

Decision **PROPOSED ALTERNATE DECISION OF PRESIDENT PEEVEY**  
**(Mailed 8/5/2004)****BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Southern California Edison Company (E 338-E) for Authority to Institute a Rate Stabilization Plan with a Rate Increase and End of Rate Freeze Tariffs.

Application 00-11-038  
(Filed November 16, 2000)

Emergency Application of Pacific Gas and Electric Company to Adopt a Rate Stabilization Plan. (U 39 E)

Application 00-11-056  
(Filed November 22, 2000)

Petition of THE UTILITY REFORM NETWORK for Modification of Resolution E-3527.

Application 00-10-028  
(Filed October 17, 2000)

**OPINION IMPLEMENTING AN INTERIM ALLOCATION  
OF THE SUPPLEMENTAL 2004 REVENUE REQUIREMENT  
DETERMINATION OF THE CALIFORNIA DEPARTMENT  
OF WATER RESOURCES**

**I. Summary**

This decision adopts an interim cost allocation of the supplemental revenue requirement of the California Department of Water Resources (DWR) for its power purchases in 2004. DWR submitted its original request to the Commission in September, 2003. The Commission allocated that revenue requirement among the customers of Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas and Electric

Company (SDG&E) in D.04-01-028. In April 2004, DWR submitted a supplemental determination of its 2004 revenue requirement to the Commission, updating its revenue requirement and reducing the amount required from ratepayers by \$245 million.

When DWR provides the Commission with a determination of its revenue requirement, we are bound under the Rate Agreement (D.02-02-051) to impose revised Bond Charges and/or Power Charges, as appropriate and necessary, no later than 120 days following the submittal of DWR's request. In order to meet that deadline, this decision allocates, again on an interim basis, the 2004 revenue requirement of DWR as modified by the supplemental determination. The allocation methodology is identical to the interim methodology used in D.04-01-028. The interim allocation adopted today will remain in place until a permanent allocation methodology is adopted.

## **II. Background**

This Commission has previously established allocations for the DWR revenue requirement for 2001-2002 (see, D.02-02-052), and for 2003 (see, D.02-12-045). For DWR's original 2004 revenue requirement request we have continued to use, on an interim basis, the 2003 allocation methodology.

(D.04-01-028, as modified by D.04-02-028.) In this proceeding, we have stated our intention to adopt an allocation methodology applicable to 2004, but also applicable for the remaining term of the DWR power purchase contracts.

On September 19, 2003, DWR submitted its original Determination of Revenue Requirement for 2004 to the Commission. On September 30, 2003 SDG&E filed a Motion to Bifurcate the 2004 proceeding, stating in part that "In order to ensure all parties due process, the final allocation methodology should be litigated on a separate track that permits sufficient time and resources to be devoted to this

endeavor. The procedural schedule also should allow parties time to work towards reaching consensus on this issue.”

Following discussion at the October 2, 2003 PHC, ALJ Allen issued a ruling granting SDG&E’s Motion To Bifurcate (ALJ Ruling dated October 17, 2003, 3). ALJ Allen ruled that the 2004 Revenue Requirement was to be allocated on an interim basis utilizing the allocation methodology set forth in D.02-12-045 and that the final allocation of the 2004 Revenue Requirement would be considered in a second phase (Id.). On January 8, 2004 the Commission issued D.04-01-028, adopting the interim allocation of the 2004 Revenue Requirement (D.04-01-028, p. 3).

Parties did not reach consensus on a permanent allocation methodology, and filed a range of allocation proposals. Opening and reply testimony was submitted by PG&E, SCE, SDG&E, ORA on December 17, 2003, and those parties and DWR submitted reply testimony on January 9, 2004. Evidentiary hearings were held on January 20 and 21, and opening and reply briefs were filed by the three utilities on February 10<sup>th</sup> and 18<sup>th</sup>, respectively.<sup>1</sup>

On April 22, 2004, the Settling Parties submitted a motion for leave to submit their proposed settlement agreement. Parties submitted comments and reply comments on the proposed settlement, along with related procedural motions. SDG&E consistently and vociferously opposed the proposed settlement, while ORA generally supported it. The assigned ALJ allowed for submission of the proposed settlement, granted SDG&E’s request for evidentiary hearings, and ordered the settling parties to present witnesses for cross-examination. Evidentiary hearings on the proposed settlement were held on June 14 and 15, 2004, with parties submitting

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<sup>1</sup> ORA submitted only an opening brief, and DWR submitted a memo concurrently with the parties’ reply briefs.

opening briefs on the proposed settlement on June 25, 2004, and reply briefs on July 2, 2004.

Finally, also in April, 2004 DWR submitted a supplemental determination of its revenue requirement to the Commission, modifying its revenue requirement for 2004 and reducing the amount required from ratepayers by \$245 million.<sup>2</sup> Pursuant to an ALJ Ruling, the parties submitted comments addressing the supplemental determination.

This decision allocates the 2004 revenue requirement of DWR as modified by the supplemental determination.<sup>3</sup>

### III. Discussion

We adopt the interim allocation, and resulting IOU power charges, as shown in Appendix A. This allocation will remain in place until a permanent method is adopted.

We intend to bring back a proposed decision on the issue of the permanent allocation of the DWR power charges at the Commission's next regularly-scheduled meeting. Since only the 2004 allocation is required by statute to be decided within the 120 day period, we make that determination today and will make the permanent allocation in the very near future. In the meantime, we encourage the parties to continue to work toward an all-party settlement.

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<sup>2</sup> The effective submission date of the supplemental determination was April 22, 2004. (See, DWR Letter Memorandum dated May 17, 2004.)

<sup>3</sup> One difference between the two is that they are based on different modeling runs. The original revenue requirement determination was based on Prosym Run 43, while the supplemental determination is based on Prosym Run 45. The allocation adopted today is based on Prosym Run 45, as reflected in Appendix A.

#### **IV. Rehearing and Judicial Review**

This decision construes, applies, implements, and interprets the provisions of Assembly Bill (AB)1X (Chapter 4 of the Statutes of 2001-02 First Extraordinary Session). Therefore, Pub. Util. Code § 1731(c) (applications for rehearing are due within 10 days after the date of issuance of the order or decision) and Pub. Util. Code § 1768 (procedures applicable to judicial review) are applicable.

#### **V. Assignment of Proceedings**

Loretta M. Lynch and Geoffrey F. Brown are the assigned Commissioners and Peter V. Allen is the assigned Administrative Law Judge in these proceedings.

#### **VI. Comments on Proposed Alternate Decision**

The proposed alternate decision of President Peevey was mailed to the parties on August 5, 2004 in accordance with Rule 77.6 (d) of the Commission's Rules of Practice and Procedure. Comments were due on August 12, 2004 and were received from \_\_\_\_\_. Reply comments were due on August 16 and were received from \_\_\_\_\_.

#### **Findings of Fact**

1. DWR's supplemental revenue requirement determination is in compliance with Assembly Bill (AB) 1X (Chapter 4 of the Statutes of 2001-02 First Extraordinary Session).
2. The Rate Agreement requires the Commission to act on DWR's supplemental revenue requirement within 120 days of receipt.

#### **Conclusions of Law**

1. It is reasonable to allocate DWR's supplemental revenue requirement according to the interim method adopted in D.04-01-028 until we adopt a final allocation methodology.

2. This decision construes, applies, implements, and interprets the provisions of Assembly Bill (AB) 1X (Chapter 4 of the Statutes of 2001-02 First Extraordinary Session).

**O R D E R**

**IT IS ORDERED** that:

1. The allocation methodology adopted today for the Department of Water Resources' (DWR) revenue requirement is an interim allocation and will remain in place until a permanent methodology is adopted.
2. Pursuant to D.04-01-028, the allocation methodology is applied retroactively to January 1, 2004.
3. The results of the interim allocation we adopt are set forth in Appendix A.
4. Pub. Util. Code § 1731(c) (applications for rehearing are due within 10 days after the date of issuance of the order or decision) and Pub. Util. Code § 1768 (procedures applicable to judicial review) are applicable to this decision.
5. This order is effective immediately.

This order is effective today.

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