

**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
ON RISK/REWARD INCENTIVE MECHANISM REFORMS**

December 6, 2010

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Women's Energy Matters (WEM) appreciates this opportunity to comment on the November 15, 2010 Proposed Decision on Risk/Reward Incentive Mechanism Reforms (PD).

WEM appreciates the PD denying shareholders incentives on 2009 bridge funded programs.

The PD proposes "reforms" to a system that is fundamentally broken. Unfortunately, the threshold question was considered "out of scope" — i.e. why should ratepayers give "rewards" to coax utilities to do energy efficiency?¹

Instead, this Commission chose to rearrange the deck chairs, making it even easier for utilities to grab undeserved "rewards." Doing this at a time when California's economy and the vast majority of ratepayers are hurting as never before since the 1930s, and the environment and climate needs *more and better* energy efficiency than utilities are providing.

Utilities double dip – getting profits on demand and supply side

The PD acknowledges the utilities' obvious conflict of interest with saving energy efficiency. But, as with earlier RRIM decisions, the PD pretends that "rewards" will offset the conflict. In reality, as WEM has explained in this proceeding, the system is rigged so that utilities can to a great extent double dip — collect profits on EE *as well as* profits on supply side resources and transmission that were not but should have been deferred or displaced by EE.

This is possible because the Commission has failed to create a meaningful relationship between the demand and supply side – and failed to require (or to measure) the deferment or displacement of any specific supply side or transmission resources. Locations where utilities spend the funds and get the savings are never revealed to the

¹ The reform that would actually make a difference is to provide opportunities for independent entities to compete for these dollars, which would result in much greater cost-effectiveness and produce more green jobs and benefits to local economies. In 2002-05 in California, independent programs demonstrated that they provide more savings per dollar than utilities. They require no special rewards.

Commission, the public, the CAISO or even the utilities' own procurement departments. Such "disembodied" resources are virtually useless for real world energy systems.

This disconnect provides a bonanza for utilities to misuse EE funds for corporate objectives such as marketing against Community Choice or municipalization. WEM and others have presented the Commission with evidence of gross misuse of EE funds, but this decision ignores that serious problem.

Other regions, such as New England, have requirements to carefully track (and reveal) the location of EE resources. This makes it possible for demand resources, including EE, to bid into Requests for Offers. California is falling behind the national and international standard for energy efficiency

Utilities get "rewards" for simply being utilities

The PD discards much of the old RRIM, for example, the Minimum Performance Threshold or ex post values for the PEB; it eliminates "risk" (which never really existed anyway, as we can see with the concurrent PD and alternates on 2006-08 RRIM true-up all of which went into contortions to avoid a penalty for PG&E, which was clearly indicated by the EM&V results). The PD also reduces the percentages for calculating awards. It claims that all this would reduce "contention" or "controversy;" this must mean *utilities* will be less contentious, because these changes will not mollify ratepayer representatives.

Eliminating the Minimum Performance Threshold means that utilities get "rewards" no matter what. Gone is the notion that the rewards incentivize "superior" performance. In other words, the Commission simply assumes that shareholders' palms must be greased:

In D.07-09-043, we concluded that IOUs have an inherent bias toward supply-side procurement under cost-of-service regulation. In view of this bias, we continue to offer incentive earnings to ensure that IOU investors and managers view energy efficiency as a core part of regulated operations. PD, p. 3.

Why should EE be viewed as a "core part of regulated operations?" This question would unravel the whole thing, and it is not addressed.

Misuse of EE funds

If EE is currently a "core part of regulated operations," why has the Commission failed to regulate the blatant misuse of EE funds to market against Community Choice and

municipalization and even to compromise the integrity of the ALJ responsible for creating the RRIM? The PD is silent on these important issues.

PD is premature; record incomplete – cost-effectiveness questionable

The PD has the appearance of being rushed, perhaps in order to present a “done deal” to the new Commission that will be appointed early next month. The ratio on which future rewards will be based rests on a formula with inputs that are as yet unknown. FOF 22 states: “Although the 2010-2012 net benefit estimates have not been determined by the Commission” it offers an “illustrative calculation” *using IOU estimates*.

The actual numbers will be discussed at workshops that will take place some time in the future. A future process will supposedly figure out a way to protect ratepayers from excessive measure costs, but it appears that ratepayers will receive no refunds for overpriced, underwhelming programs. With no MPS, what protects ratepayers if utilities’ performance decreases even lower than the last cycle?

With uncertain numbers like these, the key statutory requirement of cost-effectiveness cannot be assured. Utilities’ rewards will increase the cost of the portfolios by more than 5% while failing to ensure that goals are met or even a minimum amount of energy is saved.

Why should this incentive work when the last one clearly failed?

What was in scope in this proceeding was how the utilities performed on the last round of programs 2006-08. The Commission currently has a PD and two alternates trying to put lipstick on that pig, but it has been clearly established by the independent measurement of those programs that the utilities failed to meet the bar that was set and reduced twice already.

In other words, the RRIM didn’t work! It failed to incentivize utilities to do “superior” programs – they were mediocre at best, at worst they got an “F.” They certainly did not “maximize” EE or related benefits. What would make this new RRIM any different? This “reform” PD fails to address the previous RRIM’s failure in any meaningful way. Instead, it appears resigned to continued failure.

Fails to address utilities’ new incentives for poor performance

In the 2010-12 timeframe, utilities will have even less reason than usual to provide good EE services. Power demand is down, so there is little justification to build supply side

resources. Utilities will not want to reduce demand further, because that will cut further into their source of really big profits.

Wasted funds

The PD fails to significantly reduce the \$100 m cost of EM&V, although it will have even less relevance going forward. But this is small compared to the incredible waste of the RRIM itself. The profits may be lower in the future, but the purpose of the RRIM is to lock us forever into a system of utility control of EE — with their perpetual conflicts of interest.

Conclusion

WEM urges the Commission to table this decision until new Commissioners are appointed. It is not ready for prime time and does not move us forward.

Dated: December 6, 2010

Respectfully Submitted,

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**CERTIFICATION OF SERVICE
R0901019**

I, Barbara George, certify that on this day December 6, 2010 I caused copies of the attached WOMEN'S ENERGY MATTERS COMMENT ON THE PROPOSED DECISION ON RISK/REWARD INCENTIVE MECHANISM REFORMS 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 e-filing to the CPUC Docket office, with a paper copy to Administrative Law Judge Thomas Pulsifer, and Presiding Commissioner John Bohn.

Dated: December 6, 2010 at Fairfax, California.

/s/ Barbara George

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