PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION **RESOLUTION E-3831**
July 8, 2004

R E S O L U T I O N

Resolution E-3831. Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas and Electric Company (SDG&E) filed tariffs in compliance with Ordering Paragraph (OP) 17 of Decision (D.) 03-04-030 to implement the Departing Load Customer Generation Cost Responsibility Surcharge (CG CRS) Effective on Filing Subject to Post-Filing Review by the Energy Division. These Advice Letters are approved with modifications.

By PG&E Advice Letter AL 2375-E Filed on April 17, 2003, Supplemental AL 2375-E-A Filed on May 5, 2003; SCE AL 1700-E Filed on April 17, 2003; and SDG&E AL 1488-E Filed on April 17, 2003.

SUMMARY

PG&E, SCE, and SDG&E propose a Cost Responsibility Surcharge for Customer Generation.

This Resolution implements the customer generation departing load[1] cost responsibility surcharge (CG CRS) pursuant to Decision (D.) 03-04-030 (the CG CRS Decision), as modified[2] by D.03-04-041. The CG CRS tariffs as modified herein are effective as of the filing date, subject to Energy Division's review and

1. Parties also use the terms "distributed generation," "onsite and over-the-fence generation," and "self-generation" as being interchangeable with "Customer Generation."

2. D.03-04-041 modified D.03-04-030 to correct certain clerical errors.

approval, consistent with the determinations in D.03-04-030, as modified in D.03-04-041 and clarified and affirmed in D.03-05-039.

BACKGROUND

To prevent cost shifting, the Commission adopted Cost Responsibility Surcharges for Customer Generation.

In D.02-03-055, we confirmed that direct access (DA) was suspended effective after September 20, 2001 but determined that bundled service customers should not be burdened with additional costs as a result of the significant migration of load to DA from utility bundled service that occurred between July and September of that year. The Commission determined that customers should bear their fair share of costs incurred on their behalf during the energy crisis. Thus we initiated the Rulemaking 02-01-011 to develop a Cost Responsibility Surcharge (CRS) to mitigate this potential cost shifting. The extraordinary energy prices during the 2000-01 crisis also created an incentive for departing load (DL) other than DA to migrate away from bundled utility service. Thus, **we applied the CRS principles to CG** departing load.

The Customer Generation Cost Responsibility Surcharge is based on the principles developed for the Direct Access Cost Responsibility Surcharge.

By D.03-04-030, we adopted policies and mechanisms to implement a CRS applicable to customers of PG&E, SCE, and SDG&E that self-generate to meet all or part of their load. The CRS comprises four separate charges, all capped presently at 2.7 cents per kWh.[3] The component charges in the order of recovery under the cap consist of:

- DWR Bond Charge[4] to recover financed historic shortfalls;

3. The CRS cap was evaluated and adopted in D.03-07-030.

4. The CRS rate components related to DWR costs must be computed in coordination with the DWR Bond Charge and the DWR Power Charge Revenue Requirement proceedings in A.00-11-038 et al., so that the sum of the remittances from bundled and other customers equals DWR's adopted revenue requirement.

- Historic Procurement Charge (HPC) in SCE's territory pursuant to D.02-implement the Departing Load Customer Generation Cost Responsibility Surcharge (CG CRS) Effective on Filing Subject to Post-Filing Review by the Energy Division 07-032, as modified by D.03-02-035; and the Regulatory Asset Charge per D.04-02-062 in PG&E's territory.
- Tail Competition Transition Charge (Tail CTC) pursuant to Public Utilities Code Section 367(a); and
- DWR Power Charge (See footnote 4.).

The CG CRS decision applied these CRS component charges differently to the following three distinct categories of CG:

- Systems sized up to 1 megawatt (MW) that are eligible for either net metering or for an incentive program sponsored by the CEC or the CPUC designed to encourage installation of CG as in the public interest,
- Systems sized over 1 MW that meet the Public Utilities Code Section 353.2 criteria as ultra-clean and low-emission distributed generation, and
- All other types of customer generation.

Utilities shall implement CG CRS tariffs as directed.

By this resolution, we adopt and approve CG CRS tariffs for the utilities. The California Energy Commission (CEC) has developed its process to certify systems as eligible for exceptions and track projects under the caps that we adopted for CRS exceptions. As of early March of this year, the CEC's Megawatt Cap web page[5] is officially operational, and the utilities are accepting applications for CG CRS exceptions.

5. the link to this web page is: http://www.energy.ca.gov/exit_fees/megawatt_cap.html.

NOTICE

Utility Advice Letters were noticed in the Commission's Daily Calendar and served on interested parties.

Notice of PG&E's AL 2375-E, SCE's AL 1700-E, and SDG&E's AL 1488-E was made by publication in the Commission's Daily Calendar. PG&E, SCE, and SDG&E state that, in accordance with Section III-G of General Order 96-A, copies of their respective ALs and Supplemental ALs have been served on interested parties including those on service lists in R.99-10-025 (PG&E) and R.02-01-011 (SCE and SDG&E).

PROTESTS

Two parties protested all three advice letters, and two parties each protested single advice letters.

Two parties, 1) the Joint Parties Interested in Distributed Generation/Distributed Energy Resources (Joint Parties) and 2) the Energy Producers and Users Coalition and the Kimberly Clark Corporation and Goodrich Aerostructures Group (EPUC) timely protested PG&E's AL 2375-E by May 7, 2003. The California Solar Energy Industries Association (CAL SEIA) submitted a late protest of PG&E's AL 2375-E on May 12. PG&E responded to the protests of the Joint Parties and EPUC on May 14 and to the protest of CAL SEIA on May 19.

The Joint Parties, EPUC, and the California Independent Petroleum Association (CIPA) timely protested SCE's AL 1700-E by May 7, 2003. SCE responded to all of these protests together on May 14.

The Joint Parties and EPUC timely protested SDG&E's AL 1488-E by May 7, 2003. SDG&E responded to each of these protests separately on May 14, 2003.

The following is a summary of the major issues raised in the protests.

DISCUSSION

Tariff names should include "Customer Generation, CG" and contain the definitions and rates adopted in D.03-04-030.

In the decision that authorized the filings addressed herein, we adopted policies and mechanisms to apply CRS to DL served by CG. Therefore, this resolution specifically addresses CG CRS implementation policies and mechanisms. Because a variety of terms are used interchangeably with "customer generation," for clarity, we will direct that utility tariffs adopted herein include the term, "Customer Generation, CG" in their titles.

Correct date references and remove expired rates.

EPUC and the Joint Parties object to the definition PG&E proposes for Customer Generation Departing Load in Special Condition (SC) 1.b.3, as not entirely conformed to the definition provided in D.03-04-030. The phrase "remains physically located at the same location within PG&E's service area as it existed on December 20, 1995" does not match the language used in the CG CRS Decision, which states "remains physically located at the same location or elsewhere within the utility's service territory as of the date on which this Commission decision becomes effective" (at p. 2).

PG&E in its response explains that it proposes to simplify its tariffs relating to CG Dl by combining elements of Electric Preliminary statement Section BB and the currently expired Schedules E-DEPART and E-EXEMPT into one rate schedule. In this way, PG&E argues that customer-generators will be able to refer to a single tariff containing information on all nonbypassable charge obligations. D.03-04-030 did not authorize the utilities to re-introduce any expired rates or rate schedules. It merely authorized CG CRS implementation. Therefore, the utilities should address any possibly erroneously expired rates in other appropriate forums.[6] The "service territory" limitation within the

6. PG&E in its AL requests Commission clarification as to whether biogas digester customers should also be exempt from what it terms, "other departing load charges" (public purpose program, nuclear decommissioning, and transfer trust amount charges) on load displaced by their generation units. In Ordering Paragraph 6, we exempted Biogas digester customer generation eligible under AB 2228 from any CRS charges but did not address the other charges. PG&E's proposed tariff language in

Footnote continued on next page

definition of CG DL should be as the CG CRS decision specifies, as requested by the Joint Parties and EPUC. SCE and SDG&E agree with the Joint Parties to reference April 3, 2003, the date the Decision became effective, in the definition of CGDL. Also SCE agrees with the request of the Joint Parties and EPUC, consistent with OP 4, that SCE change the proposed applicability date of the tariff modifications from January 17, 2001 to February 1, 2001. Thus SCE will change the dates in its Preliminary Statement Section W.1.b, W.1.c, W.2, W.5.c, and Schedule DL-CRS, Applicability and Rates sections and SC 3.

Specify excluded load reductions.

The Joint Parties and EPUC protest that SDG&E should expand Schedule DL-CRS to explicitly state the types of DL that are specifically excluded from CG CRS, as set forth on page 3 of D.03-04-030.

Utility CG CRS tariffs should include the explicit exclusion language from the decision, as cited above, indicating the types of load reductions to which CG CRS do not apply: for example, changes in usage occurring in the normal course of business, load met by CG not requiring utility wires, and load temporarily taking service from a back-up generation unit during emergency conditions. The language in SCE's proposed Preliminary Statement Part W, section 1.c and PG&E's proposed Schedule E-DCG, SC 1.b complies. SDG&E shall modify its tariffs accordingly.

Add load management program exclusion.

Consistent with the principle in the CG CRS decision that back-up generation operated during grid outages is excluded from the definition of CG, PG&E argues that CG operation as part of a Commission- or ISO-sponsored load management program should be treated as any other load reduction that does not displace usage that would have been supplied by the utility. Therefore, PG&E has drafted tariff language assuming that operation of a CG unit in response to curtailment requests be treated similarly as operation of the unit

---

Schedule E-DCG provides an exemption for these customers in this category from all departing load charges.

during a grid outage, since in neither case does the operation displace usage delivered by PG&E. The Joint Parties in their Protest support PG&E's proposal.

The proposed language is in keeping with the principle in the CG CRS Decision identifying CG as generation that replaces the utility or DA purchases (at pp 2-3) and not the subject of any protest. Therefore, we direct each utility to add this additional CG exclusion for dispatchable backup generation used in connection with the dispatch of a load management program sponsored by the Commission, California Energy Commission or California Independent System Operator, or any other successor operator.

Include reference to "physical test" in the Customer Generation Cost Responsibility Surcharge tariffs.

The Joint Parties and EPUC further recommend that SDG&E's tariffs specifically describe the "physical test" necessary to administer exclusion of new customer load or incremental load of an existing customer, as described in footnote 61 of D.03-04-030. The Joint Parties and EPUC agree that SDG&E should use the tariff language proposed by SCE. SDG&E in response agrees to add this proposed change.

PG&E in its AL states that the ordering paragraphs are silent on whether new or incremental load served by customer generation that meets the "physical test" specified by D.98-12-067, is exempt from all departing load charges or just CTC. However, the decision does conclude (COL 14) that this same physical test would be used to determine that CG load is not obligated to pay a CRS. PG&E's tariff language assumes the Commission's intent is to exempt from all DL charges, any new or incremental load served by an on-site or over-the-fence generator that can pass the "physical test." PG&E's interpretation is correct, and each of the utilities should reference the "Physical Test" adopted in D.98-12-067 in their CG CRS tariffs.

"Tenant's" should be "Tenants."

Finally, the Joint Parties note a minor correction needed in SCE's Preliminary Statement Section W.1.b. The word "tenant" in line 7 and SC 2 of Schedule DL-CRS should be changed to "tenants," consistent with D.03-04-030 at p. 4. SCE in its response takes the position that this change is not supported by the text of the

Decision and should not be made. SCE accurately points out that the decision at p. 4 actually states "tenant's" as in the possessive form, not as in the plural form "tenants." From the context, this is clearly a typographical error, since the possessive form would not be consistent in concept with "affiliates" in the same sentence. Therefore, SCE, as well as SDG&E, should make the correction as noted.

Utilities' measurement provisions for billing Competition Transition Charges shall apply for billing Cost Responsibility surcharges.

EPUC objects to the requirement PG&E added to its tariffs to measure CG load by means of "suitable standard electric meters installed and owned by PG&E, except where, in the opinion of PG&E, the installation of a meter is impractical. Where installation of a meter is impractical, the amount of Customer Generation Departing Load shall be estimated by PG&E in a manner to be approved by the Commission's Energy Division." (Schedule E-DCG, SC 5). EPUC cites PG&E's and SCE's tariffs measuring Departing Load for purposes of billing the CTC from PG&E's Preliminary Statement BB, §2b and SCE's Preliminary Statement Part W, Section 3. EPUC states that these measurement systems have worked since the implementation of the CTC, and no reason has been advanced in this proceeding why existing tariffs should be modified. Moreover, this change was not discussed in D.03-04-030.

In response, PG&E argues that its current tariff was written for situations where a customer departs entirely from PG&E's system to take service from another provider, such as a municipal utility or irrigation district. Therefore, PG&E's current tariff provision regarding third party metering for departed customers is not readily transferable to situations involving Customer Generation Departing Load. Also, PG&E maintains that an estimate of generator output based on the customer's historical load is not practical for situations where only a portion of the customer's load departs. Thus, PG&E concludes that the most accurate and simplest way to bill CG charges is through the use of utility-installed, owned, and maintained meters to measure generator output data. PG&E also suggests the alternative, whereby PG&E could submit estimated capacity factors for different types of distributed generation (perhaps based on manufacturers' promotional materials), and allow customers that believe they are disadvantaged by the estimates to request customer-financed but PG&E-installed, maintained,

and read meters. PG&E would ask the Commission to approve these estimates in advance.

EPUC correctly noted that D.03-04-030 is silent on the means for obtaining billing determinants, which suggests that existing provisions are sufficient. Utility tariffs have provisions for third party metering, as well as for load estimation for use in billing the CTC. These provisions are similarly workable for billing the CG CRS, as proposed by SCE and SDG&E. PG&E's argument about the lack of applicability to partial load departure is not convincing, as existing tariffs are also workable for such instances. Therefore, we reject PG&E's new provision for measuring CG load and instead direct that existing Utilities' Tariff Provisions for Measuring CTC be Applied to CG.

Delete PG&E's Application Form for Net Metering Customers.

CAL SEIA protests PG&E's proposal to require Net Metering customers to file the 7-page form 79-1001 denoting the charges from which they should be exempted, given the details of their system. CAL SEIA reasons that for all photovoltaic (PV) systems up to 1 MW, the information is always the same; these systems are exempt from all charges except the PPP charge. According to CAL SEIA, most PV system owners are homeowners with systems in the 2 to 4 kW size. System purchasers must already notify PG&E that they are requesting interconnection and net metering. In CAL SEIA's view, PG&E provides no compelling reason, given the state-endorsed objective of encouraging the purchase and installation of net metering systems, which demonstrates why these customers should make a declaration of their departing load and fill out a seven-page form restating the information already contained in other documents they must file with PG&E.

PG&E in its response to CAL SEIA agrees that completion of Form Number 79-1001 requests some information that is unnecessary for non-cogeneration installations. Given CAL SEIA's comments, PG&E in its response agreed to revise Form 79-1001 to clarify what information is required only of non-cogeneration installations. Alternatively, PG&E could file a new significantly shorter form that would apply solely to non-cogeneration technologies. PG&E believes that the filed form 79-1001 should be used for all applications until workshops are completed.

Rather than holding workshops, we resolve all issues as set forth herein. PG&E's Form Number 79-1001 is unnecessary and shall not be required for net metering customers.

Net Metering customers pay Public Purpose Program charges on net consumption.

CAL SEIA protests PG&E's proposal in Schedule E-DCG, section 2(d) to collect "minuscule amounts of Public Purpose Program (PPP) charges" from net metering PV generating systems up to 1 MW installed after September 30, 2002 [2003 in tariff and in AB 58]. CAL SEIA further presumes PG&E is proposing to charge customers for the expense of installing a separate meter to measure the output of their PV systems. PG&E in its response to CAL SEIA states that for residential PV generation, PG&E will likely determine that installation of a meter is impractical and instead estimate generator output according to a method to be developed with Energy Division approval.

PU Code Section 2827 (k) requires that net metering and co-metering customers shall not be exempt from the public benefits charge. Therefore, we cannot support CAL SEIA's conclusion that the very nature of the proposed attempt to collect PPP charges on PV systems is inconsistent with other state policies clearly intended to encourage and promote the public's purchase and installation of such systems. In Resolution E-3847, we determined that net metering customers would pay PPP charges on their net consumption. By this means, net metering customers are not likely to bypass PPP charges, since the net metering program does not reward net generators.

Caps apply to ultra-clean Customer Generation sized over 1 MW and other Customer Generation categories.

Based on several protests and responses on this subject, considerable confusion exists as to which types of CG are constrained by the caps adopted in OP 10. In the CG Decision, we adopted certain CRS exceptions for particular CG types, only some of which are to be limited by caps defined in OP 10. Grandfathered CG includes those that departed prior to Feb 1, 2001 (OP 4) and those that met the California Environmental Quality Act (CEQA) requirements and subsequently departed by certain dates (OP 5). We also provided exceptions for

Biogas digester customer generation (OP 6) and for CG systems sized up to 1 MW that are eligible for either net metering or a CEC/CPUC program (OP 7). Exceptions identified in OPs 4 through 7 are not subject to the OP 10 cap. The cap applies to the CG identified in OP 8 (systems over 1 MW but ultra-clean) and OP 9 (CG Other than that defined in OPs 4-8) with more restrictive caps set for the latter category.

Customer Generation Exceptions Table

OP	CG Type	Exception
4	Departed prior to Feb 1, 2001	DWR Bond and Power Charges
5	Met certain CEQA and departure deadlines	DWR Power Charge
6	Biogas digesters	All CRS
7	Systems sized up to 1 MW that are eligible for either net metering[7] or a CEC/CPUC program	All CRS
8	Systems sized over 1 MW but ultra- clean	DWR Power Charge and HPC
9	CG other than that defined in Ops 4-7	DWR Power Charge

Thus, EPUC and the Joint Parties correctly note in their protest to SDG&E's AL that "grandfathered" departing load should not be counted towards the MW caps. SDG&E, in its response, concurs with this observation and suggests the following modifications to SC 3.f:

> "Customer generation departing load, other than the departing load described in SC 3.a through 3.e, shall be exempt[8] from paying the DWR ongoing power charge. This exemption shall expire <u>for new customer generation departing load installed after</u> ~~when~~ the cumulative total customer generation departing load, <u>excluding departing load described in Special Condition 3.b</u>., exceeds 600 MW by December 31, 2004, 1100 MW by July 1, 2008, or 1500 MW thereafter for the Utilities under the

7. Net metering customers pay the cost components covered by the CRS in their net bill, rather than paying a CRS on their departed load.

8. The term in this case should be "excepted." The Commission grants an **exception** based on its fair share assessment; an **exemption** is specifically provided in statutes.

> jurisdiction of the CPUC, as determined on a first-come, first-served basis by the California Energy Commission."

We reiterate that none of the exceptions granted in OPs 4 through 7 should be included in any of the adopted caps. SDG&E's tariff provisions SC 3.f and 3.g as proposed in its reply comments correctly applies the caps adopted in OP 10. The utilities should modify their proposed tariff language accordingly. We also note that SDG&E should add the language from OP 4 that is omitted from SDG&E's SC 3.a, the phrase, "except during any period."

With regard to grandfathered CG, EPUC and the Joint Parties also note that SDG&E did not update its tariff to reflect the technical correction of the dates in OP 5 by D.03-04-041. SDG&E in its response notes the omission and proposes language to SC 3.b of Schedule DL-CRS that now complies and is approved.

EPUC and the Joint Parties also suggest that SCE's proposed SC 4.d and SC 4.g and SDG&E's Schedule DL-CRS be modified to clarify that once the MW caps adopted by D.03-04-030 are met, it is the availability of new exceptions, rather than previously granted exceptions, that expire at that time. SCE states in its response that additional clarifying language is not needed. SDG&E, on the other hand, responds with suggested modifications to its proposed SC 3.f and SC 3.g clarifying that the exceptions expire for **new CG** departing load **installed after** the adopted caps are met. While SDG&E's suggested language requires modification as discussed above, the clarification SDG&E suggests regarding this aspect is appropriate. PG&E's proposed tariffs could benefit from similar clarifying language. Therefore, we direct PG&E, SCE, and SDG&E to add clarifying language similar to that proposed by SDG&E in its response. Utility tariffs specifying the caps on CG CRS exceptions should state that these exceptions expire for CG installed after the caps are met; exceptions granted before the caps were met do not expire.

Cost Responsibility Surcharge exceptions for Customer Generation sized up to 1 MW are tied to program eligibility and include Historical Procurement Charges.

The 1 MW size threshold stands.

The Joint Parties recommend SDG&E modify its proposed SC 3.d of Schedule DL-CRS and that SCE modify its proposed Section W.4.a to make it consistent with the CPUC's Self-Generation Incentive Program so that the first MW of a project up to 1.5 MW is excepted from CRS. In support of its position, the Joint Parties cite the policy discussion in the Decision (at p. 45) that explained regarding systems eligible for the Self-Generation Incentive Program, "The offering of a financial incentive clearly indicates a policy preference designed to encourage the installation of such systems. We intend to continue offering these types of systems a preference in order to encourage their installation." The Joint Parties believe that setting the requirements for eligibility for this category of CRS exceptions at the same size limit as the CPUC Self-Generation Incentive Program on which the exceptions are based would be entirely logical and reasonable.

PG&E in its AL states that the CG decision is unclear whether DG units between 1.0 and 1.5 MW, that are eligible for the CPUC's Self-Generation Incentive Program, are to receive exceptions as defined in D.03-04-030 for just the portion of their departed load usage associated with 1 MW or for none of it. PG&E has filed tariffs reflecting its interpretation that the Commission intended to allow the pro-rating of exceptions.

SCE and SDG&E reject PG&E's interpretation. SCE argues in its response on this point that the Decision specifically limits the exception from all CRS components only to CG systems sized under 1 MW. SCE cites the body of the Decision in the last sentence of footnote 70, in Conclusion of Law 7 and Ordering Paragraph 7. These portions of the Decision provide that to gain an exception from all CRS components, a system must be sized under 1 MW and be eligible for participation in either a CPUC or CEC self-generation incentive program. The Decision provides no indication that this exception should apply to the CG DL of up to 1 MW served by customer generation that is eligible for one of these programs and is between 1MW and 1.5 MW in size.

We concur with SCE's interpretation. In the CG CRS decision, we maintained the 1 MW threshold to be consistent with the net metering program but also specified our intent to revisit this threshold within three years of issuance to consider technological advances or economies of scale in CG production and sale (see discussion at p. 47 and OPs 7 and 12). We also clarified in discussing the

over 1 MW category that, "As discussed in the previous section [the under 1 MW section], any system that meets these criteria and is less than 1 MW in size will not be required to pay any CRS charges. For systems over 1 MW in size, however, we believe their scale dictates that they should be responsible for a fair share of the DWR Bond Charges. While making exception for systems under 1 MW from Bond Charges will not make a recognizable difference in collection amounts, collections on larger systems will have a noticeable impact. Therefore, we will require that systems meeting the Public Utilities Code Section 353.2 criteria which are over 1 MW in size pay the DWR Bond Charge."

Therefore, the protest of the Joint Parties regarding the 1 MW size threshold for clean CG is denied. PG&E should modify its tariff accordingly to eliminate the partial exception granted to CG eligible for CPUC program but sized over 1 MW.

Exception for Customer Generation sized up to 1 MW is tied to program eligibility.

The Joint Parties, CIPA, and EPUC protest that SCE in SC 4.b has mistakenly combined the various categories of clean and small customer generation that the Commission has excepted from all CRS components. The revisions suggested in this area by the Joint Parties would provide that CG DL less than 1 MW need only be eligible for the CPUC's Self-Generation Incentive Program or the CEC incentive programs and not be specifically in any other way designated as a clean system before it is excepted from all CRS components.

SCE states in its response that the Decision is ambiguous[9] and inconsistent in its description of Clean Customer Generation. In fact, the relevant discussion in the Decision is entitled "Clean Customer Generation Systems Under 1 MW." Yet, in describing the eligibility criteria for this category of customer generation in Ordering Paragraph 7, SCE states that the Decision inexplicably makes no reference to the term "clean" and ties the eligibility for the exception from all CRS components for CGDL of less than 1 MW to eligibility for the CPUC or CEC's self-generation incentive programs, which cover a broad range of technologies, including some that do not qualify as "clean" generation. SCE in its

9. However, note in view of SCE's argument that the subsequent section is entitled, "Ultra-Clean and Low-Emission Systems over 1 MW."

response does not agree to revise its proposed tariffs, as recommended by the Joint Parties, until this ambiguity is resolved.

As recognized by SCE, OP 7 ties the eligibility for the exception from all CRS components for CG of less than 1 MW to the eligibility for the CPUC or CEC's self-generation incentive program. Therefore, SCE should modify its tariffs to conform explicitly to OP 7.

A related issue is whether the exception for projects in this category depends on program eligibility or the actual receipt of program funding. The Joint Parties in their protest to PG&E's AL recommend that PG&E clarify the exception criterion in SC 2.d, which provides that projects must be eligible for Program financial incentives. The Joint Parties cite the language used throughout D.03-04-030, i.e. that in the discussion at p. 45, clean customer generation (under 1 MW) is eligible for CRS exemptions if it is eligible for the CPUC's Self-Generation Incentive Program; Conclusion of Law 7 refers to eligibility for CPUC Self-Generation funding; and OP 7 refers to eligibility for financial incentives from the CPUC's Self-Generation Program.

The Joint Parties point out that a project could be eligible for the CPUC's Self-Generation Program, yet not be eligible for funding or financial incentives for reasons such as Program funds may be exhausted for a particular year or a project may be fully funded by another state, regional or local entity. The Joint Parties do not believe the Commission intended for systems that otherwise meet Program eligibility criteria to be subject to CRS simply because they do not receive Program financial incentives. Thus, the Joint Parties propose that PG&E's tariff language for the clean customer generation exception be modified o clarify that systems that are eligible for the CPUC's Self-Generation Incentive Program are eligible for CRS exceptions.

PG&E in its response maintains that its proposed SC 2d is consistent with OP 7. If the Joint Parties seek to modify that language, they should file a petition to modify Decision 03-04-030; the advice letter process is an inappropriate means of seeking such modification.

We agree with the interpretation of the Joint Parties that the key is eligibility, rather than the receipt of funding. However, PG&E's tariff language is clear, as it uses the "eligible" criterion, as is the case with the language proposed by SCE and SDG&E for this provision.

Exception includes PG&E's Regulatory Asset Charge.

The Joint Parties maintain in their protest that D.03-04-030 provides that small clean CG departing load shall be excepted from any historical procurement charge (HPC) that may be adopted for PG&E. PG&E has no HPC. However, there is another type of cost category that requires Commission implementation. This category of costs involves the cost responsibility for the Regulatory Asset adopted in D.04-02-062, and the Dedicated Rate Component set forth in SB 772. In D.04-02-062, the Commission adopted a Rate Design Settlement for PG&E, which provides in Paragraph 8 that CG Departing Load that is not required by D.03-04-030, as modified by D.03-04-041, to pay the DWR Power Charge shall bear no responsibility for costs of the Regulatory Asset. Thus the Joint Parties recommend PG&E modify proposed Schedule E-DCG, SC 2.d to incorporate this exception, consistent with OP 7.[10] PG&E in its May 14, 2003 response opposes the Joint Parties' proposed language regarding such exception. To support its objection, PG&E cites D.03-04-030, footnote 3, and argues that the Commission expressly states, "PG&E and SDG&E have not proposed, nor has the Commission addressed, any definition of HPC for their service territories. Thus, imposition of any HPC in PG&E or SDG&E service territories is outside the scope of this proceeding." On this basis, PG&E concludes that the Joint Parties are inappropriate to use the advice letter process as a means to except certain customers from any such charge.

PG&E'S conclusion is incorrect. We provided in OP 7 that "customer generation departing load that is under 1 MW in size and eligible for financial incentives from the CPUC's self-generation program or from the CEC, are not required to pay any CRS, including … any SCE or potential other utility historic procurement charges (HPC)…." Thus, while the imposition of any HPC in other than SCE territories was outside the scope of the proceeding, adoption of an exception for certain CG was not outside the scope of the proceeding and reflected in D.04-02-062. Therefore, we direct PG&E to revise its tariffs to

10. The Joint Parties likewise propose modifying SC 2.e in the same regard for CG sized over 1 MW but that otherwise meets all criteria in Public Utilities Code Section 353.2 as "ultra-clean and low-emissions." The discussion in this section similarly applies to this recommendation.

incorporate these exceptions from the Regulatory Asset Charge per D.04-02-062.[11]

Add provision to SCE's proposed tariffs for communicating HPC calculations.

EPUC proposes language to correct an omission regarding the HPC provided in the Rates Section of SCE's Schedule DL-CRS. EPUC expresses concern that the means of communicating the HPC as calculated under the tariff is not included in the tariff. SCE is not opposed to EPUC's suggested addition. Therefore, we adopt it as proposed by EPUC, except that the last sentence referencing SCE's proposed CG dispute resolution process should be stricken, as explained in the next section.

Dispute Resolution Provisions set forth in Customer Generation Tariffs are rejected.

PG&E and SCE set forth in their proposed tariffs, a dispute resolution process to address disputes specifically involving CG tariffs (PG&E Schedule E-DCG, Section 3-E and SCE's Preliminary Statement Part W.5.e). Both utilities specify essentially the same series of steps that eventually allow a dissatisfied CG customer to timely request to pursue informal dispute resolution. The utility and the customer then seek assistance in reaching informal dispute resolution from the Commission's Energy Division or mediation of the dispute from the Commission's Administrative Law Judge Division. The respective tariff sections following these, PG&E's Section 3-f And SCE's Preliminary Statement Part W.5.f-i address how the utility will deal with a CG customer's noncompliance with applicable tariffs. We did not authorize any such provisions in D.03-04-030. The utilities provided no explanation as to why CG customers require these measures. Therefore, these provisions should be removed.

11. The use of the phrase, "or any HPC" in OP 8 in the light of the previous OP must be interpreted as any SCE or potential other utility HPC as specified above.

The Bond Charge applies to CG as of April 3, 2003.

EPUC seeks confirmation that CGDL will commence paying the Bond Charge component of the CRS prospectively as of the date on which the Decision becomes final and unappealable. SCE cannot find any language in the Decision that either supports or contradicts EPUC's interpretation. SCE also notes that when the Commission made the Bond Charge applicable to DA customers in D.02-11-022 on the effective date of that decision, it had already adopted the appropriate ratemaking mechanisms in the Bond Charge Decision (D. 02-10-063) to guard against claims of retroactive ratemaking when D.02-11-022 became final and unappealable. In SCE's view, no such ratemaking mechanisms are adopted in the CG CRS Decision. Therefore, SCE believes that additional direction on this issue should be provided in this resolution.

D.03-04-030 assigned responsibility for the Bond Charge to certain categories of CG as of April 3, 2003. On June 11, 2003, this decision became final and unappealable. The Bond Charge is adopted in A.00-11-038 et al and is the same value for bundled and DA customers, as well as for CG. Therefore, the utilities should update their CG tariffs to incorporate the Bond Charge, as adopted in A.00-11-038 et al. and applicable to CG in the manner prescribed by D.03-04-030. The Comments Section provides extensive discussion supporting our conclusion that as of April 3, 2003, the unrecovered Bond Charges should be tracked for the categories of CG assigned responsibility for Bond Charges in D.03-04-030. Utilities shall begin billing the Bond Charge as of the effective date of the tariffs adopted in this resolution. The unrecovered CG Bond Charges shall be addressed in a separate advice letter.

Tail Competition Transition Charges quantified in other forums are the same for Customer Generation, Direct Access, and bundled customers.

Each of the utilities is in a different situation regarding implementation of Tail CTC. PG&E has recently emerged from bankruptcy. SCE has completed its 2004 ERRA Proceeding. SDG&E's rate freeze ended before the 2000-01 energy crisis. Thus we have implemented the Tail CTC for the utilities in a variety of forums. However, as discussed below, the Tail CTC adopted for each utility should uniformly apply to bundled, DA, and CG customers not otherwise exempt.

PG&E's Tail CTC was adopted in D.04-02-062.

EPUC and the Joint Parties protest that PG&E in its AL provides a specific value for the Tail Competition Transition Charge (CTC) for 2003 in Schedule E-DCG of $0.01127 per kWh. EPUC argues that D.03-04-030 prescribed a methodology for determining CG Tail CTC in footnote 72. While PG&E's proposed value may comply with this directive, EPUC believes that parties should have an opportunity to examine this calculation through workshops or further proceedings prior to its implementation. The Joint Parties in their protest request that the Commission (1) confirm that a Tail CTC rate component for CG DL will not be adopted via PG&E's Advice Letter 2375-E filing, and (2) direct PG&E to revise its proposed Schedule E-DCG to provide that the Tail CTC will be calculated using the applicable rate determined by the Commission in a future proceeding (consistent with SCE's proposed CG tariff proposal).

PG&E in its response to EPUC acknowledges that the Tail CTC applicable to bundled and DA customers (and in turn to CG) is currently [May 2003] being litigated in the Direct Access phase of R.02-01-011. However, PG&E, at the time, opposed delaying implementation of D.03-04-030. Thus, PG&E included a proposed rate for CTC applicable to only CG DL customers for 2003, based on revenue requirements proposed in R.02-01-011 and the rules set forth in D.03-04-030, footnote 72. Therefore, PG&E concludes that the Joint Parties' concerns are unwarranted, and their requests should be denied.

OP 15 of D.03-04-030 provides that Tail CTC will be defined and calculated consistent with the text of the order. Footnote 72 explains in part, "The total "Tail" CTC revenue requirement will be divided by the total applicable load to derive the CTC rate [sic] applicable to DL. The total applicable load includes bundled, DA, and DL customers not otherwise exempted from ongoing CTC pursuant to statute or to this order."

Two points relative to this footnote are critical. One is that the Tail CTC is to be developed using the total applicable load, which includes bundled, DA, and DL customers not otherwise exempted from ongoing CTC pursuant to statute or to this (D.03-04-030) order. This would suggest that the same Tail CTC applies to the customer groups used to derive the surcharge, in contrast with PG&E's conclusion that a different Tail CTC applies to CG than to bundled and DA customers. The other critical point is that we adopted neither a Tail CTC revenue requirement nor a specific Tail CTC in D.03-04-030.[12]

In the CRS Cap Decision (D.03-07-030 in R.02-01-011) issued several months after the CG CRS Decision, we state "The finalization of the actual DWR and URG [Tail CTC] revenue requirement elements is a separate exercise that must be closely coordinated with the DWR proceeding in A.00-11-038 et al. … In addition to the DWR component, we must finalize and adopt amounts for the URG [Utility Retained Generation or CTC] component of the DA cost responsibility obligation. Since the DWR proceeding in A.00-11-038 et al. does not address URG costs, a separate process is needed to examine URG costs and to adopt a CTC component as prescribed under the total portfolio approach prescribed in D.02-11-022." (D.03-07-030 at p. 11).

Further, we state in that decision, "The concurrent finalization of both the DWR and URG components of the DA CRS should facilitate adopting a final cost responsibility obligation for DA and Departing Load through 2003, including confirmation of the final 2001-02 undercollection balance. For subsequent years beginning with 2004, we conclude that prospective determination of the CTC for each utility can be accommodated within the ERRA proceeding." (D.03-07-030 at p. 13 and similarly directed in OP 17).

12. Note the future tense in OP 15, which states in relevant part, "Tail" CTC will be defined and calculated consistent with the text of this order."

By D.04-02-062, we recently approved the PG&E rate design settlement for PG&E's bankruptcy & required a Supplement to modify PG&E's related AL 2465-E. Tail CTC was part of those tariffs but not specifically addressed in the decision. By that AL, PG&E implemented the Tail CTC, & DA CRS tariff sheets show line items including Tail CTC. These charges should similarly apply to CG not otherwise exempted from the Tail CTC.

SCE's Tail CTC was adopted in D.04-04-066.

SCE states in its AL that specific rates for the Tail CTC are not included, as they have not yet been adopted but will be added by advice letter when adopted. EPUC protests that SCE's tariff should clarify that the CTC calculation will be consistent with the calculation specified in D.03-04-030, footnote 72. EPUC requests that SCE be directed to undertake workshops and proceedings necessary to clarify this value, particularly a realistic "market value" for the benchmark in the calculation. The tariff should provide that the charge should become applicable on a prospective basis only upon final determination on the charge. SCE in its response states that EPUC's proposed approach is unnecessary. D.02-11-022 has already established a methodology for calculating the Tail CTC for DA customers, and the same charge can be applied to CG.

In D.03-07-030, we directed in OP 18 that the finalization of the CTC element for year 2004 and thereafter shall be addressed in the ERRA proceeding. In the recently issued D.04-04-066 in SCE's 2004 ERRA proceeding, we adopted a Tail CTC for SCE that applies to CG not otherwise exempt

SDG&E's Tail CTC was adopted in D.03-02-028.

EPUC protests that SDG&E should implement the CTC methodology adopted by the Settling Parties before the commencement of CTC charges to CG. EPUC argues that the Settling Parties presented a calculation methodology in the Settlement Agreement, recognizing the importance of how the CTC should be calculated in today's environment, as described in Footnote 72 of D.03-04-030. In response to EPUC, SDG&E states that nowhere in D.03-04-030 does the CPUC contemplate revising SDG&E's current Tail CTC applicable to DL customers. Nor do the Parties present any evidence that the CPUC has indicated in any other proceeding that a revision to SDG&E's Tail CTC is appropriate.

As SDG&E observes, D.03-04-030 did not modify the Tail CTC we adopted for SDG&E in D.03-02-028. Therefore, EPUC's protest that SDG&E's Tail CTC for

CG customers be re-evaluated is denied. We direct SDG&E to apply the Tail CTC determined in D.03-02-028 to CG customers not otherwise exempt until that Tail CTC is modified.

The utilities shall provide quarterly CG reports using the format to be developed in the Rule 21 Working Group.

In OP 18 of the CG CRS decision, we directed the Utilities to report quarterly to the Energy Division and the CEC, the amount of customer generation installed under the provisions of that decision. SCE and SDG&E have awaited further direction on this requirement. The Rule 21 Working Group would provide a reasonable forum to develop a standard reporting format. Therefore, we direct the utilities to develop a straw proposal format (perhaps similar to the reports PG&E has provided to the Energy Division quarterly since August 2003) for discussion at the next Rule 21 working group meeting, but held not less than 30 days after the effective date of this resolution. Within 30 days after the Rule 21 Working Group review, the utilities shall file the format agreed upon with the Energy Division and the CEC. The first quarterly report shall be submitted within 90 days of the effective date of this resolution.

COMMENTS

Public Utilities Code section 311(g)(1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. The DR was mailed to parties on May 28, 2004 for comment. On June 18, 2004, three parties, PG&E, SCE, and EPUC timely submitted comments on the Draft Resolution E-3831 (DR). On June 23, 2004, PG&E and SDG&E timely submitted reply comments. Also on June 23, the University of California and the California State University (UC/CSU) submitted late-filed comments, and the Energy Division notified Parties to Draft Resolution E-3831 and R.02-01-011 by electronic mail that the Commission might decide to consider these late-filed comments. Thus parties were provided an opportunity to submit replies to the late-filed comments of UC/CSU by Monday June 28. SCE and SDG&E submitted timely replies. The major issues parties raised in their comments and how we address them are described in the remainder of this section.

The Bond Charge applies to CG sales as of April 3, 2003.
We modify the discussion and OP 8 of the DR to reflect certain issues raised by parties in their comments and reply comments. SCE and EPUC in their comments request that the effective date to implement the Bond Charge applicable to CG customers be clarified. In reply comments, PG&E recommends we clarify that the DWR Bond Charge should be collected commencing May 8, 2003, the date PG&E figures D.03-04-030 became final and unappealable. PG&E proposes no means of collecting bon charges unrecovered since that date until the Bond Charge is assessed on CG customers. SDG&E in reply comments argues that the Bond Charge should be assessed on non-exempt customer generation customers effective November 15, 2002. In support, SDG&E cites Resolution E-3839, which authorized the utilities to implement the same bond rate for all customers, in the same manner, based on costs from November 15, 2002. In that regard, we note that D.02-11-022, which assigned Bond Charge responsibility to DA customers, was issued prior to the November 15, 2002 Bond Charge commencement date.

The Bond Charge decision directed the utilities to track CG Bond Charges from the date of their assignment to CG customers (the effective date of D.03-04-030) and the date CG begins paying Bond Charges, which was not to precede the date the decision assigning cost responsibility became final and unappealable.[13] The objective in the Bond Charge Decision D.02-10-063 was to "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 [which assigns responsibility] has become final and unappealable." (at p. 34). The "goal is to adopt regulatory procedures that will hold consumers responsible for the bond-related costs from the moment the Commission assigns responsibility." (at p. 36). Accordingly, OP 7 provides, "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."
Thus, Bond Charges should be recorded as of April 3, 2003 for the categories of CG load identified in D.03-04-030.

13. In D.03-05-039, the Commission affirmed D.03-04-030, as modified by D.03-04-041, and denied rehearing, and no court challenges were taken of these decisions. Accordingly, these decisions are final and unappealable as of June 11, 2003.

Similarly, in D.03-04-030, "The recovery of the CRS element relating to recovery of DWR Bond Charges shall be implemented once this decision becomes final and unappealable. During the interim, the Bond Charge component shall be tracked through the subaccount process established in D.02-10-063 and D.02-11-074." (OP 16). Discussion in D.03-04-030 is also instructive. "Pending the implementation of any actual Bond Charge recovery, we made provision in D.02-10-063 for the tracking of both DA and DL cost responsibility, and ordered each of the utilities to create a Bond-Charge Balancing Account (BCBA) for that purpose.
Once this instant decision becomes final and unappealable, the actual Bond Charge component of the CRS will be implemented for Customer Generation load, on the terms as set forth in this order, as discussed below." (at p. 14-15).

Therefore, the utilities were authorized to bill applicable CG customers for the Bond Charge only after June 11, 2003. Between April 3 and June 11, 2003 and thereafter until the utilities begin to recover the Bond Charge from CG load, the utilities were authorized to track Bond Charges applicable to CG as directed in D.03-04-030. SDG&E recommends in its comments that we direct the utilities to file advice letters to propose a method for collecting the Bond Charge undercollection from CG customers and return these revenues to bundled service customers that have paid them in the meantime. PG&E, SCE, and SDG&E shall begin billing the Bond Charge as of the effective date of their supplemental ALs. The unrecovered amounts tracked in utility Bond Charge balancing accounts beginning April 3, 2003, shall be recovered as an under collection. The utilities shall make amortization proposals in a separate advice letter filing that equitably allocates responsibility for this under collection. Finally, in the course of annual Bond Charge evaluations, utilities shall specify customer overall categories of Bundled, DA, and CG load and Bond Charge revenues and unrecovered balances.

CG load of a Continuous DA customer retains its exemption from DWR bond and power charge components of CG CRS.

UC/CSU, In late-filed comments, request that the DR be modified to direct that utility tariffs specifically provide for continuous DA customers installing CG to retain their CRS exemption. A customer that took DA service before February 1, 2001 and continued on DA service through September 20, 2001 is categorized as "continuous" and exempt from the DWR bond and power charges. While utility tariffs are not clear on this point, UC/CSU believe no substantial disagreement

exists as to the treatment of continuous DA customers. SCE and SDG&E in their reply comments agree that continuous DA customers remain exempt from the DWR bond and power charge components of the CG CRS if they install self-generation. SCE, however, believes that such departing load should be counted towards the appropriate cap on the amount of CG excepted from paying all or portions of the CRS.

UC/CSU noted an oversight that should be addressed specifically in tariffs to avoid disputes. Therefore, we will consider the late-filed comments of UC/CSU. A continuous DA customer's installing CG does not alter the fact that the customer's load was not served by DWR or associated with the DWR electricity purchase contract obligations. Thus, a continuous DA customer should not acquire an obligation to pay DWR bond and power charges by installing a CG unit. The caps adopted in D.03-04-030 include no restrictions on potential CG by continuous DA customers. Therefore, we grant the request of UC/CSU and have added an order directing the utilities to modify their tariffs to explicitly exempt the CG load of continuous DA customers from the DWR components of the CG CRS. The order also clarifies that continuous DA load that departs to CG does not count toward the caps adopted in OP 10.

The CG CRS under collection issue cannot and need not be resolved at this time but will be addressed in appropriate forums in the future.

PG&E and EPUC argue that no cap applies to CG CRS, and thus EPUC argues that no undercollection is incurred. As a practical matter, the DWR power charge will not apply to CG customers until the amount of CG in the various CG categories reaches the level of the caps adopted in OP 10. However, OP 13 specifies that to the extent CG customers are responsible for paying a DWR power charge after reaching the MW cap described in OP 10, "such charge shall be set equal to the corresponding cents per kilowatt-hour (kWh) surcharge component in effect on the date of departure as determined pursuant to the Direct Access (DA) phase of R.02-01-011 and related or successor proceedings." The CG CRS under collection issue for DWR power charges and potential unrecovered Bond Charges cannot and need not be resolved at this time but will be addressed in appropriate forums in the future.

PG&E has submitted quarterly reports to the Energy Division on the amount of CG installed on its system.

Finally, PG&E notes that, contrary to the Draft Resolution's statement on page 21 that "The utilities have awaited further direction on this requirement," PG&E has

submitted quarterly reports to the Energy Division and the CEC on the amount of CG installed on its system, as directed in D.03-04-030, OP 18. The resolution has been modified to reflect that PG&E in fact began submitting Quarterly reports of installed CG, with the first report dated August 18, 2003, and quarterly thereafter, dated December 19, 2003 and April 15, 2004.

FINDINGS

1. The Commission in Decision (D.) 03-04-030, Ordering Paragraph (OP) 17, directed PG&E, SCE, and SDG&E to file compliance advice letters (ALs) with tariff revisions necessary to incorporate and implement a cost responsibility surcharge (CRS) applicable to customer generation (CG) departing load.
2. PG&E filed AL 2375-E on April 17, 2003 and Supplemental AL 2375-E-A on May 5, 2003. SCE filed AL 1700-E, and SDG&E filed AL 1488-E on April 17, 2003. EPUC and the Joint Parties protested each utility's AL. In addition, CAL SEIA protested PG&E's AL, and CIPA protested SCE's AL.
3. The utilities' advice letters were to be effective on filing, subject to post-filing review by the Energy Division. The utilities have not implemented the tariffs filed in their ALs, awaiting this resolution.
4. As explained herein, the utilities should modify their proposed tariffs to more accurately conform the CG definitions and rates to those adopted in D.03-04-030. As applicable, the utilities should incorporate "Customer Generation" or "CG," into tariff designations, correct date references, remove expired rates, specify excluded load reductions, include a description of the "physical test" to demonstrate islanding, and change the possessive "tenant's" to its plural form.
5. A specific exclusion from the definition of CG is reasonable for dispatchable backup generation used in connection with the dispatch of a load management program sponsored by the Commission, the California Energy Commission, or the California Independent System Operator, or any other successor operator.
6. Utility tariff provisions for measuring and estimating load for use in billing the CTC are reasonable for billing the CG CRS, as proposed by SCE and SDG&E.
7. PG&E's proposed application form for net metering customers is unnecessary and unreasonable.

8. In Resolution E-3847, per PU Code Section 2827, the Commission determined that net metering customers would pay PPP charges on their net consumption.
9. The treatment in proposed tariffs of grandfathered and excepted load is not entirely consistent with the ordering paragraphs of D.03-04-030.
10. The caps adopted in OP 10 on the amount of CG departing load eligible for certain CRS exceptions apply to the CG identified in OP 8 (systems sized over 1 MW but ultra-clean) and OP 9 (CG Other than that defined in Ops 4-8) with more restrictive caps on the latter category.
11. The CRS exception granted for CPUC program eligible CG is limited to a size threshold of 1 MW.
12. For CG up to 1 MW, the CRS exception is tied to CPUC or CEC program eligibility and requires no other specific designation as a clean system to qualify.
13. Decision 04-02-062 adopted a Rate Design Settlement for PG&E, which provides in Paragraph 8 that CG Departing Load not required by D.03-04-030, as modified by D.03-04-041, to pay the DWR Power Charge shall bear no responsibility for costs of the Regulatory Asset.
14. D.03-04-030, final and unappealable as of June 11, 2003, assigns Bond Charge responsibility to CG as of April 3, 2003.
15. The Bond Charge is adopted in A.00-11-038 et Al and is the same value for bundled and DA customers, as well as for CG.
16. D.03-04-030 contains no directive for CG tariffs to contain dispute resolution procedures designed to address disputes specifically involving CG tariffs.
17. The Commission has adopted Tail CTC surcharges for customers of PG&E in D.04-02-062, SCE in D.04-04-066, and SDG&E in D.03-02-028 that should apply uniformly to bundled, DA, and CG not otherwise exempted.
18. The Rule 21 Working Group would provide a reasonable forum for participants to develop a standard reporting format to comply with the quarterly report of installed CG required in OP 18 of D.03-04-030.

THEREFORE IT IS ORDERED THAT:

1. The tariff modifications proposed by PG&E in AL 2375-E/-E-A, by SCE in AL 1700-E, and by SDG&E in AL 1488-E to implement the Customer Generation (CG) Cost Responsibility Surcharges (CRS), as adopted in D.03-04-030 are modified as explained herein.

2. Tariffs shall include the term, "Customer Generation, CG" in their titles and shall, in the provisions which define CG:
   a. Reference April 3, 2003 in the service territory limitation and February 1, 2001 as the applicability date of the tariff modifications;
   b. Remove expired rates;
   c. Include the explicit CG exclusions, i.e., identify the types of load reductions that are specifically excluded from CG, as set forth on page 3 of D.03-04-030;
   d. Include an additional CG exclusion for dispatchable backup generation used in connection with the dispatch of a load management program sponsored by the Commission, the California Energy Commission, or the California Independent System Operator, or any other successor operator;
   e. Include an explanation that the "physical test" specified by D.98-12-067 shall be used to determine that CG load is exempt from all CG CRS; and
   f. Include the plural form of the word, "tenants" in the definition of CG.
3. Utility tariff provisions for measuring and estimating departed load for use in billing Tail CTC shall be used for billing the CG CRS.
4. Net metering customers shall pay Public Purpose Program charges based on their net consumption and shall not be required to complete PG&E's Form Number 79-1001.
5. PG&E, SCE, and SDG&E shall modify their proposed tariffs to reflect that the caps adopted in Ordering Paragraph (OP) 10 of D.03-04-030 do not apply to load associated with certain CG CRS exceptions, namely:
   a. CG that departed Prior to Feb 1, 2001 (OP 4);
   b. CG that met certain CEQA and specified departure dates (OP 5 as corrected in D.03-04-041);
   c. Biogas digester CG (OP 6); and
   d. CG systems sized up to 1 MW and eligible for either net metering or a CEC/CPUC program (OP 7.
6. PG&E, SCE, and SDG&E tariffs shall reflect that the CRS exception adopted in OP 7 of D.03-04-030 requires that the associated CG system meet the 1 MW size threshold and be eligible for either net metering or a CPUC/CEC program. This exception includes PG&E's Regulatory Asset Charge and SCE's HPC.
7. PG&E and SCE tariffs shall reflect that the CRS exception adopted in OP 8 of D.03-04-030 for CG Systems sized over 1 MW but that meet the Public Utilities Code Section 353.2 criteria as ultra-clean and low-emission includes PG&E's Regulatory Asset Charge and SCE's HPC.

8. PG&E, SCE, and SDG&E shall update their CG tariffs to incorporate the Bond Charge, as adopted in A.00-11-038 et al. and applicable to CG as of April 3, 2003 in the manner prescribed by D.03-04-030.
9. PG&E's and SCE's proposed dispute resolution provisions to address disputes specifically involving CG tariffs are rejected.
10. PG&E, SCE, and SDG&E shall revise their proposed CG rate Schedules to reflect the Tail CTC surcharges as adopted in appropriate other forums described herein, such that the CG Tail CTC surcharge is the same as that adopted for DA and bundled customers. The Tail CTC surcharge component applicable to CG is not adopted via PG&E's Advice Letter 2375-E.
11. Within 90 days of today's date, PG&E, as well as SCE and SDG&E, shall file Quarterly Reports on installed CG, per OP 18 of D.03-04-030, using the format to be developed by the Rule 21 Working Group. The utilities shall develop a straw proposal format for discussion at the next Rule 21 Working Group meeting, but held not more than 30 days after the effective date of this resolution. Within 30 days after the Rule 21 Working Group review, the utilities shall file the report in the agreed upon format with the Energy Division and the CEC.
12. PG&E, SCE, and SDG&E shall modify their proposed tariffs, consistent with prior decisions on the direct access cost responsibility surcharge, to provide that a "continuous" direct access customer, as that term is defined in D.02-11-022, shall retain its exemption from the DWR Bond and Power Charge components of the CG CRS on its CG load. The caps adopted in OP 10 of D.03-04-030 do not apply to this category of CG departing load.
13. All protests and comments are resolved as described herein.
14. Within 10 days of today's date, PG&E, SCE, and SDG&E shall supplement their advice letters implementing the CG CRS to make the modifications required herein. These supplemental advice letters shall be effective on the date filed, subject to Energy Division's determining that they comply with this Order. By separate advice letters filed within 30 days of today's date, PG&E, SCE, and SDG&E shall make amortization proposals to equitably allocate responsibility for the unrecovered Bond Charges assigned to CG effective as of April 3, 2003.
15. Utility showings in future Bond Charge evaluations shall include customer overall categories of Bundled, DA, and CG load and Bond Charge revenues and unrecovered balances.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on July 8, 2004; the following Commissioners voting favorably thereon:

_____
WESLEY M. FRANKLIN
Deputy Executive Director

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

We dissent.
/s/ CARL W. WOOD
/s/ LORETTA M. LYNCH
Commissioners

Commissioner Carl W. Wood reserves the right to file a dissent.