BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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Application of Southern California Edison Company (U338E) for Approval of its Energy Savings Assistance and California Alternate Rates for Energy Programs and Budgets for Program Years 2015-2017.	Application 14-11-007
And Related Matters:	Application 14-11-009 Application 14-11-010 Application 14-11-011

NOTICE OF EX PARTE COMMUNICATION OF TELACU, MARAVILLA, AND ACCES

Pursuant to Rules 8.3 and 8.5 of the Commission's Rules of Practice and Procedure, The East Los Angeles Community Union (TELACU), the Maravilla Foundation, and the Association of California Community and Energy Services (ACCES) (TELACU et al.) hereby gives notice of the following ex parte communication. The communication, initiated by TELACU et al., was a letter sent by email to Commissioners Picker, Sandoval, Florio, Peterman, and Randolph and to Administrative Law Judge W. Anthony Colbert. The letter was emailed on Wednesday, May 11, 2016 at approximately 1:06 p.m. The body of the email said:

> The attached letter from TELACU et al. to all Commissioners explains that, based on comments made during Monday's Oral Argument in the ESA proceeding, and on information provided in the recent Navigant Energy Efficiency Potential and Goals Study, there appears to be an erroneous belief at the Commission that the low income Energy Savings Assistance (ESA) Program has a statutory expiration date of December 31, 2020. But, as explained in the letter, ESA does not have a statutory expiration date. The erroneous belief that ESA has an expiration date appears to be having an effect on the planning for the next ESA program cycles and it has clearly undermined the low income section of the Navigant Consulting, Inc. "Energy Efficiency Potential and Goals Study for 2015 and Beyond" attached to the energy efficiency goals decision D.15-10-028.
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> The mistaken belief that ESA has a statutory expiration date appears to be held by Commission decisionmakers, Commission staff, and some Commission consultants. Because the very existence of the ESA program beyond 2020 is a fundamental and foundational fact that is important for program planning, we strongly believe any upcoming ESA Proposed Decision or Alternate Proposed Decision must contain Findings

of Fact and Conclusions of Law which clearly state there is no statutory expiration of the ESA program at the end of 2020.

The letter to Commissioners is attached to this notice.

Respectfully submitted, May 11, 2016

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May 11, 2016

To:

Commission President Michael Picker
Commissioner Catherine J.K. Sandoval
Commissioner Mike Florio
Commissioner Carla J. Peterman
Commissioner Liane M. Randolph

From: TELACU et al.

Re: There is no statutory expiration date for the Energy Savings Assistance (ESA) Program.

Commissioners:

Based on comments made during Monday's Oral Argument in the ESA proceeding, and on information provided in the recent Navigant Energy Efficiency Potential and Goals Study, there appears to be an erroneous belief at the Commission that the low income Energy Savings Assistance (ESA) Program has a statutory expiration date of December 31, 2020. But, as explained below, ESA does not have a statutory expiration date. The erroneous belief that ESA has an expiration date appears to be having an effect on the planning for the next ESA program cycles and it has clearly undermined the low income section of the Navigant Consulting, Inc. "Energy Efficiency Potential and Goals Study for 2015 and Beyond" attached to the energy efficiency goals decision D.15-10-028.

The mistaken belief that ESA has a statutory expiration date appears to be held by Commission decisionmakers, Commission staff, and some Commission consultants. Because the very existence of the ESA program beyond 2020 is a fundamental and foundational fact that is important for program planning, we strongly believe any upcoming ESA Proposed Decision or Alternate Proposed Decision must contain Findings of Fact and Conclusions of Law which clearly state there is no statutory expiration of the ESA program at the end of 2020.

Background

On Monday, May 9, 2016, during Oral Argument in the ESA proceeding (A.14-11-007 et al.), there was discussion about the ESA program cycle. Because it is now the middle of 2016 in a proceeding addressing Program Years 2015, 2016, 2017, there was discussion about whether the upcoming Commission decision should cover additional years, perhaps 2018, 2019, or even all the way to 2020. Commissioner Sandoval mentioned "a statutory expiration of this current program in 2020..."

> COMMISSIONER SANDOVAL: ...One of the questions is in looking at the program cycle, there have been various proposals about should the Commission effectively advance the program cycle given that it's now 2016? Rather than authorizing through

2017, should we authorize through 2018, 2019, or even 2020. Would that create benefits *if there's a statutory expiration of this current program in 2020? And so might that also be a way to help to balance program stability and growth would be to elongate out the projected program years?* So I was just wondering if anybody has any comments on those issues. (Reporter's Transcript p. 530, emphasis added).

MR. HODGES: TELACU is unaware of any sunset date for the ESA program. PUC Code [section] 2790 says the Commission shall implement the program as long as it determines there is a need for the program. I'm aware that the legislation that was associated with the [statewide energy efficiency] strategic plan [Public Utilities Code Section 382 (e)] envisions achieving a goal where all eligible and willing participants would have been contacted [by 2020], but that too does not present a sunset date, does not say that they're going to stop...

COMMISSIONER SANDOVAL: Thank you for your clarification.
(Reporter's Transcript pp. 531, 532).

As we explained in our testimony in this proceeding [1] (pages attached) this misinformation may have arisen with a misreading of PU Code Section 382 (e) which says, "The commission shall, by not later than December 31, 2020, ensure that all eligible low-income electricity and gas customers are given the opportunity to participate in low-income energy efficiency programs, including customers occupying apartments or similar multiunit residential structures." It appears some within the Commission incorrectly assume this code section establishes an ESA termination date of December 31, 2020. It describes a Commission goal to be reached by December 31, 2020 but it does not say this is the program's termination date.

In fact, PU Code Section 2790 says, "the commission shall require an electrical or gas corporation to perform home weatherization services for low-income customers, as determined by the commission under Section 739, *if the commission determines that a significant need for those services exists in the corporation's service territory, taking into consideration both the cost-effectiveness of the services and the policy of reducing the hardships facing low-income households.*" (Emphasis added). PU Code section 2790 does not contain a termination date for ESA. Instead, it infers that the end of the program will come after the commission finds, through some process, that a significant need for the program no longer exists in the service territories of the investor-owned energy utilities. The commission has made no such finding.

But, as explained below, it appears someone within the CPUC's low income staff believes December 31, 2020 is the ESA termination date and provided this misinformation to Navigant Consulting and is reflected in the final Navigant Energy Potential and Goals Study which is attached to D.15-10-028.

The Navigant's "Energy Efficiency Potential and Goals Study for 2015 and Beyond" addresses potential energy savings in California for all ratepayer sectors, including low income. In the study Navigant explains how they updated their draft study to reflect input from "CPUC's low

[1] A.14-11-007 et al., "Testimony of James Hodges on behalf of The East Los Angeles Community Union (TELACU), the Maravilla Foundation, and the Association of California Community and Energy Services (ACCES)" pp. 13, 14.

income staff" who told Navigant that ESA "will stop operation after 2020, [therefore,] no potential [savings] from low income is forecasted in 2021 or beyond." Navigant writes:

> Navigant worked with CPUC's low income staff to review and revise the input assumptions regarding low income programs. Savings per participant and estimated number of participants were updated in the model. A key change relative to the May 2015 release is *the new assumption that low income programs in their current form will stop operation after 2020, no potential from low income is forecasted in 2021 or beyond.* (Emphasis added) (PDF page 165 of D.15-10-028 which includes the Navigant study as an attachment. That page is attached to this letter)
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> and
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> The Navigant team also updated the model's low income program participation forecasts to align more closely with IOU participation forecasts and with current CPUC policy stating that all eligible and willing ESA program candidates would be served by 2020. …The final 2015 forecast *does not extend beyond 2020 because CPUC policy beyond that date is currently uncertain*. (Emphasis added) (PDF page 201 of D.15-10-028 which includes the Navigant study as an attachment. That page is also attached to this letter).

Of course it is true that CPUC policy beyond 2020 "is currently uncertain," but that is because there has been not yet been a proceeding dealing with ESA for Program Years 2021 and beyond. It is not true that a decision has been made that the "low income programs in their current form will stop operation after 2020." The Commission must direct the energy utilities to "perform home weatherization services" for as long as "the commission determines that a significant need for those services exists in the corporation's service territory, taking into consideration both the cost-effectiveness of the services and the policy of reducing the hardships facing low-income households." Commission has not made a determination that there will no longer be a significant need for the program on December 31, 2020 and beyond.

It is extremely important that CPUC decisionmakers, Commission staff, and Commission consultants understand there is not "a statutory expiration" of ESA. The fact that there is no statutory expiration date is in the record of this proceeding in the Testimony of TELACU et al. Because this is such an important, foundational issue affecting not only the low income program but also the Commission's attempt to establish energy savings potential for all sectors of California, we urge that any ESA Proposed Decision or Alternate Proposed Decision contain Findings of Fact and Conclusions of Law which state there is no statutory expiration of the ESA program after December 31, 2020.

Respectfully,

/s/ James L. Hodges
for
The East Los Angeles Community Union (TELACU)
The Maravilla Foundation
The Association of California Community and Energy Services (ACCES)

Energy Efficiency Potential and Goals Study for 2015 and Beyond

Stage 1 Final Report

Prepared for:
California Public Utilities Commission

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Reference No.: 174655
September 25, 2015

- The EUL for all residential CFL measures (basic, specialty, and reflector in indoor and outdoor applications) have been decreased to 3.5 years (previous values ranged from 4.5-11 years depending on the measure). This update was made based on the CPUC's uncertain measure review.[14] This decrease in EUL has two effects: 1) stock turnover of bulbs in the residential sector increases thus slightly increasing the future potential of LEDs, and 2) cumulative savings in the residential sector decreases in future years as CFL savings can only be counted on for 3.5 years.
- Commercial lighting hours of use assumptions have been updated in DEER2016. HOU assumption vary by building type and proportionally impact unit energy savings. In some building types the team observed a 50% decrease in HOUs relative to DEER2015 while other building types remained similar or slightly increased. These changes applied to CFLs, linear fluorescents, and their respective LED equivalents. The net impact of these HOU changes is a decrease in commercial lighting potential. These impacts go into effect starting in 2016 thus calibration is not affected.
- DEER2016 updated the unit energy savings assumptions and net to gross assumptions for residential refrigerator recycling. The unit energy savings decrease on the order of 50% while net to gross increased slightly. The net impact is a significant reduction in savings from residential refrigerator recycling relative to the May 2015 results. These impacts go into effect starting in 2016 thus calibration is not affected.
- Based on verbal and written comments from stakeholders regarding the results from the AIMS sectors, Navigant reviewed key inputs in greater detail. Navigant found a minor update to the AIMS sector was warranted to use the latest available building stock, energy consumption, and building type distribution data available from the CEC. The update lead to a slight decrease in IOU market potential savings.
- Navigant worked with CPUC's low income staff to review and revise the input assumptions regarding low income programs. Savings per participant and estimated number of participants were updated in the model. A key change relative to the May 2015 release is the new assumption that low income programs in their current form will stop operation after 2020, no potential from low income is forecasted in 2021 or beyond. For additional details regarding data updates see Section 3.8.

Navigant made an additional downward adjustment to SDG&E's whole building energy savings at the direction of the CPUC. CPUC Decision 14-10-046 says in regards to whole building savings for SDG&E:

> *"It is going to take some "ramping-up" to achieve such a dramatic increase in savings. Accordingly, we have adjusted SDG&E's 2015 goal to reflect 120% of SDG&E's recent annual savings claims for commercial whole building retrofit programs. This considers (but does not require) a linear, five-year ramp up to the level of savings the draft 2013 Study forecasts for SDG&E."*

The 2015 study shows a decreased savings potential from whole building initiative relative to the 2013 study; however, Navigant made a further adjustment to SDG&E's potential to remain consistent with D.

[14] CPUC. *Ex Ante Update for ESPI Uncertain measures - Compact Fluorescent Lamps 30 Watts and Less.* May 2015.

Table 3-16: 2015 Potential Model UES Input Assumptions – Average Savings per Treated Household

Utility	2013 Model	2015 Model
KWh/Participant		
PG&E	391	349
SCE	286	378
SDG&E	397	333
SCG	-	-
KW/Participant		
PG&E	0.24	0.08
SCE	0.29	0.14
SDG&E	0.23	0.03
SCG	-	-
Therms/Participant		
PG&E	20	15
SCE	-	-
SDG&E	21	17
SCG	20	27

Source: Navigant team analysis of ESA Annual Reports

The Navigant team also updated the model's low income program participation forecasts to align more closely with IOU participations forecasts and with current CPUC policy stating that all eligible and willing ESA program candidates would be served by 2020. Table 3-17 provides the recommended participations forecasts for 2015 through 2020, while Figure 3-6 provides a comparison of the final 2015 model participation forecasts with forecasts used the and 2013 potential models. The final 2015 forecasts does not extend beyond 2020 because CPUC policy beyond that date is currently uncertain. The forecasts for participation in the 2016 to 2020 period are relatively consistent though lower than the 2013 study assumptions.

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The Testimony of James Hodges on behalf of
The East Los Angeles Community Union (TELACU), the Maravilla Foundation, and the Association of California Community and Energy Services (ACCES)

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April 27, 2015

9. Resource vs NEBs: Still Unsettled

D.14-08-030 recognized that a new cost-effectiveness methodology was needed. The Cost Effectiveness Working Group reached consensus on a Portfolio approach that recognizes certain non-energy benefits for participants. TELACU et al. believe societal benefits, such as employment, economic development, and reduced dependence on government support programs should be included but that was not a consensus item. [17]

In any event, D.14-08-030 directed the Energy Division to reconvene a Working Group to try to address cost-effectiveness issues. We recommend that the Commission allow the IOUs to implement their programs and report results at the end of 2016. We look forward to participating with other parties to try to resolve the issues surrounding resource and non-resource measures and non-energy benefits, including the IOUs Equity Evaluation.

In summary of this history, we believe any evaluation of the ESA applications must take into account the multiple objectives given to the program by the Commission and state legislature. Any proposed energy savings or bill saving goals should be viewed in light of how they may affect ESA's other objectives.

III. Remaining ESA Market

The Scoping Document asks, "Is the current ESA Program marketing and outreach to 'hard-to-reach populations' adequate, and what criteria should be used to determine whether the ESA Program has reached 100% of 'willing and eligible' customers?" It must be made clear that reaching 100% of "willing and eligible" customers is not the end of the program. Though the Commission's California EE Strategic Plan, written in 2008, updated in 2011, and codified into

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[17] "While the ESA program, unlike other demand-side programs, includes non-energy benefits which accrue to participants and the utilities, it has not been considered appropriate to include NEBs which accrue to society at large, such as environmental benefits. However, regulatory and legislative decision makers consistently point to job creation as a benefit of low income programs. For example, Public Utilities Code section 327, specifically addressing the ESA program, directs that, 'to the extent practical,' program administrators shall, '(a) (3) Encourage local employment and job skill development.' The California Energy Efficiency Strategic Plan envisions 'the growth of a trained LIEE [ESAP] workforce.'"
"The Working Group has not yet given this issue enough consideration to reach consensus, although some Working Group members, including TELACU, Maravilla, and ACCES, strongly believe job creation should be a factor considered by the Commission when determining ESA Program design. Although these factors may be hard to measure, and may have off-setting costs, those parties believe they should be a part of the decision-making process for Commissioners. Where the Working Group does have consensus is in its support for the current efforts in the wider demand-side cost-effectiveness proceeding to determine how to value the societal non- energy impacts of demand-side programs." A.11-05-017 et al., Energy Savings Assistance Program Cost-Effectiveness White Paper, February 15, 2013, page 11.

PU Code 382 (e), said, "The commission shall, by not later than December 31, 2020, ensure that all eligible low-income electricity and gas customers are given the opportunity to participate in low-income energy efficiency programs, including customers occupying apartments or similar multiunit residential structures." (SB 695, Kehoe), there is no program sunset date implied in PU Code section 2790. 2790 simply states the program will be continued as long as it is determined there is a need, taking into account both cost-effectiveness and the policy of reducing the hardships facing low-income households.[18] Over the years the CPUC has commissioned several Low Income Needs Assessment (LINA) studies to determine if a significant need for those services exists. PU Code Section 2790 does not say the program will end at the end of 2020. Instead, California demography and Commission decisions concerning program design and eligibility will be the crucial factors which determine if there will be a need for the program to continue past 2020.

The remaining ESA market can be increased by adding new measures for single family and/or multifamily housing, counting energy education as a measure, including water measures and water education, modifying the three measure minimum rule, modifying the Go-Back policy, coordinating ESA with Energy Upgrade California and the Federal Low Income Home Energy Assistance and Weatherization Assistance Programs, modifying the list of Non-Energy Benefits to be included in an ESA cost effectiveness methodology. As we wrote above, we support all those changes which may increase the ESA eligible market.

[18] Public Utilities Code Section 2790 says "the commission shall require an electrical or gas corporation to perform home weatherization services for low-income customers, as determined by the commission under Section 739, if the commission determines that a significant need for those services exists in the corporation's service territory, taking into consideration both the cost-effectiveness of the services and the policy of reducing the hardships facing low-income households."