

**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)

**PRE-HEARING CONFERENCE STATEMENT OF THE NATURAL RESOURCES  
DEFENSE COUNCIL (NRDC)**

March 19, 2012

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Pursuant to Rule 7.2 of the California Public Utilities Commission's (CPUC or Commission) Rules of Practice and Procedure, the Natural Resources Defense Council (NRDC) respectfully submits this pre-hearing conference statement in accordance with the *Administrative Law Judge's Ruling Setting Prehearing Conference* dated February 28, 2012 (ALJ Ruling) and ALJ Pulsifer's email on March 13, 2012. NRDC is a non-profit membership organization, with nearly 100,000 California members with an interest in receiving affordable energy services and reducing the environmental impact of California's energy consumption.

The ALJ Ruling poses several questions for discussion at the pre-hearing conference (PHC). This PHC statement presents NRDC's initial thoughts on these questions, and we look forward to discussing them further with the ALJ and all parties at the PHC.

*Do any issues require a further record to adopt a mechanism for 2010-12? (ALJ Ruling p. 2)*

NRDC does not believe any further record is required for the Commission to adopt a mechanism for 2010-12. The Commission has a robust record that included numerous rounds of comments over the course of three years in R.09-01-019. Since the CPUC is already significantly behind schedule, we urge the Commission to adopt a decision on a 2010-12 risk/reward incentive mechanism (RRIM) as soon as possible.

*Are evidentiary hearings needed? (ALJ Ruling p. 2)*

NRDC does not anticipate a need for evidentiary hearings at this time. We generally believe workshops are a more productive and time-efficient way to examine and discuss detailed issues.

*How should a “2009 mechanism” be adjusted to recognize differences in the 2010-12 portfolio? (ALJ Ruling p. 4)*

NRDC provided a detailed proposal for adjusting the RRIM the CPUC adopted in D.07-09-043 to account for the differences in the 2010-12 portfolio and changes in the RRIM. However, if the Commission decides to simply extend the 2009 mechanism as some parties proposed, we recommend that the Commission extend the 2009 mechanism “as is” (i.e. using the 7% shared savings rate and other parameters) without taking further comments on adjustments, since the primary rationale for such an extension would be its simplicity and the Commission’s ability to adopt it immediately.

*How should codes and standards savings be included? (ALJ Ruling p. 4)*

Savings from codes and standards should be included in the RRIM for 2010-14 in the same manner as other savings consistent with current Commission policy. This is appropriate since the program *costs* to lay the foundation for codes and standards improvements have already been counted in prior program cycles, and the Commission expected to count the *benefits* as the savings accrue, consistent with the CPUC’s current policy of counting actual energy savings (instead of actual and committed savings). (See D. 07-09-043 pp. 144-5 and D.05-09-043 pp. 125, 130-133) Furthermore, the utilities should have an incentive to pursue the most cost-effective savings; reducing the incentives for efforts to improve codes and standards would send a counterproductive signal that the utilities should not pursue the most cost-effective savings as vigorously. Any re-evaluation of how codes and standards savings should be integrated into the RRIM should only be considered as part of the Commission’s discussion of potential new mechanisms for 2015 and beyond.

Moreover, the Commission should apply the same *ex ante* approach for counting savings from codes and standards in the RRIM as it does for other programs. In other words, the only parameters updated *ex post* for purposes of the RRIM should be actual program costs and actual

installations. Ex post evaluation of other parameters, including compliance levels (as noted in the ALJ Ruling p. 4), should be conducted and used to inform future ex ante values.

*What schedule and process should the Commission use in this proceeding? (ALJ Ruling pp. 6-7)*

NRDC supports the general schedule outlined in the ALJ Ruling. However, since the Commission is behind schedule on this issue and has relatively little time if it wants to develop a new mechanism for 2015 and beyond, we recommend streamlining and accelerating the schedule wherever possible. For example, the Commission could combine consideration of a “non-resource” incentive mechanism with the process to consider possible new designs to replace the existing mechanism, and fold that issue into the workshop process and eliminate the separate round of comments on a “non-resource” incentive mechanism in 2012 Q2-Q3.

To enable a productive and efficient process to consider possible new incentive mechanism designs for 2015 and beyond, NRDC strongly recommends that the Commission: (1) affirm as soon as possible that the CPUC will continue to provide a RRIM for efficiency in order to settle the threshold question of whether there be an incentive mechanism, (2) ask parties for input on, and then rule on, the principles and objectives for a new incentive mechanism, (3) give parties an outline of the elements and the details they should provide for any proposed mechanism to meet those principles and objectives, and request that parties attempt to achieve consensus on a mechanism or else provide the Commission with a clear understanding of parties’ positions and the choices in each element of the mechanism. By providing some direction, narrowing the discussion, and ensuring proposals and comments will be consistent, the Commission will be able to make a timely decision.

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Respectfully submitted,



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