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

Order Instituting Rulemaking to Examine the Commission's Energy Efficiency Risk/Reward Incentive Mechanism.	Rulemaking 09-01-019 (Filed January 29, 2009)
Application of Southern California Edison Company (U338E) for Approval of its 2009-2011 Energy Efficiency Program Plans And Associated Public Goods Charge (PGC) And Procurement Funding Requests.	Application 08-07-021 (Filed July 21, 2008)
And Related Matters.	Application 08-07-022 Application 08-07-023 Application 08-07-031 (Filed July 21, 2008)

**OPENING COMMENTS OF THE NATURAL RESOURCES DEFENSE COUNCIL
(NRDC) ON THE ENERGY DIVISION WHITE PAPER ON "PROPOSED ENERGY
EFFICIENCY RISK REWARD INCENTIVE MECHANISM AND EM&V ACTIVITIES"**

April 29, 2009

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1. Introduction and Summary

Pursuant to Rules 1.9 and 1.10 of the California Public Utilities Commission’s (CPUC or Commission) Rules of Practice and Procedure, and in accordance with the “Assigned Commissioner’s and Administrative Law Judge’s Ruling Providing Schedule and Scoping Memo” (AC/ALJ Ruling), dated April 14, 2009 in R.09-01-019, the Natural Resources Defense Council (NRDC) respectfully submits these opening comments on the Energy Division’s White Paper on “Proposed Energy Efficiency Risk Reward Incentive Mechanism and EM&V Activities” (White Paper). We commend Energy Division (ED) for its hard work in developing the White Paper and for presenting parties with so much “food for thought” to improve the incentive mechanism.

NRDC is filing these comments in both R.09-01-019 and A.08-07-021 et al. in accordance with the “Joint Assigned Commissioners’ Ruling Regarding Consideration of the Energy Division White Paper in Coordination of Proceedings,” dated April 16, 2009. NRDC will provide its full proposal for modifying the incentive mechanism going forward in our May

22, 2009 comments, as directed by the AC/ALJ Ruling. NRDC's comments on the White Paper are summarized as follows:

- The Commission should fix the shared savings risk/reward incentive mechanism, and not change the fundamental structure of the incentive mechanism.
- The Commission should focus this proceeding (R.09-01-019) on identifying and fixing the problems with the current performance-based incentive mechanism.
- The Commission should aim to achieve timely resolution of disputes in the modified incentive mechanism, and not try to avoid all contention.
- NRDC supports some of the White Paper's criteria for evaluating a new incentive mechanism, but the criteria must be revised to continue to reflect the state's overarching goals for efficiency.
- Consumption targets should not be considered within the scope of this proceeding.
- NRDC agrees that EM&V requires new consideration.
- NRDC strongly disagrees with the White Paper's recommendation to abandon the remainder of the incentive mechanism for 2006-08.

2. The Commission should fix the shared savings risk/reward incentive mechanism, and not change the fundamental structure of the incentive mechanism.

The Order Instituting Rulemaking for this proceeding states that the Commission's goal is to adopt an incentive mechanism that continues "to provide incentives to utilities to provide the maximum verifiable and socially-desirable level of energy efficiency programs and services, while protecting ratepayers through necessary cost containment mechanisms." (pp. 4-5) These fundamental goals of (i) maximizing savings and benefits and (ii) minimizing costs – in other words, maximizing net benefits – have not changed. The Commission already performed an extensive evaluation of possible incentive mechanisms over the past several years and correctly concluded that the "shared savings" mechanism best creates incentives to maximize net benefits from the portfolio of efficiency programs. As such, we strongly urge the Commission to focus on revising the current shared savings incentive mechanism to fix the problems that Energy Division and parties have identified, rather than "reinventing the wheel" through a time-consuming process to consider all possible incentive mechanisms. NRDC will propose

improvements to revise the current performance-based risk/reward incentive mechanism in our May 22nd comments pursuant to the Assigned Commissioner and ALJ's Ruling.

A. Repeating the process to look at all possible incentive mechanisms will not allow the Commission to adopt a mechanism for the 2009-11 program cycle in a timely manner.

It took the Commission at least 3 years to develop the current incentive mechanism.¹ Since the schedule for this proceeding does not anticipate a decision before the end of 2009, the Commission will already be more than a year late in adopting an incentive mechanism for the 2009-11 cycle.² And since one of Energy Division's major concerns is limited staff time, we urge the Commission not to use the Commission's and parties' valuable time repeating arguments about the merits of various incentive mechanisms. Instead, we strongly urge the Commission to incorporate the record from the previous incentive mechanism proceedings and direct parties in this proceeding to have a targeted discussion about the fixes needed to improve the current mechanism.

B. Any incentive mechanism structure that bases rewards on expenditures is fundamentally flawed and should not be considered.

The Energy Division White Paper proposes to create a new incentive structure with earnings based on one or a mix of the following: (i) the return on investment if funding had been allocated to a supply-side resource, (ii) a management fee based on a percent of expenditures, or (iii) an amount deemed just and reasonable by the Commission. By rewarding the utilities for *spending* money, rather than *saving* customers money through efficiency, these approaches are all fundamentally flawed and should not be considered. The White Paper itself identifies this problem, noting the potential for "unintended perverse incentives as a result of linking earnings directly to program expenditures with the payment of base earnings irrespective of the actual energy efficiency achieved by the portfolio." (p. 18) These mechanisms are directly at odds with the Commission's long-standing goals (reiterated in the OIR) to maximize savings and customer

¹ The ruling starting the process to consider performance-based incentives was issued R.04-04-003 in late 2004. This was followed by extensive comments in that proceeding and a threshold decision in early 2006 (D.06-02-032). The elements of the Performance Earnings Basis were established in R.01-08-028, and then the Commission held an extensive process to consider all parties' proposals in R.06-04-010 with comments, testimony and hearings, and a decision in late 2007 (D.07-09-043).

² To be most effective, any incentive mechanism should be adopted prior to the start of a program cycle.

net benefits through efficiency programs, and the Commission already correctly ruled that the shared-savings incentive structure best meets these goals in past considerations of the best structure for the incentive mechanism.³

While ED appears to be concerned in the White Paper that they can not structure a perfect shared savings incentive mechanism, we caution the Commission not to let “the perfect be the enemy of the good.” No mechanism will be perfect, but the Commission has already found through an extensive public process that a shared savings incentive structure can best meet the Commission’s goal of incentivizing maximum net benefits, while other structures that incentivize spending do not. NRDC strongly urges the Commission to focus this proceeding on improving the shared savings mechanism.

3. The Commission should focus this proceeding on identifying and fixing the problems with the current performance-based incentive mechanism.

As we discussed above, NRDC believes the best way to meet the Commission’s goals to make energy efficiency the top priority procurement resource and to maximize net benefits for customers is to expeditiously revise the current shared-savings risk/reward incentive mechanism. We urge the Commission and all parties to begin by developing a common understanding of the key problems with the current mechanism, and then to focus on devising solutions to these problems. This offers the best hope of developing a risk/reward incentive mechanism that meets the Commission’s goals for use in the 2009-11 program cycle and beyond in a timely manner.

NRDC appreciates the Energy Division’s start at summarizing the key problems they see with the current mechanism. (pp. 4, 11, 18-19) We agree with some of the problems ED has identified, but believe others are *not* problems with the incentive mechanism itself and instead flow from other Commission rules. NRDC commends ED for also making a good start at proposing workable fixes for many of the problems they have identified. (pp. 18-19) We strongly urge the Commission and ED not to dismiss the possibility of fixing the current incentive mechanism (p. 11) without a full discussion with all parties in this proceeding.

³ The Commission considered parties’ proposals for the best basis for measuring the performance of the portfolio and determined that net benefits should be the performance basis in order to meet the Commission’s goal of maximizing net benefits for customers and society (by maximizing benefits and minimizing costs). (See D.05-04-051, p. 37 and D. 07-09-043, pp. 19-20) The Commission also rejected the “management fee” approach to setting the incentive level within a shared-savings incentive structure. (D. 07-09-043, pp. 75-76)

In the sub-sections below, we first summarize NRDC’s view of the key problems with the current performance-based incentive mechanism, followed by a brief discussion of the “problems” ED identified with which we disagree. NRDC will propose solutions to these problems as a revised performance-based risk/reward incentive mechanism in our May 22nd proposal pursuant to the Assigned Commissioner and ALJ’s Ruling.

A. Summary of key problems with the current incentive mechanism

NRDC believes there are a number of problems with the current performance-based incentive mechanism. However, we are confident there are workable solutions to each of these problems. And while no incentive mechanism will be perfect, we believe that a revised shared-saving mechanism that solves these problems will best meet the Commission’s overarching goals for energy efficiency, and will also be far more effective than any mechanism that makes wholesale changes to the fundamental incentive structure of a shared-savings mechanism. The following are the key problems we have identified with the current mechanism:

- **Timeliness of EM&V results:** The current schedule for payment of rewards and assessment of penalties is dependent on EM&V results, which have been delayed. The Commission has found that timely incentives are necessary for the mechanism to function as intended.⁴
- **Inadequate dispute resolution process:** There have been disagreements over EM&V findings and incentive payments without a streamlined way to address and resolve disputes. This has contributed to delays, and parties have initiated various procedural means to get the Commission to resolve disputes because there is not an adequate up-front dispute resolution process.
- **Inadequate incentive for non-resource programs/strategic initiatives:** The current incentive mechanism only provides incentives for resource programs (which are the only programs whose energy savings are counted for determination of the Performance Earnings Basis (PEB)). Non-resource programs are included in the utilities’ portfolios, and the Commission’s fund-shifting rules prevent the utilities from significantly shifting their emphasis

⁴ D.08-12-059, Finding of Fact 3.

away from non-resource to resource programs after the portfolio has been authorized. However, since the cost of these non-resource programs is included in the PEB, there is some disincentive for investments in non-resource programs and there is no positive incentive for exceptional performance in administering non-resource programs and strategic initiatives. (pp. 4, 11)

- **Sharp “cliffs” in earning/penalty levels:** The current mechanism has sudden changes in incentive and penalty levels at specific levels of goal achievement. (p. 11) This creates heightened concern and increases disputes when energy saving results fall near any of these “cliffs.”
- **Ex-post updates of metrics that are out of implementers’ control:** Ex-post updates of certain metrics that are largely out of the program administrator and implementers’ control and/or whose results are too late to feed back into program design creates significant uncertainty in the result of the incentive mechanism and heightens disputes over EM&V results. (p. 12) In particular, ex-post updates of net-to-gross (NTG) ratios and effective useful lives (EUL) inject significant uncertainty into the incentive results without providing feedback early enough to enable implementers to adjust program designs if desirable. Performance under any effective incentive mechanism should be assessed based on activities that are under the administrator and implementers’ control and which they have a reasonable opportunity to adjust in response to EM&V results.
- **Mid-course rule changes inject uncertainty and cause delay:** While mid-course changes to the incentives mechanism are of course not unexpected as the Commission gets the kinks worked out with a new mechanism, these changes can also cause delays (e.g., in EM&V results) and inject uncertainty into the timeliness or outcome of the incentive mechanism.
- **Updated EM&V results are not synchronized with the saving goals:** The Commission’s energy saving goals are, by necessity, based on older information than the EM&V results used to determine portfolio performance. However, this creates a mismatch between the savings that are possible from a

measure and the assumptions about that measure that were used in developing the savings goals against which the utilities' performance is being assessed. (pp. 4, 9, 11)

- **Some mechanism elements are outdated given other CPUC efficiency policy changes:** The current incentive mechanism was designed based on the CPUC's rules for the 06-08 program cycle, and therefore some elements are out of sync with the CPUC's new policies. For example, in D.08-07-047 the Commission adopted savings goals for the 2009-11 program cycle that are "gross" rather than "net" energy saving goals. (Conclusion of Law 4) As such, NTG ratios should not be included in measuring program performance for the 2009-2011 program cycle (although NTG ratios should be carefully considered in upfront program design to minimize free riders and maximize free drivers).

B. Summary of "problems" identified by ED with which NRDC disagrees

Energy Division's White Paper also identifies other concerns with the current incentive mechanism, which are *not* actually problems with the incentive mechanism itself and instead flow from other Commission rules.

ED asserts that the incentive mechanism "acts to discourage the pursuit of all cost-effective energy efficiency" (p. 4). While this point is related to the concern ED correctly identified of the need to provide incentives for market transformation and strategic initiatives within the portfolio, we disagree that the incentive mechanism discourages pursuit of all cost-effective energy efficiency. First, the shared-savings incentive mechanism motivates utilities to maximize energy savings and minimize costs, and encourages a sustained utility commitment to efficiency that over time will strive to capture all cost-effective efficiency. Since the pursuit of all cost-effective energy efficiency is a long-term endeavor, it is crucial to provide a consistent framework over time. One of the barriers to the pursuit of all cost-effective efficiency has been the constantly changing framework for energy efficiency over the past decade and the uncertainty this has created for administrators and implementers.

Second, ED is concerned that the mechanism encourages prioritization of the *most* cost-effective savings instead of all-cost effective savings, but this is precisely what the Commission

directs the utilities to do to maximize overall net benefits to consumers given a limited budget. The limiting factor here is funding for efficiency programs; with unlimited funding the utilities could pursue all cost-effective savings immediately. However, given the realities that the Commission approves limited budgets and the programs need time to ramp up, the Commission should continue to direct the utilities to maximize the net benefits to consumers.

In addition, ED is concerned that the incentive mechanism relies on cost-effectiveness tests that do not accurately value many indirect benefits of the program, such as the full value of reducing the risk of global warming. (p. 14) While the Commission has long recognized that it makes many conservative assumptions in guiding investments in energy efficiency, including not quantitatively valuing many of the co-benefits of efficiency programs, it would take a significant amount of time for ED and parties to develop methodologies to more accurately value these co-benefits. While this may well be a useful endeavor once the policy framework for the efficiency programs is settled for 2009-11, we once again caution the Commission against letting “the perfect be the enemy of the good.” The cost-effectiveness tests are extremely useful measures of the benefits the programs are providing to customers and society, and the fact that they produce conservative results should reassure the Commission that the programs in fact provide much larger benefits than are “counted.”

4. The Commission should aim to achieve timely resolution of disputes in the modified incentive mechanism, and not try to avoid all contention.

ED lists among its proposed criteria to guide modifications to the existing incentive mechanism “Timely and Non-Contentious,” explaining that “[t]he mechanism should be designed so that the determination of incentive payments can be accomplished in a reasonable time frame and be broadly embraced by all stakeholders.” (p. 10)

We agree with this goal, but it is unrealistic to expect that anything as important as an incentive mechanism involving payments (from customers to shareholders in the case of rewards, or from shareholders to customers in the case of penalties) that comes before the Commission will not be contentious. NRDC values and strongly encourages cooperation and consensus building among the parties as much as possible, but the Commission should not place undue emphasis on avoiding disputes altogether. A revised incentive mechanism should not seek to reduce disputes at the expense of a mechanism that provides less-effective incentives.

Rather, the Commission should ensure that the modified incentive mechanism has a process for timely resolution of the inevitable disputes that will arise. As the Commission has already determined, “Regular and timely issuance of incentive payments is critical to the ability of the RRIM in creating a meaningful linkage between utility investments in energy efficiency and utility earnings.” (D.08-12-059, Finding of Fact 3) Regular and timely assessments, situated within a clear overall timetable and process, are necessary to make the incentive mechanism most effective in incentivizing the IOUs to meet or exceed the Commission’s energy savings goals in a cost-effective manner. Thus, in addition to providing ample opportunities for public input, workshops and other informal processes for discussing and resolving disagreements between parties, the Commission should also provide a formal process as a backstop to resolve disputes within specified timeframes. NRDC appreciates ED’s proposal to address utility incentives through an application process (p. 17), which would provide a formal process for resolving any disputes; NRDC will include a proposal for a dispute resolution process in our May 22nd comments.

A. Scrutiny of EM&V results is desirable

ED recommends that “Decoupling the measurement of savings and cost-effectiveness from payment of shareholder earnings should remove disincentives to accepting and making productive use of the information flowing from the EM&V work, regardless of the results.” (p. 12) ED is concerned that tying the incentive mechanisms to EM&V results leads to protracted disputes. (p. 7) We agree with ED that the Commission and stakeholders should examine how to optimize when to update EM&V results and when to include updated results in assessment of performance under the incentive mechanism. However, we generally believe that scrutiny of EM&V results is desirable and the incentive mechanism should not place undue emphasis on avoiding disputes over EM&V results. Rather, as we discuss above, the key is to establish a dispute resolution process that can produce the most rigorous results in a timely manner. We are also concerned that removing the link between EM&V and the incentive mechanism in order to avoid contention could mean that EM&V is given lower priority. It largely fell by the wayside in the late 1990s and early 2000s when EM&V, particularly impact evaluation, was “decoupled” from any incentive mechanism, and this is a much a worse outcome in our view than establishing a process to resolve disputes in a timely manner.

5. NRDC supports some of the White Paper’s criteria for evaluating a new incentive mechanism, but the criteria must be revised to continue to reflect the state’s overarching goals for efficiency.

The Energy Division’s White Paper proposes several criteria to guide “modifications to the existing incentive mechanism.” (p. 10) If these criteria were only to be used for modifications to the *existing* mechanism, we would largely support these criteria (with the exceptions discussed above); however, since the ED White Paper proposes *wholesale* changes to the incentive mechanism, NRDC recommends that the criteria be revised to fully reflect the state’s overarching goals for energy efficiency. In other words, the White Paper’s “Effective and Strategic” criteria should be expanded and prioritized over other criteria.

In particular, D. 07-09-043 emphasized that one of the primary purposes of an incentive mechanism is to align customer and shareholder interests,⁵ and this should continue to be an overarching criteria for evaluating any incentive mechanism. In addition, the criteria should include how effective the incentive mechanism is at making energy efficiency the utilities’ top priority procurement resource, achieving a sustained long-term commitment to efficiency, and maximizing net benefits to consumers.⁶ The Commission already determined that the shared-savings mechanism best aligns with these overarching goals for efficiency and NRDC believes that narrowly tailored and strategic fixes to the current mechanism is the preferred course; however, if the Commission reevaluates other incentive mechanism structures, they should all be judged against these criteria. Finally, as we discuss above, the Commission should remove the criteria “Non-Contentious” and “Cost-Efficient” and replace them with criteria to ensure timely dispute resolution and to maximize net benefits to customers, respectively.

6. Consumption targets should not be considered within the scope of this proceeding.

The White Paper proposes to supplement the Commission’s energy savings goals with consumption targets. (p. 5, 15, 19) Whether or not to adopt consumption targets, and if so, how to set them, is a complicated issue, and the Commission already has enough urgent and complex

⁵ D. 07-09-043 “Interim Opinion on Phase 1 Issues: Shareholder Risk/Reward Incentive Mechanism for Energy Efficiency Programs,” p. 4; Finding of Fact 1, p. 180-181; Conclusion of Law 5, p. 215.

⁶ Id. p. 4; Conclusion of Law 5 (b), p. 215.

issues to consider in this proceeding to resolve the risk/reward incentive mechanism. Therefore, NRDC urges the Commission not to consider consumption targets in this proceeding.

The CEC already considered whether to adopt a consumption target instead of, or alongside, a savings target in its proceeding to implement Assembly Bill 2021 (Levine, 2006) as part of the 2007 Integrated Energy Policy Report (IEPR) process. The CEC worked collaboratively with the CPUC on this process, and took comments from all parties on this proposal. In their final report, *Achieving All Cost-Effective Energy Efficiency for California*,⁷ the CEC staff recommended adoption of a savings target, not a consumption target, and the CEC adopted the staff's recommendation in the final IEPR.⁸ This is consistent with the requirements of AB 2021 that the CEC “establish targets for statewide annual energy efficiency *savings* and demand reduction for the next 10-year period.”⁹ Similarly, SB 1037 (Kehoe, 2005) requires that the CPUC “identify all potentially achievable cost-effective...efficiency *savings* and establish *efficiency* targets” for both electricity and natural gas for each utility.¹⁰

The CPUC just recently adopted energy saving goals in D.08-07-047, and we strongly urge the Commission *not* to change the “measuring stick” for the 2009-11 program cycle part way through the cycle. As the White Paper begins to describe, there are too many factors that influence consumption that would interfere with the Commission's ability to determine if the energy efficiency savings have actually been achieved. (pp. 16, 19) At the same time, both the CPUC and the CEC should continue to analyze the impact of the energy saving targets on future energy consumption and demand; however, this should remain a forecasting tool rather than a tool for measuring efficiency program performance.

That said, NRDC agrees, of course, with the benefits of reducing consumption. We believe the efficiency programs and the limit on greenhouse gas emissions that will be established under AB 32 are the most important first steps to reduce consumption. If the Commission plans to address additional complementary programs to reduce consumption and encourage conservation generally, including a consumption target, we strongly urge the

⁷ California Energy Commission, *Achieving All Cost-Effective Energy Efficiency for California*, Final Staff Report, CEC-200-2007-019-SF, December 2007, pp. i, and 91-115.

⁸ California Energy Commission, *2007 Integrated Energy Policy Report*, Final Commission Report, CEC-100-2007-008-CMF, December 2007, p. 103.

⁹ California Public Resources Code Section 25310 (*emphasis added*)

¹⁰ California Public Utilities Code Sections 454.55 and 454.56 (*emphasis added*)

Commission to do so through a separate process and only after ensuring that the policy framework for the energy efficiency programs will be settled in a timely manner.

7. The CPUC should devote enough staff resources to implement an effective performance-based risk/reward incentive mechanism.

The Commission’s Energy Division staff has been doing an admirable job managing the Commission’s many energy efficiency responsibilities with limited personnel. We have no doubt that the staff is stretched extremely thin by the volume of efficiency work for which they are responsible. This is evident throughout the White Paper, as ED seeks changes to the incentive mechanism to make it more feasible to manage “with current staffing.” (p. 4) However, the Commission’s current staffing limitations should not stand in the way of good policy. Energy efficiency is the state and the Commission’s top priority electric and natural gas resource. The CPUC should design the most effective performance-based risk/reward incentive mechanism in order to maximize cost-effective efficiency savings and net benefits for consumers, and devote enough staff resources to implement this top priority policy.

8. NRDC agrees that EM&V requires new consideration.

NRDC appreciates ED’s consideration of how to improve the EM&V process moving forward. We agree with ED’s description of the four categories of EM&V study types,¹¹ and with the position that the California Energy Efficiency Evaluation Protocols are essentially advisory.

While we disagree that the existing process protocols need to be “abolished” (p. 24), we believe that they need to be substantially revised to include a clear and workable process for reviewing and adopting program impact estimates. In addition, the process protocols should provide a process and schedule that provides significant opportunities for stakeholder input. We also believe that it is essential that calculations of PEB and of shareholder earnings/penalties should be reviewed and adopted in a formal Commission process.

We believe that EM&V efforts should focus on program implementation as well as measure evaluation through the DEER process. The DEER database is an important tool to evaluate “deemable” savings, but we also believe that much important information about savings

¹¹ Although we believe that installation studies may need to be conducted on a more regular schedule than only at the end of each program cycle.

opportunities and challenges comes from evaluation of program-level, rather than measure-level implementation. We support the expansion of DEER for “deemable” savings, but we also continue to believe that program level evaluation is also necessary for both “deemable” and “non-deemable” programs.

While NRDC supports ED’s role in conducting process evaluation for the purpose of any incentive mechanism, we do not agree that IOU internal process evaluation should be curtailed or subject to overly burdensome supervision. Timely internal process evaluation is a crucial tool for utilities to adapt and improve programs and should be encouraged. While utility process evaluations should be public to the extent possible, timeliness is also a highly valuable principle and should be weighed against any proposed changes.

Finally, we support ED’s listed research areas under “Market Analysis and Policy Support Research.” We hope that the emphasis for new research will be the expansion of gross savings, which we believe should be a high priority for the Commission and utilities.

9. NRDC strongly disagrees with the White Paper’s recommendation to abandon the remainder of the incentive mechanism for 2006-08.

NRDC is submitting concurrent comments in R.09-01-019 with its pre-settlement position on the resolution of the 2006-2008 incentive mechanism, as directed by the AC/ALJ Ruling. We emphasize that abandoning the incentive mechanism for 2006-2008, as the White Paper suggests (p. 26), is not an appropriate option. We encourage parties to think creatively and flexibly in settlement discussions. As we discuss above, it is absolutely essential to maintain a consistent framework for energy efficiency over time to successfully pursue all cost-effective energy efficiency. We urge the Commission to resolve the remainder of the 2006-2008 incentive mechanism as close as possible to the original intent of the Commission in D.07-09-043, while also working to fix the existing mechanism going forward.

Dated: April 29, 2009

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Audrey Chang". The signature is fluid and cursive, with the first name "Audrey" written in a larger, more prominent script than the last name "Chang".

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the **“OPENING COMMENTS OF THE NATURAL RESOURCES DEFENSE COUNCIL (NRDC) ON THE ENERGY DIVISION WHITE PAPER ON “PROPOSED ENERGY EFFICIENCY RISK REWARD INCENTIVE MECHANISM AND EM&V ACTIVITIES”** in the matter of R.09-01-019 to all known parties of record in this proceeding and A.08-07-021 et al. by delivering a copy via email or by mailing a copy properly addressed with first class postage prepaid.

Executed on April 29, 2009 at San Francisco, California.



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