

STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: June 21, 2013

To: The Commission
(Meeting of June 27, 2013)

From: Lynn Sadler, Director
Office of Governmental Affairs (OGA) – Sacramento

Subject: **AB 922 (Patterson)**
Electrical and gas service: rates: CARE program: eligibility
As amended: May 24, 2013

RECOMMENDED POSITION: NEUTRAL

SUMMARY OF BILL

This bill would—

- Require the California Public Utilities Commission (CPUC) to *authorize* electrical or gas corporations to income verify California Alternate Rates for Energy (CARE) program participants for continued eligibility regardless of the how the participant was first enrolled into the CARE program.

CURRENT LAW

- Public Utilities code section 739.1(b)(1) caps annual household income levels at 200% of Federal Poverty Guidelines for CARE program eligibility and participation.
- Public Utilities code section 739.1(e)(1) requires improvement to the CARE application process and cooperation with other entities to ensure that customers eligible for public assistance programs are enrolled in CARE and, to the extent practicable, requires the development of a CARE application process using the existing Universal Lifeline Telephone Service (ULTS) or California Lifeline application process as a model. LifeLine provides discounted basic telephone (landline) services to eligible, low-income California households.

AUTHOR'S PURPOSE

This bill is a legislative response to concerns raised regarding the eligibility of customers currently enrolled in the CARE program. This bill would authorize electrical and gas corporations to income verify CARE participants to determine their continued eligibility.

DIVISION ANALYSIS (Energy Division)

If this bill were enacted, electrical and gas corporations would be *authorized* to income verify CARE customers in order to continue offering them the CARE discount. Under Decision 12-08-044 the utilities are already required to verify a sampling of customers. Thus, it appears that the AB 922 would not change current requirements

Currently, providing income documentation is one of several ways to qualify for CARE enrollment. Customers are also able to self-certify their eligibility for CARE via various methods including: mailed applications, online applications, over-the-phone enrollment, through community-based organizations (CBO) capitation¹ assistance, and through participation in certain categorical programs which permit households to enroll in CARE. Categorical eligibility allows customers to enroll in the CARE program by declaring that a member of the household receives benefits from one of eleven authorized government, means-tested programs.²

Self-certification was adopted to ease enrollment in an effort to increase CARE program participation. Self-certification has benefits for easing enrollment and achieving the CPUC's goal of meeting a 90% penetration rate. Penetration rates are currently in the 90+% range for each IOU.

While the current CARE enrollment procedures do not require income documentation during the initial enrollment, the utilities' post enrollment verification (PEV) procedures require income documentation from customers selected for PEV review. The utilities design PEV sampling protocols to target customer groups at highest risk of error or fraud. Current sampling rates range from 2%-20% across the utilities. The CPUC considered stricter enforcement procedures (e.g., 100% verification) for the program but there were concerns that these procedures would be too burdensome and would prevent undocumented customers from benefiting from the program. As a point of comparison to the Lifeline telephone service program for income-qualified customers, once Lifeline changed its policies to require income documentation in 2012 and imposed fines for violations [pursuant to FCC rules], an estimated 41% of subscribers

¹ Decision 01-05-033 (at pages 44-45), defines the term "capitation fee" as a fee paid by the energy utilities to reimburse organizations the incremental costs they incur for enrolling eligible CARE participants.

² Medicaid/Medi-Cal, Women, Infants and Children Program (WIC), Healthy Families A & B, National School Lunch's Free Lunch Program (NSL), Food Stamps/SNAP, Low Income Home Energy Assistance Program (LIHEAP), Head Start Income Eligible (Tribal Only), Supplemental Security Income (SSI), Bureau of Indian Affairs General Assistance, and Temporary Assistance for Needy Families (TANF) or Tribal TANF

either could not demonstrate their eligibility or did not respond to verification requests, and were therefore dropped from the program.

Decision 12-08-044 implemented the following CARE program changes: a) authorized higher post-enrollment income verification rates (2-20% depending on the IOU), b) ordered an annual review of the current list of programs used to categorically enroll customers to ensure income eligibility alignment, c) required all high use customers using above 400% baseline to provide proof of income in order to stay on CARE, d) directed the IOUs to implement an interim and long term income verification process through statistical modeling—this approach targeted those customers most likely to be ineligible for CARE, and e) granted SCE's request to bar CARE customers who fail to respond to an income verification request from self-certified enrollment for 24 months.

If this bill were enacted, certain elements outlined in Decision 12-08-044 may need to be revisited to minimize inconsistency. Possible adjustments may include (1) the authorized PEV rates, which are currently capped at 200% of 2011 PEV levels and (2) implementation of the interim and long term PEV models described above.

SAFETY IMPACT

Removal of ineligible participants from the CARE program could result in higher bills for impacted customers which could translate to increased disconnection levels. If ineligible customers are unable to pay their bills, and ultimately experience disconnection, the safety of California citizens could be jeopardized by increased risks such as accidental fires caused by customers who may choose unsafe sources for heating and/or lighting including candles or other hazardous alternatives. However, the likelihood of these safety hazards is probably remote.

RELIABILITY IMPACT

This bill would not reduce or enhance the reliability of service.

RATEPAYER IMPACT

The ratepayer impact would depend on the number of customers that were found ineligible compared to the added administrative cost of a verification program authorized by the CPUC. If the current verification program remains unchanged there would be no ratepayer impact. Since the current IOU verification process is based on statistical targeting that results in the efficient use of resources, changing the levels of income verification will result in higher administrative costs but may not lead to proportional increased savings.

FISCAL IMPACT

None.

ECONOMIC IMPACT

Any ratepayer savings from this program due to tightening verification requirements could generate economic stimulus elsewhere in the economy if consumers choose to spend those dollars. To the contrary, customers who are found ineligible and are removed from the program would experience a negative economic impact.

LEGAL IMPACT

None.

LEGISLATIVE HISTORY

SB 491 (Rosenthal, Chapter 947, Statutes 1994) designated the California Alternate Rates for Energy (CARE) program and required the CPUC to authorize utilities to offer discounts to specified eligible facilities.

SBX2 (Alarcon, Chapter 11, 2001) established the Low-Income Oversight Board to advise the CPUC on low-income electric and gas customer issues and to serve as a liaison for the CPUC to low-income ratepayers and representatives. SBX2 also required, among other provisions, a defined assessment of the program, participation goals for the program, that the CPUC authorize recovery of administrative costs associated with implementation of the program, and an examination of methods to improve enrollment.

SB 580 (Escutia, Chapter 662, Statutes 2005) expanded the duties of the board advising the CPUC on low-income electric and gas customer issues and increased the membership of the board, among other provisions.

AB 2576 (De La Torre, Chapter 787, Statutes 2006) required the CPUC to ensure a single application form was available for programs that provide discounts based upon economic need, including the CARE program.

SB 695 (Kehoe, Chapter 337, Statutes 2009) required, with respect to CARE, for a program for electric and gas customers with annual incomes no greater than 200% of federal poverty guidelines. SB 695 required that the cost of the program, with respect to electrical corporations, be recovered on an equal cents-per-kilowatt-hour basis from all classes of customers that were subject to the surcharge that funded the CARE program

on January 1, 2008. For an electric and gas utility, the bill required that the cost of the program be recovered on an equal cents-per-kilowatt-hour or per-therm basis from all classes of customers that were subject to the surcharge that funded the CARE program on January 1, 2008. In addition, the bill authorized the CPUC to increase the rates for participants in the CARE program, subject to certain limitations.

SB 1207 (Fuller, Chapter 613, Statutes 2012) authorized an electrical corporation to require proof of income eligibility for CARE program participants with electricity usage exceeding 400% of baseline usage, and additional requirements for program participants with electricity usage exceeding certain thresholds. SB 1207 also permitted removal of a CARE program participant, subject to appeal, if after completion of a residential energy assessment the participant's monthly electricity usage exceeded 600% of the specified baseline usage

PROGRAM BACKGROUND

The CARE program provides a minimum monthly discount of 20% to gas and electric customers with annual household incomes at or below 200% of federal poverty guidelines. The current CARE penetration goal of 90%, established in Decision 08-11-031 and retained in Decision 12-08-044, was based on study findings about customers who are willing to participate in the CARE program. Currently, customers are able to self-certify their income eligibility, enroll categorically in CARE based on their participation in one of eleven categorical programs, enroll with the assistance of a capitation agency, or voluntarily provide proof of income (although not required) during the enrollment process.

The utilities also conduct post enrollment verification audits on approximately 2-20% of their customers annually. There are approximately 4.8 million customers enrolled in the CARE program across the four major IOU service territories. During the PEV process, income documentation is required in order for the customers to remain on the CARE discount rate. Customers who are unable to demonstrate their income eligibility are removed from the program. Additionally, CARE customers are required to re-certify their eligibility every two years, or every four years (for fixed income customers). However, proof of income is not required during the re-certification process, but some customers do voluntarily provide income information.

AB 922 would require the CPUC to authorize electrical or gas corporations to income verify CARE participants for continued eligibility regardless of how the participant was first enrolled. This bill does not specify whether PEV for CARE customers is authorized beyond the current PEV ranges of 2%-20% (depending on the IOU). The bill also does not specify when the income verification would occur, e.g., within 90 days of enrollment, annually, bi-annually, as part of the existing recertification process or at some other time.

OTHER STATES' INFORMATION

None.

SUMMARY OF SUPPORTING ARGUMENTS FOR RECOMMENDATION

The CPUC should remain neutral on this bill for the following reason(s):

(1) The CPUC is already in compliance with this bill and thus the changes in statute are not necessary. However, the CPUC and the IOUs are in the midst of assessing and implementing enhancements to the PEV process, which we expect to reduce the rates of ineligible CARE customers. Before making statutory changes to specific verification rules, the CPUC should be allowed to gather more data on the relative administrative costs and subsidy savings benefits of heightened levels of PEV.

SUMMARY OF SUGGESTED AMENDMENTS

None.

STATUS

Senate Energy Utilities & Communications hearing scheduled for July 2, 2013.

SUPPORT/OPPOSITION:

None on file for AB 922, as amended May 24, 2013.

VOTES

May 29, 2013	Assembly Floor (70-4)
May 24, 2013	Assembly Appropriations (16-0)
April 29, 2013	Assembly Utilities & Commerce (15-0)

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BILL LANGUAGE:

AMENDED IN ASSEMBLY MAY 24, 2013

AMENDED IN ASSEMBLY MAY 8, 2013

AMENDED IN ASSEMBLY APRIL 24, 2013

AMENDED IN ASSEMBLY APRIL 16, 2013

california legislature—2013–14 regular session

ASSEMBLY BILL

No. 922

Introduced by Assembly Member Patterson

February 22, 2013

An act to ~~amend Section 739.1 of, and to add Section 739.11 to, the Public Utilities Code, relating to public utilities~~ *electrical and gas service*.

legislative counsel's digest

AB 922, as amended, Patterson. ~~Public utilities—~~ *Electrical and gas service*: rates: CARE program: eligibility.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical and gas corporations, as defined. The Public Utilities Act authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. Existing law requires the commission to designate a baseline quantity of electricity and gas necessary for a significant portion of the reasonable energy needs of the average residential customer, and requires that electrical and gas corporations file rates and charges, to be approved by the commission, providing baseline rates, and requires the commission, in establishing baseline rates, to avoid excessive rate increases for residential customers. The act requires the commission to establish a program of assistance

to low-income electric and gas customers, referred to as the California Alternate Rates for Energy or CARE program. ~~Existing law requires the commission to work with electrical and gas corporations to establish penetration goals for the CARE program.~~

~~This bill would instead prohibit the commission from working with electrical and gas corporations to establish penetration goals for the CARE program, except in the event of special economic circumstances, including a recession or depression. The bill would require the commission to authorize an electrical or gas corporation to verify, by the submission of proof of income, the continuing eligibility of participants in the CARE program regardless of the manner in which the participant was first enrolled into the program.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 739.1 of the Public Utilities Code is~~
2 ~~amended to read:~~

3 ~~739.1. (a) As used in this section, the following terms have~~
4 ~~the following meanings:~~

5 ~~(1) "Baseline quantity" has the same meaning as defined in~~
6 ~~Section 739.~~

7 ~~(2) "California Solar Initiative" means the program providing~~
8 ~~ratepayer funded incentives for eligible solar energy systems~~
9 ~~adopted by the commission in Decision 05-12-044 and Decision~~
10 ~~06-01-024, as modified by Article 1 (commencing with Section~~
11 ~~2851) of Chapter 9 of Part 2 and Chapter 8.8 (commencing with~~
12 ~~Section 25780) of Division 15 of the Public Resources Code.~~

13 ~~(3) "CalWORKs program" means the program established~~
14 ~~pursuant to the California Work Opportunity and Responsibility~~
15 ~~to Kids Act (Chapter 2 (commencing with Section 11200) of Part~~
16 ~~3 of Division 9 of the Welfare and Institutions Code).~~

17 ~~(4) "Public goods charge" means the nonbypassable separate~~
18 ~~rate component imposed pursuant to Article 7 (commencing with~~
19 ~~Section 381) of Chapter 2.3 and the nonbypassable system benefits~~
20 ~~charge imposed pursuant to the Reliable Electric Service~~
21 ~~Investments Act (Article 15 (commencing with Section 399) of~~
22 ~~Chapter 2.3).~~

1 ~~(b) (1) The commission shall establish a program of assistance~~
2 ~~to low-income electric and gas customers with annual household~~
3 ~~incomes that are no greater than 200 percent of the federal poverty~~
4 ~~guideline levels, the cost of which shall not be borne solely by any~~
5 ~~single class of customer. The program shall be referred to as the~~
6 ~~California Alternate Rates for Energy or CARE program. The~~
7 ~~commission shall ensure that the level of discount for low-income~~
8 ~~electric and gas customers correctly reflects the level of need.~~

9 ~~(2) The commission may, subject to the limitation in paragraph~~
10 ~~(4), increase the rates in effect for CARE program participants for~~
11 ~~electricity usage up to 130 percent of baseline quantities by the~~
12 ~~annual percentage increase in benefits under the CalWORKs~~
13 ~~program as authorized by the Legislature for the fiscal year in~~
14 ~~which the rate increase would take effect, but not to exceed 3~~
15 ~~percent per year.~~

16 ~~(3) Beginning January 1, 2019, the commission may, subject~~
17 ~~to the limitation in paragraph (4), establish rates for CARE program~~
18 ~~participants pursuant to this section and Sections 739 and 739.9,~~
19 ~~subject to both of the following:~~

20 ~~(A) The requirements of subdivision (b) of Section 382 that the~~
21 ~~commission ensure that low-income ratepayers are not jeopardized~~
22 ~~or overburdened by monthly energy expenditures.~~

23 ~~(B) The requirement that the level of the discount for~~
24 ~~low-income electricity and gas ratepayers correctly reflects the~~
25 ~~level of need as determined by the needs assessment conducted~~
26 ~~pursuant to subdivision (d) of Section 382.~~

27 ~~(4) Tier 1, tier 2, and tier 3 CARE rates shall not exceed 80~~
28 ~~percent of the corresponding tier 1, tier 2, and tier 3 rates charged~~
29 ~~to residential customers not participating in the CARE program,~~
30 ~~excluding any Department of Water Resources bond charge~~
31 ~~imposed pursuant to Division 27 (commencing with Section 80000)~~
32 ~~of the Water Code, the CARE surcharge portion of the public~~
33 ~~goods charge, any charge imposed pursuant to the California Solar~~
34 ~~Initiative, and any charge imposed to fund any other program that~~
35 ~~exempts CARE participants from paying the charge.~~

36 ~~(5) Rates charged to CARE program participants shall not have~~
37 ~~more than three tiers. An electrical corporation that does not have~~
38 ~~a tier 3 CARE rate may introduce a tier 3 CARE rate that, in order~~
39 ~~to moderate the impact on program participants whose usage~~
40 ~~exceeds 130 percent of baseline quantities, shall be phased in to~~

1 ~~80 percent of the corresponding rates charged to residential~~
2 ~~customers not participating in the CARE program, excluding any~~
3 ~~Department of Water Resources bond charge imposed pursuant to~~
4 ~~Division 27 (commencing with Section 80000) of the Water Code,~~
5 ~~the CARE surcharge portion of the public goods charge, any charge~~
6 ~~imposed pursuant to the California Solar Initiative, and any other~~
7 ~~charge imposed to fund a program that exempts CARE participants~~
8 ~~from paying the charge. For an electrical corporation that does not~~
9 ~~have a tier 3 CARE rate that introduces a tier 3 CARE rate, the~~
10 ~~initial rate shall be no more than 150 percent of the CARE baseline~~
11 ~~rate. Any additional revenues collected by an electrical corporation~~
12 ~~resulting from the adoption of a tier 3 CARE rate shall, until the~~
13 ~~utility's next periodic general rate case review of cost allocation~~
14 ~~and rate design, be credited to reduce rates of residential ratepayers~~
15 ~~not participating in the CARE program with usage above 130~~
16 ~~percent of baseline quantities.~~

17 ~~(e) The commission shall not work with electrical and gas~~
18 ~~corporations to establish penetration goals, except in the event of~~
19 ~~special economic circumstances, including a recession or~~
20 ~~depression. The commission shall authorize recovery of all~~
21 ~~administrative costs associated with the implementation of the~~
22 ~~CARE program that the commission determines to be reasonable,~~
23 ~~through a balancing account mechanism. Administrative costs~~
24 ~~shall include, but are not limited to, outreach, marketing, regulatory~~
25 ~~compliance, certification and verification, billing, measurement~~
26 ~~and evaluation, and capital improvements and upgrades to~~
27 ~~communications and processing equipment.~~

28 ~~(d) The commission shall examine methods to improve CARE~~
29 ~~enrollment and participation. This examination shall include, but~~
30 ~~need not be limited to, comparing information from CARE and~~
31 ~~the Universal Lifeline Telephone Service (ULTS) to determine~~
32 ~~the most effective means of utilizing that information to increase~~
33 ~~CARE enrollment, automatic enrollment of ULTS customers who~~
34 ~~are eligible for the CARE program, customer privacy issues, and~~
35 ~~alternative mechanisms for outreach to potential enrollees. The~~
36 ~~commission shall ensure that a customer consents prior to~~
37 ~~enrollment. The commission shall consult with interested parties,~~
38 ~~including ULTS providers, to develop the best methods of~~
39 ~~informing ULTS customers about other available low-income~~

1 programs, as well as the best mechanism for telephone providers
2 to recover reasonable costs incurred pursuant to this section.

3 ~~(e) (1) The commission shall improve the CARE application~~
4 ~~process by cooperating with other entities and representatives of~~
5 ~~California government, including the California Health and Human~~
6 ~~Services Agency and the Secretary of California Health and Human~~
7 ~~Services, to ensure that all gas and electric customers eligible for~~
8 ~~public assistance programs in California that reside within the~~
9 ~~service territory of an electrical corporation or gas corporation,~~
10 ~~are enrolled in the CARE program. To the extent practicable, the~~
11 ~~commission shall develop a CARE application process using the~~
12 ~~existing ULTS application process as a model. The commission~~
13 ~~shall work with public utility electrical and gas corporations and~~
14 ~~the Low Income Oversight Board established in Section 382.1 to~~
15 ~~meet the low income objectives in this section.~~

16 ~~(2) The commission shall ensure that an electrical corporation~~
17 ~~or gas corporation with a commission approved program to provide~~
18 ~~discounts based upon economic need in addition to the CARE~~
19 ~~program, including a Family Electric Rate Assistance program,~~
20 ~~utilize a single application form, to enable an applicant to~~
21 ~~alternatively apply for any assistance program for which the~~
22 ~~applicant may be eligible. It is the intent of the Legislature to allow~~
23 ~~applicants under one program, that may not be eligible under that~~
24 ~~program, but that may be eligible under an alternative assistance~~
25 ~~program based upon economic need, to complete a single~~
26 ~~application for any commission approved assistance program~~
27 ~~offered by the public utility.~~

28 ~~(f) The commission's program of assistance to low income~~
29 ~~electric and gas customers shall, as soon as practicable, include~~
30 ~~nonprofit group living facilities specified by the commission, if~~
31 ~~the commission finds that the residents in these facilities~~
32 ~~substantially meet the commission's low income eligibility~~
33 ~~requirements and there is a feasible process for certifying that the~~
34 ~~assistance shall be used for the direct benefit, such as improved~~
35 ~~quality of care or improved food service, of the low income~~
36 ~~residents in the facilities. The commission shall authorize utilities~~
37 ~~to offer discounts to eligible facilities licensed or permitted by~~
38 ~~appropriate state or local agencies, and to facilities, including~~
39 ~~women's shelters, hospices, and homeless shelters, that may not~~

1 have a license or permit but provide other proof satisfactory to the
2 utility that they are eligible to participate in the program.

3 ~~(g) It is the intent of the Legislature that the commission ensure
4 CARE program participants are afforded the lowest possible
5 electric and gas rates and, to the extent possible, are exempt from
6 additional surcharges attributable to the energy crisis of 2000-01.~~

7 ~~(h) (1) In addition to existing assessments of eligibility, an
8 electrical corporation may require proof of income eligibility for
9 those CARE program participants whose electricity usage, in any
10 monthly or other billing period, exceeds 400 percent of baseline
11 usage. The authority of an electrical corporation to require proof
12 of income eligibility is not limited by the means by which the
13 CARE program participant enrolled in the program, including if
14 the participant was automatically enrolled in the CARE program
15 because of participation in a governmental assistance program. If
16 a CARE program participant's electricity usage exceeds 400
17 percent of baseline usage, the electrical corporation may require
18 the CARE program participant to participate in the Energy Savings
19 Assistance Program (ESAP), which includes a residential energy
20 assessment, in order to provide the CARE program participant
21 with information and assistance in reducing his or her energy usage.
22 Continued participation in the CARE program may be conditioned
23 upon the CARE program participant agreeing to participate in
24 ESAP within 45 days of notice being given by the electrical
25 corporation pursuant to this paragraph. The electrical corporation
26 may require the CARE program participant to notify the utility of
27 whether the residence is rented, and if so, a means by which to
28 contact the landlord, and the electrical corporation may share any
29 evaluation and recommendation relative to the residential structure
30 that is made as part of an energy assessment, with the landlord of
31 the CARE program participant. Requirements imposed pursuant
32 to this paragraph shall be consistent with procedures adopted by
33 the commission.~~

34 ~~(2) If a CARE program participant's electricity usage exceeds
35 600 percent of baseline usage, the electrical corporation shall
36 require the CARE program participant to participate in ESAP,
37 which includes a residential energy assessment, in order to provide
38 the CARE program participant with information and assistance in
39 reducing his or her energy usage. Continued participation in the
40 CARE program shall be conditioned upon the CARE program~~

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1 participant agreeing to participate in ESAP within 45 days of a
2 notice made by the electrical corporation pursuant to this paragraph.
3 The electrical corporation may require the CARE program
4 participant to notify the utility of whether the residence is rented,
5 and if so, a means by which to contact the landlord, and the
6 electrical corporation may share any evaluation and
7 recommendation relative to the residential structure that is made
8 as part of an energy assessment, with the landlord of the CARE
9 program participant. Following the completion of the energy
10 assessment, if the CARE program participant's electricity usage

11 ~~continues to exceed 600 percent of baseline usage, the electrical~~
12 ~~corporation may remove the CARE program participant from the~~
13 ~~program if the removal is consistent with procedures adopted by~~
14 ~~the commission. Nothing in this paragraph shall prevent a CARE~~
15 ~~program participant with electricity usage exceeding 600 percent~~
16 ~~of baseline usage from participating in an appeals process with the~~
17 ~~electrical corporation to determine whether the participant's usage~~
18 ~~levels are legitimate.~~

19 ~~(3) A CARE program participant in a rental residence shall not~~
20 ~~be removed from the program in situations where the landlord is~~
21 ~~nonresponsive when contacted by the electrical corporation or~~
22 ~~does not provide for ESAP participation.~~

23 ~~SEC. 2.~~

24 *SECTION 1.* Section 739.11 is added to the Public Utilities
25 Code, to read:

26 739.11. The commission shall authorize an electrical or gas
27 corporation to verify, by the submission of proof of income, the
28 continuing eligibility of a participant in the CARE program
29 regardless of the means by which the participant was first enrolled
30 into the CARE program.