

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Reform the
Commission's Energy Efficiency Risk/Reward
Incentive Mechanism

Rulemaking 12-01-005
(Filed January 12, 2012)

**WOMEN'S ENERGY MATTERS
REPLY COMMENTS OIR**

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WOMEN'S ENERGY MATTERS REPLY COMMENTS OIR

Women's Energy Matters (WEM) appreciates this opportunity to reply to Opening Comments on the OIR.

DRA speaks for three of the four currently involved intervenor parties (and two others in R0901019) when it asks, why are we crunching numbers? CPUC should first be making a decision on the threshold question of why have a RRIM when it is so clearly ineffective:

Doing so would be preferable to expending resources of staff and parties to review of the calculations related to an incentive mechanism that thus far has failed to increase energy efficiency savings or improve energy efficiency portfolios. DRA, p. 2.

But the Commission wants to play the numbers game, so some parties complied.

SDG&E's false claim of results from RRIM

SDG&E claims

Chart 1 below show that EE savings and EE savings per dollar spent were higher in periods with incentives and a focus on energy savings. SDG&E p. 2.

Oddly enough however, Chart 1 shows the highest MWh savings per dollar (from 1990 to 1995) were in 2005.¹ *But Program Years 2002 through 2005 were years when there was NO RRIM and therefore NO INCENTIVES.*

Perhaps SDG&E really means that there was a “focus on energy savings” in 2005. (How tricky to combine that phrase with “incentives” as if they are related!) But what drove that focus? *From 2002-05 there was stiff competition from independent programs that received 1/5 of the funding (at the time, \$50m/yr.). It's possible that some of the savings in SDG&E's 2005 figures was from independent programs.*

Thus, SDG&E's chart shows that *competition caused savings to increase* — NOT a RRIM that *justified monopoly and prevented competition.*

Ex ante or ex post data?

¹ SDG&E fails to identify the data source for Chart 1. In 2004-05 utilities reported vastly more than evaluated savings, which in many programs were only around 40% of goals.

TURN wearily gets back in the saddle and tries to make the best of “bad policy.” It agrees to ex ante values, because using ex post values “has negatively impacted the EM&V process to an unacceptable extent.” TURN, pp. 6-7. In other words, the IOUs made a nightmare of EM&V because they weren’t getting what they wanted. So, forget about EM&V for the RRIM – let it be used for something worthwhile.

OK, but EM&V can only be used for something worthwhile if it is reconfigured for other purposes. WEM recommends reconfiguring EM&V first of all for determining to what extent EE actually defers/displaces anything. We should NOT be spending \$100m on EM&V that was designed for the RRIM but is not really being used for that purpose.²

SDG&E concedes that the utilities have created so much doubt and dissension over EM&V that they can no longer claim much of anything based on those numbers:

And a more limited level of earnings or a more limited cap may be needed so regulators are not so preoccupied with the magnitude of potential rewards in the face of the uncertainty of measured benefits. SDG&E, p. 5.

SDG&E supports a 7% earnings rate, SDG&E, p. 6. First it advocates no incentives for “non-resource” programs, then it proposes a lesser payment for what it calls “measurable options” — like green jobs. SDG&E p. 7. Who would verify figures like that? We retired such bogus “milestones” of the late 1990s, because they were not in fact measurable. RIP.

Joint utilities’ proposals

SDG&E lays out what it calls “joint utilities proposals” in order to guide development of a “consensus RRIM.” SDG&E pp. 8-9. We focus on some of these proposals below.

- The RRIM must send clear unambiguous signals to the utilities on CPUC expectations.

Here, the utilities beat up on the Commission for caving in to their lobbying. The signals were clear and unambiguous until utilities leaned on the Commission to muddy them up.

- The RRIM must drive the utilities to deliver a more cost effective portfolio for ratepayers.

² Some parties promote using ex post values from EM&V to calculate the PEB, eg. SDG&E, p. 6. This proposal should be discarded in view of the Commission’s failure to actually use ex post figures this way when push came to shove in 2010. Perhaps utilities assume that these “ex post” figures are from their own reports rather than the EM&V, as in SDG&E’s table, p. 9.

What a nice idea! Too bad the RRIM failed to drive utilities in that direction in the past. Why believe it would do that in future? *In fact, competition drives greater cost-effectiveness, and the RRIM destroys competition, so the RRIM interferes with greater cost-effectiveness.*³

- The RRIM must drive towards the achievement of the GHG goals of the state through the delivery of aggressive energy efficiency savings for California.

The failure of the RRIM to drive towards greater reductions of greenhouse gases is not just annoying, it's tragic. It threatens our children's future.

But undaunted and unrepentant, the joint utilities push on:

In order to develop a consensus RRIM, the Joint Utilities offer the following guiding principles:

- RRIM should not be solely focused on achievement of savings goals to ensure adequate attention is provided to the Commission's various objectives, including those in the EE Strategic Plan;

This is getting too ridiculous. How would the RRIM reflect a goal like this:

4. Local governments lead their communities with innovative programs for energy efficiency, sustainability and climate change. Strategic Plan Update, January 2011, p. 86.

Local government parties in EE proceedings have testified over and over again that utilities *interfere* with their ability to "lead their communities with innovative programs."⁴

Rather than provide rewards for local governments who do a great job "leading their communities," the RRIM would grab credit from local governments' work, to provide "earnings" for utilities — and only utilities — even for federal stimulus-funded programs, according to the Commission's current attribution plans.⁵

This is getting tiresome, but let's try a couple more of these Joint IOU proposals.

- A collaborative approach to working with Energy Division and other stakeholders should be established for measuring program success.

³ In the first year of independent programs, an independent analysis showed that 49 out of 50 independent programs were more cost-effective than ALL utility programs. See R0108028, SESCO's 8-8-03 *Myth of IOU Cost-Effectiveness*, at <http://www.womensenergymatters.org/currentcampaigns/EE/compare/8-8-03MythofIOUCost-Eff.pdf> (The Commission does not post parties' filings pre-2006.)

⁴ See CCSF and LGSEC filings in R0901019, as well as their recent comments in R0911014, for example goals.

⁵ 9-13-10 ED Memo to Commissioner Grueneich re Attribution for ARRA funded programs.

I can't wait, and I'm sure ED can't either. What does the SF District Attorney call a woman who collaborates with an abusive partner? *A battered woman.*

What's the antidote? For the whole community to say, STOP the abuse.

ED is to be commended for maintaining their independence and standing by their data, through a very challenging time. It should continue to resist incessant IOU attempts to muscle into the EM&V process and dominate it, like in the "good old days" of the 1990s when utilities controlled all aspects of EM&V and claimed huge rewards based on that highly questionable data.

Customer satisfaction

Joint utilities propose a new metric for the RRIM: "customer satisfaction." Have we forgotten that Edison was found guilty and paid a considerable fine for gaming the "customer satisfaction" reports (by substituting phone #s of SCE employees in the "random" survey). That behavior was incentivized by a reward also. Certainly the Commission recognizes that rewards are not necessarily benign? WEM would wager that a comprehensive history of the RRIM would show that the RRIM, and the utility monopoly over EE which it enforces, caused an increase in corruption throughout the utility-CPUC system.

In R0901019, WEM documented a particularly troubling example, involving bribery of the CPUC ALJ who wrote both the 1994 and 2007 Risk/Reward decisions.⁶

Risk? What risk?

TURN wants the proceeding to "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 recover the cost of abandoned plant.

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. TURN, pp. 7-8.

⁶ See transcript, 7-15-09 Workshop, pp. 16-25. A video of WEM's presentation at the workshop is posted at http://www.womensenergymatters.org/video/CPUC/pgvideo_2009-07-15volcano.htm

When the 2006-08 programs clearly deserved a penalty, the Commission declined to impose one — giving them rewards instead. So that’s not a “real risk.”

As WEM has shown in our opening comments, it is disingenuous to claim that demand programs displace supplies, when they’re not allowed to do so – therefore it is inappropriate to compare the RRIM with supply side mechanisms. We discuss this further below.

The earnings from supply side assets outstrips EE incentives. For example, PG&E calculates these profits for 2010-12 as \$465 million. PG&E, p. 17. As WEM recommends, PG&E included more than just power plants, defining supply-side resources as “the earnings on utility-owned generation, the earnings on Transmission and Distribution (T&D), and the earnings on the shareholder equity needed to support the debt equivalence of power purchase agreements.” Ibid, p. 16.

The greatest risk to utilities comes from avoiding competition and living in the past

No party mentioned how the Smart Grid could change the value of utilities’ supply-side assets more than anything we’ve seen from EE programs. The absence of any discussion of that issue is remarkable, especially since the Commission and utilities both justify “smart meters” and other smart grid technology based on its promise to provide vast increases in energy efficiency. Perhaps we can infer that these technologies are included in the utilities’ proposal to provide 10% incentives for “innovation.” SDG&E, p. 8.

An upheaval is predicted that could dwarf the minor disturbances that the RRIM was purportedly going to smooth over. This is the potential damage to utilities from medium and large customers using Smart Grid technology to manage their usage with EE, demand response, solar or other DG, and storage.⁷ Enthusiasts claim this would reduce utility *revenues* (i.e. not just profits) by as much as 10% — maybe more.

This could cut into operating revenues, debt service, etc. In other words, the meltdown of the utility business model when confronted with such disruptive technology. Any RRIM devised here would help very little to allay that challenge — and WEM argues that it would only make it worse. In any case, nothing much to do with these EE programs in any case.

⁷ WEM believes smart grid technology is inapplicable to most residential customers

The various versions of the RRIM since the early 1990s have lulled the utilities into thinking they wouldn't ever really have to change their business model. *Far from an incentive to change the model, as NRDC fantasized, the RRIM made it ok for utilities to stay stuck in business as usual.* Public Relations departments amped up and utility EE offices were swollen with the requirement to spend \$1 billion a year — but none of that bothered the procurement or transmission/ distribution departments, because management made certain that EE barely affected them.

*In the last procurement proceeding (2006) the final decision credited only 20% of EE as available to meet load.*⁸ It also recognized that at least one utility (PG&E) had inflated its demand by 1500 MW – plenty of wiggle room to *pretend* to reduce generation with EE but actually do no such thing.

The most significant thing about the RRIM is not the bonuses themselves, but the fact that it justified utility monopoly over EE. IOUs control the EE game by controlling the programs and the politics — thanks to the RRIM and the EE slush funds associated with their EE monopoly. Utilities were aided and abetted in resisting change and resisting competition (which would force change) by the Commission's putting utilities in monopoly control of administration, but also by failing to audit EE funds and refusing to investigate the non-relationship between procurement and EE — which WEM has brought to their attention for more than half a decade. Thus, the utilities could live in a bubble, protected from competition and blissfully untouched by advances of technology and markets that now threaten to overwhelm them.

How much to buy control of EE from IOUs?

TURN holds its nose and quotes NRDC's proposal for \$100 million of bonuses for 2010-12.

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. TURN, p. 10.

The only way that WEM would approve of another dime of bonuses for utility EE programs would be if that was the final payment. \$100 million to let go of administration. Heck, make that \$240 million.

⁸ D0712052.

Utility managers and NRDC may prattle on about bonuses for EE programs changing their biz model but it hasn't happened and it's not going to happen in the future, no matter how many proceedings we open to try to "fix" the system. The utility business model isn't affected by the bonuses – in part because they never had to actually reduce the supply-side. They have it nicely wired so they get bonuses coming & going.

In fact, *only competition would really change the business model*. Utilities' friends at NRDC and the Commission have done utilities a disservice by failing to recognize this fact.

Dated: February 9, 2012

Respectfully Submitted,

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**CERTIFICATION OF SERVICE
R1201005**

I, Barbara George, certify that on this day February 9, 2012 I caused copies of the attached WOMEN'S ENERGY MATTERS REPLY COMMENTS OIR 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 efilng to the CPUC Docket office, with a paper copy to Administrative Law Judge Thomas Pulsifer, and Presiding Commissioner Mark Ferron.

Dated: February 9, 2012 at Fairfax, California.

/s/ Barbara George

DECLARANT