BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application of San Diego Gas & Electric Company (U 902 M) for Approval of Low-Income Assistance Programs and Budgets for Program Years 2012-2014.	Application 11-05-020 (Filed May 16, 2011)

PROTEST
OF THE DIVISION OF RATEPAYER ADVOCATES

MITCHELL SHAPSON
RASHID RASHID
Attorneys

for the Division of Ratepayer Advocates
California Public Utilities Commission
505 Van Ness Ave.
San Francisco, CA 94102
Phone: (415) 703-2727
Email: mitchell.shapson@cpuc.ca.gov

CAMILLE WATTS-ZAGHA
LOUIS IRWIN
RADU CIUPAGEA

for the Division of Ratepayer Advocates
California Public Utilities Commission
505 Van Ness Ave.
San Francisco, CA 94102
Phone: (415) 703-2881
Email: camille.watts-zagha@cpuc.ca.gov

June 20, 2011

454424

TABLE OF CONTENTS

SB_GT&S_0235387

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application of San Diego Gas & Electric Company (U 902 M) for Approval of Low-Income Assistance Programs and Budgets for Program Years 2012-2014.	Application 11-05-020 (Filed May 16, 2011)

PROTEST OF THE DIVISION OF RATEPAYER ADVOCATES

I. INTRODUCTION

Pursuant to Rule 2.6 of the Commission's Rules of Practice and Procedure, the Division of Ratepayer Advocates (DRA) timely submits this Protest to the Applications (A.) of Southern California Edison Company (SCE) A.11-05-017, Southern California Gas Company (SoCalGas), A.11-05-018, Pacific Gas & Electric Company (PG&E) A.11-05-019, and San Diego Gas and Electric Company (SDG&E) A.11-05-020 (the Joint Utilities or the Applications).[1] The Applications request authority to implement the Energy Savings Assistance Program (ESAP)[2] and California Alternative Rates for Energy (CARE) programs, and authority to recover in rates the proposed budgets for these programs, in the years 2012-2014. The foundational question in this proceeding is to what extent the proposed programs and budgets comply with Commission directives and policies.

[1] These Applications were calendared on May 19, 2011. Although the four applications have not been consolidated, this Protest is to all four applications in anticipation of them being consolidated into a single proceeding.

[2] The CPUC adopted the name Energy Savings Assistance Program (ESAP) on March 30, 2011. Before, the program had generally been referred to as the Low-Income Energy Efficiency (LIEE) program. DRA uses the new name throughout the Comments for consistency, even though many reports prior to March 30, 2011 refer to the program as LIEE.

II. SUMMARY

The Applications demonstrate that the Joint Utilities have been successful at enrolling low-income households (households with financial need) in both the CARE and ESA programs. The Applications do not demonstrate that the benefits delivered through the programs are having the expected and required results. For ESAP, benefits at the household level are holding steady at best, in contrast to the Energy Efficiency directives set by Commission. It is more and more costly to maintain this static level of benefits. For PG&E and SCE, too many customers enrolled on the CARE rate are still disconnected for nonpayment of bills. For these customers, CARE, even in combination with the entire array of other programs, still does not make energy affordable enough. The Applications do not address these barriers to program success nor do they propose specific remedies to overcome the barriers.

Regarding ESAP, DRA discusses in greater detail below our recommendation for a schedule that will allow development of a full record and careful consideration of the multiple important goals. DRA's proposed schedule is the result, in part, of the Applications hasty incorporation of new energy savings estimates on which they have based the ESAP proposal. Many of the relevant reports and studies that were to provide feedback on the program were becoming available at the same time the Joint Utilities were preparing their applications. In most cases, the report drafts are preliminary and have not incorporated feedback from the affected parties. For this reason among others, DRA proposes bridge funding at 2011 levels for 2012 to allow for the more appropriate schedule, while the ESAP continues uninterrupted.

DRA will also be recommending in this Protest that consideration of CARE be bifurcated from consideration of ESAP, because consideration of the CARE-specific issues presented in the Applications can be accomplished by the end of this calendar year.

III. BACKGROUND

The CARE and ESA programs are the most significant programs the Commission has authorized to meet the legal mandate to help households with financial need pay for their utility bills and meet energy efficiency goals of the State.[3] Approximately one-third of California households (over 4 million households) receive benefits through the CARE program. By 2020, the same number will have been offered the opportunity to participate in ESAP. The CARE program delivered benefits of $286 to $402 per household in 2010.[4] ESAP delivers benefits to nearly 200,000 households that generate approximately $50 in savings from their bill per household per year.[5] The Joint Utilities' annual reports demonstrate that households enrolled in CARE use less electricity and natural gas than other residential households.[6]

Participation - The CARE and ESA programs share the same ultimate goal, to make energy affordable for those households with financial need. The eligibility rules for qualifying households for the program are essentially the same. As such, DRA's response to the Applications' discussion of categorical eligibility is handled in the CARE section of this Protest, but issues regarding CARE and ESAP eligibility and penetration apply to both programs. Consideration of CARE program design, delivery and outreach, however, are quite different from those of the ESA program.

Demand-Side Management - ESAP operates under the umbrella of Demand-Side Management programs authorized by the Commission and funded with ratepayer dollars. The ESA program is intended to help, but not resolve, the difference between affordable and unaffordable energy for a household. ESA is an in-kind program delivering Energy Efficiency products and services to households with financial need. The intention is to minimize the energy costs to households with financial need and to minimize the costs

[3] *See* Cal. P.U. Code §§ 327, 382, 399, *et seq*., 739.1, 739.2, 890 *et seq.,* and 2790.

[4] Utilities' 2010 Annual CARE reports. The lower figure assumes SCE and SoCalGas customers are mutually exclusive; the higher figure does not.

[5] This assumes that a household receives ESAP for both electric and gas service.

[6] The utilities annual CARE reports compare average electricity and gas use by CARE and non-CARE customers, based on the total bills issued. Gas usage each year 2006 to 2010, by utility, CARE customer use less on average. Electricity usage each year 2006 to 2010 CARE customers use less on average. [PG&E in 2010 is the exception to this general rule.] This lower usage for CARE customers is despite the 20-50% bill discount that CARE customers enjoy.

that the entire body of ratepayers, while also minimizing the negative environmental aspects of energy generation for the State.

IV. ESAP

A. Progress Toward Goals

1. Cost-effectiveness

The Applications show that the ESAP energy savings overall will increase in the program cycle, but energy savings relative to number of households served are uncertain. Preliminary analysis indicates that the energy savings (and associated benefits) per household will decrease for participants in several utility's territories. The Applications indicate that ESAP appears to be in danger of downgrading benefits per household in its zest to reach all households in need.

The energy savings, according to the Applications, are being achieved at greater cost each program cycle. The Commission, in fact, required the opposite, "increasingly cost-effective energy savings."[7] Decision (D.)08-11-031, which authorized the current ESAP was skeptical that the energy savings proposed for the cost was adequate.[8] This was not the Commission's intention.[9] Much more investigation is needed to analyze the

---

[7] California Energy Efficiency Strategic Plan (*the Plan)*, January 2011 update, Section 2, pp. 23-24.

[8] In D.08-11-31 (p. 46) the Commission voiced its skepticism as follows:

We are also concerned about the low level of energy savings we see in the 2009-11 budget applications by PG&E and SCE, and for SDG&E its electric savings, as compared to the requested budget increases. We would expect to see a closer correlation between budget increase and rises in overall program energy savings.

The following are the IOUs' actual numbers, which show that budget increases will not produce corresponding energy savings. [Tables omitted.]

In D.08-11-31, (pp. 46-47, CoL 24, OP 21) the Commission conditioned approval of the higher cost that ratepayers would be paying for the greater savings on the Joint Utilities ability to adapt the portfolios to meet the direction of greater savings for the cost. The Commission also ordered that:

IOUs shall perform a 2009 Impact Evaluation study and Non Energy Benefits study. The IOUs shall report the results of these studies once the studies are completed. We anticipate that these reported results will show that energy savings of the LIEE portfolio are increasing over time, with a closer correlation between program spending and energy savings than shown in the IOUs' 2009-11 budget applications. D.08-11-031, OP 21.

[9] *The Plan*, January 2011 update, Section 2, pp. 23-24.

extent of and reasons behind the increasing cost of energy saved and the decreasing benefits per household.

Consistent with the Commission directives, the consideration of the instant Applications is the time to evaluate the Joint Utilities' current program performance. By their own admission, the Joint Utilities failed the Commission's test to show that "energy savings of the LIEE portfolio are increasing over time with a closer correlation between program spending and energy savings than shown.[10]" The 2009 ESAP Impact Evaluation revealed the opposite.[11] The Joint Utilities ESAP proposals also fail. The utilities address this problem minimally or not at all in the Applications. PG&E fails to discuss the result of the Cost Effectiveness tests that it presents in its Application in Table A-5.[12] SCE acknowledges that overall cost-effectiveness has decreased as a result of the 2009 Impact Evaluation.[13] SDG&E and SoCalGas both present the failed results based on the 2009 Impact Evaluation, but do not specifically address how their Applications will change significantly enough to reverse direction.[14] By careful consideration of program design, delivery and performance, the utilities' programs can achieve both.

In addition to the simplified metric of savings delivered for cost invested, the Commission currently requires two cost-effectiveness tests to decide what measures are offered through the ESAP. However, the application of these tests to compose the proposed ESAP portfolio may be having a perverse effect of limiting beneficial measures to households and not producing a more cost-effective outcome. The Commission had intended to improve the usefulness of these tests in the last ESAP Rulemaking 07-01-042, but this process was never completed.[15] The parties should have an opportunity to

---

[10] D.08-11-031, OP 21.

[11] PG&E Testimony, 1-56, 1-57.

[12] PG&E Testimony, 1-73 – 1-75.

[13] SCE Testimony, p. 73.

[14] SDG&E Testimony SW-58, SoCalGas Testimony DM-65.

[15] Administrative Law Judge's Ruling Scheduling Workshop on Matters Relating to Cost-Effectiveness Tests and Models, February 7, 2008, Attachment A.

propose modifications to the tests, and the inputs and assumptions to the tests, to make these tests more useful to guiding the progress toward the ESAP goals. The increased scale of ESAP alone, and in particular the declining benefits to households for the cost invested, should be adequate reason to include cost-effectiveness tests in the scope of the ESAP review.

The Commission was clear in D.08-011-31 that the primary means of making programs more cost-effective should be coordination, leveraging and integration. The Commission must guard against meeting this goal primarily by decreasing benefits to households or compromising on the quality of the work.[16]

2. Bill savings and participant quality-of-life benefits

Bill savings and participant quality-of-life benefits are the most important aspect of the ESAP. Neither PG&E nor SCE present participant benefits in terms of bill savings or even energy savings expected per household. Nor do their Applications give adequate attention to ways to increase the associated quality-of-life benefits that are recognized for households with financial need.

The Non-Energy Benefits (NEBs) make up a significant addition to the benefits as a whole (perhaps over 20%, above and beyond the energy benefits). The values that the utilities are assigning to the NEBs are both 1) more subjective than the energy benefits and 2) have been assigned values in the Applications are, in some cases, highly divergent from the previous applications. For instance, the carrying cost for arrearages, property values, fire costs, comfort and hardship costs have all decreased by at least a third, and as high as 60% in the case of property values. Conversely, the value of time lost from work and sewer and water increases have increased by at least a third. These are substantial changes that require full discovery as opposed to being generally described by the Joint Utilities without explanation.

Additionally, some NEBs have been assigned no value whatsoever -- this includes the societal perspective for ESAP-driven employment and the associated economic

[16] D.08-11-031, p. 124, OPs 49, 51-56, 59, 60, 61, and 63.

multiplier (which greatly increases the impact). This is a potentially significant benefit. DRA needs time to investigate both NEBs currently valued at $0 and the reasoning behind the changes in assigned values for key NEBs before making its recommendation to the Commission.

3. Penetration

PG&E, SCE and SDG&E met or exceeded the Commission goals set for the number of households treated by ESAP in 2009 -2011. SoCalGas alleges challenges in meeting its target. The Applications describe various contacts ESAP enrollment contractors have made with households not served by the program. These households fall into multiple categories that range from refusing the service, having conditions that prevent contractors from servicing the dwelling, to not responding to auto-calls about the program. Ultimately, there may be a mismatch between the households that are counted annually to determine the "eligible" pool, and the households that are contacted and even served by ESAP. The rules for counting and categorizing households with financial need require further investigation before adequately contemplated recommendations can be made.

B. Portfolio Elements to Support Goals

The ESAP portfolio measure composition, program delivery, and pilots and studies should all be designed to support ESAP goals.

1. Portfolio Measure Composition

DRA believes that creating an increasingly cost-effective mix of services and products in ESAP will contribute to improving the metrics of cost-effectiveness and benefits per household, therefore contributing to increased program-wide savings.

DRA needs to conduct a more detailed review of the costs and benefits per unit of energy saved for each service and product. Currently, even though the Applications propose a large menu of measures, specific to dwelling type and climate zone, program rules may prevent the installation of measures at the household. Or, for particular households a measure may be cost-effective for that household, but may not be allowed in the program.

Investigation also needs to be done to identify how each of the different services and products contribute to which specific goal. The Joint Utilities do not identify what proportion of savings the individual measures are expected to generate. Furthermore, energy savings estimates for the proposed new measures have only been estimated, but not verified.[17] It is still too early to identify all the means to maximizing energy savings and cost-effectiveness of verifiable savings.

Lighting – The Applications present no evidence or discussion of the significant shift in lighting policy directed by the Commission and memorialized in a series of recent plans and reports.[18] Nor do the Applications discuss how their proposal to continue to deliver lighting at current rates (or in SCE's case to deliver more lighting) is not duplicative of their Energy Efficiency programs directing lighting subsidies primarily to Hard-To-Reach areas where primarily households with financial need live.[19]

2. Program Delivery

a) Delivery model

The Guidance Document and prior Decisions require program delivery to demonstrably serve the program goals.[20] It is not clear that the Joint Utilities' reliance on the traditional program delivery approach is adequate to turn the program around to deliver more benefits at the household level, and make the program more cost-effective.

[17] Periodic impact evaluations of ESAP provide verification of savings. As the Joint Utilities' new measures in the current ESAP were not verified, and the Joint Utilities introduce more new measures in the proposed ESAP, it is critical to determine how much of the projected savings will come from unverified measures.

[18] D.10-09-047, also see Statewide Lighting Market Transformation Report, June 1, 2011.

[19] PG&E Annual EE Report 2010, D-18 and TableRes-10.

[20] Guidance Document, March 30, 2011, I.C.3.e., I.D.3; D.08-11-031, FoF 12-14, 18, 19, CoL 13, OP 16, OP 47.

The ESAP has one delivery approach, which can generally be described as a comprehensive whole house service.[21] It is understandable that this approach, which promises comprehensive service, seems at first blush preferable to all other models. If this program delivery approach was indeed delivering what it promises, there would be no reason to introduce alternatives. Unfortunately, this is not the case for ESAP. Ultimately, the program delivery approach must be designed around the approved mix of measures delivered through the program. Some new measures proposed in the Applications are:

- Smart A/C fan delay relay with premium motor;
- Microwave ovens;
- Power saving surge protector/Smart strip;[22]
- Pool pump replacement;[23] and,
- Showerhead, shower valve.[24]

Some of the measures proposed for retirement from the program are:

- Duct testing and sealing;[25] and,
- A/C and A/C/evaporative cooler maintenance.[26]

The proposed ESAP appears more appliance and electronics-heavy, with the broader introduction of microwave ovens, power-strips, clothes washers, etc. If such a shift is contemplated, there should at least be a discussion of variations in program delivery approaches that best suit the mix of products and services proposed.

The Applications do not discuss comparative advantages of the current approach in contrast to other program delivery approaches. The record should be developed with

---

[21] D.08-11-031, OP 16, PG&E Testimony 1-1, 1-7, 1-37; SCE App p. 11; SDG&E Testimony SW-9, D.01-05-033 p.37.

[22] SCE Application, p. 9 Testimony, p. 1;, SDG&E Testimony, SW-5.

[23] SCE Application, p. 9 Testimony, p. 12.

[24] PG&E and SoCalGas.

[25] PG&E and SDG&E.

[26] PG&E, SDG&E and SCE.

regard to the merits of various program delivery approaches in testimony. Parties should have an opportunity to establish factual distinctions among approaches, and cross-examine each other on their recommendations regarding program delivery approaches

b) Customer segmentation

Customer segmentation refers to identification of differences within customer groups and the corresponding benefits each obtains.

Renter needs –Most of the Applications indicate that renter needs must be addressed. For example, getting the Property Owner Waiver (POW) form signed is a significant barrier to participation.[27]

Multi-family dwellings – PG&E and SCE propose a similar combining of available programs to better serve Multi-family dwellings.[28] Although PG&E indicates that multi-family dwellings have been serviced in proportion to their numbers, PG&E does not describe the savings outcomes for multi-family buildings and should describe how its proposal will deliver significant savings outcomes for occupants of multi-family buildings.[29]

All issues concerning renters and multi-family dwellings should be included in the Scoping Memo.

3. Studies

Current Studies Neglected – The Joint Utilities were directed to use the studies in the current program cycle to design the new 2012-2014 program.

> There are also several ongoing pilot programs and studies (e.g. 2009 Impact Evaluation; the 2010 Process Evaluation; the Non-Energy Benefits Study; the High Usage Needs Assessment; the Refrigerator Degradation Study; the CARE Recertification Study; etc.). These are currently underway in preparation for use as bases for the next budget cycle.[30]

[27] SCE Application, p. 35; SoCalGas Testimony, DM-41-42.

[28] SCE Testimony, p. 59-60; PG&E Testimony, 1-30, 1-31.

[29] PG&E Testimony, 1-30, 1-31.

[30] Assigned Commissioner and ALJ Scoping Memo of January 20, 2010, A.08-05-022 et. al, p. 2.

As noted in the Applications, most of the 2009 – 2011 studies are incomplete, yet the Joint Utilities have utilized preliminary results in preparing their applications. However, the Joint Utilities report that significant questions have been raised about the preliminary results.[31] The preliminary drafts did not incorporate public input, which the Commission has determined is a critical feature of the study results.[32] Of the additional six ESAP studies planned for 2009 and 2010, final results from just one study (the Non-Energy Benefits study) can reasonably be expected to have informed the program applications. That these studies are incomplete is yet another reason for the Commission to allow DRA sufficient time to prepare its Testimony.

New Studies – The Joint Utilities propose two new studies for the 2012-14 program cycle: an impact evaluation; and an energy education study.[33]

The limbo that the 2009 – 2011 studies and pilot results are in is relevant to the Commission's consideration of these new requests. The Commission should include in the Scoping Memo a mechanism to incorporate the final results of the studies and pilots into the 2012 – 2014 programs.

Furthermore, DRA requests the Joint Utilities incorporate other relevant recommendations on Energy Education into their programs rather than doing a new study. Many recommendations from studies completed in previous program cycles still remain unaddressed.[34]

---

[31] SCE Application, pp. 20-22, Testimony, p. 44; SDG&E, SW-36, SW-39; PG&E Testimony, 1-77, 1-79.

[32] Resolution E-4237 of April 16, 2009.

[33] PGE Application, p. 9, Testimony 1-5; SCE Application, p. 8, 39, 40; SDG&E Testimony, SW-9.

[34] West Hill Energy and Computing, *Impact Evaluation of the 2005 California Low Income Energy Efficiency Program Final Report*, January 10, 2008, pp. 50-54, and 159-160. Additionally, the 2009 Process Evaluation Draft Report, released March 21, 2011, contains several potentially useful recommendations regarding Energy Education. DRA has not yet had time to review the final report released June 13, 2011. The SCE Customer Segmentation and High Usage Needs Draft Report, released May 62 and May 31 2011, contain potentially useful recommendations regarding barriers to overcome to make Energy Education more useful.

C. Budgets & Funding

The Guidance Document requires the Joint Utilities to describe how ESAP is funded.[35] While this is generally important to understand, it is particularly so because some of the utilities make funding requests and the implications cannot be easily understood without better explanation of which accounts the funds flow through. PG&E's description is limited to two statutes establishing surcharges in 1996 and 2002.[36] Regarding PG&E, this deficiency prevents evaluation of it's 1) estimate of ESAP carry-over funding, 2) decision not to reflect carry-over funding in the proposed ESAP budget, and 3) claim that SB 69 could require the natural gas ESA program to come to a halt.[37]

The utilities should address how funds are collected, which funds are aggregated, through which accounts the funds flow, how funds are reconciled with expenses, and how carry-over in the program is treated.

Furthermore, the budgets in the Applications should have identified the categories where leveraging and integration has reduced costs and cost-effectiveness. The Applications actually take the opposite tact, claiming that a new reporting template prevents cost comparisons by category. This is contrary to extensive CPUC direction.[38]

V. CARE

A. Background

The objective of CARE is defined in Pub. Util. Code §382 (b):

> In order to meet legitimate needs of electric and gas customers who are unable to pay their electric and gas bills and who satisfy eligibility criteria for assistance, recognizing that electricity is a basic necessity, and that all residents of the state should be able to afford essential electricity and gas supplies, the commission shall ensure that low-income ratepayers are not jeopardized or overburdened by monthly

[35] Guidance Document, March 30, 2011, I.B.1.

[36] PG&E Application, pp., 6-7.

[37] PG&E Application, p. 11.

[38] D.08-11-031, p. 124, OPs 49, 51-56, 59, 60, 61, and 63.

> energy expenditures. Energy expenditure may be reduced through the establishment of different rates for low-income ratepayers, different levels of rate assistance, and energy efficiency programs.

Pub. Util. Code §382 (c) recognizes that CARE is not restricted to using only the approaches listed in PU Code Section 382 (b) to meeting the objectives:

> (c) Nothing in this section shall be construed to prohibit electric and gas providers from offering any special rate or program for low-income ratepayers that is not specifically required in this section.

In fact, Pub. Util. Code §739.4 (b)(3) includes CARE as one of the programs that the utilities should utilized to help customers avoid disconnection..

B. Compliance And Oversight

During the last cycle, the Commission recognized that "the need for supervision and oversight [] as penetration increases."[39] The Commission must ensure that these monies are being spent efficiently and are being used to enroll and provide CARE assistance to California's low-income population. The Commission must ensure that the Joint Utilities have provided the sufficient information. The Commission provided a series of directives and goals in D.08-11-031 for all Joint Utilities regarding the CARE program. The Joint Utilities must demonstrate that they have met the following Commission Goals[40]:

- Whether the adopted budgets approved the previous year were spent just and reasonably.
- Whether the Joint Utilities have met their penetration level goals as set by D.08-11.031.

[39] D.08-11-031, page 173.

[40] DRA provides a list of issues that are not exhaustive and respectfully requests the opportunity to identify more issues as it's' analysis moves forward.

- Whether the outreach conducted follows Commission guidelines. This issue contains several sub-issues including if any improvements are needed. Marketing assessment would also fall within this issue.

- Whether the Joint Utilities shifted funds and, if so, whether they met the criteria set in D.08-11-031, which includes proper reporting.

- The status of cooling centers and their administration.

C. Progress Toward Goals

1. Affordability

Just as the ESA program has prioritized penetration over the outcome once the customer is enrolled in the program, the Joint Utilities' CARE program plans may be suffering from a similar problem. There is no question that the Joint Utilities' have met, with flying colors, the Commission's goal of 90% enrollment in CARE.[41] As for ESAP, the primary metrics for evaluation should look beyond enrollment, and assess progress toward the goals of making energy affordable and accessible to all customers. The Commission should review:

- CARE disconnection rates;
- CARE customer dollars in arrears, days in arrears; and,
- CARE customers that do not reconnect service after disconnection for nonpayment of services.

Although the utilities do not present this data in the Applications, it is readily available through the disconnection Rulemaking 10-02-005.

2. Categorical Enrollment

Categorical enrollment is Commission approach for enrollment that has been successful. The Joint Utilities seek to modify the program and DRA requests that the Commission list this request as an issue in the Scoping Memo.

[41] There is a problem and potential mismatches in the counting of households eligible and households enrolled, as explained in Section V.B. of this Protest. Even with these counting errors and mismatches, the utilities progress in CARE and ESA outreach and enrollment can still be considered a success.

Like self-certification, categorical enrollment is another approach the Joint Utilities have been directed to use to streamline identification and enrollment of households with financial need in the CARE and ESAP programs.[42] For example, because the household receiving food stamps or the federal Low Income Home Energy Assistance Program (LIHEAP) has already documented their income to qualify for these programs, this satisfies the Commission's requirement to verify the household's income. The Commission has noted the numerous benefits of categorical enrollment including: easing the enrollment process, reducing transaction costs, and meets other program goals such as coordination with other agencies/groups and leveraging.

The Commission directed the Joint Utilities to actively expand Categorical Enrollment opportunities in the current programs. The Joint Utilities included certain new categories but did not actively pursue the expansion in all ways directed by the Commission.[43] The Applications are now asking the Commission to "revisit the issue."[44] DRA is concerned with the requests for several reasons and needs to investigate the issue further

If there are indeed factual problems with the categorical enrollment, then parties such as DRA should be able to cross-examine the factual assertions of the Joint Utilities. The Joint Utilities have filed testimony on this issue, and DRA and other stakeholders have not had the same opportunity. DRA must conduct its own factual analysis to present its recommendation to the Commission and must file testimony and briefs based on all the facts so the Commission renders a decision on all the facts. It is inequitable and not standard Commission procedure for Joint Utilities to provide testimony and for other parties to not have the opportunity to respond.

[42] D.08-11-031, p. 29. This section will specifically address Categorical Enrollment for the CARE program only.

[43] D.08-11-031, OP 10, OP 64.

[44] PG&E Testimony, p. 2-26, section (i).

Therefore, the Commission should deny the procedural mechanism of a workshop, and instead allow DRA and stakeholders to litigate the issues/facts through proper Commission procedure. The Joint Utilities were instructed by the Commission in D.08-11-031 to request a workshop on Categorical Enrollment if need be, and did not do so.[45] As the Joint Utilities instead decided to present the issue in their Applications, it should through the proper litigation channels of the Commission.

Possible Impact of Categorical Eligibility on Penetration - DRA, like the Joint Utilities and the Commission, has always taken the position that low-income funds should flow only to eligible households with financial need. And yet, the Joint Utilities appear to assert that same households (enough households to raise this issue) are enrolled in CARE or ESAP via categorical eligibility and yet are outside the eligible pool of households counted by the Joint Utilities every year.[46] DRA is perplexed that the Joint Utilities have not brought this issue to light as program eligibility and penetration is an ongoing program focus.[47] Especially in 2010, the Joint Utilities were active participants in the Commission's Rulemaking 09-12-017 devoted to low-income program eligibility and remained silent on this issue. Should the Commission agree with the Joint Utilities that categorical enrollment has indeed created a loophole through which ineligible households have enrolled in the program; the Commission will then need to address the veracity of the penetration rates for CARE and ESAP on which the Applications are based.

D. Budgets and Funding

The Guidance Document requires the Joint Utilities to describe how the CARE program is funded.[48] While this is generally important to understand, it is particularly so because PG&E makes several funding requests and the implications cannot be easily

[45] D.08-11-031, OP 9.

[46] As adopted by the Commission in D.01-03-028 and updated annually.

[47] Annual CARE report filings responding to Question, Compliance Filing of December 30, 2010 in A.08-05-022, et. al., to update CARE eligibility estimates.

[48] Guidance Document, March 30, 2011, II.B.1.

understood from PG&E's truncated explanation of program funding laws and rules. PG&E's description is limited to two statutes establishing surcharges in 1996 and 2002.[49] Later PG&E references how revenue increases will impact annual true-up filings but does not go into sufficient detail.[50] Program funding is collected through surcharges and rates and then distributed among a number of ratepayer-funded programs. PG&E should address how funds are collected, which funds are aggregated, through which accounts the funds flow, how funds are reconciled with expenses, and how carry-over in the program is treated.

PG&E requests permission to file an Advice Letter to recover costs should the costs to exchange data with the water utilities exceed PG&E's expectations.[51] The method of recovering costs for this activity was already determined in the proceeding it was ordered in.[52] Furthermore, in that proceeding it was determined that the energy utilities already share data with municipal and water utilities.[53] The energy utilities are on the record in those proceedings that automatic enrollment decreases costs.[54]

PG&E requests authorization to adjust the CARE revenue requirement to continue funding of the CARE program should SB 69 pass.[55] This contrasts with its proposal to "suspend or modify" the ESAP program should Senate Bill (SB) 69 pass.[56] PG&E should explain how SB 69 treats the low-income programs, and why PG&E requests different contingency plans for CARE and ESAP.

---

[49] PG&E Application, pp. 6-7.

[50] PG&E Application, pp. 10-11.

[51] PG&E Application. p. 13.

[52] D.11-05-020, p.34 FoF 32 CoL 6, and OP 9.

[53] D.11-05-020, FoF 7.

[54] D.11-05-020, FoF 11.

[55] PG&E Application, p. 15.

[56] PG&E Application, p. 10.

VI. SCOPE OF THE PROCEEDING

A. ESAP

1. Deficiencies in Applications

1. These CPUC directives are either neglected or weakly addressed in the applications:

   a. Regarding program-wide benefits, the requirements:

   - To make ESAP an energy resource/increasingly cost-effective/produce longer-term savings;[57]
   - To have ESAP support the Energy Efficiency savings goal; and,[58]
   - For the composition of the ESAP portfolio result in improved cost-effectiveness.[59]

   b. Regarding participant benefits, the requirements to:

   - Deliver the most savings to participants;[60] and,
   - Make the offerings seamless;[61]

   c. Regarding program delivery and portfolio composition, the requirements to address recommendations:

   - Made in the Workforce, Education and Training Needs Assessment;[62]
   - Made in the 2010 Local Government Strategic Energy Action Report;[63] and,
   - Made in the studies and evaluations carried out during the 2009-2011 program cycle;[64]

---

[57] Guidance Document, March 30, 2011, I.C.2.b., D.08-11-031 FoF 3, CoL 3, 14, and OP 59.

[58] Guidance Document, March 30, 2011, I.E.1.

[59] Guidance Document, March 30, 2011, I.F.1.

[60] Guidance Document, March 30, 2011, I.C.3.e., D.08-11-031, FoF 12-14, 18, 19, CoL 13, OP 16, OP 47.

[61] Guidance Document, March 30, 2011, I.C.3.e., D.08-11-031, FoF 12-14, 18, 19, CoL 13, OP 16, OP 47.

[62] Guidance Document, March 30, 2011, I.D.1.b., D.08-11-31, CoL 30.

[63] Guidance Document, March 30, 2011, I.D.1.c., D.08-11-031 OP 55.

[64] Guidance Document, March 30, 2011, I.D.2.

d. Regarding budgets and funding, the requirement to:
   - Describe how the program is funded; and,
   - Reduce revenue requirements by forecasts of unused carry-over amounts.

2. Discussion of lighting strategies, pursuant to D.08-11-031[65], and that is responsive to the CEESP Lighting Chapter, and that prevents duplication with lighting programs in the Energy Efficiency portfolios.[66]
3. Discussion of HVAC, in particular development the Plan HVAC chapter.
4. Quality Assurance (for PG&E and SCE in particular).
5. How the programs are responsive to the bottom line: PU Code Section 382 (b) that customers should not be overburdened or jeopardized by energy costs.
6. In light of the unfortunate timing of most of the ESAP evaluative reports that became available too late for consideration in the Applications, how to ensure that lessons learned do not become stale.

2. Factual and Policy Issues

DRA anticipates the following policy and factual issues that must be considered in the ESAP proceeding:

1. How well did the 2009 – 2011 ESA programs comply with the Commission's directives?
2. Based on the ESAP performance in the current program cycle, what are the uncertainties and risks of the proposals achieving the ESAP goals for 2012 -2014?

Estimates, Assumptions, and Methods of Calculating ESAP Benefits

---

[65] D.08-11-031.

"Lighting Programs Shall Support New Laws and the Rapidly Changing Marketplace. Significant new state and federal laws are rapidly transforming the lighting market. We approve continued lighting programs, coupled with educating LIEE customers about new energy efficiency lighting laws. Lighting program budgets, including LIEE programs, will diminish as market transformation occurs." (p. 5)

"As new technologies in lighting come into play between 2009 and 2011, the IOUs shall adhere to the new legal standards in introducing lighting measures to LIEE portfolios. They shall report in their annual reports their preparation to meet the new legal requirements.

Should the general Energy Efficiency decision, expected in 2009, develop a major shift in lighting focus for the state, the IOUs may need to readjust their lighting portfolios midcourse to reflect such changes." (OPs 44 and 45)

[66] D.09-09-047.

3. How much weight should be placed on the various ESAP performance metrics participant benefits, penetration, energy savings, and cost-effectiveness to design the 2012 – 2014 ESAP programs?
4. To best support ESAP goals, should cost-effectiveness tests be applied at the measure, household, or program level and what should the parameters of these tests be?
5. As all aspects of ESAP (program design, delivery, and ultimately benefits) depend upon energy savings estimates, are the energy savings estimates from the Draft 2009 Impact Evaluation an appropriate underpinning of the ESAP proposals? Are the energy savings estimates from the Final 2009 Impact Evaluation an appropriate underpinning of the ESAP proposals?
6. What portion of projected savings in the proposed ESAP is based upon estimates unverified by any ESAP Impact Evaluation?
7. Did the Commission intend that households receiving only energy education would satisfy the ESA programmatic initiative?
8. Are non-energy benefits adequately captured in the cost-effectiveness tests currently approved for ESAP? If not, what is the appropriate supplement or alternative way to reflect this value?
9. Are long-term savings adequately captured in the cost-effectiveness tests currently approved for ESAP? If not, what is the appropriate supplement or alternative way to reflect this value?

Program Design and Penetration

10. Do the introduction of new products and services, or the elimination of current products and services, required varied or alternative program delivery approaches?
11. By customer segment, what are the expected outcomes or targets?
12. Are unqualified households included in the reported penetration rates?
13. Should additional categories beyond "serviced" and "unwilling" be created to track progress toward reaching 100% of households with financial need?

B. CARE

The CARE program should offer additional features to customers at risk of disconnection. DRA presented evidence in its *Status of Energy Utility Service Disconnection Report* of March 2011 that CARE customers are disproportionately disconnected from service despite the discount they receive on their bills. In other words, disconnections are still a problem for CARE customers although disconnections of other residential customers are under control. DRA continues to believe that PG&E and SCE should refine services they already offer, such as pay plans and level pay programs, to better meet the needs of these vulnerable CARE customers. SCE mentions preliminarily that it may investigate offering its Level Pay program to those who are most in need. DRA looks forward to seeing SCE develop this proposal during the proceeding.

Furthermore, the Commission should explore crafting CARE to be more than a 'one size fits all' discount. The Commission may wish to employ customer segmentation for CARE, in a different way than it is applied for ESAP. There may be affordability differences among households with financial need, by their level of poverty, or the cost-of-living in their area, which may merit differing types of discounts. As the April 19, 2011 Administrative Law Judge's Ruling in R.10-02-005 instructed, proposals to further reduce disconnection of low-income customers that would require modification to the CARE budget should be proposed in this proceeding.

VI. SCHEDULE AND OTHER PROCEDURAL ISSUES

DRA agrees with the preliminary determination that this is a ratesetting proceeding and that hearings are required.[67]

DRA objects to the proposed schedules in the Applications. While the proposed schedules may be appropriate to a program which require only a pro forma review, which is not the case for ESAP. There is too much at stake for both the state as a whole, and for the beneficiaries of the program to not allow the interveners and DRA sufficient time to investigate, analyze and report their finding and recommendations.

A. CARE and ESAP Should Be Considered In Separate Proceedings

ESAP is required to deliver benefits beyond participant benefits, such as environmental and workforce development benefits. CARE is purely a program to make energy affordable for all California households. Eligibility is the primary common issue

[67] Resolution ALJ 176-3274.

raised in the Applications, and can be considered in either the CARE or ESAP forum and the relevant determination can be applied to both programs.

The ESAP proceeding will need to generate more program design and development proposals than were presented, in order to make the program what the Legislature and Commission intended. With some ESAP threshold policy issues outstanding, no bold proposals in the Applications, and lack of attention to assumptions and inputs, there is more to be done before a new ESAP can be authorized.

With regard to CARE, the Applications present issues that can likely be addressed by then end of the year.

B. The Schedules

As such, DRA recommends that those portions of the Applications that address CARE be bifurcated from the instant Applications, consolidated together into a new and single application and be given the expedited schedule requested that resolves CARE by the end of the year. Along those lines, DRA has proposed two schedules below.

For ESAP:

Applications Calendared	May 19, 2011
Protests Filed	June 20, 2011
Prehearing Conference	early-July, 2011
Scoping Ruling	mid-July, 2011
Notices issued for Public Participation Hearings	late-July
Public Participation Hearings	mid-Aug to mid-Sep
DRA/Intervenor Testimony	mid- October, 2011
Utility Reply Testimony	mid- November, 2011
Hearings	early- December, 2011
Opening Briefs	mid- January, 2012
Reply Briefs	end of January, 2012
Proposed Decision (PD)	end-February, 2012

Should the Commission agree with DRA's recommendation that consideration of the CARE and ESAP applications be separated, the CARE applications could be addressed in by the end of the year.

For CARE:

Applications Calendared	May 19, 2011
Protests Filed	June 20, 2011
Prehearing Conference	early-July, 2011
Scoping Ruling	mid-July, 2011
Notices issued for Public Participation Hearings	late-July
Public Participation Hearings	mid-Aug
DRA/Intervenor Testimony	early-September
Utility Reply Testimony	mid-September
Hearings [if needed]	late- September
Opening Briefs	early-October
Reply Briefs	mid-October
Proposed Decision (PD)	late-October
Final Decision	December 2011

DRA's modifications to Joint Utilities' proposed schedule are reasonable and would allow the several parties to complete all necessary and relevant discovery and provide the Commission adequate time to fully and properly evaluate the factual evidence and policy considerations. As is typical with ESAP applications, the testimony and supporting documents are voluminous and the scope of review requires a significant amount of time for DRA to make a thorough evaluation. DRA's review of the several applications is especially ham-strung because of the delays and long turn-around times in which with Joint Utilities are responding to DRA's Data Requests.

VII. CONCLUSION

The bulk of DRA's Protest focuses on the ESA program. Specifically, DRA calls for 1) scrutiny of ESA progress toward previously set goals, 2) scrutiny of the group of services and products offered and the way those are delivered to the customers to meet those goals, and 3) the prudency of the proposed expanded budgets. This will require consideration beyond the schedules proposed in the utilities' applications. The most attention should be given to the benefits delivered to households, and the calculations, inputs, and assumptions made to assess those benefits.[68] ESAP program planning must incorporate the multiple directives of the Commission in the Energy Efficiency and Workforce Education & Training[69], and other relevant proceedings. To develop ESAP into an energy resource program delivering defensible benefits requires incorporation of the higher standards from these arenas. There is no way this can be accomplished in the schedule set forward by the Joint Utilities.

CARE issues can likely be adjudicated within the year. The primary CARE issue raised in the Applications is of categorical eligibility. DRA also identifies a significant deficiency of the PG&E and SCE CARE applications, the lack of focus on the overriding goal of CARE to preserve households' access to continuous gas and electric service. DRA proposes several remedies that the utilities should address in their applications.

For the reasons stated herein, DRA urges the adoption of the issues it suggested and the schedule it proposed.

Respectfully submitted,

/s/ MITCHELL SHAPSON

MITCHELL SHAPSON

Attorney for the Division of Ratepayer Advocates

California Public Utilities Commission
505 Van Ness Ave.
San Francisco, CA 94102
Phone: (415) 703-2727
Email: Mitchell.Shapson@cpuc.ca.gov

June 20, 2011

[68] DRA generally prefers the term benefits to include energy savings and bill reductions, plus other associated benefits. However, the extent that energy savings are the most concrete or defensible form of benefits, DRA sometimes uses energy savings with the assumption that a range of associated benefits flow from energy savings.

[69] Assigned Commissioner's Ruling Providing Guidance Concerning the CARE program and Energy Savings Assistance Program (formerly and generally referred to As Low Income Energy Efficiency (LIEE) program) and related 2012-2014 Budget Applications, Attachment A.