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List of Abbreviations and Acronyms

A

APS	Arizona Public Service Company

B

BA	balance adjustment
BGE	Baltimore Gas & Electric
BGSS	Basic Gas Supply Service

C

CCRA	conservation cost recovery adjustment
CCRC	conservation cost recovery charge
CET	conservation enabling tariff
CIP	conservation improvement program or Conservation Incentive Program
CMP	Central Maine Power
CPUC	California Public Utilities Commission
CUA	conservation and usage adjustment

D

DBA	DSM balance adjustment
DCR	DSM program cost recovery
DNG	distribution non-gas
DOE	U.S. Department of Energy
DRLS	DSM revenue from lost sales
DSM	demand-side management
DSMI	DSM incentive
DSMRC	demand-side management recovery component

E

ECCR	energy conservation cost recovery
EPA	U.S. Environmental Protection Agency
ER	earnings rate
ERAM	electric rate adjustment mechanism

F

FCA	fixed cost adjustment
FCM	forward capacity market
FEECA	Florida Energy Efficiency and Conservation Act
FPL	Florida Power and Light

H

HECO	Hawaiian Electric Company

I

ISO	independent system operator

K

kW	kilowatt
kWh	kilowatt-hour

L

LG&E	Louisville Gas & Electric
LRAM	lost revenue adjustment mechanism

M

MW	megawatt
MWh	megawatt-hour

List of Abbreviations and Acronyms (continued)

N

NARUC	National Association of Regulatory Utility Commissioners
NJNG	New Jersey Natural Gas
NJR	New Jersey Resources
NJRES	NJR Energy Services
NSP	Northern States Power Company

O

O&M	operation and maintenance

P

PBR	performance-based ratemaking
PEB	performance earnings basis
PG&E	Pacific Gas & Electric Company

R

RAP	Regulatory Assistance Project
ROE	return on equity

S

SFV	Straight Fixed-Variable
SJG	South Jersey Gas

U

UCE	Utah Clean Energy

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The Advisory Group members are:

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- Jeff Burks, PNM Resources
- Sheryl Carter, Natural Resources Defense Council
- Dan Cleverdon, DC Public Service Commission
- Roger Duncan, Austin Energy
- Jim Gallagher, New York State Public Service Commission
- Marty Haught, United Cooperative Service
- Leonard Haynes, Southern Company
- Mary Healey, Connecticut Office of Consumer Counsel
- Denise Jordan, Tampa Electric Company
- Don Low, Kansas Corporation Commission
- Mark McGahey, Tristate Generation and Transmission Association, Inc.
- Barrie McKay, Questar Gas Company
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Executive Summary

This report on Aligning Utility Incentives with Investment in Energy Efficiency describes the financial effects on a utility of its spending on energy efficiency programs, how those effects could constitute barriers to more aggressive and sustained utility investment in energy efficiency, and how adoption of various policy mechanisms can reduce or eliminate these barriers. The Report also provides a number of examples of such mechanisms drawn from the experience of utilities and states. The Report is provided to assist in the implementation of the National Action Plan for Energy Efficiency's five key policy recommendations for creating a sustainable, aggressive national commitment to energy efficiency.

Improving energy efficiency in our homes, businesses, schools, governments, and industries—which collectively consume more than 70 percent of the natural gas and electricity used in the country—is one of the most constructive, cost-effective ways to address the challenges of high energy prices, energy security and independence, air pollution, and global climate change. Despite these benefits and the success of energy efficiency programs in some regions of the country, energy efficiency remains critically underutilized in the nation's energy portfolio. It is time to take advantage of more than two decades of experience with successful energy efficiency programs, broaden and expand these efforts, and capture the savings that energy efficiency offers. Aligning the financial incentives of utilities with the delivery of cost-effective energy efficiency supports the key role utilities can play in capturing energy savings.

This Report has been developed to help parties fully implement the five key policy recommendations of the National Action Plan for Energy Efficiency. (See Figure 1-1 for a full list of options to consider under each Action Plan recommendation.) The Action Plan was released in July 2006 as a call to action to bring diverse stakeholders together at the national, regional, state, or utility level, as appropriate, and foster the discussions, decision-making, and commitments necessary to take investment in energy efficiency to a new level.

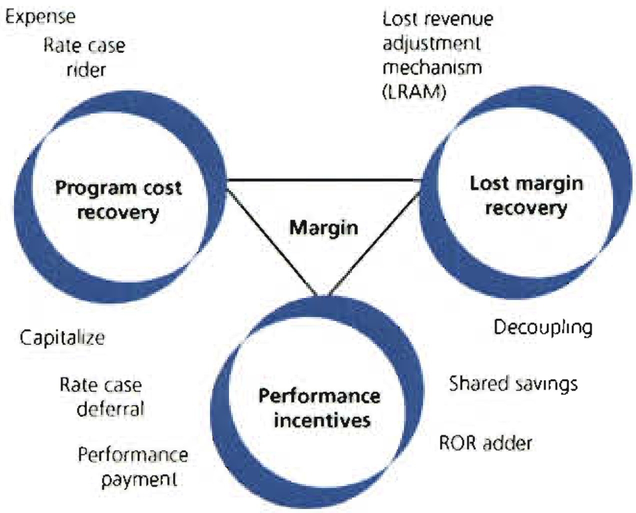
This Report directly supports the Action Plan recommendations to "provide sufficient, timely, and stable program funding to deliver energy efficiency where cost-effective" and "modify policies to align utility incentives with the delivery of cost-effective energy efficiency and modify ratemaking practices to promote energy efficiency investments." Key options to consider under this recommendation include committing to a consistent way to recover costs in a timely manner, addressing the typical utility throughput incentive and providing utility incentives for the successful management of energy efficiency programs.

There are a number of possible regulatory mechanisms for addressing these issues. Determining which mechanism will work best for any given jurisdiction is a process that takes into account the type and financial structure of the utilities in that jurisdiction; existing statutory and regulatory authority; and the size of the energy efficiency investment. The net impact of an energy efficiency cost recovery and performance incentives policy will be affected by a wide variety of other rate design, cost recovery, and resource procurement strategies, as well as broader considerations, such as the rate of demand growth and environmental and resource policies.

The Financial and Policy Context

Utility spending on energy efficiency programs can affect the utility's financial position in three ways: (1) through recovery of the direct costs of the programs; (2) through the impact on utility earnings of reduced sales; and (3) through the effects on shareholder value of energy efficiency spending versus investment in supply-side resources. The relative importance of each effect to a utility is measured by its impact on earnings. A variety of mechanisms have been developed to address these impacts, as illustrated in Figure ES-1.

Figure ES-1. Cost Recovery and Performance Incentive Options



How these impacts are addressed creates the incentives and disincentives for utilities to pursue energy efficiency investment. The relative importance of each of these depends on specific context—the impacts of energy efficiency programs will look different to gas and electric utilities, and to investor-owned, publicly owned, and cooperatively owned utilities. Comprehensive policies addressing all three levels of impact generally are considered more effective in spurring utilities to pursue efficiency aggressively. Ultimately, however, it is the cumulative net effect on utility earnings or net income of a policy that will determine the alignment of utility financial interests with energy efficiency investment. The same effect can be achieved in different ways, not all of which will include explicit mechanisms for each level. Chapter 2 of this Report explores the financial effects of and policy issues associated with utility energy efficiency spending.

Program Cost Recovery

The most immediate impact is that of the direct costs associated with program administration (including evaluation), implementation, and incentives to program participants. Reasonable opportunity for program cost recovery is a necessary condition for utility program spending, as failure to recover these costs produces a direct dollar-for-dollar reduction in utility earnings, all else being equal, and sends a discouraging message regarding further investment.

Policy-makers have a wide variety of tools available to them within the broad categories of expensing and capitalization to address cost recovery. Program costs can be recovered as expenses or can be treated like capital items by accruing program costs with carrying charges, and then amortizing the balances with recovery over a period of years. Chapter 4 reviews both general options as well as several approaches for the tracking, accrual, and recovery of program costs. Case studies for Arizona, Iowa, Florida, and Nevada are presented to illustrate the actual application of the mechanisms.

Each of these tools can have different financial impacts, but the key factors in any case are the determination of the prudence of program expenditures and the timing of cost recovery. How each of these is addressed will affect the perceived financial risk of the policy. The more uncertain the process for determining the prudence of expenditures, and the longer the time between an expenditure and its recovery, the greater the perceived financial risk and the less likely a utility will be to aggressively pursue energy efficiency.

Lost Margin Recovery and the Throughput Incentive

The second impact, sometimes called the lost margin recovery issue is the effect on utility financial margins caused by the energy efficiency-produced drop in sales. Utilities incur both fixed and variable costs. Fixed costs include a return of (depreciation) and a return on (interest plus earnings) capital (a utility's physical infrastructure), as well as property taxes and certain operation and maintenance (O&M) costs. These costs do not vary as a function of sales in the short-run. However, most utility rate designs attempt to recover a portion of these fixed costs through volumetric prices—a price per kilowatt-hour or per therm. These prices are based on an estimate of sales: price = revenue requirement/sales.[1] If actual sales are either higher or lower than the level estimated when prices are set, revenues will be higher or lower. All else being equal, if an energy efficiency program reduces sales, it reduces revenues proportionately, but fixed costs do not change. Less revenue, therefore, means that the utility is at some risk for not recovering all of its fixed costs. Ultimately, the drop in revenue will impact the utility's earnings for an investor-owned utility, or net operating margin for publicly and cooperatively owned utilities.

Few energy efficiency policy issues have generated as much debate as the issue of the impact of energy efficiency programs on utility margins. Arguments on all sides of the lost margin issue can be compelling. Many observers would agree that significant and sustained investment in energy efficiency by utilities, beyond that required under statute or order, will not occur without implementation of some type of mechanism to ensure recovery of lost margins. Others argue that the lost margin issue cannot be treated in isolation; margin recovery is affected by a wide variety of factors, and special adjustments for energy efficiency constitute single issue ratemaking.[2]

Care should be taken to ensure that two very different issues are not incorrectly treated as one. The first issue is whether a utility should be compensated for the under-recovery of fixed costs when energy efficiency programs or events outside of the control of the utility (e.g., weather or a drop in economic activity) reduce sales below the level on which current rates are based. *Lost revenue adjustment mechanisms* (LRAMs) have been designed to estimate and collect the margin revenues that might be lost due to a successful energy efficiency program. These mechanisms compensate utilities for the effect of reduced sales due to efficiency, but they do not change the linkage between sales and profit. Few states currently use these mechanisms.

The second issue is whether potential lost margins should be addressed as a stand-alone matter of cost recovery or by *decoupling* revenues from sales—an approach that fundamentally changes the relationship between sales and revenues, and thus margins. Decoupling not only addresses lost margin recovery, but also removes the throughput incentive—the incentive for utilities to promote sales growth, which is created when fixed costs are recovered through volumetric charges. The *throughput incentive* has been identified by many as the primary barrier to aggressive utility investment in energy efficiency.

Chapter 5 examines the cause of and options for recovery of lost margins, and case studies are presented for decoupling in Idaho, New Jersey, Maryland, and Utah, and for the application of a LRAM in Kentucky.

Utility Performance Incentives

The two impacts described above pertain to potential direct disincentives for utilities to engage in energy efficiency program investment. The third impact concerns incentives for utilities to undertake such investment. Under traditional regulation, investor-owned utilities earn returns on capital invested in generation, transmission, and distribution. Unless given the opportunity to profit from the energy efficiency investment that is intended to substitute for this capital investment, there is a clear financial incentive to prefer investment in supply-side assets, since these investments contribute to enhanced shareholder value. Providing financial incentives to a utility if it performs well in delivering energy efficiency can change that business model by making efficiency profitable rather than merely a break-even activity.

The three major types of performance mechanisms have been most prevalent include:

- Performance target incentives.
- Shared savings incentives.
- Rate of return adders.

Performance target incentives provide payment—often a percentage of the total program budget—for achievement of specific metrics, usually including savings targets. Most states providing such incentives set performance ranges; incentives are not paid unless a utility achieves some minimum fraction of proposed savings, and incentives are capped at some level above projected savings.

Shared savings mechanisms provide utilities the opportunity to share with ratepayers the net benefits resulting from successful implementation of energy efficiency programs. These structures also include specific performance targets that tie the percentage of net savings awarded to the percentage of goal achieved. Some, but not all, shared savings mechanisms include penalty provisions requiring utilities to pay customers when minimum performance targets are not achieved.

Rate of return adders provide an increase in the return on equity (ROE) applied to capitalized energy efficiency expenditures. This approach currently is not common as a performance incentive for several reasons. First, this mechanism requires energy efficiency program costs to be capitalized, which relatively few utilities prefer. Second, at least as applied in several cases, the adder is not tied to performance—it simply is applied to all capitalized energy efficiency costs as a way to broadly incent a utility for efficiency spending. On the other hand, capitalization, in theory, places energy efficiency on more equal financial terms with supply-side investments to begin with. Thus, any adder could be viewed more as a risk-premium for investment in a regulatory asset.

The premise that utilities should be paid incentives as a condition for effective delivery of energy efficiency programs is not universally accepted. Some argue that utilities are obligated to pursue energy efficiency if that is the policy of a state, and that performance incentives require customers to pay utilities to do something that they should do anyway. Others have argued more directly that the basic business of a utility is to deliver energy, and that providing financial incentives over-and-above what could be earned by efficient management of the supply business simply raises the cost of service to all customers and distorts management behavior.

Chapter 6 reviews these mechanisms in greater detail and provides case studies drawn from Massachusetts, Minnesota, Hawaii, and California.

Table ES-1 summarizes the current level of state activity with regard to the financial mechanisms describe above.

Understanding Objectives—Developing Policy Approaches That Fit

The overarching goal in every jurisdiction that considers an energy efficiency investment policy is to generate and capture substantial net economic benefits. Achieving this goal requires aligning utility financial interests with investment in energy efficiency. The right combination of cost recovery and performance incentive mechanisms to support this alignment requires a balancing of a variety of more specific objectives common to the ratemaking process. Chapter 3 reviews how these objectives might influence design of a cost recovery and performance incentive policy, and highlights elements of the policy context that will affect policy design. Each of these objectives are not given equal weight by policy-makers, but most are given at least some consideration in virtually every discussion of cost recovery and performance incentives.

- **Strike an Appropriate Balance of Risk/Reward Between Utilities/Customers.** If a mechanism is well-designed and implemented, customer benefits will be large enough to allow sharing some of this benefit as a way to reduce utility risk and strengthen institutional commitment; all parties will be better off than if no investment had been made.
- **Promote Stabilization of Customer Rates and Bills.** While it is prudent to explore policy designs that, among available options, minimize potential rate volatility, the pursuit of rate stability should be balanced against the broader interest of lowering the overall cost of providing electricity and natural gas.
- **Stabilize Utility Revenues.** Even if cost recovery policy covers program costs, fixed cost recovery and performance incentives, how this recovery takes

Table ES-1. The Status of Energy Efficiency Cost Recovery and Incentive Mechanisms for Investor-Owned Utilities

State	Direct Cost Recovery			Fixed Cost Recovery		Performance Incentives
	Rate Case	System Benefits Charge	Tariff Rider/ Surcharge	Decoupling	Lost Revenue Adjustment Mechanism	
Alabama	Yes					
Alaska						
Arizona	Yes (electric)	Yes (electric)		Pending (gas)		Yes (electric)
Arkansas				Yes (gas)		
California	Yes	Yes		Yes		Yes
Colorado	Yes		Yes	Pending		Yes
Connecticut		Yes (electric)			Yes	Yes
Delaware	Yes			Pending		
District of Columbia	Yes			Pending (electric)		
Florida			Yes (electric)			
Georgia	Yes					Yes (electric)
Hawaii				Pending (electric)		Yes
Idaho	Yes (electric)			Yes (electric)		
Illinois	Yes (electric)					
Indiana	Yes			Yes (gas)	Yes	Yes
Iowa	Yes		Yes			
Kansas						Yes
Kentucky			Yes	Pending (gas)	Yes	Yes
Louisiana						
Maine		Yes (electric)				
Maryland				Yes (gas) Pending (electric)		
Massachusetts		Yes (electric)		Pending (electric)	Yes	Yes (electric)
Michigan				Pending (gas)		
Minnesota	Yes			Yes		Yes
Mississippi	Yes					
Missouri				Yes (gas)		
Montana	Yes (gas)	Yes (electric)				Yes
Nebraska						
Nevada	Yes (electric)			Yes (gas)		Yes (electric)
New Hampshire		Yes (electric)		Pending (electric)		Yes (electric)

Table ES-1. The Status of Energy Efficiency Cost Recovery and Incentive Mechanisms for Investor-Owned Utilities (continued)

State	Direct Cost Recovery			Fixed Cost Recovery		Performance Incentives
	Rate Case	System Benefits Charge	Tariff Rider/ Surcharge	Decoupling	Lost Revenue Adjustment Mechanism	
New Jersey		Yes		Yes (gas) Pending (electric)		
New Mexico	Yes			Pending (gas)		
New York		Yes (electric)		Yes		
North Carolina				Yes (gas)		
North Dakota						
Ohio			Yes (electric)	Yes (gas)	Yes (electric)	Yes (electric)
Oklahoma						
Oregon		Yes		Yes (gas)		
Pennsylvania	Yes					
Rhode Island		Yes (electric)		Yes		Yes
South Carolina						Yes
South Dakota						
Tennessee						
Texas	Yes					
Utah	Yes (electric)		Yes (electric)	Yes (gas)		
Vermont		Yes (electric)			Yes	Yes
Virginia				Pending (gas)		
Washington	Yes (electric)		Yes (electric)	Yes (gas)		
West Virginia						
Wisconsin	Yes (electric)	Yes (electric)		Pending (electric)		
Wyoming						

Source: Kushler et al., 2006. (Current as of September 2007.) Please see Appendix C for specific state citations.

place can affect the pattern of cash flow and earnings. Large episodic jumps in earnings (produced, for example, by a decision to allow recovery of accrued under-recovery of fixed costs in a lump sum), can cloud financial analysts' ability to discern the true financial performance of a company.

- **Administrative Simplicity and Managing Regulatory Costs.** Simplicity requires that any/all mechanisms be transparent with respect to both calculation of recoverable amounts and overall impact on utility earnings. Every mechanism will impose some incremental cost on all parties, since some regulatory responsibilities are inevitable. The objective, therefore, is to structure mechanisms that lend themselves to a consistent and more formulaic process. This objective can be satisfied by providing clear rules prescribing what is considered acceptable/necessary as part of an investment plan.

Finding the right policy balance hinges on a wide range of factors that can influence how a cost recovery and performance incentive measure will actually work. These factors will include: industry structure (gas or electric utility, public or investor-owned, restructured or bundled); regulatory structure and process (types of test year, current rate design policies); and utility operating environment (demand growth and volatility, utility cost and financial structure, structure of the energy efficiency portfolio). Given the complexity of many of these issues, most states defer to state utility regulators to fashion specific cost recovery and performance incentive mechanism(s).

Emerging Models

Although the details of the policies and mechanisms for addressing the financial impacts of energy efficiency programs continue to evolve in jurisdictions across the country, the basic classes of mechanisms have been understood, applied, and debated for more than two decades. Most jurisdictions currently considering policies to remove financial disincentives to utility investment in energy efficiency are considering one or more of the mechanisms described above. Still, the persistent debate over recovery of lost margins and performance incentives in particular creates an interest in new approaches.

In April 2007, Duke Energy proposed what is arguably the most sweeping alternative to traditional cost recovery, margin recovery and performance incentive approaches since the 1980s. Offered in conjunction with an energy efficiency portfolio in North Carolina, Duke's Energy Efficiency Rider encapsulates program cost recovery, recovery of lost margins, and shareholder incentives into one conceptually simple mechanism tied to the utility's avoided cost. The approach is based on the notion that, if energy efficiency is to be viewed from the utility's perspective as equivalent to a supply resource, the utility should be compensated for its investment in energy efficiency by an amount roughly equal to what it would otherwise spend to build the new capacity that is to be avoided. The Duke proposal would authorize the company, "to recover the amortization of and a return on 90 percent of the costs avoided by producing save-a-watts."

The proposal clearly represents an innovation in thinking regarding elimination of financial disincentives for utilities, and has intuitive appeal for its conceptual simplicity. The Duke proposal does represent a distinct departure from cost recovery and shareholder incentives convention. What is a simple and compelling concept is embedded in a formal mechanism that is quite complex, and the mechanism will likely engender substantial debate.

A second emerging model is represented by the ISO New England's capacity auction process. This process allows demand-side resources to be bid into an auction alongside supply-side resources, and utilities and third-party energy efficiency providers are allowed to participate in the auction with energy efficiency programs. Winning bids receive a revenue stream that could, under certain circumstances, be used to offset direct program costs or lost margins, or could provide a source of performance incentives. The treatment of revenues received from the auction by a utility, however, is subject to allocation by its state utility commission(s), and the traditional approach to the treatment of off-system revenues is to credit them against jurisdictional revenue requirements. Therefore, the capability of this model to address the impacts described above depends largely on state regulatory policy. Whether this model ultimately is transferable to other areas of the country depends greatly on how power markets are structured in these areas.

Final Thoughts

The history of utility energy efficiency investment is rich with examples of how state legislatures, regulatory commissions, and the governing bodies of publicly and cooperatively owned utilities have explored their cost recovery policy options. As these options are reconsidered and reconfigured in light of the trend toward higher utility investment in energy efficiency, this experience yields several lessons with respect to process.

- **Set cost recovery and incentive policy based on the direction of the market's evolution.** The rapid development of technology, the likely integration of energy efficiency and demand response, continuing evolution of utility industry structure, the likelihood of broader action on climate change, and a wide range of other uncertainties argue for cost recovery and incentive policies that can work with intended effect under a variety of possible futures.

- **Apply cost recovery mechanisms and utility performance incentives in a broad policy context.** The policies that affect utility investment in energy efficiency are many and varied and each will control, to some extent, the nature of financial incentives and disincentives that a utility faces. Policies that could impact the design of cost recovery and incentive mechanisms include those having to do with carbon emissions reduction; non-CO2 environmental control, such as NOX cap-and-trade initiatives; rate design; resource portfolio standards; and the development of more liquid wholesale markets for load reduction programs.

- **Test prospective policies.** Complex mechanisms that have many moving parts cannot easily be understood unless the performance of the mechanisms is simulated under a wide range of conditions. This is particularly true of mechanisms that rely on projections of avoided costs, prices, or program impacts. Simulation of impacts using financial modeling and/or use of targeted pilots can be effective tools to test prospective policies.

- **Policy rules must be clear.** There is a clear link between the risk a utility perceives in recovering its costs, and disincentives to invest in energy efficiency. This risk is mitigated in part by having cost recovery and incentive mechanisms in place, but the efficacy of these mechanisms depends very much on the rules governing their application. While state regulatory commissions often fashion the details of cost recovery, lost margin recovery, and performance incentive mechanisms, the scope of their actions is governed by legislation. In some states, significant expenditures on energy efficiency by utilities are precluded by lack of clarity regarding regulators' authority to address one or more of the financial impacts of these expenditures. Legislation specifically authorizing or requiring various mechanisms creates clarity for parties and minimizes risk.

- **Collaboration has value.** The most successful and sustainable cost recovery and incentive policies are those that are based on a consultative process that, in general, includes broad agreement on the aims of the energy efficiency investment policy.

- **Flexibility is essential.** Most of the states that have had significant efficiency investment and cost recovery policies in place for more than a few years have found compelling reasons to modify these policies at some point. These changes reflect an institutional capacity to acknowledge weaknesses in existing approaches and broader contextual changes that render prior approaches ineffective. Policy stability is desirable, and policy changes that have significant impacts on earnings or prices can be particularly challenging. However, it is the stability of impact rather than adherence to a particular model that is important in addressing financial disincentives to invest.

- **Culture matters.** One important test of a cost recovery and incentives policy is its impact on corporate culture. A policy providing cost recovery is an essential first step in removing financial disincentives associated with energy efficiency investment, but it will not change a utility's core business model. Earnings are still created by investing in supply-side assets and selling more energy. Cost recovery plus a policy enabling recovery of lost margins might make a utility indifferent to selling or saving a kilowatt-hour or therm, but still will not make the business case for aggressive pursuit of energy efficiency. A full complement of cost recovery, lost margin recovery, and performance incentive mechanisms can change this model, and likely will be needed to secure sustainable funding for energy efficiency at levels necessary to fundamentally change resource mix.

Notes

1. Revenue requirement refers to the sum of the costs that a utility is authorized to recover through rates.

2. For example, see the National Association of State Utility Consumer Advocates' Resolution on Energy Conservation and Decoupling, June 12, 2007.

SMK-ER4-20

1: Introduction

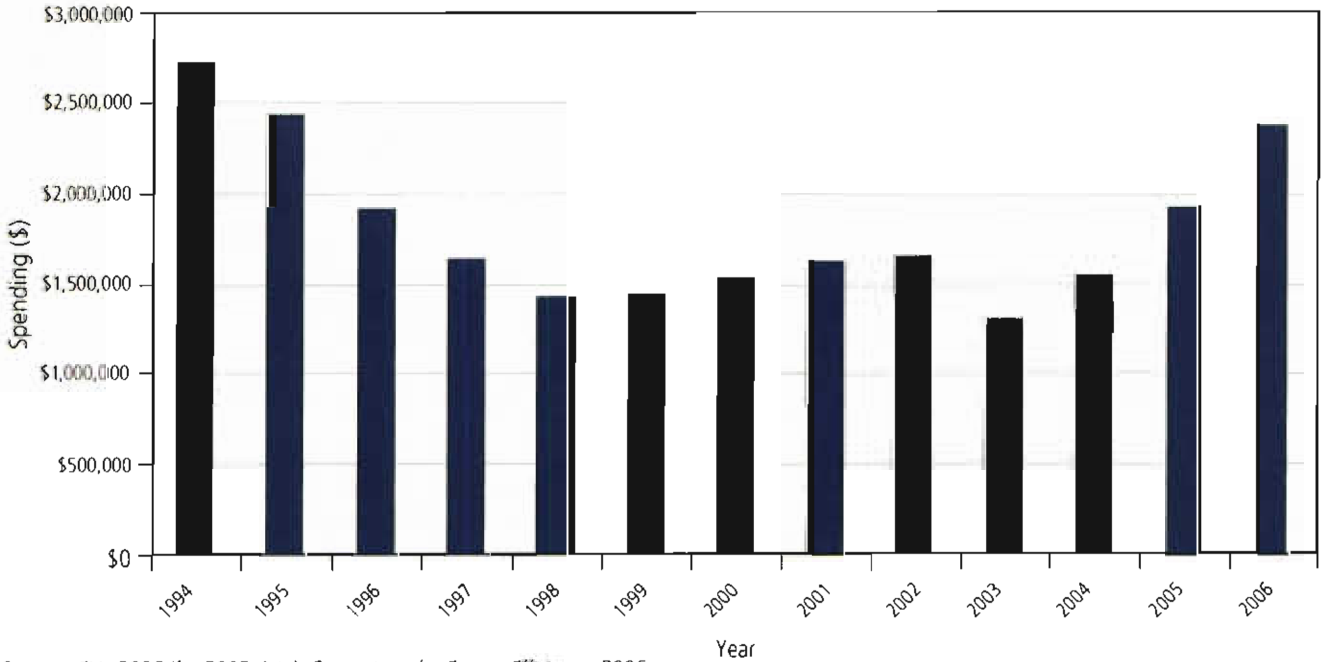
Improving the energy efficiency of homes, businesses, schools, governments, and industries—which collectively consume more than 70 percent of the natural gas and electricity used in the United States—is one of the most constructive, cost-effective ways to address the challenges of high energy prices, energy security and independence, air pollution, and global climate change. Mining this efficiency could help us meet on the order of 50 percent or more of the expected growth in U.S. consumption of electricity and natural gas in the coming decades, yielding many billions of dollars in saved energy bills and avoiding significant emissions of greenhouse gases and other air pollutants.[1]

Recognizing this large untapped opportunity, more than 60 leading organizations representing diverse stakeholders from across the country joined together to develop the National Action Plan for Energy Efficiency.[2] The Action Plan identifies many of the key barriers contributing to underinvestment in energy efficiency; outlines five key policy recommendations for achieving all cost-effective energy efficiency, focusing largely on state-level energy efficiency policies and programs; and provides a number of options to consider in pursuing these recommendations (Figure 1-1). As of November 2007, nearly 120 organizations have endorsed the Action Plan recommendations and made public commitments to implement them in their areas. Aligning utility incentives with the delivery of cost-effective energy efficiency is key to making the Action Plan a reality.

1.1 Energy Efficiency Investment

Actual and prospective investment in energy efficiency programs is on a steep climb, driven by a variety of resource, environmental, and customer cost mitigation concerns. Nevada Power is proposing substantial increases in energy efficiency funding as a strategy for

Figure 1-1. Annual Utility Spending on Electric Energy Efficiency



Sources: EIA, 2006 (for 2005 data); Consortium for Energy Efficiency, 2006.

SMK-ER4-21

Figure 1-2. National Action Plan for Energy Efficiency Recommendations and Options

Recognize energy efficiency as a high-priority energy resource.

Options to consider:

- Establishing policies to establish energy efficiency as a priority resource.
- Integrating energy efficiency into utility, state, and regional resource planning activities.
- Quantifying and establishing the value of energy efficiency, considering energy savings, capacity savings, and environmental benefits, as appropriate.

Make a strong, long-term commitment to implement cost-effective energy efficiency as a resource.

Options to consider:

- Establishing appropriate cost-effectiveness tests for a portfolio of programs to reflect the long-term benefits of energy efficiency.
- Establishing the potential for long-term, cost-effective energy efficiency savings by customer class through proven programs, innovative initiatives, and cutting-edge technologies.
- Establishing funding requirements for delivering long-term, cost-effective energy efficiency.
- Developing long-term energy saving goals as part of energy planning processes.
- Developing robust measurement and verification procedures.
- Designating which organization(s) is responsible for administering the energy efficiency programs.
- Providing for frequent updates to energy resource plans to accommodate new information and technology.

Broadly communicate the benefits of and opportunities for energy efficiency.

Options to consider:

- Establishing and educating stakeholders on the business case for energy efficiency at the state, utility, and other appropriate level, addressing relevant customer, utility, and societal perspectives.
- Communicating the role of energy efficiency in lowering customer energy bills and system costs and risks over time.
- Communicating the role of building codes, appliance standards, and tax and other incentives.

Provide sufficient, timely, and stable program funding to deliver energy efficiency where cost-effective.

Options to consider:

- Deciding on and committing to a consistent way for program administrators to recover energy efficiency costs in a timely manner.
- Establishing funding mechanisms for energy efficiency from among the available options, such as revenue requirement or resource procurement funding, system benefits charges, rate-basing, shared-savings, and incentive mechanisms.
- Establishing funding for multi-year period.

Modify policies to align utility incentives with the delivery of cost-effective energy efficiency and modify ratemaking practices to promote energy efficiency investments.

Options to consider:

- Addressing the typical utility throughput incentive and removing other regulatory and management disincentives to energy efficiency.
- Providing utility incentives for the successful management of energy efficiency programs.
- Including the impact on adoption of energy efficiency as one of the goals of retail rate design, recognizing that it must be balanced with other objectives.
- Eliminating rate designs that discourage energy efficiency by not increasing costs as customers consume more electricity or natural gas.
- Adopting rate designs that encourage energy efficiency by considering the unique characteristics of each customer class and including partnering tariffs with other mechanisms that encourage energy efficiency, such as benefit-sharing programs and on-bill financing.

Source: National Action Plan for Energy Efficiency, 2006a.

compliance with the state's aggressive resource portfolio standard. Funding in California has roughly doubled since 2004 as utilities supplement public charge monies with "procurement funds."[3] Michigan and Illinois have been debating significant efficiency funding requirements, and the Texas legislature has doubled the percentage of load growth that must be offset by energy efficiency, implying a significant increase in efficiency program funding. Integrated resource planning cases and various regulatory settlements from Delaware to North Carolina and Missouri are producing new investment in energy efficiency. Data recently compiled by the Consortium for Energy Efficiency (2006) show total estimated energy efficiency spending by electric utilities exceeding $2.3 billion in 2006, on par with peak energy efficiency spending in the mid-1990s. With the rise in funding, there is broad interest across the country in refashioning regulatory policies to eliminate financial disincentives and barriers to utility investment in energy efficiency.

1.1.1 Understanding Financial Disincentives to Utility Investment

Not unexpectedly, the rise in interest in energy efficiency investment has produced a resurgent interest in how the costs associated with energy efficiency programs are recovered, and whether, in the light of what many believe to be compelling reasons for greater program spending, utilities have sufficient incentive to aggressively pursue these investments.

Energy efficiency programs can have several financial impacts on utilities that create disincentives for utilities to promote energy efficiency more aggressively. Policymakers have developed several mechanisms intended to minimize or eliminate these impacts.

Utility concerns for these three impacts have had a profound effect on energy efficiency investment policy at the corporate and state level for over 20 years, and the concerns continue to create tension as utilities are called upon to boost energy efficiency spending.

Although the nature of today's cost recovery and incentives discussion may be reminiscent of a similar discussion almost two decades ago, the context in which this discussion is taking place is very different. Not only have parties gained valuable experience related to the use of various cost recovery and incentive mechanisms, but the policy landscape has also been reshaped fundamentally.

Industry Structure

The past two decades have witnessed significant industry reorganization in both wholesale and retail power and natural gas markets. Investor-owned electric utilities, particularly in the Northeast and sections of

Table 1-1. Utility Financial Concerns

Potential Impact	Potential Solutions
Energy efficiency expenditures adversely impact utility cash flow and earnings if not recovered in a timely manner.	• Recovery through general rate case • Energy efficiency cost recovery surcharges • System benefits charge
Energy efficiency will reduce electricity or gas sales and revenues and potentially lead to under-recovery of fixed costs.	• Lost revenue adjustment mechanisms that allow recovery of revenue to cover fixed costs • Decoupling mechanisms that sever the link between sales and margin or fixed-cost revenues • Straight fixed-variable (SFV) rate design (allocate fixed costs to fixed charges)
Supply-side investments generate substantial returns for investor-owned utilities. Typically, energy efficiency investments do not earn a return and are, therefore, less financially attractive.[4]	• Capitalize efficiency program costs and include in rate base • Performance incentives that reward utilities for superior performance in delivering energy efficiency

the Midwest, unbundled (i.e., separated the formerly integrated functions of generation, transmission, and distribution) in anticipation of retail competition. Investor-owned natural gas utilities also have gone through a similar unbundling process, albeit one that has been quite different in its form.[5] Unbundling creates two effects relevant to the issues of energy efficiency cost recovery and incentives.

First, unbundling of industry structure also unbundles the value of demand-side programs, in the sense that none of the entities created by unbundling an integrated company can capture the full value of an energy efficiency investment. An integrated utility can capture the value of an energy efficiency program associated with avoided generation, transmission, and distribution costs. The distribution company produced by unbundling an integrated utility can only directly capture the value associated with avoided distribution. One of the principal arguments for public benefits funds was that they could effectively re-bundle this value.[6]

Second, unbundling changes the financial implications of energy efficiency investment as a function of changing cost-of-service structures. The corporate entity subject to continued traditional cost-of-service regulation following unbundling typically is the distribution or wires company. The actual electricity or natural gas sold to consumers is often purchased by consumers directly from competitive or, more commonly, default service providers. In some states, this is also the distribution company. The distribution company adds a distribution service charge to this commodity cost, often levied per unit of throughput, which represents its cost to move the power or gas over its system to the customer. Often, this charge as levied by electric utilities reflects a higher percentage of fixed costs than had been the case when the utility provided bundled service, simply because the utility no longer incurs the variable costs associated with power production.[7] In the case of the distribution company, the potential impact on utility earnings of a drop in sales volume is more pronounced.[8]

Renewed Focus on Resource Planning

Industry restructuring was accompanied by a steep decline in the popularity and practice of resource planning, which had supported much of the early rise in energy efficiency programming. The last several years have seen a resurgence of interest in resource planning (in both bundled and restructured markets) and renewal of interest in ratepayer-funded energy efficiency as a resource option capable of mitigating some of this market volatility.[9]

The intervening years have reshaped the practice of resource planning into a more sophisticated and, sometimes, multi-state process, focused much more on an acknowledgement of and accommodation to the costs and risks surrounding the acquisition of new resources. Energy efficiency investments increasingly are given proper value for their ability to mitigate a variety of policy and financial risks.

Distinctions With a Difference: Gas v. Electric Utilities and Investor-Owned v. Publicly and Cooperatively Owned Utilities

Throughout this Report, distinctions are made between gas and electric utilities and between those that are investor- and publicly or cooperatively owned. In some cases, these distinctions create very important differences in how barriers might be perceived and in whether particular cost recovery and incentive mechanisms are applicable and appropriate. For example, gas and electric utilities face very different market dynamics and can have different cost structures. Declining gas use per customer across the industry creates greater financial sensitivity to the revenue impacts of energy efficiency programs. Publicly and cooperatively owned utilities operate under different financial and, in most states, regulatory structures than investor-owned companies. And just the fact that publicly and cooperatively owned utilities are owned by their customers creates a different set of expectations and obligations. At the same time, all utilities are sensitive to many of the same financial implications, particularly regarding recovery of direct program costs and lost margins. Wherever possible, the Report highlights specific instances in which these distinctions are particularly important.

Rising Commodity Costs and Flattening Sales

The run-up in natural gas prices over the past several years has made the case for gas utility implementation of energy efficiency programs more compelling as a strategy for helping manage customer energy costs. However, where once these programs were implemented in at least a modestly growing gas market, efficiency programs are now combined with flat or declining use per customer, making recovery of program costs and lost margins a more urgent matter.

Acknowledgement of Climate Risk

There is a growing recognition among state policy-makers and electric utilities that action is required to mitigate the impacts of climate change and/or hedge against the likelihood of costly climate policies. Energy efficiency investments are valued for their ability to reduce carbon emissions at low cost by reducing the use of existing high-carbon emitting sources and the deferral of the need for new fossil capacity. Some of the largest electric utilities in the country are forming their business strategies around the likelihood of action on climate policy, and making energy efficiency pivotal in these strategies. Although the environmental attributes of energy efficiency have long been emphasized in arguing the business case for energy efficiency investment, particularly in the electric industry, today that argument appears largely to be over, and attention is shifting to the practical elements of policies that can support scaled-up investment in efficiency.[10]

As utilities increasingly turn to energy efficiency as a key resource, they will look more closely at the links between efficiency, sales, and financial margins, sharpening the question of whether ratemaking policies that reward increases in sales are sustainable. Perhaps less obvious, as policies are implemented to reduce carbon emissions, they likely will create new pathways for capturing the financial value of efficiency that, in turn, will require policy-makers to consider whether current approaches to cost recovery and incentives are aligned with these broader policies.

Advancing Technology

The technology and therefore, the practice of energy efficiency, appear on the edge of significant transformation, particularly in the electric utility industry. The formerly bright line between energy efficiency and demand response[11] is blurring with the growing adoption of advanced metering technologies, innovative pricing regimes, and smart appliances.[12] Emerging technologies enable utilities to more precisely target valuable load reductions, and offer consumers prices that more closely represent the time-varying costs to provide energy. Ultimately, when consumers can receive and act on time- and location-specific energy prices, this will affect the types of energy efficiency measures possible and needed, and efficiency program design and funding will change accordingly. With respect to the immediate issues of cost recovery and incentives, the incorporation of increasing amounts of demand response in utility resource portfolios can change the financial implications of these portfolios, as programs targeted at peak demand reduction as opposed to energy consumption reduction can have a substantially different impact on the recovery of fixed costs.[13]

1.1.2 Current Status

The answer to *"what has changed?"* then, is that the rationale for investment in efficiency has been rethought, refocused, and strengthened, with ratepayer funding rising to levels eclipsing those of the late 1980s/ early 1990s. And as funding rises, the need to address and resolve the issues surrounding energy efficiency program cost recovery and performance incentives take on greater importance and urgency. At the same time, many of the utilities being asked to make this investment are structured differently today than two decades ago during the last efficiency investment boom, so today's efficiency initiatives will have different financial impacts on the utility. Table 1-2 presents a best estimate of the current status of energy efficiency cost recovery and utility performance incentive activity across the country. Where a cell reads "Yes" without reference to gas or electric, the policy applies to both gas and electric utilities.

Table 1-2 reveals that many states have implemented policies that support cost recovery and/or performance incentives to some extent. Even those states that are not shown as having a specific program cost recovery policy

Table 1-2. The Status of Energy Efficiency Cost Recovery and Incentive Mechanisms for Investor-Owned Utilities

State	Direct Cost Recovery			Fixed Cost Recovery		Performance Incentives
	Rate Case	System Benefits Charge	Tariff Rider/ Surcharge	Decoupling	Lost Revenue Adjustment Mechanism	
Alabama	Yes					
Alaska						
Arizona	Yes (electric)	Yes (electric)		Pending (gas)		Yes (electric)
Arkansas				Yes (gas)		
California	Yes	Yes		Yes		Yes
Colorado	Yes		Yes	Pending		Yes
Connecticut		Yes (electric)			Yes	Yes
Delaware	Yes			Pending		
District of Columbia	Yes			Pending (electric)		
Florida			Yes (electric)			
Georgia	Yes					Yes (electric)
Hawaii				Pending (electric)		Yes
Idaho	Yes (electric)			Yes (electric)		
Illinois	Yes (electric)					
Indiana	Yes			Yes (gas)	Yes	Yes
Iowa	Yes		Yes			
Kansas						Yes
Kentucky			Yes	Pending (gas)	Yes	Yes
Louisiana						
Maine		Yes (electric)				
Maryland				Yes (gas) Pending (electric)		
Massachusetts		Yes (electric)		Pending (electric)	Yes	Yes (electric)
Michigan				Pending (gas)		
Minnesota	Yes			Yes		Yes
Mississippi	Yes					

Source: Kushler et al., 2006. (Current as of September 2007.) Please see Appendix C for specific state citations.

Table 1-2. The Status of Energy Efficiency Cost Recovery and Incentive Mechanisms for Investor-Owned Utilities (continued)

State	Direct Cost Recovery			Fixed Cost Recovery		Performance Incentives
	Rate Case	System Benefits Charge	Tariff Rider/ Surcharge	Decoupling	Lost Revenue Adjustment Mechanism	
Missouri				Yes (gas)		
Montana	Yes (gas)	Yes (electric)				Yes
Nebraska						
Nevada	Yes (electric)			Yes (gas)		Yes (electric)
New Hampshire		Yes (electric)		Pending (electric)		Yes (electric)
New Jersey		Yes		Yes (gas) Pending (electric)		
New Mexico	Yes			Pending (gas)		
New York		Yes (electric)		Yes		
North Carolina				Yes (gas)		
North Dakota						
Ohio			Yes (electric)	Yes (gas)	Yes (electric)	Yes (electric)
Oklahoma						
Oregon		Yes		Yes (gas)		
Pennsylvania	Yes					
Rhode Island		Yes (electric)		Yes		Yes
South Carolina						Yes
South Dakota						
Tennessee						
Texas	Yes					
Utah	Yes (electric)		Yes (electric)	Yes (gas)		
Vermont		Yes (electric)			Yes	Yes
Virginia				Pending (gas)		
Washington	Yes (electric)		Yes (electric)	Yes (gas)		
West Virginia						
Wisconsin	Yes (electric)	Yes (electric)		Pending (electric)		
Wyoming						

Source: Kushler et al., 2006. (Current as of September 2007.) Please see Appendix C for specific state citations.

do allow recovery of approved program costs through rate cases. The table also shows that there is a substantial amount of activity surrounding gas revenue decoupling. However, despite the significant level of activity around the country, relatively few states have implemented comprehensive policies that address program cost recovery, recovery of lost margins, and performance incentives. The challenge to policy-makers is whether the level of investment envisioned can be achieved without broader action to implement such comprehensive policies.

1.2 Aligning Utility Incentives with Investment in Energy Efficiency Report

This report on Aligning Utility Incentives with Investment in Energy Efficiency describes the financial effects on a utility of its spending on energy efficiency programs; how those effects could constitute barriers to more aggressive and sustained utility investment in energy efficiency; and how adoption of various policy mechanisms can reduce or eliminate these barriers. This Report also provides a number of examples of such mechanisms drawn from the experience of a number of utilities and states.

The Report was prepared in response to a need identified by the Action Plan Leadership Group (see Appendix A for a list of group members) for additional practical information on mechanisms for reducing these barriers to support the Action Plan recommendations to "provide sufficient, timely, and stable program funding to deliver energy efficiency where cost-effective" and "modify policies to align utility incentives with the delivery of cost-effective energy efficiency and modify ratemaking practices to promote energy efficiency investments." Key options to consider under this recommendation include committing to a consistent way to recover costs in a timely manner, addressing the typical utility throughput incentive, and providing utility incentives for the successful management of energy efficiency programs.

There are a number of possible regulatory mechanisms for addressing both options, as well as for ensuring recovery of prudently incurred energy efficiency program costs. Determining which mechanism will work best for any given jurisdiction is a process that takes into account the type and financial structure of the utilities in that jurisdiction, existing statutory and regulatory authority, and the size of the energy efficiency investment. The net impact of an energy efficiency cost recovery and performance incentives policy will be affected by a wide variety of other factors, including rate design and resource procurement strategies, as well as broader considerations such as the rate of demand growth and environmental and resource policies.

Specifically, the Report provides a description of three financial effects that energy efficiency spending can have on a utility:

- Failure to recover program costs in a timely way has a direct impact on utility earnings.
- Reductions in sales due to energy efficiency can reduce utility financial margins.
- As a substitute for new supply-side resources, energy efficiency reduces the earnings that a utility would otherwise earn on the supply resource.

This Report examines how these effects create disincentives to utility investment in energy efficiency and the policy mechanisms that have been developed to address these disincentives. In addition, this Report examines the often complex policy environment in which these effects are addressed, emphasizing the need for clear policy objectives and for an approach that explicitly links together the impacts of policies to address utility financial disincentives. Two emerging models for addressing financial disincentives are described, and the Report concludes with a discussion of key lessons for states interested in developing policies to align financial incentives with utility energy efficiency investment.

The subject of financial disincentives and possible remedies has been debated for over two decades, and there remain several unresolved and contentious issues. This Report does not attempt to resolve these issues. Rather, by providing discussion of the financial effects of utility efficiency investment, and of the possible policy options for addressing these effects, this Report is intended to deepen the understanding of these issues. In addition, this Report is intended to provide specific examples of regulatory mechanisms for addressing financial effects for those readers exploring options for reducing financial disincentives to sustained utility investment in energy efficiency.

This Report was prepared using an extensive review of the existing literature on energy efficiency program cost recovery, lost margin recovery, and utility performance incentives—a literature that reaches back over 20 years. In addition, this Report uses a broad review of state statutes and administrative rules related to utility energy efficiency program cost recovery. Key documents for the reader interested in additional information include:

- *Aligning Utility Interests with Energy Efficiency Objectives: A Review of Recent Efforts at Decoupling and Performance Incentives*, Martin Kushler, Dan York, and Patti Witte, American Council for an Energy Efficient Economy, Report Number U061, October 2006.
- *Decoupling for Electric and Gas Utilities: Frequently Asked Questions (FAQ)*, September 2007, available at <http://www.naruc.org>.
- A variety of documents and presentations developed by RAP, available online at <http://www.raponline.org>.
- Ken Costello, *Revenue Decoupling for Natural Gas Utilities—Briefing Paper*, National Regulatory Research Institute, April 2006.
- American Gas Association, *Natural Gas Rate Round-Up, Update on Decoupling Mechanisms—April 2007*.
- DOE, *State and Regional Policies That Promote Energy Efficiency Programs Carried Out by Electric and Gas Utilities: A Report to the United States Congress Pursuant to Section 139 of the Energy Policy Act of 2005*, March 2007.
- *Revenue Decoupling: A Policy Brief of the Electricity Consumers Resource Council*, January 2007.

1.2.1 How to Use This Report

This Report focuses on the issues associated with financial implications of utility-administered programs. For the most part, these issues are the same whether the funding flows from a system benefits charge or is authorized by regulatory action, with the exception that a system benefits charge effectively resolves issues associated with program cost recovery. In addition, the issues related to the effect of energy efficiency on utility financial margins apply whether the efficiency is produced by a utility-administered program or through building codes, appliance standards, or other initiatives aimed at reducing energy use. This Report is intended to help the reader answer the following questions:

- How are utilities affected financially by their investments in energy efficiency?
- What types of policy mechanisms can be used to address the various financial effects of energy efficiency investment?
- What are the pros and cons of these mechanisms?
- What states have employed which types of mechanisms and how have they been structured?
- What are the key differences related to financial impacts between publicly and investor-owned utilities and between electric and gas utilities?
- What new models for addressing these financial effects are emerging?
- What are the important steps to take in attempting to address financial barriers to utility investment in energy efficiency?

This Report is intended for utilities, regulators and regulatory staff, consumer representatives, and energy efficiency advocates with an interest in addressing these financial barriers.

1.2.2 Structure of the Report

Chapter 2 of the Report outlines the basic financial effects associated with utility energy efficiency investment, reviews the key related policy issues, and provides

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a case study of how a comprehensive approach to addressing financial disincentives to utility energy efficiency investment can have an impact on utility corporate culture. Chapter 3 outlines a range of possible objectives that policy-makers should consider in designing policies to address financial incentives.

Chapters 4, 5, and 6 provide examples of specific program cost recovery, lost margin recovery, and utility performance incentive mechanisms, as well as a review of possible pros and cons. Chapter 7 provides an overview of two emerging cost recovery and performance incentive models, and the Report concludes with a discussion of important lessons for developing a policy to eliminate financial disincentives to utility investment in energy efficiency.

1.2.3 Development of the Report

The Report on Aligning Utility Incentives with Investment in Energy Efficiency is a product of the Year Two Work Plan for the National Action Plan for Energy Efficiency. In addition to direction and comment by the Action Plan Leadership Group, this Guide was prepared with highly valuable input of an Advisory Group. Val Jensen of ICF International served as project manager and primary author of the Report with assistance from Basak Uluca, under contract to the U.S. Environmental Protection Agency.

The Advisory Group members are:

- Lynn Anderson, Idaho Public Service Commission
- Jeff Burks, PNM Resources
- Sheryl Carter, Natural Resources Defense Council
- Dan Cleverdon, DC Public Service Commission
- Roger Duncan, Austin Energy
- Jim Gallagher, New York State Public Service Commission
- Marty Haught, United Cooperative Service
- Leonard Haynes, Southern Company
- Mary Healey, Connecticut Office of Consumer Counsel
- Denise Jordan, Tampa Electric Company
- Don Low, Kansas Corporation Commission
- Mark McGahey, Tristate Generation and Transmission Association, Inc.
- Barrie McKay, Questar Gas Company
- Roland Risser, Pacific Gas & Electric
- Gene Rodrigues, Southern California Edison
- Michael Shore, Environmental Defense
- Raiford Smith, Duke Energy
- Henry Yoshimura, ISO New England Inc.

1.3 Notes

1 See the *National Action Plan for Energy Efficiency* (2006), available at <www.epa.gov/cleanenergy/actionplan/report.htm>.

2 See <www.epa.gov/actionplan>.

3 "Procurement funds" are monies that are approved by the California Public Utilities Commission for procurement of new resources as part of what is essentially an integrated resource planning process in California.

4 Publicly and cooperatively owned utilities operate under different financial structures than investor-owned utilities and do not face the same issue of earnings comparability, as they do not pay returns to equity holders.

5. Unbundling in the gas industry took a much different form than it did in the electric industry. Gas utilities were never integrated, in the sense that they were responsible for production, transmission, and distribution. Gas utilities always have principally served the distribution function. However, prior to the early 1980s, most gas utilities were responsible for contracting for gas to meet residential, commercial, and industrial demand. Gas industry restructuring led to larger customers being given the ability to purchase gas and transportation service directly, as well as to an end to the typical long-term bundled supply/transportation contracting that gas utilities formerly had engaged in.

6. Some wholesale markets are developing mechanisms to account for the value of demand-side programs. For example, ISO-New England's Forward Capacity Auction allows providers of demand resources to bid demand reductions into the auction.

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7. Although natural gas utilities have never had the capital-intensive financial structure common to integrated electric utilities, they historically have tended to be more vulnerable financially to declines in sales because a much greater fraction of the cost of gas service has been associated with the cost of the gas commodity. Prior to gas industry restructuring this problem was even more acute for those utilities procuring gas under contracts with take-or-pay or fixed-charge clauses.

8. According to the Regulatory Assistance Project, the loss of sales due to successful implementation of energy efficiency will lower utility profitability, and the effect may be quite powerful under traditional rate design. "For example, a 5% decrease in sales can lead to a 25% decrease in net profit for an integrated utility. For a stand-alone distribution utility, the loss to net profit is even greater—about double the impact." See Harrington, C., C. Murray, and L. Baldwin (2007). *Energy Efficiency Policy Toolkit* Regulatory Assistance Project. p. 21. <www.raponline.org>

9. A number of studies have examined the ability of energy efficiency and particularly, demand response programs, to reduce power prices by cutting demand during high-price periods. Because the marginal costs of power typically exceed average costs during these periods, efficiency programs targeted at high demand periods often will yield benefits for all ratepayers, even non-participants. See, for example, *Direct Testimony of Bernard Neenan on Behalf of the Citizens Utility Board and the City Of Chicago*, Cub-City Exhibit 3.0 October 30, 2006, ICC Docket No. 06-0617, State Of Illinois, Illinois Commerce Commission.

10. See, for example: "Greenhouse Gauntlet," 2007 CEO Forum, *Public Utilities Fortnightly*, June 2007. Pacific Gas and Electric (2007). *Global Climate Change, Risks, Challenges, Opportunities and a Call to Action.* </www.pge.com/includes/docs/pdfs/about_us/environment/features/global_climate_06.pdf>

11. Energy efficiency traditionally has been defined as an overall reduction in energy use due to use of more efficiency equipment and practices, while load management, as a subset of demand response has been defined as reductions or shifts in demand with minor declines and sometimes increases in energy use.

12. There remain important distinctions between dispatchable demand response and energy efficiency, including the ability to participate in wholesale markets.

13. For example, a demand-response program that reduces coincident peak demand but has little impact on sales could lead to a financial benefit for a utility, as its costs might decrease by more than its revenues if the cost of delivering power at the peak period exceeds the price for that power

2: The Financial and Policy Context for Utility Investment in Energy Efficiency

This chapter outlines the potential financial effects a utility may face when investing in energy efficiency and reviews key related policy issues. In addition, it provides a case study of how a comprehensive approach to addressing financial disincentives to utility energy efficiency investment can have an impact on utility corporate culture and explores the issue of regulatory risk.

2.1 Overview

Investment in energy efficiency programs has three financial effects that map generally to specific types of costs incurred by utilities.

- Failure to recover program costs in a timely way has a direct impact on utility earnings.
- Reductions in sales due to energy efficiency can reduce utility financial margins.
- As a substitute for new supply-side resources, energy efficiency reduces the earnings that a utility would otherwise earn on the supply resource.

How these effects are addressed creates the incentives and disincentives for utilities to pursue investment in energy efficiency. Ultimately, it is the combined effect on utility margins of policies to address these impacts that will determine how well utility financial interests align with investment in energy efficiency.

These effects are artifacts of utility regulatory policy and the general practice of electricity and natural gas rate-setting. Individual state regulatory policy and practice will influence how these effects are addressed in any given jurisdiction. Even where broad consensus exists on the need to align utility and customer interests in the promotion of energy efficiency, the policy and institutional context surrounding each utility dictates the specific nature of incentives and disincentives "on the street." The purpose of this chapter is to briefly review some of the important policy considerations that will affect how the financial implications introduced above are treated.

Two broad distinctions are important when considering policy context. The first is between investor-owned and publicly and cooperatively owned utilities. Every state regulates investor-owned utilities.[1] Most states do not regulate publicly or cooperatively owned utilities except in narrow circumstances. Instead, these entities typically are regulated by local governing boards in the case of municipal utilities, or are governed by boards representing cooperative members. Public and cooperative utilities face many of the same financial implications of energy efficiency investment. They set prices in much the same way as investor-owned utilities, and have fixed cost coverage obligations just as investor-owned utilities do. Because these utilities are owned by their customers, it is commonly accepted that customer and utility interests are more easily aligned. However, because municipal utilities often fund city services through transfers of net operating margins into other city funds, there can be pressure to maintain sales and revenues despite policies supportive of energy efficiency.

The second distinction is between electric and natural gas utilities. This distinction is less between forms of regulation and more between the nature of the gas and electric utility businesses. Natural gas utilities historically have operated as distributors. Although many gas utilities continue to purchase gas on behalf of customers, the costs of these purchases are simply passed through to customers without mark-up. Many electric utilities, by contrast, build and operate generating facilities.

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Thus, the capital structures of the two types of utilities have differed significantly.[2] Electric utilities, while more capital intensive in the aggregate, historically have had higher variable costs of operation relative to the total cost of service than gas utilities. In other words, while electric utilities required more capital, fixed capital costs represented a larger fraction of the jurisdictional revenue requirement for gas utilities. This has made gas utilities more sensitive to unexpected sales fluctuations and fostered greater interest in various forms of lost margin recovery.

Much of the discussion of mechanisms for aligning utility and customer interests related to energy efficiency investment assumes the utility is an investor-owned electric utility. However, some issues and their appropriate resolution will differ for publicly and cooperatively owned utilities and for natural gas utilities. These differences will be highlighted where most significant.

This chapter reviews each of the three financial effects of utility energy efficiency spending and then briefly examines some of the policy issues that each raises. More detailed examples of policy mechanisms for addressing each effect are provided in following chapters.

2.2 Program Cost Recovery

The first effect is associated with energy efficiency program cost recovery—recovery of the direct costs associated with program administration (including evaluation), implementation, and incentives to program participants. Reasonable opportunity for program cost recovery is a necessary condition for utility program spending. Failure to recover these costs produces a direct dollar-for-dollar reduction in utility earnings, and discourages further investment. If, for whatever reason, a utility is unable to recover $500,000 in costs associated with an energy efficiency program, it will see a $500,000 drop in its net margin.

Policies directing utilities to undertake energy efficiency programs in most cases authorize utilities to seek recovery of program costs, even though actual recovery of all costs is never guaranteed.[3] Clarity with respect to the cost recovery process is critical, as broad uncertainty regarding the timing and threshold burden of proof can itself constitute almost as much a disincentive to utility investment as actual refusal to allow recovery of program costs.[4] A reasonable and reliable system of program cost recovery, therefore, is a necessary first element of a policy to eliminate financial disincentives to utility investment in energy efficiency.

Policy-makers have a wide variety of tools available to them to address cost recovery. These tools can have very different financial implications depending on the specific context. More important, history has shown that recovery is not, in fact, a given. Chapter 5 provides a more complete treatment of program cost recovery mechanisms. However, with respect to the broader policy context, several points are important to note here. All are related to risk.

2.2.1 Prudence

State regulatory commissions, as well as the governing boards of publicly and cooperatively owned utilities, have fundamental obligations to ensure that the costs passed along to ratepayers are just and reasonable and were prudently incurred. Sometimes commissions have found these costs to be appropriately born by shareholders (such as "image advertising") rather than ratepayers. Other times, costs are disallowed because they are considered "unreasonable" for the good or service procured or delivered. Finally, regulators and boards might determine that a certain activity would not have been undertaken by prudent managers and thus costs associated with the activity should not be recoverable from ratepayers.

While within the scope of regulatory authority,[5] such disallowances can create some uncertainty and risk for utilities if the rules governing prudence and reasonableness are not clear.[6] Regulated industries traditionally have been viewed as risk averse, in part because with their returns regulated, risk and reward are not symmetrical. Utilities that have been faced with significant disallowances tend to be particularly averse to incurring any cost that is not pre-approved or for which there is a risk that a particular expense will be disallowed.

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Program cost recovery requires a negotiation between regulators and utilities to create more certainty regarding prudence and reasonableness and therefore, to assure utilities that energy efficiency costs will be recoverable. Many states provide this balance by requiring utilities to submit energy efficiency portfolio plans and budgets for review and sometimes approval.[7] The utility receives assurance that its proposed expenditures are *decisionally prudent,* and regulators are assured that proposed expenditures satisfy policy objectives. Such pre-approval processes do not preclude regulatory review of actual expenditures or findings that actual program implementation was imprudently managed.

2.2.2 The Timing of Cost Recovery

Cost recovery timing is important for two reasons:

1. If there is a significant lag between a utility's expenditure on energy efficiency programs and recovery of those costs, the utility incurs a carrying cost—it must finance the cash flow used to support the program expenditure. Even if a utility has sufficient cash flow to support program funding, these funds could have been applied to other projects were it not for the requirement to implement the program.

2. The length of the time lag directly affects a utility's perception of cost recovery risk. The composition of regulatory commissions and boards changes frequently and while commissions may respect the decisions of their predecessors, they are not bound to them. Therefore, a change in commissions can lead to changes in or reversals of policy. More important, the longer the time lag, the greater the likelihood that unexpected events could occur that affect a utility's cash flow.

The timing issues can be addressed in several ways. The two most prevalent approaches are to allow a utility to book program costs in a deferral account with an appropriate carrying charge applied, or to establish a tariff rider or surcharge that the utility can adjust periodically to reflect changes in program costs. Neither approach precludes regulators from reviewing actual costs to determine reasonableness and making appropriate adjustments. However, the deferral approach can create what is known as a regulatory asset, which can rapidly grow and, when it is added to the utility's cost of service, cause a jump in rates depending on how the asset is treated.[8]

2.3 Lost Margin Recovery

The objective of an energy efficiency program is to cost-effectively reduce consumption of electricity or natural gas. However, reducing consumption also reduces utility revenues and, under traditional rate designs that recover fixed costs through volumetric charges, lower revenues often lead to under-recovery of a utility's fixed costs. This, in turn, can lead to lower net operating margins and profits and what is termed the *"lost margin"* effect. This same effect can create an incentive in certain cases for utilities to try to increase sales and thus, revenues, between rate cases—this is known as the *throughput incentive.* Because fixed costs (including financial margins) are recovered through volumetric charges, an increase in sales can yield increased earnings, as long as the costs associated with the increased sales are not climbing as fast.

Treatment of lost margin recovery, either in a limited fashion or through some form of what is known as *"decoupling,"* raises basic issues of not only what the regulatory obligation is with regard to utility earnings, but also of the regulators' role in determining the utility's business model. Few energy efficiency policy issues have produced as much debate as the issue of the impact of energy efficiency programs on utility margins (Costello, 2006; Eto et al., 1994; National Action Plan for Energy Efficiency, 2006b; Sedano, 2006).

2.3.1 Defining Lost Margins

The lost margin effect is a direct result of the way that electricity and natural gas prices are set under traditional regulation. And while the issue might be more immediate for investor-owned utilities where profits are at stake, the root financial issues are the same whether the utility is investor-, publicly, or cooperatively owned.

Defining Terms

A variety of terms are used to describe the financial effect of a reduction in utility sales caused by energy efficiency. All of these relate to the practice of traditional ratemaking, wherein some portion of a utility's fixed costs are recovered through a volumetric charge. Because these costs are fixed, higher-than-expected sales will lead to higher-than-expected revenue and possible over-recovery of fixed costs. Lower-than-expected sales will lead to under-recovery of these costs. The terminology used to describe the phenomenon and its impacts can be confusing, as a variety of different terms are used to describe the same effect. Key terms include:

- **Throughput**—utility sales.
- **Throughput incentive**—the incentive to maximize sales under volumetric rate design.
- **Throughput disincentive**—the disincentive to encourage anything that reduces sales under traditional volumetric rate design.
- **Fixed-cost recovery**—the recovery of sufficient revenues to cover a utility's fixed costs.
- **Lost revenue**—the reduction in revenue that occurs when energy efficiency programs cause a drop in sales below the level used to set the electricity or gas price. There generally also is a reduction in cost as sales decline, although this reduction often is less than revenue loss.
- **Lost margin**—the reduction in revenue to cover fixed costs, including earnings or profits in the case of investor-owned utilities. Similar to lost revenue, but concerned only with fixed-cost recovery, or with the opportunity costs of lost margins that would have been added to net income or created a cash buffer in excess of that reflected in the last rate case. The amount of margin that might be lost is a function of both the change in revenue and the any change in costs resulting from the change in sales.

The National Action Plan for Energy Efficiency used *throughput incentive* to describe this effect. Where possible, this Report will also use that phrase. It will also describe the effect using the phrases *under-recovery of margin revenue* or *lost margins,* for the most part to describe issues related to the effect of energy efficiency on recovery of fixed costs.

Traditional cost-of-service ratemaking is based on the same simple arithmetic used in Table 2-1.[9]

average price = revenue requirement/ estimated sales[10]

revenue requirement = variable costs + depreciation + other fixed costs + (capital costs × rate of return)

revenue = actual sales × average price

Capital costs are equal to the original cost of plant and equipment used in the generation, transmission, and distribution of energy, minus accumulated depreciation.

The rate of return, in the case of an investor-owned utility, is a weighted blend of the interest cost on the debt used to finance the plant and equipment and an ROE that represents the return to shareholders. The dollar value of this ROE generally represents allowed profit or "margin." Publicly and cooperatively owned utilities do not earn profit per se, and so the rate of return for these enterprises is the cost of debt.[11] The sum of depreciation, other fixed costs (e.g., fixed O&M, property taxes, labor), and the dollar return on invested capital represents a utility's total fixed costs.

If actual sales fall below the level estimated when rates are set, the utility will not collect revenue sufficient to match its authorized revenue requirement. The portion

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Table 2-1. The Arithmetic of Rate-Setting

	Baseline (rate setting proceeding)	Case 1 (2% reduction in sales)	Case 2 (2% increase in sales)
1. Variable costs	$1,000,000	$980,000	$1,020,000
2. Depreciation + other fixed costs	$500,000	$500,000	$500,000
3. Capital cost	$5,000,000	$5,000,000	$5,000,000
4. Debt	$3,000,000	$3,000,000	$3,000,000
5. Interest (@10%)	$300,000	$300,000	$300,000
6. Equity	$2,000,000	$2,000,000	$2,000,000
7. Rate of return on equity (ROE@ 10%)	10%	10%	10%
8. Authorized earnings	$200,000	$200,000	$200,000
9. Revenue requirement (1+2+5+8)	$2,000,000	$1,980,000	$2,020,000
10. Sales (kWh)	20,000,000	19,600,000	20,400,000
11. Average price (9÷10)	$0.10	$0.101	$0.99
12. Earned revenue (11×10)	$2,000,000	$1,960,000	$2,040,000
13. Revenue difference (12–9)	0	-$40,000	+$40,000
14. % of authorized earnings (13÷8)	0	-20%	+20%

Note: Sample values used to illustrate the arithmetic of rate-setting.

of the revenue requirement most exposed is a utility's margin. For legal and financial reasons, a utility will use available revenues to cover the costs of interest, depreciation, property taxes, and so forth, with any remaining revenues going to this margin, representing profit for an investor-owned utility.[12,13]

If sales rise above the levels estimated in a rate-setting process, a utility will collect more revenue than required to meet its revenue requirement, and the excess above any increased costs will go to higher earnings.[14] Table 2-1 provides an example based on an investor-owned utility, and Chapter 4 of the Action Plan—the Business Case for Energy Efficiency—provides a very clear illustration of this impact under a variety of scenarios. The results illustrated are sensitive to the relative proportion of fixed and variable costs in a utility's cost of service. The higher the proportion of the variable costs, the lower the impact of a drop in sales. A gas utility's cost-of-service typically will have a higher proportion of fixed costs than an electric utility's and, therefore, the gas utility can be more financially sensitive to changes in sales relative to a test year level.[15]

This example only examines the impact on earnings due to a sales-produced change in revenue. Margins obviously also are affected by costs, and while many costs are considered fixed in the sense that they do not vary as a function of sales, they are under the control of utilities. Therefore, increases in sales and revenue above a test year level do not necessarily translate into higher margins, and the impact of a reduction in sales on margins depends on how a utility manages its costs.

Although the revenue difference appears small, it can be significant due to the effects on financial margins. The Case 1 revenue deficit of $40,000 represents 20 percent of the allowed ROE. In other words, a 2 percent drop in sales below the level assumed in the rate case translates into a 20 percent drop in earnings or margin, all else being equal. Similarly, sales that are 2 percent higher than assumed yield a 20 percent increase in earnings above authorized levels.

The magnitude of the impact is, in this example, directly related to the efficacy of the efficiency program. Many other factors can have a similar impact on utility revenues—for instance, sales can vary greatly from the rate case forecast assumptions due to weather or economic conditions in the utility's service territory. But unlike the weather or the economy, energy efficiency is the most important factor affecting sales that lies within the utility's control or influence, and successful energy efficiency programs can reduce sales enough to create a disincentive to engage in such programs.

In Case 2, actual sales exceed estimated levels. Once rates are set, a utility may have a financial incentive to encourage sales in excess of the level anticipated during the rate-setting process, since additional units of energy sold compensate for any unanticipated increased costs, and may improve earnings.[16]

Chapter 5 explores mechanisms that can be used to address both cases. Generally, two approaches have been used. First, several states have implemented what are termed lost revenue adjustment mechanisms (LRAMs) that attempt to estimate the amount of fixed-cost or margin revenue that is "lost" as a result of reduced sales. The estimated lost revenue is then recovered through an adjustment to rates. The second approach is known generically as "decoupling." A decoupling mechanism weakens or eliminates the relationship between sales and revenue (or more narrowly, the revenue collected to cover fixed costs) by allowing a utility to adjust rates to recover authorized revenues independent of the level of sales. Decoupling actually can take many forms and include a variety of adjustments.

LRAM and decoupling not only represent alternative approaches to addressing the lost margins effect, but they also reflect two different policy questions related to the relationship between utility sales and profits.

Provide compensation for lost margins?

Should a utility be compensated for the under-recovery of allowed margins when energy efficiency programs—or events outside of the control of the utility, such as weather or a drop in economic activity—reduce sales below the level on which current rates are based? The financial implication—with all else being held equal—is easy to illustrate as shown in Table 4-1. In practice, however, determining what is lost as a direct result of the implementation of energy efficiency programs is not so simple. The determination of whether this loss should stand alone or be treated in context of all other potential impacts on margins also can be challenging. For example, during periods between rate cases, revenues and costs are affected by a wide variety of factors, some within management control and some not. The impacts of a loss of revenue due to an energy efficiency program could be offset by revenue growth from customer growth or by reductions in costs. On the other hand, the addition of new customers imposes costs which, depending on rate structure, can exceed incremental revenues.

Change the basic relationship between sales and profit?

Should lost margins be addressed as a stand-alone matter of cost recovery, or should they be considered within a policy framework that changes the relationship between sales, revenues, and margins—in other words by decoupling revenues from sales? Decoupling not only addresses lost margins due to efficiency program implementation. It also removes the incentive a utility might otherwise have to increase throughput, and can reduce resistance to policies like efficient building codes, appliance standards, and aggressive energy efficiency awareness campaigns that would reduce throughput.

Decoupling also can have a significant impact on both utility and customer risk. For example, by smoothing earnings over time, decoupling reduces utility financial risk, which some have argued can lead to reductions in the utility's cost-of-capital. (For a discussion of this issue, see Hansen, 2007, and Delaware PSC, 2007.) Depending on precisely how the decoupling mechanism is structured, it can shift some risks associated with sales unpredictability (e.g., weather, economic growth) to consumers.[17] This is a design decision within the control of policy-makers, and not an inherent characteristic of decoupling. The issue of the effect of decoupling on risk and therefore, on the cost-of-capital, likely will receive greater attention as decoupling increasingly is pursued. The existing literature and current experience is inconclusive, and the policy discussion would benefit from a more complete examination of the issue than is possible in this Report.

Ultimately, the policy choice must be made based on practical considerations and a reasonable balancing of interests and risks. Most observers would agree that significant and sustained investment in energy efficiency by utilities, beyond that required by statute or order, will not occur absent implementation of some type of lost margin recovery mechanism. More important, a policy that hopes to encourage aggressive utility investment in energy efficiency most likely will not fundamentally change utility behavior as long as utility margins are directly tied to the level of sales. The increasing number of utility commissions investigating decoupling is clear evidence that this question has moved front and center in development of energy efficiency investment policies across the country.

2.4 Performance Incentives

The first two financial impacts described above pertain to obvious disincentives for utilities to engage in energy efficiency program investment. The third effect concerns incentives for utilities to undertake such investment. Full recovery of program costs and collection of allowed revenue eliminates potential financial penalties associated with funding energy efficiency programs. However, simply eliminating financial penalties will not fundamentally change the utility business model, because that model is premised on the earnings produced by supply-side investment. In fact, the earnings inequality between demand- and supply-side investment even where program costs and lost margins are addressed can create a significant barrier to aggressive investment in energy efficiency. An enterprise organized to focus on and profit by investment in supply is not easily converted to one that is driven to reduce demand. This is particularly true in the absence of clear financial incentives or fundamental changes in the business environment.[18]

This issue is fundamental to a core regulatory function—balancing a utility's obligation to provide service at the lowest reasonable cost and providing utilities the opportunity to earn reasonable returns. For example, assume that an energy efficiency program can satisfy an incremental resource requirement at half the cost of a supply-side resource, and that in all other financial terms the efficiency program is treated like the supply resource. Cost recovery is assured and lost margins are addressed. In this case, the utility will earn 50 percent of the return it would earn by building the power plant. Consumers as a whole clearly would be better off by paying half as much for the same level of energy service. However, the utility's earnings expectations are now changed, with a potential impact on its stock price, and total returns to shareholders could decline. There could be additional benefits, to the extent that investors perceive the utility less vulnerable to fuel price or climate risk, but under the conventional approach to valuing businesses, the utility would be less attractive. This is an extreme example, and it is more likely that this trade-off plays out more modestly over a longer period of time. Nevertheless, the prospective loss of earnings from a shift towards greater reliance on demand-side resources is a concern among investor-owned utilities, and it will likely influence some utilities' perspective on aggressive investment in energy efficiency.[19]

The importance of performance incentives is not universally accepted. Some parties will argue that utilities are obligated to pursue energy efficiency if that is the policy of the State. Those taking this view will see performance incentives as requiring customers to pay utilities to do something that should be done anyway. Others have argued that the basic business of a utility is to deliver energy, and that providing financial incentives over-and-above what could be earned by efficient management of the supply business simply raises the cost of service to all customers and distorts management behavior.

Those holding this latter view often prefer that energy efficiency investment be managed by an independent third-party (see, for example, ELCON, 2007). Existing third-party models, such as those in Oregon, Vermont, and Wisconsin, have received generally high marks, but these models carry a variety of implications beyond those related to lost margins and performance incentives. Policy-makers interested in a third party model must balance the potentially beneficial effects for ratepayers with what is typically a lower level of control over the third party, and increased complexity in integrating supply- and demand-side resource policy.

Apart from this threshold issue, regulators face a variety of options for providing incentives to utilities (see Chapter 7), ranging from mechanisms that tie a financial reward to specific performance metrics, including savings, to options that enable a sharing of program benefits, to rewards based on levels of program spending.[20] The latter type of mechanism, while sometimes derided as an incentive to spend, not save, has been applied in some cases simply because it is easier to develop and implement, and it can be combined with pre- and post-implementation reviews to ensure that ratepayer funds are being used effectively.

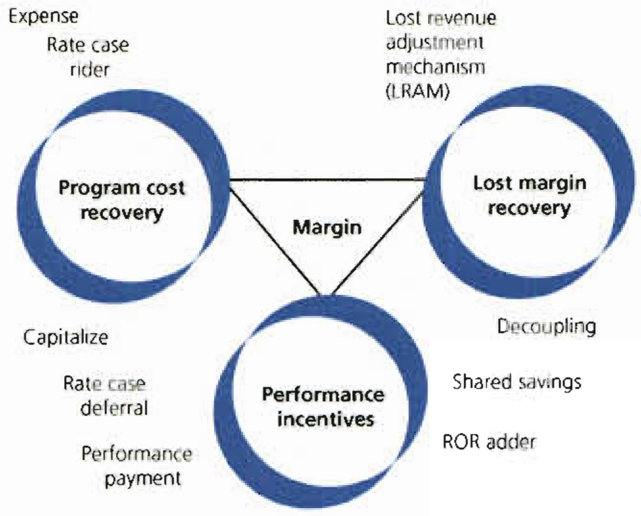
Providing financial incentives to a utility if it performs well in delivering energy efficiency potentially can change the existing utility business model by making efficiency profitable rather than merely a break-even activity. Today such incentives are the exception rather than the norm. For example, California policy-makers have acknowledged that successfully reorienting utility resource acquisition policy to place energy efficiency first in the resource "loading order" requires that performance incentives be re-instituted (see CPUC, 2006).

2.5 Linking the Mechanisms

Each of the financial effects suggests a different potential policy response, and policy-makers can and have approached the challenge in a variety of ways. It is the net financial effect of a package of cost recovery and incentive policies that matters in devising a policy framework to stimulate greater investment in energy efficiency. A variety of policy combinations can yield roughly the same effect. However, to the extent that mechanisms are developed to address all financial effects, care must be taken to ensure that the interactions among these are understood.

The essential foundation of the policy framework is program cost recovery. While confidence in its ability to recover these direct costs is central to a utility's willingness to invest in energy efficiency, a number of options are available for recovery, some of which also address lost margins and performance incentives. Some states directly provide for lost margin recovery for losses due to efficiency programs through a decoupling or LRAM while others create performance incentive policies that indirectly compensate for some or all lost margins. Minnesota, for example, abandoned its lost margin recovery mechanism in favor of a performance incentive after finding that levels of margin recovery had become so large that their recovery could not be supported by the

Figure 2-1. Linking Cost Recovery, Recovery of Lost Margins, and Performance Incentives



commission. Although it has been difficult to determine the precise impact of the change in policy, the utilities in Minnesota have indicated that they are generally satisfied given that prudent program cost recovery is guaranteed and significant performance incentives are available.[21,22] Finally, the combination of program cost recovery and a decoupling mechanism could create a positive efficiency investment environment, even absent performance incentives. Depending on its structure, a decoupling mechanism can create more earnings stability, which, all else being equal, can reduce risk.[23]

2.6 "The DNA of the Company:" Examining the Impacts of Effective Mechanisms on the Corporate Culture

A policy that addresses all three financial effects will, in theory, have a powerful impact on utility behavior and, ultimately, corporate culture, turning what for many utilities is a compliance function into a key element of business strategy.[24] Perhaps the clearest example of this is Pacific Gas & Electric.

PG&E has one of the richest histories of investment in energy efficiency of any utility in the country, dating to the late 1970s. A vital part of that history has been California's policy with respect to program cost recovery, treatment of fixed-cost recovery and performance incentives. Decoupling, in the form of electric rate adjustment mechanism (ERAM), was instituted in 1982. ERAM was suspended as the state embarked on its experiment with utility industry restructuring. While that specific mechanism has not been reinstituted, 2001 legislation effectively required reintroduction of decoupling, which each investor-owned utility has pursued, though in slightly different forms. Similarly, utility performance incentives were authorized more than a decade ago, but were suspended in 2002 amidst of a broad rethinking of the administrative structure for energy efficiency investment in the State. A September 2007 decision by the California Public Utilities Commission (CPUC), reinstated utility performance incentives through an innovative risk/reward mechanism offering utilities collectively up to $450 million in incentives over a three-year period. At the same time, this mechanism will impose penalties on utilities for failing to meet performance targets (see Section 7.3 for a more complete description).

The policy framework in California supports very aggressive investment in energy efficiency, placing energy efficiency first in the resource loading order through adoption of the state's Energy Action Plan. The Energy Action Plan also established that utilities should earn a return on energy efficiency investments commensurate with foregone return on supply-side assets. Public proceedings directed by CPUC set three-year goals for each utility, and the payment of performance incentives will be based on meeting these goals.

PG&E's current energy efficiency investment levels are approaching an all-time high, totaling close to $1 billion over the 2006–2008 period. Base funding comes from the state's public goods charge, but a substantial fraction now comes as the result of the State's equivalent of integrated resource planning proceedings. These procurement proceedings, through which the loading order is implemented, will continue to maintain energy efficiency funding at levels in excess of the public goods charge, as the state pursues aggressive savings goals.

A view only to savings targets and spending levels might suggest that a discussion of disincentive to investment and utility corporate culture is irrelevant in PG&E's case. However, support for these aggressive investments appears to be run deep within the California investor-owned utilities, and clearly this policy would struggle were it not for utility support. Even so, has this policy actually shaped utility corporate culture?

Discussions with PG&E management suggest the answer is "yes" (personal communication with Roland Risser, Director of Customer Energy Efficiency, Pacific Gas & Electric Company, May 2, 2007). Although investment levels always have been high in absolute terms, the company's view in the 1980s initially had been that, as long as energy efficiency investment did not hurt financially, the company would not resist that investment. However, the combined effect of ERAM and utility performance incentives turned what had been a compliance function into a vital piece of the company's business, and a defining aspect of corporate culture that has produced the largest internal energy efficiency organization in the country.[25]

The policy and financial turbulence created by the state's attempt at industry restructuring challenged this culture, first as ERAM and performance incentives were halted, and then as the regulatory environment turned sour with the energy crisis. However, a combination of a new policy recommitment to demand-side management (DSM), and the arrival of a new PG&E CEO have combined to reset the context for utility investment in efficiency and strengthen corporate commitment. Decoupling is again in place and CPUC has adopted a new performance incentive structure.

The significant escalation in efficiency funding driven by California's Energy Action Plan, in addition to resource procurement proceedings, required the company to address the role of energy efficiency investment in more fundamental terms internally. The choices made in the procurement proceedings allocated funding to energy efficiency resources—funding that otherwise would have gone to support acquisition of conventional supply. While in most organizations such allocation processes can create fierce competition, the environment within PG&E has significantly reduced potential conflict and even more firmly embedded energy efficiency in the company's clean energy strategy.

The culture shift certainly is the product of a combination of forces, including the arrival of a new CEO with a strong commitment to climate protection; a state policy environment that is intensely focused on clean energy development; an investment community interested in how utilities hedge their climate risks; and the re-emergence of favorable treatment of fixed-cost coverage and performance incentives. It is not clear that progressive cost recovery and incentive policies are solely responsible for this change, but without these policies it is unlikely that efficiency investment would have become a central element of corporate strategy, embedded "in the DNA of the Company" (personal communication with Roland Risser, PG&E).

Would the same cost recovery and incentive structure have the same effect elsewhere? That answer is unclear, though it is unlikely that simply adopting mechanisms similar to what are in place in California would effect overnight change. Corporate culture is formed over extended periods of time and is influenced by the whole of an operating environment and the leadership of the company. Nevertheless, according to senior PG&E staff, the effect of the cost recovery and incentive policies is undeniable—in this case it was the catalyst for the change.

2.7 The Cost of Regulatory Risk

A comprehensive cost recovery and incentive policy can help institutionalize energy efficiency investment within a utility. At the same time, the absence of a comprehensive approach, or the inconsistent and unpredictable application of an approach, can create confusion with respect to regulatory policy and institutionalize resistance to energy efficiency investment. A significant risk that policy-makers could disallow recovery of program

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costs and/or collection of incentives, even if such investments have been encouraged, imposes a real, though hard-to-quantify cost on utilities. While a significant disallowance can have direct financial implications, a less tangible cost is associated with the institutional friction a disallowance will create. Organizational elements within a utility responsible for energy efficiency initiatives will find it increasingly difficult to secure resources. Programs that are offered will tend to be those that minimize costs rather than maximize savings or cost-effectiveness. Easing this friction will not be as simple as a regulatory message that it will not happen again, and in fact the disallowance could very well have been justified, should have happened, and would happen again.

Regulators clearly cannot give up their authority and responsibility to ensure just and reasonable rates based on prudently incurred costs. And changes in the course of policy are inevitable, making flexibility and adaptability essential. All parties must realize, however, that the consistent application of policy with respect to cost recovery and incentives matters as much if not more than the details of the policies themselves. The wide variety of cost recovery and incentive mechanisms provides opportunities to fashion a similar variety of workable policy approaches. Significant and sustained investment in energy efficiency by utilities very clearly requires a broad and firm consensus on investment goals, strategy, investment levels, measurement, and cost recovery. It is this consensus that provides the necessary support for consistent application of cost recovery and incentives mechanisms.[26]

2.8 Notes

1. However, as they explored industry restructuring, a number of states stripped utility commissions of regulatory authority over generation and, in some cases, transmission to varying degrees.

2. In fact, many gas utilities do make investment in plant and equipment beyond gas distribution pipes—gas peaking and storage facilities, for example.

3 Recovery of costs always is based on demonstration that the costs were prudently incurred.

4 The forward period for which energy efficiency program costs is approved can be quite important to the success of programs. Year-by-year approval requirements complicate program planning, and longer term commitments to the market actors cannot be made. The trend among states is to move toward longer program implementation periods, e.g., three years. Thus, to the extent that program costs are reviewed as part of proposed implementation plans, initial approval for spending is conferred for the three-year period, providing program stability and flexibility.

5. Courts can rule on appeal that regulatory disallowances were not supported by the facts of a case or by governing statute.

6. In fact, some such disallowances have had the effect of clarifying these rules.

7. Another approach to achieving this balance is using stakeholder collaboratives to review, help fashion, and, where appropriate based on this review, endorse certain utility decisions. Where these collaboratives produce stipulations that can be offered to regulators, they provide some additional assurance to regulators that parties who might otherwise challenge the prudence or reasonableness of an action, have reviewed the proposed action and found it acceptable. Though sometimes time-and resource-intensive, such collaboratives have been helpful tools for reducing utility prudence risk related to energy efficiency expenditures.

8. In addition, because such regulatory asset accounts are backed not by hard assets but by a regulatory promise to allow recovery, their use can raise concern in the financial community particularly for utilities with marginal credit ratings.

9. The lost margin issue actually arises as a function of rate designs that intend to recover fixed costs through volumetric (per kilowatt-hour or therm) charges. A rate design that placed all fixed costs of service in a fixed charge per customer (SFV rate) would largely alleviate this problem. However such rates significantly reduce a consumer's incentive to undertake efficiency investments, since energy use reductions would produce much lower customer bill savings relative to a the situation under a rate design that included fixed costs in volumetric charges. In addition, fixed-variable rates are criticized as being regressive (the lower the use, the higher the average cost per unit consumed) and unfair to low-income customers. See Chapter 5, "Rate Design," of the Action Plan for an excellent discussion of this process.

10. This equation is a simplification of the rate-setting process. The actual rates paid per kilowatt-hour or therm often will be higher or lower than the average revenue per unit.

11. Note, however, that publicly owned utilities typically must transfer some fraction of net operating margins to other municipal funds, and cooperatively owned utilities typically pay dividends to the member of the co-op. These payments are the practical equivalent of investor-owned utility earnings. In addition, these utilities typically must meet bond covenants requiring that they earn sufficient revenue to cover a multiple of their interest obligations Therefore, there can be competing pressures for publicly and cooperatively owned utilities to maintain or increase sales at the same time that they promote energy efficiency programs.

12. Although a utility is not obligated to pay returns to shareholders in the same sense that it is obligated to pay for fuel or to pay the interest associated with debt financing, failure to provide the opportunity to earn adequate returns will lead equity investors to view the utility as a riskier or less desirable investment and will require a higher rate of return if they are to invest in the utility. This will increase the utility's overall cost of service and its rates.

13. Publicly and cooperatively owned utilities do not earn profits per se and thus, have no return on equity. However, they do earn financial margins calculated as the difference between revenues earned and the sum of variable and fixed costs. These margins are important as they fund cooperative member dividends and payments to the general funds of the entities owning the public utilities.

14. The actual impact on margins of a change in sales depends critically on the extent to which fixed costs are allocated to volumetric charges. Actual electricity and natural gas prices usually include both a fixed customer charge and a price per unit of energy consumed. The larger the share of fixed costs included in this price per unit, the more a utility's margin will fluctuate with changes in sales.

15. A gas utility's cost of service does not include the actual commodity cost of gas which is flowed through directly to customers without mark-up.

16. Some states require utilities to participate in a rate case every two or three years. Others hold rate cases only when a utility believes it needs to change its prices in light of changing costs or the regulatory agency believes that a utility is over-earning.

17. Unless properly structured, a decoupling mechanism also can lead to a utility over-earning—collecting more margin revenue than it is authorized to collect.

18. An alternative has been for state utility commissions to require adherence to least-cost planning principles that require the less expensive energy efficiency to be "built," rather than the new supply-side resource. However, this approach does not alter the basic financial landscape described above.

19. The California Public Utilities Commission's recent ruling regarding utility performance rewards explicitly recognized this issue.

20. The actual implementation of an incentive mechanism may address more than financial incentives. For example, The Minnesota Commission considers its financial incentive mechanism as effectively addressing the financial impact of the reduction in revenue due to an energy efficiency program.

21. State EE/RE Technical Forum Call #8, Decoupling and Other Mechanisms to Address Utility Disincentives for Implementing Energy Efficiency, May 19, 2005. <http://www.epa.gov/cleanenergy/stateandlocal/efficiency.htm#decoup>

22. The Minnesota Legislature recently adopted legislation directing the Minnesota Public Service Commission to adopt criteria and standards for decoupling, and to allow one or more utilities to establish pilot decoupling programs. S.F. No. 145, 2nd Engrossment 85th Legislative Session (2007–2008).

23. As noted, some argue that this risk reduction should translate into a corresponding reduction in the cost of capital, although views are mixed regarding the extent to which this reduction can be quantified.

24. For a broader discussion of how cost recovery and incentive mechanisms can affect the business model for utility investment in energy efficiency, see NERA Economic Consulting (2007). *Making a Business of Energy Efficiency: Sustainable Business Models for Utilities. Prepared for Edison Electric Institute.*

25. This infrastructure was significantly scaled back during California's restructuring era.

26. One way to manage the regulatory risk issue is to make the regulatory goals very clear and long-term in nature. Setting energy savings targets—for example, by using an Energy Efficiency Resource Standard—can remove some part of the utility's risk. If the utility meets the targets, and can show that the targets were achieved cost-effectively, prudence and reasonableness are easier to establish, and cost recovery and incentive payments become less of an issue. Otherwise, more issues are under scrutiny: did the utility seek "enough" savings? Did it pursue the "right" technologies and markets? With a high-level, simple, and long-term target, such issues become less germane.

3: Understanding Objectives—Developing Policy Approaches That Fit

This chapter explores a range of possible objectives for policy-makers' consideration when exploring policies to address financial disincentives. It also addresses the broader context in which these objectives are pursued.

3.1 Potential Design Objectives

Each jurisdiction could value the objectives of the energy efficiency investment process and the objectives of cost recovery and incentive policy design differently. Jurisdictional approaches are formed by a variety of statutory constraints, as well as by the ownership and financial structures of the utilities; resource needs; and related local, state, and federal resource and environmental policies. ***The overarching objective in every jurisdiction that considers an energy efficiency investment policy should be to generate and capture substantial net economic benefits***. This broad objective sometimes is expressed as a spending target, but more often as an energy or demand reduction target, either absolute (e.g., 500 MW by 2017) or relative (e.g., meet 10, 50, or 100 percent of incremental load growth or total sales). Increasingly, states are linking this objective to others that promote the use of cost-effective energy efficiency as an environmentally preferred option. The objectives outlined below guide how a cost recovery and incentive policy is crafted to support this overarching objective.

A review of the cost recovery and incentive literature, as well as the actual policies established across the country, reveals a fairly wide set of potential policy objectives. Each one of these is not given equal weight by policy-makers, but most of these are given at least some consideration in virtually every discussion of cost recovery and performance incentives. Many of these objectives apply to broader regulatory issues as well. Here the focus is solely on the objectives as they might apply to design of cost recovery and incentive mechanisms intended to serve the overarching objective stated above; that is whether the treatment of these objectives leads to a policy that effectively incents substantial cost-effective savings. A cost recovery and incentives policy that satisfies each of the design objectives described below, but which does not stimulate utility investment in energy efficiency, would not serve the overarching objective.

3.1.1 Strike an Appropriate Balance of Risk/Reward Between Utilities/Customers

The principal trade-off is between lowering utility risk/enhancing utility returns on the one hand and the magnitude of consumer benefits on the other. Mechanisms that reduce utility risk by, for example, providing timely recovery of lost margins and providing performance incentives, reduce consumer benefit, since consumers will pay for recovery and incentives through rates.[1] However, if the mechanisms are well-designed and implemented, customer benefits will be large enough that sharing some of this benefit as a way to reduce utility risk and strengthen institutional commitment will leave all parties better off than had no investment been made.

3.1.2 Promote Stabilization of Customer Rates and Bills

This objective is common to many regulatory policies and is relevant to energy efficiency cost recovery and incentives policy primarily with respect to recovery of lost margins. The ultimate objective served by a cost recovery and incentives policy implies an overall reduction in the long run costs to serve load, which equate to the total amount paid by customers over time. Therefore, while it is prudent to explore policy designs that, among available options, minimize potential rate

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volatility, the pursuit of rate stability should be balanced against the broader interest of total customer bill reductions. In fact, there are cases (Questar Gas in Utah, for example) where energy efficiency programs produce benefits for all customers (programs pass the so-called No-Losers test of cost-effectiveness) through reductions in commodity costs (Personal communication with Barry McKay, Questar Gas, July 9, 2007).

Program costs and performance incentives are relatively stable and predictable, or at least subject to caps. Lost margins can grow rapidly, and recovery can have a noticeable impact on customer rates. Decoupling mechanisms can be designed to mitigate this problem through the adoption of annual caps, but there have been isolated cases in which the true-ups have become so large due to factors independent of energy efficiency investment that regulators have balked at allowing full recovery.[2] Therefore, consideration of this objective is important for customers and utilities, as erratic and substantial energy efficiency cost swings can imperil full recovery and increase the risk of efficiency investments for utilities.

3.1.3 Stabilize Utility Revenues

This objective is a companion to stabilization of rates. Aggressive energy efficiency programs will impact utility revenues and full recovery of fixed costs. However, even if cost recovery policy covers program costs, lost margins, and performance incentives, how this recovery takes place can affect the pattern of earnings. Large episodic jumps in earnings (for example, produced by a decision to allow recovery of accrued lost margins in a lump sum), while better than non-recovery, cloud the financial community's ability to discern the true financial performance of the company, and creates the perception of risk that such adjustments might or might not happen again. PG&E views the ability of its decoupling mechanism to smooth earnings as a very important risk mitigation tool (personal communication with Roland Risser, PG&E).

3.1.4 Administrative Simplicity and Managing Regulatory Costs

Simplicity requires that any/all mechanisms be transparent with respect to both calculation of recoverable amounts and overall impact on utility earnings. This, in turn, supports minimizing regulatory costs. Given the workload facing regulatory commissions, adoption of cost recovery and incentive mechanisms that require frequent and complex regulatory review will create a latent barrier to effective implementation of the mechanisms. Every mechanism will impose some incremental cost on all parties, since some regulatory responsibilities are inevitable. The objective, therefore, is to structure mechanisms with several attributes that can establish at least a consistent and more formulaic process.

The mechanism should be supported by prior regulatory review of the proposed efficiency investment plan, and at least general approval of the contours of the plan and budget. In the alternative, policy-makers can establish clear rules prescribing what is considered acceptable/necessary as part of an investment plan, including cost caps. This will reduce the amount of time required for post-implementation review, as the prudence of the investment decision and the reasonableness of costs will have been established.

Use of tariff riders with periodic true-up allows for more clear segregation of investment costs and adjustment for over/under-recovery than simply including costs in a general rate case. However, in some states, the periodic treatment of energy efficiency program costs, fixed cost recovery, and incentives outside of a general rate case could be prohibited as single-issue ratemaking.[3]

Because certain mechanisms require evaluation and verification of program savings as a condition for recovery, very clear specification of the evaluation standards at the front end of the process is important. Millions of dollars are at stake in such evaluations, and failure to prescribe these standards early in the process almost guarantees that evaluation methods will be contested in cost recovery proceedings.

3.2 The Design Context

The need to design mechanisms that match the often unique circumstances of individual jurisdictions is clear, but what are the variables that determine the context for cost recovery and incentive design? Table 3-1 identifies and describes several variables often cited as important influences.

Table 3-1. Cost Recovery and Incentive Design Considerations

Variable	Implication
Related to Industry Structure	
Differences between gas and electric utility policy and operating environments	Wide variety of embedded implications. Gas utility cost structures create greater sensitivity to sales variability and recovery of fixed costs. In addition, as an industry, gas utilities face declining demand per customer.
Differences between investor-, publicly, and cooperatively owned utilities	Significant differences in financing structures. Municipal and cooperative ownership structures might provide greater ratemaking flexibility. Shareholder incentives are not relevant to publicly and cooperatively owned utilities, although management incentives might be.
Differences between bundled and unbundled utilities	Unbundled electric utilities have cost structures with some similarities to gas utilities; may be more susceptible to sales variability and fixed-cost recovery.
Presence of organized wholesale markets	Organized markets may provide an opportunity for utilities to resell "saved" megawatt-hours and megawatts to offset under-recovery of fixed costs.
Related to Regulatory Structure and Process	
Utility cost recovery and ratemaking statutes and rules	Determines permissible types of mechanisms. Prohibitions on single-issue ratemaking could preclude approval of recovery outside of general rate cases. Accounting rules could affect use of balancing and deferred/escrow accounts. Use of deferred accounts creates regulatory assets that are disfavored by Wall Street.
Related legislative mandates such as DSM program funding levels or inclusion of DSM in portfolio standards	Can eliminate decisional prudence issues/reduce utility program cost recovery risk. Does not address fixed-cost recovery or performance incentive issues.

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Table 3-1. Cost Recovery and Incentive Design Considerations (continued)

Variable	Implication
Related to Regulatory Structure and Process (continued)	
Frequency of rate cases and the presence of automatic rate adjustment mechanisms	Frequent rate cases reduce the need for specific fixed-cost recovery mechanism, but do not address utility incentives to promote sales growth or disincentives to promote customer energy efficiency. Utility and regulator costs increase with frequency.
Type of test year	Type of test year (historic or future) is relevant mostly in cases in which energy efficiency cost recovery takes place exclusively within a rate case. Test year costs typically must be known, which can pose a problem for energy efficiency programs that are expected to ramp-up significantly. This applies particularly to the initiation or significant ramp-up of energy efficiency programs combined with a historic test year.
Performance-based ratemaking elements	Initiating an energy efficiency investment program within the context of an existing performance-based ratemaking (PBR) structure can be complicated, requiring both adjustments in so-called "Z factors"4 and performance metrics. However, revenue-cap PBR can be consistent with decoupling.
Rate structure	The larger the share of fixed costs allocated to fixed charges, the lower the sensitivity of fixed-cost recovery to sales reductions. Price cap systems pose particular issues, since costs incurred for programs implemented subsequent to the cap but prior to its expiration must be carried as regulatory assets with all of the associated implications for the financial evaluation of the utility and the ultimate change in prices once the cap is lifted.
Regulatory commission/governing board resources	Resource-constrained commissions/governing boards may prefer simpler, self-adjusting mechanisms.
Related to the Operating Environment	
Sales/peak growth and urgency of projected reserve margin shortfalls	Rapid growth may imply growing capacity needs, which will boost avoided costs. Higher avoided costs create a larger potential net benefit for efficiency programs and higher potential utility performance incentive. Growth rate does not affect fixed-cost recovery if the rate has been factored into the calculation of prices.

Table 3-1. Cost Recovery and Incentive Design Considerations (continued)	
Variable	**Implication**
Related to the Operating Environment (continued)	
Volatility in load growth	Unexpected acceleration or slowing of load growth can have a major impact on fixed-cost recovery, an impact that can vary by type of utility. Higher than expected growth can lessen the impact of energy efficiency on fixed cost recovery, while slower growth exacerbates it. On the other hand, if the cost to add a new customer exceeds the embedded cost, higher than expected growth can adversely impact utility finances.
Utility cost structure	Utilities with higher fixed/variable cost structures are more susceptible to the fixed-cost recovery problem.
Structure of the DSM portfolio	Portfolios more heavily weighted toward electric demand response will result in less significant lost margin recovery issues, thus reducing the need for a specific mechanism to address. Moreover, a portfolio weighted toward demand response typically will not offer the same environmental benefits.

3.3 Notes

1. A related concern raised by skeptics of performance incentives is that by providing an incentive to utilities to deliver successful energy efficiency programs, customers might pay more than they otherwise should or would have to achieve the same result if another party delivered the programs, or if the utilities were simply directed to acquire a certain amount of energy savings. Of course, the counter-argument is that in some cases, the level of savings actually achieved by a utility (savings in excess of a goal, for example) are motivated by the opportunity to earn an incentive. In addition, certain third-party models include the opportunity for the administering entity to earn performance incentives.

2. See the discussion of the Maine decoupling mechanism in the National Action Plan for Energy Efficiency, July 2006, Chapter 2, pages 2–5. The examples of this issue are isolated, emerging in early decoupling programs in the electric utility industry. The negative impacts were exacerbated by accounting treatments that deferred recovery of the revenues in the balancing accounts.

3. Single issue ratemaking allows for a cost change in a single item in a utility's cost of service to flow through to consumer rates. A prohibition on single-issue ratemaking occurs because, among the multitude of utility cost items, there will be increases and decreases, and many states find it inappropriate to base a rate change on the movement of any single cost item in isolation. In some states, a fuel adjustment clause is an exception to this rule, justified because the impacts of changes in fuel costs on the total cost of service is high. States that employ an energy efficiency rider justify this exception as a function of the policy importance of energy efficiency and as an important element in creating a stable energy efficiency funding environment.

4. Z factors are factors affecting the price of service over which the utility has no control. PBR programs typically allow rate cap adjustments to accommodate changes in these factors.

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4: Program Cost Recovery

This chapter provides a practical overview of alternative cost recovery mechanisms and presents their pros and cons. Detailed case studies are provided for each mechanism.

4.1 Overview

Administration and implementation of energy efficiency programs by utilities or third-party administrators involves the annual expenditure of several million dollars to several hundred million dollars, depending on the jurisdiction. The most basic requirement for elimination of disincentives to customer-funded energy efficiency is establishing a fair, expeditious process for recovery of these costs, which include participant incentives and implementation, administration, and evaluation costs. Failure to recover such costs directly and negatively affects a utility's cash flow, net operating income, and earnings.

Utilities incur two types of costs in the provision of service. Capital costs are associated with the plant and equipment associated with the production and delivery of energy. Expenses typically are the costs of service that are not directly associated with physical plant or other hard assets.[1] The amount of revenue that a utility must earn over a given period to be financially viable must cover the sum of expenses over that period plus the financial cost associated with the utility's physical assets. In simple terms, a utility revenue requirement is equivalent to the cost of owning and operating a home, including the mortgage payment and ongoing expenses. The costs associated with utility energy efficiency programs must be recovered either as expenses or as capital items.

The predominant approach to recovery of program costs is through some type of periodic rate adjustment established and monitored by state utility regulatory commissions or the governing entities for publicly or cooperatively owned utilities. These regulatory mechanisms can take a variety of forms including recovery as expenses in traditional rate cases, recovery as expenses through surcharges or riders that can be adjusted periodically outside of a formal rate case, or recovery via capitalization and amortization. Variations exist within these broad forms of cost recovery as well, through the use of balancing accounts, escrow accounts, test years, and so forth.

The approach applied in any given jurisdiction will often be the product of a variety of local factors such as the frequency of rate cases, the specific forms of cost accounting allowed in a state, the amount and timing of expenditures, and the types of programs being implemented. States will also differ in how costs are distributed across and recovered from different customer classes. Some states, for example, allow large customers to opt-out of efficiency programs administered by utilities,[2] and some states require that costs be recovered only from the classes of customers directly benefiting from specific programs. These variations preclude a single best approach However, for those utilities and states considering implementation of energy efficiency programs, the variety of approaches offers a variety of options to consider.

4.2 Expensing of Energy Efficiency Program Costs

Most energy efficiency program costs are recovered through "expensing." In the simplest case, if a utility spends $1.00 to fund an energy efficiency program, that $1.00 is passed directly to customers as part of the utility's cost of service. While in principle, the expensing of energy efficiency program costs is straightforward, utilities and state regulatory commissions have employed a wide variety of specific accounting treatments and actual recovery mechanisms to enable recovery of

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program expenses. This section provides an overview of several of the more common approaches.

4.2.1 Rate Case Recovery

The most straightforward approach to recovery of program costs as expenses involves recovery in base rates as an element of the utility revenue requirement. Energy efficiency program costs are estimated for the relevant period, added to the utility's revenue requirement, and recovered through customer rates that were set based on this revenue requirement and estimated sales. Rate cases typically involve an estimate of known future costs, given that the rates that emerge from the case are applied going forward. For example, a utility and its commission might conduct a rate case in 2007 to establish the rates that will apply beginning in 2008. Therefore, the utility will estimate (and be seeking approval to incur) the costs associated with the energy efficiency program in 2008 and annually thereafter. The approved level of energy efficiency spending will be included in the allowed revenue requirement, and the rates taking effect in 2008 should include an amount that will recover the utility's budgeted program costs over the course of the year based on the level of annual sales estimated in the rate case. Although actual program expenses rarely match the amount of revenue collected for those programs in real-time, in principle, program expenses incurred will match revenue received by the end of the year. This approach works best when annual energy efficiency expenditures are constant on average.

4.2.2 Balancing Accounts with Periodic True-Up

Practice rarely matches principle, however, particularly with respect to energy efficiency program costs. The estimates of program costs used as the basis for setting rates are based in large part on assumed customer participation in the efficiency programs. However, participation is difficult to predict at a level of precision that ensures that annual expenditures will match annual revenue, especially in the early years of programs. Under-recovery of expenses occurs if participation in programs exceeds estimates and actual program costs rise. Regulatory commissions and utilities frequently have implemented various types of balancing mechanisms to ensure that customers do not pay for costs never incurred, and that utilities are not penalized because participation and program costs exceeded estimates. Such approaches also enable utilities to more flexibly ramp program activity (and associated spending) up or down. These mechanisms also often include some type of periodic prudence review to ensure that costs incurred in excess of those estimated in the rate case were prudently incurred.

The mechanics of a balancing account can work in a number of ways. Balances can simply be carried (typically with an associated carrying charge) until the next rate case, at which point they are "trued-up."[3] A positive balance could be used to reduce the level of expenses authorized for recovery in the future period, and a negative balance could be added in full to the authorized revenues for the future period or could be amortized. Alternatively, the balances can be self-adjusting by using a surcharge or tariff rider (discussed below), and some states allow annual true-up outside of general rate case proceedings.[4]

4.2.3 Pros and Cons

Table 4-1 describes general pros and cons associated with the expensing of program costs.

4.2.4 Case Study: Arizona Public Service Company (APS)

In June 2003, APS filed an application for a rate increase and a settlement agreement was signed between APS and the involved parties in August 2004. The settlement addresses DSM and cost recovery, allowing $10 million each year in base rates for eligible expenses, as well as an adjustment mechanism for program expenses beyond $10 million.

- The settlement agreement embodied in Order No. 67744 issued in April of 2005, under Docket No. E-01345A-03-0437[5] includes the following provisions:
- Included in APS' total test year settlement base rate revenue requirement is an annual $10 million base rate DSM allowance for the costs of approved "eligible DSM-related items," defined as the planning, implementation, and evaluation of programs that reduce the use of electricity by means of energy efficiency products, services, or practices. Performance incentives are included as an allowable expense.

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Table 4-1. Pros and Cons of Expensing Program Costs

Pros
• Expensing treatment is generally consistent with standard utility cost accounting and recovery rules.
• Avoids the creation of potentially large regulatory assets and associated carrying costs.
• Provides more-or-less immediate recovery of costs and reduces recovery risk.
• The use of balancing mechanisms outside of a general rate case ensures more timely recovery when efficiency program costs are variable and prevents significant over- or under-recovery from being carried forward to the next rate case.
Cons
• A combination of infrequent rate cases and escalating expenditures can lead to under-recovery absent a balancing mechanism.
• Can be viewed as single-issue ratemaking.
• If annual energy efficiency expenditures are large, lump sum recovery can have a measurable short-term impact on rates.
• Some have argued that expensing creates unequal treatment between the supply-side investments (which are rate-based) and the efficiency investments that are intended to substitute for new supply.

- In addition to expending the annual $10 million base rate allowance, APS is obligated to spend, on average, at least another $6 million annually on approved eligible DSM-related items. These additional amounts are to be recovered by means of a DSM adjustment mechanism.
- All DSM programs must be pre-approved before APS may include their costs in any determination of total DSM costs incurred.
- The adjustment mechanism uses an adjustor rate, initially set at zero, which is to be reset on March 1, 2006, and thereafter on March 1 of each subsequent year. The adjustor is used only to recover costs in arrears. APS is required to file its proposal for spending in excess of $10 million prior to the March 1 adjustment. The per-kilowatt-hour charge for the year will be calculated by dividing the account balance by the number of kilowatt-hours used by customers in the previous calendar year.
- General Service customers that are demand-billed will pay a per-kilowatt charge instead of a per-kilowatt-hour charge. The account balance allocated to the General Service class is divided by the kilowatt billing determinant for the demand-billed customers in that class to determine the per-kilowatt DSM adjustor charge. The DSM adjustor applies to all customers taking delivery from the company, including direct access customers.

4.2.5 Case Study: Iowa Energy Efficiency Cost Recovery Surcharge

Until 1997, electric energy efficiency program costs were tracked in deferred accounts with recovery in a rate case via capitalization and amortization. Since then investor-owned utilities in Iowa, pursuant to Iowa Code 2001, Section 476.6,[6] recover energy efficiency program-related costs through an automatic rate pass-through reconciled annually to prevent over- or under-recovery (i.e., costs are expensed and recovered concurrently). Program costs are allocated within the rate classes to which the programs are directed, although certain program costs, such as those associated with low income and research and development programs, are allocated to all customers. The cost recovery surcharge is recalculated annually based on historical collections and expenses and planned budgets. The energy efficiency costs recovered from customers during the previous period are compared to those that were allowed to be recovered at the time of the prior adjustment. Any over- or under-collection, any ongoing costs, and any change in forecast sales, are used to adjust the current energy efficiency cost recovery factors. The statute requires that each utility file, by March 1 of each year, the energy efficiency costs proposed to be recovered in rates for the 12-month recovery period. This period begins at the start of the first utility billing month at least 30 days following Iowa Utility Board approval.

199 Iowa Administrative Code Chapter 35[7] provides the detailed cost recovery mechanism in place in Iowa. These details are summarized in Appendix D.

4.2.6 Case Study: Florida Electric-Rider Surcharge

The Florida Energy Efficiency and Conservation Act (FEECA) was enacted in 1980 and required the Florida Commission to adopt rules requiring electric utilities to implement cost-effective conservation and DSM programs. Florida Administrative Code Rules 25-17.001 through 25-17.015 require all electric utilities to implement cost-effective DSM programs. In June 1993, the commission revised the existing rules and required the establishment of numeric goals for summer and winter demand and annual energy sales reductions.

In order to obtain cost recovery, utilities are required to provide a cost-effectiveness analysis of each program using the ratepayer impact measure, total resource cost, and participant cost tests.

Investor-owned electric utilities are allowed to recover prudent and reasonable commission-approved expenses through the Energy Conservation Cost Recovery (ECCR) clause. The commission conducts ECCR proceedings during November of each year. The commission determines an ECCR factor to be applied to the energy portion of each customer's bill during the next calendar year. These factors are set based on each utility's estimated conservation costs for the next calendar year, along with a true-up for any actual conservation cost under- or over-recovery for the previous year (Florida PSC, 2007).

The procedure for conservation cost recovery is described by Florida Administrative Code Rule 25-17.015(1);[8] details are included in Appendix D. Table 4-2 shows the current cost recovery factors.

Florida Power and Light's (FPL's) recent cost recovery filing provides some insight into the nature of the adjustment process:

> FPL projects total conservation program costs, net of all program revenues, of $175,303,326 for the period January 2007 through December 2007. The net true-up is an over recovery of $4,662,647, which includes the final conservation true-up over recovery for January 2005, through December 2005, of $5,849,271 that

Table 4-2. Current Cost Recovery Factors in Florida

	Residential Conservation Cost Recovery Factor (cents per kWh)	Typical Residential Monthly Bill Impact (based on 1,000 kWh)
FPL	0.169	$1.69
FPUC	0.060	$0.60
Gulf	0.088	$0.88
Progress	0.169	$1.96
TECO	0.073	$0.73

Source: Florida PSC, 2007.

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was reported in FPL's Schedule CT-1, filed May 1, 2006. Decreasing the projected costs of $175,303,326 by the net true-up over-recovery of $4,662,647 results in a total of $170,640,679 of conservation costs (plus applicable taxes) to be recovered during the January 2007, through December 2007, period. Total recoverable conservation costs and applicable taxes, net of program revenues and reflecting any applicable over- or under-recoveries are $170,705,441, and the conservation cost recovery factors for which FPL seeks approval are designed to recover this level of costs and taxes

4.3 Capitalization and Amortization of Energy Efficiency Program Costs

Capitalization as a cost recovery method is typically reserved for the costs of physical assets such as generating plant and transmission lines. However, some states allow the costs of energy efficiency and demand-response programs to be treated as capital items, even though the utility is not acquiring any physical asset. In the case of an investor-owned utility, such capital items are included in the utility's rate base. The utility is allowed to earn a return on this capital, and the investment is depreciated over time, with the depreciation charged as an expense. Depending on precisely how a capitalization mechanism is structured, it can serve as a strict cost-recovery tool or as a utility performance incentive mechanism as well. A principle argument made in favor of capitalizing energy efficiency program costs is that this treatment places demand-and supply-side expenditures on an equal financial footing.[9,10]

Capitalization[11] currently is not a common approach to energy efficiency program cost recovery, although during the peak of the last major cycle of utility energy efficiency investment during the late 1980s and early 1990s many states allowed or required capitalization.[12]

Capitalization of energy efficiency costs as a cost recovery mechanism first appeared in the Pacific Northwest (Reid, 1988). Oregon and Idaho were the first two states to allow capitalization of certain selected costs in the early 1980s. Washington soon followed with statutory authority for ratebasing that included authorization for a higher return on energy efficiency investments. Puget Power1[3] in Washington was allowed to ratebase all of its energy efficiency–related costs using a 10-year recovery period with no carrying charges applied to the costs incurred between rate cases. Montana followed Washington in 1983 and adopted a similar mechanism. In 1986, Wisconsin switched from expensing the conservation expenditures to capitalization and allowed a large amount of direct investment to be capitalized with a 10-year amortization period.

With a very few exceptions, capitalization is no longer the method of choice for energy efficiency cost recovery in these states. The decline in the popularity of this approach can be attributed to a variety of factors, including the general decline in utility energy efficiency investment. However, in several states capitalization was abandoned, in part because the total costs associated with recovery (given the cost of the return on investment) were rising rapidly.

4.3.1 The Mechanics of Capitalization

As a simplified example, suppose that a utility spends $1 million in each of five years for its energy efficiency programs, and it is allowed to capitalize and amortize these investments over a 10-year recovery period uniformly. Table 4-3 illustrates the yearly change in revenue requirements, assuming a 10 percent rate of return on the unrecovered balance.

By the end of the 15-year amortization period, the total amount collected by the utility through rates is $7,250,000. Just as the total cost of purchasing a home will be lower with a shorter mortgage, shorter amortization periods yield a lower total cost for recovery of the energy efficiency program expenditures. Similarly, although the total amount recovered is almost 50 percent higher in this case than the direct cost of the energy efficiency program, the $2,250,000 represents a legitimate cost to the utility which comes from the need

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to carry an unrecovered balance on its books. Conceptually, a utility will be indifferent to immediate recovery of program costs as an expense and capitalization, as the added cost of capitalization should be equal to the cost to the utility of effectively lending the $5 million to customers. However, in the cases of those states that have allowed utilities to earn a return on energy efficiency investments that exceeds their weighted cost of capital, this added return constitutes an incentive for investment in energy efficiency that goes beyond that provided for traditional capital investments.

4.3.2 Issues

The length of time over which an energy efficiency investment is amortized (essentially the rate of depreciation), and the capital recovery rate or rate-of-return on the unamortized balance of the investment, both affect the total cost to customers of the utility.

Amortization and Depreciation

When an expenditure is capitalized, the recovery of this expenditure is spread over several years, with predetermined amounts recovered in rates each year during the recovery or amortization period. The depreciation or amortization rate is the fraction of unrecovered cost that is recovered each year. Tax law and regulation generally govern the specific rate used for different types of capital investments such as generating or distribution plant and equipment and other physical structures. However, since the costs of energy efficiency programs typically are not considered capital items, there is no universally accepted depreciation rate applied to energy efficiency program costs that are capitalized. An early study (Reid, 1988) of energy efficiency capitalization found that amortization programs for conservation expenditures ranged from three to 10 years. For example, Washington and Wisconsin allowed a 10-year recovery period for amortization.

Table 4-3. Illustration of Energy Efficiency Investment Capitalization

End-of-year	Annual Energy-Efficiency Expenditure	Cumulative Energy-Efficiency Expenditure	Depreciation	Unamortized Balance	Return on Unrecovered Investment	Incremental Revenue Requirements
1	1,000,000	1,000,000	$100,000	$900,000	$90,000	$190,000
2	1,000,000	2,000,000	$200,000	$1,700,000	$170,000	$370,000
3	1,000,000	3,000,000	$300,000	$2,400,000	$240,000	$540,000
4	1,000,000	4,000,000	$400,000	$3,000,000	$300,000	$700,000
5	1,000,000	5,000,000	$500,000	$3,500,000	$350,000	$850,000
6			$500,000	$3,000,000	$300,000	$800,000
7			$500,000	$2,500,000	$250,000	$750,000
8			$500,000	$2,000,000	$200,000	$700,000
9			$500,000	$1,500,000	$150,000	$650,000
10			$500,000	$1,000,000	$100,000	$600,000
11			$400,000	$600,000	$60,000	$460,000
12			$300,000	$300,000	$30,000	$330,000
13			$200,000	$100,000	$10,000	$210,000
14			$100,000	$0	$0	$100,000
15/Total	5,000,000		$5,000,000		$2,250,000	$7,250,000

Massachusetts used the lifetime of the energy efficiency equipment for the recovery period.

Rate of Return[14]

Just as the interest rate on a home mortgage can greatly affect both the monthly payment and the total cost of the home, the rate of return allowed on the unamortized cost of an energy efficiency program can significantly affect the cost of that program to ratepayers. Rates-of-return for investor-owned utilities are set by state regulators based on the relative costs of debt and equity. In the case of publicly and cooperatively owned utilities, the return much more closely mirrors the cost of debt. The ROE, in turn, is based on an assessment of the financial returns that investors in that utility would expect to receive—an expectation that is influenced by the perceived riskiness of the investment. This riskiness is related directly to the perceived likelihood that a utility will, for some reason, not be able to earn enough money to pay off the investment.

Unless the level of energy efficiency program investment is significant relative to a utility's total unamortized capital investment, the relative riskiness of energy efficiency versus supply-side investments is not a major issue. However, if this investment is significant, the relative risk of an energy efficiency investment can become an issue for a variety of reasons, including:

- These resources are not backed by physical assets. While a utility actually owns gas distribution mains or generating plants, it does not own an efficient air conditioner that a customer installs through a utility program. If energy efficiency spending is accrued for future recovery, either by expensing or amortization, this accrual is considered as a "regulatory asset"—an asset created by regulatory policy that is not backed by an actual plant or equipment. Carrying substantial regulatory assets on the balance sheet can hurt a utility's financial rating.
- The investment becomes more susceptible to disallowance. Recovery of a capital investment typically is allowed only for investments deemed prudent and used-and-useful. Because energy efficiency programs are based on customer behavior, and because that behavior is difficult to predict, it is possible that the investment being recovered does not actually produce its intended benefit. This result could lead regulators to conclude that the investment was not prudent or used-and-useful. This risk owes more to the fact that energy efficiency program effectiveness is subject to ex post evaluation. As program design and implementation experience grows, program realization rates (the ratio of actual to expected savings) increases, and this risk diminishes. It is not clear that this risk is any different with respect to its ultimate effect than the risks associated with the construction and operation of a utility plant.
- Potential uncertainty arising from policy changes that govern energy efficiency incentive mechanisms heightens the risk. Although both supply- and demand-side resources are subject to policy risk, the modularity and short lead-times associated with demand-side resources (which is a distinct benefit from a resource planning perspective) also create more opportunities to revisit the policies governing energy efficiency expenditure and cost recovery. The fact that energy efficiency program costs are regulatory assets in theory, means that the regulatory policy underlying those assets can change with changes in the regulatory environment. The pressure to modify policies governing recovery of program costs has increased historically as the size of these assets has grown with increases in program funding.

4.3.3 Pros and Cons

Based on experience to date, capitalization and amortization carries pros and cons as illustrated in Table 4-4.

4.3.4 Case Study: Nevada Electric Capitalization with ROE Bonus

Nevada is the only state currently that allows recovery of energy efficiency program costs using capitalization *as well as* a bonus return on those costs. Development and administration of energy efficiency programs by Nevada's regulated electric utilities takes place within the context of an integrated resource planning process combined with a resource portfolio standard that allows energy efficiency programs to fulfill up to 25 percent of the utilities'

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