



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

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Order Instituting Rulemaking to Consider
New Approaches to Disconnections and
Reconnections to Improve Energy Access
and Contain Costs.

Rulemaking 18-07-005
(Filed July 12, 2018)

**COMMENTS OF THE UTILITY CONSUMERS' ACTION NETWORK ON THE
PROPOSED DECISION OF ADMINISTRATIVE LAW JUDGE WONG ON THE
PERCENTAGE OF INCOME PAYMENT PLAN PILOT PROJECTS FOR THE FOUR
MAJOR CALIFORNIA ENERGY UTILITIES**



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I. Introduction

Pursuant to Rule 14.3 of the Rules of Practice and Procedure of the California Public Utilities Commission, the Utility Consumers' Action Network ("UCAN") submits its Comments on the proposed decision of Administrative Law Judge Wong that was issued on September 2, 2021. To a large extent UCAN supports the Proposed Decision and believes that the percentage of income payment plan ("PIPP") pilots the PD creates will yield useful information about whether a PIPP program should be available to all qualified low-income residential customers of the four major energy utilities in California. UCAN has identified some legal and factual issues about whether the outreach program the proposed decision ("PD") establishes will ensure the benefits of the PIPP pilots are equitably distributed, the possible effects of the PD's treatment of customers that receive one form of energy from a municipal provider and the other from a Commission-regulated utility, the discretion accorded by the PD to community choice aggregators about participating in the pilots, the duration of the pilots, and legal and/or factual concerns about how the PIPP pilot programs will be evaluated, and the process the Commission will follow in deciding whether a PIPP program should be available for all qualified low-income residential customers. UCAN's specific legal and factual concerns about errors regarding these aspects of the PD are discussed in more detail below.

II. Discussion

**A. PIPP Pilot Eligibility Criteria Need to be Tailored to Reach Customers Most in
Need of Assistance**

The PD allows California Community Choice Aggregators (“CCAs”) the *option* to participate in the PIPP pilots.¹ At this juncture, it is far from clear whether the CCAs will exercise this option when PIPP pilots are initiated after the Commission’s final decision in this phase of R.18-07-005. The PD limits participation in the PIPP pilots to households enrolled in the California Alternate Rates for Energy (“CARE”) program, or households in zip codes with the highest rates of recurring disconnections, or were disconnected two or more times during the 12 months prior to the disconnections moratorium.² While UCAN supports these selection criteria, if large numbers of the CCAs decline to participate in the PIPP pilots the results of the pilots may be skewed in unforeseeable ways. Moreover, the potential eligibility of an individual household for participation in a PIPP pilot will be (in part) a function of where they live and whether their CCA (if one exists where they live) opts to participate in the PIPP pilots, rather than whether they otherwise qualify for inclusion in a pilot.

It is legal error to give CCAs the option to participate in the PIPP pilots. Under section 453(a) and (b) of the Pub. Util. Code utilities are prohibited from providing services on a preferential basis or engaging in discrimination on the individual characteristics of the customer. The PD’s proposed language conditions eligibility for enrollment in the PIPP pilot based on the discretionary decision of CCAs to participate in the pilots. To qualify for inclusion in one of the pilots the CCA must have both participated in the arrearage management plans established by the Commission in 2020, and has decided to participate in the pilots, i.e., the PD would—in effect—institutionalize eligibility for PIPP pilots depending upon whether individual CCAs agree to participate in the pilot program. The benefits of the PIPP pilots should be available to a broad spectrum of utility customers that meet the income and CARE participation criteria that are proposed in the PD; it should not be a function of an accident of geography regarding whether a given low-income ratepayer is served by a CCA or a traditional investor-owned utility. While UCAN appreciates that the PIPPs pilots proposed by the PD are limited in both scope and duration, it is unclear how the exclusion of a portion of low-income customers (based on their CCA’s status) from participating in the pilots will affect the evaluation and results of the pilots.

To avoid the problem of disparate eligibility for the PIPP pilots depending upon the decision of a CCA to participate in the program the PD could be modified in two ways: 1)

¹ PD, p. 30.

² *Id.*, p. 2.

mandate that all CCAs be required to make their CARE customers eligible for enrollment in a PIPP pilot; or 2) limit eligibility for PIPP pilots to CARE customers being served by traditional IOUs, i.e., those that do not have a CCA in place.

B. Addressing the Problem of Municipal Utilities and PIPP Pilots

Customers who reside in the service territories of municipal or irrigation district utilities will not be eligible to participate in PIPP pilots for the electricity they consume because the Commission has no jurisdiction over the rates or the services these entities provide; however, low-income customers that are served by municipal or irrigation district electric utilities may be eligible to receive discounted services for the natural gas that they use. Conclusion of Law #20 states that bill caps for customers served by two utilities for electricity and gas should be split into separate bill caps for the two types of services and that “[t]he split will be based on the average annualized CARE customer bill for electricity and gas in two categories of climate zones.”³ It is unclear how a natural gas-only utility such as SoCalGas would be able to implement such a split for those of its customers being served by the Los Angeles Department of Water and Power, Burbank, or other municipal providers since SoCalGas would not have access to customer billing information about the electric service being provided by these municipal utilities. The PD should be modified so that utilities such as SoCalGas have clear direction about applying the proposed split when a municipal utility provides electric service.

C. Bill Caps and Climate Zones

Conclusion of Law #20 states that when two different utilities provide electric and natural gas service the utilities are to include “... a joint proposal for splitting each bill cap between electric and gas for two different groups of climate zones in their advice letters.”⁴ California has far more than two climate zones. Large utilities such as PG&E, Southern California Edison, SoCalGas and SDG&E have many separate climate zones within their respective service areas (up to 20 or more). The PD offers no direction about these multiple zones are to be consolidated into “two different groups”. While a traditional approach of coastal versus inland service areas may be a reasonable grouping, the PD offers no direction about whether this is what the Commission expects the utilities to do. It is both a legal and factual error for the Commission to

³ PD, Conclusion of Law 20, p. 81.

⁴ *Id.*

be silent on this matter. Conclusion of Law 20 should be revised to provide the necessary direction.

D. It is a Factual Error to Require Utilities to Offer All Eligible Customers an Opportunity to Enroll in the PIPP Pilots When the PD Limits Overall Statewide Enrollment in the PIPP Pilots to 15,000 Households

California has a huge population of low-income households whose income is limited to 200% of less than federal poverty levels and are enrolled in the CARE program. Conclusion of Law #6 establishes a variety of criteria for PIPP pilot eligibility, and Conclusion of Law #7 states that only customers living in one of the zip codes with the highest rates of recurring disconnections before the disconnections moratorium, or households that have had their service disconnected two or more times between March of 2019 and March of 2020. It is unclear from the PD how many households are eligible for participation in the pilots; however, it is safe to assume that far more households are eligible for the PIPP pilots than will be enrolled in the program. Despite this situation, the PD, in its marketing, education and outreach (“ME&O”) Conclusion of Law #26(h) requires the utilities to offer *all* eligible customers the opportunity to enroll in the PIPP pilots, even though the numerical limitations on the PIPP pilots make this mandate unworkable.

For example, Southern California Edison’s PIPP pilot is limited to 4,000 participants in its service territory that encompasses approximately five million households. Within Edison’s service area numerous zip codes have had high rates of service terminations. Once Edison has filed its Advice Letter and it has received Commission approval to begin offering PIPP status to eligible customers it is likely that a high percentage of households that receive the offering will avail themselves of the new PIPP tariff. After 4,000 customers have agreed to receive service under a PIPP tariff, no additional customers may be enrolled, even though it is likely that many more customers would opt for the tariff if it were available to them. Requiring Edison to perform outreach about the PIPP pilots to customers (beyond the initial 4,000 selected for participation in the pilots) is irrational and may undermine the credibility of the program since informing customers about the availability of the pilots when participation in it may be closed could lead to customer confusion and possible resentment of the select households that are enrolled in the PIPP. Thus, Conclusion of Law 26(h) should be revised so that utilities are not required to perform ME&O activities to households that cannot participate in the program because the IOU’s numerical quota has already been filled. Informing customers about a program that is not

available to them is unwise, counterproductive, and represents a factual error that should be corrected.

E. It is a Legal Error to Leave the Control Group Undefined

Conclusion of Law #30 poses numerous questions that the evaluators of the PIPP pilots are expected to address including whether the ME&O program was effective, how much the PIPP pilots cost overall, whether customer bills under the pilot were higher, lower, or the same as traditional CARE rates, and several other matters that are germane to the question of determining whether it is advisable to offer PIPP rates to a broader group of low-income customers. Paragraph d. of Conclusion of Law #30 requires the organization that will be performing the evaluation to compare rates of uncollectibles or arrearages between pilot participants "...with a control group". The PD provides no guidance about how the evaluator is supposed to identify a control group, how closely the control group should be comparable to PIPP participants in terms of geographic location, economic status, climate zones, usage patterns, prior history of disconnections⁵, average bill amounts, presence (or lack thereof) of weatherization upgrades and fluctuations in household size. This lack of definition would require the evaluator to define the control group as they deem fit - potentially limiting the utility of whatever results the evaluator finds. If the Commission wants to ensure that the PIPP pilots authorized by this PD are properly evaluated it needs to provide additional clarity about the control group, e.g., how are control group members selected, what social/economic characteristics will be measured, how will factors such as a prior history of disconnections be considered? Simply identifying a "control group" is legally vague, and unsupportable and will afford too much discretion to the evaluator to determine which customers will be selected for the control group.

F. It is Legal Error to Allow the Evaluator Alone to Determine How the Pilot Affects Participant's Energy Usage Behavior

Paragraph f. of Conclusion of Law 30 charges the evaluator with determining how the PIPP pilot affects participant's energy usage behavior. While UCAN agrees it is important to look at this issue, the existing language provides essentially no guidance to the evaluator about how to discern whether or to what extent the PIPP program affected customer usage patterns. It

⁵ Prior utility experience has shown that if a customer has a history of disconnection, they are more likely to incur additional arrearages and be faced with the prospect of service interruption in the future.

is legal error to leave this determination entirely up to the evaluator because it is the Commission's responsibility to provide guidance to ensure that the evaluation process is objective and can provide the information the Commission needs to determine if PIPP should be available to all qualified customers. Instead, the Commission should describe with specificity how the evaluator is to determine how the PIPP program affects consumption. It should also be noted that consumption patterns should be weather-normalized so that in looking at whether PIPP affected customer behavior, fluctuations in ambient temperatures are accounted for, i.e., usage should look at how warm or cold it has been in comparison to long-term average figures for the area being evaluated.

G. Attachment A's Pilot Program Timeline is Too Protracted

Paragraph seven of Attachment A states that the pilot program period will extend for 48-months. Assuming *arguendo* that the Commission approves the existing PD (or some modified version of that document) early this fall, PIPP programs will not be put in place until the first quarter of 2022. A 48-month pilot program would extend until 2027 at which point the Commission presumably will decide whether the PIPP should be offered to all eligible low-income customers, or if it should be discontinued or otherwise modified. The PD's decision to establish a 48-month evaluation period ignores the very real crisis that utility arrearage payments already represent to millions of vulnerable California low-income customers. Before the advent of the COVID-19 disconnection moratorium hundreds of thousands of California households were in arrears on their electric and natural gas bills. Southern California Edison alone had disconnected 8% of its residential customers in a recent year.

Disconnection of utility service represents an immediate and serious peril to low-income households and can result in evictions, homelessness, loss-of-child custody, employment loss, and a host of other social problems that are not easily remedied. Earlier statistics introduced in this rulemaking indicated that up to 2.5 million individuals lost their utility service because of their inability to pay for the electricity and/or natural gas their household uses in one recent year. Establishing a numerically small set of pilot programs (involving only 15,000 households statewide) is a good start but it is a far from adequate response to the disconnection crisis. Federal and state arrearage relief programs should alleviate some of the COVID-19 related arrearages; however, unemployment remains elevated from pre-COVID-19 conditions, and low-income

communities have been particularly hard-hit by the economic slowdown arising from COVID-19.

The existing disconnection moratorium is set to expire in approximately one-week. UCAN hopes that California's Community Services Division can deliver much-needed federal and state arrearage assistance to qualified customers before they are disconnected by the IOUs, but the on-going challenge millions of California low-income households have in paying for the cost of their utility service will not be mitigated by a one-time infusion of state and federal assistance. The PIPP pilots represent a limited (and inadequate) response to the disconnection crisis.

UCAN believes PIPP may serve as a model program to address the affordability challenge in the future. But, extending the pilots for four years is unnecessarily long and inappropriate and will ensure that a state-wide PIPP program will not commence (if at all) until 2027.⁶ Low-income households do not have the luxury of waiting four years for relief. They need assistance beginning in 2022 when state and federal arrearage support terminates. Earlier in this rulemaking UCAN proposed a PIPP pilot duration of 18 months. The PD follows this lead in calling for an evaluation of the pilots after 18 months with a report due within 25 months.⁷ Since the Commission will already have the results of the evaluation within two-years of the beginning of the program, there is no reason to continue the program for an additional two years before offering it state-wide if the Commission determines PIPP should be offered by all four IOUs to all of their eligible customers. Given the often-Draconian consequences of disconnections and the imminent threat service interruptions represent to the health and well-being of low-income Californians, a protracted evaluation period such as has been proposed by the PD represents a wholly inadequate response to the disconnection crisis plaguing low-income California households. The PD itself acknowledges that a two-year period is adequate to perform an evaluation of the PIPP program. There is no rational basis for extending the pilot program for an additional 24-months.

⁶ UCAN notes that both Ohio and Illinois have established PIPP programs and have had positive experiences with their programs.

⁷ PD, Attachment A, Paragraph 7 g.

III. CONCLUSION

The PD provides a useful framework for initiating PIPP pilots for the four large energy IOUs in California. The decision should be modified to clarify the role of CCAs (or lack thereof) in the PIPP pilots, the length of the PIPP pilots should be reduced from 48 to 24 months, the decision should be modified to give the evaluator clear direction on how the evaluation process should be performed and how the “control group” is to be defined, utilities should not be required to continue their ME&O activities once PIPP participants have been selected, the characteristics of the two climate groups should be clearly defined, the PD should acknowledge that natural gas customers that are served by municipal utilities or irrigation districts are eligible for participation in PIPP pilots for their natural gas energy use, and the PD should acknowledge the urgent crisis disconnections represent for low-income customers.

Date: September 22, 2021

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Appendix A

PROPOSED FINDING OF FACT (Option 1)

17. The benefits of *participation by all CCA CCAs* outweigh the additional administrative costs.

Option 2.

17. *The additional administrative costs of CCA participation outweigh the benefit of including their service territories in the PIPP pilots.*

CORRESPONDING CONCLUSIONS OF LAW (Option 1)

11. *All CCAs must participate in AMP as of the effective date of the decision ~~should~~ shall participate in a utility's PIPP pilot, and the following provisions ~~should~~ shall apply to CCA participation.*

a. ~~If a CCA in its service territory opts to participate,~~ *Utilities will propose a CCA cost recovery proposal consistent with the AMP Resolution E-5114 in its PIPP advice letter.*

b. ~~If a CCA in its service territory opts to participate~~ *The utility will administer pilot enrollment, income verification, and billing in areas with CCAs. The utility will provide sufficient data to each participating CCA in weekly reports to facilitate CCA billing of pilot participants.*

c. ~~CCAs who opt to participate with customers in a PIPP pilot~~ *(rest of text of paragraph c. stet.)*

Retain the rest of Conclusion of Law 11 as written.

13. It is reasonable to authorize a ~~48-month~~ *24-month* pilot period and the following pilot timeline:

a. ~~CCAs who opt to participate~~ *must notify the utility with a copy to the service list within 30 days of the final decision.*

b. stet.

c. ~~Each participating CCA~~ *will jointly file with the applicable utility a Tier 3 advice letter to participate in a utility's PIPP within 120 days of the final decision.*

d., e. stet.

f. ~~Each utility and participating CCA~~ *(rest of text unchanged).*

CONCLUSION OF LAW 26

26. (Retain existing text) except paragraph b. & h. which would read as follows:

b. Cooperate with ~~participating~~ CCAs.

h. Offer all eligible customers the opportunity to enroll in the pilot program, *until the number of customers called for in Conclusion of Law 3 have been enrolled* in the pilot program. (balance of text unchanged).

CONCLUSION OF LAW 29

29. (Retain existing text except paragraph b. which would read as follows:

b. The PIPP working group will include the utilities administering the pilots, ~~participating~~ CCAs, consumer advocates, and community-based organizations contracted to conduct PIPP outreach.

ALTERNATE CORRESPONDING CONCLUSION OF LAW (Option 2)

11. Customers served by CCAs are not eligible to participate in the PIPP pilots because the additional administrative costs of including them within the pilots is unreasonable.

{Under Option 2 the rest of the text of the existing Conclusion of Law 11 would be removed}.

Remove the entire text of Conclusion of Law 13.

Remove the abbreviation CCAs from Conclusions of Law #26 and # 29.

PROPOSED FINDING OF FACT

27. When customers are served by two *IOU and/or municipal or irrigation district* utilities for gas and electric service their relative reliance on gas or electric service will vary by climate zone.

PROPOSED NEW FINDINGS OF FACT

27(a) For customers served by municipal utilities or irrigation districts for their electric service investor-owned gas utilities serving these same customers shall be eligible for participation in PIPP pilots for their gas service.

XX Utility service disconnections represent an imminent peril to the health and well-being of customers subject to service termination.

CORRESPONDING CONCLUSIONS OF LAW

20. The bill caps for customers served by 2 utilities for electricity and gas should be split into separate bill caps for electric and gas service. The utilities should include a joint proposal for splitting each bill cap between electric and gas for two different groups of climate zones in the

PIPP advice letters. *Customers that receive electric service from a municipal utility or an irrigation district that are eligible for the CARE program shall be eligible to participate in a PIPP pilot for the natural gas service they receive from a Commission-regulated utility. Their customer bills for gas service should reflect their income levels and correspond to the charges incurred by comparable customers in areas served by traditional IOU electric utilities.* The split will be based on the average annualized CARE customer bill for electricity and gas in two categories of climate zones, *coastal areas, and inland areas.*

XX. PIPP pilots are an appropriate partial response to the disconnection crisis.

PROPOSED REVISED FINDING OF FACT

20. The pilot *should work closely with the PIPP working group established in Conclusion of Law 29 to determine how to best measure the effect of the PIPP pilots on customer behavior continuing during the evaluation process and while the Commission considers a long-term program.*

CORRESPONDING CONCLUSION OF LAW

Existing text of Conclusion of Law 30 should be unchanged except for paragraphs d. and f. which should read as follows:

d. Did the pilot participants avoid uncollectibles or arrearages compared with a *control group of households with corresponding income levels, climatological condition, and history of disconnections?*

f. How did the pilot affect participants' energy usage behavior *on a weather normalized basis?*

PROPOSED REVISION TO ATTACHMENT A (Option 1)

7. **Duration and Timeline.** The pilot period will be ~~48~~ 24 months.

a. CCAs ~~who opt to participate~~ must notify the utility with a copy of the service list within 30 days of the final decision.

b. stet.

c. Each ~~participating~~ CCA will jointly file with the applicable utility a Tier 3 advice letter to participate in a utility's PIPP pilot within 120 days of the final decision.

d. stet.

e. Each utility and ~~participating~~ CCA will file and serve a report with evaluation metrics covering the previous 6 months of pilot data within 7 months after the launch of the pilot and every 6 months thereafter. If there is any significant shortfall in enrollments below target levels, the utility or CCA will explain the shortfall and plan to remedy the shortfall.

13. Working Group

First sentence unchanged. Second sentence would read: The PIPP working group will include the utilities administering the pilots, ~~participating~~ CCAs, consumer advocates, and community-based organizations contracted to conduct PIPP outreach.

OPTION 2

7. Duration and Timeline. The pilot period will be ~~48~~ 24 months.

a. eliminate entire paragraph.

c. eliminate entire paragraph

f. Each utility ~~and participating CCA~~ will file and serve a report with evaluation metrics covering the previous 6 months of pilot data within 7 months after the launch of the pilot and every 6 months thereafter. If there is any significant shortfall in enrollments below target levels, the utility ~~or CCA~~ will explain the shortfall and plan to remedy the shortfall.

11. Marketing, education and outreach. Stet except as follows:

~~b. Cooperate with participating CCAs.~~

13. Working group. The PIPP working group will advise on ~~CCA implementation,~~ identification of eligible high recurring disconnection rate zip codes, outreach, pilot implementation, the evaluation plan, and the long-term program design including funding sources for the program. The PIPP working group will include the utilities administering the pilots, ~~participating~~ CCAs (the rest of the text should be unchanged).