

Decision 08-12-006 December 4, 2008

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Consider the Annual Revenue Requirement Determination of the California Department of Water Resources.

Rulemaking 06-07-010  
(Filed July 20, 2006)

**DECISION ALLOCATING THE REVISED 2009 REVENUE REQUIREMENT DETERMINATION OF THE CALIFORNIA DEPARTMENT OF WATER RESOURCES**

**1. Summary**

In accordance with the Rate Agreement between the California Department of Water Resources (DWR) and this Commission, DWR submitted its 2009 revenue requirement determination of \$4.890 billion to us on August 6, 2008. DWR then updated and made some changes to its revenue requirement and submitted a revised 2009 revenue requirement determination on October 29, 2008. The revised determination is for a revenue requirement of \$4.410 billion, a decrease of \$480 million as compared to the August 6, 2008 submission.

In today's decision, we allocate DWR's revised 2009 revenue requirement determination of \$4.410 billion to the electricity customers of Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), and Southern California Edison Company (SCE) using the allocation methodology adopted in Decision (D.) 05-06-060. The allocation will result in DWR recovering its electric power costs and bond-related financing costs for 2009 from the electric customers of these three utilities. As shown in Appendix A of this decision, the Power Charges of \$3.551 billion, to provide the necessary funds to cover DWR's

2009 energy costs, are allocated to the customers of PG&E, SDG&E and SCE at \$0.0864, \$0.11004, and \$0.0851 per kilowatt hour (kWh), respectively. As discussed in Section 3.3, the allocation of the Power Charges will change as a result of D.08-11-056, which modifies the allocation methodology that was adopted in D.05-06-060. The Bond Charge of \$858 million is allocated to the customers of all three utilities at \$0.0049118 per kWh.

## **2. Background**

DWR submitted its 2009 revenue requirement determination to the Commission on August 6, 2008. This submission consisted of the August 6, 2008 “Determination of Revenue Requirements for the Period January 1, 2009 Through December 31, 2009,” the August 6, 2008 “Notice of Determination of Revenue Requirements,” and an August 7, 2008 memorandum from Timothy J. Haines of DWR to President Peevey of the Commission. The memorandum notified the Commission of DWR’s 2009 revenue requirement determination, and requested “that the Commission calculate, revise and impose Bond Charges in accordance with Article V of the Rate Agreement...” and “that the Commission calculate, revise and impose Power Charges in accordance with Article VI of the Rate Agreement...”<sup>1</sup>

On September 12, 2008, the Commission held a prehearing conference (PHC) to discuss the processing of DWR’s 2009 revenue requirement determination. At the PHC, DWR informed the Administrative Law Judge (ALJ), as explained in DWR’s 2009 revenue requirement determination, that it

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<sup>1</sup> The terms “Bond Charge” and “Power Charges” are defined in Article I of the Rate Agreement that was adopted in D.02-02-051.

was planning to submit a revised 2009 revenue requirement determination to the Commission toward the end of October 2008.

DWR initiated its revision of the 2009 revenue requirement by issuing a "Proposed Revision to the Determination of Revenue Requirements" on October 17, 2008. The deadline for submitting comments with DWR through its administrative process was October 24, 2008. DWR received comments on its proposed revision from PG&E, SDG&E, and SCE. DWR considered those comments, made revisions to its 2009 revenue requirement, and found the 2009 revenue requirement to be just and reasonable.

On October 29, 2008, DWR submitted its revised 2009 revenue requirement determination. This submission consists of an October 29, 2008 memorandum from Timothy J. Haines of DWR to President Peevey, the October 29, 2008 "Revision to the Determination of Revenue Requirements for the Period January 1, 2009 Through December 31, 2009," and the October 29, 2008 "Notice of 2009 Revised Revenue Requirement Determination." The October 29, 2008 memorandum notifies the Commission of its revised 2009 revenue requirement determination, and requests that the Commission take action in accordance with the Rate Agreement.

At the September 12, 2008 PHC, the ALJ announced the procedure for the filing of a protest or objection to the revised 2009 revenue requirement determination. That procedure was also set forth in the September 23, 2008 scoping memo and ruling (scoping memo). In accordance with this procedure, protests or objections were to be filed within three days of DWR's submission of the revised 2009 revenue requirement determination to the Commission. On October 30, 2008, the day after DWR submitted its revised determination, the ALJ reminded the service list by e-mail of this procedure and directed that any

protest or objection to the allocation of the revised 2009 revenue requirement determination be filed by November 3, 2008. The ALJ's e-mail also notified the parties that the public review and comment period on the proposed decision might have to be shortened due to the timing of the submission of the revised determination, the time for the filing of a protest or objection to the revised determination, and the Commission's obligation to impose the charges in a timely manner. The ALJ allowed the parties to object to the possible shortening of time for public review and comment on the proposed decision.

No protests or objections to the revised 2009 revenue requirement determination were filed, and no one objected to the ALJ's proposed shortening of the time for public review and comment on the proposed decision. Since no one protested or objected to the revised 2009 revenue requirement determination, we conclude that there are no contested issues concerning DWR's request to allocate its determination.

In accordance with the procedure set forth at the September 12, 2008 PHC, and as explained in the scoping memo, the ALJ then prepared the proposed decision.

### **3. Allocation of the Revised 2009 Revenue Requirement Determination**

#### **3.1. Background of DWR's Revised 2009 Determination**

The revised 2009 revenue requirement determination updated the information contained in the August 6, 2008 submission by incorporating DWR's preliminary actual operating results through September 30, 2008 and projected operating results through the end of 2008. In addition, the revised determination used an updated natural gas price forecast and related assumptions, updated the

modeling assumptions and operational considerations that are incorporated in the PROMOD IV market simulation model, and updated the actual variable rate interest results through September 30, 2008. The revised determination also updated the projections of operating balances for 2010 and 2011, and updated the projection of Power Charges for 2009.

According to DWR, the revised 2009 revenue requirement determination results in a total decrease of \$480 million as compared to the original determination that was submitted on August 6, 2008. This decrease is made up of two components. The first component is a \$509 million decrease in DWR's Power Charge Revenue Requirement. This \$509 million decrease is due primarily to a decrease in contract costs as a result of a decrease in the gas price forecast for 2009 and changes to the Operating Account and Operating Reserve Balances for 2010 and 2011. The second component of the total decrease of \$480 million is due to a \$29 million increase in the Bond Charge Revenue Requirement because of the net effects of an increase in the projected interest rates for the unhedged variable rate portion of DWR's bond portfolio.

DWR's revised 2009 revenue requirement determination contains the information needed to recover the revenue requirement from the utilities' customers for calendar year 2009. The revised 2009 revenue requirement determination is based on the assumptions contained in Section D of DWR's revised determination. These assumptions include retail customer electric load, demand side management and conservation, power supply needs and sources, off-system sales, natural gas prices, administrative and general expenses, bond-related financing costs, and other considerations that affect DWR's revenues and expenses.

The Commission's obligation is to calculate, revise, and impose the Bond Charge and Power Charges on the customers of the three electric utilities. This obligation is contained in the Rate Agreement that was adopted by the Commission in D.02-02-051, and Water Code §§ 80110 and 80134. We perform these calculations using the allocation methodology that we adopted in D.05-06-060, the results of which appear in Appendix A of this decision.<sup>2</sup>

### **3.2. Bond Charge**

DWR requests that the Commission calculate, revise and impose the Bond Charge on the three utilities so as to satisfy the Rate Covenant in Article V of the Rate Agreement between DWR and the Commission. The Bond Charge is designed to recover DWR's costs associated with its bond financing activities from the utilities' customers.

DWR's revised 2009 revenue requirement determination states that its 2009 revenue requirement for bond-related costs is \$858 million. DWR's modeling in support of its revised determination indicates that it will receive the required \$858 million if the Commission sets the Bond Charge at \$0.0049118 per kWh. We adopt DWR's requested 2009 Bond Charge, and the Bond Charge rate of \$0.0049118 per kWh shall be allocated to the electric customers of PG&E, SDG&E and SCE.

### **3.3. Power Charges**

DWR requests that the Commission calculate, revise and impose Power Charges on the three utilities. The Power Charges are designed to provide the

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<sup>2</sup> No one objected to the use of this allocation methodology at the September 12, 2008 prehearing conference.

funds necessary to satisfy DWR's revised 2009 revenue requirement for the cost of electric power sold to the utilities' customers.

DWR's revised determination states that its 2009 revenue requirement for the Power Charge is \$3.551 billion. We adopt DWR's requested 2009 Power Charge, and the Power Charges shall be calculated and allocated to the customers of PG&E, SDG&E, and SCE as shown in Appendix A of this decision. The Power Charges allocated to the customers of PG&E, SDG&E, and SCE are \$0.0864, \$0.11004, and \$0.0851 per kWh, respectively.

On November 21, 2008, the Commission adopted D.08-11-056 in Rulemaking 07-05-025. Among other things, D.08-11-056 modified the cost allocation methodology adopted in D.05-06-060 by utilizing a "cost-follows-contracts" (CFC) methodology with indifference payments, effective for calendar year 2009 and beyond. D.08-11-056 directed PG&E, SDG&E, and SCE to jointly file and serve an advice letter compliance filing within 30 days of the effective date of the decision to implement the changes to the DWR cost allocation methodology. To calculate the indifference payments, the three utilities will have to determine the "annual difference between the unavoidable DWR contract costs that would have been allocated to each [investor owned utility's] customers under D.05-06-060 and the unavoidable DWR contract costs that will be allocated to those customers under the CFC methodology, for each year from 2009 until the last DWR contract is scheduled to expire." (D.08-11-056, App. 2, p. 2.) This calculation of the indifference payments is to be included as part of the advice letter filing, and the allocation under the CFC methodology is intended to supersede the allocation of the Power Charges among the customers of the three utilities (remittance rates) as shown in Appendix A of this decision when the advice letter filing becomes effective.

In order to implement the CFC allocation methodology for DWR's 2009 revenue requirement, as intended in D.08-11-056, PG&E, SDG&E, and SCE shall state in the advice letter filing required by D.08-11-056 when the new remittance rates will be implemented by them. Prior to the implementation date of the new remittance rates for the Power Charges, PG&E, SDG&E, and SCE shall file Tier 1 advice letters, as provided for in General Order 96-B, with revised tariffs that reflect the new remittance rates using the CFC allocation methodology.

#### **4. Rehearing and Judicial Review**

This decision construes, applies, implements, and interprets the provisions of Assembly Bill (AB) 1X (Chapter 4 of the Statutes of 2001-2002 First Extraordinary Session), and relates to the implementation of DWR's revenue requirement and the establishment and implementation of the Bond Charge and Power Charges necessary to recover that revenue requirement. Therefore, pursuant to Public Utilities Code §1731(c), any application for rehearing of this decision is due within 10 days after the date of issuance of this decision. The procedures contained in Public Utilities Code §1768 apply to the judicial review of a Commission order or decision that interprets, implements, or applies the provisions of AB1X.

#### **5. Comments on Proposed Decision**

The proposed decision of ALJ John S. Wong in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed pursuant to Rule 14.3 of the Commission's Rules of Practice and Procedure, as shortened below.

At the September 12, 2008 PHC, DWR expressed a desire to have a decision in this matter considered at the Commission's December 4, 2008 meeting. As pointed out by the ALJ in his October 30, 2008 e-mail to the service

list, due to the timing of the revised 2009 revenue requirement determination and the time for filing a protest or objection to the revised determination, the proposed decision was not finished in time for the full 30-day public review and comment period. In order to have this matter considered at the December 4, 2008 meeting so that the rates to recover DWR's 2009 revenue requirement can go into effect on January 1, 2009, the time for public review and comment on the proposed decision was shortened, with the agreement of all the parties, pursuant to Rule 14.6(b). SCE filed opening comments on the proposed decision and PG&E filed reply comments. These comments have been considered and incorporated into the decision.

## **6. Assignment of Proceeding**

Michael R. Peevey is the assigned Commissioner, and John S. Wong is the assigned ALJ in this proceeding.

### **Findings of Fact**

1. DWR submitted its 2009 revenue requirement determination to the Commission on August 6, 2008.
2. A PHC was held on September 12, 2008 to discuss the processing of DWR's 2009 revenue requirement determination.
3. DWR's revised 2009 revenue requirement determination was submitted to the Commission on October 29, 2008.
4. No protests or objections to DWR's revised 2009 revenue requirement determination were filed, and no one opposed the ALJ's proposed shortening of the time for public review and comment on the proposed decision.
5. The main differences between the August 6, 2008 determination of \$4.890 billion and the October 29, 2008 revised 2009 revenue requirement determination of \$4.410 billion are due to a decrease in contract costs as a result

of the decrease in the gas price forecast for 2009 and changes to the Operating Account and operating Reserve Balances for 2010 and 2011, and a \$29 million increase in bond charge costs due to projected increases of the interest rates for the unhedged variable rate portion of DWR's bond portfolio.

6. DWR's revised 2009 revenue requirement determination contains the information needed to recover the revenue requirement from the utilities' customers for calendar year 2009.

7. The Bond Charge is designed to recover DWR's costs associated with its bond financing activities from the utilities' customers.

8. DWR's revised 2009 revenue requirement for bond-related costs is \$858 million, which results in a Bond Charge of \$0.0049118 per kWh.

9. The Power Charges are designed to provide the funds necessary to satisfy DWR's revised 2009 revenue requirement for the cost of electric power sold to the utilities' customers.

10. DWR's revised 2009 revenue requirement for the Power Charge is \$3.551 billion, which results in the allocated Power Charges to the customers of the three electric utilities as shown in Appendix A.

11. The allocation of DWR's 2009 revenue requirement will be affected by D.08-11-056, which modified the cost allocation methodology adopted in D.05-06-060.

### **Conclusions of Law**

1. There are no contested issues concerning DWR's request to allocate the revised 2009 revenue requirement determination.

2. The Commission's obligation is to calculate, revise, and impose the Bond Charge and Power Charges on the customers of the three electric utilities.

3. DWR's requested 2009 Bond Charge and Power Charge should be adopted and allocated to the customers of PG&E, SDG&E and SCE.

4. In order to implement the CFC allocation methodology adopted in D.08-11-056, PG&E, SDG&E, and SCE shall state in the advice letter required by D.08-11-056 when the new remittance rates for the Power Charges will be implemented by them.

5. Prior to the implementation date of the new remittance rates for Power Charges, PG&E, SDG&E, and SCE shall file Tier 1 advice letters, as provided for in General Order 96-B, with revised tariffs that reflect the new remittance rates using the CFC allocation methodology.

6. The time for public review and comment on the proposed decision was shortened without objection pursuant to Rule 14.6(b).

7. This decision construes, applies, implements, and interprets the provisions of AB1X, and relates to the implementation of DWR's revenue requirement and the establishment and implementation of the Bond Charge and Power Charges necessary to recover that revenue requirement.

## **O R D E R**

### **IT IS ORDERED** that:

1. The allocation to Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), and Southern California Edison Company (SCE), as shown in Appendix A of this decision, of the California Department of Water Resources' (DWR) 2009 revenue requirement determination as revised on October 29, 2008, is adopted.

- a. As shown in Appendix A of this decision, the 2009 Power Charges allocated to the electric customers of PG&E, SDG&E and SCE are set at \$0.0864, \$0.11004, and \$0.0851 per kilowatt hour (kWh), respectively,



MICHAEL R. PEEVEY  
President  
DIAN M. GRUENEICH  
JOHN A. BOHN  
RACHELLE B. CHONG  
TIMOTHY ALAN SIMON  
Commissioners