

Decision 98-07-098 July 23, 1998

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the
Commission's Proposed Policies Governing
Restructuring California's Electric Services
Industry and Reforming Regulation.

Rulemaking 94-04-031
(Filed April 20, 1994)

ORIGINAL

Order Instituting Investigation on the
Commission's Proposed Policies Governing
Restructuring California's Electric Services
Industry and Reforming Regulation.

Investigation 94-04-032
(Filed April 20, 1994)

**OPINION REGARDING THE WORK PLAN
AND BUDGET OF THE ELECTRIC EDUCATION TRUST**

I. Summary

Today's decision addresses the "Proposed Work Plan and Budget [Work Plan] of the Electric Education Trust [EET] Administrative Committee" (EETAC). We have reviewed the Work Plan and believe several changes are necessary. First, the EETAC shall be ordered to submit a plan for the design and implementation of an educational effort using the \$3 million that was allocated in Decision (D.) 97-03-069. Second, the EETAC shall submit to the Commission for approval a detailed plan for the educational outreach efforts that are to be undertaken by community-based organizations (CBOs) as authorized in D.97-08-064. Both of these plans are to be filed with the Commission no later than September 30, 1998.

We have also made some changes to the Work Plan with respect to the proposed use of outside vendors. Instead of using outside vendors to assist the EETAC in the design and development of a CBO educational outreach effort, the

EETAC should rely on the resources of the Consumer Services Division (CSD) and other state resources to the maximum extent possible.

We also address in this decision EETAC's request to approve its proposed charter and bylaws (Charter). Related to this request, and consistent with our decisions for other advisory boards, we set forth a number of administrative and governance rules which shall apply to EETAC in its role as an advisory body to the Commission. These include rules pertaining to expense reimbursement, procurement of services, indemnification of Committee members, conflicts of interest, and compliance with the Bagley-Keene Open Meeting Act. The proposed Charter has been modified to reflect these rules as shown in attached Appendix A in underline and strikeout format.

With respect to the proposed Trust Agreement, since the role and funding mechanism of the EETAC differs from certain other advisory boards that the Commission has authorized, there is no need to set up a fiduciary-type trust for the EET as envisioned in the proposed Trust Agreement. Instead, this decision authorizes San Diego Gas & Electric Company (SDG&E) to continue to pay the EET-related bills after they have been authorized for payment by the EETAC.

Finally, in order to bridge the gap between the end of the primary focus of the Customer Education Program (CEP) that was authorized in D.97-08-064, and the start up of the EET's efforts, the CSD is directed to develop a near-term educational effort utilizing the unspent monies that were allocated for the CEP effort. This near-term effort by the staff should begin as soon as possible.

II. Discussion

In D.97-03-069 the EETAC was ordered to "prepare a detailed work plan and proposed budget for the types of activities that it believes it should be involved in." (D.97-03-069, p. 38.) With the expanded CBO education and outreach effort adopted in D.97-08-064, the EETAC was directed to file a detailed

proposal for this outreach effort. The Work Plan was filed on October 15, 1997 in response to those two decisions. The Work Plan sets forth the process the EETAC plans to follow to develop, design and implement a community-based education and outreach effort and the proposed budget for such activities.

The Greenlining Institute (Greenlining) was the only party who submitted comments regarding the Work Plan. Greenlining filed a motion on November 4, 1997 to accept the late filing of its comments on the Work Plan. Greenlining states that it was unable to file its comments by the October 30, 1997 deadline because it received the Work Plan late and because it was busy in other Commission proceedings. No one filed any response to Greenlining's motion. We will grant the motion of Greenlining to accept the late-filing of its comments to the Work Plan. The Docket Office shall be directed to file the "Comments on Behalf of the Greenlining Institute Regarding the EET's Proposed Work Plan and Budget" as of November 4, 1997.

III. Electric Education Trust Work Plan and Budget

A. Summary of the Work Plan

The Work Plan filing consists of a description of the EETAC, its administrative structure, the relevant decisions and authorized funding levels, the proposed schedule, activities and budget, the proposed charter and bylaws, the proposed trust agreement, and the proposed reimbursement guidelines and procedures.

The Work Plan of the EET covers a two-year period. It states that the role of the EET is to promote the education of consumers in helping them to understand the changes to the electric industry during the transition period to direct access. The EET is to provide consumers with correct, reliable, and easily understood information to help consumers make informed choices. In particular, the EET was directed to target

consumer groups and communities where direct access participation remains low or where the level of reported consumer abuses is high. In D.97-08-064, the Commission authorized the EET to design and manage a community-based education and outreach effort.

The funding for the EET was authorized in two decisions. In D.97-03-069, the Commission authorized \$3 million to fund the administrative and general overhead expenses of the EET and to "fund specific customer education efforts that do not employ the use of a CBO or other grassroots organization." (D.97-08-064, p. 92.) This amount was to come from PG&E, SDG&E, and Edison in proportion to each utility's 1996 actual sales. In D.97-08-064, the Commission authorized \$10 million for CBO educational outreach efforts. In addition, unspent funds from the Consumer Education Advisory Panel (CEAP) were to be made available to the EET. We are informed that this amounts to approximately \$126,000.

The Work Plan requests that the Commission designate SDG&E as the paying utility until a fiscal agent is retained by the EET to receive and disburse funds on the EET's behalf. The Commission designated SDG&E as such in D.98-01-020. That decision authorized SDG&E to pay all of the authorized expenses incurred in connection with the operation of the EET until the EET is formed as a legal entity.

The Work Plan recites that the EET's goal is to work cooperatively with other boards, agency staff, utilities and interested parties to assure that its mission is achieved at a minimum cost. With respect to the activities of the CEP, the Work Plan states that the investor-owned utility (IOU) representatives have agreed to brief the EET on the CEP's activities on a regular basis, and that they will help to inform CBOs about the EET's mission and scope of work. The IOUs will also collect data

and share it with the EET. This data consists of the following: (1) the number of calls received by the call center, the type of call, and the caller's location;¹ (2) results of the CEP research; and (3) reports from field representatives regarding direct access participation, knowledge gaps, abuses, and other areas of concern.

The Work Plan also calls for the EET to obtain information from the IOUs with respect to the IOUs' daily contact with their customers. This information consists of: (1) the number and location of consumer elections for direct access or virtual direct access; (2) the number and type of calls regarding electric restructuring by geographic region; and (3) the number and type of customer complaints regarding electric restructuring.

The EET will also work with the Consumer Affairs Branch of the CSD to gather similar information regarding consumer contacts. In addition, the Work Plan calls for the EET to work with the Commission's outreach efforts, and to share resources, materials, and information to the maximum extent possible. The EET also proposes to coordinate its outreach efforts and education materials with the activities of the Low Income Governing Board, which serves the same constituents as the EET.

The Work Plan states that the purpose and objective of the Administrative Committee of the EET is to formally organize the EET and to define the purpose and scope of the EET's activities. The EETAC is to be organized according to the organization chart shown in Attachment C of

¹ We recognize that the information regarding the number of customers who elect direct access and the location of those customers is highly confidential information. The utilities and the EETAC should take steps to ensure that this kind of information remains confidential.

the Work Plan. The EETAC proposes to hire an administrator for the EET. The administrator is responsible for hiring a CBO grant consultant to develop an outreach plan, and a research consultant to conduct the initial and ongoing research for the EET. The Work Plan also calls for a contract with a fiscal agent who will be responsible for disbursing EET funds in accordance with EET-established guidelines and approval authorizations. In addition, a separate budget has been set aside for outside legal counsel for EET-related activities. The Work Plan also states that the Secretary-Treasurer of the EETAC is to serve as the liaison with CSD.

As an alternative to hiring separate administrators, fiscal agents, and consultants, the Work Plan states that the EETAC will consider contracting with a firm that can provide all of these services.

The Work Plan calls for the issuance of a request for proposal (RFP) to hire the administrator, fiscal agent, and the other consultants mentioned above. After the hiring of these people, the EETAC plans to gather the data, research and input that is necessary to develop the EET's consumer outreach priorities and to finalize the outreach plan. The EET would then implement the plan.

The Work Plan seeks to award grants in three phases: Phase I projects would be awarded March 1998; Phase II projects would be awarded September 1998; and Phase III projects would be awarded January 1999. The EET plans to have phased projects to allow the EET to monitor events in the communities and to redirect efforts as needed to respond to consumer needs.

The Work Plan states that each CBO grant that is awarded will contain explicit performance requirements. The EET plans to fund each contract at 50% at the time of the contract award, 30% at the mid-point in the contract

term based on a demonstration that specified milestones have been achieved, and the final 20% upon demonstration that the final goals were achieved.

In order to respond to consumer needs, the EET plans to review the June 1998 evaluation of the CEP. That evaluation may be able to identify which communities need more educational efforts. The EET also plans to conduct periodic research between June 1998 and June 1999 to determine the effectiveness of creative and collateral materials and whether any new outreach and educational methodologies are necessary. The EET also plans to measure and evaluate the EET outreach plan by January 1999, and hold another round of community forums to receive public comment and input regarding the CBO's outreach efforts to date.

In January 1999, the Committee will discuss and develop the work plan and budget for July 1, 1999 to December 31, 2001, and submit a plan for Commission approval in March 1999.

The EETAC proposes a total budget of \$13,126,000 for the EET for the two-year period starting July 1, 1997. The proposed two-year budget was attached to the Work Plan. Of the \$10 million authorized in D.97-08-064, the EET proposes to budget the monies as follows. In March 1998, \$5 million is to be made available. In September 1998, \$2.5 million is to be made available. In January 1999, \$2.5 million is to be made available. Of the \$3 million authorized in D.97-03-069 and the \$126,000 from the CEAP, the EETAC proposes to use \$2 million for the "design, production and distribution of collateral materials as well as consumer meetings and training." (Work Plan, pp. 10-11.) The remaining \$1.126 million is for various operating expenses including \$848,000 in professional services. To the extent practical, the EET will use the collateral materials developed by the CEP and the Commission's outreach program.

The EETAC requests that the Commission approve or adopt the following:

1. The Charter and Bylaws, the Trust Agreement, and the Reimbursement Guidelines and Procedures.
2. The transfer of \$126,000 from the CEAP budget to the EET budget.
3. EETAC's obtaining of officers and directors liability insurance.
4. Retention of the necessary consultants.
5. The two-year work plan.
6. The proposal for the EET to fund and award the CBO grant amounts in three phases.
7. SDG&E's payment of the EET-related expenses that have been authorized by the EETAC.

B. Comments by Greenlining

Greenlining states that it is pleased with the Work Plan's goal of working with other existing resources such as the CEP, the IOUs, and CSD. Greenlining believes that this will maximize the use of ratepayer money and will allow the EET to efficiently provide effective and far-reaching education to the most vulnerable customers. However, Greenlining has some concerns and observations which it believes the Commission should consider.

According to the Work Plan, the EET is to release an RFP on November 20, 1997, and it will select an administrator, fiscal agent, consultant and legal counsel by December 22, 1997. Due to this short timeline, Greenlining states that the EET may have to use the state's Master Service Agreement (MSA) list instead of opening the RFP to everyone. The use of the MSA may limit the number of possible candidates to "mainstream" public relations and advertising firms that are not suited for

providing grassroots outreach and education efforts. Greenlining contends that the agencies listed on the MSA list have little or no experience working with CBOs that have close connections with the communities that the EET is supposed to target.

Instead of hiring consultants who need to be educated on how to target the communities the EET is focusing on, Greenlining is of the opinion that the EET should hire an administrator, fiscal agent, legal counsel and consultants that have demonstrated experience in working with CBOs and the communities that they serve.

Greenlining expressed concern that the EET effort must not be a mass media education campaign. Instead, the EET's effort must be a grassroots education effort that targets the most vulnerable and hard-to-reach customers. For that reason, the consultant team should be experienced in working closely with those communities.

Greenlining is also concerned that the EETAC lacks Latino and multilingual advocates. Greenlining asserts that the Latino population has been the target of unscrupulous marketers in a deregulated market. In order to effectively educate all customers, the EETAC should have more representatives who are thoroughly familiar with the concerns and needs of the Latino and other non-English speaking communities.²

Greenlining also points out that the EET needs to be aware that the 60% aided awareness goal for the CEP may not be realized in the communities that the EET is targeting. For that reason, Greenlining believes that the research

² Greenlining's comments about the lack of Latino and multilingual advocates were filed shortly after the EETAC membership was enlarged in D.97-10-060. It is uncertain whether the comments of Greenlining took this into account.

consultant for the EET should be required to carefully examine how well the CEP was able to reach each target group in order to gauge what types of things the EET should do in its outreach efforts.

Greenlining is also concerned about the funding arrangement once a CBO is awarded a grant. Greenlining believes that the 50%, 30%, and 20% funding arrangement is too conservative and places an unnecessary financial burden on the CBO. Greenlining also points out that in addition to extending the life of the EET by 30 months, Senate Bill 477 (Stats. 1997, ch. 275) also provides for additional funding of the trust.

C. Discussion

1. Introduction

The Work Plan of the EET is impacted by two factors. First, related electric restructuring activities have delayed the Commission's ability to issue a decision as quickly as it would have liked on the EET's activities. This affects the schedule of the EET activities and its longevity. Second, some delay has been related to certain unresolved issues involving the provision of support and contracting activity for advisory boards such as the EETAC. We address the EET's Work Plan in light of these two factors.

As a result of these two factors, a gap exists between the time the CEP activities end and before the EET's educational efforts are started. In order to quickly bridge this gap and to take advantage of the CEP's educational efforts, the Commission must take the lead in deciding what kinds of educational efforts can be provided in the near-term.

In addition, the EET needs to gear up to provide the kinds of outreach activities contemplated in our prior decisions. When the Commission issued D.97-03-069 and D.97-08-064, we envisioned that the EET would be

involved in two kinds of separate activities. In D.97-03-069, \$3 million was authorized for the following:

"We view the education trust as a supplement to the CEP efforts that should start up after the CEP activities have tapered off. There will be a transition period when customers may wait before deciding to seek other electric providers. The education trust should assist those customers in this transition period by providing them with reliable information so that those customers can make informed choices in a restructured electric environment. The education trust can build upon what the CEP has started. There will be some overlap period, however, so that the education trust can gear up to take over where the CEP left off."

D.97-08-064 at page 92 made clear that the \$3 million should be used in part to fund customer education efforts that do not rely on CBOs or other grassroots organizations. An additional \$10 million was authorized in D.97-08-064 as part of the CBO-based educational outreach effort. Thus, the EET's effort is to consist of (1) educational efforts that do not rely on CBOs or grassroots organizations; and (2) CBO educational efforts.

The Work Plan lacks specifics as to the two kinds of activities that the EET will be involved in. We recognize that the EETAC had intended to retain firms to assist in the research and development of the CBO plan and educational outreach priorities. However, the Work Plan does not provide any specific information or direction as to how the EET educational effort and the CBO educational effort will be designed or carried out.

It is important for both the EETAC and the Commission to keep in mind that one of the goals of the EET is to ensure the continuation of uninterrupted and reliable information to consumers about electric restructuring. As we noted in D.97-03-069, this is especially important as the activities associated with the CEP come to an end and the transitional period when consumers may still have questions about electric restructuring and whether they

should switch providers. Thus, we believe that there should be a near-term effort as described below, followed closely by the efforts of the EET.

2. Near-Term Effort

It is important that the Commission develop an immediate plan for bridging the gap between the end of the CEP and the transitional period. This educational effort should start as soon as feasible so that these near-term efforts and the subsequent EET efforts can utilize the momentum from the CEP activities. A continuing effort will also help to inform consumers, which should minimize the ways in which unscrupulous electric service providers might try to take advantage of consumers. CSD shall be responsible for developing and implementing this effort.

These immediate efforts could include the continuation of some of the activities that were initiated by the CEP such as the mass media effort and the public relations effort, which includes community and grassroots outreach. Although the budget for the mass media and public relations efforts of the CEP was considerably larger than what can be used for the near-term effort, we believe that the selective use of mass media coupled with the continuation of the Electric Education Call Center³ and a continuing public relations effort that utilizes a community and grassroots approach should result in a cost-effective outreach effort. In addition, the EETAC and the Commission should continue the public relations component that was started as part of the CEP efforts. This effort includes promoting relations through the use of a community and grassroots approach, as well as contact with interested government officials.

³ See D.98-05-062.

As the Work Plan notes, the near-term educational effort should, to the maximum extent possible, take advantage of some or all of the collateral materials that have been developed by the CEP and the Commission's outreach program. This means that all of the collateral materials that have been developed for the utilities in connection with the CEP program should be acquired from the CEP contractor and its subcontractors by the utilities and handed over to the Commission's CSD. The utilities shall be directed to do so. CSD shall also be directed to work with the EETAC to determine which of the CEP materials can be reused or distributed as part of the Commission's own efforts, the EET's educational efforts and as part of the CBO outreach effort.

To fund this near-term effort, the Commission should look to the monies that were previously authorized as part of the CEP effort, but which were not spent. Preliminary estimates of this unused budget amount ranges in the neighborhood of \$2.5 million to \$4 million. The use of these monies will help to ensure that electric customers continue to receive timely information about electric restructuring and their options under direct access until the efforts of the EET can take place. Accordingly, we will direct the CSD to ascertain how much of the previously authorized CEP monies are still available, and order the utilities to continue to provide funding for the remaining budgeted amount.

CSD will be directed to develop and implement a near-term plan to continue the CEP effort using the unspent monies that were previously budgeted for the CEP efforts. CSD should take advantage of the CEP framework that has already been created and the numerous materials developed for the CEP effort. CSD may consult with the EET to obtain its input of the type of near-term efforts that CSD should pursue. This near-term effort will help to bridge the gap between the end of the CEP's primary effort and the beginning of EET's efforts. CSD should develop and file its plan for approval within 30 days from today.

In order to implement the near-term plan as soon as possible, the Commissioners assigned to direct access (assigned Commissioners) should be delegated with the authority to review, modify if necessary, and approve by way of a ruling the plan for CSD's near-term activities. After the approval of the near-term plan, the CSD shall submit a monthly progress report to the Commission, the Executive Director, the Energy Division and the assigned Administrative Law Judge (ALJ), describing the kind of activities that were pursued in the prior month and the monies expended in that effort.

3. EET Effort

The EETAC needs to develop a plan for how it plans to carry out its EET educational effort using the \$3 million¹ that was allocated for this effort, and how it plans to implement the CBO educational effort with the \$10 million allocated for those purposes. The EETAC should also address in this plan how the \$126,000 from the CEAP may be used as an additional source to fund the EET's educational effort.

In order for the EET to design and implement the plans necessary for providing the educational efforts and the CBO efforts contemplated in the prior Commission decisions, the EETAC should meet as soon as possible to discuss and to develop ideas for such plans.

The plan for the \$3 million educational effort should include a description of the types of activities the EETAC plans to offer, how the activities will be carried out, the amount budgeted for each activity, and the schedule for implementing the activities. This plan shall be filed with the Commission as soon as possible and no later than September 30, 1998 and served on the service list to

¹ We realize that a portion of the \$3 million will be used for EET-related administrative and operating expenses.

this proceeding. Interested parties may file comments on the proposed plan within 21 days of the filing of the proposed plan.

The other activity that the EET will be involved in is the \$10 million CBO outreach effort. Before the EET outreach effort is implemented, however, we want the opportunity to review the proposed plan and the kinds of proposed activities that the CBOs will be undertaking. The Work Plan, as submitted, does not provide for that kind of review and approval process. Thus, before the EET implements the CBO outreach effort, the EETAC shall file with the Commission its plan for carrying out the outreach efforts by the CBOs. The plan shall contain detailed answers to the following questions so that the Commission can make an informed decision on how the monies allocated to the CBO outreach effort will be used:

- What are the objectives and goals of the CBO outreach effort?
- How does the plan intend to accomplish the goals and objectives?
- What audiences will the CBO outreach effort target and what efforts will be taken to ensure that these communities and consumers are being reached?
- What is the process the EETAC will follow for selecting the CBOs?
- What are the CBOs expected to do and what deliverables or milestones are they responsible for?
- What is the amount of each grant, and how was the amount of the grants determined?
- What happens if the deliverables or milestones are not met by the CBO?

- What process will each CBO follow if it plans to issue collateral materials describing any aspect of electric restructuring?³
- Will CSD carry out the day-to-day administration of the plan?
- What kind of oversight and monitoring tools will CSD and EETAC have in place to assess program implementation and success?

In addition, the plan shall include a revised schedule and budget for the CBO outreach effort. EETAC shall file this plan as soon as practicable and no later than September 30, 1998. The EETAC shall serve this plan on the parties to this service list. Interested parties may file comments on the proposed CBO outreach effort within 21 days of the filing of the proposed plan.

The above details of the plan will assist us in addressing the concerns that Greenlining has raised. These issues include how the various communities will be targeted, how the CBOs will deliver the electric restructuring message, and how the effectiveness of the CBOs' outreach efforts can be assessed.

The Commission shall be responsible for reviewing, modifying if necessary, and approving the proposed plans for the EET's educational effort and the CBO outreach effort, and for ensuring its consistency

³ In D.97-08-064 at page 91, we stated that "all of the materials developed by the EET or the CBOs will be subject to our approval before they are disseminated." The EETAC should ensure that if it or the CBOs plan to disseminate materials regarding electric restructuring, those materials are first approved by the Commission. The procedure set forth in ordering paragraph 5 of D.97-08-064 for approving such materials should be followed.

with D.97-08-064 and this decision. Before the EET is permitted to implement the plans, the Commission will issue a decision addressing the proposed plans.

Once the Commission approves the EET's educational effort and the CBO outreach effort, we expect the EETAC to supply the Commission, the Executive Director, the Energy Division, CSD and the assigned ALJ with monthly reports of the activities of the EET. In addition, the EETAC shall either make a separate report or include in the monthly report a list of all CBOs who have entered into contracts with the EET to provide educational outreach activities, the size of the award, and the address of each CBO.

The Work Plan calls for the awarding of the CBO grants in three phases. We see merit in this suggestion. This will allow time for the EETAC to fine-tune the outreach program should changes be necessary as a result of monitoring the phase one efforts. The three-phase approach may also prove useful in extending the \$13 million funding level past the original scheduled termination date of June 30, 1999.

We do not agree with Greenlining's comment that the 50%, 30%, 20% funding approach for each CBO contract places too much of a burden on the CBOs. Since the intent of the CBO outreach effort is to ensure that consumers understand the changes to the electric industry, we want to be able to monitor the effectiveness of the CBOs' efforts. This funding approach will assist in that effort.

4. Schedule

We next turn our attention to the EET's schedule. The Work Plan and budget cover the period from July 1, 1997 to June 30, 1999. June 30, 1999 was the originally scheduled termination date of the EET. This delay in issuing a decision on the EET impacts the schedule contained in the Work Plan.

In Senate Bill 477, the life of the EET was extended until December 31, 2001. (Stats. 1997, ch. 275, Section 31.) Originally, when the \$3 million and \$10 million for the EET were authorized in D.97-03-069 and D.97-08-064, the Commission expected these amounts to cover the period until June 30, 1999. Due to the delay in issuing this decision, the EETAC should address whether the \$13 million in original funding should extend past the original termination date of June 30, 1999 or whether that authorized funding amount should fund activities only up to June 30, 1999. Since the program plan for the educational and CBO outreach efforts has not yet been completed and because the Work Plan proposes to issue the grants in three phases, the EETAC should reevaluate the schedule and determine whether a portion of the original funding should fund the EET's efforts past June 30, 1999. EETAC should address this issue when it submits its revised schedule in its filing.

Some of the target dates in the proposed schedule assume that a trust administrator and other consultants will be hired. Although the target dates for retaining these consultants have passed, some of the delay in implementing the EET outreach plans can be reduced by having CSD perform some or all of these activities on the EET's behalf. As discussed below, CSD and the EETAC should meet as soon as possible to determine what CSD is capable of doing on behalf of the EET. Once this is determined, the EETAC can move forward to define, design, and develop its outreach efforts.

5. Proposed Budget

The next issue to resolve is the budget for the proposed work activities of the EET. The total proposed budget is \$13,126,000 for the two-year period beginning July 1, 1997.

As mentioned earlier, the EETAC should decide whether the period covered by the budget amount as contemplated in the proposed schedule

should be extended. Given the delays, the time to prepare the plans, and the three-phase approach to funding CBOs, it seems appropriate that the period covered by the budget should be extended. When the EETAC files its plans, the submissions shall state the period covered by the revised schedules and budgets.

The proposed budget appears to be based on the five-person EETAC rather than the expanded EETAC authorized in D.97-10-060. This affects the allocations proposed in the "Operating Expenses" section of the budget. Since increased reliance will be placed on using CSD resources, rather than outside contractors, the total operating expenses are likely to remain the same despite the increase in EETAC members. The revised budget should reflect these changes to the "reimbursements," "per diem" and "professional services" expenses.

The Work Plan requests that the Commission transfer \$126,000 from the CEAP budget to the EET budget. As noted in D.97-08-064 at page 93, we left open the possibility that the money left over in the administrative support for the CEAP might be made available to the EET "should it be needed." As discussed earlier, the EETAC may include the \$126,000 in the budget for its educational effort if it believes the additional funds are needed. However, we decline to authorize the transfer at this time until the revised budget is submitted. Should the EETAC establish a need for the \$126,000 in that filing, the transfer can be authorized in the decision addressing the EET's educational effort.

The other proposed budget items in the Work Plan appear appropriate and are consistent with our two previous decisions regarding the EET. However, it is premature to allow the EETAC to go ahead and implement the educational effort and the CBO outreach effort until the Commission has had an opportunity to review, possibly modify, and approve the proposed activities of the EETAC as discussed above.'

Since the Legislature extended the life of the EET past the original termination date of June 30, 1999, we need to consider what type of activities the EET will be involved in from July 1, 1999 to December 31, 2001, and what the funding amount should be for those projected activities. The Work Plan schedule calls for submitting a proposed 30-month plan and budget in March of 1999. In order to give us sufficient time to review this plan and budget, the EETAC shall file and serve its proposed plan and budget for the remaining life of the EET on or before February 2, 1999.⁶ Responses to this filing may be filed on or before March 5, 1999. We intend to issue a decision addressing the future scope of the EET activities and its budget before July 1, 1999.

We now focus our discussion on the various administrative rules and policies which we have applied to other Commission advisory boards.⁷ We set forth similar requirements for EETAC as described below.

6. Contracting for Services

To the extent possible, the EET should rely on Commission resources to provide the administrative, technical, and legal support necessary for the EET to achieve its goals and objectives. If the EETAC cannot fulfill its duties with support available from the Commission, the EETAC should submit to the Commissioners assigned to direct access (assigned Commissioners) and the Executive Director a letter request for authorization to contract for the necessary support services. Such a letter shall also be served on the service list to this

⁶ If the EETAC reallocates the \$13 million to include activities occurring after June 30, 1999, the time period covered by the new budget should be reduced accordingly.

⁷ See for example, D.97-09-117 regarding the Low Income Governing Board and the California Board for Energy Efficiency; and D.97-12-105 regarding the Universal Lifeline Telephone Service (ULTS) Marketing Board.

proceeding. The request should identify the specific services needed and indicate that the needed services cannot be provided by the Commission. The assigned Commissioners shall be delegated the authority to consider the letter requests on a case-by-case basis, and then determine whether to grant or deny the request. If the request is approved, the EETAC shall follow all state contracting rules and procedures in procuring support. To assure compliance with the state contracting and procurement rules, the EETAC shall coordinate any contracting activities with the Commission staff and submit any proposed RFPs and contracts to the Commission staff for review and approval. The Director of CSD shall designate a CSD staff member to serve as a liaison between the EETAC and any other Commission staff who may need to be involved in these activities. Any other applicable rules and conditions will be included in the determination granting the request.

7. Per Diem and Expense Reimbursement

We shall apply to the EETAC the same policy for per diem and expense reimbursement that we adopted in D.97-09-117 and D.97-12-105.⁸ Consistent with these decisions, Committee members who are employees of State governmental agencies and utilities shall not receive per diem or expense reimbursement from the EET.⁹ Furthermore, EETAC members employed by organizations with funding available to support the member's participation in the EETAC should use such funding, where appropriate, to defray the cost of the member's participation. Finally, for each EETAC member who is an employee of

⁸ These decisions apply to the Low Income Governing Board and California Board for Energy Efficiency, and the ULTS Marketing Board, respectively.

⁹ EETAC members who are State employees should process claims for expense reimbursement in accordance with the procedures of their respective State agencies.

a non-State governmental agency, trade association, or CBO, payments for per diem and expense reimbursement related to the member's participation in the EETAC shall go to the member's employer unless the member can show justification for receiving these monies from the EET.

Consistent with D.97-09-117 and D.97-12-105, the amount of per diem provided to eligible members of the EETAC shall be \$300 for each day of meetings and \$200 if the meeting lasts for less than approximately two hours. However, there shall be no per diem for preparation work and there shall be no per diem or expense reimbursement related to meetings of any subcommittees of the EETAC. In addition, EETAC members shall not be eligible to receive intervenor compensation pursuant to Public Utilities Code Section 1801 et seq., for their work related to the EETAC. In establishing the aforementioned level of per diem, we purposely did not set a higher rate because membership on the EETAC should be considered a public service.

The amount and type of expense reimbursement provided to eligible members of the EETAC shall conform to the standards set forth in Resolution F-621 dated November 9, 1988, which is consistent with the practice we adopted in D.97-09-117 and D.97-12-105.¹⁹ That resolution allows for reimbursement of actual expenses related to travel, meals, parking, and other incidentals up to the limits currently in effect and applicable to Commission staff on official duty. Those limits include up to \$37.00 for meals during each 24-hour period and up to \$79.00 plus tax for lodging per night, except that in state-designated high-cost areas, including San Francisco, the limit shall be \$110.00 plus tax per night. Private automobile use will be reimbursed at a rate of up to 24

¹⁹ Resolution F-621 established a fair and reasonable level of expense reimbursement to the public members of Commission-authorized advisory boards.

cents per mile or the current government reimbursement rate. Airfare will be reimbursed up to the lowest available airfare with reference to the amount of notice given for the meeting being attended. EBTAC members will be reimbursed for reasonable miscellaneous expenses including cab fare, parking and bridge tolls. Each item of travel expense claimed in the amount of \$5.00 or more must be substantiated by a receipt, except for meals. There shall be no reimbursement for meals or lodging expenses incurred within 50 miles of an EBTAC member's headquarters' or for lodging expenses incurred within 50 miles of their primary residence. We have incorporated the above changes into Appendix A.

Finally, EBTAC members may be reimbursed for all reasonable costs necessarily incurred by them related to the operation of the group, including photocopying, facsimiles, telephone calls, and supplies."

Claims for per diem and expense reimbursement shall be approved by a Program Manager (or equivalent level) in the Commission's CSD. The EBTAC shall take the steps necessary to arrange for the payments of per diem and expense claims using available monies from the EET.

" We want to make clear that the reference to "actual business and miscellaneous expenses" in the second sentence of the "Expense Reimbursements" section of the "Reimbursement and Per Diem Guidelines and Procedures," which was attached to the Work Plan as Attachment F, are only those reasonable business and miscellaneous expenses which the EBTAC members incur in the operation or support of the EET or related subcommittees or task forces. (See D.97-04-044, p. 11; D.97-12-104, p. 1; D.97-12-105, p. 19.) With the above clarification, and with the specifications we have set forth in the text of this decision, we approve the Reimbursement and Per Diem Guidelines and Procedures.

8. Indemnification

The standard for indemnification of the EETAC members shall be consistent with the policies we adopted in D.97-09-117 and D.97-12-105, as set forth below.

Members of the EETAC who are not members of the Commission staff are uncompensated servants of the State of California within the meaning of Government Code Section 810.2. Accordingly, the State will indemnify them as it indemnifies its compensated employees, and it will provide them with representation for their acts done within the course and scope of services they perform for the EET, as provided in Government Code Section 825-825.6 and 995-996.6. In addition, the EET may use funds to purchase errors and omissions (E&O) or similar insurance for its members, for their acts done within the course and scope of the services they perform for the EET to the extent that such acts are held not to be indemnified by the State under Government Code Sections 825-825.6 and 995-996.6.

9. Conflicts of Interest

We recognize that Commission advisory board members may have conflicts of interest relating to the board or committee on which they serve. To avoid potential conflicts we have adopted interim conflict of interest rules for the advisory boards. The rules for the EETAC conform to the standards we have adopted for the other two advisory boards related to electric restructuring.¹² Specifically, until affirmed as final rules or modified by Commission order, the EETAC shall comply with the following conflict of interest rules:

¹² See D.97-09-117, adopting conflict of interest rules for the Low Income Governing Board and the California Board for Energy Efficiency.

- a) The EETAC shall comply with the Fair Political Practices Commission's (FPPC) Conflict of Interest Code, Title 2, California Code of Regulations, Section 18730.
- b) For purposes of applying Section 18730 of Title 2 of the California Code of Regulations, "designated employees" shall include all voting EETAC members.
- c) As its "disclosure categories" for purposes of these rules, all "designated employees" shall disclose any investment or business position in, or income from any of the following:
 - (1) An electric utility corporation, gas utility corporation, or energy service company (ESCO);
 - (2) A parent or subsidiary of an entity described in subsection (1); or
 - (3) An entity which regularly supplies energy to an entity described in subsection (1);
 - (4) Any investment or business position in, or income from, an entity seeking to provide any product or service related to the EETAC's function or planning to come before the EETAC seeking funds that the EETAC oversees;
 - (5) A parent or subsidiary of any entity described in subsection (4).

Government Code Section 18730(b)(7) mandates that statements of economic interests be reported on forms prescribed by the FPPC. To carry out this mandate, the EETAC should designate one of its members to be responsible for obtaining the necessary reporting forms from the Commission's filing officer in the Executive Director's Office. This same person should also be responsible for collecting statements of economic interests from the members of the EETAC and timely submitting these forms to the Commission's filing officer.

The conflict of interest rules for the EETAC adopted by this decision shall be subject to change as conditions warrant. If either the EETAC or

the CSD believes the conflict of interest rules need to be revised, they should first consult with the Commission's Legal Division and then take the appropriate steps to advise the Commission of the proposed revision by way of a petition to modify this decision. If we agree that a revision to the conflict of interest rules is warranted, we shall issue a decision.

10. Compliance With the Bagley-Keene Open Meeting Act

The EETAC is a "state body" as defined by Government Code Section 11121.8. As a state body, the EETAC is subject to the Bagley-Keene Open Meeting Act set forth in Government Code Section 11120 et seq. ("the Act"). The Act requires, among other things, that the EETAC meetings be open to the public, that notice of the EETAC meetings be mailed ten days in advance to any person who requests such notice in writing, and that the public notice include a description of the business to be transacted or discussed. We shall also require that public notice of the EETAC meetings be provided through the Commission's Daily Calendar.

The EETAC members should review the guidance we provided in D.97-09-117 regarding compliance with the Act. Among the issues addressed were teleconferencing, voting by proxy, public participation, and the distribution of public records. For additional guidance on compliance with the Act, the EETAC members should obtain from the Director of CSD a publication by the State Attorney General's Office regarding the Act, along with the 1997 and 1998 supplements to the publication. In addition, the EETAC members should review D.98-04-067, issued in R.94-04-031/I.94-04-032, which initiated a process that may result in revisions to our rules governing meetings of Commission advisory boards conducted via teleconferencing. The EETAC members shall comply with the teleconferencing rules prescribed in D.98-04-067 and any revised rules promulgated in that proceeding.

11. Proposed Charter

We now turn our attention to the enabling documents which the EETAC submitted as part of its October 15, 1997 filing. The proposed "Charter and Bylaws of the Electric Education Trust Administrative Committee" (Charter) was attached to the Work Plan as Attachment D.

We have revised several provisions of EETAC's proposed Charter to conform to recent Commission decisions which clarify the role of advisory boards and the applicable rules and policies. Such conformity promotes the use of uniform provisions, where possible, among the charters of the Commission's advisory boards. The revised Charter, which includes the changes discussed below, is attached to this decision as Appendix A. In particular, the revisions impact Article Two, Sections 3, 3.2, 5; Article Three, Section 2; Article Four, Sections 2, 3, 5, 6; Article Five, Sections 1, 2; Article Six, Sections 1, 2; Article 8, Section 1; and Article Nine, Section 1. We have also deleted Article Two, Section 4 entitled "Legal Entity" because, as discussed below, the EETAC is under the Commission's control and will not need to establish a Trust. Finally, we have added Article Three, Section 6 to include a "Removal" provision consistent with the standard provisions of other Commission advisory boards, and we have added Article Eleven to reflect the adopted conflict of interest rules.

In addition, we make several other changes to the proposed Charter. In Section 3 of Article Two, additional language has been added to make clear that the EETAC is subject to the direct control and approval of the Commission. This is consistent with what we have required of the other advisory boards. (See D.98-02-040, Att. 1, p. 9; D.98-03-031, Att. A, p. A-5.)

Section 3 (13) of the proposed charter contains a statement that the EETAC shall have the power "to develop and issue a Request for Proposals (RFP) or multiple RFPs for retaining one or more administrators." As

determined by this decision, the administrator of the EET should be the CSD. Many of the functions that the Work Plan envisions that the administrator will do can be handled by CSD. CSD is familiar with both the needs of the Commission and the goal and objectives of the EET. In addition, the Director of CSD or his designee sits on the EETAC as an ex officio, non-voting member. Therefore, consistent with our view expressed in D.97-08-064 that "[t]o the extent possible, the EET should rely on the resources of the Commission in planning and carrying out the activities of this educational outreach plan" (D.97-08-064, pp. 91-92), Section 3 (13) has been deleted in the revised charter. In addition, to the extent CSD may need assistance in accomplishing these tasks, CSD should determine whether it can utilize the experience of other state agencies to assist CSD in making and facilitating contacts with CBOs through an inter-agency agreement.

In Section 3.2 of Article Two of the Charter, it is envisioned that a "Secretary-Treasurer shall be appointed for a term and at a stipend to be fixed by this Committee, except that representatives of state or governmental agencies who serve as Secretary-Treasurer shall receive no compensation for their time." Section 3 (11) states that the EETAC is to appoint the Secretary-Treasurer from within the EETAC or from outside the EETAC.

It is the standard practice of Commission advisory boards to appoint officers from within their membership and EETAC states no reason why it needs to deviate from this practice. We believe the EETAC should use its membership to fill any necessary officer positions and have revised the Charter accordingly. We have also deleted the reference to a stipend because EETAC members may receive only per diem and expense reimbursement, as discussed earlier in this decision.

In D.97-10-060 the Commission enlarged the size and composition of the EETAC. Section 1 of Article Three of the Charter has been revised to reflect that change.

Subject to the changes explained above and as set forth in Appendix A, we approve and adopt the Charter. The EETAC should revise its Charter consistent with the modifications set forth in Appendix A.

The Charter adopted by this decision may occasionally need to be amended. When an amendment becomes necessary, the EETAC should submit the amendment to the Commission for approval in the form of a petition to modify this decision (if substantive in nature) or a letter request to the Executive Director (if ministerial in nature) with a copy to the Director of CSD and served on the service list. The petition or letter request should describe the proposed amendment and explain the need for the amendment. Proposed amendments that are ministerial in nature should be granted or denied by the Executive Director via a written response to the EETAC.¹³ If the proposed amendment is substantive in nature, a Commission decision will issue regarding the proposed amendment. Any approved changes to the EET Charter, whether ministerial or substantive, shall be executed by the EETAC on behalf of the Commission.

12. Proposed Trust Agreement

The next document which the EETAC seeks approval of is the "Proposed Trust Agreement" which was attached to the Work Plan as Attachment E. In D.97-03-069 the Commission authorized the EETAC to formally

¹³ The Executive Director should consult with the Legal Division, as necessary, when acting on ministerial amendments. The Executive Director shall have the discretion to direct the Committee to treat proposed ministerial changes as substantive changes.

organize the EET and "to initiate the legal paperwork necessary to form the education trust." (D.97-03-069, p. 38.) The proposed Trust Agreement appears to be based on the Work Plan's premise that a fiscal agent or trustee should be hired to receive and disburse the funds associated with the EET. The Trust Agreement appears to contemplate that significant sums will be held and invested by the fiscal agent until such time the monies are paid to the CBOs under the EET outreach program. (See Proposed Trust Agreement, Sections 2.1, 7.2.)

Funding mechanisms for the EET program differ from other public purpose programs for which the Commission has created advisory boards and has contemplated the establishment of trusts. For example, the California High Cost Fund-B, the California Teleconnect Fund, the California Board for Energy Efficiency and the Low-Income Governing Board programs are funded by the collection of surcharges. However, the activities of the EET are being funded by the three largest IOUs in California in accordance with the funding parameters and mechanisms that were established in D.97-03-069 and D.97-08-064. SDG&E has been designated as the utility through which the EET-related bills will be paid after the bills have been approved by the EETAC. Thus, unlike the programs mentioned above, the EET will not have a continuous source of incoming funds, but instead is limited to a fixed budget amount for a fixed period of time.

SDG&E is authorized to continue to pay all of the invoices associated with the EET effort after the invoices have been approved by the EETAC for payment. Since SDG&E shall be the utility to pay the EETAC-approved invoices, there does not appear to be a need for the Trust Agreement as it is presently written. SDG&E and the EETAC should instead memorialize the invoice approval and payment procedures in some other type of document.

Another issue associated with the payment of the EET invoices is whether SDG&E should advance the entire budget amount for the EET over the coming months or whether SDG&E should be reimbursed periodically by Pacific Gas and Electric Company (PG&E) and Southern California Edison Company (Edison) for their share of the EET expenses. It is our belief that SDG&E should seek proportionate reimbursement from PG&E and Edison on at least a quarterly basis, and that PG&E and Edison reimburse SDG&E within 30 days from the issuance of such a bill.

IV. Findings of Fact

1. The Work Plan was filed by the EETAC on October 15, 1997.
2. The Work Plan sets forth the EETAC's recommendation for the design and administration of a community-based education and outreach effort, the proposed budget for such activities, the proposed charter and bylaws, the proposed trust agreement, and the proposed reimbursement guidelines and procedures.
3. Greenlining filed a motion on November 4, 1997 to accept the late filing of its comments on the Work Plan.
4. Unspent funds from the CEAP amount to approximately \$126,000.
5. D.98-01-020 designated SDG&E as the utility that is to pay all of the authorized expenses incurred in connection with the operation of the EET.
6. The Work Plan seeks to award the grants to CBOs in three phases so as to allow the EET to monitor events in the communities and to redirect efforts as needed to respond to consumer needs.
7. The proposed Work Plan is impacted by the delay in issuing a decision about the EET and issues involving the provision of support and contracting activity for the advisory boards.

8. The Commission envisioned that the EET would be involved in educational efforts that do not rely on CBOs or grassroots organizations and in educational efforts which utilize CBOs.

9. The Work Plan that was filed on October 15, 1997 lacks specific details as to the two kinds of activities that the EET will be involved in.

10. One of the goals of the EET is to ensure the continuation of uninterrupted and reliable information to consumers about electric restructuring.

11. The Commission should develop an immediate plan for an educational effort so that the near-term educational effort and the subsequent EET efforts can utilize the momentum from the CEP activities.

12. The CEP collateral materials were developed for the utilities.

13. To fund the CSD's near-term educational efforts, the unspent monies which were previously authorized as part of the CEP effort should be used.

14. The near-term educational effort of CSD will help bridge the gap between the end of the CEP's primary effort and the beginning of EET's efforts.

15. The EETAC needs to develop and submit plans to carry out its educational effort and CBO educational effort.

16. The 50%, 30%, 20% funding approach for each CBO contract should help ensure that the CBO's effort is effective.

17. Senate Bill 477 extended the life of the EET until December 31, 2001.

18. The EETAC proposes that a total budget of \$13,126,000 be used for the EET for the two-year period starting July 1, 1997.

19. D.97-08-064 left open the possibility that the money left over in administrative support for the CEAP could be made available to the EET should it be needed.

20. Since the life of the EET was extended, the Commission needs to consider what type of activities the EET will be involved in from July 1, 1999 to December 31, 2001, and what the funding level should be for those activities.

21. To the extent possible, the EET should rely on Commission resources to provide the administrative, technical and legal support necessary for the EET to achieve its goals and objectives.

22. The per diem and expense reimbursement policies that we adopt for the EETAC are consistent with the standards we adopted for other advisory bodies in D.97-09-117 and D.97-12-105, and with what the Commission authorized for the EETAC in D.97-03-069.

23. "Actual business and miscellaneous expenses," as used in the Reimbursement and Per Diem Guidelines and Procedures, are only those reasonable business and miscellaneous expenses which the EETAC members incur in the operation or support of the EET or related subcommittees or task forces.

24. The standard for indemnification of the EETAC members should be consistent with what has been adopted for other Commission advisory boards.

25. The conflict of interest rules that apply to the EETAC should conform to the standards that we have adopted for other electric restructuring advisory boards.

26. The EET Charter should be revised to reflect the standards that have recently been adopted for similar advisory boards and to incorporate, where possible, the uniform provisions of other advisory board charters.

27. The administrator of the EET should be the CSD.

28. The EETAC should use its membership to fill any officer positions.

29. The Charter should be revised to reflect the enlarged size and composition of the EETAC.

30. The Proposed Trust Agreement is based on the Work Plan's premise that a fiscal agent should be hired to receive and disburse the funds associated with the EET.

31. The funding mechanism for the EET program differs from other Commission-created public purpose programs for which the Commission has created advisory boards and has contemplated the establishment of trusts.

32. The EET does not collect any surcharge to fund the EET activities, but instead is limited to a fixed budget amount for a fixed period of time.

Conclusions of Law

1. The motion of Greenlining to accept the late filing of its comments on the Work Plan should be granted.

2. Information regarding the number of customers who elect direct access and their location is highly confidential, and the EETAC should take steps to ensure that this kind of information remains confidential.

3. CSD should be directed to develop and implement a near-term effort to continue the CEP effort using the unspent monies that were previously budgeted for the CEP efforts.

4. In order to implement the near-term educational effort as soon as possible, the assigned Commissioners should be delegated the authority to review, modify if necessary, and approve CSD's plans for its near-term activities.

5. The EETAC should be required to file its plans to carry out its EET educational effort and its CBO outreach plan with the Commission before the EETAC receives authorization to implement the plans.

6. CSD and EETAC should meet as soon as possible to determine what CSD is capable of doing on behalf of the EET and what kind of activities the EET needs to out-source.

7. The EETAC should reevaluate the schedule and determine whether a portion of the \$13 million should fund the EET's efforts past June 30, 1999.

8. The transfer of the \$126,000 from the CEAP to the EET should not be authorized at this time.

9. Should the EETAC believe that outside resources are needed to provide the administrative, technical or legal support to the EETAC, the EETAC should seek authorization to contract for such support services, as described in this decision.

10. If a request to contract for support is approved, the EETAC should follow state contracting rules and procedures, and should coordinate contracting activities with the Commission staff.

11. The Reimbursement and Per Diem Guidelines and Procedures specified in this decision and attached to the Work Plan as Attachment F are approved.

12. To avoid potential conflicts of interest on the EETAC, the conflict of interest rules specified in this decision should be adopted.

13. The EETAC is a "state body" under Government Code Section 11121.8 and is subject to the Bagley-Keene Open Meeting Act, as set forth in Government Code Section 11120 et seq.

14. Appendix A should be approved as the Charter of the EET.

15. SDG&E should continue to act as the paying utility for the EET-approved expenses.

16. The Proposed Trust Agreement should not be adopted.

O R D E R

1. The November 4, 1997 motion of the Greenlining Institute to accept the late filing of its comments on the Proposed Work Plan and Budget of the Electric Education Trust (EET) Administrative Committee (EETAC) is granted.

a. The Docket Office is directed to file the "Comments On Behalf Of The Greenlining Institute Regarding The EET's Proposed Work Plan And Budget" as of November 4, 1997.

2. The EETAC is authorized to do the following:

a. Obtain errors and omissions insurance.

b. File its plan to implement its educational efforts, including a revised budget and schedule, as soon as possible but no later than September 30, 1998.

(1) Interested parties may file and serve comments on the EETAC's proposed plan within 21 days of the plan's filing date.

c. File the community-based organization (CBO) educational outreach plan, as well as a revised budget and schedule, as soon as practicable, but no later than September 30, 1998.

(1) Interested parties may file and serve comments on the EETAC's CBO plan within 21 days of the plan's filing date.

d. The EETAC shall ensure that all materials developed by the EET or the CBOs which relate to electric restructuring and which are to be disseminated to the public shall be approved using the procedure set forth in Ordering Paragraph 5 of Decision (D.) 97-08-064.

e. Submit monthly reports on the educational efforts of the EET and the CBO educational outreach effort as discussed in this decision.

f. Ensure that all meetings of the EETAC are noticed in the Commission's Daily Calendar.

g. File and serve its proposed plan and budget for the remaining life of the EET on or before February 2, 1999.

(1) Interested parties may file responses to the proposed plan and budget on or before March 5, 1999.

- h. Submit a letter request, if necessary, to the Commissioners assigned to direct access (assigned Commissioners) requesting authorization to contract for outside services.
 - (1) Any such letter request shall also be served on the electric restructuring service list.
 - i. Designate one of its members to obtain the necessary economic interest statements for the EETAC members and to collect and return the completed statements to the Commission's filing officer.
 - j. Take all other action that is consistent with the intent expressed in this decision.
3. Members of the EETAC may submit claims for per diem and expense reimbursement in accordance with this decision.
4. Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), and Southern California Edison Company (Edison) are directed to do the following:
- a. Continue to provide funding for the Customer Education Program (CEP) up to the budget amounts authorized in D.97-08-064, as directed by the Consumer Services Division (CSD) after CSD's plan to continue the CEP educational effort has been approved in an assigned Commissioners' ruling.
 - b. Continue to provide funding for the EET through the memorandum accounts that were previously established in D.97-03-069 and in accordance with the contribution method established in that decision.
 - (1) SDG&E shall continue to pay all of the invoices associated with the EET effort after the invoices have been approved by the EETAC for payment.
 - (a) SDG&E shall bill PG&E and Edison for its proportionate share of the EET expenses on at least a quarterly basis, and PG&E and Edison shall reimburse SDG&E within 30 days from the issuance of such a bill.
 - c. Obtain from all of the vendors who worked on the CEP all of the collateral materials that were developed for the CEP.
 - (1) The utilities shall hand over all of the CEP collateral materials to the CSD.

5. The assigned Commissioners are authorized to do the following on behalf of the Commission:

- a. The assigned Commissioners shall review the proposed plan for the CSD's near-term educational effort, modify the plan if necessary, and issue a ruling which permits the CSD to implement the plan.
- b. The assigned Commissioners are delegated the authority to decide whether the EETAC should be permitted to enter into contracts with outside contractors in accordance with all state contracting rules and procedures.

6. The Director of CSD shall do the following:

- a. Explore with other state agencies the need for an inter-agency agreement that would foster CSD's development of relationships with CBOs throughout the state.
- b. Designate someone in CSD to serve as a liaison between the EETAC and the Commission staff who may be involved in assisting the EETAC with all the state contracting and procurement rules and procedures should the EETAC and the assigned Commissioners decide that some of the EETAC's work activities should be out-sourced.
- c. Ensure that the CSD staff meet with the EETAC to determine which of the CEP materials can be reused or distributed as part of the EET's educational efforts and as part of the CBO educational outreach effort.
- d. Direct CSD staff to determine whether the expenditures related to the CEP were below the budgeted amount.
- e. Direct the CSD staff to submit a plan for a near-term educational effort using the unspent monies that were previously authorized as part of the CEP effort.
 - (1) Such a plan shall be filed with the Commission within 30 days from today.

- f. Ensure that the members of the EETAC receive a copy of the publication which describes the requirements of the Bagley-Keene Open Meeting Act.

This order is effective today.

Dated July 23, 1998, at San Francisco, California.

RICHARD A. BILAS
President
P. GREGORY CONLON
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEEPER
Commissioners

R.94-04-031, I.94-04-032 ALJ/JSW/jva

APPENDIX A

**CHARTER AND BYLAWS OF THE ELECTRIC EDUCATION TRUST
ADMINISTRATIVE COMMITTEE**

ARTICLE ONE

NAME

This Committee, a body organized under the authority of the Public Utilities Commission of the State of California (Commission), as set forth in Decision 97-03-069 of the Commission, shall be known as the ADMINISTRATIVE COMMITTEE OF THE ELECTRIC EDUCATION TRUST (hereinafter referred to as "Administrative Committee" or "Committee").

This Committee is a state body subject to all applicable statutes, including Article 9 of the Government Code of the State of California (the "Bagley-Keene Open Meeting Act"), currently in effect or as changed in the future.

ARTICLE TWO

PURPOSES AND FUNCTIONS

Section 1 -- Mission. In Decision 97-03-069, the Public Utilities Commission authorized the formation of the Electric Education Trust (EET). The purpose of the EET, as set forth in that decision and in Decision 97-08-064, is to promote consumer education to help customers understand the changes to the electric industry during the transition period to direct access. Specifically, the EET is charged with targeting those customer groups and communities with low direct-access participation or high levels of consumer abuse. In particular, the Public Utilities Commission has directed the EET to pay special attention to ensuring that customers, especially those with limited English-speaking ability or other disadvantages when dealing with sophisticated marketers, receive correct, reliable and easily-understood information to help them make informed choices. The Administrative Committee exists to establish and oversee the EET. Nothing in the Charter and Bylaws shall be construed to give the EET or the Administrative Committee of the EET jurisdiction or authority over regulated public utilities.

Mission statement of the EET: Provide, through grassroots efforts, education to enable vulnerable consumers to make informed choices about electric service and to avoid market abuses.

Section 2 -- Purpose and objective. The purpose and objective of the Administrative Committee is (1) to formally organize the EET, (2) to clearly define the purpose and scope of the EET's activities, (3) to develop materials and a plan for the EET's educational activities, (4) to determine to what extent community-based organizations and Commission resources can be used to promote the educational effort, (5) to design a community-based education and outreach effort, (6) to submit such a proposal to the Commission, and (7) to manage such an effort after Commission review and approval of such a proposal.

Section 3 -- Powers, Duties and Responsibilities of the Committee. The Committee shall have the following duties and responsibilities enumerated below. While performing these duties and responsibilities, Committee members are at all times subject to the direction, control and approval of the Commission. The Commission has all policy and program decisionmaking authority. Subordinate at all times to the Public Utilities Commission, this Committee shall nevertheless have the powers

- (1) to perform any and all duties imposed by law, including duties imposed by the Public Utilities Commission and the Charter and Bylaws;
- (2) to issue publications, reports and other documents and to distribute information by various means including electronic means;
- (3) to retain legal counsel;
- (34) to use any and all reasonable means for attainment of objectives to fulfill its mission and that of the EET;
- (45) to create a work plan;
- (56) to prepare and submit a budget annually to the Public Utilities Commission;
- (67) to prepare and control its own agenda;
- (78) to consider any matter brought before it by any person;
- (89) to originate and consider resolutions;
- (940) to form, develop, direct and utilize advisory committees, subcommittees and task forces;
- (1044) to appoint a Secretary and a Treasurer, or a Secretary-Treasurer, from within its membership; or without;
- (1142) to appoint and remove, procure, engage and discharge, and prescribe the duties of all officers, agents, employees, and independent contractors of the Committee necessary to accomplish the Committee's mission and purposes as well as those of the EET, subject to approval by the Public Utilities Commission and the requirements and restrictions imposed by law;
- (13) to develop and issue a Request for Proposals (RFP) or multiple RFPs for retaining one or more administrators;

(1214) to meet at such times and places as required by the Charter and Bylaws or as determined by the members;
(1315) to amend the Charter and Bylaws; and
(1416) to comply with the Committee's Conflict-of-Interest Rules Code.

Section 3.1 -- Chairperson. The Chairperson of this Committee shall preside at all meetings of this Committee, except that the Chairperson may designate a Vice Chairperson to preside at the discretion of the Chairperson. The Chairperson shall prepare, or cause to be prepared, the agendas for this Committee.

Section 3.2 -- Secretary-Treasurer. A Secretary-Treasurer shall be appointed for a term and at a stipend to be fixed by this Committee, ~~except that representatives of state or governmental agencies who serve as Secretary-Treasurer shall receive no compensation for their time.~~ The Secretary-Treasurer shall, under the direction of this Committee, facilitate meetings, prepare minutes and transactions, maintain and provide copies of all records, ~~supervise all other employees, agents and independent contractors of this Committee or the EET,~~ maintain a service list for interested parties, and have such other powers and duties as may be prescribed by this Committee, except that the Secretary-Treasurer shall not be entitled to vote.

Section 3.5 -- Limitation on Power and Authority. While the Committee shall have the power and authority to carry out the foregoing duties, it shall not have the authority to direct utility companies to act or refrain from acting. Such authority shall remain solely with the Commission.

The Committee is a purely advisory body. Members are at all times subject to the direction, control and approval of the Commission while in the performance of their duties and in actions taken by the Committee. The Commission has sole authority over all program and policy decisions.

Section 4 -- Legal Identity. This Committee shall have no capital stock and shall not be conducted for pecuniary profit. No income or money of any sort received by this Committee shall inure to the pecuniary benefit of any member of this Committee, or to those persons with any relationship which would preclude this Committee from being treated as a tax exempt corporation by the Internal Revenue Code currently in effect or as it may be changed in the future; however, expenses and reasonable compensation for services actually rendered to and for this Committee may be paid to a member or an appointed representative who incurs such an expense or renders such services.

Section 5 -- ~~Indemnification Liability~~. Members of the Committee who are not members of the staff of the Public Utilities Commission are uncompensated servants of the ~~Public Utilities Commission and the State of California~~ within the meaning of Section 810.2 of the California Government Code. The State accordingly will indemnify Committee members as it indemnifies its compensated employees, and it will provide members representation for their acts done within the course and scope of the services they perform for the Committee, as provided in Government Code Sections 825-825.6 and 995-995.6. In addition, the Committee may use funds to obtain errors and omissions (E&O) Directors and Officers liability or similar insurance for its members, for their acts done within the course and scope of the services they perform for the Committee, to the extent that such acts are held not to be indemnified by the State under Government Code Sections 825-825.6 and 995-995.6.

ARTICLE THREE

MEMBERSHIP

Section 1 -- Composition. This Committee shall be composed of twelve (12) five (5) members appointed by the Commission's Executive Director. Membership on this Committee shall be composed of the following: at least one representative from either Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), Southern California Edison Company (Edison), or another utility; at least one representative from a non-utility electric service provider; at least two representatives from consumer, low-income, and/or multilingual outreach advocates; and other representatives from other categories as deemed appropriate by the Executive Director. The Director of the Commission's Consumer Services Division, or his designee, may sit on the EET as an ex officio, non-voting member of the EET. the Director of Consumer Services Division or his/her designee, one representative from an electric utility, one representative from a non-utility electric service provider, and two representatives to be chosen from consumer, low-income, and/or multilingual outreach advocates:

Section 2 -- Conflict of Interest. All members are subject to all conflict-of-interest provisions applicable to or adopted by the Commission as governing the Committee and as set forth in Article Eleven below.

Section 3 -- Officers. The officer of the Committee shall be the Chairperson. Any member may serve as Chairperson of the Committee. The Chairperson shall be elected by a majority of the Committee at any time, and shall hold office for one year from the date of election, unless he or she resigns, is removed, or is otherwise disqualified to serve. The Chairperson may be re-elected.

Section 4 -- Application for Membership. All applications for membership shall be submitted in writing to the Commission's Executive Director.

Section 5 -- Term of Appointment. The term of appointment of all members is for the life of the Committee or four years, whichever comes first.

Section 6 -- Removal. Any member may be removed at any time by the Executive Director or the Commission. A majority of the Committee members may recommend removal of a member upon demonstration of reasonable cause; provided, however, that reasonable cause may not include any policy position taken by a Committee member. The Executive Director or Commission must approve the Committee's recommendation to remove any Committee member.

ARTICLE FOUR

MEETINGS

Section 1 -- Meeting Schedule. This Committee may meet at such time and place as the members may determine, as needed to accomplish official business, subject to the provisions of the Bagley-Keene Open Meeting Act. The Committee may not call a meeting to order unless and until a quorum is physically present at the designated meeting place.

Section 2 -- General Notification. The Committee shall take action only in the course of a duly noticed meeting. The Committee shall hold such meetings as needed to accomplish official business during each calendar year. Notification of the date, time and place of each meeting shall be given to each member and posted in accordance with the Bagley-Keene Open Meeting Act, Government Code Section 11120 et seq. All members of this Committee shall be notified of all meetings personally, by mail or by other appropriate means of communication. The notice of each meeting shall specify the business to be transacted at, and the purpose of, the meeting.

Section 3 -- Quorum And Teleconferencing. Participation in Meetings: A majority of the members of the Committee in office shall constitute a quorum for the transaction of business. The members may be present in person or by conference telephone, to the extent consistent with state law regarding open meetings, so long as the place of the meeting is open to attendance by the public, and so long as the following requirements are met in a way that is consistent with Government Code Section 11123:

(a) All meetings of the Committee shall be open and public and all persons shall be permitted to attend any meeting of the Committee except as otherwise provided by Part 1, Chapter 1, Article 9 of the Government Code.

(b)(1) Nothing in Part 1, Chapter 1, Article 9 of the Government Code shall be construed to prohibit the Committee from holding an open or closed meeting by teleconference if the convening at one location of a quorum of the Committee is difficult or impossible, subject to all of the following:

(A) The teleconferencing meeting shall comply with all requirements of the Bagley-Keene Open Meeting Act applicable to other meetings.

(B) The portion of the teleconferenced meeting that is required to be open to the public shall be audible to the public at the location specified in the notice of the meeting.

(C) Each teleconference location shall be identified in the notice of the meeting and shall be accessible to the public.

(D) All votes taken during a teleconferenced meeting shall be by rollcall.

(E) The portion of the teleconferenced meeting that is closed to the public may not include the consideration of any agenda item being heard pursuant to Section 11125.5 of the Government Code.

(F) At least one member of the Committee shall be physically present at the location specified in the notice of the meeting.

Subject to the provisions of the Charter and Bylaws with respect to notice of meetings of this Committee, members of this Committee may participate in meetings by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting, including the public, can hear each other, and participation in a meeting pursuant to this section shall constitute presence in person at such meeting, except where a member participates in such meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

Section 4 -- Absence from Meetings. Each member shall notify the Secretary-Treasurer in advance of any absence from any meeting and of participation by teleconference.

Section 5 -- Quorum. A simple majority of the number of members currently holding appointments shall constitute a quorum. No vacancy in the Committee impairs the right of the remaining members to exercise all the powers of the Committee.

Section 5.6 -- Voting. All members shall be entitled to vote. Voting shall only occur at meetings. ~~Voting by proxy shall not be allowed.~~ Any Committee member ineligible to vote on any matter under consideration by the Committee shall leave the table before the matter is considered and refrain from participation in any action concerning the matter.

Section 6 -- Prohibition On Proxies. Only individuals appointed as members may serve as members of the Committee; no alternate, substitute, or proxy representation of Committee members may occur.

ARTICLE FIVE

PUBLIC PARTICIPATION

Section 1 -- Public Meetings. All meetings of this Committee shall be open to the public and shall be held in accordance with the provisions of the Bagley-Keene Open Meeting Act in Government Code Section 11120 et seq. Every member of the Committee shall receive a copy of the Act, except the Committee may convene a closed session as provided in the Government Code of the State of California.

Section 2 -- Public Participation Comment. The Committee will provide an opportunity for members of the public to address the Committee directly on each agenda item before or during the Committee's discussion or consideration of the item. The Committee will provide a sign-up sheet for members of the public who wish to address the Committee. Copies of the Committee's public documents that are subject to the Public Records Act may be requested from the Committee. The sign-up sheet will be available prior to the commencement of the public meeting and will provide space for the name of the member of the public wishing to address the Committee, whom the individual represents, and the agenda item to be addressed. The Committee shall make its best effort to recognize the public members during the appropriate comment periods at each meeting, consistent with the Committee's obligation to conduct business in an orderly manner.

The Committee may accept testimony from members of the public on matters not previously noticed. The Committee may not take action on such matters, however, until they are considered at a subsequent meeting, except as expressly provided for in the Bagley-Keene Open Meeting Act. This Committee shall invite general public input and comment at the beginning of each open meeting and prior to each substantive decision. The chairperson may limit the time for public comment.

ARTICLE SIX

COMPENSATION AND REIMBURSEMENT

Section 1 -- Compensation And Reimbursement. Members of the Committee shall be entitled to reimbursement of reasonable expenses incurred in connection with their service on the Committee and may be entitled to per diem

allowances as determined by the Commission. Qualifying members of the Committee shall receive a per diem of \$300 for each day of meetings and \$200 if the meeting lasts for less than approximately two hours. There shall be no per diem for preparation work; and there shall be no per diem or expense reimbursement related to meetings of any subcommittee of the Committee. The Committee shall not provide per diem or expense reimbursement to Committee members who are employees of utilities or California State governmental agencies. For each Committee member who is an employee of a non-State governmental agency, trade association, or consumer group, payments for per diem and expense reimbursement related to the member's participation shall go to the member's employer unless the member can show justification for receiving these monies directly. Committee members shall not be eligible to receive intervenor compensation pursuant to Public Utilities Code Section 1801 et seq., for their work related to the Committee. The payment of expense reimbursement shall be approved by a Project Manager or equivalent level in the Commission's Consumer Services Division. The Committee shall take the steps necessary to arrange for the payments for per diem and expense reimbursement using monies from the EET. Committee membership is a public service and accordingly Committee members shall serve without compensation. However, Committee members who are not representatives of state or governmental agencies, investor-owned electrical corporations, municipal utilities, and non-utility electric service providers shall receive a per diem allowance of \$300 for attending each day of meetings. These same rates shall also apply to qualified Committee members attending meetings of authorized advisory committees, subcommittees and task forces. Members shall not receive any per diem for preparation and other work completed outside of meetings. Members who are representatives of any state government, investor-owned electric corporation, municipal utility, or non-utility electric service provider shall receive no per diem allowance for their time. Other governmental employees, including university and academic employees, may receive a per diem allowance if appropriate arrangements are made with their employers. No persons other than appointed members may receive per diem.

Section 2 -- Reimbursement. — All Committee members may receive reimbursement for reasonable travel and lodging and other expenses associated with attending meetings. Expenses incurred by members in attending official meetings of the Committee, shall be reimbursed consistent with the policies and procedures approved by the Commission. The Secretary-Treasurer may be reimbursed for reasonable expenses, except travel and lodging, which are incurred in the performance of his/her duties:

ARTICLE SEVEN

SUBCOMMITTEES

Section 1 -- Role of Chairperson. The Chairperson shall appoint advisory committees, subcommittees and task forces to address issues pertinent to this Committee as necessary and as deemed advisable.

Section 2 -- Participation by Non-members. The members of advisory committees, subcommittees and task forces need not consist of members of this Committee, nor shall it be necessary that the chair of a subcommittee be a member of this Committee.

ARTICLE EIGHT

RECORDS

Section 1 -- Right of Inspection. The inspection of documents shall be consistent with the Public Records Act. The minutes of the proceedings of this Committee, the membership list, the interested-party service list, and all documents introduced and distributed to the members and used in deliberations by the body shall be open to inspection upon the demand of any person at any reasonable time, for any purpose reasonably related to the Committee's charge, purpose or function, and shall be produced at any reasonable time requested. Inspections shall include the right to make extracts thereof.

Section 2 -- Demand of Inspection. Demand of inspection, other than at a meeting of the members, shall be presented to the Chairperson or to the Secretary-Treasurer of this Committee.

ARTICLE NINE

AMENDMENTS

Any member of this Committee may submit proposed amendments to the Charter ~~and Bylaws~~. The Committee has the power to amend the Charter ~~and Bylaws~~ by a four-fifths majority vote, subject to subsequent approval by the Public Utilities Commission. Appendices to the Charter ~~and Bylaws~~ may be modified by a simple majority vote, subject to Commission approval. The Commission may amend, terminate or revoke this Charter at any time.

ARTICLE TEN

EXPIRATION

This Committee shall expire with December 31, 2001 unless extended by the Commission or by legislation.

APPENDIX

CONFLICT OF INTEREST RULES CODE

Section 81000, et seq. of the California Government Code requires state and local government agencies to adopt and promulgate conflict-of-interest codes. The Fair Political Practices Commission has adopted a regulation, reported at 2 Cal. Code of Regulations, Section 18730, which contains the terms of a standard conflict-of-interest code. The terms of Section 18730 are hereby incorporated by reference and adopted as the Conflict of Interest Code of the Advisory Committee of the Electric Education Trust:

Until affirmed as final rules or modified by Commission order, the Committee shall comply with the following conflict of interest rules:

a) The Committee shall comply with the Fair Political Practices Commission's Conflict of Interest Code, Title 2, California Code of Regulations, Section 18730.

b) For purposes of applying Section 18730 of Title 2 of the California Code of Regulations, "designated employees" shall include all voting Committee members.

c) As its "disclosure categories" for the purposes of these rules, the Committee's "designated employees" shall disclose:

(1) Any investment or business position in, or income from, any of the following:

a. An electric utility corporation, gas utility corporation, or energy service company (ESCO);

b. A parent or subsidiary of an entity described in subsection (1)a; or

c. An entity which regularly supplies energy to an entity described in subsection (1)a;

(2) Any investment or business position in, or income from, any of the following:

a. An entity seeking to provide any product or service related to the Committee's function or that has plans to come before the Committee seeking funds that this Committee administers or oversees;

b. A parent or subsidiary of an entity described in subsection (2)a.

d) The Committee shall designate a liaison to obtain necessary reporting and disclosure forms from the Commission's filing officer.

Pursuant to Section 4 of the standard Conflict of Interest Code, all members and designated employees of the Advisory Committee shall file annual statements of economic interest with the Public Utilities Commission.