

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)

**COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES
ON THE DECISION REGARDING THE RISK/REWARD INCENTIVE
MECHANISM REFORMS**

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I. INTRODUCTION

Pursuant to Rule 14.3 of the Commission's Rule of Practice and Procedure, the Division of Ratepayer Advocates (DRA) submits these comments on the Proposed Decision Regarding the Risk/Reward Incentive Reforms, which was issued November 15, 2010 (PD). Based on the performance 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 in administering energy efficiency programs since the Commission put them back in the role of program administrators in 2005,² DRA believes it is impossible to devise an incentive mechanism that motivates those Utilities to deliver maximum long-term energy savings or to effectively advance the goals of the California Energy Efficiency Strategic Plan.³

Nevertheless, given the Commission's current intent to adopt an energy efficiency incentive mechanism, DRA believes that the PD would represent a significant improvement over the current incentive mechanism by recognizing that the Utilities face no real risk under an incentive mechanism⁴ and lowering the shared savings rate to reflect this fact. DRA believes that the PD's recommendation to use *ex ante* values to estimate portfolio energy savings would be an acceptable approach under the circumstances, but only if the *ex ante* values have been evaluated and verified by the Commission's Energy Division, as would be the case if the Commission adopts the Proposed Decision of Administrative Law Judge Gamson which resolves the Utilities' Petition for Modification of D.09-09-047, rather than the Alternate Proposed Decision of Commissioner Grueneich. If the Commission adopts the Alternate Proposed Decision of Commissioner

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

² D.05-01-055.

³ D.08-09-040

⁴ DRA therefore agrees with the observation of The Utility Reform Network in its October 18, 2010 comments on the RRIM True Up for 2006-2008 that the term Risk/Reward Incentive Mechanism (RRIM) is a misnomer.

Grueneich, then once again ratepayers will be faced with the unappealing prospect of paying incentives for energy savings that exist only on paper.

II. DISCUSSION

A. **The PD would correctly eliminate the Minimum Performance Standard (MPS) as well as the possibility of penalties.**

The current incentive mechanism adopted in D.07-09-043 purports to provide the possibility of penalties for substandard performance in the administration of the energy efficiency portfolios.

“The shareholder “reward” side of the incentive mechanism is balanced by the risk of financial penalties for substandard performance in achieving the Commission’s per kW, kWh and therm savings goals.”⁵

In fact, during the 2006-2008 program cycle, the performance of three of the four Utilities warranted penalties according to the independent evaluation of the Energy Division. Yet there is no pending decision that would impose penalties on the Utilities for their poor performance, so a more realistic approach is to acknowledge this fact and eliminate the specter of penalties going forward. DRA therefore supports the PD’s determination to eliminate penalties.

DRA also supports the PD’s determination to eliminate the MPS, which required the Utilities to achieve at least 80-85% of the Commission’s goals in order to be eligible for incentive awards. Similar to the penalties that never materialized, the Utilities may be awarded incentives for performance that fell short of the MPS. Eliminating the MPS eliminates steep discontinuities from the possibility of achieving earnings and would therefore decrease the risk to shareholders by allowing incentives if the net benefits are greater than zero.⁶

⁵ D.07-09-043, p. 5.

⁶ PD, p. 31.

B. The PD’s use of *ex ante* values to calculate energy savings should require independently verified values that incorporate recent evaluation, measurement and verification (EM&V) results.

The PD strives to reduce the contentiousness and complexity of calculating energy savings that prevailed during the 2006-2008 program cycle when EM&V studies completed by Energy Division and its consultants measured the actual energy savings the programs achieved. Instead of relying on such *ex post* measurements for purposes of the 2010-2012 incentive mechanism, the new incentive mechanism would use the *ex ante* values that will be frozen in A.08-07-021.

The Utilities filed a Petition to Modify D.09-09-047 on September 17, 2010 seeking to freeze inaccurate *ex ante* values they submitted rather than using the values reviewed and revised by the Energy Division. It is critical for purposes of the PD’s proposed incentive mechanism that the Commission use accurate *ex ante* values that estimate expected savings using the most recent and accurate information. The PD recognizes that the final true-up it proposes will protect ratepayers from “funding incentive rewards for measures that have not actually been installed or for excessive measure costs,”⁷ but unless accurate *ex ante* values are used, ratepayers will be forced to pay incentives for energy savings that exist only on paper.

C. The PD correctly recognizes that it is unnecessary to award incentives for the 2009 bridge funding year.

DRA recommended that the Utilities should not be eligible for incentives for energy efficiency activities completed during the 2009 bridge funding year, because their failure to submit portfolios that complied with Commission guidance contributed to the delay in starting the new program cycle, which failed to advance the state’s energy efficiency goals and created difficulties for local government programs. The PD acknowledges DRA’s position but would not adopt it.

⁷ PD, p. 5.

Instead, the PD recognizes that even without awarding incentives for the 2009 program year, the Utilities have the opportunity for incentives every year. They are eligible for a final true-up payment for the 2006-2008 program cycle this year, and next year they will be eligible for an incentive payment for their activities during 2010. The PD therefore declines to “undertake the time and resources that would be necessary to adjudicate additional incentive issues relating to 2009 bridge funding activities” and assesses neither penalties nor awards for 2009 program activities.⁸ DRA supports this pragmatic approach to moving forward with a revised incentive mechanism.

III. CONCLUSION

DRA respectfully requests that the Commission adopt the PD, but only if accurate *ex ante* values are used to estimate energy savings expected for the 2010/2012 energy efficiency program cycle.

Respectfully submitted,

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⁸ PD, p. 19, Conclusion of Law 3, p. 61; Ordering Paragraph 2, p. 62.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of “**COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES ON THE PROPOSED 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:

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 6, 2010** at San Francisco, California.

/s/ CHARLENE D. LUNDY

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