

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

**Order Instituting Rulemaking to Examine
the Commission's Energy Efficiency
Risk/Reward Incentive Mechanism.**

U 39 M

**R.09-01-019
(Issued January 29, 2009)**

**COMMENTS OF PACIFIC GAS AND ELECTRIC
COMPANY (U 39 M) ON THE ALTERNATE PROPOSED
DECISION REGARDING THE RISK/REWARD
INCENTIVE MECHANISM EARNINGS TRUE-UP FOR
2006-2008**

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I. INTRODUCTION

In accordance with California Public Utilities Commission Rule of Practice and Procedure 14.3, Pacific Gas and Electric Company (PG&E) submits the following comments on the Alternate Proposed Decision Regarding The Risk/Reward Incentive Mechanism (RRIM) Earnings True-Up for 2006-2008 (APD). The Commission should adopt the APD with PG&E's proposed modifications as specified herein. Specifically, the APD should be revised to approve the Joint Utility Scenario as the reasonable basis upon which to determine earnings for the 2006-2008 True-Up. Under the Joint Utility Scenario, PG&E would be authorized a True-Up payment of \$62.6 million, instead of the \$40.3 million proposed in the APD. The proposed incentive amount incorporates the Energy Division's Final Evaluation Report with a limited set of principled changes and also requests that the Greenhouse Gas (GHG) adder be added to reflect the current value as set in D.10-04-029. The Joint Utility Scenario is the most equitable scenario that appropriately accounts for the uncertainty in the Final Evaluation Report process as well as

the Commission's policies for the True-Up.

II. EXECUTIVE SUMMARY

PG&E appreciates the opportunity to submit these comments on the APD. It is a testament to California's role as a leader in Energy Efficiency (EE) that all parties in this proceeding have invested such tremendous time and energy in designing, implementing and now evaluating the 2006-2008 EE programs in furtherance of achieving California's ambitious EE goals. With respect to program evaluation, PG&E joins the Commission's acknowledgment of the unprecedented size and scope of this endeavor and specifically, its recognition of Energy Division's (ED) management of two interim verification reports as well as one of the largest final impact evaluations in history.^{1/} A notable achievement of the process was that Energy Division has significantly expanded its understanding of EE sectors and Investor-Owned Utility (IOU) programs and will apply that knowledge to future evaluations.^{2/}

Notwithstanding the best of the parties' efforts and intentions in developing and implementing the RRIM structure, the Commission has acknowledged on numerous occasions that the process set forth in D.07-09-043 is flawed and has resulted in significant contention and protracted litigation among the parties.^{3/} Specifically, much of the contention in the True-Up process is directly attributable to the ultimate disparity that resulted between *ex ante* savings

^{1/} See California Public Utilities Commission's 2006-2008 Energy Efficiency Evaluation Report, July 2010 (Final Verification Report), Executive Summary, p. xii.

^{2/} *Id.*

^{3/} See, e.g., D. 09-12-045 at p. 4 ("We opened this proceeding, recognizing the contentious character of the predecessor proceeding in determining the applicable RRIM earnings. The Energy Division's First Verification Report, covering 2006 and 2007 activities, became controversial due both to delays and to disputes about the parameter values used in calculating incentive payments. These controversies illustrate that the RRIM methodologies are complex and not as easily or as timely resolved as had been originally contemplated"); *id.* at p. 4-5 ("We continue to believe that prospectively, reforms to the existing mechanism should be pursued that reasonably produce meaningful incentives to achieve the Commission's energy efficiency goals through simplified approaches designed to avoid the level of controversy over detailed technical methodologies that have characterized the RRIM process to date"); April 8, 2010 *Assigned Commissioner's Ruling On Process For True-Up Of Incentive Earnings*, issued by Commissioner Bohn, p. 2.

assumptions (used at the direction of Energy Division (ED) for planning the 2006-08 portfolios) compared to the *ex post* updated savings assumptions contained in the Final Verification Report and the corresponding debate as to whether application of those updated values produces an accurate measure of the achievements of the portfolios and an equitable resolution of the incentive True-Up.^{4/} Energy Division acknowledged precisely the same flaws in the process in the Final Verification Report where it concluded:

the EM&V process, at least as it is currently designed and administered, cannot serve as a tool to simultaneously determine incentive awards or penalties and produce accurate estimates of energy savings without protracted disputes concerning the magnitude of specific values or the fairness of allowing those values to be updated and applied retroactively.^{5/}

The APD differs from the PD in that the APD directly accounts for the contentiousness, often uncertain process, and embedded errors in this massive analysis in trying to reach an equitable resolution to the True-Up. In making its determination, in addition to consideration of the savings estimates in the Final Verification Report, the APD considers the level of contention surrounding the accuracy of the *ex post* values, the fact that it is extremely difficult to estimate savings assumptions accurately, and that minor changes to savings assumptions have a significant effect in increasing or decreasing utility earnings.^{6/} Based on those considerations, the APD determines that the IOUs should receive additional incentive payments in the amount of the holdback in D.09-12-045. That said, the APD fails to acknowledge that the Second Verification Report upon which the holdback is based is subject to the same uncertainty and

^{4/} PD at p. 33, FoF 8.

^{5/} Final Verification Report, Recommendation 11; see also Recommendation 7 (discussing the inherent problems with retroactive application of updated *ex post* savings assumptions).

^{6/} APD, p. 3.

inaccuracy as the Final Evaluation Report and that both reports contain errors.^{7/} PG&E appreciates the APD's intention to address those uncertainties, judgment calls, and embedded errors by settling on the holdback amount in Second Verification Report. Any modifications to the Second Verification Report that would affect the amount of the true-up payment would require a complete vetting of all issues identified by parties.^{8/}

The Joint Utility Scenario continues to present a principled approach that accepts a significant amount of conclusions from the Final Evaluation Report, proposes a limited set of corrections in areas where the most significant judgment calls and uncertainty exists, and requests that the GHG value be updated to reflect the current value adopted in D.10-04-029. Resolution based on the Joint Utility Scenario is a more appropriate, accurate view of the accomplishments of the utilities' respective programs.

III. THE JOINT UTILITY SCENARIO

The Joint Utility Scenario properly incorporates the following aspects of settled Commission policy, which the APD fails to do:

- In accordance with D.09-12-045, the Commission should exclude 2004-2005 savings and goals from the RRIM scenarios for 2006-2008. Finding of Fact 17 in the APD, which finds reasonable to include an arbitrary percentage of 2004-2005 savings and goals, constitutes error.
- In accordance with D.09-12-045 and D.10-04-029, the Commission should include 100% of Codes and Standards savings toward goals and net benefits. The APD constitutes error by not specifying that both pre-2006 and 2006-2008 Codes and Standards should count towards both savings goals and net benefits, and then by not applying the addition to Appendix A. Finding of Fact 19 in the APD should be modified accordingly.
- The APD fails to incorporate the Commission's update regarding the avoided cost of GHG emissions and therefore, undervalues net benefits to ratepayers.

^{7/} APD, p.4; *see* Footnotes 13, 14, and 25 in APD for examples of errors in the Final Evaluation Report and Scenario Analysis.

^{8/} *See* 71 issues raised on pages 134-144 of Second Verification Report adopted via Resolution E-4272. Further, there may be other errors that were not identified by parties that would need to be addressed collectively, not in an isolated fashion.

In addition, in accordance with the Commission’s recent directives and statements of policy in D.09-12-045 and the April 8, 2010 ACR, which states the Commission’s intention to consider assumptions and policies other than the flawed process set forth D.07-09-043, the Joint Utility Scenario calls for application of a limited set of *ex ante* values for the True-Up and relies on the ED’s Final Verification Report for all other data as follows:

- The Commission should apply *ex ante* values for Net-to-Gross, In Service Rates for Upstream Compact Fluorescent Lightbulbs, Expected Useful Lives, and Interactive Effects.

IV. PROPOSED CORRECTIONS TO THE APD

A. THE APD’S INCLUSION OF 2004-05 RESULTS AND GOALS CONSTITUTES ERROR

The APD’s Finding of Fact 17, which concludes that it is reasonable to include an arbitrary percentage of 2004-2005 savings and goals, is erroneous. In D.09-05-037, the Commission determined that the “2004-2005 data is not directly reconcilable with 2006-2008 data,” and that “[t]he 2004 and 2005 data should not be used for cumulative savings purposes for this program cycle.”^{9/} As a result, the Commission concluded in D.09-12-045 that “[f]or the purposes of measuring interim incentive earnings for the 2006-2008 cycle, we agree that it is appropriate to exclude the effects of cumulative goals starting from 2004, as reflected in the Verification Report.”^{10/} In D.09-12-045, the Commission stated that “exclusion of the 2004-2005 goals in the calculation yields a more consistent metric for measuring incentive earnings.”^{11/}

The APD’s assertion that it is appropriate to apply some measure of 2004-05 results and goals to the 2006-08 True-Up is erroneous. The Commission has pointed to nothing in rationale of D.09-12-045 to support its position that it is appropriate or otherwise logical to exclude 2004-05 results and goals from

^{9/} D.09-05-037, FoF, Conclusion of Law 1.

^{10/} D.09-12-045 at p. 67.

^{11/} D.09-12-045, at p. 67.

the interim incentives calculations to promote a more consistent measuring metric, but then disregard this rationale and include those goals for the True-Up. In fact, D.09-12-045 the Commission stated that the rationale behind the exclusion applies to calculation of incentive earnings in general:

We recognize that based on more recent analysis in D.09-05-037, 2004-2005 data should be excluded from cumulative goals on a prospective basis. While D.09-05-037 has applicability for measuring cumulative savings goals on a forward-looking basis, similar principles apply to the savings goals used in determining 2006-2008 RRIM incentive earnings.^{12/}

B. THE COMMISSION SHOULD INCLUDE 100% OF CODES AND STANDARDS SAVINGS TOWARD SAVINGS AND NET BENEFITS.

The APD rightly concludes that 100% of savings from pre-2006 Codes and Standards (C&S) activities should count toward the true-up consistent with D.10-04-029.^{13/} The CPUC has also previously stated that 100% of Codes and Standards activity during the 2006-2008 cycle should count toward the savings goals and toward net benefits in the performance earnings calculations.^{14/} The APD acknowledges that the “ERT [Evaluation Reporting Tool] assumptions utilized by Energy Division, however, did not reflect any net benefits associated with C&S activity initiated within in the 2006-2008 program cycle.”^{15/} Despite this acknowledgement and agreement with the consistency in counting with D.10-04-029, Appendix A does not reflect these outcomes and thus, contains an error.

In review of the values presented in Appendix A, the pre-2006 C&S savings are not included in the calculation of the savings achievements. Upon review of Scenario 7 of the Energy Division’s Final Evaluation Report, the 2004-2005 EM&V Adjusted EE Portfolio

^{12/} *Id.*

^{13/} APD, p. 48.

^{14/} D.07-09-043, p. 143, citing D.05-09-043, pp. 132-33.

^{15/} APD, p. 47.

Savings do not differ from 10% of the value of the 2004-2005 savings shown in Appendix A. This means that pre-2006 savings were not included in the calculation of savings. This is an error and needs to be corrected. This would result in 41.4 MW, 246.6 GWH, and 2.5 MMtherms in additional savings.

C. THE COMMISSION SHOULD UPDATE THE GREENHOUSE GAS (GHG) ADDER USING THE 2008 MARKET PRICE REFERENT (MPR) VALUE OF \$30 PER TONNE.

The EM&V decision approved by the Commission on April 8, 2010 directed ED to update both the electric and gas avoided costs, which included a GHG emission factor of \$30 per tonne, up almost three times from the last factor of \$12 per tonne.^{16/} In the APD, the Commission aptly recognizes that applying the \$30 updated GHG adder to the 2006-2008 True-Up has a significant effect on the monetization of benefits to ratepayers delivered in the 2006-2008 programs.^{17/} Despite that recognition, the APD provides no justification for declining to apply the more accurate, updated value,^{18/} yet also does not explicitly order its adoption. Consistent with the APD's finding that failing to adopt the updated GHG adder may undervalue benefits obtained by ratepayers, the Commission should order that the updated value be applied to the True-Up. Based on the analysis provided in response to the ALJ data request in September, this would result in a PEB increase of \$183 million and an incentive claim increase of \$21.9 million.

^{16/} See D.10-04-029, Decision Determining Evaluation, Measurement and Verification Processes for 2010 Through 2012 Energy Efficiency Portfolios, Conclusion of Law 17.

^{17/} APD at p.50.

^{18/} APD at p. 50. DRA claims it is inconsistent for the IOUs to request application of the updated GHG adder while arguing for application of *ex ante* values in other circumstances, but this is not the case. The Joint Utility Scenario accepts the vast majority of *ex post* values in the Final Verification Report. The Joint Utility Scenario questions application of certain *ex post* values where the methodologies supporting those updated values are not transparent or are openly questionable, or where the IOUs were expected to adjust their program in response to updates that were not issued in a timely manner. Neither of those is the case with the GHG adder update. In fact, the updated value is based on ED's recommendation. (See D.10-04-029 at p.43) This update simply represents a more accurate monetization of the ratepayer benefits achieved in the 2006-08 programs.

D. THE APD SHOULD APPLY *EX ANTE* VALUES FOR NET-TO-GROSS, IN SERVICE RATES FOR UPSTREAM COMPACT FLOURESCENT LIGHBULBS, EXPECTED USEFUL LIVES, AND INTERACTIVE EFFECTS.

Application of a limited number of *ex ante* planning values is consistent with current Commission policy and produces an equitable resolution to the True-Up process. Notably, the Commission has acknowledged that many of the core savings assumptions are in fact, very difficult to measure accurately and has recognized that their application is very sensitive in the RRIM analysis (i.e., that minor changes in the assumptions have significant effects on the perceived success of the portfolio).^{19/}

Applying such updates, which also differ so drastically from the assumptions upon which the entire portfolio was planned, essentially amounts to an unsupported “moving of the goalposts” upon which the IOUs are unable to make timely or meaningful adjustments to the portfolio.

The APD’s assertion in Finding of Fact 11, that the IOUs, in fact, had ample time to incorporate such feedback is incorrect. That conclusion is contradicted by ED’s Final Verification Report itself, which recommends that “[f]uture evaluation studies should be designed and implemented in coordination with program implementation to have greater influence on mid-course corrections and improving estimates along the way.”^{20/} In the Final Verification Report, ED goes on to “recognize[] that feedback provided at the conclusion of a program cycle is less than desirable, as it may limit timely adaptation of programs based on findings in the field.”^{21/}

In the interest of compromise, the IOUs have accepted many *ex post* values presented in

^{19/} APD, FoF 3.

^{20/} Final Evaluation Report, Recommendation No. 7, p.134. As discussed in these comments, these FoFs are also contradicted by publication of certain Net-To-Gross (NTG) updates as late as December of 2008. The PD fails to address these in supporting its conclusions.

^{21/} *Id.*

the Final Verification Report.^{22/} However, despite its acknowledgment of these significant issues, the APD still proposes to rely on an uncertain, controversial Second Verification Report, over which PG&E and other parties raised concerns both in comments in response to the adoption of D.09-12-045 and in response to the adoption of Resolution E-4272 containing the Second Verification Report.

In essence, retroactively applying updated assumptions undermines the ultimate goal of D.07-09-043 to provide a “meaningful opportunity to earn for utility shareholders.” The Joint Utility Scenario addresses this concern by applying *ex ante* values for those parameters whose updates are based on the most questionable methodologies and which values diverge most significantly from those *ex ante* values upon which the portfolios were planned.

1. The Commission Should Apply *Ex Ante* Assumptions Consistent With Commission Policy

Despite its acknowledgment of issues surrounding the accuracy and effect of retroactively applying the *ex post* values from the Final Verification Report, the APD ignores those issues and claims that application of *ex post* values is in line with Commission policies because they were “independently verified.” The April 8, 2010 ACR acknowledges that “the RRIM had a number of flaws in its design and implementation, resulting in the potential for protracted litigation, delay, and controversy with which no party was satisfied.”^{23/} To address these flaws, the Commission restated the underlying goal of the True-Up process as “devis[ing] a process that upholds standards of integrity in measuring energy savings while providing more transparency and reducing the minutely detailed complexity involved in basing RRIM earnings

^{22/} APD at p. 19.

^{23/} April 8, 2010 ACR at p. 1-2.

solely upon the Energy Division ‘Final Verification and Performance Basis Report.’”^{24/} The Commission ruled that “[i]n 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.”^{25/} As such, the APD’s is incorrect in its asserting that application of solely *ex post* values in finalizing the True-Up conforms to Commission policy simply because they have gone through ED’s “independent verification” process..^{26/}

2. The APD’s Application of Ex Post Net-To-Gross Ratios Is Unsupportable.

The APD’s conclusion that it is reasonable to apply *ex post* NTG values in finalizing the True-Up is error and is not supported by the record. Flawed methodology and untimely application of updated NTG values amounts to an arbitrary reduction of the measure of the IOUs’ respective program performance.

The Commission acknowledges that the NTG update does not change the measurement of gross savings from all energy efficiency investments and thus, the efficiency is happening as a result of programs, whether NTG self-report studies conclude that fact.^{27/} The Commission also states that NTG is among the most contentious of the True-Up process,^{28/} that “measuring NTG ratios is inherently difficult”^{29/} and concludes that “any measure of the NTG can be at best an approximation.”^{30/}

In addition to the inherent difficulties in accurately measuring NTG values, the APD fails to address some very specific issues regarding the methodologies applied, which remain unanswered.

^{24/} *Id.* at p. 2.

^{25/} *Id.* at p. 3.

^{26/} APD at p.21.

^{27/} APD at p. 3

^{28/} APD at p. 35.

^{29/} APD at p. 36.

^{30/} *Id.* at p. 36.

Notwithstanding the overarching concerns the APD references regarding the potential inaccuracies of the self-reporting methodology in general, the IOUs have raised questions about the impropriety of certain evaluation techniques, such as arbitrarily discarding the highest of multiple NTG scores without explanation, or otherwise scoring responses from individuals who either don't know or don't recall the supposed impetus behind an EE installation, not as an N/A, but rather as a zero score for the IOU program. These errors are blatant, significant, and have profound and material effects on the updated NTG values. Their existence further calls into question the accuracy of the NTG updates that the Commission has already acknowledged can be, at best, only an approximation. The APD acknowledges, but discards these issues surrounding the NTG updates and provides little support its Finding of Fact 10, which erroneously assumes that the updated values are "more accurate" than those *ex ante* values in place. As such, there is no valid reason to utilize the unreliable *ex post* NTG ratios in the Second Verification Report to calculate the final 2010 true-up claim.

With respect to the timing of publication of the updates, the APD concludes the IOUs were not constrained from making appropriate adjustments to their 2006-08 portfolios.^{31/} The factual basis for this Finding of Fact is false. The APD states that the preliminary results of the *2004/2005 Statewide Residential Retrofit Single-Family Energy Efficiency Rebate Evaluation*, published in October 2007, were well known prior to publication, and therefore, concludes that the IOUs could have begun adjusting their portfolios to reflect updated NTG values.^{32/} The APD fails to address the untimely release of other NTG such as the Database for Energy Efficiency Resources (DEER) NTG updates themselves, which were not issued until 2008, much too late for utilities to adjust their portfolios accordingly and which serve as the basis for the Second Verification Report upon which the APD relies.^{33/} The failure to produce

^{31/} APD, FoF 11.

^{32/} APD at p. 38.

^{33/} See e.g., the *2004/2005 Statewide Express Efficiency and Upstream HVAC Program Impact Evaluation* (Itron) was published December 31, 2008 [NTG values for non-residential rebated measures], *2004-2005 Statewide Nonresidential Standard Performance Contract Program Measurement and Evaluation Study* (Itron) was published September 30, 2008 [NTG values for calculated agricultural, commercial, and industrial programs]; and *The Evaluation Study of the 2004-05 Statewide Residential Appliance Recycling Program* (ADM

supportable, accurate updates, in a timely manner such that program administrators could make meaningful mid-course corrections illustrated the flaws in the RRIM structure set forth in D.07-09-043 and highlights the arbitrary “moving of the goalposts” with respect to evaluating the IOUs portfolios.

Finally, the APD criticizes the IOUs for not offering an alternative aside from application of previously vetted DEER values.^{34/} This criticism is not entirely valid as the IOUs are precluded by Commission decisions, including D.05-01-055, D.10-04-029 and others, from independently researching alternative methodologies for NTG measurement as these are considered impact evaluations.

For these reasons, the APD’s conclusion that it is reasonable to apply the updated NTG values from the Second Verification Report is incorrect. Retroactive application of such “approximations” based on questionable methodologies represents exactly the sort of “minutely detailed complexity” that can result in huge swings in the perceived performance of the portfolio, which the Commission seeks to avoid in calculating incentive earnings.^{35/} In accordance with the Joint Utility Scenario, the APD should be revised to apply *ex ante* NTG values for purposes of the 2006-2008 True-Up. For example, if the NTG in the Second Verification Report were changed to ex-ante values from the 2005 DEER for just upstream CFLs, the results would be an increase of 71.7 MW and 405 GWH, and a decrease of 7.7 MMTherms. This would result in an increase of \$97.9 million in PEB and an increase of \$11.8 in the shareholder incentive claim.

3. The APD’s Conclusion That it is Reasonable to Apply Updated Expected Useful Life (EUL) Values is Incorrect.

The APD fails to address significant issues that call into question the accuracy of EUL updates. Specifically, the APD does not refute that the updated estimates were released in late 2008, giving the utilities no opportunity to modify their program design. Nor does the APD refute that ED did not rely upon EM&V studies or best practices, but instead developed brand new, un-vetted, and nontransparent

Associates) was published in April 2008 [NTG values for refrigerator recycling program efforts].

^{34/} APD at p. 36.

^{35/} See April 8, 2010 ACR at p. 2.

engineering simulation models. Nor does the APD directly respond to the inherent issues with reducing the residential CFLs life from 9.4 to 6.6 years based on examination of 16 light bulbs, in the face of contradictory data contained in the same documentation. From a common-sense perspective, such methodologies can't survive any level of scrutiny and it is not surprising that the drastic changes to the measure of program success resulting from such methodologies have generated a great deal of contention. The APD's conclusion that these updated EUL values are superior to the 2005 DEER estimates is both unsupported and incorrect. The utility-reported ex ante EULs, based on vetted and accepted EM&V information, should be utilized for the True-Up. For example, if the EUL in the Second Verification Report were changed to ex-ante values from the 2005 DEER for just upstream CFLs, the results would be an increase of \$57 million in PEB and an increase of \$6.8 in shareholder incentive claim.

4. The APD's Conclusion that it is Reasonable to Apply Updated In-Service Rates (ISR) for Compact Fluorescent Lightbulbs is Incorrect.

The Verification Report ignores the construct of a three-year program cycle, and instead applies a first-year installation rate to upstream CFLs. The APD finds this approach reasonable and consistent with Commission policy even though, in essence, this approach gives utilities zero credit for any bulbs that were purchased in 2006 or 2007 but *were installed* in 2008. Despite the Commission's acknowledgement that not counting savings from these CFLs "may understate the benefits obtained by ratepayers from the 2006-2008 programs"^{36/}, savings for these efforts were not added to the Second Verification Report upon which the APD is based. Not applying such values is directly at odds with at least two of the three objectives of the True-Up as stated in the APD. First the APD states that incentive methodologies should be applied in a fair, transparent and conceptually consistent manner. Here the APD is refusing to include a significant measure of known energy savings for purposes of the True-Up. Second, the APD states that ratepayers should pay only for real and verifiable savings. Here, real and verifiable savings are being excluded without justification. The APD's conclusion that the benefits from the program are understated is correct and the APD should direct the Energy Division to update the

^{36/} APD at p. 42.

Second Verification Report to recalculate the ISR to reflect all installations resulting from the 2006 – 2008 Portfolio. For example, if the ISR in the Second Verification Report were changed to ex-ante values from the 2005 DEER for upstream CFLs, the results would be an increase of 87.3 MW and 508 GWH, and a decrease of 10.7 MMTherms. This would result in an increase of \$124.6 million in PEB and an increase of \$14.9 in the shareholder incentive claim.

V. CONCLUSION

For the foregoing reasons, PG&E respectfully requests that the Commission adopt the Alternate Proposed Decision with the modifications proposed herein, which reflect the principles of the Joint Utility Scenario. Adoption of the Joint Utility Scenario is a reasonable and equitable resolution of the 2006-2008 True-Up process given the performance of PG&E's portfolio and the range of potential earnings scenarios advanced by the parties to this proceeding and results in PG&E earning \$62.6 million in this true-up period. Therefore, PG&E requests that the Commission adopt the modifications to the Alternate Proposed Decision in Appendix A hereto.

Respectfully submitted,

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October 18, 2010

APPENDIX A

PROPOSED MODIFICATIONS TO FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDERING PARAGRAPHS IN PROPOSED ALTERNATE
DECISION

Reference in Proposed Alternate Decision	Proposed Revision to Language in Proposed Alternate Decision
Finding of Fact 11	11. The IOUs were not constrained from making <u>appropriate</u> adjustments in the administration of programs throughout the 2006-2008 cycle as a result of the timing of the Energy Division's finalization of updated NTG ratios.
Finding of Fact 12	12. While The Energy Division's ex post updates can be useful in planning the design of future energy efficiency portfolios, the timing of the publication of Energy Division updates did not constrain utility management from making appropriate adjustments in program priorities or funding throughout the 2006-2008 cycle.
Finding of Fact 17	17. Although in <u>In</u> D.09-05-037 the Commission found that 2004-2005 data is not directly reconcilable with 2006-2008 results, Therefore, it is still not reasonable to include some any amount of 2004-2005 cumulative savings for purposes of the earnings true-up, consistent with the Commission's policy of measuring cumulative goals.
Finding of Fact 19	19. In D.10-04-029, the Commission determined that it is appropriate to count 100% of these <u>pre-2006 Codes and Standards</u> savings toward achievement of the 2010-2012 cumulative goals. This determination was based on the finding that better technical data about savings is now available as compared to when the original 50% determination was made in D.05-09-043. That same determination supports the recognition of 100% of C&S advocacy savings for deriving the MPS for the 2006-2008 true-up. <u>D.05-09-043 also states that 100% of C&S savings attributable to codes and standards work undertaken during 2006 and beyond should be counted in both cost-effectiveness and performance basis calculations on a going forward basis.</u>
Addition of Finding of Fact to the Proposed Alternative Decision.	In D.10-04-029 the Commission directed ED to update both the electric and gas avoided costs, which included updating the GHG emission factor from \$12 per tonne to \$30 per tonne. It is reasonable to apply the updated \$30 GHG emission factor for purposes of the True-Up.

Finding of Fact 22	22. The incentive earnings specified in D.09-12-045 <u>the Joint Utility Scenario</u> provide a reasonable basis to determine whether any of the IOUs are due additional incentive payments for the 2006-2008 cycle, or whether penalties are owed.
Conclusion of Law 2	Adopted Commission policy While D.07-09-043 calls for finalizing the true-up of 2006-2008 incentive earnings based upon consideration of <i>ex post</i> updates of relevant parameter measures as evaluated by the Energy Division and its consultants, <u>Commission policy also supports consideration of simplified assumptions or metrics not necessarily tied to the detailed and minute level of calculations embodied in the Final Performance Basis Report for the 2006-2008 cycle.</u>
Conclusion of Law 6	6. Based on a reasonable approximation of IOU savings accomplishments for the 2006-2008 cycle, consideration of the uncertainties <u>and embedded errors</u> in the approximations and consideration of Commission goals and policies, the IOUs are eligible for additional incentive payments for the 2006-2008 cycle equal to the hold back amounts specified in Decision 09-12-045. <u>as stated in the Joint Utility Scenario.</u>
Ordering Paragraph 1	1. The true-up of Risk/Reward Incentive Mechanism Savings for the 2006-2008 program cycle is hereby concluded. <u>The In addition to the previously awarded interim incentive earnings awarded in Decision (D.) 08-12-059 and D.09-12-045 constitute the final and complete resolution of payments due the Commission orders the following final true-up payments for the 2006-2008 cycle:</u> <u>Pacific Gas and Electric Company - \$62.6 million,</u> <u>San Diego Gas & Electric Company – \$4.3 million,</u> <u>Southern California Edison Company - \$39.9 million,</u> <u>Southern California Gas Company- \$5.5 million.</u> for the 2006-2008 cycle No additional earnings and no penalties shall be authorized for the 2006-2008 cycle.

CERTIFICATE OF SERVICE BY ELECTRONIC MAIL

I, the undersigned, state that I am a citizen of the United States and am employed in the City and County of San Francisco; that I am over the age of eighteen (18) years and not a party to the within cause; and that my business address is 77 Beale Street, San Francisco, California 94105.

On October 18, 2010, I served a true copy of:

**COMMENTS OF PACIFIC GAS AND ELECTRIC
COMPANY (U 39 M) ON THE ALTERNATE
PROPOSED DECISION REGARDING THE
RISK/REWARD INCENTIVE MECHANISM
EARNINGS TRUE-UP FOR 2006-2008 – R. 09-01-019**

- [XX] By Electronic Mail – serving the enclosed via e-mail transmission to each of the parties listed on the official service lists for R. 09-01-019 with an e-mail address.
- [XX] By U.S. Mail – by placing the enclosed for collection and mailing, in the course of ordinary business practice, with other correspondence of Pacific Gas and Electric Company, enclosed in a sealed envelope, with postage fully prepaid, addressed to those parties listed on the official service lists for R. 09-01-019 without an e-mail address.

I certify and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 18th day of October, 2010, at San Francisco, California.

/s/

PAMELA J. DAWSON-SMITH

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