

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company)
For Approval of the Retirement of Diablo Canyon) Docket A.16-08-006
Power Plant, Implementation of the Joint Proposal) (Filed August 11, 2016)
And Recovery of Associated Costs Through)
Proposed Ratemaking Mechanisms (U-39-E))

Opening Brief of the Alliance for Nuclear Responsibility

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SUMMARY OF RECOMMENDATIONS

1. The Commission should approve Pacific Gas & Electric Company's ("PG&E's") proposal to retire the Diablo Canyon Nuclear Power Plant ("DCNPP"), such retirement to occur no later than the expiry of the facility's current operating licenses.
2. The Commission should provide for the early, well-planned and orderly replacement of DCNPP capacity and energy in a manner consistent with the State's energy, environmental and greenhouse-gas policies.
3. The Commission should approve PG&E's proposed employee retention, retraining and severance programs.
4. The Commission should approve PG&E's proposed community impacts mitigation program.
5. The Commission should approve, but only to the limited extent provided in the settlement agreement addressing license renewal costs filed on May 23, 2017, PG&E's request for rate recovery of the costs PG&E incurred in pursuing the extension of the DCNPP operating authorities.
6. Except as provided below for cancelled DCNPP capital projects, the Commission should adopt the PG&E-A4NR Stipulation regarding the review of DCNPP capital additions whose cost exceeds \$20 million and for certain projects subject to material cost overruns. The stipulation requires PG&E to file detailed project and cost information as part of an annual Tier 3 advice letter, thus providing for the timely and effective review of such additions and any project subject to material cost overruns.
7. The Commission should adopt the modification to the PG&E-A4NR Stipulation regarding the review of DCNPP capital additions, as provided in the settlement agreement filed on May 23, 2017, pursuant to which the capital costs of all cancelled projects would be subject to limited rate recovery, to wit, (a) all direct project costs incurred prior to July 2016 would be recoverable through rates, (b) twenty-five percent (25%) of direct project costs incurred after June 2016 would be recoverable through rates, and (c) seventy-five percent (75%) of direct project costs incurred after June 2016 and all allowance for funds used during construction would not be subject to rate recovery.

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Opening Brief of the Alliance for Nuclear Responsibility

Pursuant to Rule 13.11 of the Commission’s Rules of Practice and Procedure and the *Scoping Memo and Ruling of the Assigned Commissioner and Administrative Law Judge* (“*Scoping Memo*”),¹ intervenor Alliance for Nuclear Responsibility (“A4NR”) submits its opening brief in the above-captioned matter.

1. Introduction

A4NR is a co-sponsor of the “*Joint Proposal*,”² which laid the foundation for the instant application. A4NR’s agreement to certain, but not all, provisions of the *Joint Proposal* arose from its participation in PG&E’s Test Year 2017 General Rate Case.³ A4NR made several ratemaking recommendations in that proceeding addressing PG&E’s forecasted costs of DCNPP operations and planned capital projects. As part of its direct showing, A4NR juxtaposed (a) PG&E’s proposed annual depreciation expense for its remaining net investment in DCNPP, which was based on the assumption the plant would be retired in the years when the existing DCNPP reactor-operating licenses expired, namely, 2024 for DCNPP Unit 1 and 2025 for DCNPP Unit 2, and (b) various projects and activities justified on the ground that these projects and activities were necessary to support the extension of those licenses for an additional twenty (20) years. A4NR urged the Commission to force PG&E to abide by a single assumption as to DCNPP’s remaining life,

¹ *Scoping Memo*, Application 16-08-006, November 18, 2016.

² See Application 16-08-006, Attachment A, *Joint Proposal of Pacific Gas and Electric Company, Friends of the Earth, Natural Resources Defense Council, Environment California, International Brotherhood of Electrical Workers Local 1245, Coalition of California Utility Employees and Alliance for Nuclear Responsibility to Retire Diablo Canyon Nuclear Power Plant at Expiration of the Current Operating Licenses and Replace It with a Portfolio of GHG Free Resources*, executed on June 20, 2016.

³ See *Application of Pacific Gas & Electric Company for Authority, Among Other Things, to Increase Rates and Charges for Electric and Gas Service Effective January 1, 2017*, Application 15-09-001, filed September 1, 2016.

which would have had the salutary effect of reducing PG&E's proposed revenue requirement no matter the assumption chosen. In addition, A4NR proposed that the Commission impose an annual reporting obligation on PG&E pursuant to which PG&E would have provided this Commission with the most recent information materially bearing on the likelihood the Nuclear Regulatory Commission ("NRC") would grant PG&E's pending application to extend the DCNPP operating licenses and/or whether the pursuit of license extensions for DCNPP was in the public interest.⁴

As the PG&E Test Year 2017 General Rate Case progressed, PG&E and A4NR entered into settlement discussions. Those discussions were productive and resulted in agreements that were later incorporated, in their entirety, into a comprehensive settlement involving virtually every active party that intervened in the general rate case. For its part, A4NR agreed to withdraw its policy and ratemaking recommendations. In return, PG&E agreed to retire DCNPP at the expiry of the plant's existing operating licenses and cease its efforts before the U.S. Nuclear Regulatory Commission to extend those licenses.⁵ The terms and conditions relevant to these mutual agreements are reflected in the *Joint Proposal* upon which Application 16-08-006 is based.

Above all else, A4NR supports the retirement of the Diablo Canyon Nuclear Power Plant ("DCNPP"). A4NR largely supports the terms under which DCNPP would be retired as provided in the *Joint Proposal*. There are, however, several original terms and conditions in the *Joint Proposal* to which A4NR did not agree. Significantly, prior to May 23, 2017, A4NR took exception to Pacific Gas & Electric Company's ("PG&E's") request, included in the *Joint Proposal*, to recover any of the costs PG&E incurred in seeking the extension of the DCNPP operating authorities through an increase in PG&E's retail electric rates. A4NR intended to seek (a) an order of the Commission denying rate recovery for the costs PG&E

⁴ In making this recommendation, A4NR rejected and objected to certain PG&E testimony and assertions that the extension of the DCNPP operating licenses was a matter outside the scope of the general rate case. In opposing PG&E's position, A4NR submitted evidence demonstrating that assumptions regarding DCNPP's remaining service life had a profound effect had on PG&E's rates. As an example, A4NR proposed to reflect PG&E's pursuit of DCNPP license extensions in determining DCNPP-related annual depreciation expense. Under A4NR's proposal, revenue requirement reflecting DCNPP-related annual depreciation expense would be based upon an assumption that the remaining lives of most DCNPP structures, components and equipment would run through 2045 rather than PG&E's proposed 2025 end date. A4NR's proposal would have reduced DCNPP-related revenue requirement by about \$210 million per year on a net basis, an approximate decrease in total DCNPP-related revenue requirement of about twenty percent (20%).

⁵ See *Joint Motion of Office of Ratepayer Advocates, the Utility Reform Network, Alliance for Nuclear Responsibility, et al., and Pacific Gas & Electric Company for Adoption of Settlement Agreement*, Attachment 1), Sections 3.1.10.1.1, *et seq.*, and 3.2.3.1, Application 15-09-001, filed August 3, 2016. This settlement agreement provides that, in the event the Commission takes any action causing PG&E to reconsider its decision to retire DCNPP, A4NR should be permitted to resurrect the issues it raised in the PG&E Test Year 2017 General Rate Case.

incurred in pursuing the extension of DCNPP's operating authorities, and (b) an additional order that PG&E refund the costs of the license renewal feasibility study previously authorized in PG&E's Test Year 2007 General Rate Case, with monthly interest computed at PG&E's authorized rate of return. Following the close of evidentiary hearings, A4NR and PG&E entered into settlement discussions which culminated in the filing of a settlement agreement regarding the ratemaking treatment of license renewal costs and the costs of cancelled projects on May 23, 2017.⁶ The *License Renewal Cost Settlement* proposes that the Commission allow PG&E to recover a limited portion of the costs PG&E incurred in seeking the extension of the DCNPP operating authorities through rates and, additionally, proposes the adoption of principles governing the limited recovery of the costs of DCNPP capital additions that are cancelled by PG&E prior to such additions being completed and transferred to plant-in-service accounts. A4NR supports the terms of the *License Renewal Cost Settlement* as representing a reasonable compromise between the PG&E proposals and A4NR's positions.

There are certain other provisions of the *Joint Proposal* that A4NR does not support in whole. First, while A4NR generally supports PG&E's proposals to replace DCNPP capacity and energy through an early, well-planned and orderly procurement program, A4NR takes no position regarding the specific procurement protocols and activities proposed by PG&E in either the *Joint Proposal* or these proceedings. Second, A4NR generally takes no position regarding any of the ratemaking proposals or cost allocations proposed by PG&E in its application, other than to support the PG&E-A4NR Stipulation addressing the review of and ratemaking for future DCNPP capital projects costing more than \$20 million and for certain DCNPP projects subject to material cost overruns; for such projects and costs, A4NR requests the Commission order PG&E to file an annual Tier 3 advice letter demonstrating the reasonableness of costs PG&E might seek to recover through rates in the manner provided in the PG&E-A4NR Stipulation.

2. A4NR Recommendations

2.1. The Commission Should Approve PG&E's Proposal to Retire DCNPP, Such Retirement to Occur No Later than the Expiry of DCNPP's Current Operating Authorities.

The Commission should approve the principal and central proposition of the *Joint Proposal* and the instant application, to wit, that PG&E should retire DCNPP no later than the expiry of the current reactor

⁶ See *Joint Motion of Pacific Gas and Electric Company, the Alliance for Nuclear Responsibility the Utility Reform Network, the Office of Ratepayer Advocates, the San Luis Obispo Mothers for Peace, et al., for Adoption of Settlement Agreement Regarding License Renewal Project and Cancelled Project Cost Recovery at Diablo Canyon ("License Renewal Cost Settlement")*, Application 16-08-006, May 23, 2017.

operating licenses for DCNPP Units 1 and 2 and replace DCNPP capacity and energy with a portfolio of greenhouse-gas-free resources.⁷

DCNPP is a relatively high-cost resource and poses financial, safety and reliability risks and uncertainties borne almost entirely by PG&E customers.⁸ DCNPP's retirement will resolve the great majority of these risks and uncertainties. While A4NR would prefer to see DCNPP retire at the earliest possible date, the plant's retirement upon the expiry of the existing operating licenses in 2024-2025 represents a practical point in time for DCNPP's retirement, assuming PG&E's ability to maintain a well-trained workforce and keep costs within reason, and provides time for PG&E to replace DCNPP's capacity and energy pursuant to an early, orderly and well-planned procurement program. DCNPP's retirement was virtually unopposed during this proceeding, with only a couple of dissenting voices.

The Green Power Institute ("GPI") conditioned their support of DCNPP's retirement and the *Joint Proposal* on the making of an adequate demonstration that the *Joint Proposal* will result in a net reduction of greenhouse gas emissions on a regional basis.⁹ Although GPI witness Morris did not believe such a demonstration had been made by the proponents of DCNPP's retirement, he conceded having some concern with requiring PG&E to continue to operate a nuclear power plant against the utility's better judgment.¹⁰ GPI witness Morris also testified the *Joint Proposal* would give rise to important benefits other than reducing regional greenhouse gas emissions, among them (a) resolving the financial risk that operation of DCNPP might be more expensive to customers than the costs of replacement resources,¹¹ and (b) reducing the risks to public safety posed by the operation of a nuclear power plant.¹²

Notwithstanding GPI's concerns that the parties to the *Joint Proposal* did not make a demonstration sufficient for GPI to endorse the *Joint Proposal*, GPI witness Morris admitted to some ambivalence regarding whether any uncertainty that the *Joint Proposal* would result in a net reduction in greenhouse gas emissions on a regional basis would justify the Commission's refusal to approve the

⁷ *Joint Proposal*, at Section 1, pp.3 to 4. See *Prepared Direct Testimony of A4NR witness Becker*, Exhibit A4NR-1, at pp.3 to 4.

⁸ *Prepared Direct Testimony of A4NR witness Becker*, Exhibit A4NR-1, at pp.3 to 4.

⁹ See, e.g., *Opening Testimony of the Green Power Institute*, GPI witness Morris, Exhibit GPI-1, at pp.1 to 2, pp.5 to 6, and p.7; also, GPI witness Morris, *Reporter's Transcript* at p.1169:19 to 1169:28.

¹⁰ GPI witness Morris, *Reporter's Transcript* at p.1170:1 to 1170:27, and pp.1170:28 to 1171:16.

¹¹ GPI witness Morris, *Reporter's Transcript* at pp.1171:20 to 1172:13.

¹² GPI witness Morris, *Reporter's Transcript* at pp.1173:23 to 1174:6; also, *Opening Testimony of the Green Power Institute*, GPI witness Morris, Exhibit GPI-1, at pp.6 to 7, where GPI witness Morris acknowledges the "risks to nuclear power, as exemplified by the Fukushima disaster in Japan in 2011, which have the potential to lead to ongoing massive recovery costs and environmental contamination."

retirement of Diablo Canyon.¹³ On the specific question of DCNPP's proposed retirement, GPI witness Morris agreed that the Commission should balance all of the potential benefits that might arise from the approval of the *Joint Proposal*, including those unrelated to state policies related to reductions in greenhouse gas emissions, as it considered whether to approve the retirement of DCNPP upon the expiry of the facility's current reactor operating licenses.¹⁴

A4NR disagrees with GPI that PG&E and the other parties to the *Joint Proposal* have failed to make a full and adequate demonstration that the retirement of DCNPP in 2024-2025 will result in a net reduction in regional greenhouse gas emissions. As this matter now stands, PG&E proposes to pursue energy efficiency measures as the initial step in replacing DCNPP capacity and energy.¹⁵ This step will be followed by the implementation of a comprehensive replacement procurement adopted by the Commission in a later proceeding. This leaves the issue of meeting the State's goals regarding the reduction of greenhouse gas emissions fully in the hands of the Commission. A4NR presumes the Commission will exercise its discretion and judgment in a manner that will serve the State's goals to reduce greenhouse gas emissions. Furthermore, A4NR disagrees that "guarantees" approaching the "near-certainty" GPI would require of such a demonstration is the appropriate standard of proof the proponents of the *Joint Proposal* must meet. But A4NR does agree with GPI witness Morris wholeheartedly that the Commission, to the extent it finds any uncertainty in whether the *Joint Proposal* will meet the State's greenhouse gas emission goals, should also weigh and balance the other benefits proffered under the terms of the *Joint Proposal*. Under such a balancing, A4NR submits that the totality of the benefits offered under the *Joint Proposal*, including a net reduction in regional greenhouse gas emissions, are more than sufficient to justify the Commission's approval of the *Joint Proposal* and DCNPP's retirement at a time no later than the expiry of the facility's current reactor operating licenses.

2.2. A4NR Supports, in Principle, PG&E's Proposal to Replace DCNPP Capacity and Energy through an Early, Well-Planned and Orderly Procurement Program.

A4NR supports, in principle, PG&E's proposal to replace DCNPP capacity and energy using a portfolio of greenhouse-gas-free resources.¹⁶ A4NR further supports the notion that the orderly and

¹³ GPI witness Morris, *Reporter's Transcript* at pp.1170:28 to 1171:16.

¹⁴ GPI witness Morris, *Reporter's Transcript* at pp.1179:1 to 1180:15.

¹⁵ *Prepared Testimony of PG&E witness Strauss*, Exhibit PG&E-1, at Chapter 3; *Prepared Testimony of PG&E witness Berman*, Exhibit PG&E-1, at Chapter 4.

¹⁶ *Joint Proposal*, at Section 2, pp.4 to 9; see also, *Prepared Direct Testimony of A4NR witness Becker*, Exhibit A4NR-1, at p.4.

gradual procurement of replacement resources should be done early through a well-planned procurement program. A4NR takes no position, however, regarding the reasonableness of the specific procurement protocols addressed in the *Joint Proposal*, as modified by PG&E during the course of this proceeding. Adjudging the activities, methods and manner by which PG&E might procure replacement resources is a matter beyond A4NR's interests and, thus, A4NR takes no position on the provisions of the *Joint Proposal* addressing these matters.¹⁷

2.3. The Commission Should Authorize PG&E to Recover the Costs of the Proposed Employee Retention, Retraining and Severance Programs.

A4NR supports PG&E's proposed employee retention, retraining and severance programs.¹⁸ The overall program is designed to enable PG&E to retain as much of the current DCNPP workforce as possible. Retaining DCNPP's well-trained, experienced and federally and state-licensed employees is critical to plant safety and reliability through the remaining period of the plant's power operations.¹⁹ Under the severance program, employees and managers would receive enhanced compensation based upon their years of service, plus a fixed lump sum payment based upon their position.²⁰ Under the retraining program, PG&E would provide support to DCNPP employees interested in "transitioning to roles supporting DCNPP decommissioning or roles in other parts of the company;" this support would take the form of support for job searches within the company, wage protection, training, and relocation assistance.²¹

The employee-retention program received the most attention during the evidentiary phase of this proceeding. Under this part of PG&E's proposal, DCNPP workers would be eligible for two separate series of retention bonuses.²² For the first series of retention bonuses, an employee would receive a year-end payment equal to twenty-five percent of that employee's earned wages for the period September 1 to August 31, with the first payment to be made in December 2017 for the period September 1, 2016, to August 31, 2017. Payment of each of the four year-end bonuses for the first series of payments would be conditioned on the execution of an agreement that the worker would remain at DCNPP until August 31,

¹⁷ *Joint Proposal*, Section 2.1, at p.4; see also, *Prepared Direct Testimony of A4NR witness Becker*, Exhibit A4NR-1, at p.4.

¹⁸ *Joint Proposal*, Section 3, at pp.9 to 10.

¹⁹ *Prepared Testimony of PG&E witness King*, Exhibit PG&E-1, at p.7-1; also, *Prepared Direct Testimony of A4NR witness Becker*, Exhibit A4NR-1, at p.5, and *Rebuttal Testimony of A4NR witness Becker*, Exhibit A4NR-2, at p.2.

²⁰ *Prepared Testimony of PG&E witness King*, Exhibit PG&E-1, at p.7-7. PG&E forecasts the costs of the severance program to be \$168 million.

²¹ *Prepared Testimony of PG&E witness King*, Exhibit PG&E-1, at p.7-8. PG&E estimates the costs of these activities to be \$11.3 million.

²² *Prepared Testimony of PG&E witness King*, Exhibit PG&E-1, at pp.7-3 to 7-5.

2020; workers leaving prior to that date would be obligated to refund any bonuses they received. The second series of retention bonuses would work in much the same way and cover the period September 1, 2020, through August 31, 2023. The costs for the first series of bonuses are estimated to be \$191.6 million and the costs for the second series of bonuses are estimated to be \$160.5 million.²³

ORA opposes rate recovery for the costs of the first of the two periods of the employee-retention bonuses.²⁴ Although ORA witness Logan proposes to exclude the costs of the first round of employee-retention bonuses, he recommends rate recovery for the costs of the second period, subject to the exercise of certain management discretion by PG&E in the administration of the program.²⁵ In making this recommendation, ORA witness Logan agreed that the purpose of the retention bonuses, namely, reducing the level of worker attrition as DCNPP's retirement looms, has "merit" and should be endorsed by the Commission.²⁶

A4NR agrees with ORA that the retention program has merit and strongly believes the retention incentives being offered to the DCNPP workforce greatly improve the likelihood that a substantial proportion of DCNPP's highly skilled and experienced workers will remain in place through the end of DCNPP's power operations. Keeping as many of these workers in place as is reasonably possible will avert any issues posed to public safety and plant reliability by reducing worker flight through the end of the DCNPP operating period.²⁷ This is a real concern. As A4NR witness Becker testified, "The Commission's Diablo Canyon Independent Safety Committee has raised doubts based on its collective experience that plant employees will remain in place, *despite any offer of financial incentives to employees.*"²⁸

ORA witness Logan bases his disallowance of the costs of the bonuses offered for the first period on the ground that ratepayers should bear the costs of the bonuses offered for the second period as a matter of "equitable funding."²⁹ A4NR can make little sense of the "equities" or logic being asserted here. ORA mischaracterizes the employee-retention program as being two separate programs. Rather, it is a

²³ Prepared Testimony of PG&E witness King, Exhibit PG&E-1, at pp.7-5 to 7-6.

²⁴ Report on Pacific Gas & Electric Company Retirement of Diablo Canyon Power Plant, Implementation of the Joint Proposal, and Recovery of Associated Costs Through Proposed Ratemaking Mechanisms: Issue 2.3 – Proposed Employee Program; Issue 2.4 – Proposed Community Impacts Mitigation Program; Issue 2.5 – Recovery of License Renewal Costs; Issue 2.6 – Proposed Ratemaking and Cost Allocation Issues ("Report of ORA witness Logan"), Exhibit ORA-7, at pp.2 to 4.

²⁵ Report of ORA witness Logan, Exhibit ORA-7, at p.4.

²⁶ Report of ORA witness Logan, Exhibit ORA-7, at p.3.

²⁷ Prepared Direct Testimony of A4NR witness Becker, Exhibit A4NR-1, at p.5.

²⁸ Rebuttal Testimony of A4NR witness Becker, Exhibit A4NR-2, at p.2 (emphasis in original).

²⁹ Report of ORA witness Logan, Exhibit ORA-7, at p.4.

single, unitary program whose two halves cannot and should not be delinked. ORA's recommendation misses the importance of funding the first period of retention bonuses to the success of the overall program. As A4NR witness Becker testified:

If the Commission rejects funding for the program's initial period, DCNPP management will face the increased likelihood of losing more of the current DCNPP workforce between now and September 2020, which is the immediate and most pressing problem the program is designed to address. This will only reduce the success of the second round of retention bonuses ORA's witness agrees should be funded, placing the goal of the entire program in jeopardy. Crippling the launch of the program in the name of 'equitably funding' the second stage of the program will only result in undermining the whole program.³⁰

A4NR does not claim expertise in employee compensation and severance programs, but does have considerable knowledge regarding safety problems that arise when there is a lack of experienced employees operating and maintaining aging nuclear reactors. This is one of the few areas where this Commission ostensibly shares safety jurisdiction with the Nuclear Regulatory Commission. The Nuclear Regulatory Commission requires licensees to maintain a well-trained and experienced workforce and this Commission is charged with approving the reasonable and adequate costs for this workforce. In this context, reasonableness must encompass both rates and safety, as a lack of funding could result in a corresponding lack of qualified and experienced employees. Ensuring that California's last aging nuclear plant will be operated safely until retirement, by a well-trained and qualified staff, is well within this Commission's jurisdictional mandates. To this end, A4NR submits that the PG&E proposal for employee-retention bonuses is reasonably drawn and scaled based on experience at other facilities and will contribute to sustaining plant reliability and public safety. The employee program, in its entirety, is reasonably tailored to address these purposes and should be approved in whole so as to assure its effectiveness and efficacy from the point of launch to the termination of DCNPP power operations.

2.4. The Commission Should Authorize PG&E to Recover the Costs of the Proposed Community Impacts Mitigation Program.

A4NR supports PG&E's proposed community impacts mitigation program, as modified during the course of this proceeding.³¹ Under PG&E's proposal, PG&E will provide \$75 million to an "essential service mitigation fund" by making equal annual payments to the County of San Luis Obispo until DCNPP is retired.

³⁰ *Rebuttal Testimony of A4NR witness Becker*, Exhibit A4NR-2, at p.2.

³¹ *Joint Proposal*, Section 4, at pp.10 to 11; as modified, see *Joint Motion of Pacific Gas and Electric Company, the County of San Luis Obispo, et al., and Alliance for Nuclear Responsibility for Adoption of Settlement Agreement*, Application 16-08-006, December 28, 2016 ("*Motion re CIMP Settlement Agreement*"). See also, *Joint Proposal*, Section 5.4.1, at pp.12 to 13; also, *Prepared Testimony of PG&E witness Jones*, Exhibit PG&E-1, at Chapter 8.

The County will in turn distribute the funds to other local government agencies and political subdivisions. Of the \$75 million, \$10 million will be paid to an educational foundation to be designated by the San Luis County Unified School District.³² In addition, PG&E will provide \$10 million to establish an economic development fund to be administered by the County of San Luis Obispo and six local cities.³³ Finally, PG&E will continue its financial support for internal and public emergency planning, preparedness and response activities until the surrender of the DCNPP Part 50 reactor operating licenses.³⁴

First and foremost with respect to this portion of the *Joint Proposal*, A4NR submits that it is extremely important to assure the continuity of funding for state and local emergency-planning activities and functions, including the maintenance of public-warning sirens, at least until such time as PG&E surrenders the DCNPP Part 50 operating licenses at the conclusion of plant decommissioning. The County of San Luis Obispo Office of Emergency Services relies upon PG&E for ninety percent (90%) of its funding.³⁵ As A4NR witnesses Becker and Weisman testified, the proposed community impacts mitigation program provides important “assurance that this agency, and other similar local and state agencies with first-response and disaster-recovery responsibilities, will be properly alerted to and equipped to deal with events potentially leading to the release of radiologically hazardous materials both onsite and offsite, which in turn might pose threats to life and property in the local area.”³⁶ No party opposes this aspect of PG&E’s proposed community impacts mitigation program and the Commission should approve it.

Turning to PG&E’s proposal to make the community impacts payments to local public agencies, PG&E proposes to assist local communities to prepare and plan for the long-term loss of economic stimuli historically provided by DCNPP through a transition period ending in 2025. The payments constitute remuneration for “the burdens – both realized and potential – associated with hosting an operating nuclear

³² See *Motion re CIMP Settlement Agreement*, at Attachment 1, Appendix 1.

³³ See *Motion re CIMP Settlement Agreement*, at Attachment 1, Appendix 2.

³⁴ See *Motion re CIMP Settlement Agreement*, at Attachment 1, Appendix 3. Upon the completion of plant decommissioning, PG&E would surrender its Part 50 reactor licenses to the Nuclear Regulatory Commission, which would then certify that PG&E has completed the decommissioning project pursuant to federal safety regulations and retire the DCNPP licenses. The California Public Utilities Commission will oversee this aspect of the community impacts mitigation program in the context of the nuclear decommissioning cost triennial proceeding applications filed periodically by PG&E.

³⁵ *Prepared Direct Testimony of A4NR witness Becker and Prepared Direct Testimony of A4NR witness Weisman*, Exhibit A4NR-1, at p.5.

³⁶ *Prepared Direct Testimony of A4NR witness Becker and Prepared Direct Testimony of A4NR witness Weisman*, Exhibit A4NR-1, at p.5. See also, *Prepared Testimony of PG&E witness Jones*, Exhibit PG&E-1, at pp.8-6 to 8-8.

power plant” and a limited stream of financial assistance to local government in recognition of the “help and willing partnership” of the local area during DCNPP’s operating life.³⁷

ORA opposes ratepayer funding for the entire proposed community impacts mitigation program. ORA witness Logan claims the program constitutes a tax-related “subsidy,” is unprecedented and unsupported by any decision, provision of law or regulation.³⁸ A4NR disagrees with ORA on all counts.

A4NR submitted testimony demonstrating that other communities geographically and demographically similar to DCNPP’s surrounds suffered adverse fiscal and socioeconomic effects from the retirement of a nearby nuclear power plant. Local governments and agencies providing services and benefits to those other power plants and their employees were adversely affected by the plant closures and forced to address the loss of tax base by which those services and benefits were funded, notwithstanding that the need for those services and benefits continued beyond the cessation of plant operations.³⁹ So as to prevent the reoccurrence of this situation in the communities near DCNPP, A4NR successfully pursued legislative solutions aimed at mitigating the effects of a potential retirement of the DCNPP with local legislators.⁴⁰ As a result, California law, contrary to ORA’s assertions, clearly establishes that it is wholly consistent with the public interest for the Commission to address the “potential actions for the state and local jurisdictions to consider in order to mitigate” any adverse socioeconomic and fiscal impacts arising from DCNPP’s retirement.⁴¹ While a greater range of those methods and impacts will be addressed in a separate, later Commission proceeding, the plain language of the bill’s provisions makes clear that public policy and state law bring PG&E’s proposed community impact mitigation program within the definition of costs that, if approved by the Commission, would result in just and reasonable rates.

In adding Section 712.5 to the Public Utilities Code, the Legislature expressly acknowledged that the *Joint Proposal* was pending the Commission’s approval.⁴² In doing so, the Legislature also explicitly distinguished (a) the “*further* information and recommendations” expected from the study compelled under

³⁷ *Prepared Testimony of PG&E witness Jones*, Exhibit PG&E-1, at pp.8-1 to 8-2.

³⁸ *Report of ORA witness Logan*, Exhibit ORA-7, at pp.12 to 14.

³⁹ *Rebuttal Testimony of A4NR witness Weisman*, Exhibit A4NR-2, at p.3, citing Mullin, John R. and Kotval, Zenia, “The Closing of the Yankee Rowe Nuclear Power Plant: The Impact on a New England Community,” Landscape Architecture & Regional Planning Faculty Publication Series. Paper 25 (1997); accessible at http://scholarworks.umass.edu/larp_faculty_pubs/25. See also, Cooper, Jonathan G., “The Pilgrim Nuclear Power Station Study: A Socioeconomic Analysis and Closure Transition Guide Book,” Landscape Architecture & Regional Planning Masters Projects; Paper 76 (2016); accessible at http://scholarworks.umass.edu/larp_ms_projects/76.

⁴⁰ *Stats.2016*, Ch.674.

⁴¹ Public Utilities Code Section 712.5(a)(1).

⁴² *Stats.2016*, Ch.674, Section 2.

this new statute from (b) the *pending* proposals to mitigate community impacts included in the Joint Proposal, taking care to indicate that any information and recommendations that might result from the future study were “not intended to interfere with or invalidate the joint proposal.”⁴³ These provisions clearly demonstrate the Legislature’s intent to reinforce the Commission’s authority to consider, and approve, the *Joint Proposal* and each of its constituent parts, *most notably the provisions of the Joint Proposal comprising the community impacts mitigation program*. ORA’s claim that state law does not support the approval of the community impacts mitigation program does not address and is wholly inconsistent with the foregoing provisions of state law.

Moreover, the governmental programs and activities whose continuity would be assured upon the Commission’s approval of the community impacts mitigation program are directly and/or indirectly related to DCNPP’s current and post-retirement utility operations. An important aspect of these programs and activities is that they address the vital public-safety and emergency-planning requirements posed by nuclear power generation and the associated long-term storage of highly radioactive materials at the site.⁴⁴ These programs and activities will remain an important priority for local government far into the foreseeable future. Providing for the funding of these programs and activities by Commission order will assure they will be preeminent among other potentially competing public priorities. It is absolutely critical that such programs and activities are never threatened by other local programmatic needs or future situational or fiscal exigencies that might be faced by any local government or public agency. Similarly, PG&E’s proposed community impacts mitigation program assures that the local programs and public amenities enjoyed by plant workers, both as PG&E employees and citizens, will be supported for as long as skilled labor is needed to support plant operations and the ensuing decommissioning project. The aging of the national pool of nuclear plant operators means these workers are in high demand in other locations and the Commission should support proposals to assure the DCNPP workforce stays put for as long as they are needed in the San Luis Obispo area.⁴⁵

ORA’s characterization of the proposed program as a “tax subsidy” inaccurately implies that the program would require PG&E’s entire customer base to “subsidize” a discrete set of local agencies in a small portion of PG&E’s service territory. Such a complaint ignores the fact that the benefits and burdens of DCNPP’s operations have been disproportionately allocated among PG&E constituencies across the

⁴³ *Stats.2016, Ch.674, Section 2* (emphasis added).

⁴⁴ *Rebuttal Testimony of A4NR witness Weisman, Exhibit A4NR-2, at p.4.*

⁴⁵ *Rebuttal Testimony of A4NR witness Weisman, Exhibit A4NR-2, at p.5.*

plant's entire history. On the one hand, PG&E's entire customer base has received value from the capacity and energy provided by DCNPP. On the other hand, it is the local area that has played host to the plant, which undeniably poses risks to the local population that are both unfathomably enormous as well as unique among all of the other risks posed by PG&E's utility operations and non-nuclear assets.

The potential risk that a catastrophic event might occur at DCNPP has been identified by PG&E as one of five "enterprise risks" posed by its electric-utility operations and assets – an "enterprise risk" is one that if it came to pass would threaten the company's financial viability and potentially its very existence.⁴⁶ As compared to the other enterprise risks identified and addressed by PG&E's corporate-wide risk-management programs, it cannot be disputed that the potential loss of life and property damage posed by a catastrophic event at DCNPP implicate significantly higher orders of magnitude. As A4NR witness Weisman testified:

[E]ven if the Commission were to consider that a program addressing the unique fiscal and socioeconomic impacts local to a specific area within PG&E's larger service territory might pose a financial burden on customers outside that locality, the Commission should likewise consider that the populations living in close proximity to the plant have borne, are bearing and for the foreseeable future will bear an extraordinarily disproportionate risk to public safety and property damage posed by this singular and unique aspect of PG&E's utility operations. While PG&E may be confident these risks can be managed, images of the consequences of failures experienced at other sites hosting nuclear power plants are vivid reminders of the 'costs' borne by the local populace.⁴⁷

Placed in proper perspective, the cost burdens of the community impacts mitigation program pale in comparison to the value of the capacity and energy received by customers located outside the boundaries of San Luis Obispo County and are equally miniscule compared to the burdens borne by the citizens living near the DCNPP site.

Finally, A4NR asserts that it is wholly inaccurate to consider the proposed program to represent a form of charity or goodwill payment to the local area.⁴⁸ As part of its corporate citizenship initiatives, PG&E makes considerable, unrelated and *additional* charitable contributions to local *nongovernmental* community organizations in the communities surrounding DCNPP. Those contributions are fully charitable in nature, tax-deductible as such, and funded by PG&E shareholders. A4NR expects these charitable contributions,

⁴⁶ *Rebuttal Testimony of A4NR witness Weisman*, Exhibit A4NR-2, at p.5.

⁴⁷ *Rebuttal Testimony of A4NR witness Weisman*, Exhibit A4NR-2, at p.5.

⁴⁸ See, *contra*, *Comments of the Office of Ratepayer Advocates and The Utility Reform Network on the Joint Motion of Pacific Gas & Electric Company, et al., for Adoption of Settlement Agreement*, Application 16-08-008, January 27, 2017, at pp.2, 6.

separate and apart from the program to mitigate community impacts resulting from DCNPP's retirement, will continue well into the future. The benefits of these charitable contributions will continue in their own right and are fully distinguishable from the community impacts mitigation program. As compared to the charitable contributions received by qualified local *nongovernmental* organizations from PG&E, the program to mitigate local fiscal and socioeconomic impacts arising from DCNPP's retirement will support public benefits provided by and through the *official activities of governmental agencies and political subdivisions*. The enactment of 2016 Senate Bill 968 makes clear that Commission has the authority to address the fiscal and socioeconomic impacts of DCNPP's retirement on local communities and brings the costs of the community impacts mitigation program well within the bounds of costs that can and should be funded by rates.

2.5. The Commission Should Adopt the *License Renewal Cost Settlement*.

As noted previously, A4NR reserved the right to contest those provisions of the *Joint Proposal* addressing the recovery of any of the costs, including allowances for funds used during construction ("AFUDC"), PG&E incurred in seeking to extend DCNPP's operating authorities.⁴⁹ A considerable portion of A4NR's efforts in this proceeding were devoted to establishing the evidentiary foundation upon which the following findings and conclusions should be entered:

- Allowing the rate recovery of license renewal costs would violate the California prohibition against retroactive ratemaking;
- Rate recovery of license renewal costs should be rejected on the grounds that PG&E failed to comply with the requirements of Public Utilities Code Sections 463, 463.5 and/or 1005.5;
- Rate recovery of license renewal costs should be rejected on the grounds that PG&E violated the terms of the Commission's orders in the company's Test Year 2007 General Rate Case;⁵⁰
- The license renewal project was imprudently launched, the project's costs were unauthorized by this Commission, and PG&E failed to demonstrate that the project's costs were reasonably incurred or reasonable in amount;

⁴⁹ *Joint Proposal*, Section 5.2, at pp.11 to 12.

⁵⁰ See *Prepared Direct Testimony of A4NR witness Weisman*, Exhibit A4NR-1, at pp.6 to 7, 11; also, *Opinion Authorizing Pacific Gas and Electric Company's General Rate Case Revenue Requirement for 2007 – 2010*, Decision 07-03-044, in *Application of Pacific Gas and Electric Company (U 39-M) for Authorization, Among Other Things, to Increase Rates and Charges for Electric and Gas Service Effective on January 1, 2007*, Application 05-12-002, *et al.*, March 15, 2007, printed opinion at pp.96 to 104.

- Commission policies and precedents addressing the recovery of AFUDC require, at minimum, the disallowance of any recovery for AFUDC charged to the license renewal project; and/or,
- The Commission should order PG&E to refund the costs of the license renewal feasibility study authorized in the PG&E Test Year 2007 General Rate Case, with interest.

Shortly after the close of evidentiary hearings, A4NR and PG&E entered into settlement discussions regarding PG&E's request for the recovery of the DCNPP license renewal costs. The initial discussions were promising and the discussions were broadened to include other parties. These discussions proved fruitful and led to the execution and filing of the *License Renewal Cost Settlement*. Under the terms of the settlement agreement, PG&E would be allowed to recover through rates the direct costs it incurred in pursuit of the DCNPP license extensions through April 10, 2011, the date on which PG&E requested that the Nuclear Regulatory Commission delay the final processing of the pending license renewal application.⁵¹ The settlement agreement also provides that PG&E will waive the recovery of all AFUDC charged to the license renewal project.⁵² In sum, the parties to the *License Renewal Cost Settlement* recommend that the Commission authorize PG&E to recover \$18.6 million of the \$52.7 million of license renewal costs PG&E originally sought in its application. The \$18.6 million would be recovered over the eight-year period from January 1, 2018, through December 31, 2025.⁵³ In recognition of the competing facts and evidence submitted by A4NR and PG&E, as well as certain colorable legal arguments PG&E might pose in opposition to A4NR's original recommendations, A4NR submits that the settlement represents a reasonable compromise of the issues and recommends the Commission adopt the terms of the settlement.

In addition to addressing the costs of the license renewal project, the *License Renewal Cost Settlement* addresses the recovery of the costs of DCNPP capital projects that are cancelled prior to completion. Due to DCNPP's impending retirement, PG&E is reconsidering whether it would be more cost-effective to replace planned capital additions with alternative operating and maintenance programs. Where PG&E decides in favor of cancelling planned capital projects at DCNPP, the *License Renewal Cost Settlement* provides that PG&E should be allowed to recover the direct costs of those projects incurred through the end of June 2016, the time when PG&E announced it would suspend the license renewal

⁵¹ See *License Renewal Cost Settlement*, at Section 1.1.

⁵² See *License Renewal Cost Settlement*, at Section 1.1.

⁵³ See *License Renewal Cost Settlement*, at Section 1.2.

project and retire DCNPP at the end of its existing operating licenses.⁵⁴ For direct costs incurred after June 2016, PG&E will waive rate recovery for seventy-five percent (75%) of such costs, as well as all AFUDC charged to those projects without regard to the date of such charges.⁵⁵

The ratemaking treatment for the costs of cancelled projects was portended by the PG&E-A4NR Stipulation related to the review of DCNPP capital projects.⁵⁶ Under the PG&E-A4NR Stipulation, ratemaking for cancelled projects would be determined in the context of an annual Tier 3 advice letter filing specifically addressing DCNPP capital investments. The *License Renewal Cost Settlement* replaces what was anticipated to be a series of annual *ad hoc* reviews with abiding principles PG&E will apply to DCNPP projects it may cancel in the future to reach a reasonable ratemaking result.⁵⁷ Under these principles, PG&E will waive the rate recovery of seventy-five percent (75%) of the direct costs for cancelled projects incurred after June 30, 2016, and all AFUDC for those cancelled projects without regard to vintage. In addition, the Commission would still retain authority to review any adverse impacts that might arise from an imprudently or unreasonably cancelled project.⁵⁸ A4NR submits the adoption and application of these ratemaking principles will achieve a reasonable result for customers while simultaneously serving the Commission's interest in administrative efficiency.

2.6. The Commission Should Adopt the PG&E-A4NR Stipulation Regarding the Review of Future DCNPP Capital Projects Costing More than \$20 Million Or Which Are Subject to Material Cost Overruns.

As noted above, several of the provisions of the *Joint Proposal* had their genesis in the PG&E Test Year 2017 General Rate Case proceeding. Among those provisions was a DCNPP-related ratemaking proposal to which A4NR and PG&E agreed and incorporated into the comprehensive settlement agreement recently adopted by the Commission in that case. PG&E submitted the proposal in this proceeding to implement this prior settlement agreement. Under the proposal described in PG&E's original case-in-chief, PG&E would file an annual Tier 3 advice letter in which PG&E would "true-up" annual DCNPP revenue

⁵⁴ See *License Renewal Cost Settlement*, at Section 2.1.

⁵⁵ See *License Renewal Cost Settlement*, at Section 2.1.

⁵⁶ See *Prepared Direct Testimony of A4NR witness Geesman*, Exhibit A4NR-1, Appendix A, at Section C.

⁵⁷ See *License Renewal Cost Settlement*, Section 2.2. An exception is made for the treatment of the costs of a planned main generator stator replacement project for DCNPP Unit 2. The ratemaking treatment for the costs of that project would be addressed under the terms of the settlement recently approved in *Decision Authorizing Pacific Gas and Electric Company's General Rate Case Revenue Requirement for 2017-2019*, Decision 17-05-013, in *Application of Pacific Gas and Electric Company for Authority, Among Other Things, to Increase Rates and Charges for Electric and Gas Service Effective on January 1, 2017 (U39M)*, Application 15-09-001, May 11, 2017, printed opinion at p.154.

⁵⁸ See *License Renewal Cost Settlement*, Section 2.6.

requirement by substituting actual gross plant additions for authorized annual capital additions for each year of the rate case period, 2017 to 2019.⁵⁹ As part of this annual Tier 3 advice letter, PG&E would provide “information at a project level” and identify any material changes to the forecast of plant additions adopted in the general rate case.⁶⁰

Since the time PG&E filed the instant application and served its prepared testimony, PG&E and A4NR met and reached an agreement regarding the nature of the “project level” information that PG&E will provide in the annual Tier 3 advice letter.⁶¹ Essentially, for projects not considered in the general rate case and whose costs exceed \$20 million, PG&E will provide the detailed project justification approved by PG&E’s Executive Project Committee.⁶² This same approach would be used for projects costing more than \$20 million and approved in PG&E’s general rate case, but where a cost exceedance requires additional internal PG&E reviews related to the overruns.⁶³ This reporting was originally to be done as part of PG&E’s Annual Energy True-Up advice letter, but will now be included in the DCNPP-specific Tier 3 advice letter. The PG&E-A4NR agreement also provides for the protection of any proprietary information relevant to the annual Tier 3 advice letter.⁶⁴

A4NR submits that the provisions of the PG&E-A4NR Stipulation are reasonable and should be adopted. These provisions will consolidate the reporting of DCNPP-related capital investments into a single filing and provide a comprehensive context for the Commission’s review. In addition, the level of information PG&E has agreed to provide in the annual Tier 3 advice letter will provide for administrative efficiency and full evidentiary transparency.⁶⁵ During the PG&E Test Year 2017 General Rate Case

⁵⁹ See *Joint Proposal*, Section 5.1, at p.11, regarding full cost recovery of PG&E’s investment in and return on DCNPP capital projects, with full amortization to zero book value contemporaneously with the expiry of the reactor operating licenses; also, *Prepared Testimony of PG&E witnesses Marre and Hoglund*, Exhibit PG&E-1, at pp.10-8 to 10-9.

⁶⁰ See *Prepared Testimony of PG&E witnesses Marre and Hoglund*, Exhibit PG&E-1, at p.10-9.

⁶¹ As discussed previously, the *License Renewal Cost Settlement* replaces the provisions of the terms of the PG&E-A4NR Stipulation related to cancelled projects. See *Prepared Direct Testimony of A4NR witness Geesman*, Exhibit A4NR-1, Appendix A, at Section C.

⁶² See *Prepared Direct Testimony of A4NR witness Geesman*, Exhibit A4NR-1, Appendix A, at Section A. As A4NR witness Geesman points out, this Committee represents an important internal control and provides senior-level oversight of PG&E’s capital spending and “is privy to the best available information for projects subject to the committee’s approval.” (*Prepared Direct Testimony of A4NR witness Geesman*, Exhibit A4NR-1, at p.40.) See also, *Rebuttal Testimony of PG&E witness Marre*, Exhibit PG&E-5-2, at p.6-5.

⁶³ See *Prepared Direct Testimony of A4NR witness Geesman*, Exhibit A4NR-1, Appendix A, at Section B. See also, *Rebuttal Testimony of PG&E witness Marre*, Exhibit PG&E-5-2, at p.6-5.

⁶⁴ See *Prepared Direct Testimony of A4NR witness Geesman*, Exhibit A4NR-1, Appendix A, at Sections A and B. See also, *Rebuttal Testimony of PG&E witness Marre*, Exhibit PG&E-5-2, at p.6-5.

⁶⁵ See *Rebuttal Testimony of PG&E witness Marre*, Exhibit PG&E-5-2, at p.6-5.

proceeding, A4NR reviewed many of the detailed project justifications submitted to PG&E's Executive Project Committee and found them to be thorough and informative from both an engineering and cost standpoint. When provided as part of the annual Tier 3 advice letter, A4NR believes parties reviewing the advice letter filing will be able to determine whether a protest is warranted without the need to conduct substantial discovery – this should eliminate the need for pro forma protests to the advice letter filing that might otherwise be necessary to reserve a party's rights to protest rate increases related to capital projects that were not specifically identified in PG&E's Test Year 2017 General Rate Case.⁶⁶ To the best of A4NR's knowledge, no party opposes any of the provisions of the PG&E-A4NR Stipulation. Its terms should be approved in this proceeding.

2.7. Land Use, Facilities and Decommissioning Issues

A4NR takes no position regarding any of the proposals submitted by PG&E regarding future land use and/or the disposition of facilities related to DCNPP. A4NR believes these matters are related to DCNPP's decommissioning, both as to activities and costs, and should be addressed in the context of PG&E's triennial nuclear decommissioning cost proceeding. That proceeding allows for a periodic and reasoned consideration of all matters related to decommissioning and provides the appropriate context for addressing any issues related to the decommissioning of DCNPP. Therefore, in the context of this proceeding, A4NR has no recommendations as to the manner in which issues related to decommissioning should be preserved for future consideration.⁶⁷

2.8. Other Issues

Based on the evidence adduced through the close of evidentiary hearings, A4NR intended to seek a Commission order requiring PG&E to refund the costs of the license renewal feasibility study, with interest charged for each month during the period March 2007 through the date of the Commission's decision in this proceeding at an interest rate equal to PG&E's authorized rate of return on rate base in effect for each month. As a part of the *License Renewal Cost Settlement*, A4NR has agreed to waive such a request.⁶⁸

⁶⁶ See *Prepared Direct Testimony of A4NR witness Geesman*, Exhibit A4NR-1, at pp.40 to 41.

⁶⁷ See *Scoping Memo*, at p.6.

⁶⁸ See *License Renewal Cost Settlement*, Section 3.

3. Summary and Recommendations

For the reasons stated above, A4NR respectfully requests that the Commission issue orders:

- Approving Pacific Gas & Electric Company's ("PG&E's") proposal to retire the Diablo Canyon Nuclear Power Plant ("DCNPP"), such retirement to occur no later than the expiry of the facility's current operating licenses;
- Providing for the early, well-planned and orderly replacement of DCNPP capacity and energy in a manner consistent with the State's energy, environmental and greenhouse-gas policies;
- Approving PG&E's proposed employee retention, retraining and severance program;
- Approving PG&E's proposed community impacts mitigation program;
- Approving, but only to the limited extent provided in the settlement agreement addressing license renewal costs filed on May 23, 2017, PG&E's request for rate recovery of the costs PG&E incurred in pursuing the extension of the DCNPP operating authorities;
- Except as provided below for cancelled DCNPP capital projects, the Commission should adopt the PG&E-A4NR Stipulation regarding the review of DCNPP capital additions whose cost exceeds \$20 million and for certain projects subject to material cost overruns. The stipulation requires PG&E to file detailed project and cost information as part of an annual Tier 3 advice letter, thus providing for the timely and effective review of such additions and projects subject to material cost overruns;
- Approving the modification to the PG&E-A4NR Stipulation regarding the review of DCNPP capital additions, as provided in the settlement agreement filed on May 23, 2017, pursuant to which the costs of all cancelled projects would be subject to limited rate recovery, to wit, (a) all direct project costs incurred prior to July 2016 would be recoverable through rates, (b) twenty-five percent (25%) of direct costs incurred after June 2016 would be recoverable through rates, and (c) seventy-five percent (75%) of direct costs incurred after June 2016 and all allowance for funds used during construction without regard to vintage would not be subject to rate recovery; and,

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- Adopting such other relief as the Commission may determine to be in the public interest and consistent with the evidentiary record in this proceeding.

Respectfully submitted,

/s/ Alvin S. Pak

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