

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

**Item No. 97 ID #2504
RESOLUTION E-3839
August 21, 2003**

R E S O L U T I O N

Resolution E-3839. Pacific Gas & Electric (PG&E), Southern California Edison Company (SCE) and San Diego Gas & Electric (SDG&E) filed tariffs to comply with Ordering Paragraph (OP) 8 of Decision (D.)02-10-063, as modified by D.02-12-082, ordering the utilities to impose bond charges on Direct Access customers held responsible for bond related costs and to amortize over and under payments in the sub-accounts of the Bond Charge Balancing Accounts. Approved with modifications.

By PG&E Advice Letter (AL) 2383-E, SCE AL 1707-E, and SDG&E AL 1500-E, filed on May 27, 2003.

SUMMARY

This Resolution approves with modifications requests by PG&E, SCE, and SDG&E to adjust the Department of Water Resources (DWR) Bond Charge to take into the account the surcharges/surcredits to bundled and Direct Access (DA) customers resulting from the charge now applicable to DA customers, and to transfer the obligation of their respective non-continuous DA customers to an appropriate tracking or memorandum account. Utility-specific requests relating to billing and implementation issues and treatment of other Commission-approved rates are addressed in the Discussion section of this Resolution.

We deny the protest of Modesto Irrigation District (MID) that PG&E's inclusion of a Departing Load (DL) subaccount within its Advice Letter (AL) filing prejudices the outcome of a decision on the applicability of cost responsibility surcharges to DL customers. We find the inclusion of that subaccount in compliance with OP 7 of D.02-10-063 as modified by D.02-12-082 (i.e., the "Bond Charge Decision"), which orders the utilities to "establish sub-accounts to track bond charge payments and responsibilities consistent with the customer usage that R.02-01-011 deems responsible for paying bond-related costs" (emphasis added).

BACKGROUND

On April 30, 2003, the California Supreme Court denied Strategic Energy Ltd. Petition for Writ of Review of D.02-11-022 and D.02-12-027¹, thus rendering the decision to impose the DWR Bond Charge on non-exempt DA customers “final and unappealable”. On May 8, 2003, PG&E sent a letter to Mr. William Ahern, the Executive Director of the Commission, requesting an extension, until May 27, 2003, to file advice letters in compliance with OP 8 of the Bond Charge Decision. On May 9², 2003, SDG&E and SCE made similar requests for an extension of their respective AL filings. In a letter dated May 12, 2003, the Executive Director informed the utilities of the Commission’s approval of their request for this extension.

On May 27, 2003, PG&E, SCE, and SDG&E filed advice letters to comply with Ordering Paragraph (OP) 8 of the Bond Charge Decision. That order required the utilities to impose bond charges on DA customers held responsible for bond related costs and to amortize over and under payments in the sub-accounts of the Bond Charge Balancing Accounts (BCBA). OP 8 of the Bond Charge Decision directed the utilities to file ALs no later than 10 days after a decision to impose the Department of Water Resources (DWR) Bond Charge on non-exempt DA customers becomes “final and unappealable” under R.02-01-011.

Moreover, OP 8 required the utilities to amortize over and under payments of DA charges in the sub-accounts of their respective BCBAs. Further, to comply with OP 6 of the Bond Charge Decision, we directed the utilities to establish these subaccounts to track the cost responsibility, consumption, billed charges, and under or over payments of customer categories which were to have been subsequently specified in a decision issued in R.02-01-011. (pg 4).

Notwithstanding this amortization requirement, the utilities request authority to adjust the DWR Bond Charge to take into the account the surcharges/surcredits to bundled and DA customers resulting from the charge now applicable to DA customers, and to transfer the obligation of their respective non-continuous DA customers to an appropriate tracking or memorandum account. OP 8 of the Bond Charge Decision ordered the utilities to include as part of their AL filings amortization proposals for the treatment of the DA undercollection. As the proposed regulatory accounting treatment of

¹ Modification of D.02-11-022, for purposes of clarification and correction of typographical errors.

² PG&E letter dated May 8, 2003.

this obligation differs from that which is proscribed in the Decision, we hereby effect approval of these AL filings by Resolution, with modifications.

The Bond Charge Decision ordered the utilities to file amortization proposals which would address the necessary regulatory accounting modifications to DA surcharges and bundled rate surcredits resulting from a final and unappealable decision addressing the DA Cost Responsibility Surcharge (CRS). The amortization proposal was intended to serve as a vehicle for reimbursing bundled customers over time for the shortfall resulting from their financing DA customers' obligation for DWR Bond Charges, prior to a final and unappealable decision regarding DA customer responsibility. Subsequently, D.02-11-022 capped the DA CRS rate at 2.7 cents/kWh, thereby creating an additional shortfall in DA revenue, to be financed by bundled customers. Both sources of the DA shortfall are addressed in the utilities' advice letters.

Based on the methodology adopted in the DWR Bond Charge Decision --an equal cents per kWh charge on all non-exempt consumption -- the DWR Bond Charge has been reduced from 0.513 cents per kWh to 0.444 per kWh. The calculation of DA responsibility was based on a data forecast of total non-exempt bundled service and DA usage (Table I of Appendix A to D.02-12-082), estimated at 170,100 GWh, with the projected statewide estimate of (Bond Charge exempt) continuous DA load of 2,356 Gwh deducted³, for a net service usage of 167,744 GWh. Based on the DWR 2003 Revenue Requirement of \$744.692 million which DWR submitted on November 8, 2002, the revised calculation of the DWR Bond Charge, which now includes DA customer responsibility, is 0.444 cents per kWh.

Application of the 2.7 cent/kWh DA CRS cap

On November 7, 2002, the Commission approved D.02-11-022, adopting a 2.7 cents/kWh DA CRS, applicable to DA customers who took bundled service on or after February 1, 2001. OP 20 of D.02-11-022 required that the 2.7 cents DA CRS cap be applied first in priority to the DWR Bond charge, then the DWR Power Charge, and thereafter, to ongoing Competition Transition Charges (CTC).

³ received into evidence in A.00-11-038

The surcharges adopted in D.02-11-022 hold DA customers responsible for their share of costs, and prevents such costs from being unlawfully and unfairly shifted to bundled utility customers. The decision states that "...DA surcharges must be considered as a means of preventing cost-shifting and the development of these surcharges must be timely. We later clarified that prevention of cost shifting means that "bundled service customers are indifferent." (D.02-11-022, pg 7)]. In sum, charges must be imposed on DA customers sufficient to ensure that bundled service customers do not bear higher costs due to the migration of customers from bundled to DA service between July 1 and September 20, 2001.

Discussion of the utility-specific application of the 2.7 cents/kwh cap to various charges is addressed in the Discussion section.

NOTICE

Notice of Advice Letters 2383-E (PG&E), 1707-E (SCE), and 1500-E (SDG&E), was made by publication in the Commission's Daily Calendar. The utilities state that a copy of their respective Advice Letters was mailed and distributed in accordance with Section III-G of General Order 96-A. The utilities also served their ALs on parties to A.00-11-038, the docket in which the Bond Charge Decision was issued.

PROTESTS

On June 13, 2003, Modesto Irrigation District (MID) protested PG&E's AL 2383-E. MID protested PG&E's inclusion of a DL subaccount as part of its BCBA provisions, arguing that those provisions are contrary to existing law and are outside the scope of any Commission decision, including R.02-10-063 and D.02-12-082. Further, MID argues that no decision has been issued in R.02-01-011 imposing charges on municipal departing load (MDL), and PG&E's Departing Load Customer subaccount makes no distinction between MDL and generation DL, which is the subject of D.03-04-030. As such, MID argues that PG&E's AL seeks Commission approval of matters outside the scope of any Commission decision, and that it prejudges the outcome of R.02-01-011.

PG&E responded to the MID protest on June 20, 2003, arguing that the protest is misplaced. PG&E states that MID submitted an identical protest to its AL 2336-E, which was subsequently approved by the Commission, effective January 6,



2003. Further, PG&E states that the establishment of a DL subaccount does not prejudice the outcome of the DL phase of R.02-01-011, but rather implements accounting procedures established by the Commission in D.02-10-063.

DISCUSSION

Energy Division staff have reviewed the utilities' advice letters and MID's protest. Discussion of the relevant facts which prompt this Resolution is set forth below.

SCE

SCE proposes that changes to DWR Bond and Power Charges be implemented concurrently with rate level changes authorized in its PROACT Application 03-01-019.

First, SCE proposes to revise the DWR Bond Charge to reflect the revised rate of .444 cents/kWh. SCE proposes to transfer the recorded balance in the DA CRS subaccount of its BCBA – estimated at \$34.8 million, as of August 31, 2003 -- to the DA CRS Tracking Account. This represents the estimated non-continuous DA customers' obligation (undercollection) for DWR Bond Charges from November 15, 2002 to August 31, 2003. The imposition of a 2.7 cent/kWh DA CRS cap represents an additional source of shortfall or undercollection.

For SCE, the 2.7 cent/kWh DA CRS cap is applied according to the following hierarchy: (1) the DWR Bond Charge; (2) SCE's Historical Procurement Charge (HPC); (3) the DWR Power Charge; and (4) above-market URG expenses. D.02-11-022 states that the HPC is "intended to allow the PROACT balance to be recovered from DA customers to the extent they are responsible for those costs that will be incurred." (pg 18)⁴

Prior to a "final and unappealable" decision, 1.7 cents/kWh of the 2.7 cents/kWh cap was attributable to the DWR Power Charge, with the remaining 1 cent/kWh attributable to the HPC. Now that a final decision has been rendered, 0.444 cents/kWh of the 2.7 cent/kWh cap is applied to the DWR Bond Charge, 1 cent/kWh of the cap is attributable to the HPC, and a residual 1.256 cent/kWh applied to DWR Power Charges. SCE expects to recover its

⁴ The amount of the PROACT balance associated with DA undercollection is estimated at \$391 million.



entire outstanding PROACT balance – originally estimated at \$3.577 billion -- by or before August 1, 2003, after which time HPC-designated revenues will accrue in SCE's ERRA Account.

Second, concurrent with changes to the DWR Bond Charge, SCE proposes to revise the DWR Power Charge applicable to its bundled service customers, from \$0.09472 cents per kWh, to \$0.09732 cents per kWh. During the course of 2003, SCE revised its Power Charge remittance rate in accordance with a method adopted in Table C of D.02-12-045 (as modified by Appendix A to D.03-02-031). SCE states that its "offset approach", adopted by the Commission in D.02-11-022 (Section XVI.A.1), renders SCE's bundled service customers indifferent to DA migration subsequent to July 1, 2001, and does not alter the total amount of DWR Power Charge revenues that SCE remits to the DWR.

Ordering Paragraph 3 of Resolution E-3813 directed the utilities to revise their bundled customer power charge remittance rates according to the method adopted in Table C of D.02-12-045, to reflect DA CRS revenues. For the sake of maintaining procedural continuity regarding the calculation of remittance rates, we requested the utilities to file workpapers which show the revised power charge remittance rates according to the adopted method. In this way, DWR shall be made whole from combined bundled and DA remittances, as directed in the Bond and Power Charge and Cost Responsibility Surcharge Proceedings, (i.e., D.02-11-022, D.02-12-045 and D.02-10-063, as modified by D.02-12-082).

Energy Division has reviewed the worksheet that SCE provided in AL 1707-E showing how it recalculated the DWR Power Charge as a result of the imposition of the DWR Bond Charge on DA customers. Energy Division has determined that the method SCE used to compute the charge is consistent with the method adopted in Table C of D.02-12-045. Therefore, we approve SCE's proposal to revise its DWR Power Charge.

Third, SCE requests that the Commission implement these rate changes concurrently with ratemaking changes in its Post-PROACT A.03-01-019. On July 10 the Commission issued D.03-07-029 in that application. SCE expects to recover its outstanding PROACT balance by or before August 1, 2003.

SCE proposes that AL 1707-E become effective on August 1, 2003, to coincide with the expected approval of its PROACT application. However, given the timing of this Resolution addressing SCE's AL, it will not be possible for AL 1707-E to become effective on August 1. As such, we deny SCE's request for an



August 1, 2003 effective date, but note that SCE may implement the requested rate changes on September 1, 2003.

SDG&E

First, SDG&E proposes to revise its BCBA entries to reflect accounting adjustments between bundled and DA customer categories, as a result of the final and unappealable decision to hold DA customers responsible for their share of the DWR Bond Charge. Additionally, SDG&E proposes to transfer the non-continuous DA undercollection in the BCBA – approximately \$6 million through July 2003, plus accrued interest -- to the subaccount of the DA CRS Memorandum Account. The Memorandum Account tracks the shortfall in the DWR Power Charge payments and CTC resulting from the 2.7 cents DA CRS rate cap on non-exempt DA customers. The changes are effected in SDG&E's Schedule for Electric Energy Commodity Cost (EECC), which now reflect an increase of \$0.0069 cents/kWh, the adjustment which reflects the rate differential (0.512 minus 0.444 cents/kWh) for DA charges. SDG&E is proposing a transfer of the undercollection, in lieu of the amortization proposal which OP 8 of the Bond Charge Decision directs.

We approve SDG&E's request, on the condition that the BCBA transfer represent an estimate of DA undercollection plus accrued interest, as of August 31, 2003.

Second, in response to a request by the Energy Division, SDG&E filed workpapers which show a revised bundled customer DWR Power Charge remittance rate, from \$0.9432 cents/kWh to \$0.9584 cents/kWh. This revision is calculated according to the method adopted in Table C of D.02-12-045, and reflects the adjustment for DA CRS revenues.

On June 30, 2003, SDG&E filed Supplemental Advice Letter 1500-E-A, in which it updated its Schedule DA CRS to include a provision exempting CARE and medical baseline customers from the power charge component of the DA CRS. SDG&E has requested a September 1, 2003 effective date for approval of AL 1500-E-A, and we hereby approve this request.

Finally, on August 11, 2003, SDG&E filed reply comments, in response to PG&E's request for an October 1, 2003 effective date for its Advice Letter Filing AL-2383. SDG&E requests the Commission adopt the same effective date for all



the utilities, stating that the DWR Bond Charge is a “statewide rate and should be implemented by all the utilities on the same date, which is consistent with prior revisions to the DWR Bond Charge.”

We disagree with SDG&E’s assertion. While D.02-12-082 ruled that utilities should make changes in their billing systems immediately to facilitate implementation of the Decision, it ultimately acknowledged the varying capabilities and/or limitations of the utilities’ billing systems.

“We note that SDG&E stated that it could implement simple changes within 30 days of a Commission order, and should do so in any event, SDG&E should comply with Ordering Paragraph 5, which gives any utility additional time to implement the line item on the customer’s bill, if needed. (D.02-12-082, Appendix A, pg 37-38)

OP 5 of Appendix A to the D.02-12-082 effectively recognizes the differences in utilities’ operational infrastructure, stating that “any such utility must implement the separate bond charge line item on its customer’s bills **no later than** (our emphasis) February 1, 2003.

Though D.02-12-082 clearly recognizes that the DWR Bond Charge is a statewide charge, it provides the utilities with flexibility in implementation, thereby acknowledging the differences in the utilities’ operational infrastructure.

Finally, balancing account treatment of the DA undercollection, with the time value of money reflected in accrued interest charges, renders the timing of balance transfers neutral and equitable.

Accordingly, we deny SDG&E’s request that the Commission adopt the same effective date for all the utilities.

PG&E

In AL 2383-E, PG&E proposes to establish the Direct Access Shortfall Account (DASA) mechanism to effect payback of the DA undercollection, rather than the use of surcharges and surcredits originally envisioned in the Bond Charge Decision. PG&E states: “Recording the accrued DA undercollection in PG&E’s DASA for future collection from DA customers provides for a straightforward



way of accounting for this debt ". As of the end of April 2003, PG&E estimates a DA undercollection of approximately \$17 million.

We approve PG&E's request to establish the DASA, upon the following conditions: (1) the structure and timing of DWR remittances under the DASA shall comply with operating protocols established in the current PG&E-DWR Servicing Order; and (2) that the amount to be recorded in the DASA shall represent an estimate of DA undercollection, including accrued interest, up to September 30, 2003.

Though DA Care and medical baseline customers are exempt from the Bond Charge⁵, PG&E maintains that it is currently unable to properly reflect these exemptions in the billing process. PG&E states that until it implements bottoms-up billing, it is unable to provide a separate line item for exempt DA Care and medical baseline customers. In the interim, it proposes to bill exempt DA Care and medical baseline customers, subject to refund. The Bond Charge will not be shown separately from the CRS on the bill. PG&E expects to add a line item to DA customers' bill identifying the DWR Bond Charge portion of the DA CRS once it implements bottoms-up billing, when the Commission issues a decision in A.98-07-003.

As such, PG&E proposes that CARE and medical baseline customers continue to pay the full CRS during this interim period, subject to refund. It proposes to defer revising CARE and Medical tariffs at this time.

While recognizing the limitations of PG&E's current billing infrastructure, we must adopt certain measures to maintain parity and consistency in the treatment of exempt and non-exempt customer categories, and to ensure that its DA-exempt CARE and medical baseline customers receive timely refunds. As such, we direct PG&E to effect lump-sum refund(s) or bill credit(s) to its DA-exempt CARE and medical baseline customers, beginning no later than October 1, 2003, of funds collected as a result of DA bond charges, along with interest charges calculated at the three month commercial paper rate as required by D.02-12-082.

We note PG&E's comments of August 6: "There may be the need for subsequent refunds of these customers until the system is enabled to exempt

⁵ The Bond Charge Decision exempts the consumption of CARE-eligible customers and usage by medical baseline.



them from the Power Charge and Bond Charge components of DA CRS.” As such, we order that lump-sum refunds or bill credits be continued on a monthly basis until PG&E’s billing system effectively exempts CARE and medical baseline customers from the DA CRS.

In accordance with Resolution E-3813, approved on July 18, 2003, the amount of the refund shall be equal to the amount of DA CRS revenues received from June 19, 2003 through the date of the refund(s).

Therefore, PG&E’s request to defer refund of DA charges to its DA exempt Care and medical baseline customers is approved, subject to the conditions stated above.

In response to a request from Energy Division, PG&E filed workpapers which show a revised bundled customer DWR Power Charge remittance rate, from \$0.9353 cents/kWh to \$0.09545 cents/kWh. This revision is calculated according to the method adopted in Table C of D.02-12-045, and reflects the adjustment for DA CRS revenues. In its comments of August 6, PG&E notes that it will remit the DA CRS revenue related to the DWR Power Charge upon approval of AL 2328-E-C, filed in compliance with Ordering Paragraph 3 of Resolution E-3813. On July 18, the Energy Division sent PG&E a letter approving this Resolution, and as such we consider remittance of these revenues effected.

Finally, PG&E proposes an AL effective date as of the first day of the month following AL approval, provided that said approval takes place before the 20th of the month. If approval takes place after the 20th of the month, PG&E requests an effective date on the first day of the subsequent month.

On August 6, 2003, PG&E reiterated its request for an October 1, 2003 effective date, stating that “the effect of multiple bill segments will: (1) be visible to customers for up to three months if the DWR Bond Charge is implemented on September 1; and (2) greatly lengthen already complicated bills...”

On August, 12, Energy Division staff submitted a data request asking PG&E to further support its comments by estimating the portion of its customer base which might be adversely impacted by a September 1, 2003 effective date. On August 13, PG&E responded, indicating that given a September 1, 2003 effective



date, approximately 80% of its customer base would be subject to multiple billing cycles⁶.

Given this additional information, we approve PG&E's request for an October 1, 2003 effective date. Moreover, in order to uphold the fundamental principles of parity and consistency in the treatment of customer categories, originally endorsed in D.02-12-082, we have extended the period for PG&E's remittance of the DA undercollection to the DASA to September 30, 2003.

Modesto Irrigation District (MID) Protest

We deny MID's protest regarding PG&E Advice Letter filing 2383-E, and find PG&E in compliance with OP 7 of the Bond Charge Decision, which orders the utilities to "establish sub-accounts to track bond charge payments and responsibilities consistent with the customer usage that R.02-01-011 deems responsible for paying bond-related costs." The OP directs subaccounts for customer categories relevant to the DA CRS decision to be established prior to a final and unappealable decision. In this regard, the inclusion of a DL Subaccount neither presumes the eligibility of this customer category for DA CRS charges, nor does it presume that PG&E will be authorized to collect the bond charge from departing load customers retroactively.

MID's protest is denied.

COMMENTS

Public Utilities Code (PU) section 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. The draft resolution was mailed to parties for comment pursuant to PU Code section 311(g)(1) on July 22, 2003. Comments were filed by SDG&E and PG&E on August 6. SDG&E filed reply comments August 11. Detailed responses to these comments are included in the Discussion section. In all, we have modified the Discussion section, Findings, and Ordering Paragraphs based on the comments received.

⁶ An October 1 effective date would adversely impact 2% of PG&E's customer base.



FINDINGS

1. On May 27, 2003, PG&E, SCE, and SDG&E filed advice letters to assess bond charges on DA customers, in compliance with D.02-10-063 as modified by D.02-12-082.
2. MID protested PG&E's AL-2383-E, on the basis that PG&E's inclusion of a balancing subaccount for DL customers prejudices the outcome of a decision on the applicability of cost responsibility surcharges to DL customers.
3. The Modesto Irrigation District (MID) protest of PG&E's Advice Letter 2383-E is denied.
4. SCE's request to adjust its DWR Power Charges is approved.
5. SCE's request that the Commission implement rate changes concurrent with its PROACT application is denied.
6. SCE's request for an August 1, 2003 Advice Letter effective date is denied; however it is reasonable to allow SCE to implement the AL on September 1, 2003.
7. PG&E's request to defer refund of DA charges applied to its DA-exempt CARE and Medical customers is approved, with conditions described herein.
8. PG&E's request for an October 1, 2003 effective date is approved, subject to the conditions described herein.
9. SDG&E's request for approval of Supplemental Advice Letter 1500-E-A is approved.
10. SDG&E's request that the Commission adopt the same effective date for all three utilities is denied.

THEREFORE, IT IS ORDERED THAT:

1. PG&E, SCE, and SDG&E shall revise the DWR Bond Charge to 0.444 cents/kWh, which represents DA customer obligation to the Bond Charge.
2. SCE and SDG&E (PG&E) shall estimate the DA undercollection, including accrued interest based on the 3 month commercial paper (CP) rate established in the DWR Bond Charge Decision up to August 31, 2003 (September 30, 2003). This undercollection shall be transferred to the Memorandum Account (for SCE and SDG&E) and Balancing Account for PG&E
3. PG&E's AL 2383-E, SCE's AL 1707-E, and SDG&E's AL 1500-E and 1500-E-A are approved with the modifications described in this resolution. These advice letters shall become effective on September 1, 2003. Within 7 days of



today's date, PG&E, SCE, and SDG&E shall supplement their advice letters to make all changes required by this order. These supplemental advice letter filings shall be effective on September 1, 2003 subject to Energy Division determining that they are in compliance with this resolution.

4. Remittance of the DA undercollection shall be conducted in compliance with the existing operating and remittance protocols established in IOU-DWR Operating Agreements and Orders currently approved.

5. PG&E shall effect lump-sum refund(s) or bill credit(s) to its DA-exempt CARE and medical baseline customers, beginning no later than October 1, 2003, of funds collected as per DA charges, along with interest charges calculated at the three month commercial paper rate as required by D.02-12-082. PG&E shall continue to effect refunds or bill credits on a monthly basis until its billing system effects CARE and medical baseline customer exemption from the DA CRS.

This Resolution is effective today.

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 August 21, 2003; the following Commissioners voting favorably thereon:

WILLIAM AHERN
Executive Director