PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION **RESOLUTION E-4226**
October 29, 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 Customer Generation or Municipal Departing Load.
2. Vintaged CRS (beginning with the 2009 vintage) will be effective for non-exempt customers giving their six-month notice to depart bundled service after the start of the 2009 vintage, i.e., on or after July 1, 2009.
3. Beginning with the next CRS update, the Power Charge Indifference Adjustment (PCIA) shall vary by customer class in the same proportion as ongoing CTC.

ESTIMATED COST: No impact on utilities' revenue requirements.

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

SUMMARY

This Resolution implements new world generation non-bypassable charges (NBCs)[1] using the vintaging (date of departure) methodology adopted by the

[1] 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.

Commission in Decision (D.) 08-09-012. Non-exempt 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 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.[2] These vintaged charges for new world generation shall apply to customers giving their 6-month departure notices as of the start of the 2009 vintage and do not apply to customers whose load the utilities forecast as departed, e.g., customer generation (CG) and municipal. Beginning with the next CRS update, the Power Charge Indifference Adjustment (PCIA) shall vary by customer class in the same proportion as ongoing CTC.

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 CG service.

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[2] The vintage is determined by the date of the customer's 6-month notice, when the utility is thereby freed from making long term commitments on behalf of the customer. The customer begins paying the vintaged CRS at the end of the 6-month notice period, assumed to be the date of departure. See D.08-09-012 at p. 36, Finding 20 and Conclusion of Law 6, which states, "Since the IOUs are procuring and making procurement commitments on behalf of bundled service customers who are eligible to return to DA service up until the dates associated with these customers' notices to return to DA service, these customers should, as is the case with all other customers, be responsible for those procurement commitments made on their behalf and should be subjected to the D.04-12-048 NBC." A customer providing notice on or after July 1,2009 would be billed the 2009 vintage CRS beginning in January, 2010. This timing coordinates implementation of the new world generation charges or the vintaged CRS with the timing of the ERRA and DWR proceedings, as contemplated by D.08-09-012.

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 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, contrary to General Order (G.O.) 96-B. According to Section 5.1(3) of G.O. 96-B, matters appropriate for Tier 1 designation include "A change in a rate or charge pursuant to an index or formula that the Commission has approved for use in an advice letter by the Utility submitting the advice letter, not including the first time the Utility uses that index or formula." Energy Division allowed SCE to implement its March 1 rate change, including the new world generation charges, but notified SCE that we would address its protested new world generation charges in a resolution applicable to all three utilities.[3]

PG&E filed AL 3446-E on April 2, 2009. PG&E proposed PCIA charges for 2009 that vary depending on when customers departed bundled service, e.g., 2004, 2007, 2008, and 2009.

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[3] SCE indicated by phone to the Energy Division that, if applicable, those (few) customers determined to be and billed as vintage 2008 would be reverted by SCE's billing system to "unvintaged" and an adjustment would appear on their bills.

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 had no customers to whom the new NBCs would 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 … the rejection of … SCE's proposal to apply certain new generation charges to departing load customers."(at p. 1).

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. CLECA further recommends that 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.

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[4] on

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[4] This ordering paragraph states, "2. 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

Footnote continued on next page

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 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.

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 CLECA's and EPUC's protests. (The UC is only applicable to DA customers who subsequently become MDL or CGDL customers.) To remove any confusion regarding the applicability of the UC under Schedule CGDL-CRS, SCE offers that it will modify this schedule in a future advice letter.

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related to RPS contracts, with the exception of those customers described in Ordering Paragraph 3."

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 response to AL 3446-E that addressed the calculation issue raised in 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 Ops 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 ERRA Application A.08-10-004, in the Amended Direct Testimony of Dave Borden, described its approach to developing the vintaged NBCs.

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 protested 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 response "believes that CMUA is mistaken and that its approach would result in illogical results if put into practice." (at p. 1) CLECA explains, "the CMUA-suggested approach of having the sum of the CTC and the PCIA for each customer class equal an overall "indifference rate" would create the illogical result that the classes with the lowest CTC rate [sic] would necessarily have the highest PCIA rate [sic]. For a class or rate schedule that has a lower CTC rate [sic], E-20 T for example on Attachment 1, CMUA would have PG&E charge a higher PCIA rate [sic], thereby canceling the effect of the lower CTC rate for E-20 T. Under certain circumstances, using the CMUA approach, one customer class could have a negative PCIA and another could have a positive PCIA. This makes no sense. All of these costs are generation-related costs and all generation-related costs have traditionally been allocated across customer classes to account for the differences in service voltage." (at p. 3). 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 correctly notes, as CMUA also points out, that 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, according to PG&E. 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 repeats the directive in OP 2 of D.08-09-012, but instead of granting the exemption adopted in that OP for departing load customers, SCE has implemented new world generation charges applicable to these customers for the 2008 vintage. SCE justifies its approach, arguing that "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; see Footnote 4, above), 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 apply to non-exempt customers giving their 6-month notice on or after July 1, 2009 that they are leaving bundled service.

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 the 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. See OP 4[5] (which says "eligible to return" not "or which have returned") and OP 10[6] (which says "leaving," not "or who have left").

In D.08-09-012, the Commission adopted new world generation charges, providing guidance for their calculation and applicability. These new world generation charges rely on a variety of inputs from related proceedings, such as the ERRA and the DWR Revenue Requirement, both of which operate on a calendar year basis. The vintaged method adopted in D.08-09-012, as stated previously, operates on a July 1 to June 30 calendar. The Commission in D.08-09-012, as stated in the Protest Section, did not direct the utilities to file advice letters to implement new world generation charges on a set date, as their implementation must coordinate with these other proceedings. Since DA is suspended (see footnote 8.), the movement of eligible bundled service customers involves small numbers of customers. Therefore, our intent is to synchronize the implementation of the new world generation charges with the other proceedings systematically as contemplated in D.08-09-012.

The Commission in Resolution E-4006 clarified the options available to DA eligible customers at the end of their three-year commitment period on bundled service, as provided in D.03-05-034. 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 that they are leaving bundled service. If such customers return to DA and then back to bundled service, they acquire another 3-year commitment period on

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[5] That footnote states, "4. Bundled service customers who are eligible to return to direct access shall not be excluded from having to pay the NBC associated with D.04-12-048."

[6] That Ordering Paragraph states, "10. 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.

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 in effect since 2003 require DA customers to pay the cost responsibility surcharge for stranded costs, which applies when a DA eligible bundled service customer returns to DA service. Resolution E-4006 also invited the utilities to file an application requesting an additional Bundled Portfolio Service commitment if (in the years prior to D.08-09-012) they believed that cost-shifting was not sufficiently addressed by the rules in effect at that time (OP 5). The utilities filed no such application, reflecting their conclusion that cost-shifting was sufficiently addressed by the rules in effect at that time.

Phase III of R.07-05-025 was scoped to consider the switching rules and stranded cost provisions in Phase III of R.07-05-025. Appendix A of that order 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. In that decision, the Commission did not specify a past date for implementation of vintaged CRS. 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 future results in related forums (i.e., after the date of D.08-09-012). Meanwhile, as explained in the Protest section, a Tier 1 advice letter was not appropriate for implementing new world generation charges. Thus we address the utility proposals herein to implement the new world generation charges on customer bills in 2010.

Therefore, we direct PG&E, SCE, and SDG&E to update their tariffs to apply vintaged new world generation NBCs, as specified herein, to nonexempt customers giving their 6-month notice on or after July 1, 2009 that they are leaving bundled service. Since SDG&E has not filed tariffs implementing the provisions of D.08-09-012, and it may have non-exempt customers 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." The Commission in D.08-09-012 did not revisit that point; note that Exhibit E of that decision addresses only average system rates, not rate design by customer class. PG&E and CLECA[7] have correctly characterized the variation between customer classes in a particular vintage. As is evident from the protests, confusion exists among the utilities and parties about the calculation method for the PCIA. As described in the Protest Section, having the sum of the CTC and the PCIA (both of which charges reflect generation-related costs) for each customer class equal an overall "indifference rate" would create the illogical result that the classes with the lowest CTC would necessarily have the highest PCIA. The CTC allocation method across customer

[7] PG&E supplemental reply comments dated September 17, 2009 and CLECA's Response addressing the Protest of CMUA on PG&E AL 3446-E, dated April 29, 2009.

classes would thereby cancel out that of the PCIA and vice versa. Under certain circumstances, the approach CMUA advocates could even yield a negative PCIA for one customer class and a positive PCIA for another. Thus the approach advocated by CMUA creates an illogical result and is inconsistent with the Commission's previous direction. SCE and SDG&E shall, beginning with the next CRS adjustment, revise their computation methods 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. Accordingly, the draft resolution was issued for comment to all parties on August 25, 2009. PG&E, SCE, SDG&E, AReM, CMUA, and EPUC provided timely comments on Draft Resolution E-4226 by September 10, 2009. On September 15, 2009, PG&E submitted reply comments responding to opening comments from AReM, CMUA, and SCE. Having learned that EPUC and SDG&E had also submitted opening comments that PG&E did not receive, PG&E requested and obtained approval from the Energy Division to submit supplemental reply comments in response to the comments of those parties. Thus on September 17, 2009, PG&E submitted supplemental reply comments. This section explains the limited changes we made to the draft resolution (DR) as a result of the issues addressed in comments and reply comments.

SCE and SDG&E shall compute their PCIA to vary by customer class in the same proportion as ongoing CTC beginning with their next scheduled CRS updates.

In its comments, SCE recommends that the draft resolution be modified to require SCE to compute its PCIA to vary by customer class in the same proportion as ongoing CTC beginning with its next scheduled CRS update. SCE in its comments describes the complications involved in requiring SCE to retroactively set the PCIA in proportion to CTC, effective March 1, 2009, the effective date SCE requested for Advice 2320-E.

The utilities do not agree about what calculation methods were adopted and thus are not using a uniform calculation method. PG&E's and SCE's differences are apparent in their protests described in the Protest Section herein. SDG&E in its comments maintains that with the PCIA calculated as the difference between the indifference amount and the ongoing CTC, it is only in the instance of a negative PCIA that the PCIA would be set in the same proportion as ongoing CTC. We clarify that SDG&E is mistaken about the calculation of the PCIA set in the same proportion as ongoing CTC being limited to the instance when the PCIA is negative. The DR did address the adopted relationship between the PCIA and the ongoing CTC. However, we further clarify that the confusion among parties on the calculation methods stems from a misunderstanding of the units involved in the calculations, e.g., dollars of revenue versus cents per kilowatt-hour charges. PG&E and CLECA have accurately described (see references in Footnote 8.) the methods adopted in D.06-07-030 and D.08-09-012. We have repeatedly set consistent rules across utility territories in the DA, CG, municipal, and CCA programs. Therefore we adopt these clarifications, to apply consistently across utility territories, at the outset of implementing vintaged new world generation charges. These clarifications also address CMUA's requests by clarifying that the calculation methods PG&E is using comply with the Commission's past directives.

SCE's proposed timing for computing its PCIA as clarified in the preceding paragraphs is reasonable, given the applicability of the new world generation NBCs with the 2009 vintage that will appear on customer bills in 2010. We clarify in the applicable ordering paragraph 3 that SCE, as well as SDG&E shall, in their next scheduled CRS updates, calculate their PCIA to vary by customer class in the same proportion as the ongoing CTC.

New world generation charges will begin with the 2009 vintage and thus be billed with the 2010 ERRA rates, reflecting the inputs as adopted in D.08-09-012.

SCE in its comments interprets OP 2 of the DR to mean, since the earliest possible vintage to be applied to customers returning to DA service is the 2009 vintage, a customer providing its 6-month notice to return to DA in the first half of 2009 would be subject to the higher 2009 vintage CRS rather than the 2008 vintage CRS. SCE asserts "If vintaging is not allowed at all until the effective date of the final resolution (at 2009 vintage), customers who return to DA in 2009 but prior to the effective date of the resolution would avoid the vintaged CRS entirely." SCE finds this latter outcome unreasonable.

For the reasons cited in the Discussion Section, we adopt 2009 as the first vintage. However, due to the delay issuing this resolution, we modify the timing somewhat so that vintaged CRS will apply to customers giving their notice to return to DA service on or after July 1, 2009. The Commission in D.08-09-012 adopted the new world generation charges to fit into the existing ratemaking cycles, e.g., the ERRA and the DWR Revenue Requirement proceedings, which operate on a calendar year basis. Thus, billing for the vintaged CRS would begin with rates effective on or about January 1, 2010. PG&E and SDG&E have not billed new world generation charges. As explained in the Background Section, SCE's ERRA was implemented by advice letter as of March 1, 2009. SCE informed the Energy Division that if the Commission disallows the 2008 vintage, those customers assigned to that vintage will receive corrected bills and revert back to non-vintaged CRS. SB 695 does not lift the suspension on the right to acquire DA service, but will allow some additional nonresidential customers to leave bundled service, beginning in April 2010. The impact on bundled customers of delaying the vintaging to implement the new world generation charges in a consistent manner for all three utilities is not material. Therefore, the new world generation charges shall begin with the 2009 vintage for customers giving their 6-month notice on or after July 1, 2009.

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 CG or Municipal DL 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 Power Charge Indifference Adjustment (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 contrary to G.O. 96-B, since the specific charges and the exact date of their implementation were not adopted in D.08-09-012.
6. The Commission previously decided in D.06-07-030 that the PCIA shall vary by customer class in the same proportion as ongoing CTC.
7. PG&E and CLECA have correctly characterized the calculation methods adopted for the ongoing CTC and the PCIA, including the variation between customer classes in a particular vintage.
8. "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.
9. 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.
10. The Commission in D.08-09-012 did not authorize the utilities to create retroactive (associated with past years) vintages for new world generation NBCs.
11. Implementing the new world generation charges for DA eligible customers providing their 6-month notice on or after July 1, 2009 that they are leaving

bundled service (so that billing begins in 2010) allows the new world generation charges to be implemented in a consistent manner across utility territories, coordinating with the timing of the utilities' ERRA and the DWR Revenue Requirement proceedings, as contemplated in D.08-09-012.

12. SCE's tariff Schedule CGDL-CRS is not as clear as it should be about the circumstances that qualify customers for exemptions and exceptions.
13. Draft Resolution E-4226-E was issued for comment to all parties on August 25, 2009. PG&E, SCE, SDG&E, AReM, CMUA, and EPUC provided timely comments on the draft resolution by September 10, 2009. PG&E submitted reply comments on September 15, 2009 responding to opening comments from AReM, CMUA, and SCE and with approval from the Energy Division, submitted supplemental reply comments on September 17, 2009 in response to the comments of EPUC and SDG&E.

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 are 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 providing their 6-month notice as of the start of the 2009 vintage, i.e., on or after July 1, 2009 that they are returning to DA service. Therefore, per D.08-09-012, which adopted the new world generation charges to fit into the existing ratemaking cycles, e.g., the ERRA and the DWR Revenue Requirement proceedings, which operate on a calendar year basis, billing for the vintaged CRS shall begin with rates effective on or about January 1, 2010.
3. SCE in its supplemental advice letter shall remove the applicability of new world generation NBCs adopted in D.08-09-012 that were not authorized for CGDL and MDL; as well as revise tariff Schedule CGDL-CRS to add clarifying plain language about the circumstances that qualify customers for exemptions and exceptions.

4. SCE shall revert those customers determined to be and billed as vintage 2008 back to the "unvintaged" CRS and adjust their bills accordingly.
5. 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.
6. 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 October 29, 2009, the following Commissioners voting favorably thereon:

/s/ Paul Clanon
Paul Clanon
Executive Director

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

Commissioners