

**DRAFT**

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**  
**ENERGY DIVISION**  
**I.D. # 8804**  
**RESOLUTION E-4226**  
**September 24, 2009**

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

Resolution E-4226. Pacific Gas and Electric Company (PG&E) and Southern California Edison Company (SCE) request approval for their proposals to implement new world generation non-bypassable charges (NBCs) pursuant to D.08-09-012.

PROPOSED OUTCOME: This resolution clarifies that:

1. New World Generation Charges Do Not Apply to CG or Municipal DL.
2. Vintaged CRS (beginning with the 2009 vintage) will be effective for non-exempt customers departing bundled service on or after the effective date of this resolution.
3. The Power Charge Indifference Adjustment (PCIA) shall vary by customer class in the same proportion as ongoing CTC.

ESTIMATED COST: No cost impact

By PG&E Advice Letter (AL) 3446-E, Filed on April 2, 2009; and SCE AL 2320-E, Filed on February 9, 2009

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**SUMMARY**

This Resolution implements new world generation non-bypassable charges (NBCs)<sup>1</sup> using the vintaging (date of departure) methodology adopted by the Commission in Decision (D.) 08-09-012. Customers leaving PG&E, SCE, or San Diego Gas & Electric Company (SDG&E) bundled service in the first half of any particular year would be responsible for stranded costs associated with new

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<sup>1</sup> New world generation includes generation from both fossil fueled and renewable resources contracted for or constructed by the investor-owned utilities subsequent to January 1, 2003.

generation resource commitments made through the end of the previous year, and customers leaving in the second half of any particular year would be responsible for stranded costs associated with new generation resource commitments made through the end of that particular year. These vintaged charges for new world generation shall be effective on the effective date of this resolution and do not apply to customers whose load the utilities forecast as departed.

## **BACKGROUND**

On September 5, 2008, The Commission issued D.08-09-012. In that decision, the Commission determined the applicability and form of the new generation NBCs for customers of the investor-owned utilities (utilities) that choose direct access (DA), community choice aggregation (CCA), municipal, or customer generation (CG) service.

On February 9, 2009, SCE filed AL 2320-E to consolidate the effect of revenue requirement changes authorized by the Commission in D.09-01-010 with rate changes authorized in other proceedings. D.09-01-010 adopted SCE's requested 2009 Energy Resource Recovery Account (ERRA) revenue requirement and authorized SCE to consolidate the effect of rate changes already authorized by the Commission in other proceedings with the ERRA rate change. Such previously authorized changes are suitable for filing by Tier 1 advice letter. In AL 2320-E, which SCE designated as Tier 1, SCE states that it will implement its consolidated rate change on March 1, 2009. In addition, SCE included in AL 2320-E, its proposal for new world generation charges pursuant to D.08-09-012. Parties Protested SCE's proposal for implementing new world generation charges. EPUC in its protest suggests that SCE AL 2320-E may be improperly designated as Tier 1, since it applies a new world generation charge to CG Departing Load (DL) without first filing a petition to modify D.08-09-012. Indeed, SCE improperly included this proposal to implement new world generation charges in a Tier 1 filing. Such utility proposals are not appropriate for Tier 1 designation. Thus we allowed SCE to implement its March 1 rate change but address the protested new world generation charges herein.

PG&E filed AL 3446-E on April 2, 2009; and SDG&E, having no applicable customers, did not file. SDG&E in its ERRA Application A.08-10-004, in the amended direct Testimony of Dave Borden, described the vintaged Cost Responsibility Surcharge (CRS) method and its applicability (at pp. 4-5). SDG&E

is not out of compliance with D.08-09-012 since the Commission in that decision did not direct the utilities to file advice letters by any certain date, and SDG&E has no customers to whom the new NBCs apply.

## **NOTICE**

Notice of SCE AL 2320-E was made by publication in the Commission's Daily Calendar on February 17, 2009 and PG&E AL 3446-E on April 15, 2009. SCE and PG&E state in their advice letters that a copy of the Advice Letter was mailed and distributed in accordance with Section 4 of General Order 96-B.

## **PROTESTS**

Four parties protested SCE AL 2320-E; SCE submitted a reply.

On February 25, 2009, the California Large Energy Consumers Association (CLECA); on February 27, 2009, the California Clean DG Coalition (CCDC) and the Energy Producers and Users Coalition (EPUC); and on March 2, 2009, the California Municipal Utilities Association (CMUA) protested SCE AL 2320-E. All of these parties protested that the charges SCE seeks to impose on CG are not authorized or are expressly prohibited by the Commission.

CCDC in its protest states, "The Commission should require SCE to exclude all New World Generation of any vintage from Schedule CGDL CRS because the Commission ordered that all CGDL customers are excluded from having to pay the D.04-12-048 and D.06-07-029 non-bypassable charges." (at p. 1). CLECA's Protest in this regard cites D.08-09-012, Ordering Paragraph (OP) 2 and Appendix D, which shows the word "No" under the column New World Generation in the row associated with CGDL. Citing OP 2 of D.08-09-012, CCDC in its protest points out that the Commission excluded CG and Municipal DL from these charges, because CGDL and municipal departing load (MDL) are excluded, as classes, from the adopted load forecasts on which the utilities' long term procurement plans are based. "Nothing in the ordering paragraph, or the Decision itself, indicates an intent to allow SCE to avoid the logical result of its forecasting practice by deeming the CGDL exemption applicable on a going forward basis only." (at p. 2). Moreover, CLECA in its protest points out that, "These on-going exclusions [of load] are cited in D.04-12-048, indicating that this adjustment did not just begin in the last set of Long Term Procurement Plan

("LTPP") forecasts, but indeed went back to at least 2001. (D.04-12-048, OP 11)" (at p. 2)

EPUC in its protest argues that SCE in AL 2320-E "ignores entirely the undeniable fact that D.06-07-030 does not implement the D.04-12-048 and D.06-07-029 charges. D.08-09-012 governs the implementation of these charges. (at p. 3). CMUA in its protest "agrees with the arguments contained in the EPUC Protest and the CCDC Protest, and supports" these requests that the Commission reject SCE's proposal to apply new generation charges to CGDL customers. (at p. 1).

CLECA in its protest also requests that the Commission direct SCE to revise its CGDL CRS tariff, the table at Sheet 44715-E showing the elements of the DA CRS, because it is extremely confusing in its present form. The schedule of charges contained in the tariff includes all possible charges that might apply, most of which do not in fact, apply to the vast majority of CGDL.

On March 9, 2009, SCE submitted a reply to all of these protests. SCE explains that it has proposed to implement Ordering Paragraph (OP) 2 of D.08-09-012<sup>2</sup> on a going forward basis by excluding the cost of any new generation resources SCE acquired or will acquire after the effective date of D.08-09-012 from the calculation of the CRS for CGDL and MDL customers. SCE in its reply also maintains that the protesting parties "ignore a long history of prior Commission decisions and even the discussion of this issue in the text of D.08-09-012." (at p. 3). SCE in its reply further states, "...the Commission, in D.06-07-030, as modified by D.07-01-030, adopted a "total portfolio" approach for calculating a vintaged CRS for MDL customers. This approach is the same as that adopted in D.08-09-012 and included the costs of all generation resources acquired by SCE since it resumed procurement for its customers in January of 2003. ...SCE always assumed and continues to assume that the purpose of Track 3 of R.06-02-013 was

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<sup>2</sup> This ordering paragraph states, "1. Because customer generation departing load (CGDL) and municipal departing load (MDL) are excluded, as classes, from the adopted load forecasts on which the investor-owned utilities (IOUs) long term procurement plans (LTPPs) are based, CGDL and MDL customers are excluded from having to pay the D.04-12-048 and D.06-07-029 NBCs, including any above market costs related to RPS contracts, with the exception of those customers described in Ordering Paragraph 3."

not to modify prior Commission decisions, such as D.07-01-030, and on that basis believes that in D.08-09-012 the Commission intended to modify the CRS calculation going forward and to leave the inclusion of the cost of new generation resources in MDL and CGDL CRSs (if any) intact, and only begin the process of excluding new generation resources costs with those resources procured after the effective date of D.08-09-012.” (at p. 4).

SCE concludes that the Commission should clarify the implementation of the exemption from the costs of SCE’s new generation resources granted in D.08-09-012 to MDL and CGDL customers.

CLECA in its protest recommends that SCE add clarifying plain language to the special conditions in Schedule CGDL-CRS to describe the exemption or exception referenced in the state law or Commission decisions, cited by code section or decision number. The discussion of exclusions in the text of the tariff should provide some further explanation as to the circumstances that would qualify a customer for the exemption or exception. The tariff language should be clear that the undercollection charge in the table of charges in the tariff only applies to customers that had previously taken non-continuous direct access service and otherwise does not apply to CGDL.

EPUC does not address the need for plain language about exemptions and exceptions but objects that an “undercollection” charge applicable to CGDL is not authorized by D.08-09-012.

In response to CLECA’s concern about the clarity of Schedule CGDL-CRS, SCE notes that AL 2320-E does not modify schedule CGDL-CRS other than to update the CRS consistent with changes in revenue requirements. SCE states that it agrees that the nature and applicability of the undercollection charge (UC) to CGDL customers is not clear, as evident by the CLECA’s and EPUC’s protests. (UC is only applicable to DA customers who subsequently become MDL or CGDL customers.) To remove any confusion regarding the applicability of UC under Schedule CGDL-CRS, SCE offers that it will modify this schedule in a future advice letter.

Three parties protested PG&E AL 3446-E; one party responded; PG&E submitted a reply.

On April 22, 2009, the Alliance for Retail Energy Markets and the Direct Access Customer Coalition (AReM/DACC), Energy Users Forum (EUF), and the

California Municipal Utilities Association (CMUA) protested PG&E AL 3446-E. On April 29, 2009, the California Large Energy Consumers Association (CLECA) submitted a reply to CMUA's protest.

AReM/DACC protested AL 3446-E (and AL 3188-E-A) on the grounds that D.08-09-012 does not allow for PG&E or any other utility to create different vintages retroactively for customers who departed PG&E bundled service in different years prior to the adoption of D.08-09-012. EUF shares the objections of AReM/DACC to PG&E's vintaging proposal.

AReM/DACC maintains that the Commission authorized the vintaging of non-exempt customers using SCE's proposed methodology on a prospective basis only. AReM/DACC observes that the language in D.08-09-012 is clear that the vintaging directive is prospective rather than retrospective (See OP 4 and 10.). That is, "eligible to depart" is used rather than "departed;" and "leaving" rather than "left."

EUF states in its protest that since D.08-09-012 does not allow for the retroactive creation of vintaged Indifference Rates, the Commission should direct PG&E to revise its customer vintaging proposal to be consistent with that of SCE and SDG&E. As stated previously, SDG&E in its ERRRA Application A.08-10-004, in the Amended Direct Testimony of Dave Borden, described its approach to developing the Vintaged NBCs.

In its reply, PG&E argues that the Commission has previously rejected AReM's request for special treatment for DA (or DA-eligible) customers, which would only result in cost-shifting to other customers. PG&E quotes language from D.08-09-012 to argue that the Commission should do so again by considering what is "logical and fair, and consistent with the principles of these customers paying their fair share of costs incurred on their behalf, and of preventing cost-shifting. We do not see such logic or fairness in AReM's request." (at p. 36)

AReM/DACC further argues in its protest, "If it needed rate relief from DA eligible customers exercising their right to return to DA after the three-year bundled service period and after the 6-month notification, PG&E had the opportunity – and on behalf of its bundled customers, the obligation – to respond affirmatively to the offer laid out in Resolution 4006-E [to file an application requesting an additional Bundled Portfolio Service commitment period]. It did not." (at p. 5).

CMUA protested PG&E AL 3446-E, stating that, "PG&E fails to provide relevant and necessary information that would allow parties and the Energy Division to confirm the reasonableness of PG&E's proposed vintaged Power Charge Indifference Adjustment ("PCIA") rates [sic] for 2009." (at p. 1).

CMUA further protests that, "PG&E has also misapplied the total portfolio approach in determining PCIA rates [sic] for AL 3446-E.... The PCIA rate [sic] is simply the difference between the Indifference Rate and the [ongoing] CTC. As shown in Exhibit E to D.08-09-012 there is only one Indifference Rate for all customer categories within a particular vintage." (at p. 3). CLECA in its reply "believes that CMUA is mistaken and that its approach would result in illogical results if put into practice." (at p. 1) CLECA supports its stance by Citing OP 16 of D.06-07-030.

On April 29, 2009, PG&E submitted a reply to the protests of AReM/DACC, EUF, and CMUA. In response to AReM/DACC and EUF, PG&E argues "the applicability and form of the non-bypassable charges (NBC) applicable to DA, CCA, MDL, and CGDL customers were established in D.04-12-048, and subsequent decisions (including D.08-09-012) provide direction on how to implement those NBCs. Contrary to AReM/DACC's suggestion, PG&E is not engaging in retroactive ratemaking or even retroactive vintaging. Rather, PG&E proposes prospective PCIA charges based on the timing of each customer's departure (i.e., its vintage) and the date of the new generation resource commitment." (at p. 2) In response to CMUA, PG&E states that AL 3188-E-A in combination with AL 3446-E provides all the information that is required for the Energy Division to calculate and approve the proposed PCIA charges. Secondly, PG&E argues that the Commission should reject CMUA's understanding of the calculation method adopted in D.08-09-012. Like CLECA, PG&E disagrees that there should be only one "indifference rate" across all customer categories within a particular vintage. PG&E notes that as CMUA correctly points out, SCE has interpreted the Commission's decisions on vintaged rates to mean that the sum of the PCIA and ongoing CTC are the same for all customer classes within a vintage. However, PG&E disagrees with that interpretation, which produces results that are not in the public interest. PG&E also cites OP 16 (f) of D.06-07-030.

## **DISCUSSION**

D.08-09-012 determined the applicability and form of the new world generation non-bypassable charges (NBCs). PG&E and SCE submitted tariffs that require certain modifications, as discussed below, to comply with that order.

### **New World Generation Charges Do Not Apply to CG or Municipal DL.**

SCE in AL 2320-E explains that, pursuant to D.08-09-012, except as adopted for large municipalizations, departing load customers are exempted from new [world] generation costs recovered pursuant to D.04-12-048 and D.06-07-029. SCE accurately relays the directive in OP 2 of D.08-09-012, yet SCE qualifies the exemption adopted therein, such that, effective with the 2009 vintage CRS applicable to departing load customers, SCE will exclude D.04-12-048 new generation resources from the total portfolio. 2009 vintage CRS for departing load customers will be identical to 2008 vintage CRS, which includes new generation resources contracted for through 2008 but not for 2009. "Because CRS are determined annually, SCE interprets D.08-09-012 to modify the DL CRS methodology adopted in D.06-07-030 effective January 1, 2009 and not retroactively." (SCE Reply at p. 10)

The protesting parties have accurately expressed that new world generation charges do not apply to CG or municipal DL of any vintage and the basis for not applying such charges to this DL. We do not agree with SCE's interpretation that D.08-09-012 modifies the DL CRS methodology adopted in D.06-07-030 effective January 1, 2009. Per D.08-09-012 (OP 2), except as adopted for large municipalizations, CG and MDL customers are exempted from new generation costs recovered pursuant to D.04-12-048 and D.06-07-029. The basis for that exemption is that CG and MDL are excluded, as classes, from the adopted load forecasts on which the utilities' long term procurement plans are based. This forecasting practice goes back to at least 2001. As stated in D.04-12-048, OP 11, "The utilities shall continue to adhere to the directives for reflecting DG estimates in load forecasting consistent with D.01-04-050 and D.04-10-035." SCE also ignores the fact that new world generation charges were not implemented in the decisions prior to D.08-09-012. Thus all the new generation resources are to be excluded, not just those contracted for after 2008. Therefore, SCE shall supplement its advice letter to remove these charges that are not authorized for CG and Municipal DL.

**Vintaged CRS (beginning with the 2009 vintage) will be effective for non-exempt customers departing bundled service on or after the effective date of this resolution.**

In D.08-09-012, the Commission adopted a methodology for the “vintaging” of DA customers for purposes of calculating DA Indifference charges. Specifically, the Commission adopted (in D.08-09-012, p. 65-66) the vintaging proposal of SCE, e.g., customers departing in the first half of the year would have a departure date for vintaging purposes of December 31st of the prior year, while customers departing in the second half of the year would have a departure date for vintaging purposes of December 31st of the year in which they depart. While maintaining that its “proposal is fully consistent with the nonbypassable charge directives set forth in D.04-12-048, the PCIA charge methodology adopted in D.06-07-030, and the implementation guidance provided in D.08-12-029 [sic] PG&E acknowledges that its interpretation differs from that of SCE. PG&E has created vintages for 2004 and 2007, in addition to the 2008 vintage SCE has proposed as the first vintage (for customers that provide notice in the first six months of calendar year 2009).

The vintages prior to 2009 that PG&E proposes are inconsistent with Commission’s adopted means of preventing cost shifting. The language in D.08-09-012 is clear that the vintaging directive is prospective rather than retrospective. The language PG&E quoted from D.08-09-012 to argue that protestants request created an advantage for customers departing prior to D.08-09-012 due to its cost-shifting consequences was addressing AReM’s position that arguments for imposing stranded cost charges on DA eligible customers ignore the existence of the Switching rules (to govern the movement of DA-eligible customers to and from direct access so as to prevent gaming and costs being shifted to bundled customers). According to the rules adopted in Resolution E-4006, DA eligible customers that have or will have completed in 6 months, their three-year commitment period on bundled service may return to DA service with notice to the utility 6 months in advance. If such customers return to DA and then back to bundled service, they acquire another 3-year term on bundled service. In D.03-05-034, the Commission stated, “Further proceedings shall be conducted on what options shall be available to returning DA customers after the conclusion of a three-year minimum bundled service commitment, either in terms of a further bundled service commitment or payment of cost responsibility for stranded costs if switching back to DA service.” (OP 13). The rules presently in effect require payment of cost responsibility for stranded costs after a bundled service commitment of 3 years. PG&E had the option, per Resolution 4006-E, to

file an application requesting an additional Bundled Portfolio Service commitment if in the years prior to D.08-09-012, if it believes that cost-shifting was not sufficiently addressed by the rules in effect at that time. If the suspension on DA is lifted, the switching rules and stranded cost provisions will be reconsidered in Phase III of R.07-05-025. Appendix A scoped Phase III to include the following related question:

“7. What rules or ratemaking treatment is needed regarding customers’ rights, restrictions, and/or obligations to switch between bundled and DA options? How can cost shifting be avoided?”

Also supporting the position of the Protestants is the urgency expressed in D.08-09-012 to adopt procedures now, instead of applying procedures adopted in the future to customers departing now. “We will not grant AReM’s request to defer the development of a vintaging system for DA customers to R.07-05-025. Earlier in this decision, we determined that customers who are eligible to return to DA should not be excluded from having to pay the NBC associated with D.04-12-048. A vintaging methodology needs to be adopted now in order to determine the related cost responsibility, if and when such customers return to DA.” (at p. 64).

D.08-09-012 became effective on September 5, 2008 (OP 18). In that decision, the Commission did not specify a past date for implementation of vintaged CRS. SCE filed its compliance advice letter on February 9, 2009, requesting an effective date of March 1, 2009; PG&E filed April 2, 2009, requesting an effective date of April 2, 2009. Appendix E of D.08-09-012 provides “Examples of CRS calculations that include new generation charges.” The first assumption is “Calculated for 2009 rates, effective 1/1/2009.” The discussion in D.08-09-012 provides the following guidance, “Since the calculation of the indifference amount requires both the adopted generation revenue requirement and adopted DWR power charge revenue requirement, each utility will submit the calculation of the indifference amount for each vintage of departing load in its advice letter implementing the later of the annual ERRA decision or the annual DWR revenue requirement allocation decision, as is currently done.” (at p. 68). Thus the Commission did not set specific dates for implementation of the new world NBCs but set the timing based on the results of related forums.

Therefore, we direct PG&E, SCE, and SDG&E to update their tariffs to apply vintaged new world generation NBCs to nonexempt customers, as specified herein, on the effective date of this resolution. Since SDG&E has not filed tariffs

implementing the provisions of D.08-09-012, and it may have departing load in the future, SDG&E shall file tariffs implementing New World Generation NBCs at the time PG&E and SCE supplement their ALs.

**The Power Charge Indifference Adjustment (PCIA) shall vary by customer class in the same proportion as ongoing CTC.**

OP 16 (f) of D.06-07-030 states, "The PCIA charge (including DWR franchise fees) will be set in proportion to [ongoing] CTC."

PG&E and CLECA have correctly characterized the variation between customer classes in a particular vintage. SCE shall supplement its AL to revise its computations in accordance with OP 16 (f) of D.06-07-030.

**SCE shall revise tariff Schedule CGDL-CRS to add clarifying plain language about the circumstances that qualify customers for exemptions and exceptions.**

We acknowledge SCE's point about the language of Schedule CGDL-CRS predating D.08-09-012 and also the need for greater clarity in those tariffs as argued in the protests. Therefore, we direct SCE to include in its supplement to AL 2320-E, clarifying language in Schedule CGDL-CRS about the circumstances in which exemptions and exceptions apply.

## **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.

## **FINDINGS**

1. Commission Decision (D.) 08-09-012 adopted a vintaging (date of departure) methodology, where customers leaving PG&E, SCE, or SDG&E bundled service in the first half of any particular year would be responsible for stranded costs associated with new generation resource commitments made through the end of the previous year, and where customers leaving in the second half of any particular year would be responsible for stranded costs associated with new generation resource commitments made through the end of that particular year. These vintaged charges for “new world” generation do not apply to customers whose load the utilities forecast as departed.
2. On February 9, 2009, SCE filed AL 2320-E to consolidate the effect of revenue requirement changes authorized by the Commission in D.09-01-010 with rate changes adopted in other proceedings, as well as to implement the vintaged CRS charges, per D.08-09-012.
3. On April 2, 2009, PG&E filed AL 3446-E to implement the vintaged CRS charges, per D.08-09-012.
4. SDG&E in its ERRA Application A.08-10-004, in the Amended Direct Testimony of Dave Borden, described its approach to developing the Vintaged PCIA.
5. SCE’s proposal in AL 2320-E to implement new world generation charges pursuant to D.08-09-012 by Tier 1 advice letter is not appropriate, since the specific charges and the date of their implementation were not adopted in D.08-09-012.
6. The Commission previously decided in D.06-07-030 that the Power Charge Indifference Adjustment (PCIA) shall vary by customer class in the same proportion as ongoing CTC.
7. “New generation,” as defined in D.08-09-012, Appendix C, includes generation from both fossil fueled and renewable resources contracted for or constructed by the investor-owned utilities subsequent to January 1, 2003.
8. In D.08-09-012, the Commission excluded CGDL and MDL from new world generation NBCs, because this departing load is excluded from the adopted load forecasts on which the utilities’ long term procurement plans are based.
9. The Commission in D.08-09-012 did not authorize the utilities to create retroactive vintages for new world generation NBCs.
10. SCE’s tariff Schedule CGDL-CRS is not as clear as it should be about the circumstances that qualify customers for exemptions and exceptions.

**THEREFORE IT IS ORDERED THAT:**

1. The requests of PG&E in Advice Letter AL 3446-E and SCE in AL 2320-E to implement new world generation NBCs is approved as modified herein. Within 14 days of the effective date of this resolution, PG&E and SCE shall supplement their advice letters, and SDG&E shall file its advice letter to comply with the clarifications adopted herein.
2. Vintaged CRS (beginning with the 2009 vintage) shall be effective for non-exempt customers departing bundled service on or after the effective date of this resolution. The vintaged PCIA does not apply to customers that departed bundled service prior to the effective date of this resolution.
3. SCE in its supplemental advice letter shall remove the applicability of new world generation NBCs defined in D.08-09-012 that were not authorized for CGDL and MDL. In addition, SCE shall recalculate its PCIA to vary by customer class in the same proportion as ongoing CTC, as well as revise tariff Schedule CGDL-CRS to add clarifying plain language about the circumstances that qualify customers for exemptions and exceptions.
4. Protests are denied except to the extent granted by the preceding Ordering Paragraphs.

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 September 24, 2009, the following Commissioners voting favorably thereon:

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Paul Clanon  
Executive Director

STATE OF CALIFORNIA

ARNOLD SCHWARZENEGGER, *Governor*

**PUBLIC UTILITIES COMMISSION**

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I.D. # 8804

August 25, 2009

Draft Resolution E-4226  
September 24, 2009 Commission Meeting

TO: PG&E, SCE, and SDG&E

TO: PARTIES TO DRAFT RESOLUTION E-4226

Enclosed is draft Resolution E-4226 of the Energy Division addressing PG&E's advice letter (AL) 3446-E and SCE's AL 2320-E. It will be on the agenda at the September 24, 2009 Commission meeting. The Commission may then vote on this Resolution or it may postpone a vote until later.

When the Commission votes on a Draft Resolution, it may adopt all or part of it as written, amend, modify or set it aside and prepare a different Resolution. Only when the

Commission acts does the Resolution become binding on the parties.

Parties may submit comments on the Draft Resolution no later than Thursday, September 10, 2009.

An original and two copies of the comments, with a certificate of service, should be submitted to:

Honesto Gatchalian  
Energy Division  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102  
fax: 415-703-2200  
email: jnj@cpuc.ca.gov

An electronic copy of the comments should be submitted to:

Kathryn Auriemma  
Energy Division  
kdw@cpuc.ca.gov

Those submitting comments and reply comments must serve a copy of their comments on 1) the entire service list attached to the Draft Resolution, 2) all Commissioners, and 3) the Director of the Energy Division.

Comments may be submitted electronically.

Comments shall be limited to five pages in length plus a subject index listing the recommended changes to the draft Resolution and an appendix setting forth the proposed findings and ordering paragraphs.

Comments shall focus on factual, legal or technical errors in the proposed draft Resolution. Comments that merely reargue positions taken in the advice letter or protests will be accorded no weight and are not to be submitted.

Reply comments shall be served on parties and Energy Division no later than Tuesday, September 15, 2009 and may also be submitted electronically.

Late submitted comments or reply comments will not be considered.

Stephen C. Roscow  
Project and Program Supervisor  
Energy Division

Enclosure:

Certificate of Service  
Service List

**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of Draft Resolution E-4226 on all parties in these filings or their attorneys as shown on the attached list.

Dated August 25, 2009 at San Francisco, California.

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Honesto Gatchalian

**NOTICE**

Parties should notify the Energy Division, Public Utilities Commission, 505 Van Ness Avenue, Room 4002 San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the Resolution number on the service list on which your name appears.

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