

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



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

Rulemaking 23-01-007
(Filed January 12, 2023)

**Californians for Renewable Energy, Inc. (CARE)
Application for Rehearing**

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I. Introduction

Pursuant to Public Utilities Code Section 1731(b)(1) and Rule 16.1 of the Commission Rules of Practice and Procedure, CALifornians for Renewable Energy (CARE) submits this Application for Rehearing of Decision 23-12-036 conditionally Approving Extended Operations at the Diablo Canyon Nuclear Power Plant Pursuant to Senate Bill 846. The Commission voted to adopt the Decision at its meeting on December 14, 2023, approving extended operations at the Diablo Canyon Power Plant.

CARE is eligible to file an application for rehearing pursuant to Rules 1.4 and 16.2 of the Rules of Practice and Procedure as CARE has been granted party status in the proceeding. This application is timely because it is filed and served within 30 days after the date the Commission issued the Decision, on December 14, 2023.

In Decision 23-12-036 the commission alleges that it is implementing the requirements of SB 846 but fails to accomplish any of its required duties under the statute. The commission failed to determine if there were adequate new renewable and zero carbon resources to replace Diablo Canyon by the **end of 2023** as required by Public Utilities Code Section 712.8(c)(2)(D). The commission acted in an arbitrary and capricious manner by ignoring its own analyses which CARE

requested official notice of which demonstrate that adequate resources are currently available to retire Diablo Canyon by end of 2023. The commission failed to determine that extending the operation of Diablo Canyon was prudent as they did not determine if the project's costs were just and reasonable as required by PRC Section 451 and SB 846. In fact, as the decision admits the commission was unable to determine the true costs of extending Diablo Canyon operations.¹ The commission failed to analyze whether the project was reliable which is required to determine if extension of the Diablo Canyon operations is prudent as required by SB 846. Finally, the commission failed to determine if the project was safe as it ignored possible safety issues not related to the NRC's nuclear safety analyses and failed to acknowledge the NRC's inadequate oversight of the Diablo Canyon Power Plant.

II. The commission failed to comply with Public Utilities Code Section 712.8 (c)(2)(D)

Public Utilities (Pub. Util.) Code Section 712.8(c)(2)(D) requires that, *“If the commission determines that new renewable energy and zero-carbon resources that are adequate to substitute for the Diablo Canyon powerplant and that meet the state’s planning standards for energy reliability **have already been constructed and interconnected by the time of its decision**, 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), and shall provide sufficient time for orderly shutdown and authorize recovery of any outstanding uncollected costs and fees.”* The scoping memo memorializes this requirement of SB 846 stating one of the issues in the proceeding is, *“Whether new renewable energy and zero-carbon resources that*

¹ D. 23-12-036 Conclusions of Law #16 Page 127.

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.” Conclusion of Law # 7 in D. 23-12-036 states that, “Focusing on the current portfolio of resources expected to achieve interconnection by the end of 2023 is not only consistent with the plain language in Pub. Util. Code Section 712.8(c)(2)(D) but enables parties and the Commission to incorporate the most up-to-date resource planning assumptions, grid conditions, and policy developments/procurement orders.”²

Even though the commission absolutely knew it was required to examine procurement up until the end of 2023 the decision reveals that the commission only considered zero carbon resources with net qualifying capacity installed through March 2023 despite the SB 846 requirement that new resources added before the decision are to be considered.³ The commission did not even consider or include in the docket the Joint Reliability Planning Assessment Third Quarterly Report⁴ which was issued on August 28, 2023, and included data on new zero carbon resources that have been procured.

The commission acted in an arbitrary and capricious manner in denying⁵ CARE’s December 4th motion⁶ to take official notice of the Joint Reliability Assessment Fourth Quarterly Report which updates procurement activity. The

² D. 23-12-036 Page 126 Conclusion of Law # 7.

³ D. 23-12-036 Page 16 “Lastly, the May 2023 Joint Planning Assessment updated the status of demand and new resource additions for summer 2023. Overall, the report indicates an increase in net qualifying capacity installed through March 2023”.

⁴ <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=21-ESR-01>

⁵ D. 23-12-036 Page 116 “All other outstanding motions or requests for which rulings have not been issued are deemed denied.”

⁶ CARE’s Motion was filed on December 4th two days after the Joint Agency’s issued its Fourth Quarterly Report. <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M521/K262/521262255.PDF> The motion and the report are included as attachment 1 to this rehearing request.

Fourth Quarter Joint Reliability Assessment demonstrates that the procurement delays that this decision relies on to determine adequate resources have not been procured do not exist. The commission failed to consider its own report which updates procurement activity and reliability issues as required by Pub. Util. Code Section Code Section 712.8(c)(2)(D).

The commission also acted in an arbitrary and capricious manner when it denied CARE's motion for official notice of the CPUC's November 2, 2023, *"Procurement in Compliance with D.19-11-016 and Mid Term Reliability (D.21-06-035) per February 1, 2023."*⁷ This report was issued before the closure of the record in this proceeding. CARE's motion filed on November 2, 2023, and was unopposed. Failure to grant official notice when no party opposed the motion is arbitrary and capricious. It is arbitrary and capricious for the commission to ignore its own November 2, 2023, report which demonstrates complete compliance with procurement orders from D. 19-11-016 as of February 2023.⁸ The November 2, 2023, report also states that, *"LSEs provided documentation that reports they expect to collectively come close to meeting Tranche 1 and Diablo Canyon Replacement."*⁹ The report which only includes procurement activity as of February 2, 2023 states that, *"LSEs' progress towards Diablo Canyon Replacement Firm Zero Emitting is pending the necessary compliance documentation verification to be filed by 2/1/2025."* The commission committed a clear legal

⁷ November 3, 2023, Californians for Renewable Energy, Inc. (CARE) Request for Official Notice. <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M520/K708/520708896.PDF>

⁸ <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/integrated-resource-plan-and-long-term-procurement-plan-irp-ltpp/public-report-d19mtr-compliance-summaries-feb-2023-vintage1.pdf> Slide 14 Document Included as attachment 2 to this rehearing request.

⁹ <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/integrated-resource-plan-and-long-term-procurement-plan-irp-ltpp/public-report-d19mtr-compliance-summaries-feb-2023-vintage1.pdf> Slide 49.

error by not considering procurement of zero carbon resources until the end of 2023 as required by Pub. Util. Code Section Code Section 712.8(c)(2)(D).

III. The Decision is unlawful as it does not comply with Public Utilities Code Section 451.

D. 23-12-036’s Conclusion of Law # 16 states that, “PG&E’s cost forecast does not reflect all of the costs associated with DCPD extended operations, and therefore is not an adequate foundation upon which to evaluate the cost-effectiveness, prudence, or reasonableness of DCPD operations.”¹⁰ Section 451 of the California Public Utilities Code requires that “[a]ll charges demanded or received by any public utility * * * shall be just and reasonable.” Section 454, subdivision (a), provides that “no public utility shall raise any rate or so alter any classification, contract, practice, or rule as to result in any increase in any rate, except upon a showing before the commission and a finding by the commission that the increase is justified.” The decision admits it cannot even determine the costs of the Diablo Canyon extension, much less determine if the costs are just and reasonable. The commission decision violates Section 451 as it authorizes rates and doesn’t know the cost much less whether the costs are just and reasonable.

In assessing whether a rate is “just and reasonable,” the courts determine, among other things, whether the rate comports with the “cost-causation principle” which requires that the rates charged for electricity reflect the costs of providing it. In this proceeding the commission cannot even determine what the costs are so they cannot meet the just and reasonable standard. The PD cannot make a finding or conclusion regarding the consistency of continuing operations of Diablo Canyon with PRC Section 451 as the commission cannot even determine the cost of the extension of operations. The PD commits clear legal error.

¹⁰ D. 23-12-036 Page 127 Conclusion of Law # 16.

IV. Reliability

Conclusion of Law # 27 of D. 23-12-036 states that ensuring system reliability is a key legislative rationale for the extension of DCPD operations.¹¹ CARE provided evidence in its opening testimony that the DCPD is not reliable in electrical emergencies and is many times the cause of these emergencies because of its size. CARE's opening testimony details 16 electrical emergencies declared by CAISO where Diablo Canyon was at least 50% offline.¹² This is almost half of electrical emergencies that occurred between 2017 and 2021. In the only rolling blackouts that have occurred in California since 2001, Diablo Canyon was a major factor. *"Steve Berberich, president and chief executive officer of California I.S.O., on Tuesday defended his organization's decision to order rolling blackouts rather than dipping into reserve power supplies set aside for emergencies. He said the grid had to keep some reserves on hand in case a plant like Diablo Canyon unexpectedly shut down."*¹³ *"His fears were well founded as Diablo Canyon Unit 1 was offline from July 18, 2020 to August 2, 2020 at the height of the summer season."*¹⁴ No party challenged this testimony and it remains undisputed in the evidentiary record.

V. Conclusion

The record of this proceeding does not allow the commission to extend operations at the Diablo Canyon Power Plant. The commission cannot determine that the costs to extend operations at Diablo Canyon are just and reasonable since they cannot determine the true costs of the extension. The commission has ignored its own reports which demonstrate adequate zero carbon resources are now

¹¹ D. 23-12-036 Page 129, Conclusion of Law # 27.

¹² Exhibit CARE-01 Pages 13-16.

¹³ Exhibit CARE -01 Page 12,13.

¹⁴ Exhibit CARE -01 Page 13.

available to retire Diablo Canyon and meet all CPUC procurement orders. The commission cannot determine that extension of operations at Diablo canyon is prudent since the unrefuted testimony in the record demonstrates Diablo Canyon is often unavailable in electrical emergencies.

VI. Proposed changes to the Decision

Findings of Fact

1. The commission finds that the record of the proceedings does not allow us to determine if the costs of extending the Diablo Canyon Power plant operations are just and reasonable.

2. The commission finds that there is undisputed evidence demonstrating the Diablo Canyon Power Plant has proven unreliable in CAISO declared emergencies. It is therefore imprudent to extend operations at the Diablo Canyon Power Plant.

3. The commission finds that there are adequate zero carbon resources to replace Diablo Canyon by the end of 2023

Conclusions of Law

1. The record of the proceeding does not allow the commission to determine the true costs of extending operations at Diablo Canyon and therefore cannot determine compliance with PRC Section 451.

2. The commission takes judicial notice of the Joint Agencies Fourth Quarter Reliability Assessment which demonstrates that adequate zero carbon resources have been procured to retire Diablo Canyon and meet CPUC procurement orders.

3. The record of the proceeding demonstrates that the Diablo Canyon Power Plant has been unavailable during almost half of CAISO declared electrical emergencies.

ORDER

IT IS ORDERED that:

1. The commission finds that there are adequate zero carbon resources to replace Diablo Canyon by the end of 2023 and finds that the project is not just and reasonable and orders the original retirement dates of Diablo Canyon of November 2, 2024, for (Unit 1) and August 26, 2025, for (Unit 2) to be implemented.

~~Strike the following text:~~

~~1. The NRC's March 3, 2023, exemption allows the DCPD to continue to operate under its current licenses past their expiration dates (i.e., November 2, 2024 (Unit 1) and August 26, 2025 (Unit 2)), provided PG&E submits a new federal license renewal application by the end of 2023, and satisfies various regulatory requirements at the federal and state levels.~~

~~2. PG&E filed its license renewal application with the NRC on November 7, 2023.~~

~~3. The NRC's process and timeline for reviewing PG&E's license renewal application has yet to be determined.~~

~~4. At the time of this decision the \$1.4 billion loan authorized under SB 846 has not been terminated.~~

~~5. The considerations at play in this proceeding address a relatively narrow set of circumstances based on the specific language set forth in Pub. Util. Code Section 712.8.~~

~~6. As determined in D.21-06-035, rapid changes in the electricity market are being driven by the large number of new LSEs, the major shifts in the resource mix, weather and climate uncertainty, and increasing acceleration of electrification of building and transportation energy use.~~

~~7. The deterministic stack analyses presented in this proceeding indicate shortfall conditions could exist as early as 2023 under extreme heat wave conditions that approximate those experienced in California in 2020 and 2022.~~

~~8. More recent probabilistic LOLE results prepared by the Commission and CAISO point to narrow resource margins or potential shortfalls, including a LOLE result close to 0.1 in 2026 without an extension of Diablo Canyon, as well as a potential shortfall in 2025 when considering the levels of capacity required by the Commission's procurement orders.~~

~~9. The reliability studies presented in this proceeding are consistent with the Commission's findings in D.23-02-040 that the electric system is much closer to a supply and demand balance than is comfortable for reliability purposes.~~

~~10. All of the reliability studies in this proceeding assume continued procurement during the 2024-2028 time period based on the procurement orders and associated compliance deadlines adopted in the IRP proceeding.~~

~~11. The "planning track" of the Commission's IRP proceeding results in the adoption of a PSP, or an optimal portfolio of resources for meeting the state's electric sector policy objectives at least cost, which is then used to set requirements for LSEs to plan toward that future.~~

~~12. D.21-06-035 requires LSEs to bring online at least 2,500 MWs of resources with specified zero-emitting attributes by June 1, 2025, as an explicit showing of replacement capacity for Diablo Canyon.~~

~~13. On August 9, 2023, a Joint Expedited Petition for Modification of D.21-06-035 was filed to extend the compliance deadline for the 2,500 MWs of Diablo Canyon replacement capacity from 2025 to 2027.~~

~~14. A4NR, SLOMFP, WEM, and CARE fail to demonstrate that new renewable energy and zero-carbon resources meet all of the following criteria: (a) are an adequate substitute for DCPP; (b) meet the state's planning standards for reliability; and (c) will be online and interconnected by the end of 2023.~~

~~15. At the time of this decision there are no recommendations from the DCISC for seismic safety upgrades or deferred maintenance activities associated with extended Diablo Canyon operations, nor does the Commission have before it any NRC license renewal commitments or conditions.~~

~~16. SLOMFP's arguments that extended DCPP operations are not cost-effective are unsubstantiated, undefined, or are not specifically tied to DCPP.~~

~~17. D.18-01-022 did not consider the current energy market, or the \$1.4 billion SB 846 loan and other government funding streams intended to address the cost of NRC license renewal.~~

~~18. The cost-effectiveness arguments presented by CUE, CGNP, and SBUA are materially incomplete or inconclusive.~~

~~19. PG&E's position in A.16-08-006 was based on its bundled energy needs, whereas the reliability considerations set forth in SB 846 are based on system needs.~~

~~20. Pub. Res. Code Section 25548(b) states “it 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 interests of all California electricity customers.”~~

~~21. The IRP proceeding is broader in scope than this proceeding, and is considering how optimized portfolios of generation resources will meet the state’s GHG emissions goals at the lowest cost.~~

~~22. Pub. Util. Code Section 712.8(c)(2)(A) requires the Commission to issue its decision directing and authorizing extended operations at DCPD no later than December 31, 2023.~~

~~23. PG&E’s May 19, 2023, testimony in this proceeding excludes a variety of cost categories associated with actual extended DCPD operations.~~

~~24. The CEC’s Draft Cost Comparison Report relies on PG&E’s May 19, 2023, testimony to forecast DCPD extended operations costs, and does not reflect the costs associated with PG&E’s forthcoming license renewal application or any DCISC recommendations concerning seismic safety and deferred maintenance.~~

~~25. Party comments on the CEC’s Draft Cost Comparison Report in this proceeding were provided on an expedited timeframe.~~

~~26. No party in this proceeding disputes that the omitted costs in PG&E’s May 19, 2023, testimony are relevant to the cost effectiveness of DCPD extended operations.~~

~~27. Since SB 846 allocates broad cost responsibility for extended DCPD operations to ratepayers of all LSEs subject to the Commission’s jurisdiction, any corresponding funding should be incremental to, and outside the scope of,~~

~~PG&E's 2023 GRC.~~

~~28. PG&E's proposal to file a Tier 3 advice letter, following the establishment of any conditions during the NRC's license renewal process, allows for the timely consideration of new and emergent information.~~

~~29. The DCISC is expected to have access to PG&E's license renewal application to the NRC, as well as PG&E's reports on seismic safety and deferred maintenance at Diablo Canyon, by the end of 2023.~~

~~30. Ongoing long term system reliability needs are being considered and addressed through the Commission's IRP proceeding, R.20-05-003.~~

~~31. No party advocated for the development of a new process to monitor the reliability need for ongoing DCPP operations.~~

~~32. There are cost recovery mechanisms and processes in place, including those established by this decision, that will allow for further consideration and recovery of any outstanding DCPP uncollected costs and fees.~~

~~33. System reliability is highly correlated with coincident peak and net peak demand.~~

~~34. LSEs are familiar with the CAM process, and it is a proven mechanism for allocating costs among the LSEs in a large electrical corporation's territory.~~

~~35. The SMJUs (Bear Valley, Liberty, and PacifiCorp) are winter peaking utilities and face different reliability concerns and requirements than the majority of other LSEs in California.~~

~~36. In the Commission's proceeding to ensure reliable electric service and address extreme weather events, R.20-11-003, none of the SMJUs were required to~~

~~undertake additional procurement or adopt any supply or demand side requirements given their unique positions; similarly, in the Commission's IRP proceedings, R.16-02-007 and R.20-05-003, none of the SMJUs were subjected to procurement requirements ordered to address reliability concerns.~~

~~37. RA benefits constitute a substantial financial value and are already attributed to DCPP operations.~~

~~38. There is no language in SB 846 that forbids the allocation of RA benefits to LSEs, while Pub. Util. Code Section 712.8(q) authorizes the Commission to "allocate any benefits or attributes from extended operations of the Diablo Canyon powerplant."~~

~~39. Allocating DCPP-related RA benefits as a load decrement using a process that mirrors the CAM process requires the least amount of new program design.~~

~~40. Costs and penalties may be incurred if DCPP RA allocations, as contemplated in this decision, are not suspended during any month in which there is an outage at DCPP.~~

~~41. PG&E has experience procuring substitute capacity for CAM resources, including for planned outages at DCPP.~~

~~42. PG&E's current practice is to conduct DCPP maintenance outage work outside of peak summer months, when it is less expensive to procure substitute capacity.~~

~~43. There is limited record in this proceeding concerning the procurement of replacement RA during a potential unplanned summer outage of one or both units at DCPP.~~

- ~~44. Energy Division currently allocates, as part of the CAM process, RA credits to individual LSEs based on confidential load forecast information.~~
- ~~45. Res. E-5111 approved an interim allocation process for PG&E to allocate GHG attributes from resources in PG&E's PCIA portfolio to other LSEs within PG&E's service territory.~~
- ~~46. Pub. Util. Code Section 712.8(1)(1) grants the Commission the authority to determine the nature of the DCPP extended operations NBC.~~
- ~~47. Because the DCPP extended operations NBC will be set based on forecasted expenses and market revenue, it is possible actual conditions may cause retail customers to be over-charged.~~
- ~~48. Given the different cost and benefit methodologies adopted by this decision, it is not possible to charge each customer the same statewide price for the DCPP extended operations NBC.~~
- ~~49. In its June 9, 2023 testimony, PG&E provides a Servicing Order Agreement for the remittance of the DCPP extended operations NBCs collected by utilities to PG&E, and proposes a daily remittance schedule.~~
- ~~50. The IOU's billed kWh data may not be available on a daily basis.~~
- ~~51. SCE's proposed changes to the Servicing Order Agreement better reflect the relationship between the utilities in the context of the DCPP extended operations NBC.~~
- ~~52. The large electric IOUs provided various recommendations in this proceeding concerning how the DCPP extended operations NBC should appear on customer bills.~~

~~53. Current PPP rates include a variety of state-mandated programs.~~

~~54. There are incremental costs related to the implementation of the DCPP extended operations NBC on customer bills that were not considered or addressed as part of prior utility GRCs.~~

~~55. PG&E proposes a standalone DCPP Extended Operations Cost Forecast application, to be submitted by March 31 of each year, that closely resembles its annual ERRA Forecast proceeding.~~

~~56. PG&E proposes to use a Tier 3 advice letter to request Commission authorization of true-up amounts for costs recorded to the DCEOBA, to the extent that such true-up amounts do not exceed 115 percent of its forecast costs approved as part of a prior application.~~

~~57. CalCCA recommends the Commission require PG&E to present detailed projections of all costs and revenues associated with DCPP extended operations, in a manner similar to PG&E's presentation in its GRC and ERRA Forecast proceedings, and to demonstrate that its forecasts include common cost assumptions that are consistent with its 2023 GRC.~~

~~58. Applying the funds in Section 712.8(f)(5) as a full offset to any and all DCPP operational costs as a matter of standard, annual practice would result in little to no funding for the public purpose priorities enumerated in Section 712.8(s)(1).~~

~~59. Section 712.8(h)(1) expressly recognizes the volumetric payments in Section 712.8(f)(5) as a cost of operations.~~

~~60. The Senate Rules Committee Senate Floor Analysis, SB 846 Senate Third Reading, states the volumetric payment for energy produced by DCPP "must be~~

used to first meet needs at [Diablo Canyon] and then to accelerate, or increase spending on, critical priorities.”

~~61. It would be a direct violation of statute if surplus funds pursuant to Section 712.8(f)(5) were used to offset shareholder cost obligations.~~

~~62. Section 712.8(s)(1) does not rank or prioritize the critical public policy priorities, as provided.~~

~~63. The Assigned Commissioner’s Scoping Memo and Ruling limited the consideration of additional guidance for the implementation of Section 712.8(s)(1) to the use of any surplus performance-based fees PG&E receives for Diablo Canyon in 2024.~~

~~64. Parties presented extensive arguments in this proceeding concerning the use of surplus performance-based fees PG&E receives for Diablo Canyon, including broader policy and legal interpretations on the intended application and use of such funds.~~

Conclusions of Law

~~1. In Commission rulemakings, all parties have equal standing where their proposals are concerned.~~

~~2. The standard of proof in this proceeding is preponderance of the evidence.~~

~~3. Based on the evidence presented in this proceeding, none of the conditions set forth in Pub. Util. Code Sections 712.8(e)(2)(B)-(E) have been met.~~

~~4. PG&E should be directed and authorized to extend operations at DCCP until October 31, 2029 (Unit 1) and October 31, 2030 (Unit 2).~~

~~5. Consistent with Pub. Util. Code Sections 712.8(c)(2)(B) (E) and Pub. Res. Code Section 25548.3(c)(5)(C), the approval in this decision should be conditioned upon continued authorization to operate by the NRC, the \$1.4 billion loan agreement authorized by SB 846 not being terminated, and the Commission not making future determination that DCP extended operations are imprudent, unreasonable, or not cost effective.~~

~~6. This decision is not intended to inform, or serve as a precedent to, other Commission proceedings tasked with addressing broader planning processes and implications, including the Commission's RA and IRP proceedings.~~

~~7. Focusing on the current portfolio of resources expected to achieve interconnection by the end of 2023 is not only consistent with the plain language in Section 712.8(c)(2)(D), but enables parties and the Commission to incorporate the most up-to-date resource planning assumptions, grid conditions, and policy developments/procurement orders.~~

~~8. To the extent there are potential risks and shortfalls associated with the entire PSP portfolio, which is designed to meet the state's GHG reduction goals and ensure electric grid reliability, it is not necessary to define, with specificity, what is meant by new renewable energy and zero-carbon resources in Pub. Util. Code Section 712.8(c)(2)(D), since these resources are assumed to be a subset within the larger PSP portfolio.~~

~~9. It is unlikely new renewable energy and zero-carbon resources with contracted commercial online dates in 2024 or later will be constructed and interconnected by the end of 2023.~~

~~10. Issues concerning the production of renewable and zero-carbon power supply should be addressed in the Commission's IRP proceeding.~~

~~11. The review required in Pub. Util. Code Section 712.8(c)(2)(B) and Pub. Res. Code Section 25548.3(c)(5)(C) is consistent with the Commission's reasonableness and prudence standard.~~

~~12. Absent any actual recommendations and conditions from the DCISC and NRC, it is not possible for the Commission to assess at this time whether associated, unknown costs render the extension of Diablo Canyon operations "too high to justify."~~

~~13. PG&E should be directed to file a Tier 3 advice letter in response to any of the following events: (a) NRC's conditions of license renewal become known; (b) the NRC approves retirement dates for Diablo Canyon that are earlier than what is approved in this decision; and (c) the \$1.4 billion loan authorized in SB 846 is terminated.~~

~~14. Pub. Res. Code Section 25548.3(c)(5)(C) does not require the Commission to rely solely on the CEC's Draft Cost Comparison Report or make a cost-effectiveness determination by the end of 2023, while the Commission has broad authority to ensure just and reasonable rates under Pub. Util. Code Section 451.~~

~~15. It is well within the Commission's authority, and in ratepayers' best interest, to continue to evaluate the prudence and cost-effectiveness of continued DCP operations.~~

~~16. PG&E's cost forecast does not reflect all of the costs associated with DCP extended operations, and therefore is not an adequate foundation upon which to evaluate the cost-effectiveness, prudence, or reasonableness of DCP operations.~~

~~17. PG&E should be directed, as part of its 2024 DCP Extended Operations Cost Forecast application, to provide certain DCP historical and forecast cost information as well as a copy of the CEC's Cost Comparison Report.~~

~~18. It is reasonable for PG&E to provide, in a single forecast analysis, any and all costs PG&E expects to be recovered from utility ratepayers for DCP extended operations.~~

~~19. It is reasonable to assume many of the DCISC's recommendations concerning seismic safety and deferred maintenance will be available by the DCISC's next public meeting on February 21-22, 2024.~~

~~20. Specific requirements in SB 846—including the requirement that new renewable and zero-carbon resources be interconnected by the end of 2023, as well as the exclusion of DCP in IRP portfolios, resource stacks, or PSPs suggest that the Legislature did not intend for the Commission to continually re-evaluate the reliability need for DCP.~~

~~21. Any subsequent DCP prudency review by the Commission should focus on new or updated information.~~

~~22. PG&E's six-month estimate for an orderly shutdown of DCP is reasonable.~~

~~23. In the event earlier retirement dates for DCP are approved or requested, PG&E should be directed to explain whether and why there are any deviations from the six-month timeframe for an orderly shutdown of DCP.~~

~~24. It is reasonable to interpret the clause in Pub. Util. Code Section 712.8(c)(2) stating "[e]xcept as authorized by this section" as referring to the cost allocation authority granted to the Commission by Section 712.8(l)(1), resulting in the broad cost responsibility of DCP extended operations costs to ratepayers of all LSEs~~

~~subject to the Commission's jurisdiction, and with certain, specified, costs to be paid only by PG&E ratepayers.~~

~~25. It is reasonable to interpret Pub. Util. Code Section 712.8(l)(1), which states "except as otherwise provided in this section," as not referring to the general prohibition on cost recovery from ratepayers outlined in Section 712.8(e)(4), as this interpretation would lead to an absurd result where each exception clause swallows the other.~~

~~26. The Legislature intended to allocate the costs for DCPD extended operations described in Section 712.8, excepting those reserved solely for customers of PG&E, among all the ratepayers of all LSEs subject to the Commission's jurisdiction.~~

~~27. Ensuring system reliability is a key legislative rationale for the extension of DCPD operations.~~

~~28. Allocating the costs of DCPD extended operations, excepting those reserved solely for customers of PG&E, based on an IOU's share of a 12-month coincident peak load is fair and equitable.~~

~~29. The three large electrical corporations (PG&E, SCE, and SDG&E) should collectively allocate the statutorily defined costs of DCPD extended operations in each of PG&E's annual DCPD Extended Operations Cost Forecast application proceedings. PG&E, SCE, and SDG&E may use public load data to determine each electrical corporation's share of 12-month coincident peak demand.~~

~~30. Each large electrical corporation should use a process that mirrors the CAM process, as defined in D.06-07-029 and subsequent decisions, to allocate its own share of the DCPD extended operations costs to LSEs in its territory.~~

~~31. Bear Valley, Liberty, and PacifiCorp should be allocated DCPP costs differently than the large electrical corporations.~~

~~32. Because the statute grants no discretion as to whether SMJU customers should contribute to eligible DCPP costs, these three utilities should be assigned some share of the costs, even if they do not benefit from extended operations at DCPP.~~

~~33. In light of the historic differential treatment of SMJUs with respect to reliability and planning requirements, and in order to promote equity and fairness, it is reasonable to require Bear Valley, Liberty, and PacifiCorp to each collect \$10,000 through a non-bypassable, equal-cents-per-kWh charge and remit the collected amount to PG&E on an annual basis.~~

~~34. Ratepayers that are paying for extended operations at DCPP should, as a matter of equity, realize the financial benefits of those extended operations, and those benefits should be distributed to each utility and its customers in the same manner of DCPP extended operations costs.~~

~~35. It is reasonable, and consistent with SB 846, to allocate the RA benefits of DCPP extended operations to each large electrical corporation service area on the basis of 12-month coincident peak demand.~~

~~36. Because Bear Valley, Liberty, and PacifiCorp are not required by the Commission to procure RA capacity, it would be nonsensical to allocate RA capacity to them.~~

~~37. To ensure the SMJUs receive equivalent financial benefits from the RA attributes related to extended operations at DCPP, PG&E should be instructed to distribute \$10,000 annually to each of Bear Valley, Liberty, and PacifiCorp in consideration of the RA attributes that they would have received for DCPP~~

extended operations had they been required by the Commission to procure RA capacity.

38. It is reasonable to allocate RA benefits to LSEs, including SCE and SDG&E but not including PG&E, as a load decrement using a process that mirrors the CAM process, once RA benefits have been allocated to each large electrical corporation service area on the basis of 12-month coincident peak demand.

39. PG&E should be allowed to recover, from all LSEs that are allocated DCPD RA benefits in this decision, the reasonable administrative and procurement costs associated with meeting DCPD substitute capacity obligations, including associated penalties and costs borne by non-DCPD resources.

40. SB 846 does not prohibit the Commission from allocating the GHG attributes of DCPD for the purpose of helping to construct an LSE's power content label, while Pub. Util. Code Section 454.52(g) suggests an affirmative requirement to include the GHG attributes of DCPD as a part of power content labeling, at least until January 1, 2031.

41. LSEs that pay for extended operations at DCPD should be allowed to access the benefits of extended operations, including the GHG attributes of DCPD.

42. PG&E should offer to LSEs that are paying for extended operations of DCPD the ability to use their share of DCPD's GHG-free attributes for their power content label using the interim allocation process approved in Res. E-5111.

43. It is reasonable, and consistent with SB 846, to allocate the revenue associated with the \$6.50/MWh volumetric fee under Section 712.8(f)(5) to each large electrical corporation on the basis of 12-month coincident peak demand.

~~44. The price of each DCP extended operations NBC for each LSE customer class should be determined in the DCP Extended Operations Cost Forecast application proceeding on an annual basis, using the cost and benefit allocation methodologies adopted by this decision.~~

~~45. Where the DCP extended operations NBC results in an overcollection in one year, the overcollection should be returned to customers as an offset to the DCP extended operations NBC in the following year.~~

~~46. Where overcollections through the DCP extended operations NBC are returned to customers in the following year, there should be no floor on the DCP extended operations NBC (i.e., the charge can be negative).~~

~~40. SB 846 does not prohibit the Commission from allocating the GHG attributes of DCP for the purpose of helping to construct an LSE's power content label, while Pub. Util. Code Section 454.52(g) suggests an affirmative requirement to include the GHG attributes of DCP as a part of power content labeling, at least until January 1, 2031.~~

~~41. LSEs that pay for extended operations at DCP should be allowed to access the benefits of extended operations, including the GHG attributes of DCP.~~

~~42. PG&E should offer to LSEs that are paying for extended operations of DCP the ability to use their share of DCP's GHG-free attributes for their power content label using the interim allocation process approved in Res. E-5111.~~

~~43. It is reasonable, and consistent with SB 846, to allocate the revenue associated with the \$6.50/MWh volumetric fee under Section 712.8(f)(5) to each large electrical corporation on the basis of 12-month coincident peak demand.~~

~~44. The price of each DCP extended operations NBC for each LSE customer class should be determined in the DCP Extended Operations Cost Forecast application proceeding on an annual basis, using the cost and benefit allocation methodologies adopted by this decision.~~

~~45. Where the DCP extended operations NBC results in an overcollection in one year, the overcollection should be returned to customers as an offset to the DCP extended operations NBC in the following year.~~

~~46. Where overcollections through the DCP extended operations NBC are returned to customers in the following year, there should be no floor on the DCP extended operations NBC (i.e., the charge can be negative).~~

~~47. PG&E's remittance proposal should be utilized by SCE and SDG&E, except as modified per SCE's suggestion to provide monthly, as opposed to daily, reports.~~

~~48. PG&E should make changes to its Servicing Order Agreement to comply with the cost allocation, benefit allocation, ratesetting process, and rate design for the DCP extended operations NBC adopted by this decision.~~

~~49. For bill presentment purposes, each of the large electrical corporations and the SMJUs should include the DCP extended operations NBC in their PPP rates.~~

~~50. SCE's and PG&E's request for the establishment of a memorandum account to track the incremental costs of implementing the DCP extended operations NBC should be granted.~~

~~51. In general, PG&E's proposed ERRA like forecast to recover forecast DCP extended operations costs, with a subsequent true-up to actual costs and market revenues for the prior calendar year via an expedited Tier 3 advice letter process,~~

~~complies with Pub. Util. Code Section 712.8(h)(1) and should be adopted.~~

~~52. PG&E should file the first DCPD Extended Operations Cost Forecast application no later than March 29, 2024, to address forecast DCPD extended operations costs from November 3, 2024 through December 31, 2025.~~

~~53. Subsequent DCPD Extended Operations Cost Forecast applications should be filed no later than March 31 every year thereafter, and should consider the following calendar year's forecasted DCPD extended operations costs, with the last application filed in 2029.~~

~~54. As part of its annual DCPD Extended Operations Cost Forecast applications, PG&E should: (a) provide detailed projections of all costs and revenues associated with DCPD extended operations, in a manner similar to PG&E's presentation in its GRC and ERRA Forecast proceedings; (b) quantify the impact of DCPD's extended operations on its common costs relative to the amount approved in its 2023 GRC; and (c) demonstrate it will not double count the common costs it proposes for recovery in its GRC and DCPD Extended Operations Cost Forecast applications.~~

~~55. The Diablo Canyon Extended Operations Cost Forecast proceeding should: (a) determine the allocation of costs and benefits of DCPD extended operations among the large electrical corporations' service areas; and (b) utilize a process that mirrors the CAM process to determine the price of the volumetric NBC to be charged by each of the large electrical corporations. Energy Division should utilize the CAM process to determine the allocation of RA benefits to SCE and SDG&E and among the LSEs in each large electrical corporation's territory, and should endeavor to provide all LSEs with allocations of DCPD's RA benefits for the upcoming~~

~~compliance year sufficiently in advance of the October 31 year-ahead RA compliance filing deadline.~~

~~56. SCE and SDG&E should each file responses to each of PG&E's annual DCPPE Extended Operations Cost Forecast applications to ensure that they are parties to the proceeding and contribute as needed.~~

~~57. PG&E should file its Tier 3 DCPPE Extended Operations Costs True-Up advice letter annually until the end of DCPPE extended operations, so long as over- or under-collections are within the statute's defined 115 percent threshold.~~

~~58. Because this decision directs other utilities to bill their customers for DCPPE-related costs and remit those funds to PG&E, each of SCE, SDG&E, Bear Valley, Liberty, and PacifiCorp should coordinate with PG&E and the Commission's Public Advisor's Office to ensure compliance with the Rule 3.2 noticing requirements triggered by PG&E's application in the applicable utility service territory.~~

~~59. As used in Pub. Util. Code Section 712.8(s)(1), the phrase "needed for Diablo Canyon" is interpreted to mean costs that are over 15 percent (which Section 712.8(h)(1) defines as the amount for which no reasonableness review would be required) above PG&E's approved annual DCPPE Extended Operations Cost Forecast application.~~

~~60. The compensation earned under Section 712.8(f)(5) should be used to offset any costs in excess of 15 percent above PG&E's approved annual DCPPE Extended Operations Cost Forecast application, as considered in the annual true-up process adopted in this decision, before these funds can be used for the public purpose priorities in Section 712.8(s)(1).~~

~~61. PG&E should be directed to submit an annual application, no later than March 1, 2026, to report the amount of compensation earned under Section 712.8(f)(5), how it was spent, and a plan for prioritizing the uses of such compensation the next year.~~

~~62. PG&E should not be precluded from submitting an application earlier than March 1, 2026, if PG&E wishes to request an earlier approval of its plan for prioritizing the uses of funds collected under Section 712.8(f)(5). PG&E's application may also include one or more proposals that would allow PG&E to spend the performance-based fees while ensuring sufficient funding for the trueup process, as discussed elsewhere in this decision.~~

~~63. PG&E should demonstrate, in its retrospective reporting on the use of surplus performance-based fees, how the funds were used solely for the purpose of covering DCPP extended operations costs to borne by ratepayers pursuant to Section 712.8 or critical public priorities authorized by the previous year's Surplus Performance-Based Fees Application proceeding.~~

~~64. The critical public purpose priorities in Pub. Util. Code Section 712.8(s)(1) are interpreted to mean priorities in PG&E's service territory.~~

~~65. It is reasonable to adopt a general framework and guidance on the use of any surplus performance-based fees PG&E receives for Diablo Canyon during extended operations, along with the opportunity for parties to comment on whether there should be any changes made post 2024 as part of Phase 2 of this proceeding.~~

~~66. Any outstanding motions or requests that have not been addressed in this decision or elsewhere are deemed denied.~~

~~ORDER~~

~~IT IS ORDERED that:~~

~~1. Pacific Gas and Electric Company is directed and authorized to extend operations at Diablo Canyon Nuclear Power Plant (DCPP) until October 31, 2029 (Unit 1) and October 31, 2030 (Unit 2), subject to the following conditions: (a) the United States Nuclear Regulatory Commission continues to authorize DCPP operations, (b) the \$1.4 billion loan authorized by Senate Bill 846 is not terminated, and (c) the Commission does not make a future determination that DCPP extended operations are imprudent or unreasonable.~~

~~2. Pacific Gas and Electric Company is directed to present the Diablo Canyon Nuclear Power Plant (DCPP) historical and forecast cost information described in this decision as part of its 2024 DCPP Extended Operations Cost Forecast application.~~

~~3. Pacific Gas and Electric Company is directed to immediately file a Tier 3 advice letter to reevaluate the Diablo Canyon Nuclear Power Plant retirement dates approved in this decision in response to any of the following events: (a) the United States Nuclear Regulatory Commission (NRC) approves retirement dates that are earlier than what is approved in this decision; (b) the NRC's conditions of license renewal become known; and/or (c) the \$1.4 billion loan authorized in Senate Bill 846 is terminated.~~

~~4. Pacific Gas and Electric Company's (PG&E's) proposed Energy Resource Recovery Account like process to authorize forecast Diablo Canyon Nuclear Power Plant (DCPP) extended operations costs, with a subsequent true-up to actual costs and market revenues for the prior calendar year via an expedited Tier 3 advice letter process, is approved as modified by this decision. PG&E shall file the first of these DCPP Extended Operations Cost Forecast applications no later than~~

~~March 29, 2024, and shall file subsequent annual DCPD Extended Operations Cost Forecast applications no later than March 31 beginning in 2025, and ending the year before extended operations are complete.~~

~~5. Pacific Gas and Electric Company (PG&E), Southern California Edison Company, San Diego Gas & Electric Company, Bear Valley Electric Service, Inc., Liberty Utilities, and PacificCorp d/b/a Pacific Power shall coordinate with each other and the Commission's Public Advisor's Office so that each utility may ensure that it complies with the Commission's Rules of Practice and Procedure Rule 3.2 noticing requirements triggered by PG&E's Diablo Canyon Nuclear Power Plant Extended Operations Cost Forecast applications in the applicable utility service territory.~~

~~6. Southern California Edison Company and San Diego Gas & Electric Company are directed to file responses to each of Pacific Gas and Electric's annual Diablo Canyon Nuclear Power Plant Extended Operations Cost Forecast applications.~~

~~7. Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas & Electric Company (SDG&E) are directed to provide joint testimony proposing an allocation among themselves of the statutorily defined Diablo Canyon Nuclear Power Plant (DCPD) extended operations costs applicable to all load serving entities, and the revenue associated with the \$6.50 per megawatt-hour volumetric fee under Public Utilities Code Section 712.8(f)(5), in each of PG&E's DCPD Extended Operations Cost Forecast application proceedings, using the processes and methodologies described in this decision. PG&E, SCE, and SDG&E may use public load data to determine each electric corporation's share of the 12-month coincident peak demand.~~

~~8. For every year that Diablo Canyon Nuclear Power Plant extended operations costs are collected, Bear Valley Electric Service, Inc., Liberty Utilities, and PacifiCorp d/b/a Pacific Power, are directed to collect \$10,000 each through a non-bypassable charge and remit the collected amount to Pacific Gas and Electric Company on an annual basis.~~

~~9. Excepting Bear Valley Electric Service, Inc., Liberty Utilities, and PacifiCorp d/b/a Pacific Power, the resource adequacy benefits (RA) associated with Diablo Canyon Nuclear Power Plant extended operations shall be allocated among Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas & Electric Company (SDG&E) service areas on the basis of 12-month coincident peak load in each of PG&E's annual Diablo Canyon Nuclear Power Plant Extended Operations Cost Forecast applications. Energy Division will then allocate the RA benefits among all load-serving entities subject to the Commission's jurisdiction in each utility's territory, including SCE and SDG&E, as a load decrement using a process that mirrors the Cost Allocation Mechanism process.~~

~~10. Pacific Gas and Electric Company is directed to file a Tier 2 advice letter no later than 180 days after the issuance date of this decision formalizing the process to allow load-serving entities to be allocated greenhouse gas attributes of extended operations at Diablo Canyon Nuclear Power Plant, as described in this decision.~~

~~11. For every year that Diablo Canyon Nuclear Power Plant extended operations costs are collected, Pacific Gas and Electric Company shall distribute \$10,000 annually to each of Bear Valley Electric Service, Inc., Liberty Utilities, and PacifiCorp d/b/a Pacific Power (collectively, the small and multi-jurisdictional utilities or SMJUs), in consideration of the resource adequacy attributes that the~~

~~SMJUs would have received for Diablo Canyon Nuclear Power Plant (DCPP) extended operations, and the SMJUs shall each credit these funds to its ratepayers using the same rate element used to collect its allocated portion of the costs of extended operations at DCPP.~~

~~12. Pacific Gas and Electric Company shall file a Tier 2 advice letter no later than 90 days following the issuance date of this decision to make any necessary changes to the Diablo Canyon Nuclear Power Plant Extended Operations Balancing Account as a result of this decision.~~

~~13. Pacific Gas and Electric Company's (PG&E's) proposed Servicing Order Agreement is adopted as modified by this decision. PG&E shall seek approval of revisions to the Servicing Order Agreement through a Tier 2 advice letter to be filed within 90 days of the issuance date of this decision.~~

~~14. Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, Bear Valley Electric Service, Inc., Liberty Utilities, and PacifiCorp d/b/a Pacific Power, are each authorized to establish a new non-bypassable charge (NBC) to collect Diablo Canyon Nuclear Power Plant extended operations costs, as described in this decision. For bill presentment purposes, each of these electrical corporations shall include the NBC in their public purpose program rates.~~

~~15. Pacific Gas and Electric Company (PG&E) is directed to file an annual application, as described in this decision, no later than March 1, 2026, until the retirement of Diablo Canyon Nuclear Power Plant Unit 1 and Unit 2, to report the amount of compensation earned under California Public Utilities Code Section 712.8(f)(5), how it was spent, and a plan for prioritizing the uses of such compensation the next year. PG&E is not prohibited from filing an application~~

~~earlier than March 1, 2026, to request an earlier approval of its plan for prioritizing the uses of funds collected under California Public Utilities Code Section 712.8(f)(5). PG&E's application may also include one or more proposals that would allow PG&E to spend the performance-based fees while ensuring sufficient funding for the true-up process, as discussed elsewhere in this decision.~~

~~16. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company are authorized to submit Tier 2 advice letters to establish memorandum accounts to track their incremental costs of implementing the Diablo Canyon Nuclear Power Plant extended operations non-bypassable charge.~~

~~17. All motions not previously addressed are deemed denied.~~

~~18. Rulemaking 23-01-007 remains open.~~

~~This order is effective today.~~

~~Dated December 14, 2023, at San Francisco, California.~~

Respectfully submitted,
/s/ Robert Sarvey
Robert Sarvey
501 W Grant Line Rd.
Tracy, CA 95376

January 13, 2024