BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

FILED
04-26-13
04:59 PM

Order Instituting Rulemaking to Reform the Commission's Energy Efficiency Risk/Reward Incentive Mechanism.	Rulemaking 12-01-005 (Filed January 12, 2012)

THE DIVISION OF RATEPAYER ADVOCATES' OPENING COMMENTS IN RESPONSE TO THE ASSIGNED COMMISSIONER'S RULING REGARDING EFFICIENCY SAVINGS AND PERFORMANCE INCENTIVE DESIGN FOR ENERGY EFFICIENCY 2013-2014 PORTFOLIO

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April 26, 2013

I. INTRODUCTION

The Division of Ratepayer Advocates (DRA) respectfully submits these comments in response to the *Assigned Commissioner's Ruling Soliciting Comments Regarding Efficiency Savings and Performance Incentive Design for Energy Efficiency 2013-2014* (ACR). The ACR proposes a new Efficiency Savings and Performance Incentive (ESPI) mechanism to replace the previous Risk Reward Incentive Mechanism (RRIM) for the 2013-2014 energy efficiency program cycle. The ACR seeks comments on the overall merits of the proposed incentive design and responses to specific questions posed in reference to each component of the proposed mechanism.

DRA opposes increasing customer utility bills to reward the utilities with shareholder incentives to administer energy efficiency programs.[1] However, should the Commission decide to continue such awards, the ESPI mechanism in the ACR is an improvement over the previous RRIM mechanism. Within the construct of the proffered EPSI, there are several ways to better protect ratepayer investment, cost-efficiently motivate utility performance, and minimize EM&V contention to the greatest extent possible. In the sections below, DRA evaluates the overall merits of the proposed ESPI, recommends necessary modifications, and offers responses to the specific questions posed in the ACR.

II. DISCUSSION

When evaluating shareholder incentive designs, it is important to keep in mind the core characteristics and established criteria that define an effective mechanism. It also is critical to ensure that the newly designed mechanism adequately addresses the unintended consequences that arose from the 2006-2008 RRIM. Therefore, DRA focuses

[1] DRA opposes shareholder incentive mechanisms for the following reasons: it is not clear that the utilities are the best suited entities to administer energy efficiency; it is unlikely that any level of incentives will fully mitigate utility bias towards supply side resources, and the stress that incentive mechanisms put on Commission staff resources. Refer to The Division of Ratepayer Advocates' Comments in Response to Assigned Commissioner's Ruling to Refresh the Record on Outstanding Issues, filed on 9/23/2011 in R.09-01-019.

on the following material attained from past Commission Decisions and white papers as a basis for evaluating the proposed ESPI:

Defining characteristics of the 2006-2008 RRIM (as listed in D.07-09-043)[2]:

- Shareholders are awarded only when positive net benefits are produced for ratepayers;
- Awards are based on calculations that are independently evaluated and verified;
- Ratepayers are protected against financial losses on their investment in energy efficiency; and,
- The overall level of potential earnings and penalties is capped to limit shareholders and ratepayers risk.

Criteria put forth in Energy Division's 2009 White Paper[3]:

A shareholder incentive mechanism should be:

- Effective and Strategic;
- Timely and Non-Contentious;
- Fair and Cost-Efficient; and,
- Simple and Transparent.

Unintended Consequences of the 2006- 2008 RRIM (as listed in Energy Division's 2009 White Paper)[4]:

- *Discouraged the pursuit of strategic initiatives and market transformation activities envisioned by the California Energy Efficiency Strategic Plan (Strategic Plan)* - Awards were based on net benefits, and since market transformation activities do not provide measureable savings, they do not contribute to net benefits. Therefore, investments in such activities were not rewarded and utility attention was placed elsewhere.

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[2] D.07.09.043, pp. 4-5.

[3] *White Paper: Proposed Energy Efficiency Risk-Reward Incentive Mechanism and Evaluation Measurement & Verification (EM&V) Activities* Energy Division. April 1, 2009. p. 4.

[4] Ibid.

- *Discouraged the pursuit of all cost effective energy efficiency*- As awards were based on net benefits, the utilities were better off diverting attention to programs with the highest cost effectiveness.
- *Consumed an inordinate amount of CPUC, IOU, and consulting resources*- Disputes over ex ante updates and the ex post true up placed a considerable burden on EM&V staff and resulted in significant delays.
- *Focused attention on the details of the incentive calculation rather than on the quality and performance of programs*- As incentive earnings relied heavily on complex and highly uncertain calculations, attention was placed on the accuracy of such estimates.

Aspects of the proposed ESPI mechanism that DRA supports:

DRA supports multiple aspects of the proposed mechanism as they align with criteria listed above. DRA supports a separate incentive component for non-resource programs as they further Commission goals but cannot be (or are very difficult to be) evaluated based on savings.[5] DRA also supports a separate incentive component for Codes and Standards programs as the savings attributable to these programs are almost impossible to verify due to the complicating factors mentioned in the ACR.[6]

DRA supports the use of the 'stretch' portfolio average EUL (expected useful life) and NTG (net-to-gross) values that are set higher than the current portfolio average in order to encourage investment in programs that offer more long-term savings. An unintended consequence of the 2006-2008 RRIM was that it encouraged the utilities to pursue only highly cost effective programs which usually are those in which offer short-term savings and have high free ridership levels (ex. lighting programs). The Commission's Guidance Decision for the 2013-14 portfolio (D.12-05-015) stressed that

[5] An unintended consequence of the 2006-2008 RRIM was that it discouraged activities, such as market transformation, that do may not contribute to portfolio's net benefits directly but act to reach goals put forth in the Strategic Plan.

[6] Complicating factors in calculating C&S savings include; code compliance estimates, IOU attribution factors, the extent of naturally occurring market developments, and the fact that expenditures today produce codes and savings after the cycle is complete. ACR, p. 5.

the incentive mechanism objectives should be to capture all cost-effective energy savings with a particular focus on comprehensive projects and longer-term savings.

Finally, if the Commission implements a savings-based mechanism (such as the ex post savings performance component in the ESPI), DRA supports the ex-post savings verification framework. The original RRIM was designed on the premise that shareholder awards should be based on independently evaluated and verified savings. Tremendous contention arose over the ex post true up process so the original RRIM was altered in D.10-12-049 to base awards on ex-ante values. The Commission intended to minimize controversy with EM&V activities by utilizing ex ante values; however, it became clear, throughout the 2010-2012 cycle, that the process of developing and freezing ex ante values was equally as contentious as evaluating ex post values.[7] DRA agrees with the ACR's conclusion that controversy is likely to exist anytime savings values are used to determine incentives regardless of whether they are applied ex post or ex ante.[8] If the Commission is going to base incentive awards on the savings or net benefits calculations, then it should be done so on an ex post basis. DRA agrees with the multiple reasons why verified ex post values are superior to ex ante values as listed in the ACR.[9] However, DRA would like to highlight one of the ACR's reasons as it is of upmost importance. The ACR states:

> Finally, because ex post savings will still need to be determined for the purpose of program improvements and resource planning, institutionalizing the ex ante approach would require maintaining two sets of savings estimates for energy efficiency portfolio savings: a (typically) higher set of savings that would be used to award IOUs efficiency shareholder incentives, and a lower set that would be used to determine, among other things, IOU new capacity authorizations in the Long Term Procurement proceeding. This practice would likely introduce significant confusion into these proceedings.[10]

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[7] D.12-12-032, p. 11.

[8] ACR, p. 20.

[9] Using ex ante values will give the utilities the incentive to develop estimates that as large as possible, will not provide an opportunity for mid-cycle updates, and will not allow savings claims for new and innovative measures. ACR, pp. 11-12.

[10] ACR, p. 12.

The Commission should acknowledge that, not only would maintaining two sets of savings estimates cause confusion, but it also is critical that shareholder incentives are based on the same savings estimates used in supply side planning. Not doing so creates the strong potential for a utility to earn awards on energy efficiency investments that do not result in the deferral of supply-side investment. If this occurs, the utilities could receive earnings on both energy efficiency investment and supply side investment simultaneously. This issue cannot be ignored because supply-side deferral is the primary goal of the EE portfolio.

DRA's recommended modifications to the ESPI mechanism:

DRA recommends that the proposed ESPI mechanism be modified in the following ways in order better attain policy goals.

1. The total award cap should be reduced to 7% of the EE budgets and the ex post savings achievement cap should be reduced to 5.5% of authorized resource program funds.[11]

The proposed mechanism would include a total (all IOU) award cap of 9.14% of the budget.[12] A cap this high is not justified. The 2010 - 2012 Energy Efficiency Shareholder Incentive Mechanism was capped at a total of 6% of EE budgets. Given that ratepayers are still struggling in these economically challenging times, this is not the time to increase incentive mechanism caps. Recently, the Commission recognized that ratepayers are struggling through an extended recession, and therefore found that some 'belt-tightening' measures are warranted.[13] Given the recognition of this hardship and the fact that the ACR does not provide any analysis as to why such a high cap is necessary, raising the energy efficiency shareholder incentive cap from 6% to 9.14% of budgets is not justified.

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[11] Excluding funding dedicated to administrative activities, EM&V, ME&O, codes and standards programs, and the REN/CCA programs.

[12] Calculation included in DRA's attachment 1.

[13] D.12-11-051 SCE General Rate Case (GRC), pp. 22 &2.

The original RRIM resulted in multiple unintended consequences and forced the Commission to question whether it realistically could function as designed.[14] It also resulted in average annual award payments of 10% of the budgets through 2006-2009. The Commission should be averse to the risk that ratepayers could be subject to funding similarly large and unwarranted energy efficiency awards. While DRA appreciates the steps taken in this ACR to design a mechanism that limits potential unintended consequences, it is still unclear whether the proposed ESPI adequately addresses these concerns and whether it will produce successful program performance. As it is unclear whether this mechanism will function as intended, DRA recommends a lower award cap to reduce the risk that ratepayers will fund large and unwarranted awards.

In their October 1, 2012 post -workshop comments, TURN provides data that shows shareholder incentive mechanisms in other states have an average award cap of 7% of EE budgets.[15] DRA believes that this is a fair and cost-efficient cap for California's 2013-2014 EE portfolio. As mentioned above, there is uncertainty about the potential for the proposed ESPI to function as intended. Given this, and the outcome of the original RRIM, there is no clear justification for providing the utilities the opportunity to earn awards above the national average. In order to cap the total incentive award at 7% of the EE budgets, DRA adjusts the ex post savings achievement component cap down from 8% to 5.5% of the authorized resource program funds. The cap for the total award and ex post savings achievement component is therefore estimated to be $121,809,055 and $81,943,891, respectively, for all four utilities.[16]

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[14] *Assigned Commissioner's Ruling to Refresh the Record on Outstanding Issues*, issued on 8/30/2011 in R.09-01-019. P. 4.

[15] TURN ultimately proposed a hard cap on total incentive awards at 5% of budgets due to a variety of characteristics specific to California that justify an even lower cap. TURN comments, 10/1/2012, post-workshop, p. 6.

[16] DRA's attachment 2.

Table 1: Breakdown of Proposed Award Caps

For all Utilities		Dollar Amount	% of Budget/ Authorized Expenditures
Total Award Cap	As Specified in ACR	$159,056,278	9.14%
	Proposed by DRA	$121,809,055	7%
Ex post savings component cap	As Specified in ACR	$119,191,114	8%
	Proposed by DRA	$81,943,891	5.5%

2. The cost effectiveness multiplier should not be included in the ESPI.

Though the ACR's proposed cost effectiveness multiplier encourages prudent spending, it does not adequately protect ratepayer investment and introduces additional complexity to the mechanism. The purported benefit of the proposed cost effectiveness multiplier is that it encourages cost effective investments. Allegedly, without the multiplier, the utilities primarily would have the incentive to pursue programs that offer large amount of savings with longer useful lives. There would be no incentive for the utilities to spend prudently or to achieve cost effective savings, which should be a paramount concern to the Commission. The cost effectiveness multiplier would encourage the utilities to increase cost effectiveness by adjusting the ex post savings achievement award by a factor proportional to the change in cost effectiveness. This purportedly should encourage the utilities to minimize costs.

The extent in which the multiplier encourages the utilities to consider costs, however, is trumped by the value of increasing total savings. So, while costs are internalized, the multiplier only encourages the utilities to minimize costs (that are

undertaken to increase lifecycle savings) to a small degree.[17] Most importantly, the multiplier does not fully protect ratepayers' investments, as a utility has the potential to earn an award with a non-cost effective portfolio. Given the structure of the proposed mechanism, the utilities may be better off (earn a larger award) by sacrificing overall cost effectiveness (which would only result in a proportional percentage decrease to the award base[18]) in order to increase the award base by attaining more savings and/or higher EUL and NTG values through non-cost effective activities.[19]

DRA supports the notion that the incentive mechanism should be as simple as possible, and the inclusion of the multiplier may add unnecessary complexity. It is unclear the extent in which the multiplier will encourage cost effective investment and therefore it is unclear what the outcome of the incentive mechanism will be (in terms of which programs the utilities will pursue and whether or not they will be cost effective). While the multiplier will encourage cost effective investment (to some extent), it does not ensure that the resource programs will be cost effective overall. As it also amplifies uncertainty and complexity, the cost effectiveness multiplier is not a worthwhile addition to the ESPI mechanism.

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[17] Estimated award = ex post savings component * cost effectiveness multiplier = (net lifecycle savings* coefficient)* (1+ (ex post TRC – ex ante TRC). On a very simple level, a utility can increase a TRC by increasing lifecycle savings or reducing costs. Therefore, lifecycle savings enter the award equation in two ways, they increase the ex post savings component (award base) and the cost effectiveness multiplier. When it comes to maximizing a potential award, the utilities will aim to achieve high levels of lifecycle savings as this will increase the award base and the TRC. Costs will rise as the utilities pursue additional savings and this will lower the TRC, eventually to non-cost effective levels. However, costs will have to increase at a very steep rate in order for the reduction in the award (through the cost effective multiplier) to exceed the incremental benefit of increasing savings. As long as there are considerable lifecycle savings involved, a utility may be willing to sacrifice lowering the TRC if the increase in the award base is larger than the decrease involved with a multiplier below 1.0. Of course, the presence of the multiplier will result in a higher TRC than would without one. The degree in which it will encourage cost effectiveness will depend on the rate at which costs increase or how steep the 'cost curve' is.

[18] Award base = ex post savings achievement component (which is used as the base for the cost effectiveness multiplier).

[19] It is possible that a non-cost effective combination of resource programs will earn a larger award than a cost effective combination if the non-cost effective portfolio has a considerable level of savings and/or high EUL and NTG values. The probability that this will occur depends on the rate in which costs increase.

3. The Commission should include a Cost Effective Guarantee, instead of a cost effectiveness multiplier, in order to better protect ratepayer investment.

Ratepayers should not fund incentive awards for non-cost effective resource programs as this will further increase ratepayer losses from poor investment. If the ex post TRC for the combined resource programs is less than 1.0, then shareholders should not earn an ex post savings performance award. In their July 16, 2012 comments, the National Resources Defense Council (NRDC) recommended a cost effective guarantee within their proposed incentive mechanism. However, NRDC's cost effective guarantee also required the utilities to compensate ratepayers for net losses that accrued under a non-cost effective portfolio. The guarantee was based on a Program Administrator Cost (PAC) test at the portfolio level with the shareholder earnings included in the calculation[20]. Alternatively, DRA proposes a cost effective guarantee that uses the TRC and does not propose a "penalty" when cost effectiveness falls below 1.0, or require that shareholder earnings be included within the TRC calculation. DRA also recommends that the shareholder earnings from the ex ante review (EAR) process and from the non-resource and codes and standards management fee awards still be awarded if the TRC falls below 1.0. This way the utilities do not risk losing the *entire* award. This is a balanced approach that will minimize contention that may result from using a cost effectiveness guarantee.

[20] NRDC comments, 7/16/2012, p. 15.

Table 2: Comparison of NRDC's and DRA's proposed cost effectiveness guarantee

	NRDC's proposed guarantee	DRA's proposed guarantee
Test used	PAC	TRC
Includes shareholder earnings	Yes	No
Imposes a penalty	Yes	No

The proposed ESPI mechanism with a cost effectiveness guarantee will encourage the utilities to maximize savings while keeping resource programs cost effective as a whole. This result is more in line with D. 12-05-015, which stressed the goal of capturing *all* cost-effective energy savings, something that the 2006-2008 RRIM did not effectively encourage.

Proposed direction for future mechanisms:

DRA does not propose any changes to the ex ante review (EAR) process or management fee components for the current cycle. However, DRA does not believe that a management fee approach effectively incentivizes the utilities to improve programs or to attain goals, rather it merely incentivizes them to spend money. The Commission should explore the use of performance metrics in determining awards for non-resource program performance in future cycles.

Program Performance Metrics (PPMs) currently exist and are tracked for non-resource programs.[21] These have the potential to be used as indicators of program success on which earnings could be based. However, determining which PPMs to use,

[21] Examples of PPMs include; numbers of participating stores located in hard-to-reach zip codes (PLA program), number of homes treated (EUC program), average percentage of certified HVAC technicians within contracting companies that participate in the residential QI program, etc.

and how to properly structure awards based on them, may be a long process. This process should be well vetted by all parties to ensure that it incentivizes the most worthwhile activities with minimal unintended consequences. Given that comments on the ACR will not be final until May of 2013, and that the EE incentive mechanisms need to be established in a timely manner, the ACR's management fee incentive component may be the best approach for the current 2013-2014 cycle. However, the Commission should consider establishing a process to design a proper framework to award earnings based on performance metrics for 2015 and beyond.

Controversy surrounding EM&V activities:

DRA appreciates the steps taken within the ACR to minimize conflict surrounding EM&V activities. However, it is difficult to determine whether these actions will adequately lessen this contention, because awards are still contingent on controversial calculations (such as savings estimates and NTG ratios). In fact, any time financial awards are tied to any kind of measurement (even the less contentious), it is likely that considerable effort will be spent on skewing the results to the extent that the estimates become unreliable. This is of major concern as ex post savings estimates are used in supply side planning where the accuracy is of upmost importance. It is obvious that a great deal must be done in order to ensure that estimates used in the ESPI calculation retain high levels of reliability. However, it is not clear how this is to be done or whether it can be realistically done.

DRA currently does not have any further recommendations for how to remediate these concerns. The goal of limiting contention on EM&V is critical to the success of any incentive mechanism, and the Commission and stakeholders should continue to explore opportunities to address this issue on an ongoing basis.

III. SPECIFIC QUESTIONS FOR COMMENT:

1. Should non-resource based programs be a component of the ESPI for the 2013-2014 energy efficiency portfolio?

Yes. The Commission's Guidance Decision for the 2013 - 2014 EE portfolio (D.12-05-015) stresses the importance of non-resource programs and the market transformation goals put forth in the Strategic Plan.[22] It is essential to align the focus of shareholder incentive mechanisms with the major objectives put forth by the Commission. So the 2013-2014 ESPI should include a non-resource program component.

2. Does a management fee, paid as a fixed percentage of expenditures of non-resource programs, adequately incent utilities for successful implementation and investment in quality non-resource programs?

Though DRA has concerns regarding a management fee approach, DRA supports using this approach for the 2013-2014 cycle. The management fee approach calculates awards based on expenditures and therefore encourages spending. If non-resource programs currently are underfunded, then a management fee approach may encourage more successful non-resource activity. However, a management fee approach could result in careless and imprudent spending. Also, a management fee approach does not necessarily incentivize successful program implementation or optimal allocation of investment of funds within the programs. Though a management fee approach has limitations, it may be the best option for programs where performance is difficult to measure. DRA supports a management fee approach for the 2013-2014 cycle but recommends that, going forward, the Commission consider other performance metrics for non-resource programs in future cycles.

3. In lieu of a management fee, should the Commission reward utilities for non-resource based programs using specific program performance metrics as a more

[22] D.12-05-015, p. 16.

appropriate measure of non-resource program performance?

Given timing constraints, DRA recommends that a management fee approach be used in the 2013-2014 cycle, and that a process be started to determine a mechanism that can adequately utilize PPMs for 2015 and beyond.

There are program performance metrics (PPMs) associated with non-resource programs, and these are currently tracked by the utilities. These metrics may be more appropriate than a management fee for determining awards as they have the potential to more adequately measure program success. However, some PPMs have a closer link to program performance than others. Determining the appropriate PPMs to award, and how to structure and size the awards, is difficult. Ideally all non-resource programs should be adequately incentivized using appropriate metrics. However, using too many performance metrics may be confusing and burdensome to verify. It is also important to thoroughly evaluate whether the deemed performance metric may lead to unintended consequences. This process should be well vetted by all parties and may take some time to complete. Because of this, we propose that a management fee be used in the 2013-2014 cycle, and that a process be started to determine a mechanism that can adequately utilize PPMs for 2015 and beyond.

4. *If program performance metrics (e.g., number of whole home retrofit projects in hot climate zones; number of measures adopted into the portfolio from the Emerging Technology Program) are utilized rather than a management fee based on expenditures, which program performance metrics should be utilized? Are there specific programs that should be targeted over others? What level of incentive earnings potential should be offered for specific performance metrics and for non-resource programs in the aggregate?*

As mentioned above, the established PPMs for non-resource programs have potential for use in determining awards. However, deciding which to use, and how to base awards off of these metrics, may (and should) happen through an established process. There are commonly multiple PPMs associated with a given program, and

choosing the most appropriate PPMs to utilize for award incentives should be done with care. It is important to minimize unintended consequences and to determine appropriate levels of award for each PPM. DRA recommends that the Commission and parties start now to evaluate performance metrics and to develop an approach for using the PPMs as incentive mechanism metrics in future EE cycles. However, as mentioned previously, the Commission should employ a management fee approach in the 13-14 cycle as it is important for a mechanism be put in place as soon as possible.

5. Is rewarding codes and standards program activity via a management fee is appropriate?

DRA finds it appropriate to utilize a management fee approach for the codes and standards programs for the current cycle.

6. Is the fixed percentage of 10% an appropriate level to set the management fee?

DRA is concerned that a management fee of 10% is excessive and that it could become precedence for future and/or other management fee levels. However, DRA does not currently have an alternate recommendation and reserves the right to comment on the issue in reply.

7. Are the ex ante metrics included in the Appendix adequately designed to provide objective assessment of utilities' ex ante review performance? Are there other benchmarks that should be utilized to objectively measure utilities' ex-ante review performance?

DRA has no comment on this question at this time but reserves the right to address other parties' comments in reply.

8. Parties have expressed concern over rewarding utilities for process conformance since it is not results (i.e., energy savings) oriented and other Commission processes are not, and historically have not been, assessed under any incentive mechanism. Which Commission energy efficiency policy goals would be compromised or unattainable in the event that an incentive is based on process conformance?

DRA has no comment on this question at this time but reserves the right to address other parties' comments in reply.

9. What are the pros and cons associated with calculating the savings award based on net benefits, using a modified version of the original PEB calculus, versus using NRDC's approach, as modified, which multiplies energy and demand savings by coefficients that would be derived from the adopted savings goals and the predetermined savings component cap?

Using net benefits as a basis for shareholder incentives will theoretically bring an economically efficient outcome. Using net benefits incentivizes the utilities to maximize savings while minimizing costs. This will ensure that incentives are only awarded when positive net benefits accrue to ratepayers. However, an award based solely on net benefits will not necessarily encourage the utilities to pursue all cost effective energy efficiency but rather the most cost effective energy efficiency. A net benefits based incentive mechanism also would discourage objectives such as market transformation that have little to no measurable net benefits. Both of these issues were identified as shortcomings of the 2006-2008 RRIM.

NRDC's approach, as modified and proposed in the ACR, will encourage more comprehensive and longer-term savings. However, it does not internalize costs and puts ratepayers at a risk with no guarantee of overall cost effectiveness.[23] A savings based approach alone also will not encourage the pursuit of non-resource programs, as savings cannot directly be attributed to them.

[23] The proposed ESPI mechanism will reward the utilities regardless of whether the programs are cost effective.

DRA supports the structure of the ACR-proposed ESPI, including DRA's recommendations to remove the cost effectiveness multiplier and to establish a cost effective guarantee. This will encourage the utilities to maximize savings while keeping resource programs cost effective overall.

> *10. Given the focus on deeper, longer-lived energy savings, is the use of proposed "target" EULs and NTG ratio of 12 years (electric EUL), 15 years (gas EUL), and 0.8 (NTG) appropriate as goals for utilities to achieve in the 2013-14 or future portfolio cycles?*

DRA has no comment on this question at this time but reserves the right to address other parties' comments in reply.

> *11. One potential unintended consequence of using the proposed approach is that customers are exposed to some risk that the utilities will make changes to the measure mixes in their adopted portfolios that maximize total savings rather than maximizing total cost-effective savings. What is the magnitude of the risk that implementation of a non-cost-effective (i.e., TRC < 1.0) portfolio would result from a net savings-based approach? Does the TRC calculated for the authorized portfolio based on ex ante savings estimates and utility proposed measure mix, in combination with the existing fund-shifting rules, adequately protect against this risk? What other steps could be taken to protect customers from this risk if the Commission adopted a net savings, rather than net benefits, based savings component of the incentive mechanism?*

No level of such risk is acceptable for ratepayers. Therefore, DRA recommends the use of a cost effective guarantee on the ex post savings performance component.

12. Will the differences identified between the 2006-08 mechanism and the mechanism proposed herein sufficiently reduce the risk of contention associated with an ex post savings basis to warrant using an ex post approach rather than an ex ante approach, which resulted in unintended consequences related to the ex ante lockdown?

It is difficult to judge whether the steps taken within the proposed ESPI will sufficiently reduce the risk of contention. As mentioned in the prior section and within the ACR, contention will arise whether incentive awards are determined based on ex-ante or ex-post values.[24] As this contention cannot be avoided when using a savings based incentive mechanism (and if the Commission still wishes implement one), DRA supports the ex-post approach and for the rational explained within the ACR.[25]

13. Should the Commission include bonus "adders" for results not captured explicitly by the four proposed components (e.g., Energy Upgrade California projects in hot climate zones, increases in portfolio average Effective Useful Lives, etc.)? If so, which ones, and how should they be calculated?

DRA has no comment on this question at this time but reserves the right to address other parties' comments in reply.

[24] ACR, p. 20.

[25] ACR, pp. 11-12.

14. Should we include a cost-effectiveness adder in the ESPI? If so, is the proposed approach appropriate, or would a different approach be superior? Is there a need for an explicit cap on the potential resource program award to protect ratepayers? If so, how would we best determine a cap on an adder that is rewarding increases in program cost effectiveness? Should the cost-effectiveness adder be symmetric (i.e., increase or reduce resource program savings benefits) or should it only be applied if ex post cost-effectiveness is greater than the ex ante estimate?

As explained previously, the proposed cost effectiveness multiplier adds unnecessary complexity to the mechanism and DRA recommends that it be removed. DRA does not believe that the multiplier sufficiently encourages cost effectiveness as it may be in the shareholders best interest for a utility to sacrifice cost effectiveness in order to pursue more long-term savings. Instead, the Commission should ensure that resource programs[26] meet a cost effectiveness guarantee but should reward shareholders based on increases in savings. This will encourage utilities to pursue all cost effective savings.

15. Is it possible that funds used to establish the On-Bill Financing programs in the 2010-2012 portfolio cycle will be re-loaned in the 2013-2014 cycle, and therefore should be included in the savings cap calculation and in ex post savings estimates? Alternatively, should these issues be deferred to future cycles, when the overall financing program designs are better understood? If the former, how should the portion of 2010-2012 On Bill Financing funds that will be available for loans in the 2013-2014 cycle be calculated for inclusion in the cap and savings calculations?

The savings cap calculation should only include the 2013-2014 On Bill financing budget, as funds carried over from the previous cycle are to be used to offset the 2013 revenue requirement. Therefore such funds are not *additional* and do not require special treatment. Per Decision D.12-11-15, Ordering Paragraph #38, the Commission states;

[26] This applies to only the resource programs within the ex post savings achievement component.

"Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Gas Company, and Southern California Edison Company shall use unspent and uncommitted energy efficiency balancing account funding, including interest, from years prior to 2010 to offset the 2013 revenue requirements approved in this decision. Actual unspent and uncommitted funds from 2010-2012, plus interest, shall be used to offset the 2014 revenue requirements approved in this decision."

16. As described in Table 13, the payment for the ex post savings component is delayed by an additional year to allow time to complete impact evaluation studies. Does this delay create an unnecessarily complicated payment schedule? Or would it be preferable to delay the full payment by the additional year to provide all four components of each year's incentive in the same year, even if it meant a one-year pause (in 2015) as we transitioned to the reformed mechanism?

DRA has no comment on this question at this time but reserves the right to address other parties' comments in reply.

17. The proposed payment approach provides annual payments, obviating the need for an end-of-cycle true-up mechanism. Would the true-up approach be a preferable method to address the resulting staggered payment or one-year pause associated with the annual payment approach?

DRA has no comment on this question at this time but reserves the right to address other parties' comments in reply.

III. CONCLUSION

It is important to design a shareholder incentive mechanism that adequately serves ratepayers best interest by encouraging the utilities to pursue Commission goals in a cost efficient manner while minimizing possible unintended consequences. Accordingly, DRA recommends the following modifications to the proposed ESPI:

1. A total award cap should be set to 7% of the EE budget by reducing the ex post savings performance award cap to 5.5% of authorized resource program expenditures.
2. The cost effectiveness multiplier should be removed.
3. A cost effectiveness guarantee should be applied to the ex post savings performance award.
4. The use of performance metrics for non-resource programs should be pursued for future EE cycles.

Overall, DRA believes that the proposed ESPI mechanism, as modified in these comments, is largely in alignment with Commission goals and has the potential to encourage the utilities to improve performance in a way that is in ratepayers' best interest. However, DRA is concerned that this potential may not be reached due to the risk of contention in the EM&V process. If the Commission decides that it is committed to an EE shareholder incentive mechanism, all parties and the Commission itself should constantly seek and explore ways to minimize unintended consequences and maximize benefits to ratepayers.

Respectfully submitted,

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