

March 4, 2024

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

In the Matter of) Docket No. NRC-2023-0192
)
PACIFIC GAS & ELECTRIC CO.)
)
License Renewal Application; Pacific)
Gas & Electric Company; Diablo)
Canyon Nuclear Power Plant, Units 1)
and 2)

**Request of the California Energy Commission
To Participate as Non-Party Pursuant To 10 C.F.R. § 2.315(c)**

I. Introduction

The California Energy Commission (CEC) respectfully requests to participate as an interested governmental entity pursuant to 10 C.F.R. § 2.315(c), in the U.S. Nuclear Regulatory Commission (NRC) proceeding concerning the Pacific Gas & Electric Company’s (PG&E) license renewal application (LRA) for Diablo Canyon Nuclear Power Plant (DCPP), units 1 and 2, filed pursuant to part 54 of title 10 of the Code of Federal Regulations to be operated within the State of California (NRC-2023-0192; Units 1 and 2 are assigned docket numbers, 50–275 and 50–323, for Facility Operating License Nos. DPR–80 and DPR–82, respectively). The DCPP currently supplies approximately 17 percent of California's zero-carbon electricity supply and 8.6 percent of California's total electricity supply.¹ The DCPP's two units are scheduled to be retired in 2024 and 2025.² The State of California passed Senate Bill 846 (2022) to preserve the option of continued operations of the DCPP for an additional five years beyond 2025 because doing so may be

¹ Cal. Pub. Res. Code § 25548(a). *See also* SB 846 (Chapter 239, Statutes of 2022).

² *Id.*

necessary to improve statewide energy system reliability and to reduce the emissions of greenhouse gases while additional renewable energy and zero-carbon resources come online, until those new renewable energy and zero-carbon resources are adequate to meet demand.³ It is the official policy of the State of California that seeking to extend the DCP's operations for a renewed license term is prudent, cost effective, and in the best interests of all California electricity customers.⁴

II. Background

On September 2, 2022, Governor Newsom signed Senate Bill 846 (Chapter 239, Statutes of 2022), which, among other things, requires the California Public Utilities Commission (CPUC) to set new retirement dates for the Diablo Canyon Power Plant (DCPP) and provides a pathway for all other state agencies involved in approving extended operations of DCPP to do so. On November 7, 2023, PG&E submitted an operating LRA to the NRC to extend the current Facility Operating Licenses for the DCPP, units 1 and 2, for 20 years beyond the current expiration dates, as well as a renewal of the authorization for receipt, possession, and use of nuclear material included in the operating licenses.⁵

On December 14, 2023, the CPUC issued Decision 23-12-036 conditionally approving extended operations at DCPP for five years pursuant to SB 846.⁶ One condition was that the NRC extend the DCPP's operating licenses.

³ Cal. Pub. Res. Code § 25548(b).

⁴ *Id.*

⁵ Although PG&E has applied for a standard 20-year extension, the two units at issue are only currently authorized by California law to operate until 2030. SB 846 (Chapter 239, Statutes of 2022).

⁶ The decision can be found at <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M525/K361/525361857.PDF>.

On December 19, 2023, the NRC determined PG&E's DCPD renewal application was complete and contained sufficient information for the agency to formally docket the application and begin its review. (88 Fed. Reg. 87817 (Dec. 19, 2023).) This notice establishes that "any person (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action" by March 4, 2024. (*Id.* at 87818.)

III. Discussion

The CEC requests to participate in this matter to ensure that the State's interest in the areas of public health and safety, natural resources, and electrical system reliability are protected. The CEC has been the State of California's State Liaison to the NRC since 1983 and coordinates California agencies' policy positions in federal proceedings affecting the State of California, such as the previously proposed High-Level Waste Repository at Yucca Mountain and federal nuclear waste transportation programs.

A hearing on this matter will directly involve issues that affect the State, and as the agency designated to coordinate State concerns regarding nuclear matters, the CEC seeks to participate in the proceedings as a State representative. California law allows the CEC to participate in federal proceedings and represent the interest of the CEC (Public Resources Code § 25219 and § 25220). Currently, the CEC does not intend to take a position on all issues before the NRC but does wish to participate in the proceedings to assist in developing a sound record that addresses issues of statewide importance.

The CEC has an interest in participating in any hearing on the LRA for DCPD, units 1 and 2, and a responsibility to ensure that the interests of California citizens are addressed in these proceedings. California statute provides:

The Legislature hereby finds and declares that electrical energy is essential to the health, safety and welfare of the people of this state and to the state economy, and that it is the responsibility of state government to ensure that a reliable supply of electrical energy is maintained at a level consistent with the need for such energy for protection of public health and safety, for promotion of the general welfare and for environmental quality protection.
(California Public Resources Code § 25001.)

DCPP produces approximately 2200 MW of electricity and is located at a critical location in the statewide grid. The State of California has an interest in maintaining a reliable electrical system, while ensuring that the quality of the environment and public health and safety are protected. Specifically, it is the policy of the State of California that seeking to extend the DCPP's operations for a renewed license term is prudent, cost effective, and in the best interests of all California electricity customers.⁷ The LRA proceedings are highly likely to have material impacts in one or all these areas. The NRC "has long recognized the benefits of participation in its proceedings by representatives of interested States...". (*Power Authority of the State of New York, et. al. (James FitzPatrick Nuclear Power Plant; Indian Point, Unit 3), CLI-00-22, 52 NRC 266, 295 (2000), quoting Niagara Mohawk Power Corp. (Nine Mile Point Nuclear Station, Units 1 and 2), CLI-99-30, 50 NRC 333, 334 (1999).*) Further, the CEC is an affected governing body that has not been admitted as a party under 10 C.F.R. § 2.309 and should be afforded a reasonable opportunity to participate in a hearing when one takes place. 10 C.F.R. § 2.315(c).

The PG&E LRA for the DCPP, units 1 and 2, could raise public health and safety, environmental, and electrical reliability questions. These are all issues that warrant a state presence in the decision-making process. No other State of California agency has intervened in this proceeding to represent these interests. For these reasons, the CEC should

⁷ Cal. Pub. Res. Code § 25548(b).

be permitted to represent the interests of the State of California in this matter as a non-party.

IV. Conclusion

For the reasons stated above, the CEC requests to participate in the above-captioned proceedings as a governmental entity pursuant to 10 C.F.R. § 2.315(c).

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Dated: March 4, 2024



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DESIGNATION FOR SERVICE

I, Devin Black, hereby certify that service of documents related to the foregoing Request of the California Energy Commission to Participate as a Non-Party Pursuant to 10 C.F.R. § 2.315(c) may be served upon the following persons by electronic means or United States mail, first class.

Service may be made at the following addresses:

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Dated: March 4, 2024



Signature