 Mailed 1/10/2002

Decision 02-01-040 January 9, 2002

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's Proposed Policies and Programs Governing Low-Income Assistance Programs.	Rulemaking 01-08-027 (Filed August 23, 2001)

INTERIM OPINION: ELIGIBILITY CRITERIA AND RATE DISCOUNT LEVEL FOR LOW-INCOME ASSISTANCE PROGRAMS

Summary

This decision changes the eligibility criteria for the California Alternative Rates for Energy (CARE) and Low-Income Energy Efficiency (LIEE) programs for customers of the smaller and multi-jurisdictional energy utilities[1] to be consistent with those adopted for the four large energy utilities in Decision (D.) 01-06-010.[2] In addition, the CARE discount of 20% adopted in D.01-06-010 for the four large energy utilities is also made applicable to the smaller and multi-jurisdictional energy utilities.

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1 These utilities, previously identified in an Administrative Law Judge's Ruling dated June 19, 2001, are: Alpine Natural Gas Company, Avista Utilities (formerly Washington Water Power Company), Mountain Utilities (formerly Kirkwood Gas and Electric Company), Sierra Pacific Power Company (Sierra Pacific), PacifiCorp (Pacific Power/Utah Power), Southern California Water Company (Southern California Water), Southwest Gas Company (Southwest Gas), and West Coast Gas Company.

2 Applicable to Pacific Gas & Electric (PG&E), San Diego Gas & Electric Company (SDG&E), Southern California Edison Company (SCE), and Southern California Gas Company (SoCalGas).

In D.01-06-010, the Commission set income eligibility levels for the CARE and LIEE programs at 175% of the federal poverty guidelines, and increased the rate discount for CARE customers from 15% to 20%. For procedural reasons, those same changes were not made applicable to the smaller and multi-jurisdictional energy utilities. In that decision, we found that it was reasonable for CARE and LIEE eligibility criteria to be consistent between utilities, and that raising the CARE discount to 20% struck a reasonable balance of burdens to be borne by CARE and non-CARE ratepayers.

Today we make the same findings for those energy utilities we did not address in D.01-06-010, bringing into alignment the eligibility criteria and discount levels of all energy utilities under our jurisdiction. Eliminating inconsistencies between utilities, and between the CARE and LIEE programs' eligibility levels, will improve customer understanding and reduce perceptions of inequity. Furthermore, our action has the effect of increasing the number of customers eligible for the CARE and LIEE programs, and increasing the amount of the available CARE discount. While these changes do have their costs to non-participating ratepayers, the benefits to participating ratepayers outweigh those costs. Most significantly, more low-income customers will find it a little easier to pay their energy utility bills as a result of today's decision. D.01-06-010 also retained the pre-existing rule that households headed by a senior or a person with a disability are eligible for the LIEE program with incomes up to 200% of the federal poverty guidelines. We retain this provision for the smaller and multi-jurisdictional energy utilities.

Procedural Background

Following the issuance of D.01-06-010, the assigned Administrative Law Judge issued a ruling dated June 19, 2001,seeking comments on whether the other energy utilities under the Commission's jurisdiction should apply the same eligibility and discount levels as those adopted in D.01-06-010, and requested comments.

Avista Utilities (Avista), Sierra Pacific, Southern California Water, Southwest Gas, and PacifiCorp filed comments.[3] No reply comments were received. While this decision does not require those utilities without CARE or LIEE programs to begin offering them, such utilities may still be affected by today's decision. We put all parties and respondents on notice that any energy utility that begins to provide CARE or LIEE programs shall be subject to the criteria we establish today. While the Commission may establish other criteria for an individual utility, today's decision establishes a default for all jurisdictional utilities.

Substantive Issues and Discussion

All affected jurisdictional utilities and interested parties were directed to respond to four items.

1. **Should the changes to the CARE and LIEE income eligibility requirements made in D.01-06-010 be applied to all other jurisdictional gas and electric utilities that currently offer these programs?**

Avista, Sierra Pacific, Southern California Water, and Southwest Gas all agree to this proposed extension of the income eligibility requirements adopted in D.01-06-010. PacifiCorp alone disagrees, at least as applied to itself. We do

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[3] PacifiCorp requested leave to file its comments late, with an effective date of approximately July 20. While PacifiCorp's Motion for Leave to File Late was essentially devoid of factual or legal content, the Motion is nevertheless granted. PacifiCorp has a direct interest in the outcome of this proceeding, and the delayed filing does not appear to have prejudiced any other party.

not find PacifiCorp's arguments persuasive on this issue, and we resolve the issue consistently with the positions of the majority of utility comments, and consistently with our previous decision, as we discuss below.

Avista states that it would support a change in income eligibility for low-income programs to 175% of the federal poverty guidelines as long as that change was also applicable to adjacent natural gas utilities and overlapping electric companies. Avista concurs with D.01-06-010 that clarity and simplicity of program eligibility requirements is important, and that the Commission should avoid inconsistent eligibility standards for gas and electric customers.

Sierra Pacific agrees that eliminating inconsistencies in CARE income-eligibility requirements would improve customer understanding and eliminate perceptions of inequity, and stated that the changes to income eligibility levels made in D.01-06-010 should be applied to Sierra Pacific.

Southern California Water also agrees that it is reasonable for the Commission to adopt the same eligibility criteria across utilities.

Southwest Gas believes that CARE and LIEE eligibility requirements should be the same for all energy utilities. In fact, Southwest Gas filed an advice letter requesting that its CARE eligibility and discount levels be made consistent with those adopted in D.01-06-010.

PacifiCorp is the lone exception to this consistent agreement among the utilities. PacifiCorp argues that the income eligibility requirements adopted in D.01-06-010 should not be applied to PacifiCorp's California service territory. PacifiCorp states that the Commission, in D.89-07-062, allowed it to maintain a CARE eligibility level of 130% of the federal poverty level, even when other utilities were uniformly using an eligibility level of 150%. Accordingly, PacifiCorp argues that if any increase is required, for PacifiCorp the result should be a CARE eligibility level of 150%, rather than the 175% adopted in D.01-06-010 and proposed here.[4]

According to PacifiCorp, 34% of the population in its service territory is currently eligible for CARE, and raising the eligibility level to 150% of the federal poverty level would make 37% of the population eligible, while raising it to 175% would increase the eligible portion of the residential population to 46%. PacifiCorp argues that it would be too significant of an impact to have the remaining 54% of its customers carry the burden of its CARE program.

PacifiCorp provides no data as to the income levels of the 54% of its customers who would not qualify for the CARE program, so we cannot tell if a large proportion of customers would fall just above the 175% eligibility level, or if most are significantly over that level. The income levels of the non-CARE customers would help indicate how heavy the rate burden would be upon those customers. Furthermore, despite the ALJ’s express request for detailed rate impacts, PacifiCorp provided no such information.

From the numbers that PacifiCorp does provide, however, it is clear that PacifiCorp’s counter-proposal would provide relief to very few customers while increasing the burden on relatively low-income ratepayers. Increasing the eligibility level from 130% to 150% of the federal poverty level adds only 3% to the percentage of eligible PacifiCorp customers. However, raising the eligibility level from 150% to 175% results in an additional 9% of PacifiCorp’s customers becoming eligible for CARE. This group of customers appears to have an income that falls between 150% and 175% of the federal poverty level. While those

[4] PacifiCorp’s LIEE eligibility level is currently 150% of the federal poverty level, and PacifiCorp wants it to remain there.

customers would be eligible for CARE if the eligibility level is set at 175%, they would just miss being eligible if the level is set at 150%, as proposed by PacifiCorp. PacifiCorp's proposal would provide benefits to few, but costs to many, by putting 9% of its customers just outside of its eligibility level, where the cost burden is the greatest, while providing actual benefits to only 3% of its customers.[5]

PacifiCorp does not address the potential confusion and inequity of having eligibility criteria for the CARE program differ between adjacent utilities. Other utilities, such as Avista and Sierra Pacific, identified this as a key concern. In fact, we must question PacifiCorp's commitment to the CARE program. PacifiCorp's pleading indicates that its current penetration rate is only 19%. Notably, the Commission decision relied upon by PacifiCorp also indicates a history of resistance to the CARE program on the part of PacifiCorp's predecessor, Pacific Power & Light Company (PP&L):

> PP&L originally sought to be exempted from the Commission's implementation of a low-income assistance program. It now concurs that SB 987 mandates the establishment of an assistance program, but points out that the bill has no deadline for compliance. PP&L requests that implementation of a rate discount program of assistance be postponed for its customers. (D.89-07-062, 32 CPUC2d 342.)

While it is true that expansion of CARE eligibility would result in increased costs to PacifiCorp, and specifically to non-CARE customers, that is also true of the other utilities whose eligibility levels we address today or addressed in

[5] We note that the cost of PacifiCorp's proposal is relatively low, given the small number of additional customers who would become eligible for CARE.

D.01-06-010. PacifiCorp has failed to convince us that it there is a good basis for it (and its customers) to be treated differently from all of the other utilities in California that offer CARE and LIEE programs.

Consistent with the Commission's treatment of the four major California energy utilities, and the majority of utility comments received in this proceeding, we will apply the changes to the CARE and LIEE income eligibility requirements made in D.01-06-010 to all other jurisdictional gas and electric utilities.

2. Should the change in the CARE discount made in D.01-06-010 be applied to all other jurisdictional gas and electric utilities that currently offer the program?

Again, Avista, Sierra Pacific, Southern California Water, and Southwest Gas agree that the change in the CARE discount adopted in D.01-06-010 should extend to them and to other utilities as well. Again, PacifiCorp is the lone dissenter, and again we do not find PacifiCorp's arguments persuasive. We will increase the CARE discount to 20% for all utilities, consistent with the majority of comments and our previous decision.

Avista succinctly states:

> "As with the income eligibility standards, Avista Utilities would support a change in CARE discount from 15% to 20% as long as this change is applicable to adjacent natural gas utilities and overlapping electric companies. Again, consistency from the perspective of customers is important."

Sierra Pacific agrees, stating that eliminating inconsistencies between adjacent utilities would improve customer understanding and eliminate perceptions of inequity.

Southern California Water, while acknowledging that there could be reasons for differentiating the CARE discount between utilities, states that a "uniform discount rate applicable to all programs is probably the most practical policy."

Southwest Gas also believes that there should be consistency between utilities, and has already submitted an advice letter to make its CARE discount rate consistent with that adopted in D.01-06-010.

PacifiCorp alone contends that its current 15% rate is adequate, and should not be changed. PacifiCorp does not directly address the need for uniformity or consistency between utilities, but notes that the rates in PacifiCorp's service territory are significantly lower than the rates in the rest of the state. PacifiCorp's low rates are commendable, but by itself this is not enough of a basis for granting a lower CARE discount. Since we are establishing a long-term default CARE discount, we must consider the possibility that PacifiCorp customers may, at some point, be subjected to rate increases. If such an event were to occur, it would be beneficial for PacifiCorp's low-income customers to already have in place at least some additional protection against the increase. By the same token, PacifiCorp's current low rates will mean that a 20% CARE discount will have a relatively lower impact on its non-CARE customers.

According to PacifiCorp, at its current penetration rates, the total impact of the increased discount is less than $25,000. PacifiCorp states that an increase in the penetration rate to 50% would result in significantly increased costs.[6] Given PacifiCorp's current low 19% penetration rate, we are not surprised that increases in penetration to even mediocre levels would result in significant increases in costs, but we are not sympathetic to this argument. PacifiCorp

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[6] The numbers in the text of PacifiCorp's answer to the second question do not appear to correspond with the numbers in the chart provided in response to the third question.

cannot use its own poor performance as a basis for claiming that the statewide proposals before the Commission would somehow cause it a singular financial hardship.

Again, PacifiCorp has failed to convince us that it should be treated differently from all of the other energy utilities that offer a CARE discount. Consistent with the Commission's treatment of the four large California energy utilities, and the majority of comments received in this proceeding, the increase in the CARE discount to 20% that was approved in D.01-06-010 will be applied to all other jurisdictional gas and electric utilities.

3. Utility responses regarding detailed descriptions of the program costs and rate impact of applying the modifications made in D.01-06-010 to each utility's low-income assistance programs.

The responses to this question, regarding the cost and rate impact of the proposed changes to the CARE program, vary widely in quality and presentation, and in general are not directly comparable. In addition, only Southwest Gas addressed the costs and rate impacts of the proposed changes to the LIEE program.

Avista states that it has approximately 16,240 residential customers in its South Lake Tahoe service territory, and the cost of providing the current CARE discount is $66,308. According to Avista,

> "Avista Utilities estimates that increasing the income eligibility standard to 175% of the federal poverty guidelines would raise the annual cost of the CARE program by $3,300. In addition, increasing the discount from 15% to 20% would raise the CARE program costs by approximately $22,250. The current CARE surcharge is approximately 0.35 cents per therm; with both modifications made in D.01-06-010, the per therm cost would increase by approximately 34% to 0.47 cents per therm."

PacifiCorp provides numbers for 50% and 95% CARE program penetration rates, but not for its current 19% penetration rate. According to PacifiCorp, at a 50% penetration rate, increasing the eligibility level would result in CARE costs increasing from $728,528[7] at 130% of federal poverty level, to $808,110 at 150% of federal poverty level, and to $989,753 at 175% of federal poverty level. Again at a 50% penetration rate, increasing the CARE discount to 20%, while leaving eligibility unchanged, would result in CARE costs increasing from $728,528 to $760,709. A 20% discount at 150% and 175% of federal poverty eligibility levels would result in costs of $844,026 and $1,033,742, respectively.

Sierra Pacific states that it currently has approximately 1,100 customers on CARE at a cost of $107,000, and estimates a 4% increase in eligible customers if the eligibility levels are increased to 175% of federal poverty level. Increasing the CARE discount to 20% would add $35,000 in costs, while increasing the eligibility level to 175% of federal poverty would add $6,000.

Southern California Water indicates that, at its current 47% penetration rate, increasing the eligibility level to 175% of federal poverty level would result in an increase in cost of $19,419, while the increase in the discount to 20% would add $20,722 in cost at current rates. The current cost of CARE is approximately $54,000. A table prepared by Southern California Water and setting forth its cost data is attached for reference in Appendix A.

Southwest Gas estimates that changing the CARE discount to 20% and the eligibility level to 175% of the federal poverty level will result in an increase in CARE program costs of approximately $2.14 million, for a total annual cost of

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[7] PacifiCorp states that it is currently collecting roughly $602,000 via surcharge for the CARE program.

approximately $3.21 million.[8] Southwest Gas conditionally estimates the cost of increasing LIEE eligibility at around $95,000. A table prepared by Southwest Gas and setting forth its cost data is attached for reference in Appendix A.

We recognize that expanded program eligibility will lead to increased costs. The utilities should seek recovery through their respective General Rate Cases, Biennial Cost Allocation Proceedings, or other appropriate proceedings. If the utilities have not established a balancing account to track such costs, they should establish such an account as of the effective date of this decision.

4. Current low-income assistance programs for multi-jurisdictional utilities and whether the changes proposed here are similar to or different from those in the other states served.

We ask for this information to determine if the differences between California's programs and those in other states could cause difficulties in implementation. While there are significant differences between the programs in the various states served, there do not appear to be any conflicts between the proposed changes in the California programs and those in other states.

Avista indicates that while it has low-income weatherization programs in Washington, Idaho, and Oregon, only in Washington does Avista have a low-income energy assistance program, funded by a 0.79% surcharge. According to Avista, Oregon recently authorized low-income rate programs similar to those in Washington, but because Avista's California and Oregon service territories are not adjacent there is no customer confusion, and Avista's administrative systems are set up to address the differences.

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[8] In calculating these numbers, Southwest Gas used a penetration rate of 75%, rather than its current penetration rate of approximately 54%.

PacifiCorp offers low-income energy assistance programs in Oregon, Washington, and Utah. According to PacifiCorp, Washington has a pilot program with three tiers of assistance, with the lowest income customers (income equal or less than 75% of federal poverty level) receiving a higher credit in cents per kWh, but with eligibility for some level of credit extending up to 125% of federal poverty level. Certification and administration are done by community action agencies. In Utah, there is a rate discount for low-income residential customers (up to 125% of federal poverty level) that is administrated by the Utah Department of Community and Economic Development.

Sierra Pacific indicates that the Nevada State Welfare Division administers a low-income energy assistance program funded via block grants through the U.S. Department of Health and Human Services, which provides lump-sum assistance of varying amounts (paid to the energy provider) based upon income, household size, fuel type, and vulnerability.

Southwest Gas offers low-income energy efficiency programs in Arizona and Nevada, and a low-income energy bill assistance program in Arizona. According to Southwest Gas, Arizona's energy bill assistance program was modeled after that of California, and provides a 20% discount for the commodity portion of the bill for customers making up to 150% of the federal poverty level. Bill discounts are provided only during the winter months.

We conclude that the programs offered by multi-jurisdictional utilities in other states do not present any barrier to implementing the changes we are making to California's CARE and LIEE programs.

Other issues

Southwest Gas has proposes that the Commission should equalize the burdens associated with increased CARE and LIEE programs by adopting a statewide, uniform surcharge based on the combined total expenditures of all utilities. According to Southwest, this would minimize the impact on the customers of the smaller utilities who would otherwise be heavily laden with the costs of expanding the CARE and LIEE programs, as all utility customers statewide would pay the same rate, and all eligible customers would receive the same benefit, drawn from a common fund. While this may be an interesting idea, it is clearly beyond the scope of this portion of this proceeding, and will not be addressed here.

Comments on Draft Decision

The draft decision of the ALJ in this matter was mailed to the parties in accordance with Section 311(g)(1) of the Public Utilities Code and Rule 77.7 of the Rules of Practice and Procedure.

ORA and Southwest filed timely comments. No party filed reply comments. We have revised the decision as appropriate.

Findings of Fact

1. D.01-06-010 changed the income eligibility levels for the CARE and LIEE programs, and the amount of the CARE discount, for all electric and gas customers of PG&E, SDG&E, SCE and SoCalGas.

2. D.01-06-010 did not change the income eligibility levels for the CARE and LIEE programs, or the amount of the CARE discount, for the other gas and electric utilities regulated by the Commission.

3. D.01-06-010 resulted in increased inconsistency of CARE and LIEE eligibility levels and CARE discount levels between the four major utilities and the smaller and multi-jurisdictional utilities.

4. Eliminating inconsistencies in CARE and LIEE eligibility levels, particularly between adjacent utilities, would improve customer understanding and reduce perceptions of inequity.

5. Maintaining consistency between CARE and LIEE eligibility levels improves customer understanding of the two complementary programs.

6. Increasing the level of CARE discount will improve low-income customers' ability to pay their energy utility bills.

7. Expanding the eligibility for the CARE and LIEE programs will provide assistance to more customers in paying their energy utility bills.

8. Increasing the level of CARE discount will increase the costs to be paid by customers not participating in the CARE program.

9. Expanding the eligibility for the CARE program will increase the costs to be paid by customers not participating in the CARE program.

Conclusions of Law

1. It is reasonable for the smaller and multi-jurisdictional energy utilities to be subject to the changes to the CARE and LIEE programs adopted for the four major energy utilities in D.01-06-010.

2. For the customers of the small and multi-jurisdictional energy utilities, the benefits of increasing the eligibility levels for the CARE and LIEE programs, and increasing the amount of the CARE discount, as done for the four major energy utilities in D.01-06-010, outweigh the costs of those changes.

3. PacifiCorp has failed to establish any basis for being treated differently than all other energy utilities.

4. The utilities should seek recovery through their respective General Rate Cases, Biennial Cost Allocation Proceedings, or other appropriate proceedings.

5. In order to incorporate today's modifications to CARE and LIEE income eligibility requirements and CARE discount levels as expeditiously as possible, this order should be effective today. The utilities should reflect the increase in the CARE discount in the next billing cycle for all currently enrolled CARE customers.

INTERIM ORDER

IT IS ORDERED that:

1. The changes in the California Alternative Rates for Energy (CARE) and Low-Income Energy Efficiency (LIEE) income eligibility requirements made in Decision (D.) 01-06-010 are applied to all other jurisdictional gas and electric utilities that currently offer CARE and LIEE programs.

2. The CARE discount of 20% adopted in D.01-06-010 is applied to all other jurisdictional gas and electrical utilities that currently offer the CARE program.

3. Any jurisdictional utility that does not currently offer a CARE or LIEE program, but offers one in the future, shall apply the CARE and LIEE income eligibility levels and CARE discount level established here and in D.01-06-010, unless otherwise determined by the Commission.

4. The utilities shall incorporate today's adopted changes into program outreach materials without delay and reflect the increase in the CARE discount in the first complete billing cycle beginning after the effective date of this Order for all currently-enrolled CARE customers.

5. The utilities shall file advice letters with tariffs that incorporate the changes to the CARE program within 10 days, including establishing a balancing account to track care costs if such an account has not been established or approved prior to this date. The tariff sheets will be effective today, subject to review by the Commission's Energy Division.

This order is effective today.

Dated January 9, 2002, at San Francisco, California.

LORETTA M. LYNCH
President
HENRY M. DUQUE
RICHARD A. BILAS
CARL W. WOOD
GEOFFREY F. BROWN
Commissioners

APPENDIX A