

Decision _____

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 GRANTING THE SMALL AND MULTI-JURISDICTIONAL
UTILITIES’ PETITION TO MODIFY DECISION 23-12-036**

Summary

The California Public Utilities Commission grants the October 3, 2024, petition of the small multi-jurisdictional utilities (SMJUs) to modify Decision (D.) 23-12-036. Accordingly, D.23-12-036 is modified:

1. To eliminate any requirement for SMJUs to collect and remit Diablo Canyon Power Plant (DCPP) costs to Pacific Gas and Electric Company (PG&E); and
2. To eliminate any requirement for PG&E to collect and remit DCPP benefits to SMJUs.

Eliminating administrative burden and transaction costs associated with collecting and remitting DCPP benefits and costs will benefit ratepayers without affecting DCPP extended operations.

This proceeding remains open.

1. Procedural History

On October 3, 2024, Bear Valley Electric Service, Inc. (BVES or Bear Valley), Liberty Utilities (CalPeco Electric) LLC (Liberty), and PacifiCorp d/b/a Pacific Power (PacifiCorp) (collectively, the California Association of Small and Multi-Jurisdictional Utilities (CASMU) or small and multi-jurisdictional utilities (SMJUs)), filed a petition to modify Decision (D.)23-12-036 (Petition). On November 1, 2024, Pacific Gas and Electric Company (PG&E) filed a response supporting the SMJUs' request.

2. Regulatory Background

On January 20, 2023, the California Public Utilities Commission (Commission) opened Rulemaking (R.)23-01-007 to implement provisions of Senate Bill (SB) 846 (Dodd, 2022)¹ (SB 846). SB 846 allows for the potential extension of operations at Diablo Canyon Power Plant (DCPP or DC) beyond the current federal license retirement dates, (2024 for Unit 1 and 2025 for Unit 2), up to five additional years, under specified conditions.

Pursuant to SB 846, D.23-12-036, issued in R.23-01-007, directed and authorized extended operations at DCPP until October 31, 2029, (Unit 1) and October 31, 2030 (Unit 2). The approval in D.23-12-036 is subject to the following conditions:

1. The United States Nuclear Regulatory Commission (NRC) continues to authorize DCPP operations;

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

2. The \$1.4 billion loan agreement authorized by SB 846 is not terminated; and
3. The Commission does not make a future determination that DCPD extended operations are imprudent or unreasonable.²

Among other determinations, D.23-12-036 allocated the costs and benefits of extended DCPD operations among all load-serving entities subject to the Commission's jurisdiction; created a new non-bypassable charge (NBC) and associated processes to collect DCPD extended operations costs.³

With respect to the SMJUs, the Commission directed a process whereby the costs of DCPD extended operations are allocated to the SMJUs through a non-bypassable charge, followed by an equivalent credited amount:

As with the cost allocation discussion above, Bear Valley, Liberty, and PacifiCorp are afforded special treatment with respect to [resource adequacy] RA benefit allocations. Because Bear Valley, Liberty, and PacifiCorp are not required by the Commission to procure RA capacity, it would be nonsensical to allocate RA capacity to them. However, Bear Valley, Liberty, and PacifiCorp are each required to contribute \$10,000 toward the costs of extended operations at DCPD, and because the allocation of RA attributes and their benefits to LSEs is grounded in the equity of affording benefits of extended operations at DCPD to those LSEs that pay for the costs of extended operations, it is equitable that Bear Valley, Liberty, and PacifiCorp receive an equivalent amount of

² D.23-12-036 at Ordering Paragraph (OP) 1.

³ D.23-12-036 at 138-139, OP 14.

financial benefits from the RA attributes related to extended operations at DCP. ⁴

Specifically, the Commission established the following requirement: For every year that DCP extended operations costs are collected, the SMJUs are directed to collect \$10,000 each through an NBC and remit the collected amount to PG&E on an annual basis. ⁵ In return, PG&E must distribute \$10,000 annually to each SMJU in consideration of the resource adequacy attributes that the SMJUs would have received for DCP extended operations, and the SMJUs must credit these funds to its ratepayers using the same rate element used to collect its allocated portion of the costs of extended operations at DCP. ⁶

3. Petition to Modify D.23-12-036

Rule 16.4(b) of the Commission's Rules of Practice and Procedure requires that a petition for modification concisely state the justification for the requested relief and propose specific wording to carry out all requested modifications to the decision. In their Petition, SMJUs do not dispute the amount of DCP extended operations costs and benefits as allocated to the SMJUs and PG&E, but they propose to "streamline those allocations by avoiding unnecessarily collecting and remitting their respective allocations because the cost and benefits allocations are equal and offsetting." ⁷ The Petition explains that because the \$10,000 cost and benefit allocation amounts are equal and offsetting, there is no

⁴ D.23-12-036 at 83.

⁵ D.23-12-036 at OP 8.

⁶ D.23-12-036 at OP 11.

⁷ Petition at 4.

need to actually collect and remit those costs and benefits from customers.⁸

Therefore, SMJUs request that D.23-12-036 be modified to:

1. Eliminate any requirement for the SMJUs to collect and remit DCPD costs to PG&E; and
2. Eliminate any requirement for PG&E to collect and remit DCPD benefits to the SMJUs.

In SMJUs' view, avoiding the collection and remittance of offsetting charges will significantly reduce administrative burdens and corresponding costs associated with collecting and remitting those allocations, reducing costs for customers without impacting DCPD's extended operations while still meeting all objectives of D.23-12-036 and SB 846.

4. Discussion

The SMJUs' request to modify D.23-12-036 is reasonable and granted.

4.1. Timeliness of the Petition

Rule 16.4(d) requires petitions for modification to be filed and served within one year of the effective date of the decision proposed to be modified. If more than one year has elapsed, the petition must explain why the petition could not have been presented within one year of the date of the decision. This Petition was filed within one year of the effective date of D.23-12-036, and therefore it complies with the timeliness requirement in Rule 16.4(d).

⁸ Petition at 4-5.

4.2. Granting the Relief Requested by SMJUs

Upon review of the petition and PG&E's response, the Commission finds the petition to modify D.23-12-036 reasonable and grants the relief requested by the SMJUs.

In the Petition, SMJUs note that the \$10,000 currently required to be collected by each SMJU from its customers and remitted to PG&E is equivalent to the annual \$10,000 payment that each SMJU will receive from PG&E and credit back to its customers.⁹ This annual process will impose administrative costs on SMJU customers.¹⁰ SMJUs argue that because the \$10,000 cost and benefit allocation amounts are equal and offsetting, there is no need to collect such costs and benefits from customers, remit those costs to PG&E or the SMJUs, and credit such funds back to the SMJUs' and PG&E's customers.¹¹ Therefore, SMJUs request that the Commission modify D.23-12-036 to eliminate any collection, remittance, and credit requirements and instead allow the SMJU and PG&E to include the net zero NBC in their public purpose program rates.

Because the allocated charges and benefits offset each other and the relief requested by the SMJUs will benefit their customer base by eliminating the administrative costs of the process established by D.23-12-036, the Commission finds the request by the SMJUs reasonable. As noted by PG&E, from an accounting perspective, approving the Petition would eliminate the need to record the \$10,000 in revenues from each of the SMJUs as well as the offsetting

⁹ Petition at 5.

¹⁰ Petition at 5.

¹¹ Petition at 5 and 6.

subsequent reimbursement in the Diablo Canyon Extended Operations Balancing Account (DCEOBA), which would reduce the number of entries to the DCEOBA account, streamlining review by the Commission and stakeholders as well as implementation.¹²

To reflect the offsetting costs and benefits, the SMJUs and PG&E are hereby authorized to utilize a net zero NBC, equal-cents-per-kWh charge in their PPP rates which will effectively describe the offsetting allocations. Eliminating any requirement to transfer funds between the SMJUs and PG&E will avoid unnecessary administrative and transaction costs of collection and remittance, minimizing costs for customers. To avoid customer confusion, as suggested by the SMJUs, the public purpose program (PPP) rate should note that the costs and benefit allocations between PG&E and the SMJUs for DCPD extended operations have been netted out, resulting in a charge of zero.

4.3. Modifications

The Commission finds the modifications to D.23-12-036 as proposed by the SMJUs reasonable. Accordingly, D.23-12-036 Section 6.1 (pages 76–77) should be modified to read as:

Because statute grants no discretion as to whether Bear Valley, Liberty, and PacifiCorp customers should contribute to eligible DCPD costs, these three utilities must be assigned some share of the costs, even if they do not benefit from extended operations at DCPD. However, in light of the historic differential treatment received by the SMJUs with respect to reliability and planning requirements, the fact that an additional reliability resource within CAISO offers little

¹² PG&E's Response at 2.

benefits to these utilities, and in order to promote equity and fairness, this decision finds that Bear Valley, Liberty, and PacifiCorp should each be allocated a nominal \$10,000 in eligible DCP extended operations revenue responsibility in each year such revenues are allocated among the LSEs subject to the Commission's jurisdiction. This total amount of \$30,000 shall be deducted from the total revenue responsibility that would otherwise be assigned to PG&E ratepayers. Each year that DCP extended operations costs are collected from PG&E ratepayers, Bear Valley, Liberty, and PacifiCorp shall each ~~collect~~ be allocated \$10,000 of cost responsibility. However, in light of the offsetting benefit allocation outlined below, Bear Valley, Liberty, and PacifiCorp may utilize a net zero through a non-bypassable, equal-cents-per-kWh charge and remit the collected amount to PG&E on an annual basis in their public purpose program (PPP) rates. This decision agrees with the SMJUs that Section 712.8(1)(1) grants the Commission discretion to allocate DCP extended operations costs amongst the LSEs as it sees fit, including as outlined above.²⁰⁹

D.23-12-036 Section 7.1.1. (pages 83–84) should be modified to read as:

As with the cost allocation discussion above, Bear Valley, Liberty, and PacifiCorp are afforded special treatment with respect to RA benefit allocations. Because Bear Valley, Liberty, and PacifiCorp are not required by the Commission to procure RA capacity, it would be nonsensical to allocate RA capacity to them. However, Bear Valley, Liberty, and PacifiCorp are each ~~required to contribute~~ assigned an allocation of \$10,000 toward the costs of extended operations at DCP, and because the allocation of RA attributes and their benefits to LSEs is grounded in the equity of affording benefits of extended operations at DCP to those LSEs that pay for the costs of extended operations, it is equitable that Bear Valley, Liberty, and PacifiCorp receive an equivalent amount of financial benefits from the RA attributes related to extended operations at DCP.

Therefore, PG&E shall ensure on an annual basis that \$30,000 in financial benefits from PG&E's portion of the RA attributes of extended operations at DCPD are ~~set aside for~~ allocated towards Bear Valley, Liberty, and PacifiCorp. PG&E shall ~~distribute~~ allocate \$10,000 annually to each of Bear Valley, Liberty, and PacifiCorp in consideration of the RA attributes they would have received for DCPD extended operations had they been required by the Commission to procure RA capacity. Bear Valley, Liberty, and PacifiCorp shall credit these funds to their ratepayers using the same rate element used to collect their allocated portion of the costs of extended operations at DCPD. This approach is consistent with CalCCA's proposal that RA benefits for SMJUs be accounted for by "apply[ing] the value of SMJUs' allocated portion of DCPD RA as a credit against their allocated share of DCPD net costs...."²³¹ However, in light of the offsetting RA credit and DCPD cost allocation, PG&E and the SMJUs are not required to collect and distribute \$10,000 to one another on an annual basis, but may instead include a net zero non-bypassable charge in their public purpose program (PPP) rates.

Conclusion of Law 33 of D.23-12-036 should be modified to read as:

33. In light of the historic differential treatment of SMJUs with respect to reliability and planning requirements, ~~and~~ in order to promote equity and fairness, and in light of the offsetting RA benefits, it is reasonable ~~for to require~~ Bear Valley, Liberty, and PacifiCorp to each ~~collect \$10,000 through~~ utilize a net zero non-bypassable, equal-cents-per-kWh charge in their public purpose program (PPP) rates ~~and remit the collected amount to PG&E on an annual basis.~~

Conclusion of Law 37 of D.23-12-036 should be modified to read as:

37. To ensure the SMJUs receive equivalent financial benefits from the RA attributes related to extended operations at DCPD, PG&E should be instructed to ~~distribute~~ allocate

\$10,000 annually to each of Bear Valley, Liberty, and PacifiCorp in consideration of the RA attributes that they would have received for DCPP extended operations had they been required by the Commission to procure RA capacity.

Ordering Paragraph 8 of D.23-12-036 should be modified to read as:

8. For every year that Diablo Canyon Nuclear Power Plant extended operations costs are collected, Bear Valley Electric Service, Inc., Liberty Utilities, and PacifiCorp d/b/a Pacific Power (collectively, the small and multi-jurisdictional utilities or SMJUs), are allocated \$10,000 of cost responsibility. Based on the offsetting \$10,000 allocation outlined in Ordering Paragraph 11, the SMJUs are not required ~~are directed~~ to collect \$10,000 each through a non-bypassable charge and are not required to remit the collected amount to Pacific Gas and Electric Company on an annual basis. Instead, the SMJUs shall include a net zero non-bypassable charge in their public purpose program (PPP) rates.

Ordering Paragraph 11 of D.23-12-036 should be modified to read as:

11. For every year that Diablo Canyon Nuclear Power Plant (DCPP) extended operations costs are collected, Pacific Gas and Electric Company ~~shall distribute~~ is allocated \$10,000 of cost responsibility annually to each of Bear Valley Electric Service, Inc., Liberty Utilities, and PacifiCorp d/b/a Pacific Power (collectively, the small and multi-jurisdictional utilities or the SMJUs), in consideration of the resource adequacy attributes that the SMJUs would have received for ~~Diablo Canyon Nuclear Power Plant (DCPP)~~ extended operations. Based on the offsetting \$10,000 of cost responsibility of the SMJUs outlined in Ordering Paragraph 8, Pacific Gas and Electric Company is not required to distribute \$10,000 to each of the SMJUs annually but shall include a net zero non-bypassable charge in its public purpose program (PPP) rates, ~~and the SMJUs shall each credit these funds to its ratepayers~~

~~using the same rate element used to collect its allocated portion of the costs of extended operations at DCP.~~

5. 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 relevant public comments regarding this Petition on the Docket Card.

6. Comments on Proposed Decision

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Public Utilities Code Section 311(g)(2), the otherwise applicable 30-day period for public review and comments is being waived.

7. Assignment of Proceeding

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

Findings of Fact

1. SMJUs filed their petition to modify D.23-12-036 within a year of the effective date of D.23-12-036.
2. SMJUs do not dispute the amount of DCP extended operations costs and benefits as allocated to the SMJUs and PG&E.
3. The \$10,000 currently required by D.23-12-036 to be collected by each SMJU from its customers and remitted to PG&E is equivalent to the annual

\$10,000 payment that each SMJU will receive from PG&E and credit back to its customers.

4. Because the \$10,000 cost and benefit allocation amounts are equal and offsetting, there is no need to collect and remit those costs and benefits from customers.

5. This annual process will impose administrative costs on SMJU customers.

Conclusions of Law

1. SMJUs' petition to modify D.23-12-036 fulfills the requirements of Rule 16.4(d).

2. The requested modification is reasonable and should be granted.

3. To avoid customer confusion, the PPP rate should note that the costs and benefit allocations between PG&E and the SMJUs for DCPD extended operations have been netted out, resulting in a charge of zero.

O R D E R

IT IS ORDERED that:

1. The Petition for Modification of Decision 23-12-036 filed by Bear Valley Electric Service, Inc., Liberty Utilities (CalPeco Electric) LLC, and PacifiCorp d/b/a Pacific Power, dated October 1, 2024, is granted.

2. Section 6.1 of Decision 23-12-036 (at 76–77) is modified as follows:

Because statute grants no discretion as to whether Bear Valley, Liberty, and PacifiCorp customers should contribute to eligible DCPD costs, these three utilities must be assigned some share of the costs, even if they do not benefit from extended operations at DCPD. However, in light of the historic differential treatment received by the SMJUs with respect to reliability and planning requirements, the fact that an additional reliability resource within CAISO offers little

benefits to these utilities, and in order to promote equity and fairness, this decision finds that Bear Valley, Liberty, and PacifiCorp should each be allocated a nominal \$10,000 in eligible DCPD extended operations revenue responsibility in each year such revenues are allocated among the LSEs subject to the Commission's jurisdiction. This total amount of \$30,000 shall be deducted from the total revenue responsibility that would otherwise be assigned to PG&E ratepayers. Each year that DCPD extended operations costs are collected from PG&E ratepayers, Bear Valley, Liberty, and PacifiCorp shall each be allocated \$10,000 of cost responsibility. However, in light of the offsetting benefit allocation outlined below, Bear Valley, Liberty, and PacifiCorp may utilize a net zero non-bypassable, equal-cents-per-kWh charge in their public purpose program (PPP) rates. This decision agrees with the SMJUs that Section 712.8(l)(1) grants the Commission discretion to allocate DCPD extended operations costs amongst the LSEs as it sees fit, including as outlined above.²⁰⁹

3. Section 7.1.1. (at 83–84) of Decision 23-12-036 is modified to read as:

As with the cost allocation discussion above, Bear Valley, Liberty, and PacifiCorp are afforded special treatment with respect to RA benefit allocations. Because Bear Valley, Liberty, and PacifiCorp are not required by the Commission to procure RA capacity, it would be nonsensical to allocate RA capacity to them. However, Bear Valley, Liberty, and PacifiCorp are each assigned an allocation of \$10,000 toward the costs of extended operations at DCPD, and because the allocation of RA attributes and their benefits to LSEs is grounded in the equity of affording benefits of extended operations at DCPD to those LSEs that pay for the costs of extended operations, it is equitable that Bear Valley, Liberty, and PacifiCorp receive an equivalent amount of financial benefits from the RA attributes related to extended operations at DCPD.

Therefore, PG&E shall ensure on an annual basis that \$30,000 in financial benefits from PG&E's portion of the RA attributes of extended operations at DCPD are allocated towards Bear Valley, Liberty, and PacifiCorp. PG&E shall allocate \$10,000 annually to each of Bear Valley, Liberty, and PacifiCorp in consideration of the RA attributes they would have received for DCPD extended operations had they been required by the Commission to procure RA capacity. Bear Valley, Liberty, and PacifiCorp shall credit these funds to their ratepayers using the same rate element used to collect their allocated portion of the costs of extended operations at DCPD. This approach is consistent with CalCCA's proposal that RA benefits for SMJUs be accounted for by "apply[ing] the value of SMJUs' allocated portion of DCPD RA as a credit against their allocated share of DCPD net costs...."²³¹ However, in light of the offsetting RA credit and DCPD cost allocation, PG&E and the SMJUs are not required to collect and distribute \$10,000 to one another on an annual basis, but may instead include a net zero non-bypassable charge in their public purpose program (PPP) rates.

4. Conclusion of Law 33 of Decision 23-12-036 is modified to read as:

33. In light of the historic differential treatment of SMJUs with respect to reliability and planning requirements, in order to promote equity and fairness, and in light of the offsetting RA benefits, it is reasonable for Bear Valley, Liberty, and PacifiCorp to each utilize a net zero non-bypassable, equal-cents-per-kWh charge in their public purpose program (PPP) rates.

5. Conclusion of Law 37 of Decision 23-12-036 is modified as follows:

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

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

6. Ordering Paragraph 8 of Decision 23-12-036 is modified as follows:

8. For every year that Diablo Canyon Nuclear Power Plant extended operations costs are collected, Bear Valley Electric Service, Inc., Liberty Utilities, and PacifiCorp d/b/a Pacific Power (collectively, the small and multi-jurisdictional utilities or SMJUs), are allocated \$10,000 of cost responsibility. Based on the offsetting \$10,000 allocation outlined in Ordering Paragraph 11, the SMJUs are not required to collect \$10,000 each through a non-bypassable charge and are not required to remit the collected amount to Pacific Gas and Electric Company on an annual basis. Instead, the SMJUs shall include a net zero non-bypassable charge in their public purpose program rates.

7. Ordering Paragraph 11 of Decision 23-12-036 is modified as follows:

11. For every year that Diablo Canyon Nuclear Power Plant (DCPD) extended operations costs are collected, Pacific Gas and Electric Company is allocated \$10,000 of cost responsibility annually to each of Bear Valley Electric Service, Inc., Liberty Utilities, and PacifiCorp d/b/a Pacific Power (collectively, the small and multi-jurisdictional utilities or SMJUs), in consideration of the resource adequacy attributes that the SMJUs would have received for DCPD extended operations. Based on the offsetting \$10,000 of cost responsibility of the SMJUs outlined in Ordering Paragraph 8, Pacific Gas and Electric Company is not required to distribute \$10,000 to each of the SMJUs annually but shall include a net zero non-bypassable charge in its public purpose program rates.

8. Pacific Gas and Electric Company must file a Tier 1 Advice Letter to implement the changes within 30-days of the issuance of this decision.

9. Rulemaking 23-01-007 remains open.

This order is effective today.

Dated January __, 2025, at Sacramento, California