Decision 03-08-028 August 21, 2003

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Southern California Gas Company (U904G) for Authority to increase its Gas Revenue Requirements to Reflect its Accomplishments for Demand-Side Management Program Years 1995 and 1997, Energy Efficiency Program Year 1999, and Low-Income Program Years 1998 and 1999 in the 2000 Annual Earnings Assessment Proceeding ("AEAP").	Application 00-05-002 (Filed May 1, 2000)
And Related Matters.	Application 00-05-003 Application 00-05-004 Application 00-05-005 Application 01-05-003 Application 01-05-009 Application 01-05-017 Application 01-05-018 Application 02-05-002 Application 02-05-003 Application 02-05-005 Application 02-05-007

INTERIM OPINION
LOW-INCOME ENERGY EFFICIENCY EARNINGS CLAIMS AND PROCEDURAL NEXT STEPS

1. Introduction and Summary[1]

Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), Southern California Edison Company (SCE), and Southern California Gas Company (SoCal), collectively referred to as "the utilities," provide energy efficiency services to eligible low-income customers within their service territories, per Legislative and Commission directives. These programs, referred to as "low income energy efficiency" or "LIEE," are paid for by non-participating ratepayers through their energy bills.

Since 1990, the Commission has implemented various types of performance-based incentive mechanisms for demand-side management (DSM) programs,[2] including LIEE. Utility earnings under the LIEE performance award mechanism have been based on parameters designed to encourage broad participation in LIEE by eligible low-income customers, rather than on the specific amount of energy savings produced by the program. The reasonableness of the utilities' LIEE earnings claims under these mechanisms requires the verification of program expenditures and program participation, i.e., the type and quantity of measures installed.

Today's decision addresses the LIEE earnings claims submitted by the utilities in their 2000, 2001 and 2002 AEAPs**.** These encompass the utilities' second-year claims for Program Year (PY) 1998 program activities, first and second-year claims for PY1999 and PY2000 program activities and first year

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[1] Attachment 1 explains each acronym or other abbreviation that appears in this decision.

[2] DSM programs focus on the customer side of the utility meter and have included programs for load management and energy efficiency, among others.

claims for PY2001 program activities. The total request for LIEE earnings, by utility, is summarized below:

LIEE Earnings Claims, 2000, 2001 and 2002 AEAPs:				
Utility	Earnings	FF&U	Interest	Total
PG&E:	$1,653,000	$24,262	$135,503	$1,812,765
SCE:	996,320	12,164	75,933	1,084,417
SDG&E:	318,252	3,243	21,742	343,237
SoCal:	744,461	16,303	53,985	814,749
Total:	$3,712,033	$55,972	$287,163	$4,055,168

We approve recovery of the utilities' second-year claims for PY1998 program activities, which represent $453,287 in earnings claims for the four utilities combined, including franchise fees and uncollectables (FF&U) and interest. Per Decision (D.) 00-08-038, this claim is contingent upon the verification of program participation, that is, the number and type of measure installations. As discussed in this decision, we are satisfied with the approach utilized by the Office of Ratepayer Advocates (ORA) to verify installations for PY1998, as well as for PY1999. However, based on the record in this proceeding, we find that the number of installations claimed by the utilities for PY2000 has not been adequately verified. In addition, we find that the utilities' expenditure data for PY1999, PY2000 and PY2001 require further verification before we can authorize rate recovery for these claims. The record lacks independent confirmation that all four utilities' expenditure data is actual recorded data, rather than estimated or budgeted.

Accordingly, we direct the utilities to track the earnings claims for PY1999, PY2000 and PY2001 in a memorandum account until Energy Division verifies the installations for PY2000 and expenditure data for PY1999, PY2000 and PY2001. Energy Division may conduct these verification efforts itself, or hire consultants for this purpose. The costs of these activities shall be funded with LIEE program funds. We delegate to the Executive Director the task of establishing the scope, schedule and budget for Energy Division's evaluation. Upon completion, Energy Division should file and serve its report and recommendations on the service list in this proceeding. We leave this consolidated proceeding open to consider Energy Division's recommendations.

We also describe in today's decision the steps we will take to resolve other issues in this consolidated proceeding, namely:

1. Should LIEE shareholder earnings continue to be offered to utilities in the future in view of the fact that we have eliminated shareholder earnings for (non low-income) energy efficiency programs per D.01-11-066?

2. Should we reopen Rulemaking 91-08-003 / Investigation 91-08-002 to modify the shared-savings earnings mechanism for pre-1998 (non low-income) energy efficiency programs?

3. Are the retention study methodologies and results that underlie the utilities' pre-1998 (non low-income) energy efficiency earnings claims reasonable?

4. Are the utilities' post-1997 (non low-income) energy efficiency earnings claims, which are based on milestone incentive mechanisms, reasonable?

5. Are the administrative costs booked in memorandum accounts by the utilities for their interruptible load programs reasonable? [3]

Opening and reply comments have been submitted on the first two issues, and we are in the process of preparing decisions to address them. We will address the third and fourth issues upon completion of Energy Division's independent verification of earnings claims, which will be conducted via the Request For Proposal process authorized in D.03-04-055. We will address the fifth issue, i.e., the reasonableness of the utilities' booked administrative costs for interruptible load programs, once Energy Division has audited the utilities' memorandum accounts and submitted its recommendations. We direct the Executive Director to establish a schedule and budget for this audit based on the availability of Commission resources.

2. History of LIEE Performance Award Mechanism

Since 1990, the Commission has experimented with performance award mechanisms designed to encourage the utility to offer energy efficiency information and direct assistance equitably and without discrimination. As a result, the Commission has encouraged the utilities to expand LIEE services by authorizing funding for these programs and by rewarding utilities in modest amounts for their efforts.[4] Performance adder mechanisms were put in place by D.90-08-068 to apply to programs funded primarily for equity reasons, such as LIEE, or in which the link between programs and savings is difficult to measure. Performance adder mechanisms are similar to a "management fee" incentive.

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[3] The 2002 AEAP was identified as the forum for addressing this issue by D.01-07-029.

[4] A description of these incentive mechanisms and their development can be found in D.94-10-059 and in our 1995 and 1996 AEAP decisions, D.95-12-054 and D.96-12-079.

They generally calculate earnings by multiplying the amount of recorded program expenditures by some percentage, usually a fixed five percent. Historically, the level of incentives for LIEE programs has averaged approximately $2 million per year for the four utilities combined. However, the performance adder mechanism applied to these programs has been modified over the years, as described below.

2.1 Pre-PY1995 LIEE Performance Award Mechanism

Before PY1995, utility earnings were based exclusively on program expenditures, subject to a minimum performance standard (MPS). The MPS was linked to program accomplishments in installing the "Big Six" mandatory measures, i.e., those that were required by Public Utilities Code Section 2790 at the time: (1) attic insulation, (2) caulking, (3) weatherstripping, (4) low-flow showerheads, (5) water heater blankets and (6) door and building envelope repairs which reduce infiltration. After achieving a certain MPS, the utilities would receive 5% of actual expenditures on all "non-mandatory" measures, e.g., appliance replacement and energy education, in a single installment. Before PY1995, the MPS varied among utilities, both in terms of the unit of measurement used to establish the program goal for mandatory measures (e.g., number of measures installed, savings achieved) and the minimum threshold that had to be achieved before being eligible for incentives on non-mandatory measures. The utilities were not allowed to earn on expenditures on Big Six measures or to shift funds from these mandatory measures to non-mandatory measures during this period.

2.2 PY1995-PY1999 LIEE Shareholder Incentive Mechanism

By D.94-10-059, the Commission further refined the performance-based adder mechanism for LIEE by standardizing the MPS across utilities and adding an additional link to improve productivity. Specifically, the MPS was established at 75% of forecasted first-year energy savings from the mandatory measures under the program, with a true-up in the following AEAP to reflect actual program participation levels. If the utilities achieved this MPS, earnings would be calculated as 5% of expenditures on non-mandatory measures, adjusted by a factor based on the ability of the utility to reduce average costs relative to the previous year.

Under the shareholder incentive mechanism adopted in D.94-10-059, utility earnings for LIEE were paid out in four installments over 10 years, based on first-year verification of program participation and expenditures. By D.00-09-038, the Commission approved a joint agreement among the parties to authorized recovery of the utilities' PY1998 LIEE earnings claims in two annual installments: 50% of the utilities' earnings claim was authorized in that decision and 50% was to be authorized after the completion of the load impact study in the 2000 AEAP. As part of that agreement, ORA reserved the right to verify program participation for PY1998 and, based on the results of the verification, recommend adjustments to the second earnings claim.

2.3 PY2000 LIEE Shareholder Incentive Mechanism

Parties to the 1999 AEAP proposed an alternate performance adder mechanism in response to the passage of Assembly Bill 1393, which was signed by the Governor in October 1999. Among other things, this bill modified Public Utilities Code Section 2790 by removing the distinction between mandatory and non-mandatory measures. ORA, the utilities and other interested parties developed a joint recommendation to replace the current incentive mechanism with one that would provide incentives for all measures, as opposed to non-mandatory measures only. That joint recommendation was adopted by the Commission in the 1999 AEAP, by D.00-09-038.

The trial PY2000 shareholder incentive mechanism modified the performance adder mechanism approved in D.94-10-059 to reflect the actual installations of measures. For measures that produced no energy savings, or produced energy savings that were difficult to measure ("non-saving measures"), earnings were based on a fixed percentage of expenditures on these measures similar to the pre-1995 performance adder mechanism. Non-savings measures included energy education, furnace repair and replacements, and weatherization measures. LIEE measures that produced measurable savings, referred to as "savings measures," were assigned a monetary incentive reward based on their relative contribution to life cycle energy savings. These savings measures include weatherization (e.g., insulation, caulking) and appliance replacements. For these measures, utility earnings were equal to the actual number of savings measures installed, multiplied by the incentive per measure.[5]

Under the PY2000 mechanism, recovery of the first 50% of shareholder incentives was to occur in the AEAP proceeding after PY2000 in which the Commission addressed such claims. The remaining 50% of the earnings claim was to be authorized for recovery in the AEAP proceeding following completion of the LIEE load impact evaluation for PY2000. Consistent with the joint recommendation, the Commission specified that the amount of the earnings

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[5] See D.01-06-082, mimeo., pp. 8-11 for a more detailed description of the PY2000 LIEE incentive mechanism.

claim would not be further modified by the results of the load impact evaluation.[6]

2.4 Post-2000 LIEE Shareholder Incentive Mechanism

In approving the joint recommendation for LIEE incentives, the Commission stated: "This is recommended as a trial mechanism…for PY2000 only. For PY2001 and beyond, parties will work on and recommend a longer-term performance incentive mechanism."[7]

On November 6, 2000, the utilities filed LIEE program applications that, among other things, proposed to retain the incentive mechanism adopted for PY2000 using updated information to calculate the lifecycle savings for PY2001.[8] By D.01-06-082, the Commission evaluated the PY2000 LIEE mechanism on its merits, and determined that it should not be continued for the following reasons:

> "In considering the utilities' proposal for PY2001 incentives, we therefore have to evaluate whether or not the PY2000 incentive mechanism is workable under the rapid deployment strategy adopted in D.01-05-033. We conclude that it is not. As described above, the derivation of per measure incentive factors requires the development of life-cycle savings for all of the measures offered under the program. The relative contribution of each measure to life cycle savings is a key determinant of the incentive factor per measure, and yet that information for the new measures is not on the record and may not even be available for these measures on a reliable basis at this time. [Footnote omitted.] Even if we wanted to continue the PY2000 incentive mechanism through 2001, we could not do so without further evaluation of life cycle savings for the new

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[6] D.00-09-038, p. 32, Attachment C, p. 2.

[7] D.00-09-038, mimeo., p. 30.

[8] Application 00-11-009 et al.

> measures adopted by D.01-05-033, and a recalculation of all of the incentive factors proposed by the utilities in their filings, based on that evaluation.
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> In addition, we believe that the PY2000 experimental mechanism is overly complicated and administratively burdensome to implement during a rapid deployment period, where many different entities will be mobilized to deploy these measures, very quickly, throughout the utilities' service territories. Moreover, to overlay this effort with an incentive mechanism that places a different monetary value on each particular measure installed is likely to work at cross-purposes to our goals for rapid deployment. In negotiating contracts with LIHEAP providers to best leverage resources, we do not want the utility motivated by the particular incentive factor in determining which measures to purchase in bulk to leverage LIHEAP resources, for example. Nor do we want these monetary factors to influence utility decisions on whether the LIHEAP program should provide the basic weatherization services in a particular area, and use the LIEE program to supplement with additional measures not provided under LIHEAP (or vice versa). However, such considerations are unavoidable with an incentive structure that produces differential incentives for each measure installed under LIEE."[9]

Without further Commission action, the performance adder mechanism that was in place for PY1999 would become the default for PY2001. In D.01-06-082, the Commission determined that this mechanism would not make sense during rapid deployment for the following reason:

> "During periods when program design is relatively stable, it makes sense to tie financial incentives to a reduction in average costs from one year to the next. However, such an adjustment does not make

[9] D.00-09-038, mimeo., pp. 13-14.

> sense when program design radically shifts in size or design, as is currently the case."[10]

Accordingly, the Commission reverted to a performance adder mechanism that did not include such an adjustment, similar to the one in effect prior to 1995. More specifically, the PY2001 LIEE shareholder incentive mechanism required a MPS of 100% of the PY2001 savings goals presented by the utilities in their program planning applications. This threshold of performance, as in the past, applied to the first-year savings achieved from Big Six measures, as verified with actual program participation levels in the AEAP. Once this level was achieved, the utilities would be eligible for performance adder incentives. Those incentives consisted of a 2% management fee applied to total LIEE program expenditures, not including shareholder incentives. In D.01-06-082, the Commission continued the practice of authorizing recovery of LIEE incentives over two equal installments, with the first installment based on an assessment of actual program participation levels and expenditures for PY2001, and the second installation contingent upon completion of a PY2001 load impact study.

The Commission authorized the mechanism described above beginning with PY2001 and "until further order of the Commission."[11] In doing so, the Commission stated its intent to revisit the issue in future years:

> "… we expect the issue of shareholder incentives for LIEE programs to be revisited in the future, either in the post-2001 program planning process, AEAP or other procedural forum, as deemed appropriate by the Assigned Commissioner. Until that time, the

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[10] Id., p. 15.

[11] Id., Ordering Paragraph 1.

performance adder mechanism adopted today will apply to the utility's LIEE programs."[12]

By ruling dated May 6, 2003, the Assigned Commissioners in this proceeding and our generic low-income assistance proceeding (R.01-08-027) issued a joint ruling requesting comments on the issue of whether, in addition to full recovery of administrative costs, the utilities should continue to be authorized shareholder incentives in the future. This issue will be addressed in a subsequent decision.

3. Utilities' LIEE Earnings Claims in This Proceeding

Attachment 2 presents the LIEE earnings claims submitted by the utilities in their 2000, 2001 and 2002 AEAP applications. They encompass the utilities' second-year claims for PY1998 program activities, first and second-year claims for PY1999 and PY2000 program activities and first year claims for PY2001 program activities. The total request for LIEE earnings, by utility, is summarized below:

LIEE Earnings Claims, 2000, 2001 and 2002 AEAPs:				
Utility	Earnings	FF&U	Interest	Total
PG&E:	$1,653,000	$24,262	$135,503	$1,812,765
SCE:	996,320	12,164	75,933	1,084,417
SDG&E:	318,252	3,243	21,742	343,237
SoCal:	744,461	16,303	53,985	814,749

[12] Id., pp. 21-22.

Total:	$3,712,033	$55,972	$287,163	$4,055,168

Attachment 2 also includes the corresponding E-tables and other tables presented by the utilities to calculate these claims.[13] As indicated in that attachment, PG&E does not claim any earnings for PY2001 program activities because it did not meet the MPS established for that program year.

4. Positions of the Parties

ORA was the only party to specifically review the utilities' LIEE earnings claims in this proceeding, and does not protest any of the LIEE earnings claims associated with program years 1998 to 2001. As ORA explains:

> "ORA reaches this conclusion based upon its review of each of the AEAP applications and its ongoing participation in the various working groups. These working groups, comprised of representatives from the utilities, Energy Division and ORA, prepare the load impact studies, bill savings analyses and cost-effectiveness analyses that are used in utility LIEE measure assessment and overall program design, and that form the analytical basis supporting utility claims for shareholder earnings. Because of ORA's ongoing involvement with these working groups, by the time the utilities filed their AEAP applications each year, ORA had already thoroughly reviewed and commented, via the working groups, on these studies and analyses.
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> "Having already reviewed the underlying basis for the shareholder claims, ORA's remaining primary task in its review of the 2000, 2001

[13] E-tables refer to the reporting requirements, as adopted in our Measurement and Evaluation protocols, for utilities to use when they file an application for authorization to recover DSM earnings. They show the cost and benefit elements used to calculate shareholder earnings for each earnings claim on an aggregated and program-specific basis.

> and 2002 AEAP applications was to verify whether the utilities had met the criteria for making earnings claims and had correctly calculated the claims. To that end, ORA carefully reviewed installation and savings data, making sure that these compared with existing study results and activity levels. Moreover, ORA assured itself that the utility claims were calculated in accordance with the incentive mechanism applicable at the time. [Footnote omitted.][14]

As a result of its review, ORA concludes that all of the utility LIEE earnings claims in this consolidated AEAP proceeding are warranted.

WEM makes no individual recommendations concerning the utilities' LIEE earnings claims, but generally concludes: "there is no way to determine whether utilities' deserve performance awards because the information those awards should be based on is impossible to obtain, given utility secrecy, lack of clarity of their documentation, and the enormous disparity in resources between the utilities and the various watchdogs…Therefore, WEM believes that the utilities deserve no shareholder incentives in the current AEAP, and should refund to ratepayers their shareholder incentives from earlier programs as well."[15]

5. Need for Evidentiary Hearings

By Administrative Law Judge (ALJ) Resolutions 176-3039, 176-3063 and 176-3088, the Commission preliminarily determined that evidentiary hearings would be needed in these proceedings. By rulings dated March 19, 2003 and

[14] Comments of the ORA on LIEE and Load Management Cost Recovery, March 28, 2003, pp. 2-3. ORA did not file any additional comments specific to the 2002 AEAP LIEE claims on June 2, 2003, the due date for any supplemental comments on the utilities' first-year PY2001 claims. See the ALJ Ruling Regarding Schedule and Need For Hearings on LIEE Earnings Claims and Load Management Cost Recovery, April 15, 2003.

[15] Case Management Statement, October 15, 2001, pp. 3-4.

June 10, 2003, the ALJ determined that none of the comments/testimony raised technical or factual issues regarding the calculation of the utilities LIEE earnings claims. Accordingly, she ruled that evidentiary hearings were not needed to address the utilities' request for LIEE earnings. We concur with the ALJ's assessment and make a final determination that a hearing is not needed to address the LIEE earnings claims in this proceeding.

6. Discussion

As described in Section 2, the LIEE earnings claims presented in this proceeding are the result of three different incentive mechanisms, applied to different program years. They evolved due to changes in statutes (i.e., the elimination of the distinction between mandatory and non-mandatory measures), increased experience in implementing programs and incentive mechanisms, and other considerations. However, the reasonableness of the utilities' LIEE earnings claims requires the verification of two basic parameters, irrespective of which of the LIEE incentive mechanisms applies. Program participation (i.e., the type and quantity of measures installed) needs to be verified to determine whether the minimum threshold of performance (the MPS) is achieved for PY1998, PY1999 and PY2001 program activities, as well as to verify the earnings claims for savings-measures under the PY2000 incentive mechanism. LIEE program expenditures must also be verified in order to calculate the "management fee" under the PY1998, PY1999 and PY2001 performance adder mechanisms, and to calculate earnings associated with non-saving measures under the PY2000 mechanism.

Verification of both expenditure and installation data has traditionally been conducted in the AEAP where first year claims are considered. However, during the agreements reached in the 1999 AEAP, ORA reserved the right to verify program participation for PY1998 during the second earnings claim and, based on the results of the verification, recommend adjustments to that installment.[16] The second earnings claims associated with PY1998, PY2000 and PY2001 LIEE activities are also contingent upon completion of a first-year load impact study for each of those program years. Finally, the calculations required by each incentive mechanism must be reviewed for accuracy in each AEAP.

We are persuaded by ORA's statements regarding the nature of its review, as well as by our review of the utilities' applications, that the utilities have accurately "done the math" to calculate their LIEE earnings claims in this proceeding. ORA has reviewed all of the E-table calculations for all program years and, for PY2000, has reproduced the calculations in the joint recommendation to verify the percentages to be applied to year-2000 expenditures on non-savings measures. ORA also applied these percentages to the utilities' claimed year-2000 expenditures to verify the incentive amounts claimed for non-savings measures. In addition, for PY2000 incentive amounts associated with savings measures, ORA checked the unit incentive amounts in the utilities' applications against those in the joint recommendation to ensure that they were identical.[17]

Based on ORA's position in this proceeding and our review of the studies, we are also satisfied that the utilities have completed their load impact studies in compliance with the requirements of Table C-10 of the adopted Measurement

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[16] D.00-09-038, Attachment A, p. 16.

[17] See ORA Supplemental Testimony on Post-1997 Programs, 2001 AEAP, November 2001, p. 2 and Comments of ORA on Additional Verification Tasks Regarding the Utilities' Earnings Claims, p. 2.

and Evaluation Protocols and, hence, have met that contingency for PY1998, PY2000 and PY2001 second-year claims.[18]

With regard to measure installations, we generally find that ORA has reviewed and verified this parameter to our satisfaction. For the program years in which a MPS applies, ORA's typical review is to go through the utilities' calculations to verify that the MPS has been met. If the calculations indicate that the claimed number of installations (times the ex ante savings per measure) is close to the MPS, then ORA conducts a careful review of the installation documentation, along with other supporting estimates of savings that have been filed at the Commission.[19] This is the type of review of LIEE earnings claims that ORA has conducted in prior AEAP proceedings, the results of which have been presented in Case Management Statements approved by the Commission.

However, with respect to the PY2000 mechanism, ORA's typical review approach is not sufficient because there is no MPS threshold under that mechanism. In fact, nothing in the record in this proceeding describes how ORA actually reviewed the installations claimed by the utilities for their PY2000 LIEE earnings claims. Because of the structure of the PY2000 mechanism, the number (and type) of installations does much more than serve as a minimum

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[18] Case Management Statement, October 15, 2001, p. 3; Reporter's Transcript (RT), p. 142-143. A first-year load impact study was not required for PY1999 under the protocols ("skip-year" convention), but was required for both PY2000 and PY2001 per D. 01-06-082 (see pp. 18-19). However, we note that the PY2001 study was submitted recently and the various input assumptions have not been reviewed to date for reasonableness. Nor have we officially adopted the resulting estimates of load impacts for prospective use.

[19] RT at 136-137.

performance threshold—it drives the calculation of PY2000 earnings for the savings measures.

At the direction of the ALJ, ORA and other parties were requested to comment on how the verification efforts in the pending AEAPs could be supplemented to enhance the existing record. In response, ORA acknowledged that it could confirm that the installation frequency data submitted by the utilities for their PY2000 LIEE claims was "actual rather than estimated."[20] However, ORA did not supplement its showing in this manner. We believe that such verification is necessary before we can authorize earnings recovery for the savings measures under the PY2000 incentive mechanism.

Further, as also acknowledged by ORA in its November 14, 2001 comments, there is nothing in the record to confirm that all four utilities' expenditure data for their first year claims is actual recorded data, rather than estimated or budgeted.[21] Confirmation could be made by a combination of methods—such as comparing the expenditure data submitted in the AEAP with data submitted on LIEE recorded expenditures in other filings at the Commission, coupled with a review of underlying expenditure and billing

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[20] See ORA Supplemental Testimony on Post-1997 Programs, 2001 AEAP, November 2001, p. 5. ORA also makes statements on that page regarding PY1999 claims. Specifically, ORA states that it could "confirm the exact number of the utilities' claims by checking certain energy price data which is utilized in the incentive calculations. ORA could also examine the milestones which the utilities claim to have met to authorize recovery of the incentive amounts." Although these statements are placed under the heading "E. Additional LIEE Program Verification," we believe that they are intended to address the PY1999 energy efficiency programs subject to milestones, rather then LIEE. As discussed in this decision, the LIEE incentive mechanism for PY1999 does not involve either energy price data or milestones.

[21] Id.

records. To our knowledge, ORA did not conduct such a review of expenditures for any of the first year claims in question in this consolidated proceeding.

We do not fault ORA for trying to allocate its limited resources across this and other proceedings at the Commission, and therefore determining that there were certain verification efforts that it could not undertake. However, we cannot reach the conclusions that ORA has regarding the reasonableness of the utilities' earnings claims without a sufficient showing of earnings verification.

Therefore, we authorize recovery for only the PY1998 second-year claims in today's decision, which total $453,287 for all four utilities, including FF&U and interest. The Commission's ratemaking policy for LIEE programs has been to fund shareholder earnings associated with electric measures out of "headroom" until PY2001, at which time the Commission elected to fund earnings out of PY2001 LIEE program budgets. [22] Under either treatment, electric ratepayers have not experienced rate changes in order to fund the LIEE incentives. We note that the issue of how these incentives should be recovered when the rate freeze has ended for all of the electric utilities (LIEE and energy efficiency) is currently being addressed in the 2003 AEAP. [23] Since "headroom" is no longer a relevant concept for any of the electric utilities, we are left with basically two ratemaking options on the electric side: to authorize an increase in electric rates (via distribution rates or via the public goods charge) or to fund the authorized

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[22] "Headroom" refers to the difference between recovered revenues at the frozen rate levels and the reasonable costs of providing utility services (authorized revenue requirements). For a discussion of the ratemaking treatment applicable to LIEE and energy efficiency programs through PY2001, see D.00-10-019 and D.01-06-082.

[23] D.00-10-019, Ordering Paragraph 3.b; D.01-06-082, Ordering Paragraph 2; Assigned Commissioner's Ruling in A.03-05-002 et al., dated August 7, 2003.

incentives out of existing LIEE program budgets, without rate increases. Given the relatively small size of the dollars involved, we believe that the LIEE incentives authorized today should be funded out of current LIEE program budgets. This approach is consistent with the *effect* to date of LIEE earnings recovery on the electric side (i.e., no electric rate changes), and avoids prejudging the inquiry underway in the 2003 AEAP.

Accordingly, the utilities should fund the PY1988 second-year claims associated with electric LIEE program expenditures out of their annual public goods charge LIEE budget. Those incentives associated with gas measures shall continue to come out of gas rate increases, e.g., rate adjustments in the Biennial Cost Adjustment Proceeding.

As discussed above, based on the record in this proceeding, we find that the number of installations claimed by the utilities for PY2000 has not been adequately verified. In addition, we find that the utilities' expenditure data for PY1999, PY2000 and PY2001 require further examination before we can authorize rate recovery for the first and second year claims associated with these program years. In particular, the record lacks independent confirmation that all four utilities' expenditure data is actual recorded data, rather than estimated or budgeted.

We direct the utilities to track the earnings claims for PY1999, PY2000 and PY2001 in a memorandum account until Energy Division verifies the installations for PY2000 and expenditure data for PY1999, PY2000 and PY2001. Energy Division may conduct these efforts itself, or hire consultants for this purpose. The costs of these verification activities should be funded with LIEE program funds, in proportion to each utility's relative share of authorized program budgets.[24] We delegate to the Executive Director the task of establishing the scope, schedule and budget for Energy Division's evaluation, and leave this consolidated proceeding open to consider Energy Division's recommendations.

Finally, with regard to WEM's position regarding LIEE earnings claims, we note that the assigned ALJ afforded WEM along with other interested parties the opportunity to provide comment on "any additional technical or factual issues related to the specific claims submitted by the utilities under the LIEE shareholder mechanisms in place."[25] As the ALJ has noted, WEM instead presented a series of very general accusations about program details that, if true, would be properly raised in proceedings examining the best way to deliver the programs, and not the AEAP proceeding.[26] We advise WEM to focus its participation during future phases of this consolidated AEAP on the specific issue before us for consideration.

7. Additional Phases of This Proceeding

[24] We prefer this allocation approach to using the co-funding allocation adopted in Resolution E-3585, as suggested by SDG&E in its comments on the draft decision, for two reasons. First, the allocation percentages adopted in Resolution E-3585 were based on both CARE and LIEE budgets at the time, and the verification efforts to be funded here relate only to LIEE programs. Second, those allocations do not reflect current program budget levels for either program.

[25] ALJ Ruling, April 15, 2003, p. 2.

[26] *Id.*, pp. 2-3.

This consolidated proceeding is also the forum for considering the following issues related to shareholder incentives:[27]

1. Should LIEE shareholder earnings continue to be offered to utilities in the future in view of the fact that we have eliminated shareholder earnings for (non low-income) energy efficiency programs per D.01-11-066?

2. Should we reopen R.91-08-003/I.91-08-002 to modify the shared-savings earnings mechanism for pre-1998 (non low-income) energy efficiency programs?

3. Are the retention study methodologies and results that underlie the utilities' pre-1998 (non low-income) energy efficiency earnings claims reasonable?

4. Are the utilities' post-1997 (non low-income) energy efficiency earnings claims, which are based on milestone incentive mechanisms, reasonable?

Opening and reply comments have been submitted on the first two issues, and we are in the process of preparing decisions to address them. We will address the third and fourth issues upon completion of Energy Division's independent verification of earnings claims, which will be conducted via the Request For Proposal process authorized in D.03-04-055.

In addition to the incentive-related issues described above, the Commission identified this proceeding as the forum for considering the reasonableness of utility administrative costs associated with interruptible tariffs and rotating outages programs. Specifically, in D.01-07-029, the Commission

[27] See March 19, 2003 ALJ Ruling and May 6, 2003 Assigned Commissioner's Ruling in this proceeding.

directed the utilities to establish an Interruptible Load Program Memorandum Account (ILPMA) to track the costs and revenues associated with the programs, as follows:

> "The memorandum account shall track all dollars spent above funds authorized in current rates to implement any program, activity, study or report ordered herein. The accounting shall separately

> identify the cost and revenue associated with each program, activity, study or report (e.g., separately track costs and revenues for the new Bas Interruptible Program, Voluntary Demand Response Program, each curtailment study, each report). Each respondent utility may include interest on the balance. The burden to demonstrate reasonableness for future cost recovery shall be on each respondent utility . . . . Upon a finding of reasonableness, balances in each memorandum account shall be recovered from ratepayers without respect to any policies otherwise in place regarding the end of the rate freeze. Memorandum account balances shall be reviewed in each utility's Annual Earnings Assessment Proceedings."[28]

Accordingly, the utilities filed requests for cost recovery ILPMA balances in their 2002 AEAP applications, and the assigned ALJ solicited comment on those requests from interested parties.[29] ORA was the only party to respond to this solicitation, stating that: "ORA management has determined that ORA does not have the resources to conduct an independent reasonableness review of these expenses at this time."[30] In response, PG&E argues that since the utilities have made their showing and no party has taken issue with them, the Commission should authorize recovery of these administrative costs--which total approximately $4 million for all four utilities combined.

We disagree with PG&E's position. As SoCal and SDG&E point out in their joint reply comments, without independent findings concerning the reasonableness of these costs, we do not have an adequate record at this juncture

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[28] D.01-07-029, as modified by D.01-04-006 and D.01-04-009, Ordering Paragraph 15.

[29] See ALJ Ruling, March 19, 2003, p. 6.

[30] ORA Comments, March 28, 2003, p. 3.

upon which to base a decision.[31] However, their suggestion that ORA be required to submit its findings without delay is unworkable, given ORA's stated resource limitations at this time.

In the absence of active participation by intervenors on this issue, we will direct our Energy Division to conduct an audit of these administrative costs for our consideration. Energy Division may conduct the audit itself, or hire consultants for this purpose. The costs of the audit should be added to the utilities' memorandum accounts for recovery in rates, and allocated to each utility in proportion to the relative size of its interruptible load program administrative costs. We direct the Executive Director to establish the scope, schedule and budget for Energy Division's audit, taking into consideration the availability of Commission staff resources.

8. 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) and Rule 77.7 of the Rules of Practice and Procedure. Comments on the draft decision were filed by PG&E, SCE, jointly by SDG&E / SoCal and by ORA. In addition, the utilities jointly filed corrections to the earnings, FF&U and interest amounts that were previously submitted.[32] No reply comments were filed.

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[31] See Joint Reply Comments of SoCal and SDG&E, April 4, 2003, pp. 2-3. We note that SCE did not respond to this issue in its reply comments.

[32] See: Joint Filing of SDG&E, SoCal, PG&E and SCE Providing Revised Franchise Fee, Uncollectible and Interest and Amending Utility Earnings Claims, August 5, 2003 and ERRATA to that filing, also jointly filed on August 5, 2003. Also see: Comments of ORA on the Draft Interim Opinion, August 5, 2003; Comments of SCE on Judge Gottstein's Draft Interim Opinion, August 7, 2003 (SCE Comments); Comments of PG&E on Draft

We have reviewed the comments, and make minor corrections and edits in response. In particular, we update the tables and estimates of earnings, FF&U and interest in response to the utilities' corrections to those numbers. We also append the E-tables to Attachment 2, which were inadvertently omitted. In addition, we clarify the discussion on ratemaking and the cost allocation of Energy Division verification activities, in response to comments, but do not make any substantive changes to our determinations on these issues.

In its comments, SCE urges us to forego an Energy Division audit of the PY2001 administrative costs booked in the ILPMA, arguing that its filed workpapers and testimony "should be more than sufficient for the Energy Division to meet the Commission's articulated review standard [footnote omitted], without the added time and expense of an audit. If upon further review, however, the Commission still wants more detail, SCE can make available to the Energy Division additional information on each of the relevant cost components that sets forth even greater detail than that already provided by SCE in its 2003 AEAP application." [33]

We leave to Energy Division the responsibility of determining the scope of its audit, including the type of additional information it may require from the utilities to assess the reasonableness of amounts booked to the ILPMA account. However, we reject the notion that we should make a determination on this issue

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Decision of ALJ Meg Gottstein, August 6, 2003 and SDG&E and SoCal Comments on the Draft Decision, August 7, 2003.

[33] SCE Comments, p. 4.

without an Energy Division audit. We note that the amounts in question are significant, particularly for SCE. Collectively, the utilities are requesting recovery of approximately $10 million in administrative costs booked to ILPMA during PY2001 and PY2002. SCE's share of this amount is approximately $6.7 million--$2.7 million in this proceeding for PY2001, and $4 million in the 2003 AEAP for PY2002. [34] By D.01-07-029, the Commission specifically directed that a reasonableness review be conducted for the amounts booked to this account, and today's decision ensures that such a review will be undertaken. Accordingly, we affirm the draft decision's direction on this issue.

Except as noted above, we make no modifications to the draft decision.

9. Assignment of Proceeding

Loretta M. Lynch is the Assigned Commissioner and Meg Gottstein is the assigned ALJ in this proceeding.

Findings of Fact

1. The LIEE earnings claims presented in this proceeding are the result of three different incentive mechanisms, applied to different program years.

2. ORA has reviewed the accuracy of the mathematical calculations required by each incentive mechanism, as described in this decision.

3. The utilities have completed the PY1998, PY2000 and PY2001 load impact studies in compliance with the requirements of the Measurement and Evaluation Protocols.

4. ORA's approach to verifying installations is well suited to addressing claims under the PY1998, PY1999 and PY2001 earnings mechanisms because it

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[34] See March 19, 2003 ALJ Ruling in this proceeding and SCE's July 18, 2003 Prehearing Conference Statement in the 2003 AEAP (A.03-05-002 et al). Amounts that SCE and other utilities may request for PY2003 (if any) are not known at this time.

focuses resources on determining whether the MPS has been reached (i.e., whether any incentives will be earned). That is the only impact that the type and number of installations can have on the PY1998, PY1999 and PY2001 incentive mechanisms. However, ORA's approach to verifying installations is not sufficient for claims made under the PY2000 incentive mechanism because there is no MPS threshold and, under that mechanism, the number and type of installations drives the calculation of PY2000 earnings for the savings measures. Therefore, the record does not confirm the accuracy of the PY2000 earnings claims with respect to actual, verified installations.

5. No independent verification has been conducted to confirm that all four utilities' expenditure data for their first-year claims in this proceeding is actual data, rather than estimated or budgeted.

6. At this time, the record also lacks independent findings concerning the reasonableness of the utilities' other earnings claims in the 2000, 2001 and 2002 AEAP. In addition, the record lacks independent findings regarding the reasonableness of utility administrative costs associated with interruptible tariffs and rotating outages, an issue that was included in the 2002 AEAP per Commission direction.

7. At this time, the second-year claims for PY1998 are the only LIEE earnings claims supported by the record. Funding the LIEE incentives associated with electric measures authorized today out of LIEE program funds is consistent with the effect to date of LIEE earnings recovery on the electric side (i.e., no electric rate changes), and avoids prejudging the ratemaking inquiry underway in the 2003 AEAP. As discussed in this decision, WEM's comments on the utilities' LIEE earnings claims do not address issues within the scope of this proceeding.

8. This proceeding does not require that hearings be held with respect to the utilities' requests for LIEE earnings.

Conclusions of Law

1. The utilities' second earnings claims for PY1998 LIEE programs are reasonable and should be authorized. For the reasons discussed in this decision, it is reasonable to fund the electric LIEE incentives authorized today out of authorized LIEE program budgets.

2. As discussed in this decision, the utilities should track the earnings claims for PY1999, PY2000 and PY2001 in a memorandum account until Energy Division verifies the installations for PY2000 and expenditure data for PY1999, PY2000 and PY2001.

3. As discussed in this decision, Energy Division should audit the administrative costs booked in memorandum accounts by the utilities for their interruptible load programs.

4. In order to move forward as expeditiously as possible with the next steps in this proceeding, this decision should be effective immediately.

INTERIM ORDER

IT IS ORDERED that:

1. Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), San Diego Gas & Electric Company (SDG&E) and Southern California Gas Company (SoCal), collectively referred to as "the utilities" are authorized recovery of their second-year earnings claims for program year (PY) 1998 Low-Income Energy Efficiency (LIEE) activities as follows:

Utility	Earnings	FF&U	Interest	Total
PG&E:	$109,000	$1,628	$19,084	$129,712
SCE:	121,500	1,614	20,774	143,888
SDG&E:	42,657	516	7,283	50,456
SoCal:	108,152	2,586	18,493	129,231
Total:	$381,309	$6,344	$65,634	$453,287

The utilities shall fund the PY1998 second-year claims associated with electric LIEE program expenditures out of their annual public goods charge LIEE budget. Those incentives associated with gas measures shall come out of gas rate increases, e.g., rate adjustments in the biennial Cost Adjustment Proceeding.

2. As discussed in this decision, the utilities shall track the LIEE earnings claims for PY1999, PY2000 and PY2001 in a memorandum account until Energy Division completes a verification of the installations for PY2000 and of expenditure data for each of those program years. Energy Division may conduct these efforts itself, or hire consultants for this purpose. The costs of these verification activities shall be funded with LIEE program funds, and allocated to each utility in proportion to its relative share of authorized LIEE budgets for the program year.

3. As discussed in this decision, Energy Division shall conduct an audit of the administrative costs booked in memorandum accounts by the utilities for their interruptible load programs. Energy Division may perform the audit itself or hire a consultant for this purpose. The costs of the audit shall be added to the utilities’ memorandum accounts for recovery in rates, and allocated to each

utility in proportion to the relative size of its interruptible load program administrative costs.

4. The Executive Director shall establish the scope, schedule and budget for the tasks assigned to Energy Division today, taking into consideration the availability of Commission staff resources and contracting funds.

5. This proceeding shall remain open to consider the results of Energy Division's verification of earnings claims, as directed by this decision and by D.03-04-055. It shall also remain open to consider the results of Energy Division's audit of the administrative costs associated with interruptible load programs.

This order is effective today.

Dated: August 21, 2003, at San Francisco, California.

MICHAEL R. PEEVEY
President
CARL W. WOOD
LORETTA M. LYNCH
GEOFFREY F. BROWN
SUSAN P. KENNEDY
Commissioners

ATTACHMENT 1

List of Acronyms and Abbreviations

Acronym	
AEAP.............................	Annual Earnings Assessment Proceeding
ALJ.................................	Administrative Law Judge
DSM...............................	Demand-Side Management
FF&U	**Franchise Fees and Uncollectables**
ILPMA...........................	Interruptible Load Program Memorandum Account
LIEE	Low Income Energy Efficiency
LIHEAP.........................	Low Income Home Energy Assistance Program
MPS...............................	Minimum Performance Standard
ORA	Office of Ratepayer Advocates
PG&E.............................	Pacific Gas and Electric
PY..................................	Program Year
SCE................................	Southern California Edison Company
SDG&E..........................	San Diego Gas & Electric Company
SoCal.............................	Southern California Gas Company.

(End of Attachment 1)

WEM............................... Women's Energy Matter

Attachment 2
Summary Table

PHASE I

Low Income Energy Efficiency Claims			FF&U	Interest	PHASE I WORKPAPERS	Index
2000 AEAP						
PY99 LIEE First Claim	PG&E	$383,000	$5,980	$41,882	2000 AEAP, Vol III, pp. VII-10 & VII-11	Table 5
PY99 LIEE First Claim	SCE	$170,212	$2,136	$18,068	A.00-05-005, Testimony, Appendix C, Table E-1 and Table E-4.	Table 1
PY99 LIEE First Claim	SDG&E	$39,383	$454	$4,178	A.00-05-003, Appendix C	Table 7
PY99 LIEE First Claim	SCG	$102,515	$2,315	$10,880	May 2000 Energy Efficiency Programs Annual Report, Technical Appendix, Tables TA7.1 and TA7.2	Table 11
Subtotal – PY99 LIEE First Claim		**$695,110**	**$10,885**	**$75,008**		
PY98 LIEE Second Claim	PG&E	$109,000	$1,628	$19,084	2000 AEAP, Vol I, pp. 2-12 to 2-14	Tables 13 and 14
PY98 LIEE Second Claim	SCE	$121,500	$1,614	$20,774	A.00-05-005, Testimony, Appendix D, Table E-1 and Table E-4.	Table 2
PY98 LIEE Second Claim	SDG&E	$42,657	$516	$7,283	A.00-05-003, Appendix B	Table 8
PY98 LIEE Second Claim	SCG	$108,152	$2,586	$18,493	May 1999 Energy Efficiency Programs Annual Report Technical Appendix	Tables 19 and 20
Subtotal – PY98 LIEE Second Claim		**$381,309**	**$6,344**	**$65,634**		
Subtotal - 2000 AEAP		**$1,076,419**	**$17,229**	**$140,642**		
2001 AEAP						
PY00 LIEE First Claim	PG&E	$410,000	$5,665	$18,624	2001 AEAP Update July 20, 2001, Vol. III, p.TA 7-3	Tables 15, 16, and 17
PY00 LIEE First Claim	SCE	$171,940	$2,037	$7,620	A.01-05-009, Testimony, Appendix C.	Table 3
PY00 LIEE First Claim	SDG&E	$44,694	$503	$1,983	A.01-05-018, Appendix C	Table 9
PY00 LIEE First Claim	SCG	$105,751	$2,255	$4,684	A.01-05-017, Appendix B	Table 12

PHASE I

Low Income Energy Efficiency Claims			FF&U	Interest	PHASE I WORKPAPERS	Index
Subtotal - PY00 LIEE First Claim		**$732,385**	**$10,460**	**$32,911**		
PY99 LIEE Second Claim	PG&E	$341,000	$5,324	$37,289	$0.362 2001 AEAP Update July 20, 2001, pp.TA 7 -TA-9	Table 6
PY99 LIEE Second Claim	SCE	$170,212	$2,136	$18,068	A.01-05-009, Testimony, Appendix C, Table E-1 and Table E-4.	Table 1
PY99 LIEE Second Claim	SDG&E	$39,383	$454	$4,178	A.01-05-018, Appendix B	Table 7
PY99 LIEE Second Claim	SCG	$102,515	$2,315	$10,880	May 2000 Energy Efficiency Programs Annual Report, Technical Appendix, Tables TA7.1 and TA7.2	Table 11
Subtotal - PY99 LIEE Second Claim		**$653,110**	**$10,229**	**$70,415**		
Subtotal - 2001 AEAP		**$1,385,494**	**$20,689**	**$103,326**		
PY01 LIEE First Claim*	PG&E	$0	$0	$0	2002 AEAP Update July 2002, Vol. IV, p. 2-11	NA
PY01 LIEE First Claim	SCE	$190,516	$2,204	$3,783	A.02-05-007, Testimony, Appendix C.	Table 4
PY01 LIEE First Claim	SDG&E	$107,441	$813	$2,137	A.02-05-005,Appendix C	Table 10
PY01 LIEE First Claim	SCG	$219,777	$4,577	$4,364	A.02-05-002, Appendix B	Table 18
Subtotal - PY01 LIEE First Claim		**$517,734**	**$7,594**	**$10,284**		
PY00 LIEE Second Claim	PG&E	$410,000	$5,665	$18,624	2002 AEAP Update July 2002, Vol. IV, p.2-12	Tables 15, 16, and 17
PY00 LIEE Second Claim	SCE	$171,940	$2,037	$7,620	A.02-05-007, Testimony, Appendix D.	Table 3
PY00 LIEE Second Claim	SDG&E	$44,694	$503	$1,983	A.02-05-005,Appendix B	Table 9
PY00 LIEE Second Claim	SCG	$105,751	$2,255	$4,684	A.01-05-002, Appendix B	Table 12
		$732,385	**$10,460**	**$32,911**		
Subtotal - 2002 AEAP		**$1,250,119**	**$18,054**	**$43,195**		
PHASE TOTAL		**$3,712,033**	**$55,972**	**$287,163**		

*PG&E did not achieve the Minimum Performance Standard and therefore makes no claim.