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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Joint Application of San Diego Gas and Electric Company (U 902), Southern California Gas Company (U 904) and Pacific Gas and Electric Company (U 39 G) to Reallocate the Costs of Natural Gas Public Purpose Programs and Other Mandated Social Programs Among Customer Classes	Application 07-12-006 (Filed December 11, 2007)

JOINT REPLY COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES, THE UTILITY REFORM NETWORK, DISABILITY RIGHTS ADVOCATES, AND THE LATINO ISSUES FORUM

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December 15, 2008

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Pursuant to Rule 14.3 of the Rules of Practice and Procedure of the California Public Utilities Commission ("Commission"), the Division of Ratepayer Advocates ("DRA"), The Utility Reform Network ("TURN"), Disability Rights Advocates ("DisabRA") and the Latino Issues Forum ("LIF") (collectively "Joint Consumers") hereby submit their joint reply comments in response to the opening comments of the following entities: 1) Southern California Gas Company ("SoCalGas"), San Diego Gas & Electric Company ("SDG&E") and Pacific Gas and Electric Company ("PG&E") (collectively "Applicants"); 2) California Manufacturers and Technology Association and Indicated Producers ("CMTA\IP"); and 3) California League of Food Processors ("CLFP") (hereinafter collectively referred to as "Applicants, *et al.*").

The opening comments of Applicants, *et al.* fail to establish any error in the fundamental holding in the Proposed Decision ("PD") of Administrative Law Judge Galvin, which correctly found that Applicants, *et al.* had not substantiated that their proposed Equal Percent of Base Revenue ("EPBR") method is more reasonable than the current cost allocation methods used to recover the natural gas Public Purpose Program ("PPP") costs. Therefore, they had not met their burden to justify shifting more than $90 million per year of PPP costs to residential customers. The PD is totally consistent with the Commission's most recent decisions, Decision ("D.") 07-09-016 (2007) and D.06-05-019 (2006), which had rejected similar attempts to change from the Equal Cents Per Therm ("ECPT") allocation for the California Alternate Rates for Energy ("CARE") program, as well as all previous Commission precedent, which since 1989 had always funded the CARE program on an ECPT basis. *See* D.07-09-016 at 3-8 and cites therein.

I. THE PD CORRECTLY FOUND THAT APPLICANTS HAD NOT SHOWN THAT THE CURRENT PPP COST ALLOCATION HARMS THE CALIFORNIA ECONOMY

In their opening comments, Applicants, *et al.* generally discuss the high cost of business in California and the losses of jobs occurring in California, but they do not show any *nexus* between this loss of jobs or any businesses leaving California due to the gas PPP surcharge they pay, which is the issue at hand. Indeed, in Applicants' opening comments ("App. Comm.") at 2 and CMTA/IP's opening comments ("CMTA Comm.") at 3, they admit that they cannot show that the PPP costs are the sole reason any business would leave California. Instead, they simply state that rising PPP costs are a "growing concern" to businesses. App. Comm. at 5.

The PD at 13-14 correctly found that there are much more significant factors affecting businesses' decisions than the gas PPP costs. Indeed, there was no evidence in record in this proceeding of any business closing down or moving out of the State of California based upon a \$.03/therm or \$.04/therm gas PPP surcharge (or the \$.023/therm CARE component of the gas PPP surcharge), which is understandable given that the gas PPP surcharge is only 4% of the total cost of delivered gas in California. *See* Exhibit ("Ex.") 21, Sheet 10; Ex.25, Sheet 26650-G; Ex. 31; and Ex. 65 at 60-61. For example, during fiscal year 2007-2008, just the price of natural gas was between \$.51/therm and \$1.22/therm. *See* Ex. 20.

Even if the gas PPP part of their delivered price of gas is higher than in neighboring states, the total delivered price of gas (i.e., gas commodity price, transportation charges and PPP surcharge) is less expensive in California than in neighboring states.[1] Indeed, according to the most recent evidence in the record, the Gas Daily Price Guide, the July, 2008 monthly natural gas prices were less expensive in California than every other major consuming market in the nation, except in the producing basins in the Rocky Mountain area and a part of Texas. *See* Ex. 27. Therefore, Applicants' view that businesses would leave the state over their natural gas costs, is baseless, because their gas costs (even with the PPP surcharge) are less expensive here.[2]

II. THE PD CORRECTLY HELD THAT EPBR IS NOT REASONABLE AS A COST ALLOCATION PROPOSAL FOR GAS PPP COSTS

Attached to the PD as its Appendix A is a description of the gas PPPs and their cost allocation methodologies, which Commission decisions have adopted. Applicants, *et al.* have ignored the basic differences between these programs. Instead, Applicants have proposed the EPBR methodology, which would allocate PPP costs according to how the utilities' base transportation costs are allocated regardless of the differences between the programs. However, there is no rationale for such a one-size-fits-all approach.

CMTA/IP admit that currently, gas energy efficiency ("EE") program costs are fairly allocated under a direct benefits approach, so that each class pays for their fair share of these program costs. CMTA Comm. at 9. Thus, they have provided no basis to change the allocation of the EE PPP costs to EPBR. CMTA/IP, in reality, are repeating their continuously unsuccessful challenge to paying their fair share of the CARE PPP costs. While CMTA/IP state those customers who benefit from a program should pay for it, this principle cannot apply to CARE, because that program provides financial

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1 According to the U.S. Department of Energy's Energy Information Administration ("EIA") Industrial Natural Gas Price Data, the average price for natural gas in 2007 for industrial users in California (i.e., $9.02/Dth) was lower than in neighboring states, such as Arizona (i.e., $10.45/Dth), Nevada (i.e., $11.77/Dth) or Oregon (i.e., $9.31/Dth). Exhibit 65, Attachment D.

2 Applicants claim that the PD did not take into account that customers have avoided the PPP surcharge by switching to the City of Vernon's distribution system and that the Board of Equalization ("BOE") has not collected the amounts due from each of the interstate pipeline customers in California. App. Comm. at 3-5. However, as the PD correctly found, these are unique and miniscule amounts only in SoCalGas' service territory. *See* Ex. 19, Responses 6 and 13. Moreover, it simply requires the current law to be enforced, because under Cal. Pub.Util. Code § 898, Vernon must collect a PPP surcharge unless it has its own public purpose programs, and under Cal. Pub.Util.Code §§ 890(h), 892, 893, the BOE is required to assess the surcharge rate on all non-exempt interstate pipeline customers consuming in California.

assistance (i.e., a 20% discount) to low-income customers so they can afford their utility services, which are life necessities. It, therefore, would defeat the whole purpose of this vital program to make the CARE recipients pay for their own discounts. Instead, for nearly 20 years the Legislature and the Commission have treated the CARE program as a *societal* benefit. By necessity, the residential, commercial and industrial customers *not* receiving assistance are the ones equally paying for it and indirectly benefitting from it.

The principle underlying the ECPT allocation for CARE costs is based upon the Commission's interpretation of the statutory requirement in Cal. Pub. Util. Code § 739.1, that no single class of customer should bear the costs of the CARE PPP costs, as meaning that these legislatively mandated costs should be spread evenly on a usage basis over all therms of natural gas. *See* D.07-09-016 at 3-8 Applicants, *et al.* have presented no logical reason why it makes sense to change it now so that CARE PPP costs are allocated on an EPBR basis, which is based on an allocation of transportation service costs. The EPBR proposal is not only contrary to § 739.1; it also is unreasonable in light of the requirement in Cal. Pub. Util. Code §§ 890(a), (b)(1), (c), and (f) that the surcharge be based upon *natural gas consumed* in California. The fact that the CARE program costs have been growing does not justify switching to EPBR, because the largest part of the increase has not been the transportation costs. Applicants admitted that the commodity cost is the single most important force that determines a discount for a CARE customer. (6 R.T. 169:12-13/PG&E Blatter).

The fact that CARE costs have grown to $.023/therm, when the commodity price has more than tripled, is not a reason to change the methodology. It is a reason to keep it, because it shows the wisdom of the current ECPT methodology that spreads the CARE PPP costs evenly over the maximum amount of eligible natural gas therms (i.e., throughput) to keep the per unit rate as low as possible. As the tiny red lines in Applicants' own graphs illustrate, the ECPT methodology has significantly moderated the PPP surcharge rate, so that it has not increased in anything close to the magnitude of the increases in the total delivered price of natural gas. *See* Ex. 3 at 13-14, figures A, B, and C. To adopt the EPBR proposal would shatter this moderating effect and threaten the funding of the public purpose programs. In D.07-09-016 at 14, the Commission expressed its concern of creating a "sub-class of the largest customers paying less than all other customers for valuable social programs. There is a very real risk of losing a funding source for these programs – fewer and fewer customers paying higher and higher portions of the costs, until this funding source is depleted."

CMTA/IP, for the first time, also propose in their comments, that the Commission "split the baby" between the ECPT and EPBR methods for allocating CARE costs. They allege in tables, which are not in the record, that there would purportedly be low rate impacts on residential customers using a 50/50 weighting for PG&E, SoCalGas, and SDG&E customers. CMTA Comm. at 12-14. For all the above-mentioned reasons why the EPBR method is unreasonable and contrary to 19 years of Commission precedent, so too is this new proposal by CMTA/IP unreasonable. In addition, CMTA/IP's new proposal and alleged facts in their comments on the PD violates Commission Rule 14.3(c) by not focusing on the factual, legal or technical errors in the PD, and it violates the due process rights of parties, because it relies upon a proposal and facts, which were not in the record below. *See* D.08-06-011 at 18-19, n. 8; D.06-05-042 at 6-9.

These purported impacts of the 50/50 proposal supposedly are "from" Applicants' exhibits and data responses in the record below. CMTA Comm. at 13, n.25 and n.26. However, a simple review of those exhibits would reveal that the tables of the 50/50 impact are not in these exhibits. Moreover, Applicants' alleged impacts of their EPBR proposal on residential customers, which were in these exhibits, did not withstand cross-examination and contrary evidence in the hearing, because Applicants' calculations of these impacts had significantly underestimated natural gas prices and the number of participants in the CARE program. *See* Joint Reply Brief of DRA, *et al.* (dated September 2, 2008) at 20-29. Thus, CMTA/IP's claims of the rate impacts on residential customers of EPBR or their 50/50 proposal are significantly understated and not based on credible evidence in the record.

For the foregoing reasons, the Commission should adopt the PD.

Respectfully submitted ,

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December 15, 2008

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of "**JOINT REPLY COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES, THE UTILITY REFORM NETWORK, DISABILITY RIGHTS ADVOCATES, AND THE LATINO ISSUES FORUM"** in **A.07-12-006** by using the following service:

[X] E-Mail Service: sending the entire document as an attachment to all known parties of record who provided electronic mail addresses.

[   ] U.S. Mail Service: mailing by first-class mail with postage prepaid to all known parties of record who did not provide electronic mail addresses.

Executed at **December 15, 2008** at San Francisco, California.

/s/ NANCY SALYER

Nancy Salyer

N O T I C E

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