

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking Regarding Policies,
Procedures and Rules for the Low Income Energy
Efficiency Programs of California's Energy Utilities.

Rulemaking 07-01-042
(Filed January 25, 2007)

Southern California Edison Company's (U 338-E)
Application for Approval of SCE's "Change a Light,
Change the World," Compact Fluorescent Lamp
Program.

Application 07-05-010
(Filed May 10, 2007)

**JOINT REPLY COMMENTS OF SAN DIEGO GAS & ELECTRIC COMPANY AND
SOUTHERN CALIFORNIA GAS COMPANY ON THE ADMINISTRATIVE LAW
JUDGE'S RULING OF 9/27/07 SEEKING COMMENTS ON ISSUES RAISED IN THE
KEMA REPORT AND ON NATURAL GAS APPLIANCES TESTING ISSUES AND
THE ADMINISTRATIVE LAW JUDGE'S RULING OF 9/14/07 SEEKING RESPONSES
TO QUESTIONS ON FURNACE PROGRAMS AND NATURAL GAS APPLIANCE
TESTING**

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I. Introduction

Pursuant to the September 27, 2007 *Administrative Law Judge's Ruling Seeking Comments on Issues Raised in the KEMA Report and on Natural Gas Appliance Testing Issues* (Ruling),¹ San Diego Gas & Electric Company (SDG&E) and Southern California

¹ As modified by the October 3, 2007 ALJ Ruling granting motions filed by Association of California Community Energy Services (ACCES) and A World Institute for Sustainable Humanity (AWISH) to extend the due date to October 16, 2007 for filing Opening Comments on the above referenced Ruling and ALJ Malcolm's Ruling dated September 14, 2007, Seeking Responses to Questions on LIEE Furnace Programs and Natural Gas Appliance Testing (NGAT Ruling). The October 3, 2007 Ruling also extended the due date for Replies for both Rulings until October 23, 2007; however, due to the wildfires in Southern California, Chief Administrative Law Judge Angela K. Minkin, on October 22, 2007, granted SDG&E and SoCalGas an extension until October 26, 2007, to file their Reply Comments.

Gas Company (SoCalGas) (collectively referred to as the Joint Utilities) file these joint reply comments.

In the Ruling, Administrative Law Judge (ALJ) Malcolm asked parties to provide comments regarding how Low Income Energy Efficiency (LIEE) programs might address issues raised by KEMA in its September 7, 2007 report entitled “Final Report on Phase 2 Low Income Needs Assessment” (KEMA Report). The Ruling also sought parties’ comments on possible modifications to the Natural Gas Appliance Testing (NGAT) program, as well as comments on the KEMA Report. The Joint Utilities received Opening Comments on October 16, 2007 from Southern California Edison Company (SCE), Pacific Gas and Electric Company (PG&E), Sierra Pacific Power Company (Sierra), PacifiCorp, Southwest Gas (SWG), Division of Ratepayer Advocates (DRA), Richard Heath & Associates (RHA), and Disability Rights Advocates (DisabRA). Joint Opening Comments were received from the Association of California Community and Energy Services and A World Institute for a Sustainable Humanity (ACCES/A W.I.S.H). The following are Reply Comments to those parties’ Opening Comments.

II. Summary

In these Reply Comments, the Joint Utilities summarily address the primary issues as found in the Comments received:

- a. The KEMA Report Data and Discrepancies;
- b. Program Design Details and Program Objectives;
- c. Allegations of Decreased LIEE Program Participation; and
- d. NGAT Issues.

III. KEMA Report Inaccuracies Must be Resolved Before Data and Conclusions from the Report can be Used for Program Planning

In their Opening Comments, the Joint Utilities discussed concerns regarding the KEMA Report in the areas of Sampling and Survey Implementation, Analysis and Ultimate Use of Survey Data, and a Determination of a Target for California Alternate Rates for Energy (CARE) or LIEE Participation. Several parties in their Opening Comments also commented on the KEMA Report data and pointed out discrepancies in the KEMA Report, including:

- Inaccurate tables and factual errors;

- Lack of analysis and analysis data in the Report;
- Unsubstantiated conclusions;
- Unclear recommendations (including the recommendation on the CARE penetration target);
- Insufficient sampling data for Small and Multi Jurisdictional Utilities (SMJUs);
- Conflicting recommendations; and
- Straying from the principal objectives of Phase 2 of the Needs Assessment.

The fact that the parties are expressing numerous concerns about the KEMA Report warrants the Commission's serious consideration of the parties' concerns before the Commission directs program changes based on the KEMA Report alone. The Joint Utilities believe that further work on the issues addressed in the KEMA Report needs to be completed in a forum which will allow the parties' concerns to be addressed and satisfactorily resolved before incorporating information from the KEMA Report into the program planning process for the 2009-2011 program years. This work should specifically address data and conclusions that are questionable or inconsistent with other data, including program information. As described below, the Joint Utilities also believe that the primary objectives of the LIEE program have to be defined by the Commission before plans for the future LIEE program can be developed. Further, it is important that the most accurate data be used for drawing conclusions about the program and for future program planning.

IV. Commission Direction on Program Goals and Objectives is Needed before Program Design Details Can Be Addressed

Several parties discussed in their Opening Comments recommendations for LIEE and CARE program designs, including the areas of outreach and marketing, targeting customers, income documentation, budgets, and participation targets. While these all are appropriate subjects to be addressed, it is premature to do so until the Commission issues its anticipated decision on program goals and objectives, particularly for the LIEE program. For example, the Joint Utilities agree with PG&E that before "targeting households, stakeholders need to decide and clearly articulate what the purpose of the LIEE Program is." PG&E Comments at 3. This determination cannot be made until the

Commission provides clear direction on future LIEE program goals and objectives, and this need for Commission direction holds true for program design issues that parties have addressed in their Opening Comments. Once the Commission provides this needed direction, the utilities can work with the Commission and interested parties to determine program design elements to include in utility program applications for 2009-2011. However, the Joint Utilities are concerned about timing issues because the applications are to be filed in April 2008, and issues need to be addressed in time for inclusion in these applications.

The Joint Utilities and other parties filed comments on the objectives of the LIEE program in response to the Scoping Ruling for the Commission's Rulemaking on the LIEE program on April 27, 2007. The Joint Utilities continue to believe, as they stated in their Opening and Reply Comments to that Ruling, and in Opening Comments filed on October 16, 2007, that "[t]he most important objective of the LIEE programs should be the achievement of energy and costs savings for low income customers." Program design that is not consistent with the primary objective will likely hinder the Commission's broad goal of making every low income household in California energy efficient. In order to fully support an energy and cost savings goal, substantial program design changes are needed. "Business as usual" will not achieve the goal. Program changes can only be designed once the Commission specifically determines the overall goals and objectives for the LIEE program.

In addition, the Joint Utilities believe that the process will be better served if parties have a clear understanding of how the current programs operate. Several of the parties recommend actions that already occur in the programs, such as coordinating outreach among utility and other programs. While improvement is always possible, it is not productive to "reinvent the wheel," and more can be accomplished if all parties are working with the same baseline knowledge of the current programs.

To address current program operations and design issues, the Joint Utilities propose that the Commission conduct a workshop where the utilities can provide information on their current programs, and suggestions for improvements can also be discussed. If not a workshop, written information can be exchanged between the utilities and interested parties. Again, this process should occur after the Commission renders

directives regarding program goals and objectives. The Joint Utilities believe that this process will enable the best use of parties' time and resources, provide an effective consideration of program design issues, provide Commission staff with valuable information, and enable the Commission to make informed decisions.

V. ACCESS and AWISH Are Incorrect in Their Allegations Regarding SDG&E and SoCalGas LIEE Programs

ACCES and A W.I.S.H. make the following closing statement in their Comments: "In the last several years SCG and SDG&E have had large decreases of participation in their program, all other utilities have increased. The Commission should encourage SEMPRA to fix this problem." ACCESS and A W.I.S.H. Comments at p. 10.

SDG&E and SoCalGas assume that the basis of this comment is found in the KEMA study at Pg 5-6 in Figure 5-2 and Table 5-3 of the KEMA Report (a number of parties have pointed out in their Comments that these exhibits are not entirely accurate and the Joint Utilities agree). As shown in these exhibits all of the utilities experience peaks and valleys in their production. In fact, SDG&E did experience a minor dip in its production in 2005. This was partially due to the roll out of SDG&E's new database along with inclement weather conditions experienced throughout Southern California during the winter of 2005 that hindered program work. SDG&E resumed normal to above normal production in 2006 and expects to achieve similar or greater levels in 2007.

SoCalGas saw a similar dip in production in 2005 and the winter weather was partially to blame for the low production totals. Extreme weather not only makes the installation of measures difficult but also disrupts enrollment of customers into the program, as door-to-door canvassing becomes problematic. In mid-2006, SoCalGas became very concerned with production levels as the majority of the weatherization contractors failed to meet their contractual goals, yet continued to maintain that year-end goals would be achieved. Having already experienced one major dip and seeing another impending dip, SoCalGas began exploring options to bring on additional contractors to serve its low income customers. Since the 3rd quarter of 2006, SoCalGas has brought on nine new contractors to perform outreach and assessment, install measures and conduct inspection services in an effort to meet production goals. While it takes time to get contractors up to speed, SoCalGas believes it is approaching full production levels and

does not expect to have difficulty achieving its production goals in 2007 and 2008. SoCalGas has determined that it needs to have a fuller array of contractors to meet its production goals and to have contractors prepared to step up production when other contractors have difficulty achieving their individual goals. SoCalGas also has implemented a number of measures to provide customer leads to contractors so that sufficient work is available. By the end of 2007, SoCalGas expects to generate and provide to contractors over 8,000 new customer leads through various methods, including the following:

- Direct mailers targeted at CARE Post Enrollment Verified customers;
- Bill inserts;
- Community outreach events; and
- Television and print.

ACCES and A W.I.S.H. also point to the fact that “....utilities have had large LIEE carryover amounts the past several years[.]” ACCESS and A W.I.S.H. Comments at p. 1. There are many reasons that cause the utilities to have carryovers. First is non-performance by the contractors themselves. If goals are not met, funds are not spent as planned or projected. Second is program improvements. SoCalGas implemented several business controls in 2004 relative to the repair and /replacement of furnaces. These controls created an excess of over \$3.3 million made available for serving additional homes (enough funding to serve 5,500 homes) in 2004 and \$4.5 million per year in subsequent years. SDG&E and SoCalGas are continually looking for opportunities to increase the efficiencies of their programs and have taken other actions that will result in reduced costs per home served, while still providing the customer with all feasible measures.

SDG&E and SoCalGas also must address the claims of ACCES and A W.I.S.H. that 15%-20% of customers were not provided full services and that 5% cancelled the work once they learned that they could not receive full services. On March 14, 2007, SoCalGas issued a data request to ACCES seeking information to substantiate similar claims made by ACCES, TELACU and the Maravilla Foundation in their comments filed February 26, 2007 in OIR 07-01-042. That information was never provided to the Joint Utilities. Unsubstantiated claims such as this one should be stricken from the record and

ignored by the Commission. In contrast to the statements of ACCES and A W.I.S.H, program data demonstrates that less than 4% of the homes served by SoCalGas in 2006 were unable to receive infiltration measures.

VI. NGAT Issues

As stated in their Opening Comments, the Joint Utilities support the current NGAT process and do not believe that there are any significant problems associated with the process. The protocols associated with NGAT were developed by the Commission as a result of a thorough and inclusive proceeding, in which the Commission and parties sought to ensure that all low income customers reside in safe and non-hazardous conditions. The Joint Utilities consider it imperative that all parties understand completely the two components that comprise the NGAT process: pre-weatherization assessment and post-weatherization NGAT. The Commission requires the utilities to perform these components, which are based on existing state and federal law, as part of the LIEE program. No individual utility has the authority, nor do they solicit such authority, to override these protocols, as some parties appear to suggest.

Some parties suggest that as a result of the NGAT process some homes are left with a hazardous condition. On the contrary, the purpose of the NGAT process is to ensure that no low income home is left with a hazardous condition. As part of the pre-weatherization assessment, if conditions are present in a home that cannot be corrected within the guidelines of the program, infiltration reduction measures will not be installed. Following the installation of infiltration reduction measures, post-weatherization NGAT is performed. Any appliance that fails post-weatherization NGAT is then handled according to established program procedures which allow for some appliance repairs and/or replacements. Any appliance that cannot be repaired or replaced within the program guidelines is either shut-off or disconnected and is reported to the owner or tenant and landlord. These two components of the NGAT process ensure that the residence is left in a safe and non-hazardous condition.

Some parties commented that the LIEE program should repair and/or replace furnaces and water heaters in renter-occupied residences. If a furnace or water heater fails the CO test during post-weatherization NGAT in a renter-occupied home, the appliance is tagged as needing repair by a licensed contractor and is shut off or disconnected; and the

tenant and landlord or owner are informed of the action taken and the reason for such action. Renters do not receive furnace and water heater repair and/or replacement services because the California Legislature has determined that providing for space heating and hot water is the responsibility of the landlord pursuant to California's Civil Code Section 1941.1, and the Commission has followed this policy in not providing for renter furnace and water repair/replacement. The Joint Utilities support the California Legislature's and Commission's judgment and continue to believe that it is the responsibility of the landlord and owners of renter-occupied residences to provide their tenants with properly functioning space heating and hot water. It would be a departure from California Civic Code and past precedent for the Commission to direct utility ratepayers to finance what is the responsibility of landlords and owners.

VII. Conclusion

The Joint Utilities look forward to a decision from the Commission setting the direction for the 2009-2011 LIEE program years. A LIEE program designed to effectively deliver the most energy savings through energy efficiency to every low income customers across the State is a worthwhile design program supported by SDG&E and SoCalGas. The Joint Utilities believe that these objectives can be achieved by the Commission and interested parties working collaboratively over the next few months to effect the necessary changes to the current programs.

Respectfully submitted,

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October 26, 2007

CERTIFICATE OF SERVICE

I hereby certify that a copy of **JOINT REPLY COMMENTS OF SAN DIEGO GAS & ELECTRIC COMPANY AND SOUTHERN CALIFORNIA GAS COMPANY ON THE ADMINISTRATIVE LAW JUDGE'S RULING OF 9/27/07 SEEKING COMMENTS ON ISSUES RAISED IN THE KEMA REPORT AND ON NATURAL GAS APPLIANCES TESTING ISSUES AND THE ADMINISTRATIVE LAW JUDGE'S RULING OF 9/14/07 SEEKING RESPONSES TO QUESTIONS ON FURNACE PROGRAMS AND NATURAL GAS APPLIANCE TESTING** has been electronically mailed to each party of record of the service list in R.07-01-042 and A.07-05-010. Any party on the service list who has not provided an electronic mail address was served by placing copies in properly addressed and sealed envelopes and by depositing such envelopes in the United States Mail with first-class postage prepaid.

Copies were also sent via Federal Express to Administrative Law Judge Kim Malcolm and Commissioner Dian Grueneich.

Executed this 26th day of September , 2007 at San Diego, California.

/s/ Jenny Tjokro
Jenny Tjokro