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R2301007

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Implementing Senate Bill 846
Concerning Potential Extension of
Diablo Canyon Power Plant
Operations.

Rulemaking 23-01-007

**EMAIL RULING GRANTING MOTIONS TO HOLD
PHASE 1: TRACK 2 EVIDENTIARY HEARINGS AND/OR SUBMIT
BRIEFS, AND PROVIDING FURTHER INSTRUCTION**

Dated August 14, 2023, at San Francisco, California.

/s/ EHREN D. SEYBERT

Ehren D. Seybert
Administrative Law Judge

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Subject: R.23-01-007: E-mail Ruling Granting Motions to Hold Phase 1: Track 2
Evidentiary Hearings and/or Submit Briefs, and Providing Further Instruction

Parties to R.23-01-007,

Pursuant to the April 6, 2023 *Assigned Commissioner's Scoping Memo and Ruling* (Scoping Memo), evidentiary hearings for Phase 1: Track 2 of this proceeding are tentatively scheduled for September 5-7, 2023. In accordance with the Scoping Memo, the following parties submitted motions requesting evidentiary hearings and/or briefs: The Utility Reform Network (TURN); California Community Choice Association (CalCCA); Women's Energy Matters (WEM); Pacific Gas and Electric Company (PG&E); the Public Advocates Office at the Commission (Cal Advocates); San Luis Obispo Mothers for Peace (SLOMFP), and Bear Valley Electric Service, Inc. (BVES), Liberty Utilities (CalPeco Electric) LLC (Liberty), and PacifiCorp d/b/a Pacific Power (PacifiCorp), filing jointly. Among these parties, CalCCA and SLOMFP request evidentiary hearings and the opportunity to file briefs; all other parties request the opportunity to file briefs.

In their respective motions, CalCCA identifies certain facts in dispute that it believes would benefit from hearing, while SLOMFP asserts evidentiary hearing will “provide best opportunity to gather as much information pertaining to the updated seismic assessment, aging maintenance study and NRC license application as possible, as well develop the record on disputed issues and facts.” (SLOMFP August 9, 2023 motion at 2-3). TURN does not request evidentiary hearings, but predicates its position on receiving timely and complete responses to two sets of outstanding data requests TURN submitted to PG&E. Parties generally assert that briefs will allow for a more complete summary of party disputes, and will ensure parties can respond to various policy and legal arguments made, or facts included.

Good cause being shown, this ruling confirms the need for evidentiary hearing and briefs. To ensure efficient and fair use of party and Commission resources, the Phase 1: Track 2 hearings are intended to focus on factual issues in dispute, and are not intended to serve as a forum for gathering new or updated information. Parties have been provided the opportunity to conduct discovery in this proceeding, and PG&E is expected to make a good faith effort to respond to all outstanding, reasonable data requests in a complete and timely manner prior to hearings. Further, all of the specific issues SLOMFP cites to as benefiting from updated information (i.e., PG&E’s updated seismic assessment, PG&E’s deferred maintenance study, and the United States Nuclear Regulatory Commission’s conditions of license renewal) are unlikely to be finalized and available for review by the date of hearings. (*Ibid*).

The hearings in this proceeding will be conducted remotely using the WebEx platform. In addition to providing WebEx log-in information, this ruling provides instructions regarding exhibits, requires parties to meet and confer to prepare a proposed witness schedule and list of exhibits, and sets a deadline for prehearing motions. Lastly, this ruling confirms the schedule and format for filing briefs.

1. Hearing Public Log-In Information

Any person may join the remote evidentiary hearings using the following information:

- First Day of Hearing: Tuesday, September 5, 2023, 9:30 a.m.

Webinar

Link: <https://cpuc.webex.com/cpuc/j.php?MTID=mcbe2c221c26e69555094cad24cec22ba>

Webinar Number: 2493 973 7908

Webinar Password: 2023

Audio Access: Toll-Free: 855-282-6330; Toll: 415-655-0002

Access code: 249 397 37908

- Second Day of Hearing (if needed): Wednesday, September 6, 2023, 9:30 a.m.

Webinar

Link: <https://cpuc.webex.com/cpuc/j.php?MTID=m70ec3b614fc88176e386a5d8e6ac3cfb>

Webinar Number: 2480 037 5764

Webinar Password: 2023

Audio Access: Toll-Free: 855-282-6330; Toll: 415-655-0002

Access code: 248 003 75764

- Third Day of Hearing (if needed): Thursday, September 7, 2023, 9:30 a.m.

Webinar

Link: <https://cpuc.webex.com/cpuc/j.php?MTID=m7010362873a5cff575d3e7e6f43ba96d>

Webinar Number: 2491 827 5014

Webinar Password: 2023

Audio Access: Toll-Free: 855-282-6330; Toll: 415-655-0002

Access code: 249 182 75014

Please note that the audio for this WebEx Event will be through WebEx. The above toll-free and toll numbers are provided for the convenience of anyone who needs to connect to the WebEx via telephone (versus computer only). Individuals

requiring assistance on the day of the hearing may call the Commission's Help Line at 415-703-2043 or 415-703-5263.

2. Hearing Participant Log-In Information

Each party that intends to actively participate in the evidentiary hearings shall provide the following information via e-mail to Etchissa Genesis (etchissa.genesis@cpuc.ca.gov) and Christina Dang (christina.dang@cpuc.ca.gov) by 5:00 p.m. on Monday, August 28, 2023.

- Name of Party
- Party's expected number of attendees at the evidentiary hearing (should include all participating witnesses and attorneys)
- Lead Representative/Primary Speaker for the party
 - Name:
 - Role: (*e.g.*, lead attorney)
 - Email address:
 - Telephone number:
- For each additional person expected to actively participate during the evidentiary hearing
 - Name:
 - Role: (*e.g.*, witness, attorney, etc.)
 - Email address:
 - Telephone number:

Participants should ensure prior to the hearings that they have the necessary audio and visual equipment, sufficient power or battery, and sufficient connectivity. Participants should plan to log into the hearing at least 30 minutes prior to the start of the hearing each day to address technical issues and housekeeping matters. Participants requiring assistance logging into the hearings may e-mail Etchissa Genesis (etchissa.genesis@cpuc.ca.gov) and Christina Dang (christina.dang@cpuc.ca.gov).

3. Proposed Witness Schedule

Prior to the hearings, the parties should work together to prepare a list of all cross witnesses, the approximate cross and redirect times, the volume(s) of testimony that will be the subject of the cross examination, and a proposed cross witness

schedule. The hearings will start each day at 9:30 a.m. and conclude around 3:00 p.m. There will be a one-hour lunch break and a 10-15 minute break during each morning and afternoon session. Parties should plan for approximately 3.5-4 hours of time on the record the first day and 4 hours of time on the record each subsequent day.

PG&E shall coordinate and assemble the final proposed schedule. PG&E shall e-mail the final proposed schedule to the assigned administrative law judge (ALJ) no later than 5:00 p.m. on Monday, August 28, 2023. The proposed schedule, in Microsoft Excel, should highlight any requested dates and times that have restrictions, *e.g.*, witness is only available between 2:00 p.m. and 3:00 p.m. on Wednesday.

4. Exhibits and Exhibit List

Prior to the hearings, the parties should work together to prepare a list of previously served exhibits that includes a proposed exhibit number, sponsoring witness, brief description of each exhibit, indication whether parties stipulate to the admission of the exhibit, and link to the uploaded exhibit (for non-confidential exhibits only) on the Commission's Supporting Documents Platform. (*See* Rule 13.7(f) of the Commission's Rules of Practice and Procedure). The attached exhibit list can be used for this purpose (parties need only fill out the first five columns). Please note, a few parties filed their June 29 and 30, 2023 Phase 1: Track 2 opening comments structured as testimony, rather than serving and submitting these comments as supporting documents. Parties who previously filed their Phase 1: Track 2 comments structured as testimony should take steps to ensure their comment testimony is also submitted as supporting documents.

Exhibits should be labeled using the following framework: a short acronym for the sponsoring party followed by sequential numbering (*e.g.*, PG&E-01). Confidential exhibits should be labeled with the same number as the public version of the exhibit followed by the letter "C."

PG&E should coordinate and assemble the exhibit list. PG&E shall e-mail the exhibit list to the assigned ALJ no later than 5:00 p.m. on Monday, August

28, 2023. PG&E shall update the exhibit list throughout the hearings (should more than one day of hearing be required).

Cross-examination exhibits shall be served on the Service List and uploaded to the Commission's Supporting Documents Platform no later than noon one business day in advance of when a witness is scheduled to appear (since September 4th is a federal holiday, cross-examination exhibits for the first day of hearing are due by noon on Friday, September 1, 2023). If this deadline is missed and a party still seeks to use the exhibit on a given day, the party will be required to show good cause as to why the deadline was not met.

Generally, corrections to an exhibit should be made in advance and not orally from the witness stand. Corrections should be made in a timely manner by providing new exhibit pages on which corrections appear. The original text to be deleted should be lined out with the substitute or added text shown above or inserted. Each correction page should be marked with the word "revised" and the revision date.

Partial documents or excerpts from documents must include a title page or first page from the source document; excerpts from lengthy documents should include a table of contents page covering the excerpted material. It may be helpful to include language before and after the excerpt to provide clarity or context.

5. Confidential Materials

If any party anticipates referring to confidential materials during the hearing, the party should notify the ALJ as soon as possible to ensure the necessary arrangements can be made.

6. Prehearing Motions

In the Rule 13.9 Meet and Confer Joint Statement filed by PG&E on August 8, 2023 (Joint Statement), parties agree to coordinate with PG&E to move public versions of prepared testimony into the evidentiary record via a joint, single motion. Similarly, regarding PG&E-confidential information, parties agree to coordinate with PG&E to produce a single motion to file confidential testimony under seal.

I greatly appreciate parties' attempt to minimize the administrative burden in this proceeding. PG&E is instructed to coordinate with the parties on the aforementioned joint motion to submit testimony and joint motion to file under seal, and shall file these motions by Friday, August 25, 2023. In its motion to submit testimony, PG&E should include the Phase 1 : Track 2 comments that were formally filed/have been posted to the R.23-01-007 Docket Card (which, per the Scoping Memo, were intended to be served rather than filed). The deadline to file motions concerning non-PG&E-confidential information under seal is also August 25, 2023.

Based upon the Joint Statement, it does not appear that any party intends to file motion(s) to strike prepared testimony. To be certain, any motion to strike prepared testimony, as well as any other prehearing motion not mentioned above, shall be filed no later than August 21, 2023, with responses due five business days from the date the motion is filed. If a prehearing motion is filed after this date, the moving party must demonstrate that there is good cause for filing the motion after the deadline.

7. Opening and Reply Briefs

The motions for briefing are granted. In accordance with the Scoping Memo, the deadline for opening briefs is September 15, 2023; the deadline for reply briefs is September 29, 2023. Parties are instructed to utilize a common briefing outline following the Phase 1: Track 2 issues that are identified in the Scoping Memo.

IT IS RULED that:

1. The motions for evidentiary hearings and briefs in Phase 1: Track 2 of this proceeding are granted.
2. Interested parties shall comply with the procedural instructions for the evidentiary hearings set forth in this ruling.
3. Interested parties may file and serve opening briefs by no later than September 15, 2023; reply briefs may be filed and served by no later than September 29, 2023.

THE DOCKET OFFICE SHALL FORMALLY FILE THIS RULING.

R.23-01-007 ALJ/ES2/hma

Ehren D. Seybert (he/him/his)
Administrative Law Judge
California Public Utilities Commission
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