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

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

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

**ASSIGNED COMMISSIONER'S RULING ON  
PROCESS FOR TRUE-UP OF INCENTIVE EARNINGS**

**Introduction**

This ruling provides guidance on the process for finalizing the true-up of the "Risk/Reward Incentive Mechanism" (RRIM) energy efficiency incentive earnings for the 2006-2008 cycle. Decision (D.) 07-09-043 established the framework for determining RRIM earnings as incentives for California energy utilities to achieve or surpass Commission-adopted energy efficiency goals.<sup>1</sup> In accordance with this framework, Decision (D.) 09-12-045 authorized a second installment of RRIM awards for the 2006-2008 cycle, and set a schedule to finalize the true-up of 2006-2008 RRIM earnings.

As noted in D.09-12-045, while the Commission made certain adjustments, the second installment of incentive earnings still largely relied on the process adopted in D.07-09-043, based on verified energy efficiency savings as identified in the Energy Division Verification Report. D.07-09-043 initially indicated that

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<sup>1</sup> In D.05-09-043 and D.05-11-011, the Commission approved energy efficiency portfolios to over the 2006-2008 cycle in the amount of \$2.2 billion.

the final true-up of incentive earnings for each three-year program cycle be based on Energy Division's "Final Verification and Performance Basis Report."<sup>2</sup> The release of the draft of this final Energy Division report for the 2006-2008 cycle is currently scheduled on April 15, 2010, as directed in D.09-12-045.

However, the Commission also noted that the RRIM had a number of flaws in its design and implementation, resulting in the potential for protracted litigation, delay, and controversy with which no party was satisfied. Rather than revisiting this past discussion and producing still further controversy and delay, the Commission has stated its intention to develop a more streamlined framework to determine final RRIM earnings in the true-up, with a Commission decision no later than December 2010.<sup>3</sup> In D.09-12-045, the Commission directed parties to convene a settlement conference to "to enter into further settlement discussions to seek agreement on a 2010 final true-up of incentive earnings for each utility that reasonably ties incentives to actual performance consistent with the policies adopted in [D.09-12-045]."<sup>4</sup> The ultimate goal is to devise a process that upholds standards of integrity in measuring energy savings while providing more transparency and reducing the minutely detailed complexity involved in basing RRIM earnings solely upon the Energy Division "Final Verification and Performance Basis Report." In this regard, the Commission has stated that:

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<sup>2</sup> Attachment 6 of D.07-09-043 shows the various Energy Division reports linked to the interim and final claim true-up under the adopted RRIM. Reports used for interim claims are referred to as "Verification Report."

<sup>3</sup> Order Instituting Rulemaking (OIR) 09-01-019 at 5.

<sup>4</sup> D.09-12-045 at 72.

“... while the Final Performance Report may provide a context for settlement discussions, we encourage parties to explore the possibility of a 2010 true-up settlement based upon simplified assumptions or metrics not necessarily tied to the detailed and minute level of calculations embodied in the Final Performance Basis Report for the 2006-2008 cycle. In this manner, the schedule for comments and adoption of the Final Performance Basis Report may proceed on a separate, but related track to the schedule for a settlement, or related dispute resolution processes to determine the final 2010 true-up of incentive amounts for each utility.”<sup>5</sup>

Consistent with the goal of finalizing the true-up of incentive earnings based upon “simplified assumptions or metrics not necessarily tied to the detailed and minute level of calculations embodied in the Final Performance Basis Report for the 2006-2008 cycle,” this ruling provides guidance on the process to be used.

### **Process for Finalizing RRIM True-Up**

In order to achieve a more streamlined and transparent framework for determining RRIM earnings, the record will be developed based on a broader process that is not limited strictly to the Energy Division final report. To facilitate this broader record, incentive earnings under different policy scenarios will be calculated and compared utilizing the “Evaluation Reporting Tools/Database” (ERT) that Energy Division has developed for purposes of its final report.

The ERT is a combination of tools and process that work in concert to produce the final evaluated results for the 2006-2008 energy efficiency portfolios. The ERT contains core features that can be used to compile and evaluate

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<sup>5</sup> Id. at 73.

alternative scenarios and resulting RRIM earnings based upon changes in key parameters. The ERT can aggregate and report efficiency savings performance at the level of measure group, program, and total portfolio. By applying specified parameter assumptions, the ERT can produce scenario runs showing corresponding RRIM earnings.

The following table shows the core features of the ERT where possible changes in parameter assumptions could be made to allow alternative scenario calculations of incentive earnings.

**Table 1. ERT Components**

ERT Input Files	ERT Imbedded Scenarios	RRIM Calculator
<ul style="list-style-type: none"> <li>▪ UES</li> <li>▪ NTG</li> <li>▪ Install Rate</li> </ul> <ol style="list-style-type: none"> <li>1. Evaluation-based measure specific adjustments where available,</li> <li>2. DEER where available,</li> <li>3. IOU ex-ante through where nothing else available.</li> </ol> <p>Input files are available for both the utility claims and the evaluation based updates.</p>	<p>There are several variations of savings that are built into the ERT tool that could be available to all parties</p> <p>Utility Claim = no updates (Net Reported Savings)                      Irate = Installation Rate                      UES = Unit Energy Savings                      UES_I = Unit Energy Savings w/ Interactive effects                      NTGR = Net to Gross Ratio                      EUL = Applies DEER EULs where available                      IRateUESEUL = Gross Evaluated Savings                      IRateUESEUL_I = Gross Evaluated Savings w/ Interactive Effects                      All = IRateUESEULNTGR                      All_I = IRateUES_IEULNTGRNet Evaluated Savings with interactive effects)</p>	<ul style="list-style-type: none"> <li>▪ Sharing rate</li> <li>▪ Threshold for earnings</li> <li>▪ Threshold for penalties</li> </ul>

The ERT Input Files contain the measure-specific parameter values such as installation rate, net to gross (NTG) ratios, unit energy savings (UES), etc., that are used in the calculation of energy savings through the ERT application (the second column in the above table) when they are combined. The measure-specific parameter values in the ERT Input Files are derived for the most part from the results of the various contractor evaluation reports that have now been finalized under Energy Division’s oversight. The ERT application is an

MS Access Database designed to accept measure level data, process these data through the appropriate E3 calculator engine, and aggregate the processed results into various pre-defined scenarios. Energy savings and net benefits results from the ERT application feed into the RRIM calculator -- essentially an Excel spreadsheet that captures the requirements in calculating shareholder incentives related to the Minimum Performance Standard (MPS) and Performance Earnings Basis (PEB) to derive the actual amounts of incentive earnings (or penalties).

Two advantages of the ERT is that (1) it allows parties a more active role in advocating as to the key parameter assumptions that should apply for measuring performance and RRIM earnings, and (2) it allows for a more streamlined and manageable scope of issues to be considered in determining the applicable performance levels achieved, and the resulting RRIM earnings true-up that applies.

The ERT provides a template through which parties can focus their disagreements as to the appropriate measures of performance and RRIM earnings by narrowing the debate to a manageable set of issues. To avoid a potentially unproductive and lengthy debate over the entire universe of data points across all portfolio measures associated with specific measure-level parameter values (i.e., NTGs, UES, installation rates) used in the ERT Input Files, we will focus instead on the scenarios that are already embedded in the ERT, as well as other possible policy scenario analyses that can be undertaken to modify the inputs for the RRIM Calculator, to determine the resulting RRIM earnings. This approach may assist parties in exploring a settlement, or at least, will offer a more focused and transparent lens through which to compare differences. To facilitate the process, the following steps are hereby implemented.

## **Steps in Implementing the ERT Approach**

### **Step 1: Identification of Key Assumptions Subject to Consideration in ERT Scenario Runs**

The first step in the process will be to identify a discrete list of key assumptions that will be subject to consideration for purposes of running different scenarios using the ERT and producing the results, including the RRIM earnings impacts. In this manner, the calculation of appropriate RRIM earnings can be streamlined and made more transparent.

Consistent with this revised analytical framework for considering the RRIM earnings true-up, certain process changes are warranted with respect to the Energy Division Performance Evaluation Report. As noted above, the Energy Division is to release its draft Final Verification and Performance Basis Report for the 2006-2008 cycle on April 15, 2010. In D.08-12-059, the Commission stated that Energy Division was to issue its Verification Reports via draft resolution for consideration and adoption by the Commission before the reports could be used to determine RRIM earnings.<sup>6</sup> This procedure was intended to address the utilities' concerns regarding the need for Commission oversight in its reliance on the Verification Report to assess utility performance and award RRIM earnings.

Since the revised framework introduced by this ruling will consider performance data using more streamlined metrics, drawn from input from multiple parties utilizing the ERT as a template, however, the Commission can consider alternative approaches in calculating the final incentive amounts in

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<sup>6</sup> D.08-12-049 at 21.

addition to Energy Division's report, along with other relevant evidence, as part of the record within this proceeding.

Accordingly, to facilitate this process, Energy Division can create two separate reports. The first report is a stand-alone final evaluation report on the 2006-2008 program cycle that summarizes the results from Energy Division's evaluation efforts, including overall portfolio/program energy savings accomplishments and net benefits; describes improvements that can be made to program design and delivery going forward; but does not cover shareholder incentives issues. This report will be called the "2006-2008 Energy Efficiency Evaluation Report." This report will be issued as a draft on April 15, 2010, and follow the public vetting process as initially envisioned in D.07-09-043 (Attachment 7). Energy Division need not release this report via resolution since it will not address RRIM earnings issues and therefore does not have to be adopted by the Commission. Nevertheless, this report can be used to inform current and future program planning and deployment, long term procurement considerations, and other pertinent activities such as future updates to the DEER database.

The second report will present Energy Division's calculations of shareholder incentive earnings based on a range of possible scenarios, including Energy Division's own evaluated results as one scenario, as further discussed below. The second report will be released for parties' comments by ruling to be issued on May 4, 2010. Since this second report (to be titled "2006-2008 Risk Reward Incentive Mechanism Scenario Analysis," hereinafter referred to in short as Scenario Analysis Report) will be considered as part of the record of this proceeding in this way, it is also not necessary for the Commission to separately adopt this particular report by resolution.

As noted above, there are already scenario runs that are embedded in the ERT application tools, which can be presented in the Energy Division's Scenario Analysis Report. As a preliminary starting point for developing the range of scenario runs, the list of scenarios and related assumptions embedded in the ERT application tools are summarized below. Designations of "evaluated" results in some scenarios below refer to Energy Division's reported studies. The scenarios are as follows:

### **ERT Embedded Scenarios**

<b>Scenario #</b>	<b>Name</b>	<b>Description of Assumptions</b>
1	Utility Reported Gross Savings	No updates to IOU claimed savings; the IOU reported values from their 4 <sup>th</sup> Quarter 2008 tracking database.
2	Utility Reported Net Savings	No updates to IOU claimed savings; the IOU reported values from their 4 <sup>th</sup> Quarter 2008 tracking database, with IOU-reported NTG ratios to derive net savings.
3	Verified Net Savings	Same as Scenario 2, but with installation rates applied to the utility reported quantities based on evaluation results.
4	Evaluated Gross Savings (without interactive effects)	Utility reported savings are updated with the evaluated installation rate and the evaluated unit energy savings that do not include interactive effects (+ and -) to estimate gross savings.
5	Evaluated Gross Savings (with interactive effects)	Utility reported savings are updated with the evaluated installation rate and the evaluated unit energy savings that include interactive effects to estimate gross savings.
6	Evaluated Net Savings (without interactive effects)	Same as Scenario 4, but with evaluated NTG ratios applied to estimate net savings.
7	Evaluated Net Savings (with interactive effects)	Same as Scenario 5, but with evaluated NTG ratios applied to estimate net savings.
8	Evaluated Net Savings (without interactive effects) and removing 2004-2005 Evaluated Net Savings	Same as Scenario 6, but these savings and net benefits results are compared to the program cycle 2006-2008 goals instead of the cumulative savings goals for 2004-2008 for determining MPS in the RRIM calculator.
9	Evaluated Net Savings (with interactive effects) and removing 2004-2005 Evaluated Net Savings	Same as Scenario 7, but these savings and net benefits results are compared to the program cycle 2006-2008 goals instead of the cumulative savings goals for 2004-2008 for determining MPS in the RRIM calculator.

Other adjustments can also be made to certain policy assumptions that can be reflected as inputs to the RRIM calculator to perform additional scenario runs based on the process set forth below.

In comments filed on April 20, 2010, parties may propose other policy assumptions that they believe may be appropriate to include in the ERT scenario runs. Examples of such policy assumptions might be restating savings goals to be on a gross basis, versus a net basis, or adjusting savings goals to reflect the percentage decline in economic activity during 2006-2008. For any policy assumptions suggested, parties should explain why they believe it should be included in a scenario run, and the relative sensitivity of the variable in affecting total RRIM earnings. Parties may provide recommendations as to the appropriate set of scenario runs that should be undertaken and the corresponding set of policy assumptions that should apply to each of these scenarios. The comments should present any supporting basis for parties' positions as to the appropriateness of these scenarios and policy assumptions used to calculate the incentive earnings true-up figure.

## **Step 2: Production of ERT Scenario Runs Based on Designated Assumptions**

In a separate ruling to be mailed on May 4, 2010, a series of scenario runs will be presented using the ERT as a template, and incorporating the range of different assumptions identified in the listing above, plus, any additional assumptions that may be added based on review of parties' April 20, 2010 comments. The performance results based on Energy Division's evaluation efforts will be considered as one of the ERT scenarios in the determination of performance and resulting RRIM earnings. The May 4, 2010 ruling will issue all of these scenario runs for comment as attached in the Energy Division Scenario

Analysis Report, which will set forth the results of ERT runs for the designated scenarios, and compare the assumed energy efficiency performance and resulting RRIM earnings under each ERT scenario.

**Step 3: Comments, Settlement Conference, and Follow-Up Proceedings**

Based on the range of results produced by the ERT scenario runs, parties may file comments on May 18, 2010, as to the appropriate scenario assumptions to apply for the RRIM earnings true-up. A settlement conference will be scheduled for May 28, 2010. Hopefully, by narrowing the range of differences through the ERT scenario runs, and comments thereon, parties will be better positioned to reach consensus positions. In the event that the conference does not produce an acceptable settlement, further proceedings will be scheduled to address disputed issues. The direction of subsequent proceedings will depend upon what happens at the settlement conference. Depending upon the results of the settlement conference, the further proceedings may either be in the form of written comments or prepared testimony. In any event, the schedule below is adopted with the goal of producing a proposed decision by August 2010.

**Revised Schedule for Considering RRIM Earnings Based on ERT Scenario Runs**

The following schedule is adopted for purpose of developing the record on the RRIM earnings true-up based upon this approach aimed at a more transparent and straightforward basis for incentive earnings. As noted above, the previously adopted schedule for vetting the April 15, 2010 Evaluation Report (excluding RRIM earnings issues) will proceed under the process as initially envisioned in D.07-09-043.

<u>Event</u>	<u>Date</u>
Energy Division draft final 2006-2008 Energy Efficiency Evaluation Report Released	April 15, 2010
Comments on Proposed Scenarios to be considered	April 20, 2010
Energy Division Scenario Analysis Report Providing ERT Scenario Runs Issued via ACR	May 4, 2010
Comments on ERT Scenario Runs	May 18, 2010
Settlement Conference	May 28, 2010
Comments or Testimony on Disputed Issues	June 11, 2010
Workshops or Hearings on Disputed Issues	June 21-25, 2010
Post-workshop Comments or Opening Briefs	July 9, 2010
Reply Comments or Reply Briefs	July 23, 2010
Proposed Decision (PD)	August 24, 2010

**IT IS RULED that:**

1. Comments are solicited from parties as to what assumptions should be considered for purposes of running scenarios utilizing the Energy Division “Evaluation Reporting Tools/Database” (ERT) and running the “Risk/Reward Incentive Mechanism” (RRIM) calculator for determining the true-up of incentive earnings. The comments shall also provide any additional recommendations on policy assumptions that should be identified for consideration in producing ERT scenario runs, together with proposed values for those parameters. These comments shall be due on April 20, 2010.

2. The Energy Division Verification and Performance Basis Report, which will now be called the “2006-2008 Energy Efficiency Evaluation Report” due to be released on April 15, 2010, does not require a draft resolution to be attached. The April 15, 2010 report will not address the calculation of RRIM earnings. The Energy Division April 15, 2010 report will be filed with the Docket Office, and thereby made a part of the record in this proceeding. The applicable data from the Report will be considered, along with other relevant evidence, in



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Dated April 8, 2010, at San Francisco, California.

/s/ CRISTINE FERNANDEZ  
Cristine Fernandez

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