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)

REPLY COMMENTS OF SAN DIEGO GAS & ELECTRIC COMPANY (U 902 M) AND SOUTHERN CALIFORNIA GAS COMPANY (U 904 G) ON COMMISSION PRESIDENT PEEVEY'S ALTERNATE PROPOSED DECISION REGARDING THE RISK/REWARD INCENTIVE MECHANISM EARNINGS TRUE-UP FOR 2006-2008

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I. INTRODUCTION

Pursuant to the Commission's Rules of Practice and Procedure, the Southern California Gas Company ("SoCalGas") and the San Diego Gas and Electric Company ("SDG&E") (collectively, the "Sempra Utilities") respectfully offer their Reply Comments on the Alternate Proposed Decision regarding the Risk/Reward Incentive Mechanism Earnings True-Up for 2006-2008 of Commission President Michael Peevey (the "Peevey APD") published in the above captioned proceeding and issued on November 16, 2010.

II. THE SEMPRA UTILITIES AGREE WITH SCE's PROPOSED ADJUSTMENTS TO RENDER CONSISTENT UTILITY EX ANTE SAVINGS CALCULATIONS

In its comments, SCE notes that the *ex ante* calculations incorporated in Scenario 3 of Energy Division's Energy Efficiency Evaluation Report incorrectly include *ex ante* adjustments uniquely made by SCE in the course of the 2006-2008 program cycle. SCE contends that Scenario 3 currently represents an "apples-to-oranges" comparison of SCE's savings and that the Peevey APD should be modified to back-out SCE's *ex ante* updates to render a consistent *ex ante* estimate of SCE performance (SCE, p.5).

The Sempra Utilities agree that the APD should modify Scenario 3 to allow for an "apples-to-apples" treatment of SCE's utility reported savings. While SCE had updated some assumptions during the program cycle, the Sempra Utilities note that SoCalGas and SDG&E had updated necessary assumptions as late as February 1, 2006, in their compliance advice letters as required by and specifically noted in D.05-09-043: "In particular, SDG&E acknowledges that it needs to reduce residential CFL impacts by a factor of 2.34 in upstream lighting because DEER erroneously incorporated the wrong demand reduction" (p.113). Since the Sempra Utilities were not required to

SB_GT&S_0031643

make further unilateral changes to *ex ante* assumptions already updated by their February 2006 advice letters, the Sempra Utilities considered further changes an unnecessary exercise of administrative discretion to change the *ex ante* basis upon which the Commission approved 2006-2008 portfolios in D.05-09-043.

The Sempra Utilities remind the Commission that D.08-01-042 (issued two years later) was the first decision that required continuing updates to *ex ante* planning assumptions for purposes of program administration: "this direction ensures that all the utilities, without further delay, will adjust their lighting savings estimates to reflect more realistic and updated assumptions on net-to-gross ratios" (D.08-01-042, FOF 16). Prior to this January 31, 2008, decision (only 11 months before the program cycle's end), updating *ex ante* assumptions to the assumptions of the October 2007 2004-2005 EM&V findings (2008 DEER had not been released) was simply not required.

The fact that SCE made unilateral, internal adjustments to its own *ex ante* values during the course of the 2006-2008 portfolios is entirely consistent with the stated premise of the Peevey APD that the utilities could not have reasonably been expected to adjust their programs to independent Energy Division *ex ante* updates. SCE's adjustments were voluntary and selected in areas where SCE's professional judgment of 2004-2005 EM&V studies, "…indicated the modified value was more appropriate" (SCE, p.6). SCE's updates do not appear to be based on any independent Commission or Energy Division final determination of the appropriate updated *ex ante* value, much less pursuant to any official determination that could have timely been incorporated into program administration for the remaining 11 months of a three year program ending in 2008.

TURN's comments argue that the utilities knew that the *ex ante* NTG numbers were too high and that the utilities should have adjusted their portfolios to the "preliminary results" of 2004-2005 EM&V studies (Pulsifer PD, p.52). TURN is correct that "concern about the accuracy" of key *ex ante* assumptions reaches back to 2000 (TURN, p.3). In fact, the "overwhelming evidence" in the record proves that the Commission has been well aware for a decade of the inherent difficulty in determining with any reasonable accuracy certain *ex ante* assumptions, such as the NTG for residential lighting (TURN, p.3). Despite this active, ongoing and unresolved debate, TURN would have had the utilities nevertheless voluntarily and permanently abandon the *ex ante* assumptions embedded in the Commission's D.05-09-043 approval of the 2006-2008 portfolios and alter those portfolios based on either "preliminary results" or contested and arbitrary numbers that the record, going back to 2000, clearly shows are continually moving targets. The utilities were not intransigent, as claimed by TURN (TURN, p.3), but rightfully refused to make *ex ante* updates,

SB_GT&S_0031644

based on uncertain numbers, that would have unraveled the lighting programs approved in D.09-05-043.

TURN further argues that the increase in utility spending on upstream lighting indicates that the utilities could indeed modify their portfolios but did so in the "wrong direction" (TURN, p.4). First, the Sempra Utilities again assert that lighting remains one of the most cost-effective means of delivering energy efficiency savings, regardless of the decade-long debate on savings attribution. Even with the implementation of 2008 DEER to CFLs in the approved 2010-2012 portfolios, the Basic Lighting Program (BLP, CFLs) remains very cost-effective. Per Table 7.2 of SDG&E's 2010-2012 EE Program Application, the BLP has a cost-effectiveness score of 5.1, third behind only Codes and Standards' 7.4 and non-residential HVAC Tune-up's 6.3, and far ahead of the cost-effectiveness of the majority of programs.

It is thus bewildering why TURN and DRA, with their role as consumer representatives, would oppose the maximum utilization of the BLP, since it represents one of the best returns on investment available for ratepayers in the energy efficiency portfolio. If the Commission's goal is to achieve "all cost effective energy efficiency," then there can be no justification for minimizing utility efforts with CFLs, even with the lower savings assumptions proposed by Energy Division's *ex post* EM&V results. Pursuit of lighting was not and is not a step in the "wrong direction."

Second, the Commission specifically granted the utilities administrative flexibility to shift funds in response to the market and without changing underpinning *ex ante* assumptions. Actual market demand for lighting programs was more than anticipated by the approved 2006-2008 portfolios. Because these programs were very successful, demand would have outstripped authorized funding for lighting programs. The utilities' increase of funding in order to continue highly successful lighting programs based on market conditions was wholly appropriate in order to capture, rather than forego, these additional cost-effective energy savings. This effective and efficient adjustment to the market was contemplated and authorized by the Commission and is substantively very different than, and cannot be appropriately compared with, adjusting portfolios to changes in *ex ante* assumptions, as referenced by TURN.

III.
THE SEMPRA UTILITIES DISAGREE WITH PG&E'S PROPOSED 12% SHARED SAVINGS RATE AND DRA'S 5% SHARED SAVINGS RATE

The Sempra Utilities disagree with PG&E's comment that: "The Peevey APD should be corrected to provide a 12% shared savings rate." (PG&E, p.2). PG&E fails to take into account the

fundamental balance of *ex post* risk and earnings opportunity struck in D.07-09-043. The Sempra Utilities agree with the Peevey APD that reduction in risks that are beyond utility control warrant a reduction in the shared savings rate which will, nevertheless, still provide a meaningful level of earnings for achieved and verified-as-installed *ex ante* savings. The Sempra Utilities believe that 7% is the minimum shared savings rate that can reasonably be applied by the Commission to recalibrate the 2006-2008 RRIM for reduced risk to the utilities.

The Sempra Utilities likewise disagree with DRA's contention that the APD should be rejected or revised to reduce the shared savings rate to 5%. DRA states that the Peevey APD's 7% shared savings rate "would radically change the bargain" of D.07-09-043. DRA misses the point of this rulemaking "to consider a new framework for the RRIM" and make necessary RRIM changes to support state energy efficiency and climate policy goals. DRA disputes the APD's 7% rate but offers no explanation or record support for why its proposed 5% shared savings rate is more reasonable than the Peevey APD's 7%.

DRA, quoting the Pulsifer PD, contends that the Peevey APD fails to rely "on savings accomplishments that have been independently evaluated by the Commission's Energy Division in comparison to adopted savings goals" (DRA, p.1). DRA does not explain why it considers it correct or fair to evaluate utility performance against controversial 2010 *ex post* EM&V results that are radically different than the 2005 assumptions upon which the Commission's approved goals and utility portfolios are based. DRA finds it convenient to "move the goalposts" and completely ignore a fundamental "misalignment between the goal and the assumptions" of adopted potential studies and utility portfolios, and the Energy Division's *ex post* evaluation of utility performance based on radically different assumptions and unadjusted goals (PG&E, p.6). In 2009, Energy Division estimated that this misalignment *for lighting measures alone* accounted for 38% GWh, 28% MW, and 48% therms after-the-fact reductions in utility savings (PG&E, p6).

IV.
THE SEMPRA UTILITIES REQUEST THAT THE PD EXTEND 2006-2008 INCENTIVE TREATMENT TO A 2011 CLAIM FOR 2009 SAVINGS

PG&E notes that savings and benefits for CFLs from the 2006-2008 programs that will be installed in 2009 "are not scheduled to be counted in any incentive claim at the current time by the CPUC." The Sempra Utilities agree with PG&E that the utilities should have an opportunity to earn from these 2009 savings and believe that the utilities should have an opportunity in 2011 to earn on all bridge year 2009 savings. The Sempra Utilities propose that, in the same fashion that the

Commission extended the 2006-2008 program portfolios into bridge year 2009, the Peevey APD should also extend its proposed incentive treatment of 2006-2008 savings to 2009 savings in 2011, applying 2010 installation rates only to utility-reported 2009 *ex ante* calculated savings. Both these variables are known, and processing of a 2011 earnings claim for 2009 savings should be a non-controversial, not reasonably disputable, mechanical application of: (1) Scenario 3 installation rates already published in Energy Division's 2010 Energy Efficiency Evaluation Report; and (2) utility 2009 *ex ante* savings already reported to the Commission in each utility's March 1, 2010, 4th Quarter Report.

The Sempra Utilities request that the Peevey APD specifically order the Energy Division to modify the November 10, 2010, Energy Efficiency Evaluation Report of 2009 Bridge Year Period ("Report") to include a Scenario 3 calculation of utility performance that identically applies the Peevey APD's 2006-2008 true-up methodology (i.e. *ex ante* calculation of savings and PEB using the same 2006-2008 true-up installation rates, 7% shared savings rate). The Peevey APD should require Energy Division to reissue the modified Report no later then March 1, 2011, with public comments due on March 15, 2011, and with Energy Division's reply to public comments due on March 31, 2011. The Sempra Utilities propose that each utility be ordered to file a Tier 2 advice letter with the Energy Division by May 1, 2011, for a required timely resolution by the Commission in 2011 of each utility's 2011 incentive claim for 2009 savings based upon the methodology in the Peevey APD. The Sempra Utilities assert that this would provide administrative efficiency, a non-controversial earnings year, and timely continuance of earnings from utility achieved savings that can be booked annually in furtherance of the Commission's RRIM and the State Energy Action Plan II.

Dated December 13, 2010.

Respectfully submitted

By *__/s/ Steven D. Patrick__*
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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing **REPLY COMMENTS OF SAN DIEGO GAS & ELECTRIC COMPANY (U 902 M) AND SOUTHERN CALIFORNIA GAS COMPANY (U 904 G) ON COMMISSION PRESIDENT PEEVEY'S ALTERNATE PROPOSED DECISION REGARDING THE RISK/REWARD INCENTIVE MECHANISM EARNINGS TRUE-UP FOR 2006-2008** on all parties of record in **R.09-01-019** by electronic mail and by U.S. mail to those parties who have not provided an electronic address to the Commission.

Copies were also sent via Federal Express to Commissioner Bohn and Administrative Law Judge Pulsifer.

Dated at Los Angeles, California, this 13th day of December, 2010.

/s/ Marivel Munoz
Marivel Munoz

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CALIFORNIA PUBLIC UTILITIES COMMISSION
Service Lists: R.09-01-019 - Last changed: December 10, 2010

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