Draft For Discussion

April 27, 2011

To: Energy Division
From: PG&E, SDG&E, SoCalGas

Re: Gas Public Purpose Program Surcharges and SB 69

Executive Summary

This memo was prepared at Energy Division's request. The purpose of this memo is to request that the Commission issue a ruling or other directive by the end of May 2011 to mitigate the probable loss of funds for Energy Efficiency (EE) programs implemented by Pacific Gas and Electric Company (PG&E), San Diego Gas and Electric Company (SDG&E) and Southern California Gas Company (SoCalGas) (together referred to as "Utilities") in the event that Senate Bill (SB) 69 is enacted into law.

The loss in funding could occur if the Director of Finance requests that the State Controller transfer up to $155 million from the Gas Consumption Surcharge Fund (Fund) to the General Fund, per SB 69, without the Commission taking steps to allow for the continuation of authorized EE programs.

For purposes of this memo, the Utilities assume that the bill is signed into law and in effect for Fiscal Year (FY) July 1, 2011 through June 30, 2012 and beyond so that the proposals are not necessarily just a one-year fix.

The Utilities request that the following principles guide the Commission in adopting such rules:

- Keep energy efficiency at the forefront of customer's minds and the industry's objectives by continuing to fund these programs.
- Ensure the current momentum of energy efficiency is not lost due to a reallocation of funds to other purposes.
- Continue support for California's loading order, which places energy efficiency first.
- Avoid customer and vendor cynicism/lack of confidence that may arise from lack of funds and thereby, discouraging further pursuit of energy efficiency.
- Minimize impacts on low income programs and services.
- Cost effectiveness of EE programs should not be discounted for funds retained by the State.

Introduction

On March 17, 2011, the Senate and Assembly passed Fiscal Year (FY) 2011-2012 Budget Bill SB69 that would allow for a transfer of up to $155 million by the Controller from the Gas Consumption Surcharge Fund (Fund) to the General Fund. The specific provisions in the bill are as follows:[1]

[1] See http://leginfo.ca.gov/pub/11-12/bill/sen/sb_0051-0100/sb_69_bill_20110307_proposed.pdf, at p. 617.

8660-011-3015—For transfer by the Controller from the Gas Consumption Surcharge Fund to the General Fund.

Provisions:

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

The potential loss of $155 million per year in EE or other Public Purpose Program (PPP) funds to the State's General Fund (whether by fiscal or calendar year) will substantially impact the ability of the Utilities from delivering their total EE portfolio gas savings or other PPP goals. It is our understanding that the State may or may not elect to enact the sweep once the bill is signed into law. This memo contains a plan in the event that the State does take some or all of the $155 million.

The following summarizes the authorized program funding and balancing account balances filed by the Utilities and approved by the CPUC that are recovered through 2011 Gas PPP Surcharge rates.

	PG&E AL 3161-G	**SDG&E AL 1984-G**	**SCG AL 4163**	**IOU Total**
EE	$77,850,000	$18,533,300	$94,050,000	**$190,433,300**
LIEE	$64,283,506	$9,539,700	$78,256,300	**$152,079,506**
CARE Admin	$1,904,200	$628,900	$6,588,000	**$9,121,100**
CARE Revenue Shortfall	$110,499,315	$12,714,800	$128,773,200	**$251,987,315**
EE B/A Balance	*$12,076,496*	*$2,143,700*	*($28,023,000)*	***($13,802,804)***
LIEE B/A Balance	*($261,684)*			***($261,684)***
CARE B/A Balance	*($14,039,520)*	*$737,600*	*($4,720,000)*	***($18,021,920)***
RDD B/A Balance	*($75,948)*	*$0*	*$928,000*	***$852,052***
Total Balancing Account Balances	**($2,300,656)**	**$2,881,300**	**($31,815,000)**	**($31,234,356)**
Total Program	**$252,236,365**	**$44,298,000**	**$275,852,500**	**$572,386,865**
BOE Admin	$284,252	$34,400	$313,100	**$631,752**
RD&D (CEC)	$10,348,545	$1,250,900	$11,399,200	**$22,998,645**
Total Other	**$10,632,797**	**$1,285,300**	**$11,712,300**	**$23,630,397**

TOTAL in 2011 PPP Surcharge Rates	**$262,869,162**	**$45,583,300**	**$287,564,800**	**$596,017,262**
Total including B/A balances				
Total EE	$89,926,496	$20,677,000	$66,027,000	$176,630,496
Total LIEE	$64,021,822	$9,539,700	$50,233,300	$151,817,822
Total CARE	$98,363,995	$14,081,300	$130,641,200	$243,086,495
Total Other	$10,556,849	$1,285,300	$12,640,300	$24,482,449
TOTAL	$262,869,162	$45,583,300	$259,541,800	$596,017,262

See Appendix A, below, for Background on Gas PPP Surcharges

<u>Steps for Implementing SB 69</u>

The following outlines the steps to implement SB69, both those needed in advance of the effective date and in the longer term to reduce the risk to EE and other public purpose programs in the future.

Steps Needed in Advance of SB 69 Effective Date

Step 1: CPUC issuance of an order authorizing the allocation among the IOUs of any sweep of funds based on the gas funding authorized for the impacted programs in effect on the date of the sweep. Within the limit of the CPUC's jurisdiction, the Utilities recommend that the CPUC allocate the amount of swept funds in such a manner as to impact EE and public interest research, development, and demonstration (RD&D) programs before impacting programs for low income customers.

The statutory language is broad and could impact any of the programs funded through Gas PPP Surcharges, including Low Income Energy Efficiency Programs (LIEE), California Rates for Energy (CARE) and gas public interest research, development and demonstration (RD&D) that is managed by the California Energy Commission.

For the 2010-2012 EE portfolio cycle period, the following allocations should apply to EE funds transferred to the General Fund by the Dept of Treasury:

	PG&E	**SDG&E**	**SCG**	**IOU Total**
Total Gas Portion of 2010-2012 EE Authorized Funding	$240,840,000	$55,600,000	$285,000,000	$581,440,000
Percent of Gas EE Funding and Allocation of Sweep to IOUs (rounded)	41%	10%	49%	100%
Maximum Annual (FY) Sweep	$63,550,000	$15,500,000	$75,950,000	$155,000,000

Step 2: CPUC issuance of an order allowing the Utilities to record/accrue the sweep of EE funds in the same manner as other EE program expenses applying the authorized expense ratio in place as of the date of the sweep. This will allow the Utilities to absorb the effect of the sweep across their entire portfolios.

For the 2010-2012 EE Portfolio period the following EE expense ratios will apply as approved for PG&E in AL 3065-G-A&B/3562-E/A&B and for SDG&E in AL 2127-E/1093-G. The expense ratio does not apply to SCG as 100% of its funding is for gas activities.

Gas %/Electric %	**PG&E**	**SDG&E**	**SCG**
EE	18%/82%	20%/80%	100%/0%

The Utilities recommend this treatment to allow greater flexibility in the use of available funds to achieve the overall goals that the CPUC adopted for the 2010-2012 EE portfolios and to minimize the number of policy changes needed to implement SB69. The 2010-2012 EE portfolio goals include the delivery of gas and electric savings in the near term and to implement programs that can realize savings and transform lighting, new construction and other technology markets over the long term. For PG&E and SDG&E these efforts are spread throughout the delivery of their portfolios, rather than through a series of discrete gas and electric funded programs as were adopted prior to the 2006-2008 portfolio. The adoption of the expense factor to allocate funding and expenditures to gas and electric based on the net benefits expected for the portfolio supports these portfolio goals.

Step 3: CPUC issuance of an order authorizing the IOUs to fully fund its authorized 2010-2012 EE portfolio activities as was originally intended. The IOUs should be authorized to utilize the following funds in the order below to ensure that programs are operated as they were approved:

1. EE unspent, uncommitted funds, including interest from prior program cycles
2. LIEE unspent funds, including interest, from prior program cycles (including 2009-11 cycle after conclusion)
3. Prior period unspent EE EM&V currently authorized to lower customer rates in the 2010-2012 program cycle per D.09-09-047.
4. Naturally occurring EE underspend, including interest, from current program cycle
5. Naturally occurring LIEE underspend, including interest, from current program cycle
6. Recover any remainder of program funding needed up to the authorized budget amount from customer rates.

The following table summarizes the Utilities forecast of available unspent EE and LIEE funds that could be utilized to cover the maximum transfer of $155 million of funds in 2011.

[Source: revised data request response (SDG&E values have not been updated)]

Line		PG&E	SDG&E	SCG	Total
1	Maximum Annual (FY) Transfer to General Fund	($63,550,000)	($15,500,000)	($75,950,000)	$155,000,000
2	B/A Balance Receivable (forecast 6/30/11)	($6,110,000)			*($6,110,000)*
3	***Shortfall Due to Sweep (line 1+2)***	***($69,660,000)***	***($15,500,000)***	***($75,950,000)***	***($161,110,000)***
4	**Available Unspent From EE and LIEE**				
5	2010-2012 Unspent EE gas funds (forecast 6/30/11)	$15,553,000	$15,419,594	$82,722,137	$113,694,731
6	Augment Funding (gas EE pre-2010 unspent forecast 6/30/11)	$7,343,203	$0	$39,627,223	$46,970,426
7	Augment Funding (electric EE pre-2010 unspent forecast 6/30/11)	$48,528,413		$0	$48,528,413
8	Augment Funding with gas/electric EM&V pre-2010 unspent (currently authorized to lower rates per D.09-09-047) (estimated)	$10,000,000			$10,000,000
9	*2009-2011 Unspent LIEE Gas funds (forecast 12/31/11)*	$0	$179,215	($3,093,282)	($2,914,067)
10	*2009-2011 Unspent LIEE Electric funds (forecast 12/31/11)*	$13,719,661	$0		$13,719,661
11	*Augment Funding (gas LIEE prior period unspent forecast 12/31/11)*	$0	$0	$14,292,320	$14,292,320
12	*Augment Funding (electric LIEE prior period unspent forecast 12/31/11)*	$8,696,232	$0	$0	$8,696,232
13	***Total Available Unspent from EE and LIEE (sum lines 5-13)***	***$103,840,509***	***$15,598,809***	***$133,548,398***	***$252,987,716***
14	**Carryover (line 3+13)**	**$34,180,509**	**$98,809**	**$57,598,398**	**$91,877,716**

Step 4: Allowing the Utilities to utilize the funding options described in Step 3 will forestall the need to reduce program activities and gas goals. However, if the CPUC does not allow for the continuation of EE programs at current authorized levels, the CPUC should authorize IOUs to utilize natural underspending that may exist within current programs (for example, PG&E's Zero Net Energy Pilots, EM&V, Whole House and other programs or sub-programs) and loosen the existing fund-shifting rules to allow the IOUs the flexibility to meet their gas goals. At that point it would be appropriate for each of the IOUs to prioritize their expenditures according to expected savings and cost-effectiveness. The IOUs should be allowed to optimize their portfolios to use the limited funds to focus on maximizing the benefits to all customers of the funds invested.

If gas goal reductions are necessary, pursuant to SB69 the CPUC should authorize the Gas Utilities to request by advice letter the specific level of gas goal relief needed.

Other Steps Needed To Protect EE Programs

1. Energy Division should implement a plan to verify the amount of interest in the Fund owed to the Utilities and work with Utilities and other parties to determine the allocation of interest in the Fund to parties and the process for parties to request reimbursement from the Fund through Energy Division.

2. Approve a modification to D. 04-08-010 or support other appropriate vehicle to incorporate the Finance Department forecast of its administrative costs in PPP surcharge rates, similar to BOE admin, rather than such funds being deducted from interest or remitted program funds that would otherwise be returned to the IOUs.

3. Assure that the Utilities receive their share of interstate pipeline customer remittances made to the BOE that have been deposited into the Fund.

4. Support a legislative change to remove the requirement that PPP surcharges supporting IOU programs be sent to the State; implement an alternative solution to address the potential bypass risk by customer directly connecting to interstate pipeline within the State; and fund gas PPP RD&D with a direct payment to CEC in the same manner that electric RD&D funds are handled.

Appendix A

Background on Gas PPP Surcharges

The Fund was originally enacted by AB 1002 that was signed into law on September 29, 2000 and added Article 10 (§§ 890-900) to the Public Utilities (P.U.) Code. The bill implemented a Gas Public Purpose Program (PPP) surcharge to recover CPUC authorized gas funding for Energy Efficiency, Low Income Energy Efficiency and California Rates for Energy (CARE) administrative program costs through a separate surcharge beginning January 1, 2001. Gas PPP Surcharge rates also includes the subsidy for CARE gas customers and balancing account balances for any over- or under-collections from the prior year. An administrative fee for the State Board of Equalization (BOE) and authorized funding for public interest research, development and demonstration (RD&D) administered by the California Energy Commission (CEC) is also recovered in Gas PPP surcharge rates.

AB 1002 was intended to mitigate concerns that large customers would directly connect to interstate pipelines located within the State and bypass their obligation to pay their share of non-bypassable PPP gas charges. Therefore, the statute required that the customer of an interstate pipeline pay the same surcharge rate that the customer would pay if the customer received service from the public utility in whose service territory the customer is located. In addition, some consumers of natural gas are exempt from being taxed under the federal or state constitution and therefore exempt from the surcharges.[2] .

The first Gas PPP surcharges for the Utilities were adopted by the CPUC in Resolution G-3303, dated December 21, 2000. Gas PPP surcharge rates are updated each January 1 through an advice letter filed by the Utilities by October 31 of the preceding year.

On August 19, 2004, the Commission issued Decision ("D") 04-08-010 in Rulemaking ("R.") 02-10-001, which resolved a number of gas PPP surcharge administration and implementation issues.[3] That decision also initiated a statewide gas public interest RD&D program to be administered by the California Energy Commission ("CEC") and funded through the Gas PPP Surcharges beginning January 1, 2005.[4]

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[2] Section 896, AB 1002 states, "Consumption means the use or employment of natural gas. Consumption does not include the use or employment of natural gas to generate power for sale or use of gas for enhanced oil recovery, natural gas utilized in cogeneration technology projects to produce electricity, or natural gas that is produced in California and transported on a proprietery pipeline. Consumption does not include the consumption of natural gas which this state is prohibited from taxing under the United States Constitution or the California Constitution."
Section 897, AB 1002 states, "Nothing in this article impairs the rights and obligations of parties to contracts approved by the Commission, as the rights and obligations were interpreted as of January 1, 1998."
Section 898, AB 1002 states, "Notwithstanding Section 890, a municipality, district, or public agency that offers in published tariffs home weatherization services, rate assistance for low-income customers, or programs similar to those described in subdivision (a) of Section 890, shall not be required to collect a surcharge pursuant to this article from customers within its service territory."

[3] The affected utilities are Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Gas Company, Southwest Gas Corporation, Avista Utilities, Alpine Natural Gas Operating Company and West Coast Gas Company

[4] By August 31 of each year, the CEC provides a prioritized list of RD&D projects for the following year to be reviewed and approved by the Commission. The RD&D costs are allocated among utilities on the basis of throughput gas volumes.

The amounts collected by each of the Utilities from the surcharge are remitted to the BOE on the last day of the month following a calendar quarter.[5] The total amount remitted is then transmitted to the State Treasurer, to be deposited in the Fund. The Utilities' programs are financed through monies appropriated to the Utilities from the Fund by the CPUC as soon thereafter as feasible. Once the quarterly remittances are made, the Utilities request reimbursement of remitted surcharges from the Energy Division, with the exception of: 1) RD&D authorized funding that is transferred into a separate account administered by the CEC for gas public interest RD&D programs; and 2) BOE administration costs, which are used to fund costs associated with BOE administration of state-wide PPP surcharge collection.

According to the statute and D.04-08-010, the utilities are entitled to earn interest on surcharges remitted to BOE for the time the remittances are held in the Fund. The Energy Division has yet to establish a procedure to calculate the outstanding interest owed to the utilities (on behalf of customers). Therefore, a portion of the amount held in the Fund is interest that has been accruing on the deposited surcharges from IOUs and other parties since 2001. IOU's portion of the interest earned in the Fund should be returned to its customers.

Since 2001, a portion of the interest held in the fund has been appropriated by the State Finance Department to cover its administrative costs rather than forecasted to be recovered from annual gas PPP surcharge rates as is authorized for the BOE and CPUC administrative costs.

The interest rate is the historical quarterly Surplus Money Investment Fund Appropriation Yield Rate, as shown at the following link:
http://www.sco.ca.gov/ard_yield_rates.html

Based on preliminary review of on-line State Budget information, the actual interest earned in the Fund, from FY 01-02 through FY 08-09 is $19,479,000.

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[5] The amount remitted is calculated by each utility as the sum of the product of each customer class rate by the customer class throughput.