**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 BY OPOWER, INC. IN RESPONSE TO THE PROPOSED DECISION REGARDING RISK/REWARD INCENTIVE MECHANISM REFORMS

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Date: December 6, 2010

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I. Introduction

Pursuant to the California Public Utility Commission's ("CPUC") Rules of Practice and Procedures, OPOWER, Inc. ("OPOWER") respectfully submits the following comments regarding the proposed decision ("PD") of Administrative Law Judge Pulsifer in this proceeding. OPOWER agrees with the PD that a shared savings incentive mechanism should be continued for the 2010-2012 period. However, as currently written, the PD tips the scales in favor of conservative, non-innovative efficiency programs, by making only "installed" items that can be measured "ex ante" eligible for shared savings funds. OPOWER urges the CPUC to encourage innovation by making all efficiency resource programs eligible for funds from the incentive mechanism.

OPOWER is an energy efficiency and smart grid software company that helps utilities meet their efficiency goals by delivering behavior-based energy savings and verifying those savings through experimental design. To date, OPOWER has partnered with 42 utilities, including Southern California Edison, San Diego Gas & Electric, and Southern California Gas. The OPOWER product is currently delivering verified savings to hundreds of thousands of California households with further program expansions and new deployments in process.

II. Discussion

In proceeding A.08-07-021, the Commission investigated the OPOWER program in detail, and concluded that behavior-based efficiency programs can produce a very real capacity for significant and measurable energy savings and should be included as an efficiency resource. Following the approval of Decision 10-04-029 by a 5-0 vote, Commissioner Dian M. Grueneich commented on the promise of behavior-based programs:

> "As California pursues the strategies identified in the California Long Term Strategic Plan for Energy Efficiency, and seeks to make energy efficiency a way of life for Californians, it is essential that we create a regulatory environment in which potential game-changing efforts such as these innovative behavioral-based strategies can flourish. Today's decision does this."[1]

As discussed in greater detail below, the proposed decision, as written, will blunt the effect of the Commission's prior work in support of behavior-based efficiency.

OPOWER encourages the Commission to specifically consider the following:

- The PD runs counter to Decision 10-04-029 regarding behavior-based programs.
- The PD should be revised to encourage new, innovative, and verifiable approaches to energy efficiency.
- The shared savings mechanism "offers the best prospect for maximizing net benefits from the utilities," as asserted in the PD.

a. The PD runs counter to Decision 10-04-029 regarding behavior-based programs and does not address their inclusion as either an "installed measure" or a "non-resource measure."

The PD, as written, would reverse the Commission's considerable effort to identify cost-effective and innovative efficiency programs that can neither be considered

1 CPUC Press Release, April 8, 2010.
http://docs.cpuc.ca.gov/PUBLISHED/NEWS_RELEASE/116078.htm

"installed measures" nor fall under the definition of "non-resource measures" as presented in the PD.[2] Behavior-based programs are one example, as they are not installed, but do "focus on the displacement of supply-side resources at the time they are implemented."

On April 8,2010, the Commission unanimously approved Decision 10-04-029, which specifically concluded that "savings from behavior-based energy efficiency programs, defined as comparative energy use reporting contemplated in Senate Bill 488, shall be eligible for counting, if evaluated consistent with experimental design methods contained within the California Evaluation Protocols," as OPOWER's programs are. Furthermore, the decision orders that savings for behavior-based programs "shall be credited solely on an *ex post* basis."[3]

Ex-post evaluation ensures that ratepayer dollars are spent wisely, as reflected in the Commission's earlier decision that also encourages innovation and leaves California's utilities free to choose the most cost effective efficiency resources. As a result of the requirement expressed in the PD that only *ex ante* savings be used to calculate incentive payments, behavior-based programs measured *ex post* would no longer be considered efficiency resources, thus nullifying previous actions by the Commission.

b. The PD should be revised to encourage new, innovative, verifiable approaches to energy efficiency.

In their current form, the reforms to the RRIM presented in the PD would exclude existing innovative efficiency solutions and could potentially prevent newer efficiency programs from being adopted. Under the current RRIM, utilities receive a portion of the

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[2] The PD defines non-resource programs as "energy efficiency activities that do not focus on the displacement of supply-side resources at the time the are implemented but may lead to displacement over the longer term." (p.9)
[3] D.10-04-029, p.58-59

incentive once program and installation costs have been verified, and a final incentive payment after savings have been verified. The PD proposes that only *ex ante* savings calculations be used because the "*ex post* updates often involve metrics whose measurement require considerable subjective judgment and debates as to the meaning and use of raw data." In calling for all programs to be measured *ex ante*, the PD would effectively eliminate savings from behavior-based programs that are measured *ex post*.

While the *ex post* verification of savings may prove difficult for select installed measures due to differences in patterns of use, installation, and distribution, there are programs that have been widely deployed across the state, such as OPOWER's, that utilize *ex-post* measurement and verification (M&V) of savings because it is the most economical, transparent, and accurate methodology available. OPOWER employs this M&V methodology in each deployment across the country, including those in California, to deliver net savings at minimal M&V cost. OPOWER's methodology is supported by independent evaluations performed by Navigant, Power System Engineering, Cadmus and researches from Yale University and MIT.

The reforms presented in the PD promise to simplify the RRIM and evaluation process, but at a cost to the future of cost-effective efficiency in California. OPOWER has become the industry leader in behavior-based efficiency due in no small part to the regulatory leadership in California. This PD, as written, could prevent the expansion of effective behavior-based programs in the state and, furthermore, prevent the deployment of other innovative, non-asset-based efficiency solutions. Regardless of past difficulties in calculating incentive payments, California continues to lead the country in utility administered energy efficiency programs due to the regulatory policies – like financial incentives for efficiency – that reward exemplary and innovative efficiency programs. Limiting eligibility to installed or asset-based measures because of difficulties in the 2006-2008 program cycle is akin to throwing out the baby with the bathwater. By limiting the types of programs defined as eligible efficiency resources, this PD could leave potential savings unrealized in the 2010-2012 program cycle.

c. The shared savings mechanism "offers the best prospect for maximizing net benefits from the utilities."[4]

Providing clear and significant incentives that reward utilities for pursuing efficiency at scale has led to expanded markets for efficiency, encouraged innovation, and driven energy savings in those states that have adopted them. While other stakeholders in the process are perhaps better suited to comment on the specific reforms to the RRIM set forth in the PD, OPOWER agrees with the assertion that the shared savings mechanism is structured in a manner that best balances consumer benefits with utility performance incentives, particularly considering the cost structure in California.

III. Conclusion

For the foregoing reasons, the Commission should revise the Proposed Decision or present an Alternate that includes all cost-effective energy efficiency measures currently considered efficiency resources. By doing so, the Commission will continue to foster an innovative environment for efficiency solutions in California and will avoid

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[4] Proposed Decision, p.4

reversing prior decisions at the Commission.

Dated: December 6, 2010

Respectfully submitted,

By: /s/

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Certificate of Service

I hereby certify that I have this day served a copy of "COMMENTS BY OPOWER, INC. IN RESPONSE TO THE PROPOSED DECISION REGARDING RISK/REWARD INCENTIVE MECHANISM REFORMS" on all known parties to R.09-01-019 by transmitting an e-mail message with the document attached to each party named in the official service list. Parties without valid e-mail addresses were mailed a properly addressed copy by first-class mail with postage prepaid.

Executed on December 6, 2010 at Sacramento, California.

Deric J. Wittenborn

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R.09-01-019
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December 6, 2010

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