

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Consider the Annual Revenue Requirement Determination of the California Department of Water Resources and related issues.

FILED
PUBLIC UTILITIES COMMISSION
MARCH 10, 2011
SAN FRANCISCO, CALIFORNIA
RULEMAKING 11-03-006

ORDER INSTITUTING RULEMAKING

Summary

This Order opens a new rulemaking as the successor docket to Rulemaking (R.) 09-06-018, to consider issues related to the allocation of the annual revenue requirement determination of the California Department of Water Resources in connection with its procurement of energy for the electricity customers of Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company. R.09-06-018 is closed.

Background

Originally, the California Department of Water Resources (CDWR) annual revenue requirement determinations were addressed in the consolidated proceedings of Application (A.) 00-10-028, A.00-11-056 and A.00-11-038. Subsequently, Rulemaking (R.) 06-07-010 and R.09-06-018 were opened to address the annual revenue requirement determination of the CDWR and issues related to the CDWR power contracts. Since the opening of these two rulemakings, we have issued seven decisions regarding CDWR's revenue

requirements and related issues.¹ Today, we close R.09-06-018 and open this proceeding as its successor. We transfer the record from R.09-06-018 to this new proceeding and bring forward limited remaining issues.

Initiation of Rulemaking

This rulemaking will address the future requests by CDWR to allocate its annual revenue requirement determinations, and to address any issues concerning the servicing orders and operating orders between CDWR and Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), and Southern California Edison Company (SCE).

In addition, this rulemaking will address the issues identified in D.10-12-006, including: 1) development of a process for resolving issues involving current and future negative power charge remittances and reductions in CDWR's operating reserves; 2) incorporating the impact of the recent Sempra settlement into CDWR's revenue requirement determination; and 3) possible future modification of the servicing orders and operating orders between CDWR and the electric utilities.

The above issues and any other issues relating to CDWR's annual revenue requirement determination will be addressed in this rulemaking.

Preliminary Scoping Memo

The purpose of this rulemaking is to consider the annual revenue requirement filing of CDWR and issues related to the administration of CDWR's power contracts.

¹ See Decision (D.) 06-12-035, D.07-03-025, D.07-12-030, D.08-04-051, and D.08-12-006 in R.06-07-010; and D.09-12-005 and D.10-12-006 in R.09-06-018.

The Commission is required to accept CDWR's determination of the annual requirement once CDWR has determined that the revenue requirement is just and reasonable. However, the Commission determines how to recover the revenue requirement from the customers of the investor-owned utilities, and allocates the CDWR revenue requirement to the electric customers of PG&E, SDG&E, and SCE. Consistent with the prior CDWR submissions, we expect that CDWR's 2012 revenue requirement determination will be submitted to us sometime around August 2011, and that a revised determination will be submitted around October 2011.

This rulemaking may also address several issues raised in R.09-06-018 that have not yet been resolved, including: 1) development of a process for resolving issues involving current and future negative power charge remittances and reductions in CDWR's operating reserves; 2) incorporating the impact of the recent Sempra settlement into CDWR's revenue requirement determination; and 3) possible future modifications to the servicing orders and operating orders between CDWR and the electric utilities.

To facilitate our efforts in this rulemaking, we transfer the record in R.09-06-018 into this docket and incorporate that record by reference.

Category of Proceeding

The Commission's Rules of Practice and Procedure (Rules) require that an Order Instituting Rulemaking preliminarily determine the category of the proceeding and the need for hearing.² As a preliminary matter, we determine that this proceeding should be categorized as ratesetting because our

² Rule 7.1(d).

consideration, approval, and allocation of the CDWR revenue requirement will impact the electric rates of PG&E, SDG&E and SCE.³ In the recent annual requests of CDWR to allocate its revenue requirement determinations, evidentiary hearings were not necessary. However, interested parties will have an opportunity to request evidentiary hearings in all future requests by CDWR to allocate its annual revenue requirement determination, so evidentiary hearings may be needed.

As provided for in Rules 7.1(d) and 7.6, any party may file and serve an appeal of the assigned Commissioner's scoping memo on categorization within 10 days of such a ruling.

Preliminary Schedule

CDWR is expected to serve its 2012 revenue requirement determination in August 2011. Based on an August 2011 submission date, and CDWR's likely submission of a revised determination sometime in October 2011, a Commission decision on the allocation of that revenue requirement determination should be issued no later than December 2011 to comply with the 120-day time limit specified in the Rate Agreement between the Commission and CDWR. A prehearing conference will be held shortly after the service of CDWR's 2012 revenue requirement determination to identify the issues and establish a more detailed schedule for this portion of this proceeding.

As for other issues that may be raised that are related to CDWR's revenue requirement or the administration of its power contracts, separate schedules will

³ Rule 1.3(e).

be developed based on when those issues are submitted to the Commission by CDWR.

Parties and Service List

The Commission's Process Office shall create an initial service list for this proceeding and post it on the Commission's website. PG&E, SDG&E, and SCE are made respondents to this rulemaking, and will appear on the official service list. Since this proceeding is the successor to R.09-06-018, we will continue the service list from R.09-06-018, including the existing categories (e.g., party, state service, information only). The Process Office shall serve this rulemaking on the respondents and on the service list in R.09-06-018.

Any person not on the service list interested in participating as a "party" to this proceeding shall comply with Rule 1.4. In accordance with Rule 1.4(c), the assigned Administrative Law Judge may, where circumstances warrant, deny party status or limit the degree to which a party may participate in the proceeding.

Any person interested in monitoring this rulemaking should send a request to the Commission's Process Office, State Office Building, 505 Van Ness Avenue, San Francisco, California 94102 (or by e-mail to process_office@cpuc.ca.gov) asking that his or her name be placed on the official service list for this proceeding as "information only," or "state service." (See Rule 1.9(e).)

Any person interested in participating in this rulemaking, but who is unfamiliar with the Commission's procedures, should contact the Commission's Public Advisor toll free at (866) 849-8390 or in San Francisco at (415) 703-2074, or send an e-mail to public.advisor@cpuc.ca.gov. Deaf or hard of hearing persons may call the TTY line toll free at (866) 836-7825.

Ex Parte Communications

This ratesetting proceeding is subject to Pub. Util. Code § 1701.3(c) and Rules 8.2, 8.3 and 8.4, which prohibit *ex parte* communications unless certain requirements are met. An *ex parte* communication is defined as “any oral or written communication between a decisionmaker and a person with an interest in a matter before the commission concerning substantive, but not procedural issues, that does not occur in a public hearing, workshop, or other public proceeding, or on the official record of the proceeding on the matter.” (Pub. Util. Code § 1701.1(c)(4).) Rule 8.1 define the terms “decision maker” and “interested person.”

Therefore, **IT IS ORDERED** that:

1. This Order Instituting Rulemaking is initiated on the Commission’s own motion to consider the allocations of the future revenue requirement determinations of the California Department of Water Resources (CDWR), and issues related to the administration of CDWR’s power purchase contracts.
2. Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company are made respondents to this proceeding.
3. The issues to be considered in this proceeding are set forth in the Preliminary Scoping Memo section of this rulemaking.
4. The record from Rulemaking 09-06-018 is transferred into this proceeding and incorporated by reference.
5. The category of this proceeding is preliminarily determined to be “ratesetting” as that term is defined in Rule 1.3 of the Commission’s Rules of Practice and Procedure, and evidentiary hearings may be needed.

6. As provided for in Rule 7.6, any appeal as to the categorization of this rulemaking shall be filed no later than 10 days after the date of an assigned Commissioner's scoping memo and ruling on the categorization.

7. The Process Office shall cause this rulemaking to be served on the respondents listed in Ordering Paragraph 2 and on the service list in Rulemaking 09-06-018.

8. The service list shall be respondents and all the persons now on the service list for Rulemaking 09-06-018 and in the same category (i.e., party, state service, information only). Persons who are not on the Rulemaking 09-06-018 service list but who are interested in this proceeding shall follow the procedures specified in the "Parties and Service List" section of this rulemaking. An initial service list for this proceeding shall be created by the Process Office and posted on the Commission's website.

9. *Ex parte* communications in this rulemaking are governed by Pub. Util. Code § 1701.3(c) and Rules 8.2, 8.3 and 8.4.

10. Rulemaking 09-06-018 is closed.

This order is effective today.

Dated March 10, 2011, at San Francisco, California.

MICHAEL R. PEEVEY
President
TIMOTHY ALAN SIMON
MICHEL PETER FLORIO
CATHERINE J.K. SANDOVAL
Commissioners