

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Examine the
Commission's post-2005 Energy Efficiency Policies,
Programs, Evaluation, Measurement and Verification,
and Related Issues.

R. 06-04-010

**WOMEN'S ENERGY MATTERS
COMMENT ON PROPOSED DECISION**

September 13, 2010

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Allocation by Issue

Pursuant to our recent request in another proceeding (R0901019), the Intervenor Compensation Coordinator requested that we supplement it with a better allocation by issue; and she assisted us to better understand how the Commission would like to see issues reflected in compensation requests.² Now that we are more clear, we have amended our timesheets/issues matrix to demonstrate how WEM addressed the issues and sub-issues identified in the scoping memos in this proceeding. We provide a summary in Table 2, below.

See our amended timesheets for our method of calculating the Issue Allocation in Table 2. (Note: it would be virtually impossible after the fact to determine exactly how much time was spent on each issue or sub-issue, therefore we tallied up the number of issues addressed in each comment or activity, and divided the hours equally.)

We believe that the large disparity between our request and the award justifies further review. We regret the inconvenience of our revisions coming late in the process; we hope this will clear up the confusion caused by our earlier methods of describing the issues we addressed. We appreciate the patience of the ALJ, Intervenor Compensation Coordinator, and any other reviewers, as it has taken a while for us to understand what was missing, make the translations, and then develop a way to convert our original categories into this new format and make the necessary calculations.

We believe the Issue Allocation clarifies that WEM was more responsive to the issues — and our contribution was more significant — than it may have appeared in our original request and time sheets. Therefore, we request that the Commission provide full compensation for our significant contribution to this proceeding.

² We were not invited to supplement our request in this proceeding, but we made an effort to supply better information to the extent that we understood it at that time, by submitted our Issues Matrix as an attachment to our reply to comments, which had more detail about what we addressed in our comments. The issue categories in that table described more what WEM was trying to emphasize; the new issue categories in our revised matrix and time sheets translate WEM's concerns into the categories in the Scoping Memo, and demonstrate how they were related.

Table 2: Issue allocation³

% Time	Issues	Sub-issues	Issue description
2.54%	GP		General Practice (generic responsibilities of any party in a proceeding)
15.83%	RRIM		Shareholder Risk/Reward Incentive Mechanism
20.76%	EM&V		Evaluation, Measurement and Verification (EM&V); DEER; Estimated Useful Life (EULs); Net-to-Gross (NTG), CFLs, Peak
1.31%		Lifecycle	Lifecycle consideration of measure impacts
6.79%	Goals		Updates to Savings Goals
1.94%		Potential	Updates to EE Potentials Studies
2.03%		C&S	Codes & Standards work
4.88%	2006-08		Implementation of 2006-2008 Portfolio Plans; ineffective or improper use of EE funds
2.37%	2009-11		Planning Process for 2009-2011 Program Cycle
7.86%		Strategies	Strategic Planning (e.g. GHG reduction, education, marketing, portfolio composition)
4.15%		Education	The particular strategy of education
1.91%		BBEES	Big, Bold EE Strategies
8.10%		Collaboration	Coordination & collaboration across market and government participants
1.22%		Attribution	Attribution of energy savings
1.31%		Funding	Funding from sources other than CPUC-regulated rates; OBF
1.22%		Advisory	Advisory Framework, Admin. (PRG/PAG, best practices)
1.17%	Rules		Refinements to Policy Rules, e.g. Statewide/ local; whether to increase competition for implementation
4.77%		Partners.	Role of local government partnerships
2.53%		TPPs	Whether to modify share of portfolio implemented by third parties
3.06%		UCD	Special arrangement for UC Davis
1.66%	Reports		Refinements to Reporting Requirements
2.39%	2004-06		Transition Issues — Pre-2006 Programs

³ In our timesheets, we lay out the issues and sub-issues in alphabetical order for ease of data-checking. This table reflects the issues as they were grouped together in the two scoping memos.

How the Two Scoping Memos Defined the Issues

The initial Scoping Memo of 5-24-06 recalled the broad categories of issues named in the OIR:

- 1) Shareholder Risk/Reward Incentive Mechanism,
- 2) Evaluation, Measurement and Verification (EM&V),
- 3) Refinements to Policy Rules and Reporting Requirements,
- 4) Updates to Energy Efficiency Potentials Studies and Savings Goals,
- 5) Implementation of 2006-2008 Portfolio Plans and Planning Process for 2009-2011 Program Cycle, and
- 6) Transition Issues and Filings Related to Pre-2006 Programs.

It also added some details:

In addition, at the PHC we clarified that Phase 1 will be the forum for addressing the manner in which free rider (“net-to-gross”) adjustments should be applied in calculating the costs and benefits of the risk/reward incentive mechanism performance basis... 5-24-06 Memo, p. 6

The Memo indicated that a comparison would be made between EE resources and supply-side resources for purposes of establishing appropriate risk/reward levels:

In addition, the utilities will need to provide information on the earnings rates associated with their supply-side procurement opportunities so that a comparison of those earnings levels with the target earnings levels under proposed risk/reward incentive mechanisms can be presented and discussed in the workshops (see Table 7 discussed in (b) above). Information on the risk and reward profiles of utility supply-side resource options also needs to be provided so that it may be considered in establishing the appropriate level of earnings potential under a risk/return incentive mechanism for energy efficiency. (See discussion above and D.94-10-059 reference in footnote 8.) Ibid, p. 10.

The fact that risk/rewards on energy efficiency resources would be compared to risk/rewards on supply side resources strongly implied that there was a relationship between them, which was the Energy Action Plan’s promise that energy efficiency would defer and displace supply-side resources. The implication was that *profits* on the supply-side would similarly be deferred or displaced by *profits* from energy efficiency, and that’s why they should be comparable. Furthermore, the OIR confirmed “the policies of the Energy Action Plan and this Commission to place energy efficiency first in the loading order for resource procurement.” 4-17-06 OIR, p. 1.

Given that ratepayers would foot the bill for profits either way, WEM felt it was appropriate, indeed necessary, for the Commission's EM&V to confirm that supply-side resources were in fact being deferred and displaced, in order to prevent double dipping.⁴

The PD quotes D0709043, which ruled this line of inquiry out of scope. PD, fn. 12. While we agree that the proceeding failed to address this issue more directly, we believe that this demonstrated a deficiency in the conduct of the proceeding, not of WEM's contribution. We raised serious questions, including how energy efficiency was viewed by PG&E's resource procurement dept., which should have been addressed because they indicated that there were holes in the underlying premise of the risk/rewards mechanism which could result in hundreds of millions of dollars of overbilling to ratepayers, i.e. *doubling* profits instead of *replacing* supply side profits with profits on the demand side. (See below, PD Part II for citations to our comments on these issues.)

WEM contributed by pointing to a disconnect at the heart of the risk/reward premise, and then defining EM&V procedures that would solve the problem we had identified.⁵ Whether or not the Commission followed up on our insights or adopted our recommended solutions — or took any action when WEM pointed out that utilities could game the system that was being created — we were indeed addressing core issues that were in-scope, and should be compensated.

The 4-13-07 Scoping Memo confirmed the original issues and added others, generally described as:

[T]reatment of longer-term issues involving strategies as they will be carried out beyond 2011 and in coordination with the Assembly Bill (AB) 32 Greenhouse Gas implementation plan. 4-13-07 Scoping Memo, p. 2.

Specific new issues and sub-issues included:

Under Goals:

What counts (e.g. codes & standards, water conservation, future savings, non-utility strategies, e.g. by local communities or market initiatives, and low-income EE.

Big, Bold Strategies

Coordination across market and government participants

⁴ In addition to ensuring fair rates, we felt that actually deferring and displacing supply side resources would be key to achieving the level of savings that the Intergovernmental Panel on Climate Change said was needed.

⁵ In other words, our "EE as resource" category should be divided between the "risk/reward" and "EM&V" issue categories.

- Attribution of energy savings
- Funding from sources other than Commission-regulated rates
- Advisory Framework and Administration
 - PRG/PAG,
 - Best practices
- Portfolio composition and development rules
 - Statewide v. local
 - Role of partnerships
 - Whether & how to increase competition for cost-effective program implementation
 - Whether to modify share of portfolio implemented by third parties
 - On-bill financing
- Policy rules, e.g. avoided cost data to value peak demand impacts, updating the Database for Energy Efficient Resources (DEER), lifecycle consideration of measure impacts, the ...E3 calculator application. Ibid, pp. 3-5.

Comments on PD Part II-C, Additional Comments (Substantial Contribution)

PD Comment 1 (p. 11)

Footnote 12 quotes the passage from D0709043 that dismissed WEM's work on risk-reward issues, claiming that we failed to address "the factual or methodological issues for establishing a relevant benchmark for shared savings." PD, p. 11, fn. 12, quoting D0709043 at 210. We ask the Commission to consider, from the perspective of 2010, that WEM did in actuality address some important factual issues. One is what we discussed above, in our analysis of the issues in the first Scoping Memo:

The implication was that *profits* on the supply-side would similarly be deferred or displaced by *profits* from energy efficiency, and that's why they should be comparable.

Raising questions about whether and to what extent supply-side profits have been deferred or displaced should be seen as in-scope. It certainly should be taken into account as a "factual issue for establishing a relevant benchmark;" it would prevent tens or even hundreds of millions of unfair double-dipping — profits on both supply and demand.

Throughout R0604010, WEM provided the unique perspective on EE goals and practices that we had gained from our participation in the procurement proceeding, where, PG&E procurement planners dismissed EE as irrelevant, especially in terms of

peak resources, and the final decision credited only 20% of post-2008 EE as available resources to reduce supply-side procurement.⁶ D0712052, p. 41.

Since power plants and renewables require a relatively long lead-time, hundreds of MWs of additional supply-side capacity was approved for post-2008 because so little of EE resources were deemed real or likely to materialize by procurement planners, CAISO, and even the ALJ and Commission in the procurement decision.

PD Comment 2 (p. 12)

In our discussion of the issues in the proceeding, above, we have explained why the Commission should view more of WEM's comments as in-scope, after all, on issues relating to EM&V and the RRIM.

Regarding other issues we addressed in our participation during 2007, we hope that our revised issue allocation will illuminate how our comments did indeed provide a serious analysis of several issues in the proceeding, and also materially supplemented and complemented those of other parties.

For example, we provided important analysis (some of which we believe was unique), of the delays in PG&E signing contracts and getting 2006-08 programs up and running,⁷ and the need for the Commission to take action to prevent such problems in the future, including taking a more proactive stand on program design and execution. This was essential so that the strategies being contemplated could actually be realized, regarding coordination and collaboration with non-utility players such as governments (including partnerships with local governments and educational institutions, and coordination with POU's) and effective interactions with market participants (including the HVAC, construction and lighting industries, as well as third party contractors).

⁶ For example, our 3/16/07 comments, pp. 3-4 discussed the LTPP issues of how much EE was or was not "embedded" in CEC's forecast — which was the problem that led to crediting only 20% of goals as resources. We quoted extensively from procurement hearings in 7/23/07 comments, pp. 7-10. D0712052 was issued after the risk/reward decision in this proceeding, but WEM provided timely reports on these developments that we believe were relevant to the risk/rewards issues in D0709043.

⁷ For example, in our 7/2/07 comments, we discussed PG&E's delays in getting programs up and running, p. 3; its insistence on taking credit for the work of its Local Government Partners (p. 7), the lack of funding for residential programs, p. 5. In 7/23/07 comments we discussed these and other issues, including the importance of education programs and why they should be free from utility control p. 11; we encouraged CPUC to enforce the basics and be more proactive, p. 15.

Section D. CPUC Disallowances and Adjustments

The PD notes that we did relatively little work in 2006. PD, p. 14, item 2. The undersigned sustained a very serious bicycle injury in June 2006 (3 broken ribs, broken wrist, broken collarbone), that prevented WEM from participating in the workshops on Risks/Rewards that summer and other matters. Subsequently, I spent much of the rest of that year with my mother who lived in another state and was in decline. She died in August, 2007.

Thus, WEM's work in R0604010 was suspended for the latter half of 2006, so we were "out-of-the-loop" on much of the risk/reward discussion that took place that year. However as a result of not being "in the weeds" we were able to provide a fresh perspective, and saw the importance to EE risk/rewards of the developments on the procurement side.

The few hours that we did spend in this proceeding in 2006 should be compensated because we participated in good faith up until the accident and the family problems. The insights we gained during that time were put to good use in latter years of the proceeding.

Dated: September 13, 2010

Respectfully Submitted,

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**CERTIFICATION OF SERVICE
R0604010**

I, Barbara George, certify that on this day September 14, 2010 I caused copies of the attached WOMEN'S ENERGY MATTERS COMMENT ON PROPOSED DECISION to be served on all parties by emailing a copy to all parties identified on the electronic service list provided by the California Public Utilities Commission for this proceeding, and also by efilng to the CPUC Docket office, with a paper copy to Administrative Law Judge David Gamson, and Presiding Commissioner Dian Grueneich.

Dated: September 14, 2010 at Fairfax, California.

/s/ Barbara George

DECLARANT

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