January 1, 2021, for 5 years);
- In-lieu of property tax payments to San Luis Obispo County, an expense of \$49.5 million (\$6.3 million/year revenue requirement beginning January 1, 2018, for 8 years); and,
- Recovery of NRC license renewal costs already incurred by PG&E, an expense of \$52.7 million (\$6.7 million/year beginning January 1, 2018, for 8 years).

PG&E requests authority to establish a new two-way balancing account, effective January 1, 2017, for cost recovery associated with depreciation expenses and the retaining/retraining expenses listed above.⁸

IV. ORA'S REVIEW

ORA has initiated its review of PG&E's Application, has had discussions with PG&E, and has begun conducting formal discovery. ORA will make recommendations to the Commission when it serves its testimony.

ORA appreciates the intent of the Joint Proposal to replace anticipated capacity needs resulting from the Diablo Canyon closure with EE and renewable resources. However, prior to providing authorization to pursue these resources, it is essential to estimate the capacity need as accurately as possible and provide maximum opportunity to consider the most cost effective clean energy resources. The Commission initiated Rulemaking (R.) 16-02-007 to implement Senate Bill (SB) 350, which mandates that the Commission adopt a process for integrated resource planning "to ensure that load serving entities meet targets to be established by the California Air Resources Board, reflecting the electricity sector's contribution to achieving economy-wide greenhouse gas emissions reductions of 40 percent from 1990 levels by 2030."⁹ As such, the Commission should consider whether the issue of capacity needs and which resources should address those needs are more appropriately handled in the Integrated Resource

⁷ A.16-08-006, p. 13.

⁸ A.16-08-006, pp. 13-14.

⁹ R.16-02-007, p. 2.

Planning (IRP) rulemaking and possibly other proceedings that focus on EE and RPS as well as storage and demand response. The Commission should consider whether these issues should be addressed in existing proceedings separate from PG&E's request for: (1) the authority to close the Diablo Canyon nuclear facilities when the current license expires; (2) the recovery of employee retention costs; (3) funding in-lieu property tax payments; and (4) the recovery of the NRC license renewal costs.

Many existing generation facilities have ceased operation over the past several years for various reasons including phasing out of the once through cooling plant technology which led to many plant closures. The closure of these generation facilities undoubtedly led to more opportunities for increased renewable procurement, and also occurred at a time of increased procurement of distributed energy resources (DER). The closure of these plants did not require special EE funding or competitive procurement beyond the current Commission processes and proceedings that have been developed to address such matters. There is a need to evaluate the resource impacts of the DCCP closure and take a broad view of the opportunities the closure provides with respect to other resources such as EE, renewables, DER and demand response. The Commission already has in place processes and planning proceedings such as the IRP proceeding, which are well scoped to address the potential capacity needs resulting from the Diablo Canyon closure and provide the opportunity to evaluate a variety of resources to meet such need.

Below is a preliminary list of issues that ORA has identified so far:

Procurement:

- Whether PG&E will be in compliance with the requirements of SB 350 and its integrated resource planning provisions if this application is approved.¹⁰
- Whether PG&E identifies the need, if any, for system, local, and flexible capacity associated with the retirement of Diablo Canyon. Whether PG&E identifies how the proposed portfolio of resources to replace Diablo Canyon will meet the need, if any, for system, local, and flexible capacity.
- Whether the portfolio of resources proposed by PG&E is not only cost-effective, but the optimal solution to replace Diablo Canyon.
- Whether the optimal portfolio of resources to replace Diablo Canyon should be determined in the IRP proceeding.

¹⁰ Public Utilities Code §§454.51 and 454.52.

- Whether PG&E’s proposal to enhance the existing cost-allocation mechanisms by implementing a new Clean Energy Charge to allocate the benefits of Tranche #2 and #3 procurement as well as actual market costs is necessary and reasonable.
- Whether PG&E’s proposal to establish a self-provision option for Community Choice Aggregators (CCA) and Direct Access (DA) providers that elect to self-provide GHG-free energy resources in lieu of the Tranche #2 component of the Clean Energy Charge is necessary and reasonable.

Energy Efficiency

- EE procurement should follow the same policy rules established for all EE programs. PG&E’s proposal appears to deviate substantially from Commission standards for cost-effectiveness as well as the Commission’s counting guidance and may thus lead to procurement of non-cost-effective EE.
- Whether PG&E’s EE procurement proposal is redundant with the EE requirements of SB 350 requiring a doubling of EE savings. PG&E’s proposal is unclear as to whether its proposed EE procurement would be part of meeting SB 350 goals or whether it is incremental to SB 350 goals.
- Whether the payment of additional shareholder incentives (ESPI) for EE procurement is warranted. The purpose of ESPI payments is to motivate utilities to seek all cost-effective energy efficiency. In contrast, PG&E’s proposed procurement to replace Diablo Canyon appears to adjust the Commission’s cost-effectiveness criteria to favor greater procurement than currently considered cost-effective.

RPS:

- PG&E states that additional procurement will be needed to replace the retirement of Diablo Canyon with GHG-free resources including increasing its acquisition of renewables to 55%.¹¹ How does PG&E’s forecast of departing load factor into PG&E’s need calculation? Whether voluntarily increasing RPS procurement to 55% in 2031 is appropriate for resolution or Commission policy in this proceeding.

GHG:

- Whether PG&E’s proposal is in compliance with SB 32.
- As a nuclear facility, Diablo Canyon produces energy without carbon emissions. If there are insufficient renewable resources to immediately replace its generation, is it possible that fossil fuel resources could be deployed that will increase GHG?

PG&E states that it will procure GHG emissions-free resources and will comply with existing RPS rules. However, not all RPS-eligible resources are emissions free such as bioenergy. How will the goal of GHG emissions-free resources reconcile with RPS program eligibility?

¹¹ A.16-08-006, pp. 7-8.

Revenue Requirement / Cost Recovery:

- Whether PG&E’s \$500+ million forecast for the Employee Program—Retention, Retraining, and Severance—is reasonable.
- Whether ratepayers should provide \$50 million in funding for the Community Impacts Mitigation Program, to keep San Luis Obispo County “whole” through 2025 by maintaining the same level of property tax payments each year for the 2016-2025 time period.
- Whether PG&E should be allowed to recover \$53 million in Diablo Canyon license renewal costs.
- Whether PG&E has proposed reasonable accounting, cost recovery, and ratemaking mechanisms to recover the costs of various Diablo Canyon-associated expenses and the clean-energy replacement programs proposed to mitigate the Diablo Canyon shut-down.

Further discovery and analyses may eliminate some of these issue areas, while others may arise.

V. CATEGORIZATION OF PROCEEDINGS

PG&E proposes that this proceeding be categorized as “ratesetting.”¹² ORA agrees with this designation.

VI. PROCEDURAL ISSUES

Based on the above list of issues, ORA recommends that evidentiary hearings be scheduled in these proceedings. PG&E’s proposed procedural schedule includes evidentiary hearings. ORA agrees that hearings are likely to be needed to resolve the numerous issues raised by these Applications. As mentioned above, ORA will propose a procedural schedule at the PHC.

PG&E’s proposed schedule for processing A.16-08-006 would have ORA testimony due on October 28, 2016,¹³ a mere 11 weeks after the utility filed the Application. ORA considers PG&E’s proposed schedule unrealistic in light of the numerous issues presented in the Application. ORA proposes that its testimony be due on January 27, 2017. This would allow all parties sufficient time to conduct thorough analyses of the Joint Proposal, and would give the Commission sufficient time to consider a complete record and issue a final decision before the end of 2017.

¹² A.16-08-006, p. 15.

¹³ A.16-08-006, p. 18.

VII. CONCLUSION

For all the foregoing reasons, ORA respectfully recommends that the proceedings be categorized as ratesetting, that a reasonable schedule be set that includes adequate time for discovery, preparation of written testimony, and evidentiary hearings, and that the scope of the proceedings include, but not be limited to, the issues identified in this Protest.

Respectfully submitted,

/s/ LAURA TUDISCO
Laura Tudisco
Attorney

Office of Ratepayer Advocates
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Telephone: (415) 703-2164
E-mail: ljt@cpuc.ca.gov

September 15, 2016