PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

RESOLUTION E-3555
JULY 23, 1998

RESOLUTION

RESOLUTION E-3555. PACIFIC GAS AND ELECTRIC COMPANY (PG&E), SOUTHERN CALIFORNIA EDISON COMPANY (EDISON), SOUTHERN CALIFORNIA GAS COMPANY (SOCALGAS) AND SAN DIEGO GAS & ELECTRIC (SDG&E) SUBMIT FOR COMMISSION APPROVAL PROPOSALS FOR THE EXTENSION OF 1998 ENERGY EFFICIENCY PROGRAMS THROUGH DECEMBER 31, 1998 IN ACCORDANCE WITH ORDERING PARAGRAPH 3 OF DECISION 98-05-018 AND INTERIM POLICY RULES ADOPTED IN DECISION 97-12-103. APPROVED AS MODIFIED.

BY PG&E ADVICE LETTERS (AL) 2086-G/1776-E, EDISON AL 1321-E, SOCALGAS AL 2719-G, SDG&E AL 1100-G/1104-E. ALL FILED JUNE 5, 1998

SUMMARY

1. By Advice Letters 2086-G/1776-E, 1321-E, 2719-G, and 1100-G/1104-E filed, on June 5, 1998, PG&E, SCE, SoCalGas and SDG&E, respectively, seek Commission approval of their proposed fourth quarter 1998 energy efficiency program budgets, in compliance with Decision (D.) 98-05-018.

2. Comment was filed by the California Board for Energy Efficiency (CBEE) on June 19, 1998.

3. Protests were filed by Sharp Energy, Inc. dated June 15, 1998; the City of San Jose (City) dated June 18, 1998; the Residential Service Companies' United Effort (RESCUE) and SESCO, Inc dated June 19, 1998; and Residential Energy Efficiency Clearing House, Inc. (REECH) dated June 19, 1998.

4. SCE, PG&E, and SDG&E filed responses dated June 24, 1998. SoCalGas did not submit comments.

5. The utility budget proposals were developed in close collaboration with the CBEE and are responsive to the Commission's general desires and direction. The protests raise significant and legitimate issues concerning the continuance of interim utility administration, but most are outside the scope of this compliance filing.

6. This Resolution approves, as filed, the advice letters of PG&E, SCE and SDG&E. SoCalGas' advice letter is modified with regard to its allowed fourth quarter shareholder incentive award.

BACKGROUND

1. On October 1, 1997, the utilities filed application for 1998 programs plans. These applications included proposed revisions to demand-side management rules, program designs and shareholder incentives. As directed by Decision (D.) 97-09-117, the utilities included descriptions of their plans to coordinate customer information services regarding energy efficiency with their plans to educate customers about their energy choices. On October 15, 1997, the utilities filed supplements to their October 1 filings pursuant to Ordering Paragraph 11 of D.97-09-117. On October 24, 1997, the California Board for Energy Efficiency (CBEE) held both a public workshop regarding the proposed 1998 program plans and a scheduled board meeting. CBEE issued a workshop report on November 10, 1997, which was supplemented and corrected on November 19, 1997.

2. As requested by the assigned Administrative Law Judge, the utilities updated their summaries of 1998 performance incentives and awards--SoCalGas and SCE on November 19, 1997 and PG&E and SDG&E on November 21, 1997. On November 18, 1997, another workshop was held to address unresolved program design issues for the residential Standard Performance Contract (SPC) program. CBEE reviewed the utility proposals and parties' comments and submitted its recommendations to the Commission on December 10, 1997. On December 16, 1997, the Commission issued D.97-12-103, which established policy rules, program design, and nine-month energy efficiency budgets for the utility interim administrators. After the nine month period, the programs were to be transitioned from utility interim administration to independent administration.

3. The February 4, 1998 ruling by the State Personnel Board Acting Executive Officer, adversely impacted the scheduled transition to independent administration. On May 7, 1998, the Commission issued D.98-05-018 extending the utilities interim administration of energy efficiency programs through December 31, 1998. The Decision also directed the utilities to develop program plans and budgets in consultation with the CBEE, "to ensure that the final quarter programs plans and budgets are consistent with policies governing funding of such activities for the first three quarters of 1998." (slip opinion, pg. 9)

4. In compliance with Ordering Paragraph 3 of D.98-05-018, the subject advice letters set forth each utility's request for additional funding, program design modifications, and performance award caps consistent with the extension of utility interim administration to December 31, 1998.

Pacific Gas and Electric Company

5. PG&E states that AL2086-G/1776-E represents its close work with members of the CBEE ensuring that its final quarter program plans and budgets are consistent with policy rules, program design and funding adopted in D.97-12-103, as well as mid-course revisions agreed to with CBEE.

PG&E Proposed 12-Month Energy Efficiency Budget ($ in millions)

Funding Category	9-Month Adopted Budget	Additional Funding	12-Month Budget
Programs Only Subtotal	$65.866	$15.940	$81.806
Administrator Performance Incentive Cap	$09.221	$01.594	$10.815
CBEE Set-Aside	$04.450	$01.483	$05.933
Measurement, Forecasting and Regulatory Reporting (MFRR)	$04.600	$00.650	$05.250
Total Energy Efficiency (EE) Budget	$84.137	$19.667	$103.804

6. PG&E proposes to increase its maximum award for operating its energy efficiency programs through the end of 1998 by $1.594 million, which is 10% of its proposed additional funding. PG&E claims that the additional fourth quarter award is justified because activities to be awarded are different from those approved in D.97-12-103.

San Diego Gas & Electric

7. SDG&E states that its proposals, budgets, and performance incentives contained in its AL1104-E/1100-G were developed in close consultation with the CBEE.

SDG&E Proposed 12 Month Energy Efficiency Budget ($ in millions)

Funding Category	9-Month Adopted Budget	Additional Funding	12-Month Budget
Programs Only Subtotal	$22.851	$5.905	$28.756
Administrator Performance Incentive Cap	$03.199	$0.591	$03.790
CBEE Set-Aside	$01.500	-0-	$01.500
MFRR	$01.974	$0.156	$02.130
Total EE Budget	$29.524	$6.652	$36.176

8. SDG&E explains that its proposed program budgets are either (1) the twelve month budgets proposed in its A.97-10-912, where the original plans still hold, (2) the nine month budgets adopted in D.97-12-103 where additional funds are not needed for the balance of 1998, or (3) expanded budgets beyond the original twelve month proposals where program activity or objectives warrant an expansion. It also is proposing some program changes to respond to market conditions or responses that have occurred in certain programs.

9. SDG&E points out that the programs are operated on a full year's basis and it is unnecessary and impractical to track the two time periods separately. SDG&E states that in some cases programs have run out of funds for the nine month budget, however, since programs will be operated on a one-year basis, all funding for the year should be combined and available for the rest of the year. SDG&E requests, therefore, that the Commission adopt budgets and incentives on a twelve month basis, covering activities for all of 1998 together and that the additional funding be available immediately upon Commission approval.

10. SDG&E suggests a change to Policy Rule IV.G. part 2, which currently reads:

> Each program should include design features that clearly: (1) do not inhibit customer choices associated with the purchase of energy from another energy service provider; (2) preclude a commitment to an energy efficiency service provider or customer with an end date no later than December 31, 2001 for an SPC contract, *December 31, 1999 for new construction, or December 31,1998 for all other programs;* and (3) include provisions that the responsibility for honoring the commitment may be transferred to another administrator. (Emphasis added.)

11. SDG&E proposes that the end date for new construction programs be changed from December 31, 1999 to June 30, 2000, and for all other non-SPC programs from December 31, 1998 to March 31, 1999. SDG&E believes that this change will allow the programs to be operated through the end of 1998 without the need for early termination to meet the current end dates.

Southern California Edison

12. In its AL1321-E, SCE states that its revised program plans and budget comply with the Commission's request in D.98-05-018 for interim administrators to "extend their efforts by 25% (one calendar quarter) with budgets that were established on a nine month basis", with the exception of certain programs which SCE and the CBEE recommend be kept at current levels or increased by less than 25% because they:

- are not expected to enjoy the same market demand as other programs;
- are seasonal in nature and, therefore, participation tends to drop towards the end of the year;
- do not require further promotional services due to the higher market demand for standard performance contracting; or
- involve limited "pilot" activities that need more time to mature.

SCE Proposed 12 Month Energy Efficiency Budget ($ in millions)

Funding Category	**9-Month Adopted Budget**	**Additional Funding**	**12-Month Budget**
Programs Only Subtotal	$55.263	$14.720	$69.983
Administrator Performance Incentive Cap	$06.632	$01.472	$08.104
CBEE Set Aside	$04.000	-0-	$04.000
MFRR	$05.010	$01.377	$06.387
Total EE Budget	$70.905	$17.569	$88.474

13. SCE proposes to increase its current performance award by $1.472 million, consistent with CBEE's recommendation to increase the current cap to an amount equivalent to ten percent of additional program funding.

14. SCE proposes a customer incentive cap of $400,000 for its nonresidential SPC program and proposes two additional measures suggested by current participants for its residential SPC program: hardwired lighting fixtures and "non-replacement" heating, ventilating, and air conditioning systems (HVAC).

15. SCE proposes that commitments associated with new construction programs be extended to June 30, 2000, and commitments to non-SPC programs extended to March 31, 1999. SCE believes these extensions will enable the programs to continue without disruption and to capture lost opportunities in a revitalized new construction market.

Southern California Gas Company

16. SoCalGas submits AL2719 to seek additional funding to extend its energy efficiency budget through the final quarter of 1998.

SoCalGas Proposed 12 Month Energy Efficiency Budget ($ in millions)

Funding Category	**9-Month Adopted Budget**	**Additional Funding**	**12-Month Budget**
Programs Only Subtotal MFRR	$19.478 $01.949 $21.427	$4.070 $0.170 $4.240	$23,548 $02.119 $25.667
Administrator Performance Incentive Cap	$01.558	$0.424	$01.982
CBEE Set-Aside	-0-	-0-	-0-
Total EE Budget	$22.985	$4.664	$27.649

NOTICE

Notice of PG&E AL1776-E/2086-G, SCE AL 1321-E, SDG&E AL1104-E/1100-G, and SoCalGas AL2719 were made by publication in the Commission's Daily Calendar and by mailing copies of the filings to adjacent utilities, the Special Public Purpose Service list in R.94-04-031/I.94-04-032, and to other interested parties. As ordered in D.98-05-018, these filings were also placed on the CBEE web page.

CBEE COMMENTS

1. In its comments, dated June 19, 1998, the CBEE reports that it had met with the utility interim administrators over a series of meetings, in accordance with D.98-05-018, wherein it had discussed fourth quarter extension priorities, key issues, and guidelines. As a result, the CBEE advised the utilities to:

- Keep program budgets generally at originally-proposed 12 month levels, for programs needing only minor market progress adjustments.
- Enhance the funding of specific programs, if justified by:
  - greater-than anticipated market response consistent with
    - market transformation goals, and
    - opportunities to cost-effectively expand the scope of programs by expanding their reach or altering their scope of coverage.
- Limit or reduce requests for additional funding where:
  - additional funding is not needed,

- significant implementation problems have arisen,
- programs are seasonal and participation tends to drop towards year-end.

Program Specific Recommendations:

2. Based upon actual program activity and perceived gaps or problems during the implementation of 1998 programs, the CBEE offers the following program-specific recommendations.

- Small commercial/industrial Program: CBEE recommends that efforts targeted to these customers be increased.
- Non-residential SPC Program: CBEE contends that the market response to this program has been outstanding. CBEE recommends, therefore, that a customer incentive cap of $400,000 for additional funds or remaining unsubscribed funds be applied in order to further increase the number of participants. The CBEE recommends that no single customer be able to subscribe to more than $400,000 in total incentive funds under the 1998 program, as of the first day of the next calendar month following Commission approval of the subject Advice Letters.
- Residential SPC Program: The CBEE has some significant concerns about the design and implementation of this pilot program but believes that funding the next project(s) in line will provide a reasonable opportunity to gain additional experience and to bring overall funding levels consistent with the original 12-month budgets.
- Third Party Initiatives Program: The CBEE recommends that, where feasible, proposed programs should be added and programs that were funded with initial 1998 funds should have their contract terms and milestones extended.

3. Based on its review of the advice letter filings, the CBEE supports the subject advice letter submittals but highlights for Commission consideration its alternative to the shareholder incentive mechanism submitted by SCE and its proposed revision to interim policy rules, consistent with the proposed increase in budgets.

Shareholder Incentive Mechanism

4. The CBEE concurs with all of the utility proposals for shareholder incentive design and reward levels, with the exception of SCE's filing. Accordingly, the CBEE submits an alternative schedule for SCE which corrects typographical errors and provides for SCE's shareholder incentive mechanism earnings cap to be increased by ten percent of SCE's additional program funding. The CBEE recommendation ensures that SCE's shareholder incentive awards will be consistent with shareholder incentive awards for the other utility interim administrators.

Revisions to Interim Policy Rules

5. The CBEE urges the Commission to extend the pay-out end dates for programs other than the SPC programs, established in Interim Policy Rule IV.G. The CBEE supports a proposed change in end date for new construction programs from December 31, 1999 to June 30, 2000 and for all other non-SPC programs from December 31, 1998 to March 31, 1999. The CBEE believes that this modification will allow for continued implementation of the affected programs consistent with the proposed increase in budgets.

Utility Responses to CBEE Comments

6. Responses dated June 24, 1998 were received from SCE, PG&E, and SDG&E. SoCalGas did not submit comments.

7. SCE's Response to CBEE Comments:

- SCE believes that the CBEE's requested policy change to the nonresidential SPC program subscriptions "as of the first day of the next calendar month following Commission approval of these Advice Letters" will delay implementation of the recommended customer cap. Instead, SCE recommends that the $400,000 customer cap should become effective as of the date of the Commission's resolution of these advice letter filings. SCE believes, further, that the $400,000 customer cap should be applied to all uncommitted incentive funds, as well as any additional fourth quarter incentive funds. SCE suggests that the Commission apply this change consistently statewide to all nonresidential SPC programs.
- SCE agrees with and accepts the CBEE's alternative to its Shareholder Incentives Schedule. SCE recommends that the Commission adopt it in its entirety and without further modification.

8. PG&E's Response to CBEE Comments:

- PG&E suggests that the CBEE's recommendation pertaining to the effective date of the new limit on the maximum amount of additional funding in the nonresidential SPC for any particular customer should be changed to allow fully subscribed utilities (such as itself) to accept a greater number of additional applications into its program at the capped amount. PG&E believes that adoption of its recommendation will have no impact on utility programs that are not fully subscribed. PG&E's alternative language is:
    - For the Non-residential SPC programs not fully subscribed on the effective day of this decision, no single customer shall be eligible to receive more than $400,000 as of the first day of the next calendar month

following Commission approval of the advice letters. For programs which are fully subscribed as of the effective day of this decision, the $400,000 customer limit is effective immediately.

PROTESTS

1. Protests were filed by Sharp Energy, Inc. dated June 15, 1998; the City of San Jose (City) dated June 18, 1998; the Residential Service Companies' United Effort (RESCUE) and SESCO, Inc dated June 19, 1998; and Residential Energy Efficiency Clearing House, Inc. (REECH) dated June 19, 1998.

Sharp Energy's Protest

2. Sharp Energy's protest states that it believes that SoCalGas should be held to its original program budget and should not be allowed to increase its program and earnings cap for the last quarter. The protest cites as an example SoCalGas' "Energy Edge" program which it reports is greatly under-subscribed and appears to be a "non-essential grab for additional funds".

3. No utility responded to Sharp Energy's protest.

City Of San Jose's Protest

4. The City believes that exclusive utility management of energy efficiency programs is inconsistent with D.97-02-014 and is having perverse effects on planning for competitive service offering. It requests that the fourth quarter extension to interim administrator signal the end of utility administration and urges the Commission to consider establishing a reserve up to 10% of 1998 public goods change energy efficiency funds to aid in the start up of anticipated new Program Administrators.

5. The City asks the Commission to direct the utilities and the CBEE to undertake transition planning to ensure divestment of at least some key functions by a date certain and for this transition planning to be conducted by a Statewide Special Administrator.

6. The City requests that the Third Party Proposal (TPP) program should be managed by a Special Interim Administrator. The City criticizes the present program stating the Request for Proposals (RFP) for TPPs was extremely brief and did not permit cities an opportunity to participate. The City claims that (a.) the procurement among utilities interim administrators was inconsistent; (b.) the path was disorderly and inconsistent with a market transformation strategy of introducing pilots and innovations into a unified California market; (c.) there has been no guidance for preparing a 1999 TPP

offering; and (d.) the TPP can serve as contingency should major delays occur in new Administrator startups. The City requests that the Commission order the appointment of a special Interim Administrator for TPP and ordering payment from fourth quarter 1998 public goods charge EE funds and make a non-competitive appointment to either the CEC or the DGS as Special Interim Administrator.

7. The City also offers comment on the status of Low Income Program administration, raises concerns regarding the formulation of the CARE discount, and offers advice to the Commission and the Low Income Governing Board (LIGB) to explore.

8. <u>SCE's response to the City of San Jose's Protest</u>

- SCE states that many of the issues in the City's protest do not pertain to the subject advice letter filing and others relate to the new administrative structure and the 1999 program planning process. SCE limits its response to the three issues that it considers are directed at the continuation of the current energy efficiency interim administration, as proposed in the advice letter.
- SCE states that the City's recommendation of a 10 percent set aside of 1998 funding to support the anticipated administrative structure should be denied because its budget has ample reserve funding for the start up of new administrators and includes the possibility that the RFP process might begin in 1998.
- SCE believes that the City's recommendation for a January 1, 1999 date certain for certain key transitions to a special statewide administrator relates to 1999 planning issues and detracts from the delivery of 1998 energy efficiency programs.
- SCE objects to the City's recommendation that the Commission appoint a special interim administrator (e.g. CEC or DGS) to support 1999 Third Party Initiatives. It believes that the 1998 TPI process has been implemented satisfactorily with the support of interim administrators and the review process designed by the CBEE and the interim administrators.

9. <u>PG&E's response to the City of San Jose's Protest</u>

- PG&E states that its proposed twelve month budget recommends total 1998 Public Goods Charge energy efficiency leaves more than ten percent for additional allocation to CBEE commitments.

10. SDG&E and SoCalGas did not file responses to the City's protest.

<u>Rescue and Sesco, Inc.'s Protest</u>

11. RESCUE and SESCO, Inc. find fault in the implementation of the Residential SPC program approved in D.97-12-103. They claim that each utility received bids

sufficient to oversubscribe funds by about a factor of five, but, in spite of this overwhelming response, no contracts have been executed and there are no actual Residential SPC projects in California.

12. RESCUE and SESCO, Inc. believe that shareholder incentive mechanisms should offer utilities incentive to sign contracts in a timely manner. They request that the Commission establish such an incentive by denying utilities shareholder incentives for their Residential SPC efforts not implemented by means of contracts signed within 180 days of the date the utility closed its Residential SPC lottery window.

13. The Protestants also report that utilities have erected measurement and implement barriers which contractors can not overcome. They complain that (with the exception of one bid to SoCalGas) the utilities are not offering pay for performance programs, with payment to the contractor dependent upon *ex post* measurement savings. They contend that, in essence, the utility Residential SPC programs have become simple rebate programs with rebates limited to particular items.

14. RESCUE and SESCO, Inc. point out that there has been a very large response from the Residential SPC solicitations, even though performance contracting is effectively precluded. They therefore request that the Commission direct each utility to increase the funding of Residential SPC program by not less than 50 percent, plus the amounts redirected from the utility in-house Energy Management Services (EMS) programs, which they request not to be increased.

15. In RESCUE and SESCO's view, EMS programs should not be increased because utilities have implemented these programs by means of competitive bidding or incorporating the activities into the standard performance contracts, as encouraged by D.97-12-103. They request that the Commission not approve any additional funding for EMS programs and the associated funds be directed to Residential and Nonresidential SPC programs.

16. RESCUE and SESCO, Inc. observe that only one SoCalGas Residential SPC contract has been executed (i.e. signed by both parties) and since the execution of that contract SoCalGas has demanded new measurement and verification provisions to impose burdens on the contractor that make the project impractical. They also observe that SCE is seeking similar substantial changes to the Residential SPC contract approved in D.97-12-103. The Protestants request, therefore, that the Commission direct the utilities to cease their attempts to (1) add new requirements to contracts already signed or (2) make substantive changes to the contract templates approved in D.97-12-103.

17. SCE's Response to RESCUE and SESCO Protest

- SCE urges the Commission to ignore RESCUE and SESCO's suggestion that utility interim administrators be denied performance awards if a contract has not been signed by both parties within 180 days of the deadline for submittal proposal to the utility. SCE notes that the performance award mechanism adopted in D.97-12-103 does not require the interim administrators to sign a contract with an Energy Efficiency Service Provider within 180 days and characterizes RESCUE and SESCO's recommendation as an attempt to use the protest process to gain leverage in contract negotiations related to the residential SPC program in a way that might compromise ratepayer interests.
- SCE states that the 1998 nine month budget adopted by the Commission in D.97-12-103 reflects a balance between all residential and nonresidential energy efficiency retrofit applications, not just SPC activities. Considering the residential SPC is a first year pilot program, SCE believes that its proposed funding levels are appropriate, reflect the best judgment of CBEE, and should be adopted by the Commission.
- SCE does not agree that EMS funding should be eliminated and redirected to the residential and nonresidential SPC program, and it notes that the CBEE agrees with its proposed EMS activities and funding levels for the fourth quarter.

18. SDG&E's Response to RESCUE and SESCO's Protest

- SDG&E objects to the recommendation that interim administrators should not be entitled to performance incentives if contracts are not signed under the Residential SPC program within 180 days of the submittal. It believes that since the Residential SPC program is a pilot and is being offered in California for the first time, work should continue with the project sponsors within the guidelines of the solicitation rules to finalize the remaining projects. SDG&E states that a time limit is both inappropriate and unreasonable.
- SDG&E objects to RESCUE and SESCO's budget proposals. SDG&E point out that it worked with the CBEE in establishing the funding levels for its programs and the CBEE supports its request for additional program funding and proposed program direction.

19. PG&E and SoCalGas did not file responses to the RESCUE and SESCO protest.

REECH, INC.'s Protest

20. REECH objects to incumbent utilities continuing as interim administrators of energy efficiency programs. It characterizes their advice letter filings as an unimaginative straightlining of current EE program budgets, which in its opinion provides grossly inadequate service to residential ratepayers. In its opinion, distribution

utility control of ratepayer-funded EE services has long served to dampen and suppress development of a vibrant and performance based EE/EMS market and this suppression constitutes a restraint of trade in such goods and services. REECH recommends that the ramp down and termination of utility interim administrators contract management by the end of 1998 should be assumed and ordered.

21. REECH states that it categorically rejects the 25% proportional "straightlining" calculation employed for most utility interim administrators programs in the filings. Its recommendations for fourth Quarter 1998 Residential EE Program budgets are:

- Standard Performance Contracting program should continue to be funded and utility interim administrators managed as recommended by the CBEE until the end of 1998.
- National and regional multi-state market transformation and awareness programs, (e.g. Energy Star) labeling should be continued with 1998 proportionate annualized funding (approx. 25%)
- Telephone based information programs should be continued with proportionate annualized funding (approx. 25%)
- Not more than 10% 1998 annualized funding for any remaining program or project category for fourth quarter activities should be budgeted.

22. It also asserts that residential program performance in 1998 justifies no additional performance award mechanism for fourth quarter utility interim administrators activity, which—in its opinion—should be "wind-up" in nature. In its opinion, the additional time provides opportunity for the utility interim administrators to maximize already designated 1998 performance (i.e. shareholder incentive) awards, which have no downside risk of contract penalty clauses. REECH states that curtailing further awards at this point is justified by unimpressive utility interim administrators performance including:

- Standard Performance Contracting programs made use of lottery selection methods and no utility instituted performance based installation programs.
- PG&E and SCE failed as of May 1998 to initiate a residential financing program, an important channel of PGC-EE leverage and market transformation.
- Coordination with local jurisdictions is very weak. SCE does not propose any fourth quarter funding for its one relevant program (Local Energy Assistance Program).

23. REECH concurs with the amendments and responsive tailoring performed on the RFP for Administrator(s) in recent months and commends the efforts of the Commission, its staff, and the consultant. It expects the Commission will make vigorous efforts to effect the best contract possible under the circumstances on behalf of ratepayers and fully supports the Commission actions to release the RFP and proceed to contract with the three new Sector Administrators by late 1998. Nonetheless, REECH has deep concerns

about the quarter to quarter continuation of expenditures of PGC-EE by utility interim administrators, which REECH believes is not fiscally prudent and disserves ratepayers.

24. REECH states that the Commission should affirm its competitive marketization policies by putting in motion by fourth quarter 1998 the transitional activities outlined below. REECH recommends that they be funded according to a CBEE sponsored review process.

- Annual residential account analysis
- Statewide 800 phone access to Residential EE/EMS information services
- EE/EMS Provider Directories (Master Database)

25. REECH recommends that remaining residential PCG-EE funds should be reserved for administration by the incoming Residential Administrator and/or by any other non-utility special interim administrator(s) designated by the Commission.

26. REECH believes the Commission erred in D.97-02-014 in concluding that incumbent distribution utilities should be eligible to bid as primary Administrators. It offers rationale for its opinion and asks the Commission to modify the Decision to prohibit incumbent Commission-regulated utilities from bidding for Administration.

27. <u>SDG&E's Response to REECH's Protest</u>

- SDG&E objects to REECH's recommendation that the interim administrator's residential program performance in 1998 justifies no additional performance award incentives in the fourth quarter. SDG&E asserts that REECH criticism of its performance in 1998 is unwarranted and unfounded. SDG&E is proud that in 1998 several market transformation programs, including new programs, were delivered to the residential sector, and projects selected for third party initiatives funding during the first quarter were in field by mid-year and as early as April.

28. In its letter responding to protests to its advice letter, SCE states that it had insufficient time to appropriately review and respond to REECH's protest. Subsequently, in a telephone conversation with the Energy Division, SCE stated that it had reviewed REECH's protest but would not be submitting any other written comments.

29. PG&E's response states that a number of REECH's issues are outside the scope or do not directly impact the Commission's assessment of its advice letter proposal.

DISCUSSION

1. The Commission is committed to policy objectives set forth in D.97-02-014 to privatize the energy efficiency marketplace. It was to preserve the delivery of public purpose programs in California, that in D.98-05-018, we reluctantly accepted our advisory board recommendations to extend the period of interim utility administration until December 31, 1998. The limited purpose of these advice letters is to establish appropriate program funding levels, design modifications, and shareholder performance award caps for this extended interim period.

2. In D.98-05-018, we rejected a proposition that interim utility administration should be extended with no additional program funding, and we directed interim utility administrators to augment their nine-month authorized budgets by 25%. We additionally directed them to ensure that the final quarter program plans and budgets are consistent with policies governing funding for the first three quarters of 1998 by relying on interim policy rules and other directions established by D.97-12-103 and to work closely with CBEE in the preparation of this task.

3. We acknowledge, herein, the great amount of time and effort expended by the CBEE and its subcommittee working with the utilities. Each of the utilities report in their advice letters and state again in letters submitted in response to protests that all of their proposals were developed in close collaboration with the CBEE and its subcommittee. In addition, public input and comment was heard on numerous occasions by the CBEE in open Board meetings. We commend the cooperation between the CBEE, its subcommittee, and the utility interim administrators in developing 1998 final quarter budgets and note that many potential issues were resolved prior to advice letter submittals. The fourth quarter priorities, key issues, and guidelines identified by the CBEE are reasonable, and we adopt them. Accordingly, we reject the protests of Sharp Energy and REECH on the utilities' access to additional funds for fourth quarter program budgets and earnings caps.

Program Budgets

4. REECH objects to the "25% straightlining" used for the most part by the utilities to calculate their fourth quarter additional program funding. This methodology, however, is consistent with the direction given to utilities in D.98-015-018 and the advice given them by the CBEE. Each budget area was discussed and evaluated thoroughly by the CBEE, the utilities and interested parties. Consensus was reached and was submitted to the Commission in the form of the subject advice letter proposals. We find them reasonable and adopt them.

Performance Award Caps

5. Great consideration was given to the design of the shareholder performance award mechanism adopted in D.97-12-103. We established in Conclusion of Law #17 that the mechanism is reasonable and should be adopted.

6. REECH objects to interim utility administrators receiving additional funds for fourth quarter performance awards. However, there is nothing in D.97-12-103 or in D.98-05-018 that would permit performance awards to receive treatment inconsistent with every other budget category. There is in D.97-12-103 considerable discussion of the Commission's rationale for providing the utilities incentives to invest in cost-effective energy efficiency and Finding of Fact #18 states "shareholder incentives are still required during the utilities' continued administration of energy efficiency programs *into 1998* because gas and electric utilities have significant disincentives to promoting energy efficiency in the new competitive environment." (Emphasis added) REECH's protest is denied.

7. We concur with CBEE's "ten percent of fourth quarter program-only funding" incentive cap methodology. Consequently we find that the additional awards proposed by PG&E, SCE and SDG&E are reasonable and we reject the fourth quarter shareholder earnings cap requested by SoCalGas.

8. SoCalGas derived its proposed additional incentive award cap by applying 10% to the sum of its proposed fourth quarter program only budget and its proposed MFRR budget. The performance incentive cap that we adopt for SoCalGas is derived in the same manner that was utilized by the electric utilities.

SoCalGas Adopted 12 Month Energy Efficiency Budget ($ in millions)

Funding Category	**9-Month Adopted Budget**	**Additional Funding**	**12-Month Budget**
Programs Only Subtotal	$19.478	$4.070	$23.548
Administrator Performance Incentive Cap	$01.558	$0.407	$01.965
CBEE Set-Aside	-0-	-0-	-0-
MFRR	$01.949	$0.170	$02.119
Total EE Budget	$22.985	$4.647	$27.632

9.. SoCalGas does not contribute to the CBEE Set-Aside, because it continues to operate its own energy efficiency programs until a gas Public Goods Surcharge is in place. However, SoCalGas was directed in D.97-12-103 to be in conformance with CBEE guidelines and recommendations to ensure a smooth transition to the new administrative structure, which, in the end, will encompass both gas and electric energy efficiency.

10. The incentive cap amounts that the utilities propose and that CBEE agrees to are reasonable. SDG&E's recommendation that the interim utility administration budgets and incentives be viewed on a twelve month basis, covering activities for all of 1998 is reasonable. The additional program funding will be available as of the date of this Resolution.

11. As discussed in D.97-12-103, the CBEE is directed to file its proposed schedule and procedural forum for utilities to request recovery of their 1998 energy efficiency shareholder incentive awards. CBEE's filing should be served by October 31, 1998 on the Public Purpose service list in the R.94-04-031/I94-04-032 docket. Comment from interested parties should follow ten days later.

New Program Administrators Reserve

12. The City of San Jose requests that the utility interim administrators set aside ten percent of 1998 public goods charge energy efficiency funds to aid in the start up of anticipated new Program Administrators. SCE asks that the City's request be rejected. PG&E responds that its proposed budget contains more than ten percent for CBEE commitments.

13. The funds which PG&E refers to is the difference between its 1998 energy efficiency revenue requirements and its 1998 energy efficiency program authorized budget. Funds in the amount of $106 million had been identified in Assembly Bill 1890 and in Public Utilities Code Section 381(c)(1) and subsequently was authorized in D.97-02-014. However, in establishing 1998 energy efficiency program budgets, the Commission determined in D.97-12-103 that low income energy efficiency programs (such as direct assistance and weatherization) should be funded from funding collected specifically for low income programs and not from energy efficiency funds. As a result PG&E is holding $14 million of unallocated revenues in its Public Goods Charge balancing account. This funding will accumulate, along with any other under-spent energy efficiency program funding, until PG&E is instructed by the Commission to transfer the funds elsewhere.

14. PG&E's uncommitted energy efficiency funding is presumably available for independent administration costs. SCE and SDG&E aren't similarly endowed since they did not take PG&E's interpretation with regard to the funding of their 1988 low income energy efficiency programs. More to the point, however, establishing a reserve from fourth quarter 1998 program funding would unnecessarily impinge upon the proper delivery of current energy efficiency services, since all of the costs for independent administration will be reviewed later this year in the context of establishing 1999 energy

efficiency program budgets. The City of San Jose raises 1999 budgeting issues prematurely and inappropriately in the context of the subject advice letter review. Its protest is denied.

Program Recommendations

15. The CBEE and the utilities report that they discussed and came to agreement on the design specifics for the Residential SPC Program, the Small Commercial/Industrial, and the Program Third Party Initiatives Program: We find the utilities' programs plans reasonable and adopt them for the fourth quarter of 1998.

16. There is, however, a small difference in opinion concerning the Non-residential SPC Program. SCE, PG&E, and CBEE recommend placing a customer incentive cap of $400,000 on this program, although with some disagreement on the effective date. We agree that greater participation in the program is a worthy objective, and we adopt PG&E's alternative language. As suggested by SCE, this change is effective today and will apply statewide to all Non-residential SPC programs.

Customer Commitment Extension

17. The CBEE, SCE, and SDG&E request that the customer commitments to non-SPC energy efficiency programs and new construction SPC programs should be extended in order for the programs to operate effectively, without disruption during the fourth quarter. We will approve the extensions as requested.

Revisions to Interim Policy Rules

18. SDG&E and SCE request that the pay-out end date for new construction programs be changed to June 30, 2000 and that the pay out end date for all other non-SPC programs be changed to March 31, 1999. CBEE supports their request, and we adopt it for all four utilities.

Other Protested Issues

19. The subject advice letters were ordered for the limited purpose of effectuating our decision to extend utility interim administration through the end of 1998. Protestants raise issues outside the scope of the utilities' advice letters. We deny the protests without prejudice.

20. Issues concerning the implementation of current programs, the transition to independent administrators and future program priorities, designs and implementation are more appropriately raised in the public purpose program phase of OIR 94-04-031/011 94-04-032. As an alternative to litigation, it is our preference that Interested Parties pursue

their concerns collaboratively in CBEE directed arenas. Excellent public purpose recommendations have emanated from this process, and we encourage its continuance.

FINDINGS

1. The subject advice letters were filed in compliance with D.98-05-018, which ordered the extension of interim utility administration or energy efficiency programs until December 31, 1998.

2. The limited purpose of this advice letter review is to establish appropriate program funding levels, design modifications and shareholder performance award caps applicable for this extended interim period.

3. Utility budget submittals for fourth quarter energy efficiency program extension were developed in close collaboration with the CBEE and are responsive to the Commission's general desires and direction. We reject the protests of Sharp Energy and REECH to deny additional funds for fourth quarter program budgets and shareholder incentive caps.

4. The fourth quarter program-only, CBEE set-aside, and MFRR budget submittals are reasonable.

5. The fourth quarter incentive caps proposed by PG&E, SCE and SDG&E, and to which CBEE agrees, are reasonable. SoCalGas is directed to apply the methodology, recommended by CBEE and employed by the electric utilities. SoCalGas should note that its fourth quarter incentive cap is $407,000, instead of its requested $424,000.

6. SDG&E's recommendation that the interim utility administration budgets and incentives be viewed on a twelve month basis, covering activities for all of 1998 is reasonable. The additional program funding will be available as of the date of this Resolution.

7. Greater participation in the Non-residential SPC program is a worthy objective. We adopt PG&E's alternative language. As suggested by SCE, this change is effective today and will apply statewide to all Non-residential SPC programs.

8. SDG&E and SCE request that the pay-out end date for new construction programs be changed to June 30, 2000 and that the pay-out end date for all other non-SPC programs be changed to March 31, 1999. CBEE supports their request and we adopt it for all four utilities..

9. The implementation of current programs, the transition to an independent administrator and future program priorities, designs and implementation should be raised in the public purpose program phase of OIR 94-04-031/011 94-04-032. The City of San Jose raises 1999 budgeting issues prematurely and inappropriately in the context of the subject advice letter review. Its protest is denied without prejudice.

10. As an alternative to litigation, it is our preference that Interested Parties pursue their concerns collaboratively in CBEE directed arenas.

THEREFORE IT IS ORDERED THAT:

1. Pacific Gas And Electric Company Advice Letters 2086-G/1776-E are approved.

2. Southern California Edison Company Advice Letter 1321-E is approved.

3. San Diego Gas & Electric Advice Letters 1100-G/1104-E are approved.

4. Southern California Gas Company Advice Letter 2719-G is approved with the modification that its fourth quarter performance incentive cap shall be decreased by $17,000 to $407,000.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the state of California held on July 23, 1998; the following Commissioners voting favorably thereon:

Wesley Franklin

WESLEY M. FRANKLIN
Executive Director

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