

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Integrate
and Refine Procurement Policies and
Consider Long-Term Procurement Plans.

Rulemaking 12-03-014
(Filed March 22, 2012)

**REPLY COMMENTS OF THE CITY AND COUNTY OF SAN
FRANCISCO ON JUDGE GAMSON'S PROPOSED TRACK 1 DECISION**

January 22, 2013

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A. Introduction and Summary.

Pursuant to Rule 14.3 of the Commission's Rules of Practice and Procedure, the City and County of San Francisco (City) respectfully files these reply comments on the Proposed Decision of Judge Gamson in Track 1 of this Proceeding mailed on December 24, 2012 (PD). For the reasons set forth in the City's opening comments, and contrary to the opening comments of Pacific Gas and Electric Company (PG&E), the PD errs in failing to adopt standards for application of the Cost Allocation Mechanism (CAM). In addition, consistent with the opening comments of the South San Joaquin Irrigation District (SSJID), the PD also errs in failing to exempt all municipalizations from the CAM. The City agrees with SSJID that (1) applying the CAM to municipal departing load is contrary to Section 365.1(c)(2)(A)¹; (2) D.08-09-012 does not support applying the CAM to municipal departing load; and (3) it is unfair and contrary to the principle of indifference to apply CAM to municipal departing load. The City supports the changes to the Findings of Fact and Conclusions of Law set forth in the Appendix to the SSJID Opening Comments.

B. Applying CAM to Municipal Departing Load is Contrary to Section 365.1(c)(2)(A).

As SSJID details, Section 365.1(c)(2)(A) applies the CAM only to bundled customers, direct access customers and community choice aggregation customers. SSJID Opening Comments at 3. Section 365.1(c)(2)(A) does not apply CAM to customers of a Publicly Owned Utility (POU). Thus, applying the CAM to any municipalization is contrary to state law. If the legislature had intended CAM cost recovery to apply to municipal departing load it could have so stated but it did not.

¹ All references are to the Public Utilities Code unless otherwise stated.

C. D.08-09-012 Does Not Support Applying the CAM to Municipal Departing Load.

The PD makes reference to D.08-09-012 for the rules on application of the CAM to large municipalizations. There are several problems with this assessment. First, D.08-09-012 was issued before Section 365.1(c)(2)(A) was enacted in 2009, and must hence be made consistent with the new language in state law. Second, as SSJID points out, D.08-09-012 does not determine that nonbypassable charges should apply to all large municipalizations; it provides for proceedings to determine whether such imposition is appropriate on a case-by-case basis. It is worth noting moreover that D.08-09-012 is clear that municipal departing load should not be subject to any nonbypassable charges for commitments made after the load departed. D.08-09-012 at 28-30. Imposing CAM on large municipalizations for IOU commitments made after the municipalization takes place would be inconsistent with D.08-09-012, as well as Section 365.1(c)(2)(A).

D. Applying CAM to Municipal Departing Load is Unfair.

Finally, as SSJID notes, imposing CAM on municipal departing load is unfair because POU's have an extensive track record of procuring the resources needed to meet their load. See SSJID Opening Comments at 4-5. POU's have never charged bundled investor owned utility (IOU) customers for the reliability benefits bundled customers obtain from these POU investments. Further, unlike CCA and direct access customers, there is no mechanism for POU customers to return to bundled service at predetermined rates after a large municipalization. Finally, unlike the case of community choice aggregators and energy service providers, there is no mechanism to transfer RA credit from the IOUs to POU's.

For all these reasons, the City agrees with SSJID that the PD should be revised to clarify that CAM does not apply to municipal departing load.

Respectfully submitted,

January 22, 2013

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