

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Regarding the Implementation of the Suspension of Direct Access Pursuant to Assembly Bill 1X and Decision 01-09-060.

Rulemaking 02-01-011
(Filed January 9, 2002)

**ADMINISTRATIVE LAW JUDGE'S RULING
GRANTING MOTION TO INCORPORATE EVIDENTIARY RECORD
FROM BOND CHARGE PROCEEDING
AND EXTENDING BRIEFING SCHEDULE**

On August 2, 2002, the California Large Energy Consumers Association (CLECA) filed a motion requesting that the evidentiary record in the Department of Water Resources (DWR) Bond Charge proceeding in Application (A.) 00-11-038 et al., be consolidated with the record in this proceeding regarding the establishment of cost responsibility surcharges for direct access and other customers.

CLECA argues that, absent careful coordination between these two proceedings, there is a threat of double recovery of certain DWR procurement costs. CLECA expresses concern that double recovery could happen with respect to charges for ongoing costs if the entire bond charge is levied on direct access customers along with historical and ongoing "fees" pursuant to a Commission order in Rulemaking (R.) 02-01-011. CLECA points to evidence in the Bond Charge proceeding indicating that DWR intends to issue approximately \$11 billion in bonds although the actual DWR undercollection is only about

\$7 billion. Thus, a significant portion of the bond proceeds will be used to fund reserves supporting ongoing long-term contracts. Yet, in the R.02-01-011 proceeding, parties have presumed that bond charges would only cover historic undercollections, not prospective contract costs.

In order for the Commission to be fully aware of the relationship between direct access cost responsibility both for past undercollections and for ongoing costs, CLECA argues that the record evidence developed in the Bond Charge proceeding needs to be incorporated into the record in this proceeding. In this manner, parties will be able to brief the interrelated issues with citations to pertinent record evidence in the Bond Charge proceeding in order to guard against possible inadvertent double counting of costs or related mistakes in the coordinated development of bond charges and ongoing cost responsibility charges applicable to direct access customers.

Parties replying to the motion agree that the CLECA motion should be granted to avoid possible inadvertent double counting of charges and to promote a complete and coordinated record. PG&E raises the concern, however, that arguments about how bond transaction structure dictate bond charge allocation could spill over into arguments relating to the bond charge structure itself. PG&E argues that any issues relating to the bond charge structure, and relating to any Commission response to DWR's proposed structure, belong in the DWR Bond Charge proceeding, not in this proceeding.

CLECA's motion is granted to the following extent. The evidentiary record developed in the DWR Bond Charge phase of A.00-11-038 is hereby incorporated by reference into the record for this proceeding. Parties to this proceeding accordingly may use citations from the record developed in the Bond Charge phase of A.00-11-038 as relevant in briefing their arguments concerning

the issues in this proceeding. Use of the evidentiary record from the DWR Bond Charge phase of A.00-11-038 should only be used, however, to the extent it is relevant in resolving the questions of direct access customers' cost responsibility. Any issues relating to the DWR bond charge structure shall remain in the DWR Bond Charge proceeding and are not within the scope of this proceeding.

To the extent any party to this proceeding is not already a party in the Bond Charge proceeding and needs access to exhibits or transcripts from that proceeding, they shall, upon request, receive a copy of any pertinent record materials from the appropriate sponsoring party.

The incorporation of the record from the Bond Charge proceeding will help to ensure coordination of closely related issues in the two proceedings, particularly relating to the relationship between recovery of past DWR undercollections and remittances of Bond Charges.

Extension of Briefing Schedule

CLECA also requests that the briefing schedule be extended by one week, from August 16 to August 23, 2002, to provide additional time for parties to incorporate the record from the Bond Charge proceeding. Southern California Edison (SCE) also notes that an additional week of briefing would allow parties to devote time to pursuing stipulation on some of the disputed issues in the proceeding. Other parties support a two-week extension in the briefing schedule in order to permit adequate time to pursue discussions on stipulation of disputed issues.

The due date for opening briefs shall be extended by two weeks to August 30, 2002. The due date for reply briefs shall be extended to September 12, 2002.

IT IS RULED that:

1. The motion of CLECA is granted as set forth below.
2. The evidentiary record developed in the DWR Bond Charge phase of A.00-11-038 is hereby incorporated by reference into the record for this proceeding.
3. Any issues relating to the DWR bond charge structure shall remain in the DWR Bond Charge proceeding and are not within the scope of this proceeding.
4. To the extent any party to this proceeding is not already a party in the Bond Charge proceeding and needs access to exhibits or transcripts from that proceeding, they shall, upon request, receive a copy of any pertinent record materials in the Bond Charge Proceeding from the appropriate sponsoring party.
5. The due date for opening briefs shall be extended by two weeks to August 30, 2002.
6. The due date for reply briefs shall be extended to September 12, 2002.
7. A copy of this ruling shall be served by e-mail on parties in this proceeding and also in the Bond Charge Proceeding (A.00-11-038 et al.).

Dated August 13, 2002, in San Francisco, California.

/s/ THOMAS R. PULSIFER

Thomas R. Pulsifer
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge’s Ruling Granting Motion to Incorporate Evidentiary Record from Bond Charge Proceeding and Extending Briefing Schedule on all parties of record in this proceeding and in Application 00-11-038 et al. or their attorneys of record.

Dated August 13, 2002, at San Francisco, California.

/s/ TERESITA C. GALLARDO
Teresita C. Gallardo

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission’s policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.