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Decision 92-06-060 June 17, 1992

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's  
own motion to comply with Senate  
Bill 987 and realign residential  
rates, including baseline rates,  
of California's energy utilities.

ORIGINAL  
I.88-07-009  
(Filed July 8, 1988)

OPINION MODIFYING DECISION 92-04-024

On May 21, 1992, "Southern California Edison Company's Petition to Modify Decision 92-04-024" (Petition) was filed. Decision (D.) 92-04-024 expanded the Commission's Low Income Ratepayer Assistance (LIRA) program and required the respondent energy utilities<sup>1</sup> to propose the necessary tariff revisions by advice letter no later than May 1, 1992. This decision resolves the issues raised in the Petition and authorizes the utilities to propose changes to the LIRA tariffs as necessary to comply with this opinion modifying D.92-04-024.

Background

D.92-04-024 was issued to carry out Senate Bill (SB) 693, which added the following to Section 739 of the Public Utilities Code:

1 C.P. National (gas operations), Pacific Gas and Electric Company (PG&E), Pacific Power/Utah Power (Pacific Power), San Diego Gas & Electric Company (SDG&E), Sierra Pacific Power Company, Southern California Edison Company (Edison), Southern California Gas Company (SoCalGas), Southern California Water Company (Big Bear electric district), and Southwest Gas Corporation were named as respondents in the Order Instituting Investigation, I.88-07-009. C.P. National has been acquired by Washington Water and Power, so Washington Water and Power will be substituted as a respondent in this proceeding.

- "(g)(2) The commission's program of assistance to low-income electric and gas customers shall, as soon as practicable, include nonprofit group living facilities specified by the commission, if the commission finds that the residents in these facilities substantially meet the commission's low-income eligibility requirements and there is a feasible process for certifying that the assistance shall be used for the direct benefit, such as improved quality of care or improved food service, of the low-income residents in the facilities."

A public workshop to assist the utilities in implementing D.92-04-024 was held by the Commission on May 12 and May 15, 1992.

At the workshop, representatives of the California Department of Social Services, the Department of Drug and Alcohol Programs, and other workshop participants sought clarification of the Commission's intent underlying its exclusion of "government-owned" and "government-subsidized" housing as well as clarification of the requirement that a facility be licensed in order to qualify for the expanded LIRA program.

A consensus on these and other implementation issues was reached among the workshop participants. To make the workshop agreement a matter of public record, Edison filed the Petition. Edison identified the following issues for resolution in a decision modifying D.92-04-024:

Which license(s) does a facility need for eligibility?

What is the definition of "government-subsidized"?

Edison requested that the resultant Commission decision be effective prior to June 10, 1992, the effective date of the advice letters which were filed in compliance with D.92-04-024. In an Administrative Law Judge's Ruling dated May 29, 1992, the

utilities were directed to accept and hold for processing any applications for expanded LIRA benefits from ratepayers whose eligibility may be affected by the resolution of the above-identified questions. The ruling also solicited the parties' comments on a draft form of this decision.

Comments were received from Edison, PG&E, Pacific Power, SDG&E, and SoCalGas. These parties offered comments on two issues, the standard LIRA application form and the effective date of expanded LIRA tariffs.

SDG&E's sole concern was that utilities should be permitted to hold applications for expanded LIRA benefits until the effective date of this decision. Ordering Paragraph 4 requires utilities to process those applications "in accordance with this order as soon as possible." This language implies that applications must be processed after the decision becomes effective. No modification is needed to respond to SDG&E's concerns.

SoCalGas fears that expanding the LIRA program to non-profit group living facilities and homeless shelters may not be cost-effective. It recommends the Commission review the expanded LIRA program in one year to determine if the expanded program has been cost-effective. SoCalGas' suggestion should not be adopted because there is no evidence that any conclusion regarding cost-effectiveness can be made after only one year. D.92-04-024, which adopted the expanded LIRA program, already requires the utilities' 1993 LIRA report to include the expanded LIRA program and holds this proceeding open for evidentiary hearing as necessary.

While the remaining utilities support the adoption of a standardized application form for the expanded LIRA program, they believe that no model application form should be required for the existing residential LIRA program at this time. Edison states that the self-certifying utilities are planning to develop a model residential LIRA application form to be used after the next income

level change in March of 1993. PG&E and Pacific Power state that utilities which use the Department of Economic Opportunity (DEO) to certify applications must use an application that satisfies DEO's administrative needs, as well as the Commission's LIRA program requirements.

Under the circumstances, it would be reasonable to delete from this order the suggestion that the utilities adopt a model application form for the existing residential LIRA program. The Commission may review this matter in the course of its 1992 evaluation of the LIRA program.

Pacific Power states this decision requires "significant changes to be made regarding program eligibility." For the sake of administrative efficiency, Pacific Power suggests that implementation of the expanded LIRA program be deferred until the fortieth day after tariff revisions are filed, or until about August 9, 1992.

Edison and PG&E point out that this decision makes only minor modifications to the expanded LIRA program. To reduce any delay in implementing the revised expanded program, they suggest that the expanded LIRA tariffs be effective when the implementing advice letters are filed, rather than in the normal 40-day period under General Order 96-A.

We find the modifications to the expanded LIRA program to be quite minor. None of the issues covered in this decision affect the basic structure of the expanded LIRA program, as adopted in D.92-04-024, to an extent that justifies postponement of implementation until August. Therefore, the advice letters filed to implement this decision should become effective five days from the date of filing, and the utilities should proceed to process applications for the expanded LIRA program as directed by Ordering Paragraph 4.

The Commission provides the following clarification of the criteria adopted in D.92-04-024.

1. How should the term "Government-Owned and Government-Subsidized Housing Facilities" as employed in D.92-04-024 be defined?

In the context of the expanded LIRA program, this phrase describes three major types of housing. The first is publicly owned housing, which is owned by a local government (city or county) or a housing authority. The second is owned by a private for-profit entity which receives government assistance to defray construction costs. The third is a private, non-profit, government-subsidized housing owner/builder. The government subsidy to the private entities is intended to reduce the amount of capital investment in the project so that the outstanding loan can be serviced from below market-rate rental payments. The subsidy can take one of the following three forms: a very low interest mortgage, a direct cash grant, or a continuing rent subsidy.

In D.92-04-024, the Commission denied expanded LIRA benefits to owners or operators of "government-owned and government-subsidized housing." Even though these residential facilities may be owned or operated by non-profit entities, they are not eligible for the expanded LIRA program because they provide no service besides lodging.

We specify that publicly owned housing is not eligible for a LIRA discount. Non-profit owners or operators of residential facilities are eligible for the LIRA program even if construction of the residence was subsidized by a government program. However, the residential facilities must meet all other applicable criteria.

The Commission intended to extend the LIRA discount to facilities that house low-income persons, and under the Commission's existing criteria, those persons may be recipients of government assistance programs. As a practical matter, these individuals compensate the facilities out of their government-issued checks. Thus, the fact that a government subsidy enables the resident to receive meals, rehabilitation, or other treatment

from the facility will not make the facility ineligible for the LIRA discount.

A workshop participant advised our staff that a non-profit group living facility may consist of a licensed, "mother ship" facility and non-licensed "satellite" facilities. State regulations do not require licensing of the satellite facilities. Participants asked whether a separately metered satellite facility would be eligible for the LIRA rate. We find that a non-licensed satellite facility should be eligible for the LIRA discount so long as it meets the following criteria:

1. The "mother ship" facility is licensed by the appropriate state agency and otherwise complies with the LIRA criteria.
2. At least 70% of the energy consumed by the satellite facility must be used for residential purposes. This means that if the site is used for vocational training, education, or other activities such that energy usage for sleeping and eating accounts for less than 70% of the energy consumed, it will not be eligible for the LIRA rate.
3. The "mother ship" facility must appear as the customer of record for the satellite facility.

The utilities should revise their LIRA materials to indicate that a licensee may receive the LIRA rate for satellite facilities if the above conditions are met. The utilities should also solicit the addresses of the satellite facilities on the LIRA application forms.

2. What types of licenses are acceptable to qualify a non-profit group living facility for the expanded LIRA program?

Based on information available from the public participation workshops held in January 1992, D.92-04-024 assumes that a non-profit organization which meets the Commission's

eligibility criteria for group living facilities is licensed by the Community Care Licensing Division (CCLD) of the State Department of Social Services, unless it is a homeless shelter.

Representatives of the Department of Social Services and Department of Drug and Alcohol Programs stated that residential facilities which provide services to promote the health and safety of their residents are currently licensed by the Department of Social Services, the Department of Health Services, or the Department of Drug and Alcohol Programs.

The residential facilities licensed by these agencies care for residents who, either temporarily or permanently, cannot function normally outside of the group home environment. Clearly, the provision of such services brings these homes within the intent of SB 693.

The Commission finds that licensing by a state agency is required for the efficient verification that such services are in fact being provided. Since agencies besides the Department of Social Services issue caregiver licenses and we cannot know which state agency may be delegated the licensing responsibility in the future, it is reasonable to modify D.92-04-024 to require that the group living facility be licensed by the "appropriate state agency."

3. What licensing criteria must be satisfied by homeless shelters?

D.92-04-024 correctly recognizes that homeless shelters are not licensed by the state. However, evidence of the applicant's operation and lodging capacity can be provided in the form of the shelter's municipal or county conditional use permit.

The LIRA application should be revised to require any homeless shelter applicant to submit a copy of its conditional use permit, along with a copy of the Internal Revenue Service letter granting it non-profit status.

Several of the workshop participants stated that the operations of homeless shelters are often assisted by direct government grants, rather than through governmental benefits obtained by their residents. They feared that the following statement in D.92-04-024 excludes homeless shelters from the expanded LIRA program: "Government-owned and government-subsidized housing facilities are not qualifying group homes."

This quoted passage is intended to exclude from the LIRA program owners or operators of public housing and non-profit owners or operators of private housing which provide no service besides lodging to low-income individuals. The stated language does not apply to homeless shelters.

It was also noted that a non-profit organization may operate a homeless shelter in a building owned by a governmental agency. In that case, governmental ownership of the building will not render the non-profit organization ineligible for the LIRA rate so long as the non-profit entity is the utility customer of record for the site and 70% of the energy consumed on site is used for residential purposes (eating and sleeping).

4. Should the utilities adopt a standardized LIRA and expanded LIRA application form?

Many of the utility representatives at the workshop concurred in the suggestion that a standard application form be adopted for both the existing and the expanded LIRA program. In the almost three years since the inception of the residential LIRA program, utility representatives have gained considerable experience with the public's response to the LIRA program. We urge the utilities to draw upon this experience, as well as the suggestions of parties that have attended the various LIRA workshops, to arrive at model application forms that can be used by all of the respondent utilities.



Conclusion

Our issuance of D.92-04-024 was intended as a timely response to SB 693. We appreciate the respondent utilities' good faith review of that decision and the spirit of cooperation that has pervaded our joint attempt to implement D.92-04-024. Edison's timely Petition has been especially helpful. The foregoing resolution of issues examined at the May 12 and May 15, 1992 workshop should be sufficient to guide the parties' implementation of D.92-04-024.

Each of the utilities should revise its LIRA tariff to conform with this order, as necessary, by advice letter filed pursuant to General Order 96-A no later than 20 days after the effective date of this order. The advice letter shall become effective within 40 days of the date of filing.

Each respondent utility should process applications for the expanded LIRA program which have been (1) held in abeyance pursuant to the Administrative Law Judge's Ruling of May 29, 1992, or (2) received prior to the effective date of tariffs filed pursuant to this order, in accordance with this order as soon as possible. Determination of eligibility shall not await the effective date of any LIRA tariff amendments; the utilities are authorized to place eligible ratepayers on the expanded LIRA rate in accordance with this decision.

Findings of Fact

1. A public workshop to assist the utilities in implementing D.92-04-024 was held by the Commission on May 12 and May 15, 1992.

2. On May 21, 1992, "Southern California Edison Company's Petition to Modify Decision 92-04-024" (Petition) was filed.

3. At the workshop, representatives of the California Department of Social Services, the Department of Drug and Alcohol Programs, and other workshop participants sought clarification of the Commission's intent underlying its exclusion of "government-owned" and "government-subsidized" housing as well as clarification

of the requirement that a facility be licensed in order to qualify for the expanded LIRA program.

4. In D.92-04-024, the Commission denied expanded LIRA benefits to owners or operators of "government-owned and government-subsidized housing." Even though these residential facilities may be owned or operated by non-profit entities, they are not eligible for the expanded LIRA program because they provide no service besides lodging.

5. Government-owned housing is not eligible for a LIRA discount.

6. Privately owned "for profit" government-subsidized housing is also not eligible for the discount.

7. Non-profit owners or operators of residential facilities are eligible for the LIRA program even if construction of the residence was subsidized by a government program. However, the residential facilities must meet all other criteria applicable to the expanded LIRA program.

8. The fact that a government subsidy enables the resident to receive meals, rehabilitation, or other treatment from the facility will not make the facility ineligible for the LIRA discount.

9. A non-licensed, separately metered satellite facility should be eligible for the LIRA discount so long as it meets the following criteria:

- a. The "mother ship" facility is licensed by the appropriate state agency and otherwise complies with the LIRA criteria.
- b. At least 70% of the energy consumed by the satellite facility must be used for residential purposes. This means that if the site is used for vocational training, education, or other activities such that energy usage for sleeping and eating accounts for less than 70% of total energy consumed, it will not be eligible for the LIRA rate.

- c. The "mother ship" facility must appear as the customer of record for the satellite facility.

10. The residential facilities licensed by the Department of Social Services, the Department of Health Services, and the Department of Drug and Alcohol Programs care for residents who, either temporarily or permanently, cannot function normally outside of the group home environment; such licensed facilities are the intended beneficiaries of SB 693.

11. Licensing by a state agency is required for the efficient verification that such services are in fact being provided.

12. D.92-04-024 should be modified to require that the group living facility be licensed to care for residents who, either temporarily or permanently, cannot function normally outside of the group home environment by the appropriate state agency.

13. The LIRA application should be revised to require any homeless shelter applicant to submit a copy of its conditional use permit, along with a copy of the Internal Revenue Service letter granting it non-profit status.

14. The statement in D.92-04-024, "Government-owned and government-subsidized housing facilities are not qualifying group homes," does not apply to homeless shelters.

15. Governmental ownership of a building in which a homeless shelter is operated will not render the non-profit organization operating the shelter ineligible for the LIRA rate so long as the non-profit entity is the utility customer of record for the site, and 70% of the energy consumed on site is used for residential purposes (eating and sleeping).

Conclusion of Law

It is reasonable to modify D.92-04-024 to incorporate the clarifications discussed herein.

O R D E R

IT IS ORDERED that:

1. The respondent utilities should adopt a model application form for the expanded Low Income Ratepayer Assistance (LIRA) program and the expanded LIRA program. The expanded LIRA application shall be revised to accomplish the following:

- a. Solicit the addresses of satellite facilities on the LIRA application forms.
- b. Require any homeless shelter applicant to submit a copy of its conditional use permit, along with a copy of the Internal Revenue Service letter granting it non-profit status.

2. The second full paragraph on page 11 of the mimeo. version of Decision (D.) 92-04-024 is amended as follows:

The following language is deleted:

"...from the Community Care Licensing Division (CCLD) of the State Department of Social Services, except for homeless shelters which are not licensed by the CCLD."

The following language is inserted:

"...by the appropriate state agency."

3. Each respondent utility shall revise its LIRA tariff to conform with this order by advice letter filed pursuant to General Order 96-A no later than 20 days after the effective date of this order. Tariffs shall be effective five days after filing.

4. Each respondent utility shall process applications for the expanded LIRA program, which have been (1) held in abeyance pursuant to the Administrative Law Judge's Ruling of May 29, 1992, or (2) received prior to the effective date of tariffs filed pursuant to this order, in accordance with this order as soon as possible. Determination of eligibility shall not await the effective date of any amendments to the LIRA tariff made pursuant

to this order. The utilities are authorized to place eligible ratepayers on the expanded LIRA rate in accordance with this decision.

5. C.P. National shall be replaced by Washington Water and Power as a respondent utility.

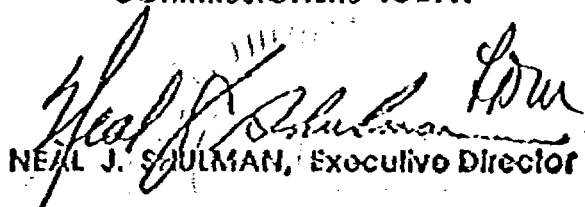
6. "Southern California Edison Company's Petition to Modify Decision 92-04-024" filed on May 21, 1992 is granted to the extent provided herein. D.92-04-024 is modified in accordance with this decision.

This order is effective today.

Dated June 17, 1992, at San Francisco, California.

DANIEL Wm. FESSLER  
President  
JOHN B. OHANIAN  
PATRICIA M. ECKERT  
NORMAN D. SHUNWAY  
Commissioners

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

  
NEAL J. SULMAN, Executive Director