

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



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Application of Southern California Edison
Company (U338E) for Approval of Energy
Efficiency Rolling Portfolio Business Plan.

And Related Matters.

Application 17-01-013
(Filed January 17, 2017)

Application 17-01-014
Application 17-01-015
Application 17-01-016
Application 17-01-017
(Consolidated)

**COMMENTS OF SOUTHERN CALIFORNIA GAS COMPANY (U 904 G) TO THE
PROPOSED DECISION ADDRESSING WORKFORCE REQUIREMENTS AND
THIRD-PARTY CONTRACT TERMS AND CONDITIONS**

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September 27, 2018

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Pursuant to Rule 14.3 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”), Southern California Gas Company (“SoCalGas”) respectfully submits its Comments to the Proposed Decision Addressing Workforce Requirements and Third-Party Contract Terms and Conditions (“Proposed Decision”) in the above-captioned proceeding.

I. INTRODUCTION

SoCalGas generally supports the Proposed Decision addressing workforce standards and the provisions of required standard and modifiable terms and conditions for inclusion in contracts with third-party implementers of Energy Efficiency programs within investor-owned utility (“IOU”) program administrator business plan portfolios. However, SoCalGas disagrees with the Proposed Decision’s revision of the “Disadvantaged Worker” definition, and the change of background checks to just five years. Therefore, SoCalGas respectfully submits its Comments to the Proposed Decision and requests the Commission adopt the modifications recommended herein.

II. DISCUSSION

A. The Commission Should Adopt the Disadvantaged Worker Definition Proposed by the IOUs in the Joint Motion¹

SoCalGas does not support the Proposed Decision’s definition of Disadvantaged Workers on the basis that the majority of the criteria, as proposed, would be too difficult to track and would potentially infringe on an applicant’s personal privacy.² The Proposed Decision adopts the Southern California Regional Energy Network’s proposed definition because it “covers the important categories without being too prescriptive about the levels that individuals must attain within the categories.”³ However, the proposed definition would seem to require an inquiry that is intrusive, is burdensome, and raises legal and privacy concerns between the third-party implementer and the job applicant. Asking about whether an applicant is homeless, whether they were in foster care, and whether they were incarcerated are all sensitive questions for applicants to respond to. Furthermore, due to laws such as the California Fair Employment and Housing Act, job inquiries that would likely be required to determine at least several of the qualifying criteria suggested in the Proposed Decision’s definition are prohibited.⁴ Third-party implementers will face difficulty complying with the Proposed Decision’s definition without raising legal or privacy concerns. At a minimum, any new Disadvantaged Worker definition should be non-intrusive and based on information that can be legally collected.

The IOUs’ definition of Disadvantaged Worker as proposed in the Joint Motion covers many of the same criteria in the Proposed Decision definition while respecting sensitive and personal applicant information.⁵ The IOUs’ definition has the added benefit of being easier to track and measure while also corresponding to several existing Workforce, Education and Training Program metrics. Further, the IOU definition addresses many of the apparent underlying concerns of the Proposed Decision’s definition without placing undue burden on third-party implementers. The IOU definition uses the CalEnviroScreen tool to cross-reference a

¹ Joint Motion for Approval of Proposed Standard Third-Party Contract Terms of San Diego Gas & Electric Company (“SDG&E”), SoCalGas, Southern California Edison Company (“SCE”) and Pacific Gas and Electric Company (“PG&E”), filed March 19, 2018 (“Joint Motion”).

² Proposed Decision, Ordering Paragraph 7, at p. 69.

³ *Id.* at p. 5.

⁴ The California Fair Employment and Housing Act prohibits, for example, inquiring in an interview about an applicant’s conviction history (Govt. Code § 12952), and mental or physical disabilities (Govt. Code § 12940(e)).

⁵ Joint Motion at p. 4.

worker's home zip code with publicly available data. The tool would also satisfy many components of the Proposed Decision's definition, such as income, educational attainment, etc., while avoiding criteria that do not correlate to employment or poverty. For these reasons, SoCalGas requests that the Proposed Decision be revised to adopt the Disadvantaged Worker definition as proposed by the IOUs.

B. The Commission Should Ensure That Provisions Regarding Background Checks are Consistent with Industry and Company-Wide Standards

SoCalGas also recommends that the Commission revise the Proposed Decision to adopt the background check provisions provided in the Joint Motion. The background check provision included in the Proposed Decision only requires implementers to pass a 5-year background check, instead of the 7-year requirement in the Joint Motion. However, the recommended 7-years for background checks is preferred because (1) it is in line with industry custom, and (2) the law permits it. With respect to the first point, utilities and other businesses routinely use background checks going back seven years.⁶ It is effectively the default background check period. Second, California law specifically allows background checks going back as much as seven years.⁷ Permitting the standard background check through this maximum allowable time provides utilities and implementers the most security and would preempt questions about why a less rigorous background check is sufficient in this context.

⁶ See, e.g., <https://www.corporatescreening.com/resources/faq/> ("As an industry standard, criminal conviction searches date back 7 years."), <https://backgroundscreeningregulations.com/customerresourcesite/docs/Background-Screening-FAQs.pdf> at 6 ("For this reason, the industry standard is to only go back 7 years unless specifically agreed upon to do otherwise."), <https://www.upcounsel.com/employee-background-check> ("Many states have sanctioned a more prohibitive variant of the FCRA like in California; criminal feelings must be accounted for a long time. Industry standard is to just backpedal 7 years unless particularly settled upon to do something else.").

⁷ Civ. Code §§ 1785.13(a)(6), 1786.18(a)(7).

III. CONCLUSION

SoCalGas appreciates the Proposed Decision's reasoned analysis and requests that the Commission adopt the Proposed Decision with the modifications requested herein.

Respectfully submitted on behalf of
SOUTHERN CALIFORNIA GAS COMPANY

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