

**DRAFT**

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

**ENERGY DIVISION**

**I.D.# 8584  
RESOLUTION E-4233  
July 9, 2009**

**R E S O L U T I O N**

Resolution E-4233. San Diego Gas and Electric Company (SDG&E) and Southern California Gas Company (SoCalGas) request authorization to pay a capitation fee to outreach organizations for low income customer enrollments in the Low Income Energy Efficiency (LIEE) program. This request is denied.

By SDG&E Advice Letter 2036-E/1813-G filed on November 3, 2008.

By SoCalGas Advice Letter 3916-G filed on November 3, 2008.

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**SUMMARY**

SDG&E and SoCalGas (collectively as the Utilities) request that the Commission authorize payment of a capitation fee, subject to a ceiling of \$15, to outreach organizations providing low income clients with various services for customer referrals to the LIEE program. The Division of Ratepayer Advocates (DRA) objects to this proposal on the grounds that: 1) the proposal would add an extra administrative layer to the customer experience, 2) the proposal does not offer categorical eligibility to the customer, 3) the proposal does not account for the impact on other outreach activities as a consequence of diversion of funds to this

effort, and 4) the proposal does not discuss the possibility of missed leveraging opportunities. The Utilities specified that the outreach organization would: 1) prequalify the customer eligibility based on income requirements, 2) explain the LIEE program to a customer, and 3) assist the customer in filling out a lead sheet.

This Resolution denies the Utilities' request.

### **BACKGROUND**

In Decision (D.) 01-05-033, the Commission encouraged the Investor Owned Utilities (IOUs) to leverage with organizations which provide low income clients with services outside the jurisdiction of the IOUs. These include organizations that provide low income clients with meal services, income tax assistance, housing counseling, etc. The Commission recognized that such outreach organizations could be leveraged to assist clients in filling out CARE applications and in doing so the organizations could incur an incremental cost. In order to recover these costs, the Commission authorized utilities to negotiate a capitation fee, up to \$12.00<sup>1</sup> per eligible enrollment in the CARE program and later increased this fee to \$15.00<sup>2</sup>. Currently, this fee only goes to those organizations which are not otherwise reimbursed for enrollment services. For example, the fee does not include LIEE contractors.<sup>3</sup> The outreach organization receives the capitation fee only if the client is successfully enrolled in the CARE program.

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<sup>1</sup> D.01-05-033, Ordering Paragraph(OP) 6

<sup>2</sup> D.06-12-038

<sup>3</sup> D.01-05-033, Page 45

The Utilities have requested that the Commission extend the capitation fee to outreach organizations for customer referrals to the LIEE program. According to the Utilities, the proposed capitation fee will compensate outreach organizations for providing customers with information about the LIEE program, prequalifying existing customers based on their incomes, and assisting customers in completing the LIEE program 'lead' sheet. The Utilities seek to negotiate the capitation fee, up to \$15.00. The fee is not proposed to cover LIEE contractors.

The Utilities have not asked for an increase in the authorized funding for LIEE for program cycle 2009-2011 to implement this request. Instead they plan to use a part of the outreach funding authorized by the Commission for the 2009-2011 budget cycle for this purpose. The Utilities plan to track these outreach activities and expenditures in their monthly filings with the Commission and also assess this enrollment effort, at a later date, to determine its effectiveness.

### **NOTICE**

Notices of SDG&E Advice Letter 2036-E/1813-G and SoCalGas Advice Letter 3916-G were made by publication in the Commission's Daily Calendar. The Utilities state that copies of the Advice Letter were mailed and distributed in accordance with Section 3.14 of General Order 96-B.

### **PROTESTS**

SDG&E Advice Letter 2036-E/1813-G and SoCalGas Advice Letter 3916-G were timely protested by DRA on November 25, 2008. The Utilities responded jointly to the DRA protest on December 4, 2008. The DRA's arguments and the Utilities' response are as follows:

1) According to DRA, the Utilities' proposal would not directly benefit the customer but instead would add an extra administrative layer to the customer experience by adding a second round of program information, pre-qualification, and filling out a lead form, first at an agency office and again at the customers' home. DRA claims that the proposal, therefore, pays for duplicative services.

The Utilities disagree with DRA's assertion that the proposal would not benefit customers. The outreach organizations are expected to provide customers with information about the Utilities' LIEE program and the potential benefits that the customers could realize from participating in the program. The Utilities specify that the outreach organization would: 1) prequalify the customer eligibility based on income requirements, 2) explain the LIEE program to a customer, and 3) assist the customer in filling out a lead sheet. Each outreach organization is expected to collect this information and pass it on to the LIEE contractor or Energy Specialist who will then schedule an appointment with the income eligible customer at his or her home to obtain the required enrollment documentation and to conduct an assessment of the potential measures to be installed in the home. If the customer is determined to be categorically eligible, the contractor will seek no additional documentation when conducting the onsite assessment. The Utilities assert that the main objective of the outreach organization is to establish customer familiarity with the LIEE program and increase the likelihood of the customer enrolling in the LIEE program.

2) DRA alleges that the proposal fails to offer categorical eligibility options to customers. Currently, customers may be able to participate in LIEE under categorical eligibility whereby they are allowed to enroll in the LIEE program

based on their current participation in another state, local, or federal means - tested program. The income guidelines of these means-tested programs are at or below the current CARE/LIEE program income guidelines as set forth by the Commission. Some of the programs that have been adopted for inclusion in categorical eligibility include Medi-Cal, Food Stamps, Temporary Assistance to Needy Families (TANF), Supplemental Security Income (SSI) etc.

The Utilities respond that DRA's assumption is erroneous. In order to make current participation in the LIEE program easier, the Utilities will include a check box in the "lead sheet" that enables customers to indicate their current participation in a categorical program. Categorically eligible customers who provide proof of enrollment in the approved programs will not have to provide income documentation to the contractor.

3) DRA protests that the proposal does not account for impact on other LIEE outreach activities, if previously approved outreach funding for these activities is directed to the proposed effort.

The Utilities respond that they are not seeking additional funding for the outreach services proposed in the Advice Letter filings. For the 2009-2011 funding cycle, SDG&E estimates that roughly \$30,000 - \$50,000 will be spent on the proposal. SoCalGas estimates that roughly \$200,000 - \$400,000 will be used for this new method of enrollment for the same budget cycle. The Utilities believe they currently have the funding flexibility, in accordance with D.08-11-031, to shift funds for this proposal. According to the Utilities, the minimal

funding anticipated for their proposals will not negatively impact the funding level or outreach activities authorized in D.08-11-031.

4) DRA argues that the proposal does not discuss the possibility of missed leveraging opportunities. Since LIEE and CARE eligibility is equivalent, some of these outreach organizations will already have qualified customers for CARE and will qualify them again for LIEE.

The Utilities contend that the outreach organizations will provide information to their clients about the CARE program as well as the LIEE program and thereby take advantage of this leveraging opportunity.

## **DISCUSSION**

Energy Division (ED) has reviewed SDG&E Advice Letter 2036-E/1813-G and SoCalGas Advice Letter 3916-G. ED sent a data request to the Utilities on 12<sup>th</sup> December 2008, requesting details about the proposals, to which the Utilities responded on 22<sup>nd</sup> December 2008.

The Commission approved a capitation fee for CARE in D.01-05-033 but we find no precedent for capitation fee for LIEE in any prior Commission Decision or Resolution. We believe that an application proceeding and not an Advice Letter is the correct procedural vehicle for submitting such a request. The Utilities had an opportunity to submit this request in their recent 2009-11 budget applications, approved in D.08-11-031. The Utilities' requests for outreach activities in the 2009-11 budget applications would have been the right forum for such a request,

but the Utilities' applications did not include a proposal for capitation fee payments for LIEE.

We do not approve the Utilities' request to pay capitation fee to outreach organizations for low income customer enrollments in the LIEE program for the following reasons:

### **Dual compensation**

ED asked the Utilities to provide details on the LIEE enrollment process, particularly on what would constitute successful enrollment leading to payment of the capitation fee. The Utilities' response was as follows:

When a lead is received into the system the customer is contacted and screened for program eligibility. If the customer is eligible and the residence had not been served by the LIEE program in the previous ten years an appointment is set-up for an Energy Specialist<sup>4</sup>(ES) to meet the customer and go through the assessment and enrollment process. All feasible measures for installment are identified, the enrollment documentation is completed, and the ES provides the customer with energy education and, if eligible, enrollment into the CARE *[sic]* program.

We note from the Utilities' response that during the enrollment process, the agency merely passes on a lead to the Utility. Ultimately it is the responsibility of the Energy Specialist to meet the customer and go through the assessment and enrollment process. Since the income eligibility requirements for CARE and

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<sup>4</sup> Energy Specialist is employed by the contractor.

LIEE are almost identical, it is therefore unnecessary to involve and compensate another organization for qualifying the customer for the LIEE program, when she or he is already eligible under CARE.

Secondly, passing on the name of a potential customer might be effective for CARE enrollment, but not for LIEE enrollment, and therefore does not merit the same compensation because although the eligibility criteria for LIEE and CARE are the same, the processes for CARE and LIEE enrollment are quite different. LIEE enrollment requires collecting the customer's income documentation, where as in the CARE program, customers self certify their eligibility which is subject to random post enrollment verification.<sup>5</sup> We believe that the potential value that outreach organizations could bring to LIEE enrollment would be in collecting income documentation and ensuring that customers are LIEE eligible. However, according to the proposal, the contractor would collect the income documents.

The Utilities' proposal could have either 1) offered outreach organizations an additional smaller fee for enrolling customers in the LIEE program as well as the CARE program, or 2) the proposal could have compensated outreach organizations for enrolling customers in the LIEE program while entrusting the outreach organizations with additional responsibilities. In the current form, this proposal does neither.

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<sup>5</sup> According to D.08-11-031, OP 6, LIEE enrollment does involve limited self certification restricted to geographic areas where the utilities determine that 80% of the customers are at or below 200% of the Federal Poverty Guideline.

**Budget requests are inconsistent.**

ED sent a data request to SoCalGas and SDG&E requesting details about the increase in enrollments and the cost of the proposals to which the Utilities responded on December 22, 2008 as follows:

'Because the Utilities are fully confident that they will successfully negotiate paying a capitation fee of \$5 - \$7 per new LIEE enrollment, SDG&E is estimating \$30,000 - \$50,000 and SoCalGas is estimating \$200,000 - \$400,000 will be used for this new method of enrollment. These funds will cover the entire three-year funding cycle.'

However, on January 21, 2009, at the Low Income Oversight Board (LIOB) meeting in San Francisco, the IOUs discussed how they negotiated capitation fee with outreach organizations. The presentation noted that the average CARE capitation fee amount is \$12.17 for SoCalGas. On the other hand, as indicated above, the data request indicated that the Utilities expect to negotiate a capitation fee of \$5.00-\$7.00 per LIEE enrollment. Thus, we are not clear if the proposed average LIEE capitation fee for SoCalGas is either between \$5.00-\$7.00 (from the data request), or \$12.17 (from the data presented at the LIOB meeting). In the absence of a consistent and accurate capitation fee amount, it is difficult to estimate the budget required and to decide if the budget amounts are insignificant or not.

If the Utilities plan to pay a slightly increased fee for LIEE enrollments, they did not indicate so in their proposals. The Utilities did not specify the exact amount

of the capitation fee that they would pay the outreach organizations for LIEE enrollment, except that the amount would not exceed \$15.00 per enrollment.

### **Projections for SoCalGas are unrealistic**

According to its December low income program report, SoCalGas enrolled 1,594 CARE customers in 2008 by paying outreach organizations a capitation fee.

According to its LIEE capitation fee proposal, SoCalGas projects that it would enroll a maximum of 26,667 LIEE customers annually in the 2009-2011 period.

We are curious as to how SoCalGas expects to increase its enrollment through outreach organizations from 1,594 recorded in 2008 to 26,667 LIEE customers a year between 2009 and 2011, an almost 16-fold increase, by paying the same amount of capitation fee. In the absence of realistic projections, it is difficult to estimate the merits and the actual budgets for this proposal.

### **SDGE should use existing CARE database for LIEE leads**

In the year 2008, SDG&E reported that it enrolled 10,258 CARE customers by paying outreach organizations a capitation fee.<sup>6</sup> In its data response, SDG&E notes that it has enrolled 384 LIEE customers through outreach organizations annually but does not specify the period for this statistic. SDG&E expects to enroll between 1,500-2,500 LIEE customers a year by paying outreach organizations a capitation fee. We believe SDG&E should tap into the 10,258 CARE customer data base from 2008 and all the customers prior to 2008, to

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<sup>6</sup> Monthly low income program report for SDG&E, December 2008.

achieve the proposed 1,500-2,500 LIEE enrollments instead of paying outreach organizations a capitation fee.

**Preempts the Single Statewide Marketing, Education & Outreach (ME&O) Program and the Whole Neighborhood Approach**

ED asked the Utilities to elaborate on the advantages of the proposal. The Utilities responded that the prime purpose of compensating the outreach organizations was to basically establish their own familiarity with the LIEE program so that they could communicate the benefits of LIEE to customers. The Utilities elaborated that some of these benefits include increased knowledge about energy usage, replacement/repair of appliances and equipment, and reduction in monthly utility bills.

These are the same goals that the Commission hopes to realize by the statewide ME&O program, as elaborated in the *California Long Term Energy Efficiency Strategic Plan (The Plan)*. *The Plan* specifies a single statewide Marketing, Education & Outreach (ME&O) program that combines low income and non-low income energy efficiency messages, uses a single program name and tagline, and targets all eligible communities. The proposal seeks to duplicate some of the outreach efforts of the statewide marketing and outreach program.

In D.08-11-031, the Commission authorized the IOUs' ME&O budgets, subject to the restriction that they may only expend 1/3 of their 2009-11 budgets for 2009. The IOUs were to hold the remaining 2/3 of their ME&O budgets (the amounts for 2010 and 2011) in abeyance as the Commission worked to develop a statewide ME&O program that supplanted existing ME&O for 2010 and beyond.

The Decision reminded the IOUs that they should coordinate 2009 LIEE marketing so it was consistent with the developing single statewide ME&O program. The goal of the statewide marketing campaign is to leverage rate payer ME&O funds by changing outreach efforts which have focused primarily on promoting isolated consumer action, to a coherent statewide campaign. The current proposal focuses on isolated customer action and is not consistent with the coherent statewide message that the statewide campaign seeks to achieve.

Also, in D.08-11-031, the Commission directed the IOUs to implement a Whole Neighborhood Approach for outreach, enrollment, assessment and measure installation for LIEE. This approach is supposed to implement the LIEE program through targeting neighborhoods in order to reduce transportation costs and overheads. Under this approach, neighborhoods with high concentrations of low income customers, high energy usage customers, customers experiencing energy insecurity, or some or all of these characteristics will be targeted. Leveraging with local governments and other organizations will constitute a cornerstone of this approach.

The Commission will be conducting workshops on its draft proposal for the implementation of the Whole Neighborhood Approach in the near future.

Given these two impending changes in outreach, enrollment, and installation of measures in the LIEE program, we find it less than optimal to pre-empt the development of the Statewide Marketing program and the Whole Neighborhood Approach in favor of a LIEE capitation fee proposed herein by the Utilities.

**COMMENTS**

Public Utilities Code section 311(g) (1) provides that this resolution must be served on all parties and subject to at least 30 days' public review and comment prior to a vote of the Commission. Section 311(g) (2) provides that this 30-day period may be reduced or waived upon stipulation by all parties in the proceeding.

The 30-day comment period for the draft of this resolution was neither waived nor reduced. Accordingly, this draft resolution was mailed to parties for comments, and will be placed on the Commission's agenda no earlier than 30 days from today.

**FINDINGS**

1. On November 3, 2008 SDG&E filed Advice Letter 2036-E/1813-G, requesting to pay a capitation fee to outreach organizations for low income customer enrollments in the LIEE program.
2. On November 3, 2008 SoCalGas filed Advice Letter 3916-G, requesting to pay a capitation fee to outreach organizations for low income customer enrollments in the LIEE program.
3. In D.06-12-038, the Commission authorized the IOUs to pay outreach organizations a capitation fee up to \$15.00 per enrollment in the CARE program.
4. Advice Letter 2036-E/1813-G was protested by the DRA on November 25, 2008.
5. Advice Letter 3916-G was protested by the DRA on November 25, 2008.

6. The Utilities responded jointly to the DRA protests on December 4, 2008.
7. In D.08-11-031 the Commission approved budgets for the 2009-11 budget cycle including a budget for outreach activities.
8. The Utilities' proposed request should also have been part of the 2009-11 budget filings.
9. CARE enrollment involves self certification subject to post enrollment verification.
10. LIEE enrollment, with few exceptions, requires collection of income documents.
11. The outreach organizations would add value to the LIEE enrollment process only if they collected income documentation.
12. Since CARE and LIEE eligibility is the same, the proposal would lead to the outreach organizations receiving compensation twice for qualifying the same customer for both programs.
13. The main stated objective of the outreach organizations is to familiarize customers with the LIEE program. The Commission wants to achieve the same objective, using the Statewide ME&O campaign.
14. The current proposal focuses on isolated customer action and is not consistent with the coherent statewide message that the statewide campaign seeks to achieve.
15. The proposal preempts the development and implementation of the Whole Neighborhood Approach which will change the ways in which IOUs conduct outreach, enrollment, and installation of LIEE measures.
16. The average LIEE capitation fee amount for SoCalGas varies by information source.

17. In the absence of a consistent and accurate capitation fee amount, it is difficult to estimate the budget required, and therefore decide if the budget amounts are insignificant or not.
18. In 2008, SoCalGas enrolled 1,594 CARE customers by paying outreach organizations a capitation fee.
19. It is unlikely that SoCalGas can enroll 26,667 LIEE customers a year, from 2009 to 2011.
20. In the year 2008, SDG&E enrolled 10,258 CARE customers by paying outreach organizations a capitation fee.
21. SDG&E expects to enroll between 1,500-2,500 LIEE customers a year by paying outreach organizations a capitation fee.
22. SDG&E should tap into the 10,258 CARE customer data base from 2008 and all the customers prior to 2008, to achieve the proposed 1,500-2,500 LIEE enrollments instead of paying outreach organizations a capitation fee.
23. The proposal does not offer outreach organizations a small additional fee for enrolling customers in the LIEE program as well as the CARE program.
24. The proposal does not give outreach organizations additional responsibilities as compared to CARE enrollments.

**THEREFORE IT IS ORDERED THAT:**

1. The request of SDG&E to pay a capitation fee to outreach organizations for customer enrollments in the Low Income Energy Efficiency Program as requested in Advice Letter 2036-E/1813-G is denied.

2. The request of SoCalGas to pay a capitation fee to outreach organizations for customer enrollments in the Low Income Energy Efficiency Program as requested in Advice Letter 3916-G is denied.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on 9 July, 2009; the following Commissioners voting favorably thereon:

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Paul Clanon  
Executive Director

STATE OF CALIFORNIA

ARNOLD SCHWARZENEGGER, Governor

**PUBLIC UTILITIES COMMISSION**

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298



I.D.# 8584

TO: Parties to SDG&E Advice Letter 2036-E/1813-G and SoCalGas  
Advice Letter 3916-G  
FROM: Megha Lakhchaura  
DATE: May 27, 2009  
SUBJECT: RESOLUTION E-4233  
COMMISSION MEETING: July 9, 2009.

Enclosed is draft Resolution E-4233 of the Energy Division. It will be on the agenda at the next Commission meeting that is at least 30 days from the date of this letter, which is expected to be July 9, 2009. The Commission may then vote on this Resolution or it may postpone a vote until later.

When the Commission votes on a draft Resolution, it may adopt all or part of it as written, amend, modify or set it aside and prepare a different Resolution. Only when the Commission acts does the Resolution become binding on the parties.

Parties may submit comments on the draft Resolution within 20 days of this draft. Please ensure that both the Resolution number and a descriptive title of the content of the Resolution are included in the cover sheet or in the text of any electronic submission.

An original and two copies of the comments, with a certificate of service, should be submitted to:

Honesto Gatchalian

Energy Division  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102  
Fax: 415-703-2200

A copy of the comments should be submitted in electronic format to:

Megha Lakhchaura and Sarita Sarvate  
Energy Division  
California Public Utilities Commission  
505 Van Ness Ave.  
San Francisco, CA 94102  
Email: [mla@cpuc.ca.gov](mailto:mla@cpuc.ca.gov) and [sbs@cpuc.ca.gov](mailto:sbs@cpuc.ca.gov)

Any comments on the draft Resolution must be received by the Energy Division by 16 June, 2009. [20 days from mail date.] Those submitting comments must serve a copy of their comments on 1) the entire service list attached to the draft Resolution, 2) all Commissioners, 3) the General Counsel, and 4) the Director of the Energy Division, on the same date that the comments are submitted to the Energy Division.

Comments shall be limited to fifteen pages in length. Comments shall focus on factual, legal or technical errors in the draft Resolution. Comments that merely reargue positions taken in the advice letter or protests will be accorded no weight and are not to be submitted. Replies to comments on the draft Resolution may be filed (i.e., received by the Energy Division) by five days after the comments, or in this case 21 June, 2009. Replies shall be limited to identifying misrepresentations of law or fact contained in the comments of other parties. Replies shall not exceed five pages in length, and shall be

filed and served as set forth above for comments. Late submitted comments or replies will not be considered.

Sarita Sarvate, Program and Project Supervisor, Low Income Programs  
Energy Division

Enclosures:

- (1) Service List [R.08-07-011]
- (2) Certificate of Service

### CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of Draft Resolution E-4233 on all parties in these filings or their attorneys as shown on the attached list.

Dated May 27, 2009 at San Francisco, California.

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*Megha Lakhchaura*

### NOTICE

Parties should notify the Energy Division, Public Utilities

<SDGE, SoCalGas> <AL 2036-E/1813-G, AL 3916-G >/<MLA >

Commission, 505 Van Ness Avenue, Room 4002  
San Francisco, CA 94102, of any change of address to  
insure that they continue to receive documents. You  
must indicate the Resolution number on the service list  
on which your name appears.