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)

REPLY COMMENTS OF PACIFIC GAS AND ELECTRIC COMPANY (U 39 M) ON PROPOSED DECISION OF ADMINISTRATIVE LAW JUDGE PULSIFER AND ALTERNATE PROPOSED DECISION OF COMMISSIONER FERRON

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Pacific Gas and Electric Company (PG&E) replies to opening comments on the Proposed Decision (PD) and the Alternate Proposed Decision (APD) filed on December 4, 2012 by the following parties: the Utility Reform Network (TURN); the Division of Ratepayer Advocates (DRA); the Natural Resources Defense Council (NRDC); Southern California Edison Company (SCE); San Diego Gas & Electric Company (SDG&E) and Southern California Gas Company (SoCalGas).

A. The Commission Should Reject TURN's and DRA's Arguments That The Shareholder Incentive In The APD Is Unjust And Unreasonable.

TURN and DRA argue that awarding a shareholder incentive well after the 2010 accomplishments have been achieved is "unjust and unreasonable" pursuant to Public Utilities Code Section 451. (TURN, pp. 2-4; DRA, p. 4.) Neither party presents a cogent argument that rates for gas and electric customers will be "unjust and unreasonable" if the shareholder incentive in the APD is collected in the utilities' rates. Instead they assert that adopting a mechanism that would provide an incentive after-the-fact is unreasonable since the conduct for which the incentives would be paid has already occurred.

The utilities had a reasonable expectation, based on the Commission's prior statements, that if they successfully administered their energy efficiency portfolios, their efforts would be rewarded by an incentive. (See PG&E, p. 4; NRDC, pp. 2-3.) While PG&E agrees with TURN

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and DRA that it would be optimal to have a mechanism in place at the beginning of the portfolio cycle so that the portfolio can be designed and administered with the mechanism in mind, the fact that the mechanism will be approved at the end of the cycle does not by itself render the mechanism or resulting award unreasonable.[1] (See NRDC, p. 3; PG&E, p. 5; SCE, p. 4; SDG&E/SoCalGas, pp. 2-3.)

The Commission has previously modified the incentive mechanism after the energy efficiency activities to be rewarded occurred. For the 2006 – 2008 true-up claim, the Commission reduced the earnings rate in the shared-savings mechanism to 7 percent and further modified the mechanism to use *ex-ante* values with verified installation rates instead of *ex-post* values well after the portfolio period ended (D.10-12-049). Similarly, the final mechanism for program year 2009 was decided after the 2009 program ended in the same decision. (D.10-12-049.) The uncertainty regarding the mechanism that would be in place for the 2010 – 2012 portfolio does not justify denying the award, as NRDC explains. (NRDC, pp. 2-3.)

Comparing PG&E's proposed 2010 award to prior years' awards and actual savings achievements demonstrates the award is quite reasonable and, arguably modest. The incentive in the APD is less than the previous two portfolio period awards in terms of earnings per year or in comparison to the size of PG&E's portfolio budget. In terms of actual award, the APD's proposed incentive for PG&E of approximately $21 million is lower than the average incentive paid since 2006. The average annual incentive PG&E received for its portfolio for program years 2006 – 2009 is $32.5 million. The rate is also low when compared to the size of the portfolio administered. The APD would provide a management fee to PG&E equal to 5.68 percent of annual expenditures. By contrast, the incentive awards for 2006 – 2008 were 11.3 percent of portfolio expenditures and the 2009 incentive award was 7.26 percent of portfolio expenditures. For all of these reasons, the incentive proposed by the APD is not unreasonable.

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[1] The timing of the 2010 award also does not render it unreasonable. Each year the shareholder incentive has been awarded well after the benefits for which the incentive is awarded have been achieved. The 2009 award was issued in December 2011 (D.11-12-036), the final 2006 - 2008 true-up award was issued in December 2010 (D.10-12-049) and the 2006 - 2007 award was issued in December 2008 (D.08-12-059).

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DRA claims there is no evidence the utilities have met their energy savings goals and goes so far to say there has been "a complete failure to demonstrate measurable benefits to ratepayers." (DRA, p. 2.) DRA errs. Each utility submitted its energy savings estimates for 2010 and 2011 using the same methodology Energy Division would use to verify the benefits. The utilities' reports are publicly available on the EEGA website.[2] Using this information, NRDC estimates that the "IOU programs saved customers approximately $917M in net benefits in 2010." (NRDC, p. 8, fn. 5.) The $42 million statewide incentive award for the four utilities is small in comparison to the savings. (NRDC, p. 8.) PG&E's energy efficiency programs saved ratepayers $332 million in 2010. (PG&E 2010 Annual Report, Section 5, Table 5.) Thus, the proposed incentive included in the APD is roughly 6 percent of the amount saved and PG&E's customers would retain 94 percent of the savings. Thus the method in the APD would continue to provide the vast majority of savings to customers.

TURN's and DRA's arguments that the award would be unjust and unreasonable are not aligned with California policy to support an incentive mechanism to encourage energy efficiency investments, have no factual support, and should be rejected.

B. The APD Provides Reasonable Certainty For Two Additional Years.

DRA argues that the incentive mechanism would have no impact on the cost of utility financing because it is backwards-looking. (DRA, pp. 3–4.) The investment community values timeliness and consistency. To the extent that the APD is consistent with Commission policy to reward utilities for energy efficiency accomplishments and the method suggested by the APD is repeatable and timely for program years 2011 and 2012, resulting in earnings in 2013 and 2014, the investment community would be able to consider the incentives in their analysis of PG&E's earnings. A positive regulatory environment with less uncertainty helps utilities achieve lower financing costs.

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[2] http://eega.cpuc.ca.gov/

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C. Responses To Arguments Regarding The Amount of The Management Fee.

PG&E's and NRDC's opening comments note that the American Council for an Energy Efficient Economy's (ACEEE's) most recent analysis of utility incentives indicates that the nationwide average incentive for utilities who are paid an incentive for administering energy efficiency portfolios is, on average, 10 to 11 percent of spending. (PG&E, p. 6; NRDC, p. 9.)

TURN's comments incorrectly state that the "average incentives for relevant states is approximately 7%." (TURN, p. 6.) TURN cites only its own post-work shop comments to support its 7% estimate. (*Id.*, p. 6.) However, TURN's analysis in its post workshop comments was incorrect as it selectively used data from some states while omitting data from others, rather than include all state incentives analyzed by ACEEE. TURN urges the Commission to further lower the management fee to five percent based on an argument that the California utilities have less risk than utilities in other states. However, the APD would award the utilities from 5.31 percent to 5.68 percent of their approved expenditures, a significant decrease from the national average of 10 to 11 percent. (NRDC, p. 9.) TURN's argument that the fee should be further reduced to five percent is unsupported by the ACEEE analysis on which TURN relies and should be rejected.

As the APD discusses and TURN acknowledges, TURN has supported a similar management fee as a replacement shareholder incentive mechanism. (APD, p. 28.) TURN's comments would support a management fee of 5 percent for the 2013-2014 cycle, rather than the amounts up to 5.68 percent in the APD. (TURN, pp. 6-7.) While the amount TURN has supported is slightly lower than recommended in the APD, the result in the APD is very close to TURN's prior proposal. As discussed above in Section A, TURN's rationale for supporting a management fee for 2013-2014 but denying it for 2010-2012 should be rejected.

NRDC proposes to remove the "conformance bonus" as unrelated to any measure of energy efficiency achievements. (NRDC, pp. 4-5.) If the Commission decides to remove the 1 percent performance bonus, it should increase the amount of the management fee by an equal or greater amount to align with the national average.

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DRA's argument that the APD should be revised to decrease the amount of the management fee to 2 percent and increase the amount of the performance bonus to 3 percent should be rejected. (DRA, pp. 6-7.) The performance bonus would reward the utilities for progress in the work paper process and cooperation with Energy Division, but does not reward actual energy savings achievements.[3] Therefore, the APD correctly decreased the amount of the incentive based on the performance bonus. If DRA's request to revise the APD were approved, PG&E's award would be reduced from 5.68 percent to approximately 4 percent. This amount would be a very low incentive award compared to prior years and would not sufficiently support the Commission's policies to encourage the utilities to focus on energy efficiency achievements.

PG&E respectfully requests the Commission to approve the APD, with the clarifications suggested in PG&E's opening comments.

Respectfully submitted,

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[3] See *Opening Comments Of Pacific Gas And Electric Company (U 39 M) On Administrative Law Judge's Ruling Soliciting Comments On Modified Methodology And Use Of Data To Derive Incentive Earnings Amounts* (Oct. 5, 2012).

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