

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE

SAN FRANCISCO, CA 94102-3298

January 8, 2003

**Alternate to Agenda ID #3076  
Ratesetting**

TO: PARTIES OF RECORD IN APPLICATION 00-11-038

Consistent with Rule 2.3(b) of the Commission's Rules of Practice and Procedure, I am issuing this Notice of Availability of the above-referenced proposed decision. The alternate draft decision was issued by Commissioner Carl W. Wood on January 8, 2004. An Internet link to this document was sent via e-mail to all the parties on the service list who provided an e-mail address to the Commission. An electronic copy of this document can be viewed and downloaded at the Commission's Website ([www.cpuc.ca.gov](http://www.cpuc.ca.gov)). A hard copy of this document can be obtained by contacting the Commission's Central Files Office [(415) 703-2045].

This is an alternate draft decision to Administrative Law Judge (ALJ) Wong previously served to you. It will be on the Commission's agenda on January 22, 2004, along with the draft decision of ALJ Wong. The Commission may act then, or it may postpone action until later.

When the Commission acts on the proposed decisions, it may adopt all or part of them as written, amend or modify them, or set them aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

As set forth in Rule 77.6, parties to the proceeding may file comments on the enclosed alternate order no later than 5pm on January 15, 2004. An original and four copies of the comments with a certificate of service shall be filed with the Commission's Docket Office and copies shall be served on all parties on the same day of filing. Anyone filing comments shall electronically serve those on the service list who have provided electronic addresses. Parties shall also ensure that they electronically serve their comments on Commissioner Wood's energy advisor, Manuel Ramirez, at [mzr@cpuc.ca.gov](mailto:mzr@cpuc.ca.gov) and assigned ALJ Wong, at [jsw@cpuc.ca.gov](mailto:jsw@cpuc.ca.gov). For those who have not provided electronic addresses, printed copies of the comments shall be served by first class mail or another expeditious mode of delivery. Reply comments will be due no later than 12 noon on January 20, 2004.

/s/ Angela K. Minkin  
Angela K. Minkin, Chief  
Administrative Law Judge

ANG:mzr

Decision **ALTERNATE DRAFT DECISION OF COMMISSIONER WOOD****BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Southern California Edison Company (E 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)

**OPINION REGARDING WESTERN AREA  
POWER ADMINISTRATION INTEREST****Background and Discussion**

In Decision (D.) 03-09-017, Pacific Gas and Electric Company (PG&E) was ordered to remit to the California Department of Water Resources (DWR) the Commission-approved power charge for all of the energy that DWR supplied to meet PG&E's retail load, but which was purportedly used to serve PG&E's load obligations with the Western Area Power Administration (WAPA). Ordering Paragraph 2 of D.03-09-017 directed PG&E to have its shareholders pay interest on the power charge remittance. PG&E was also directed to discuss the interest

issue with DWR to determine the appropriate amount of interest that should be paid by PG&E's shareholders to DWR. Ordering Paragraph 2 also provides that after receiving the notice of the efforts to resolve the WAPA interest issue, a "draft decision shall be prepared for the Commission's action determining the appropriate amount of interest to be paid."

In accordance with Ordering Paragraph 2.b. of D.03-09-017, PG&E filed its "Notice Regarding WAPA Interest Issue" on October 20, 2003. In that notice, PG&E stated that it had reached agreement with DWR on the amount of interest to be paid, and that the amount is \$13,148,307.02. On October 29, 2003, PG&E filed a "Supplemental Notice Regarding WAPA Interest Issue." The supplemental notice stated that the original notice did not correctly set out the agreed upon interest amount. PG&E states that the correct amount is \$13,316,623.77.

The agreed upon interest amount is based on "the monthly weighted average interest rate PG&E earned on short term investments during the period between when it would have made specific remittances to DWR had the remittance rules adopted by D.03-09-017 been in place initially, and when PG&E actually made the WAPA true up remittance pursuant to D.03-09-017 and D.03-09-018." (Supplemental Notice, p. 2.)

The supplemental notice also states that "PG&E has agreed with DWR to provide the interest amount to DWR within 5 days after a Commission action authorizing PG&E to do so, and has agreed that the penalty provisions of the servicing order would apply if PG&E does not provide the amount to DWR within that time." (Supplemental Notice, p. 2.) The supplemental notice also states that if the Commission decides on some other date for remitting the

WAPA interest amount, that would supercede the payment timing agreement between PG&E and DWR.

In D.03-09-017, we allowed PG&E and DWR “to determine the appropriate amount of interest that should be paid by PG&E’s shareholders for PG&E’s untimely remittances associated with the WAPA load, subject to Commission approval.” (D.03-09-017, p. 31.) The decision also noted that the servicing order contains specific provisions that address when interest is due.

In the opening and reply comments to the draft decision of Administrative Law Judge (ALJ) John S. Wong, which was mailed on December 9, 2003, San Diego Gas & Electric Company (SDG&E) and Southern California Edison Company (SCE) contend that the interest amount that PG&E’s shareholders should pay to DWR should represent the actual financing costs that DWR incurred as a result of PG&E’s failure to timely pay its WAPA-related remittances. SCE estimates this cost at approximately \$38 million, which is based on a weighted-average interest rate of 4.8% on the bonds that DWR issued, in part, to finance PG&E’s obligations. SCE asserts that this is the relevant interest rate to consider because it takes into account DWR’s borrowing costs to finance PG&E’s delinquent payments. In its reply comments on the ALJ’s draft decision, The Utility Reform Network supports the position of SCE and SDG&E.

In DWR’s January 5, 2004 reply comments to the ALJ’s draft decision, DWR acknowledges that “it did in fact finance PG&E under-remittances with revenue bonds.” (DWR Memorandum, Jan. 5, 2004, p. 1; See Vol. 51 R.T. 7027-7031.) Additionally, in DWR’s Memorandum dated April 17, 2003 regarding the WAPA under-remittances, DWR stated:

“In its comments, PG&E appears to argue that there are no adverse consequences resulting from past under-remittance. PG&E asserts that DWR did not finance the under remittance associated with

PG&E's wholesale obligations for 2001 and 2002. PG&E is wrong. The under-remittance associated with energy deliveries to PG&E's service territory in 2001 and 2002 (up to the date of bond issuance) were effectively financed by the Department. As a result, ratepayers in SCE and SDG&E's service territories are also shouldering the burden caused by PG&E's past under remittances." (DWR Memorandum, April 17, 2003, p. 2.)

DWR's January 5, 2004 Memorandum also states that the approach favored by SCE and SDG&E, or the approach in the ALJ's draft decision, "would result in a reasonable outcome," and that "DWR has no preference among the proposals."

PG&E opposes the approach taken by SCE and SDG&E. PG&E asserts that the WAPA true up amount of approximately \$500 million was not used to buy back DWR bonds, but instead was used to help fund the \$1 billion in bill credit authorized in D.03-09-018. Since the true up amount was used to fund the bill credit, PG&E contends the appropriate interest rate is the short-term interest rate that DWR would have received had PG&E remitted the funds earlier.

Although the interest amount of \$13,316,623.77 has been agreed to by both DWR and PG&E, we do not believe that this amount adequately compensates ratepayers for PG&E's delinquent payments. DWR acknowledges that it had to issue additional revenue bonds to make up for PG&E's under-remittances. Since the interest rate of the bonds exceeds the short term interest rate that DWR and PG&E have agreed to, it is only fair to have PG&E's shareholders pay DWR interest of \$38 million for the untimely remittances associated with the DWR

energy used to serve WAPA load.<sup>1</sup> PG&E's shareholders shall be responsible for the WAPA interest amount, and PG&E shall remit the amount of \$38 million to DWR within 20 days from today's date.

### **Comments on Alternate Draft Decision**

The alternate draft decision of Commissioner Wood was mailed to the parties on January 8, 2004, in accordance with Public Utilities Code Section 311(g)(1) and Rules 77.6(d) and 77.7 of the Rules of Practice and Procedure. Comments were filed on \_\_\_\_\_ and reply comments were filed on \_\_\_\_\_.

### **Assignment of Proceeding**

Loretta M. Lynch and Geoffrey F. Brown are the Assigned Commissioners, and John S. Wong is the assigned ALJ in this proceeding.

### **Findings of Fact**

1. D.03-09-017 directed PG&E to have its shareholders pay interest on the power charge remittance owed to DWR, and directed PG&E to discuss the interest issue with DWR to determine the appropriate amount of interest that should be paid.
2. PG&E's supplemental notice states that PG&E and DWR have agreed that the WAPA interest amount is \$13,316,623.77.
3. The WAPA interest amount is based on the monthly weighted average interest rate PG&E earned on short-term investments during the period between when it would have made specific remittances to DWR had the remittance rules

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<sup>1</sup> If PG&E or DWR can demonstrate that the actual financing costs associated with the bonds to cover the under-remittances is less than \$38 million, we will entertain a reduction in the amount of interest that should be paid.

adopted by D.03-09-017 been in place initially, and when PG&E actually made the WAPA true up remittance pursuant to D.03-09-017 and D.03-09-018.

4. PG&E has agreed with DWR to pay the interest amount to DWR within five days after a Commission action authorizing PG&E to do so, and if no payment is made, that the penalty provisions of the servicing order will apply.

5. In their opening and reply comments to the ALJ's draft decision, SDG&E and SCE assert that PG&E should pay a higher amount to DWR due to the actual financing costs that DWR incurred.

6. DWR acknowledges that it financed PG&E's under-remittances with revenue bonds, and as a result, the ratepayers in the service territories of SCE and SDG&E are also shouldering the burden caused by PG&E's past under-remittances.

7. DWR has no preference as to the amount of interest that PG&E should pay, and that the approach favored by PG&E, and the approach favored by SDG&E and SCE, would result in a reasonable outcome.

### **Conclusions of Law**

1. The WAPA interest amount of \$38 million should be approved.
2. PG&E should be directed to remit the amount of \$38 million to DWR within 20 days from today's date.

## **O R D E R**

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

1. The interest amount of \$38 million, which represents the amount of interest owed on the under-remittance associated with the California Department of Water Resources (DWR) energy used to serve Pacific Gas and Electric



Company's (PG&E) contractual obligation with the Western Area Power Administration, is approved.

2. The shareholders of PG&E shall be responsible for paying the interest amount of \$38 million to DWR, and PG&E shall remit such sum to DWR within 20 days from today's date.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.

**CERTIFICATE OF SERVICE**

I certify that I have by mail, and by electronic mail to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Commissioner Wood's Proposed Alternate Draft Decision Regarding Western Area Power Authority Interest on all parties of record in this proceeding or their attorneys of record.

Dated January 8, 2004, at San Francisco, California.

/s/ MANUEL RAMIREZ  
Manuel Ramirez

**N O T I C E**

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