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Decision 12-12-032 December 20, 2012

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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

ALTERNATE DECISION APPROVING 2010-2012 ENERGY EFFICIENCY INCENTIVE MECHANISM AND DISBURSING 2010 INCENTIVE AWARDS

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ALTERNATE DECISION APPROVING 2010-2012 ENERGY EFFICIENCY INCENTIVE MECHANISM AND DISBURSING 2010 INCENTIVE AWARDS

1. Introduction

In this decision, we approve a management fee with performance bonuses as the shareholder incentive mechanism for utility implementation of the 2010-12 Energy Efficiency (EE) portfolios. A shareholder incentive mechanism is a core part of the state's strategy to successfully deploy Energy Efficiency. The shareholder incentive approach provided in this decision serves as a reform to the Risk/Reward Incentive Mechanism for the 2010-12 portfolio, while we contemplate further modifications for the upcoming 2013-14 portfolio.[1]

Based on our adopted 2010-12 incentive mechanism, annual awards shall be earned in the form of a management fee, equal to 5% of actual EE portfolio expenditures and a performance bonus of up to an additional 1% of actual EE expenditures. The actual weighting of the 1% depends on how well each investor-owned utilities has performed during the 2010-2012 cycle in complying with and implementing the lockdown of ex ante parameters for the EE portfolio.

In this decision, we also disburse shareholder incentives using this new mechanism to reward 2010 activities. In total, we disburse approximately $42.2 million to shareholders for 2010 EE activities, with $21 million to Pacific Gas & Electric Company, $15 million to Southern California Edison Company, $3.3 million to San Diego Gas & Electric Company and $2.7 million to Southern California Gas Company. We also adopt procedures for expedited processing of

[1] The 2013-14 EE Portfolios are currently under consideration in Application 12-07-001 et al. The Commission gave guidance on the portfolios in Decision 12-05-015. We intend for these portfolios to commence on January 1, 2013.

applicable incentive awards for 2011 and 2012 activity, using the mechanism approved in this decision. Specific 2011 and 2012 incentive amounts are to be determined and approved during calendar years 2013 and 2014, respectively.

This proceeding remains open for resolving incentive mechanism reforms and modifications for the 2013-14 cycle.

2. Procedural Background

This decision addresses the issue of Commission priorities for pursuing Energy Efficiency (EE) incentive reform, and more specifically, whether any incentive mechanism should be further pursued for the 2010-12 program cycle. A subsequent decision will address incentive reforms applicable to the 2013-14 cycle. The active parties in this proceeding are the investor-owned utilities (IOUs), Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), San Diego Gas & Electric Company (SDG&E) and Southern California Gas Company (SoCalGas). Intervenors include the Commission's Division of Ratepayer Advocates (DRA), The Utility Reform Network (TURN), the Natural Resources Defense Council (NRDC), National Association of Energy Service Companies (NAESCO), California Energy Efficiency Industry Council (Efficiency Council) and Women's Energy Matters (WEM).

In September 2007, the Commission originally adopted the Risk/Reward Incentive Mechanism (RRIM) in Decision (D.) 07-09-043. Within its first year, however, it became apparent that the RRIM was not working as intended. The Commission thus opened Rulemaking (R.) 09-01-019 to address RRIM reforms. Initial reforms were to be considered first, to apply to the 2006-08 program cycle, and more extensive reforms were to apply for programs implemented after that cycle.

The Commission adopted limited RRIM reforms in conjunction with incentive awards granted for the 2006-08 cycle. The Commission extended the 2006-08 cycle to 2009 via a bridge year in order to ensure continued funding while planning was underway for that next cycle, which was shifted to the 2010-12 portfolio. Accordingly, the Commission also authorized that the 2006-08 RRIM reforms be extended into the 2009 bridge year in D.10-12-049.[2]

Prospective RRIM reform proposals were addressed in the April 1, 2009, Energy Division "White Paper on Proposed Energy Efficiency Risk-Reward Incentive Mechanism and Evaluation, Measurement, and Verification Activities" (White Paper).[3] By ruling issued April 16, 2009, the White Paper was incorporated into the record in R.09-01-019. On April 29, 2009, parties filed comments on the White Paper, with reply comments on May 11, 2009.

On May 22, 2009, parties filed initial proposals for prospective RRIM reforms, with responses filed June 12, 2009. A workshop was convened on July 15, 2009, to address the proposals. Post-workshop comments filed on August 7, 2009, incorporated further amendments.[4]

On November 15, 2010, the assigned Administrative Law Judge (ALJ) issued a Proposed Decision (PD) for RRIM reforms to apply for the 2010-12

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[2] The original intent was to adopt a 2009-2011 energy efficiency budget cycle. Due to various factors, including adoption of the Strategic Plan and the need for significant revisions to the utility portfolio applications, the budget cycle start was deferred one year. Bridge funding was authorized in D.08-10-027 to ensure that viable programs continued through 2009.

[3] The White Paper was served jointly on parties in this proceeding and in Application (A.) 08-07-021 et al. (applications regarding 2009-2011 EE Programs).

[4] Between September 2009 and November 2010, the focus of R.09-01-019 proceedings was on RRIM issues applicable to earnings claims for the 2006-2008 program cycle.

cycle. The PD proposed various changes from the previously adopted RRIM, and called for the use of ex ante parameters to calculate a new shared savings formula. However, the Commission did not act on that PD for several reasons, including continuing uncertainty regarding ex ante parameters supporting the 2010-12 portfolio. The PD was ultimately withdrawn.

Protracted disputes about the 2010-12 cycle that would impact intended reforms for the RRIM were addressed in R.09-11-014. In July 2011, the Commission finally resolved the last of these disputed ex ante values for 2010-12 programs in D.11-07-030.[5] After issuance of D.11-07-030, the assigned Commissioner issued a ruling on August 30, 2011 to refresh the record on RRIM issues.[6] Comments on the ruling were filed on September 23, 2011, and reply comments were filed on October 7, 2011. Upon review of comments and further consideration, the assigned Commissioner issued a follow-up ruling on December 16, 2011.

On January 12, 2012, the Commission opened R.12-01-005 (successor to R.09-01-019 which, in turn, was successor to R.06-04-010, our inquiry into post-2005 energy efficiency policies, programs, evaluation, measurement and

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[5] On November 25, 2009, R.09-11-014 was opened to address the policies, programs and evaluation, measurement and verification activities related to the post-2008 energy efficiency activities. As the successor to R.06-04-010 (post-2005 rulemaking on Policies, Programs, Evaluation, Measurement and Verification, and Related Issues), R.09-11-014 sought to address updates to EE savings goals.

[6] Commissioner John Bohn was originally the assigned Commissioner in R.09-01-019. On January 11, 2011, Commissioner Michael R. Peevey became the assigned Commissioner in R.09-01-019. On April 13, 2011, Commissioner Mark J. Ferron became the assigned Commissioner in R.09-01-019, and continued as the assigned commissioner in the successor proceeding, R.12-01-005.

verification, and related issues).[7] Comments on the Order Instituting Rulemaking (OIR) were filed on February 2, 2012, incorporating comments on the December 16, 2011 ruling issued in R.09-01-019. Parties filed reply comments on the OIR on February 16, 2012. Prehearing Conference (PHC) Statements were filed March 19, 2012. A PHC was held on March 23, 2012, and a scoping memo was issued on May 16, 2012. The scoping memo determined that no further comments would be filed relating to the 2010-12 program cycle. The record underlying this decision thus incorporates relevant filings in R.09-01-019, as well as filings submitted in R.12-01-005.

On August 22, 2012, the assigned commissioner and ALJ issued an amended scoping memo. That scoping memo alerted parties that the Commission intended to consider 2010-12 reforms, if any, in the fourth quarter of 2012. It also indicated that if the Commission were to approve an incentive mechanism, such a payment would occur in the same decision rather than a separate proceeding. The August 22, 2012 Scoping Memo also entered into the record public versions of the Commission's Utility Audit, Finance and Compliance Branch reports, which examined the 2010 Energy Efficiency Programs for each of the utilities. On September 25, 2012, the ALJ issued a ruling outlining a proposal for a new incentive mechanism (detailed further below) and also entered into the record performance findings based on 2010 activities.

[7] In R.06-04-010, among other things, the Commission set energy efficiency goals (e.g., D.08-07-047) and designed an incentive mechanism to promote energy efficiency. R.09-01-019 addressed reforms to the incentive mechanism for energy efficiency programs.

3. Factual and Policy Background

Relevant statute,[8] California's Energy Action Plan,[9] and past Commission decisions all prioritize EE as the first resource to meet California's energy demand. The RRIM was originally designed to extend California's commitment to making EE the highest energy resource priority.

Culminating an extended history of applying various forms of incentives seeking to maximize energy efficiency savings, in September 2007, the Commission adopted the RRIM in D.07-09-043. As noted in the Energy Action Plan[10] and multiple past Commission decisions, there is an inherent utility bias towards supply-side procurement under cost-of-service regulation. Investor-owned utilities generate earnings when they invest in supply-side resources, but not when implementing cost-effective energy efficiency measures.

The RRIM was devised to address the utility bias in favor of supply-side resources by providing the opportunity for incentive earnings on par with

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[8] Public Utilities Code Section 454.5(b)(9)(C) states: "The electrical corporation will first meet its unmet resource needs through all available energy efficiency and demand reduction resources that are cost effective, reliable, and feasible."

[9] The Energy Action Plan identifies specific goals and actions to ensure adequate, reliable and reasonably-priced electrical power and natural gas supplies through cost-effective and environmentally sound strategies. The Energy Action Plan is posted on the Commission's website at http://www.cpuc.ca.gov/static/energy/electric/energy+action+plan/index.htm. *See also*, D.05-09-043, *mimeo.,* at 15; Energy Efficiency Policy Manual Version 3 (Policy Rules), Rule II.2 (Attachment 3 to D.05-04-051).

[10] California's principal energy agencies, including this Commission, joined to create the Energy Action Plan in 2003. This plan identifies specific goals and actions to ensure that adequate, reliable and reasonably-priced electrical power and natural gas supplies are achieved and provided through cost-effective and environmentally sound strategies.

investment opportunities from supply-side resources. RRIM earnings were determined as a share of cost savings from Commission-approved energy efficiency measures. As originally designed, the incentive formula applied: (a) a minimum performance standard (MPS) and (b) a performance earning basis (PEB). For savings from 85% to 100% of MPS goals, the utility earned 9% of the PEB. For savings achieved greater than 100% of MPS goals, the utilities earned a 12% shared savings rate.[11]

In previous decisions, we approved RRIM awards for the 2006-08 budget cycle and for the 2009 bridge year.[12] The most recent incentive awards were approved in December 2011 (covering 2009 bridge year programs) in D.11-12-036. For the reasons outlined below, however, no mechanism has yet been adopted to provide for incentive awards for the 2010-12 cycle. Uncertainty has remained regarding whether, and if so, how a mechanism may be adopted and applied for incentive earnings for the 2010-12 cycle.

For the 2006-08 cycle, the Commission provided annual incentive awards, with two interim installments and a third final installment. As early as the first installment awarded in December 2008, the Commission recognized that the RRIM was not functioning as intended. The Commission adopted limited modifications to the RRIM in conjunction with approving the first two installments of incentive awards for 2006-08.

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[11] Savings between 65% and 84% were to be in a "deadband" range where no rewards or penalties applied. Savings below 65% subjected the utilities to penalties. Maximum limits on incentive earnings and penalties were capped at $450 million for 2006-2008.

[12] For the 2006-2008 cycle, incentive earnings were awarded in three installments: December 2008, December 2009, and a final payment in December 2010.

In D.10-12-049, the Commission modified the RRIM more significantly for the third installment. The RRIM had originally been designed to base the third installment payment on an ex post evaluation and update. Among other things, D.10-12-049 modified the mechanism to use ex ante estimates,[13] rather than ex post evaluations, for the final 2006-08 RRIM installment.[14] In D.10-12-049, the Commission also authorized one additional installment of incentives for the bridge year of 2009, also based on ex ante values.

The Commission adopted these modifications, in part, because of controversies over the ex post evaluations of net benefits, including the updates to the Database of Energy Efficiency Resources (DEER)[15] utilized to evaluate net benefits. Ex post evaluations were particularly controversial as they involved assumptions that could be difficult to verify, and differences between ex ante and ex post values impacted incentive earnings significantly. We observe that Commission staff's early involvement in workpaper development was intended to streamline the review of final workpapers and ensure greater reliability of workpaper savings estimates. However, non-DEER workpaper review

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[13] *Ex ante* refers to energy savings associated with an energy efficiency measure or equipment based on estimates prior to installation. Ex ante values are used to determine whether a forecasted energy efficiency portfolio is cost-effective. (*See* D.05-04-051 at 35.)

[14] In D.10-12-049, the Commission modified the explicit requirement for ex post evaluation of savings, and instead simply required that net benefits be shared to the extent that those net benefits actually materialize.

[15] The DEER holds the collective savings assumptions applied in planning and updated through evaluation, and is periodically updated to ensure the most accurate estimates of actual load impacts resulting from ratepayer investments in energy efficiency. For the 2010-2012 cycle, the Commission utilized DEER 2008 values (as referred to in D.09-09-047).

consumes a significant amount of regulatory review time and resources, and our reviews result in the need for major revisions to many IOU-submitted workpapers. These significant changes result in stalled program implementation and create uncertainty for IOUs' anticipated energy savings goals. Similarly, the custom project review process continues to be delayed due to non-disclosure agreement and data security issues, a consistent lack of complete data included in custom project proposals, and the inability of some IOUs to update their own project tracking lists, which prevented Commission staff from reviewing many projects selected for ex ante review because contracts had already been signed with customers prior to staff gaining access to the project lists.

For the 2006-08 true up and 2009 bridge year awards, the Commission reduced the shared savings rate to 7% (down from the 9%/12% rates adopted in D.07-09-043). The 7% rate was to reflect an assessment of reduced shareholder risk associated with reliance on ex ante values with no ex post true up.

Since the EE programs for 2010-12 programs differed significantly from the 2006-08 portfolios and the 2009 bridge year, the Commission originally sought to revise the RRIM shared savings formulas to be consistent with the new portfolio. To the extent that 2010-12 programs reflected changes in costs, load impacts and investor risk, the previous RRIM earnings cap and shared savings rates would no longer be relevant. Accordingly, the Commission sought to develop revised shared savings rates based upon ex ante data for the 2010-12 cycle. At the time that the ALJ's PD was issued in November 2010, however, significant uncertainty remained regarding ex ante values for the 2010-12 cycle. As stated above, that PD was ultimately withdrawn.

We approved EE budgets for the 2010-12 cycle in September 2009, in D.09-09-047. We expressed the intention to freeze ex ante assumptions used to develop the 2010-12 portfolio for tracking savings against goals, contingent on compliance and consistency in utility data. We committed to streamlining evaluation measurement and verification (EM&V) efforts with the goal of increasing their usefulness while lessening the contentiousness witnessed during the 2006-08 cycle. Nonetheless, ex ante values supporting the underlying programs were not finalized until July 2011, with over half of the cycle completed. Because of the delays in finalizing relevant data for the 2010-12 programs, a timely recalculation of shared savings rates incorporating ex ante values for the 2010-12 cycle has not yet been completed.

We note that various parties argue that relying on ex ante values for calculating 2010-12 incentive earnings could avoid the delays and controversies previously encountered with ex post evaluations. However, based on our experience so far with the 2010-12 cycle, we now appreciate that the process to develop ex ante values can be just as contentious as ex post evaluations. Our attempts to shift the focus from an ex post to an ex ante paradigm did not expedite or simplify the determination of relevant metrics for a 2010-12 RRIM; rather, we only shifted the debate from the back end (with ex post evaluations) to the front end of a cycle (where ex ante values are determined).

To obtain a complete database of ex ante values for 2010-12, the Commission assigned the staff with the task of developing a process to review and approve: (1) updates to the DEER; (2) non-DEER workpapers; and (3) customized projects. Due to various factors, controversy led to protracted delays.

As noted in D.09-09-047, the Commission expected staff to use the best available information to update the 2008 DEER after consulting with the utilities on possible updates (including errors). When the Commission initially approved the 2010-12 budgets in D.09-09-047 in September 2009, Commission staff had not yet performed a review and approval of the IOUs' non-DEER-measure ex ante estimates. Commission staff rejected or required major changes to the non-DEER measure workpapers.

Further controversy arose when the IOUs jointly filed a Petition for Modification of D.09-09-047. The Petition stated:

> After much discussion and collaboration between the Joint IOUs and Energy Division and its consultants, the energy savings assumptions have not yet been frozen, despite this Commission objective. The result is that nine months into the program cycle, the energy savings assumptions continue to represent a "moving target" for the Joint IOUs. The Joint IOUs and the Energy Division agree the process is currently at a stalemate and that direction from the Commission is needed to move forward.

Final determination of 2010-12 ex ante values was delayed in order to resolve the Petition. Ex ante disputes for DEER measures were finally resolved in D.10-12-054. The Commission adopted non-DEER ex ante measures seven months later, in D.11-07-030. As a result, the data required to calculate updated incentive mechanism formulas for the 2010-12 cycle was not available before July 2011 (over half-way through the cycle).

Post adoption of D.11-07-030, the assigned Commissioner issued a ruling dated August 30, 2011, directing the IOUs to calculate revised RRIM shared-savings percentage calculations based on the adopted ex ante data for 2010-12. The assigned Commissioner issued a subsequent ruling on December 16, 2011, renewing the directive for the updated calculations. On

February 2, 2012, the IOUs provided calculations of shared savings rates based on 2010-12 ex ante assumptions. The protracted controversy surrounding ex ante values thus resulted in corresponding impediments in calculating and evaluating possible RRIM revisions.

4. Parties' Positions Regarding a 2010-12 Incentive Mechanism

Over the course of consideration of prospective reforms in the RRIM for the 2010-12 portfolio cycle, parties' proposals and positions have evolved. We focus on parties' final positions regarding a 2010-12 incentive mechanism, rather than summarizing the entire history of past proposals, some of which are outdated with the passage of time.

4.1. PG&E's Position

PG&E argues that an incentive mechanism should be approved for the 2010-12 cycle in order to preserve consistency of the Commission's regulatory treatment. PG&E asserts that by providing for an incentive mechanism for the 2010-12 cycle, the Commission will create continued regulatory certainty, so that the IOUs and investors will be motivated to fully invest in a long term aggressive EE program that will help meet California EE policy goals.

PG&E recommends that the Commission adopt an incentive mechanism for the 2010-12 cycle largely based on the mechanism used for the 2009 bridge year.[16] PG&E claims it has been executing portfolio programs throughout the 2010-12 cycle based on the assumption that each utility would be awarded incentives for 2010-12 activity based on the RRIM formulas applied for the 2009 bridge year.

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[16] *See* D.11-12-036 for further detail in the incentives given for 2009 bridge year activities.

For 2010-12 incentive awards, PG&E proposes the use of the ex ante savings assumptions as adopted in D.09-09-047 and in D.11-07-030. PG&E also proposes: (1) applying the Custom Measure Review Process Gross Realization Rate for all non-reviewed custom projects; (2) using the workpaper values approved in D.11-07-030; (3) using the values approved in the Phase 2 workpaper approval process; and (4) using installation rates provided by the IOUs in response to a directive in D.11-07-030.

PG&E proposes that the MPS be calculated using cumulative savings beginning in 2010, as suggested by Commission Staff for the 2013-14 portfolio goals. (The Commission study on a cumulative savings methodology has not yet been completed.)

PG&E calculates, as provided in its February 2, 2012 analysis, that for the 2010-12 cycle, a shared savings rate of 43.2 % would yield incentive earnings approaching the return that could be earned on corresponding supply side-investments. PG&E, however does not to seek approval of a 43.2% shareholder earnings rate for the 2010-12 cycle. PG&E proposes only a 7% shared savings rate for the 2010-12 cycle, as was previously applied for the 2006-08 RRIM true up and 2009 bridge year. PG&E argues that applying the same rate for 2010-12 would allow for a timely and reasonable award for portfolio achievements.

4.2. SDG&E and SoCalGas' Position

SDG&E and SoCalGas jointly submitted a proposal as outlined below for purposes of determining incentives for the 2010-12 cycle. They would, however, agree to using the same formulas used for the 2009 bridge year, given the limited remaining time in the 2010-12 cycle. They take this position, in part, in recognition of the cumulative resource constraints in simultaneously preparing 2010-12 claims together with the 2013-14 portfolio applications.

SDG&E and SoCalGas' preferred proposal for 2010-12 is for an incentive formula utilizing the elements as follows:

- Goals and minimum performance would not be used for purposes of the RRIM; rather, incentive earnings would equal an earnings rate of 7% multiplied by the PEB.
- Ex ante data frozen before the earnings period would be used to determine savings achievements.
- Ex post verification would be limited to installations and expenditures to determine the final PEB.
- EM&V ex post study results would be used to determine ex ante values in the next cycle.
- The PEB would continue to equal 2/3 of the Total Resource Cost net expected benefits and 1/3 the Program Administrator Cost net expected benefits.
- Non-resource programs, including market transformation programs, would be excluded from the calculation of the RRIM.
- Resource programs with net-to-gross ratios greater than 20% would be allowed. Once market transformation is "fairly complete" (based on a net-to-gross ratio of less than 20% as an indicator), measures would no longer be eligible for incentives in resource programs and, therefore, the associated savings would not be eligible for earnings under the RRIM.
- For purposes of the RRIM only, custom projects submitted after publication of D.11-07-030 would use 75% of engineering estimates of savings to determine PEB with no additional adjustments from the net-to-gross ratio. Custom measures submitted prior to D.11-07-030 would use the default of 90% of engineering estimates of savings for determining the PEB with no additional adjustments from the net-to-gross ratio.

- Annual recovery holdback would be 25% subject to completed verification of installations and costs, to be completed prior to the next year's earnings assessment.
- Cap on earnings of RRIM would be utility-specific and equal to 1.5 times the overall EE program expected PEB.

4.3. SCE's Position

SCE believes that the Commission should focus its efforts on devising an effective 2013-14 incentive mechanism, and therefore does not advocate adoption of any incentive mechanism for the 2010-12 cycle. SCE believes that because any Commission decision on a RRIM for the 2010-12 cycle would be issued well into 2012, any adopted mechanism would provide a weakened incentive signal with respect to construction and execution of the 2010-12 portfolio. SCE states that everyone's collective time and efforts would be best spent looking ahead to the development and implementation of a new mechanism that is aligned with program designs for 2013-14 and beyond.

However, within the context of a 2010-12 proposal, SCE proposes a transition away from a shared savings mechanism grounded in estimations, calculations and conclusions drawn from subjective studies. SCE supports what it calls a simpler, more straight-forward mechanism that rewards implementation of the portfolio approved by the Commission and focuses on reliability, affordability, and environmental protection. SCE does not provide details on how a simpler, more straight-forward mechanism for 2010-12 should be structured in their comments submitted on February 16, 2012. However, in comments submitted regarding an incentive mechanism for 2013-14, SCE indicated that a management fee or a performance adder (i.e., percentage of program expenditures) mechanism based on achieving observable implementation goals could prove to be a simple, easily implementable mechanism.[17]

In compliance with the Assigned Commissioner's Ruling, SCE calculated a shared savings rate of 77% for the 2010-012 cycle (based on supply-side equivalent earnings that total $510 million, divided by $664 million PEB). SCE states, however, this derived shared savings rate for the 2010-12 cycle is not a palpable basis for an incentive mechanism. SCE states that while comparability to supply-side investments does provide an appropriate benchmark, it must be reasonable. A shared savings rate is intended to determine the percentage in which IOU shareholders and ratepayers share in the resource benefits created by energy efficiency. SCE does not believe it is reasonable to give shareholders nearly two-thirds of those benefits. SCE believes the derived shared savings rate of 77% may demonstrate that a shared savings approach is not the appropriate means to achieve the Commission's policies in a manner consistent with the Energy Action Plan.

4.4. NRDC's Position

NRDC supports the adoption of a RRIM for 2010-12 as an important policy tool to promote EE goals. NRDC proposes to continue the basic structure of the 2006-08 RRIM for the 2010-12 cycle with the following modifications to simplify the mechanism:[18]

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[17] Southern California Edison Company's (U338E) Comments on Incentive Reform Issues, submitted July 16, 2012, at 10.

[18] Many of these elements are similar to those proposed by the Sempra Utilities (at 6). *See* NRDC, *Comments of the Natural Resources Defense Council (NRDC) on the Proposed Decision Regarding Risk/Reward Incentive Mechanism Reforms*, R. 09-01-019, at 9

Footnote continued on next page

- A single shared savings rate of 8% to 10%;
- Use of ex ante values, except for ex post updates to installations and program costs;
- Minimum Performance Standard (MPS) when portfolio is cost-effective instead of tied to goals;
- No per-unit penalties, but "cost-effectiveness guarantee" penalty remains; and
- Performance Earnings Basis excludes "non-resource" program costs, with consideration of a separate mechanism for non-resource programs held to a later phase of the proceeding.

NRDC previously provided a calculation for adjusting the RRIM to account for the differences in the 2006-08 versus 2010-12 portfolios and other changes in the RRIM. NRDC believes that, weighing all anticipated changes in the RRIM, the 2010-12 expected earnings should be approximately the same or moderately lower than the expected earnings for 2006-08 approved in D.07-09-043 (based on a range of $323 million at 100% of goals up to $450 million at the cap). NRDC thus proposes a shared savings rate for 2010-12 in the range of 8% to 10%, reflecting a level of earnings of approximately 1% of estimated utility profits.

If the Commission decides to simply extend the 2009 mechanism into 2010-12, however, NRDC recommends that the Commission extend the 2009 mechanism "as is" (i.e., using the 7% shared savings rate and other 2009 parameters) without taking further comments on adjustments. NRDC believes

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(December 2010); NRDC, *NRDC Reply Comments on the Proposed Decision Regarding the Risk/Reward Incentive Mechanism Earnings True-Up For 2006-2008*, (October 2010).

that the primary rationale for adopting such an extension would be its simplicity and the ability to adopt it readily.

NRDC agrees with TURN on the primary risk factors that warrant a reduction in potential earnings, but disagrees on the magnitude of the reduction. NRDC agrees that the use of ex ante values for most metrics reduces the utilities' risk and warrants a reduction in incentive earnings opportunity. NRDC, however, still supports an EM&V process that produces reliable results that can be updated in a timely manner.

However, NRDC disagrees with TURN's assertions that the risk adjustment for the change from ex post to ex ante metrics should result in a 55% earnings reduction. The 55% figure is based on the ratio of Commission Staff's proposed ex post values for 2006-08 relative to the ex ante values. TURN bases its proposal on the ratio of Commission Staff's proposed ex post values for 2006-08 relative to the ex ante values. NRDC disagrees with this approach because Commission Staff's proposed ex post values were not adopted by the Commission.

4.5. DRA's Position

DRA recommends that the RRIM be entirely eliminated, with no further resources devoted to possible alternatives that involve payment of shareholder earnings. DRA claims there is a fundamental disconnect between the IOUs' role in procuring supply-side resources and the energy efficiency goals of reduced consumption. DRA argues that there is no correlation between incentive earnings and performance of utility-run EE programs.

DRA argues that there is an inherent contradiction in values between energy efficiency and utilities' fiduciary investment responsibility. DRA claims that the IOUs have not demonstrated the ability to adapt to changing market conditions, yet expertise with market transformation is crucial to the future success of EE.

DRA questions the validity of offering shareholder incentives for utility administration of energy efficiency, especially when no incentives are authorized for other programs that reduce demand, including demand response programs, the California Solar Initiative, or other distributed generation programs.

DRA claims that despite years of various incentive mechanisms, the IOUs have engaged in over procurement of supply-side resources and underachievement of energy savings while challenging independent evaluations of their energy savings achievements. As a result, DRA claims that ratepayers have been forced to fund underperforming EE investments, including the payment of incentives, while also funding higher supply-side costs.

DRA claims that PG&E, SCE and SDG&E neglected to incorporate EE programs into their long-term procurement plans to the full extent of Commission adopted goals and the California Energy Commission's translation of those goals into energy efficiency forecasts to reduce procurement requirements.

4.6. WEM's Position

WEM also opposes any further incentive program that pays shareholder earnings. WEM argues that the RRIM fails to provide any incentive for achieving EE. WEM believes that the RRIM works against better EE programs, and that EM&V, as developed for the purpose of calculating RRIM earnings, is largely useless for determining the grid-reliability of EE. WEM claims that the time lag is excessive between when a measure is installed versus when EM&V is performed, with a delay of as many as three or four years after an EE measure is installed. WEM argues, for example, that earnings are awarded at a time when many CFLs funded by the programs have already burned out. WEM complains that EM&V provides hardly any reports on the distribution of energy savings in relation to the needs of procurement and transmission/distribution planning.

4.7. TURN's Position

TURN believes there is no theoretical or practical basis for basing EE shareholder incentives on avoided supply side investments. TURN argues that a more effective and efficient method for promoting EE programs would be to adopt an independent administrator(s) model. TURN's preferred solution is the creation of a competitive environment for alternative effective and efficient energy efficiency services outside of the utility.

TURN believes that, if the Commission were to choose to provide incentives to IOUs, a management fee model would be superior to a shared savings model. Rather than providing separate "shareholder incentives" for energy efficiency, TURN argues that the utilities should include energy efficiency goals in their employee bonus programs (for example, the "results sharing" programs which provide bonuses based on a variety of performance measures), and to provide a reasonable management fee-type shareholder incentive for utility performance, analogous to incentive mechanisms adopted for safety, reliability and customer service.

A "shared savings" model assumes that the utilities could become indifferent as between supply and demand. TURN argues, however, that even the utilities themselves have generally agreed that the fundamental purpose of incentives for energy efficiency is not to change fundamental corporate goals. Rather, the incentives were a tool to make a certain activity sufficiently profitable so that management would focus attention and resources on deployment of EE. TURN argues that if the Commission chooses to apply the shared savings incentive model for the 2010-12 cycle, the percentage of savings assigned to investors should be reduced to reflect the lower risk inherent in modifications to the mechanism that was originally adopted in D.07-09-043. TURN concluded that removing the risk of using ex post values to calculate savings, as originally required, results in a risk adjustment of at least 55%. TURN calculated that this risk reduction translated into an illustrative sharing rate of 6.2% based on the preliminary estimates of 2010-12 results provided in NRDC's filings. In order to account for additional reduced risk as a result of no per-unit penalties and no claw-back of overpayments, TURN believes the sharing rate should be reduced to 5%.

5. Determination of Incentive Mechanism for the 2010-12 Portfolio

Ideally, an incentive mechanism should be in place at the time of the energy efficiency portfolio design, in order to maximize its effectiveness at the start of that program's cycle. If not possible, then the next best outcome would be to have an incentive mechanism in place close to the start of the portfolio cycle itself, in order to have any ability to influence utility behavior. In this instance however, because of the multiple delays described above, we are not able to consider an incentive mechanism until the end of the 2010-12 cycle.

Any adoption of the incentive mechanism for 2010-12 at this point would be backward looking. As originally intended, the Risk/Reward Incentive Mechanism was to alter utility behavior with both a financial risk and reward. However, with a backward looking mechanism, it is impossible for the utility to manage any risk or be incented by a shareholder reward. As a result, we believe that any mechanism approved or payment awarded today is too late to have a material effect on behavior for effective management of 2010-12 programs.

TURN, DRA and WEM all advocate not approving a shareholder incentive for the 2010-12 portfolio. While all of these parties make very compelling arguments, ultimately we disagree. We believe that denial of a shareholder incentive payment sends the wrong signal to the greater market place. For 2010-12, the utilities managed a $3 billion portfolio comprising an energy resource at the top of the state's loading order. Effective management of EE also ensures progress towards a significant component of California's greenhouse gas reduction goals. We believe it would be a bad policy outcome to deny a shareholder incentive for energy efficiency. Rather, we agree with NRDC and PG&E that continued regulatory certainty in this area will help motivate the IOUs and investors to continue to support and commit to a long term, aggressive EE program that will help meet state policy goals. We are persuaded by NRDC that an incentive mechanism is an important tool to promote our state's policy objectives for energy efficiency.

We recognize, as previously discussed in D.08-01-042, to be effective in motivating pursuit of energy efficiency goals, incentive earnings should be used as a basis for the IOUs' financial valuation. In order to be the most effective, the IOUs should be able to book incentive earnings on a regular basis and in a manner that can be anticipated by the investment community. Otherwise, earnings from energy efficiency programs would not be truly on par with earnings from supply-side resources in the minds of investors.

Incentive earnings that are not booked at regular intervals would result in a one-time earnings adjustment and likely would be excluded from earnings used as the basis for utility financial valuation. This uncertainty could result in a higher cost of utility financing. As a consequence, the full potential benefit of shareholder incentives would not be realized. Based on the rationale outlined above, we elect to adopt an incentive mechanism in order to continue to disburse shareholder incentives to reward EE activity. We now turn to the design of the mechanism for the 2010-12 portfolio.

5.1. Design of the 2010-12 Incentive Mechanism

The effectiveness of an incentive mechanism depends on the timing of its adoption and implementation. As observed in D.10-12-049, any incentive should be designed based upon the goals, benchmarks and performance parameters in effect at the start of the program cycle. As discussed above, the relevant parameters were not known until well into the 2010-12 cycle. With the 2010-12 cycle now nearly complete, any incentive mechanism would have no material effect on the design or execution of 2010-12 programs.

Given these considerations, PG&E, SDG&E, SoCalGas, SCE, NRDC, DRA, and TURN all recommend that simplicity should be the overriding goal of any incentive mechanism the Commission adopts at this point in the program cycle. Several parties made proposals for the 2010-12 cycle. PG&E and NRDC advocate extending the mechanism used in D.11-12-036 to reward 2009 bridge year activities – essentially the Performance Earnings Basis calculated using ex ante savings parameter estimates – as an appropriate way to compensate the utilities in a timely fashion. PG&E, SDG&E, and SoCalGas propose a 7% shared savings rate essentially as a pragmatic default, claiming it is less controversial and can be readily adopted.

While we agree that simplicity is an important feature of the design of the 2010-12 incentive mechanism, we are not persuaded to adopt either the 2009 bridge year mechanism or this specific shared savings rate. Although certain parties claim that extending the 2009 bridge year mechanism would be expedient and less controversial, this approach is not supported by all parties. DRA, TURN, and WEM, in particular, oppose components of this approach or the entire mechanism. SCE also observes that even if the same shared savings rate used to reward 2009 activities, the mechanism would require significant adjustment in order to apply it to the 2010-12 portfolio. Thus, adopting an extension of the mechanism used in the D.11-12-036 would not eliminate or resolve disputes concerning whether a shared savings mechanism should be adopted for 2010-12, and if so, what rate should apply.

In addition to the time that would be required to revise a 2009 bridge year mechanism for the 2010-12 portfolio, additional time would be needed to review and process actual claims for RRIM earnings based on that mechanism. As stated above, the Commission has made annual shareholder incentive awards since 2007. In our experience, processing these claims is both time and resource intensive. For example, for the incentive claims for 2009 bridge year activity approved in D.11-12-036, the utilities filed applications in June 2011. While our review was timely, approximately six months was still required for full Commission consideration and review of those claims. Given the timing of today's decision, it is not feasible to make the necessary adaptations to the RRIM for the 2010-12 portfolio and also make incentive awards in calendar year 2012. If we were to extend that mechanism, an incentive claim covering program year 2010 would not happen at least until mid-2013. Processing claims for program years 2011 and 2012 would require yet more resources and time. As discussed above, a regular schedule of shareholder incentive awards maximizes benefits of those awards. In our view, litigating an extension of the D.11-12-036 incentive mechanism would not result in timely Commission action on the actual awards.

The continued use of the 2009 bridge year mechanism, while perhaps simple in terms of the requisite number of changes, would not result in a calendar year 2012 payment to shareholders. Therefore, we decline to adopt an extension of the 2009 bridge year mechanism to reward the 2010-12 portfolio. We now turn our attention to a methodology that we will adopt to reward shareholders for the utilities' management of the 2010-12 portfolio.

SCE and TURN recommend that we adopt a simpler incentive mechanism for the 2010-12 portfolio. TURN and SCE support the use of a management fee as a straight-forward method to incent all programs, including non-resource programs. We agree with this basic concept as proposed by TURN and SCE. We adopt an incentive mechanism primarily based the utility's annual programmatic expenditures. A management fee will be the primary source of the shareholder incentive for the 2010-12 portfolio cycle. Even though it adds some additional complexity, we augment this reward with a small performance bonus based on utility conformance with the ex ante review processes for the 2010-12 portfolio cycle. Both the management fee and the performance bonus are calculated as a percentage of annual utility expenditures, less costs associated with EM&V. As detailed further below, we adopt an overall earnings potential of 6% based on the utility's annual programmatic expenditures. Of this 6% potential earnings, 5% is based on the utility's annual expenditure and up to an additional 1% is based on its conformance with our ex ante lockdown process. We now explain in greater detail the mechanics of the 2010-12 incentive mechanism.

We first describe the overall incentive earnings potential for the 2010-12 incentive mechanism. In assessing the appropriate limit on potential earnings for the 2010-12 portfolio cycle, we weigh a variety of factors. Ultimately, our adopted limits cannot be easily reduced to a mechanical formula, but remain a matter of informed judgment. Incentive earnings potential must be high enough to motivate utility management to view EE savings as a core element of utility operations, but also must be limited to protect ratepayers against the risks of unanticipated results associated with the incentive mechanism. In D.07-09-043, we originally capped potential earnings at $450 million for the 2006-08 cycle. After accounting for the reduction of risk and the downward shift of the shared savings rate discussed above, the total award given to shareholders for those three years of activity was approximately $211.85 million. Based on the total EE budget for 2006-08 of $2.2 billion, these rewards represent an equivalent fee of approximately 9.63% of EE expenditures. For 2010-12, we set an overall cap on the earnings potential at 6% of actual EE expenditures up to approved budgeted limits, where the utility will fully earn on 5% and be able to earn up to an additional 1%. Put another way, of the 6% earnings potential, 5% is guaranteed and only 1% is subject to any risk. This earnings limit incorporates some provision to reflect the reduced risk of a more simplified mechanism based on EE program expenditures, without the risk of failure to meet threshold units of EE savings. The authorized incentive earnings limit of 6% is somewhat comparable with the range of what was disbursed for 2006-08 activities. NRDC advocates a fee that is closer to the rate used for 2006-08 activities of 10%. However, we decline to adopt this level since we think it would result in too high of a payment given the differences in the risk profiles. In its comments, TURN discusses earnings potential limits from other states, and we observe that this 6% limit is in that range. While incentive programs from other states may not be directly comparable to California, they do provide some useful context. Taking into account all of these considerations, on balance, we conclude that a

6% earnings limit of EE program expenditures for the 2010-12 period is sufficient to motivate the utility to treat EE program savings as a core part of the utility operations while remaining disciplined enough to protect ratepayers' interests.

Under the 6% potential incentive earnings, the primary component of the incentive mechanism is the management fee. The September 25, 2012 Ruling initially proposed a smaller management fee of 2% of the recorded EE expenditures from the annual reports filed by each of the investor-owned utilities applicable to calendar year energy efficiency programs. In using the recorded EE expenditures, we exclude associated EM&V costs in calculating the management fee, since those expenditures are primarily under the control of Commission staff. We observe that the management fee mechanism rewards shareholders for proper management of EE programs where savings goals cannot be readily attributed. A significant portion of the approved 2010-12 portfolio contains critical "non-resource" programs, where no direct savings can be attributed to utility administration and activity. In prior mechanisms, the incentive mechanism focused on resource programs where there are attributable savings, and these non-resource activities were not adequately reflected. NAESCO, SCE and TURN all support the concept of the management fee. DRA contends that the payment would be backward looking and would only be a reward at ratepayer's expense. While there is merit in DRA's argument, we think that the backwards looking nature of the 2010-12 incentive mechanism does not encourage needless over-spending. On balance, we think that it is reasonable to adopt an incentive mechanism based on utility expenditures for the 2010-12 portfolio.

As originally proposed in the September 25, 2012 ruling, the management fee would be 2% and the performance bonus would be weighted more heavily at 3%. In response to that original proposal, parties persuasively argued that the management fee should be weighted more heavily. Parties make this contention for several reasons, including promoting simplicity and reducing the amount of contention associated with a performance bonus. In general, we agree with the parties and shift the overall percentage of the management fee to 5%.

We now turn our attention the performance bonus, which is capped at 1% of the utility's annual expenditure. We adopt the performance bonus to further reward utilities for their efforts in implementing the ex ante review processes we adopted for the 2010-12 portfolio cycle and for exhibiting high standards of care in developing proposed ex ante savings parameter estimates. This is meant to enhance the management fee and not as a primary source of incentive awards. The concept of a performance bonus aligns with recommendations in the Commission's 2009 White Paper and comments by both NRDC and TURN, which proposed that we offer base and bonus incentive earnings.

The various ex ante review requirements that we put in place before and during the 2010-12 portfolio were intended to lock down savings parameters, as requested by the IOUs in response to the challenges that arose with the ex post true-up associated with the 2006-08 incentive mechanism and to ensure that the utilities were applying a sufficient level of due diligence and engineering rigor in developing their "locked down" ex ante savings values. Consequently, we believe that utility conformance with our ex ante review requirements, as implemented by Commission staff, will be highly correlated with portfolio performance. Ideally, the performance bonus would be based on actual savings and not just compliance with our ex ante lockdown procedures. However, the

Commission does not have verified savings information in evidence for us to consider. As discussed above, we do not wish to have further delays to the incentive mechanism implementation, so we utilize the performance bonus for this portfolio cycle but re-affirm our desire to use savings as a primary method to reward future portfolios.

Conformance with the various components of the process has varied significantly from utility to utility, and we find it prudent to provide performance bonuses consistent with this variation. Parties' positions on the performance bonus vary widely. DRA supports using a "scorecard" approach, but thinks it will be more effective if known prospectively. We find some merit in DRA's assertion about using a scorecard on a forward looking basis, though we do not in this decision pre-judge any future reforms for the 2013-14 portfolio. The Efficiency Council encourages the Commission to view the performance bonus as a proxy for savings. We agree that achieved savings is an ideal metric to use, and will consider it for future reforms. Similarly, NAESCO views savings as the more important metric and does not support the performance bonus as a concept. NRDC, PG&E, SoCalGas and SDG&E all contend that a performance bonus will be too subjective to be used effectively. We agree that there is some subjectivity in assessing conformance with our ex ante lockdown process. Below, we describe the design of the performance bonus, which addresses most of the parties' concerns about subjectivity. However, we are persuaded by the parties' comments that the subjective nature of the performance bonus should not result in it being too heavily weighted in the overall earnings potential. Therefore, we decrease the performance bonus from 3%, as originally proposed in the ruling, to 1%.

In summary, for the 2010-12 cycle, we consider it reasonable to provide a shareholder incentive to the IOUs based on recorded EE expenditures. The incentive has two components: a 5% management fee based on each IOU's portfolio expenditures and a performance bonus of up to an additional 1% of portfolio expenditures. This results in a total incentive earnings potential of 6% of each IOU's portfolio expenditures (excluding EM&V costs). This mechanism provides a materially significant earning opportunity to the utilities that can be booked in a regular, consistent fashion over the next three years.

5.2. Establishing Metrics and Scale to Reward Performance

We now turn our attention to how we can best evaluate conformance with the ex ante review process for the 2010-12 portfolio to determine each utility's performance bonus (capped at 1% of total annual expenditures). The ex ante review performance bonus will be assessed on the basis of each utility's conformance with the ex ante review requirements for the 2010-12 portfolio, as we provided in the following decisions: adopting the 2010-12 energy efficiency portfolios (D.09-09-047), outlining the non-DEER workpaper review process (D.10-04-029), freezing ex ante values for the 2010-12 energy efficiency portfolios (D.10-12-054), and adopting final ex ante values for non-DEER measures and the custom project ex ante review process (D.11-07-030). Even though it took multiple decisions over the course of the first half of the portfolio to establish, there is only one yardstick against which we measure conformance with the ex ante review process. Because the performance score is being assessed at the end of the 2010-12 portfolio, we evaluate the performance for the entire 2010-12 period. Each utility will get a single performance score that will apply for each of the incentives disbursed to reward the 2010-12 period. Several parties commented with some confusion, and represent that the September 25, 2012 ruling introduced a 2010-only score; to clarify, there will be only one performance per utility for the 2010-12 cycle. A single score is appropriate since the ex ante lockdown process evolved over the first two years of the three year portfolio.

We establish four categories (which contain a total of eleven metrics) to evaluate each IOU's efforts in implementing our adopted ex ante review processes. Three of the categories (including nine of the metrics) are designed to assess utility efforts in the development, review, and approval of non-DEER workpapers and custom projects, while the fourth category (including two metrics) assesses each utility's proper use of the DEER database within their initial portfolio applications. The categories and metrics, described below, facilitate a robust evaluation of the ex ante review process for each utility.

The categories and metrics used to measure utility conformance with the ex ante review process include:

- Category 1: IOUs' efforts to implement the Commission's ex ante review process within their organizations, including:
    1. Timely action to implement the ordered ex ante requirements.
    2. Breadth of response (e.g., recognition of technical and regulatory requirements in implementing ex ante activities; developing and maintenance of good information exchange and coordination of activities between internal program implementation, engineering, and regulatory staff to ensure common understanding and execution of ex ante processes).
    3. Incorporation of Commission-adopted policy and direction (e.g., use of DEER values and methods where applicable, baseline determinations, heating, ventilation, and air conditioning interactive effects, calculation of dual baseline for early retirements, incremental projects costs; incorporation of 2006-08 evaluation recommendations and results; maintenance and use of calculation tool archive).

- Category 2: The level of due diligence the utilities applied to their ex ante review activities to ensure high quality and accurate ex ante values were produced, including:
  4. Depth of quality control and technical review of work products (e.g., ratio of rejected/accepted work papers, changes to initial and final values, initial consideration of technical aspects, non-compliance with policy directives).
  5. Professional care, expertise and experience applied to develop work products (e.g., use of background research to identify best available information that represents current knowledge on a topic, undertaking short/long term specialized research to develop critical parameters when best available information is inadequate for a work product under development).
  6. Incorporation of cumulative experience from past activities (including prior Commission staff reviews and recommendations) into current and future work products.
- Category 3: IOU progress toward ex ante activity that is more self-policing and requires less direct Commission oversight/involvement, including:
  7. Bringing new projects to Commission staff in the formative stage to reduce the risk of problems or delays later in the review process.
  8. Incorporating Commission Staff comments and input into project activities (or explaining why input was not accepted).
  9. Developing and executing joint projects with the Commission to fill information gaps.
- Category 4: IOUs' efforts to implement Commission adopted policy regarding the use of DEER, including:
  10. Timely action to implement all aspects of the adopted DEER.
  11. Level of due diligence the utilities apply to their use of DEER.

A number of parties contend that these categories and metrics are too subjective. We recognize that there is degree of subjectivity inherent to populating a score card in this format, and this is why we relied on a simple rating scale of 1-5, rather than developing a more granular scale that connotes a false sense of precision. We are confident that in the course of reviewing many dozens of workpapers and custom project proposals, we are able to assess with reasonable accuracy where on a 5-point scale a utility's work products generally fall with respect to, for instance, "…bringing new projects to Commission staff in the formative stage to reduce the risk of problems or delays later in the review process." While the degree of subjectivity may vary somewhat across the identified categories and metrics, we are confident that they are sufficiently defined such that, coupled with a simplified rating scale, trends associated with each utility's conformance with our ex ante review processes are accurately reflected by the results.

Another issue raised by some parties about the categories and metrics is that they may discourage legitimate disagreement and debate between the utilities and the regulator. PG&E perhaps best summarizes this concern; it questions whether compliance with Commission staff, rather than good efficiency engineering or program administration, would be more heavily rewarded. In general, PG&E is concerned that these categories and metrics could discourage knowledgeable IOU staff from raising concerns or questions about Commission procedures with the Commission's staff.

First, we note that since this is a backward-looking mechanism, there is no merit to the concern that the metrics or scoring could impact IOU behavior during the 2010-12 period. Second, a careful review of the metrics reveals that only three areas could reasonably be construed as being impacted by IOU response to Commission staff direction: 3 (Incorporation of Commission-adopted policy and direction), 6 (Incorporation of cumulative experience from past activities into current and future work products) and 8 (Incorporating

Commission Staff comments and input into project activities or explaining why input was not accepted). In the remaining areas, PG&E's concern about deferring to Commission staff does not apply. Further, simply agreeing with Commission staff does not result in a high score – it is incorporating Commission direction, guidance and comments. We do not intend to quash legitimate, on-point disagreements over relevant data. We observe that the ex ante values proposed by the utilities are developed internally by the utility or by the third parties that are paid to implement the measures. The intent is to discourage the utility responding to concerns we raise regarding poorly documented ex ante values by simply relaying huge amounts of marginally relevant, old, and/or "cherry-picked" documents, reports and literature which do not provide reasonably current, specific, and defensible information.[19] While we agree that PG&E raises some legitimate concerns, the performance bonus should reward the integrity of the ex ante review process. The performance bonus metrics are focused on due diligence and the standard of care used in calculating the ex ante savings parameters. Consequently, we consider the utility scores associated with these metrics to represent a reasonable proxy for effective portfolio implementation. On balance, we think that the four categories outlined above accurately capture conformance with our ex ante review process and can be reasonably used to measure it.

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[19] It is also important to note that the ex ante review process is not intended to reduce utility savings estimates – it is intended to review and, as needed, improve the accuracy of these estimates to better ensure that ratepayers will realize the forecast savings associated with these measures. There have been several ex ante reviews that resulted in higher savings estimates than originally estimated by the utilities.

We now turn to the measurement of performance against these categories. We adopt a 1-5 scale to score utility conformance with the ex ante review process against each of the categories and metrics detailed above. On this scale, 1 is a low score and 5 is a high score, distinguished as follows:

1. Consistent underperformer in meeting the basic Commission expectations;
2. Makes a minimal effort to meet Commission expectations but needs dramatic improvement;
3. Makes effort to meet Commission expectations, however improvement is required;
4. Sometimes exceeds Commission expectations while some improvement is expected; and
5. Consistently exceeds Commission expectations.

Using this scale, the following maximum achievable score each utility could achieve is 100 points. The breakout of these points is established as follows:

Category	Maximum Achievable Score
Category 1: IOUs' efforts to implement the Commission's ex ante review process within their organizations	15 points for Non-DEER Workpapers and 15 points for Custom Projects (5 points possible for each metric)
Category 2: Level of due diligence the IOUs' applied to their ex ante review activities	15 points for Non-DEER Workpapers and 15 points for Custom Projects (5 points possible for each metric)
Category 3: Progress toward ex ante activity that is more self-policing	15 points for Non-DEER Workpapers and 15 points for Custom Projects (5 points possible for each metric)
Category 4: Efforts to implement Commission adopted policy regarding the use of DEER	10 points total (5 points possible for each metric)
Total	100 points (45 for workpapers, 45 for custom projects, 10 for DEER)

In response to the September 25, 2012 ruling, none of the parties made any specific comments about the proposed 1-5 scale or the relative weighting of the 100 possible points. Therefore, we adopt this scale to measure the performance bonus.

5.3. Performance Scores for 2010-12 Activities

We now turn to the calculation of the performance bonus, which is capped at 1% of the annual EE expenditures. We evaluate performance[20] for each utility using the four categories (with the eleven metrics) against the 1-5 scale for a maximum potential score of 100 points, as detailed above. Below is a summary of each utility's performance scores. In the appendix, we provide utility specific tables detailing these scores.

Utility	Performance Score (out of 100 points maximum)
PG&E	68
SCE	56
SDG&E	31
SoCalGas	36

6. Incentive Rewards for 2010 EE Portfolio Activity

We now turn to the actual incentive payment for 2010 activities that results from the mechanism adopted above. We think it is important both to establish the generic incentive and also to disburse a shareholder reward in calendar year 2012, which maintains a consistent payment cycle. In the above

[20] The September 25, 2012 ruling entered each utility's performance score into the record.

section, we establish a generic incentive mechanism to reward shareholders for the 2010-12 portfolios. This incentive is a combination of:

1) A management fee, calculated at 5% of recorded expenditures from that calendar year;
2) A performance bonus, capped at up to 1% of recorded expenditures, from that calendar year.

The following table outlines the total 2010 audited expenditures [21] (excluding costs associated with EM&V). 5% of those values equates to the total management fee. In total, we authorize a total of approximately $37.7 million for the baseline management fee, as detailed below:

	2010 EE Expenditures (excluding EM&V)	**Baseline Management Fee for 2010 Activities**
PG&E	$370,371,323	$18,518,566
SCE	$271,131,995	$ 13,566,600
SDG&E	$62,748,018	$3,137,401
SoCalGas	$50,408,021	$2,520,401
TOTAL	**$754,659,357**	**$ 37,732,968**

In order to calculate the second portion of the 2010 incentive, the performance bonus capped at 1% of spend, we apply the performance scores for each utility as follows:

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[21] As summarized in the Commission's Utility, Audit, Finance and Compliance Branch Examination of the IOUs' 2010 Energy Efficiency Programs.

	2010 EE Expenditures (excluding EM&V)	1% Maximum Cap (If Performance Score was 100)	Performance Score (Out of 100 points maximum)	Performance Incentive Awarded for 2010 Activity
PG&E	$370,371,323	$3,703,713	68	$2,518,525
SCE	$271,131,995	$2,711,320	56	$1,518,339
SDG&E	$62,748,018	$627,480	31	$194,519
SoCalGas	$50,408,021	$504,080	36	$181,469
TOTAL	$754,659,357	$7,546,594	-	**$4,412,852**

We now combine the management fees with the performance bonuses achieved to distribute the total shareholder incentive awarded for 2010 activity. In total, we authorize approximately $42.2 million of shareholder incentives, as follows:

Total Incentive Earned for 2010 Activity	
PG&E	$21,037,091
SCE	$15,074,939
SDG&E	$3,331,920
SoCalGas	$2,701,870
TOTAL	**$42,160,932**

6.1. Schedule for Incentive Awards for 2011 and 2012 EE Activities

In this Decision, we adopt the overall incentive mechanism framework for the 2010-12 portfolio and disburse incentives to reward 2010 activities. For 2011 and 2012 program year rewards, the only variable left is the actual expenditures for those calendar years. We anticipate, similarly to 2010 activities, to rely upon public versions of the Commission's Utility Audit, Finance and Compliance Branch reports. As soon as each report is made public, each utility should file a Tier 3 advice letter setting forth their claim for 2011 and 2012 awards, respectively. This advice letter should be served on this docket (or its successor). We anticipate being able to adopt incentives for 2011 and 2012 program activities on the following schedule:

Program Year	Anticipated Advice Letter Filing	Anticipated Incentive Award
2011	3rd Quarter 2013	4th Quarter 2013
2012	3rd Quarter 2014	4th Quarter 2014

We anticipate that the above schedule will provide additional certainty to the market while further incentive mechanism reforms and updates are considered for the 2013-14 portfolio.

7. Comments on Alternate Proposed Decision

The alternate proposed decision of Mark J. Ferron on 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. Comments were filed on December 4, 2012, and reply comments were filed on December 10, 2012 by PG&E, SCE, SDG&E, SoCalGas, DRA, NRDC, TURN and WEM. Based on the comments filed, we make several clarifications to the intent of the incentive mechanism and to its implementation. SoCalGas also corrected the amount of its 2010 program expenditures, excluding associated EM&V. We update the decision to reflect this corrected amount. Beyond these clarifications, no major changes were made.

8. Assignment of Proceeding

Mark J. Ferron is the assigned Commissioner and Thomas R. Pulsifer is the assigned ALJ in this proceeding. ALJ Pulsifer is the Presiding Officer.

Findings of Fact

1. The Commission adopted shareholder incentives in D.07-09-043 so that energy efficiency programs will be pursued vigorously by utility management as a core business strategy.

2. The Commission had awarded incentive earnings for the 2006-2008 cycle and for the 2009 bridge year.

3. A PD was previously prepared which attempted to devise incentive mechanism reforms for the 2010-2012 cycle. That PD was ultimately withdrawn from Commission consideration.

4. Attempting to shift from an ex post to an ex ante focus did not expedite or simplify the determination of relevant metrics for a 2010-2012 RRIM, but only moved the debate from the back end (with ex post evaluations) to the front end of the cycle (where ex ante values are determined).

5. Since the 2010-2012 cycle is nearing its conclusion, any adopted incentive mechanism would have no material influence on the nature, extent, or success of utility action to achieve EE savings during the 2010-2012 budget cycle.

6. This record contains no evidence concerning ex post evaluations of IOU performance during the 2010-2012 cycle. Thus, there is no basis for findings as to how successful the IOUs may have been in meeting savings goals, or whether savings goals would have been met or exceeded differently assuming some sort of incentive mechanism had been in place, or assuming the IOUs expected some sort of incentive awards for 2010-2012.

7. Significant controversy remains over what, if any, shared savings rate should apply for the 2010-2012 cycle, if the Commission were to extend the mechanism employed for the 2009 bridge year. There is no consensus for the adoption of a 7% shared savings rate, as used in D.11-12-036.

8. Without an energy efficiency incentive, given the focus of investors and utility management on increasing shareholder value, utilities will on balance be more inclined to devote scarce resources to procurements on which they will earn a return, and not on meeting or exceeding the Commission's energy efficiency goals, or maximizing ratepayer net benefits in the process.

9. The RRIM earnings rates, and the cap, as previously adopted, were based upon assumed conditions attributable to the 2006-2008 portfolio of measures in comparison to earnings on the supply-side.

10. There is a trade-off between risk and the magnitude of earnings to provide a reasonable incentive to pursue energy efficiency investments as a core business activity; incentive earnings potential must be high enough to motivate utility management to view EE savings as a core element of utility operations, but also must be limited to protect ratepayers against the risks of unanticipated results associated with the incentive mechanism. The precise quantification cannot be reduced to a precise mechanical formula, but requires reasoned judgment based on an analysis of relevant data.

11. It is preferable to have an incentive mechanism in place as the energy efficiency portfolio is being designed, or as close to the start of the cycle as possible.

12. Adoption of an incentive mechanism for the 2010-12 portfolio at this time would be backwards looking. The utility would not be able to manage any risk or be incented by a shareholder reward.

13. Adoption of an incentive mechanism for the 2010-12 portfolio would have no material effect on the design or execution of the 2010-12 programs.

14. It is reasonable to continue to disburse shareholder incentives for energy efficiency, as it sends the proper signal to the market place and affirms the state's commitment to EE as a top priority resource.

15. A shareholder incentive mechanism is an important tool to promote California's policy objectives for energy efficiency.

16. Booking incentive earnings on a regular basis, and in a manner that can be anticipated by the investment community, makes an incentive mechanism the most effective and enable its full potential benefit.

17. Simplicity is an important feature of the design of the 2010-12 incentive mechanism.

18. Adopting an extension of the incentive mechanism used in D.11-12-036 would require extensive time and resources in order to disburse awards to shareholders. Any awards could not be made before calendar year 2013.

19. It is reasonable to adopt an incentive mechanism for the 2010-12 cycle primarily based on a management fee of the utility's annual programmatic expenditures, excluding costs associated with EM&V, because the management fee mechanism rewards shareholders for proper management of EE programs where savings goals cannot be readily attributed. A significant portion of the approved 2010-12 portfolio contains critical "non-resource" programs, where no direct savings can be attributed to utility administration and activity.

20. It is reasonable to augment an incentive mechanism for the 2010-12 cycle with a smaller performance bonus because the subjective nature of the performance bonus should not result in its being too heavily weighted in the overall earnings potential.

21. Energy Efficiency savings is an ideal metric to use, and the Commission will consider it for future reforms. For the 2010-12 cycle, however, we utilize the utility's adherence to the ex ante review processes, as adopted.

22. For the 2010-12 cycle, it is reasonable for the performance bonus to measure utility conformance with the following decisions: adopting the 2010-12 portfolios (D.09-09-047), outlining the non-DEER workpaper review process (D.10-04-029), freezing ex ante values (D.10-12-054) and the custom project ex ante review process (D.11-07-030).

23. It is reasonable to design the incentive mechanism for the 2010-12 cycle with an overall cap on potential earnings of 6% of annual programmatic expenditures, less costs associated with EM&V. The 6% earnings limit incorporates some provision to reflect the reduced risk of a more simplified mechanism based on EE program expenditures.

24. It is reasonable for the management fee to be calculated at 5% of the utility's annual programmatic expenditure, less costs associated with EM&V, because a 5% management fee promotes simplicity and reduces the amount of contention associated with a performance bonus where, as in the case of the approved 2010-12 portfolios, a significant portion contains critical "non-resource" programs to which no direct savings can be attributed to utility administration and activity.

25. It is reasonable for the performance bonus to be up to an additional 1% of the utility's annual programmatic expenditure, less costs associated with EM&V, because the performance bonus further rewards utilities for their efforts in implementing the ex ante review processes we adopted for the 2010-12 portfolio cycle and for exhibiting high standards of care in developing proposed ex ante savings parameter estimates.

26. It is reasonable to provide performance bonuses consistent with variation of conformance of the EM&V process between the various utilities.

27. It is reasonable for the performance bonus to be measured on a graded scale of five values, which each graded scale distinguished as follows:

(1) Consistent underperformed in meeting the basic Commission expectations;

(2) Makes a minimal effort to meet Commission expectations, however improvement is required;

(3) Makes effort to meet Commission expectations, however improvement is required;

(4) Sometimes exceeds Commission expectations while some improvement is expected; and

(5) Consistently exceeds Commission expectations.

28. It is reasonable for the performance bonus to be based on 100 maximum points possible, and of these 100 points, 45 points based on workpapers, 45 points based on custom projects and 10 points based on DEER.

29. It is reasonable for the performance bonus to utilize the following four categories for the 2010-12 portfolio because they are affected by an IOU's due diligence and standard of care in calculating the ex ante savings parameters: (1) IOUs' efforts to implement the Commission's ex ante review process within their organizations; (2) the level of due diligence the utilities applied to their ex ante review activities to ensure high quality and accurate ex ante values were produced; (3) IOU progress toward ex ante activity that is more self-policing and requires less direct Commission oversight and involvement; (4) IOUs' efforts to implement Commission adopted policy regarding the use of DEER.

30. It is reasonable for the four categories to be divided into 11 metrics.

31. Based upon PG&E's performance during the 2010-12 cycle, as set forth in the Appendix, and applying the applicable scoring of performance bonus

metrics, it is reasonable to give PG&E a performance score of 68 for its 2010-12 program activity, resulting in an earnings rate of 0.68%.

32. Based upon SCE's performance during the 2010-12 cycle, as set forth in the Appendix, and applying the applicable scoring of performance bonus metrics, it is reasonable to give SCE a performance score of 56 for its 2010-12 program activity, resulting in an earnings rate of 0.56%.

33. Based on SDG&E's performance during the 2010-12 cycle, as set forth in the Appendix, and applying the applicable scoring of performance bonus metrics, it is reasonable to give SDG&E a performance score of 31 for its 2010-12 program activity, resulting in an earnings rate of 0.31%.

34. Based on SoCalGas' performance during the 2010-12 cycle, as set forth in the Appendix, and applying the applicable scoring of performance bonus metrics, it is reasonable to give SoCalGas a performance score of 36 for its 2010-12 activity, resulting in an earnings rate of 0.36%.

35. In 2010, the utilities' actual expenditures (excluding costs associated with EM&V) as reported in their utilities' filed annual reports and as audited by the Commission staff, are as follows: PG&E - $370,371,323; SCE - $271,131,995; SDG&E - $62,748,018; SoCalGas - $50,408,021.

36. Based on the approved incentive formula for 2010-12, the applicable incentive earnings rates for each of the IOUs (consisting of a uniform 5% management fee and a performance bonus factor) are:

- PG&E: 5.68%
- SCE: 5.56%
- SDG&E: 5.31%
- SoCalGas: 5.36%

37. Based upon the adopted formula applying incentive earnings rates approved for each IOU, applied to 2010 actual expenditures, it is reasonable to disburse incentives for 2010 programmatic activities, as follows:

a. PG&E: $21,037,091 ;
b. SCE: $15,074,979 ;
c. SDG&E: $3,331,920;
d. SoCalGas: $2,701,870.

Conclusions of Law

1. Pursuant to Public Utilities Code Section 454.5(b)(9)(C), and past Commission policy directives (California's Energy Action Plan), energy efficiency programs should be prioritized as the first resource to meet California's energy demand. Any directives regarding incentive policy should be consistent with California's commitment to making EE the highest energy resource priority.

2. The Commission has not previously decided whether an incentive mechanism would apply for the 2010-2012 cycle.

3. An incentive mechanism for the 2010-12 cycle should be adopted using the utility's annual programmatic expenditures, less costs associated with EM&V.

4. The incentive mechanism for the 2010-12 cycle should have an earnings potential limit of 6% of actual programmatic expenditures, less costs associated with EM&V.

5. The 2010-12 incentive mechanism should be based on annual recorded programmatic expenditures (less costs associated with EM&V), comprised of two components: 1) a management fee, set at 5% of utility expenditure and 2) a

performance bonus, based on the score assigned using the metrics adopted in the Appendix, and capped at an additional 1% of utility expenditure.

6. The performance bonus for the 2010-12 incentive mechanism should be based on utility conformance with D.09-09-047, D.10-04-029, D.10-12-054 and D.11-07-030.

7. The performance bonus for the 2010-12 incentive mechanism should use four categories (with 11 underlying metrics), as detailed for each utility in the Appendix.

8. PG&E, SCE, SDG&E and SoCalGas should each file a Tier 3 Advice Letter seeking 2011 and 2012 incentive awards in accordance with the mechanism adopted in this decision.

9. Upon completion, the Commission's Utility, Audit, Finance and Compliance Branch shall serve on the service list in this proceeding (or its successor) a notice of availability of the public copy of its audit report detailing its review of annual expenditures for 2011 and 2012 Energy Efficiency programmatic activity.

10. The Tier 3 advice letters should be timed to ensure timely processing of 2011 and 2012 Energy Efficiency incentive awards.

11. This rulemaking should remain open to consider additional reforms and modifications to the incentive mechanism for the 2013-14 portfolio cycle.

O R D E R

IT IS ORDERED that:

1. An incentive mechanism to reward 2010-12 Energy Efficiency program activities of Pacific Gas and Electric Company, Southern California Edison

Company, San Diego Gas & Electric Company and Southern California Gas Company is adopted, as follows:

- The incentive mechanism is be based on annual recorded programmatic expenditures (excluding costs associated with Evaluation, Measurement and Verification), and is comprised of two components: a management fee, set at 5% of utility expenditure, and a performance bonus, capped at an additional 1% of utility expenditure.
- The performance bonus shall be measured on a scale distinguished by five possible performance levels, with a maximum of 100 points possible.
- The performance bonus is measured using four categories, with a total of 11 metrics, as detailed in the Appendix to this decision.
- The performance bonus adjustment factor is as follows: 68% for Pacific Gas and Electric Company, 56% for Southern California Edison Company, 31% for San Diego Gas & Electric Company and 36% for Southern California Gas Company.
- These performance adjustment factors shall act as weightings to the performance bonus cap of 1% to apply to reward activites in program years 2010-12.

2. Utilizing the incentive mechanism in Ordering Paragraph 1, the following combined incentive earnings rates (composed of the 5% management fee and the performance bonus percentage) shall apply on an annual basis for each utility for the 2010-12 cycle:

- Pacific Gas and Electric Company: 5.68%
- Southern California Edison Company: 5.56%
- San Diego Gas & Electric Company: 5.31%
- Southern California Gas Company: 5.36%

3. Utilizing the incentive mechanism in Ordering Paragraph 1 and the combined incentive earnings rates in Ordering Paragraph 2, the following

incentive awards are adopted for program year 2010, based upon the adopted earnings rates applied to actual 2010 expenditures (excluding costs associated with Evaluation, Measurement & Valuation):

a) Pacific Gas and Electric Company is awarded $21,037,091;
b) Southern California Edison Company is awarded $15,074,939;
c) San Diego Gas & Electric Company is awarded $3,331,920; and
d) Southern California Gas Company is awarded $2,701,870.

4. Pacific Gas and Electric Company is authorized to record its 2010 incentive award of $21,037,091 in its electric and gas Customer Energy Efficiency Adjustment Balancing Account, for inclusion in its Annual Gas and Electric True-Up advice letters for recovery in rates effective January 1, 2013.

5. Southern California Edison Company is authorized to record its 2010 incentive award of $15,074,939 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, 2013.

6. San Diego Gas & Electric Company is authorized to record its 2010 incentive award of $3,331,920 for recovery in its applicable annual regulatory account balance update filings effective January 1, 2013.

7. Southern California Gas Company is authorized to record its 2010 incentive award of $2,701,870 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, 2013.

8. Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company and Southern California Gas Company shall

each file a Tier 3 Advice Letter seeking incentive awards for 2011 and 2012, calculated as detailed in the Ordering Paragraphs. The Tier 3 Advice Letters shall be served on this docket (or its successor). The Tier 3 Advice Letters shall be filed in order to ensure timely processing of 2011 and 2012 Energy Efficiency incentive awards.

9. Rulemaking 12-01-005 remains open.

This order is effective today.

Dated December 20, 2012, at San Francisco, California.

TIMOTHY ALAN SIMON
CATHERINE J.K. SANDOVAL
MARK J. FERRON
Commissioners

I dissent.

/s/ MICHAEL R. PEEVEY
President

I dissent

/s/ MICHEL PETER FLORIO
Commissioner

APPENDIX

PG&E Performance Score for 2010-12 Activities:

For its 2010-12 EE portfolio activity, PG&E achieves a performance score total of 68 out of 100 possible points. In response to comments on PG&E's performance, we modify some of the initial Commission staff comments explaining the given score. The table below details the results.

	Workpapers		Custom Projects	
Metric	*Score*	*Comments*	*Score*	*Comments*
Category 1: IOUs' efforts to implement the Commission's ex ante review process within their organizations				
Metric 1	4	Substantial workpaper development efforts through most third party and local government partner workpapers were based on out-of-date DEER versions. Workpapers uploaded by first quarter 2010 deadline. Some delays in updating Phase 1 workpapers per D.11-07-030, but updated quickly after notification from Commission staff.	3	PG&E Custom Measure and Project Archive in December 2011 but project status was rarely in question. No sampled projects were found to be inadvertently signed. Third part projects were not initially submitted. However core and new construction project list were being submitted.
Metric 2	4	Workpapers include consideration of all required ex ante values: unit energy savings; cost; net-to-gross;	3	Internal coordination among the involved utility staff appeared to be above average. From interactions with PG&E,

		effective useful life. Coordination between program implementers and workpaper developers needs improvement. Commission staff has commented that savings values and implementation methods are linked, but implementation information is rarely in workpapers.		it seems that full intent of D.11-07-030 was being communicated internally. PG&E initiated baseline research and tool development. However, communication with Commission staff and internal reviewers evolves slowly.
Metric 3	2	Generally, workpapers address the need to use DEER values whenever appropriate. 2006-08 EM&V generally not considered in revisions of ex ante values … mainly used to drive revisions in program design. Third party and local government partners workpapers often refer to out of date values and rarely include dual baseline. These workpapers may support as much as 20% of all non-custom electric claims meaning a large number of total	2	PG&E understands it needs to conduct Industry Standard Practice studies, establish remaining useful life/effective useful life, quantify interactive effects, and support early retirement claims. However, project documents mostly do not demonstrate any effort to apply its understanding of these requirements (e.g., early retirement claims are made on the grounds that equipment can be repaired indefinitely. PG&E periodically initiates industry standard practice

		claims are essentially unreviewed.		studies; however, only some studies are regularly updated, and studies for large impact recurring measures for which high free ridership was found in the 2006-08 evaluations have not been initiated. PG&E did develop and submit for Commission review several new calculation tools.
Category 1 Total (max score of 15 for both workpapers and custom projects)	10		8	
Category 2: The level of due diligence the utilities applied to their ex ante review activities to ensure high quality and accurate ex ante values were produced				
Metric	*Score*	*Comments*	*Score*	*Comments*
Metric 4	4	Quality Control on third party/local government partner workpapers seems to be lacking, evidenced by most workpapers using out-of-date DEER values or do not appear to be updated from 2006-08 program cycle. PG&E staff continually engaged with contractors who	3	The quality of documentation of large projects at PG&E is significantly better than the quality of documentation for small projects that do not require M&V. All IOUs do not incorporate dual baseline savings estimated. PG&E appears less inclined to claim all projects as

		develop workpapers - e.g. QDI, Energy Solutions (for televisions), PECI (for heating, ventilation, and air conditioning (HVAC) Quality Maintenance and Variant Refrigerant Flow). No PG&E workpapers rejected, however, PG&E abandoned computer and printer workpapers after Commission staff comments. * All other workpapers with Commission review have been updated in an acceptable fashion.		early replacement.
Metric 5	4	Original research to establish baselines usually requires input from Commission staff, but PG&E is willing to take on the additional work.	3	The utility attempts to conduct research to support assumptions via secondary sources or site-specific M&V.
Metric 6	3	Sometimes PG&E does not seem to respond to previous direction such as the use of DEER methods and values. For example, Commission staff has	4	Implementation appears immediate in project under review, however it is less apparent that review results are quickly fed into all other similar or parallel

		explained that DEER building types are the only approved building types, however, PG&E submitted several third party workpapers that proposed new building types that would have greater savings than if same measures were applied to DEER building types. With respect to new workpapers, PG&E contractors are often unaware of requirements to use DEER assumptions whenever applicable. This has been a concern on several workpapers including HVAC Quality Management, Variant Refrigerant Flow and High Energy Efficiency Ratio package HVAC workpapers.		projects.
Category 2 Total (max score of 15 for both workpapers and custom projects)	11		10	
Category 3: IOU progress toward ex ante activity that is more self-policing and				

requires less direct Commission oversight/involvement				
Metric	*Score*	*Comments*	*Score*	*Comments*
Metric 7	4	Starting with Light Emitting Diode street lights and energy star TVs, PG&E has always provided early review opportunities for its most significant workpapers Currently, it has provided advanced review opportunities on HVAC Quality Maintenance, Variant Refrigerant Flow and Light Emitting Diode workpapers.	4	Large and small projects and tools have been brought to Commission staff's attention when in doubt of the application of the Commission's policy.
Metric 8	3	Generally receptive and responsive to Commission's staff comments and direction. Sometimes abandons workpaper or aspect of workpaper when it believes additional work is not justified (e.g., Energy star* computers & printers; energy star TVs for commercial applications).	4	Rare disagreements with Commission staff; willing to implement directives as soon as possible.
Metric 9	4	For compliance with Attachment A, PG&E and Commission staff	3	Appears willing. Has invited Commission staff into related studies

		collaborated on using DEER values (integrated occupancy sensor). On televisions, PG&E engaged consultants for data collection and analysis and collaborated with Commission staff on additional analysis.		involving panels from industry, but has not proposed any joint work.
Category 3 Total (max score of 15 for both workpapers and custom projects)	11		11	
Category 4: IOUs' efforts to implement Commission adopted policy regarding the use of DEER				
Metric 10	4	Resisted some of D.09-09-047 but moved quickly to remedy after D.11-07-030 and continues to adopt Commission staff recommendation with minimal dispute.		
Metric 11	3	Generally tries to use past staff direction proactively in new workpapers relating to DEER. Sometimes inappropriate methods and values come through but are dealt with quickly when Commission staff comments are issued. Workpaper consultants/ third party/ direct installers are generally not familiar with Commission requirements for use of DEER results, methodologies and assumptions where applicable. It is common for PG&E to develop new building types or alternative results to those in DEER that staff finds inappropriate.		
Category 4 Total (max score of 10)	7			

SCE Performance Score for 2010-12 Activities

For its 2010-12 EE portfolio activity, SCE achieves a performance score total of 56 out of 100 possible points. In response to comments on SCE's performance, we modify some of the initial Commission staff comments explaining the given score. The table below details the results.

	Workpapers		**Custom Projects**	
Metric	*Score*	*Comments*	*Score*	*Comments*
Category 1: IOUs' efforts to implement the Commission's ex ante review process within their organizations				
Metric 1	4	Substantial workpaper development effort for Phase 1 and continuing through program cycle quick to update workpapers pursuant to D.11-07-030.	2	Submitted Custom Measure and Project Archive beginning February 2012. The target agreement dates and project status were often inaccurate. Third party and new construction lists were included later.
Metric 2	4	Workpapers include consideration of all required ex ante values: unit energy savings; cost; net-to-gross; effective useful life. Coordination between program implementers and workpaper developers needs improvement. Commission staff has commented that	3	Internal coordination among the involved staff appeared to be average. From interactions with the IOU, it seemed that full intent of D.11-07-030 was being communicated internally. The IOU prepared a new saving calculation manual. However,

		savings values and implementation methods are linked, but implementation information is rarely in workpapers.		communication with SCE staff appeared to be slow and account executives not fully aware of the Commission requirements.
Metric 3	3	Generally, workpapers address the need to use DEER values whenever appropriate. Data from 2006-08 EM&V generally not considered in revisions of ex ante values, mainly used to drive revisions in program design.	2	The IOUs understand they need to conduct industry standard practice studies, establish remaining useful life, quantify the interactive effects and support early retirement claim. SCE project documents mostly do not demonstrate any effort to apply their understanding of these requirements. SCE includes the HVAC IE effects for lighting projects. SCE has initiated risk mitigation studies to understand industry standard practice; however, these have excluded large impact recurring custom measures. The calculation tool archive was maintained but only recently submitted to the Commission for review

Category 1 Total (max score of 15 for both workpapers and custom projects)	11		7	
Category 2: The level of due diligence the utilities applied to their ex ante review activities to ensure high quality and accurate ex ante values were produced				
Metric	*Score*	*Comments*	*Score*	*Comments*
Metric 4	3	With exception of Commercial HVAC Quality Maintenance, SCE is generally responsive to Commission comments and dispositions. However, the level of technical review and quality control on activity is spotty and sometimes it is hard to identify that any took place. In some cases, there appears to be lack of review of work for the inclusion of DEER assumptions and methods and scrutiny of basic technical approaches (e.g., window evaporative cooling).	3	The quality of documentation of large projects at SCE is significantly better than the quality of documentation for small projects that do not require M&V. All IOUs do not incorporate dual baseline savings estimated.

Metric 5	3	SCE has consulted for and performed internally a lot of background research for workpapers (e.g., window film; central plant efficiency measures such as Variable Frequency Drives). Commission staff has had comments on much of SCE's work and usually provides significant technical redirection.	3	The utility attempts to conduct research to support assumptions via secondary sources or site-specific M&V.
Metric 6	3	SCE incorporates previous reviews into subsequent workpapers. This is most evident in revisions to lighting and package HVAC workpapers where it has expanded the scope of the workpaper to include additional technologies or building types.	3	Might implement after a time delay; however it is less apparent that review results are fed into other similar or parallel projects.
Category 2 Total (max score of 15 for both workpapers and custom projects)	9		9	
Category 3: IOU progress toward ex ante activity that is more self-policing and				

requires less direct Commission oversight/involvement				
Metric	*Score*	*Comments*	*Score*	*Comments*
Metric 7	2	SCE has brought a few workpapers to Commission in formative stages. While SCE has provided its workpapers development status list, which includes its workpapers currently under development, SCE has only provided a few concept documents for advanced review.	2	Only large projects have been brought to Commission staff's attention and not with consistency.
Metric 8	3	With exception of Commercial HVAC Quality Maintenance workpaper and Window Evaporative Cooling workpaper, SCE has been responsive to Commission staff comments.	3	Moderate disagreements with Commission staff; willing to implement Commission staff directions but requests long lead time.
Metric 9	2	No significant collaborative work to date. Commission staff direction for additional work on Commercial HVAC Quality Maintenance was averted when SCE	2	Appears willing but has executed many industry standard practice studies without bringing Commission staff into the formative or execution phase, just posted results.

		went to higher management and achieved a less stringent disposition without requirements for additional research.		
Category 3 Total (max score of 15 for both workpapers and custom projects)	7		7	
Category 4: IOUs' efforts to implement Commission adopted policy regarding the use of DEER				
Metric 10	3	Resisted much of D.09-09-047 but moved quickly to remedy after D.11-07-030 and continues to adopt Commission staff recommendation with minimal dispute.		
Metric 11	3	Generally acknowledges past Commission staff direction relating to DEER. Inappropriate methods and values come through, but are dealt with quickly when Commission staff comments are issued. However this is still a recurring issue in reviews.		
Metric 4 Total (max score of 10)	6			

SDG&E Performance Score for 2010-12 Activities

For its 2010-12 EE portfolio activity, SDG&E achieves a performance score total of 31 out of 100 possible points. In response to comments on SDG&E's performance, we modify some of the initial Commission staff comments explaining the given score. The table below details the results.

	Workpapers		Custom Projects	
Metric	*Score*	*Comments*	*Score*	*Comments*
Category 1: IOUs' efforts to implement the Commission's ex ante review process within their organizations				
Metric 1	2	Phase 1 workpapers uploaded by first quarter 2010, however very little effort to update for 2010-2012 cycle. Some workpapers not updated in 3+/- years. SDG&E does not appear to have a robust process or adequate staff in place to develop and keep current workpapers that support its current claims let alone measures they may include later in a cycle or in future cycles.	2	Submitted Custom Measure and Project Archive in September 2011, first among all utilities. The project status was often inaccurate. New construction project lists were not submitted until middle of 2012.
Metric 2	1	SDG&E has submitted only a few workpapers in Phase 2 even though its preliminary accomplishments reported to Commission staff show measures that need workpapers. SDG&E does not appear to have an ongoing workpaper development program. Some workpapers	2	Internal coordination among the involved SDG&E staff appeared to be less than average. From interactions with the IOU, it seemed that full intent of D.11-07-030 was not being communicated internally.

		consist of only a single spreadsheet with just a few calculations.		
Metric 3	1	Very little adoption of Commission direction. For example, SDG&E still retrieves whole building savings for many compact fluorescent lamp measures from MISer even though direction is that only direct (lighting energy only) impacts can be taken from MISer. These direct impacts must then incorporate interactive effects as directed by D.11-07-030. No observed incorporation of 2006-08 EM&V results.	1	The IOUs understand they need to conduct industry standard practice studies, establish remaining useful life/effective useful life, quantify the interactive effects and support early retirement claim. SDG&E project documents mostly do not demonstrate any effort to apply their understanding of these requirements. SDG&E does not quantify the HVAC interactive effects in lighting projects. SDG&E does not seem to maintain a tool archive; has not initiated any industry standard practice studies; and the computation of incremental costs and industry standard practice determination for large projects was not satisfactory. Some projects were found to be in the implementation stage or

				completed when rebate applications were filed and selected for review.
Metric 1 Total (max score of 15 for both workpapers and custom projects)	4		5	
Category 2: The level of due diligence the utilities applied to their ex ante review activities to ensure high quality and accurate ex ante values were produced				
Metric	*Score*	*Comments*	*Score*	*Comments*
Metric 4	1	SDG&E and SoCalGas in the past have shared in workpaper development activities. Workpapers developed by consultants appear to have little utility staff review.	2	Does not incorporate dual baseline savings estimated. The quality of documentation and review of large projects at SDG&E is below average and inclination to treat all projects as early replacement much higher than others.
Metric 5	2	Performed some original research for some domestic hot water measures.	2	The utility may attempt to conduct research to support assumptions via secondary sources or site-specific M&V for very large projects. However, most projects are small. Internal review appears weaker than PG&E and SCE.
Metric 6	1	SDG&E has provided only a few phase two workpapers, very hard	3	Might implement after a time delay; however it is less apparent that

		to determine if any cumulative experience has been incorporated.		review results are fed into other similar or parallel projects.
Category 2 Total (max score of 15 for both workpapers and custom projects)	4		7	
Category 3: IOU progress toward ex ante activity that is more self-policing and requires less direct Commission oversight/involvement				
Metric	*Score*	*Comments*	*Score*	*Comments*
Metric 7	1	SDG&E has not brought projects in formative stage.	2	Only large projects have been brought to Commission Staff's attention with the area of doubt ill-defined.
Metric 8	1	No evidence that SDG&E has initiated internal process to respond to Commission staff recommendations or directions. Commission staff provided SDG&E with a summary of workpapers missing (based on a review of an advanced claims summary submitted by SDG&E), but SDG&E has still not provided any workpapers in response.	2	Unclear how Commission staff directions are implemented. Recurring issues, especially on baseline, with minimal attempts to address over time, instead just continuing to disagree with Commission direction.

Metric 9	1	No joint projects to date.	1	SDG&E has not proposed any joint projects to be executed. Commission staff believes that potential for joint project with SDG&E exists.
Category 3 Total (max score of 15 for both workpapers and custom projects)	3		5	
Category 4: IOUs' efforts to implement Commission adopted policy regarding the use of DEER				
Metric 10	1	Utility continues to resist Commission staff recommendations and reinterprets language (saying it is using DEER but actually is not). This practice is most prevalent on some measures with the most straightforward approaches such as screw-in CFLs)		
Metric 11	2	Generally acknowledges requirements relating to DEER. However inappropriate methods and values often come through slowly. This is still a recurring issue in reviews.		
Metric 4 Total (max score of 10)	3			

SoCalGas Performance Score for 2010-12 Activities

For its 2010-12 EE portfolio activity, SoCalGas achieves a performance score total of 36 out of 100 possible points. In response to comments on SoCalGas' performance, we modify some of the initial Commission staff comments explaining the given score. The table below details the results.

	Workpapers		Custom Projects	
Metric	*Score*	*Comments*	*Score*	*Comments*
Category 1: IOUs' efforts to implement the Commission's ex ante review process within their organizations				
Metric 1	2	Phase 1 workpapers uploaded by first quarter 2010; however, very little effort to update for 2010-12 cycle. Some workpapers have not updated in 3 years. SoCalGas does not appear to have a robust process or adequate staff in place to develop and keep current workpapers that support it current claims let alone measures it may include later in a cycle or in future cycles.	2	Submitted Custom Measure and Project Archive in September 2011, first among all IOUs. The project status was often inaccurate. New construction project lists were not submitted until middle of 2012.
Metric 2	1	Very little information exchange between SoCalGas and Commission staff. SoCalGas waited to submit workpapers for many measures until it had a better idea of what its accomplishments would be about two years into program cycle. However, all phase 2 workpapers are	2	Internal coordination among the involved IOU staff appeared to be less than average. From interactions with the IOU, it seemed that full intent of D.11-07-030 was not being communicated internally.

		now submitted to Commission.		
Metric 3	2	Have incorporated EM&V observed results for metrics such as boiler efficiency, operating water temperatures and steam pressures. Some workpapers appear to deviate from common DEER references. For example, domestic hot water assumptions for laundry detergent workpaper are taken from communications with manufacturer's representative, while DEER uses data from Residential Appliance Saturation Survey.	1	The IOUs understand they need to conduct industry standard practice studies, establish remaining useful life/effective useful life, quantify the interactive effects and support early retirement claim. SoCalGas project documents mostly do not demonstrate any effort to apply their understanding of these requirements. For most large projects, SoCalGas' calculation of incremental costs and industry standard practice determination efforts lacked adequate rigor expected for the magnitude of savings involved. SoCalGas does not seem to maintain a tool archive. Available off-the-shelf calculation tools, when used, do not reflect site-specific custom conditions.
Category 1 Total (max score of 15 for both	5		5	

workpapers and custom projects)				
Metric 2: Level of due diligence the IOUs' applied to their ex ante review activities				
Metric	*Score*	*Comments*	*Score*	*Comments*
Metric 4	2	Several workpapers appear to be developed by consultants who do not have clear understanding of Commission policies, DEER methods or commonly available references used in DEER and by most utilities. Workpapers are submitted with seemingly little SoCalGas staff review. For example, liquid pool cover and laundry detergent workpapers have effective useful lives < 1.	2	All IOUs do not incorporate dual baseline savings estimated. The quality of documentation and review of large projects at SoCalGas is below average and inclination to treat all projects as early replacement much higher than others.
Metric 5	2	There appears to be inconsistent application of care and experience. Workpapers prepared by consultants or vendors are the biggest problem with what looks like very little oversight from SoCalGas staff. Consultants and	1	The utility does not attempt to conduct research to support assumptions via secondary sources or site-specific M&V for very large projects. However, most projects are small. Internal review appears weaker than PG&E and SCE.

		vendors often use assumptions that are quite different from common assumptions used in DEER or that were directed in the ex ante decision.		
Metric 6	2	SoCalGas seems to have incorporated recommendations from the Phase 1 ex ante review in some basic ways such as incorporating Commission staff recommendations for common boiler efficiencies and operating temperatures. However, continues to utilize very old workpapers when Commission staff has continually brought up the need to perform updating which often would require development of new data.	3	Might implement after a time delay; however it is less apparent that review results are fed into other similar or parallel projects.
Category 2 Total (max score of 15 for both workpapers and custom	6			

projects)				
Category 3: Progress toward ex ante activity that is more self-policing				
Metric	*Score*	*Comments*	*Score*	*Comments*
Metric 7	1	SoCalGas has not brought projects in formative stage.	2	Only large projects have been brought to Commission Staff's attention with the area of doubt ill-defined.
Metric 8	1	No evidence that SoCalGas has initiated internal process to respond to Commission staff recommendations or directions. SoCalGas has provided all workpapers to support 2010-12 claims, but most were not provided until late 2011. Commission therefore has had little opportunity to comment on SoCalGas workpapers.	2	Moderate disagreements with staff; unclear how staff directions are implemented. Some recurring issues, especially on baseline, with minimal attempts to address over time rather than disagree with Commission direction.
Metric 9	1	No joint projects to date.	1	SoCalGas has not proposed any joint projects to be executed. Staff believes that potential for joint project with SoCalGas exists.
Metric 3 Total (max score of 15 for both workpapers and custom projects)	3		5	

Category 4: IOUs' efforts to implement Commission adopted policy regarding the use of DEER		
Metric 10	3	Resisted some of D.09-09-047 but moved quickly to remedy after D.11-07-030 and continues to adopt Commission staff recommendation with minimal dispute. Also, SoCalGas' delay in providing all Phase 2 workpapers made it difficult to perform the same level of review for DEER consistency compared to other IOUs.
Metric 11	3	Generally acknowledges past Commission staff direction relating to DEER.
Metric 4 Total (max score of 10)	6	

(END OF APPENDIX)