KEEPING THE OPTION OPEN TO EXTEND THE LIFE OF THE DIABLO CANYON POWER PLANT

BACKGROUND

Accelerating impacts of climate change have reduced our supply of available clean energy. Hydroelectric power production is down from lack of water. More frequent and extreme wildfires pose an increasing risk to electricity generation and transmission.

Meanwhile, the increased frequency of extreme heat events is driving electricity demand up at the same time that supply chain issues have slowed the development of the clean power we need to address this new reality.

All of these factors together – climate impacts, successful policies to substitute electricity for more polluting fuels, and global supply chain constraints slowing development of new projects – are contributing to reliability challenges now and over the coming years. The growth in demand for electricity is outpacing our current capacity to bring new clean power online.

According to the CEC, by the year 2025, we could have a gap of 1800 megawatts between our total power demand and available supply *even if there were no delays in new clean energy projects coming online*. That's the power needed for about 300,000 households. And because we know there could be significant delays in projects coming online, we have to be prepared to address an even greater shortfall.

The State's energy experts predict that, on our current course, we will face a choice between energy shortfalls and increasing our reliance on fossil gas power plants in 2024-2027.

As a result, we now face difficult choices to ensure that the lights stay on. This is why we are proposing to extend some existing resources that were planned to be shut down, including Diablo Canyon, while California finishes building and securing the clean power it needs for the future.

The State continues to pursue all options to close this projected supply and demand gap, including efforts to develop a strategic reliability reserve and implement and build on our energy efficiency, demand response and emergency conservation programs. We are moving to get more renewable power online faster. This year, the Legislature passed important reforms that will speed up the permitting of clean power plants across the state. But we must still do more to ensure we have the power we will need while these new sources come online.

In light of these difficult circumstances, the governor is proposing a number of extraordinary actions to preserve reliability. One of these measures is temporarily extending Diablo Canyon to help bridge the gap. This will allow us to maintain a stable supply of carbon-free electricity until the point that we can be confident that our capacity to supply and store clean electricity has caught up to demand, accounting for demand growth and the continued impacts of climate change.

The measure would only authorize what is needed now to keep DCPP on the table as an option. It includes regulatory changes to allow extended operations at DCPP, as well as a loan from the state that would create a pathway for DCPP to receive federal funding to support continued operations.

Our extension proposal includes off-ramps that will reverse a decision to extend operations, and will require the state to halt expenditures under the loan, if the Department of Energy rejects the DCCP application for federal funding, if costs appear greater than expected, and if enough alternative sources of carbon-free energy come online in the meantime.

The expectation is that the loan will be repaid largely, if not entirely, by federal funds made available earlier this year. There are other provisions in the proposal to protect ratepayers so they are not left absorbing the cost of keeping Diablo Canyon open.

Leaving our energy future to chance is not only risky, but it could also cost California ratepayers billions in out-of-pocket costs as utilities scramble to make last-minute energy purchases on the short-term market.

WE MUST ACT NOW

Without action now, the option to extend Diablo Canyon will be lost forever. We can always step off the path if we start down it, but we cannot start down it later because of two federal constraints: (1) a Sept. 6 deadline to qualify for federal funding, which would allow us to minimize costs for Californians and (2) the time needed to navigate the federal permitting process.

Federal permitting process

- The U.S. Nuclear Regulatory Commission license renewal process involves substantial safety and environmental reviews. It normally takes several years, which is why PG&E began it in 2009—15 years before expiration—before it paused in 2016. Now there are just 3 years left.

- Normally, if a plant applies for renewal at least 5 years before its license expires, it is allowed to continue operating even past the expiration date while its renewal application is undergoing the years-long review process.

- But because we are now within that 5-year period, PG&E would need to ask the NRC for an exception in order to keep operating even as the federal review process almost certainly will continue past the current expiration dates.

- Therefore every month counts. Every additional month PG&E waits is one month closer to the fast-approaching expiration dates, and that makes it much harder for the federal government to allow continued operations pending its review.

- PG&E cannot apply for renewed licenses under current state law; the Legislature must act (giving the CPUC direction) before PG&E can launch the NRC license renewal process.

- And before the NRC can actually issue renewed licenses, it must see that all state regulatory approvals have been granted as well, so those will need to be expedited to be completed in the next few years as well.

Federal funding opportunity

- The U.S. Department of Energy Civil Nuclear Credit program is a $6 billion strategic investment through the Bipartisan Infrastructure Law to help preserve operations of existing nuclear power plant facilities.

- Award Period 1 of the program is focused on plants that had been slated for retirement. Diablo Canyon would be the only plant competing for Award Period 1 funds. Diablo Canyon is unlikely to be competitive for later Award Period funds, which will be targeted to newer plants expecting to operate much longer.

- DOE is eager to close Award Period 1 and get started on Award Period 2.

- The deadline to apply for Award Period 1 funds was initially May 19, 2022. DOE then extended it to July 5, 2022 at the request of a trade association. At the Governor's request, DOE extended that deadline to September 6, 2022, and amended its eligibility criteria to more clearly cover Diablo Canyon. DOE made that change back in June, following a 10-day public comment period. DOE has declined to extend the deadline for a third time.

- If Diablo Canyon is going to qualify for federal funding, the Legislature must take action by September 6. In order for PG&E to apply for the DOE funds, it must be able to show that it has a pathway to continued operations. PG&E cannot make that showing, and thus PG&E cannot apply for the DOE funds, without a change in state law by the September 6, 2022, deadline.

The Bill Keeps the Option Open, But Does Not Require that the Option Be Used

To preserve the Diablo Canyon option, the proposed bill does two things: (1) chart a clear course toward a 5 year license renewal, while (2) building in robust off-ramps so that the State can change course if circumstances change and the option is no longer one we need or wish to use.

Charting a course toward license renewal

- The bill removes the legal prohibition on PG&E beginning the NRC process by reversing the CPUC order directing Diablo Canyon to close and telling the CPUC to direct PG&E to pursue license renewal

- The bill creates a loan mechanism to fund preparation of the license renewal application and preparations for extended operations (like purchasing fuel, which has a 3-year lead time). That loan is necessary both because it creates the kind of economic loss that the DOE program requires and would reimburse with its credits, and to avoid putting the costs of seeking an extension on PG&E ratepayers.

- The bill expedites the state regulatory approvals that would be necessary for extended operations so that those can be completed in the timeframe necessary for the federal NRC process, while ensuring that all agencies that currently have a regulatory role will continue to have one.

- Expediting would be accomplished three ways under this bill:

Timing: Any agency responsible for issuing any form of approval must do so within 180 days from submission of a complete application.

- This period is long enough to allow for stakeholder and public participation at regularly noticed meetings of the relevant boards and commissions, but limited enough to ensure approvals stay on track and do not hold up the federal relicensing process.

- This period also mirrors federal law under the Coastal Zone Management Act, which gives state coastal agencies 6 months to express their views on whether a federal permitting action would be consistent with the state's coastal management plan.

Suspension of CEQA: Any agency responsible for issuing any form of approval need not proceed through the ordinary CEQA process.

- This approach mirrors suspensions of CEQA for discrete, specified projects.

- Suspension is justified here because continued operations for an additional 5 years would maintain the status quo and would entail no material operational or physical changes and no new or materially different adverse environmental impacts.

- In place of CEQA, the bill provides for a joint public hearing with all agencies involved, and an opportunity to provide written comments, so the public has a one-stop opportunity to weigh in on the environmental impacts and proposed mitigations of extended operations.

Substantive direction: Express legislative findings and direction will allow agencies to avoid protracted factfinding and proceedings. Specifically:

- CPUC is directed to reopen its prior decision and order new retirement dates, and to impose a legislatively prescribed rate structure

- Under this proposal, the State Water Board is directed to extend the period during which PG&E could pay an interim mitigation fee under the Water Board's OTC Policy.

- State Lands Commission, in evaluating PG&E's application for a lease amendment, can rely on legislative findings concerning the need for temporary extended operations.

- Coastal Commission would conduct its “consistency review” under the federal Coastal Zone Management Act as usual, but it would apply a new provision of the Coastal Act that permits continued operations at the Diablo Canyon site for a limited time period. The Coastal Commission would require a coastal development permit for any new or expanded development at the power plant.

The Proposal also provides off-ramps if we don’t receive funding, or if we meet our energy goals sooner than anticipated

If the federal government does not come through with funding, the Legislature has secured off-ramps that allow the state to not move forward with the Diablo Canyon extension.

The bill provides that the State (acting through DWR) will terminate the loan—and not make any more disbursements under the loan—if the Diablo Canyon option no longer seems worth keeping open because any one of several conditions are triggered. Specific off-ramps include:

- PG&E failing to obtain necessary permits or approvals or relicensing.

- The State’s determination that permitting will take too long or be too costly

- DOE deciding not to award funding under its program (*This off-ramp was added expressly in response to Legislature’s feedback)

- CPUC’s determination that, contrary to current projections, new clean energy projects will actually be online by July 1, 2026, and adequate to meet the State’s reliability planning standards (*This off-ramp was added expressly in response to Legislature’s feedback)

- Likewise, the bill provides that if those conditions occur and the loan is terminated, or if the Independent Safety Committee for Diablo Canyon makes findings suggesting that retrofits are necessary that would be too costly, then the CPUC may revert to an earlier retirement date and return to focusing exclusively on decommissioning.

- If any of those situations were to arise over the next few years, the State could reverse course.

The governor's proposal includes a loan of up to $1.4 billion to PG&E to cover the costs of relicensing, but the loan may be disbursed only in smaller annual tranches. At the request of the Legislature, the proposal provides that only a portion of that loan amount would be appropriated at first, meaning the Legislature would have the opportunity to take additional action in future years. The expectation is that the federal government will cover most if not all of the $1.4 billion cost if it is ultimately authorized and loaned.

To keep all options on the table, we must act now

If we don't take action by September 6 to start the permitting approval process, we will lose the ability to secure federal funding for the project. We will not be able to navigate the bureaucratic hurdles to keep Diablo open in a timely way. And we will lose Diablo as an option going forward.

This proposal simply keeps the option of a Diablo Canyon extension on the table. The primary goal is to ensure California has the power it needs, to reduce costs to ratepayers, and to accelerate the essential work of bringing clean energy projects online as quickly as possible while leading in the fight against climate change.