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)

PG&E NOTICE OF *EX PARTE* COMMUNICATIONS

Pursuant to Rule 8.4(a) of the Commission's Rules of Practice and Procedure, Pacific Gas and Electric Company (PG&E) hereby gives notice of the following *ex parte* communications. The communications occurred on Monday, November 7, 2011, at approximately 10:00 a.m., and approximately 11:00 a.m. (serially), at the offices of the California Public Utilities Commission in San Francisco. The communications were oral and the attached handouts were provided. [Rule 8.4(a)(c)]

Jennifer Dowdell, Director, Regulatory Relations, PG&E, initiated separate communications with Steve St. Marie (Advisor to Commissioner Mark Ferron), and with Scott Murtishaw (Advisor to Commission President Michael Peevey), respectively. Also present for PG&E were Sujata Pagedar, Manager-Energy Proceedings, Joe Castillo, Manager, FERC Refunds, and Craig Buchsbaum, Attorney-Law. [Rule 8.4(b)]

Ms. Dowdell explained that the benefits of the Sempra and Continental Forge settlements/discounts, like 40 other DWR-related settlements to-date, should be allocated using the permanent allocation percentages to comply with the Commission's permanent allocation and indifference decisions; the terms of the joint utility advice filing; and the understanding of the State Court approving the Continental Forge Settlement. Ms. Dowdell, Ms. Pagedar, and Messrs. Castillo and Buchsbaum discussed the authorities and other considerations that support PG&E's position and rebutted the considerations set out in SCE's ex parte, dated October 18, 2011. [Rule 8.4(c)]

Respectfully submitted,

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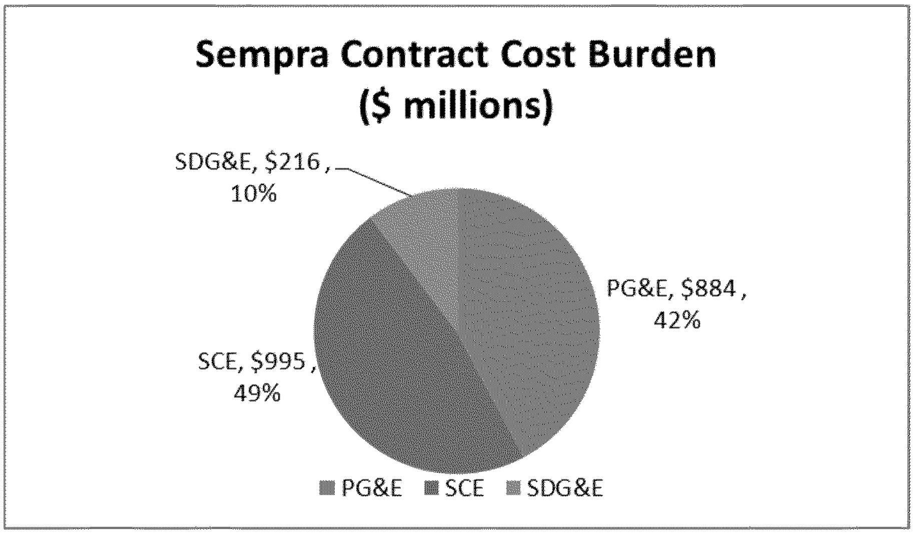
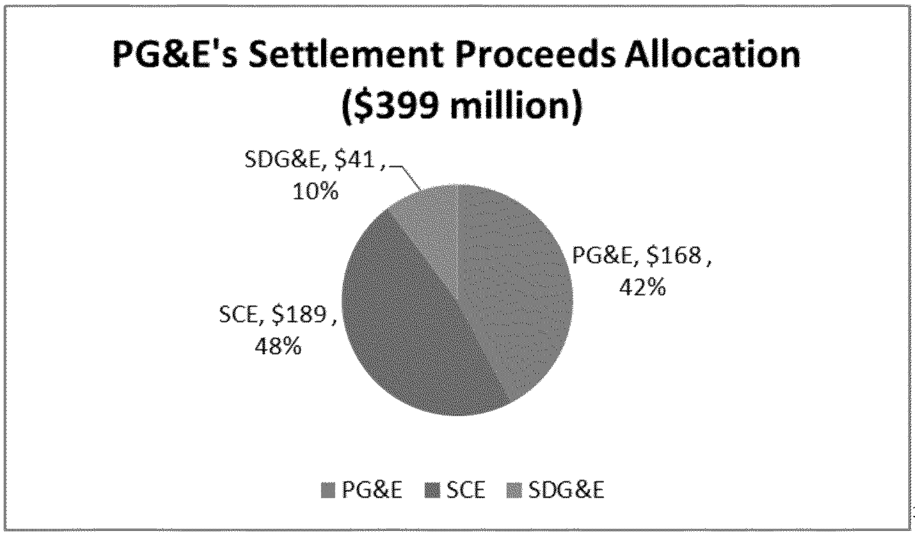
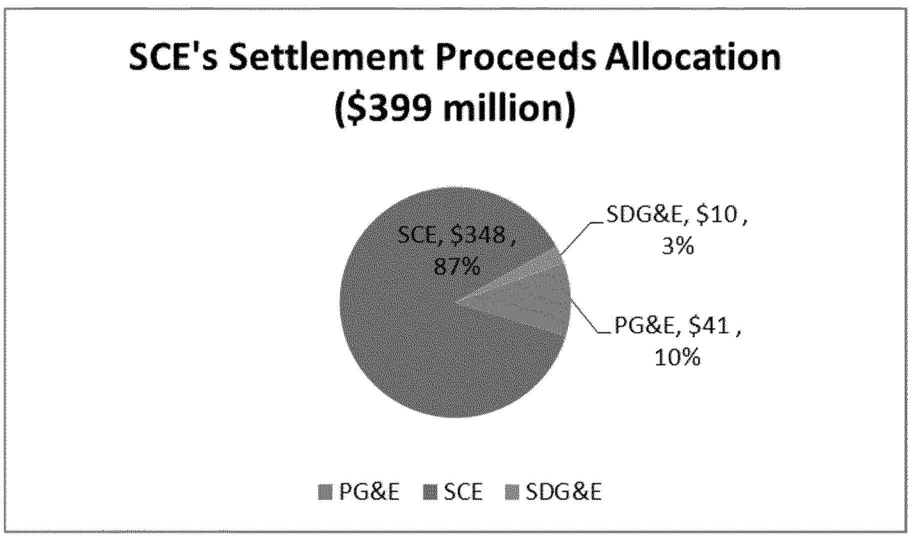
Dated: November 8, 2011

Attachments





[1]



[1] PG&E is using SCE's allocation amounts although PG&E believes SCE's figures contain a small error of approximately $3.6 million.

PACIFIC GAS AND ELECTRIC COMPANY
ALLOCATION OF 2012 DWR REVENUE REQUIREMENT (R. 11-03-006)

SUMMARY OF PG&E POSITION

- The Commission should make corrections so that PG&E's customers receive their CPUC-designated, 42.2% share of $399 MM in DWR contract settlements based on court and CPUC litigation.

- This correction needs to be made to comply with CPUC D05-06-060 and D.08-11-056, and the Joint Utility Filing implementing those decisions

- D.08-11-056, the Indifference Decision adopted specific procedures and computational methods expressly to keep utilities indifferent to CFC methodology, and to maintain the status quo in distributing costs and benefits.

- The utilities then made computations and submitted a joint compliance filing. DWR's numbers, however, which formed the basis for the utilities to compute the indifference payments, omitted critical amounts relating to the Continental Forge Settlement and did not treatthe discounts as future non-avoidable costs of the Sempra Contract.

- No party disputes that omitting the Continental Forge and Sempra Settlements from the indifference payment schedule means utilities are not kept indifferent to the CFC methodology as the Commission intended.

- PG&E's proposal to allocate the Continental Forge Discount using the fixed percentages does not involve opening new proceedings; it just correctly conforms to Commission decisions, the Joint Utility Advice Filing, and the historical treatment of settlement proceeds.

- PG&E proposal is consistent with the historical treatment of similar settlements. In over 40 settlements, the Commission has routinely applied the Permanent Allocations for fixed costs- 42.2% to PG&E's customers, 10.3% to SDG&E's customers and 47.5% to SCE's customers

- SCE's assertion that PG&E's request would *or should* reopen past decisions is analogous to claiming the IRS need revisit the fairness of the entire tax code when someone applies to make a correction on an individual return.

- SCE's approach – where it would retain nearly all of $399 MM of DWR contract settlements and discounts WHILE continuing to receive indifference payments that cover 52.5% of their non-avoidable costs – results in a nearly $130 MM transfer from PG&E's customers to SCE's.

POINT-BY-POINT RESPONSE TO SCE ISSUES

Issue	Continental Forge Discount	Sempra LT Contract Refund
Cost Allocation Certainty	Virtually all settlements[1] (40 to date) have been allocated consistently with fixed percentages (i.e., 47.5% to SCE; 42.2% to PG&E; and 10.3% to SDG&E). SCE's approach undermines this certainty.	Same. Would result in ongoing disputes over future settlement allocations
Consistency with Previous DWR Cost Allocation Decisions	SCE's proposal leaves PG&E's customers with 4.3% of settlement benefits and is contrary to Permanent Allocation[2] and Indifference Decisions[3] which required PG&E's customers to pay 42.2% of Contract Costs. SCE's approach to retain the value of the settlements also conflicts with Joint Utility Advice Filing and intent of Court proceedings approving settlement.	Inconsistent with treatment of 40 other settlements and Joint Utility Advice filing. Contrary to D. 03-10-087
Selective Application	SCE would treat this settlement different than other settlements that are consistently allocated using fixed percentages. SCE seeks to revisit Commission decisions and precedent when PG&E merely seeks to make conforming calculations.	SCE proposes a unique "look-back" treatment of this Settlement that is contrary to precedent and inconsistent with the allocation of all other settlements.
Long Term Equity	SCE's approach seeks to take advantage of a calculation error at the expense of PG&E's customers. Only PG&E's approach results in <u>all</u> customers sharing the benefit of the settlement consistent with the costs of the Sempra Contract that they have borne.	PG&E's approach allocates settlement proceeds consistent with responsibility for the underlying costs and consistent with the treatment of other settlements.
Cost Follows Contracts (Post-2008)	SCE approach seeks to retain both the indifference payments it received to maintain the permanent allocation % AND the entire benefit of the contract settlement	PG&E's approach allocates proceeds consistent with responsibility for the underlying costs and consistent with the treatment of other settlements

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[1] The only exception occurred when the terms of the Mirant Settlement specifically provided for an alternate allocation

[2] Decision allocates non-avoidable contract costs 47.5% to SCE, 42.2% to PG&E and 10.3% to SCE

[3] "The revised DWR cost allocation methodology adopted in this decision *maintains the equity of the permanent cost allocation methodology adopted in D.05-06-060 by implementing a "costs-follow-contracts" methodology with indifference payments* to keep each IOU's respective customers indifferent…"

AUTHORITIES

Decision/ Authority	**Holding**
Permanent Allocation Decision (D.05-06-060)	*"All parties agree that the allocation methodology that is adopted here should be permanent. We concur…. Annual litigation of the allocation methodology is not an efficient use of the parties' or the Commission's time and resources…. The Commission and the parties have now gained enough experience, particularly with the DWR contracts, that it is appropriate to make our allocation methodology for the DWR revenue requirement permanent, and eliminate the annual litigation process we have used to date."*[4]
	Decision allocates non-avoidable contract costs 47.5% to SCE, 42.2% to PG&E and 10.3% to SDG&E[5]
Indifference Decision (D.08-11-056)	"The revised DWR cost allocation methodology adopted in this decision *maintains the equity of the permanent cost allocation methodology adopted in D.05-06-060 by implementing a "costs-follow-contracts" methodology with indifference payments* to keep *each IOU's respective customers indifferent to the attempt to novate DWR contracts.*"[6]
Joint Utility Advice Filing (Advice Letters 2051-E (SDG&E), 3384-E (PG&E), and 2304-E (SCE))	*"The indifference payments made by an IOU, or received by an IOU, will equal the amount necessary to allocate the same amount of unavoidable DWR contract costs to the IOU's customers what would have been allocated under D.05-06-060."*[7]
	"The revised DWR cost allocation methodology [Cost Follows Contracts] does not in any way impact or affect the allocation of costs or benefits arising from or in connection with other claims, proceedings, or litigation [i.e., those not reflected in indifference computation]."[8]
Court Proceedings Approving Continental Forge Settlement (Motion to Approve Settlement)	*"Every California electricity ratepayer will benefit from the reduced cost of producing electricity attributable to the reduced natural gas costs resulting that will result from the Structural Relief achieved through the settlement. Electricity ratepayers other than ratepayers who purchase electricity from a municipality will receive additional benefits in the form of a unilateral $300 million price reduction to the electricity contract between the CDWR and an affiliate of the Sempra Defendants. The benefits of this price reduction would flow to the benefit of both of the existing certified classes based on their allocation of the costs associated with that contract in any given month."*[9]
D. 03-10-087 (El Paso Settlement Allocation)	Settlement allocations should be straightforward and not include look-backs.[10] This Resulted in settlements since 2004 being allocated using fixed percentages.
	"We also mean, to the extent reasonable, the avoidance of complex and controversial additional accounting and ratemaking adjustments that may lead to further litigation and use of the limited resources of parties and the Commission."[11]

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[4] PG&E's Opening Brief, dated Sept. 22, 2011, pg. 6/ D.05-06-060, mimeo, pp. 5-6

[5] D. 05-06-060, pg. 22, Ordering Paragraph 7

[6] D.08-11-056, Appendix 2, mimeo p. 1 #1, adopted in Ordering Paragraph 9

[7] D.08-11-056, Appendix 2, mimeo pg. 1 #2, adopted in Ordering Paragraph 9

[8] Joint Utility Advice Filing, pg. 3, quoted in PG&E's Opening Brief, dated September 22, pg. 13

[9] PG&E Opening Brief, dated Sept. 22, 2011, pg. 15, quoting from motion seeking preliminary approval of CF Settlement

[10] In resolving the allocation of El Paso Settlement proceeds, the Commission in D. 03-10-087 expressed it's preference for straight forward allocations, not involving look-backs, using existing allocations methodologies at the time the consideration is distributed

[11] PG&E Opening Brief, dated Sept 22, 2011 pg. 19/ D. 03-10-087, footnote 5, mimeo, pg. 9

Comparison of SCE and PG&E Proposals to Allocate Continental Forge Discount and Sempra Settlement Funds 2009-2011*

SCE's Proposal

	PG&E	SCE	SDG&E	Total
Permanent Allocation %	**42.2%**	**47.5%**	**10.3%**	**100%**
Indifference Payment Calculations (based on 12/2008 forecast of naturalgas prices)	$ 1,152	$ 1,296	$ 281	$ 2,729
less Settlements and Discounts*	$ (41)	$ (348)	$ (10)	$ (399)
Resulting Remittances (based on 12/2008 forecast of naturalgas prices)	$ 1,111	$ 949	$ 271	$ 2,331
Actual Allocation % Under SCE's Proposal	**47.7%**	**40.7%**	**11.6%**	**100.0%**

PG&E's Proposal

	PG&E	SCE	SDG&E	Total
Permanent Allocation %	**42.2%**	**47.5%**	**10.3%**	**100%**
Indifference Payment Calculations (based on 12/2008 forecast of natural gas prices)	$ 1,152	$ 1,296	$ 281	$ 2,729
less Settlements and Discounts*	(168)	(190)	(41)	(399)
Resulting Remittances (based on 12/2008 forecast of naturalgas prices)	$ 984	$ 1,107	$ 240	$ 2,331
Actual Allocation % Under PG&E's Proposal	**42.2%**	**47.5%**	**10.3%**	**100.0%**

* Sempra Settlement Funds are applied to 2012 DWR RRQ. Continental Forge Discounts were realized Jan 2009-Sept 2011, but assumed applied all in 2012 for this analysis.

** Assumes value of Sempra and Continental Forge Settlements to be $130MM and $269 MM respectively. Note that total Continental Forge discounts were $299 MM of which approximately $30 MM was allocated correctly prior to 2008 Indifference Decision (D.08-11-056).