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

Application of Southern California Edison Company (U 338-E) for Approval of its 2012-2014 California Alternate Rates for Energy and Energy Savings Assistance Programs and Budgets	A.11-05-017 (Filed May 16, 2011)
Application of Southern California Gas Company (U 904-G) for Approval of Low-Income Assistance Programs and Budgets for Program Years 2012-2014	A.11-05-018 (Filed May 16, 2011)
Application of Pacific Gas and Electric Company for Approval of the 2012-2014 Energy Savings Assistance and California Alternate Rates for Energy Programs and Budget (U 39-M)	A.11-05-019 (Filed May 16, 2011)
Application of San Diego Gas & Electric Company (U 902-M) for Approval of Low-Income Assistance Programs and Budgets for Program Years 2012-2014	A.11-05-020 (Filed May 16, 2011)

OPENING BRIEF OF THE CALIFORNIA LARGE ENERGY CONSUMERS ASSOCIATION

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OPENING BRIEF OF THE CALIFORNIA LARGE ENERGY CONSUMERS ASSOCIATION

This opening brief is submitted pursuant to Rule 13.11 of the California Public Utilities Commission Rules of Practice and Procedure and the schedule set in Administrative Law Judge Kim's January 24, 2012 e-mail. The California Large Energy Consumers Association (CLECA)[1] submits this opening brief.

[1] CLECA, an organization of large, energy intensive, industrial customers of Pacific Gas & Electric Company (PG&E) and Southern California Edison Company (SCE), is very concerned about the costs of electricity in California. This concern is driven by the fact that the CLECA member companies' overall costs of production are significantly impacted by the cost of electricity.

I. INTRODUCTION

These dockets will set CARE and ESA budgets for the 2012-2014 period. Current utility estimates show that by 2014, the combined CARE electric budgets for SCE and PG&E will ***exceed $1 billion***. SCE projects CARE annual costs of $422.4 million by 2014 and PG&E's forecast of CARE electric costs reaches $627.1 million.[2] For the 2012-2014 cycle, PG&E and SCE forecast the CARE electric program costs will reach **$2.955 billion**. These social program costs are not caused by the generation or delivery of electricity; rather, they are subsidies that flow almost exclusively to the residential class yet are paid for primarily by the non-residential classes. Due to the ever-greater impacts on other customer classes, these rising subsidies and allocation of their costs cause CLECA concern. Given the magnitude of the subsidies, heightened scrutiny and balanced consideration by this Commission of <u>all</u> aspects of CARE are required, along with legislative reform as well.

Critically important utility proposals for necessary reforms for these programs are under examination. PG&E has proposed both eligibility verification for CARE customers with extremely high usage and required participation in Energy Savings

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[2] Notably, these estimates do not include the full costs of CARE programs because they exclude the costs of the various exemptions received by CARE customers, *e.g*, the exemptions from the California Solar Initiative surcharge and DWR Bond Charge; thus the forecasts of CARE Program costs are understated.

For the 2012-2014 cycle, the total cost of these exemptions for PG&E and SCE CARE customers is an ***additional <u>$775.3 million</u>; this hidden cost is layered on top of the already high cost of <u>$2.955 billion</u> for PG&E and SCE's 2012-2014 CARE electric programs.*** *See* PG&E Reply to Protests, dated June 30, 2011, Attachment A; *see also* SCE Testimony Exhibit SCE-2, Appendix B, page B-1, dated May 16, 2011.

Assistance programs. CLECA strongly supports adoption and implementation of these proposals.

Of most concern to CLECA, however, is that the Commission act now to both mitigate the impact on industrial customers of the inequitable allocation of CARE costs and seek legislative reform of that allocation. The ALJ insightfully asked if it would be more equitable to allocate the programs' costs on "*an equal percentage of distribution*" basis.[3] CLECA agrees that that would be a fairer methodology for allocation of CARE costs. The ALJ further queried what impediments stood in the way of a more equitable allocation of the costs. A provision in SB 695 requires the current, inequitable allocation of the CARE costs on an equal cents per kWh basis.[4]

CLECA appreciates the ALJ's recognition of the problematic nature of the CARE subsidy's current allocation to other customer classes. CLECA reiterates that it does not oppose the CARE program. But the costs are simply getting too high; the inequitable burden placed on other customer classes by the current mandated allocation methodology for these significant subsidies warrants this Commission's attention and action.

The Commission should seek legislative reform to remove the current, statutory restrictions on its jurisdiction over the cost allocation methodology for CARE. This would permit CARE costs to be allocated similarly to ESA costs and addressed by all impacted parties. Questions of cost allocation of all electric

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[3] Although the ALJ referred to distribution rates, allocations are usually performed on the basis of revenue, rather than rates. Revenue is allocated to classes and rate groups. Rates are used to collect the revenues from customers and these rates vary by the rate designs adopted for each rate schedule within a class or rate group.

[4] *See* Public Utilities Code §327(a)(7).

revenue requirements are best addressed by the Commission and all affected parties in Phase IIs of respective electric utility General Rate Cases.

II. THE COMMISSION SHOULD ACT TO SECURE REMOVAL OF THE LEGISLATIVE RESTRICTIONS ON CARE COST ALLOCATIONS

A. CARE Costs are too High for the Commission and Parties to be Unable to Change its Allocation

A balanced consideration of the full impacts of all CARE program costs for PG&E and SCE electric customers includes the impacts of the hidden costs from exemptions. These hidden costs total an ***additional $775.3 million*** for the 2012-2014 cycle and are layered on top of the projected costs of ***$2.955 billion*** for the PG&E and SCE electric CARE programs for 2012-2014. Thus non-CARE customers will pay

- **$3.730 billion**

in CARE Program subsidies and hidden costs for 2012-2014. This is a staggering amount, and most of it, approximately two-thirds, is shouldered by non-residential classes.

Even more astounding, however, is the fact that the Commission cannot control or impact the allocation of $2.955 billion in electric utility CARE program costs. SB 695 requires that CARE costs be allocated on an equal-cents-per-kWh basis.[5] This allocation was not theoretically justified; it is simply dictated by state law. This is not right, nor are the current allocation results fair.

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[5] *See* Public Utilities Code §327(a)(7)(directing utilities to "*allocate the costs of the CARE program on an equal cents per kilowatthour or equal cents per therm basis to all classes of customers*").

The Commission and, equally importantly, the critically affected parties should have flexibility in determining the cost allocation methodology for such significant transfers of dollars. Allocation of CARE costs, like the ESA program costs, should be addressed by all parties in the respective utility general rate cases.

B. ESA Allocations Are Rightly and Fairly Set in Phase IIs

The allocation of ESA program costs is appropriately governed by this Commission and addressed by all concerned parties in Phase IIs of the respective utility general rate cases. As TURN, et al, have acknowledged, ESA allocations have been successfully resolved in many such dockets and approved by this Commission; the reasonable ESA allocations have ranged from an equal percent of total revenue (with imputed generation revenue for Direct Access customers) (SAPC)[6] to a direct benefits allocation.[7] Critically, parties have not agreed to an equal-cents-per-kWh allocation for the ESA program costs.

C. The Current CARE Allocation Disproportionately Burdens Other Classes and Customers; It Should Be Reformed

The current equal-cents-per-kWh CARE cost allocation shifts most of the subsidy costs away from the residential class, with a higher percentage increase for the industrial, commercial, agricultural and other classes. Roughly 70% of the CARE subsidy payment for PG&E customers comes from non-residential customers; in 2014, this will be $439 million that non-residential customers must pay - without having had any say in the matter, unless the law is changed.

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6 SAPC is an equal percentage of total revenues, where those revenues include both generation and distribution revenues. Each class, rate group, and rate schedule contributes an equal percentage of the revenues they pay for service to the ESA programs.

7 *See* Response of The Utility Reform Network, the Division of Ratepayer Advocates, the Greenlining Institute, and the Center for Accessible Technology to the December 28, 2011 Questions of Administrative Law Judge Kim (TURN, et al, Response) at 12-14.

The Commission in 1989 indicated its intent that the CARE's predecessor (LIRA) program costs not burden any one class disproportionately to comply with the requirement that the CARE revenue shortfall be paid by more than one class.[8] The burden on the residential class has over time become disproportionately small compared to the burden on all other customer classes. The program has also changed; some examples are eligibility requirements, enrollment procedures and discount levels. The issue of equitable cost allocation of electric CARE Program costs is ripe for re-examination and revision.

It appears that the number of CARE customers is growing[9] while the number of industrial customers is shrinking. For example, SCE has forecast in Phase II of its current General Rate Case that the number of industrial customers in its service territory will drop from 11,400 to 10,978 by 2014.[10] Moreover, there has been huge growth in the electric CARE program costs due in part to the huge growth in the effective CARE discounts. In 1989, the discount was clearly limited to 15%,[11] today, CARE discounts reach as high as 47%.[12] Critically, then, the cost impact on non-participating ratepayers could not be predicted.[13] Now, it is on the record here.

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8 *See* D.89-09-044, 32 CPUC 2d 406, at 416-417 (referencing provision in state law requiring that more than one class pay for the subsidy).

9 *See* Division of Ratepayer Advocates' Opposition to Motion for an Additional Extension of Time to File Annual Estimates of CARE Eligible Customers and Related Information, served Jan. 25, 2012, at 3 ("*Based on the last few years, when the low-income population has grown each year, it is likely the pending estimate will again show a growth in numbers*").

10 *See* SCE Testimony Exhibit SCE-2, at 43, filed in A.11-06-007 (June 6, 2011).

11 *See* D.89-09-044, 32 CPUC 2d 406, at 418 (finding of fact 15: "*the LIRA rate should be adjusted whenever rates are changed so that the LIRA rate is maintained at 85% of the main residential rate. The discount should apply to Tier 1 and Tier 2 rates as well as to any applicable monthly residential customer charge*.").

12 *See* PG&E Response to ALJ Questions, dated Jan. 23, 2012, at 13 (response to question 2 listing discounts from 35% to 47%).

13 *Id,* at 418, finding of fact 18 ("*Since the impact on non-participating ratepayers cannot be predicted, there is no basis for any cost cap **at this time**.*") (emphasis added).

These program costs should be allocated using a more equitable methodology; the current results are simply too disproportionate.

III. CONCLUSION

The Commission should adopt the utility proposals to address potential abuse of the CARE program and ensure eligibility requirements are being met and enforced. More importantly, the Commission should engage with the Legislature to seek changes in the law to eliminate the mandatory equalcentsperkWh allocation of CARE subsidies. This enormous, inequitable inter-class subsidy distorts energy price signals, reduces incentives for conservation and energy efficiency for a very large percentage of residential load and customers. It also unfairly burdens all non-residential customer classes. The current requirement to allocate CARE costs on an equal-cents-per-kWh basis must be reformed.

Respectfully submitted,

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