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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for Approval of the Retirement of Diablo Canyon Power Plant, Implementation of the Joint Proposal, And Recovery of Associated Costs Through Proposed Ratemaking Mechanisms (U39E).

Application 16-08-006
(Filed August 11, 2016)

**SCOPING MEMO AND RULING OF ASSIGNED
COMMISSIONER AND ADMINISTRATIVE LAW JUDGE**

Summary

This Scoping Memo and Ruling sets forth the category, issues, need for hearing, schedule, and other matters necessary to scope this proceeding pursuant to Public Utilities Code (Pub. Util. Code) Section 1701.1 and Article 7 of the Commission's Rules of Practice and Procedure (Rules).¹

1. Background

On August 11, 2016, Pacific Gas and Electric Company (PG&E) filed an Application requesting Commission approval of its plan to retire its Diablo Canyon Power Plant and related proposals. A prehearing conference (PHC) was held on October 6, 2016 to determine parties and discuss scope, schedule, and other procedural matters. Two public participation hearings (PPHs) were held in San Luis Obispo on October 20, 2016 to obtain public input on local concerns and the scope of the proceeding.

¹ California Code of Regulations, Title 20, Division 1, Chapter 1; hereinafter, Rule or Rules.

2. Scope

The scope of this proceeding is based upon the issues raised by PG&E's application, parties' protests and responses, the discussion at the PHC, and statements at the PPHs. Specifically, the scope of the proceeding includes the following issues:

2.1 Retirement of Diablo Canyon Power Plant

PG&E has proposed to retire Diablo Canyon Unit 1 in 2024, and Unit 2 in 2025. Parties have proposed both earlier and later retirement dates. Parties may present testimony in support of PG&E's proposed dates, or earlier or later retirement dates, including indefinite dates. Issues relating to the operation of the plant until the retirement date that do not have a dedicated section may also be addressed here.

2.2 Proposed Replacement Procurement

PG&E has made a proposal for procurement of resources to partially replace Diablo Canyon's output, at a cost of \$1.3 billion. Parties may present testimony supporting alternative procurement proposals, including proposals that all necessary replacement procurement should be addressed in this proceeding, that no replacement procurement should be addressed in this proceeding, or that some replacement procurement should be addressed in this proceeding. All proposals should address potential reliability, safety, cost and greenhouse gas impacts. All proposals should address how much of Diablo Canyon's output needs to be replaced in light of current and projected levels of electric generation.

All testimony on replacement procurement should address the relationship between the proposal being made in this proceeding with other related Commission proceedings, and how this proceeding should coordinate

with other related proceedings on this issue. Testimony recommending that some or all replacement procurement be addressed in another proceeding should indicate when, where, and how that procurement will be addressed. Specifically, any testimony recommending that replacement procurement be addressed in other proceedings at the CPUC should identify those other proceedings, why it would be more appropriate to address replacement procurement in those proceedings rather than in this proceeding, and whether issues including or relating to replacing Diablo Canyon are already being addressed in those proceedings. Testimony recommending that all replacement procurement be addressed in this proceeding should describe how doing so would affect or interact with other proceedings at the CPUC.

2.3 Proposed Employee Program

PG&E has proposed an employee retention, retraining and severance program associated with approximately 1,500 employees at Diablo Canyon. PG&E requests the CPUC approve PG&E's proposed:

1. Employee Retention Program and associated cost estimate of \$352.1 million;
2. Employee Retraining Program and associated cost estimate of \$11.3 million; and
3. Employee Severance Program and associated estimate of \$168 million.

Parties have raised questions about the cost and funding of this program. Parties may present testimony on the need for this program and its size, cost, structure, timing and its source of funding.²

² Testimony discussing whether the source of funding should (or should not) be the nuclear decommissioning charge should be presented in this area. Testimony discussing ratemaking

Footnote continued on next page

2.4 Proposed Community Impacts Mitigation Program

PG&E has proposed a community impacts mitigation program and associated costs of \$49.5 million to mitigate some of the adverse economic impacts to the residents of San Luis Obispo County as a result of the planned retirement of Diablo Canyon. This issue was addressed by parties in their protests and responses, and by numerous speakers at the PPHs. Parties may present testimony on the community impacts of the proposed retirement of the Diablo Canyon, including economic and emergency response impacts, and on proposals to mitigate those impacts.

PG&E's proposal would mitigate some, but not all, of the community impacts resulting from the proposed retirement of Diablo Canyon; testimony can support or criticize PG&E's proposal, or propose alternatives for mitigation of community impacts ranging from no ratepayer funding of community impact mitigation to 100% ratepayer funding of complete community impact mitigation.

Testimony should address the appropriate size and timing of any mitigation measures and the source of funding for mitigation measures (i.e. decommissioning funds, other ratepayer funding, shareholders, or taxpayers).³ To the extent possible, testimony should separately address (or otherwise clearly distinguish) economic impacts and emergency services impacts.

and cost allocation proposals based on a different source of ratepayer funding should be presented in section VI. Proposed Ratemaking and Cost Allocation Issues.

³ Please note that the CPUC cannot authorize new or increased taxes. For any proposed ratepayer-funded mitigation measures, ratemaking and cost allocation issues should be addressed in section VI. Proposed Ratemaking and Cost Allocation Issues.

The recently-enacted SB 968 (Monning) requires the Commission to complete an assessment of the local economic impacts of the proposed retirement of Diablo Canyon. The language and timeline of SB 968 would indicate that the assessment would be independent of this proceeding, and most likely follow this proceeding. In order to ensure coordination of this proceeding with the SB 968 process, the assigned Administrative Law Judge (ALJ) requested input on the relationship between this application and SB 968. At a PPH, Senator Monning's office provided a statement to clarify the legislative intent behind SB 968. Senator Monning opposed delaying this proceeding to incorporate the analysis required by SB 968, and stated: "The economic assessment required under SB 968 was never intended to impact or be part of the discussions and decisions being considered under Application 16-08-006." This is consistent with the language of SB 968. Accordingly, this proceeding will go forward independently, and the record of this proceeding may be used as appropriate in the assessment required by SB 968.

2.5 Recovery of License Renewal Costs

PG&E has proposed that it be granted rate recovery for approximately \$53 million in costs relating to license renewal activities, including the filing of a license renewal application with the federal Nuclear Regulatory Commission. Other parties have questioned whether PG&E should get rate recovery for these costs. Parties may present testimony on whether it is reasonable for PG&E to recover some or all of these costs in rates. Specific ratemaking and cost allocation testimony should be addressed in section

2.6 Proposed Ratemaking and Cost Allocation Issues

PG&E has requested rate recovery for the costs of its proposals, including costs of replacement procurement, its employee program and community

impacts mitigation program, and its license renewal activities, as well as other costs relating to the operation of Diablo Canyon facilities. PG&E has also requested to recover the full book value of Diablo Canyon Units 1 and 2 by the time the units cease operations on November 2, 2024 and August 26, 2025.

Parties may present testimony on the rate design and cost allocation for these items. Parties may support or criticize PG&E's proposed rate design and cost allocation, or may present alternative rate design and cost allocation proposals. In general, recommendations that PG&E should or should not get rate recovery for replacement procurement, employee programs, community impact mitigation, and license renewal costs should be presented in the sections addressing those issues. Recommendations regarding rate recovery for issues that do not have a dedicated section may be presented in this section.

2.7 Land Use, Facilities and Decommissioning Issues

It is premature to address land use, facilities and decommissioning issues. At the same time, parties expressed concern that deferring consideration of these issues could result in PG&E making changes that would preclude future options. PG&E must obtain Commission approval under Pub. Util. Code § 851 prior to selling, leasing, or otherwise encumbering utility-owned land or facilities. While some of the land at issue is owned by a subsidiary of PG&E, PG&E has committed to take no action with any of the lands and facilities, whether owned by the utility or a subsidiary, before completion of a future process including a public stakeholder process, and states that the parties will not be prejudiced by excluding these issues from the current scope of this proceeding. PG&E is directed to abide by that commitment. Parties may present testimony recommending how to best preserve these issues for future consideration, and

how, when, and where they should be addressed. Specific land use, facilities and decommissioning recommendations will not be considered at this time.

2.8 Additional Issues Not Addressed Above

Parties may present testimony on issues that are within the general scope of the proceeding, as established by the record to date, that are not specifically addressed in the above sections. The assigned ALJ or Commissioner can determine if any such testimony is appropriately within the scope of the proceeding, and may strike testimony or defer consideration of issues as appropriate.

3. Guidance for Testimony

All testimony should be organized using the above section headings.⁴ If a party has no testimony on one or more of those issues, the testimony should still include all headings, with a brief note under a heading stating that the party is not submitting testimony on that issue.

PG&E has already served its direct testimony; all other parties may serve testimony on the date set for intervenor testimony. The “Joint Parties” that support PG&E’s application may also submit testimony on that date, but that testimony should be limited in scope to matters not addressed in PG&E’s testimony, or to areas of disagreement with PG&E’s testimony.

PG&E and all other parties may serve rebuttal testimony to the intervenor testimony. Rebuttal testimony may respond to the intervenor testimony of any

⁴ Given the large number of parties to this proceeding, the assigned ALJ requested the parties to develop a common, high-level outline for testimony. The above section headings are based on the outline developed by the parties.

or all other parties. Rebuttal testimony should use the same format and section headings as intervenor testimony.

Testimony should focus on factual and policy issues. Purely legal issues should not be addressed in testimony, but should be addressed in briefs. While a party may indicate in its testimony that it intends to raise a particular legal issue, parties do not need to do so, and parties may raise a legal issue in briefs without having addressed that issue in testimony.

The Commission's web site now allows electronic submittal of supporting documents, such as testimony. Accordingly, parties shall submit their testimony in this proceeding through the Commission's electronic filing system, as described in Appendix A to this ruling.

4. Categorization

The Commission in Resolution ALJ 176-3382, issued on August 18, 2016, preliminarily determined that the category of the proceeding is ratesetting.

Anyone who disagrees with this categorization must file an appeal of the categorization no later than ten days after the date of this scoping ruling. (*See* Rule 7.6.)

5. Need for Hearing

The Commission in Resolution ALJ 176-3382 also preliminarily determined that hearings are required. This scoping memo finds hearings necessary.

6. Ex Parte Communications

In a ratesetting proceeding such as this one, *ex parte* communications with the assigned Commissioner, other Commissioners, their advisors and the ALJ are only permitted as described at Pub. Util. Code § 1701.3(c) and Article 8 of the Rules.

Notice of workshops will be posted on the Commission's Daily Calendar to inform the public that a decision-maker or an advisor may be present at those workshops. Parties shall check the Daily Calendar regularly for such notices.

7. Intervenor Compensation

Pursuant to Pub. Util. Code § 1804(a)(1), a customer who intends to seek an award of compensation must file and serve a notice of intent to claim compensation by November 7, 2016, 30 days after the PHC.

8. Assigned Commissioner, Presiding Officer

Commission President Michael Picker is the assigned Commissioner and Peter V. Allen is the assigned Administrative Law Judge (ALJ). Pursuant to Pub. Util. Code § 1701.3 and Rule 13.2, ALJ Allen is designated as the Presiding Officer.

9. Filing, Service and Service List

The official service list has been created and is on the Commission's website. Parties should confirm that their information on the service list is correct, and serve notice of any errors on the Commission's Process office, the service list, and the ALJ. Persons may become a party pursuant to Rule 1.4.

When serving any document, each party must ensure that it is using the current official service list on the Commission's website.

This proceeding will follow the electronic service protocols set forth in Rule 1.10. All parties to this proceeding shall serve documents and pleadings using electronic mail, whenever possible, transmitted no later than 5:00 p.m., on the date scheduled for service to occur. Parties are reminded, when serving copies of documents, the document format must be consistent with the requirements set forth in Rules 1.5 and 1.6. Additionally, Rule 1.10 requires

service on the ALJ of both an electronic and a paper copy of filed or served documents.

Rules 1.9 and 1.10 govern service of documents only and do not change the Rules regarding the tendering of documents for filing. Parties can find information about electronic filing of documents at the Commission's Docket Office at www.cpuc.ca.gov/PUC/efiling. All documents formally filed with the Commission's Docket Office must include the caption approved by the Docket Office and this caption must be accurate.

Persons who are not parties but wish to receive electronic service of documents filed in the proceeding may contact the Process Office at process_office@cpuc.ca.gov to request addition to the "Information Only" category of the official service list pursuant to Rule 1.9(f).

10. Discovery

Discovery may be conducted by the parties consistent with Article 10 of the Commission's Rules. Any party issuing or responding to a discovery request shall serve a copy of the request or response simultaneously on all parties. Electronic service under Rule 1.10 is sufficient, except Rule 1.10(e) does not apply to the service of discovery and discovery shall not be served on the Administrative Law Judge. Deadlines for responses may be determined by the parties. Motions to compel or limit discovery shall comply with Rule 11.3.

11. Public Advisor

Any person interested in participating in this proceeding who is unfamiliar with the Commission's procedures or who has questions about the electronic filing procedures is encouraged to obtain more information at <http://consumers.cpuc.ca.gov/pao/> or contact the Commission's Public

Advisor at 866-849-8390 or 415-703-2074 or 866-836-7825 (TTY), or send an e-mail to public.advisor@cpuc.ca.gov.

12. Schedule

At the suggestion of Marin Clean Energy, workshops are being held on replacement procurement and cost allocation. The purpose of these workshops is to generally increase the parties' understanding of the issues presented in those areas, and more specifically to increase their understanding of PG&E's proposals in those areas.⁵ This should assist the parties in the preparation of their testimony, and may also reduce the amount of discovery required on those issues. The workshops will be conducted by staff of the Commission's Energy Division, and they are scheduled for December 8, 2016, at 10:00 a.m. at the CPUC Auditorium, 505 Van Ness Avenue, San Francisco, CA 94102.

The adopted schedule is:

EVENT	DATE
Prehearing Conference	October 6, 2016
Public Participation Hearing	October 20, 2016
Workshop re replacement procurement	December 8, 2016
Workshop re cost allocation	December 8, 2016
Intervenor Testimony served	January 27, 2017
Rebuttal Testimony served	March 17, 2017
Cross-Examination estimates served	April 11, 2017

⁵ PG&E should ensure that representatives of PG&E with detailed knowledge of these issues are in attendance at the workshop, and that they are prepared to discuss PG&E's proposals.

EVENT	DATE
Evidentiary Hearings	April 18, 2017 through April 28, 2017
Briefs	May 26, 2017
Request for Final Oral Argument	Concurrent with Briefs
Reply Briefs/Record submitted	June 9, 2017
Comments on Proposed Decision	Within 20 Days of Service of the Proposed Decision
Replies to Comments on Proposed Decision	Within 5 Days of Service of Comments
Anticipated Commission Meeting/Decision	30 Days after but no later than 60 days after the Proposed Decision

The proceeding will be submitted upon the filing of reply briefs, unless the assigned Commissioner or the ALJ directs further evidence or argument.

The assigned Commissioner or assigned ALJ may modify this schedule as necessary to promote the efficient management and fair resolution of this proceeding.

It is the Commission's intent to complete this proceeding within 18 months of the date this Scoping Memo is filed. This deadline may be extended by order of the Commission. (Pub. Util. Code § 1701.5(a).)

13. Settlement and Alternative Dispute Resolution

While the schedule does not include specific dates for settlement conferences it does not preclude parties from meeting at other times provided notice is given consistent with our Rules.

The Commission offers Alternative Dispute Resolution (ADR) services consisting of mediation, facilitation, or early neutral evaluation. Use of ADR services is voluntary, confidential, and at no cost to the parties. Trained ALJs

serve as neutrals. The parties are encouraged to visit the Commission's ADR webpage at <http://www.cpuc.ca.gov/adr/>, for more information.

If requested, the assigned ALJ will refer this proceeding, or a portion of it, to the Commission's ADR Coordinator. Alternatively, the parties may contact the ADR Coordinator directly at adr_program@cpuc.ca.gov. The parties will be notified as soon as a neutral has been assigned; thereafter, the neutral will contact the parties to make pertinent scheduling and process arrangements. Alternatively, and at their own expense, the parties may agree to use outside ADR services.

14. Final Oral Argument

If hearings are held, a party in this proceeding has the right to make a Final Oral Argument before the Commission, but only if the argument is requested by the deadline set in the schedule above. (Rule 13.13.)

IT IS RULED:

1. The category of this proceeding is ratesetting. Appeals as to category, if any, must be filed and served within ten days from the date of this scoping memo.
2. Administrative Law Judge Peter V. Allen is designated as the Presiding Officer.
3. The scope of the issues for this proceeding is as stated in "Section 2. Scope" of this ruling.
4. Hearings may be necessary.
5. The schedule for the proceeding is set in "Section 11. Schedule" of this ruling. The assigned Commissioner or Presiding Officer may adjust this schedule as necessary for efficient management and fair resolution of this proceeding.

6. With limited exceptions that are subject to reporting requirements, *ex parte* communications are prohibited. (See Public Utilities Code § 1701.3(c); Article 8 of the Commission's Rules of Practice and Procedure.)

7. A party may submit request for Final Oral Argument in its opening briefs, but the right to Final Oral Argument ceases to exist if hearings are not needed.

8. Parties shall adhere to the instructions provided in Appendix A of this ruling for submitting supporting documents.

Dated November 18, 2016, at San Francisco, California.

/s/ MICHAEL PICKER

Michael Picker
Assigned Commissioner

/s/ PETER V. ALLEN

Peter V. Allen
Administrative Law Judge

APPENDIX A

1. Electronic Submission and Format of Supporting Documents

The Commission's web site now allows electronic submittal of supporting documents (such as testimony and work papers).

Parties shall submit their testimony or workpapers in this proceeding through the Commission's electronic filing system.¹ Parties must adhere to the following:

- The Instructions for Using the "Supporting Documents" Feature, (<http://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&DocID=158653546>), and
- The Naming Convention for Electronic Submission of Supporting Documents (<http://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&DocID=100902765>).
- The Supporting Document feature does not change or replace the Commission's Rules of Practice and Procedure. Parties must continue to adhere to all rules and guidelines in the Commission's Rules of Practice and Procedures including but not limited to rules for participating in a formal proceeding, filing and serving formal documents and rules for written and oral communications with

¹ These instructions are for submitting supporting documents such as testimony and work papers in formal proceedings through the Commission's electronic filing system. Parties must follow all other rules regarding serving testimony.

Any document that needs to be formally filed such as motions, briefs, comments, etc., should be submitted using Tabs 1 through 4 in the electronic filing screen.

Commissioners and advisors (i.e. “ex parte communications”) or other matters related to a proceeding.

- The Supporting Document feature is intended to be solely for the purpose of parties submitting electronic public copies of testimony, work papers and workshop reports (unless instructed otherwise by the Administrative Law Judge), and does not replace the requirement to serve documents to other parties in a proceeding.
- Unauthorized or improper use of the Supporting Document feature will result in the removal of the submitted document by the CPUC.
- Supporting Documents should not be construed as the formal files of the proceeding. The documents submitted through the Supporting Document feature are for information only and are not part of the formal file (i.e. “record”) unless accepted into the record by the Administrative Law Judge.

All documents submitted through the “Supporting Documents” Feature shall be in PDF/A format. The reasons for requiring PDF/A format are:

- Security - PDF/A prohibits the use of programming or links to external executable files. Therefore, it does not allow malicious codes in the document.
- Retention - The Commission is required by [Resolution](#) L-204, dated September 20, 1978, to retain documents in formal proceedings for 30 years. PDF/A is an independent standard and the Commission staff anticipates that programs will remain available in 30 years to read PDF/A.

- Accessibility – PDF/A requires text behind the PDF graphics so the files can be read by devices designed for those with limited sight. PDF/A is also searchable.

Until further notice, the “Supporting Documents” do not appear on the “Docket Card”. In order to find the supporting documents that are submitted electronically, go to:

- Online documents, choose: “[E-filed Documents](#)”,
- Select “Supporting Document” as the document type, (do not choose testimony)
- Type in the proceeding number and hit search.

Please refer all technical questions regarding submitting supporting documents to:

- Kale Williams (kale.williams@cpuc.ca.gov) 415 703- 3251 and
- Ryan Cayabyab (ryan.cayabyab@cpuc.ca.gov) 415 703-5999

(END OF APPENDIX A)