

**PUBLIC UTILITIES COMMISSION**505 VAN NESS AVENUE
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Ratesetting

TO PARTIES OF RECORD IN APPLICATION 08-06-031 ET AL.

This is the proposed decision of Administrative Law Judge (ALJ) Kimberly H. Kim. It will not appear on the Commission's agenda sooner than 30 days from the date it is mailed. The Commission may act then, or it may postpone action until later.

When the Commission acts on the proposed 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 proposed decision as provided in Article 14 of the Commission's Rules of Practice and Procedure (Rules), accessible on the Commission's website at www.cpuc.ca.gov. Pursuant to Rule 14.3, opening comments shall not exceed 15 pages.

Comments must be filed pursuant to Rule 1.13 either electronically or in hard copy. Comments should be served on parties to this proceeding in accordance with Rules 1.9 and 1.10. Electronic and hard copies of comments should be sent to ALJ Kim at kk2@cpuc.ca.gov and the assigned Commissioner. The current service list for this proceeding is available on the Commission's website at www.cpuc.ca.gov.

/s/ KAREN V. CLOPTON
Karen V. Clopton, Chief
Administrative Law Judge

KVC:gd2

Attachment

Decision **PROPOSED DECISION OF ALJ KIM** (Mailed 5/4/2010)**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of Southwest Gas Corporation (U905G) for Approval of Low-Income Programs and Budgets for Program Years 2009-2011.	Application 08-06-031 (Filed June 30, 2008)
And Related Matters.	Application 08-07-005 Application 08-07-007 Application 08-07-015 Application 08-07-019 Application 08-07-027

DECISION PROVIDING GUIDANCE TO SMALL AND MULTIJURISDICTIONAL UTILITIES' EXPENDITURE OF 2010-2011 LOW INCOME ENERGY EFFICIENCY MARKETING, EDUCATION AND OUTREACH BUDGETS HELD IN ABEYANCE BY DECISION 08-12-019

1. Summary

Today's decision authorizes the small and multijurisdictional utilities (Southwest Gas Corporation, Sierra Pacific Power Company, Golden State Water Company/Bear Valley Electric Corp., West Coast Gas Company, PacifiCorp, and Alpine Natural Gas Operating Company (collectively referred to as the SMJUs)) to continue to spend their 2010-2011 Low Income Energy Efficiency (LIEE) Marketing, Education and Outreach (ME&O) budgets, as they have done in program year 2009. In so doing, the SMJUs are directed not to contribute any of their LIEE ME&O budgets to the single integrated, statewide marketing,

education and outreach program (Statewide ME&O program). However, the SMJUs are specifically directed to expend their LIEE ME&O budgets consistent with the directives and direction set forth in the California Long Term Energy Efficiency Strategic Plan, Decision (D.) 08-11-031,¹ D.09-09-047,² and D.09-10-012³ as they affect SMJUs' LIEE 2010-2011 marketing programs, efforts and expenditure going forward.

2. Background

In September 2008, the Commission adopted the landmark California Long Term Energy Efficiency Strategic Plan (Strategic Plan) and outlined "a roadmap for energy efficiency in California through the year 2020 and beyond."⁴ While articulating long term energy efficiency visions and goals for major market sectors across the state, the Strategic Plan also outlined the Commission's vision and goals for the low income portion of the residential sector and the related marketing, education and outreach strategies. One such goal is that by "2020, all eligible [low income] customers will be given the opportunity to participate in the LIEE program."⁵

¹ D.08-11-031 approved low income energy efficiency programs and budgets, including ME&O budgets, for the four large investor-owned utilities for program years 2009-2011.

² D.09-09-047 approved general energy efficiency programs and budgets, including ME&O budgets, for 2010-2012.

³ D.09-10-012 directed the large investor-owned utilities to contribute \$667,000 of their LIEE ME&O budget annually towards the single Statewide ME&O program consistent with the D.09-09-047.

⁴ Strategic Plan at 1.

⁵ *Id.* at 25.

The strategies outlined by the Commission to reach that goal include strengthening outreach by using social marketing tools and developing a recognizable and trustworthy brand for the Low Income Energy Efficiency (LIEE) programs. The Commission noted that an effective and long term energy efficiency marketing, education and outreach (ME&O) goal must cut across all economic sectors, including the low income sector. The Strategic Plan set forth a vision of creating and launching a single integrated, statewide marketing, education and outreach (Statewide ME&O) program for energy efficiency which incorporates the Commission's strategies and goals for the low income sector.

Following the Commission's vision and goals outlined in the Strategic Plan, Decision (D.) 08-11-031⁶ (LIEE Budget Decision) directed the four large investor-owned utilities (large IOUs) to hold in abeyance LIEE ME&O budgets for program years 2010-2011 pending further direction from the Commission. It was expected that such direction would follow the development and launch of a Statewide ME&O program for energy efficiency as envisioned in the Strategic Plan.

D.08-12-019 approved the 2009-2011 LIEE and California Alternate Rates for Energy (CARE) program budgets, including the ME&O budgets. In D.08-12-019, the Commission reiterated the vision of a Statewide ME&O program noting that a single Statewide ME&O effort would be achieved through four strategies: 1) An Energy Efficiency Brand; 2) Integrated Marketing; 3) Social Marketing; and 4) Internet-Based Marketing.⁷ However, in issuing that decision

⁶ D.08-11-031 approved low income energy efficiency programs and budgets, including ME&O, budgets for the large IOUs for program years 2009-2011.

⁷ D.08-12-019, at 22.

in December 2008, the Commission also recognized that such an integrated Statewide ME&O program and strategies would need months to develop. Therefore, in D.08-12-019, while approving the SMJUs' LIEE ME&O budgets for 2009-2011, the Commission ordered the SMJUs' 2010-2011 LIEE ME&O budgets be held in abeyance, pending development of the Statewide ME&O program. Ordering Paragraph (OP) 15 of D.08-12-019 provides as follows:

We grant all of the SMJUs' requested funding for marketing, education and outreach (ME&O). They may only spend the amounts they seek for 2009, and shall hold the other funding in abeyance. Once we decide how to incorporate SMJUs' programs into the single statewide ME&O program, we will provide the SMJUs further direction regarding their ME&O budgets for 2010 and 2011.

D.09-09-047⁸ (EE Decision) provided the next step in this succession of decisions⁹ on the Statewide ME&O program as related to energy efficiency. The EE Decision addressed several marketing, education and outreach issues for both the general EE programs as well as the LIEE programs, including: (1) the purpose and implementation of the Statewide ME&O program; (2) the role of the Commission, IOUs and community based organizations; (3) the scope of the statewide brand and web portal; and (4) the coordination between the general EE

⁸ D.09-09-047 approved general energy efficiency (EE) programs and budgets, including ME&O budgets, for 2010-2012.

⁹ In D.07-10-032, we directed the large IOUs to coordinate ME&O efforts across utility territories and consumer demand-side options so as to "optimize the development and delivery of energy efficiency messages" while reducing costs and increasing the impact of said messaging.

and LIEE programs. Consistent therewith, in October 2009, D.09-10-012¹⁰ (LIEE ME&O Decision) directed the large IOUs to allocate \$667,000 annually of their LIEE marketing budget to be contributed toward the Statewide ME&O program and to expend all remainder of their ME&O budgets consistent with the general guidance set forth in the EE Decision.¹¹

3. Discussion

As discussed below, SMJUs are authorized to expend the SMJUs' LIEE 2010-2011 marketing funds which had previously been held in abeyance awaiting Commission's development of the Statewide ME&O program. SMJUs are directed to allocate no portion of the SMJUs' limited ME&O funds previously held in abeyance toward the Statewide ME&O program. Instead, the SMJUs are authorized to spend the LIEE 2010-2011 ME&O funds which had previously been held in abeyance and to do so consistent with the directives and direction set forth in the Strategic Plan, EE Decision and LIEE ME&O Decision, as they affect SMJUs' LIEE 2010-2011 marketing programs, efforts and expenditure going forward.

In authorizing and directing the SMJUs' expenditure of 2010-2011 LIEE marketing funds and determining that SMJUs should not divert any of their LIEE ME&O budget towards the Statewide ME&O program, from the SMJUs' 2010-2011 LIEE ME&O budgets, we examine these factors:

¹⁰ D.09-10-012 directed the large IOUs to contribute \$667,000 of their LIEE ME&O budget annually towards the single Statewide ME&O program consistent with the EE Decision.

¹¹ D.09-10-012, OP 1.

- (1) The different individual program goals and focuses between the LIEE ME&O program versus general Statewide ME&O program;
- (2) The level of contribution already made or committed by the large IOUs to be directed to the Statewide ME&O program from the low income sector, pursuant to the LIEE ME&O Decision; and
- (3) Effects of diverting the SMJUs' limited LIEE ME&O funds, from budget years 2010-2011, in achieving the goals the Commission set out in the Strategic Plan.

First and foremost, the purpose and focus of the general Statewide ME&O program and the LIEE ME&O program, while they overlap and are related in parts, differ in key respects. The purpose of the general Statewide ME&O program, as described in the EE Decision, is to motivate ratepayers to take action on energy efficiency or conservation measures and create behavior change. The purpose of the LIEE ME&O program is to increase awareness of LIEE programs and, in turn, increase enrollment and participation in the LIEE program as discussed in Chapter 2.2.5 of the Strategic Plan.

Because of the differing purposes, general Statewide ME&O and LIEE ME&O programs are also different in focus, which affects the necessary marketing, education and/or outreach approaches and strategies for each. For instance, LIEE measures are provided at no cost to program participants; thus, increasing enrollment in the LIEE programs is the driving factor for achieving the desired energy savings from LIEE programs. In contrast, most of the general EE programs require customers to pay part of the costs of the targeted measure; therefore, any marketing, education and/or outreach strategies, in that general EE context, must focus on affecting the broader customer behavior change.

As such, in the LIEE ME&O Decision, the Commission decided some of the LIEE ME&O funds should be contributed towards the Statewide ME&O program. However, the Commission also noted the low income sector's contribution towards the Statewide ME&O program should be limited to allow the LIEE programs to retain sufficient ME&O funds to maintain the current course and momentum towards achieving the ambitious Strategic Plan's LIEE enrollment goal – the focus of the LIEE ME&O program.¹²

Likewise, the SMJUs' LIEE 2010-2011 marketing funds pose similar concern in that we must determine what amount of the SMJUs' LIEE ME&O budget contribution towards the Statewide ME&O program would yield the optimal benefit towards the LIEE ME&O program's and the Statewide ME&O program's purposes and focuses. As discussed further below, we find that the limited ME&O budget of the SMJUs makes it undesirable to divert any portion of such limited budget towards the Statewide ME&O program because such contribution will yield little benefit, if any, in the scheme of the substantially larger Statewide ME&O program budget of approximately \$60 million.¹³ In comparison, the SMJUs' entire combined LIEE ME&O budget is less than \$1 million.¹⁴

The Commission authorized a limited LIEE ME&O budget for the individual SMJUs for budget years 2010-2011. For instance, for 2010-2011 budget years, Pacific Corp's annual "Outreach" budget which includes marketing

¹² D.09-10-012, at 8.

¹³ D.09-09-047, at 74.

¹⁴ D.08-12-019, Appendix A.

and education activities totals only \$55,000 while it was required to enroll 500 additional LIEE customers each year; Golden State Water Company/Bear Valley Electric Corp.'s annual LIEE ME&O budget totals only \$9,000; and Sierra Pacific Power Company's annual LIEE ME&O budget totals only \$6,000.¹⁵ Therefore, redirecting any portion of the SMJUs' limited LIEE ME&O budget will significantly compromise each SMJUs' limited marketing, education and outreach activities. Furthermore, any diversion of the limited LIEE ME&O budget of the SMJUs towards the Statewide ME&O program could cripple ongoing SMJUs' LIEE ME&O efforts towards reaching the LIEE enrollment goal.

The Commission anticipated this scenario and noted in D.08-012-019 that the SMJUs' LIEE marketing budget was quite limited and therefore explicitly signaled that the SMJUs' future role or contribution in the Statewide ME&O strategy and efforts would likewise be similarly limited,¹⁶ so as "not...to place additional burdens on the SMJUs with small customer bases and limited economies of scales in California."¹⁷

Lastly, the Commission, in LIEE ME&O Decision, already ordered the large IOUs to allocate \$667,000 annually of the large IOUs' LIEE marketing budget to be contributed toward the Statewide ME&O program. We find that the large IOUs' current annual LIEE marketing budget contribution, for the low income portion of the Statewide ME&O program is adequate contribution towards the Statewide ME&O program.

¹⁵ *Id.*

¹⁶ D.08-06-031 at 2.

¹⁷ *Id.* at 21.

In light of the foregoing, it would be unreasonable to direct the SMJUs to contribute any portion of their limited LIEE ME&O budgets toward the Statewide ME&O program. To do so could cripple the SMJUs' LIEE ME&O efforts while yielding inconsequential benefits to the larger Statewide ME&O program. This conclusion also reflects the need for the SMJUs to continue their current LIEE ME&O efforts on increasing enrollment so that the SMJUs, along with the large IOUs, are able to meet the ambitious LIEE enrollment goal set forth in the Strategic Plan.

SMJUs therefore are directed to allocate no portion of the SMJUs' limited ME&O funds previously held in abeyance toward the Statewide ME&O program. At this time, the SMJUs are authorized to spend the LIEE 2010-2011 ME&O funds which had been held in abeyance and do so consistent with the directives and direction set forth in the Strategic Plan, LIEE Budget Decision, EE Decision and LIEE ME&O Decision, as they affect SMJUs' LIEE 2010-2011 marketing programs, efforts and expenditure going forward.

4. Comments on Proposed Decision

The proposed decision of the Administrative Law Judge in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Opening comments were filed by the SMJUs on _____, 2010 and reply comments were filed by _____ on _____, 2010.

5. Assignment of Proceeding

Dian M. Grueneich is the assigned Commissioner and Kimberly H. Kim is the assigned ALJ in this proceeding.

Findings of Fact

1. Pursuant to D.08-12-019, the SMJUs' LIEE 2010-2011 ME&O funds have been held in abeyance pending the development and launch of the single Statewide ME&O program.

2. The Statewide ME&O program budget is \$60 million as estimated in D.09-09-047.

3. The SMJUs' LIEE 2010-2011 ME&O annual budget for the program years 2010-2011 is less than \$1 million.

4. The purpose and focus of the general Statewide ME&O program, as described in the EE Decision, is to motivate ratepayers to take action on energy efficiency or conservation measures and behavior change.

5. The purpose and focus of the SMJUs' LIEE ME&O program is to increase awareness of LIEE programs and, in turn, increase enrollment and participation in the LIEE program as discussed in Chapter 2.2.5 of the Strategic Plan.

Conclusions of Law

1. It is unreasonable to direct the SMJUs to contribute any portion of their limited LIEE ME&O budgets toward the Statewide ME&O program which could cripple the SMJUs' LIEE ME&O efforts while yielding inconsequential benefits to the larger Statewide ME&O program.

2. The SMJUs should continue their current LIEE ME&O efforts on increasing enrollment so that the SMJUs, along with the large IOUs, are able to meet the ambitious LIEE enrollment goal set forth in the Strategic Plan.

3. The SMJUs should not allocate any portion of the SMJUs' limited ME&O funds previously held in abeyance toward the Statewide ME&O program.

4. The SMJUs should be authorized to spend the LIEE 2010-2011 ME&O funds which had been held in abeyance and be directed to do so consistent with

the directives and direction set forth in the Strategic Plan, EE Decision and LIEE ME&O Decision, as they affect SMJUs' LIEE 2010-2011 marketing programs, efforts and expenditure going forward.

O R D E R

IT IS ORDERED that:

1. In carrying out the low income energy efficiency marketing, education and outreach programs, efforts and expenditure for budget period 2010-2011, Southwest Gas Corporation, Sierra Pacific Power Company, Golden State Water Company/Bear Valley Electric Corp., West Coast Gas Company, PacifiCorp, and Alpine Natural Gas Operating Company are authorized to spend the Low Income Energy Efficiency Marketing, Education and Outreach funds previously held in abeyance by Decision (D.) 08-12-019 and are directed to do so consistent with the directives and direction set forth in the California Long Term Energy Efficiency Strategic Plan as well as the Commission decisions, D.08-11-031, D.09-09-047, and D.09-10-012.

2. In carrying out the low income energy efficiency marketing, education and outreach programs, efforts and expenditure for budget period 2010-2011, Southwest Gas Corporation, Sierra Pacific Power Company, Golden State Water Company/Bear Valley Electric Corp., West Coast Gas Company, PacifiCorp, and Alpine Natural Gas Operating Company shall allocate all of the 2010-2011 Low Income Energy Efficiency marketing, education and outreach budget to increasing enrollment in Low Income Energy Efficiency towards reaching the enrollment goal set forth in the Commission decision D.09-10-012 and consistent with the California Long Term Energy Efficiency Strategic Plan.

3. This proceeding is closed. However, Southwest Gas Corporation, Sierra Pacific Power Company, Golden State Water Company/Bear Valley Electric Corp., West Coast Gas Company, PacifiCorp, and Alpine Natural Gas Operating Company may continue to file necessary reports or filings ordered in the Commission's decision, D.08-12-019, in this proceeding.

This order is effective today.

Dated _____, at San Francisco, California.

INFORMATION REGARDING SERVICE

I have provided notification of filing to the electronic mail addresses on the attached service list.

Upon confirmation of this document's acceptance for filing, I will cause a Notice of Availability of the filed document to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the Notice of Availability of the filed document is current as of today's date.

Dated May 4, 2010, at San Francisco, California.

/s/ GLADYS M. DINGLASAN
Gladys M. Dinglasan

N O T I C E

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