Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U 338-E) for Authority to Institute a Rate Stabilization Plan with a Rate Increase and End of Rate Freeze Tariffs.	Application 00-11-038 (Filed November 16, 2000)
Emergency Application of Pacific Gas and Electric Company to Adopt a Rate Stabilization Plan. (U 39 E)	Application 00-11-056 (Filed November 22, 2000)
Petition of THE UTILITY REFORM NETWORK for Modification of Resolution E-3527.	Application 00-10-028 (Filed October 17, 2000 Bond Charge Phase

(For a list of appearances, see Attachment A)

DECISION ADOPTING METHODOLOGY FOR SETTING CHARGES TO RECOVER BOND-RELATED COSTS INCURRED BY THE DEPARTMENT OF WATER RESOURCES

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Attachment A

DECISION ADOPTING METHODOLOGY FOR SETTING CHARGES TO RECOVER BOND-RELATED COSTS INCURRED BY THE DEPARTMENT OF WATER RESOURCES

1. Summary

During the months following the Governor's Proclamation of January 17, 2001, declaring a crisis because exorbitant electricity prices affected the solvency of California's utilities, the Department of Water Resources (DWR) purchased electricity on behalf of the customers in the service territories of Pacific Gas and Electric Company (PG&E), San Diego Gas and Electric Company (SDG&E) and Southern California Edison Company (SCE). DWR incurred debt totaling over $10 billion in order to make these purchases

Shortly, DWR will issue between $11 and $11.95 billion in bonds to refinance an interim loan taken out to cover electricity costs, to repay advances from the State's General Fund and to create financial reserves in connection with the bonds. Sections 80110 and 80134 of the Water Code entitle DWR to recover the revenues needed to repay bond-related costs and require that this Commission impose charges on electric customers to effectuate cost recovery. We call this charge the bond charge.

This decision anticipates that DWR will shortly advise the Commission more precisely of the revenues it needs to pay bond-related costs and adopts a methodology for establishing a charge to repay these bonds. We adopt a simple methodology that applies a per kilowatt-hour (kWh) charge on all consumption that is not specifically excluded from this surcharge. The bond charge is set by dividing the annual revenue requirement for bond-related costs by an estimate of the annual consumption not excluded from this charge.

We adopt a policy that excludes a major block of bundled[1] residential consumption from the bond charge. In particular, based on a consideration of applicable law, past Commission precedent and legislative intent, we exclude residential sales up to 130% of baseline, medical baseline, and California Alternate Rates for Energy (CARE) eligible customer usage from the bond charges.

On the basis of the evidentiary record in this proceeding, we estimate that this policy will result in a per kWh surcharge between 0.6371 and 1.07323 cents in 2003, and between 0.5932 and 0.9141 in 2004, depending on the level of the bond placement and terms of repayment.[2] For 2003, until a decision in Rulemaking (R.) 02-01-011 becomes final and unappealable, the most probable initial bond charge imposed on the non-excluded consumption of bundled electric service from the local utility will range between 0.7927 and 1.0732 cents per kWh.

Consistent with the terms of the "Rate Agreement By and Between State of California Department of Water Resources and State of California Public Utilities Commission" (Rate Agreement), we establish an advice letter process that, following DWR's determination of a more precise 2003 bond revenue requirement[3] and a compliance filing by PG&E, SCE and SDG&E, sets a bond charge that applies a per kilowatt hour (kWh) surcharge to the non-excluded

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[1] Bundled electric service consists of electric power, transmission, distribution, and billing services sold together to residential, commercial and industrial customers.

[2] *See* Table 1, below, for the details of how the charge varies with different borrowing and repayment scenarios.

[3] A "more precise 2003 bond revenue requirement" means the notification to the Commission by DWR, as described in this decision, of the portion of its 2003 revenue requirement that will be needed to pay bond costs.

consumption of all customers receiving bundled electric service from these utilities.[4] To implement our policies, we order DWR to provide the Energy Division with a more precise 2003 bond revenue requirement by November 8, 2002. We order PG&E, SDG&E, and SCE to make changes in their billing systems to enable them to set and collect bond charges and to file advice letters complying with this decision five days after DWR's submission. The advice letters shall be immediately effective, and will impose a bond charge on all non-excluded electricity delivered from and after November 15, 2002. Consistent with past decisions, PG&E, SDG&E and SCE shall add a line item to the electric bill specifying bond charges. Utilities that are unable to show a separate line item immediately may defer the implementation of a line item until February 2003.

In addition, we establish balancing accounts to track over and under payments of bond-charges, with subaccounts to track the payments and obligations of specific customer categories as may be subsequently specified in a decision issued in R.02-01-011. That decision may establish subaccounts, as necessary, applying to unbundled (*i.e.*, direct access) customers, where we can track the payments and responsibilities of specific customer categories for bond-related charges.[5] If and when a decision on the applicability of a bond

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[4] We also note that pending further determinations under consideration in R.02-01-011, bond charges may be imposed on direct access (DA) customers receiving service from Electric Service Providers (ESP). Also, pending further determination in R.02-01-011, the Commission may also impose bond charges on departing load (DL) customers. This decision should not be interpreted as resolving or prejudging any of the issues in that rulemaking.

[5] We note that the establishment of this accounting mechanism does not prejudge determinations that the Commission may make in R.02-01-011.

charge to direct access (DA) customers becomes final and unappealable, we will amortize under and over payments in each subaccount, as necessary. If we determine to impose the bond charge on DA customers, the surcharge on bundled customers will decrease.[6]

Finally, we note that it is possible for the customers of PG&E and SCE to pay the bond charge within current rate levels, i.e. with no rate increase. For the customers of SDG&E, the record in this proceeding is unclear whether current rates will cover these bond charges in addition to other costs. We therefore order SDG&E to establish a balancing account to track the amount it remits to DWR. This will allow SDG&E to seek a rate change to the extent necessary to permit recovery of its own authorized costs independent of these increased remittances to DWR. This balancing account should enable SDG&E to show whether and how charges should change to accommodate both the bond charge and other costs in the DWR Revenue Requirement Phase of this proceeding.

2. Background

On January 17, 2001, Governor Gray Davis proclaimed a state of emergency when "unanticipated and dramatic increases in the price of electricity [ ] threatened the solvency of California's major public utilities, preventing them from continuing to acquire and provide electricity sufficient to meet California's energy needs..." thereby imperiling the "... safety of person and property within the state."[7] In response to the crisis, Governor Davis ordered the DWR to

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[6] This may also include a bond charge imposed on DL customers as may be subsequently determined in a decision, separate from the one involving DA customers.

[7] D.02-02-051 (2002 Cal. PUC LEXIS 170), Appendix B, Proclamation Issued by the Governor of the State of California on January 17, 2001.

procure electricity to mitigate the effects of the emergency. The State's General Fund loaned more than $6 billion to DWR, and DWR obtained an Interim Loan in the amount of $4.3 billion to purchase power during the electricity crisis.[8]

On January 19, 2001 Governor Davis signed Senate Bill (SB) 7X, which authorized DWR to purchase electric power for California consumers. On February 1, 2001, Governor Davis signed Assembly Bill (AB) 1X. AB1X, as amended by Senate Bill (SB) 31X (the Act),[9] requires that the Commission impose specific charges on electric customers sufficient to compensate DWR for its costs under the Act, including procuring and delivering power and issuing and paying bond principal and interest. (*See*, Water Code §§ 80110, 80134.)

In Decision (D.) 02-02-051, the Commission adopted the Rate Agreement. The Rate Agreement facilitates DWR's issuance of the bonds authorized by Water Code § 80130, and establishes a framework for discharging DWR's and the Commission's statutory obligations set forth in the Act. According to the terms of the Rate Agreement (and pursuant to the statutory scheme), the Commission will impose charges sufficient to provide for the payment of all bond-related costs incurred by DWR.

To meet these obligations, on June 6, 2002, the Assigned Commissioner's Ruling (June 6th ACR) initiated a new phase (Bond Charge Phase) in this proceeding for the purpose of setting a bond charge to recover the bond-related costs incurred by DWR. The June 6th ACR further noted that D.02-02-051 did not decide whether a bond charge should be levied on customers to the extent

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[8] D.02-02-051 (2002 Cal. PUC LEXIS 170), Findings of Fact 3-5.

[9] AB 1X (Chapter 4, Statutes of 2001 First Extraordinary Session), as amended by SB 31 (Chapter 9, Statutes of 2001-2002 First Extraordinary Session).

they purchase power from an ESP (namely, DA customers), but directed that the Commission consider this issue in a future decision. The proceeding leading to that future decision would provide an opportunity for parties to present all legal and policy considerations relevant to reaching that decision. The June 6th ACR stated that these policy issues would be addressed in R.02-01-011. Finally, the June 6th ACR noted that there would be coordination between the Bond Charge Phase and R.02-01-011.

On July 23, 2002, a Prehearing Conference (PHC) was held at the Commission in San Francisco, at which time the Administrative Law Judge (ALJ) and parties discussed and resolved procedural issues identified in a Joint Case Management Statement.

On July 26, 2002, the ALJ issued a ruling that clarified the scope of this proceeding, including its relationship with R.02-01-011. In particular, expanding upon the ACR, this ruling stated:

> "R.02-01-011 will make the policy determination concerning whether and how DA and departing load (DL) customers bear responsibility for the costs of financing these bonds. This proceeding, in contrast, will determine the bond charge rates and recovery mechanisms for raising the revenues needed to finance the bonds."[10]

The ruling ordered that a workshop should be held on the first date scheduled for hearings in order to allow the parties the chance to resolve some of the outstanding issues and discovery disputes. Furthermore, in response to discussions during the PHC, the ruling addressed the novel situation pertaining to discovery. The ruling explained that Section 80110 of the California Water

[10] ALJ Ruling, July 26, 2002, p. 3.

Code sets forth, along with other duties, DWR responsibility for conducting any review of the reasonableness of the revenues required to finance the bonds. The ruling also noted that the Commission and parties to the proceeding require information to ensure that any bond charge adopted by this Commission is supported by facts. Finally, the ruling noted that in the Rate Agreement, DWR agreed to participate and provide "any other materials necessary to facilitate the Commission's completion of its proceedings, taken in connection with the establishment of Power Charges or Bond Charges by the Commission."[11]

On July 29, 2002, the parties participated in the workshop, discussing the testimony provided by DWR. In addition, the parties discussed how, in light of the clarification of the scope of the proceeding, they could withdraw testimony that pertained to the policies under examination in R.02-01-011. Finally, parties agreed on a series of scenarios that could be used to estimate the charges that would result from alternative policies and methodologies for setting the bond charge.

Three days of hearings were held on July 30, 31 and August 1, 2002. Parties filed opening briefs on August 9, 2002 and reply briefs on August 16, 2002.[12]

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[11] Rate Agreement, Section 7.2.

[12] Parties filing opening or reply briefs include: Alliance for Retail Energy Markets (AReM); California Large Energy Consumers Association (CLECA); Energy Producers and Users Coalition, Kimberly Clark Corporation, and Goodrich Aerostructures Group (EPUC); Modesto Irrigation District (Modesto); Merced Irrigation District (Merced); the Office of Ratepayer Advocates (ORA); PG&E; SDG&E; SCE; and The Utility Reform Network (TURN).

In addition, on August 5, 2002, PG&E filed a "Motion to Compel Responses to Data Requests and Production of Documents by DWR" (Motion to Compel). On August 9, 2002, DWR responded to the Motion to Compel with a Memorandum served on all parties to this proceeding. On August 13, the ALJ presided over a telephonic Law and Motion Hearing. On August 16, an ALJ Ruling memorialized the resolution of the various discovery issues and accepted into evidence late-filed Exhibits 2, 3 and 101.

On August 12, the Commission authorized its General Counsel to issue a certificate that financing documents consistent with an "Amended and Restated Addendum of Material Terms of Financing Documents" comply with Section 7.10 of the Rate Agreement.[13] This addendum permits DWR to increase the amount of net bond proceeds to $11.95 billion.

On August 13, DWR submitted a transmittal note and "Supplemental Testimony of Douglas Montague on behalf of the California Department of Water Resources." The transmittal note states that this is "significant additional material relied upon in proposed determination of a revenue requirement," thereby indicating that the material is part of DWR's administrative proceeding to determine its 2003 revenue requirement. This material deals with DWR's bond-related costs. The cover sheet of the Supplemental Testimony notes that DWR is "voluntarily submitting Prepared Testimony in this proceeding." We will identify this filing as Reference Exhibit 1-a.

On August 14, SCE submitted a copy of comments (dated August 14, 2002) submitted to DWR in its administrative proceedings on DWR's 2003 revenue

[13] *See* http://www.cpuc.ca.gov/word_pdf/REPORT/17898.doc

requirement. SCE noted that it served these comments on participants in this proceeding.

3. Details of DWR's Proposed Bond Sale

DWR, the State Treasurer's Office, and their combined financing team of underwriters, financial and legal advisors began in early 2001 the process of structuring a power supply revenue bond credit that would comply with the provisions of AB1X and receive investment-grade ratings. This group faced a formidable task. The proposed sale of bonds at close to $12 billion will be "the largest municipal bond sale in history."[14] In addition, there are several aspects of this financing, as well as of AB 1X and DWR's power supply program, that make this bond deal complex and unusual:

- DWR entered into certain contracts for power (called priority contracts) that have a higher priority for payment than bond costs.
- Because several contracts include terms that pass through the costs of natural gas, fluctuations in gas prices will lead to fluctuations in the price paid by DWR for power.
- Unlike a typical municipal bond offering, where the borrowing entity has the power to provide a dedicated stream of revenues, in this particular situation, the Commission must impose bond and power charges on IOU customers.

These characteristics serve to complicate the credit structure of DWR's indenture. DWR, working with rating agencies, has developed an elaborate credit structure that is described in Exhibit 1, pp. 6-13. We will not describe the detailed features of the credit structure or the elaborate flow of funds between

[14] Exhibit 1, p. 5.

the multiple reserve accounts, but will focus on the key features of the financing that drive the costs of the funds.

The most unusual element of the credit structure is the large size of reserve and similar accounts. The balances deposited in these accounts will comprise a significant percentage of total borrowing. The purposes of these reserves, however, are readily described:

- The reserves provide bondholders with additional security in covering the contingency that the revenues designated for repayment of bonds are needed to pay "priority contracts;"
- The reserves help maintain a quality investment-grade credit rating for DWR's bonds, as required by the Act;
- As a result of the additional security and higher credit rating the reserves produce, the reserves can help to lower overall costs of the bonds.

The exact annual revenue requirement needed to support the bonds will not be known until the bond placement is complete. To support this Commission's development of a bond charge methodology, DWR's Exhibit 1 does provide the best estimates of the credit structure and costs as of July 9, 2002. At that date, DWR estimated that a bond issuance of $11.1 billion would lead to a 2003 revenue requirement in respect to bond costs of $841,965,794, which will rise to $971,256,477 in 2004 and remain at that level through the repayment period.

In Exhibit 1, DWR's estimate anticipates an "A-level" rating, which will then lead to an "all-in average" interest rate of 5.24% for the 20 year bonds.[15]

[15] Exhibit 1, p. 16.

This also includes tax exempt variable rate bonds at 4.61% and tax exempt hedged variable rate bonds at 5.18%.[16]

DWR's Reference Exhibit 1-a contains substantial revisions to Exhibit 1. It increases the size of the bond offering from $11.1 billion to $11.95 billion. DWR states that "The rating agencies are concerned that the Department may be obligated to purchase the Residual Net Short beyond the December 31, 2002 deadline for such purchases contained in Assembly Bill 1X."[17] In addition, DWR proposes a different schedule of debt service payments, resulting in a bond charge revenue requirement of $1.140 billion in 2003, but decreasing to $784 million in 2004. DWR notes that its estimate anticipates an "A-level" rating, which will lead to an "all-in average" interest rate of 5.38%.[18]

A. Discussion: Major Changes between Exhibit 1 and Reference Exhibit 1-a

DWR's estimated 2003 revenue requirement for bond-related costs in its Reference Exhibit 1-a is almost $300 million higher than that contained in its initial testimony (Exhibit 1). In its October 15, 2002 memorandum, DWR explains this increase as resulting from changes in assumptions concerning the receipt of revenues and the uses of funds. In particular, concerning the specific use of funds, DWR states:

> ". . . in the June 14, 2002 Proposed Determination of Revenue Requirements [Exhibit 1], the Department made an assumption that Bond Charge Revenues would not be adequate to fund ongoing debt service (as provided by the

[16] *Ibid.*

[17] Reference Exhibit 1-a, p. 5.

[18] Exhibit 1-a, p. 10.

> Summary of Material Terms) until mid-2003, and that power charge revenues would be used to supplement Bond Charge revenues until that time. The August 13, 2002 supplemental testimony [Reference Exhibit 1-a] revised this assumption to provide for the full finding of bond related costs from Bond Charges in 2003."[19]

We note that California law assigns responsibility for determining a reasonable revenue requirement, including the bond-related costs, to DWR.[20] In summary, DWR plans to borrow up to $11.95 billion to repay the $6.6 billion to California's General Fund and $3.5 billion to retire an Interim Loan. The exact costs of retiring these bonds, the establishment of annual revenue requirements, and the determination of its reasonableness are, under the provisions of AB1X, the responsibility of DWR.

We note that Reference Exhibit 1-a was also filed in DWR's own administrative process; DWR has the statutory authority to determine the reasonableness of the bond-related revenue requirement and has created a separate opportunity for parties to file comments. Moreover, we note that DWR will present this Commission with its more precise 2003 bond revenue requirements following its placement of the bonds according to the implementation procedures described in Section 8 below. Because DWR's August 13, 2002 filing does not constitute a final 2003 revenue requirement, we consider it only as illustrative of DWR's ongoing work in placing the bonds and estimating their costs and identify it as Reference Exhibit 1-a. We stress that we

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[19] DWR, Memorandum to The Honorable Loretta Lynch and The Honorable Timothy J. Sullivan, October 15, 2002, p. 2.

[20] California Water Code Section 80110.

do not use this reference material as probative evidence to determine the reasonableness of the bond-related costs, which is DWR's responsibility. Instead we use these figures to help illustrate the applicability of our bond charge methodology over a range of financing possibilities.

4. Issues in Proceeding

The evidence and briefs make clear that a series of policy, legal and implementation questions require resolution in order for the Commission to impose a bond charge. These include the following:

1. Should the Commission exempt specific bundled electric customers and usages, such as residential consumption less than 130% of lifeline amounts or CARE-eligible and Medical Usage, from the bond charge?
2. What methodology should the Commission use to calculate a bond charge?
3. What are the likely consequences of the various policies under consideration in R.02-01-011 for bond charge amounts?
4. How should the Commission implement the methodology adopted to allocate and collect bond-related costs?

Answering these questions will enable the Commission to meet its statutory obligation of imposing bond charges sufficient to ensure the timely repayment of bond-related costs. We therefore address each question in turn.

5. Should the Commission Exclude Specific Bundled Customers or Electricity Consumption from the Bond Charge?

A central issue to the development of a surcharge to recover bond-related costs is determining who should pay these costs. As noted above, R.02-01-011 is determining whether and how DA and departing load (DL) customers should bear responsibility for bond-related costs. This proceeding, in contrast, will set the methodology for calculating a bond charge that those responsible for bond-

related costs should pay. As a consequence, legal and policy arguments concerning whether DA or DL customers should pay bond-related surcharges fall outside the scope of this proceeding.

We do address whether certain bundled customers should pay for bond-related costs. In particular, we must determine the responsibility of CARE-eligible customers, residential customer usage below 130% of baseline, and medical baseline customers for the payment of bond charges.

Currently, these customers (and associated usage) are exempt from the 3 cents/kWh surcharge the Commission adopted for PG&E and SCE customers[21] and from the 1.46 cents/kWh rate increase the Commission adopted for SDG&E customers.[22] Furthermore, California Water Code Section 80110 states:

> " . . . In no case shall the commission [California Public Utilities Commission] increase the electricity charges in effect on the date that the act that adds this section becomes effective for residential customers for existing baseline quantities or usage by those customers of up to 130 percent of existing baseline quantities, until such time as the department has recovered the costs of power it has procured for the electrical corporation's retail end use customers as provided in this division. . ."

As the July 26 ALJ Ruling noted, the interpretation of this statute may be critical to determining the size of the bond charges and the methodology for setting such charges. The ALJ Ruling also set the issue for briefing and resolution in this proceeding.

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[21] D.01-05-064 (2001 Cal. PUC LEXIS 419)

[22] D.01-09-059 (2001 Cal. PUC LEXIS 857)

We therefore turn to the question of whether to exclude this usage from bond charges, and whether this exclusion rests on policy or legal grounds.

A. Positions of Parties

SCE, ORA, and TURN urge the Commission to exempt residential sales below 130% of baseline, medical baseline, and CARE customer usage from the bond charge.[23]

Concerning the interpretation of Water Code Section 80110, SCE, PG&E, California Large Energy Consumers Association (CLECA) and Energy Producers and Users Coalition (EPUC) state that it would be possible to assign responsibility for the bond charge to residential sales below 130% of baseline as long as some other charge is reduced. SCE and PG&E note that it would be possible to dedicate a revenue stream within their current rates to pay for the bond charge and to adopt offsetting decreases in charges, thereby complying with the statute. CLECA and EPUC argue more broadly that all utilities can accommodate a bond charge within their current charges. PG&E, CLECA, and EPUC argue that the bond charge should apply to all usage.

SDG&E also argues that the bond charge should apply to all residential usage, but it does not argue that it can accommodate such a policy within its current charges. Instead, SDG&E concludes that Water Code § 80110 no longer applies:

> "Once the bonds are sold, DWR <u>will have recovered</u> those costs, to wit, the costs of power it has procured for the electrical corporation's retail end use customers. Buyers of the bonds will have provided the costs of power procured

[23] SCE, Opening Brief, p. 12; ORA, Opening Brief, p. 6; TURN, Opening Brief, p. 6. Subsequently SCE modified its position.

> by DWR. Thus, this provision of Water Code 80110 will no longer restrict the Commission after the bonds are sold."[24]

SDG&E then states that exempting customers using less than 130% of baseline has no basis in costs. SDG&E further argues that such a policy will cause "an additional $16 million in annual residential commodity shortfalls."[25] SDG&E concludes that such a policy may increase the existing business to residential subsidy "to well over $50 million per year."[26]

ORA, TURN and SCE take exception to SDG&E's interpretation of Water Code § 80110. SCE argues:

> "Paying back the general fund and interim loan from bond proceeds is not 'recovery' of those amounts; collection from end-use customers of the Bond Charge is the actual 'recovery.' SDG&E thus incorrectly interprets Water Code Section 80110, when it concludes that issuance of bonds is tantamount to DWR's recovery of the cost of power it procured and will continue to procure for electrical corporations' retail end-use customers."[27]

Then, in a case of rhetorical convergence, ORA, TURN and SCE each develop an analogy with the purchase of a home and the obtaining of a mortgage. ORA succinctly argues "[a]nyone knows that the house is not owned until the mortgage is paid off."[28]

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[24] SDG&E, Opening Brief, p. 4.

[25] *Ibid.*, p. 5.

[26] *Ibid.*, p. 5.

[27] SCE, Reply Brief, p. 4.

[28] ORA, Reply Brief, p. 3; *See* also SCE, Reply Brief, p. 4 and TURN Reply Brief, p. 3.

B. Discussion: Exempt Residential Sales Below 130% of Baseline, Medical Baseline, and CARE-Eligible Customer Usage from Bond Charges

Section 80110 of the Water Code became effective on February 1, 2001. On May 15, 2001, the Commission both interpreted and discussed at length how to implement rate design changes consistent with this statute:

> "This statute exempts from additional rate increases all residential electricity usage that falls within 130% of "baseline" usage. Baseline usage is defined in Section 739(a). That section requires the Commission to establish a quantity of natural gas and electricity that is necessary to supply a "significant portion of the reasonable energy needs of the average residential customer." The "baseline quantity" is defined to be between 50 and 60 percent of average residential consumption, with allowances for seasonal and climatic variations, Section 739(d)(1). The Commission is further directed to require the utilities to file residential rate schedules that provide for the baseline quantity to be the first or lowest block in an increasing block rate structure. Section 739(c)(1). In addition, the Commission is directed to "establish an appropriate gradual difference between the rates for the respective blocks of usage." Section 739(c)(1). In 1986, the Commission determined the initial baseline quantities in D.86087, 80 CPUC 182. Subsequent revisions and updates to the baseline quantities and applicable rates have been made in the utilities' general rate cases." [29]

As it interpreted this statute, the Commission noted that the statutory exemption sharply constrained its freedom to design rates:

> "Taken together, new Water Code § 80110 and Pub. Util. Code § 739, exempt over 60% of residential sales from the

[29] D.01-05-064 (2001 Cal. PUC LEXIS 419, *32-*33)

> 3 [cents] /kWh rate surcharge we authorized March 27th. The resulting shortfall is significant: 64% of all Edison residential sales are exempt, and 62% of all PG&E residential sales are exempt. These use exemptions result in half of all residential customers--those who use less than 130% of baseline--being protected by statute from further rate increases."[30]

Subsequently, the Commission adopted a rate design that allocated the substantial revenue shortfall that arises from the exemption to all other consumption. In D.01-09-059, the Commission adopted a similar approach to allocating a rate increase for SDG&E's customers.

We plan to once again follow the policy of excluding from new charges residential sales below 130% of baseline, medical baseline, and CARE-eligible customer usage from the bond charge. First, the equity considerations that led us to exclude this usage from previous charges continue to apply. These exclusions are consistent with our own recent actions in D.01-05-064 and D.01-09-059, our last actions involving rates in response to California's electric crisis. Moreover, the actions to exclude these customers from new charges were taken only a year ago, and it makes little sense to reverse policy and impose a new charge now.

Further, we believe that continuing to exclude this customer usage from the exceptional charges that have resulted from the electricity crisis is in the public interest. When the SCE rate agreement or rate caps eventually expire, customers will bear the bond charge. At that time, excluding consumption up to 130% of baseline creates incentives for residential customers to conserve power. Excluding from new charges electricity usage by those with medical disability

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[30] *Ibid.*

and low income simply continues previous pricing plans that serve the public interest.

Second, although it may prove possible to impose a bond charge on all usage consistent with the requirements of Water Code § 80110, excluding this usage from the bond charge is clearly consistent with the legislative intent behind this statute and insures compliance with Water Code § 80110. Thus, it isinherently reasonable.

Third, although SCE and PG&E have stated that it is possible to dedicate a portion of some existing charge to the bond charges, there is no similar certainty that we can do so for SDG&E. In particular, there is no record on whether and how the Commission could impose a bond charge on end-users in SDG&E's territory without raising the electricity charges that those customers must pay.

As noted above, in response to this dilemma, SDG&E claims that the law does not preclude raising charges on any customers. SDG&E's proposes a novel legal theory – that Water Code § 80110 will not apply once the bond sale is complete because at that time DWR will have recovered the costs of the power it has procured. In rebuttal, ORA and SCE convincingly argue that a house is not paid for until the mortgage is paid off, and that DWR will not have recovered its costs until the bonds are repaid. Further, CLECA, SCE, and PG&E, and EPUC state that the Commission could apply a bond charge to all customers as long as this action does not lead to an increase in charges for the consumption excluded from electricity charge increases by Water Code § 80110. Although this is indeed possible, we decline to treat customers differently because of where they live and we believe that the approach adopted here is more consistent with the legislative intent of Water Code § 80110. We find that SDG&E's interpretation does not

comport with a reasonable reading of the statute. Thus, we do not believe that we can legally allocate a bond charge that applies to all residential customers without also adopting some offsetting adjustment to ensure that charges do not increase on usage by residential customers up to 130% of baseline. In summary, for policy reasons and to ensure compliance with AB1X, and the Legislature's intent for its enactment, we exclude residential sales below 130% of baseline, medical baseline, and CARE-eligible customer usage from the bond charge. First, we use the same policy reasoning and equity considerations contained in D.01-05-064 and D.01-09-059 and thereby find it reasonable to exclude this consumption from additional charges. Second, we find that this outcome is consistent with the legislative intent of AB1X and inherently reasonable. Third, we note that we have no record at this time concerning whether we can craft a policy that applies a uniform bond charge to all customers in a way that complies with AB1X.

6. What Methodology Should the Commission Use to Allocate and Collect the Revenue Requirement for Bond-Related Costs?

Almost all parties propose that the revenue requirement for bond-related costs be allocated based on some measure of kWh. However, parties differ on which kWh should be included in the allocation and whether the allocation should be adjusted to reflect certain specific factors.

A. PG&E, CLECA, SDG&E, ORA: Allocate and Collect Bond Costs Based on kWhs

The simplest position of parties is to allocate and collect, on a uniform statewide basis, per kWh charges for all bond-related costs. Of the parties in this proceeding, PG&E, CLECA and SDG&E support a per kWh charge with no

exemptions.[31] Although ORA proposes certain adjustments to the calculation of bond charges (as do CLECA and PG&E), ORA characterizes its position as allocating "the bond charge on a simple equal cent per kWh basis across the vast majority of kWh forecast to be sold in the service territory of investor-owned utilities (IOUs) in 2003, and 2004."[32] SCE similarly characterizes its position as a uniform allocation, yet it supports ORA's proposed adjustments to the assessment of bond charges.[33]

Moreover, ORA provides several rationales for assessing the bond charge on a simple equal cents per kWh basis. In particular, ORA notes the expected duration of the bond charges of 20 years. ORA concludes that with the "inevitable changes in customers and circumstances"[34] that will occur over this time period, these charges will be paid by customers who did not even live in California during the crisis and that some who did will not pay these charges if they move away. In light of the inability to link bond costs to a customer's consumption, ORA concludes that a simple per kWh charge is fairest.

In a similar vein, PG&E states:

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[31] As discussed above, PG&E, and CLECA and SDG&E believe (albeit for different reasons) that an allocation of a bond surcharge to all customers would be consistent with the provisions of Water Code § 80110.

[32] ORA, Opening Brief, p. 5.

[33] There are essentially two adjustments: one is their proposed exclusion of bond charges on certain DA customers (This issue is beyond the scope of this proceeding and not considered here) and the second is a proposed adjustment to PG&E's per kWh surcharge based on power provided to the Western Area Power Administration (WAPA).

[34] *Ibid.*, p. 4.

> "The California Legislature and the Commission have determined that DWR's actions during the energy crisis were undertaken 'for the health, welfare, and safety of the people of this state' and on behalf of all ratepayers 'to ensure reliable electricity service and, therefore, all ratepayers should contribute to the effort to pay down the unprecedented debt incurred by the state to help weather the energy crisis.' (*See* AB X1, Section 7; D.01-09-060, mimeo at pp. 3, 6). PG&E's approach is consistent with this policy because it shares the burden of the cost of the 'energy crisis' on each customer based on usage. It is easy to explain to customers. It treats all California ratepayers equally."[35]

CLECA, in addition to the arguments listed above, notes that the bond charge will be small in relation to the overall cost of DWR power, and that this reduces "the need for utility specific allocation."[36]

B. ORA: Adjust PG&E's Rates in Light of WAPA Contracts

ORA proposes one specific departure from a per kWh allocation of bond charges in this proceeding. ORA recommends "that the dollar impact of the forecast net sales by PG&E to the WAPA be assigned to PG&E's ratepayers."[37] ORA states that it "assumes that PG&E's ratepayers benefited from the contract between PG&E and WAPA"[38] and concludes that they should bear WAPA-related costs. Noting that PG&E must provide WAPA with substantial amounts of power in 2003 and 2004, ORA recommends inclusion of these amounts in the allocation of revenue requirement between utilities, and the

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[35] Exhibit 100, p. 3-2.

[36] CLECA, Opening Brief, p. 3.

[37] ORA, Opening Brief, p. 6.

[38] ORA, Opening Brief, p. 8.

subsequent assignment of this revenue requirement to PG&E's other retail customers. Thus, under ORA's proposal, PG&E's customers would pay a higher bond charge than customers in the service areas of SCE or SDG&E. SCE supports this adjustment. PG&E opposes this position, arguing that it is simply an allocation based on a modified "net short" position, and, after citing ORA's own arguments for an equal allocation, argues that fairness requires the rejection of this position.

C. TURN: Allocate Revenue Requirement Per D.02-02-052

TURN takes a very different approach. TURN states that "[w]hile the equal cents methodology has the advantage of simplicity, it ignores any and all differences among the three companies that resulted in their making very different contributions to the accrual of the DWR 'undercollection' during the first nine months of 2001."[39] TURN argues on behalf of the allocation factors previously used in D.02-02-052, stating that the allocation factors are "generally consistent with cost causation."[40] Finally, concerning ORA's proposed WAPA adjustment, TURN states "no WAPA adjustment is needed if that methodology [*i.e.* that of D.02-02-052] is followed here."

D. PG&E: Adjust Bond Charge to Reflect Line Losses

PG&E also proposes an adjustment in the allocation of revenue requirement to different customer categories. PG&E states "DWR bond charges should be differentiated by voltage to reflect differential line losses for different service level voltages, but otherwise set equally on all included load."[41] PG&E

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[39] TURN, Opening Brief, p. 3.

[40] *Ibid.*, p.5.

[41] PG&E, Opening Brief, p. 12.

argues that differentiating bond charges by service voltage appropriately reflects that less energy is needed "to serve a given quantity of electric consumption at transmission service voltage levels, relative to service at primary and secondary distribution service voltages."[42] CLECA supports PG&E's proposed voltage-based adjustments for line losses, and SCE states that it does not object to such an adjustment.

E. EPUC, CLECA and Modesto: Adjust Bond Charge on Departing Load Customers to Exclude Revenue Requirements

Although issues associated with DL were assigned to R.02-01-011, certain parties, including EPUC, Modesto and CLECA proposed adjustments to bond charges based on the structure of the bond financing. We have not addressed the elaborate discussion from these parties regarding DL customers, as well as the responses by TURN, PG&E, and SCE, because the issues raised are outside the scope of this proceeding. We note that pursuant to the August 13, 2002 ALJ Ruling, the evidentiary record of this proceeding was incorporated into R.02-01-011. That is the proper forum for these arguments, and we make no determinations of these issues in today's decision.

F. Discussion: Allocate and Collect Bond Charges Based on All Non-Excluded kWh Consumption

We will allocate and collect the bond-related costs on a simple per-kWh basis, spread over all customer usage, with the exceptions of residential sales below 130% of baseline, medical baseline, and CARE-eligible customer usage. This policy makes sense for several reasons. First, as ORA points out, the long period over which the bond charges will be collected breaks the linkage between

[42] *Ibid.*, p. 12.

those for whom the power was purchased and those responsible for repayment. In addition, these bond-related costs were incurred to stabilize the grid, which benefited everyone. Thus, the assessment of a bond charge is simply a mechanism for raising the revenues needed to repay these bond-related costs. In light of these considerations, absent a rational reason to exclude particular usage or customers, it is reasonable and equitable to allocate these bond-related costs over the largest base of customers on a simple per kWh usage basis.

Second, because the purpose of the bond charge is simply to raise revenues to pay for bond-related costs, the simplicity of the per-kWh fee recommends it. It is transparently fair to all who must pay it.

Third, the one thing that the Commission knows from the period of the energy crisis is that the prices paid for power had little relationship to the cost of producing that power. Thus, the use of the principle of "cost causation" to allocate bond-related costs, as recommended by TURN, is unwarranted, for this principle assumes a relationship between cost and price that may not have existed at that time

In particular, TURN suggests that we allocate these bond-related costs consistent with a modified "net short" position, as adopted in D.02-02-052. TURN fails to note, however, that D.02-02-052 did not allocate past responsibility for energy purchases, but instead allocated responsibility for current and ongoing purchases by DWR on behalf of the customers in the service territories of investor-owned utilities. Moreover, unlike the crisis period in which these bond-related costs were incurred, the current relationship between power prices and power costs better meets the principles of "cost causation" ratemaking.

Moreover, as we observed in D.02-02-051, we are not dealing with routine costs arising from utility operations:

> "The establishment of a separate Bond Charge also recognizes the nature of the costs that DWR will finance with its bond transaction. These are costs that DWR incurred at the height of the crisis. . . Because the costs that DWR incurred to save the grid have future benefits, they should be amortized over time."[43]

In addition, as we noted in D.02-02-051, we have broad discretion in assessing a Bond Charge:

> "The Commission's authority under Pub. Util. Code § 451 and § 701 to impose rate mechanisms such as Bond Charges extends to situations where the charge is not in proportion to the direct benefit received by each customer paying the charge. (Footnote omitted) This would be the case, for example, for future ratepayers who will pay Bond Charges despite the fact that they only received the benefits of DWR's grid-stabilizing activities, and did not receive any of the electric power that was procured by DWR during the height of the electricity crisis."[44]

From this discussion, it is clear that the Commission did not contemplate a strict adherence to the economic principle of "cost causation" in allocating responsibility for bond-related costs. We believe that it would not be equitable to do so.

PG&E's argument (which SCE and CLECA support) to make a voltage-related adjustment to the bond charge because it took less power to serve high voltage customers is not persuasive. In our view, this argument does not warrant a departure from the equitable principle of assigning bond responsibility to each kWh of bundled consumption not otherwise excluded. As noted in

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[43] D.02-02-051, p. 49.

[44] *Ibid.*, p. 50.

D.02-02-051, some people who have never lived in California will pay these costs even though they consumed no power during the crisis period. In light of this harsh fact, making an adjustment based on a customer's service voltage lacks a reasonable basis.

Even ORA, whose testimony and brief state that the purpose of this charge is to fund bond-related costs, succumbs to the temptation to allocate WAPA-related costs based on the notion that PG&E's customers obtained some benefit from these WAPA contracts, and therefore should pay a higher share of bond-related costs. As PG&E and TURN point out, ORA's proposal to allocate a revenue requirement based on power provided to WAPA and then collect it from other PG&E customers introduces a revenue requirement allocation based on one factor contributing to the "net short" position. We reject a strict adherence to the principle of "cost causation," for the reasons stated above. Thus, we find that this argument does not warrant a departure from our equitable decision to allocate the Bond Charge on all non-excluded consumption by bundled customers.

7. Consequences of Other Commission Policies on the Bond Charge: What are the Key Projected Bond Surcharge Scenarios Pending Policy Determinations in R.02-01-011?

Through discussions at the PHC and the Workshop, it became clear that the issuance of the bonds would require that the Commission adopt a methodology for setting bond surcharges before the details of the bond financing could be completely determined. Moreover, key decisions concerning whether any bond charge should be imposed on DA customers are to be considered in R.02-01-011 and consequently fall outside the scope of this proceeding. As a consequence, this proceeding should calculate the bond-related charges associated with a range of plausible policy scenarios. The purpose of this

analysis is to estimate bond charges in order to guide the Commission; the purpose is not to adopt specific bond charges. Setting the bond charge to recover bond-related costs can only be done after the details of the bond placement are clearer and DWR has determined its more precise 2003 bond revenue requirement.

In this proceeding, parties provided updated estimates of usage and revenue requirements that are key to setting bond charges. Exhibits 201 (of SCE) and 304 (of SDG&E) were received into evidence during the course of the hearings. Exhibit 101-Revised (of PG&E) was received into evidence as a late-filed exhibit via an ALJ Ruling on August 15, 2002. Exhibit 101 updates Exhibits 201 and 304 by including an estimate of PG&E's 2003 DL (which was unavailable in Exhibits 201 and 304) and revises PG&E's forecast of exempted load to reflect higher baseline amounts adopted in D.02-04-026. In all other major elements, the data in the exhibits is identical. These estimates of electric consumption provide the basis for setting the methodology to calculate the initial bond charges.

Table 1 below provides the estimates of the bond charges needed to cover a range of bond-related costs under a variety of policy related assumptions. We develop three different scenarios representing four different levels of bond-related costs. These assumptions do not prejudge our decision in R.02-01-011 whether to impose bond charges on DA and DL customers, but do illustrate the likely range of bond charges under four different cases. Pursuant to the Rate Agreement, bond charges may be imposed on DA customers only after

a Commission order providing for such charges becomes final and unappealable under California law.[45]

Case 1 models the 2003 revenue requirement contained in DWR's Exhibit 1. This exhibit projects that the annual bond-related revenue requirement will total $842 million in 2003. Case 1 includes a total of $11.1 billion of bonds.

Case 2 models the estimated 2003 revenue requirement for bond-related costs contained in DWR's Reference Exhibit 1-a. This reference exhibit increases the revenue requirement to $1,140, almost $300 million above Case 1. Under this proposal, DWR increases its reserves by $850 million and increases the total net bond proceeds to $11.95 billion.[46]

Case 3 models the 2004 revenue requirement contained in DWR's Exhibit 1. It is based on a revenue requirement for bond-related costs of $971 million and a total of $11.1 billion in bonds.

Case 4 models the estimated 2004 revenue requirement contained in DWR's Reference Exhibit 1-a. The revenue requirement is $784 million for bond-related costs.

As we are proposing to allocate the costs of these bonds over all non-excluded kWh, the exercise to calculate the bond-related surcharges is straightforward once we have estimates of electricity consumption. Each row in

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[45] As noted previously, the Commission will address the issue related to the departing load customer in a separate opinion from the decision regarding the direct access customers.

[46] We note that this increase in the size of the bond issue is consistent with the Amended and Restated Addendum to Summary of Material Terms of Financing Documents, dated August 8, 2002.

Table 1 corresponds to a different assumption of the number of gigawatt-hours (GWh) that will be responsible for paying bond-related costs.

Row A (Total Load Minus Excluded Residential) corresponds to the total California load, but follows the policy adopted in this decision, of excluding residential sales below 130% of baseline, medical baseline, and CARE-eligible customer usage. Row A assumes that the bond charge would also be imposed on both DA and DL customers.[47] Under this assumption, there would be an estimated load of 132,158 GWh over which to spread the bond related costs. As Table 1 indicates, such a policy would lead to bond charges ranging from .5932 cents/kWh (corresponding to Case 4) to .8626 cents/kWh (corresponding to Case 2).

Row B (Total Load Minus Excluded Residential and DL) corresponds to the total California load, but excludes residential sales below 130% of baseline, medical baseline and CARE-eligible customer usage and excludes projected DL from the bond charge. Under this assumption, there would be an estimated load of 131,065 GWh over which to spread the bond related costs. As Table 1 indicates, such a policy would lead to bond charges ranging from .5982 cents per kWh (corresponding to Case 4) to .8698 cents per kWh (corresponding to Case 2). Thus, at least initially, policies to either exclude or include DL in paying for bond-related costs will impact bond-related charges of less than .007 cents per kWh.[48]

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[47] As discussed earlier, these scenarios are purely illustrative and we are in no way prejudging any decisions that will be issued in R.02-01-011. Nevertheless, parties did provide information on this matter, and we have included it in our analysis.

[48] This figure is the difference between the bond charges in Row A and Row B.

Row C (Total Load Minus Excluded Residential, DA and DL) corresponds to the total California load, but excludes residential sales below 130% of baseline, medical baseline and CARE-eligible customer usage from the bond charge. In addition, it does not apply the bond charge to DA and projected DL (policies under consideration in R.02-01-011). This leaves an estimated load of 106,222 GWh over which to spread the bond-related costs. Table 1 indicates that under this assumption bond charges will range from .7381 cents per kWh (corresponding to Case 4) to 1.0732 cents per kWh (corresponding to Case 2).

Row C is most representative of the initial bond charges. D.02-02-051 states, "absent such a decision that has become final and unappealable, ESP power will not be included in the determination of Bond Charges."[49] Since it may take at least a few months for such a determination concerning DA customers and their receipt of electricity from ESPs to become final and unappealable, it is most likely that the bond charge will start at levels close to those contained in Row C. Finally, we conclude this discussion by once again noting that the exhibits used to create Table 1 were incorporated into the record of R.02-01-011.

In summary, our analysis indicates that the methodology that we have adopted to set initial bond surcharges – a cents per kWh charge applying to all bundled customers with the exemption of residential sales below 130% of baseline, medical baseline, CARE-eligible customer usage – will result in per kWh charges along the lines of entries in Row C of Table 1. This analysis is

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[49] D.02-02-051, *mimeo.,* p. 90, (2002 Cal. PUC LEXIS 170, *171) cited in PHC 10, TR 404:11-28. The ultimate source of this language is the Rate Agreement by and Between State of California DWR and State of California, Public Utilities Commission, Section 4-3, which is Appendix C to D.02-02-051 and may be found at 2002 Cal. PUC LEXIS 170, *196.

purely illustrative – the exact charges will be determined only after the details of the bond placement are clearer, DWR has determined and submitted its more precise 2003 bond revenue requirement, and the utilities have filed conforming advice letters.

Table 1: Bond Charge Scenarios

	Total[a] (GWh)	Case 1[b] $842 Rev. Req. ($MM) Bond Charge (cents/kWh)	Case 2[c] $1,140 Rev. Req. ($MM) Bond Charge (cents/kWh)	Case 3[d] $971 Rev. Req. ($MM) Bond Charge (cents/kWh)	Case 4[e] $784 Rev. Req. ($MM) Bond Charge (cents/kWh)
A. Total Load Minus Excluded Residential (Consists of non-excluded bundled load, direct access, which would require a final and unappealable decision in R.02-01-011, and departing load.)	132,158	0.6371	0.8626	0.7347	0.5932
B. Total Load Minus Excluded Residential and DL (Consists of non-excluded bundled load, and direct access customers, which would require a final and unappealable decision in R.02-01-011)	131,065	0.6424	0.8698	0.7409	0.5982
C. Total Load Minus Excluded Residential, DA, and DL (includes only non-excluded bundled load)	106,222	0.7927	1.0732	0.9141	0.7381

Case 1 corresponds to the 2003 revenue requirement request of DWR as described in Exhibit 1.

Case 2 corresponds to the 2003 revenue requirement request of DWR as described in Reference Exhibit 1-a (based on a bond issue of $11.95 billion).

Case 3 corresponds to the 2004 revenue requirement projected by DWR in Exhibit 1.

Case 4 corresponds to the 2004 revenue requirement projected by DWR in Reference Exhibit 1-a (based on a bond issue of $11.95 billion).

Row C best describes the likely range of initial charges, which will remain in effect until a decision in R.02-01-011 becomes final.

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[a] Entries in this column are based on information provided in Exhibits 101, 201, and 304.
[b] Entries in this column are based on revenue requirements in Exhibit 1 for year 2003. The cents per kWh surcharge results from division of the revenue requirements by total consumption included in a row.
[c] Entries in this column are based on revenue requirements in Reference Exhibit 1-a for year 2003. The cents per kWh surcharge results from division of the revenue requirements by total consumption included in a row.
[d] Entries in this column are based on revenue requirements in Exhibit 1 for year 2004. The cents per kWh surcharge results from division of the revenue requirements by total consumption included in a row.
[e] Entries in this column are based on revenue requirements in Reference Exhibit 1-a for year 2004. The cents per kWh surcharge results from division of the revenue requirements by total consumption included in a row.

8. How Should the Commission Implement the Methodology Adopted to Allocate and Collect Bond-Related Costs?

This decision has adopted a methodology of allocating and collecting bond-related costs from all kWh except from those customers and usage not held responsible for this charge. At this time, several uncertainties remain. In particular, we do not have a more precise figure specifying the exact level of bond-related costs since the bonds have not yet been issued and DWR has not yet submitted its more precise 2003 bond revenue requirement. Moreover, we have not reached a final determination on which kWh we will include in recovering bond-related charges.

We do, however, know that we have excluded all residential sales below 130% of baseline, medical baseline usage, and CARE-eligible customer usage from the bond surcharge, consistent with previous Commission decisions and permitted by our statutory authority. The latest estimate of the non-excluded bundled consumption is 106,222 GWh.

Because R.02-01-011 is still examining whether the DA and/or DL customers will be made responsible for bond charges in whole or in part, the total electric usage and/or customer base that will bear the bond charge is currently uncertain. In addition, as we noted previously, under the terms of the Rate Agreement, the electric consumption by ESP customers will not be included in the determination of the bond charges until a decision ordering such a charge "has become final and unappealable."[50]

To ensure smooth implementation of the bond surcharges consistent with this provision of the Rate Agreement, an ALJ Ruling of August 8, 2002 solicited

[50] D.02-02-051, *mimeo.*, p. 90.

parties' ideas on: 1) whether the bond-related costs allocated to non-bundled customers in R.02-01-011 should depend on when the decision becomes final and unappealable; 2) if the answer to 1 was no, then what ratemaking treatment would best ensure this outcome; and 3) which regulatory accounting treatments and amortization of balances the Commission should use?

Thus, an implementation process must accomplish several things. To finance the bonds, the Commission must adopt a bond charge that will produce revenues sufficient to cover DWR's bond-related costs. Moreover, the implementation process must permit the investor owned utilities to file tariffs and modify their billing systems to implement the adopted bond charge methodologies. Finally, we must adopt a process that permits the modification of bond surcharges and balancing accounts to reflect the determinations reached in R.02-01-011, while recognizing that collection of these charges will not begin until that decision has become final and unappealable.

A. Positions of Parties: Create Balancing Accounts

In reply briefs, Alliance for Retail Energy Markets (AReM), PG&E, TURN, SCE and SDG&E all agreed that responsibility for bond-related costs should not depend upon the date when a decision in R.02-01-011 becomes final and unappealable. No party argued otherwise.

Concerning which process would best meet the goal of holdingcategories of customers responsible for bond-related costs consistent with the policy determinations of this Commission, parties made different proposals. SCE proposed a balancing account structure that refrains from charging non-bundled customers until a final and unappealable decision is reached, but tracks bond-cost responsibilities in sub-accounts. Following a final decision in R.02-01-

011, the sub-accounts in surplus are distributed and sub-accounts in deficit are recovered through modifications of bond charge amounts.

PG&E recommends a similar approach, but asks that DWR have responsibility for tracking under and over payments. PG&E also recommends amortization of surpluses / deficits on a 1 to 6 basis – *i.e.*, that a one-month surplus or deficit be either amortized or made up over the subsequent 6 months. SDG&E supports avoidance of under or over payments, but sees no unusual ratemaking needed to reach this result. AReM similarly recommends tracking through regulatory accounts.

TURN also favors tracking, but recommends the initial imposition of a charge on DA customers with rebates to follow when the decision on non-exemption, if made, becomes final and unappealable, unless the Commission believes the Rate Agreement prevents this policy. In the case that the Commission finds that the Rate Agreement prevents the immediate collection from DA customers, TURN recommends policies similar to those proposed by other commenting parties.

Concerning the billing system implementation of billing changes, SDG&E states that it can implement a system with no exemptions in 30 days, but it will require 45 days to make billing changes that make "simple exemptions." More complicated exemptions will take longer. PG&E states that it could implement changes in time to permit the transmission of funds to DWR in a timely fashion, but will need more time to add a line item on customer bills. SCE states that it can implement a bond-charges line on customer bills by January 1, 2003.

Finally, we note that SDG&E proposed adopting a surcharge that averaged 2003 and 2004 projected revenue requirement.

B. Discussion: Use Advice Letter Process with Balancing Accounts to Implement Policies Adopted

One of our main goals is to adopt regulatory procedures that set an initial charge and provide revenues to DWR starting by January 1, 2003. In addition, our goal is to adopt regulatory procedures that will hold consumers responsible for the bond-related costs from the moment the Commission assigns responsibility. We note that all parties agree that this is the appropriate course of action for the Commission to take.

Because the Rate Agreement prevents the imposition of a charge for bond-related costs based on electric power provided to customers by ESPs until a decision to do so becomes final and unappealable, our implementation will initially assess a charge on all non-excluded consumption of bundled customers sufficient to raises all the revenues needed to repay the bond costs. We will set this initial charge by dividing DWR's more precise 2003 revenue requirement for bond-related costs by 106,222 GWh, the consensus forecast of non-excluded bundled consumption for 2003.

In addition, we will create a balancing account to track all payments to DWR so that we can subsequently adjust total under or over payments by customer categories. We therefore order SCE, SDG&E, and PG&E to create Bond-Charge Balancing Accounts (BCBA) and to share data on total non-excluded consumption and remittances to DWR. Although each utility is creating its own balancing account, over and under payments are determined on a common, statewide basis.

If the Commission decides to assess bond-related costs on additional customer categories in R.02-01-011, each utility should create relevant subaccounts in its BCBA effective on the date when the bond charge is first implemented or when a decision is first adopted deciding this matter in R.02-01-

011, whichever is latest. For each customer category held responsible for bond charges, there will be a subaccount tracking the category's cost responsibility, consumption, billed charges, and under or over payments.

If at the time of the initiation of the bond charges (as discussed below), the Commission has decided to hold both bundled and DA customers equally responsible for bond-related costs, then the BCBA would operate as follows:

Table 2: Proposed Operation of BCBA

Assumptions	Bundled	DA	Total
Load	900	100	1000
Bond Related Revenue Requirement			$10
Actual Initial Bond Charges ($/kWh) while awaiting finalization of decision	$.0111	0.0	
Ratemaking-related Bond Charges			$.01/kWh

Operation of the BCBA:

Bundled Customer Subaccount			
Bundled Customer Cost Responsibility			900 x $.01/kWh = $9
Actual Bundled Customer Billed Charges			900 x $.011/kWh = $10
Bundled Customer Overpayment			$1
Direct Access Customer Subaccount			
Direct Access Cost Responsibility			100 x $.01/kWh = $1
Actual DA Billed Charges			100 x $.00/kWh = $0
DA Customer Underpayment			$1

Note: subaccounts will include interest.

When a Commission decision that determines whether and which ESP customers are responsible for bond costs becomes final and unappealable, the actual billed bond charge will be revised. In the example above, the new billed charge applying to both bundled and DA customers would be $.01/kWh. The balance in the Bundled Service Customer Subaccount would be refunded to

bundled service customers through a surcredit. Similarly, the underpayments in the Direct Access Customer Subaccount would be made up through a surcharge. PG&E's suggestion that surcharges and surcredits be made up in a one to six ratio (the undercollection arise from one month of no charges be made up over the 6 ensuing months) seems reasonable, but we will not decide this matter now. Instead, parties should make amortization proposals in the advice letter filing, discussed below, which shall be made 10 days after a Commission decision that assigns responsibility to DA customers becomes final and unappealable. At that time, the Commission will have information concerning the size of the under and overpayments and can directly consider the consequences of different amortization programs on electric charges.

To implement this decision, DWR should file its more precise 2003 bond revenue requirement for bond-related costs with the Energy Division once the bonds have been placed and DWR has determined its bond-related charges. If the bonds have not yet been placed, then DWR should submit its best determination of the more precise 2003 bond revenue requirement to the Energy Division by November 8, 2002, using information gained from its placement of bonds and estimating the bond-related costs for the bonds awaiting placement. This submission should be based on DWR's final debt service projections (including an assumed all-in interest rate for its variable rate bonds) consistent with the terms of the bond indenture.

The three investor-owned utilities should make changes in their billing systems immediately so as to facilitate the implementation of this decision by November 15, 2002. The Commission long ago required the IOUs to create these customer categories, and we cannot delay until January 1, 2003. The modifications to the billing systems should enable the printing of the bond

charge on a separate line on the customer's bill.[51] We note that SDG&E stated that it could implement simple changes within 30 days of a Commission order, and should do so. In any event, SDG&E should comply with Ordering Paragraph 5, which gives any utility additional time to implement the line item on the customer's bill, if needed.

PG&E requests that the Commission authorize a delay in the implementation of a new line on the customer's bill until the completion of its installation of a new billing system. PG&E states that it will offer consumers an explanation via a bill insert that a bond charge has been imposed, and will implement a separate line on the bill as soon as possible. PG&E's approach seems reasonable, and we authorize it to postpone implementation of the billing line until February 1, 2003, at the latest. In the interim, PG&E (and all other utilities not adding a specific line item on the bill) must include with its bills either a bill insert or bill message informing each customer that a bond charge for DWR (based on non-exempt bundled consumption from and after November 15) is included in the bill.

A utility that is unable to show a separate line item for the bond charge on customers' bills when the first bills for electricity consumed on or after

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[51] We note that the Commission first approved servicing agreements between DWR and SDG&E (D.01-09-013), DWR and SCE (D.01-09-014) and a servicing arrangement between DWR and PG&E (D.01-09-015). Subsequently, the Commission approved modifications to DWR's agreements with SDG&E (D.02-04-048) and SCE (D.02-04-047). At DWR's request, pursuant to Water Code § 80106(b), the Commission subsequently ordered PG&E to comply with the terms of a servicing arrangement (D.02-05-048). Finally, the Commission approved amendments to the Servicing Agreements for SCE (D.02-07-039) and SDG&E (D.02-07-040). The current servicing agreements and the PG&E servicing order each provide for a separate line item on the Consolidated Utility Bill for bond charges.

November 15, 2002 are prepared, must still impose and collect the bond charge and remit bond charge collections to DWR. After DWR submits its more precise 2003 bond revenue requirement (on or before November 8, 2003), the utilities shall make a compliance advice letter filing within 5 days.. SDG&E, SCE and PG&E shall file compliance advice letters that impose a per kWh hour charge on non-exempt bundled consumption delivered on and after November 15, 2002. SDGE, SCE, and PG&E shall calculate a uniform per kWh charge by dividing the more precise 2003 bond revenue requirement by 106222 GWh. The advice letters will be effective on filing, subject to post-filing review by the Energy Division. Remittances to DWR pursuant to the Servicing Agreements and Orders should commence with the receipt of bond charges.

As mentioned above, the filing should also establish a Bond Charge Balancing account for each utility to track bond-related charges and cost responsibilities as described above. In addition, if it is ultimately determined that cost responsibility for bond-related costs will be imposed on ESP power, the utilities should immediately create subaccounts for each customer category held responsible for bond-related costs. These subaccounts will track costs and payments until a decision imposing cost responsibility on DA customers, becomes final and unappealable.

Within 10 days of a decision assigning cost responsibilities on DA customers becoming final and unappealable, the utilities should make a new advice letter filing to impose payments on those held responsible for bond-related costs and to amortize over and under payments in BCBA sub-accounts. These changes will go into effect when adopted by the Commission. This amortization will not adjust previously billed DWR bond charges, rather it

will assign future cost responsibility for DWR's overall bond charges in an equitable fashion.

In subsequent years, consideration of the bond charge will be part of the annual proceeding to set a charge to recover DWR's retail revenue requirements. Further, we note that the bond charge may change at other times, pursuant to Article V of the Rate Agreement.

Concerning the implications of this decision for charges to customers, we note that PG&E has stated "incorporating the DWR bond charge will not affect bundled customers' overall rates."[52] Thus, this bond charge should not raise the rates paid by PG&E's bundled customers, at least initially.

SCE notes that it "operates under the Settlement Rates adopted in D.01-05-064."[53] This indicates that this bond charge should not affect the rates paid by SCE's bundled customers, at least initially.

SDG&E's testimony does not directly address this point, but seems to presume that the bond charge will be a separate levy, with no offsetting reductions in charges elsewhere.[54] It is also unclear to us whether there is sufficient room in SDG&E's current charges to recover all of SDG&E's authorized costs and the bond charge without affecting the overall rate levels. For this reason, we will order SDG&E to establish a balancing account to track the amount of its remittances to DWR and to seek a rate change to recover any resulting shortfall in its own collections due to these remittances in the DWR Revenue Requirement Phase of this proceeding. In that Phase, we will

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[52] PG&E, Brief, p. 7.

[53] Exhibit 200, p. 7.

[54] *See* Exhibit 302, pp. 2-4.

simultaneously consider whether any changes are needed to accommodate DWR bond charges on an ongoing basis.

Further, when imposing the bond charge, SCE, SDG&E and PG&E shall also impose offsetting decreases for electricity costs as part of this initial filing to insure that overall charges are not raised at the time of the initial imposition of bond charges. As noted previously, the advice letters implementing those charges will be effective upon filing, subject to review by the Energy Division for compliance with this order. To facilitate the Energy Division's review, within ten days of the date of this decision, SCE, SDG&E and PG&E shall each submit to the Commission's Energy Division drafts of the advice letters that they intend to submit to comply with this decision. These drafts, of necessity, will omit any numerical data that is not yet available.

Finally, we decline SDG&E's suggestion to create an average charge to cover the revenue requirements for 2003 and 2004. Properly calculated, DWR's revenue requirement shows both how much money DWR needs and when it needs it. If DWR needs more money in 2003 than in 2004 to pay bond-related costs, we cannot delay recovery to a date after the money is needed.

9. Comments

The proposed decision of ALJ Sullivan was mailed to the parties in accordance with § 311(d) of the Pub. Util. Code and Rule 77.1 of the Rules of Practice and Procedure. Opening comments were filed on October 15, 2002 by TURN, ORA, SCE, SDG&E, California Industrial Users (CIU), PG&E and CLECA. DWR provided a clarifying memo that responded to questions raised in the proposed decision.

ORA, SCE, SDG&E, PG&E, CIU, California Manufacturers and Technology Association (CMTA) filed reply comments on October 21, 2002.

A. Summary of Comments and Replies

ORA and TURN expressed support for the resolutions reached in this decision.

SCE argues that the Commission should not exclude residential usage up to 130% of baseline, medical baseline, and CARE customers from the bond charge, noting that it can apply the bond charge in a way that satisfies the requirements of Section 80110 of the Water Code. Further, SCE states that a "mismatch exists" between the allocation of "Net Borrowed Proceeds" and "the design of the Bond Charge in this proceeding."[55] SCE requests that the Commission order correction of this mismatch in the true-up phase of the 2003 DWR revenue requirement. In addition, SCE states that it "should not be required to implement the Bond Charge by November 15, 2002."[56] SCE states "the earliest time that SCE can implement the Bond Charge is December 23, 2002."[57] Moreover, SCE claims that it is not necessary to implement the bond charges by November 15 to ensure that funds will flow beginning with the first of the year.

PG&E argues that there are three errors in the PD. First, PG&E objects to the identification and acceptance into the evidentiary record of Supplemental Testimony from DWR after the submission of the proceeding. Second, PG&E objects to certain statements contained in DWR's Preliminary Official Statement for the Bonds, and asks the Commission to order DWR not to use bond charges

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[55] SCE, Comments, p. 2.

[56] *Ibid.*

[57] *Ibid.,* p. 5.

and related reserves for certain purposes.[58] Lastly, PG&E argues that the PD should not exclude residential consumption below 130 percent of baseline from the calculation of the bond charge.

SDG&E similarly argues that the exclusion of consumption below of 130% of baseline, CARE, and medical baseline electricity use from the bond charge is wrong as a matter of equity, as a continuation of prior policy and as an interpretation of the statute. Further, SDG&E argues that it "cannot and should not implement the bond charge without commensurate rate relief."[59] SDG&E also argues that the PD has not adequately addressed SDG&E's rate levelization proposal, and that it is inappropriate to use the comment process to explain anomalies in the Supplemental Testimony of DWR.

CLECA and CIU join SCE, SDG&E and PG&E in requesting that the Bond Charge apply to all bundled consumption, but add little to the arguments recited above.

The reply comments sound many themes, but for the sake of brevity we selectively summarize these filings. SCE argues that SDG&E's levelization proposal may fail to meet DWR's financing needs. ORA argues that the exclusions from the bond charge proposed herein are consistent with the legislative intent of AB1X. PG&E characterizes SCE's proposal to change the interutility allocation of revenue requirement, proposed in its opening comments, as a "bait-and-switch" tactic that the Commission should not reward. CMTA's reply comments support the opening comments of CIU. CIU opposes

[58] PG&E, Opening Comments, p. 6-7.

[59] SDG&E, Comments, p. 4.

the arguments of TURN and ORA, and supports the voltage adjustments to bond charges. SDG&E reasserts the major themes of its opening comments in response to the opening comments of others.

B. Discussion of Comments

The objections of SCE, SDG&E, PG&E, CIU, and CLECA to the exclusion from the bond charge of residential consumption below 130% of baseline, CARE and medical baseline usage are not persuasive. Moreover, they do not identify errors of fact or law. Nevertheless, a few clarifying comments are in order. First, although consumers and consumption in the categories excluded from the bond charge did benefit from DWR's purchases, the fact that they benefited does not require that they pay the bond charge. As ORA (and previous Commission decisions) noted, many people migrating into California will pay the bond charge even though they received no benefit. Moreover, those leaving California who benefited from DWR's purchases will not pay for these bonds. Thus, the exclusion of these consumers and consumption from the bond charge is a matter of policy. Moreover, the policy adopted here is identical to that adopted in past Commission decisions, and clearly reasonable.

Second, this decision does not claim that statutes require the exclusion of this consumption and these consumers from the bond charge (as alleged by SDG&E). The decision simply finds that such an exemption is consistent with the legislative intent of Water Code § 80110, and clearly complies with its provisions. Furthermore, SDG&E's fails to explain how we would impose a bond charge on all bundled consumption without raising charges for customers protected by the provisions of Water Code § 80110. This failure to make a proposal that complies with the plain reading of the statute makes it imprudent

for the Commission to choose a policy that applies the bond charge to all bundled consumption.

PG&E's and SDG&E's objection to the reception into evidence of DWR's "Supplemental Testimony" raises valid points. Indeed, even though we proposed to adopt it as Evidentiary Exhibit 1-a, our concern over DWR's provision of this material following the submission of the proceeding led us to assign no probative value to the information it contained. To reinforce this point, we have revised this decision to identify this late submission as Reference Exhibit 1-a. In addition, we note that DWR has filed this material in its own administrative proceeding to adopt its revenue requirement, and that is the appropriate forum for determining the probative value of this material.[60] We will, however, continue to use the numbers supplied as illustrative of the range of potential bond charges. In light of the limited purpose for which we use Reference Exhibit 1-a, there was no legal error in limiting review of it to the comments and reply comments on the proposed decision.

PG&E's criticism of DWR's Preliminary Official Statement for the Bonds and its request that the Commission order DWR not to spend bond charges or reserves for certain purposes is outside the scope of this decision. The purpose of the decision is to establish a methodology for setting bond charges.

SDG&E's argument that the Commission must immediately increase SDG&E's rates is unpersuasive. SDG&E has not made any showing on this record as to how much its rates might need to be increased to accommodate the

[60] On October 17, 2002, PG&E filed in the Superior Court of California, Sacramento County, for review of DWR's actions. That is the appropriate forum for pursuing an appeal of DWR's actions.

bond charge. Thus, there is no record that would permit the adoption of an increase for SDG&E at this time. Moreover, although SDG&E argues that its rates should be increased now, it acknowledges that the amount by which its rates will need to be increased depends upon the DWR Revenue Requirement proceeding. In light of this, we have adopted the only practical course – a balancing account for now, with charges to be determined in the Revenue Requirement Proceeding. We note that the balancing account adopted in this proceeding ensures that SDG&E will collect its own authorized costs, although recovery may be delayed (this delay is allowed under the Rate Agreement Decision and not prohibited by the Servicing Agreement). Thus, the balancing account and the Revenue Requirement Phase of this proceeding will allow SDG&E to seek a rate change, to the extent necessary, to permit recovery of its own authorized costs independent of these increased remittances to DWR. Therefore, this balancing account will not affect remittances to DWR at any time, but is simply an account to allow SDG&E to recover ultimately its own authorized costs from its own customers entirely independent of its remittances to DWR. Finally, the amount, if any, by which SDG&E's rates and charges should be increased to accommodate DWR charges will be decided in the Revenue Requirement proceeding.

Concerning SDG&E's argument that we have not adequately addressed their bond charge levelization proposal, we simply disagree. Indeed, SCE's reply comments make clear the very problem that SDG&E fails to address: If the 2003 revenue requirement exceeds that of 2004 by as much as $300 million, as is projected in Reference Exhibit 1-a, a levelization of the bond charges between 2003 and 2004 will fail to meet DWR's revenue requirement.

SCE's argument to allocate bond-related costs among utilities based on the benefits received from DWR's purchases is unpersuasive. As the discussion in this decision makes clear, all benefited from DWR's actions to stabilize the grid, and imposing the bond charge equally, except for explicit exclusions, is therefore appropriate.

Lastly, SCE now states that it cannot implement the bond charge by November 15 and that such an implementation will require October consumption to pay bond charges. SCE misunderstands this decision – the bond charge is implemented as of November 15, and applies only to consumption on or after November 15, not to October consumption. SCE should simply remit to DWR a bond charge on all non-exempt bundled consumption from and after Nov. 15th and include a bill message explaining this process until a line item is included on customer bills.[61]

Finally, we note that we have carefully read the opening and reply comments and incorporated changes as appropriate throughout the decision.

10. Assignment of Proceeding

Commissioner Lynch is the assigned Commissioner and ALJ Sullivan is the assigned Administrative Law Judge in this proceeding.

11. Rehearing and Judicial Review

This decision construes, applies, implements, and interprets the provisions of AB 1X (Chapter 4 of the Statutes of 2001-02 First Extraordinary Session). Therefore, Section 1731(c) (applications for rehearing are due within 10 days after

[61] If SCE believes it needs an extension of time to comply with Ordering Paragraphs 6 and 7, it may request such an extension from Executive Director pursuant to the Rules of Practice and Procedure.

the date of issuance of the order or decision) and Section 1768 (procedures applicable to judicial review) are applicable.

Findings of Fact

1. The California DWR owes approximately $6.6 billion to the General Fund and $3.5 billion on an interim loan. The debts were incurred in the months following the January 17, 2001 declaration of a state of emergency which required DWR to purchase electricity for California consumers.

2. DWR plans to refinance these debts through a bond offering of up to $11.95 billion.

3. The "Rate Agreement By and Between State of California Department of Water Resources and State of California Public Utilities Commission" (Rate Agreement) states that the Commission will impose charges sufficient to provide for the payment of all bond-related costs incurred by DWR.

4. The proposed sale of bonds at close to $12 billion will be the largest municipal bond sale in history.

5. Certain DWR contracts for power, called priority contracts, have a higher priority for repayment than bond costs.

6. Several DWR contracts include terms that pass through the costs of natural gas, and fluctuations in the price of gas will lead to fluctuations in the price of power.

7. In a typical municipal bond offering, the borrowing entity has the power to provide a dedicated stream of revenues.

8. The Commission, not DWR, will set bond charges, which will be imposed on IOU customers.

9. The factual circumstances listed in Findings of Fact 4, 5, 6, 7, and 8, have resulted in a complicated credit structure with multiple reserve accounts.

10. Exhibit 1 and Reference Exhibit 1-a indicate that DWR plans to fund reserve accounts at high levels.

11. The reserve balances provide bondholders with additional security, protecting the revenues designated for repayment of bonds from being used to pay the costs of priority contracts.

12. The reserve balances help maintain a quality investment-grade credit rating for DWR's bonds.

13. As a result of the additional security provided to bondholders and the higher credit rating that the reserves produce, the reserves can help to lower overall costs of bonds.

14. The exact annual revenue requirement needed to support the bonds will not be known until the bond financing is complete. A more precise 2003 bond revenue requirement will be available in November after a large proportion of the bonds are placed.

15. It is possible to determine the reasonableness of methodologies for setting charges to recover bond-related costs based on the preliminary financing information presented by DWR in Exhibit 1 and Reference Exhibit 1-a.

16. DWR will present the Commission with its more precise revenue requirement for bond-related costs after a large proportion of bonds are placed.

17. The Rate Agreement provides that the Commission shall impose bond charges "sufficient to provide moneys so that the amounts available for deposit in the Bond Charge Payment Account from time to time, together with amounts on deposit in the Bond Charge Payment account, are at all times sufficient to pay or provide for the payment of all Bond Related Costs when due in accordance with the Financing Documents."

18. The Rate Agreement requires that bond charges be imposed based on the aggregate amount of electric power sold to customers in the service areas of PG&E, SCE, and SDG&E, regardless of whether the power is sold by DWR, the utility, or under particular circumstances, by an ESP.

19. D.01-05-064 exempted the consumption of CARE-eligible customers, residential usage below 130% of baseline, and usage by medical baseline customers of PG&E and SCE from the 3 cents per kWh surcharge.

20. D.01-09-059 exempted the consumption of CARE-eligible customers, residential usage below 130% of baseline, and usage by medical baseline customers of SDG&E from a 1.46 cents per kWh rate increase.

21. The long period over which the bond charges will be collected breaks the link between those for whom the power was purchased and those responsible for repayment.

22. The bond charge is a mechanism to raise revenues to pay for bond-related costs.

23. A bond charge imposed equally on all non-exempt kilowatt-hours has a simple structure that is easy to implement and is transparent and fair to all that must pay it.

24. During the period of the energy crisis, the prices charged for power had little relationship to the costs of generating electricity. Thus, the assumptions in the economics principle of allocating costs on the basis of cost causation are not met.

25. Since the bond-related costs will be repaid over almost twenty years, over time those paying the surcharges will frequently be different than those for whom the costs were incurred.

26. D.02-02-052 did not allocate responsibility for past energy purchases, but instead allocated responsibility for current and ongoing purchases by DWR on behalf of the investor owned utilities.

27. D.02-02-051 noted that the Commission has broad discretion in assessing a bond charge.

28. It is not reasonable to make departures from a methodology of allocating bond-related costs on an equal-cents-per-kWh basis to reflect the voltage of a consumer's power.

29. It is not reasonable to make departures from a methodology of allocating bond-related costs on an equal-cents-per-kWh basis to impose WAPA-related costs on PG&E's customers.

30. The Rate Agreement states that absent a decision that has become final and unappealable, power provided to customers by Energy Service Providers will not be included in the determination of bond charges.

31. If DWR borrows $11.95 billion, it projects a 2003 revenue requirement for bond-related costs of $1,140 million, and a 2004 revenue requirement of $784 million.

32. Based on DWR's assumptions, if residential sales below 130% of baseline, medical baseline, and CARE-eligible customer usage are excluded from the bond charges, we estimate that all other bundled consumption will pay a projected charge of between 0.7927 and 1.0732 cents per kWh in 2003 and between 0.7381 and 0.9141 cents per kWh in 2004. This result also assumes the adoption of a methodology that assigns a uniform charge to all non-excluded consumption. Bond charges at this level will remain in effect until a decision concerning whether Direct Access customers should pay bond-related costs becomes final and unappealable.

33. Incorporating a bond charge into PG&E's rates need not raise customers' overall rates.

34. SCE operates under Settlement Rates and incorporating a bond charge into SCE's rates need not raise customers' overall rates.

35. It is practical and in the public interest to implement a bond charge on non-excluded electricity consumption that occurs on or after November 15, 2002.

36. It is in the public interest to inform customers of the bond charges.

37. It is practical and in the public interest to include a line item on customer bills identifying the amount of the bond charge as soon as possible, but no later than February 11, 2003.

38. To impose a bond charge on non-excluded consumption occurring on or after November 15, 2002, DWR must provide a more precise bond revenue requirement for 2003 (as defined herein) to the Commission, and to SCE, SDG&E, and PG&E by November 8, 2002.

39. A reasonable estimate of the 2003 non-excluded bundled consumption of customers in the service territories of SCE, SDG&E, and PG&E is 106,222 gigawatt hours.

40. It is reasonable and practical to establish balancing accounts and subaccounts, consistent with the discussion herein, to facilitate implementation of the policies adopted in this decision and under active consideration in the other proceedings before this Commission.

41. It is reasonable and practical to require SCE, SDG&E, and PG&E to make a new advice letter filing within 10 days after a decision assigning cost responsibilities for DA customers becomes final and unappealable that imposes bond charges on those held responsible for bond-related costs and to amortize

over and under payments in the sub-accounts of the Bond Charge Balancing Account.

Conclusions of Law

1. It is reasonable to adopt a uniform bond-related surcharge on all non-excluded consumption.

2. Pursuant to Water Code Section 80110, the determination of the reasonableness of the costs associated with DWR's bond offering rests with DWR, not the Commission.

3. Pursuant to the Public Utilities Code, the authority to set a bond charge rests with the Commission, not DWR.

4. Pursuant to Section 80110 of the Water Code, DWR is entitled to recover as a revenue requirement amounts necessary to payoff the proposed bonds that will be issued by DWR.

5. The Commission should adopt bond charges in amounts sufficient to comply with statutory requirements of Sections 80110 and 80134 of the Water Code and the Commission's covenants in Article V of the Rate Agreement, negotiated pursuant to Section 80110 of the Water Code

6. Pursuant to California Water Code Section 80110, the Commission should not increase electricity charges for existing baseline quantities or usage by those customers up to 130 percent of existing baseline quantities at this time.

7. It is reasonable to exclude residential sales below 130% of baseline, medical baseline, and CARE customer usage from the bond charges.

O R D E R

IT IS ORDERED that:

1. The Department of Water Resources' (DWR) Supplemental Testimony of August 13, 2002 is identified as Reference Exhibit 1-a.

2. San Diego Gas and Electric Company (SDG&E), Southern California Edison (SCE) and Pacific Gas and Electric Company (PG&E) shall make changes to their billing systems to impose bond charges consistent with the methodology of collecting an equal-cents-per-kilowatt-hour (kWh) on all non-excluded bundled electricity consumption, as defined herein, with bond charges to be reflected as a separate line item on customer's bills.

3. No later than November 8, 2002 the Department of Water Resources (DWR) shall submit to the Commission its more precise bond revenue requirement for 2003, and simultaneously serve it on SDG&E, SCE, and PG&E. This submission shall be based upon DWR's final debt service projections (including an assumed all-in interest rate for its variable rate bonds consistent with the terms of its Bond Indenture). If the terms of all of the Department's bonds are not known by that date, DWR shall base its submission on its most recent estimates of interest rates and bond size, based on consultations with its senior managing underwriter and financial advisors.

4. No later than five days following DWR's submission of its more precise bond revenue requirement for 2003, SDG&E, SCE and PG&E shall file compliance advice letters that impose a per kWh charge on non-exempt bundled consumption (as defined herein). This bond charge shall apply to all such consumption on and after November 15, 2002 (regardless of whether the electricity is supplied by the utility or by DWR). SDG&E, SCE, and PG&E shall calculate a uniform per kWh charge by dividing DWR's more precise bond

revenue requirement for 2003 by 106,222 gigawatt-hours (GWh). SDG&E, SCE and PG&E shall impose offsetting decreases in charges for electricity energy costs as part of this initial filing to insure that rates are not raised at the time of the initial imposition of bond charges. The advice letters will be effective upon filing, subject to review by the Energy Division for compliance with this order.

5. SCE, SDG&E and PG&E shall implement a separate line item for the bond charge on the customer's bill. Any utility that is unable to show this line item on customers' bills when the first bills for electricity consumed on or after November 15, 2002 are prepared, must still comply with Ordering Paragraph No. 4 and must still collect and remit to DWR the bond charges associated with electricity consumed on and after November 15, 2002. In addition, any such utility must implement the separate bond charge line item on its customer's bills no later than February 11, 2003. In the interim each such utility must include with its bills a bill insert, or bill message, informing each customer that a bond charge for DWR (based on non-exempt bundled consumption from and after 11/15) is included on the bill.

6. SCE, SDG&E, and PG&E shall establish Bond Charge Balancing Accounts consistent with the discussion herein to track payments of bond-related charges by customer categories. The details of these accounts should be described in the advice letters filed pursuant to Ordering Paragraph 4.

7. SCE, SDG&E, and PG&E shall establish sub-accounts to track bond charge payments and responsibilities consistent with the customer usage that R.02-01-011 deems responsible for paying bond-related costs.

8. Within 10 days after a decision assigning cost responsibilities on direct access customers becomes final and unappealable, the utilities shall make a new advice letter filing to impose bond charges on those held responsible for bond-

related costs and to amortize over and under payments in the sub-accounts of the Bond Charge Balancing Account. These changes shall be effective as of the date adopted by the Commission.

9. SDG&E shall establish a balancing account to track the amount it remits to DWR and thus allow it to seek a change in charges or rates, to the extent necessary, to permit recovery of its own authorized costs independent of these increased remittances to DWR. This balancing account will not affect remittances to DWR at any time, but is simply an account to allow SDG&E to recover ultimately its own authorized costs from its own customers entirely independent of its remittances to DWR.

10. Within ten days of the date of this decision, SCE, SDG&E, and PG&E shall each submit to the Commission's Energy Division drafts of the advice letters they intend to submit in compliance with Ordering Paragraphs Nos. 4 and 6. These drafts will omit any numerical data that is not yet available.

This order is effective today.

Dated _____, at San Francisco, California.

ATTACHMENT A

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