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on Diablo Canyon Power Plant

Joint letter

Additional submitted attachment is included below.

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August 19, 2022

Via Email Submission Only

California Energy Commission
Docket Unit, MS-4
Docket No. 21-ESR-01
715 P Street
Sacramento, CA 95814
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Re: Energy System Reliability (Docket No. 21-ESR-01) – Diablo Canyon Power Plant

Dear Chair Hochschild and Commissioners:

We write on behalf of the International Brotherhood of Electrical Workers Local 1245, the Coalition of California Utility Employees (CUE), the California State Association of Electrical Workers, the California State Pipe Trades Council, the International Brotherhood of Electrical Workers Local 639 and the Plumbers and Steamfitters Local 403 regarding extending the operation of the Diablo Canyon Power Plant beyond its scheduled retirement in 2024/2025. Diablo Canyon provides 9% of the state's total energy supply and an even larger percentage of its carbon free generation supply. Extending Diablo Canyon's operation is essential to both California's electric reliability and achieving the state's clean energy goals.

In 2016, several parties, including IBEW Local 1245 and CUE, agreed to seek from the CPUC approval of a settlement agreement. That settlement agreement set forth a joint proposal to close Diablo Canyon at the end of its operating licenses and to mitigate the impacts from the closure on employees, the community and, crucially, the climate by requiring the output of Diablo Canyon to be replaced with GHG-free resources. This last piece was central to the joint proposal because just four years before, the closure of the San Onofre Nuclear Generating Station resulted in a massive increase in fossil fuel-fired generation. A central tenet of the joint proposal was avoiding the same result. The joint proposal was submitted

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under the CPUC's rules for settlement agreements. Unfortunately, the CPUC largely rejected the joint proposal, including the critical climate mitigation.

Subsequently, in response to the CPUC's failure to adopt the joint proposal, the Legislature enacted SB 1090 (Monning) adding section 712.7 to the Public Utilities Code. That section required the CPUC, among other things, to "ensure that integrated resource plans are designed to avoid any increase in emissions of greenhouse gases as a result of the retirement of Diablo Canyon Units 1 and 2 powerplant." CUE has made numerous filings to encourage the CPUC to comply with this requirement of the Public Utilities Code. Again, unfortunately, despite having years to do it, the CPUC has not complied. Instead, the CPUC's integrated resource planning proceeding has sought only to meet the same 2030 GHG limit as exists irrespective of Diablo Canyon closing, entirely ignoring all the GHG emissions between Diablo Canyon closing in 2024/2025 and 2030. Those emissions would be in the atmosphere for decades.

Further, the Commission's recent procurement orders will not prevent an increase in GHG emissions the day each unit of Diablo Canyon ceases to operate. While SB 1090 was enacted in 2018 and became effective January 1, 2019, the Commission didn't order any replacement procurement for Diablo Canyon until June 2021. Not only was the Commission's action too late to ensure Diablo Canyon was replaced with zero-emitting resources in time for its closure, but the Commission failed to comply with the joint proposal's requirement that Diablo Canyon's **output** be replaced with zero-emitting resources.

In Decision 21-06-035, the Commission ordered procurement to address reliability in 2023-2026. While some of the resources (2,280 MW of zero-emitting generation, generation paired with storage or demand response resources) were designed to replace the **capacity** lost when Diablo Canyon is retired, the CPUC failed to require replacement of the 18,000 GWh of **energy** Diablo Canyon provides with zero-emitting resources. And even the attempt to replace the capacity has not been successful because of slow authorization, slow procurement and COVID-19 supply chain constraints.

Had the Commission implemented the replacement resource provisions of the joint proposal in a timely manner, the current reliability crisis may have been avoided. Having failed to do so, the reliability crisis is upon us. And if Diablo Canyon closes at the end of the current license periods, GHG emissions in California will increase dramatically. Much of its annual production of 18,000 GWh

will be replaced with increased generation by fossil fuel-fired plants, just as happened after SONGS closed.

Thus, while a number of parties agreed to seek approval of a joint proposal to close Diablo Canyon and replace its output with GHG-free resources, and the Legislature passed SB 1090 to mandate that the proposal be implemented, despite the parties' best efforts, that proposal was never fully implemented by the CPUC.¹

Some stakeholders opposed to extending the operation of Diablo Canyon argue, without providing any details or any viable plan, that we should instead focus on quickly building GHG-free generation to replace Diablo Canyon. Of course we should maximize our GHG-free generation as quickly as possible, but that will not change the fact that because of slow authorization, slow procurement and COVID-19 supply chain constraints, there is not much more we can do over the next two to three years to get GHG-free energy online, let alone enough to replace Diablo Canyon's output.

Some stakeholders want to simply rely on more storage. However, they fail to recognize that we need surplus clean generation to provide the energy to charge those batteries or they will simply be charged with fossil fuel-based generation. This would help with reliability but do nothing to reduce GHG emissions.

Further, electricity demand is increasing as more consumers choose to electrify their vehicles and homes, and more cities enact bans on using gas in new buildings. And electricity demand has become more variable with climate change, so

¹ Three parties to that agreement, NRDC, FOE and Environment California, claim that extending the life of Diablo Canyon would "force a deviation from the terms of the Joint Proposal, [which] would violate the Contracts Clause." (Post-Workshop Comments of Natural Resources Defense Council, Friends of The Earth, and Environment California, p. 15). IBEW 1245 and CUE, two parties to the agreement respectfully disagree with our colleagues. The agreement committed the parties to ***seek approval*** of the settlement joint proposal from the CPUC "in its entirety and without modification." We did that and we successfully obtained legislation to require the CPUC to implement the joint proposal. We were not successful in obtaining approval because the CPUC has never required fully replacing the output of Diablo Canyon with GHG-free resources. Like any other settlement agreement at the CPUC, the obligation of the parties was to ***seek approval*** of the joint proposal. We could not enter into a contract to implement the joint proposal because, of course, actions by the state and its agencies were required to implement the joint proposal. Deciding to extend the life of Diablo Canyon or not, like deciding to replace its full output with GHG-free resources or not, remains within the authority of the state and its agencies. Both decisions deviate from the joint proposal, but neither interferes with the agreement to ***seek approval*** of the joint proposal.

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we need more margin. Thus, even if the plans to replace Diablo Canyon output with zero carbon resources had been effective, we would still have a reliability problem that is better addressed with continued operation of a large GHG-free resource than with backup diesel generators or greater use of the least efficient gas-fired power plants.

Moreover, even if we were on track to replace the entire output of Diablo Canyon with GHG-free resources and even if we did not have a reliability problem, it remains a fact that gas fired generation is still the variable resource on the margin almost every hour of every day of the year. The day Diablo Canyon ceases to generate, nearly all its output would be replaced by gas fired generation. This is not an outcome California should find acceptable.

As we've seen from increased wildfires, drought and flooding in the state, the climate crisis is accelerating even faster than anticipated and we simply can't afford to close Diablo Canyon until it will not result in increased carbon pollution. Given the climate crisis and California's need to ensure electric reliability, the best path is to extend Diablo Canyon's operation *and* continue to add new GHG-free resources as quickly as possible.

Thank you for your attention to this important matter

Sincerely,



Rachael E. Koss

REK:acp