

February 26, 2019

PG&E Letter DCL-19-015
PG&E Letter HBL-19-002

U.S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington, DC 20555-0001

10 CFR 50.4

Docket No. 50-275, OL-DPR-80
Docket No. 50-323, OL-DPR-82
Diablo Canyon Power Plant, Units 1 and 2
California Public Utilities Commission Request for NRC Opinion on Potential Impacts
Due to Pacific Gas and Electric Company's Bankruptcy Filing

References:

1. PG&E Application to California Public Utilities Commission, "Application of Pacific Gas and Electric Company for Authorization to Establish the Diablo Canyon Decommissioning Planning Cost Memorandum Account," dated July 16, 2018 (A1807013)
2. California Public Utilities Commission to PG&E, "Administrative Law Judge's Ruling Directing Parties to Provide Additional Information; Deferring Issuance of a Decision Pending Determination by the Nuclear Regulatory Commission on Request for 'Specific Exemption' and Modifying Procedural Schedule," dated February 6, 2019 (A1807013)
3. California Public Utilities Commission to PG&E, "Assigned Commissioner's Scoping Memo and Ruling," dated February 14, 2019 (A1812008)

Dear Sir or Madame:

On July 16, 2018, Pacific Gas and Electric Company (PG&E) submitted an application with the California Public Utilities Commission (CPUC) to request authority to establish the Diablo Canyon Decommissioning Planning Memorandum Account to track the cost of decommissioning planning activities incremental to those reimbursable from the Diablo Canyon Nuclear Decommissioning Trust Fund (NDTF) in order to preserve the ability to request and obtain cost recovery for these costs in the 2018 Nuclear Decommissioning Cost Triennial Proceeding (NDCTP) (Reference 1). On February 6, 2019 the CPUC administrative law judge (ALJ) assigned to this case issued a ruling on this application directing parties to provide additional information (Reference 2). The ALJ directed PG&E to provide the NRC's opinion on the following questions:

1. Will the bankruptcy have any safety impacts at [Diablo Canyon Power Plant] DCTP for operations or decommissioning (will there be sufficient funding to maintain required safety levels at the facility)?



2. Will the bankruptcy result in any delay or hinder the proposed schedule for moving forward with identified decommissioning planning tasks now or after decommissioning?
3. Could the bankruptcy allow for use or access to the NDTs [NDTF] for a purpose other than decommissioning DCPD (is there a risk that the funds could be used for any purpose other than decommissioning)?

On February 14, 2019, CPUC President Michael Picker issued a Scoping Memo and Ruling on the Application of PG&E in the 2018 NDCTP (Reference 3). The Ruling directs PG&E to obtain a determination or opinion from the NRC as to whether it has any concerns regarding PG&E's ability to meet safety requirements and financial assurances at DCPD and/or Humboldt Bay Power Plant (HBPP). The NRC determination or opinion is to also include any concerns or opinions the NRC has regarding whether PG&E's bankruptcy creates any risks as to the NDTF for DCPD and/or HBPP.

A copy of the ALJ's ruling and the CPUC President's Scoping Memo and Ruling have been included as Enclosure 1 and 2, respectively, for reference. The schedule adopted in the Scoping Memo and Ruling directs PG&E to provide the NRC's opinion or determination to the CPUC on March 15, 2019. The CPUC states that it requires the NRC's opinion on these questions to inform its decision on PG&E's request. As such, PG&E would appreciate a response providing the NRC's opinion or position on these issues (if any) as soon as possible.

PG&E makes no new or revised regulatory commitments (as defined by NEI 99-04) in this letter.

Please contact Philippe Soenen, at (805) 459-3701, with any questions about this letter.

Sincerely,

Jon A. Franke
Vice President, Safety, Health and Chief Safety Officer

Enclosures

cc: Diablo Distribution
HBPP Distribution
cc/enc: John Hickman, NRC Project Manager
L. John Klos, NRC Project Manager
Scott A. Morris, NRC Region IV Administrator
Christopher W. Newport, NRC Senior Resident Inspector
Balwant K. Singal, NRC Senior Project Manager
Marian L. Zabler, NRC General Counsel

Enclosure 1
PG&E Letter DCL-19-015
PG&E Letter HBL-19-002

**ADMINISTRATIVE LAW JUDGE'S
RULING DIRECTING PARTIES TO PROVIDE ADDITIONAL INFORMATION;
DEFERRING ISSUANCE OF A DECISION PENDING DETERMINATION BY
THE NUCLEAR REGULATORY COMMISSION ON REQUEST FOR "SPECIFIC
EXEMPTION" AND MODIFYING PROCEDURAL SCHEDULE**

February 6, 2019



FILED

02/06/19
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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

**ADMINISTRATIVE LAW JUDGE'S
RULING DIRECTING PARTIES TO PROVIDE ADDITIONAL INFORMATION;
DEFERRING ISSUANCE OF A DECISION PENDING DETERMINATION BY
THE NUCLEAR REGULATORY COMMISSION ON REQUEST FOR "SPECIFIC
EXEMPTION" AND MODIFYING PROCEDURAL SCHEDULE**

This ruling directs parties to provide additional information regarding Pacific Gas and Electric Company's (PG&E's) proposed Diablo Canyon Decommissioning Planning Memorandum Account (DCDPMA). The ruling also defers a decision in this proceeding until after the Nuclear Regulatory Commission (NRC) issues a determination on PG&E's request for a "Specific Exemption" in accordance with the standards set forth in 10 C.F.R. 50.12 to allow for withdrawal of funds beyond the 3% cap on pre-shut down decommissioning planning expenditures. A modified procedural schedule is set forth below.

Parties to Provide Additional Information

PG&E filed this application seeking Commission authorization to create the DCDPMA to track decommissioning planning costs that will be incurred by PG&E prior to issuance of a decision in the 2018 Nuclear Decommissioning Cost Triennial Proceeding (NDCTP Application (A.) 18-12-008). The parties filed

initial comments on November 15, 2018 and reply comments on November 29, 2018. PG&E asserts that the DCDPMA is needed to fund advance planning activities to “reduce decommissioning costs” and “significantly shorten the overall decommissioning schedule.”¹ The Utility Reform Network (TURN) filed a protest in the proceeding seeking additional and more specific information concerning PG&E’s asserted cost reductions and schedule acceleration. The additional information TURN seeks is to better assess the reasonableness of the relief requested by PG&E. TURN raised concerns as to whether the DCDPMA would result in actual savings to ratepayers.

We agree with TURN that the “amount of actual savings likely to result from advance planning activities is a moving target.”² As noted in TURN’s comments, PG&E first claimed that advance decommissioning planning “could reduce the overall decommissioning cost by more than \$200 million.”³ Later PG&E, in response to a data request from TURN and in its opening comments, stated that advance decommissioning planning “would save customers \$166.1 million (\$2017).”⁴ PG&E estimates that it will spend \$187.8 million (\$2017) in decommissioning costs from 2016-2024. This amount includes the \$37.2 million the NRC allows to be withdrawn from the nuclear decommissioning trusts (NDTs) pre-shutdown.⁵

¹ PG&E Application (A).18-07-013 at2 (advance planning would “reduce decommissioning costs” and “significantly shorten the overall decommissioning schedule”, and PG&E’s October 15th Workshop Presentation, cited from *Turn Opening Comments* at 3.

² *Opening Comments of TURN* at 3.

³ See *Opening Comments of TURN* at 3, citing to *PG&E Reply to Protests* at 4.

⁴ See *Opening Comments of TURN* at 3 citing PG&E response to TURN DR#1, Q3.; also see *Comments of PG&E* filed on November 15, 2018 at 2.

⁵ See *Comments of PG&E* at 3.

TURN raises concerns regarding the potential for double collection of certain planning costs and reconciliation of planning costs to approved decommissioning cost estimate (DCE) line items.⁶ We also share these concerns and are not convinced at this time that the DCDPMA as proposed would result in the savings projected by PG&E. We therefore direct PG&E to provide further information and clarification as to proposed costs, anticipated savings, and the schedule for completing tasks. We also seek responses from TURN following PG&E's answers.

PG&E is directed to provide answers to the following questions consistent with the schedule set forth below.

1. PG&E is currently conducting public outreach and stakeholder engagement activities as to the future use of the DCP site.
 - a. Why are additional decommissioning planning funds required to continue these activities as opposed to maintaining the current funding mechanisms for such activities?
 - b. The comments provided by PG&E list a general category for this outreach and engagement, but do not provide an overview of the types of activities that the requested funds will cover. Provide more specific information on what tasks or activities will be covered by the requested funds and how expending such funds now will result in a savings to ratepayers over the decommissioning time period. How will PG&E address changed circumstances as to such engagement and outreach over the remaining life of the plant, the 7-year period that will be required to transfer spent fuel from pools to dry casks after shut-down, and the additional years required for final decommissioning?
2. PG&E argued in the last NDCTP that the NDCTP was not the forum for addressing operational issues at DCP.

⁶ See *Opening Comments of TURN* at 5-9.

PG&E included in the 2014 General Rate Case (GRC) (A.12-11-009) nuclear expense budget costs associated with transferring spent fuel to dry cask storage during the operational period. PG&E also has a separate Part 72 license for its Independent Spent Fuel Installation (ISFSI) that was licensed in anticipation of transferring fuel from the spent fuel pools to dry cask during operations as well as after the plant closes. The cost for the ISFSI licensing in the past was not considered a decommissioning cost.

- a. Why does PG&E now seek to categorize these costs as decommissioning planning rather than operational costs?
 - b. In order to accelerate transfer of fuel from spent fuel pools to dry casks and meet the 7-year time frame ordered in Decision (D.) 17-05-020, PG&E would presumably be moving forward now with any permitting or approvals needed from the NRC to expand the ISFSI pad or allow for the reduced fuel time in the spent fuel pools. In the past per its testimony in A.16-03-006 these costs were included with the 2017 GRC [(A.15-09-001 and/or the 2020 GRC (A.18-12-009)] nuclear expense budget. Without sufficient documentation to show such costs were excluded in the recent GRCs (2017 GRC A.15-09-001 and 2020 GRC A.18-12-009) there is a potential for double collection of such fees.
 - i. List each specific task required for transfer of spent fuel from the spent fuel pool to dry casks, the cost for each task, and whether the costs are proposed to be tracked in the DCDPMA or included in the current GRC as an operational cost.
 - ii. Provide an explanation as to designation for each task listed: i.e. why the task is considered decommissioning planning or why it is an operational task.
3. PG&E proposes an increase in staffing to conduct the proposed decommissioning planning activities.

- a. Provide information as to the specific tasks that staff (PG&E labor and contract labor) will be performing over what periods of time.
- b. Explain why the work proposed does not or cannot also be included within the GRC nuclear expense budget.
- c. Some “pre-planning” tasks would seem to overlap with operational tasks.
 - i. How does PG&E distinguish between what is operation and what is decommissioning planning, particularly where such duties are performed by the same employees?
 - ii. Where a task could fall under either decommissioning planning or operation, what is PG&E’s “default” category?
4. Where is the documentation (break down of costs per task) in PG&E’s testimony and workpapers as to how each task/cost has been categorized? If such information is not readily available now, how does PG&E propose to ensure adequate information is available to the Commission and parties to determine whether actual reductions have been made as to the GRC nuclear expense budget for items included in the DCDPMA? In other words what documentation will PG&E be able to provide to ensure there is no double collection of planning costs?
5. As noted in TURN’s comments, “PG&E acknowledged that the costs of preparing decommissioning cost estimates (DCE) for their 2009, 2012, and 2015 NDCTPS were funded through the Diablo Canyon expense budget approved in the relevant General Rate Cases.”⁷
 - a. Explain why PG&E seeks to deviate from the historical practice of including the costs to prepare DCEs in the nuclear expense budget set forth in the GRC and now have such costs be designated as decommissioning planning costs.

⁷ Opening Comments of TURN at 6, citing to PG&ER response to TURN DR#1, Q6.

- b. Provide a break down comparison of the specific costs set out in the nuclear expense budget for the 2014 GRC and the two subsequent GRCs (A.15-09-001 and A.18-12-009). This break down is to identify what costs were previously included in the GRC nuclear expense budget that PG&E now proposes to track in the DCDPMA.

TURN is directed to provide a response to PG&E's answers to the above questions. With this response, TURN is also directed to provide the data requests and PG&E responses to such data requests that it cites in the comments and reply comments filed in this proceeding.

PG&E Request to NRC for Specific Exemption and Bankruptcy Filing

On December 13, 2018, PG&E submitted a request to the NRC for an exemption under 10 C.F.R. 50.12 from the requirements of 10 C.F.R. 50.82 which restricts use of trust fund dollars for "paper studies" beyond 3% of projected costs.⁸ TURN, prior to PG&E's submission, reviewed and provided comments on a draft of the request. In its opening comments PG&E states "[t]here is no time frame imposed on the NRC to reply to PG&E's exemption request." PG&E requested that the NRC issue a decision by June 2019 but believes it could take 6-12 months to receive a reply from the NRC.⁹

On January 29, 2019 PG&E filed bankruptcy. Prior to authorizing a memorandum account that may result in ratepayers incurring additional decommissioning planning costs, the Commission requires assurances that the NDTs will not be impacted by the bankruptcy and that all funds will be used for the designated purpose of decommissioning DCP. In addition to the determination by NRC as to PG&E's request for a "Specific Exemption", PG&E is directed to provide NRC's opinion as to the following:

⁸ See PG&E Letter DCL-18-108 to U.S. Regulatory Commission- Access to Nuclear Decommissioning Trust Fund, dated December 13, 2018.

⁹ See Comments of PG&E at 5.

1. Will the bankruptcy have any safety impacts at DCPD for operations or decommissioning (will there be sufficient funding to maintain required safety levels at the facility)?
2. Will the Bankruptcy result in any delay or hinder the proposed schedule for moving forward with identified decommissioning planning tasks now or after decommissioning?
3. Could the bankruptcy allow for use or access to the NDTs for a purpose other than decommissioning DCPD (is there a risk that the funds could be used for any purpose other than decommissioning)?

Given the number of outstanding questions as to whether the proposed decommissioning planning activities will in fact result in significant ratepayer savings, we believe it is prudent to defer issuance of a decision on whether to authorize the proposed DCDPMA until after the NRC issues a determination on PG&E's request for a specific exemption and impacts (if any) of PG&E's bankruptcy on decommissioning, as well as receiving the parties additional information required by this ruling.¹⁰

Interim Tracking of Diablo Canyon Decommissioning Planning

In deferring our decision until after a determination by the NRC, we will however find it acceptable for PG&E to set up an interim mechanism for tracking any costs that could be tracked in the DCDPMA if the Commission authorizes the account at a future date. PG&E in tracking such costs is to do so consistent with TURN's recommendations¹¹ (noting that PG&E states in its reply comments that "TURN's proposed recommendations are reasonable." ¹²).

PG&E is not to assume that its request for the DCDPMA will be granted, however in the event it is there should be a mechanism to transfer accounting of

¹⁰ To the extent the NRC has not responded to the request by the end of June 2019 PG&E is to request a status update on its request from the NRC and file any new information received consistent with the schedule set forth in this ruling.

¹¹ See Opening Comments of TURN at 1-2 for a list of TURN's proposed recommendations.

¹² See Reply Comments of PG&E at 3.

expenses (or portion of expenses) incurred consistent with the final decision to be issued in this proceeding. Any recovery of expenses tracked is subject to final authorization and approval of the DCDPMA by the Commission after a necessary reasonableness review is conducted in the appropriate NDCTP.

This ruling does not address the parties' arguments as to the application of Commission Standard Practice U-16. Parties should not make assumptions that funding of the proposed activities will be treated as cash working capital. We will consider the parties positions and evaluate the circumstances presented in the final decision as well as in any potential future proceeding where PG&E may seek recovery for costs recorded in a Commission approved memorandum account.

Schedule

The schedule for the proceeding is modified as set forth below.

Event	Date
PG&E Answers Questions Presented and provides assurances from the NRC as to PG&E's ability to continue to safely operate and conduct decommissioning planning as well as assurances that the NDTs will not be reachable in the bankruptcy proceeding other than for legitimate decommissioning costs as required by the NRC and authorized by the CPUC.	May 1, 2019
Intervenor Response to PG&E Answers	May 31, 2019
PG&E Reply to Responses and status update on NRC Determination on Request for "Specific Exemption"	June 14, 2019
PG&E to file NRC Determination on Request for "Specific Exemption"	Within 10 days of issuance by NRC
Issuance of Proposed Decision	Within 45 days of proceeding submission date

IT IS RULED that:

1. The schedule is modified as set forth in this ruling.
2. Pacific Gas and Electric Company and Intervenors are to provide information as set forth in this ruling consistent with the modified schedule.
3. PG&E may informally set up an interim mechanism to track decommissioning planning expenses consistent with this ruling. This interim tracking of expenses is not to be deemed as authorization for the Diablo Canyon Decommissioning Planning Memorandum Account. Any such memorandum account or recovery of such expenses is subject to the authorization and approval by the Commission.

Dated February 6, 2019, at San Francisco, California.

/s/ DARCIE L. HOUCK

Darcie L. Houck
Administrative Law Judge

Enclosure 2
PG&E Letter DCL-19-015
PG&E Letter HBL-19-002

ASSIGNED COMMISSIONER'S SCOPING MEMO AND RULING

February 14, 2019



FILED

02/14/19
01:25 PM

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company
in the 2018 Nuclear Decommissioning Cost
Triennial Proceeding. (U39E.)

Application 18-12-008

ASSIGNED COMMISSIONER'S SCOPING MEMO AND RULING

Pursuant to Rule 7.3 of the California Public Utilities Commission's (the Commission) Rules of Practice and Procedure (Rules),¹ this Scoping Memo and Ruling sets forth the procedural schedule, identifies the Presiding Officer, and addresses the scope of this proceeding and other procedural matters following the Prehearing Conference (PHC) held on February 6, 2019.

1. Background

On December 13, 2018, Pacific Gas and Electric Company (PG&E) filed this Application for the 2018 Nuclear Decommissioning Cost Triennial Proceeding (2018 NDCTP).² On January 10, 2019, the Commission preliminarily categorized this proceeding as ratesetting with hearings required in Resolution ALJ 176-3430. PG&E requested the following Commission actions with regard to the 2018 NDCTP in its application:³

1. Authorize PG&E to establish the Diablo Canyon Decommissioning Balancing Account and to recover through the Nuclear Decommissioning Non-Bypassable Charge in

¹ All references to rules are to the Commission's Rules of Practice and Procedure.

² The application presents cost estimates for decommissioning planning and decommissioning activities for the Diablo Canyon Power Plant (DCPP); and remaining decommissioning cost estimates and costs incurred for ongoing decommissioning activities at Humboldt Bay Power Plant (HBPP).

³ The information set forth below is found in the Application at 1-3, Introduction and Summary of Request.

CPUC-jurisdictional electric rates commencing January 1, 2020, a \$30.3 million annual, expense only revenue requirement for the 3-year period 2020 to 2022 and a \$44.0 million annual, expense only revenue requirement for the 2-year period 2023 to 2024 for funding pre-shutdown decommissioning planning activities;

2. Authorize PG&E to collect through CPUC jurisdictional electric rates an annual revenue requirement commencing January 1, 2020, of \$383.7 million for funding the DCPD tax qualified trust, as adjusted by advice letter filing immediately following a final decision in this proceeding;
3. Authorize PG&E to continue to collect through CPUC-jurisdictional electric rates an annual revenue requirement commencing January 1, 2020, of \$3.9 million for funding the HBPD tax qualified trust, as adjusted by advice letter filing immediately following a final decision in this proceeding;
4. Find that the decommissioning cost estimates and associated trust contribution analyses are reasonable and present the most up-to-date information on the potential cost to decommission DCPD and HBPD;
5. Approve PG&E's proposed Milestone Framework for tracking and reviewing decommissioning costs;
6. Find that the \$400 million in costs incurred for completed decommissioning activities at HBPD are reasonable and prudently incurred;
7. Find that variances in actual versus forecast SAFSTOR expenses for 2016-2018 are reasonable;
8. Find that PG&E's efforts to retain and utilize qualified personnel for physical decommissioning activities at HBPD are reasonable;
9. Find that PG&E is in compliance with prior CPUC NDCTP decisions' requirements as identified in Section B.2. above [sic-unclear as to what "Section B.2 above" refers to as to this request];
10. Authorize PG&E to update the nuclear decommissioning revenue requirements for adjustments to the cost of capital, Revenue Fees and Uncollectibles, and tax parameters as adopted in PG&E's 2019 Cost of Capital and 2020 GRC final decision; and

11. Authorize PG&E to implement the new revenue requirement through the next available consolidated electric rate change following a final decision for this application.

Protests were filed by the Alliance for Nuclear Responsibility (A4NR) on January 11, 2019, Women's Energy Matters (WEM) on January 14, 2019, the Public Advocates Office of the California Public Utilities Commission (Public Advocates) on January 17, 2019, and The Utility Reform Network (TURN) on January 17, 2019. The County of San Luis Obispo (the County) filed a response to the Application on January 17, 2019. Additionally, DHK Associates (DHK) and Mr. James Adams requested party status during the PHC held on February 6, 2019. Both requests were granted on the record during the PHC. On February 6, 2019 Southern California Edison Company (SCE) filed a motion requesting party status. SCE's motion is address in this ruling below.

On February 1, 2019 the participants to the meet and confer⁴ filed a Joint Prehearing Conference Statement (Joint Statement). The parties that met and conferred to contribute to the Joint Statement were PG&E, A4NR, Public Advocates, SLO County, DHKDHK, TURN and WEM (collectively the parties or the Participants). A prehearing conference (PHC) was held on February 6, 2019.

The parties, in the Joint Statement also presented a proposed schedule for the proceeding which was discussed during the PHC. The proceeding schedule is set forth below.

2. Scope of Proceeding

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

⁴ The assigned Administrative Law Judge (ALJ) issued a ruling on January 15, 2019 directed parties to meet and confer prior to filing the Joint Statement.

forth in Public Utilities Code § 455,⁵ and that the resulting rates will be just and reasonable as required by § 451.

The Application was filed as required by §§ 8321-8330. Pursuant to § 8326, the Utility, 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.

⁵ All statutory references are to the Pub. Util. Code.

The burden of proof is on the Utility to demonstrate the reasonableness of the decommissioning cost estimate and any resulting rate change requests. The standard of proof is that of a preponderance of evidence.

The parties submitted the following agreed-upon list of issues, and we adopt these listed issues as being within the scope of this proceeding:

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.

The Joint Statement also set forth the parties' positions on issues of disagreement. The parties do not agree on whether to include the following issues within the scope of this proceeding:⁶

1. Request for 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 as per A4NR's protest "there is no mention [in PG&E's 2018 NDCTP submittal] of any PG&E coordination or collaboration with the California Energy Commission (CEC), nor any comments or input received by PG&E from the CEC, nor

⁶ The issues set forth here state the parties' positions as set forth in the updated Joint Statement filed in this proceeding on November 13, 2018.

any evaluation by PG&E of such comments or input from the CEC;”

2. Bankruptcy Related Issues; and
3. Impacts on DCE of Retirement Before 2024/2025.

The disputed issues will be included within the scope of the proceeding as follows.

- **Order to Show Cause**

As to the Order to Show Cause, we will defer inclusion of this proposed issue at this time consistent with the discussion and parties’ request during the February 6, 2019 PHC. PG&E is directed to submit supplemental testimony addressing the spent fuel transfer, management, and interactions with the CEC consistent with the schedule set forth in this ruling. PG&E is to address its interaction with the CEC in the supplemental testimony, including any coordination and collaboration between PG&E and the CEC regarding its study and plan for expedited transfer of spent fuel to dry casks. PG&E is also to include in the testimony as an attachment or appendix any comments or input it received from the CEC regarding transfer of spent fuel from the pools to dry casks, and the timing for such transfer. PG&E is to invite and include participation by the CEC in its workshop on spent fuel management to be held in late April or early May consistent with the proceeding schedule.

- **Bankruptcy Related Issues**

The bankruptcy issue proposed by TURN overlaps with the issue of “potential impact of PG&E’s financial condition on decommissioning activities.” It therefore is included to the extent the bankruptcy proceeding impacts or has the potential to impact decommissioning activities. Concerns raised by TURN, supported by other parties, and shared by the Commission, as well as the public generally, as to how PG&E’s bankruptcy may impact decommissioning both from a financial and safety perspective cannot be ignored. PG&E represents that it:

has no plans to sell or transfer Diablo Canyon or otherwise
modify the retirement path agreed to in the Joint Proposal and

approved by the Commission in D.18-01-022. Likewise, PG&E [represents] it has no plans to request modification of the CPUC's oversight role in connection with trust disbursements.⁷

All filings with the Commission are submitted subject to Rule 1.1 therefore any filing including the Joint Statement, testimony, and briefings submitted by PG&E require that the filer "never mislead the Commission or its staff by an artifice or false statement of fact or law."

At this time, we have no reason to believe PG&E made any misrepresentations on these matters. We also agree with PG&E that the NDCTP is not the appropriate proceeding to address overall coordination concerning the Commission's oversight and the bankruptcy proceeding. That said, however, given the reasonable concerns as to any potential impact the bankruptcy may have on decommissioning, we include this issue within the scope of the proceeding to a limited extent as follows:

- PG&E is to provide regular status updates as to the bankruptcy proceeding in matters pertaining to the continued operation, decommissioning planning, and decommissioning of DCP and HBPP. Regular bankruptcy status updates will be provided every 90 days with an update as to whether matters pertaining to PG&E's nuclear facilities remain status quo and if not what has changed. If a filing by any party or a ruling by the court in the bankruptcy proceeding references nuclear facilities or has a potential to impact PG&E's nuclear facilities/decommissioning PG&E is to file notice of such action in this proceeding within 2 working days of the action occurring.
- The bankruptcy status updates will include a summary of:
1) any motions before the bankruptcy court pertaining to nuclear facilities; 2) any orders of the bankruptcy court since the last status update; and 3) any changes that may occur as to the position PG&E has represented in this proceeding as to maintaining the status quo regarding operations,

⁷ Joint Statement at 6.

decommissioning planning, and decommissioning of DCPD and HBPP.

- PG&E is to include with its initial bankruptcy status update a determination or opinion from the NRC as to whether it has any concerns regarding PG&E's ability to meet safety requirements and financial assurances at DCPD and/or HBPP. The NRC determination or opinion is to also include any concerns or opinions the NRC has regarding whether PG&E's bankruptcy creates any risks as to the NDTs for DCPD and/or HBPP.

Based on the information received through these bankruptcy status updates the assigned Commissioner and assigned ALJ will continue to assess whether the scope of the proceeding should be expanded to address more specific circumstances presented in the bankruptcy proceeding. To the extent that the Commission believes protections or other measures are needed to protect the interests of ratepayers based on actual developments in PG&E's bankruptcy concerning DCPD and/or HBPP it has full authority to do so as part of any decision issued in this proceeding.

- **Impacts on DCE of Retirement Before 2024/2025**

As to the proposed issue of impacts on the DCPD DCE of retirement [of DCPD] before 2024/2025, PG&E has represented it has no plans to and the Commission has not required an early retirement of DCPD. To the extent PG&E proposes an earlier retirement date it is to provide notice in this proceeding and in R.16-02-007. The Commission in D.18-01-002 deferred consideration of this issue to the Integrated Resources Planning Proceeding (R.16-02-007), if the Commission in that proceeding determines an earlier retirement date should be considered we will revisit any impacts of such early retirement in the NDCTP.

3. Proceeding Category, Need for Hearing, and *Ex Parte* Rules

As noted above, the Commission preliminarily categorized this Application as ratesetting as defined in Rule 1.3(a)(e) and anticipated that this proceeding would require evidentiary hearings. This ruling affirms the preliminary categorization of this proceeding as ratesetting with hearings required.

In a ratesetting proceeding, *ex parte* communications must comply with Rule 8.3(c).

4. Schedule

After consideration of the parties' positions set forth in the February 1, 2019 Joint Statement and discussion during the February 6, 2019 PHC, the proposed schedule is as follows:

Event	Date
PG&E Supplemental Testimony Addressing Spent Fuel Transfer Plan and Interactions with CEC and	On or before March 15, 2019
Parties Meet and Confer to Address 2018/2015/2012 cost Comparison Information	March 2019
Workshops to Discuss Development of DCE, Milestone Proposal, and Spent Fuel Management Plans [PG&E to provide at least 10-day notice of all workshops- including notice that Commission decisionmakers may be present for workshop.]	March-May 2019 (SFM Plans workshop to be scheduled in later half of April or first week of May)
Summary/Status Update as to any matters in PG&E's Bankruptcy related to DCPD and HBPP. ⁸	March 15, 2019 (1 st Status Update) [Additional status updates every 90 days;

⁸ PG&E is to file a status update as to any matters in the bankruptcy proceeding related to DCPD and/or HBPP every 90 days in this proceeding, and to the extent any event changes the position represented in the proceeding by PG&E (status quo) as to DCPD and/or HBPP it will have two working days to file notice of such event or action in this proceeding.

HBPP Tour [PG&E to provide at least 10-day notice of tour and include notice that Commission decisionmakers may be present for tour.]	3 rd Quarter 2019 - TBD
Intervenor Testimony	July 15, 2019
Rebuttal Testimony and HBPP 2018 True Up for Reasonableness Review	August 15, 2019
Discovery Cutoff Deadline	September 9, 2019
Evidentiary Hearings	September 23 – 27, 2019
Post-Hearing Opening Briefs	October 23, 2019
Post-Hearing Reply Briefs	November 20, 2019

The assigned Commissioner or Administrative Law Judge (ALJ) may modify this schedule as necessary to promote the efficient management and fair resolution of this proceeding. It is the Commission’s intent to complete this proceeding within 18 months of the date this Scoping Memo is filed. This deadline may be extended by order of the Commission. (§ 1701.5(a).)

5. SCE Motion for Party Status

SCE filed a motion requesting party status on February 6, 2019. SCE notes in its motion that A.18-03-009 – the 2018 NDCTP for San Onofre Nuclear Generating Station (SONGS) is currently pending before the Commission “and involves issues potentially overlapping with those considered in A.18-12-008. As the majority owner and decommissioning agent for SONGS SCE requests party status to address any overlapping issues that may arise in this proceeding.

SCE’s request for party status is granted.

6. Public Outreach

Pursuant to Pub. Util. Code § 1711(a), the Commission sought the participation of those likely to be affected by this matter by noticing it in the Commission’s January 2019

“Working for California” newsletter that is served on communities and businesses that subscribe to it and posted on the Commission’s website.

7. Intervenor Compensation

Pursuant to Pub. Util. Code § 1804(a)(1), a customer who intends to seek an award of compensation must file and serve a notice of intent to claim compensation by March 8, 2019.

8. Final Oral Argument

A party in a ratesetting proceeding in which a hearing is held has the right to make a final oral argument before the Commission, if the argument is requested by motion no later than the time for filing opening briefs consistent with Rule 13.13(b).

9. Public Advisor

Any person interested in participating in this proceeding who is unfamiliar with the Commission’s procedures or has questions about the electronic filing procedures is encouraged to obtain more information at <http://consumers.cpuc.gov/pao> or contact the Commission’s Public Advisor at 866-849-8390 or 415-703-2074 or 866-836-7825 (TTY), or send an e-mail to public.advisor@cpuc.ca.gov.

10. Service of Documents on Commissioners and Their Personal Advisors

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

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

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

must be consistent with the requirements set forth in Rules 1.5 and 1.6. Additionally, Rule 1.10 requires service on the ALJ of both an electronic and a paper copy of filed or served documents.

When serving documents on Commissioners or their personal advisors, whether or not they are on the official service list, parties must only provide electronic service. Parties must NOT send hard copies of documents to Commissioners or their personal advisors unless specifically instructed to do so.

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

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

11. Discovery

Discovery may be conducted by the parties consistent with Article 10 of the Rules. Any party issuing or responding to a discovery request shall serve a copy of the request or response simultaneously on all parties. Electronic service under Rule 1.10 is sufficient, except Rule 1.10(e) does not apply to the service of discovery, and discovery shall not be served on the ALJ. Deadlines for responses may be determined by the parties. Motions to compel or limit discovery shall comply with Rule 11.3. Parties shall have a discovery cutoff deadline consistent with the proceeding schedule set forth above.

12. Assignment of Proceeding

President Michael Picker is the assigned Commissioner and Darcie L. Houck is the assigned ALJ and Presiding Officer for the proceeding.

IT IS RULED that

1. The category of this proceeding is ratesetting. Appeals as to category, if any, must be filed and served within ten days from the date of this scoping memo.
2. Administrative Law Judge Darcie L. Houck is designated as the Presiding Officer. The assigned Commissioner or Presiding Officer may adjust this schedule as necessary for efficient management and fair resolution of this proceeding.
3. The scope of the issues for this proceeding is as described above.
4. Hearings are necessary and will be scheduled in accordance with this Ruling.
5. The schedule for the proceeding is as set forth above.
6. With limited exceptions that are subject to reporting requirements, *ex parte* communications are prohibited. (See Public Utilities Code Section 1701.3(c); Article 8 of the Commission's Rules of Practice and Procedure.)
7. Southern California Edison Company is granted party status in this proceeding.
8. A party shall submit request for Final Oral Argument by motion no later than the time of filing opening briefs, but the right to Final Oral Argument ceases to exist if hearing is not needed.

Dated, February 14, 2019 at San Francisco, California.

/s/ MICHAEL PICKER

Michael Picker
Assigned Commissioner