

Decision 26-10-079

October 29, 2026

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

ORDER DENYING REHEARING OF DECISION 25-12-007**I. SUMMARY**

This order disposes of the applications for rehearing of Decision 25-12-007 (Decision) filed by San Luis Obispo Mothers for Peace (Mothers for Peace) and CALifornians for Renewable Energy (CARE). We have carefully reviewed and considered all the allegations of legal error raised in the rehearing applications and do not find rehearing of the Decision to be warranted.

The Decision authorized Pacific Gas and Electric Company (PG&E) to recover in rates certain expenses associated with the operation of the Diablo Canyon Power Plant (DCPP) for a 2026 forecast period, and approved PG&E's plan for spending the statutorily authorized Volumetric Performance Fees (VPFs) in Application (A.) 25-03-015.

In its application for rehearing, Mothers for Peace alleges that the Commission's failure to review the cost forecast for prudence, cost-effectiveness, and need violates Public Utilities Code section 1705,¹ which requires that Commission

¹ Unless otherwise specified, all section references are to the California Public Utilities Code.

decisions “contain, separately stated, findings of fact and conclusions of law ... on all issues material to the order or decision.” (Mothers for Peace App. Rehg. at pp. 1-7.) CARE, in its rehearing application, argues that expenses incurred in 2024 and 2025 must be disallowed as they are preparatory and not recoverable in rates pursuant to section 712.8(d); that VPFs must be applied to lower Diablo Canyon expenses before being used to fund other projects; and that Finding of Fact 6 of the Decision is erroneous and contrary to the record evidence. (CARE App. Rehg. at p. 1.)

All but one of the arguments raised by Mothers for Peace and CARE were decided in prior, final Commission decisions and are thus barred as impermissible collateral attacks under section 1709. The only new claim, CARE’s contestation of Finding of Fact 6, fails to demonstrate legal error and we decline to reweigh the evidence on rehearing. Therefore, we deny the applications for rehearing, as further explained below.

II. BACKGROUND

DCPP is owned and operated by PG&E. DCPP was slated for retirement at the expiration of its United States Nuclear Regulatory Commission (NRC) licenses, November 2, 2024 for Unit 1, and August 26, 2025 for Unit 2.

In September 2022, Governor Newsom signed into law Senate Bill (SB) 846, which allowed for the extension of operations at DCPP for up to five additional years, under specific conditions provided in the statute.

SB 846 dictates how extended operations are to be funded and directs the Commission to review certain PG&E DCPP spending. As relevant to the applications for rehearing, SB 846:

1. Directs the Commission to “authorize [PG&E] to recover all reasonable costs and expenses necessary to operate Diablo Canyon Units 1 and 2 beyond the current expiration dates ... on a forecast basis in a new proceeding structured similarly to its annual Energy Resource Recovery Account [ERRA] forecast” (§ 712.8(h)(1));

2. States that certain costs cannot be recovered in rates, including costs to prepare for extended operations (§ 712.8(c)(1)(C)); and
3. Sets a volumetric payment for each megawatt generated and describes how such payments can be spent (§§ 712.8(f)(5), 712.8(s)).

In our first decision implementing SB 846, D.23-12-036, we established the broad parameters for the required ERRA-like cost forecast application. (See *Decision Conditionally Approving Extended Operations at Diablo Canyon Nuclear Power Plant Pursuant to Senate Bill 846* (2023) [D.23-12-036], pp. 132-33.)² Notably, we considered arguments on how to review DCPD costs for prudence and cost effectiveness and did not commit to doing so as part of the annual DCPD cost forecast review process. (See *id.* at pp. 57-64.)

We also reviewed and interpreted the text of section 712.8(s)(1), which provides that VPFs must be spent on public purpose priorities to the extent they are not needed for Diablo Canyon. (§ 712.8(s)(1).) After receiving extensive party comment on the issue, we concluded that VPFs must be used to offset DCPD operating costs only if actual costs exceed 115 percent of the approved forecast. (D.23-12-036 at p. 134, Conclusions of Law 59 and 60.)

Then, in D.24-12-033, we reviewed and approved a DCPD extended cost forecast for the first time. We reviewed PG&E's forecasted operations and maintenance (O&M) costs from September 1, 2023, through December 31, 2025, for reasonableness, and authorized PG&E to recover in rates the amount determined to be reasonable. (*Decision on Pacific Gas and Electric Company's Revenue Requirement to Support Extended Operation of Diablo Canyon Power Plant and 2025 Volumetric Performance Fees Proposal* (2024) [D.24-12-033], p. 81.) We did not review the cost forecast under other standards, such as prudence or cost-effectiveness.

² Unless otherwise noted, citations to Commission decisions issued since July 1, 2000 are to the official pdf versions, which are available on the Commission's website at: <http://docs.cpuc.ca.gov/DecisionsSearchForm.aspx>.

Also, in D.24-12-033, we adopted a methodology for distinguishing preparatory costs — which cannot be recovered in rates — from ongoing operations costs — which can be recovered in rates. (Compare § 712.8(h)(1) with § 712.8(c)(1)(C).) The methodology provides that ongoing operations costs are “for projects not required by the NRC license renewal process or as a condition of license renewal and: (1) that are expected to be placed in service on or after January 1, 2027 and/or (2) the project scoping, design, engineering, procurement and implementation efforts generally begin after the original Unit 1 license expiration of November 2, 2024.” (D.24-12-033 at p. 16; Decision at p. 23.)

On March 28, 2025, PG&E filed its *Application of Pacific Gas and Electric Company (U39 E) to Recover in Customer Rates the Costs to Support Extended Operation of DCCP from January through December 31, 2026, and for Approval of Planned Expenditures of 2026 Volumetric Performance Fees*, A.25-03-015 (Application).

On December 9, 2025, we issued the Decision. (Decision at p. 1.) The Decision authorized a DCCP revenue requirement of \$382.23 million for the forecast period, January 1, 2026 through December 31, 2026. (*Id.* at p. 2.) The Decision also approved the methodology for the calculation of the DCCP non-bypassable charge and rate proposal, PG&E’s 2026 volumetric spending plan, and PG&E’s methodology for escalating the annual Fixed Management Fee using the all-urban consumer price index. (*Id.* at p. 84.) Additionally, in the Decision, we directed PG&E to disclose whenever any transition and license renewal costs are proposed for recovery in future DCCP forecasting proceedings and why these are now recoverable for extended operations. (*Ibid.*)

On January 8, 2026, Mothers for Peace and CARE filed applications for rehearing of the Decision. On January 23, 2026, PG&E filed a response.

III. DISCUSSION

A. **Mothers for Peace’s Argument that the Commission Must Adopt Additional Cost Forecast Review Criteria Is a Collateral Attack on Final Commission Decisions.**

Mothers for Peace alleges that the Decision’s failure to review the cost forecast for prudence, cost-effectiveness, and need violates section 1705. (Mothers for Peace App. Reh’g. at p. 3.) Mothers for Peace raises the same arguments here as it raised in its application for rehearing of D.24-12-033, which we denied in D.25-07-041. D.24-12-033 and D.25-07-041 are final decisions. Mothers for Peace’s attempt to relitigate issues decided in those decisions through the instant rehearing application is an impermissible collateral attack barred by section 1709.

In its application for rehearing of D.24-12-033, Mothers for Peace alleged that the Commission’s failure to make “separate findings of fact and conclusions of law on the issues of prudence, cost-effectiveness and need for DCP” was legal error in violation of section 1705. (Mothers for Peace App. Reh’g. of D.24-12-033 (Jan. 17, 2025) filed in A.24-03-018, p. 3.) We considered and rejected this argument in D.25-07-041. (D.25-07-041 at pp. 14-18.) We explained that we have the discretion to consider cost effectiveness and prudence in other proceedings and thus did not need to do so in DCP forecast proceedings. (*Ibid.*)

Mothers for Peace then challenged these Commission determinations by petitioning the California Court of Appeal to issue a writ of review, which the Court summarily denied, and further sought review by the California Supreme Court, which the Supreme Court likewise denied. (*Mothers for Peace v. Public Utilities Com.*, petition denied March 5, 2026, B348439; review denied June 10, 2026, S295723.) In its petitions, Mothers for Peace expanded on its argument, additionally emphasizing that PG&E’s costs must be reviewed under the prudent manager standard. (See, e.g., Mothers for Peace, *Petition for Writ of Review*, B348439, p. 25 (“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”).)

The core claim Mothers for Peace presents in the rehearing application at issue here is that “the Commission has committed legal error by issuing the Decision which fails to analyze and included express findings on the issues of prudence, cost-effectiveness, need for DCPD and the prudent manager standard.” (Mothers for Peace App. Rehg. at p. 3.) This is the same argument Mothers for Peace raised in response to D.24-12-033, which we rejected, and the California courts declined to review.

Given that the Commission decided this issue, we reject Mothers for Peace’s claim as an improper collateral attack on final Commission decisions. (§ 1709 (“In all collateral actions or proceedings, the orders and decisions of the commission which have become final shall be conclusive”); see also *Order Modifying D.14-02-016 and Denying Rehearing of the Decision, as Modified* (2014) [D.14-06-053], pp. 13-15 (citing *Camp Meeker Water System, Inc. v. Public Utilities Com.* (1990) 51 Cal.3d 845, 852, fn. 3) (finding that section 1709 barred parties’ attempts to relitigate the findings of a study relied upon in a prior, final Commission decision to show a procurement need).)

B. CARE’s Assertion that Certain Costs Must Be Disallowed as Preparatory Is a Collateral Attack on a Final Commission Decision.

CARE argues in its application for rehearing that the Decision’s approval of project costs from 2024 and 2025 totaling \$304,605,000 violates the section 712.8(d) prohibition on increasing cost recovery for O&M expenses incurred prior to DCPD’s extension. (CARE App. Rehg. at pp. 2-4.) To support its claim, CARE quotes the section 712.8(d) restriction on increasing O&M cost recovery for expenses incurred August 1, 2022, through November 2, 2024, and August 1, 2022, through August 26, 2025, for Units 1 and 2 respectively, above what was approved in the A.21-06-021 general rate case, as well as similar language from the legislative history. (*Id.* at pp. 3-4.)

We considered and rejected this very same argument from CARE in D.24-12-033, where CARE argued that \$149 million in certain O&M expenses should be

disallowed pursuant to section 712.8(d), as well as for other reasons. (D.24-12-033 at p. 16.) Interpreting the limitation from section 712.8(d), we concluded:

The distinction between transitional or preparatory costs versus extended operations costs has not been clearly made by the relevant statute. However, PG&E notes, and we agree, that Pub. Util. Code Section 712.8(d) refers to “O&M expense” as that term is used in traditional cost of service ratemaking and is meant to preclude recovery of additional/incremental costs to those authorized in PG&E’s 2023 [General Rate Case], which assumed DCPD retirement dates of 2024 and 2025. PG&E adds, “The same section does not preclude recovery of extended operations period costs incurred in 2023, 2024, and 2025 through the DC NBC. Given that all costs of DCPD extended operations must be recovered as O&M expense (i.e., none of the costs can be capitalized or rate-based) any other interpretation of Pub. Util. Code Section 712.8(d) renders moot Pub. Util. Code Sections 712.8(h)(1), (f)(2), (f)(5) and (f)(6).”

(*Id.* at p. 17 (citations omitted).)

When CARE again raised its argument regarding section 712.8(d) in the instant proceeding, the Commission relied on its prior interpretation of the statute, quoting the same passage provided above. (Decision at p. 23.) The Commission went on to find that, “the identification of DCPD projects in ... reports before November 2, 2024 does not automatically render those projects transition spending” (*Ibid.*)

Ultimately, the argument CARE raises here was decided in D.24-12-033, where we interpreted section 712.8(d) to allow certain O&M expenses incurred between 2023 and 2025 to be recoverable in rates as part of a DCPD forecast proceeding, so long as the expenses were not incidental to a cost authorized in PG&E’s 2023 general rate case. (D.24-12-033 at p. 17.) Given that CARE’s argument regarding section 712.8(d) functions as a collateral attack on D.24-12-033, challenging our previously adopted interpretation of 712.8(d) in a final decision, it is precluded under section 1709. (§ 1709; see also *People v. Western Air Lines* (1954) 42 Cal.2d 621, 630) (finding that Commission determinations that, “have been appropriately and unsuccessfully challenged, as here, by direct attack and have run the gamut of approval by the highest

courts, state and federal ... should have the conclusive effect of *res judicata* as to the issues involved where they are again brought into question in subsequent proceedings between the same parties”).) Accordingly, we deny CARE’s request for rehearing on this issue.

C. CARE’s Argument on VPFs Is a Collateral Attack on a Final Commission Decision.

CARE next argues that VPF revenues must first be applied to reduce DCPD operating costs before being applied to other projects. (CARE App. Rehg. at p. 5.) Here again, CARE raises an argument we previously considered and rejected.

In D.23-12-036, we decided when VPFs must be used to offset DCPD operating expenses. (D.23-12-036 at p. 134, Conclusions of Law 59 and 60.) In reaching this conclusion, we rejected the very same argument CARE raises here; namely, that VPFs must first be used to fund costs associated with DCPD. (See *id.* at pp. 109-10.) PG&E also disagreed with our reading of section 712.8(s), alleging in an application for rehearing — which the Commission denied — that VPFs should not be directed to DCPD operational expenses at all. (D.24-05-068 at pp. 15-21.) PG&E then filed a petition for writ of review at the California Court of Appeal on this and other issues, which the court summarily denied; after which PG&E petitioned the California Supreme Court for review, a petition that was also denied. (See *PG&E v. Public Utilities Com.*, petition denied January 31, 2025, A170833; review denied April 2, 2025, S289239.)

We determined when VPFs must be used to offset DCPD operating expenses in D.23-12-036, a final Commission. The argument CARE raises here, that VPFs must first be used to pay down DCPD operating expenses, was addressed in D.23-12-036. We, therefore, reject this argument as it is an impermissible collateral attack on a final Commission decision. (§ 1709; see also *Anchor Lighting v. Southern California Edison Co.* (2006) 142 Cal.App.4th 541, 549 (finding that appellant’s arguments that contest a separate Commission decision were barred as collateral attacks, citing with approval the Commission’s same determination under section 1709).)

D. CARE's Allegation that Finding of Fact 6 is Unsupported by the Record Lacks Merit.

Finding of Fact 6 found no actual or known forecastable costs for NRC license renewal conditions or any applicable Diablo Canyon Independent Safety Committee (DCISC) recommendations during the record period. (Decision at p. 79.) CARE argues that, as to the absence of DCISC recommendations, this statement is not supported by the record and overlooks record evidence submitted by CARE, including an email from DCISC legal counsel and the DCISC 34th annual report. (CARE App. Rehg. at p. 5.)³

In the Decision, we considered CARE's argument on this issue. We addressed the fact that the DCISC 34th annual report identified certain DCPD projects that may need to be undertaken during the extension period, but we noted that the report identifies these projects as based on "preliminary results" and describes the report as a "living document." (Decision at p. 24 (quoting the DCISC 34th annual report).) We concluded that, "[t]hrough this language, the DCISC report is clear that the projects are identified largely for planning purposes and are subject to modification." (*Ibid.*) CARE's cited email and the report itself do not rebut this conclusion, and it is simply not true that the Decision "overlooks" the evidence CARE presented. (See CARE App. Rehg. at p. 5.)

The applicable standard governing Commission findings is that they must be supported by "substantial evidence in light of the whole record." (§ 1757(a)(4).) But CARE does not address the substantial evidence standard, pointing only to what it believes to be conflicting evidence, a contention we already considered.

Because CARE does not address this standard, CARE fails to demonstrate that Finding of Fact 6 is unsupported by substantial evidence, and therefore, fails to demonstrate that rehearing is warranted on this issue.

³ CARE's rehearing application does not specify any claim of error as to the clause in Finding of Fact 6 related to the NRC license renewal conditions.

IV. CONCLUSION

Mothers for Peace and CARE have failed to show legal error and we therefore deny their applications for rehearing.

THEREFORE, IT IS ORDERED that:

1. The rehearing applications of Decision 25-12-007 are denied.
2. This proceeding, Application 25-03-015, is closed.

This order is effective today.

Dated October 29, 2026, at San Francisco, California.

JOHN REYNOLDS

President

DARCIE L. HOUCK

KAREN DOUGLAS

MATTHEW BAKER

CHRISTINE HARADA

Commissioners