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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

**ADMINISTRATIVE LAW JUDGE'S RULING SEEKING COMMENTS ON
PHASE 2 PRELIMINARY SCOPE**

This ruling seeks comments from parties to this proceeding on the preliminary Phase 2 issues listed in the Assigned Commissioner's Scoping Memo and Ruling, dated April 6, 2023.

Comments are invited to be filed and served by interested parties by no later than February 28, 2024. Reply comments are due no later than March 8, 2024. Opening comments are limited to ten pages and reply comments are limited to five pages.

1. Background

On January 20, 2023, the Commission initiated Rulemaking 23-01-007 to continue to execute tasks and consider specific criteria related to the potential extension of operations at Diablo Canyon Nuclear Power Plant (DCPP).

The April 6, 2023, Assigned Commissioner's Scoping Memo and Ruling (Scoping Memo) set forth the issues, need for hearing, schedule, category, and other matters necessary to scope the proceeding pursuant to Public Utilities (Pub. Util.) Code Section 1701.1 and Article 7 of the Commission's Rules of Practice and Procedure.

The Commission issued two decisions, D.23-08-004 and D.23-12-036, to resolve the Phase 1 issues in this proceeding. First, D.23-08-004 addressed issues pertaining to the compensation provided to members of the Diablo Canyon Independent Safety Committee (DCISC). It also directed Pacific Gas and Electric Company (PG&E) to track the DCISC's 2023-2025 operational costs associated with assessing the potential for extended operations at DCPD in the Diablo Canyon Transition and Relicensing Memorandum Account. Second, D.23-12-036 conditionally authorized extended operations at DCPD starting on November 3, 2024 through October 31, 2029 (Unit 1), and August 27, 2025 through October 31, 2030 (Unit 2), respectively.¹ Among others, D.23-12-036 adopted a formal application process to review PG&E's use of the performance-based fees, addressing the third preliminary Phase 2 issue from the Scoping Memo regarding the submission of annual compensation reports and spending plans required by Pub. Util. Code Section 712.8(s)(1).² The decision also indicated that parties will be provided the opportunity in Phase 2 to comment on whether any changes should be made to the use of surplus performance-based fees for the calendar years following 2024.³ D.23-12-036 also approved, as modified, PG&E's proposed process to authorize forecasted DCPD extended operations costs, with a true-up to actual costs and market revenues via an expedited advice letter process,⁴ addressing the second preliminary Phase 2 issue in the Scoping Memo.⁵

¹ The conditional approval is subject to, among other things, the Nuclear Regulatory Commission continuing to authorize DCPD operations and the \$1.4 billion California Department of Water Resources (DWR) loan not being terminated.

² Scoping Memo at 6; D.23-12-036 at Ordering Paragraph 15.

³ D.23-12-036 at 111-116.

⁴ D.23-12-036 at Ordering Paragraph 4.

⁵ Scoping Memo at 6.

2. Comments on Phase 2 Issues

The Scoping Memo listed the following preliminary issues to be considered in Phase 2 of this proceeding:

1. If the Commission directs and authorizes extended operations at Diablo Canyon, whether PG&E should provide upfront reasonable manager showings, structured similarly to its Assembly Bill 57 Bundled Procurement Plan, for Commission review and approval.
2. The process for Diablo Canyon cost review and true-up to actual Diablo Canyon costs and market revenues for the prior year via an expedited Tier 3 advice letter in accordance with Section 712.8(h)(1) of the Pub. Util. Code.
3. The process for submittal and review of an annual compensation report and spending plan in accordance with Section 712.8(t)(1)6 of the Pub. Util. Code.

The Scoping Memo noted that these issues will be revisited at the conclusion of Phase 1 and may be the subject of an amended scope.⁷

Consistent with the directives of the Scoping Memo and in light of D.23-08-004 and D.23-12-036 issued in this proceeding, parties are invited to file comments addressing the following:

1. Whether any of the preliminary Phase 2 issues listed in the Scoping Memo should be amended or any new issues that have not been previously litigated should be added;
2. Phase 2 schedule;
3. Identification of any material disputed facts and legal issues that the Commission needs to decide in Phase 2;
4. Whether there is a need for evidentiary hearings.

⁶ Since July 2023 this section of the Pub. Util. Code is known as Section 712.8(s)(1).

⁷ Scoping Memo at 6.

IT IS RULED that:

1. Interested parties wishing to comment on the Phase 2 issues must file and serve opening comments by no later than February 28, 2024.
2. Interested parties may file and serve reply comments by no later than March 8, 2024.
3. Opening comments are limited to ten pages and reply comments are limited to five pages.

Dated February 7, 2024, at San Francisco, California.

/s/ NILGUN ATAMTURK

Nilgun Atamturk
Administrative Law Judge