

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)

**THE DIVISION OF RATEPAYER ADVOCATES' COMMENTS TO THE
SEPTEMBER 25, 2012 ADMINISTRATIVE LAW JUDGE'S RULING
SOLICITING COMMENTS ON MODIFIED METHODOLOGY AND USE OF
DATA TO DERIVE INCENTIVE EARNINGS AMOUNTS**

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I. INTRODUCTION AND BACKGROUND

The Division of Ratepayer Advocates (DRA) submits the following comments in response to the September 25, 2012 Administrative Law Judge's Ruling Soliciting Comments on Modified Methodology and Use of Data to Derive Incentive Earnings Amounts (Ruling) for the 2010-2012 program cycle, ending December 31, 2012. The Ruling seeks comments on a proposed methodology which caps the total shareholder incentive payouts to 5% of expenditures composed of two elements: (1) a 2% Baseline Management Fee and (2) a 3% Performance Bonus based on a scorecard rating of an Investor Owned Utilities' (IOU) level of Evaluation, Measurement & Verification (EM&V) process compliance. The Ruling does not presuppose the outcome of the Commission's determination on the more fundamental issue of whether an incentive should be provided and specifically reserves judgment on that issue.

DRA continues to believe that Risk Reward Incentive Mechanism (RRIM) is unnecessary and contributes to heightened contention in the EM&V process that inhibits progress of the Commission's Energy Efficiency program and requires extraordinary Commission resources to administrate. If the Commission insists on having a RRIM, however, the mechanism proposed in the Ruling has some potential of minimizing the contentiousness and unintended consequences that continue to plague the EM&V process. The proposed mechanism is more appropriately applied to the upcoming 2013-2014 transition period. As the 2010-2012 program cycle will be ending soon, putting in place a RRIM for this current cycle serves no purpose.

II. DISCUSSION

A. Establishing a Shareholder Incentive Mechanism for the 2010-2012 Cycle at This Late Stage Cannot Realistically Influence Performance Outcomes

DRA agrees with the previous comments filed by Southern California Edison which argued that designing a shareholder incentive mechanism at the end of the race

does little to incentivize performance.¹ The earliest the Commission can issue a final decision on a shareholder incentive mechanism for the 2010-2012 program cycle would be sometime in November 2012. Clearly, this cannot be intended to incent better performance with one month left in the cycle and would simply be a gift to IOU shareholders at ratepayer expense.

B. DRA strongly supports the concept of an EM&V process scorecard, but disagrees that an incentive is appropriate to motivate the IOUs to do what they should be doing anyway

DRA recognizes that it is essential to the independent evaluation of a technically involved program to have a strong, working communication between program implementers and the program evaluators. That communication requires the program administrators to keep track, report and address when processes are working well and when they break down or are otherwise not functioning to expectations. However, there is currently no mechanism to carry out this important function in a form that is clear, legible and addresses the main issues. Notwithstanding DRA's over-riding opposition to the RIMM and without waiving that objection, DRA supports the Ruling's proposal to fill this gap with a 'scorecard.'

However, a better way to use the scorecard is to make the metrics and their weighting clear to the IOUs prospectively, so they have an opportunity to make changes that deliver on these metrics. Thus, while the scorecard reveals important process issues in this cycle, such as the timeliness of IOU EM&V submissions to Commission staff - the scorecard approach would most effectively be used in future cycles. The scorecard itself can be a strong incentive to comply with Commission direction. DRA does not see the need to attach a monetary reward to it.

¹ Filed February 2, 2012, p. 10.

C. If the Commission decides an incentive mechanism should be awarded to the IOUs, DRA prefers the Ruling’s proposed shareholder incentive mechanism, including the 5% cap, among proposals considered in this proceeding, to be piloted for the upcoming 2013-2014 transition period

DRA has demonstrated in its pleadings that the ideal path for IOU administered energy efficiency is one without an incentive mechanism.² The Assigned Commissioner has also questioned whether “the mechanism can realistically do what it was originally designed to do.”³ If the Commission decides to reward an incentive to the IOUs, however, then it should also alleviate what has become a contentious and unmanageable EM&V process by piloting the Ruling’s proposed incentive mechanism in the 2013-2014 transition period. That pilot should include a cap that does not exceed 5% of total expenses. Among the RRIM proposals recently presented in this proceeding, the Ruling’s proposal is closest to achieving the objective of limiting ratepayer expense and reducing unproductive contention and resource expenditure on EM&V, as intended by the overarching goals of this proceeding outlined in the original Assigned Commissioner’s Ruling issued in August last year.⁴

III. CONCLUSION

DRA continues to believe that Risk Reward Incentive Mechanism (RRIM) is unnecessary and contributes to heightened contention in the EM&V process that inhibits progress of the Commission’s Energy Efficiency program and requires extraordinary Commission resources to administrate. If the Commission insists on having a RRIM,

² -DRA Opening and Reply Comments in Response to ACR to Refresh the Record on Outstanding Issues, filed September 23, 2011 and October 7, 2011, respectively. This includes Attachment A of the Reply Comments (<http://docs.cpuc.ca.gov/PublishedDocs/EFILE/CM/145313.PDF>). DRA originally presented the charts in Attachment A in *Ex Parte* meetings held in 2007. See, DRA *Ex Parte* written materials provided to Commissioner Simon’s office (September 18, 2007) and to Commissioner Chong’s office (September 19, 2007) within Rulemaking (R.)06-04-010.

³ Assigned Commissioner’s Ruling to Refresh the Record on Outstanding Issues, August 30, 2011; available at: <http://docs.cpuc.ca.gov/PublishedDocs/EFILE/RULINGS/142333.PDF>.

⁴ Ibid.

however, the mechanism proposed in the Ruling has some potential of minimizing the contentiousness and unintended consequences that continue to plague the EM&V process. The proposed mechanism is more appropriately applied to the upcoming 2013-2014 transition period. As the 2010-2012 program cycle will be ending soon, putting in place a RRIM for this current cycle serves no purpose.

Respectfully submitted,

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