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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for Approval of 2013-2014 Energy Efficiency Programs and Budget (U39M)	A.12-07-001 (Filed July 2, 2012)
Application of San Diego Gas & Electric Company (U902M) for Approval of Electric and Natural Gas Energy Efficiency Programs and Budgets for Years 2013 through 2014.	A.12-07-002 (Filed July 2, 2012)
Application of Southern California Gas Company (U904G) for Approval of Natural Gas Energy Efficiency Programs and Budgets for Years 2013 through 2014.	A.12-07-003 (Filed July 2, 2012)
Application of Southern California Edison Company (U338E) for Approval of Energy Efficiency and Demand Response Integrated Demand Side Management Programs and Budgets for 2013-2014.	A.12-07-004 (Filed July 2, 2012)

RESPONSE OF THE CALIFORNIA ENERGY EFFICIENCY INDUSTRY COUNCIL (EFFICIENCY COUNCIL) TO THE CONSOLIDATED APPLICATIONS OF PACIFIC GAS & ELECTRIC COMPANY, SAN DIEGO GAS & ELECTRIC COMPANY, SOUTHERN CALIFORNIA EDISON COMPANY, AND SOUTHERN CALIFORNIA GAS COMPANY FOR APPROVAL OF 2013-2014 ENERGY EFFICIENCY PROGRAMS AND BUDGET

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Audrey Chang
Executive Director
California Energy Efficiency Industry Council
436 14th Street, Suite 1123
Oakland, CA 94612
(916) 390-6413
achang@efficiencycouncil.org

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I. Introduction and Summary

The California Energy Efficiency Industry Council (Efficiency Council) respectfully submits these responses to the applications of Pacific Gas & Electric Company (PG&E), San Diego Gas & Electric Company (SD&E), Southern California Edison (SCE), and Southern California Gas Company (SCG) submitted on July 2, 2012 in accordance with *Decision Providing Guidance on 2013-2014 Energy Efficiency Portfolios and 2012 Marketing Education and Outreach*, Decision (D.) 12-05-015 (May 10, 2012). Our responses are submitted pursuant to the July, 13, 2012 "Administrative Law Judge Ruling Consolidating Applications and Setting Preliminary Schedule" (ALJ Ruling) as well as Rules 2.6 and 2.7 of the California Public Utilities Commission's (Commission) Rules of Practice and Procedure.

The Efficiency Council is a statewide trade association of non-utility companies that provide energy efficiency services and products in California.[1] Our member businesses, now numbering over 70, employ thousands of Californians throughout the state. They include energy service companies, engineering and architecture firms, contractors, implementation and evaluation experts, financing experts, workforce training entities, and manufacturers of energy efficiency products and equipment. The Efficiency Council's mission is to support appropriate energy efficiency policies, programs, and technologies that create sustainable jobs and foster long-term economic growth, stable and reasonably priced energy infrastructures, and environmental improvement.

Pursuant to D.12-05-015 (Decision), the four utilities have submitted detailed applications for their electric and natural gas energy efficiency programs in 2013-2014. Given the vast quantity of information provided in the utilities' applications, the Efficiency Council is only submitting responses to a few key topics that we respectfully request the Commission and utilities take into account as they finalize the 2013-2014 portfolio funding decisions. We are specifically interested in ensuring that the Commission and utilities keep to a fast-moving schedule in order to avoid delays or gaps that could result in lost savings and economic opportunities for customers, the industry, and the state. We also want to stress transparency in the process of setting and adjusting budgets for existing and new third party programs to ensure alignment with the Decision's stated goal of expanding third-party programs. Our comments are summarized as follows:

1. The Efficiency Council urges the Commission and utilities to adhere to a tight but workable schedule to ensure no gaps in delivery of efficiency programs, especially third-party programs that require new solicitations. Any slip in the overall schedule will create delays in the solicitation process, which will result in harmful disruptions that lead to lost energy and cost savings for California consumers, lost jobs in the California energy efficiency industry workforce, and lost benefits for the California economy.

[1] More information about the Efficiency Council, including information about the organization's current membership, Board of Directors, and antitrust guidelines and code of ethics for its members, can be found at www.efficiciencycouncil.org.

2. The Efficiency Council urges the Commission and utilities to clarify and ensure consistency in the method for calculating the minimum 20% of total portfolio budget that is required for third-party programs. While the Decision is clear in its goal of continuing to support the implementation of programs by third parties, SCG explains in its application that it considers its 20% third-party allocation based on the total budget minus evaluation, measurement, and verification (EM&V). It is unclear whether the other utilities also use this methodology and whether the Commission intended for the allocation to be determined in this manner.
3. The Efficiency Council urges the Commission to ensure that the utilities' portfolios maintain allocations of at least 20% of the portfolio budgets for third-party competitively-bid programs and ensure ongoing transparency in this budget allocation.
4. The Efficiency Council supports the consensus document submitted by the utilities regarding the Custom Project Review Process.
5. The Efficiency Council commends the Commission and utilities for beginning the process in 2013-2014 of piloting expanded financing offerings. However, we would like to remind the Commission that the portfolio financing pilots should be designed such that financing is one of a complimentary set of tools to address the variety of barriers to energy efficiency that still exist. The pilots and the Commission should not assume that financing is a panacea to achieving greater energy efficiency but rather will continue to need to be combined with other strategies, even when operating at scale.
6. The Efficiency Council strongly supports the utilities' efforts to include spillover effects in cost-effectiveness calculations for 2013-2014 and to evaluate the options going forward. It is important to include the benefits of spillover in the net-to-gross ratio if the impacts of free riders are incorporated.

II. <u>Discussion</u>

1. **The Efficiency Council urges the Commission and utilities to adhere to a tight but workable schedule to ensure no gaps in delivery of efficiency programs and as quick a process as possible for solicitation of new third-party programs. Any slip in the overall schedule will create delays in the solicitation process, which will result in harmful disruptions that lead to lost energy and cost savings for California consumers, lost jobs in the California energy efficiency industry workforce, and lost benefits for the California economy.**

The utility applications lay out a tight but workable schedule with key milestones that include an October 1, 2012 Interim Funding Decision, October 30, 2012 Proposed Decision, and November 29, 2012 Final Decision. These are all key points that cannot slip, as the schedule is already less than ideal to ensure savings across the 2013-2014 portfolios beginning on January 1, 2013. The October 1, 2012 Interim Funding Decision from the Commission is a particularly important milestone in order for utilities and contractors to finalize contracts for continuing third-party programs. We also urge the Commission to meet the October 1, 2012 deadline proposed in the applications, ensuring that the Commission provides sufficient authorization to allow the utilities to move forward with a solicitation process for new third-party programs. Any major changes in Commission guidance after October 1, 2012 that affect third-party implementers will significantly impact the ability for the industry to continue implementing existing programs without gaps and to move forward on new programs. The Commission must ensure that it does not allow the Interim Funding Decision to slip in timing and we seek assurance from the utilities that they will be ready to take advantage of a timely decision to quickly move forward with both continuing programs and the new solicitation process.

The Efficiency Council would like to remind the Commission and parties of the general schedule for new solicitations that the Efficiency Council proposed in agreement with the utilities in an *ex parte* communication on May 9, 2012.[2] For new programs, we collaborated with the utilities to offer the following timeline:

> "After obtaining input from key stakeholders on selection criteria, the IOUs will begin new 3P solicitations. Solicitations may be done sequentially and focus on specific program elements. It is anticipated that this process will begin in 3Q2012 with initial award selections announced in 4Q2012. New 3P Programs are anticipated to be launched in 1Q2013 following completion of contract negotiations."

We urge adherence to this general schedule in working toward the inclusion of new third-party programs to ensure launch of programs as close as possible to the beginning of the 2013-2014 cycle. With sufficient authorization from the Commission by Oct. 1, 2012 in the form of the Interim Funding Decision, we believe the utilities can work quickly to begin the new solicitation process and, in particular, the IDEEA 365 program referenced in the applications. Also, as part of developing a quick and efficient new solicitation process, we encourage the utilities to continue coordination with stakeholders so that the IDEEA 365 program is as consistent as

[2] Efficiency Council Notice of *Ex Parte* Communication and Attachment. May 9, 2012. http://www.cpuc.ca.gov/EFILE/EXP/166387.pdf, http://www.cpuc.ca.gov/EFILE/EXP/166389.pdf

possible across utilities. Only with a timely and efficient solicitation process will the Commission be able to meet its goal of increasing third-party program implementation.

Furthermore, the Efficiency Council supports SCE's request in its application for exemption from regulatory approval of individual IDEEA 365 programs selected during the 2013-2014 cycle or enhancements to current programs (SCE-1, p. 91-92). We made a similar request in our May 9, 2012 *ex parte* communication, as well. Being able to implement a program immediately without individual regulatory approval is necessary to achieve real savings during the short cycle. Also, SCE's request matches the intent of the rolling solicitation process as directed in the Decision (p. 157), which the Efficiency Council supports. In addition, the Efficiency Council appreciates the two-stage bidding process, with a Request for Abstracts followed by a Request for Proposals. This process will help streamline the solicitation process so that an initial evaluation of concept is completed before bidders are requested to submit detailed proposals.

The Efficiency Council urges the Commission and utilities to move quickly and efficiently in their authorization and solicitation of the new programs, which can be done under the schedule proposed by the utilities, without slips in timing. This is essential for the utilities to implement the full portfolio of efficiency offerings, including the 20% of budget allocated to third-party programs, throughout the two-year cycle, rather than being lopsided toward latter parts of the period.

In the event Commission authorization for the portfolios, and the solicitation process, is delayed, we urge the Commission to, at a minimum, establish the same month-to-month funding policy for 2013-2014 that it set in the 2010-2012 portfolio decision (D.09-09-047). This guidance allowed for continuing programs to have month-to-month extensions until the next energy efficiency portfolio budget is approved (OP 45) .[3] However, while this flexibility will ensure that non-utility contractors will not have to lay off program staff due to lack of continued funding, this month-to-month funding is not sufficient. Without a guarantee that funding will be available further into the program cycle, program implementers will not be able to effectively work with customers to fill up the pipeline of new projects, which means energy efficiency

[3] http://docs.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/107829.htm

savings will be left on the table. As a result, while the month-to-month funding backstop is critical, the Commission and utilities should do everything possible to avoid needing to execute it by working together to reach a decision on the portfolios in a timely manner this year.

As we have noted in previous comments in the proceeding, our interest in promoting a schedule that avoids disruptions is two-fold: it is important for ensuring that customers and the state derive the greatest benefits possible from energy efficiency programs and it avoids uncertainties for energy efficiency providers. Many third-party providers are small businesses who live and die by the cash flow generated by their work efforts on these programs. The impact is also felt by companies throughout the supply chain. Uncertainty and delays also reduce industry, vendor, and customer confidence in the programs. This lack of confidence can result in long-term damage to the programs' reputations, lower participation, higher administrative and marketing costs, and fewer savings for consumers and the state. Avoiding gaps in energy efficiency programs is critical to ensuring continued success for the programs and achieving the greatest benefits possible.

2. **The Efficiency Council urges the Commission and utilities to clarify and ensure consistency in the method for calculating the minimum 20% of total portfolio budget that is required for third-party programs. While the Decision is clear in its goal of continuing to support the implementation of programs by third parties, SCG explains in its application that it considers its 20% third-party allocation based on the total budget minus evaluation, measurement, and verification (EM&V). We seek clarification from the other utilities as to whether they also use this methodology and from the Commission on whether it intended for the allocation to be determined with or without EM&V.**

The Decision provided guidance to the utilities to "identify a minimum of 20% of funding for the entire proposed 2013-2014 energy efficiency portfolio that will be put out to competitive bid to third parties for the purpose of soliciting innovative ideas and proposals for improved portfolio performance" (p. 405). As a result, it is important to verify that the utilities' applications do, in fact, meet or exceed the 20% minimum for competitively-bid third-party programs and that they preferably do so throughout the cycle.

The utilities' applications indicate they plan to meet or exceed the 20% minimum and expect to do so with a combination of specific programs identified today and programs to be competitively bid in a new solicitation process. Our assessment of the applications also suggests that each utility approximately meets or exceed the minimum requirement (26% for SCE, 21% for SCG, 21% for PG&E, and 20% for SDG&E). SCG, however, explicitly states that it excludes EM&V in the total from which it calculates its 20% minimum budget for third-party programs (SCG Testimony p. 107). The Efficiency Council is concerned that the SCG methodology may be different from the other utilities and from the guidance in the Decision, which states that the 20% is calculated from the "*entire* proposed 2013-2014 energy efficiency portfolio" (p. 405, emphasis added). Our understanding is that even in past cycles, EM&V costs were included in the calculations of total portfolio costs. In replies to the Efficiency Council's response to the applications, we request that the utilities describe their methodologies for calculating the 20% allocation and specifically whether or not they include EM&V in the total. We also seek clarification from the Commission on its intent regarding the methodology for calculating the 20% requirement and clarification on what methodology has been used for this calculation during past cycles.

Furthermore, the Efficiency Council also believes that the Commission did not intend the 20% of the portfolios that are to be competitively bid to be both a floor and cap, as the Commission has expressed its support for greater implementation by third-parties. Therefore, we seek clarification from each of the utilities as to how they established the level of third party programs within their portfolios and why higher levels were not proposed.

3. **The Efficiency Council urges the Commission to ensure that the utilities' portfolios maintain allocations of at least 20% of the portfolio budgets for third-party competitively-bid programs and ensure ongoing transparency in this budget allocation.**

On Dec. 22, 2011, Commissioner Ferron issued an ACR that established that going forward, third-party programs constitute a separate thirteenth category in addition to the 12 statewide program categories.[4] As a result, the ACR specifies that the third-party program category is subject to the 15% fund shifting limit, which requires an Advice Letter from the IOUs if the amount transferred in or out of a category is greater than 15% of the total category amount (ACR p. 3). Fund-shifting of any amount within this thirteenth program category (from one third-party program to another) is allowed without an Advice Letter. The ACR also states, "Going forward, the utilities shall abide by the new fund-shifting rules included in this Ruling, unless and until the rules are amended by a future Assigned Commissioner's Ruling or Commission Decision," (ACR p. 4).

The Efficiency Council notes that PG&E's application proposes to retain the existing fund shifting rules, with one exception. PG&E proposes to modify the fund shifting categories in the Fund Shifting ACR to eliminate third-party programs as a stand-alone category. PG&E proposes that the Third-Party Programs be incorporated into the applicable Statewide Programs. (PG&E Testimony, p. 4-3). Through conversations with PG&E, we understand that the intent of their proposal is to allow for greater flexibility to move funds within each statewide program category, including to third-party programs.

However, by eliminating the third-party programs as a category, a utility would be able to shift significant funds away from third party program collectively without an advice letter, reducing visibility for stakeholders and potentially affect how (and whether) a utility is meeting its 20% third-party program minimum. While we see value in, and appreciate the intent behind PG&E's proposal for the utility to be able to move quickly to provide additional funds for third-party programs within their portfolio, it is also critical that the utilities meet the 20% minimum of competitively-bid third-party programs in a transparent manner.

4. **The Efficiency Council supports the consensus document submitted by the utilities regarding the Custom Project Review Process.**

As indicated by each of the IOU testimonies, the Efficiency Council coordinated with the IOUs, NRDC, NAESCO and Onsite Energy to propose a modified Custom Project Review

[4] Assigned Commissioner's Ruling Clarifying Fund Shifting Rules and Reporting Requirements. Dec. 22, 2011. http://www.cpuc.ca.gov/EFILE/RULINGS/156187.pdf

Process, included as "Attachment B Custom Project Review Process: Energy Division Process for Review of Investor Owned Utility Custom Measure Ex Ante Values". The Efficiency Council supports the proposed revisions to the process as the modifications would incorporate the customer perspective. Customers will benefit as the proposed process is designed to provide a direct and practical feedback loop that would help streamline what has often been an unnecessarily burdensome process. Most importantly, the proposed process provides an evaluation plan that allows third parties to know in advance the measures and types of projects that will be evaluated in the subsequent year, limits EM&V to no more than 10% of the project incentive, and provides a finite path for review that results in a timely, well-defined, conclusion.

Thus the Efficiency Council urges the Commission to adopt the consensus Custom Project Review Process put forward in the applications. We also suggest that the Commission recognize that evaluation is not an end onto itself, but a mechanism for supporting effective energy efficiency programs that support the delivery of long-term, energy and demand savings. Unfortunately, the current custom review process appears to detract from, rather than support, a key component of the Commission's guidance Decision which encouraged deep and broad energy efficiency actions. These deep and broad projects tend to be custom projects and an evaluation process that is too burdensome, expensive and/or uncertain discourages such projects and savings. We therefore reiterate our support for EM&V that meets the savings determination requirements, but does not create unintended consequence of encouraging only the simplest and most certain efficiency actions.

5. **The Efficiency Council commends the Commission and utilities for beginning the process in 2013-2014 of piloting expanded financing offerings and gathering experience, and collecting data. We caution that the pilots should be designed such that financing is one set of tools in addressing the variety of barriers to energy efficiency that still exist. The pilots should not assume that financing is a panacea to achieving greater energy efficiency. Rather, it will continue to need to be combined with other strategies, even when operating at scale.**

The Decision directed the utilities to expand energy efficiency financing by directing development of a portfolio of options at a total of $200 million over the two years. The emphasis on financing is a strategy to "enable customers to deploy more comprehensive energy efficiency measures in an affordable manner." Potential benefits include overcoming up-front capital costs required in efficiency upgrades, leverage private capital, increasing sales of efficiency products and services, reaching a broader set of customers and markets, and achieving deeper energy savings (p. 18-19). The Decision also states, "programs should be explicitly designed to gain program experience and data, particularly with respect to debt repayments and project energy savings…" (p. 20).

While the Efficiency Council supports these goals for expanding financing products, we urge the Commission to consider the utilities' financing proposals, as well as plans for financing programs in future years, in the broader context of financing as one of several tools necessary to achieve the state's energy savings goals. As we stated in our Jan. 25, 2012 comments on the ALJ Ruling regarding financing, financing itself is not a panacea or silver bullet to achieving greater energy efficiency. It addresses one barrier, the need for up front capital, but must be combined with other strategies to address other documented market barriers (e.g., limited access to information, limited customer technical knowledge, institutional roadblocks, etc.), support project implementation, and stimulate customer demand. Only a coordinated effort employing multiple solutions to address the full set of market barriers to energy efficiency will help the state obtain greater efficiency savings well into the future. Without the continuing existence and support of essential non-financing energy efficiency program offerings, the state's energy, climate, and Energy Efficiency Strategic Plan goals are likely to fall far short of expectations.

6. **The Efficiency Council strongly supports the utilities' efforts to include spillover effects in cost-effectiveness calculations for 2013-2014 and to evaluate the options going forward. It is important to include the benefits of spillover in the net-to-gross ratio if the impacts of free riders are incorporated.**

The Decision allowed the utilities to propose inclusion of spillover in their cost-effectiveness analyses and results and indicated that the Commission would consider these values in the application process (p. 363). The Efficiency Council strongly supports the inclusion of spillover in the cost-effectiveness calculations going forward. As the four utilities present in their joint report on spillover, included as an attachment to their applications, spillover has long been acknowledged as a possible benefit of energy efficiency programs but state policy has prevented the utilities from counting the savings (Joint IOUs p. 2).[5] The report notes the recommendation of the American Council for an Energy Efficient Economy (ACEEE) that "if a state wants to estimate "net savings," their methodology should incorporate both free riders and free drivers/spillover" (Joint IOUs p. 3). The Efficiency Council agrees with this recommendation. As a result, we support the effort by the Commission and utilities to assess the spillover impacts and include appropriate values in the cost-effectiveness calculations for 2013-2014. We also support the utilities' proposals to further develop an EM&V process that includes refined spillover impacts for post-2014 portfolio cycles.

For most energy-efficiency programs, the ultimate ongoing goal is market transformation, where "interventions" are no longer required for a specific measure or practice because market share is such that adoption is outstripping standard practice. Therefore, it can be a primary evaluation objective for metrics associated with spillover and market effects to be assessed. Unfortunately, many net savings determinations only consider free ridership levels and/or assess performance for the first year of a program's implementation, which is too short to assess market effects or long-term spillover benefits. In addition, when assessing free ridership, a survey-based method may be asking the questions of the wrong people. Those identified as free riders may, in fact, be exactly the type of participants that policymakers would want for a market transformation program – those individuals who will take the action and continue to do so once the intervention is over, when the market is transformed. It may be that free ridership is only low in programs (and efficiency actions) that can never result in transformed markets. This may be creating a counter-incentive for administrators to implement programs that cannot result in market transformation—by not counting the savings from spillover—and giving them high marks for programs with low free ridership (i.e., those programs where only an intervention will get people to implement the efficiency activity). If spillover is not included and overly conservative free ridership measurements are taken, and if free ridership is used to penalize programs, then some program efforts may be killed prematurely before market transformation or ambitious levels of savings are achieved.

[5] Joint IOUs. Spillover Estimates for Selected 2013-2014 Energy Efficiency IOU Programs. http://sdge.com/sites/default/files/regulatory/SDGE%20Appendix%20I%20-%20Spillover.pdf

III. Conclusion

The Efficiency Council appreciates the opportunity to offer these responses to the consolidated utility applications for the 2013-2014 portfolios. We continue to urge all of the parties to move quickly to ensure the uninterrupted delivery of energy efficiency programs to California's energy users and to ensure transparency for all stakeholders. The Efficiency Council looks forward to working with the Energy Division, Commission and other stakeholders to ensure the on-time delivery of a robust and effective 2013-2014 energy efficiency portfolio.

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Respectfully submitted,

Audrey Chang
Executive Director
California Energy Efficiency Industry Council
436 14th Street, Suite 1020
Oakland, CA 94612
(916) 390-6413
achang@efficiencycouncil.org