

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' REPLY COMMENTS
ON THE ALTERNATE PROPOSED DECISION OF PRESIDENT PEEVEY
REGARDING THE RISK/REWARD INCENTIVE MECHANISM
EARNINGS TRUE-UP FOR 2006-2008**

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December 13, 2010

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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 reply comments on President Peevey's "Proposed Alternate Decision Regarding the Risk/Reward Incentive Mechanism Earnings True-Up For 2006-2008" (APD). President Peevey's APD would authorize an additional \$62.7 million incentive payments as the final award for the 2006-2008 Energy Efficiency Program Cycle by adopting the Utilities'¹ *ex ante* values including the net-to-gross (NTG) ratios that are Utility self-reported, unverified and unsupported while more recent, accurate values are rejected.

The Commission should reject the APD. DRA continues to support Administrative Law Judge Pulsifer's "Proposed Decision Regarding the Risk/Reward Incentive Mechanism Earnings True-Up For 2006-2008" (PD) as the most acceptable resolution of the final incentive payment for the 2006-2008 energy efficiency program cycle, even though it fails to impose penalties consistent with the original intent of the incentive mechanism.

¹ DRA's reply comments refer collectively to Pacific Gas and Electric (PG&E), San Diego Gas & Electric Company (SDG&E) and Southern California Gas Company (SoCalGas) "Utilities."

II. DISCUSSION

A. The Utilities' Portrayal Of The Incentive Mechanism Ignores A Fundamental Purpose Of The Incentive Mechanism.

Several of the Utilities present a one-sided view of the Risk/Rewards Incentive Mechanism (RRIM). Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E) and Southern California Gas Company (SoCalGas) refer to the goal of the RRIM as creating “incentives of sufficient level to ensure utility investors and managers view energy efficiency as a core part of the utility’s regulated operations that can generate meaningful earnings for its shareholders”² and “the central purpose of the mechanism as identified by the Commission-namely motivating the utilities to embrace energy efficiency as a core part of their business.”³

This overlooks a central premise of the incentive mechanism, which was designed to carefully balance the interest of utilities and ratepayers:

“ratepayers will only be required to share net benefits with shareholders to the extent that those net benefits actually materialize, based upon Energy Division’s EM&V results.”⁴

The Utilities, President Peevey’s APD, and Commissioner Bohn’s APD cast aside the balance carefully reached through years of development of the RRIM and ignore Energy Division’s Evaluation Measurement and Verification (EM&V) results based on detailed and extensive work completed at a cost of \$97 million.

B. The Utility Reform Network (TURN) Correctly Notes That NTG Numbers Were Expected To Be Updated At The Outset Of The Program Cycle

President Peevey’s APD acceptance of the Utilities’ *ex-ante* values does not withstand the scrutiny undertaken by The Utility Reform Network (TURN).⁵ TURN repeatedly discredits the premise that the Utilities’ *ex ante* values are the most accurate and representative of the energy savings achieved in the 2006-2008 program cycle, pointing out that with regard to net-

² Comments of SDG&E and SoCalGas on Commission President Peevey’s Alternate Proposed Decision (APD) regarding the RRIM Earnings True-up for 2006-2008, December 6, 2010, p. 2.

³ Comments of PG&E on the APD of Commission Peevey Regarding the RRIM Earnings True-up for 2006-2008, December 6, 2010, p. 2.

⁴ D.07-09-043, p. 12.

to-gross ratios that “[n]o party has disputed the fact that the 0.80 default number was adopted in 2001 based on 1994-99 results and was supposed to be updated as soon as more relevant information was available.”⁶

The Utilities claim that they were not able to modify their 2006-2008 programs⁷ is contradicted by their performance in pursuing even greater levels of compact fluorescent lamps (CFL). The portfolios as originally submitted initially projected that about 30% of Utilities’ GWh savings would be achieved through CFL programs, but during the course of the program cycle the Utilities revised their programs so that CFLs produced nearly 60% of their GWh savings.⁸

C. The Commission Should Reject The Recommendation To Revise The APD By Extending The Proposed Methodology For Calculating Program Year (PY) 2006-2008 True-Up Utility Savings And Incentives To PY 2009 Achieved Energy Savings

SoCalGas and SDGE propose revising the APD to extend the proposed methodology for calculating Program Year (PY) 2006-2008 true-up utility savings and incentives to PY 2009 achieved energy savings.⁹ The Commission should reject this recommendation. The consideration of PY 2009 is being addressed in a separate phase of this proceeding. APD Ordering Paragraph 2 clearly states “The Commission shall separately address in a subsequent decision in this proceeding whether, or subject to what conditions incentive payments and/or penalties may be due for 2009, 2010, or for future years.”¹⁰

III. CONCLUSION

DRA respectfully requests that the Commission reject the APD and instead adopt the PD.

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⁵ Comments of The Utility Reform Network on Proposed Decision of Commissioner Peevey Regarding the Energy Efficiency Incentive True-Up for 2006-2008, December 6, 2010, (TURN Comments).

⁶ TURN Comments, p. 3.

⁷ SCE Comments, pp. 5-6; PG&E Comments, p. 6; SDG&E/SoCalGas Comments, pp. 6-7.

⁸ 2006-2008 Energy Efficiency Evaluation Report, July 2010, p. iii.

⁹ Comments of SDG&E and SoCalGas, p. 3.

¹⁰ APD, Ordering Paragraph 2, p. 69.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of “**THE DIVISION OF RATEPAYER ADVOCATES’ REPLY COMMENTS ON THE ALTERNATE PROPOSED DECISION OF PRESIDENT PEEVEY 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:

E-Mail Service: sending the entire document as an attachment to all known parties of record who provided electronic mail addresses.

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 **December 13, 2010** at San Francisco, California.

/s/ ALBERT HILL

Albert Hill