STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, *Governor*

PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

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TO: PARTIES OF RECORD IN RULEMAKING 04-01-006 AND
APPLICATION 06-04-014

This is the draft decision of Administrative Law Judge (ALJ) Kim Malcolm. It will not appear on the Commission's agenda for at least 30 days after the date it is mailed. The Commission may act then, or it may postpone action until later.

When the Commission acts on the draft decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the draft decision as provided in Article 19 of the Commission's "Rules of Practice and Procedure," accessible on the Commission's website at http://www.cpuc.ca.gov. Pursuant to Rule 77.3 opening comments shall not exceed 15 pages.

Comments must be filed with the Commission's Docket Office. Comments should be served on parties to this proceeding in accordance with Rules 2.3 and 2.3.1. Electronic copies of comments should be sent to ALJ Malcolm at kim@cpuc.ca.gov . All parties must serve hard copies on the ALJ and the Assigned Commissioner, and for that purpose I suggest hand delivery, overnight mail or other expeditious methods of service. The current service list for this proceeding is available on the Commission's website, www.cpuc.ca.gov.

/s/ ANGELA K. MINKIN
Angela K. Minkin, Chief
Administrative Law Judge

ANG:sid

Attachment

Decision **DRAFT DECISION OF ALJ MALCOLM (Mailed 7/10/2006)**

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)
Application of Pacific Gas and Electric Company Seeking Approval of an Augmentation to Its Authorized 2006 Low Income Energy Efficiency Program Budget.	Application 06-04-014 (Filed April 14, 2006)

OPINION APPROVING AUGMENTATION TO THE 2006 LOW INCOME ENERGY EFFICIENCY PROGRAM BUDGET OF PACIFIC GAS AND ELECTRIC COMPANY AND ADDRESSING THE COMPLIANCE FILINGS OF SAN DIEGO GAS & ELECTRIC COMPANY, SOUTHERN CALIFORNIA GAS COMPANY AND SOUTHERN CALIFORNIA EDISON COMPANY REGARDING LOW INCOME ENERGY EFFICIENCY PROGRAM BUDGETS

I. Summary and Procedural Background

This decision approves an augmentation to low income energy efficiency (LIEE) program funding for 2006 and 2007 for the Pacific Gas and Electric Company (PG&E). Specifically, we authorize PG&E to augment its 2006-2007 LIEE budget by $31.8 million, all of which is to be spent on the installation of LIEE measures. We disallow any additional funding for administrative and regulatory compliance costs because PG&E already has adequate funds for this type of work.

This decision also finds that the LIEE budgets of Southern California Edison Company (SCE), Southern California Gas Company (SoCalGas) and San Diego Gas & Electric Company (SDG&E) do not require augmentation at this time, and authorizes minor modifications to their LIEE programs, as they request.

This decision follows two other recent actions, which were issued with the objective of providing greater protection to low income customers from the effects of high natural gas prices this past winter. In October 2005, the Commission issued Decision (D.) 05-10-044, which, among other things, expanded income eligibility for the California Alternatives Rates for Energy (CARE) and LIEE programs from 175% of the Federal poverty guidelines to 200% and approved efforts to speed up the installation of the most cost-effective energy efficiency measures. In a subsequent decision, D.05-12-026, the Commission approved new measures to be included in the LIEE and the increase of participation in LIEE programs by 5-10% in 2006. To effect this increased effort, D.05-12-026 also directed the utilities to file augmented 2006 budget applications no later than April 14, 2005. PG&E's application and the compliance filings of SCE and SDG&E are filed in compliance with that directive.

II. Budget Augmentations for SDG&E and SoCalGas

In a compliance filing dated April 14, 2006, SDG&E reports that its current 2006 LIEE program budget of $13.368 million and $2.6 million in unspent funds from 2005 (carryover funds) will allow it to exceed its 2006 LIEE program goals proposed in Application (A.) 05-06-013 without budget augmentation. Similarly, SoCalGas reports that its 2006 budget of $33.325 million and $6.6 million in carryover funds will allow it to exceed its LIEE program goals proposed in

A.05-06-012. For these reasons, the utilities are not asking for additional funds. However, they do seek permission to continue one aspect of the winter program.

In D.05-10-044, the Commission authorized SDG&E and SoCalGas to utilize the 2000 census tract data to identify specific areas of its service territory likely to contain high concentrations of low-income customers, and to permit customers in those areas to enroll in the LIEE program with a simple process to certify income level. SDG&E/SoCalGas call this the Targeted Self-Certification Enrollment Process (Self-Certification). Customers in other areas who qualify for the program would still be required to document their income levels. Authorization for this, as well as other aspects of the special winter initiative approved in D.05-10-044, expired on April 30, 2006.

SDG&E reports the Self-Certification resulted in a 21% increase in customers enrolling in the LIEE program during November and December of 2005 compared to the level of enrollment during the same period in 2004. SoCalGas reports that it increased customer enrollment by approximately 12% over the same period. In a motion filed March 30, 2006, SDG&E and SoCalGas seek to continue offering Self-Certification through the end of 2006. By doing so, SDG&E and SoCalGas expect to exceed their respective goals for the number of homes treated by approximately 18% and 20%.

The utilities assert that the use of Self-Certification saved money by reducing contractor fees because contractors no longer need to determine customer eligibility and enrollment. Self-Certification also leaves contractors with time to reach more customers. The utilities also report that Self-Certification has made it easier for eligible LIEE participants to enroll in the program.

No one has objected to this proposal. It offers great appeal, because it promises to cut costs and increase program participation. For these reasons, we will permit SDG&E and SoCalGas to continue allowing for targeted Self-Certification for the rest of 2006. While there is some risk that some non-qualifying customers might receive program benefits, we find the benefits are likely to be offsetting. The utilities should assess this potential risk and propose changes to the Self-Certification process if necessary to overcome this concern.

III. Budget Augmentation for SCE

Like SDG&E and SoCalGas, SCE does not seek a budget augmentation. In D.05-04-052, the Commission approved a budget of $27.4 million for SCE's 2005 LIEE program budget. SCE reports having spent approximately $22.6 million of those funds in 2005, leaving a carryover of approximately $4.8 million. In D.05-12-026, the Commission approved SCE's requested budget of $27.4 million for 2006. This, combined with the carryover of approximately $4.8 million, leaves SCE with a total of nearly $32.2 million for 2006. SCE asserts that this amount is more than sufficient to serve at least 5-10% more homes than it had originally expected for 2006. However, SCE also seeks an ongoing program modification, based on recent experience.

SCE requests authority to continue providing CARE enrollment and recertification over the telephone using SCE's Voice Response Unit. SCE used this process through the winter initiative to qualify customers simply and automatically for LIEE refrigerator replacement and compact fluorescent lights. SCE asks to continue this program and use it for all LIEE measures.

The Division of Ratepayer Advocates (DRA) filed a response to SCE's motion. DRA does not object to SCE's request for continuation of the two CARE enrollment and recertification policies. Nor does DRA object to continuation of the automatic eligibility of CARE customers for the two LIEE measures. However, DRA does not support automatic qualification of CARE customers for all measures because that would eliminate any verification that customers are income eligible, posing a risk that non-qualifying customers would receive unneeded subsidies. DRA recommends that SCE either continue its practice of seeking income documentation for LIEE services beyond the two services adopted in D.05-10-044 or apply a census-based targeted method for enrolling LIEE customers, similar to that adopted for SoCalGas and SDG&E.

SCE addresses this issue by noting that it would provide no LIEE services before it receives a signed CARE application. A provision of that application holds the customer at risk for erroneously claiming that it is eligible to receive CARE benefits. SCE states that extending the automatic qualification approach to include all eligible LIEE program measures satisfies the goal of increasing services to qualified customers by simplifying procedures while guarding against installing measures erroneously. Nonetheless, SCE states that it is amenable to DRA's suggestions, and that it can revisit the automatic qualification approach in its next program application, as appropriate. In this context, it appears that SCE is referring to the proposal to allow automatic qualification only for refrigerators and compact fluorescent lights.

We applaud SCE, as well as the other utilities, for their continuing efforts to make the CARE and LIEE programs more effective and efficient. We will allow SCE to continue both its telephonic CARE registration and recertification process, and its automatic qualification of CARE customers to receive refrigerators and compact fluorescent lights. The telephone-based CARE services should speed enrollment and cut costs because after the intake call, there is no need for further review or paperwork. The automatic enrollment procedure facilitates the dissemination of the most energy efficient measures to a greater number of customers. Although the goal is to maximize the availability of funds for qualified low income customers, a modest number of erroneous installations is tolerable if it allows for more rapid implementation and cuts administrative costs. If experience shows that the process results in a substantive number of erroneous installations, we will reconsider this strategy.

SCE's proposal to expand the automatic qualification approach to include all LIEE measures seems promising for at least several reasons. First, it is preferable to treat the whole house when measures are installed, rather than requiring a second visit to some homes at a later time. Second, if the error rate is low, then automatic qualification may make as much sense for other measures as it does for refrigerators and lights. However, reserving judgment on this proposal when we will review the new program applications that the utilities will file in July allows for more measured consideration. We will not approve the expansion now, but will review the proposal if SCE includes it in the next application for the 2007-2008 LIEE budget.

IV. Budget Augmentation for PG&E

A. Overview of PG&E's Proposal

PG&E seeks an additional $21.3 million for its 2006 LIEE budget, and authority to spend an additional $12 million in unspent funds carried over from the 2005 LIEE budget. PG&E's existing budget for 2006 LIEE programs is currently $56.53 million. The increases it requests in its augmentation would bring that budget to just under $90 million or an increase of about 38% for 2006.

PG&E states the additional funds will assure it can implement the additional LIEE measures authorized by D.05-12-046 and the increased program participation anticipated by that order. The additional energy efficiency measures include high efficiency central air conditioners and duct testing and sealing. PG&E proposes the extra funding would permit it to install qualified energy efficiency measures in 62,500 homes in 2006, an increase from 56,000 homes in 2005 or 11%. PG&E states the additional funds will also permit it to pay for the cost of new Title 24 rules that require contractors to assure leakage on heating, ventilation and air conditioning (HVAC) ducts are limited to a certain percentage of fan flow. PG&E proposes to increase its Public Purpose Program rates to reflect the increased revenue requirement for LIEE funding, consistent with the current rate design practice of charging each rate group by an equal percentage and exempting residential rates for usage up to 130% of baseline quantities.

B. Response of DRA

DRA filed a response to PG&E's application. The response states that DRA does not have adequate information to assess PG&E's proposal to increase its LIEE budget. The pleading asks for more specific information about the actual costs of installations and equipment as a foundation for estimating future costs.

C. Discussion

PG&E's application to augment its 2006-2007 LIEE budget represents an increase of about 38% in order to increase LIEE participation by about 11% and assure adequate funds for the additional LIEE measures adopted in D.05-12-026. As DRA observes, PG&E's application does not provide information to support its estimates of additional costs and does not identify how additional funds in each category of spending might affect the number of installations or, alternatively, how such costs are affected by higher unit costs. The assigned

Administrative Law Judge (ALJ), DRA and the Commission's Energy Division sought and received additional information from PG&E which would provide the foundation for more analysis of PG&E's application.

PG&E's application seeks a substantial budget increase to accomplish what the three other utilities say they can do with their existing budgets plus modest amounts of carry over funds. All four utilities must implement additional program elements and all have committed to increasing program participation by at least 5%. All four utilities must also implement new program elements and each has carry-over funds that are equal to about 20% of original 2006 program budgets.

The assigned ALJ sought information from PG&E to explain why it is seeking such a large budget increase when the other utilities state their existing budgets are adequate to accomplish their program objectives. PG&E's response reiterates reasons for additional spending that are common to all four utilities, which does not explain differences between the utilities. PG&E provides data to show that PG&E has treated more homes than the other utilities, but does not provide information about total and unit costs that would permit a comparison to the other utilities. By itself, information showing that PG&E is doing more than the other utilities is not useful because PG&E's existing budget is almost as large as all three other utilities combined. The only useful distinction PG&E makes between its own budget and those of the other utilities is that PG&E's plans to increase the number of targeted homes by 11% compared to the other utilities' increases of 5%. The 6% differential in utility targets, however, does not explain a budget increase of $21.3 million.

In response to inquiries from the Energy Division, PG&E provided additional information about specific program costs. DRA did not supplement its original pleading and we therefore presume it is satisfied with PG&E's request.

We note that the budget adopted for PG&E's LIEE program in D.05-05-019 includes an amount for administration and regulatory compliance (or "overheads") that, as a percentage of total budgets, is almost triple those of the other utilities:

PG&E	17.3%
SCE	6.73%
SoCalGas	5.70%
SDG&E	6.22%

PG&E proposes here to increase its administrative and regulatory budget from $9.8 million by $1.5 million for 2006. We do not know the reasons for PG&E's extraordinarily high overheads and an exploration of them would be outside the scope of this proceeding. Still, we do not intend to compound the discrepancy here. We therefore adopt PG&E's proposed augmentation with the condition that it may not allocate any additional funds to administration or regulatory compliance costs. We reduce the authorized amount by $1.5 million, which would have been allocated to overheads. Therefore, PG&E's total budget would be approximately $89 million and would include a total budget for administrative and regulatory compliance costs of $9.8 million. The allocation to overhead is more than 11% of the total budget and almost twice the amount allocated to these costs in the budgets of the three other utilities. We intend to disallow any administrative and regulatory compliance costs in excess of $9.8 million for the budget period.

As for program costs more generally, a measurement and evaluation study is to be conducted in 2006 pursuant to D.05-04-052. At that time, we expect to assess PG&E's costs for program elements and overheads. In the meantime, we expect PG&E to make effective and efficient use of the funds it has on behalf of the state's low-income customers.

Consistent with our policy to promote energy efficiency and to provide related services to low-income customers, we agree that PG&E's budget augmentation proposal is reasonable for 2006-2007 with the conditions discussed herein.

V. PG&E's Tankless Water Heater Pilot Program

Tankless water heaters save energy by heating water as it is needed, rather than storing large quantities of hot water for future use. When a customer opens the hot water tap, cold water travels through a pipe into the unit and activates a heating element that heats the water as it makes its way to the faucet.

PG&E seeks funding in its 2006 LIEE budget for a tankless water heater pilot project with the California State Department of Community Services and Development (California Community Services) and the Community Action Agency of San Mateo County, Inc. (SMCA), a community based organization providing weatherization services to low income clients. California Community Services oversees California's participation in the federally-funded Low Income Home Energy Assistance Program (LIHEAP) program.

PG&E explains the purpose of this pilot project would be to determine whether tankless water heaters should be included among the energy efficiency measures being offered to qualifying low-income households as part of the LIEE program.

The pilot program would include a field assessment during which SMCA would gather information from 20 homes that qualify for Low-Income Energy

Efficiency and/or LIHEAP services. It would then install tankless water heaters in five of the homes, and assess their viability as part of the Low-Income Energy Efficiency and LIHEAP programs. Another purpose of the field component would be to identify logistical barriers to measure installation and criteria for measuring program success.

The following tasks are included in the field assessment component:

- Developing water distribution system requirements
- Developing an assessment protocol
- Income qualifying potential pilot participants
- Conducting an assessment of twenty home using the assessment protocol
- Developing installation criteria for crews (and conducting installation training)
- Selecting five-homes for tankless water heater installations (and conducting the installations)
- Conducting training for pilot participants
- Developing a monitoring protocol (for data collected from pilot homes)

The second component would be a laboratory comparison of a conventional 40-gallon gas water heater and a tankless water heater to determine:

- The amount of energy and water savings derived from the tankless water heater unit.

- The energy usage of an older 40-gallon gas water heater.

- The amount of gas saved (by using a tankless heater) by reducing the warm-up time.

- The amount of gas/electricity saved by reducing tank (heat) loss.

PG&E states that the primary focus of the pilot project is not a determination of cost effectiveness (savings derived from the use of tankless water heaters) because the California Energy Commission and Lawrence Berkeley National Laboratory are studying this issue. PG&E argues that the pilot project would complement the work of these two agencies because it would focus on barriers unique to low-income customers, such as system type and location, structural problems, and delayed maintenance.

PG&E proposes to run the pilot program for 15 months. The total program budget is approximately $62,000. PG&E states that it can cover the cost for this program with its existing LIEE funding.

Compared to PG&E's overall program budget, $62,000 is a small sum. However, the size of the request does not justify approving it if the proposal cannot stand on its own. Consumers in Asia, Europe, and the United States already use tankless water heaters. Whether or not the technology is reliable and cost-beneficial should be a matter of public information. If, beyond this, the California Energy Commission and Lawrence Berkeley Laboratory are studying the commercial viability of this measure, it is not clear why we should approve the use of low income program funds to conduct a side-by-side water heater laboratory comparison. It is also unclear why a program leading to the installation of five water heaters should require thousands of dollars for education and outreach, and similar amounts to assess each installation.

We share PG&E's interest in determining whether the tankless water heater could be a promising addition to the package of LIEE measures offered to low income customers. It is reasonable for PG&E to install five such heaters and to assess their performance. However, outreach programs and lab tests do not seem necessary or particularly useful. PG&E could ask its Low-Income Energy

Efficiency program contractors to look for good candidate homes while providing other program services. After the customers have used the water heaters for a while, PG&E could contact customers for their assessments of how well the appliances work, and look at past bills to assess the resulting savings.

It is unclear, based on the information provided, why the appliance should not cost hundreds of dollars, instead of thousands; and why installation should not add hundreds of dollars to the cost, instead of thousands. If PG&E faces a particularly challenging installation that would cost thousands of dollars, it should not take a study to determine that a tankless water heater would be a bad investment for that home. We will approve PG&E's request for authority to install five tankless water heaters and to spend up to $10,000 of LIEE program funds. We also encourage PG&E to work cooperatively with California Community Services and SMCA in this effort.

VI. Assignment of Proceeding

Dian Grueneich is the Assigned Commissioner and Steve Weissman and Kim Malcolm are the assigned ALJs in this proceeding.

VII. Comments on Draft Decision

The draft decision of the ALJ in this matter was mailed to the parties in accordance with Section 311(g)(1) of the Public Utilities Code and Rule 77.7 of the Rules of Practice and Procedure. Comments were filed on __________________, and reply comments were filed on _______________________.

Findings of Fact

1. SDG&E and SoCalGas report that their self-certification efforts in their LIEE programs have cut costs and increased program participation.

2. SCE's telephonic CARE registration and recertification, and its program to automatically qualify CARE customers for refrigerator and lighting replacement as part of the LIEE program have cut program costs and streamlined procedures.

3. SCE's proposal to automatically qualify CARE customers for all LIEE program elements is premature.

4. The additional funding requested by PG&E for its LIEE program may be reasonable given the commitments it has made toward additional LIEE installations.

5. PG&E's LIEE administrative and regulatory compliance budget for the period in question is almost three times that of the other three utilities as a percentage of total budget. PG&E has not provided any justification for increasing the size of its administrative and regulatory compliance budgets.

6. PG&E's proposed budget for a tankless water heater pilot program is excessive because the work it proposes to undertake is not required in order to determine the viability of tankless water heaters.

Conclusions of Law

1. The Commission should authorize SoCalGas and SDG&E to continue to implement their automatic enrollment procedures for LIEE programs.

2. The Commission should authorize SCE to continue to automatically qualify CARE customers for LIEE refrigerator and light bulb replacement.

3. The Commission should authorize SCE to continue to enroll and recertify CARE customers over the telephone.

4. The Commission should consider SCE's proposal to automatically qualify CARE customers for all LIEE program elements in SCE's next program application.

5. PG&E's LIEE budget for 2005-2006 should be increased by $31.8 million, including $12 million in carryover costs.

6. PG&E should not be authorized to allocate any of the additional funds authorized today for administrative or regulatory compliance costs. The funds authorized today should be spent only on LIEE program installations. PG&E should be prepared to justify the costs of its additional program installations and to make efficient use of all LIEE funds.

7. PG&E should be authorized to spend up to $10,000 on a tankless water heater pilot program that results in the installation of at least five tankless water heaters.

O R D E R

IT IS ORDERED that:

1. Southern California Gas Company (SoCalGas) and San Diego Gas & Electric Company (SDG&E) are hereby authorized to continue to implement their automatic enrollment procedures for low income energy efficiency (LIEE) programs.

2. Southern California Edison Company (SCE) is hereby authorized to continue to automatically qualify California Alternatives Rates for Energy (CARE) customers for LIEE refrigerator and light bulb replacement.

3. SCE is hereby authorized to continue to enroll and recertify CARE customers over the telephone.

4. PG&E's LIEE budget for 2006-2007 is hereby increased by $31.8 million, including $12 million of unspent LIEE funds carried over from past budget periods. PG&E shall not allocate any of the additional funds authorized today for administrative or regulatory compliance costs. The funds authorized today

shall be spent only on LIEE program installations. PG&E shall be prepared to justify the costs of its additional program installations and shall make efficient use of all LIEE funds.

5. PG&E is authorized to spend up to $10,000 on a tankless water heater pilot program that results in the installation of at least five tankless water heaters.

6. Application 06-04-014 and Rulemaking 04-01-006 are closed.

This order is effective today.

Dated ____________________________, at San Francisco, California.

INFORMATION REGARDING SERVICE

I have provided notification of filing to the electronic mail addresses on the attached service list.

Upon confirmation of this document's acceptance for filing, I will cause a copy of the Notice of Availability to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the copy of the Notice of Availability is current as of today's date.

Dated July 10, 2006, at San Francisco, California.

/s/ FANNIE SID
Fannie Sid

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