BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Reform the Commission's Energy Efficiency Risk/Reward Incentive Mechanism	R.12-01-005 (Filed January 12, 2012)

INITIAL COMMENTS OF THE UTILITY REFORM

NETWORK ON ORDER INSTITUTING INVESTIGATION

AND IN RESPONSE TO THE DECEMBER 16, 2011

ASSIGNED COMMISSIONER'S RULING

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Pursuant to Ordering Paragraph 10 of the Order Instituting Rulemaking 12-01-005, the Utility Reform Network ("TURN") respectfully submits these comments.

1. Introduction

The OIR offers parties the opportunity to provide responsive comments to the Assigned Commissioner's Ruling of December 16, 2011, issued in Rulemaking 09-01-019 (the "ACR"). Furthermore, the Commission asks parties to comment on the scope of issues, priorities and schedule to be addressed in this rulemaking.

TURN has previously submitted a number of pleadings addressing relevant to the issues presented in this rulemaking, and these pleadings have been incorporated into the record. (Ordering Paragraph 3.) TURN provides only very limited responses in these initial comments.

TURN primarily addresses the Step 5 calculation addressed in the ACR, which quantifies the reduced risk associated with changes to the Risk/Reward

Incentive Mechanism ("RRIM") adopted since the original mechanism was created in D.07-09-043.

2. Response to December 16, 2011 Assigned Commissioner's Ruling

Commissioner Ferron requested that parties provide more detailed analytical responses to the calculation of the parameters used in the RRIM for the 2010-2012 portfolios, including the forecast savings (Step 1), the performance earnings basis ("PEB") (Step 2), avoided supply-side resource costs (Step 3), and the appropriate reduction in the shared savings rate due to reduced risk (Step 5).

The primary analytical issue addressed in these comments is the proper risk adjustment necessary to a 'shared savings' mechanism to appropriately account for actual utility risk of any disallowance (Step 5). TURN does not support a shared savings incentive model based on "supply-side equivalence" for reasons detailed in our filings in September and October of 2011 in R.09-01-019. However, TURN offers the following analysis based on the questions in the ACR.

Accepting NRDC's general model of how to modify the numbers from the 2006-08 RRIM, we can most properly make the risk adjustment by using the "reported" versus "evaluated" results from Table 32 of the 2006-08 Final Evaluation Report.[1] This properly adjusts for the reduced risk of using *ex ante*

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[1] CPUC Energy Division, "2006-2008 Energy Efficiency Evaluation Report," July 2010, available at

values for calculating shareholder earnings, aligns utility interest in making

program changes in response to changes in relevant parameters, and should

reduce utility risk over time as their performance improves. The result is to

reduce the earnings cap from approximately $215 million to approximately $90

million, and reduces the sharing rate to 6.2%.

2.1. An Appropriate Risk Reduction in the Earnings Cap and Sharing Rate Can Now be Calculated by Comparing the Impact of *ex ante* versus *ex post* Parameters in the 2006-2008 Program Cycle (Step 5)

TURN generally accepts with the model of "risk adjustment" proposed by

NRDC in their December 2010 comments on the Proposed Decision issued on

November 15, 2010 in R.09-01-019.[2] In that filing, NRDC proposed the following

process for calculating a sharing rate for 2010-2012:

1. Estimate the comparable supply-side earnings level by taking the

   ratios of forecast net savings for 2010-12 to the forecast net savings for

   2006-08, resulting in a supply-sided earnings level of approximately

   $390 million;[3]

2. Apply a risk adjustment factor to the earnings cap due to the reduction

   of risk caused by four changes to the RRIM mechanism that the

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http://www.cpuc.ca.gov/PUC/energy/Energy+Efficiency/EM+and+V/2006-2008+Energy+Efficiency+Evaluation+Report.htm

[2] NRDC, December 6, 2010, p. 9-14. NRDC reiterates the same approach in their September 23, 2011 filing in R.09-01-019 in response to the August 30 ACR.

[3] NRDC calculated a "net savings" for 2010-2012 by using a portfolio-average NTGR of 0.63 to adjust the utility-reported gross savings.

Commission originally adopted in D.07-09-043 - use of *ex ante* rather than ex *post* values to calculate the net savings (which result in the "Performance Earnings Basis"); no minimum performance standard; no refund of interim earnings; and no per-unit penalties. NRDC applied a total risk adjustment of 20% to calculate a new earnings cap of about $300 million, based on reducing the cap by 5% for each of those factors.

3. Calculate the "earnings opportunity" at 100% of goals, which NRDC estimated at about $215 million, then reduce this earnings opportunity by the 20% risk-adjustment to produce the earnings target (at 100% of goals) of about $172 million.

4. Calculate the shared savings rate by dividing the earnings target by the net benefits (PEB) at 100% of goals. NRDC uses two different calculations of the PEB to estimate a shared savings rate of 12% or 15%.

TURN appreciates this analytical model. However, the assumed risk adjustment factor is arbitrary and outdated, and can now be replaced with a number that is based on the results of the 2006-08 EM&V process. Furthermore, if there is no minimum performance standard, NRDC's first method of calculating the PEB at 100% goals should be used.

2.1.1. The Risk Adjustment Factor Should be Tied to Reported Versus Evaluated Savings

NRDC's proposed 20% risk adjustment is inappropriate and does not at all reflect the actual reduction of risk to the utilities. NRDC claimed that it "embraced" DRA's approach to using a 5% reduction "for each discrete change that reduces risk," but that it simply disagrees with the list of risk factors proposed by DRA. NRDC identified the four risk factors listed above as warranting a 5% risk adjustment.[4]

First, NRDC misrepresents DRA's original proposal and its impact. DRA applied a 5% reduction to each of eight factors, resulting in an overall reduction of the cap of almost 35%. DRA made clear, however, that it was not contending that each specific risk factor warranted a 5% reduction:

> Rather than attempt a complicated and controversial risk analysis for each of these adjustments, this table shows that if the reward level is reduced only 5% for each of these changes which intuitively reduces utility risk, the total risk correction becomes significant. [fn 5: DRA is not implying that each of these adjustments specifically reduces risk by 5%, but rather that each of this changes has a tangible decrease in risk which have a substantial impact due to the sheer number of adjustments.][5]

TURN agrees with DRA. We supported an overall reduction of 35% of the earnings cap when it was first proposed in August of 2009. However, given

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[4] NRDC filing in R.09-01-019, December 6, 2010, p. 9.
[5] DRA Post-Workshop Comments, R.09-01-091, August 7, 2009, Attachment A, p. 3.

actual data from the 2006-2008 evaluations, we believe the total risk adjustment

for 2010-2012 should be much higher.

TURN does not disagree that NRDC has identified the *primary* risk factors

in its list of "four," assuming the cost-effectiveness "guarantee" is maintained.

The problem is that these four risk factors warrant a much higher adjustment

than just 20%.

Indeed, the impact of just one change – the use of *ex ante* values for

calculation of savings – reduces utility risk substantially. The Commission in

D.10-12-049 decided that using *ex ante* numbers warranted a reduction in the

shared savings earning rate from 9-12% down to 7%, resulting in total utility

profits of $211 million. The Commission chose the 7% based on a balancing of

competing interests, not based on any analysis, and concluded:

> The modifications made in this decision result in an appropriate
> level of incentives based on what the utilities could have been reasonably
> expected to know and respond to during the 2006-2008 program cycle.
> We are of the opinion that subjecting the IOUs to penalties or substantially
> reduced incentives based on factors they could not reasonably be expected
> to anticipate or effectively respond to will do little to motivate them to
> aggressively pursue energy efficiency, and may undermine the interests of
> the people of the state of California in placing energy efficiency on a par
> with "steel-in-the-ground" supply-side resources. (p. 6)

However, we are now faced with the forward-looking question of how to

adjust the RRIM. Many parties have suggested using *ex ante* values. TURN has

reluctantly agreed to this change, despite our belief it is bad policy, because we

agree with other parties that the use of *ex post* values in the incentive mechanism

has negatively impacted the EM&V process to an unacceptable extent. Thus, we are willing to live with the use of *ex ante* values for the incentive mechanism, assuming 1) the EM&V process is expedited so that real and recent *ex ante* values can be locked in, and 2) the RRIM is sufficiently modified to account for the reduced risk. TURN appreciates that the December 16, 2011 ACR acknowledges that "parties should not simply assume the 7% shared savings rate applied in D.10-12-049 is the relevant starting point for calculating incremental changes in the shared savings rate for 2010-2012."[6]

Due to the existence of a robust record comparing the impacts of using *ex ante* versus *ex post* parameters provided in the July 2010 Final Evaluation Report, we are now in a position to actually quantify the risk reduction.

But first, we should clarify what is the "risk" to the utilities from their administration of EE programs as compared to their supply-side investments? On the supply-side, the utility faces the risks of disallowances of actual capital expenditures from rate base, disallowance of expenses for fuel procurement (at least historically, if not today), elimination of profits due to abandoned plant, and failure to recovery the cost of abandoned plant.[7]

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[6] ACR, December 16, 2011, R.09-01-019, p. 8.
[7] While TURN agrees that such disallowances/reductions have not been frequent (especially in the past decade), there are certainly examples of these supply-side disallowances. See, for example, D.85-08-102 (disallowing $22 million in capital expenditures for Helms pumping station); others.

On the demand side, there is no "shareholder" capital that could be disallowed from rate base. As noted in the OIR, the only "real risk" to the shareholders was due to the "penalty" mechanism adopted in the RRIM. The "penalty" mechanism consisted of a "per unit" penalty for performance below a set savings target (the penalty zone), and a "cost effectiveness guarantee" if the portfolio proved to be not cost effective.

The risk to the utilities is thus reduced if 1) the risk of the portfolio being not cost-effective is reduced, and 2) the variation between actual savings and forecast savings is reduced.[8]

The results of the 2006-2008 Evaluation, Measurement and Verification process can be used to calculate how using *ex ante* versus *ex post* parameter values reduces these risks by comparing the results of "reported" versus "evaluated" savings and cost-effectiveness calculations.[9] The relevant data are summarized most comprehensively in Tables 24 (at page 100) and 32 (at page 126) of the Final Evaluation Report. These tables provide the following data comparing reported versus evaluated results:

Table 1:   Reported versus Evaluated Savings

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[8] There is some consensus among parties to eliminate the 'per unit' risk provision altogether. In such case, the only risk to the utility lies in the final cost effectiveness of the portfolio.

[9] While not perfectly aligned, utility "reported" values used *ex ante* numbers for key parameters, while "evaluated" numbers used *ex post* values for key parameters. See, for example, D. 10-12-043, p. 15-16.

IOU Electricity Savings from EE, 2006-2008 (Table 24)

Net Savings	Goal	Net Reported	Net Evaluated	Ratio (E/R)
PG&E	2826	5251	1766	34%
SCE	3135	3898	1963	50%
SDGE	638	850	364	43%
Statewide	6599	9999	4093	**41%**

Table 2:   **Reported versus Evaluated Benefits**

IOU Monetized Benefits of the 2006-2008 Programs (Table 32)

Benefits ($ in million)	Reported	Evaluated	Ratio (E/R)
PG&E	3110	1253	40%
SCE	2193	1169	53%
SDGE	604	281	47%
SCG	471	184	39%
Statewide	6378	2887	**45%**

The data show that statewide *net* electricity savings calculated using *ex post* values were only 41% of the net savings based on *ex ante* values (4093 GWh versus 9999 GWh). The data show that the benefit/cost ratio of the portfolio calculated using *ex post* values was only 45% of the benefit/cost ratio calculated using *ex ante* values.[10]

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[10] TURN uses the "benefits" as a proxy for cost effectiveness. Since the cost denominator is almost exactly the same, the ratios come out the same whether one uses benefits, the TRC cost effectiveness ratio, the PAC cost effectiveness ratio, or a combination.

The significance of these results is evident from their impact on the RRIM earnings calculation. If utility earnings for 2006-2008 had been based entirely on the evaluated *ex post* results, the RRIM would have resulted in total utility earnings of about $30 million.[11] On the other hand, if utility earnings had been based entirely on the reported *ex ante* results, utility earnings would have been around $300 million, or an order of magnitude higher![12] As it was, the CPUC reduced earnings by about 47% by shifting to a 7% sharing rate.

The reduced utility risk of having to pay a penalty due to the "cost effectiveness guarantee" is perhaps best reflected in the comparison of the monetized benefits in Table 2 above, though one could make an argument for using the ratio of energy savings.[13] TURN thus recommends that the risk adjustment factor for 2010-2012 be set at 55%,[14] based on the statewide ratio of benefits shown above.

The use of this ratio to reflect risk reduction for future program cycles also aligns shareholder and ratepayer interests, and will change to reflect program performance. If the utility adjusts program design based on interim evaluation

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[11] The RRIM would also have resulted in significant penalties of $74 million for PG&E.

[12] See, for example, D.10-12-043, p. 15-16, describing the impacts of Scenario 7 (evaluated net savings) versus Scenario 3 (reported savings with updated installation rates).

[13] The monetized benefits presumably capture the full total of avoided capacity, energy and T&D.

[14] Meaning a reduction of 55%.

results, the final evaluated results will more closely match the *ex ante* results.

Thus, when the analysis is repeated for the next program cycle, the ratio of

evaluated to reported should increase, resulting in a lower risk reduction.

Applying the 55% risk adjustment factor to NRDC's calculated $215

million earnings target for 2010-2012 results in an earnings target at 100% of

$96.75 million.

This adjustment reflects only the *ex post* versus *ex ante* risk, and does not

reflect any of the other three risks. Rather than attempting to quantify the

reduced risk due to, for example, the elimination of any per-unit penalties,

TURN recommends that the earnings target be set at $90 million for the three

utilities for 2010-2012.

2.1.2. The PEB and Sharing Rate Should be Calculating Using the Second Method Proposed by NRDC

NRDC explains that to calculate the applicable sharing rate, one must first

estimate the net benefits at 100% of goals, since the projected PEB of $1.94 billion

represents savings at 134% of goals. NRDC explains that the PEB at 100% of

goals would be $1.14 if it is assumed to start at 50% of goals, or $1.44 billion if it

is assumed to start at zero savings.

It is TURN's understanding that without a minimum performance basis

and with no "cliffs" in the mechanism, the earnings would be based on a linear

model starting at zero (i.e. sharing would start as soon as there are any net

benefits). Under such a model, the appropriate PEB would be $1.44 billion, and the resulting shared savings rate would be 6.2%.[15]

TURN notes that in 2010-2012 the PEB will be calculated based on *gross savings*. This means that the utility will "hit the cap" at a point much lower than 100% of savings, even with the adjustment in Step 1. In essence, the utility will have a much easier time to reach the earnings cap. To account for this difference, the actual sharing rate should be adjusted even more by accounting for the different slopes in savings between 'gross' versus 'net.' TURN has not done this calculation, but we simply note that the method as presented thus significantly lessens the risk that the utilities would not reach the cap of earnings.

2.2. Adjusting Earnings due to Financing Risk

Step 5 of the ACR also asks parties to comments on the reduced risk due to the difference between financing supply-side resources with debt and equity capital, recovered from ratepayers over time based on the expected useful life of the investments, versus financing energy efficiency expenditures by fully collecting all annual expenses from ratepayers as expenses without any consideration of the expected useful life of the efficiency measures.[16]

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[15] (90,000,000/1,440,000,000)=0.062. TURN has not independently verified NRDC's calculations and numbers.

[16] The Commission in D.07-09-043 noted that customers "invest in both supply-side and energy efficiency resources, irrespective of who puts up the initial capital," and even explained that expense reduce financing costs. D.07-09-043, p. 11. Such a blithe assertion ignores the profound issues of generational

There are two aspects to financing risks. First, the utility building a

supply-side project also faces financing risks due to the relatively long period

while a plant is under construction. A utility only receives cash earnings when

the plant comes into service and must accrue Allowance for Funds Used During

Construction (AFUDC) while it is building the plant.

The rating agencies have been ratcheting down credit standards for the

last 25 years. Those higher standards are only now coming home to roost with

the resumption of significant amounts of regulated construction in recent years.

> When the utility industry was last in a large generation
> construction boom in the 1980s, a utility with a heavy construction
> program that had a ratio of funds from operations to capital expenditures
> without CWIP in the 30% range would have easily been in the A to BBB
> range under Standard and Poor's ratings.[17] Now it is virtually impossible
> for any utility that is building a large generating plant relative to its initial
> size to obtain an A rating – even with Construction Work in Progress in
> rate base – something that California has never allowed. Relative to 25
> years ago, bondholders and their rating agencies thus now appear to have
> much more fear of a large utility construction program, particularly a
> program involving large volumes of generation assets that take years to
> construct. Rating agencies also changed the calculation of interest
> coverage ratios to exclude AFUDC from income in the early 1990s – a

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equity associated with investing in long-lived assets. TURN would view the
situation quite differently if the utility chose to treat EE spending as capital.
[17] Standard and Poor's Credit Overview 1983, "Utilities Criteria Rating
Methodology Profile," page 41.

further upward ratchet in credit quality for utilities with a significant generation construction program.

Financing of large complex power generating facilities also has the potential for risky cost overruns and schedule slippages that could create additional financial risks.

Expensed energy efficiency thus avoids the potential for bond downgrades when it substitutes for significant generation construction.

A more fundamental point is that when a utility uses equity and debt for financing a construction program, it no longer has the money available. Capital markets place a risk on the need to issue new stock to raise equity. When the utilities expense energy efficiency, there is no such "market risk." Setting an award based on those 'supply-side earnings' in essence gives them more.

In May of 2007 TURN submitted expert testimony from Mr. William Marcus in R.06-04-010 concerning the impact of the alternative uses of "avoided equity" that utilities have due to expensing energy efficiency and obtaining shareholder profits on such spending.[18] Mr. Marcus explained that when a utility saves energy through an expensed conservation program, two different things happen.

1. The utility does not receive a stream of earnings on the capital it would have invested in new supply resources. This is the sole focus of the utilities' supply-side-equivalency proposals.

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[18] Identified as Exhibit 66 in R.06-04-010.

2. Because the utility has not invested its equity capital in new supply sources, its level of equity capital is different than if it did not invest in those resources in one or two ways:

   a. If the utility would not have enough equity to invest in new supply resources avoided by conservation, it would have had to raise that equity in the capital markets. In this case, it avoids having to raise equity in the capital markets. Having to raise equity would reduce its earnings per share from the investment.

   b. If the equity was available to it in the first place, the utility still has the equity available. The capital that is available has a large number of other uses that are profitable for shareholders. Those profitable uses must be considered as offsets to "lost" equity returns.

To make decisions that consider the first factor but do not consider differences in the availability of equity capital due to the expensed efficiency violates all principles of elementary finance, economics, and accounting and is thus extremely poor public policy. A decision to pay a full return on equity that is never invested in the first place, while still allowing the utility to invest the equity and earn a return (or alternatively never have to raise the capital) would give the utilities far more money than the alternative supply side resources.

Mr. Marcus explained that if the utility does not have enough equity capital in the first place to finance planned supply-side investments, it can avoid the issuance of new equity due to expensed conservation programs. Not only is

the earnings stream per share less than the equity income from the supply project, but there are unquantifiable benefits of avoiding stock sales.

If the utility has already raised the equity, it has many options for alternative uses of funds freed up by efficiency programs over various time horizons, including: reducing short term borrowing, paying down debt, increasing capital spending,[19] using the money to pay dividends to the parent holding company for various uses, including buying back stock, increasing dividends to shareholders, or making additional unregulated investments.

Mr. Marcus calculated the impact of some of these alternative scenarios on returns, and based on the financial conditions in place in early 2007, determined that the present value to PG&E shareholders of profits "foregone" due to the EE programs was only 3.4% of the "net benefits" from the EE programs. In other words, the sharing rate should never be higher than 3.4%. This analysis did not cover all options (e.g., investing equity not needed in California due to energy efficiency to buy up utilities in other parts of the world),[20] and the values computed would likely be different under present financial conditions.

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[19] For example, a utility could invest in the longer term in additional pro   jects (e.g., capital maintenance) if it had more equity available. In such a case, the equity not invested due to efficiency may simply be invested in different projects, not "lost" even under the utilities' theory.

[20] Zacks Investment Research "Sempra Buys S. American Utilities," January 20, 2011. http://www.dailymarkets.com/stock/2011/01/20/sempra-buys-s-

The Commission described TURN's analysis in Section 6.2.4 of D.07-09-043. But in the lengthy discussion section 6.3.3, the Commission rejected TURN's argument because it disagreed with the assumption that utilities would have any 'extra money' from energy efficiency spending and incentives:

> TURN suggests that the utility has this amount of cash on hand through the accumulation of "retained earnings" over time, that is, what is left over in cash (customer bill payments less utility expenses) after what the utility spends to meet its capital needs and to pay out dividends. [fn] However, as PG&E Witness Patterson testified, the utility does not accumulate large amounts of cash on hand to make investments other than in its own capital infrastructure, which currently costs PG&E approximately 2-½ to 3 billion dollars per year.
> ...
> Common sense as well as the factual record refute TURN's premise that the utility would make it a practice to raise money in the capital markets to cover supply-side investments that it does not need to make, in order to retain those funds so that they could be used for alternative investments. [fn] In fact, TURN's Witness Marcus acknowledges that the utilities are unlikely to issue new shares of stock to raise capital for the investments that they are actually planning to make over the next 3-5 year timeframe, if not longer.[fn]
> In prepared sworn testimony and under cross-examination, utility witnesses explained how their companies actually plan and manage their cash requirements, based on first-hand experience as corporate planners. As they explained, the utility does not plan to have more cash than is needed for the plant and equipment that it will be building (or for working cash requirements), and carefully manages its cash reserves accordingly. The utility also does not sell shares or issue debt to raise cash for a capital investment it does not need to make, such as the supply-side resources that energy efficiency is planned to defer or displace. **Granted, as one utility witness pointed out, there may be instances where the original forecast of cash requirements may overstate the need for capital**

american-utilities/ Busines News Americas "Sempra mulls New Acquisitions, Development Opportunities – Chile, Peru" April 7, 2011. http://www.bnamericas.com/news/electricpower/sempra-mulls-new-acquisitions-development-opportunities

infrastructure, resulting in more cash than is actually needed. However, that is certainly not something the utility plans for, and when it does occur, the utility generally uses that extra cash to buy back enough equity and debt to maintain its authorized equity/debt structure. It does not follow that the utility has "alternate uses" for equity on a dollar-for-dollar basis that was not needed for supply-side resources due to energy efficiency, as TURN's analysis assumes.[fn][21]

TURN believes that the substance of our analysis never depended on a "dollar-for-dollar" alternative use of equity. It is apparent from the testimony of utility witnesses in R.06-04-010, even as summarized in D.07-04-093, that the utilities very well will have additional funds they can use for alternative purposes, such as buying back shares. We can dispute about the exact amount of such extra funds compared to energy savings, but to ignore this real impact on utility risk in the capital markets is erroneous.

In an analogous case in Alberta, the Alberta Utilities Commission soundly rejected a proposal by the Alberta utilities to adopt a "management fee" for property that is contributed in advance by customers but operated by the utilities (e.g., line extensions). The utilities made exactly a very similar argument in Alberta – that they lost the ability to invest money when customers had to pay up front with contributions in Aid of Construction and should be compensated

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[21] D.07-09-043, Sec. 6.3.3, *mimeo.* p. 84-86 (emphasis added, footnotes omitted)

for that loss and attendant risks associated with having less equity invested in their business.[22]

2.3   Updating Avoided Cost Calculations

The ACR asks parties to update the parameters used to calculate avoided supply-side costs, such as the avoided cost of generation capacity and updated natural gas cost curves.

Unfortunately, TURN's expert on these issues is presently unavailable.[23]

Presumably, these numbers are contained in the E3 Avoided Cost Model for energy efficiency. TURN has recommended that these values be updated. This issue has apparently been briefed and will be the topic of workshops in R.09-11-014.

Even more importantly, the Commission should evaluate whether the "shared savings" model properly treats utility generation investments. In short, the RRIM allocates all the 'avoided supply-side profits' based on "energy savings" only. The assumption is that the utility will avoid investments in capacity, energy and T&D. However, utility investments in capacity and T&D

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[22] Alberta Utilities Commission Decision No. 2011-474 (2011Generic Cost of Capital), December 8, 2011, pages 53-94.

[23] Most significantly, our expert on finance issues and generation capacity values from JBS Energy, Inc. just completed testimony in R.11-02-019 on January 31, 2012 and is completing testimony in A.11-06-007 (SCE GRC Phase 2) due February 6, 2012.

are driven by many requirements aside from just producing electricity to meet annual electric demand. They are driven by resource adequacy requirements to meet peak demand and local peak demand. The model presumably assumes a certain amount of generation capacity avoided based on specified capacity factors. We are not at all sanguine that this type of modeling reflects the reality of utility capacity procurement or generation investments.

3. Response to Order Instituting Rulemaking

TURN generally agrees with the scope as outlined in the OIR. However, we do not at all look forward to another drawn out proceeding trying to come up with the proper analytical basis for a shared savings model. We strongly urge the Commission to craft a much simpler, and less lucrative, incentive mechanism that will provide specific incentives to accomplish CPUC goals, rather than to simply maximize energy savings. We appreciate that efforts to craft a consensus model have failed in the past. However, we believe that if the Commission sends a strong signal that the "shared savings" model is not most appropriate to advance California's goals, parties would then be more inclined to explore alternative and more creative processes to promote utility performance in the energy efficiency arena.

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