

DRAFT

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
ENERGY DIVISION **I.D.# 9373**
RESOLUTION E-4256
May 6, 2010

R E S O L U T I O N

Resolution E-4256. 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.

PROPOSED OUTCOME: This resolution clarifies that:

1. PG&E shall update its CCA CRS tariff to incorporate the vintaging methods adopted since it filed AL 3002-E, including new generation charges, the treatment of negative indifference amounts, and the criteria used to assign a vintage year.
2. PG&E shall include the same tariff language on CCA vintaging as SCE, because SCE's CCA CRS vintaging proposal in AL 2109-E-A complies with Commission directives and accurately accounts for the utilities' procurement planning cycles.
3. The CCA CRS includes: the DWR Bond Charge, the Power Charge Indifference Adjustment (PCIA), and the ongoing CTC, plus the Energy Cost Recovery Charge (ECRA) for PG&E.
4. The PCIA shall vary by customer class in the same proportion as ongoing CTC.
5. SCE's proposed 2004 vintage CRS for Cerritos' CA customers is not discriminatory and is supported by Commission directives.
6. The issues related to Cerritos customers' CCA CRS from SCE AL 2109-E-A are addressed herein, rather than on an expedited basis.
7. SCE shall offer Cerritos' customers a payment plan that reflects the magnitude of previously unbilled CRS relative to the customer's average bill.

ESTIMATED COST: No impact on utilities' authorized revenue requirements.

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

SUMMARY

This resolution directs Pacific Gas & Electric Company (PG&E) and Southern California Edison Company (SCE) to modify their proposed Community Choice Aggregation (CCA) Cost Responsibility Surcharge (CRS) tariffs to comply with Commission orders. San Diego Gas & Electric Company's (SDG&E) AL 1881-E is approved.

BACKGROUND

Assembly Bill (AB) 117 became law on September 24, 2002, enabling cities and/or counties to form Community Choice Aggregators (CCA) and aggregate the electric load of customers within their respective political boundaries.

Public Utilities (P.U.) Code Section 366.2 codified the provisions of AB 117. P.U. Code Section 366.2(d)(1) provides that retail end-use customers of a CCA must pay a fair share of costs incurred on their behalf while they were customers of the investor-owned utility (IOU). AB 117 anticipates "ratepayer indifference" to the CCA program.

The Commission implemented the cost provisions of P.U. Code Section 366.2(d)(1).

The Commission has imposed the CRS on Direct Access (DA) and Departing Load (DL) customers to make bundled customers financially indifferent to load departure from bundled service to DA or municipal utility service. In Decision (D.) 04-12-046, the Commission found that the CRS would be the means of assuring former utility procurement customers assumed their fair share of utility investments that would otherwise be stranded with the initiation of CCA service. By D.07-01-025, the Commission adopted a CCA CRS consistent with those adopted in D. 06-07-030 for DA and DL customers.

Customers served by the City of Cerritos, a community aggregator, pay the CRS applicable to CCA customers.

Meanwhile, on September 24, 2002, AB 80 became law, codifying P.U. Code Section 366.1. AB 80 provides that a city with rights and obligations to the Magnolia Power Project may serve as a “community aggregator” (CA) 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.

The AB 80 Agreement states that Cerritos’ customers shall pay the CRS applicable to CCA customers pursuant to P.U. Code Section 366.2. Since D.04-12-046¹ 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 Commission in Resolution E-3990 suspended CRS collection from Cerritos’ customers, 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 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)

The utilities filed advice letters to comply with Commission decisions on the CCA CRS.

¹ “Order Resolving Phase 1 Issues On Pricing And Costs Attributable To CCAs And Related Matters” in R. 03-10-003.”

Pursuant to D.07-01-025, PG&E, SCE, and SDG&E filed AL 3002-E, AL 2109-E, and AL 1881-E respectively on March 12, 2007. These advice letters contain the utilities' 2007 CCA CRS calculations.

On April 12, 2007, the Commission issued D.07-04-007, which adopted modifications to the CRS applicable to the City of Cerritos' (Cerritos) customers in SCE's service territory.

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 DA/DL CRS; that methodology, which was modified by D.07-05-005 in order to track any negative indifference amount, 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. PG&E did not supplement AL 3002-E, because PG&E, through this advice letter filing, did not incorporate into its indifference calculation any procurement or resource contract entered into after 2001. SDG&E did not have DL or CCA customers to whose CRS calculation it needed to apply the D.07-05-005 modification.

Finally, after the IOUs filed their CCA CRS advice letters in mid-2007, the Commission adopted a decision (D.08-09-012) in its Long-Term Procurement Proceeding (R.06-02-013) that addressed policies for non-bypassable charges for new world generation.² This decision is applicable to CCAs, as well as other categories of departing load. Therefore, this resolution reflects the policies that the Commission adopted in that decision.

² D.08-09-012, issued September 4, 2008 Appendix C, List of Terms: "New Generation - New generation includes generation from both fossil fueled and renewable resources contracted for or constructed by the investor owned utilities subsequent to January 1, 2003".

NOTICE

The utilities' advice letter filings were served on parties in accordance with 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 San Joaquin Valley Power Authority (SJVPA) on April 2, 2007.

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

Cerritos also timely protested AL 2109-E-A on June 4, 2007.

Edison responded to Cerritos' protest on June 11, 2007. 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 and objects to SCE's removal of the DWR Bond Charge from the CCA CRS schedule. PG&E AL 3002-E illustrates the CCA CRS to include: the Power Charge Indifference Adjustment (PCIA), the Ongoing Competition Transition Charge (CTC), and the DWR Bond Charge, plus the Energy Cost Recovery Charge (ECRA).

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

SJVPA believes that SCE's vintaged CCA CRS calculations are unreasonably high when compared to the CRS paid by DA and 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).

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 amount to offset a positive indifference amount.

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 ongoing CTC 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 amount when calculating the CRS, PG&E responds that the negative indifference amount 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, not the PCIA. This is because the CRS 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. 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 ongoing 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. With the removal of the DWR Bond Charge from Schedule CCA CRS, only those charges resulting from a customer's election of CCA service are included on Schedule CCA-CRS, which also clarifies that negative indifference amounts cannot offset any other non-bypassable charges, such as the DWR Bond Charge.

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 ongoing CTC is allocated across customer classes using the Commission-adopted top-100 hours methodology. Since the PCIA is determined by subtracting the statutory ongoing CTC (which varies by customer class) from the indifference amount (which does not vary by customer class), the PCIA differs by customer class.

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 amount 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 amount 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 PCIA for Cerritos' customers. In its protest, Cerritos argues that AL 2109-E-A omits material information that is necessary to justify the reasonableness of the 2004 vintaged PCIA 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 CRS.

2. SCE's proposed 2004 vintage CRS for Cerritos' customers are unjust and unreasonably discriminatory
3. The Commission should address SCE's proposed 2004 vintage CRS on an expedited basis, separate from other CCA CRS issues

Cerritos also reserves its right to request evidentiary hearings 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

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

First, regarding Cerritos' protest that SCE fails to justify the proposed 2004 vintage CRS 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 CRS. 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 CRS 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 CRS accurately reflects the level of CRS necessary to make bundled service customers indifferent to CCA service.

In its protest, Cerritos states its belief that the 2006 CRS proposed for Cerritos' customers (as 2004 vintage customers) in AL 2109-E-A is materially and inexplicably higher than the 2006 CRS 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 CRS applicable to Cerritos' customers is different than the CRS 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 CRS 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 in 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 CRS was designed to prevent.

Regarding the differential between Cerritos' 2004 vintaged CRS and the DA CRS, Cerritos estimates that the contracts SCE has entered into after the suspension of DA have resulted in \$490 million of uneconomic costs.³ Cerritos

³ 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.

Footnote continued on next page

also estimates that 10,000 GWh of new generation has been added to SCE's service portfolio since the suspension of DA, concluding that this additional (post DA) procurement carries an average uneconomic cost of about 5 cents/kWh (\$490 million/10,000 GWh) which contributes to raising the CRS to \$.000834/kwh for Cerritos' customers.

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.

SCE's CRS calculation of \$ 0.0022/kwh for DA CRS filed in AL 2101-E inadvertently omitted some costs, resulting in a lower CRS for DA customers. That is the reason the CCA CRS is much higher than the DA CRS.

Third, regarding Cerritos' request that the Commission address SCE's proposed 2004 vintage CRS 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 CRS on an expedited basis is unnecessary and should be rejected.

DISCUSSION

The Commission issued D.08-09-012 which provides guidance on vintaging methods, new generation charges, the treatment of negative indifference amounts, and the criteria used to assign a vintage year.

With the adoption of D.08-09-012, much of the disagreement between PG&E and SJVPA is moot. Regarding SJVPA's protest that PG&E has failed to provide tariff language addressing key aspects of its CRS proposal, e.g., new generation charges, PG&E now has sufficient guidance to supplement its AL with New Generation charges.

Cerritos multiplies \$0.00612 by 80,000GWh (~SCE system-wide load), to come up with the ~\$490 million amount.

Regarding the CCA CRS calculation, D.08-09-012, Ordering Paragraph (OP) 6 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.”

Since SJVPA filed its protest and PG&E and SCE responded, the Commission issued D.07-05-005,⁴ which addressed the petition to modify D.06-07-030. OP 6 of D.07-05-005 states the following:

“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.”

SCE AL 2109-E-A, filed May 14, 2007 incorporated the modifications resulting from D.07-05-005 into the indifference calculation. PG&E shall likewise 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.

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. Thus the new generation charges will be the same for DA and CCA customers of the same vintage and rate schedule.

Regarding the criteria used to assign a vintage year, D.08-09-012, OP 10 states:

⁴ “Opinion Regarding PTM of D.06-07-030 Filed By PG&E”

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).

“A vintaging (date of departure) methodology, where customers leaving 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, is adopted.”

Pursuant to D.08-09-012, PG&E shall file CCA CRS tariffs that include the new generation charge consistent with Commission orders issued subsequent to its AL, which will address the issues raised by SJVPA and provide any other potential CCAs with a realistic understanding of the actual CCA CRS prior to their formal commitment to provide CCA service.

SCE’s CCA CRS vintaging proposal in AL 2109-E-A complies with Commission directives and accurately accounts for the utilities’ procurement planning cycles; PG&E shall include the same tariff language on CCA vintaging as SCE.

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 each utility’s Open Season process, as described in Rule 23.2 for PG&E and SCE; and 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).

PG&E shall modify its tariff language to include the same text on CCA vintaging as SCE proposed.

The utilities shall clearly state in their respective CCA tariffs that their CCA CRS includes: the DWR Bond Charge, the PCIA, and the ongoing CTC, plus the ECRA for PG&E.

SJVPA states in its protest that it favors PG&E's proposal for listing all CRS components.

D.04-12-046 states that DWR bond charges are to be included in the CCA CRS. Subsequent CCA related decisions (D. 06-07-030 and D. 07-01-025) did not explicitly exclude DWR bond charges.

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 ongoing CTC calculation (per Section 367(a)) and the indifference 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.

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

⁶ See page 5 of D.07-01-025.

⁷ See page 3 of D.06-07-030.

“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) ongoing 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 clearly state that the CCA CRS in their respective CCA tariffs include: the DWR Bond Charge, the PCIA, and the CTC, plus the ECRA for PG&E.

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

SJVPA protested that the utilities should be required to explain and justify their differing cost allocation methodologies.

D.07-01-025 modified the CCA CRS to be consistent with D.06-07-030. OP 16 (f) of D.06-07-030 states, "The PCIA charge (including DWR franchise fees) will be set in proportion to [ongoing] CTC." The Commission in D.08-09-012 did not revisit that point; note that Exhibit E of that decision addresses only average system calculations, not allocation to customer classes. Therefore, OP 5 of

⁸ See D.08-09-012, footnote 7.

Resolution E-4226 directs, "In their next scheduled CRS updates for 2010 rates, SCE and SDG&E shall calculate the PCIA to vary by customer class in the same proportion as the ongoing CTC." Given that, as stated earlier, the new generation charges will be the same for DA and CCA customers of the same vintage and rate schedule, the guidance in Resolution E-4226 for the DA CRS is pertinent to the CCA CRS. Resolution E-4226 did not direct SCE to recalculate past charges and provide bill corrections; neither do we herein. SJVPA's protest on this matter is therefore granted as specified for the CCA CRS on an ongoing basis.

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

As noted by SCE, SCE's contractual obligations are confidential and therefore cannot be shared with Cerritos. The chart incorporated below provides non-confidential information that justifies the reasonableness of the (2004 vintaged) PCIA applicable to Cerritos' customers. Cerritos' protest on this issue is denied.

SCE's proposed 2004 vintage CRS for Cerritos' CA customers is not discriminatory and is supported by Commission directives.

Cerritos protested that SCE's proposed 2004 vintage PCIA for Cerritos' CA customers is unjust and unreasonably discriminatory. Similarly, SJVPA protested that SCE has failed to explain or justify what SJVPA considers to be the significant yearly increase in the PCIA among different vintages.

Energy Division staff and SCE's regulatory staff have communicated regarding 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 Indifference Rate [sic] 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 became aware that SCE's charge of \$0.00222 kWh applicable to DA customers that was filed in AL 2101-E is inaccurate.

The chart below illustrates, on line 1, the DA charge of \$0.00222 kWh per AL 2101-E; line 8 corresponds to the 2004 CCA charge 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 charge for CCA relative to DA customers. 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	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. SCE's calculation included
3	Use SCE DWR GWh to be consistent with CCA CRS calculation	(0.015)	0.427	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 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 a 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 with 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 calculation inadvertently omitted SCE’s “non-vintaged generation costs;” this omission has been corrected in the CCA calculation applicable to Cerritos’ customers. This correction, alone, increases the CCA charge by \$0.00438 kWh.

Had the DA charge 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 calculation all along – the DA charge 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 charge by \$0.00044 kWh in 2003 (line 6) and \$0.00017 kWh in 2004 (line 7).

The chart above illustrates that the difference between Cerritos customers' 2004 vintaged charge calculation (line 7) and DA customers' corrected charge 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)⁹ as Cerritos estimates; rather, the uneconomic costs associated with post-DA suspension through 2004 are significantly lower.

With the recovery of SCE's under collection costs, the understated DA CRS has been corrected. Since DA customers charged the understated CRS paid a capped CRS, the amount of the understated charge matched the amount by which the undercollection charge was overstated. Therefore, now that the undercollection is fully recovered, the miscalculation has been resolved and all appropriate costs recovered.

To assure consistency in the ongoing implementation of the CRS and address issues as they arise, we reiterate that OP22 of D.06-07-030 provided that any prospective CRS issues concerning DA obligations shall be addressed in each utility's respective ERRA proceeding. To facilitate this review, the utilities in their ERRA proceedings, shall provide detailed workpapers illustrating how they calculate the CRS, fully annotated with supporting explanations, citations to data sources, and citations to Commission authorization for recovery of specific cost categories.

⁹ See page five of Cerritos' protest to AL 2109-E-A.

The issues related to Cerritos customers' CCA CRS from SCE AL 2109-E-A are addressed herein, rather than on an expedited basis.

Cerritos in its protest requested that the Commission address SCE's proposed 2004 vintaged CRS on an expedited basis, separate from other CCA CRS issues.

D.07-04-007 ordered SCE to calculate the vintaged CRSs applicable to Cerritos' customers consistent with those adopted in D. 06-07-030 for the CRS applied to DA and municipal DL customers. Cerritos in its protest 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.

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

SCE shall offer a payment plan to Cerritos' customers responsible for the true-up amount over a reasonable period of time.

Given the suspension of billing CRS to Cerritos' customers in May 2006, a true-up of CRS obligations to these customers is necessary. With the passage of time and the ongoing suspension of CRS billing, what at one time was expected to be credits or refunds is now likely to be an additional charge. Thus Cerritos in Comments submitted on October 27, 2008, requests "in the interest of fairness and so as to not cause economic hardship, that any authorization of the CRS true-up amount 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." This request is reasonable. SCE shall offer Cerritos' customers a payment plan that reflects the magnitude of previously unbilled CRS relative to the customer's average bill.

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 nor 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. Assembly Bill (AB) 117 became law 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. P.U.) Code Section 366.2 codified the provisions of AB 117.
2. The Commission provided guidance regarding the required implementation of P.U. Code Section 366.2(d)(1) in various decisions, including D.04-12-046 and D.07-01-025.
3. PG&E, SCE, and SDG&E request approval for their proposals to implement Commission directives concerning the calculation of the Community Choice Aggregation Cost Responsibility Surcharge.
4. The utilities' advice letter filings were served on parties in accordance with General Order 96-A, Section III, Paragraph G.
5. PG&E's AL 3002-E and SCE's AL 2109-E were timely protested by SJVPA on April 2, 2007.
6. PG&E and SCE responded to SJVPA's protest on April 9, 2007.
7. The City of Cerritos (Cerritos) timely protested AL 2109-E-A on June 4, 2007.
8. SCE responded to Cerritos' protest on June 11, 2007.
9. PG&E should provide tariff language that describes all components of its CCA CRS and complies with decisions adopted since it filed, including new generation charges, the treatment of negative indifference amounts, and the criteria used to assign a vintage year.
10. SCE's CCA CRS vintaging cycle proposed in AL 2109-E-A accurately accounts for the utilities' procurement planning cycles and complies with Commission orders.
11. The utilities should clearly state in their respective CCA tariffs that their CCA CRS includes: the DWR Bond Charge, the PCIA, and the CTC, plus the ECRA for PG&E.

12. Consistent with the DA CRS computations, as clarified in Resolution E-4226, the PCIA applicable to CCA customers shall vary by customer class in the same proportion as ongoing CTC.
13. PG&E should track any negative indifference amount and net it against any future positive indifference amount that accrues for CCA customers, as directed in D.07-05-005. SCE accurately incorporated this Commission directive in AL 2109-E-A.
14. SCE provides adequate justification for its proposed 2004 vintage PCIA applicable to Cerritos' customers.
15. SCE's proposed 2004 vintage CRS for Cerritos' CA customers is not discriminatory and is supported by Commission directives. SCE's calculation of \$ 0.0022/kwh for DA CRS filed in AL 2101-E inadvertently omitted some costs, resulting in an understated CRS for DA customers, an error which has since been resolved and appropriate costs recovered.
16. In their ERRA filings, each IOU should provide detailed workpapers illustrating how they calculate the CRS, fully annotated with supporting explanations.
17. Cerritos' request to bifurcate the issues addressed in AL 2109-E-A and address SCE's 2004 vintaged CRS on an expedited basis is unnecessary.
18. Cerritos' request that SCE offer a payment plan to Cerritos' customers responsible for previously incurred (trued-up) CRS is reasonable.

THEREFORE IT IS ORDERED THAT:

1. PG&E's request in AL 3002-E and SCE's request in AL 2109-E-A are approved with modifications. SDG&E AL 1881-E is approved, as filed, effective April 11, 2007.
2. PG&E and SCE shall supplement their advice letters within 10 days to modify their tariffs as specified herein. PG&E's and SCE's supplemental ALs shall be effective as of April 11, 2007 and June 13, 2007 respectively, subject to Energy Division approval.
3. PG&E shall modify its AL to:
 - a. Provide tariff language that describes all components of the CCA CRS as discussed in D.08-09-012;
 - b. 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 and D.08-09-012; and
 - c. Update the vintaging criteria consistent with D.08-09-012.

4. The utilities shall represent that the CCA CRS in their respective CCA tariffs includes: the DWR Bond Charge, the PCIA, and the CTC, plus the ECRA for PG&E.
5. SCE shall 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.
6. SCE shall offer Cerritos' customers a payment plan that reflects the magnitude of previously unbilled CRS relative to the customer's average bill.
7. PG&E, SCE, and SDG&E shall provide detailed workpapers in their ERRRA filings that illustrate their CRS calculations, fully annotated with supporting explanations, citations to data sources, and citations to Commission authorization for recovery of specific cost categories.
8. Except as granted in the preceding Ordering Paragraphs, the protests of SJVPA and Cerritos are denied.

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 May 6, 2010; the following Commissioners voting favorably thereon:

Paul Clanon
Executive Director

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



April 5, 2010

I.D.# 9373
RESOLUTION E-4256
May 6, 2010

TO: PARTIES TO PG&E ADVICE LETTER 3002-E, SCE ADVICE LETTER 2109-E-A, AND SDG&E ADVICE LETTER 1881-E

Enclosed is draft Resolution Number E-4256 written by the Energy Division. Resolution E-4256 was written in response to the aforementioned advice letters and will appear as an agenda item during the next Commission meeting, held 30 days after the date of this letter.

The Commission may vote on this Resolution at that time, or it may postpone a vote until a later meeting date. When the Commission votes on a draft Resolution, it may adopt all or part of it as written. The Commission may also amend, modify, or set the draft Resolution aside and prepare an alternate draft Resolution. Only when the Commission acts does a draft Resolution become binding on the parties.

All comments on draft Resolution E-4256 are due by **April 26, 2010**; Reply Comments are due on **April 30, 2010**. Comments shall be served on parties, as outlined below.

An original and two copies, along with a certificate of service to:

- 1) Honesto Gatchalian
Energy Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Email: jjj@cpuc.ca.gov
- 2) Parties to PG&E ADVICE LETTER 3002-E, SCE ADVICE LETTER 2109-E-A, AND SDG&E ADVICE LETTER 1881-E (attached)

3) Kathryn Auriemma
Energy Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Email: kdw@cpuc.ca.gov

Comments shall be limited to five pages in length plus a subject index listing the recommended changes to the draft Resolution, a table of authorities 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. Late submitted comments will not be considered.

An accompanying declaration under penalty of perjury shall be submitted setting forth all the reasons for the late submission.

Please contact Kathryn Auriemma of the Energy Division at 415-703-2072 if you have questions or need assistance.

Sincerely,

Steve Roscow
Program and Project Supervisor
Energy Division

Enclosure: Service List
Certificate of Service

CERTIFICATE OF SERVICE

I certify that I have, by electronic mail this day, served a true copy of Draft Resolution E-4256 on all parties on the PG&E ADVICE LETTER 3002-E, SCE ADVICE LETTER 2109-E-A, AND SDG&E ADVICE LETTER 1881-E service list or to their attorneys as shown on the attached list.

Dated April 5, 2010; San Francisco, California.

Steve Roscow

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 insure 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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