TELACU

5400 E Olympic Blvd • Third Floor
Los Angeles • CA 90022
T 323.721.1655
F 323.724.3372
www.TELACU.com

March 6, 2024

President Alice Busching Reynolds
Commissioner Genevieve Shiroma
Commissioner Darcie L. Houck
Commissioner John Reynolds
Commissioner Karen Douglas
California Public Utilities Commission
300 Capitol Mall, Suite 500
Sacramento, CA 95814

Low Income Oversight Board
Benito Delgado-Olson
Maria Stamas
Jason Wimbley
Robert Castaneda
Lourdes Medina
Paul Irvin
Lisa Castilone
Hollie Bierman
Patricia Watts
John Tang

Dear Commissioners and LIOB Members:

The undersigned parties to this letter comprise 11 of the 12 current Energy Savings Assistance ("ESA") Program contractors (and one major subcontractor) to Southern California Gas Company ("SCG"). We write to you with a most fervent request that you take several immediate actions necessary to avert the continued failure of the ESA Program to meet its mandate as required by California law. Public Utilities Code §2790 directs the Commission to require the Investor Owned Utilities (IOUs) "to perform home weatherization services for low-income customers…*taking into consideration both the cost-effectiveness of the services and the policy of reducing the hardships facing low-income households."* (emphasis added).

But the CPUC's most recent ESA Decision, D. 21-06-015, dated June 3, 2021, has resulted in the construct of a program design that largely ignores the legislatively mandated policy of reducing hardships (which the Commission calls "Health, Comfort, and Safety" [HCS]) and instead overly emphasizes therm and kWh savings.

Our organizations serve and represent California's lowest-income communities, and more specifically, serve as contractors to various IOUs, having faithfully and effectively carried out the mandates of PUCode §2790 for decades directly inside the homes of low-income ratepayers who are legally required to be adequately served by the ESA Program. Certain IOUs are fundamentally challenged to provide adequate, feasible, and legally-mandated service to those low-income ratepaying households for two reasons:

1. The Commission's recent faulty re-design of the ESA Program has caused feasible measures necessary to benefit the Health, Comfort and Safety of low-income families to be de-emphasized from the ESA Program, contrary to the mandates of PUCode §2790.
2. The IOUs face constraints to take meaningful actions to remedy deficiencies they fully understand to exist in the current ESA Program until they are permitted to do so by the Commission.

This vicious cycle of non-compliance with the mandates of PUCode §2790 by the Commission and certain IOUs is destroying a vital program which has effectively served California's low-income communities for decades, as more fully discussed below.

**<u>Discussion</u>**

The ESA Program as currently designed and implemented by certain IOUs significantly lowers the value proposition for many eligible low-income families in Southern California to participate. Because of this design, contractors are strongly encouraged to enroll and treat homes that can achieve high therm savings, and those homes are typically single-family homes with forced-air units (FAUs) with potential for Smart Fan Controller, Duct Sealing, Tankless Water Heater, and Attic Insulation. Because so many low-income families occupy older housing stock that does not have FAUs, contractors are having to walk away from homes that could otherwise be treated with other important measures, in order to find homes with higher energy savings opportunity.

Since the current focus of the ESA Program has moved away from Health, Comfort and Safety, important air infiltration measures (including building envelope repair [BER], weather-stripping, caulking, glass and door replacement) are provided less frequently because those measures have no longer been deemed to produce stand-alone therm savings. Low-income customers want and need these air infiltration measures, and contractors and utilities want to provide them, but because the current program design does not have a separate goal that values them equitably, customers are largely in turn refusing ANY SERVICES in their homes because contractors are unable to install these desired measures.

Since much-needed infiltration measures are not being installed as frequently in low-income homes, contractors are performing Natural Gas Appliance Testing (NGAT) in fewer households. As a consequence, homes that would otherwise be served could be left in potentially unsafe conditions without the results of NGAT. Instead of high energy savings and HCS measures aligning, the program design has created tension between using available budget on these measures. An example where this is counter-productive is when High-Efficiency Furnaces are installed without air infiltration measures that "seal the building envelope," this does not result in the savings that could otherwise be achieved. In other words, what is the purpose of installing a new High-Efficiency Furnace (a measure “deemed” to generate large amounts of therm savings) into a home that will essentially “leak” those savings out of the home because no HCS air infiltration measures have been installed?

As it relates to the community based contractors who have faithfully carried out the ESA Program for decades, all are greatly struggling financially with the new program design and budget restrictions. It was possible to survive in the past by producing at greater volume, but the ability to achieve any kind of meaningful volume is gone due to the program design. While the cost of implementing the ESA Program has risen greatly, compensation to contractors has not, a particularly difficult situation with the rising costs of doing business in the State of California.

The CPUC decision for the ESA Program setting budgets through program year 2026 was issued in mid-2021. Contractors bid on services agreements in mid-2022, effective beginning 2023. The budgets set at that time have restrictions (such as not being able to carry over funds, or shift from year-to-year), and have not changed in accordance with the actual market conditions. Contractors are therefore having problems retaining their work force because the ESA Program’s compensation does not allow contractors to compete with salary levels for the private sector, placing green ESA jobs in our community at risk.

In our interactions with certain IOUs, the aforementioned problems seem to be fully understood by them. In fact, the recently issued Joint IOUs ESA Midcycle Progress Report explicitly confirms their understanding of several failures with the current ESA Program design. For example, SoCalGas writes in the Midcycle Report:

“SCG lessons learned: *(page 20)*

- Certain HSC (Health, Safety and Comfort) measures had a negative impact on SoCalGas’s ability to (1) meet Therm savings goals and (2) spend program budgets. HCS measures can have low, neutral, and negative savings, affecting total program Therm savings.
- These savings are at odds with [current CPUC] program goals and need to be addressed.
- Not performing comprehensive Home Health and Safety Check-ups and not installing CO and Smoke alarms due to zero savings could be a disservice to participating customers.
- Not installing certain HCS measures to meet new program design goals potentially disenfranchises some of SoCalGas’ most impacted customers, particularly those residing in areas with poor air quality.
- A consideration for an HCS separate budget in addition to separate HCS goals should be explored to allow some of the most disadvantaged customers to continue to benefit from the ESA Program.”

Even with such an acknowledgement, the Midcycle Report says, "The IOUs do not recommend establishing goals for Health, Comfort, and Safety (HCS) metrics at this juncture in the program cycle" *(page 1)* instead recommending to wait until “further experience is garnered through the existing ESA Program cycle on balancing HCS measures and deeper energy savings” *(pages 32 – 33)*. To address its lessons learned, SoCalGas is making the adjustments it discussed in the

TELACU

Midcycle Report. They are also adjusting compensation to contractors to address the increasing cost pressures, but expressed reaching the limit of what can be done within its own budget management responsibilities. To more fully address our concerns the CPUC must address program budgets, program goals, and/or the program design for HCS measures

We are extremely pleased to acknowledge PG&E's progress during the 2023 program year. We believe PG&E is accomplishing their goals because notwithstanding the ESA Program's faulty re-design, providing services in a colder climate renders a higher amount of energy savings and a greater capability to devote their budget to ALL FEASIBLE MEASURES (which includes air infiltration measures for HCS) into customers' homes. This is not comparable to the challenges in the Southern California climate where a greater degree of consideration needs to be given between high energy savings and HCS measures, while meeting energy savings goals and staying within fixed budgets.

The Commission's Low Income Oversight Board (LIOB) is fully aware of this situation and has sent to you a letter describing the problems in the current ESA Program with recommended solutions. We agree with the points made in LIOB's letter and have attached a copy for your review.

**Recommendations**

In an effort to restore the effectiveness of the ESA Program, an effort that certain IOUs acknowledge requires improvement in the Mid-Cycle Progress Report we request that the Commission intervene immediately so that the following occurs promptly:

1. Adjust from a program goal to a program target so that ALL ELIGIBLE LOW-INCOME HOUSEHOLDS participate in the ESA Program regardless of the expected Therm Savings.
2. Make HCS measure changes that allow contractors to install ALL FEASIBLE MEASURES in low income homes.
3. Make program budget changes that allow IOUs to increase the current compensation schedule by 15 to 20% (this increase can be justified by contractors evaluating and sharing current industry cost standards through the immediate performance of a market rate study), and allow for possible future increases if necessary.
4. Allow all contractors' costs to be covered by the program.

We look forward to hearing from you promptly as time is critically of the essence.

Respectfully,

Michael Lizárraga

Michael Lizárraga
President & CEO

On behalf of the following ESA Contractors and Subcontractor:

TELACU

Nicole Milner
American Eco Services
(ECO Services)
License #290497

Dave Clark
Eagle Systems International, Inc.
(Synergy Companies)
License #835016

Todd Allred
Environmental Assessment & Education of California, Inc.
(EASE)
License #902992

Pat Watts
Faith Com, Inc.
(FCI Management)
License #931604

Allan Rago
Free Energy Savings Company, LLC
(Quality Conservation Services QCS)
License #1034739

Mauricio Blanco
John Harrison Contracting, Inc.
License #697530

Alex Sotomayor
Maravilla Foundation
License #622969

Jose Landeros
Proteus, Inc.
License #614000

Scott Landrum
Staples & Associates, Inc.
(Staples Energy)
License #905806

Richard Villasenor
The East Los Angeles Community Union
(TELACU)
License #622252
Inter-City Energy Systems
License #587709

Wallis Winegard
Winegard Energy, Inc.
License #706874

Ron Garcia
Reliable Energy
License #704414

cc: Rachel Peterson, California Public Utilities Commission, Executive Director
Leuwam Tesfai, California Public Utilities Commission, Deputy Executive Director for Energy and Climate Policy
Kapil Kulkarni, California Public Utilities Commission, Senior Analyst Energy Savings Assistance Program, Energy Division

Attachment: LIOB Letter to CPUC Commissioners, Dated December 15, 2023

# Low-Income Oversight Board

December 15, 2023

The Honorable President and Commissioners
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
*Sent via Email*

**Subject: Energy Savings Assistance Program**

Dear CPUC President Reynolds and Commissioners:

The Low Income Oversight Board (LIOB) appreciates having the ability to serve low-income communities with the Energy Savings Assistance (ESA) program. Members of the Board have collaborated to produce this document with the intent of advising the Commission with effective solutions in this critical ESA mid-cycle period. This communication seeks to identify root causes and offer actions/solutions to address these conditions.

**Background**

As you may know, the LIOB exists to advise the Commission on low-income ratepayer issues related to gas, electricity, water and certain aspects of the Lifeline program related to coordinated outreach with the CARE program. This includes the ESA program and other weatherization programs.

Fiscal Year 2023 has been a year of major transitions for the Energy Savings Assistance (ESA) program consisting of numerous program changes with shifting a statewide low-income energy program from an "all homes eligible treatment goal" to a "targeted deep energy savings goals program."

For some IOUs, but not all, these new ESA programmatic objectives have been problematic fostering a ripple effect throughout their respective ESA programs resulting in fewer eligible customers treated and a major financial burden on contractors and their employees.

ESA margins have always been conservative, but in previous years ESA service providers have been able to address those thin margins based on volume. That scale of economy does not exist today given that fewer homes are treated despite the vision of increased spending per home would make up that deficit. That element of the program and its financial transition have not been fully realized.

Some of the causes and proposed solutions are:

- <u>Recognizing that ESA is a "pay for performance" program</u>, all contractors must pay all upfront and program subsistence costs. This financial factor, while the program is transitioning is the principal cause for layoffs and some contractors dropping out of the program, further reducing capacity to treat homes.
- <u>Reduced Program Silo Coordination and Leveraging</u>: The previous ESA program (from the service provider implementation) had a central silo of contracting; the new ESA has transitioned into multiple contracts and separate programs and not every contractor participates with all these new ESA program silos thus exacerbating a financial crunch for many employers.

# Low-Income Oversight Board

- Competitive Process: A primary concern is that competitive solicitations at program launch should mean just that, furthermore, IOUs should not "leverage down" to a subjective cost structure that does not allow for fair or realistic compensation.
- Indirect and Administrative Costs: ESA's "market rate" compensation in many cases is not reflective of actual costs for contractors. Like what the IOUs request from the Commission, we request that administrative overhead be recognized by the IOUs that reflect the rising costs to do business. This includes rising labor costs, materials, employee benefits and associated inflation. We recommend that revised revenue margins that permit both nonprofits and small businesses to remain as ESA service providers be implemented.
- Employee Retention for Contractors: Non-ESA energy service businesses can and do offer better wages, enhanced benefits, and retirement plans. Even the fast-food industry has a wage floor of $20.00 per hour. This economic factor makes it difficult to attract new employees to the ESA program. The fact is it is even harder to retain these ESA skilled employees once they are trained and experienced. These employees cannot be blamed for seeking better paying employment in an energy industry that is growing, lucrative and robust. Most, if not all worker training costs are also paid for by contractors. It takes anywhere from sixty to ninety days to train an ESA entry level employee, get them badged and into the field delivering services. This process takes at a minimum 60-to-90-days of non-revenue producing scenario reflecting a labor cost that is completely absorbed by contractors. In a "pay for performance" program that can exhaust contractor lines of credit, financial assistance (advances) joined by increased compensation margins are mission critical if we are to ensure the sustainability of the ESA program for all eligible low-income households.

- Technology Challenges with IOUs: For some of the IOUs, new - not yet fully functioning - administrative systems that enable lead development/customer acquisition have had significant challenges in generating qualified leads as envisioned in their respective applications. A "restart" of this process was required, and the program is now just getting up to speed, and as a result revenue streams were severely interrupted. Special attention should be made given this procedure, for without a robust customer acquisition process the program will constantly underserve eligible households.

- A need for fair market rate data reflecting the true costs of ESA customer acquisition and ESA Measure(s) installation given this system slow down. These issues have been discussed at both the LIOB and the ESA Working Group for resolution, but the IOUs cite cost-effectiveness mandates as barriers to altering these costs and compensation. There is much truth in their response. Categorical adjustments that allow for non-energy saving costs must be promptly addressed. During the ESA Working Group sessions the IOUs are seeking to address this structural reform at the end of the program cycle. We fear that this needed change may be too late. Realistic measure compensation is required that permits contractors to pay a competitive industry equity wage while meeting the ever-increasing administrative program overhead (insurance, fuel, materials, etc.) costs, supply chain disruptions, and the constant rising cost of inflation.

- Customer Equity: Feedback from the field indicates a "customer measure installation and services gap." Despite ESA household eligibility there are some customers receiving all feasible measures, while others do not. Modifications in the program should seek to provide customer equity with all feasible measures.

As mentioned, fast-food workers are now guaranteed $20.00 per hour. While we applaud that move to ensure a better living wage for the foodservice industry, entry level ESA worker compensation and their employers cannot keep pace with increasing wage structures outside of our program.

We believe, as we are sure you do, that ESA workers also deserve fair compensation, but limited margins set by the IOUs deter contractors in providing an hourly rate that attracts entry level workers into the program while retaining skilled labor to service an evolving 21rst century energy savings program.

This challenging program transition has also generated fluctuations in the program cycle where IOUs are asking contractors to ramp up (increasing their costs and financial risk) only to realize that those increased costs cannot be responsibly sustained by a volatile ESA funding stream. It is essential that peaks and valleys in the ESA funding stream be addressed if we are to sustain a robust ESA program.

Please keep in mind these adverse conditions for ESA customers and service providers are especially acute given that ESA is a pay for performance program. It is recommended that ESA keep pace with other state public purpose programs (CSD and CEC) that anticipate start up and transition costs. Other state agency programs provide contracted service providers with a reasonable advance at the outset of a program launch to lessen the financial burden and risk. They pay back that advance during the progression of the program. Unfortunately, ESA funding has no such advance provision. We are asking that the CPUC direct the IOUs to institute qualified advances while also providing the measure compensation bandwidth that enables any contracted advance to be paid back in full.

While we are hopeful that the IOU authored mid-cycle report will identify some level of needed modifications, this added independent insight seeks to provide the CPUC with added and necessary program perspective moving forward.

The LIOB recommends the following actions to be taken by the Commission:

- Structural Changes: The LIOB requests that the ESA program design for contractors' compensation be based on a time and materials basis. We further request that the effectiveness of the PG&E model of lead generation, balanced with energy savings potential and including all feasible measures for contractors be considered to improve outcomes in other regions of the state.
- Market Rate Study: The LIOB requests the Commission complete a market rate study to inform how contractors are reimbursed for their work on the ESA program and to achieve a prevailing wage for their workforce.
- Support Cash Flow of Contractors: The LIOB requests the IOUs to work with their contractors to determine if contractor advances to ensure the financial stability of the program services delivery would assist financial stability for both the service provider network and the program. Qualified contractor advances will be state law effective January 1, 2024.

- Fund a Prevailing Wage: The LIOB requests the IOUs to implement adequate contractor compensation margins that ensures worker retention, program sustainability and competitive wages.
- Streamline Procurement: The LIOB requests the CPUC to direct the IOUs to reexamine all bulk purchasing activities of appliance programs and equipment with the intent of not overburdening contractors with added expenses that increase the administrative overhead to service implementers.
- Fund Workforce Development: The LIOB requests the IOUs to provide adequate contractor compensation for workforce, education, and training costs for the development of a skilled workforce that meets the demands of an evolving ESA program.
- Independent Study Actual Costs: The LIOB asks the CPUC to order an independent (not IOU administered) ESA market rate study to provide data on fair compensation and the true costs of program fulfillment.
- Compliance with 2790: The LIOB asks the CPUC to direct ALL IOUs to deliver all feasible measures consistent with the Public Utilities Code 2790. The administration of ESA services across all service areas must ensure all income qualified customers seeking ESA services are treated equitably and receive all feasible measures.
- Weatherization Measures: The LIOB further asks the CPUC to direct the IOUs to perform all feasible measures to include "weatherization measures" consistent with PUC Code 2790. This includes completing as many measures as possible to each household for the benefit of the contractor as well as the health, safety and comfort of the ratepayer. These measures include:

  *Attic insulation, caulking, weather stripping, low-flow shower heads, door and building envelope repairs to reduce air infiltration, and water heater blankets. The LIOB understands that some of the IOUs are delivering all feasible measures to include some, if not all weatherization services, however, that is not the case with Southern California Gas (SCG). The LIOB asks the CPUC to direct SCG to deliver all feasible measures (to include air infiltration and weatherization) to their eligible low-income customers.*
- Budget Flexibility for Better Outcomes: The LIOB would request that the CPUC extend ESA budget flexibility to the ESA Main portion of the program for the entire program portfolio. Current budgets should be maintained, but intelligent strategic portfolio budgeting will allow the IOUs to avoid Q4 year decisions primarily for the primary purpose of accommodating deadlines. This Q4 practice may create unforeseen impacts in subsequent fiscal years.

In closing, we thank the CPUC and especially you, our assigned Commissioner Genevieve Shiroma for this opportunity to comment on this most important program.

Sincerely,

Low Income Oversight Board

# Low-Income Oversight Board

Benito Delgado-Olson
LIOB Chair

Robert Castaneda
Public Member

John Tang
Water Utility Representative

Pat Watts
Weatherization Contractor

Lourdes Medina
Public Member

Lisa Castilone
Public Member

c.c. Commissioner Genevieve Shiroma, Commissioner Darcie L. Houck, Commissioner John Reynolds, Commissioner Karen Douglas