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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

REPLY BRIEF OF PACIFIC GAS AND ELECTRIC COMPANY (U 39 E)

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Dated: September 29, 2023

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SUMMARY OF RECOMMENDATIONS

Pursuant to California Public Utilities Commission ("Commission") Rules of Practice and Procedure 13.12, Pacific Gas and Electric Company ("PG&E") provides the following summary of its recommendations in support of its reply brief. PG&E affirms its recommendations from its opening brief, and does not repeat them here.

Scoping Memo Issue 1

- The Commission's Final Decision should recognize that there is no record evidence that significant seismic upgrades, deferred maintenance, or NRC license renewal conditions (the three categories identified in Public Utilities Code section 712.8(c)(2)(B) for the Commission's evaluation) will render extended operations "too high to justify."
- In regard to any cost-effectiveness evaluation, the Commission should find that SB 846 clearly intends the CEC's cost-effectiveness analysis to be the primary analysis used to assess the cost-effectiveness of DCPP's extended operations.
- The Commission should reject proposals to establish a new evidentiary burden for PG&E's Forecast Cost Recovery Application, should the forecast in the application exceed costs presented in this proceeding, as inconsistent with Public Utilities Code Section 712.8 (h)(1).
- The Commission should reject arguments that all fuel costs are transition costs because fuel costs fall squarely under the category of "all reasonable costs and expenses necessary to operate Diablo Canyon Units 1 and 2 beyond the current expiration dates" that are recoverable in customer rates pursuant to Public Utilities Code section 712.8(h)(1).
- The Commission should find that no party presented sufficient evidence that renewable energy and zero-carbon resources will be constructed and interconnected by the end of 2023 that will be adequate to replace Diablo Canyon and reject arguments that selecting a baseline to compare resources is "arbitrary" and that the Commission should potentially refresh the Loss-of-Load Expectations ("LOLE") dataset from D.23-02-040.

Scoping Memo Issue 2

- The Commission should find that there is no statutory or policy reason to establish additional processes to continue to monitor the associated ratepayer costs and reliability need for continued operations at Diablo Canyon.
- The Commission should reject party arguments for a process to continually revisit the retirement dates for Diablo Canyon because such a process would result in those dates remaining unsettled through 2030, which could increase customer costs, compromise the retention of critical plant personnel, and complicate operational planning.

Scoping Memo Issue 3

- The Commission should find that recoverability of taxes for SB 846 authorized incentive payments is outside the scope of this rulemaking; rather, PG&E's future Forecast Cost Recovery Application is the appropriate venue for consideration and resolution of forecast costs proposed for recovery in rates.

- The Commission should affirm that PG&E's annual Forecast Cost Recovery Application should include all costs funded by customers and exclude costs that are not proposed to be recovered in rates, consistent with PG&E's Public Utilities Code Section 712.8 (h)(1).

Scoping Memo Issue 4

- The Commission should permit investor-owned utilities ("IOU") to address IOU-specific information required to complete the servicing order for remittance of the non-bypassable charge ("NBC") and similar information as part of a Tier 1 Advice Letter process.

- The Commission should find that an annual billing of load-serving entities ("LSEs") is contrary to Public Utilities Code section 712.8(1)(2).

- The Commission should reject party proposals for adoption of a ratemaking structure based on 12 co-incident peak ("CP") allocation, and reject a lower NBC for small multi-jurisdictional utilities (SMJUs). Rather, the Commission should determine that an equal-cents-per-kWh NBC should be adopted because it is consistent with legislative policy that extended operations provide broad, statewide benefits for all California electricity customers.

Scoping Memo Issue 5

- The Commission should reject party recommendations for allocation of resource adequacy ("RA") capacity and greenhouse gas-free ("GHG") energy attributes from extended operations and find that Diablo Canyon extended operations is not meant to be the primary means of achieving statewide reliability but rather a means of enhancing it (e.g., providing additional insurance).

- However, if the Commission decides to allocate RA capacity, the Commission should find that DCPP cannot meet RA compliance obligations when the facility is on outage, and suspend any requirement to allocate RA to LSEs during any outage periods.

Scoping Memo Issue 6

- The Commission should find that Scoping Issue 6 only addresses surplus funds from the volumetric fees in 2024, of which PG&E expects there will be none, and reject party proposals that either are appropriately addressed in Phase 2 or are far beyond what is contemplated in Public Utilities Code section 712.8(s)(1).

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COMPANY (U 39 E)**

I. INTRODUCTION

Pursuant to the California Public Utilities Commission's ("Commission") Rules of Practice and Procedure 13.12, and the April 6, 2023, Assigned Commissioner's Scoping Memo and Ruling ("Scoping Memo"), Pacific Gas and Electric Company ("PG&E") respectfully submits this Reply Brief in this proceeding. On September 18, 2023, seventeen parties and/or joint parties, including PG&E, filed Opening Briefs in this proceeding.[1/] PG&E's Reply Brief focuses on those issues raised in Opening Briefs that are relevant to the Commission's establishment of new retirement dates for Diablo Canyon Power Plant ("DCPP" or "Diablo Canyon") and the extended operations framework.[2/]

1/ In addition to PG&E, the following parties filed Opening Briefs: Alliance for Nuclear Responsibility ("A4NR"); Bear Valley Electric Service Inc., Liberty Utilities ("CalPECO Electric") LLC, and PacifiCorp (collectively, the "SMJU"); California Community Choice Association ("CalCCA"); Californians for Green Nuclear Power ("CGNP"); CAlifornians for Renewable Energy, Inc. ("CARE"); California Utility Employees ("CUE"); Calpine Corporation ("Calpine"); the Commission's Public Advocates Office ("Cal Advocates"); Direct Access Customer Coalition and Alliance of Retail Energy Markets ("AReM/DACC"); Green Power Institute ("GPI"); San Diego Gas & Electric Company ("SDG&E"); San Luis Obispo Mothers for Peace ("SLOMFP"); Small Business Utility Advocates ("SBUA"); Southern California Edison Company ("SCE"); The Utility Reform Network ("TURN"); Women's Energy Matters ("WEM").

2/ The fact that PG&E does not address a topic in PG&E's Opening Brief, or this Reply Brief should not be taken as a concession or agreement in any respect to any issue.

II. SCOPING ISSUE 1: WHETHER OPERATIONS AT DIABLO CANYON POWER PLANT SHOULD BE EXTENDED UNTIL OCTOBER 31, 2029 (FOR UNIT 1) AND OCTOBER 31, 2030 (FOR UNIT 2) OR WHETHER AN EARLIER RETIREMENT DATE SHOULD BE ESTABLISHED

A. Scoping Issue 1.a: Whether the $1.4 billion loan provided for by Chapter 6.3 of Division 15 of the Pub. Res. Code is terminated or whether an extension of operations at Diablo Canyon is found not to be cost effective, imprudent, or both

As PG&E noted in its Opening Brief, the loan agreement between the Department of Water Resources ("DWR") and PG&E was executed on October 18, 2022, and has not been terminated.[3/] This fact is uncontested. Parties take varying positions on cost-effectiveness and prudence, which PG&E will address in this section.

Here, the Commission is considering whether to establish new retirement dates for an existing, currently operational, generation resource – Diablo Canyon. It undertakes that review in the context of a legislative finding that "…[I]t is the policy of the Legislature that seeking to extend the Diablo Canyon powerplant's operations for a renewed license term is prudent, cost effective, and in the best interest of all California electricity customers,"[4/] and a legislative directive that "[a]ll relevant state agencies and the operator of the Diablo Canyon powerplant must act quickly and in coordination to take all actions necessary and prudent to extend Diablo Canyon powerplant operations."[5/] Thus, Senate Bill ("SB") 846 assumes that extending operations for Diablo Canyon is necessary and in the public interest.

As noted by SLOMFP, PG&E did not present a cost-effectiveness analysis or take any position on the cost-effectiveness of DCPP's extended operations in this rulemaking.[6/] The fact that PG&E did not make such a showing or take any position on cost-effectiveness reflects PG&E's understanding that Public Resources Code (Pub. Res. Code) Section 25233.2(a) assigns performance of the cost-effectiveness and prudence review of Diablo Canyon's extended

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3/ Opening Brief of Pacific Gas and Electric Company dated September 18, 2023 ("PG&E Opening Brief"), p. 7.

4/ Pub. Res. Code § 25548(b).

5/ Pub. Res. Code § 25548(f).

6/ Opening Brief of the San Luis Obispo Mothers for Peace dated September 18, 2023 ("SLOMFP Opening Brief"), p. 10.

operations to the California Energy Commission ("CEC"), directing that agency to:

> present a cost comparison of whether extended operations at the Diablo Canyon powerplant compared to a portfolio of other feasible resources available for calendar years 2024 to 2035, inclusive, is consistent with the greenhouse gases emissions reduction goals of Section 454.53 of the Public Utilities Code. As part of this comparison, the commission shall evaluate the alternative resource costs, and shall make all evaluations available to the public within the proceeding docket.

While the Commission has recognized that it must consider cost-effectiveness as part of its decision of whether to extend operations at DCPP,[7/] it has also recognized its primary role with regard to analyzing the cost of DCPP's extended operations. That is, to consider whether the cost of extended operations is "too high to justify" as follows:

> The commission shall review the reports and recommendations of the Independent Safety Committee for Diablo Canyon described in Section 712.1. If the Independent Safety Committee for Diablo Canyon's reports or recommendations cause the commission to determine, in its discretion, that the costs of any upgrades necessary to address seismic safety or issues of deferred maintenance that may have arisen due to the expectation of the plant closing sooner are too high to justify incurring, or if the United States Nuclear Regulatory Commission's conditions of license renewal require expenditures that are too high to justify incurring, the commission may issue an order that reestablishes the current expiration dates as the retirement date, or that establishes new retirement dates that are earlier than provided in subparagraph (A) of paragraph (1), to the extent allowable under federal law, and shall provide sufficient time for orderly shutdown and authorize recovery of any outstanding uncollected costs and fees.[8/]

Based on the evidence in the proceeding concerning the above enumerated items, a Commission decision to authorize extended operations is supported.

The CEC issued its draft cost-effectiveness analysis on September 26, 2023, and parties have the opportunity to comment on the report by October 6, 2023 in this proceeding.[9/] It is PG&E's position that SB 846 clearly intends for the CEC's cost-effectiveness analysis to be the primary analysis used to assess the cost-effectiveness of DCPP's extended operations. The

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7/ Scoping Memo, p. 8.
8/ Public Utilities Code (Pub. Util. Code) § 712.8(c)(2)(B).
9/ Email Ruling Incorporating the California Energy Commission's Draft Senate Bill 846 Diablo Canyon Power Plant Extension Cost Comparison into the Proceeding Record, (Sept. 26, 2023).

positions of parties on cost-effectiveness are not based on a factual analysis of the costs or revenues attributable to DCPP's extended operations. Even if they were, they should only be reviewed and considered in the context of the CEC's cost-effectiveness analysis.

Nonetheless, the remainder of this section will respond to certain positions taken by parties related to cost-effectiveness and prudence.

1. TURN

PG&E disagrees with TURN's suggestion that the Commission should conclude that it possesses the authority to conduct ongoing review into the cost-effectiveness of DCPP, other than as expressly set forth in SB 846.[10/] PG&E addressed this issue in its Opening Brief and will not repeat the entire discussion here.[11/] Additional processes beyond the SB 846 statutory framework are not necessary for the Commission and intervenors to sufficiently monitor the associated ratepayer cost and reliability need for extended operations. SB 846 prescribes a comprehensive set of processes for monitoring ongoing ratepayer costs and establishing the reliability need. It is not administratively efficient to layer on additional processes that could result in increased unneeded costs to customers and resources from the Commission and PG&E.[12/]

PG&E disagrees with TURN's recommendation that PG&E's future cost recovery application should be subject to a higher evidentiary burden, should forecast costs exceed those costs presented in this proceeding.[13/] TURN's position is inconsistent with the Commission's rationale for how historical and forecast costs presented in PG&E's May 19, 2023 testimony was meant to be used in this rulemaking. Specifically, the Assigned Commissioner stated:

> I find it reasonable and necessary for this proceeding to include consideration of relevant historical Diablo Canyon costs in comparison with the incremental forecast costs associated with relicensing, in addition to consideration of the CEC's cost effectiveness evaluation. Specifically, this proceeding will consider

10/ Opening Brief of The Utility Reform Network ("TURN Opening Brief"), p. 5.
11/ See PG&E Opening Brief, pp. 20-24.
12/ PG&E Opening Brief, p. 20.
13/ TURN Opening Brief, p. 20.

> cost data associated with any upgrades necessary to address seismic safety, issues of deferred maintenance, or NRC's potential conditions of license renewal, and any incremental operating costs resulting from these upgrades.[14/]

PG&E did not, as TURN asserts, submit the historical and forecast costs presented in its May 19, 2023 testimony for the Commission to rely on, either in making a cost-effectiveness determination or as a preview of the costs to be included in its upcoming cost recovery application.[15/] PG&E submitted those costs, with clear notation as to the costs excluded,[16/] as a basis for comparison to support the Commission in an assessment of whether incremental costs enumerated in SB 846 might be "too high to justify." PG&E presented its most recent forecast of the costs of extended operations – the forecast that PG&E provided to the Department of Energy ("DOE") in its application for funding from the Civil Nuclear Credit ("CNC") program. The forecast was provided in Electric Utility Cost Group ("EUCG") format, as required by the DOE. PG&E complied with the Commission's direction to present costs in this proceeding, but PG&E never had any intention of relying on those same exact forecasts (or presenting costs in EUCG format) in any future cost recovery application. There is no basis for the Commission to establish a new evidentiary burden for PG&E's cost recovery due to PG&E's compliance with the Scoping Memo.

2. SLOMFP

SLOMFP's reliance on Commission findings and PG&E's testimony addressing cost-effectiveness in Application 16-08-006 ("Retirement Application") is misplaced and should be stricken or ignored by the Commission.[17/] The Commission affirmatively and specifically closed the record from the Retirement Application and opened a new Rulemaking for implementation of SB 846-related issues.[18/] Importantly, the circumstances behind PG&E's Retirement Application and SB 846 are completely distinct and, thus, PG&E's Retirement Application cannot – and

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14/ Scoping Memo, pp. 8-9.
15/ TURN Opening Brief, p. 19.
16/ Exh. PG&E-01, p. 2, lines 9-18.
17/ SLOMFP Opening Brief p. 10.
18/ Decision (D.)22-12-005, p. 22, 26, and p. 32, Conclusions of Law (COL) 22.

should not – be used as the basis for a final Commission decision on extended operations at DCPP.[19/]

SLOMFP's claim that the record in this proceeding demonstrates that DCPP is not cost-effective is false.[20/] In fact, SLOMFP Witness Cooper's generic cost information related to "aging reactors" contains no actual costs of DCPP's extended operations.[21/]

3. A4NR

A4NR contends that all fuel costs should be treated as transition costs – and funded only by government funding streams.[22/] A4NR is incorrect: fuel purchases fall squarely under the category of "all reasonable costs and expenses necessary to operate Diablo Canyon Units 1 and 2 beyond the current expiration dates," and are recoverable in customer rates.[23/] Commission adoption of A4NR's position would place an arbitrary restriction on PG&E's ability to operate DCPP, presenting a possible or even likely scenario where PG&E has been directed to operate the plant, where the plant is necessary to preserve statewide reliability, and where ratepayer funding is available for non-fuel operating expenses, but PG&E is unable to fuel or operate the plant. Fuel purchase costs should be recoverable from customers as part of a future cost recovery application for DCPP's extended operations.

B. Scoping Issue 1.b: Whether the NRC has extended the operation dates for Diablo Canyon

As PG&E noted in its Opening Brief, the Nuclear Regulatory Commission ("NRC") will not have acted to extend the operation dates for Diablo Canyon before the Commission's statutory deadline of December 31, 2023.[24/] This fact is uncontested. PG&E further noted that, while continued operation of DCPP Units 1 and 2 beyond the expiration of its existing operating licenses is contingent upon an NRC determination that extended operations is safe and consistent

19/ Tr. Vol. 2, 220:7-23 PG&E/Kikuyama.
20/ SLOMFP Opening Brief 11.
21/ SLOMFP Opening Brief, pp. 11-14.
22/ A4NR Opening Brief, p. 3.
23/ Pub. Util. Code § 712.8(h)(1).
24/ PG&E Opening Brief, p. 8.

with the National Environmental Policy Act, the Commission's determination that extended operations is necessary to support statewide reliability, meets the state's environmental goals and is cost-effective can be made independent of the NRC's determination.[25/]

C. Scoping Issue 1.c: Whether the costs of any upgrades necessary to address seismic safety, issues of deferred maintenance or NRC license conditions are too high to justify

PG&E has addressed most issues raised in parties Opening Briefs on this issue in its own Opening Brief and will not repeat that discussion here.[26/] There is no record evidence—including from recent DCISC reports—that significant seismic upgrades, deferred maintenance or NRC license renewal conditions currently exist or are imminent that will render the cost of DCPP's extended operations "too high to justify."[27/] In the event they do, PG&E's proposed process allows Commission and party review of whether it is prudent, cost-effective and in customers' best interest to incur the costs. PG&E urges the Commission to adopt its proposed process as reasonable.

SLOMFP's assumption that significant repair or replacement of the Unit 1 reactor pressure vessel will be required is unsubstantiated.[28/] As noted in PG&E's rebuttal testimony, the NRC conducted an independent review of DCPP's Pressurized Thermal Shock ("PTS") evaluations and agreed that the DCPP reactor pressure vessels are within the NRC's limits for embrittlement. The DCISC also performed an independent evaluation and reached the same conclusion.[29/]

25/ Opening Comments of Pacific Gas and Electric Company (U 39 E) on Order Instituting Rulemaking to Consider Potential Extension of Diablo Canyon Power Plant Operations in Accordance with Senate Bill 846, (Feb. 21, 2023), pp .6-7.

26/ See PG&E's Opening Brief, pp. 9-15, Section C.

27/ See, e.g., Administrative Law Judge's Ruling Incorporating Diablo Canyon Independent Safety Committee Reports Into the Record of the Proceeding, (June 30, 2023), Attachment A, p. D.11-17 (stating that "the DCISC concludes that the seismic safety of the DCPP reactors is fully adequate now, and requires no additional upgrades or other changes to bring it up-to-date or to improve it. The DCISC also concludes that no upgrades 01· improvements to seismic safety would be necessary to assure that the seismic safety of the DCPP reactors would be adequate for extended operation beyond 2025, if so authorized."). In addition, in the same May 2023 Fact-Finding Report and Comprehensive Seismic Safety Update, the DCISC had no recommendations for PG&E.

28/ SLOMFP Opening Brief, pp. 14-15.

29/ Exh. PG&E-04-R, p. 3-23, lines 7-10 and fn. 45.

PG&E does not disagree that some costs will arise – PG&E forecasted these costs in its application to the DOE's CNC program and presented those costs in its May 19, 2023, testimony and July 28, 2023, rebuttal testimony. While PG&E does not anticipate costs for deferred maintenance or NRC license conditions being significantly higher than those presented in the DOE application, the Commission and intervenors will have the opportunity to review the ongoing cost of DCPP's extended operations annually in the proposed cost recovery application required to forecast and recover those costs from customers.

The accusations from SLOMFP, A4NR and CARE[30/] that the reason the Diablo Canyon Independent Safety Committee ("DCISC") has not made any recommendations for seismic upgrades or deferred maintenance is because PG&E "dragged its feet" or "slow-rolled" preparation of the updated seismic assessment and independent consultant deferred maintenance study required as covenants to the loan agreement between PG&E and DWR are completely unfounded.[31/] PG&E has coordinated efforts with DWR on the two reports as a covenant to the loan agreement.

The Commission should authorize extension of DCPP's retirement dates until October 31, 2029, for Unit 1 and October 31, 2030, for Unit 2 based on the reliability need and cost assessments prepared by the CEC with input from the CAISO. If the Commission later determines that the costs of DCISC-recommended seismic upgrades or deferred maintenance activities or NRC license renewal commitments or conditions render the cost of DCPP's extended operations "too high to justify," the statute provides for a path forward (orderly shutdown and cost recovery) even if the Commission has already established new retirement dates.[32/]

30/ SLOMFP Opening Brief, pp. 25, 29, and 32; A4NR Opening Brief, p. 5; Motion to Dismiss of CAlifornians for Renewable Energy, Inc. (CARE) (Sept. 5, 2023).
31/ See PG&E response to CARE Motion to Dismiss (Sept. 18, 2023), pp. 2-3.
32/ PG&E Opening Br., pp. 6-7.

D. Scoping Issue 1.d: Whether new renewable energy and zero-carbon resources that will be constructed and interconnected by the end of 2023 are an adequate substitute for Diablo Canyon, and will meet the state's planning standards for energy reliability

As PG&E addressed in its Opening Brief, a robust record identifies reliability shortfalls in meeting both a 2020 equivalent event and 2022 equivalent event - through 2030 - and supports the need for extended operations at DCPP in meeting those reliability shortfalls.[33/] While some parties argue that new resources adequate to substitute for DCPP will be online by the statutory deadline of December 31, 2023,[34/] these arguments rest on either the use of an inappropriate baseline or that these new resources will provide the same level of energy and capacity sufficiency as DCPP. Notably, no party representing LSEs' interests has challenged the statewide reliability need for DCPP extended operations, even though their customers will bear cost responsibility for extended operations.

PG&E strongly disagrees with WEM's argument that, when selecting a baseline against which to evaluate new resources, "the choice of a start date is somewhat arbitrary."[35/] Selecting a baseline is not arbitrary, and PG&E has provided compelling reasons to use the baseline from D.21-06-035 to determine what are "new" renewable and zero-carbon resources.[36/] Using 2018 as the starting point, which is supported by SLOMFP and WEM, is inappropriate because that "baseline" fails to account for any retirement of resources that has happened since then or will happen in the future. It is only the Commission's recent baselines from D.19-11-016, D.21-06-035, and D.23-02-040 that appropriately account for the recent retirement of resources. Thus, PG&E believes that these are the appropriate baselines for parties to consider as part of the Commission's determination on DCPP's extended operations.

However, as PG&E stated in this proceeding, the D.19-11-016 baseline is not an appropriate starting point because the procurement order under D.19-11-016 was to address near-term capacity shortages through 2023 due to the retirement of several once-through-cooling

33/ PG&E Opening Brief, pp. 15-19.
34/ Pub. Util. Code § 712.8 (c)(2)(A).
35/ Opening Brief of Women's Energy Matters ("WEM Opening Brief"), p. 11.
36/ Exh. PG&E-03, p. 10, line 10 to p. 12, line 3.

resources in the Southern California region and, importantly, that baseline included DCPP as part of its assessment.[37] PG&E maintains that the D.21-06-035 baseline is a more appropriate starting point as it was, in part, adopted for the purposes of determining replacement capacity due to the retirement of DCPP. In addition to specifically ordering procurement to replace DCPP, D.21-06-035 required new clean energy resources to come online from 2023 through 2026 to address mid-term reliability needs, a time period that overlaps with DCPP's extended operations.[38] Ultimately, PG&E does not believe the choice of a baseline is "arbitrary," and continues to believe that when determining "new" renewable and zero-carbon resources, the baseline used under D.21-06-035 represents the most appropriate choice.

Next, WEM erroneously mischaracterizes PG&E's position on demand response and energy storage, claiming that PG&E "discredits battery storage and demand response as reliability resources."[39] It is neither PG&E's position, nor a reasonable read of PG&E's submittals in this proceeding, that demand response and energy storage do not provide value as reliability resources. Crucially though, that is not the question before the Commission. The question which must be considered here is which resources "are adequate to substitute" for DCPP.[40] Resolution of this question requires the Commission to evaluate whether resources will provide meaningfully similar reliability value to the grid as DCPP, not whether they will provide any value at all. WEM's Opening Brief cites PG&E's own testimony on this issue, stating: "Both DR and batteries are non-generating resources and have limited availability. While these resources can shave peak load (e.g., DR) or shift output to different periods (batteries), they cannot generate energy and often rely on exogenous factors. Batteries, in the absence of charging from other generation resources, such as DCPP, become useless."[41] The Commission should

37/ Id., p. 13, line 27 to p. 14, line 9.
38/ D.21-06-035, p. 2 (stating "We also expect that all of the resources procured pursuant to this order will be zero-emitting, unless they otherwise qualify under the renewables portfolio standard eligibility requirements.").
39/ WEM Opening Brief, p. 7.
40/ Pub. Util. Code § 712.8 (c)(2)(D).
41/ W.EM Opening Brief, citing PG&E's Rebuttal Testimony, p. 7.

heed this distinction, and avoid relying on resources not adequate to substitute for DCPP.

Along those lines, PG&E agrees with CUE and GPI. CUE correctly explains that: "For resources to adequately substitute for Diablo Canyon, they must 'be able to substitute for DCPP's aggregate output in MWh on an equally reliable basis' and they must 'be able to substitute for DCPP's hourly output profile, especially during times of high net peak demand.'"[42/] Thus, CUE notes that the March 2023 CEC Report shows that there will not be new renewable energy and zero-carbon resources that would adequately substitute for DCPP and that meet the state's planning standards for energy reliability.[43/] Further, GPI opposes other parties' arguments that DCPP's extension may crowd out other renewable project development, because California's clean energy development is operating at maximum capacity and the increased energy storage capacity will, by design, soak up much of the energy that is currently being curtailed.[44/] GPI explains that not extending DCPP would cause a decrease in system reliability and increase in systemwide GHG emissions. PG&E agrees, and the Commission should conclude that there will not be adequate renewable energy and zero-carbon resources that will substitute for DCPP by December 31, 2023, and that meet the state's planning standards.

Cal Advocates recommends that the Commission utilize the Loss-of-Load Expectations ("LOLE") dataset from D.23-02-040 and potentially refresh those results for updated forecasting conditions.[45/] To the extent that Cal Advocates is implying that the Commission should re-do its LOLE study with the suggested changes (e.g., incorporating the last two weather years), re-doing the LOLE study within this phase of the proceeding to make a final determination by December 31, 2023 is impractical. Cal Advocates, however, acknowledges that "there is a likelihood that the portfolio is, in fact, unreliable without DCPP in 2026."[46/] Thus, even if the Commission were to conduct an LOLE study to determine reliability shortfalls, the determination could still

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42/ CUE Opening Brief, p. 5 (referring to Ex. CUE-01, p. 4).
43/ CUE Opening Brief, pp. 6-7.
44/ GPI Opening Brief, p. 10.
45/ Cal Advocates Opening Brief, pp. 4-7.
46/ Cal Advocates Opening Brief, p. 7.

conclude that DCPP's extended operations is prudent.

Lastly, PG&E disagrees with SLOMFP's assertion that California has an "operating reserves problem" and not a "planning reserve" problem.[47/] The planning reserve margin accounts for: (1) load forecasting error, (2) operating outages, and (3) operating reserves to meet NERC standards.[48/] As a result, "operating reserves" are intrinsically linked to "planning reserves" and, thus, SLOMFP's argument is flawed.

E. Scoping Issue 1.e: If the Commission establishes earlier retirement dates, the length of time necessary for an orderly shutdown of Diablo Canyon.

PG&E addressed this issue in its Opening Brief and will not repeat that discussion here.[49/]

III. SCOPING ISSUE 2: IF THE COMMISSION DIRECTS AND AUTHORIZES EXTENDED OPERATIONS AT DIABLO CANYON, WHETHER ONE OR MORE PROCESSES SHOULD BE ESTABLISHED TO CONTINUE TO MONITOR THE ASSOCIATED UTILITY RATEPAYER COST FROM, AND RELIABILITY NEED FOR, CONTINUED OPERATIONS AT DIABLO CANYON

In Opening Briefs, parties did not provide convincing support for additional processes that should be established to continue to monitor the associated ratepayer costs and reliability need for continued operations at Diablo Canyon.

The Commission should reject TURN's recommendations to reconcile cost categories used in the future Forecast Cost Recovery Application with PG&E's May 19, 2023, testimony, which utilized EUCG categories.[50/] TURN continues to ignore the circumstances surrounding the creation of the cost forecasts that PG&E has described on multiple occasions. At the time of the May 19, 2023, testimony, PG&E's best available and complete forecast was from the DOE's CNC application submitted in September 2022, which utilized the EUCG format, as required by the DOE.[51/] That cost forecast adhered to the categories of costs that the Scoping Memo

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47/ SLOMFP Opening Brief, p. 39.
48/ Exh. SLOMFP-05, p 7, lines 5-8 and p. 16, fn. 81.
49/ PG&E Opening Brief, p. 19.
50/ TURN Opening Brief, p. 22.
51/ Exh. PG&E-01, p. 15, lines 18-19.

determined were relevant to this proceeding.[52] The EUCG format, and PG&E's presentation of costs therein is not a format that PG&E proposes to submit to the Commission in a future cost recovery proceeding. PG&E had not (and would not have been able to) complete a MWC equivalent in time for its May 19, 2023, testimony. Further, SB 846 expressly does not require the Commission to consider such a forecast to establish new retirement dates.[53]

Again, as noted in Section II.A.1, the Commission's establishment of new retirement dates is limited to determinations on whether costs are "too high to justify" as a result of DCISC reports or recommendations on seismic safety, deferred maintenance, or on NRC license renewal conditions.[54] However, PG&E continues to prepare a detailed forecast using the MWC format in anticipation of its first Forecast Cost Recovery Application to be filed on or before March 31, 2023, and use of the MWC format for future applications is appropriate. This allows the Commission and parties to compare costs year-over-year in reviewing its reasonableness request.

A4NR critiques PG&E's response to A4NR's proposal for a monthly reporting process modeled after I.12-10-013 concerning San Onofre repair costs.[55] PG&E explained in its rebuttal testimony that it supports reporting of ratepayer costs to the Commission within existing structures for generation-related balancing accounts, as well as including Diablo Canyon Extended Operations Balancing Account ("DCEOBA") activity as part of the existing monthly reporting.[56] However, A4NR claims that PG&E proposes to split such disclosures into multiple different reports across multiple different proceedings.[57] A4NR ignores that it proposes information to be reported that is already being reported, but does not refine its proposal in its Opening Brief.

Next, A4NR recommends that the Commission establish an ongoing process to "transparently monitor the projected and recorded ratepayer costs from, and reliability need for,

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52/ Scoping Memo, pp. 8-9.
53/ See Pub. Util. Code § 712.8(c) (establishing criteria to establish new retirement dates)
54/ Pub. Util. Code § 712.8(c)(2)(B).
55/ A4NR Opening Brief, p. 8.
56/ .Exh. PG&E-04-R, p. 2-17, lines 1-13.
57/ A4NR Opening Brief, p. 8.

continued operations at Diablo Canyon."[58/] However, A4NR does not present a fully formed proposal, only conclusory statements on potential additional guidance. Further, PG&E's proposed Forecast Cost Recovery Application process, which many parties either support or do not oppose, presents a process pursuant to SB 846 requirements for the Commission and stakeholders to evaluate ratepayer costs. In its Opening Brief, PG&E explained that existing processing regarding reliability need (including the March 2023 CEC Report and the quarterly Joint Reliability Planning Assessment report) sufficiently provide a review of the reliability need for Diablo Canyon's extended operations.[59/] However, to be clear, PG&E does not view the publication of these reports as a means to continually revisit the retirement dates for DCPP. A process to continually assess DCPP's new retirement dates would effectively result in those dates remaining an unsettled matter through 2030. As PG&E stated, doing so would present a potentially untenable level of uncertainty for operations at a large nuclear power plant and would serve to increase customer costs, compromise the retention of critical plant personnel, and would complicate operational planning.[60/]

Lastly, A4NR critiques PG&E's proposal on Section 712.8(k)[61/] reporting, saying PG&E would "substitute its own, unilateral determination" for when the Section 712.8(k) reporting obligation has been triggered.[62/] A4NR appears to ignore the Legislature's direction, which directs the *operator* to notify the Commission.[63/] As explained in PG&E's Opening Brief,[64/] the

58/ A4NR Opening Brief, p. 9.

59/ PG&E Opening Brief, pp. 22-24.

60/ Exh. A4NR-05, PG&E's response to Data Request A4NR_006-Q001, dated 8/29/2023.

61/ Unless otherwise specified, statutory references herein are to the California Public Utilities Code.

62/ A4NR Opening Brief, p. 9.

63/ Pub. Util. Code § 712.8(k) ("If at any point during the license renewal process or extended operations period the operator believes that, as a result of an unplanned outage, an emergent operating risk, or a new compliance requirement, the cost of performing upgrades needed to continue operations of one or both units exceed the benefits to ratepayers of the continued operation of doing so, the operator shall promptly notify the commission.").

64/ PG&E Opening Brief, p. 10 ("For those costs that are not known to the operator, Commission, or stakeholders during the course of Phase 2 of this proceeding, at the time any cost of DCISC recommendations on seismic safety upgrades or deferred maintenance or at the time the NRC issues a renewed license with associated conditions or an event occurs, PG&E would submit a report to the Commission through a Tier 3 Advice Letter identifying that cost and the other relevant costs are currently unknown, and as such, PG&E commits to reporting the costs when they are known.

IV. SCOPING ISSUE 3: WHAT ARE THE NEW PROCESSES TO AUTHORIZE ANNUAL RECOVERY OF ALL REASONABLE COSTS AND EXPENSES ON A FORECAST BASIS, INCLUDING ALLOCATION OF FORECAST COSTS AMONG COMMISSION-JURISDICTIONAL LOAD SERVING ENTITIES

Multiple parties supported PG&E's proposed annual Forecast Cost Recovery Application process and structure, which is described in detail in PG&E's Opening Brief.[65/] Generally, the structure and timing of the proposed application was not contested. SCE supports the proposed structure of the Forecast Cost Recovery Application, with a Fall Update in October of every year, to allow LSEs to finalize their load forecasts for the next calendar year, as well as the proposed equal-cents-per-kWh rate design.[66/] SDG&E[67/] also supports the equal-cents-per-kWh revenue allocation structure and proposed rate design, and explains that it is equitable, transparent, and avoids unnecessary complexity.[68/]

While CalCCA agrees with the proposed structure of the Forecast Cost Recovery Application,[69/] it proposes allocating the costs (and allocation of attributes) for DCPP's extended operations using the Cost Allocation Mechanism ("CAM") model based on a 12-month coincident peak.[70/] PG&E disagrees, and addresses why a 12-month coincident peak ("12 CP") methodology is inappropriate for cost allocation in its Opening Brief[71/] and further in Section V.B below. In regard to the proposed Forecast Cost Recovery Application structure, CalCCA recommends that PG&E detail projections of all costs and revenues associated with DCPP's extended operations, as well as include common costs relative to the amount approved in the 2023 GRC. PG&E agrees that the Forecast Cost Recovery Application will provide detailed

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factors and make a recommendation whether it is prudent, cost-effective and beneficial to customers to incur the cost to support continued operations.") (internal citations omitted).

65/ PG&E Opening Brief, pp. 24- 35.
66/ SCE Opening Brief, p. 4.
67/ SDG&E Opening Brief, pp. 2-4.
68/ SDG&E Opening Brief, p. 2.
69/ CalCCA Opening Brief, p. 45.
70/ CalCCA Opening Brief, pp. 30-33.
71/ PG&E Opening Brief, pp. 37-38.

forecasts of costs proposed to be recorded to DCEOBA. With regard to common costs, PG&E will include any common costs that are incremental to PG&E's GRC-approved common costs. It is PG&E's position that common cost allocation will be adopted in PG&E's 2023-2026 GRC for which a proposed decision and alternate proposed decision were issued on September 13, 2023. Further, allocation of incremental common costs during DCPP's extended operations period would be addressed as part of the next GRC, the 2027 GRC, or through future annual DCPP extended operations Forecast Cost Recovery Applications.

Next, TURN argues that PG&E should not be permitted to recover tax gross ups for statutorily-authorized incentive payments.[72/] TURN recommends that: "The Commission should direct PG&E to prepare such an analysis and exclude rate recovery of any estimated taxes (and the gross up) for incentive payments that are capped by the statutory language of SB 846."[73/] PG&E urges the Commission to find TURN's position on the recoverability of taxes for SB 846 authorized incentive payments is far outside the scope of this rulemaking and identify PG&E's future cost recovery application as the appropriate venue for consideration and resolution of the tax issue. PG&E urges the Commission to identify the proposed Forecast Cost Recovery Application as the appropriate venue to consider and resolve this tax issue.

TURN further recommends that PG&E should include DCPP costs funded by both customers and the government for which PG&E requests recovery from customer rates in its annual Forecast Cost Recovery Application, and to further provide a reconciliation of PG&E's cost recovery request with forecasts presented in this proceeding.[74/] PG&E disagrees. Pursuant to SB 846, PG&E's annual forecast cost recovery applications will include all costs for the upcoming year for which PG&E requests recovery in customer rates.[75/] There is no basis to require a reconciliation between the cost recovery request and tables PG&E presented in this

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72/ TURN Opening Brief, pp. 24-26.
73/ TURN Opening Brief, p. 26.
74/ TURN Opening Brief, pp. 20, 23.
75/ See Pub. Util. Code § 712.8 (h)(1) (providing for an annual cost recovery process through an application structured similarly to its annual Energy Resource Recovery Account ("ERRA") Forecast proceeding, with an annual true-up advice letter).

proceeding; as described herein and throughout this proceeding, the cost forecast presented in this proceeding are not intended to be the exact forecasts or format of costs presented in the Forecast Cost Recovery Application. Further, TURN's recommendation is inconsistent with the clear language of SB 846 providing a process for the potential review of costs forecast through the Forecast Cost Recovery Application, should those costs exceed certain thresholds.[76/] PG&E should not be directed to include the total cost of extended operations in each annual cost recovery application, or a "reconciliation" between this proceeding and the forecast presented in the Forecast Cost Recovery Application.

V. SCOPING ISSUE 4: WHETHER ADDITIONAL COST RECOVERY MECHANISMS, AGREEEMENTS, PLANS, AND/OR ORDERS ARE NEEDED PRIOR TO THE CURRENT RETIREMENT DATES FOR DCPP UNITS 1 AND 2

In this Section, PG&E responds to Opening Briefs addressing PG&E's recovery of the NBC established for the recovery of Diablo Canyon's extended operations costs, and the structure of that NBC (including the cost allocation and rate structure of the NBC).

A. Servicing Order for IOU Remittance of NBC

PG&E's Opening Brief recommends that the Commission require Commission-jurisdictional IOUs to enter into proposed Servicing Order Agreements as a mechanism to remit to PG&E the statewide NBC established by the Commission, consistent with Section 712.8(l)(2).[77/] In its Opening Brief, SCE offers support for PG&E's proposed Servicing Order, and recommends minor modifications, including to recognize that IOUs ordered to enter into the Servicing Order with PG&E are subject to Commission jurisdiction.[78/] PG&E supports addressing such edits, and other non-material IOU-specific information required to complete the Servicing Order, as part of a Tier 1 Advice Letter process following the issuance of the Commission's decision on Phase 1, Track 2 matters. No other parties directly addressed the use of PG&E's proposed Servicing Order, and PG&E continues to support its adoption.

76/ *Id.*, (further providing that there shall be no further review of the reasonableness of costs incurred if actual costs are below 115 percent of the forecasted costs).

77/ PG&E Opening Brief, pp. 39-40.

78/ SCE Opening Brief, pp. 8-9.

In its Opening Brief, SBUA offers multiple recommendations relevant to PG&E's collection of the statewide NBC from the IOUs that conflict with SB 846 and should not be adopted. SBUA proposes that PG&E annually bill LSEs "based on the actual generation at Diablo Canyon,"[79/] which appears to be an after-the-fact collection of revenues. SBUA's recommendation is in conflict with Section 712.8 (h)(1), which provides PG&E, as the operator of Diablo Canyon, with cost recovery of the net costs of extended operations on a forecast basis, and Section 712.8 (l)(2), which requires extended operation costs that are recovered in rates be promptly remitted to PG&E. Instead, PG&E's Servicing Order structure should be adopted for the efficient remittance from the IOUs to PG&E for the DCPP NBC that is established by the Commission's resolution of PG&E's proposed Forecast Cost Recovery Application process.

B. Non-bypassable Charge Structure

In Opening Briefs, parties offer varying positions on the structure of the statewide DCPP NBC. PG&E, SCE, and SDG&E support Commission adoption of an equal-cents-per-kWh revenue allocation and rate design structure for the statewide extended operations NBC. An equal-cents-per-kWh NBC should be adopted because it is consistent with Legislative policy that extended operations of DCPP will provide broad, statewide benefits for all California electricity customers,[80/] and PG&E continues to support its adoption. SCE and SDG&E further detail the significant benefits that an equal-cents-per-kWh structure offers -- it is equitable and transparent for customers statewide,[81/] consistent with ratemaking for the DWR Bond Charge and Wildfire Fund NBC,[82/] which, like DCPP's extended operations, are statewide charges that serve public interest,[83/] consistent with cost causation for the costs of a 24/7 baseload resource,[84/] and offers simplicity in IOU administration.[85/]

79/ SBUA Opening Brief, p. 6.
80/ Pub. Res. Code § 25548(b).
81/ SDG&E Opening Brief, p. 2.
82/ SDG&E Opening Brief, pp. 2, 5.
83/ SDG&E Opening Brief, pp. 2, 5.
84/ SDG&E Opening Brief, p. 4.
85/ SDG&E Opening Brief, p. 4 and SCE Opening Brief, p. 6.

By contrast, CalCCA and AReM/DACC recommend an NBC structure, calculated consistently with the CAM-charge, that is based on a 12 CP allocation methodology that considers each rate group's contribution to peak demand.[86/] PG&E opposes the recommendation because the costs of Diablo Canyon do not vary based on peak demand, thus there is no linkage between a 12 CP allocation and cost causation.[87/] Further, class specific rates for a statewide NBC can result in customer confusion and significant complexity for the IOUs and the Commission in ratesetting and administration.[88/] As PG&E has observed, CalCCA's and AReM/DACC's proposals appear motivated by party interests in allocation of resource adequacy capacity ("RA") during extended operations. While PG&E opposes RA allocation, a ratemaking structure that aligns with the Commission's practices for allocating RA resources to LSEs through the CAM is unnecessary. Further, the statewide DCPP NBC will not solely recover RA-costs.[89/] From PG&E's perspective, there is no cost causation or practical basis to allocate the revenue requirement and NBC based on the CAM-charge methodology. Thus, the Commission should reject CalCCA's and AReM/DACC's ratemaking recommendations that will introduce unnecessary complexity and burden to the calculation and administration of the NBC.

Next, PG&E addressed the SMJU's recommendation for a lower NBC for SMJU customers in its Opening Brief.[90/] PG&E maintains that a consistent, statewide NBC is compatible with the broad statewide benefit of enhanced reliability provided by DCPP's extended operations. That SMJUs have unique characteristics, a track record of meeting reliability requirements, or winter peaking profiles should not factor into the Commission's analysis to establishing a statewide NBC. In enacting SB 846, the Legislature required customers of all Commission-jurisdictional LSEs to pay the costs of extended operations and did not contemplate adjustments for factors such as LSE location, load profile, RA compliance

86/ CalCCA Opening Brief, p. 41; AReM/DACC Opening Brief, p. 13-14.
87/ Exh. PG&E-04-R, p. 2-3, lines 12-17.
88/ SCE Opening Brief, p. 6; SDG&E Opening Brief, p.4.
89/ SCE Opening Brief, p. 6.
90/ PG&E Opening Brief, pp. 35-36.

history or size. As specified in Section 712.8(q), the purpose of DCPP's extension is to broadly "protect the state" against significant uncertainties that may or may not be isolated to certain LSE service areas. Cost allocation and the resulting NBC should not vary based on LSE-specific factors. A statewide NBC on an equal-cents-per-kWh basis is equitable for all customers with cost responsibility and should be adopted.

Further, PG&E disagrees with SBUA's assertion that PG&E's Phase II GRC Decision requires allocation of the $6.50/MWh (2022 dollars) volumetric fee established by Section 712.8(f)(5) based on GRC Phase II allocation factors.[91/] There is no requirement in D.21-11-016 applicable to this volumetric fee, and SBUA does not cite to any. PG&E continues to support recovery of the NBC and the PG&E service territory rate adder on an equal-cents-per-kWh basis.

The Commission should also reject SBUA's recommendation that Diablo Canyon's extended operations costs be first funded by government funding prior to utilizing ratepayer funds.[92/] SBUA's recommendation bears no relation to requirements in SB 846 that the DWR loan agreement and federal funding be used to *facilitate* the extended operations period.[93/] Further, such recommendation conflicts with 712.8 (f)(1) which provides for the recovery of extended operations costs through a statewide NBC. PG&E anticipates that detailed aspects of cost recovery will be addressed in PG&E's future Forecast Cost Recovery Application process.

VI. SCOPING ISSUE 5: WHETHER AND HOW THE BENEFITS OF EXTENDED OPERATIONS, INCLUDING RESOURCE ADEQUACY AND GREENHOUSE GAS FREE ATTRIBUTES, SHOULD BE ALLOCATED AMONG THE LOAD SERVING ENTITIES AND CUSTOMERS PAYING FOR DCPP EXTENDED OPERATIONS

A. Allocation of Attributes

Multiple parties support an allocation of RA capacity and greenhouse gas-free ("GHG") energy attributes from DCPP's extended operations,[94/] but, as PG&E contends, allocation of such

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91/ SBUA Opening Brief, p. 5.
92/ SBUA Opening Brief, p. 5.
93/ See Pub. Res. Code § 25548.1(h) (defining loan as "'Loan' means the funds loaned to the borrower by the department for the purpose of facilitating the extension of the operating period").
94/ Parties supporting allocation include AReM/DACC; CalCCA; Cal Advocates; GPI; SDG&E; SCE; SBUA.

attributes conflicts with the legislative purpose of DCPP's extended operations to:

> . . .protect the state against significant uncertainty in future demand resulting from the state's [GHG] reduction efforts involving electrification of transportation and building energy end uses and regional climate-related weather phenomenon, and to address the risk that currently ordered procurement will be insufficient to meet this supply or that there may be delays in bringing the ordered resources online on schedule.[95/]

As CalCCA's Opening Brief admits, RA allocations would "reduce the amount of RA that LSEs are required to procure from the market."[96/] Undoubtedly, reducing the procurement need to meet LSEs' RA compliance requirements will only frustrate the purpose of DCPP's extended operations, which is to provide *enhanced* reliability (e.g., reliability "insurance") and protect the state against significant uncertainty in demand and supply that is not already accounted for in the current RA program planning standard. In a response to a CalCCA data request, PG&E highlighted the impact that RA allocations would have on the market by noting that LSEs have no incentive to procure above their RA compliance requirements "because, in doing so, it will lead to additional ratepayer costs" and that this is "consistent with market dynamics – where the quantity of demand (e.g., RA compliance requirements) and supply (e.g., RA capacity) will seek to balance to achieve equilibrium."[97/] Because of this market dynamic, an allocation of DCPP's RA capacity could effectively displace the need for LSEs to procure other resources that would have been needed had an allocation not occurred and, thus, the level of LSE contracting with existing resources can decrease and influence the number of resources retiring and the state could be faced with another reliability crunch.[98/] No party has adequately addressed this issue.

Recognizing that SB 846 prohibited the use of energy, capacity, or any attribute from Diablo Canyon's extended operations for the adopted integrated resource plan ("IRP") portfolios,

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95/ Pub. Util. Code § 712.8(q).
96/ CalCCA Opening Brief, p. 21.
97/ Exh. CalCCA-04, (PG&E's response to Data Request CalCCA_003-Q006, dated 8/21/2023).
98/ *Id*.

resource stacks, or preferred system plans, parties argue that differences between the Commission's IRP planning process and RA planning process justify an allocation of RA capacity to LSEs in meeting their RA requirements.[99/] The Commission should not be persuaded by these arguments that focus on a single subsection from Section 454.52 of the Pub. Util. Code. Notably, Section 454.52 of the Pub. Util. Code establishes the requirements for LSEs' IRP filings that must, among other things, demonstrate that LSEs meet system reliability "on both a near-term and long-term basis, including meeting the near-term and forecast long-term resource adequacy requirements of Section 380."[100/] AReM/DACC's argument that RA compliance "does not belong" to the IRP or that IRP filings focus on meeting "long-term RA requirements" [101/] fails to consider Section 454.52 of the Pub. Util. Code in its entirety. Parties that solely rely upon Section 454.52(f)(1) to support an allocation of RA capacity fail to reconcile how their IRP filings (which are governed by the entirety of Section 454.52) will demonstrate meeting their near-term and long-term RA requirements if an allocation of DCPP's RA capacity is being used to partially meet those RA requirements.

Multiple parties recommend the Commission allocate DCPP's attributes in exchange for the NBC, as a benefit to reduce costs of extended operations, or through potential avoidance of penalties and costs associated with the current RA procurement market.[102/] The SMJUs argue that, because benefit allocation is not available to their constituency, SMJU customers should pay a lower NBC.[103/] All of these arguments continue to miss the point that DCPP's extended operations is not intended to be the primary means of achieving statewide reliability but rather a means of *enhancing* it (e.g., providing additional insurance). Further, the Legislature did not adopt SB 846 to increase the liquidity in the RA market, nor was SB 846 adopted for the sole purpose of reducing the costs for LSEs to comply with the RA program or providing a penalty

99/ See, e.g. SDG&E Opening Brief, p. 7; CalCCA Opening Brief, pp. 22-24; AReM/DACC Opening Brief, pp. 3-5.
100/ Pub. Util. Code § 454.52(a)(1)(E).
101/ See, e.g., AReM/DACC Opening Brief, pp. 3-4.
102/ SDG&E Opening Brief, pp. 7-8; CalCCA Opening Brief, pp. 10-14.
103/ SMJU Opening Brief, pp. 14-16.

mitigation vehicle for LSEs. In exchange for the NBC, all statewide customers will benefit from enhanced statewide reliability through DCPP's ongoing availability and participation in the CAISO's energy market.

Finally, multiple parties look to SB 846's requirement that the CEC, in coordination with the Commission and the CAISO continue to report on DCPP's contribution to RA requirements through 2031 as support that the Legislature intended for DCPP to count towards LSEs' RA compliance during the extended operations period.[104/] This language alone does not establish any requirement that RA capacity from DCPP's extended operations are to be allocated to LSEs.

B. Conditions of Allocation

However, should the Commission decide to allocate RA capacity to LSEs during DCPP's extended operations, it should recognize that DCPP cannot meet RA compliance obligations when the facility is on outage and suspend allocation of capacity to LSEs during outages. SCE, Cal Advocates, and CalCCA each support PG&E's recovery of substitution capacity costs from customers;[105/] such costs can arise because an RA resource on outage requires substitution capacity to meet its CAISO Tariff RA obligation. PG&E's concern is that if PG&E cannot provide substitution capacity to CAISO, CAISO has full authority within its Tariff to cancel the outage.[106/] A cancelled outage could risk completing critical work at the facility that is needed to safely operate the plant. SCE opines that the "effective management of plant operations can reduce and restrict the need for substitution to a few months outside of the summer season."[107/] But, certain RA substitution costs can be avoided altogether if RA capacity is not allocated during planned outages. Suspending allocation of RA capacity during outage periods also fully mitigates the risk of CAISO outage cancellations, which poses additional costs and operational risks. There is no legitimate basis to hold DCPP maintenance activities captive to LSEs'

104/ SCE Opening Brief, p. 12; AReM/DACC Opening Brief, p. 6.
105/ SCE Opening Brief, p. 19; CalCCA Opening Brief, pp. 29-30; Cal Advocates Opening Brief, pp. 10-11.
106/ Exh. PG&E-04-R, p. 2-19, line 6 to p. 2-20, line 7.
107/ SCE Opening Brief, p. 20.

advocacy for allocations. Thus, should the Commission adopt allocations of RA capacity, no allocations should occur during months with foreseeable DCPP outages to reduce costs and risks associated with PG&E's outage management and substitution capacity obligation.

Cal Advocates recommends that RA capacity be allocated based on each LSE's share of costs, including consideration of the PG&E service territory $6.50/MWh volumetric rate component.[108/] The Cal Advocates proposal is not likely implementable on a year-ahead basis because annual forecast costs are intended to be adopted in the disposition of PG&E's Forecast Cost Recovery Application. PG&E supports consideration of revisions to an allocation methodology consistent with Section 712.8(q) as part of Phase 2 of this proceeding.[109/] In that same vein, for the reasons set forth in PG&E's Opening Brief and in Section V, PG&E disagrees with CalCCA's and AReM/DACC's recommendations to allocate DCPP's capacity based on a 12 CP methodology. AReM/DACC's claim that a 12 CP allocation is aligned with cost causation is incorrect because DCPP is a 24/7 baseload plant, not a peaking plant, and its costs do not vary based upon peak times.[110/]

Finally, AReM/DACC proposes that allocation of DCPP's RA capacity be fungible to provide, in effect, tradeable value to all LSEs, including those SMJUs claiming no received value from an allocation of DCPP's attributes.[111/] PG&E opposes this recommendation. Should an allocation of RA capacity be adopted, it should not be tradeable by LSEs. CalCCA appropriately recognized that if an "allocated share of DCPP capacity causes an LSE to have excess RA, the LSE already has the option to sell additional RA from its existing resource portfolio," thereby providing the fungibility that AReM/DACC envisions.[112/]

108/ Cal Advocates Opening Brief, pp. 12-13.
109/ PG&E Opening Brief, p. 46.
110/ See PG&E Opening Brief, p. 37.
111/ AReM/DACC Opening Brief, pp. 11-12.
112/ CalCCA Opening Brief, p. 32, fn. 140.

VII. SCOPING ISSUE 6: WHETHER ADDITIONAL GUIDANCE SHOULD BE PROVIDED ON THE USE OF ANY SURPLUS RATEPAYER FUNDS PG&E RECEIVES FOR DIABLO CANYON IN 2024

Multiple parties argue that additional guidance should be provided for the use of surplus ratepayer funds.[113/] Scoping Issue 6 only addresses surplus funds in 2024, and PG&E has noted that it is unlikely for there to be any surplus funds in 2024.[114/] PG&E's proposed structure, addressed in its Opening Brief,[115/] is the only proposal that directly responds to SB 846 directives. Thus, the Commission should find that SB 846 provides sufficient guidance for any review or prioritization of surplus funds in 2024, and more robustly address the topic in Phase 2, as preliminarily scoped in the Scoping Memo.[116/] While PG&E understands party concerns on the process of surplus funds, addressing it in Phase 2 would allow a stronger evidentiary record. For example, certain proposals were raised for the first time in rebuttal testimony, which did not provide PG&E or parties the opportunity to submit responding testimony.

TURN recommends specific guidance for the surplus funds (including eligible categories of work; ratemaking treatment; demonstration of ratepayer benefits; multi-year spending priorities; appropriate application of funds to DCPP costs; allocation of funds between PG&E and non-PG&E ratepayers).[117/] TURN proposed these recommendations in rebuttal testimony, meaning there was minimal opportunity to provide responsive evidence given the procedural schedule in Phase 1, Track 2. Also, as noted in PG&E's Opening Brief, TURN's recommendations are not contemplated by SB 846; PG&E's proposal fulfills section 712.8(s)(1) requirements and allows stakeholder and Commission participation and review.

Cal Advocates[118/] and SCE[119/] argue that surplus funds from the volumetric fee should be

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113/ By "surplus funds," PG&E understands the Commission to be referring to the aggregate \$13/MWh volumetric performance fee per Pub. Util. Code § 712.8(f)(5).
114/ PG&E Opening Brief, p. 47, fn. 185.
115/ PG&E Opening Brief, p. 48.
116/ Scoping Memo, p. 6, Item 3.
117/ TURN Opening Brief, p. 31.
118/ Cal Advocates Opening Brief, p. 14 ("PG&E must use the compensation for DCPP's extended operations first.").
119/ SCE Opening Brief, pp. 27-28 (recommending "that any surplus ratepayer funds be used to reduce the costs of extended operations and minimize rate impacts on all customers.").

used first to pay for DCPP's extended operations costs before any public purpose priorities. These parties rely on language from Section 712.8(s)(1) saying the funds should accelerate certain priorities "to the extent it is not needed for Diablo Canyon."[120/] SCE says that otherwise, PG&E's spending on public purpose priorities would not benefit customers outside of its service territory, e.g., accelerating customer and generator interconnections.[121/] First, PG&E reiterates its position that SB 846 does not require that the funds be exhausted on DCPP first. A plain reading of the words "to the extent it is not needed for Diablo Canyon" does not mean that the entirety of surplus funds must be spent on DCPP's operations. As directed by SB 846, reasonable costs to run DCPP will be recovered from Commission-jurisdictional customers; thus, the Legislature contemplated that operations would be funded by California customers. If the Legislature wanted funds to be spent on DCPP first without discretion, it would have used different language (e.g., directing that funds "shall" be used for the costs described in Section 712.8(h)(1)). Contrary to SCE's assertion that PG&E is reading the phrase "to the extent it is not needed for Diablo Canyon" out of the statute,[122/] the plain reading of the phrase "as needed" indicates that the Legislature intended Commission discretion in the usage of these funds.

Relatedly, SCE[123/] and SDG&E[124/] recommend that any surplus funds be used to reduce DCPP costs or treat it as an offset. Not only is this proposal premature, but it is contrary to SB 846. First, the proposed volumetric revenue is "[i]n lieu of a rate-based return on investment and in acknowledgment of the greater risk of outages. . .,"[125/] As such, the Legislature recognized that these risks should be distinguished from the operational costs that would be forecast in the cost recovery application. The Legislature does not express that it intended the volumetric revenue that is "in lieu of a rate-based return on investment" to be returned to customers; rather

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120/ Opening Brief, p. 13; SCE Opening Brief, p. 28.
121/ SCE Opening Brief, 30.
122/ SCE Opening Brief, p. 29.
123/ SCE Opening Brief, p. 29
124/ SDG&E Opening Brief, p. 6 (proposing that surplus funds be returned to all customers statewide in equal measure).
125/ Pub. Util. Code § 712.8(f)(5).

the Legislature identified a list of acceptable public purpose priorities.[126] In addition, PG&E's proposed annual Tier 2 Advice Letter process allows for stakeholder input on how any existing surplus funds are used each year, which means that parties can provide their recommendations with specificity each year as part of PG&E's proposed process.

TURN[127] and Cal Advocates[128] support disparate treatment of the surplus funds; these parties propose that PG&E-specific funds be used for public purpose and non-PG&E funds be treated as DCPP only. First, multiple public purpose items contemplated in Section 712.8(s)(1) have state-wide benefits, e.g., funding for pilot programs that could have broad applicability and benefits across the state. Second, PG&E emphasizes that the Commission will consider any priorities that are funded as part of its annual compensation report, which PG&E has proposed to be implemented through a Tier 2 Advice Letter process[129] to consider any priorities that are funded, as well as party comment and input. It is important that the Commission not pre-judge the outcome of how the volumetric funds may be used in the future.

Finally, Cal Advocates recommends that PG&E should amend its Phase 1, Track 2 testimony to clarify that it will debit the DCEOBA to transfer volumetric funds to meet other public purpose programmatic needs only "to the extent that the sum of forecast market revenues, any production tax credits, and the volumetric fees exceed the sum of the forecasted DCPP expenses."[130] PG&E disagrees with Cal Advocates' recommendation to amend its Phase 1, Track 2 testimony.[131] As stated in rebuttal testimony, PG&E is authorized to collect these volumetric funds, in lieu of a rate based return on investment, in order to advance those critical public purpose priorities outlined in SB 846.[132] Relatedly, PG&E reiterates its request[133] that the Commission approve its standing April 12, 2023, Advice Letter 6870-E-A to set up a

126/ Pub. Util. Code § 712.8(s)(1).
127/ TURN Opening Brief, p. 42.
128/ Cal Advocates Opening Brief, p. 12.
129/ PG&E Opening Brief, pp.49-50.
130/ Cal Advocates Opening Brief, p. 16 (internal citations omitted).
131/ Exh. PG&E-02, at p. 6-3, lines 24-27.
132/ Exh. PG&E-04-R, p. 2-28, lines 19-26.
133/ PG&E Opening Brief, p. 53 (referring to Advice Letter 6870-E-A).

separate sub-account treatment for the volumetric funds, among other items.

VIII. CONCLUSION

PG&E appreciates the opportunity to submit this Reply Brief and requests that the Commission adopt the recommendations set forth in its Opening Brief and herein.

Respectfully Submitted,

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Dated: September 29, 2023