

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA



FILED

In the Matter of the Application of Southwest Gas Corporation (U905 G) for Approval of Low-Income Programs and Budgets for Program Years 2009-2011.

Application 08-06-031 10-07-08
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In the Matter of the Application of PACIFICORP (U901 E) for Approval of 2009-2011 California Alternate Rates for Energy (CARE) and Low-Income Energy Efficiency (LIEE) Budget Application (U901 E).

Application 08-07-019
(Filed July 1, 2008)

In the Matter of the Application of West Coast Gas Company (U910 G) for Approval of Program Years 2009-2011 Low-Income Assistance Program Budgets.

Application 08-07-015
(Filed July 11, 2008)

In the Matter of the Application of Sierra Pacific Power Company (U903 E) for Approval of Low-Income Programs and Budgets for Program Years 2009-2011.

Application 08-07-005
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In the Matter of the Application of Alpine Natural Gas Company Operating Company No. 1 LLC (U909 G) for Approval of Low-Income Programs and Budgets for Program Years 2009-2011.

Application 08-07-027
(Filed July 8, 2008)

In the Matter of the Application of Golden State Water Company for an Order Approving Its Low Income Assistance Program Plans and Budget for Program Years 2009-2011 for Its Bear Valley Electric Service Division.

Application 08-07-007
(Filed July 2, 2008)

BRIEF OF THE DIVISION OF RATEPAYER ADVOCATES ON THE APPLICATIONS OF THE SMALL AND MULTI-JURISDICTIONAL UTILITIES FOR APPROVAL OF THEIR 2009-2011 CALIFORNIA ALTERNATIVE RATES FOR ENERGY AND LOW INCOME ENERGY EFFICIENCY PROGRAMS

I. INTRODUCTION

Pursuant to Rule 13.11 of the California Public Utility Commission's ("Commission") Rules of Practice and Procedure and the Assigned Commissioner's Scoping Memo, dated September 26, 2008, the Division of Ratepayer Advocates ("DRA") files this brief to the applications of Southwest Gas Corporation ("Southwest Gas"), Sierra Pacific Power Company ("Sierra Pacific"), PacifiCorp, Golden State Water Company as Bear Valley Electric Service ("BVES"), Alpine Natural Gas ("Alpine"), and West Coast Gas, collectively referred to as the Small and Multi-Jurisdictional Utilities ("SMJUs") for authorization for California Alternative Rates for Energy ("CARE") and Low-Income Energy Efficiency ("LIEE") programs and budgets for the years 2009-2011.

Generally, DRA finds the SMJU applications reasonable and grounded in past performance. DRA also acknowledges the SMJUs good faith efforts to resolve issues raised by DRA in its protest. In the instant brief, DRA provides recommendations based on its review of SMJU applications, amendments, responses to DRA Data Requests, and discussions with Southwest Gas, Sierra Pacific, PacifiCorp, and BVES on September 9 and September 15, 2008.¹

While the Commission has recognized that the California Energy Efficiency Strategic Plan ("*Plan*") will not all apply to the SMJUs,² DRA believes that it is in the interest of low-income customers and all Californians for the SMJUs to follow the *Plan's* guidance with regard to customer outreach and program leveraging. Commissioner Grueneich emphasized that the SMJU CARE and LIEE programs are very important because they serve some of the hardest to reach and poorest communities.³ Therefore, the efforts of the SMJUs to provide their low-income customers with savings opportunities should be no less rigorous than those of the large California energy utilities.

¹ DRA also had additional individual discussions with BVES and Sierra Pacific representatives.

² R.T. PHC 10:7-13.

³ R.T PHC 4:7-15.

II. SUMMARY

DRA recommends the Commission direct the SMJUs take additional steps beyond the proposals in their CARE and LIEE applications to improve customer outreach and demonstrate program leveraging. Specifically, DRA recommends:

- PacifiCorp, Sierra Pacific, BVES, and Southwest Gas offer “categorical enrollment” for CARE and LIEE qualification;
- Sierra Pacific, Southwest Gas, and BVES increase the frequency of data exchanges with overlapping utilities to automatically enroll more customers in CARE;
- Southwest Gas and other SMJUs, to the extent necessary, implement several CARE recertification initiatives;
- All SMJUs make their low-income assistance programs more accessible to non-English or limited-English speaking customers and disabled customers;
- All SMJUs demonstrate the results of program leveraging in their annual reports;
- The Commission raise CARE and LIEE eligibility for customers in BVES service territory from 175 to 200 percent;
- All SMJUs recalibrate their CARE and LIEE surcharges annually to account for amounts held in balancing accounts;
- The Commission assist SMJUs having difficulty hiring LIEE measure and installation contractors through its Workforce Education and Training (WE&T) efforts.

These issues are within the scope of the proceeding as designated in ALJ Thomas’ Scoping Memo of September 26, 2008.

III. CARE PROGRAM AND BUDGETS

With regards to CARE program enrollment, all SMJUs with the exception of Southwest Gas predict they will enroll around 95% or more of eligible customers in the program by 2011. Alpine and West Coast Gas currently report nearly 100% enrollment of CARE eligible customers and do not anticipate this will change through 2011.

PacifiCorp, Sierra Pacific, and BVES project enrolling 94%, 96% and 100% respectively,

of eligible customers in CARE by 2011. SW Gas projects 85% of CARE enrollment by 2011.⁴ Particularly for SW Gas, but also relevant to PacifiCorp, Sierra Pacific and BVES, there is more to do to make enrollment even easier for customers and that the Commission has already directed several to do. SMJUs should offer customers “categorical enrollment”⁵ where they can qualify for CARE if they are already enrolled in one of several other means-tested programs. The Commission recommended this strategy to BVES in D.06-12-036⁶ and DRA recommends that the Commission require SWGas, PacifiCorp, Sierra Pacific, and BVES to implement this strategy in 2009-2011. West Coast Gas and Alpine Natural Gas need not implement “categorical eligibility” because they already enroll nearly 100% of eligible customers in CARE.

A. Southwest Gas

DRA identified in its Protest a concern that Southwest Gas’ proposed participation rates are too low and should be increased.

In D.06-12-036, the Commission adopted Southwest Gas’ proposed participation rate of 93% for 2007 and 95% for 2008. Southwest Gas has failed to reach its goal for 2007, and 2008. Southwest Gas projects that by the end of 2008 its participation rate will only be 81%.⁷ It states that the reason for its failure is that the “U.S. housing slump and related sub-prime mortgage crisis has severely impacted Southwest’s customer growth in Southern California.”⁸ Southwest Gas explained to DRA that it faces greater challenges to increasing CARE penetration in its Southern California service area. This is confirmed by Southwest Gas’ 2007 CARE annual report. Southwest Gas also believes that the number of eligible households in Southern California may have decreased due to home foreclosures, and this decrease in eligible households would make its penetration rate

⁴ Table A-1 in PacifiCorp, Sierra Pacific, BVES and Southwest Gas applications.

⁵ The Commission refers to “categorical enrollment” as “program enrollment” when discussing this enrollment strategy related to telecommunications carriers. The Commission should make its language across industries to further the goal of improving coordination among low-income programs.

⁶ D.06-12-036, p.9

⁷ Southwest Gas Application p.6.

⁸ *Id.*

appear lower than it actually is. DRA believes Southwest Gas' residential service accounts should show a drop-off if this is the case. DRA requested this data but Southwest Gas was unable to provide it.²

The Commission has a pending requirement for the large energy utilities to obtain a 90% CARE penetration rate by 2011.¹⁰ The Commission should also order Southwest Gas to obtain a 90% penetration level by 2011. Southwest Gas should also take steps to ease customer enrollment by instituting categorical enrollment and increasing automatic enrollment through more frequent data exchanges with utilities in overlapping service territories.

To combat Southwest Gas' CARE recertification challenges, DRA recommends Southwest Gas expand on its currently planned single recertification initiative. Southwest Gas in its application describes a newly designed, more attractive CARE recertification mailer and intends to track the response to this mailer. SW Gas provided this newly designed mailer and other marketing collateral for DRA's review. DRA recommends Southwest Gas implement several recertification initiatives, track the responses, and then report the results to the Commission. For example, Southwest Gas could provide customer service representatives lists of those customers scheduled for CARE recertification within the next 3-6 months. Should a customer service representative make contact with a customer who was flagged for recertification, the customer service representative could initiate an over-the-phone recertification at that time. Or, Southwest Gas could ask its local office to establish a partnership with a local organization and track that organization's ability to deliver recertification agreements.

B. BVES

While BVES plans to enroll all eligible customers in CARE by 2011, BVES has a long way to go and should therefore take the additional steps of offering "categorical enrollment" and improving automatic enrollment. BVES proposes a dramatic jump in its

² DRA Data Request 3 of September 26, 2008 to SW Gas. DRA asked SWGas to provide the tables in its application separately for its Northern and Southern California service areas. SWGas responded on October 3, 2008 that it is unable to do so.

¹⁰ Proposed Decision of ALJ Thomas on September 16, 2008 in A.08-05-022 et. al.

CARE penetration from 60% to 100% by 2011. BVES also proposed a CARE administrative budget increase from \$3,500 in 2008 to \$52,720 annually each year 2009-2011. BVES' proposed increase is due to the hiring of a new staff person to spend one-quarter of their time on CARE issues. This amounts to \$28,000 of the \$52,720 the BVES requests for its CARE administrative budget. This increase is notable not only in comparison to past BVES budgets but also in comparison to other similarly sized SMJU CARE administrative budgets. However, BVES explained to DRA that BVES' past budgets do not adequately capture past costs, as BVES has included many administrative costs in its general operating expenses. Additionally, BVES has yet to establish a PPP surcharge to recover its CARE and LIEE costs.

DRA recommends the Commission approve at least a portion of the funding for the new staff person to address CARE issues. BVES clearly has a need to improve its CARE enrollment rates.

IV. SMJUs SHOULD INCREASE EFFORTS TO REACH NON-ENGLISH OR LIMITED ENGLISH SPEAKING HOUSEHOLDS, ILLITERATE HOUSEHOLDS AND DISABLED HOUSEHOLDS

Several SMJUs have either indicated that they do not mail their applications or their recertification in any language other than English.¹¹ DRA discussed with PacifiCorp, Sierra Pacific, and Southwest Gas their efforts to reach disabled customers and discovered that efforts are limited to some large print offerings and standard TTY numbers. Finally, DRA notes the Commission's concern over illiterate customers expressed in D.06-12-036¹² and believes these customers still merit attention. The Commission should order the SMJUs to take several steps to demonstrate the provisions they make for these groups. DRA here suggests a step-by-step approach to meeting the needs of these customers. First, the SMJUs should submit census data or similar data indicating the languages spoken by their customers and the rate of illiteracy among their

¹¹ R.T. Pages 7 – 9.

¹² D.06-12-036, p.7

customers. The SMJUs should then identify the top two or three populations and tailor outreach materials to meet the needs of these groups.

With regard to the disabled community, DRA relies upon evidence submitted by DisRA in A.08-05-022 et. al that significant numbers of disabled people are also low-income. In light of this, DRA recommends the SMJUs establish partnerships with organizations serving disabled customers and utilize these relationships to better enrolled disabled low-income households.

V. SMJUs SHOULD BE REQUIRED TO LEVERAGE THEIR LIEE PROGRAMS AND DEMONSTRATE LEVERAGING RESULTS IN ANNUAL REPORTS

Leveraging is a key driver of cost-effectiveness, as recognized in the Commission's *Plan*. The SMJUs are all single fuel utilities. As such, their service territories overlap with other utilities (with the exception of PacifiCorp) and opportunities for leveraging abound. The SMJUs should also be leveraging with the federal LIHEAP program, administered by California's Department of Community Services and Development¹³ and other similarly interested organizations in their territories. PacifiCorp does in fact leverage 100% with LIHEAP by contracting exclusively with LIHEAP CBOs to provide LIEE services and, in general, splitting the costs of installation 50-50 with LIHEAP.¹⁴ As a result, low-income customers in PacifiCorp's service area have access to a full range of energy efficiency services and PacifiCorp's LIEE program costs are reasonable.

Southwest Gas, Sierra Pacific and BVES also provide LIEE services through the LIHEAP CBO in their area but do not provide evidence of the advantages of such leveraging. DRA recommends the Commission require the SMJUs to positively demonstrate in their applications that leveraging is saving costs, increasing enrollment, and generally delivering greater value to low-income customers and all the ratepayers that support the low-income programs.

¹³ <http://www.csd.ca.gov/default.aspx>

¹⁴ PacifiCorp 2009-2011 CARE-LIEE application, p. 9.

VI. BEAR VALLEY ELECTRIC SERVICE (BVES) REQUESTS

A. BVES Eligibility Limit Should Be Increased

BVES, in its October 3 filing pursuant to ALJ Thomas' request, provides the Commission with evidence that raising its CARE and LIEE eligibility limit from 175 to 200 percent of the Federal Poverty Level will have a negligible effect on its customers. In addition, BVES describes in its application that making the eligibility level consistent with that of Southwest Gas, the utility providing gas service to many of BVES' customers, will increase leveraging opportunities and decrease customer confusion. DRA recommends that the Commission approve BVES' request to raise its eligibility limit to 200 percent.

B. PPP Surcharge Proposal

BVES reports that it will propose a PPP surcharge to merge CARE and LIEE cost recovery under this surcharge. DRA protested the creation of a surcharge through which BVES could recover its LIEE costs without resolving irregularities that the Division of Water and Audits reported in April 2008.¹⁵ In particular, DRA investigated BVES' response to Audit Recommendation #7 that households treated through LIEE in 2006 did not receive all feasible measures. BVES provided DRA data showing that in early 2007 it returned to three out of the six homes treated in 2006 to deliver energy efficient refrigerators. This met the audit recommendation, as the remaining three homes were not eligible for additional measures. DRA also followed up on Audit Recommendation #3 that BVES establish an inspection and verification policy that complies with the statewide Policy and Procedures Manual. DRA heard from Mark McNulty, the BVES inspector, that when measures beyond Compact Fluorescent Lights are installed in BVES customers' homes, he visits a percentage of homes to verify that all feasible measures were installed and that the installations are done properly. In approximately the half of the BVES homes where lighting is the only measure installed, BVES believes a phone call will suffice. DRA recommends that the Commission require BVES to report more

¹⁵ DRA Protest of June 4, 2008 to GSWC Advice Letter 223-E.

specifically on the percentage of homes visually inspected each year and the results of these inspections.

DRA recommends that the Commission work to establish a PPP surcharge which will provide BVES the means to recover its CARE and LIEE expenditures. It would be unreasonable to require BVES to continue these programs without a means for cost recovery.

VII. THE COMMISSION SHOULD ENSURE THAT SURCHARGE OVERCOLLECTIONS REMAIN MINIMAL

The Commission sets each year's budgets on careful estimations that ensure that the penetration levels are met. When a utility does not spend the budget allocated for that particular year, it necessarily means that either the penetration level has not been met or the expected measures were not installed. Several SMJUs in their 2009-11 applications report that due to both of these reasons their LIEE budgets were underspent in Program Years 2007 and 2008. This situation should be avoided.

The meetings between DRA and the SMJUs indicate that the SMJUs share the same goal of ensuring that their annual budgets are spent and are not carried over to the next year. PacifiCorp responds to DRA's Data Request on the subject: "The Company intends to meet with the 3 agencies that perform weatherization services under the LIEE program within the next month to discuss an action plan to increase LIEE participation in 2009 to spend the overcollection and the budgeted amount."¹⁶ Southwest Gas responds to DRA's Data Request on the subject: "Southwest would not object to using a portion of any existing credit balance in its LIEE Balancing Account 'to reduce the LIEE portion of its PPP surcharge' if authorized to do so by the Commission. However, Southwest would recommend retaining some portion of any credit balance in the LIEE balancing account to provide a buffer in the event investment in LIEE programs is successfully increased."¹⁷ The Commission shares the same view that the collections somewhat meet up with the

¹⁶ PacifiCorp Response to DRA Data Request 2.2 on October 3, 2008

¹⁷ Southwest Response to DRA_SWGas 3-1 on October 3, 2008

actual expenditures.¹⁸ DRA supports Southwest Gas’ recommendation to retain a buffer in the LIEE balancing account but nevertheless recommends the Commission require SMJUs to annually recalibrate their CARE and LIEE PPP surcharges, and implement the new surcharges to the extent it will be meaningful to ratepayers.

VIII. THE COMMISSION SHOULD ASSIST SMJUS HAVING DIFFICULTY HIRING LIEE MEASURE AND INSTALLATION CONTRACTORS THROUGH ITS WORKFORCE EDUCATION AND TRAINING (WE&T) EFFORTS.

Most, if not all the SMJUs expressed concern about expanding their LIEE efforts due to lack of trained LIEE contractors in their service territories.¹⁹ DRA agrees that this is indeed a barrier for the expansion of the programs. DRA notes that WE&T efforts are the fourth strategy articulated to achieve the LIEE Goal #1 in the California Energy Efficiency Strategic Plan, “By 2020, all customers will be given the opportunity to participate in the LIEE program.”²⁰

DRA recommends that the *Plan’s* WE&T efforts include individuals and organizations from the SMJU service territories. Incorporating the SMJUs into California’s WE&T planning has numerous benefits. First, there will be more trained LIEE contractors available to install new LIEE measures. Second, WE&T will provide education and job opportunities to the low-income residents within the SMJU service territories. Third, this is an excellent opportunity for leveraging so that the SMJU LIEE budgets do not necessarily have to increase substantially. As the Proposed Decision (“PD”) in A.08-05-022 et. al states, “other funding and training will come from taxpayers, community-based and nonprofit organizations, educational institutions, the business community, and labor organizations.”²¹

These training programs will take place regardless of the Decision issued for the instant proceedings. It would be wasteful for individuals from the SMJU service

¹⁸ R.T. PHC 14:20-26.

¹⁹ R.T. PHC 12:13-18.

²⁰ California Energy Efficiency Strategic Plan, September 18, 2008, p. 26

²¹ PD at 67.

territories to not take advantage of this training opportunity. The Commission should use the *Plan's* WE&T chapter as a guide for training contractors in SMJU service territory. However, in order to increase cost efficiencies for the SMJUs, it would likely be best to utilize joint trainings statewide. Regardless, this training is vital because the SMJUs are having trouble finding contractors, posing a significant barrier to the future of the LIEE programs.

IX. CONCLUSION

The Commission should implement DRA's recommendations as set forth above.

Respectfully submitted,

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October 7, 2008

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of “**BRIEF OF THE DIVISION OF RATEPAYER ADVOCATES ON THE APPLICATIONS OF THE SMALL AND MULTI-JURISDICTIONAL UTILITIES FOR APPROVAL OF THEIR 2009-2011 CALIFORNIA ALTERNATIVE RATES FOR ENERGY AND LOW INCOME ENERGY EFFICIENCY PROGRAMS**” in **A.08-06-031, A.08-07-019, A.08-07-015, A.08-07-005, A.08-07-027, A08-07-007**. by using the following service:

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Executed on October 7, 2008, at San Francisco, California.

/s/ ROSEMARY MENDOZA
Rosemary Mendoza

N O T I C E

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