

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

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

R. 09-01-019

**WOMEN'S ENERGY MATTERS
COMMENT ON THE PROPOSED DECISION
AND ALTERNATE**

October 18, 2010

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**WOMEN'S ENERGY MATTERS
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Women's Energy Matters (WEM) appreciates this opportunity to comment on the Proposed Decision (PD) and the Alternate (Alternate) of Commissioner Bohn.

WEM urges the Commission to *reject the alternate's proposal to provide even more undeserved profits for utilities*. The Commission should impose penalties for the utilities' failure to come close to their goals.

What achievements?

The PD states:

In this decision, we complete the true-up of these interim awards, and determine if additional incentive earnings are due, or if penalties apply...

Even though no additional earnings are awarded for 2006-2008 activities, the IOUs will retain previously awarded incentives totaling \$143.7 million, in recognition of their energy efficiency achievements. PD, p. 2.

Hold on here, *what "achievements?"* The first interim incentives decision, in December 2008, awarded incentives in spite of a draft evaluation report saying IOUs *didn't deserve incentives*. When the final report came out a few weeks later, *it also said they didn't deserve incentives*.

The incentive mechanism reinforces our strong commitment to the goal of declining overall future per capita electricity consumption in California for the IOUs. Ibid, p. 3.

The incentive mechanism apparently did not reinforce *utilities' commitment or utilities' achievements*...

The PD quotes a prior decision to the effect that *achievements of net benefits* should be real in order to qualify for incentives:

Although certain parties propose alternative approaches to simplify the calculation, we must reject proposals that conflict with the fundamental principle that only real and independently verifiable program-related net benefits qualify for incentives, as stated in D.07-09-043... PD, p. 4.

WEM is pleased that the PD takes such a firm stand on this issue. However, it is our understanding that zero benefits are not the lowest level of the RRIM. There should be penalties.

Why are there no penalties?

Both the PD and the Alternate avoid imposing penalties. Why? The PD says they're a possibility:

Conversely, if the IOU fails to achieve at least minimally acceptable energy efficiency savings, the IOU receives no RRIM earnings, and may incur a penalty. P. 8.

The Commission was so intent on pleasing Wall St. that it couldn't wait three weeks for ED to finalize the first interim evaluation (which was delayed in large part due to utilities' lack of cooperation):

Although we utilized self-reported utility claims, we did so only because the First Verification Report was not available in time. The holdback of 65% reflected increased uncertainties associated with self-reported claims. PD, p. 11.

WEM begs to differ. There was little uncertainty. The Draft, completed months before the final decision, stated clearly that utilities didn't deserve profits, but the Commission was willing to override the independent evaluations overseen by its own staff and accept IOUs' claims that they did deserve them, *and must have them by year's end*.

The PD lists no less than six elements that had to be "fixed" in order to grant utilities still more awards for the second interim claim on p. 12.

And finally, the PD explains there must be still more fixes this time:

...parties (i.e. utilities) raise two fundamental disputes: (1) the amount of assumed net dollar benefits subject to the incentive calculation, and (2) the applicable percentage allocation of those benefits to be shared between ratepayers and shareholders. Based on these differences, parties disagree as to whether the IOUs are entitled to additional incentive earnings, or whether penalties apply. PD, p. 12

The contrast between that and the Commission's extreme reluctance to recognize the need for penalties in this decision could not be more striking.

The PD notes why ED said PG&E deserved a penalty:

Scenario 7 calculates that PG&E accomplished less than 65% of its demand savings goal, which would place PG&E into the penalty zone, resulting in the refund of previous incentive payments of \$74 million. PD, p. 15.

For PG&E, the Energy Division findings indicate a penalty of \$74.9 million was incurred because evaluated PG&E MW savings fell below the 65% minimum performance standard (MPS) threshold level. PD, p. 17.

NRDC and the IOUs went after ED. PD, pp. 15-16. The IOUs' desired fix is on p. 19:

The PD rejects the 2005 DEER (p. 21). Hooray! But the Commission rationalizes giving in on other points:

Unlike expenditures for energy resources that are measured through arms-length transactions, energy savings cannot always be as easily quantified. To calculate cost savings associated with energy efficiency measures, it is necessary to develop assumptions as to relevant parameters based on surveys, sampling, and extrapolation of estimates over extremely large volumes of data points. Because of the sensitivity of the assumptions to performance results as applied in the incentive formula, we carefully consider the process used to assess energy savings achievements for purposes of the incentive true-up. PD, p. 22.

The Commission has no good reason – other than utility pressure – to second-guess evaluation contractors who worked for years on these reports – and who previously worked under utilities' direction on similar reports.

The PD provides an elegant rationalization, pp. 23-24 – but a rationalization nevertheless.

It's telling that "plausibility" is the standard of proof.

The Alternate finds ways to give IOUs even more money. And why not, since we're tweaking the Evaluations anyway – why not tweak them a little bit more and deliver another jackpot?

The complete version of the Alternate was not provided to the services list. But one can imagine how it twisted one or two more parameters to provide \$77m more for utilities. It's arbitrary – whatever makes the numbers work.

The PD did provide a good way to avoid approval of the Alternate:
demonstrating that the portfolios would not be cost-effective if utilities received more
profits. We appreciate that.

Dated: October 18, 2010

Respectfully Submitted,

/s/ Barbara George

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**CERTIFICATION OF SERVICE
R0901019**

I, Barbara George, certify that on this day October 18, 2010 I caused copies of the attached WOMEN'S ENERGY MATTERS COMMENT ON THE PROPOSED DECISION AND ALTERNATE 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 Thomas Pulsifer, and Presiding Commissioner John Bohn.

Dated: October 18, 2010 at Fairfax, California.

/s/ Barbara George

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(Electronic service List attached to original only)

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