**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)

NOTICE OF EX PARTE COMMUNICATION

August 30, 2013

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Pursuant to Rule 8.2, 8.3, and 8.5 of the California Public Utilities Commission's Rules of Practice and Procedure, the Natural Resources Defense Council (NRDC) hereby gives notice of the following ex parte communications. NRDC initiated the communications, which occurred at the California Public Utilities Commission (CPUC). On Wednesday, August 28, 2013, Devra Wang, Director, California Energy Program at NRDC met with:

- Brian Stevens, advisor to President Peevey for approximately forty minutes at 10:30 am;
- Michael Colvin, advisor to Commissioner Ferron, for approximately forty minutes at 1:30 pm; and
- Jessica Hecht, advisor to Commissioner Sandoval, for approximately a half hour at 2:10 pm.

The written materials included here in Attachment A were provided in each meeting.

Ms. Wang urged the Commission to adopt the proposed decision (PD) for 2013-14 energy efficiency incentives on September 5th, with NRDC's recommended modifications. She highlighted that there are many elements of the PD that NRDC supports, including tying much of the potential earnings to long-lived energy savings.

In addition, Ms. Wang discussed several key recommendations for improvements to the PD. First, she urged the CPUC to use ex-ante EM&V estimates for 2013-14 as much as possible to allow the Commission and all parties to focus their time and resources on the higher priority endeavor of establishing an improved EM&V process (such as developing a forum for technical experts to vet EM&V issues in a transparent, public process) so that energy saving estimates can be regularly updated in the future. She urged the Commission in particular to fix net-to-gross ratios up-front, and to limit ex-post adjustments to deemed measures that have completed evaluation reports.

Second, she urged the Commission to tie potential utility earnings related to codes and standards efforts to *energy savings* from those efforts, rather than simply encouraging them to spend money on the activity. In addition, she urged the Commission to include a cost-effectiveness threshold and guarantee in the incentive mechanism.

Finally, she urged the Commission to increase the level of potential earnings, and highlighted that the PD's proposed level would send a poor signal by offering lower earnings than in the past and lower than the national average when California needs to dramatically ramp up energy efficiency. She also urged the Commission to present an accurate comparison of the potential earnings with other states, by correcting the inaccuracies in the PD. In particular, she highlighted the numerous flaws with TURN's assertion that the national average is 7% of budget when the true average reported by ACEEE is 12%-13%. She refuted TURN's false claim that states without decoupling should be excluded from the analysis. She explained that decoupling should not influence potential earnings magnitude, since it simply ensures a utility recovers its authorized fixed costs, no *more* and no *less*. Decoupling results in both surcharges and refunds, depending on how sales diverge from forecasts, but it does *not* reward energy efficiency performance; it simply ensures a utility recovers only the fixed costs that its regulator authorized.

Dated: August 30, 2013

Respectfully submitted,

Devra Wang
Director, California Energy Program

Attachment A: Written Materials

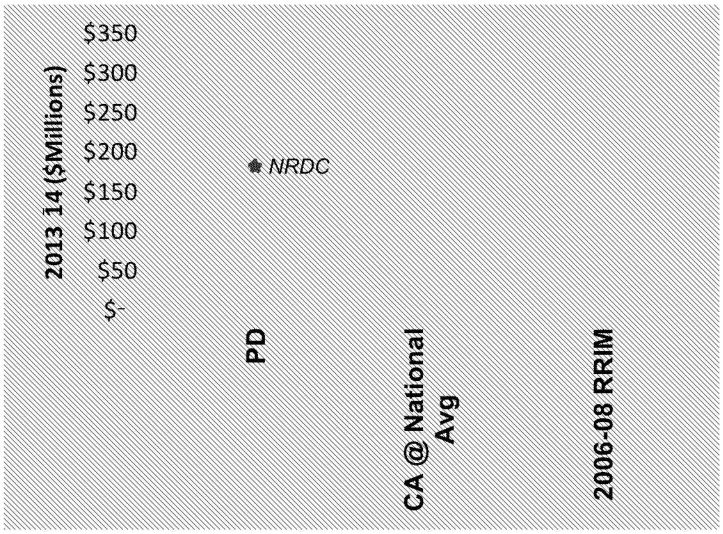
NRDC Recommendations on Energy Efficiency Incentives PD (R.12-01-005)
August 2013

- Adopt the PD as soon as possible, with key modifications.
- Support PD's proposal to tie potential earnings to maximizing long-term energy savings.
- Recommended improvements:

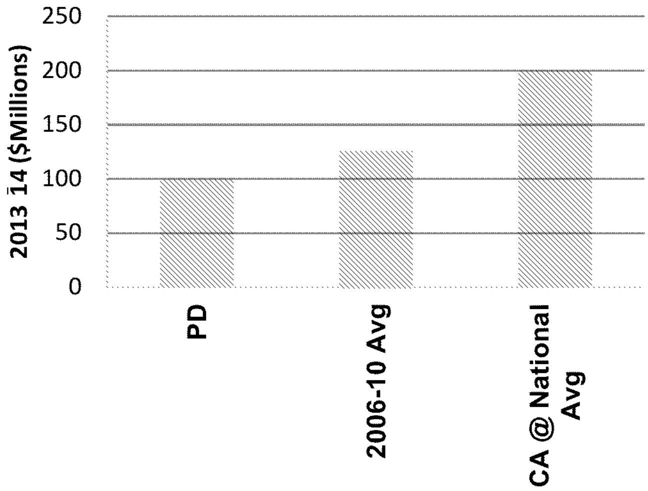
1. **Focus on creating a collaborative process to build confidence in energy savings estimates, and use ex-ante (deemed) estimates in the interim as much as possible.**
    - Use ex-ante net-to-gross ratios, at minimum;
    - Limit ex-post updates to measures and parameters with new *evaluation results*;
    - Clarify how the proposed annual EM&V plans relate to the existing process and plans; and
    - Focus on creating a transparent and collaborative technical forum to vet and build confidence in energy savings estimates going forward.
2. **Continue rewarding *energy savings* from programs that help upgrade or improve enforcement of codes and standards, rather than rewarding *spending money* on the activity as the PD proposes.**
3. **Increase the magnitude of potential earnings to align with efficiency's importance as the state's top priority resource.**
    a. The PD's proposed *maximum* possible earnings level is:
        - **Far below the national average** (the PD's proposed cap is about 7.6% of the total budget, while the national average is 12% to 13%);
        - **Only *half* the level of the cap the CPUC previously authorized** for the 2006-08 incentive mechanism; and
        - **Less than half the comparable supply-side earnings.** While a moderate reduction relative to supply-side comparable earnings would be warranted to account for the relative risk, the PD proposes a very large reduction.

    b. The *expected* earnings level of nearly $100 million for two years is:
        - **At the very low end of the range around the country**, at 5% of the budget (and only half the nationwide average of actual earning awards at 10% to 11% of spending); and
        - **Significantly lower than the CPUC's actual awards for 2006 to 2010** (equivalent to $125 million for a 2-year period).

Earnings Caps



Expected Earnings



Correcting the PD's Comparison of Earnings and the National Average

	Earnings Cap as % of Budget	National Average
PD's Incorrect Comparison	~9% (excluding parts of budget)	7% (based on TURN's incorrect assertions*)
True Comparison	~8%	12-13% (from ACEEE report[1])

*TURN started with the ACEEE report's data, but excluded many states with higher incentives. Now that TURN's original rationales have been refuted, they claim it is because the excluded states don't have decoupling (although some of the low incentive states that they included don't have decoupling, and vice versa).

Decoupling should <u>not</u> influence potential earnings magnitude, since it simply ensures a utility recovers its authorized fixed costs, no *more* and no *less*. Decoupling results in both surcharges and refunds, depending on how sales diverge from forecasts (which is influenced by many factors).[2] Decoupling does *not* reward energy efficiency performance; it simply ensures a utility recovers only the fixed costs that its regulator authorized.

[1] ACEEE, *Carrots for Utilities: Providing Financial Returns for Utility Investments in Energy Efficiency*, U111, January 2011, p. 10.

[2] Morgan, P., *A Decade of Decoupling for US Energy Utilities: Rate Impacts, Designs and Observations,* May 2013.