

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

**ENERGY DIVISION**

**AGENDA ID# 22479  
RESOLUTION E-5299  
May 9, 2024**

**R E S O L U T I O N**

Resolution E-5299. Pacific Gas and Electric Diablo Canyon Transition and Relicensing Memorandum Account and Diablo Canyon Extended Operations Balancing Account

**PROPOSED OUTCOME:**

- Approves Pacific Gas and Electric’s (PG&E) request to establish the Diablo Canyon Transition and Relicensing Memorandum Account and the Diablo Canyon Extended Operations Balancing Account as ordered in Decision (D.) 22-12-005.

**SAFETY CONSIDERATIONS:**

- There are no safety considerations associated with this resolution.

**ESTIMATED COST:**

- There are no costs associated with this resolution.

By Advice Letter 6870-E and 6870-E-A, filed on March 1, 2023, and April 12, 2023, respectively.

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**SUMMARY**

This Resolution approves Pacific Gas and Electric’s (PG&E) request to establish two accounts to track and record all costs needed to extend operations of the Diablo Canyon Power Plant (DCPP) in accordance with Senate Bill (SB) 846<sup>1</sup> and Ordering Paragraph 4 of Decision (D.) 22-12-005:

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<sup>1</sup> SB 846 (Dodd, 2021-2022 Reg. Sess.) Diablo Canyon powerplant: extension of operations, codified as Public Resources (Pub. Res.) Code §§ 25233, 25233.2, 25302.7, 255548, and 25548.1-7; Public Utilities (Pub. Util.) Code §§ 454.52, 454.53, 712.1, and 712.8; and Water Code § 13193.5.

1. the Diablo Canyon Transition and Relicensing Memorandum Account (DCTRMA); and
2. the Diablo Canyon Extended Operations Balancing Account (DCEOBA).<sup>2</sup>

Descriptions of the two accounts being implemented in AL 6870-E and 6870-E-A follow below.

### **Diablo Canyon Transition and Relicensing Memorandum Account (DCTRMA)**

The DCTRMA is a tracking account intended to record expenses related to preserving the option of attaining renewed licenses for DCPD Units 1 and 2 beyond their current license expiration dates (November 2, 2024, and August 26, 2025, respectively), as compared to government funding received for these relicensing activities. Costs recorded in the DCTRMA are to include incremental costs related to: relicensing, permitting, development, construction, operations and maintenance, fuel purchases, spent fuel management (i.e., incremental dry cask storage costs), contract labor, incremental internal labor, and other expenses in connection with the transition of DCPD from current to extended operations. Additionally, the DCTRMA records the monthly performance-based disbursement “equal to” \$7 per megawatt-hour (MWh)<sup>3</sup> generated by DCPD during the period before the start of extended operations. The DCTRMA “is solely a tracking account that compares the above noted costs to the proceeds received from agreements with the Department of Water Resources (DWR) or from the United States Department of Energy’s Civil Nuclear Credit (CNC) Program pursuant to Assembly Bill (AB) 180 or SB 846 or other government funding.”<sup>4</sup>

### **Diablo Canyon Extended Operations Balancing Account (DCEOBA)**

The DCEOBA is a balancing account intended to record and recover expenses related to the operations of DCPD Units 1 and 2 beyond their current license expiration dates that are not eligible for government funding through SB 846 and AB 180 or the CNC Program. The DCEOBA has three subaccounts: (1) the Extended Operations

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<sup>2</sup> D.22-12-005, Ordering Paragraph 4: “Pacific Gas and Electric Company (PG&E) shall file a Tier 3 Advice Letter to provide a detailed and complete accounting structure of the associated costs and recovery of the Diablo Canyon Power Plant Transition and Relicensing Memorandum Account and the Diablo Canyon Power Plant Extended Operations Balancing Account.”

<sup>3</sup> Pub. Res. Code § 25548.3(c)(16).

<sup>4</sup> PG&E Advice Letter 6870-E at p. 3.

Subaccount, (2) the Liquidated Damages Subaccount, and (3) the Volumetric Performance Fee Subaccount.<sup>5</sup>

### **1. Extended Operations Subaccount**

The Extended Operations Subaccount will record costs of DCP's extended operations as compared to revenues from extended operations. In accordance with Public Utilities Code (PUC) section 712.8(e), these costs are to be funded by customers of all CPUC-jurisdictional load-serving entities (LSEs). PG&E proposes to create a separate subaccount for each electric investor-owned utility (IOU) to track extended operations costs allocated to each IOU based on load share, or as determined by the CPUC in R.23-01-007.

Extended operations costs include costs related to: "operations and maintenance costs, plant equipment and improvement costs, incremental future spent fuel storage capacity, fuel purchasing, pension, taxes, benefits and standard PG&E overheads, employee retention costs, regulatory compliance items, incremental decommissioning planning, liquidated damages, replacement power (if incurred), and certain performance and management fees."<sup>6</sup>

This subaccount also records authorized funding for liquidated damages (i.e. \$12.5 million per DCP unit per month) up to \$300 million compared to recorded revenues. There is an offsetting entry for this funding in the Liquidated Damages Subaccount discussed below.

Per SB 846, PUC section 712.8(h), expenses in this subaccount are offset by CAISO market revenues related to DCP extended operations. PG&E proposes to offset costs borne by all CPUC-jurisdictional LSEs before offsetting costs to be borne only by customers within PG&E's service territory. Disposition of the Extended Operations Subaccount's balance will be through PG&E's Annual Electric True-Up advice letter process as authorized by the CPUC.

### **2. Liquidated Damages Subaccount**

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<sup>5</sup> In accordance with Ordering Paragraph 12 and page 111 of D.23-12-036, approved December 14, 2023, PG&E must submit a Tier 2 Advice Letter implementing "necessary changes" approved for the DCEOBA, including the "tracking of volumetric fees collected pursuant to [PUC] Section 712.8(f)(5)."

<sup>6</sup> PG&E Advice Letter 6870-E at pp. 3 – 5, fn 8. As per PUC section 712.8(f)(5) and (6), these fees include the \$50 million (in 2022 dollars) per unit per year fixed payments and the volumetric performance fee of \$6.50/MWh (in 2022 dollars) generated by DCP during extended operations paid for by customers of all load serving entities.

Per PUC section 712.8(g) and (i), the Liquidated Damages Subaccount tracks and records authorized funding of \$12.5 million per month per DCPD unit up to a combined \$300 million, as compared to the costs of replacement power (if needed) when DCPD has an unplanned outage and the CPUC determines that the reasonable manager standard has not been met by the DCPD operator. If there is an unplanned outage at DCPD during extended operations, any replacement power costs incurred will first be recorded in the Extended Operations Subaccount (see above), and if the CPUC determines that the reasonable manager standard has not been met, PG&E will then reverse the amount in that subaccount and record it in the Liquidated Damages Subaccount. At the end of extended operations, any over-collected balance in this subaccount will be refunded to customers in PG&E's service territory.<sup>7</sup>

### 3. Volumetric Performance Fee Subaccount

This subaccount records the additional \$6.50/MWh volumetric fee solely collected from "customers in the service territory of the operator"<sup>8</sup> during extended operations as compared to recorded revenues associated with volumetric performance. If any CAISO market revenues remain after offsetting extended operations costs or liquidated damages costs, they will be applied to this subaccount. Disposition of this subaccount's balance will be made through PG&E's Annual Electric True-Up advice letter process as authorized in the DCPD's new extended operations ratemaking proceeding. Following the final year of extended operations, any surplus balance in this subaccount will be used to repay any outstanding balance of the loan agreement between PG&E and DWR.<sup>9</sup>

## BACKGROUND

The current Nuclear Regulatory Commission (NRC) operating licenses for Diablo Canyon Units 1 and 2 expire on November 2, 2024, and August 26, 2025, respectively. With the license expirations approaching, on January 11, 2018, the CPUC authorized the retirement of Diablo Canyon Units 1 and 2.<sup>10</sup>

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<sup>7</sup> PUC § 712.8(u).

<sup>8</sup> PUC § 712.8(f)(5). Note that the other \$6.50/MWh volumetric fee mentioned in PUC § 712.8(f)(5), "to be borne by customers of all load-serving entities," is *not* collected in this subaccount, but rather in the Extended Operation subaccount discussed above. See PG&E AL 6870-E at p. 5, fn. 8.

<sup>9</sup> PUC § 712.8(h)(3).

<sup>10</sup> D.18-01-022 at Ordering Paragraph 1.

However, on September 2, 2022, Governor Newsom signed SB 846 to delay the retirement and, among other things, extend operations at DCPD beyond its current license period through 2029 (Unit 1) and 2030 (Unit 2), and direct the CPUC and other relevant state agencies to take all necessary actions to extend DCPD operations.

While PG&E restarted its NRC license renewal process, the CPUC reopened PG&E's DCPD retirement application (A.16-08-006) and, on December 6, 2022, issued a new decision (D.22-12-005) nullifying the previous retirement authorization, directing PG&E to take all actions necessary to preserve the option of operating DCPD beyond the current NRC license expiration dates, and ordering PG&E to "track and record all costs associated with preserving the option of extended operations at Diablo Canyon."<sup>11</sup> Ordering Paragraph 4 of that decision required PG&E to file a Tier 3 advice letter providing "a detailed and complete accounting structure of the associated costs and recovery of the Diablo Canyon Power Plant Transition and Relicensing Memorandum Account [DCTRMA] and the Diablo Canyon Power Plant Extended Operations Balancing Account [DCEOBA]"; and that PG&E hold a "meet and confer session where all load serving entities subject to the [CPUC's] jurisdiction, and parties to [A.16-08-006], are invited to participate."

In accordance with Ordering Paragraph 4 of D.22-12-005, PG&E held a meet and confer session on February 6, 2023, and filed Tier 3 Advice Letter 6870-E on March 1, 2023. On April 12, 2023, PG&E filed a supplement to its original advice letter, 6870-E-A. This Resolution addresses the issues presented in PG&E Advice Letter 6870-E and its supplement, 6870-E-A.

## **NOTICE**

Notice of AL 6870-E and 6870-E-A was made by publication in the Commission's Daily Calendar.<sup>12</sup> PG&E states that a copy of the Advice Letter was mailed and distributed in accordance with Section 4 of General Order 96-B.

## **PROTESTS**

PG&E's Advice Letter (AL) 6870-E was timely protested by the Alliance for Nuclear Responsibility (A4NR) and the California Community Choice Association (CalCCA) on

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<sup>11</sup> D.22-12-005 at Ordering Paragraphs 1, 2, 3, and 4.

<sup>12</sup> See CPUC Daily Calendar, March 8, 2023, at page 12; available at

<https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M503/K320/503320555.PDF>.

March 20, 2023, and March 21, 2023, respectively. PG&E responded to both protests on March 28, 2023.

### **Alliance for Nuclear Responsibility (A4NR) Protest**

A4NR argues that:

- (1) Implementation of the DCTRMA and DCEOBA as described in AL 6870-E and its attached preliminary statements would “violate the ratepayer protections established in SB 846 (specifically Pub. Util. Code § 712.8(c)(1)(C));
- (2) The DCTRMA and DCEOBA as described in AL 6870-E are not authorized by D.22-12-005 Ordering Paragraph 4; and
- (3) The DCTRMA and DCEOBA as described in AL 6870-E would, if implemented, result in rates for electricity that are unjust and unreasonable in violation of Pub. Util. Code § 451.
- (4) It should be granted an evidentiary hearing to discuss the aforementioned issues.<sup>13</sup>

A4NR points out that SB 846 made available to PG&E a \$1.4 billion loan “for the purpose of facilitating the extension of [Diablo Canyon’s] operating period.”<sup>14</sup> The loan is being “provided in tranches, with disbursements based on milestones set forth in annual plans”<sup>15</sup> for the purpose of, among other things, “fuel purchase, fuel storage, ...and other expenses associated with the extension of the operating periods and current expiration dates, to cover incremental costs incurred by the borrower [PG&E] in its efforts to extend the operating period. Covered costs shall be limited to those necessary to preserve the option of extending the Diablo Canyon powerplant or to extend the Diablo Canyon powerplant’s operation to maintain electrical reliability.”<sup>16</sup> Moreover, actions taken by PG&E in preparation for extended operations “shall not be funded by ratepayers of any load-serving entities, but may be funded by the loan...or other nonratepayer funds available to the operator. The commission shall not allow the recovery from ratepayers of costs incurred by the operator to prepare for, seek, or receive any extended license to operate by the [NRC].”<sup>17</sup>

A4NR further notes that D.22-12-005 made the following conclusions of law regarding the DCTRMA and DCEOBA:

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<sup>13</sup> A4NR Protest, March 20, 2023, at p. 1.

<sup>14</sup> Pub. Res. Code § 25548.3(a) and 25548.1(h). *See also* A4NR Protest, March 20, 2023, at p. 1.

<sup>15</sup> A4NR Protest, March 20, 2023, at p. 2.

<sup>16</sup> Pub. Res. Code § 25548.3(c)(3).

<sup>17</sup> PUC § 712.8(c)(1)(C).

15. It is reasonable for PG&E's Extended Operations Period Subaccount to include costs that are ineligible for government funding, and which may otherwise warrant review and potential recovery from utility ratepayers.

16. Pub. Util. Code Section 451 requires that all charges demanded or received by any public utility shall be just and reasonable.<sup>18</sup>

A4NR contends that, in AL 6870-E, PG&E's proposed use of the DCEOBA would "record incremental fuel purchases necessary to operate Diablo Canyon Units 1 and 2 during their potential extended operations" in violation of PUC § 712.8(c)(1)(C) because the "long lead times necessary to design, fabricate, store, and install nuclear fuel for operation of the Diablo Canyon reactors for an incremental five years will require financial commitments to be made prior to the commencement of any extended operations period."<sup>19</sup> In short, A4NR asserts that PG&E is attempting to impermissibly recover fuel costs from ratepayers in the DCEOBA that should instead be recovered from the \$1.4 billion State loan via the DCTRMA because "PG&E mistakenly believes it has the discretionary authority in recording costs in the DCEOBA to simply waive the 'not eligible for government funding' prerequisite."<sup>20</sup>

A4NR also requests an evidentiary hearing "to establish the terms of all commitments for incremental fuel needs made by PG&E to date, the volume of any projected unmet fuel needs, and PG&E's plans to address such unmet needs prior to the end of the transition periods."<sup>21</sup>

### **California Community Choice Association (CalCCA) Protest**

CalCCA proposes two changes to the preliminary statement for the DCEOBA.

First, CalCCA notes that the permitted accounting entries for the DCEOBA Extended Operations Subaccount under section 5.d. allow for a debit entry equal to incurred replacement power costs, but "not a credit entry to reverse replacement power costs (and transfer them to the Liquidated Damages Subaccount) if incurred during outages where PG&E is found not to have met the reasonable manager standard."<sup>22</sup> CalCCA

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<sup>18</sup> D.22-12-005, Ordering Paragraphs 15 and 16.

<sup>19</sup> A4NR Protest, March 20, 2023, at p. 3.

<sup>20</sup> A4NR Protest, March 20, 2023, at p. 3.

<sup>21</sup> A4NR Protest, March 20, 2023, at pp. 3-4.

<sup>22</sup> CalCCA Protest, March 21, 2023, at p. 2.

believes that PG&E intended to allow for the recording of these credit entries based on analogous language allowing for the debt side of the transfer in section 5.b. of the Liquidated Damages Subaccount, and that section 5.n. provides a “catch-all” that would seem to cover these credit entries if necessary, but its proposed language would remove any uncertainty.<sup>23</sup> Accordingly, CalCCA proposes to add the following entry to the DCEOBA preliminary statement, section 5 of the Extended Operations Subaccount: “A credit entry equal to incurred replacement power costs as directed by the Commission.”

Second, CalCCA seeks to add clarifying language to the Volumetric Performance Fee Subaccount section 5.b.<sup>24</sup> The addition, underlined, would read:

5.b: A credit entry equal to net revenues and charges received in the CAISO market related to the extended operation of the Diablo Canyon Power Plant, to the extent such net revenue and charges are in excess of the amount recorded to the Extended Operations Subaccount.

This language would clarify “the ‘waterfall’ for applying CAISO market revenues against different types of costs.”<sup>25</sup>

### **PG&E Reply to Protests**

PG&E responded to both A4NR’s and CalCCA’s protests on March 28, 2023.

In response to A4NR’s protest, PG&E argued that A4NR’s assertion that “PG&E is not legally able to recover fuel costs incurred during the period of extended operations from ratepayers through the DCEOBA” was “erroneous” and an “unreasonable interpretation of [SB 846].”<sup>26</sup> PG&E further states that while “PG&E is procuring fuel during the transition period, it cannot reasonably or prudently expect to procure sufficient fuel for the entire five-year period of extended operations before the end of 2024.”<sup>27</sup> Moreover, PG&E asserts that fuel purchases are considered “costs and

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<sup>23</sup> CalCCA Protest, March 21, 2023, at pp. 2-3.

<sup>24</sup> CalCCA Protest, March 21, 2023, at p. 3.

<sup>25</sup> CalCCA Protest, March 21, 2023, at p. 3. “Waterfall” refers to CAISO market revenues which would first be credited to the Extended Operations Subaccount, the balance of which is paid by customers of all California load-serving entities (LSEs), and then to the Volumetric Performance Subaccount which is paid only by LSEs in PG&E’s service territory (*see also* DCEOBA preliminary statement, section 1. Purpose).

<sup>26</sup> PG&E Reply to Protests, March 28, 2023, at p. 2.

<sup>27</sup> PG&E Reply to Protests, March 28, 2023, at p. 2.



expenses to operate [Diablo Canyon] beyond the current expiration dates” under any reasonable interpretation of PUC § 712.8(h)(1).<sup>28</sup> Accordingly, PG&E states A4NR’s protest should be rejected and “any fuel purchases made during the period of extended operations” should be recorded in the DCEOBA and recovered in rates as proposed in Advice Letter 6870-E.

With respect to CalCCA’s protest, PG&E concurs with CalCCA’s requests to modify the language of Accounting Procedure 5.d. of the Extended Operations Subaccount and Accounting Procedure 5.b. of the Volumetric Performance Fee Subaccount, and agrees to submit language in a supplemental advice letter filing implementing those modifications.<sup>29</sup>

## **DISCUSSION**

The Commission has reviewed the Advice Letter, the protests by A4NR and CalCCA, and PG&E’s response. Findings are detailed below by protester.

### **A4NR Discussion**

As stated above, A4NR argues that:

- (1) Implementation of the DCTRMA and DCEOBA as described in AL 6870-E and its attached preliminary statements would “violate the ratepayer protections established in SB 846 (specifically Pub. Util. Code § 712.8(c)(1)(C));
- (2) The DCTRMA and DCEOBA as described in AL 6870-E are not authorized by D.22-12-005 Ordering Paragraph 4;
- (3) The DCTRMA and DCEOBA as described in AL 6870-E would, if implemented, result in rates for electricity that are unjust and unreasonable in violation Pub. Util. Code § 451; and
- (4) It should be granted an evidentiary hearing to discuss the aforementioned issues.<sup>30</sup>

With respect to issues (1) and (3), A4NR asserts that the “use of the DCEOBA...(rather than the DCTRMA) to record incremental fuel purchases necessary to operate Diablo Canyon Units 1 and 2 during their potential extended operations” would violate SB 846’s prohibition on utilizing ratepayer funds for actions taken “in preparation for

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<sup>28</sup> PG&E Reply to Protests, March 28, 2023, at p. 2.

<sup>29</sup> PG&E Reply to Protests, March 28, 2023, at pp. 2-3.

<sup>30</sup> A4NR Protest, March 20, 2023, at p. 1.

extended operations” and would result in electric rates that are unjust and unreasonable.<sup>31</sup> In making these assertions, A4NR implies in issue (2) that allowing these “incremental fuel purchases” to be wrongly recorded in the DCEOBA is antithetical to the purposes of both the DCTRMA and DCEOBA as stated in D.22-12-005 and, therefore, both accounts, as described in this advice letter, should not be authorized.

The Commission denies issues (1) and (3) as premature and rejects issue (2).

Public Utilities Code § 712.8(c)(1)(C) states:

Actions taken by the operator pursuant to the commission’s actions under this paragraph, including in preparation for extended operations, shall not be funded by ratepayers of any load-serving entities, but may be funded by the loan provided for by Chapter 6.3 (commencing with Section 25548) of Division 15 of the Public Resources Code or other nonratepayer funds available to the operator. The commission shall not allow the recovery from ratepayers of costs incurred by the operator to prepare for, seek, or receive any extended license to operate by the United States Nuclear Regulatory Commission.

Additionally, Public Utilities Code § 451 states that “all charges demanded or received by any public utility...shall be just and reasonable.”

PUC § 712.8(c)(1)(C) seeks to ensure that Diablo Canyon extended operations costs are not funded through the \$1.4 billion loan administered by DWR, but there is no indication in this statutory language, nor elsewhere in SB 846, that the legislature intended to categorically deny recovery of incremental fuel costs in the DCEOBA or limit its recovery to the DCTRMA. Moreover, in its examination of PUC § 712.8(c)(1)(C) and PUC § 451, the Commission already contemplated the possibility that PG&E may need to justify the transfer of SB 846 costs between the two accounts,<sup>32</sup> signifying a need for flexibility when considering all SB 846 costs, including incremental fuel costs.<sup>33</sup> Indeed, as A4NR points out, D.22-12-005 states it is “reasonable for PG&E’s Extended Operations Period Subaccount [in the DCEOBA] to include costs that are ineligible for

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<sup>31</sup> A4NR Protest, March 20, 2023, at pp. 2-3.

<sup>32</sup> D.22-12-005 at p. 17.

<sup>33</sup> However, as the Commission determined in D.22-12-005, Conclusion of Law 17, “PG&E should attempt to recover...transition and extended operations costs using government funding to the greatest extent possible...” including “all costs associated with preserving the option of extended operations at Diablo Canyon.”

government funding, and which may otherwise warrant review and potential recovery from utility ratepayers[,]" indicating the Commission has already considered there may be a need to review DCEOBA costs.<sup>34</sup>

The Commission acknowledges it is possible, as A4NR alleges, that incremental fuel costs could be considered "a necessary preparation for extended operations" under PUC § 712.8(c)(1)(C),<sup>35</sup> and that any costs charged or demanded by PG&E must be "just and reasonable,"<sup>36</sup> but those are issues to be addressed when PG&E submits said costs for review to DWR as part of the SB 846-required semi-annual true-up,<sup>37</sup> and in its annual Diablo Canyon Extended Operations Cost Forecast application.<sup>38</sup> Here, PG&E only requests to establish the structures of the DCEOBA and DCTRMA and does not request to record or review whether any specific incremental nuclear fuel costs are reasonable and recoverable. As such, A4NR's assertion that such costs should or should not be recorded in either account is premature and is therefore denied.

Additionally, A4NR in issue (2) suggested that allowing PG&E to record incremental nuclear fuel costs in the DCEOBA when they should be in the DCTRMA (as detailed in their respective preliminary statements in AL 6870-E) would be antithetical to the purposes of both and, accordingly, neither account should be approved as written. However, as discussed above, since SB 846 does not specify where incremental fuel costs should be recovered, the review of those costs are not requested in this advice letter filing, and the cost review can take place in both the DWR true-up and the DCP Extended Operations Cost Forecast application, the Commission agrees with PG&E<sup>39</sup> that the DCTRMA and DCEOBA as described in the advice letter comply with D.22-12-005. Therefore, the Commission rejects A4NR's assertion in issue (2) that the DCTRMA and DCEOBA in this AL are not authorized by D.22-12-005.

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<sup>34</sup> D.22-12-005, Conclusion of Law 15.

<sup>35</sup> Pub. Res. Code § 25548.4(a). The Commission notes that since the submission of Advice Letter 6870-E, PG&E submitted Advice Letter 7068-E on November 15, 2023 (approved December 28, 2023; effective November 15, 2023) in accordance with D.22-12-005, providing a copy of DWR's Spring 2023 semi-annual true-up report, which includes fuel costs recorded in the DCTRMA detailed starting on page 21 of the Attachment; *available at* [https://www.pge.com/tariffs/assets/pdf/adviceletter/ELEC\\_7068-E.pdf](https://www.pge.com/tariffs/assets/pdf/adviceletter/ELEC_7068-E.pdf).

<sup>36</sup> PUC § 451.

<sup>37</sup> Pub. Res. Code § 25548.4(a): "...[DWR], in collaboration with the Public Utilities Commission, shall establish a methodology and process for it to conduct a semiannual true-up review of the borrower's use of loan proceeds."

<sup>38</sup> D.23-12-036, Ordering Paragraph 4.

<sup>39</sup> PG&E Reply to Protests, March 28, 2023, at p. 3.

With respect to A4NR's request for an evidentiary hearing, the Commission denies this request as outside the scope of this advice letter filing. Determining the reasonableness of PG&E's statement that it cannot ensure it will be able to "purchase" the volume of fuel required for the entirety of the extended operating period "upfront"<sup>40</sup> was not at issue nor was it contemplated when the Commission directed PG&E to file this advice letter. Rather, D.22-12-005 intended this advice letter to "provide a detailed and complete accounting structure of the associated costs and recovery of the [DCTRMA] and the [DCEOBA]."<sup>41</sup> A4NR may have the opportunity to address this issue along with the appropriate source account for fuel purchases in PG&E's soon-to-be-filed DCPPE Extended Operations Cost Forecast application.<sup>42</sup> As such, A4NR's request for an evidentiary hearing for AL-6870-E is denied.

### CalCCA Discussion

As detailed above in the description of its protest, CalCCA proposed two clarifying changes to language in the preliminary statement for the DCEOBA. CalCCA proposed to add the following entry to the DCEOBA preliminary statement, section 5 of the Extended Operations Subaccount: "A credit entry equal to incurred replacement power costs as directed by the Commission."<sup>43</sup> CalCCA also proposed to add clarifying language to the Volumetric Performance Fee Subaccount section 5.b, underlined, which would read:

5.b: A credit entry equal to net revenues and charges received in the CAISO market related to the extended operation of the Diablo Canyon Power Plant, to the extent such net revenue and charges are in excess of the amount recorded to the Extended Operations Subaccount.<sup>44</sup>

In its reply, PG&E agreed to submit language in a supplemental advice letter filing implementing CalCCA's requested modifications.<sup>45</sup> On April 12, 2023, PG&E submitted supplemental advice letter 6870-E-A, amending Section 5 of the Extended Operations Subaccount to read "A debit or credit entry equal to incurred replacement power costs as directed by the Commission" and amending the Volumetric Performance Fee Subaccount to read exactly as CalCCA proposed (above).<sup>46</sup> As PG&E's supplement (1)

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<sup>40</sup> A4NR Protest, March 20, 2023, at p. 3.

<sup>41</sup> D.22-12-005, Ordering Paragraph 4.

<sup>42</sup> D.23-12-036, Ordering Paragraph 4. PG&E is required to file the application by no later than March 29, 2024.

<sup>43</sup> CalCCA Protest, March 21, 2023, at p. 2.

<sup>44</sup> CalCCA Protest, March 21, 2023, at p. 3.

<sup>45</sup> PG&E Reply to Protests, March 28, 2023, at pp. 2-3.

<sup>46</sup> PG&E Advice Letter 6870-E-A, April 12, 2023, at pp. 1-2.

amends the DCEOBA preliminary statement language for the Extended Operations Subaccount to reflect CalCCA's suggested language and, (2) amends the Volumetric Performance Fee Subaccount language to adopt CalCCA's language in its entirety, CalCCA's protest is thereby moot.

## **Conclusion**

The Commission has reviewed Advice Letter 6870-E as amended by supplemental Advice Letter 6870-E-A and, in accordance with the above discussion, approves PG&E's request to establish the DCTRMA and the DCEOBA.

## **COMMENTS**

Public Utilities Code section 311(g)(1) provides that this Resolution must be served on all parties and subject to at least 30 days public review. Any comments are due within 20 days of the date of its mailing and publication on the Commission's website and in accordance with any instructions accompanying the notice. Section 311(g)(2) provides that this 30-day review period and 20-day comment period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day review and 20-day comment period for the draft of this resolution was neither waived nor reduced. Accordingly, this draft resolution was mailed to parties for comments, and will be placed on the Commission's agenda no earlier than 30 days from today.

## **FINDINGS**

1. D.22-12-005, Ordering Paragraph 4, directed PG&E to file an Advice Letter to provide a detailed and complete accounting structure of the associated costs and recovery of the Diablo Canyon Power Plant Transition and Relicensing Memorandum Account (DCTRMA) and the Diablo Canyon Power Plant Extended Operations Balancing Account (DCEOBA).
2. Public Utilities Code § 712.8(c)(1)(C) seeks to ensure that Diablo Canyon extended operations costs are not funded through the \$1.4 billion loan administered by DWR, but there is no indication in its statutory language, nor elsewhere in SB 846, that the legislature intended to categorically deny recovery of incremental fuel costs in the DCEOBA or limit its recovery to the DCTRMA
3. The Commission already contemplated the possibility that PG&E may need to justify the transfer of SB 846 costs between the DCTRMA and DCEOBA.

4. Whether incremental fuel costs are considered a necessary preparation for extended operations under PUC § 712.8(c)(1)(C) and whether those costs are just and reasonable under PUC § 451 will be addressed when PG&E submits said costs for review to DWR as part of the SB 846-required semi-annual true-up process and in PG&E's annual Diablo Canyon Extended Operations Cost Forecast application.
5. PG&E only requests to establish the structures of the DCEOBA and DCTRMA and does not request to record or review whether any specific incremental nuclear fuel costs are reasonable and recoverable.
6. An evidentiary hearing is outside the scope of this advice letter filing.

**THEREFORE IT IS ORDERED THAT:**

1. The request of PG&E to establish the Diablo Canyon Transition and Relicensing Memorandum Account and the Diablo Canyon Extended Operations Balancing Account as ordered in Decision (D.) 22-12-005, and as submitted in Advice Letter 6870-E and amended by its supplement, 6870-E-A, is approved.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on May 9, 2024; the following Commissioners voting favorably thereon:

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Rachel Peterson  
Executive Director