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4 WITNESS: John Geesman
5

6 **BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

7

8 # REPLY TESTIMONY OF JOHN GEESMAN
9 # ON BEHALF OF THE ALLIANCE FOR NUCLEAR RESPONSIBILITY
10 # (“A4NR”)

11

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1 **I. <u>INTRODUCTION.</u>**

2 Q01: Please state your name and business address for the record.

3 A01: My name is John Geesman, and my business address is: Dickson Geesman LLP, P.O. Box
4 177, Bodega, CA 94922.

5 Q02: Are your professional qualifications included in your testimony?

6 A02: Yes, my professional qualifications are contained as an Appendix to my testimony.

7 Q03: Was your testimony prepared by you or under your direction?

8 A03: Yes, it was.

9 Q04: Insofar as your testimony contains material that is factual in nature, do you believe it to
10 be correct?

11 A04: Yes, I do.

12 Q05: Insofar as your testimony contains matters of opinion or judgment, does it represent
13 your best judgment?

14 A05: Yes, it does.

15 Q06: Does this written submittal complete your prepared testimony and professional
16 qualifications?

17 A06: Yes, it does.

18

1 **II.** **SUMMARY OF TESTIMONY AND CONCLUSIONS.**

2 Q07: What is the purpose of your testimony?

3 A07: The purpose of my testimony is to provide evidence concerning certain financial aspects
4 of the Plan of Reorganization described in PG&E's January 31, 2020 testimony. My testimony
5 addresses issues identified in Sections 4.4, 4.5, and 4.7 of the Assigned Commissioner's Scoping
6 Memo and Ruling ("Scoping Memo"). The informational void in PG&E's testimony, and
7 subsequent responses to data requests, of coherent financial projections for the post-emergent
8 utility and its holding company render a key commitment in the Assigned Commissioner's
9 Ruling and Scoping Memo ("The Commission's consideration will include financial and
10 operational issues over both the short term and the longer term."[1]) impossible to fulfill.
11 Instead, PG&E's financial engineers take their snapshot on the Plan's Effective Date; project an
12 incomplete (and thereby misleading) "savings for the benefit of customers"[2] in order to evade
13 the "neutral, on average" protective requirement of Cal. Pub. Util. Code § 3292(b)(1)(D); ignore
14 completely the material contributions commandeered from ratepayers for even this fleeting
15 photo opportunity, despite the requirement of Cal. Pub. Util. Code § 3292(b)(1)(E) that such
16 contributions be recognized and compensated accordingly; and brazenly flout Governor
17 Newsom's insistence that "To achieve safe and reliable service and make critical safety and
18 infrastructure investments, the emerging company's capital structure must be stable, flexible,
19 and position the company to attract long-term capital,"[3] ("Newsom Principle").

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[1] November 14, 2019 Assigned Commissioner's Ruling and Scoping Memo, p. 3.
[2] January 31, 2020 PG&E Testimony, p. 2-1, lines 18 – 19.
[3] December 13, 2019 letter from Governor Gavin Newsom to PG&E Corporation CEO William D. Johnson.

1 Q08: What conclusions do you draw from your review of the PG&E Plan?

2 A08: Notwithstanding the opacity of the PG&E Plan about what is to happen after the
3 Effective Date, several of PG&E's disclosures and conspicuous omissions make clear that the
4 current Plan fails the statutory tests of AB 1054 as well as the Newsom Principle.

5 **III. PG&E's PLAN IS NOT "NEUTRAL, ON AVERAGE" TO RATEPAYERS.**

6 Q09: How does the PG&E Plan fail the requirement of Cal. Pub. Util. Code § 3292(b)(1)(D) that
7 it be "neutral, on average" to PG&E's electricity ratepayers?

8 A09: The PG&E Plan proclaims a "savings for the benefit of customers"[4] of $942,811,069[5] as a
9 result of a $6.2 billion exchange of long-term debt with current bondholders. PG&E's February
10 3, 2020 data response quantifying this savings undercuts the January 31, 2020 PG&E
11 Testimony's claim of "over $1 billion on a net present value basis".[6] The lower present value
12 calculation in the PG&E data response remains overstated by at least $3.264 billion because it
13 omits the avoidable portion of the Diablo Canyon subsidy payments discussed below in A10 and
14 A12, as well as the uncompensated credit enhancement contribution taken from ratepayers to
15 support the planned securitization financing, discussed below in A11 and A13. Even PG&E's
16 overstated savings amount is swamped by the additional burdens the PG&E Plan places on
17 electricity ratepayers.

18 Q10: What additional burdens does the PG&E Plan place on electricity ratepayers?

19 A10: I will discuss the qualitative burdens stemming from violation of the Newsom Principle
20 below in A14. The more readily quantified ratepayer burdens apparent from even PG&E's

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[4] January 31, 2020 PG&E Testimony, p. 2-1, lines 18 – 19.
[5] February 3, 2020 PG&E Data Response PlanOfReorganizationOII-2019_DR_CLECA-001-Q02_Chapter 2 debt savings calc.xlsx
[6] January 31, 2020 PG&E Testimony, p. 2-20, line 10.

1 patchy disclosures fall into two categories: (1) the Plan is dependent upon either $7 billion of
2 new securitized Wildfire Victim Ratepayer Bailout (“WVRB”) bonds, or an ongoing breach of the
3 52%-common-equity approved capital structure (on December 16, 2019 PG&E notified the
4 Commission that its equity ratio had fallen to 21%[7]) to enable $6 billion of “Temporary Utility
5 debt” of unspecified duration; and (2) the Plan saddles both bundled and unbundled electricity
6 ratepayers with continued exposure to the growing above-market costs of the Diablo Canyon
7 Nuclear Power Plant ($410 million in 2018, $1.168 billion in 2019, and $1.258 billion in 2020,
8 based on PG&E data responses in the pending General Rate Case) by contractually obligating
9 PG&E to “continue to operate” the plant “through the term of the current operating licenses.”[8]
10 Q11: How do the WVRB bonds or the “Temporary Utility debt” affect the “neutral, on
11 average” protective requirement of Cal. Pub. Util. Code § 3292(b)(1)(D)?
12 A11: PG&E’s financial engineers are ambiguous about that. When the Effective Date
13 snapshot is taken, $6 billion of otherwise fungible cash will be used to pay wildfire claims,
14 earmarked as having come from “Temporary Utility debt” (whether short-term or long-term
15 will be determined by PG&E later[9]), and characterized as “the financial responsibility of
16 shareholders, not customers.”[10] PG&E intends to seek Commission authorization (PG&E
17 indicates no new statutory authorization is needed[11]) to replace the “Temporary Utility debt”
18 with WVRB bonds (the amount of WVRB bonds would grow to $7 billion in order to also finance
19 PG&E’s deferred obligation to the Fire Victim Trust, which at that time will be PG&E’s largest

[7] A.19-02-016, December 16, 2019 PG&E Notification of Change in Equity Ratio, p. 4.
[8] January 31, 2020 PG&E Plan of Reorganization, Exhibit B “IBEW Agreement,” ¶ 7.
[9] January 31, 2020 PG&E Testimony, p. 2-33, lines 19 – 22.
[10] January 31, 2020 PG&E Testimony, p. 2-15, lines 19 – 20.
[11] February 11, 2020 PG&E Data Response PlanOfReorganizationOII-2019_DR_EPUC_003-Q03 and February 11, 2020 PG&E PlanOfReorganizationOII-2019_DR_CLECA_002-Q05.

shareholder). Until such refinancing has taken place, "PG&E plans to use cash flows from NOLs [Net Operating Losses] to support the $6 billion of Utility debt used to fund wildfire claims."[12] If the WVRB bonds are never authorized, "the $6 billion would be retired with proceeds from shareholders."[13]

To the extent that the "Temporary Utility debt" can be effectively segregated as "the financial responsibility of shareholders, not customers,"[14] its primary impact on the "neutral, on average" test would stem from its violation of the Newsom Principle discussed below in A14. But if such segregation falls short of impenetrable ring-fencing (e.g., the "Temporary Utility debt" is subject to cross-default provisions of other Utility debt), ratepayers will be financially exposed to this liability of shareholders. The January 31, 2020 PG&E Plan fails to recognize or compensate this ratepayer indemnification, which cannot escape the "neutral, on average" statutory test.

Additionally, although PG&E has attempted to keep the WVRB bonds off-camera in the Effective Date snapshot, the explicit transfer of ultimate liability to ratepayers inherent in any securitization structure is problematic for purposes of Cal. Pub. Util. Code § 3292(b)(1)(D). No matter how cushioned by intervening cashflows that might otherwise go to shareholders, ratepayers are forcibly conscripted as the ultimate source of payment of the WVRB bonds if any deficiencies in such cashflows arise, in any amount, for any reason. Imposing a contingent liability on ratepayers cannot be balanced by projected debt service savings on a shareholder liability for which ratepayers have never been found to share any responsibility.

[12] January 31, 2020 PG&E Testimony, p. 2-18, lines 1 – 2.
[13] January 31, 2020 PG&E Testimony, p. 2.17, line 14 – p. 2-18, line 1.
[14] January 31, 2020 PG&E Testimony (Wells), p. 2-15, lines 19 – 20.

1 Q12: How does the contractual obligation to continue operating Diablo Canyon affect the
2 "neutral, on average" protective requirement of Cal. Pub. Util. Code § 3292(b)(1)(D)?
3 A12: The IBEW Agreement provision[15] added to the January 31, 2020 PG&E Plan is a clever
4 attempt to immunize the massive annual subsidies propping up an uneconomic plant from
5 redirection to higher priorities by PG&E management or the Commission. The apparent premise
6 is that embedding a covenant to operate Diablo Canyon in a Plan of Reorganization confirmed
7 by the U.S. Bankruptcy Court will legally remove these expenditures from Commission
8 oversight. By including this covenant in the January 31, 2020 PG&E Plan, however, the
9 potential ratepayer savings attributable to an early shutdown (which I estimate at roughly $535
10 million in nominal dollars per year thru 2024, and $179 million for 2025) are foregone and must
11 be reflected in the "neutral, on average" calculation required by Cal. Pub. Util. Code §
12 3292(b)(1)(D).
13 Rapid evolution in market conditions since PG&E's 2016 announcement that it was
14 abandoning its effort to extend Diablo Canyon's operating licenses have accelerated the plant's
15 economic obsolescence. Indeed, Diablo Canyon's current financial value to PG&E customers has
16 descended to levels that A.16-08-006 anticipated would not occur until well past 2025. PG&E
17 bundled load represented 82% of the total load within its service territory in 2017, but suffered
18 a decline to 59% in 2018, 47% in 2019, and is projected to erode to 43% in 2020.[16] In 2016,
19 PG&E identified an anticipated loss of customers to Community Choice Aggregation and Direct
20 Access as the primary reason to retire Diablo Canyon in 2025, but the present load estimate for

[15] January 31, 2020 PG&E Plan of Reorganization, Exhibit B "IBEW Agreement," ¶ 7.
[16] A.18-12-009, Exhibit 254, p. 1; Exhibit 256, p. 5, lines 18 – 19, 25.

2020 represents a collapse below even PG&E's previous worst case scenario for 2025. As PG&E acknowledged in 2017, a "Low Load" scenario where PG&E retained only 44% of service territory load would reduce the need for Diablo Canyon to 26% of the plant's output.[17]

In the meantime, the plant's above-market costs have soared. PG&E's application of the Commission's Power Charge Indifference Adjustment ("PCIA") methodology assigned above-market costs of $410 million to Diablo Canyon for 2018, $1.168 billion for 2019, and $1.258 for 2020.[18] But for PG&E's ability to recover these above-market costs from its dwindling number of bundled customers and the exit fees charged to departing load, generally accepted accounting principles would require PG&E to characterize Diablo Canyon as an impaired asset and reduce the plant's balance sheet carrying value accordingly.

ECONOMIC OBSOLESCENCE FACTORS:	2017	2018	2019	2020
PG&E bundled customer share of total PG&E service territory load	82%	59%	47%	43%
Diablo Canyon above-market costs calculated by PCIA methodology (in millions of nominal dollars)	--	$410	$1,368	$1,258

These staggering above-market costs cannot be rationalized as a defensible carbon surcharge, since purchasing $1.258 billion in offsets at the most recent cap-and-trade auction price would acquire more than eight times the annual greenhouse gas emissions savings PG&E claims for Diablo Canyon. The plant's inability to be flexibly dispatched in response to steep daily load ramps up and down has made grid operations more difficult, and causes increased

[17] A.18-12-009, Exhibit 256, p. 6., lines 12 – 13, citing A.16-08-006, PG&E Opening Brief, p. 15.
[18] A.18-12-009, Exhibit 253, p. 1; Exhibit 256, p. 3, line 12.

1 renewable curtailments as more intermittent solar and wind resources come online. And, as
2 PG&E informed the Commission last October, physical transmission constraints on Path 26
3 severely restrict the contribution from plants like Diablo Canyon to incremental system
4 reliability needs in Southern California, and the procurement ordered by D.19-11-016 will
5 compound PG&E's expected surplus in system reliability resources.[19] PG&E's recent Form 10-K
6 reported that Diablo Canyon output supplied 45.0% of PG&E bundled retail sales in 2019, but
7 that the Utility also sold surplus electricity from its supply portfolio amounting to 44.6% of its
8 bundled retail sales.[20]

9 Under such circumstances, does it make any sense to incur substantial new, avoidable
10 expenses for an increasingly uneconomic plant that – because of PG&E's loss of bundled customers
11 – can only justify about one-quarter (and perhaps even less, according to the Form 10-K disclosures)
12 of its output? As described in its pending General Rate Case, PG&E is forecasting O&M expenses for
13 Diablo Canyon of $1,039,874,000 and new capital expenditures of $84,402,000 in nominal dollars
14 during the 2020 – 2022 General Rate Case cycle. Applying the approach taken in D.14-11-040,
15 which limited return on rate base to the utility cost of debt after the premature retirement of
16 SONGS 2&3, would characterize the equity increment of return and nuclear fuel costs as avoidable.
17 These two Diablo Canyon items would add some $160 million annually to the going-forward O&M
18 and capital expenses. Extending the current run rate of avoidable costs to license expiration in
19 2025, and discounting at the same 3.15% rate PG&E negotiated for 66-month secured debt in the
20 Noteholder Restructuring Support Agreement ("Noteholder RSA"[21]), these but-for-the-IBEW-

[19] R.16-02-007, October 31, 2019, PG&E Comments on Revised Proposed Decision Requiring Electric System Reliability Procurement for 2021 – 2023.
[20] February 18, 2020 PG&E Corporation Form 10-K, p. 21.
[21] January 31, 2020 PG&E Testimony (Wells), p. 2-28, lines 5 – 7.

1 Agreement avoidable costs sum to a net present value of $2.663 billion, which must be included in
2 the "neutral, on average" ledger.
3 This amount should be increased by what PG&E acknowledges, but has refused to quantify,
4 as "loss of the tax exempt feature of the $860 million of [Diablo Canyon] pollution control bonds,
5 which otherwise would have existed through 2026." In PG&E's words, "There may have been some
6 benefit to those features between now and 2026, but such benefit may or may not have been
7 significant, depending on market conditions."[22]
8 PG&E's Plan of Reorganization makes no attempt to reconfigure its assets and redeploy
9 its capital (and IBEW members) to better meet the transformed needs of its electricity
10 customers going forward. In the improbable circumstance that PG&E's newly promised revised
11 cost of debt calculation[23] produces sufficient ratepayer savings to neutralize the $2.663 billion
12 in avoidable costs, the Commission should not regard the IBEW Agreement as nullifying its
13 statutory authority or enabling avoidance of its legal duties. That portion of Diablo Canyon's
14 net book value that does not meet the Commission's used-and-useful standard – about 74%
15 according to PG&E's earlier assessment of departed load – must be removed from rate base,
16 even if the plant is operating. Based upon Diablo Canyon's 2020 weighted average rate base of
17 $2.05 billion,[24] such removal (roughly $1.52 billion) would be well within the $2.4 billion
18 forecast variance allowed by PG&E's equity backstop commitment providers.[25]

19 **IV. <u>PG&E's PLAN FAILS TO RECOGNIZE RATEPAYER CONTRIBUTIONS.</u>**
20
21 Q13: How does the PG&E Plan fail the requirement of Cal. Pub. Util. Code § 3292(b)(1)(E) that
22

[22] February 20, 2020 PG&E Data Response PlanOfReorganizationOII-2019_DR_TURN_022-Q01d.
[23] February 11, 2020 PG&E Data Response PlanOfReorganizationOII-2019_DR_CLECA_002-Q04.
[24] A.18-12-009, Exhibit 54, p. WP 2 and 3-49, line 1.
[25] Chapter 11 Plan Backstop Commitment Letter, ¶ 4.f.

1 the contributions of ratepayers be recognized and compensated accordingly?

2 A13: The PG&E Plan ignores the indispensable role that credit enhancement from ratepayers
3 will play in the securitized WVRBs intended to retire the "Temporary Utility debt" and
4 accelerate payment to the Fire Victim Trust. The January 31, 2020 PG&E Testimony states that
5 "the plan is not dependent on the approval of the post emergence securitization"[26] and PG&E
6 may prefer to avoid consideration of this ratepayer contribution until after the Commission has
7 approved the PG&E Plan:

> 8 PG&E believes the current statutory framework set forth in the Public Utilities Code
> 9 authorizes the proposed securitization transaction. As set forth in the testimony, PG&E
> 10 will file a separate securitization application, which will address that issue and others
> 11 related to the proposed post-emergence, rate-neutral securitization transaction in more
> 12 detail.[27]

13

14 The exceptional overstretch in PG&E's assurance about the sufficiency of "the current
15 statutory framework" is clear from the disclosures made in PG&E's recent Form 10-K:

> 16 SB 901, signed into law on September 21, 2018, requires the CPUC to establish a
> 17 CHT [Customer Harm Threshold], directing the CPUC to limit certain disallowances in the
> 18 aggregate, so that they do not exceed the CHT. SB 901 also authorizes the CPUC to issue
> 19 a financing order that permits recovery, through the issuance of recovery bonds (also
> 20 referred to as 'securitization'), of wildfire-related costs found to be just and reasonable
> 21 by the CPUC and, only for the 2017 Northern California wildfires, any amounts in excess
> 22 of the CHT. SB 901 does not authorize securitization with respect to possible 2018 Camp
> 23 fire costs.
>
> 24
>
> 25 On January 10, 2019, the CPUC adopted an OIR, which establishes a process to
> 26 develop criteria and a methodology to inform determinations of the CHT in future
> 27 applications under Section 451.2(a) of the Public Utilities Code for recovery of costs
> 28 related to the 2017 Northern California wildfires. On March 29, 2019, the assigned
> 29 commissioner issued a scoping memo, which confirmed that the CPUC in this
> 30 proceeding would establish a CHT methodology applicable only to 2017 fires, to be
> 31 invoked in connection with a future application for cost recovery, and would not
> 32 determine a specific financial outcome in this proceeding. On July 8, 2019, the CPUC

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[26] January 31, 2020 PG&E Testimony (Wells), p. 2-15, lines 28 – 33.
[27] February 11, 2020 PG&E Data Response PlanOfReorganizationOII-2019_DR_CLECA_002-Q05.

1 issued a decision in the OIR, which establishes a methodology to establish the CHT in
2 future applications under Section 451.2(a), but determines that a utility that has filed for
3 relief under Chapter 11 cannot access the CHT. On August 7, 2019, the Utility submitted
4 to the CPUC an application for rehearing of the decision. The Utility indicated in its
5 application, among other things, that the CPUC's decision 'is contrary to law because it
6 bars a utility that has filed for Chapter 11 from accessing the CHT, requires a utility to
7 file a cost recovery application before the CHT will be determined, and erects ratepayer
8 protection mechanisms as an extra-statutory hurdle for accessing the CHT.' The Utility
9 also argued that the CPUC should apply the CHT methodology to costs related to the
10 2018 Camp fire.[28]
11
12 The confidential cash flow spreadsheets attached to PG&E's February 14, 2020
13 "Omnibus Supplemental Data Response" make clear that multiple securitization transactions
14 are a cornerstone of PG&E's post-emergence strategy in the 2021 – 2024 period. The creation
15 of a bankruptcy-remote, dedicated rate component from PG&E's ratepayers is essential to any
16 securitization financing. As the January 31, 2020 PG&E Testimony explains, "The securitization
17 structure isolates a discrete revenue stream that is dedicated to debt service for the securitized
18 debt."[29] Notwithstanding PG&E's assurance that "the incremental cash flow resulting from the
19 wildfire-related NOLs would be available to support the securitization debt,"[30] it is the
20 dedicated rate component and the accompanying ability (enforceable through PG&E's
21 customary shutoff procedures) to adjust rates to pay debt service that will secure the WVRBs.
22 As provided in Cal. Pub. Util. Code § 451.2, the amount of wildfire-related costs that
23 PG&E can seek to securitize can include amounts the Commission has disallowed for recovery
24 from ratepayers, but not without severe modification of D.19-06-027. Despite PG&E's
25 description of the "Temporary Utility debt" being refinanced by the WVRBs as "the financial

[28] February 18, 2020 PG&E Corporation Form 10-K, p. 105.
[29] January 31, 2020 PG&E Testimony (Plaster), p. 3-4, lines 14 – 16.
[30] January 31, 2020 PG&E Testimony (Wells), p. 2-18, footnote 45.

1 responsibility of shareholders, not customers,"[31] any contemplated securitization transaction

2 will be dependent upon the creditworthiness created by the dedicated rate component. Cal.

3 Pub. Util. Code § 3292(b)(1)(E) requires that this ratepayer contribution be both recognized and

4 compensated.

5 Although PG&E obviously expects that a securitization issuance would price more

6 favorably (as PG&E explains, "Historically, securitization bond issues get the highest ratings."[32]),

7 using the 90-basis point credit spread to Treasuries the January 31, 2020 PG&E Testimony cites

8 for the Investment Grade United States Credit Index[33] (comprised of A-rated bonds) and the

9 1.89% Treasury rate embedded in PG&E's spread assumption, this would produce a 2.79%

10 securitized borrowing rate and offers an ultra-conservative estimate of the value of the

11 uncompensated ratepayer credit enhancement provided by securitization. Assuming a ten-year

12 maturity with amortization, typical for the taxable securitization market, and compared to the

13 4.55% rate PG&E negotiated for 2030 secured debt in the Noteholder RSA,[34] the securitization

14 would provide $69.6 million in annual debt service savings. The net present value of this

15 stream of savings, discounted at the 2.79% borrowing rate, is $600.1 million.

16 **V. <u>PG&E's PLAN FAILS TO SATISFY THE NEWSOM PRINCIPLE.</u>**

17 Q14: How does the PG&E Plan fail the requirements of the Newsom Principle?

18 A14: The Newsom Principle specifies: "To achieve safe and reliable service and make critical

19 safety and infrastructure investments, the emerging company's capital structure must be

[31] January 31, 2020 PG&E Testimony (Wells), p. 2-15, lines 19 – 20.
[32] February 11, 2020 PG&E Data Response PlanOfReorganizationOII-2019_DR_EPUC_003-Q03(b).
[33] January 31, 2020 PG&E Testimony (Plaster), p. 3-10, lines 2 – 3.
[34] January 31, 2020 PG&E Testimony (Wells), p. 2-28, lines 16 – 20.

1 stable, flexible, and position the company to attract long-term capital."[35] As made clear by its
2 February 18, 2020 financial disclosures, the financial underpinning of the PG&E Plan is an
3 amalgam of overleverage (including sub-investment grade debt incurred by the holding
4 company – "infused into the Utility, and accounted for as equity for Utility accounting and
5 ratemaking purposes"[36]); insufficient new equity; excessive off-balance sheet securitizations;
6 and extended deviation from the approved capital structure. After the Effective Date snapshot
7 is taken, the PG&E Plan is neither stable nor flexible, and appears antithetical to the company's
8 ability to attract long-term capital in the 2021-2024 timeframe.

9 The PG&E Plan consummates a highly leveraged buyout of the Utility by the equity
10 investors that installed a new Board of Directors in 2019, after the bankruptcy petitions were
11 filed. Prioritizing the protection of current equity from unavoidable dilution, the PG&E Plan
12 substitutes $4.75 billion of sub-investment grade borrowing by the holding company for $3
13 billion in unused equity commitments[37] (and arguably more, as suggested by the demand in the
14 Noteholder RSA for inclusion in $2 billion of the Backstop Commitment[38]) to bolster the
15 position of existing shareholders. This holding company liability will consume earnings from the
16 Utility until it is substantially paid down, postponing the reinstatement of the holding
17 company's common dividend that is a likely prerequisite for successful access to the
18 institutional equity markets after the Effective Date. The muddled status of dividend
19 reinstatement is highlighted by PG&E's public disclosures last week:

20 - *From the February 18, 2020 Form 10-K:*

[35] December 13, 2019 letter from Governor Gavin Newsom to PG&E Corporation CEO William D. Johnson.
[36] February 3, 2020 PG&E Data Response PlanOfReorganizationOII-2019_DR_CCSF_001-Q06.
[37] January 31, 2020 PG&E Testimony (Wells), p. 2-24, lines 11 – 14.
[38] February 19, 2020 PG&E Data Response PlanOfReorganizationOII-2019_DR_TURN_015-Q03e.

1 Under the Utility's Articles of Incorporation, the Utility cannot pay common stock
2 dividends unless all cumulative preferred dividends on the Utility's preferred
3 stock have been paid. Under their respective pre-petition credit agreements, PG&E
4 Corporation and the Utility were each required to maintain a ratio of consolidated
5 total debt to consolidated capitalization of at most 65%. As of the Petition Date, these
6 obligations were automatically stayed and are subject to the applicable provisions of
7 the Bankruptcy Code and orders of the Bankruptcy Court. The DIP Facilities have no
8 such restriction. Additionally, the Utility's net assets, and therefore its ability to pay
9 dividends, are restricted by the CPUC-authorized capital structure, which requires the
10 Utility to maintain, on average, at least 52% equity. Due to the net charges recorded
11 in connection with the 2018 Camp fire and the 2017 Northern California wildfires as of
12 December 31, 2018, the Utility submitted to the CPUC an application for a waiver of
13 the capital structure condition on February 28, 2019. The waiver is subject to CPUC
14 approval. The Utility is not considered to be in violation of these conditions during the
15 period the waiver application is pending resolution. Beginning in 2020, the Utility
16 expects to resume payment of preferred dividends on the Utility's preferred stock,
17 subject to the Utility's Board of Directors' approval. PG&E Corporation does not
18 expect to pay any cash for common stock dividends for at least the next two years,
19 subject to PG&E Corporation's Board of Directors' approval.[39]
20
21 • *From the Consolidated Financial Projections filed "to assist the Bankruptcy Court in*
22 *determining whether the Plan meets the feasibility test of section 1129(a)(11) of the*
23 *Bankruptcy Code"[40]:*
24
25 • Common dividends are assumed to be restored once Utility equity ratio achieves
26 52% on a regulatory basis and are moderated to allow Holding Company debt
27 reduction throughout the forecast period. This assumption does not reflect a
28 commitment on the Board or management's part to a specific future dividend policy.
29 • The Consolidated Financial Projections assume that additional equity is raised in
30 2021. This financing need may either be met through equity issuance or maintaining
31 Holding Company debt levels.[41]
32

33 The PG&E Plan places heavy reliance on one-off accounting adjustments to obscure its
34 anemic level of new equity and its substantial variance from the CPUC's approved capital
35 structure:

36 First, any debt used to finance the initial and annual contributions to the

[39] February 18, 2020 PG&E Corporation Form 10-K, p. 156.
[40] February 19, 2020 PG&E PlanOfReorganizationOII-2019_DR_MISC_Atch04, p. 1.
[41] February 19, 2020 PG&E PlanOfReorganizationOII-2019_DR_MISC_Atch04, p. 6.

> Wildfire Fund is to be excluded from measurement of the authorized capital structure. This debt is not used to finance assets in the Utility's rate base and should be excluded from the calculation of the capital structure. PG&E's Plan funding contemplates that the Utility would issue $2.5 billion in long-term debt to fund its contributions to the Wildfire Fund. Accordingly, per § 3292(g) that amount will be excluded from the calculation of the regulatory capital structure. Also, any after-tax charges to earnings reflecting the amortization of the initial or ongoing contributions to the Wildfire Fund that are not financed with equity must be added back to the common equity balance.
>
> Second, PG&E anticipates issuing Temporary Utility debt of $6 billion to pay wildfire claims. This debt would also not be used to finance assets in the Utility's rate base and would be excluded from the calculation of the capital structure. PG&E is not requesting that the wildfire claims be recovered from customers, and those amounts would ultimately be paid by shareholders, even if initially financed with debt in whole or in part. Accordingly, debt issued to pay claims should be excluded from the calculation of the debt portion of the capital structure. Also, the amount of the book value of equity must be increased by the after-tax amount of the claims paid that are not financed with equity, which is also equal to the after-tax amount of the debt issued to pay the claims.[42]

Although obscure about how long any borrowing under a requested $11.925 billion short-term debt authorization would be outstanding,[43] the PG&E Plan seems intent on keeping any such amounts excluded from the authorized capital calculation until refinanced with long-term debt. And the Commission's recent cost of capital decision voiced a sober grasp of the consequences flowing from overleverage: "Financial risk is tied to the utility's capital structure. The proportion of its debt to permanent capital determines the level of financial risk that a utility faces. As a utility's debt ratio increases, a higher ROE may be needed to compensate for that increased risk."[44] After noting that the applicable standard – set by *Bluefield Water Works & Improvement Company v. Public Service Commission of the State of Virginia,* 262 U.S. 679 (1923) and *Federal Power Commission v. Hope Natural Gas Company,* 320 U.S. 591 (1944) – "is

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[42] January 31, 2020 PG&E Testimony (Wells), p. 2-22, lines 7 – 28.
[43] January 31, 2020 PG&E Testimony (Wells), p. 2-33, lines 19 – 22, 26 – 30.
[44] D.19-12-056, pp. 25 – 26.

1 that investor owned utilities should not be rewarded with an ROE that is inflated due to

2 imprudent actions,"[45] and adopting an ROE for PG&E "at the upper end of the just and

3 reasonable range,"[46] the Commission added, "We further observe that the 10.25% authorized

4 ROE is significantly higher than the 9.60% average ROEs granted to United States electric

5 utilities during 2018."[47]

6 Irrespective of how the Commission might look at the PG&E Plan's accounting

7 legerdemain in determining compliance with the approved capital structure, sophisticated

8 investors – the "long-term capital" prioritized by the Newsom Principle – are unlikely to be

9 fooled. Binding obligations to make payments (including the $1.5 billion deferred payment to

10 the Fire Victim Trust) are liabilities, and they will inescapably factor into any informed

11 assessment of the Utility's and holding company's ability to pay debt service and dividends, as

12 well as generate earnings.

13 The PG&E Plan has several other features that merit consideration under the Newsom

14 Principle: (1) Because the PG&E Plan significantly expands the Utility's use of secured borrowing

15 as the easiest route to the investment grade debt markets, the status of future wildfire

16 claimants in the event of a third PG&E bankruptcy will be materially worse than was the case in

17 the present bankruptcy. In the current bankruptcy, wildfire claimants have been on a

18 negotiating parity with the unsecured creditors comprising the overwhelming majority of

19 PG&E's outstanding debt. In any future bankruptcy, a much larger class of secured creditors

20 will have gained priority over such claimants. (2) PG&E has acknowledged that its low credit

[45] D.19-12-056, p. 36.
[46] D.19-12-056, p. 41.
[47] D.19-12-056, p. 42.

ratings have triggered additional collateral posting requirements under its gas and electricity procurement contracts, adding approximately $400 million to the maximum amounts posted in 2019 compared to 2018.[48] This collateral must be financed, and will be a drag on financial flexibility (i.e., liquidity) and performance until PG&E regains investment grade status on an unsecured basis. (3) PG&E projects a 2020 – 2024 savings total of $ in “O&M Expense and Cost of Energy” and $ in “Capital” based upon two- or three-word descriptions for a mere three entries on a confidential spreadsheet.[49] In view of the inadequate detail, and the apparently overlooked low-hanging fruit at Diablo Canyon discussed at A10 and A12 above, these adjustments fall considerably short of the widely promoted PG&E “transformation” expected from a properly formulated Plan of Reorganization.

[48] February 19, 2020 PG&E Data Response PlanOfReorganizationOII-2019_DR_TURN_015-Q02 c. – e.
[49] February 14, 2020 PG&E Data Response PlanOfReorganizationOII-2019_DR_MISC-Atch01CPUC financial package 2.14.20CONF.xlsx, tab 11.

APPENDIX

QUALIFICATIONS OF JOHN GEESMAN

John Geesman is an attorney with the Northern California law firm, Dickson Geesman LLP, and a member in good standing of the California State Bar.

Mr. Geesman served as the attorney member of the California Energy Commission from 2002 to 2008, and was the agency's Executive Director from 1979 to 1983. Between his two tours at the Energy Commission, Mr. Geesman spent nineteen years as an investment banker focused on the U.S. bond markets and served as a financial advisor to municipal electric utilities throughout the West.

Mr. Geesman has a long history of providing leadership on issues related to resource planning, environmental policy, financial management, and risk practices. This is demonstrated by his service in numerous executive capacities, including stints as:

- Co-Chair of the American Council on Renewable Energy;
- Chairman of the California Power Exchange;
- President of the Board of Directors of The Utility Reform Network (nee Toward Utility Rate Normalization);
- Member of the Governing Board of the California Independent System Operator; and,
- Chairman of the California Managed Risk Medical Insurance Board.

Mr. Geesman has previously testified as an expert witness before the California Public Utilities Commission.

Mr. Geesman is a graduate of Yale College and the University of California Berkeley School of Law.