

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.
And Related Matters:

R. 04-01-006

A.05-06-005  
A.05-06-009  
A.05-06-012  
A.05-06-013

**REPLY COMMENTS OF DISABILITY RIGHTS ADVOCATES**

DISABILITY RIGHTS ADVOCATES

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October 19, 2005

## **I. INTRODUCTION**

Pursuant to the schedule adopted by ALJ Weissman in his October 7, 2005, ruling, Disability Rights Advocates files this reply to the submitted comments on the utilities and interested parties' proposals to mitigate the impact of anticipated natural gas price increases on low-income customers this winter.

In representing persons with disabilities, DRA represents a specific constituency of low-income persons who will be uniquely impacted by the anticipated increase in natural gas prices this winter. DRA has and continues to emphasize the needs of this population and their disproportionate dependence on both natural gas and electricity to maintain their independence and safety. While DRA appreciates the efforts of all parties to assist low income customers this winter, we remain concerned that the needs of consumers with disabilities, including low-income consumers with disabilities, will not be met.

## **II. DISABILITY RIGHTS ADVOCATES ENDORSES EXPANDED IMPLEMENTATION OF THE UTILITIES' PROPOSALS**

### **A. CARE Proposals**

#### **1. Increasing the Income Eligibility for Persons with Disabilities and Seniors**

Proposals by all the utility companies request that the Commission modify the CARE income eligibility to expand the income guidelines for seniors and customers with disabilities from 175% to 200% of the Federal Poverty Guidelines. DRA endorses this modification. However, DRA does not support PG&E's comment that this expansion should not, at this time, be made permanent. Changing income eligibility levels over the course of only a few months is a recipe for consumer confusion and error as to their eligibility. Indeed raising the income eligibility level was intended to increase participation in both programs by simplifying the administration for the utilities and the eligibility determination for the consumers. These benefits will be lost if the expansion is

only a temporary measure. Further, a temporary change puts consumers between the 175% and 200% income levels at risk for continuing to receive the discount erroneously and being forced to repay the difference at a later date. Low income persons, especially those with disabilities, are often on a fixed income and will face hardship in making up this difference, particularly if they are required to make a lump sum payment.

## **2. Participation in CARE**

There are three distinct issues involved in increasing participation in the CARE program: (1) suspending the removal of customers from CARE; (2) suspending the re-certification and verification processes for CARE; and (3) enrolling new CARE customers for the coming winter heating season.

All utilities, with the continued exception of Southwest Gas, agree not to remove customers from CARE who do not re-certify or verify by failure to submit forms. The utilities' proposals vary on the length of time that this suspension would be in place: PG&E seeks a six month suspension while SDG&E/SoCalGas seeks a two year suspension. DRA supports suspension of removal of CARE customers for failure to submit forms for, at least, the duration of the winter heating season and urges the Commission to compel all utilities to implement this suspension.

The utilities differ in their positions on the suspension of re-certification and verification. SDGE&E/SoCalGas seek to waive both re-certification and post-enrollment verification for the upcoming winter period. PG&E and SCE, on the other hand, seek to maintain the re-certification process. In addition, PG&E specifically opposes suspending the post-enrollment verification. SCE and PG&E argue that both the re-certification and verification processes will be simplified through telephone outreach. SCE proposes the use of a Voice Recognition Unit to recertify while PG&E suggests outbound calls to CARE customers to assist with the verification process.

As mentioned in DRA's Comments<sup>1</sup>, telephone outreach is problematic for persons with hearing impairments. Persons with hearing impairments can only be contacted by a utility if the utility knows the customer is hearing impaired and accordingly contacts them using either TTY or California Relay Service. Further, Voice Recognition Units are inaccessible for many consumers with disabilities. For consumers with restricted use of hands and arms, visual impairments, or who are using a telecommunications relay service, it may be difficult or impossible to enter responses in the limited time given, especially when longer responses are required (such as entry of an account number). Such systems also have great difficulty recognizing the voices of the 2.5 million Americans with speech disabilities, including individuals with conditions such as cerebral palsy, muscular dystrophy, stuttering, and strokes.

PG&E and SCE's proposed telephone outreach to lessen the burden of re-certification and verification puts consumers with disabilities at a distinct disadvantage. Despite this, DRA supports continuing re-certification and verification processes but by both telephone and U.S. Mail, with the stipulation that no customer will be removed this winter heating season from CARE for failure to re-certify or re-verify.

The issue of new enrollment also raises concerns regarding telephone outreach. All the utilities, with the exception of Southwest Gas, propose outbound calls to potential CARE enrollees in an effort to increase enrollment. However, as described above, telephone outreach is problematic for consumers with hearing impairments. Indeed enrollment in the CARE program is generally difficult for persons with disabilities because of the inaccessibility of the CARE application and communications, as is discussed in detail below. Thus, DRA endorses further outreach for the CARE program but cautions that, without accessibility, outreach to the disabled community will fail.

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<sup>1</sup> *Comments of Disability Rights Advocates*, p. 6.

**B. LIEE Proposals**

**1. Increasing Enrollment**

SDG&E/SoCalGas, PG&E and SCE offer proposals for increasing eligibility for LIEE programs among low-income persons. Specifically, SCE favors automatic enrollment for CARE customers while both PG&E and SDG&E/SoCalGas favor the use of census data. Using CARE enrollment alone threatens to translate existing penetration deficiencies in the CARE program to the LIEE program. Under this plan, a person who is eligible but not enrolled in CARE now will be overlooked as eligible for the LIEE program. However, the census plan is by no means perfect either. Obviously not all persons with low-income live in a census block with 80% of the households falling below the federal poverty level. In particular, persons with disabilities, in order to find accessible housing, may not live in a low-income area, despite being low-income themselves. Using census data alone would result in such persons being overlooked. Further, the utilities' proposals for using census blocks are extremely limited. DRA is particularly concerned about PG&E's proposal to use census blocks which it estimates will affect only 100 to 1000 homes. Accordingly, DRA supports each of these proposals, but notes that many people in need will not be reached through these efforts.

**2. LIEE Replacement Programs**

DRA joins TURN and LIF in recommending that the Commission direct the utilities to adopt a "hold harmless" policy attached to the temporary LIEE self-certification which would prevent a customer having to repay the costs of any energy efficiency measures that may be taken if, because of innocent mistake, the customer was not qualified for such measures.

**C. Other Proposals**

**1. No Shut Off Policy**

DRA supports SDG&E/SoCalGas and PG&E's voluntary institution of a no shut off policy for this winter for those customers who make minimum payments. This no-shut off policy is particularly important to persons with disabilities who may medically rely on heating and/or electricity and who spend much more time in their homes than their non-disabled counterparts. SCE does not endorse a no shut off policy but instead offers a case-by-case review. Such a review will likely require negotiations between the utility and customer; however, with inaccessible printed materials and customer service, a case-by-case review may be extremely difficult for customers with disabilities to navigate. Consequently, DRA encourages the Commission to require all utilities to institute a no shut off policy for the winter heating season.

DRA notes again that while this short term policy addresses the immediate concerns of low income customers, there are legitimate concerns that customers who have a backlog of unpaid bills may be unable to pay them at a later time. Further, DRA agrees with TURN that levelized payment plans are not a solution to this problem for low income customers. This is particularly true for persons with disabilities who live on fixed incomes and do not have additional sources of income available. Even a small increase spread over the entire year may be too great, and the possibility of a large lump sum true-up payment may cause severe hardship. Accordingly, DRA also urges the utilities and the Commission to further study this issue and develop plans to address this possible outcome, while minimizing the harm to the most vulnerable consumers.

**2. Price Freeze for CARE Customers**

Despite arguments by the utilities to the contrary, DRA continues to support a price freeze for CARE customers, noting that many persons with disabilities utilize the

CARE program.<sup>2</sup> In refusing to consider such a price freeze, DRA believes that the utilities are missing the big picture. While increasing CARE enrollment through outreach and qualifying low-income customers for LIEE, the fact remains that for persons currently on CARE and not recipients of LIEE, the utilities propose nothing to mitigate the anticipated natural gas price increase and subsequent electricity price increase. Certainly a waiver of reconnection fees and offers of a no shut off policy are useful but still leave unchanged the harsh reality of a substantially increased monthly bill for natural gas.

Specifically, a 20% reduction on an anticipated 70% increase in natural gas will not prevent these customers from having to pay substantially more for their natural gas than they currently do.<sup>3</sup> Consequently, DRA urges the Commission to implement a price freeze for natural gas for CARE customers, with any resulting revenue shortfall allocated consistent with allocation of the CARE discounts among all customer classes.

Further, many of the utilities point out that there is effectively a price freeze for tier one and two electric rates because of AB 1x. DRA suggests formalizing this price freeze and extending it to tiers three and four. As the data provided by SCE indicates over 50% of customers fall into tier one and two.<sup>4</sup> As a result, a price freeze for tiers three and four will only involve a minority of the CARE customers and not result in large revenue losses. Accordingly, DRA also asks the Commission to freeze electricity rates for CARE customers, with any resulting revenue shortfall allocated consistent with allocation of the CARE discounts among all customer classes.

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<sup>2</sup> Because CARE is available to all people with low incomes, and the Medical Baseline Allowance is only available to people with very specific conditions, it is highly likely that many more people with disabilities are eligible for CARE than for the Medical Baseline Allowance.

<sup>3</sup> PG&E currently estimates a 7.2% change in rates. SDG&E and SoCalGas report that for the average residential CARE customer, their bill will increase by 48% and 53% respectively.

<sup>4</sup> A total percentage of 55.46 fall into tier one and two. The remaining fall predominately into tier three

### **3. Outreach**

In its opening comments DRA emphasized the need for outreach by the utilities to low-income communities, including the disability community, to inform them of the various low income assistance programs available. While DRA commends both SDG&E/SoCalGas and SCE for detailing their outreach efforts, we continue to be concerned with the overall results. The Joint Submittal of the Annual Estimates of CARE Eligible Customers and Related Information reveals that penetration rates remain on average around 74%. This means that more than one in four eligible households is still facing the upcoming winter season without assistance. DRA believes that the development of a reward/penalty mechanism by the Commission will facilitate further penetration to assist these households.

### **III. THE UTILITIES HAVE INSUFFICIENTLY ADDRESSED THE NEEDS OF PERSONS WITH DISABILITIES.**

#### **A. Accessibility**

DRA was pleased to see the utilities address the issue of accessibility in their comments but found that the enumerated efforts were insufficient. First, accessible information and communication is necessary for all low income assistance programs. Interviews with benefits specialists at Independent Living Centers confirm repeatedly that almost 100% of their clients are eligible for the CARE program. These clients have disabilities ranging from mobility impairments to visual and hearing impairments to developmental disabilities, and accordingly, many of them need the CARE application and information in an accessible format. Thus, while SDG&E/SoCalGas were quick to point out that they provide the Medical Baseline application forms and communications in large print and online, they failed to mention whether this was also true for other low-income assistance programs as well.<sup>5</sup> Similarly, SCE stated only vaguely that “outreach

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<sup>5</sup> Investigation revealed that only SDG&E had large print applications available for both CARE and Medical Baseline Allowance in hard copy to be mailed upon request.



materials for community events are available through Consumer Affairs in Braille and large print.” SCE did not explain whether these outreach materials include only Medical Baseline applications and information or applications and information for low-income assistance programs as well, nor did they individuate that they are available directly to customers who contact the utility directly. SCE’s website does not appear to indicate that these alternate formats are available. PG&E offered no acknowledgement of the accessibility requirements but rather voiced its willingness to comply with required outreach efforts.

Second, accessibility is not limited to printed materials but also includes accessible customer service. Hearing impaired customers not only are difficult to contact via outbound customer service calls but they also have difficulty contacting utility companies’ customer service. Specifically, none of the utility webpages describing the CARE or Medical Baseline Allowance lists a TTY number for customers to contact. For each utility, the only TTY number is listed on another webpage with the main customer service number. Calls to these TTY numbers revealed an alarming lack of customer service:<sup>6</sup>

- PG&E had a voice mail asking for a call back number and returned our call approximately four hours later;<sup>7</sup>
- SCE provided no response beyond the automated greeting at the beginning;
- SDG&E, which does not provide a toll-free customer service line for TTY customers as it does for voice customers, remained busy during every attempt made;
- SoCalGas had excellent service with a quick response time; and
- Southwest Gas does not list a TTY on their website.

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<sup>6</sup> Calls were made on 10/18/2005 between the hours of 10am and 11am with an additional call to PG&E as noted below.

<sup>7</sup> A message was left with PG&E on 10/19/05 at approximately 9:32 am with a reply at 1:17pm.

DRA would like to emphasize again that *any* (not just Medical Baseline Allowance) applications and/or communications to customers regarding low income assistance programs should be accessible, meaning literature should be provided in accessible format and customer service information should be available by TTY at the same speed and level of service provided to voice customers.

**B. Medical Baseline Allowance Program**

**1. Compliance with D.0204046**

In 2002, the Commission issued a decision requiring that the Medical Baseline Application form be standardized, be available in multiple languages, be available in large print, be available online and that outreach efforts for the Medical Baseline Allowance include contact with Independent Living Centers and Senior Organizations.

Today, DRA is concerned about compliance with this Commission decision. As mentioned in our opening comments, large print and online requirements are not always met. Additionally, many Independent Living Centers remain uninformed about the program. Thus, DRA urges the Commission to require each utility company to report on the status of the medical baseline allowance application and information in order to ensure compliance with this decision.

DRA also urges the Commission to ensure that the utilities comply with the specified outreach requirements in D.0204046. DRA commends both SEC's obvious efforts at outreach and PG&E's promised compliance advice letters with regard to outreach. However, DRA remains concerned that these efforts are insufficient. Outreach does not equal enrollment, as the CARE program has repeatedly shown. Unfortunately, DRA does not have access to enrollment figures for the Medical Baseline Allowance which it can compare with census statistics for various disabilities. Accordingly, DRA can offer no penetration rates as evidence of failed outreach but can only base its concerns on anecdotal evidence it receives from its extensive contacts with the disabled

community. This anecdotal evidence reveals repeatedly that many of the key advocacy networks in California remain unaware of this program. Accordingly, DRA suggests that the utilities focus their contacts with the disability community on the vast disability *advocacy* network. Based on the listing of organizations that SCE has contacted, it is evident that the focus is on *providers* to persons with disabilities, (i.e. social service agencies, home-health care agencies, regional centers, Meals on Wheels, medical equipment operators, etc). Providers, while offering services to persons with disabilities, are not disability advocates. A medical equipment provider is unlikely to offer information on Medical Baseline to one of his customers. An advocacy network, such as the Independent Living Centers throughout California is likely to offer such information. Their “benefits specialists” specifically work to inform consumers about available income assistance programs. However, many of them still lack information about the Medical Baseline Allowance. DRA asks that the Commission require the utilities to submit a plan listing the organizations that they intend to contact and that the Independent Living Centers throughout California be included on that list.

## **2. Additional Medical Baseline Allowance Allotments**

DRA proposed that the Commission modify D.0204046 to require that all requests for additional allotments of electricity and natural gas above the standard medical baseline allowance be promptly addressed with an appeals process if the request is denied. SCE, however, contends that DRA has not provided information that indicates current procedures are inadequate.

DRA’s impetus for this proposal stems from the fact that the only instruction to consumers using the medical baseline allowance who may need more allotments is found at the bottom of the application, directing them to call Consumer Service. In doing so, SCE Customer Service explained that the process for requesting additional allotments included describing in a letter why additional allotments were necessary and then waiting to see if they “appeared on your bill.” Customer service said there was no appeals

process and that they were unable to directly contact the medical baseline allowance department, with the implication that the applicant would be unable to do so as well.<sup>8</sup>

DRA believes that during a time of sharp increases in natural gas prices, persons on the Medical Baseline Allowance may be less able to pay for their needs beyond the allotment and may accordingly seek additional allotments. DRA worries that without a transparent process in place, such requests may not be addressed in a timely manner. As such, DRA re-iterates its request to the Commission to modify D.0204046 as described in DRA's Comments.

### **3. Price Freeze for Medical Baseline Allowance Customers**

DRA re-emphasizes the need to freeze prices for Medical Baseline Allowance customers. For these individuals, simply turning down the heat or using less electricity is not an option. Given that the effect of price fluctuations scales by quantity, persons with disabilities who have a disproportionately high dependence on energy, face a larger potential increase in expenses. DRA urges the Commission to institute a price freeze for Medical Baseline Allowance customers.

## **IV. CONCLUSION**

Disability Rights Advocates appreciates the opportunity to represent persons with disabilities in this proceeding. Persons with disabilities are particularly susceptible to a natural gas price increase. DRA hopes that our recommendations will be sincerely considered by both the Commission and the utility companies.

Respectfully submitted,

DATED: October 19, 2005

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<sup>8</sup> SCE Customer Service was contacted on 10/17/2005.

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