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Decision **DRAFT DECISION OF ALJ THOMAS** (Mailed 4/5/2002)

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 SELECTING 2002-03 LOCAL ENERGY EFFICIENCY PROGRAMS

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INTERIM OPINION SELECTING 2002-03 LOCAL ENERGY EFFICIENCY PROGRAMS

I. Summary

In this interim decision, we select the local energy efficiency programs for 2002-03. We award $116,969,016 in local energy efficiency funds to a combination of governmental entities, non-profits and community based organizations, small businesses, consulting firms, investor owned utilities (IOUs) and other entities dedicated to providing energy efficiency measures at the local level. All of these programs will be funded by Public Goods Charge (PGC) funds collected in 2002 and 2003. We fund the following programs:

Energy Division Proposal Reference Number	Proposal Sponsor	Program Title	Approved Budget	IOU Service Territory	Contracting IOU
118B-02	ADM Associates, Inc	Mobile Energy Clinic Program	$726,069	SCE	SCE
119A-02	ADM Associates, Inc	Upstream High Efficiency Gas Water Heater Program	$827,116	PGE	PGE
142AB-02	Alliance to Save Energy	Green Schools, Green Communities	$1,314,286		SCE
		Program Budget Per IOU Area	*$438,095*	*PGE*	
			$876,190	*SCE*	
171AB-02	American Synergy Corporation	Comprehensive Hard-to-Reach Residential and Small Commercial Energy Savings Program	$2,980,952		
		Program Budget Per IOU Area	*$1,985,314*	*SCE*	*SCE*
			$995,638	*SCG*	
201-02	American Synergy Corporation	Comprehensive Hard-to-Reach Mobile Home Energy Savings	$2,277,632	PGE	PGE
244-02	ASW Engineering	The Energy Savers Program	$2,642,270	SCE	SCE
172-02	California Building Performance Contractors Association	Comprehensive Whole-House Residential Retrofit Program	$1,613,225	PGE	PGE

Energy Division Proposal Reference Number	Proposal Sponsor	Program Title	Approved Budget	IOU Service Territory	Contracting IOU
311BC-02	California State University Chancellor's Office	California State University Energy Efficiency Program Proposal	$536,766		SCE
		Program Budget Per IOU Area	*$366,309*	*SCE*	
			$170,457	*SDGE*	
230ABCD-02	California State University Fresno	Agriculture Pumping Efficiency Program	$4,929,655		PGE
		Program Budget Per IOU Area	*$3,333,333*	*PGE*	
			$679,793	*SCE*	
			$593,483	*SCG*	
			$323,046	*SDGE*	
162ABC-02	California Urban Water Conservation Council	Pre-Rinse Spray Head Installation Program for the Food Service Industry Proposal	$2,217,513		PGE
		Program Budget Per IOU Area	*$562,806*	*PGE*	
			$1,299,648	*SCG*	
			$355,059	*SDGE*	
234A-02	CHEERS	Building Department and Small Builder Title 24 Standards Training	$631,881	PGE	PGE
116-02	City of Davis	Davis Comprehensive Energy Efficiency Program (DCEEP)	$1,905,968	PGE	PGE
284-02	City of San Diego	Whole House Energy Retrofit Incentive Program	$1,448,946	SDGE	SDGE
203-02	City of Stockton / InSync	Stockton Area Comprehensive Local Proposal	$956,938	PGE	PGE
156-02	County of Los Angeles	The County of Los Angeles Internal Services Division Energy Efficiency Program	$3,333,333	SCE	SCE
292-02	D&R International	Appliance and Lighting Products in Residential New Construction	$778,727	SDGE	SDGE
99-02	Ecology Action of Santa Cruz	Small Business Energy Efficiency Program	$1,904,762	PGE	PGE
245C-02	Ecos Consulting	LiteVend Program	$481,331	SDGE	SDGE
258BC-02	Ecos Consulting	Energy Star CFL Program for Small Hardware and Grocery Retailers	$5,504,182		SCE
		Program Budget Per IOU Area	*$4,051,416*	*SCE*	
			$1,452,766	*SDGE*	
274-02	Efficiency Services Group Inc	Energy and Water Saving Program for Residential Rental Properties in Targeted Local Communities in PGE Service Area	$3,320,368	PGE	PGE

Energy Division Proposal Reference Number	Proposal Sponsor	Program Title	Approved Budget	IOU Service Territory	Contracting IOU
141ABC-02	Electric & Gas Industries Association	A Proposal to Develop & Administer an Interest Rate Buy-Down for the Installation of High Efficiency HVAC Equipment	$5,380,983		PGE
		Program Budget Per IOU Area	*$3,269,151*	*PGE*	
			$1,524,728	*SCE*	
			$587,105	*SCG*	
208-02	Energx Controls Inc	Local Small Commercial Energy Efficiency & Market Transformation Program	$1,142,857	SCG	SCG
98AB-02	Energy Analysis Technologies	Residential Duct Services Program	$1,095,238		SCG
		Program Budget Per IOU Area	*$547,619*	*SCE*	
			$547,619	*SCG*	
232A-02	Energy Coalition	The Energy District Approach for Sustainable Energy Efficiency in California	$3,047,619	SCE	SCE
148ABC-02	Energy Solutions	LightWash	$2,559,905		PGE
		Program Budget Per IOU Area	*$1,407,930*	*PGE*	
			$837,800	*SCG*	
			$314,175	*SDGE*	
243ABC-02	EnSave Energy Performance Inc	California Variable Speed Drive Farm Program	$484,977		PGE
		Program Budget Per IOU Area	*$399,621*	*PGE*	
			$71,291	*SCE*	
			$14,065	*SDGE*	
113-02	Fisher-Nickel Inc	Energy Efficiency in Commercial Food Service	$3,183,796	PGE	PGE
126-02	Frontier Associates	Green Building Technical Support Services	$565,396	PGE	PGE
180-02	GeoPraxis	Time-of-Sale Home Inspection Proposal	$875,931	PGE	PGE
130-02	Geothermal Heat Pump Consortium	Proposal to Promote Geoexchange to SCE Customers	$1,287,531	SCE	SCE
248B-02	Global Energy Partners, LLC	Energy Efficiency Services for Electricity Consumption and Demand Reduction in Oil Production in the State of California	$1,730,250	SCE	SCE
278BC-02	Global Energy Services	Chinese Language Efficiency Outreach (CLEO)	$358,087		SCE
		Program Budget Per IOU Area	*$279,913*	*SCE*	
			$78,173	*SCG*	

Energy Division Proposal Reference Number	Proposal Sponsor	Program Title	Approved Budget	IOU Service Territory	Contracting IOU
255CD-02	Heschong Mahone Group	Efficient Affordable Housing Program	$483,697		SCG
		Program Budget Per IOU Area	*$241,849*	*SCE*	
			$241,849	*SCG*	
134-02	ICF Associates Inc	Partnership for Energy Affordability in Multi-Family Housing	$1,826,305	PGE	PGE
218AB-02	ICF Associates Inc	Demand Control Ventilation Pilot Program	$589,153		SCG
		Program Budget Per IOU Area	*$394,733*	*SCE*	
			$194,421	*SCG*	
184AB-02	Local Government Commission	Regional Energy Authority Pilot Projects	$939,903		PGE
		Program Budget Per IOU Area	*$454,002*	*PGE*	
			$485,901	*SCE*	
237ABC-02	PECI	Proposal for Delivering Energy Efficiency Services to Local Independent Grocery Sector	$3,838,485		SDGE
		Program Budget Per IOU Area	*$1,830,957*	*PGE*	
			$1,408,724	*SCE*	
			$598,804	*SDGE*	
11-02	PGE	School Resources Program	$600,000	PGE	
15-02	PGE	Energenius	$300,000	PGE	
19-02	PGE	Pacific Energy Center (PEC)	$2,340,000	PGE	
290-02	Proctor Engineering Group Ltd.	Check Me	$2,852,381	SCE	SCE
106-02	Quantum Consulting Inc	Municipal Wastewater Retro-Commissioning (PG&E Territory)	$952,381	PGE	PGE
107-02	Quantum Consulting Inc	Municipal Wastewater Retro-Commissioning (SCE Territory)	$1,528,714	SCE	SCE
174-02	Quantum Consulting Inc	The Oakland Energy Partnership Program	$6,052,498	PGE	PGE
179-02	Richard Heath & Associates, Inc.	Proposal to Provide A Small Nonresidential Energy Fitness Program	$1,904,762	PGE	PGE
287-02	Richard Heath & Associates, Inc.	Mobile Home Energy Efficiency & Education Program	$1,514,616	SDGE	SDGE
182AB-02	Rita Norton & Associates	South Bay Communities & Affiliates Energy Efficiency Program	$1,904,762		SCE
		Program Budget Per IOU Area	*$1,276,190*	*SCE*	
			$628,571	*SCG*	
125-02	RLW Analytics Inc	The Energy Savers Program	$1,904,762	PGE	PGE

Energy Division Proposal Reference Number	Proposal Sponsor	Program Title	Approved Budget	IOU Service Territory	Contracting IOU
300-02	San Diego Regional Energy Office	San Diego Public Agency Information and Technical Support Program	$910,402	SDGE	SDGE
301-02	San Diego Regional Energy Office	San Diego Region Energy Resource & Education Center	$1,805,107	SDGE	SDGE
303-02	San Diego Regional Energy Office	San Diego Region Cool Communities Shade Tree Program Proposal	$744,941	SDGE	SDGE
304-02	San Diego Regional Energy Office	San Diego Region Agriculture, Water and Energy Program	$524,097	SDGE	SDGE
305-02	San Diego Regional Energy Office	San Diego Region Direct Install Small Commercial Program	$1,724,367	SDGE	SDGE
306-02	San Diego Regional Energy Office	San Diego K-12 Energy Education Program	$429,676	SDGE	SDGE
97A-02	SBW Consulting, Inc.	Compressed Air Management Program	$1,569,524	PGE	PGE
37-02	SCE	Residential In-Home Energy Survey Program	$700,000	SCE	
40-02	SCE	Small Nonresidential Hard to Reach Program	$1,000,000	SCE	
42-02	SCE	Pump Tests & Hydraulic Services Program	$1,930,000	SCE	
43-02	SCE	Demonstration & Information Transfer	$450,000	SCE	
44-02	SCE	Local Government Initiative	$850,000	SCE	
45-02	SCE	Codes & Standards Program	$50,000	SCE	
83-02	SCG	Nonresidential Financial Incentives Program	$990,000	SCG	
84-02	SCG	Diverse Markets Outreach Program	$1,079,000	SCG	
63-02	SDGE	Hard to Reach Lighting Turn In Program	$433,000	SDGE	
64-02	SDGE	In-Home Audits Program	$150,000	SDGE	
65-02	SDGE	Small Business Energy Assessments	$417,000	SDGE	
66-02	SDGE	EZ Turnkey Program	$900,000	SDGE	
70-02	SDGE	Codes and Standards	$200,000	SDGE	
197-02	SESCO, Inc.	The Gas-Only Multi-family Gas Program	$2,380,952	SCG	SCG
177-02	State & Consumer Services Agency	Proposal for a Local K-12 Schools Energy-Efficiency Program	$2,965,476	PGE	PGE

Energy Division Proposal Reference Number	Proposal Sponsor	Program Title	Approved Budget	IOU Service Territory	Contracting IOU
144AB-02	Xenergy	Energy Efficient Local Government Partners Program	$1,664,565		PGE
		Program Budget Per IOU Area	*$619,048*	*PGE*	
			$1,045,517	*SCE*	
202AB-02	Xenergy	Comprehensive Compressed Air Program	$1,524,000		SCE
		Program Budget Per IOU Area	*$1,142,857*	*SCE*	
			$381,143	*SDGE*	

In Decision (D.) 01-11-066, we established the rules for IOUs and third parties to follow in seeking local funding. We made third parties eligible for $100 million in funding for local programs, 65% of the total local program funding available in 2002-03. We made IOUs Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), Southern California Edison Company (Edison or SCE), and Southern California Gas Company (SoCalGas or SCG) eligible for $25 million in local program funding.[1] The following table represents the local funding we made available:

Local Program Options – Utilities	**PG&E**	**SCE**	**SDG&E**	**SoCalGas**	**Total**
Residential	3,480,000	2,400,000	1,100,000	800,000	7,780,000
Nonresidential	4,3450,000	3,530,000	1,370,000	990,000	10,240,000
Cross-Cutting	3,042,000	2,300,000	959,000	679,000	6,980,000
Sub-Total	**10,872,000**	**8,230,000**	**3,429,000**	**2,469,000**	**25,000,000**
Local Program Options – Non-Utilities (through 12/31/03)					
Any Local, Innovative, Third Party Idea	43,488,000	32,920,000	13,718,000	9,874,000	100,000,000
Sub-Total	**43,488,000**	**32,920,000**	**13,718,000**	**9,874,000**	**100,000,000**

While we authorized third parties to seek funding for 2002 and 2003 in D.01-11-066, we limited the potential IOU funding to 2002 so that the Commission might examine the appropriateness of expanding the amount of local funding available to third parties in 2003. We also found on review of all local program proposals that the appropriate allocation of IOU and third party local funding differed somewhat from our original estimate. We believe that our funding decision today results in the best mix of local energy efficiency programs

[1] Note that we used some of this funding to "bridge fund" the IOUs 2001 programs to avoid a gap in service pending the issuance of this decision.

for California. We note, however, that we used certain IOU local program funds from the $25 million to "bridge fund" the IOUs' existing programs through May 2002, so the IOUs have received more of the $25 million than this decision would indicate.[2]

We have evaluated the proposals submitted by the IOUs and the non-utilities according to the criteria and point system established in D.01-11-066:

(1) Long-term annual energy savings	***25 points***
(2) Cost effectiveness	***20 points***
(3) Addressing market failures or barriers	***17 points***
(4) Equity considerations	***15 points***
(5) Electric peak demand savings	***10 points***
(6) Innovation	***8 points***
(7) Synergies and coordination with programs run by other entities	***5 points***

We have modified the IOU and third party proposals where needed to establish more robust energy savings targets or more economical spending targets. Where appropriate, we have limited program focus to smaller geographic areas, customer segments, and/or activities; and have reduced budgets for certain programs to meet funding constraints, achieve a more balanced program portfolio and enhance synergies with other programs. We also carry through several provisions from D.02-03-056, our decision approving statewide programs, relating to how IOUs and third party providers will be able to establish eligibility for final payments; IOU and third party submission of

[2] *See* D.02-03-056, Attachment 9.

Program Implementation Plans 60 days following the effective date of this decision; and resubmission of budgets.

II. Background

In D.01-11-066, we adopted rules for energy efficiency programs to allow non-utilities to compete with utilities for energy efficiency funding. We set aside $100 million of the energy efficiency funding available in 2002-03 for local programs run by non-IOUs, and provided for $25 million in IOU funding for local programs. As noted above, we made clear these amounts were flexible to accommodate changes we might find necessary once we saw all local proposals.

Because they have the advantage of incumbency, we had the IOUs submit their local programs first, on December 14, 2001. Third parties' proposals were due no later than January 15, 2002,[3] and we held a workshop on December 19, 2001 to help proposers – many of them new to Commission proceedings – through the process. After that meeting, the Energy Division issued a list of answers to frequently asked questions (Attachment 2 hereto). We allowed comment on the proposals.

We received nearly 300 proposals, from a huge array of providers, representing many sectors of the economy: governments, non-profits, public-private partnerships, government associations, private consultants, think tanks, community based organizations, small businesses, large corporations and the IOUs. Many of the proposers have worked with the IOUs in the past on energy

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[3] Perhaps because of their unfamiliarity with the Commission process, many parties only filed or served their proposals on the due date. The Administrative Law Judge (ALJ) ruled that any such proposal would be considered timely, and gave the parties on the service list leave to object. No party did so.

efficiency programs; others have been active at the local or national level in energy efficiency programs.

III. Selection Criteria

A. Importance of Local Programs

As we stated in D.01-11-066,

> Local program options have the advantage of being able to respond flexibly to energy end-users' needs. Local programs also utilize local relationships and networks to increase participation and reach. Individual consumers depend heavily on local infrastructure in making energy efficiency decisions.[4]

Where local programs were too broad in geographic scope to ensure this flexibility and accessibility, we scaled back the proposals. We were also mindful of the need to create a balanced portfolio of programs that served, as much as possible, all areas of the state and different groups of hard to reach utility customers. We made clear in D.01-11-066 that our decision would not only reflect the scores described below, but also the extent to which the proposers conformed their proposals to the policies and rules in that decision and offered programs that help the Commission meet its desired mix of programs for 2002-03:

> Parties seeking 2002 funding should both conform their proposals to the policies and rules set forth in this section (and expanded upon in the accompanying Policy Manual), and ensure that their proposals fall within the mix of desired programs set forth in Section III(C) below. Thus, for example, even if a 2002-03 program proposal for local

[4] D.01-11-066, *mimeo.*, at 15.

> services scores higher in points than another proposal for local services, such score does not guarantee funding for the former program. The Commission will consider point scores and the extent to which proposals help it meet its desired mix of programs for 2002-03 in selecting proposals.[5]

B. Proposal Scoring

In D.01-11-066, we established a points system to use in evaluating statewide proposals. We rated each program according to the criteria described below. In summary, the best proposals/proposers: offer comprehensive service; provide a local presence; have a demonstrated history of success; are innovative; reach the hard-to-serve or niche markets not already served; reach a market that the IOUs did not propose to serve this year; serve a geographic area needing programs; advance emerging technologies; provide persistent, long-term energy savings; deliver services to small business; present the program honestly and credibly; propose reasonable budgets; leave lasting change or infrastructure at the local level; provide maximum benefits to program participants rather than being heavy on overhead; help solve transmission constraints[6]; and work closely with or represent existing city and county governments and institutions.

1. Long-Term Annual Energy (Gas and Electric) Savings

Points: 25

The most important goal of any Commission energy efficiency program is to create permanent and verifiable energy savings over the life-cycle of the relevant energy efficiency measures. Programs are not required to create

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[5] *Id.* at 4.

[6] *See* D.01-03-077.

immediate short-term energy savings, so long as there is a clear, logical, and verifiable link between program activities and eventual energy savings. In other words, the Commission will strive for sustainability in the consumption behaviors and investment choices its programs are designed to stimulate. In general, long-term energy savings are those that continue over at least a three-year period.

2. Cost Effectiveness

Points: 20

All proposals for energy efficiency programs will be required to provide an estimate of life-cycle benefits and costs from various points of view, using the assumptions detailed in the [Energy Efficiency Policy Manual]**,** Chapter 4, [Attachment 1 to D.01-11-066]. The Commission will use this information to compare and rank program proposals designed for similar uses, markets, or customer segments.

3. Addressing Market Failures or Barriers

Points: 17

Any program proposed for Commission approval should include a description of the type of barrier it is designed to address or overcome. The following examples of barriers are listed in order of importance; programs may also address other barriers not listed below:

- Higher start-up expense for high-efficiency measures relative to standard-efficiency measures
- Lack of consumer information about energy efficiency benefits
- Lack of financing for energy efficiency improvements
- Split incentives (between owners/landlords and tenants)

- Lack of a viable and competitive set of providers of energy efficiency services in the market
- Barriers to the entry of new energy efficiency service providers
- Lack of availability of high-efficiency products

4. Equity Considerations

Points: 15

The Commission will generally prioritize programs that provide access to energy efficiency alternatives for underserved or hard-to-reach markets. Although those customers contribute equally to the funds collected to support program activities, in the past, they have had access to fewer program alternatives than other customers. [The Energy Efficiency Policy Manual] provides a more detailed definition of underserved and hard-to-reach markets, either from the point of view of customer class (*e.g.*, multifamily building residents, small businesses) or geography (*e.g.*, rural customers).

5. Electric Peak Demand Savings

Points: 10

Programs paid for by electric PGC funds should emphasize long-term and permanent peak demand savings. Such programs may include, for example, installation of permanent measures to reduce peak demand, such as variable-speed drives on motors, but should not include programs that create peak demand savings only through temporary behavioral change, such as air conditioner cycling or programs that encourage consumers to turn off lighting or air conditioning.

6. Innovation

Points: 8

The Commission will prioritize programs that present new ideas, new delivery mechanisms, new providers of energy efficiency services, or new and emerging technologies to address new program areas, to overcome existing shortcomings, or to improve the effectiveness of existing programs.

7. Synergies and Coordination With Programs Run by Other Entities

Points: 5

To minimize confusion and overlap for consumers, the Commission desires program proposals that take advantage of synergies or coordination with other existing programs, including those run by other state agencies, private entities, municipal utilities, or the federal government.

C. Local Program Mix

In D.01-11-066, we provided that the program mix for 2002 should consist of local residential programs, local nonresidential programs, and local cross-cutting programs. Historically, the single and multi-family residential sectors have been hard to reach and slow to utilize new energy efficiency programs. We will continue to focus on increasing penetration in this area in the future. Nonetheless, we have chosen an excellent portfolio of local residential programs.

In connection with local nonresidential programs, we stressed small- and medium-sized businesses, another hard-to-reach sector that has been particularly hard-hit by rising energy costs. We carry this focus forward to the portfolio of local nonresidential programs we select in this decision.

Cross-cutting programs were to consist either of information and training programs, or programs to improve building codes and educate the trades, builders, developers and others on existing code revisions. We found that the majority of cross-cutting program proposals fell into the information and training category. This category is essential to get the word out about energy efficiency programs, but also presents some of the greatest challenges since the programs themselves do not deliver energy savings and can be high on administrative costs. (While some proponents of information/training programs claimed energy savings, such programs themselves do not actually deliver the savings. Rather, if a consumer is informed about a particular energy efficiency program and uses the program, it is the latter program, and not the program that informed the consumer of its existence, that may claim credit for the energy savings. If information programs claim energy savings along with the program actually delivering the energy efficiency measures, savings will be overstated.) We rejected many such proposals due to lack of specificity, planning and staffing, familiarity or access to the target market, and many other reasons. We selected programs demonstrating the greatest ability to connect customers with energy efficiency programs and train industry to enhance energy efficiency in their businesses.

D. Funding Limitations

There are several classes of proposals not eligible for Public Goods Charge (PGC) funding or for which we have limited funding due to policy considerations:

- *Programs that serve municipal utility customers.* As we made clear in D.01-11-066, because the PGC funds all energy efficiency programs we select here, we cannot channel such funding to Californians who do not contribute to the PGC. Municipal utility customers do not pay the PGC and thus are not eligible for funding. We have declined to fund such programs.

- *Programs that promote proprietary products.* We have not funded any program in which a product's manufacturer is attempting to use ratepayer PGC funds to market its product. This is not an appropriate use of public funds. Thus, for example, we do not fund the proposals of General Electric or Maytag for one-brand-name-only appliance rebates.[7]

- *Programs that duplicate existing IOU programs.* We have endeavored to avoid duplication by eliminating from consideration those programs that duplicate efforts that the IOUs will amply cover in their statewide programs. There are ever more limited funds available for energy efficiency, and we cannot afford to channel such funds to unnecessarily duplicative programs. However, we have funded several programs that complement existing IOU programs, making clear where the IOU and third party should coordinate efforts to enhance synergies between the two types of programs.

- *Programs that over-fund a particular proposer.* The process we have developed in this proceeding to allow third parties to compete with the IOUs is a new one. We are concerned that over-funding one proponent increases the risk of program failure. Therefore, we have been careful not only to select a diverse portfolio of programs, but also programs offered by a large variety of providers. We have not concentrated an excessive level of funding in any third party.

- *Programs solely designed to serve the low income.* The Commission has approved separate free programs for low-income customers as part of its Low Income Energy Efficiency (LIEE) programs.[8] We are concerned that if we award non-LIEE programs funding in this decision, customers eligible for free programs will instead be steered toward programs with associated cost. Similarly,

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[7] See TURN Comments at 4.

[8] *See, e.g.,* D.01-12-020, mailed Dec. 12, 2001.

LIEE-eligible households might actually jeopardize their eligibility by taking non-LIEE measures. One requirement of the LIEE programs is that a household need a certain number of a certain type of measures before it can qualify for participation. If another non-LIEE program installs just a few of the measures, it could jeopardize that home for participation in the LIEE program. By the same token, those just above the LIEE income levels could benefit significantly from energy efficiency measures, and we have approved a number of programs that target hard-to-reach consumers with incomes above LIEE levels.

Moreover, it is important that there be coordination between the LIEE and non-LIEE energy efficiency programs. In Rulemaking (R.) 01-08-027, the Commission ordered such coordination from LIEE providers.[9] We require the same here. Where a third party provider is aware of a competing LIEE program, it shall make LIEE-eligible consumers aware of the free program before attempting to sell a program with an associated cost. The IOUs supervising third party contracts shall build in a mechanism to encourage such program coordination. In addition, IOUs with local (and statewide) programs shall file the reports required of them in D.01-12-020 in this proceeding as well. In all cases, IOUs and third parties shall coordinate the delivery of LIEE and non-LIEE energy efficiency programs targeted at hard-to-reach customers so that the interests of low-income customers are best served.[10]

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[9] *See* D.01-12-020, Ordering Paragraph 2; D.00-07-017, Ordering Paragraph 18; D.01-05-033 at 36 n.28.

[10] Clearly, it is more in a low-income customer’s interest to obtain free programs than equivalent programs with an associated consumer charge.

E. Coordinating Statewide and Local Programs

Where possible, we have directed local program providers to coordinate with other existing or selected programs to enhance consistency in rebates and other program details; minimize duplicative administrative costs; and enhance the possibility that programs can be marketed together to avoid duplicate marketing budgets. We expect program providers to work together and coordinate their efforts rather than competing with one another for the same customers. The IOUs administering the contracts will be on the front lines ensuring that these coordinated efforts occur, but we expect the Commission will also be vigilant in enforcing this requirement.

F. Available Funding

We allocated the following potential funding amounts to each category in D.01-11-066:

Local Program Options – Utilities	**PG&E**	**SCE**	**SDG&E**	**SoCalGas**	**Total**
Residential	3,480,000	2,400,000	1,100,000	800,000	7,780,000
Nonresidential	4,3450,000	3,530,000	1,370,000	990,000	10,240,000
Cross-Cutting	3,042,000	2,300,000	959,000	679,000	6,980,000
Sub-Total	**10,872,000**	**8,230,000**	**3,429,000**	**2,469,000**	**25,000,000**
Local Program Options – Non-Utilities (through 12/31/03)					
Any Local, Innovative, Third Party Idea	43,488,000	32,920,000	13,718,000	9,874,000	100,000,000
Sub-Total	**43,488,000**	**32,920,000**	**13,718,000**	**9,874,000**	**100,000,000**

We discuss each local program category and the awarded funding in order below.

IV. Programs Selected

The programs selected are shown in the chart in Attachment 1 to this decision. We attach the Energy Division's description of each selected program, required program modifications, budget and other information in Attachment 3 hereto.

As noted above, single and multi-family dwellings have been difficult to reach with energy efficiency programs historically. Nonetheless, we have selected a number of worthwhile local residential programs. We have also chosen a diverse portfolio of local nonresidential programs, focusing on such hard-to-reach sectors as very small commercial customers (*e.g.*, independent grocery stores and restaurants) in rural counties outside the Bay Area; agricultural customers, and small wastewater facilities in the Central Valley and other parts of the state. Finally, we have very selectively funded information and training programs. While we believe our overall energy efficiency portfolio must contain such programs, too many information programs may confuse consumers and other users of energy efficiency programs. By the same token, the large number of proposals we received in this category gave us the luxury of selecting among several very well-targeted proposals.

V. Other Issues

A. Program Implementation Plans

We expect each IOU and third party whose programs we have chosen to file and serve Program Implementation Plans (Plans) no more than 60 days after the Commission approves this decision. Each party shall also post its Plan on its website in a prominent and easy-to-find location. The IOUs chosen to administer each third party program shall oversee the filing and service of these entities' Plans. Each Plan shall contain at least the following information for each program funded (IOUs and third parties with more than one funded program shall submit one document containing separate Plans for each individual program):

- Title of individual program
- Plans to implement this decision's changes to original proposals
- Revised energy and peak demand savings targets, as well as per-unit energy savings and unit-count projections, as applicable
- Revised cost-effectiveness calculations, as applicable
- For information-only programs with no energy savings targets, other objective measures for evaluating program progress
- Hard-to-reach targets and goals. Where this decision does not specify such targets and goals, the program implementer should define them in its Plan. Where this decision specifies such targets, they should appear in the Plan
- Budget (in the format and following the guidelines set forth in the following section and in Attachment 4 to this decision.)

The Commission will monitor and evaluate the local programs using the Plans as a benchmark. No party shall delay program preparations or commencement while preparing or after submission of the Program Implementation Plans.

B. Budgets

The Energy Efficiency Policy Manual accompanying D.01-11-066 required program proposers to submit budgets according the following guidelines:

> Any program proposal submitted for Commission consideration should include an itemized budget including the following elements . . . , as applicable:
>
> Administrative Costs
>
> - Labor

- Benefits
- Overhead
- Travel Costs
- Reporting Costs
- Materials and Handling
- General and Administrative costs
- Subcontractor costs
- IOU Administrative Fee (only for non-IOU programs)

<u>Marketing, Advertising, and Outreach Costs</u>

- Itemized (*e.g.*, 6 brochures, 1000 copies @ $10 each)

<u>Direct Implementation Costs</u>

- Itemized financial incentives (e.g., 100 water heaters @ $75 each)
- Itemized installation costs (*e.g.*, 100-14 SEER Central AC units @ $2000 each, installed)
- Itemized activity costs (*e.g.*, 100 walk-through audits @ $500 each)

<u>Evaluation, Measurement and Verification Costs</u>

- Itemized, including subcontractor costs

<u>Other Costs</u>

- Financing costs
- Other

The manual also contained a sample budget format.

We sent data requests to several local program proposers seeking better budgetary information than that originally provided.[11] For the most part, we obtained budget information that is adequate to allow us to approve those

[11] The data requests and responses for the programs we select in this decision appear collectively as Attachment 4 hereto.

programs. Nonetheless, in order for us adequately to monitor and evaluate the programs, all providers shall submit better budget information with its Program Implementation Plans. These parties shall follow the budget format found in Attachment 4 to this decision, entitled "Budget Format for Implementation Plan."

We seek budgets with a higher degree of detail than those already provided. Many of the budgets submitted, both by the IOUs and other proposers, did not provide the level of itemization that was called for by the Policy Manual, especially in the area of subcontractor costs. Such costs are not always "administrative"; rather, their character depends on the type of work subcontractors are doing. Subcontractor work that provides direct energy efficiency services, for example, is not "administrative" expense. In addition to providing itemization where it is required, we need explanatory material either within the budget table or in footnotes. For instance, formulas for allocating costs to overhead should be explained. If a party uses historical or experiential information to allocate certain costs, it should explain the basis for its allocation. These parties should explain their budgets in straightforward and easily understood language.

Moreover, IOUs and third parties often apportioned like costs under different categories in their local program proposals. In connection with D.02-03-056, our decision approving statewide energy efficiency programs for 2002, we required the IOUs and third party funding recipients to meet and confer and then file a uniform plan for the allocation of costs within categories. This plan – and any modifications to it ordered by the Commission or ALJ - should be used to allocate local program costs in a consistent manner. Any change in allocation that results should be filed with parties' Program Implementation Plans.

In many cases, we have adjusted the proposer's budgets downward to reflect the fact that we must balance out the energy efficiency portfolio. Where we have done so, we have made a straight-line reduction in the savings goals for the program. If a proposer feels this reduction is not accurate, it should identify an alternative method for reducing energy savings goals, and calculate the new goal, in its comments on this draft decision.

In addition, because many proposers assumed we would be awarding local program funding in time for programs to be up and running on April 1, 2002, we have attempted to adjust budgets of those programs to reflect a more realistic start date. Proposers seeking different budget adjustments shall recalculate and explain them in their comments on this decision. Third party local programs shall end no later than December 31, 2003 despite this later program commencement.

Finally, some proposers noted that certain program costs would be paid by sources other than public purpose funds – *e.g.*, local water departments, other funders, etc. Where this is the case, the proposer shall include the costs it expects to recover from another source as a line item so that each budget is comparable.

C. Program Payments and Bonding

As in the statewide decision, the final 15% of program funding (for programs with energy savings) or the final quarterly program payment (for information/training programs) will be contingent on program performance, with the risk of proportionate reductions in these amounts for programs that do not meet their goals. We will apply an objective reasonableness standard to our determination of whether each program meets its goals, and will not require a refund if the program sponsor's failure to meet goals was reasonable. If, on the other hand, the program proponent did not make reasonable attempts to meet its goals, or cannot explain why its failure to meet goals was reasonable, a portion of this final payment will have to be refunded.

Because we do not directly regulate the third parties receiving funding, we must have security not only for the final 15% or quarterly payments, but for the entire budget amount. As part of its process of contracting with the IOUs, each third party will be required to post a bond or other security ensuring that the Commission and/or the IOUs administering each contract will have a means of recovering such funding for ratepayers. Such bond or other security must guarantee the return of any funding to which the third party was not entitled – either because it unreasonably failed to meet program goals, or due to bankruptcy, complete program failure, malfeasance or other similar circumstances. Such bonding or other security will be a condition precedent to any third party receiving funding.

If a third party provider secures the required bond or other security, it will be entitled – barring bankruptcy, complete or partial program failure not deemed reasonable, malfeasance or other similar circumstance – to receive all program payments, including the final 15% (or quarterly payment for information/training programs), as they come due. We will provide this funding up front in order to avoid having to shut programs down before the end of 2003. If the third party provider does not secure the required bond or other security, then it will be ineligible to receive any energy efficiency program funds.

The third parties shall also provide evidence that they have the requisite California licensing, bonding and insurance to perform work for the State of California no later than April 22, 2002.[12]

D. Independent Evaluation, Measurement and Verification (EM&V)

We require that independent third parties not affiliated with the program provider evaluate local programs and measure and verify local programs' claimed energy savings and measures installations. Parties shall report their plans in this regard in their Program Implementation Plans. The IOUs responsible for the third party contracts should ensure that independent EM&V occurs. It may be appropriate in certain cases for EM&V to occur with regard to a group of like programs. The Commission's Energy Division will provide guidance to parties in this regard. Before commencing EM&V activities, IOUs and third parties shall contact the Energy Division for such guidance.

E. Total Resource Cost (TRC) Recalculation

We required all program proponents to calculate the Total Resource Cost (TRC) of their programs. This cost measures the overall cost-effectiveness of energy efficiency programs from a societal perspective, taking into account benefits and costs from more than just an individual perspective. Because of changes we have made to individual programs, some proponents will have to recalculate TRC. We instruct proponents whose programs we change herein to

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[12] We note that one provider, Energx Controls Inc., appears to have an outstanding state tax lien. It shall pay that lien, and provide evidence of payment to the Commission and the IOU assigned to oversee its contract, before it receives any of the program funding awarded here, or provide evidence that such lien does not exist.

recalculate TRC and submit the new calculation – with all supporting workpapers or other detail – in their Program Implementation Plans.

Moreover, no program proponent gave us adequate back-up detail for their TRC calculations. Thus, all providers whose programs we select here shall resubmit their TRC calculations, with back-up information sufficient to allow the Commission to replicate such calculations, no later than April 22, 2002.

F. Hard-to-Reach Program Targets

We have established hard-to-reach targets for most of the local programs we select in this decision. Each such target is reflected in the program summaries accompanying this decision. All programs with such targets – either suggested by the provider or by the Commission – shall include such targets in its Program Implementation Plan.

G. IOU Contracts With Third Parties

Each third party awarded program funding also has been assigned an IOU with which it will contract. That IOU will be responsible for carrying out day-to-day program administration, distributing funding, ensuring that third parties prepare and submit quarterly program reports, and notifying the Commission of serious concerns with a program. In comments on this decision, each IOU assigned contract oversight responsibilities shall identify persons whom the third parties awarded funding may contact for guidance on contracting and other next steps.

The IOUs commenced the process of developing a standard contract during Winter 2002. It appears that the efforts were by-and-large unsuccessful, due partly to the fact that at the time the IOUs were contesting the Commission's right to have them administer the contracts. In comments, the IOUs and third parties shall report on where things stand with contracts and how much re-work will be necessary if the Commission denies the IOUs' application for rehearing.

Each IOU shall use a consistent contract format statewide, and shall ensure that contracts are signed no later than May 15, 2002 so that programs can begin serving customers no later than June 1, 2002. We recognize that Program Implementation Plans are due after this contracting deadline. Because third parties may submit Plans after program commencement, but may not commence program services without a contract, we have done this deliberately. Parties shall identify any problems this process may present in their comments on this decision.

Where we have funded one program in more than one IOU's territory, we have appointed a single IOU to oversee the program in each area. We were concerned that it would be burdensome to third parties to have more than one IOU responsible for day-to-day program administration. While having the IOU close to the provider is an important countervailing argument, we realized that it probably is no less convenient for an IOU in San Francisco to administer a program in Southern California than to administer one in the far northern reaches of the state.

H. No Double Dipping

With the large number of providers receiving local funding, we are concerned that there may be more opportunities for customers to double dip – *i.e.,* receive rebates, discounts, incentives and services from more than one program. The IOUs overseeing the third party programs are the most centralized resource to see to it that double dipping is minimized. They shall include a provision in their third party contracts requiring third parties to ascertain whether customers have received other energy efficiency program benefits and to minimize or eliminate double dipping. The IOUs shall also propose a mechanism for minimizing double dipping in their Program Implementation Plans.

I. IOU Administration Expenses

In D.01-11-066, we stated that IOUs administering programs would be eligible to receive up to 5% of program budgets in compensation for their reasonable costs of administration. Because we do not yet know which programs will involve the greatest (and the least) amount of oversight, we will not set those percentages at this time. To ensure that funds are available for such IOU reimbursement (up to 5%), we will hold back approximately 5% of total local program funding.

IOUs shall assume that the 5% figure is the outlier, and only will be paid in unusual cases. Based on their past experience, including what occurred with the Summer Initiative programs (A.99-09-049 *et al.*), the IOUs shall present estimates in their comments of the appropriate percentage they anticipate for each program. They shall not estimate each or even most programs at 5%, as we do not believe past experience, especially with the Summer Initiative, will bear out such estimates.

J. Shareholder Incentives/Profits

Consistent with our decision awarding statewide funding, we will not allow IOUs (or third parties) to receive profit or shareholder incentives for their energy efficiency programs. We will examine this issue in further depth when we take up the issue of how energy efficiency programs should be administered.

K. Programs That Provide Limited Services With Energy Efficiency Funding But Offer Additional Full Fee Programs

We do not wish energy efficiency providers to use their energy efficiency funding to market full fee products and services to consumers. Therefore, all providers must prominently disclose to customers, orally and in writing, that such customers are not obligated to purchase any full fee service or other service beyond that which we fund here. For example, if all this decision does is fund a lighting program, the provider shall not make the customer believe that to get the lighting rebate, he/she must also purchase other services that we do not fund here. All providers shall provide the text of their disclosure in English and Spanish with their Program Implementation Plans. They may work together to devise such language.

Moreover, all funded providers shall disclose the source of funding by stating prominently that their programs are "funded by California ratepayers under the auspices of the California Public Utilities Commission."

L. Measurement, Assessment and Evaluation

In D.01-11-066, we set aside $10.5 million in funds for measurement, assessment and evaluation activities to be carried out by the IOUs.[13] We have since determined that it would be best if independent third parties performed this evaluative work, since the programs analyzed often will be IOU programs. Therefore, we propose to modify those portions of D.01-11-066 that indicate that

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[13] We identified the following four programs in D.01-11-066: an Evaluation, Measurement and Verification master contract; a Statewide Energy Efficiency Potential and Current Saturation Study; development of a Best Practices database; and development of new Deemed Savings Values. D.01-11-066, *mimeo.*, at 18-21.

utilities should perform this work. Rather, the Commission will arrange for contractor(s) to carry out these projects.

VI. Conclusion

The number, quality and diversity of the program proposals we received from third parties make us optimistic about the chances for success from our selected portfolio of energy efficiency programs. We will carefully monitor this year's program to ensure that customers receive maximum program benefits at minimum program expense. We urge all parties to work together to achieve the goals we set forth for this proceeding and in this decision.

VII. Comments on Draft Decision

Pursuant to Pub. Util. Code § 311(g)(3), and Rule 77.7(f)(9), we reduce the 30-day period for comments on the draft decision due to public necessity. Here the public necessity provision is implicated by the need to get local programs up and running in time for the summer 2002.

Comments shall be filed and served on the e-mail service list for this proceeding no later than April 22, 2002. Reply comments shall be filed and served no later than April 26, 2002. The assigned Commissioner and ALJ shall also receive the comments in hard copy and by e-mail.

Findings of Fact

1. We used certain IOU local program funds from the $25 million to "bridge fund" the IOUs' existing programs through May 2002, so the IOUs have received more of the $25 million than this decision would indicate.

2. It is necessary to create a balanced portfolio of programs that serve, as much as possible, all areas of the state and different groups of hard-to-reach utility customers.

3. The best proposals/proposers: offer comprehensive service; provide a local presence; have a demonstrated history of success; are innovative; reach the hard-to-serve or niche markets not already served; reach a market that the IOUs did not propose to serve this year; serve a geographic area needing programs; advance emerging technologies; provide persistent, long-term energy savings; deliver services to small business; present the program honestly and credibly; propose reasonable budgets; leave lasting change or infrastructure at the local level; provide maximum benefits to program participants rather than being heavy on overhead; help solve transmission constraints; and work closely with or represent existing city and county governments and institutions.

4. Historically, the single and multi-family residential sectors have been hard to reach and slow to utilize new energy efficiency programs.

5. Small- and medium-sized businesses are another hard-to-reach sector that has been particularly hard-hit by rising energy costs.

6. Information and training programs do not deliver energy savings. Rather, if a consumer is informed about a particular energy efficiency program and uses the program, it is the latter program, and not the program that informed the consumer of its existence, that may claim credit for the energy savings.

7. Customers just above the LIEE income levels could benefit significantly from energy efficiency measures.

8. Many of the budgets submitted, both by the IOUs and other proposers, did not provide the level of itemization that was called for by the Policy Manual, especially in the area of subcontractor costs.

Conclusions of Law

1. The Commission is not required to award the full $25 million available in IOU local funding to the IOUs if third parties propose programs we believe better serve the range of energy efficiency needs.

2. In making our decision on local programs, the Commission may consider not only the scores described in the body of this decision, but also the extent to which the proposers conformed their proposals to the policies and rules in D.01-11-066, and offer programs that help the Commission meet its desired mix of programs for 2002-03.

3. Programs that serve municipal utility customers are ineligible for PGC funding.

4. Programs that promote proprietary products are ineligible for PGC funding.

5. Programs that duplicate existing IOU programs should not receive funding.

6. It is not appropriate in selecting program providers to over-fund a particular proposer.

7. Programs solely designed to serve the low income are not eligible for non-LIEE program funding.

8. Local program providers should coordinate with other existing or selected programs to enhance consistency in rebates and other program details; minimize duplicative administrative costs; and enhance the possibility that programs can be marketed together to avoid duplicate marketing budgets.

9. Because we do not directly regulate the third parties receiving funding, we must have security not only for the final 15% or quarterly payments, but for the entire budget amount.

O R D E R

IT IS ORDERED that:

1. We award the programs set forth in Attachment 1 $116,969,016 in local energy efficiency funding. For third party programs (programs not sponsored by Investor Owned Utilities (IOUs)), program funding will run during 2002-03 unless changed by order of the Commission, the assigned Commissioner, or the assigned Administrative Law Judge (ALJ). For IOUs, funding will expire on December 31, 2002 unless changed by order of the Commission, the assigned Commissioner, or the assigned ALJ.

2. Within 60 days after the Commission approves this decision, all parties granted funding shall file and serve Program Implementation Plans (Plans). Each party shall also post its Plan on its website in a prominent and easy-to-find location. The IOUs chosen to administer each third party program shall oversee the filing and service of these entities' Plans. Each Plan shall contain at least the following information for each program funded (IOUs and third parties with more than one funded program shall submit one document containing separate Plans for each individual program):

- Title of individual program
- Plans to implement this decision's changes to original proposals
- Revised energy and peak demand savings targets, as well as per-unit energy savings and unit-count projections, as applicable
- Revised cost-effectiveness calculations, as applicable
- For information-only programs with no energy savings targets, other objective measures for evaluating program progress
- Hard-to-reach targets and goals. Where this decision does not specify such targets and goals, the program

implementer should define them in its Plan. Where this decision specifies such targets, they should appear in the Plan

- Budget (in the format and following the guidelines set forth in the following section and in Attachment 4 to this decision.)

No party shall delay program preparations or commencement while preparing or after submission of the Program Implementation Plans. The Commission will monitor and evaluate the local programs using the Plans as a benchmark.

3. Based on their past experience, including what occurred with the Summer Initiative programs (A.99-09-049 *et al.*), the IOUs shall present estimates in their comments of the appropriate percentage they anticipate for administrative expenses for each third party program.

4. Local program providers shall coordinate with other existing or selected programs to enhance consistency in rebates and other program details; minimize duplicative administrative costs; and enhance the possibility that programs can be marketed together to avoid duplicate marketing budgets.

5. Where a third party provider is aware of a competing Low Income Energy Efficiency (LIEE) program, it shall make LIEE-eligible consumers aware of the free program before attempting to sell a program with an associated cost. The IOUs supervising third party contracts shall build in a mechanism to encourage such program coordination. In addition, IOUs with local (and statewide) programs shall file the reports required of them in Decision (D.) 01-12-020 in this proceeding as well. In all cases, IOUs and third parties shall coordinate the delivery of LIEE and non-LIEE energy efficiency programs targeted at hard-to-reach customers so that the interests of low-income customers are best served.

6. With their Program Implementation Plans, all providers shall submit new budget materials to better match the requirements of the Energy Efficiency Policy

Manual approved in D.01-11-066. These parties shall follow the budget format found in Attachment 4 to this decision, entitled "Budget Format for Implementation Plan." The budgets shall contain a higher degree of detail than those already provided. In addition to providing itemization where it is required, we need explanatory material either within the budget table or in footnotes. For instance, formulas for allocating costs to overhead should be explained. If a party uses historical or experiential information to allocate certain costs, it should explain the basis for its allocation. These parties should explain their budgets in straightforward and easily understood language. Parties shall use extra care in properly characterizing "administrative" costs. Subcontractor costs, for example, are not all "administrative," but rather depend on the nature of work performed.

7. In connection with D.02-03-056, our decision approving statewide energy efficiency programs for 2002, we required the IOUs and third party funding recipients to meet and confer and then file a uniform plan for the allocation of costs within categories. This plan – and any modifications to it ordered by the Commission or ALJ – shall be used to allocate local program costs in a consistent manner. Any change in allocation that results should be filed with parties' Program Implementation Plans.

8. Third party local programs shall end no later than December 31, 2003 unless otherwise ordered.

9. The final 15% of program funding (for programs with energy savings) or the final quarterly program payment (for information/training programs) shall be contingent on program performance, with the risk of proportionate reductions in these amounts for programs that do not meet their goals. We will apply an objective reasonableness standard to our determination of whether each program meets its goals, and will not require a refund if the program sponsor's failure to

meet goals was reasonable. If, on the other hand, the program proponent did not make reasonable attempts to meet its goals, or cannot explain why its failure to meet goals was reasonable, the program proponent shall refund a portion of this final payment.

10. As part of its process of contracting with the IOUs, each third party shall post a bond or other security ensuring that the Commission and/or the IOUs administering each contract will have a means of recovering program funding for ratepayers. Such bond or other security must guarantee the return of any funding to which the third party was not entitled – either because it unreasonably failed to meet program goals, or due to bankruptcy, complete program failure, malfeasance or other similar circumstances. Such bonding or other security is a condition precedent to any third party receiving funding. If the third party provider does not secure the required bond or other security, then it will be ineligible to receive any energy efficiency program funds.

11. All third party contractors shall provide evidence that they have the requisite California licensing, bonding and insurance to perform work for the State of California no later than April 22, 2002.

12. Independent third parties not affiliated with the program provider shall evaluate local programs and measure and verify local programs' claimed energy savings and measures installations. Parties shall report their plans in this regard in their Program Implementation Plans. The IOUs responsible for the third party contracts shall ensure that independent EM&V occurs. We delegate to the Commission's Energy Division the authority to determine whether and where EM&V should be performed simultaneously on a group of like programs. Before carrying out EM&V activities, third parties shall contact the Energy Division at (415) 703-2776 for guidance in this regard.

13. All proponents shall recalculate the Total Resource Cost (TRC) of their programs and submit the new calculation – with all supporting workpapers or other detail – no later than April 22, 2002.

14. All proponents of programs with hard-to-reach targets – either suggested by the provider or by the Commission – shall include such targets in their Program Implementation Plans.

15. For each third party program, we have identified the IOU responsible for carrying out day-to-day program administration, distributing funding, ensuring that third parties prepare and submit quarterly program reports, and notifying the Commission of serious concerns with a program. These IOUs shall contract with the third parties, using a consistent contract format statewide, and shall ensure that contracts are signed no later than May 15, 2002 so that programs can begin serving customers no later than June 1, 2002. In comments on this decision, each IOU assigned contract oversight responsibilities shall identify persons whom the third parties awarded funding may contact for guidance on contracting and other next steps.

16. To ensure that funds are available to reimburse IOUs for their expenses of administering third party programs (up to 5%), we hold back 5% of total local program funding.

17. The IOUs overseeing the third party programs shall include a provision in their third party contracts requiring third parties to ascertain whether customers have received other energy efficiency program benefits and to minimize or eliminate double dipping. The IOUs shall also propose a mechanism for minimizing double dipping in their Program Implementation Plans.

18. Consistent with our decision awarding statewide funding, IOUs and third parties shall not receive profit or shareholder incentives for carrying out energy efficiency programs.

19. All providers awarded funding in this decision must prominently disclose to customers, orally and in writing, that such customers are not obligated to purchase any full fee service or other service beyond that which we fund here. All providers shall provide the text of their disclosure in English and Spanish with their Program Implementation Plans. They may work together to devise such language. Moreover, all funded providers shall disclose the source of funding by stating prominently that their programs are "funded by California ratepayers under the auspices of the California Public Utilities Commission."

20. If Energx Controls Inc. has an outstanding State of California tax lien, it shall pay that lien, and provide evidence of payment to the Commission and the IOU assigned to oversee its contract, before it receives any of the program funding awarded here. In the alternative, it shall provide evidence that such lien does not exist.

21. In all cases, consistent with D.01-11-066, the Commission retains the right to withdraw, withhold or require refund of program funds in the event of complete or partial program failure, malfeasance and/or bankruptcy.

22. We modify D.01-11-066 to make clear that the Measurement, Assessment and Evaluation programs identified on pages 18-21 shall not be carried out by the IOUs. Rather, the Commission will arrange for contractor(s) to carry out these projects.

This order is effective today.

Dated ____________________________, at San Francisco, California.

NOTE: DUE TO THE HUGE SIZE OF THE ATTACHMENTS AND TO SAVE POSTAGE, WE ARE NOT INCLUDING ATTACHMENTS 1 THRU 5 WITH THIS COPY. COPIES OF THESE WERE E-MAILED TO THE PARTIES AND POSTED ON THE COMMISSION'S WEBSITE AT

http://www.cpuc.ca.gov/WORD_PDF/COMMENT_DECISION/14467.doc