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Ratesetting

[1/21/2010 Item 47](#)

Decision PROPOSED DECISION OF ALJ GRAU (Mailed 12/22/2009)

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

Order Instituting Rulemaking Adopting Rules to Account for the Consideration Allocated to California Core Natural Gas Ratepayers Under Settlements of Natural Gas Antitrust Cases I-IV.

Rulemaking 09-07-029  
(Filed July 30, 2009)

**DECISION ADOPTING ALLOCATION METHODOLOGIES  
AND IMPLEMENTATION PROCEDURES FOR SEMPRA  
AND PRICE INDEXING CASES SETTLEMENTS**

**1. Summary**

This decision adopts methodologies to allocate to core gas customers approximately \$~~110~~[113](#) million from settlements approved by the San Diego Superior Court to address scarcity in the natural gas market in 2000-2001 and manipulation of the published price of natural gas from 1999-2002. Allocation methodologies are based on those adopted by the Commission in Decision 03-10-087, which adopted the El Paso Refund Settlement. Core gas proceeds from both settlements are allocated as follows: Pacific Gas and Electric Company (46.7%), San Diego Gas & Electric Company (14.42%), Southern California Gas Company (31.49%), Southwest Gas Company (3.32%), and Long Beach Gas and Oil Department (4.07%). In addition, this decision adopts implementation procedures for the allocation of the core gas proceeds.

## 2. Background

The Commission granted a petition<sup>1</sup> and opened this rulemaking to examine how the proceeds from two settlements, the Sempra Settlement (Pipeline Cases)<sup>2</sup> and the Price Indexing Cases Settlement,<sup>3</sup> should be allocated to the core customers of Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), Southern California Gas Company (SoCalGas), and Southwest Gas Company (SWG). This rulemaking also affects the interests of the Long Beach Gas and Oil Department (Long Beach Gas), because it will determine how much of a share Long Beach Gas should receive from the settlements in the Price Indexing Cases.

The Sempra Settlement approved allocation percentages of the core gas proceeds to PG&E (46.7%), SDG&E (14.42%), SoCalGas (31.49%), SWG (3.32%), and Long Beach Gas (4.07%). The settlement ~~includes eight installments; the first installment is available to allocate pursuant to this decision. Approximately \$7.85 million, plus accrued interest, is to be distributed~~will distribute approximately \$62.6 million to the core gas class members: pursuant to this

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<sup>1</sup> The petition for rulemaking was filed by representatives for two settlement classes.

<sup>2</sup> The Sempra Settlement (Pipeline Cases) refer to a set of civil cases that were filed beginning in 2000, which alleged that major pipeline companies conspired to create a scarcity in the natural gas delivery market, which contributed to the energy crises of 2000-2001.

<sup>3</sup> The Price Indexing Cases refer to a set of civil cases that were filed beginning in 2003, which alleged that traders of natural gas manipulated the published price of natural gas in the California market during the period of 1999-2002 through prearranged sham transactions and false reporting of prices and volumes to the trade press. The Sempra Settlement (Pipeline Cases) and Price Indexing Cases were coordinated in the Superior Court of San Diego County under the title of "Natural Gas Antitrust Cases I-IV."

[decision](#).<sup>4</sup> The final Price Indexing Cases Settlement was reached earlier this year, and the net amount to be allocated to core ratepayers is approximately \$50.5 million. The determination of specific allocation percentages is left to the Commission.

A Joint Prehearing Conference Statement was filed by PG&E, SoCalGas, SDG&E, SWG, Long Beach Gas and the Division of Ratepayer Advocates (Joint Parties) on October 9, 2009. The parties supported the issues raised in the rulemaking and the proposed allocation methodology for the gas settlement refunds.<sup>45</sup> The parties also raised implementation issues that they requested be addressed in this rulemaking.

A prehearing conference was held on October 12, 2009. The scoping memo issued on October 29, 2009. The Joint Parties filed Joint Opening Comments on November 19, 2009. No reply comments were filed.

### 3. Discussion

This proceeding resolves ~~four~~[three](#) issues concerning the Sempra Settlement and Price Indexing Cases Settlement: 1) an allocation methodology for net proceeds to core gas customers from the Sempra Settlement; 2) whether the percentage shares for the Sempra Settlement should be used for the Price

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<sup>4</sup> [This settlement initially was to be distributed in eight annual installments but the proceeds instead were paid on an accelerated basis. The amount available for distribution will be determined after a final accounting for interest earned and final expenses. The money set aside to cover expenses, \\$180,000, is not included in the \\$62.6 million.](#)

<sup>45</sup> The parties noted that the core procurement portfolios of SoCalGas and SDG&E were combined in 2008 and are now managed by SoCalGas. The parties recommended that the settlement proceeds owed SoCalGas and SDG&E be paid to SoCalGas, which would allocate the amounts to both groups of core customers.

Indexing Cases; ~~3) whether the same methodology should be used for all Sempra Settlement installments; and 4 and 3)~~ implementation issues (Tier 1 advice letter filing, income tax consequences, and impact on incentive mechanisms) for both settlements. A fourth issue, whether the same methodology should be used for all Sempra Settlement installments, is moot since the settlement proceeds have been paid on an accelerated basis. Methodologies and implementation procedures are based on similar processes adopted in Decision (D.) 03-10-087, concerning the El Paso Refund Settlement. The parties concur on all issues.

### **3.1. Allocation Methodology for Sempra Settlement**

The El Paso Refund Settlement methodology adopted in D. 03-10-087 was refined in the Sempra Settlement.<sup>56</sup> The El Paso settlement methodology was adopted on an urgent basis in approximately 60 days. The percentages for the Sempra Settlement were based on the El Paso settlement methodology as refined by Recon Research Corporation after extensive analysis of the damages and using more accurate, recent data. The allocation was based on the relative damages to each core class calculated in the damage assessment prepared for trial.<sup>67</sup> The Sempra Settlement allocates core gas proceeds to PG&E (46.7%), SDG&E (14.42%), SoCalGas (31.49%), SWG (3.32%), and Long Beach Gas (4.07%). The Superior Court for San Diego County determined that these percentages represented a fair and equitable distribution.

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<sup>56</sup> The El Paso Settlement resulted from litigation concerning high natural gas and electricity prices during the period March 1, 2000 through May 31, 2001. The portion of the settlement addressing electricity prices is not at issue in this proceeding.

<sup>67</sup> November 19, 2009, Joint Comments, at 3.

In D.03-10-087, the Commission found the El Paso Refund Settlement allocations reasonable, based on the respective throughput for core gas customers for each of the regulated utilities and Long Beach Gas. The Joint Parties support the Sempra Settlement's refinement of the El Paso Refund Settlement allocations, and no party opposes that allocation methodology. Thus, we find the refined Sempra Settlement allocation methodology reasonable and adopt an allocation of the core gas proceeds from the Sempra Settlement to PG&E (46.7%), SDG&E (14.42%), SoCalGas (31.49%), SWG (3.32%), and Long Beach Gas (4.07%) for the benefit of each utility's core gas customers.

SoCalGas and SDG&E's core procurement portfolios were combined in 2008, in accordance with D.07-12-019, and SoCalGas manages the combined core portfolio under one Purchased Gas Account (PGA). SoCalGas and SDG&E support payment of settlement proceeds owed to SoCalGas and SDG&E to SoCalGas. SoCalGas then will allocate the proceeds to both groups of core customers through adjustments to its PGA in a manner consistent with the adopted individual allocations. Direct payment to SoCalGas and allocation under its PGA is simpler than developing a new mechanism for allocation after direct payment to SDG&E. No party opposes this proposal. Thus, it is reasonable to pay settlement proceeds owed to SoCalGas and SDG&E to SoCalGas and require SoCalGas to allocate those proceeds to both groups of core customers through its PGA, consistent with the adopted allocations.

### **3.2. Allocation Methodology for Price Indexing Cases**

The San Diego County Superior Court did not adopt an allocation for the Price Indexing Cases Settlement. The Joint Parties support use of the Sempra Settlement allocation percentages, because the Price Indexing Cases relate to a very similar time period and involve the same classes of customers and utilities,

and the Sempra allocation percentages were adopted by the San Diego County Superior Court. No party opposes use of the same allocation methodology, and there is no basis for adopting a different methodology. Thus, we find the refined Sempra Settlement allocation methodology reasonable for the Price Indexing Cases Settlement and adopt allocation of the core gas proceeds to PG&E (46.7%), SDG&E (14.42%), SoCalGas (31.49%), SWG (3.32%), and Long Beach Gas (4.07%) for the benefit of each utility's core gas customers. We also find it reasonable to pay settlement proceeds owed to SoCalGas and SDG&E to SoCalGas and require SoCalGas to allocate those proceeds to both groups of core customers through its PGA, consistent with the adopted allocations.

### ~~3.3.—Methodology for Sempra Settlement Installments~~

~~The Joint Parties support use of the same allocation methodology for all eight annual installments of the Sempra Settlement. Although the installments will be paid in the future, the Joint Parties support use of the same methodology to avoid any intergenerational inequities that might occur if differing levels of throughput were used in the future. No party opposes use of the same percentage share allocation for the current and future installments. Because the percentage allocation methodology adopted in D.03-10-087 was updated with recent data, it is reasonable to adopt the Sempra Settlement percentage allocation for all eight installments.~~

### 3.3. ~~3.4.~~ Implementation of Settlements

The Joint Parties support implementation of the Sempra Settlement and Price Indexing Cases Settlement refunds through a Tier 1 advice letter. The advice letter filings will comply with this decision, and the tariff changes will be based on this decision. The Joint Parties recommend that an "Attachment A" that specifies accounting and ratemaking treatment for the Sempra Settlement

and Price Indexing Cases proceeds be adopted with this decision.<sup>78</sup> This proposed attachment is based on a similar Attachment A to D.03-10-087 and is updated as necessary to incorporate changes in circumstances and procedures.

The proposed “Attachment A” specifies that the adopted ratemaking treatment satisfies Pub. Util. Code § 453.5’s refund requirements. The settlement considerations attributable to core gas customers should be credited to each utility’s PGA net of upfront payments for some few customers (*e.g.*, core-elect, core-subscription, core aggregation, and PG&E limited wholesale transportation). The monthly procurement rate for SoCalGas and SDG&E would include a credit based upon settlement proceeds awarded individually to SoCalGas and SDG&E. ~~Each~~The Sempra Settlement ~~annual installment~~proceeds would be returned to the utility’s customers over a single winter month by including the settlement proceeds as a credit in the separate core procurement rates for each utility using the demand forecast for that month. The proposed “Attachment A” includes procedures for core-elect and core-subscription customers to claim refunds.<sup>89</sup> Each utility should book the proportional share of the refunds to core aggregation transportation customers, if applicable, in the Federal Energy Regulatory Commission Settlement Proceeds Memorandum Account for SoCalGas or a similar account established by other utilities.<sup>910</sup> PG&E

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<sup>78</sup> Joint Parties’ Comments, at 6 and Appendix A.

<sup>89</sup> Each utility shall submit an advice letter with a proposed refund plan for core-elect and core subscription customers during the relevant settlement periods. Allocation shall be based on the same percentages used in implementing the El Paso Refund Settlement, which were based on the customer’s purchases during the period at issue, as reflected in their bills.

<sup>910</sup> The memorandum account balance will be used to partially offset the utility’s allocated revenue requirement recoverable in the authorized tariff rate for the core

*Footnote continued on next page*

wholesale transportation customers should be treated in a manner similar to that adopted for core-elect and core-subscription customers.

Income tax effects and incentive mechanisms also are addressed in the proposed "Attachment A." Income tax effects should be handled in the same manner as in D.03-10-087. Refunds should have no tax effect on the utilities. If adverse tax effects occur as a result of allocation of the Sempra Settlement and Price Indexing Case proceeds, the utilities should be authorized to propose the most efficient tax treatment: either 1) adjustment of the consideration such that only the net revenues are credited to ratepayers; 2) allowing cost recovery of any tax liability in the next appropriate ratemaking proceeding; or 3) authority to create a memorandum account to track adverse tax implications until addressed in a ratemaking proceeding.

The Joint Parties recommend that the utilities should not receive any unintended or unearned benefit or detriment through their incentive mechanisms, if applicable. All consideration received by the utilities pursuant to the settlements should be neutral with respect to utility incentive mechanisms. The Commission should direct the utilities to calculate incentives as if the settlement payments had not occurred.

No party opposes advice letter treatment, the ratemaking proposals contained in the proposed "Attachment A" for core-elect, core-subscription and wholesale customers, and proposals for tax effects and impact on incentive

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aggregation transportation charge in the next appropriate ratemaking proceeding. These customers will receive a proportional share of the settlements' consideration based on their class's share of the utility's total system natural gas throughput, excluding noncore volumes, and on the percentage used in implementing the El Paso Refund Settlement.

mechanisms. These procedures are based on those adopted in D.03-10-087 and are updated as necessary to reflect current circumstances and processes. It is reasonable to adopt those implementation procedures for the Sempra Settlement and Price Indexing Cases Settlement and to specify the procedures adopted in "Attachment A" to this decision entitled Adopted Accounting and Ratemaking Treatment.

#### 4. Comments on Proposed Decision

The proposed decision of Administrative Law Judge (ALJ) Grau in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on ~~\_\_\_\_\_~~ January 11, 2010, by the Joint Parties and the counsel, Brad N. Baker and R. Thomas Beach, for the Settlement Classes of core natural gas ratepayers and reply comments were filed on ~~\_\_\_\_\_~~ by \_\_\_\_\_ January 19, 2010.

#### 5. Assignment of Proceeding

Timothy Alan Simon is the assigned Commissioner and Janice L. Grau is the assigned ALJ in this proceeding.

#### Findings of Fact

1. Core gas proceeds ~~of eight installments~~ of approximately \$~~7.85~~62.6 million ~~plus interest~~ will be received from the Sempra Settlement and a net amount of approximately \$50.5 million will be received from the Price Indexing Cases Settlement.

2. The Sempra Settlement approved allocation percentages of the core gas proceeds to PG&E (46.7%), SDG&E (14.42%), SoCalGas (31.49%), SWG (3.32%), and Long Beach Gas (4.07%).

3. The Sempra Settlement refines the El Paso Refund Settlement methodology adopted in D.03-10-087 by using more accurate and recent data.

4. SoCalGas and SDG&E's core procurement portfolios were combined in 2008, in accordance with D.07-12-019, and SoCalGas manages the combined core portfolio under one PGA.

5. The San Diego County Superior Court did not adopt an allocation for the Price Indexing Cases Settlement.

6. Attachment A to D.03-10-087 specified accounting and ratemaking treatment for the El Paso Refund Settlement.

7. Attachment A to this decision specifies accounting and ratemaking treatment for the Sempra Settlement and Price Indexing Cases Settlement proceeds.

8. Settlement proceeds should have no tax effect on the utilities.

### **Conclusions of Law**

1. Sempra Settlement and Price Indexing Cases Settlement proceeds allocated to core gas customers should use the following percentages: PG&E (46.7%), SDG&E (14.42%), SoCalGas (31.49%), SWG (3.32%), and Long Beach Gas (4.07%). ~~The allocation methodology should not change for the eight Sempra Settlement installments.~~

2. Settlement proceeds owed to SoCalGas and SDG&E should be paid to SoCalGas and SoCalGas should allocate those proceeds to both groups of core customers through its PGA, consistent with the adopted allocations.

3. Utilities should not receive any unintended or unearned benefit or detriment through their incentive mechanisms as a result of the settlements.

4. The accounting and ratemaking treatment proposals contained in Attachment A to this decision are reasonable and should be adopted.

**O R D E R****IT IS ORDERED** that:

1. Core gas proceeds from the Sempra Settlement (Pipeline Cases) and Price Indexing Cases Settlement are allocated as follows: Pacific Gas and Electric Company (46.7%), San Diego Gas & Electric Company (14.42%), Southern California Gas Company (31.49%), Southwest Gas Company (3.32%), and Long Beach Gas and Oil Department (4.07%).
2. Sempra Settlement (Pipeline Cases) and Price Indexing Cases Settlement proceeds owed to Southern California Gas Company and San Diego Gas and Electric Company shall be paid to Southern California Gas Company, and Southern California Gas Company shall allocate those proceeds to Southern California Gas Company's and San Diego Gas & Electric Company's core customers through Southern California Gas Company's Purchased Gas Account consistent with the allocations adopted in Ordering Paragraph 1.
3. Attachment A to this decision, Adopted Accounting and Ratemaking Treatment, is adopted to establish refund methodology procedures including any payments to core-elect, core-subscription, core aggregation and wholesale transportation customers.
4. The core gas proceed allocations adopted in Ordering Paragraphs 1 and 2 shall have no tax effect on Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Gas Company, and Southwest Gas Company. If adverse tax effects occur as a result of the adopted allocations, the utilities are authorized to propose the most tax efficient treatment.
5. Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Gas Company, and Southwest Gas Company shall calculate incentives pursuant to their respective incentive mechanisms as if the Sempra

Settlement (Pipeline Cases) and Price Indexing Cases Settlement proceeds had not been received.

6. Within 30 days of the date this order is mailed, respondent utilities Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, Southern California Gas Company, and Southwest Gas Corporation shall file and serve a Tier 1 Advice letter or Advice letters, to propose refund plans and amendments to their tariffs as needed to implement the accounting and ratemaking treatment adopted in Ordering Paragraphs 1, 2, and 3. The Advice letter(s) shall be in compliance with General Order 96-B.

7. Rulemaking 09-07-029 is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.

## ATTACHMENT A ADOPTED ACCOUNTING AND RATEMAKING TREATMENT

### 1. OVERVIEW

Consistent with the methodology adopted in Decision (D). 03-10-087 to distribute El Paso Settlement proceeds in this case we also adopt a simple, direct, uniform and minimalist approach, and use existing accounting mechanisms, to the fullest extent possible.

The methodology described below adopts the accounting and ratemaking treatment used for the El Paso Settlement wherever practicable for distribution of Sempra Settlement and the Price Indexing Cases Settlement proceeds, and is modified only where necessary due to revised circumstances. The provisions of California Public Utilities (PU) Code § 453.5 are satisfied under this process, given the impracticability of tracking the customers harmed during the energy crisis and the explicit authorization for the Commission under § 453.5 to authorize refunds based on current usage.<sup>4011</sup>

Therefore, we adopt an accounting and ratemaking approach that has been tested, in large part under the El Paso Settlement process; is simple, direct and

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<sup>4011</sup> Section 453.5 provides: “Whenever the commission orders rate refunds to be distributed, the commission shall require public utilities to pay refunds to all current utility customers, and, when practicable, to prior customers, on an equitable pro rata basis without regard as to whether or not the customer is classifiable as a residential or commercial tenant, landlord, homeowner, business, industrial, educational, governmental, nonprofit, agricultural, or any other type of entity. For the purposes of this section, ‘equitable pro rata basis’ shall mean in proportion to the amount originally paid for the utility service involved, or in proportion to the amount of such utility service actually received. Nothing in this section shall prevent the commission from authorizing refunds to residential and other small customers to be based on current usage.”

uniform; conserves limited resources; is consistent with the PU Code; and promotes an equitable and reasonable outcome.

## 2. REFUND METHODOLOGY

### 2.1. Purchased Gas Account for PG&E, SDG&E, SoCalGas, and SWG

Sempra Settlement and Price Indexing Cases Settlement consideration attributable to core gas customers shall be credited to each utility's respective purchased gas account (PGA). The first payment recorded to the PGA shall be net of up-front payments for some few customers (e.g., core-elect, core-subscription, core aggregation, Pacific Gas and Electric Company (PG&E) limited wholesale transportation).

The core procurement portfolios of Southern California Gas Company (SoCalGas) and San Diego Gas & Electric Company (SDG&E) were combined in 2008 in accordance with D.07-12-019. As a result, Sempra Settlement and Price Indexing Cases Settlement proceeds received for both SoCalGas and SDG&E will be aggregated and recorded as a credit to the combined PGA managed by SoCalGas. SoCalGas will make appropriate changes to its Preliminary Statement to incorporate the recording of this transaction in the PGA.

To ensure core procurement customers of SoCalGas and SDG&E separately receive the appropriate monies allocated under the Sempra Settlement and the Price Indexing Cases Settlement, the monthly procurement rate for SoCalGas and SDG&E will include a credit based upon settlement proceeds awarded individually to SoCalGas and SDG&E.

~~Each annual installment for the~~The Sempra Settlement proceeds will be returned to the respective respondent utility's customers over a single winter month by including the settlement proceeds as a credit in the separate core procurement rates for each utility using the demand forecast for the month that

the proceeds will be returned. ~~If Sempra prepays some or all of the Sempra Settlement proceeds, the annual installment for the prepayment year will be increased by the amount of the prepayment.~~

## **2.2. Core-Elect and Core-Subscription Customers**

To the extent that core-elect and core-subscription customers are eligible to submit claims in the Superior Court's claims process for noncore customers, they are entitled to submit such claims pursuant to the Court's process. As such, they shall not receive a duplicative share of the California natural gas utilities' consideration under the Sempra Settlement and the Price Indexing Cases Settlement. To the extent core-elect and core-subscription customers were purchasing gas from utilities' core portfolio, they are eligible for a portion of the consideration from the Sempra Settlement and the Price Indexing Cases Settlement through their natural gas utility using the Commission-adopted process.

The process is that each gas utility shall submit an Advice Letter with a proposed refund plan for the affected core-elect and core-subscription customers. The refund plan shall be a pro rata share of Sempra Settlement and Price Indexing Cases Settlement consideration to noncore customers who are currently not core-subscription customers but who were core-elect or core-subscription for some part or all of the relevant settlement periods, which are July 1, 2000, through July 31, 2001, for the Sempra Settlement and January 1, 1999, through December 31, 2002, for the Price Indexing Cases Settlement. The allocation to core-elect or core subscription customers will be based on the same percentages used in implementing the El Paso Settlement. The El Paso Settlement refund percentages were based on the customer's purchases from the utility's core portfolios (in therms) during the period at issue, as reflected on their bills, and

would be the appropriate basis for allocating the refunds associated with the Sempra Settlement and the Price Indexing Cases Settlement. The refund (or credit) shall be allocated to a fractional cent per therm for all throughput. The refund plan shall be based on paying the net present value of the refund (or credit) over a period of no more than 12 months.<sup>412</sup> Utility refunds (or credits) shall be booked to the PGA as an expense. Once the refund is complete, any remaining balance shall be transferred to the PGA.

### **2.3. Core Aggregation**

Each gas utility which has core aggregators transporting natural gas on the utilities' facilities shall book the proportional share of the Sempra Settlement and Price Indexing Cases Settlement consideration attributable to core aggregation transportation (CAT) customers in the Federal Energy Regulatory Commission (FERC) Settlement Proceeds Memorandum Account (FSPMA) for SoCalGas or a similar account established by the other utilities, if appropriate.<sup>4213</sup> If necessary, the respective utility will make appropriate changes to its Preliminary Statement to incorporate the recording of this CAT transaction. At the next appropriate ratemaking proceeding, the memorandum account balance shall be used to

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<sup>412</sup> For simplicity, the utilities will use the 7.86% discount rate used in calculating the net present value of the refunds allocable to core subscription and core aggregation customers. This is the same discount rate authorized in Resolution G-3363 for the net present value calculation of the El Paso Settlement refunds allocated to these classes of customers.

<sup>4213</sup> For SoCalGas, this account was originally established as the El Paso Settlement Proceeds Memorandum Account (EPSPMA) to record the El Paso Settlement refund allocable to CAT customers. The account was subsequently renamed to the FSPMA to record other FERC refunds associated with the 2000-2001 energy crisis pursuant to the Commission's approval of SoCalGas Advice No. 3614.

partially offset the utility's allocated revenue requirement recoverable in the authorized tariff rate for the core aggregation transportation charge.

Core aggregation customers shall receive a proportional share of the California natural gas utility's Sempra Settlement and Price Indexing Cases Settlement consideration based upon their class's share of the utility's total system natural gas throughput, excluding noncore volumes, for the 12 months immediately prior to the time that the utility first receives the consideration.

However, since the relative percentage of CAT throughput to total core throughput does not significantly change from year to year, the allocation to core aggregation will be based on the same percentage used in implementing the El Paso Settlement. The Settlement consideration shall be allocated to a fractional-cent per therm for all deliveries, excluding noncore, to all customers served by respondents with the core aggregators' share recorded in the FSPMA until it can be credited against the core aggregation transportation charge.

The amount allocated to core aggregation customers shall be set aside from the initial (up front cash) payments from the Sempra Settlement and Price Indexing Cases Settlement consideration, so that future deferred payments can be allocated 100% to core procurement customers. The refund (or credit) to core aggregation customers shall be paid within 12 months so that in approximately 12 months the transportation rates paid by core aggregation and core procurement customers is equal, or nearly equal to that paid by other core customers. The amount allocated to core aggregation customers shall be calculated based on a net present value of the future payment stream.

#### **2.4. PG&E Wholesale Transportation Customers**

The six customers served on PG&E Schedule G-WSL shall be treated in a manner similar to that adopted for core-elect and core-subscription customers. They

shall receive a proportional share of PG&E's core settlement consideration based upon the wholesale customer class share of PG&E's total system natural gas throughput, excluding noncore volumes, for the 12 months immediately prior to the time that PG&E first receives the consideration. The allocation to wholesale customers shall be taken from the initial (up front cash) payments allocated to core procurement and core subscription customers (so that future deferred payments will be allocated 100% to core customers). The amount allocated to these six wholesale customers shall be calculated based on a net present value. The resulting amount shall be paid as one-time refund to each customer. PG&E shall submit an Advice Letter with a proposed refund plan that is consistent with these principles.

### **3. INCENTIVE MECHANISMS**

The determination of an incentive, if any, under a Commission-adopted utility incentive mechanism shall be calculated as if Settlement payments had not occurred. That is, all consideration shall be treated in a manner to be neutral with respect to utility incentive mechanisms.

### **4. INCOME TAXES**

Sempra Settlement and Price Indexing Cases Settlement consideration shall be treated through balancing and other accounts described herein in a manner to have no tax effect on any respondent utility. Rather, Sempra Settlement and Price Indexing Cases Settlement consideration will offset and pay for costs already otherwise incurred. Revenues shall equal expenses, and there shall be no resulting tax liability.

Nevertheless, if a utility is taxed for Sempra Settlement and Price Indexing Cases Settlement consideration and actual tax payments are required by the Internal Revenue Service or other governmental taxing authority, a utility may at

that time propose (a) adjustment of the consideration such that only the net revenues are credited to ratepayers; (b) allowing cost recovery of any tax liability in the next appropriate ratemaking proceeding; or (c) authority to create a memorandum account to track adverse tax implications until addressed in a ratemaking proceeding.

**5. ADVICE LETTERS**

Each respondent utility shall file a Tier 1 (effective pending disposition) advice letter, or advice letters. The advice letter(s) shall amend the utility's tariffs as necessary to add specific provisions for treatment of the Sempra Settlement and Price Indexing Cases Settlement consideration as directed herein.

**(END OF ATTACHMENT A)**



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