

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



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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

Application 16-08-006

**PROTEST OF THE CALIFORNIA LARGE ENERGY CONSUMERS ASSOCIATION
TO PACIFIC GAS AND ELECTRIC COMPANY'S APPLICATION**

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September 15, 2016

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Pursuant to Rule 2.6 of the California Public Utilities Commission's (Commission) Rules of Practice and Procedure, the California Large Energy Consumers Association (CLECA)¹ protests the application filed by Pacific Gas & Electric Company (PG&E) on August 11, 2016 (the Application).² While CLECA takes no position on the proposed closure of Diablo Canyon, CLECA strongly opposes the Application and urges its rejection as unjustified and unreasonable.

I. INTRODUCTION

In its Application, PG&E seeks Commission approval of:

- Retirement of Diablo Canyon Nuclear Generating Station (Diablo Canyon) in 2024-2025, with full capital cost recovery,
- Three procurement programs to replace the energy from Diablo Canyon, beginning in 2018 with a \$1.3 billion energy efficiency proposal and extending to 2045 for procurement of unknown resources at unknown and unknowable costs, with varied cost recovery proposals to be approved now, and

¹ CLECA is an ad hoc organization of large, high load factor industrial customers of Southern California Edison Company and Pacific Gas and Electric Company; the members are in the cement, steel, industrial gas, pipeline, beverage and mining industries. CLECA has been an active participant in Commission regulatory proceedings since 1987.

² The Application was noticed in the Commission's Daily Calendar on August 16, 2016.

- Employee retention and retraining costs of approximately \$364 million and transitional community economic aid of approximately \$49.5 million, to be recovered via the nuclear decommissioning charge.

The rate impacts of these requests are insufficiently developed and the procurement proposals are not justified. A small group of non-ratepayer entities (the Joint Parties³) should not be permitted to pre-determine what should be litigated outcomes based on developed records with full participation by impacted parties, including ratepayer representatives, in other proceedings such as the Integrated Resource Planning proceeding, R. 16-02-007.

II. PROTEST

A. GROUNDS FOR PROTEST

1. **The Three Proposed Procurement Programs Would Improperly and Needlessly Circumvent the Commission's Nascent Integrated Resource Planning Process and the Other Issues Should Be Addressed Elsewhere**

The Application would set the procurement plan for PG&E for decades, beginning in 2018 and extending through 2045. It would not be reasonable for the Commission to authorize the proposed procurement programs and set cost recovery methods – including a brand new non-bypassable charge - for a twenty-eight year period (2018-2045) now; nor is there pressing need for this authority to be granted within the next 12 months. The Commission must first fulfill its statutory duties set out in SB 350 which directs the institution of an integrated resource planning process in 2017

³ See Application, at Attachment A, Joint Proposal, at 1 (listing PG&E, Friends of the Earth (FOE), Natural Resources Defense Council (NRDC), Environment California, International Brotherhood of Electrical Workers Local 1234 (IBEW Local 1245), Coalition of California Utility Employees (CUE) and Alliance for Nuclear Responsibility (A4NR).

to apply to future procurement.⁴ Critically, the legislature sought to avoid duplicative, overlapping procurement planning, directing the Commission as follows:

(d) In order to eliminate redundancy and increase efficiency, the process adopted pursuant to subdivision (a) shall incorporate, and not duplicate, any other planning processes of the commission.⁵

The Commission has begun this planning work in the Integrated Resource Planning (IRP) Rulemaking and the Application would lead to duplicative, redundant and inefficient efforts by the Commission, its staff and parties.

Further, the IRP Scoping Ruling recognizes two new required elements for long-term procurement planning: “portfolio optimization and steadily decreasing GHG emissions in the electric sector from now through 2030.”⁶ As stated – very clearly – by the IRP Scoping Ruling,

These elements create the opportunity to modify our resource planning so that portfolios of resources that achieve optimization and greenhouse gas emissions reductions can be presented to the Commission for decision-making. ***Because of these new elements, we find that we need to pre-plan first: we will spend time deciding how the Commission should guide integrated resource planning, followed by LSE execution of IRPs themselves.***⁷

The Application unduly infringes on this threshold pre-planning process and would prevent the Commission from developing appropriate guidance for one of its largest regulated utilities. It should be rejected.

The issues raised regarding concern over what will replace Diablo Canyon when

⁴ Order Instituting Rulemaking to Develop an Electricity Integrated Resource Planning Framework and to Coordinate and Refine Long-term Procurement Planning Requirements (IRP OIR), dated February 11, 2016, at 3 (“we believe it may be premature to assess need and authorize additional procurement in light of the most recent LTPP need analysis and the changing procurement landscape envisioned by SB 350”).

⁵ PU Code 454.52

⁶ IRP Scoping Ruling, at 6.

⁷ IRP Scoping Ruling, at 7 (emphasis added).

it closes, while important, are not so exigent that they cannot be addressed in a timely manner in the appropriate –in some cases ongoing – Commission proceedings. It is 2016; there is sufficient time before Diablo Canyon’s proposed closure in 2024-2025 to address these issues in the right dockets:

- Review and authorization of accelerated recovery of Diablo Canyon’s costs can and should be considered in the utility’s next general rate case, test year 2020; again, the plant is not scheduled to shut down until 2024-2025 – two rate case cycles from now.
- Consideration of additional energy efficiency procurement should be undertaken as part of the Rolling Portfolio process adopted in D. 16-08-009 and subject to the parameters defined therein.
- Consideration of the proposed renewable and other non-EE procurement programs should be undertaken in the Integrated Resource Plan proceeding, R. 16-02-007, in coordination with proceedings on renewables, demand response and storage procurement.
- Commission review of the employee retention and retraining programs and costs, along with the community transition economic aid, belongs in A.016-03-006, PG&E’s triennial nuclear decommissioning cost proceeding. Indeed, these matters should be incorporated into that proceeding.

The Application should be rejected as untimely, unjustified and duplicative of other, ongoing efforts.

2. The Proposed EE Procurement Begins Too Soon, with Questionable Savings Persistence and Questionable Compliance with Commission Directives on the Promotion of Third Party EE

The Application seeks approval of EE procurement that will cost ratepayers \$1.3 billion to help replace Diablo Canyon, but the EE procurement would start in 2018. This cannot help replace Diablo Canyon because Diablo Canyon will still be online in 2018 and remain online for another seven to eight years. It would be unreasonable to spend ratepayers’ money to replace an asset – also being paid for with ratepayers’ money –

that is still used and useful. Further, there is no showing in the Application that the EE savings will persist, leading to significant concerns and questions of savings persistence. Finally, the Commission has recently directed the utilities to move toward third-party EE programs.⁸ This directive has not been complied with in the Application.

3. The Application Fails to Follow the Loading Order With No Proposed Procurement of Demand Response

The Application states it seeks “GHG-free resources” but only seeks procurement authority for EE and Renewable Portfolio Standard resources. There is no mention of Demand Response at all, despite the Commission’s concerted efforts to promote this top Loading Order resource and move Supply Side Demand Response to the forefront of procurement efforts.⁹

4. The Level of Costs Is Insufficiently Developed and Not Warranted, as Is the Proposed Non-Bypassable Charge

Finally, neither the costs resulting from the Application nor the possible new Non-bypassable charge (e.g. the Clean Energy Charge) have been sufficiently developed for ratepayers to determine the ultimate cost impact of the Application. The Application has failed to justify the imposition of these unknown costs on ratepayers. Furthermore, it basically attempts to replace costs currently recovered via the Power Charge Indifference Amount with a new type of charge, in violation of past Commission decisions. Similarly, the Application makes vague proposals for recovery of costs from

⁸ See D.16-08-019, at 111 (ordering the utilities to plan a transition to “at least 60% of their portfolios to be outsourced to third parties ... by the end of 2020”).

⁹ See, e.g., D. 14-12-024, at 3 (“The Commission initiated ... R.13-09-011 to enhance the role of demand response in meeting California’s resource planning needs and operational requirements”); see also, generally, D. 14-03-026.

DA and CCA customers, without justification for imposing the replacement costs of Diablo Canyon, an asset currently serving only bundled customers, on departing load.

B. EFFECT OF THE APPLICATION ON CLECA

CLECA member companies are in the steel, cement, industrial gases, beverage, pipeline transportation and mining industries. For all CLECA members, the cost of electricity is a significant factor in the cost of producing their product or service. Their aggregate electrical demand exceeds 520 Megawatts, and their aggregate annual consumption ranges from 2,500 GWH to over 3,000 GWH (equivalent to the annual electricity consumption of about 470,000 average California households). Some members take bundled utility service and some take direct access service; all members pay the public purpose program charge and the nuclear decommissioning charge; the levels for both of these charges will increase significantly should this Application be approved. All members pay for RPS costs and those costs will similarly be impacted by this Application should the Joint Proposal be adopted. CLECA members would be unreasonably impacted by the potentially significant rate impacts from the premature power replacement that would begin years before Diablo Canyon shuts down and extend far beyond the normal 10-year granting of procurement authority.

C. PROPOSED CATEGORIZATION, PROPOSED ISSUES, NEED FOR HEARING, AND PROPOSED SCHEDULE

While the Application should be rejected as unjustified and untimely, if it is not rejected, the proposed categorization, ratesetting, is appropriate. If the Application is not rejected, in addition to the issues raised above, PG&E's proposed list of issues is adequate and hearings will be needed on the contested issues; CLECA will present the facts detailed above and others that may develop through discovery at hearing. Finally,

if the Application is not rejected, PG&E's proposed schedule is too compressed for issues of this magnitude. Additional time for discovery, development of testimony and hearings is warranted. CLECA coordinated with TURN, ORA and EPUC to develop a reasonable alternative schedule. The following alternative schedule should be adopted:

| | PG&E | Proposed Alternative |
|--------------------------|------------------|-----------------------------|
| ORA/Intervenor testimony | October 28 | January 27, 2017 |
| Rebuttal Testimony | November 30 | February 2017 |
| Evidentiary hearings | December 13-16 | March 2017 |
| Opening briefs | January 16, 2017 | April 2017 |
| Reply briefs | February 3, 2017 | May 2017 |
| Proposed Decision | May 2017 | July 2017 |
| Final Decision | June 2017 | August 2017 |

Energy Users Forum also supports this proposed alternative schedule. Notably, this schedule allows for a decision by the end of 2017.

III. CONCLUSION

The Application should be rejected for all of the reasons stated above, and such additional bases as may be brought forth in this proceeding. If not rejected, the alternative schedule proposed above should be adopted and the issues raised above should be included in the scope of this proceeding.

Respectfully submitted,



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