STATE OF CALIFORNIA GRAY DAVIS, *Governor*

PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

November 15, 2002 **Agenda ID #1382**

TO: PARTIES OF RECORD IN APPLICATION 02-03-047 ET AL.

This is the draft decision of Administrative Law Judge (ALJ) Prestidge. It will not appear on the Commission's agenda for at least 30 days after the date it is mailed. The Commission may act then, or it may postpone action until later.

When the Commission acts on the draft decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the draft decision as provided in Article 19 of the Commission's "Rules of Practice and Procedure." These rules are accessible on the Commission's website at http://www.cpuc.ca.gov. Pursuant to Rule 77.3 opening comments shall not exceed 15 pages. Finally, comments must be served separately on the ALJ and the Assigned Commissioner, and for that purpose I suggest hand delivery, overnight mail, or other expeditious method of service.

/s/ CAROL A. BROWN
Carol A. Brown, Interim Chief
Administrative Law Judge

CAB:hkr

Attachment

Decision **DRAFT DECISION OF ALJ PRESTIDGE** **(Mailed 11/15/2002)**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Joint Application of Southern California Gas Company (U 904 G) and San Diego Gas & Electric Company (U 902 M) for Authority to Continue Funding of LEV Programs.	Application 02-03-047 (Filed March 25, 2002)
Application of Southern California Edison Company (U 338-E) to Extend the Operation of its Electric Vehicle Adjustment Clause Mechanism and Related Accounts Until the Date of the Commission's Final Decision in SCE's Test Year 2003 General Rate Case Proceeding.	Application 02-03-048 (Filed March 25, 2002)
Application of Pacific Gas and Electric Company for Review of and Authorization for Recovery of Costs Relating to Its Low Emission Vehicle (LEV) Program for 2002 through 2005. (U 39 E)	Application 02-03-049 (Filed March 25, 2002)

INTERIM DECISION EXTENDING FUNDING FOR APPROVED UTILITY LOW-EMISSION VEHICLE PROGRAMS AT LEVELS PREVIOUSLY AUTHORIZED IN RESOLUTION G-3322

1. Summary

This decision extends interim funding for LEV[1] programs conducted by Southern California Gas Company (SoCal Gas), San Diego Gas & Electric Company (SDG&E), Southern California Edison Company (SCE), and Pacific Gas and Electric Company (PG&E) at the levels previously authorized in Resolution G-3322, pending our final decision on these applications.

2. Background

This proceeding relates to the applications (A.) of SoCal Gas and SDG&E (A.02-03-047), SCE (A.02-03-048), and PG&E (A.02-03-049) for Commission authorization of continued funding of their respective LEV programs. Decision (D.) 95-11-035 had authorized funding for these utility LEV programs for six years, but the funding expired on December 21, 2001 by the terms of the decision. The Commission subsequently adopted Resolution G-3322, which extended funding for the LEV programs on an interim basis, pending a decision on the utilities' applications, but until no later than December 31, 2002.

In D.93-07-054, the Commission adopted guidelines to determine whether proposed utility LEV programs are suitable for ratepayer funding[2] and ordered

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[1] For the purposes of this decision, "LEV" refers to both low-emission vehicles and zero-emission vehicles.

[2] These guidelines are as follows:

a) Ratepayers will pay the reasonable costs of programs that help develop and facilitate the use of LEVs and further the goal of substantial market penetration if the utility can meet one or more of the utilities traditional responsibilities to provide reliable and efficient service, safe service, environmentally and socially responsible service, and reasonable rates;

Footnote continued on next page

the utilities to file applications that addressed all funding requirements for a period of six years. The Commission developed these guidelines pursuant to Public Utilities Code Section 740.3,[3] which requires the Commission to work with the State Energy Conservation and Development Commission, the State Air Resources Board, air quality management districts and air pollution control districts, regulated electrical and gas corporations, and the motor vehicle industry to adopt and implement policies that promote the development of equipment and infrastructure necessary to facilitate the use of electric power and natural gas to fuel LEVs. Under Section 740.3(c), the Commission's policies authorizing utilities to develop equipment or infrastructure needed for LEVs must ensure that utilities do not pass through the costs and expenses of their LEV programs to ratepayers unless the programs are in the ratepayer's interest. Utility LEV programs also may not unfairly compete with non-utility enterprises.

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b) To the extent that they are applicable, programs must comply with statutory and Commission guidelines related to Research Development and Demonstration (RD&D) projects and Demand Side Management;

c) The utility must demonstrate that it has reviewed the programs of the motor vehicle industry, public agencies, research groups and, if appropriate, consulted with these entities to ensure that each program element does not unnecessarily duplicate and is complementary of programs undertaken by these entities to encourage substantial market penetration of LEVs;

d) The utility is required to demonstrate that its programs are generally consistent with the goals, policies, and objectives of California and federal legislation and agencies, and air districts and local agencies within the service territory; and

e) The utility is required to demonstrate that each element of its LEV program does not unfairly compete with non-utility enterprises.

[3] All Code references are to the Public Utilities Code, unless otherwise stated.

In D.95-11-035, the Commission approved the elements of each utility's LEV program proposal that met the previously adopted guidelines[4] and set a maximum of ratepayer and shareholder funds[5] that could be spent by the utilities for LEV programs during the six-year period that would expire on December 21, 2001.

Under D.95-11-035, the utilities recorded their LEV program expenses in one-way balancing accounts. With this procedure, funds that had been reflected in rates but left unspent would be refunded to ratepayers, while undercollections would not be tracked. D.95-11-035 permitted the utilities to recover the reasonable costs of their programs in rates set for the following year. Any expenditures in excess of the authorized amounts could not be recovered from ratepayers.

In anticipation of the expiration of their LEV program funding, the utilities filed the advice letters approved in Resolution G-3322 to seek funding on an interim basis, with the intent that the Commission would consider their LEV program funding requests as part of their general ratemaking proceedings rather than separately. However, Resolution G-3322 ordered the utilities to file separate applications for continued LEV program funding to be considered in this

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[4] Approved LEV program elements generally included: (a) acquisition of alternative fuel fleet vehicles pursuant to federal requirements; (b) RD&D programs regarding items such as recharging hardware and natural gas refueling equipment; (c) public education regarding LEV safety, proper equipment use and related topics; (d) construction of infrastructure to support LEV use; and (e) overhead and administrative expenses.

[5] D.95-11-035 approved certain infrastructure activities of SDG&E and SCE subject to shareholder funding.

proceeding. Resolution G-3322 also continued the balancing account treatment for utility LEV program expenditures.

Each of the utilities took a different approach in their applications for continued LEV funding. SCE, SoCal Gas, and SDG&E requested only interim funding until other proceedings are decided. SCE had already filed its General Rate Case (GRC) application for test year (TY) 2003, which included LEV funding. SoCal Gas and SDG&E intended to request LEV funding in their TY 2004 Performance Based Ratemaking application due December 31, 2002. PG&E sought funding through 2005 and included in its application the LEV funding request that will be included in its Results of Operations (RO) to be submitted in its TY 2003 GRC.

In order to avoid duplication and inconsistent results in its decisions regarding LEV program funding, the Commission will consider only discretionary LEV program activities, such as customer service, training, research and development and other "non-mandatory" LEV programs, in this proceeding.[6] The Commission will review mandatory LEV program activities, which relate to the utility's traditional public service obligations as part of each utility's GRC or cost of service proceeding.[7] We have previously designated the following LEV program activities as mandatory:

- Acquisition of alternative fuel use fleet vehicles pursuant to federal law [The Energy Policy Act of 1992 (Pub. L. 102-486) requires energy utilities to purchase alternative fueled vehicles for at least 90 percent of

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[6] Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge, June 26, 2002.

[7] *Id.*

their newly acquired light duty vehicles for model year 2000 (10 C.F.R., Ch. 11, Part 490, sec. 490.302 and 490.307];

- Operation and maintenance costs associated with use of alternative fuel use fleet vehicles and associated infrastructure;
- Infrastructure (fueling facilities and related equipment) needed to support alternative fuel use fleet vehicles;
- Employee training and instruction necessary for the use of alternative fuel use fleet vehicles; and
- Accounting for the costs of these mandatory activities.[8]

SCE, SoCal Gas and SDG&E have filed amended applications, which include funding requests for discretionary LEV activities, as ordered by the scoping memo.

3. Discussion

Resolution G-3322, adopted on January 23, 2002, extended interim funding for utility LEV programs in anticipation of a Commission decision on the utilities' applications by no later December 31, 2002. However, our decision on the pending applications is necessarily delayed.

Without continued interim funding, the utilities may no longer be able to conduct certain LEV program activities. The utilities must comply with federal mandates, which require that a portion of their fleets consist of alternative fuel vehicles. Continued funding is needed to ensure that adequate facilities and equipment are in place to support an increased number of LEVs in utility fleets. The utilities also claim that they provide an important public service, by serving as a primary source of information on product safety and LEV performance and

[8] *Id.*

training on safe refueling practices and proper equipment use. These activities, along with continued RD&D by the utilities, may benefit the public by promoting the development and usage of LEVs, thereby contributing to improved air quality, lower fuel costs and increased energy efficiency for the operation of vehicles, and an overall reduction in energy consumption for transportation purposes.

In addition, we believe that in Section 740.3, the Legislature expressed a strong public policy in favor of the development of infrastructure and equipment to support LEV usage, through the efforts of the Commission in cooperation with the utilities, other applicable public agencies, and the motor vehicle industry.

Under these circumstances, we find it reasonable to extend the current funding for LEV programs conducted by PG&E, SoCal Gas, SDG&E, and SCE, at the levels previously approved in Resolution G-3322, pending our final decision on the applications. The use of this funding is limited to existing utility LEV programs previously approved in D.95-11-035 that otherwise would not be funded. We do not prejudge the utilities' applications for any additional funding or new program activities, or whether continued funding of existing LEV program activities pursuant to our final decision is appropriate.

While the applications are pending, the utilities shall conduct their LEV activities as described in their advice letters approved as modified by Resolution G-3322, as well as prior Commission decisions regarding utility LEV programs. The utilities shall continue to record their expenses in one-way balancing accounts, as required by D.95-11-035 and Resolution G-3322. If we later determine that some aspects of the utility LEV programs conducted pursuant to the advice letters should not be funded with ratepayer money, we shall exclude those amounts from future rates.

4. Conclusion

For all of the foregoing reasons, we extend the interim funding for utility LEV programs at the level authorized in Resolution G-3322 for LEV activities previously authorized by D.95-11-035 that would otherwise not be funded.

5. Final Categorization and Review and Comment

Based on our review of this application, we conclude that there is no need to alter the preliminary determination as to the ratesetting categorization and the need for a hearing made in Resolution ALJ 176-3085 (April 4, 2002).

The draft decision was mailed to the parties for review and comment pursuant to Pub. Util. Code § 311(g)(1) and Rule 77.7 of the Rules of Practice and Procedure on November 15, 2002. Comments were received from _____ on _____ 2002.

6. Assignment of Proceeding

Carl Wood is the Assigned Commissioner and Myra Prestidge is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. D.95-11-035 authorized funding of utility LEV programs for a six-year period, which expired on December 21, 2001.

2. Resolution G-3322 authorized interim funding for utility LEV programs pending a Commission decision on formal applications for continued funding to be filed by the utilities.

3. The interim funding authorized by Resolution G-3322 will expire on December 31, 2002.

4. D.95-11-035 and Resolution G-3322 require the utilities to record LEV program expeditures in a one-way balancing account, so that unspent funds that

were included in rates would be refunded to ratepayers, and the utilities would recover the reasonable costs of their programs in rates set for the following year.

5. Our decision on the utilities' applications for continued LEV funding is necessarily delayed.

Conclusions of Law

1. The utilities must comply with federal mandates, which require that a portion of their fleet purchases must consist of alternative fuel vehicles.

2. There is a strong legislative policy in favor of the development of infrastructure and equipment necessary to promote LEVs through the cooperative efforts of the Commission, the utilities, other applicable government agencies, and the motor vehicle industry.

3. Continued interim funding of previously authorized utility LEV program activities (that would otherwise not be funded) at the level authorized in Resolution G-3322 will serve the public interest.

4. Our approval of continued interim funding for utility LEV program activities, pending our final decision in this proceeding does not prejudge the utilities' applications for any new program activities or additional funding or whether continued funding of the utilities' previously authorized LEV programs is appropriate.

INTERIM ORDER

IT IS ORDERED that:

1. The interim funding for utility low-emission vehicle (LEV) program activities, as authorized in Resolution G-3322, is extended pending our final decision in this proceeding.

2. During this period of interim funding, the utilities shall comply with Resolution G-3322 and previous Commission decisions regarding utility LEV programs.

This order is effective today.

Dated _____, at San Francisco, California.