Decision **DRAFT DECISION OF ALJ WEISSMAN** (Mailed 11/2/2005)

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)

OPINION EXTENDING TIME FOR CERTAIN 2004-2005 THIRD PARTY IMPLEMENTERS TO FULFILL COMMITMENTS ENTERED INTO BY DECEMBER 31, 2005

I. Summary

This decision approves the requests by SBW Consulting, Inc. (SBW), Portland Energy Conservation, Inc. (PECI), San Diego Regional Energy Office (SDREO), and Navigant Consulting Inc. (Navigant) to extend the time for them to fulfill customer and program commitments entered into by December 31, 2005 beyond the dates currently contracted for. This decision denies the requests by H&L Energy Savers (H&L) and the City of Davis to extend the time for new customers to enroll in programs beyond December 31, 2005. This decision delegates authority to Energy Division to approve or reject requests for extension that are filed on or after October 26, 2005 and establishes close of business on December 5, 2005 as the deadline by which requests for extension must be filed.

II. Background

This rulemaking addresses the energy efficiency programs sponsored by California's investor-owned electric utilities. The Commission has issued

numerous decisions, some of which rule on requests for funding a specific energy efficiency program, and others that state or revise the Commission's generally applicable energy efficiency policies.

There are various motions and petitions currently pending in this docket that, in effect, request changes to previously-issued decisions. The items pending are as follows:

1. The Motion of SBW Consulting, Inc. to File for No-Cost Extension of the 2004-2005 Compressed Air Management Program (CAMP), in which SBW asks that customers who have already executed a CAMP Participation Agreement be allowed an additional six months to complete installation of the measures recommended. (Filed September 12, 2005.)

2. The Petition of Portland Energy Conservation, Inc. to Modify Decision (D.) 04-02-059, in which PECI asks that customers be allowed an additional six months to complete their projects. (Filed August 31, 2005.)

3. The Motion of the San Diego Regional Energy Office requesting the ability to file for a no-cost extension of the 2004-2005 Green Action Program. (Filed October 24, 2005.)

4. The Petition of Navigant Consulting, Inc. for Modification of D.03-12-060 requesting a no-cost extension of time for prototype community energy efficiency programs. (Filed October 24, 2005.)

5. The Petition of H&L Energy Savers to Modify D.03-12-060, in which H&L would partner with the U.S. Department of Housing and Urban Development (HUD) to sign up new customers under its Performance 4 program. (Filed August 26, 2005.)

6. The Petition of the City of Davis to Modify D.03-12-060 to extend its enrollment period for new customers by six months. (Filed October 24, 2005.)

7. The Motion of the SDREO requesting the ability to file for a no-cost extension of the 2004-2005 Cool Communities Shade Trees Program. (Filed October 24, 2005.)

No responses were filed on the motions or petitions described in # 1, 2, or 5. At the time that the ALJ's draft decision was issued, the time period by which responses were due for the other motions and petitions had not expired. Because of the need to resolve these requests expeditiously, we waived the customary 15 day response period set forth in Rules 45, 46, and 47 and instead allowed parties to comment on the draft decision in lieu of filing a response.

None of the petitions identified specific decision language for which changes were sought. The pending requests all seek to modify specific terms or timing provisions in the contracts between third party implementers and the utilities that specify when the parties to the contracts shall make various payments and complete various duties. The terms that the petitioners seek to modify would provide more time for the third party implementers to fulfill the terms of the contracts. The contracts, which were based on the standard contract template that the Commission instructed the utilities to adopt, were entered into by the utilities and the third party implementers after Energy Division staff's approval of the implementers' program implementation plans.[1] The current contract language allows until March 15, 2006 for the third party implementers to complete their implementation activities associated with 2004-2005 programs. It appears that what the third party implementers seek is an order from the Commission directing the utilities to allow them to continue implementation of

[1] See Section VI.b of D.03-12-060 and Section IV of D.04-02-059.

certain 2004-2005 programs into 2006. Rather than modifying either decision, we will simply consider whether to order the utilities to extend the implementation periods of certain third party implementers.

III. Discussion

The 2004-2005 program cycle is nearing an end. Third party implementers should have substantially completed their implementation activities by this point. We want to provide third party implementers the opportunity to succeed with their programs where committed customers require more time to complete installation of recommended measures, or where committed customer completion of the program operates on a different calendar basis than January to December (for example programs targeted to schools). On the other hand, if third party implementers seek an extension of time in order to change marketing approaches, recruit new customers or program partners, activities which would occur in 2006, we cannot support extensions of time. The latter extensions are effectively new programs for the 2006-2008 program cycle that should have been submitted as part of the third party solicitation process approved as part of D.05-09-043, rather than extensions of 2004-2005 programs.

Because we establish this clear demarcation for what qualifies for a no-cost extension, we delegate authority to Energy Division to approve or reject requests for no cost extensions that were filed on or after October 26, 2005, consistent with this decision. Any third party implementer seeking a no-cost extension must demonstrate that the extension meets the standard of providing additional time to fulfill commitments entered into before December 31, 2005, and would not extend the program enrollment to new customers after that date. Such requests should continue to be formally filed with the Commission's Docket Office. Energy Division will prepare an approval or rejection letter in response to the

formal request, with a copy sent to the Correspondence File of R.01-08-028 and served electronically on the service list to this proceeding. Energy Division's determination of approval or rejection will be final. In addition, we place all parties on notice that any motions for no-cost extensions of 2004-2005 programs must be filed with the Commission's Docket Office no later than close of business on December 5, 2005 to be considered. Finally, we will entertain requests for extensions of direct implementation activities for a maximum of six months, with corresponding schedule changes for reporting, Evaluation, Measurement and Verification (EM&V), and invoicing activities.

A. The Motion of SBW to File For No-Cost Extension of the 2004-2005 Compressed Air Management Program

SBW operates a CAMP in Pacific Gas and Electric Company's (PG&E) service territory. SBW's goal is to annually achieve 7.6 million kWh[2] of energy savings by working with industrial customers with large compressed air systems. The program includes a detailed assessment of the participating customer's compressed air system, metering system pressure and demand, recommending potential efficiency measures and corresponding savings estimates, and facilitating customer implementation of the recommended measures. SBW has 28 projects in varying stages of its program, all with signed Participation Agreements. Because implementing some of the recommended measures requires significant time due to the corporate budget approval process

[2] All kWh goals are extracted from the Energy Efficiency Groupware Applications site at http://eega.cpuc.ca.gov/source/PublicReportsSearch.aspx.

for capital projects, SBW is concerned that installation of measures may take longer than its contract with PG&E allows.

SBW seeks an additional six months for direct implementation activities. This schedule would allow the CAMP program to complete its reporting, EM&V, and invoicing activities within the 2006 calendar year. SBW has proposed specific language be inserted in its contract with PG&E.

SBW proposes an extension of time for Direct Implementation activities to allow customer that have already signed participation agreements but require additional implementation time because of their corporate budgeting and capital approval process to complete their projects. This request is reasonable and we will direct PG&E to extend the direct implementation period with SBW by six months, with corresponding schedule changes for reporting, EM&V, and invoicing activities. Because we did not approve the specific contracts for each third party implementer, we need not adopt specific contract language here, but direct PG&E to expeditiously enter into a revised contract, consistent with this decision.

B. The Petition of PECI to Modify D.04-02-059, to Extend its Retrocommissioning Project

PECI operates a building Retrocommissioning Program in SDG&E's service territory. PECI's goal is to annually achieve 6.2 million kWh of energy savings by working with large commercial building owners to improve the operations and efficiency of their buildings. The program includes a detailed screening process to ensure that only buildings that can cost-effectively benefit from a full retrocommissioning process receive incentive dollars. PECI has six large projects that are approved for continued participation of its program, and if allowed to complete installation of energy and demand savings measures for an

additional six months, PECI would meet its program goals. Because implementing some of the recommended measures requires significant time due to corporate budget approval process for capital projects, PECI is concerned that installation of measures may take longer than its contract with SDG&E allows.

PECI seeks an additional six months for Direct Implementation activities. This schedule would allow the retrocommissioning program to complete its reporting, EM&V, and invoicing activities within the 2006 calendar year. PECI has proposed specific language be inserted in its contract with SDG&E.

PECI proposes an extension of time for direct implementation activities to allow customer that have already committed considerable time and effort to the program but require additional implementation time because of their corporate budgeting and capital approval process to complete their projects. PECI does not indicate whether it has signed commitments from these customers. To the extent that PECI has signed letters of commitments from customers by December 31, 3005, this request is reasonable and we will direct SDG&E to extend the direct implementation period with PECI by six months, with corresponding schedule changes for reporting, EM&V, and invoicing activities. Because we did not approve the specific contracts for each third party implementer, we need not adopt specific contract language here, but direct SDG&E to expeditiously enter into a revised contract, consistent with this decision.

C. The Motion of SDREO Requesting a Three-Month Extension of the 2004-2005 Green Action Program

SDREO operates its Green Action Program (GAP) in SDG&E's service territory. SDREO's goal is to annually achieve 15,045 kWh of energy savings by working with the City of San Diego to perform a series of lectures and energy audit trainings geared to high school students within the San Diego region. The

program includes lectures and trainings, the Program for Youth Forum to discuss San Diego's energy future, a public perception survey, volunteer field work to assist energy engineers make lighting recommendations. Because GAP works with students during the academic year, it must follow the curriculum plans of individual participating teachers, which results in most energy topics being discussed in the spring.

SDREO seeks an additional three months for direct implementation activities. This schedule would allow GAP to complete its reporting, EM&V, and invoicing activities within the 2006 calendar year, but also accommodate the academic calendar of high school students it is reaching.

SDREO proposes an extension of time for direct implementation activities to allow schools that have already been participating in the program to complete their implementation of GAP during the second semester of the academic calendar year. This request is reasonable and we will direct SDG&E to extend the direct implementation period with SDREO by three months, with corresponding schedule changes for reporting, EM&V, and invoicing activities. Because we did not approve the specific contracts for each third party implementer, we need not adopt specific contract language here, but direct SDG&E to expeditiously enter into a revised contract, consistent with this decision.

D. The Petition of Navigant for Modification of D.03-12-060 Requesting an Extension of Time to Complete its California Local Energy Efficiency Program Prototype

Navigant operates a California Local Energy Efficiency Program (CALeep) in the PG&E and Southern California Edison Company (SCE) service territories. Navigant's informational program works with local governments to develop a

prototype energy efficiency program to assist local governments develop and implement highly cost-effective energy efficiency programs. The program includes six pilot community programs, three in PG&E's service territory and three in SCE's service territory, which would allow Navigant to incorporate the lessons learned from the pilots into a Workbook to be disseminated widely to stakeholders throughout California. Some of the pilot activities were delayed due to slower than expected grant funding approval, or timing of required local government actions taking longer than expected.

Navigant seeks an additional three months to complete the Workbook and conduct workshops for interested parties using the Workbook outside of the holiday season. This schedule would allow the CALeep program to complete its reporting, EM&V, and invoicing activities within the 2006 calendar year.

Navigant proposes an extension of time to allow it to reflect the information learned from the pilot programs that proceeded more slowly than anticipated because of local governmental timelines into its Work book and workshops. Navigant will not enroll new customers under this extension. This request is reasonable and we will direct SCE[3] to extend the direct implementation period with Navigant by three months, with corresponding schedule changes for reporting, EM&V, and invoicing activities. Because we did not approve the specific contracts for each third party implementer, we need not adopt specific contract language here, but direct SCE to expeditiously enter into a revised contract, consistent with this decision.

[3] Although this program is being implemented in the SCE and PG&E service territory, SCE is the contract administrator.

E. The Petition of H&L to Modify D.03-12-060, to Partner with HUD to Implement its Performance 4 Program

H&L operates a Performance 4 Program in the SCE and SoCalGas service territories. H&L's goal is to annually achieve 4.6 million kWh of energy savings by providing turnkey energy efficiency services for older single family homes in Southern California at the time of sale. The program intended to partner with local credit unions, realtors, mortgage brokers, and real estate appraisers to promote comprehensive audits that would promote weatherization and whole house system energy efficiency incentives with a network of pre-approved installation contractors. H&L indicates that this marketing strategy has not resulted in success, and as a result, a significant amount of its direct installation funding remains unspent. H&L would like to modify its marketing approach to partner with HUD to allow the program to run through the HUD fiscal year (October 1, 2005-September 30, 2006), an extension of nine months.

Unlike some of the no cost extensions that we approved above, H&L seeks to significantly modify its program approach and pursue its marketing and implementation activities in 2006. According to H&L's September 2005 program report, H&L had spent over 90% of its administration and marketing budget, but achieved only 7% of its kWh goals.[4] The anticipated change in marketing approaches would appear to require a significant expenditure of administrative and marketing funds, and it is not clear the H&L has the budget to accomplish such efforts.

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[4] H&L has been filing its monthly reports by email with its SCE contract administrator rather than submitting its data online to the EEGA database as required by D.03-12-060. The September 2005 report was submitted October 24, 2005.

H&L's request for extension is quite different than that requested by SBW, for example, who sought to work with a committed set of customers to complete installation of recommended measures. H&L would recruit new customers in 2006, effectively operating a new program in 2006. The process to select 2006-2008 programs is already underway, and H&L is welcome to participate in that process for its new program proposal. However, we will not approve the requested 2004-2005 program extension because the requested extension is not simply designed to allow existing customers additional time to complete installations of committed projects, but rather to develop a whole new marketing approach and it is unclear that the remaining budget will be sufficient to allow its success.

F. The Petition of the City of Davis to Modify D.03-12-060 to Extend its Enrollment Period for Yolo Energy Efficiency Project 1 (YEEP-1)

YEEP-1 operates in PG&E's service territory. YEEP-1's goal is to annually achieve 4.6 million kWh of energy savings by targeting residential customers and very small, small and medium businesses in the Cities of Davis, Woodland, West Sacramento, and Winters. The program has fulfilled its residential targets already and expects to fulfill its commercial sector goals with its committed jobs signed before December 31, 2005. The City of Davis indicates that its costs have been significantly below budget and therefore it would like to extend the period within which customers may enroll in the program in order to reach even more customers and generate savings beyond the expected savings. YEEP-1 would modify the enrollment deadline for its program to June 30, 2006 under its request.

Unlike the no cost extensions that we approved above, the City of Davis seeks to continue enrolling new customers in 2006 using remaining funds that were budgeted but not required to meet its original program goals. YEEP-1 acknowledges that this would be extending its program operation into 2006, by recommending that projects enrolled and completed during 2006 count toward the adopted 2006-2008 energy savings goals.

Given the success of the YEEP-1 program, this is a particularly difficult request. Under the terms of the request, YEEP-1 would use the extension to recruit new customers in 2006, effectively operating a new program in 2006. The process to select 2006-2008 programs is already underway, and the City of Davis is welcome to participate in that process for a 2006-2008 program proposal. Thus, we will not approve the requested 2004-2005 program extension, despite the clear success of the program, because the requested extension is not simply designed to allow existing customers additional time to complete installations of committed projects, but rather to enroll new customers. That should be done by presenting a 2006-2008 program proposal.

G. The Motion of SDREO Requesting an Extension of the 2004-2005 Cool Communities Shade Trees Program

SDREO operates the Cool Communities Shade Trees Program in SDG&E's service territory. SDREO's goal is to annually achieve 2.1 million kWh of energy savings in residences and K-12 schools by planting shade trees. The program began approximately three months later than expected due to delays in contract execution. The tree planting goals and savings goals anticipated a 24-month program implementation time frame. SDREO also seeks authority to increase the number of trees planted per household from five to ten. SDREO seeks approval to extend its direct implementation activities by three months. This schedule

would allow the Cool Communities Shade Trees Program to complete its reporting, EM&V, and invoicing activities within the 2006 calendar year.

It is unclear from the filing whether SDREO intends to use the extension to continue marketing the program to new participants, or simply fulfill existing contracts entered into before December 31, 2005. Consistent with the determinations made above, to the extent that the extension would allow SDREO additional time to fulfill its already existing planting commitments, this request is reasonable and we will direct SDG&E to extend the direct implementation period with SDREO by three months, with corresponding schedule changes for reporting, EM&V, and invoicing activities. Because we did not approve the specific contracts for each third party implementer, we need not adopt specific contract language here, but direct SDG&E to expeditiously enter into a revised contract, consistent with this decision. However, to the extent that SDREO intended, in seeking this extension, to continue enrolling customers beyond December 31, 2005, we do not approve additional time to enroll new customers.

We do not decide the question of the number of trees that should be allowed per residence, as requested by SDREO. SDREO's program implementation plan specifies the total number of trees necessary to achieve the program kWh savings goals, but does not appear to establish a limitation on the number of trees per residence. In any event, that level of detail is best determined by the third party implementer, in conjunction with its utility contract administrator, not this Commission, therefore we decline to decide this portion of SDREO's request.

IV. Attributing Savings From No-Cost Extensions

In D.05-09-043, the Commission explained that it was modifying how savings from commitments to install measures will be counted. For 2004-2005 programs, and prior programs as well, savings from a measure committed to under a particular program or program year, were attributed to the savings associated with that program year even if they were installed in a later year. For the 2006-2008 programs, the Commission has stated that savings will only be attributed to that program year once the measure is installed. (See generally D.05-09-043, pp. 84-85.) In this decision we are allowing third party implementers additional time to install measures under their 2004-2005 programs, using 2004-2005 authorized funding. Consistent with the treatment of committed versus actual savings for 2004-2005 programs, the savings associated with activities of these implementers to fulfill their commitments under the 2004-2005 programs should be attributable to the 2004-2005 program results.

V. Comments on Draft Decision

The draft decision of the ALJ in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g)(1) and Rule 77.7 of the Rules of Practice and Procedure. Comments were filed on _____.

VI. Assignment of Proceeding

Susan Kennedy is the Assigned Commissioner and Steven Weissman is the assigned ALJ in this proceeding.

Findings of Fact

1. Current contract language allows third party implementers until March 15, 2006 to complete their implementation activities associated with 2004-2005 programs.

2. The 2004-2005 program cycle is nearing an end and third party implementers should have substantially completed their implementation activities by this point.

3. SBW operates a CAMP in PG&E's service territory.

4. Because implementing some of the recommended measures in CAMP requires significant time due to the corporate budget approval process for capital projects, SBW believes installation of measures by customers may take longer than its contract with PG&E allows.

5. PECI operates a building Retrocommissioning Program in SDG&E's service territory.

6. Because implementing some of the recommended measures in the Retrocommissioning Program requires significant time due to the corporate budget approval process for capital projects, PECI believes installation of measures by customers may take longer than its contract with SDG&E allows.

7. SDREO operates its GAP in SDG&E's service territory.

8. Because GAP works with students during the academic year, it must follow the curriculum plans of individual participating teachers, which results in most energy topics being discussed in the spring.

9. Navigant operates CALeep in the PG&E and SCE service territories.

10. Some of the CALeep pilot activities were delayed due to slower than expected grant funding approval, or timing of required local government actions taking longer than expected.

11. H&L operates a Performance 4 Program in the SCE and SoCalGas service territories.

12. H&L seeks to modify its marketing approach to partner with HUD to allow the program to enroll new customers throughout the HUD fiscal year, an extension of nine months.

13. H&L's request is a significant modification to its program approach and would result in it pursing marketing and implementation activities in 2006.

14. As of September 2005, H&L had spent over 90% of its administration and marketing budget, but achieved only 7% of its kWh goals.

15. H&L's requested 2004-2005 program extension is not simply designed to allow existing customers additional time to complete installation of committed projects, but rather it would develop a whole new marketing approach.

16. YEEP-1 operates in PG&E's service territory.

17. The City of Davis seeks to continue enrolling new customers in YEEP-1 in 2006 using remaining funds that were budgeted but not required to meet its original program goals.

18. SDREO operates the Cool Communities Shade Trees Program in SDG&E's service territory.

19. SDREO did not specify whether it intends to use the requested extension for the Cool Communities Shade Trees Program to continue marketing the program to new participants, or simply fulfill existing contracts entered into before December 31, 2005.

20. For 2004-2005 programs, savings from a measure committed to under a particular program or program year are attributed to that program year even if the measure is actually installed in a later year.

Conclusions of Law

1. Where committed customers require more time to complete installation of recommended measures, or where committed customer completion of the

program operates on a different calendar basis than January to December (for example programs targeted to schools), extensions should be granted.

2. We should entertain requests for extensions of direct implementation activities for a maximum of six months, with corresponding schedule changes for reporting, EM&V, and invoicing activities.

3. If third party implementers seek an extension of time in order to change marketing approaches, recruit new customers or program partners, activities which would occur in 2006, we should not support extensions of time because they are effectively new programs for the 2006-2008 program cycle.

4. We should delegate authority to Energy Division to approve or reject requests for no-cost extensions filed on or after October 26, 2005, consistent with this decision.

5. Any third party implementer seeking a no-cost extension must demonstrate that the extension meets the standard of providing additional time to fulfill commitments entered into before December 31, 2005, and would not extend the program to new customers after that date.

6. Requests for no-cost extensions should be formally filed with the Commission's Docket Office no later than close of business on December 5, 2005 to be considered.

7. Energy Division should prepare an approval or rejection letter in response to any requests, with a copy sent to the Correspondence File of R.01-08-028 and served electronically on the service list to this proceeding.

8. Energy Division's determination of approval or rejection should be final.

9. SBW's request for an extension of time for direct implementation activities with customers that have already signed participation agreements is reasonable.

10. PG&E should extend the direct implementation period with SBW by six months with corresponding schedule changes for reporting, EM&V, and invoicing activities.

11. To the extent that PECI has signed letters of commitment from customers by December 31, 2005, the request for an extension of time for direct implementation activities is reasonable.

12. SDG&E should extend the direct implementation period with PECI by six months with corresponding schedule changes for reporting, EM&V, and invoicing activities.

13. SDREO's request for an extension of time for direct implementation activities to allow schools that have already been participating in the program to complete their implementation of GAP during the second semester of the academic calendar year is reasonable.

14. SDG&E should extend the direct implementation period with SDREO for GAP by three months with corresponding schedule changes for reporting, EM&V, and invoicing activities.

15. Navigant's request for an extension of time to allow it to reflect the information learned from the pilot programs that have already been committed to that proceeded more slowly than anticipated is reasonable.

16. SCE should extend the direct implementation period with Navigant by three months, with corresponding schedule changes for reporting, EM&V, and invoicing activities.

17. H&L's requested 2004-2005 program extension would effectively be a new 2006-2008 program and should be rejected.

18. We should not approve the requested 2004-2005 YEEP-1 program extension because the requested extension is not designed to allow existing

customers additional time to complete installation of committed projects, but rather to enroll new customers.

19. To the extent that the extension of the Cool Communities Shade Trees Program would allow SDREO additional time to fulfill its already existing planting commitments, this request is reasonable.

20. SDG&E should extend the direct implementation period with SDREO for the Cool Communities Shade Trees Program by three months, with corresponding schedule changes for reporting, EM&V, and invoicing activities.

21. To the extent that SDREO intended, in seeking the extension for the Cool Communities Shade Trees Program, to continue enrolling customers beyond December 31, 2005, we should not approve additional time to enroll new customers.

22. We should not decide how many trees should be allowed per residence in the Cool Communities Shade Trees Program because that level of detail is best determined by the third party implementer, in conjunction with its utility contract administrator, not this Commission.

23. PG&E, SCE, and SDG&E should expeditiously enter into revised contracts with third party implementers consistent with this decision.

24. Savings associated with activities of third party implementers who are granted extensions to fulfill their commitments under the 2004-2005 programs should be attributed to the 2004-2005 program results.

O R D E R

IT IS ORDERED that:

1. Pacific Gas and Electric Company shall expeditiously enter into a revised contract to extend the direct implementation period with SBW Consulting, Inc.

for the Compressed Air Management Program by six months, with corresponding schedule changes for reporting, Evaluation, Measurement & Verification (EM&V), and invoicing activities.

2. San Diego Gas & Electric Company (SDG&E) shall expeditiously enter into a revised contract to extend the direct implementation period with Portland Energy Conservation, Inc for the Retrocommissioning Program by six months, with corresponding schedule changes for reporting, EM&V, and invoicing activities.

3. Southern California Edison Company shall expeditiously enter into a revised contract to extend the direct implementation period with Navigant Consulting Inc. for the California Local Energy Efficiency Program by three months, with corresponding schedule changes for reporting, EM&V, and invoicing activities.

4. SDG&E shall expeditiously enter into revised contracts to extend the direct implementation period with San Diego Regional Energy Office (SDREO) for the Green Action Program and the Cool Communities Shade Trees Program by three months, with corresponding schedule changes for reporting, EM&V, and invoicing activities.

5. The requests for an extension of their 2004-2005 programs by H&L Energy Savers and the City of Davis are denied.

6. SDREO shall not enroll new customers in the Cool Communities Shade Trees Program after December 31, 2005.

7. Energy Division is delegated authority to approve or reject requests for no-cost extensions of time filed between October 26, 2005 and December 5, 2005.

8. Energy Division shall approve no-cost requests for extension of 2004-2005 programs, with corresponding schedule changes for reporting, EM&V, and

invoicing activities, only where committed customers require a maximum of six months of additional time to complete installation of recommended measures, or where committed customer completion of the program operates on a different calendar basis than January to December

9. Energy Division shall reject any request for extension that seeks an extension of time in order to change marketing approaches, or recruit new customers or program partners during 2006, or that is not timely filed.

10. Any third party implementer seeking a no-cost extension of 2004-2005 programs shall file its request with the Commission's Docket Office no later than close of business on December 5, 2005 and its request shall demonstrate that the extension meets the standard of providing additional time to fulfill commitments entered into before December 31, 2005, and would not extend the program to new customers after that date.

11. Energy Division shall prepare an approval or rejection letter in response to any requests, with a copy sent to the Correspondence File of R.01-08-028 and served electronically on the service list to this proceeding.

12. Energy Division's determination of approval or rejection is final and not subject to appeal.

13. Savings associated with activities of third party implementers who are granted extensions to fulfill their commitments under the 2004-2005 programs shall be attributed to the 2004-2005 program results.

This order is effective today.

Dated _____, at San Francisco, California.