

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

AUG 07 2009

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

PEOPLE OF THE STATE OF
CALIFORNIA, ex rel. Edmund G. Brown
Jr., Attorney General,

Petitioner,

v.

DEPARTMENT OF ENERGY; SAMUEL
W. BODMAN, Secretary, U.S.
Department of Energy,

Respondents,

No. 07-74819

ORDER*

SIERRA CLUB,

Petitioner,

v.

U.S. DEPT. OF ENERGY,

No. 07-74836

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

Respondent,
NATIONAL ELECTRICAL
MANUFACTURERS ASSOCIATION,
Respondent-Intervener.

NATURAL RESOURCES DEFENSE
COUNCIL,
Petitioner,
v.
DEPARTMENT OF ENERGY,
Respondent.

No. 08-70807

DOE No. EE-RM/STD-00-550

On Petition for Review of an Order of the
Department of Energy

Argued and Submitted March 9, 2009
San Francisco, California

Before: WALLACE, THOMAS and BYBEE, Circuit Judges.

The court is in receipt of the parties' Unopposed Motion to Dismiss Without Prejudice to Reinstatement. The motion is granted and these petitions are dismissed without prejudice to reinstatement in the event that respondents do not conduct a review of the standards for liquid-immersed and medium-voltage dry-

type distribution transformers and publish in the Federal Register, no later than October 1, 2011, either a determination pursuant to the Energy Policy and Conservation Act, that standards for these products do not need to be amended or a notice of proposed rule-making including any new proposed standards for these products. The parties agree that any proposed rule shall meet all applicable requirements under Energy Policy and Conservation Act, 42 U.S.C. sections 6291-6317, and National Environmental Policy Act, 42 U.S.C. sections 4321-4370f.

Reinstatement shall be by notice filed by any party in this court, with a copy served on the Chief Circuit Mediator and on the other parties within 28 days after October 1, 2011, but in any event by October 28, 2011. If no notice of reinstatement is filed and served by October 28, 2011, the petitions will be deemed dismissed with prejudice.

Pursuant to the agreement of the parties, **the parties shall bear their own costs and attorney's fees on appeal.** This order served on the district court shall act as and for the **mandate** of this court.