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SB-846 Diablo Canyon powerplant: extension of operations. (2021-2022)

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Senate Bill No. 846

CHAPTER 239

An act to amend Section 8610.5 of the Government Code, to add Sections 25233, 25233.2, and 25302.7 to, to add Chapter 6.3 (commencing with Section 25548) to Division 15 of, the Public Resources Code, to amend Sections 454.52 and 454.53 of, and to add Sections 712.1 and 712.8 to, the Public Utilities Code, and to add Section 13193.5 to the Water Code, relating to energy, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 02, 2022. Filed with Secretary of State September 02, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

SB 846, Dodd. Diablo Canyon powerplant: extension of operations.

(1) Existing law vests the Public Utilities Commission (PUC) with regulatory authority over electrical corporations. The Diablo Canyon nuclear powerplant, composed of Reactor Units 1 and 2, is operated by the Pacific Gas and Electric Company, an electrical corporation, in the County of San Luis Obispo. On January 11, 2018, the PUC approved the Pacific Gas and Electric Company's proposal to retire Unit 1 in 2024 and Unit 2 in 2025.

This bill would invalidate the PUC's approval of that proposal and would require the PUC to set new retirement dates for the Diablo Canyon powerplant, as provided, conditioned upon the United States Nuclear Regulatory Commission extending the powerplant's operating licenses, as specified. The bill would require the PUC to take certain actions to enable the operator of the Diablo Canyon powerplant to recover the reasonable costs and expenses of operating the Diablo Canyon powerplant, as provided, including the imposition of a fully nonbypassable charge on all customers of electrical corporations, electric service providers, and community choice aggregators, and would require the PUC to authorize the operator to recover in rates an operating fee for each megawatt-hour generated by the powerplant, as specified.

This bill, for purposes of certain requests by the operator of the Diablo Canyon powerplant or the United States Nuclear Regulatory Commission that are necessary to authorize the Diablo Canyon powerplant to continue to operate after those retirement dates, would require a state agency to act on the request to extend the operations of Diablo Canyon powerplant within 180 days, and would provide that the Diablo Canyon powerplant site, and all structures, buildings, and equipment at the site, or necessary to extend operations at the site, shall conclusively be deemed an existing facility and not subject to specified exceptions. The bill would state the intent of the Legislature to make available to the Department of Water Resources a total principal amount not to exceed \$1.4 billion for the purpose of being loaned out to facilitate the extension of the operating period of the Diablo Canyon powerplant, as provided. The bill would establish the Diablo Canyon Extension Fund in the State Treasury and would continuously appropriate moneys in the fund to the department for purposes of making the loan. Because the Diablo Canyon Extension Fund would be a continuously appropriated fund, the bill would make an appropriation. The bill would transfer \$600,000,000 from the General Fund to the Diablo Canyon Extension Fund, thereby making an appropriation.

(2) Existing law requires the PUC to adopt a process for each load-serving entity to file an integrated resource plan and a schedule for periodic updates to the plan and to ensure load-serving entities take certain actions, including actions to ensure system and local reliability on both a near-term and long-term basis, including meeting the near-term and forecasted long-term resource adequacy requirements. Existing law establishes as policy of the state that eligible renewable energy resources and zero-carbon resources supply 100% of retail sales of electricity to California end-use customers and 100% of electricity procured to serve all state agencies by December 31, 2045.

This bill would additionally require sufficient, predictable resource procurement and development to avoid unplanned energy supply shortfalls by taking into account impacts due to climate change and other factors that can result in those shortfalls. The bill would require that the PUC not include, and disallow a load-serving entity from including in their adopted resource plan, the energy, capacity, or any attribute from the Diablo Canyon powerplant in the integrated resource plan portfolios beyond specified dates, and would require the Energy Commission not consider the energy, capacity, or any attribute from the Diablo Canyon powerplant in meeting the above state policy.

This bill would require the State Energy Resources Conservation and Development Commission and the PUC, on or before December 15, 2022, and quarterly thereafter, to provide to the Legislature a joint Reliability Planning Assessment identifying estimates for the electrical supply and demand balance for the forward 5- and 10-year period under high-, medium-, and low-risk scenarios, as provided.

The bill would require the Energy Commission, by September 30, 2023, to present a cost comparison of the Diablo Canyon powerplant, as specified, and on or before July 1, 2023, and July 1 of each year thereafter, to publish on its internet website a new report, or as part of another report, an assessment of the operation of the Diablo Canyon powerplant, as specified.

(3) Existing law requires the Energy Commission, in consultation with the specified entities, to adopt a biennial integrated energy policy report containing certain information in a specified format.

This bill would require the Energy Commission, in consultation with the PUC and the Independent System Operator, to adopt a goal for load shifting to reduce net peak electrical demand and adjust this target in each biennial integrated energy policy report thereafter.

(4) Under its existing authority, the PUC, by order, has established the Independent Safety Committee for Diablo Canyon to make recommendations appropriate to enhance the safety of the operation at the Diablo Canyon powerplant.

This bill would establish and continue the Independent Safety Committee for Diablo Canyon, consisting of 3 members appointed, as provided. The bill would require the PUC to ensure funding for the committee to attract qualified experts to serve on the committee. In addition to the duties and responsibility set forth in the commission decisions, the bill would require the committee to undertake additional duties, as provided, including annually transmitting its findings and recommendations for improved safety to certain public entities and the operator of Diablo Canyon powerplant. The bill would require the company licensed to operate Diablo Canyon powerplant to respond to the findings and recommendations and distribute the response to those public entities.

(5) Under the Porter-Cologne Water Quality Control Act, the State Water Resources Control board is required to adopt specified state policies with respect to water quality as it relates to the coastal marine environment, including a policy requiring new or expanded coastal powerplants and other industrial installations using seawater for cooling, heating, or industrial processing to use the best available site, design, technology, and mitigation measures feasible to minimize the intake and mortality of all forms of marine life. Pursuant to that policy, the state board has adopted a policy to phase out once-through cooling for powerplants and issued an order implementing this policy and establishing an interim mitigation fee to address the impacts caused by once-through cooling during the phase-out period.

This bill would specify that the final compliance date of the once-through cooling policy for the Diablo Canyon powerplant is October 31, 2030.

(6) The California Emergency Services Act, until August 26, 2025, prescribes a method for funding state and local costs for carrying out emergency service activities associated with a nuclear powerplant that are not reimbursed by federal funds, with the costs borne by utilities operating nuclear powerplants with a generating capacity of 50 megawatts or more, as specified.

This bill would extend the operation of those and related provisions until 18 months after the permanent cessation of operations of the Diablo Canyon powerplant.

(7) This bill would specify that, upon appropriation by the Legislature, certain amounts of money would be available for specified fiscal years to support a Clean Energy Reliability Investment Plan developed by the Energy Commission, as specified, and to support a Land Conservation and Economic Development Plan developed by the Natural Resources Agency, as specified. The bill would require the Energy Commission, by March 1, 2023, to submit the Clean Energy Investment Plan to the Joint Legislative Budget Committee and the chairs of the relevant policy committees of the Legislature. The bill would require the Natural

Resources Agency, by March 23, 2023, to submit the Land Conservation and Development Plan to the Joint Legislative Budget Committee and the chairs of the relevant policy committees of the Legislature.

(8) This bill would make legislative findings and declarations as to the necessity of a special statute for the Diablo Canyon powerplant.

(9) Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the PUC is a crime.

Because certain of the above provisions would be part of the act and a violation of PUC action implementing this bill's requirements would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(10) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(11) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: yes Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 8610.5 of the Government Code is amended to read:

8610.5. (a) For purposes of this section:

(1) "Office" means the Office of Emergency Services.

(2) "Previous fiscal year" means the fiscal year immediately before the current fiscal year.

(3) "Utility" means an "electrical corporation" as defined in Section 218 of the Public Utilities Code.

(b) (1) State and local costs to carry out activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code that are not reimbursed by federal funds shall be borne by a utility operating a nuclear powerplant with a generating capacity of 50 megawatts or more.

(2) The Public Utilities Commission shall develop and transmit to the office an equitable method of assessing a utility operating a powerplant for its reasonable share of state agency costs specified in paragraph (1).

(3) Each local government involved shall submit a statement of its costs specified in paragraph (1), as required, to the office.

(4) Upon notification by the office, from time to time, of the amount of its share of the actual or anticipated state and local agency costs, a utility shall pay this amount to the Controller for deposit in the Nuclear Planning Assessment Special Account, which is continued in existence, for allocation by the Controller, upon appropriation by the Legislature, to carry out activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code. The Controller shall pay from this account the state and local costs relative to carrying out this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code, upon certification of the costs by the office.

(5) Upon appropriation by the Legislature, the Controller may disburse up to 80 percent of a fiscal year allocation from the Nuclear Planning Assessment Special Account, in advance, for anticipated local expenses, as certified by the office pursuant to paragraph (4). The office shall review program expenditures related to the balance of funds in the account and the Controller shall pay the portion, or the entire balance, of the account, based upon those approved expenditures.

(c) (1) The total annual disbursement of state costs from a utility operating a nuclear powerplant within the state for activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code, shall not exceed the lesser of the actual costs or the maximum funding levels established in this section, subject to subdivisions (e) and (f).

(2) Of the annual amount of two million forty-seven thousand dollars (\$2,047,000) for the 2009–10 fiscal year, the sum of one million ninety-four thousand dollars (\$1,094,000) shall be for support of the office for activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code, and the sum of nine hundred fifty-three thousand dollars (\$953,000) shall be for support of the State Department of Public Health for activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code.

(d) (1) The total annual disbursement for each fiscal year, commencing July 1, 2009, of local costs from a utility shall not exceed the lesser of the actual costs or the maximum funding levels established in this section, in support of activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code. The maximum annual amount available for disbursement for local costs, subject to subdivisions (e) and (f), shall, for the fiscal year beginning July 1, 2009, be one million seven hundred thirty-two thousand dollars (\$1,732,000) for the Diablo Canyon site.

(2) The amounts paid by a utility under this section shall be allowed for ratemaking purposes by the Public Utilities Commission.

(e) The amounts available for disbursement for state and local costs as specified in this section shall be adjusted and compounded each fiscal year by the greater of the percentage change in the prevailing wage for County of San Luis Obispo employees, not to exceed 5 percent, or the percentage increase in the California Consumer Price Index from the previous fiscal year.

(f) Through the inoperative date specified in subdivision (h), the amounts available for disbursement for state and local costs as specified in this section shall be cumulative biennially. Any unexpended funds from a year shall be carried over for one year. The funds carried over from the previous year may be expended when the current year's funding cap is exceeded.

(g) This section shall become operative on July 1, 2019.

(h) This section shall become inoperative 18 months after the permanent cessation of operations of both Diablo Canyon Units 1 and 2, which shall occur no later than December 31, 2030, and is repealed on the January 1 following the end of that 18-month period.

(i) When this section becomes inoperative, any amounts remaining in the special account shall be refunded to a utility contributing to it, to be credited to the utility's ratepayers.

SEC. 2. Section 25233 is added to the Public Resources Code, to read:

25233. (a) Notwithstanding Section 10231.5 of the Government Code, on or before December 15, 2022, and quarterly thereafter, the commission and the Public Utilities Commission shall submit a joint Reliability Planning Assessment to the Legislature in accordance with Section 9795 of the Government Code.

(1) The assessment shall identify estimates for the electrical supply and demand balance, for the forward 5- and 10-year periods, under high-, medium-, and low-risk scenarios. The assessment shall identify loads and resources online and loads and resources expected by reliability year ending September 30.

(2) The assessment shall focus on the Independent System Operator system, with an emphasis on the electrical demand, load, supply, or resource for load-serving entities subject to the Public Utilities Commission's jurisdiction. The assessment shall break down loads and resources by type of load-serving entity by year by transmission access charge area.

(3) The assessment shall include information about imports, by amount, source if known, and other relevant factors, and transmission capacity for imports by date and transmission access area or balancing authority.

(4) The commission shall provide an estimate for the loads and resources for the entities that are not subject to the Public Utilities Commission's jurisdiction that are part of the Independent System Operator system supply and demand balance.

(5) The assessment shall include prospective information on existing and expected resources, including updates on the interconnection status for renewable projects and any delays in interconnection, and expected retirements for both system and local resources. This shall include updates based on actions taken directly by, or as a result of, the Tracking Energy Development Task Force. The assessment shall include an accompanying Gantt chart to track progress.

(6) The assessment shall maintain confidentiality of market sensitive information.

(7) The assessment shall rely upon the most recently available integrated energy policy report prepared pursuant to Section 25302 for the demand assessment.

(8) The assessment shall report on any other significant delays or barriers affecting timely deployment of renewable energy and zero-carbon resources, including, but not limited to, supply chain disruptions, land use restrictions, and permitting processes.

(9) The assessment shall make recommendations to the Legislature on actions needed to resolve any delays or barriers reported in the assessment.

(10) The assessment shall report on any regulatory barriers and challenges to increasing deployment of other preferred resources, including energy efficiency and demand response programs.

(b) The commission shall continue to report on California energy resources that serve load in California in the energy almanac. The commission shall expand the energy almanac report to include storage resources that serve wholesale load. The commission shall report on energy resources that serve load in the Independent Systems Operator system, which is a subset of its current reporting of all California resources, and may include energy resources located outside the state.

SEC. 3. Section 25233.2 is added to the Public Resources Code, to read:

25233.2. (a) By September 30, 2023, the commission shall present a cost comparison of whether extended operations at the Diablo Canyon powerplant compared to a portfolio of other feasible resources available for calendar years 2024 to 2035, inclusive, is consistent with the greenhouse gases emissions reduction goals of Section 454.53 of the Public Utilities Code. As part of this comparison, the commission shall evaluate the alternative resource costs, and shall make all evaluations available to the public within the proceeding docket.

(b) With respect to the Department of Water Resources loan to the operator of the Diablo Canyon powerplant, pursuant to Chapter 6.3 (commencing with Section 25548), if the costs of the extension of operations of the Diablo Canyon powerplant exceed limits provided for in the loan agreement at any time, the commission shall reevaluate the cost-effectiveness of prolonging the powerplant's operations.

(c) Within 180 days of the operator of the Diablo Canyon powerplant submitting an application with the United States Department of Energy to receive potential funding for extended operations of the Diablo Canyon powerplant, the commission, in consultation with the Independent System Operator and the Public Utilities Commission, shall make a determination in a public process, whether the state's electricity forecasts for the calendar years 2024 to 2030, inclusive, show potential for reliability deficiencies if the Diablo Canyon powerplant operation is not extended beyond 2025, and whether extending operations of the Diablo Canyon powerplant to at least 2030 is prudent to ensure reliability in light of any potential for supply deficiency, and is consistent with the emissions reduction goals of Section 454.53 of the Public Utilities Code. The determination shall be approved by a vote of the commission at its business meeting.

(d) On or before July 1, 2023, and on July 1 of each year thereafter until 2031, the commission, in coordination with the Public Utilities Commission and the Independent System Operator, shall publish on its internet website in a new report, or as part of another report, an assessment of the operation of the Diablo Canyon powerplant. The report shall include, but not be limited to, outage information, powerplant operational costs, average revenues from electricity sales, worker attrition, and the powerplant's contribution to resource adequacy requirements.

(e) The commission may enter into contracts to implement the analysis in subdivisions (a) and (c), and the contracts shall not require the review, consent, or approval of the Department of General Services or any other state department or agency and do not need to comply with requirements under the State Contracting Manual, the Public Contract Code, or the personal services contracting requirements of Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code.

SEC. 4. Section 25302.7 is added to the Public Resources Code, to read:

25302.7. By June 1, 2023, the commission, in consultation with the Public Utilities Commission and the Independent System Operator, shall adopt a goal for load shifting to reduce net peak electrical demand and shall adjust this target in each biennial integrated energy policy report prepared pursuant to Section 25302 thereafter. In developing this target, the commission shall consider the findings of the 2020 Lawrence Berkeley National Laboratory report on the Shift Resource through 2030 and other relevant research. The commission, in consultation with the Public Utilities Commission and the Independent System Operator, shall recommend policies to increase demand response and load shifting that do not increase greenhouse gas emissions or increase electric rates.

SEC. 5. Chapter 6.3 (commencing with Section 25548) is added to Division 15 of the Public Resources Code, to read:

CHAPTER 6.3. Diablo Canyon Powerplant

25548. The Legislature finds and declares all of the following:

(a) The Diablo Canyon powerplant currently supplies approximately 17 percent of California's zero-carbon electricity supply and 8.6 percent of California's total electricity supply. The Diablo Canyon powerplant's two units are scheduled to be retired in 2024 and 2025.

(b) Preserving the option of continued operations of the Diablo Canyon powerplant for an additional five years beyond 2025 may be necessary to improve statewide energy system reliability and to reduce the emissions of greenhouse gases while additional renewable energy and zero-carbon resources come online, until those new renewable energy and zero-carbon resources are adequate to meet demand. Accordingly, it is the policy of the Legislature that seeking to extend the Diablo Canyon powerplant's operations for a renewed license term is prudent, cost effective, and in the best interests of all California electricity customers. The Legislature anticipates that this stopgap measure will not be needed for more than five years beyond the current expiration dates.

(c) During the time the Diablo Canyon powerplant's operations are extended, the state will continue to act with urgency to bring clean replacement energy online to support reliability and achieve California's landmark climate goals. The state is accelerating efforts to bring offshore wind and other clean energy resources online, including action to streamline permitting for clean energy projects.

(d) It is the intent of the Legislature that the extension of the Diablo Canyon powerplant benefit California's electric customers, and if those benefits fail to materialize or costs to operate the plant increase significantly as determined by the Public Utilities Commission, the state will plan for an earlier decommissioning date that also safeguards electrical reliability in the state.

(e) The estimated costs and timelines for design and construction of alternatives that would comply with the State Water Resources Control Board's Resolution Number 2010-0020, Water Quality Control Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling, which were presented to the State Water Resources Control Board in accordance with Section 3.D of the Water Quality Control Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling, conclusively establish that it is not practicable for the Diablo Canyon Power Plant to achieve final compliance with the "Water Quality Control Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling" before October 31, 2030. Accordingly, it is the intent of the Legislature that the State Water Resources Control Board, through its authority pursuant to Resolution Number 2010-0020, continue to impose an interim mitigation fee, such as an interim mitigation fee of ten dollars (\$10) per million gallons for water, subject to an annual increase, that it deems appropriate in its discretion and that does not exceed all reasonable costs to, or incurred by, the state to address the entrainment impacts resulting from the continued ocean water intakes at the Diablo Canyon powerplant after the current expiration dates set forth in Section 25548.1.

(f) All relevant state agencies and the operator of the Diablo Canyon powerplant must act quickly and in coordination to take all actions necessary and prudent to extend Diablo Canyon powerplant operations.

(g) California Native American tribes maintain unique cultural, political, spiritual and community ties to the lands that now make up California, including the lands upon which the Diablo Canyon powerplant is currently sited. To ensure adequate consideration of tribal interests related to the extended operation and eventual decommissioning of the Diablo Canyon powerplant, all relevant state agencies and the operator of the Diablo Canyon powerplant should consult and work collaboratively with local California Native American tribes, including, but not limited to, designating a tribal liaison, to consider tribal access, use, conservation, and comanagement of the Diablo Canyon powerplant lands and to work cooperatively with California Native American tribes that are interested in acquiring such lands.

25548.1. For purposes of this chapter, the following definitions apply:

(a) "Borrower" means the company licensed to operate the Diablo Canyon Units 1 and 2.

(b) "Current expiration dates" means the expiration dates in effect on June 1, 2022, of the United States Nuclear Regulatory Commission operating licenses for Diablo Canyon Unit 1, which is November 2, 2024, and Unit 2, which is August 26, 2025.

(c) "Department" means the Department of Water Resources.

(d) "Diablo Canyon powerplant operations" means all aspects of operating the Diablo Canyon Units 1 and 2 at the Diablo Canyon powerplant site, including cooling operations and spent fuel management and storage facilities.

(e) "Diablo Canyon powerplant site" means the site containing the Diablo Canyon Units 1 and 2, including both reactor units, spent fuel storage facilities, and appurtenant lands leased to, or controlled by, the operator.

(f) "Extension of the operating period" means license renewal by the United States Nuclear Regulatory Commission and any other licensing, permitting, or approvals by federal or state authorities necessary to allow continued operations of the Diablo Canyon powerplant beyond the current expiration date of each unit, and until a new date that shall be no later than October 31, 2029, for Unit 1 and no later than October 31, 2030, for Unit 2.

(g) "Fund" means the Diablo Canyon Extension Fund established pursuant to Section 25548.6.

(h) "Loan" means the funds loaned to the borrower by the department for the purpose of facilitating the extension of the operating period.

(i) "Loan agreement" means the agreement and any amendments to the agreement entered into by the department and the borrower pursuant to this chapter.

(j) "Operator" means the company licensed to operate the Diablo Canyon Units 1 and 2.

(k) "State agency" means any agency, department, board, office, commission, or district of the state, including, but not limited to, the State Lands Commission, the California Coastal Commission, the State Water Resources Control Board, the Public Utilities Commission, and the State Office of Historic Preservation, or any local government.

25548.2. For purposes of any application or request by the operator for a permit, lease, license, certification, concurrence, plan, decision, or other approval from a state agency, and of any request by the United States Nuclear Regulatory Commission for consultation or other input, that is necessary to authorize Diablo Canyon powerplant operations after the current expiration dates, all of the following shall apply:

(a) Notwithstanding any other law, the state agency shall take final action on the application or request to extend the operations of the Diablo Canyon powerplant within 180 days of submission of a complete application or request.

(b) Given the unique circumstances of this site and the time-limited extension of operations, and in view of the precedent of *World Business Academy v. State Lands Commission* (2018) 24 Cal.App.5th 476, the Diablo Canyon powerplant site, and all structures, buildings, and equipment at the site or necessary to extend operations at the site, shall conclusively be deemed an existing facility or existing facilities under Section 15301 of Title 14 of the California Code of Regulations and not subject to any exception under Section 15300.2 of Title 14 of the California Code of Regulations, in any agency or judicial proceeding.

(c) At least 30 days before issuing any permit, lease, license, certification, concurrence, plan, decision, or other approval, some or all of the members of the State Lands Commission, the California Coastal Commission, the State Water Resources Control Board, and any other agency invited to participate by the Secretary of the Natural Resources Agency, shall participate in a joint public process facilitated by the Secretary of the Natural Resources Agency to consider public input concerning the environmental impacts and mitigation of extended operations of the Diablo Canyon powerplant. The Natural Resources Agency shall conduct at least one public hearing, and shall receive written comments, upon which to base any findings and recommendations.

(d) The Secretary for Environmental Protection and the Secretary of the Natural Resources Agency shall ensure coordination among, and prioritization of review of relevant applications by, the California Coastal Commission, the State Lands Commission, the State Water Resources Control Board, regional water quality control boards, and the State Air Resources Board.

(e) Except as provided in this section, this section does not alter or limit any proceeding of the commission including, but not limited to, proceedings planning for the decommissioning of the Diablo Canyon powerplant.

(f) The Secretary of the Natural Resources Agency, in consultation with the state agencies described in subdivisions (c) and (d) and with the Public Utilities Commission shall, by January 31, 2023, provide to the Joint Legislative Budget Committee a detailed description and plan that identifies all the actions that are necessary for the extension of the operations of the Diablo Canyon powerplant to beyond the current expiration date of each unit, and until new dates that shall be no later than December 31, 2029, for Unit 1, and no later than December 31, 2030, for Unit 2.

(g) This section shall become inoperative once the United States Nuclear Regulatory Commission concludes its review of the operator's next applications for renewal of the licenses for Diablo Canyon Units 1 and 2, and, as of January 1 of the following year, is repealed.

25548.3. (a) It is the intent of the Legislature to make available a one billion four hundred million dollar (\$1,400,000,000) loan from the General Fund to the Department of Water Resources for the purpose of being loaned to the borrower for extending operations of the Diablo Canyon powerplant facility, to dates that shall be no later than November 1, 2029, for Unit 1, and no later than November 1, 2030, for Unit 2. The Legislature intends to transfer an initial six hundred million dollars (\$600,000,000) from the General Fund to the department. It is the intent of the Legislature that the remaining eight hundred million dollars (\$800,000,000) shall require future legislative authorization before the transfer of funds.

(b) (1) To facilitate the extension of the operating period, the department may make a loan or loans to the borrower out of any funds that the Legislature transfers to the Diablo Canyon Extension Fund established pursuant to Section 25548.6, up to a total principal amount not to exceed one billion four hundred million dollars (\$1,400,000,000). Of this amount, up to three hundred fifty million dollars (\$350,000,000) may be paid out by the department upon the execution of, and according to the terms of, loan

agreements described in subdivision (c). For any additional amount beyond that three hundred fifty million dollars (\$350,000,000), but not more than a total of six hundred million dollars (\$600,000,000), the department shall submit a written expenditure plan requesting the release of additional funding pursuant to this section to the Department of Finance and the Joint Legislative Budget Committee. The Department of Finance may provide funds not sooner than 30 days after notifying, in writing, the Joint Legislative Budget Committee, or any lesser time determined by the chairperson of the joint committee, or the chairperson's designee.

(2) The department shall not disburse the entire loan amount in one lump sum, but shall disburse the loan amount pursuant to a loan disbursement schedule established pursuant to paragraph (3) of subdivision (c).

(c) The department may enter into a loan agreement with the borrower. In addition to any terms and conditions determined necessary by the department, the loan agreement shall include all of the following:

(1) (A) A covenant by the borrower that it shall take all steps necessary to secure a grant or other funds available for the operation of a nuclear powerplant from the United States Department of Energy, and any other potentially available federal funds, to repay the loan.

(B) If the operator is not deemed eligible by the United States Department of Energy for a federal funding program by March 1, 2023, or the earliest date set by the Department of Energy for determining eligibility pursuant to the Civil Nuclear Credit Program established by Section 18753 of Title 42 of the United States Code, the operator shall return all unexpended and uncommitted loan moneys and the department shall immediately terminate the loan.

(2) An interest rate that the department may charge, set at a rate less than the Pooled Money Investment Account rate.

(3) A provision that the loan shall be provided in tranches, with any disbursements following the initial disbursement made contingent upon the semiannual true-up review pursuant to Section 25548.4, and which shall be based on milestones set forth in annual plans for the purpose of project costs, operations and maintenance, internal and external labor, capital improvement costs, fuel purchase, fuel storage, regulatory compliance costs, transition fees, and other expenses associated with the extension of the operating periods and current expiration dates, to cover incremental costs incurred by the borrower in its efforts to extend the operating period. Covered costs shall be limited to those necessary to preserve the option of extending the Diablo Canyon powerplant or to extend the Diablo Canyon powerplant's operation to maintain electrical reliability.

(4) Events that would trigger loan repayment obligations by the borrower, including, but not limited to, any of the following:

(A) Failure of the borrower to submit a timely and complete application for funding from the Department of Energy for determining eligibility pursuant to the Civil Nuclear Credit Program established by Section 18753 of Title 42 of the United States Code.

(B) Failure to disclose to the department any known safety risk, seismic risk, environmental hazard, or material defect that would disqualify the application of the borrower for grants or funds for the operation of a nuclear powerplant from a funding program of the United States Department of Energy or otherwise disallow or substantially delay any necessary permitting or approvals necessary for the extension of operating the Diablo Canyon powerplant.

(C) A change in ownership of the Diablo Canyon powerplant, as determined by the Public Utilities Commission pursuant to Section 851 of the Public Utilities Code, before August 26, 2025.

(5) Events that would trigger a suspension or early termination of the loan agreement, including, but not limited to, any of the following:

(A) A determination by the department that the borrower has not obtained the necessary license renewal, permits, and approvals.

(B) A determination by the department that license renewal, permit, or approval conditions are too onerous, or will generate costs that exceed the maximum amount of loan authorized pursuant to paragraph (1) of subdivision (b).

(C) A determination by the Public Utilities Commission that an extension of the Diablo Canyon powerplant is not cost effective or imprudent, or both.

(D) A determination by the commission, pursuant to Section 25233.2 and voted upon at a commission's business meeting, that the state's forecasts for the calendar years 2024 to 2030, inclusive, do not show reliability deficiencies if the Diablo Canyon powerplant is retired by 2025, or that extending the Diablo Canyon powerplant to at least 2030 is not necessary for meeting any potential supply deficiency.

(E) A unexpected early retirement of the Diablo Canyon powerplant.

(F) A determination by the department that permitted timeframes are not viable to accomplish the purposes of this chapter.

(G) A determination by the department that expenses are unexpected or too large, or that repayment is less likely than initially anticipated.

(H) A final determination by the United States Department of Energy that the Diablo Canyon powerplant is not eligible for the Civil Nuclear Credit Program established by Section 18753 of Title 42 of the United States Code.

(6) Conditions that would result in forgiveness, in whole or in part, of the loan by the department, provided that any amount forgiven is limited to amounts already committed or incurred and that any unspent or uncommitted remainder of the loan proceeds is required to be repaid.

(7) No loan proceeds shall be treated as shareholder profits or be paid out as dividends.

(8) A provision prohibiting shareholder dividends from being deemed eligible costs under the loan.

(9) A covenant that, if the United States Nuclear Regulatory Commission or any state agency requires, during the process of relicensing the Diablo Canyon powerplant, seismic safety or other safety modifications to the powerplant that would exceed the loan amount specified in paragraph (1) of subdivision (a), any application or approval to extend the operation period the commission shall promptly evaluate whether the extension of the Diablo Canyon powerplant remains a cost-effective means to meet California's mid-term reliability needs, before any subsequent authorization and appropriation by the Legislature of an amount in excess of the loan amount.

(10) A covenant that the operator shall allocate all revenues received as a result of federal or state tax credits or incentives, excluding funds specifically allocated by a federal program for the costs of extending power plant operations, on a cost-share basis of 10 and 90 percent between the operator corporation and ratepayers of a load-serving entity responsible for the costs of the continued operation, respectively.

(11) A covenant addressing circumstances in which the operator must indemnify the department and the state for liability associated with the Diablo Canyon powerplant.

(12) A covenant requiring the operator to comply with the conditions specified in Section 25548.7.

(13) A covenant that the operator shall conduct an updated seismic assessment.

(14) A covenant that the operator shall commission a study by independent consultants to catalog and evaluate any deferred maintenance at the Diablo Canyon powerplant and to provide recommendations as to any risk posed by the deferred maintenance, potential remedies, and cost estimates of those remedies, and a timeline for undertaking those remedies.

(15) A covenant that the operator shall report to the commission no later than March 1, 2023, on the available capacity of existing wet and dry spent fuel storage facilities and the forecasted amount of spent fuel that will be generated by powerplant operations through the retirement dates for both units as of August 1, 2022, and November 1, 2029, for Unit 1 and November 1, 2030, for Unit 2.

(16) A monthly performance-based disbursement equal to seven dollars (\$7) for each megawatt-hour generated by the Diablo Canyon powerplant during the period before the start of extended operations. The disbursement is contingent upon the operator's ongoing pursuit of an extension of the operating period and continued safe and reliable Diablo Canyon powerplant operations.

(d) Except for this section and the loan agreement provided for under subdivision (c), notwithstanding Section 11019 of the Government Code or any other law, the department may disburse the tranches of funds specified in paragraph (3) of subdivision (c) to the borrower in advance of the borrower having committed to, or incurred, eligible costs.

25548.4. (a) Within 180 days after the date of the loan agreement, the department, in collaboration with the Public Utilities Commission, shall establish a methodology and process for it to conduct a semiannual true-up review of the borrower's use of loan proceeds.

(b) The purpose of the true-up review shall be to determine all of the following:

(1) Whether the borrower used loan proceeds to pay only for eligible costs.

(2) Whether the eligible costs were reasonable.

(3) Whether the costs are in the public interest.

(4) Whether the Public Utilities Commission has not authorized rate recovery of the same costs.

(5) Other considerations deemed appropriate by the Public Utilities Commission.

(c) The review shall demonstrate the operator did not retain any revenues for shareholders from funds associated with the loan.

(d) If, upon completing a true-up review, the department determines that the borrower's use of loan proceeds did not meet the requirements set forth in subdivision (b), those amounts shall be deemed disallowed costs.

(e) If the department finds disallowed costs pursuant to subdivision (c), the department shall notify the borrower of the amount of disallowed costs as promptly as possible and the department shall take action to recoup the disallowed costs pursuant to the loan agreement.

25548.5. (a) The department may do any of the following as may be, in the determination of the department, necessary or appropriate for purposes of this chapter:

(1) Enter into one or more agreements with the Public Utilities Commission or other state agencies to facilitate the true-up reviews required by Section 25548.4, facilitate extension of the operating period, and further the purposes of this chapter.

(2) Engage the services of private parties to render professional and technical assistance and advice and other services in carrying out the purposes of this chapter.

(3) Contract for the services of other public agencies.

(4) Engage in activities or enter into contracts or arrangements as may be necessary or desirable to carry out the department's duties and responsibilities pursuant to this chapter.

(5) Hire personnel necessary and desirable for the timely and successful implementation and administration of the department's duties and responsibilities pursuant to this chapter. The State Personnel Board and the Department of Human Resources shall assist the department in expediting that hiring.

(6) Disburse funds to reimburse the department for the costs incurred in the administration of this chapter, which shall equal no more than 5 percent of the amount of funds disbursed.

(b) Contracts entered into pursuant to this chapter, amendments to those contracts during their terms, or contracts for services reasonably related to those contracts, shall not be subject to competitive bidding or any other state contracting requirements, shall not require the review, consent, or approval of the Department of General Services or any other state department or agency, and are not subject to the requirements of the State Contracting Manual or the Public Contract Code.

(c) Any loan agreement entered into pursuant to this chapter is not a project for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

(d) The powers and responsibilities of the department established pursuant to this chapter are separate from, and not governed by, the provisions relating to the State Water Resources Development System.

(e) All state agencies and other state entities, and their officers and employees, shall and are hereby authorized to, at the request of the department, give the department reasonable assistance or other cooperation in carrying out the purposes of this chapter.

(f) In accordance with the purposes of the loan and this chapter, the operator shall take all steps necessary to facilitate the extension of the operating period, including submitting applications for required federal and state agency approvals, notwithstanding Public Utilities Commission Decision 18-01-022 (January 16, 2018) Decision Approving Retirement of Diablo Canyon Nuclear Power Plant and pending further actions by the Public Utilities Commission.

25548.6. (a) The Diablo Canyon Extension Fund is hereby established within the State Treasury. The moneys in the fund shall be available to the department for the administration and implementation of this chapter.

(b) Repayments of the loan authorized under Section 25548.3 shall be deposited into the fund and shall remain available for further disbursement subject to subdivision (a) of Section 25548.3.

(c) Notwithstanding Section 13340 of the Government Code, the moneys in the fund are continuously appropriated to the department for purposes of this chapter.

(d) The fund and the moneys in the fund are separate and distinct from any other funds and moneys administered by the department.

(e) Upon the early termination of, or full repayment of, the loan, all moneys remaining in the Diablo Canyon Extension Fund shall be transferred to the General Fund and subdivision (a), (c), and (d) shall become inoperative.

(f) The Department of Finance shall allocate up to six hundred million dollars (\$600,000,000), pursuant to Section 25548.3, from the General Fund as loans to the Department of Water Resources for deposit into the Diablo Canyon Extension Fund. The Department of Water Resources may disburse moneys from the Diablo Canyon Extension Fund to the operator of the Diablo Canyon powerplant under a loan agreement pursuant to Section 25548.3. At the direction of the Department of Water Resources, the Controller shall draw a warrant for this purpose.

25548.7. Continued operation of the Diablo Canyon powerplant as provided in this chapter is in all respects for the welfare and the benefit of the people of the state, to protect public peace, health, and safety, and constitutes an essential governmental purpose. This chapter shall be liberally construed in a manner so as to effectuate its purposes and objectives.

SEC. 6. Section 454.52 of the Public Utilities Code is amended to read:

454.52. (a) (1) Beginning in 2017, and to be updated regularly thereafter, the commission shall adopt a process for each load-serving entity, as defined in Section 380, to file an integrated resource plan, and a schedule for periodic updates to the plan, and shall ensure that load-serving entities do all of the following:

(A) Meet the greenhouse gas emissions reduction targets established by the State Air Resources Board, in coordination with the commission and the Energy Commission, for the electricity sector and each load-serving entity that reflect the electricity sector's percentage in achieving the economywide greenhouse gas emissions reductions pursuant to Section 38566 of the Health and Safety Code.

(B) Procure at least 60 percent eligible renewable energy resources by December 31, 2030, consistent with Article 16 (commencing with Section 399.11) of Chapter 2.3.

(C) Enable each electrical corporation to fulfill its obligation to serve its customers at just and reasonable rates.

(D) Minimize impacts on ratepayers' bills.

(E) Ensure system and local reliability on both a near-term and long-term basis, including meeting the near-term and forecast long-term resource adequacy requirements of Section 380, and require sufficient, predictable resource procurement and development to avoid unplanned energy supply shortfalls by taking into account impacts due to climate change, forecasted levels of building and transportation electrification, and other factors that can result in those shortfalls.

(F) Comply with paragraph (1) of subdivision (b) of Section 399.13.

(G) Strengthen the diversity, sustainability, and resilience of the bulk transmission and distribution systems, and local communities.

(H) Enhance distribution systems and demand-side energy management.

(I) Minimize localized air pollutants and other greenhouse gas emissions, with early priority on disadvantaged communities identified pursuant to Section 39711 of the Health and Safety Code.

(2) (A) The commission may authorize all source procurement for electrical corporations that includes various resource types including demand-side resources, supply side resources, and resources that may be either demand-side resources or supply side resources, taking into account the differing electrical corporations' geographic service areas, to ensure that each load-serving entity meets the goals set forth in paragraph (1).

(B) The commission may approve procurement of resource types that will reduce the overall emissions of greenhouse gases from the electricity sector and meet the other goals specified in paragraph (1), but due to the nature of the technology or fuel source may not compete favorably in price against other resources over the time period of the integrated resource plan.

(3) In furtherance of the requirements of paragraph (1), the commission shall consider the role of existing renewable generation, grid operational efficiencies, energy storage, and distributed energy resources, including energy efficiency, in helping to ensure each load-serving entity meets energy needs and reliability needs in hours to encompass the hour of peak demand of electricity, excluding demand met by variable renewable generation directly connected to a California balancing authority, as defined in Section 399.12, while reducing the need for new electricity generation resources and new transmission resources in achieving the state's energy goals at the least cost to ratepayers.

(b) (1) Each load-serving entity shall prepare and file an integrated resource plan consistent with paragraph (2) of subdivision (a) on a time schedule directed by the commission and subject to commission review.

(2) Each electrical corporation's plan shall follow Section 454.5.

(3) The plan of a community choice aggregator shall be submitted to its governing board for approval and provided to the commission for certification, consistent with paragraph (5) of subdivision (a) of Section 366.2, and shall achieve all of the following:

(A) Economic, reliability, environmental, security, and other benefits and performance characteristics that are consistent with the goals set forth in paragraph (1) of subdivision (a).

(B) A diversified procurement portfolio consisting of both short-term and long-term electricity, electricity-related, and demand reduction products.

(C) The resource adequacy requirements established pursuant to Section 380.

(4) The plan of an electric service provider shall achieve the goals set forth in paragraph (1) of subdivision (a) through a diversified portfolio consisting of both short-term and long-term electricity, electricity-related, and demand reduction products.

(c) To the extent that additional procurement is authorized for the electrical corporation in the integrated resource plan or the procurement process authorized pursuant to Section 454.5, the commission shall ensure that the costs are allocated in a fair and equitable manner to all customers consistent with Section 454.51, that there is no cost shifting among customers of load-serving entities, and that community choice aggregators may self-provide renewable integration resources consistent with Section 454.51.

(d) To eliminate redundancy and increase efficiency, the process adopted pursuant to subdivision (a) shall incorporate, and not duplicate, any other planning processes of the commission.

(e) This section applies to an electrical cooperative, as defined in Section 2776, only if the electrical cooperative has an annual electrical demand exceeding 700 gigawatthours, as determined based on a three-year average commencing with January 1, 2013.

(f) (1) The commission shall not include the energy, capacity, or any attribute from Diablo Canyon Unit 1 beyond November 1, 2024, or Unit 2 beyond August 26, 2025, in the adopted integrated resource plan portfolios, resource stacks, or preferred system plans.

(2) The commission shall disallow a load-serving entity from including in their adopted integrated resource plan any energy, capacity, or any attribute from the Diablo Canyon Unit 1 beyond November 1, 2024, or Unit 2 beyond August 26, 2025.

(g) For a thermal powerplant that uses nuclear fission technology not constructed in the twenty-first century, all resource attributes shall be retired on January 1, 2031, and shall be reported as a separate, line item resource for purposes of complying with Section 398.4.

SEC. 7. Section 454.53 of the Public Utilities Code is amended to read:

454.53. (a) It is the policy of the state that eligible renewable energy resources and zero-carbon resources supply 100 percent of all retail sales of electricity to California end-use customers and 100 percent of electricity procured to serve all state agencies by December 31, 2045. The achievement of this policy for California shall not increase carbon emissions elsewhere in the western grid and shall not allow resource shuffling. The commission and Energy Commission, in consultation with the State Air Resources Board, shall take steps to ensure that a transition to a zero-carbon electric system for the State of California does not cause or contribute to greenhouse gas emissions increases elsewhere in the western grid, and is undertaken in a manner consistent with clause 3 of Section 8 of Article I of the United States Constitution. The commission, the Energy Commission, the State Air Resources Board, and all other state agencies shall incorporate this policy into all relevant planning.

(b) The commission, Energy Commission, State Air Resources Board, and all other state agencies shall ensure that actions taken in furtherance of subdivision (a) do all of the following:

(1) Maintain and protect the safety, reliable operation, and balancing of the electric system.

(2) Prevent unreasonable impacts to electricity, gas, and water customer rates and bills resulting from implementation of this section, taking into full consideration the economic and environmental costs and benefits of renewable energy and zero-carbon resources.

(3) To the extent feasible and authorized under law, lead to the adoption of policies and taking of actions in other sectors to obtain greenhouse gas emission reductions that ensure equity between other sectors and the electricity sector.

(4) Not affect in any manner the rules and requirements for the oversight of, and enforcement against, retail sellers and local publicly owned utilities pursuant to the California Renewables Portfolio Standard Program (Article 16 (commencing with Section 399.11) of Chapter 2.3) and Sections 454.51, 454.52, 9621, and 9622.

(5) Does not consider the energy, capacity, or any attribute from the Diablo Canyon Unit 1 or Unit 2 after August 26, 2025, in meeting the policy described in subdivision (a).

(c) Nothing in this section shall affect a retail seller's obligation to comply with the federal Public Utility Regulatory Policies Act of 1978 (16 U.S.C. Sec. 2601 et seq.).

(d) The commission, Energy Commission, and State Air Resources Board shall do both of the following:

(1) Use programs authorized under existing statutes to achieve the policy described in subdivision (a).

(2) In consultation with all California balancing authorities, as defined in subdivision (d) of Section 399.12, as part of a public process, issue a joint report to the Legislature by January 1, 2021, and at least every four years thereafter. The joint report shall include all of the following:

(A) A review of the policy described in subdivision (a) focused on technologies, forecasts, then-existing transmission, and maintaining safety, environmental and public safety protection, affordability, and system and local reliability.

(B) An evaluation identifying the potential benefits and impacts on system and local reliability associated with achieving the policy described in subdivision (a).

(C) An evaluation identifying the nature of any anticipated financial costs and benefits to electric, gas, and water utilities, including customer rate impacts and benefits.

(D) The barriers to, and benefits of, achieving the policy described in subdivision (a).

(E) Alternative scenarios in which the policy described in subdivision (a) can be achieved and the estimated costs and benefits of each scenario.

(e) Nothing in this section authorizes the commission to establish any requirements on a nonmobile self-cogeneration or cogeneration facility that served onsite load, or that served load pursuant to an over-the-fence arrangement if that arrangement existed on or before December 20, 1995.

(f) In a proceeding evaluating issuance of a certificate of public convenience and necessity for a transmission project, the commission shall establish a rebuttable presumption with regard to need for a transmission project in favor of an Independent System Operator governing board-approved need evaluation if all of the following are satisfied:

(1) The Independent System Operator governing board has made explicit findings regarding the need for the proposed project.

(2) The Independent System Operator is a party to the proceeding.

(3) The Independent System Operator governing board-approved evaluation is submitted to the commission within sufficient time to be included within the scope of the proceeding.

SEC. 8. Section 712.1 is added to the Public Utilities Code, to read:

712.1. (a) The Legislature finds and declares that in commission Decision 88-12-083 (December 19, 1988) Re Pacific Gas and Electric Company (30 CPUC.2d 189), the commission created the Independent Safety Committee for Diablo Canyon to make recommendations appropriate to enhance the safety of the operation of the Diablo Canyon powerplant.

(b) The Independent Safety Committee for Diablo Canyon is hereby established in the commission and has and shall continue to have the right of the Independent Safety Committee for Diablo Canyon established pursuant to commission Decision 88-12-083 to conduct annual examinations of the Diablo Canyon powerplant and make additional site visits. The committee shall cease operations no sooner than when the United States Nuclear Regulatory Commission operating permit for the Diablo Canyon powerplant has ceased and when all spent nuclear fuel has been moved to dry storage at the Diablo Canyon Independent Spent Fuel Storage Installation.

(c) The Independent Safety Committee for Diablo Canyon shall be composed of three experts, one each shall be appointed by the Governor, the Attorney General, and the Chair of the Energy Commission, from a list of candidates nominated by the President of the commission that shall include not more than three qualified candidates as alternatives to the reappointment of the appointing authority's designated committee member whose term is expiring, and which shall also include the incumbent committee member if the member consents to being an additional candidate. The incumbent as of August 1, 2022, may continue to serve their current term until it expires.

(d) The commission shall ensure the funding of the Independent Safety Committee for Diablo Canyon to attract qualified experts during the period of extended operations of the Diablo Canyon powerplant, as defined by Section 712.8.

(e) In addition to the duties and responsibilities set forth in commission decisions, the Independent Safety Committee for Diablo Canyon shall do both of the following:

(1) Consult with and incorporate into its assessments and recommendations the independent peer review panel established pursuant to Section 712.

(2) Transmit annually its findings and recommendations for improved safety to the Legislature, the Governor, the commission, the Energy Commission, the United States Nuclear Regulatory Commission, and the company licensed to operate the Diablo Canyon Units 1 and 2. The report transmitted to the Legislature shall be in accordance with Section 9795 of the Government Code.

(f) The company licensed to operate the Diablo Canyon Units 1 and 2 shall annually respond to the annual report provided for in paragraph (2) of subdivision (e) and distribute its response to the governmental entities specified in that paragraph.

SEC. 9. Section 712.8 is added to the Public Utilities Code, to read:

712.8. (a) For purposes of this section, the following definitions apply:

(1) "Current expiration dates" has the same meaning as defined in Section 25548.1 of the Public Resources Code.

(2) "Diablo Canyon powerplant operations" has the same meaning as defined in Section 25548.1 of the Public Resources Code.

(3) "Load-serving entity" has the same meaning as defined in Section 380.

(4) "Operator" has the same meaning as defined in Section 25548.1 of the Public Resources Code.

(b) (1) Ordering paragraphs (1) and (14) of commission Decision 18-01-022 (January 11, 2018) Decision Approving Retirement of Diablo Canyon Nuclear Power Plant, are hereby invalidated.

(2) The commission shall reopen commission Application 16-08-006 and take other actions as are necessary to implement this section.

(c) (1) (A) Notwithstanding any other law, within 120 days of the effective date of this section, the commission shall direct and authorize the operator of the Diablo Canyon Units 1 and 2 to take all actions that would be necessary to operate the powerplant beyond the current expiration dates, so as to preserve the option of extended operations, until the following retirement dates, conditional upon continued authorization to operate by the United States Nuclear Regulatory Commission:

(i) For Unit 1, October 31, 2029.

(ii) For Unit 2, October 31, 2030.

(B) If the loan provided for by Chapter 6.3 (commencing with Section 25548) of Division 15 of the Public Resources Code is terminated under that chapter, the commission shall modify its order under this paragraph and direct an earlier retirement date.

(C) Actions taken by the operator pursuant to the commission's actions under this paragraph, including in preparation for extended operations, shall not be funded by ratepayers of any load-serving entities, but may be funded by the loan provided for by Chapter 6.3 (commencing with Section 25548) of Division 15 of the Public Resources Code or other nonratepayer funds available to the operator. The commission shall not allow the recovery from ratepayers of costs incurred by the operator to prepare for, seek, or receive any extended license to operate by the United States Nuclear Regulatory Commission.

(2) (A) No later than December 31, 2023, and notwithstanding the 180-day time limitation in subdivision (b) of Section 25548.2 of the Public Resources Code, the commission shall direct and authorize extended operations at the Diablo Canyon powerplant until the new retirement dates specified in subparagraph (A) of paragraph (1) of subdivision (c).

(B) The commission shall review the reports and recommendations of the Independent Safety Committee for Diablo Canyon described in Section 712.1. If the Independent Safety Committee for Diablo Canyon's reports or recommendations cause the commission to determine, in its discretion, that the costs of any upgrades necessary to address seismic safety or issues of deferred maintenance that may have arisen due to the expectation of the plant closing sooner are too high to justify incurring, or if the United States Nuclear Regulatory Commission's conditions of license renewal require expenditures that are too high to justify incurring, the commission may issue an order that reestablishes the current expiration dates as the

retirement date, or that establishes new retirement dates that are earlier than provided in subparagraph (A) of paragraph (1), to the extent allowable under federal law, and shall provide sufficient time for orderly shutdown and authorize recovery of any outstanding uncollected costs and fees.

(C) If the loan provided for by Chapter 6.3 (commencing with Section 25548) of Division 15 of the Public Resources Code is terminated under that chapter, the commission may issue an order that reestablishes the current expiration dates as the retirement date, or that establishes new retirement dates that are earlier than provided in subparagraph (A) of paragraph (1), and shall provide sufficient time for orderly shutdown and authorize recovery of any outstanding uncollected costs and fees.

(D) If the commission determines that new renewable energy and zero-carbon resources that are adequate to substitute for the Diablo Canyon powerplant and that meet the state's planning standards for energy reliability have already been constructed and interconnected by the time of its decision, the commission may issue an order that reestablishes the current expiration dates as the retirement date, or that establishes new retirement dates that are earlier than provided in subparagraph (A) of paragraph (1), and shall provide sufficient time for orderly shutdown and authorize recovery of any outstanding uncollected costs and fees.

(E) Any retirement date established under this paragraph shall be conditioned upon continued authorization to operate by the United States Nuclear Regulatory Commission. If the United States Nuclear Regulatory Commission does not extend the current expiration dates or renews the licenses for Diablo Canyon Units 1 or 2 for a period shorter than the extended operations authorized by the commission, the commission shall modify any orders issued under this paragraph to direct a retirement date that is the same as the United States Nuclear Regulatory Commission license expiration date.

(3) The commission shall do all things necessary and appropriate to implement this section, including, but not limited to, allocating financial responsibility for the extended operations of the Diablo Canyon powerplant to customers of all load-serving entities and ensuring completion of funding of the community impacts mitigation settlement described in Section 712.7. The commission shall not require any funds already disbursed or committed under the community impacts mitigation settlement described in Section 712.7 to be returned because of extended operations of the Diablo Canyon powerplant.

(4) Except as authorized by this section, customers of load-serving entities shall have no other financial responsibility for the costs of the extended operations of the Diablo Canyon powerplant. In no event shall load-serving entities other than the operator and their customers have any liability for the operations of the Diablo Canyon powerplant.

(5) Consistent with Section 25548.4 of the Public Resources Code, the commission shall collaborate with the Department of Water Resources to oversee the operator's actions that are funded by the loan provided for by Chapter 6.3 (commencing with Section 25548) of Division 15 of the Public Resources Code.

(d) The commission shall not increase cost recovery from ratepayers for operations and maintenance expenses incurred by the operator during the period from August 1, 2022, to November 2, 2025, for Diablo Canyon Unit 1 and from August 1, 2022, to August 26, 2025, for Diablo Canyon Unit 2, above the amounts approved in the most recent general rate case for the operator pursuant to commission proceeding A.21-06-021 (June 30, 2021) 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, 2023.

(e) The commission shall order the operator to track all costs associated with continued and extended operations of Diablo Canyon Units 1 and 2. The commission shall authorize the operator to establish accounts as necessary to track all costs incurred under paragraph (1) of subdivision (c), all costs incurred under the loan provided for by Chapter 6.3 (commencing with Section 25548) of Division 15 of the Public Resources Code, all costs to be borne only by the operator's ratepayers, all costs to be borne by ratepayers of all load-serving entities, consistent with this section, and any other costs as determined by the commission. Among these accounts shall be a Diablo Canyon Extended Operations liquidated damages balancing account, described in subdivisions (g) and (i).

(f) (1) Notwithstanding any approval of extended operations, the commission shall continue to authorize the operator to recover in rates all of the reasonable costs incurred to prepare for the retirement of Diablo Canyon Units 1 and 2, including any reasonable additional costs associated with decommissioning planning resulting from the license renewal applications or license renewals. The reasonable costs incurred to prepare for the retirement of Diablo Canyon Power Plant Units 1 and 2 shall be recovered on a fully nonbypassable basis from customers of all load-serving entities subject to the commission's jurisdiction in the operator's service territory, as determined by the commission, except that the reasonable additional costs associated with decommissioning planning resulting from the license renewal applications or license renewals shall be recovered on a fully nonbypassable basis from customers of all load-serving entities subject to the commission's jurisdiction in the state.

(2) The commission shall continue to fund the employee retention program approved in Decision 18-11-024 (December 2, 2018) Decision Implementing Senate Bill 1090 and Modifying Decision 18-01-022, as modified to incorporate 2024, 2025, and

additional years of extended operations, on an ongoing basis until the end of operations of both units with program costs tracked under subdivision (e) and fully recovered in rates. Any additional funding for the employee retention program beyond what was already approved in commission Decision 18-11-024 shall be submitted by the operator in an application for review by the commission.

(3) The commission shall determine the amount or allocation that the customers of all load-serving entities subject to the commission's jurisdiction shall contribute towards the reasonable additional costs of decommissioning planning resulting from the license renewal applications or license renewals and shall authorize the operator to recover in rates those costs through a nonbypassable charge applicable to the customers of all load-serving entities subject to the commission's jurisdiction in the state as set forth in paragraph (1) of subdivision (l).

(4) The commission shall authorize the operator to recover in rates all of the reasonable costs incurred to prepare for, respond to, provide information to, or otherwise participate in or engage the independent peer review panel under Section 712.

(5) In lieu of a rate-based return on investment and in acknowledgment of the greater risk of outages in an older plant that the operator could be held liable for, the commission shall authorize the operator to recover in rates a volumetric payment equal to six dollars and fifty cents (\$6.50), in 2022 dollars, for each megawatt-hour generated by the Diablo Canyon powerplant during the period of extended operations beyond the current expiration dates, to be borne by customers of all load-serving entities, and an additional volumetric payment equal to six dollars and fifty cents (\$6.50), in 2022 dollars, to be borne by customers in the service territory of the operator. The amount of the operating risk payment shall be adjusted annually by the commission using commission-approved escalation methodologies and adjustment factors.

(6) (A) In lieu of a rate-based return on investment and in acknowledgment of the greater risk of outages in an older plant that the operator could be held liable for, the commission shall authorize the operator to recover in rates a fixed payment of fifty million dollars (\$50,000,000), in 2022 dollars, for each unit for each year of extended operations, subject to adjustment in subparagraphs (B) to (D), inclusive. The amount of the fixed payment shall be adjusted annually by the commission using commission-approved escalation methodologies and adjustment factors.

(B) In the first year of extended operations for each unit, the operator shall continue to receive the full fixed payment during periods in which a unit is out of service due to an unplanned outage for nine months or less, and shall receive 50 percent of the payment for months in excess of nine months that a unit is down.

(C) In the second year of extended operations, the operator shall continue to receive the fixed payment during periods in which a unit is out of service due to an unplanned outage for eight months or less, and shall receive 50 percent of the payment for months in excess of eight months that a unit is down.

(D) In each subsequent year of extended operations, the period in which the full fixed payment is received during periods when a unit is out of service due to an unplanned outage shall decline by one additional month.

(g) The commission shall authorize and fund as part of the charge under paragraph (1) of subdivision (l), the Diablo Canyon Extended Operations liquidated damages balancing account in the amount of twelve million five hundred thousand dollars (\$12,500,000) each month for each unit until the liquidated damages balancing account has a balance of three hundred million dollars (\$300,000,000).

(h) (1) The commission shall authorize the operator to recover all reasonable costs and expenses necessary to operate Diablo Canyon Units 1 and 2 beyond the current expiration dates, including those in subdivisions (f) and (g), net of market revenues for those operations and any production tax credits of the operator, on a forecast basis in a new proceeding structured similarly to its annual Energy Resource Recovery Account forecast proceeding with a subsequent true-up to actual costs and market revenues for the prior calendar year via an expedited Tier 3 advice letter process, provided that there shall be no further review of the reasonableness of costs incurred if actual costs are below 115 percent of the forecasted costs. All costs shall be recovered as an operating expense and shall not be eligible for inclusion in the operator's rate base.

(2) As the result of any significant one-time capital expenditures during the extended operation period, the commission may authorize, and the operator may propose, cost recovery of these expenditures as operating expenses amortized over more than one year for the purpose of reducing rate volatility, at an amortization interest rate determined by the commission. The commission shall allow cost recovery if the costs and expenses are just and reasonable. Those costs and expenses are just and reasonable if the operator's conduct is consistent with the actions that a reasonable utility would have undertaken in good faith under similar circumstances, at the relevant point in time and with information that the operator should have known at the relevant point in time.

(3) If, as a result of the annual true-up for extended operations in paragraph (1), the commission determines that market revenues for the prior year exceeded the annual costs and expenses, including those in subdivisions (f) and (g), the commission shall direct that any available surplus revenues in an account created under subdivision (e) be credited solely to

customers in the operator's service territory. For customers outside the operator's service territory, market revenues may be credited up to, but not to exceed, their respective annual costs and expenses. If excess funds remain in an account created under subdivision (e) as a result of market revenues exceeding costs and expenses in the final year of the extended operating period, after truing up the final operating year's market revenues against costs and expenses, the remaining funds shall be the sole source of loan repayment per the requirements provided under Chapter 6.3 (commencing with Section 25548) of Division 15 of the Public Resources Code, except that any federal funds received as described in paragraph (2) of subdivision (b) of Section 25548.3 of the Public Resources Code shall also be used to repay the loan. Ratepayer funds shall not otherwise be used in any manner to repay the loan provided for under Chapter 6.3 (commencing with Section 25548) of Division 15 of the Public Resources Code.

(i) (1) During any unplanned outage periods, the commission shall authorize the operator to recover reasonable replacement power costs, if incurred, associated with Diablo Canyon powerplant operations. If the commission finds that replacement power costs incurred when a unit is out of service due to an unplanned outage are the result of a failure of the operator to meet the reasonable manager standard, then the commission shall authorize payment of the replacement power costs from the Diablo Canyon Extended Operations liquidated damages balancing account described in subdivision (g).

(2) After commencing payments from the Diablo Canyon Extended Operations liquidated damages balancing account under the conditions described in paragraph (1), the commission shall authorize the replenishment of the Diablo Canyon Extended Operations liquidated damages balancing account in the amount of twelve million five hundred thousand dollars (\$12,500,000) for each unit for each month up to a maximum account balance of three hundred million dollars (\$300,000,000).

(j) If the commission finds that the operator is requesting recovery of costs that were previously authorized by the commission or other state or federal agency or paid to the operator for cost recovery, the commission may fine the operator an amount up to three times the amount of the penalty provided in Section 2107 for each violation.

(k) If at any point during the license renewal process or extended operations period the operator believes that, as a result of an unplanned outage, an emergent operating risk, or a new compliance requirement, the cost of performing upgrades needed to continue operations of one or both units exceed the benefits to ratepayers of the continued operation of doing so, the operator shall promptly notify the commission. The commission shall promptly review and determine whether expending funds to continue operations is reasonable, will remain beneficial to ratepayers, and is in the public interest or direct the operator to cease operations. The operator shall take all actions necessary to safely operate or maintain the Diablo Canyon powerplant pending the commission determination.

(l) (1) Any costs the commission authorizes the operator to recover in rates under this section shall be recovered on a fully nonbypassable basis from customers of all load-serving entities subject to the commission's jurisdiction, as determined by the commission, except as otherwise provided in this section. The recovery of these nonbypassable costs by the load-serving entities shall be based on each customer's gross consumption of electricity regardless of a customer's net metering status or purchase of electric energy and service from an electric service provider, community choice aggregator, or other third-party source of electric energy or electricity service.

(2) The commission shall establish mechanisms, including authorizing balancing and memorandum accounts and, as needed, agreements with, or orders with respect to, electrical corporations, community choice aggregators, and electric service providers, to ensure that the revenues received to pay a charge or cost payable pursuant to this section are recovered in rates from those entities and promptly remitted to the entity entitled to those revenues.

(m) This section does not alter the recovery of costs, including those previously approved by the commission, to operate Diablo Canyon Units 1 and 2 until the current expiration dates.

(n) The commission shall halt disbursements from the Diablo Canyon Nuclear Decommissioning Non-Qualified Trust, excluding refunds to ratepayers.

(o) The commission, in consultation with the relevant federal and state agencies and appropriate California Native American tribes, shall, in a new or existing proceeding, determine the disposition of the Diablo Canyon powerplant real property and its surrounding real properties owned by the applicable public utility or any legally related, affiliated, or associated companies, in a manner that best serves the interests of the local community, ratepayers, California Native American tribes, and the state. It is the intent of the Legislature that the existing efforts to transfer lands owned by the operator and Eureka Energy shall not be impeded by the extension of the Diablo Canyon powerplant.

(p) Except as otherwise provided in this section, this section does not alter or limit any proceeding of the commission relating to the decommissioning of the Diablo Canyon powerplant.

(q) The Legislature finds and declares that the purpose of the extension of the Diablo Canyon powerplant operations is to protect the state against significant uncertainty in future demand resulting from the state's greenhouse-gas-reduction efforts involving

electrification of transportation and building energy end uses and regional climate-related weather phenomenon, and to address the risk that currently ordered procurement will be insufficient to meet this supply or that there may be delays in bringing the ordered resources online on schedule. Consequently, the continued operation of Diablo Canyon Units 1 and 2 beyond their current expiration dates shall not be factored into the analyses used by the commission or by load-serving entities not subject to the commission's jurisdiction when determining future generation and transmission needs to ensure electrical grid reliability and to meet the state's greenhouse-gas-emissions reduction goals. To the extent the commission decides to allocate any benefits or attributes from extended operations of the Diablo Canyon powerplant, the commission may consider the higher cost to customers in the operator's service area.

(r) Notwithstanding Section 10231.5 of the Government Code, in coordination with the Energy Commission, the Independent System Operator, and the Department of Water Resources, the commission shall submit, in accordance with Section 9795 of the Government Code, a report to the Legislature each year on the status of new resource additions and revisions to the state's electric demand forecast, and the impact of these updates on the need for keeping the Diablo Canyon powerplant online.

(s) Any sale, mortgage, transfer of operational control, or any other encumbrance of disposition of the Diablo Canyon powerplant shall continue to be subject to Article 6 (commencing with Section 851).

(t) (1) The operator shall submit to the commission for its review, on an annual basis the amount of compensation earned under paragraph (5) of subdivision (f), how it was spent, and a plan for prioritizing the uses of such compensation the next year. Such compensation shall not be paid out to shareholders. Such compensation, to the extent it is not needed for Diablo Canyon, shall be spent to accelerate, or increase spending on, the following critical public purpose priorities:

(A) Accelerating customer and generator interconnections.

(B) Accelerating actions needed to bring renewable and zero-carbon energy online and modernize the electrical grid.

(C) Accelerating building decarbonization.

(D) Workforce and customer safety.

(E) Communications and education.

(F) Increasing resiliency and reducing operational and system risk.

(2) The operator shall not earn a rate of return for any of the expenditures described in paragraph (1) so that no profit shall be realized by the operator's shareholders. Neither the operator nor any of its affiliates or holding company may increase existing public earning per share guidance as a result of compensation provided under this section. The commission shall ensure no double recovery in rates.

(u) The commission shall verify at the conclusion of extended operations that the operator's sole compensation during the period of extended operations is limited to and in accordance with paragraphs (5) and (6) of subdivision (f) and shall be in lieu of a rate-based return on investment in the Diablo Canyon powerplant. Any excess funds remaining in an account created under subdivision (e) as a result of market revenues exceeding costs and expenses across the extended operating period, after truing up the final operating year's market revenues against costs and expenses, following loan repayment under paragraph (3) of subdivision (h), shall not be paid out to shareholders. Instead, such excess funds shall be returned in full to customers in a manner to be determined by the commission, except that any funds remaining in the Diablo Canyon Extended Operations liquidated damages balancing account specified in subdivisions (g) and (i), shall be returned to customers in the operator's service territory in a manner to be determined by the commission.

(v) The efforts to transfer lands owned by the operator and Eureka Energy, including North Ranch, Parcel P, South Ranch, and Wild Cherry Canyon, shall not be impeded by the extension of the operation of the Diablo Canyon powerplant.

(w) In the event of a final determination by the United States Department of Energy that the Diablo Canyon powerplant is not eligible for the Civil Nuclear Credit Program established by Section 18753 of Title 42 of the United States Code, subdivisions (d) to (m), inclusive, (p), (q), (t), and (u) shall cease to be operative, and the commission shall instead undertake ordinary ratemaking with respect to the Diablo Canyon powerplant.

SEC. 10. Section 13193.5 is added to the Water Code, to read:

13193.5. Notwithstanding any provision to the contrary in the State Water Resources Control Board's Water Quality Control Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling, as referenced in Section 2922 of Title 23 of the California Code of Regulations, the final compliance dates for Diablo Canyon Units 1 and 2 shall be October 31, 2030. Nothing in this section prevents the state board from ordering the operator of the Diablo Canyon powerplant to conduct any other form of mitigation allowed under this chapter.

SEC. 11. Upon approval and order of the Director of Finance, up to a total of five million dollars (\$5,000,000) from the General Fund shall be available for transfer to the State Energy Resources Conservation and Development Commission or the Public Utilities Commission for administrative and programmatic workload.

SEC. 12. (a) Upon appropriation by the Legislature, the sum of one hundred million dollars (\$100,000,000) shall be available in the 2023–24 fiscal year, the sum of four hundred million dollars (\$400,000,000) shall be available in the 2024–25 fiscal year, and the sum of five hundred million dollars (\$500,000,000) shall be available in the 2025–26 fiscal year to support a Clean Energy Reliability Investment Plan developed by the State Energy Resources Conservation and Development Commission, in consultation with the Public Utilities Commission and the State Air Resources Board, for inclusion in the 2023–24 fiscal year budget that supports programs and projects that accelerate the deployment of clean energy resources, support demand response, assist ratepayers, and increase energy reliability.

(b) The Clean Energy Reliability Investment Plan shall support investments that take into account all of the following:

- (1) California's anticipated electricity supply and demand needs for near- and mid-term reliability.
- (2) The advancement of the state's policies towards 100 percent zero-carbon and renewable energy resources by 2045.
- (3) The state's greenhouse gas emissions reduction target for the electricity sector.

(c) The investment plan shall support the energy loading order, including investments in preferred resources, such as demand response and energy efficiency, reduce demand during the net-peak load, and support near- and mid-term reliability and the state's greenhouse gas goals. The plan shall be developed with input from interested parties at scheduled public workshops and public hearings. The commission shall adopt the plan at a publicly noticed business meeting with a majority of the commissioners voting.

(d) By March 1, 2023, the State Energy Resources Conservation and Development Commission shall submit the plan to the Joint Legislative Budget Committee and the chairs of the relevant policy committees of the Legislature with jurisdiction over energy policy.

SEC. 13. (a) Upon appropriation by the Legislature, the sum of ten million dollars (\$10,000,000) shall be available in the 2023–24 fiscal year, and the sum of one hundred fifty million dollars (\$150,000,000) shall be available in the 2024–25 fiscal year to support a Land Conservation and Economic Development Plan developed by the Natural Resources Agency, in consultation with Labor and Workforce Development Agency and the Governor's Office of Business and Economic Development, that supports environmental enhancements and access of Diablo Canyon powerplant lands and local economic development in a manner that is consistent with existing decommissioning efforts, including, but not limited to, Section 712.7 of the Public Utilities Code.

(b) By March 23, 2023, the Natural Resources Agency shall submit the Land Conservation and Economic Development Plan to the Joint Legislative Budget Committee and the chairs of the relevant policy committees of the Legislature.

SEC. 14. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 15. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances impacting the Diablo Canyon powerplant, as described in Section 5 of this act.

SEC. 16. The Legislature finds and declares that Section 2 of this act, which adds Section 25233 of the Public Resources Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

To protect consumers and avoid unfair competitive advantages or disadvantages, it is necessary to maintain the confidentiality of market-sensitive information.

SEC. 17. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 18. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

To ensure the expeditious relicensing of the Diablo Canyon Units 1 and 2 to allow for the continued operations beyond the expiration dates of their operating licenses thereby ensuring electrical reliability in the California electrical system, it is necessary for this act to take effect immediately.