

**PUBLIC UTILITIES COMMISSION**505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298**FILED**
11-15-11
11:49 AM

November 15, 2011

Agenda ID #10849
Ratesetting

TO PARTIES OF RECORD IN APPLICATION 11-06-027 et al.

This is the proposed decision of Administrative Law Judge (ALJ) Thomas R. Pulsifer. It will not appear on the Commission's agenda sooner than 30 days from the date it is mailed. The Commission may act then, or it may postpone action until later.

When the Commission acts on the proposed decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the proposed decision as provided in Article 14 of the Commission's Rules of Practice and Procedure (Rules), accessible on the Commission's website at www.cpuc.ca.gov. Pursuant to Rule 14.3, opening comments shall not exceed 15 pages.

Comments must be filed pursuant to Rule 1.13 either electronically or in hard copy. Comments should be served on parties to this proceeding in accordance with Rules 1.9 and 1.10. Electronic and hard copies of comments should be sent to ALJ Thomas R. Pulsifer at trp@cpuc.ca.gov and the assigned Commissioner. The current service list for this proceeding is available on the Commission's website at www.cpuc.ca.gov.

/s/ JANET A. ECONOME for
Karen V. Clopton, Chief
Administrative Law Judge

KVC:lil

Attachment

Decision **PROPOSED DECISION OF ALJ PULSIFER** (Mailed 11/15/2011)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U338E) for Approval of its 2009 Energy Efficiency Incentive and Funding Requests.

Application 11-06-027
(Filed June 27, 2011)

And Related Matter.

Application 11-06-028
Application 11-06-031
Application 11-06-032

DECISION ADOPTING 2009 INCENTIVE EARNINGS AWARDS

TABLE OF CONTENTS

<u>Title</u>	<u>Page</u>
DECISION ADOPTING 2009 INCENTIVE EARNINGS AWARDS.....	1
1. Summary	2
2. Introduction	2
3. Procedural Background	3
4. Framework for Review of 2009 Energy Efficiency Incentive Award Claims	6
4.1. Discussion	9
5. Overview of Utility Incentive Earnings Claims	12
5.1. Claim Presented by PG&E	12
5.2. Claim Presented by SCE	13
5.3. Claim Presented by SDG&E.....	14
5.4. Claim Presented by Southern California Gas Company	14
6. Energy Division Review of Utility Claims for 2009.....	15
6.1. Energy Division Review of <i>Ex Ante</i> Savings Calculations from CFL Bulb Installations	17
7. Responses to the Energy Division Compliance Report.....	19
7.1. Response of PG&E.....	19
7.2. Response of SCE	21
7.3. Response of SDG&E and SoCalGas (The Joint Utilities)	21
7.4. Response of NRDC	22
8. Discussion	24
9. Assignment of Proceeding.....	27
10. Comments on Proposed Decision	27
Findings of Fact	27
ORDER.....	31
APPENDIX 1 - Derivation of 2009 Utility Incentive Claims	
APPENDIX 2 - Explanation of Adopted Adjustment to 2009 Incentive Earnings Claims for Effects of Double-Counting of Compact Florescent Light Bulbs Installations	

DECISION ADOPTING 2009 INCENTIVE EARNINGS AWARDS

1. Summary

In this decision, we award a total of \$61,541,038 to Southern California Edison Company, Pacific Gas and Electric Company, and San Diego Gas & Electric Company and Southern California Gas Company) (collectively, the utilities or the applicants) for savings achieved in their calendar year 2009 energy efficiency programs.

2. Introduction

The Commission originally adopted the Risk/Reward Incentive Mechanism (RRIM) in Decision (D.) 07-09-043 as means of promoting a strong utility commitment to achieving energy efficiency goals by offering incentives for significant energy efficiency achievements (or penalties for sub-standard performance). The magnitude of rewards (or penalties) is based on a share of the resource cost savings that energy efficiency measures are deemed to provide.

Through a series of decisions in Rulemaking (R.) 09-01-019, we authorized RRIM earnings for the 2006-2008 program cycle. In D.08-10-027, the Commission previously authorized the utilities to extend their authorized 2006-2008 energy efficiency programs into 2009 as a bridge year pending approval of an updated portfolio of new programs for the subsequent cycle. In D.10-12-049, we authorized the utilities to apply for energy efficiency incentive awards for 2009 program activity using the formulas and framework generally used for the 2006-2008 RRIM true up.

For the 2009 bridge year, the utilities collectively seek approval of incentive awards totaling approximately \$77,164,045. Table 1 of Appendix 1 of this decision summarizes the derivation of the utilities' incentive earnings claims

for 2009. As discussed below, we reduce the requested claims to correct for an overstatement in the calculation of energy efficiency savings due to compact florescent light installations, as explained below. The resulting adjusted total of 2009 savings yields incentive awards of \$61,541,038. In all other respects, we conclude that the adjusted 2009 incentive claims have been calculated in accordance with the RRIM formula and Commission guidance prescribed in D.10-12-049. Accordingly, we approve 2009 incentive earnings awards of \$61,541,038. The utilities' claims and Commission approval for 2009 incentive awards are set forth below:

<u>Utility</u>	<u>Requested</u>	<u>Awarded</u>
PG&E	\$ 32,446,184	25,748,156
SCE	27,572,109	20,540,808
SDG&E	15,108,031	13,671,997
SoCalGas	2,037,721	2,037,721
	\$77,164,045	\$61,998,682

We authorize these adjusted awards in recognition of Commission commitments set forth in D.10-12-049 regarding the treatment of 2009 RRIM award claims. By authorizing these awards, however, we do not create a precedent or basis for how the Commission may design incentives for the current 2010-2012 energy efficiency program cycle or subsequent years' activities. We defer that issue to a separate decision. These applications are closed.

3. Procedural Background

In Decision (D.) 07-09-043, the Commission instituted the Risk/Reward Incentive Mechanism (RRIM) to provide both shareholder earnings and a return on ratepayers' investment in energy efficiency. RRIM awards for the 2006-2008

cycle were concluded in D.10-12-049 for each of the above-referenced utilities. The Commission also made provision in D.10-12-049 for the utilities each to request an incentive earnings award for achievements in energy efficiency for 2009 program activity.

The Commission directed the utilities to submit their respective applications for award of calendar-year 2009 RRIM earnings by June 30, 2011, to allow for consideration and disposition by December 31, 2011.¹

On June 27, 2011, Southern California Edison Company (SCE) and Pacific Gas and Electric Company (PG&E) each filed applications for approval of 2009 Energy Efficiency Incentive Funding Requests. On June 30, 2011, San Diego Gas & Electric Company (SDG&E) and Southern California Gas Company (SoCalGas) filed similar applications for approval of their incentive claims.

By Chief Administrative Law Judge's (ALJ) Ruling dated July 12, 2011, the four applications were consolidated since they raise similar issues. The Chief ALJ preliminarily categorized the applications as ratesetting as defined in Rule 1.3(e) of the Commission's Rules of Practice and Procedure, with hearings necessary. No party disagreed with the categorization, which is hereby confirmed. The Commission's Division of Ratepayer Advocates (DRA) filed the only protest to the consolidated applications on August 5, 2011. The applicants filed a consolidated response to DRA on August 15, 2011. No other responses to the protest were filed.

In the scoping memo dated September 12, 2011, the assigned Commissioner directed the Energy Division to review the calculation of 2009

¹ See D.10-12-049, Ordering Paragraph 4.

incentive award claims proposed in the applications to ascertain that the awards are calculated in compliance with D.10-12-049 and to submit a report.

In response to this directive, Energy Division filed a compliance report on September 30, 2011. The joint utilities subsequently requested the detailed and technical documentation and work products, including Evaluation Reporting Template (ERT), and RRIM worksheets, that the Energy Division used to support its findings. The Energy Division response was provided on October 3, 2011. Energy Division hosted a conference call on October 13, 2011 to answer clarifying questions on the compact fluorescent light (CFL) component of its report. Comments in response to the Energy Division compliance report were filed on October 14, 2011, by the applicants, DRA, and Natural Resources Defense Council (NRDC).

The utilities and Energy Division participated in multiple conference calls and discussions regarding the calculation of the 2009 claim. The 2009 claims are using the Energy Division's 2009 ERT software tool using *ex ante* input assumptions adjusted by *ex post* installation rates.

Although Energy Division held informal meetings to confer with parties regarding the incentive calculations, no formal evidentiary hearings were conducted in this proceeding.² The assigned ALJ issued a ruling on November 2, 2011, admitting into evidence the supporting testimony of applicant witnesses. Accordingly, this decision is based upon the written record of the consolidated

² No party requested hearings to cross examine utility witnesses. DRA states in its protest to the applications that: "hearings may not be fruitful given DRA's fundamental disagreement with awarding incentives for energy efficiency portfolios, especially based solely on utility-reported savings for portfolios whose true cost-effectiveness is unknown." (DRA Protest at page 8).

applications and testimony in support of the 2009 claims, the DRA protest and responses thereto, and the Energy Division compliance report and responses thereto.

4. Framework for Review of 2009 Energy Efficiency Incentive Award Claims

As a threshold matter, we identify the framework and scope of inquiry that applies in reviewing applicants' 2009 incentive claims. For purposes of evaluating the 2009 incentive claims, our focus is on whether the utilities have properly applied the adopted RRIM formulas consistent with the guidance in D.10-12-049.

D.07-09-043 adopted the initial framework to calculate incentive earnings awards or penalties based on a comparison of achieved efficiency savings relative to the adopted energy efficiency goals. Incentive rewards are calculated as a percentage of the "Performance Earnings Basis" which represents deemed resource savings from deployment of specified energy efficiency measures. As originally designed, if utility programs realized savings greater than 85%-- but less than 100%-- of energy efficiency goals, the utility earned incentives of 9% of total savings. If a utility realized savings greater than 100% of the energy efficiency goals, a 12% shared savings rate applied.³ For the 2006-2008 true up claim, as well as for the 2009 bridge year, to reflect the reduced investor risk associated with certain modifications in the calculation of deemed savings, the Commission reduced the shared savings rate to 7%.

³ Savings between 65% and 84% were considered to be in the "deadband" range and a 0% SSR applied. Falling below 65% subjected the Utilities to penalties. Maximum limits on incentive earnings and penalties for all Utilities were capped at \$450 million for the 2006-2008 cycle.

For the 2009 program cycle bridge funding period and adopted incentive mechanism, utility performance is measured against the cumulative energy efficiency goals. The cumulative period began in 2006, using the goals adopted by D.04-09-060 and modified in D.09-09-047.

In 2008, the Commission modified the measurement of adopted goals from a net to a gross basis, starting in 2009. As a result, the cumulative performance period was calculated to include goals and impacts for the 2006-2008 program cycle measured in net results and the 2009 program period goals and impacts measured in gross results.

The Commission requires the utilities to provide with their applications the Microsoft Access ERT tool used to modify the 2009 *ex ante* numbers to gross savings in order to facilitate the Commission's review of their incentive claims.

The utilities are required to make up 50% of all savings that expire from measures installed after 2005. The ERT software tool calculates this value and was populated in the Risk Reward Spreadsheet Template)⁴ by the Energy Division for use in this claim.

For purposes of measuring MPS performance, the utilities are allowed to count 50% of verified pre-2006 and 100% of post-2005 Codes and Standards (C&S) advocacy work.

DRA differs with the applicants and NRDC as to the appropriate standard for review of 2009 incentive claims. DRA recommends summary denial of the consolidated applications, or in the alternative, holding them in abeyance pending a complete overhaul of what DRA characterizes as "the fundamentally

⁴ See Exhibit SCE-2.

flawed and seriously outdated energy efficiency incentives structure.” (See DRA Protest).

For calculating 2009 incentive claims, the assumed energy efficiency savings are based on utility-reported results utilizing *ex ante* assumptions.⁵ The *ex ante* assumptions have not been subjected to an independent *ex post* evaluation. DRA argues that (1) utility-reported savings for the 2009 bridge funding year are likely overstated such that (2) true utility savings did not reach the minimum performance standard (MPS) required to qualify for incentive payments. Given the performance of the 2006-2008 programs and the fact that the portfolios essentially stayed the same during 2009, DRA argues that it is unlikely that utilities would have been able to compensate for 2006-2008 underperformance and surpass goals in 2009 if actual savings, as determined by independent evaluations, are considered.

DRA asks the Commission to consider the following issues in addressing the utilities’ request for 2009 RRIM awards:

- (1) The reasonableness and prudence of awarding incentives based on utility-reported savings that were not independently evaluated, measured, or verified;
- (2) The reasonableness and prudence of adding further ratepayer expenses on portfolios for which the true cost-effectiveness is unknown;

⁵ *Ex ante* refers to assumed energy savings associated with a particular energy efficiency measure or equipment prior to installation. Thus, *ex ante* refers to using program metric assumptions based on past program performance. *Ex ante* measurement relies on engineering estimates or the results of *ex post* savings measurement (e.g., load impact studies) from previous program years or other program experience. (See D.05-04-051 at 35.)

- (3) The applicability of energy efficiency assumptions derived from 2005 and 1990's field studies to determine 2009 savings; (4) The reasonableness and prudence of spending ratepayer dollars on a policy which DRA believes is known to fail in function; and
- (4) Whether stakeholder, Commission, and Commission staff should spend more time on a 2009, interim year issue within the Commission's Energy Efficiency program.

In response, the utility applicants argue that DRA's protest fails to raise any legal or factual issues that call into question the authority by which the utilities submitted their respective applications for approval of 2009 energy efficiency incentives. The utilities argue that the Commission specifically considered and rejected DRA's recommendation to rely upon the 2006-2008 Energy Efficiency Evaluation Report of *ex post* results as a basis for the 2009 incentive applications.

4.1. Discussion

In D.10-12-049, we decided the methodology and formulas whereby RRIM earnings claims for 2009 are to be reviewed and evaluated. As stated in the assigned Commissioner's Ruling dated September 12, 2011, the scope of issues in this proceeding is to review the 2009 incentive claims, including whether the applications for 2009 incentive earnings have appropriately complied with directives in D.10-12-049. The Commission concluded in D.10-12-049 that "the modifications to the incentive mechanism adopted herein" should apply to the 2009 energy efficiency program year (D.10-12-049, Conclusion of Law 9). The Commission set forth specific directives concerning how incentive earnings for 2009 were to be calculated and submitted. (*Id.*, Ordering Paragraph 4).

Accordingly, while D.10-12-049 recognized that the future design of the incentive mechanism for 2010 and beyond must be subject to subsequent

proceedings in Rulemaking (R). 09-01-019, the methodology for calculating calendar-year 2009 incentive awards has already been prescribed. While DRA might disagree with the concept of awarding the utilities for achieving energy efficiency savings during the 2009 program year, that issue is beyond the scope of these applications. We will not re-litigate the disputes concerning the manner in which an incentive mechanism should be designed for the limited purposes of resolving these consolidated applications.

The scope of this proceeding thus focuses on whether the incentive claims were determined in accordance with the formulas and directives set forth by the Commission in D.10-12-049. The broadening of the inquiry to delve into disputes over the fundamental design of the RRIM, including the metric to measure the energy efficiency savings as proposed by DRA, is also beyond the scope. We believe that D.10-12-049 was clear with its intent to measure 2009 RRIM earnings claims using *ex ante* metrics. In this proceeding, we will not relitigate the controversy over the merits of using *ex ante* measures in calculating 2009 RRIM awards. By adhering to the treatment of 2009 incentive claims laid out in D.10-12-049, we underscore our commitment to promoting energy efficiency and preserve credibility in the consistency of our regulatory treatment. We do note, however, that the Commission was only prescriptive for the savings achieved during the 2009 program cycle; subsequent RRIM design for the 2010-2012 program cycle or beyond has not been determined by the Commission. That topic is the subject in R.09-01-019 and our actions today should not be considered to extend beyond these applications.

In the interests of accountability and responsible oversight, the Assigned Commissioner directed the Energy Division to independently ascertain that the calculations of 2009 incentive earnings were conducted in compliance with the

directives of D.10-12-049.⁶ We recognize that this review is limited to confirming compliance with the directives set forth in D.10-12-049. As such, we acknowledge that the utilities' claims of actual energy efficiency savings achieved for 2009 are merely based on *ex ante* assumptions; these *ex ante* assumptions may not reflect actual efficiency savings achieved. Accordingly, we make no findings concerning the actual efficiency savings achieved by the utilities. Our rewarding an incentive for energy savings for activities conducted during the 2009 program year is based on these *ex ante* assumptions, and we make no determinations about how the utilities' performance should impact future program design. Our findings are limited to confirming that the calculations of savings have been correctly based on the application of *ex ante* assumptions as specified in D.10-12-049.

As a basis to evaluate the 2009 incentive claims, we apply the following directives in D.10-12-049, Ordering Paragraph (OP) 12, which provides that:

-- In developing and submitting their respective applications, the utilities shall recalculate their 2009 *ex ante* savings in the ERT tool to reflect gross *ex ante* savings. The utilities may also incorporate estimated net benefits attributable to post-2006 Codes & Standards (C&S) program advocacy efforts.

-- No other modifications can be made to the ERT tool or the ERT input sheets, except SCE is allowed to revert some of the Gross Realization rates and [Net to Gross Ratios] back to the values used in the planning of the 2006-2008 portfolio consistent with the changes identified in Table 5 [in D.10-12-049].

⁶ Assigned Commissioner's Ruling and Scoping Memo, dated September 12, 2011, at 5 and 6.

-- The utilities shall use the risk reward spreadsheet template provided by Energy Division which recognizes the removal of 2004- 2005 goals and savings, the inclusion of 2006-2008 net goals and 2009 gross goals, the inclusion of 50% decay from 2006-2008, and the inclusion of verified C&S savings using 50% for pre-2006 and 100% post-2006 as directed in other Commission directives herein. The utilities shall provide the following with their applications in order to facilitate the Commission's review of their incentive claims:

- The Microsoft Access ERT tool the utilities used to modify the 2009 *ex ante* numbers to gross savings.
- For SCE, any ERT Input Sheets that have been modified.
- The Risk Reward Spreadsheet used to calculate the incentive amounts.
- A document that describes the files or tables that were changed, and what specific changes were made.

5. Overview of Utility Incentive Earnings Claims

5.1. Claim Presented by PG&E

PG&E claims eligibility for energy efficiency incentives for 2009 in the amount of \$32,446,184, representing \$27.2 million for its electric department revenue requirement and \$5.2 million for its incremental gas transportation revenue requirement.

For 2009, PG&E claims realized energy savings of 2,031 gigawatthours (GWhs), 327 megawatts (MWs) and 17 Million Therms (MMTs) through PG&E's energy efficiency resource programs. When compared to the Commission's 2009 savings goals, PG&E calculates that its 2009 energy efficiency programs achieved 200%, 142% and 115% of the Commission's 2009 energy goals for GWh, MW and MMTs respectively. The savings resulted in \$942 million in net resource benefits. PG&E claims that its cumulative energy savings achieved from its 2006- 2009

energy efficiency programs exceeded the MPS as required by D.07-09-043 and D.10-12-049.⁷

In response to the areas of potential uncertainty noted in the Energy Division Report, PG&E provided Attachment 2 to its comments – a memorandum prepared by Heschong Mahone Group that further describes the methodology used and addresses various points noted in the Energy Division Report.

For program years 2006-2009 PG&E calculates that it exceeded the 80% MPS threshold for each individual savings metric, as well as the 85% threshold across the three savings metrics combined.

5.2. Claim Presented by SCE

SCE claims eligibility for 2009 energy efficiency incentives in the amount of \$27,572,109.

In order to qualify for incentive earnings, the RRIM requires savings greater than 85% of the Commission's energy efficiency 2006-2009 goals. For 2009, SCE claims achievement of 113% of the Commission's 2006-2009 energy efficiency goals. Because this result exceeds the MPS of 85%, SCE claims eligibility to receive 2009 RRIM earnings of \$27,572,109.

SCE claims savings from all CFLs installed in 2009, including those originally incented during the 2006-2008 program cycle. For example, in the Energy Division's evaluation of the 2006-2008 program cycle, they estimated a percentage of CFLs were purchased but not installed during that program cycle.

⁷ See PG&E Prepared Testimony Sec. C.1.a. and App. A thereto.

However, the Energy Division estimated the percentage of those CFLs from 2006-2008 that were installed in 2009.

SCE calculates achieved savings that exceed the MPS under the Commission's adopted mechanism for 2009, making SCE eligible to receive 7% of the total net benefits calculated for calendar year 2009. SCE claims that its methodology to calculate 2009 savings and benefits is appropriate and complies with Commission policy. SCE submitted the ERT software tool, database, and corresponding methodologies in Exhibit SCE-3.

5.3. Claim Presented by SDG&E

SDG&E claims eligibility for approval of incentive earnings of \$15,108,031 for calendar year 2009 RRIM achievements based on claimed energy savings of 55.7 GWhs, 118 MWs, and 3.3 MMTs. The claimed savings included the results of point-of-sale rebates for energy efficient appliances marketed through "big box" retail outlets, the "Advanced Home Program" for residential new construction, and the "On-Bill Financing Program" for non-residential customers. SDG&E claimed achievement of up to 160% of Commission MW savings goals and 88% of goals for therm savings.

SDG&E proposes to record \$14,654,790 of its 2009 RRIM award in its electric "Rewards and Penalties Balancing Account" (RPBA) and the remaining \$453,241 in its gas RPBA, to be recovered as a 12-month amortization in electric and gas rates in connection with SDG&E's annual regulatory account balance update filings effective January 1, 2012.

5.4. Claim Presented by Southern California Gas Company

SoCalGas requests \$2,037,721 in earnings claims for calendar year 2009, based on claimed achievement of natural gas efficiency savings of 20.7 MMTs,

representing 109% of the Commission's goals for therm savings. As the basis for achieving these claimed savings, SoCalGas points to its residential programs, including point-of-sale rebates at "big box" retail outlets, its "Advanced Home Program" for residential new construction, and its "Local Business Energy Efficiency Program" which targets all non-residential customers. SoCalGas points to its "On-Bill Financing Program" designed to facilitate the purchase and installation of qualified efficiency measures by customers who might otherwise not be able to afford such measures. SoCalGas reports savings of 171,000 therms per year resulting from this program.

6. Energy Division Review of Utility Claims for 2009

As directed, Energy Division reviewed the utilities calculations of 2009 incentive claims, including the supporting files submitted with each application and the calculation of Net Benefits in the Risk Reward Spreadsheet. To ensure that the values in the risk reward spreadsheet were not altered, the Energy Division compared the Risk Reward Template to the Risk Reward spreadsheets submitted with each utility's application. The comparison test showed that the utility spreadsheet matched the Energy Division template. In its preparation of the report Energy Division, however, was unable to duplicate the 2009 energy savings and net benefit numbers used in each utility's Risk Reward spreadsheets, implying that the ERT was not properly used, as ordered by the Commission in D.10-12-049.

Energy Division found the utilities complied with the general requirements of D.10-12-049 by providing the ERT tool, input sheets, the Risk Reward spreadsheet, and documentation describing any changes made. Energy Division made the following assessments of the utilities' modifications and adjustments:

--PG&E's modifications to the ERT to create *ex ante* savings are appropriate. PG&E's 2009 GWh and MW numbers from the ERT are very close to the Risk Reward numbers, but the therms, Total Resource Cost (TRC) Net Benefits and Program Administrator Cost (PAC) Net Benefits have a variance of more than 15%:

--SCE's modifications to the ERT to properly calculate the *ex ante* savings and to the Residential Lighting input sheet to allow for proper mapping are appropriate. SCE made additional adjustments to their TRC and PAC Net Benefits to properly include additional program costs that SCE believed were missing from the ERT.

--SCE's 2009 GWh and MW numbers from the ERT vary by more than 30% when compared to the Risk Reward spreadsheet, but the TRC Net Benefits and PAC Net Benefits match almost exactly (.5% variance).

--SDG&E's 2009 GWh, MW, Therm, TRC Net Benefits and PAC Net Benefits vary between 22% and 67% when comparing the ERT values to the Risk Reward spreadsheet.

-- SoCalGas' 2009 Therm values from the ERT differ by more than 12% when compared to the Risk Reward spreadsheet while the TRC Net Benefits differ by 61% and the PAC Net Benefits differ by 8%.

For purposes of its compliance report, Energy Division was not able to duplicate all of the 2009 energy savings and net benefits numbers used in each utility's Risk Reward Spreadsheet based on follow up meetings with the utilities and review of utilities' responses to the report, however, Energy Division was able to reconcile these variances and to ensure that the 2009 energy savings and net benefits numbers were properly calculated with the exception of several programs that SoCalGas added to the ERT tool, some potential inconsistencies in the C&S parameters used by the Utilities (the Report noted that there remained some uncertainty in the C&S input parameters used, but that Energy Division did not anticipate that these discrepancies would have a significant impact -

more than a few percent in either direction – on the earnings calculations), and the savings attributable to CFL bulbs, as discussed below.

6.1. Energy Division Review of *Ex Ante* Savings Calculations from CFL Bulb Installations

According to Energy Division's CFL installation model, over 30 million 2006-2008 and 2009 program CFLs were installed by utility customers in 2009. According to the Energy Division's analysis, based on *ex ante* assumptions, those CFLs would be predicted to save customers over \$200 million in lower utility bills

According to the Energy Division, in calculating their energy efficiency savings to attribute to 2009 RRIM awards, the utilities counted savings from CFL bulbs that were incented in the 2006-2008 portfolio period, but that were actually installed by customers during 2009. In addition, the utilities increased their 2009 savings total by also counting CFL bulbs that were both incented for the 2009 bridge year and actually installed during that year.

In D.10-12-049, the Commission gave guidance on how to attribute credit for CFLs purchased during the 2006-2008 cycle but not installed until 2009 and stated.⁸ "...nothing in this decision precludes the utilities from seeking credit for energy savings based on the installation of CFLs that were procured and rebated over the 2006-2008 cycle but which were not installed in that period, provided an incentive mechanism is adopted on a going forward basis." The Energy Division interprets this language to allow the claims of savings from the inclusion of CFLs purchased in 2006-2008 but installed in 2009, though the Report noted that an alternative, more literal interpretation of the Commission's guidance would be

⁸ See page 59 of D.10-12-049.

that a new incentive mechanism (not the 2006-2008 RRIM) would need to be adopted to provide shareholder incentives for the stored bulbs. The Energy Division Report also identified three areas of potential overestimation of 2009 savings that could result from using the CFL bulb installation model, which was not originally designed to address bulbs from prior years coming out of storage:

- The 50% CFL decay might need to be removed or modified such that the CFLs installed from storage or new purchases are not duplicated in order to avoid a double count of this decay offset;
- The 2009 CFL installation rates used need to be updated to utilize the same installation rate model used to calculate the installations from stored CFL to ensure there is no double counting of installed CFLs; and
- The 2006-2008 CFL quantities used to estimate the number of bulbs installed in 2009 needs to be re-calculated to ensure they are consistent with the decay and 2009 installation rates mentioned above to ensure there is no double or triple counting due to the three combined interacting components of CFL savings credits.

At the time that the Energy Division Compliance Report was issued, staff had not yet calculated the 2009 RRIM award adjustment necessary to correct for any over counting of CFL bulb installations. (Energy Division has now calculated the adjustment necessary to correct for the second and third errors, but elected not to make any adjustments for the first, as staff believes that no significant double count results from decay assumptions embedded in the model when bulbs coming out of storage are factored in.) If we were to make the proposed adjustments, the resulting impact on the incentives would be as follows:

	Utility Award Claim	(Adjustment)	Adjusted Award Amount
PG&E	32,446,184	(6,698,028)	25,748,156
SCE	27,572,109	(7,031,301)	20,540,80
SDG&E	15,108,031	(1,436,034)	13,671,997
SoCalGas	2,037,721		
	77,164,045	(15,165,363)	61,998,682

There are a number of steps in calculating these adjustments. For clarity, a detailed explanation of the calculations supporting the adjusted RRIM awards for 2009 is set forth in the Appendix to this decision.

7. Responses to the Energy Division Compliance Report

7.1. Response of PG&E

PG&E states that since Energy Division released its Report, PG&E has worked closely with Energy Division to identify the reasons for the discrepancy between the Energy Division and PG&E savings calculations for the 2009 program year. PG&E states that Energy Division and PG&E identified two inputs to the ERT that were responsible for the discrepancy. PG&E claims that the Energy Division inadvertently included incorrect inputs for these two parameters, which led to the discrepancy.

According to PG&E, the Energy Division inadvertently used *net* savings, as opposed to *gross* savings, in its ERT analysis. When gross savings are applied, PG&E satisfies the MPS such that it qualifies for incentives. Attachment 1 of PG&E's comments shows that the correct calculation of gross savings for MPS purposes should incorporate the gross savings from lines 7

(gross savings from pass through programs) and 8 (gross savings from evaluated programs). Because this metric only relates to the MPS, and not to the calculation of total net benefits, it has no effect on the actual earnings claim presented in PG&E's application.

Regarding the second discrepancy, PG&E states that the Energy Division inadvertently included additional energy savings and costs that should not have been included in the analysis for 2009. This resulted in an overestimation of total savings and net benefits in Energy Division's analysis. Specifically, in June, 2010, PG&E updated its March 1, 2010 quarterly report to reflect the Commission's updated avoided costs in the E3 calculator. The updated savings in the June report should be used in performing the savings calculations for 2009. However, rather than using these June update savings, Energy Division inadvertently included program savings and costs from the March 1 report in addition to savings from the updated June 1 report and used that combined total for its ERT analysis.

PG&E defends its calculation of CFL-related savings for 2009, stating that the Commission authorized the utilities to include savings from CFLs procured and rebated in 2006-2008 and installed in 2009 (carryover CFLs). PG&E believes that such authority is consistent with Commission policy that the utilities should claim savings beginning in the year a measure is installed. PG&E finds no discussion or other explanation in D.10-12-049 to support the notion that the Commission intended to make a special exception to this policy to apply solely to carryover CFLs at issue in this particular application or to require the utilities to wait for some unspecified point in time to claim savings from measures which were installed and generated energy savings in 2009.

7.2. Response of SCE

SCE states that it communicated with the Energy Division regarding factual errors contained in the Energy Division Report. SCE documented required corrective actions in its comments. After consultations with SCE, Energy Division agreed with SCE's observations concerning these errors.

SCE claims that the ERT software tool only contains *ex post* savings estimates for CFLs which SCE claims does not adhere to Commission policy for 2009 RRIM earnings. SCE modified the ERT software tool (see Section V-F and Exhibit SCE-6) for the purpose of calculating *ex ante* assumptions associated with the CFLs.

Similar to Energy Division's evaluation of the 2006-2008 Residential Lighting Program, SCE determined the average wattage of the 2006-2008 CFLs, and applied this average wattage to the 2009 *ex ante* input parameters, based on the Database of Energy Efficient Resources for 2008. SCE incorporated these *ex ante* parameters into the ERT software tool to calculate savings and net benefits (see Exhibit SCE-5).

SCE disputes the Energy Division claim that savings from CFL installations are overstated. SCE argues that the Energy Division Report incorrectly interprets Commission policy in questioning the validity of CFLs installed in 2009 and incented as part of the 2006-2008 program cycle. SCE claims that the Commission, in D.10-12-049, explicitly authorized SCE to include such results in its 2009 Earnings Application.

7.3. Response of SDG&E and SoCalGas (The Joint Utilities)

SDG&E and SoCalGas provided Energy Division with supporting documentation of their claims. Due to time considerations, Energy Division did

not formally update the Energy Division Report, but generally agreed with the explanations subsequently provided by the two utilities.

The joint utilities state that upon receiving the Energy Division's back-up documentation, they analyzed the results and were able to identify the source of error in Energy Division's ERT runs. According to the joint utilities, this error is identical for both SDG&E and SoCalGas. The Joint Utilities replicated the same results for programs with results that were updated with 2006-2008 Evaluation, Measurement and Verification (EM&V) installation rates. The error was isolated to a group of programs not subjected to the 2006-2008 EM&V results pursuant to D.10-12-049, and thus not adjusted with EM&V results. As a result, the joint utilities assert that the Energy Division's ERT runs were double counting the net benefits of these programs. Since these programs tended to either be non-resource programs (i.e., no savings benefits but with program costs) or resource programs that did not report significant savings, the costs outweighed the benefits. Therefore the Joint Utilities argue that the Energy Division ERT model erroneously reported excess costs, which would result in reduced net benefits and, in turn, earnings.

7.4. Response of NRDC

NRDC generally agrees that discrepancies between Energy Division's calculations and the utility applications should be reconciled prior to resolution by the Commission (the Energy Division Review, at 6-7). However, rather than attempt to resolve every single issue, NRDC recommends that the Commission focus on resolving material discrepancies to allow for a timely decision.

NRDC agrees that the 2009 earnings claims should include savings from 2006-08 CFLs installed in 2009, consistent with Commission direction that program savings should be accounted for in the program cycle in which

measures are installed.⁹ Accounting for the savings from these lamps should be straightforward since the costs were accounted for in the 2006-08 RRIM applications and awards and Energy Division has already filed an analysis estimating the total number of CFLs installed in 2009 due to the 2006-2008 programs.¹⁰

NRDC disagrees with any alternative interpretation of D.10-12-049 that would preclude the utilities from receiving credit for 2009 energy savings based on the installation of CFLs procured and rebated during the 2006-2008 cycle but not installed until 2009.¹¹ NRDC believes that such an interpretation requires the assumption that the incentive mechanism excludes extension of the 2006-2008 mechanism into 2009, which was in fact what the Commission explicitly decided to do in the same decision.

More generally, NRDC believes that such an interpretation would conflict with basic accounting principles as it would result in the incorporation of program costs associated with CFLs included in the 2006-08 evaluation report while excluding the corresponding benefits (by not counting savings from these bulbs in 2006-2008 or in 2009).

NRDC disagrees with the Energy Division's claim that 2009 RRIM earnings are overstated due to improper application of the decay rate. NRDC notes that a spreadsheet was distributed by Energy Division to stakeholders for a

⁹ D.04-09-060, at 33.

¹⁰ KEMA. Energy Efficiency Evaluation Report for 2009 Bridge Funding Period, Appendix R: CFL Memo. January 13, 2011
http://www.cpuc.ca.gov/NR/rdonlyres/21FA8895-A754-4A6F-BEE8-0F776D10D7D7/0/AppendixR_CFLMemo.pdf [hereinafter KEMA CFL Analysis].

¹¹ D.10-12-049 at 60.

conference call to discuss this issue, including the calculations needed for an updated analysis.¹² This spreadsheet provided a calculation of total 2009 installations using the same installation rate model previously used to calculate the installations from stored CFLs, and included relevant updated data. NRDC recommends the Commission use this spreadsheet to calculate total 2009 installations.

8. Discussion

The utilities and the Energy Division have reconciled the differences in the Energy Division's Report with respect to the ERT calculation. We conclude that the utilities calculations of 2009 RRIM awards are in conformance with the applicable RRIM formulas, and consistent with the guidance provided in D.10-12-049, with the exception of the overstatement in the calculation of CFL bulb installations. We believe that the incentives attributed to energy savings from the 2009 program cycle to be reasonable and in line with the guidance given to the utilities in D.10-12-049.

We note that because this guidance was given in December 2010, all of the utilities' 2009 program year activities had already been completed. Thus, it can be argued that these incentives might have been anticipated, and perhaps even expected, but were not certain until after the program cycle was completed. We issued this decision in late 2011; the timeline between action and reward is perhaps too long for the RRIM to result in the utilities' desired behavior. We intend to consider these issues in the Commission's current RRIM proceeding,

¹² Spreadsheet titled: "110207 high level installation analyses using 09 pgm recalc.xls" Distributed by email from Peter Lai to the service list of A.11-06-027. Dated: 10/13/11 9:21 A.M.

R.09-01-019. Our granting these applications for the RRIM for the 2009 program year should not be seen as any form of future guidance to the utilities for the 2010-2012 program cycle or beyond.

We now turn to the adjustment of the savings and subsequent incentives earned from CFLs. We agree with NRDC and with the utilities that the energy savings used as the basis for the 2009 RRIM awards should recognize savings attributable to CFLs purchased during the 2006-2008 cycle but not installed until 2009. In this regard, we stated in D.10-12-049:

Nothing in this decision precludes the utilities from seeking credit for the energy savings associated with compact fluorescent lights that were sold and rebated in the 2006-2008 period but which were not or will not be installed until later, provided the savings from those lights have not already been accounted for.

The timing of our schedule for addressing how to design future years' incentives should not preclude an appropriate recognition of savings from CFL bulbs purchased during the 2006-2008 cycle, but installed during 2009, for purposes of 2009 RRIM awards. Accordingly, we affirm that the 2009 RRIM award should recognize savings attributable to 2006-2008 program CLF bulbs installed during 2009.

However, we find that the utilities' RRIM calculation overstates the energy savings attributable to CFLs for the 2009 program year. The utility claims for bulbs installed in 2009 are approximately 40% greater than the expected 2009 installations. In their comments on Energy Division's Report, the utilities and NRDC frame this issue as a new "policy proposal" that is outside of the scope of this proceeding. We disagree. The error identified by Energy Division was the result of the utilities not adjusting their 2009 first year installation rates to account for 2006-08 program bulbs coming out of storage, although according to

Energy Division this adjusted 2009 installation rate was included in the model it provided to the utilities in early 2009 to address the stored bulbs issue. A correction to the claimed RRIM awards is necessary to avoid an overstatement. We believe that this adjustment is reasonable and appropriate.

In addition, the 2006-2008 CFL quantities used to estimate the number of bulbs installed in 2009 must also be re-calculated to be consistent with the 2009 installation rates mentioned above and ensure there is no overcounting due to the combined interacting components of the CFL savings model.

We thus adjust the 2009 RRIM awards for deemed efficiency savings from CFLs claimed by the utilities for 2009. The adjusted 2009 RRIM incentives are presented below (a more detailed explanation of the supporting calculations underlying the correction of the CFL calculation of savings and resulting adjustments to the RRIM awards is set forth in Appendix 1 of this decision):

	Utility Award Claim	(Adjustment)	Adjusted Award Amount
PG&E	32,446,184	(6,698,028)	25,748,156
SCE	27,572,109	(7,031,301)	20,540,80
SDG&E	15,108,031	(1,436,034)	13,671,997
SoCalGas	2,037,721		
	77,164,045	(15,165,363)	61,998,682

We recognize that these adjustments to the savings and subsequent RRIM incentives were not anticipated by the utilities at the time of the application filing nor upon initial release of the Energy Division report. However, we make these adjustments because preventing an overstatement of the savings from CFLs is in the ratepayers' interest. It is our intent to ensure going forward that the rationale we outline today will flow through to future reviews of energy efficiency savings

from CFLs. We also recognize that the adjustment in savings from this one issue of stored CFLs creates an adjustment of almost 20% from claimed incentives to what we reward today; this indicates a potential over-reliance on one measure for total savings achieved in a program year. This suggests an area for future deliberation as we consider the future of the RRIM.

9. Assignment of Proceeding

Mark J. Ferron is the assigned Commissioner, and Thomas R. Pulsifer is the assigned ALJ for this proceeding.

10. Comments on Proposed Decision

The proposed decision of ALJ Pulsifer in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on _____.

Findings of Fact

1. In D.07-09-043, the Commission adopted the RRIM to encourage achievement of Commission-adopted energy efficiency goals, and to extend California's commitment to making energy efficiency the highest energy resource priority.
2. Nothing in D.10-12-049 precludes the utilities from seeking credit for the energy savings associated with compact fluorescent lights that were sold and rebated in the 2006-2008 period but which were not or will not be installed until later, provided the savings from those lights have not already been accounted for.
3. In D.08-10-027, the Commission authorized the utilities to continue existing energy efficiency programs from the 2006-2008 period into 2009 pending

Commission adoption of a final decision on the utilities energy efficiency portfolio programs for the 2009-2011 period.

4. D.10-12-049 stated that the modifications to the incentive mechanism adopted therein for the 2006-2008 true up should be applied to the 2009 energy efficiency program year, recognizing the changes in the manner in which goals are stated, and what measure or activities contribute toward the achievement of those goals.

5. D.10-12-049 directed that no later than June 30, 2011, the utilities were to file applications calculating energy efficiency incentives for 2009 pursuant to the RRIM mechanism as modified for the 2006-2008 true up, to allow for consideration and disposition by December 31, 2011.

6. In developing and submitting their respective applications, the utilities were to recalculate their 2009 *ex ante* savings in the ERT tool to reflect gross *ex ante* savings.

7. The utilities were also allowed to incorporate estimated net benefits attributable to post-2006 C&S program advocacy efforts.

8. The utilities were not allowed to make any other modifications to the ERT tool or the ERT input sheets, except SCE was allowed to revert some of the Gross Realization rates and net-to-gross ratios back to the values used in the planning of the 2006-2008 portfolio consistent with the changes identified in Table 5 of D.10-12-049.

9. The utilities were directed by D.10-12-049 to use the risk reward spreadsheet template provided by Energy Division which recognizes the removal of 2004-2005 goals and savings, the inclusion of 2006-2008 net goals and 2009 gross goals, the inclusion of 50% decay from 2006-2008, and the inclusion verified Codes and Savings Advocacy using 50% for pre-2006 and 100% post-2006.

10. The utilities were to provide with their applications the tools and documentation set forth in OP 4 of D.10-12-049, in order to facilitate the Commission's review of their incentive claims.

11. PG&E calculated that energy efficiency savings achievements for 2009 qualify it for incentive earnings of \$32,446,184.

12. SCE calculated that it earned 2009 energy efficiency incentives in the amount of \$27.6 million, which compared to revenues at June 2011 rates, represents an increase of approximately 0.16% for bundled customers and 0.25% for System customers.

13. SDG&E calculated that it earned 2009 energy efficiency incentives in the amount of \$15.1 million.

14. SoCalGas calculated that it earned 2009 energy efficiency incentives in the amount of \$2.0 million.

15. The Commission has not independently verified claimed energy efficiency savings accomplishments for program year 2009 based on an ex post analysis of actual savings achieved.

16. The 2009 incentive earnings claims were subjected to a compliance review conducted by Energy Division and the subsequent follow up review and comments on the Energy Division report.

17. The claims of incentive earnings are based upon *ex ante* assumptions of savings parameters based on the formulas and assumptions specified for 2009 in D.10-12-049.

18. The technical issues and apparent discrepancies identified in the Energy Division report were subsequently reconciled or explained, except for the double counting of installations from CFL bulbs identified by Energy Division staff.

19. The following adjustments in the 2009 RRIM earnings awards are necessary to avoid overstatement in claimed savings as identified by the Energy Division, namely,

- a. The 2009 CFL installation rates used need to be updated to account for the installations of stored and unsold 2006-2008 program bulbs to ensure there is no double counting of CFLs installed in 2009; and
- b. The 2006-2008 CFL quantities used to estimate the number of bulbs installed in 2009 need to be recalculated to ensure they are consistent with the 2009 installation rates mentioned above to ensure there is no overcounting due to the combined interacting components of the CFL savings model.

20. The necessary corrections in the 2009 RRIM awards to reflect the overstatements identified in Finding of Fact 19, as set forth in the supporting calculations in Appendix 1 of this decision, result in the following adjusted 2009 RRIM awards:

- a. PG&E's adjusted awarded is \$25,748,156;
- b. SCE's adjusted award is \$20,540,808;
- c. SDG&E's adjusted award is \$13,671,997; and
- d. SoCalGas's adjusted awarded is \$2,037,721.

Conclusions of Law

1. The Commission authorized the utilities to file applications for approval of energy efficiency incentive awards for program year 2009 as set forth in D.10-12-049.

2. The utilities applications were filed in conformance with the Risk Reward Incentive Mechanism formulas as prescribed in the directives in D.10-12-049 applicable to 2009 claims, except for the adjustment to correct an over counting

of savings from CFL bulb installations, as calculated in Appendix 1 of this decision.

3. The utilities should be authorized to recover incentive earnings for 2009 program activity in accordance with the amounts in OP 1 below.

4. The issues raised by DRA regarding its fundamental disagreements with the design parameters underlying the calculation of incentive earnings for 2009 go beyond the limited scope of this proceeding.

5. In this decision, the Commission does not prejudge or dispose of any substantive issues regarding how an energy efficiency incentive mechanism should be designed or implemented, or how earnings claims should be developed for the 2010-2012 cycle or beyond.

ORDER

IT IS ORDERED that:

1. The following incentive awards are hereby adopted for program year 2009:
 - a. Pacific Gas and Electric Company is awarded \$25,748,156;
 - b. Southern California Edison Company is awarded \$20,540,808;
 - c. San Diego Gas & Electric Company is awarded \$13,671,997; and
 - d. Southern California Gas Company is awarded \$2,037,721.
2. Pacific Gas and Electric Company is authorized to record its 2009 incentive award of \$25,748,156 in its electric and gas Customer Energy Efficiency Adjustment Balancing Account, for inclusion in its 2010 Annual Gas and Electric True Up advice letters for recovery in rates effective January 1, 2012.
3. Southern California Edison Company is authorized to record its 2009 incentive award of \$20,540,808 in its distribution sub-account of its Base Revenue

Requirement Balancing Account for inclusion of recovery through its Energy Resource Recovery Account proceeding, effective on or shortly after January 1, 2012.

4. San Diego Gas & Electric Company is authorized to record its 2009 incentive award of \$13,671,997 for recovery in its applicable annual regulatory account balance update filings effective January 1, 2012.

5. Southern California Gas company is authorized to record its 2009 incentive award of \$2,037,721 for recovery in its Rewards and Penalties Balancing Account to be recovered as a 12-month amortization in natural gas rates in connection with the applicable account balance update filings effective January 1, 2012.

6. Application (A.) 11-06-027, A.11-06-028, A.11-06-031, and A.11-06-032 are closed.

This order is effective today.

Dated _____ in San Francisco, California.