

**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 September
1, 2023 through December 31, 2025 and for
Approval of Planned Expenditure of 2025
Volumetric Performance Fees
(U 39 E)

Application 24-03-018
(Filed March 29, 2024)

**OPENING COMMENTS OF SAN LUIS OBISPO MOTHERS FOR PEACE ON
PROPOSED DECISION**

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Dated: December 3, 2024

SUBJECT INDEX

San Luis Obispo Mothers for Peace’s (“SLOMFP”) comments identify multiple errors in the Proposed Decision. Based on the errors set-forth in these comments, SLOMFP makes multiple proposed changes to the Proposed Decision in this proceeding. These proposed changes consist of changes to the findings of fact, conclusion of law and ordering paragraphs of the Proposed Decision as further set-forth in the attached Appendix.

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Pursuant to Rule of Practice and Procedure 14.3, San Luis Obispo Mothers for Peace (“SLOMFP”) respectfully submits these comments on the Proposed Decision (“PD”). The PD contains legal and factual errors. SLOMFP’s recommended changes to the PD are identified in the attached appendix.

I. LEGAL AND FACTUAL ERRORS

A. The PD Impermissibly Shifts the Burden of Proof on the Contingency Factor Issue From PG&E to SLOMFP.

It is legal error for the Commission to misapply the standard and burden of proof.¹ The PD correctly states that PG&E has the burden of proof on each issue in this proceeding.² This necessarily includes PG&E’s burden of proof on the contingency factor issue. However, the PD impermissibly shifts the burden of proof on the contingency factor issue from PG&E to SLOMFP when the PD states that “The Commission finds that it is reasonable for PG&E to exclude speculative costs in this application...In the absence of any new information, *asserting that certain safety risks have associated costs is highly speculative.*”³ If PG&E had truly borne the burden of proof, the PD would have faulted PG&E for failing to demonstrate that safety risks need not be included as financial contingencies. *See* Section B below. While SLOMFP has asserted that PG&E was required to include contingency factor in the cost forecasts, it does not follow that SLOMFP has therefore assumed PG&E’s burden of proof in this proceeding. This is especially true where PG&E conceded that generally it has the responsibility of calculating the value of the contingency factor and that it has utilized contingency factors in other proceedings.⁴ These concessions by PG&E in this proceeding underscore that it is PG&E that has the burden of proof on the contingency factor issue.

B. The PD Misstates the Threshold for Inclusion of a Contingency Factor

Moreover, the portion of the PD quoted above misstates the applicable threshold for inclusion of a contingency factor in the cost forecasts. The issue is not whether it is speculative

¹ *San Pablo Bay Pipeline Co. LLC v. Public Utilities Com.* (2013) 221 Cal.App.4th 1436, 1461 [the burden of proof cannot be shifted without express justification articulated by the Commission]; *Utility Consumers' Action Network v. Public Utilities Com.* (2010) 187 Cal.App.4th 688, 698 [affirming the standard of proof applied by the Commission]; see also D.18-10-019, pp. 30-32 [where the Decision articulated the standard and burden of proof utilized in the analysis].

² Proposed Decision, p. 12.

³ Proposed Decision, p. 23.

⁴ Reporters’ Transcript, Vol 1, pp. 128-129.

to assert that certain safety risks have associated costs. It should be beyond dispute that, for example, the replacement or annealing of the Unit 1 reactor pressure vessel will at least have *some* associated costs. Rather, the issue, as PG&E and SLOMFP seem to agree,⁵ is whether a reasonably prudent manager would have included a contingency factor for the risks identified by SLOMFP's expert witnesses (i.e., replacing or annealing the Unit 1 reactor pressure vessel, seismic hazards, ISFSI Modification, Coastal Act Compliance, and others.)⁶

PG&E implies that a contingency factor is warranted if it is for a risk that is foreseeable to a prudent manager.⁷ SLOMFP agrees.⁸ Thus, the Commission is required to examine and weigh the entirety of the record in this proceeding⁹ to determine if **PG&E** has established by a preponderance of evidence that a prudent manager of DCPD would have omitted a contingency factor. The California Supreme Court has held that foreseeability is not to be measured by what is more probable than not, but includes whatever is likely enough in the setting of modern life that a reasonably thoughtful person would take account of it in guiding practical conduct.¹⁰ Thus, to be foreseeable the result of an act does not have to be a foregone conclusion, or the only the conclusion, but merely a reasonable possibility.¹¹ The PD should consider the evidence in the record submitted by SLOMFP substantiating that many of the risks identified are in fact foreseeable. This evidence is proffered by experts in their respective fields, or documentary evidence that is not subject to dispute.¹²

C. The PD's Conclusion on the Contingency Factor is Not Supported by the Preponderance of the Evidence

When considered in light of the appropriate inquiry set forth in section I.B, *supra*, the PD's conclusion that it is reasonable for PG&E to omit a contingency factor is not supported by the preponderance evidence. The PD's current discussion of the evidence could not support the

⁵ Reporters' Transcript, Vol 1, pp 118-119; Exh. SLOMFP-01, Opening Testimony of Peter Bradford, p. 8, lines 3-7.

⁶ *Ibid.*

⁷ Reporters' Transcript, Vol 1, pp 118-119.

⁸ Exh. SLOMFP-01, Opening Testimony of Peter Bradford, p. 8, lines 3-7.

⁹ *La Costa Beach Homeowners' Assn. v. California Coastal Com.* (2002) 101 Cal.App.4th 804, 814 [involving discussion of the judicial review standard of substantial evidence, but where the Court of Appeal also stated that it is the agency's role to weigh the preponderance of conflicting evidence].

¹⁰ *Bigbee v. Pac. Tel. & Tel. Co.* (1983) 34 Cal.3d 49, 57.

¹¹ See *Ibid.*

¹² Exh. SLOMFP-01, Opening Testimony of Peter Bradford, pp. 7-8 [describing the testimony provided by Drs. Macdonald and Bird].

conclusion that the risks identified by SLOMFP would not be foreseeable to a prudent manager of DCPD.

The PD's current discussion of evidence on the contingency factor issue includes reference to PG&E's labored distinction between "known unknowns" and "unknown unknowns"¹³ as well as PG&E's claim that it may not proceed with the ISFISI modification.¹⁴ But the PD does not explain how either of PG&E's claims constitute evidence that establishes that a prudent manager would not foresee risk at DCPD associated with seismic hazards, reactor pressure vessel replacement or annealing, or operating the plant without a Coastal Development Permit as extended operations continue.¹⁵ The PD then inappropriately turns its attention to what is not in the record, i.e., new information from DCISC or NRC.¹⁶ The evidence eligible for consideration in the Commission's prudence and cost-effectiveness analysis is not limited solely to reporting from the DCISC or NRC.¹⁷ More importantly, this approach eviscerates the burden of proof and lets PG&E off the proverbial hook to prove its case. The issue once again is not whether SLOMFP has supplied new information from DCISC or NRC to support its assertion, but whether PG&E has shown, in light of the whole record, that its omission of a contingency factor was reasonable. The record, as a whole, establishes that PG&E cannot meet this burden and the PD's failure to analyze such evidence is legal and factual error.¹⁸

In support of its omission of a contingency factor, PG&E claimed that activities such as annealing or replacing the Unit 1 reactor pressure vessel and seismic upgrades are not needed for safe operation of DCPD.¹⁹ This was a conclusory statement unsupported by any substantive facts as to why PG&E's witness believed the statement to be true. PG&E merely states that there are currently no actual forecastable NRC licensing or DCISC recommendations.²⁰ But Public Resources Code § 25548.3(c)(5)(C) does not limit the nature of evidence to be considered in the cost-effectiveness inquiry and moreover the statement does not prove by a preponderance of

¹³ Proposed Decision, pp. 22 to 23.

¹⁴ *Id.* at p. 22.

¹⁵ *Id.* at pp. 22 to 23; *Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515 [Agencies must bridge the analytical gap between raw evidence and the ultimate conclusion or finding]; Exh. SLOMFP-04 Rebuttal Testimony of SLOMFP Sponsored by Sabrina Venskus, p. 7.

¹⁶ *Id.* at p. 23.

¹⁷ Public Resources Code § 25548.3(c)(5)(C).

¹⁸ *La Costa Beach Homeowners' Assn., supra* 101 Cal.App.4th 804, 814.

¹⁹ PG&E Rebuttal Testimony, p. 2-10.

²⁰ PG&E Rebuttal Testimony, p. 2-10.

evidence, for example, that there will never be any forecastable NRC licensing or DCISC recommendations.

PG&E also claims it does not anticipate that the NRC nor DCISC will, for example, desire to further study the DCP Unit 1 reactor pressure vessel.²¹ PG&E's witness statement was conclusory and unsupported by any substantive facts. The testimony is also disingenuous, as it is common knowledge that the NRC's Petition Review Board has taken review of potential seismic hazards. SLOMFP submitted evidence on this point, but it was stricken from the record.²² Now, the PD cites the absence of "new information" as a basis for concluding that PG&E's omission of the contingency factor was reasonable.²³ At minimum, the PD must weigh PG&E's conclusory and unsubstantiated statements against that of SLOMFP expert and former New York and Maine PUC Commissioner Chair and former NRC Commissioner, Peter Bradford – who personally testified on serious issues of seismic risk and embrittlement raised by Drs. Peter Bird and Digby Macdonald, respectively.²⁴ Bradford's testimony advises that Unit 1 reactor pressure vessel embrittlement concerns were, at the time, under consideration at the DCISC.²⁵

Since risk in utility regulation contingency planning is usually understood to represent the probability of an event multiplied by its consequences in dollars, low probability events with high cost consequences can pose high economic risks. It is a basic mistake to refuse to consider the risk or economic impact of such an event simply because its occurrence is of low probability or "speculative".²⁶ Simply because a high consequence event may have a low probability does not justify treating its economic risk as zero²⁷, which is what the proposed decision does.

²¹ Reporters' Transcript Vol. 1, p.129.

²² August 15, 2024 Email Ruling Granting PG&E's Motion to Strike Opening Testimony of Drs. Macdonald and Bird

²³ Proposed Decision, p. 23.

²⁴ Exh. SLOMFP-01, Opening Testimony of Peter Bradford, pp. 7-8.

²⁵ *Ibid.*

²⁶ Such a flawed approach would at one time have permitted ignoring Three Mile Island, Fukushima, or the likelihood that the NRC would have required safety modifications as a result of these events, More recently, Japan has just prohibited the restart of the long-idled Tsuruga plant on grounds that it failed to consider safety risks stemming from the presence of possible active fault lines. The Proposed Decision would permit the utility and the economic regulator to have ignored the possibility of an unlikely but highly consequential event.

²⁷ Exh. SLOMFP-01, Opening Testimony of Peter Bradford, pp. 7-8 and Exh. SLOMFP-05, Rebuttal Testimony of Peter Bradford, pp. 4-6.

In light of the foregoing, the PD’s findings of fact, conclusions of law and ordering paragraphs that are based on the PD’s discussion of a contingency factor should be revised as proposed in the appendix to these comments.

D. The PD Fails to Expressly Address All Issues Material to the Decision.

P.U.C. § 1705 states that “After the conclusion of the hearing, the commission shall make and file its order, containing its decision. Except for decisions filed after hearings held under Section 1702.1, the decision shall contain, separately stated, findings of fact and conclusions of law by the commission on all issues material to the order or decision.” P.U.C. § 1705 applies to this proceeding because a hearing was conducted and was not held under P.U.C. § 1702.1, which deals with complaints against any electrical, gas, water, heat, or telephone company under Sections 734, 735, and 736.²⁸ Thus, the PD must contain separately stated findings of fact and conclusions of law by the commission on all issues material to the order or decision. Moreover, the PD should bridge the analytical gap between evidence and the ultimate decision.²⁹ It is a legal error for the Commission to approve cost recovery without support of a finding under P.U.C. § 451 that the amount to be recovered for extended operations is cost-effective and prudent.³⁰ Yet, the PD proposes to have the Commission do precisely that.

1. The PD Does Not Address Cost-Effectiveness

As referenced by SLOMFP, the Commission’s Conclusion of Law No. 15 in D.23-12-036 stated that “[i]t is well within the Commission’s authority, and in ratepayers’ best interest, to **continue to evaluate the prudence and cost-effectiveness of continued DCPP operations.**”³¹ Prudence requires that PG&E show that the costs it seeks to recover will provide the public with efficient, just and reasonable service which will achieve the desired result of providing adequate renewable and zero-carbon power supply at the lowest possible cost.³² Thus, the cost-

²⁸ P.U.C. § 1702.1.

²⁹ *Topanga*, supra, 11 Cal.3d 506, 515.

³⁰ P.U.C. § 451; see also Exh. SLOMFP-01, Opening Testimony of Peter Bradford, p. 7, citing Opening Testimony of Peter Bradford on Phase 1 Track 2 Issues, pp. 8-11 [Discussing P.U.C. § 451, the definition of prudence, predetermination of prudence and the importance of making early prudence determinations]; see also P.U.C. § 1705.

³¹ D.23-12-036, p. 127 [Conclusion of Law No. 15].

³² Exh. SLOMFP-01, Opening Testimony of Peter Bradford, pp.7-8; D.23-12-036, p. 46 fn 134 [affirming support for the definition of the Prudent Manager Standard under P.U.C. § 451 set forth by Expert Witness Peter Bradford].

effectiveness evaluation that must occur within the prudence analysis requires a comparison of the costs of operating DCP with the costs of renewable and zero-carbon resources.³³

Yet, as the amount PG&E seeks from ratepayers just for the instant record period surpasses \$720 Million, the phrase “cost-effective” is barely mentioned in PG&E’s testimony, PG&E’s briefing or the PD. As pointed out in SLOMFP’s opening brief, the term “cost-effective” appears just once in PG&E’s rebuttal testimony, and not in the context of a cost comparison of DCP and alternatives.³⁴ The term appears only once in the PD, ironically in a section implying that a cost-effectiveness evaluation is required.³⁵ While the PD contains conclusions of law on the reasonableness of several components of PG&E’s costs forecast,³⁶ the PD does not identify any actual comparison of the costs of operating DCP to any other energy resources, let alone alternative renewable, GHG-free resources. SLOMFP’s expert Mark Cooper submitted an updated cost comparison evaluating the costs of DCP to other energy sources.³⁷ Surprisingly, the PD does not so much as acknowledge Cooper’s cost comparison.

Ratepayers were promised a cost-effectiveness evaluation to ensure that continued operations at DCP are in their best interests.³⁸ Ratepayers did not receive the protection of a cost-effectiveness evaluation in the Rulemaking proceeding because the Commission punted the issue.³⁹ If the PD remains as-is, ratepayers will not receive the protection of a cost-effectiveness evaluation in the instant cost-recovery proceeding either. The Commission must keep its promise to the public and address the cost-effectiveness issue *now* in the instant proceeding. There is no apparent excuse for PG&E’s failure to conduct a cost comparison analysis, nor for the PD’s failure to execute on the Commission’s and legislature’s promise to ratepayers. There is sufficient and substantial evidence in the instant record, e.g., SLOMFP expert Mark Cooper’s testimony, for the PD to perform the evaluation and make a determination on cost-effectiveness. The PD has glossed over SLOMFP expert Mark Cooper’s conclusion that DCP is not cost-effective. Again, that conclusion was based Cooper’s calculation and comparison of costs to

³³ *Ibid.*

³⁴ Exh. PG&E-02, Rebuttal Testimony, p. 5-9, lines 26 to 31.

³⁵ Proposed Decision, p. 4.

³⁶ See Proposed Decision, pp. 78 [Conclusion of Law 3] and 79 [Conclusions of Law 9, 14 and 17].

³⁷ E.g., Exh. SLOMFP-02 Opening Testimony of Mark Cooper, pp. 6-8.

³⁸ D.23-12-036, p. p. 127, Conclusion of Law No. 15.

³⁹ D.23-12-036, p. 127, Conclusion of Law No. 16.

operate DCPD to the costs of alternatives – where the costs of the three core renewables (efficiency, wind-onshore and utility PV) were much lower than the costs of DCPD.⁴⁰

By ignoring this vital testimony, the PD is allowing PG&E to avoid addressing the monumental problem that ratepayer money is being wasted on DCPD. At minimum, the PD must weigh all the evidence in the record implicating the issue of cost-effectiveness (including Cooper’s cost comparison) and make a determination as to whether the evidence satisfies PG&E’s burden to show that the requested cost recovery will provide the public with efficient, just and reasonable electric service which will achieve the desired result of providing adequate renewable and zero-carbon power supply at the lowest possible cost.⁴¹

2. *The PD Does Not Address Prudency*

As cost-effectiveness and prudency are closely related,⁴² the PD’s failure to address cost-effectiveness means that the PD has failed to address prudency as required by law.⁴³ The omission has devastating impacts on ratepayers, as they lose out on the statutory protection of a full and robust prudency analysis, inclusive of cost-effectiveness (see Section D, *supra*) and reliability (see Section E, *infra*).

In light of the foregoing two grounds, the PD’s findings of fact, conclusions of law and ordering paragraphs should be revised as proposed in the appendix to these comments.

E. The PD is in Disharmony With S.B. 846 and Would Impermissibly Repeal By Implication the Commission’s Broad Statutory Authority to Consider Reliability and Prudency.

It is legal error for the Commission to interpret S.B. 846 in manner that creates disharmony between its provisions or other related laws or otherwise repeals a law by implication.⁴⁴ PD states that “Reliability issues are out of the scope of this proceeding and

⁴⁰ Exh. SLOMFP-02, Opening Testimony of Mark Cooper, pp. 6-11.

⁴¹ *La Costa Beach Homeowners' Assn. v. California Coastal Com.*, *supra*, 101 Cal.App.4th 804, 814; Exh. SLOMFP-01, Opening Testimony of Peter Bradford, pp.7-8; D.23-12-036, p. 46 fn 134 [affirming support for the definition of the Prudent Manager Standard under P.U.C. § 451 set forth by Expert Witness Peter Bradford].

⁴² Exh. SLOMFP-01 Opening Testimony of Peter Bradford, pp. 7-8, Exh. SLOMFP -05 Rebuttal Testimony of Peter Bradford, pp. 3-6.

⁴³ *Ibid*; see also P.U.C. Section 451.

⁴⁴ SLOMFP Opening Brief, pp. 6-9, fn 5; *People v. Superior Court* (1965) 62 Cal. 2d 515; *Sale v. Railroad Commission* (1940) 15 Cal.2d 612; *Kern County Land Co. v. Railroad Com.* (1934) 2 Cal. 2d 29 [the commission's authority has been liberally construed]; *Pacific Legal Foundation v. Unemployment Ins. Appeals Bd.* (1981) 29 Cal.3d 101, 114; see also *Legacy Group v. City of Wasco* (2003) 106 Cal.App.4th

considered in the IRP proceeding.”⁴⁵ This is problematic for a couple reasons. First, D.23-12-036 indicated that S.B. 846 prohibits the IRP from considering the DCPD in IRP portfolios, resource stacks or PSPs after 2024 for Unit 1 and 2025 for Unit 2.⁴⁶ Accordingly, the IRP proceeding will be useless as to the economics and prudence (i.e. reliability) of operating DCPD from 2025 to 2030. Second, the finding of fact wreaks havoc on S.B. 846 and P.U.C. Section 451. The finding would simultaneously: 1) excuse PG&E from performing a full prudency analysis (i.e., a plant that is not needed from a reliability standpoint raises serious issues with the prudency of ongoing operations)⁴⁷; 2) remove a key component (i.e. reliability and need for DCPD) from the prudency protection that shields ratepayers from unreasonable and unjust rate increases⁴⁸; 3) create disharmony among the provisions of S.B. 846 that **indicate an ongoing review of the need for DCPD extended operations to ensure energy system reliability is mandated under the S.B. 846 statutory scheme**⁴⁹; and 4) repeal by implication the Commission’s full authority to police a utility’s acts using all the tools at the Commission’s disposal.

1305, 1313; *Board of Supervisors v. Lonergan* (1980) 27 Cal.3d 855, 868; *Ibid.*, quoting *Penziner v. West American Finance Co.* (1937) 10 Cal.2d 160, 176; *Kennedy Wholesale, Inc. v. State Bd. of Equalization* (1991) 53 Cal. 3d 245, 249.

⁴⁵ Proposed Decision, p. 78, Finding of Fact No. 28.

⁴⁶ D.23-12-036, p. 53; P.U.C. Section 712.8(q).

⁴⁷ Exh. SLOMFP-01 Opening Testimony of Peter Bradford, pp. 7-8, Exh. SLOMFP -05 Rebuttal Testimony of Peter Bradford, pp. 3-6.

⁴⁸ *Ibid.*

⁴⁹ See P.R.C. § 25548(b) [“Preserving the option of continued operations of the Diablo Canyon powerplant for an additional five years beyond 2025 may be necessary to improve statewide energy system reliability and to reduce the emissions of greenhouse gases while additional renewable energy and zero-carbon resources come online, until those new renewable energy and zero-carbon resources are adequate to meet demand. Accordingly, it is the policy of the Legislature that seeking to extend the Diablo Canyon powerplant’s operations for a renewed license term is prudent, cost effective, and in the best interests of all California electricity customers. The Legislature anticipates that this **stopgap measure** will not be needed for more than five years beyond the current expiration dates](emphasis added); P.R.C. § 25548(c) states “**During the time the Diablo Canyon powerplant’s operations are extended, the state will continue to act with urgency to bring clean replacement energy online to support reliability and achieve California’s landmark climate goals.** The state is accelerating efforts to bring offshore wind and other clean energy resources online, including action to streamline permitting for clean energy projects](Emphasis added); P.U.C. §712.8(q), [“The Legislature finds and declares that the purpose of the extension of the Diablo Canyon powerplant operations is to protect the state against significant uncertainty in future demand resulting from the state’s greenhouse-gas-reduction efforts involving electrification of transportation and building energy end uses and regional climate-related weather phenomenon, and to address the risk that currently ordered procurement will be insufficient to meet this supply or that there may be delays in bringing the ordered resources online on schedule. Consequently, the continued operation of Diablo Canyon Units 1 and 2 beyond their current expiration dates shall not be factored into the analyses used by the commission or by load-serving entities not subject to the

SLOMFP set forth the proper interpretation of S.B. 846 on the reliability issue and relevant evidence (including the testimony of SLOMFP expert Rao Konidena) in its briefing.⁵⁰ The PD’s legal error in misinterpreting S.B. 846 in manner that would eliminate need for DCPD from a prudency analysis is further compounded by the fact that the evidence of need, when it is in fact analyzed, overwhelmingly shows that PG&E cannot prove DCPD is still needed from a reliability standpoint.

The record in this proceeding contains largely unrebutted new evidence from multiple parties demonstrating that DCPD is no longer needed from a reliability standpoint⁵¹ and the S.B. 846 statutory scheme is crystal clear that DCPD need for purposes of electric system reliability must be reviewed on an ongoing basis.⁵² The PD’s conclusion that any reliability analysis is now cabined to the IRP proceeding is completely detached from the black letter of S.B. 846.⁵³ What of the P.U.C. § 712.8(r) mandated annual report to the Legislature on the status of new resource additions and revisions to the state’s electric demand forecast, and the impact of these updates on the need for keeping the Diablo Canyon powerplant online? If reliability issues pertaining to DCPD were somehow confined solely to the IRP proceeding, which focuses on a long-term 10 year outlook, it seems the Legislature’s requirement for an annual report that continually assesses the need for DCPD would serve no practical purpose. Furthermore, how does the Commission’s consideration of long-range reliability needs in the IRP conflict with its promise to the ratepayers

commission’s jurisdiction when determining future generation and transmission needs to ensure electrical grid reliability and to meet the state’s greenhouse-gas-emissions reduction goals. To the extent the commission decides to allocate any benefits or attributes from extended operations of the Diablo Canyon powerplant, the commission may consider the higher cost to customers in the operator’s service area.”]; P.U.C. § 712.8(r), [“Notwithstanding Section 10231.5 of the Government Code, in coordination with the Energy Commission, the Independent System Operator, and the Department of Water Resources, **the commission shall submit, in accordance with Section 9795 of the Government Code, a report to the Legislature each year on the status of new resource additions and revisions to the state’s electric demand forecast, and the impact of these updates on the need for keeping the Diablo Canyon powerplant online.**”](emphasis added).

⁵⁰ SLOMFP Opening Brief, pp. 8-11; SLOMFP Reply Brief, pp. 2-6.

⁵¹ E.g., Exh. A4NR-01, Prepared Testimony of John Gessman, pp. 4 to 5; Exh. SLOMFP-03 Corrected Opening Testimony of Rao Konidena at p. 15; Exh. SLOMFP-07, Reply Testimony of Rao Konidena, pp. 1-2; CARE’s October 14, 2024 Motion for Official Notice of reliability documents, including the Summary of Compliance with Integrated Resource Planning (IRP) Order D.19-11-016 and Mid Term Reliability (MTR) D.21-06-035 Procurement December 2023 Data Filings Energy Division Staff Recommendations.

⁵² See Footnote 36, supra.

⁵³ See Footnote 36, supra.

to perform a full, robust prudency analysis of DCPD extended operations over the instant record period and 5 year extension period, inclusive of reliability? It does not.⁵⁴ Evaluating the available new information about the state's energy system reliability to determine whether DCPD is in fact still needed would at least give ratepayers peace of mind that the Commission, as the state watchdog for just and reasonable rates, has considered all the issues and used all the tools at its disposal in deciding whether authorizing hundreds of millions of dollars in cost recovery for an aging nuclear power plant is in their best interests.

Dated: December 3, 2024

Respectfully Submitted,

_____/S/_____

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⁵⁴ *Ibid.*; see also P.U.C. Section 451; Exh. SLOMFP-01 Opening Testimony of Peter Bradford, pp. 7-8, Exh. SLOMFP -05 Rebuttal Testimony of Peter Bradford, pp. 3-6.

APPENDIX OF PROPOSED CHANGES TO PROPOSED DECISION

Findings of Fact

3. ~~Consistent with the Commission's directives in D.23-12-036, PG&E's application includes: (1) a forecast of costs of extended operations, (2) a forecast of market revenues for DCPD for the Record Period, and (3) a proposal to establish the DC NBC applicable to all Commission jurisdictional customers based on the forecasted net costs.~~

6. There are no actual or known forecastable costs for NRC license renewal conditions or any DCISC recommendations during the Record Period, however there is testimony in the record that during this proceeding, the agencies have taken review of embrittlement reporting from Dr. Macdonald and seismic hazard reporting from Dr. Bird.

28. Reliability issues are ~~out of~~ within the scope of this proceeding, and the preponderance of evidence show that DCPD is not needed from a reliability standpoint.

Conclusions of Law

1. PG&E's 2024 DCPD extended operations revenue requirement of \$723 million, reducing PG&E's requested revenue requirement of \$761 million to account for the Tax Gross Up adjustment (\$33.63 million), Fixed Management Fee Escalation adjustment (\$4.248 million), and the IRC Normalization adjustment (\$0.051 million) should be ~~approved~~ denied.

2. ~~The approved costs should be reflected in statewide rates starting on January 1, 2025.~~

3. PG&E's request to recover \$498.34 million in O&M costs for the period September 1, 2023 to December 31, 2025 is ~~reasonable~~ not reasonable based on its failure to include a contingency factor.

29. CARE's motion, dated October 14, 2024, to take official notice of reliability related documents should be ~~denied.~~ granted.

Ordering Paragraphs

1. Pacific Gas and Electric Company is not authorized to recover a revenue requirement of \$723 million covering the extended operations costs from September 1, 2023 to December 31, 2025, which includes operations and maintenance costs; resource adequacy substitution capacity forecast; generation forecast and generation revenues forecast methodology and calculation; amortized fuel expense cost for fuel over the 2025 through 2030 period; and netting of California Independent System Operator revenues of the period of November 3, 2024 to December 31, 2025.

7. Pacific Gas and Electric Company's testimony does not satisfy ~~satisfies~~ all the regulatory requirements set forth in Decision 23-12-036. It does not satisfy ~~except for~~ the proposal to allocate resource adequacy benefits, ~~and~~ the administrative and general costs, or the requirement

that PG&E establish that the cost recovery is prudent, cost-effective or that DCPD is needed from a reliability standpoint.

11. Californians for Renewable Energy, Inc.'s motion, dated October 14, 2024, to take official notice of the September 14, 2024, letter from Tom Luster of the California Coastal Commission, Energy, Ocean Resources, and Federal Consistency Division to Mr. Tom Jones, Senior Director – Regulatory, Environmental and Repurposing, Pacific Gas & Electric Company, Diablo Canyon Power Plant; and October 9, 2024, Summary of Compliance with Integrated Resource Planning Order Decision (D.) 19-11-016 and Mid Term Reliability D.21-06-035 Procurement December 2023 Data Filings Energy Division Staff Recommendations is ~~denied~~ granted.