

**PUBLIC UTILITIES COMMISSION**505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298**FILED**09-02-11  
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September 2, 2011

Agenda ID #10674  
and  
Alternate Agenda ID #10675  
Ratesetting

## TO PARTIES OF RECORD IN RULEMAKING 09-11-014

Enclosed are the proposed decision of Administrative Law Judge (ALJ) Farrar previously designated as the presiding officer in this proceeding and the alternate proposed decision of Commissioner Ferron. The proposed decision and the alternate proposed decision will not appear on the Commission's agenda sooner than 30 days from the date they are mailed.

Pub. Util. Code § 311(e) requires that the alternate item be accompanied by a digest that clearly explains the substantive revisions to the proposed decision. The digest of the alternate proposed decision is attached.

When the Commission acts on these agenda items, it may adopt all or part of the decision as written, amend or modify them, or set them 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 proposed decision and alternate proposed decision as provided in Pub. Util. Code §§ 311(d) and 311(e) and in Article 14 of the Commission's Rules of Practice and Procedure (Rules), accessible on the Commission's website at [www.cpuc.ca.gov](http://www.cpuc.ca.gov). Pursuant to Rule 14.3, opening comments shall not exceed 15 pages.

FER/EDF/jt2

September 2, 2011

TO PARTIES OF RECORD IN RULEMAKING 09-11-014

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Comments must be filed pursuant to Rule 1.13 either electronically or in hard copy. Comments should be served on parties to this proceeding in accordance with Rules 1.9 and 1.10. Electronic and hard copies of comments should be sent to ALJ Farrar at [edf@cpuc.ca.gov](mailto:edf@cpuc.ca.gov) and Commissioner Ferron's advisor Sarah Thomas at [srt@cpuc.ca.gov](mailto:srt@cpuc.ca.gov). The current service list for this proceeding is available on the Commission's website at [www.cpuc.ca.gov](http://www.cpuc.ca.gov).

/s/ KAREN V. CLOPTON by Steven Kotz

Karen V. Clopton, Chief  
Administrative Law Judge

KVC:jt2

Attachment

## ATTACHMENT

### Digest of Differences Between ALJ Darwin E. Farrar's Proposed Decision and the Alternate Proposed Decision of Commissioner Mark J. Ferron

#### Proposed Decision (PD) by Administrative Law Judge (ALJ) Farrar

The PD by ALJ Farrar finds that Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), San Diego Gas and Electric Company (SDG&E), and Southern California Gas Company (SoCalGas) may use certain unspent gas energy efficiency (EE) funding from prior years, as well as unspent Evaluation, Measurement and Verification funding from prior years, to backstop a funding gap created when the California Legislature, in Senate Bill 87, authorized transfer of \$155 million in funds that would otherwise have been available for gas EE to help close the state's budget gap.

#### Alternate Proposed Decision (APD) of Commissioner Ferron

The APD by Commissioner Ferron backstops the \$155 million that may be lost due to SB 87 with the same funds as ALJ Farrar, and additionally with funds from certain unspent *electric* EE funding from prior years. The additional unspent electric EE funding brings the total backstopped amount closer to full program funding than does the PD.

The PD awards the following amounts:

(million \$)

		PG&E		SDG&E		SCG		Total
		Electric	Gas	Electric	Gas	Electric	Gas	
1	Authorized Gas EE Collections and Budget for FY2012		\$89.9		\$20.7		\$66.0	\$176.5
2	2011-2012 Assured Gas Funds		\$ 21.6					\$21.6
3	Pre-2010 Uncommitted, Unspent, Funds	\$8.62 (18%)	\$7.2	\$4.0 (18%)	\$7.2		\$31.3	\$53.84
4	Unspent 2010- June 2011 Funds		\$ (1.8)		\$ 0.7		\$53.9	\$52.8
5	Total (Line 2-4)	\$ 8.62	\$27.0		\$7.9		\$85.2	\$125.04
6	EM&V		\$13.5		\$0.3			\$17.0
	<b>Total w EM&amp;V</b>		<b>\$49.12</b>		<b>\$12.2</b>		<b>\$85.3</b>	<b>\$142.52</b>

The APD awards the following amounts:

(million \$)

		PG&E	SDG&E	SCG	Total
1	Forecast Gas PPP Collections and Budget for FY2011/2012	\$89.9	\$20.7	\$66.0	\$176.5
2	Pro Rata Reductions if SB 87 Transfer Occurs	\$63.55	\$15.5	\$75.95	\$155.0
3	Pre-2010 Uncommitted, Unspent, Available Funds: <ul style="list-style-type: none"> <li>• Gas</li> <li>• Electric</li> </ul>	\$ 7.2 \$47.9	\$6.9	\$28.1	
4	Pre-2010 EM&V	\$ 13.5	\$0.3	\$3.2	
5	Estimated June 30, 2011 Underspent Gas EE Funds for 2010-12 Portfolio	\$(1.8)	\$0.7	\$53.9	
6	Total Available (lines 3,4,5)	\$66.8	\$7.9	\$85.2	
7	Net Expected Surplus or (Shortfall) (line 6-line 2)	\$3.25	(\$7.6)	\$9.25	

(END OF ATTACHMENT)

Decision **PROPOSED DECISION OF ALJ FARRAR**  
(Mailed September 2, 2011)**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Examine the Commission's Post-2008 Energy Efficiency Policies, Programs, Evaluation, Measurement, and Verification, and Related Issues.

Rulemaking 09-11-014  
(Filed November 20, 2009)

**DECISION REGARDING PUBLIC PURPOSE PROGRAM FUNDS****1. Summary**

Today's decision provides guidance to the Pacific Gas and Electric Company the San Diego Gas and Electric Company, and the Southern California Gas Company (collectively, the IOUs) regarding priorities and financing for these gas utilities' on-going Public Purpose Programs (PPP). Guidance is needed because money previously collected from gas ratepayers is subject to transfer to the State's General Fund under legislation enacting the fiscal year 2011-2012 budget.

In the following sections of today's decision, we first describe the gas PPP and the related surcharges. Second, we describe recent state budget legislation affecting the program. Third, we describe the various uncertainties with which we must deal, including (1) the timing and size of any transfer pursuant to the legislation,<sup>1</sup> (2) the amounts already spent by the gas utilities from money

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<sup>1</sup> Currently we do not know if, when, or to what extent a transfer of funds consistent with Senate Bill 87 will be made.

previously allocated to their respective programs, and (3) alternative sources of money for the programs if and when the legislated transfer occurs. Fourth, we indicate which alternative sources the utilities may tap and which activities the utilities should give priority to if the alternative sources do not fully replace the transferred money. Fifth, we revise the utilities' energy savings goals to take into account our program reductions and priorities. Finally, we provide for an accounting to confirm and track the funds in these programs.

## **2. Background**

### **2.1 The Public Purpose Programs**

Assembly Bill (AB) 1002 which was enacted on September 29, 2000, implemented a gas Public Purpose Program (PPP) surcharge to recover California Public Utilities Commission (Commission or CPUC) authorized gas funding for, among other things, Energy Efficiency, Low Income Energy Efficiency, and California Alternate Rates for Energy administrative program costs through a separate surcharge. The first gas PPP surcharges associated with AB 1002 were adopted by the CPUC in Resolution G-3303 on December 21, 2000. The amounts collected by each of the utilities from the surcharge are remitted to the Board of Equalization (BOE) on the last day of the month following a calendar quarter.<sup>2</sup> The total amount remitted is then transmitted to the State Treasurer, to be deposited in the Gas Consumption Surcharge Fund. The utilities' programs are financed through monies appropriated to the utilities from the Gas Consumption Surcharge Fund by the CPUC. Current estimates place the amount in the Gas Consumption Surcharge Fund at approximately \$176.6 million.

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<sup>2</sup> The amount remitted is calculated by each utility as the sum of the product of each customer class rate multiplied by the customer class throughput.

## **2.2 Budget Provisions for Fiscal Year 2011- 2012**

In broad terms, Senate Bill (SB) 87 makes appropriations for the budget of the State of California. Section 8660-011-3015 of SB 87 provides for an appropriation to the state General Fund by a transfer by the Controller from the Gas Consumption Surcharge Fund.<sup>3</sup> Specifically, this section provides that:

1. At the discretion of the California Public Utilities Commission, all program activities and requirements related to the transfer of \$155,000,000 from the Gas Consumption Surcharge Fund to the General Fund may be suspended for any period impacted by this funds transfer. To the extent such program activities and requirements are suspended for a gas corporation's programs and the gas corporation has not secured a different source of funding authorized by the CPUC, that gas corporation shall be relieved of the obligation to meet and shall not be held responsible for the program goals for the period of time affected by the transfer.
2. Upon the request of the Director of Finance, the Controller shall transfer up to \$155,000,000 from the Gas Consumption Surcharge Fund to the General Fund.

In addition to authorizing the above transfer, SB 87 authorizes the Commission to suspend or downsize any or all of the Investor-owned Utilities' (IOUs') PPP activities and requirements.

## **2.3 Supporting PPPs after SB 87**

On July 7, 2011, the assigned Commissioner issued a Ruling and Scoping Memo (ACR) in this proceeding.<sup>4</sup> After establishing that the impact of SB 87 on

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<sup>3</sup> As set forth in Section 1.80(a), SB 87 appropriates funds "for the use and support of the State of California for the 2011-12 fiscal year beginning July 1, 2011, and ending June 30, 2012."

<sup>4</sup> An additional Administrative Law Judge (ALJ) ruling was required to clarify the IOUs' estimates of the funds available for programs and obtain additional input about

gas PPPs is within the scope of the proceeding, the ACR proposed that the remaining \$21.6 million be augmented with unspent gas Energy Efficiency (EE) funds from pre-2010 and 2010-2011. As set forth in the ACR: PG&E's PPPs can be funded by the approximately \$21.6 million remaining in the Gas Consumption Surcharge Fund plus the approximately \$7.2 million PG&E has in unspent authorized gas funds from pre-2010 and the \$1.8 million deficit in unspent 2010-2011 gas EE funds; SDG&E's \$7.2 million in unspent authorized gas funds from pre-2010 and \$0.7 million in unspent 2010-2011 gas EE funds can fund its PPPs; and SoCalGas' approximately \$31.4 million in unspent authorized gas funds from pre-2010 and \$53.9 million in unspent 2010-2011 gas EE funds can fund its PPPs.<sup>5</sup>

The motion filed by the IOUs on July 1, 2011 in Application (A.) 08-07-021 et al. (IOU Motion), proposed another way to augment the possible reduction in funds available for IOUs' PPPs.<sup>6</sup> The IOUs proposed that:

1. Pacific Gas and Electric Company (PG&E) utilize \$13.5 million of 2006-2009 unspent Evaluation, Measurement and Verification (EM&V) funds that were previously authorized in Decision (D.) 09-09-047;
2. PG&E utilize an additional \$55,138,574 in other available prior period unspent gas and electric EE program funds;

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programs that might need to be cut if funds are reduced. This ruling issued on August 4, 2011.

<sup>5</sup> The IOUs submitted data on these issues in response to data request from the Commission Energy Division (ED), as part of the Joint Motion, in Comments on the ACR, and in response to the ALJ's August 4, 2011 ruling. The numbers in the IOUs' submissions often varied, in part due to revised forecast. The numbers above reflect adjustments and corrections consistent with the IOUs' August 11, 2011 Comments.

<sup>6</sup> By Ruling dated July 11, 2011 the assigned ALJ in A.08-07-021 directed that the IOUs' Motion be filed in this proceeding instead of in A.08-07-021 et al.

3. San Diego Gas & Electric Company (SDG&E) and Southern California Gas Company (SoCalGas) utilize any remaining natural gas funds from the Demand-side Management (DSM) Pilot Bidding programs;
4. SDG&E and SoCalGas utilize their natural gas EE uncommitted and unspent funds from previous EE program cycles, including any EM&V funds; and
5. SDG&E be authorized to offset any remaining gas under-collection by sequentially transferring funds from any remaining electric funds from its DSM Pilot Bidding program and from the over-collection of electric funds in SDG&E's Post-1997 Electric EE Balancing Account.

As acknowledged by the IOUs, regardless of which of the above proposals is adopted, "some IOUs may still be required to curtail some of the 2010-2012 Energy Efficiency portfolio activities."<sup>7</sup> The ACR and IOU proposals were addressed by parties in their comments and reply comments on the ACR.

### **3. Discussion**

#### **3.1 Post SB 87 Funds Available for PPPs**

Based on calendar year 2011, the utilities' normal 12-month Gas Consumption Surcharge Fund collection is approximately \$176.6 million. Monies collected were to be allocated to the IOUs as follows: \$89.9 million for PG&E; \$66 million for SoCalGas; and \$20.7 million for SDG&E. If, \$155 million is transferred, pursuant to SB 87, there will only be \$21.6 million remaining for PPPs. \$21.6 million represents approximately 12% of the previously planned fiscal year 2011 funding; this is not sufficient to support the continued operation of the IOUs' PPPs.

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<sup>7</sup> IOU Motion, at 5.

In addition to supporting the proposal in the ACR, the Division of Ratepayer Advocates (DRA) argues that further investigation is in order to determine the amount of unspent funds the IOUs actually have in their possession. We agree with the latter point. Though Energy Division met several times with IOU representatives, and the Assigned ALJ issued a ruling requiring the IOUs to clarify the estimates of funds available to them, we've yet to conclusively determine what these amounts actually are, why they are so substantial, or even why the IOUs are in possession of funds they were previously directed to spend. While some of this confusion is likely the result of ongoing spending, we are obliged to investigate further. We will therefore direct that Energy Division supervise an audit of these program funds.

In spite of questions surrounding the unspent funds, all parties agree that the Commission can and should direct that unspent funds be used to augment the funds remaining after a transfer pursuant to SB 87, parties disagree about what further actions should be taken to increase the amount of PPP funds available. For example, the IOUs argue that the approach presented in their Joint Motion results in substantially more revenue for PPPs, and represents the most efficient, timely, and equitable plan for addressing any potential PPP budget shortfalls that could result from SB 87.<sup>8</sup> The Natural Resources Defense Council (NRDC) supports the IOUs' Motion and urges the Commission to focus on providing sufficient funding to carry out the PPPs. In contrast, both the Marin Energy Authority (MEA) and the Division of Ratepayer Advocates (DRA) conclude that both policy and law argue in favor of the ACR's proposal. The Utility Reform Network (TURN) views the ACR's approach as reasonable and

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<sup>8</sup> IOU July 21, 2011 Comments at 9.

sensible in light of SB 87's language, and takes issue with the contention that the ACR proposal would divert significant resources away from scheduled program implementation activities.<sup>9</sup>

We agree with the parties that the unspent funds should be used to augment the gas PPP funds if there is a transfer pursuant to SB 87. As noted in the ACR, PG&E will have significantly less gas PPP funds available than the other IOUs if the full transfer is made.<sup>10</sup> We will therefore allocate the amount that will be left over if the full transfer occurs (\$21.6 million) to PG&E.

### **3.1.1 Use of Non-surcharge Funds**

The IOUs argue that the Commission is obliged to use non-surcharge funds to support gas EE programs. They note that California Public Utilities Code Section 890, which establishes the Natural Gas Surcharge, prohibits inclusion of a number of other categories of charges in the rates of gas utilities, but imposes no specific prohibition on using non-surcharge funding to support gas PPPs.<sup>11</sup> The IOUs also claim that the use of non-surcharge funds to support gas PPPs is consistent with the Commission's practice of treating the EE portfolios as a collection of programs targeting market segments (e.g., residential, commercial, industrial) or delivery mechanisms (e.g., financing, statewide marketing), and not as distinct gas or electric funded programs. The Local Government Sustainable Energy Coalition (LGSEC) supports this idea and argues that since the Commission already exercises its ability to use non

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<sup>9</sup> TURN July 28, 2011 Reply Comments at 3.

<sup>10</sup> ACR at 7.

<sup>11</sup> All statutory references are to the California Public Utilities Code unless otherwise noted.

surcharge funds (through procurement) to support EE programs, such funds may be used to augment the funds remaining if there is a transfer.<sup>12</sup>

Other parties oppose the use of non-surcharge funds to support gas EE programs. For example, DRA argues that “[r]equiring ratepayers to pay higher rates to fund the current portfolios, which may not even be cost-effective when their energy savings are estimated using<sup>13</sup> current metrics, would not serve the public interest.”<sup>14</sup> TURN agrees with DRA that the Commission should not increase rates to fund current portfolios.<sup>15</sup> MEA makes a broader two-fold argument. In addition to asserting that the Commission does not have the statutory authority to use non-surcharge funds to support gas EE programs, MEA asserts that such a rate based approach would not be advisable from a policy perspective.<sup>16</sup>

### **3.1.2 Shifting Funds Among Utilities**

As noted above, each of the IOUs has some amount of unspent pre-2010 and/or 2010-2011 EE funds. These unspent funds amount to 6% and 38% of the expected fiscal year 2011-2012 budgets for PG&E and SDG&E (respectively), and 129% of the expected fiscal year 2011-2012 budget for SoCalGas. Given the disproportionate level of funds among the IOUs, in response to questions raised in the ACR, parties’ comments considered whether it is prudent to shift funds among the utilities.

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<sup>12</sup> LGSEC July 21, 2011 Comments at 5.

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<sup>14</sup> DRA July 21, 2011 Comments at 8.

<sup>15</sup> TURN Reply Comments at 4.

<sup>16</sup> MEA July 21, 2011 Comments at 4.

No party asserted that shifting funds among the IOUs was either permissible or desirable. The IOUs argue that Commission policy does not support transferring PPP funds among the IOUs. In particular, the IOUs note that, in relevant part, the Energy Efficiency Policy Manual provides: “Pursuant to Pub. Util. Code §§ 381, 381.1, 399, and 890-900, public goods charge and gas surcharge funds must be spent to deliver energy efficiency benefits to ratepayers in the service territory from which the funds were collected.”<sup>17</sup> Both DRA and MEA agree with the IOUs on this point. MEA additionally notes that while there is a caveat in Paragraph 10 of the Energy Efficiency Policy Objectives and Program Funding Guidelines that allows the IOUs to jointly fund some activities with public goods charges (PGC), surcharges, or other collections, this provision does not allow the IOUs to unilaterally opt to fund such activities.<sup>18</sup>

### **3.1.3 Use of Electric Funds**

The IOUs argue that the Commission has the authority to shift electric funds to gas PPPs, has a longstanding practice of authorizing the use of unspent, uncommitted funds from prior program cycles to augment current program funding, and that “virtually all parties to the proceeding...have acknowledged the Commission’s authority to utilize combined gas and electric funds.”<sup>19</sup>

TURN, DRA, and MEA argue that gas funds must benefit gas programs, electric funds must benefit electric programs, and any transfer of electric funds to gas programs should only occur if the gas programs also benefit electric programs. For example, DRA recommends that the Commission adhere to the

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<sup>17</sup> IOU July 21, 2011 Comments at 11.

<sup>18</sup> MEA July 21, 2011 Comments at 3.

<sup>19</sup> IOU July 21, 2011 Comments at 13, and August 11, 2011 Response to Administrative Law Judge’s Ruling at 2.

policy set forth in the Energy Policy Manual (Policy Manual) that, “gas PGC collections must fund natural gas EE programs and electric PGC collections must fund electric energy efficiency programs.”<sup>20</sup> MEA also cites the Policy Manual as prohibiting the use of PGC electric funds for gas PPPs, and further notes that PU Code section 399(e)(3) only authorizes electricity-based charges to fund electricity-related programs.<sup>21</sup> Thus, these parties argue that the two sources that authorize the collection of electric PPP charges, require those funds be used to fund electricity-related PPPs.

In their motion the IOUs’ request authority to support gas programs with electric funds, without regard to the proportion of electric benefits, if any, these programs provide. The IOUs claim “the Commission has authorized utilities to use combined electric and gas funding from prior program cycles for the benefit of the portfolio as a whole,” and that the Commission “has previously allowed PG&E and SCE to use prior energy efficiency portfolio cycle (combined gas and electric) unspent funds to augment their portfolio funding.” However, the IOUs fail to show that these prior grants of authority are equivalent to the broad

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<sup>20</sup> DRA July 21, 2011 Comments at 9, citing Energy Efficiency Policy Manual Version 4.0 at 6.

<sup>21</sup> In their August 11, 2011 Response to the Administrative Law Judge’s Ruling the IOUs’ include a section entitled “Authority to use Previously Collected Gas and Electric Funds.” This issue was addressed by parties in their Comments and Reply Comments on the ACR and nothing in the ALJ ruling authorized the IOU’s to unilaterally reargue this issue. In this section of their response the IOUs state: “The ALJ Ruling’s characterization that there is ‘substantial disagreement’ on this issue does not appear to accurately represent the parties’ comments on this issue.” In addition to being patently wrong (see text immediately surrounding this footnote), the IOUs’ comment is argumentative and inappropriate.

“authority to offset any remaining gas under-collection by transferring funds from any remaining electric funds” which they now request.<sup>22</sup>

For example, the IOUs repeatedly claim D.09-09-047 authorized a similar transfer of funds.<sup>23</sup> In D.09-09-047 we granted authority for SDG&E to draw on \$73.6 million in uncommitted, unspent electric funds and \$6.2 million in uncommitted, unspent natural gas funding for the Residential Incentive, the Multifamily Rebate Program, the Energy Savings Bid Program, the Heating, Ventilation and Air Conditioning (HVAC) Training Installation and Maintenance program, the Upstream HVAC Motors Program, the Healthcare Energy Efficiency Program, and the Lodging/Intergy Energy Efficiency Program.<sup>24</sup>

As an initial matter we note that the motion granted in D.09-09-047 sought funds to “augment the 2009 bridge funding” and that the Energy Efficiency Policy Manual sets forth separate and distinct rules for such funding. Moreover, in D.09-09-047 the IOUs did not seek, and we did not authorize a deviation from the Policy Manuals prohibition on using electric funds to support gas programs. Instead, as stated by SDG&E in the motion which gave rise to the provisions of D.09-09-047 that the IOUs now seek to rely upon:

SDG&E does not propose to initiate new programs with these funds or to transfer these funds to other programs that are not part of this

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<sup>22</sup> In addition to relying on D.09-09-047 to support their claim, the IOUs cite various resolutions. For the most part the resolutions referenced by the IOUs predate the Commission’s Energy Policy Manual and/or involve requests to use gas and electric funds to support gas and electric EE programs.

<sup>23</sup> See IOU Motion at 3, 4, 5, and 6; IOU Comments at 9, 10, 12, 13, and 15; IOU Reply Comments at 4 and 7; and IOU Response at 2 and 4.

<sup>24</sup> D.09-09-047 addressed a similar request by Southern California Edison (SCE) which the IOU Motion also cites. However, in its request SCE sought to use uncommitted, unspent electric funds to benefit electric energy efficiency programs. D.09-09-047 at 324-325.

request. In addition, this motion proposes no changes to any Commission policies currently in place.<sup>25</sup>

Thus, SDG&E did not seek a deviation from the Energy Efficiency Policy Manual's prohibition on the use of electric funds to benefit (strictly) gas programs.<sup>26</sup> Instead, as shown in Table 38 of D.09-09-047, SDG&E demonstrated electric EE program benefits for each of the programs for which additional electric funding was sought.<sup>27</sup>

Thus, contrary to the IOUs current intimations, D.09-09-047 did not provide for the use of electric funds to support programs in contravention of the Energy Policy Manual and without regard to whether the programs mutually or solely benefitted gas customers. Because the IOUs' motion requests broad "authority to offset any remaining gas under-collection by transferring funds from any remaining electric funds" we will deny the IOUs' request.

Moreover, while D.09-09-047, would allow the IOUs to utilize electric funds to support gas programs that also benefit electric programs, here the IOUs fail to state which, if any, of the programs in jeopardy are mutually beneficial programs, or to provide information about the relative (gas/electric) benefits of the programs at issue.

Rather than decline to allow the IOUs to use any electric programs funds for gas programs that also benefit electric programs we will use the formula for the electric and gas cost recovery expense ratio developed in D.09-09-047 as a proxy. This approach is consistent with D.09-09-047 which noted that, in

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<sup>25</sup> See SDG&E Motion to Shift Unspent, Uncommitted Funds from Previous Program Cycles to Ensure Adequate Funding for identified 2009 Energy Efficiency Transition Programs at 3, filed in A.08-07-021, August 11, 2009.

<sup>26</sup> The Energy Policy Manual was disseminated in March of 2008.

<sup>27</sup> See D.09-09-047, Table 38 at 328.

A.08-07-021 both PG&E and SDG&E proposed that all of the incremental electric revenue requirement resulting from approval of the proposed energy efficiency budgets continue to be recovered through procurement rates in this manner.

D.09-09-027 granted PG&E's and SDG&E's requests and directed that the portfolio budgets for PG&E and SDG&E should split the electric and gas cost recovery according to an expense ration aligned with the portfolios for savings/budgets.<sup>28</sup> After adjusting the formula adopted under D.05-09-043, in D.09-09-047 we determined that the appropriate ratio for PG&E and SDG&E is 18% gas and 82% electric. Where the IOUs now propose to use this same ratio to recognize the impact resulting from passage of SB 87 by having PG&E record a one-time budget reduction to its energy efficiency balancing account<sup>29</sup> we will instead use this ratio to allow PG&E and SDG&E to allocate 18% of their electric EE program funds to gas programs that benefit electric EE programs.<sup>30</sup>

#### **3.1.4 Evaluation Management and Verification Funds**

The IOU motion requests that PG&E be allowed to augment its PPP funds with the estimated \$13.5 million of 2006-2009 unspent EM&V funds that were authorized in D.09-09-047, and that SDG&E and SoCalGas be allowed to augment its PPP funds with their natural gas EE uncommitted and unspent funds from previous EE program cycles, including any EM&V funds.<sup>31</sup> Thus, in addition to the funding sources discussed above, the IOU proposal seeks to

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<sup>28</sup> D.09-09-047 at 319.

<sup>29</sup> See IOU Motion at 4.

<sup>30</sup> As we do not adopt the IOUs' proposal we will not direct PG&E to record a 18% gas and 82% electric one-time budget reduction to its energy efficiency balancing account.

<sup>31</sup> IOU Motion, at 5.

augment the potential reduction in PPP funding with EM&V funds. No party directly opposed this request.

### 3.1.5 Funding Conclusion

For the reasons set forth above, we decline to adopt the proposal set forth in the IOU Motion. Instead, we will adopt a hybrid of the proposals set forth in the ACR and in the IOU Motion. We direct that:

- PG&E shall utilize the unspent EM&V funds from previous program cycles to augment its PPP funds.
- PG&E shall utilize its uncommitted and unspent natural gas EE funds from previous program cycles.
- PG&E shall utilize the \$21.6 million that will remain in the 2011-2012 natural gas fund if the full SB 87 transfer is made.
- SDG&E and SoCalGas shall utilize their uncommitted and unspent gas EE funds from previous program cycles.
- Consistent with the 18% - 82% rule developed in D.09-09-047, programs that PG&E and SDG&E identify as having both gas and electric EE program benefits shall be supported with 18% of the Pre-2010 Unspent, Uncommitted electric funds.
- Any funds provided to the IOUs in excess of a transfer made pursuant to SB 87 shall be returned to their originating source by the IOU on or before July 30, 2012.

Consistent with the above directives, the funds available to the IOUs are summarized in Table A below:<sup>32</sup>

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<sup>32</sup> The electric funds which we authorize PG&E and SDG&E to use to support mutually beneficial gas programs is not included in Table A.

Table A: Summary of IOU Available Funds

		PG&E		SDG&E		SCG		Total
		Electric	Gas	Electric	Gas	Electric	Gas	
1	Authorized Gas EE Collections and Budget for FY2012		\$ 89.9		\$ 20.7		\$66.0	\$176.5
2	2011-2012 Assured Gas Funds		\$ 21.6					\$ 21.6
3	Pre-2010 Uncommitted, Unspent, Funds	\$ 8.62 (18%)	\$ 7.2	\$ 4.0 (18%)	\$ 7.2		\$31.3	\$ 53.84
4	Unspent 2010- June 2011 Funds		\$ (1.8)		\$ 0.7		\$53.9	\$ 52.8
5	<b>Total (Line 2-4)</b>	<b>\$ 8.62</b>	<b>\$ 27.0</b>		<b>\$ 7.9</b>		<b>\$85.2</b>	<b>\$125.04</b>
6	EM&V		\$ 13.5		\$ 0.3			\$ 17.0
	<b>Total w EM&amp;V</b>		<b>\$ 49.12</b>		<b>\$ 12.2</b>		<b>\$85.3</b>	<b>\$142.52</b>

### 3.2 Program Prioritization

Both the proposal in the IOUs' Motion and in the ACR acknowledge that if the full SB 87 transfer occurs, programs will likely need to be cut. Even though the total funds above exceeds the funding provided for in the IOUs' Motion and the ACR, PG&E's and SDG&E's programs will still be under funded if the full SB 87 transfer occurs.

The ACR established priorities to guide program curtailment if the full SB 87 transfer is made. Specifically, the ACR proposed that the IOUs fully fund the American Recovery and Reinvestment Act programs (ARRA), and in particular, the Energy Upgrade California program.<sup>33</sup> For the most part, parties agreed that these programs should be given priority.

<sup>33</sup> In comments on the ACR no party disputes that top priority should be given to programs supplemented by the ARRA programs.

The ACR also proposed that for PG&E and SDG&E, any funds remaining should flow to the gas PPP programs according to their Total Resource Cost (TRC) ranking.<sup>34</sup> However, in response to the ALJ's August 4, 2011 ruling, the IOUs suggest the need for greater latitude than TRC rankings afford. For example, PG&E declined to use TRC ranking to prioritize funding at the sub-program level and noted that:

In order to remove \$61.1 million in gas expenditures from its portfolio, PG&E will need to cut \$34.9 million in gas incentives and \$26.2 million in non-incentive programs costs from both resource and non-resource programs, including administrative and direct implementation costs. To achieve these reductions, PG&E proposes to decrease the authorized budgets for 46 resource subprograms and 18 non-resource subprograms.<sup>35</sup>

Similarly, in Attachment B, Table 2 of the IOU response to the ALJ's August 4, 2011 ruling, SDG&E uses different reduction strategies (i.e. removal of gas only measures, scaled reductions, and reductions by a forecasted amount).

We are sympathetic to the IOU's efforts to preserve effective programs and mitigate the impact of the funding reductions resulting from SB 87. However, we are also cognizant of issues raised by TURN which suggest that the current gas portfolio may not be cost effective as it includes a number of poorly performing programs.<sup>36</sup> We will therefore direct the IOUs to prioritize and resubmit a list of programs based on the following ranking criteria:

- (1) ARRA programs;
- (2) Programs with commitments predating July 2011; and

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<sup>34</sup> Because SoCalGas would be left with 129% for its energy efficiency programs it is expected to fully fund its PPPs. See IOU July 21, 2011 Comments at 8.

<sup>35</sup> IOU August 11, 2011 Response to ALJ Ruling at 11.

<sup>36</sup> TURN July 21, 2011 Comments at 2-3.

- (3) Programs with the highest TRC rating.<sup>37</sup>

### **3.3 Revising the IOU's Energy Efficiency Goals**

The IOUs argue that the Commission is obliged to adjust the gas savings goals for the 2010-2012 program cycle if they are ordered to curtail their gas EE program activities.<sup>38</sup> As noted by the IOUs, in relevant part, SB 87 provides:

To the extent such program activities and requirements are suspended for a gas corporation's programs and the gas corporation has not secured a different source of funding authorized by the CPUC, that gas corporation shall be relieved of the obligation to meet and shall not be held responsible for the program goals for the period of time affected by the transfer.<sup>39</sup>

We agree that under SB 87 a goal reduction should follow a curtailment of PPP programs, and believe the gas goal reduction should come as a percentage of programs curtailed. We therefore direct the IOUs to file a Tier 3 Advice Letter (AL) within 30 days of any SB 87 related program reduction, which follows the ranking criteria set forth in section 3.2 above, and proportionally reduces the IOU's gas goals based on the adjusted budgets and updated energy savings. The updated energy savings shall include the revised *ex ante* values that are to be submitted to Energy Division in September of 2011.<sup>40</sup> The IOUs should identify ARRA programs, programs with committed projects, and the associated TRC level of programs in the AL they file.

## **4. Comments on the Proposed Decision**

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<sup>37</sup> Should any of the IOUs wish to fund a program at the expense of a higher TRC rated program they may request (but should not assume) permission to do so via a Tier 3 AL.

<sup>38</sup> IOU July 21, 2011 Comments at 10-11.

<sup>39</sup> IOU July 21, 2011 Comments at 10.

<sup>40</sup> In D.11-07-030 we directed the IOUs to submit revised *ex ante* energy savings values not in the 2008 Database for Energy Efficient Resources, version 2.05, to ED.

The proposed decision of the Commissioner in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and Rule 14.2(a) of the Commission's Rules of Practice and Procedure. Comments were filed on \_\_\_\_\_, 2011 by \_\_\_\_\_, DRA, The City and County of San Francisco, NRDC, PG&E, SDG&E, TURN. Reply comments were filed on \_\_\_\_\_, 2011.

### **Assignment of Proceeding**

Mark J. Ferron is the assigned Commissioner in these proceedings and Darwin E. Farrar is the assigned ALJ for this portion of this proceeding.

### **Findings of Fact**

1. In May of 2011 the California Legislature passed SB 87.
2. AB 1002 implemented a gas public purpose programs surcharge to recover Commission-authorized gas funding for, among other things, energy efficiency, Low Income Energy Efficiency, and California Alternate Rates for Energy administrative program costs through a separate surcharge.
3. Based on calendar year 2011, the utilities' normal 12-month Gas Consumption Surcharge Fund collection is approximately \$176.6 million.
4. If the full amount allowed by SB 87 is transferred, there will only be \$21.6 million remaining in the Gas Consumption Surcharge Fund.
5. The July 7, 2011 ACR proposed ways to augment the possible reduction in funds available for gas public purpose programs.
6. PG&E, SDG&E, and SoCalGas filed a motion on July 1, 2011 in A.08-07-021 et al. that proposed ways to augment the possible reduction in funds available for gas public purpose programs.
7. PG&E, SDG&E, and SoCalGas each have some amount of unspent pre-2010 and/or 2010-2011 EE funds.

8. Parties agree that the Commission can and should direct that unspent authorized gas funds from pre-2010 and unspent 2010-2011 EE funds be used to augment the funds remaining if there is a transfer of funds pursuant to SB 87.

9. The IOU Motion requested that PG&E be allowed to use the remaining estimated \$13.5 million of 2006-2009 unspent EM&V funds that were previously authorized in D.09-09-047, and that SDG&E and SoCalGas be allowed to utilize their natural gas EE uncommitted and unspent funds from previous EE program cycles, including any EM&V funds.

10. For the most part, parties agreed that the IOUs should fully fund their ARRA, and, in particular, the Energy Upgrade California program.

### **Conclusions of Law**

1. SB 87 authorizes the transfer of up to \$155 million in gas public purpose program funds from the BOE to the state's General Fund for fiscal year 2011-2012 beginning July 1, 2011, and ending June 30, 2012.

2. SB 87 authorizes the Commission to, among other things, suspend or downsize any and/or all of the IOUs' gas public purpose program activities and requirements.

3. Electric public purpose program funds can be used to fund mutually (gas and electric) beneficial gas public purpose programs.

4. Consistent with the Commission's Energy Policy Manual, gas PGC collections must fund natural gas energy efficiency programs and electric PGC collections must fund electric energy efficiency programs.

5. Consistent with SB 87, a goal reduction should follow our curtailment of gas public purpose programs.

**IT IS ORDERED** that:

1. Pacific Gas and Electric Company, San Diego Gas and Electric Company, and SoCalGas shall use unspent authorized gas funds from pre-2010 and unspent 2010-2011 Energy Efficiency funds to augment SB 87 related reductions in gas PPP funding as set forth above.
2. Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Gas Company shall conduct an audit of the above program funds under the direction and control of the California Public Utilities Commission's Energy Division.
3. Pacific Gas and Electric Company shall use 18% (estimated to be \$13.5 million) of their remaining 2006-2009 unspent Evaluation Measurement and Verification funds to offset Senate Bill 87 related reductions in gas Public Purpose Program funding.
4. PG&E shall use the \$21.6 million that will be left over if the full Senate Bill 87 transfer is made, to fund its gas Public Purpose Programs.
5. San Diego Gas & Electric Company shall use 18% (estimated to be \$4 million) of their remaining 2006-2009 unspent Evaluation, Measurement and Verification funds from previous cycles to offset Senate Bill 87 related reductions in gas Public Purpose Program funding.
6. Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Gas Company shall fully fund their American Recovery and Reinvestment Act programs, in particular, the Energy Upgrade California programs.
7. Pacific Gas and Electric Company and San Diego Gas & Electric Company each shall file a Tier 3 Advice Letter within 30 days of the mailing of this decision which follows the ranking criteria set forth in section 3.2 of today's decision, and

proportionally reduces the gas goals based on the adjusted budgets and updated energy savings.

8. The Pacific Gas and Electric Company and San Diego Gas & Electric Company updated energy savings shall include the revised *ex ante* values that are to be submitted to Energy Division in September of 2011.

9. Pacific Gas and Electric Company and San Diego Gas & Electric Company shall identify American Recovery and Reinvestment Act programs, programs with committed projects, and the associated Total Resource Cost level of programs in the Advice Letter in Ordering Paragraph 7 above.

10. Pacific Gas and Electric Company and San Diego Gas & Electric Company may use up to 18% of their electric energy efficiency program funds to support gas programs that they identify as also having electric energy efficiency program benefits.

11. All funds provided for in today's decision in excess of funds transferred pursuant to Senate Bill 87 shall be returned to their source of origin on or before July 2012.

12. Nothing in this decision shall be construed as authorizing an increase in rates or surcharges.

13. The Investor-owned Utilities shall file an Advice Letter within 30 days of any Senate Bill 87 related program reduction, which follows the ranking criteria set forth in section 3.2 of today's decision, and proportionally reduces their gas goals based on the adjusted budgets and updated energy savings. The updated energy savings shall include the revised *ex ante* values that are to be submitted to Energy Division in September of 2011.

Dated \_\_\_\_\_, at Los Angeles, California.