

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

Application of San Diego Gas & Electric)	
Company (U 902 M) for Approval of Low-)	A.06-06-032
Income Assistance Programs for Program Years)	(Filed June 30, 2006)
2007 and 2008.)	
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)	A.06-06-033
)	(Filed June 30, 2006)
And Related Matters.)	
)	A.06-06-034
)	(Filed June 30, 2006)
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)	A.06-07-001
)	(Filed July 3, 2006)
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**SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338-E) COMMENTS ON ALJ
MALCOLM'S PROPOSED DECISION REGARDING PETITIONS FOR
MODIFICATION OF DECISION 06-12-038**

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Dated: **May 29, 2007**

**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.)	A.06-06-032 (Filed June 30, 2006)
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OF DECISION 06-12-038**

I.

INTRODUCTION

Pursuant to Rule 14.3 of the California Public Utilities Commission's (Commission) Rules of Practice and Procedure, Southern California Edison Company (SCE) comments on Administrative Law Judge (ALJ) Malcolm's proposed decision, *Opinion Granting Petitions to Modify Decision 06-12-038 to Delay Competitive Bid Process for Low Income Energy Efficiency Programs and to Make Minor Corrections and Modifications to Decision 06-12-038*, mailed on May 8, 2007 (the Proposed Decision or PD).

SCE agrees with the PD's approval of SCE's requests to correct its CARE and Low Income Energy Efficiency (LIEE) budgets and for separate ratemaking treatment of the Cool Center program. SCE disagrees, however, with the PD's treatment of Ordering Paragraph (OP) 6 of Decision (D.)06-

12-038. The PD declines to modify OP 6 as requested by SCE, Southern California Gas Company and San Diego Gas & Electric Company.¹ Although the PD attempts to clarify OP 6, SCE believes that it only further confuses the issue and appears to endorse an unprecedented and unwarranted Energy Division pre-approval process that will undoubtedly delay the implementation of SCE's (and the other IOU's) low income programs, and thereby impede SCE's ability to provide low income customers with much-needed assistance. SCE does not believe this was the Commission's intended result. Accordingly, SCE respectfully requests that the Commission modify OP 6 consistent with the text of D.06-12-038 and limit the Energy Division Director's prior review and written approval of requests for proposals (RFPs) and associated contracts and reports to measurement and evaluation (M&E) studies of the LIEE and CARE programs, as follows:

SCE, PG&E, SoCalGas and SDG&E shall receive written approval from the Commission's Energy Division Director or his designee prior to issuing any request for proposal, awarding any contract to any consultant or issuing any report **for measurement and evaluation studies** for LIEE or CARE programs.

II.

ORDERING PARAGRAPH 6 SHOULD BE MODIFIED TO LIMIT ENERGY DIVISION DIRECTOR REVIEW AND WRITTEN APPROVAL TO MEASUREMENT AND EVALUATION STUDIES ONLY

A. The Record Does Not Support Prior Energy Division Approval for All Requests for Proposals, Contracts and Reports Related in Any Way to CARE or LIEE

Although the PD attempts to clarify OP 6, it is still unclear which RFPs, contracts and/or reports the Commission wishes the Energy Division to review and approve. The PD calls out M&E and LIEE program administration as the program elements that now require prior Energy Division review and written approval; but goes further to state that Energy Division approval is required

¹ See SCE's Petition for Modification of Decision 06-12-038, filed March 30, 2007, pp. 7-9; San Diego Gas & Electric Company and Southern California Gas Company's Joint Petition for Modification of Decision 06-12-038, filed February 20, 2007, pp. 3-4.

“before issuing an RFP or signing an associated contract *of any kind* related to LIEE or CARE programs.”² Certainly, this is a much larger scope than just M&E and LIEE program administration. Aside from this lack of clarity, neither the text of D.06-12-038 nor the record in this matter supports the now broad scope of Energy Division oversight that the PD appears to endorse.

The substance of this Energy Division written approval process is addressed in no other place in D.06-12-038, *except within the discussion of measurement and evaluation (M&E) studies*:

In our consideration of utility program studies, we have a responsibility to assure funds are spent according to policy objectives and priorities. We are not convinced that giving the utilities complete discretion in this area is optimal in this regard. Currently, Commission staff, rather than the utilities, is responsible to oversee the evaluation and measurement studies for utility energy efficiency programs except those for low income customers. We adopted this policy in order to eliminate any conflict or perception of conflict which occurs when a utility is responsible to evaluate its own performance. The only reason not to extend this practice and policy to low income energy efficiency programs is practical: the Commission staff may not have the resources to tackle all of the studies at this time. Nevertheless, we state our commitment here to assuring the contracts are fairly solicited and the studies are both needed and competently performed. To that end, we direct the utilities to receive approval in writing by the Energy Division Director or his designee before issuing a request for proposal which approves the process and specifications of the request and also before signing a contract. **This process would apply to any and all studies for the CARE and LIEE programs.**³

The PD does not deny that this is the only substantive discussion of the new Energy Division review and approval process requirement. The PD states that “Section II.H. of D.06-12-038 requires the utilities to receive Energy Division’s approval before issuing requests for proposal and before signing contracts” and the decision “clearly so states.” Section II.H. is entitled “*Evaluation and Measurement of Program Results and Processes*” and relates to only that.

Accordingly, the Commission should necessarily modify OP 6 to be consistent with the record. SCE proposes the following language:

² Proposed Decision, Findings of Fact 4 (emphasis added).

³ D.06-12-038, pp. 20-21 (emphasis added). Conclusion of Law 3 of D.06-12-038 also states that: “Utility studies should be overseen by Commission staff to assure they are required, cost-effective and conform to Commission objectives and spending priorities.”

SCE, PG&E, SoCalGas and SDG&E shall receive written approval from the Commission's Energy Division Director or his designee prior to issuing any request for proposal, awarding any contract to any consultant or issuing any report **for measurement and evaluation studies** for LIEE or CARE programs.

B. The PD's "Clarification" of Ordering Paragraph 6 Will Undoubtedly Delay the Implementation of the Low Income Assistance Programs

As currently written, Ordering Paragraph 6 would result in unprecedented micromanagement by the Commission over the day-to-day operations of the utilities' low income assistance programs. SCE is concerned that this Energy Division pre-approval process will have the unintended consequence of delaying implementation of CARE and LIEE, and thus impeding SCE's ability to timely serve its low income customers with much-needed assistance.

SCE is amenable to the Commission's desire to oversee the M&E process. In fact, the Commission has assumed the management and contracting responsibilities for certain EM&V studies for regular energy efficiency programs. There is no reasonable basis, however, for the Energy Division to review and approve in writing each RFP and associated contracts and reports relating *in any way* to CARE or LIEE. These daily responsibilities associated with the operation of CARE and LIEE belong to the program administrator (SCE) so that it can effectively and efficiently, without undue delay, deliver important programs to low income customers.⁴

First, it is impractical for the Energy Division to have such far-reaching oversight over the day-to-day operations of LIEE and CARE. Conducting a competitive bid process and negotiating the resulting contract is a time-intensive and time-sensitive exercise, and the Energy Division is already overburdened by a significant workload. Indeed, the Commission has acknowledged the Commission's lack of resources: "Commission staff may not have the resources to tackle all of the

⁴ In fact, to the extent the IOUs administer their LIEE programs differently (e.g., third party administrators vs. direct administration) the Energy Division pre-approval process has the potential to inequitably favor one form of administration over the other. For instance, only one competitive bid process may be required for the selection of a third party administrator. The third party administrator would then select implementation contractors. These contracts between a third party administrator and their implementation contractors would not be subject to the pre-approval by the Energy Division. On the other hand, if the IOU directly administers its program, it may require a competitive bid process for several aspects of the LIEE program (e.g., purchase of appliances and implementation contractors).

[measurement and evaluation] studies at this time.”⁵ To illustrate this point, Ordering Paragraph 12 and Conclusion of Law 11 of D.06-12-038 directed SCE to provide an updated LIEE marketing plan for program years 2007-08 and a proposal for implementing gas measures to Catalina Island in 2007-08, respectively, by February 15, 2007. SCE timely submitted these proposals (which were 5 pages or less each) for the Energy Division’s review. Over three months later, SCE still has not received final written approval to move forward with these proposals.

To the extent the Energy Division requires several months to review and approve an RFP, review and approve the associated contract and review and approve the resulting reports, the lead time will have to be significant and/or implementation of the CARE or LIEE programs will be considerably delayed.⁶ SCE understands that the Energy Division already has a significant workload, and accordingly, SCE is concerned that Commission staff will not be able to timely review and approve RFPs and associated contracts and reports (relating to *each* IOU’s low income assistance programs) that are necessary for the delivery of low income services to customers.

Second, the PD’s seemingly expansive view of Energy Division oversight has the potential to greatly diminish SCE’s ability to control contract terms that, ultimately, SCE – and not the Commission – is responsible for adhering to and enforcing. SCE already has in place an internal organization responsible for managing and overseeing the competitive bid process to ensure that all applicable rules and procedures are followed. The level of Energy Division oversight suggested by the PD could lead to recommendations by the Energy Division that fall outside existing best practices, which could conflict with already Commission-approved practices. This is a concern that must be fully considered by the Commission before it attempts to exercise the level of operational control it appears to seek through OP 6 of D.06-12-038.

Third, the basis on which D.06-12-038 relies to oversee the competitive solicitation process for M&E – to “eliminate any conflict or perception of conflict which occurs when a utility is responsible to evaluate its own performance” – to SCE’s knowledge, does not exist for contracts

⁵ D.06-12-038, pp. 20-21.

⁶ A typical competitive bid process in the context of the low income assistance programs, based on SCE’s previous experience and under a best case scenario, takes approximately 4 months from start to finish (e.g., preparing the bid to finalizing the contract). Adding time for Energy Division review will add significant time to this process.

regarding the day-to-day operations of the low income programs. If there are concerns that the Commission feels warrant such supervision over the utilities' day-to-day operations, these concerns must first be articulated and fully vetted, and if necessary, a reasonable, more workable, solution reached. Neither D.06-12-038 nor the PD articulates such concerns.

III.

CONCLUSION

For the foregoing reasons, SCE respectfully requests that the Commission modify D.06-12-038 to read as follows:

Current Ordering Paragraph 6	Proposed Revised Ordering Paragraph 6
SCE, PG&E, SoCalGas and SDG&E shall receive written approval from the Commission's Energy Division Director or his designee prior to issuing any request for proposal, awarding any contract to any consultant or issuing any report for LIEE or CARE programs.	SCE, PG&E, SoCalGas and SDG&E shall receive written approval from the Commission's Energy Division Director or his designee prior to issuing any request for proposal, awarding any contract to any consultant or issuing any report <u>for measurement and evaluation studies</u> for LIEE or CARE programs.

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May 29, 2007

CERTIFICATE OF SERVICE

I hereby certify that, pursuant to the Commission's Rules of Practice and Procedure, I have this day served a true copy of SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338-E) COMMENTS ON ALJ MALCOLM'S PROPOSED DECISION REGARDING PETITIONS FOR MODIFICATION OF DECISION 06-12-038 on all parties identified on the attached service list(s). Service was effected by one or more means indicated below:

Transmitting the copies via e-mail to all parties who have provided an e-mail address.
First class mail will be used if electronic service cannot be effectuated.

Executed this **29th day of May, 2007**, at Rosemead, California.

/s/ HENRY ROMERO

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