

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

**ENERGY DIVISION**

**RESOLUTION E-4160  
April 10, 2008**

**R E S O L U T I O N**

Resolution E-4160. This Resolution has been bifurcated in response to a joint party request and now directs Bear Valley Electric Services (BVES), Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric (SDGE), and Southern California Edison Company (SCE) to alter collection of a portion of the public goods charge that funds investments in renewable energy. Issues related to setting a limitation on total costs expended above the Market Price Referent (MPR) for BVES, PG&E, SDGE, and SCE renewable power purchase agreements (PPAs); and eligibility criteria and guidelines for approving requests for Above-MPR Funds (AMFs) for eligible renewable energy contracts procured through competitive solicitations will be adopted later by the Commission after further comments and a workshop.

This Resolution is made on the Commission's own motion.

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**Summary**

**Senate Bill 1036 modifies the amounts BVES, PG&E, SDGE, and SCE are to collect from ratepayers for renewable energy programs and requires the California Public Utilities Commission (Commission) to develop new rules for the Renewables Portfolio Standard Program**

Senate Bill (SB) 1036<sup>1</sup>, effective January 1, 2008, modifies elements of the Renewables Portfolio Standard (RPS) program. SB 1036 eliminates the responsibility of the California Energy Commission (CEC) to award supplemental energy payments (SEPs) to eligible renewable energy resources to cover above-market costs of renewable energy contracts. SB 1036 also requires the CEC to transfer all unencumbered funds in the New Renewable Resources Account<sup>2</sup> back to BVES, PG&E, SDGE, and SCE<sup>3</sup>, and their

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<sup>1</sup> Statutes of 2007, Chapter 685, Perata

<sup>2</sup> SEPs were to be dispersed from funds held in the New Renewable Resources Account.

respective ratepayers. The Commission must ensure that the funds received from the CEC are allocated by the electrical corporations in “a manner that maximizes the economic benefit to all customer classes that funded the New Renewable Resources Account”.<sup>4</sup> SB 1036 further directs PG&E, SDGE, and SCE, the three large investor owned utilities, (IOUs) to alter the amounts of funds collected annually from customers for the public goods charge (PGC) for renewable energy. In addition, SB 1036 directs the Commission to establish, for each electrical corporation, a limitation on the total costs expended above the market price referent (MPR) for the procurement of eligible renewable energy resources procured to satisfy RPS goals. As a result, rather than renewable generators seeking SEPs from the CEC for the above-market costs of RPS contracts negotiated through competitive solicitations, the IOUs are now required to seek above-market cost recovery for eligible RPS contracts procured via a competitive solicitation at the Commission.

This Resolution implements SB 1036 in the following ways:

- 1) Directs PG&E, SDGE, and SCE to adjust their respective Public Purpose Program (PPP) rate components collecting PGC as directed by Public Utilities (Pub. Util.) Code § 399.8 and amended by SB 1036;
- 2) Directs PG&E, SDGE, and SCE to amortize funds transferred from the New Renewable Resources Account, administered by the CEC, in their PPP rate component; and
- 3) Directs BVES to establish an account to record unencumbered renewable funds transferred from the CEC back to BVES. Funds recorded in this account shall accrue interest at the three month commercial paper rate, and shall be amortized in rates and returned to customers beginning no later than April 1, 2009.

The Commission will hold a workshop and request comments on the following issues:

- 1) Establishment of the cost limitation for above-MPR costs that each IOU can expend on the procurement of eligible renewable energy resources solicited through competitive solicitations. The funds that may be applied towards the cost limitation will be called the Above-MPR Funds (AMFs);

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<sup>3</sup> PG&E, SDGE, and SCE were directed pursuant § 399.8 to collect funds from ratepayers via the public goods charge for the New Renewable Resources Account. BVES requested, and was approved (Resolution E-3556), to also collect funds.

<sup>4</sup> Public Resources (Pub. Res.) Code 25743 (b) (2)

- 2) Methodology for the calculation of AMFs requests and the tracking of approved AMFs requests; and
- 3) Eligibility criteria and reasonableness standards for renewable power purchase agreements (PPAs) with above-MPR costs that may be applied toward the cost limitation. The standards are to ensure that the limited amount of AMFs is used efficiently and in a manner that maximizes ratepayer benefit.

## **2. Background**

### **2.1 SB 1078 Established the RPS Program and Set Forth Mechanisms for Funding the Above-Market Costs<sup>5</sup> of RPS Contracts**

The California RPS Program was established by Senate Bill (SB) 1078<sup>6</sup> and codified in California Pub. Util. Code § 399.11, et seq. The statute required that each retail seller of electricity increase its total procurement of eligible renewable energy resources by at least one percent of annual retail sales per year so that 20 percent of its retail sales are supplied by eligible renewable energy resources by 2017. In 2006, SB 1077<sup>7</sup> accelerated the RPS target to reach 20 percent renewable procurement by 2010.

Pursuant to SB 1078 and SB 107, the CEC was authorized to “allocate and award supplemental energy payments” (SEPs) to cover above-market costs of long-term RPS-eligible contracts executed through a competitive solicitation. Prior to SB 1036, long-term contracts negotiated through a competitive solicitation, with above-market contract costs, were eligible to receive SEPs. The SEP award was to be calculated as the net present value of the above-market costs, accounting for the IOU’s TOD profile, over the term of the contract. The statute required that developers seeking above-market costs apply to the CEC for SEPs, and the SEPs were to be disbursed from the New Renewable Resource Account (NRRA).

SB 90<sup>8</sup> established the NRRA within the Renewable Resource Trust Fund, administered by the CEC, to foster new in-state renewable electricity generation facilities. The NRRA

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<sup>5</sup> “Above-market costs” refers to the portion of the contract price that is greater than the appropriate market price referent (MPR).

<sup>6</sup> Chapter 516, statutes of 2002, Sher

<sup>7</sup> Statutes of 2006, Chapter 464, Simitian

<sup>8</sup> Statues of 1997, Chapter 905

was funded via a portion of the Public Goods Charge (PGC).<sup>9</sup> The PGC is a component of the IOUs' Public Purpose Program Revenue Requirements, which is collected from customers in rates authorized by the Commission and described below in more detail.

## **2.2 The Commission Implemented Public Goods Charge Collection Methodologies**

Assembly Bill (AB) 1890<sup>10</sup> codified Pub. Util. Code § 381 and authorized the electrical corporations to collect the PGC in rates for Public Purpose Programs for the period from 1998 to March 2002. The PGC is a nonbypassable rate component intended to fund in part energy efficiency (EE), renewable resource energy technology (Renewables), and public interest research and development (RDD). A portion of the collected funds is remitted to the CEC to fund renewable energy programs and public interest research and development activities. Pub. Util. Code § 381(g) stated that the Commission's authority to collect funds pursuant to that section expired on March 31, 2002. AB 995<sup>11</sup> reauthorized the funding through January 1, 2012 by adding Pub. Util. Code § 399.8.

Prior to the adoption of SB 1036, Pub. Util. Code § 399.8 directed the Commission to order the IOUs to continue to collect funds for the EE, Renewables, and RDD programs from customers through a nonbypassable PGC rate component. § 399.8(d)(1) specified that these utilities were to collect, in aggregate, the following amounts for each year starting January 1, 2002 and ending January 1, 2012:

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<sup>9</sup> SB 90 (Statutes of 1997, Chapter 905), SB 1038 (Statutes of 2002, Chapter 515), and SB 107 (Statutes of 2006, Chapter 464)

<sup>10</sup> Chapter 854, Statutes of 1996, Brulte

<sup>11</sup> Chapter 1051, Statutes of 2000, Wright

**Table 1**  
**Required Yearly Program Funding Starting 2002<sup>12</sup>**  
*(\$ million)*

EE Programs	\$228.0
Renewables	135.0
RDD	<u>62.5</u>
Total	\$425.5

The statute did not specify how much of this annual total was to be allocated among the three largest IOUs<sup>13</sup>, however. Thus, the Commission issued Resolution E-3792 on December 17, 2002. This Resolution set forth the IOUs' funding allocations for the yearly programs from January 1, 2002 through January 1, 2012 to fund investment in the three types of Public Purpose Programs (Table 2).

**Table 2**  
**Allocation to PPP Programs by Utility<sup>14</sup>**  
**2002-2011**  
*(\$ million)*

Utility	<i>EE</i>	<i>Renewables</i>	<i>RDD</i>	<i>Totals</i>
PG&E	\$106.0	\$67.7	\$31.4	\$205.1
SDGE	32.0	12.0	5.5	49.5
SCE	<u>90.0</u>	<u>55.3</u>	<u>25.6</u>	<u>170.9</u>
Totals	\$228.0	\$135.0	\$62.5	\$425.5

Neither § 399.8 nor Resolution E-3792 required BVES to collect a PGC for EE, Renewables, or RD&D programs. BVES, however, filed Application 97-08-064 proposing an \$112,000 rate increase to fund new Public Purpose Programs associated with renewable resource technologies and research and development. Commission Decision 97-12-093 approved the application, and as a result, BVES filed Advice Letter 175-E, requesting approval of its tariffs reflecting the \$112,000 rate increase.<sup>15</sup> The

<sup>12</sup> Commission Resolution E-3792:  
[http://docs.cpuc.ca.gov/PUBLISHED/FINAL\\_RESOLUTION/22164.htm](http://docs.cpuc.ca.gov/PUBLISHED/FINAL_RESOLUTION/22164.htm)

<sup>13</sup> except for the Energy Efficiency programs

<sup>14</sup> Commission Resolution E-3792:  
[http://docs.cpuc.ca.gov/PUBLISHED/FINAL\\_RESOLUTION/22164.htm](http://docs.cpuc.ca.gov/PUBLISHED/FINAL_RESOLUTION/22164.htm)

<sup>15</sup> Advice Letter 175-E was approved by Resolution E-3556.

collected funds were remitted to the CEC, who administered the NRRA pursuant to Pub. Util. Code § 381. In 2004, the Commission issued Resolution E-3856<sup>16</sup> authorizing BVES to continue collection of funds for public purpose programs related to research and development and renewable resource technologies (\$56,000 for RD&D and \$56,000 for renewable programs).

**2.3 SB 1036 Amends Pub. Util. Code § 399.8(d), Pub. Util. Code § 399.15(d), Public Resource Code 25751(b), and Public Resource Code 25743**

The mechanism for awarding above-market costs to eligible renewable energy contracts negotiated through a competitive solicitation was modified on by SB 1036, which became effective on January 1, 2008. The bill eliminates the CEC's authorization, set forth in SB 1078 and SB 107, to "allocate and award supplemental energy payments" to cover above-market costs of RPS contracts. Further, SB 1036 added Pub. Res. Code § 25743, requiring the CEC to transfer the unencumbered funds in the New Renewable Resources Account back to the IOUs by March 1, 2008. SB 1036 also amends Pub. Util. Code § 399.8(d) to eliminate future collection of SEP money from IOU customers by reducing the amount of money IOUs are to collect for the Renewables programs portion of the PGC.<sup>17</sup>

**2.4 Resolution E-4160 is bifurcated and will only address adjustments to rates as required by SB 1036**

The Commission mailed Draft Resolution E-4160 on March 12, 2008. In response, on March 26, 2008, a Joint Party Request for Bifurcation of Issues Addressed in Draft Resolution E-4160 (Joint Party Request) was sent to the Commission's Executive Director. The Joint Party Request was submitted by Pacific Gas and Electric Company; San Diego Gas & Electric Company; Southern California Edison Company; Center for Energy Efficiency and Renewable Technologies; and the California Wind Energy Association. The Joint Party Requests asked the Commission to bifurcate the non-controversial ratemaking issues of the resolution from the issues related to setting a limitation on total costs expended above the MPR, the eligibility criteria, and guidelines for approving requests for AMFs. The request thus had no objection to the Commission adopting the ratemaking components of the Draft Resolution as currently scheduled,

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<sup>16</sup> [http://docs.cpuc.ca.gov/PUBLISHED/FINAL\\_RESOLUTION/35422.htm](http://docs.cpuc.ca.gov/PUBLISHED/FINAL_RESOLUTION/35422.htm)

<sup>17</sup> The aggregate PGC funds to be collected for the Renewables programs from all three large IOUs is reduced from \$135,000,000 to \$65,500,000.

but requested the Commission allow the parties to file further comments and participate in a workshop on the other AMFs issues addressed in the Draft Resolution. In a letter dated March 28, 2008, the Executive Director responded to the Joint Party Request. He stated that the final resolution for Commission consideration at the April 10, 2008 meeting would include the rate-changing issues, but not the issues regarding eligibility criteria and guidelines for approving requests for AMFs. If party comments reveal that total dollar cost limitation is not the subject of significant disagreement, it may also be included in the resolution for the April 10 meeting. The Executive Director requested that parties file comments on all issues in the Draft Resolution on April 1. The Executive Director also stated that Energy Division would hold a workshop on May 7, 2008 on the issues related to AMFs that are not addressed in the more limited final resolution and that an opportunity for pre-workshop comments could be provided.

On March 28, 2008, the Center for Energy Efficiency and Renewable Technologies (CEERT) filed a Motion for Expedited Stay and Withdrawal of Draft Resolution E-4160 (Motion). The Motion asserted that the Draft Resolution addresses important topics in the administration of the RPS program, but does not allow for adequate participation by the parties in the development of the policy decisions embodied in the Draft Resolution. The Motion sought the withdrawal of the Draft Resolution from the April 10, 2008 agenda. It also requested that a process be set up to solicit additional input from the parties on the issues addressed in the Draft Resolution.

On April 6, 2008, Administrative Law Judge Simon issued a Ruling denying CEERT's Motion for Expedited Stay and Withdrawal of Draft Resolution E-4160. The Ruling noted that the Executive Director's response to the Joint Party Request effectively resolved the central concern in the Motion: that the parties have a greater opportunity to participate in the implementation of SB 1036. As noted above, the Commission is considering only limited elements of the Draft Resolution E-4160 and a workshop has been scheduled to allow full consideration of the other issues.

### **3. Discussion**

This Resolution implements SB 1036 in the following ways:

- 1) Directs the IOUs to adjust their respective PPP rate components collecting the PGC;
- 2) Directs the IOUs to amortize funds transferred from the New Renewable Resources Account in their Public Purpose Program rate component;
- 3) Directs BVES to establish an account to record unencumbered renewable funds transferred from the CEC back to BVES.

**3.1. Certain Actions are Required by BVES, PG&E, SDGE, and SCE Pursuant to Amended Pub. Util. Code § 399.8(d) and Public Resource Code § 25743**

**3.1.1. IOUs must alter PGC collection**

Resolution E-3792, pursuant to § 399.8(d), directed each IOU to collect monies from January 1, 2002 through January 1, 2012 to fund investment in energy efficiency, renewable energy, and research demonstration and development projects. SB 1036 amends § 399.8(d); specifically, it alters the amount of money IOUs are to collect for renewable energy programs. We direct PG&E, SDGE, and SCE to file advice letters, within ten days of the date that this Resolution becomes final and non-appealable, to alter collection of a portion of the PGC as directed by § 399.8(d), as amended by SB 1036 which states in part:

*The commission shall order San Diego Gas and Electric Company, Southern California Edison Company, and Pacific Gas & Electric Company to collect these funds commencing on January 1, 2002, as follows:*

*Two hundred twenty-eight million dollars (\$228,000,000) per year in total for energy efficiency and conservation activities, sixty-five million five hundred thousand dollars (\$65,500,000) in total per year for renewable energy, and sixty-two million five hundred thousand dollars (\$62,500,000) in total per year for research, development and demonstration.*

The effective date of the funding adjustment is January 1, 2008. Allocation by IOU of the \$65,500,000 for the Renewables Programs will remain consistent with the allocation set forth in Resolution E-3792, but will reflect the amended total amount to be collected (Table 3). The amended total amount is a 51.5 percent reduction in Renewables program funding, which is the portion of the Renewables program funding that was allocated towards SEPs before SB 1036.

**Table 3**  
**Allocation to Renewables Program by Utility**  
**2002-2011**  
*(\$ million)*

Utility	Renewables
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PG&E	\$32.9
SDGE	5.8
SCE	<u>26.8</u>
Totals	\$65.5

Allocations to energy efficiency and research, development and demonstration programs by IOU have not been modified (Table 4). Thus, collection allocations will remain the same as set forth in Resolution E-3792. Additionally, monies for the RDD program shall continue to be forwarded to the CEC, along with interest earned on collected funds, consistent with the treatment of these funds in § 381. EE programs will continue to be administered by this Commission, pursuant to Pub. Util. Code § 399.4(a)(1).

**Table 4**  
**Allocation to Programs by Utility<sup>18</sup>**  
**2002-2011**  
*(\$ million)*

Utility	<i>EE Programs</i>	<i>RDD</i>
PG&E	\$106.0	\$31.4
SDGE	32.0	5.5
SCE	<u>90.0</u>	<u>25.6</u>
Totals	\$228.0	\$62.5

As stated in Pub. Util. Code § 399.8(d)(2), amounts collected for all programs shall be adjusted annually at a rate equal to the lesser of the annual growth in electric commodity sales or inflation, as defined by the gross domestic product deflator. The methodology for calculating annual adjustments as well as the schedule for filing annual adjustments defined in Resolution E-3792 shall be continued.

The authorized CEC renewable funding effective January 1, 2008, as shown below in Table 5, shall be recorded in the PG&E's, SDGE's, and SCE's applicable Public Purpose Programs balancing accounts. PG&E will record funds in its Public Purpose Program Revenue Adjustment Mechanism; SDGE will record funds in its Renewables Balancing Account; and SCE shall record these funds in its Public Purpose Programs Adjustment Mechanism.

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<sup>18</sup> Commission Resolution E-3792:  
[http://docs.cpuc.ca.gov/PUBLISHED/FINAL\\_RESOLUTION/22164.htm](http://docs.cpuc.ca.gov/PUBLISHED/FINAL_RESOLUTION/22164.htm)

**Table 5**  
**Allocation to Renewables Programs**  
 2008-2011

<b>PG&amp;E</b>	
2007 Authorized CEC Renewable Funding <sup>19</sup>	\$71,888,614
SB 1036 Reduction (51.5%)	<u>-37,022,636</u>
Interim 2008 Authorized Renewable Funding	\$34,865,978
<b>SDGE</b>	
2007 Authorized CEC Renewable Funding <sup>20</sup>	\$13,000,000
SB 1036 Reduction (51.5%)	<u>-6,695,000</u>
Interim 2008 Authorized Renewable Funding	\$6,305,000
<b>SCE</b>	
2007 Authorized CEC Renewable Funding <sup>21</sup>	\$60,955,000
SB 1036 Reduction (51.5%)	<u>-31,392,000</u>
Interim 2008 Authorized Renewable Funding	\$29,563,000

We expect that at least for some portion of 2008, PG&E, SDGE, and SCE will over collect renewables funds since their public purpose program rates that were effective at the beginning of 2008 were set to recover amounts for renewables higher than those authorized by SB 1036. The Utilities are authorized to adjust the authorized revenue requirement in the Public Purpose Program balancing account to reflect the amounts in Interim 2008 Authorized Funding Level effective January 1, 2008. Any over collection of funds for 2008 that results because of the lag between the revenue requirement adjustment and the actual rate adjustment shall be recorded, with interest, in the IOUs' applicable Public Purpose Program balancing accounts and amortized in the Public Purpose Program rate component no later than the next consolidated rate change. We expect that PG&E's and SDGE's next consolidated rate changes will occur on January 1, 2009. SCE's next consolidated rate change may not occur until early in the first quarter of 2009 since it typically consolidates rate changes after its ERRA forecast proceeding is concluded. For SCE, that may not occur until February 2009.

<sup>19</sup> PG&E AL 3022-E ([www.pge.com/nots/rates/tariffs/advice/adviceletters/3022-E.pdf](http://www.pge.com/nots/rates/tariffs/advice/adviceletters/3022-E.pdf))

<sup>20</sup> SDGE AL 1885-E (<http://www.sdge.com/tm2/pdf/1885-E.pdf>)

<sup>21</sup> SCE AL 2113-E (<http://www.pge.com/nots/rates/tariffs/advice/adviceletters/2113-E.pdf>)

SB 1036 does not specifically address BVES since the utility voluntarily elected to collect the PGC. In keeping with the legislation, we direct BVES to reduce annual renewable funding to 48.5% of its current annual level, i.e., from \$56,000 annually to \$27,160 annually (Table 6). Within 30 days of today's date BVES shall reduce rates such that it will collect \$27,160 in 2008. The reduction for 2008 shall take into account that BVES has been collecting funding for renewables in rates during the first 4 months of 2008 (from January 1, 2008 through April 30, 2008, assuming the rate change occurs on May 1, 2008), sufficient to fund \$56,000 annually. Thus, the revised renewables funding rate for the remaining months of 2008 (May through December 2008) shall be lower than it would have been had the rate change occurred on January 1, 2008. On January 1, 2009, BVES shall reset the renewables rate such that it collects \$27,160 for the entire year 2009.

**Table 6**  
**Allocation to Renewables Programs**  
*2008-2011*

<b>BVES</b>	
2007 Authorized CEC Renewable Funding	\$56,000
SB 1036 Reduction (51.5%)	<u>-28,840</u>
Interim 2008 Authorized Renewable Funding	\$27,160

**3.1.2. BVES, PG&E, SDGE and SCE must credit unencumbered renewable funds to customers**

Public Resource Code §25743, as amended by SB 1036, requires the CEC to transfer remaining unencumbered funds in the New Renewable Resources Account to electrical corporations serving customers subject to the renewable energy public goods charge. Additionally, the Commission must ensure that those funds are allocated in a manner that maximizes the economic benefit to all customer classes that funded the New Renewable Resources Account.<sup>22</sup>

The unencumbered funds transferred from the CEC to the IOUs are:

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<sup>22</sup> Public Resources Code § 25743(b)(2)

**Table 7**  
**New Renewables Resource Account Funds Transferred<sup>23</sup>**

Utility	<i>Amount of Funds Transferred</i>
BVES	\$ 213,016
PG&E	\$ 229,010,519
SDGE	\$ 41,198,658
SCE	\$ 191,259,591

The IOUs shall record the funding transferred by the CEC from the New Renewable Resources Account as credits to their applicable Public Purpose Program balancing accounts (i.e., PG&E: the Public Purpose Program Adjustment Mechanism; SDGE: the Renewables Balancing Account; SCE: the Public Purpose Programs Adjustment Mechanism). No later than the next consolidated rate change<sup>24</sup>, the IOUs shall amortize these credits plus accrued interest in the Public Purpose Program component of rates, with the result of a reduction in this component of their rates. BVES shall revise its preliminary statement to establish an account to record the amounts transferred from the CEC. This account shall be effective on today's date. Amounts recorded in this account shall accrue interest at the 3-month commercial paper rate. BVES shall amortize the amounts recorded in in the next rate change, to return these funds to customers.

**3.2 Resolution E-4160 is bifurcated and will only address adjustments to rates as required by SB 1036**

In response to a request filed by Joint Parties, Resolution E-4160 has been bifurcated. The Joint Party Request asked to bifurcate the non-controversial ratemaking issues in the Draft Resolution from the issues related to setting a limitation on total costs expended above the MPR, the eligibility criteria, and guidelines for approving requests for AMFs.

In a letter dated March 28, 2008, the Executive Director accepted the Joint Party Request. He stated that the final resolution for Commission consideration at the April 10, 2008 meeting would include the rate-changing issues, but not the issues regarding eligibility criteria and guidelines for approving requests for AMFs. The issue of which half of the bifurcated resolution the total dollar cost limitation was to be a part of was not

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<sup>23</sup> CEC Resolution 08-0227-9 (Approved February 27, 2008)

<sup>24</sup> For PG&E and SDGE, January 1, 2009; for SCE 1<sup>st</sup> quarter 2009.

determined in Commission's Executive Director's letter. The Commission has decided not to address the calculation of the cost limitation in this Resolution in order to keep rate-changing and AMFs issues separate – the cost limitation will be adopted later with the AMFs issues, after further comments and a workshop.

Thus, the following issues are bifurcated from this resolution and will be adopted at a later time:

- 1) Establishment of the total cost limitation for above-MPR costs each utility can expend on the procurement of eligible renewable energy resources;
- 2) Methodology for an AMF Calculator for the calculation of AMFs requests and the tracking of approved AMFs requests;
- 3) Eligibility criteria for power purchase agreement costs that may be applied to the cost limitation;
- 4) Reasonableness standards for reviewing above-MPR contract costs; and
- 5) Administration rules for AMFs.

## **COMMENTS**

Pub. Util. Code § 311(g)(1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Section 311(g)(2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day comment period for the draft of this resolution was neither waived nor reduced. Accordingly, this draft resolution was mailed to parties for comments at least 30 days in advance of being considered by the Commission.

The Commission has chosen to reduce the 30-day waiting period required by Pub. Util. Code section 311(g)(1) to 29 days because it is in the ratepayer's interest to implement SB 1036. Given the aggressive RPS procurement goals, prompt review of contracts requiring AMF is in the ratepayers best interests. Accordingly, this matter will be placed on the first Commission's agenda twenty-nine days following the mailing of this draft resolution. By stipulation of all parties, comments shall be filed no later than 20 days following the mailing of this draft resolution, reply comments shall be filed no later than 25 days following the mailing, of this draft resolution.

The issues now contained in this Resolution are addressed below. All other comments related to the issues that were bifurcated will be addressed at a future date pursuant to the Commission's Executive Director letter dated March 28, 2008.

On March 21, 2008 and April 1, 2008, timely comments were filed by PG&E, SDGE, SCE, Sempra Utilities, California Manufacturers & Technology Association (CMTA), California Large Energy Consumers Association (CLECA), CEERT, Central California Power, and jointly by California Wind Energy Association (CalWEA) and Concentrated Solar Power Alliance (CSPA). Reply comments were filed by CEERT, PG&E, SDGE and SCE on April 7, 2008.

### **Parties support bifurcation of Resolution**

Parties<sup>25</sup> who filed the Joint Request reiterated in their comments and reply comments their desire to bifurcate the Draft Resolution to allow for timely approval of rate changes and additional discussion on the AMFs issues. Comments from Sempra, CLECA, and CMTA also supported bifurcation of the resolution.<sup>26,27,28</sup> Further, SCE continued to support bifurcating the total cost limitation, while SDGE voiced “no objection” to adopting the total cost limit with the ratemaking issues.<sup>29</sup> In reply comments, however, PG&E, SDGE, and CEERT agreed with SCE’s comments to include the total cost limitation with the AMFs issues related to eligibility, review, and administration.

The Commission bifurcates this Resolution to keep the rate-changing issues separate from all AMFs-related issues. These bifurcated issues are not adopted in this Resolution and will be discussed at the May 7, 2008 workshop.

### **Effective date of Resolution E-4160**

PG&E requested in its opening comments that an effective date of Resolution E-4160 be January 1, 2008 to be consistent with SB 1036 and with PG&E’s Advice letter filed in March 2008 pursuant to Resolution E-3792. The Commission agrees that this is reasonable and has changed the Resolution to reflect an effective date of January 1, 2008 (see pages 16-19, Finding of Fact 13, Conclusion of Law 7, and Ordering Paragraph).

### **BVES, PG&E, SDGE, and SCE must credit unencumbered renewable funds to customers**

CMTA stated that the amended Public Resources Code § 25743(b)(2), which specifies the electrical corporations are to allocate the returned funds “in a manner that

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<sup>25</sup> PG&E, SDGE, SCE, and CEERT

<sup>26</sup> Sempra Comments, April 1, 2008, p. 1

<sup>27</sup> CLECA Comments April 1, 2008, p. 2

<sup>28</sup> CMTA Comments April 1, 2008, p. 2

<sup>29</sup> SCE Comments April 1, 2008, p. 3

maximizes the economic benefit to all customer classes”, was not addressed in the Draft Resolution. Staff acknowledges CMTA’s comment. This Resolution addresses Public Resources Code § 25743(b)(2) by directing the IOUs to amortize in rates the returned funds in a fashion that will benefit all customer classes and maximize the economic benefit. Alternative processes that the Commission could have ordered include a direct payment or credit to ratepayers accounts, but either of those options would be less efficient uses of funds and resources.

## **FINDINGS OF FACT**

- 1) The Public Goods Charge (PGC) is a nonbypassable rate component and is part of the electrical corporations’ Public Purpose Program Revenue Requirement.
- 2) Public Utilities Code § 399.8(d) originally required PG&E, SDGE, and SCE to collect \$425,500,000 per year through the PGC for three types of Public Purpose Programs (PPP): energy efficiency (\$228,000,000), renewable resource energy technology (\$135,000,000), and public interest research and development (\$62,500,000).
- 3) Bear Valley Electric Service voluntarily elected to collect the PGC.
- 4) SB 90 established the New Renewable Resource Account (NRRA), within the Renewable Trust Fund administered by the CEC, to be funded by a portion of the PGC dedicated to renewable resource energy technology programs.
- 5) SB 1078 and SB 107 authorized the CEC to allocate and award supplemental energy payments from the funds dispersed from the NRRA to cover the above-market costs of certain Renewables Portfolio Standard (RPS) power purchase agreements.
- 6) In Resolution E-3792, the Commission established how the collection of the renewable resource energy technology PGC funds should be allocated between PG&E, SDGE, and SCE.
- 7) Pursuant to § 399.8(d)(2), Resolution E-3792 established a methodology for the IOUs to annually adjust the amount of PGC funds collected, and required the IOUs to file advice letters by March 31<sup>st</sup> each year to reflect annual adjustments.
- 8) SB 1036, effective January 1, 2008, modifies sections of the Public Resources Code and Public Utilities Code, affecting the collection of the PGC, eliminating the NRRA, and requiring the CEC to transfer unencumbered funds in the NRRA back to the electrical corporations that had collected the funds.
- 9) As a result of SB 1036, the amended Public Utilities Code § 399.8(d) requires the utilities to collect \$356 million per year through the PGC for three types of PPPs:

- energy efficiency (\$228,000,000), renewable resource energy technology (\$65,500,000), and public interest research and development (\$62,500,000).
- 10) Public Resource Code § 25743, as added by SB 1036, requires the CEC to transfer the remaining unencumbered funds in the NRRRA back to the IOUs by March 1, 2008. On February 27, 2008 the CEC approved the transfer of \$461,681,784 to Bear Valley Electric Services (\$213,016), Pacific Gas & Electric (\$229,010,519), San Diego Gas & Electric (\$41,198,658), and Southern California Edison (\$191,259,591).
  - 11) Public Resource Code Section 25743, as amended by SB 1036, requires the Commission to:  
“ensure that each electrical corporation allocates funds received from the Energy Commission...in a manner that maximizes the economic benefit to all customer classes that funded the New Renewable resources Account.”
  - 12) SB 1036 also amends Pub. Util. Code § 399.8(d) to eliminate future collection of SEPs money from PG&E, SDGE, and SCE ratepayers by reducing the amount of money that IOUs are to collect for the Renewables programs portion of the PGC.
  - 13) The funds to be collected and remitted to the CEC by the utilities under Resolution E-3792 exceed the corresponding amounts required by SB 1036. This resolution directs the utilities to remit only the funds required by SB 1036. The first quarter remittances to the CEC were due no later than March 31, 2008. In order to avoid the need for future refunds from the CEC to the utilities, this resolution is made effective to January 1, 2008.
  - 14) It is reasonable for the Commission to direct BVES to also eliminate future collection of SEPs money.
  - 15) It is reasonable to assume that IOUs will overcollect PGC funds since each IOU is still collecting amounts as required by Resolution E-3792, even though SB 1036 required the IOUs to stop collecting a portion of the PGC.

### **CONCLUSIONS OF LAW**

- 1) BVES, PG&E, SDGE and SCE should alter their retail rates to collect the PGC amounts as required by the amended Pub. Util. Code § 399.8(d).
- 2) Monies for the Renewables and RDD programs should continue to be forwarded quarterly from the utilities to the CEC, along with interest earned on collected funds, consistent with the treatment of these funds in Public Utilities Code § 381
- 3) Using methodologies set forth in Resolution E-3792, the portion of the PGC that should be collected annually for Renewables by PG&E, SDGE, and SCE from 2008-2012 is:

Utility	<i>PGC Collection for Renewables (\$ millions)</i>
PG&E	\$32.9
SDGE	\$5.8
SCE	\$26.8
Totals	\$65.5

- 4) The portion of the PGC that BVES should collect annually from 2008-2012 should be \$27,160.
- 5) BVES, PG&E, SDGE, and SCE should amortize overcollected PGC funds in their applicable public purpose program balancing accounts associated with the reduction in renewables funding required by SB 1036, no later than their next consolidated rate change.
- 6) BVES, PG&E, SDGE, and SCE should record as credits to their applicable public purpose program balancing accounts, unencumbered renewable funds transferred from the CEC, and amortize these credits, with interest, as reductions to their public purpose program rates no later than their next consolidated rate changes.
- 7) Resolution E-4160 should be effective January 1, 2008, the effective date of SB 1036, which changes the utilities' obligation to remit funds to the CEC, so that the utilities are directed to remit the correct amount of public goods charge funds to the CEC beginning the first quarter of 2008.

**THEREFORE IT IS ORDERED THAT:**

- 1) PG&E, SDGE, and SCE shall record, with interest, in their applicable public purpose program balancing accounts, i.e., the Public Purpose Programs Adjustment Mechanism for SCE; the Public Purpose Programs Revenue Adjustment Mechanism for PG&E; and the Renewables Balancing Account for SDGE, a) over collections resulting from 2008 rates recovering more renewables funds than the funding authorized by SB 1036, and b) credits for unencumbered renewables funds transferred from the CEC. The 2008 over collections and the credits for funds transferred from the CEC, including interest, shall be amortized in the public purpose component of rates no later than the utilities' next consolidate rate change. If a utility's next consolidated rate change is delayed

beyond March 31, 2009, amortization of these over collections and credits shall occur no later than April 1, 2009.

- 2) Within 10 days of the date that this Resolution becomes final and non-appealable, PG&E, SDGE, and SCE shall file advice letters to make all necessary tariff changes to comply with this Order. These advice letters shall also describe how and when each utility intends to amortize over collections and credits for renewable funds transferred from the CEC, as recorded in their applicable public purpose program accounts, and provide an estimate of the dollar amount of these over collections and credits. These advice letters shall be effective on filing subject to Energy Division determining that they are in compliance with this Order.
- 3) Monies for the Renewables and RDD programs shall continue to be forwarded quarterly to the CEC, along with interest earned on collected funds, consistent with the treatment of these funds in Public Utilities Code § 381.
- 4) Within 10 days of the date that this Resolution becomes final and non-appealable, BVES shall file an advice letter to revise its preliminary statement to establish an account to record unencumbered renewables funds transferred from the CEC back to BVES. The account shall accrue interest at the 3-month commercial paper rate. Beginning on or before April 1, 2009, BVES shall amortize the amounts recorded to this account, including interest, in its next rate change. The advice letter and revised tariffs shall be effective on the date the funds were transferred from the CEC to BVES subject to Energy Division determining that they are in compliance with this Order.
- 5) Within 30 days of the date that this Resolution becomes final and non-appealable, BVES shall file an advice letter to revise its renewables rate such that it collects \$27,160 for renewables funding in 2008. The advice letter shall be effective within 30 days of today's date subject to Energy Division determining that it is in compliance with this Order. BVES shall reset the renewables rate beginning January 1, 2009 such that it collects \$27,160 in renewables funds over the entire year 2009.
- 6) PG&E, SDGE, and SCE shall each determine the adjusted target funding amounts that result from the adjustment methodology specified in this Resolution. On or before March 31 of each year ending with 2011, each utility shall file an advice letter with the Commission, for review by the staff, that adjusts the authorizations and allocations found in Table 3 and Table 4, consistent with § 399.8(d)(2).

This Resolution is effective January 1, 2008.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on April 10, 2008; the following Commissioners voting favorably thereon:

/s/ PAUL CLANON  
PAUL CLANON  
Executive Director

MICHAEL R. PEEVEY  
PRESIDENT  
DIAN M. GRUENEICH  
JOHN A. BOHN  
RACHELLE B. CHONG  
TIMOTHY ALAN SIMON  
Commissioners