

**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 SAN DIEGO GAS & ELECTRIC COMPANY (U 902 M) AND
SOUTHERN CALIFORNIA GAS COMPANY (U 904 G) ON THE PROPOSED
DECISION OF ADMINISTRATIVE LAW JUDGE THOMAS R. PULSIFER
REGARDING PRIORITIES FOR PROSPECTIVE ENERGY EFFICIENCY
INCENTIVE REFORM, AND THE ALTERNATIVE DECISION OF COMMISSIONER
MARK J. FERRON REGARDING APPROVING 2010-2012 ENERGY EFFICIENCY
INCENTIVE MECHANISM AND DISBURSING 2010 INCENTIVE AWARDS**

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**I.
INTRODUCTION**

Pursuant to the provisions of Rule 14.3, San Diego Gas & Electric Company (“SDG&E”) and Southern California Gas Company (“SoCalGas” or “SCG”) (also referred to as the “Joint Utilities”) hereby provide their reply to Parties’ comments¹ on the November 17, 2009 Proposed Decision (“PD”) of Administrative Law Judge (“ALJ”) Pulsifer and the Alternate Decision (“AD”) of Commissioner Ferron regarding the 2010-2012 Risk Rewards Incentive Mechanism (“RRIM”).

**II.
THE COMMISSION SHOULD REJECT THE PROPOSED DECISION AND
APPROVE THE ALTERNATE DECISION’S RECOMMENDATION TO
ESTABLISH A MECHANISM FOR THE 2010 – 2012 PROGRAM YEARS.**

TURN, DRA and WEM recommend that the Commission approve the PD and reject the proposed mechanism in the AD. These parties in general restate from the PD and AD: “...that adopting an incentive mechanism at this time cannot have a ‘material effect’ on behavior

¹ Parties in addition to the Joint Utilities that filed comments are: Division of Ratepayer Advocates (“DRA”), Natural Resources Defense Council (“NRDC”), Pacific Gas and Electric Company (“PG&E”), Southern California Edison Company (“SCE”), The Utility Reform Network (“TURN”) and Women’s Energy Matters (“WEM”).

influencing effective management of the 2010-2012 energy efficiency (EE) programs.”² The Joint Utilities strongly disagree with this premise. As discussed in their December 4th comments, the Joint Utilities refuted this position,³ and agree with the premise that regulatory certainty in this area is prudent and has beneficial impacts for both IOU and investor support of EE goals. The Commission has provided ample rationale as to why it is beneficial to establish a mechanism, even at this stage of the program cycle, and as part of its consideration for a 2010-2012 RRIM states:

“On the other hand, the Commission has previously concluded that regularity and continuity in the provision of energy efficiency incentive earnings is important in motivating the utility to treat energy efficiency as a core part of the utility’s business. Providing for some level of incentive earnings to be awarded during calendar year 2012 (based on 2010-2012 efficiency savings amounts) would preserve the continuity of regular annual earnings from incentives.”⁴

The Commission’s conclusion is still very relevant today, and influenced the IOUs’ behavior, which in turn produced EE results in excess of goal. Although there was no final mechanism, the quite reasonable expectation set throughout the rulemaking’s proceedings was concrete enough to continue to motivate utility performance during the 2010-2012 cycle. In fact, as shown in the Commission’s Energy Efficiency Groupware Application, all the utilities have performed such that the 2010-2012 energy savings goals set forth by the Commission are on track to be achieved and exceeded.⁵

² AD, page 23, and PD, page 3.

³ “Comments of San Diego Gas & Electric Company (U902 M) and Southern California Gas Company (U904 G) on the Proposed Decision of Administrative Law Judge Thomas R. Pulsifer Regarding Priorities for Prospective Energy Efficiency Incentive Reform and the Alternative Decision of Commissioner Mark J. Ferron Regarding Approving 2010-2012 Energy Efficiency Incentive Mechanism and Disbursing 2010 Incentive Awards,” December 4, 2012, pages 4 to 5.

⁴ Administrative Law Judge’s Ruling Soliciting Comments on Modified Methodology and Use of Data to Derive Incentive Earnings Amounts, September 25, 2012, page 4.

⁵ <http://eega.cpuc.ca.gov/>

	Goal	Installed to Date	Commitments to Date	Total	Percent of Goal
Demand Red. (MW)	1537	1693	658	2351	153%
Energy Savings (GWH)	6965	8766	1357	10,123	145%
Gas Savings (Mth)	150	141	187	328	219%

Therefore, it is clear the utilities have been performing consistently with the quite reasonable expectation that the Commission could adopt a 2010-2012 RRIM. Therefore, the Commission should reject TURN, DRA and WEM’s arguments in support of the PD and find that it is justifiable to continue with a mechanism for the 2010-2012 program cycle.

**III.
TURN ERRS IN ITS STATEMENT THAT THE ALTERNATE DECISION
VIOLATES §451 BY AWARDING PAST ACTIVITIES WITHOUT ANY
INCENTIVE MECHANISM.**

TURN states (at pages 2 to 3) that: “Both the PD and APD recognize that any incentive mechanism adopted now for utility activities in 2010-2012 is ‘backward looking’ and can in no way influence utility activities or performance. The fundamental legal question not addressed by the APD is whether it is reasonable to award shareholder profits through an incentive mechanism *ex post facto* when the utility conducted work without any reliance on the existence of an incentive mechanism. The standard of “just and reasonable” rates is met in practice by ensuring, with a sufficient level of record evidence, that spending is cost effective (meaning it provides positive benefits to ratepayers) or necessary to meet goals inherent in the provision of safe and reliable utility service.”

As discussed above, the Joint Utilities have consistently demonstrated how there was a reasonable expectation that an incentive mechanism would be approved and, thus, the utilities performed in accordance with that expectation, i.e., to exceed Commission-set goals. Through the various workshops and numerous filings submitted in this Rulemaking, the Commission has a sufficient record to make a decision regarding a relevant RRIM structure. The utilities’ portfolio cost effectiveness would not be significantly impacted by the inclusion of no more than a six percent increase in their administrative costs resulting from the AD’s proposed RRIM.

Therefore, TURN's argument regarding the potential violation of PUC Code §451 has no basis and should be rejected.

**IV.
THE JOINT UTILITIES AGREE WITH NRDC THAT THE “CONFORMANCE
BONUSES” SHOULD BE ELIMINATED.**

The Joint Utilities support NRDC in their recommendation to eliminate the “Conformance Bonuses” or what the Joint Utilities referred to in their December 4th comments as “Performance Bonus”. The Commission’s adoption of a “Conformance Bonus” indeed sends wrong signal.⁶ The Joint Utilities believe the approach that best reflects Commission goals is to tie the RRIM to savings achievements. Because this has not been incorporated into either the PD or AD, adoption of a management fee on a one-time basis is reasonable. However, adopting the “Conformance Bonus” would represent an unprecedented change in approach to the RRIM framework, has not been given due process and admittedly is based on subjective input, and has not been directly supported by any party to this proceeding. Although the anecdotal scoring information provided could be somewhat useful for the purposes of possibly identifying process improvements that can be addressed in separate efforts between utilities and Commission staff, as presented does not further the Commission’s goals or Strategic Plan, which is a more appropriate manner to set this mechanism. Therefore, the Joint Utilities support NRDC’s position that the Commission eliminate the “conformance Bonus” even if that means reducing the earnings in the AD to five percent of expenditures.⁷

The Joint Utilities thank the Commission, and specifically ALJ Pulsifer for the opportunity to provide input in this proceeding and with these reply comments.

⁶ NRDC, page 5.

⁷ *Ibid*, page 4.

