

Decision 84 65 009 May 2, 1984

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's )  
own motion into the Commercial and )  
Apartment Conservation Service as )  
required by Title VII of the )  
National Energy Conservation )  
Policy Act as added by the Energy )  
Security Act. )

OII 84-02-01  
(Filed February 1, 1984)

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INTERIM OPINION

This Order Instituting Investigation (Rulemaking) (OII) was issued February 1, 1984 for the purpose of considering issues raised in connection with regulations promulgated October 26, 1983 by the Department of Energy (DOE). The regulations amended Chapter II of Title 10 of the Code of Federal Regulations (CFR) by adding new Part 458, thereby establishing Commercial and Apartment Conservation Service (CACS) as required by Title VII of the National Energy Conservation Policy Act (NECPA), as amended by the Energy Security Act (ESA). Under these regulations, individual states are charged with adopting plans that require energy audits for commercial

buildings and apartment buildings with five or more units, that were not included in the Residential Conservation Service (RCS) program (10 CFR, Part 456).

These buildings are defined at Section 458.102 as follows:  
"§458.102 Definitions - general

"For the purposes of this Part, the term 'Apartment Building' means a building which is used for residential occupancy, was completed on or before June 30, 1980, contains five or more apartments and uses any of the following: a central cooling system; or a central meter for the heating or cooling system."

\* \* \*

"'Commercial Building' means a building -

(a) Which was completed on or before June 30, 1980;

(b) Which is used primarily for carrying out a business (including a nonprofit business) or for carrying out the activities of a State or local government;

(c) Which is not used primarily for the manufacture or production of products, raw materials, or agricultural commodities;

(d) Which is not a Federal building;

(e) For which the average monthly use of energy for calendar year 1980 (or the latest twelve month period for which information is readily available) was less than the following:

(1) 4,000 kilowatthours of electricity, unless it is determined that the building exceeds the average monthly fuel prescribed in either paragraph (e)(3) or (3) of this definition;

(2) 1,000 therms of natural gas, unless it is determined that the building exceeds the average monthly fuel use prescribed in either paragraphs (e)(1) or (3) of this definition;

and

(3) 100 million Btu of any other fuel, unless it is determined that the commercial building exceeds the average monthly fuel use prescribed in paragraphs (e)(1) and (2) of this definition."

The California Energy Commission (CEC) has been named lead agency for the purpose of developing and administering the State CACS plan. The regulations require this plan to be completed by June 1, 1984. They also require that State agencies with ratemaking authority determine whether CACS will significantly impair a covered utility's ability to either fulfill the requirements of RCS or provide utility service to its customers. State ratemaking agencies must also determine the manner in which CACS expenses will be recovered by utilities.

Section 458.207 of the regulations provides as follows:

"§ 458.207 Exemptions.

"A State Plan must not require a covered utility to offer audits to all the commercial buildings and apartment buildings located within its service area if, within six months of the effective date of this part, the State Regulatory Authority which exercises ratemaking authority over the covered utility determines that the inclusion of the additional commercial buildings or apartment buildings would significantly impair the covered utility's ability -

(a) To fulfill the requirements of the Residential Conservation Service (RCS) program set forth in Part 456 of this chapter; or

(b) To provide utility service to its customers."

and Section 458.310 provides, in part:

(b) Payment of costs. The State Plan must require that covered utilities treat costs as described below and must describe how the State Regulatory Authority or the nonregulated utility will specify cost recovery under paragraph (b)(2) of this section.

(1) All amounts expended by a covered utility in providing the audit announcement required under § 458.304 and in program information for the CACS Program shall be treated as a current expense of providing utility service and be charged to all ratepayers of the covered utility in the same manner as other current operating expenses of providing such utility service;

(2) The State Regulatory Authority (in the case of a regulated utility) or the nonregulated utility shall specify by June 1, 1984, the manner in which all other program costs will be recovered except that the amount that may be charged directly to an owner of an apartment building for whom an energy audit is performed pursuant to § 458.305 must not exceed a total of \$15 per apartment in the building or the actual cost of the energy audit, whichever is less.

(3) In determining the amount to be charged directly to customers as provided in paragraph (b)(2) of this section, the State Regulatory Authority (in the case of a regulated utility) or the nonregulated utility shall take into consideration, to the extent practicable, the eligible customers' ability to pay and the likely levels of participation in the program which will result from such charge."

In the OII we directed that respondents file with us their comments regarding the implementation of CACS. Comments were to include the following:

1. A description of any utility program presently in place or planned that complies, in whole or in part, with the provisions of CACS and the attendant regulations.
2. An analysis of whether the implementation of the above program will constitute a "significant impairment" of the utility's RCS program or its present utility service to its customers.

3. Recommendations regarding the recovery of CACS costs, including a comparison of these costs with those of present programs.
4. Any other information which the utility believes is pertinent to CACS.

Respondents named in the OII are Pacific Gas & Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), Southern California Gas Company (SoCal), Southern California Edison Company (SCE), Southwest Gas Corporation (Southwest), Sierra Pacific Power Company (Sierra), Pacific Power & Light Company (PPL) and C. P. National Corporation (CPN).

Respondents filed their comments. In accordance with Rule 14.4 of the Commission's Rule of Practice and Procedure, oral argument was held March 14 in San Francisco before Administrative Law Judge (ALJ) John Lemke to allow respondents to offer any final comments after having reviewed comments of other utilities, those of the staff and the draft of the CEC state plan. The matter was not submitted, but adjourned until a future date when the State plan has been approved by DOE. This is because it is possible that DOE may reject the CEC State plan, and CEC may then require more of the utilities than thus far contemplated. In that eventuality a utility may believe its ability to perform its RCS program or provide utility service might be "significantly impaired." Once the State plan is approved by DOE without any "significant impairment" finding, this OII can be closed.

The draft CEC State CACS plan dated February 23, 1984 was received into the record as Reference Item 10. The document is voluminous; it is unnecessary to discuss it at length. However, some of the highlights of this plan are:

1. Free audits;
2. 75-day response time to audit requests;
3. Optional program measures; and
4. Semiannual reports.

Comments of Respondents

The significant observation of respondents in each of the four areas of comment are set forth as follows:

1. A description of any utility program presently in place or planned that complies, in whole or in part, with the provisions of CACS and the attendant regulations.

CPN advises that commercial walk through energy audits are available on an informal basis which, while not advertised aggressively, are used extensively in conjunction with high bill inquiries.

PG&E presently offers customers the energy audits and services included in CACS. Its multi-unit dwelling (MUD) audits are currently handled by its RCS Department and funded through balancing account rates. Audits of small commercial buildings are currently handled by the company's Energy Management Department and funded in general rates.

PPL currently offers its California commercial customers an audit under its Commercial Energy Analysis Program, which it believes meets or exceeds the requirements of CACS.

SDG&E has two programs which comply in part with CACS. Both programs, the RCS and the nonresidential, have offered energy audits since 1982.

Sierra in 1983 implemented a conservation program for its four largest categories of small to intermediate commercial customers.

SCE believes that its ongoing residential, commercial and industrial conservation programs generally satisfy, in whole or in part, the requirements of CACS.

SoCal states that its Energy Efficiency Audits Program, which is currently in place, complies in part with CACS. In its 1985 test year general rate case, filed in February 1984, it is proposing

implementation of CACS program in 1985 which will comply with all the provisions of CACS.

Southwest is implementing a commercial audit program which the Commission authorized in Decision (D.) 82-11-06, which it believes complies with the spirit and intent of CACS, but which may not comply fully with each provision of CACS and attendant regulations.

2. An analysis of whether or not the implementation of the above program will constitute a "significant impairment" of the utility's present RCS program or its present utility service to its customers.

Respondents state generally that they will be able to implement CACS without significantly impairing ongoing RCS programs or present service to customers. However, some believe that without the details of the CEC State plan, it is not possible to state categorically that some reduced levels of conservation efforts will not occur.

SDG&E, for example, notes that its 1984-1985 programs are funded at a much reduced level than in 1983, and that this may give it much less latitude for complying with additional CACS provisions.

SCE comments that if the CEC State plan requires substantial modification to its ongoing commercial and residential programs, RCS could be impacted by altering available funding and manpower among the three programs. However, it anticipates no significant impairment to present programs provided certain adjustments are allowed, such as qualifying customers for audits based on electrical usage, and adopting a "core/optional" energy format to maintain flexibility and efficiency.

SoCal believes that "significant impairment" should be defined by this Commission and provision for exemption made on a case-by-case basis.

3. Recommendations regarding the recovering of CACS cost including a comparison of these costs with those of present programs.

Respondents, with two exceptions, believe that energy audits under CACS should be charged to all ratepayers rather than having individual audit recipients bear the cost, in whole or in part. Generally, balancing account treatment is favored as the means for funding CACS costs.

PG&E notes that rates to support its MUD audit program are collected through the RCS balancing account, while rates to support its small commercial audit program are recovered through general rate proceedings. It recommends that all CACS program costs be recovered through balancing accounts, with MUD audit costs continuing to be recovered through RCS accounts and a new balancing account established for small commercial audit costs.

SDG&E recommends that the Commission establish a deferred account for 1984-1985 CACS expenses which exceed costs associated with performing present audits.

SCE asks that if it must incur additional costs to implement CACS, it be allowed to recover excess costs through its Conservation/Load Management Adjustment Clause, which is subject each year to a January 1 revision date.

SoCal recommends that costs for CACS be recovered through general rates, as set forth in its 1985 test year general rate case.

CPN states that the CACS may be more sophisticated than RCS audits, and presently estimates CACS audits will be 40% to 60% more expensive than RCS audits, which cost \$125, if a computerized format is used. But if a walk-through audit, without computer assistance is used, it estimates costs about 20% higher than present RCS costs.



PG&E proposes to audit 117,000 MUD units at a cost of about \$2.9 million, or \$25 per audit in 1984. It will also provide 18,000 computer assisted small commercial audits at a cost of about \$1.7 million, or \$96 per audit. Until the final CEC plan is issued, PG&E cannot determine costs for elements which may or may not be included in the plan.

Sierra portrays its proposed conservation costs in the following tables:

The first table (TABLE III of Sierra's response) is a summary of 1984 program expenses as submitted to the Commission in the company's December 1st Report (D.90150) transmitted on November 30, 1983.

SUMMARY OF CONSERVATION PROGRAM EXPENSES

BY FUNCTION

CALIFORNIA JURISDICTION

<u>Conservation Programs</u>	<u>Estimated Total Expense</u>
1. RCS	\$146,724
2. 8% Loan	6,776
3. Cash Rebate	38,300
4. Water Heater Wrap/ Showerhead Installation	76,700
5. Do-It-Yourself	7,000
6. Hardware	900
7. Commercial	28,900
8. Regulatory Compliance	40,100
9. Conservation Research	<u>6,900</u>
TOTAL	\$352,300

The next table sets forth the 1984 expenses re-cast to reflect the impact CACS is expected to have on conservation expenses. Because the "sunsets" on the RCS program announcement January 1, 1985, the resources previously assigned to RCS have been assumed to be reassigned to CACS.

SUMMARY OF CONSERVATION PROGRAM EXPENSES

BY FUNCTION

CALIFORNIA JURISDICTION

<u>Conservation Programs</u>	<u>Estimated Total Expense</u>
1. RCS	\$ 46,724
2. 8% Loan	6,776
3. Cash Rebate	38,300
4. Water Heater Wrap/ Showerhead Installation	76,700
5. Do-It-Yourself	7,000
6. Hardware	900
7. Commercial and Apartment Conservation Service	128,900
8. Regulatory Compliance	40,100
9. Conservation Research	<u>6,900</u>
TOTAL	\$352,300

SoCal estimates costs for the portion of its present program which is comparable to CACS to be about \$2.7 million in 1984. It estimates costs for the 1985 CACS program to be about \$734,000. A similar amount is requested for 1986.

4. Any other information which the utility believes is pertinent to CACS.

CPN suggests that CACS include grandfathering of commercial energy audits completed under previous programs; that to the extent its existing program meets the basic requirements of the adopted CACS, its current program be accepted for the purpose of conducting CACS audits; that if a customer is served concurrently by two different utilities, responsibility for conducting CACS audits shall reside with the utility supplying the largest percentage of energy consumed; that multi-jurisdictional utilities be allowed to use audit programs mandated for use in other jurisdictions; and that walk-through audits without computer aid are adequate for many small commercial customers.

SoCal submitted its position paper on CACS, which summarizes its recommendations for inclusion in the CACS plan. This paper essentially suggests the CACS plan be written to provide utilities maximum flexibility in developing their respective programs while not diluting the effectiveness of existing audits or cause excessive expenditures; the delegation to utilities of the responsibility for establishing assumptions and methodologies for use in audits with validation by CEC and approval prior to implementation; and do-it-yourself audits.

None of the respondents anticipates the need at this point to employ new manpower to implement CACS.

Some of the utilities have indicated they are working with CEC to ensure the CACS State plan meets the mandate established in Title VII of the NECPA.

#### Discussion

Respondents currently have programs in effect which should be adaptable to meet the requirements of CACS. Staff observes that commercial customers are being reached through small commercial audit

programs which were established in response to the Mello Bill (AB 3539). This bill, enacted by the California legislature in 1978 (Chapter 1156), requires that utilities offer energy audits to small commercial customers. (Apartment customers are reached mainly through audit programs which utilities have associated with RCS.)

Analysis of the comments of respondents indicates that ongoing programs will have to be modified to comply with CACS. But no utility has requested an exemption based upon significant impairment, although respondents have deferred a final opinion concerning a need for exemption until the State plan is finalized. At the time of oral argument on March 14 only a draft of the State plan had been prepared and issued.

In its comments staff notes that costs for the utilities' programs are recovered through general rates; that for the larger utilities authorizations and fundings for RCS programs come from special conservation proceedings, while for commercial programs they come from general rate proceedings. But for the smaller utilities, all fundings are made in general rate proceedings. Staff also notes that most RCS programs are accounted for in balancing accounts which have provisions for utilities to be made whole in case of undercollections. However, commercial programs are limited to specific conservation budgets. Staff also has observed that utilities do have some freedom to transfer funds among the various conservation programs in budget during the budget year.

Based upon the foregoing we believe that implementation of CACS will not significantly impair respondents' abilities to fulfill the requirements of the current RCS program, nor to provide utility service to their customers. We also believe that present methods of recovering costs for audit programs are suitable for CACS recovery as well. However, it is not necessary here to specify whether a

particular utility's CACS program should be funded from a balancing account, or for example, through a conservation load/management adjustment clause offset procedure. All the cost recovery methods discussed above are adequate; each respondent's particular means of cost recovery should be considered individually at the appropriate time.

#### Charges For Audits

None of the respondents currently assesses a charge for performing energy audits. We believe that to assess a charge for a CACS audit would be counter-productive. In D.93891 dated December 30, 1981 in Application 60700, we found (Finding of Fact 52) that "It would be inequitable and ineffective and would discourage conservation to charge a \$15 fee for the RCS audits." The same reasoning is applicable to CACS. We believe therefore that actual costs for audits should be borne by all ratepayers, except in the case of duplicate audits.

#### Findings of Fact

1. Implementation of CACS will not significantly impair the ability of any respondent to the OII to fulfill present RCS requirements, nor to provide adequate utility service.

2. Current methods of cost recovery for existing audit programs are suitable for CACS cost recovery.

3. No charge should be assessed for a CACS audit, unless it is a duplicate audit.

4. This decision must be issued in time to allow CEC to submit its completed State plan to DOE by June 1, 1984.

#### Conclusions of Law

1. Findings of Fact 1 through 3 should be adopted by the Commission as its policy with respect to DOE's regulations concerning CACS.

2. This proceeding should remain open until CEC's State plan is approved by DOE.

3. Due to the early need by the CEC of the findings set forth above, this order should be effective on the date of signature.

INTERIM ORDER

IT IS ORDERED that:

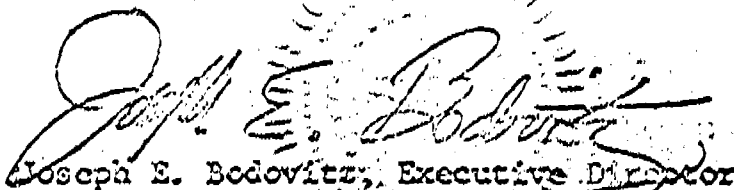
1. Findings of Fact 1 through 3, set forth above, are adopted as the policy of this Commission with respect to the Department of Energy's regulations, issued October 26, 1983, concerning Commercial and Apartment Conservation Service.

2. This proceeding shall remain open until approval by the Department of Energy of the California Energy Commission's State plan. This order is effective today.

Dated MAY 2 1984, at San Francisco, California.

LEONARD M. GRIMES, JR.  
President  
VICTOR CALVO  
FRISCILLA C. GREW  
DONALD VIAL  
WILLIAM T. BAGLEY  
Commissioners

I CERTIFY THAT THIS DECISION  
WAS APPROVED BY THE ABOVE  
COMMISSIONERS TODAY.

  
Joseph E. Bodovitz, Executive Director

84 05 009

MAY 2 1984

ORIGINAL

Decision

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into the Commercial and Apartment Conservation Service as required by Title VII of the National Energy Conservation Policy Act as added by the Energy Security Act.

OII 84-02-01  
(Filed February 1, 1984)

Peter W. Hanschen and Robert B. McLennan, Attorneys at Law, for Pacific Gas and Electric Company; Thomas D. Clarke, Jeffrey E. Jackson, and Frederick E. John, Attorneys at Law, for Southern California Gas Company; Larry C. Mount, Attorney at Law, for Southern California Edison Company; Manning W. Puette, Attorney at Law, for San Diego Gas & Electric Company; and Jerry Bowman, for Southwest Gas Corp.; respondents.  
*Jerolyn* → Jerolyn Fontes, for California Energy Commission, interested party.  
James S. Rood, Attorney at Law, and Arthur Mangold, for the Commission staff.

INTERIM OPINION

This Order Instituting Investigation (Rulemaking) (OII) was issued February 1, 1984 for the purpose of considering issues raised in connection with regulations promulgated October 26, 1983 by the Department of Energy (DOE). The regulations amended Chapter II of Title 10 of the Code of Federal Regulations (CFR) by adding new Part 458, thereby establishing Commercial and Apartment Conservation Service (CACS) as required by Title VII of the National Energy Conservation Policy Act (NECPA), as amended by the Energy Security Act (ESA). Under these regulations, individual states are charged with adopting plans that require energy audits for commercial