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 COMMUNICATIONS

In accordance with Rules 8.2 and 8.4 of the Rules of Practice and Procedure of the California Public Utilities Commission (Commission), the Division of Ratepayer Advocates (DRA), hereby gives notice of the following *ex parte* communications.

On August 27, 2013 at approximately 1:00 p.m., Cheryl Cox, DRA's Policy Advisor, Michael Campbell, Program Manager, and Michaela Flagg, DRA Analyst, met with Michael Colvin, Advisor to Commissioner Ferron. The meeting lasted approximately thirty minutes and took place in the Commission building at 505 Van Ness Avenue in San Francisco.

On August 27, 2013 at approximately 1:30 p.m., Ms. Cox, Mr. Campbell, and Ms. Flagg met with Brian Steven, Advisor to President Peevey. The meeting lasted approximately twenty minutes and took place in the Commission building at 505 Van Ness Avenue in San Francisco.

On August 27, 2013 at approximately 3:00 p.m., Ms. Cox, Mr. Campbell, and Ms. Flagg met with Rachel Peterson, Advisor to Commissioner Florio. The meeting lasted approximately thirty minutes and took place in the Commission building at 505 Van Ness Avenue in San Francisco.

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During the above referenced meeting, DRA's representatives discussed the Proposed Decision of Administrative Law Judge Pulsifer titled *Decision Adopting Efficiency Savings and Performance Incentive Mechanism* (PD) and expressed DRA's overall support for the PD yet explained two potential sources of concern. More specifically, DRA's representatives recommended the following modifications to the proposed Energy Savings and Performance Incentive (ESPI): (1) that the Commission solely use ex post evaluation results when determining the resource savings component award; and, (2) that the Commission reduce the overall award cap from 9.1% of the energy efficiency (EE) budget to 7% of EE budget.

Further, DRA's Representatives provided Mr. Colvin, Mr. Stevens, and Ms. Peterson with a handout entitled, "Proposed Decision 2013-2014 Energy Efficiency Portfolios Efficiency Savings and Performance Incentive Mechanism (ESPI)," which is attached hereto as Exhibit 1.

In addition, also on August 27, 2013, Ms. Flagg responded to an e-mail from Mr. Stevens in which she answered questions that had arisen following their ex parte meeting. The e-mail chain containing this correspondence is attached as Exhibit 2.

Respectfully submitted,

/s/ JONATHAN KNAPP

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August 30, 2013

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EXHIBIT 1

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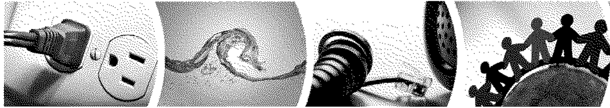

DRA
DIVISION OF RATEPAYER ADVOCATES

Contact: Cheryl Cox - Policy Advisor - 415-703-2495 - cxc@cpuc.ca.gov

PROCEEDING NO: R.12-01-005
August 2013
Commission Action: Expected Sep 5, 2013 Agenda

Proposed Decision 2013-2014 Energy Efficiency Portfolios

Efficiency Savings and Performance Incentive Mechanism (ESPI)

DRA Position: The Commission should adopt the Proposed Decision (PD) with modifications to base Energy Efficiency incentive earnings solely from ex post evaluation results and reduce total award cap from 9.1% to 7% of EE budgets.

Summary of PD's Proposed Incentive Mechanism

Total Magnitude: 9.1% of EE budget or $150 million

- **EE Lifecycle Resource Savings:** Awards up to 8% of resource program expenditures for achieving energy efficiency savings up to 110% of the established portfolio savings goals.
  - Actual savings are determined by a combination of ex post evaluation results and ex ante lock down values with CPUC staff to determine final split:
    - Ex Post: Sufficiently uncertain and custom measures
    - Ex Ante: Remaining measures
- **Ex-Ante Review (EAR) Process Performance:** Rewards up to 2% of all resource program expenditures based on conformance with CPUC's review of ex ante parameters.
- **Codes and Standards:** Management fee of 10% of C&S program expenditures.
- **Non-Resource Programs:** Management fee of 3% of non-resource program expenditures.

Modify PD to Use Only Ex Post Verification

- Use of ex post evaluation assures that ratepayers only fund incentives for energy savings that actually occur.
- Use of ex ante will not avoid contention as observed in the ex ante lockdown process in the 2010-2012 cycle.

- The process for determining which measures receive ex ante / ex post is also likely to cause increased contention.

- The utilization of ex ante values creates a perverse incentive for the IOUs to inflate energy savings estimates over accuracy, in order to increase award amount.
- As stated in the PD, any uncertainty created by ex post will be beneficial in motivating the utilities to ensure implementation of successful EE programs.
- Ex post evaluation will relieve the need for retroactive adjustments via 'true-up' for installation rates, which would be controversial and difficult to enforce.
    - Earnings should only be awarded when results are known.

(over)

Modify PD's Total Award Cap from 9.1% to 7% by Reducing Resource Savings Component

- DRA agrees with the PD that 7% is an appropriate benchmark as it is the average of *comparable* jurisdictions' award caps.
    - It is appropriate to omit jurisdictions from the analysis that differ substantially from California (e.g., both Texas and Colorado do not have full revenue decoupling).
- Award cap must be limited in order to protect ratepayers from funding excessive incentive earnings.
- The PD modified the original proposed mechanism in the ACR from ex post to use some ex ante values, but did not commensurately reduce the award cap to compensate for the decreased risk.

Stretch Net-to-Gross Values for Resource Savings Should Not be Modified as PG&E Proposes

- Incentive mechanism should not use gross savings because it is critical that incentive earnings only be awarded for energy savings attributable to utility programs.
- Use of Net-to-Gross (NTG) values does not penalize market transformation, but instead promotes it.
    - Encourages utilities to pursue programs with low freeridership (high NTG ratios), which are those with the most market transformation opportunity.
- NTG values should be evaluated ex post as program attribution can only be meaningfully measured *after* the program cycle has ended.
    - Encourages utilities to better track market adjustments mid-cycle.
- 'Stretch' NTG (and EUL – Expected Useful Life) values encourage utilities to exceed goals, rather than focusing on award earnings for expected performance.

EXHIBIT 2

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From: Flagg, Michaela
Sent: Tuesday, August 27, 2013 4:56 PM
To: Stevens, Brian
Cc: Campbell, Michael; Cox, Cheryl
Subject: RE: ESPI

Hi Brian,

Minnesota does have full decoupling, but was not included by TURN because Minnesota has adopted a new mechanism that actually has no cap. This was adopted after the ACEEE study was conducted in 2010.

The four other states that TURN omitted all have much larger caps than those within TURN's analysis. Therefore, states without full decoupling have consistently higher caps than those with full decoupling. So I would say that it is safe to assume that such states are incenting at a higher rate because they do not have full decoupling. I do not know what exactly these jurisdictions were considering when setting their caps, but there is a trend.

5 of the 7 states included in TURN's analysis have full revenue decoupling similar to CA. The other two have partial decoupling. Honestly I am not positive why TURN included KY and AZ, but if TURN would have excluded them the average would decrease from 7% to around 6.5%. KY and AZ have higher caps than the states with full decoupling which adds to my point above that there seems to be a trend between cap size and level of decoupling.

Does this answer your questions? Let me know if you would like any clarifications or if you have more questions.

Thanks!
Michaela

From: Stevens, Brian
Sent: Tuesday, August 27, 2013 2:17 PM
To: Flagg, Michaela
Cc: Campbell, Michael; Cox, Cheryl
Subject: RE: ESPI

I also meant to say proposed decision – thanks again.

From: Stevens, Brian
Sent: Tuesday, August 27, 2013 2:10 PM
To: Flagg, Michaela
Cc: Campbell, Michael; Cox, Cheryl
Subject: ESPI

Thanks for the briefing, again.

I found the notes I wanted to question you on. It looks like TURN's analysis included NH, KY, AZ, CT, MA, VT, and DC. They excluded CO, MN, OK, OH, TX because those states have not instituted comparable decoupling.

Is it safe to assume the states, listed above, that do not decouple incent EE at a higher rate to overcome the incentive for the IOUs to sell more energy? Have the states included in the TURN analysis implemented comparable decoupling measures to California?

I am going to be going through this decision tonight, so thank you again for your help.

Regards,

Brian

Brian Stevens
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