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)

THE DIVISION OF RATEPAYER ADVOCATES' COMMENTS ON JULY 16, 2010 SUPPORTING DATA FOR THE JOINT INVESTOR-OWNED UTILITY (IOU) SCENARIO

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I. INTRODUCTION

The Division of Ratepayer Advocates (DRA) submits these comments pursuant to the Administrative Law Judge (ALJ) Ruling[1] providing for comments on the July 16, 2010 supplemental data submitted by Pacific Gas and Electric Company (PG&E), Southern California Electric Company (SCE), San Diego Gas & Electric Company (SDG&E), and Southern California Gas Company (SoCalGas).[2] The Utilities produced supplemental data in response to a July 6, 2010, ALJ Ruling Directing Production of Supporting Data requiring that they file and serve further supporting data showing the basis for the Joint IOUs scenario proposal.[3]

[1] Administrative Law Judge's Ruling Setting Schedule for Comments and Responses on Utility Filing, July 23, 2010, p. 1.

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

[3] Administrative Law Judge's Ruling Directing Production of Supporting Data in Rulemaking 09-01-019, July 6, 2010 (July 6 ALJ Ruling).

II. DISCUSSION

The Utilities contend that the "Joint Utility Scenario" for calculating their final incentive payments for the energy savings they achieved in the 2006-2008 performance cycle complies with the Commission's intent[4] and corrects the most "controversial and egregious" flaws inherent in the report of Energy Division.[5] The Utilities state that their scenario accepts "'thousands of changes and hundreds of categories of updates including Evaluation Measurement & Verification updates (except for upstream Compact Fluorescent Lamps (CFL) due to poor evaluation results), and applicable audit adjustments.'"[6] The Utilities claim that the Joint Scenario represents a more appropriate assessment of the 2006-2008 utility programs and have asked the Commission to accept the Scenario into the record and use the results to determine the final 2010 true-up payment.

A. Utilities' Performance Metrics

The adopted risk/reward shareholder incentive mechanism[7] requires that a Utility achieve a minimum of 85% of the average performance metric, with a minimum of 80% for each goal.[8] Once this minimum performance standard (MPS) is satisfied, then the performance earnings basis (PEB) can be calculated. The following table summarizes the Utilities' July 16, 2010 filings, using their preferred scenario as representative of their progress in achieving energy efficiency savings for the 2006-2008 programs. The Joint IOU Scenario ignores many of the verified outcomes of the Energy Division's

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[4] Comments of Pacific Gas and Electric Company and Southern California Edison Company on the Assigned Commissioner's Ruling Providing Energy Division Report and Soliciting Comments on Scenario Runs, filed May 18, 2010. (PG&E/SCE Scenario Comments), p. 3.

[5] PG&E/SCE Scenario Comments, pp. 8-9.

[6] Administrative Law Judge's Ruling Directing Production of Supporting Data in Rulemaking 09-01-019, July 6, 2010, p. 2, citing Joint Utility Reply Comments, p. 12. The Energy Division Report showed that 58% of the claimed savings were from upstream CFL programs, one of the parameters that they are not imported.

[7] D.07-09-043, Ordering Paragraph.2, p. 219-220.

[8] See DRA Comments on the 2006-2008 Energy Division Scenario Report and Scenario Runs, filed May 18, 2010.

independent ex post evaluation of the 2006-2008 energy efficiency program results: it uses ex ante net-to-gross (NTG) values, ex ante expected useful life (EUL values), ex ante interactive effects, ex ante installation rates for CFLs delivered via upstream channels, a shared savings rate for 12%, as well as other adjustments that benefit utility shareholders.[9] None of the results have been verified or reviewed by other parties.

DRA has been unable to confirm the Joint Utilities' comment that the methodology was "vetted" by the Energy Division.[10] It appears that Energy Division answered clarifying questions on how to run the Evaluation Reporting Tools ERT, but that it would be an overstatement to say the methodology was vetted or otherwise approved.

TABLE 1 - SUMMARY OF UTILITY DATA

MPS Individual Metric Performance	**PG&E**[11]	**SCE**[12]	**SDG&E**[13]	**SCG**[14]
Percent of GWH Goal	111%	90%	78%	0%
Percent of MW Goal	81%	80%	76%	0%
Percent of MMTh Goal	152%	0%	65%	89%
MPS Average Metric Performance	114%	85%	73%	89%

SDG&E's metrics fall into the deadband between 65% and 85% in which the utility is not entitled to any additional incentive rewards beyond those already received in interim payments.[15] PG&E alleges that it achieved 81% of its MW goals and SCE claims that it achieved 80% of its MW goals. A thorough investigation of the supporting data

[9] SCE's Supporting Data for the Joint IOU Scenario for 2010 True-up Earnings, filed July 16, 2010 (SCE Supporting Data), pages 1-2.

[10] PG&E/SCE Scenario Comments, p. 12; SCE Supporting Data, p. 2.

[11] PG&E Supporting Data, Attachment 1.

[12] SCE Supporting Data, Attachment A.

[13] San Diego Gas & Electric Company and Southern California Gas Company Response to Administrative Law Judge's Ruling Directing Production of Supporting Data, filed July 16, 2010, (SDG&E/SoCalGas Supporting Data), Attachments.

[14] SDG&E/SoCalGas Supporting Data, Attachments.

[15] D.08-12-059 Ordering Paragraph.4, p. 28.

might reveal adjustments that drop these numbers below 80%, meaning that three of the four Utilities would fall into the deadband and not be eligible for any final incentive award.

Using their unverified numbers, PG&E, SCE, and SoCalGas meet the MPS and are eligible for earnings based on calculation of their PEB. SCE and SoCalGas claim energy savings below the 100% MPS level and under that scenario would therefore be eligible for the first tier sharing rate at 9%, not 12% as calculated in their July 16 Supporting Data. The 12% share rate was intended to reward superior performance and therefore applies only when a utility meets at least 100% of its savings goals. Only PG&E would qualify for this level of 12% incentive earnings, based on unverified self- reported results, but other concerns limit the amount PG&E should be eligible to earn (see greenhouse gas (GHG) discussion below). As DRA pointed out in earlier comments, the Utilities' claim that the 12% sharing rate was intended to apply for the entire 2006-2008 program cycle based on "clear and unequivocal Commission direction" was incorrect.[16]

B. GHG Adder

All four Utilities utilized an updated GHG avoided cost adder of $30 per tonne of CO_2. The Utilities point out that the Commission, in D.10-04-029, authorized a GHG value of $30 per tonne of CO2.[17] What the Utilities fail to note is that D.10-04-026 was issued April 8, 2010, more than a year after the 2006-2008 program cycle ended and should not be applied to that cycle. The updated GHG number was intended to apply to the EM&V process for 2010-2012 energy efficiency portfolios as the title of the Commission Decision makes clear – "Decision Determining Evaluation, Measurement and Verification Processes for 2010 Through 2012 Energy Efficiency Portfolios."[18]

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[16] The Division of Ratepayer Advocates' Reply Comments on the 2006-2008 Energy Division Scenario Report and Scenario Runs, filed June 11, 2010, pp. 2-4.

[17] D.10-04-029, Ordering Paragraph. 5, p. 56.

[18] D.10-04-029 title page.

Energy Division recommended updating the GHG adder to a value of $30 per tonne. The Commission directed Energy Division to ensure the carbon adder calculation did not over-value short-lived measures.[19] No party opposed Energy Division's proposal to update the GHG adder, which was intended to be used for 2010 and forward.[20]

In spite of clear evidence that the GHG adder was intended for 2010 and forward, the Utilities want to use it for the calculation of incentives for 2006-2008. The Utilities disagree, however on the use of an adjusting factor as shown below:

TABLE 2 - UTILITY SPECIFIC GHG ADJUSTING FACTOR

GHG Adjusting Factor	PG&E[21]	SCE[22]	SDG&E[23]	SCG[24]
	19%	10%	7%	7%

The Utilities take this factor and multiply the total PEB dollar number to calculate a new larger total PEB, then multiply that number by the 12% earnings rate to derive the Total Earnings, from which they subtract the previous incentive awards to reach the final incentive award requested in their July 16, 2010 filings. This approach produces significant impact on the Total Earnings and the final incentive dollar amounts as shown below:

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[19] D.10-04-029, April 8, 2010, p. 43.

[20] D.10-04-029, Finding of Fact 24, April 8, 2010, p. 50.

[21] PG&E Supporting Data.

[22] SCE Supporting Data.

[23] SDG&E/SoCalGas Supporting Data.

[24] SDG&E/SoCalGas Supporting Data.

TABLE 3 - IMPACT OF GHG ADDER ON UTILITY INCENTIVES[25]

	PG&E[26]	SCE[27]	SDG&E[28]	SCG[29]
PEB at MPS Threshold	$962,843,630	$683,926,982	$119,879,198	$100,180,947
GHG Adjusting Factor	19%	10%	7%	7%
GHG $ ADDER	$182,940,290	$68,392,698	$8,391,544	$7,012,666
TOTAL PEB	$1,145,783,920	$752,319,680	$128,270,742	$107,193,613
EARNING RATE	12%	12%	12%	12%
TOTAL EARNINGS	$137,494,070	$90,278,362	$15,392,489	$12,863,234
GHG ADDER IN TOTAL EARNINGS	**$21,952,835**	**$8,207,124**	**$1,006,985**	**$841,520**
IOUs FINAL PAYMENT	**$62,563,456**	**$39,926,014**	**$4,291,917**	**$5,552,213**
PERCENTAGE IMPACT OF GHG IN FINAL PAYMENT	**35%**	**21%**	**24%**	**15%**

For the four IOUs the total GHG Adder amounts to $32,008,464. There is no evidence that the Commission intended to reward the Utilities with such an unreasonably large amount of incentive dollars based solely on the revaluation of the GHG Adder. The change to a $30 per tonne value did not add a single GWH, MW or MMTh in savings to the energy efficiency results of the IOUs. The Utilities oppose updates for NTG, EUL, and support the use of ex ante interactive effects and ex ante installation rates for CFLs delivered via upstream channels, yet want to use an updated GHG value that was not

[25] All numbers from IOUs Scenario Filings

[26] PG&E Supporting Data Attachments.

[27]SCE Supporting Data, Attachments.

[28] SDG&E/SoCalGas Supporting Data. Attachments.

[29] SDG&E/SoCalGas Supporting Data, Attachments.

adopted for this program cycle. The impact on PG&E of the GHG Adder is especially excessive at 19%, but even at 7% fails the fair and reasonable standard.

Adjusting the IOUs numbers by eliminating the GHG Adder, adjusting the Earnings Rate to match Commission Decisions and eliminating PEB for SDG&E due to not meeting the MPS results in the following numbers for potential True-Up payments less amounts already paid-out.

TABLE 4 - ADJUSTED INCENTIVES *

	PG&E	SCE	SDG&E	SCG
ADJUSTED AMOUNTS	**$40,610,622**	**$11,201,080**	**$0**	**$1,705,264**

* Adjustments include: removal of GHG Adder, Earnings Rate – PG&E 12%, SCE 9%, SDG&E all MPS less than 80% (deadband), SCG 9%).

DRA does not support payment of incentives using this scenario, but provides it to illustrate the impact of several proposed corrections.

III. CONCLUSION

DRA does not support the payment of additional incentive earnings for unsupported, unverified self-reported and unimpressive energy efficiency results. The Commission should not authorize the payment of any additional incentives.

Respectfully submitted,

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July 26, 2010

<u>**CERTIFICATE OF SERVICE**</u>

I hereby certify that I have this day served a copy of "**THE DIVISION OF RATEPAYER ADVOCATES' COMMENTS ON JULY 16, 2010 SUPPORTING DATA FOR THE JOINT IOU SCENARIO"** to the official service list in **R.09-01-019** by using the following service:

[**X**] **E-Mail Service:** sending the entire document as an attachment to an e-mail message to all known parties of record to this proceeding who provided electronic mail addresses.

[ ] **U.S. Mail Service:** mailing by first-class mail with postage prepaid to all known parties of record who did not provide electronic mail addresses.

Dated at San Francisco, California this **26th** day of **July, 2010.**

/s/ NELLY SARMIENTO

Nelly Sarmiento