BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U338E) for Approval of its 2009-2011 Energy Efficiency Program Plans And Associated Public Goods Charge (PGC) And Procurement Funding Requests.	Application 08-07-021 (Filed July 21, 2008)
And related matters.	Application 08-07-022 Application 08-07-023 Application 08-07-031 (Filed July 21, 2008)

REPLY COMMENTS OF THE UTILITY REFORM NETWORK ON PROPOSED DECISION OF ADMINISTRATIVE LAW JUDGE GAMSON ON EVALUATION, MEASUREMENT AND VERIFICATION PROCESSES FOR 2010 THROUGH 2012 ENERGY EFFICIENCY PORTFOLIOS

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SUBJECT INDEX

REPLY COMMENTS OF TURN ON PROPOSED DECISION ON EM&V PROCESSES FOR 2010-2012 ENERGY EFFICIENCY PORTFOLIOS

Pursuant to Rule 14.3(d) of the Commission's Rules of Practice and Procedure, The Utility Reform Network (TURN) submits these reply comments on Proposed Decision of Administrative Law Judge David Gamson on Evaluation, Measurement and Verification (EM&V) processes for the 2010 to 2012 energy efficiency portfolios (Proposed Decision or PD).

I. The PD Correctly Uses Final 2006-08 Evaluation Reports to Calculate Energy Impacts of 2009 Programs.

The Proposed Decision would have the Commission adopt ED's proposal to use results from final 2006-08 evaluation reports for calculating the impact of 2009 programs where those programs were evaluated during the 2006-08 period.[1] PG&E now claims that this is inconsistent with a "directive" the utility finds in the Bridge Funding decision (D.08-10-027).[2] The utility's position is faulty, though, as it selectively quotes the earlier decision's directive to the utilities to re-calculate the savings and cost-effectiveness of 2009 programs without mentioning one of the problems the directive was intended to solve: "[T]he EM&V process for the 2006-2008 programs has revealed discrepancies in the calculation of the savings numbers due to deviations by the IOUs from the 2005 [DEER] metrics."[3] The problem identified in the Bridge Funding decision was mitigated in the final 2006-08 evaluation reports precisely because the IOUs were directed to eliminate the discrepancies that were causing the problem. Therefore the PD's adoption of the Straw Proposal's approach in this regard is appropriate and should Commission should maintain that outcome.

Even if PG&E's interpretation of the Bridge Funding decision on this point accurately reflects the Commission's intent, the substantial number of custom and non-DEER measures (and

[1] Proposed Decision, pp. 43-44.
[2] PG&E Comments, pp. 10-11, citing D.08-10-027, p. 17.
[3] D.08-10-027, p. 17 [emphasis added].

the amount of program savings attributed to those measures) creates a significant problem. Using DEER 2008 rather than the results of the 2006-08 ex post measurement and valuation studies will mean that the utilities' claimed savings for custom and non-DEER measures will simply be passed through to the PEB calculation without ever having been the subject of measurement and verification. Therefore, should the Commission choose to change this element of the PD, it would need to further require that the utilities use the 2004-05 measurement and verification study results for all custom and non-DEER measures to ensure those measures are subject to at least some amount of M&V.

II. The Commission Should Reject PG&E's Request That Nearly Half The EM&V Funds Go To The Utilities Rather Than To Energy Division.

According to PG&E's comments, the Joint Plan submitted by the utilities and Energy Division included a $49.5 million budget allocation resulting from a "bottoms-up estimate" and, therefore, the Commission should allocate that amount to the utilities.[4] PG&E's approach simply claims for the utilities every dollar designated as process evaluation, market analysis, or early M&V in Table C of the Joint Plan.[5] But the utility fails to address, much less explain, the other language in the Proposed Decision reminding the parties that Energy Division will continue to bear responsibility for process and formative evaluations, including the ultimate studies to determine if program or portfolio goals are met.[6] PG&E asks the Commission to interpret Table C of the Joint Plan as if it intended to assign full responsibility for such work to the utilities (since all of the funding for such efforts would flow to the utilities under PG&E's reading).[7] PG&E also simply

[4] PG&E Comments, p. 4.
[5] Joint Plan, Table C, p. 19 (attachment 1 to ALJ's Ruling of November 20, 2009).
[6] Proposed Decision, p. 19.
[7] Table C includes two broad categories – "Evaluation and M&V Projects" (with $49.5 million for process evaluation, market analysis, and early M&V), and "Overarching and Policy Support Projects." There is nothing included in the latter category that would cover process evaluation, market analysis and early M&V, so even if the full amount of the latter category goes to Energy Division, it would not cover the staff's work in these areas.

glosses over the very different funding level ($18.75 million) that Energy Division recommended as sufficient to permit the utilities to fulfill their EM&V responsibilities going forward.

The Commission should reject PG&E's argument because 1) the utility failed to demonstrate any legal or factual error, but rather simply is disagreeing with the outcome under the Proposed Decision; and 2) it inappropriately reduces funding that should go to the Energy Division to support its work as a neutral evaluator interested only in producing accurate and timely evaluations, without corporate or individual earnings tied to the results of those evaluations.

III. Rather than Serving To Clarify the Process of Minimize Unnecessary Review and Litigation, NRDC's Proposed Changes Would More Likely Further Undermine Energy Division's Role In The EM&V Process.

In a section that purports to present NRDC's support for requiring increased transparency and coordination of EM&V plans and contracts, NRDC instead makes recommendations that would more likely work counter to those goals. In nearly every case, NRDC's position is virtually identical to the position of at least one of the other utilities. For example, NRDC would have the Commission permit the utilities to request approval to perform "additional evaluation of an ED managed study or model that IOUs view as inadequate."[8] If the utilities do not like ED's response to the request, they could pursue the matter further through the dispute resolution process. NRDC further recommends that all EM&V project plans and methodologies be made publicly available for informal stakeholder review as soon as they are available, and that ED should have no say over utility-performed studies where ostensibly funded with shareholder funds rather than through rates.[9] Also, NRDC argues that the proposed dispute resolution mechanism should be have "input from

[8] NRDC Comments, p. 2. *Compare with* SDG&E and SCG Comments, p. 6
[9] NRDC Comments, pp. 2-3; *compare with* PG&E Comments, p. 9.

outside experts", with the ALJ and Commissioners given the opportunity to consult "impartial experts".[10]

None of NRDC's comments on these points raise factual or legal error warranting any change to the Proposed Decision and, therefore, should be disregarded as non-compliant with the Commission's rules. Even if the Commission were to consider the merits, it should reject such recommendations, whether from the utilities themselves or from NRDC, because they would undermine the role of Energy Division and more likely hinder rather than promote the staff's ability to perform its work as efficiently as practicable.

IV. The PD Properly Limits Implementation of SB 488 To "Comparative Energy Usage Disclosure Programs," Not All Programs That Fall Within The Rubric Of "Behavior-Based" As SCE Seeks.

The PD's discussion of how to treat savings from "behavior-based" programs is limited to "comparative energy usage disclosure programs" because those are the subset of programs addressed in SB 488. However, it also would have the Commission state that it is "reasonable to attempt to measure savings from behavior based programs" and rely upon the prioritization plan in the adopted EM&V plan to decide which of the other programs in this category to evaluate and how that evaluation will occur.[11] SCE's comments parrot the utility's earlier position asking the Commission to treat anything deemed a "behavior based" program the same as it would treat the programs specified in SB 488.[12]

SCE fails to identify any factual or legal error with regard to the PD's treatment of this issue, and so its comments should be disregarded. Even if the Commission were to consider the utility's comments, it should note that SCE made no effort to counter the explanation set forth in the PD as to why a narrower approach is more appropriate at this time.

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[10] NRDC Comments, pp. 3-4; *compare with* SCE Comments, p. 3, and SDG&E and SCG Comments, p. 4.
[11] Proposed Decision, pp. 36-41 (in particular, p. 40).
[12] SCE Comments, p. 6.

V. The Commission Should Reject The Utilities' Attempt To Increase Savings From "Codes and Standards" Programs From 50% to 100%.

PG&E and SCE ask the Commission to count 100% of Codes and Standards (C&S) program savings toward savings goals and calculations of net benefits (and, the utility leaves out, increased shareholder "earnings" under the existing mechanism).[13] According to PG&E and SCE, the conditions that led to the 50% limitation adopted in D.05-09-043 are no longer relevant. But as the Proposed Decision makes clear, this assessment seems overly optimistic at best. As the Commission noted in D.09-09-047, the utilities have not even provided estimated savings numbers or bother explaining how they derived the savings estimates for two of the sub-programs that fall into C&S ("Compliance Enhancement Sub-Program" (CEP) and Reach Codes sub-program).[14] Until the utilities provide such fundamental information and there is a meaningful opportunity to review and analyze their estimates, it is premature at best to even consider abandoning the current treatment of counting 50% of the savings from these programs, and then only to the extent the savings are from within the utility's service territory.

Furthermore, the Commission recognized in D.05-09-043 that it would be inappropriate to include resource benefits from pre-2006 C&S standards in the calculation of benefits achieved by programs in place during the 2006-2008 period.[15] Here the same concerns not only apply but are amplified, as the Commission will need to exclude benefits from pre-2010 C&S programs. The utilities' comments set forth empty assurances that these problems have somehow disappeared. The Commission must not make such a substantial change in response to such a weakly supported argument as PG&E and SCE have put forward here.

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[13] PG&E Comments, pp. 12-14. SCE Comments, pp. 10-11.
[14] D.09-09-047, p. 207.
[15] D.05-09-043, p. 130; *see also* Attachment 10, p. 5.

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Respectfully submitted,

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