



**FILED**

10-01-09  
09:57 AM

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

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

Rulemaking 09-01-019  
(Filed January 29, 2009)

**ADMINISTRATIVE LAW JUDGE'S RULING  
REGARDING ADMISSION OF INFORMATION INTO THE RECORD**

This ruling admits into the record certain information as identified below, and provides guidance on the potential use of this information in considering the issues in this proceeding.

**Incorporating Energy Division Draft Verification  
Report and Related Filings into the Record**

Among the disputed issues in this proceeding is the role of the Energy Division Verification Report in determining incentive awards for 2006-2008 activity. In view of disagreements as to the role, if any, for the Energy Division Verification Report in determining Risk/Reward Incentive Mechanism (RRIM) payments for 2006-2008, a full record is needed on the issue.

In accordance with the principles in Decision (D.) 08-12-059,<sup>1</sup> the Energy Division's Second Verification Report was issued in draft form on August 6, 2009, for adoption outside of this proceeding by Draft Commission Resolution E-4272. The Draft Verification Report has not formally been made a

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<sup>1</sup> See D.08-12-059 at 21

part of the record in this proceeding, even though it has been served on parties to this proceeding. By this ruling, the Draft Report shall be formally incorporated into the record of this proceeding. Energy Division is directed to promptly tender an official copy of its Draft Verification Report for filing in Rulemaking (R.) 09-01-019 with the Docket Office.

The record also needs to be clear and complete as to treatment of comments filed on the Draft Resolution. Although various parties commented on the Draft Resolution, they did not follow a consistent process in filing the comments. Some parties filed comments only in R.06-04-010 (the predecessor to this rulemaking). Other parties filed comments concurrently in this rulemaking, as well as in R.06-04-010, and also in A.08-07-021 et. al. (regarding energy efficiency portfolio programs). Some parties provided comments only to the Energy Division, but did not officially file the comments in any formal Commission proceeding.

In order to avoid potential confusion and to promote consistency in the record with respect to the Draft Resolution for adoption of the Verification Report, the following direction is provided. Any party in this proceeding that has not yet done so shall promptly tender their previous comments, if any, on the Draft Resolution for filing in this proceeding (R.09-01-019), with service to parties. Any parties, however, that have already served their comments on parties in this proceeding need not serve the comments again.

At this time, the status and timing of any Commission action adopting the Energy Division Verification Report by resolution remains undetermined. A Commission resolution adopting the Report for informational purposes, however, should not be construed as prejudgment of issues regarding the appropriate means by which to determine 2006-2008 RRIM payments. Similarly,

incorporating the Draft Verification Report and comments thereon into the record in this proceeding does not prejudice the merits of parties' positions on what role, if any, the Verification Report should have in this proceeding.

### **Incorporating the Separate Energy Division Scenario Runs into the Record**

As noted in the ALJ Ruling dated September 3, 2009, the Energy Division ran separate scenarios using its "Verification Report Template" (VRT) that apply the parameters and assumptions in the Proposed Settlement in this proceeding. Consideration of Energy Division's VRT scenario runs was discussed at the technical workshop held on September 16, 2009 in this proceeding.<sup>2</sup>

Based upon discussions at the workshop, the Energy Division was to make certain corrections to the scenario analysis and issue a revised summary document setting forth the corrections.<sup>3</sup> The corrected version of the summary document has been completed, and the corrected document, summarizing the Energy Division scenario analysis is hereby provided to parties, as set forth in Attachment A to this ruling. Backup documentation supporting the corrected scenario results is available to parties at the following web link:

<http://eega2006.cpuc.ca.gov/PEBCalcs2.aspx>.

The Energy Division's scenario runs, as summarized in the attached document, are a separate and distinct work product apart from the Verification Report. The scenario runs may be considered in resolving 2006-2008 RRIM issues this proceeding. Accordingly, the attached summary document, setting

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<sup>2</sup> The workshop transcript included a copy of the summary document setting forth the results of the Energy Division scenario analysis.

<sup>3</sup> See Workshop Transcript at 235.

forth the results of the scenario runs, is hereby incorporated into the record of this proceeding. At the workshop, participants generally agreed that no further rounds of comments were necessary. Accordingly, unless some party independently requests permission to file additional comments on the revised scenario runs, no additional comments will be scheduled.

**IT IS RULED** that:

1. The previously issued Energy Division Draft Verification Report shall be formally incorporated into the record of this proceeding. Energy Division is directed to promptly tender a copy for formal filing in this proceeding (R.09-01-019) with the Docket Office.
2. Any party in this proceeding that has not yet done so shall promptly tender their previous comments, if any, on the Verification Report Draft Resolution for filing in this proceeding (R.09-01-019), with service to parties. Any parties, however, that already served their comments in this proceeding need not serve their comments again.
3. The receipt of the Draft Verification Report and comments thereon into the record does not prejudice parties' positions on what role, if any, the Verification Report should have in resolving issues in this proceeding.
4. The summary document describing the Energy Division Verification Report Template scenarios, as set forth in Attachment A to this ruling, is hereby incorporated as part of the record, and may be considered in resolving issues in this proceeding. The Energy Division's runs of these scenarios are separate and distinct work products, apart from the Verification Report.

5. Backup documentation supporting Energy Division scenario results is made available to parties at the following web link:

<http://eega2006.cpuc.ca.gov/PEBCalcs2.aspx>.

Dated October 1, 2009, at San Francisco, California.

/s/ THOMAS R. PULSIFER

Thomas R. Pulsifer  
Administrative Law Judge

**INFORMATION REGARDING SERVICE**

I have provided notification of filing to the electronic mail addresses on the attached service list.

Upon confirmation of this document's acceptance for filing, I will cause a Notice of Availability of the filed document to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the Notice of Availability of the filed document is current as of today's date.

Dated October 1, 2009, at San Francisco, California.

/s/ GLADYS M. DINGLASAN  
Gladys M. Dinglasan