

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application of Southern California Edison
Company (U 338-E) 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)

NOTICE OF EX PARTE COMMUNICATIONS

Pursuant to Rule 8.3 of the Commission's Rules of Practice and Procedure, EnerNOC, Inc. (EnerNOC) and Global Energy Partners, LLC (GEP) hereby give notice of the following ex parte communications.

All of the communications occurred on Tuesday, June 21, 2011, and involved the same information. The communications were both oral and written and took place at the Commission's offices at 505 Van Ness Avenue, San Francisco, California 94102.

The communications were initiated by Melanie Gillette, EnerNOC's Director for Western Regulatory Affairs. The first communication occurred at 10:30 a.m. with Carol Brown, Chief of Staff to Commission President Michael R. Peevey. The second communication took place at 11:15 a.m. with Paul Phillips, energy advisor to Commissioner Timothy A. Simon. The third and final meeting took place at 1:15 p.m. with Michael Colvin, energy advisor to Commissioner Mark Ferron.

Also present at each of these communications were John A. Kotowski, Ph.D., Vice President – Energy Solutions for Global Energy Partners, LLC. (GEP); Gregory A. Wikler, Director – Utility Research for GEP; Sean Layerle, Program Manager for EnerNOC, Inc.; Donald G. Hladun, Senior Manager, C&I (Commercial and Industrial) Programs, California for Lockheed Martin Services, Inc.; and Gene Thomas, Senior Energy Analyst, Energy Group, for EcologyAction. Sara Steck Myers, attorney for EnerNOC, was present at the first two meetings, but did not attend the third meeting with Mr. Colvin. No one else was present at these communications, except as stated herein.

Ms. Gillette stated that EnerNOC and GEP had joined the National Association of Energy Service Companies (NAESCO) in filing opening and reply comments on the Proposed Decision of ALJ Gamson (“Third Decision Addressing Petition for Modification of Decision 09-09-047”) in these consolidated applications, A.08-07-021, et al. According to Ms. Gillette, these joint comments objected to the unsupported and arbitrary adoption of the Energy Division’s proposed Custom Project review process, which completely ignored the alternative proposals of Program Implementers, including EnerNOC, GEP, and NAESCO members. In addition to these oral communications, in the meeting with Mr. Phillips, Ms. Gillette provided him a handout (appended and incorporated hereto) (“Attachment”) that details the principal objections contained in these joint comments on the Proposed Decision.

In identifying the negative consequences for their customers, who are also utility ratepayers, Ms. Gillette, Mr. Layerle, Mr. Kotowski, Mr. Wikler, Mr. Hladun, and Mr. Thomas each asked that the retroactive, arbitrary, but uniformly applied 80% gross

realization rate (GRR) adopted by the Proposed Decision for customized projects that are not reviewed by the Energy Division be rejected in favor of a GRR of 1.00 or no less than 95%. Each noted that the arbitrary 80% GRR ignores and penalizes specific results and savings that an individual customized project achieves.

Mr. Kotowski, Mr. Wikler, Mr. Hladun, and Mr. Thomas also each confirmed that the Energy Division's customized project review process adopted by the Proposed Decision would create uncertainty and have a negative impact on projects that are already underway and completed that have achieved much higher savings than the retroactive 20% discount adopted by the Proposed Decision. Each also stated that the Energy Division's Custom Project review process, if adopted without change, would create risks for customers that would discourage their investment or interest in these high energy-savings programs. If the Energy Division's process were retained, each asked that a timeline for review of customized projects be adopted to run parallel to utility review and include a deadline by which Energy Division would complete that review.

Finally, Mr. Layerle renewed the request made by Program Implementers in the Workshop, Case Management Statement, and joint comments for the Program Implementers' Alternative Review Process Proposal to be adopted. According to Mr. Layerle, by that proposal, Energy Division, the IOUs and Program implementers would take advantage of the remainder of the 2010-2012 Program cycle to test a pilot review process, with the findings and lessons learned from that pilot informing a more permanent review process to be implemented in the next program cycle. Mr. Layerle

stated that such a collaborative study would establish a realistic and effective review process for future program cycles.

To obtain a copy of this notice, please contact:

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Respectfully submitted by:

June 24, 2011

/s/ SARA STECK MYERS

Sara Steck Myers
On Behalf of
EnerNOC and GEP

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ATTACHMENT

**National Association of Energy Service Companies (NAESCO), EnerNOC, Inc.
(EnerNOC),
And Global Energy Partners, LLC (GEP) (“Program Implementers”)
JOINT OPPOSITION TO PROPOSED DECISION OF ALJ GAMSON
A.08-07-021, et al. (Energy Efficiency (EE) 3-Year Programs)
CPUC Agenda Meeting of June 23, 2011 (Item 37)**

- NAESCO, EnerNOC, and GEP represent the companies that undertake and are responsible for the implementation of this Commission’s Energy Efficiency (EE) programs approved for the Investor-Owned Utilities (IOUs) (“Program Implementers”).
- In our role as Program Implementers, we joined in submitting comments in strong opposition to the Proposed Decision’s approval of the Energy Division’s proposed process for reviewing customized *ex ante* measure values.
- Despite active participation on this issue in the CPUC’s Workshop held in January 2011 and other discussions with Energy Division, the Program Implementers’ positions and alternative proposal on this issue have been completely ignored in the Proposed Decision.
- Yet, the Program Implementers, and many other companies that also participated in this process, including individual members of NAESCO and the California Energy Efficiency Industry Council (CEEIC), demonstrated that the Energy Division’s process is flawed, its impacts are unknown, and its adoption is, at best, premature.
- Further, the Proposed Decision errs in adopting this process and as follows:
 1. The PD places unnecessary burdens, increased financial risks, and unwarranted delays on customers by duplicating existing and effective Program administrative activities.
 2. The PD imposes an arbitrary 80% realization rate that ignores program-specific EM&V results, unfairly penalizes programs with much higher post-evaluation realization rates, and ignores significant program improvements made across the IOU portfolios since 2008.
 3. The PD undermines one of the key elements of Commission policy for the current program cycle—the establishment of regulatory certainty for customers and program implementers—by subjecting Custom Projects to a review process, which the Energy Division has not yet fully designed and which includes an indefinite timeline.
 4. The PD significantly expands Energy Division’s authority, roles, and responsibilities, and does so in a way that runs counter to the role the Commission has defined for the Energy Division.
 5. In workshop comments on February 6, 2011, Energy Division staff acknowledged that a streamlined role for Energy Division would help minimize bottlenecks in the process.
 6. The PD ignores the market effects and customer implications that would result from its adoption, and summarily dismisses the positive alternatives put forth by stakeholders in the Case Management Statement without addressing their substantive content.
- The PD should be held and modified, or an Alternate issued, to reject the Energy Division’s process and adopt the Program Implementers’ alternative “pilot” approach during this period prior to the next EE cycle applications being filed.