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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 15-02-012

ASSIGNED COMMISSIONER'S SCOPING MEMO AND RULING REGARDING 2021 CALIFORNIA DEPARTMENT OF WATER RESOURCES REQUEST FOR A BOND CHARGE NEGATIVE REVENUE REQUIREMENT AND RELATED ISSUES

This scoping memo and ruling sets forth the category, issues to be addressed, and schedule of the proceeding pursuant to Public Utilities (Pub. Util.) Code § 1701.1 and Article 7 of the Commission's Rules of Practice and Procedure.

1. Procedural Background

This scoping memo and ruling addresses the scope of issues covered by this rulemaking, and sets forth the procedures and schedule that will be followed to address the California Department of Water Resources' (DWR) request that the Commission approve a Bond Charge negative revenue requirement -- said otherwise, a refund -- of the excess monies collected from the electricity customers of investor owned utilities Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas & Electric Company (SDG&E) (collectively, the investor-owned utilities (IOUs)), and to direct further steps in this proceeding.

Due to the 2000-2001 energy crisis, DWR engaged in bond financing in order to purchase electrical power to supply the needs of retail customers in the state. Since 2001, pursuant Water Code §§ 80110 and 80134 and Decision (D.) 02-02-051, DWR has submitted its annual revenue requirement determination to the Commission. Subsequently, the Commission's primary obligation since that time has been to calculate, revise, and impose corresponding DWR Bond Charges and Power Charges that collect these costs from the electric customers of PG&E, SCE, and SDG&E.

In 2015, DWR determined that all Power Charges had been collected. DWR requested that the Commission terminate the imposition of the Power Charges costs upon the IOUs' electricity customers. The Commission directed the IOUs accordingly.

In 2020, DWR determined that all Bond Charges had been collected. DWR requested that the Commission terminate the imposition of the Bond Charge costs upon the IOUs' electricity customers. The Commission directed the IOUs accordingly.

On August 5, 2021, DWR served upon the proceeding's Service List a Notice identifying an excess \$170,700,000 in the Bond Charge account and \$12,800,000 in the Power Charge account (the Bond Charge account statement was later corrected to reflect that there would remain \$11,600,000 in the Bond Charge account after the proposed refund¹). DWR proposed that the excess Bond Charge monies be refunded through the IOUs to electrical customers. DWR also referenced on-going litigation related to DWR's position related to the

¹ On September 3, 2021, DWR revised the August 5, 2021, Memorandum that accompanied the Notice to reflect a correction to the remaining amount in the Bond Charge account after the putative refund (the date identified on that corrective Memorandum remains August 5, 2021): this corrected Memorandum is included here as Attachment 1.

energy crisis that might also result in additional monies to be refunded to IOU electrical customers. DWR proposes to use the remaining funds in the Power Charge account to fund the pending litigation that seeks additional refunds for IOU electrical customers.

On August 11, 2021, the assigned Administrative Law Judge (ALJ) issued a Ruling setting a prehearing conference (PHC) for September 2, 2021, proposing the proceeding schedule and the scope of issues. The Ruling also directed parties to meet and confer and file a Joint PHC Statement addressing the proposed schedule and scope of issues, and also addressing specific questions regarding the refunding of the Bond Charge monies, the on-going energy crisis litigation, and the closure of the proceeding. On August 30, the parties, after conferring with DWR, filed a Joint PHC Statement addressing some of the Ruling's questions.

On September 2, 2021, the PHC was held, with all parties and with DWR appearing by telephone. Based upon the Joint PHC Statement and the statements made in the PHC, it was evident that the parties had differing proposals regarding the refunding of Bond Charge monies to electrical customers, as well as differing views regarding the IOU allocation of those monies, and the closure of the proceeding. As a result of the PHC, on September 3, 2021, the ALJ issued a further Ruling directing the parties to again meet and confer and provide additional information regarding the refund and its possible processes.

On September 14, 2021, the parties filed a Joint Statement with additional information. In it, the IOUs (in consultant with DWR) identified the relative refund amounts to be distributed, explored how those refunds could be handled, and provided their thoughts as to the proceeding's ongoing status.

After considering the relevant history of this on-going Rulemaking proceeding, the DWR Memorandum, the Joint PHC Statement, the discussion that took place at the PHC, and the Joint Statement with additional information, I have determined the issues and schedule of the proceeding to be as set forth in this scoping memo.

2. Issues

This rulemaking was initiated to address: 1) the requests by DWR to determine the appropriate revenue requirements regarding Power Charges and Bond Charge costs upon the electricity customers of PG&E, SCE, or SDG&E; 2) any issues concerning the servicing orders and operating orders between DWR and PG&E, SCE, or SDG&E; and, 3) any other issues relating to DWR's Power Charge and Bond Charge monies and any issues outstanding from the previous Rulemaking (R.) 13-02-019 concerning this matter.

Based upon the totality of all factors considered, the following scope of issues shall be addressed in this proceeding:

1. What is the appropriate methodology and timing for a Bond Charge overcollection refund to ratepayers?
2. Are there any other issues that need to be addressed regarding appropriate disposition of funds in the Bond Charge account and/or the Power Charge account?
3. When should the Commission close this proceeding?
4. Are any safety considerations raised by the proceeding that affect the ability of PG&E, SCE, and SDG&E to comply with the safety requirements of Pub. Util. Code § 451 in their administration, management, and dispatch of fuel and purchased power related to this proceeding?

3. Need for Evidentiary Hearing

There are no issues of material disputed fact. At the PHC, the parties agreed that no evidentiary hearing would be necessary. Accordingly, an evidentiary hearing is not needed.

4. Schedule

The schedule for processing DWR's request for the Commission to direct a negative revenue requirement regarding the overcollection of Bond Charge monies and related issues was discussed at the PHC and referenced in the Joint Statement of additional information. After consideration regarding how to accommodate the party proposals received, the following schedule is adopted here, and may be modified by the assigned Commissioner or ALJ as required to promote the efficient and fair resolution of the application:²

EVENT	DEADLINE
Projected Issuance of Proposed Decision	October 28, 2021
Comments on Proposed Decision	November 17, 2021
Reply Comments on Proposed Decision	November 22, 2021
Projected Final Commission Decision	December 2, 2021

It is anticipated that this proceeding will conclude within 18 months of the Memorandum.

Pursuant to Rule 13.13 of the Commission's Rules of Practice and Procedure, in ratesetting proceedings a party has the right to make an oral argument before the Commission, provided that the party makes such request by motion within the time and in the manner specified in the scoping memo.

² This proposed schedule was discussed at the PHC, and no party or participant objected.

In the current rulemaking, a party must make such request in its reply comments on the Proposed Decision, which are due by November 22, 2021. The proceeding will stand submitted for decision by the Commission as of the due date for those comments, unless oral argument is scheduled. In such case, the proceeding will stand submitted upon conclusion of oral argument. However, the assigned Commissioner or ALJ may issue a ruling to change the submission date to a different date.

5. Category of Proceeding/*Ex Parte* Restrictions

This ruling confirms the Commission's prior determination that this is a ratesetting proceeding. Accordingly, *ex parte* communications are restricted and must be reported pursuant to Article 8 of the Commission's Rules of Practice and Procedure.

6. Public Outreach

Pursuant to Pub. Util. Code § 1711(a), I hereby report that the Commission sought the participation of those likely to be affected by this matter by noticing it in the Commission's monthly newsletter that is served on communities and businesses that subscribe to it and posted on the Commission's website.

7. Response to Public Comments

Public comment regarding the proceeding has been received through the Commission's public comment portal. Parties may, but are not required to, respond to written comments received from the public. (*See* Pub. Util. Code § 1701.1(g).) Parties may do so by posting such response using the "Add Public Comment" button on the "Public Comment" tab of the docket card for the proceeding.

8. Intervenor Compensation

Pursuant to Pub. Util. Code § 1804(a)(1), a customer who intends to seek an award of compensation must file and serve a notice of intent to claim compensation by October 4, 2021, 30 days after the prehearing conference.

9. Public Advisor

Any person interested in participating in this proceeding who is unfamiliar with the Commission's procedures or has questions about the electronic filing procedures is encouraged to obtain more information at <https://www.cpuc.ca.gov/about-cpuc/divisions/news-and-public-information-office/public-advisors-office> or contact the Commission's Public Advisor at 1-866-849-8390 or 415-703-2074 or 1-866-836-7825 (TYY), or send an e-mail to public.advisor@cpuc.ca.gov.

10. Filing, Service, and Service List

The official service list has been created and is on the Commission's website. Parties should confirm that their information on the service list is correct and serve notice of any errors on the Commission's Process office, the service list, and the ALJ. Persons may become a party pursuant to Rule 1.4.

When serving any document, each party must ensure that it is using the current official service list on the Commission's website. Persons who are not parties but wish to receive electronic service of documents filed in the proceeding may contact the Process Office at process_office@cpuc.ca.gov to request addition to the "Information Only" category of the official service list pursuant to Rule 1.9(f).

This proceeding will follow the electronic service protocol set forth in Rule 1.10. All parties to this proceeding shall serve documents and pleadings using electronic mail, whenever possible, transmitted no later than 5:00 p.m., on

the date scheduled for service to occur. Rule 1.10 requires service on the ALJ of both an electronic and a paper copy of filed or served documents.

When serving documents on Commissioners or their personal advisors, whether or not they are on the official service list, parties must only provide electronic service, and must not send hard copies of documents to Commissioners or their personal advisors unless specifically instructed to do so.

11. Assignment of Proceeding

Clifford Rechtschaffen is the assigned Commissioner and Jason Jungreis is the assigned ALJ and presiding officer for the proceeding.

IT IS RULED that:

1. The scope of this proceeding is described above.
2. The schedule of this proceeding is as set forth above.
3. Evidentiary hearings are not needed.
4. The presiding officer is Administrative Law Judge Jason Jungreis.
5. The category of the proceeding is ratesetting.

Dated October 4, 2021, at San Francisco, California.

/s/ CLIFFORD RECHTSCHAFFEN

Clifford Rechtschaffen
Assigned Commissioner

ATTACHMENT 1