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

Application of Southern California Edison Company (U338E) for Approval of its 2009-2011 Energy Efficiency Program Plans And Associated Public Goods Charge (PGC) And Procurement Funding Requests.	Application 08-07-021 (Filed July 21, 2008)
And related matters.	Application 08-07-022 Application 08-07-023 Application 08-07-031 (Filed July 21, 2008)

OPENING COMMENTS OF THE UTILITY REFORM NETWORK ON THE PROPOSED DECISION OF ADMINISTRATIVE LAW JUDGE GAMSON ON THE PALM DESERT DEMONSTRATION PARTNERSHIP

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OPENING COMMENTS OF THE UTILITY REFORM NETWORK

Pursuant to Rule 14.3 of the Commission's Rules of Practice and Procedure, The Utility Reform Network (TURN) submits these comments on the Proposed Decision of Administrative Law Judge David Gamson on the Palm Desert Demonstration Partnership (PDDP).

In D.09-09-047, the Commission provided limited funding for the PDDP through June 30, 2010, but with the clear directive that any extension beyond that date would require a separate application. In their petition for modification, Southern California Edison Company (SCE) and Southern California Gas Company (SoCalGas) sought an open-ended extension of the PDDP beyond June 30, 2010, on a month-to-month basis with continued funding at the current monthly level of $650,000, until the Commission issues a decision on a PDDP-specific application that the utilities claim is forthcoming but has not yet been filed. The utilities proposed to fund these ongoing amounts through the amount authorized but not yet spent for PDDP through June 30, 2010, and then through shifting of funds already collected from ratepayers for energy efficiency programs.

TURN and DRA each opposed the petition. In addition to the other reasons cited in the two responses, TURN and DRA both contended that the available evaluation, measurement and verification (EM&V) data illustrate such poor performance of PDDP that there is only minimal risk that cutting off funds on June 30, 2010 (as originally contemplated) would disrupt anything that the Commission might want to avoid disrupting.[1]

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[1] Proposed Decision, pp. 5-6.

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The Proposed Decision would have the Commission extend the PDDP in a more limited fashion that the utilities had sought, and scale back the authorized funding to 50% of the amount requested ($289,000 per month for SCE, and $36,000 per month for SoCalGas).[2] This level of funding is available to the utilities so long as they file an application by July 16, 2010 (within 45 days of the final Energy Division process evaluation, which issued June 1, 2010) and, if such an application is filed, will continue until a decision issues on that application or December 31, 2010, whichever comes first.[3]

I. The Near-Certainty That Any Continuation of the Palm Desert Demonstration Partnership Will Waste Ratepayer Money, While Perhaps Not Legal or Factual Error Strictly Speaking, Warrants Discontinuation of Ratepayer Funding.

According to the PD, there is "little harm in extending the Partnership for a limited time to allow consideration of a new application (if one is forthcoming)."[4] It's true – the maximum amount of ratepayer dollars that could be wasted under the PD's approach is not huge (approximately $2 million if the Commission sticks with the PD's reduced funding and limited funding period). But the fact that it's only a small amount of money (and, therefore, "little harm") should not be the deciding factor. [FIND CITES FOR CPUC SAYING "WE CARE EVEN ABOUT SMALL AMOUNTS OF MONEY"]

As the PD anticipated, the Energy Division process evaluation report that had been available in draft form at the time the PD issued is now final. It describes a program that does not warrant continued ratepayer support of any amount. The Commission need only skim the opening pages to get a flavor for the deep-seated concerns associated with PDDP:

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[2] Proposed Decision, Ordering Paragraph 1.
[3] Proposed Decision, Ordering Paragraph 2.
[4] Proposed Decision, p. 8.

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- There is anecdotal information that the program is "more than the sum of its parts", however as it is currently operated it is unlikely that the $48.8 million in requested funding between 2007 and 2012 [footnote omitted] will be cost effective or yield program design innovations that can be clearly defined, measured, and replicated elsewhere.[5]

- One of the program's proposed innovations, Thermal Energy Storage (TES), was allowed as a non-precedential pilot program as part of the Decision approving the program, however subsequent engineering analysis by SCE concluded that the technology being considered was not feasible; therefore the program had no TES installations.[6]

- Incentives that are higher than those offered by other SCE programs were one of the main program innovations. SCE PDP&D incentive levels tended to be higher for all measure categories, averaging $0.24 per kWh saved compared to an average of $0.16/kWh and $0.11/kWh for other SCE LGP and SCE core programs, respectively. An IOU sponsored process evaluation acknowledged these incentives; however the PDP&D program management conducted no research on the impact of these incentives even though it is one of the main pilot objectives of the program.[7]

In short, this is a program that is not cost effective, even when using the data from SCE's reported *ex ante* savings rather than ED's adjusted *ex post* figures.[8] It is also a program that will not yield the hoped-for program design innovations (indeed, one of the key promised program innovations went nowhere due to the infeasibility of the technology), with one of the main program "innovations" being that SCE could offer higher-than-normal incentives to targeted customers.[9] The Commission should stipulate that SCE is capable of paying higher incentives than it does under its other energy efficiency programs,

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[5] Palm Desert Partnership & Demonstration Program Implementation Assessment (revised June 1, 2010), p. 3.
[6] *Id.*
[7] *Id.*, at 4.
[8] *Id.*, at 2 and 33.
[9] The Commission may have to accept as an article of faith that SoCalGas could spend more than usual on incentives, since the utility spent less than 1% of its PDDP program costs on incentives. *Id.*, at 2 ("A particular cost concern is that nearly all of SoCalGas PDP&D program costs of $990,000 were spent on operating and administrative activities, with less than 6% paid in incentives.")

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rather than keep spending ratepayer funds to demonstrate that this continues to be true. The Petition to Modify should be denied, and PDDP should end as of June 30, 2010.

II. The Utilities Should Only Be Given More Time To Present A PDDP Application If They Bear Some Of The Costs Should An Application Either Not Be Filed Or Be Rejected.

The Petition for Modification sought to put SCE and SoCalGas in a position with weird incentives. If the ongoing piecemeal funding for PDDP is tied to the filing of a future application, and the utilities have concerns about the reception that the application will receive, they clearly would have the incentive to defer filing the application as long as possible. The PD mitigates this risk somewhat, by saying the application must be filed no later than July 16, 2010. But SCE and SoCalGas still face a choice between filing an application and having funding continue (most likely through the end of 2010), or not filing an application and having funding terminate approximately 6 months earlier. Their continued pursuit of additional funding for PDDP would seem to indicate that they are likely to file the application in order to continue the funding for as long as possible.

The Commission should seek to ensure that the utilities only file an application because they think they can successfully assuage the concerns identified in D.09-09-047 and the just-finalized Energy Division report. For example, the Commission could approve the continued funding with the caveat that if the application ultimately does not lead to the continuation of the PDDP, the utilities will bear 50% or some other significant portion of the costs incurred between June 30, 2010 and the denial or other unsuccessful resolution of the application. In that way, the utilities will have more of a stake in their assessment of the likelihood that the PDDP will achieve continued funding.

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June 14, 2010 Respectfully submitted,

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APPENDIX

PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

FINDINGS OF FACT

7. SCE and SoCalGas failed to demonstrate that it would serve ratepayers' interests to ~~E~~extend~~ing~~ the Partnership until an Application incorporating evaluation results can be considered ~~would allow continuity of the Partnership in the event the Commission decides to continue it~~.

CONCLUSIONS OF LAW

1. It is not reasonable to continue the Partnership for a limited period of time (even at a 50% reduced budget level) ~~in order to allow continuity of the Partnership in the event the Commission decides to continue it~~.

2. ~~Continuation of the Partnership should be limited to the amount of time necessary to consider a new Application for continuation of the Partnership, should one be filed.~~

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