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Decision 99-10-057 October 21, 1999

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for Authority to Establish Post-Transition Period Electric Ratemaking Mechanisms. (U 39-E)	Application 99-01-016 (Filed January 15, 1999)
Application of San Diego Gas & Electric Company for Authority to Implement Post Rate Freeze Ratemaking Mechanics. (U 902-E)	Application 99-01-019 (Filed January 15, 1999)
Application of Southern California Edison Company (U 338-E) to: (1) Propose a Method to Determine and Implement the end of the Rate Freeze; and (2) Propose Ratemaking Mechanisms which would be in place after the end of the Rate Freeze Period.	Application 99-01-034 (Filed January 15, 1999)

(See Appendix A for List of Appearances)

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INTERIM OPINION

This decision resolves issues in Phase 1 of these applications of Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas & Electric Company (SDG&E), addressing ratemaking, accounting, and other regulatory concerns arising with the end of the "transition period" and the rate freeze prescribed by Assembly Bill (AB) 1890 for each utility.

I. Background

The utilities filed these applications at the direction of Decision (D.) 97-10-057, which stated the Commission's intent to review the ratemaking mechanisms the utilities would have in place following the rate freeze and transition period established by AB 1890. The term "rate freeze" refers to the requirement in Pub. Util. Code § 368 that sets customer rates equal to those in effect on June 10, 1996 until the end of the "transition period."[1] Pursuant to § 367, the transition period is that amount of time required for the utilities to pay off uneconomic investments in generation facilities or until December 31, 2001, whichever is sooner.[2] The Commission has in several decisions implemented the rather complex accounting mechanisms required to fulfill these and related provisions of AB 1890.

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[1] This decision uses the terms "rate freeze" and "transition period" interchangeably. The synonymous use of these terms does not prejudge a determination of the buy/sell requirement in Phase 2 of this proceeding.

[2] These uneconomic investments are known as transition costs. In general, such costs must be recovered by the end of 2001, although there are certain exceptions, as delineated in §§ 367(a), 375, 376, and 381.

In these applications, the utilities propose methods for determining the end of the transition period and the ratemaking mechanisms they believe should be in place after the rate freeze.

The scoping memo issued in this proceeding broke down the review of these applications into two phases. During Phase 1, the issues are:

- whether the rate freeze will end simultaneously for all customer groups;
- whether to end the freeze on the basis of a forecast or retroactively;
- how to treat balances in each utility's existing transition cost balancing account (TCBA) and transition revenue account (TRA);
- the timing of ending the rate freeze following fulfillment of all relevant criteria;
- how to reflect market valuation of generation assets; and
- consideration of interim ratemaking mechanisms and rate design changes required to be in place on the first day of the post-transition period.

The Commission held five days of evidentiary hearings in May 1999 addressing Phase 1 issues. Active parties filed opening briefs on June 10, 1999 and reply briefs on June 21, 1999.

Following the filing of these applications, SDG&E filed an additional application, A.99-02-029, notifying the Commission of its intent to end its rate freeze on or about July 1, 1999 and proposing related ratemaking and accounting mechanisms. The Commission consolidated the application with the three previously filed applications and proceeded to review it on a schedule that recognized the short period of time available prior to July 1. With strong encouragement from the assigned Commissioner, the active parties filed a settlement that would, on an interim basis, resolve outstanding issues for SDG&E prior to their final resolution in this proceeding. The Commission adopted the settlement, with conditions, in D.99-05-051. The terms of the

settlement with respect to Phase I issues are implicitly or explicitly adopted or rejected herein on a permanent basis.

II. Phase 1 Issues

The utilities face somewhat different circumstances as they relate to relevant issues. Most obvious is that SDG&E's rate freeze ended on July 1, 1999. Because the parties and the Commission have already addressed the mechanics of this event, Phase 1 review of SDG&E's application here raises little controversy. PG&E and SCE do not expect their respective rate freeze periods to end in the immediate future.

The status of the utilities' generation assets also differs. SDG&E has disposed of all of its generation assets with the exception of its share of nuclear facilities. SCE and PG&E have not disposed of all generation assets. PG&E has stated an intent to sell all of its generating facilities except nuclear facilities, while SCE intends to retain certain generation assets. In order to determine the end of the rate freeze, the utility must have a market value for both retained and disposed assets.

The timing of the Commission's review of rate design and cost allocation for each utility also differs. PG&E has pending an application in which the Commission is conducting a complete review of such matters for the post-transition period (A.99-03-014). D.99-06-058 directed SDG&E to file a

similar application no later than July 25, 1999.[3] The Commission has not yet required SCE to file such an application. [4]

SCE, Western Power Trading Forum (WPTF), and Alliance for Retail Markets (ARM) filed a settlement on May 20, 1999. No party objected to the settlement, although PG&E raises concerns that the terms should not be applied to PG&E. The settlement would resolve several outstanding issues regarding how to determine the end of the rate freeze, how to implement the end of the rate freeze, and the type of information SCE must provide to interested parties prior to the end of the rate freeze. We address various elements of the settlement under topic headings in this decision.

A. Determining and Implementing the End of the Rate Freeze

1. The Mechanics of Ending of the Rate Freeze

AB 1890 established the rate freeze for each utility as a way of permitting the utility an opportunity to recover uneconomic generation costs, or "transition costs," within a specified period. Briefly, the utility draws down outstanding generation asset costs depending on the revenues remaining after paying off all other authorized costs, such as those associated with the electric distribution system, public policy programs, and transmission costs. The rate freeze ends after the utility has recovered specified generation costs, as set forth in Section 368(a):

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[3] Pursuant to Rule 48, the Executive Director subsequently granted SDG&E's request to file the relevant information as part of its rate design window application, to be filed November 1, 1999.

[4] However, SCE has indicated that it plans to submit a comprehensive cost allocation and rate design proceeding in December 1999.

> These (frozen) rate levels for each customer class...shall remain until the earlier of March 31, 2002, or the date on which the Commission-authorized costs for utility generation-related assets and obligations have been fully recovered.

If specified transition costs are drawn down before the statutory end of the transition period, the Commission must establish a method for determining the date of the end of the rate freeze. PG&E and SCE propose that the end of the rate freeze be determined after the utility has had an opportunity to review past period accounts showing the extent to which uneconomic generation assets have been paid off. The Federal Executive Agencies (FEA) supports the utilities' proposal but recommends that SCE and PG&E be required to calculate the projected end of the rate freeze within 30 days after the value of their generation assets is known or can be reasonably estimated. This projection would enable competitors to plan better for the end of the rate freeze period.

ARM and WPTF propose that the rate freeze end by forecasting the date uneconomic assets will equal zero. Their common concern is that they have enough advance notice to change their systems and roll-out new products that are tied to the end of the rate freeze.

SCE and PG&E oppose the forecast method, partly on the basis that a forecast error could deprive them of recovering all uneconomic costs otherwise authorized for recovery during the transition period.

The settlement filed by SCE, ARM, and WPTF presents a compromise of these proposals. It would establish procedures for providing to interested parties estimates of the date the rate freeze will end and for implementing the end of the rate freeze. Under the settlement, SCE would file an advice letter five days following the date upon which all relevant criteria have been met. The settling parties agree that the Commission should finalize SCE's

post-transition period rates as early as one day following the filing but no later than 30 days after the advice letter filing date. In order to address some concerns of ARM and WPTF, the settlement would also require SCE to provide to all interested parties a quarterly forecast that estimates when the rate freeze will end. Each forecast would be in the form of a matrix and would use the most recent relevant data. Once either market valuation of SCE's remaining generation assets is known or SCE begins to record costs in the Accelerated Costs Account of its TCBA, SCE will begin to provide the matrix within 30 days following the end of each month. A copy of the settlement is attached as Appendix B. (Other provisions of the settlement are addressed in other sections of this decision.)

PG&E raises concerns that settlement provisions providing information about the end of the rate freeze should not be applied to PG&E. PG&E believes a forecast would be based on market information that is too volatile and that the forecast would therefore not be useful to competitors or customers. Instead, it proposes to file an advice letter 40 days after relevant criteria for ending the rate freeze have been met. It would provide the Commission with 40 days to review the advice letter prior to affecting the end of the rate freeze and implementing new rates. TURN describes as "mystifying" PG&E's refusal to provide a forecast of when the utility will complete its collection of uneconomic generation costs, even a forecast that is a simple estimate for which it will not be held liable.

Discussion Those portions of the settlement addressing market information, and the method for determining the date of the end of the rate freeze are reasonable. The forecasts would provide some opportunity for competitors to plan their energy marketing strategies. We are not convinced that these provisions will be in any way damaging to PG&E. Contrary to PG&E's

assumption, the requirement that the utility provide forecasts to interested parties does not put PG&E at risk for lost revenues. The settlement merely provides that the utility shall present information to facilitate the end of the rate freeze and the pursuit of competition in generation markets. Customers and competitors, as represented by various parties to this proceeding, may judge for themselves the value of the information provided to them.

PG&E expresses concern that it cannot forecast the end of its rate freeze because it does not have good information about the market value of its hydroelectric (hydro) assets. As we discuss in a subsequent section, the value of PG&E's hydro assets is substantial but unlikely to be final for some time. To address this concern, we will direct PG&E to provide no fewer than four estimates of the end of the rate freeze, each assuming a different value for the hydro assets. The estimates should range from the book value of the plant to three times that amount.

Paragraph 3 of the settlement provides that 60 days following a decision in Phase I of this proceeding, SCE will provide sample calculations of its new post transition rates and draft language to the Commission's Energy Division. Since the sample rates will be submitted as much as two years before the rate freeze actually ends, we believe that making a filing 60 days from the date of this Decision will be of little value. However, we do understand the necessity to facilitate an expedited review and approval of the utility's post transition rates, as well as provide ample opportunity for consumer education. Therefore, the utilities should provide sample post transition rates based on the forecasts developed after generation assets are valued. That is, pursuant to paragraph 2 of the SCE's settlement agreement, the utility will provide monthly forecasts of the rate freeze end once its remaining generation assets have been valued or it begins to record costs in the Accelerated Costs Account of the TCBA. Using the

monthly forecast, SCE and PG&E should provide Energy Division with proposed tariff language, including sample calculations of proposed post transition rates, preliminary statement language, and tariff provisions. An advice letter filing should be made three months prior to the earliest date estimated using the four PX price forecast scenarios. If the utilities do not end their rate freeze early, proposed methodologies and tariff provisions for ending the rate freeze should be filed in September of 2001, three months prior to the end of the rate freeze.

We agree that an advice letter filing to end the rate freeze five days following the date upon which all the criteria for ending the rate freeze have been satisfied, is a provision that promotes timely rate changes. This filing shall be a supplement to the advice letter submitted three months prior. The filing should provide the actual rates to be implemented after the rate freeze, as well as the ratemaking mechanisms authorized by this order. The advice letter implementing rate changes will become effective within 30 days of the end of the rate freeze subject to Energy Division determining the advice letter is in compliance with this and subsequent decisions. PG&E has not justified its proposal to delay implementing the end of the rate freeze for up to 80 days following its occurrence. We are not convinced that PG&E cannot implement the process presented in the settlement for SCE, wherein the utility files an advice letter within five days after relevant criteria have been met. We will therefore, adopt it for both utilities.

We herein adopt those portions of the settlement described in paragraphs 1, 2, 4, and 5 of the settlement. In a later section, we address how the utility will identify the end of the rate freeze, a matter addressed in Paragraph 3 of the settlement. These provisions apply for both SCE and PG&E.

2. Customer Liability for CTC for Various Customer Groups

All parties agree that the rate freeze period should end on the same date for all customer groups. Ending the rate freeze simultaneously for all customer groups presumes each customer group has paid the appropriate amount of transition costs through the Competition Transition Charge (CTC). Alternatively, the Commission could adjust rates going forward to recognize the utilities have collected transition costs from each customer group that may differ from the liability each customer group should assume for those costs. The parties do not agree on whether transition cost liability should be adjusted between the customer groups but generally agree that the matter is one for consideration in Phase 2 of this proceeding.

In the interim, no party opposes the utility proposals to adjust rates slightly to account for the amounts in the "firewall" memorandum accounts. Those accounts have tracked CTC exemptions associated with each customer class, pursuant to Section 367(e)(1). We adopt the firewall adjustments the utilities propose. In Phase 2, we will consider the larger issue of how to treat possible over or under collections of transition cost obligations assigned to each customer group and whether the utilities should make rate adjustments to reconcile these accounts.

3. Criteria for Identifying the End of the Rate Freeze

PG&E and SCE propose various criteria for determining the end of the rate freeze. The settlement filed by SCE, ARM, and WPTF provides for similar circumstances as they may affect SCE. The settlement provides that the end of the rate freeze will occur when several conditions are fulfilled:

1. The balance in the TRA is zero.
2. The balance in the TCBA is overcollected.
3. All generation-related sunk costs are recovered.

4. All generation-related regulatory assets are recovered.
5. SCE's remaining generation assets are "market valued."[5]

The settlement in Paragraph 11 specifies that the Commission approve certain ratemaking treatment for "adjustments" that occur in the post-rate freeze period:

1. Amounts that affect all customers should be adjusted and recorded in the modified TCBA.
2. Amounts that affect only bundled service customers and that were not reflected in either the TRA or the PX charge/credit during the rate freeze period should be adjusted and reflected in the Purchased Electric Commodity Account or other authorized account.
3. Amounts that were reflected in the TRA but not the PX charge or credit during the rate freeze period should be corrected by 1) providing a one-time PX credit true-up to direct access customers and 2) adjusting the modified TCBA to the extent that this true-up would have resulted in a change to the "headroom".[6]

In addition, Paragraph 6 provides that:

> "If all other criteria to end the rate freeze period have been met and an undercollection exists in SCE's TRA, the rate freeze period may end provided that the Commission authorizes SCE to transfer the TRA undercollected balance to the modified TCBA or other authorized recovery mechanism." This provision addresses that element of Paragraph 3 that identifies one criteria for determining the end of the rate freeze as that point at which the TRA balance is zero.

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[5] We address in a subsequent section of this order how the timing of market valuation influences a determination that the rate freeze is over.

[6] "Headroom," as other Commission decisions describe, is the amount of revenue available to draw down uneconomic generating asset costs after other authorized costs have been recovered or rate elements accounted for.

PG&E proposes that the end of the rate freeze occur when similar circumstances have been fulfilled, namely, that the TRA and TCBA must be at zero or overcollected, that the market valuation process be completed, and that the Commission must have issued all decisions that might affect the amount of transition costs or other relevant costs.

The settlement and PG&E's proposals for identifying the end of the rate freeze would permit SCE and PG&E to recover certain costs after the rate freeze that were incurred during the rate freeze. That is, they seek to carry over costs entered into the TRA and the TCBA that would have been recoverable if the rate freeze had not ended. Costs could remain in these accounts for a variety of reasons. For example, during the final months before the rate freeze ends, energy costs could be high enough that revenues would not be available to allow recovery of other costs. PG&E proposes that it be permitted to carry over energy costs that are incurred but not billed until after the rate freeze, a circumstance that SDG&E anticipated in the settlement adopted in D.99-05-051. PG&E also proposes that the Commission permit it to carry over costs incurred but not authorized or recovered until after the rate freeze, such as those associated with capital additions and catastrophic events.

No party objects to these various provisions, although some parties address the mechanics of their implementation. ARM, for example, raises concerns that post-rate freeze rate changes to reconcile TRA or TCBA overcollections or undercollections be allocated to customers recognizing cost liability. It also raises concerns that the utility must not be able to prolong the rate freeze period in order to assure the TRA balance is positive. To the contrary, ARM argues that the utility should be permitted to carry over TRA or TCBA undercollections after the rate freeze period, in order to provide an incentive for the utility to end the rate freeze.

Discussion PG&E's proposal and certain elements of the SCE settlement that provide for how to identify the end of the rate freeze are unlawful because they would permit PG&E and SCE to carry over costs incurred during the rate freeze period until after the rate freeze. Carrying over such costs contravenes § 368(a) and § 367(a).

Section 368(a) sets rates equal to those in effect as of June 10, 1996. It further requires that these rate levels "shall remain in effect until the earlier of March 31, 2002, or the date on which the Commission-authorized costs for utility generation–related assets and obligations have been fully recovered." It also provides that "(t)he electrical corporation shall be at risk for those costs not recovered during that time period."

If the Commission were to permit a utility to carry over costs incurred during the rate freeze to the period following the rate freeze, the utility's rates from the rate freeze period would effectively exceed those in effect on June 10, 1996. Their full impact would simply be deferred to the subsequent period. A carry over from the rate freeze period would be unlawful under § 368(a).

Allowing the utility to carry over costs into the post-transition period may also violate § 367(a), which defines "transition costs" and how they may be recovered. With the exceptions enumerated in §§ 367(a) and 376, transition costs must be recovered in the nonbypassable charge (which we term the "CTC") by December 31, 2001 (for some costs, March 31, 2002) when the utility becomes liable for their recovery in competitive generation markets. The method for recovering transition costs during the rate freeze is to determine what we have referred to as "headroom." Headroom is the difference between the revenues

collected from the total rate and revenues that are associated with authorized costs other than transition costs.[7] The amount of headroom available to pay off transition costs is therefore, dependent on the level of other rate components, such as distribution costs, transmission costs, and energy costs. Distribution and transmission costs for example are recovered through forward looking revenue requirements. Such revenue requirements are recoverable in rates during the rate freeze and those rates would continue in effect after it concludes. However, if the Commission were to defer recovery of other costs incurred during the rate freeze or costs that have not been approved for recovery, the utility might be able to recover more transition costs than the statute permits. This would occur because transition costs would have been crowded out by other authorized costs during the rate freeze. Thus, deferring recovery of such costs may increase, dollar-for-dollar, the transition costs that the utility is able to recover. Therefore, in cases where the utility is unable to recover all of its transition costs before the end of the rate freeze, deferring recovery of costs incurred during the rate freeze until afterward is unlawful under § 367(a).

We have addressed this matter in several previous decisions. D.97-10-057 found that to "accumulate balances associated with various costs or ratemaking mechanisms through the rate freeze period and then collect them at a later date" would violate AB 1890 by affecting the method it prescribes for calculating headroom. The order further finds that "Nothing in (AB 1890) would lead us to conclude that the rate freeze merely represents a period during which ratepayers and shareholders will lend funds to each other." D.97-11-073 states "Consistent with AB 1890, costs incurred during the rate freeze period must be recovered

[7] The TRA is the accounting mechanism used to calculate this difference.

during that period by changing the 'headroom' available to draw down transition costs." Similarly, D.97-11-074 found that "To the extent headroom is insufficient to address any ECAC or ERAM undercollections, these amounts may not be carried over to later years for transition cost recovery, nor are such costs to be accumulated for later collection. The rate freeze is just that – a freeze, rather than a deferral." D.98-03-059 further specified that no exceptions are permitted even where a shortfall occurs as a result of regulatory delays or other circumstances outside the utility's control. We again confirmed this finding in approving a settlement for SDG&E in D.99-05-051. No party has applied for rehearing of the statutory interpretations in any of these orders and we have heard no argument to convince us that our previous orders erred in their interpretations of the law.

AB 1890 creates a rate freeze period during which the utility must live with the revenues it receives, which fluctuate according to sales. AB 1890 does not provide exceptions to the rate freeze on the basis that the utility may not have collected all the revenues it anticipated or failed to recover otherwise reasonable costs. AB 1890 allows recovery of transition costs by way of a nonbypassable surcharge, but also imposes certain risks with regard to the rate freeze. We may not overlook the law's intent in order to hasten the end of the rate freeze. We may not ignore the law even if no party objects to proposals that contravene it, or by finding that the law does not serve other regulatory objectives.

No utility may carry over any costs from the TRA or the TCBA or any other account from costs incurred during the rate freeze period into the post rate freeze period. The TRA need not be zero or overcollected for the rate freeze to end. Any provision of the SCE settlement proposed here that assumes ratemaking adjustments during the post-rate freeze period for costs incurred during the rate freeze period is unlawful and is rejected. Any provision of the

settlement adopted in D.99-05-051 for SDG&E that permits such a carry over is also unlawful and is therefore void. Likewise, the utilities may not carry over any balances into the post-rate freeze period, including those related to PX "billing lags."[8] Moreover, the Commission will not delay the end of the rate freeze to resolve pending proceedings in which the utilities seek authority to recover such costs.

The end of the rate freeze occurs on the date the utility has recovered "commission-authorized costs for utility generation-related assets and obligations," as set forth in § 368(a) and with the exceptions and conditions set forth in § 367 and 376. This is the sole criterion for determining the end of the rate freeze. Each utility will determine the date of the end of the rate freeze and implement the end of the rate freeze pursuant to the process adopted in Section II.A.1 of this decision. The CTC refund at issue with relation to the termination of their respective rate freezes is the difference between the amount of the CTC which the utilities were authorized to collect in order to recover the costs of their uneconomic generation costs during the rate freeze and the amounts which they actually collected during that period. In recognition that rate design and cost allocation may change after the rate freeze, refunds shall be allocated to customer groups in the same proportion as they were collected, as SCE proposes. In order to assure the utility is indifferent with regard to the timing of refunds, refunds shall accrue interest equal to the utility's authorized rate of return.

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[8] "PX billing lags" are caused by seasonal demand variations and PX price fluctuations, and the time lag inherent in reconciling PX price differences through billing in later periods. For example, in D.99-05-051, we observed that SDG&E had accumulated an under-collection of approximately $40 million due to the PX billing lag.

4. Valuation of Retained Generation Assets

Section 367(b) requires that the Commission offset specified transition costs having values below market prices with those generation assets having values above market prices. The difference is the amount of net transition costs that qualify for recovery by way of a nonbypassable surcharge. Section 367(b) provides that market valuations must be complete by December 31, 2001. In determining whether the utilities have recovered all authorized transition costs, and have therefore, met the criteria for ending the rate freeze, the utility must therefore, know or estimate the value of all generation assets. The Commission has not yet established market values for those assets which SCE and PG&E intend to retain. [9]

PG&E argues that the most critical event in determining the date of the end of its rate freeze period is the valuation of its hydroelectric assets. The timing of and method for finalizing these values is uncertain. PG&E believes the valuation must be accomplished according to § 367(b), that is, by "appraisal, sale, or other divestiture." It does not support any type of interim valuation method or forecast.

The settlement filed by SCE, ARM, and WPTF provides that the end of the rate freeze would not occur until the Commission has valued SCE's retained generation assets. ARM expresses support for Enron's proposal in the Commission's retained asset proceeding, A.98-05-014 et al., to establish an interim method for such valuation. ORA does not believe the completion of the

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[9] SDG&E divested itself of all generation assets except nuclear assets and therefore does not require the Commission to establish market valuation. This may still be an open question in market valuation proceeding, ORA has argued that nuclear facilities have not been "market valued."

valuation process is a necessary condition to ending the rate freeze. It proposes that any premiums that are identified after the rate freeze could be credited back to ratepayers after the end of the rate freeze.

The timing of market valuations is critical in cases where those valuations might accelerate the end of the rate freeze to a date prior to the statutory deadline. For PG&E, at least, this appears be the case. The book value of its hydro assets is approximately $1.4 billion and some estimates of their market value exceed $4 billion. Currently, the Commission is considering the matter for both SCE and PG&E in A.98-05-014 and A.98-05-022, respectively. For SCE, we intend to issue a decision on the matter so that the end of the rate freeze would not be delayed. For PG&E, the ultimate disposition of hydro assets may depend on action of the California Legislature. Nevertheless, we intend to move forward with valuation of those assets so that the end of the rate freeze will not be delayed in the event that legislative action does not affect either PG&E's options or the Commission's discretion in relevant aspects. Accordingly, we find that interim or final market valuations, to the extent they remain the Commission's responsibility, will precede the end of the rate freeze. If legislation or other events dictate a different approach, we will revisit the matter.

B. Post-Transition Ratemaking and Regulatory Oversight

The utilities and other parties propose several changes to ratemaking after the rate freeze period. These changes would recognize that the utilities would no longer charge a single frozen rate, i.e., that rates and the ratemaking mechanisms for collecting revenues may change.

During the rate freeze period, the Commission approved a conceptual ratemaking model for SCE, PG&E and SDG&E. The TRA is an account that tracks all utility costs and revenues. Another account, the TCBA,

tracks authorized transition costs and how these costs are recovered by way of the CTC on customer bills. From the total revenues the utility collects, the utility deducts authorized costs associated with distribution, transmission, energy, public policy programs, and other costs. Revenues left over (i.e. positive balances in the TRA) are used to credit the TCBA and are referred to as "headroom." In addition, the TCBA is credited or debited with positive or negative market valuations of generation assets. The utilities will be at risk for recovering those generation investments they have been unable to recover with frozen rates.

After the rate freeze period, the total rate on a customer's bill, for all services, may change for a variety of reasons. The utilities will continue to recover certain costs via the CTC and track them in the TCBA. The utilities will not recover those costs, however, by calculating revenues left over after other costs have been recovered. The costs will be included in rates at levels authorized by the Commission and with the intent the utilities will not be at risk for their recovery, consistent with AB 1890.

Following the rate freeze, the TRA will serve no function because the utilities will not need a method for calculating headroom. They will, however, need to continue to account for authorized costs, such as those associated with distribution, nuclear decommissioning, public purpose programs, and energy costs. The Commission will either ultimately determine the utility's risk for recovering such costs or has already adopted such ratemaking mechanisms.[10] For example, both SCE and SDG&E have performance-based ratemaking mechanisms in place for distribution costs. The Commission is currently

[10] The FERC has authority over ratemaking for all transmission costs.

considering a similar type of ratemaking for PG&E's distribution costs. The Commission will need to determine how to regulate energy commodity prices in Phase 2 of this proceeding.

The following discussion describes the utilities' proposals for accounting mechanisms that would be in place after the rate freeze, some of which would be interim and others which may be in place for the foreseeable future.

1. SCE's Proposed Accounting Mechanisms

SCE proposes to eliminate its TRA and to create in its place six new balancing accounts so that "SCE recovers neither more nor less than its authorized revenue requirement." The accounts for which SCE seeks approval are:

a. PBR Exclusion Distribution Adjustment Mechanism – this account would permit recovery of nine items the Commission has already determined are not subject to SCE's PBR mechanism.

b. Nuclear Decommissioning Adjustment Mechanism – this account would permit recovery of nuclear decommissioning costs as authorized by the Legislature and the Commission.

c. Public Purpose Programs Adjustment Mechanism – this account would permit SCE to recover, through the end of 2001, 17 cost items that are currently in rates pursuant to Commission orders. The account would continue to track the costs through that date in case the rate freeze ends before then and afterward if the Commission authorizes continued funding.

d. Reliability Must-Run (RMR) Balancing Account – this account would recover RMR costs incurred pursuant to FERC orders.

e. Catalina Island Diesel Fuel Balancing Account – this account would permit SCE to recover fuel costs incurred to serve Santa Catalina Island and which it cannot recover through sales to the PX because Santa Catalina is not on the grid that provides PX power.

SCE also proposes to eliminate the Streamlining Residual Account that was created pursuant D.97-10-057 to record certain energy costs that may be recovered in other accounts SCE proposes. It would also establish a rate for rate reduction bond refunds to customers and retain the account that collects funds to pay off the rate reduction bonds.

SCE states the accounts it would create are not new ratemaking mechanisms, and do not change SCE's risks, but merely replace the existing accounts at the end of the rate freeze. We accept this characterization but comment that SCE should have informed the Commission that it seeks to modify another decision. Adding Affiliate Transfer Fees to the PBR Exclusion Account, as SCE proposes, will require modification of D.96-09-092, which adopted SCE's PBR mechanism. Contrary to SCE's testimony, D.97-12-088 (the order adopting the affiliate transactions rules) did not authorize this change to SCE's PBR tariffs. SCE's proposal appears nevertheless reasonable and consistent with the intent of D.97-12-088, provided that Affiliate Transfer Fees continue to be tracked in their own sub-account.

No party opposes the creation of the accounts or the elimination of the TRA. We authorize SCE to eliminate the TRA and the Streamlining Residual Account, at the end of the rate freeze recognizing that these accounts are not required after the rate freeze period. The disposition of any non-zero balance in the Streamlining Residual Account will be addressed in Phase 2.

We adopt the balancing accounts SCE proposes with some exceptions and clarifications. First, the accounts are intended to provide an interim method for collecting only those revenues authorized by the Commission. Our authorization of the accounts is not an endorsement of the implied ratemaking concepts, i.e., the accounts may be replaced by other

ratemaking mechanisms depending on the outcome of Phase 2 of this proceeding or actions in other dockets.

We also comment on the Catalina Island Diesel Fuel Balancing Account. The adoption of the account implies the creation of an associated new rate to be imposed on Catalina Island customers. The rate would differ from those in effect for other SCE customers. That is, Catalina Island rates will be based on the cost of serving the local area, rather than on the average cost of SCE's entire system a convention called "geographic deaveraging." We have in other decisions addressed the merits and shortcomings of geographic deaveraging, but have so far declined to implement it. In this circumstance, the rate may be justified on the basis that serving Catalina Island is more expensive than serving other communities. More importantly, in SCE's view, this rate permits SCE to recover fuel costs which it cannot recover through the PX because Catalina Island is not connected to the grid served by the PX. Its power is generated locally and can only be sold locally because of the Island's physical isolation. The effect of setting a separate rate for Catalina Island is to increase rates of local residents and businesses. SCE has not notified its Catalina Island customers of its proposal to increase their rates. Section 454 provides that a utility proposing a rate change must notify affected customers of its proposal. Because SCE has not provided that customer notice, we cannot authorize a rate increase here and decline to authorize the associated account.

We do not herein authorize any accounts or ratemaking mechanisms for RMR costs. SCE must receive such authority from FERC to recover those costs, consistent with our findings in D.98-04-019. With these exceptions, we adopt the accounting SCE proposes for the post-transition period.

2. PG&E's Proposed Accounting Mechanisms

Like SCE, PG&E proposes to eliminate the TRA because it will not serve any purpose after the transition period. It also proposes to create several new accounts:

a. Nuclear Decommissioning Adjustment Mechanism – this account would permit recovery of nuclear decommissioning costs as authorized by the Legislature and the Commission.

b. Public Purpose Programs Revenue Adjustment Mechanism – this account would permit recovery of public purpose program revenue requirements.

c. Transmission Revenue Requirement Reclassification Memorandum Account (TRRMA) -- this account would record costs which the FERC determines are not recoverable through transmission rates.

PG&E also proposes to establish rate components for costs that, during the rate freeze, were collected as part of distribution rates, for example costs associated with hazardous waste cleanup, and electric vehicle development. It would establish a rate for rate reduction bond refunds to customers and retain the account that collects funds to pay off the rate reduction bonds.

With the exception of the TRRMA, neither the rates nor the accounts PG&E would create change PG&E's risk or existing Commission ratemaking orders. They merely replace the existing accounts at the end of the rate freeze and establish rates for costs which PG&E is already entitled to recover. However, with regard to the TRRMA, we note that the Commission approved this account in Resolution E-3574. PG&E may record in this account costs that FERC finds are not related to transmission, and it may begin tracking these costs as of July 1, 1999 according to Commission authorized tariffs. We do not make any judgment here as to whether the costs tracked in this account are reasonable. Nor do we decide here whether these costs should be excluded from PG&E's

PBR mechanism as it proposes. That is an issue for resolution in PG&E's PBR proceeding, A.98-11-023. With these clarifications, we adopt the accounting mechanisms and ratemaking proposals PG&E presents on an interim basis, pending final resolution in Phase 2.

3. The Modified TCBA

PG&E and SCE propose to retain their TCBAs in order to be able to recover transition costs for which customers will be liable after the rate freeze. SCE states the TCBA will include only those costs that the Commission has identified for recovery after December 31, 2001. FEA notes that the appropriateness of each TCBA subaccount should be addressed in Phase 2 of this proceeding. We adopt the utilities' proposal to retain the TCBAs for the purpose of accounting for costs that the Commission has authorized for recovery after the rate freeze and pursuant to § 367. Consistent with our previous discussion we clarify that the utilities may not use the TCBA to carry over costs incurred during the rate freeze or transition period. FEA and other parties may address related accounting and ratemaking issues in Phase 2 of this proceeding.

4. PECA Balancing Accounts

SCE, SDG&E, and PG&E propose a new balancing account called the "Purchased Electric Commodity Account," (PECA)[11] to reconcile commodity rates and costs incurred for electricity purchased from the PX or other market sources. The utility would reconcile energy costs and customer rates on a

[11] SDG&E originally named its account the ISO/PX Balancing Account. SCE originally named its account the Energy Cost Adjustment Mechanism. Both agree that the name of the account is irrelevant and suggest using PG&E's term, "PECA."

monthly basis. The amounts would be amortized in subsequent rates using an equal cents per kWh rate. FEA supports the creation of the account.

Weil opposes adoption of the PECA as part of the Phase 1 order, arguing that PG&E failed to provide adequate information regarding how the account would operate. Weil also believes the matter should be considered in light of broader ratemaking mechanisms that are topics of Phase 2, including matters relating to how energy price volatility should be addressed. Weil is concerned other parties have not had an adequate opportunity to review utility proposals. ORA also advocates the Commission consider the matter further in Phase II of this proceeding.

We agree that the utilities will need to have some mechanism in place for the end of the rate freeze period which will track the utility's energy costs. Accordingly, we adopt the PECA for all three applicants. We will explore in Phase 2 whether dollar-for-dollar recovery of such costs is appropriate and related ratemaking issues, as Weil and ORA propose. We also adopt the clarification ORA suggests, finding that the purpose of the PECA accounts is to track the costs of purchased electricity, not the costs of operating power plants.

5. PG&E's Diablo Canyon ICIP Cost Recovery

In D.97-05-088, the Commission provided for accelerated recovery of Diablo Canyon sunk capital costs. The Commission adopted an associated revenue requirement for each of the five years 1997 through 2001, called the "Incremental Cost Incentive Price" (ICIP). PG&E recovers the difference between the PX price and the ICIP as part of transition cost recovery.

ORA and FEA believe that the Commission intended for this revenue requirement to change, and for Diablo Canyon cost recovery to end on either the earlier of December 31, 2001 or the date PG&E has recovered its Diablo

Canyon sunk costs. PG&E, to the contrary, believes the Commission intended for the pricing mechanism to continue until December 31, 2001, notwithstanding the status of cost recovery.

Discussion In D.97-05-088, the Commission created a ratemaking mechanism to permit PG&E an opportunity to recover sunk costs associated with Diablo Canyon. D.95-12-063 ordered PG&E to file its proposal for ratemaking treatment for Diablo Canyon. The Commission stated on page 129, that:

> "Ongoing transition costs will be calculated as that portion of the settlement payments in excess of market value, as determined by the Power Exchange price. The calculation will be performed over the term of the settlement or until transition cost recovery is completed." (Emphasis added)

The order states the purpose of the associated proceeding is, in part, to provide PG&E "the opportunity to recover all of Diablo Canyon's competition transition costs (transition costs or CTCs) no later than the end of 2005 (later reduced by the Legislature to December 31, 2001)." (D.97-05-088, slip op., page 3.)

The decision goes on to describe the recovery of transition costs (or uneconomic generation costs) in the context of the rate freeze period mandated by AB 1890. Stating "this Diablo Canyon application ...is the vehicle for evaluating and adopting appropriate modifications to PG&E's proposed rate freeze and ratemaking mechanism," the decision cites portions of §§ 367 and 368 regarding the recovery of generation assets according to the rate freeze the provisions of the statutes. The decision finds these sections to be "most pertinent to this decision..." (Id., pp: 11-13.)

As we have already discussed, the rate freeze mechanism provides that when the uneconomic generation costs are paid off, the regulatory protection

provided by the statute in the form of the CTC is eliminated. Using the legislation as a frame of reference in developing the ICIP, therefore, suggests our intent that when Diablo Canyon transition (or sunk) costs are paid off, the corresponding funding will also end.

In fact, D.97-05-088, Finding of Fact 2 states that ICIP is a "mechanism for recovery of incremental operating costs during the period of accelerated sunk cost recovery." (Emphasis added). Conclusion of Law 1 reiterates this point by highlighting the link between ICIP payments and the sunk cost recovery period.

By proposing to continue the ICIP after the rate freeze period, PG&E suggests, to the contrary, that the intent of D.97-05-088 was to permit PG&E to continue to receive funding even after all of its relevant Diablo Canyon costs are paid off. Thus, PG&E would receive the difference between the ICIP rate (in amounts just under 3-1/2 cents) and the market rate even though all related costs have been recovered. Such an arrangement, however, is directly contrary to the intent of D.97-05-088. Indeed, PG&E's proposal here is inconsistent with the purpose of its original application in which it proposed "to recover its remaining Diablo Canyon sunk costs over a depreciation period of five years or less." (D.97-05-088, slip op., page 33.) Nothing in the order suggests the Commission intended to deny this request by granting PG&E revenues that exceed costs.

PG&E argues that this interpretation could not be correct because various portions of the decision refer to the ICIP's provisions lasting until December 31, 2001, rather than the earlier of that date and the date upon which Diablo Canyon sunk costs are zero. At the time the Commission issued D.97-05-088, the Commission was in the early stages of implementing AB 1890. In deference to the rate freeze provisions of AB 1890, D.97-05-088 refers consistently to the five-year period ending December 31, 2001 when describing or ordering implementation. We assumed at the time that PG&E's rate freeze

might extend to that date and that Diablo Canyon sunk costs would not be recovered prior to that date. Since May 1997, we have received better information about the status of PG&E's generation assets, to suggest that PG&E's rate freeze may end prior to December 31, 2001.

We deny PG&E's proposal to extend the ICIP payments beyond the end of the rate freeze period.

6. Employee Transition Costs

Weil expresses concern that PG&E's proposal regarding employee transition costs ignores that all such costs must be determined to be reasonable before they may be included in rates. We concur and find that any ratemaking treatment adopted herein that may involve employee transition costs assumes that such costs will be only those determined by the Commission to be reasonable.

7. Oversight of Commodity Purchasing

PG&E proposes that any purchases through the PX after the transition period should be presumed reasonable. Weil objects to the assumption, suggesting PG&E may have several purchasing options and those options should be subject to some Commission oversight, either by way of reasonable reviews or through some performance-based incentive. ORA offers similar comments, observing that incentive ratemaking mechanisms are subjects of review in Phase 2 of this proceeding.

We agree with ORA and Weil that this is not the forum in which we are prepared to modify regulatory oversight of energy purchasing decisions. We will consider the matter further in Phase 2. In the unlikely event that PG&E will be able to take advantage of purchasing options before the matter is resolved, we

state our intent to conduct reviews of such purchases until and unless we expressly adopt some other type of oversight.

8. Disposition of the Reduced Capital Recovery Amount (RCRA)

In D.94-05-068, the Commission authorized the acceleration of SCE's recovery of nuclear investment by $75 million per year while simultaneously reducing SCE's distribution revenue requirement. Originally, the Commission anticipated that this mechanism would be in place until 2012 when SCE's nuclear investments would be paid off. AB 1890, however, further accelerated depreciation of those investments. In recognition of this, SCE proposes here to eliminate the RCRA at the end of the rate freeze. No party opposed this proposal and we adopt it here since the RCRA will serve no purpose after SCE has recovered its nuclear costs.

9. Mandatory Buy-Sell Obligation

Several parties addressed the issue of whether the utilities should continue to be obligated to purchase from the PX after the rate freeze ends. Consistent with the scope of this phase of this proceeding, we herein find that the utilities must continue to purchase energy supplies from the PX until and unless we change this policy in Phase 2 of this proceeding or in subsequent dockets. We note that we have recently affirmed this approach in D.99-07-018. We need not address the matter further at this time. We also defer review of the types of services the PX offers and their implications for utility purchasing.

C. Revenue Allocation and Rate Design After the Rate Freeze Period

1. Allocation of RMR Costs

TURN proposes that RMR costs be allocated in a manner consistent with their underlying characteristics, that is, based on coincident loads and recognizing that RMR is associated with "bulk" transmission needs rather than

local needs. Edison's proposal to allocate RMR costs using a Peak Capacity Allocation Factor is consistent with TURN's recommendation. TURN opposes SDG&E and PG&E's proposal to allocate RMR costs assuming that they are incurred to meet "local" generation needs. SDG&E comments that, on its system, RMR are essentially a substitute for transmission and should be allocated accordingly. CLECA supports the utility proposals.

We have consistently stated since the passage of AB 1890 that the Commission has no jurisdiction over the level of transmission rates. The FERC has sole jurisdiction over those matters. D.98-04-019 directed the utilities to present FERC with proposals for post-transition cost recovery. We therefore, make no findings here regarding how RMR costs should be allocated and defer to the FERC on all related issues.

2. Allocation of Post-Transition CTC Revenue Requirement

After the rate freeze period, customers will continue to assume liability for certain transition costs, mostly those associated with high-cost QF contracts. PG&E, SDG&E, and SCE propose to use the System Average Percent (SAP) method to allocate ongoing transition costs between customer groups, an allocation method that reflects the EPMC methodology used to establish frozen rates. CLECA and CMA concur with this allocation. FEA and ORA express support with the condition that the method should be interim, pending the resolution of the issue in Phase 2. TURN, however, opposes the utilities' proposed use of a System Average Percent Change (SAPC) allocation methodology. TURN proposes the Commission require the utilities to allocate post-transition CTC revenue requirement depending on each customer group's proportional use of the generation system.

In the event that the utilities end their rate freeze before a final decision is reached on this matter in Phase 2, we instruct the utilities to allocate ongoing CTC using the SAPC methodology on an interim basis. We will consider this issue in Phase 2 as it affects the period following the rate freeze.

3. Customer Information Regarding Transition Cost Refunds

As stated earlier, any overcollections of CTC must be refunded to customers. In anticipation of such a circumstance, Paragraph 5 of the settlement between SCE, ARM, and WPTF provides that SCE will separately state in its tariff the portion of the post-transition CTC that is related to the refund of transition cost overcollections. PG&E objects to this provision because "the Commission should not create a requirement to satisfy the needs of contracts generated between ESPs (energy service providers) and customers which are not regulated by the Commission."

The availability of pricing information is essential to the development of competitive markets. Part of the Commission's job is to ensure that good pricing information is available to customers, especially in a circumstance, such as here, where that information could be easily misunderstood. Transition cost refunds will accrue to customers whether they are bundled utility customers or direct access customers. Customers need to understand the extent to which the refunds offset utility energy prices in order to make meaningful comparisons between the price of utility energy and the price of competitors' energy. In order to facilitate customers' ability to compare energy prices, we adopt Paragraph 5 and require all three utilities to incorporate its requirements in tariffs.

D. Customer Information about the End of the Rate Freeze

The parties addressed how customers should be informed of the end of the rate freeze. ORA recommends the Commission staff work closely with the utilities in developing educational materials for customers. ORA observes that SDG&E's program, implemented in mid-1999, may provide some insights for SCE and PG&E.

SCE proposes that the Commission articulate communications objectives and permit the utilities to fashion their customer communications as they see fit. SCE agrees with SDG&E, as expressed in comments to the proposed decision in A.99-02-029, that Commission oversight of customer communications is "presumed" to be unconstitutional.

We have traditionally overseen the types of information the utilities provide to customers when the information concerns our regulatory oversight. In this case, customers require a simple and complete explanation of an event that is subject to considerable misinterpretation and for which the utility has little incentive to be clear. No utility has so far challenged our authority to require it to coordinate customer information efforts with the Commission's Public Advisor, including SDG&E whose customer information was subject to the Public Advisor's approval pursuant to D.99-05-051. We see no reason to depart from past practice and herein direct PG&E and SCE to seek the approval of the Office of the Public Advisor prior to disseminating customer information regarding the end of the rate freeze.

Conclusions

We herein adopt several policies that would facilitate the end of the rate freeze for PG&E, SCE, and SDG&E, including interim accounting and ratemaking arrangements.

- The rate freeze will end simultaneously for all customer groups; the treatment of possible over or under collection of transition cost obligations for customer groups is deferred to Phase 2.
- The rate freeze ends on the date relevant transition cost balances are zero.
- No utility may carry over costs incurred during the rate freeze period to the post-rate freeze period, notwithstanding the status of the TRA, relevant Commission proceedings, or PX billings.
- After the rate freeze, the utilities may not recover costs incurred during the rate freeze.
- PG&E and SCE will provide to interested parties estimates of the date the rate freeze will end as set forth in the settlement attached to this document as Appendix A.
- Once forecasts are generated on a 30-day basis (after generation assets have been market-valued), the utilities shall provide the Energy Division draft tariff language and proposed post rate freeze rates three months prior to the earliest estimate of the rate freeze end. In the event that the rate freeze does not end early, proposed post rate freeze rates should be filed in September 2001.
- PG&E and SCE shall file a supplement to the advice letter filed three months prior, to end the rate freeze five days following the date that the relevant criteria have been satisfied as set forth in this decision and the settlement attached as Appendix A.
- The end of the rate freeze will not occur before the generation assets of each utility have been "market valued" except as the law or the Commission determine otherwise.
- PG&E may not extend the ICIP mechanism past the date it has recovered its transition costs.
- PG&E, SDG&E, and SCE will implement interim accounting, ratemaking mechanisms, and rate design changes as proposed or as modified by this decision.
- The Commission defers to FERC's authority with regard to costs, cost allocation, and rate design for transmission and RMR costs and revenues.

- PG&E and SCE will propose to the Commission's Public Advisor methods for informing customers about the end of the rate freeze.
- PG&E, SCE, and SDG&E will use the SAPC method for allocating ongoing CTC on an interim basis, if the rate freeze ends before a final decision is reached in Phase 2.
- PG&E, SCE, and SDG&E will create accounting mechanisms for energy purchases from the ISO/PX, purchases which the Commission will continue to oversee unless the Commission determines otherwise.
- SCE's proposal to create a new and separate rate for Santa Catalina Island customers is denied because affected customers have not received the notice required by Section 454.
- PG&E, SCE, and SDG&E will continue to purchase all energy supplies from and sell all energy supplies to the PX unless the Commission determines otherwise.

This proceeding will remain open for consideration of issues in Phase 2.

Comments on the Proposed Decision

The assigned ALJ issued this decision for public comment in accordance with Section 311(d) of the Public Utilities Code. The Commission made several modifications to the proposed decision to clarify its intent but made no substantive changes.

Findings of Fact

1. Utility forecasts of the date of the end of the rate freeze will not put the utility at risk for revenue losses but may be useful to customers and competitors in planning for changes in the market.

2. PG&E's forecasts of the end of the rate freeze would be more useful to customers and competitors if PG&E used several estimates of the market value of its hydro assets.

3. SCE's settlement, attached as Appendix A, should be modified as set forth herein to provide for a fair and timely process for filing an advice letter to end the rate freeze.

4. Consistent with § 367(e)(1), SCE and PG&E have "firewall" memorandum accounts that result in slight rate adjustments between customer groups at the end of the rate freeze.

5. SCE, SDG&E, PG&E, and parties to the settlement filed in this proceeding propose that we permit SCE, SDG&E, and PG&E to carry over after the rate freeze period certain costs incurred during the rate freeze period. Permitting such carry overs defers recovery of costs and effectively allows rates that exceed the rate freeze levels. Permitting such carry overs may also affect the level of transition costs the utility recovers.

6. The Commission intends that its market valuation process will be complete in time for the end of SCE's rate freeze and PG&E's rate freeze.

7. Utility accounting must change after the end of the rate freeze in recognition that the utility need no longer account for "headroom."

8. SCE proposes in this proceeding to create a new rate for Santa Catalina, but has not notified affected customers, as required by § 454.

9. PG&E, SCE, and SDG&E propose that the Commission adopt allocation of and ratemaking for transmission and RMR costs. The Commission should make no findings here regarding how RMR costs should be allocated and defer to the FERC on all related issues.

10. D.97-05-088 did not intend for PG&E to recover ICIP rates following complete recovery of generation transition costs. The intent of D.97-05-088 was to permit PG&E to recover Diablo Canyon transition costs.

11. Section 367(e)(1) narrowly circumscribes the Commission's authority to provide for allocation of CTC between customer groups for the rate freeze period.

12. Requiring the utility to separately state in its tariff the portion of the post-transition CTC that is related to the refund of transition cost overcollections facilitates customer understanding of actual market prices.

13. Requiring Commission staff approval of utility customer information materials helps assure that customer receive sound information about changes in the electricity market that may occur with the end of the rate freeze.

Conclusions of Law

1. The Commission should adopt and apply to SCE and PG&E those portions of the settlement relating to the provision of utility forecasts, the advice letter process, the determination of the end of the rate freeze, and the refund of overcollected CTC as set forth in Appendix A, paragraphs 1, 2, 4, and 5 with the exceptions set forth herein.

2. SCE and PG&E should end the rate freeze simultaneously for all customer groups and adjust rates to account for amounts in the "firewall" memorandum accounts. The determination of whether transition cost liability should be adjusted for each customer class should be resolved in Phase 2 of this proceeding.

3. Carrying over balances related to the "PX lag" or other unrecovered costs in the TRA or the TCBA violates the rate freeze provisions of AB 1890. Delaying the end of the rate freeze in order to resolve pending Commission proceedings addressing costs incurred during the rate freeze contravenes AB 1890.

4. Sections 368(a) and 367(a) do not permit the utilities to carry over after the rate freeze those costs incurred during the rate freeze. Exceptions to the rate freeze that are not specifically enumerated in AB 1890 are not lawful.

5. The end of the rate freeze should occur on the date that the utility has recovered relevant transition costs, consistent with §§ 367 and 368 of AB 1890.

6. Once forecasts are generated on a 30-days basis (i.e., after generation assets have been market-valued), PG&E and SCE should be ordered to file an advice letter with the proposed post rate freeze rates and tariff language three months prior to the earliest estimate of the rate freeze end. In the event that the rate freeze does not end early, proposed post rate freeze rates should be filed in September 2001.

7. Five days following the date that transition costs have been collected and the criteria for ending the rate freeze have been met, PG&E and SCE should be ordered to file a supplement to the advice letter filed three months prior. The supplement shall include the actual post rate freeze rates to be implemented as well as the ratemaking mechanisms authorized in this order.

8. SCE, PG&E, and SDG&E should be ordered to refund to customers the difference between the amount of the CTC which the utilities were authorized to collect in order to recover the costs of their uneconomic generation costs during the rate freeze and the amounts which they actually collected during that period. In recognition that rate design and cost allocation may change after the rate freeze, each utility should be ordered to allocate refunds to customer groups in the same proportion as they were collected. Refunds should accrue interest equal to the utility's authorized rate of return.

9. The Commission should adopt the accounting and ratemaking mechanisms proposed by the utilities in this proceeding with the conditions and exceptions set forth herein.

10. The Commission should reject SCE's proposal to create a new rate and associated balancing account for Santa Catalina customers because SCE has not notified affected customers as required by § 454.

11. The Commission should reject utility proposals that would establish rate design or other ratemaking or accounting mechanisms for transmission or RMR costs.

12. In Phase 2 of this proceeding, the parties should be permitted to consider refinements to the accounting and ratemaking proposals adopted in this decision.

13. PG&E should be required to eliminate the ICIP no later than the date it recovers transition costs.

14. The Commission should continue to oversee utility purchasing practices and should not in this order modify the mandatory "buy-sell" obligation.

15. In the event that the rate freeze ends early, PG&E and SCE should be ordered to allocate CTC using a SAPC methodology until a final decision is reached in Phase 2.

16. SCE, SDG&E, and PG&E should be ordered to state separately, in their respective tariffs, the portion of the post-transition CTC that is related to the refund of transition cost overcollections.

17. SCE and PG&E should be required to coordinate with the Commission's Public Advisor in developing their respective customer information materials.

INTERIM ORDER

IT IS ORDERED that:

1. No later than 15 days from the date this order is issued, San Diego Gas & Electric Company (SDG&E) shall file an advice letter proposing tariff modifications that implement the provisions of this order. Pacific Gas and Electric Company (PG&E) and Southern California Edison Company (SCE) shall file an advice letter three months prior to the earliest forecasted date that the rate freeze will end or September 2001 if the rate freeze does not end early. The Advice Letter shall propose tariff modifications and provide calculations of proposed post rate freeze rates. Five days following the date that transition costs have been collected and the criteria for ending the rate freeze have been met, PG&E and SCE shall file a supplement to the advice letter filed three months prior. The supplement shall include the actual post rate freeze rates to be implemented as well as the ratemaking mechanisms authorized in this order. The Advice Letter implementing rate changes shall become effective within 30 days of the end of the rate freeze subject to Energy Division determining the Advice Letter is in compliance with this and subsequent decisions.

2. The tariffs proposed by the advice letters shall not be modified except as required by this order, as follows:

   - The rate freeze shall end on the date relevant transition cost balances are zero.
   - No utility may carry over costs incurred during the rate freeze period to the post-rate freeze period, notwithstanding the status of the Transition Revenue Account (TRA), relevant Commission proceedings or Power Exchange (PX) billings, as set forth herein.

- The rate freeze for SCE and PG&E shall end simultaneously for all customer groups although the issue of how the utilities will treat transition cost liabilities among customer groups is deferred to Phase 2.
- PG&E and SCE shall provide to interested parties estimates of the date the rate freeze will end and file advice letters to effectuate the end of the rate freeze as set forth herein.
- For PG&E and SCE, the end of the rate freeze shall not occur before the generation assets of each utility have been market-valued except as the law or the Commission determines otherwise.
- SCE, PG&E, and SDG&E shall refund to customers the difference between the amount of the CTC which the utilities were authorized to collect in order to recover the costs of their uneconomic generation costs during the rate freeze and the amounts which they actually collected during that period. Each utility shall allocate refunds to customer groups in the same proportion as they were collected. Refunds shall accrue interest equal to the utility's authorized rate of return.
- PG&E shall not extend the Incremental Cost Incentive Price mechanism past the date it has recovered its transition costs.
- PG&E, SDG&E, and SCE shall implement interim ratemaking mechanisms and rate design changes as proposed or as modified by this decision.
- PG&E and SCE shall propose to the Commission's Public Advisor methods for informing customers about the end of the rate freeze.
- PG&E, SCE, and SDG&E shall use the System Average Percent (SAP) method for allocating the CTC on an interim basis pending a final decision in Phase 2.
- PG&E, SCE, and SDG&E shall create accounting mechanisms for energy purchases from the Independent System Operation and PX, purchases which the Commission will continue to oversee unless the Commission determines otherwise.
- PG&E, SCE, and SDG&E shall continue to purchase all energy supplies from and sell all energy supplies to the PX unless the Commission determines otherwise.

- SCE, SDG&E, and PG&E shall state separately in their respective tariffs the portion of the post-transition CTC that is related to the refund of transition cost overcollections.

3. Except on set forth herein, the provisions of D.99-05-051 are adopted as final.

4. The Commission's Energy Division will verify the balances of relevant accounts in order to confirm each utility's date for ending the rate freeze.

This order is effective today.

Dated October 21, 1999, at San Francisco, California.

RICHARD A. BILAS
President
HENRY M. DUQUE
JOSIAH L. NEEPER
JOEL Z. HYATT
CARL W. WOOD
Commissioners

APPENDIX A

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(END OF APPENDIX A)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for Authority to Establish Post-Transition Period Electric Ratemaking Mechanisms (U 39-E)	Application No. 99-01-016
Application of San Diego Gas & Electric Company for Authority to Implement Post Rate Freeze Ratemaking Mechanics (U 902-M)	Application No. 99-01-019
Application of Southern California Edison Company (U 388-E) to: (1) Propose a Method to Determine and Implement the end of the rate Freeze; and (2) Propose Ratemaking Mechanisms Which Would Be In Place After the End of the Rate Freeze Period.	Application No. 99-01-034
Application of San Diego Gas & Electric Company: (1) Informing the Commission of the Probable Timing of the End of its Electric Rates Through Implementation of Interim Ratemaking Mechanisms Concurrent with Termination of the Electric Rate Freeze, and (3) for Authorization to Change Electric Rates by Adding New, and Revising or Terminating Existing, Rate and Rate Mechanisms and Rate Designs (U 902 E)	Application No. 99-02-029

STIPULATION ON THE METHOD OF DETERMINING THE END OF THE RATE FREEZE FOR SOUTHERN CALIFORNIA EDISON COMPANY

The parties to this Stipulation are Southern California Edison Company ("SCE"), Alliance for Retail Markets ("ARM")[1], the Federal Executive Agencies

[1] The Alliance for Retail Markets is comprised of Enron Corp., Green Mountain Energy Resources, LLC, New Energy Ventures, LLC, and PG&E Energy Service Corporation.

("FEA"), California Industrial Users ("CIU"), California Large Energy Consumers Association ("CLECA"), California Manufacturers Association ("CMA"), California Retailers Association ("CRA"), Commonwealth Energy Corp. ("Commonwealth") and Western Power Trading Forum ("WPTF"). SCE, ARM, FEA, CIU, CLECA, CMA, CRA, Commonwealth and WPTF are referred to herein collectively as "the Parties".

WHEREAS SCE filed its Application (A. 99-01-034) to, among other things: (1) propose a method to determine and implement the end of the rate freeze; (2) propose ratemaking mechanisms which would be in place after the end of the rate freeze period; (3) have the California Public Utilities Commission ("Commission") adopt certain criteria for determining the end of the rate freeze for SCE; and (4) have the Commission approve procedures for implementing the end of the rate freeze; and

WHEREAS SCE proposed to determine the end of the rate freeze for SCE on an after-the-fact basis; and

WHEREAS various parties to this stipulation proposed or supported the use of a forecast method to determine the end of the rate freeze for SCE; and

WHEREAS the Parties submitted direct and rebuttal testimony with respect to their proposed criteria for determining the end of the rate freeze for SCE and other issues, including recommending mechanisms for providing notice to consumers of the end of the rate freeze, and returning any overcollection in SCE's Transition Cost Balancing Account ("TCBA") to customers; and

WHEREAS the Parties have engaged in discussions with respect to their various proposals for ending the rate freeze for SCE in an effort to identify areas of agreement among them; and

WHEREAS the Parties held a Stipulation Conference, noticed by SCE and ARM in compliance with Rule 51.1(b) of the Rules of Practice and Procedure of the

Commission, at 11:00 a.m. on Monday, May 17, 1999, in the Commission's Hearing Room D, located at 505 Van Ness Avenue, San Francisco, California, 94102; and

WHEREAS, as a result of these discussions the Parties have identified several items of agreement with respect to their various proposals for ending the rate freeze; and

WHEREAS the Parties are willing to modify their positions so as to enable them to jointly recommend to the Commission a single, acceptable proposal for determining the end of the rate freeze for SCE,

NOW, THEREFORE, the parties hereby agree and stipulate as follows:

1. SCE will prepare and supply to all interested parties, on a quarterly basis, an End of Rate Freeze Matrix ("Matrix") similar to the one provided at the February 18, 1999 prehearing conference and marked as Exhibit 9 in this proceeding. The Matrix will estimate, by quarter, when the rate freeze period will end as to SCE given certain assumptions regarding the weighted average cost of PX energy and market valuation and will reflect the latest available recorded data. Consistent with Exhibit 9, SCE will use 2.5, 3.0, 3.5 and 4.0 c/kWh as the range for PX energy cost prices and assumed market valuation of SCE's remaining generation assets at one, two, and three times book value. SCE will modify these assumptions if they become invalid due to changed conditions. SCE will provide the quarterly Matrix 30 days following the end of each quarter commencing with the Commission's decision in Phase I of this proceeding.

2. Commencing at such time as either (1) the market valuation of SCE's remaining generation assets is known or can be estimated with reasonable certainty, or (2) SCE begins to record costs in the Accelerated Costs Account of its TCBA, SCE will prepare and supply to all interested parties, on a monthly basis, a Matrix which estimates the month in which the rate freeze in SCE's service territory will end. SCE will provide the monthly Matrix 30 days following the end of each month.

3. SCE will file a single post-transition advice filing to end the rate freeze in its service territory five days following the date upon which all the criteria for ending the rate freeze as to SCE have been satisfied. The parties to this stipulation agree that the criteria for determinng the end of the rate freeze for SCE should be:

A. The balance in the TRA is zero (or undercollected in accordance with the conditions set forth in paragraph 6 below);

B. The balance in the TCBA is overcollected;

C. All generation-related sunk costs are recovered;

D. All generation-related regulatory assets are recovered; and

E. SCE's remaining generation-related assets are market valued (the parties to this stipulation do not intend to resolve the issue of which methodology will be used to determine market valuation).

The Parties jointly advocate that the Commission expedite the review and approval of SCE's post-transition rates such that approval is provided as early as one day following but no later than 30 days after SCE submits the advice filing. In order to facilitate this expedited review and approval, within 60 days following a decision in Phase I of the Post Transition Ratemaking proceeding, SCE will provide draft tariff language, including sample calculations of its new post transition rates, prelimiary statement language and tariff provisions, to the Commission's Energy Division. SCE will put these new rates into effect upon authorization from the Commission after review by the Commission's Energy Division.

4. SCE will return all over-collections of generation-related transition costs recorded in the TCBA which result from an "after-the-fact" determination of the end of the rate freeze to customers. The overcollection will be returned to customers within the period between the date that the new post transition rates go into effect and the next regularly scheduled consolidated rate change unless this amortization period is not practical. In no case will this amortization period extend beyond one year

following the date that SCE's post-transition rates go into effect. In the event that the Commission uses a different allocation method for ongoing transition costs than that presently being utilized during the transition period, SCE agrees that the return of the overcollection will be made using the same allocation method as was used for collection of transition costs during the rate freeze period.

5. SCE agrees to separately state in its tariff the portion of the post-transition CTC which is related to the refund of over-collections of transition costs.

6. If all other criteria to end the rate freeze period have been met and an undercollection exists in SCE's TRA, the rate freeze period may end provided that the Commission authorizes SCE to transfer the TRA undercollected balance to the modified TCBA or other authorized recovery mechanism.

7. ARM withdraws its recommendations set forth in Exhibit 23 (Prepared Direct Testimony on Behalf of the Alliance for Retail Markets), at section II(B), starting on page 8 and concluding on page 12 (with the exception of the first full paragraph on page 10 and continuing through the carryover paragraph on page 11) as they apply to SCE. In addition, ARM withdraws its recommendation stated in the sentence starting on the bottom of page 15 and continuing to the top of page 16 with respect to the use of an interim market valuation in the context of a forecasting methodology as it applies to SCE.

8. FEA withdraws its recommendations set forth in Exhibit 14 (Testimony and Exhibits of Ralph C. Smith), commencing at page 3, line 28, through page 4, line 4, which is the last question and answer under the heading "Criteria for Determining the End of the Rate Freeze" and commencing at page 7, line 22, through page 9, line 4, entitled "Notification of and Effective Date for the End of the Rate Freeze," as they apply to SCE.

9. CLECA, CMA and CRA withdraw their joint recommendations set forth in Exhibit 21 (Testimony of Dr. Barbara R. Barkovich), at pages 5 through 7 (Question and Answer 10), insofar as those recommendations apply to SCE.

10. WPTF withdraws its recommendations set forth in Exhibit 23 (Direct Testimony of the Western Power Trading Forum on Phase I of the Post Transition Rate Design – End of the Rate Freeze), commencing at page 2, line 10, through page 5, line 11, and page 7, lines 17 through 19, insofar as those recommendations apply to SCE.

11. The parties to the stipulation jointly advocate that the Commission approve the following ratemaking treatment for adjustments that occur in the post rate freeze period:

A. Amounts which impact all customers (i.e., both bundled service and direct access) should be adjusted and then recorded in the modified TCBA;

B. Amounts which impact only bundled service customers and which were not reflected in either the TRA or the PX Charge/Credit during the rate freeze period should be adjusted and reflected in the Purchased Electric Commodity Account or other authorized mechanism related to bundled service customers only; and

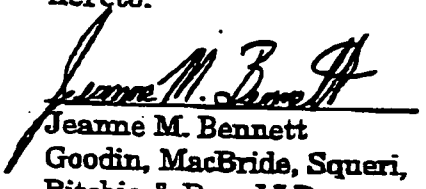
C. Amounts which were reflected in the TRA but not the PX Charge/Credit during the rate freeze period should be corrected by 1) providing a one-time PX credit true-up to direct access customers and 2) adjusting the modified TCBA to the extent that this true-up would have resulted in an increase or decrease to the amount of headroom calculated in the TRA during the rate freeze period.

12. The Parties agree jointly, and by executing and submitting this Stipulation to the Commission, that the agreement herein is just, fair, reasonable and in the public interest. The Parties acknowledge the value of including all active participants in this case in discussions regarding this Stipulation and have provided

an opportunity for all active participants in this case to participate in the Stipulation via the Stipulation Conference.

13. This Stipulation reflects a compromise of the Parties and is, therefore, indivisible. The Stipulation represents the entire agreement among the Parties with reference to this matter and may not be modified except upon written agreement of the Parties. This Stipulation supercedes all prior agreements and understandings among the Parties with respect to the subject matter of this Stipulation.

14. This Stipulation may be entered into in counterparts. Intending to be legally bound, the individuals executing this Stipulation represent and warrant that they have authority to execute this Stipulation on behalf of their respective entities and that, by executing this Stipulation, they intend to legally bind the Parties hereto.



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an opportunity for all active participants in this case to participate in the Stipulation via the Stipulation Conference.

13. This Stipulation reflects a compromise of the Parties and is, therefore, indivisible. The Stipulation represents the entire agreement among the Parties with reference to this matter and may not be modified except upon written agreement of the Parties. This Stipulation supercedes all prior agreements and understandings among the Parties with respect to the subject matter of this Stipulation.

14. This Stipulation may be entered into in counterparts. Intending to be legally bound, the individuals executing this Stipulation represent and warrant that they have authority to execute this Stipulation on behalf of their respective entities and that, by executing this Stipulation, they intend to legally bind the Parties hereto.

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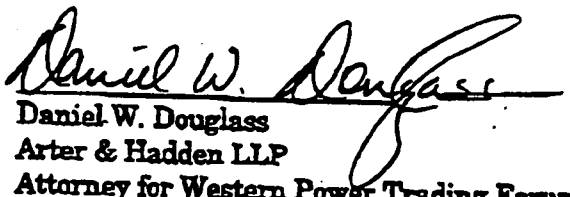

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(END OF APPENDIX B)