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GAVIN NEWSOM, Governor

PUBLIC UTILITIES COMMISSION

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TO PARTIES OF RECORD IN RULEMAKING 23-01-007:

This is the proposed decision of Administrative Law Judge Nilgun Atamturk. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's April 3, 2025, Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

The Commission may hold a Ratesetting Deliberative Meeting to consider this item in closed session in advance of the Business Meeting at which the item will be heard. In such event, notice of the Ratesetting Deliberative Meeting will appear in the Daily Calendar, which is posted on the Commission's website. If a Ratesetting Deliberative Meeting is scheduled, *ex parte* communications are prohibited pursuant to Rule 8.2(c)(4).

/s/ MICHELLE COOKE

Michelle Cooke

Chief Administrative Law Judge

MLC: hma

Attachment

Decision **PROPOSED DECISION OF ALJ ATAMTURK (Mailed 2/28/25)**

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

DECISION ON PHASE 2 ISSUES

TABLE OF CONTENTS

| Title | Page |
|--|------|
| DECISION ON PHASE 2 ISSUES | 1 |
| Summary | 2 |
| 1. Procedural Background | 2 |
| 2. Regulatory Background | 3 |
| 3. Submission Date..... | 5 |
| 4. Issues Before the Commission | 5 |
| 5. Issue 1: Post-2024 General Framework and Definitions for Volumetric Performance Fees | 6 |
| 5.1. PG&E’s Proposal Regarding Review of VPF Spending by Advice Letter.. | 7 |
| 5.2. Proposals by A4NR, TURN, and CalCCA to Create Additional Guidance on VPF Spending..... | 8 |
| 5.2.1. A4NR’s Proposal..... | 9 |
| 5.2.2. TURN’s Proposal | 11 |
| 5.2.3. CalCCA’s Proposal | 14 |
| 5.2.4. Discussion | 14 |
| 5.3. SBUA’s Proposal on VPF Escalation Rates and Leveraging Government Loans | 16 |
| 6. Issue 2: Review Criteria for the Annual Compensation Report | 19 |
| 6.1. PG&E’s Proposal for Annual Compensation Report Templates | 19 |
| 6.2. TURN’s Proposal For Additional Requirements for the Annual Compensation Report..... | 21 |
| 6.3. A4NR’s Proposal to Extend Shareholder Benefit Restrictions | 23 |
| 6.4. SBUA’s Proposals on Additional Volumetric Spending Plan Requirements | 24 |
| 7. Issue 3: DCISC Budget and Membership Term Limits | 26 |
| 7.1. Background | 27 |
| 7.2. PG&E’s Proposal to Update DCPD Funding Methodology..... | 28 |
| 7.3. A4NR’s Proposal to Limit DCISC Term Limits | 29 |
| 7.4. SBUA’s Proposals on DCISC Member Compensation, Data Access, and Funding..... | 29 |
| 8. Summary of Public Comment..... | 32 |
| 9. Procedural Matters | 32 |
| 10. Comments on Proposed Decision | 33 |
| 11. Assignment of Proceeding..... | 33 |
| Findings of Fact..... | 33 |
| Conclusions of Law | 36 |

ORDER37

DECISION ON PHASE 2 ISSUES

Summary

This decision considers party proposals on Phase 2 issues and makes the following determinations:

1. It is appropriate to continue to use the general framework and definitions for the use of the surplus performance-based fees as adopted in Decision 23-12-036 in the post-2024 period.
2. Pacific Gas and Electric Company (PG&E) should consider affordability as a guiding principle when developing and implementing its Volumetric Performance Fee (VPF) spending plan. In addition to explaining how its annual plans meet the requirements of Public Utilities Code Section 712.8(s)(1), where PG&E implements strategies to reduce upward pressure on rates through VPF expenditures, it must explain this alignment, starting with PG&E's planned expenditure of 2026 VPF.
3. PG&E's proposed templates reflecting the baseline review criteria for the annual compensation report listed in *Assigned Commissioner's Amended Scoping Memo and Ruling for Phase 2 of Proceeding*, dated June 25, 2024, are approved.
4. PG&E must estimate, where feasible, the number of customers participating in or benefiting from each VPF project and report it in its annual reporting review filing.
5. PG&E's proposal for adjustments to Diablo Canyon Independent Safety Committee's (DCISC's) funding methodology is approved.
6. DCISC membership terms remain the same.

This proceeding is closed.

1. Procedural Background

Scoping Memo of Assigned Commissioner and Administrative Law Judge (Scoping Memo), dated April 6, 2023, established a preliminary scope for Phase 2 of this proceeding. *Administrative Law Judge's Ruling Seeking Comments on Phase 2*

Scoping Memo, dated February 7, 2024, invited comments from parties to this proceeding on the preliminary Phase 2 issues listed in the Scoping Memo. In response, on February 28, 2024, the following parties filed comments: Alliance for Nuclear Responsibility (A4NR), Coalition of California Utility Employees (CUE), Green Power Institute (GPI), Pacific Gas and Electric Company (PG&E), San Luis Obispo Mothers for Peace (SLO), Small Business Utility Advocates (SBUA), and The Utility Reform Network (TURN). Reply comments were filed on March 8, 2024, by A4NR, Alliance for Retail Energy Markets/Direct Access Customer Coalition, California Community Choice Association (CalCCA), Californians for Renewable Energy, Inc. (CARE), GPI, PG&E, SLO, Southern California Edison Company (SCE), and TURN.

Subsequently, on June 25, 2024, *Assigned Commissioner's Amended Scoping Memo and Ruling for Phase 2 of Proceeding* (Amended Scoping Memo) established the final scope for Phase 2 of this proceeding.

Pursuant to the schedule established in the Amended Scoping Memo, on August 15, 2024, A4NR, PG&E, SBUA, and TURN filed proposals on Phase 2 matters. On September 19, 2024, opening comments on the proposals were filed by A4NR, CUE, GPI, PG&E, SBUA, and TURN. Reply comments were timely filed by A4NR, CalCCA, CUE, PG&E, SBUA, and TURN.

2. Regulatory Background

Phase 1 of this proceeding produced two decisions: D.23-12-036, *Decision Conditionally Approving Extended Operations at Diablo Canyon Nuclear Power Plant Pursuant to Senate Bill 846*, and D.23-08-004, *Decision Addressing Funding for the Diablo Canyon Independent Safety Committee*. In D.23-12-036, among other matters, the Commission considered the arguments by parties in this proceeding concerning the use of the volumetric performance fees to be collected by PG&E

pursuant to Section 712.8(f)(5) and Section 712.8(s)(1),¹ including applicable broader policy and legal interpretations beyond 2024. The Commission found it appropriate and reasonable to address the full extent of party arguments presented. “In recognition of the specific language in the Scoping Memo, and in order to ensure due process,” the Commission also stated that “parties will be afforded an opportunity in Phase 2 of this proceeding to comment on whether any changes should be made on the use of surplus performance-based fees for the calendar years following 2024.”²

In D.23-08-004, the Commission considered whether the Diablo Canyon Independent Safety Committee (DCISC) has sufficient funding to implement the duties and responsibilities set forth in Section 712.1, and whether any additional actions are needed by the Commission to address any funding shortfalls and potential changes to the cost recovery process for the DCISC’s operations. The Commission also noted that additional information concerning DCISC’s forecast costs and associated activities during Diablo Canyon Nuclear Power Plant (DCPP) extended operations and the question of whether DCISC members should have term limits may be considered in Phase 2 of this proceeding.³

Based on the Phase 2 scope established by the Amended Scoping Memo, PG&E, A4NR, SBUA, and TURN filed proposals on different aspects of the Volumetric Performance Fees (VPFs), e.g., regulatory review process, escalation rate, preferences for VPF spending, as well as DCISC funding and term limits on

¹ All section references are to the California Public (Pub.) Utilities (Util.) Code, unless otherwise specified.

² D.23-12-036 at 115-116 and Conclusion of Law (CoL) 65.

³ D.23-08-004 at 18.

DCISC membership. We briefly summarize these proposals and party responses and state our conclusion in Sections 5 through 7 of this decision.

3. Submission Date

This matter was submitted on October 3, 2024, upon receipt of reply comments on party proposals.

4. Issues Before the Commission

Pursuant to the Amended Scoping Memo, dated June 18, 2024, the issues to be determined in this proceeding are as follows:

1. Whether the Commission should continue to use the general framework and definitions for the use of the surplus performance-based fees⁴ as adopted in D.23-12-036 in the post-2024 period.
2. Consideration of review criteria for the annual compensation report in accordance with Section 712.8(s)(1).

The baseline review criteria for the annual compensation report should include the following:

- a. The volumetric performance fees collected under Section 712.8(f)(5) broken down by investor-owned utility company/load-serving entity customers and rate categories;
- b. Forecast volumetric performance fees under Section 712.8(f)(5) as approved in the Extended Operations Forecast proceeding as compared to actual volumetric performance fees collected, plus explanations for any differences between forecast and actual amounts;
- c. Forecast costs for public purpose priority spending under Sections 712.8(s)(1)(A) - (F) as approved in the Extended Operations Forecast proceeding as compared

⁴ The Amended Scoping Memo uses the phrase “Surplus Performance-Based Fees.” Pursuant to the naming convention recommended in D.24-05-068 at footnote 11, we will refer to these funds as “Volumetric Performance Fees” in this decision.

- to actual spending, plus explanations for any differences between forecast and actual amounts;
- d. Categorization of costs using the six public purpose priorities listed in Section 712.8(s)(1) parts (A) - (F) and costs associated with Diablo Canyon Power Plant extended operations; and
 - e. Citations to the decision(s) authorizing the public purpose priority programs and projects now being accelerated or increased and the costs approved in those decisions.
 - f. Additional review criteria will be considered, particularly those which help demonstrate whether PG&E shareholders received any compensation from the volumetric performance fees or other requirements in Section 712(s)(2).
3. Consideration of any additional information concerning the Diablo Canyon Independent Safety Committee's (DCISC's) forecast costs and associated activities during DC extended operation.
- a. How should the current DCISC funding methodology be adjusted;
 - b. Whether any new or revised parameters for the DCISC during extended operations should be made by amending the DCISC charter, including but not limited to those concerning funding for DCISC going forward and whether DCISC members should have term limits.
- 5. Issue 1: Post-2024 General Framework and Definitions for Volumetric Performance Fees**
- Upon review of the party proposals, comments, and replies, the Commission finds it reasonable and appropriate to continue to use the general framework and definitions for the use of the volumetric performance fees as adopted in D.23-12-036 in the post-2024 period. While the Commission appreciates the parties' efforts, the proposals either failed to comply with the

relevant statutory requirements, addressed issues that have already been resolved, or were unpersuasive. Therefore, they do not warrant modifying the general framework and definitions for the use of the volumetric performance fees as adopted in D.23-12-036 for the post-2024 period. However, some of the recommendations proposed by A4NR, CalCCA, and TURN deserve serious consideration by PG&E in their VPF spending plans as discussed in Section 5.2.

5.1. PG&E's Proposal Regarding Review of VPF Spending by Advice Letter

PG&E requests that the Commission consider adopting the advice letter process for reporting VPF amounts, how the funds were spent, and prioritization plan instead of the annual application required by D.23-12-036, beginning in 2026. According to PG&E, this will allow for stakeholder input on proposed uses, as well as Commission review, but with less administrative burden and processing time, thereby accelerating the spending plan execution and benefits.⁵

Highlighting that the review of Application (A.) 24-03-018, the first application filed by PG&E on the 2024 VPF spending plan, required extensive data requests and evidentiary hearings, TURN opposes PG&E's proposal and suggests that the Commission maintain the application process to enable a more thorough Commission and stakeholder review of VPF expenditures and proposals.⁶ CalCCA and GPI agree with TURN.⁷ In CalCCA's view, an advice letter process would not be sufficiently robust to ensure the funds are spent in a reasonable manner.⁸

⁵ PG&E Proposals on Phase 2 Issues at 3.

⁶ TURN Opening Comments at 7-8.

⁷ CalCCA Reply Comments at 2; GPI Opening Comments at 3.

⁸ CalCCA Reply Comments at 3.

In D.23-12-036, the Commission directed PG&E to file an annual application for review of its planned use of Section 712.8(f)(5) revenues to confirm its proposed plan is consistent with Section 712.8(s), as well as to review PG&E's past use of funds.⁹ The Commission also stated that we "may revisit the direction to conduct [our] review through a formal application process if [we determine] after having reviewed one or more of PG&E's applications, that the appropriate guidelines have been put into place."¹⁰ Subsequently, in D.24-12-033, the decision addressing PG&E's first Diablo Canyon cost forecast application, the Commission declined to adopt PG&E's proposal to submit future VPF spending plans via Tier 3 advice letter without prejudice. The Commission found that until we gain a reasonable amount of experience with the program, it is appropriate to consider the program annually through an application process.¹¹ This decision upholds the determinations made by the Commission in D.23-12-036 and D.24-12-033. Until we gain further experience with VPF planning, reporting, and review process, PG&E must continue to file an annual application for review of its planned use of VPFs and reporting of past use of the funds. PG&E's request can be reconsidered in future DCPD cost forecast applications.

5.2. Proposals by A4NR, TURN, and CalCCA to Create Additional Guidance on VPF Spending

Upon review of the party proposals and comments, the Commission declines to adopt A4NR's, TURN's, and CalCCA's proposals on VPFs due to statutory limitations but recognizes their underlying objective of supporting affordability by reducing upward pressure on rates and strongly encourages

⁹ D.23-12-036 at OP 15.

¹⁰ D.23-12-036 at 112.

¹¹ D.24-12-033 at 68.

PG&E to take this into account as a guiding principle during the VPF planning process.

5.2.1. A4NR's Proposal

A4NR recommends that the Commission delay the party comment period on this issue until after judicial review of PG&E's petition for writ of review has been completed and that Commission provide guidance on three topics that are not affected by the review. These three topics are summarized below. In the interim, A4NR recommends that the VPFs be collected and held in a balancing account.¹²

First, in A4NR's view, Section 451¹³ requires that the Section 712.8(s)(1) public purpose priorities not be restricted to the PG&E service territory.¹⁴ Noting that the majority of the VPFs will be paid by customers in the SCE and SDG&E service territories, A4NR states that leaving these customers out of the "public purpose priorities" would effectively tax them to pay for PG&E service territory benefits. A4NR recommends that these funds be distributed across the three utility service territories in the same proportion that the statewide fee is collected.¹⁵

¹² A4NR's Proposals on Phase 2 Issues at 2-3.

¹³ Section 451 provides "All charges demanded or received by any public utility, or by any two or more public utilities, for any product or commodity furnished or to be furnished or any service rendered or to be rendered shall be just and reasonable. Every unjust or unreasonable charge demanded or received for such product or commodity or service is unlawful. Every public utility shall furnish and maintain such adequate, efficient, just, and reasonable service, instrumentalities, equipment, and facilities, including telephone facilities, as defined in Section 54.1 of the Civil Code, as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public. All rules made by a public utility affecting or pertaining to its charges or service to the public shall be just and reasonable."

¹⁴ A4NR's Proposals on Phase 2 Issues at 3-4.

¹⁵ A4NR's Proposals on Phase 2 Issues at 4.

Second, A4NR recommends that any public purpose priorities funded by VPFs be targeted at an electrical corporation's distribution or transmission system, to avoid conflict between Sections 451 and 453.¹⁶ Given that the VPFs will be collected from all load-serving entities (LSEs), A4NR argues that using VPFs to fund generation system improvements could discriminate against non-generation customers, violating the principle of just and reasonable rates.

Finally, A4NR recommends that any public priorities funded by VPFs use the Contributions in Aid of Construction (CIAC) mechanism described by TURN in A.24-03-018, to maximize ratepayer benefit and financial efficiency.¹⁷ A4NR summarizes the benefits of the mechanism as follows: this mechanism allows ratepayer contributions to replace an IOU's rate base, cost of capital, tax gross-up, and depreciation associated with investments in public purpose priority projects. The capital substitution would reduce the revenue requirement for ratepayers, surpassing the impact of a dollar-for-dollar reimbursement for an equivalent operation and maintenance (O&M) project. It also adheres to the limitations in Section 712.8(s), ensuring shareholders do not benefit from volumetric fees.¹⁸ In its reply comments, A4NR refines its proposal "to be a general recommendation for using any "surplus" VPFs to offset capital expenditures rather than O&M expenses without specific emphasis on the CIAC mechanism."¹⁹

TURN supports A4NR's recommendation to prioritize using VPFs to offset DCPD costs exceeding total market revenues from wholesale energy sales each

¹⁶ A4NR's Proposals on Phase 2 Issues at 4.

¹⁷ A4NR's Proposals on Phase 2 Issues at 4-5.

¹⁸ A4NR's Proposals on Phase 2 Issues at 5.

¹⁹ A4NR Reply Comments at 4.

year.²⁰ According to TURN, this approach better aligns with Senate Bill (SB) 846 (Stats. 2022, Ch. 239) and avoids the limitations of applying to VPFs only to costs exceeding 115 percent of the annual forecast. It also reflects the Commission's earlier determination that VPFs should not fully offset all DCPD operational costs by default. This method ensures equitable benefits for all contributing customers, regardless of their location.²¹

5.2.2. TURN's Proposal

TURN continues to advocate for using VPFs to cover the costs of DC extended operations, benefiting all contributing customers and reducing the overall economic impact on retail rates. As a second choice, TURN recommends prohibiting PG&E from using VPFs for O&M expenses tied to critical public priorities, to prevent shareholder enrichment, double cost recovery, and misuse of funds. TURN adds that PG&E should not fund shareholder expenses or overspending, whether caused by imprudent management or reprioritization, with VPFs, as this would violate section 712.8(s)(1).²²

Alternatively, TURN supports using VPFs to offset rate-based capital investments supporting critical public purpose priorities. Specifically, TURN identifies customer energization and wildfire mitigation capital projects as opportunities to apply VPFs as ratebase offsets, delivering long-term benefits to ratepayers.²³ Highlighting PG&E's capital needs as filed in various applications,²⁴

²⁰ TURN Opening Comments at 4, referring to A4NR's Proposals on Phase 2 Issues at 2.

²¹ TURN Opening Comments at 4.

²² Proposal of TURN on Phase 2 Issues at 5.

²³ Proposal of TURN on Phase 2 Issues at 5.

²⁴ See A.22-09-018, A.24-03-009, for example.

TURN argues that VPFs “represent a good opportunity to use existing ratepayer funding to support a small portion of PG&E’s future capital spending.”²⁵

TURN supports its proposal with an analysis purporting to show the following: first, using VPFs for new expense spending that would not have occurred otherwise offers the least value to ratepayers compared to applying these funds to expenses already recorded in balancing accounts. Second, using VPFs for capital purposes provides substantially greater benefits than for new expense spending. Finally, the greatest ratepayer benefits are achieved when VPFs are used to offset rate-based capital without incurring additional tax obligations.²⁶

TURN also recommends that PG&E seek a private letter ruling from the Internal Revenue Service to determine whether using VPFs for capital projects triggers a tax obligation. This matter is moot since it was already addressed by the Commission in D.24-12-033.²⁷

While A4NR supports TURN’s proposal to prioritize using VPFs for DCP’s extended operations, A4NR notes that Commission guidance in support of TURN’s preference for VPF-funded capital projects over expenses requires resolution of legal uncertainties to determine practical implementation.²⁸

²⁵ Proposal of TURN on Phase 2 Issues at 6.

²⁶ Proposal of TURN on Phase 2 Issues at 8.

²⁷ D.24-12-033 at 77.

²⁸ A4NR Opening Comments at 2.

GPI and SBUA agree with TURN in opposing the use of VPFs for O&M expenses.²⁹ GPI also suggests the funding of special projects with limited, defined timeframes as a viable option to consider.³⁰

SBUA supports TURN's request for the Commission to affirm that SB 846 does not permit PG&E to use VPF to benefit shareholders.³¹ SBUA agrees with TURN's recommendation that VPFs be used to cover DCPD extended operation costs and also supports TURN's stance that the Commission not allow PG&E from using VPFs for O&M expenses related to critical public purpose priorities unless the VPFs are used to offset the DCPD costs.³²

In response to TURN's proposal to use VPFs for wildfire mitigation investments, GPI cautions against funding enhanced aerial surveillance of powerlines using drones, as this activity is already part of PG&E's Wildfire Mitigation Plan under review by the OEIS and funded through GRC, risking double funding. GPI emphasizes that all proposed wildfire mitigation investments funded by VPFs must be subject to monitoring and auditing to ensure they are truly additional and not duplicative of existing approved projects.³³

CUE argues that TURN's proposal does not comply with SB 846 because it fails to "accelerate, or increase spending on...critical public purpose priorities."³⁴ CUE also asserts that TURN's supporting analysis is flawed as it fails to

²⁹ GPI Opening Comments at 3, SBUA Opening Comments at 2.

³⁰ GPI Opening Comments at 3.

³¹ SBUA Opening Comment at 2.

³² SBUA Opening Comments at 2.

³³ GPI Opening Comments at 4.

³⁴ CUE Opening Comments at 13.

consistently account for VPF costs and ignores the value of accelerating and increasing spending on critical public purpose priorities.³⁵ PG&E makes a similar argument as well.³⁶ CUE agrees with PG&E that “it would be inappropriate for the Commission to create new limitations on VPF spending that were not contemplated by the Legislature in SB 846 and are inconsistent with the permissive language in Section 712.8(s)(1).”³⁷

5.2.3. CalCCA’s Proposal

In its reply comments on PG&E’s proposal, CalCCA recommends that the guiding principles proposed by CalCCA in Application 24-03-018 should apply to PG&E’s spending proposals throughout the extended operations period.³⁸

These guidelines are as follows:

1. VPF funds should be used on projects providing benefits to the largest number of customers possible.
2. VPF funds should be used first on projects related to electric distribution to help reduce distribution rates.
3. VPF funds should not be used on projects that benefit PG&E’s generation assets.

5.2.4. Discussion

The Commission declines to adopt the proposals by A4NR, TURN and CalCCA, but strongly encourages PG&E to take their underlying reasoning into account as a guiding principle during the VPF planning process.

First, the Commission finds A4NR’s proposal that VPFs be allocated for priorities outside PG&E’s service territory to be contrary to D.23-12-036, which

³⁵ CUE Opening Comments at 3.

³⁶ PG&E Opening Comments at 4.

³⁷ CUE Reply Comments at 2.

³⁸ CalCCA Reply Comments at 3.

stated the following: “This decision does not define in greater detail the critical public purpose priorities defined by statute, except to state its conclusion that the critical public purpose priorities relate only to such priorities in PG&E’s service territory. If the statute was read to apply potential spending to public purpose priorities in other utility service territories, as posited by Cal Advocates and TURN, this would create considerable administrative complexity that the Commission does not believe the Legislature intended.”³⁹ The Commission expressly concluded in D.23-12-036 that 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.⁴⁰ The Commission maintains the same conclusion herein. With respect to the other proposals on how to spend VPFs, A4NR’s recommendation to target VPF spending on the distribution and transmission systems, TURN’s recommendation to focus VPFs on capital investments, and CalCCA’s recommendation to use VPFs on electric distribution projects all share a common theme: benefitting ratepayers through the efficient spending of VPFs in ways that reduce upward pressure on rates. As authorized in D.24-12-033, PG&E will collect approximately \$167 million in VPFs⁴¹ in 2025 and similar amounts annually through 2030 to spend on the public purpose priorities enumerated in Section 712.8(s)(1). While such a substantial expenditure on public purpose priorities is itself a benefit; we encourage PG&E to look for opportunities to structure and plan expenditures in ways that provide additional benefits to ratepayers. VPF spending on capital projects, particularly distribution

³⁹ D.23-12-036 at 115.

⁴⁰ D.23-12-036 at CoL 64.

⁴¹ D.24-12-033 at CoL 6.

and transmission projects, and the acceleration of existing projects, are options PG&E could consider in its VPF plans in order to reduce upward rate pressure.

We adopt affordability as a guiding principle in VPF spending that PG&E is encouraged to apply. As such, in addition to the requirements set out in statute and prior Commission decisions, where PG&E takes advantage of opportunities to align with the guiding principle of reducing upward pressure on rates, it must explain this alignment in its spending plan submittals, starting with the 2026 VPF spending plan.

5.3. SBUA's Proposal on VPF Escalation Rates and Leveraging Government Loans

SBUA recommends that the Commission approve an escalation rate of three percent starting from 2022 to ensure that “the amount of performance fees collected is certain.”⁴² In SBUA's view, the basis for this recommendation is that parties recently included a labor escalation factor of approximately three percent for the years 2020 through 2022, which was reached by settlement in PG&E's previous general rate case.⁴³

While GPI supports SBUA's proposal to escalate VPFs in order to maintain the purchasing power of the fund over its lifetime,⁴⁴ TURN disagrees with SBUA's proposal and rationale. First, TURN argues that applying an escalation rate does not provide any material certainty of total revenues collected from ratepayers, because the total amount of fees is determined by the energy produced.⁴⁵ In addition, TURN states that SBUA's proposed escalator lacks

⁴² Proposals of SBUA on Phase 2 Issues at 4-5.

⁴³ D.20-12-005 at 229.

⁴⁴ GPI Opening Comments at 3.

⁴⁵ TURN Opening Comments at 1.

justification for using values developed by PG&E based on 2019 data for clerical workers to project escalation for 2020-2022.⁴⁶ Questioning SBUA's choice not to reference PG&E's most recent 2023-2026 GRC data, TURN claims that the proposed VPF escalation period does not align temporally with the 2019 GRC data.⁴⁷ Further, TURN points out that SBUA's proposal would result in significantly higher escalation than the levels proposed by PG&E for 2024 and 2025 VPFs in A.24-03-018.⁴⁸ As an alternative, TURN recommends an escalation rate based on escalators used by PG&E in its 2023 GRC for electric generation asset costs. TURN notes that it proposed this approach for fixed management fees in A.24-03-018 as well.⁴⁹ In its reply, SBUA recognizes TURN's focus on generation asset escalators, but argues that TURN's proposal does not capture all inflationary forces such as energy-related costs and compliance with regulatory requirements.⁵⁰

Upon review of SBUA's proposal and party comments, the Commission declines to adopt the escalation rate proposed by SBUA. First, as discussed above, TURN raised valid concerns about SBUA's proposal. Second, in A.24-03-018 no party disputed the calculation of VPFs, including the escalation factor, and D.24-03-018 adopted PG&E's proposed amount.⁵¹ While TURN referred in its opening comments to the proposal it made in Application 24-03-018, that proposal applied to the fixed management fees, not VPFs.

⁴⁶ TURN Opening Comments at 2.

⁴⁷ TURN Opening Comments at 2.

⁴⁸ TURN Opening Comments at 2.

⁴⁹ D.24-12-033, issued after TURN submitted its proposed approach for VPF escalation here, adopted TURN's analogous proposal for fixed management fees. *See* D.24-12-033 at CoL 8.

⁵⁰ SBUA Reply Comments at 3.

⁵¹ D.24-12-033 at 26.

It is undisputed that the statute requires the Commission to adjust the escalation factor annually.⁵² However, the Commission is unconvinced that there is sufficient evidence on record in this proceeding to adopt a specific escalation factor for VPFs at this time. Escalation factors applicable to VPFs can be appropriately and more thoroughly addressed in future DCP cost forecast applications.

SBUA also recommends that the Commission have an active role in determining how the performance-based fees are spent, and that PG&E utilize all available government funding resources to cover any expenses related to DCISC. To support its position, SBUA argues that it is unclear how PG&E will spend the \$1.1 billion grant from the U.S. Department of Energy and the \$1.4 billion loan by the State of California. SBUA recommends that PG&E's costs associated with DCISC be included in the operational expenses covered by PG&E's customers and LSE customers, using the same funding mechanism that will be approved for DCP operational funding. SBUA also recommends that the Commission direct PG&E to prioritize the use of any available funding from the State of California and the U.S. Department of Energy to reduce the costs of the DCISC.

SBUA's proposal appears to be consistent with the existing mechanism and therefore does not warrant any revisions to the existing mechanism. The Commission notes that PG&E already utilizes all available government funding resources to cover any incremental expenses related to the DCISC in the transition period. As noted by PG&E,⁵³ per the direction provided in D.23-08-

⁵² Section 712.8(f)(5) provides "...The amount of the operating risk payment shall be adjusted annually by the commission using commission-approved escalation methodologies and adjustment factors."

⁵³ PG&E Opening Comments at 18.

004, DCISC costs in excess of those already recovered in GRC rates are recovered in the Diablo Canyon Transition and Relicensing Memorandum Account through November 2, 2024 and DCISC costs in excess of 2023 GRC period funding incurred on or after November 3, 2024 will be recovered in the Diablo Canyon Extended Operations Balancing Account. All costs tracked to the DCTRMA are paid with DWR loan funds⁵⁴ and all DOE funding must be directed to pay back the DWR loan.⁵⁵

6. Issue 2: Review Criteria for the Annual Compensation Report

Upon review of the party proposals, comments, and replies, the Commission finds it reasonable to approve PG&E's proposed templates reflecting the review criteria listed in the Amended Scoping Memo for the annual compensation report in accordance with Section 712.8(s)(1).

6.1. PG&E's Proposal for Annual Compensation Report Templates

PG&E proposes templates for two tables for the annual compensation report, consisting of the criteria contained in the Scoping Memo issues 2(a)-(f), as well as providing "a demonstration of how collected VPFs are not recognized as revenue until there is offsetting authorized spend incurred, ensuring that shareholders do not recognize any incremental income prior to incremental costs."⁵⁶

PG&E states that the proposed template, consisting of a collection table and a spend table, aligns with PG&E's available accounting data for collected VPF revenues pursuant to the pro forma IOU Servicing Order Agreement

⁵⁴ D.22-12-005 at 10-11.

⁵⁵ Pub. Res. Code Section 25548.3(c)(1)(A).

⁵⁶ PG&E Proposals on Phase 2 Issues at 4-5.

approved in PG&E's Advice Letter 7206-E and available level of detail for incremental expenses available in the VPF Subaccount of the DCEOBA, submitted in Advice Letter 7204-E.⁵⁷

Even though A4NR recommends that the Commission defer the opportunity for parties to comment on the review criteria until after judicial review of PG&E's petition for writ of review has been completed, it does not object to PG&E's proposal.⁵⁸

TURN expresses significant concern with the level of detail PG&E proposes to include while reporting VPF expenditures. Under PG&E's proposal, TURN notes, the only information provided would be the forecasted spending on a particular category of work (based on authorized GRC levels), the actual amount of spending assigned to that category, and a brief explanation of the variance.⁵⁹ TURN argues that Table 3 does not provide sufficient information for the Commission to assess compliance with SB 846. TURN also notes that PG&E's proposal seems to circumvent the Deferred Work Settlement, which ensures transparent spending accountability for safety and reliability work authorized in PG&E's GRCs.

Upon review of the party proposals, comments, and replies, the Commission finds it reasonable to approve PG&E's proposed templates reflecting the review criteria listed in the Amended Scoping Memo for the annual compensation report.

In D.24-12-033, the Commission directed PG&E to submit an independent auditor report reflecting evaluation of PG&E's expenditures on projects

⁵⁷ PG&E Reply Comments at 14-14.

⁵⁸ A4NR Opening Comments at 4.

⁵⁹ TURN Reply Comments on 21, referring to PG&E's Opening Comments at 17, Table 3.

identified in its first-year report, and controls related to those expenditures, to ensure consistency and compliance with Section 712.8(s). The Commission required that the auditor's report attest to each of the requirements set forth in Section 712.8(s), including whether PG&E received double-recovery for projects and/or expenditures detailed in its first spending plan and, in particular, how VPF expenditures are incremental to costs recorded in existing accounts authorized by Commission decisions. PG&E must file and serve on the parties the auditor's report by no later than June 1, 2026, in the applicable volumetric performance fees review proceeding, required under Ordering Paragraph 15 of D.23-12-036, a proceeding in which the Commission will review for Section 712.8(s) compliance, including the prohibition against double recovery.⁶⁰ PG&E must continue to submit these audit reports during post-2024 period until further notice from the Commission.

Finally, based on the first guiding principle proposed by CalCCA as discussed in Section 5.2.3, PG&E must estimate, where feasible, the number of customers participating in or benefitting from each VPF spending plan project, and report it in its annual reporting review filing. Estimating the number of customers benefiting from each project provides a clear metric for evaluating the project's value and alignment with state goals. This data-driven approach enhances transparency and accountability.

6.2. TURN's Proposal For Additional Requirements for the Annual Compensation Report

According to TURN, under the settlement, PG&E must provide safe and reliable service, even if it requires exceeding GRC forecasts, with the risk that this

⁶⁰ D.24-12-033 at 66-67.

could lower shareholder returns below the authorized level.⁶¹ Therefore, TURN requests, to ensure compliance with statutory requirements, the Commission should expressly prohibit the use of VPFs to offset costs that would otherwise be borne by shareholders. In TURN's view, compliance cannot merely involve demonstrating that excess spending occurred. Instead, TURN recommends, PG&E must prove that additional spending funded by VPFs meet the following criteria:⁶²

1. The spending would not have occurred absent VPF availability. This criterion should exclude any costs related to storm response, outages, or other urgent reliability or safety work that would have been performed regardless of VPFs.
2. PG&E's overspending in the relevant expense category did not result from imprudence or unreasonable practices. Any overspending attributable to imprudent management by PG&E would have occurred regardless of VPF availability and must be assigned to shareholders.
3. A showing for each spending category similar to requirements of the Deferred Work Settlement for each GRC funded program. This approach would require PG&E to explain: 1) whether PG&E completed the authorized explicit or imputed units of work authorized in the most recent GRC; 2) if authorized work was not completed, the reason for the cost overrun, deferral of work, or reprioritization of funding; and 3) why it is not appropriate for PG&E to seek recovery of these costs in a different application process.
4. VPFs were allocated to incremental work during the course of the year (at the time the work occurred) rather than through an end-of-year ex post allocation. Absent a

⁶¹ TURN Reply Comments at 22.

⁶² TURN Reply Comments at 22-23.

demonstration that PG&E incurred additional costs due to VPFs available when the work occurred, the Commission should assume that work was performed without any expectation that VPFs would be available.

While the Commission acknowledges TURN's concerns about the templates not adequately showing whether VPF spending benefits shareholders, demonstrating lack of shareholder benefit or that the spending would not have occurred absent VPF availability may be an overly complex if not infeasible or speculative analysis. Given this and in light of the requirements recently put in place by the Commission in D.24-12-033, the Commission finds TURN's concerns to be moot.

6.3. A4NR's Proposal to Extend Shareholder Benefit Restrictions

A4NR recommends that the Commission delay the party comment period on this issue until after judicial review of PG&E's petition for writ of review has been completed. Preliminarily, A4NR recommends expanding the baseline review criteria to include shareholders of SCE and SDG&E, in addition to PG&E. In A4NR's view, if public purpose priorities in any IOU's service territory are funded by VPFs, equivalent restriction on shareholder benefits should apply to all affected IOUs.⁶³

The Commission concludes that ANR's proposal to extend shareholder benefit restrictions from VPFs to include SCE and SDG&E may not align with the specific directives of Section 712.8(s)(2). The statute's language does not expressly mandate or suggest the application of VPF-related shareholder restrictions to other utilities. Imposing such restrictions on these utilities could

⁶³ A4NR's Proposals on Phase 2 Issues at 6.

exceed the intended scope of the legislation and have unintended consequences for utilities not directly addressed by Section 712.8.

6.4. SBUA's Proposals on Additional Volumetric Spending Plan Requirements

SBUA makes several recommendations that are neither sufficiently detailed nor justified. Therefore, the Commission declines to adopt them. These recommendations are listed below:⁶⁴

1. The Commission should determine the exact formula to be used by PG&E to calculate its compensation earned as well as any allowable escalation rate.
2. PG&E's volumetric performance-based fees be treated as pre-tax earnings.
3. The Commission should require PG&E to verify the actual megawatt-hours generated by DCPD via a generation report attached to an Advice Letter during the period of extended operations beyond the current expiration dates.
4. The Commission should determine which programs are in compliance with the priorities outlined in Section 712.8(s)(1). Relatedly, the Commission should require PG&E to allocate 40 percent of the available funds to institute a "building decarbonization" fund for small businesses to bring their buildings into compliance with new building code regulations.
5. None of the compensation should be paid out by PG&E to its shareholders and no profit should be realized by the operator's shareholders as a result of the compensation.

A4NR does not take a position on SBUA's proposals but notes that the recommendation for having PG&E fund a building decarbonization fund for small businesses depends on the resolution of the judicial review.⁶⁵ TURN

⁶⁴ Proposals of SBUA on Phase 2 Issues at 7.

⁶⁵ A4NR Opening Comments at 4.

disagrees with SBUA's proposal and recommends rejecting them due to the lack of details, insufficient justification for prioritizing subsidies for behind-the-meter solar and building decarbonization as optimal uses of VPFs, and the absence of evidence that such a program would effectively benefit small businesses leasing their spaces.⁶⁶ TURN also points out that the proposal for "pre-tax earnings" appears to ignore the statutory prohibitions on VPFs being treated as earnings or paid out to shareholders pursuant to Section 712.8(s). Further, no details are provided for these proposals, nor is there any specific justification for allocating 40 percent of VPFs through 2030 exclusively to small business customers accounting for about 10 percent of PG&E's total retail sales.⁶⁷

CUE also opposes SBUA's proposal to allocate 40 percent of VPF surplus to subsidize building decarbonization and solar for small businesses. CUE states that this is "bad policy" when there are existing small business subsidies for the same goals.⁶⁸

The Commission agrees with TURN's and CUE's comments on SBUA's proposal and declines to adopt SBUA's recommendations. Regarding proposal 1, the Commission finds it lacks clarity and detail. PG&E's "compensation" in this context is dictated by Section 712.8(f)(5), which is equivalent to \$6.50 per megawatt-hour for all LSE customers and an additional \$6.50 per megawatt-hour for the PG&E service territory customers, as adjusted by the escalation rate already discussed in Section 5.3 of this decision. SBUA fails to provide a formula or clarify what they mean by a formula. As a result, SBUA's proposal 1 is not adopted.

⁶⁶ TURN Opening Comments at 4.

⁶⁷ TURN Opening Comments at 3.

⁶⁸ CUE Reply Comments at 5.

Regarding proposal 2, aside from a brief one-sentence request to treat the fees as pre-tax earnings, SBUA provides no further discussion on this matter. As a result, the Commission has no insight into the rationale behind the proposal. TURN points out in its comments that under SB 846, VPFs have to be spent on either the listed critical public purpose priorities under 712.8(s)(1), or on operations costs when they exceed 115% of the forecast. The Commission agrees with TURN, and given SBUA's minimal testimony on the subject, it remains unclear why SBUA believes the fees collected for public purpose priorities or operations expenses should be treated as earnings given the spending requirements in SB 846.

Regarding proposal 3, Section 712.8(h)(1) already requires PG&E to true-up its costs, including VPFs. It would be impossible to do a true-up of volumetric fees without including actual megawatt-hours generated. Therefore, the Commission considers submission of a separate generation report redundant and declines to adopt SBUA proposal 3.

Regarding proposal 4, the Commission finds there is insufficient justification for prioritizing subsidies for behind-the-meter solar and building decarbonization as optimal uses of VPFs.

Regarding proposal 5, Section 712.8(s) explicitly prohibits compensation from being paid to shareholders and prevents any profits being realized. Therefore, the Commission does not need to confirm these prohibitions.

7. Issue 3: DCISC Budget and Membership Term Limits

Upon review of the party proposals, comments and replies, the Commission adopts PG&E's proposed changes to the DCISC funding

methodology and rejects A4NR's proposal to change the DCISC membership terms.

7.1. Background

Phase 1: Track 1 of this proceeding was narrowly scoped to consider DCISC funding issues in accordance with Pub. Util. Code Section 712.1(d). As addressed in D.23-08-004 issued in Phase 1 of this Rulemaking, the DCISC annual budget covers all of the operational costs, including members' compensation, travel expenses, contracting fees, staff salaries and audit expenses.⁶⁹ The DCISC budget is recovered through PG&E's cost-of-service rates, established through the General Rate Case, with the current formula set by D.97-05-088 at the 1996 funding level plus a 1.5 percent increase each year. Any unspent funding from the prior year is credited back to PG&E's customers. As explained in D.23-08-004, due to the additional responsibilities set forth in Senate Bill 846, the DCISC indicated it may experience a shortfall in funding.⁷⁰ To address this potential shortfall, PG&E was directed to record the DCISC transition related costs (i.e., costs associated with work related to the potential extension of operations at DCPD and any associated funding shortfall) to the Diablo Canyon Transition and Relicensing Memorandum Account (DCTRMA) ensuring this work is funded through government funding streams.⁷¹ Any unspent funding in the DCTRMA will be returned to PG&E.⁷² This is applicable through August 26, 2025.

⁶⁹ D.23-08-004 at 10.

⁷⁰ D.23-08-004 at Finding of Fact (FOF) at 12.

⁷¹ D.23-08-004 at FoF 15.

⁷² D.23-08-004 at CoL 8.

7.2. PG&E's Proposal to Update DCPD Funding Methodology

PG&E proposes the following adjustments to the current methodology for funding, to begin when both DCPD Units 1 and 2 are in the period of extended operations (post-August 26, 2025):⁷³

1. The baseline funding amount should be the greater of the amount approved under D.97-05-088 escalated to 2025 dollars or the average of the DCISC annual recorded expenditures for calendar years 2023, 2024, and 2025. Any unspent funding will be returned to PG&E at the end of each calendar year to be credited to the load serving entities.
2. The baseline funding amount should be increased each year by the amount of the annual increase in the California Consumer Price Index, but no less than 3 percent.
3. The DCISC would submit an invoice to PG&E in the first quarter of the current year for any amount of shortfall from the prior year, plus a 10 percent contingency.

PG&E is neutral on the question of term limits for the DCISC members and notes that the appointing authorities have discretion to make changes every three years and utilize an application process to seek qualified members.⁷⁴

A4NR supports PG&E's proposal to adjust the DCISC funding methodology, which, A4NR notes, addresses A4NR's concern about the 27.8 percent decrease in real-dollar funding for the DCISC from 1996 to 2023.⁷⁵ No party opposed PG&E's proposal.

The Commission finds PG&E's proposal reasonable and adopts it.

⁷³ PG&E Proposals on Phase 2 Issues at 8.

⁷⁴ PG&E Proposals on Phase 2 Issues at 8.

⁷⁵ A4NR Opening Comments at 4.

7.3. A4NR's Proposal to Limit DCISC Term Limits

A4NR proposes amending the DCISC charter to limit members to two three-year terms. In A4NR's view, such a requirement would align with the NRC's seven-year limit for resident safety inspectors and mirrors auditor rotation practices required by financial regulators worldwide.⁷⁶ Structured turnover ensures effective oversight by maintaining vitality and introducing fresh perspectives and preventing excessive familiarity and complacency.⁷⁷

While PG&E takes no position on A4NR's term limit proposal,⁷⁸ SBUA does not oppose it.⁷⁹

Upon reviewing A4NR's proposal and considering the availability of qualified candidates in this sector, the Commission rejects A4NR's proposal on modifying the DCISC membership to two three-year terms. Even though we agree that there are benefits to structured turnovers, the Commission is concerned that such a restriction for DCISC could reduce the already limited pool of qualified applicants for the position. Additionally, forced rapid turnover may lead to a loss of invaluable institutional knowledge, particularly during a time when such expertise is critical.

7.4. SBUA's Proposals on DCISC Member Compensation, Data Access, and Funding

SBUA's recommendations on DCISC matters are not adopted. Similar to other recommendations, SBUA's recommendations lack detail or are not

⁷⁶ A4NR's Proposals on Phase 2 Issues

⁷⁷ A4NR's Proposals on Phase 2 Issues at 7.

⁷⁸ PG&E Opening Comments at 18.

⁷⁹ SBUA Opening Comments at 2.

sufficiently justified, or demonstrate that SBUA is not fully informed about the matter. We briefly discuss these recommendations below.

In its proposal, “to get the greatest value from the DCISC,” SBUA makes the following recommendations: First, SBUA recommends that DCISC members be adequately compensated. Even though the Commission does not object to the concept of adequate compensation for DCISC members, the Commission notes that it recently raised the DCISC members’ compensation⁸⁰ and does not see any convincing argument to provide an additional raise at this time.

Second, SBUA recommends that DCISC be given unrestricted access to DCPD and all related data and documentation relevant to DCPD’s safety. SBUA proposal lacks clarity. The Commission is not informed about any concern regarding DCISC members’ access to DCPD and related data.

Third, SBUA supports term limits for DCISC membership, which is discussed in Section 7.3.

Fourth, expressing concern about potential future conflicts of interest, SBUA recommends that PG&E be required to pay any funds owed to the DCISC to the Commission, which would then forward the payments to the DCISC, as appropriate. PG&E argues that SBUA’s recommendation that the current payment process, where the DCISC sends PG&E an invoice and PG&E pays DCISC directly, be revised to have the Commission as payee is unnecessary and inefficient as there is no conflict of interest to be remedied.⁸¹ The Commission agrees and does not modify the current payment mechanism.

⁸⁰ D.23-08-004 at OP 1.

⁸¹ PG&E Opening Comments at 18.

Fifth, SBUA suggests a change in the DCISC charter to allow DCISC to take an active role in DCPD safety matters. Currently, The Third Restatement of the DCISC charter states that, “[t]he Committee shall review Diablo Canyon Nuclear Power Plant (“Diablo Canyon”) operations for the purpose of assessing the safety of operations and suggesting any recommendations for safe operation[.]” SBUA recommends that the DCISC charter be amended to state, “The Committee shall review Diablo Canyon Nuclear Power Plant (“Diablo Canyon”) operations for the purpose of assessing the safety of operations and suggesting any recommendations for safe operation to PG&E and the California Public Utilities Commission or Nuclear Regulatory Commission if necessary...”

In SBUA’s view, “such a revision to the DCISC’s charter would ensure that the DCISC takes necessary action to notify impacted stakeholders and regulators about safety measures that it believes should be implemented to ensure the safety of DCPD and the public.”⁸² PG&E points out that the current charter already accounts for this action and therefore is unnecessary.⁸³ SBUA clarifies that the charter should be amended to include a provision for expedited safety recommendations, requiring PG&E to respond within 48 hours to urgent safety concerns raised by DCISC members.⁸⁴

We agree with PG&E that the current DCISC charter allows the DCISC to take an active role in DCPD safety matters and changes to the DCISC charter are not currently needed.

Finally, SBUA requests that the source of funding for DCISC be clarified. Claiming that PG&E failed to identify the source of funding of the DCISC “in its

⁸² Proposals of SBUA on Phase 2 Issues at 5.

⁸³ PG&E Opening Comments at 19.

⁸⁴ SBUA Reply Comments at 9.

recent Tier 2 Advice Letter,”⁸⁵ SBUA recommends PG&E categorize all funding costs as an operating cost.⁸⁶ In response, PG&E summarizes the current funding mechanism which aligns with SBUA’s proposal, therefore PG&E requests that no change be made to the current mechanism.

A4NR does not object to SBUA’s proposals.⁸⁷

8. Summary of Public Comment

Rule 1.18 allows any member of the public to submit written comment in any Commission proceeding using the “Public Comment” tab of the online Docket Card for that proceeding on the Commission’s website. Rule 1.18(b) requires that relevant written comment submitted in a proceeding be summarized in the final decision issued in that proceeding.

There are no public comments on the Docket Card for Phase 2 of this proceeding.

9. Procedural Matters

Pacific Gas and Electric Company shall file a Tier 2 advice letter within 90 days of the effective date of this decision to implement the changes to the DCISC charter resulting from this decision and by statute including, but not necessarily limited to, statutory provisions adopted pursuant to SB 846.

This decision affirms all rulings made by the Administrative Law Judge and assigned Commissioner in this proceeding. All motions not ruled on are deemed denied.

⁸⁵ Proposals of SBUA on Phase 2 Issues at 10-11.

⁸⁶ Proposals of SBUA on Phase 2 Issues at 10.

⁸⁷ A4NR Opening Comments at 4.

10. Comments on Proposed Decision

The proposed decision of ALJ Nilgun Atamturk in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on _____, and reply comments were filed on _____ by _____.

11. Assignment of Proceeding

Karen Douglas is the assigned Commissioner and Nilgun Atamturk is the assigned Administrative Law Judge in this proceeding.

Findings of Fact**Post-2024 General Framework and Definitions for Volumetric Performance Fees**

1. Party proposals on the general framework and definitions for the use of the volumetric performance fees either failed to comply with the relevant statutory requirements, addressed issues that have already been resolved, or were unpersuasive.

2. In D.23-12-036, the Commission directed PG&E to file an annual application for review of its planned use of Section 712.8(f)(5) revenues to confirm its proposed plan is consistent with Section 712.8(s), as well as to review PG&E's past use of funds.

3. In D.24-12-033, the Commission declined to adopt PG&E's proposal to submit future VPF spending plans via Tier 3 advice letter without prejudice.

4. There is a need to gain further experience with VPF planning, reporting, and review process before reconsidering review of VPF funding through the advice letter process.

5. Benefitting ratepayers through the efficient spending of VPFs in ways that reduce upward pressure on rates is a common theme in A4NR's

recommendation to target VPF spending on the distribution and transmission systems, TURN's recommendation to focus VPFs on capital investments, and CalCCA's recommendation to use VPFs on electric distribution projects.

6. The Commission concluded, in D.23-12-036, that 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.

7. There is insufficient evidence on the record in this proceeding to adopt a specific escalation factor for VPFs at this time.

8. PG&E already uses all available government funding resources to cover any incremental expenses related to the DCISC in the transition period.

Review Criteria for the Annual Compensation Report

9. PG&E proposed templates for two tables for the annual compensation report, consisting of the criteria contained in the Scoping Memo issues 2(a)-(f), as well as providing a demonstration of how collected VPFs are not recognized as revenue until there is offsetting authorized spend incurred.

10. Demonstrating lack of shareholder benefit or that the spending would not have occurred absent VPF availability may be an overly complex if not infeasible or speculative analysis.

11. In D.24-12-033, the Commission directed PG&E to submit an independent auditor report reflecting evaluation of PG&E's expenditures on projects identified in its first-year report, and controls related to those expenditures, to ensure consistency and compliance with Section 712.8(s).

12. Estimating the number of customers benefiting from each project would provide a clear metric for evaluating the project's value and alignment with state goals.

13. Extending shareholder benefit restrictions from VPFs to include SCE and SDG&E may not align with the specific directives of Section 712.8(s)(2).

14. The language of SB 846 does not expressly mandate or suggest the application of VPF-related shareholder restrictions to other utilities.

15. Imposing shareholder benefit restrictions on SCE and SDG&E could exceed the intended scope of the legislation and have unintended consequences for utilities not directly addressed by Section 712.8.

16. SBUA proposal 1 lacks clarity and detail as SBUA fails to provide a formula or clarify what they mean by a formula to calculate PG&E's compensation earned.

17. SBUA does not sufficiently explain why the fees collected for public purpose priorities or operations expenses should be treated as earnings given the spending requirements in SB 846.

18. Because it would be impossible to do a true-up of volumetric fees without including actual megawatt-hours generated, submission of a separate generation report is redundant.

19. There is insufficient justification for prioritizing subsidies for behind-the-meter solar and building decarbonization as optimal uses of VPFs.

20. Section 712.8(s) explicitly prohibits compensation from being paid to shareholders and prevents any profits being realized.

DCISC Budget and Membership Term Limits

21. PG&E's proposal to adjust the DCISC funding methodology addresses the 27.8 percent decrease in real-dollar funding from 1996 to 2023.

22. Restricting DCISC membership terms could reduce the already limited pool of qualified applicants for the position.

23. A forced rapid turnover of DCISC members may lead to a loss of invaluable institutional knowledge, particularly during a time when such expertise is critical.

24. The Commission recently raised the DCISC members' compensation and there is no convincing argument to provide an additional raise at this time.

25. There is no credible concern regarding DCISC members' access to DCPD and related data.

26. Revising the current payment method for DCISC is unnecessary.

27. DCISC's current charter is sufficient to allow DCISC to take an active role in DCPD safety matters.

28. PG&E's current funding mechanism already categorizes all DCISC costs as operating costs.

Conclusions of Law

1. PG&E should continue to file an annual application for review of its planned use of VPFs and reporting of past use of the funds.

2. It is reasonable and appropriate to continue to use the general framework and definitions for the use of the volumetric performance fees as adopted in D.23-12-036 in the post-2024 period.

3. Where PG&E takes advantage of opportunities to align with the guiding principle of affordability by reducing upward pressure on rates, it should explain this alignment in its annual DCPD cost forecast and VPF spending plan submittal.

4. A4NR's proposal that VPFs be allocated for priorities outside PG&E's service territory is contrary to D.23-12-036.

5. Escalation factors applicable to VPFs should be appropriately and more thoroughly addressed in future DCPD cost forecast applications.

6. PG&E's proposed templates reflecting the review criteria listed in the Amended Scoping Memo for the annual compensation report in accordance with Section 712.8(s)(1) is reasonable and should be approved.

7. PG&E should continue to submit the audit reports required by D.24-12-033 during the post-2024 period.

8. PG&E should, where feasible, estimate the number of customers who will benefit from each VPF spending plan project and report it in its annual reporting review filing.

9. PG&E's proposed changes to the funding of DCISC are reasonable and should be approved.

10. DCISC membership terms should remain the same.

O R D E R

IT IS ORDERED that:

1. Pacific Gas and Electric Company must continue to use the general framework and definitions for the use of the surplus performance-based fees as adopted in Decision 23-12-036 in the post-2024 period.

2. Where Pacific Gas and Electric Company takes advantage of opportunities to align with the guiding principle of affordability by reducing upward pressure on rates, it must explain this alignment in its annual Diablo Canyon Power Plant cost forecast and volumetric performance fees spending plan submittal.

3. Pacific Gas and Electric Company's proposed templates reflecting the baseline review criteria for the annual compensation report listed in the June 25, 2024, Assigned Commissioner's Amended Scoping Memo and Ruling for Phase 2 of Proceeding are approved.

4. Pacific Gas and Electric Company must continue to submit audit reports required by Decision 24-12-033 during the post-2024 period.

5. Pacific Gas and Electric Company must estimate the number of customers who will benefit from each volumetric performance fees spending plan project, if it is feasible to do so, and report it in its annual filing.

6. Pacific Gas and Electric Company's proposal for adjustments to the Diablo Canyon Independent Safety Committee funding methodology is approved.

7. The Diablo Canyon Independent Safety Committee membership terms remain the same.

8. Pacific Gas and Electric Company shall file a Tier 2 advice letter within 90 days of the effective date of this decision to implement the changes to the DCISC charter resulting from this decision and by statute including, but not necessarily limited to, statutory provisions adopted pursuant to Senate Bill 846 (Stats. 2022, Ch. 239).

9. Rulemaking 23-01-007 is closed.

This order is effective today.

Dated _____, at San Francisco, California