



**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.

Application 16-08-006

**PACIFIC GAS AND ELECTRIC COMPANY'S (U 39 E)
COMMENTS ON ASSIGNED COMMISSIONER AND
ASSIGNED ADMINISTRATIVE LAW JUDGE'S
AMENDED SCOPING MEMO AND RULING**

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I. INTRODUCTION

Pacific Gas and Electric Company (“PG&E”) respectfully submits these comments in response to the September 23, 2022, Assigned Commissioner and Assigned Administrative Law Judge’s Amended Scoping Memo and Ruling (“Amended Scoping Memo”) in PG&E’s reopened *Application for Approval of the Retirement of Diablo Canyon Power Plant, Implementation of the Joint Proposal, And Recovery of Associated Costs Through Proposed Ratemaking Mechanisms* issued in response to Senate Bill (“SB”) 846. The Amended Scoping Memo modifies the proceeding schedule, adds an additional and limited scoping issue regarding implementation of SB 846, and requests comments from PG&E on the following: (1) how it plans to track and record the associated costs for operations at the Diablo Canyon Power Plant (“DCPP”) in a clear and transparent manner that prevents double-counting of costs; (2) whether one or more new cost tracking accounts are needed, and/or whether modifications are needed to any existing cost tracking accounts; and (3) whether a process should be established to address potential refinements or enhancements to the cost tracking accounts.^{1/}

II. PG&E’S RESPONSE TO THE AMENDED SCOPING MEMO

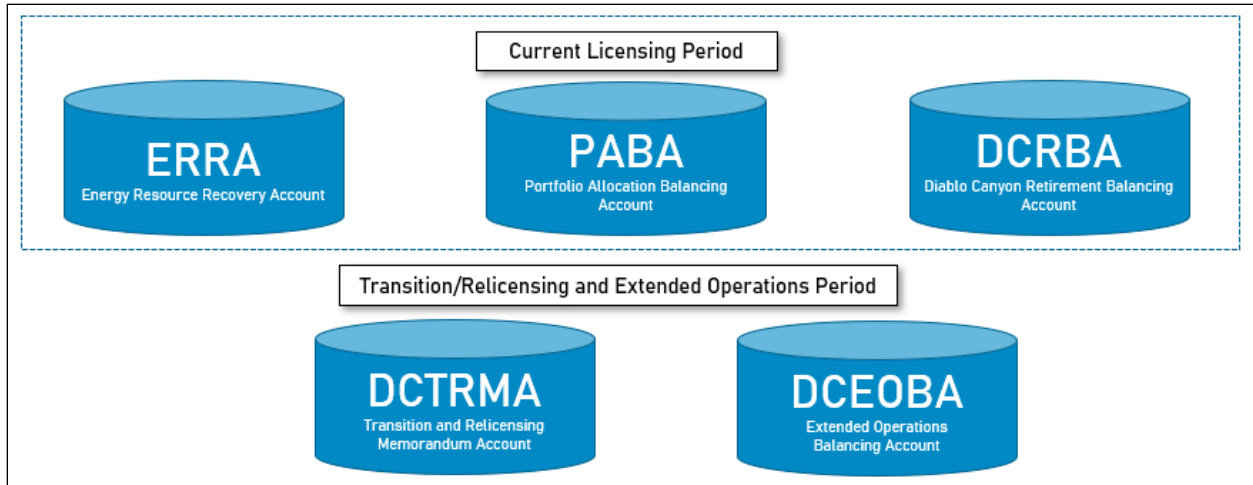
PG&E has determined that no new cost tracking accounts are required to track or recover

1/ Amended Scoping Memo, pp. 3-4.

the costs to operate DCPD through expiration of the existing operating licenses, November 2, 2024 (Unit 1) and August 26, 2025 (Unit 2) that are addressed in PG&E’s pending General Rate Case application (*i.e.*, the costs to operate to the end of current licenses independent of any relicensing efforts). Public Utilities Code Section 712.8(m) provides “this section does not alter the recovery of costs, including those previously approved by the Commission, to operate [DCPD] Units 1 and 2 until the current expiration dates.” As such, the existing, Commission-authorized balancing accounts through which PG&E recovers the costs to operate DCPD – Diablo Canyon Retirement Balancing Account (“DCRBA”), Energy Resource Recovery Account (“ERRA”) and Portfolio Allocation Balancing Account (“PABA”) – need not be revised. Those costs associated with those accounts will continue to be tracked and recovered in the same manner as now.

However, PG&E has determined that new cost tracking accounts will be needed to track and record the associated costs for both relicensing (*i.e.*, the “transition” costs associated with pursuit of extended operations) and extended operations at DCPD (*i.e.*, operations past the expiration date in the current licenses). As such, PG&E proposes establishing a new Memorandum Account titled *DCPD Transition and Relicensing Memorandum Account* and a new Balancing Account titled *DCPD Extended Operations Balancing Account* that will include four subaccounts that will be used to track specific categories of costs: (1) Extended Operations Period, (2) Performance and Management, (3) Liquidated Damages, and (4) Additional Decommissioning Planning Costs. Additional details of the proposed cost tracking accounts are provided below.

Figure 1: Proposed Memorandum Account and Balancing Account



A. DCPD TRANSITION AND RELICENSING MEMORANDUM ACCOUNT

PG&E proposes the creation of a new memorandum account, the *DCPD Transition and Relicensing Memorandum Account* (“DCTRMA”) which will be funded solely through government funding streams. The DCTRMA will track the costs associated with attaining a new operating license from the Nuclear Regulatory Commission, obtaining the applicable approvals and operating permits from the state of California, and covering any incremental operating and other costs incurred to transition DCPD from existing operations into extended operations (*i.e.*, the period of time beyond the current federal license period for Unit 1 and Unit 2).^{2/} The associated costs of these transition and relicensing activities will be funded through amounts allocated by Assembly Bill (“AB”) 180 under the Electric Supply Reliability Reserve Fund, SB 846, and any funding available through the United States Department of Energy Civil Nuclear Credit program.^{3/} Amounts in the DCTRMA will not be recovered from ratepayers.

^{2/} The current federal license period expires on November 2, 2024, and August 26, 2025, for Unit 1 and Unit 2, respectively.

^{3/} AB 180 established the Electric Supply Reliability Reserve Fund, authorizing the Department of Water Resources to use up to \$75 million dollars for near-term actions needed to preserve DCPD as a viable generating resource.

SB 846 makes available funds of up to \$1.4 billion dollars to cover the associated costs necessary to preserve the option of extending operations at DCPD to maintain electric system reliability, subject to a disbursement schedule and eligibility for the United States Department of Energy’s Civil Nuclear Credit program.^{4/} Accordingly, the DCTRMA shall track and record all costs, expenses and financial commitments in furtherance of the directive in SB 846 to preserve the option for extended operations at DCPD, including costs for all incremental licensing, permitting, regulatory, legal and litigation, internal and contracted labor, fuel procurement, handling, and management costs, spent fuel-related costs (*i.e.*, incremental dry cask storage costs), fees, and expenditures in connection with transitioning DCPD from existing operations into extended operations (*i.e.*, beyond the current federal license period for Unit 1 and Unit 2), including a monthly performance-based transition fee.^{5/} While these costs are largely expected to be incurred prior to the expiration of the current federal licensing period, the costs recorded in this account will be defined by stipulations associated with the relevant loan or funding agreement, not by the timeframe in which the costs are incurred. In other words, PG&E expects that some eligible costs to preserve the option of extended operations at DCPD may occur after the period of extended operations begins.

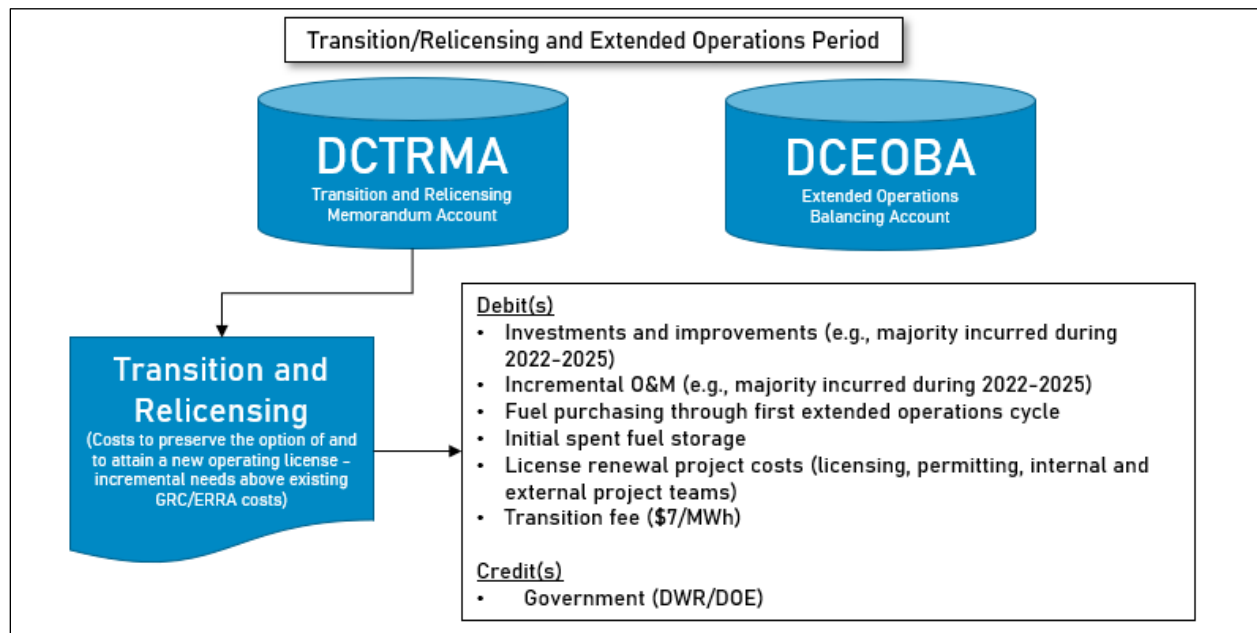
In addition to the funding provided by SB 846 and AB 180, the Infrastructure Investment and Jobs Act, signed November 15, 2021, appropriates \$6 billion dollars for fiscal years 2022 through 2026 to establish the Civil Nuclear Credit (“CNC”) Program for the purpose of preventing closures of nuclear power plants and, on September 2, 2022, PG&E filed its application under this program. Vitaly, much of the funding allocated in SB 846 is contingent on PG&E’s eligibility for CNC funding, and PG&E is taking all the necessary and proper steps

4/ SB 846, 25548.3 (c)(3).
5/ SB 846, 25548.3 (c)(16).

to ensure those eligibility requirements are met.

Consistent with the requirements of SB 846 and the executed agreement under AB 180, PG&E will perform detailed tracking of all eligible expenses and shall provide to the Department of Water Resources a quarterly accounting of costs, expenses and financial commitments made, including any conversions of commitments to expenses. PG&E also notes that the tracking and recording of eligible costs will require detailed and rigorous accounting to ensure all costs are properly accounted for and recovered in accordance with all applicable requirements stipulated by AB 180, SB 846, the CNC, and any applicable loan agreements. As with all memorandum accounts, the DCTRMA will be subject to internal accounting controls to ensure compliance with accounting entries prescribed in the approved preliminary statement.

Figure 2: Additional Details of the Proposed Memorandum Account

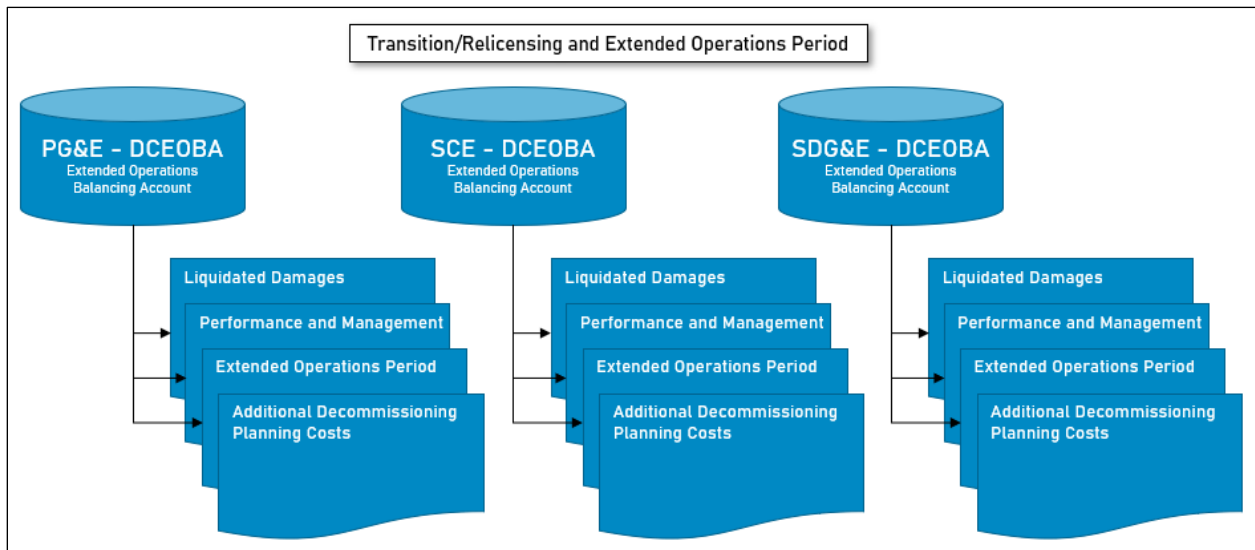


B. DCPD EXTENDED OPERATIONS BALANCING ACCOUNT

For the tracking and recovery of extended operations costs (*i.e.*, beyond the current federal license period for Unit 1 and Unit 2 and not eligible for cost recovery under the executed loan agreements with the Department of Water Resources pursuant to SB 846 and AB 180),

PG&E proposes establishing the *DCPP Extended Operations Balancing Account* (“DCEOBA”), which consists of four two-way subaccounts, described in greater detail below. To track and record the costs to be borne by customers of all load-serving entities outside of PG&E’s service territory, PG&E may require replicating the general accounting structure of the DCEOBA for each Commission-jurisdictional load serving entity (“LSE”) or investor-owned utility (“IOU”) service territory. These balancing accounts and subaccounts will separately record the appropriate allocation of costs associated with each Commission-jurisdictional LSE or IOU service territory and the respective customer-billed and market revenues received. As with all balancing accounts, the DCEOBA will be subject to internal accounting controls to ensure compliance with accounting entries prescribed in the approved preliminary statement. The figure below illustrates a potential structure for each of the large IOUs but may not fully capture the extent to which this structure applies to other Commission-jurisdictional LSEs.

Figure 3: Illustrative Example of Potential Accounting Structure



1. LIQUIDATED DAMAGES SUBACCOUNT

The Amended Scoping Memo directs PG&E to address how it plans to track and record all costs in the “Liquidated Damages Balancing Account” as described in Sections 712.8(g) and

712.8(i) of the Public Utilities Code. The Public Utilities Code directs the Commission to fund the Liquidated Damages Balancing Account (“LDBA”) in the amount of \$12.5 million dollars per unit per year until the LDBA has a balance of \$300 million dollars. PG&E proposes establishing the LDBA as a subaccount within the DCEOBA.

Consistent with the Public Utilities Code language, in the event that replacement power costs are incurred, and PG&E is found to have not met the reasonable manager standard, PG&E shall utilize funding from the LDBA and, if funds are utilized for incurred replacement power costs, the Commission shall authorize replenishment of the LDBA until the LDBA has achieved a balance of \$300 million dollars.^{6/}

2. PERFORMANCE AND MANAGEMENT SUBACCOUNT

SB 846 sets up multiple streams of performance and management fees to PG&E in lieu of the traditional rate-base return on capital investments. PG&E proposes to establish the “Performance and Management Subaccount” as a subaccount within the DCEOBA to track (1) a fixed management fee and (2) a volumetric performance fee.

The management fee will consist of a fixed amount of \$50 million dollars per unit per year to be paid for by all Commission-jurisdictional customers across the service territories of all Commission-jurisdictional LSEs. The first \$6.50/MWh of the volumetric performance fee will be paid for by all Commission-jurisdictional customers and the second \$6.50/MWh of the volumetric performance fee will be solely paid for by Commission-jurisdictional customers within PG&E’s service territory.

3. EXTENDED OPERATIONS PERIOD SUBACCOUNT

PG&E proposes to establish the “Extended Operations Period Subaccount” within the

^{6/} Section 712.8(i)(1) of the Public Utilities Code.

DCEOBA for the tracking and recovery of costs not eligible for recovery under the DWR loan agreement, AB 180, and/or funding through the Department of Energy's CNC program and incurred for extended operations at DCP. While PG&E does not have a complete and detailed accounting of the expected types of costs that will be recovered through this subaccount, PG&E expects that the costs will, at a minimum, include: (1) operations and maintenance costs, (2) plant and equipment improvement and investment costs, (3) future spent fuel storage capacity, (4) fuel purchasing for post-2026 cycles, (5) pension, taxes, benefits and all standard PG&E overheads, (6) costs associated with the employee retention agreement, and (7) regulatory compliance items.

Section 712.8(h)(3) of the Public Utilities Code states:

(3) If, as a result of the annual true-up for extended operations in paragraph (1), the [C]ommission determines that market revenues for the prior year exceeded the annual costs and expenses, including those in subdivisions (f) and (g), the [C]ommission shall direct that any **available surplus revenues in an account created under subdivision (e) be credited solely to customers in [PG&E]'s service territory. For customers outside [PG&E]'s service territory, market revenues may be credited up to, but not to exceed, their respective annual costs and expenses.** For customers outside of PG&E's service territory excess CAISO market revenues will be credited up to the amount of the fee paid. For customers within PG&E's service territory excess CAISO market revenues will be credited at the actual, uncapped amount.

In order to ensure that customers in PG&E's service territory are appropriately credited any and all excess market revenues which are in excess of costs, PG&E will, as necessary, transfer excess market revenues from balancing subaccounts designated for customers of other Commission-jurisdictional LSEs into the relevant balancing subaccount assigned to PG&E. Transferring excess revenues when required will ensure that all customers are appropriately allocated costs and benefits in accordance with mandates established in SB 846. Transfers of funds will be performed subject to internal accounting controls and detailed cost tracking procedures.

4. ADDITIONAL DECOMMISSIONING PLANNING COSTS SUBACCOUNT

PG&E proposes to establish the “Additional Decommissioning Planning Costs Subaccount” within the DCEOBA for tracking and recovery of additional decommissioning planning costs resulting from the license renewal applications or license renewals. Public Utilities Code Section 712.8(f)(1) provides, among other things, that:

“[T]he reasonable additional costs associated with decommissioning planning resulting from the license renewal applications or license renewals shall be recovered on a fully nonbypassable basis from customers of all load serving entities subject to the commission’s jurisdiction in the state.”

While PG&E does not have a complete and detailed accounting of the expected costs that will be recovered through this subaccount at this time and does not currently anticipate these costs to be significant, PG&E expects these costs might include the costs to suspend – and later re-start – decommissioning planning activities.

III. TIMING OF SUBMISSION FOR PRELIMINARY STATEMENTS

As a consequence of the constrained timeline, the incredible breadth and complexity of the associated work, and the need to create PG&E’s proposed DCTRMA and DCEOBA and cost tracking processes, the proposal outlined above should be viewed as a current, preliminary understanding of the most effective strategy for structuring the required cost tracking accounts. Accordingly, PG&E requests that the Commission authorize PG&E to file a Tier 2 Advice Letter within 45 days of the issuance of a final decision on this limited scope item in this proceeding. This Tier 2 Advice Letter shall contain a detailed and complete accounting structure of the associated costs and recovery of the proposed DCTRMA and DCEOBA. While the Amended Scoping Memo contemplates a Tier 3 Advice Letter, PG&E believes the significantly longer approval process associated with a Tier 3 Advice Letter is unsuited to the constrained timelines associated with near-term cost tracking requirements needed to effectively implement AB 180 and SB 846.

IV. THE USE OF AN ADVICE LETTER PROCESS TO ADDRESS MODIFICATIONS OR ENHANCEMENTS TO COST TRACKING ACCOUNT(S)

PG&E supports the use of existing Commission processes “to address potential refinements or enhancements to the cost tracking accounts” and proposes utilizing the Commission’s advice letter process to address any needed changes to the proposed DCTRMA and/or the DCEOBA.^{7/} Specifically, for any ministerial changes that are needed, a Tier 1 Advice Letter would be filed for Commission approval and for any non-ministerial changes that are needed a Tier 2 Advice Letter would be filed for Commission approval. If there is a determination that an additional cost tracking account is needed, then PG&E will file a Tier 2 Advice Letter to request Commission approval of the new cost tracking account(s). PG&E believes this proposed process would be beneficial to the overall management of the DCPP Memorandum Account(s) and Balancing Account(s) as it would allow for Commission review and approval on a more expedited basis than a Tier 3 Advice Letter, allowing approved changes to be implemented on an expedited basis and provide better certainty to the overall cost tracking process.

V. ESTABLISHMENT OF A SECOND PHASE OF THIS PROCEEDING

In addition to the plans and issues described in these comments, the extension of DCPP will require developing and implementing procedures necessary for effectuating a mechanism in accordance with Section 712.8(1)(2) of the Public Utilities Code, specifically:

“The [C]ommission shall establish mechanisms, including authorizing balancing and memorandum accounts and, as needed, agreements with, or orders with respect to, electrical corporations, community choice aggregators, and electric service providers, to ensure that the revenues received to pay a charge or cost payable pursuant to this section are recovered in rates from those entities and promptly remitted to the entity entitled to those revenues.”

These agreements and mechanisms will be central to ensuring that costs are recovered, and cost responsibility is appropriately allocated. Furthermore, the processes required to institute

^{7/} Amended Scoping Memo at p. 4.

a new proceeding to establish the agreements and mechanisms will present significant time-related challenges and inefficiencies. These extended timelines would be particularly disruptive due to the timelines associated with the extension of DCP. Accordingly, PG&E recommends that these mechanisms be determined within a second phase of this proceeding rather than through a new proceeding.^{8/}

VI. CONCLUSION

The comments above establish PG&E's plan for a rigorous and appropriately granular approach to accounting for costs and revenues associated with the extension of DCP. This undertaking is immense, especially given the timelines and disparate funding streams. The costs incurred in furtherance of the goals set by SB 846 will be large, numerous, and are not fully understood at this time. These costs will be funded in part by a variety of government loans and grants with varying requirements and stipulations. Moreover, customers from within the territories of all Commission-jurisdictional LSEs will bear cost responsibility, creating a complex and unprecedented billing and accounting exercise.

This proposed structure will allow PG&E to properly account for the inherent complexity presented by these circumstances. PG&E respectfully submits these comments in response to the Amended Scoping Memo and believes that this structure will support vital cost allocation principles, prevent double counting of costs, and ensure cost responsibility is allocated in accordance with the directive set in SB 846 and by the Commission.

^{8/} To the extent that any Commission-jurisdictional LSEs are not a party to this proceeding, the Commission should grant them party status in accordance with Section 712.8(1)(2).

Respectfully Submitted,

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