BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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

NOTICE OF EX PARTE COMMUNICATION

October 5, 2012

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Pursuant to Rule 8.2, 8.3, and 8.5 of the California Public Utilities Commission's Rules of Practice and Procedure, the Natural Resources Defense Council (NRDC) hereby gives notice of the following ex parte communication. The communication occurred for approximately one half hour by telephone on Friday, October 5, 2012, at 11:30 am. Devra Wang, Director, California Energy Program and Sierra Martinez, Legal Director, California Energy Projects at NRDC initiated the oral communication with Michael Colvin, advisor to Commissioner Ferron. No written materials were used.

Ms. Wang discussed NRDC's support for a simple incentive framework for 2010-12 and expressed NRDC's strong opposition to the framework described in the September 25, 2012 ALJ Ruling for two key reasons.

First, Ms. Wang urged the Commission to reject the proposal to base earnings on the proposed scoring system related to EM&V, because it is highly subjective, complex and opaque; such a system would spur significantly more controversy around the incentive mechanism, contrary to the Commission's intent to simplify the mechanism and reduce controversy. Ms. Wang noted that NRDC understands that there is likely merit in improving the process the utilities and Commission staff use to address ex-ante EM&V issues, however, the incentive mechanism is the wrong tool for that job; and, in fact, the proposal would have the opposite effect. It would hurt collaboration among the parties, and would suppress discussion and debate about important technical issues since many of the scores would award earnings based on whether or not the utilities agree or disagree with Commission staff. This would significantly hinder the Commission's efforts to establish a more collaborative and transparent EM&V process.

Second, Ms. Wang emphasized that the ALJ Ruling's proposed earnings level is too low for a program that exceeded the Commission's goals and provided customers with about $1 billion in net benefits. The proposed earnings would be roughly two-thirds lower than under the Commission's prior approach, and would put California at the very bottom of states nationwide (with a cap at 5% of expenditures, compared to a range of 5% to 20% and an average of 12% to 13% nationwide). Ms. Wang cautioned that such a low level of earnings, combined with the Commission's extremely long delay on this issue, would send a damaging signal about the CPUC's commitment to efficiency as the top priority resource.

Finally, Ms. Wang noted that if the Commission intends to adopt a mechanism that rewards expenditures on efficiency rather than savings for 2010-12 (contrary to NRDC's recommendation), then NRDC urges the Commission to (i) be clear that it is solely for 2010-12, since the CPUC's mechanism will be adopted too late to actually influence performance, and it will not set a precedent for future mechanisms, and (ii) adopt an earnings level more in line with the 10% of expenditures that the Commission awarded previously and that most other states award.

Dated: October 5, 2012

Respectfully submitted,

Devra Wang
Director, California Energy Program