PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

RESOLUTION E-3592
APRIL 1, 1999

RESOLUTION

RESOLUTION E-3592. PACIFIC GAS AND ELECTRIC COMPANY, SAN DIEGO GAS & ELECTRIC COMPANY, SOUTHERN CALIFORNIA GAS COMPANY AND SOUTHERN CALIFORNIA EDISON COMPANY REQUESTS APPROVAL OF 1999 ENERGY EFFICIENCY PROGRAMS, AS RECOMMENDED BY THE CALIFORNIA BOARD OF ENERGY EFFICIENCY. APPROVED AS MODIFIED.

BY PG&E ADVICE LETTER (AL) 1819-E/2117-G FILED NOVEMBER 17, 1998; SDG&E AL 1132-E/1124-G FILED NOVEMBER 16, 1998; SOCALGAS AL 2760 FILED NOVEMBER 16, 1998; SCE AL 1348-E FILED NOVEMBER 16, 1998; AND CBEE AL1-E/1-G FILED OCTOBER 16, 1998.

SUMMARY

1. As required by the Assigned Commissioner's Rulings in Rulemaking (R.) 98-07-037, dated September 23, 1998 and October 1, 1998, the California Board for Energy Efficiency (CBEE) filed Advice Letter (AL) 1G/1E, dated October 16, 1998. On November 16 and 17, 1998, Pacific Gas and Electric Company (PG&E) filed AL 2117-G/1819-E, San Diego Gas & Electric Company (SDG&E) filed AL 1132-E-1124-G, Southern California Gas Company (SoCalGas) filed AL 2760, and Southern California Edison Company (SCE) filed AL 1348-E requesting approval of 1999 Energy Efficiency Program Plans, Budgets, and Performance Award Mechanisms. The utilities' advice letters were filed to be consistent with the CBEE Advice Letter recommendations.

2. Protests and comments to the CBEE and utility advice letters were submitted by: The Utility Reform Network (TURN), Residential Energy Efficiency Clearing House, Inc. (REECH), the Office of Ratepayer Advocates (ORA), the California Energy Commission (CEC), the MarketPlace Coalition (MC, RESCUE)[1], the Natural Resources Defense Council (NRDC), the National Association of Energy Services Companies (NAESCO), the City of San Jose (San Jose), the Association of Bay Area Governments (ABAG) and the Community Energy Services Corporation (CESC).

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[1] The MarketPlace Coalition (MC) includes Residential Energy Services Companies' United Effort (RESCUE), Insulation Contractors' Association, and SESCO, INC.

3. CBEE, PG&E, SoCalGas, SDG&E and SCE responded to the protests.

4. This Resolution approves, as modified, the CBEE's recommendations regarding 1999 program year (PY99) energy efficiency and demand side management institutional and transitional issues; policy rules; utility performance incentives; market assessment and evaluation plan; budgets; and program area descriptions.

5. The total estimated statewide budget funding for 1999 is estimated to be $273.4 million—Electric $228 million and Gas $45.4 million. Additional carryover funding from 1998 increases the total to over $300 million. The adopted PY99 budget for CBEE is $2.1 million, or 0.8% of the total statewide program budget.

6. Aspects of the CBEE administrative budget, program measurement detail, program descriptions, and the transition plan remain outstanding as of the date of this Resolution. This Resolution acknowledges that these issues are contemplated for discussion in various forums. The outcome of these discussions and supplemental filings will be filed as appropriate in R.98-07-037, the 1999 Annual Earnings Assessment Proceeding, and as compliance filings in the subject advice letter dockets.

7. The authority established in this Resolution applies from the effective date of this resolution through December 31, 2001. The PY99 programs and budgets are extended through the year 2000. The utilities may file an update of PY98 expenses and PY99 budgets by advice letter.

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BACKGROUND

1. As required by the Assigned Commissioner's Rulings in Rulemaking (R.)98-07-037, dated September 23, 1998 and October 1, 1998 the California Board for Energy Efficiency (CBEE) filed Advice Letter 1G/1E, dated October 16, 1998. On November 16 and 17, 1998 Pacific Gas and Electric Company (PG&E) filed Advice Letter (AL) 2117-G/1819-E, San Diego Gas & Electric Company (SDG&E) filed AL 1132-E/1124-G, Southern California Gas Company (SoCalGas) filed AL 2760, and Southern California Edison Company (SCE) filed AL 1348-E requesting approval of 1999 Energy Efficiency Program Plans, Budgets, and Performance Award Mechanisms. The utilities' Advice Letters were filed to be consistent with the CBEE's recommendations contained in its AL 1-E/1-G.

2. The Commission has required California's investor-owned electric and gas utilities to offer programs intended to help their customers improve the energy efficiency of their buildings and facilities. These programs have included services ranging from rebates and low-interest financing to on-site technical assistance or energy information centers, where customers and design professionals can obtain reliable information about new technologies. In response to electric restructuring, the Commission adopted a new approach to energy efficiency, which seeks to promote the development of programs and other activities that rely more on private energy efficiency providers and that transform existing markets to a higher level of demand for energy efficiency products and services. The objective is to create sustainable, vibrant markets in which private energy efficiency providers offer and customers adopt increased levels of energy efficiency products, services, and practices, with a decreasing need for public funds.

3. As a result of electric restructuring, the existing investor-owned electric utilities no longer are obligated to plan and acquire generation resources for captive customers. This change in the traditional relationship between the utility and its customers provides the utility with a greater disincentive to offer energy efficiency programs, while trying to retain generation sales customers.

4. In Decision (D.)97-02-014, the Commission created a public board, the California Board for Energy Efficiency (CBEE), to advise it on how to pursue these major changes to ratepayer-funded energy efficiency programs under a restructured industry.

5. Subsequent Commission decisions (D.97-04-044, D.97-05-041, D.97-09-117, D.97-12-093, D.97-12-103, and D.98-02-040) provided additional guidance and direction for the CBEE. In D.97-02-014, the Commission directed gas utilities to participate in the joint planning process and to coordinate with the CBEE, reiterating its intent to establish a surcharge to fund gas energy efficiency programs in the same manner as electric programs. Current funding for the gas utility Demand-Side Management Programs (DSM) is authorized by Commission decisions in utility

rate cases. The utilities are serving as program administrators, offering electric and gas energy efficiency programs designed to provide a smooth transition between the old and new policy frameworks. The CBEE is charged with overseeing a joint planning process with the utilities to develop specific programs and budgets, and with making recommendations to the Commission on these issues.

6. During 1998, the CBEE conducted six public workshops to assess the existing utility energy efficiency programs and to provide recommendations on market transformation policy objectives to the Commission for its consideration. In addition, the CBEE held 40 public meetings where additional public input was received. This resolution contains the CBEE's comprehensive set of policy, budget, and program recommendations for Program Year 1999 (PY99), with the utilities' conforming advice letters.

7. Resolution (Res.) E-3581, dated December 17, 1998, authorized the utilities and the CBEE funding in January and February of 1999, to continue 1998 programs at 1998 existing levels and planning for 1999 programs, in lieu of fully authorized 1999 budgets and programs.

8. On December 17, 1998 and on December 21, 1998, the CBEE filed Preliminary and Final Recommendations and Comments on its review of the utilities' advice letters.

9. On January 13, 1999, the utilities submitted comments to the CBEE's December 21, 1998 comments on their 1999 Energy Efficiency Program and Budget Advice Letter filings, providing an Alternate Performance Award Structure with additional program descriptions, milestones and performance incentive data. By request of the Energy Division, each utility mailed their comments to the Service List in R.98-07-037, and informed recipients they would be allowed ten working days to submit comments. Only the CBEE provided comments in a response dated January 15, 1999.

10. Resolution E-3589, dated February 18, 1999, extended pro rata funding into 1999, anticipating Commission delay in its consideration of these five advice letters.

11. An Assigned Commissioner's Ruling (ACR) was issued on February 11, 1999 ordering the Energy Division to convene a workshop to address reporting requirements for energy efficiency programs. An Energy Division report is scheduled to be filed in R.98-07-037.

12. On March 18, 1999 Resolution E-3578 adopted energy efficiency program area and program budgets and an alternative performance incentive award mechanism. In addition, it adopted uncontested, CBEE-proposed Policy Rule changes as Interim, and also ordered the utilities to file supplemental advice letters detailing program descriptions missing from their original filings and a map linking PY98 programs to PY99 programs no later than March 25, 1999.

13. The Commission issued D.99-03-056 on March 18, 1999, which provides program clarity regarding continuing utility administration of the energy efficiency programs through the end of 2001. This resolution incorporates D.99-03-056 and related and remaining issues from Resolutions E-3589 and E-3578.

14. On March 26, 1999, the Assigned Commissioner issued a ruling (ACR) addressing the PY2000 Workshop held March 10, 1999. This Resolution incorporates the guidance and planning schedule of that ACR.

NOTICE

1. Notices of PG&E AL 2117-G/1819-E, SDG&E AL 1132-E/1124-G, SoCalGas AL 2760-G, SCE AL 1348-E, and CBEE AL 1-E/1-G were made by publication in the Commission's calendar and by mailing copies of the filing to adjacent utilities and interested parties.

PROTESTS

1. Parties filing protests/comments to the CBEE's and the utilities' advice letters include: The Utility Reform Network (TURN), Residential Energy Efficiency Clearing House, Inc. (REECH), the Office of Ratepayer Advocates (ORA), the California Energy Commission (CEC), the MarketPlace Coalition (MC, including Residential Energy Services Companies' United Effort [RESCUE], Insulation Contractors' Association, and SESCO, INC.), the Natural Resources Defense Council (NRDC), the National Association of Energy Services Companies (NAESCO), the City of San Jose (San Jose), the Association of Bay Area Governments (ABAG), and the Community Energy Services Corporation (CESC).

2. CBEE, PG&E, SoCalGas, SDG&E and SCE responded to the protests.

3. The CBEE, the utilities, and the parties are commended for their contributions to this process. Their combined efforts have assisted the Commission's focus on energy efficiency market transformation.

GENERAL DISCUSSION

In its advice letter, the CBEE puts forth a comprehensive set of recommendations for the Commission to adopt, encompassing Institutional and Transition Issues, Budget Recommendations, Policy Rules Application and Modifications, General Program Recommendations, Performance Incentives, Market Assessment and Evaluation Recommendations, and Program Area (Residential, Non-Residential, and New Construction) Recommendations. The CBEE's recommendations are founded upon its efforts over the past year. They were made under the premise that the utilities would remain as interim administrators through the end of 1999, or that the programs would transfer to "program administrators" (a utility could be a program administrator) upon three months notice.

PG&E, SCE, SoCalGas and SDG&E filed advice letters largely consistent with the CBEE's recommendations one month later.

Advice Letter Process

Protest

ORA protests using the advice letter process for review of such a large amount of funds (approximately $300 million). ORA also objects to the fact that although the CBEE advice letter language states that its recommendations will not conflict with any rate schedule or rule, the CBEE has proposed a new set of rule revisions.

CBEE Response

CBEE responds that its advice letter was filed pursuant to the Assigned Commissioner Ruling, dated September 23, 1998, which ordered the CBEE to submit an advice letter with recommendations on the 1999 program plans, 1999 budget (including CBEE operating budget), and modifications to the new policy rules on October 15, 1998. CBEE adds that the use of an advice letter filing was first articulated by the Commission in D.98-04-063, Ordering Paragraph (OP) 5, directing "CBEE and new administrators of PGC-funded [Public Goods Charge] energy efficiency shall jointly develop annual program plans and budgets to be submitted to the Commission as an Advice Letter filing by October 1 of each year."

Discussion

The Energy Division recommends the Commission deny ORA's protest, since the CBEE was ordered by the Commission to file by advice letter recommendations on energy efficiency 1999 program plans, budgets, and modifications to the new policy rules.

Structure/Forum

Protest

ORA comments that given the uncertainty of the energy efficiency program administration of the past few months, the CPUC should hold a limited hearing to clarify the CBEE's role and recommendations. ORA submits recommendations on the future structure of CBEE for the Commission's consideration. REECH raises a series of legal allegations and protests to the CBEE's conduct and authority, and also submits recommendations on the future operation of energy efficiency programs and their market transformation.

Responses

CBEE states that the primary issue raised by its AL filing for Commission resolution is whether the policy rules and proposed guidance on programs proposed by CBEE are consistent with the Commission's stated policy goals. CBEE, in its response to REECH, asserts "that it has at all times conducted its affairs lawfully and within the scope and directions provided to it by the Commission. Where direction has not been clear, the CBEE has sought timely clarification from the Commission. Absent clarification from the Commission, the CBEE has acted to the best of its abilities in accordance with its understandings of the Commission's guidance." SCE replies that its advice letter conforms to CBEE and CPUC policy direction. SCE states that REECH inappropriately uses their protest to raise policy issues that should be reviewed in the Energy Efficiency OII/OIR where all parties can comment.

Discussion

The Energy Division agrees with SCE. The appropriate place for resolution of ORA's and REECH's legal and structural recommendations concerning the CBEE is R.98-07-037. The Energy Division recommends the Commission deny ORA's and REECH's legal and structural protests without prejudice.

Filings Deficient

Resolution E-3578 addressed the fact that the utilities' original advice letters were missing program detail descriptions, and ordered each utility to file this information in supplemental advice letters no later than March 25, 1999. The utilities made these compliance filings on March 25, 1999 by PG&E AL 1819-E-A/2117-G-A; SDG&E AL 1132-E-A/1124-G-A; SoCalGas AL 2760-A; and SCE AL 1348-E-B.

Workshops

Protest

The CEC recommends that workshops should be held to get stakeholder input on program design and implementations for effective market absorption. The CEC argues that the utilities' plans have ignored market input.

Responses

CBEE responds that it shares the CEC's interest in ensuring that broad stakeholder input is reflected in the design and implementation of programs and refers the CEC to its program design recommendations in the October 16, 1998 filing. The CBEE recommends the utilities complete their program design information prior to implementation of programs. SoCalGas replies that the CBEE-sponsored process is the appropriate vehicle for gathering public input. It argues that no added benefit occurs convening additional meetings outside CBEE.

Discussion

As noted below, several public workshops are scheduled to plan refinements to the programs. The Energy Division believes that the CEC's recommendation is unnecessary. Program workshops are scheduled by the utilities and the CBEE. These and the Commission's other processes, such as scheduled workshops and proceedings, should satisfy the CEC's concerns regarding insufficient stakeholder input. The Energy Division recommends the Commission deny the CEC's protest.

Planning Process

Protest

The NRDC recommends that the Commission direct the CBEE to move up the planning process for Program Year (PY) 2000 to April 1, 1999, rather than in June. NRDC recommends using the steps and deadlines developed by the CBEE's Technical Advisory Committee and incorporated in the Independent Administrators Request For Proposal (RFP), proactively gathering input, so that next year's process will not cause delays.

Response

CBEE states that it did not address overall PY 2000 program planning in its advice letter, and is supportive of an initial planning for PY 2000 programs being much earlier in the year from PY99. However, the CBEE does not plan to propose a schedule prior to the Commission's pending decision on the future role of CBEE.

Comments

In comments filed on the draft version of this resolution, which recommended an extension of the programs and budgets beyond PY99, the Joint Respondents (SEMPRA), PG&E, and SCE each agreed that an extension of the programs and budgets beyond PY99 would be welcomed. The ACR dated March 26, 1999 came to the same conclusion, that the programs and budgets should continue through the end of PY2000.

The CBEE stated:

> "The Commission should extend the program and budget authorization in this Resolution for programs (14 programs), MA&E, and CBEE operations, through December 31, 2000. The Commission should also extend the structural framework for performance incentives until December 31, 2000, but the performance incentives award levels, weights among individual incentives, and specific milestones should be authorized only until December 31, 1999. The Commission should direct the utilities to file advice letters proposing selective program and budget changes, as well as specific performance incentives for PY2000 consistent with the structural framework, in September 1999. The use of a program and budget *change* advice letter process avoids any potential for hiatus due to unforeseen delays, and the current programs would continue into PY2000 until the changes were adopted by the Commission.
>
> The Commission's Resolution on PY1999 programs will lead to major and fundamental changes in the organization, administration, and implementation of energy efficiency programs. There is a pressing need to allow the programs to run for awhile and only consider selective adjustments, in response to public input, MA&E findings, utility assessments, and CBEE analysis. These changes could be minor or major, but should be selective in number, and limited to those of the highest priority. Other adjustments within programs, at the level of program elements or interventions strategies, could be made at the discretion of the utility administrators, and would not require the Commission to adopt new programs. Consistent with this vision of selective, not wholesale, changes to programs and budgets, the CBEE recommends the Commission extend the program and budget authorizations (at the level of the 14 CBEE-recommended programs, MA&E, and CBEE operations) in this Resolution through December 31, 2000.
>
> The draft Resolution orders advice letters for PY2000 consistent with this recommendation in October 1999. The CBEE recommends moving the timing of these advice letters up one month, as a precaution, to increase the prospects for timely resolution prior to the end of the year. More fundamentally, authorization of the programs through December 31, 2000 in Resolution E-3592 provides the ultimate guarantee for avoiding program hiatus or eliminating the need for additional, time-consuming "bridge funding" resolutions to avoid hiatus, should unforeseen delays in Commission approval of the PY2000 program and budget changes arise."

PG&E believes the only real solution to avoiding a program hiatus and market disruptions in 2000 is to continue the 1999 program for the entire year in 2000. PG&E recommends the Commission authorize in this resolution a program budget for 2000 that is at the same level as PY99.

PG&E recommends a two-track process in 1999 to resolve PY99 and PY2000 program issues. The first track is related to the level and structure of utility incentive awards for PY2000 (and 2001) and will be dealt with in the 1999 AEAP process. The second track should start with a September 1, 1999 advice filing that primarily addresses any necessary changes to PY2000 programs and budgets as well as PY2000 incentive awards and milestones based on the 1999 AEAP. In summary, PG&E believes a smooth transition from PY99 to PY2000 can be achieved by an early authorization of PY2000 programs and budgets while a two-track process in 1999 can provide the needed and timely adjustments to PY99 and PY2000 programs.

Discussion
The Energy Division agrees that delaying the PY2000 planning process should be avoided and recommends that the PY2000 planning process begin as soon as possible. The NRDC's protest should be approved. The Energy Division observes that a tremendous effort has been made by all the parties and the CBEE over the past year to transition the direction of energy efficiency programs, but nonetheless, major disruptions have occurred, causing programs to be delayed or suspended. Some energy efficiency programs, such as the Residential Standard Performance Contract, are still in the planning stage.

On March 18, 1999, the Commission adopted D.99-03-056, which directed:

> "…we will authorize the continuation of programs and funding adopted for 1999 energy efficiency and low-income assistance activities through December 31, 2001, unless and until subsequent program and budget changes are approved by the Commission. We delegate to the assigned Commissioner the task of considering options for future budget and program change proposals, and issuing a ruling setting forth procedures and schedules that accommodate the availability of resources to address these, as well as other, public purpose priorities." (D.99-03-056, mimeo., p.20.)

On March 26, 1999, the ACR under R.98-07-037 echoed the extension of programs and budgets through the end of 2001, (excepting the performance incentive mechanisms) with the acceptance of selective changes to the programs and policies brought to the Commission for consideration, such as:

> "…(1) changes needed to clarify aspects of our policy rules that were not addressed during the PY1999 program planning process, (2) program initiatives that may have been

neglected because of the compressed time schedule for PY1999 program planning (for example, new third party programs and local government initiatives), or (3) program design modifications that are needed to "fix" a problem already observed in their implementation.

The process includes prospective changes that may be needed in 2000 and 2001 to further the Commission's objectives for outsourcing and competitive bidding of implementation activities. (See D.99-03-056, mimeo., Conclusion of Law 4.) A processing schedule encompasses initial CBEE recommendations (due May 10, 1999), with parties filing comments and a proposed decision during the summer, and the utilities filing compliance applications for budget and program changes one month after a Commission decision is issued.

The Assigned Commissioner's Ruling incorporates a schedule for the energy efficiency programs and budgets for the or 1999-2001 timeframe. This procedure will provide a sound, prospective planning process for these evolving programs and should also provide some greater certainty for the markets. The Energy Division recommends the Commission adopt an extension of the PY99 programs and budgets through the end of PY2000.

Small Utility Energy Efficiency Programs

Issue

Decision 97-12-092 required the smaller and multi-jurisdictional electric utilities to submit energy efficiency funds to CBEE for distribution, and to work with CBEE to propose transfer mechanisms and schedules. CBEE recommends these utilities submit their PY99 and unexpended/uncommitted PY98 program funds to the geographically-closest, larger utility. CBEE recommends that it and the larger and smaller utilities work together to ensure that energy efficiency programs and services are available to the smaller utility's service territory, as appropriate.

Discussion

The Energy Division observes that the smaller utilities have not participated in the CBEE forum to date and that it would be presumptuous of the CBEE to impose its recommendations for programs and budgets on these utilities at this time. The Energy Division recommends postponement of the smaller utilities' involvement in the revised energy efficiency programs until the major utilities' programs are in place and have transitioned as envisioned by the Commission. In this way, the smaller utilities should be able to administer programs for themselves and can avoid the problem of commingling funds. The CBEE's request for small utilities to submit their energy efficiency budgets to the closest, larger utility should be denied at this time.

Anti-competitive Policies

Protests

RESCUE asks the CPUC to reduce the anti-competitive advantages each utility will enjoy due to its position as an interim administrator. RESCUE argues that the utilities know the bids, designs, and costs of the programs, and they have the expertise for Request For Proposal (RFP) bidding. RESCUE asks the CPUC to require all utility program cost and price information be open and public so that others may compete, such as what was used in the Demand Side Management (DSM) pilot bidding, which worked well. MC recommends that the CPUC should reduce the utilities' anti-competitive advantages by requiring all program cost and price information be provided to the public at large. MC asks the Commission to require full disclosure on all contracts, pricing, measurement, and evaluation methods.

Responses

SCE replies that the CBEE program design addresses anti-competitive concerns. The CPUC has adopted an Administrator Code of Conduct and Affiliate Guidelines, and SCE has developed programs that comply with Commission direction to develop a sustained privatized Energy Efficiency (EE) marketplace.

Discussion

The Energy Division believes that MC's arguments regarding anti-competitive policies are misplaced. If, in fact, the Commission's anti-competitive policies did fail, the Commission would act. The Energy Division recommends that if MC believes the policies developed through the CBEE and implemented by the utilities fail to provide an open bidding process, MC should file a petition under R.98-07-037. MC's protest should be denied.

Conclusion

As ordered by the Commission under R.98-07-037, the CBEE and the utilities filed energy efficiency programs, policies and budgets for PY99 by advice letter. Protests regarding the legality and the structure of the CBEE are subject to proceedings under R.98-07-037 and are not addressed under this resolution.

The utilities' initial advice letter filings were deficient. Resolution E-3578 directs the utilities to complete program detail descriptions by supplementing their original advice letters. Utility and Commission-sponsored workshops are scheduled to resolve several outstanding issues affecting energy efficiency programs, measurement and verification, and the role of CBEE. The Energy Division recommends that the small energy utilities should not be ordered to participate in the new energy efficiency programs until the major energy utilities' programs have adjusted.

The PY99 energy efficiency programs are in transition. The Energy Division recommends that the Commission extend the PY99 programs and budgets into PY2000 to allow adjustments to proceed and to avoid delays between PY99 and PY2000 implementation. The utilities should expand their PY99 programs and budgets by one year under an advice letter filing to be submitted in September 1999.

POLICY RULES, APPLICATION AND MODIFICATIONS

CBEE Recommendations

The CBEE provides recommendations and proposed modifications to the Adopted Policy Rules for Energy Efficiency Activities from D.98-04-063.[2] CBEE's specific recommendations are listed below. ORA's protest recommended adoption of the CBEE's proposed changes, but with additional modifications to accommodate continuing utility administration and to lessen an "expanding role for the CBEE and the CBEE technical consultants." The utilities generally support the CBEE modifications, with two reservations - that the additional reporting requirements are burdensome and that the logo/co-branding issue needs to be resolved in 1999. The reporting requirements and the logo/co-branding issues are also protested by the parties.

The CBEE's proposed modifications are:

> CBEE requests the Commission approve the suspension of Rule IV-6 for PY99, pending completion of additional public workshops. Rule IV-6 requires programs with customer transactions to be cost effective. The workshops would work to clarify which transactions invoke this rule, how such transactions for individual customers must be treated, and when and how the participant test should be calculated, since retail rates are no longer well defined under electric restructuring.
>
> CBEE requests the Commission clarify that the Standard of Cost Effectiveness referred to in Rules IV-1, IV-3 and IV-4 as the Public Purpose Test and correct a typo in Table B-3.
>
> CBEE requests the Commission to adopt a revised definition of Energy Efficiency (EE) and Energy Efficiency Measure, to allow for coordination of PGC EE programs and activities and non-PGC activities involving DSM application of renewable energy technologies as called for by Rule IV-8.
>
> CBEE requests the Commission adopt limited modifications appropriate for interim administration in PY99:

[2] See Attachment B for a red-lined version of CBEE's proposed policies, definitions, a comparison of the Total Resource Cost, the Societal, and the Public Purpose Tests, and recommended avoided cost values.

a. Rule IV-1 applies to the entire portfolio of each interim administrator, requiring all PGC funded activities to be cost effective. The CBEE endorses application of this rule.

b. Rule III-1, item 4 does not apply to interim administrators and Rule III-5 needs modification. Each of the three program areas applies to interim utility administrators. Change the words in III-5 to program administration.

c. Application of the Administrative Code of Conduct. – The CBEE recommends Section VIII be applied in full to the Interim Utility Administrators. This section was originally developed to apply to an administrator to prevent self-dealing and inappropriate discrimination. CBEE recommends Rules VIII-2 and VIII-4 be applied as follows:

- Rule VIII-2, (name, logo, service mark/brand) states that the utilities may not use a name, logo, service mark or brand without CBEE written recommendation and CPUC approval, and
- Rule VIII-4, which concerns the definition of the terms of "administration" and "implementation" on a program basis.

CBEE requests no modification of Rules VIII-2 and VIII-4, but recommends achievement of progress in this area during 1999. CBEE is recommending co-branding with an independent or state brand in conjunction with the utility brand to ensure public disclosure (D.97-12-103, OP 4) to minimize market confusion regarding the source of funds and to display credibility. CBEE recommends:

- co-branding in all 1999 programs;
- the ability to let a contract for logo development which would be used for all 1999 programs, once it is developed; and
- in the interim, co-brand with the State of California or the CPUC Seal to facilitate increased positive recognition for consumers in 1999.

The CBEE recommends suspension of the Affiliate Rules (Section IX) for the reasons that they were written for Independent Administrators, not the Interim Utility Administrators, and because the rules in Section IX come from D.97-12-088 reflecting existing requirements. The CBEE adds Section X-1 through X-5, applicable to the utilities and their affiliate relationships. Rules X-1 and X-2 provide for 5% limits on the amount of Public Goods Charge funds an affiliate may receive for either administrative services or Market Assessment and Evaluation activities and a 15% limit for program area participation. Rule X-4 prohibits an affiliate to use a statewide logo without CBEE recommendation and CPUC approval, and incorporates restrictions on utility/affiliate logo uses. Rule X-5 outlines uniform provision of information to all market participants by utility administrators and requires separate books and record keeping between utility administrators and their affiliates, subject to open examination by the CBEE and the Commission.

The CBEE recommends that the Commission adopt selected statewide input values and conventions for demonstrating cost effectiveness:

- Statewide values for avoided electric generation;
- Statewide values for avoided Transmission and Distribution costs;
- Statewide values for avoided natural gas consumption by end-users;
- Statewide values for energy environmental externalities;
- A common estimate of the ratio of net-to-gross benefits from PGC-funded energy efficiency programs of 1.0; and,
- A real, societal discount rate of 5%.

Discussion of Uncontested Policy Rule Recommendations

Policy Rule IV-6
Policy Rule IV-6 requires: "Programs that involve transactions or exchanges with individual customers must be cost effective from the participating customer's point of view. This must be demonstrated by showing that these program activities pass the Participant Test (including financial assistance), as defined in the Standard Practice Manual."[3] The CBEE recommends suspension of Policy Rule IV-6 for PY99, until ongoing workshops can address which customer transactions invoke this rule. No party contested the CBEE's recommendation to suspend.

Discussion
Resolution E-3578 recommends this rule suspension as interim, since it was not contested. The Energy Division clarifies that the suspension of this rule is requested for PY99 and that the CBEE recommends that it be reapplied for PY2000, once the customer transaction issue has been

[3] CPUC/CEC. *Standard Practice Manual for Economic Analysis of Demand-Side Management Programs.* December 1987.

resolved. The Energy Division further clarifies that suspension of this rule impacts measurement of the customer's perspective of cost effectiveness, not whether the programs are cost effective. The Energy Division recommends that the Commission suspend Policy Rule IV-6 for PY99 until clarification can be made and/or the CBEE can provide the Commission with another recommendation concerning the measurement of the customer's perspective of cost effectiveness.

Policy Rule IV-8, Definitions
CBEE requests the Commission adopt a revised definition of Energy Efficiency (EE) and Energy Efficiency Measure, to allow for coordination of PGC EE programs and activities and non-PGC activities involving DSM application of renewable energy technologies, as called for by Policy Rule IV-8.

Policy Rule IV-8 states:

> "Programs shall also be designed to facilitate coordination, as appropriate, with related activities, including: (1) the electricity Customer Education Plan; (2) the Electric Education Trust; (3) the CPUC outreach and education efforts; (4) PGC-funded low income activities; (5) PGC-funded renewable energy activities; (6) PGC-funded research, development, and demonstration energy efficiency activities; (7) local, state, regional, and federal energy-efficiency programs, such as regional market transformation activities; and (8) local, state, and federal energy-efficiency laws and standards."

No party contested the CBEE recommendation to modify the definitions of Energy Efficiency and Energy Efficiency Measure. The CBEE states it believes it has resolved the issue for the Commission. The definitions for Energy Efficiency and Energy Efficiency Measure would delete the sentence "Until further notice of the Commission, energy efficiency shall not include demand side applications of technologies that use a renewable energy source."

Background
In D.98-04-063, the Commission directed the CBEE to resolve industry concerns about the use and funding of renewable energy technologies in conjunction with energy efficiency technologies. The CBEE states that it held discussion of this issue in five public workshops and secured a preliminary indication of support from the CBEE's institutional member from the CEC based on the CBEE's preliminary recommendations. The CBEE states that it has addressed the CEC's concerns about program overlap and redundant funding with its recommendations (in AL Sections VI.B.5 and IX.C.1), which call for explicit coordination with related renewable activities and that financial incentives for renewable self-generation technologies would not come from PGC EE funds. The CBEE states that it has addressed the NRDC's concerns through

program-specific recommendations for qualifying renewable technologies that are consistent with the definition of energy efficiency and by prohibiting the use of PGC EE funds for the payment of financial incentives for renewable self-generation technologies.

CBEE Recommendation
The CBEE recommends deletion of the last sentence of the definitions for Energy Efficiency and Energy Efficiency Measure because:

> "(a) it may unintentionally prevent the use of PGC EE funds for energy efficiency activities that work synergistically with renewable energy sources that provide light or heat but do not generate electricity (e.g. daylighting technologies, solar domestic water heating, etc.);
>
> (b) it may prevent application of Policy Rule IV-8, which calls for coordination with PGC-funded renewable energy activities;
>
> (c) it may prohibit the CPUC from exploring potential synergies between energy efficiency and self generation technologies on a limited pilot basis (as recommended in AL Section IX.C).
>
> Finally, the CBEE notes that this modification of the definitions does not commit the Commission to any particular level or type of PGC funding for ensuring coordination."

The CBEE further states that the energy efficiency definitions are supplemented by:

> "(1) an over-arching program recommendation (in AL Section VI.B.5) to coordinate PGC energy efficiency activities with those of the PGC-funded CEC renewable energy and public-interest energy research programs, and
>
> (2) a program-specific recommendation for a residential program element under the new construction program administrative area to explore coordination opportunities and potential cost reductions for homeowners with the CEC, but which precludes use of PGC EE funds to pay financial incentives for renewable self-generation technologies."

Comments
The Commission should adopt the CBEE recommendation to modify the definition of Energy Efficiency and Energy Efficiency Measures. The discussion of policy rule IV-8 and the definitions correctly notes that no party protested or commented on the CBEE's recommendation to change the definitions of Energy Efficiency and Energy Efficiency Measures.

Discussion

The Energy Division has reviewed the CBEE's proposal, supporting documentation and program-specific recommendations and believes that compliance with the Commission's directives to the CBEE under D.98-04-063 has been met. The Energy Division notes that no party protested this proposal. The CBEE's program recommendations are included as a pilot in the new construction program administrative area only for photovoltaic power systems and solar domestic hot water heating, with no more than 2% of the New Construction Program Budget funding these technologies. The Energy Division recommends that the Commission adopt the deletion of the last sentences, as described above, in the definitions of Energy Efficiency and Energy Efficiency Measure. Also, the Energy Division recommends the Commission allow the pilot in the new construction program administrative area for the limited renewable technologies, with the CBEE providing an assessment of the pilot to the Commission upon its conclusion.

Policy Rule IV-1

Policy Rule IV-1 requires that the entire program portfolio of PGC-funded activities be cost effective. The CBEE recommends that for PY99, this rule should be applied to the utilities. No party protested this recommendation. The Energy Division recommends that the Commission adopt this rule for PY99.

Policy Rules III-1, III-5, and Section VIII

Policy Rules under Section III anticipate independent administrators under the individual program areas of Residential, Non-Residential and New Construction. For these rules, all of the program areas apply to each utility. The Energy Division recommends that the Commission note that Rule III-1, item 4 does not apply to interim utility administrators and Rule III-5 needs to be changed by adding the words program administration.

The Policy Rules under Section VIII, "Administrator Code of Conduct", need to be applied in full to interim utility administration. The Energy Division endorses this recommendation.

Policy Rules, Contested

Protest

ORA recommends that the Commission adopt a new set of Energy Efficiency Policy Rules with more modifications and deletions than those recommended by the CBEE and/or the utilities. ORA argues that the changes proposed by the CBEE contemplate independent program administration and expand the CBEE's responsibilities. ORA remarks that some of these rules need to be revised to accommodate continuing utility administration. ORA also recommends modifications to the Administrative and Affiliate Policy Rules where there are references to the CBEE or their technical consultants. ORA argues that the CBEE recommended changes enhance

CBEE's authority, especially regarding "fund-shifting" authority, which should be the prerogative of the CPUC.

ORA would delete all references to CBEE and its technical support from the policy rules. In addition, it would substitute Commission and/or CADMAC[4] for CBEE in a number of rules. ORA would fully delete the following rules: Policy Rule III-1, III-2, III-4, III-5, III-6, which relate to the Roles and Responsibilities Under the Administrative Structure. ORA would also delete Policy Rule V-8, which states that the CBEE will sponsor workshops to refine value and performance measurements for PGC-funded programs.

Response
CBEE recommends the Commission clarify its direction in D.98-07-036 and apply the adopted policy rules, with the modifications and clarifications recommended by the CBEE in its AL filing, to the period of interim utility administration in PY99.

Comments
CBEE comments that the Commission should direct the CBEE to prepare minor changes to the policy rules, as necessary, in a timely fashion consistent with continuing utility administration, but defer potential additional modifications to the policy rules until completion of the workshop on the future role of the CBEE.

Discussion
Decision 98-07-036 adopts the CBEE's earlier policy rule modifications, as applicable to independent administration of the energy efficiency programs and DSM programs, and assumes the issuance of an RFP for selection of independent administrators. D.98-07-036 specifies that the adopted policy rules do not apply to interim administration. In its October 16, 1998 advice letter, the CBEE requests the Commission apply the policy rules adopted under D.98-07-037, with additional modifications, to the utilities, which will be interim program administrators.

The Energy Division agrees with ORA's assessment of the CBEE's proposed revisions to the policy rules. (See Attachment B) The Energy Division believes that since the utilities will be program administrators through the year 2001, the CBEE should revisit all of the Policy Rules for Energy Efficiency Activities and make revisions as discussed below. A discussion of why the policy rules should be rewritten follows:

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4 CADMAC stands for the California DSM Measurement Advisory Committee. CADMAC provides the Commission with energy efficiency earnings verifications and program cost effectiveness reports, as well as develops potential modifications to the adopted protocols for consideration in each Annual Earnings Assessment Proceeding (AEAP).

Policy Rule III-1 Discussion Example

Policy Rule III-1 identifies in list form entities responsible for overseeing, administering, and implementing the expenditure of PGC funds for energy efficiency. Program Administrators (item 4) are among the entities listed. The CBEE also includes the Commission and itself. The CBEE proposes to add the sentence: "In PY99, item (4) does not apply to interim administration." ORA would delete the complete rule. Energy Division believes that exclusion of the utilities from this list implies that the utilities do not perform any of these functions, which is untrue.

The Commission provides oversight and authorization of the programs, funds and policies. The utilities are responsible for implementing the programs and the expenditure of funds. ORA and other interested parties are responsible, as parties, for providing the Commission with factual input, proposals, and formal filings and recommendations. The CBEE's role is to make recommendations to the Commission on market transformation. This involves the processes of joint program planning with the energy utilities, providing a forum for stakeholder input, and assisting the parties. The CBEE is not a party. The CBEE's role does not include oversight, administration of program fund expenditures or program implementation. The Energy Division believes that the CBEE's inclusion of itself in the context of its Policy Rule III-1 is misleading and inappropriate. ORA's protest that the policy rules need to be modified to accommodate continuing utility administration should be adopted.

In its comments, the CBEE references the above discussion, stating that it should be rewritten to be consistent with the CBEE's adopted By-Laws and prior Commission decisions, and that ORA's proposed revisions should be rejected. The Energy Division advises the Commission and the CBEE that the CBEE's current By-Laws and the Policy Rules adopted by the Commission were written to apply to Independent Administrators, not the utilities. The role of the CBEE has been affected by D.99-03-056. Therefore, changes in the By-Laws and in the Policy Rules need to be made.

For the purpose of the Adopted and Proposed CBEE changes to the Energy Efficiency Rules, the utilities are the administrators through 2001. The CBEE's Policy Rules should apply to the utilities throughout this timeframe. The Energy Division recommends that the Commission direct the CBEE to review and revise all Policy Rules in a supplemental filing to R.98-07-037 to account for continuing utility administration in compliance with the D.99-03-056. In addition, the CBEE should incorporate appropriate language defining the CBEE's role with energy efficiency programs, which is the subject of an Energy Division workshop scheduled for April 12, 1999.

The Commission should direct the CBEE to prepare minor changes to the policy rules, as necessary, in a timely fashion consistent with continuing utility administration, but defer potential additional modifications to the policy rules until completion of the workshop on the future role of the CBEE.

Affiliate Rules

Protest
RESCUE states that the affiliate rules applicable to independent administrators should not be amended for 1999 administration and argues that the regular affiliate rules should apply to utility administration. RESCUE states that the CBEE's affiliate rule changes do not address self-dealing or "mutual" accommodation (inter-utility hiring).

CBEE Response
CBEE replies that its recommendations for modifications to the adopted policy rules appropriately apply to the period of interim utility administration.

Comments
In comments provided March 16, 1999, ORA agrees that the CBEE's Policy Rules fail to address self-dealing or mutual accommodation. ORA suggests that the CBEE's proposed affiliate rules under Section X should add Rule IX (18) from the "Affiliate Rules for Independent Administrators", to prohibit the intermittent use of utility employees by the affiliates. The Commission's Affiliate Rules adopted under D.97-12-088 were modified by D.98-08-035, which affected the rule covering the intermittent use of utility employees by affiliates.

PG&E recommends that Policy Rules X 1-3 not be adopted. PG&E states that these rules assume valid, agreed to, useful definitions of administration and implementation and address a problem that may not occur. The Commission could, instead, require that utility administrators report to the Commission within 60 days when the utility hires an affiliate through a noncompetitive process. This reporting requirement would not apply to Standard Performance Contracts (SPC) which are already covered by Rule IX-5, nor to corporate activities conducted by the utilities' holding companies.

Discussion
The Energy Division has reviewed the Adopted and Proposed CBEE changes to the policy rules and agrees with RESCUE's and ORA's assessment of a lack of safeguards addressing utility self-dealing or mutual accommodation. However, at the present time, self-dealing can only be addressed through continued efforts with the development program outsourcing. Mutual accommodation (cross-affiliate utility hiring) can be partially addressed through the inclusion of CBEE Policy Rule IX (18) under the CBEE's proposed Section X, Affiliate Rules for Interim Administrators, which reinstates and restricts employee movement between the utility and the

affiliate. ORA's recommendation to apply this rule to continuing utility administration should be adopted by the Commission.

The CBEE policy rules under added Section X, "Affiliate Rules for Interim Administrators", Rules 1-5, serve to limit affiliate participation in the programs and promote market competition. These rules restrict an affiliate's participation to 5% for administrative participation, 5% for Market Assessment and Evaluation activities, and 15% for program participation. Energy Division recommends adoption of these rules.

Affiliate Rules applicable to the utilities were adopted under D.97-12-088. These rules also apply to the utilities' operation of energy efficiency and DSM programs. The Commission does not preclude competitive bidding of one utility's affiliate for another utility's programs (mutual accommodation). The Energy Division recommends that the CBEE work to develop a rule similar to Rule IX (18), restricting inter-utility hiring to respond to RESCUE's concerns.

The Energy Division believes that the Commission's existing affiliate rules and the CBEE's proposed affiliate rule additions under Section X of the rules for energy efficiency do provide a reasonable basis for safeguarding anti-competitive behavior. RESCUE's protest of the policy rules regarding a lack of safeguards addressing utility self-dealing or mutual accommodation should be granted. The Energy Division recommends the Commission adopt the additional affiliate rules proposed by the CBEE under Section X, with the addition of Rule IX (18) fully applicable to interim utility administration.

Tying

Protest

ORA recommends that the Commission require supplementary Administrator Code of Conduct and Affiliate Rules sections of the Policy Rules with restrictions that will preclude the utilities or an Energy Service Company (ESCO) from restricting customer choices of an Electric Service Provider (ESP) for generation or other available services. In particular, a rule is needed to address program-specific anti-competitive measures for those programs with rebates and Standard Performance Contract (SPC) programs, where customer financial assistance is made. ORA wants the CBEE to provide an explicit rule to forbid Utility Distribution Companies (UDC) from conditioning rebate eligibility to only ESP customers of the UDC, with a similar one for an ESCO subcontracting a program, which might condition the service to availability through use of a particular ESP. In addition, ORA would have a customer affidavit signed by the customer that names the current ESP and affirms program participation does <u>not</u> preclude the customer from changing to an alternate ESP. Verification of this should be made at the time other verifications are made with the policy rules.

CBEE Response
CBEE responds that it shares ORA's concern that PGC funds could be used inappropriately to restrict a customer's ability to choose providers of energy, but makes no recommendation on this issue.

Comments
PG&E agrees that competition should be encouraged. However, the attempt to shape this competition with rules and requirements beyond the utility affiliate rules may be unnecessary and carries an additional administrative cost on market participants that may, in fact, discourage competition. Tying is only a real problem when the players have market power. There is no evidence of such market power in the energy efficiency market at this time.

ORA argues that is appropriate to include an energy efficiency policy rule to prevent tying of services by an entity that is an ESP and also an energy efficiency service provider (EESP). That is precisely the purpose of adopting affiliate rules for EESPs. Language similar to Rule III.C of D.98-08-035 (or CBEE's Policy Rule IX-6) should be incorporated into Policy Rule X.

Discussion
The Commission's affiliate rules prohibit the tying nature envisioned by ORA and CBEE, but these rules apply to the regulated utilities, not the ESPs, which are not regulated by the Commission. Similarly, the CBEE's Policy Rules apply to the utilities and their affiliates. Adding another section applicable to ESPs and ESCOs does not appear practical at this time. However, the Energy Division agrees that the same tying prohibition should apply to an ESP or their affiliate receive energy efficiency funding for the promotion of energy efficiency services. The Energy Division recommends that the CBEE and ORA work with the parties and the utilities to develop appropriate language to incorporate into the affidavits and contracts held with ESPs to alleviate this problem at the present time. This should be done to ensure that receipt of energy efficiency services is not tied to provision of electric energy service, and so that the end use customer is not precluded from customer choice. ORA's protest requesting a policy rule to prohibit tying services between ESPs and ESCOs should be adopted.

Logo/Co-Branding

Protests
RESCUE requests that the CPUC direct all 1999 programs be performed in the name of CBEE. RESCUE states that because no logo was developed in 1998 by the CBEE as the CPUC requested, the utilities will continue Co-Branding. REECH recommends that Commission policy should emphasize public markets, energy efficiency themes rather than CBEE or utilities' or public agencies' logos. REECH argues that the utilities' logos should be used only if authorized, and that Interim Utility Administrators (IUA) should not benefit from the use of PGC funds if they use their own logos. REECH further argues that "the valuation of the association with

public energy efficiency programs by the Interim Utility Administrators should be set at not less than 10% of outsourced solution programs and not less than 25% of the budgets for information and audit programs, where IUA identification is significant or where referrals route through an IUA marketing channel."

Responses
CBEE states that direction on co-branding and use of a logo is adequately addressed in its AL filing. The CBEE recommends that the Interim Administrators make significant progress toward independent, statewide brand and implementer brand identification, and away from utility-only branding in 1999. The CBEE recommends the Commission direct the utilities to contract with a qualified firm, using a co-management approach to analyze and develop an independent statewide logo and brand for use in 1999. Until a logo is developed, the CBEE recommends a co-branding approach for all programs in 1999, with an independent or state brand being used along side the utility brand(s), to ensure public disclosure to minimize confusion in the market regarding the source of funds, and to display credibility. (See D.97-12-103, OP 4) CBEE requests an expedited Assigned Commissioner's Ruling granting permission to use the Commission or state seal as the logo for at least part of 1999. Program marketing materials need to be prepared if the programs are to be implemented with co-branding.

SoCalGas responds that it has been working with the other utilities to develop common language for co-branding. However, until a logo is developed, SoCalGas believes that it is critical to continue to use the utility name on its program materials. SoCalGas adds that not using the utility name would have a detrimental affect on the market, since the market actors do not yet have sufficient name recognition on their own. SDG&E responds that the utilities have developed common language to "co-brand" the energy efficiency programs until such time as the CBEE/state logo is developed, as directed by D.97-12-103. SDG&E believes serious legal consequences could result if utility personnel were representing and acting on behalf of CBEE instead of the utility.

Comments
In comments dated March 16, 1999, the Joint Respondents (SEMPRA for SDG&E and SoCalGas) request that development of a statewide logo should be part of the CBEE's Budget. The utilities reply that they have not included the cost for a logo development in their 1999 budgets. Also, in comments dated March 16, 1999, ORA suggests the CPUC request proposals for a logo and language development from the CEC.

Discussion
Decision 97-12-103, in OP 4 states that "CBEE shall develop one or more appropriate statewide logos for energy efficiency to be used by PG&E, SDG&E, SCE, and SoCal, collectively referred to as "the utilities", in their 1998 program materials as soon as feasible. There shall be co-

branding for public disclosure purposes once the logo(s) are developed." The direction to use a statewide logo for energy efficiency programs is consistent and appropriate for the Commission's market transformation efforts. However, the CBEE's proposal to use the Commission's seal or the Great Seal of California is inappropriate.

The Energy Division reports that Government Code Section 402 states:

> "Every person who maliciously or for commercial purposes uses or allows to be used any reproduction or facsimile of the Great Seal of the State in any manner whatsoever is guilty of a misdemeanor."

The Energy Division advises that the Commission's seal includes a reproduction of the "Great Seal of the State". Therefore, any use of either the California State Seal or the Commission's seal may not be used. The CBEE's request to use the state seal or the Commission's seal should be denied.

The Energy Division recommends the CBEE continue work with the utilities to develop a statewide logo and, in the interim, work to develop appropriate endorsement language to address this issue. The Energy Division also recommends that the CBEE contact the CEC regarding possible logo development, if the CEC has had experience with this type of development as ORA suggests. The Energy Division recommends that the Commission allow an expenditure of CBEE PY99 Budget monies to develop a statewide logo.

<u>Cost Effectiveness Values</u>

Protests

REECH states that the CBEE and Commission have not provided a reasonable and calculable basis for cost-effectiveness determinations in the expenditure of energy efficiency funds as required by Public Utilities Code Section (PU Code) 381(E)(1). RESCUE criticizes that the avoided cost calculations should not include transmission and distribution uniformly across utilities and argues that the residential sector's conservation is worth more than other customer classes because it costs more per unit of energy for this class.

ORA recommends that the Commission adopt the cost effectiveness values contained in the CBEE's recommendations. (See Attachment B) ORA also recommends that the Commission adopt the new cost effectiveness policy rules recommended by the CBEE (using ex post measures), but that it establish conformance with these policy rules using current program definitions and current cost effectiveness test names (i.e. replace Public Purpose Test with Societal Test).

Responses

CBEE responds that it agrees with ORA that the CPUC should adopt the CBEE's cost-effectiveness policy rules. However, CBEE does not recommend that the Commission change the name of the Public Purpose Test (PPT) and does not recommend application of the test using only current program definitions. PG&E agrees with the CBEE that the recommended new program definitions most clearly support "the design, implementation, and coordination among intervention strategies toward the common objective of market transformation" and that the current system, as defined in the DSM Reporting Requirements Manual, does not meet this standard.

Comments

PG&E notes in its March 16, 1999 Comments that CBEE's original recommendation for selected statewide input values and conventions for demonstrating cost effectiveness was that parties should use a real, societal discount rate of 5%. Since all of the CBEE values for avoided costs in Appendix C, Attachment B are expressed in nominal dollars, the societal discount rate should also be expressed in nominal dollars. Therefore, the Commission should use a nominal discount rate of 8.15% per year in conjunction with the cost effectiveness values contained in Attachment B of Appendix C. It is PG&E's understanding that the CBEE's Technical Consultant concurs with the use of an 8.15% per year discount rate.

The CBEE comments that the Commission should leave the "Public Purpose Test" as the standard of cost effectiveness, and clarify that the name of the standard should remain PPT to indicate that it is different from the societal test in its application.

The CBEE states that the analysis of ORA's recommendation misconstrues the standing of the Public Purpose Test (PPT). The CBEE's recommendations for modifications to policy rules IV-1, IV-3, and IV-4 were ones of clarification, not of policy. They were made in response to requests from stakeholders to be explicit that the PPT, described in section V, was to be used for the rules in section IV. The Commission previously adopted the policy rules, including the PPT, in D.98-07-036. Policy rule V-2 clearly defines the PPT uniquely as the standard of cost effectiveness. ORA disagreed with the name of the test, but did not protest its formulation. No other standard of cost effectiveness (with the exception of the participant test in now-suspended policy rule IV-6) is contained in the policy rules. References to the societal test and the total resource cost test are discussed, not as alternatives, but as points of reference for the PPT. After much discussion in workshops and other public processes before the CBEE, most stakeholders agreed that it was appropriate to propose to change the name of the societal test to the PPT at this time given the differences in its application under the current Commission policy framework. Failure to reaffirm that the name of the standard of cost effectiveness is the PPT will increase the potential for future confusion in applying the standard in the section IV rules.

Discussion

The Energy Division observes that the cost effectiveness values found in Attachment B, Appendix C conform to the existing Commission standards used for the basis of cost effectiveness evaluations. PG&E, reiterates its December 1998 comments regarding the discount rate used in Attachment B, Appendix C, which no other party commented on. The Energy Division agrees with PG&E that these values should be expressed in nominal dollars using an 8 ½ % per year discount rate rather than the real, 5% societal discount rate, and recommends the conversion.

REECH's allegation that the cost effectiveness values do not provide a reasonable and calculable basis for cost-effectiveness as required by PU Code Section 381(e)(1) should be rejected and their protest denied. The Energy Division recommends that the Commission adopt the Cost Effectiveness values contained in Attachment B, Appendix C for PY99, as modified.

The Energy Division has reviewed the CBEE's comparison of the Public Purpose Test, as found in Attachment B, Appendix B. The Energy Division has also reviewed the Societal Test and the Total Resource Cost Tests as found in the CPUC/CEC's *Standard Practice Manual for Economic Analysis of Demand-Side Management Programs.* The CBEE has provided a detailed comparison between the Public Purpose Test (PPT) and Total Resource Cost Test (TRC), not with the Societal Test. The Societal Test and the PPT are essentially the same; they both modify the TRC for externalities. In consideration of the semantics argument between the parties and in hopes of providing ultimate clarification for all, the Energy Division recommends that the Commission adopt the CBEE's recommendation to change the name of the Standard of Cost Effectiveness to the Public Purpose Test in the body of Policy Rules IV-1, IV-3, and IV-4, but that it retain the name "Standard of Cost Effectiveness" in parentheses.

The Energy Division advises the Commission that RESCUE's proposal to modify the avoided cost values used for transmission and distribution is beyond the scope of the advice letter filings and should be denied without prejudice. RESCUE's proposal to modify the avoided cost values used for transmission and distribution should be raised in the Qualifying Facilities proceeding under I.89-07-004 and the ACR emanating from the electric restructuring decision, D.99-02-085, where avoided cost values used by the Commission will be addressed.

On February 11, 1999, an ACR was issued under R.98-07-037 ordering the Energy Division to schedule a public workshop to address reporting requirements. Parties should seek consensus at the Energy Division facilitated reporting requirements workshop, and should make a filing on the issues in R.98-07-037.

Reporting, Program Definitions

Protest

ORA requests that the CPUC direct CADMAC to develop new ex post measurements to assure cost effectiveness and compliance with the legislative intents of Assembly Bill (AB) 1890 (Stats.1996, Ch.854). The existing database is incompatible with a new set of program definitions. There is no credible basis for demonstrating (on an ex ante basis) conformance with the Policy Rule requirement that such a demonstration be made as a condition for authorization. ORA further recommends that the Commission reject the CBEE's new program definitions, reinstating the use of the current definitions for purposes of budget adoption since the programs will still be under utility administration. ORA recommends the Commission allow fund-shifting flexibility within each of the three major program areas; program monitoring during the PY; cost-effectiveness and performance reporting prior to, during and after program implementation.

Responses

SoCalGas states "[t]he performance mechanism for PY98 authorized by the Commission in D.97-12-103 and the guidelines supported by the CBEE for PY99 earnings are based on ex ante estimates. Earnings under this new mechanism for PY98 and proposed earnings for PY99 are significantly reduced from past levels for most utilities in part based on the fact that there is no ex-post measurement requirement. Therefore, ORA's recommendation for a new ex-post regime is inappropriate and inconsistent with CPUC established policy.

CBEE states that a new regime for ex post measurement is being developed by the CBEE as part of its Measurement, Assessment and Evaluation (MA&E) activities. Among other things, the CBEE's planning will address appropriate roles for advisory groups such as CADMAC. (See CBEE's AL filing and its Attachments A, C, and D) CBEE continues to recommend use of new program definitions as basis for program planning, budgeting, fund-shifting (in the form of budget ranges for programs, and the form of budget caps or floors for a limited number of intervention strategies), budget reporting, and performance awards and incentives. CBEE also recommends budget planning and reporting by program definitions in current DSM reporting requirements manual. CBEE shares ORA concerns regarding the adequacy of documentation and recommends that the Commission direct the utilities provide additional information to address these concerns.

CBEE makes two other points: (1) "[t]he choice of program definitions is irrelevant to a determination of whether or not PY99 plans conform to the cost-effectiveness standard articulated in the adopted policy rules, since the standard is binding only for the entire portfolio of PGC-funded activities, not for individual programs (regardless of which set of program definitions is used", and (2) "[t]hreats to the ability of the utilities to maintain accurate and useful cost-accounting procedures are independent of the choice of program definitions."

Comments

The Joint Respondents (SEMPRA), in the interim, accept the California Board for Energy Efficiency's (CBEE) 14 program definitions. Discussions of the validity and practicality of these 14 program definitions should continue through the Reporting Requirements Workshop. The Joint Respondents strongly recommend that resolution on this issue be achieved before the utilities file their PY2000 program plans.

The CBEE urges the Commission to adopt its 14 program definitions. In addition, the CBEE states that it has received and reviewed supplemental program descriptions from the utilities and has found them to be adequate and consistent with its recommendations. Therefore, the CBEE continues to recommend that the utilities submit their complete program descriptions to the Energy Division as informational correspondence instead of as supplemental advice letters.

ORA notes that follow-up meetings and discussions to the reporting requirements workshop are on-going and should result general agreement on PY98 programs definitions. The PY98 program definitions should logically form the basis for PY99 program definitions. Therefore, PY99 program definitions should not be adopted at this time. As noted in ORA's March 2nd Comments, the Resolution can adopt program funding using the three major categories (Residential, Non-Residential, and New Construction) and withhold adoption of the program definitions until the workshop process is complete.

PG&E recommends that the 14 CBEE program definitions be adopted as the basis for program design and monitoring changes in the marketplace. However, since they are based on the markets, they must be expected to change as we gather experience with the markets. At the same time, these definitions may not provide all the information needed to report on progress toward the Commission's policy goals, nor do these definitions provide long term continuity or connection with previous programs.

Discussion

Resolution E-3578, adopted by the Commission on March 18, 1999, authorizes the program area budgets and the program "categories", but does not adopt the program categories as program definitions. The utilities are directed to map the budget "categories" between PY98 and PY99. Energy Division suggests the parties meet, possibly in a workshop setting, to clearly define these budgeted program categories. These need to be related to the previously used program definitions under EE/DSM, to provide a clear and coordinated transition to the new categories (definitive) and a clear audit trail for measuring program performance and cost effectiveness. PG&E's suggestion under its comments provides the best solution. The Energy Division recommends that the Commission adopt the program categories presented by the CBEE and submitted by the utilities as the program definition basis for program design and monitoring changes in the market. The Energy Division is confident that the parties can develop a method to accommodate the changing relationships of the data to the renamed programs, resolving these items in reporting requirements workshops. ORA's protest regarding program definitions and reporting requirements should be denied.

Administrative Policy Rule VIII-4

Issue

CBEE recommends that the Interim Utility Administrators describe their roles in administrative vs. implementation functions on a program-by-program basis. Rule VIII-4 reads: "An administrator shall not perform non-administrative functions without prior approval of the Commission."

Protests

The utilities each respond that they did not provide descriptions of these roles, nor did they all provide budget information, splitting out administrative and implementation functions.
PG&E objects to the dual system for reporting and budgeting as recommended by the CBEE, but proposes to offer an initial budget under both systems to provide the appropriate link between the past programs and current ones. PG&E requests the Commission to select one method for future use and to designate one of the two 1999 systems as the primary system for future audits.

Comments

The Joint Respondents have provided to the CBEE their proposed 14 program administration and implementation budgets as requested in the December 21, 1998 comments filed by the CBEE on the utilities' advice letters. The Joint Respondents, however, believe that the continuation of utility administration makes it unnecessary to report its administration and implementation expenditures as referenced by Policy Rule VIII-3. It is costly for the utilities to maintain separate accounting systems to track program expenditures.

The Energy Division states that the reporting of administration and implementation costs is a necessary item of information for pricing of future, competitive services. The Joint Respondents agree that this information could be useful but this should be done only after the Commission issues their decision on the future administration of energy efficiency programs and workshops have been held to fully define administration and implementation activities.

The CBEE argues that the Commission should not suspend policy rule VIII-4, which directs administrators to seek approval from the Commission prior to performing non-administrative functions. CBEE states that the utilities have submitted supplemental program descriptions to the CBEE that identify utility roles in administration and implementation, including budgets. The current definitions of administration and implementation are adequate for the utilities to have provided this information in their program descriptions. No party objected to or commented on this policy rule. The protests and comments related to this issue do not focus on the substance of this policy rule; they focus instead on the difficulty of reporting programs using two sets of program definitions. Suspension of rule VIII-4 will compromise the Commission's efforts to implement other overarching policy objectives and CBEE recommendations, such as continued transfer of program implementation away from administrators, and reliance on third party initiatives.

PG&E supports the suspension of Policy Rule VIII-4. Utility administrators will be participating in some program implementation as well as program administration. These two activities are still undefined and not clearly differentiated. At CBEE's request, PG&E provided a "best guess" of these activities for PY1999. However, there is no clear statement of the value of this data to the Commission, the CBEE or other parties, nor is there any obvious use for this information. PG&E recommends that the uses for this information be determined prior to the development of useful definitions and the addition of more reporting requirements.

REECH states that the Commission considers it an "article of Faith that the Commission is vigilant in curtailing anti-competitive activity by IUA's (Interim Utility Administrators)." (Resolution E-3592, mimeo. P.14), "If, in fact, the Commission's anti-competitive policies did fail, the Commission would act.") This assertion is belied by the Commission's inability to achieve Independent EE program administration, allowing itself to be buffeted by anti-competitive interests, as well as the abysmal penetration of Residential markets by ESP's to date. It is difficult for REECH to have such faith under the circumstances, and more definitive and sufficient direction from the Commission is warranted.

REECH states that the Commission can affirm its commitment to restructured competitive EE services delivery by constraining IUA self-dealing of PGC funds. REECH states that the Commission should require discipline in the distinguishing of activities constituting Administration, from those which are clearly an EE service the market can recognize and value, and even allow for a hybrid category of activities. The hybrid category should be kept as small as practical.

Discussion
The Energy Division agrees with the utilities, that two systems for reporting and budgeting is burdensome. The issue of defining administrative versus implementation functions appearing in the Policy Rules is a necessary item of information for future services. However, under continuing utility administration, the Energy Division in unconvinced of the usefulness of providing reporting and budgeting information under a dual system beyond PY99. On February 11, 1999, an ACR was issued under R.98-07-037 ordering the Energy Division to schedule a public workshop to address reporting requirements, including budget reporting requirements

identified as "administrative versus implementation" costs. These issues were discussed in this workshop. PG&E's protest should be denied. Parties should seek consensus at the reporting requirements workshop, and should make a filing on the issues in R.98-07-037. The Energy Division recommends that the Commission adopt Policy Rule VIII-4, subject to definitional clarification under R.98-07-037.

Policy Rules Conclusion

The Energy Division recommends that the Commission direct the CBEE to review and revise all Policy Rules for Energy Efficiency to account for continuing utility administration in compliance with the proposed decision under R.98-07-037. The Energy Division also recommends appropriate policy rule revisions be made by the CBEE to define the CBEE's role with energy efficiency programs pending the Administrative Law Judge's scheduled workshop directed under the proposed decision under R.98-07-037. In the interim, the Energy Division recommends that the Commission adopt, the CBEE's recommended policy rule revisions, suspensions, and additions, with the following modifications:

1. Adopt the recommendation to insert "Public Purpose Test" under Policy Rules IV-1, IV-3, and IV-4, but retain "Standard of Cost Effectiveness" in parenthesis.

2. Adopt the CBEE's added Affiliate Rules under Section X.

3. Work to develop appropriate language in the body of affidavits and contracts to address tying between ESPs and ESCOs, but not also add this language to the policy rules.

4. Reject the CBEE recommendation to use the state seal or the Commission's seal for use as a logo.

5. Adopt the cost effectiveness values for PY99 and apply these values to the entire utility program portfolios for PY99, as modified.

6. Adopt the new program definitions for PY99 and work to resolve reporting issues in the Energy Division workshop scheduled under R.98-07-037.

7. Adopt Administrative Policy Rule IV-4, subject to clarification of the "Administration versus Implementation" definitions and reporting applications scheduled for the Energy Division workshop and R.98-07-037.

BUDGETS

Statewide Budgets

Background

The CBEE's October 16, 1998 AL filing estimated a statewide budget and utility expenditures for 1999 and estimated unexpended funds from 1998. The CBEE first took input from each of the utilities on anticipated PGC funding by customer class contributions and organized and apportioned percentage expenditures by major program area to avoid fund shifting between customer classes. Next, the CBEE developed percentages of funds per program area and further developed spending floors and caps within each of the 14 programs. Adjustments were made to allow for specific administrative line items, including an estimate of unspent 1998 funds. The other line items are: Reserve for New Administrator Startup, Reserve for State Staff, 1999 CBEE Operating Budget, CEC Data Collection, Other MA&E Activities, MA&E Administered by Interim Administrators, and the Performance Awards Cap. The CBEE then requested the utilities to work within the structural framework of these estimates to develop their individual 1999 budgets.

The total estimated statewide budget funding for 1999 is estimated to be $273.4 million – Electric $228 million and Gas $45.4 million. Additional carryover funding from 1998 increases the total to over $300 million. The Statewide Energy Efficiency Budget consists of program area spending, performance award incentives, and a number of administrative line items representing 8% of the PY98 carryover and PY99 projected budget. The PY2000 Energy Efficiency Budget is expected to be approximately the same level. This resolution recommends authorization of the PY2000 funds at the same levels as PY99 to be allocated to program and administrative budgets, and incorporating the PY2000/1 Decision recommendations expected to be issued in early August.

CBEE Recommendations

CBEE recommends the Commission adopt the program area allocations, as found in the tables in Attachment C, and that the interim administrators be required to use the percentage allocations to develop fixed budgets for each of the three program administrative areas – Residential, Non-Residential, and New Construction – with no fund-shifting.

CBEE recommends the utilities use the statewide budget as guidelines for their advice letter filings, stating that if an administrator-proposed budget is outside of the CBEE recommendation, administrators should provide justification in their advice letter filings. Since the CBEE's budget tables are on a statewide-basis, some deviations may be justified.

CBEE recommends that the Commission direct interim utility administrators to:

1. Budget and report PY99 costs for activities they directly administer into three main categories: program costs, market assessment and evaluation (MA&E) costs, and performance awards.

2. Budget and report PY99 program costs in two main categories – administrative costs and implementation costs, or other non-administrative costs.

3. Budget and report PY99 costs related to activities that they are not administering directly, such as CBEE operations, new administrative start-up, etc., as found in CBEE advice letter Attachment B, Table 3.

4. Provide estimates of the portion of costs that are expected to be outsourced for administrative implementation and other non-administrative, and MA&E functions for each category.

5. Budget and report PY99 activities using two systems: the categories described above and the new program definitions of Section VI.A (primary method) and the DSM Reporting Requirements and program definitions used in prior years with sub-categories for some specific intervention strategies, such as SPC (secondary).

6. Budget and report activities that were included in Measurement, Forecasting, and Regulatory Reporting (MFRR) by allocating measurement, evaluation, and forecasting activities to MA&E, and by allocating all other activities (including regulatory reporting) to program administration. MFRR activities should also be reported in the second system per the DSM Reporting Requirements, as described above.

7. Budget and report activities related to PY98 and pre-PY98 programs separately from PY99 activities.

Protests

The utilities' mid-November 1998 AL filing budget tables excluded PY98 unexpended funds. The utilities' were concerned about the CBEE's recommendations to split administrative and implementation costs within their budgets. They also expressed concerns about specific line item spending for the development of a logo, reserve funding for new administrators, treatment of certain MA&E activities, and CEC funding, which are addressed below, separately by issue. SoCalGas expressed concern about its budget estimate being too high, and that it was observing fund-shifting occurring in the program areas from non-residential customers to residential customers.

Discussion

On February 11, 1999, an ACR was issued under R.98-07-037 ordering the Energy Division to schedule a public workshop to address reporting requirements, including budget reporting requirements identified as "administrative versus implementation" costs. These issues should be discussed in this workshop. Parties should seek consensus at the Energy Division facilitated reporting requirements workshop, and should make a filing on the issues in R.98-07-037. In response to SoCalGas' concern about fund-shifting occurring in the program area budget, the Energy Division recommends that SoCalGas review its budget estimates carefully to insure that such fund-shifting does not occur, especially between residential and non-residential customer classes. If SoCalGas' observations are correct, then the Energy Division recommends that it submit a revised budget which realigns the proper allocations among customer classes in a supplemental advice letter. Upon request of the Energy Division, the CBEE has produced a revised, statewide, internally consistent budget conforming to the utilities' budgets and revised performance mechanisms. This revision is reproduced in Attachment C to this resolution.

The Energy Division reviewed the Statewide Program Area Budget, with the revised program area budget ranges, and recommended that the Commission adopt it in Resolution E-3578. The total estimated Program Area Budget for PY99 is $254.5 million, with Electric programs totaling $206.2 million and Gas programs totaling $48.3 million.

The Energy Division also recommended that the Commission authorize an alternate performance incentive award cap for all utilities under Resolution E-3578. CBEE had worked with the utilities to modify the original performance incentive award and reported to the Energy Division that the revised statewide proposal was "11% of the annual program, or $27.991 million based on a proposed PY99 annual budget of $254.469 million". The specific award caps per utility are: PG&E $12.584 million; SCE $8.610 million; SDG&E $3.806 million; and SoCalGas $2.991 million. The CBEE adds that "the overall award cap level would be reached if the utility demonstrated achievements of superior levels of performance for all program categories. The appropriate cap was set at 11% of the annual program budget (statewide), down from 12.5% adopted by the Commission for the 1998 programs. The CBEE recommended that if the Commission authorized these award caps, the dollar value of the performance award cap should not change later, even if the authorized budgets are revised up or down mid-year. The CBEE added that the milestones for aggressive program implementation were difficult, and might not be achieved.

No party protested the program area budgets or the alternate performance award mechanisms in response to the January 1999 revisions. The Energy Division recommended, and the Commission adopted under Resolution E-3578, that the Commission only authorize the energy efficiency program area and program budgets and the alternate performance incentive award mechanism portions of the utilities' budgets.

Under the current resolution, the Energy Division recommends the Commission adopt the seven CBEE budget reporting recommendations outlined above and extend and authorize the same level of the funds for PY2000. The remaining statewide budget is subject to resolution and adjustment of the administrative line-item budget protests addressed below.

New Administrative Start-Up

Issue

The CBEE states that it has prepared a 12-month PY99 plan, which could be transferred to new administrators or to an alternate system, with three months notice. CBEE recommends that the Commission authorize a $7.5 million reserve fund for new administration start-up, transition planning, program planning and budget activities in 1999. CBEE states that it understands that this will require a separate fund transfer mechanism between the utilities and new administrators. Therefore, CBEE requests that the Commission investigate the ability of new administrators to assume existing contracts and agreements, in conjunction with approval of the assets and liabilities transfer process.

Comments

Comments were provided by the Joint Respondents (SEMPRA) and PG&E on March 16, 1999. The utilities recommend that the $7.5 million should be reallocated to the programs, to new third party proposals, or to under served markets, but to do so in PY2000 so that the budgets, milestones, and performance incentive mechanisms are not disrupted.

Discussion

The Energy Division advises the Commission that authorization of a $7.5 million reserve fund for new administration start-up, transition planning, program planning, and budget activities is no longer relevant due to the continuing utility administration through December 31, 2001 under D.99-03-056. The $7.5 million set aside recommended by the CBEE should be returned to the utilities' energy efficiency programs on a pro rata redistribution, with the amounts reallocated under PY99, or carried over for PY2000 programs.

CBEE's Budget

Issue

The CBEE provided a Proposed 1999 Budget in its December 7, 1998 Preliminary Comments and Recommendations of the California Board for Energy Efficiency (CBEE) on the Utilities' November 16/17, 1998 Advice Letter Filings Related to 1999 Energy Efficiency Programs. No party protested the CBEE's budget.

The CBEE estimated that it had $1.5 million in unexpended funds from PY98. CBEE explains that significant under-expenditures occurred in 1998, due to problems obtaining and retaining support services. The Commission authorized a pro-rata funding of $750,000 in January and February respectively under Resolution E-3581. Resolution E-3589 extended month-to-month spending in the amount of $200,000 per month, at CBEE's request. PG&E is authorized to continue paying all CBEE invoices in 1999 from 1999 PCG funds. PG&E will bill SCE and SDG&E for their proportionate shares of the CBEE expenses, as described in D.97-04-044, D.97-05-041, and D.97-09-117.

For PY99, the total estimated, statewide annual program funding level for energy efficiency programs is $314.6 million, including PY98 carryover funds. The CBEE's estimated budget represents less that 0.8% of this amount. The CBEE's Budget was supplemented with notes explaining the rationale for each line item. Consideration was made for past expenses and, in some cases, a high and low estimate was made, depending upon the uncertainty of future activities.

The table on the next page replicates the CBEE's budget estimate, with CPUC adjustments included in the last column.

Expense Category	PY98 Budget	PY99 Budget Request	Percent	Adopted PY99 Budget	Percent
1. Professional Services					
Administrative Services	$531,000	$274,000		$262,000	
Labor Subtotal		144,000		144,000	
Direct Expenses Subtotal		130,000		118,000	
Legal Services	178,000	100,000		100,000	
Technical Services	1,350,000	1,240,000		$1,240,000	
State Staff Support		-----			
Subtotal Professional Services	$2,059,000	$1,614,000	78.4%	$1,602,000	78.3%
2. Board Meetings					
Meeting Fees	$36,000	$30,000		$30,000	
Per Diem and Expenses	226,560	198,800		198,800	
Board Facilitation	3,000	5,000		5,000	
Committee Meetings	33,600				
Subtotal Board Meetings	$299,160	233,800	11.4%	$233,800	11.4%
3. TAC Meetings					
Meeting Fees	$14,400	$8,250		$8,250	
Per Diem and Expenses	54,000	13,200		13,200	
Communication Support	NA	2,000		2,000	
Facilitation	5,000				
Subcommittee Meetings	39,300				
Subtotal TAC Meetings	$112,700	23,450	1.1%	$23,450	1.1%
4. Other					
Staff recruitment fees	$10,000				
Liability insurance	75,000				
Subtotal - Other	$85,000				
SUBTOTAL	$2,555,860	$1,871,250	90.9%	$1,859,250	90.9%
Contingency (@10%)	255,586	187,125	9.1%	185,925	9.1%
TOTAL CBEE BUDGET	$2,811,446	$2,058,375	100%	$2,045,175	100%

Adjustments

Direct Expenses

In its Budget Notes, the CBEE estimates that it will need $12,000 for marketing expenses associated with the need to develop increased awareness of an RFP for program administrators. Since the RFP process has been cancelled and since the utilities will be continuing as administrators into the future, the Energy Division recommends a reduction to Direct Expenses under Administrative Support Services by $12,000.

Legal Expenses

The CBEE makes three major assumptions in support of the $100,000 requested for Legal Services: (1) devoting legal staff time to hire independent program administrators with accompanying legal contract review and change orders or (2) pursuit of a new administrative and financial structure, and (3) legal support for interpretations concerning ownership and access issues related to assets and liabilities. In light of the fact that the utilities will continue to perform program administration, the CBEE's need for legal services diminishes significantly. However, given the unforeseen circumstances of the past year, and the CBEE's projected participation in Phase II of R.98-07-037, the Energy Division recommends allowance of the $100,000 amount to safeguard future issues.

Technical Services

In its budget notes, the CBEE presents an analysis of a low and high estimate, settling on an amount $1,240,000. The CBEE's discussion of this line item centers on two items of uncertainty: 1) when state civil service staff will be hired to provide technical assistance and project director functions currently provided by the CBEE's technical consultant team; and 2) to what extent will the Board's need for technical staff support change if the CPUC policy to hire a new program administrator during the first half of 1999 changes. The CBEE requests that the Commission adopt $1,240,000 and explicitly allow funds to be moved from the $400,000 amount set aside for the CPUC Budget Change Proposal (BCP), should the BCP be denied by the Department of Finance. Because this is an area of great uncertainty, the Energy Division recommends acceptance of the high case assumption presented in the CBEE's discussion of $1,240,000.

Board Meetings - Per Diem

The Board's recommendation to the Commission is to consider paying a small number of Board members for their current contributions, since current work loads exceed 10 to 20 hours of preparation time for meetings. Since this issue is subject to R.98-07-037, the Energy Division recommends setting aside the averaged increased per diem request of $2250 per meeting, but only adopting spending an average of $1800 per meeting, pending a final determination.

Market Assessment & Evaluation (MA&E)

Issue

CBEE believes that part of its assignment from the Commission is to oversee the analytic activities needed to help support energy efficiency programs and activities. CBEE categorizes these activities as: (1) market assessment, (2) evaluation, (3) performance measurement and incentive verification, (4) measurement and verification review and oversight, and (5) oversight of prospective cost-effectiveness analysis.

CBEE states that during 1999, the utility administrators will administer some MA&E projects independently, subject to CBEE oversight, while others will be administered using a co-management approach with the utilities. The CBEE also states that it will work collaboratively with the CEC to obtain some needed data and research, and has proposed funding of $2.1 million for CEC data collection activities. The CBEE has proposed a market assessment and evaluation budget not to exceed $12.0 million for PY99. The proposed budget is allocated, for planning purposes, to utility administrators ($6.0 million), CEC data collection ($2.1 million), and other MA&E activities ($3.9 million).

CBEE states that it has initiated a planning process to determine what specific market assessment, evaluation and performance measurement, and incentive verification projects may be needed in 1999 and beyond. This planning process will be continuing into early 1999, with solicitations made for public input.

Responses

The utilities each responded to this statement in their advice letters. SoCalGas states that it is prepared to assist the CBEE with their MA&E efforts and has proposed $648,000 as its share for the interim administrator MA&E budget, with another $650,000 budgeted for performance measurement and incentive verification. SCE accepts the recommendations of the CBEE regarding the total level of funding for MA&E activities during 1999. SCE proposes to make five staff available for these activities, but also anticipates working with the CEC and the CADMAC resources to further the studies.

SDG&E agrees with the CBEE's recommendations regarding the categories and the proposed budget. However, SDG&E requests greater clarification in the proposed 1999 workshops on: (1) which specific MA&E projects will be independently managed by SDG&E, and which will be co-managed with CBEE; (2) the CBEE's verification process for determining performance; (3) the CBEE's verification process for completed market effects studies; and (4) an SDG&E procedure to provide the CEC with Public Goods Charge (PGC) funds for their data collection activities and the level of utility involvement. SDG&E states that verification procedures will need to be determined for the performance incentive accomplishments. SDG&E proposes the Commission direct it to file a verification plan, including definitions of how milestones are to be achieved, for Commission review and approval, and requests the Commission also determine which entity will be responsible for the verification of performance incentives.

PG&E is concerned that the amount of monies CBEE has budgeted for these activities is lower than earlier years, although these activities (previously referred to as MFRR) are expected to increase. Both PG&E and SDG&E question the MA&E set-asides for State government activities, which is addressed in the next section.

Comments
In response to Energy Division questions on this subject, the utilities and the CBEE filed the following comments.

The Joint Respondents (SEMPRA) recommend that the Commission indicate that the MA&E submittals are purely informational and require no further Commission action. The Joint Respondents state that they have already provided their MA&E plans to the CBEE and its Technical Service Consultants (TSC). The Joint Respondents state that the TSC and CBEE have approved SoCalGas' plan and budget and that SDG&E's plan has been approved by the TSC and is waiting for approval from the CBEE. In comments filed on pending Resolution E-3578, the Joint Respondents discussed the need to receive approval of funding for utility-specific MA&E activities and authorization to proceed with MA&E activities. The Joint Respondents reiterate their request for authorization of the MA&E activities in order to avoid jeopardizing the meeting of "date-sensitive" performance incentive milestones and unduly hampering the utilities' abilities to work on the necessary studies and surveys of market changes and effects. With respect to the statewide MA&E plans, the Joint Respondents believe that the CBEE should file these plans.

SCE requests that the Commission authorize MA&E fund expenditures at a rate of 1/12 of the total budgeted amount ($6 million) for utility administrators per month, so that vital MA&E work can begin. SCE states that any additional delay in expenditure authorization, as recommended by the Energy Division, will needlessly push back the achievement of the Commission's market transformation goals, and consequently, the eventual benefits of these programs to ratepayers. SCE adds that the work that is currently being done to establish baselines for these programs as they are rolled out will be stalled, thus compromising the ability to assess their performance.

SCE concurs with SDG&E and the Commission's recommendation that the CBEE and the utilities provide more detailed documentation of the planned MA&E projects for PY1999. As the planning continues, SCE recommends that the utilities begin the process of soliciting and reviewing proposals, and begin to collect baseline data. Meanwhile, the fully-developed plans would be brought before the Commission for approval before their later stages are authorized for implementation. SCE points out that contracts with the consulting firms can be written so that work on the later stages is understood to be contingent upon authorization by the Commission.

PG&E states: "The CBEE has initiated a MA&E planning process to determine what specific market assessment, evaluation and performance measurement projects may be needed in 1999 and beyond. It has deferred verification activities to the Office of Ratepayer Advocacy. Given the importance of MA&E in determining the impacts on various markets and market actors and for refining future programs offerings, PG&E recommends that the Commission authorize the utilities' MA&E budgets. PG&E also proposes that the CBEE and utilities file a joint informational report on MA&E activities no later than 30 days beyond the effective date of this Resolution. This report, given the extra time, will be much more complete and detailed than could be done in a shorter-term advice filing. In addition, the advice letter process would hold up approval of the MA&E plans for several more months into 1999. It should be noted that the MA&E activities now play a fundamentally different role than for pre-98 programs. Then measurement results determined utility awards; now MA&E results have virtually nothing to do with utility awards. (Completion of a few studies is a minor milestone in 1998 and 1999.)"

The CBEE states: "The Commission has historically authorized market assessment and evaluation (MA&E) budgets along with program plans, without reviewing or approving specific MA&E plans, which generally are developed following authorization of the programs and subsequent to the development of more detailed designs for program implementation. CBEE sees no material reason for the Commission to break this precedent and not authorize overall MA&E budgets at this time. CBEE's and the utilities' current MA&E plans for 1999 follow directly from those reviewed and approved for PY1998 by the Commission in D.98-02-040. Finally, the CBEE is preparing a more detailed break-out of MA&E activities in an updated energy efficiency budget, being submitted to the Energy Division...".

Discussion

CBEE states that it has initiated a planning process to determine what specific market assessment, evaluation and performance measurement, and incentive verification projects may be needed in 1999 and beyond. Although the CBEE provides a budget estimate for these activities, it has not provided the Commission with any other description of its planning process or of what market measurements are necessary to measure the effects of the program changes and how this will be accomplished. The CBEE has not identified what entity will coordinate these activities. In addition, the CBEE provides no basis or rationale for the budgeted estimates of $6.0 million for utility administered MA&E, and the "Other" MA&E activities amounting to $3.9 million.

If the utilities participate in the MA&E process as the CBEE proposes, the Commission needs to establish verification procedures for performance incentive accomplishments. Therefore, each utility needs to file a verification plan, including definitions of how milestones are to be achieved, for Commission review and approval. These plans should identify which entity will be responsible for the verification of performance incentives. The CBEE has apparently deferred verification activities to the Office of Ratepayer Advocates (ORA). As an alternative, the Commission could hire an MA&E administrator or contractors directly, with projects performed under the direction of the Commission.

Given the importance of MA&E in determining the impacts on various markets and market actors and for refining future program offerings, the utilities recommend that the Commission authorize their MA&E budgets ($6 million). The Energy Division is aware that the CEC has offered to provide the CBEE with three additional, one-time studies supporting other MA&E efforts in the amount of $800,000. In addition, the CEC has also proposed an alternative, comprehensive MA&E proposal to the CBEE. However, no formal proposals have been submitted to the Commission.

The Energy Division recommends that the Commission have a filed plan of what measurement projects will be attempted, with sufficient documentation and details to support the expenditure of MA&E funds. The Energy Division recommends that the utilities should submit a joint filing in supplemental advice letters to the Energy Division within 30 days of this Resolution indicating:

1. An outline of the study plans, measures and data expected;
2. Which utility will be responsible for what activity;
3. Which activities will be outsourced and the process anticipated;
4. Which activities will be co-managed by which entities;
5. What participation, study, and funding levels are anticipated to be performed by the CEC and what agreement has been made;
6. What participation is expected of the CADMAC;
7. What the performance verification process is and what entity conducts it;
8. What the verification process is for completed market effects studies;
9. A schedule for reporting results of the studies to the Commission;
10. The basis and rationale for the associated budget expenses;
11. Definitions and milestones for performance award incentives;
12. The level of CBEE participation;
13. The level and activities of TSC participation; and
14. The level and activities of ORA participation.

The Commission requires this information, even though parties argue that the Commission has not previously required it. Given the need to provide an efficient resolution of this issue, the Energy Division recommends that the Commission adopt the budgets identified in the expanded budget tables under Appendix C. Except for the allocation of $2.1 million to the CEC, as described below, budgeted MA&E fund expenditures should not be authorized until further documentation is provided.

SDG&E's protest should be granted. Each utility should file a verification plan, as recommended by SDG&E above, in the body of the supplemental advice letters outlined above. The Energy Division recommends that the CEC file a response to the utility supplemental advice letters. If the CEC files a response to the advice letters, the CEC may also incorporate its comprehensive proposal presented to the CBEE. Final authorization of the MA&E proposals is subject to Commission approval.

State Government MA&E Set-Asides

Issue

PG&E requests the Commission clarify the legal basis of the CBEE's recommendation to use $2.1 million of the available statewide funds for 1999 CEC data collection activities, and to reserve another $400,000 for hiring CPUC staff. PG&E also requests the Commission provide some guidelines as to the mechanism for accounting for these costs. PG&E states, given the language in AB 1890 regarding the specific purposes for which the PGC funds could be used, PG&E does not know under what legal authority PGC funds could be used for the activities envisioned by the CBEE since they are not covered by AB 1890.

Comments

PG&E recommends that the Commission or the CEC provide the utilities with a legal procedure for transferring PGC funds to the CEC for its data collection activities, similar to what is currently done with Research and Development, and Renewables PGC funds.

The Joint Respondents (SEMPRA) comment that the CBEE, in its proposed statewide budget, allocated $2.1 million for CEC data collection activities to be conducted by CEC staff. The CEC, in a presentation to the CBEE to request funds, stated that it would assume the utilities' responsibilities of providing survey data, as required by Title 20, Article 2. Biennial Forecast and Assessment of Energy Loads and Resources. It is unclear to the Joint Respondents that the utilities have been relieved of their legal responsibility to provide this data in spite of the CEC's proposed efforts.

Discussion

The Energy Division understands that the CEC data collection budgeted amount of $2.1 contributes in part to the proposed MA&E activities, but is primarily a set-aside for meeting DSM reporting requirements. The CBEE has proposed a second set-aside to fund new CPUC staff positions to provide administrative and technical staff for the CBEE. However, legislative approval is required for any new staff positions.

In response to questions about the legality of using energy efficiency funds for this purpose, Energy Division reports that in part, the code adopted under AB1890, PU Code Section 381(b) states:

> "(b) The commission shall allocate funds collected pursuant to subdivision (a) [PGC funds], and any interest earned on collected funds, to programs which enhance system reliability and provide in-state benefits as follows:
>
> (1) Cost-effective energy efficiency and conservation activities."

The Energy Division clarifies that on an historical basis, the CEC has received DSM data from the utilities through utility general rate case authorizations to support studies for such statewide programs as Program Measurement, Load Metering, Saturation Surveys, Market Assessment, Long-Range Forecasting, and Regulatory Compliance. Some of these data collection activities and program studies are reviewed and changed annually due to the revised energy efficiency policies or events such as electric restructuring. Others need to be continued, if any cost-effectiveness values are to be used in the evaluation of either the "old" energy efficiency programs or the "new" energy efficiency programs.

The Energy Division has been informed that the utilities are no longer providing the required data studies and collection activities performed for the CEC for the DSM information the CPUC and others rely on for calculating or comparing DSM cost effectiveness. The Energy Division believes that provision of specific monetary support for these purposes is a reasonable construction of PU Code Section 381(b), which orders the Commission to allocate PGC funds to programs which provide in-state benefits to cost-effective energy efficiency and conservation activities. These activities contribute to the larger efforts conducted by the CEC under its Title 20 requirements, but are CPUC-Energy Efficiency/DSM-specific.

In a series of documents provided to the CBEE and the Energy Division, the CEC has outlined two studies, which provide for the annual continuation of CPUC-required data used in cost effectiveness measures. These studies are identified as a Commercial Building Survey ($1.7 million/year), previously compiled by the utilities, and an Update of the Database for Energy Efficient Resources (DEER) ($400,000/year). The Office of Ratepayer Advocates confirms that these two studies provide the cost effectiveness information the Commission has relied upon in the past and continues to rely upon for technical measures. The DEER project also proposes to expand the existing database and provides for developing WEB access to the information, if feasible. The Energy Division has reviewed the project proposals. The Energy Division believes that provision of these studies by the CEC is instrumental in providing continued database support and recommends the Commission adopt them. The Energy Division notes that the provision of this data does not relieve the utilities of other obligations required under the California Code of Regulations, Title 20 provisions[5].

The utilities should cooperate with the CEC and its contractors in providing information and data needed to conduct the survey(s) and perform subsequent analyses. This will include delivery of the utilities' appropriate billing file records to enable sampling, individual billing histories for sampled accounts and load metering data. The CEC has assured the Energy Division that it agrees to maintain the confidentiality of individual customer data as per California Code of Regulations, Title 20, Section 2501 et seq.

The legal mechanism to provide the CEC with energy efficiency funds needed for the collection, analysis, and development of this information is modeled after the agreement and authorization made for the transfer of funds supporting the Renewables and the Research, Development and Demonstration PGC funds under AB1890. The mechanism requires a utility-CEC signed agreement, submitted to the Commission, outlining the electronic transfer of funds from each utility to the CEC for the specific purpose of these PGC funds. The CEC's fiscal control has set up separate trust accounts to keep the funds apart. In addition, a payment schedule is adopted by the Commission and outlined under each utility's tariffs under the Preliminary Statement in a memorandum tracking account.

The utilities should submit to the Commission a joint, written agreement with the CEC as soon as practicable. This document should be filed as a supplemental advice letter to the respective advice letters addressed under this resolution, as described below. To provide this funding, the utilities should use a quarterly payment schedule and should follow the format and agreement submitted to the Commission under the Electric Restructuring docket, R.94-04-031/I.94-04-032 on July 31, 1997, and adopted by D.97-09-117 (See Attachment D to this Resolution). As part of the agreement, any remaining funds for these projects should be returned to PG&E for pro rata redistribution to the respective utilities' Energy Efficiency programs. In addition, each utility should track these payments in an Energy Efficiency-DSM memorandum account, specifically identifying the funds for these two CEC data studies and should revise their respective Preliminary Statements to accommodate the transaction. This revision to the Preliminary Statements should be filed in the same supplemental advice letter as the CEC-utility agreement.

The CEC-utility agreement will outline the specific use of the funds, the transfer agreement and scheduled payments, the designated utility, and the return of unused funds. The CEC will set up a separate trust account for the receipt of these funds to assure separation from other accounts.

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[5] *State Energy Resources Conservation and Development Commission, Title 20, Article 2. Biennial Forecast and Assessment of Energy Loads and Resources.*

The Energy Division observes that the CBEE has proposed to set-aside an estimated $400,000 as a placeholder for CPUC staff to provide advisory staff support for energy efficiency and DSM program activity. This proposal and the specific budget amounts require legislative authorization. Therefore, the Energy Division recommends that these funds remain as a budget line item to be addressed at a later time and returned to the programs if not authorized.

<u>Fund Shifting Rules for Interim PGC EE and Gas DSM Fund Administrators</u>

Issue

The CBEE recommends the Commission direct interim PGC EE and Gas DSM fund administrators to limit fund shifting in three ways:

1. Prohibit fund shifting across program administrative areas;

2. Abide by CBEE-recommended funding caps and minimum funding levels (floors) for selected program elements and intervention strategies; and

3. Establish budget ranges for programs and maintain program expenditures within these ranges.

The CBEE recommends "the budget ranges proposed by the administrators should not be in effect until adopted by the CPUC. Qualifying for base incentive awards should be tied to maintaining spending within the Commission adopted budget ranges. Proposals to shift funds outside of these ranges should require prior approval from the CBEE. All requests for shifting PY99 funds outside of these ranges must be received by the CBEE by Sept. 1, 1999. PY99 administrators may shift funds among program elements and intervention strategies within a program, unless restricted by funding caps or floors."

Comments

The CBEE recommends the Commission direct the utilities to file budget change advice letters in September 1999 to address all PY99 adjustments and also include selective budget and program changes for PY2000.

Discussion

CBEE's fund-shifting guidelines for the utilities should be adopted by the Commission. Fund shifting is subject to Commission approval. Fund shifting across program areas should be prohibited because it will disrupt the cost allocation/rate designs developed, which contribute to each of the major program areas, and may cause cross-subsidization of major customer classes. The utilities should strive to operate within the CBEE-recommended funding caps and minimum funding levels (floors) for selected program elements and intervention strategies and should maintain program expenditures within these budget ranges adopted by the Commission under Resolution E-3578.

However, the Energy Division recommends flexibility for program and program budget adjustments. This is important, especially in this transition year where wholesale program changes have occurred. In their original advice letters and in subsequent comments to draft resolutions, the utilities requested a mid-year advice letter filing to adjust programs, budgets, and to report on PY98 expenditures. Any fund-shifting or program changes can be accomplished by the utilities filing September 1999 advice letters to coincide with the March 26, 1999 ACR schedule for the PY2000/1 program year. In this filing, the utilities' should report PY98 authorized budgets and expenditures by PY98 budget categories, any PY99 program or budget adjustments, and selected program and budget changes for PY2000. The CBEE should work with the utilities and should also provide comments to these filings.

Performance Incentives

CBEE Recommendation

In its AL filing, the CBEE recommends that the Commission approve the following principles, award levels, and design guidelines for establishing performance incentives for interim PGC EE fund and gas DSM fund administrators in PY99.

Principles:

1. *Rely primarily on the adopted policy rules both for the design of incentive mechanisms (i.e. a two-part performance incentive scheme) and for the objective to be incentivized (e.g., market transformation).*
2. *For PY99, incentive designs shall be consistent among all four interim Public Goods Charge Energy Efficiency (PGC EE) or gas Demand Side Management Energy Efficiency (DSM EE) fund Program Administrators.*
3. *Link performance thresholds and incentives to a small number of readily observable, objectively measurable, activity-based milestones that are within the control of the administrators to influence.*

Preliminary CBEE Recommendations on Award Levels:

1. *Establish a base award level of between 3% and 4% of the lower of (a) authorized program funds (excluding funds for program administration), or (b) expended and committed program funds (excluding funds for program administration), conditioned upon achievement of certain thresholds of performance.*
2. *Cap total awards (base plus incentives beyond base) at between 10% and 12.5% of the lower of (a) authorized program funds (excluding funds for program administration), or (b) expended and committed program funds (excluding funds for program administration), up to a maximum of between $22 and $27 million statewide. (A mid-point estimate of $24.5 million has been used in the budget tables for planning purposes only.)*

Thresholds of Performance to Qualify for the Base Award Level:

1. *Use of new program definitions in the November 13 filings and reliance on program definitions for organizing programs and reporting program expenditures in PY99.*
2. *Timely and effective roll-out of program activities (e.g., encourage contracts, not just committed funds for Standard Performance Contract (SPC) intervention strategies.)*
3. *Timely and effective roll-out of market assessment and evaluation activities.*
4. *Timely and effective transfer of administrative activities to new Program Administrators.*
5. *Maintain spending within Commission-approved budget ranges for programs.*

Performance Milestones to Qualify for Incentives Beyond the Base Award Level:

1. *Uniform statewide program designs and/or implementation approaches.*
2. *Movement toward single or shared statewide Program Administrators.*
3. *Transfer of implementation activities away from Administrators.*
4. *Aggressive marketing and administrative support for crucial programs, program elements, and intervention strategies for key markets and customer segments (e.g. for residential and small commercial customers).*

CBEE proposes to work with the utilities to develop specific performance award levels, mechanisms, and milestones consistent with the principles and design guidelines set forth above for inclusion in the November 1998 filings.

CBEE bases its recommendations on the following considerations:

1. They are in compliance with the adopted policy rules for performance incentives for Program Administrators;
2. An overall cap of between $22 and $27 million statewide is an appropriate upper bound for aggressively implementing the CBEE's program recommendations and associated activities;
3. Activity-based performance incentives are consistent with the limited time over which interim PGC EE fund and gas DSM EE fund administrators may be administering programs;
4. Thresholds for base level awards are consistent with the need to ensure programs and activities are both rolled-out in a timely and aggressive fashion and are re-designed to further pursue the Commission's market transformation objectives;
5. Program Administrators should be penalized in terms of a reduction in or elimination of the base award, if thresholds which represent fundamental and basic performance are not met; and
6. Performance incentives above a base award level are appropriate for progress toward the CBEE's program recommendations.

Protests
ORA, TURN, RESCUE and MC protested the utilities' filings concerning performance incentives, raising a number of issues. ORA recommends that the Commission authorize no monies for performance incentives from PY99 programs, since the utilities already receive incentives under Performance Based Ratemaking (PBR), and instead, allocate those funds into the Small Non-Residential Standard Performance Contract (SPC) program. ORA sees a potential for the utilities to "double-dip" under the performance awards, by letting contracts out to affiliates. ORA requests a hearing regarding the rationale and basis for performance incentives. RESCUE also protests that the advice letter proposes excessive shareholder incentives for utility administrators and that the payments are not tied to actual performance in saving energy. RESCUE argues that there is no rationale for the 3-4% base or the 10-12.5% shareholder incentive mechanism caps. MC argues that the Commission should reject shareholder incentive mechanisms and administrative service payments ("now called performance awards") as an anticompetitive public subsidy. MC "sees no reason to base shareholder incentives as a percentage of funds administered. CBEE poses no rationale for a base level of shareholder incentive, where 3-4% of the funds pass through utility hands, or for the 10-12.5% cap." MC observes also that the utilities do not justify the higher levels.

TURN also requests that the CPUC hold a separate hearing on shareholder incentive awards totaling $24.5 million. "Nothing in the design of the shareholder incentive award mechanism decreases our concern that the utilities will reap substantial rewards without a full commitment to energy efficiency programs which transform the energy use and energy efficiency markets."

TURN adds that:

1. The collection of shareholder incentive awards reflect deadlines which are unconnected to program outcomes. This represents a pure windfall. TURN states that the performance mechanism should also be addressed during the course of Commission evaluation of the proposed utility program plans.

2. The utility advice letters don't even meet the CBEE's 10%-12.5% total award cap. While all utilities profess agreement with the CBEE, none follow the recommendations impacting actual award levels -- the total cap, exclusion of administrative costs, or calculation of award levels based only on actual costs (if lower than authorized).

3. SDG&E and PG&E's proposed awards caps are higher than recommended: 13.2% and 13.3% respectively, with no rationale other than touting that there has been increased complexity added to the programs. There is nothing stated about reducing energy consumption.

4. The total award is assured even if performance is inadequate. This occurs because the creation of multiple award categories is greater than the cap and the use of time deadline milestones rather program outcome milestones. TURN recommends the use of date milestones need a connection to program quality, cost effectiveness, or actual implementation rate of programs.

5. In addition, the awards are based on total program costs, which include administrative costs. This has the potential to provide opportunities for double dipping.

6. Finally, the awards are based on authorized program funds, not the lower of authorized or expended. No mechanism exists to control the award levels.

7. Substantial goodwill with name brand associated with energy efficiency programs exists, without being forced to guarantee the results as an exchange for shareholder incentives."

"Though we use the CBEE Report as a basis for evaluating the utility Advice Letters, TURN does not necessarily support the performance incentive proposal in the CBEE Report. TURN did not submit a protest to the original CBEE Report; however we believe that the CBEE effects-based milestones are more suited to the Commission's market transformation objectives."

Protest Responses
In its December 21, 1998 comments, the CBEE states that the utilities proposed: 1) award caps that cumulatively exceed the CBEE's recommendation; 2) program milestones tied primarily to program roll-out and some program activities (most of which would take place early in 1999 and many of which appear fairly easy to achieve), and in some limited cases tied to near-term effects; and 3) limited or no milestones tied to other CBEE-recommended design considerations or objectives. Also, the utilities did not propose uniform or even consistent award mechanisms or milestones across the four utilities.

PG&E believes the milestones are measurable and necessary to implement the Commission's market transformation objectives. PG&E responds that most of ORA's argument stems from the allowance of the utility affiliates to participate in a limited way in the programs. PG&E believes that incentives are necessary at an appropriate structure and level to promote development and implementation of energy efficiency programs. PG&E states that the marketplace activities are guided by cost and benefits, and that Interim administrator's activities are no exception to this rule. PG&E believes that shareholder incentives provide improved performance and benefits that justify these costs.

SoCalGas states that this recommendation is inconsistent with already established Commission policy and CBEE direction. SoCalGas states that contrary to ORA's arguments, the utilities are doing much more in 1999 than in past years to further the transition to a private energy efficiency marketplace and to encourage statewide consistency among utility efforts. Also, SoCalGas states that its PBR mechanism, as approved in D.97-07-054, does not contain a DSM or energy efficiency component and, as such, ratemaking and performance incentives are completely outside of the PBR mechanism.

SCE disagrees with ORA's assertion that proposed incentives are tied to a set of policy rules that were designed for independent program administrators. SCE states that "to facilitate transformation and privatization in the marketplace, the Commission provided for modified performance awards for interim administrators that reduce the emphasis on resource benefit and sharpen the focus on performance milestones. The Commission approved incentives for 1998 programs in D.97-12-103. The facts supporting the performance awards policy remain unchanged."

SDG&E argues that incentives for energy efficiency accomplishments are appropriate and SDG&E should be rewarded for superior performance. Contrary to ORA's contention, SDG&E energy efficiency funds are not subject to PBR. SDG&E represents that 80% of SDG&E's

requested total program funds are for programs that are new or that will be substantively revised. The additional resources to accomplish these program changes should be rewarded for these additional efforts.

PG&E states that it has no PBR, and ORA's reasoning does not apply to PG&E. PG&E adds that the ORA's affiliate concerns are misplaced. PG&E states that the affiliate rules are strict enough to govern the conduct of an UDC, and that there is a clear separation between the services provided by the UDC and its affiliates.

SCE replies that its performance award mechanism proposal is consistent with CPUC policy direction and precedent established in 1998, and that it will continue to work with the CBEE to resolve differences related to SCE's performance mechanism. SCE notes that MC continues to raise arguments that were rejected last year by the Commission in its approval of Applications filed by utilities in October 1997 for the approval of 1998 EE program plans and budgets.
In response to TURN's argument that utility awards should be based on program costs, excluding funds for program administration. PG&E states that workshops have been proposed to define the administrative functions for the PY2000 programs.

SoCalGas calls TURN's recommendations inappropriate and inconsistent with established CPUC policy. SoCalGas states that it is unreasonable to suggest lower performance incentives for 1999 considering the utilities significantly increased efforts over the past year to meet CPUC energy efficiency objectives. SoCalGas states that there is no justification for holding separate hearings. SCE argues that its 1999 proposed performance award cap of 12% falls within the CBEE recommended guidelines for 1999 programs. SCE disagrees with TURN that date milestones for program roll out are not linked to program results. SCE also argues that the expenditures are program related and PGC eligible, and provide no opportunity for double dipping regarding earnings, as TURN alleges. Energy Efficiency activities can be divided into implementation and administration activities once common definitions are made.

SCE states that TURN requests that all awards be based on the lower of authorized program funds or expended and committed program funds. SCE argues that it has no control of, nor can it predict the ultimate expenses that will be incurred by third parties in implementing programs. TURN's recommended solutions are to estimate the administrative costs based on a fixed percentage or weighted % by program category. Also, TURN would delay any payment until adequate cost accounting between administrative and implementation costs is outlined.

PG&E responds that its utility award levels and milestones are based on the model adopted by the Commission when it authorized PG&E's 1998 program budgets. In D.97-12-103, the Commission authorized 14% for the first 9 months; Resolution E-3555 authorized an award level equal to 10 percent of PG&E's program budget for the remaining three months. In both instances the Commission reiterated that the awards are required during utilities' continued administration of energy efficiency programs in 1998.

PG&E states that its award levels proposed for 1999 are approximately 13.2 percent of the 12 month budgets. PG&E states although this is less than the 14% the Commission authorized in the first 9 months, PG&E's responsibilities have expanded considerably. Regarding TURN's contention that the award collection mechanism is flawed, PG&E states that its 1999 program milestones were developed based on the model approved for the 1998 programs.

CBEE did not reply to TURN's protest.

In response to the other protests, CBEE continues to recommend the Commission adopt the performance awards and incentives recommended in its AL filing and repeats that these recommendations conform with the adopted policy rules. Policy Rule VII-2 states that "Effective performance incentives encourage an Administrator to work enthusiastically and aggressively to achieve the Commission's objectives because they are rewarded when they are successful and penalized when they are not."

CBEE argues that performance incentives for utilities are not incompatible with ratemaking procedures in an era of regulations established for competitive energy markets and they are appropriate either for non-utility administrators or for utilities. CBEE further states that the contention that appropriate compensation for utility administration should derive exclusively from the profits of affiliates participating in the SPC intervention strategy is misguided and dangerous. If adopted, CBEE states that ORA's recommendation would:

1. Establish a discriminatory precedent for future administrator compensation by essentially requiring a future administrator to maintain affiliates capable of participating in the SPC intervention strategy;
2. Would further exacerbate concerns about administrator self-dealing to boost the profits of their affiliates; and
3. Would undermine pursuit of the Commission's policy objective to develop a balanced activity portfolio (Policy Rule II-6) by creating an incentive to expand or undertake activities only in support of the SPC intervention strategy to the detriment of all other strategies.

CBEE replies that its recommendations for program area budget allocations and interim utility administrator performance incentives are in compliance with adopted policy rules. CBEE states that in addition to comments made in response to ORA's recommendation to provide no performance incentives, CBEE responds that:

1. The proposed incentives are not too generous because proposed PY99 incentives are lower statewide than PY98 incentives;

2. The CBEE has the expertise and resources to judge utility performance;

3. The CBEE has proposed a schedule and process for performance award verification it is milestone filing on December 17 (1998);

4. That in any case, ORA will continue to verify performance; and,

5. The CBEE's recommendations for PY99 incentive mechanisms address shortcomings of PY98 incentives.

Comments

The CBEE recommends applying the extension of the PY99 programs through PY2000 to the structural framework adopted by the Commission under Resolution E-3578. Specifically, the CBEE recommends the Commission authorize the structural framework for performance incentives through December 31, 2000, but authorize the specific awards, weights among them, and milestones only through December 31, 1999. The Commission should direct the utilities to propose revised awards, weights, and milestones as part of September 1999 program and budget change advice letter filings. This approach would remove the issue of future performance awards from the AEAP process and address it as part of the program planning process. There are several benefits to this approach: the performance awards could be designed with a better understanding of the programs, as part of the program planning process; the timing would be better than a potential delay and the resulting staging of issues due to the AEAP schedule; and the pressure on the AEAP for an expeditious decision on PY2000 performance awards would be relieved.

Discussion

The Energy Division has reviewed the protests and the responses concerning the original Performance Incentive Mechanism proposed by the CBEE, and those submitted by the utilities. The Commission had prescribed continuance of the Performance Incentive Mechanism for interim utility administration under D.97-12-103, with an initial award cap of 14% for nine months, followed with a reduced award cap of 10% for the remainder of 1998. The original incentive award mechanism recommended by the CBEE for PY99 was capped at a lower, 12.5% amount. Although the utilities did not submit award caps consistently or fully within the 12.5% original CBEE recommendation, their proposals were lower than the award caps approved by the Commission for PY98.

As noted above, in response to of the utilities' original filings, the CBEE included a more detailed structural framework and a series of design principles for performance awards in its

December 21, 1998 comments. This led to an alternate performance award mechanism proposed uniformly by the utilities, with an even lower percentage cap of 11%. In addition, the awards were tied to a two-stage series of milestone activities and dates, in response to one of TURN's proposals.

The Energy Division recommended that the utilities provide this information to the full service list in R.98-07-037 for comment. No party protested. Upon its review, the CBEE submitted a letter dated January 15, 1999 to the Energy Division confirming that the utilities' second, revised performance award mechanisms conformed to its revised proposed structure and design principles.

The alternate performance incentive award mechanism was approved by the Commission in Resolution E-3578 on March 18, 1999. The Energy Division does not recommend the Commission delete this incentive with the utilities' continuing administration of energy efficiency programs. Protests raised by ORA, RESCUE, TURN and MC concerning whether any performance incentive should be made, what the level of the incentive should be, and what milestones should be used as a method of regulating the amount of the incentive, should be denied. Changes recommended by the protests to delete the utilities' incentive award mechanisms need to be directed to the Commission under the AEAP.

In its comments filed March 16, 1999, CBEE recommends that the Commission extend the structural framework for performance incentives until December 31, 2000, but authorize the performance incentives award levels, weights among individual incentives, and specific milestones only until December 31, 1999. The Energy Division recommends the Commission adopt CBEE's recommendation, for it is consistent with the program and budget change approach that the Commission recently adopted for program planning purposes in D. 99-03-056. However, as discussed in that decision, the appropriate forum for considering changes in shareholder incentive mechanisms is the AEAP. Therefore, proposals for modifying the performance incentive award levels, weights among individual incentives and specific milestones for PY2000 should be considered in the AEAP, and not in a subsequent advice letter filing.

Budgets Conclusion

Resolution E-3578 adopted the utilities' Program Area and Program Budgets and Alternate Performance Incentive Awards Mechanisms. The Energy Division recommends that the Commission adopt the CBEE's budget and reporting guidelines, and its revised PY99 statewide budget, modified for the following administrative line-items:

1. SoCalGas should refile by supplemental advice letter a revised budget cost allocation, if fund shifting is occurring among customer classes.

2. New Administrator Start-Up funds should be reallocated to the utilities' programs under either PY99 or carried over to PY2000 programs.

3. CBEE's budget should be reduced by $12,000 to account for a cancelled RFP process for new program administrators. This amount should also be reallocated to the utilities' programs in a September 1999 advice letter filing.

4. Per Diem for the board should be limited to an average of $1800 per meeting, pending resolution of this issue under R.98-07-037.

5. MA&E activity descriptions, with supportive budget documentation, should be filed jointly by the utilities and the CBEE in a supplemental advice letter. The budgets for MA&E should be approved, but the expenditures are subject to Commission approval.

6. The $2.1 million for CEC data collection relevant to energy efficiency cost effectiveness measures should be authorized. A mechanism for the transfer of funds to the CEC is outlined in Appendix D of this resolution.

7. Fund shifting across major program area categories is prohibited. Fund shifting within major program areas is subject to Commission approval.

8. Protests to the Performance Incentives Award Mechanisms are directed to the AEAP.

Consistent with its recommendation above, the Energy Division recommends that the Commission extend the PY99 programs and budgets through PY2000 to allow adjustments to proceed and to avoid delays between PY99 and PY2000 implementation. The utilities should expand their PY99 programs and budgets by one fiscal year as a compliance filing responding to the proceeding decision on PY2000 programs and budgets, by advice letter filings to be submitted in September 1999.

The Energy Division recommends that the Commission adopt the CBEE's recommended, revised statewide budget and the utilities' revised estimates for PY99, as found in Attachment C, and as modified under this discussion.

ENERGY EFFICIENCY AND DSM PY99 PROGRAMS

CBEE Recommendations

The CBEE requests the CPUC direct the Interim Utility Administrators to incorporate the following recommendations into their PY99 Programs:

1. Incorporate the new program definitions with the old DSM definitions;

2. Apply the CBEE's Eight Program Design and Implementation Policies;

2. For Interim Administrators, apply the revised performance incentive principles, award levels and design guidelines;

4. For Interim Administrators, apply the fund-shifting rules.

The CBEE requests the CPUC direct the Interim Utility Administrators to incorporate the following Program Design and Implementation principles into their programs:

1. Continue movement toward uniform statewide program designs and implementation.

2. Continue transfer of program implementation away from administrators

3. Rely on competitive processes when outsourcing activities

4. Continue Third Party Initiatives, Defer a Second General Solicitation, and Use Targeted Solicitations

5. Coordinate Program Activities with regional and national entities, where appropriate

6. Support commercialization of emerging technologies

7. Seek broad input from customers on the design of programs

8. Ensure program offerings are available to under-served communities and customer groups.

Programs - General

Protests

The City of San Jose (San Jose) protests that an adequate community-perspective in planning for energy efficiency services has not reached a meaningful level. San Jose declares that the CBEE's recommendations exclude any community perspective or local sponsorship role for 1999. San Jose recommends that the Commission transfer PGC energy efficiency funds into a trust account administered by an independent trustee following rules and procedures shown in the CBEE's advice letter. San Jose requests a 10% set aside ($20 million) for direct contract management for community scoped energy programs. San Jose suggests that these funds could be administered on a statewide basis, but would permit cities, counties, and regional governments and their business partners to compete for these funds for customized, local programs. San Jose is also disappointed the CBEE excluded the Developing Green Communities Program (New Construction Programs), as outlined by the Mowris Report[6], from its recommendations to the Commission and for utility implementation.

ABAG concurs that the CBEE's advice letter recommendations do not provide a meaningful role for regional and local governmental agencies to participate in the planning and implementation of energy efficiency programs. ABAG recommends that the Commission:

1. Approve a fourth component (in addition to the Residential, Non-Residential, and New Construction programs) to provide for the planning and implementation of energy efficiency programs by regional associations;

2. Appoint a special program administrator for this component with an allocation of 10% of PGC energy efficiency funds for regional and local governmental agency programs; and

3. Place these funds into a financial trust administered by the Commission.

Protest Response

CBEE responds to the City of San Jose and ABAG that its "recommendations provide significant and meaningful opportunities for community and local government participation in PGC energy efficiency activities. These include:

[6] *California Energy Efficiency Policy and Program Priorities,* by Robert Mowris & Associates, October 6, 1998. This study was prepared for the CBEE under contract to SCE, to review existing, new and proposed energy efficiency programs in California and other states, and to develop criteria, methodology, and rule recommendations.

1. Continued movement toward statewide program design and implementation – uniform statewide designs are recognized as counter-productive for activities that are inherently local or regional in nature;

2. Continued transfer of program implementation away from administrators – communities and local governments may be implementers;

3. Reliance on competitive processes in outsourcing program activities – communities and local governments may compete to be either sub-administrators or implementers;

4. Continuing third-party initiatives, by holding a second general solicitation, and using targeted solicitations – communities and local governments may continue to operate existing third party programs, offer new programs, and respond to targeted solicitations;

5. Ensuring program offerings are available to under-served communities and customer groups – communities and local governments may sub-administer or implement these activities; and

6. New construction codes and standards support and local government initiatives – communities and local governments are expected to play an important role in this new construction program."

CBEE states that adding a fourth program area or an additional set-aside of funds (beyond the ranges provided for under New Construction Codes and Standards Support and Local Government Initiatives) are not needed or are inappropriate, because they would compromise the ability of interim administrators, the CBEE, and the Commission to implement the CBEE's recommendations without providing sufficient off-setting benefits.

Discussion

The Energy Division believes that the concerns of the City of San Jose and ABAG will be borne out through the revised programs contained in the CBEE's recommendations and the utilities' program proposals. The CBEE's recommended program areas and funding allocations allow for participation by cities and local governments and should provide ample opportunities for community and local government participation in PGC energy efficiency activities. The Energy Division recommends the Commission deny the proposals of the City of San Jose and ABAG.

RESIDENTIAL PROGRAM AREA

CBEE Recommendation

The CBEE proposes a new organizational framework of four programs which more closely reflects the residential markets targeted by PGC-funded activities. These programs are:

(1) Residential Heating and Cooling Systems;
(2) Residential Lighting;
(3) Residential Appliances; and
(4) Residential Retrofit and Renovation.

CBEE presents budget recommendations (statewide) to apply to each of these programs, as follows:

Residential Energy Efficiency Programs (Revised 12/21/98 with +/- 15% Ranges)	% Residential Budget	Budget ($M)	Budget ($M)	Range ($M)
			Low	High
Residential Heating and Cooling Systems	11%	$10.191	$8.662	$11.720
Residential Lighting	11%	$12.645	$10.748	$14.542
Residential Appliances	36%	$31.489	$26.766	$36.212
Residential Retrofit and Renovation (10% Cap)	39%	$34.369	$34.369	$37.806
Total	100%	$88.694	NA	NA

The CBEE proposes three program-specific recommendations for the residential program administrative area:

1. Design program elements and intervention strategies to develop a more vibrant, self-sustaining contractor market. The proposed intervention strategies should span at least two of the programs (i.e. Residential Lighting and Residential Retrofit), and should cover a diverse set of High Velocity Air Conditioning (HVAC), lighting, and shell technologies.

2. Re-evaluate existing and consider new approaches for delivering customer-specific information and audit services. The CBEE recommends that descriptions of the utilities' considerations be included here, also listing the pros and cons of their approaches.

3. Hold public workshops to consider existing and new approaches for transforming residential markets for energy efficiency products, services and practices. The CBEE proposes to hold public workshops in conjunction with the PY99 Program Administrators to accomplish this.

Residential Program, General

Protests

MC criticizes the utilities' advice letters since they detract from the CPUC's goals to transform the market by proposing residential programs that are not needed, useful, and not designed to foster transformation. These programs are heavy on public relations and light on producing actual savings or a vibrant marketplace. The bulk of the funding is allotted to internally administered programs, which offer no hope of being self-sustaining. MC argues that the utility proposals lack program detail. The utilities do not describe how the CPUC goals are met; there is no justification that the proposals promote an effective non-utility market or how cost-effective energy savings are met. Regarding the CBEE's Statewide Activities, MC argues that there are plans for plans, but nothing is specified. There is proposed training, certifications, and a standard price for on-site surveys. RESCUE states that the advice letters continue old programs and that the residential programs are not self-sustaining.

RESCUE states that the residential programs are based in brochures and web information. RESCUE states that the advice letter contains little or no information about the 1998 programs and no substantiation of progress. REECH argues that the residential program design is cursory, inadequate and biased to existing utility programs and that there is no provision for integration with low income and renewable energy public purpose programs.

MC describes the failings of each utility's residential programs as follows:

1. PG&E lists potential program elements, but these are not equivalent to the program description. This is an anticompetitive, large utility presence. The same is said for the non-residential Retrofit and Renovation programs.

2. SCE has applied 57% of its residential program funds to appliance rebates, with 23% on Residential Retrofit and Renovation (RRR). This does not meet the CBEE's recommendation to do 40% in RRR. SCE's programs are informational and not "active", except perhaps the audits. Audits may be helpful, but customers rarely invest in a retrofit. Program descriptions are vague.

3. SDG&E's programs duplicate the problems cited above concerning PG&E and SCE.

4. SoCalGas' programs largely contain "media informational services" and appliance rebates. There are no programs for retrofit.

MC also wants its program, CREATE, adopted for the Residential Retrofit program. MC requests $11.5 million earmarked for residential retrofit program statewide, using the CREATE program. RESCUE attaches its CREATE proposal for CPUC consideration for independent statewide implementation in contrast to the four utility programs containing four different M&E requirements.

Protest Responses

In response, SCE states that its 1999 Residential Energy Efficiency Contracting program complies with CPUC and CBEE directives. SCE states that its 1999 Residential Energy Efficiency Contracting program, not CREATE nor the 1998 Residential SPC Program, responds to CBEE direction and therefore should be approved by the Commission. SCE states that the public process and workshops to develop final details are continuing at this time with expectations that a final detailed draft program description will be circulated by the end of February 1999. The CBEE does not recommend that the Commission adopt MC's recommendation. CBEE notes that the recommendations in its October 16, 1998 advice letter filing for residential programs adequately address the issues raise by MC. In particular, this filing:

1. Includes many elements of CREATE;

2. Recommends public workshops to further develop a program targeted to residential contractors;

3. Requires that all proposed activities be justified; and

4. Makes overarching program recommendations to ensure greater uniformity in program designs, and to outsource program activities, including program administration.

CBEE replies that its recommendations for program area budget allocations and interim utility administrator performance incentives are in compliance with adopted policy rules. CBEE states that it has conducted an open public process from which it has provided for extensive and meaningful public input on a wide variety of recommendations for PY99 programs, including programs proposed by both utility and non-utility parties.

CBEE states that RESCUE's broad programmatic recommendations are addressed adequately by several of the CBEE's over-arching program design and implementation recommendations. PG&E replies that it has joined with the CBEE and the other utilities to develop a program which, in the CBEE's view, better fulfills the Commission's objectives for the Residential market.

Discussion

What is missing from the Residential Program area, which causes much concern, is that there is no provision for a Residential Standard Performance Contract (SPC). As identified below, this program is being re-designed, but has not been completed for PY99. The utilities and the CBEE are holding workshops to address the problems encountered with the Residential SPC program in 1998. In all other respects, the Energy Division has reviewed the CBEE's proposal for the Residential sector and recommends that it be adopted. MC's and RESCUE's protests concerning the lack of a comprehensive residential program are well considered, but should be denied. Upon completion of the Residential SPC workshops and a revised program for PY99, the Energy Division recommends that the utilities inform the Commission of the program by submitting an informational report.

New Housing Construction

Protest

MC protests that the utility process for Residential programs do not work. No workshops are planned for would-be market participants. MC asserts that the utility filings short the Residential sector. New housing construction should not be included in the residential allocations. This is better classified as large market because typically this funding goes to building developments. Also, MC argues that the CBEE provides no rationale or basis for the residential market sector allocations, nor do the categories appear to be self-sustaining.

Response

SCE states that this recommendation should be rejected by the CPUC as self-serving – that the Commission should not reclassify Residential New Construction programs as nonresidential because they benefit commercial enterprises that engage in residential retrofits, as MC claims.

Discussion

The Energy Division considers the CBEE's current program classifications and program budget allocations appropriate on a statewide basis for new housing construction. MC's protest to reclassify residential new construction programs as non-residential should be denied without prejudice. This area will be revisited when the utilities file updated budgets and program recommendations in September 1999.

Residential Standard Performance Contract Program

Protest

MC recommends continuation of the Residential SPC program with improvements to allow contractors to perform comprehensive treatments and receive payment based upon an ex post measured savings performance. MC wants the Commission to adopt a Residential SPC Program, since there are no such plans in the utilities' filings, although they appeared last year. MC describes that in the 1997 filings for 1998, the M&E ex post measurement cost savings were unworkable - the CPUC should be able to use CADMAC compliance guidelines. MC states that the problem with last year's efforts was that the utilities demanded terms not present in the contracts approved by the CPUC, resulting in high cost burdens to would-be participants, especially with four different sets of requirements. MC states that last year, contracts for Residential SPC programs were not signed until September and that payments are not tied to performance. RESCUE describes the Residential SPC programs as administrative high-cost rebate programs rather than performance based programs.

Protest Responses
CBEE argues that RESCUE's specific recommendations for the residential standard performance contracting program are addressed by specific programmatic CBEE recommendations for the residential program area to design program elements and intervention strategies to develop a more vibrant, self-sustaining contractor market and to conduct public workshops to assist in the design of these and other programs targeted to the residential sector.

CBEE replies that in consideration of the issues presented to date in public comment on the PY98 SPC intervention strategy as well as the evaluations made by the CBEE and the consultant reports, it is inappropriate to continue this intervention strategy without major redesign. Such a redesign is an expected outcome of the residential workshops to develop programs and program elements that will promote a more vibrant, self-sustaining contractor market, as recommended by the CBEE in its advice letter filing. Among other things, the workshops should consider the following intervention strategies:

1. Competitive bidding to select firms with innovative ideas or proposed campaigns to increase customer awareness of the availability of residential energy efficiency services;

2. Certification of qualified auditors and service providers, and listing of qualified auditors/contractors on web sites and/or in other credible communication channels, e.g. governments, monthly newsletters, etc.;

3. Standard prices to cover all or a portion of the costs for audits delivered as part of marketing of measures or responding to a request for an audit;

4. Standard, pre-specified prices to pay for portions of the costs of qualified measures (this strategy could be in the form of an SPC);

5. Training, workshops, and industry demonstrations to increase the number and availability of qualified contractors;

6. Administrator referrals to qualified auditors/contractors off of utility web sites and/or 800 lines;

7. Bonus payments for best regional contractor and/or evidence of repeat customers; and

8. Financing for customers.

SDG&E acknowledges that the residential SPC program in 1998 provided a wealth of public dissatisfaction. SDG&E states that with the CBEE, the utilities have proposed a process to develop a statewide replacement for the residential SPC program to allow all parties to participate and provide input to the development of this program. SDG&E believes that this process can result in a program that effectively promotes the residential energy efficiency services industry and that meets the needs of residential customers.

CBEE adds in its January 15 letter comments on the Performance Awards:
"Under the Base Awards milestones, utilities must design a comprehensive residential contractor program by March 15, 1999, and develop the infrastructure for offering the program a statewide basis by May 1, 1999 for the superior award and June 1, 1999 for the acceptable award level. This will require a significant amount of cooperation among the state's utilities and an intensive effort working with a diverse group of contracting professionals to iron out difficult design details, such as pre-qualification or certification requirements, cooperative marketing agreements, and the details of both customer and contractor payment structures."

"A similar effort to develop statewide residential customer lighting and appliance programs at the dealer and manufacturer level must be completed early in 1999, with a requirement that a short list of bidders to manage the program be completed within 45 days of a Commission resolution and final contracts to implement the program be signed within 120 days of a Commission resolution on 1999 programs."

Comments
In their March 16, 1999 Comments, the Joint Respondents (SEMPRA) state they have worked diligently with Pacific Gas and Electric Company (PG&E) and Southern California Edison (SCE) and stakeholders to develop a proposed statewide Residential Contractor Program that incorporates SPC design features. The Joint Respondents have submitted the draft program description to the Energy Division and have made it available to the public as of March 15.

In its March 16, 1999 Comments, REECH criticizes the utilities' Residential Workshops for lack of notice and sufficient opportunity for participation and input. REECH provides a series of thoughtful recommendations regarding the policy direction, public and organizational involvement, and details of the Residential Programs appropriate for the utilities' workshops and the CBEE forum.

Discussion
The Residential SPC program is under redesign through utility-sponsored workshops. The Energy Division recommends the utilities and the CBEE consider REECH's proposals contained in its March 16, 1999 comments. Upon completion of the Residential SPC workshops and a revised program for PY99, the Energy Division recommends that the utilities inform the Commission of the program by submitting an informational report as soon as practicable.

Residential Audits, Diagnostic Testing

Protest
The CEC recommends that diagnostic testing be a key element in all residential audit programs. Residential Retrofits should provide a statewide focus on equipment and upgrades. The utilities do not address HVAC diagnostic testing or improvements. Some ideas have been adopted, but the Wirtshafter Report[7] is not adopted.

Response
SoCalGas replies that it has included an element focused on developing a market for comprehensive performance enhancements using diagnostic testing, which also includes duct leakage and proper duct sealing. SCE replies that it has included a new proposal for a program that will provide training to AC service technicians on the use of a portable computer [program] that can provide on-site capability to determine if refrigerant level and air flow across the evaporator coils are at proper levels.

Discussion
The Energy Division suggests that the CEC continue to recommend its diagnostic testing for residential audit program to the utilities and the CBEE, and that it should contact SCE for detailed results of its programs incorporating these techniques. The CEC's protest for increased diagnostic testing should be denied at this time. After some experience with the new programs, the Commission may broaden its application.

Outsourcing

Protest
REECH recommends that all residential programs should be divested from Interim Utility Administrator (IUA) supervision. This includes the Retrofit and Renovation, Contractor Installer Programs, the Residential SPC or other group installation programs. REECH recommends that no residential energy efficiency financing be allowed after December 31, 1998, except for

[7] *Interim Evaluation: PY98 Residential Standard Performance Contract Program*, by Robert Wirtshafter, et al, October 4, 1998.

financing mechanisms using utility billing systems as the basis for loans and repayments for improvements. REECH also recommends that the utilities should not continue residential appliance programs after June 30, 1999. The utilities provide no credible program offerings for the residential sector, and that instead, Non-IUAs should provide these programs. RESCUE states that the CPUC should require the utilities to use third party implementers for their own programs to reduce program sizes and should contract with third parties for Energy Management Services (EMS) and information services. The utilities are not doing this, as was required last year. RESCUE states that as these programs stand now, there are no requirements to deliver cost effective results (there is no competition), nor are there any market checks for measuring the usefulness of the programs.

Response
CBEE disagrees, calling RESCUE's comments a mischaracterization. CBEE states that it has outlined adequate direction on continued transfer of program implementation from administrators in its AL filing, with a request of the utilities to supplement their filings with full program descriptions.

Discussion
The Energy Division has reviewed the utilities' filings and subsequent filed information. This documentation identifies a number of programs slated for outsourcing. Third party solicitations are also included. The market checks for program usefulness and cost effective results are being formulated. Reporting programs and measures are issues to be addressed by the Energy Division's workshop. REECH and RESCUE should direct their comments to this workshop. REECH and RESCUE's protests should be denied.

Information and Audit Programs

Protests
REECH requests that an Interim Utility Administrator (IUA) merger of information and audit programs be accomplished by April, 1999, with uniform practices and procedures, and public relations identification employing a public markets energy efficiency theme. Logos should be incidental to this shift. IUAs should perform joint planning with REECH's recommended Management Intervention Study Team. A merger of the hard and soft information services and intellectual property assets can be conveyed to the CPUC or a trustee, such that all related contracts can be conveyed or subordinated as necessary to independent administrators. MC recommends that the Commission not authorize funding for audits, information services, or other ad campaigns, because these sorts of programs do not foster a self-sustaining market. REECH adds that no program strategy is provided for information technologies and information management.

Response

CBEE states that it has provided direction on movement toward statewide, uniform programs and on redesign of residential information and audit services in its AL filing. Supplemental program descriptions from the utilities were due January 22, 1999.

Discussion

Resolution E-3578, adopted by the Commission on March 18, 1999, addressed the fact that the original utility advice letters lacked sufficient program descriptions. The Commission ordered the utilities to provide this information in supplemental advice letter filings no later than March 25, 1999. On March 25, 1999 each of the utilities complied with this order. REECH's and MC's protests regarding information and audit programs should be denied.

NEW CONSTRUCTION PROGRAM AREA

CBEE Recommendations

In the New Construction area, the CBEE proposes four programs: (1) Residential New Construction; (2) Commercial New Construction; (3) Industrial and Agricultural New Construction; and (4) New Construction Codes and Standards Support and Local Government Initiatives.

The CBEE statewide budget guideline recommendations for these programs are:

New-Construction Energy Efficiency Programs (Revised 12/21/98 with +/- 15% Ranges)	% of New Construction Budget	Budget ($M)	Budget ($M)	Range ($M)
			Low	High
Residential New Construction	40%	$14.786	$12.568	$17.004
Commercial New Construction	42%	$15.671	$13.320	$18.022
Industrial and Agricultural New Construction	9%	$3.481	$2.959	$4.003
New Construction Codes and Standards Support and Local Governmental Initiatives	9%	$3.220	$2.737	$3.703
Total	100%	$37.158	NA	NA

The CBEE proposes the Commission adopt two program-specific recommendations for the New Construction program area:

(1) Design a renewable self-generation residential new construction pilot subject to the following four conditions:

(a) that it be explored only for the Residential New Construction area;
(b) consider only photovoltaic power systems and solar domestic water heating technologies;
(c) with an exception that any ratepayer funding should be coordinated with and come primarily from the CEC renewable Energy Trust, with no PGC energy efficiency funds being used to pay financial incentives for renewable self-generation technologies; and
(d) limiting statewide overall funding to support these technologies to no more than 2%.

(2) Work with government officials, interest groups, and the public to institutionalize higher levels of efficiency in state and federal codes and standards.

Protest
REECH recommends that new construction offerings should be associated with rate class program areas. Allocations of new construction funds should be made on a class contribution methodology rather than by new program area. REECH requests that the Commission make funds available through non-Interim Utility Administrator providers and that a change in residential new construction be accomplished in mid-1999.

Response
CBEE states that the new construction programs have been adequately and appropriately addressed in its recommendations contained in its AL filing and through its recommended program budgets and budget ranges.

Discussion
The Energy Division believes that the CBEE's recommendation for this major program area has been addressed such that the budgeted appropriations for the residential programs align with the residential customer class revenue contributions. Should this not be the case, as noted by SoCalGas above under "Budgets", the utilities must adjust their budget estimates so that customer class PGC fund contributions align. The utilities are required to submit adjustments under supplemental advice letter filings in September 1999. REECH's protest to realign the new construction budgets should be denied.

Residential New Construction

Protest
The CEC states that the Residential New Construction program relies primarily on the CHEERS program, which is now incorporating diagnostics. The CEC endorses energy efficiency programs based on diagnostics.

Response

CBEE shares CEC's interest in diagnostic testing and submits that the CEC's recommendations are consistent with CBEE's October 1998 AL filing, and, in particular, are consistent with the scope of the recommended residential SPC workshops. However, while the CBEE agrees this activity is appropriate for discussion at workshops and agrees that it may be appropriate for inclusion in residential and in residential new construction programs, the CBEE does not agree that it is appropriate to mandate inclusion at this time. The CBEE recommends the utilities provide, prior to implementation, full program descriptions that justify inclusion of all proposed program services.

Discussion

The Energy Division suggests that the CEC continue to recommend its diagnostic testing for residential programs and for new residential construction programs to the utilities. The CEC should contact the utilities for detailed results of their programs and the techniques employed. However, the Energy Division agrees with the CBEE, that mandatory inclusion of diagnostic testing may not be appropriate at this time. The Energy Division recommends that the Commission deny the CEC's protest.

NON-RESIDENTIAL PROGRAM AREA

CBEE Recommendations

CBEE proposes six programs for the non-residential markets targeted by PGC-funded activities:

(1) Large Non-Residential Comprehensive Retrofit;

(2) Small non-Residential Comprehensive Retrofit;

(3) Non-Residential HVAC Equipment Turnover;

(4) Motor Turnover;

(5) Non-Residential Process Overhaul; and

(6) Commercial Remodeling/Renovation.

Non-Residential Energy Efficiency Programs (Revised 12/21/98 with +/-15% Ranges)	**% of Non-Residential Budget**	**Budget ($M)**	**Budget ($M)**	**Range ($M)**
			Low	High
Large Non-Residential Comprehensive Retrofit	29%	$37.644	$31.997	$39.526

Small Non-Residential Comprehensive Retrofit	32%	$41.374	$35.168	$43.443
Non-Residential HVAC Equipment Turnover	13%	$17.018	$14.465	$19.571
Motor Turnover	4%	$4.999	$4.249	$5.749
Non-Residential Process Overhaul	11%	$14.789	$12.571	$17.007
Commercial Remodeling/Renovation	10%	$12.795	$10.876	$14.714
Total	100%	$128.619	NA	NA

The CBEE proposes the Commission direct the utilities to incorporate the following recommendations into their PY99 Non-Residential Programs:

1. Large Customer Standard Performance Contracts (See Attachment D)

2. Small, Medium-sized Customer Standard Performance Contracts (See Attachment D)
3. Energy Management Services (EMS) intervention strategy audit services for large customers should be provided only through the SPC intervention strategy. Any other EMS services for large customers should be justified.

4. Customized financial incentives to end-use customers should not be offered by Program Administrators in the non-residential area.

5. Standard financial incentives to end use customers should not be offered by Program Administrators in the Large Non-Residential Comprehensive Retrofit program.

6. Program Administrators should develop uniform definitions of "small" and "large" non-residential customers.

Under the Non-Residential SPC intervention strategy, services can be provided across all six programs. The CBEE's recommended statewide cap for the non-residential area is $80 million. Of this amount, $68 million is the recommended statewide funding cap for large customers and a $12 million floor is recommended as statewide funding for small customers.

Customer Limits

Protest

NAESCO supports SDG&E and SCE's Nonresidential SPC (NSPC) programs and urges flexibility to shift funds to follow market demand.

NAESCO argues that SDG&E's proposal regarding NSPC Customer Limits (p.24-25), which would restrict limits to $400 K for the first 6 months, and quarterly thereafter, is too complex. NAESCO states that SDG&E is concerned about the $400K per site and $1.5 million statewide limit per corporate parent restrictions. NAESCO recommends that the CPUC keep the rules simple stating that if all the NSPCs funds were in one fund, SDG&E's concern would be moot. NAESCO recommends that the CBEE and the utilities work in 1999 to devise a better solution.

Response
SDG&E replies that its proposal, with some modifications, has been agreed to by the CBEE, and that it is meant to ensure that the SPC program does promote market transformation. The limitations were added to ensure that a large number of customers can participate, not just a few.

Discussion
Individual program fund flexibility has been revised to a larger percentage and was adopted under Resolution E-3578 by the Commission on March 18, 1999. The Energy Division advises the Commission that in the body of the Non-Residential SPC for the Large Customer Intervention Strategy (LCIS) and the Small Customer Intervention Strategy (SCIS), specific market limitations are made for incentive funds that any individual customer may receive. These are:

(1) $400,000 per customer site, within each Administrator service territory.

(2) $1.5 million for any corporate parent or government parent statewide.

(3) $6.0 million in total, statewide, for the sum of all agencies of the State of California.

(4) $6.0 million in total, statewide, for the sum of all agencies of the Federal government.

(5) The corporate parent limit of $1.5 million and the State and Federal government sum-of-all agencies limits of $6.0 million apply to the sum of projects across both the NRSPC-LCIS and the NRSPC-SCIS, except that lower corporate parent limits also apply within the NRSPC-SCIS. The limits in the NRSPC-LCIS and the NRSPC-SCIS may not be combined to result in a higher limit.

The Energy Division has reviewed these large and small customer, intervention strategy limitations and believes they are prudent. The CBEE and SDG&E have addressed the policy concerns of NAESCO by adding restrictions appropriate for the smaller budget of SDG&E. The issue of customer statewide limitations for the large and small intervention strategies is moot.

Small Customer Non-Residential SPC Programs

Protest

NAESCO protests SDG&E proposal to devise details of maximum project size, payment structures, and sponsoring incentive payments for small customers. NAESCO recommends that instead, SDG&E rely on the process to provide these details.

Response

SDG&E replies that it is proposing to refine these details with the CBEE, and will work with parties to develop a final proposal.

Discussion

The Energy Division observes that SDG&E's proposal to devise details of maximum project size, payment structures, and sponsoring incentive payments for small non-residential customers was incomplete at the time of its original filing. During January through March, the utilities, interested parties and the CBEE have been working on the final details for the Small Business SPC. This is discussed below.

Small and Large Non-Residential SPC Customers

Protests

NAESCO objects to the utilities' proposals to use 500kW peak demand or 250,000therms/yr. as the standard for identifying an NSPC large customer. NAESCO does not believe that customers with peak demands between 100 to 500 kW are small non-residential customers, and therefore, provision of utility audits and technical assistance to these customers would interfere with ESPs and market development. NAESCO protests SDG&E's proposed rule change to not award an incentive for the large customer class based on "experience". NAESCO states that the rationale for this proposal is vague and unsupported. NAESCO recommends that SDG&E stick with the current rules and programs, working with the CBEE to resolve its concerns.

REECH recommends divestiture of these programs covering large commercial and industrial, as well as multiple-site Commercial and Industrial account program areas. REECH argues that the utilities use these funds for customer retention and take funds from the residential sector to support the programs. The Large Commercial and Industrial classes can function on its own with non-Interim Utility Administrator entities.

Protest Responses

SDG&E replies that it has worked with the CBEE and agreed to establish a limitation lower than 500 kW for energy audits. However, SDG&E states that the 500 kW definition would still apply for other activities. SDG&E replies that in CBEE meetings this issue was discussed in context with small SPC programs, but that inclusion in the large SPC program was contained in the

CBEE AL, and characterizes this as an oversight. SDG&E does not believe it is either appropriate or necessary for large SPC programs.

PG&E states that it has proposed limited on-site technical assistance for customers with peak demands below 500 kW. This differentiation is used between large and small customers (and is the same as that used in 1998) because it is clear, defined by rate schedule, and easily enforceable. PG&E states it has no rate schedule defined by demand lower than 500 kW.

SoCalGas states that it does not believe it is appropriate to preclude core customers using between 50,000 and 250,000 therms annually from utility audits because they may otherwise be precluded from receiving any utility energy efficiency services while contributing funding as ratepayers. This is likely since SoCalGas does not have a gas nonresidential SPC program, and if there were a program available, it is uncertain whether these customers would avail themselves of it.

SCE states that it is providing Technical Assistance to customers with demands greater than 500 kW in niche areas including agricultural and industrial processes only, but that it is not doing so for the Large Non-Residential Comprehensive Retrofit program. SCE maintains that 500 kW continues to be considered the minimum standard threshold for large customers by the CPUC and the CBEE. SCE states that the CBEE expects technical assistance to be provided in specific instances under Motors Turnover, HVAC Turnover, and the Process Overhaul programs.

CBEE states that it shares NAESCO's concerns that the high thresholds recommended to identify large customers means that there is a potential for overlap in program offerings to medium-sized customers whose electricity demand is less than 500 kW but greater than about 100 kW or 50,000therms/year. CBEE reiterates its support for the SPC intervention strategy as the primary intervention strategy in the large customer comprehensive retrofit program, and its support for the SPC intervention in the other non-residential programs. However, the CBEE is concerned that complete prohibition of energy audits and on-site technical assistance will lead to gaps in program delivery, such that certain customer groups or market segments will not be reached by the SPC intervention strategy will be under-served.

Therefore, the CBEE recommends that the Commission direct the utilities to justify provision of energy audit and on-site technical services provided to customers above approximately 100kW or 50,000 therms/year, consistent with the CBEE advice letter filing recommendation that utilities justify provision of these services to large customers. This information should be provided as part of full program descriptions to the CBEE by January 22, 1999. The justifications should describe how the utility will ensure that their provision of these services will not overlap with provision of these services through the SPC intervention strategy.

Discussion

Large electric customers are defined as customers having peak electricity demands of 500kW or greater. Gas customers are usually referred to as either "core" or "non-core" under the tariff schedules, with "non-core" customers generally having usage of 250,000 terms per year or greater. For the purposes of defining large versus small customers, the existing tariffs of the utilities should be followed. As SoCalGas comments, use of the tariff schedules ensures equitable provision of "energy efficiency" services based on customer gas DSM contributions. The Energy Division agrees with the protests of NAESCO and REECH that large customers should be able to conduct energy efficiency audits and on-site technical assistance, without reliance on the utilities. Any provision of these services by the utilities should be fully justified and warranted. The Energy Division recommends that the Commission adopt this policy.

The smaller customers, however, should be able to rely on the utilities for energy efficiency audits and on-site technical assistance, if requested, to avoid possible service gaps. However, if such assistance is requested, the Energy Division recommends the utilities follow the CBEE's recommendation that such services be tracked.

Incentives, Measurement and Valuations Requirements

Protest

For small customer incentive payments, CESC supports SCE's and SDG&E's recommendation as opposed to the CBEE's, which recommends a 40%-30%-30% payment incentive scheme. SCE and SDG&E propose 40%-60%. CESC states that it is preferable to provide larger incentive payments initially due to small business cash flow problems. CESC recommends a 25%-55%-20% incentive payout, with a detailed proposal on completion and the last payment made six months after completion. CESC believes a simplified and accelerated payment structure will yield better results and more participation. CESC states that the CBEE proposes this in addition to per kWh end-use incentive rates for all completed small SPC projects at the time the first SPC payment is made. The utilities have not proposed an exception to this. CESC believes that this is a good proposal and will serve to improve small business participation.

The CESC and the utilities recommend less rigorous Measurement and Verification (M&V) requirements for small and medium SPC program customers because it will overburden EE service providers and will discourage the smaller customers from participation. CESC recommends to take either an approved engineered savings estimate using existing owner records to verify operating hours or do a site billing comparison and analysis after six months.

Response

PG&E replies that it continues to recommend that no payments be made to customers until the projects are actually installed versus CESC's recommendation that the first payment be provided at the submittal of the detailed project application. PG&E states that if it followed CESC's recommendation, complications could arise if the applications are not finished, which does occur. Payment on receipt of application should not occur. PG&E replies that this recommendation needlessly limits the types of M&V requirements which, especially during the infancy of the SPC program, should be determined in the program design process.

Comments
In their respective comments filed March 16, 1999, PG&E, SDG&E, and SCE state they have worked with the CBEE sub-committee assigned to the Nonresidential Standard Performance Contracting (SPC) programs and stakeholders to refine the details relating to Small Nonresidential SPC program. The utilities have distributed a program description prior to the workshops that were held to solicit comments on the program. The CBEE and other parties have provided positive feedback regarding program design. The parties have agreed to a "40%-60%" scheme, in which 40% of the incentive amount should be made upon installation and the remaining 60% would be paid after energy savings have been validated.

SDG&E comments that payments for measured energy savings would be allowed to exceed the estimated amounts by up to 10%, consistent with the 1998 and 1999 Large Non-Residential SPC program design. Based on feedback from interested parties, additional program adjustments including incentive levels may be required. SDG&E requests that the Commission allow for a consensus process rather than the advice letter process to resolve these adjustments.

In supplemental comments, the CBEE states that it now supports a 40%-60% incentive payment structure and schedule for the 1999 Small Business Standard Performance Contract (SBSPC), as recommended by the utilities. The CBEE agrees that a shorter payment schedule for these customers is reasonable. The CBEE states that the conditions of the small customer market (i.e., small customers, smaller jobs, and fewer financial resources) and additional barriers to participation would result if the longer payment schedule of 40%-30%-30% was used.

The CBEE believes that SBSPC strategy can be effective in achieving the Commission's policy goals for market transformation and privatization. The CBEE reports that this topic was discussed extensively with parties during January through March and that the basic dilemma was how to ensure the success of the SPC strategy while considering how firmly to ground it as a "pay-for-performance" approach. The problem was to address the higher financing costs of smaller projects while targeting the smaller end use customers, which have fewer financial resources. The CBEE reports that agreement was reached to shorten its recommended payment schedule from two years into one year, but at the same time, to place the larger portion of the incentives at the end of the period. This would reduce the disincentive of higher financing costs incurred over a longer period, but still would provide a significant incentive for performance.

The CBEE also recommends that adjustments in SBSPC incentive levels be allowed by the utility administrators with the prior agreement of the CBEE, without requiring the submission or approval of advice letters.

Discussion
The Energy Division believes that the workshop discussions held between January and March have considered CESC's recommendation to modify the incentive payment structure for small and medium non-residential customers. The process has refined the policy to accommodate the needed financial considerations for the smaller end use customers. The Energy Division recommends the Commission adopt the utility and the CBEE's recommendation of a 40%-60% payment structure for the Small Business SPC program and deny the more conservative CESC payment structure proposal. The Energy Division also recognizes that additional adjustments in this program may be necessary, since it is just beginning. To insure fairness to small end use customers and other market participants, the utilities should obtain agreement with the CBEE if incentive payment adjustments are needed for SBSPC customers. The utilities have provided the Commission with the proposed small business SPC program. The Energy Division recommends that the Commission approve this program, allowing the utilities and the CBEE and interested parties to make the necessary adjustments to this program as needed, without also filing separate advice letters. An advice letter should be filed under circumstances where major changes impact the policy direction of the programs.

Customized Incentives
Protests
NAESCO objects to the utilities' inappropriate proposals to offer customized incentives to customers. NAESCO states that SCE specifically did this, with SCG's and PG&E's proposals more vague. NAESCO argues that these offers would directly compete with the Non-Residential SPC program and are anticompetitive to market transformation goals. NAESCO recommends that the Commission require the utilities and the CBEE to continue to work on these issues until all parties are convinced that the utility-provided standardized incentive programs are needed and do not undermine the NSPC program. ORA recommends that there be no customized rebate programs, as these are inherently anticompetitive and difficult to develop oversight controls for. MC argues that the utilities fail to propose programs that will promote an enduring market.

Responses
CBEE recommends statewide elimination of the customer participation incentive for the large customer non-residential SPC intervention strategy. CBEE supports the recommendation that the utilities should not offer customized incentives.

SoCalGas states that it followed the CBEE's recommendation and that none of its programs have customized incentives for customers. SCE states that its standardized rebates complement its

Small SPC program for small and medium sized customers. SCE states that its program complies with CBEE direction for this customer group and should be approved. In addition, SCE and the CBEE have concluded that for 1999, the standardized rebate program is a viable tool for transforming the awareness of small and medium customers regarding energy efficiency. SCE adds that the CBEE has directed that Small and Medium-sized customers should be eligible for a reduced standardized rebate as an alternative to the Small-Medium SPC program.

SDG&E states that its 1999 program proposals do not contain any customized rebates. Instead, SDG&E states that it has included standardized rebates in its nonresidential program proposals, in the form of specified rebate amounts for either specific equipment or for energy savings in terms of dollars per unit of savings. SDG&E replies that this program is important to these customers who need feedback about the SPC programs and working with private companies. SDG&E argues that it has provided sufficient justification for its standard rebate program proposals and that they should be adopted, unmodified.

Comments
In its March 16, 1999 Comments, SCE recommends that customized incentives be permitted for agricultural customers. SCE states that initially, the CBEE board members voiced similar objections to SCE's incentives for agricultural customers when the CBEE discussed the utility 1999 program proposals at its February meeting. However, the CBEE concurred with SCE's reasoning for offering customized incentives. The CBEE stated its objection to customized incentives and reliance on the SPC programs did not extend to agricultural customers and voted to support SCE's incentive proposal.

Discussion
The Energy Division agrees with the protests of NAESCO and ORA and CBEE's recommendation. Customized incentive proposals for non-residential customers are inherently anticompetitive and do not promote market transformation policies. The Energy Division recommends utilities should not provide non-residential customers with customized incentives. NAESCO and ORA's protests and CBEE's recommendation to prohibit customized incentives or rebates to non-residential customers should be granted.

In response to additional CBEE comments and CBEE Board minutes provided to the Energy Division, SCE's exception to this rule for primary agricultural customers is warranted. The rationale for this exception is based on the specific water pumping systems per agricultural customer, which vary substantially across end users. To impose a standardized incentive in these cases would be wasteful. The Energy Division recommends that the Commission adopt customized financial incentives for the water pumping systems of agricultural customers.

Codes and Standards

Protests

NAESCO requests that the Commission direct the utilities to include funding for a statewide upgraded Codes and Standards program in their budgets. This is critical to market transformation goals. Only PG&E has allowed funding for upgraded Codes and Standards. NAESCO requests the addition of $1 million to the upgraded standards portion to support CEC efforts. The CEC also supports this request.

Responses

SoCalGas responds that it does not believe this activity should be funded by the utilities nor does it believe it is appropriate to be included as part of utility-run programs. SoCalGas suggests that it is more appropriately managed and funded by the state, i.e. the CEC. SCE supports upgraded building standards. SCE believes its efforts in conjunction with PG&E's identified funding for upgraded standards in 1999 represent a prudent initial level of funding. SDG&E states that although it supports the concept of aggressively upgrading standards over time, it does not believe that this intervention strategy should be the focus of the New Construction Codes and Standards Support and Local Governing Initiatives program in 1999. SDG&E states that it has budgeted $400,000 for this program. Given the roll-out of the new Title 24 standards in 1999, SDG&E has placed its focus on codes and standards support and working with local governments.

Discussion

The utilities have provided some funding for a statewide effort to assist with the upgrading of the New Construction Codes and Standards Support and Local Governing Initiatives for 1999. The Energy Division believes that there is no compelling reason to augment this funding by $1 million for PY99 or to recommend that the Commission authorize any additional funding for this program element. The Energy Division recommends that the Commission deny without prejudice NAESCO's and the CEC's request for additional PY99 program funding for codes and standards.

Programs Conclusion

The CBEE has proposed and the utilities have adopted 14 new program definitions falling under the major program categories of Residential, New Construction, and Non-Residential. Each of the 14 program areas has associated budgets and spending flexibility to provide for successes and failures. Additional program area information is to be provided by the utilities under no later than March 25, 1999.

Some program implementation descriptions, such as a revised Residential SPC intervention strategy, are dependent upon workshops to resolve specific details. There are many opportunities for government and the market to participate. Market checks and balances are imposed to expand program participation.

The Energy Division recommends that the Commission adopt the CBEE recommended programs, allowing for program adjustments to be made through an advice letter update filing in September 1999.

COMMENTS

1. The draft Resolution of the Energy Division in this matter was mailed to the Parties in accordance with Public Utilities Code Section 311(g). Comments were filed on March 16, 1999 by PG&E, SCE, SEMPRA for SoCalGas and SDG&E (Joint Respondents), ORA, REECH, and CBEE.

2. Most all of the parties' comments are incorporated within the text of this resolution. The following topics are addressed through these comments:

- Extension of Programs and Budgets through PY2000
- Policy Rules
- New Administrative Start-up Funds
- Market Assessment and Evaluation
- State Government MA&E Set-Asides, CEC
- Fund Shifting Rules
- Performance Incentive Mechanisms, AEAP
- Residential SPC Program
- Small and Large Non-Residential Definitions, SPC Customers
- Small Non-Residential SPC Incentives
- Non-Residential Energy Efficiency Audits
- Customized Incentives

FINDINGS

1. The CBEE filed by advice letter a comprehensive set of recommendations for the Commission to adopt, as required under R.98-07-037.

2. PG&E, SCE, SoCalGas and SDG&E filed advice letters largely consistent with the CBEE's

advice letter recommendations one month later.

3. Protests to the CBEE's and the utilities' advice letters were filed by TURN, REECH, ORA, the CEC, MC and RESCUE, NRDC, NAESCO, the City of San Jose, ABAG, and CESC.

4. ORA's protest of the CBEE's advice letter on energy efficiency programs and proposals should be denied, since the CBEE filed its recommendations on Energy Efficiency 1999 program plans, budgets and policy rule modifications consistent with Commission order.

5. The forum created by the October 1, 1998 Assigned Commissioner Ruling (ACR) in R.98-07-037 is the appropriate place for resolution of ORA's and REECH's legal and structural recommendations concerning the CBEE. These recommendations should be denied without prejudice.

6. Resolution E-3578 addressed the fact that the utilities' original advice letters were missing some program detail descriptions, and ordered each utility to file this information in supplemental advice letters no later than March 25, 1999.

7. Several public workshops are scheduled and planned to accomplish refinements to the energy efficiency programs. The CEC's protest requesting additional workshops for stakeholder input should be denied.

8. The CBEE does not plan to propose a planning schedule for the PY2000 programs prior to the Commission's pending decision on the future role of CBEE.

9. The NRDC's protest to begin planning programs for PY2000 earlier in 1999 should be approved.

10. The Commission should approve extension of the PY99 program year and budgets at the same level through the end of PY2000.

11. Authorizing PY2000 Public Goods Charge (PGC) funding through December 31, 2000 will allow more time for PY99 programs to be adjusted to the forthcoming program changes, thereby avoiding delays between PY99 and PY2000 implementation.

12. The utilities should expand their PY99 programs and budgets by one year through PY2000 in a September 1999 advice letter filing.

13. The smaller energy utilities have not participated in this forum to date. The smaller utilities' involvement in the revised energy efficiency programs should be postponed until the major

utilities' programs are in place and have transitioned as envisioned by the Commission.

14. The CBEE's recommendation that the smaller energy utilities submit their energy efficiency budgets to the closest, large utility should be denied at this time.

15. MC's arguments regarding anticompetitive policies are misplaced. Anticompetitive issues should be addressed by the Commission under R.98-07-037. MC's protest should be denied.

16. The Commission should suspend Policy Rule IV-6 for PY99 until clarification can be made concerning the issue of measuring a customer's perspective of cost effectiveness.

17. The Commission should adopt CBEE's recommendation adopt a revised definition of Energy Efficiency and Energy Efficiency Measure, to allow for coordination of PGE EE programs and activities and non-PGC activities involving DSM application of renewable energy technologies, as called for by Policy Rule IV-8.

18. The Commission should allow the pilot in the new construction program administrative area for the limited renewable technologies, requiring the CBEE to provide an assessment of the pilot to the Commission in R.98-07-037.

19. The Commission should adopt application of Rule IV-1 to the utilities, requiring that the entire program portfolio of PGC-funded activities be cost effective.

20. The Commission should authorize that the CBEE's Policy Rule III-1, item 4 does not apply to utility administration.

21. The Commission should authorize the addition of the words "program administration" to Policy Rule III-5.

22. The Commission should adopt application of Policy Rules VII, "Administrator Code of Conduct" in full to utility administrators.

23. Since the utilities will be program administrators through the year 2001, it is appropriate for the CBEE to revisit and revise all of the Policy Rules for Energy Efficiency Activities.

24. The Commission should adopt ORA's recommendation that the policy rules need to be modified to accommodate continuing utility administration.

25. The CBEE should file under R.98-07-037 revised policy rules to account for continuing utility administration and appropriate language defining the CBEE's role under energy efficiency

programs.

26. The CBEE should defer major policy rule modifications until completion of the workshop concerning the role of the board.

27. The utility affiliate rules adopted under D.97-12-088 apply to the utilities' operation of energy efficiency and DSM programs.

28. The Commission does not preclude competitive bidding of one utility's affiliate for another utility's programs under its current affiliate rules.

29. RESCUE's protest regarding safeguards addressing self-dealing and mutual accommodation should be granted.

30. The Commission should adopt ORA's recommendation to apply CBEE Policy Rule IX (18) as applicable to the utilities, reinstating and restricting an employee movement between the utility and an affiliate.

31. Policy Rule IX (18) should be moved to Section X and should be renumbered.

32. The Commission should adopt the added affiliate rules of CBEE's proposed Policy Rule revisions, Section X, as applicable to the utilities.

33. The Commission affiliate rules prohibit the tying nature envisioned by ORA and CBEE, but these rules apply to the regulated utilities, not the ESPs, which are not regulated by the Commission.

34. CBEE should work with the parties and the utilities to develop appropriate language to incorporate into the affidavits and contracts held with ESPs to ensure that receipt of energy efficiency services is not tied to provision of electric energy service.

35. ORA's protest requesting a policy rule to prohibit tying services between ESPs and ESCOs should be granted.

36. It is a misdemeanor to use the state seal for commercial purposes. The Commission's seal includes a reproduction of the "Great Seal of the State". The California State Seal or the Commission's seal should not be used as a logo for statewide energy efficiency programs.

37. CBEE's request to use the state seal or the Commission's seal as a logo should be denied.

38. The CBEE should work with the utilities to develop a statewide logo and appropriate endorsement language to address the lack of a logo until one can be developed.

39. The Commission should allow expenditure of CBEE's PY99 energy efficiency budget monies to develop a statewide logo.

40. The cost effectiveness values found in Attachment B, Appendix C conform to the existing Commission standards used for the basis of cost effectiveness evaluations and should be adopted.

41. The Commission should adopt the nominal discount rate of 8.15% per year in conjunction with the cost effectiveness values found in Attachment B, Appendix C.

42. REECH's allegation that the cost effectiveness values do not provide a reasonable and calculable basis for cost-effectiveness as required by Public Utilities Code Section 381(e)(1) should be rejected and denied.

43. The CBEE has provided an insufficient comparison between the Public Purpose Test and the Societal Test.

44. The Commission should adopt CBEE's recommendation to change the name of the Standard of Cost Effectiveness to the Public Purpose Test in the body of Policy Rules IV-1, IV-3, and IV-4, but should retain the name "Standard of Cost Effectiveness" in parenthesis for clarification.

45. RESCUE's proposal to modify the avoided cost values used for transmission and distribution is beyond the scope of the advice letter filings and should be denied without prejudice.

46. RESCUE's proposal to modify the avoided cost values used for transmission and distribution should be raised in the Qualifying Facilities proceeding I.89-07-004 and the ACR under D.99-02-085.

47. On February 11, 1999, an ACR was issued under R.98-07-037 ordering the Energy Division to schedule a public workshop to address reporting requirements. Parties should seek consensus at the Energy Division facilitated reporting requirements workshop, and should make a filing on the issues in R.98-07-037.

48. Resolution E-3578 did not adopt the new energy efficiency programs' "categories" as definitions, but instead adopted the budgets under the new format with a map to connect the old budget format with the new.

49. The new energy efficiency program definitions presented by the CBEE and submitted by the utilities should be adopted as the basis for budget program design and monitoring changes in the market.

50. The CADMAC and the utilities should develop a method to accommodate the changing relationships of the data to the renamed energy efficiency programs.

51. ORA's protest regarding program definitions and reporting requirements should be denied.

52. On February 11, 1999, an ACR was issued under R.98-07-037 a public workshop to address reporting requirements, including budget reporting requirements identified as "administrative versus implementation" costs.

53. Policy Rule VIII-4 concerning "administrative and implementation" costs and budget reporting should be adopted subject to clarification under R.97-07-097.

54. PG&E's protest on administrative and implementation costs and budget reporting should be denied.

55. The total estimated, statewide budget funding for 1999 is estimated to be $273.4 million – Electric $228 million and Gas $45.4 million. Additional carryover funding from 1998 increases the total to over $300 million.

56. The Statewide Energy Efficiency Budget consists of program area spending, performance award incentives, and a number of administrative line items representing 8% of the PY98 carryover funds and the PY99 projected budget.

57. SoCalGas should review its budget estimates carefully to insure that such fund-shifting does not occur, especially between residential and non-residential customer classes.

58. SoCalGas' should submit a revised budget by supplemental advice letter to avoid fund-shifting among customer classes.

59. Resolution E-3578 authorized a Statewide Program Area and Program Budget. The total estimated Program Area Budget for PY99 is $254.5 million, with Electric programs totaling $206.2 million and Gas programs totaling $48.3 million.

60. Resolution E-3578 also authorized the utilities' Alternate Performance Incentive Award Mechanisms totaling $27.991 million. The specific award caps per utility are PG&E $12.584 million; SCE $8.610 million; SDG&E $3.806 million; and SoCalGas $2.991 million.

61. The Commission should adopt the CBEE's seven budget reporting recommendations, as outlined under Budgets in this resolution.

62. The Commission should authorize PY2000 funds for the utilities at the same levels as for PY99.

63. Authorization of a $7.5 million reserve fund for new administration start-up, transition planning, program planning, and budget activities is rendered moot by D.99-03-056, which establishes continuing utility administration of the programs through the end of 2001.

64. The $7.5 million set aside for new administrator start-up recommended by the CBEE should be returned to the utilities' programs on a pro rata redistribution, with the amounts reallocated under PY99, or carried over for PY2000 programs.

65. Since the RFP process has been cancelled and since the utilities will be continuing as administrators into the future, the CBEE's Budgeted Direct Expenses under Administrative Support Services should be reduced by $12,000.

66. Given the unforeseen circumstances of the past year, and the CBEE's projected participation in Phase II of R.98-07-037, the Commission should adopt an allowance of $100,000 for legal expenses.

67. Because the CBEE's Technical Services is an area of great uncertainty, the Commission should accept a high case assumption of $1,240,000 presented in the CBEE's discussion, but should not adopt the CBEE's recommendation to allow fund shifting to its budget to accommodate an under funding of CPUC technical support.

68. Per Diem for the Board is an issue in the pending decision to R.98-07-037. The Commission should set aside the averaged increased per diem request of $2250 per meeting, but only adopt spending of an average of $18,000 per meeting, pending a final determination of the per diem matter.

69. The CBEE has not provided the Commission with a complete description of its MA&E planning process or of what market measurements are necessary to measure the effects of the program changes and how this will be accomplished.

70. The CBEE provides no basis or rationale for the budgeted estimates for utility involvement, "other" MA&E activities amounting to $3.9 million.

71. The CBEE has not identified what entity will coordinate MA&E activities.

72. The Commission could hire an MA&E administrator or contractors directly, with projects performed under the direction of the Commission.

73. The Commission should require a filed plan of what measurement projects will be attempted, with supporting documentation and details to warrant the expenditure of MA&E budgeted funds.

74. MA&E reporting and verification activities should be addressed by the Commission.

75. The Commission should adopt the MA&E Budget, as identified in Appendix C, but budgeted MA&E fund expenditures should not be authorized until further documentation is provided.

76. The utilities should file a report on MA&E, as specified above (mimeo. pp. 47-48), in supplemental advice letters.

77. SDG&E's request for a verification plan should be granted.

78. CEC is encouraged to file a response to the utility supplemental advice letters, and may include in that response any alternative MA&E proposals.

79. Final authorization of MA&E proposals is subject to Commission approval.

80. The utilities are no longer providing the required data studies and collection activities performed for the CEC for the DSM information the CPUC and others rely on for calculating or comparing DSM cost effectiveness

81. The CEC has outlined two studies, which provide for the annual continuation of CPUC-required data used in cost effectiveness measures.

82. Provision for continued support of data studies and collection activities performed by the CEC is warranted and a reasonable construction of PUC Section 381(b), which orders the Commission to allocate PGC funds to programs which provide in-state benefits to cost-effective energy efficiency and conservation activities.

83. The utilities should cooperate with the CEC and its contractors in providing information and data needed to conduct the survey(s) and perform subsequent analyses, including delivery of the

utilities' appropriate billing file records to enable sampling, individual billing histories for sampled accounts and load metering data.

84. The CEC agrees to maintain the confidentiality of individual customer data as per California Code of Regulations, Title 20, Section 2501 et seq.

85. The legal mechanism to provide the CEC with energy efficiency funds needed for the collection, analysis, and development of this information requires a utility-CEC signed agreement, submitted to the Commission, outlining the electronic transfer of funds from each utility to the CEC for the specific purpose of these PGC funds.

86. The CEC's fiscal control should set up a separate trust accounts to keep the funds apart.

87. A payment schedule contained in the agreement should be adopted by the Commission and outlined under each utility's tariffs under the Preliminary Statement in a memorandum tracking account.

88. The Commission should authorize an annual expenditure of $2.1 million for CEC data collection for the two studies identified above. This expenditure will expire December 31, 2000.

89. The utilities should submit to the Commission a joint, written agreement with the CEC as soon as practicable.

90. The agreement should be filed as a supplemental advice letter to the respective advice letters addressed under this resolution.

91. To provide this funding, the utilities should follow the format and agreement submitted to the Commission under the Electric Restructuring docket, R.94-04-031/I.94-04-032 on July 31, 1997, and adopted by D.97-09-117 (See Attachment D to this Resolution).

92. As part of the agreement, any remaining funds for these projects should be returned to the respective utilities' Energy Efficiency programs.

93. Each utility should track these payments in an Energy Efficiency-DSM memorandum account, specifically identifying the funds for these two CEC data studies and should revise their respective Preliminary Statements to accommodate the transaction and should be filed in the same supplemental advice letter as the CEC-utility agreement.

94. The CEC-utility agreement will outline the specific use of the funds, the transfer agreement and scheduled payments, the designated utility, and the return of unused funds.

95. The CEC will set up a separate trust account for the receipt of these funds to assure separation from other accounts.

96. The CBEE has proposed to set-aside an estimated $400,000 as a placeholder for a CPUC staff Budget Change Proposal to provide advisory staff support for energy efficiency and DSM program activity.

97. The estimate set-aside has not been determined, and the proposal depends on legislative authorization. These funds should remain as a budget line item to be addressed at a later time.

98. The CBEE's fund-shifting guidelines for the utilities should be adopted.

99. Fund shifting is subject to Commission authorization and approval.

100. Fund shifting across program areas should be prohibited because it will disrupt the cost allocation/rate designs developed, which contribute to each of the major program areas, and may cause cross-subsidization of major customer classes.

101. The utilities should strive to operate within the CBEE-recommended funding caps and minimum funding levels (floors) for selected program elements and intervention strategies and should maintain program expenditures within these budget ranges adopted by the Commission under Resolution E-3578.

102. Any fund-shifting or program changes can be addressed by the utilities filing September 1999 advice letters to coincide with the March 26, 1999 ACR schedule for the PY2000/1 program year.

103. The Commission prescribed continuance of the Performance Incentive Mechanism for interim utility administration under D.97-12-103, with an initial award cap of 14% for nine months, followed with a reduced award cap of 10% for the remainder of 1998.

104. The original incentive award mechanism recommended by the CBEE for PY99 was capped at a lower, 12.5% amount. Although the utilities did not submit award caps consistently or fully within the 12.5% original CBEE recommendation, their proposals were lower than the award caps approved by the Commission for PY98.

105. The alternate performance incentive award mechanism is addressed in Resolution E-3578, adopted by the Commission on March 18, 1999.

106. The Alternate Performance Incentive Award Mechanism submitted by the utilities provides for a maximum statewide incentive award of 11%.

107. The Alternate Performance Incentive Award Mechanism links the awards to a two stage, date sensitive set of milestones.

108. Changes recommended by the protests to delete or modify the utilities' incentive award mechanisms need to be directed to the Commission under the AEAP. The protests of ORA, RESCUE, MC and TURN to the original performance incentive award mechanism should be denied.

109. The CBEE's recommended, revised statewide budget and the utilities' revised estimates for PY99, as found in Attachment C, should be adopted, excepting for the modifications to the set-asides and the CBEE's Budget, as detailed above.

110. The utilities should expand their PY99 programs and estimated budgets by one year into PY2000 under an advice letter update filing in September 1999.

111. The Commission should extend the structural framework for performance incentives until December 31, 2000, but authorize the performance incentives award levels, weights among individual incentives, and specific milestones only until December 31, 1999. This is consistent with the program and budget change approach that the Commission adopted for program planning purposes in D.99-03-056.

112. The appropriate forum for considering changes in shareholder incentive mechanisms is the AEAP, as discussed in D.99-03-056.

113. Proposals for modifying the performance incentive award levels, weights among individual incentives and specific milestones for PY2000 should be considered in the AEAP.

114. The initial utility advice letters were incomplete regarding program descriptions. The Commission should rely on the CBEE to monitor the completion of program descriptions and to advise the Commission of any failures to comply with this condition. Under Resolution E-3578, the utilities are directed to file this information by supplemental advice letter no later than March 25, 1999.

115. The CBEE's program recommendations should provide ample opportunities for community and local government participation in PGC energy efficiency activities. The Commission should deny the proposals of the City of San Jose and ABAG.

116. The CBEE's current program classifications and program budget allocations are appropriate on a statewide basis.

117. There is no PY99 program yet for a Residential Standard Performance Contract, because this program is being re-designed. The utilities and the CBEE are holding workshops to address problems encountered with the Residential SPC program in 1998.

118. Upon completion of the Residential SPC workshops, the utilities should submit program information to the Commission through an informational report.

119. MC's and RESCUE's protests regarding the lack of a comprehensive residential program are well conceived, but should be denied at this time.

120. The CBEE's current program classifications and program budget allocations are appropriate on a statewide basis for new housing construction.

121. MC's protest to reclassify the Residential New Construction program area as a non-residential program area should be denied.

122. The CEC should continue to recommend its diagnostic testing for residential audit program to the utilities and the CBEE, and should contact SCE for detailed results of its programs incorporating these techniques.

123. The CEC's protest for increasing diagnostic testing should be denied at this time.

124. The CBEE has outlined adequate direction on continued transfer of program implementation from administrators in its AL filing, with the request of the utilities to supplement their filings with full program descriptions.

125. The utilities' filings and subsequent filed information contain a number of programs scheduled for outsourcing. Third party solicitations are also included.

126. Market checks for program usefulness and cost effective results are being formulated. These reporting programs and measures should be addressed in the Energy Division workshop.

127. REECH's and RESCUE's program and program policy recommendations for outsourcing should be denied.

128. Resolution E-3578, adopted by the Commission on March 18, 1999, addressed the fact that the original utility advice letters lacked sufficient program descriptions. The utilities were

ordered to provide this information in supplemental advice letter filings no later than March 25, 1999.

129. MC's and REECH's protests regarding information and audit programs should be denied.

130. The CBEE's recommendation for the Residential major program area has been addressed such that the budgeted appropriations for the residential programs align with the residential customer class revenue contributions.

131. The utilities should adjust their budget estimates if customer class PGC fund contributions do not align and are required to submit adjustments under supplemental advice letter filings in September 1999.

132. REECH's protest to realign the new construction budgets should be denied.

133. Specific market participation limits are imposed within the large and small SPC programs to inhibit any large entity from monopolizing the funds and should be adopted.

134. The CBEE and SDG&E have addressed the policy concerns of NAESCO by adding restrictions appropriate for the smaller budget of SDG&E. The issue of customer statewide limitations for the large and small intervention strategies is moot.

135. SDG&E's proposal to devise details of maximum project size, payment structures, and sponsoring incentive payments for small non-residential customers was incomplete.

136. Large electric customers are defined under the utilities' tariffs as customers having electricity demands of 500kW per year or greater. Gas customers are referred to as either core or non-core under the tariffs, where non core customers generally have usage of 250,000 therms per year or greater.

137. Large non-residential SPC customers should be able to conduct energy efficiency audits and on-site technical assistance, without reliance on the utilities. Any provision of these services by the utilities should be fully justified on a case-by-case basis.

138. Small to medium sized non-residential SPC customers should be able to rely on the utilities for energy efficiency audits and on-site technical assistance, if requested, to avoid service gaps. If such assistance is requested, provision of such services should be tracked by the utilities.

139. The recommended 40%-60% incentive payment structure for small and medium-sized non-residential customers should be adopted for the Small Non-Residential Standard Performance

Contract.

140. The CESC's payment structure proposal for the small non-residential SPC customers should be denied.

141. The CESC's recommendation to lower or relax the energy efficiency M&V requirements for small and medium-sized customers should be denied.

142. The Commission should approve the Small Business SPC program and allow the utilities and the CBEE and interested parties to make the necessary adjustments to this program as needed, without also filing separate advice letters.

143. Customized incentive proposals for non-residential customers are inherently anticompetitive and do not promote market transformation policies.

144. The utilities should not provide non-residential customers with customized incentives, excepting for the water pumping systems of agricultural customers.

145. The Commission should adopt NAESCO's, ORA's, and the CBEE's recommendation to prohibit customized incentive proposals, excepting for the water pumping systems of agricultural customers.

146. The utilities have provided some funding for a statewide effort to assist with the upgrading of the New Construction Codes and Standards Support and Local Governing Initiatives for 1999. There is no compelling reason to augment this funding by $1 million for PY99.

147. NAESCO's and the CEC's protests requesting additional funds for codes and standards should be denied.

THEREFORE, IT IS ORDERED THAT:

1. Pacific Gas and Electric Company Advice Letter 1819-E/2117-G for PY99 Energy Efficiency Programs is approved, as modified below, for policy rules, budgets and programs.

2. Southern California Edison Advice Letter 1348-E for PY99 Energy Efficiency Programs is approved, as modified below, for policy rules, budgets and programs.

3. Southern California Gas Company Advice Letter 2760 for PY99 Demand-Side Management Energy Efficiency Programs is approved, as modified below, for policy rules, budgets and programs.

4. San Diego Gas & Electric Company Advice Letter 1132-E/1124-G for PY99 Energy Efficiency Programs is approved, as modified below, for policy rules, budgets and programs.

5. The CBEE's Policy Rule changes, additions and suspensions, as modified below, are adopted and apply to the energy efficiency and DSM programs of Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, and Southern California Gas Company:

   a. Policy Rule IV-6 is suspended for PY99;
   b. Definitions of Energy Efficiency and Energy Efficiency Measures are modified;
   c. Policy Rule III-1, item 4 does not apply to utility administration;
   d. Policy Rule III-5 is modified to read program administration;
   e. Policy Rule IV-1 applies to the utilities' program portfolios;
   f. Policy Rules under section VII apply to utility administration;
   g. The "Standard of Cost Effectiveness" is renamed the Public Purpose Test, with Standard of Cost Effectiveness remaining in parenthesis under Policy Rules IV-1, IV-3, and IV-4;
   h. Policy Rule VIII-4 is adopted, subject to definitional clarification in R.98-07-037;
   i. Policy Rules X, 1-5 are adopted;
   j. Policy Rule IX (18) is added to Section X;
   k. The cost effectiveness values are adopted as modified for the 8 ½% nominal discount rate.
   l. The CBEE-proposed energy program definitions are adopted as the basis for program design and monitoring changes in the market.

6. The CBEE's Statewide Budget proposals are authorized for Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, and Southern California Gas Company, excepting:

   a. $7.5 million for new administrator start-up shall be returned to utility energy efficiency programs pro rata to either PY99 or PY2000;
   b. $12,000 contained in the CBEE's Budget shall be returned to utility energy efficiency programs pro rata to either PY99 or PY2000;
   c. $6 million for MA&E activities and of $3.9 million for MA&E "Other" activities are adopted, but expenditures are not authorized pending additional information;
   d. $400,000 for state government is suspended pending additional information.
   e. $2.1 million for CEC data collection is authorized through December 31, 2000.
   f. CBEE's seven Budget reporting recommendations, identified above, are adopted.

7. The CBEE's Program Proposals are adopted for Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, and Southern California Gas Company energy efficiency and DSM programs, and:

   a. Any provision of energy efficiency audits and on-site technical assistance to large non-residential SPC customers shall be justified on a case-by-case basis.

   b. The 40%-60% incentive payment structure for small and medium-sized non-residential customers is adopted.

   c. Customized incentives shall not be provided to non-residential customers, excepting for the varied, water pumping facilities of agricultural customers, where a standardized incentive would be inappropriate.

   d. The new energy efficiency program definitions are adopted.

   e. The Small Non-Residential Standard Performance Contract program is adopted.

   f. A pilot under the New Construction Program Area for limited renewable technologies is adopted.

   g. Specific market participation limits with the Large and Small Non-Residential SPC program are adopted.

8. The CBEE's Budget, as identified above, is adopted.

9. The CBEE shall provide an assessment of the New Construction Program pilot for limited renewable technologies in R.98-07-037.

10. Pacific Gas and Electric Company, Southern California Edison Company, Southern California Gas Company and San Diego Gas & Electric Company shall file supplemental advice letters containing documentation supporting MA&E activities no later than 30 days beyond the effective date of this Resolution.

11. The CBEE shall provide supplemental comments and information supporting MA&E activities.

12. Pacific Gas and Electric Company, Southern California Edison Company, Southern California Gas Company and San Diego Gas & Electric Company shall file a written agreement with the CEC for data acquisition, and shall modify Preliminary Statements for the addition of an Energy Efficiency/DSM Memorandum Account for this expenditure in a supplemental advice letter.

13. The CBEE shall file under R.97-07-037 revised policy rules to account for continuing utility administration and appropriate language defining the CBEE's role under energy efficiency programs.

14. The PY99 programs and budgets are extended into the year 2000, however, performance incentive award levels, weights among individual incentives, and specific milestones are only authorized through December 31, 1999. The utilities shall file by advice letter a September 1999 update of PY98 expenses and PY99 estimates.

15. The authority established in this Resolution applies from the effective date of this resolution through December 31, 2000.

16. Southern California Gas Company shall submit a revised budget by supplemental advice letter, if necessary.

17. ORA's protest of the CBEE's energy efficiency programs, budgets, and policies filed as an advice letter filing is denied.

18. ORA's and REECH's legal and structural recommendations concerning the CBEE are denied without prejudice.

19. The CEC's protest requesting additional workshops for stakeholder input is denied.

20. The NRDC's protest to begin planning programs for PY2000 earlier in 1999 is adopted.

21. The CBEE's recommendation that the smaller energy utilities submit their energy efficiency budgets to the closest, large utility is denied at this time.

22. MC's protests regarding anticompetitive policies is denied.

23. ORA's recommendation that the policy rules should be modified to accommodate continuing utility administration is approved.

24. RESCUE's protest regarding safeguards addressing self-dealing and mutual accommodation is granted.

25. ORA's protest requesting a policy rule to prohibit tying services between ESPs and ESCOs is granted.

26. The CBEE's request to use the state seal or the Commission's seal as a logo is denied.

27. REECH's allegation that the cost effectiveness values do not provide a reasonable and calculable basis for cost-effectiveness as required by PU Code Section 381(e)(1) is denied.

28. The CBEE's recommendation to change the name of the Standard of Cost Effectiveness to the Public Purpose Test in the Policy Rules is approved.

29. RESCUE's proposal to modify the avoided cost values used for transmission and distribution is denied without prejudice.

30. ORA's protest regarding program definitions and reporting requirements is denied.

31. PG&E's protest on administrative and implementation costs and budget reporting is denied.

32. SDG&E's recommendation to file an MA&E verification plan for Commission review in R.98-07-037 is approved and applies equally to Pacific Gas and Electric Company, Southern California Edison Company and Southern California Gas Company.

33. ORA's, RESCUE's, MC's and TURN's protests to delete or modify the utilities' incentive award mechanisms are denied.

34. The protests of the City of San Jose and ABAG regarding opportunities for government participation in the energy efficiency programs are denied at this time.

35. MC's and RESCUE's protests regarding the lack of a comprehensive residential program are denied at this time.

36. MC's protest to reclassify the Residential New Construction program area as a non-residential program is denied.

37. The CEC's protest for increasing diagnostic testing is denied at this time.

38. REECH's and RESCUE's program and program policy recommendations for outsourcing are denied.

39. MC's and REECH's protests regarding information and audit programs are denied.

40. REECH's protest to realign the new construction budgets is denied.

41. The CESC's payment structure proposal for the small non-residential SPC customers is denied.

42. The CESC's recommendation to lower or relax the energy efficiency M&V requirements for small and medium-sized customers is denied.

43. NAESCO's, ORA's, and the CBEE's recommendation to prohibit customized incentive proposals is adopted, excepting for the water pumping systems for agricultural customers.

44. NAESCO's and the CEC's protests requesting additional funds for codes and standards is denied.

45. This Resolution is effective today.

Resolution E-3592
PG&E AL 1819-E/2117-G; SCE AL 1348-E
SoCalGas AL 2760; SDG&E AL 1132-E/1124-G;
CBEE AL 1-E/1-G/awp *

April 1, 1999

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 April 1, 1999. The following Commissioners voting favorably thereon:

Wesley Franklin

WESLEY M. FRANKLIN
Executive Director

RICHARD A. BILAS
President
HENRY M. DUQUE
JOSIAH L. NEEPER
Commissioners

APPENDICES

ATTACHMENT A

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ATTACHMENT B

Proposed Modifications of the Adopted Policy Rules for Energy Efficiency Activities[1]

Overview

The policy rules contained in this document are the California Public Utilities Commission's (Commission) guiding principles to the California Board for Energy Efficiency (CBEE) for use in pursuing the Commission's energy-efficiency policy objectives.

The policy rules are organized into ~~nine~~ ten sections:

I. Introduction
II. Policy Objectives
III. Roles and Responsibilities Under the Administrative Structure
IV. Program Design Requirements and Eligibility Guidelines
V. Measures of Value and Performance, Including Cost-Effectiveness
VI. Market Assessment, Evaluation, and Performance Measurement
VII. Compensation and Performance Incentives for Program Administrators
VIII. Administrator Code of Conduct
IX. Affiliate Rules for Independent Program Administrators
X. Affiliate Rules for Interim Administrators

Appendix A to this Attachment contains a list of definitions. Appendix B to this Attachment describes the Public Purpose Test, a cost-effectiveness test for use with Public Goods Charge (PGC)[2] funded energy-efficiency programs.

I. Introduction

I-1. These policy rules govern the use of Public Goods Charge (PGC) funds for promoting energy efficiency. These rules do not apply to the interim administration of PGC-funded programs. These rules do not apply to pre-1998 program commitments, which are to be funded using pre-1998 carryover funds, or to shareholder incentives associated with these commitments, both of which remain subject to the demand-side management (DSM) policy rules that were in place at the time the commitments were made.

I-2. The policy rules are to be used by the Commission, the CBEE, Administrators of PGC-funded energy-efficiency programs, and Implementors of PGC-funded energy-efficiency programs. The CBEE is the appropriate initial forum for parties to review and discuss policy rules and program implementation, and proposed changes to policy rules and programs.

I-3. The policy rules are supplemented by supporting documents that provide additional information on the application of these rules.

[1] **Modified Policy Rules proposed by the California Board for Energy Efficiency (CBEE) on November 24, 1997, as revised in the January 31, 1998 Supplemental filing.**

[2] The policy rules use the term "Public Goods Charge" to refer to (1) electric PGC funds for energy efficiency as set forth in AB 1890, (2) energy efficiency funds resulting from a gas surcharge mechanism, and (3) gas DSM funds for energy efficiency authorized in the interim until a gas surcharge mechanism is implemented.

I-4. Supporting documents may be developed through CBEE-sponsored public workshops, on an as-needed basis. In view of the newness of the objectives, approaches, and needs of PGC-funded programs, these workshops should commence as soon as possible while the CBEE is in the process of hiring new Administrators.

I-5. The policy rules are to be reviewed and modified, as necessary, by the CBEE, subject to approval from the Commission.

II. Policy Objectives

II-1. The goal of PGC-funded energy-efficiency programs is to provide in-state benefits through cost-effective energy-efficiency and conservation programs.

II-2. The objectives for energy-efficiency policies have changed from trying to influence utility decision makers, as monopoly providers of generation services, to trying to transform the market so that individual customers and suppliers in the future, competitive generation market, will be making informed and cost-effective energy choices.

II-3. PGC-funded energy-efficiency programs should play a strategic and, ideally, transitional role in the development of a fully competitive market for energy-efficiency products and services.

II-4. The mission of PGC-funded programs is to transform markets and ultimately privatize the provision of cost-effective energy-efficient products and services so that customers seek and obtain these products and services in the private, competitive market. Energy-efficient products and services are currently sought and obtained by customers in the private, competitive market. Yet, a variety of features or conditions of the structure and functioning of the current market, called market barriers, prevent customers from *fully* seeking and obtaining *all* cost-effective energy-efficient products and services. Success in transforming markets means reducing or eliminating market barriers in ways that allow the private competitive market to supply and customers to obtain all cost-effective products and services in a self-sustaining fashion - that is, without a continuing need for PGC-funded programs.

II-5. Elements of such a fully transformed, well-functioning, and self-sustaining market include: (1) workable competition that motivates rival sellers to supply a variety of energy-related products and services, including different levels of energy efficiency, that satisfy diverse customer needs and societal environmental goals at competitive prices; (2) a customer-friendly environment in which customers can readily obtain and process trustworthy information or professional services that allows them to compare the prices and energy-efficiency qualities of different services and products; (3) a positive legal and regulatory structure that (a) minimizes undue barriers to the entry of new service providers or the development of new and more efficient products; (b) provides for the internalization of environmental damages in energy prices; and (c) provides for the expeditious redress of legitimate customer complaints related to defective energy-efficiency products and services or fraudulent performance claims; (4) an innovative environment in which rival entrepreneurs compete and profit by innovatively discovering untapped energy-efficiency marketing opportunities; and (5) a learning environment in which customers learn how new energy-efficient investments and practices may better satisfy their needs and circumstances.

II-6. Achieving the objectives of market transformation will require a balanced portfolio of programs that collectively will: (1) promote a vibrant energy-efficiency products and services industry that can be self-sustaining without a continuing need for PGC-funded programs; (2) encourage direct interaction and negotiation between private market participants (including energy-efficiency service providers) and customers, building lasting relationships that will extend into the future; (3) transform the "upstream" market (e.g., manufacturers, distributors, retailers, and builders) so that energy-efficient products and services are made available, promoted, and advertised by private market participants; (4) be in the broader public interest, with support for activities that would not otherwise be provided by the competitive market (e.g., capturing lost opportunities and avoiding cream-skimming); (5) empower customers, especially residential and small commercial customers, with meaningful information on the costs and benefits of energy-efficiency measures; (6) align the benefits of PGC programs with the customers providing PGC funds; (7) transform markets in an expeditious manner, in view of the limited time horizon over which PGC funding is guaranteed; and (8) maximize the societal and in-state energy-efficiency-related benefits achievable through PGC funding.

II-7. PGC-funded programs are no longer warranted when they cannot further transform the market in a cost-effective manner.

II-8. Common definitions and reporting requirements are necessary to allow the CBEE to: (1) track progress in meeting the market transformation objectives outlined in this section; and (2) ensure consistency in treatment of Administrators and Implementors.

Appendix A includes a list of definitions developed by the CBEE. The CBEE will sponsor public workshops to discuss and develop further definitions and reporting requirements.

III. Roles and Responsibilities Under the Administrative Structure

III-1. The entities responsible for overseeing, administering, and implementing the expenditure of PGC funds for energy efficiency include the following: (1) the Commission; (2) the CBEE; (3) entities performing analytic and other technical services for the CBEE, known as technical support; (4) Program Administrators, including a Residential Administrator, a Non-Residential Administrator, and a New Construction Administrator; (5) subcontractors hired by the Administrators to perform specific tasks that are the responsibility of the Administrator; and (6) Implementors, or entities delivering energy efficiency services under the direction of Program Administrators. <u>In PY99, item (4) does not apply to interim administration.</u>

III-2. The following rules describe the general role of the CBEE, technical support of the CBEE, Program Administrators, Subcontractors and Implementors. It should be noted, however, that the role of each of these parties will vary somewhat both over time, as experience with the new policy rules accumulates, and over different types of programs.

III-3. The responsibilities of the CBEE shall include the following: (1) making recommendations to the Commission regarding the expenditure of PGC funds; (2) overseeing the development of PGC-funded programs and budgets, including overseeing periodic or as-needed joint planning processes facilitated and led by Program Administrators; (3) overseeing the transition from interim administrators; (4) overseeing Program Administrators and their oversight of program implementation, the assessment and verification of Administrator performance, and Administrator compensation and performance incentives; (5) overseeing the preparation and submittal of reports to the Commission, including reports drafted by CBEE technical support and submitted by the CBEE, reports prepared and submitted by Program Administrators, and reports prepared and submitted jointly by the CBEE and Program Administrators; and (6) overseeing analysis tasks performed by CBEE technical support, including strategic planning, market assessment, and program evaluation.

III-4. The responsibilities of CBEE technical support shall include the following: (1) assisting the CBEE in the tasks described in III-3; (2) performing analysis tasks useful to and identified by the CBEE, including strategic planning, market assessment, and evaluation; (3) providing information, where requested, that Administrators could use to assess and verify implementor performance and help determine implementor compensation; (4) developing and drafting CBEE recommendations to the Commission on policy and program issues; and (5) assisting the CBEE in the preparation and submittal of CBEE reports to the Commission, in the oversight of reports prepared and submitted by the Administrators, and in the oversight and preparation of reports submitted jointly by the CBEE and Program Administrators.

III-5. The responsibilities of Program Administrators shall include the following: (1) facilitating program development, planning, and budgeting, including leading program development and joint planning processes, and being responsible for preparing program designs and budgets for CBEE review and recommendation, and CPUC approval; (2) administering and overseeing program implementation, including management of programs using Administrator staff or subcontractors, development and oversight of quality assurance standards and tracking mechanisms, development and oversight of dispute resolution processes, review and approval of implementor invoices, and assessment and verification of implementor performance; (3) helping to facilitate the transition from interim ~~administrators~~ program administration, including working jointly with the CBEE and the other Program Administrators to transfer or reassign the administration of programs and assets and liabilities in an efficient and effective manner; (4) providing reports on the results of these activities to the CBEE and the Commission; and (5) providing general program administration and coordination services, including monitoring of budgets, management of Administrator staff and subcontractors, invoicing, expenditure approval, financial accounting, maintenance of financial records consistent with accounting standards, and having audits prepared by independent auditors on an annual basis.

III-6. The responsibilities of Implementors shall include the following: (1) participating in program development and joint planning processes led by Program Administrators; (2) implementing programs and activities agreed to under contract with either the Program Administrator or the CBEE; (3) working cooperatively with Program Administrators to resolve any customer complaints; and (4) providing periodic market data and program reports to Administrators.

III-7. The responsibility of Administrative subcontractors shall include the following: (1) performing the assigned tasks in compliance with the contract; (2) meeting performance expectations of the Administrator; (3) providing periodic reports to Administrator; and (4) performing their roles in a nondiscriminatory fashion.

IV. Program Design Requirements and Eligibility Guidelines

IV-1. PGC-funded activities are expected to be cost effective using the public purpose test which is defined in rule V-2 and Appendix B. A prospective showing of cost effectiveness for the entire portfolio of PGC-funded activities and programs (i.e., individual programs, plus all costs not assignable to individual programs, such as overhead, planning, evaluation, and administrator compensation and performance incentives) is a threshold condition for eligibility for PGC funds. In PY99, this rule is applied to the entire portfolio of each interim administrator.

IV-2. PGC-funded programs are expected to be capable of transforming markets. That is, programs should strive to achieve sustainable changes in the market place that will increase the supply of and/or demand for cost-beneficial energy-efficient products and services.

IV-3. On-going demonstration of continued expectations for cost effectiveness of the portfolio using the public purpose test (on at least an annual basis) is a condition for continued receipt of PGC funds.

IV-4. For individual programs within an administrator's portfolio, cost effectiveness using the public purpose test is important but not the only criteria for eligibility for PGC funds. In addition, other considerations, such as those identified in Policy Rule II-6, must also be taken into account.

IV-5. To assist in assessing a program's potential to or actual performance in transforming markets, program descriptions must include the following: (1) which customer segments (and customer market segments) and what market events are being targeted by the program; (2) what conditions or features of the market (or market barriers) currently prevent customers from fully seeking and obtaining all cost-effective energy-efficiency products and services in the private, competitive market and why; (3) whether these conditions can be expected to change (and, if so, in what way) in the absence of the proposed program, including an explanation of why or why not; (4) what activities are proposed for the program, and why and to what extent these activities are expected to reduce or eliminate the market barriers described; (5) what intermediate and/or ultimate indicators will be used to determine to what extent (and why) the program has reduced or eliminated market barriers in a sustainable manner; and (6) what indicators will be used to determine when it is appropriate (and why) to modify, change, or terminate the program.

IV-6. Programs that involve transactions or exchanges with individual customers must be cost-effective from the participating customer's point of view. This may be demonstrated by showing that these program activities pass the Participant Test (including financial assistance), as defined in the Standard Practice Manual.[3] <u>This rule is suspended for PY99 programs.</u>

IV-7. Programs that provide financial assistance in the form of a Standard Performance Contract shall also have the following design features: (1) an identified element of the energy-efficiency service provider industry that will provide the services and the certification requirements of the providers; (2) a posted price or prices, expressed as a dollar amount per unit of energy-efficiency service provided; (3) limitations on the share of program funds that could be received by an individual customer; (4) limitations on the share of program funds that could be received by an individual energy-efficiency service provider; (5) fully developed minimum requirements for customer contract language regarding terms and conditions for performance for the service provider (e.g., measurement and verification procedures, equipment maintenance, and financial transactions between the customer and the service provider); and (6) an identified process for addressing and resolving customer complaints associated with the contract between the customer and the service provider, including an identified role for the Administrator in the dispute resolution process.

IV-8. Programs shall also be designed to facilitate coordination, as appropriate, with related activities, including: (1) the electricity Customer Education Plan; (2) the Electric Education Trust; (3) the CPUC outreach and education efforts; (4) PGC-funded low income activities; (5) PGC-funded renewable energy activities; (6) PGC-funded research, development, and demonstration energy-efficiency activities; (7) local, state, regional, and federal energy-efficiency programs, such as regional market transformation activities; and (8) local, state, and federal energy-efficiency laws and standards.

V. Measures of Value and Performance, Including Cost Effectiveness

V-1. Measuring the value of PGC-funded programs and the performance of Administrators serves six purposes: (1) to assist in determining whether a program (prospectively or on a continuing basis) is warranted; (2) to assist in determining prospectively what program activities are appropriate; (3) to assist in determining funding allocations for various programs; (4) to assist in modifying programs during operation to increase their effectiveness; (5) to establish one set of basis for determining compensation for Administrators and/or Implementors; and (6) to assist in assessing retroactively to what extent programs have been successful in achieving the Commission's policy objectives.

V-2. Cost effectiveness, both for entire portfolios of PGC-funded programs and for individual programs, is an important measure of value and performance. In view of the policy objectives for PGC-funded programs, a modified measure of cost effectiveness is used, called the Public Purpose Test (PPT). The PPT is generally based on the Societal Test and is also similar to aspects of the Total Resource Cost Test (TRC), as defined in the Standard Practice Manual.[43] However, the PPT explicitly recognizes the appropriateness of including certain elements that have not traditionally been included in the practice of calculating the TRC. The new elements may include: (1) program spillover savings; (2) non-energy costs and benefits; (3) externalities, including environmental costs and benefits; and (4) reductions in the cost of measures or practices caused by the program.

See Appendix B for a more detailed description of the PPT and a comparison of the PPT to the Societal Test and TRC.

V-3. The PPT may be calculated by treating programs as multi- (rather than single) year activities so that programs explicitly designed as integrated, multi-year strategies, which may have modest benefits (and/or high start-up

[3] CPUC/CEC. *Standard Practice Manual for Economic Analysis of Demand-Side Management Programs.* December, 1987.

[4] CPUC/CEC. *Standard Practice Manual for Economic Analysis of Demand-Side Management Programs.* December, 1987.

costs) in early program years, can be evaluated considering the expected larger benefits (and/or lower costs) in later program years.

V-4. Inclusion of new elements in the PPT may lead to greater imprecision in the calculation of the PPT. However, imprecision in the calculation of the PPT should not prevent its use in determining the cost effectiveness of PGC-funded programs to society (Section ~~III~~ IV, Program Design Requirements and Eligibility Guidelines) or in helping to establish compensation for Administrators (Section VII, Compensation and Performance Incentives for the ~~Independent~~ Program Administrators). There are many ways to address the risks associated with imprecise calculation of the PPT. For example, for program planning purposes, risks can be mitigated through the use of scenario analysis, direct comparison of risks to opportunities, inclusion of explicit safety factors (e.g., requiring that the PPT exceed some threshold ratio greater than 1.0), and rigorous testing of the strength of a program's underlying theory of how it seeks to transform a market(s); see V-6.

V-5. The PPT shall not be relied on exclusively in making funding allocation decisions among programs and/or Administrators, or in determining compensation for the Administrator(s) and Implementors.

V-6. The ability or actual performance of programs in transforming markets by removing the market barriers customers and other market participants currently face which prevent customers from fully seeking and obtaining all cost-effective energy-efficiency products and services in a well-functioning, private, self-sustaining, competitive market, is another important measure of the value of programs. The reduction or removal of market barriers is evidenced by market effects, which are the changes in the structure or functioning of markets caused by a program (e.g., level of efficiency realized, changes in availability, stocking, pricing, attitudes, awareness, etc.). Whether a market effect(s) is indicative of market transformation depends upon having a plausible explanation of the link between a program's interventions, all market changes focusing on those caused by the program (i.e., the resulting market effects), and their effects on market barriers (both immediately, as well as on a lasting or self-sustaining basis).

V-7. Although it may take time to transform markets, there is a need to assess the performance of Administrators and to revise program designs in a timely manner. Therefore, shorter-term indicators of market change (with special emphasis on those caused by the program or market effects) are also appropriate to use in measuring the effectiveness of programs and performance of Administrators.

V-8. The CBEE will sponsor public workshops to discuss and refine the Public Purpose Test and other measures of the value and performance of PGC-funded program, as well as discuss how application of measures might differ at different stages in a program's life-cycle. These workshops, in part, will contribute to refinements to the current Standard Practice Manual regarding calculation of measures of cost effectiveness.

VI. Market Assessment, Evaluation, and Performance Measurement

VI-1. Market assessment, evaluation, and performance measurement under California's policy objectives for PGC-funded energy-efficiency programs support the following activities: (1) measuring the level of savings realized; (2) measuring the cost-effectiveness; (3) the planning and design of programs, including providing up-front market assessments and baseline analysis; (4) providing ongoing feedback, and corrective and constructive guidance regarding the implementation of programs; (5) measuring indicators of the effectiveness of specific programs, including testing of the assumptions that underlie the explanation of sustainability that support the program; (6) assessing overall levels of performance and success of programs designed to transform markets; (7) informing decisions regarding compensation and performance incentives provided to Administrators and/or Implementors; and (8) helping to assess whether, in specific markets, there is a continuing need for PGC-funded programs. The Commission expects the CBEE to gather information and conduct analysis in order to support these activities, both independently and in conjunction with Administrators of PGC-funded programs.

VI-2. The primary purpose of market assessment and evaluation is to document changes in the structure and functioning of markets and assess the sustainability of these changes in the market and to evaluate the success of programs. These efforts should focus on measuring the market effects caused by programs and testing the assumptions and explanations that underlie them. These efforts logically begin with assessments of current markets and evaluations of the market barriers that prevent the adoption of all cost-effective energy-efficient products and services through the natural operation of the private, competitive market. A critical area to document is the current scope, level, and comprehensiveness of energy-efficiency activities that are naturally being provided by the private, competitive market. This information must be combined with information on the operation of PGC-funded programs to help determine whether the market changes caused by the programs can be expected to be self-sustaining, if PGC funding is no longer available.

VI-3. In view of possible imprecision associated with measuring market effects and the reduction in market barriers, it is necessary to: (1) articulate specific theories about what market effects and reductions in market barriers specific interventions are expected to have, and test the assumptions that support these theories; (2) measure a wide range of market indicators, both before, during, and after interventions, using a variety of methods[5] -- it is unlikely that there is a single indicator that can be used to determine whether a market has been transformed to the point where intervention is no longer necessary or appropriate; (3) compare observed changes in market indicators and the sequence of these changes, to what would be expected if the program is working as intended, as well as to estimates of what would have occurred in the absence of the intervention (i.e., identify market effects caused by the program); (4) link observations of market changes and market effects to reductions in market barriers; (5) develop a system for ongoing feedback, so that indicators of market changes and market effects, as well as the theories which underlie them, can be assessed, or modified along the way; (6) use forecasts and scenario analysis to assess likely future outcomes and inform interim decisions because it is not practical to wait for longer term results; (7) focus efforts on the causal role of the program in increasing market adoption of measures, in addition to on estimating the net savings per measure adopted when quantifying environmental and resource benefits; (8) recognize that changes can take place in multiple markets and market segments, and can result from multiple interventions over several years (rather than from one program in a single year); and (9) recognize that some changes can take place in a market regardless of the intervention.

VI-4. In view of the lack of formal experience with transforming markets as an objective of energy-efficiency policy and in view of the imprecision associated with all measurements, it is appropriate to hold public workshops in which market assessment, evaluation, and performance measurement can be discussed and appropriate research activities identified and planned.

VII. Compensation and Performance Incentives for Program Administrators

VII-1. A two-part compensation structure, which includes both a base-level of compensation and a performance incentive, is appropriate for Administrators of PGC-funded programs. Total compensation for all administrative services, including both base compensation and performance incentive compensation, shall be included under the cap on administrative expenses in the Administrator RFP and Contract.

VII-2. Effective performance incentives encourage an Administrator to work enthusiastically and aggressively to achieve the Commission's objectives because they are rewarded when they are successful and penalized when they are not. To be effective in encouraging an Administrator to perform as desired, a targeted performance incentive mechanism should be, first and foremost, carefully and thoughtfully aligned with the policy objectives. Once this threshold is satisfied, mechanisms should also strive to be: (1) clear in their intended message; (2) understandable and accessible; (3) composed of rewards and/or penalties tied to outcomes the Administrator can affect; (4) reasonably balanced between risks and rewards for the Administrator and society as a whole; (5) large enough to

[5] For example, methods for evaluating market changes and market effects may include: (1) surveys or interviews of manufacturers, other market actors in the distribution chain, and customers; (2) surveys or compilation of existing data on manufacturer and distributor shipments; (3) surveys or compilation of existing data on retail or wholesale sales; (4) surveys of product/service availability, floor stock, and shelf space; (5) surveys of prices and changes in prices; (6) surveys of changes in advertising practices, marketing materials, and catalog offerings; and (7) approaches for analyzing many of these data (which may include stated/revealed preference, discrete choice, and conjoint, trend, and scenario analysis).

attract and retain the attention of the Administrator; (6) timely; and (7) relatively easy to monitor with respect to evaluating the performance of the Administrator.

VII-3. Definitions of performance for Administrators should be consistent with the policy objectives. In general, performance or success can be defined, assessed, measured, and rewarded using several different metrics, including: (1) effective and efficient performance of planned activities (e.g., good-faith implementation of planned tasks); (2) interim and leading indicators of ultimate effects (e.g., indicators of market effects and/or reductions in market barriers; indicators of lasting effects); and (3) ultimate effects (e.g., energy and demand savings, product sales as a proxy for energy and demand savings, market penetration, lasting reductions in market barriers, and transformed markets).

VII-4. The choice of which metric to use as the basis for a performance incentive for an Administrator should depend on: (1) the nature and level of the Administrator's responsibilities; (2) the timing and reliability of the estimates or indicators of effects of the programs; (3) the ability of the Administrator to impact the specific metrics; (4) the degree of risk for both the Administrator and the public; and (5) the role of the Administrator and other participating organizations (e.g., the degree to which success depends on the participation of other organizations).

VII-5. Special attention is required to ensure that performance incentives are aligned with the objectives of transforming markets and privatization of the market. An effective performance incentive mechanism should: (1) focus the Administrator on achieving lasting market effects and reductions in market barriers; (2) encourage strategic activities that work within markets, with existing market transactions, and with market participants; (3) ensure that feedback on the process of the activity, the changes in the market, and the indicators of effects is available and incorporated on a ongoing basis; and (4) provide information on the costs, benefits, and performance of the activities.

VII-6. The criteria for implementation of planned activities, which should achieve measurable results when possible, can be applied at two levels: (1) to the overall performance of the Administrator (e.g., participation in national and statewide activities, coordination with others on joint actions, sponsoring and supporting market assessment and baseline studies, etc.); and (2) to the performance related to individual programs and activities (e.g., developing specific technology standards, offering planned training sessions, etc.).

VII-7. The level of incentive needed to be effective depends on the mix and magnitude of opportunities and risks that influence the Administrator. Incentive caps for Administrator compensation (such caps linked to a maximum percentage of direct program costs) are appropriate to limit the potential for excessive compensation.

VII-8. An overall base compensation and performance incentive mechanism for Administrators of PGC-funded programs may be comprised of several components, such as: (1) base compensation based on competent management and implementation of planned tasks; (2) minimum performance standards, based on readily observable measures (such as the completion of identified tasks), that an Administrator would need to exceed in order to be eligible for any performance incentive and penalties for not exceeding them; (3) performance incentives for individual programs based on indicators of market effects and reductions in market barriers (especially for indicators of lasting effects); (4) a bonus incentive for exceptional overall performance (e.g., if the Administrator met or exceeded individual program goals for more than 75% of the programs under its management); and (5) penalties for failing to implement specific programs or other shortcomings in Administration.

VIII. Administrator Code of Conduct

VIII-1. The following Code of Conduct (Section VIII-2 through VIII-9) applies to Administrators in their interaction with non-affiliated persons, Implementors and other entities. This Code of Conduct is intended to ensure that an Administrator does not unfairly discriminate against any person or entity; does not inappropriately use knowledge, data, information, or strategic plans acquired in performing the functions set forth in the Scope of Services in Section I.D. of the RFP to gain an unfair competitive advantage in energy efficiency or other markets, and does not cross-subsidize its non-CBEE related business or activities by the use of PGC funds. Unless the context otherwise requires, the definitions set forth in Appendix A of these Rules govern the construction of those Rules.

VIII-2. An Administrator shall not use its own name, logo, service mark or "brand", trademark or trade name, or other corporate identification in association with its performance of the functions as a Program Administrator without the prior written recommendation of the CBEE and approval by the Commission. The CBEE shall develop the corporate identification to be used by an Administrator to identify activities to perform the Scope of Services for an Administrator, subject to Commission approval. The CBEE may also recommend that this corporate identification for an Administrator be used by Implementors. Corporate identification includes, but is not limited to, name, logo, service mark or "brand", trademark or trade name, or other corporate identification.

VIII-3. An Administrator shall maintain separate books and records for functions necessary to perform the duties of Program Administrators according to generally accepted accounting principles.

VIII-4. An Administrator shall not perform non-administrative functions (e.g., implementation and other) without the prior approval of the Commission.

VIII-5. An Administrator shall not condition or otherwise tie access to PGC-funded programs or services to the taking of any non-PGC funded products, programs, or services that it otherwise provides or offers for sale.

VIII-6. An Administrator shall present a plan to the CBEE, and obtain Commission approval prior to acquiring information from Implementors or market actors that will ensure that non-public and confidential or proprietary information acquired in the performance of its duties as an Administrator will not be inappropriately transferred or conveyed in any manner to employees of the Administrator or others for purposes other than the discharge of the duties set forth in the Scope of Services for an Administrator.

VIII-7. An Administrator may request information from PGC-funded Implementors and/or other market actors to perform its duties as a Program Administrator. An Administrator and/or a Utility shall provide a non-discriminatory process which allows Implementors access to Utility Customer Information without prior affirmative written consent of a Customer, but with adequate customer privacy protections, as necessary and appropriate. This process shall be presented to CBEE for review, and be subject to Commission approval.

Utility Customer Information received through this process may be used only for PGC-funded programs and purposes. A violation of the use of Utility Customer Information for purposes other than PGC-funded programs and purposes may result in penalties, including but not limited to revocation of an Administrator's or Implementor's ability to participate in PGC-funded efforts.

The Administrator has the burden of proof, if challenged, to demonstrate why any requested information is necessary and appropriate to the performance of its duties as a Program Administrator. The CBEE shall be the final arbitrator in any dispute.

VIII-8. An Administrator shall not unfairly discriminate in its treatment of any entity, market actor, or Implementor through the design, processing, evaluation and selection, administration of bids, requests or negotiation of contacts, or in the performance of any of the functions necessary to provide the Scope of Services for an Administrator. An Administrator shall establish internal procedures to accomplish the above objectives prior to receiving information from or contracting with any Implementor or market actor and shall submit such internal procedures for review by the CBEE and approval by the Commission.

VIII-9. An Administrator shall not violate federal or state anti-trust laws or engage in fraudulent business practices.

VIII-10. A violation of this Code of Conduct may, at the discretion of the Commission, result in any contract or agreement made in violation of the Code being void; the requirement that all funds received under said contract being immediately repaid with interest; and the imposition of penalties, including but not limited to, the remedies set forth in the Administrator's contract, which may include revocation of the Administrator's contract. Violation of this Code may also require reimbursement by the Administrator for the costs of the enforcement of this Code.

IX. Affiliate Rules for Independent Program Administrators

IX-1. These Rules shall apply to all transactions between an Independent Program Administrator (Utility or otherwise) and its Affiliate(s) except those specifically excepted herein, involved in the Commission's efforts to create more vibrant Energy Efficiency markets through the expenditure of PGC funds. Unless the context otherwise requires, the definitions set forth in Appendix A of these Rules, govern the construction of these Rules.

IX-2. Civil Relief: These Rules shall not preclude or stay any form of civil relief, or rights or defenses thereto, that may be available under state or federal law.

IX-3. Except for Standard Performance Contracting (SPC) Programs, no Affiliate of an Administrator, Utility or otherwise, may under any circumstances bid for or receive contracts associated with program implementation for a Program or undertaking administered by an affiliated Administrator. A violation of this Rule shall result in any contract or agreement for implementation being void; the requirement that all funds received under said contract be immediately repaid with interest; and the imposition of any penalties, including, but not limited to, those remedies set forth in the Administrator's contract, which may include the revocation of the Administrator's contract. Violation of this Rule shall also require reimbursement by the Administrator for the costs of the enforcement of this Rule.

IX-4. An Affiliate of an Administrator may only bid for and receive contracts associated with program implementation for a Program or undertaking administered by an affiliated Administrator if the contract involves a Standard Performance Contracting program. The CBEE shall recommend for Commission approval what program constitutes a Standard Performance Contracting Program for purposes of these Rules consistent with the definition in Appendix A of these Rules.

IX-5. Affiliate Implementor(s) of an Administrator may not receive under any circumstances more than 15% of the PGC funds in aggregate expended for program implementation for a specific SPC program in which they are participating if the Standard Performance Contracting program is administered by an affiliated Administrator. Violation of this provision shall require the Affiliate to immediately refund all funds in excess of the limitation, with interest, plus 10% and may result in disqualification of the Affiliate from further participation in the program. In addition, the affiliated Administrator may be subject to penalty for failure to comply with this requirement.

IX-6. If an Affiliate of an Administrator is eligible to be selected for Standard Performance Contracting program implementation, the contract for the Administrator shall include, but is not limited to, the following provisions and requirements set forth in this section (Section IX-6, numbers 1 through 24).

(1) The Administrator shall not unfairly discriminate in its treatment of its Affiliate(s) and non-affiliated entities through the design, processing, evaluation and selection, or administration of bids, requests, or negotiation of contracts.

(2) Unless otherwise authorized by the Commission, or permitted by these Rules, an Administrator shall not provide its Affiliate, or Customers of its Affiliate, any preference (included, but not limited to, terms and conditions, pricing, or timing) over non-affiliated entities or their Customers in the provision of Energy Efficiency services funded in whole or in part from PGC funds.

(3) Unless otherwise authorized by the Commission, an Administrator shall not represent that its Affiliate Implementor(s) or Customers of its Affiliate(s) will receive any different treatment than other, non-affiliated Implementors as a result of affiliation with the Administrator with regard to the provision of Energy Efficiency services funded in whole or in part from PGC funds.

(4) The Administrator shall not provide preference to its Affiliates or discriminate against non-affiliates in any way in its administration of its responsibilities and shall provide information concerning programs to Affiliates and non-affiliates on the same basis in terms of access, content, and

timing.

(5) Except as otherwise provided by these Rules, an Administrator shall not (1) provide leads to its Affiliates; (2) solicit business on behalf of its Affiliates; (3) acquire information on behalf of or provide to its Affiliates; (4) request authorization from Customers to pass on Customer Information to its Affiliates; (5) give any appearance that the Administrator speaks on behalf of its Affiliates or that the Customer will receive preferential treatment as a consequence of conducting business with the Affiliate; or (6) give any appearance that an Affiliate speaks on behalf of the Administrator.

(6) An Administrator shall not condition or otherwise tie the provision of any of its products or services, including, but not limited, to the provision of Utility Services, nor the availability of discounts, rebates, or waivers of terms and conditions of service to the taking of any goods or services from its Affiliate(s).

(7) There shall be no shared employees/expenses or assets between an Affiliate Implementor and an Administrator except as permitted in Section IX-6 (11) below for corporate support.

(8) An Administrator and its Affiliate(s) shall be separate corporate entities.

(9) An Administrator and its Affiliate(s) shall keep separate books and records. The books and records of Affiliates shall be open for examination by the CBEE and the Commission and their staffs.

(10) An Administrator shall not share office space, office equipment, services and systems with its Affiliates nor shall an Administrator allow its Affiliate(s) to access the computer or information systems used to perform its functions as an Administrator. Physical separation shall be accomplished by having office space in a separate building or, in the alternative, through the use of separate elevator banks and/or security-controlled access. This provision does not preclude an Administrator from sharing certain corporate support services with its Affiliates as approved in Section IX-6 (11).

(11) Corporate Support. As a general principle, an Administrator and its Affiliates may use joint corporate oversight, governance, support systems, and personnel. Any shared support shall be priced, reported, and conducted in accordance with the Rules set forth herein. As a general principle, unless otherwise permitted by these Rules, such joint utilization shall not allow or provide a means for the transfer of confidential information, create the opportunity for preferential treatment, lead to Customer confusion, or create significant opportunities for cross-subsidization of Affiliates. Examples of services that may be shared include: payroll, taxes, shareholder services, insurance, financial reporting, corporate accounting, corporate security, human resources (compensation, benefits, employment policies), employee records, corporate legal unrelated to marketing or regulatory issues, and pension management. Examples of services that may not be shared include: employee recruiting, engineering, hedging and financial derivatives and arbitrage services, gas and electric purchasing for resale, purchasing of gas transportation and storage capacity, purchasing of electric transmission, system operations, and marketing.

(12) To the extent not precluded by any other Rule, an Administrator and its affiliates may make joint purchases of goods and services, but not those associated with the provision of energy efficiency services to customers. An Administrator shall provide a list of joint purchases with its affiliates to the CBEE and the Commission.

(13) An entity or firm (Utility or otherwise) acting as a Program Administrator shall not use its own name, logo, service mark or "brand", trade name, or other corporate identification in association with its performance of the functions of a Program Administrator without the prior recommendation of the CBEE to the Commission and the Commission's approval. The CBEE shall develop the corporate identification to be used by a Program Administrator in the performance of its duties subject to Commission approval. An Affiliate of a Program Administrator may not use this CBEE corporate identification except and to the extent that the CBEE recommends, subject to Commission approval, that other Implementors be permitted

to use such corporate identification. Corporate identification includes, but is not limited to, name, logo, service mark or "brand" trademark or trade name, or other corporate identification.

(14) An Administrator shall not trade upon, promote, or advertise its Affiliate's affiliation with the Administrator's corporate identification developed by the CBEE nor shall an Affiliate trade upon, promote, or advertise its affiliation with the Administrator's corporate identification developed by the CBEE, except as authorized by the Commission.

(15) An Administrator, through action or words, shall not represent that its Affiliate Implementor(s) will receive any different treatment than other Implementor(s) as a result of the Affiliate's affiliation with the Administrator. Nor shall an Affiliate, through actions or words, represent to Customers or others that it will receive any different treatment than other Implementors as a result of its affiliation with the Administrator.

(16) Joint marketing or services between an Administrator and its Affiliate is prohibited unless such joint marketing or services has received the prior recommendation of the CBEE, and the approval of the Commission, and is available to non-affiliates on the same terms as the Affiliate(s).

(17) An employee of an Administrator hired by an Affiliate shall not remove or otherwise provide information, directly or indirectly, to an Affiliate which the Affiliate would otherwise be precluded from having in these Rules.

(18) An Administrator shall not make temporary or intermittent assignments, or rotations of employees performing PGC-funded or related functions and responsibilities to its affiliates. All employee movement involving an employee performing PGC-funded or related functions and responsibilities between an Administrator and its affiliates shall be consistent with the following provisions:

a. An Administrator shall track and report to CBEE and the Commission all employee movement between the Administrator and affiliates annually, or at dates to be recommended to the Commission by CBEE.

b. Once an employee of an Administrator performing PGC-funded or related functions and responsibilities becomes an employee of an affiliate, the employee may not return to the Administrator for a period of one year to perform PGC-funded or related functions and responsibilities of the Administrator. This Rule is inapplicable if the affiliate to which the employee transfers goes out of business during the one-year period. In the event such an employee returns to the Administrator to perform PGC-funded or related functions and responsibilities, such employee cannot be transferred, reassigned, or otherwise employed by an affiliate for a period of two years. Employees transferring from the Administrator to the affiliate are expressly prohibited from using information gained from the performance of PGC-funded or related functions and responsibilities for the Administrator in a discriminatory or exclusive fashion, to the benefit of the affiliate or to the detriment of other unaffiliated energy efficiency service providers.

(19) An Administrator may provide non-public information and data which has been received from a non-affiliated Implementor to its Affiliate(s) only if the Administrator first obtains written authorization to do so from the non-affiliated Implementor.

(20) An Administrator shall provide non-proprietary information to its Affiliate(s) and non-affiliated entities on a strictly non-discriminatory basis and only if that information is contemporaneously available to non-affiliated entities on the same terms and conditions. An Administrator shall provide a non-discriminatory process which allows Implementors (including Affiliates) access to Utility Customer Information without prior affirmative written consent of a Customer, but with adequate customer privacy protections, as necessary and appropriate. This process shall be presented to CBEE for review and

recommendations, and be subject to Commission approval.

Utility Customer Information received through this process may be used only for PGC-funded programs and purposes. A violation of the use of Utility Customer Information for purposes other than PGC-funded programs and purposes may result in penalties, including but not limited to revocation of an Administrator's or Implementor's ability to participate in PGC-funded efforts.

(21) If a Customer requests information from an Administrator about an affiliated service provider or Implementor, or the Administrator provides a list of service providers or Implementors to Customers, the Administration shall provide a list of all providers of relevant Energy Efficiency providers. The Administrator shall maintain on file with the CBEE and the Commission a list of service providers which will be disseminated to Customers. Any Implementor or service provider may request that it be included on the list, and barring Commission direction, the Administrator shall honor such request. When maintenance of such a list is unduly burdensome due to the number of service providers or Implementors, an Administrator, subject to Commission approval by Advice Letter filing, shall direct a Customer to a generally available list of service providers (e.g., the Yellow Pages). The list of service providers should make clear that neither the CBEE nor the Administrator guarantee the financial stability or service quality of the service providers listed by the act of approving this list.

(22) An Administrator may provide proprietary information to its Affiliate(s) except the Affiliate's use of such proprietary information is limited to use in conjunction with the permitted corporate services, and is not permitted for any other use.

(23) An Administrator shall maintain contemporaneous records documenting all transactions with its Affiliate Implementor(s). Such records will be maintained for three years and be made available for third party review upon 72 hours notice, or a time mutually agreeable to the Administrator and third party.

(24) An Administrator shall, on an annual basis, have audits prepared by independent auditors that verify compliance with the Rules set forth herein. Said audits shall be filed with the Commission with copies to CBEE on dates to be established by the CBEE.

IX-7. In addition to the requirements and limitation of Sections IX-1 through IX-6, the requirements and limitations set forth in this section [Section IX-7, numbers (1) through (4)] shall apply to a Utility Administrator. Existing Commission rules for each Utility and its Affiliates shall apply except to the extent that they conflict with these Rules. In such cases, these Rules shall supersede other existing rules and guidelines, except as expressly stated by the Commission.

(1) A Utility Administrator shall provide access to Utility information and services on the same terms for all Market Participants. If a Utility Administrator provides services or information to its Affiliate(s) acting as Implementors within the area subject to the control or supervision of the Utility Administrator, it shall contemporaneously make the offering and/or information available to all Implementors and other Market Participants.

(2) A Utility Administrator shall provide Utility Customer Information to its Affiliate(s) and non-affiliated Implementors on a strictly non-discriminatory basis consistent with Section IX-6 (20), as appropriate.

(3) Non-customer specific information, including but not limited to information about a Utility's natural gas or electricity purchases, sales, or operations or about the Utility's gas-related goods or services, electricity related goods and services shall be available to a Utility Affiliate only if the Utility makes the information contemporaneously available to all other Market Participants and keeps the information open to the public.

(4) A Utility Administrator and its Affiliate Implementor(s) shall keep separate books and records.

The books and records of Affiliates shall be open for examination by the CBEE and the Commission, and their staffs, consistent with the provisions of Public Utilities Code Section 314.

IX-8. In addition to the requirements and limitations of Sections IX-1 through IX-7, an Affiliate of a Utility that is an Administrator shall provide access to Utility and other information and services provided to the Administrator contemporaneously and on the same terms to other Implementors and Market Participants.

X. Affiliate Rules for Interim Administrators

X-1. Affiliates of an Interim Administrator in aggregate may not receive under any circumstances, on a program year basis, more than 5% of the authorized PGC funds expended for Administrative Services in a program administered by an affiliated Interim Administrator.

X-2. Affiliates of an Interim Administrator in aggregate may not receive under any circumstances, on a program year basis, more than 5% of the authorized PGC funds expended for Market Assessment and Evaluation activities across all programs administered by an affiliated Interim Administrator.

X-3. Affiliates of an Interim Administrator in aggregate may not receive under any circumstances, on a program year basis, more than 15% of the authorized PGC funds expended for implementation and non-administrative activities in a program administered by an affiliated Interim Administrator.

X-4. An affiliate of a Program Administrator may not use the independent statewide corporate identification developed by the CBEE and approved by the Commission, except and to the extent that the CBEE recommends, subject to Commission Approval, that other Implementers are permitted to use such corporate identification. Corporate identification includes, but is not limited to, name, logo, service mark or "brand" trademark or trade name, or other corporate identification.

An Administrator shall not trade upon, promote, or advertise its Affiliate's affiliation with the Administrator's independent statewide corporate identification developed by the CBEE nor shall an Affiliate trade upon, promote or advertise its affiliation with the Administrator's independent statewide corporate identification developed by the CBEE, except as authorized by the Commission.

X-5. In addition to the requirements and limitation of Sections X-1 through X-4, the requirements and limitations set forth in this section [Section X-5, numbers (1) through (4)] shall apply to a utility Interim Administrator. Existing Commission rules for each Utility and its Affiliates shall apply except to the extent that they conflict with these Rules. In such cases, these Rules shall supersede other existing rules and guidelines, except as expressly stated by the Commission.

(1) A Utility Administrator shall provide access to Utility information and services on the same terms for all Market Participants. If a Utility Administrator provides services or information to its Affiliate(s) acting as Implementors within the area subject to the control or supervision of the Utility Administrator, it shall contemporaneously make the offering and/or information available to all Implementors and other Market Participants.

(2) A Utility Administrator shall provide Utility Customer Information to its Affiliate(s) and non-affiliated Implementors on a strictly non-discriminatory basis consistent with Section IX-6 (20), as appropriate.

(3) Non-customer specific information, including but not limited to information about a Utility's natural gas or electricity purchases, sales, or operations or about the Utility's gas-related goods or services, electricity related goods and services shall be available to a Utility Affiliate only if the Utility makes the information contemporaneously available to all other Market Participants and keeps the information open to the public.

(4) A Utility Administrator and its Affiliate Implementor(s) shall keep separate books and records. The books and records of Affiliates shall be open for examination by the CBEE and the Commission, and their staffs, consistent with the provisions of Public Utilities Code Section 314.

ATTACHMENT B: APPENDIX A

Policy Rules Definitions

Administrator: A person, company, partnership, corporation, association, or other entity selected through a competitive solicitation process by the Commission and any Subcontractor that is retained by an aforesaid entity to oversee and administer Energy Efficiency Programs funded in whole or in part from PGC funds.

Administrative Services: The services to be provided by the Administrator, separate from the limited implementation or other services an Administrator may perform with prior approval of the Commission.

Affiliate: Any person, corporation, utility, partnership, or other entity 5% or more of whose outstanding securities are owned, controlled, or held with power to vote, directly or indirectly either by an Administrator or any of its subsidiaries, or by that Administrator's controlling corporation and/or any of its subsidiaries as well as any company in which the Administrator, its controlling corporation, or any of the Administrator's affiliates exert substantial control over the operation of the company and/or indirectly have substantial financial interests in the company exercised through means other than ownership. For purposes of these Rules, "substantial control" includes, but is not limited to, the possession, directly and indirectly and whether acting alone or in conjunction with others, of the authority to direct or cause the direction of the management of policies of a company. A direct or indirect voting interest of five percent (5%) or more by the Administrator, its subsidiaries, or its Affiliates in an entity's company creates a rebuttable presumption of control.

Analysis Agent: An entity or entities selected to perform analytic functions such as strategic planning, market assessment, and evaluation.

California Board for Energy Efficiency (CBEE): The advisory board established by the Commission to advise it on and assist it with the development and implementation of ratepayer-funded Energy Efficiency Programs.

California Public Utilities Commission or the Commission: The state agency charged with regulating California Utilities, and with overseeing ratepayer-funded public purpose Energy Efficiency programs.

Cost-Beneficial: (Definition to be developed during the public workshops.)

Cost-Effectiveness: An indicator of the relative performance or economic attractiveness of any Energy Efficiency investment or practice when compared to the costs of energy produced and delivered in the absence of such an investment. In the Energy Efficiency field, the present value of the estimated benefits produced by an Energy Efficiency Program as compared to the estimated total program's costs, either from the perspective of society as a whole or from the perspective of individual customers, to determine if the proposed investment or measure is desirable from a variety of perspectives, e.g., whether the estimated benefits exceed the estimated costs. *See* Public Purpose Test and Participant Test.

Cream Skimming: Cream skimming results in the pursuit of only the lowest cost or most cost-effective energy efficiency measures, leaving behind other cost-effective opportunities. Cream skimming is inappropriate when lost opportunities are created in the process.

Customer: Any person or entity that is the ultimate consumer of Utility Services and/or other goods and services including Energy Efficiency products, services, or practices.

Customer Information: Non-public information and data specific to a Utility Customer which the utility acquired or developed in the course of its provision of Utility Services.

Demand Side or Demand Side Management (DSM): Programs that reduce the use of energy by the use of Energy Efficiency products, services, and practices, or that change the timing of energy use.

Energy Efficiency: The use of energy efficiency products, services, and practices or an energy-using appliance or piece of equipment, to reduce energy usage while maintaining a comparable level of service when installed or applied on the

Customer side of the meter. ~~Until further notice of the Commission, energy efficiency shall not include the use of demand-side applications or technologies that use a renewable energy source.~~

Energy Efficiency Measure: Any product, service, or practice or an energy-using appliance or piece of equipment that will result in reduced energy usage at a comparable level of service when installed on the Customer side of the meter. ~~Until further notice of the Commission, energy efficiency shall not include the use of demand-side applications of technologies that use a renewable energy source.~~

Energy Efficiency Program: An activity, strategy, or course of action undertaken by a Program Administrator using PGC funds.

Evaluation: The performance of studies and activities aimed at determining the effects of a program, including program-induced changes in energy efficiency markets, energy savings, and program cost-effectiveness.

Implementor: An entity or person selected and contracted with or qualified by a Program Administrator to receive PGC funds for providing products and services to Customers or for providing services for integrated and upstream market transformation efforts.

Integrated Market Transformation: A program designed to integrate the needs of both sellers and buyers of more efficient products and services to ensure that the desired market effects from the program are sustainable even if the primary focus of intervention is to work with the manufacturers, distributors, or sellers of a product. *Also see* Upstream Market Transformation.

Interim Administrators: The investor-owned Utilities charged with continuing to administer Energy Efficiency programs on an interim basis.

Lost Opportunities: Energy efficiency measures that offer long-lived, cost-effective savings that are fleeting in nature. A lost opportunity occurs when a customer does not install an energy efficiency measure that is cost-effective at the time, but whose installation is unlikely to be cost-effective (or is less cost-effective) later.

Market Actors: Individuals and organizations in the production, distribution, and/or delivery chain of Energy Efficiency products, services and practices. This may include, but is not limited to, manufacturers, distributors, wholesalers, retailers, vendors, dealers, contractors, developers, builders, financial institutions, and real estate brokers and agents.

Market Assessment: An analysis function which provides an assessment of how and how well a specific market or market segment is functioning with respect to the definition of well-functioning markets or with respect to other specific policy objectives. Generally includes a characterization or description of the specific market or market segments, including a description of the types and number of buyers and sellers in the market, the type and number of transactions that occur on an annual basis, and the extent to which Energy Efficiency is considered an important part of these transactions by market participants. This analysis may also include an assessment of whether or not a market has been sufficiently transformed to justify a reduction or elimination of specific program interventions. Market assessment can be blended with strategic planning analysis to produce recommended program designs or budgets. One particular kind of market assessment effort is a *baseline study*, or the characterization of a market before the commencement of a specific intervention in the market, for the purpose of guiding the intervention and/or assessing its effectiveness later.

Market Barrier: Any characteristic of the market for an energy-related product, service, or practice that helps to explain the gap between the actual level of investment in, or practice of, Energy Efficiency and an increased level that would appear to be cost-beneficial.

Market Effect: A change in the structure or functioning of a market or the behavior of participants in a market that is reflective of an increase in the adoption of Energy-Efficient products, services, or practices and is causally related to Market Interventions.

Market Event: The broader circumstances under which a Customer considers adopting an Energy Efficiency product, service, or practice. Types of market events include, but are not necessarily limited to, the following: (i) *new construction*, or the construction of a new building or facility; (ii) *renovation*, or the updating of an existing building or facility; (iii) *remodeling*, or a change in an existing building; (iv) *replacement*, or the replacement of equipment, either as a result of an emergency such as equipment failure, or as part of a broader planned event; and, (v) *retrofit*, or the early replacement of equipment or refitting of a building or facility while equipment is still functioning, often as a result of an intervention into Energy Efficiency markets.

Market Participants: The individuals and organizations participating in transactions with one another within an Energy Efficiency market or markets, including Customers and Market Actors.

Market Segmentation: The division of the Customers, Market Actors, products, services, or types of transactions that a marketing agent seeks to influence into discrete elements that facilitate marketing efforts and relate closely to the boundaries of actual markets.

Market Transformation: Long-lasting, sustainable changes in the structure or functioning of a market achieved by reducing barriers to the adoption of energy efficiency measures to the point where further publicly-funded intervention is no longer appropriate in that specific market. Using the terms in this section, Market Transformation is a reduction in Market Barriers resulting from a Market Intervention, as evidenced by a set of Market Effects, that lasts long after the intervention has been withdrawn, reduced, or changed.

New Construction: Residential and non-residential buildings that have been newly built or have added major additions subject to Title 24, the California building standards code.

Non-Residential: Facilities used for business, commercial, agricultural, institutional, and industrial purposes.

Performance Measurement: The determination of the extent to which a person, organization, or program is successfully meeting specified goals and objectives.

Participant Test: As discussed in the Policy Rules, a cost-effectiveness test intended to measure the cost-effectiveness of Energy Efficiency Programs from the perspective of those Customers (individuals or organizations) participating in them.

Parties or Interested Parties: Persons and organizations with an interest in Energy Efficiency that comment on or participate in the CBEE's and the Commission's efforts to develop and implement ratepayer-funded Energy Efficiency Programs.

Privatization: A process through which PGC-funded Energy Efficiency Programs are used to transform Energy Efficiency markets so that private transactions between private providers and Customers constitute an increasing portion of all energy efficiency transactions without a continuing need for the use of public funds.

Program: An activity, strategy, or course of action undertaken by a Program Administrator using PGC funds.

Program Administrator: An entity selected through a competitive solicitation process to administer Energy Efficiency Programs funded in whole or in part from PGC funds. *See Administrator.*

Program Design: The method or approach for making, doing, or accomplishing an objective by means of a Program.

Program Development: The process by which ideas for new or revised Energy Efficiency Programs are converted into a design to achieve a specific objective.

Program Management: The responsibility and ability to oversee and guide the performance of a Program to achieve its objective.

Project: An activity or course of action undertaken by an Implementor.

Project Development: The process by which an Implementor identifies a strategy or creates a design to provide Energy Efficiency products, services, and practices directly to Customers or to implement Market Transformation efforts.

Public Goods Charge (PGC): Ratepayer funding for energy efficiency activities and programs, including: (1) electric PGC funds for energy efficiency, (2) any energy efficiency funds resulting from a gas surcharge mechanism, and (3) gas DSM funds for energy efficiency authorized in the interim until a gas surcharge mechanism is implemented. Per Assembly Bill (AB) 1890, a universal charge applied to each electric utility Customer's bill to support the provision of public goods. Public goods covered by California's PGC include public purpose Energy Efficiency Programs, low-income services, renewables, and energy-related research and development. These Policy Rules apply only to Energy Efficiency PGC funds.

Public Purpose Test: A cost-effectiveness test intended to measure the overall cost-effectiveness of Energy Efficiency Programs from a societal perspective.

Residential: Existing single family residences, multi-family dwellings (whether master-metered or individually metered), and buildings that are essentially residential but used for commercial purposes, including, but not limited to, time shares, vacation homes, etc.

Standard Performance Contracting (SPC) Program: An Energy Efficiency Program consisting of a set of agreements between an Administrator and a number of Project sponsors (either Implementors or Customers) to deliver energy savings from the installation of Energy Efficiency measures and technologies at a Customer facility or set of facilities for a pre-specified price per unit of energy savings which is to be measured using a pre-specified set of Measurement and Verification (M&V) protocols. A SPC program is an open-ended offer with a pre-specified price and set of terms.

Strategic Planning: An analysis function designed to produce recommendations to the CBEE or its Administrator to help guide its policy objectives, program priorities, program designs, and/or resource allocations to capitalize on market opportunities and/or increase the effectiveness of current programs.

Subcontractor: A person or entity who has a secondary contract undertaking some obligations of another contract executed by another person or entity.

Upstream Market Transformation: A term sometimes used to classify programs that primarily work with Market Actors upstream of end use Customers to increase the adoption rate of energy efficient products, services, or practices. *Also see* Integrated Market Transformation.

Utility: Any public utility subject to the jurisdiction of the Commission as an Electrical Corporation or Gas Corporation, as defined by California Public Utilities Code Sections 218 and 222.

Utility Services: Regulated Utility Services including gas and electric energy sales, transportation, generation, distribution or delivery, and other related services, including, but not limited to, administration of Demand Side Services, scheduling, balancing, metering, billing, gas storage, standby service, hookups and changeovers of service to other energy suppliers.

ATTACHMENT B: APPENDIX B
Comparison of the PPT to the TRC and Societal Tests

This appendix compares the Total Resource Cost (TRC) and Societal Tests to the Public Purpose Test (PPT) along three dimensions. First, the elements included in the calculation of the three tests are compared. Second, current practice in calculating the TRC Test is compared to proposed practice in calculating the PPT. Third, the ways in which the TRC and PPT tests are used in the Policy Rules are compared.

Table B-1. Comparison of Elements Included in the Calculation of the TRC, Societal, and PPT Tests

		Total Resource Cost Test[6]	Societal Test[6]	Public Purpose Test
Benefits	Net Energy and Demand Savings	Yes	Yes	Yes
	Economic Value of Energy and Demand Savings	Yes	Yes	Yes
	Non-Energy Benefits (can also be a cost)	No	Yes	Yes
	Externalities, including Environmental (can also be a cost)	No	Yes	Yes
Costs	Utility Costs	Yes	Yes	Yes
	Incremental Participant Costs	Yes	Yes	Yes
	Indirect Costs (can also be a benefit)	Yes	Yes	Yes
Discount Rate		Utility Weighted Average Cost of Capital	Societal Discount Rate	Societal Discount Rate

The comparison presented in Table B-1 indicates that the PPT is based on the Societal Test, which also includes environmental externalities and relies on a societal discount rate. As currently described in the Standard Practice Manual, however, the Societal Test does not clearly allow for the inclusion of all non-energy benefits or costs (although it does appear to allow for the inclusion of some non-energy benefits and costs).

More importantly, current practice in calculating the TRC differs from that proposed for the PPT. See Table B-2.

Finally, as described in Section IV, application of the PPT in the modified policy rules also differs from application of the TRC in the existing DSM rules. See Table B-3.

[6] CPUC/CEC. *Standard Practice Manual for Economic Analysis of Demand-Side Management Programs.* December, 1987

Table B-2. TRC versus PPT - Comparison of Practices in Calculating the Tests

		Total Resource Cost Test	Public Purpose Test
Benefits	Energy and Demand Savings	Though spillover can be included, typically focused only on savings associated with non-free-riding program participants.	In addition to savings from non-free riding participants, attempt to include spillover - report precision. New methods may be needed to determine an appropriate baseline.
	Economic Value of Energy and Demand Savings	Administratively-determined avoided costs	Taken from competitive market or forecasts of competitively determined prices, except when prices are regulated, such as those for T&D. T&D costs based on utility costs displaced by programs.
	Non-Energy Benefits (can also be a cost)	Not included	Attempt to include directly-related non-energy benefits and costs - report precision.
	Externalities, including Environmental (can be both a benefit and a cost)	Not included	Yes.
Costs	Utility Costs	In addition to direct program costs, includes overhead, measurement and evaluation, and shareholder incentives	Utility costs, per se, are no longer relevant; however, principle of including all costs associated with Administrator/Implementor delivery remains the same.
	Incremental Participant Costs	Included; reductions in costs induced by program only increase net benefits for future year programs - see "unit of analysis"	Included; reductions in the costs measures resulting from a program are counted as a benefit since term of the program may span over multiple program years - see "unit of analysis" and "term of analysis"
	Indirect Costs (can also be a benefit)	Rarely included because difficult to quantify; reductions in O&M sometimes included as an indirect benefit	Attempt to include a wide variety of indirect costs and benefits - report precision.
Unit of analysis		Individual program years without exception	Depends on the design of a program, typically a single year, but can include multiple years in the case of an integrated multi-year set of activities.
Term of analysis		Lifecycle of measures or activities installed or undertaken in single program year	Initially, lifecycle of measures or activities installed or undertaken in current or set of program years, but also may include measures or activities undertaken outside the term of the program

Table B-3. TRC versus PPT - Application to Policy Rules

		Total Resource Cost Test under Existing DSM Rules	Public Purpose Test under Modified Policy Rules
To What Are The Tests Applied on a Prospective Basis?	Measure Program Elements (e.g., under existing DSM rules: a three T-8 lamp fixture with electronic ballast replacing a four T-12 lamp fixture with energy-efficient magnetic ballast)	Required, except for New Construction, Information, and Direct Assistance programs.	Not necessarily. (Other tests may apply to measures, such as participant test)
	End-Use Program Elements (e.g., under existing DSM rules: commercial lighting retrofit program, but not PG&E Retrofit Express Program)	Required, except for New Construction, Information, and Direct Assistance programs. Calculated using the sum of measure program elements	Not necessarily.
	Programs (e.g., under existing DSM rules: Commercial Energy Efficiency Incentives)	Required, except for Information and Direct Assistance programs. Calculated using the sum of end-use program elements, plus non-measure costs	Not necessarily; used in conjunction with other priority-setting criteria for funding allocation purposes.
	Total portfolio of PGC-funded programs	Not required.	Yes, as the sum of incremental participant, program, plus non-allocable costs (e.g., overhead)
Relationship Between Ex Ante Versus Ex Post Measurement of Energy Savings	Measure Program Elements	Ex post measurement of first year savings update future ex ante estimates; Ex post persistence and measure lifetime studies update ex ante measure lifetime estimates	Same, but evaluation efforts will generally not be focused only on measuring first year savings and measure lifetimes for individual measures
	End-Use Program Elements	Ex post calculation of cost effectiveness calculated as the sum of measure elements, but only insofar as necessary to support shareholder earnings claims	Same as above
	Programs	Same as program elements	Yes
	Administrator's portfolio of programs	Not reported	Yes
		Total Resource Cost Test under Existing DSM Rules	Public Purpose Test under Modified Policy Rules
Link Between Cost Effectiveness and Compensation to Administrator	Measure Program Elements	Yes, for measures eligible for shared savings	None
	End-Use Program Elements	Yes, for end-use program elements eligible for shared savings	None
		Total Resource Cost Test under Existing DSM Rules	Public Purpose Test under Modified Policy Rules
Link Between Cost Effectiveness and Compensation to Administrator	Measure Program Elements	Yes, for measures eligible for shared savings	None
	End-Use Program Elements	Yes, for end-use program elements eligible for shared savings	None
	Programs	Yes, for programs eligible for shared savings	No direct link, but can be included, yet not as the primary determinant, in establishing compensation
	Administrator's portfolio of programs	No, only for programs eligible for shared savings	No direct link, but can be included, yet not as the primary determinant, in establishing compensation

ATTACHMENT B: APPENDIX C
SELECTED STATEWIDE COST-EFFECTIVENESS INPUT VALUES

The CBEE recommends the CPUC direct interim administrators to rely on statewide cost-effectiveness input values for:

1. Avoided electricity generation
2. Avoided transmission and distribution costs and loss factors
3. Avoided natural gas consumption by end users
4. Avoided environmental externalities

This attachment summarizes the CBEE's recommendations for these values and compares the recommended values for electricity to those used by the interim administrators in PY98. T&D loss factors have already been included in the recommended avoided electricity generation values and so are not reported separately.

Summary of CBEE Recommended Input Values for PY99 Cost-Effectiveness Evaluation

	Gen $/MWh	T&D $/MWh	Env Ext $/MWh	Total $/MWh	Gas $/therm	Env Ext $/therm	Total $/therm
1999	33.1	4.7	6.0	43.8	0.319	0.053	0.372
2000	34.1	4.9	6.2	45.2	0.330	0.055	0.385
2001	34.9	5.1	6.4	46.4	0.339	0.056	0.395
2002	37.2	5.3	6.6	49.0	0.348	0.058	0.406
2003	38.5	5.5	6.8	50.8	0.358	0.060	0.418
2004	40.0	5.7	7.0	52.8	0.369	0.062	0.431
2005	41.5	6.0	7.2	54.7	0.380	0.063	0.443
2006	43.3	6.2	7.4	56.9	0.391	0.065	0.456
2007	45.0	6.5	7.6	59.1	0.404	0.067	0.471
2008	46.8	6.8	7.9	61.4	0.416	0.069	0.485
2009	48.7	7.0	8.1	63.9	0.429	0.071	0.500
2010	50.8	7.3	8.3	66.5	0.442	0.073	0.515
2011	53.0	7.6	8.6	69.2	0.452	0.076	0.528
2012	55.3	7.9	8.8	72.1	0.461	0.078	0.539
2013	57.7	8.3	9.1	75.1	0.472	0.080	0.552
2014	60.2	8.6	9.4	78.2	0.482	0.083	0.565
2015	62.7	9.0	9.7	81.4	0.493	0.085	0.578
2016	65.4	9.3	9.9	84.7	0.504	0.088	0.592
2017	68.2	9.7	10.2	88.2	0.516	0.090	0.606
2018	71.1	10.1	10.5	91.8	0.528	0.093	0.621

Comparison of Avoided Electricity Costs Projections

This table compares the avoided electricity costs (including avoided generation, avoided T&D, losses, and avoided environmental externalities) recommended by the CBEE to those used by the interim administrators in PY98. The comparison information is taken from the utilities' 1998 annual DSM summary reports. Interim administrators worked with CBEE's TSC to express the values in a manner that would facilitate comparison to the CBEE's recommended values.

Comparison of Electricity Avoided Costs ($/MWh)

	CBEE	PG&E	SCE	SDG&E
1999	43.8	69.0	44.2	47.3
2000	45.2	71.1	45.5	48.7
2001	46.4	73.2	46.9	50.2
2002	49.0	75.4	48.3	51.7
2003	50.8	77.7	49.7	53.3
2004	52.8	80.0	51.2	54.9
2005	54.7	82.4	52.8	56.5
2006	56.9	84.9	54.4	58.2
2007	59.1	87.4	56.0	59.9
2008	61.4	90.1	57.7	61.7
2009	63.9	92.8	59.4	63.6
2010	66.5	95.5	61.2	65.5
2011	69.2	98.4	63.0	67.5
2012	72.1	101.4	64.9	69.5
2013	75.1	104.4	66.9	71.6
2014	78.2	107.5	68.9	73.7
2015	81.4	110.8	70.9	75.9
2016	84.7	114.1	73.1	78.2
2017	88.2	117.5	75.2	80.6
2018	91.8	121.0	77.5	83.0

Sources Mike Wan, PG&E (10/5/98)
Tory Weber, SCE (10/5/98)
Athena Besa, SDG&E (10/5/98)

1. Avoided Electricity Generation

The CBEE's recommended value for avoided electricity generation is based on three elements: 1. Avoided generation energy costs; and 2. Avoided generation capacity costs. A third element, avoided T&D losses, is also included because it is by convention linked to avoided generation costs.

The CBEE bases its recommendation for the value of avoided generation and avoided long-run generation capacity costs on the CEC's forecast of electricity market clearing prices from California's new competitive electricity generation market.[5] Prices set in this market now establish the value of electricity generation.

The CBEE bases its recommendation for the value of avoided short-run generation capacity costs on prices of ancillary services used by the ISO as well as those developed through the PX. Ancillary services consist of a variety of electricity services needed to ensure reliability (such as spinning reserve). Many of these prices are fixed for generators byFERC approved tariffs; others, for a selected number of generators, are set through a market that is conducted by the PX. The prices for ancillary services typically range between $5-8/MWh (0.5-0.8 cents/kWh). Last summer, FERC allowed the ISO to cap market prices at $250/MWh as a result of market instability. The recommend $5/MWh, escalated at a 3%/year, is a conservative estimate of cost of ancillary services.

The CBEE reviewed information provided by the utilities on T&D loss factors. Values range from about 7% to over 10% (for on-peak capacity). The recommend 7% is a conservative measure of T&D losses.

	Mkt Clear Price $/MWh	MCP escalation	Ancillary Services $/MWh	AS escalation	Losses	Avd Cost Gen $/MWh
1999	25.9		5.0		7%	33.1
2000	26.7	3.2%	5.2	3%	7%	34.1
2001	27.4	2.4%	5.3	3%	7%	34.9
2002	29.3	7.0%	5.5	3%	7%	37.2
2003	30.3	3.7%	5.6	3%	7%	38.5
2004	31.6	4.2%	5.8	3%	7%	40.0
2005	32.8	3.8%	6.0	3%	7%	41.5
2006	34.3	4.4%	6.1	3%	7%	43.3
2007	35.7	4.2%	6.3	3%	7%	45.0
2008	37.3	4.3%	6.5	3%	7%	46.8
2009	38.8	4.2%	6.7	3%	7%	48.7
2010	40.6	4.5%	6.9	3%	7%	50.8
2011	42.4	4.5%	7.1	3%	7%	53.0
2012	44.3	4.5%	7.3	3%	7%	55.3
2013	46.4	4.6%	7.6	3%	7%	57.7
2014	48.4	4.5%	7.8	3%	7%	60.2
2015	50.6	4.5%	8.0	3%	7%	62.7
2016	52.9	4.5%	8.3	3%	7%	65.4
2017	55.2	4.5%	8.5	3%	7%	68.2
2018	57.7	4.5%	8.8	3%	7%	71.1

[5] California Energy Commission. "Interim Staff Market Clearing Price Forecast for the California Energy Market." December, 1997.

2. Avoided Transmission and Distribution Costs

The CBEE weighted forecasts of avoided T&D costs by 1996 sales for each utility to develop a recommended statewide average. The CBEE converted the values from $/kW to $/MWh by assuming a 0.6 load factor.

96 sales	73.318		15.981		73.785				
save wght	0.45		0.10		0.45				load factor 0.6
	PG&E		SDG&E		SCE		Wght Ave		
	$/kW	escalation	$/kW	escalation	$/kW	escalation	$/kW	escalation	$/MWh
1999	44.7		12.7		7.4		24.7		4.69
2000	46.6	4.3%	13.1	3.3%	7.6	3.5%	25.7	4.1%	4.88
2001	48.6	4.3%	13.6	3.2%	7.9	3.5%	26.7	4.1%	5.09
2002	50.7	4.3%	14.0	3.2%	8.1	3.5%	27.8	4.1%	5.29
2003	52.8	4.3%	14.5	3.4%	8.4	3.5%	29.0	4.1%	5.51
2004	55.1	4.3%	15.0	3.5%	8.7	3.5%	30.2	4.1%	5.74
2005	57.4	4.3%	15.5	3.5%	9.0	3.5%	31.4	4.1%	5.98
2006	59.9	4.3%	16.0	3.5%	9.4	3.5%	32.7	4.1%	6.23
2007	62.5	4.3%	16.6	3.5%	9.7	3.5%	34.1	4.1%	6.48
2008	65.1	4.3%	17.2	3.5%	10.0	3.5%	35.5	4.1%	6.75
2009	67.9	4.3%	17.8	3.4%	10.4	3.5%	37.0	4.1%	7.03
2010	70.8	4.3%	18.4	3.4%	10.7	3.5%	38.5	4.1%	7.32
2011	73.8	4.3%	19.0	3.5%	11.1	3.5%	40.1	4.1%	7.63
2012	77.0	4.3%	19.7	3.5%	11.5	3.5%	41.7	4.1%	7.94
2013	80.3	4.3%	20.3	3.3%	11.9	3.5%	43.5	4.1%	8.27
2014	83.7	4.3%	21.0	3.3%	12.3	3.5%	45.3	4.1%	8.61
2015	87.3	4.3%	21.7	3.3%	12.7	3.5%	47.1	4.1%	8.97
2016	91.0	4.3%	22.4	3.3%	13.2	3.5%	49.1	4.1%	9.34
2017	94.9	4.3%	23.2	3.3%	13.7	3.5%	51.1	4.1%	9.73
2018	99.0	4.3%	24.0	3.4%	14.1	3.5%	53.2	4.1%	10.13

Sources: Mike Wan (10/1/98) PG&E System Average Capacity Values ($/kW-yr) for DSM Evaluation
Athena Besa (10/2/98) Avoided T&D Costs
Don Arambula (9/9/98) 1999 Avoided Costs for Retrofit Programs T&D Value $/kW-yr

3. Avoided Natural Gas Costs

The CBEE reviewed information developed by PG&E and SCG on avoided gas costs. SDG&E recommended SCG's values as representative of SDG&E avoided gas costs. The CBEE weighted the two cost streams using core gas sales for each company to develop a recommended statewide average.

96 core sales	2.7		3.1			
Saleswght	0.46		0.54		Avoided	
	PG&E		SCG		Gas	
	$/therm	escalation	$/therm	escalation	$/therm	escalation
1999	0.311		0.326		0.319	
2000	0.320	2.9%	0.338	3.7%	0.330	3.3%
2001	0.329	2.8%	0.348	3.0%	0.339	2.9%
2002	0.338	2.7%	0.357	2.6%	0.348	2.7%
2003	0.348	3.0%	0.367	2.8%	0.358	2.9%
2004	0.359	3.2%	0.378	3.0%	0.369	3.1%
2005	0.369	2.8%	0.389	2.9%	0.380	2.9%
2006	0.380	3.0%	0.401	3.1%	0.391	3.0%
2007	0.392	3.2%	0.414	3.2%	0.404	3.2%
2008	0.403	2.8%	0.427	3.1%	0.416	3.0%
2009	0.416	3.2%	0.440	3.0%	0.429	3.1%
2010	0.428	2.9%	0.455	3.4%	0.442	3.2%
2011	0.442	3.3%	0.461	1.3%	0.452	2.2%
2012	0.455	2.9%	0.467	1.3%	0.461	2.0%
2013	0.469	3.1%	0.474	1.5%	0.472	2.2%
2014	0.483	3.0%	0.481	1.5%	0.482	2.2%
2015	0.499	3.3%	0.488	1.5%	0.493	2.3%
2016	0.514	3.0%	0.495	1.4%	0.504	2.2%
2017	0.530	3.1%	0.503	1.6%	0.516	2.3%
2018	0.547	3.2%	0.511	1.6%	0.528	2.4%

Sources: PG&E Residential Distribution Level Avoided Cost
SCG Core Customer Avoided Cost Winter Peaking

4. Avoided Electricity and Gas Externality Adders

The CBEE developed recommended environmental externality adders for electricity and gas use based on CEC-recommended values for individual pollutants. Specifically, the CEC does not recommend reliance on values developed by CEC for ER94, but instead values based on recent experience from California markets were permits for these pollutants are traded. The one exception is carbon, which is not traded; CEC continues to recommend $30/ton.

The CBEE converted the CEC recommended values to $/MWh and $/therm using conversion factors developed by the CEC and SCG. The electricity conversion factors are consistent with the methods used by the CEC to develop its forecast of market clearing prices. Both values are escalated at an assumed inflation rate of 3%/yr.

CEC Air Emissions Externality Values for Program Portfolio
Cost-Effectiveness Calculations (9/28/98)

Pollutant	1999 $/ton
SOx	1780
NOx	1800
VOC	530
PM10	910
C	30

Electricity Environmental Externality Adder

Emission Factors (lb/kWh)

	Gas Stm	($/MWh)	Gas CT	($/MWh)	Gas CC	($/MWh)
SO2	1.08E-05	0.0	6.96E-04	0.6	1.44E-04	0.1
NOx	2.46E-04	0.2	4.15E-04	0.4	8.00E-06	0.0
VOC	3.28E-05	0.0	2.72E-04	0.1	6.40E-05	0.0
PM10	3.66E-05	0.0	2.57E-04	0.1	1.04E-04	0.0
C	0.333	5.0	0.469	7.0	0.264	4.0
		5.2		8.2		4.2
Percent Time Generator is Setting Market Clearing Price						
		0.6		0.2		0.2
Adder	$/MWh	5.6				
w/losses	7%	6.0				

Natural Gas Environmental Externality Adder

Emission Factors (lb/therm)

		($/therm)
NOx	4.50E-03	0.004
PM10	7.10E-04	0.000
C	3.245	0.049
Adder	$/therm	0.053

Escalate Adders Over Time

	Electricity	Natural Gas	escalation
1999	6.0	0.053	
2000	6.2	0.055	3%
2001	6.4	0.056	3%
2002	6.6	0.058	3%
2003	6.8	0.060	3%
2004	7.0	0.062	3%
2005	7.2	0.063	3%
2006	7.4	0.065	3%
2007	7.6	0.067	3%
2008	7.9	0.069	3%
2009	8.1	0.071	3%
2010	8.3	0.073	3%
2011	8.6	0.076	3%
2012	8.8	0.078	3%
2013	9.1	0.080	3%
2014	9.4	0.083	3%
2015	9.7	0.085	3%
2016	9.9	0.088	3%
2017	10.2	0.090	3%
2018	10.5	0.093	3%

Estimated Budget for 1999 PROGRAM AREAS Programs	Combined Electric & Gas % Budget	Budget	Low	High	Statewide Electric Budget	Statewide Gas Budget	PG&E % Total Budget	PG&E Budget	PG&E Electric Budget	PG&E Gas Budget	SCE % Total Budget	SCE Budget	SoCalGas % Total Budget	SoCalGas Budget	SDG&E % Total Budget	SDG&E Budget	SDG&E Electric Budget	SDG&E Gas Budget
	($ Millions)																	
RESIDENTIAL																		
Heating & Cooling Systems	11%	10.191	8.662	11.720	7.926	2.265	16%	6.200	5.118	1.082	8%	2.284	9%	0.864	7%	0.843	0.524	0.319
Lighting	14%	12.645	10.748	14.542	12.645	0.000	18%	6.988	6.988	0.000	11%	3.054	0%	0	21%	2.603	2.603	0
Appliances	36%	31.489	26.766	36.212	29.664	1.825	29%	11.735	11.180	0.555	57%	15.669	11%	1.042	25%	3.043	2.815	0.228
Retrofit & Renovation	39%	34.369	29.214	37.806	22.089	12.280	37%	14.940	11.177	3.763	23%	6.377	79%	7.389	47%	5.663	4.535	1.128
SubTotals	100%	88.694			72.324	16.370	100%	39.863	34.463	5.400	100%	27.384	100%	9.295	100%	12.152	10.477	1.675
Residential Programs	35%						35%				35%		34%		35%			
NON-RESIDENTIAL																		
Large Comprehensive Retrofit	29%	37.644	31.967	39.526	35.331	2.313	28%	16.147	15.499	0.648	39%	15.127	0%	0	36%	6.370	4.705	1.665
Small Comprehensive Retrofit	32%	41.374	35.168	43.443	28.047	13.327	33%	19.465	15.526	3.939	20%	7.856	64%	8.583	31%	5.470	4.665	0.805
HVAC Equipment Turnover	13%	17.018	14.465	19.571	16.084	0.934	14%	8.219	8.181	0.038	15%	6.017	1%	0.162	15%	2.620	1.886	0.734
Motor Turnover	4%	4.999	4.249	5.749	4.999	0.000	4%	2.506	2.506	0.000	4%	1.573	0%	0	5%	0.920	0.920	0.000
Process	11%	14.789	12.571	17.007	7.587	7.202	8%	4.798	2.603	2.195	10%	4.034	34%	4.587	8%	1.370	0.950	0.420
Commercial Remodeling/Renovation	10%	12.795	10.876	14.714	12.293	0.502	13%	7.385	7.018	0.367	12%	4.510	0%	0	5%	0.900	0.765	0.135
SubTotals	100%	128.619			104.341	24.278	100%	58.520	51.333	7.187	100%	39.117	100%	13.332	100%	17.650	13.891	3.759
Non-Residential Programs	51%						51%				50%		49%		51%			
NEW CONSTRUCTION																		
Residential	40%	14.786	12.568	17.004	9.037	5.749	44%	7.015	5.241	1.774	18%	2.171	81%	3.7	40%	1.900	1.625	0.275
Commercial	42%	15.671	13.320	18.022	14.912	0.759	44%	7.030	6.867	0.163	52%	6.125	5%	0.216	48%	2.300	1.920	0.380
Industrial & Agricultural	9%	3.481	2.959	4.003	3.338	0.143	5%	0.772	0.729	0.043	21%	2.509	0%	0	4%	0.200	0.100	0.100
Codes & Standards Support, Local Government Initiatives	9%	3.220	2.737	3.703	2.216	1.004	7%	1.201	1.045	0.156	8%	0.971	14%	0.648	8%	0.400	0.200	0.200
Subtotals	100%	37.158			29.503	7.655	100%	16.018	13.882	2.136	100%	11.776	100%	4.564	100%	4.800	3.845	0.955
New Construction Programs	15%						14%				15%		17%		14%			
PROGRAM AREA TOTAL		254.471			206.168	48.303		114.401	99.678	14.723		78.277		27.191		34.602	28.213	6.389
Performance Award Cap		27.991			22.677	5.314		12.584	10.964	1.620		8.610		2.991		3.806	3.103	0.703
Subtotal		282.462			228.845	53.617		126.985	110.642	16.343		86.887		30.182		38.408	31.316	7.092
OTHER BUDGET LINE ITEMS																		
Reserve to be Allocated in Sept 1999		15.556			12.495	3.061		7.057	6.527	0.530		4.013		2.528		1.958	1.955	0.003
Prior Reserve for New State Admin.		*7.500*			*7.500*			*3.562*	*3.562*			*2.905*				*1.033*	*1.033*	
Adjustment for CBEE Operating Budget		*0.012*			*0.012*			*0.006*	*0.006*			*0.004*				*0.002*	*0.002*	
Balance of Est. Avail. Funding vs Budget		*8.044*			*4.983*	*3.061*		*3.489*	*2.959*	*0.530*		*1.104*		*2.528*		*0.923*	*0.920*	*0.003*
State Staff Reserve		0.400			0.400			0.190	0.190			0.155				0.055	0.055	
CBEE 1999 Operating Budget		2.046			2.046			0.972	0.972			0.792				0.282	0.282	
MA&E: Utility-Administered		9.100			7.788	1.312		4.155	3.636	0.519		3.161		0.618		1.166	0.991	0.175
Utility-Managed State Level MA&E		*2.200*			*1.957*	*0.243*		*0.975*	*0.853*	*0.122*		*0.698*		*0.050*		*0.477*	*0.405*	*0.072*
Utility-Managed Utility Level MA&E		*3.000*			*2.303*	*0.697*		*1.215*	*1.063*	*0.152*		*0.870*		*0.480*		*0.435*	*0.370*	*0.065*
OTHER State Level MA&E, TBD		*3.900*			*3.528*	*0.372*		*1.965*	*1.719*	*0.246*		*1.593*		*0.088*		*0.254*	*0.216*	*0.038*
MA&E: CEC		2.900			2.464	0.436		1.301	1.138	0.163		0.934		0.204		0.461	0.392	0.069
DEER and CEC Data Collection		*2.100*			*1.753*	*0.347*		*0.947*	*0.829*	*0.118*		*0.680*		*0.186*		*0.287*	*0.244*	*0.043*
CEC-Managed State Level MA&E		*0.800*			*0.712*	*0.088*		*0.354*	*0.310*	*0.044*		*0.254*		*0.018*		*0.174*	*0.148*	*0.026*
Subtotal		30.002			25.193	4.809		13.675	12.463	1.212		9.055		3.350		3.922	3.675	0.247
Total Energy Efficiency Budget		312.464			254.038	58.426		140.660	123.105	17.555		95.942		33.532		42.330	34.991	7.339
Should total to:		312.464			312.464			140.660								42.330		

Budget Notes (to be completed):

Fund Shifting Allowed Among the Five MA&E Sub-Categories

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	R.94-04-031 (Filed April 20,1994)
Order Instituting Investigation on the Commission's Proposed Policies Governing Restructuring California's Electric Services Industry and Reforming Regulation	I.94-04-032 (Filed April 20,1994)

JOINT STATEMENT LISTING AGREEMENTS ON PUBLIC PURPOSE PROGRAM FUNDING TRANSFER ISSUES ON RENEWABLES AND RESEARCH, DEVELOPMENT AND DEMONSTRATION FUNDS

Jointly submitted by:

California Energy Commission
Pacific Gas and Electric Company
San Diego Gas and Electric Company
Southern California Edison Company

July 30, 1997

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

JUL 31 1997

Order Instituting Rulemaking on the Commission's Proposed Policies Governing Restructuring California's Electric Services Industry and Reforming Regulation	R.94-04-031 (Filed April 20,1994)
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JOINT STATEMENT LISTING AGREEMENTS ON PUBLIC PURPOSE PROGRAM FUNDING TRANSFER ISSUES ON RENEWABLES AND RESEARCH, DEVELOPMENT AND DEMONSTRATION FUNDS

I. INTRODUCTION

On June 18, 1997, Administrative Law Judge (ALJ) Meg Gottstein issued an "Administrative Law Judge's Ruling Requesting Comments on Public Purpose Program Filings" (Ruling) in the California Public Utilities Commission's (Commission) Electric Industry Restructuring proceeding (OIR 94-04-031/OII 94-04-032). The Ruling specifically requested the utilities (Southern California Edison Company (Edison), San Diego Gas & Electric Company (SDG&E), and Pacific Gas and Electric Company (PG&E)) and the California Energy Commission (CEC) to jointly file, on or before August 11, 1997, a statement listing (with specificity as to times, dates, amounts and implementing mechanisms) all public purpose program funding transfer issues on which the parties have reached agreement. This joint statement responds to that portion of the ruling.

The utilities and the CEC have reached agreement on all but one issue. The remaining issue, which will be separately briefed by each affected utility, is who is responsible for payment of the $75 million Renewables Program payment to the CEC, identified in Public Utilities Code §§381(c)(3) and (d).

II. TRANSFER OF RESEARCH, DEVELOPMENT AND DEMONSTRATION FUNDS

The parties agree that the public purpose program surcharge funds collected for the Research, Development and Demonstration (RD&D) programs administered by the CEC should be sent by the utilities directly to the CEC's "Public Interest Research, Development and Demonstration Program Fund" trust account established for these funds, unless otherwise directed by the Legislature or the Commission.[1]

With regard to the RD&D payments, the parties also agree that payments should be made no later than the following dates in the

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[1] The parties anticipate that the Legislature may clarify the RD&D and renewables transfer mechanisms in S.B. 90 (Sher), now pending before the Legislature, or in some other bill.

specified amounts, unless otherwise directed by the Legislature or the Commission:

RD&D Funds	PG&E	Edison ($Millions)	SDG&E	Total
1/5/98	$5.94	$5.64	$0.78	$12.36
3/31/98	5.94	5.64	0.78	12.36
6/30/98	5.94	5.64	0.78	12.36
9/30/98	5.94	5.64	0.78	12.36
12/31/98	5.94	5.64	0.78	12.36
3/31/99	7.425	7.05	0.975	15.45
6/30/99	7.425	7.05	0.975	15.45
9/30/99	7.425	7.05	0.975	15.45
12/31/99	7.425	7.05	0.975	15.45
3/31/00	7.425	7.05	0.975	15.45
6/30/00	7.425	7.05	0.975	15.45
9/30/00	7.425	7.05	0.975	15.45
12/31/00	7.425	7.05	0.975	15.45
3/31/01	7.425	7.05	0.975	15.45
6/30/01	7.425	7.05	0.975	15.45
9/30/01	7.425	7.05	0.975	15.45
12/31/01	7.425	7.05	0.975	15.45
Totals:	*$118.80*	*$112.80*	*$15.60*	*$247.20*

In accordance with the Ruling, the parties will comment on August 18, 1997, regarding Edison's June 3, 1997, Petition for Modification of Decision 97-04-044 and Clarification of Commission RD&D Balancing Account Policy.

III. TRANSFER OF RENEWABLES FUNDS

The parties agree that the public purpose program surcharge funds collected for the Renewables Programs administered by the

CEC should be sent by the utilities directly to the CEC's "Public Interest Renewable Resource Technologies Fund" trust account established for these funds, unless otherwise directed by the Legislature or the Commission.[2]

With regard to the Renewables Program payments, the parties also agree that payments should be made on or before the following dates in the specified amounts, unless otherwise directed by the Legislature or the Commission:

Renewable Funds	PG&E	Edison ($millions)	SDG&E	Total
1/5/98	$9.60	$9.90	$2.40	$21.90
3/31/98	9.60	9.90	2.40	21.90
6/30/98	9.60	9.90	2.40	21.90
9/30/98	9.60	9.90	2.40	21.90
12/31/98	9.60	9.90	2.40	21.90
3/31/99	12.00	12.375	3.00	27.375
6/30/99	12.00	12.375	3.00	27.375
9/30/99	12.00	12.375	3.00	27.375
12/31/99	12.00	12.375	3.00	27.375
3/31/00	12.00	12.375	3.00	27.375
6/30/00	12.00	12.375	3.00	27.375
9/30/00	12.00	12.375	3.00	27.375
12/31/00	12.00	12.375	3.00	27.375
3/31/01	12.00	19.125	3.00	34.125
6/30/01	12.00	19.125	3.00	34.125
9/30/01	12.00	19.125	3.00	34.125
12/31/01	12.00	19.125	3.00	34.125
Subtotals:	*$192.00*	*$225.00*	*$48.00*	$465.00
On or before 3/31/2002				$75.00
Total:				*$540.00*

[2] See footnote 1.

Because of uncertainties in pending legislation or in the program design involving account transfer flexibility and market costs, the parties are hopeful, but not certain, as to whether the foregoing cash flow will be adequate to meet the Renewables Program's needs. Therefore, the parties agree that if a need arises for an acceleration of the payment schedule, the parties will work to achieve an acceptable replacement payment schedule, and reserve the right to come back to the Commission if an acceptable resolution cannot be reached.

The only unresolved Renewables Program funding transfer issue at this time is which utilities are responsible for making the $75 million Renewables Program payment identified in Public Utilities Code §381(c)(3). The affected utilities will separately brief that issue.

IV. CONCLUSION

The utilities and the CEC have resolved all but one issue regarding the transfer of funding for RD&D and Renewables Public Goods programs to the CEC. The one issue, the responsibility for the $75 million Renewables Program payment identified in Public Utilities Code §381(c)(3), is important, but resolution of the issue is not critical prior to the January 1, 1998 effective date. Therefore, consistent with the provisions contained in this joint filing, the parties request that the Commission approve the funding transfer amounts and schedules proposed herein, and authorize the utilities to submit advice letters establishing ratemaking mechanisms to implement the transfer, in accordance with the June 18, 1997 Ruling.

Dated this 30th day of July, 1997, at San Francisco, California.

Respectfully submitted,

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July 30, 1997

CERTIFICATE OF SERVICE BY MAIL

I, the undersigned, state that I am a citizen of the United States and am employed in the City and County of San Francisco; that I am over the age of eighteen (18) years and not a party to the within cause; and that my business address is Pacific Gas and Electric Company, Law Department B30A, 77 Beale Street, San Francisco, California 94105.

I am readily familiar with the business practice of Pacific Gas and Electric Company for collection and processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, correspondence is deposited with the United States Postal Service the same day it is submitted for mailing.

On the 30th day of July, 1997, I served a true copy of:

Joint Statement Listing Agreements on Public Purpose Program Funding Transfer Issues on Renewables and Research Development and Demonstration Funds

by placing it for collection and mailing, in the course of ordinary business practice, with other correspondence of Pacific Gas and Electric Company, enclosed in a sealed envelope, with postage fully prepaid, addressed to:

[Please see attached service list]

I certify and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 30th day of July, 1997.

Teresa A. Bryant

TERESA A. BRYANT