

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Consider the
Annual Revenue Requirement Determination
of the California Department of Water
Resources and related issues.

Rulemaking 11-03-006
(Filed March 10, 2011)

**PREHEARING CONFERENCE STATEMENT OF
PACIFIC GAS AND ELECTRIC COMPANY**

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In response to the August 15, 2011 Administrative Law Judge Seaneen M. Wilson's Ruling Setting a Prehearing Conference and Inviting Prehearing Conference Statements on the Allocation Issues, Pacific Gas & Electric Company (PG&E) submits this prehearing conference statement in anticipation of the prehearing conference on September 1, 2011.

I. INTRODUCTION

The California Department of Water Resources' (DWR) August 5, 2011, determination of revenue requirements for 2012 (Determination) raises issues that should be addressed by the California Public Utilities Commission (CPUC) in this proceeding.

PG&E recommends that these issues be addressed and resolved in a technical workshop with the required attendance of at least DWR, the CPUC, and the three investor-owned utilities (IOUs). Attendance by representatives of DRA and TURN also can be helpful because of their historical knowledge of past DWR proceedings at the CPUC.

II. ISSUES TO BE CONSIDERED

The key allocation issues from DWR's 2012 revenue requirement determination that should be addressed are:

1. It is expected that PG&E's share of the Determination will be negative. The procedure developed last year between DWR and PG&E for handling the flow of monies in a negative allocation situation should be re-affirmed. Also, the Commission should adopt findings of fact and ordering paragraphs reflecting the flow of money consistent with these procedures, similar to those it adopted in the 2011 DWR allocation proceeding.

2. DWR recently acknowledged that as a result of the Continental Forge Company et al. class action settlement agreement (Continental Forge Settlement),¹ it has been receiving energy settlement proceeds, covering the period 2006-2011, that have not been distributed to the IOUs consistent with the calculation of net benefits and costs in the prior December, 2008, IOU allocation settlement and decision.² These settlement proceeds, approximating \$269 million,³ should be distributed to the IOUs via this year's proceeding using the permanent allocation percentages in order to account for the prior miscalculation.

A. PROCEDURES SHOULD BE REAFFIRMED FOR HANDLING THE EXPECTED NEGATIVE REVENUE REQUIREMENTS OF PG&E AND FINDINGS SIMILAR TO THOSE IN THE 2011 DWR REVENUE REQUIREMENT ALLOCATION PROCEEDING SHOULD BE ADOPTED IN THIS PROCEEDING

During last year's DWR revenue requirement determination proceeding, PG&E, under the direction of the CPUC, negotiated with DWR to develop procedures for handling the flow of monies given a negative DWR revenue requirement cost allocation. The agreed upon procedures were reflected in the following document:

"Procedures Applicable to the Return of Net Negative DWR Power Charge Revenue Requirements, Revised to Reflect Agreement in Principle with PG&E 10/28/2010," contained in

¹ See Attachment 1

² March 8, 2011 email from Russell Mills of DWR to William Gavelis of PG&E

³ *Ibid.*

a November 8, 2010 email from Mike Wofford of DWR to Steve Roscow of Energy Division.
(See Attachment 2.)

Mechanically, PG&E's agreement with DWR separated the revenue requirement into a positive component (reflecting the marginal cost of power dispatched under PG&E's DWR contracts) and a negative component (reflecting the pass-through to PG&E's customers of the negative allocation based on forecasted dispatch). Each of these components was then processed under the adopted procedure.

PG&E respectfully requests that the Commission re-affirm these agreed-upon procedures and adopt findings and ordering paragraphs on this matter similar to those adopted in the last DWR allocation proceeding. By way of example, last year's finding of fact number 10 and ordering paragraph 1.a. are reproduced below with the words applicable to PG&E highlighted in bold. It would be helpful to include similar findings and orders in this year's decision, updated with this year's dollar amounts:

Finding of Fact No. 10. "DWR's revised 2011 revenue requirement for the Power Charge is \$509 million, which results in the allocated Power Charges to the customers of the three electric utilities as shown in Appendix A. **In 2011, DWR is forecast to collect \$207 million from PG&E's customers, \$620 million from SCE's customers, and \$169 million from SDG&E's customers. DWR will return approximately \$486 million to PG&E's customers in 2011.**" [Emphasis added.]

Ordering Paragraph 1.a. "As shown in Appendix A of this decision, the 2011 Power Charges allocated to the electric customers of Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company are set at \$0.08045, \$0.03952, and \$0.04989 per kilowatt-hour, respectively, and shall go into effect on January 1, 2011. **Pacific Gas and Electric Company will reduce the Power Charges allocated to its electric customers by \$280 million for 2011 in anticipation of the California Department of Water Resources returning approximately \$486 million to Pacific Gas and Electric Company's electric customers in 2011.**" [Emphasis added.]

B. DWR SHOULD DISTRIBUTE IN THIS PROCEEDING THE APPROXIMATELY \$269 MILLION OF SETTLEMENT PROCEEDS IT HAS NOT YET ALLOCATED TO EACH IOU.

In preparing its revenue requirement determination for each year of the period 2008 through 2011, DWR forecast the non-avoidable Sempra contract at its full cost, without any discount. Each IOU's share of the non-avoidable Sempra contract cost was based on that full non-discounted amount.

As a matter of fact, however, beginning in 2008, DWR began receiving a price discount on the Sempra contract of \$4.15 per MWh covering the period January 2006 through the end of the contract in September 2011. This price discount was a result of the Continental Forge Settlement.⁴

Based on information from DWR,⁵ it is PG&E's understanding that for the period August through December 2008 DWR did eventually distribute the proceeds it received that year from the Continental Forge Settlement to each IOU's Utility Specific Balancing Account (USBA) using the permanent allocation percentages; e.g., 42.2% to PG&E's customers, 47.5% to SCE's customers and 10.3% to SDG&E's customers. This 2008 distribution was approximately \$13 million for PG&E's ratepayers, \$14 million for SCE's ratepayers and \$3 million for San Diego Gas and Electric's (SDG&E) ratepayers. DWR, however, did not continue those Continental Forge Settlement allocations in 2009, 2010 and 2011.⁶ The Continental Forge Settlement proceeds for those three years, including catch-up payments for the period January 2006 through

⁴ This credit was supposed to have commenced on January 1, 2006. However, as a result of the California AG's challenge of the Continental Forge Settlement, Sempra did not begin applying the \$4.15 per MWh credit until mid-August 2008. At that time, Sempra agreed to pay the deferred amounts as an additional billing reduction over the remaining life of the contract (37 months).

⁵ March 8, 2011 email from Russell Mills of DWR to William Gavelis of PG&E

⁶ *Ibid.*

July 2008, are approximating \$269 million. These proceeds should be allocated and distributed to the three IOUs via this year's DWR revenue requirement determination proceeding using the permanent allocation percentages as was done previously in 2008.

As the CPUC is aware, in December 2008, the three IOUs reached a settlement that resolved each IOU's share of non-avoidable DWR contract costs using the permanent allocation percentages.⁷ These non-avoidable costs, including the Sempra contract, were based on DWR's revenue requirement forecast for the period 2009 through 2015, which did not reflect or inform the parties on the effects of the Continental Forge Settlement. DWR has confirmed⁸ that the Continental Forge Settlement discount was not included in the revenue requirement forecast it provided to the IOUs, and which was the basis of the IOU's December 2008 calculation of indifference payments in compliance with D.08-11-056. Thus, DWR has, in effect, been overcollecting revenues from the IOUs to cover the Sempra contract in excess of the amount it needed to cover that cost.

The simple remedy for this oversight is for the CPUC to adjust the three IOUs 2012 revenue requirements to correct this DWR miscalculation and overcollection by using the permanent allocation percentages to allocate the \$269 million in Continental Forge Settlement proceeds for those three years, including catch-up payments for the period January 2006 through July 2008, using the permanent allocation percentages as was done previously in 2008.

III. EVIDENTIARY HEARINGS AND TECHNICAL WORKSHOP

PG&E does not believe evidentiary hearings will be necessary to decide these issues. However, PG&E recommends that a technical workshop be held as soon as possible, including

⁷ SDG&E Advice Letter 2051-E, PG&E Advice Letter 3384-E, and SCE Advice Letter 2304-E, "Calculation of Indifference Payments in Compliance with Decision 08-11-056." (See Attachment 3.)

⁸ March 8, 2011 email from Russell Mills of DWR to William Gavelis of PG&E.

attendance by at least DWR, the CPUC and the three IOUs, with optional attendance, if desired, by representatives of DRA and TURN.

IV. PROPOSED SCHEDULE

The prehearing conference should be used to establish a date for the technical workshop and a schedule for issuing a decision, assuming that all issues can be resolved or briefed without hearings.

Respectfully Submitted,

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