

**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 for Program Years 2007 and 2008.	Application 06-06-032 (Filed June 30, 2006)
Application of Southern California Gas Company (U 904 G) for Approval of Low-Income Assistance Programs and Budgets for Program Years 2007 and 2008.	Application 06-06-033 (Filed June 30, 2006)
Application of Pacific Gas and Electric Company (U 39 M) for Approval of the 2007 and 2008 California Alternative Rates for Energy and Low Income Energy Efficiency Programs and Budget.	Application 06-06-034 (Filed June 30, 2006)
Southern California Edison Company's (U 388-E) Application for Approval of Low-Income Assistance Programs and Budgets for Program Years 2007 and 2008)	Application 06-07-001 (Filed July 3, 2006)

**COMMENTS OF PACIFIC GAS AND ELECTRIC COMPANY ON PROPOSED  
DECISION OF ADMINISTRATIVE LAW JUDGE MALCOLM GRANTING  
PETITIONS TO MODIFY DECISION 06-12-038 TO DELAY COMPETITIVE BID  
PROCESS FOR LOW INCOME ENERGY PROGRAMS AND TO MAKE MINOR  
CORRECTIONS AND MODIFICATIONS TO DECISION 06-12-038**

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Dated: May 21, 2007

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**I. INTRODUCTION**

In accordance with Rule 14.3 *et seq.* of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission” or “CPUC”), Pacific Gas and Electric Company (“PG&E”) hereby submits these Comments on the Draft *Opinion Granting Petitions to Modify Decision 06-12-038 to Delay Competitive Bid Process for Low Income Energy Programs and to Make Minor Corrections and Modifications to Decision 06-12-038* (Proposed Decision or PD). PG&E supports and appreciates the PD’s approval of PG&E’s request to extend for one year Richard J. Heath and Associates’ Low Income Energy Efficiency (LIEE) administration contract, and defer for one year a competitive bid process for administration of LIEE programs commencing in 2009. By these Comments, PG&E seeks clarification on the intended breadth of

the requirement that the investor-owned utilities secure Energy Division approval before issuing requests for proposals and signing associated contracts related to the Low Income programs.

## II. DISCUSSION

### A. **The PD Should Clarify that the Requirement for Utilities to Receive Energy Division Approval before Issuing Requests for Proposals or Signing Associated Contracts is Limited to Measurement and Evaluation (M&E) and Program Administration Activities for the LIEE and CARE Programs.**

Consistent with the textual discussion in Sections II.H and III.E. of D.06-12-038 and related text in the PD, Finding of Fact 4 and Conclusion of Law 4 in the PD should clarify that Energy Division approval is required before the issuance of RFPs or signing of associated contracts related to M&E or program administration activities for the LIEE or CARE programs. As currently written, the PD in FoF 4 and CoL 4 requires Energy Division approval before Utilities can issue RFPs or sign associated contracts “of any kind” related to the LIEE and CARE programs. This extremely broad language extends beyond the M&E and program administration activities that are discussed in the text as requiring Energy Division pre-approval. The broad language requiring Energy Division approval for issuing RFPs or signing associated contracts “of any kind” is inconsistent with the fact that the requirement to secure Energy Division approval was limited to the M&E and program administration sections in D.06-12-038.

The PD’s discussion about the Utilities’ approval process for contracting references the M&E and program administration sections of D.06-12-038. Specifically, the PD references Section II.H. of D.06-12-038 which is entitled “*Evaluation and Measurement of Program Results and Processes.*” In the context of measurement and evaluation, the relevant language in Section II.H. of the PD directs utilities to receive Energy Division approval before issuing a RFP or signing associated contracts. However, Section II.H. of the PD does not require energy Division approval of other types of contracts or studies beyond M&E. The PD also references and adds text to the Program Administration section of D.06-12-038 (See Section III.E.2. “Program

Administration). The PD proposes to add text to the “Program Administration” section of D.06-12-038 “clarifying that the utilities must receive approval in writing by the Energy Division Director before issuing a request for proposal which approves of the process and specifications for *program administration*, and also before signing a contract.” PD, at p.6 (emphasis added). Based on the language in the text of D.06-12-038, it appears that the Commission intended to require Energy Division approval for M&E and program administration RFPs and related contracts, not contracts “of any kind.”

The language in FoF 4 and CoL 4 is extremely broad and could result in unintended consequences such as the inability to enter, on a timely basis, into “ordinary course of business” contracts necessary to operate the LIEE and CARE programs. The Utilities’ LIEE and CARE programs are significant programs that require many contractual relationships to ensure successful program implementation. As drafted, FoF 4 and CoL 4 would require Utilities to seek pre-approval in writing before issuing an RFP of any kind related to LIEE and CARE, and before signing any contract resulting from an RFP. This restriction seems to be overly broad and permit the Utilities no contracting discretion as overall program administrators. By way of example, PG&E has held competitive bids for CARE’s ethnic marketing in prior program years. Based on the current broad language in the PD, PG&E would need to seek pre-approval before conducting similar RFPs in the future. It is not an efficient use of resources to require pre-approval of RFPs and related contracts “of any kind” which could potentially mean seeking Energy Division approval before issuing an RFP for ordinary course items such as “CARE” pencils for distribution at fairs. Based on the discussion in D.06-12-038, as well as in the text of the PD, it does not seem that the Commission intends to impose such stringent requirements on the LIEE and CARE utility contracting process.

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### III. CONCLUSION

For the reasons set forth above, Pacific Gas and Electric Company respectfully requests that the Proposed Decision's Finding of Fact 4 and Conclusion of Law 4 be modified consistent with the text of D.06-12-038 and require Energy Division approval before issuing a RFP or signing an associated contract related to M&E or program administration of the LIEE and CARE programs.

Respectfully submitted,

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May 21, 2007

CERTIFICATE OF SERVICE BY ELECTRONIC MAIL OR U.S. MAIL

I, the undersigned, state that I am a citizen of the United States and am employed in the City and County of San Francisco; that I am over the age of eighteen (18) years and not a party to the within cause; and that my business address is Pacific Gas and Electric Company, Law Department B30A, 77 Beale Street, San Francisco, CA 94105.

I am readily familiar with the business practice of Pacific Gas and Electric Company for collection and processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, correspondence is deposited with the United States Postal Service the same day it is submitted for mailing.

On the 21<sup>st</sup> day of May 2007, I served a true copy of:

**COMMENTS OF PACIFIC GAS AND ELECTRIC COMPANY ON PROPOSED  
DECISION OF ADMINISTRATIVE LAW JUDGE MALCOLM GRANTING  
PETITIONS TO MODIFY DECISION 06-12-038 TO DELAY COMPETITIVE BID  
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- [ X ] By Electronic Mail – serving the enclosed via e-mail transmission to each of the parties listed on the official service list for A.06-06-032, A.06-06-033, A.06-06-034, A.06-07-001 with an e-mail address.
- [ X ] By U.S. Mail – by placing the enclosed for collection and mailing, in the course of ordinary business practice, with other correspondence of Pacific Gas and Electric Company, enclosed in a sealed envelope, with postage fully prepaid, addressed to all parties on the official service list for A.06-06-032, A.06-06-033, A.06-06-034, A.06-07-001 without an e-mail address.

I certify and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 21<sup>st</sup> day of May 2007 at San Francisco, California.

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/s/  
PATRICIA A. KOKASON