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

Application of Pacific Gas and Electric  
Company for Authority, Among Other Things,  
to Increase Rates and Charges for Electric and  
Gas Service Effective on January 1, 2020.

Application No. 18-12-009  
(Filed: December 13, 2018)

(U 39 M)

**MOTION OF PACIFIC GAS AND ELECTRIC COMPANY  
(U 39 M) TO STRIKE THE PREPARED TESTIMONY OF  
THE ALLIANCE FOR NUCLEAR RESPONSIBILITY**

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Dated: July 29, 2019

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**I. INTRODUCTION**

Pursuant to Rule 11.1 of the Rules of Practice and Procedure of the California Public Utilities Commission (“CPUC” or “Commission”), Pacific Gas and Electric Company (“PG&E”) respectfully submits this Motion to Strike the July 26, 2019, prepared testimony of the Alliance for Nuclear Responsibility (“A4NR”). As discussed below, A4NR’s testimony, which seeks reconsideration of the Commission’s prior decisions to retire Diablo Canyon Nuclear Power Plant (“Diablo Canyon”) at the end of its current operating licenses, is procedurally inappropriate and outside of the scope of this proceeding.

**II. RELEVANT BACKGROUND**

PG&E filed Application A. 16-08-006 to retire Diablo Canyon on August 11, 2016. The Application was supported by a Joint Proposal of many parties, including A4NR.<sup>1</sup> The Joint Proposal states in relevant part: “Under the terms of this Joint Proposal, PG&E will retire Diablo Canyon at the expiration of its current [Nuclear Regulatory Commission] operating licenses. . . .”<sup>2</sup> The Joint Proposal facilitates the retirement of Diablo Canyon and its orderly and measured

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<sup>1</sup> A4NR did not take a position on PG&E’s replacement resources but agreed to support other provisions of the Joint Proposal supporting the retirement of Diablo Canyon at the end of the NRC licenses. Joint Proposal, Section 2.1.

<sup>2</sup> Joint Proposal, Section 1.1.

replacement with energy efficiency, Renewables Portfolio Standard (“RPS”)-eligible, and other GHG-free energy resources.

In Decision (D.) 18-01-022, the California Public Utilities Commission (CPUC or Commission) approved the retirement of Diablo Canyon when its Nuclear Regulatory Commission (“NRC”) operating licenses expire in November 2024 for Unit 1 and August 2025 for Unit 2. Diablo Canyon will continue to operate throughout the 2020-2022 forecast period and its treatment for ratemaking purposes remains largely unchanged from prior General Rate Cases (“GRCs”). One key difference is that the Commission approved a ratemaking settlement in D.18-01-022 that addresses the recovery of Diablo Canyon’s plant balance and cancelled capital projects, which is implemented in this application. The capital and expense needed to safely and reliably operate PG&E’s electric generation facilities, including Diablo Canyon, throughout the GRC period are included in this Application. As with prior GRCs, the Application and supporting testimony do not contain a need analysis for PG&E’s Generation Portfolio as portfolio supply assessments are conducted in the Integrated Resource Plan (IRP) proceeding.

### **III. DISCUSSION**

#### **A. A4NR’s Direct Testimony Is Clearly Beyond the Scope of this GRC Proceeding**

A4NR’s testimony is clearly outside the scope of this GRC. A4NR improperly seeks to litigate in this GRC the Commission’s determinations in Decision (“D.”) 19-04-040 and D.18-01-022 that Diablo Canyon should remain in California’s generation resource portfolio until expiration of its existing operating licenses in 2024 and 2025.<sup>3</sup> In its July 26, 2019 prepared testimony, A4NR suggests that the Commission should not include in the generation revenue requirement adopted in this proceeding any of the forecast capital and O&M costs for Diablo Canyon because facts and circumstances have changed since the Commission approved retirement of Diablo Canyon.<sup>4</sup> In support of its position, A4NR purports to demonstrate that

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<sup>3</sup> See Decision (D.)18-01-022, p. 15; D. 19-04-040, p. 165, Finding of Fact 32-33, 37, and 40, Conclusion of Law 25.

<sup>4</sup> Prepared Testimony of John Geesman on behalf of the Alliance for Nuclear Responsibility (“A4NR

conditions have materially changed since the Commission approved retirement of Diablo Canyon upon expiration of the existing operating license in 2024 and 2025.<sup>5</sup> Specifically, A4NR contends:

- The decrease in PG&E’s bundled customer base has accelerated beyond that expected when the Commission approved PG&E’s proposal to retire Diablo Canyon upon expiration of the existing operating licenses in 2024 and 2025;<sup>6</sup>
- Diablo Canyon operations have contributed to increased wind and solar resource curtailment due to accelerated presence of renewable energy resources on the CAISO grid since the Commission approved retirement of Diablo Canyon upon expiration of its existing operating licenses in 2024 and 2025;<sup>7</sup>
- Power Charge Indifference Adjustment (“PCIA”) charges attributable to Diablo Canyon are too high to justify operation beyond 2019.<sup>8</sup>

These issues are outside the scope of this GRC proceeding as they do not relate to any of the issues either typically in a GRC or specifically in this one. Commission considers load and need showings in the IRP, reviews the utilities’ plans for and compliance with least cost dispatch requirements in the Electric Resource Recovery Account (ERRA) forecast and compliance proceedings, and the appropriateness of costs included in the PCIA in a separate, multi-phased proceeding. Rule 16.4 allows parties to seek to modify a Commission Decision where there are “allegations of new or changed facts” that would justify the Commission to reconsider a prior decision. (Rule 16.4 (b).) Proposed modifications to D.18-01-022 and/or D.19-04-040 based on changed facts and circumstances should be raised – if at all -- in Petitions to Modify those decisions consistent with Rule 16.4, not in this GRC proceeding. The only thing that has changed about Diablo Canyon that is relevant to this GRC is a substantial reduction to the cost of service compared to the amount in base rates when the Commission approved the 2024/2025 retirement date for Diablo Canyon.<sup>9</sup>

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Testimony”), pp. 17-18.

<sup>5</sup> *Id.* at 4.

<sup>6</sup> *Id.* at pp. 5-7.

<sup>7</sup> *Id.* at pp. 8-10.

<sup>8</sup> A4NR Testimony, at pp. 10-12.

<sup>9</sup> *See generally* Exhibit PG&E-5, Chapter 3.

**B. The Commission Approved as Prudent a 2024/2025 Retirement for Diablo Canyon and Directed Parties to Include that Date in Planning Assumptions**

In its decision approving Diablo Canyon retirement upon expiration of the current operating licenses in 2024 and 2025, the Commission addressed parties' positions regarding the timing of Diablo Canyon retirement, stating that, "the more prudent and conservative approach to balance this uncertainty tips against a shutdown before 2024 and 2025," and that "based on the record for this proceeding, PG&E's proposed 2024/2025 retirement schedule provides a reasonable amount of time for the transition process, including further examination of replacement procurement."<sup>10</sup> While the Commission indicated that it could re-consider its determination, the Commission addressed this in the context of the record for A.16-08-006, and - if early shutdown should be proposed and considered anywhere, it should be in a Petition to Modify the decision in which the Commission previously approved as prudent the 2024/2025 retirement schedule.

Furthermore, the Commission and parties have relied on the Commission's determination in their planning assumption for generation resources needed over the next decade.<sup>11</sup> A4NR would have the Commission believe that the Commission did not address the issue of Diablo Canyon retirement in R.16-02-007.<sup>12</sup> This assertion is inaccurate; it's clear from the decision that the timing of Diablo Canyon retirement was very much a part of that proceeding. In Conclusion of Law 2, the Commission held:

The Commission should continue to use an assumption of 2024 and 2025 for retirement of the Diablo nuclear units in its GHG analysis for meeting the electric sector emissions targets by 2030.

In Ordering Paragraph 2, the Commission approved PG&E's Integrated Resource Plan, which assumes Diablo Canyon retirement in 2024/2025. In Ordering Paragraph 9, the Commission directed that:

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<sup>10</sup> D.18-01-022, p. 15.

<sup>11</sup> See generally D.19-04-040.

<sup>12</sup> *Id.*, at p. 14.

[t]he Preferred System Portfolio shall be based on the Reference System Portfolio adopted in D.18-02-018, updated to reflect 2017 IEPR assumptions, utilizing a 40-year life assumption for fossil fueled generation and updated with the most recent transmission cost and availability information from the California Independent System Operator (CAISO) transmission planning process....

The Reference System Portfolio (RSP) adopted in D.18-02-018 assumed that Diablo Canyon would retire in 2024 and 2025.<sup>13</sup> Clearly, the Commission considered what elements of the RSP required updating and determined it was not necessary to update the RSP to assume early shutdown of Diablo Canyon.

The Commission relied on the 2024/2025 planned retirement dates for Diablo Canyon, explaining that “by utilizing the assumption that the two Diablo units will retire in 2024 and 2025, as we did with the formulation of the RSP adopted in 18-02-018, we are already planning for the emissions planning impact of that action.”<sup>14</sup> The Commission again demonstrates that Diablo Canyon retirement and its implications for the electric system was very much on its mind in issuing the decision, stating its concern that “the replacement power procured mostly by Community Choice Aggregators will not represent as reliable a resource as Diablo Canyon has proven to be over the decades,” and in response required each Load Serving Entity (LSE) in PG&E’s territory to include a section in its next IRP filing its plans to address Diablo Canyon retirement.<sup>15</sup> In doing so, the Commission required each LSE to “address how it will replace the characteristics of the Diablo Canyon output with either flexible baseload or firm low-emissions energy.”<sup>16</sup>

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<sup>13</sup> D.19-04-040, at p. 147.

<sup>14</sup> While PG&E does not address the substance of A4NR’s testimony in this Motion, PG&E does point out that shutting down Diablo Canyon in 5 months, at the end of 2019, robs Diablo Canyon employees, the State, the Commission, the County of San Luis Obispo, and many others of any time to plan for any of the impacts of early shutdown.

<sup>15</sup> Id. at p. 149.

<sup>16</sup> Id. at p. 150.

The scope of this GRC with respect to Diablo Canyon should be limited to addressing the reasonableness of PG&E's forecasts of the 2020 going-forward O&M and capital costs of operating, *not* the decision to continue to operate Diablo Canyon until expiration of its existing operating licenses in 2024 and 2025, which the Commission already determined was reasonable in D.18-01-022 and relied upon in its assumptions and directions to parties in D.19-04-040. Challenges or revisions to prior Commission decisions assuming Diablo Canyon will continue to operate until expiration of its existing operating licenses in 2024 and 2025 should be made – if at all -through petitions to modify those proceedings.

#### **IV. CONCLUSION**

For all the foregoing reasons the Commission should strike the prepared written testimony of A4NR in its entirety.

Respectfully Submitted,

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