BEFORE THE PUBLIC UTILITIES COMMISSION OF
THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U 338-E) for Approval of its 2009- 2011 Energy Efficiency Program Plans And Associated Public Goods Charge (PGC) And Procurement Funding Requests.	Application 08-07-021 (Filed July 21, 2008)
And Related Matters.	Application 08-07-022 Application 08-07-023 Application 08-07-031 (Filed July 21, 2008)

COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES AND THE UTILITY REFORM NETWORK ON PROPOSED DECISION AND ALTERNATE PROPOSED DECISION ADDRESSING PETITION FOR MODIFICATION OF DECISION 09-09-047

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COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES AND THE UTILITY REFORM NETWORK ON PROPOSED DECISION AND ALTERNATE PROPOSED DECISION ADDRESSING PETITION FOR MODIFICATION OF DECISION 09-09-047

I. INTRODUCTION

Pursuant to Rule 14.3 of the Commission's Rule of Practice and Procedure, the Division of Ratepayer Advocates (DRA) and The Utility Reform Network (TURN) submit these comments on the Proposed Decision of Administrative Law Judge Gamson Addressing the Petition for Modification of Decision (D.) 09-09-047 (PD) and the Alternate Proposed Decision of Commissioner Grueneich Addressing the Petition for Modification of D.09-09-047 (APD). Decision (D.) 09-09-047 approved the $3.1 billion[1] ratepayer-funded 2010-2012 energy efficiency portfolios of Southern California Gas Company (SoCalGas), San Diego Gas & Electric Company (SDG&E), Southern California Edison Company (SCE) and Pacific Gas and Electric Company (PG&E)[2] and included directives about how the portfolios should be implemented.

The Utilities filed a Petition for Modification of D.09-09-047 (PFM)[3] "seeking 28 separate changes to the Decision in eight subject areas."[4] Both the PD and APD would grant some of the relief requested in the PFM and would defer some issues to a future decision.[5] The PD and the APD diverge in their treatment of the *ex ante* values that will be used to calculate energy savings from the Utilities' 2010-2012 energy efficiency portfolios. The PD would require Energy Division review and approval of the *ex ante* values that the Utilities submitted. In contrast, the APD would accept without further review the utility-submitted *ex ante* values despite the numerous serious defects identified by the Energy Division that if left unchanged, would overstate the energy savings and cost-effectiveness of energy efficiency programs.

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[1] D.09-09-047, p. 2.

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

[3] Southern California Edison Company, Pacific Gas and Electric Company, Southern California Gas Company, and San Diego Gas & Electric Company's Petition for Modification of Decision (D.)09-09-047, filed September 17, 2010 (PFM).

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

[5] The PD and APD would defer resolution of benchmarking, statewide reporting requirements, and

Footnote continued on next page

Moreover, if the Commission adopts the currently pending Proposed Decision Regarding Risk/Reward Incentive Mechanism Reforms,[6] the inflated *ex ante* values would allow the Utilities to earn incentives for energy savings that existed only on paper.

DRA and TURN urge the Commission adopt the PD with one proposed clarification to its proposed resolution of the Utilities' request for discretion to determine when to use the "Engage 360" brand for energy efficiency programs. The Commission should reject the APD. Adopting the APD would freeze *ex ante* values that the Energy Division and its consultants have found incorrect and inconsistent with the results of the 2006-2008 energy efficiency evaluations completed at a cost of $97 million[7] and would effectively reward the Utilities because the process anticipated when D.09-09-047 issued was more contentious and, as a result, took longer to complete. Where the failure to update *ex ante* values so clearly impacts ratepayer interests, and the failure is due at least in part the Utilities' inability or unwillingness to act in a timely fashion, the Commission should follow through on its commitment to such updates, rather than abandon that commitment.

II. DISCUSSION

The Commission and the Utilities:

> "use *ex ante* values for energy efficiency measures to determine whether a utility's forecasted energy efficiency portfolio is cost-effective. These values are also used to determine the *ex ante* savings from verified installed energy efficiency measures, and <u>may</u> be used as part of determining the level of rewards utilities can receive for successful energy efficiency efforts.[8]

In response to the Utilities' concerns that updating energy savings parameters during the energy efficiency program cycle unfairly required them to adapt to changing conditions (even though such a requirement is consistent with what non-regulated businesses must do on an ongoing

sponsorship costs to a later decision.

[6] Proposed Decision of Administrative Law Judge Pulsifer Regarding Risk/Reward Incentive Mechanism Reforms, issued November 15, 2010 in Rulemaking (R.) 09-01-019.

[7] Proposed Decision Regarding The Risk/Reward Incentive Mechanism Earnings True-Up For 2006-2008, issued November 15, 2010 in Rulemaking (R.) 09-01-019, p.32.

[8] PD, p. 4; APD, p.4 (emphasis added). As explained above, the Proposed Decision Regarding Risk/Reward Incentive Mechanism Reforms issued in R.09-01-019 would use *ex ante* values in a revised incentive mechanism designed to motivate the Utilities to pursue energy efficiency activities.

basis in order to remain competitive), D.09-09-047 determined to freeze *ex ante* values based on "the best available information at the time the 2010-2012 activity is starting."[9]

A November 18, 2009 Administrative Law Judge Ruling regarding Non-DEER Measure *Ex Ante* Values, and attached staff paper (November 18, 2009 Ruling) detailed the requirements and procedure for the Utilities to submit non-DEER[10] measure workpapers for Energy Division's review and approval as part of the process for freezing the *ex ante* values.[11] Staff from the Energy Division and the Utilities met for several hours two to three times per week from December 2009 through May 2010 to discuss the process and for reviewing and freezing *ex ante* values of measures not in the DEER measures.[12] The November 18, 2009 Ruling expected that the *ex ante* values would be frozen by March 31, 2009.[13] On or after March 31, 2010, the Utilities submitted their workpapers to the Energy Division even though there were continued disputes about the contents of the workpapers and the review process was still ongoing. The Utilities and the Energy Division agreed to continue discussing the workpapers through April 30, 2010 and Energy Division posted the results of its review on the workpaper review website on May 3, 2010.[14] Energy Division made three types of recommendations regarding the workpapers: approval, approval with revision, or rejection. On July 12, 2010, Energy Division further clarified the disposition of the pending and outstanding workpapers.[15]

When the Utilities were unable to achieve their preferred *ex ante* values through the Energy Division review process, they filed the PFM requesting that the Commission freeze the *ex ante* values they submitted on or after March 31, 2010 for the duration of the energy efficiency program cycle, even though the issues raised in those workpapers had not been

[9] D.09-09-047, Conclusion of Law 26. p. 356.

[10] Database of Energy Efficient Resources (DEER) contains expected energy savings values, including expected useful life (EUL), for numerous energy efficiency measures.

[11] Administrative Law Judge's Ruling regarding Non-DEER Measure *Ex Ante* Values, and Attachment, November 18, 2009 (November 18, 2009 Ruling), pp. 2-3.

[12] Reporter's Transcript (RT), Peter Lai/Energy Division, p. 278:5-9.

[13] November 18, 2009 Ruling, p. 4, as cited at PD, p. 10, and AD, p. 10.

[14] RT, Lai/ED, p. 284-285.

[15] See *e.g.* October 29, 2010 Administrative Law Judge Ruling Seeking Comment Attachment 1.

resolved at the time of their submission.[16] The PD would reject the Utilities' request to use their unverified and often incorrect *ex ante* values for estimating energy savings and would instead "[a]dopt the Energy Division process for approval of non-DEER workpapers and customized projects" and [p]rovide[] a formal process to finalize all non-DEER *ex ante* values"[17] In contrast, the APD would grant the Utilities' "petition to freeze the *ex ante* values in non-DEER high impact measure workpapers submitted to date for the duration of the program cycle."

A. The APD incorrectly states that "[t]he Investor Owned Utility non-DEER high impact measure workpapers provided to Energy Division provide the best combination of available information and finality."[18]

D.09-09-047 determined that *ex ante* measure values used to plan and report energy efficiency savings for the 2010-2012 energy efficiency portfolios would be frozen at the beginning of the program cycle using:

> "the best available information at the time the 2010-2012 activity is starting and that delaying the date of that freeze until early 2010 is a reasonable approach to better ensure that the maximum amount of updates is captured before the freeze takes effect."[19]

The program cycle started in 2010, so it is reasonable to assume that the to the extent available, the 2006-2008 evaluation, measurement and verification (EM&V) process, completed at a cost to ratepayers of $97 million, would be used in calculating the *ex ante* values for use in planning and reporting 2010-2012 accomplishments. Yet the Utilities submitted workpapers that ignored the results of the then-available 2006-2008 evaluation studies and other more recent information, choosing instead to rely on outdated inaccurate information to inflate the expected energy savings.

For example, one of the important parameters in measuring savings from compact fluorescent lamps (CFLs) is the in-service rate (ISR), which measures how many bulbs are installed during the program period. If a bulb is not installed (perhaps because the purchaser has already filled the available sockets and has purchased the bulb as a back up), then it will not

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[16] PFM, p. 7.

[17] PD, p. 1.

[18] APD. Conclusion of Law 3, p. 38.

[19] D.09-09-047, pp. 42-44.

produce energy savings during the program period. Despite the availability of evaluation reports from the 2006-2008 EM&V process, the Utilities' workpapers for CFLs used in-service rates of 0.9 for residential CFLs and 0.92 for nonresidential CFLs from 2005 DEER, which as based on results from early 2000. Yet 2006-2008 Upstream Lighting Evaluation recommended that installation rates of between 0.67 and 0.77 be used for residential CFLs and 0.76 for nonresidential CFLs.[20] Even the 2004-2005 evaluations found lower in-service rates for CFLs as compared to the figures the Utilities use in their workpapers.[21] Given the high proportion of lighting measures in the 2010-2012 portfolios, accepting the Utilities' workpapers without Energy Division's revision will exaggerate the savings achieved by CFL purchases.

The Utilities also used outdated information for base case energy use and other parameters, even though more recent data are available. For example, PG&E relies on a **1999** study to support its hours-of -use (HOU) data for CFLs in multi-family common areas, despite the availability of more recent information based on logging. PG&E's preferred study from more than a decade ago shows that lights in multi-family common areas are in use 8,198 hours per year, even though more recent data supports a figure around 6,000 hours a year.[22] Overestimating the hours that lights are used to estimate energy savings from lighting would inflate those savings.

Likewise, the Utilities relied on a 2002 study to establish parameter values for cooking equipment, even though more recent data is available from a similar 2005 study as well as the 2006-2008 EM&V evaluations.[23]

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[20] Final Evaluation Report: Upstream Lighting Program, Volume 1, KEMA, February 8, 2010, page 43-44.
http://www.calmac.org/publications/FinalUpstreamLightingEvaluationReport_Vol1_CALMAC_3.pdf

[21] Non-DEER High Impact Measure (HIM) Review: CFL Lamp Measures, May 14, 2010, page 4, Section 3.3.3 Enduse Energy Impacts. ftp://deeresources.com/pub/WorkpaperReview/10-12Phase1/. File Group NonDEERWorkpaperReviewPhase1.exe, NonDEERExAnteReview2010-2012, DMQCFiles, NonDEER_CFL_Review-100514.doc.

[22] Non-DEER High Impact Measure (HIM) Review: CFL Lamp Measures, May 14, 2010, page 4, Section 3.3.2 Operating Hours. ftp://deeresources.com/pub/WorkpaperReview/10-12Phase1/. File Group NonDEERWorkpaperReviewPhase1.exe, NonDEERExAnteReview2010-2012, DMQCFiles, NonDEER_CFL_Review-100514.doc.

[23] ED/DMQC Summary of nonDEER HIM Workpaper Review, May 3, 2010, page 7, Section on Ovens, Cookers, Broilers, Fryers. ftp://deeresources.com/pub/WorkpaperReview/10-12Phase1/. File Group NonDEERWorkpaperReviewPhase1.exe, NonDEERExAnteReview2010-2012,

Footnote continued on next page

These are but a few of the corrections that the Energy Division made to the Utilities' workpapers. There are dozens more (summarized in Attachment 2 to the October 29, 2010 ALJ Ruling) that are the product of hundreds of hours of staff and consultant time. The APD would ignore all of those changes and instead freeze *ex ante* values based on stale and inaccurate information, and would therefore contravene D.09-09-047's conclusion that "*ex ante* values established for use in planning and reporting accomplishments for 2010-2012 should be frozen, based upon the best available information at the time the 2010-2012 activity is starting."[24]

B. The APD would reward the Utilities for failing to comply with clear Commission directives.

D.09-09-047 observed that the Utilities' portfolios contain:

> "both DEER measures and non-DEER measures…. [T]he Utilities have not always properly utilized current DEER measure values and assumptions in their submitted cost-effectiveness calculations. … Energy Division must provide the utilities with further detail and clarifications on the proper application of DEER so that the utilities are able to correct these problems."[25]

The November 18, 2009 Ruling provided further guidance:

> As discussed in D.09-09-047 ED has identified some incorrect or inappropriate use of DEER values in the Utility filings. In some instances the utilities have utilized inconsistent approaches to combining or weighting together multiple detailed DEER values into DEER based non-DEER measures. In other instances the Utilities have not utilized appropriate air-conditioning and heating technology saturation data when utilizing DEER values for either their measure planning estimates or in the development of DEER based measure values for their workpapers. As directed by D.09-09-047 ED will publish a document which outlines the ED approved methods for utilizing DEER values and approaches in the development of DEER derived workpaper values. ED will publish this document by the end of the 2nd Quarter in 2010.[26]

DMQC_nonDEER_HIM_Review_Summary.doc.

[24] D.09-09-047, Conclusion of Law 26, p. 356.

[25] D.09-09-047, pp 42-44.

[26] Administrative Law Judge's Ruling regarding Non-DEER Measure Ex Ante Values, Nov 18, 2009, Attachment, Section B, page 5.

D.09-09-047 and the November 18, 2009 Ruling therefore expected that the Utilities would submit revised workpapers correcting the errors identified in D.09-09-047 and the subsequent November 9, 2009 Ruling. To facilitate the process of calculating interactive effects and related impacts, the Energy Division prepared lighting and appliance recycling workbooks that reflected the new information and would have allowed the Utilities to greatly simplify the process by using those workbooks instead of submitting individual workpapers for numerous portfolio measures.[27] Instead, the Utilities rejected those workbooks and submitted workpapers that failed to correct the identified errors.[28] In some cases, the Utilities made the required adjustments to incorporate interactive effects in their non-DEER workpapers, while at the same time substituting their own values for a number of DEER 2.05 parameter values.[29] For example, SCE replaced 2008 DEER values with its own values for lamp wattage reductions,[30] which are the expected values of the change in wattage that occur when a customer replaces an incandescent bulb with at CFL. By using incorrect values rather than those determined through the 2006-2008 evaluation process, the expected savings from lighting would be overstated.

[27] RT Lai/ED, pp. 278-280.

[28] See e.g. Work Paper WPSCRELG0017 Revision 4 "Upstream Interior Integral Non-Dimmable (Screw-in) CFLs" from SCE which leaves out all information on interactive effects and Work Paper PGECOLTG111 Nonresidential Upstream CFL Revision 2 "Nonresidential Upstream Compact Fluorescent Lighting" from PG&E.

[29] See for example: Non-DEER High Impact Measure (HIM) Review: CFL Lamp Measures, May 14, 2010, page 1, Section 1.4 DEER Applicability. ftp://deeresources.com/pub/WorkpaperReview/10-12Phase1/. File Group NonDEERWorkpaperReviewPhase1.exe, NonDEERExAnteReview2010-2012, DMQCFiles, NonDEER_CFL_Review-100514.doc; Non-DEER High Impact Measure (HIM) Review: Linear Fluorescent Measures, May 12, 2010, page 1, Section 1.4 DEER Applicability. ftp://deeresources.com/pub/WorkpaperReview/10-12Phase1/. File Group NonDEERWorkpaperReviewPhase1.exe, NonDEERExAnteReview2010-2012, DMQCFiles, NonDEER_LinFL_Review-100512nodedits.doc; Non-DEER High Impact Measure (HIM) Review: Refrigerator and Freezer Recycling Measures, May 24, 2010, page 1, Section 1.4 DEER Applicability. ftp://deeresources.com/pub/WorkpaperReview/10-12Phase1/. File Group NonDEERWorkpaperReviewPhase1.exe, NonDEERExAnteReview2010-2012, DMQCFiles, NonDEER_ARP_Review-100524a.doc; ED/DMQC Summary of nonDEER HIM Workpaper Review, May 3, 2010, page 4, Section on Whole House Fans PGE. ftp://deeresources.com/pub/WorkpaperReview/10-12Phase1/. File Group NonDEERWorkpaperReviewPhase1.exe, NonDEERExAnteReview2010-2012, DMQC_nonDEER_HIM_Review_Summary.doc

[30] DMQCFiles\NonDEER_CFL_Review-100514.doc.

The Utilities replaced the DEER values reflecting recent evaluation results regarding the expected split of CFL purchases between residential and nonresidential customers with their own values. Overstating the proportion of nonresidential CFL purchases in comparison to residential CFL purchases greatly overstates energy savings, because nonresidential CFLs are used for many more hours on average than residential CFLs, and therefore produce more energy savings. The Utilities' workpapers are riddled with this type of *ex ante* assumptions that, if adopted, would exaggerate energy savings.

This failure to follow clear Commission guidance was a substantial contributor to the delay and, it seems, the cause of the so-called "stalemate" that led to the filing of the PFM. Granting the requested relief, as the APD would do, would reward the intransigence of the Utilities by inflating the *ex ante* values.

C. The APD would reward the Utilities' failure to submit accurate workpapers and correct flaws in their submissions.

The APD would eradicate the changes made to improve the accuracy of the *ex ante* estimates under the guise of expediency.

> "The Commission seeks to rely on the most up-to-date *ex ante* assumptions based on the best available information; however, that ideal must be balanced by the need to implement programs in a timely manner and, most importantly, enable the timely participation of ratepayers who stand to benefit from these programs."[31]

As described earlier, much of the delay in freezing *ex ante* values results from the Utilities' failure to use up-to-date information available from the outset, and their opposition to the Energy Division's proposed revisions even where those revisions are consistent with basic engineering principles and common sense.[32] Rather than rewarding the Utilities for submitting *ex ante* values that reflect outdated and inaccurate information, the Commission should adopt

[31] APD, p. 14.

[32] Examples of such revisions include not calculating savings from freezer units with intentionally removed or shortened strip curtains (which would therefore greatly reduce the savings), and revising the baseline for variable speed pool pumps that include those likely to be installed and "not just the worst performing pump in the CEC database." Attachment 2 to October 29, 2010 Ruling, p. 3.

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the PD, which provides a reasonable and efficient process for finalizing the remaining *ex ante* values.

D. The APD incorrectly states that "According to the process established by the Ruling and subsequent ED direction, the utilities submitted all required non-DEER workpapers in advance of the March 31, 2010 deadline."

According to the APD, the Utilities submitted their required workpapers by the March 31, 2010 deadline. As illustrated by Appendix B,[33] that is factually incorrect. PG&E submitted additional workpapers April 6, and SDG&E/SoCalGas submitted late workpapers as well. SCE continued to submit workpapers after the deadline.

E. The APD incorrectly finds that "[t]he IOUS have presented the only set of complete and final *ex ante* values for non-DEER high impact measures on the record.

The APD's fourth proposed finding of fact states:

> "The IOUS have presented the only set of complete and final *ex ante* values for non-DEER high impact measures on the record."[34]

In fact, the IOUs workpapers are not in the record, although they were produced to DRA and TURN by Energy Division in response to a data request and are available on "Basecamp," a website that the Utilities and the Energy Division use to facilitate the review process and. Also on Basecamp are the Energy Division's proposed lighting and appliance workbooks, which the Utilities chose not to use, but which contain the most complete version of energy savings values from the most recent EM&V studies. On the record in R.09-01-019 is the 2006-2008 Energy Division Energy Efficiency Evaluation Report, and Appendix B of that report contains most complete list of values relating to interactive effects.

The APD's reliance on the fact the Utilities' workpapers are the only set of complete and final *ex ante* values for non-DEER high impact measures on the record is therefore erroneous. Those workpapers are not on the record, and other available information contains more recent and accurate estimates of *ex ante* values for non-DEER high impact measures.

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[33] Some of the workpapers submitted after the March 31, 2010 deadline as reflected in Appendix B appear to be submitted in response to Energy Division workpaper review comments, while some appear to be new workpaper intended for Phase 2 review.

[34] APD, Finding of Fact 4, p. 34.

F. Energy Division's analysis shows that using the more appropriate *ex ante* figures, the portfolios may not be cost effective.

In response to a data request from DRA and TURN, the Energy Division shared its analysis of the cost effectiveness of the 2010-2012 under various scenarios. The response contains information from the Utilities' 2010-2012 portfolios and compares the cost-effectiveness of the portfolios using different *ex ante* assumptions.[35] That response is appended to these comments as Appendix C and is summarized below

The Total Resource Cost (TRC) benefit to cost (B/C ratios) in the table below vary according the *ex ante* values used.[36]

Summary of TRC Data for 2010-2012 Portfolios Using DifferentInput Data for Key Variables			
	Input Data Type 1: Based on Compliance Filing	Input Data Type 2: Based on 2004-2005 EMV Results + DEER 2.05	Input Data Type 3: Based on 2006-2008 EMV Results + DEER 2.05
PG&E	1.30	1.16	0.85
SCE	1.17	1.08	0.81
SDG&E	1.33	1.18	0.87
SoCalGas	1.50	1.32	0.92

The analysis demonstrates why the Utilities are so resistant to using current and accurate information in support of *ex ante* values: correct *ex ante* values lowers the cost effectiveness of their portfolios and illustrates that they may not be cost effective. The Commission should not

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[35] The E3 calculators (used by the Commission to calculate energy efficiency cost-effectiveness) were run with three different sets of data inputs for certain key variables. These key variables are: kWh Unit Energy Savings (Gross Unit Annual Energy Savings); kW Unit Energy Savings (User Entered kW Savings per Unit); Therm Unit Energy Savings (Gross Unit Annual Gas Savings); EUL (expected useful life); and NTG (net to gross).

[36] Input Data Type 1 is included in the IOUs' Compliance Filings for the 2010-2012 portfolios. DRA/TURN understand that these are the inputs that the IOUs wish to use to assess their 2010-2012 portfolios. Input Data Type 3 has been adjusted to take into account the results of the 2004-2005 EM&V process as well as DEER 2.05 values, the latest version of the DEER database. Input Data type 3 has been adjusted to take into account the results of the 2006-2008 EM&V process as well as DEER 2.05 values. These inputs are based on the most recent available ex-post data.

allow use of inflated *ex ante* values when the result may be to allow the Utilities to claim that their portfolios are cost effective when they are not (and, to add insult to injury, earn shareholder incentives for portfolios that are not cost effective).

G. The APD would improperly limit the workpapers that the Utilities must submit for the duration of the 2010-2012 energy efficiency program cycle.

The Utilities' PFM requested that their responsibility to submit workpapers during the remainder of the program cycle be limited so that "[o]nly new measures that utilize different technologies and calculation approaches not already reviewed would require a workpaper submission as a new measure."[37] The PD rejects this attempt to limit the Energy Division's review and would instead require the Utilities to continue to adhere to the process outlined in the November 18, 2009 Ruling and submit workpapers for new measures and modifications of existing programs, with the Energy Division allowed to review newly submitted workpapers.[38]

The APD would unnecessarily and improperly limit the scope of Energy Division's review of *ex ante* values for the duration of the 2010-2012 program cycle to those new measures "that utilize different technologies and calculation approaches not already reviewed."[39] Limiting Energy Division's review as proposed by the APD improperly restricts Energy Division's ability to monitor *ex ante* savings proposed by the Utilities.

H. The Commission should clarify the PD to require that the Utilities notify the Energy Division if they promote energy efficiency programs without using the Engage 360 brand.

D.09-09-047 directed the Utilities to use the newly created Statewide Marketing brand, Engage 360, "alone or in a co-branded capacity across all energy efficiency marketing efforts for all programs."[40] Both the PD and APD would reject the Utilities' request for unfettered discretion to decide whether and when to use the Engage 360, but would not require the Engage 360 brand to be used alone or as co-branding for programs which use no energy efficiency

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[37] PFM. p. 7.

[38] November 18, 2009 Ruling, Attachment, pp. 8-9.

[39] APD, p. 14.

[40] D.09-09-047, p.

funds. DRA and TURN do not oppose this modification to the requirement that Engage 360 be used for marketing and promoting energy efficiency programs, but request that the Utilities be required to send a letter to the Director of the Energy Division, with a copy to the Director of the Division of Ratepayer Advocates, so that there is information available each time a utility decides to pursue this approach, and the ability to verify that in fact, funds other than those for energy efficiency efforts were used.

III. CONCLUSION

The Commission should reject the APD and adopt the PD so that California has the benefit of accurate and informed estimates of the energy that will be saved by the $3.1 billion ratepayer funded portfolios. Accepting without review the inflated *ex ante* values submitted by the Utilities, even where such values are known to rely on data from the 1990s would overstate the cost effectiveness of the portfolios, would overstate the energy savings achieved by the portfolios, and if used in the proposed new incentive mechanism, would reward the Utilities' for energy savings that were achieved only on paper.

Respectfully submitted,

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APPENDIX A

Proposed Changes to Conclusions of Law, and Ordering Paragraphs of the PD

Conclusions of Law

11. The Engage 360 brand should not be required to be used alone or as co-branding for programs which use no energy efficiency funds, but if a utility determines not to use the Engage 360 brand for a program that uses not energy efficiency funds, it should report that fact to the Director of the Energy Division.

O R D E R

IT IS ORDERED that:

10. Ordering Paragraph 34 of Decision 09-09-047 (sixth bullet point) is modified to read:

> "use the brand alone or in a co-branded capacity across all energy efficiency marketing efforts for all programs which use energy efficiency funds, all or in part." If a utility determines not to use the Engage 360 brand for a program that uses not energy efficiency funds, it shall report that fact to the Director of the Energy Division by sending a letter that is copied to the Director of the Division of Ratepayer Advocates.

APPENDIX B

Post March 31st, 2010 Workpaper Additions to non-DEER Workpaper Review

1. SCE

Date Uploaded to ED Site	Date on Document	IOU	Title
November 10, 2010	September 30, 2010	SCE	Work Paper WPSCRELG0072 Revision 2: Upstream Interior Integral 3-way, Dimmable (Screw-in) CFLs
November 10, 2010	October 6, 2010	SCE	Work Paper WPSCNRRN0007 Revision 5: Averages of Infiltration Barriers-Strip Curtains
November 10, 2010	October 14, 2010	SCE	Work Paper WPSCREMI0001 Revision 4: Residential Energy Audits
October 28, 2010	September 28, 2010	SCE	Work Paper WPSCRELG0074: Revision 3: Upstream Interior Modular (Pin-Based) CFL Fixtures
October 22, 2010	September 24, 2010	SCE	Work Paper WPSCNRCC0001 Revision 4: Commercial Foodservice Equipment: Reach-In Refrigerators and Freezers
October 22, 2010	September 23, 2010	SCE	WPSCREMI0004 Revision 0: Prescriptive Whole Home Retrofit Program (PWHRP)October 22, 2010
October 22, 2010	October 20, 2010	SCE	Work Paper WPSCREWH0001 Revision 0: Heat Pump Water Heater
October 12, 2010	September 29, 2010	SCE	Work Paper WPSCNRAP0002 Revision 3: Electric Storage Water Heater
October 12, 2010	September 15, 2010	SCE	Work Paper WPSCNRLG0087 Revision 4: Fluorescent Fixture to Fluorescent Fixture Retrofit

October 12, 2010	September 20, 2010	SCE	Work paper WPSCNRLG0103 Revision 1: Interior LED Downlight Fixtures
October 12, 2010	August 10, 2010	SCE	Work Paper WPSCRELG0075 Revision 3: CFL Plug in Lamps
September 30, 2010	July 23, 2010	SCE	Work Paper WPSCRELG0019 Revision 3: Energy Star Ceiling Fan with CFLs

2. PG&E

Date Uploaded to ED Site	Date on Document	Title
June 4, 2010	May 19, 2010	Work Paper PGECOAPP104 Revision #3: Energy Efficient Televisions
April 6, 2010	March 4, 2010	Work Paper PGEGPAPP001 Revision 1: Refrigerator Recycling
April 6, 2010	May 12, 2009	Work Paper PGEGPDHW001 Revision 1: Gas Storage Water Heater
April 6, 2010	Various	PG&E Core, Government Partnerships and Third Party Workpapers Uploaded

3. Sempra

Date Uploaded to ED Site	Date on Document	Title
November 1, 2010	October 11, 2010	Workpaper WPSCGNRCC0001 Revision 2: Finned Bottom Stock Pot (Foodservice)
August 13, 2010	July 7, 2010	Work Paper WPSDGEREWH1061 Revision 2: Temperature-Initiated Shower Flow Restriction Valve with and without an Integrated Low-Flow Showerhead

April 9, 2010	July 7, 2010	Work Paper WPSDGEREWH1061 Revision 2: Temperature-Initiated Shower Flow Restriction Valve with and without an Integrated Low-Flow Showerhead
April 9, 2010	September 10, 2008	Work Paper SDGEWPNRL0044 Revision : Interior Linear Fluorescent Fixture
April 9, 2010	April 8, 2010	Work Paper SDGENRL0196 Revision 1: LED Recessed Downlighting, Pendant and Surface Lighting
April 9, 2010	October 28, 2009	Work Paper SDGE WPNRLG0006 Revision 1: Non Residential Compact Fluorescent Fixtures
April 9, 2010	Today's date	Work Paper WPSDGENRL0081 Revision 2; LEDDisplayCase Retrofit
April 1-7, 2010	Various	Multiple Workpapers Uploaded

APPENDIX C

		Portfolio Budget	Cost Effectiveness (Lifecycle Present Value Dollars)				
			Costs	Benefits			Benefit - Cost
				Electric	Gas	NPV	TRC B/C ratio
PG&E	Compliance filing	$ 1,338,000,000	$ 1,625,045,765	$1,742,063,680	$375,467,457	$492,485,371	**1.30**
	04-05 EM&V + DEER 2.05	$ 1,338,000,000	$ 1,623,341,475	$1,555,437,165	$326,870,532	$258,966,223	**1.16**
	06-08 EM&V + DEER 2.05	$ 1,338,000,000	$ 1,584,808,902	$1,133,635,367	$205,719,051	($245,454,484)	**0.85**
SCE	Compliance filing*	$ 1,192,851,041	$ 1,788,671,573	$2,308,777,239	($223,757,979)	$296,347,687	**1.17**
	04-05 EM&V + DEER 2.05	$ 1,192,851,041	$ 1,784,561,924	$2,124,657,438	($199,776,709)	$140,318,805	**1.08**
	06-08 EM&V + DEER 2.05	$ 1,192,851,041	$ 1,739,342,879	$1,543,435,754	($126,508,733)	($322,415,859)	**0.81**
SDG&E	Compliance Filing	$ 291,627,787	$ 330,951,437	$356,511,379	$83,734,072	$109,294,014	**1.33**
	04-05 EM&V + DEER 2.05	$ 291,627,787	$ 330,746,996	$321,198,879	$68,300,274	$58,752,158	**1.18**
	06-08 EM&V + DEER 2.05	$ 291,627,787	$ 327,159,075	$237,564,615	$47,536,882	($42,057,578)	**0.87**
SCG	Compliance Filing	$ 304,945,965	$ 374,149,099	$47,233,213	$515,306,870	$188,390,984	**1.50**
	04-05 EM&V + DEER 2.05	$ 304,945,965	$ 374,063,798	$41,187,424	$452,909,456	$120,033,082	**1.32**
	06-08 EM&V + DEER 2.05	$ 304,945,965	$ 366,451,227	$21,818,786	$316,434,847	($28,197,594)	**0.92**

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of **"COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES AND THE UTILITY REFORM NETWORK ON PROPOSED DECISION AND ALTERNATE PROPOSED DECISION ADDRESSING PETITION FOR MODIFICATION OF DECISION 09-09-047 "** to the official service list in **A.08-07-021, et al** 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 December 6, 2010 at San Francisco, California.

/s/ ROSCELLA V. GONZALEZ

Roscella V. Gonzalez