Appendix 1

Summary of Bypass Forecasts for Irrigation Districts and Municipalization Included in PG&E's Bypass Report

Type of Bypass	PG&E Bypass Forecast Through 2000 (MWh)	PG&E Bypass Forecast Through 2001 (MWh)	PG&E Bypass Forecast Through 2002 (MWh)	PG&E Bypass Forecast Through 2003 (MWh)	PG&E Bypass Forecast Through 2004 (MWh)
Traditional Self-Gen	6,285,655	6,289,855	6,296,855	6,303,855	6,310,855
Over-the-Fence	115,226	555,414	555,414	555,414	555,414
Irrigation Districts	351,713	406,500	514,468	588,252	662,052
Municipalization	100,800	104,900	147,025	151,506	155,991
Ag Engines	188,000	190,400	192,800	195,200	197,600
Total	7,041,394	7,547,069	7,706,562	7,794,227	7,881,912

(END OF APPENDIX 1)

Appendix 2

PG&E's Estimated Lost Customers and Sales Due to Customer Bypass to Irrigation Districts 1996-2000

Year	Lost Sales (MWh/yr) To Modesto ID	To Merced ID	Total
1996	1,657	33,059	34,717
1997	37,000	65,581	102,581
1998	70,867	76,342	147,209
1999	97,130	100,176	197,306
2000	114,526	205,213	319,739
5-yr Total	321,181	480,371	801,552
Addl EOY 2000	10%	10%	
2000 (Adj.)	125,979	225,734	351,713
5-yr Total (Adj.)	332,634	500,893	833,526

	Lost Sales (MWh)	Trend Line (MWh)
1996	34,717	20,962
1997	102,581	93,833
1998	147,209	166,705
1999	197,306	239,577
2000	351,713	312,449
2001		385,321
2002		458,192
2003		531,064
2004		603,936
2005		676,808
Intercept	-145,431,072	
Slope	72,872	

Note: Lost customers in 2000 are as of 4/15/00. Lost sales in 2000 are limited to already departed customers projected over the remainder of the year, and will be higher if more customers are lost. "2000 Adj" includes estimated lost sales in 2000 from customers departing after 4/15/00.

Cumulative Bypass Ests. By Year (MWh)	Modesto & Merced Ids (MWh)	Laguna ID Condemnation (MWh)	SSJID Condemnation (MWh)	Other ID Bypass (MWh)	Total ID Bypass (MWh)
2000	351,713	0	0	0	351,713
2001	385,321	0	21,179	0	406,500
2002	458,192	34,885	21,391	0	514,468
2003	531,064	35,583	21,605	0	588,252
2004	603,936	36,295	21,821	0	662,052
2005	676,808	37,021	22,039	0	735,868
			1.0%		

(END OF APPENDIX 2)

Appendix 3

PG&E's Estimated Lost Customers and Sales Due to Customer Bypass to Municipalization

Bypass during 1991-2000 period--annexations by existing munis (MWh)	100,800
Estd. additional bypass during 2001-2005 period--annexations by existing munis (MWh)	20,500
Estd. additional bypass per year during 2001-2005 period--annexation by existing munis (MWh)	4,100
Potential bypass from new muni/ID formation, 2001-2005 (MWh)	
Brentwood	
Davis	250,000
Laguna ID	380,000,000

Cumulative Bypass Estimates by Year	Existing Muni Annexations (MWh)	Potential Condemnations				Estimated Probability of Success	Condemnation Expected Value (MWh)	Total Muni Bypass Estimate Success
		Brentwood (MWh)	Davis (MWh)	San Francisco (MWh)	Total (MWh)			
2000	100,800				0		0	100,800
2001	104,900				0		0	104,900
2002	109,000	250	380,000	0	380,250	10%	38,025	147,025
2003	113,100	260	383,800	0	384,060	10%	38,406	151,506
2004	117,200	270	387,638	0	387,908	10%	38,791	155,991
2005	121,300	281	391,514	0	391,796	10%	39,180	160,480
	Growth rate =>	4.0%	1.0%	2.0%				

(END OF APPENDIX 3)

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ADOPTED MODIFICATIONS TO D.03-07-028

The modifications to D.03-07-028, as set forth below, are hereby adopted in order to conform the text, findings of fact, conclusions of law, and ordering paragraphs to reflect the changes that are adopted in the instant order with respect to the applicability of the CRS to new municipal departing load and to PG&E's transferred load. Page references refer to the original published version of D.03-07-028, which was mailed on July 22, 2003. Deletions are shown as strike-out text. Additions are shown as underlined text.

Page 31:
Last sentence of first full paragraph:
PG&E prepared in August 2000 a multi-year forecast of load departing to Modesto and Merced Irrigation Districts and to other publicly owned utilities which forecast was given to DWR in February ~~June~~ 2001.

Page 35 (Last sentence of first full paragraph):
All bundled customers took energy from the DWR contracts, and except as described below, we find no evidence that DWR actually contracted for less energy procurement based on the belief the current or future load would depart to publicly owned utilities.

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Page 35, (bottom paragraph):

CMUA claims the IOUs independently anticipated a certain level of MDL,[1] and on that basis, some exclusion is warranted from ongoing DWR power charges. PG&E now acknowledges that its August 2000 bypass report (Bypass Report) was incorporated in the load forecast that PG&E provided to DWR in February 2001. The 2000 Bypass Report details specific "transferred load" adjustments to PG&E's load forecast applicable to MDL. Based on the record evidence, it is reasonable to conclude that DWR did not incur costs to serve the "transferred load" component of MDL incorporated in the 2000 Bypass Report. ~~Although IOU witnesses agreed that some implicit effects of municipalization could be embedded within load forecasts, they had no specific knowledge of departing load assumptions relating to municipalization. CMUA failed to offer any specific adjustments to IOU load forecasts representing exclusion or adjustment for MDL. To the extent MDL assumptions may be implicit in the IOU forecasts that were used by DWR, those assumptions would have reduced the aggregate contract commitments made and all affected customers (including MDL) thereby benefit.~~ Given the lack of a record as to any specific load forecast adjustment for MDL other than the adjustment for PG&E "transferred load" incorporated in its 2000 Bypass Report, however, we find no basis to adopt a specific CRS exclusion expressly for MDL customers.

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[1] CMUA Opening Brief for D.03-07-028, p. 45.

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Page 36 (first full paragraph):

Moreover, a specific DWR exclusion applied to MDL (beyond the limited exclusion granted for PG&E's "transferred load") could create a price disparity between the IOUs and municipal utilities that could significantly accelerate the rate of municipalization.

Page 36 (last partial paragraph)

In light of the amended record in this proceeding, we ~~We~~ find ~~un~~persuasive CMUA's argument ~~claiming~~ to the extent that it is inequitable to exclude as certain customer generation load from DWR's ongoing costs, (as contemplated in the proposed Customer Generation Settlement Agreement) while charging the "transferred load" component of MDL as reflected in PG&E's 2000 Bypass Report~~. This argument fails to recognize the~~ There is no substantive difference between the treatment of Customer Generation and the treatment of the "transferred load" component of MDL in PG&E's 2000 Bypass Report ~~versus Municipal Load~~ in DWR's forecasting and contracting practices. While DWR actually forecasted a specific amount of departing load associated with new customer generation, it also relied upon a forecast from PG&E that specifically excluded a quantifiable level of MDL attributable to "transferred load." ~~made no corresponding MDL forecast.~~[2] ~~The amount of customer generation departing load proposed to be exempt from the CRS, by contrast, is directly tied to this DWR forecast.~~ Accordingly, both Customer Generation Departing Load

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[2] DWR/McDonald, Ex. 72, p. 7; RT Vol. 12, pp. 1473 – 1475.

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forecasted by DWR and the "transferred load" component of MDL forecasted in PG&E's 2000 Bypass Report should be treated comparably.

Page 58 (last full paragraph) through page 59:

A common theme is that a customer load on whose behalf DWR procures power bears cost responsibility for DWR charges. DWR procured long term power supplies both for current and future load in the IOU service territories and did not exclude a provision for new municipal departing load, ~~which does not take service from an IOU during the period of DWR cost assessment does not pay a cost responsibility surcharge to that IOU. This is the situation with new municipal departing load.~~ Consistency with our previous decisions suggests that we ~~not~~ impose a CRS on new municipal load, therefore, to avoid cost shifting. these ~~customers unless there is some other compelling basis to do so.~~

AB 117 requires that all retail end-use customers that purchase power from an electrical corporation on or after February 1, 2001 bear a fair share of DWR electricity purchase costs and certain utility costs (Pub. Util. Code, § 366, subd. (d)(1).). While new municipal departing load ~~consists of~~ retail end-use customers, ~~these customers by definition~~ did not purchase power from an electrical corporation on or after February 1, 2001, DWR still entered into long-term power commitments, in part, to serve the needs of future load in the IOU territory, including new municipal departing load.

Additional language in AB 117 states that it is the intent of the Legislature "to prevent any shifting of recoverable costs between customers." It is reasonable to conclude that the fair share of CRS for new or transferred MDL

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should be zero only if there is no cost-shifting. In turn, cost shifting is determined by whether, or to what extent DWR forecasts excluded a particular MDL component from the forecasts upon which it relied in procuring power. As stated in AB 117, the costs at issue are not just the purchase costs incurred in 2001, but the "purchase contract obligations incurred."

Page 60 (second full paragraph) through page 62:

Likewise, in turn, each of the investor-owned utilities acknowledged that they had considered the issue of municipal departing load and understood its influence when developing their respective load forecasts.[3] [4] [5] [6] Yet, with the exception of PG&E's 2000 Bypass forecast of transferred load, none of the three investor-owned utilities identified any measurable forecast amounts attributable to MDL that could be quantified into a separate CRS exclusion.

~~In light of the fact~~ To the extent that DWR relied upon forecasts that excluded ~~considered and assumed (or ought to have assumed)~~ some level of municipal departing load, it would be reasonable to conclude that DWR had not actually incurred costs for ~~all possible~~ those excluded elements of municipal departing load. Since no separate adjustment was made to the forecasts to

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[3] Edison/Payne RT 1658

[4] PG&E/Keane RT 1770

[5] SDG&E/Hansen RT 1836

[6] SDG&E/Hansen RT 1842

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exclude new municipal departing load, however, it is reasonable to conclude ~~,~~ ~~and~~ that DWR did ~~not~~ incur costs for ~~some~~ new municipal departing load.

At the same time, the record does ~~not~~ prove that DWR did not incur any costs for any ~~new~~ transferred load from PG&E's 2000 Bypass Report ~~load that might conceivably end up with a publicly-owned utility.~~ Accordingly, no cost shifting would result from the exclusion of such load from the CRS. On the other hand, the exclusion of new load would result in cost shifting. Scenarios can be considered whereby large amounts of new development or business parks locate in territory that is annexed or expanded into by publicly-owned utilities. Because the level of such activity is unknown, DWR purchases ~~may well have assumed some of~~ would have assumed this load to be utility load, ~~even if a certain level of new MDL was assumed due to historical trends~~. As pointed out by the utilities, there are a number of municipal utilities and irrigation districts that have formed since February 1, 2001 and/or are not currently providing electrical service to customers. There is the potential for considerable expansion of municipal departing load, including new MDL, above historical levels.

Therefore, it is reasonable to establish a CRS policy for new MDL which allows some new MDL to be ~~exempt from~~ subject to CRS~~, but not all~~. ~~A reasonable way to make a distinction is to assume that historical trends will continue with current publicly-owned utilities and to not impose a CRS on new MDL associated with existing publicly-owned utilities (including publicly-owned utilities with non-exclusive service areas)~~. In order to ensure that a loophole is not created that encourages new publicly-owned utilities to develop solely to take advantage of a disparity in rates associated with DWR and

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historical utility cost responsibility costs – to the detriment of remaining IOU ratepayers ~~– it is reasonable to create a different policy for new publicly-owned utilities. Therefore,~~ new MDL ~~served by a new publicly-owned utility~~ will be subject to cost responsibility surcharges. ~~The cut-off date will be determined by whether the publicly-owned utility was established and providing electricity to retail end-use customers on or before February 1, 2001. We note that it is unlikely but possible that existing publicly owned utilities will add large amounts of new MDL, beyond any reasonable forecasted levels. This could have the unintended effect of causing impermissible cost-shifting. If this occurs, we will not hesitate to reconsider this decision.~~

~~It is not clear from the record exactly which existing publicly-owned utilities would be entitled to exceptions from the CRS from this decision. It is our intent that only those publicly-owned utilities with substantial operations in place as of February 1, 2001 gain such benefit. Conversely, if there are any publicly-owned utilities serving minimal numbers of customers (e.g., under 100) which would technically qualify for CRS exceptions, we would choose to close such loopholes because there is too much chance for disproportionate expansion by such entities, expansion which could not reasonably have been considered by DWR.~~

~~Therefore, we will ask the ALJ and/or Assigned Commissioners to issue a Ruling to develop a record so we can clarify the definition of "existing publicly-owned utility" for these purposes.~~

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Findings of Fact

1. Municipal and irrigation district load within an IOU's service territory as it existed on February 1, 2001 constitute load for which DWR undertook purchases pursuant to AB 1X, subject to the exceptions described below.

2. It is ~~not~~ necessary to impose CRS on all new municipal load that is formed in areas that comprised IOU service territory as it existed on February 1, 2001, in order to prevent cost shifting.

Conclusions of Law

1. It is consistent with the intent of D.02-03-055 to impose cost responsibility surcharges on Municipal Departing Load to the extent necessary to prevent cost shifting to bundled customers based on generally similar principles as apply to DA load as set forth in D.02-11-022 and Customer Generation Departing Load as set forth in D.03-04-030.

4. The Commission has authority under AB 1X and AB 117 to impose CRS on Municipal Departing Load that took bundled utility service on or after February 1, 2001 to recover DWR-related costs and to determine each customer's fair share of those costs.

9. Exclusion from the CRS of New MDL does ~~not~~ result in cost-shifting to bundled customers ~~if~~ since DWR did not ~~include~~ exclude this load in its forecast of future utility load. Exclusion from the CRS of transferred MDL reflected in PG&E's 2000 Bypass Report, however, does not result in cost shifting to bundled

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customers because this load was excluded from the load forecast relied upon by DWR.

10. MDL for purposes of applying a CRS should ~~not~~ be defined to include new municipal customer load of existing publicly owned utilities but should be defined to exclude transferred load to the extent reflected in PG&E's 2000 Bypass Report.

13. The elements of cost responsibility as set forth in the order below should be applied to MDL customers in order to avoid cost shifting in accord with the Legislative's intent set forth in AB 117. It is reasonable and consistent with AB 1X and AB 117 to adopt a CRS exclusion for MDL incorporated in PG&E's 2000 Bypass Report, identified as transferred load. Any pending implementation measures associated with the CRS exclusion for transferred load should be addressed in the billing and collection phase of this proceeding.

Ordering Paragraph

6. Transferred MDL that is identified in PG&E's 2000 Bypass Report shall be excluded from the MDL CRS applicable to the PG&E service territory, with the first priority in qualifying for such CRS exclusion applied to the MDL of those publicly owned utilities identified in the Bypass Report. In the case of Merced ID and Modesto ID, the available exclusion shall be allocated in the manner that those two entities have mutually agreed to in this proceeding. ~~New~~ MDL of other existing publicly-owned utilities, as defined in Conclusion of Law 11 shall

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~~not~~ be eligible to apply for any available CRS exclusion that is not otherwise utilized by those entities identified in the PG&E Bypass Report ~~subject to a CRS~~.

(END OF APPENDIX 4)