PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ITEM# 42 I.D.# 7988

ENERGY DIVISION **RESOLUTION E-4123**

November 21, 2008

R E S O L U T I O N

Resolution E-4123. Pacific Gas & Electric (PG&E), Southern California Edison (SCE), and San Diego Gas & Electric (SDG&E) request approval of their respective tariffs containing modified Community Choice Aggregation (CCA) Cost Responsibility Surcharge (CRS) calculations pursuant to D.07-01-025, D.07-04-007 and D.07-05-005.

By Advice Letters 3002-E (PG&E), 1881-E (SDG&E), and 2109-E (SCE), filed March 12, 2007. SCE filed supplemental AL 2109-E-A on May 14, 2007, replacing AL 2109-E in its entirety.

SUMMARY

Pacific Gas & Electric (PG&E) and Southern California Edison (SCE) shall modify their proposed Community Choice Aggregation (CCA) Cost Responsibility Surcharge (CRS) tariffs as indicated herein. San Diego Gas & Electric's (SDG&E) AL 1881-E is approved.

PG&E and SDG&E filed Advice Letter (AL) 3002-E and AL 1881-E, respectively, in order to implement modifications to the Community Choice Aggregation (CCA) Cost Responsibility Surcharge (CRS) pursuant to D.07-01-025. SCE filed AL 2109-E-A in order to implement modification to the CCA CRS pursuant to D.07-01-025, D.07-04-007, and D.07-05-005. San Joaquin Valley Power Authority

(SJVPA) protested AL 3002-E and AL 2109-E on April 2, 2007. The City of Cerritos[1] (Cerritos) protested AL 2109-E-A on June 4, 2007.

In its protest of AL 3002-E and AL 2109-E, SJVPA argues that the respective CCA CRS proposals of PG&E and SCE contain material omissions and are inconsistent with, and contradictory to, established Commission decisions.

In its protest of SCE AL 2109-E-A Cerritos asserts that SCE fails to justify the proposed 2004 vintage indifference rate applicable to Cerritos' customers and that the indifference rates applicable to Cerritos' customers are unjust and unreasonably discriminatory.

In a series of decisions (D.07-01-025, D.07-04-007, D.07-05-005 and D.08-09-012), the Commission established a CCA CRS calculation methodology in which all utility contracts are included in a total portfolio calculation, which tracks and nets any negative indifference amount, as part of the CCA CRS calculation and vintaging processes. PG&E and SCE shall modify their proposed CCA CRS tariffs as indicated herein. Cerritos' protest of SCE AL 2109-E-A is denied. SDG&E's CCA CRS tariff, filed via AL 1881-E, is approved.

BACKGROUND

PG&E, SCE, and SDG&E propose to implement Commission directives concerning the calculation of the Community Choice Aggregation Cost Responsibility Surcharge.

The State Assembly passed Assembly Bill (AB) 117 on September 24, 2002[2] enabling cities and/or counties to aggregate the electric load of customers within their respective political boundaries as Community Choice Aggregators. Public

[1] The City of Cerritos is a Community Aggregator (CA) pursuant to AB 80 whose provisions are codified in P.U. Code Section 366.1. The City of Cerritos should not be confused with a CCA, as CCA program implementation requirements are pursuant to the provisions of AB 117 which are codified in P.U. Code Section 366.2.

[2] Made effective on January 1, 2003

Utility (P.U.) Code Section 366.2 codified the provisions of AB 117. Among the various directives found in P.U. Code Section 366.2 is the need for a CCA to file an Implementation Plan (IP) with the California Public Utilities Commission ("Commission").

San Joaquin Valley Power Authority (SJVPA) is a joint powers agency that was formed in the Central Valley for the purpose of implementing the Community Choice Aggregation (CCA) program. SJVPA consists of one county and eleven cities whose combined political boundaries overlap PG&E's and SCE's service territories. SJVPA filed its CCA IP with the Commission on January 29, 2007.[3]

On January 25, 2007 the Commissioned issued Decision (D.) 07-01-025 adopting a methodology for the calculation of the CCA Cost Responsibility Surcharge (CRS). Pursuant to this decision, PG&E filed AL 3002-E, SCE filed AL 2109-E, and SDG&E AL 1881-E on March 12, 2007. These advice letters contain the utilities' respective 2007 CCA CRS calculations.

On April 12, 2007 the Commission issued D.07-04-007 which adopted modifications to the CRS applicable to Cerritos' customers. On May 3, 2007 the Commission issued D.07-05-005, which addressed a petition for modification of D. 06-07-030 – the Commission decision that adopted the methodology for calculating the Direct Access (DA)/Departing Load (DL) CRS; that methodology is also applicable to the CCA CRS calculation.

In response to these decisions, SCE submitted a revised AL 2109-E-A on May 14, 2007, reflecting additional modifications pursuant to D.07-04-007 and D.07-05-005. SCE's AL 2109-E-A replaced AL 2109-E in its entirety.

Since the IOUs filed their CCA CRS advice letters in mid-2007, the Commission adopted a decision it its Long-Term Procurement Proceeding (R.06-02-013) that addressed policies for non-bypassable charges for new world generation.[4] This

[3] The Commission certified SJVPA's IP on April 30, 2007. SJVPA updated its IP twice in order to incorporate modifications following its consultation with PG&E and SCE representatives and to note changes of membership to its joint powers authority. The IP includes information required pursuant to P.U. Code Section 366.2 (c) (3) (A-G); it also includes SJVPA's business plan.

[4] D.08-09-012, issued September 4, 2008

Decision is applicable to CCAs as well as other categories of departing load. This resolution reflects the policies the Commission adopted in that decision.

NOTICE

The utilities' advice letter filings were served on parties in accordance to General Order 96-A, Section III, Paragraph G.

In their respective advice letter filings, each utility states that copies of its advice letter – PG&E AL 3002-E, SCE AL 2109-E and 2109-E-A, and SDG&E AL 1881-E – were mailed to the R. 03-10-003 service list.

PROTESTS

PG&E's AL 3002-E and SCE's AL 2109-E were timely protested by SJVPA on the basis that the utilities' proposals contain material omissions, are discriminatory, and do not comply with Commission directives. The City of Cerritos (Cerritos) also timely protested AL 2109-E-A on the basis that SCE's CRS proposal fails to justify Cerritos customers' indifference rates, and on the grounds that the rates contained therein are unjust and unreasonably discriminatory to Cerritos' customers. Since SCE's AL 2109-E-A replaced AL 2109-E in its entirety, this Resolution considers SJVPA's protests of AL 2109-E to apply to AL 2109-E-A as well, and discusses the two advice letters interchangeably.

SJVPA's Protest

SJVPA protested PG&E AL 3002-E and SCE AL 2109-E on April 2, 2007, as both of these advice letters addressed the CRS applicable to SJVPA's CCA customers. SJVPA protested these advice letters on the following grounds:

1. The utilities' CRS proposals contain material omissions:

    a. PG&E has failed to provide a CRS applicable to CCA customers

    b. SCE has failed to explain or justify the significant yearly increase in the "power charge indifference amount" (PCIA) among different vintages

c. PG&E has failed to provide tariff language addressing key aspects of its CRS proposal

2. The utilities' CRS proposals are unreasonable and discriminatory insofar as they contain inconsistent and contradictory treatment:

   a. SJVPA favors SCE's proposal for determining a CRS vintage and disagrees with PG&E's CRS vintaging proposal

   b. SJVPA favors PG&E's proposal for listing all CRS components

   c. The utilities should be required to explain and justify their differing cost allocation methodologies

3. The CRS proposals contained in PG&E AL 3002-E and SCE AL 2109-E-A, respectively, would violate Commission Orders relating to the use of a negative indifference rate to offset a positive indifference rate

In its protest, SJVPA reserves its right to request evidentiary hearings on CCA CRS calculation matters.

PG&E's response to SJVPA's protest

PG&E responded to SJVPA's protest on April 9, 2007.

First, regarding SJVPA's argument that PG&E has failed to provide a CRS applicable to CCA customers, PG&E responds that the CCA CRS applicable to CCA customers in 2007 is not a placeholder as SJVPA contends. PG&E explains that its charge for generation resource commitments is zero for 2007 and that in 2008 and beyond, the methodology for calculating the CCA CRS may change as a result of the methodology being litigated in the Long Term Procurement Proceeding (LTTP) – R.06-02-013. PG&E notes that the 2007 CRS included in AL 3002-E for CCA customers will not change, unless it is modified by the Commission.

Second, regarding SJVPA's argument that PG&E has failed to provide tariff language that addresses key aspects of its CCA CRS proposal, PG&E states that it did not include tariff language that explains or justifies the "new generation" charge in AL 3002-E because any "explanation or justification would have been premature pending the consideration of the proposals in R.06-02-013."

Third, regarding SJVPA's preference for SCE's proposal for determining a CRS vintage over PG&E's CRS vintaging proposal, PG&E explains that it is not proposing a CRS vintaging approach that differs from SCE's proposal.

Fourth, regarding SJVPA's request that the utilities should be required to explain and justify their differing cost allocation methodologies, PG&E notes that the CTC rates in the Commission's adopted settlement in D.04-02-062 were confirmed and continued pursuant to D.05-11-005

Finally, regarding SJVPA's argument that the respective PG&E and SCE CCA CRS proposals violate the Commission's Orders relating to the use of a negative indifference rate when calculating the CRS, PG&E responds that the negative indifference rate treatment pursuant to D.07-05-005 was not included in AL 3002-E because D.07-05-005 had not been adopted by the Commission when AL 3002-E was filed.

SCE's response to SJVPA's protest

SCE responded to SJVPA's protest on April 9, 2007.

First, regarding SJVPA's protest that SCE has failed to explain or justify the significant yearly increase in the PCIA among different vintages, SCE responds that "the appropriate comparison of CRS across years should be based on the total CRS, or indifference rate, not the PCIA. SCE also states in its response that it will provide confidential information to the Energy Division for the purposes of supporting the SCE's proposed CRS.

Second, regarding SJVPA's preference for PG&E's proposal for listing all CRS components – including the DWR Bond Charge – SCE responds that D.07-01-025 suggests that the CCA CRS consists of only two components: the CTC and PCIA. SCE explains that the DWR Bond is a non-bypassable charge which is a component of SCE's delivery rate, so including this charge in the CCA CRS would result in a double-charging of CCA customers.

Third, regarding SJVPA's request that the utilities should be required to explain and justify their differing cost allocation methodologies, SCE clarifies that the statutory CTC is allocated across rate groups using the Commission-adopted top-100 hours methodology. Since the PCIA is determined by subtracting the statutory CTC (which varies by customer rate group) from the indifference rate

(which doesn't vary by customer rate group), the PCIA ends up differing by rate group.

Finally, regarding SJVPA's argument that the respective PG&E and SCE CCA CRS proposals violate the Commission's Orders relating to the use of a negative indifference rate when calculating the CRS, SCE notes that during the period of its response to SJVPA's protest, the issue of how to deal with a negative indifference rate was still outstanding, awaiting Commission approval of a final decision. SCE indicated that it was willing to modify Schedule CCA CRS accordingly if the Commission adopted the proposed decision.

City of Cerritos' Protest

Cerritos protested SCE's AL 2109-E-A on June 4, 2007, on the following grounds:

1. SCE fails to justify the proposed 2004 vintage indifference rate for Cerritos' customers

2. SCE's proposed 2004 vintage indifference rates for Cerritos' customers are unjust and unreasonably discriminatory

3. The Commission should address SCE's proposed 2004 vintage indifference rate on an expedited basis, separate from other CCA CRS issues

Cerritos also reserves its right to request evidentiary hearing on CRS-related matters until it has had a reasonable opportunity to review SCE's un-redacted cost data used to calculate the CRS, pursuant to Advice Letter Rule 4.1.

SCE's response to Cerritos protest

Edison responded to Cerritos' protest on June 11, 2007.

First, regarding Cerritos' protest that SCE fails to justify the proposed 2004 vintage indifference rate for Cerritos' customers, SCE notes that the supporting data required to verify SCE's calculation for all CRS vintages are confidential and therefore Cerritos is not entitled access to this data. The Energy Division, however, can review the confidential information and confirm the reasonableness of the 2004 vintage Indifference Rate. The Energy Division

received confidential information for review on April 24, 2007. On May 22, 2007 SCE provided Cerritos' representatives with a redacted version of the confidential workpapers that were provided to the Energy Division.

Second, regarding Cerritos' protest that SCE's proposed 2004 vintage indifference rates for Cerritos' customers are unjust and unreasonably discriminatory, SCE recognizes that the CCA CRS included in AL 2109-E-A differs from the CRS adopted for MDL and DA customers. However, SCE disagrees with Cerritos' opinion that the CCA CRS is unreasonable or that it discriminates against Cerritos' customers because the indifference rates accurately reflect the level of CRS necessary to make bundled service customers indifferent to CCA service.

Third, regarding Cerritos' request that the Commission address SCE's proposed 2004 vintage indifference rate on an expedited basis, separate from other CCA CRS issues, SCE responds that Cerritos' request to bifurcate the issues addressed in AL 2109-E-A and address SCE's 2004 vintaged indifference rates on an expedited basis is unnecessary and should be rejected.

DISCUSSION

SJVPA's Protest

PG&E should modify its CCA CRS proposal contained in AL 3002-E in order to be consistent with D.08-09-012.

The first issue raised in SJVPA's protest is that PG&E has failed to provide a CRS applicable to CCA customers.

D.07-01-025 draws upon the DA CRS calculation methodology when determining the CCA CRS calculation methodology. Pursuant to D.07-01-025, PG&E filed AL 3002-E. In this advice letter PG&E states "although PG&E is filing these changes to its CCA CRS tariffs in compliance with D.07-01-025, PG&E also notes that on February 2, 2007 all three Investor-Owned Utilities (IOUs) provided supplement testimony on their long-term plans in Rulemaking (R.) 06-02-013. In this supplemental testimony, PG&E has proposed a 'New Generation' charge, and has proposed that a CCA's vintage be determined by the calendar year in which it provides a Binding Notice of Intent or departs. When the Commission decides on these proposals, PG&E will revise its CCA-CRS tariffs accordingly."

In its protest to AL 3002-E, SJVPA argues that PG&E is not calculating the "actual" CCA CRS. SJVPA states that PG&E has apparently replicated the CRS currently paid by DA customers in PG&E's service territory and applied that calculation to the CRS obligation of the 2007 CRS vintaged CCA customers. SJVPA explains that it does not argue that the CRS applicable to CCA customers could not, or should not, be the same as the CRS applicable to DA customers. Rather, in SJVPA's opinion, PG&E does not explain or justify why the 2007 CRS results are the same for CCA and DA customers when each customer classification should have a unique vintaged CRS.

In light of its disagreement with the CCA CRS representation in AL 3002-E, SJVPA has concerns that PG&E will use what SJVPA believes to reflect a replicated DA CRS and apply it to CCA customers as a "placeholder" CRS until "it is more convenient (for PG&E) to expose the true CRS applicable to a CCA's customers."

SJVPA notes that PG&E refers to testimony in Rulemaking (R.)06-02-013 and appears to explain that once PG&E's proposed New Generation charge is decided in the Long Term Procurement Proceeding (LTPP), the New Generation charge will be a charge added to the CCA CRS shown in AL 3002-E, both of which would be applicable to CCA customers. Furthermore, SJVPA argues that due to PG&E's apparent omission of cost information from the CCA CRS calculation, the actual CRS applicable to a CCA's customers is unknown, violating the Commission's CCA CRS calculation orders pursuant to D.07-01-025. Also, SJVPA argues that the CCA CRS contained in AL 3002-E may not provide SJVPA with a realistic understanding of the actual CCA CRS prior to its formal commitment to provide CCA service.

Based on the above statements, SJVPA argues that PG&E should be directed to supplement AL 3002-E, submitting a CCA CRS that includes "all CRS components." If the Commission chooses not to direct PG&E to file a supplemental CCA CRS calculation, SJVPA argues that PG&E should not be allowed to retroactively change the 2007 CRS calculation once the New Generation charge is determined in the LTPP (R.06-02-013).

In its April 9, 2007 response to SJVPA's protest, PG&E explains that the CCA CRS contained in AL 3002-E are applicable to CCA customers in 2007 only. PG&E indicates that it has calculated a zero charge in 2007 for "generation resource commitments" but that the methodology for calculating this charge in

2008 and beyond may change pursuant to the outcome of the LTPP in R.06-02-013. PG&E acknowledges that "the CCA CRS rates that are proposed in (AL 3002-E) are the same as the CRS rates charged to DA customers for 2007."

With the recent adoption of D.08-09-012, much of the disagreement between PG&E and SJVPA over the proper methodology to employ in order to correctly calculate the CCA CRS appears to be moot. Regarding the CCA CRS calculation, D.08-09-012's "Guiding Principles" section states:

> "With respect to the CRS established by this decision to implement the D.04-12-048 NBC, we are guided by previously established principles used to implement the existing CRSs for DA, CCA, MDL and CGDL."

Further, Ordering Paragraph (OP) 6 of D.08-09-012 states:

> "As described in the body of this decision, the D.04-12-048 NBC shall be implemented as a component of the cost responsibility surcharge (CRS), calculated on a total portfolio basis with the netting of individually calculate[d] annual charges and the carrying over of negative total charges for use in offsetting positive charges in subsequent years."

D.08-09-012 describes the total portfolio approach of calculating the CRS as including pre-restructuring resources[5], DWR power contracts, and new world generation resources.

PG&E should calculate the CCA CRS in compliance with the directives provided in D.08-09-012.

SCE has accurately calculated the vintaged CCA CRS for 2004 through 2007 CRS in AL 2109-E-A.

[5] "Pre-restructuring resources" refer to those current IOU resources that existed prior to March 31, 1998 and are not subject to ongoing CTC treatment. These resources consist principally of the IOUs' retained generation (i.e., hydro, coal and nuclear plants).

The second issue raised in SJVPA's protest is that SCE has failed to explain or justify what SJVPA considers to be the significant yearly increase in the PCIA among different vintages.

The methodology for calculating the CRS adopted in D. 06-07-030, and modified in D. 07-01-030 and D. 07-05-005, is applicable to CCA customers. SCE used the total portfolio method to calculate the CCA CRS in AL 2109-E-A.

SJVPA believes that SCE's vintaged CCA CRS calculations are unreasonably high when compared to the CRS paid by Direct Access (DA) and Departing Load (DL) customers. SJVPA notes that SCE does not provide cost information in AL 2109-E-A in order to support the SCE CCA CRS calculation. SJVPA further states that "SCE's failure to provide this necessary information means that potentially affected parties, like SJVPA and the Commission, are unable to evaluate the reasonableness of SCE's proposed CCA CRS." SJVPA asserts that SCE should be required to provide cost-support data used to develop its proposed PCIA and to expressly justify the significant increase in the PCIA for successive vintages of CCA customers (from 2005 through 2007).

In its response to SJVPA's protest, SCE states that SJVPA is incorrect in its comparison of yearly PCIA, and explains that "the appropriate comparison of CRS across years should be based on the total CRS, or indifference rate, not the PCIA." This is because the CRS is equal to the indifference rate, which in turn is generally defined as the above-market cost of a utility's generation assets and procurement contracts. The vintage of a CRS identifies the generation assets and procurement contracts for which customers retain responsibility even if they are no longer provided generation service by SCE. The vintage for a given year is recalculated annually to reflect both changes in costs of the vintaged portfolio, and the updated market price benchmark for that year. Importantly, SCE notes that "the fact is that the cost of generation resources included in the CRS calculations are the same as those for which bundled service customers are responsible and are closely examined by the Commission in various proceedings" – CCA customers are not responsible for a special subset of generation resources that are priced at higher-than-market costs.

In its response SCE further notes that it was developing workpapers which would contain both public and confidential information and which would be provided to the Energy Division in order for the Energy Division's staff to evaluate the reasonableness of SCE's CCA CRS proposal.

SCE is correct that the contract information used by each utility to calculate its CCA CRS is confidential. SCE cannot disclose this information in an advice letter filing. The Commission's Energy Division staff, however, does have access to a utility's confidential information. The Energy Division analyzed SCE's CRS calculations and has verified that they comply with the Commission's adopted CRS calculation methodology.

SCE accurately calculated the CCA CRS applicable to CCA customers' CRS vintages from 2004 through 2007. SJVPA's protest on this matter is denied. No modifications are needed to the vintaging aspect of the CCA CRS filed via AL 2109-E-A.

PG&E should provide tariff language that describes all aspects of its CCA CRS proposal.

The third issue raised in SJVPA's protest is that PG&E has failed to provide tariff language addressing key aspects of its CRS proposal.

D.07-01-025 OP #1 stated:

> "Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company (Utilities) shall, no later than 45 days from the effective date of this order, file tariffs to modify the cost responsibility surcharge (CRS) applicable to Community Choice Aggregators' (CCA) customers, as set forth herein."

Pursuant to D.07-01-025, PG&E filed AL 3002-E. SJVPA protested AL 3002-E on the grounds that "PG&E fails to provide tariff language reflecting a so-called 'new generation' charge, which 'may' be an element of the CCA CRS", and that PG&E does not include a description of PG&E's proposal with respect to CRS vintaging. SJVPA believes that PG&E should be directed to supplement AL 3002-E in order to include new generation charges within the CCA CRS; or, PG&E should be prohibited from retroactively imposing a CRS on CCA customers that includes new generation charges. SJVPA also argues that PG&E should be directed to revise its CRS vintage proposal and include this proposal within its associated CCA CRS tariffs.

In response to SJVPA's protest on this matter, PG&E stated the following:

> "PG&E included additional references to the 'New Generation' charge to inform parties that there are currently proposals pending before the Commission in R.06-02-013 that may affect the CCA CRS prospectively. When the Commission decides on these proposals, PG&E will revise its CCA CRS tariffs accordingly. The 'New Generation' charge is appropriately being considered in R.06-02-013. PG&E did not include an explanation or justification for the 'New Generation' charge in the advice letter because such an explanation or justification would have been premature pending the consideration of the proposals in R.06-02-013, and PG&E thought that such an explanation might potentially cause confusion for CCAs.'

PG&E should include tariff language that describes its inclusion of new world contracts in the CCA CRS calculation, and the manner in which PG&E will "vintage" the CCA CRS calculation, as discussed and ordered in D.08-09-012

AL 3002-E should include tariff language that describes all aspects of the CCA CRS proposal. SJVPA's protest on this matter is granted.

SCE's CCA CRS vintaging cycle proposed in AL 2109-E-A accurately accounts for the utilities' procurement planning cycles.

The fourth issue raised by SJVPA is that it favors SCE's proposal, not PG&E's proposal, for determining a CCA CRS vintage cycle.

The CRS vintaging concept is applicable to the CCA CRS calculation pursuant to D.07-01-025. D.08-09-012 adopted a CRS vintaging cycle that is identical to the CCA CRS vintaging proposal contained in SCE AL 2109-E-A.

In order to accurately account for the utilities' procurement planning cycles, SCE proposed the following CCA CRS vintaging cycle via AL 2109-E-A:

> A CCA CRS vintage is determined based on when the CCA commits to begin providing CCA service to customers. CCAs may formally commit to begin providing generation service to a group of customers by:
>
> > (1) Entering into a Binding Notice of Intent (BNI) with a utility during the each utilities' Open Season process as described in Rule 23.2 for PG&E and SCE; Rule 27.2 for SDG&E.

(2) Through a mutually agreed upon binding commitment date, set outside of the Open Season process.

(3) Initiating service to CCA customers (i.e. "cut-over" customers to CCA service).

In its protest, SJVPA quotes PG&E as indicating that "a CCA's vintage [will] be determined by the calendar year in which it provides a Binding Notice of Intent or departs," but that PG&E does not provide a specific CCA CRS vintaging proposal. SJVPA agrees with SCE's vintaging proposal. In its response to SJVPA's protest, PG&E clarifies that its CRS vintaging proposal is the same as SCE's proposal.

Since PG&E's CRS vintaging proposal is the same as SCE's CRS vintaging proposal, the issue raised by SJVPA concerning PG&E's vintaging strategy is moot. We herein grant SCE's CCA CRS vintaging cycle proposal, as described above.

The utilities should represent the CCA CRS in their respective CCA tariffs to include: the DWR Bond Charge, the PCIA, and the CTC, plus the ECRA for PG&E.

The fifth issue raised by SJVPA is that it favors PG&E's proposal for listing all CRS components.

Pursuant to D.07-01-025, SCE filed AL 2109-E-A which contains SCE's vintaged CCA CRS calculations. In AL 2109-E-A, SCE states that the CCA CRS consists of two components – the Competition Transition Charge (CTC) and the Power Charge Indifference Adjustment (PCIA). SCE explains that the CTC rates are differentiated by rate group and were adopted for 2007 in D.07-01-038. SCE further explains that "CCA customer are billed the DWR BC [Bond Charge] through their SCE Delivery Charge. With the removal of the DWR BC from Schedule CCA CRS, only those charges resulting from a customer's election of CCA service are included on Schedule CCA-CRS. This change also makes clear that negative indifference amounts cannot offset any other non-bypassable charges, such as the DWR BC."

SJVPA objects to SCE's removal of the DWR Bond Charge from the CCA CRS schedule. Instead, SJVPA favors PG&E' illustration in AL 3002-E of the CCA CRS components that are payable by CCA customers over SCE's illustration of

the CCA CRS in AL 2109-E-A. PG&E AL 3002-E illustrates the CCA CRS to include: the Power Charge Indifference Adjustment (PCIA), the Competition Transition Charge (CTC), and the DWR Bond Charge, plus the Energy Cost Recovery Charge (ECRA).

In its response to SJVPA's protest, SCE argues that the methodology for calculating the indifference rate was "brought over" from the DA CRS calculation, not the method of constructing the CCA CRS. SCE also indicates that the "DWR Bond Charge is a non-bypassable charge which is a component of SCE's delivery rate which CCA customers will continue to pay." SCE explains that including the DWR Bond Charge in the CCA CRS would result in charging the DWR bond twice to CCA customers.

Discussion

In D.07-01-025, Finding of Fact (FOF) #2 states that "...the CCA CRS would be calculated in two steps using the utility model." The text in the body of D.07-01-025 lists these two steps as the CTC calculation (per Section 367(a)) and the indifference rate calculation. However, D.07-01-025 also directs that "the utilities' CCA CRS tariffs should reflect the Commission's findings in D. 06-07-030…"[6]

D.06-07-030, in turn, states that "the CRS incorporates, ***among other elements***, a California Department of Water Resources (DWR) power charge and the ongoing competition transition charge (CTC).[7] D.06-07-030 did not explicitly exclude the DWR Bond Charge from the umbrella term known as the CRS. In fact, the phrase "among other elements" represents the Commission's intent not to limit the CRS to the DWR Power Charge (now the PCIA) and the ongoing CTC, contrary to SCE's position as expressed in its response to SJVPA's protest.

[6] See page 5 of D.07-01-025.

[7] See page 3 of D.06-07-030.

Moreover, the Phase I decision (D.04-12-046 Section IV A.) in the CCA proceeding stated:

> "All parties agree that AB 117 requires the CCA CRS to include a variety of costs incurred on behalf of CCA customers prior to their transferring to the CCA. Such costs include ***(1) costs associated with power contracts and bonds entered into by DWR during the energy crisis;*** (2) utility power costs, including those of utility retained generation, purchased power and other commitments in approved resource plans; and (3) CTC and historic revenue undercollections and credits applicable to the customer at the time the CCA transferred the customer. No party disputes these cost elements." (Emphasis added)

D.04-12-046 stated that the costs associated with bonds entered into by DWR during the energy crisis should be included as part of the CCA CRS. Since the adoption of D.04-12-046, no Commission decision has explicitly excluded the DWR Bond Charge from the CCA CRS. Most recently, D.08-09-012 explicitly included the DWR Bond Charge in the CRS, indicating:

> "The other components [of the CRS, in addition to the new generation NBC authorized by D.04-12-048] include the ongoing competition transition charge (ongoing CTC), and Department of Water Resources (DWR) power and bond charges."[8] (Text added in brackets)

SJVPA's protest on this matter is granted. The utilities shall represent the CCA CRS in their respective CCA tariffs to include: the DWR Bond Charge, the PCIA, and the CTC, plus the ECRA for PG&E.

The PG&E and SCE cost allocation methodologies questioned by SJVPA are consistent with prior Commission decisions.

The sixth issue raised in SJVPA's protest is that the utilities should be required to explain and justify their differing cost allocation methodologies.

[8] See D.08-09-012, footnote 7.

PG&E AL 3002-E and SCE AL 2109-E-A were submitted in compliance with D.07-01-025, which adopted certain modifications to the CCA CRS. One of the components of the CCA CRS is the Competition Transition Charge (CTC).

In its protest, SJVPA states:

> "SJVPA observes that the Utilities appear to utilize different methodologies for allocating PCIA-related costs among different customer classifications. PG&E appears to use an equal cents per kWh methodology in which the PCIA is the same, on a per kWh basis, for the different customer classifications. SCE, on the other hand, appears to use a methodology in which PCIA-related costs are allocated to the classes and rate schedules using the top-100 hours methodology, since the PCIA is different for the various rate groups. SCE appears to be following the general directions previously give by the Commission."

Given this observation, SJVPA requests that the Utilities should be required to explain and justify their apparently different cost allocation methodologies.

In its response to SJVPA's protest, PG&E indicates that SJVPA is incorrect in making the observation that the PCIA is the same among different customer classifications. PG&E explains that the CTC and the associated PCIA vary by customer classification. PG&E notes that CTC rates were initially set in 2004 based on the "100 hour" methodology, but that in D.04-02-062 the Commission adopted a settlement and subsequently revised these rates to be calculated on an equal percentage basis.

In its response to SJVPA's protest, SCE clarifies that the PCIA applicable to customers in SCE's service territory is not allocated across customer classifications. SCE notes that the indifference rate is the same for all rate groups. However, the statutory CTC is allocated across rate groups using the top-100 hours methodology and thus varies. Since the PCIA is determined by subtracting the statutory CTC (which varies) from the indifference rate, the PCIA will differ by rate group as well.

The utilities have calculated the CTC in the manner in which they have been ordered to do so by the Commission. SJVPA's protest on this matter is therefore denied.

PG&E shall track any negative indifference amount and net it against any future positive indifference amount that accrues for CCA customers, as described in D.07-05-005. SCE accurately incorporated this Commission directive in AL 2109-E-A.

The seventh issue raised by SJVPA relates to its belief that the utilities' CRS proposals violate Commission's Orders relating to the use of a negative indifference rate.

This issue existed at the time SJVPA filed its protest due to a then-pending proposed Commission decision that addressed the question of whether negative indifference amounts should be tracked and netted against any future positive indifference amount. As explained below, the issue has since been resolved by the Commission, so SJVPA's protest is moot.

Since D.07-01-025 modified the CCA CRS to be consistent with D.06-07-030, the outstanding petition regarding negative indifference amounts created an issue where SJVPA disagreed with PG&E and SCE's interpretation of the yet-to-be modified D.06-07-030. On April 2, 2007, when SJVPA filed its protests on the utilities' respective CCA CRS advice letter filings, the proposed decision dealing with a petition to modify D.06-07-030 had not been voted upon. However, SJVPA stated its belief that the policy supported in the proposed decision should be implemented even while that PD was pending.

In its response to SJVPA's protest, PG&E noted that the proposed decision had not been formally adopted by the Commission, but acknowledged that this issue was being addressed in R.02-01-011, and stated that it would update its tariffs accordingly when a decision was reached in that proceeding.

Similarly, in its response to SJVPA's protest, SCE noted the pending proposed decision on this issue, and stated that, should the proposed decision be adopted by the Commission, SCE would modify it Schedule CCA CRS accordingly.

Since SJVPA filed its protest and PG&E and SCE responded, the Commission issued D.07-05-005[9], which addressed the petition to modify D.06-07-030. Ordering Paragraph #6 of D.07-05-005 states the following:

[9] "Opinion Regarding PTM of D.06-07-030 Filed By PG&E"

> "To the extent that there is a perceived inconsistency in D.06-07-030 with regard to Ordering Paragraphs 8 and 9, the inconsistency is hereby reconciled to confirm that negative indifference amounts shall be tracked and offset against any positive indifference amounts that may accrue subsequent to June 30, 2006. Any such negative indifference amount would only be eligible to offset future positive indifference, and would not be eligible to be applied against any other components of the CRS."

SJVPA's protest on this issue is now moot with the adoption of D.07-05-005[10]. SCE AL 2109-E-A, filed May 14, 2007 incorporated the modifications resulting from D.07-05-005 into the indifference rate calculation. PG&E shall track any negative indifference amount and net it against any future positive indifference amount that accrues for CCA customers, as described in D.07-05-005. PG&E's CCA tariff, and vintaged CCA CRS calculations included therein, should reflect this Commission directive.

The City of Cerritos' Protest

Background: **The City of Cerritos**

AB 80 was approved on September 24, 2002, codifying Section 366.1 of the Public Utilities (P.U.) Code. AB 80 provides that a city with rights and obligations to the Magnolia Power Project may serve as a community aggregator on behalf of customers within its jurisdiction if the Project has been constructed and is otherwise capable of delivering electricity to existing project participants. AB 80 defines "existing project participant" as a city with rights and obligations to the Project under an agreement dated May 1, 2001.

The City of Cerritos ("Cerritos") has status as an existing project participant. SCE and Cerritos entered into an agreement to implement AB 80 (the "AB 80 Agreement") in 2004. This agreement was adopted by the Commission in D.05-01-009.

[10] D.08-09-012 reaffirmed the tracking of a negative indifference amounts in order to offset future positive indifference amounts.

The AB 80 Agreement stated that Cerritos' customers shall pay the CRS applicable to CCA customers pursuant to P.U. Code Section 366.2. Given that D.04-12-046[11] adopted an interim CCA CRS of 2.0 cents/kWh, Cerritos' customers paid 2.0 cents/kWh from mid 2005 until May 2006. Subsequently, the CRS collection from Cerritos' customers was suspended through Resolution E-3990 because further CRS collections from Cerritos' customers would have likely resulted in an over-collection of the CRS from these customers.

In D.07-04-007, the Commission modified the Cost Responsibility Surcharge (CRS) applicable to Cerritos' customers, stating:

> "There is no question that SCE owes Cerritos some amount for Cerritos' overpayments of the CRS in 2005 when Cerritos paid $.02 per kilowatt-hour (kWh) for a 2005 CRS liability that Cerritos suggests is about $.006 kWh." (p. 4)
>
> "Consistent with D.07-01-025, SCE shall calculate the 2005-2006 CRS for Cerritos according to the principles adopted in D.06-07-030 and any modifications to that order." (p. 5)

Pursuant to D.07-04-007, SCE filed supplemental AL 2109-E-A in order to calculate the vintaged CRS applicable to Cerritos' customers. Cerritos protested AL 2109-E-A on June 4, 2007.

SCE provides adequate justification for its proposed 2004 vintage indifference rate applicable to Cerritos' customers.

The first issue raised in Cerritos' protest is its claim that SCE fails to justify the proposed 2004 vintage indifference rate for Cerritos' CA customers.

In D.07-04-007, COL #2 stated that:

[11] "Order Resolving Phase 1 Issues On Pricing And Costs Attributable To CCAs And Related Matters" in R. 03-10-003."

> "The Commission should order SCE to calculate Cerritos' CRS for the period 2005-2006 during which Cerritos' provided procurement services to its customers as set forth herein."

SCE calculated and submitted Cerritos' 2005 and 2006 indifference rate obligation via AL 2109-E-A. Cerritos customers' CRS is a 2004 vintage calculation.

In its protest of AL 2109-E-A, Cerritos argues that AL 2109-E-A omits material information that is necessary to justify the reasonableness of the 2004 vintaged indifference rates applicable to Cerritos' customers. Cerritos states that nowhere in AL 2109-E-A does SCE disclose this information, nor does SCE provide any supporting numerical data for its proposed 2004 vintage indifference rates.

SCE acknowledges that supporting material for deriving the indifference rate were not included in AL 2109-E-A because this material is confidential. SCE, however, notes that all supporting data which are required to verify and confirm SCE's calculations for its CRS vintages were provided to Commission staff. SCE states that Cerritos' representatives were informed that the supporting CRS calculation data are confidential but that the Commission's staff had reviewed them, prior to Cerritos' protest on this issue. Due to the confidential nature of these data, Cerritos cannot have access to them.

As noted by SCE, SCE's contractual obligations are confidential and therefore cannot be shared with Cerritos. The incorporated chart that helps resolve Cerritos' issue #2 below, however, provides non-confidential information that justifies the reasonableness of the (2004 vintaged) indifference rates applicable to Cerritos' customers. The Energy Division has reviewed SCE's CCA CRS vintaged calculations and finds that the indifference rate calculation for 2005 and 2006 that is applicable to Cerritos' customers has been calculated accurately.

Cerrito's protest on this issue is denied. In AL 2109-E-A, SCE has incorporated the modification pursuant to D.07-04-007 correctly.

SCE's proposed 2004 vintage indifference rates for Cerritos' CA customers are not discriminatory and are supported by Commission directives.

The second issue raised in Cerritos' protest is its claim that SCE's proposed 2004 vintage indifference rates for Cerritos' CA customers are unjust and unreasonably discriminatory.

Decision 07-04-007 ordered SCE to calculate the CRS applicable to the City of Cerritos consistent with D.05-01-009 and D.07-01-025 (D.07-04-007, Ordering Paragraph 1).

Pursuant to D.07-04-007, SCE calculated Cerritos' CRS vintaged rates using the adopted CRS methodology of D.06-07-030; D.06-07-030, as modified by D.07-01-030.

In its protest, Cerritos states its belief that the 2006 indifference rates proposed for Cerritos' customers (as ***2004*** vintage customers) in AL 2109-E-A are materially and inexplicably higher than the 2006 indifference rate adopted by the Commission in D.07-01-030 for ***2004*** vintage Municipal Departing Load ("MDL") customers. Cerritos also protests AL 2109-E-A on the grounds that this advice letter unreasonably discriminates against Cerritos' customers insofar as the proposed 2004 vintaged indifference rates applicable to Cerritos' customers are different than the indifference rate applicable to DA customers.

In its response, SCE acknowledges that the CRS included in AL 2109-E-A for all vintages differ from those adopted for MDL and DA customers, but disagrees with Cerritos' assertion that the proposed CRS amounts for CCA customers are either unreasonable or discriminatory.

SCE explains that the CRS for MDL customers for 2003 and 2004 vintages were adopted by the Commission as part of a comprehensive agreement of historical CRS obligations for 2003 through 2006 which incorporated **forecasted** resource costs. The MDL CRS amounts adopted in D.06-07-030 and D.07-01-030 were the result of negotiations with MDL parties on a number of disputed issues, while also including the development of a methodology for determining the Indifference Rate. This methodology was approved, with modifications, in D.07-01-025 for use in determining the indifference rate applicable to CCA customers while incorporating **actual** costs into the calculation.

SCE notes that it applied the adopted methodology to determine the CRS applicable in 2005 and 2006 to the 2004 vintage CCA customers. SCE observes that although the Cerritos charges differ from those agreed to for MDL customers of the same vintage, they accurately reflect the level of CRS necessary

to make bundled customers indifferent to CCA service: "to the extent that CRS for CCA and MDL customers differ, SCE acknowledges that the negotiations with MDL parties n R.02-01-011 ultimately resulted in historical CRS for MDL customers that are lower than those which would result from a strict application of the methodology adopted in D.06-07-030." (SCE June 11, 2007 response to Cerritos, p. 3). However, SCE notes that simply conforming the calculated CCA CRS to the lower negotiated MDL CRS would result in shifting costs to the remaining bundled service customers, precisely the outcome that the Indifference Rate was designed to prevent.

Regarding the differential between Cerritos' 2004 vintaged indifference rate and the DA indifference rate, Cerritos estimates that the contracts SCE has entered into after the suspension of DA have resulted in $490 million of uneconomic costs.[12] Cerritos also estimates that 10,000 GWh of new generation has been added to SCE's service portfolio since the suspension DA, concluding that this additional (post DA) procurement carries an average uneconomic cost of about 5 cents/kWh ($490 million/10,000 GWh).

In its response, SCE explains that all the data necessary to verify the calculation of SCE's proposed CCA CRS were provided to the Energy Division on May 15, 2007, including 2007 costs for all generation resources included in the 2004 vintage, which result in the 2004 vintage CRS in 2007 being higher than the 2007 CRS for DA customers.

Discussion

Energy Division staff and SCE's regulatory staff have communicated in regards to the CCA CRS amounts in AL 2109-E-A (initially AL 2109-E) since April 2007. On May 8, 2008, in response to an Energy Division request, SCE submitted the chart shown below, "Southern California Edison Company 2007 Vintaged

[12] Cerritos' 2004 vintaged indifference rate for 2007 is $0.00834 kWh per AL 2109-E-A. The DA indifference rate – representing a 2001 vintage – (via AL 2101-E) is $0.00222 kWh. The difference between these two rates is $0.00612 kWh, which Cerritos views as the uneconomic costs of the new (i.e. post-DA suspension) contracts, through 2004. Cerritos multiplies $0.00612 by 80,000GWh (~SCE system-wide load), to come up with the ~$490 million amount.

Indifference Rate Reconciliation DA vs. CCA." Pursuant to the data request and SCE's subsequent fact finding that resulted in the information contained in this chart, the Energy Division and SCE are now aware that SCE's indifference rate of $0.00222 kWh applicable to DA customers that filed via AL 2101-E is inaccurate.

The chart below illustrates, on line 1, the DA indifference rate of $0.00222 kWh per AL 2101-E; line 8 corresponds to the 2004 CCA indifference rate of $0.00834 kWh applicable to Cerritos per AL 2109-E-A. On the left hand column, Lines 2 through 7 describe corrections/additions that were made by SCE, resulting in the higher 2004 CCA indifference rate relative to the DA indifference rate. The right hand column provides a justification for these changes.

SOUTHERN CALIFORNIA EDISON COMPANY
2007 Vintaged Indifference Rate Reconciliation
DA vs. CCA

		2007 c/kWh Change	2007 c/kWh Total	
1.	DA Indifference Rate ('2001/2002 Vintage)		0.222 ←	As filed - supports Schedule DA CRS approved in A.2102-E.
2.	Correct for Utility Retained Generation GWh to be measured at customer meter to be consistent with the Market Benchmark	0.220	0.442 ←	SCE's calculation contains a discrepancy between the URG GWh (at generation) and the Market Benchmark (priced at customer meter). Correcting for this difference reduces URG GWh for losses and increases the indifference rate.
3.	Use SCE DWR GWh to be consistent with CCA CRS calculation	(0.015)	0.427 ←	SCE's calculation included DWR sales as adopted for 2007. If SCE's forecast for DWR is used (as was done with CCA CRS), the DA indifference rate is reduced.
4.	Add non-vintaged costs not included in DA Indifference Rate calculation	0.438	0.865 ←	Non-vintaged generation costs (ISO, GMC, imbalance, etc) were not reflected in the 2007 DA CRS. These costs were apportioned for all vintages in the CCA CRS calculation.
5.	Add excess energy sales (non-vintaged) not included in DA Indifference Rate calculation	(0.093)	0.772 ←	Excess energy sales, which produce revenue at market to reduce vintaged generation costs, were not apportioned in the DA CRS indifference rate calculation.
			0.772	**2001/2002 Vintage (DA) indifference rate consistent with the CCA CRS**
6.	Add 2003 vintage above market costs	0.044	0.816 ←	Increase in above market costs due to 2003 vintage resources
7.	Add 2004 vintage above market costs	0.017	0.834 ←	Increase in above market costs due to 2004 vintage resources
			0.834 ←	**2004 Vintage CCA CRS indifference rate**

Line 2

The market benchmark price used in the indifference rate calculation is based on the market price calculated at the customer meter. Line 2 corrects the fact that SCE had used the GWh amount at the generator (which is higher quantity, as there are no line losses) while it should have used the GWh amount at the customer meter (which accounts for line losses, and hence is a lower quantity). Incorporating the lower at-the-customer-meter GWh amount – which is multiplied by the market benchmark – results in a lower market **value** associated to this power. The lower market value of this power, when compared to its actual cost, makes this power even more uneconomic – by $0.00220 more per kWh – than had been previously calculated by SCE for DA customers.

Line 4

Line 4 shows that SCE's DA indifference rate calculation inadvertently omitted SCE's "non-vintaged generation costs;" this omission has been corrected in the CCA Indifference calculation applicable to Cerritos' customers. This correction, alone, increases the CCA indifference rate by $0.00438 kWh.

Had the DA indifference rate been calculated correctly in AL 2101-E – that is, had the corrections illustrated in line 2 and line 4, as represented in the chart above, been applied to the DA indifference rate calculation all along – the DA indifference rate would have been $0.00772 kWh, not $0.00222 kWh.

Line 6 & 7

The additional generation contracts signed post-DA suspension, up through 2004, result in an uneconomic cost that increases the CCA indifference rate by $0.00044 kWh in 2003 (line 6) and $0.00017 kWh in 2004 (line 7).

The table above illustrates that the difference between Cerritos customers' 2004 vintaged indifference rate calculation (line 7) and DA customers' **corrected** indifference rate calculation ($0.00772 kWh on line 5) is due to the additions made by SCE to its electric resource portfolio mix beginning on the DA suspension date (September 20, 2001) through 2004. When accounting for the corrections described in lines 2 and 4, SCE demonstrates that the actual uneconomic costs reflected in the 2004 vintaged indifference rate do not add up to $490 million (or $0.05/kWh[13]) as Cerritos estimates; rather, the uneconomic costs associated to post-DA suspension through 2004 are significantly lower.

Cerrito's protest on this issue is denied. SCE's AL 2109-E-A CCA containing vintaged calculations is adopted.

It is not necessary to bifurcate the issues that deal with Cerritos customers' CCA CRS from SCE AL 2109-E-A and address them on an expedited basis.

The third issue raised in Cerritos' protest is its request that the Commission address SCE's proposed 2004 vintaged indifference rate on an expedited basis, separate from other CCA CRS issues.

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[13] See page five of Cerritos' protest to AL 2109-E-A.

D.07-04-007 ordered SCE to calculate the vintaged CRSs applicable to Cerritos' customers. SCE filed AL 2109-E-A[14] in compliance with D.07-04-007.

Through its protest of AL 2109-E-A, Cerritos requests that the Commission bifurcate the issues unique to Cerritos from the broader issues applicable only to CCAs. Cerritos requests that the issues unique to it be dealt with expeditiously. In its response, SCE states that Cerritos' protest on this matter should be rejected by the Commission.

Cerrito's protest on this issue is denied. With the issuance of this Resolution, Cerritos' request on this matter is now moot. AL 2109-E-A will be addressed as filed, and as applicable to Cerritos in particular and CCAs in general.

COMMENTS

Public Utilities Code 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. 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 or reduced. Accordingly, this draft resolution was mailed to parties for comments, and will be placed on the Commission's agenda no earlier than 30 days from today.

Comments were submitted on October 27, 2008 by SCE, Cerritos, and Alliance for Retail Energy Markets (AReM[15]). Reply comments were provided on November 3, 2008 by SCE, Cerritos, and PG&E.

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[14] AL 2109-E-A was also in compliance with D.07-01-025 and D.07-05-005 which, respectively, adopted a methodology for calculating the CCA CRS and ordered that negative indifference amounts could offset future positive indifference amounts in the context of the CRS calculation.

[15] AReM describes itself as "a California mutual benefit corporation whose members are electric service providers that are active in California's direct access market."

Through its comments, SCE proposes that additional language be included to Ordering Paragraph 2 and for two new findings reflecting previously adopted findings in Commission decision be added to this resolution. There is no need to add such findings herein as all – and not only some – of the relevant findings contained in other decisions apply to CCA customers who pay the CRS.

Cerritos indicates that through a data request it propounded on PG&E, Cerritos has become aware that PG&E does not include California Independent System Operator (CAISO) costs in its indifference calculation; SCE includes these CAISO costs in its indifference calculation, beginning in 2007. Cerritos requests that a Working Group be formed to examine and fix what Cerritos deems as an unfair SCE proposal.

AReM indicates that CAISO costs need to be itemized if SCE intends to include them in the Direct Access indifference calculation. AReM states that "the (Direct Access/Departing Load CRS) Working Group came to an agreement that not all charges paid to the CAISO should be included in the CRS."

In its reply comments, SCE states that it is calculating the CCA CRS using the method adopted in the February 1, 2006 CRS Working Group Report, which was adopted by D.06-07-030. Therefore, SCE does not feel there is a need to establish another Working Group, as Cerritos proposes, to address the questions concerning CAISO costs in the CCA CRS calculation. SCE cites Ordering Paragraph 22 of D.06-07-030 which states that "any prospective CRS issues…shall be addressed in each IOU's respective ERRA proceeding, or by advice letter, as appropriate."

Cerritos requests that any authorization of the CRS true-up amount applicable to Cerritos' customers be accompanied by a requirement that SCE offer a payment plan that would allow Cerritos' customers to pay the true-up amount over a reasonable period of time.

D.06-07-030 provides clear directives to any party wishing to formally raise CRS related issues at the CPUC.

FINDINGS

1. The State Assembly passed Assembly Bill (AB) 117 on September 24, 2002 enabling cities and/or counties to aggregate the electric load of customers within their respective political boundaries as Community Choice Aggregators (CCA). Public Utility (P.U.) Code Section 366.2 codified the provisions of AB 117. Among the various directives found in P.U. Code Section 366.2 is the need for a CCA to file an Implementation Plan with the California Public Utilities Commission ("Commission").

2. San Joaquin Valley Power Authority (SJVPA) is a joint powers agency that was formed in the Central Valley for the purpose of implementing the CCA program. SJVPA filed its CCA Implementation Plan with the Commission on January 29, 2007.

3. On January 25, 2007 the Commissioned approved D.07-01-025 adopting a methodology for the calculation of the CCA Cost Responsibility Surcharge (CRS). Pursuant to this decision, PG&E filed AL 3002-E, SCE filed AL 2109-E, and SDG&E AL 1881-E on March 12, 2007.

4. On April 12, 2007, the Commission issued D.07-04-007 which adopted modifications to the CRS applicable to Cerritos' customers.

5. On May 3, 2007, the Commission issued D.07-05-005, which addressed a petition for modification of D. 06-07-030 – the Commission decision that adopted the methodology for calculating the Direct Access (DA)/Departing Load (DL) CRS which is also applicable to the CCA CRS calculation.

6. On May 14, 2007 SCE submitted a revised AL 2109-E-A reflecting additional modifications pursuant to D.07-04-007 and D. 07-05-005; SCE's AL 2109-E-A replaced AL 2109-E in its entirety.

7. SJVPA filed a protest regarding PG&E AL 3002-E and SCE AL 2109-E on April 2, 2007, as both of these advice letters addressed the CRS applicable to SJVPA's CCA customers. SJVPA protested these advice letters on the following grounds:

    i. The utilities' CRS proposals contain material omissions:

        a. PG&E has failed to provide a CRS applicable to CCA customers

b. SCE has failed to explain or justify the significant yearly increase in the PCIA among different vintages

c. PG&E has failed to provide tariff language addressing key aspects of its CRS proposal

ii. The utilities' CRS proposals are unreasonable and discriminatory insofar as they contain inconsistent and contradictory treatment

a. SJVPA favors SCE's proposal for determining a CRS vintage

b. SJVPA favors PG&E's proposal for listing all CRS components

c. The utilities should be required to explain and justify their differing cost allocation methodologies

iii. The CRS proposals contained in PG&E AL 3002-E and SCE AL 2109-E, respectively, would violate Commission Orders relating to the use of a negative indifference rate

8. In its protest, SJVPA reserves its right to request evidentiary hearings on CCA CRS calculation matters.

9. Cerritos protested SCE's AL 2109-E-A on June 4, 2007, on the following grounds:

i. SCE fails to justify the proposed 2004 vintage indifference rate for Cerritos' customers

ii. SCE's proposed 2004 vintage indifference rates for Cerritos' customers are unjust and unreasonably discriminatory

iii. The Commission should address SCE's proposed 2004 vintage indifference rate on an expedited basis, separate from other CCA CRS issues

10. Cerritos also reserves its right to request evidentiary hearing on CRS-related matters until it has had a reasonable opportunity to review SCE's un-redacted cost data used to calculate the CRS, pursuant to Advice Letter Rule 4.1.

11. D.07-01-025 adopted modifications to the CRS that are applicable to CCA customers.

12. In order to implement the directives of D.07-01-025, PG&E filed AL 3002-E on March 12, 2007.

13. SJVPA argues that PG&E is not calculating the "actual" CCA CRS. SJVPA states that PG&E has apparently replicated the CRS currently paid by DA customers in PG&E's service territory and applied that calculation to the CRS obligation of the 2007 CRS vintaged CCA customers.

14. In SJVPA's opinion, PG&E does not explain or justify why the 2007 CRS results are the same for CCA and DA customers when each customer classification should have a unique vintaged CRS.

15. SJVPA has concerns that PG&E will use what SJVPA believes to reflect a replicated DA CRS and apply it to CCA customers as a "placeholder" CRS until "it is more convenient (for PG&E) to expose the true CRS applicable to a CCA's customers."

16. SJVPA notes that PG&E refers to testimony in Rulemaking (R.)06-02-013 and appears to explain that once PG&E's proposed New Generation charge is decided in the Long Term Procurement Proceeding (LTPP), the New Generation charge will be a charge added to the CCA CRS shown in AL 3002-E, both of which would be applicable to CCA customers.

17. SJVPA argues that due to PG&E's apparent omission of cost information from the CCA CRS calculation, the actual CRS applicable to a CCA's customers is unknown, violating the Commission's CCA CRS calculation orders pursuant to D.07-01-025.

18. SJVPA states that the CCA CRS contained in AL 3002-E may not provide SJVPA with a realistic understanding of the actual CCA CRS prior to its formal commitment to provide CCA service.

19. SJVPA asserts that PG&E should be directed to supplement AL 3002-E, submitting a CCA CRS that includes "all CRS components." If the Commission chooses not to direct PG&E to file a supplemental CCA CRS calculation, SJVPA argues that PG&E should not be allowed to retroactively

change the 2007 CRS calculation once the New Generation charge is determined in the LTPP (R.06-02-013).

20. PG&E explains that the CCA CRSs contained in AL 3002-E are applicable to CCA customers in 2007 only.

21. PG&E indicates that it has calculated a zero charge in 2007 for "generation resource commitments" but that the methodology for calculating this charge in 2008 and beyond may change pursuant to the outcome of the LTPP in R.06-02-013.

22. PG&E acknowledges that "the CCA CRS rates that are proposed in (AL 3002-E) are the same as the CRS rates charged to DA customers for 2007."

23. D.07-01-025 states: "The Commission should modify the CCA CRS to make it consistent with the DA CRS modifications adopted in D.06-07-030 to the extent the modifications are logically applicable to the CCA CRS."
24. D.08-09-012 states: "With respect to the CRS established by this decision to implement the D.04-12-048 NBC, we are guided by previously established principles used to implement the existing CRS for DA, CCA, MDL and CGDL."

25. Ordering Paragraph (OP) 6 of D.08-09-012 states:

> "As described in the body of this decision, the D.04-12-048 NBC shall be implemented as a component of the cost responsibility surcharge (CRS), calculated on a total portfolio basis with the netting of individually calculate[d] annual charges and the carrying over of negative total charges for use in offsetting positive charges in subsequent years."

26. D.08-09-012 describes the total portfolio approach of calculating the CRS as including pre-restructuring resources, DWR power contracts, and new world generation resources.

27. PG&E should calculate the CCA CRS in compliance with the directives provided in D.08-09-012.

28. SJVPA believes that SCE's vintaged CCA CRS calculations are unreasonably high when compared to the CRS paid by Direct Access (DA) and Departing Load (DL) customers.

29. SJVPA notes that SCE does not provide cost information in AL 2109-E-A in order to support the SCE CCA CRS calculation.

30. SJVPA states that "SCE's failure to provide this necessary information means that potentially affected parties, like SJVPA and the Commission, are unable to evaluate the reasonableness of SCE's proposed CCA CRS."

31. SCE notes that it would develop workpapers which would contain both public and confidential information and which would be provided to the Energy Division in order for the Energy Division's staff to evaluation SCE's CCA CRS proposal.

32. A utility's power contract information used to calculate the CCA CRS is confidential. SCE cannot disclose this information in an advice letter filing.

33. The Energy Division analyzed SCE's CRS calculations and has verified that they comply with the Commission's adopted CRS calculation methodology.

34. SCE accurately calculated the CCA CRS applicable to CCA customers' CRS vintages from 2004 through 2007.

35. No modifications are needed to the vintaging aspect of the CCA CRS filed via AL 2109-E-A.

36. D.07-01-025 Order Paragraph #1 states: "Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company (Utilities) shall, no later than 45 days from the effective date of this order, file tariffs to modify the cost responsibility surcharge (CRS) applicable to Community Choice Aggregators' (CCA) customers, as set forth herein."

37. SJVPA protested AL 3002-E on the grounds that it does not contain tariff language reflecting the "new generation charge," and that PG&E also does not include included a description of PG&E's proposal with respect to CRS vintaging.

38. SJVPA also argues that PG&E should be directed to revise its CRS vintage proposal within the associated CCA CRS tariffs.

39. AL 3002-E should include tariff language that describes all aspects of the CCA CRS proposal as ordered in D.08-09-012. SJVPA's protest on this matter is granted.

40. The CRS vintaging concept is applicable to the CCA CRS calculation pursuant to D.07-01-025. In order to accurately account for the utilities' procurement planning cycles, SCE proposed a CCA CRS vintaging cycle via AL 2109-E-A.

41. We herein grant SCE's CCA CRS vintaging cycle proposal via AL 2109-E-A which was also adopted by the Commission in D.08-09-012.

42. SCE states in AL 2109-E-A that D.07-01-025 suggests that the CCA CRS consists of two components – the CTC and the PCIA. As such, SCE includes only these two components as part of the CCA CRS illustrated in AL 2109-E-A.

43. D.04-12-046 stated that the costs associated with bonds entered into by DWR during the energy crisis should be included as part of the CCA CRS. Since the adoption of D.04-12-046, no Commission decision has explicitly excluded the DWR Bond Charge from the CCA CRS. D.08-09-012 explicitly included the DWR Bond Charge in the CRS.

44. The utilities are herein ordered to represent the CCA CRS in their respective CCA tariffs to include: the DWR Bond Charge, the PCIA, and the CTC, plus the ECRA for PG&E. In billing CCA customers, the Commission directs SCE to adjust the Delivery Charge to remove the DWR Bond Charge – and make any other necessary adjustments – as it does when billing DA customers in order to avoid double counting the DWR Bond Charge.

45. The utilities have calculated the CTC in the manner in which they have been ordered to do so by the Commission. SJVPA's protest on this matter is denied.

46. PG&E is ordered to track a negative indifference amount and net it against any future positive indifference amount that accrues for CCA customers, as described in D.07-05-005 and D.08-09-012. PG&E's CCA tariff, and vintaged CCA CRS calculations included therein, should reflect this Commission directive.

47. AB 80 was approved on September 24, 2002, codifying Section 366.1 of the Public Utilities (P.U.) Code.

48. AB 80 provides that a city with rights and obligations to the Magnolia Power Project may serve as a community aggregator on behalf of customers within its jurisdiction if the Project has been constructed and is otherwise capable of delivering electricity to existing project participants.

49. AB 80 defines "existing project participant" as a city with rights and obligations to the Project under an agreement dated May 1, 2001.

50. Cerritos has status as an existing project participant. SCE and Cerritos entered into an agreement to implement AB 80 (the "AB 80 Agreement") in 2004. This agreement was adopted by the Commission in D.05-01-009.

51. The AB 80 Agreement stated that Cerritos' customers shall pay the CRS applicable to CCA customers pursuant to P.U. Code Section 366.2.

52. By filing AL 2109-E-A, SCE has incorporated the modification pursuant to D.07-04-007 correctly.

53. D.07-04-007 Conclusion Of Law #2 states: "The Commission should order SCE to calculate Cerritos' CRS for the period 2005-2006 during which Cerritos' provided procurement services to its customers as set forth herein."

54. SCE's AL 2109-E-A CCA containing vintaged calculations is adopted.

55. Cerritos requests that the Commission bifurcate the issues unique to Cerritos from the broader issues applicable only to CCAs. Cerritos requests that the issues unique to it be dealt with expeditiously.

56. AL 2109-E-A will be addressed as filed, and as applicable to Cerritos in particular and CCAs in general.

THEREFORE IT IS ORDERED THAT:

1. PG&E's request in AL 3002-E is approved with modifications. PG&E shall file a supplemental advice letter within 10 days containing the modifications specified herein.

2. SCE's request in AL 2109-E-A is approved with modifications. SCE shall file a supplemental advice letter within 10 days containing the modifications specified herein. SCE shall file the 2008 CRS for all customer vintages based on the calculation method approved herein for AL 2109-E-A.

3. Upon verification of compliance by the Energy Division, PG&E AL 3002-E will be effective on April 11, 2007.

4. Upon verification of compliance by the Energy Division, SCE AL 2109-E-A will be effective on June 13, 2007.

5. SDG&E AL 1881-E is hereby approved, as filed, effective April 11, 2007.

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 November 21, 2008 the following Commissioners voting favorably thereon:

_____
Paul Clanon
Executive Director