



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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Application of Pacific Gas and Electric Company for Approval of the 2009-2011 Low Income Energy Efficiency and California Alternate Rates for Energy Programs and Budget (U39M).

Application 08-05-022  
(Filed May 15, 2008)

Application of San Diego Gas and Electric Company (U902M) for Approval of Low-Income Assistance Programs and Budgets for Program Years 2009-2011.

Application 08-05-024  
(Filed May 15, 2008)

Application of Southern California Gas Company (U904G) for Approval of Low-Income Assistance Programs and Budgets for Program Years 2009-2011.

Application 08-05-025  
(Filed May 15, 2008)

Application of Southern California Edison Company (U338E) for Approval of Low-Income Assistance Programs and Budgets for Program Years 2009, 2010 and 2011.

Application 08-05-026  
(Filed May 15, 2008)

**COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES  
ON THE COMBINED COMMISSIONER AND ADMINISTRATIVE LAW  
JUDGE RULING OF MARCH 20, 2009**

**I. INTRODUCTION**

In accordance with the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”), and the Joint Assigned Commissioner’s and Administrative Law Judge’s (“ALJ”) Ruling Concerning Clarification of D.08-11-031,

dated March 20, 2009 (“Ruling”), the Division of Ratepayer Advocates (“DRA”) submits these comments regarding the 1) clarification of the “3 Measure Minimum Rule” and the 2) augmentation of the One-E-App Pilot Project Budget.

These comments address the “3 Measure Minimum Rule” question only as DRA does not take issue with the augmentation of the One-E-App Pilot Project Budget.

## **II. DISCUSSION**

The Ruling seeks to modify Ordering Paragraph (“OP”) 47 and remove Attachment G from D.08-11-031 in order to eliminate any confusion caused by OP 47. DRA does not oppose the removal of Attachment G. However, DRA opposes the proposed revision to OP 47 as written on Page 2 of the ACR/ALJ Ruling. The proposed text still does not make clear whether the energy savings threshold is an exception to, or replacement of, the “3 Measure Minimum rule.” DRA only supports an exception to the “3 Measure Minimum rule” and does not support a replacement of the rule because there has been no opportunity to examine the implications of such a change. DRA recommends that the text of OP 47 clarify that the energy savings threshold is an alternative, expansion, or exception to the “3 Measure Minimum rule.” This way, OP 47 will adequately address the problems with the Rule that parties raised during the course of the proceeding, including the “3 Measure Minimum Rule” being “a barrier to leveraging” and resulting in fewer homes being treated.<sup>1</sup>

DRA would add that the existing OP 47 causes confusion because it is inconsistent with the corresponding discussion within the text of D.08-11-031. In D.08-11-031, the Commission states the need to modify the rule in order to serve more customers and increase LIHEAP leveraging opportunities with the Department of Community Services and Development (DCSD).<sup>2</sup> Any modification to OP 47 must be consistent with these goals.

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<sup>1</sup> In D.08-11-031, pp.96-97.

<sup>2</sup> D.08-11-031, pp.95-99.

Thus, the most obvious and logical modification would be to reconcile OP 47 and the discussion within section 11.3 of D.08-11-031. Section 11.3 of D.08-11-031 states:

We recognize that certain households may need fewer than three measures to adequately improve energy efficiency. However, the Commission also remains in agreement without finding in 2001 that a provision to ensure households receive a minimal level of measures is necessary to maintain overall programmatic cost effectiveness. . . . In an effort to balance these competing issues, *we agree to allow certain exceptions to the 3 Measure Minimum.* Specifically, we permit the utilities to deliver fewer than three measures to a home, as long as at least one measure results in measure-level energy savings amounting to either 125 kWh/annually or 25 therms/annually.

Not only should the 3 Measure Minimum be maintained as one avenue of qualifying for LIEE services, but the Commission should clarify that the alternative, an energy savings threshold of 125kWh/annually or 25 therms/annually, can be met by one or two individual measures. The existing text of OP 47 does refer to one or two measures that could together meet the savings threshold. To make OP 47 clearer, these two options must be clearly and concisely stated.

In Section 11.3 of D.08-11-031, the Commission only discusses the need to “create an exception” to the “3 Measure Minimum Rule”, rather than eliminate the rule. If the “3 Measure Minimum Rule” is eliminated, then certain homes will not be treated unless they meet the minimum energy savings threshold of 125kWh/annually or 25 therms/annually. Therefore, the Commission would create an unintended “minimum energy savings” requirement without any evidence on the record to support such a change. For example, if the rule is eliminated, a home that requires 3 measures that yields less than 125kWh or 25 therms in energy savings will not be treated. Such a scenario is clearly at odds with the initial goal of changing the “3 Measure Minimum Rule” to *increase* the number of homes to be treated. With an exception to the “3 Measure Minimum Rule,” any 3 measures can be installed regardless of the energy savings it yields. The discussion in section 11.3 uses the term ‘exception,’ however OP 47 somehow replaces it with ‘eliminate.’ Thus, DRA suggests the Commission replace

the word ‘eliminate’ with ‘expand’ or ‘extend’ or ‘make an exception to’ rather than the Ruling’s word ‘modify’.

DRA agrees that the inclusion of Attachment G causes some confusion because it lists groups of measures rather than individual measures. Therefore, the Ruling properly excludes Attachment G.

DRA opposes the addition of the OP on page 3 of the Ruling, which orders the sources to be used for estimating energy savings for measures, without the opportunity for parties to properly review the various sources of estimates, and in particular the DEER database. It is no small matter to choose the sources of energy savings estimates as low-income households will receive fewer or greater services based on this choice. Therefore, the Commission should provide more time for parties to analyze and provide comments on the proposed sources of energy savings estimates.<sup>3</sup> The DEER database is an extensive database and parties must be afforded more than 10-days to determine whether it should be used to measure energy savings. Measuring energy savings is a very important issue and one D.08-11-031 did not resolve. DRA has begun its review of the DEER database and needs at least 30 days to determine whether the extensive DEER database is a reasonable source of energy savings.<sup>4</sup>

The Commission and parties must be afforded an opportunity to *thoroughly* discuss and analyze how energy savings are estimated and compare the sources to other sources used in non-low-income Energy Efficiency programs authorized by the Commission. The Commission should resolve the issue of estimating energy savings in

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<sup>3</sup> The DEER database was not thoroughly discussed in the proceeding that resulted in D.08-11-031. It was briefly discussed in the March 3, 2008 Cost-Effectiveness Workshop. However, no subsequent discussions or comments were ever afforded to parties.

<sup>4</sup> The requested 30-day period is consistent with the procedural time allocated for parties to comment on modifications of decisions. The instant ruling to modify D.08-11-031 results from a December 8, 2007 PG&E email concerning the 3 Measure Minimum Rule and Energy Savings Threshold. According to Rule 16.4 of the Commission’s Rules of Practice and Procedure, a Petition to Modify is necessary for the Commission to make changes to a decision based on a party’s request. Rule 16.4(f) mandates a 30-day response period for parties to submit their comments on a decision modification. DRA currently asks for that 30-day commenting period in order to evaluate the DEER database.

the future when parties are able to provide substantial feedback. The Commission may currently clarify the “3 Measure Minimum Rule” without necessarily adopting the OP on page 3.

The Commission should also modify its mischaracterization of DRA’s position in section 11.2 of D.08-11-031 beginning with, “DRA states that the Commission should not allow utilities to reduce the number of measures delivered to certain customers.” DRA’s statement was made in context of the cost-effectiveness threshold discussion, and does not relate the “3 Measure Minimum Rule.” In its Brief, DRA did not oppose the modification of the “3 Measure Minimum Rule,” and therefore the decision errs in stating otherwise. DRA favors the exception to the rule inasmuch that it favors more customers being served because it brings the Commission closer toward reaching its programmatic initiative.

### **III. CONCLUSION**

In conclusion, in modifying OP 47, the Commission must clearly state that an exception to the “3 Rule Minimum” will be allowed if any one or more individual measures result in an energy savings of 125kWh/annually or 25therms/annually. DRA agrees that Attachment G should be excluded.

It is important that the Commission afford DRA and parties more time to analyze and comment on the sources of energy savings estimates that will be used to assess the progress of the LIEE program. The Commission should not add the additional OP on page 3 of the Ruling until a later time. Section 11.2’s discussion of DRA’s position is in error and should be removed.

Furthermore, DRA does not take issue regarding the augmentation of the One-E-App Pilot Project budget.

Respectfully submitted,

/s/ RASHID A. RASHID

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April 1, 2009

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I hereby certify that I have this day served a copy of “**COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES ON THE COMBINED COMMISSIOER AND ADMINISTRATIVE LAW JUDGE RULING OF MARCH 20, 2009**” in **A.08-05-022 et al.**, by using the following service:

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Executed on April 1, 2009 at San Francisco, California.

/s/ HALINA MARCINKOWSKI

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