



**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

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

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And Related Matters:

Application 14-11-009

Application 14-11-010

Application 14-11-011

**The Opening Comments of  
The East Los Angeles Community Union (TELACU), the Maravilla Foundation, and the  
Association of California Community and Energy Services (ACCES) on the Proposed  
Decision of Administrative Law Judge W. Anthony Colbert and the Alternate Proposed  
Decision of Commissioner Sandoval**

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## **SUMMARY OF RECOMMENDATIONS**

1. The APD should be adopted with modifications.
2. The Commission should not allocate a disproportionate amount of ESA funds to the already “assisted” in the multifamily market at the expense of the “unassisted.”
3. The Mid-Cycle Working Group should be involved in establishing protocols for the new multifamily common area measures effort.
4. The Commission should clarify several multifamily issues including audit requirements, whole building approach vs. standard ESA multifamily approach, renter eligibility for HVAC measures, and income eligibility for deed restricted assisted housing.
5. The APD’s energy savings targets are reasonable.
6. Targeting high energy use households but not limiting eligibility for a eligible households is reasonable.
7. The APD should not imply that per home fees paid to ESA contractors is responsible for a doubling of measure and installation costs since 2009.
8. The APD should not mandate ESA customer enrollment in a dynamic tariff/demand response program.
9. Southern California Edison’s Evaporative Cooler Proposal should be approved.

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Decision of Commissioner Sandoval**

Pursuant to Rule 14.3 of the Commission’s Rules of Practice and Procedure, TELACU, the Maravilla Foundation, and ACCES (TELACU et al.) hereby submit comments on the Proposed Decision (PD) of Administrative Law Judge W. Anthony Colbert and the Alternate Proposed Decision (APD) of Commissioner Sandoval.

**INTRODUCTION**

TELACU et al. greatly appreciate the tremendous amount of thought and effort required to produce the PD and APD by ALJ Colbert and Commissioner Sandoval and staff.

In this proceeding TELACU et al. has opposed using Energy Savings Assistance (ESA) Program funds for multifamily (MF) common area measures and opposed the establishment of energy savings goals.<sup>1</sup> The PD adopts our recommendations on common area measures and energy savings goals. Against our recommendations, the APD adopts MF common area measures and establishes an energy savings “target.” But, despite this, we support the adoption of the APD (with some modifications), not the PD. We support the APD because it eliminates

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<sup>1</sup> A.14-11-007 et al., “The Reply Brief of The East Los Angeles Community Union (TELACU), the Maravilla Foundation, and the Association of California Community and Energy Services (ACCES)” August 4, 2015. pp. 4-7

major barriers which have hampered the ESA program for years, namely, the current dysfunctional Go-Back restrictions, the 3 Measure Minimum requirement, and individual measure caps. The APD eliminates program uncertainty by authorizing funding for program years 2017-2020, and it explicitly acknowledges the ESA program does not have a statutory end date. The APD contains a rich discussion of the legislative history of ESA and how that history guides the Commission as it seeks to shape the program to achieve a balance between its legislatively mandated goals of cost effectiveness and hardship reduction. The PD does not contain these vital elements.

We applaud the APD's removal of ESA program barriers and we urge the Commission to avoid the inadvertent creation of new barriers, as discussed below.

## **DISCUSSION**

### **A. Funding for program years 2017-2020, the elimination of the Go-Back rule, and elimination of the 3 Measure Minimum.**

The APD states on page 62, "We note that the unspent balances in the program swelled during the 2009-2011 cycle; in part, we attribute this large unspent balance to the change in the Go-Back rule tying it to 2002 in D.08-11-031." We agree. We would add that the inability to issue a timely decision on applications which propose to increase funding and to add new measures to the program has required the repeated use of Bridge Funding, a practice which extends status quo program funding levels and delays the introduction of proposed new measures.<sup>2</sup> This is also a major factor in the large unspent balance. As a result of these two problems, "the ESA program has become frozen in time," as Commissioner Sandoval said in the All Party Meeting of August 31, 2016.<sup>3</sup> Eliminating the Go-Back restrictions, authorizing funding for program years 2017-2020, eliminating the 3 measure minimum, and adopting other provisions of the APD will unfreeze it.

As we stated at the All Party Meeting, D.16-04-040's elimination of the Go-Back restrictions in the area affected by the Aliso Canyon gas leak emergency has significantly

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<sup>2</sup> Decision D.15-12-024 - Interim Decision Adopting Bridge Funding from January 1, 2016 to June 30, 2016 for the Large Investor-Owned Utilities' Energy Savings Assistance and California Alternate Rates for Energy Programs. Decision D.16-06-018 - Decision Adopting Bridge Funding from July 1, 2016 to December 31, 2016 for the Large Investor-Owned Utilities' Energy Savings Assistance and California Alternate Rates for Energy Programs

<sup>3</sup> At the All Party Meeting Commissioner Sandoval gave parties permission to include in these comments what was said at the All Party Meeting.

increased the number of eligible households found by ESA contractors. But those ESA contractors have been reluctant to hire more people and to purchase the equipment and supplies necessary to meet the increased demand because they do not know how long the new rules will be in place. If the APD is adopted, contractors for the ESA program throughout the state will know the new rules will be in place until at least until the end of 2020. Contractors will have the certainty needed to gear up to meet the increased demand.

**B. Multifamily: Common Area Measures and Other Multifamily Issues**

The Commission should keep in mind that the need for deed restricted multifamily low income “affordable” housing is much greater than the supply, thus, only a small percentage of low income households live in deed restricted “assisted” multifamily buildings. TELACU et al. is proud to provide such housing in southern California. But only a small portion of the poor are fortunate enough to receive the reduced rents and utility allowance provided in deed restricted “assisted” housing. Instead, the vast majority of our low income population is “unassisted,” living in market rate housing, paying market rate rents, without utility allowances. These are the households who need ESA benefits the most. We urge the Commission to take care to not allocate a disproportionate amount of ESA funds to the already “assisted” at the expense of the “unassisted.”

We also believe the Mid-Cycle Working Group should be involved in establishing protocols for the newly adopted common area measures effort.

We have reviewed the draft comments of the Energy Efficiency Council and agree with them that, concerning multifamily issues, the Commission should:

- Clarify ASHRAE Level I and II audits only required multifamily buildings which request and require common area measures and not ALL multifamily buildings. There are many low-income customers living in multifamily buildings where their landlords have neither the appetite for nor the need for common area measures and as such there would be no need for a ASHRAE Level audit in a multifamily building where only a few apartments are served.
- Clarify there are two multifamily paths; a whole building approach model for owners of large multistory building which meet certain criteria (based on ASRAE Level I or II audit) and may receive common area measures; and the tenant/individual unit approach

for property owners who wish to receive ESA services under the standard delivery method and have measures provided to each tenant, in addition to approved common area measures.

- Clarify that renters can receive HVAC measures. As written, there are no approved measures for renters within the apartment. If the Commission envisions a whole building approach, approval of in-apartment HVAC measures, including furnace and water heater repair and replacement are needed to support the common area measures. Absent this modification, the whole building approach is not complete.
- Clarify that deed restricted properties who receive ESA funds must income qualify under the current rules of 200% Federal Poverty Level (FPL) guidelines. There are many deed restricted properties whose tenants earn more than 200% of the FPL and there has been no discussion or evaluation on the record in this proceeding on whether or not ESA funds should be used to provide a benefit to any customer earning above 200% FPL.

### **C. Energy Savings Targets**

The APD prudently adopts the energy savings targets established in D.16-04-040. The reasons for this deserve some discussion.

At the April 21, 2016 voting meeting, where Commissioners were considering the PD and APD on the Aliso Canyon emergency, there was a discussion of the PD of Administrative Law Judge Colbert which contained an energy savings goal of a minimum of 10% for the overall emergency effort and the APD of Commissioner Sandoval which had no energy savings targets. Commissioner Peterman said that, while she did not want to eliminate an energy saving target, she agreed that the PD's 10% savings target was too stringent. She said:

I don't think it is appropriate to entirely eliminate the savings target for these households as the alternate does. It is important to ensure that ratepayer funds and contractor hours are focused on households with significant potential savings that can contribute to the emergency situation. *So, to achieve a balance, I propose setting a savings requirement of 3% for households treated by SoCalGas and 4% for households treated by Edison as compared to the 10% in the PD. This is consistent with the average savings found in the program year 2011 ESA*

*Program Impact Evaluation completed by Evergreen Economics.* So I would be supportive of being consistent with that evaluation.

And the second change I would make is where it refers to the two targets, both the 10% overall for the program and now this 3 to 4% for the household, *I would change the language, instead of "achieving" those goals to "targeting" those numbers, again for the reason that we expect the utilities to do everything in their power to reach these targets, however this is new territory in terms of rules suspension and we truly have some uncertainty around what is possible. So, given that, I think it is more prudent to say we should "target" those numbers verses "achieve."* (emphasis added).<sup>4</sup>

The Commission adopted the targets recommended by Commissioner Peterman. The energy savings targets proposed in the instant APD are reasonable.

#### **D. Targeting High Energy Users**

The APD adopts PG&E's proposal "targeting high energy use households, but not limiting eligibility for all eligible households," and continues "these households could be targeted in an efficient manner (based on high usage and/or in the course of identifying other eligible households via smart meter data analysis to pinpoint opportunities for energy savings." We understand the Commission's intent to achieve energy savings. We repeat our concern it would be very inefficient to find an eligible home only to be required to walk away because the household did not fit a particular prioritization model. We look forward to working with the Commission and parties to find a way to "target but not limit."<sup>5</sup>

#### **E. Contractor Fees and Increases in Measure and Installation Costs**

The PD at p.20 and the APD at p.35 imply, erroneously, that fees paid to ESA contractors per household for the installation of measures has doubled since 2009 in the service territories of SDG&E and SoCalGas.

However, for some of the IOUs, the total cost to treat a household has more than doubled since 2009 (specifically SDG&E and SoCalGas). When we look further at the specific areas of increase we see that for the most part, *the trend is in the*

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<sup>4</sup> Webcast of Commission Voting Meeting, April 21, 2016, at 1 hour, 22 minutes, 30 seconds [http://www.adminmonitor.com/ca/cpuc/voting\\_meeting/20160421/](http://www.adminmonitor.com/ca/cpuc/voting_meeting/20160421/)

<sup>5</sup> Alternate Proposed Decision of Commissioner Sandoval, p.58, 59.

*increase in measure and installation costs per household treated, with some exceptions. For example, in addition to SDG&E’s measure costs per household treated doubling, other program costs have also nearly doubled, mainly in SDG&E’s administrative costs for mass media, increased inspections, general administration, and marketing and outreach categories. (emphasis added).*

TELACU and Maravilla are ESA contractors in the SoCalGas service territory and have not received a significant fee increase since 2009, much less a doubling of fees, nor are we aware of any ESA contractor who has.

Concerning installation costs, we are concerned the following sentence in the APD (page 116) will cause confusion: “The utilities shall not install more measures than are needed to reduce energy hardships, and meet the health, safety, and comfort needs of ESA clients as indicated by the LINA study and this Decision.” While we understand it is the responsibility of the Commission to see that ratepayer funds are used responsibly, it is by no means clear which measures this may be referring to nor what problems this may create in the field. We recommend the sentence be deleted.

**F. Dynamic Tariff/Demand Response**

We believe ESA customers should be encouraged, not mandated, to enroll in a dynamic tariff/demand response program. A mandate will become a serious barrier to providing ESA services.

**G. Southern California Edison’s Evaporative Cooler Proposal**

We believe cost savings for home cooling by evaporative cooler compared to cooling with an air conditioner may outweigh the water savings benefit for a low income household.

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## CONCLUSION

For the reasons explained above, the Commission should adopt the APD with the modifications proposed above.

TELACU et al. greatly appreciates the thoughtfulness and effort put into drafting the PD and the APD. We look forward to working with the Commission and parties to design and implement an ESA program that balances cost effectiveness and hardship reduction.

Respectfully submitted,

September 6, 2016

*/s/ James L. Hodges*

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## APPENDIX

### Proposed Modifications to Discussion Text, Findings of Fact, Conclusions of Law, and Ordering Paragraphs

#### Proposed Modifications to the Discussion Text of the APD

##### At page 31:

The California Energy Efficiency Strategic Plan (CEESP) adopted in D.08-09-040 envisioned the ESA Program operating on a three year cycle, with these Applications being the second to last cycle and 2018-2020 being the last before the 2020 date by which the Commission was to take steps to ensure the low-income Californians have an opportunity to participate in energy efficiency programs. ~~It is important to emphasize that the ESA Program does not have a statutory expiration date in 2020. While the Commission is directed to encourage participation by 2020, and the steps we adopt herein will move us closer to that goal, it is important to~~ emphasize that the ESA Program does not have a statutory expiration date in 2020. California Public Utilities Code Section 2790 (a) states "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). The Commission periodically commissions a Needs Assessment for the ESA and CARE programs with objectives that include reporting the most recently available estimates of eligible households, an assessment of the energy-related needs of low income customers, and an examination of customers' needs for specific energy efficiency measures.<sup>6</sup> The most recently completed Needs Assessment has not found that there is no longer a significant need for the ESA program nor has it projected a date when there will no longer be a significant need for the program.

With the 2016-2020 cycle we hereby adopt, the Commission will be well-poised to evaluate its progress in meeting the low-income energy efficiency participation goals in 2020.

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<sup>6</sup> "Needs Assessment for the Energy Savings Assistance and the California Alternate Rates for Energy Programs" Volume 1: Summary Report, Final Report," Evergreen Economics. December 16, 2013, p. iii.

At that time, the Commission will evaluate ESA applications for program years beginning in 2021, and consider appropriate adjustments in light of experience with the program and policy goals we adopt today and the energy landscape faced by California consumers at that time.

**At page 35:**

However, for some of the IOUs, the total cost to treat a household has more than doubled since 2009 (specifically SDG&E and SoCalGas). When we look further at the specific areas of increase we see that for the most part, the trend is in the increase in measure and installation costs per household treated, with some exceptions. For example, in addition to SDG&E's measure costs per household treated doubling, other program costs have also nearly doubled, mainly in SDG&E's administrative costs for mass media, increased inspections, general administration, and marketing and outreach categories. It is by no means clear that an increase in measure installation fees paid to ESA contractors is responsible for these increases or that fees paid to contractors have increased at all.

**At page 48:**

For the purposes of this program's savings goals and targets, ~~prior to installing a measure or giving a customer an ESA Program incentive~~, the IOU shall encourage ~~enroll~~ the recipient ESA customer to enroll in either a dynamic tariff (e.g., PG&E's SmartRate or SDG&E's Reduce Your Use) or in a Demand Response program which is integrated in the California Independent System Operator's wholesale market. The participation can be either in an IOU administered program or in a third party Demand Response contract delivering pursuant to the Demand Response Auction Mechanism. As we consider California Public Utilities Code Section 2790, which directs the Commission to consider cost effectiveness and reducing the hardships facing low income households, we think that this ~~mandate~~ applies in two appropriate manners. First, it generates additional opportunities for the customer to reduce its energy burden and hardships. Both dynamic tariffs and demand response programs enable additional opportunities for low-income customers to reduce energy hardships. Secondly, as we consider cost effectiveness, we see these investments as an opportunity not only to reduce energy demand through energy efficiency, but to potentially reduce system constraints during peak energy use periods and in times of system constraints, such as Flex Alert days. Leveraging the investments in the ESA program to facilitate participation in demand response programs will extend the energy related

benefits of this program. Therefore, we ~~require~~ encourage demand response or dynamic tariff participation for all customers who receive the ESA program measures. ~~We exempt customers who are on medical baseline from this requirement.~~

**At page 112, 113**

~~We decline to approve~~ approve SCE's proposal to replace inefficient air conditions with evaporative coolers ~~in light of the ongoing Drought and Governor Brown's Executive Orders to make water conservation a way of life.~~ While Evaporative coolers require water each day they are operated, and maintenance to dispose of the water, the reduced cost of cooling by evaporative cooler rather than air conditioning is a significant benefit for a low income household. ~~Throughout this proceeding California has experienced voluntary, then mandatory water conservation. The likelihood of a continuing need for water conservation is great, especially in warm areas with need for air conditioning. SCE is authorized to continue offering central air conditioning instead of evaporative coolers in the areas where it proposed evaporative coolers, and shall phase out evaporative coolers in favor of energy efficient air conditioners.~~

**At page 116:**

~~The utilities shall not install more measures than are needed to reduce energy hardships, and meet the health, safety, and comfort needs of ESA clients as indicated by the LINA study and this Decision.~~

**At page 226:**

2. The Mid-Cycle Working Group will be charged with the following tasks:

(f) Making recommendations on program protocols and implementation of the newly adopted multifamily common area measures effort.

**At page 269:**

~~Last, as noted above, a home cannot be considered treated, and the energy savings from the home cannot be counted towards the energy savings portfolio target, until the customer is enrolled either in a dynamic tariff or in a demand response program. The utility shall develop appropriate reporting templates, in consultation with the Commission's Energy Division, to track program participation by household. If a customer is already enrolled in a dynamic tariff or in a demand response program, such enrollment will continue to count and allow the household to be~~

considered as “treated” for the purposes of this requirement. ~~Customers who are on medical baseline are exempted from this requirement.~~

**At page 305:**

These efforts align with the ~~mandate that~~ encouragement of all ESA participating households ~~must to~~ enroll in either a demand response program or in a dynamic tariff, as described above.

**Proposed Modifications to Findings of Fact of the APD**

[New] The Commission periodically commissions a Needs Assessment for the Energy Savings Assistance and the California Alternate Rates for Energy Programs.

[New] The objectives of the Needs Assessment include reporting the most recently available estimates of eligible households and an assessment of the energy-related needs of low income customers which includes an examination of customers’ needs for specific energy efficiency measures.

[New] The most recently completed Needs Assessment has not found that there is no longer a significant need for the ESA program nor has it projected a date when there will no longer be a significant need for the program.

12. The Commission is generally supportive of the creation and adoption of an energy savings ~~goal-target~~ for the ESA Program.

13. It is reasonable to adopt an energy savings ~~goal-target~~ for the ESA Program for this cycle based on prior accomplishments of low income energy savings from the ESA Program and informed by the low income section of the Energy Efficiency Potential and Goals Study for 2015 and Beyond.

18. With eliminating the go-back rule, it is reasonable to prioritize high energy users and households in the geographic areas impacted by Aliso Canyon but not limiting eligibility for all eligible households.

~~32. In light of the ongoing drought, it is unreasonable to replace inefficient air conditions with evaporative coolers.~~

26. It is reasonable to direct SoCalGas, PG&E, SDG&E and SCE to adopt a prescriptive duct sealing approach.

49. It is reasonable to use ESA Program fund for the subset of multifamily buildings dedicated to providing affordable housing to low-income Californians whose income is at or below 200% of the FPL, including deed restricted, government and non-profit owned multifamily buildings, including common areas.

91. It is reasonable to ~~mandate that~~ encourage all recipients of eligible ESA Program measures (~~except those on medical baseline~~) either to enroll either in a dynamic tariff or in a demand response program, when technically feasible.

### **Proposed Modifications to Conclusions of Law of the APD**

~~119.~~ 1. Neither the enabling statutes for our ESA work nor Commission policy end the ESA program in 2020. Neither statute nor this Commission contemplates a “final cycle” for the ESA program.

24. SoCalGas, PG&E, and SCE should adopt SDG&E’s Prescriptive Duct Sealing approach.

35. SCE’s proposal to allow installing evaporative coolers in place of high energy using AC units in climate zones 10, 13, 14, 15, and 16 should be ~~denied because of the large water use and the overall drought conditions impacting California.~~ approved.

37. The IOUs should put forth proposals to remove any of the existing caps on physically installed units ~~for relatively low-cost measures~~ and also identify any related budget impacts.

68. Contractors responsible for delivering energy education should offer to enroll all ESA Program customers with an active e-mail address and home/mobile internet access into the My Energy/My Account platforms, and should educate customers on the website offerings using the customer’s device of choice.

72. The IOUs should conduct outreach to multifamily properties that are listed on the State Treasurer’s website whose tenants have incomes at or below 200% FPL.

86. Full funding for common area measures should occur for Government/non-profit/or deed restricted low-income multifamily housing whose tenants have incomes at or below 200% FPL.

125. The IOUs should ~~treat~~ ESA focus on and track categories of households treated including, but not limited to: Households that have never received ESA treatment; Households that have received ESA treatment since 2002, tracking the measures installed and noting the condition and functionality of the previously installed ESA measures; Focus on high energy-using households, including, but not limited to those who often use 300% of monthly energy

baseline quantity or more; Focus on customers with disabilities, or other demonstrated safety and health needs, as well as comfort needs as identified in the LINA study and this Decision; Focus on water/energy nexus measures including replacement of Evaporative Coolers with High Efficiency air conditioners to increase energy reliability in light of the drought and amount of water and embedded energy in water necessary to run evaporative coolers; Focus on multifamily households and buildings, particularly where treatment to the multifamily common area would result in significant energy efficiency savings; For SCE and SoCal Gas, focus on the areas affected by the Aliso Canyon State of Emergency, as the geographic area may be adjusted by the Commission's Energy Division. The focus described above should not exclude any low-income customer from participating in ESA at any time.

~~126. — A household should not be considered treated, and the energy savings from the home should not be counted towards the energy savings portfolio target, until the customer is enrolled either in a dynamic tariff or in a demand response program. The utility should develop appropriate reporting templates, in consultation with the Commission's Energy Division, to track program participation by household. If a customer is already enrolled in a dynamic tariff or in a demand response program, such enrollment should count and allow the household to be considered as "treated" for the purposes of this requirement. Customers on medical baseline should be exempted from this requirement.~~

### **Proposed Modifications to Ordering Paragraphs of the APD**

5. Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company and Southern California Gas Company shall ~~require~~ encourage ESA customers to enrollment in either a demand response program or in a dynamic tariff ~~in order to enroll a customer in an Energy Savings Assistance Program. The energy savings shall not count and the household shall not be considered treatment without enrollment in either the demand response or dynamic tariff programs. Customers on medical baseline are exempted from this requirement.~~

15. Southern California Gas Company (SoCalGas), Pacific Gas and Electric Company, and Southern California Edison Company shall adopt San Diego Gas and Electric Company's

Prescriptive Duct Sealing approach, which maintains duct sealing as a measure but reduces costs associated with duct testing.

19. San Diego Gas & Electric Company's proposal for Heat Pumps and Water Heaters is approved. Any other of the four large Investor-Owned Utilities (Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Edison Company, Southern California ~~Edison~~ Gas Company) that determines this measure to be cost effective, may propose to add this measure mid-cycle, along with a budget proposal via a Tier 3 Advice Letter and must include cost-effectiveness work papers and a proposed budget. Any collections that might ordinarily be required for any additional funding authorized at that time will be mitigated or rendered unnecessary through the application of unspent 2009-2015 Energy Savings Assistance Program funds, which will offset collections in this Program cycle.

39. Pacific Gas and Electric Company, Southern California Edison Company, Southern California Gas Company, and San Diego Gas & Electric Company shall fund in the Energy Savings Assistance Program common area measures for the subset of multi-family buildings dedicated to providing affordable housing to low-income Californians whose incomes are at or below 200 percent of the Federal Poverty Level guidelines, including deed restricted, government and non-profit owned multi-family buildings.

40. Pacific Gas and Electric Company, Southern California Edison Company, Southern California Gas Company, and San Diego Gas & Electric Company shall fund from the Energy Savings Assistance Program common area measures for multi-family buildings that has 80% verified low-income tenants whose incomes are at or below 200 percent of the Federal Poverty Level guidelines, with funding up to 80% of total measure costs

41. Pacific Gas and Electric Company, Southern California Edison Company, Southern California Gas Company, and San Diego Gas & Electric Company shall provide renters residing in multifamily properties with information and pre-paid postage that they can pass on to their landlords on behalf of the Energy Savings Assistance Program.

42. Pacific Gas and Electric Company, Southern California Edison Company, Southern California Gas Company, and San Diego Gas & Electric Company shall use the Single Point of Contact model for all multi-family buildings as described in this decision.