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Decision 00-05-019 May 4, 2000

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of San Diego Gas & Electric Company for Authority to Increase its Gas and Electric Revenue Requirements to Reflect its Accomplishments for Demand-Side Management Program Years 1994 and 1997, Energy Efficiency Program Year 1998, Low Income Program Year 1998, and to Address Policy and Procedural Issues for future Program Years 1999 through 2001 in the 1999 Annual Earning Assessment Proceeding ("AEAP").	Application 99-05-002 (Filed May 3, 1999)
And Related Matters.	Application 99-05-005 (Filed May 3, 1999) Application 99-05-007 (Filed May 3, 1999) Application 99-05-008 (Filed May 3, 1999)

(See Appendix B for list of appearances.)

TABLE OF CONTENTS

INTERIM OPINION

I. Summary

This decision adopts a performance incentive cap at 7% of the energy efficiency program budget for program year (PY) 2000 and PY 2001 for applicant utilities, in order to encourage continued progress in the Commission's goal of market transformation. These incentives apply to demand side management (DSM) programs for Southern California Edison Company (Edison), Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), and Southern California Gas Company (SoCal). Incentives for the electric programs will come out of headroom until the rate freeze ends and will come out of electric rates thereafter, while incentives for the gas programs will continue to be funded from gas rates.

We consider the Joint Recommendations of PG&E, Edison, SoCal, SDG&E, Office of Ratepayer Advocates (ORA), and the California Energy Commission (CEC) for Market Assessment and Evaluation (MA&E) Activities (Joint Recommendations)a reasonable concept with regard to the reasonable maximum MA&E budget amounts for the utilities, requirements for recording MA&E budget amounts, requirements for coordination with and budget amounts to be transferred to the CEC. We also consider the Joint Recommendations' proposal for a California Measurement Advisory Council (CALMAC) to develop and oversee procedures and protocols for measuring and evaluating costs and benefits from energy efficiency programs a reasonable concept. We recognize that the Joint Recommendations are a work-in-progress since these procedures will continue to be addressed in publicly noticed meetings.

II. Background and Procedural History

In this Phase 1 Interim Decision, we address modifications to the overall level of shareholder performance incentives and set the shareholder performance incentive cap for PY 2000 and 2001 energy efficiency public purpose programs (EEPPP). We consider management of the statewide MA&E studies and apply the MA&E studies. We also address the protocols and roles of California Demand-Side Management Measurement Advisory Committee (CADMAC) and the role of other entities.

Duly noticed prehearing conferences were held on July 7 and 14, 1999, followed by Phase 1 evidentiary hearings on August 24, 25, 26, 27 and 31, and September 8, 1999. The assigned Commissioner was present at both prehearing conferences. Phase 1 was submitted on receipt of reply briefs due October 5, 1999.

Phase 2 of this proceeding will address the corresponding low-income program issues, along with the applicants' requests for approval of shareholder incentives for 1998 program year accomplishments, and 1998 earnings for pre-1998 programs.

III. Positions of Parties

A. Performance Incentive Caps

1. SDG&E

SDG&E argues that the same level of incentives is needed for PY 2000 and 2001 as was allowed for PY 1999, and states that the Commission has recognized the need for this consistency. SDG&E expects to dedicate substantial effort and resources to energy efficiency programs in PY 2000. Even though many programs are continuations of earlier programs, SDG&E claims that it is a major task to prepare programs for a new year and new budgets, and to insure that they are available as early in PY 2000 as possible.

SDG&E also notes that its role as contract manager becomes more important as more third party involvement takes place, and customers look to SDG&E when problems occur. In this effort SDG&E believes that it supports Commission goals by fostering positive interactions between customers and the private market.

Thus, SDG&E believes that the same level of performance incentive caps based on a percentage of the adopted program budget, as authorized for PY 1999, are appropriate for PY 2000 and 2001. SDG&E states that this is consistent with the manner in which we have determined the appropriate level of incentive caps for 1998 and 1999.

2. SoCal

SoCal recommends that energy efficiency programs continue with an 11% incentive cap for PY 2000 and 2001. SoCal contends that technical consultant funds should be recovered from a 2% set-aside of statewide MA&E funds.

3. Edison

Edison also recommends that energy efficiency programs should continue with an 11% incentive cap for PY 2000 and 2001. Edison argues that the proposals of ORA, Residential Energy Efficiency Clearing House, Inc. (REECH) and Residential Energy Services Companies' United Effort (RESCUE)/Sesco, Inc. (SESCO) and other parties to eliminate the shareholder incentive are inconsistent with Commission policy. Edison maintains that the record shows that no changes have occurred to justify changing the earnings opportunity for the utilities.

Edison also contends that ORA is off-base in recommending that incentive levels be tied to verified energy savings, since the Commission in 1998 shifted its focus from measured energy savings to market transformation.

Edison states that the source of funds for shareholder incentives is beyond the scope of this proceeding since the Commission ruled in Decision (D.) 97-12-103 that administrator performance awards are to come from PGC funds, and Resolution (Res.) E-3592 extends this through 2000.

Edison believes that Standard Performance Contracts (SPC) offered the biggest earnings opportunity in PY 1998 and 1999. Utility affiliates are allowed to participate in up to 15% of total SPCs in Edison's service area and up to 30% in other utility service areas. PY 1998 was the first year when utility affiliates were allowed to compete with Electric Service Companies (ESCOs) for energy efficiency program funds, but they did not compete since the programs were not fully subscribed. The SPC is different than a shareholder incentive; SPC funds are made available to ESCOs or to customers to buy down the cost of energy efficiency projects to provide an incentive to enter into projects that would otherwise be too expensive. Edison is rewarded for its role as administrator in creating a sustainable SPC program; however, the actual energy savings benefits of SPC programs have no effect on earnings claimed.

Edison recommends that technical consultant funds should be recovered from PGC for energy efficiency.

Edison sponsors the Joint Recommendations for MA&E, which provides a substantial basis for the future use of MA&E funds. These recommendations are a product of the combined effort of the state's most experienced MA&E professionals, and are sponsored by the entities that are responsible and accountable for those activities for the next few years. Edison explains that interested parties including the Low Income Governing Board (LIGB)[1] were invited to participate in MA&E planning.

Regarding comments by some parties that contracts for measurement studies should be administered by public agencies, Edison states that the utilities have always contracted these studies, and there is no compelling reason to change this.

4. PG&E

PG&E recommends that incentive levels should be the same or higher than allowed for 1999. PG&E believes that incentives should continue because:

- Res. E-3592 states that the framework of incentives should extend to December 2000;
- Incentives should continue in 2001 to maintain progress toward market transformation.

PG&E argues that the Commission's order to achieve market transformation has required major program changes and efforts, which result in superior performance by PG&E. If incentives were eliminated per ORA's recommendation, it would be very difficult to achieve the kinds of efforts made in recent years. Similarly, PG&E contends that reduced levels of incentives would make market transformation efforts more difficult.

PG&E explains that the California Legislature formalized the energy efficiency incentives by enacting Pub. Util. Code § 746. The federal government enacted energy efficiency incentives in the Energy Policy Act of 1992. PG&E believes that in D.99-08-021, the Commission discussion anticipates that

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[1] This decision refers to the LIGB, which is now the Low-Income Advisory Board (LIAB) per D.00-02-045 dated February 17, 2000.

incentives will continue, with possible changes in incentive design, and emphasis on market transformation rather than roll-out milestones, and continued emphasis on efficient program administration.

PG&E agrees that the Commission should adopt the Joint Recommendations because they provide a substantial basis for the future use of MA&E funds. PG&E also recommends that consultant costs should be recovered from PGC funds.

5. ORA

ORA recommends eliminating incentives from ratepayer funds for energy efficiency programs. ORA believes that sufficient incentive exists for utilities through earnings opportunities, legislative direction, and Commission oversight to ensure continued progress in meeting Commission objectives and ratepayer interests without continuing the shareholder incentive mechanism.

ORA contends that the markets sufficiently motivate ratepayers through reduced energy bills so incentives to utilities are not needed for this purpose.

ORA offers the following in support its recommendations.

- Utilities should not be given special rewards for doing a competent job;
- Incentives granted in the past are sufficient and have gotten the programs underway; incentives need not continue;
- There are perverse incentives resulting from shareholder incentives as currently structured;
- Performance incentives act as a disincentive to efficient administration since less administration expense means less incentives to shareholders;
- Programs pursued may be at the expense of more effective low-cost programs; and

- Value accrues to the administrator of the programs, i.e., utilities, which can only be mitigated by having competitive bidding for program administrator.

If, however, the Commission decides that shareholder incentives are warranted for PY 2000 and 2001, ORA recommends that the incentives should be funded from rates as is the current practice for low-income energy efficiency (LIEE) programs, rather than from program funds, as is the current practice for EEPPP programs.

For PY 2000 and 2001, ORA believes that the utilities have less of a role in implementing the programs due to the Energy Efficiency Service Providers (EESPs) implementing specific energy efficiency programs. As long as a utility acts as program administrator for energy efficiency funds, ORA believes that the payments should remain subject to verification by the Commission in Annual Earnings Assessment Proceedings (AEAP) proceedings.

ORA explains that when incentives were established for DSM programs, they offered the only opportunity for profits by a utility or its affiliates from energy efficiency activities. ORA believes this has changed due to corporate restructuring which formed utility affiliates that can benefit from energy efficiency products and services through contracts with customers. Also, ORA notes that Assembly Bill (AB) 1890 has made hundreds of millions of dollars of energy efficiency funds available to EESPs, including utility affiliates. While the earnings opportunities for utility affiliates have been small relative to the incentives for the utility, ORA explains that PY 1998 was the first year of availability, and utility affiliate participation may increase significantly in the future.

ORA contends that the incentives now are heavily based on milestones rather than on benefits achieved. ORA maintains that there is little or no risk to shareholders in these programs. However, ORA argues that ratepayers are at risk because accomplishments in this area include commitments, as well as actual expenditures, and there is no guarantee that all the commitments for which incentives are granted will materialize.

Finally, ORA argues that the funds freed up by eliminating incentives in this area may be better used in funding more energy efficiency services to ratepayers.

Regarding MA&E, ORA recommends that CADMAC should split into two functions:

1. CADMAC 1 to continue to address measurement issues;
2. CADMAC 2 to develop plans and protocols for verifying costs.

6. CEC

The CEC recommends that the overall caps on earnings for performance incentives range from 7 to 11% of authorized program budgets, with the actual amount dependent on the market risk taken by the program administrator.

- 7% for rollout of on-time programs, and for activity-based participation levels;
- 11% based on market success of efficiency products and services using market share milestones.

The CEC believes this would achieve the Commission's goals of emphasizing outcomes rather than program activities, which cannot be done by continuing flat shareholder earnings caps without reference to risk. The CEC states that the variable incentive cap allows flexibility in approving and managing program-specific awards and in developing milestones that balance risks and rewards.

The CEC explains that these incentives are developed from the levels authorized in the past, from 5% for performance adder programs without high expectations of measurement and performance success, up to 12.5% for achievement of various kinds of market effects while earnings caps prevent runaway shareholder earnings. The CEC contends that more emphasis on market effects milestones and less on program activity milestones is needed for market transformation, and that difficult to achieve milestones tied to the market transformation will incent utilities to achieve Commission goals.

CEC states that while all four utility milestones were similar in 1998, PG&E recently has moved more toward market transformation than the other utilities. CEC contends that evidence shows that when utilities are offered significant incentives, they achieved significant energy savings.

CEC has not worked out the details of how it would weigh and balance the risks and rewards; it only offers it as a conceptual plan. A Phase 3 of this proceeding may be needed to work out the details. If the Commission does not adopt this recommendation, CEC recommends that it adopt a proposal other than either the 11% cap recommended by the utilities, or the zero cap recommended by ORA.

CEC argues that utility affiliates are considered third parties and as such may earn shareholder incentives. Third parties include anyone not directly affiliated with utility personnel in charge of the program, and includes cross-affiliates.

The CEC recommends that MA&E assessment should be handled by CADMAC. The CEC is party to and supports the Joint Recommendations for MA&E. However, CEC believes that a Phase 3 of this proceeding may be necessary to address its implementation.

7. The Utility Reform Network (TURN)

TURN argues that continuing the 11% shareholder incentive is an insult to ratepayers. TURN believes that the current incentives are contrary to the goals of enhanced energy efficiency. TURN also contends that the Commission has recognized the problem by stating its preference that non-utility administrators be in place by the beginning of year 2002. TURN thus recommends no shareholder incentives, or bonuses, as they characterize the incentives, be allowed. Alternately, if the Commission grants incentives, TURN states that we could allow utility administrators to collect up to 5% of program costs if an incentive is allowed. The 5% level parallels the 5% performance adder used in past years for programs where energy savings were difficult to measure. In addition, the 5% level would give equitable treatment to energy efficiency and low-income programs, assuming the low-income cap does not change in Phase 2 of this proceeding. TURN believes that the 5% incentive cap is adequate considering the low risk associated with administration of programs with legislatively mandated funds.

TURN notes that CEC's analysis of PG&E's programs shows that the milestones for PY 1998 were too heavily geared toward program roll-out with little connection to achieved energy savings. TURN believes that the current system of incentives rewards shareholders and employees of utilities without any assurance that this will result in energy savings for the utility.

TURN generally agrees with the Joint Recommendations, but recommends that the contracting authority be with Energy Division (ED) and final decision making authority rest with ED or other public agency.

8. Natural Resources Defense Council (NRDC)

NRDC contends that the 11% shareholder incentive cap recommended by the utilities is reasonable and should be adopted, since it remains essential to motivate superior performance by the utilities in this important area. This level of earnings is substantially lower than the recorded earnings of utilities during the 1990 through 1997 period. NRDC reminds us that the Commission found in D.97-02-014 (mimeo. at p. 81) "utilities face greater disincentives than in the past to develop an independent industry which will directly compete with energy services that they provide." Furthermore, NRDC maintains that the shareholder incentive caps are maximum levels that may not be achieved by the utilities.

NRDC states that the CEC recommendation for a variable cap should also be disregarded because it is beyond the scope of this proceeding and it would be difficult to administer due to its reliance on categorizing milestones into four ambiguous categories.

NRDC argues that ORA's recommended zero cap would undermine the present shareholder incentive mechanism and make utilities indifferent to achieving milestones. Utilities would be encouraged to administer programs to maximize earnings by affiliates. NRDC believes this is contrary to the Commission's objectives because the earnings opportunities for utility affiliates is primarily available through the nonresidential SPC program. NRDC states that the utilities would tend to ignore other programs currently in place. The utilities would also have an incentive to bias this program in favor of its affiliates, contrary to the Commission's goal of creating fully competitive energy efficiency services.

NRDC supports the Joint Recommendations but recommends that the supplemental members have voting rights.

9. RESCUE/SESCO

RESCUE/SESCO state that incentives should be based on savings, or lost opportunity costs avoided, and not on expenditures. RESCUE/SESCO explain that utilities have a disincentive to fund energy savings because such programs reduce revenues and profits during the rate freeze. Elimination of the Electric Revenue Adjustment Mechanism (ERAM) furthers the disincentive to utilities.

RESCUE/SESCO believe the pre-98 shareholder incentive mechanisms will elicit proper utility behavior. Utilities have designed their portfolios so there is very little risk of shareholder penalties. RESCUE/SESCO state that shareholder incentives should be funded from rates, not from PGC funds. RESCUE/SESCO argue that the MA&E function should be with a governmental entity. CADMAC should have no role since it is utility-dominated. Finally, they believe that measurement of energy efficiency programs should be done by experts independent of the utilities.

10. REECH

REECH agrees with ORA that no incentives to shareholders are needed. If incentives are allowed, REECH contends that 2.5% is adequate, considering that there is no downside for the utilities, i.e. they are not penalized for not achieving milestones.

Alternately, REECH recommends a 2.5% budget reserve as a hedge against risk to administrators, combined with a fund limited to 2.5% of total budget, available for payout for milestone management systems. As another alternate, a fund limited to 5% of total budget would be payable on performance metrics. A Phase 3 of this proceeding is needed to develop the guidelines for the fund, or it could be treated in a separate proceeding in early 2000.

REECH contends that the utilities have not adequately solicited bids for energy efficiency programs, due to inadequate time allowed for bids, resulting in multiple awards to the same firms. REECH does not quantify the length of time that should be allowed for these bids, or what constitutes an adequate number of bids.

REECH states that ED should handle MA&E and recommends that CADMAC should not be used since REECH believes it is utility-controlled. REECH makes many unsubstantiated accusations of impropriety by CBEE, LIGB, CADMAC and the utilities. We will not consider these allegations.

IV. Discussion

A. Incentive Caps for EEPPP

We have a range of recommendations before us, in terms of the proper level of the incentive cap for energy efficiency programs. These recommendations range from zero to 11% of the program budget, along with other types of caps. We find that 7% of the program budget is appropriate, as we discuss below.

The utilities are unified in the position that the incentive levels should continue at the same level as present, which they believe is necessary to ensure that the best quality personnel are assigned to these programs. According to these parties, if we reduce or eliminate the incentives, we would, in effect, be telling the utilities that these programs are no longer considered as important by the Commission. Since the Commission is most interested in market transformation, the utilities believe that the best way to encourage this is through continuing the current level of incentives.

The NRDC supports the utilities' request, noting that the 11% cap is less than the earnings the utilities have achieved in recent years, and thus it should not be viewed as a generous or giveaway plan.

In direct opposition to the utilities' request, ORA, TURN, and REECH believe a need for such incentives may no longer exist. ORA recommends no shareholder incentive for energy efficiency programs. TURN and REECH support the no-incentive concept, but have alternate recommendations in the event that the Commission wishes to allow incentives.

The proposal of ORA, TURN, and REECH for no energy efficiency program incentives would likely be counter-productive. We do not intend to send a signal to the utilities that these programs are no longer important. Parties proposing to reduce or eliminate the shareholder incentives are merely rehashing arguments that have been previously considered by the Commission and dismissed when it first adopted an incentive framework for the utilities. Our decisions have consistently stated that it is appropriate to continue shareholder incentives in the current environment, at least through 2001 when funding levels and roles must be reassessed. (See Public Utilities Code § 381.)

We disagree that there is significant opportunity for affiliates earnings to substitute for incentives. We have attempted to separate utilities from their affiliates to eliminate such cross-incentives, by adopting the affiliate transaction rules set forth in D.97-12-088. In that decision, we directed our staff to prepare for our consideration no later than December 31, 2000, a proceeding to review the affiliate transaction rules (D.97-12-088, mimeo. at p. 99, Ordering Paragraph 10.) We have also ordered our staff to prepare for our consideration a proceeding to review the interim affiliate reporting requirements, as adopted in D.93-02-019. (D.99-05-011, mimeo. at p. 4, Ordering Paragraph 2.)

In addition, we have adopted specific monetary program participation limits under the EE policy Rules (D.99-08-021 and Res. E-3592) applicable to utility affiliates to encourage market opportunities for nonutility-affiliate EE service providers.

We are satisfied that we have the procedures in place to adequately review and modify our affiliate transaction rules, if necessary. At this time, we do not need to eliminate shareholder incentives for utilities energy efficiency programs in order to avoid perceived problems associated with affiliates.

ORA argues that the utilities benefit from goodwill associated with their affiliates using logos or slogans that are similar to the utilities. We agree with the utilities that such recognition can be positive or negative depending on the service provided by EESPs, over which the utility has little control. The utility may not be aware of problems until they affect the customer. The concept of goodwill is not a valid basis for reducing shareholder incentives, since energy efficiency programs are implemented by third parties over which the utilities have little control. Customer experiences may vary, and even if substantially positive, there is no way to quantify related benefits to the utilities.

For a number of years the Commission placed primary emphasis in its energy efficiency programs on "resource acquisition," or direct investment in energy measures. Since 1996, the Commission has placed more emphasis on market transformation programs, i.e., programs designed to achieve market changes and effects that both reflect and cause energy usage reductions by nonparticipants as well as program participants, despite the difficulty of measuring, or even describing, such effects, let alone tracing a causal connection between program expenditures and such events, in comparison with the resource acquisition approach. (See, Eto, et al., *A Scoping Study on Energy-Efficiency Market Transformation by California Utility DSM Programs (1996),* prepared for The California Demand-Side Measurement Advisory Committee (hereafter CADMAC Study); D.99-03-056; D.99-08-021.) Because market transformation objectives are inherently more difficult to quantify, shareholder incentives to assure an energetic approach by utility administrators should be continued without a change in structure. The CEC's proposal that incentives vary according to the risk of difficulty associated with each program would offer some promise if we were to decide to continue utility administration, but the CEC has not worked out the details and we have not altered our policy of independent administration.

However, only the performance incentive caps are the subject of this proceeding. Approval of program years 2000 and 2001 energy efficiency program plans, budgets, and performance award mechanism are the subject of utility program applications filed in September 1999 (A.99-09-049 et al.).

The CEC's proposal is only conceptual in nature. We believe it is important to have certainty in this area. The utilities need to know the conditions under which the shareholder incentives will be administered in order for the desired results to be achieved, in our view. Therefore, we will not consider this concept of CEC further here.

RESCUE/SESCO suggest zero incentives, or up to 30% of net benefits as was used in the pre-1998 shareholder incentive system, with the incentives funded from rates, not from program funds. This is a step backwards, in our view, and is not conducive to market transformation, which is our major current goal. We stated in D.99-08-021:

> "While roll-out milestones should not be eliminated entirely, these types of milestones should diminish in emphasis relative to the achievement of market changes and effects. Otherwise, our incentive structure may inappropriately encourage the introduction of new programs or accelerated

> spending rather than steady progress towards market transformation." (D.99-08-021, mimeo. at p. 16.)

We do not wish to revert to the net benefit system of incentives for the reasons previously indicated.

While the level of incentives adopted here are important, they will only be in effect for a two-year period. While we understand the perception of the parties who oppose continuing the current level of incentives for energy efficiency, we must balance that perception against the recent history of these incentives and the desire to promote market transformation. We agree with SDG&E that the utilities may have a somewhat easier job in this area than they have had in the past. We believe that incentives are still needed to compensate the utilities for perverse incentives that otherwise would be present. The evidence shows that the 11% incentive cap offers less incentive to the utilities than the 30% of benefits level they enjoyed pre-PY 1998. However, we are not convinced that it is necessary to continue the current 11% incentive level for PY 2000 and 2001. We note that the utilities acknowledge that their administration of the CARE program, which has no shareholder incentive, is less than ideal.

While it is true, as ORA argues, that the utilities are responsible for properly and efficiently managing these programs whether incentives are offered or not, it is likely that complete elimination of shareholder incentives could defeat our efforts to assure vigorous promotion of energy conservation and efficiency programs by utilities.

Based on the range of options before us, we conclude that a 7% of budget performance incentive cap offers sufficient incentive to the utilities to reasonably achieve our goals, and will so order. In our opinion, this level continues to offer significant shareholder incentives to encourage utilities to provide what the utilities characterize as "superior service." At the same time, this level recognizes that the utilities have gained experience and will be able to implement these programs more effectively with mandated funds. While any changes to the low-income energy efficiency shareholder incentives and cap are deferred to Phase 2 of this proceeding and are not the subject of this decision, we note that the current low-income incentive cap varies from 4 to 6% depending on the difficulty of the program. Thus, at 7%, we continue to offer a somewhat higher level of incentives than for those programs.

In D.99-00-052, Conclusion of Law 9 states "the DSM earnings authorized in this decision for PG&E and SCE should be used to adjust the distribution revenue requirement in calculating headroom." We will continue this policy in this proceeding for each of the three electric utilities. However, we recognize that SDG&E has ended its rate freeze and no longer has headroom, and PG&E and SCE may end their rate freezes before the end of 2001. Therefore, in order to ensure that shareholder incentives continue to not come out of program fund levels mandated by the legislature, such incentives should come out of electric rates after the end of the rate freezes. Similarly, shareholder incentives for gas DSM programs should continue to come out of gas rates using the same regulatory mechanisms as are used today.

B. MA&E Studies

The Joint Recommendations, attached hereto as Attachment A, sets forth the recommended MA&E maximum budget amounts for each utility, requires the utilities to record the amounts used for collecting and transferring the data to the CEC for its use, and sets a fixed amount of the MA&E budget to be transferred to the CEC.

The remainder of the MA&E budgets and amounts for regulatory oversight are to be designated by each utility as either:

- the costs of utility studies required to measure the benefits of programs administered by the utility for the designated program year;
- the costs of discretionary utility studies that were conducted, but not required, for market assessment or program evaluation, or;
- the costs of regulatory oversight, i.e., the costs of reporting and compliance, and the costs to support the LIGB.

A number of conditions apply to the use of MA&E funds by the utilities, which include cost containment, funding stabilization and prevention of shifting or set-asides of funds. Specific requirements are set forth for requests for funding of programs that include a request for an administrator performance award for the utility.

Stringent requirements prohibit shifting of funds into and out of MA&E, and prohibit shifting funds between EEPPP and LIEE. There are no provisions for funding ORA staff or consultants for verifying energy efficiency programs post -1997. A multi-year plan will be developed for studies to be conducted by utilities as related to earnings claims, and for the CEC.

The Joint Recommendations cover both EEPPP and LIEE programs. The Joint Recommendations is a working document, which requires further meet-and-confer sessions among the utilities, the CEC, regular CADMAC members, ED, and ORA, which will be publicly noticed and open to the public. The purpose is to produce plans and schedules for studies as a condition for certain earnings claims, procedures and protocols for measuring and evaluating costs and benefits from energy efficiency, and for verification of earnings claims when utilities act as program administrator. In addition, protocols for a new measurement and evaluation advisory body, expected to be called the California Measurement Advisory Council (CALMAC) are to be developed. CALMAC is to be responsible for overseeing future MA&E, while CADMAC will continue in that capacity for pre-98 programs until they terminate.

Regular voting membership is accorded to the utilities, the CEC, and ORA, with non-voting status for ED and a board member from LIGB. Supplemental membership is available for other interested parties.

The utilities intend to file a supplemental advice filing requesting Commission acceptance of the Joint Recommendations as conforming with the requirements for a verification plan for PY 1999 earnings as required by Resolution E-3592.

There is significant support from the parties for the Joint Recommendations, which is sponsored by the four utilities, ORA and the CEC, and partially supported by TURN and NRDC.

TURN agrees with it except that it recommends that the contracting authority be with the ED with final decisionmaking authority resting with either the ED or other public agency.

NRDC supports the Joint Recommendations except that it believes the supplemental members with no financial conflict of interest should have voting rights. NRDC notes that it has been a major player in the AEAP process since its inception and believes that it should have voting rights as a supplemental member.

RESCUE/SESCO and REECH do not support the Joint Recommendations. RESCUE/SESCO recommend that MA&E should be handled by a governmental entity, with CADMAC having no role because it is utility-dominated. RESCUE/SESCO argues that the proposed CALMAC is merely a slightly changed CADMAC, and that the same problems will continue.

REECH suggests that ED handle MA&E, and recommends against CADMAC's participation. REECH is critical of many aspects of the Joint Recommendations, and cites the contracting problems occurring with the Boards.

While there may have been some Board contracting problems in the past, those problems have been addressed by D.98-07-036 and reaffirmed in D.99-03-056 wherein we stated, "we reaffirm the authorization set forth in D.98-07-036 that will enable the Boards to, on an interim basis, 'resume the service of the administrative and technical consultants under the previously suspended agreements or retain the services of other consultants pursuant to the terms of the settlement agreements and consistent with the state contracting rules and procedures.'" (D.99-03-056 mimeo. at p. 3.) The "Boards" refers collectively to CBEE and the Low Income Governing Board (LIGB).

We are satisfied that the earlier contracting problems have been adequately addressed, and we are satisfied with the current function of CBEE as a valuable advisory body in these proceedings, with no party status, similar to the ED.

We believe that the Joint Recommendations are a reasonable attempt to address the MA&E operation with one exception. We will not officially recognize CALMAC. While the concept of using CALMAC to assist the utilities, ORA, and others to oversee MA&E is useful, such an organization should not be understood to be an official CPUC-sponsored advisory body or similar body. CALMAC will have formal status before the Commission, as it becomes a party and participates in proceedings. To the extent that ED finds it useful to work with CALMAC--or any other body participating in MA&E--Energy Division should endeavor to do so. However, ED should not become an official participant in CALMAC. With regard to alleged utility domination of CADMAC, the broad support of the Joint Recommendations, including that of

ORA, gives us reasonable assurance that the revised group, to be named CALMAC, will reasonably carry out our goals. We recognize that the utilities as program administrators need to have a reasonable degree of control in order to carry out their responsibilities. We expect CALMAC to be valuable in future proceedings as it presents testimony not only on whether consensus has been reached on various issues, but the background of studies and results, and the pros and cons of the recommendations. We expect sufficient detail to allow us to fully understand the development of positions. CALMAC will cease to exist when there is no longer a need to review costs, benefits and earnings claims of member utilities in the AEAP.

We have confidence that the broad sponsorship and support of the Joint Recommendations will result in thoughtfully and properly developed plans, procedures, and protocols for measuring and evaluating costs, benefits and earnings claims for energy efficiency programs.

V. Comments on Proposed Decision

The proposed decision of ALJ Stalder in this matter was mailed to the parties in accordance with Pub. Util. Code 311(d) and Rule 77.1 of the Rules of Practice and Procedure. Comments were filed on March 20, 2000, and reply comments were filed on March 27, 2000.

Comments were filed by PG&E, Edison, jointly by SDG&E and SoCal, by ORA, TURN, NRDC and REECH. Reply comments were filed by PG&E, REECH, and jointly by SDG&E and So Cal.

PG&E, Edison and SDG&E and SoCal argue that reducing the incentive cap to 7% is inappropriate, and lacks foundation in the record. They also argue that incentives should be funded from PGC, not headroom. They note that the budget numbers in the Joint Recommendation need to be updated, and PG&E

suggests that the utilities provide the current estimated amounts. PG&E and SDG&E and SoCal state that references to CBEE should be deleted due to it being disbanded by D.00-02-045. PG&E also suggests that Appendix A be updated by substituting Exhibit 40 for Attachment B.

SDG&E and SoCal argue that the decision draft is wrong in approving the Joint Recommendation yet refusing to recognize CALMAC, without justification.

Several typographical errors were noted and are corrected.

ORA argues that the decision draft misinterprets its position on incentive caps, but maintains its position that there is no need for incentives.

TURN also argues that there is no justification for incentives in the record, but if any are allowed the maximum cap should be 5%. TURN asks that the quote in p.1 of its brief be deleted.

NRDC argues that there is insufficient reason to change the 11% incentive cap.

REECH argues for an incentive cap at $53 million rather that a fixed percentage, and asks that Council and affirmations of CALMAC be removed. REECH also argues that utility administration costs should not be included as part of the program budgets.

We will not change the level of incentive cap, as we find the PD level of 7% to be a reasonable judgement for this need.

We will not change the funding for shareholder incentives from headroom, but we clarify that once the rate freeze ends for electric utilities, PGC shareholder incentives should come out of electric rates instead of mandated program funding levels. We clarify our view and expectations of CALMAC.

Utility administration is properly a part of program budgets and will so remain.

We will not order the budget levels in the Joint Recommendations to be updated, since the amounts therein have been considered, and any changes after submission of Phase I of this proceeding are inappropriate.

We delete references to CBEE since that entity no longer exists.

We substitute Ex. 40 for Attachment B to Appendix A.

Reply comments filed by PG&E, Edison, SDG&E, SoCal, TURN, and REECH responded to comments of other parties and presented nothing new. No changes are made due to reply comments.

Findings of Fact

1. Our affiliate transaction rules are designed to prevent cross-incentives for affiliates and the earnings potential for utility affiliates in the energy efficiency programs should not replace performance incentives.

2. Potential goodwill associated with energy efficiency programs offers insufficient benefits for utilities to replace performance incentives.

3. Eliminating performance incentives would imply that we are less interested in energy efficiency programs and would negatively impact our efforts toward market transformation.

4. It is appropriate to offer reasonable performance incentives for energy efficiency programs for PY 2000 and 2001 in order to continue progress in achieving our goal of market transformation.

5. The utilities will have a less difficult task in administering energy efficiency programs in PY 2000 and 2001 due to the experience they have gained.

6. Utilities administer the CARE program efficiently with no performance incentives.

7. It is not necessary to continue the current level of performance incentives in order to achieve the results we desire in energy efficiency programs.

8. The Joint Recommendations are a working document that will further develop plans, schedules for studies, procedures and protocols for measuring and evaluating energy efficiency, and for verifying earnings claims of utility program administrators.

9. The Joint Recommendations set forth reasonable maximum MA&E budget amounts for each utility.

10. The Joint Recommendations set forth reasonable requirements for recording MA&E budget amounts.

11. The Joint Recommendations set forth reasonable requirements for data collection and transfer to the CEC, budget categories for CEC-conducted studies and budget amounts to be transferred from the utilities to the CEC.

12. The Joint Recommendations have no provision for funding ORA staff or consultants for verifying post-1997 EEPPP or LIEE programs.

13. The Joint Recommendations have no provision for funding ED staff or consultants for reviewing or assessing MA&E activities for EEPPP or LIEE programs.

14. CALMAC would not be an officially-recognized advisory body to the Commission.

Conclusions of Law

1. Reasonable performance incentives should be allowed for the utilities for PY 2000 and 2001, which will continue to encourage superior performance in achieving our objectives in energy efficiency and market transformation.

2. It is reasonable to reduce the performance incentive cap from the 11% of program expenditures used in prior years.

3. Based on the range of options before us, a 7% performance incentive cap based on program expenditures is reasonable for PY 2000 and 2001.

4. Performance incentives for electric programs should not be funded from program funds, but instead from headroom, or once the utility's rule freeze ends, from electric rates.

5. Performance incentives for gas programs should continue to be funded from rates.

6. The Joint Recommendations is a reasonable concept to address MA&E issues.

INTERIM ORDER

IT IS ORDERED that:

1. A performance incentive cap set at 7% of program expenditures for energy efficiency programs is adopted for San Diego Gas & Electric Company (SDG&E), Southern California Gas Company (SoCal), Pacific Gas and Electric Company (PG&E), and Southern California Edison Company (Edison) for program year (PY) 2000 and PY 2001.

2. Performance incentives for electric energy efficiency public purposes programs shall continue to be funded from headroom, or once the utility's freeze ends, from electric rates.

3. Performance incentives for gas energy efficiency public purpose programs shall continue to be funded by gas rates.

This order is effective today.

Dated May 4, 2000, at San Francisco, California.

LORETTA M. LYNCH
President
HENRY M. DUQUE
JOSIAH L. NEEPER
RICHARD A. BILAS
CARL W. WOOD
Commissioners

APPENDIX A

September 3, 1999

Exh.______

JOINT RECOMMENDATIONS OF

PG&E, SCE, SOCALGAS, SDG&E, ORA, and the CEC

for

MARKET ASSSESSENT AND EVALUATION ACTIVITIES

Phase 1 of the 1999 AEAP

September 3, 1999

MA&E RECOMMENDATIONS

Scope of Recommendations:

1. Revenue source: $53 million of revenues collected since 1/1/1998, through 12/31/2001 from electric and natural gas ratepayers by Pacific Gas and Electric (PG&E), Southern California Edison (SCE), Southern California Gas (SCG), San Diego Gas and Electric (SDG&E), hereafter referred to as the Utility Distribution Companies (UDCs).

2. Use of revenues: to fund the activities of the Market Assessment and Evaluation (MA&E) and Regulatory Oversight portions of the UDC budgets for the Energy Efficiency Public Purpose Programs (EEPPP) and Low Income Energy Efficiency (LIEE) programs administered by the UDCs under the authority of the CPUC.

Purpose of Recommendations:

1. To define the obligations and reporting conventions of the UDCs and the California Energy Commission for reporting the amounts of MA&E budgets that are funded by revenues established in UDC/CEC/MA&E Agreements, hereafter referred to as the UDC/CEC Agreements.[1]

2. To define the anticipated studies and types of studies to be conducted by the CEC with the UDC/CEC Agreement revenues.

3. To define the anticipated studies and types of studies to be conducted by the UDCs with non-UDC/CEC Agreement portions of UDC MA&E budgets.

4. To establish a commitment by the UDCs and the CEC to continue to meet and confer with the Energy Division staff of the CPUC and the Office of Ratepayer Advocates (ORA) to develop procedures and protocols for:

   (a) the development and implementation of a multi-year plan M&E Plan that covers the time period, revenues sources, revenue uses, and anticipated studies identified above;
   (b) the on-going measurement and evaluation of the costs and benefits to California consumers attributable to energy efficiency products and services; and,
   (c) the verification process of earnings claims attributable to the UDC acting in the capacity of program administrator of EEPPP and LIEE programs.

[1] The most recent agreement between the UDCs and the CEC is detailed in CPUC Resolution 3592 (April 1, 1999) and Decision 98-08-031 (August 5, 1999).

Joint Recommendations:

1. The UDCs will include in their requests for authorization to administer EEPPP and LIEE programs, an annual MA&E budget that will not exceed the following amounts (millions):

   PG&E: $ 5.456 mil.
   SCE: $ 4.095 mil.;
   SoCalGas: $ 0.822 mil.;
   SDG&E: $ 1.627 mil.

2. In their MA&E budgets (requests for authorization and reports of recorded costs), the UDCs will identify the costs to the UDC that will be or have been incurred for collecting and transferring the data to the CEC necessary for the CEC to conduct the MA&E studies attributable to the UDC/CEC/Agreements.

3. Within the MA&E budgets of the UDCs, the amounts of funds collected from 1/1/1999 through 12/31/2001 and transferred to the CEC will be fixed at the following annual amounts (millions):

   PG&E: $1.301 mil.;
   SCE: $0.934 mil.;
   SoCalGas: $0.204 mil.;
   SDG&E: $ 0.461 mil..

4. The MA&E studies funded by the amounts identified in #3 will conform with the market assessment studies identified in Attachment A.

5. The remainder of the MA&E budgets (non-UDC/CEC/Agreements) and amounts for Regulatory Oversight will be designated by each UDC as either:
   (a) the costs of UDC studies required to measure the benefits of programs administered by the UDC for a designated program year;
   (b) the costs of discretionary UDC studies (conducted, but not required, for market assessment and/or program evaluation); or,
   (c) the costs of regulatory oversight (UDC reporting and compliance, and the costs to support the CBEE and the LIGB).

6. In their requests for authorization for funding the MA&E activities, the UDC's will request Commission adoption of the following MA&E cost-containment and funding stabilization restrictions and flexibility:

   (a) prohibit the shifting of MA&E funds to other portions of the EEPPP or LIEE budgets;
   (b) prohibit the shifting of non-MA&E funds into MA&E budgets;
   (c) prohibit the shifting of funds between LIEE and EEPPP related activities funded in the MA&E budgets;
   (d) contain no "set-asides" or mechanisms for funding ORA staff or consultants to assist ORA in the verification of post-97 EEPPP or LIEE programs;
   (e) contain no "set-asides" or mechanisms for funding ED staff or consultants to assist the ED in the review or assessment of MA&E activities for EEPPP or LIEE programs beyond those established by the 1999-2000 California Budget Act;
   (f) allow for carryover, carryforward flexibility between calendar years;
   (g) allow for changes to the above (Joint Recommendations 1-6), if established per agreement of parties to this Joint Recommendation, in accordance with the process described below (see Joint Recommendation 9e).

7. In any request for authorization for funding EEPPP and LIEE programs that includes a request for an administrator performance award or earnings opportunity for the UDC, the UDC's will also request Commission adoption of a program administrator award mechanism that include the following MA&E features:
   (a) plans and budgets for PY2000 or beyond will contain no element of a UDC earnings claim that provides any earnings/performance amount for the "activity" or "act" of UDC completion of a study of or report on the performance of a UDC acting in the capacity of program administrator;
   (b) requests for Commission acceptance of this Joint Recommendation as conforming with any requirements for a verification plan for any earnings claims for PY2000 or PY2001 programs;
   (c) establishes no role, responsibility, or expectation for either the CBEE or the LIGB to verify any portion of a UDC earnings claim or participate in a proceeding that verifies the UDC reported costs, benefits or earnings claims attributable to a UDC;
   (d) establishes Commission direction to the UDCs to subject the earnings claim of a UDC to a verification process in an evidentiary hearing that also reviews and verifies the UDC-reported costs and benefits of the EEPPP and LIEE programs administered by the UDC.

8. The UDCs and the CEC will continue to meet and confer with the two other Regular Members of the CADMAC--the Energy Division staff of the CPUC and the Office of Ratepayer Advocates (ORA). The UDCs, CEC, ORA, and Energy Division staff meetings will be held in a form and format with the following features:
   (a) meetings will be noticed and open to the public;
   (b) draft products will be presented for input and discussion in public workshops;
   (c) final products will be filed with the Commission in time for Commission consideration and adoption in the 1999 AEAP Decision in Phase 1;
   (d) draft and final products will consist of consensus agreements (support by each UDC, the CEC, and ORA).

9. Products produced by the recommendation #8 will include:
   (a) a multi-year plan for studies that are expected to be conducted by either the UDCs or the CEC;
   (b) studies and a schedule of studies that are required to be conducted by each UDC as a condition for an identified portion of an earnings claim;
   (c) procedures and protocols for the measurement, evaluation and reporting of the costs and benefits to California consumers attributable to energy efficiency products and services;
   (d) procedures and protocols for the verification process of earnings claims attributable to the UDC acting in its capacity of program administrator of EEPPP and LIEE programs;
   (e) operational protocols for a new measurement and evaluation advisory body, with the likely name of the California Measurement Advisory Council (CALMAC), that will be responsible for overseeing the above. [2]

10. The operational protocols of CALMAC are expected to include:
   (a) regular (permanent) membership status for each UDC, the CEC, ORA, and, on a non-voting basis, ED staff, a board member from the CBEE, and a board member from the LIGB;
   (b) Supplemental Membership opportunities for interested and qualified organizations;
   (c) a CALMAC Planning Committee comprised of Regular Members and Supplemental Members;
   (d) voting on a consensus basis of Regular Members;
   (e) a CALMAC Committee structure comprised of a Residential Program Area Committee, a Nonresidential Program Area Committee, a New Construction Program Area Committee, a LIEE Committee, and a Special Studies Committee; and,
   (f) a compensation system for participation of Supplemental Members.

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[2] A more complete, yet preliminary, description of CALMAC is shown in Attachment B to this MA&E Agreement.

11. To satisfy the requirements of CPUC Resolution 3592 for a verification plan for PY99 earnings mechanisms and earnings amounts, the UDCs will file a Supplemental advice filing that requests Commission acceptance of these Joint Recommendations as conforming with all requirements for the verification plan for PY99 earnings.

ATTACHMENT A:
MA&E Budget Categories for CEC-Conducted Studies

1. Customer Data for the CEC: The amount of the EEPGC and the amounts collected from gas-ratepayers used to pay for utility personnel to process billing, load metered, and other data used for survey samples and for the Quarterly Fuel and Energy Report, and process CEC Title 20 required customer sector and class load data to the CEC for further assessment.

2. Customer Data Analysis: The amount of the EEPGC and the amounts collected from gas-ratepayers used to pay for CEC conducted studies that identify patterns of and changes in the demand for energy through saturation surveys and UEC/EUI studies.

3. Database for Energy Efficiency Resources (DEER): The amount of the EEPGC and the amounts collected from gas-ratepayers used to pay for CEC conducted studies that identify patterns of and changes in incremental measure costs, update and expand the data on measure incremental impacts, and identify emerging new efficiency technologies with estimates of associated incremental costs and efficiency impacts. Included in these costs are the associated costs of making this data publicly available and easily accessible.

4. Energy Efficiency Market Assessment: The amount of the EEPGC and the amounts collected from gas-ratepayers used to pay for CEC conducted market characteristic surveys, program evaluations that assess both immediate program impact and sustainability, and market assessments of the impacts of efficiency programs on a market segment or end-use (including program area and geographic regions).

5. Energy Efficiency Product Assessment: The amount of the EEPGC and the amounts collected from gas-ratepayers used to pay for CEC conducted studies that identify market share statistics of high efficiency products for major end use product categories.

October 22, 1999

ATTACHMENT B
PROPOSED STRUCTURE AND PROCEDURES FOR THE CALIFORNIA MEASUREMENT ADVISORY COUNCIL (CALMAC)

STATEMENT OF PURPOSE

To provide a forum for presentations, discussions, and review of market assessment and evaluation (MA&E) studies for energy efficiency and low income programs funded by electric and gas energy efficiency funds and electric and gas low income funds (EELIPP funds)[1] and to coordinate the development and implementation of these studies.

I. COUNCIL MEMBERSHIP

The Council will consist of permanent members and supplemental members. Non-members may attend and provide comments at council meetings or council-sponsored events.

A. Permanent Council Membership and Voting Status

The permanent membership will be composed of the four major utility distribution companies[2], the Office of Ratepayer Advocates (ORA), the California Energy Commission (CEC), the Energy Division (ED) of the California Public Utilities Commission (CPUC), the California Board for Energy Efficiency (CBEE), and the Low Income Governing Board (LIGB). The latter three positions will be non-voting memberships, with the ED position being filled by an ED staff member.

B. Supplemental Membership

1. Representatives from other interested and qualified organizations will be added to the membership list as supplemental members. Supplemental members are expected to attend at least 75% of the regular meetings and to actively participate in council discussions.

2. CALMAC will solicit applications for supplemental membership by issuing a notice to all parties in R.98-07-037 and other appropriate mailing lists by September 1 of each year. Organizations or individuals may apply for supplemental membership to the CALMAC by September 15 of each year for membership in the following calendar year. Applications will include the

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[1] For the purposes of this document, EELIPP funds refer to electric and gas energy efficiency funding and electric and gas low income program funding.

[2] Pacific Gas & Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), Southern California Edison Company (SCE) and Southern California Gas Company (SoCalGas).

qualifications of the applicants and demonstrated need for compensation, if applicable (see item B.6.) Applications should be filed with the CALMAC chairperson.

3. CALMAC members will assess the applications based on the following criteria:

   a. committee balance;

   b. potential for conflicts of interest; and

   c. technical expertise.

4. The chairperson of CALMAC will file an advice letter with the Commission by October 15 of each year which contains the membership applications received and CALMAC's recommendations for membership based on the criteria above.

5. Membership status of supplemental members will be reaffirmed annually by the advice letter process described above. CALMAC should assess the attendance and quality of participation of members seeking reaffirmation.

6. The Commission will identify supplemental members with a demonstrated need for funding to support their participation. The compensation system for these supplemental members will be directed toward reducing travel costs for participation in Council-sponsored activities at the rates of $200 for those traveling less than 100 miles and $300 for those traveling a greater distance. Compensation will be paid quarterly, not to exceed an annual limit of $4,000 per supplemental member. Costs will be split equally by the four utilities.

C. Non-Member Organizations

Non-members may attend and provide comments at council meetings or council-sponsored events.

II. ACTIVITIES ADDDRESSED BY THE CALMAC

A. Coordinate and facilitate the development of an annual statewide MA&E study portfolio. The Council will be the forum to discuss the proposed studies, budget estimates and assignments that will be incorporated in the utilities' annual energy efficiency and low income program activities filings.

B. Coordinate and facilitate activities related to the performance of MA&E statewide studies. The Council will be the forum to discuss (a) the development of study goals and scope of work, and (b) updates on study progress, results and budget issues (including meetings to be held by program area committees).

C. Coordinate the presentation and dissemination of completed MA&E studies. The

Council will facilitate the presentation of study results to program managers and interested parties to inform future program designs and modifications. The Council will maintain on its website copies of completed studies and a database of study costs.

D. Discuss and consider modifications to MA&E Policy Rules. The Council may develop new MA&E policy rules and recommend revisions to existing MA&E policy rules. These proposed additions or revisions will be provided to the CBEE and LIGB.

E. Coordinate and consider the possible adoption of protocols and subsequent modifications and additions to adopted MA&E protocols, including requests for prospective and retroactive waivers to adopted protocols.

III. CALMAC Committees

Committees of the Council will include ones covering the residential, nonresidential, new construction and low income energy efficiency program areas, and a special studies area to explore new topics or methodologies of interest to CALMAC. Subcommittees may be created to facilitate ongoing coordination for specific areas within the main committees.

IV. UTILITY RESPONSIBILITIES:

A. Serve as Council chair, on an annual, rotating basis. Council chair responsibilities include scheduling and making arrangements for Council meetings and preparation and distribution of written minutes of the meetings, recording all agreements reached by the Council.

B. Develop and maintain a multi-year plan for the annual portfolio of MA&E studies for energy efficiency and low income program, including costs and study designs. Share relevant multi-year plans, annual portfolios and accompanying study designs in CALMAC- sponsored public meetings. Include requests for continued funding for the portfolio of MA&E studies at the time of utility requests for authorization of funding for a future program year.

C. Ensure the provision of committee chairs or facilitators.

D. Conduct the studies described above and share the draft results of the studies in CALMAC-sponsored Council, committee, and public meetings.

E. Provide CALMAC members with copies of completed studies and provide the CEC with electronic copies of the completed studies for subsequent posting on the CALMAC website.

F. At the direction of the CPUC, release to the CEC the data it needs for the conduct of its MA&E-funded studies and the release of CPUC-directed amounts of public purpose program funds to the CEC to pay for the costs of studies conducted by the CEC.

G. Assume full responsibility for the implementation of the multi-year program evaluation plan, for activities under the utility's control, including accountability and reporting of the costs of studies planned and performed, and assuming sole responsibility for the selection and supervision of the work of utility staff or consultants who conduct the studies.

V. CALIFORNIA ENERGY COMMISSION RESPONSIBILITIES:

It is anticipated that the California Energy Commission will:

A. Participate in CALMAC on the development of a multi-year plan and accompanying study designs for the CEC's study assignments, share the plans and accompanying study designs in CALMAC-sponsored public meetings, and provide the utilities and the Commission with requests for continued funding for these studies at the time of utility requests for authorization of funding for a future program year.

B. Collect, track and report the costs of CPUC-approved funds for the energy and energy efficiency market assessment studies that fall into the following sub-categories of the Demand Assessment category of the MA&E portions of EELIPP budgets:

1. Customer Data for the CEC: The amounts of EELIPP funds expended by utilities to pay for processing of billing, load metering, and other data used for survey samples and for the Quarterly Fuel and Energy Report, and for processing customer sector and class load data required by Title 20 to be transmitted to the CEC for further assessment.

2. Customer Data Analysis: The amount of EEPLIPP funds used to pay for CEC-conducted studies that identify patterns of and changes in the demand for energy through saturation surveys and unit energy consumption and energy use intensity studies.

3. Database for Energy Efficiency Resources (DEER): The amount of EEPLIPP funds used to pay for CEC-conducted studies that identify patterns of and changes in incremental measure costs, update and expand the data on measure incremental impacts, and identify emerging new efficiency technologies with estimates of associated incremental costs and efficiency impacts. Included in these costs are the associated costs of making these data publicly available and easily accessible.

4. Energy Efficiency Market Assessment: The amount of EEPLIPP funds used to pay for CEC-conducted market characteristic surveys, program evaluations that assess both immediate program impact and sustainability, and market assessments of the impacts of efficiency programs on a market segment, end use, program area, or geographic region.

5. Energy Efficiency Product Assessment: The amount of EELIPP funds used to

pay for CEC-conducted studies that identify market share statistics of high efficiency products for major end use product categories.

C. Conduct the studies described above and share the draft results of the studies in CALMAC-sponsored public meetings.

D. Retain copies of the studies described above at the CEC and disseminate the results of completed studies to the public, including the posting of copies on the CALMAC website.

E. Maintain a CALMAC website, which should include information on the MA&E activities of CALMAC and the Measurement, Forecasting, and Regulatory Reporting (MFRR) activities of the California Demand-Side Management Measurement Advisory Committee (CADMAC). This will include posting meeting notices and minutes of the CALMAC meetings, notices of CALMAC committee meetings, and copies of studies funded from the MFRR and MA&E budgets.

F. May provide a chairperson for one or more of the CALMAC committees.

VI. VOTING RIGHTS AND PROCEDURES:

A. Each voting CALMAC member is entitled to one vote which must be exercised in person at the Council meetings.

B. When consensus on a proposal is sought and required, a vote in favor, opposition or abstention is required from each permanent voting Council member (absence does not constitute agreement, disapproval or a vote to abstain). Supplemental members may vote on items VI.D.2 AND VI.D.3 below.

C. Consensus is achieved when all voting members who are entitled to vote on the proposal have either agreed or abstained.

D. Actions requiring consensus of permanent voting members:

1. Changes in Council chair and in voting rights and procedures, Council purpose, and utility responsibilities;

2. Council endorsements of changes or additions to any adopted MA&E protocols (actual changes are adopted by the Commission in the AEAP).

3. Council endorsements of minor technical waivers to the adopted protocols, as requested by a utility. Waiver requests that do not achieve Council consensus may be brought before the Commission in the AEAP.

4. Recommendation to the CPUC on appointment of supplemental members.

E. Nonconsensus recommendations may also be brought before the Commission in the AEAP.

F. Any utility requesting a waiver must give all CALMAC members fourteen days notice prior to the CALMAC meeting.

G. Some actions will require consensus of only the utility members of the Council. Input and support from other Council members will be sought but agreement is not required. These include:

1. Development of the scope of a statewide study for purposes of preparing requests for proposals (RFPs) and completing the studies; and,

2. Contractor selection and cost sharing for jointly-funded statewide studies.

VII. COUNCIL DURATION

The CALMAC shall cease to operate when there is no longer a review of the costs, benefits, or earnings claim of any utility member in the AEAP or any successor evidentiary proceeding unless further extended by Commission order.

APPENDIX B

LIST OF APPEARANCES

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(END OF APPENDIX B)