BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for Approval of the 2009-11 Low Income Energy Efficiency and California Alternate Rates for Energy Programs and Budget (U39M)	Application 08-05-22 (Filed May 15, 2008)
And Related Matters	Application 08-05-024 Application 08-05-025 Application 08-05-026

RESPONSE OF SOUTHERN CALIFORNIA GAS COMPANY TO THE JOINT EMERGENCY MOTION TO CONTINUE THE LOW INCOME ENERGY SAVINGS ASSISTANCE PROGRAM FOR SOUTHERN CALIFORNIA GAS COMPANY'S LOW INCOME HOUSEHOLDS

I. INTRODUCTION

Pursuant to Rule 11.1 of the California Public Utilities Commission's ("Commission") Rules of Practice and Procedure and the November 30, 2011 Administrative Law Judge ("ALJ") Ruling, Southern California Gas Company ("SoCalGas") files its response to the Joint Emergency Motion of The East Los Angeles Community Union ("TELACU"), the Association of California Community and Energy Services ("ACCES"), and the Maravilla Foundation ("Maravilla") to Continue the Low Income Energy Savings Assistance Program ("ESAP" or "program") for Southern California Gas Company's Low Income Households ("Motion"). In their Motion filed on November 29, 2011, TELACU, ACCES, and Maravilla (collectively, the "Joint CBOs") request that the Commission deny SoCalGas' effort to temporarily suspend its ESA program for four-weeks due to lack of program funding.

The next day, ALJ Kim issued a ruling that directed SoCalGas to "take all actions reasonably necessary to continue its ESA Program and prevent suspension or any interruption to the ESA Program as indicated in the Emergency Motion and its attached letter dated November 28, 2011." The Ruling also permitted SoCalGas under Decision ("D.") 10-10-008, Ordering Paragraph 4, "to borrow an amount not to exceed that which is necessary from the bridge funding authorized for January 1, 2012 to June 30, 2012 under D. 11-11-010." SoCalGas is grateful to the ALJ and Commission for this reprieve because it allows SoCalGas the opportunity and funding to continue to work with its contractors to achieve the Commission's programmatic initiative goal "to provide all eligible LIEE customers the opportunity to participate in LIEE programs and to offer those who wish to participate all cost effective energy efficiency measures in their residences by 2020," [1] and achieve the California Energy Efficiency Strategic Plan ("CEESP") to make energy efficiency an energy resource.[2]

The November 30, 2011 ALJ Ruling also required that:

> "[b]y December 1, 2011, Southern California Gas Company shall file its response to the Emergency Motion including detailed justification as to why its 2011 ESA Program budget is in such state resulting in such disruption to ESA Program and why such issue was not brought to the Administrative Law Judge's or the Commission's attention.

Below, SoCalGas provides its response. As discussed below, SoCalGas made numerous efforts to continue its ESA program operations through the 2011 year and initiated contacts with the Commission and its contractors prior to telling its contractors to suspend program activities in December. While it is regrettable that SoCalGas did not have sufficient funds to continue the program in December prior to the November 30, 2011 ALJ Ruling, the lack of funding was the

[1] D.07-12-051, at p. 25.

[2] D.07-10-032 directed the investor-owned utilities ("IOUs") to develop a single, statewide IOU strategic plan for energy efficiency through 2020 and beyond. In accordance, the IOUs developed the CEESP, which defines innovative new paths to aggressively deliver energy efficiency to the state, and to significantly contribute to the state's goal of having a reasonably priced, stable, reliable and clean portfolio of energy resources.

result of unforeseeable increased activity during November and not the result of any mismanagement of the ESA program, and thus SoCalGas does not believe any sanctions or penalties are warranted.

SoCalGas' shortage of program funding was fundamentally a result of the success of the program in reaching the highest number of participants in its history, and providing more eligible households with the full suite of measures available. SoCalGas is proud of what the program has accomplished both in serving our low income customers and in building the capacity and capability of the contractor network. However, as will be described in more detail below, this success has also revealed new challenges that need to be addressed.

II. DISCUSSION

A. Background and Justification for Program Suspension

For the 2009-2011 ESA program cycle, SoCalGas' program design did not anticipate installation of weatherization measures such as weatherstripping and outlet gaskets. Accordingly, SoCalGas did not include funding for these measures in its 2009-2011 program application. However the Commission in D.08-11-031 directed the investor-owned utilities ("IOUs") to continue to install all feasible measures, which include weatherstripping and outlet gaskets. The authorized budget for 2011 of $78.3 million allows for an average cost per unit treated of $536 (based on a goal of 145,874 units). SoCalGas' actual average unit cost for 2011 is approximately $622 through October, which translates to a program expense of $90.7 million for 145,874 units. SoCalGas' average unit cost has increased during the program cycle, from $577 in 2009, to $606 in 2010 to the current level in 2011 of $622. This is the result of more measures, especially higher cost measures, being installed. One significant reason for the increase is that contractors have increased their capacity to install them. For example, not all contractors have the equipment and trained workers to install attic insulation, but during this program cycle some contractors invested in equipment and training of workers to be able to install attic insulation, resulting in more eligible homes receiving this measure. SoCalGas' filed budget also anticipated providing different measure mixes based on different usage levels, which would have meant some homes did not receive all feasible measures, for a lower total program cost. The full impact on program spending of the budget gap created by this change has been realized in 2011.

In the latter part of 2011, SoCalGas anticipated that it may spend its entire authorized ESA program budget for the 2009-2011 program cycle. In late September 2011, SoCalGas' projections for program spending for the remainder of the year indicated that SoCalGas could exceed the available budget. Projected spending was $101 million, which would exceed the budget, including using carryover funds, by $2.3 million. In October, SoCalGas reviewed its projections in detail to understand why spending was exceeding projections, when they had historically been reliable. In order to calibrate its projections and decide on appropriate future action, SoCalGas then talked to its four largest contractors, who represent 40% of the total contract value, to ask what they projected their activities and spending to be for the remainder of the year. SoCalGas also considered its options at the time, specifically requesting authority to use a projected overcollection in the Direct Assistance Program Balancing Account ("DAPBA") due to higher than forecast throughput to augment program funds; or to work with contractors to reduce activity and keep the program spending within the budget. At the time, SoCalGas concluded that slowing program activity was the more prudent course. Accordingly, SoCalGas spoke to contractors and got agreement to reduce the number of units treated, and several contractors with alternative revenue streams agreed to shift their work away from the ESA program for a few months. SoCalGas estimated that the reductions would reduce annual program spend by $3 million, which projections showed would be enough to keep spending within the total available budget (after fund-shifting) of $99 million, with a carryover of $1.1 million. Unfortunately these proactive measures did not have the intended result of lowering contractor expenses in November.

In early November, SoCalGas projected that it would have $9.8 million in uncommitted funds remaining in its ESA program budget, which represented 13% of the annual budget. Accordingly, on November 14, 2011 SoCalGas spoke to Energy Division Staff to explore an emergency filing to request authority to use the projected DAPBA overcollection of approximately $2 million to augment program funds. If the overcollection did not materialize, SoCalGas proposed to recover the balance in rates in 2013. On November 18, 2011 Energy Division Staff told SoCalGas to go forward with the advice letter filing.

SoCalGas also asked all 44 of its contractors on November 17, 2011 for their best estimates of work completed but not entered into the invoicing system to confirm the accuracy of its projections. SoCalGas also requested that the contractors provide projections for additional work through the end of the year. Both numbers (work completed and projected work) came in significantly higher than expected and above historical patterns. In the first 11 months of 2011 average monthly spending was approximately $7.5 million; however, for the month of November the total program expenses were approximately $22 million.[3] November's expenses were greater than any prior *two month* period in the cycle, and are very close to the average *three month* spend. Since the spending and activity had also been quite consistent during the rest of the program cycle, SoCalGas did not anticipate this spike.

[3] The contractors indicated they had $4.2 million of work completed but not yet invoiced, which is about 74% of SoCalGas' estimated available (uncommitted) funds in the budget.

Monthly Average Program Spending		
	2010	2011
January	$ 289,874	$ 422,857
February	$ 1,515,092	$ 5,986,229
March*	$ 9,634,268	$ 12,654,561
April	$ 6,329,567	$ 6,856,272
May	$ 5,599,958	$ 7,682,514
June*	$ 7,056,305	$ 11,002,189
July	$ 6,266,118	$ 3,588,153
August	$ 6,104,442	$ 7,679,471
September*	$ 6,154,701	$ 14,727,841
October	$ 4,930,594	$ 4,313,420
November	$ 4,172,560	$ 22,427,310
December*	$ 16,098,064	
Monthly Average	6,179,295	7,491,351
* Reflects quarterly or annual accrual		

Contractors also projected their planned December work would be an additional $10 million. Based on the information provided by the contractors on their current and projected activities, SoCalGas projected that if it did not suspend the program it would overrun the 2011 budget by approximately $9 million. SoCalGas explored seeking additional funds to support program activities through the end of the year but did not identify any feasible options that would result in timely Commission approval.

Two issues relating to the current contracts for the ESA program limited SoCalGas' options. These issues will be addressed in the 2012 contracts. First, the combined maximum spending limits in the ESA program contracts exceed the authorized budget of $99 million. This was done to ensure the maximum flexibility for contractors to be able to meet the very aggressive goals for the program. In 2009 and 2010, the contractors struggled to increase capacity to meet the much higher goals in the program and SoCalGas added contractors and set aggressive goals to get closer to the goals. In 2011 as both production (units weatherized) and cost per unit increased significantly, the higher contract limits became a significant problem. The second issue is that the contracts do not include provisions to allow SoCalGas to adjust the maximum contract amounts or the unit goals except as agreed to by the contractors. The only actions SoCalGas can take unilaterally was to suspend or terminate the contracts. Because of the program budget limit, which cannot be exceeded without Commission approval, SoCalGas determined that the most reasonable and prudent course of action was to suspend additional activity until 2012 funds become available in approximately four weeks.

SoCalGas promptly notified the Assigned Commissioners' Offices and the Energy Division Staff of these facts on November 23, 2011. On November 23, 2011 SoCalGas also promptly notified Commissioners of its intent to suspend program activities on December 1, 2011. On November 28, SoCalGas informed the contractors of its intent to suspend the program on December 1, 2011, and recommence program activities in January 2012. On November 29, the Joint CBOs filed their Motion in opposition of SoCalGas' plan to suspend its ESA program.

SoCalGas did not and could not anticipate that program activity costs in the month of November would increase at such an extraordinary rate, as program costs in November were almost triple the normal monthly amount. Prior to November, SoCalGas had reasonably managed its ESA program activities and believed that it would be able to stay within its approved 2008-2011 budget. The program's financial issues were a bigger problem than could be anticipated and SoCalGas took the necessary steps to suspend the program for four weeks in order to avoid exceeding its authorized budget.

Notwithstanding, SoCalGas realizes that from the perspective of its contractors, even a four-week program suspension could be disruptive. But, considering the fact that program funds were not available, SoCalGas determined it had no other choice. Despite the suspension notice, SoCalGas continued to research potential funding sources in order maintain program activity in December. On November 30, 2011, SoCalGas identified the same D.10-10-008 language cited in the electronic November 30, 2011 ALJ Ruling and sought Energy Division input shortly before the Ruling was issued. However, SoCalGas was concerned that because the language of the decision refers to "the next budget cycle," and the 2012 program will begin with bridge funding rather than the next three year program cycle,[4] clarification was required before it could conclude that it can use 2012 funds to maintain program activities for the next four weeks.

SoCalGas concurs with the ALJ's interpretation of Ordering Paragraph 4 in D.10-10-008 and believes the November 30 ruling provides the clarification necessary to utilize the authority granted in that decision to fund program activities for the remainder of the year. SoCalGas notified its customers on November 30 that ESA program activities may now continue.

B. Impact of ESA Program Suspension on Contractors and Customers

At the time SoCalGas determined to suspend program activities for the month of December, it did not believe that the suspension, while regrettable, would cause significant harm. Accordingly, SoCalGas believed it was a reasonable approach to the unanticipated funding shortfall.

First, SoCalGas indicated to all the contractors when it notified them of the suspension that if they had unfinished work in process, SoCalGas would consider it on a case-by-case basis. It also believed that some measures, such as attic insulation could be deferred without significant harm to the customer.

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[4] D.10-10-008, at p. 5.

Second, SoCalGas did not believe that the four week suspension would result in customers eligible for measures not receiving program measures.. Rather, customer measure installations would likely be delayed 4 – 6 weeks from the time they would otherwise receive them. This is not a desirable result, but with the certainty that funding would be available immediately after January 1, SoCalGas expected contractors to be able to resume activity very quickly. SoCalGas also thought that program activity could be suspended in December without too much disruption because customers often prefer not to have work done during the holidays, some contractors shut down for the holidays, and many workers take vacation over the holidays.

Third, SoCalGas worked diligently with contractors to try to avoid disruption in the program by gradually slowing the rate of spending. These efforts were not successful, as discussed above. SoCalGas notes, however, that the current contractual limitations restrain its ability to limit the pace of contractor activities and spending and that funds used in December will not be available for program activities during the bridge period unless additional funds are approved by the Commission at a later date.

C. Future Controls to Ensure Proper Funding of the ESA Program

Although SoCalGas, to the best of its ability, attempts to accurately forecast program activities and spending for its 40 plus contractors throughout the year, it also realizes there a variables that can dramatically impact spending that are not immediately foreseeable. A core challenge of the ESA program is the lag in entering and processing work, and assisting contractors to build capacity in this area has been a major focus for SoCalGas during this program cycle. Based on the 2011 experience, SoCalGas now plans to enhance its forecasting tools to factor in contractor activity earlier in the enrollment to installation process to assist with determining probable spending outcomes. This information will provide SoCalGas with an early warning for significant variations in contractor activity and to take necessary measures.

Going forward, to ensure that its ESA program remains properly funded, SoCalGas plans to reassess its contracting practices with contractors to allow SoCalGas greater controls over the total spend as well as the spend rate of its contractors. However, the Commission's mandates to provide all feasible measures to all eligible homes will still ultimately dictate the major costs of the program. SoCalGas does not believe it should micromanage its contractors since they are in the best position to manage their established unit goal and funding levels to meet program objectives. Nevertheless, SoCalGas plans to institute additional contractual controls to ensure that spending is in alignment with program budgets and objectives and prevent future disruptions.

SoCalGas' ESA program is a Commission-mandated customer program, which is regularly audited by the Commission's Audit Department and by SoCalGas' own internal Audit Department. SoCalGas is not opposed if the Commission decides that the 2011 ESA program should be audited sooner than otherwise planned, or if the scope of that audit is broadened to include factors not normally included in the Commission's standard audit procedures. SoCalGas will work with the Commission's Audit Department to facilitate such endeavors.

III. CONCLUSION

SoCalGas' ESA program budget has been depleted because of unanticipated costs and an extraordinary amount of program activity performed in the last several weeks. As a result and after timely consultation with the Energy Division and Commissioners, SoCalGas planned to suspend its program activities for the month December and recommence activities in January. However, this course of action is no longer necessary because of the November 20, 2011 ALJ Ruling. SoCalGas thanks the ALJ, Commissioners and their Staffs, and Energy Division Staff for working to form a fair and effective solution that benefits SoCalGas' customers and contractors.

Respectfully submitted,

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