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Decision 03-01-080 January 30, 2003

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking into the operation of interruptible load programs offered by Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company and the effect of these programs on energy prices, other demand responsiveness programs, and the reliability of the electric system.	Rulemaking 00-10-002 (Filed October 5, 2000) Phase 2

FINAL OPINION ON BILL LIMITER AND CLOSURE OF PROCEEDING

1. Summary

The May 21, 2002 petition for modification of Decision (D.) 02-04-060 filed by the California Industrial Users (CIU) and California Large Energy Consumers Association (CLECA) regarding the bill limiter is granted in part, but with the funding approach recommended by Southern California Edison Company (SCE). The proceeding is closed.

2. Procedural Background

This proceeding was processed in two phases. Phase 1 addressed interruptible programs and curtailment priorities for Summer 2001. Phase 2 addressed these programs and priorities for the period after Summer 2001.

Phase 2 included the following issue:

> "Should the bill limiter provision currently reflected in the interruptible program tariffs of Southern California Edison

> Company terminate on March 31, 2002." (Phase 2 Scoping Memo and Ruling, September 21, 2001, Attachment A, Issue 1.3.)

We decided that the bill limiter should not terminate, but should continue in part. (D.02-04-060, mimeo, pages 24-31.)

By petition dated May 21, 2002, CIU and CLECA seek modification of D.02-04-060. Petitioners propose that the bill limiter be continued in whole, and suggest a specific funding mechanism. On June 3, 2002, SCE responded with conditional support. No other responses were received.

3. Bill Limiter Background and D.02-04-060

Bill limiters for SCE interruptible program Schedules I-3 and I-5 were first adopted in SCE's 1992 general rate case (GRC) decision. (D.92-06-020, 44 CPUC2d 471, 528.) The purpose was to mitigate the impact of transferring Schedule I-3 and I-5 customers of record on December 31, 1992, to Schedule I-6 on January 1, 1993, given the lower level of interruptible credit in Schedule I-6. According to SCE, the bill limiter capped these customers' bills to a total of no more than 15% in 1993, and 30% in 1994, above what would have otherwise been their Schedule I-3 or 1-5 bills based on December 1992 rates.

Legislation adopted in 1993 prohibited reductions in interruptible credit levels during 1995 and 1996. (Pub. Util. Code § 743.1.) Legislation adopted in 1994 extended the prohibition through 1999. Legislation adopted in 1996 continued the prohibition through March 31, 2002.[1]

[1] Public Utilities Code § 743.1(b) currently states in pertinent part that "[i]n no event shall the level of the pricing incentive for interruptible or curtailable service be altered from the levels in effect on June 10, 1996, until March 31, 2002."

The Commission decision in SCE's 1995 GRC reduced revenues from bill-limited eligible customers by about $25 million per year, and raised rates and revenues from all other large power customers (Schedules TOU-8 and I-6) by an equivalent amount, according to SCE. There are approximately 100 customers subject to the bill limiter, with combined load of about 200 megawatts. (D.02-04-060, mimeo., page 25.)

SCE says that the annual revenue deficiency created by the bill limiter in 2002 is about $54 million. The increased revenue deficiency results from surcharges adopted by the Commission in 2001, according to SCE. These surcharges were applied in response to the energy crisis, and total about $0.04 per kilowatt-hour (kWh). (See D.01-01-018, D.01-03-082 and D.01-05-064.) Of the $54 million annual deficiency, SCE states that $25 million is recovered through the existing revenue shift to other large customers, and $29 million is not recovered from any other customer class.

Under current ratemaking mechanisms, the additional $29 million annual revenue shortfall results in a lower "surplus" to be applied toward recovery of the balance in the Procurement Related Obligations Account (PROACT). (See Resolution E-3765.) The resulting effect is to extend the PROACT recovery period and "frozen" Settlement rates for all customer classes. (D.02-04-060, mimeo, page 26.)

In our Phase 2 order, we considered three options: (1) end the bill limiter without other adjustment, (2) continue the bill limiter without adjustment, or

1. (3) continue the bill limiter in part (for the portion of rates in effect before 2001). (D.02-04-060, mimeo., pages 29-30.) We decided to continue the bill limiter to the extent that it applies to the portion of rates in effect before 2001, but discontinue its application to the remainder of rates.

4. Petition for Modification of D.02-04-060

CIU and CLECA petition for modification proposing a fourth option: continue the bill limiter for all rate elements (including those in place both before and after 2001), and use a portion of the approximately $0.0053/kWh "catch-up" surcharge that would otherwise be returned to large customers beginning on June 2, 2002 to fund the revenue deficiency.[2] That is, part of the "catch-up" surcharge would be used to fund the $29 million annual revenue shortage not already recovered in rates.

In support, petitioners assert that this avoids the "rate shock" caused by the Commission-adopted approach, with minimal impact on other large customers. Petitioners estimate that the "rate increase" to other large customers would be $0.0012/kWh, implemented by not reducing rates by as much as would otherwise occur on June 2, 2002. In further support, petitioners state that this would eliminate any alleged revenue deficiency for SCE.

5. Discussion

We grant the petition for modification to the extent that we continue the bill limiter on all rate elements, including those in effect before 2001 and also the surcharges adopted in 2001. The petition is unopposed. The "rate increase" to

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[2] The "catch-up" surcharge results from D.01-03-082 and D.01-05-064. D.01-03-082, dated March 27, 2001, granted Pacific Gas and Electric Company (PG&E) and SCE authority to increase rates by adding a $0.03/kWh surcharge. D.01-05-064 allocated the surcharge among customers, and approved customer-specific rates to implement the average increase adopted on March 27, 2001. The new rates became effective on June 1, 2001 for PG&E, and on June 3, 2001 for SCE. D.01-05-064 required the new rates to include a component to recover over a period of one year revenues associated with the $0.03/kWh surcharge not collected between March 27, 2001 and the date of the new rates (e.g., June 1, 2001 for PG&E; June 3, 2001 for SCE). On a total system basis, this component equals approximately $0.0052/kWh for PG&E, and $0.0053/kWh for SCE. (Resolution E-3776, pages 1-2.)

other customers (even if funded differently than as proposed by petitioners) continues past policy on revenue shifts within the large customer group, and, as such, continues to be just and reasonable.

We decline to adopt petitioners' proposed funding mechanism, however. Petitioners' proposal to use the "catch-up" surcharge is unavailable since we did not end the "catch-up" surcharge on June 2, 2002. Rather, the "catch-up" surcharge continues, with the revenue tracked in a memorandum account for later disposition. (Resolution E-3776.[3])

In the alternative, we adopt SCE's proposed funding approach. That is, SCE supports petitioners' proposal as long as a source of revenue is established. SCE offers to debit the approximately $29 million per year shortfall into the memorandum account created by Resolution E-3776. If the memorandum account balance is later returned to ratepayers, SCE proposes that the large power customers' share of the refund be reduced by the amounts debited for the additional bill limiter revenue deficiency. If the memorandum account balance is later recorded to the PROACT, SCE proposes that the revenue shortfall attributable to the bill limiter be recorded in a newly established memorandum account, and then collected from all large power customers in future rates. SCE proposes this as a workable accounting approach. We agree that it is workable and reasonable.

At the same time, however, we reaffirm our intention to examine and consider further treatment of the bill limiter (including the possibility of its

[3] Resolution E-3776 (June 6, 2002) requires PG&E and SCE to each establish a memorandum account to record with interest the total revenues received by PG&E after May 31, 2002, and by SCE after June 2, 2002, associated with continuing the "catch-up" surcharge. The Commission will determine the disposition and allocation of these revenues at a later date.

complete elimination) in SCE's next GRC. (D.02-04-060, mimeo, page 30.) Petitioners agree with this approach.

6. Close Proceeding

All issues in this investigation are now resolved, and this proceeding should be closed.

7. Comments on Draft Decision

On November 14, 2002, the draft decision of Presiding Officer and Assigned Commissioner Wood was served on parties in accordance with Pub. Util. Code § 311(g)(1), and Rule 77.7 of the Commission's Rules of Practice and Procedure. That draft decision denied the petition and closed the proceeding.

Comments were filed and served on December 3, 2002 by CIU. CIU urges the Commission to revise the Draft Decision and grant the CIU/CLECA petition. No reply comments were filed.

We carefully consider CIU's comments, and are persuaded to modify the draft decision. As CIU points out, CIU and CLECA represent a number of large industrial customers, including both interruptible and non-interruptible customers. Both groups joined in the petition. We may reasonably conclude that both groups made the decision to support continuation of the bill limiter in whole, and to collect any additional undercollections from other large industrial customers. No large non-interruptible customer opposed the petition. The California Manufacturers and Technology Association, which also includes large industrial members, did not oppose the petition.

Further, the petition does not propose indefinite continuation of the bill limiter. Rather, just as with the outcome in the Draft Decision, the bill limiter component of Schedule I-6 will be re-evaluated in SCE's next GRC. This approach is consistent with prior Commission treatment to continue bill limiters here and elsewhere until further review.

Finally, SCE's proposed accounting treatment is not unreasonably complex, even if it adds another layer of complication to relatively complex accounting for ratemaking purposes. SCE would implement the additional accounting, and believes it is workable. It may be coordinated with the treatment required in Resolution E-3776 without being unduly burdensome.

8. Assignment of Proceeding

Carl Wood is the Assigned Commissioner and Burton W. Mattson is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. Bill limiters for SCE interruptible program Schedules I-3 and I-5 were first adopted in SCE's 1992 GRC decision for the purpose of mitigating the impact of transferring Schedule I-3 and I-5 customers of record on December 31, 1992 to Schedule I-6 on January 1, 1993.

2. The annual revenue deficiency created by the bill limiter in 2002 is about $54 million, with $25 million recovered through an existing revenue shift to other large customers, and $29 million not recovered from any other customer class.

3. The option of continuing the bill limiter in full with the revenue shortfall recovered by declining to fully terminate the "catch-up" surcharge for large power customers is unavailable since the "catch-up" surcharge was not terminated on June 2, 2002.

4. SCE proposes to debit the approximately $29 million per year shortfall into the memorandum account created by Resolution E-3776.

5. SCE's proposal is a workable accounting treatment that results in all other large customers paying the approximately $29 million annual revenue deficiency either (a) at the time the memorandum account balances are returned to

ratepayers or (b) if not returned to ratepayers but recorded to PROACT, by smaller rate reductions for large power customers when PROACT is fully recovered.

6. The petition for modification was not opposed by any customer or customer group, and is supported by customer groups representing the large customers who will in turn fund the additional approximately $29 million per year.

7. All issues in this proceeding are now resolved.

Conclusions of Law

1. The May 21, 2002 petition for modification filed by CIU and CLECA regarding the bill limiter should be granted in part by continuing the bill limiter on all rate components at issue, but adopting SCE's proposed accounting treatment for funding the revenue shift within the large customer group.

2. Further treatment of the bill limiter in SCE's interruptible program tariffs (including the possibility of its expansion or complete elimination) should be considered in SCE's next GRC.

3. This proceeding should be closed.

4. This order should be effective today so that the treatment of the bill limiter is clarified, the rate relief is provided as soon as possible, certainty is provided to customers as soon as reasonably possible, and the proceeding is closed without unnecessary delay.

FINAL ORDER

IT IS ORDERED that:

1. The petition dated May 21, 2002 of the California Industrial Users and California Large Energy Consumers Association to modify Decision 02-04-060 regarding the bill limiter is granted in part. The bill limiter shall continue on all rate elements (including those in place before 2001 and the surcharges adopted in 2001). The revised bill limiter shall be effective on and after the date the revised tariff is effective. The bill limiter shall be funded using the accounting treatment recommended by Southern California Edison Company (SCE).

2. SCE shall file and serve an advice letter with accompanying tariff within five days from today to implement the orders herein. The advice letter and tariffs shall comply with General Order 96-A, and shall become effective within five days after filing unless suspended by the Energy Division Director. The Energy Division Director may require SCE to the advice letter and tariffs to comply with the orders herein.

3. This proceeding is closed.

This order is effective today.

Dated, January 30, 2003 at San Francisco, California.

MICHAEL R. PEEVEY
President
GEOFFREY F. BROWN
SUSAN P. KENNEDY
Commissioners

I dissent.

/s/ LORETTA M. LYNCH
Commissioner

I dissent.

/s/ CARL W. WOOD
Commissioner