



## **DRA**

*Division of Ratepayer Advocates  
California Public Utilities Commission*

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June 17, 2010

CPUC Energy Division  
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**SUBJECT:** Division of Ratepayer Advocates' Protest to Southern California Edison Company Advice Letter 2476-E; Pacific Gas & Electric Company Advice Letter 3120-G/3675-E; Southern California Gas Company Advice Letter 4114; and San Diego Gas & Electric Company Advice Letter 2172-E/1951-G

### **BACKGROUND**

The Division of Ratepayer Advocates (DRA) submits the following protest in response to Southern California Edison Company (SCE) Advice Letter (AL) 2476-E; Pacific Gas & Electric Company (PG&E) AL 3120-G/3675-E; Southern California Gas Company (SoCalGas) AL 4114; and San Diego Gas & Electric Company (SDG&E) AL 2172-E/1951-G.<sup>1</sup>

On May 28, 2010 the Utilities submitted a "joint advice filing to establish Program Performance Indicator Worksheets for each energy efficiency statewide program and associated sub-programs" as directed in Decision (D.) 09-09-047, Ordering Paragraph (OP) 11.<sup>2</sup> The Utilities claim that "[t]his advice letter filing complies with the Commission's directive to submit the Joint IOUs' Program Performance Indicator Worksheets, as revised by Energy Division on March 15, 2010. DRA disagrees that the Utilities' Performance Metric AL will achieve the Commission's goal in establishing this requirement which "was to supply data that linked the program logic models to short and long-term Strategic Plan goals."<sup>3</sup>

It has been more than eight months since the Commission directed the Utilities to prepare Program Performance Metrics (PPM), including a four-month delay requested by the Utilities, yet the Performance Metric ALs do not contain meaningful performance metrics. DRA has grave concerns about the Utilities' ability to develop and deliver workable performance metrics that can

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<sup>1</sup> DRA's protest refers collectively to PG&E, SCE, SDG&E and SoCalGas as Utilities, and collectively to the Advice Letters as "Performance Metric AL."

<sup>2</sup> Performance Metric AL, p. 1.

<sup>3</sup> D.09-09-047, p. 90.

provide data to determine an “end game” for programs that no longer require ratepayer subsidies, thereby allowing funding for new programs to deliver additional energy savings. Given DRA’s foundational concern that efforts toward Market Transformation (MT) are progressing slowly (as demonstrated by three separate Utility application filings that resulted in little difference between 2010-12 portfolios from the 2006-08 portfolios), accepting this deficient PPM proposal will only serve to ensure that portfolios filed in 2013 will continue the same outdated Utility energy efficiency (EE) programs.

## **RECOMMENDATION**

The Utilities’ Performance Metric AL illustrates that they are not the appropriate organizations to implement MT strategies. In July 2008, the Commission determined that the strategic planning effort would benefit if the Commission assumed responsibility for the Strategic Plan, noting that “[a] Commission Strategic Plan has the benefit of signaling our ongoing commitment to a long-lasting vision of continuous improvement.”<sup>4</sup> Given that the PPM are closely connected to measuring the success of the Strategic Plan, and given that the Utilities have an inherent conflict of interest in setting metrics for determining their own program success, the Commission should transfer responsibility of developing PPM to Energy Division (ED).

Additionally, measuring the success of EE programs fits more appropriately with ED’s role in managing strategic planning efforts, goal-setting, and EM&V. ED should begin now to develop an expertise in Market Transformation (MT) criteria and evaluation.

DRA, therefore, recommends the following:

- ED should immediately take over the management of the PPM as it did with the Strategic Plan, using its expert evaluators to develop the PPM (consistent with its evaluation role)
- ED and its evaluators should develop more robust short-term PPM criteria
- ED and its evaluators should develop long-term MT indicators similar to those used by the Northwest Energy Efficiency Alliance (NEEA) model
- Finalized PPM should be sufficiently usable to serve as a threshold for determining the end-game for a given technology and whether it is justified to continue to receive ratepayer subsidies in future EE portfolios

## **DISCUSSION**

The most important role the PPM can perform is to serve as preliminary market indicators in the absence of formal market transformation indicators for EE programs. Short-term PPM can determine whether a program is on track to reach its longer-term goals. Additionally, as the Commission noted, “‘defined end points’ refer to the time-bound and quantitative milestones and targets included in the Strategic Plan” and that “each program plan include[] an ‘end game’ for

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<sup>4</sup> Order Instituting Rulemaking, July 17, 2008, p. 2.

each technology or practice.”<sup>5</sup> It is therefore meaningful that the Commission in its decision approving 2010-12 EE programs embedded its directives on PPM within the decision’s overarching section on Market Transformation.

The Joint Utility AL demonstrates that the Utilities do not have the ability to devise effective Performance Metrics

The Joint Utility AL filing demonstrates that even after a more than four-month delay, they are not equipped to develop PPM. Consistently throughout the PPM worksheets, the Utilities provide no longer-term metrics and generally propose weak and ambiguous short-term metrics.

**PPM details are incomplete, vague, and unresponsive to the intent of the Commission’s directives:**

The Performance Metric AL has consistent and overarching issues across the PPM worksheets:

- No articulated long-term metrics are provided
- Short-term metrics are minimal and ambiguous
- Tactical deliverables are rarely linked to related programs or ultimate objectives
- Ambiguous goals from Strategic Plan appear to have been merely copied into worksheets without further development
- Information related to deemed rebates and other program offerings is missing
- Complete sub-program information is missing
- General inability to conceive metrics beyond the very near future
- Outcomes of “awareness” and “behavior” change are vague and do not explain how those will be measured

Given the limitations of the insufficient metrics provided by the Utilities, it is unclear how such vague proposed metrics could be used to measure success or hold the Utilities accountable for such nebulous objectives. Energy Division staff should compare the PPM Worksheets to the Commission’s directives and make the results available to stakeholders. Based on its review of the PPM Worksheets, it is unclear whether there is sufficient information available in the documentation that is usable. The PPM worksheets may not simply be able to be modified, but instead it may be necessary for Energy Division to start from scratch. Considering that these PPM worksheets do not appear to have moved much beyond the Strategic Plan matrices or the Utilities’ Program Implementation Plans, it is surprising that this filing required four months additional months to submit.

**The Utilities are unable to Address Market Transformation:**

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<sup>5</sup> D.09-09-047, p. 89.

The Commission ordered the Utilities to provide in their Performance Metric AL filing:

a discussion to specifically address the extent to which each program and sub-program plan included an end game for each technology or practice that transforms building, purchasing, and use decision to become either standard practice, or incorporated into minimum codes and standards<sup>6</sup>

The Utilities instead respond that they

did not analyze end games for each technology or practice that could potentially transform the market because the utility programs are not the sole influencing factor in the market transformation process.<sup>7</sup>

DRA agrees that the Utilities are not the entities best positioned to carry out MT. It is not in their core expertise and the Utilities apparently view it as too risky. The Utilities note that they “lack[] the type of data needed to understand and analyze market transformation.”<sup>8</sup> Yet there are models of MT entities such as NEEA which are capable of collecting such data. This glaring statement on MT by the Utilities should underscore to the Commission that, like strategic planning efforts, long-term MT strategies should be segregated from the Utilities’ stated ability to focus only on short-term strategies:

IOU programs are generally based on traditional market adoption cycle, and typically energy efficiency technologies transfer out of programs when they are no longer cost-effective from a program implementation perspective, when they are integrated into codes and standards or become an industry standard.<sup>9</sup>

Yet conversely, it should be the role of MT to influence technologies to become more cost-effective and sustainable in the marketplace without subsidies – not to endlessly subsidize programs because they remain cost-effective. Accordingly, the Utilities are not best positioned by expertise or their agenda to maximize shareholder profits to envision or realize market transformation. Clearly, there is an inherent conflict of interest to keep cost-effective programs in Utility portfolios – and not to envision or work toward an end-game. Hence, it should be incumbent upon ED to support its oversight role for both the Strategic Plan and EM&V to set the standards and rationale for continued subsidies to EE programs in order to remove market barriers. Utilities should not be competing with the marketplace to supply cost-effective energy efficiency services and products.

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<sup>6</sup> D.09-09-047, OP 11c, p. 367.

<sup>7</sup> Joint Utility AL, Attachment B.

<sup>8</sup> Id.

<sup>9</sup> Id.

The Utilities seem interested in identifying the end-game after-the-fact “to work with the EM&V process to plan, perform, and analyze further studies to identify the end games”<sup>10</sup> when it may be already too late to impact portfolios since the utilities seem to require program planning so far in advance that the need to determine an end-game wouldn’t benefit from such EM&V.<sup>11</sup>

Energy Division should instead take over the effort to identify goals and criteria for program end-games, using NEEA as a model and a resource.

It is a conflict of interest for the Utilities to develop their own performance metrics

As the Commission noted in D.09-09-047, “[p]rogram performance metrics are **objective**, quantitative indicators of the progress of a program toward the short and long-term market transformation goals and objectives in the Strategic Plan.”<sup>12</sup>

As the Commission noted in D.05-01-055:

We are persuaded by the comments of TURN, ORA, SDREO and others that the EM&V structure within the overall administrative framework must be free of conflicts of interest that could bias EM&V results.<sup>13</sup>

Allowing the Utilities to devise program metrics offers no protection to ratepayers from setting the bar too low for effective market transformation, and is unlikely to promote optimal program design to ensure the wise use of ratepayer dollars. In this way, effective PPM are similar to effective EM&V and it is, therefore, similarly inappropriate for the Utilities to set their own performance metrics.

While DRA appreciates that ED staff may be constrained with efforts to launch 2010-12 program and evaluation efforts, ED has contracting resources that may allow it to manage the PPM effort that cuts across two key areas of ED responsibility: the Strategic Plan and EM&V. Not only is there precedent for ED using contractors for both strategic planning and evaluation efforts, but the decision finalizing EM&V budgets leaves the option open for access to additional EM&V funds, which could fund a contractor-supported ED PPM effort.<sup>14</sup>

D.09-09-047 decision further states:

Energy Division should provide initial recommendations on specific market transformation ultimate and proximate indicators, as well as data collection and

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<sup>10</sup> Id.

<sup>11</sup> Id.

<sup>12</sup> D.09-09-047, p. 91. [emphasis added]

<sup>13</sup> D.05-01-055, p. 105.

<sup>14</sup> D.10-04-029, p. 7.

tracking process, for a subset of portfolio programs or measures that have the most impact in terms of their importance, such as the Big Bold Programmatic Initiatives, their savings potential or dollars spent.<sup>15</sup>

To DRA's knowledge, this process has not been initiated. The PPM effort could serve as a foundational starting point for initializing the development of Market Transformation metrics, as well. Not only would the use of expert contractors familiar with EE programs resolve resource constraint issues, but it would move this effort squarely into ED's realm of responsibility where it belongs, allowing ED to begin building expertise in setting and measuring MT criteria for the next EE program cycle.

## CONCLUSION

PPM will only be useful if they can demonstrate whether programs are on-track with the demands of the market, whether progress toward market transformation is occurring, and whether programs should remain in EE portfolios. The Utilities have shown their inability to address the most key components of the PPM. If the Commission allows responsibility for developing PPM to remain with the Utilities, it runs the risk that effective PPM will never be developed for 2010. Given that 2010-12 programs are so similar 2006-08 programs which had such high free-ridership,<sup>16</sup> it is not clear to DRA that the Utilities are interested in identifying end games for their outdated strategies. Accordingly, the Commission should place responsibility for developing PPM with the Energy Division.

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<sup>15</sup> Id., pp. 96-97.

<sup>16</sup> High free-ridership and other poor design attributes were clearly outlined in Energy Division's 2006-08 Evaluation Reports by Market Sector as well as its April 15, 2010 Draft Evaluation Report on 2006-08 EE programs.

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Please contact Cheryl Cox at (415) 703-3027 or [cxc@cpuc.ca.gov](mailto:cxc@cpuc.ca.gov) if you have any questions about this protest.

Sincerely,

/s/ Linda Serizawa

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