



**FILED**

11-08-10

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**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Examine the  
Commission's Energy Efficiency Risk/Reward  
Incentive Mechanism.

**R. 09-01-019**

**WOMEN'S ENERGY MATTERS  
COMMENT ON THE REVISED ALTERNATE DECISION**

November 8, 2010

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**WOMEN'S ENERGY MATTERS  
COMMENT ON THE REVISED ALTERNATE DECISION**

Women's Energy Matters (WEM) appreciates this opportunity to comment on the Revised Alternate Proposed Decision of Commissioner Bohn ("Rev. Alt."), pursuant to the October 19, 2010 memo from the Chief ALJ with the attached Revised Alternate.

WEM made brief general comments on the Alternate in our previous 10-18-10 comments.

We appreciate the Rev. Alt. stating clearly that, "it is a deviation from the original incentive mechanism process." Rev. Alt. p. 3. WEM previously stated that we felt there was no good reason for the deviations proposed here (or those in the ALJ's Proposed Decision).

The Rev. Alt. offers the following "Principles Governing the RRIM True-Up Process:"

Incentives are earned as a function of the IOU's success in achieving adopted energy savings goals. Conversely, if the IOU fails to achieve at least minimally acceptable energy efficiency savings, the IOU receives no RRIM earnings, and may incur a penalty. Rev. Alt., p. 8.

These "principles" should be deleted, as the Rev. Alt. did not follow them. Instead, it describes a series of "adjustments" that were made to the interim ED Verification, in order to produce the amounts awarded in D.09-12-045:

- (1) Both positive and negative interactive savings effects were applied;
- (2) The cumulative effects of 2004-2005 savings goals were excluded;
- (3) Savings goals were adjusted for interactive effects that were not originally considered in setting 2006-2008 goals;
- (4) A shared savings rate of 12% was used by applying the IOUs' original unmodified *ex ante* assumptions in comparing the IOUs' reported savings achievements relative to Commission goals;
- (5) The NTG ratio applied for savings attributable to SCE's residential lighting program was adjusted to reflect SCE's specific implementation approach to this program; and
- (6) The realization rate applied to SDG&E's Energy Savings BID program and SoCalGas' Local Business Energy Efficiency program was adjusted to reflect the unique nature of those programs as compared to more generic statewide programs. Rev. Alt., p. 12.

The Rev. Alt proposed to award the utilities the “holdback” amount from D0912045, rather than make a new series of adjustments to the final true-up report (as in the ALJ PD).

WEM believes none of the adjustments were justified — either in the D0912045 or the ALJ’s PD here. But it is more offensive for the Rev. Alt. to build final rewards around an interim verification — essentially rejecting the findings of the final, comprehensive report.

It is especially offensive that the Rev. Alt. brushed off DRA’s analysis that showed PG&E incurred an immense penalty:

In its July 9, 2010 comments, DRA claims that the Energy Division penalty calculations for PG&E are understated, and offers corrected values. DRA points out that the PG&E penalty amount calculated by the Energy Division only includes repayment of the interim incentives, rather than the per unit penalty established in D.07-09-043 where energy utility savings are less than 65%. Energy Division calculated that PG&E only achieved 60% of its megawatt (MW) Goal. Applying the penalty of \$25,000/MW to PG&E’s deficit of 32 MW yields a penalty of more than \$800,000. Energy Division also calculates that PG&E achieved only 63% of its MMtherm (MMTh) goal. Applying the per-unit penalty would result in a penalty of \$450,000. DRA argues that these goal shortfalls should result in additional penalties of \$1.25 million. Rev. Alt., p. 15, fn. 13 (emphasis added).

**Corrections needed – a typo in a footnote:**

A significant typo in DRAs comments was carried through in the footnote quoted above – the figure of “\$1.25 million” should be corrected to read “\$1.25 Billion” with a B. The Rev. Alt. misrepresented DRA’s conclusion as “additional” penalties when in fact it was the total of \$800,000 plus \$450,000. DRA’s statement read:

Applying the penalty of \$25,000/MW to PG&E’s deficit of 32 MW yields a penalty of more than \$800,000.<sup>5</sup> In addition, PG&E also fell short of its MMTh Goal, achieving a level of only 63%.<sup>6</sup> Applying the per unit penalty would result in a penalty of \$450,000 to the MMTH Goal.<sup>7</sup> These two goals shortfalls should result in penalties of \$1.25 million in addition to the \$74.9 million repayment of interim incentives. DRA Comments, 7-9-10, p. 2 (emphasis added).

Both the Rev. Alt. and the PD relegated these astounding figures to a footnote – brushing off the fact that *PG&E’s programs fell so far short of the standards by which these programs were supposed to be measured, that it should pay a penalty almost as large as the funding for the programs*.

### **Corrections needed — the big picture is wrong**

The Commission put *ratepayers* on the hook for a very big risk — that utilities would overcome their irreconcilable conflicts of interest and do a good job on these programs *if* they could earn incentives. **The gamble failed. Utilities did a poor job, and PG&E did the worst of all.** *But the Commission wants to perpetrate a fiction that the IOUs did a good job.*

Ratepayers are already paying the price of the IOUs' failures in all sorts of ways — they pay on the supply side because the electricity system continues to grow instead of being reduced by the amount of the goals (i.e. they pay for construction of new power plants and new transmission lines, and profits on those to the extent the utilities built them) — and residential customers pay unnecessarily high rates since they received virtually nothing in the way of long-term energy savings in their homes in 2006-08 — because the utilities offered only a minimal amount of EE funds to residential customers and provided little other than CFLs for them.

Now on top of all that, the Rev. Alt. wants to sock ratepayers with a final helping of undeserved profits for the utilities.

*The money might be bad enough, but WEM finds the most offensive thing of all is that the Commission wants to falsify reality, and pretend that the utilities did a good job.* This is not just a cute little gift to the shareholders and IOU Public Relations departments. This is how the Commission has justified the IOUs' continued monopoly on EE funds — by pretending that that IOUs' programs are “successful.”

The Rev. Alt., like the PD, noted that parties failed to settle in spite of urgent Commission requests. Both proposed decisions noted that the process has been contentious. However, they do not reveal the deeper question that underlay the contentiousness for many parties.

*The Rev Alt. and the PD should say this:*

Three of the four public interest parties have repeatedly urged the Commission to end the RRIM process and the RRIM, because it *simply doesn't work* — and end the utility monopoly on EE, which the RRIM serves to justify.

**No justification for misuse of EE funds**

There are very good reasons why the Commission should set aside the question of PG&E's earnings, as WEM has already requested in this proceeding, until it completes an investigation of the company's misuse of energy efficiency (EE) funds. WEM has filed comments in this proceeding and the EE Rulemaking R0911014 regarding PG&E's misuse of funds throughout the 2006-08 program years (for example, our 7-23-10 Reply in this proceeding).<sup>1</sup>

**Conclusion**

The Commission should take a deep breath and impose penalties on the utilities, particularly PG&E. Then it should declare the end of the RRIM experiment. Alternatively, it should suspend its consideration of the RRIM for PG&E pending a full investigation of the company's misuse of EE funds.

Dated: November 8, 2010

Respectfully Submitted,

/s/ Barbara George

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<sup>1</sup> In the "future" phase of this proceeding, in the July 15, 2009 workshop WEM presented evidence of PG&E's improper use of EE funds to benefit a sitting ALJ.

**CERTIFICATION OF SERVICE  
R0901019**

I, Barbara George, certify that on this day November 8, 2010 I caused copies of the attached WOMEN'S ENERGY MATTERS COMMENT ON THE REVISED ALTERNATE DECISION to be served on all parties by emailing a copy to all parties identified on the electronic service list provided by the California Public Utilities Commission for this proceeding, and also by efilng to the CPUC Docket office, with a paper copy to Administrative Law Judge Thomas Pulsifer, and Presiding Commissioner John Bohn.

Dated: November 8, 2010 at Fairfax, California.

*/s/ Barbara George*

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DECLARANT

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