



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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Order Instituting Rulemaking Regarding  
Policies, Procedures And Rules For The  
Low Income Energy Efficiency Programs  
Of California's Energy Utilities.

Rulemaking 07-01-042  
(Filed January 25, 2007)

**PREHEARING CONFERENCE STATEMENT OF  
THE DIVISION OF RATEPAYER ADVOCATES**

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## I. INTRODUCTION

Pursuant to section 7.2 of the Commission's Rules of Practice and Procedure section and the Administrative Law Judge ("ALJ") Sarah Thomas' May 24, 2008 Notice of Prehearing Conference ("PHC"), the Division of Ratepayer Advocates ("DRA") hereby submits its PHC statement.

DRA is pleased to participate in the first ever three-year budget cycle for Low Income Energy Assistance Programs. On May 15, 2008, 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's ("SoCalGas") (collectively referred to as "IOUs") filed their Applications for Approval of their 2009-2011 Budgets for the Low Income Energy Efficiency ("LIEE") and California Alternate Rates for Energy ("CARE") programs.

The instant set of Applications includes significant policy issues to be implemented from now through 2020. The Commission's ordering paragraphs in D.07-12-051 direct the IOUs to present strategies and modifications to the CARE and LIEE programs that require more extensive analysis and discovery than may have been required in prior years. While DRA recognizes the importance of authorizing programs in advance of 2009 to assure program continuity, the long-term well-being of California's low-income households and the environment is at stake and should not be compromised for scheduling constraints. Parties need time to conduct and present meaningful analysis of the program plans. Accordingly, DRA proposes a very reasonable schedule that includes testimony and hearings, while providing ample time to implement the programs in 2009 with a November 2008 final decision.<sup>1</sup>

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<sup>1</sup> In fact, DRA and PG&E offer the same November 6, 2008 Final Decision deadline (PG&E Testimony, page 23).

Below DRA lists issues necessitating hearings and issues that could be resolved through written comments or testimony. DRA reserves the right to include additional issues in its protest or at the PHC.

## **II. ISSUES REQUIRING HEARINGS**

DRA finds several material questions of fact necessitating hearings. While DRA has initiated discovery in order to gain clarification on contested or ambiguous issues, the IOUs can only provide certain specific and detailed information during cross examination under oath. In addition, DRA has had some issues with the IOUs regarding their Data Request Responses. <sup>2</sup> Indeed, hearings would resolve these issues. The questions looming large in DRA's mind for resolution through hearings are:

### **1. Are the estimates of eligible population on which CARE and LIEE penetration targets are based accurate?**

The IOUs estimates of eligible populations for CARE and LIEE are inexplicably low. The reported number of eligible customers remaining to be treated<sup>3</sup> is precipitously lower than estimates provided by utilities in recent annual reports and the KEMA Needs Assessment. Eligible population estimates feed into the penetration targets, an important measure of program success. Therefore, resolving such a discrepancy is critical. Additionally for LIEE, DRA disputes the approach of removing estimated "unwilling" and those customers treated by LIHEAP from the "estimated eligible" to arrive at the LIEE penetration target. DRA requires a qualified IOU witness to provide under oath information relating to this and other similar issues.

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<sup>2</sup> DRA's attempts to resolve this discrepancy include an email sent May 27, 2008 and a verbal inquiry at the IOU quarterly meeting held May 20, 2008. Finally, DRA issued Data Requests to the IOUs on May 29 and May 30, 2008, with requested due dates of June 12 and June 13, 2008. DRA's concern over notes timely response is provoked by SDG&E and SCG's late response to the first DRA-issued Data Request in March 2008.

**2. Are LIEE cost-effectiveness results, both at the program level and the measure level, valid?**

Recognizing that the “programmatic initiative” to significantly increase LIEE enrollment will raise costs, the Commission wisely required cost-effectiveness analysis in the Applications and required the utilities to pursue several cost containment strategies such as leveraging and integration.<sup>4</sup> DRA believes the cost-effectiveness results presented in the IOU applications are skewed and unreliable, therefore providing no basis on which to determine the economic value of the programs. First, the utilities include administrative and into the measure-level cost effectiveness tests, therefore skewing the results. The utilities themselves provide examples of how overhead costs skew measure-level results.<sup>5</sup> The justification for including overhead costs is “because the measure level benefit cost-ratios produced for this Application are to assess the cost effectiveness of the program as a whole, indirect costs were included in the analysis, unlike the previous analysis completed for the 2003 programs described above.”<sup>6</sup> Based on this faulty assumption, the utilities apparently do not factor cost-effectiveness factors into their decisions of which measures to include in the 2009-2011 programs. DRA recognizes in Ordering Paragraph 4 of D.07-12-051 the Commission’s direction to analyze both measure-level and program-level cost effectiveness results:

Each application of SCE, PG&E and SoCalGas for LIEE and CARE budget authority for the 2009-2011 period shall:

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<sup>3</sup> Reported in Attachment A-3 of Utility 09-11 Applications.

<sup>4</sup> D.07-12-051 Ordering Paragraph 4

<sup>5</sup> See Prepared Direct Testimony of Kevin McKinley on behalf of San Diego Gas and Electric Company’s LIEE Program Plans and Budgets for Program Years 2009-2011, p. KCM-5

<sup>6</sup> See Prepared Direct Testimony of Kevin McKinley on behalf of San Diego Gas and Electric Company’s LIEE Program Plans and Budgets for Program Years 2009-2011, p. KCM-3.

- Propose a portfolio that identifies the benefit-cost ratio for each program and a justification for each program that is not cost-effective, as required in D.02-08-034 and according to the Commission’s cost-effectiveness methodology;
- Demonstrate that all program elements included toward the achievement of the initiative articulated here are cost-effective using the total resource test adopted in D.02-08-034;

DRA also believes the program-level total resource cost (“TRC”) test results are invalid because the IOUs, contrary to the direction in D.02-03-034, do not include Non-Energy benefits as inputs to the test. “The RRM Working Group quantified these and other non-energy benefits for our consideration and, in D.01-12-020, we directed the utilities to include them in their cost-effectiveness testing of LIEE programs and measures.”<sup>7</sup> Simply because the test applied is the TRC does not mean the non-energy benefits to participants disappear.

DRA can only obtain specific information on cost-effectiveness inputs and the TRC methodology through hearings. DRA’s past experience has been that the IOUs tend to provide more general data in data responses and more specific data during hearings. Given the timing constraints in this proceeding, the sooner DRA has access to the data it needs, the sooner the programs can be ready to begin in 2009.

**3. Has cost-effectiveness been adequately considered in the LIEE Program Plans and Budgets for Program Years 2009-2011?**

In order to adequately assess cost-effectiveness of the Programs, the Commission should require the IOUs to utilize the same avoided cost input for the LIEE programs as it requires for the EE 2009-11 applications. The Commission ordered, “We direct the IOUs to file their 2009-2011 portfolios on May 15<sup>th</sup> using the updated 2007 generation cost values as adopted in the Commission’s October 4, 2007 Resolution C-4118 (the updated 2007 Renewable Portfolio Standard

[RPS] market price referent [MPR] values), .....We further direct the IOUs to include in their May 15<sup>th</sup> filing a second case scenario using a higher carbon value of \$30/tonne.....”<sup>8</sup> The Commission should also include landlords as program “participants” and calculate the landlord benefit using the Participant Test in the Standard Practice Manual (“SPM”). Finally, the Commission should require the shareholder benefits generated from the inclusion of LIEE savings in the Minimum Performance Standard to be factored into the Total Resource Cost test in Annual Reports.

**4. Do LIEE Program Plans and Budgets for Program Years 2009-2011 demonstrate acceptable participant welfare and household bill savings?**

The most obvious measure of participant hardship reduction included in most LIEE reports in this decade has been bill savings, which is omitted from the Applications. Even with the inclusion of the traditional statistics of “average 1st year bill savings per household” and “average lifecycle savings per household,” there would not be sufficient information to gauge whether the participant benefits merit the costs and meet statutory requirements.<sup>9</sup> Program analysis is still hampered because each household receives a different set of measures, with significant numbers of households treated receiving no more than energy education and compact fluorescent light bulbs (CFLs). DRA suggests the IOUs also report median bill savings & quartile bill savings (1/4 LIEE treated

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<sup>7</sup> D.02-08-034 p. 6

<sup>8</sup> Assigned Commissioner’s and Administrative Law Judge’s Ruling Regarding May 14, 2008 Energy Efficiency Portfolio Plans for 2009-11, pp. 1-2.

<sup>9</sup> PU Code 2790(a) The commission shall require an electrical or gas corporation to perform home weatherization services for low-income customers, as determined by the commission under Section 739, if the commission determines that a significant need for those services exists in the corporation’s service territory, *taking into consideration both the cost-effectiveness of the services and the policy of reducing the hardships facing low-income households.*

households saved \$x-\$x, etc.) or group participants typical measure installation “packages” and report the average bill savings by typical measure installation “package.”

**5. Will PG&E and SoCalGas' proposals to offer more measures to higher use customers thwart California statute and result in negative consequences?**

DRA believes the program delivery “tiering” proposed by PG&E and SCG will penalize lower-use customers, compromise participant hardship reduction, and miss opportunities to invest in the low-income housing stock. DRA again urges the Commission, as it did in its Pre-Workshop Comments on LIEE Program Delivery, filed March 25, 2008, to heed the 2005 Impact Evaluations’ recommendation that “Removing measures that do not appear to be cost effective on average from the LIEE program may prevent the installation of these efficiency upgrades in homes where they are sorely needed.”<sup>10</sup> Both the Needs Assessment and Impact Evaluation find that low-income households tend to use less energy than the average residential consumer. This is confirmed in the IOUs 2007 Annual CARE reports. By using usage as a determinant of which measures to install, the program would provide slightly less hardship reduction to a low-usage low-income customer, thereby penalizing the customer for past conservation. Regarding the lost opportunities created by tiering, DRA notes the high rate of moving households by low-income customers. Even though a customer may move, the household has already been treated. If a high-usage low-income customer were to move into a unit that had previously been treated based on the usage of the previous occupant, an opportunity to increase energy efficiency and reduce hardship would have been missed.

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<sup>10</sup> *Impact Evaluation of the 2005 California Low Income Energy Efficiency Program*, West Hill Energy & Computing, Inc., p. 15.

Furthermore, offering more measures to high energy users violates several statutes including Public Utilities Code sections 2790 and 453. Offering more measures to high energy users more measures violates several Commission decisions as well. All in all, there will be a fair amount of legal issues that warrant participants such as DRA to submit legal briefs.

### **III. ADDITIONAL ISSUES**

Ultimately, the main issue of the instant applications is whether the programs maximize energy efficiency gains and minimize energy-related hardships at the least possible cost to ratepayers. In addition, DRA identifies here additional deficiencies in the CARE and LIEE applications which require testimony and briefing . DRA believes however, the sooner these issues are resolved, the higher the likelihood of launching 2009 -11 programs that will truly serve the twin goals of maximizing energy savings and minimizing customer hardship. DRA requests the Commission accelerate the program analysis by requiring the following enhancements to the Applications as soon as practicable.

#### **A. CARE**

DRA's notes the CARE applications contain no program participation goals for specific population sectors or segments with the exception of a usage sector.<sup>11</sup> DRA cannot fathom that, in light of the recommendations in the Commission mandated KEMA Needs Assessment to pursue African-American, disabled, families with high energy insecurity, that the only sector the Commission cares about is whether a family is a high or low energy user. DRA takes significant issue with the IOUs blatantly disregard to the Commission's reliance on KEMA to provide guidance to the IOUs.

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<sup>11</sup> D.07-12-051 OP 4

## **B. LIEE**

### **1. Analysis of AB 1109**

The IOUs disregard the Commission's direction to analyze the impact of AB 1109 on the 2009-11 Low Income programs.<sup>12</sup> The assertion by all four IOUs that the legislation will not affect the 2009-11 programs because the legislation is not scheduled to take effect until 2012 is a perfect example of the failure to think strategically. AB 1109 will take effect on January 1, 2012, one day after the current application cycle ends, yet the IOUs will not prepare for that day and will most likely be underprepared.

### **2. Integration with Energy Efficiency**

The Commission stated ".....LIEE programs should build upon the experience, resources and strategic thinking that is available from general energy efficiency work."<sup>13</sup> As stated in its Comments on the Draft Strategic Plan, DRA believes Marketing, Education & Outreach, as well as Evaluation, Measurement, and Verification are the best areas to begin integration (and consequent cost savings) with Energy Efficiency. To that end, DRA requests that the Commission utilize the mechanism it created to coordinate and integrate Demand Side Management ("DSM") and EE, to LIEE as well. Specifically, Ruling 2 in the Joint Assigned Commissioners' Ruling Providing Guidance on Integrated DSM in 2009-2011 Portfolio Applications of April 11, 2008 requires that "all programs involving the coordination and/or integration of EE and DR measures, funding, or programs be included in both the EE and DR portfolio applications for the 2009-2011 period DRA takes issue with the IOUs lack of compliance with the Commission's Ruling and therefore, DRA needs to conduct further research and

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<sup>12</sup> D.07-12-051 OP 4

<sup>13</sup> D.07-12-051 p.16

offer recommendations on how the IOUS should promote the Commission's ruling. .

### **C. PILOTS**

The Commission has stated and there is general agreement that Pilots are a cost-effective way to test program changes before launching a full-fledged program. However, pilots are successful by careful and organized planning. DRA recommends that for each pilot proposed in the Applications, the utilities be required to submit an accompanying evaluation plan before the pilot is approved.

### **IV. SCHEDULE**

As discussed in Section II, hearings are required. Unlike the prior two year budget cycles where hearings were not required, the instant proceeding involves a three-year cycle that involves important foundational issues that effect the programs from 2009 until at least 2020, if not longer.

DRA proposes a schedule including hearings because the applications raise material questions. DRA's proposed schedule allows parties to present meaningful analysis of the programs beyond the June 30 protest date, while concluding with ample time to implement 2009-11 programs. In fact, DRA and PG&E offer the same final Commission date. Should the material issues be resolved by the time testimony is filed, the schedule could be amended at that time. DRA supports the Assigned Commissioner's interest in including an Energy Division-led workshop with the hope that the workshop would speed resolution of issues. However, DRA believes the workshops would be most useful if the IOUs submit any consequent changes to their proposals post-workshop for the parties to review.

#### **DRA Proposed Schedule**

<b>Event</b>	<b>Date</b>
DRA/Intervenors file Protest(s)	June 19, 2008
Prehearing Conference	June 24, 2008
Applicant Reply to Protest(s)	June 30, 2008

Workshop	July 17-18, 2008
IOUs Amend Applications Based on Workshop Results	July 25, 2008
Intervener Testimony	August 19, 2008
Rebuttal Testimony	August 28, 2008
Hearings	September 9-10, 2008
Concurrent Briefs	September 22, 2008
Proposed Decision	October 7, 2008
Final Decision	November 6, 2008

**V. CONCLUSION**

DRA values this opportunity to contribute to Low Income Assistance Programs planning process. We look forward to maintaining our active participation in the proceeding.

Respectfully submitted,

/s/ RASHID A. RASHID

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June 10, 2008

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of **PREHEARING CONFERENCE STATEMENT OF THE DIVISION OF RATEPAYER ADVOCATES** in **R.07-01-042** by using the following service:

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

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Executed on June 19, 2008 at San Francisco, California.

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/s/ ALBERT HILL

Albert Hill

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address and/or e-mail address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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