

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
REGARDING MUNICIPAL DEPARTING
LOAD BILLING AND COLLECTION IMPLEMENTATION**

I. Introduction

This ruling initiates the process to implement billing and collection relating to cost responsibility surcharges (CRS) for "Municipal Departing Load" (MDL), pursuant to Decision (D.) 03-07-028 as modified by D.03-08-076, D.04-11-014, and D.04-12-059.

In D.03-07-028, the Commission imposed MDL CRS, to be billed and collected through the investor-owned utility (IOU) tariffs. D.03-07-028 directed the ALJ to issue a ruling "initiating further procedural measures necessary to integrate MDL into the DA CRS modeling process and to implement the tariff filing, billing, collection, and accounting for the MDL CRS." (D.03-07-028 at p. 20.)

Billing and collection issues must be resolved so that the IOUs can implement tariffs to bill and collect applicable MDL CRS provisions. As noted in D.03-08-076: "In the MDL CRS Decision, we deferred all issues relating to billing and collection for further consideration..." (See D.03-08-076, at p. 9, fn. 5.) On

that basis, in D.03-08-076, the Commission denied consideration of the billing and collection issues raised in the Application for Rehearing of D.03-07-028. Accordingly, this ruling is issued in compliance with D.03-07-028 to address MDL CRS billing and collection issues. After resolution of the pertinent billing and collection issues through this proceeding, the IOUs will be authorized to file tariffs for MDL CRS pursuant to Commission directives.

II. Procedural Background

On May 15, 2004, Pacific Gas & Electric Company (PG&E) filed Advice Letter 2483-E, seeking to implement a plan to bill “New Municipal Load.” In a letter dated March 17, 2004, to the assigned commissioners and ALJ, however, California Municipal Utilities Association (CMUA) requested that PG&E withdraw Advice Letter 2483-E until rehearing issues were resolved relating to MDL CRS.

An ALJ ruling, issued on March 19, 2004, solicited comments regarding implementation of billing, collection, and accounting for MDL CRS. The ruling deferred processing of PG&E’s Advice Letter 2483-E pending comments in response to the ruling and further action. Comments were filed on April 23, 2004. While some parties made substantive proposals, others asked the Commission to defer billing and collection issues until the MDL rehearing issues were resolved.

D.04-11-014 addressing applications for rehearing of D.03-07-028 was subsequently adopted. Moreover, the Commission has issued D.04-12-059, addressing applications for rehearing of D.04-11-014. Accordingly, proceedings can now move forward relating to the billing, collection, and accounting implementation for MDL CRS. This ruling serves notice for parties to be heard concerning MDL billing and collection implementation issues.

III. Issues to be Addressed

Comments are hereby solicited setting forth parties' positions as to the pertinent billing and collection, as summarized below.

A. Identifying Customers and Measuring Usage for MDL CRS

In order to implement MDL CRS billing and collection, procedures must be established to identify applicable customers of publicly owned utilities (POUs), together with per-kWh billable usage for calculating customer bills. Since IOU billing records do not contain data for customers of POUs, measures must be devised whereby the IOUs can access the data necessary to bill and collect CRS from the applicable customers of POUs.

1. Position of PG&E

Of the three IOUs, only PG&E has filed advice letters seeking to implement MDL CRS billing and collection. PG&E filed Advice Letter 2433-E on October 29, 2003, proposing a new schedule to bill and collect CRS from MDL pursuant to D.03-07-028. Protests were filed by Merced and Modesto Irrigation Districts. The Commission staff has deferred processing of this advice letter. PG&E seeks immediate resumption of the schedule for processing its advice letter.

PG&E subsequently filed Advice Letter 2483-E proposing a new schedule to bill and collect CRS from "new" MDL pursuant to D.03-07-028, D.03-08-076, and D.04-02-062. The processing of this advice letter was suspended by ALJ ruling, as noted above, prior to protests being filed.

2. Position of SDG&E

SDG&E supports development of a pro forma MDL CRS tariff template for use by all three IOUs, with implementation details to be addressed through workshops. SDG&E identified the following tariff implementation issues to be addressed:

- a. Definition of MDL eligible for billing
- b. CRS components applicable to MDL billing
- c. MDL obligations to provide information to the IOU
- d. Processes for metering, billing, and collection
- e. Accounting for uncollected obligations
- f. Remedies for noncompliance

SDG&E identified the following implementation issues relating to billing and collection:

- a. IOU access to MDL meter information
- b. Methods for billing in the absence of meter information
- c. Prearranged cooperative billing methods between IOU and MDL
- d. Billing period and Payment Schedule
- e. Serving POU Opportunities to Reduce Costs to MDL customers

3. Position of SCE

SCE proposed alternative options for billing and collecting of MDL CRS depending on whether the POU willingly cooperates in the billing and collection process. If the POU willingly cooperates in the process, SCE proposes either: (1) joint development of a “Municipal Collection Service Agreement” whereby the POU would charge its eligible customers a CRS and remit the collections to the IOU; or (2) development of a “Municipal Data Provision Plan”

whereby the POU would provide periodic meter data to the IOU who would then bill MDL CRS based on the metered data.

If the POUs remain unwilling to cooperate in the CRS billing and collection process, then SCE proposes the following alternative approach. The CPUC, jointly with the IOUs, would request assistance in the billing and collection from the Federal Energy Regulatory Commission (FERC). Specifically, FERC would be requested to assess and collect the MDL CRS from POUs served under the FERC Wholesale Distribution Access Tariff (WDAT) service, Transmission Owner Tariff, or other FERC-jurisdictional arrangement. FERC would then remit collections to the IOUs.

4. Position of MDL Parties

MDL parties oppose resumption of the processing of PG&E's advice letter until workshops are held to address billing and collection implementation issues pursuant to D.03-07-028, and related decisions. Additional implementation issues are identified by parties representing MDL interests include the IOU's obligations and process to notify MDL customers of any applicable CRS, and nondiscrimination in billing and collection processes.

In comments in response to the March 19, 2004, ALJ ruling, Merced Irrigation District (Merced) objects to PG&E's proposed tariff billing and collection process. Merced objects to the proposed requirement for customers of a POU to notify PG&E within 30 days of tariff approval of their intention to take steps that would qualify their load as "new" MDL. Merced also objects to PG&E's proposal to make its own estimates of usage data for customers of POUs that do not voluntarily provide metered data. Merced further objects to PG&E's proposed penalties for POU customers' failure to comply with the provisions of the tariff on a voluntary basis.

Merced proposes that the parties should begin with a “blank slate” in order to design fair and equitable billing and collection protocols for MDL CRS. Merced opposes the use of PG&E’s Advice Letter 2483-E as a “template” for workshop discussions.

5. Discussion

A technical workshop is hereby scheduled for 10 a.m. on January 31, 2005, for purposes of identifying positions and seeking consensus on processes and procedures for billing and collection of MDL CRS pursuant to D.03-07-028, as subsequently modified by D.03-08-076, D.04-11-014, and D.04-12-059. At the workshop, participants will have the opportunity to identify positions, respond to opposing proposals, and propose remedies or approaches to satisfy the billing and collection requirements set forth in the above-referenced decisions.

Parties are authorized to file and serve comments in advance of the workshops setting forth their proposals as to procedures, processes, and protocols for billing, collecting, and accounting for all MDL (both “new” and “transferred”) that is required to pay the CRS. Comments shall be due on January 14, 2005, and reply comments shall be due on January 24, 2005. There is no need for a “two-track process,” as suggested by CMUA, for “transferred” MDL to be considered first and “new” MDL to be considered later. PG&E’s Advice Letter 2483-E will not serve as a “template” for the workshop, but each party will be permitted to present proposals on an equal footing.

To the extent any party believes its billing and collection proposal is already fully explained in the comments previously filed on April 23, 2004, its prior comments may be incorporated by reference. To the extent that parties believe that uniform processes can or should apply among all three IOUs, they may present proposals on that basis. To the extent parties believe that separate

measures should apply to each IOU, but not necessarily to all three, they may so indicate in their proposals.

Following receipt of comments, a more detailed agenda for the January 31st workshop will be prepared and issued.

**B. Issues Relating to Administration of the
CRS Exemption Credits Authorized in
D.04-11-014**

In D.03-07-028, the Commission adopted provisions for publicly owned utilities to qualify for MDL CRS exclusions for “new load” on behalf of their customers. The manner as to how such exclusions are to be administered, however, was left to the billing and collection implementation phase. Accordingly, parties’ comments in response to this ruling should also address proposed processes to administer the first-come, first-served rules for identifying POU’s customers excluded from the CRS, and the applicable increments of POU customer load.

D.04-12-059 adopted MDL CRS exclusions for “new load” associated with (1) POU’s serving in geographic areas identified in the PG&E Bypass Report for “transferred load” and (2) POU’s formed before July 2003 capped on an interim basis at 80 MW. The Commission permitted parties to revisit the size of the cap (but not whether there should be a cap), through workshops or other means as determined by the assigned ALJ, in the billing and collections phase. The Commission also called for the cap to be converted into a megawatt-hour figure through the use of an appropriate load factor for ease of administration.

This ruling accordingly solicits proposals concerning (1) the process, criteria, and evidentiary basis to determine how, or to what extent, the 80 MW cap should be modified pursuant to the directives in D.04-11-014; and (2) specific

protocols for administering the first-come, first-served rules for POU's seeking to qualify for authorized CRS exclusions.

C. MDL CRS Cents Per-kWh Cap

In D.02-11-022, the Commission imposed a cap of 2.7 cents/kWh applicable to Direct Access CRS obligations. In D.03-07-028, the Commission deferred consideration of whether or to what extent to impose a similar cap on the CRS amount applicable to MDL. (Conclusion of Law 14.) Parties shall also address this issue in comments filed pursuant to this ruling. Parties shall identify their substantive position on what level of CRS cap, if any, should be imposed, with supporting reasons and justification. If any party believes evidentiary hearings are needed to resolve any of the above issues, they should set forth in detail what material factual disputes would warrant holding such evidentiary hearings and describe what kind of testimony would be proffered during such hearings.

IT IS RULED that:

1. A workshop is hereby scheduled for January 31, 2005, starting at 10 a.m., at the Commission's Courtroom at 505 Van Ness Avenue, San Francisco, to address MDL CRS billing and collection implementation issues pursuant to D.03-07-028, as discussed above.
2. Comments are solicited from parties concerning each of the issues outlined in the discussion above.
3. Opening comments shall be due on January 14, 2005, and reply comments shall due on January 24, 2005.

4. Following receipt of comments, a more detailed agenda will be prepared circulated in reference to the workshop on implementation of billing, collection, and related measures as outlined above.

Dated December 23, 2004, in San Francisco, California.

/s/ THOMAS R. PULSIFER
Thomas R. Pulsifer
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail, to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling Regarding Municipal Departing Load Billing and Collection Implementation on all parties of record in this proceeding or their attorneys of record.

Dated December 23, 2004, 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.