BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Examine the Commission's Energy Efficiency Risk/Reward Incentive Mechanism.	Rulemaking 09-01-019 (Filed January 29, 2009)

COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES IN RESPONSE TO ASSIGNED COMMISSIONER RULING ON PROCESS FOR TRUE-UP OF INCENTIVES

I. INTRODUCTION

In response to the "Assigned Commissioner's Ruling on Process for True-Up of Incentive Earnings," (ACR) the Division of Ratepayer Advocates (DRA) submits these comments on the proposed scenarios to be considered in determining whether Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), San Diego Gas & Electric Company (SDG&E), and Southern California Gas Company (SoCalGas)[1] are entitled to additional incentives for their administration of ratepayer-funded energy efficiency portfolios during the 2006-2008 program cycle. DRA agrees with the ACR that any process for awarding incentives should "uphold[] standards of integrity in measuring energy savings while providing more transparency…," but disagrees that "reducing the minutely detailed complexity involved in basing RRIM [risk/reward incentive mechanism] earnings solely upon the Energy Division 'Final Verification and Performance Basis Report'" is an appropriate goal.

[1] DRA's comments refer collectively to PG&E, SCE, SDG&E, and SoCalGas as "Utilities."

Instead, the Commission should strive for accuracy in measuring the energy savings and the cost of achieving those savings, even if the process is complex and contentious. DRA does not support continual changes by the Commission to its own polices for the purpose of making the rules fit the Utilities' program results in order to justify undeserved bonus payments. The Commission should stand by its original intent that the CPUC's "adopted incentive mechanism protects ratepayers' financial investment, ensures that program savings are real and verified, and imposes penalties for substandard performance."[2]

While DRA cannot support rewards for unverified savings or poor program design, if the Commission nevertheless rejects the detailed and rigorous computations embodied in the Energy Division's Final Verifications and Performance Basis Report in favor of awarding incentives using a less accurate scenario that poses less risk to the Utilities, the Commission should reduce the shared savings rate established in Decision (D.) 07-09-043. Reducing the shared savings rate in the event that unverified parameters were used or goals were lowered would be necessary to maintain the risk/reward balance the decision established with the expectations that program results would be independently verified and that goals would be maintained.

II. DISCUSSION

D.07-09-043 devised an incentive mechanism premised on independent verification of energy savings and costs. Based on that assumption, D.07-09-043 provided that the Utilities would earn as much as 9-12% of the net benefits achieved by their energy efficiency portfolios, depending on each Utility's progress toward the Commission's energy efficiency goals.[3] The process of determining those benefits has been fraught with controversy, with the Utilities resisting every attempt to maintain a true performance-based mechanism. By opening the door to consideration of scenarios to calculate incentives using energy savings and costs using parameters that have not been

[2] D.07-09-043, p. 4.

[3] D.07-09-043, Ordering Paragraph 2(e), p. 215.

independently verified, the ACR appears poised to yet again decouple payment of incentives from actual performance. According to the ACR:

> In order to achieve a more streamlined and transparent framework for determining RRIM earnings, the record will be developed based on a broader process that is not limited strictly to the Energy Division final report. To facilitate this broader record, incentive earnings under different policy scenarios will be calculated and compared utilizing the "Evaluation Reporting Tools/Database" (ERT) that Energy Division has developed for purposes of its final report.[4]

The ACR lists nine scenarios embedded in the ERT application tools, which will be presented in the Energy Division's "2006-2008 Risk Reward Incentive Mechanism Scenario Analysis."[5] The scenarios largely omit updates or independent verification of utility-reported results, although it appears that Scenario 9 would be based on the most up-to-date parameters reflected in Energy Division's Draft 2006-2008 Energy Efficiency Evaluation Report (Evaluation Report).[6] The Evaluation Report shows that the Utilities' progress toward the Commission's savings goals would fall far short of the minimum performance standard (MPS) needed to earn incentives, and may even fall into the penalty band.[7]

Deviating from the use of the most up-to-date and independently verified parameters or lowering the goals after the fact defeats the purpose of the incentive mechanism, which was intended to align the interest of shareholders and ratepayers by rewarding innovative and effective performance in achieving the Commission's goals. If Utilities are rewarded for program results that do not achieve the Commission's energy

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[4] ACR, p. 3.

[5] The 2006-2008 Risk Reward Incentive Mechanism Scenario Analysis is expected to be issued on May 4, 2010. ACR, p. 7.

[6] Draft Evaluation Report released April 15, 2010.

[7] Energy Division's Evaluation Report, shows the total average achievements for the Utilities to be 71% of GWH 64% of MW, and 66% of MMTh, p. 97. D.07-09-043 established an MPS of 85% for PG&E, SCE, and SDG&E and 80% for SCG.

efficiency goals, then the incentive mechanism loses its value to promote optimal performance. DRA therefore supports use of the Energy Division's adjusted net savings results in the Evaluation Report rather than Utilities' data for calculating incentives for 2006-2008. Energy Division, unlike the Utilities, has no financial interest in the outcome of the incentives calculation and is therefore the most unbiased source of information. If the Commission decides to use other scenarios to calculate incentives, then it should lower the shared savings rate established in D.07-09-043 to reflect the decreased risk that shareholders face in using lower goals or less accurate parameters.

III. CONCLUSION

DRA respectfully requests that the Commission consider its comments in moving forward with the process of calculating shareholder incentives for the 2006-2008 energy efficiency program cycle.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of "**COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES IN RESPONSE TO ASSIGNED COMMISSIONER RULING ON PROCESS FOR TRUE-UP OF INCENTIVES"** to the official service list in **R.09-01-019** by using the following service:

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Dated at San Francisco, California this **20th** day of **April, 2010.**

/s/ NELLY SARMIENTO

Nelly Sarmiento