

## PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298**FILED**08/06/21  
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**Agenda ID #19768**  
**Ratesetting**TO PARTIES OF RECORD IN APPLICATION 18-07-013 and  
APPLICATION 18-12-008:

This is the proposed decision of Administrative Law Judge Robert W. Haga. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's September 9, 2021 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

The Commission may hold a Ratesetting Deliberative Meeting to consider this item in closed session in advance of the Business Meeting at which the item will be heard. In such event, notice of the Ratesetting Deliberative Meeting will appear in the Daily Calendar, which is posted on the Commission's website. If a Ratesetting Deliberative Meeting is scheduled, ex parte communications are prohibited pursuant to Rule 8.3(c)(4).

/s/ ANNE E. SIMONAnne E. Simon  
Chief Administrative Law Judge

AES:lil

Attachment

Decision PROPOSED DECISION OF ALJ HAGA (Mailed 8/6/2021)

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

Application of Pacific Gas and Electric  
Company for Authorization to  
Establish the Diablo Canyon  
Decommissioning Planning Cost  
Memorandum Account (U39E.)

Application 18-07-013

And Related Matter.

Application 18-12-008

**DECISION ADOPTING SETTLEMENT**

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### Appendix A – Settlement Agreement

## DECISION ADOPTING SETTLEMENT

### Summary

This decision adopts and approves the Settlement Agreement, dated January 10, 2020, between The Utility Reform Network, the Public Advocate's Office of the California Public Utilities Commission, Alliance for Nuclear Responsibility, County of San Luis Obispo, Women's Energy Matters, yak tityu tityu yak tilhini Northern Chumash Cultural Preservation Kinship, and Pacific Gas and Electric Company. This decision finds that the Settlement Agreement between the parties is reasonable in light of the whole record in this proceeding, is consistent with the law, and is in the public interest. Accordingly, the decision grants the joint motion for adoption of the Settlement Agreement approving Pacific Gas and Electric Company's 2018 Nuclear Decommissioning Cost Triennial Application.

Adoption of this Settlement Agreement resolves all issues presented in Application (A.) 18-07-013 and A.18-12-008. Accordingly, A.18-07-013 and A.18-12-008 are closed.

### 1. Background

On July 16, 2018, Pacific Gas and Electric Company (PG&E) filed Application (A.) 18-07-013 requesting authority to establish the Diablo Canyon Decommissioning Planning Memorandum Account (DCDPMA). PG&E proposed the DCDPMA to track the cost of decommissioning planning activities incremental to those reimbursable from the Diablo Canyon Nuclear Decommissioning Trust Funds (NDTF) so it could preserve the ability to request and obtain cost recovery for these costs in the 2018 Nuclear Decommissioning Cost Triennial Proceeding (NDCTP) (DCDPMA Application).

On December 13, 2018, PG&E filed A.18-12-008 (NDCTP Application) seeking review of PG&E's updated nuclear decommissioning cost estimates (DCE) and determination of necessary customer contributions to fully fund the nuclear decommissioning trusts to the level needed to decommission PG&E's nuclear plants.<sup>1</sup> PG&E also submitted its Request for Exemption on December 13, 2018.<sup>2</sup> The NDCTP application is the first detailed, site specific DCE for Diablo Canyon Power Plant (DCPP) Unit 1 and Unit 2 presented to the Commission for review after PG&E's decision to retire DCPP upon expiration of the current operating licenses. In addition, the NDCTP Application also presents for the Commission review the DCE for the remaining decommissioning activities at Humboldt Bay Power Plant (HBPP) and the costs incurred to support HBPP decommissioning during 2012-2018.

The Utility Reform Network (TURN) filed a Protest to A.18-07-013 on August 15, 2018. On August 30, 2018, PG&E and TURN submitted a Joint Prehearing Conference Statement. The Prehearing Conference (PHC) was held on September 7, 2018, to discuss the issues of law and fact and determine the need for hearing and schedule for resolving the matter. At the PHC PG&E agreed to submit a request for exemption from the U.S. Nuclear Regulatory Commission (NRC) to allow PG&E to access the nuclear decommissioning trust for decommissioning planning expenditures of \$187.8 million (Request for Exemption) on or before the date it filed the NDCTP Application.<sup>3</sup> A Scoping

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<sup>1</sup> The Nuclear Decommissioning Cost Triennial Proceeding (NDCTP) is established in accordance with Sections 8321 et seq. of the California Public Utilities Code, and various California Public Utilities Commission (Commission) decisions. All statutory references are to the California Public Utilities Code unless otherwise stated.

<sup>2</sup> See, PG&E-15.

<sup>3</sup> RT at 8.

Memo and Ruling was issued on October 11, 2018, delineating the subject matter to be addressed in both applications.<sup>4</sup>

On October 15, 2018, PG&E hosted a workshop for all parties to address more specifically the types of costs PG&E would record in the proposed DCDPMA if authorized by the Commission. TURN and PG&E served opening comments on issues presented in the Scoping Memo and Ruling on November 15, 2018, and reply comments on November 29, 2018.

The Public Advocates Office of the California Public Utilities Commission (Cal Advocates), TURN, Alliance for Nuclear Responsibility (A4NR), County of San Luis Obispo (SLO County) and Women's Energy Matters (WEM) all filed timely protests or responses to PG&E's NDCTP Application, to which PG&E responded on January 29, 2019. Donald Korn & Associates and James Adams requested and were granted party status at the Prehearing Conference.<sup>5</sup> The Commission held the PHC on February 6, 2019, and the assigned Administrative Law Judge (ALJ) issued a ruling in the DCDPMA Application directing parties to submit additional information and deferring a decision on the DCDPMA Application until after a determination by the NRC on PG&E's Request for Exemption. The Assigned Commissioner's Scoping Memo and Ruling in A.18-12-008 was issued on February 14, 2019.

On March 7, 2019, the assigned Commissioner issued a ruling consolidating the DCDPMA Application and the NDCTP Application, and amending the scope of the proceeding to address additional safety and decommissioning issues.

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<sup>4</sup> Assigned Commissioner's Scoping Memo and Ruling (October 11, 2018).

<sup>5</sup> RT at 5, 9 (February 6, 2019).

On March 15, 2019, PG&E served supplemental testimony addressing PG&E's spent fuel management plan and issues identified in the March 7, 2019, Assigned Commissioner's Scoping Memo and Ruling. On April 15, 2019, PG&E served supplemental testimony providing further information and clarification regarding decommissioning planning costs PG&E planned to record in the DCDPMA if authorized to do so as directed at the February 6, 2019, Prehearing Conference and February, 14, 2019, ALJ Ruling in the Memo Account application. PG&E invited parties to a workshop at the start of April 2019, to address how PG&E developed the DCE and its "Milestone Framework." On May 4, 2019, another workshop was held by PG&E and the California Energy Commission (CEC) addressing spent fuel management.

On April 16, 2019, YTT Kinship Northern Chumash Cultural Preservation Kinship (YTT Kinship) requested party status. YTT Kinship was granted party status on June 5, 2019. On May 7, 2019, San Luis Obispo Mothers for Peace (SLOMFP) requested party status. SLOMFP was granted party status on June 4, 2019. On July 16, 2019, Californians for Green Nuclear Power (CGNP) requested party status. CGNP was granted party status on August 2, 2019.

On July 17, 2019, PG&E hosted a site tour of Humboldt Bay Power Plant Unit 3 in Eureka, CA. Cal Advocates and intervenors conducted extensive discovery from January 2019 through mid-September 2019. These parties actively and thoroughly reviewed PG&E's 2018 NDCTP Application, supporting testimony and site-specific DCE. To enhance their understanding of the issues, parties submitted, and PG&E responded to, 410 data requests, excluding subsets of questions. Cal Advocates and intervenors served testimony on July 15, 2019. On August 7 and 8, 2019, the Commission held public participation hearings addressing the 2018 NDCTP Application in San Luis Obispo, CA. On

August 15, 2019, PG&E served rebuttal testimony addressing issues raised by the parties who filed testimony on July 15, 2019.

By letter dated September 10, 2019, the NRC granted PG&E's request for exemption, allowing PG&E to access \$187.8 million in funding from the Diablo Canyon nuclear decommissioning trust. The Commission held evidentiary hearings September 23-25, 2019.

On October 2, 2019, the assigned ALJ issued a ruling amending the procedural schedule and requiring additional information. Pursuant to that ruling, on October 4, 2019, PG&E served updated testimony with revisions to the revenue requirement reflecting the fact that the DCDPMA requested in the Memo Account Application was no longer necessary and revising the requested revenue requirement related to the Diablo Canyon DCE to be collected solely through the nuclear decommissioning trust. Also, in response to the October 2, 2019, ALJ ruling, SLO County served testimony on October 10, 2019, addressing its position on and efforts associated with repurposing the breakwaters on Diablo Canyon lands. On October 11 and October 17, 2019 respectively, the proceeding was re-assigned to ALJ Haga and Commissioner Batjer.

On October 24, 2019, PG&E and TURN requested a suspension of the procedural schedule to allow parties to continue productive settlement discussions. ALJ Haga granted that request on November 14, 2019. Having reached agreement in principle, PG&E, TURN, Cal Advocates, A4NR, WEM, SLO County and YTT Kinship served a Notice of Settlement Conference on December 13, 2019, and held a settlement conference on December 20, 2019.

Notice of the DCDPMA Application appeared on the Commission's Daily Calendar on July 18, 2018. On August 9, 2018, in Resolution ALJ 176-3421, the



Commission preliminarily categorized this proceeding as ratemaking and determined hearings were necessary. The October 11, 2018, Scoping Memo also set forth the schedule for the proceeding and determined evidentiary hearings were not needed for the DCDPMA Application. Prepared testimony was served according to the schedule set forth in the Scoping Memo and Motions pursuant to Rule 13.8 of the Commission's Rules of Practice and Procedure (Rules).<sup>6</sup> In addition to the testimony entered into the evidentiary record at the evidentiary hearing, on January 6, 2020, PG&E, SLO County, and TURN submitted a joint motion offering supplemental prepared testimony into evidence.<sup>7</sup>

PG&E, TURN, Cal Advocates, A4NR, WEM, SLO County and YTT Kinship (settling parties) submitted a Settlement Agreement on January 10, 2020.<sup>8</sup> SLOMFP submitted comments seeking changes to the settlement on

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<sup>6</sup> California Code of Regulations, Title 20, Division 1, Chapter 1. Subsequent references to "Rule" are to the Commission's Rules of Practice and Procedure.

<sup>7</sup> Joint Motion of Pacific Gas and Electric Company (U39E), County of San Luis Obispo, and The Utility Reform Network for the Commission to Enter Supplemental Evidence into the Record for this Proceeding, January 6, 2020 (Joint Motion to Enter Supplemental Evidence). Attachment A contains PG&E's supplemental testimony that was served on October 4, 2019, pursuant to issues discussed at the September evidentiary hearings regarding the impact of the Nuclear Regulatory Commission's grant of PG&E's request for an exemption from regulations limiting access to the Nuclear Decommissioning Trust for decommissioning planning activities on the requested trust contributions and revenue requirements in this proceeding and the ratemaking for the Baywood transmission feed. Attachment B contains SLO County's supplemental testimony served on October 10, 2019, pursuant to issues discussed at the September evidentiary hearings regarding its position and the status of any negotiations or efforts toward reuse of the breakwaters on Diablo Canyon lands after decommissioning is completed. Attachment C contains a data request response from PG&E to TURN in which PG&E demonstrates that it will cost customers less to treat the DC ISFSI license renewal costs as decommissioning expense than to treat those costs as capital.

<sup>8</sup> Settlement Agreement Among Pacific Gas and Electric Company (U39E), The Utility Reform Network, Public Advocates Office at the California Public Utilities Commission, Alliance for Nuclear Responsibility, County of San Luis Obispo, yak tit'vu tit'vu yak tilhini Northern Chumash Cultural Preservation Kinship, and Women's Energy Matters (filed January 10, 2020) (Settlement Agreement).

February 10, 2020. The settling parties submitted a reply to the SLOMFP comments on February 24, 2020, requesting adoption of the Settlement Agreement without modifications.

### **1.1. Factual Background**

PG&E's applications propose a site-specific DCE of \$4.802 billion for Diablo Canyon recovered through the Nuclear Decommissioning non-bypassable charge (ND NBC) over five years (Unit 1 and Pre-shutdown planning activities 2020-2024) or six years (DCPP Unit 2 2020-2025).<sup>9</sup> In addition, PG&E proposes a DCE for HBPP of \$1.111 billion with a cost to complete of \$182.5 million and \$400 million approved as reasonable expenditures on decommissioning activities.<sup>10</sup>

TURN proposes no increase to the funding levels adopted in PG&E's 2015 NDCTP for DCPP decommissioning, in which the Commission rejected PG&E's requested increase and maintained its prior-approved DCE of \$2.7 billion as a reasonable DCE for Diablo Canyon.<sup>11</sup> TURN calls PG&E's 2018 DCPP DCE proposal a "highest cost, worst case estimate" and points to disparities with estimates for other comparable nuclear facilities.<sup>12</sup>

TURN challenges PG&E's assumptions in seven areas:

1) decommissioning planning; 2) waste disposal escalation rate; 3) in-state versus out-of-state waste disposal; 4) repurposing; 5) spent fuel management cost relationship with Department of Energy litigation proceeds; 6) the recovery of

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<sup>9</sup> PG&E-1 at 1-2 to 1-6.

<sup>10</sup> PG&E-1 at 1-7 to 1-8.

<sup>11</sup> TURN-1 at 2-7, and TURN-2 at 2.

<sup>12</sup> TURN-1 at 10-24.

DCE preparation costs; and 7) PG&E's trust asset allocation/glide path.<sup>13</sup> TURN also criticizes the methods used by PG&E to estimate decommissioning costs and its failure to consider potential savings associated with various contracting arrangements that would result from a competitive solicitation process.<sup>14</sup> Finally, TURN seeks revisions to PG&E's proposed Milestone Framework.<sup>15</sup>

TURN proposes an alternative that would have any additional trust contributions approved by the Commission held in a non-qualified trust, which would allow earlier refund to customers of any excess decommissioning funds collected in customer rates.<sup>16</sup> TURN calls PG&E's updated HBPP DCE and recovery of \$400 million for decommissioning activities at HBPP reasonable.<sup>17</sup>

Cal Advocates proposes a reduction of PG&E's Diablo Canyon DCE by \$991.5 million, reducing program management fees by \$626 million, reducing the costs to remove and dispose of the breakwater by \$286 million, reducing the pre-2020 decommissioning planning costs by \$45.6 million, and reducing security costs by \$34 million.<sup>18</sup> Cal Advocates does not oppose PG&E's updated HBPP DCE or recovery of \$400 million for decommissioning activities at HBPP.<sup>19</sup>

A4NR proposes reducing PG&E's proposed Diablo Canyon DCE by

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<sup>13</sup> TURN-1 at 2-7, and TURN-2 at 9-15.

<sup>14</sup> TURN-2 at 1-9.

<sup>15</sup> TURN-1 at 50.

<sup>16</sup> TURN-1 at 16, and TURN-2 at 2.

<sup>17</sup> TURN-2 at 3.

<sup>18</sup> PAO-1 at 3.

<sup>19</sup> PAO at 2-3.

\$509-\$619 million based on a shorter wet storage cooling period for spent nuclear fuel.<sup>20</sup> A4NR's challenge of PG&E's interaction with the CEC on the expedited transfer of spent nuclear fuel from wet to dry storage is related to its proposed reduction.<sup>21</sup> A4NR does not take a position on PG&E's updated HBPP DCE or recovery of \$400 million for decommissioning activities at HBPP.

SLO County supports PG&E's request of a Diablo Canyon DCE of \$4.802 billion to restore the DCCP site to its original condition.<sup>22</sup> SLO County takes no position on PG&E's updated HBPP DCE or recovery of HBPP decommissioning costs.

YTT Kinship seeks to increase PG&E's proposed Diablo Canyon DCE by an amount sufficient for PG&E to perform genealogical studies sufficient to determine which California Native American Tribe(s) is traditionally and culturally affiliated with the Diablo Canyon lands.<sup>23</sup>

WEM contests PG&E's management of spent fuel at Diablo Canyon and its pre-shutdown site characterization efforts. WEM questions the retirement dates for Diablo Canyon Units 1 and 2, noting that PG&E could decide to retire the plant early based on declining need, deteriorating economics and changes in the useful life of the plant. WEM argues retiring the plant early would save money and expedite transfer of spent nuclear fuel out of the spent fuel pools.<sup>24</sup> WEM attended the HBPP site tour, submitted data requests regarding HBPP

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<sup>20</sup> A4NR at 3.

<sup>21</sup> A4NR at 33.

<sup>22</sup> SLO-1 at 2.

<sup>23</sup> *See generally*, YTT-1, YTT-2 and YTT-3.

<sup>24</sup> *See generally*, WEM-1.

decommissioning expenditures and takes no position on PG&E's updated DCE or recovery of \$400 million for HBPP decommissioning activities.

## **2. Issues Before the Commission**

The scope of the matter properly before the Commission is whether or not the Utility has met their burden of demonstrating that the relief requested is justified as set forth in § 455, and that the resulting rates will be just and reasonable as required by § 451.

The issues to be considered in determining whether to grant PG&E's request for authority to establish the DCDPMA to track the cost of decommissioning planning activities incremental to those reimbursable from the Diablo Canyon NDTF are:

1. Overview of decommissioning planning activities PG&E intends to implement in 2019-2024 and associated costs;
2. Comparison of the current forecast decommissioning planning activities/costs to those in the 2015 NDCTP application;
3. Detailed information about activities performed through May 2019 totaling \$37.2 million;
4. Detailed information about activities forecast for May 2019-June 2020 totaling \$20 million;
5. NRC regulations restricting access to nuclear decommissioning trust funds and the process for requesting an exemption or other relief by PG&E;
6. Showing that costs to be recorded in the memo account are not being recovered through current GRC-approved rates; and
7. The estimated or expected benefit to customers, if any, of performing decommissioning planning activities (and spending associated ratepayer funds) in excess of the amount permitted by NRC to be withdrawn from the trust funds prior to active decommissioning of Diablo Canyon.

The NDCTP application was filed as required by §§ 8321-8330. Pursuant to § 8326, PG&E, as the owner of a nuclear power plant, must prepare, submit, and periodically revise the decommissioning cost estimate for each plant:

- (A) Each electrical utility owning, in whole or in part, or operating a nuclear facility, located in California or elsewhere, shall provide a decommissioning cost estimate to the commission or the board for all nuclear facilities which shall include all of the following:
  - (1) An estimate of costs of decommissioning.
  - (2) A description of changes in regulation, technology, and economics affecting the estimate of costs.
  - (3) A description of additions and deletions to nuclear facilities.
  - (4) Upon request of the commission or the board, other information required by the Nuclear Regulatory Commission (NRC) regarding decommissioning costs.
- (B) The decommissioning costs estimate study shall be periodically revised in accordance with procedures adopted by the commission or the board pursuant to Section 8327.

The Commission's directive to review the Utility's decommissioning cost estimate is set forth in § 8327:

The commission or the board shall review, in conjunction with each proceeding of the electrical utility held for the purpose of considering changes in electrical rates or charges, the decommissioning costs estimate for the electrical utility in order to ensure that the estimate takes account of the changes in the technology and regulation of decommissioning, the operating experience of each nuclear facility, and the changes in the general economy. The review shall specifically include all cost estimates, the basis for the cost estimates, and all assumptions about the remaining useful life of the nuclear facilities.

As noted above, the burden of proof is on PG&E to demonstrate the reasonableness of the DCE and any resulting rate change requests. The standard of proof is that of a preponderance of evidence.

The issues identified for the NDCTP application are:

1. Reasonableness of DCPD DCE (including underlying assumptions, *e.g.* timing of spent fuel transfer from wet to dry storage) and associated ratemaking proposals;
2. Reasonableness of HBPP DCE and associated ratemaking proposals;
3. Reasonableness of performing planning activities pre-shutdown and the associated cost estimate and ratemaking proposal for those planning activities;
4. Reasonableness of costs incurred for decommissioning activities at HBPP;
5. Milestone Framework proposal for DCPD decommissioning activities;
6. Whether PG&E's decommissioning plan for DCPD adequately addresses the needs of DCPD's host community; and
7. Potential impact of PG&E's financial condition on decommissioning activities.

In addition, a number of issues were included within the scope of the proceeding as follows:

1. Inclusion of an Order to Show Cause (as to whether PG&E complied with Decision (D.) 17-05-020 regarding studying and developing a plan for expedited transfer of spent fuel to dry cask storage was deferred consistent with the parties' request at the PHC and required PG&E to submit supplemental testimony addressing the spent fuel transfer, management, and interactions with the California Energy Commission.

2. The bankruptcy related issues were deemed to overlap with the issue of “potential impact of PG&E’s financial condition on decommissioning activities.”
3. Impacts on DCE of Retirement Before 2024/2025 were deferred to the Integrated Resources Planning Proceeding (R.16-02-007), and would be revisited upon determining any impacts of such early retirement in the [next] NDCTP.

The March 7, 2019, assigned Commissioner Ruling amended the scope of the proceeding to include additional concerns raised by SLOMFP and Alex S. Karlin through public comment to the Commission. PG&E was directed to provide additional testimony responding to the public comment attached to the ruling, including responses to the following questions:

a. [SLOMFP] Public Comment

- i. Respond generally to issues raised by [SLOMFP] February 4, 2019, e-mail (also dated February 2, 2019).
- ii. Has the Nuclear Regulatory Commission (NRC) issued an exemption or other approvals concerning waiver or deferral of embrittlement testing for DCCP Unit 1? If the NRC has provided a determination or correspondence addressing this issue include documentation from NRC as an attachment with the supplemental testimony.
- iii. Are there any safety concerns as to embrittlement that could lead to a premature shut down of Unit 1, and if so, how has PG&E addressed such safety concerns?
- iv. [SLOMFP] public comment includes the following statement, “[t]he degree of embrittlement at Unit One can be easily and cheaply tested while the reactor is shut down for refueling.” Could the embrittlement at Unit 1 be tested consistent with this statement during the refueling period for Unit 1? Does PG&E intend to test Unit 1 during the refueling shut down?

b. Alex Karlin Public Comment

- i. Address the issues raised in Alex S. Karlin’s letter generally.



- ii. Alex S. Karlin states in his letter that “the [Diablo Canyon Independent Safety Committee (DCISC)] currently has no legal authority to undertake any decommissioning activities or expenditures.” PG&E is to explain and provide the authority under which the DCISC is taking on activities to assess decommissioning activities, including posting information seeking a consultant to assess decommissioning activities.
- iii. Alex S. Karlin states “...the DCISC is attempting to prolong its lifespan past 2025.” His letter continues with, “[n]either its [DCISC] charter, composition, knowledge, skills, nor experience empower the DCISC to review and/or advise [on] decommissioning.” Address each of these issues.
- iv. Does the DCISC have authority to expend ratepayer funds to review decommissioning activities (including hiring staff for this purpose)? If ratepayer funds are being expended by PG&E to review decommissioning activities, provide the costs incurred to date or to be incurred and where such approval has been provided by the Commission. We note any approval for decommissioning activities must be reviewed and authorized in the Nuclear Decommissioning Cost Triennial Proceeding.
- v. What are the estimated costs to ratepayers if the DCISC were to extend beyond 2025?

### **3. Proposed Settlement**

On December 20, 2019, the parties held a duly-noticed all-party formal settlement conference in compliance with Rule 12.1(b), which resulted in the execution of the Settlement Agreement. On January 10, 2020, the settling parties filed a Joint Motion and the associated Settlement Agreement with the Commission seeking adoption of the Settlement Agreement as a final resolution of this matter.

On February 10, 2020, SLOMFP submitted comments opposing the Settlement Agreement as written. SLOMFP opposed Sections 9.2 and 9.6 as

written and proposed amendments to those sections. SLOMFP requested the Commission approve the Settlement Agreement subject to its proposed revisions to Sections 9.2 and 9.6. SLOMFP argued that there is no reason that the cause of an early shutdown should bear on the analysis PG&E has agreed to do pursuant to Section 9.2 and proposed removing the phrase “due to equipment failure or other operating issue” to address its concern.<sup>25</sup> SLOMFP also proposed removing the phrase “continue to” and “to the extent feasible and practicable in context of decommissioning plans” from Section 9.6 to address its concern that the section as written would allow PG&E to deviate from industry best practices.<sup>26</sup>

The settling parties jointly submitted reply comments on February 24, 2020, stating the proposed changes sought by SLOMFP should be rejected as the changes undermine the reasonable compromise of litigation positions reflected in those sections. In addition, the settling parties explain that the proposed revisions do not change the substantive obligations established in Section 9.2. Further, the settling parties argue the language of Section 9.6 in no way suggests or reflects agreement that PG&E will deviate from industry best practices. The settling parties argue further that phrases proposed to be removed address the facts in the record that PG&E has already performed significant site characterization and reduced site contamination consistent with Commission directives and that continued activities should be coordinated with decommissioning plans.<sup>27</sup> The settling parties urge the Commission to adopt the

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<sup>25</sup> SLOMFP Comments on Proposed Settlement at 1.

<sup>26</sup> SLOMFP Comments on Proposed Settlement at 2.

<sup>27</sup> Joint Reply Comments at 3.

Settlement Agreement without modification as reasonable in light of the whole record, consistent with the law and in the public interest.

### **3.1 Settlement of Pacific Gas and Electric's DCDPMA Application and NDCTP Application.**

The settling parties agree an adjusted 2018 DCPD DCE of \$3,899,145,000 (\$2017) and a resulting annual revenue requirement of \$112.5 million recovered over eight years.<sup>28</sup>

### **3.2 Diablo Canyon DCE and Revenue Requirement Adjustments**

The Diablo Canyon DCE of \$3,899,145,000 (\$2017) reflects the following reductions:

- \$300 million related to a reduced spent nuclear fuel cooling period in wet storage;
- \$200 million related to general repurposing, subject to regulatory approvals;
- \$400 million related breakwater repurposing, subject to regulatory approvals;
- \$3 million related to PG&E's membership in INPO, NEI and EPRI; and
- \$250,000 related to costs to prepare the DCPD DCE, which had been included in PG&E's General Rate Case application.<sup>29</sup>

In addition to these reductions, the settling parties propose two changes to the revenue requirement calculation:

- \$130 million reduction to reflect updates to trust contribution amounts from the updated cash flows

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<sup>28</sup> Settlement Agreement, Section 1.1 and Section 2. We approve the eight year recovery beginning in 2021.

<sup>29</sup> Settlement Agreement, Section 1.2.

presented in PG&E's October 4, 2019 supplemental testimony; and

- Adjustments to the escalation rate on waste disposal.<sup>30</sup>

The Settlement Agreement expressly reflects those reductions attributable to repurposing and other issues related to the post-2022 revenue requirement will be revisited in the 2021 NDCTP and that the reductions agreed upon for this cycle will not harm PG&E's ability to fully restore the Diablo Canyon site at the end of decommissioning as required by federal, state or local regulators and found reasonable and prudent in future NDCTPs.<sup>31</sup>

In connection with agreement on the reasonable DCPD DCE, trust contribution and related annual revenue requirement for this proceeding, the Settlement Agreement states it is reasonable to allow PG&E to withdraw \$187.8 million from the Nuclear Decommissioning Trust to support pre-shutdown decommissioning planning activities, subject to reasonableness review in the appropriate NDCTP.<sup>32</sup> The costs to renew the license for the Diablo Canyon Independent Spent Fuel Storage Installation and to perform studies to determine which California Native American Tribe(s) is traditionally and culturally affiliated with Diablo Canyon lands are deemed included in the \$187.8 million of decommissioning planning costs.<sup>33</sup>

In addition to reaching a reasonable compromise on the quantitative issues discussed above, the Settlement Agreement reflects reasonable resolution of the qualitative issues raised by parties, as described in the following sections.

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<sup>30</sup> Settlement Agreement, Section 1.3.

<sup>31</sup> Settlement Agreement, Sections 1.8 and 1.9.

<sup>32</sup> Settlement Agreement, Section 1.5.

<sup>33</sup> Settlement Agreement, Sections 1.6 and 1.7.

### **3.2.1 Contracting Strategy**

The Settlement Agreement commits PG&E to select a decommissioning contracting strategy prior to the 2021 NDCTP and, to the extent feasible, obtain indicative bids for near-term scopes of work and reflect any savings achieved through the bid process for these near-term scopes of work in the 2021 NDCTP. No later than 2024, PG&E agrees to identify any savings resulting from implementation of the contracting strategy and incorporate any savings into the DCE. Parties may propose that savings resulting from a particular contracting strategy be incorporated into the DCE adopted in the 2021 NDCTP, and PG&E may request recovery of its actual costs in the event assumed savings do not materialize upon completion of the RFP process.<sup>34</sup>

### **3.2.2 Trusts**

The additional contributions contemplated by the Settlement Agreement will be deposited into a non-qualified trust fund or other non-qualified mechanism, which will include subaccounts to track separately the costs associated with license termination, spent fuel management and site restoration. If PG&E proposes to deposit funds into a fund or mechanism other than the existing non-qualified fund for DCP, it will consult with parties and file for Commission approval of this new mechanism via a Tier 3 Advice Letter.<sup>35</sup>

### **3.2.3 Spent Fuel Management**

PG&E's request for proposals will require vendors to submit proposals for spent nuclear fuel storage systems that will fit within the footprint of the existing Diablo Canyon Independent Spent Fuel Storage Installation (DC ISFSI) and supporting the final offload of spent nuclear fuel within four years of the

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<sup>34</sup> Settlement Agreement Section 3.

<sup>35</sup> Settlement Agreement Section 4.

shutdown of Unit 1 and 2, subject to NRC and other required regulatory approvals. PG&E will provide documentation from the CEC affirming that the CEC is satisfied with its participation in the process and that the vendor and spent fuel storage system will achieve transfer of spent nuclear fuel from wet to dry storage as promptly as practicable. Finally, the Settlement Agreement states, all of this will be achieved without increasing safety risks of spent nuclear fuel transfer. Any additional costs associated with obtaining and using a spent fuel storage system meeting these requirements may be presented in the PG&E's 2021 or 2024 NDCTP.<sup>36</sup>

### **3.2.4 DOE Settlement/Litigation Proceeds**

PG&E agrees to present information in the 2021 NDCTP addressing: (1) whether and how other utilities reflect DOE reimbursement for spent fuel management costs in estimates of those costs; and (2) developments that may affect the ability to collect spent fuel management costs from DOE. PG&E will address the ratemaking for DOE proceeds beginning with the 2021 NDCTP rather than PG&E's GRC.<sup>37</sup>

### **3.2.5 Milestone Framework**

PG&E's proposed Milestone Framework is accepted as reasonable, subject to revisions reflecting acceleration of license termination and site restoration activities made possible by accelerating movement of spent nuclear fuel. PG&E will track unassigned costs (line items 1 and 2 of Milestone Framework) as agreed to by TURN, SCE and SDG&E in A.18-03-009. PG&E will also estimate

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<sup>36</sup> Settlement Agreement Section 5.

<sup>37</sup> Settlement Agreement Section 6.

the volumes of low-level radioactive waste attributable to each decommissioning major project.<sup>38</sup>

### **3.2.6 Waste Disposal**

The parties agree that ambiguities relating to the interpretation of Executive Order (D62-02) have provided insufficient clarity to determine whether clean waste from DCPD can be disposed in California landfills. The settling parties agree to request that the Commission ask the jurisdictional state agencies to clarify this issue. In the meantime, PG&E will re-assess whether additional clean waste can be used on-site.<sup>39</sup>

### **3.2.7 Diablo Canyon Independent Safety Committee and Diablo Canyon Decommissioning Engagement Panel**

The record for the 2018 NDCTP includes information addressing whether the Diablo Canyon Independent Safety Committee (DCISC) should have an ongoing oversight role after permanent shutdown of DCPD,<sup>40</sup> and whether the Diablo Canyon Decommissioning Engagement Panel (DCDEP) effectively meets the objectives of the stakeholder process directed by the Commission in D.18-01-022.<sup>41</sup> If the Settlement Agreement is approved, the DCISC charter would be revised to allow it to continue in its safety oversight role until all the DCPD spent nuclear fuel has been moved from wet storage to dry storage and

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<sup>38</sup> Settlement Agreement Section 7.

<sup>39</sup> Settlement Agreement Section 8. We note here that James Adams failed to persuade us that whether PG&E should be directed to research and analyze whether deep isolation on land and sub-seabed are potentially viable options for the disposal of the six dry casks at HBPP can and should be within the scope of the proceeding. Further, were it within scope, expenditure of ratepayer funds for such research would not be reasonable given current federal laws and regulations. (See, PGE-12 at 1-3 and 1-10, RT at 162-165.)

<sup>40</sup> PG&E-7 at 5-7.

<sup>41</sup> PG&E-9 at 1-2. (See also, SLO-1, Exhibit B.)

the funding for and effectiveness of the DCDEP would be addressed in the 2021 NDCTP.<sup>42</sup>

### **3.2.8 DCP Operations/Site Characterization**

The Settlement Agreement reflects agreement by the settling parties that, except as relevant to decommissioning plans or activities, Diablo Canyon operations are outside the scope of the NDCTP. PG&E agrees to make a showing in the 2021 NDCTP addressing the impact on the DCE of an unexpected early shutdown of Diablo Canyon due to equipment failure or other operating issue. Also, consistent with the Commission's direction in the 2015 NDCTP and site characterization work already performed, PG&E will continue to characterize and reduce site contamination prior to shut down to the extent feasible and practicable in the context of decommissioning plans.<sup>43</sup>

### **3.2.9 Decommissioning Cost Comparison**

PG&E agrees that to the extent information is available and accessible PG&E will provide a comparison with the DCE for San Onofre Nuclear Generating Station (SONGS), including the decommissioning work accomplished or underway at SONGS, in the 2021 NDCTP.

### **3.3 HBPP DCE, Revenue Requirement and Reasonableness Review**

There were no disputed issues related to the HBPP DCE, ongoing revenue requirement or the reasonableness of \$400 million spent on HBPP decommissioning activities. Under the terms of the Settlement Agreement, PG&E would continue to collect in rates an annual revenue requirement of \$3.9 million. Additionally, the settling parties do not oppose PG&E's request for

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<sup>42</sup> Settlement Agreement at Sections 9.4 and 9.5.

<sup>43</sup> Settlement Agreement at Sections 9.1, 9.2, and 9.6.



a finding that \$400 million in costs incurred for completed decommissioning activities at HBPP were reasonably and prudently incurred. PG&E agrees to present simpler, clearer comparison tables in the 2021 NDCTP.<sup>44</sup>

### **3.4 Settlement Agreement Between the Parties**

In accordance with Article 12 of the Rules, on January 10, 2020, the settling parties submitted a fully executed “Settlement Agreement Among Pacific Gas and Electric Company (U39E), The Utility Reform Network, Public Advocates Office at the California Public Utilities Commission, Alliance for Nuclear Responsibility, County of San Luis Obispo, yak titʻu titʻu yak tilhini Northern Chumash Cultural Preservation Kinship, and Women’s Energy Matters” (Settlement Agreement) with their Joint Motion for Adoption of Settlement Agreement. The settling parties requested that the Commission approve the Settlement Agreement pursuant to Rule 12.1 *et. seq.* A copy of the Settlement Agreement, which resolves both PG&E’s Application for Authorization to Establish the Diablo Canyon Decommissioning Planning Cost Memorandum Account, and PG&E’s Application in the 2018 Nuclear Decommissioning Cost Triennial Proceeding in their entirety,<sup>45</sup> is attached hereto as Appendix 1.

As reflected in the Settlement Agreement, based upon the mutual agreement of the parties, the settling parties agree to a resolution of both A.18-07-013 and A.18-12-008 as follows:

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<sup>44</sup> Settlement Agreement at Section 10.

<sup>45</sup> Settlement Agreement at Section 11.8.

## 1. Diablo Canyon DCE and Revenue Requirement Calculation

- 1.1 The Settling Parties agree not to challenge the reasonableness of PG&E's adjusted 2018 DCE of \$3,899,145,000 (\$2017) in the current proceeding.
- 1.2 PG&E agrees to the following reductions to the as-filed 2018 DCE of \$4,802,395,000 (\$2017):
  - \$300 million related to the reduced spent nuclear fuel cooling period referenced in section 5.1 below, subject to NRC licensing and other regulatory approvals;
  - \$200 million related to general repurposing, subject to regulatory approvals;
  - \$400 million related to breakwater repurposing, subject to regulatory approvals;
  - \$3 million related to PG&E's membership in INPO, NEI and EPRI;
  - \$250,000 related to costs to prepare the decommissioning cost estimate which were included in PG&E's 2017 General Rate Case application.
- 1.3 In addition to the reductions to the DCE outlined in Section 1.2, PG&E agrees to make two sets of revenue requirement changes:
  - A reduction of \$130 million to reflect updates to trust contribution amounts from the updated cash flows presented in PG&E's October 4, 2019 supplemental testimony; and
  - Adjustments to the escalation rate on waste disposal sufficient to yield the total revenue requirements authorized in Section 1.4. The Settling Parties agree that the resulting escalation rate is used for the sole purpose of resolving PG&E's 2018 NDCTP application, is not indicative of a market rate for waste disposal and may be revised in the 2021 NDCTP.

- 1.4 Based on the adjustments outlined in Section 1.2 and 1.3, the Settling Parties agree that PG&E is authorized to collect an annual revenue requirement of approximately \$112.5 million inclusive of revenue fees and uncollectibles.
- 1.5 The Settling Parties agree that it is reasonable for PG&E to withdraw \$187.8 million in decommissioning planning costs from the nuclear decommissioning trust. Costs for completed work for decommissioning planning activities will be subject to reasonableness review in a future NDCTP.
- 1.6 PG&E agrees that license renewal project costs for the Diablo Canyon Independent Spent Fuel Storage Installation (DC ISFSI) will be recovered as a decommissioning expense included in the \$187.8 million referenced in section 1.5 and will not be recovered as capital expenditures through rates set in PG&E's General Rate Case process.
- 1.7 PG&E agrees, if such studies are not independently conducted within 18 months of the effective date of this Settlement Agreement, PG&E shall retain the services of a qualified ethnographer to conduct studies to determine which California Native American Tribe(s) is traditionally and culturally affiliated with the Diablo Canyon lands as demonstrated by genealogical analysis, Mission-period records, and other relevant research materials. PG&E agrees not to request additional funding from customers to perform these studies.
- 1.8 The Settling Parties agree reductions attributable to repurposing and other issues related to the post-2022 revenue requirement will be revisited in the 2021 NDCTP.
- 1.9 The Settling Parties agree that the reductions to the DCE and associated revenue requirement agreed to for this NDCTP cycle will not harm PG&E's ability to fully restore the Diablo Canyon site at the end of

decommissioning, in the event no viable reuse proposals are identified. This agreement is limited to funding for site restoration work required by federal, state or local regulators and found by the Commission to be reasonable and prudent in future NDCTPs.

## 2. Cost Recovery Period

The Settling Parties agree it is reasonable to collect the annual revenue requirement related to Diablo Canyon decommissioning from customers over eight years, January 1, 2020, through December 31, 2027, reflecting that the additional contributions will be deposited to trusts or other mechanisms not requiring IRS rulings. This results in an annual revenue requirement of approximately \$112.5 million.

## 3. Contracting Strategy

3.1 Prior to the 2021 NDCTP, PG&E shall select its proposed contracting strategy and its 2021 DCE will be based on that contracting strategy. No later than the 2024 NDCTP, PG&E shall identify any savings resulting from implementation of the contracting strategy and incorporate any savings into the DCE. This agreement does not limit the right of any settling party to propose that savings associated with a proposed contracting strategy be incorporated into the DCE adopted in the 2021 NDCTP. This agreement does not limit PG&E's right to request recovery of its actual costs in the event assumed savings (*i.e.*, estimates of savings presented in compliance with the timing of this section, but before PG&E has completed its RFP process) do not materialize upon completion of the RFP process.

3.2 To the extent feasible, PG&E shall obtain indicative bids for the following scopes of work: spent fuel transfer, spent fuel island, cold & dark, turbine building asbestos removal, and large component removal and reflect any savings associated with these bids in the revised DCE presented in the 2021 NDCTP.

#### **4. Trusts**

- 4.1 PG&E agrees to deposit new contributions made pursuant to this Settlement into either: the existing non-qualified trust for DCP, a new trust, or similar mechanism, to allow for the return of any excess funds to customers prior to completion of decommissioning activities. PG&E agrees to record and track license termination, spent fuel management and site restoration costs in separate subaccounts of the existing non-qualified trust for DCP, a new trust, or similar mechanism.
- 4.2 PG&E will consult with parties to this proceeding regarding the structure of any new trust, or similar mechanism, prior to its establishment. The proposal for establishing any new trust, or similar mechanism, shall be submitted for Commission approval in the form of a Tier 3 Advice Letter.
- 4.3 The calculation of and conditions for returning to customers any excess funds in the existing non-qualified trust for DCP, new trust, or similar mechanism shall be determined by the Commission.

#### **5 Spent Fuel Management**

- 5.1 PG&E agrees that its pending solicitation of vendors for spent fuel storage systems shall include performance specifications that: (1) enable the final offload of spent fuel from the Unit 1 and Unit 2 spent fuel pools within 4 years of the shutdown of Unit 1 and Unit 2, respectively, subject to NRC licensing and other required regulatory approvals and (2) require that the proposed spent nuclear fuel storage systems must fit within the existing DC ISFSI licensed by the NRC and permitted by the County of San Luis Obispo and the California Coastal Commission.
- 5.2 In the event no vendor can develop a spent fuel storage system that: can meet a 4-year spent nuclear fuel cooling period, be accommodated on the existing

DC ISFSI, and is licensable by the NRC, PG&E will, in consultation with the CEC, select a vendor who will achieve transfer of spent fuel to the DC ISFSI as promptly as reasonably practicable, but in no event longer than 7 years.

- 5.3 Any reductions in the timeline for transferring spent nuclear fuel from the spent fuel pools to the DC ISFSI will not increase safety risks associated with the storage and handling of the spent nuclear fuel.
- 5.4 The revised DCE presented in the 2021 or 2024 NDCTP may include additional costs associated with the new spent fuel storage system required to implement a shorter cooling time.
- 5.5 On December 4, 2019, PG&E submitted an Irradiated Fuel Management Plan (IFMP) to the NRC in compliance with 10 Code of Federal Regulations 50.54(bb). Due to the timing of this filing, which was governed by regulation, the IFMP PG&E submitted to the NRC reflects the spent fuel management plan presented in PG&E's original application. In the cover letter submitted with the IFMP, PG&E noted, "The IFMP represents PG&E's current plans and is subject to change." In the IFMP document itself, PG&E informed the NRC that it is planning to issue a request for proposal to implement a modified or new dry cask storage design, to address (1) storage of fuel debris, damaged fuel, and GTCC waste and (2) reduce the required spent fuel pool cooling time to allow safe transfer to the ISFSI as soon as possible and not to exceed 7 years after the expiration of the Unit 2 operating license. PG&E also noted that it will submit for NRC approval the required licensing documentation associated with implementation of a modified or new dry cask storage system and that actual changes to the schedule for transferring- spent nuclear fuel to the ISFSI will be assessed for overall decommissioning cost impacts. (See, PG&E Letter DCL-19-081).

- 5.6 In the 2021 NDCTP, PG&E will provide documentation, as determined appropriate by the CEC, from the Executive Director of the CEC, or his/her designee, affirming that the CEC participated in PG&E's vendor solicitation, had an opportunity to review and provide input into the choice of vendor, considers PG&E's coordination and collaboration with the CEC to have been satisfactory; and believes the choice of vendor by PG&E will achieve transfer of spent fuel to the ISFSI as promptly as reasonably practicable.
- 6. DOE Settlement/Litigation Proceeds**
- 6.1 The Settling Parties agree that review of issues related to DOE claims and methods for returning any proceeds from DOE shall be considered in the NDCTP starting in PG&E's 2024 NDCTP (rather than in PG&E's GRC proceedings).
- 6.2 PG&E agrees to report on any developments that may affect the ability to recover spent fuel management costs resulting from the US Government's breach of contract.
- 6.3 To the extent this information is publicly available, PG&E shall report in the 2021 NDCTP on the extent to which other nuclear plant licensees assume the use of future DOE payments for purposes of determining the adequacy of spent fuel management funding.
- 7. Milestone Framework**
- 7.1 The Milestone Framework shall be revised to reflect any acceleration in License Termination and Site Restoration activities made possible by accelerating the movement of spent nuclear fuel to the ISFSI. After making the additional changes referenced in this section, the remainder of PG&E's Milestone Framework is reasonable and should be adopted.

- 7.2 PG&E agrees to revise its tracking of unassigned costs (2018 DCE line items 1 and 2) to reflect the approach proposed by TURN, SCE and SDG&E in A.18-03-009.
  - 7.3 The tracking of unassigned low-level radioactive waste costs, on both a forecasted and recorded basis, shall include an estimate of the volumes attributable to each major project.
- 8. Waste Disposal**
- 8.1 The Settling Parties will request that the Commission seek clarification from relevant state agencies regarding the application of the requirements of Executive Order (D-62-02) to the disposal of clean materials. Specifically, the Settling Parties will ask the Commission to ask the jurisdictional agencies to clarify whether clean materials from Diablo Canyon may be disposed of in a Class III, Class II or Class I landfill in California.
  - 8.2 PG&E agrees to further explore alternatives for re-use or disposal of clean materials consistent with requirements and approval of federal, state and local authorities.
- 9. Other DCPD Issues**
- 9.1 The Settling Parties agree that, other than as relevant to decommissioning activities and related costs, Diablo Canyon operations are outside the scope of the NDCTP.
  - 9.2 PG&E agrees to make a showing in the 2021 NDCTP addressing the impact on the Diablo Canyon DCE of an unexpected early shutdown due to equipment failure or other operating issue.
  - 9.3 To the extent information is available and accessible, PG&E will provide a comparison with the SONGS DCE, including the decommissioning work accomplished or underway at SONGS, in the 2021 NDCTP.



- 9.4 The Settling Parties agree that the Charter of the Diablo Canyon Independent Safety Committee (DCISC) should be amended to extend its oversight role on nuclear safety matters until all spent nuclear fuel has been transferred from the spent fuel pools to the ISFSI.
  - 9.5 The 2021 NDCTP will include a review of the funding and effectiveness of the Diablo Canyon Decommissioning Engagement Panel. This review shall consider the NRC's report to the United States Congress on best practices for community advisory boards for decommissioning as required by the Nuclear Energy Innovation and Modernization Act (NEIMA).
  - 9.6 Consistent with the Commission's directive in prior NDCTP proceedings and site characterization work already performed, PG&E will continue to characterize and reduce site contamination prior to shut down to the extent feasible and practicable in the context of decommissioning plans.
- 10. Humboldt Bay Power Plant DCE and Reasonableness Review**
- 10.1 The Settling Parties agree that PG&E should continue to collect through CPUC jurisdictional rates an annual revenue requirement commencing January 1, 2020, of \$3.9 million for funding the Humboldt Bay Power Plant (HBPP) tax-qualified trust, as adjusted by advice letter filing immediately following a decision in this proceeding.
  - 10.2 The Settling Parties do not oppose PG&E's request for a finding that \$400 million in costs incurred for completed decommissioning activities at HBPP were reasonably and prudently incurred.
  - 10.3 PG&E agrees that it will present simpler, clearer tables comparing the 2018 and 2021 HBPP decommissioning cost estimates, recorded costs and differences in the 2021 NDCTP.

The record of this proceeding shows that the Public Advocates Office of the Public Utilities Commission, The Utility Reform Network, Alliance for Nuclear Responsibility, County of San Luis Obispo, Women's Energy Matters, yak tit<sup>y</sup>u tit<sup>y</sup>u yak tilhini Northern Chumash Cultural Preservation Kinship, and San Luis Obispo Mothers for Peace, Inc. all actively engaged with PG&E in this proceeding. TURN filed a protest to A.18-07-013, and Cal Advocates, TURN, A4NR, SLO County, and WEM all filed timely protests or responses to A.18-12-008, and raised relevant questions to test and confirm PG&E's assumptions and projections regarding cost recovery; contracting; funding related to license termination, spent fuel management, and site restorations costs; spent fuel storage and management; DOE litigation; revisions to the Milestone Framework; and waste disposal, among other issues. The issues raised in the respective protests are referenced above.

The settling parties participated in the prehearing conferences held on September 7, 2018, and February 6, 2019. The settling parties submitted testimony, and attended or reviewed the transcripts of the public participation hearings held on August 7 and 8, 2019, in San Luis Obispo, to obtain comments and feedback from customers of PG&E. In their evaluation of PG&E's Applications and requests, the settling parties requested extensive information from PG&E in order to examine the issues raised by the Applications and test the validity of PG&E's statements and conclusions. PG&E responded to the questions and provided the requested information and materials. The Public Advocates Office served testimony of their witnesses on July 15, 2019. PG&E served rebuttal testimony of their witnesses on August 15, 2019. October 2, 2019 the assigned ALJ issued ruling amending the procedural schedule and requiring additional information. PG&E served updated testimony on October 4, 2019,

with revisions to the revenue requirement reflecting the fact that the DCDPMA requested in the Memo Account Application (A.18-07-013) was no longer necessary and revising the requested revenue requirement related to the Diablo Canyon DCE to be collected solely through the nuclear decommissioning trust. SLO County served testimony on October 10, 2019, addressing its position on and efforts associated with repurposing the breakwaters on Diablo Canyon lands.

The work of the Cal Advocates, TURN, A4NR, SLO County, WEM and YTT Kinship, and SLOMFP in this proceeding was helpful and persuasive, and their effective advocacy in this proceeding was a contributing factor to the ALJ's recommendation that the Settlement Agreement be adopted by the Commission.

The settling parties assert that the Settlement Agreement is fair and reasonable in light of the whole record and thus consistent with Commission decisions on settlements.<sup>46</sup> Further, the settling parties assert their proposed settlement further many worthwhile goals, including reducing the expense of litigation, conserving scarce Commission resources, and allowing parties to reduce the risk that litigation will produce unacceptable results,<sup>47</sup> and that the settlement taken as a whole is reasonable in light of the record, consistent with the law, and is in the public interest, and thus should be adopted without change.<sup>48</sup>

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<sup>46</sup> Settlement Motion at 14 *citing* D.14-01-011 at 13 and D.15-05-015 at 13.

<sup>47</sup> Settlement Motion at 13-14 *citing* D.14-12-040 at 15.

<sup>48</sup> Settlement Motion at 15.

### 3.5 Settlement Agreement and Rule 12.1 Analysis

In evaluating a settlement, the Commission is guided by Rule 12.1(d), which requires that the settlement be reasonable in light of the whole record, consistent with law, and be in the public interest.<sup>49</sup> Generally, the parties' evaluation carries material weight in the Commission's review of a settlement, however, our duty to fix just and reasonable rates requires that the final responsibility to support and interpret the decision rests with us.<sup>50</sup>

The Settlement Agreement adopts an overall DCE and annual revenue requirement for Diablo Canyon that is within the ranges created by the settling parties respective litigation positions. The non-monetary, more qualitative issues raised by parties are resolved in the settlement in a manner acceptable to all parties.<sup>51</sup>

The revisions proposed by SLOMFP to Section 9.2 do not change the substantive obligation established in that section - PG&E will make a showing in the 2021 NDCTP addressing the impact on the Diablo Canyon DCE of an unexpected early shutdown due to equipment failure or other operating issue. The revisions proposed by SLOMFP would only change the context in which PG&E agreed to voluntarily take on this obligation, and do not change the reasonableness of the settlement, in light of the whole record, the consistency with the law, or the determination that the settlement is in the public interest.

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<sup>49</sup> Rule 12.1(d); (*See also*, D.98-12-075 (84 CPUC2d 155, 188-190).).

<sup>50</sup> *See*, In re Southern California Gas Co., D.00-09-034, 2000 Cal. PUC LEXIS 694 at 27-31, *citing*, In re Pacific gas and Electric Company, D.88-12-083, 30 CPUC2d 189, 225.

<sup>51</sup> Settlement Agreement at 11.8. (*See, e.g.*, TURN-1 at 2-7, CalAdvocates-1 at 2-3, A4NR at 33.).

Similarly, SLOMFP's proposed revisions to Section 9.6 do not add anything substantive to our analysis of the reasonableness of the settlement. PG&E has already performed site characterization and reduced site contamination consistent with Commission directives, and there is no indication in the record that PG&E will deviate from industry best practices. We do not find the proposed modifications are needed. The proposed modifications do not alter the substantive obligations created in the settlement or alter what PG&E is required to do pursuant to the settlement. PG&E has agreed to continue to characterize and reduce site contamination prior to shut down to the extent feasible and practicable in context of decommissioning plans using best industry practices.

The settlement reasonably reflects an accurate assessment of what PG&E should accomplish over the period covered by this application. SLOMFP did not oppose or contest the settlement, styling its comments as requests to revise two sections of the settlement agreement. Those proposed revisions would not change the obligations agreed to in the settlement. Further, the proposed revisions would not alter our conclusion that the settlement, as presented, is reasonable in light of the whole record, consistent with the law, and in the public interest. Therefore, we are not persuaded by the arguments put forward by SLOMFP to alter the settlement pursuant to Rule 12.4.

The Settlement Agreement largely resolves each and every issue identified in the Scoping memos issued on October 11, 2018, February 14, and March 7, 2019, addresses issues raised in protests,<sup>52</sup> and is a reasonable resolution of these issues. The Settlement Agreement determines reasonable the

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<sup>52</sup> Settlement Agreement at 11.8.

agreed-upon DCE and annual revenue requirement for Diablo Canyon represents a reasonable DCE and customer contributions considering the potential for repurposing and other issues raised in this proceeding.

Additionally, the Settlement Agreement also determines reasonable the HBPP DCE and associated revenue requirement, and provides a reasonable resolution of the quantitative and qualitative issues raised in the proceeding. Further, the Settlement Agreement reflects an adequate balance of PG&E and customer interests in ensuring adequate funding is available for decommissioning, including decommissioning planning, while preserving the rights of all parties to revisit the issues in the 2021 NDCTP.

Overall, the record of this proceeding demonstrates that the Settlement Agreement is reasonable in light of the whole record, consistent with law, and is in the public interest, as discussed above. The proposed Settlement Agreement is reasonable because it save the Commission and parties significant time, and protects the public interest when compared to the uncertain risk, expense, and complexity of a litigated outcome.

The proposed settlement is supported by the record in this proceeding and the settlement benefits the public by ensuring that: (1) PG&E is able to fully restore the Diablo Canyon site at the end of decommissioning as required by federal, state, or local regulators and found reasonable and prudent in future NDCTPs; (2) Reducing the proposed Diablo Canyon DCE by more than \$900 million; (3) Updating the revenue requirement calculation to reflect a \$130 million reduction related to updated cash flows based on PG&E's supplemental testimony and adjusting the escalation rate on waste disposal; (4) The costs to renew the license for the Diablo Canyon Independent Spent Fuel Storage Installation and to perform studies to determine which California Native

American Tribe(s) is traditionally and culturally affiliated with Diablo Canyon lands are deemed included in the \$187.8 million of decommissioning planning costs that was deemed reasonable for PG&E to withdraw from the Nuclear Decommissioning Trust; (5) PG&E will select a decommissioning contracting strategy prior to the 2021 NDCTP; (6) Any additional contributions contemplated by the Settlement Agreement will be deposited into a non-qualified trust fund or other non-qualified mechanisms, which will include subaccounts to track separately the costs associated with license termination, spent fuel management, and site restoration; (7) PG&E will require that proposals for spent nuclear fuel storage systems will fit within the footprint of the existing DC ISFSI and will support the final offload of spent nuclear fuel within four years of the shut down of Unit 1 and 2, subject to NRC and other required regulatory approvals; (8) PG&E will present information in the 2021 NDCTP addressing whether and how other utilities reflect U.S. Department of Energy reimbursement for spent fuel management costs in estimates of those costs and developments that may affect the ability to collect spent fuel management costs from DOE; (9) PG&E will track unassigned costs (line items 1 and 2 of Milestone Framework) and estimate the volumes of low-level radioactive waste attributable to each decommissioning major project; (10) PG&E will re-assess whether additional clean waste can be used on-site and the Settling Parties agree to seek clarification from state agencies regarding Executive Order D62-02; (11) the DCISC charter will be revised to allow it to continue in its safety oversight role until all of the DCPD spent nuclear fuel has been moved from wet storage to dry storage and funding and effectiveness of the DCDEP will be addressed in the 2021 NDCTP; (12) PG&E agrees to make a showing in the 2021 NDCTP addressing the impact on the DCE of an unexpected early shutdown of Diablo Canyon due to equipment failure or

other operating issue; (13) PG&E agrees that to the extent information is available and accessible PG&E will provide a comparison with the DCE for SONGS, including the decommissioning work accomplished or underway at SONGS, in the 2021 NDCTP; and (14) PG&E can continue to collect in CPUC-jurisdictional rates an annual revenue requirement of \$3.9 million for HBPP decommissioning activities, and that \$400 million in costs incurred for completed decommissioning activities at HBPP were reasonably and prudently incurred.

While the Settlement Agreement is binding on the parties, it creates no precedent on the Commission. The Settlement Agreement preserves the Commission's authority and jurisdiction over each and every issue in this proceeding, and over the parties with regards to interpretation, implementation, and enforcement of the Settlement Agreement. The record in this proceeding, including the Settlement Agreement, provides sufficient information to enable the Commission to enforce its terms and discharge the Commission's future regulatory responsibilities with respect to the parties and interests in this proceeding. The settlement does not contravene any statutory provisions or prior Commission decisions.

In conclusion, the Settlement Agreement fairly resolves all issues in this proceeding,<sup>53</sup> and complies with Rule 12.1(d). Accordingly, the Commission should adopt the Settlement Agreement.

#### **4. Requests to Admit Testimony**

As noted above, prepared testimony was served according to the schedule set forth in the Scoping Memo and identified and admitted, as appropriate, during the hearings. In addition, PG&E, SLO County, and TURN jointly

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<sup>53</sup> Settlement Agreement at 11.8.



submitted a motion on January 6, 2020, pursuant to Rule 13.8 to admit additional supplemental testimony from PG&E into the record of this proceeding. The motion included attachments labeled: (A) Pacific Gas and Electric Company Supplemental Testimony Addressing Nuclear Regulatory Commission Decision Granting PG&E's Request for Exemption and Ratemaking Treatment for the Proposed Baywood Feed; (B) Supplemental Testimony of Guy Savage on Behalf of The County of San Luis Obispo (Exhibit SLO-3, October 10, 2019); and (C) Pacific Gas and Electric Company 2020 General Rate Case Phase I, Application 18-12-009, Data Response to TURN\_091\_Q01.<sup>54</sup>

The testimony identified in the joint motion listed above and uploaded to the supporting documents website should be, and is hereby admitted into the record of this proceeding.

## **5. Conclusion**

This decision approves PG&E's request to review PG&E's updated nuclear DCEs and determine the necessary customer contributions to fully fund the nuclear decommissioning trusts to the level needed to decommission PG&E's nuclear plants. This decision determines an adjusted 2018 DCPP DCE of \$3,899,145,000 (\$2017) and a resulting annual revenue requirement of \$112.5 million recovered over eight years (2021-2028)<sup>55</sup> are reasonable.

This decision also approves the agreement that reductions attributable to repurposing and other issues related to the post-2022 revenue requirement will be revisited in the 2021 NDCTP and that the reductions agreed to for this cycle will not harm PG&E's ability to fully restore the Diablo Canyon site at the end of

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<sup>54</sup> See *infra*, fn. 7, Joint Motion to Enter Supplemental Evidence.

<sup>55</sup> Based on the date of this decision.

decommissioning as required by federal, state or local regulators and found reasonable and prudent in future NDCTPs.

Additionally, in connection with the approval of the reasonableness of DCPD DCE, trust contribution and related annual revenue requirement for this proceeding, the decision determines it reasonable for PG&E to withdraw \$187.8 million from the Nuclear Decommissioning Trust to support pre-shutdown decommissioning planning activities, subject to reasonableness review in the appropriate NDCTP. Further, the costs to renew the license for the Diablo Canyon Independent Spent Fuel Storage Installation and to perform studies to determine which California Native American Tribe(s) is traditionally and culturally affiliated with Diablo Canyon lands are deemed included in the \$187.8 million of decommissioning planning costs.

## **6. Comments on Proposed Decision**

The proposed decision of ALJ Haga in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3. Comments were filed on \_\_\_\_\_, and reply comments were filed on \_\_\_\_\_ by \_\_\_\_\_.

## **7. Assignment of Proceeding**

Marybel Batjer is the assigned Commissioner and Robert Haga is the assigned ALJ in this proceeding.

## **Findings of Fact**

1. On July 16, 2018, PG&E filed A.18-07-013 requesting authority to establish the Diablo Canyon Decommissioning Planning Memorandum Account (DCDPMA) to track the cost of decommissioning planning activities incremental to those reimbursable from the Nuclear Decommissioning Trust Funds (NDTF)

to preserve the ability to request and obtain cost recovery for these costs in the 2018 Nuclear Decommissioning Cost Triennial Proceeding (NDCTP).

2. The Utility Reform Network (TURN) filed a Protest to A.18-07-013 on August 15, 2018.

3. A Prehearing Conference (PHC) was held on September 7, 2018, and a Scoping Memo was issued on October 11, 2018, for A.18-07-013.

4. On December 13, 2018, PG&E filed A.18-12-008 (NDCTP Application) seeking review of PG&E's updated nuclear Decommissioning Cost Estimates (DCEs) and determination of necessary customer contributions to fully fund the nuclear decommissioning trusts to the level needed to decommission PG&E's nuclear plants.

5. The Commission preliminarily categorized this Application as ratesetting, and determined that evidentiary hearings were necessary.

6. Cal Advocates, TURN, Alliance for Nuclear Responsibility (A4NR), San Luis Obispo County (SLO County), and Women's Energy Matters (WEM) all filed timely protests or responses to A.18-12-008.

7. Donald Korn & Associates and James Adams requested and were granted party status on February 6, 2019.

8. A February 6, 2019, ruling in A.18-07-013 directed parties to submit additional information and deferred a decision on the DCDPMA Application until after a determination by the U.S. Nuclear Regulatory Commission (NRC) on PG&E's Request for Exemption.

9. A March 7, 2019, ruling consolidated the DCDPMA Application and the NDCTP Application, and amended the scope of the proceeding to address additional safety and decommissioning issues.

10. On March 15, 2019, PG&E served supplemental testimony addressing PG&E's spent fuel management plan and issues identified in the March 7 Ruling.

11. As directed at the PHC and in the February 9, 2019 ruling, on April 15, 2019, PG&E served supplemental testimony providing further information and clarification regarding decommissioning planning costs PG&E planned to record in the DCDPMA if authorized.

12. PG&E conducted a workshop with parties at the start of April 2019, to address how PG&E developed the decommissioning cost estimate (DCE) and its "Milestone Framework."

13. A workshop was held on May 4, 2019, by PG&E and the CEC to address spent fuel management.

14. On June 5, 2019, yak titvu titvu yak tilhini Northern Chumash Cultural Preservation Kinship (YTT Kinship) was granted party status.

15. On June 4, 2019, San Luis Obispo Mothers for Peace (SLOMFP) was granted party status.

16. Cal Advocates and intervenors served testimony on July 15, 2019.

17. On July 17, 2019, PG&E hosted a site tour of Humboldt Bay Power Plant Unit 3 in Eureka, CA.

18. On August 2, 2019, Californians for Green Nuclear Power (CGNP) was granted party status.

19. On August 7 and 8, 2019, the Commission held public participation hearings in San Luis Obispo, California, to obtain comments and feedback from customers of PG&E regarding the applications.

20. On August 15, 2019, PG&E served rebuttal testimony.

21. On September 10, 2019, the NRC granted PG&E's request for exemption, allowing PG&E to access \$187.8 million in funding from the Diablo Canyon nuclear decommissioning trust.

22. Evidentiary hearings were held on September 23-25, 2019.

23. On October 2, 2019, the assigned ALJ issued a ruling amending the procedural schedule and requiring additional information.

24. On October 4, 2019, PG&E served updated testimony with revisions to the revenue requirement reflecting the fact that the DCDPMA requested in the Memo Account Application was no longer necessary and revising the requested revenue requirement related to the Diablo Canyon DCE to be collected solely through the nuclear decommissioning trust.

25. On October 10, 2019, SLO County served testimony addressing its position on and efforts associated with repurposing the breakwaters on Diablo Canyon lands.

26. The parties engaged in significant data exchanges, contests and analysis of each other's positions and arguments, and participated in evidentiary hearings, after which substantive settlement negotiations occurred between the parties.

27. On October 24, 2019, PG&E and TURN requested a suspension of the procedural schedule to allow parties to continue productive settlement discussions. That request was granted in a ruling on November 14, 2019.

28. On December 20, 2019, the parties held a duly-noticed all-party formal settlement conference in compliance with Rule 12.1(b).

29. On January 6, 2020, PG&E, SLO County, and TURN filed a joint motion offering in evidence supplemental prepared testimony.

30. SLOMFP filed comments seeking changes to the settlement on February 10, 2020.

31. The settling parties filed a reply to the SLOMFP comments on February 24, 2020, requesting adoption of the Settlement Agreement without modifications.

32. PG&E, TURN, Cal Advocates, A4NR, WEM, SLO County and YTT Kinship (settling parties) filed a Settlement Agreement on January 10, 2020 resolving all issues in Pacific Gas and Electric Company's Diablo Canyon Decommissioning Planning Cost Memorandum Account and 2018 Nuclear Decommissioning Cost Triennial Applications.

33. Based on the Settlement Agreement, PG&E's adjusted DCE of \$3,899,145,000 is reasonable.

34. Based on the Settlement Agreement, PG&E agrees to reduce its proposed DCE of \$4,802,395,000 by:

- (a) \$300 million related to reduced spent nuclear fuel cooling period, subject to NRC licensing and other regulatory approvals;
- (b) \$200 million related to general repurposing, subject to regulatory approvals;
- (c) \$400 million related to breakwater repurposing, subject to regulatory approvals;
- (d) \$3 million related to PG&E's membership in INPO, NEI, and EPRI; and
- (e) \$250,000 related to costs to prepare the DCE which were included PG&E's 2017 General Rate Case application.

35. Based on the Settlement Agreement, PG&E agrees to make two sets of revenue requirement changes:

- (a) A reduction of \$130 million to reflect updates to trust contribution amounts from the updated cash flows presented in PG&E's October 4, 2019, supplemental testimony; and
- (b) Adjustments to the escalation rate on waste disposal sufficient to yield the total revenue requirements agreed

upon of approximately \$112.5 million inclusive of revenue fees and uncollectibles. The settling parties agree that the resulting escalation rate is used for the sole purpose of resolving PG&E's 2018 NDCTP application, and is not indicative of a market rate for waste disposal and may be revised in the 2021 NDCTP.

36. Based on the Settlement Agreement, PG&E should be authorized to collect an annual revenue requirement of approximately \$112.5 million inclusive of revenue fees and uncollectibles, consistent with the agreed upon adjustments stated in Findings of Fact 34 and 35.

37. Based on the Settlement Agreement, it is reasonable for PG&E to withdraw \$187.8 million in decommission planning costs from the nuclear decommissioning trust. Costs for completed work for decommissioning planning activities will be subject to reasonableness review in a future NDCTP.

38. Based on the Settlement Agreement, PG&E agrees that license renewal project costs for the Diablo Canyon Independent Spent Fuel Storage Installation (DCISFSI) will be recovered as a decommissioning expense in the \$187.8 million figure in Finding of Fact 37, and will not be recovered as capital expenditures through rates in PG&E's General Rate Case process.

39. Based on the Settlement Agreement, PG&E agrees that if an independent study is not conducted within 18 months of the effective date of the Settlement Agreement to determine which California Native American Tribe(s) is traditionally and culturally affiliated with the Diablo Canyon lands as demonstrated by genealogical analysis, Mission-period records, and other relevant research materials, PG&E will retain the services of a qualified ethnographer to conduct such studies and will not request additional funding from customers to perform these studies.

40. Based on the Settlement Agreement, reductions attributable to repurposing and other issues related to post-2022 revenue requirement will be revisited in the proceeding that begins this year.

41. Based on the Settlement Agreement, the settling parties agree that reductions to the DCE and associated revenue requirement agreed to for this NDTCP cycle will not harm PG&E's ability to fully restore the Diablo Canyon site at the end of decommissioning, in the event no viable reuse proposals are identified. This agreement is limited to funding for site restoration work required by federal, state, or local regulators and found by the Commission to be reasonable and prudent in future NDCTPs.

42. Based on the Settlement Agreement, the settling parties agree it is reasonable to collect the annual revenue requirement related to Diablo Canyon decommissioning from customers over eight years, beginning no earlier than 90 days from the effective date of this decision, through no later than December 31, 2029, reflecting the additional contributions will be deposited to trusts or other mechanisms not requiring U.S. Internal Revenue Service rulings. This results in an annual revenue requirement of approximately \$112.5 million.

43. The Settlement Agreement requires PG&E to select its proposed contracting strategy and base its 2021 DCE on that contracting strategy.

44. The Settlement Agreement requires PG&E, no later than the 2024 NDCTP, to identify any savings resulting from implementation of the contracting strategy and incorporate any savings into the DCE but does not limit the right of any settling party to propose that savings associated with a proposed contracting strategy be incorporated into the DCE adopted pursuant to the 2021 NDCTP. The Settlement Agreement does not limit PG&E's right to request recovery of its actual costs in the event of assumed savings (*i.e.*, estimates of savings presented



in compliance with the timing of this section but before PG&E has completed its RFP process) do not materialize upon completion of the RFP process.

45. The Settlement Agreement requires PG&E, to the extent feasible, to obtain indicative bids for the following scopes of work: spent fuel transfer; spent fuel island; cold & dark; turbine building asbestos removal; and large component removal, and reflect any savings associated with these bids in the revised DCE presented in the 2021 NDCTP.

46. Based on the Settlement Agreement, PG&E agrees to deposit new contributions made pursuant to the Settlement into either: the existing non-qualified trust for Diablo County Power Plant (DCPP), a new trust, or similar mechanism, to allow for the return on any excess funds to customers prior to completion of decommissioning activities. PG&E agrees to record and track license termination, spent fuel management and site restoration costs in separate subaccounts of the existing non-qualified trust for DCPP, a new trust, or similar mechanism.

47. Based on the Settlement Agreement, PG&E will consult with parties to this proceeding regarding the structure of any new trust, or similar mechanism, prior to its establishment. The proposal for establishing any new trust, or similar mechanism, shall be submitted for Commission approval in the form of a Tier 3 Advice Letter.

48. Based on the Settlement Agreement, the calculation of and conditions for returning to customers any excess funds in the existing non-qualified trust for DCPP, new trust, or similar mechanism will be determined by the Commission.

49. Based on the Settlement Agreement, PG&E agrees that its pending solicitation of vendors for spent fuel storage systems will include performance specifications that: (a) enable the final offload of spent fuel from the Unit 1 and

Unit 2 spent fuel pools within four years of the shutdown of Unit 1 and Unit 2, respectively, subject to NRC licensing and other required regulatory approvals; and (b) require that proposed spent nuclear fuel storage systems must fit within the existing DC ISFSI licensed by the NRC and permitted by the County of San Luis Obispo and the California Coastal Commission.

50. Based on the Settlement Agreement, in the event no vendor can develop a spent fuel storage system that can meet a four-year spent nuclear fuel cooling period, be accommodated on the existing DC ISFSI, and is licensable by the NRC, PG&E will, in consultation with the California Energy Commission (CEC), select a vendor who will achieve transfer of spent fuel to the DC ISFSI as promptly as reasonably practicable, but in no event longer than seven years.

51. Based on the Settlement Agreement, the settling parties agree that any reductions in the timeline for transferring spent nuclear fuel from the spent fuel pools to the DC ISFSI will not increase safety risks associated with the storage and handling of the spent nuclear fuel.

52. Based on the Settlement Agreement, the revised DCE presented in the 2021 or 2024 NDCTP may include additional costs associated with the new spent fuel storage system required to implement a shorter cooling time.

53. Based on the Settlement Agreement, PG&E informed the NRC that it is planning to issue a request for proposal to implement a modified or new dry cask storage design, to address (1) storage of fuel debris, damaged fuel, and Greater Than Class C (GTCC) waste, and (2) reduce the required spent fuel pool cooling time to allow safe transfer to the ISFSI as soon as possible and not to exceed seven years after the expiration of the Unit 2 operating license. PG&E also noted it will submit for NRC approval the required licensing documentation associated with implementation of a modified or new dry cask storage system

and that actual changes to the schedule for transferring spent nuclear fuel to the ISFSI will be assessed for overall decommissioning cost impacts.

54. Based on the Settlement Agreement, PG&E will provide documentation, as determined appropriate by the CEC, from the Executive Director of the CEC, or his/her designee, affirming that the CEC participated in PG&E's vendor solicitation, had an opportunity to review and provide input into the choice of vendor, considers PG&E's coordination and collaboration with the CEC to have been satisfactory, and believes the choice of vendor by PG&E will achieve transfer of spent fuel to the ISFSI as promptly as reasonably practicable.

55. Based on the Settlement Agreement, the settling parties agree that review of issues related to U.S. Department of Energy (DOE) claims and methods for returning any proceeds from DOE will be considered in the NDCTP starting in PG&E's 2024 NDCTP (rather than in PG&E's GRC proceedings).

56. Based on the Settlement Agreement, PG&E agrees to report on any developments that may affect the ability to recover spent fuel management costs resulting from the United States Government's breach of contract.

57. Based on the Settlement Agreement, PG&E will report in the 2021 NDCTP, to the extent this information is publicly available, on the extent to which other nuclear plant licenses assume the use of future DOE payments for purposes of determining the adequacy of spent fuel management funding.

58. Based on the Settlement Agreement, PG&E will revise the Milestone Framework to reflect any acceleration in License Termination and Site Restoration activities made possible by accelerating the movement of spent nuclear fuel to the ISFSI.

59. Based on the Settlement Agreement, PG&E agrees to revise its tracking of unassigned costs (2018 DCE line items 1 and 2) to reflect the approach proposed by TURN, SCE, and SDG&E in A.18-03-009.

60. Based on the Settlement Agreement, for the tracking of unassigned low-level radioactive waste costs, on both a forecasted and recorded basis, PG&E will include an estimate of the volumes attributable to each major project.

61. Based on the Settlement Agreement, the settling parties will request the Commission seek clarification from relevant state agencies regarding the application of the requirements of Executive Order (D-62-02) to the disposal of clean materials. Specifically, the settling parties will ask the Commission to ask the jurisdictional agencies to clarify whether the clean materials from Diablo Canyon may be disposed of in a Class III, Class II, or Class I landfill in California.

62. Based on the Settlement Agreement, PG&E agrees to further explore alternatives to re-use or disposal of clean materials consistent with requirements and approval of federal, state, and local authorities.

63. Based on the Settlement Agreement, the settling parties agree that, other than as relevant to decommissioning activities and related costs, Diablo Canyon operations are outside the scope of the NDCTP.

64. Based on the Settlement Agreement, PG&E agrees to make a showing in the 2021 NDCTP addressing the impact on the Diablo Canyon DCE of an unexpected early shutdown due to equipment failure or other operating issue.

65. Based on the Settlement Agreement, to the extent information is available and accessible, PG&E will provide a comparison with the SONGS DCE, including the decommissioning work accomplished or underway at SONGS, in the 2021 NDCTP.

66. Based on the Settlement Agreement, the Settling Parties agree to amend the Charter of the DCISC to extend its oversight role on nuclear safety matters until all spent fuel has been transferred from the spent fuel pools to the ISFSI.

67. Based on the Settlement Agreement, the 2021 NDCTP will include a review of the funding and effectiveness of the Diablo Canyon Decommissioning Engagement Panel. This review will consider the NRC's report to the United States Congress on best practices for community advisory boards for decommissioning as required by the Nuclear Energy Innovation and Modernization Act (NEIMA).

68. Based on the Settlement Agreement, consistent with the Commission's directive in prior NDCTP proceedings and site characterization work already performed, PG&E will continue to characterize and reduce site contamination prior to shut down to the extent feasible and practicable in the context of decommissioning plans.

69. Based on the Settlement Agreement, the Settling Parties agree that PG&E will continue to collect, through CPUC-jurisdictional rates, an annual revenue requirement commencing January 1, 2020, of \$3.9 million for funding the HBPP tax-qualified trust, as adjusted by advice letter filing immediately following a decision in this proceeding.

70. Based on the Settlement Agreement, the Settling Parties do not oppose PG&E's request for a finding that \$400 million in costs incurred for completed decommissioning activities at HBPP were reasonably and prudently incurred.

71. Based on the Settlement Agreement, PG&E agrees that it will present simpler, clearer tables comparing the 2018 and 2021 HBPP decommissioning cost estimates, recorded costs and differences in the 2021 NDCTP.

72. The record in this proceeding, including the Settlement Agreement, provides sufficient information to enable the Commission to enforce its terms and discharge the Commission's future regulatory responsibilities with respect to the parties and interests in this proceeding.

73. Approving the Settlement Agreement grants the relief requested by the parties.

### **Conclusions of Law**

1. The Settlement Agreement between the parties complies with Rule 12.1(d) and is reasonable in light of the record, consistent with law and in the public interest and should be adopted. Nothing in the Settlement Agreement contravenes any statute or Commission decision or rule.

2. The proposed settlement on DCE and revenue requirement calculation is reasonable, and should be approved.

3. The proposed settlement resolving the cost recovery period is reasonable, and should be approved.

4. The proposed settlement regarding PG&E's contracting strategy is reasonable, and should be approved.

5. The proposed settlement regarding the process and operation of trusts related to the DCPP is reasonable, and should be approved.

6. The proposed settlement regarding spent fuel management is reasonable, and should be approved.

7. The proposed settlement regarding U.S. Department of Energy settlement and litigation proceeds is reasonable, and should be approved.

8. The proposed settlement, after making the agreed upon changes to the Milestone Framework, the remainder of PG&E's Milestone Framework is reasonable, and should be approved.

9. The proposed settlement regarding waste disposal is reasonable, and should be approved.
10. The proposed settlement with respect to “Other DCPD Issues” is reasonable, and should be approved.
11. The proposed settlement regarding the Humboldt Bay Power Plant DCE and reasonableness review is reasonable, and should be approved.
12. The joint motion of Pacific Gas and Electric Company, The Utility Reform Network, and the County of San Luis Obispo to enter supplemental evidence in evidence should be granted.
13. The Settlement Agreement is binding on all parties, resolves all issues in the proceeding, saves time and resources by avoiding lengthy and costly litigation, and protects public interests and safety by imposing new requirements to enhance and strengthen grid hardening, situational awareness, and operational practices.
14. The benefits of the Settlement Agreement to the public outweigh the benefits and/or burden and uncertainties of continued litigation.
15. This decision should be effective upon approval by the Commission to allow PG&E to collect the amounts authorized in this decision.
16. All pending motions in this proceeding not specifically addressed in this decision, or not previously addressed, should be denied as moot.

## **O R D E R**

### **IT IS ORDERED** that:

1. The January 10, 2020, Joint Motion by Pacific Gas and Electric Company, The Utility Reform Network, Public Advocates Office at the California Public Utilities Commission, Alliance for Nuclear Responsibility, County of San Luis Obispo, yak titvu titvu yak tilhini Northern Chumash Cultural Preservation

Kinship, and Women's Energy Matters for the Commission's Adoption of the Settlement Agreement in Application (A.) 18-07-013 and A.18-12-008 is granted pursuant to Article 12.1 of the Commission's Rules of Practice and Procedure.

2. The Settlement Agreement between the parties (attached hereto as Appendix 1) is approved. Pursuant to the terms of the Settlement Agreement Pacific Gas and Electric Company's 2018 Nuclear Decommissioning Cost Triennial Application 18-12-008 is granted.

3. Pacific Gas and Electric Company shall submit any Advice Letter(s) within 30 days of the effective date of this decision to implement the specific terms of the Settlement Agreement approved in this decision.

4. The joint motion of Pacific Gas and Electric Company, The Utility Reform Network, and the County of San Luis Obispo to enter supplemental evidence is granted.

5. All pending motions in this proceeding not specifically addressed in this decision, or not previously addressed, are denied as moot.

6. Application (A.) 18-07-013 and A.18-12-008 are closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.