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 THE PROPOSED DECISION REGARDING THE RISK/REWARD INCENTIVE MECHANISM EARNINGS TRUE-UP FOR 2006-2008 AND THE PROPOSED ALTERNATE DECISION REGARDING THE RISK/REWARD INCENTIVE MECHANISM EARNINGS TRUE-UP FOR 2006-2008

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I. INTRODUCTION

Pursuant to Rule 14.3 of the Commission's Rules of Practice and Procedure, the Division of Ratepayer Advocates (DRA) submits these comments on the "Proposed Decision Regarding the Risk/Reward Incentive Mechanism Earnings True-Up For 2006-2008 (PD) and the "Proposed Alternate Decision Regarding the Risk/Reward Incentive Mechanism Earnings True-Up For 2006-2008" (APD). Both the PD and the APD would resolve the final true-up of Risk/Reward Incentive Mechanism (RRIM) earnings for the 2006-2008 program cycle for energy savings resulting from ratepayer funded energy efficiency programs of 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] Both the PD and APD purport to rely on "savings accomplishments that have been independently evaluated by the Commission's Energy Division in comparison to adopted savings goals"[2] as a basis for their recommended true-up but in fact, both the PD and the APD modify the independently verified energy savings to justify specific results. The PD would allow all four Utilities to keep their interim incentive payments totaling $143.7 million, even though Energy Division's independent verification of energy savings showed that three of the four Utilities should return their interim incentive payments and should owe penalties for failing to achieve their energy efficiency goals. The APD diverges even further from the Energy Division's independent verification of energy savings and would award the Utilities an additional $77.3 million, even though paying additional incentives to SDG&E and SoCalGas makes their energy efficiency programs not cost effective.

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

[2] PD, p.3; APD. p. 2.

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The APD and to a lesser extent the PD would contravene the intent of the RRIM, which determined that:

> "[r]atepayers will only be required to share net benefits with shareholders to the extent that those net benefits actually materialize, based on Energy Division's EM&V results."[3]

DRA recommends that the Commission revise the PD to require the return of incentives and the payment of penalties, as the RRIM intended if a utility fails to meet its energy efficiency goals, and that that the Commission reject the APD.

II. DISCUSSION

A. Background

Both the PD and the APD acknowledge the following fundamental principles in undertaking the true-up of energy efficiency earnings: promoting the Commission's energy efficiency goals; the fair, transparent, and conceptually consistent application of incentive methodologies; and ratepayers should pay incentives only for real and verifiable energy efficiency savings.[4] Unfortunately, the PD and APD did not always adhere to those principles in reaching their recommended true-up results.

The Energy Division issued its 2006-2008 draft Energy Efficiency Evaluation Report on April 15, 2010, the product of almost three years of field-based energy efficiency research "implemented by leading evaluation professionals" under the direction of the Commission Energy Division at a cost of $97 million.[5] The 2006-2008 Energy Efficiency Evaluation Report was issued in final form on July 9, 2010, incorporating corrections and responses to parties' comments. The 2006-2008 Energy Efficiency Evaluation Report identified the Utilities' energy savings, but did not calculate RRIM earnings.

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[3] D.07-09-043, p. 12.

[4] PD, p. 20; APD, p. 20. The APD adds a fourth "fundamental principle:" "[e]ncourage utility investors and managers to view energy efficiency as a core part of the utility's regulated operations that can generate meaningful earnings to shareholders. APD, p. 21.

[5] PD, p.32, APD, p. 28.

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Notwithstanding the principles that ratepayers should only pay for real and verifiable savings, and that incentive methodologies would be applied consistently, fairly and transparently, the Assigned Commissioner issued a ruling on April 8, 2010 announcing that the Energy Division would prepare the "2006-2008 Risk/Reward Mechanism Scenario Analysis Report" (Scenario Report) intended to consider the award of incentives "based on a broader process that is not limited strictly to the Energy Division final report."[6] The Final Scenario Report, issued July 9, 2010, contains Energy Division's calculation of shareholder incentive earnings based on a range of possible scenarios, including Energy Division's own evaluated results as one scenario.[7]

Scenario 7 is the only the scenario that reflects the Utilities' energy efficiency program results based on net evaluated energy savings, evaluated net-to-gross ratios, evaluated unit energy savings, and updated information about interactive effects. Scenario 7 is therefore most consistent with previous Commission decisions on the RRIM, although as DRA pointed out in its July 9, 2010 comments,[8] even that scenario did not correctly reflect the results of the 2006-2008 Energy Efficiency Evaluation Report's "Comparative of Program Cycle 2006-2008 Evaluated Results to Goal," or the direction in D.07-09-043 regarding the calculation of penalties for Utilities who achieve less than 65% of the Commission's energy savings goals.

DRA pointed out that the $74.9 million PG&E penalty amount reflected in Scenario 7 only included repayment of the interim incentives, rather than the per unit penalty established in D.07-09-043 where energy utility savings are less than 65%. Energy Division calculated that PG&E only achieved 60% of its megawatt (MW) Goal. Applying the penalty of $25,000/MW to PG&E's deficit of 32 MW yields a penalty of more than $800,000. Energy Division also calculated that PG&E achieved only 63% of

[6] Assigned Commissioner Ruling for Process for True-Up of Incentive Earnings, April 8, 2010, p. 3.

[7] Assigned Commissioner Ruling for Process for True-Up of Incentive Earnings, April 8, 2010, p. 7.

[8] DRA Comments on Remaining Disputed Issues Regarding 2006-2008 Energy Efficiency Issues, filed July 9, 2010.

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its MMtherm (MMTh) goal. Applying the per-unit penalty would result in a penalty of $450,000, for additional penalties of $1.25 million.

DRA also noted that the "Comparative of Program Cycle 2006-2008 Evaluated Results to Goals"[9] of Draft 2006-2008 the Energy Efficiency Report calculated that SCE and SDG&E fell short of the 65% penalty threshold established in D,07-09-043.[10] SCE only achieved 64% of its MW Goal. The per unit penalty formula established in D.07-09-043 would produce a penalty of $175,000 in addition to the requirement that SCE return interim incentive payments.[11] SDG&E achieved only 37% of its MMTh Goal. At this level D.07-09-043 requires a dollar-for-dollar payback of negative net benefits.[12] Thus, DRA recommended that PGE&, SCE and SDG&E repay their interim incentive payments and pay the penalties the Commission established in D.07-09-043.

DRA's recommendations regarding the Scenario Report were consistent with all three of the principles articulated as the basis for the final true-up, because they applied the penalty requirements adopted in D.07-09-043, ensured that ratepayers paid only for energy savings that were real and verified; and promoted the Commission's energy savings goals by not recommending payment of incentives for performance that falls far short of the Commission's goals. However, neither the PD nor the APD adopted those recommendations.

B. The Commission should revise the PD to appropriately reflect penalties.

The PD correctly recognizes that the "Energy Division Report is the only source in the record that offers an independent assessment of performance-based earnings from a

[9] Draft 2006-2008 Energy Efficiency Evaluation Report, April 15, 2010, Table 23, p. 96.

[10] DRA Comments on Remaining Disputed Issues Regarding 2006-2008 Energy Efficiency Issues, filed July 9, 2010, p. 2.

[11] DRA Comments on Remaining Disputed Issues Regarding 2006-2008 Energy Efficiency Issues, filed July 9, 2010, p. 2.

[12] D.07-09-043, Ordering Paragraph 2(f) 2, p. 220.

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neutral perspective."[13] The PD concludes "that the overall Energy Division evaluation was produced with professional care."[14] The PD correctly rejects the use of "outdated *ex ante* assumptions from the 2005 DEER" as the Utilities and the Natural Resources Defense Council (NRDC) propose for the performance basis for the true-up of energy cost savings achieved. The PD notes that the Commission has "repeatedly stated that these *ex ante* estimates are too outdated to be used as final determinants of energy efficiency accomplishments justifying incentive awards."[15]

While the PD correctly rejects the use of *ex ante* data as the basis for the Performance Earnings Basis (PEB) for the final true-up of incentives, and concludes that the Utilities' 2006-2008 energy savings achievements are "not outstanding enough to qualify for retention of previously awarded incentive amounts,"[16] the PD fails to incorporate the results of the 2006-2008 Energy Efficiency Report in calculating the final true up. Table 24 of that Report "Comparative of Program Cycle 2006-2008 Evaluated Results to Goal" presents the sobering truth of the Utilities' energy efficiency savings as calculated after three years of evaluation at a cost of $97 million.[17] PG&E met only 60% of its MW goal and 63% of its MMTh goals. SCE met only 64% of its MW goals. SDG&E met only 37% of its MMth goals. In other words, three of the four Utilities fall short of the 65% floor established in D.07-09-043 below which the Utilities would be required to pay penalties. Only SoCalGas, which achieved 67% of its MMTh goals, would not be required to pay penalties using the independent results of the Energy Division and its team of EM&V experts.

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[13] PD, p. 37; *see also* APD, p. 31.

[14] PD, p. 22; *see also* APD, p.22.

[15] PD, p. 21; *see also* APD, p. 21.

[16] PD, p. 2; p.24;Ordering Paragraph 1, p. 74.

[17] PD, p.32; APD, p. 28. DRA therefore disagrees with the use of the word "limited" in the PD and APD's statement that "Energy Division focused limited evaluation resources on measuring gross savings …[of] high-impact measures (HIM) …" PD, p. 27; APD, p. 24. DRA believes that it would be more accurate to characterize the evaluation resources used to measure energy efficiency savings as "finite" rather than "limited."

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The PD does not reflect these findings, nor does it reflect the results of the Energy Division's Scenario 7, which found that PG&E would owe penalties of $74.9 million. Instead, the PD concludes that the Utilities' performance "falls within the range that produces no change to the previously authorized amounts of interim awards."[18] It reaches this conclusion using "Scenario 7, variation T-7, with additional adjustments as summarized in Appendix A."[19]

The PD explains:

> We incorporate 100% of the savings from pre-2006 Codes and Standards Advocacy Programs. We also adjust savings goals for interactive effects with associated reductions in therm goals in accordance with D.09-05-037 as described in more detail below in the discussion of interactive effects. We also include some recognition of 2004-2005 data in assessing cumulative goals. <u>As a result of these adjustments, savings accomplishments are sufficient to not accrue any penalties under the RRIM formula.</u> [20]

While the PD admits that it adjusts energy savings with the result that Utilities are relieved of the possibility of paying penalties, it fails to adequately justify those adjustments. For example, the PD reduces PG&E's therm goals by 38% and SDG&E's therm goals by 25%[21] to recognize interactive effects not originally reflected in their goals, reductions that are more than the triple the reduction to therm goals that the Commission adopted in D.09-12-045.

D.09-12-045 reduced the therm goal by 11%, which at that time the Commission deemed "sufficient to produce an MPS of 80% and thereby change the shared-savings percentage to 9%, instead of 0%, that would otherwise result in eliminating incentive earnings for PG&E."[22]

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[18] PD, p. 23.

[19] PD, P. 23.

[20] PD, p.24 (emphasis added.)

[21] PD, p. 68. There is an inconsistency in the PD and footnote 45 about the goal reduction.

[22] D.09-12-045, Finding of Fact 26, p. 79.

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The PD's treatment of 2004-2005 cumulative savings raises similar concerns. D.09-12-045 excluded 2004-2005 cumulative savings goals when it calculated interim incentive payments, but the PD concluded that for:

> "purposes of finding that no penalties apply to SDG&E, it is sufficient to conclude that the inclusion of at least 10% of 2004-2005 data in the calculation of cumulative goals does not overstate the MPS. On this basis, we conclude that SDG&E's achievement of MMTh goals on a cumulative basis for 2006-2008 was above the penalty zone."

The PD's emphasis on avoiding penalties is at odds with its acknowledgment that the RRIM requires that:

> "if the IOU fails to achieve at least minimally acceptable energy efficiency savings, the IOU receives no RRIM earnings, and may incur a penalty."[23]

DRA recommends that the Commission uphold the principles it had previously set forth for this program, and revise the PD to recognize that using the 2006-2006 Energy Efficiency Evaluation Report, three of the four Utilities should return their incentive payments and be subject to penalties under the provisions of the RRIM it adopted in D.07-09-043.

C. The Commission should reject the APD.

The APD acknowledges the importance of independent verification of energy savings, and of using updated energy savings parameters, but nevertheless concludes that the Utilities are entitled not only to retain their incentive payments, but to also receive "additional incentive payments totaling $77.3 million, equal to the holdover amounts specified in D. 09-12-045."[24] The Commission should reject the APD and revise the PD as explained in Section II.A above.

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[23] PD, p. 8; APD, p. 8.

[24] APD, p. 2.

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1. The APD incorrectly applies a 12% sharing rate to the Utilities' PEB.

The APD approves a 12% shared savings rate to calculate the true-up of 2006-2008 RRIM earnings,[25] explaining that:

> "[a]s shown in Scenario 2 of Energy Division's analysis, the results using ex ante assumptions would result in a 12% shared savings rate for each utility. Thus, consistent with our approach adopted in D.09-12-045, we approve a 12% shared savings rate for the final true-up.[26]

Scenario 2 of the Energy Division's analysis included the Utilities' reported net savings based on the 4th quarter 2008 tracking database, with the Utilities' reported net-to-gross (NTG) ratios that were not updated with evaluation field research.[27] In other words self-reported, unverified, *ex ante* results that the APD otherwise recognizes fails to comply with the Commission's policy that energy savings be independently verified using updated savings parameters. Scenario 2 therefore provides no reasonable foundation for a 12% shared savings rate.

The difference between utility-reported and evaluated results is shown in Table 3 of the 2006-2008 Energy Efficiency Evaluation Report, which found that Utility-reported savings for kWh were 151% of goals, while the evaluated savings were 61% of goals; the Utility-reported savings for kW were 122% of goals, while the evaluated savings were 55% of goals; and the Utility-reported therm savings were 117% of goals, while the evaluated savings were 50% of goals. Thus, using Scenario 2 as the basis for applying a 12% savings rate is unreasonable.

The APD's rationale for applying a shared savings rate using *ex ante* results is that:

> "program results goals should be compared with the goals for true-up purposes based on the same assumptions used to develop the goals. In other words, since the goals are derived

[25] APD, p. 33.

[26] APD, p. 34.

[27] 2006-2008 Energy Division Scenario Analysis Report, p.35.

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> based on ex ante assumptions, it is reasonable to use *ex ante* assumptions when comparing utility results with those goals in order to have an apples to apples comparison."[28]

This rationale is unreasonable, as explained in the PD, which adopts a 0% sharing rate, using reported and verified data. The PD notes the Commission recognized the uncertainties related to goals at the time it developed the incentive mechanism and that D.07-09-043 recognized that:

> There are significant unknowns at the time of portfolio and program planning with respect to how the market will respond and the level of load impacts that will be achieved on an *ex post* (post-installation) basis even under this "expected case" of portfolio performance. As a result, as the utilities work with their expanded number of energy efficiency partners and receive market feedback and EM&V evaluation results, they must quickly and efficiently incorporate new information into their program designs and aggressively pursue all potential avenues for cost-effective energy efficiency throughout the program cycle. The challenges that utilities face in achieving the savings goals should be recognized in the adopted MPS threshold. (D.07-09-043 at 27.)

The PD therefore correctly acknowledges that "incorporated within the savings goals was the recognition of uncertainty in whether the assumed goals could be achieved"[29] and rejected the purported "apples-to-apples" rationale advance by the APD.

Applying a 12% shared savings rate for achievements that are less than 100% of the Utilities' goals would violate both requirement and intent of the RRIM. In D.07-09-043, the Commission intended that the 12% rate apply only for superior performance stating; "…earnings that approach comparable supply-side levels should be awarded at a level of *superior* performance, that is, performance that is significantly

[28] APD, p. 33.

[29] PD, p. 32.

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greater than the forecasted level of savings or net benefits expected from the authorized energy efficiency portfolio."[30]

2. SoCalGas and SDG&E ratepayers should not be required to pay incentives for portfolios that are not cost effective.

Although the APD acknowledges the importance of relying on evaluated energy savings rather than *ex ante* data, and generally supports the results reached through the evaluation of energy savings, it nevertheless concludes that:

> "there is not a demonstrated single correct answer for the amount of incentives to be paid to the utilities. Given these concerns, it is reasonable to use the holdover amounts specified in D.09-12-045 for the final true-up rather than making significant changes based on uncertain information. This also best meets our goal of providing utility investors and managers with an expectation of profits for pursuing energy efficiency as opposed to generation alternatives, which is the very reason why an incentive mechanism was first adopted by the Commission."[31]

The APD would therefore require ratepayers to pay an additional $77.3 million in incentives for programs that have achieved as low as 37% of the Commission's goals according to the independent evaluation of the Energy Division. The APD provides further rationale:

> "In addition, with these payments taken into account, the 2006-2008 energy efficiency programs will <u>overall</u> be cost-effective and beneficial for customers, even if the lowest estimates of energy efficiency savings are assumed to be correct."[32]

The claim that the programs will be cost effective overall with the inclusion of additional incentives, with a cost effectiveness ratio of 1.07,[33] (which means that for

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[30] D.07-09-043, p. 108.

[31] APD, p.53.

[32] APD, p. 4 (emphasis added).

[33] APD, p. 23.

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every dollar spent, ratepayer received net benefits of 7 cents), should provide scant comfort to the ratepayers of SoCalGas and SDG&E. Including the interim incentive payments for those ratepayers in the cost effectiveness ratios for those programs means that for every dollar spent, SoCalGas ratepayers receive 0.981 cents in benefits, and that for every dollar spent, SDG&E ratepayers receive 86 cents in benefits.[34] Paying additional incentives as the final true up will only drive those numbers lower. The Commission should not require ratepayers to pay additional incentives for programs that do not even return dollar for dollar value.

3. The APD mischaracterizes DRA's argument about the avoided cost of greenhouse gas emissions.

The APD notes that the Utilities proposed that the Commission use a greenhouse gas (GHG) adder of $30 per ton in calculating the benefits of the 2006-2008 energy efficiency portfolios. D.10-04-029, using the 2008 Market Price Referent (MPR), authorized a GHG value of $30 per ton of CO_2 for use in the 2010-2012 energy efficiency portfolios. The APD observes that DRA opposed the Utilities' request to use the GHG adder adopted in D.10-04-029, a decision that was issued April 8, 2010, more than a year after the 2006-2008 program cycle ended.

DRA pointed out that since the updated GHG number was intended to apply to the EM&V process for 2010-2012 energy efficiency portfolios, the updated value was not applicable to the measurement of 2006-2008 program results and contended that it was inconsistent for the Utilities to 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 request an updated GHG value that does not apply to the 2006-2008 program cycle.[35] The APD contends that "the opposite is also true, it appears inconsistent

[34] The PD at page 26and the APD at page 23 show different values for SDG&E and SoCalGas's benefit-to-cost ratios net of interim payments. The PD shows .98 for SDG&E and .86 for SoCalGas, while the APD shows values reflected above.

[35] Dra's Comments on July 16, 2010 Supporting Data For The Joint Investor-Owned Utility (IOU) Scenario, filed July 26, 2010, p. 5.

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to support updating factors such as NTG and EUL, while ignoring updates to other factors such as the value of GHG reductions."[36] DRA opposed use of the $30 per ton GHG was not because it was an updated number, but because there was no vetting of its use for the 2006-2008 program cycle, nor did the Utilities adequately justify use of a number based on the 2008 MPR for the entire 2006-2008 program cycle.

III. CONCLUSION

DRA respectfully requests that the Commission revise the PD to require the calculation of the final true-up to reflect the results shown in the 2006-2008 Energy Efficiency Evaluation Report's "Comparative of Program Cycle 2006-2008 Evaluated Results to Goal" and D.07-09-043's penalty directives, and to adopt the PD and reject the APD.

Respectfully submitted,

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[36] APD, p.49.

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Appendix A

DRA Proposed Changes to Finding of Fact Conclusions of Law, and Ordering Paragraphs

FINDINGS OF FACT

14. Based on the use of the Energy Division ex post evaluated energy efficiency savings results for the 2006-2008 cycle, the resulting amounts of incentive earnings are ~~zero based on the assumptions as set forth in Appendix A~~ zero for Southern California Gas Company, while Pacific Gas and Electric Company, Southern California Edison Company and San Diego Gas and Electric Company must return interim incentives and pay penalties as provided in D.07-09-043 to be calculated by the Energy Division.

16. ~~The values set forth in Appendix A constitute a reasonable approximation of energy efficiency savings derived in accordance with Commission policies for use in calculating the incentive formula covering the 2006-2008 program cycle.~~

~~17. Based on the assumptions in Appendix A, no additional RRIM earnings are due. Likewise, because each of the IOUs exceed minimum required performance thresholds, no penalties are due.~~

~~18. Under the provisions of the RRIM formula, the IOU achievements equal less than 85% of goals, thereby resulting in application of a 0% shared savings rate.~~

~~19. The calculations of RRIM incentives set forth in Appendix A apply 0% of the evaluated net benefits as determined in the Energy Division evaluation report. The MPS reflects the following additional adjustments: (a) a threshold amount of 10% of 2004-2005 cumulative goals and savings are included; (b) interactive effects are adjusted to reduce therm goals by 25% for SDG&E and 38% for PG&E; and (c) 100% of savings from pre-2006 C&S Advocacy Programs are included.~~

~~20. Although in D.09-05-037 the Commission found that 2004-2005 data is not directly reconcilable with 2006-2008 results, it is still reasonable to include some amount of 2004-2005 cumulative savings for purposes of the earnings true-up, consistent with the Commission's policy of measuring cumulative goals.~~

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~~21. Because interactive effects experienced by dual-fuel gas and electric utilities were not considered in previously adopted energy efficiency goals, in D.09-05-037, the Commission adjusted SDG&E and PG&E's goals for therm savings for purposes of 2009-2011 gross savings goals. A corresponding adjustment to 2006-2008 therm goals provides a consistent treatment for purposes of the true-up.~~

~~22. In D.10-04-029, the Commission determined that it is appropriate to count 100% of these 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.~~

~~25. The incentive earnings calculations in Appendix A 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.~~

~~26. Because the incentive earnings calculated for each IOU in Appendix A are less than the interim incentive amounts already awarded, the IOUs are not eligible for any additional incentive earnings for purposes of the 2006-2008 true-up.~~

27. Because ~~each of~~ three of the IOUs' achievements for each relevant metric is ~~above~~ below 65% of adopted goals based on the earnings scenario in Appendix A, ~~no~~ penalties apply for purposes of the 2006-2008 true-up.

28. ~~Because the IOUs are not required to refund interim incentive payments where no penalties apply pursuant to D.08-01-042, the interim incentive payments of $143.7 million constitute the IOUs' final incentive earnings compensation for the 2006-2008 cycle.~~

CONCLUSIONS OF LAW

1. The final true-up of incentive earnings for the 2006-2008 cycle should be ~~evaluated based upon the assumptions and resulting calculations of incentive earnings set forth in Appendix A.~~revised to reflect the energy savings results reflected in Table 24 of that

Report “Comparative of Program Cycle 2006-2008 Evaluated Results to Goal” of the 2006-2008 Energy Efficiency Evaluation Report.

~~6. Based on a reasonable approximation of IOU savings accomplishments for the 2006-2008 cycle, as set forth in Appendix A, the IOUs are not eligible for any additional incentive payments for the 2006-2008 pursuant to adopted RRIM formulas and protocols.~~

~~7. The incentive earnings calculated based on the assumptions set forth in Appendix A balance the goals of fostering energy efficiency achievements while protecting ratepayers from paying for incentives that have not been earned.~~

ORDERING PARAGRAPHS

9. The true-up of Risk/Reward Incentive Mechanism Savings for the 2006-2008 program cycle is hereby concluded for Southern California Gas Company. The previously awarded interim incentive earnings awarded in Decision (D.) 08-12-059 and D.09-12-045 shall constitute the final and complete resolution of payments due ~~Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Edison Company, and~~ Southern California Gas Company for the 2006-2008 cycle. No additional earnings and no penalties shall be authorized for Southern California Gas Company the 2006-2008 cycle. Pacific Gas and Electric Company, San Diego Gas & Electric Company and Southern California Edison Company shall be required to return the interim incentives incentive earnings awarded in Decision (D.) 08-12-059 and D.09-12-045 consistent with our direction in D.07-09-043. The Energy Division is directed to calculate penalties pursuant to D.07-09-043and prepare a Resolution reflecting the amounts owed.

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of **"THE DIVISION OF RATEPAYER ADVOCATES' COMMENTS ON THE PROPOSED DECISION REGARDING THE RISK/REWARD INCENTIVE MECHANISM EARNINGS TRUE-UP FOR 2006-2008 AND THE PROPOSED ALTERNATE DECISION REGARDING THE RISK/REWARD INCENTIVE MECHANISM EARNINGS TRUE-UP FOR 2006-2008"** 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 all known parties of record who provided electronic mail addresses.

[**X**] **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.

Executed on October 18, 2010 at San Francisco, California.

/s/ ROSCELLA V. GONZALEZ
Roscella V. Gonzalez