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

Application of Pacific Gas and Electric Company to Recover in Customer Rates the Costs to Support Extended Operation of Diablo Canyon Power Plant from January 1 through December 31, 2026, and for Approval of Planned Expenditure of 2026 Volumetric Performance Fees. (U39E.)

Application 25-03-015  
(Filed March 28, 2025)

**SAN LUIS OBISPO MOTHERS FOR PEACE'S APPLICATION FOR  
REHEARING OF DECISION D.25-12-007**

Sabrina Venskus, Esq.  
Jason Sanders, Esq.  
Venskus & Associates, A.P.C.  
603 West Ojai Avenue, Suite F  
Ojai, California 93023  
Phone: (805) 272-8628  
[venskus@lawsv.com](mailto:venskus@lawsv.com)  
[jsanders@lawsv.com](mailto:jsanders@lawsv.com)

Counsel for San Luis Obispo Mothers for  
Peace

Dated: January 8, 2026

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## **I. INTRODUCTION**

San Luis Obispo Mothers for Peace (“SLOMFP”) brings this Application for Rehearing of D.25-12-007 (“Decision”) pursuant to California Public Utilities Commission Rules of Practice and Procedure, Rule 16.1. The Application for Rehearing should be granted because the Decision is unlawful and commits legal error.

## **II. STANDARD ON AN APPLICATION FOR REHEARING**

Applications for Rehearing shall set forth specifically the grounds on which the applicant considers the order or decision of the Commission to be unlawful or erroneous, and must make specific references to the record or law.<sup>1</sup> A legal error in or the unlawfulness of the Commission’s decision can be demonstrated in a number of ways, which generally mirror the grounds for a Petition for Writ of Review before the Court of Appeal under Public Utilities Code (“P.U.C.”) § 1757.<sup>2</sup>

## **III. THE DECISION COMMITS LEGAL ERROR**

### **A. THE DECISION EXPRESSLY EXCLUDES ISSUES MATERIAL TO THE PROCEEDING IN VIOLATION OF P.U.C. §§ 1705 AND 451.**

P.U.C. § 1705 applies to this proceeding because a hearing was conducted but **was not** held pursuant to P.U.C. § 1702.1. P.U.C. § 1705 provides, in pertinent part, that “the [commission’s] decision shall contain, separately stated, findings of fact and conclusions of law by the commission on all issues material to the order or decision.”<sup>3</sup> Under P.U.C. § 1705 “every issue that must be resolved to reach the ultimate finding is ‘material’ to the order or decision. Statutes like section 1705 have been held to require findings of the basic facts upon which the ultimate finding is based.”<sup>4</sup> The California Supreme Court has described the purpose of these findings as

“[affording] a rational basis for judicial review. The more general the findings, the more difficult it is for the reviewing court to ascertain the principles relied upon by the administrative agency. Even when the scope of review is limited, as in this case, findings on material issues enable the reviewing court to determine whether the commission has acted arbitrarily. Since findings on material issues indicate

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<sup>1</sup> P.U.C. § 1732; California Public Utilities Commission Rules of Practice and Procedure, Rule 16.2.

<sup>2</sup> D.22-05-011 pp. 7-8 [discussing P.U.C. § 1757 in its analysis of whether to grant an Application for Rehearing] and D.21-08-023 pp. 4-5, 10, 23 [same].

<sup>3</sup> P.U.C. § 1705.

<sup>4</sup> *California Motor Transport Co. v. Public Utilities Com.* (“*Cal. Motor*”)(1963) 59 Cal.2d 270, 273; see also *Northern California Power Agency v. Public Utilities Com.* (“*NCPA*”)(1971) 5 Cal.3d 370, 380-381; *San Francisco v. Public Utilities Com.* (1971) 6 Cal.3d 119, 130.

the basis for the decision the parties can prepare accordingly for rehearing or review. Furthermore, a disappointed party, whether he plans further proceedings or not, deserves to have the satisfaction of knowing why he lost [their] case.”<sup>5</sup>

Here, the ultimate issue in this 2025 Cost Recovery Proceeding is whether the Commission should authorize PG&E’s request to charge ratepayers hundreds of millions of dollars for extended operations of DCPD from January 1, 2026 to December 31, 2026 as being just and reasonable under P.U.C. § 451. To authorize recovery of such a massive sum from ratepayers as just and reasonable under P.U.C. § 451, the Commission must first find that it comports with the prudent manager standard (i.e. prudence and cost-effectiveness).<sup>6</sup>

In the Commission’s own words:

“regulation of privately owned utilities is governed by the principle of reasonableness, as to both a utility’s ability to spread costs and charges among its ratepayers, as well as its provision of a safe and reliable utility system. The principle derives from Section 451. In implementing Section 451 for purposes of utility reasonableness reviews, the Commission utilizes an established Prudent Manager Standard as the test to evaluate whether requested costs are just and reasonable. The standard for reviewing utility actions has been established as one of reasonableness and prudence....The term ‘reasonable and prudent’ means that at a particular time any of the practices, methods, and acts engaged in by a utility follows the exercise of reasonable judgment in light of facts known or which should have been known at the time the decision was made. The act or decision is expected by the utility to accomplish the desired result at the lowest reasonable cost consistent with good utility practices. Good utility practices are based upon cost-effectiveness, reliability, safety, and expedition. [Prudence] encompasses a spectrum of possible practices, methods, or acts consistent with the utility system needs, the interest of the ratepayers and the requirements of governmental agencies of competent jurisdiction. The greater the level of money, risk and uncertainty involved in a decision, the greater the care the utility must take in reaching that decision.”<sup>7</sup>

Additionally in *In re PG&E Corp.* (2019) 611 B.R. 110, 114, a Court found that the Commission is “bound” by the Public Utilities Code, including P.U.C. § 451.<sup>8</sup> The Court noted that a utility’s ability to spread costs via rate increases must be reasonable and judged by the

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<sup>5</sup> *California Motor Transport Co.*, supra, 59 Cal.2d 270, 273-274; see also *Greyhound Lines, Inc.*, supra, 65 Cal. 2d 811, 812-813 [same].

<sup>6</sup> See e.g. *In re PG&E Corp.* (2019) 611 B.R. 110, 114.

<sup>7</sup> D.18-07-025, pp. 2-6.

<sup>8</sup> *In re PG&E Corp.* (2019) 611 B.R. 110, 114.

prudent manager standard developed by the Commission.<sup>9</sup> The Commission evaluates the utility's proposed course of action against the prudent manager standard “**before**” agreeing to authorize the utility to pass on costs to ratepayers.<sup>10</sup>

Accordingly, satisfaction of the prudent manager standard and all issues related thereto (i.e. prudence and cost-effectiveness) are material to the underlying proceeding compelling the need for separately stated findings of fact and conclusions of law under P.U.C. § 1705.<sup>11</sup> To this end, the Commission must also engage in a weighing of the evidence<sup>12</sup> and bridge the analytical gap between the raw evidence and ultimate conclusion on the issues of prudence, cost-effectiveness, need for DCPD and the prudent manager standard.<sup>13</sup>

Here, the Commission has committed legal error by issuing the Decision which fails to analyze and include express findings on the issues of prudence, cost-effectiveness, need for DCPD and the prudent manager standard. The decision contains no discussion of, for example, the desired result of PG&E's request for rate recovery, nor whether PG&E's requested action: will achieve the desired result at the lowest possible cost to ratepayers (e.g. providing the public with efficient, just and reasonable electric service from adequate renewable and zero-carbon power sources at the lowest possible cost); will be in the best interests of the ratepaying public; is prudent and cost-effective; or whether DCPD is still needed. The failure of the Commission to include these required analyses, findings and conclusions in the Decision is legal error. The Decision has failed to proceed in a manner required by law, i.e. P.U.C. §§ 1705 and 451.<sup>14</sup> For the same reason, the Decision is not supported by the findings.

However, in the alternative, the Decision also commits legal error by expressly excluding these issues from this proceeding **without any justification or explanation**.<sup>15</sup> The exclusion of these issues also violates P.U.C. § 1705 in that the Decision fails to provide the public, the parties to the proceeding and any reviewing court any insight into what principles (if any) were

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<sup>9</sup> *Ibid.*

<sup>10</sup> *Ibid.* (Emphasis added.)

<sup>11</sup> See *Cal. Motor*, supra, 59 Cal.2d 270, 273.

<sup>12</sup> *Toward Utility Rate Normalization v. Public Utilities Com.* (1978) 22 Cal.3d 529, 540.

<sup>13</sup> *Topanga Assn. for a Scenic Community v. County of Los Angeles* (1976) 11 Cal.3d 506.

<sup>14</sup> See *Cal. Motor*, supra, 59 Cal.2d 270, 273.

<sup>15</sup> D.25-12-007, p. 12.

relied upon by the Commission in excluding the issues from the scope of proceedings.<sup>16</sup> Thus, the exclusion of the issues is unlawful, legal error and therefore arbitrary.

Moreover, the exclusions were made despite SLOMFP raising these issues in its Protest to PG&E's Application<sup>17</sup> and in its opening brief and comments on the proposed decision<sup>18</sup>. Despite these protests, brief and comments, the final decision excluded the issues of prudence, cost-effectiveness and need for DCPD from this proceeding.<sup>19</sup> While, the Decision gave some justification for the exclusion of the issue of need for DCPD from this proceeding<sup>20</sup> the justification is unlawful as it is inconsistent with S.B. 846 and P.U.C. § 451.

#### B. THE DECISION INTERPRETS S.B. 846 AND P.U.C. § 451 IN A MANNER THAT IS UNLAWFUL AND RESULTS IN REPEALS BY IMPLICATION

The first step in construing a statute begins with an examination of the statute's words, giving them a plain and commonsense meaning within their context, keeping in mind the statutory purpose.<sup>21</sup> Statutes or statutory sections relating to the same subject must be harmonized, both internally and with each other, to the extent possible.<sup>22</sup> Conversely, interpreting a statute in such a way as to result in disharmony between statutes is legal error.<sup>23</sup>

When harmonizing two or more statutes or statutory provisions, they must be regarded as blending into each other to form a single statute and construed as to give effect, when possible, to all the provisions thereof.<sup>24</sup> Generally, harmonization is possible where there is no conflict between the two statutes or the reconciliation of a possible conflict does not require the statutes to be rewritten, nor would strike a compromise the Legislature itself did not reach.<sup>25</sup>

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<sup>16</sup> *Ibid.*; see also *Woodbury v. Brown-Dempsey* (2003) 108 Cal.App.4th 421, 438.

<sup>17</sup> SLOMFP's Protest dated April 30, 2025.

<sup>18</sup> SLOMFP's Opening Brief dated October 1, 2025 and Comments on Proposed Decision dated November 20, 2025.

<sup>19</sup> D.25-12-007, pp. 11-12.

<sup>20</sup> D.25-12-007, p. 12. ["The Commission reiterates that, in D.23-12-036, the Commission concluded that it will not revisit issues concerning the electric system reliability need for DCPD. Ongoing long-term system reliability needs are already considered and addressed through the Commission's Integrated Resource Planning proceeding. Hence, they are out of scope for this proceeding."]

<sup>21</sup> *Tan v. Appellate Division of Superior Court* (2021) 76 Cal.App.5th 130, 136.

<sup>22</sup> *Ibid.*

<sup>23</sup> *Pacific Legal Foundation v. Unemployment Ins. Appeals Bd.* (1981) 29 Cal.3d 101, 114; see also *Legacy Group v. City of Wasco* (2003) 106 Cal.App.4th 1305, 1313.

<sup>24</sup> *State Dept. of Public Health v. Superior Court* (2015) 60 Cal.4th 940, 955-956.

<sup>25</sup> *Tan, supra*, 76 Cal.App.5th 130, 139.

Additionally, there is a presumption against repeal by implication, including partial repeals that occur when one statute implicitly limits another statute's scope of operation.<sup>26</sup> There will only be an implied repeal when there is no rational basis for harmonizing two potentially conflicting statutes and the statutes are irreconcilable, clearly repugnant, and so inconsistent that the two cannot have concurrent operation. Absent an express declaration of legislative intent, the presumption is that a statute was not impliedly repealed by a subsequent statute unless there is no rational way to harmonize the two potentially conflicting statutes.<sup>27</sup>

The Decision's exclusion of the issues of prudence and cost-effectiveness from this proceeding files in the face of its own precedent and the other case law indicating that findings of prudence and cost-effectiveness under P.U.C. § 451 are required *before* the Commission can authorize cost recovery.<sup>28</sup> If the exclusion of the issue of prudence and cost-effectiveness and need for DCPD is not corrected then the Commission will have effectively repealed by implication its duty under P.U.C. § 451 to determine the prudence and cost-effectiveness of a utility's proposed action before authorizing the requested action.

The exclusion of these issues also repeals by implication provisions of S.B. 846. S.B. 846, specifically Public Resources Code ("P.R.C.") § 25548.3(c)(5)(C), requires the Commission to continuously assess whether extended operations are prudent and cost-effective.<sup>29</sup> Even the Commission itself has previously acknowledged this interpretation of the interplay between S.B. 846 and P.U.C. § 451.<sup>30</sup>

As just one example, the Commission's Conclusion of Law No. 15 in D.23-12-036 stated that "[i]t is well within the Commission's authority, and in ratepayers' best interest, to continue to evaluate the prudence and cost-effectiveness of continued DCPD operations."<sup>31</sup> Thus, ratepayers were promised and the Commission itself indicated it was bound to provide a prudence and cost-effectiveness evaluation to ensure that continued operations at DCPD are in the ratepayer's best interests. Ratepayers did not receive the protection of a prudence and cost-effectiveness evaluation in the Rulemaking proceeding because the Commission punted the

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<sup>26</sup> *Id.* at p. 138.

<sup>27</sup> *Ibid.*

<sup>28</sup> *In re PG&E Corp.*, supra, 611 B.R. 110, 114; D.18-07-025, pp. 2-6.

<sup>29</sup> P.R.C. § 25548.3(c)(5)(C).

<sup>30</sup> D.23-12-036 pp. 47-48 and 57-59.

<sup>31</sup> D.23-12-036, p. 127, [Conclusion of Law No. 15]. (Emphasis added.)

issue.<sup>32</sup> The Commission has not kept its promise and has breached its duty to the ratepayers in the instant proceeding as the issues of prudence, cost-effectiveness, need for DCPD and the prudent manager standard are not addressed in the Decision. This creates internal disharmony in S.B. 846 and nullifies the operation of P.R.C. § 25538.3(c)(5)(C), as well as P.U.C. § 451.

The Decision also creates internal disharmony because the Commission further states that it will not revisit the reliability need for DCPD in this proceeding.<sup>33</sup> The only lawful interpretation of S.B. 846 with respect to the issue of need for DCPD's power is that the legislature mandated a continuous and ongoing review of the need for the DCPD's power, such as in the instant proceeding. There are multiple provisions of S.B. 846 that compel this interpretation:

P.R.C. § 25548(b) states "Preserving the option of continued operations of 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. The Legislature anticipates that this stopgap measure will not be needed for more than five years beyond the current expiration dates";

P.R.C. § 25548(c) states "During the time the Diablo Canyon powerplant's operations are extended, the state will continue to act with urgency to bring clean replacement energy online to support reliability and achieve California's landmark climate goals. The state is accelerating efforts to bring offshore wind and other clean energy resources online, including action to streamline permitting for clean energy projects";

P.R.C. § 25548.3(c)(5)(C) states that the DWR loan can be terminated upon "[a] determination by the Public Utilities Commission that an extension of the Diablo Canyon powerplant is not cost effective or imprudent, or both";

P.U.C. § 712.8(q) states that "The Legislature finds and declares that the purpose of the extension of the Diablo Canyon powerplant operations is to protect the state against significant uncertainty in future demand resulting from the state's greenhouse-gas-reduction efforts involving electrification of transportation and building energy end uses and regional climate-related weather phenomenon, and to address the risk that currently ordered procurement will be insufficient to meet this supply or that there may be delays in bringing the ordered resources online on schedule. Consequently, the continued operation of Diablo Canyon Units 1 and 2

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<sup>32</sup> D.23-12-036, p. 127, [Conclusion of Law No. 16].

<sup>33</sup> D.25-12-007, p.12.

beyond their current expiration dates shall not be factored into the analyses used by the commission or by load-serving entities not subject to the commission's jurisdiction when determining future generation and transmission needs to ensure electrical grid reliability and to meet the state's greenhouse-gas-emissions reduction goals. To the extent the commission decides to allocate any benefits or attributes from extended operations of the Diablo Canyon powerplant, the commission may consider the higher cost to customers in the operator's service area."

When read together, these provisions demonstrate the Legislature's intention that the scope of review of extended operations in this proceeding must include prudence, need and cost-effectiveness evaluations because the Legislature explicitly declared that DCPD is a stopgap measure, that California is continuing to act to bring replacement energy online, that the DWR loan can be terminated (at any time) upon a Commission finding that extended operations are not cost-effective or imprudent or both.<sup>34</sup> It is clear that the Decision offers an unlawful interpretation of S.B. 846. Thus, the Decision also commits legal error because the Commission has acted in excess of its powers or jurisdiction and has not proceeded in a manner required by law.

The Commission's exclusion of need from this proceeding also removes a key component (i.e., analysis of reliability and need for DCPD) from the protections afforded by P.U.C. § 451. This section shields ratepayers from unreasonable and unjust rate increases. In excluding the need for DCPD's power from consideration in the prudence analysis under P.U.C. § 451, the Commission also repeals by implication its full authority to police a utility's acts using all the tools at the Commission's disposal.<sup>35</sup> The interpretation that a reliability analysis is now cabined to the IRP proceeding is completely detached from the plain language contained in S.B. 846. How does the Commission's consideration of long-range reliability needs in the IRP conflict with its promise to the ratepayers to perform a full, robust prudence analysis of DCPD extended operations over the instant record period and 5-year extension period, inclusive of reliability? It does not.

#### **IV. REQUEST FOR ORAL ARGUMENT**

Pursuant to Rule 16.3(a), if the applicant for rehearing seeks oral argument, it should request it in the application for rehearing. The request for oral argument should explain how oral argument will materially assist the Commission in resolving the application, and demonstrate

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<sup>34</sup>*In re PG&E Corp.*, supra, 611 B.R. 110, 114

<sup>35</sup> See P.U.C. § 451.

that the application raises issues of major significance for the Commission because the challenged order or decision:

(1) adopts new Commission precedent or departs from existing Commission precedent without adequate explanation;

(2) changes or refines existing Commission precedent;

(3) presents legal issues of exceptional controversy, complexity, or public importance; and/or

(4) raises questions of first impression that are likely to have significant precedential impact.

These criteria are not exclusive. The Commission has complete discretion to determine the appropriateness of oral argument in any particular matter.

Arguments must be based only on the evidence in the record. Oral argument is not part of the evidentiary record.<sup>36</sup>

SLOMFP requests oral argument on this Application for Rehearing because the Commission has departed from its promise to ratepayers and conclusion of law in D.23-12-036<sup>37</sup> and obligation under P.U.C. § 451 and S.B. 846 continue to conduct a cost-effectiveness and prudence analysis. This request for oral argument is further made on the ground that the issue of whether a full and robust prudence and cost-effectiveness analysis is required to be performed prior to authorizing recovery of hundreds of millions of dollars from ratepayers presents a legal issue of exceptional public importance.

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<sup>36</sup> Rule 16.3(a).

<sup>37</sup> D.23-12-036, p. 127, Conclusion of Law 15.

V. **CONCLUSION**

In light of the foregoing, SLOMFP requests that the Commission grant this Application for Rehearing and issue a Decision correcting all of the legal errors set forth herein.

Respectfully submitted,

Venskus & Associates, A.P.C.

Dated: January 8, 2026

/s/ Sabrina Venskus

Sabrina D. Venskus

Jason R. Sanders

Venskus & Associates, A.P.C.

603 West Ojai Avenue, Suite F

Ojai, California 93023

Phone: (805) 272-8628

[venskus@lawsv.com](mailto:venskus@lawsv.com)

[jsanders@lawsv.com](mailto:jsanders@lawsv.com)

Counsel for San Luis Obispo Mothers for  
Peace