

ALJ/SRT/avs

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**Item 9
Agenda ID #852
7/17/2002**

Decision **DRAFT DECISION OF ALJ THOMAS** (Mailed 7/10/2002)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Examine the
Commission’s Future Energy Efficiency Policies,
Administration and Programs.

Rulemaking 01-08-028
(Filed August 23, 2001)

**INTERIM OPINION REALLOCATING FUNDING FOR
FLEX YOUR POWER
ENERGY EFFICIENCY CAMPAIGN**

I. Introduction

In this decision, we reallocate remaining Commission-awarded funding for the *Flex Your Power* energy efficiency campaign from the California Department of Consumer Affairs (DCA) to Southern California Edison (Edison). *Flex Your Power* is a State of California media campaign that informs Californians about the benefits of conservation and energy efficiency. The DCA has given us notice that it must return the funding.

The Commission chose Edison to oversee DCA in its performance of the CPUC-funded aspects of the *Flex Your Power* campaign. As such, Edison has been involved in the day-to-day program details. Edison also applied to work collaboratively with the *Flex Your Power* campaign as part of a statewide competitive bidding process culminating in Decision (D.) 02-03-056. We opted at that time to award the funding directly to DCA, rather than to give it to Edison or any other applicant. It appears we no longer have that option.

The *Flex Your Power* campaign is an important and useful aspect of the Commission's statewide energy efficiency program. To minimize interruption and ensure that the portion of the *Flex Your Power* campaign we funded goes forward as scheduled, we approve the transfer of statewide energy efficiency funding to Edison to carry out the program. We approve no substantive modification in program details, and expect the look and feel of the campaign to continue unchanged.

II. Background

We have approved nearly \$300 million in statewide and local energy efficiency programs for 2002-03. In D.02-03-056, we approved a grant of Public Goods Charge (PGC) ratepayer funds to the DCA to provide marketing and outreach services in connection with statewide energy efficiency programs. The DCA funding was \$8.057 million, and was to cover *Flex Your Power* ads and other publicity designed to promote energy efficiency in California.¹

We appointed Edison to administer the program statewide, because each statewide and local energy efficiency program carried out by a non-utility has a utility administrator.² DCA was to use the funding as part of its ongoing *Flex Your Power* campaign, with a private firm, Grey Worldwide Advertising (Grey), as the key producer of the advertising. According to DCA, the funding we granted DCA in this proceeding would have required that DCA amend its contract with Grey.

¹ The DCA has other funding for the *Flex Your Power* campaign totaling almost \$50 million. This decision only affects the \$8.057 million in Commission-administered PGC funding devoted to the campaign.

² This administration arrangement is an interim one pending the Commission's consideration of the appropriate means of administering PGC-funded energy efficiency programs in the future.

In early July 2002, DCA filed and served a notice stating that it was terminating its contract and returning the approved funds. DCA stated that it would be returning unspent funds already advanced to it totaling \$4,642,315.³

Edison applied for funding to carry out statewide efficiency marketing and outreach in its proposal dated December 14, 2001. It sought \$10.057 million for its proposal, in which it planned to coordinate with other utilities to build on the *Flex Your Power* effort.⁴ While we opted in D.02-03-056 to award the funding directly to the DCA (with Edison acting solely as administrator while DCA directly carried out the program), the program we approved there was quite similar to the one Edison proposed.

Both Edison's proposed program and the one we funded required substantial coordination between the DCA and the utilities. For example, we noted in funding DCA instead of the individual investor owned utilities that "DCA has worked collaboratively with the IOUs in the past and plans to continue doing so."⁵ We also required DCA "to obtain information [about other

³ According to DCA, this amount represents part (\$1,824,322) of the first funding advanced to the program, and the entire second advance (\$2,817,993). The Commission's Energy Division approved the advances because of DCA's need to buy airtime in advance of the times its regularly-scheduled payments would have been due. The Commission allowed such advances in D.02-03-056: "We cannot grant DCA the entire year's funding up-front, but the DCA is eligible to request advance disbursements from Edison if it can document essential program expenditures before a quarterly payment is due. That is, if any essential *Flex Your Power* advertisement or campaign will not occur unless funds are released early, an advance may be allowed, provided DCA and Edison give five days advance notice to the Commission's Energy Division of such plan." D.02-03-056, *mimeo.*, at 55.

⁴ 2002 Energy Efficiency Program, Statewide Crosscutting Integrated Statewide Energy Efficiency Marketing and Outreach Program, Southern California Edison, dated December 14, 2001 (Edison Proposal).

⁵ D.02-03-056, *mimeo.*, at 36.

local and statewide programs] from program providers to place on the DCA website.”⁶ We provided that the content of the DCA’s energy efficiency message must reflect the “input of Edison.” We also appointed Edison to administer the *Flex Your Power* program because DCA “has worked closely with Edison in the past”⁷

Moreover, Edison is closely involved with the current DCA campaign, and time is of the essence in order to carry out the campaign on schedule. According to the DCA filing,

Southern California Edison has been integrated and involved in all related planning decisions, to date. Edison has also coordinated and communicated with the other investor owned utilities on the approval of the media creative [sic] currently proposed.

The development and focus group research for the next media campaign . . . has been completed. Edison has approved the media messaging and creative concept. [Grey] has reserved airtime for these spots. . . .

III. Discussion

We have no choice but to choose another provider to carry out the *Flex Your Power* energy efficiency campaign, since DCA is now unavailable for this purpose. We have already subjected the statewide energy efficiency marketing and outreach campaign to competitive bid, so we are in the position to reallocate the funding to another bidder.

We reallocate DCA’s money to Edison to carry out the CPUC-funded portion of the *Flex Your Power* campaign. Edison is already administering the program, sought statewide funding in December 2001 to do similar work, has

⁶ *Id.* at 56.

⁷ *Id.* at 55.

worked with DCA in the past, and is involved in current planning for the campaign. Moreover, time is of the essence so that the campaign can occur during the hottest months.

IV. Conclusion

We support the *Flex Your Power* campaign wholeheartedly, and make the foregoing change so that the campaign can continue unabated.

V. Comments on Draft Decision

This is an expanded 311 decision, but the 30-day period may be reduced or waived because there is an unforeseen emergency situation. In this case, we have just learned that the DCA cannot continue with its program. Because time is of the essence so that the program can go forward during the hottest months, we shorten the comment period. Comments are due on July 15, 2002. No reply comments will be allowed.

Findings of Fact

1. DCA cannot continue the PGC-funded portion of its *Flex Your Power* campaign.
2. Edison is already administering the program, sought statewide funding in December 2001 to do similar work, has worked with DCA in the past, and is involved in current planning for the campaign.
3. Time is of the essence so that the campaign can occur during the hottest months.
4. The Commission put out the statewide energy efficiency marketing and outreach funding for competitive bid.

Conclusion of Law

The Commission should reallocate to Edison at least \$4,642,315 of the funds advanced to DCA to carry out the PGC-funded *Flex Your Power* energy efficiency program.

INTERIM ORDER

IT IS ORDERED that:

1. The California Department of Consumer Affairs (DCA) shall return all unspent PGC funds, totaling not less than \$4,642,315, to Southern California Edison (Edison), so that Edison may take over the portion of the *Flex Your Power* campaign funded by this Commission. DCA shall cooperate with Edison in making this transition, including allowing Edison to use the *Flex Your Power* logo and other related materials.
2. DCA shall file and serve a report describing its expenditures to date no later than 45 days after the Commission issues this decision.
3. Edison shall take over the PGC-funded portion of the *Flex Your Power* campaign. The look and feel of the campaign shall continue unchanged. Edison shall not use the campaign to market its own services, but rather should carry out the campaign in a neutral manner.
4. Edison shall immediately begin to carry out the *Flex Your Power* program functions, including those that must occur immediately in order for the advertising to go forward as scheduled.

This order is effective today.

Dated _____, at San Francisco, California.