DEPARTMENT OF FINANCE
OFFICE OF THE DIRECTOR

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March 13, 2024

Honorable Scott D. Wiener, Chair
Joint Legislative Budget Committee
Senate Budget and Fiscal Review Committee

Honorable Anna M. Caballero, Chair
Senate Appropriations Committee

Honorable Jesse Gabriel, Chair
Assembly Budget Committee

Honorable Buffy Wicks
Assembly Appropriations Committee

Diablo Canyon Power Plant Extension General Fund Loan Response

In a letter dated March 6, 2024, the Joint Legislative Budget Committee requested an additional 15 days before the Department of Finance approves the additional $400 million General Fund loan to the Department of Water Resources (DWR) for the purpose of providing to Pacific Gas & Electric (PG&E) for extended operations of the Diablo Canyon Nuclear Power Plant (DCPP). The letter requested additional information, which you will find below.

1. *A full accounting of the "performance-based disbursements" including specific accounting for how PG&E has used and plans to use the funds, a demonstration that these funds do not constitute double recovery of costs from both taxpayers and ratepayers, a demonstration of how the use of these funds does not duplicate and cannot be used for expenses in the scope of any Public Utilities Commission (PUC) or Federal Energy Regulatory Commission rate case, a demonstration that any capital projects for which these funds have been used and have not created or contributed to a return on equity to the company, and a showing that these funds have not freed up any money that can be used to directly benefit shareholders or increase gross or net profits.*

Public Resources Code Section 25548.3(c)(7) requires that "no loan proceeds shall be treated as shareholder profits or be paid out as dividends." This provision includes performance-based disbursements (PBDs). However, SB 846 does not prohibit the use of performance-based disbursements on any of the categories listed above, provided that PG&E continues its pursuit of an extension of the operating period and safe and reliable operations of DCPP. DWR, in consultation with the California Public Utilities Commission (CPUC), has reviewed PG&E's proposed and actual use of PBDs and they do not indicate that the disbursements will be treated as shareholder profits or paid out as dividends. As part of DWR's due diligence, DWR took the extra step of further collaborating with the CPUC to advise PG&E on areas of investment that are beneficial to ratepayers and the state at large.

Specifically, PG&E should not use PBDs towards costs that are recoverable in a Federal Energy Regulatory Commission rate case. For processes under the CPUC's purview, DWR relied on the CPUC's expertise to determine where PBDs would be applied consistently with statutory language, and not double-counted in a rate proceeding. For example, 2022 PBDs were applied to costs within the electric distribution functional area, *in excess of* amounts authorized in PG&E's 2020-2022 general rate case (GRC) and will not earn a rate of return for the expenditures. PBDs specifically were used for increased emergency response and patrols, as well as inspections for wildfire-related programs, electric distribution and transmission facilities and to improve customer response times. A full accounting of PG&E's intended use of performance-based disbursements from 2022 and 2023 was provided in DWR's previous response. 2024 performance-based disbursements will not be allocated until the end of the calendar year and will be reviewed by DWR in consultation with the CPUC.

2. *How DWR is working with the PUC to enforce Public Resources Code section 25548.3 and ensure "performance-based disbursements" are not being indirectly used to pay dividends or for shareholder profits.*

Public Resources Code 25548.3 subsection (c)(7) states that "No loan proceeds shall be treated as shareholder profits or be paid out as dividends." The prohibition from SB 846 is memorialized in the DWR-PG&E loan agreement, which is a legally binding document. In subsequent submissions to DWR, PG&E has certified it did not retain any loan funds as profits for shareholders. DWR, in consultation with CPUC, has reviewed PG&E's proposed and actual use of PBDs, and they do not indicate that the disbursements will be treated as shareholder profits or paid out as dividends.

3. *A more detailed spending plan for the $1.4 billion loan, including the specific purposes of how and when the funds will be used.*

Figure 1 below shows the cumulative actual and estimated costs, performance-based disbursements, and commitments. Up through summer 2023, expenditures had been relatively low as PG&E was planning and preparing for major activities to support the license renewal effort. Expenditures notably increased to support the first major maintenance and refueling outage in Fall 2023, which required additional funds above $350 million and was the reason DWR requested the remainder of the $600 million initially appropriated by SB 846. Similarly, costs are expected to increase again beyond $600 million to support the Spring 2024 outage, which is why disbursement of loan funds from the further $400 million appropriated by Chapter 12, Statutes of 2023 (SB 101) is necessary. PG&E expects expenditures and performance-based disbursements to exceed $1 billion in Q3 2024. In addition to expenditures and performance-based disbursements, PG&E must also make financial commitments for long lead efforts ahead of actual expenditures. This funding is needed to demonstrate with certainty that PG&E has sufficient capital to purchase, contract for, and reserve equipment, material and external services. Including these commitments pushes the need for funds past the $600 million threshold earlier to Q4 2023, and past the $1 billion threshold to Q1 2024.

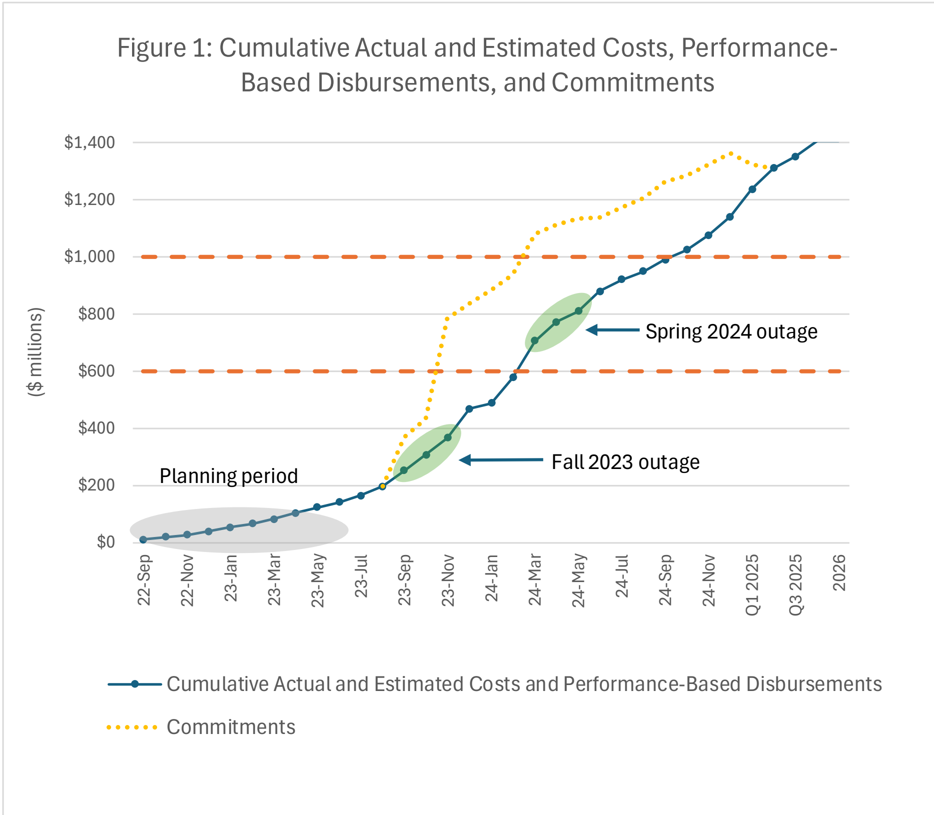
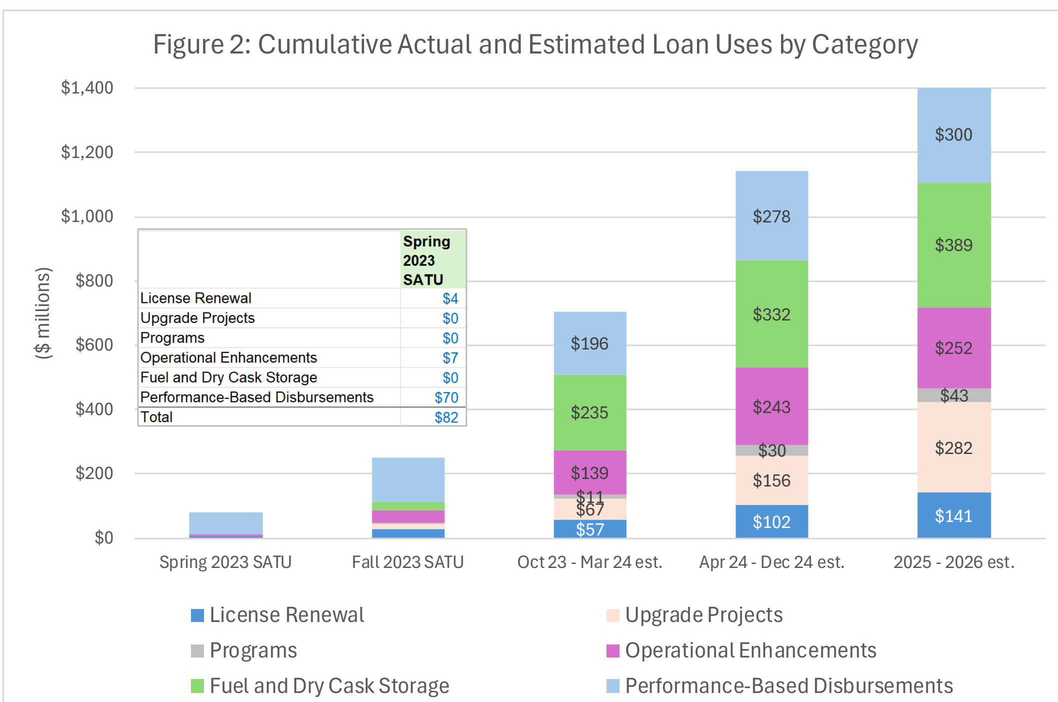


Figure 2 below provides the categories of cumulative costs and performance-based disbursements aggregated to protect market sensitive and confidential information.



	Spring 2023 SATU
License Renewal	$4
Upgrade Projects	$0
Programs	$0
Operational Enhancements	$7
Fuel and Dry Cask Storage	$0
Performance-Based Disbursements	$70
Total	$82

A description of each cost category is provided below:

Cost Category	Description
Programs	Costs related to activities necessary to extend plant operations and prepare for planned unit outages, and tools and materials used in PG&E activities to maintain the plant for the extended period of operations.
Upgrade Projects	Projects needed to maintain plant reliability, which were not originally accounted for, as Diablo Canyon was set for decommissioning in 2024 and 2025.
License Renewal	Licensing, engineering, and permitting work associated with obtaining renewed operating licenses from the Nuclear Regulatory Commission and any necessary state and local permits.
Operational Enhancements	Costs related to labor, contract services, and other employee expenses for site personnel performing activities necessary to extend plant operations. These costs include training programs and project management activities.
Dry Cask Storage and Fuel	Dry Cask Storage costs encompass both the physical equipment, as well as the highly regulated process to remove decayed spent fuel assemblies from the spent fuel pool into dry storage, whereas Fuel costs are associated with fuel procurement and transportation, including enrichment, conversion, fabrication, handling, refueling and wet storage.

4. *Justification for why the $400 million is needed at this time given the DOF approved $600 million in December 2023, and a detailed accounting of the funds expended to date to support license renewal by category, purpose, recipient, and other accounting information.*

To clarify, the Department of Finance approved $367.5 million in October 2022, and $232.5 million in December 2023, for a total of $600 million. DWR has requested subsequent tranches of loan funds for disbursement only when needed. As explained in the previous response, PG&E's recent increases in expenditures are driven by the need to align required Nuclear Regulatory Commission inspections, refueling, and other critical work with regular maintenance schedules at the power plant, the first of which occurred in Fall 2023, and the next is scheduled for Spring 2024.

5. *DWR's estimate of how much of the $1.4 billion loan will be forgiven.*

While it is possible that some of the General Fund loan may not be repaid, at this time, Finance simply cannot say for certain. First, Finance does not know how much of the actual loan will be disbursed to PG&E. PG&E must submit and DWR will review costs related to license renewal to determine if such costs are allowable.

For performance-based disbursements, PG&E must pursue the license renewal and continue to operate DCPP safely and reliably. Second, there are three potential sources for possible repayment: (1) US Department of Energy (DOE) Civil Nuclear Credit funds, (2) excess operating revenues in the final year of operations, and (3) other federal funds. At this point, Finance does not know the actual amounts available from each of the sources. For example, the DOE will conduct its own auditing process of PG&E costs. Similarly, excess operating revenues are only calculated in the final year of operations.

6. *Detailed information about the $1.1 billion credit award and payment agreement between DOE and PG&E and more specificity about when those funds will be available to repay the loan.*

DWR is not a party to PG&E and DOE's Civil Nuclear Credit award agreement and does not have a copy of it. DWR anticipates the DOE award agreement being made public, but is presently unsure when a public version will be released.

7. *A specific timeline for the loan repayment.*

As mentioned above, DWR does not have specific details of the Civil Nuclear Credit award agreement between DOE and PG&E. Based upon DOE's award announcement in January 2024[1], DWR anticipates that DOE could award program credits to PG&E starting in 2025. Any DOE award credits would then be deposited into an escrow account pursuant to the loan agreement between DWR and PG&E, and thus not available to PG&E for its use or for repayment of the DWR loan. The escrow provision in the loan agreement was created to provide security for both parties against a potential recapture by DOE for a period of four years. Although DWR does not have specific details of the Civil Nuclear Credit award agreement, this four-year period may not end until 2027, because PG&E's application covers calendar years 2023 through 2026. If PG&E's pursuit of license renewal is disrupted by a lack of funds, DOE may likely determine PG&E is no longer eligible for credits under the recapture provision of the Civil Nuclear Credit award guidance.[2]

SB 846 was enacted prior to PG&E having applied for and been conditionally awarded the DOE Civil Nuclear Credit program. SB 846 provided for a loan from DWR to PG&E precisely because of the anticipated cashflow challenge that DOE's approach to the award would present. PG&E must spend significant amounts now to pursue license renewal, but DOE support would arrive only after a delay. Moreover, if a gap in funding renders PG&E unable to continue pursuing license renewal, then PG&E may be ineligible for the DOE award entirely, jeopardizing both the recovery of the approximately $600 million already spent and the ultimate delivery of approximately 17 percent of California's zero-carbon electricity supply as well as 8.6 percent of California's total electricity supply.

[1] https://www.energy.gov/gdo/articles/biden-harris-administration-finalizes-award-11-billion-credits-pacific-gas-and
[2] https://www.energy.gov/sites/default/files/2022-06/US%20DOE%20CNC%20Guidance-Revision%201-June%202022.pdf

The Director of Finance is approving the additional $400 million General Fund Loan pursuant to SB 101 no sooner than March 21, which is 45 days from the first JLBC letter that was submitted on February 5, 2024.

If you have any questions or need additional information regarding this matter, please call Andrew Hull, Principal Program Budget Analyst, at (916) 324-0043.

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By:

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