



*Pacific Gas and  
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April 11, 2005

DOCKET OFFICE  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

Re: Order Instituting Rulemaking on Commission's Proposed Policies and Programs  
Governing Post 2003 Low-Income Assistance Programs – R.04-01-006

Dear Sir/Madam:

Enclosed for filing are an original and five (5) copies of

**COMMENTS OF PACIFIC GAS AND ELECTRIC COMPANY ON ALJ THOMAS'  
DRAFT INTERIM OPINION APPROVING 2005 LOW INCOME ENERGY  
EFFICIENCY (LIEE) AND CALIFORNIA ALTERNATIVE RATES FOR ENERGY  
(CARE) PROGRAMS FOR PACIFIC GAS AND ELECTRIC COMPANY, SOUTHERN  
CALIFORNIA EDISON COMPANY, SOUTHERN CALIFORNIA GAS COMPANY,  
AND SAN DIEGO GAS & ELECTRIC COMPANY**

Please file the original and return an endorsed stamped copy in the envelope provided.

Thank you for your assistance with this matter.

Sincerely,

/s/

Chonda J. Nwamu

CJN:pmj

Enclosures

cc: Administrative Law Judge Steven A. Weissman  
All Parties of Record in R.04-01-006 (via electronic mail)

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

Order Instituting Rulemaking on the Commission's Proposed Policies and Programs Governing post-2003 Low-Income Assistance Programs.	Rulemaking 04-01-006 (Filed January 8, 2004)
In the Matter of the Application of PACIFICORP for Approval of 2005 Low-Income Assistance Program Budgets.	Application 04-06-038 (File June 30, 2004)
In the Matter of the Application of Southwest Gas Corporation (U 905 G) for Approval of Program Year 2005 Low-Income Assistance Program Budgets.	Application 04-07-002 (Filed June 30, 2004)
Application of Southern California Gas Company (U 904 G) for Approval of Program Year 2005 Low-Income Assistance Programs and Funding.	Application 04-07-010 (Filed July 1, 2004)
Application of San Diego Gas & Electric Company (U 902 M) for Approval of Program Year 2005 Low-Income Assistance Programs and Funding.	Application 04-07-011 (Filed July 1, 2004)
Southern California Edison Company's (U 338-E) Application Regarding Low-Income Assistance Programs for Program Year 2005.	Application 04-07-012 (Filed July 1, 2004)
Application of Pacific Gas and Electric Company (U 39 M) for Approval Of The 2005 California Alternate Rates for Energy and Low Income Energy Efficiency Programs and Budget.	Application 04-07-013 (Filed July 1, 2004)
IN THE MATTER of the Application SIERRA PACIFIC POWER COMPANY (U 903), for an Order Approving its 2005 California Alternate Rates for Energy (CARE) and Low Income Efficiency (LIEE) Plans and Budgets.	Application 04-07-014 (Filed July 1, 2004)
In the Matter of the Application of Avista Corporation for Approval of Program Year 2005 Low-Income Assistance Program Budgets.	Application 04-07-015 (Filed July 1, 2004)
In the Matter of the Application of the SOUTHERN CALIFORNIA WATER COMPANY (U 133 W) Regarding Low Income Assistance Programs for its Bear Valley Electric Service Customers for Program Year 2005.	Application 04-07-020 (Filed July 8, 2004)

Application of Alpine Natural Gas Operating Company No. 1 LLC in Compliance with Decision 03-12-016 (PY 2004 Low Income Energy Efficiency (“LIEE”) and California Alternate Rates For Energy (“CARE”) program Plans).

Application 04-07-027  
(Filed July 2, 2004)

In the Matter of the Application of West Coast Gas Company (U-910-G) For Approval of Program Year 2005 Low-Income Assistance Program Budgets.

Application 04-07-050  
(Filed July 29, 2004)

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Attorneys for:  
PACIFIC GAS AND ELECTRIC COMPANY

Dated: April 11, 2005

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**I. INTRODUCTION**

In accordance with Rule 77.2 *et seq.* of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission” or “CPUC”), Pacific Gas and Electric Company (“PG&E”) hereby submits these Comments on the Draft Decision (“DD”) of Administrative Law Judge Thomas authorizing the investor owned utilities’ (“IOU’s”) CARE and LIEE programs and funding for the 2005 calendar year. PG&E supports and appreciates the DD’s approval of PG&E’s proposed LIEE 2005 budget, as well as approval of the proposed CARE administrative budget. By these Comments, PG&E addresses the following issues:

- A. The Filing Deadline for the 2006-2007 Low Income Program Applications
- B. The Implementation Date For Collection of Contractor Cost Information
- C. PG&E’s Proposed 70% Electric, 30% Gas LIEE Cost Allocation
- D. Correction of Dates for the Statewide Impact Evaluation of IOUs’ LIEE Programs

- E. Clarification of PG&E's CARE Subsidy Budget
- F. Clarification of the Term of the Utility LIOB Member
- G. Treatment of Franchise Fees Related to Electric Versus Gas PPP Funds
- H. Adoption of the IOUs' CO Settlement
- I. PG&E's Provision of Combustion Appliance Safety Testing and Natural Gas Appliance Testing
- J. The Directive in Ordering Paragraph 31 that Utilities Hold LIEE and CARE Funds "In Trust"

## **II. DISCUSSION**

### **A. The June 1, 2005 Filing Deadline For The 2006-2007 Low Income Program Applications As Proposed in the DD Does Not Allow IOU's Sufficient Time to Conduct Public Workshops and Prepare Their Respective Program Applications**

PG&E commends the DD for adopting the IOUs' proposal to adopt a two-year program cycle for the LIEE and CARE programs and budget.

PG&E requests that the DD be modified to change the filing deadline for the 2006-2007 Low Income Program Applications to July 1, 2005 at the earliest. As currently drafted, the DD requires that program applications be filed no later than June 1, 2005, with public workshops conducted 60 days prior to filing. This schedule is impossible to comply with because the proposed deadline for holding public workshops -- 60 days before the June 1<sup>st</sup> application deadline -- is April 1, 2005 which has already passed. Given the inability to meet the proposed workshop schedule, PG&E requests that the DD be modified to allow sufficient time after a final decision is issued to hold public workshops and adequately prepare the 2006-2007 program application.

PG&E appreciates that the Commission, ORA and other interested parties need enough time to evaluate program proposals before they are adopted, and that utilities will also need adequate implementation time between program adoption and program commencement at the beginning of year 2006. These interests, however, must be balanced against the time necessary for IOUs to effectively conduct public workshops and prepare the 2006-2007 program

applications. Given these equally important interests, PG&E proposes a July 1, 2005<sup>1/</sup> deadline for the IOUs' 2006-2007 program applications with public workshops held no later than 40 days prior to the 2006-2007 Application filing. Although the proposed July 1, 2005 schedule including public workshops will be aggressive, PG&E believes it can prepare an application by that date if the Decision is adopted in April. However, if a final decision in this proceeding is issued after April 2005, PG&E requests that 2006-2007 program applications be due 60 days following Decision adoption.

**B. The DD Should Be Modified to Clarify That the Collection of Contractor Cost Information Will Begin as Part of the IOUs 2006 Programs**

PG&E will meet and confer with other IOUs to develop consistent budget templates for use by IOU contractors and report results to the Commission within 60 days of a final Decision as set forth in the DD. However, PG&E requests that the measure cost information not be required until January 2006.

Given that PG&E does not currently require contractors to provide measure cost information broken down as required by the DD, a reasonable implementation period is necessary. As directed in the DD, IOUs will be required to submit a report on the results of the IOUs' meet-and-confer 60 days after a final Decision. If a Decision is adopted in early May, the status report will be due in early July. Even beyond the status report, PG&E will need to execute a contract change order with the contractors. Realistically, the action items necessary to change the way contractors provide measure cost information will not be complete until late Fall 2005. Given that PG&E must implement new contracts for the 2006 program year, it will be

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<sup>1/</sup> PG&E notes that new Title 24 guidelines become effective October 1, 2005. These code changes are expected to impact the LIEE program. PG&E is not likely to be able to fully investigate and understand program impacts in time to incorporate them into a July or August Application filing, and takes this opportunity to inform the Commission that the Utility may need to update its Application program estimates once it has a better understanding of Title 24 impacts on the LIEE program.

efficient to change the contractors' measure cost reporting requirements at that time. For these reasons, PG&E requests that the collection of contractor cost information begin as part of the 2006 program.

**C. The Trend of Increasing Electric LIEE Expenditures and Decreasing Gas Expenditures Has Continued Since the Filing of the Application and a 70% Electric And 30% Gas Allocation As Proposed By PG&E is Justified**

The trend of electric LIEE expenditures outpacing gas LIEE expenditures has continued since the filing of PG&E's Application and PG&E reiterates its request for a 70% electric/ 30% gas allocation. The DD rejects PG&E requests for a 70%/ 30% electric/ gas LIEE cost allocation and questions whether the trend of increasing electric LIEE expenditures and decreasing gas LIEE expenditures will continue beyond the 64% electric and 34% gas split that was substantiated by the 2004 data available at the time the Application was filed. The current available data demonstrates that the trend of increasing electric LIEE expenditures has continued warranting a 70% - 30% allocation as requested.

For the first three months of 2005, electric expenditure as a share of total expenditure has actually increased to 66%. Based on program managers' assessment and actual program data, the shift in expenditures toward electric and away from gas has continued. The DD should be modified to reflect proactive program management and set a 70-30 ratio of electric to gas revenue requirements.

**D. The DD Should be Modified to Correct a Date Related to the Statewide Impact Evaluation of the IOUs' LIEE Programs**

The DD should be modified to correct what appears to be an inadvertent error in the dates for the statewide impact evaluation on the IOUs' LIEE programs. The DD currently states that "[a] statewide impact evaluation on the IOUs 2004 LIEE programs will occur in 2005." (See DD at p. 73). Based on a March 17, 2005 letter from the Commission to Southern California Edison

approving a joint utilities request to circumnavigate evaluation of the 2004 LIEE programs with an impact evaluation of the 2005 LIEE programs, the DD should be corrected to read “A *statewide impact evaluation on the IOUs’ 2005 LIEE programs will occur in 2006.*”

**E. PG&E Seeks to Clarify the Estimate of Its 2005 CARE Subsidy Budget Provided in the Application**

PG&E seeks to clarify that the number it provided as its 2005 estimated Subsidies & Benefits for the CARE budget -- \$191.3 million-- does not include an estimate of 2005 Avoided Surcharges. The \$191.3 million set forth in the “Subsidies & Benefits” row for PG&E in the DD at Table 3 “*Large IOU 2005 Authorized CARE Budgets*” is a forecasted estimate of the 2005 CARE rate discount only.

**F. The DD Should Clarify That the Utility Member of the Low Income Oversight Board is a One Year Term That Rotates Between Utilities on an Annual Basis**

The DD should clarify that the utility member of the LIOB serves a one year term and that the position rotates between utilities on an annual basis. The DD provides conflicting statements regarding the term the IOU representative serves on the LIOB. The DD states that it “adopts the IOUs’ suggestions that the IOU representative rotate annually...” DD at p. 76 However, the DD also groups the IOU representative position (i.e., position 6) with other LIOB positions “carrying one year terms at first and then reverting back to two year terms to continue the staggering of terms.” DD at p. 76. PG&E believes that the utility member position (Position 6) was erroneously grouped with the positions that serve a temporary one-year term reverting to a two year term. PG&E agrees that the utility member term should be for one year rotating between utilities annually and seeks clarification of this issue in a final decision.

**G. The DD Should Not Require Utilities to Exclude Electric Surcharges in Calculating Franchise Fee Payments Because Unlike the Gas Surcharge Legislation (AB 1002) Which Structures Gas PPP Funds as Taxes, No Equivalent Legislation Exists For Electric PPP Funds**

The collection of gas PPP funds as a tax and resulting exclusion of such funds from franchise fee payments derives from gas PPP legislation (AB 1002), but no equivalent legislation exists for electric PPP funds. The DD provides that similar to the utilities' current practice of excluding gas PPP funds from franchise fee calculations, utilities shall now also exclude electric PPP funds from the franchise fee calculations. Specifically, the DD provides that in "D.04-08-010, the Commission found that franchise fees are not directly related to the public purpose programs, and...directed all utilities to exclude surcharges in calculating their franchise fee payments." The DD states that while D.04-08-010 "applied only to gas utilities, the reasoning is equally appropriate for electric utilities...and directs that all electric utilities exclude surcharges in calculating franchise fee payments." DD at p.72-73. PG&E questions whether it is appropriate to treat both gas and electric PPP funds the same when, unlike gas PPP legislation, no equivalent legislation exists structuring electric PPP funds as a tax.

Given that no legislation exists structuring electric PPP funds as taxes, PG&E believes it is appropriate to continue accounting for electric PPP funds as utility revenue upon which franchise fees are calculated. The DD does not recognize that electric and gas PPP funds are treated differently for purposes of franchise fee payments due to explicit gas PPP legislation, i.e., AB 1002. Further, the DD does not make clear whether it contemplates that electric PPP funds should be collected as a tax and remitted to the Board of Equalization similarly to the treatment of gas PPP funds. Because certain categories of customers are exempt from paying taxes, the treatment of electric PPP funds as a "tax" would reduce the customer base required to pay electric PPP funds. Moreover, another consequence of excluding electric PPP funds from

franchise fee calculations would be to significantly reduce the amount of revenue received by California cities and counties. For these reasons, PG&E requests that the DD be modified to remove the new mandate that utilities exclude electric PPP funds from franchise fee calculations.

**H. The DD Should Include an Ordering Paragraph Explicitly Adopting the Utilities' Carbon Monoxide ("CO") Settlement Consistent with the Language in the Text of the DD, And the DD Should be Modified to Clarify that PG&E Did Not Change its Position on Safety As it Relates to CO Testing**

PG&E commends the DD for approving the IOUs' settlement on carbon monoxide testing and natural gas appliance testing as set forth in the text of the DD at pp 61 through 70. To ensure that the Commission's adoption of the proposed settlement is procedurally proper, PG&E requests that the DD be modified to include an Ordering Paragraph expressly approving the CO settlement of the IOUs.

With respect to the discussion of the CO settlement, PG&E also requests clarification on its position on safety related to CO testing. As currently drafted, the DD implies that PG&E compromised its position on safety without adequate justification. (*See DD "PG&E has now dropped its safety-based objection, and is fully in support of the new, consistent standards." at p.66*) To the contrary, PG&E did not compromise its position on safety. Rather PG&E agreed that the new dual read meters proposed in the settlement would enable the detection of unsafe conditions thereby satisfying PG&E's safety concern. To clarify PG&E's position on safety, PG&E requests that the above-quoted sentence on page 66 of the DD be modified to read "PG&E has now dropped its safety-based objection *due to the fact that the new dual read meters provide more accurate information about appliances' CO levels*, and is fully in support of the new, consistent standards." (proposed language in italics).

**I. The DD Should Be Modified to Address the Issue of PG&E's Continued Provision of Combustion Appliance Safety Testing and Infiltration Measures to Homes With Non-Utility-Fueled Combustion Appliances**

The DD fails to address the issue of whether PG&E must continue to provide infiltration measures to PG&E space-heated homes with non-PG&E-fueled combustion appliances. This is an important issue that was included in PG&E's Application but is not addressed in the DD. As set forth more fully in PG&E's Application, D.03-11-020 mandated that PG&E continue providing infiltration measures to PG&E-space heated homes with non-PG&E-fueled combustion appliances until the Commission ruled on the Standardization Team's recommendations filed on March 12, 2004. The Standardization team recommended that homes with IOU space heating but which use non-IOU combustion fuels for other end uses *not* be provided infiltration reduction measures under the LIEE program, and that these homes be referred to other non-IOU entities, such as LIHEAP agencies for installation of infiltration-reduction measures.

The current process requires PG&E to implement a pre-Combustion Appliance Safety (CAS) Test in homes with propane or kerosene appliances. The standardized Natural Gas Appliance Test (NGAT) is used for customers in the LIEE program who have PG&E-fueled combustion appliances. As a consequence of conducting different types of tests dependent upon the customer's appliances, program administration and oversight expenses are increased. As articulated in the Standardization Team's recommendation, PG&E proposes that homes which use IOU space heating but do not have IOU combustion fuel appliances for other end uses should not be eligible for testing under the LIEE program. PG&E requests that this issue be addressed in the final decision.

**J. The DD Should Be Modified to Remove the Language in Ordering Paragraph 31 Requiring that Utilities Hold the Authorized CARE and LIEE Funds In Trust Solely For the Benefit of the Commission**

The language in OP 31 requiring that IOUs hold LIEE and CARE funds “in trust solely for the benefit of the Commission” is an unnecessary anachronism from the energy crisis. Language similar to it was instituted in Decision 01-05-033, undoubtedly as a result of PG&E’s bankruptcy, when there was concern that LIEE funds would be allocated *pro rata* among PG&E’s creditors. That concern has gone away, first by a May 16, 2001 order by the Bankruptcy Court for the Northern District of California that all Public Purpose Program surcharge funds were outside of PG&E’s bankruptcy estate, and secondly because PG&E has emerged from bankruptcy and paid all of its creditors 100% of their legitimate claims, plus interest. PG&E agrees that LIEE and CARE funds collected through the public purpose surcharge are to be used solely for LIEE and CARE as directed in the DD. As directed by the Commission, the IOUs are the administrators of the IOU Low Income programs.<sup>2/</sup> As administrators of the LIEE and CARE programs, IOUs have a fiduciary obligation to collect the designated public purpose funds and to ensure that such funds benefit customers via LIEE and CARE, but that is traditionally done through balancing accounts. There is absolutely no reason for Public Purpose Program funds to be physically separated from all other utility funds. The IOUs should not be required to establish a separate legal trust for the purpose of holding LIEE and CARE funds. Balancing accounts adequately serve the purpose of segregating funds for accounting purposes, to assure that funds are collected and disbursed appropriately. Ordering

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<sup>2/</sup> There was a concern arising during the late 1990s that utilities would no longer be the administrators of the Public Purpose Programs, and would become mere collection agents for the ultimate administrators. Now Public Utilities Code Section 2790 assures that utilities will remain administrators of the Low-Income Energy Efficiency programs, and D. 05-01-055 makes utilities permanent administrators of the energy efficiency programs.

Paragraph 31 should be deleted. In the alternative, OP 31 could be modified to state as follows:

“All CARE and LIEE funding authorized today , including those funds collected through the public purpose surcharge, are ratepayer funds collected solely for the purpose of deploying the approved CARE and LIEE programs for the benefit of customers.”

### **III. CONCLUSION**

PG&E appreciates the work the Administrative Law Judge has put into preparing the DD authorizing the IOUs LIEE and CARE programs and funding for 2005. PG&E will continue to work with Commission Staff, including Energy Division, the Office of Ratepayer Advocates, the other IOUs and the public to ensure that California Low Income programs are the most effective in the country.

For the reasons stated above, PG&E respectfully requests that Commission provide the relief requested herein by making modifications to the text of the DD consistent with the provided comments, and by making the proposed modifications to the Findings of Fact and Conclusions of Law as set forth in Attachment A.

Respectfully submitted,

CHRISTOPHER J. WARNER  
ANDREW L. NIVEN  
CHONDA J. NWAMU

/s/

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April 11, 2005

**APPENDIX A**  
**PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW**

**Proposed Changes to Findings of Fact**

8. All electric and gas IOUs should exclude *gas* surcharge revenues in calculating their franchise fee payments.

9. The IOUs should [*delete the word “not”*] *continue* to subtract FF&U from *electric* revenues when crediting revenues to the CARE and LIEE balancing accounts, or debit the balancing accounts for FF&U.

**Proposed Changes to Conclusions of Law**

9. The evidence does [*delete the word “not”*] support PG&E’s request to allocate 70% of its LIEE budget on electric programs and 30% on gas programs. *Delete the second sentence.*

19. *The IOUs CO settlement is adopted as set forth in this Decision.* The IOUs’ CO settlement meets the requirements of Rule 51, in that it is reasonable in light of the whole record, consistent with law, and in the public interest.

CERTIFICATE OF SERVICE BY ELECTRONIC MAIL

I, the undersigned, state that I am a citizen of the United States and am employed in the City and County of San Francisco; that I am over the age of eighteen (18) years and not a party to the within cause; and that my business address is Pacific Gas and Electric Company, Law Department B30A, 77 Beale Street, San Francisco, CA 94105.

I am readily familiar with the business practice of Pacific Gas and Electric Company for collection and processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, correspondence is deposited with the United States Postal Service the same day it is submitted for mailing.

On the 11<sup>th</sup> day of April 2005, I served a true copy of:

**COMMENTS OF PACIFIC GAS AND ELECTRIC COMPANY ON ALJ THOMAS'  
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**[XX]** By Electronic Mail – serving the enclosed via e-mail transmission to each of the parties listed on the official service list for R.04-01-006 with an e-mail address.

**[XX]** By First Class Mail – serving the enclosed via US mail to all parties on the official service list for CPUC Docket R.04-01-006 where electronic service cannot be effectuated.

I certify and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 11<sup>th</sup> day of April 2005 at San Francisco, California.

/s/

\_\_\_\_\_  
PATRICIA M. JORDAN