



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE  
STATE OF CALIFORNIA

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Order Instituting Rulemaking to Consider Smart  
Grid Technologies Pursuant to Federal  
Legislation and on the Commission's Own  
Motion to Actively Guide Policy in California's  
Development of a Smart Grid System

R.08-12-009  
(Filed December 18, 2008)

**SOUTHERN CALIFORNIA EDISON COMPANY'S (U-338-E) REPLY COMMENTS ON  
ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGE'S JOINT  
RULING INVITING COMMENTS ON PROPOSED POLICIES AND FINDINGS  
PERTAINING TO THE SMART GRID POLICIES ESTABLISHED BY THE ENERGY  
INFORMATION AND SECURITY ACT OF 2007**

KRIS G. VYAS  
MICHAEL BACKSTROM

Attorneys for  
SOUTHERN CALIFORNIA EDISON COMPANY

2244 Walnut Grove Avenue  
Post Office Box 800  
Rosemead, California 91770  
Telephone: (626) 302-6613  
Facsimile: (626) 302-6997  
E-mail: kris.vyas@sce.com

Dated: **November 2, 2009**

**SOUTHERN CALIFORNIA EDISON'S COMMENTS TO ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGE'S JOINT RULING INVITING COMMENTS ON PROPOSED POLICIES AND FINDINGS PERTAINING TO THE SMART GRID POLICIES ESTABLISHED BY THE ENERGY INFORMATION AND SECURITY ACT OF 20**

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**I.**

**INTRODUCTION**

Southern California Edison Company (SCE) submits these reply comments on the Assigned Commissioner and Administrative Law Judge's Joint Ruling Inviting Comments on Proposed Policies and Findings Pertaining to the Smart Grid Policies Established by the Energy Information and Security Act (EISA) of 2007 (Ruling). SCE provides reply comments to clarify the record on certain items raised by other parties, including DRA, TURN, Google, and CEERT. In a number of instances, these parties advance proposals or suggestions that are inconsistent with critical facts or developments, or that would prove to be unduly costly and burdensome.

## II.

### EISA OBLIGATIONS RELATED TO RATEMAKING

#### **A. Should the Commission Require Each Utility to Demonstrate that it has Considered a Smart Grid Investment Before Making any Grid Investment?**

In its opening comments, SCE concurred with the Ruling’s conclusion that the Commission should decline to follow this proposed EISA requirement.<sup>1</sup> The Ruling determined that imposition of this requirement is simply inconsistent with the purposes of the federal legislation, which seeks to optimize the efficient use of facilities and resources by electric utilities and lead to equitable rates for electricity consumers.<sup>2</sup>

Although advancements in energy technologies, telecommunications, and computing technology capabilities are occurring, the electric power delivery system over the next ten years will still principally consist of longstanding and proven technologies (such as conductors, poles, towers, and transformers). Smart Grid investments will often add a layer of “intelligence” to the existing assets, but in many cases will not eliminate the need for continued investment in traditional assets.<sup>3</sup> Since the substantial majority of current capital deployment occurs in proven core technologies, it seems unreasonable to mandate that electric utilities formally demonstrate that they “considered” Smart Grid processes and technologies that may not even be commercially available. The Ruling acknowledged this principle, stating that “the imposition of a requirement to consider Smart Grid investments even in situations for which there is no rational basis would produce costs without benefits and is therefore inconsistent with the purposes of EISA.”<sup>4</sup>

In its opening comments, TURN suggests that it “is troubled by the assumption that an analysis of alternative investments will increase costs. Such an alternatives analysis, which

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<sup>1</sup> Ruling, at 22.

<sup>2</sup> *Id.*; see also 16 U.S.C. sec. 2611.

<sup>3</sup> *Id.*

<sup>4</sup> Ruling, at 23.

generally involves a consideration of cost effectiveness, should be standard business practice for evaluating the prudence of major capital investments.”<sup>5</sup> As part of its standard business processes, SCE does examine alternative paths or investments when it’s rational to do so. But obligating each utility to provide a showing as to why it didn’t choose a “more advanced” technology in the case of *each and every one* of the thousands of grid components that utilities invest in each year would prove to be unduly burdensome and contrary to cost-effective practices.

**B. Should the Commission Authorize Each Electric Utility to Recover From Ratepayers any Capital, Operating Expenditure, or Other Costs of the Electric Utility Relating to the Deployment of a Qualified Smart Grid System, Including a Reasonable Rate of Return?**

Parties’ comments regarding this question reflect broad consensus that existing ratemaking procedures are sufficient to address Smart Grid investments and that the Commission need not adopt this standard.

DRA raises one concern that “the Commission risks double cost recovery when it allows rate recovery for Smart Grid distribution-level investments outside of the GRC process.”<sup>6</sup> SCE shares DRA’s desire to avoid double cost recovery, and such risks are effectively mitigated through appropriate controls. SCE has sought and received rate recovery for distribution-level investments outside of the GRC process, including Catastrophic Event Memorandum Account (CEMA) applications. SCE’s accounting system allows for the creation of a unique accounting structure to track costs for non-GRC proceedings, such as CEMA or any potential Smart Grid-related application.

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<sup>5</sup> TURN Comments on Ruling, at 4.

<sup>6</sup> DRA Comments on Ruling, at 5.

**C. Should the Commission Authorize any Electric Utility that Deploys a Smart Grid to Recover in a Timely Manner the Remaining Book-Value Costs of Any Equipment Rendered Obsolete by the Deployment of the Qualified Smart Grid System, Based on the Remaining Depreciable Life of the Obsolete Equipment?**

SCE and a majority of the respondents agree with the Ruling that the consideration of specific rate treatment for obsolete equipment is best addressed in general rate cases or applications that address Smart Grid investments. Through this approach, the Commission can undertake a much more thorough analysis on an equipment-specific basis, and appropriately match the proposed smart grid investment against the potential for asset obsolescence.

DRA suggests that since the Commission “has previously reviewed [potentially obsolete] assets for prudence and authorized rate base treatment,” the Commission should make a determination on rate treatment “in this proceeding rather than defer it to another proceeding.”<sup>7</sup> Rather than agree that an insufficient record exists to make such a specific determination in this proceeding, DRA seeks to now *create* a record by asking that the Commission require utilities to immediately provide initial accounting records, including account numbers, amounts and book values of the obsolete assets.<sup>8</sup> This proposed approach is impractical, because utilities cannot predict today what assets might potentially become obsolete in the future based on as yet undetermined set of Smart Grid technologies. Moreover, attempting to forecast asset obsolescence at this time would be unduly burdensome. Finally, DRA’s approach also appears to be contrary to its position in DRA’s response to the previous question concerning ratemaking treatment of smart grid investments. In that response, DRA states that it does not support any special or unusual ratemaking treatment for smart grid assets or investments.<sup>9</sup>

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<sup>7</sup> *Id.*, at 5.

<sup>8</sup> *Id.*, at 6.

<sup>9</sup> *Id.*, at 5.

In summary, SCE agrees with TURN<sup>10</sup> and the California Large Energy Consumers Association (CLECA),<sup>11</sup> who conclude that this issue of asset obsolescence is ultimately no different from that of any other utility equipment which still possesses a useful and depreciable life, and that ratemaking should be considered in the context of normal ratemaking proceedings under the Commission’s current practices and policies.

### III.

#### **CUSTOMER ACCESS TO ENERGY INFORMATION**

##### **A. Should the Commission Require Utilities to Provide Customers with Access to the Information Referenced in 16 U.S.C. §1621(d)(19)(B) of PURPA in Written and Electronic Form?**

SCE agrees with the Ruling, which determined that the Commission’s adoption of the AMI minimum functionality criteria, and the subsequent approval of AMI projects in California, constitute a “prior state action” and satisfy the EISA requirements.<sup>12</sup> In their opening comments, CEERT and Google take exception to the Ruling. In addition, DRA and TURN/CFC make certain observations regarding the implementation of this proposed requirement.

In its opening comments, CEERT states “...the utility should provide the customer, or its agent, access to data at the meter, so as to allow for nearly instantaneous access to the data.”<sup>13</sup> CEERT’s comments do not recognize that IOUs will already provide access to near real-time data through the HAN.<sup>14</sup>

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<sup>10</sup> TURN Comments on Ruling, at 7.

<sup>11</sup> CLECA Comments on Ruling, at 5-6.

<sup>12</sup> Ruling, at 36.

<sup>13</sup> CEERT’s Comments to Ruling, at 5.

<sup>14</sup> See D.08-09-039, which authorized SCE to provide near real-time usage information to its customers with a SmartConnect meter.

**1. Google's Recommendations Do Not Reflect Developments on Customer Access To Data**

Google recommends that “the Commission set a deadline, at the end of 2010 at the latest, to ensure consumers will be able to access their meter data directly so that the home area network (HAN) environment continues to make rapid forward progress.”<sup>15</sup> As Google notes, ZigBee 2.0 incorporates two important functionalities that support improved security and interoperability with Internet Protocol (IP).<sup>16</sup> However, Google fails to acknowledge that while the standard is scheduled to be completed in 2010, product manufacturers will need at least six months to conform their products to the resulting ZigBee 2.0 and validate compatibility. SCE will be able to remotely upgrade its SmartConnect meters; however, consumers must be assured of being able to purchase compliant products in the market.

Also, it is important to note that ZigBee 1.0 will not be compatible with ZigBee 2.0, due to the nature of the improvements to the protocol. Advocating early adoption of ZigBee 1.0 will likely create an inconvenient and costly situation for customers. While the Commission does not have jurisdiction over product manufacturers, the Commission should adopt a policy of requiring that IOUs comply with Smart Grid standards as recommended by NIST.

SCE supports customer access to their historical energy information via the internet through the My Edison website, or through a third party service provider's site (provided the customer has given permission). In the AMI proceedings, the cost-benefit of providing historical information (*i.e.*, previous day plus thirteen months) was determined as appropriate. Further, it was determined that 15-minute information for small commercial customers and hourly information for residential customers was appropriate, in light of rates structures and energy demand. Also, SCE incorporated near real-time information access directly from the meter thru the HAN as the means to provide more granular data to customers. No studies have

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<sup>15</sup> Google's Comments on Ruling, at 3.

<sup>16</sup> *Id.*

suggested that there is a greater residential customer benefit from providing even *more* energy usage data than will be available through the combination of: (a) the 13-month by-hour historical information through the internet; and (b) the information available directly from the meter every 10 seconds.

Google also states, "... the initial automated data exchange (ADE) application was postponed for two years and a second request has been made to delay implementation of the system for another two years until national standards are developed."<sup>17</sup> Google adds that "...we believe that the national standards process is not a sufficient reason for delaying plans to facilitate consumer and third party access to advanced meter data."<sup>18</sup> Google's conclusion is erroneous. Although PG&E's initial ADE application was postponed for two years, the national ADE standards are being developed at a faster pace than Google suggests. The draft ADE standards are expected to be completed before year end 2009 and adopted by NIST in early 2010. As such, SCE expects to have ADE implemented in 2010. This would only delay consumer and third party access to data by months, rather than two years. SCE, along with PG&E, is leading the national effort to develop a standard interface. Creation of multiple interfaces as suggested by Google is detrimental to customers and services companies nationally, and is precisely the reason that the White House Office of Science and Technology and NIST have targeted this area as one of the priority standards for development.

**2. TURN's Alternate Recommendation On The Delivery Of Real-Time Pricing Data Is Not Needed**

In its opening comments, TURN objects to the Ruling's proposal to require real-time pricing data be supplied to all customers. Instead, TURN recommends that the Commission "require the IOUs to submit their intended plans for communicating time-based pricing options, and indicate the costs associated with their proposed manner of communication so that the public

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<sup>17</sup> *Id.*, at 4-5.

<sup>18</sup> *Id.*, at 5.

can review and comment on these proposals.”<sup>19</sup> TURN’s recommendation is not necessary. The process and costs associated with communicating time-based pricing (e.g., TOU) to participating customers was already reviewed and approved in SCE’s AMI Final Decision and need not be reviewed again. To the extent SCE will incur costs above what is already authorized to provide real-time pricing data, SCE will seek Commission review and approval of those additional costs in the appropriate regulatory proceeding, and interested parties can participate.

**3. The AMI Functionality Criteria Require Providing Usage Data, Not Real-Time Presentment Of Retail Prices**

In its opening comments, DRA infers that the AMI six functionality criteria require the IOUs to provide real-time presentment of retail prices to customers. This is not the case. SCE clarifies that the six AMI functionality criteria required the IOUs to provide customers with access to interval usage data to support customer understanding of usage patterns, and to support real-time pricing tariffs (among other dynamic pricing options).<sup>20</sup> In D.07-07-042, the Commission found that SCE’s AMI solution, Edison SmartConnect, satisfied the AMI functionality criteria.<sup>21</sup>

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<sup>19</sup> TURN’s Comments on Ruling, at 10.

<sup>20</sup> See Joint Assigned Commissioner and Administrative Law Judge’s Ruling Providing Guidance for the Advanced Metering Infrastructure Business Case Analysis, in R.02-06-001, dated February 19, 2004, pp. 3-4.

<sup>21</sup> See D.07-07-042, Finding of Fact 1.

**B. Should the Commission Require Utilities to Provide Purchasers of Electricity with Access to their Own Information at Any Time Through the Internet and on Other Means of Communications Elected by the Utility? Should the Commission Require Utilities to Provide Other Interested Persons Access to Information not Specific to Any Purchaser Through the Internet?**

SCE agrees with the Ruling, which proposed that the AMI disclosure requirements are generally consistent with the EISA requirements, and recommended declining to adopt the EISA standard.<sup>22</sup> Google, TURN/CFC, and DRA provide comments on this requirement.

**1. Google Appears to Misunderstand the Process and Timing for ADE Standards Development**

Google states in its opening comments that “...the Commission should initiate a process to provide clarity on rules for customer and customer-selected third party access to usage and pricing data.”<sup>23</sup> Google’s concerns will be addressed in the current ADE standards development effort. As SCE recommended in its opening comments, the Commission should adopt the NIST automated data exchange standards when they are fully developed and approved, which is expected in 2010.

**2. The Frequency of Customer Access to Data Should Reflect Customer Preferences**

DRA suggests that the Commission should modify the current rules that limit the duration of data provided (12 months) and frequency that such data may be sought by a third party (two times per year) to “accommodate third parties who serve only to manage a utility

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<sup>22</sup> Ruling, at 43.

<sup>23</sup> Google’s Comments on Ruling, at 6.

customer's in-premise energy usage.”<sup>24</sup> Such third parties should be allowed “continuous access” to customer metering information, if the customer approves such access.<sup>25</sup>

The scope and duration of the customer's consent for SCE to provide his/her confidential data to a third party should be left entirely up to the customer. The customer may not want to provide continuous access, but rather grant access for a limited period of time, or provide access only for limited purposes. SCE could accommodate a new option to allow a customer to consent to SCE providing a third party its information unless and until the customer revokes its consent. The customer, however, needs to understand the risks associated with that option (*i.e.*, the third party will continue to obtain the customer’s information unless and until the consent is affirmatively revoked, even if the customer ends its relationship with the third party).

DRA further states that the Commission should ensure that “the utilities do not erect anticompetitive financial barriers against third parties seeking to obtain that [continual] access on behalf of the utilities’ customers.”<sup>26</sup> SCE has not determined whether continual access of a third party to a customer’s usage data would impose additional administrative or other costs on SCE. However, to the extent that it would, SCE should be permitted to seek Commission authorization to recover such costs from the customers and/or their third party agents. Permitting the utilities to recover incremental costs to provide continual third party access to customers’ data would not be anticompetitive. Indeed, *not* allowing such recovery would be unfair to the utility and would provide undue preference to the third parties.

TURN claims that DA rules are “not adequate” for residential customers.<sup>27</sup> SCE respectfully disagrees. The procedures for protecting the confidentiality of residential customer information should be (and are) adequate irrespective of whether the IOU collects cumulative usage data or interval usage data. TURN further states that the IOU should provide “more specificity regarding the type of disclosure to customers prior to the release of usage

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<sup>24</sup> See DRA’s Comments on Ruling, at 13-14.

<sup>25</sup> DRA’s Comments on Ruling, at 13-15.

<sup>26</sup> *Id.*

<sup>27</sup> TURN’s Comments on Ruling, at 14.

information.”<sup>28</sup> TURN appears to misunderstand that it is *the customer* that directs the IOU to provide specific information to the customer's selected third party agent(s) as part of the customer’s formal consent to the IOU. As such, there is no need to require that the IOU disclose to the customer what is being release to the customer’s third-party agent. In any event, should a customer ever request it, SCE would provide the customer with any or all information that has been disclosed or will be disclosed to the customer’s third party agent pursuant to the customer’s formal consent.

**3. The Commission Should Not Seek to Oversee the Compliance of Third Party Agents with Federal and State Privacy Laws**

DRA advocates that the Commission adopt standardized privacy practices for third parties that have access to customer's data. SCE disagrees. The Commission cannot reasonably be expected to oversee compliance with federal and state privacy laws when third parties obtain personal customer information from the IOUs at the customer’s request and written consent. In addition, the IOUs cannot control how the third parties use the customer’s personal information once it has been released at the customer’s consent. The IOUs, therefore, cannot provide such oversight either. At best, in their customer consent forms, the IOUs can inform customers that third parties are obligated to comply with state and federal privacy laws in maintaining their personal information. However the IOU should not be held responsible or liable in any way for third party compliance with privacy laws for customer information that the IOU discloses to the third party pursuant to a customer's request and written consent.

This principle is consistent with existing rules regarding the confidentiality of the customer information. Specifically, in the Direct Access context, Commission-Approved Rule 22 mandates that an authorized agent of a customer receiving customer information from SCE “will not further release the information to others without the customer’s explicit

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<sup>28</sup> *Id.*

consent.”<sup>29</sup> Rule 22 expressly provides that SCE shall not be liable to the customer for any damages caused by any Energy Service Provider’s failure to comply with any legal or regulatory requirements related to Direct Access service.<sup>30</sup> In addition, the Customer Information Standardized Request (CISR) form -- which customers use to request IOU disclosure of their information to third parties -- requires that the customer and its third-party agent release, hold harmless, and indemnify the IOU from any liability or claims resulting from the third party’s use of the customer information received from the IOU pursuant to customers’ request and written consent.

#### **4. Existing State Law Allows for the Use of Electronic Signatures**

CEERT states that customers should be able to consent to the release of their data to third parties by means of electronic signatures.<sup>31</sup> SCE agrees, and notes that California law allows for the use of electronic signatures. Specifically, the California Electronic Transactions Act (Civil Code Section 1633.1 *et seq.*) provides that if a record or signature is required to be in writing, then an electronic record or signature satisfies the requirement, as long as the parties have agreed to conduct the transaction by electronic means and the electronic record is capable of retention by the recipient at the time of receipt. Therefore, customers can elect to provide their consent by electronic means, but the IOUs still require alternative means of obtaining the customer’s written consent if the customer does not wish to provide its written consent via electronic means.

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<sup>29</sup> See Rule 22, Section C.3.b.

<sup>30</sup> *Id.* at Section B.17.b.

<sup>31</sup> CEERT’s Comments on Ruling, at 11.

**5. SCE Agrees with TURN/CFC's Recommendation to Optimize Information Presented both Electronically and by the Monthly Bill**

In their joint comments, TURN/CFC recommend that the Commission consider how to optimize information presented both electronically and in the monthly bill to motivate both conservation and demand response.<sup>32</sup> SCE agrees with this recommendation, and has already been developing effective ways to present information over the web. This activity was included as part of SCE's AMI deployment application and adopted in the final decision. To the extent that optimization of the information included on the monthly bill results in additional cost not included in SCE's revenue requirement, SCE can seek recovery of these costs in the appropriate regulatory proceeding.

**IV.**

**CONCLUSION**

SCE respectfully requests that the Commission's final resolution of the issues identified in the Ruling incorporates SCE's reply comments, as set forth above. We thank the Commission for the opportunity to comment on these issues.

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<sup>32</sup> TURN/CFC Joint Comments on Ruling, at 6.

Respectfully submitted,

KRIS G. VYAS  
MICHAEL BACKSTROM

/s/ Kris G. Vyas

---

By: Kris G. Vyas

Attorneys for  
SOUTHERN CALIFORNIA EDISON COMPANY

2244 Walnut Grove Avenue  
Post Office Box 800  
Rosemead, California 91770  
Telephone: (626) 302-6613  
Facsimile: (626) 302-6997  
E-mail:kris.vyas@sce.com

November 2, 2009

**CERTIFICATE OF SERVICE**

I hereby certify that, pursuant to the Commission's Rules of Practice and Procedure, I have this day served a true copy of SOUTHERN CALIFORNIA EDISON'S (U 338-E) REPLY COMMENTS TO ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGE'S JOINT RULING INVITING COMMENTS ON PROPOSED POLICIES AND FINDINGS PERTAINING TO THE SMART GRID POLICIES ESTABLISHED BY THE ENERGY INFORMATION AND SECURITY ACT OF 2007 on all parties identified on the attached service list(s). Service was effected by one or more means indicated below:

Transmitting the copies via e-mail to all parties who have provided an e-mail address. First class mail will be used if electronic service cannot be effectuated.

Executed this **2<sup>nd</sup> day of November, 2009**, at Rosemead, California.

\_\_\_\_\_  
/s/ Raquel Ippoliti  
Raquel Ippoliti  
Project Analyst  
SOUTHERN CALIFORNIA EDISON COMPANY

2244 Walnut Grove Avenue  
Post Office Box 800  
Rosemead, California 91770



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### Parties

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NORMAN A. PEDERSEN  
 HANNA AND MORTON LLP  
 444 S FLOWER ST., SUITE 1500  
 LOS ANGELES, CA 90071-2916  
 FOR: SOUTHERN CALIFORNIA PUBLIC POWER  
 AUTHORITY

STEVEN G. LINS  
 GENERAL COUNSEL  
 GLENDALE WATER AND POWER  
 141 N. GLENDALE AVENUE, LEVEL 4  
 GLENDALE, CA 91206-4394  
 FOR: GLENDALE WATER POWER

DAN DOUGLASS  
 DOUGLASS & LIDDELL  
 21700 OXNARD STREET, SUITE 1030  
 WOODLAND HILLS, CA 91367  
 FOR: WESTERN POWER TRADING FORUM

FREDRIC C. FLETCHER  
 ASSISTANT GENERAL MANAGER  
 BURBANK WATER & POWER  
 164 WEST MAGNOLIA BLVD.  
 BURBANK, CA 91502  
 FOR: BURBANK WATER AND POWER

KRIS G. VYAS  
 SOUTHERN CALIFORNIA EDISON COMPANY  
 QUAD 3-B  
 2244 WALNUT GROVE AVENUE  
 ROSEMEAD, CA 91770  
 FOR: SOUTHERN CALIFORNIA EDISON COMPANY

ALLEN K. TRIAL  
 SAN DIEGO GAS & ELECTRIC COMPANY  
 101 ASH STREET, HQ-12  
 SAN DIEGO, CA 92101  
 FOR: SAN DIEGO GAS & ELECTRIC

LEE BURDICK  
 ATTORNEY AT LAW  
 HIGGS, FLETCHER & MACK LLP  
 401 WEST A STREET, STE. 2600  
 SAN DIEGO, CA 92101  
 FOR: HIGGS FLETCHER & MACK

DONALD C. LIDDELL  
 ATTORNEY AT LAW  
 DOUGLASS & LIDDELL  
 2928 2ND AVENUE  
 SAN DIEGO, CA 92103  
 FOR: CALIFORNIA ENERGY STORAGE  
 ALLIANCE/ WAL-MART STORES, INC. & SAM'S  
 WEST, INC./ICE ENERGY, INC.

CHARLES R. TOCA  
 UTILITY SAVINGS & REFUND, LLC  
 PO BOX 54346

ROBERT SMITH, PH.D.  
 BUILDING INFORMATION MODEL-CALIFORNIA  
 21352 YARMOUTH LANE

IRVINE, CA 92619-4346  
FOR: UTILITY SAVINGS & REFUND, LLC

HUNTINGTON BEACH, CA 92646-7058  
FOR: BUILDING INFORMATION  
MODEL-CALIFORNIA (BIM EDUCATION CO-OP)

TAM HUNT  
HUNT CONSULTING  
4344 MODOC ROAD, 15  
SANTA BARBARA, CA 93110  
FOR: COMMUNITY ENVIRONMENT COUNCIL

MONA TIERNEY-LLOYD  
SENIOR MANAGER WESTERN REG. AFFAIRS  
ENERNOC, INC.  
PO BOX 378  
CAYUCOS, CA 93430  
FOR: ENEROC, INC

MARC D. JOSEPH  
ATTORNEY AT LAW  
ADAMS BROADWELL JOSEPH & CARDOZA  
601 GATEWAY BLVD. STE 1000  
SOUTH SAN FRANCISCO, CA 94080  
FOR: COALITION OF CALIFORNIA UTILITY  
EMPLOYEES

MARGARITA GUTIERREZ  
DEPUTY CITY ATTORNEY  
OFFICE OF SF CITY ATTORNEY  
1 DR. CARLTON B. GOODLETT PLACE, RM. 234  
SAN FRANCISCO, CA 94102  
FOR: CITY & COUNTY OF SAN FRANCISCO

LISA-MARIE SALVACION  
CALIF PUBLIC UTILITIES COMMISSION  
LEGAL DIVISION  
ROOM 4107  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214  
FOR: DRA

FRASER D. SMITH  
CITY AND COUNTY OF SAN FRANCISCO  
SAN FRANCISCO PUBLIC UTILITIES COMM  
1155 MARKET STREET, 4TH FLOOR  
SAN FRANCISCO, CA 94103  
FOR: SAN FRANCISCO PUBLIC UTILITIES  
COMMISSION

SANDRA ROVETTI  
REGULATORY AFFAIRS MANAGER  
SAN FRANCISCO PUC  
1155 MARKET STREET, 4TH FLOOR  
SAN FRANCISCO, CA 94103  
FOR: SAN FRANCISCO PUC

THERESA BURKE  
REGULATORY AFFAIRS ANALYST  
SAN FRANCISCO PUC  
1155 MARKET STREET, 4TH FLOOR  
SAN FRANCISCO, CA 94103  
FOR: SAN FRANCISCO PUC

LARA ETTENSON  
NATURAL RESOURCES DEFENSE COUNCIL  
111 SUTTER STREET, 20TH FLOOR  
SAN FRANCISCO, CA 94104  
FOR: NATURAL RESOURCES DEFENSE COUNCIL

MARCEL HAWIGER  
ATTORNEY AT LAW  
THE UTILITY REFORM NETWORK  
115 SANSOME STREET, SUITE 900  
SAN FRANCISCO, CA 94104  
FOR: TURN

MARTY KURTOVICH  
CHEVRON ENERGY SOLUTIONS  
345 CALIFORNIA STREET, 18TH FLOOR  
SAN FRANCISCO, CA 94104  
FOR: CHEVRON ENERGY SOLUTIONS

SARAH SCHEDLER  
FRIENDS OF EARTH  
311 CALIFORNIA ST, SUITE 510  
SAN FRANCISCO, CA 94104  
FOR: FRIENDS OF THE EARTH

CHRISTOPHER J. WARNER  
ATTORNEY AT LAW  
PACIFIC GAS AND ELECTRIC COMPANY  
77 BEALE STREET B30A  
SAN FRANCISCO, CA 94105  
FOR: PACIFIC GAS AND ELECTRIC COMPANY

MICHAEL TERRELL  
POLICY COUNSEL  
GOOGLE.ORG  
345 SPEAR ST., FOURTH FLOOR  
SAN FRANCISCO, CA 94105  
FOR: GOOGLE.ORG

NORA SHERIFF  
ALCANTAR & KAHL  
33 NEW MONTGOMERY STREET, SUITE 1850  
SAN FRANCISCO, CA 94105  
FOR: EPUC

HAROLD GALICER  
SEAKAY, INC.  
PO BOX 78192  
SAN FRANCISCO, CA 94107  
FOR: SEAKAY, INC.

PETER A. CASCIATO  
ATTORNEY AT LAW  
PETER A. CASCIATO P.C.  
355 BRYANT STREET, SUITE 410  
SAN FRANCISCO, CA 94107  
FOR: TIME WARNER CABLE INFORMAT SERVICE  
CA, LLC/COMCAST PHONE OF CA, LLC

STEVEN MOSS  
SAN FRANCISCO COMMUNITY POWER  
2325 THIRD STREET, STE 344  
SAN FRANCISCO, CA 94107  
FOR: SAN FRANCISCO COMMUNITY POWER

MICHAEL B. DAY  
ATTORNEY AT LAW  
GOODIN MACBRIDE SQUERI DAY & LAMPREY LLP  
505 SANSOME STREET, SUITE 900  
SAN FRANCISCO, CA 94111-3133  
FOR: COUNSEL FOR CURRENT GROUP, LLC

SARA STECK MYERS  
ATTORNEY FOR  
CEERT  
122 28TH AVENUE  
SAN FRANCISCO, CA 94121  
FOR: CENTER FOR THE ENERGY EFFICIENCY &  
RENEWABLE TECHNOLOGIES

ALEXIS K. WODTKE  
STAFF ATTORNEY  
CONSUMER FEDERATION OF CALIFORNIA  
520 S. EL CAMINO REAL, STE. 340  
SAN MATEO, CA 94402  
FOR: CONSUMER FEDERATION OF CALIFORNIA

FARROKH ALUYEK, PH.D.  
OPEN ACCESS TECHNOLOGY INTERNATIONAL  
1875 SOUTH GRANT STREET, SUITE 910  
SAN MATEO, CA 94402  
FOR: OPEN ACCESS TECHNOLOGY  
INTERNATIONAL

WILLIAM H. BOOTH  
ATTORNEY AT LAW  
LAW OFFICES OF WILLIAM H. BOOTH  
67 CARR DRIVE  
MORAGA, CA 94556  
FOR: COUNSEL FOR CALIFORNIA LARGE  
ENERGY CONSUMERS ASSOCIATION

GREGG MORRIS  
GREEN POWER INSTITUTE  
2039 SHATTUCK AVE., SUITE 402  
BERKELEY, CA 94704  
FOR: GREEN POWER INSTITUTE

MIKE TIERNEY  
ATTORNEY AT LAW  
NRG ENERGY & PADOMA WIND POWER  
829 ARLINGTON BLVD.  
EL CERRITO, CA 94830  
FOR: NRG ENERGY

STEVE BOYD  
TURLOCK IRRIGATION DISTRICT  
333 EAST CANAL DRIVE  
TURLOCK, CA 95381-0949  
FOR: TURLOCK IRRIGATION DISTRICT

MARTIN HOMECH  
ATTORNEY AT LAW  
LAW OFFICE OF MARTIN HOMECH  
PO BOX 4471  
DAVIS, CA 95617  
FOR: CARE

DAVID ZLOTLOW  
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORP  
151 BLUE RAVINE RD  
FOLSOM, CA 95630  
FOR: CALIFORNIA INDEPENDENT SYSTEM  
OPERATOR CORPORATION

DENNIS DE CUIR  
DENNIS W. DE CUIR, A LAW CORPORATION  
2999 DOUGLAS BOULEVARD, SUITE 325  
ROSEVILLE, CA 95661  
FOR: GOLDEN STATE WATER COMPANY AND  
BEAR VALLEY ELECTRIC SERVICE

SCOTT TOMASHEFSKY  
REGULATORY AFFAIRS MANAGER  
NORTHERN CALIFORNIA POWER AGENCY  
651 COMMERCE DRIVE  
ROSEVILLE, CA 95678  
FOR: NORTHERN CALIFORNIA POWER AGENCY

DAN L. CARROLL  
ATTORNEY AT LAW  
DOWNEY BRAND, LLP  
621 CAPITOL MALL, 18TH FLOOR  
SACRAMENTO, CA 95814  
FOR: MOUNTAIN UTILITIES

JIM HAWLEY  
CALIFORNIA DIRECTOR AND GENERAL COUNSEL  
TECHNOLOGY NETWORK  
1215 K STREET, STE.1900  
SACRAMENTO, CA 95814  
FOR: TECHNOLOGY NETWORK

CHASE B. KAPPEL  
ATTORNEY AT LAW  
ELLISON SCHNEIDER & HARRIS LLP  
2600 CAPITOL AVENUE, SUITE 400  
SACRAMENTO, CA 95816-5905  
FOR: SIERRA PACIFIC POWER CO.

JORDAN WHITE  
SENIOR ATTORNEY  
PACIFICORP  
825 NE MULTNOMAH STREET, SUITE 1800  
PORTLAND, OR 97232  
FOR: PACIFIC POWER

## Information Only

GREY STAPLES  
EMAIL ONLY  
EMAIL ONLY, CA 00000

JANICE LIN  
MANAGING PARTNER  
STRATEGEN CONSULTING LLC  
EMAIL ONLY  
EMAIL ONLY, CA 00000

JOHN QUEALY  
CANACCORD ADAMS  
99 HIGH STREET  
BOSTON, MA 02110

MARK SIGAL  
CANACCORD ADAMS  
99 HIGH STREET  
BOSTON, MA 02110

BARBARA R. ALEXANDER  
CONSUMER AFFAIRS CONSULTANT  
83 WEDGEWOOD DRIVE  
WINTHROP, ME 04364

CHRISTOPHER JOHNSON  
LG ELECTRONICS USA, INC.  
910 SYLVAN AVENUE  
ENGLEWOOD CLIFFS, NJ 07632

JULIEN DUMOULIN-SMITH  
ASSOCIATE ANALYST  
UBS INVESTMENT RESEARCH  
1285 AVENUE OF THE AMERICAS  
NEW YORK, NY 10019

KEVIN ANDERSON  
UBS INVESTMENT RESEARCH  
1285 AVENUE OF THE AMERICAS  
NEW YORK, NY 10019

JAY BIRNBAUM  
GENERAL COUNSEL  
CURRENT GROUP, LLC  
20420 CENTURY BLVD  
GEMANTOWN, MD 20874

BEN BOYD  
ACLARA TECHNOLOGIES  
3001 RIVER TOWNE WAY, SUITE 403  
KNOXVILLE, TN 37920

ROBERT C. ROWE  
NORTH WESTERN ENERGY  
40 EAST BROADWAY  
BUTTE, MT 59701

MONICA MERINO  
COMMONWEALTH EDISON COMPANY  
440 S. LASALLE STREET, SUITE 3300  
CHICAGO, IL 60605

STEPHEN THIEL  
IBM  
1856 LANTANA LANE  
FRISCO, TX 75034

ED MAY  
ITRON INC.  
6501 WILDWOOD DRIVE  
MCKINNEY, TX 75070

CAMERON BROOKS  
TOLERABLE PLANET ENTERPRISES  
729 WALNUT STREET, SUITE 5D  
BOULDER, CO 80302

JIM SUEUGA  
VALLEY ELECTRIC ASSOCIATION  
PO BOX 237  
PAHRUMP, NV 89041

PHIL JACKSON  
SYSTEM ENGINEER  
VALLEY ELECTRIC ASSOCIATION  
800 E. HWY 372, PO BOX 237  
PAHRUMP, NV 89041

LEILANI JOHNSON KOWAL  
LOS ANGELES DEPARTMENT OF WATER & POWER  
111 N. HOPE STREET  
LOS ANGELES, CA 90012

DAVID SCHNEIDER  
LUMESOURCE  
8419 LOYOLA BLVD  
LOS ANGELES, CA 90045

DAVID NEMTZOW  
NEMTZOW & ASSOCIATES  
1254 9TH STREET, NO. 6  
SANTA MONICA, CA 90401

CRAIG KUENNEN  
GLENDALE WATER AND POWER  
141 N. GLENDALE AVENUE, 4TH LEVEL  
GLENDALE, CA 91206

FREEMAN S. HALL  
SOLAR ELECTRIC SOLUTIONS, LLC  
5353 TOPANGA CANYON BLVD, STE 300  
WOODLAND HILLS, CA 91364

MARK S. MARTINEZ  
SOUTHERN CALIFORNIA EDISON  
6060 IRWINDALE AVE., SUITE J  
IRWINDALE, CA 91702

CASE ADMINISTRATION  
2244 WALNUT GROVE AVENUE  
ROSEMEAD, CA 91770

MICHAEL A. BACKSTROM  
ATTORNEY AT LAW  
SOUTHERN CALIFORNIA EDISON COMPANY  
2244 WALNUT GROVE AVENUE  
ROSEMEAD, CA 91770

NGUYEN QUAN  
GOLDEN STATE WATER COMPANY  
630 EAST FOOTHILL BOULEVARD  
SAN DIMAS, CA 91773

JEFF COX  
FUELCELL ENERGY  
1557 MANDEVILLE PLACE  
ESCONDIDO, CA 92029

ESTHER NORTHRUP  
COX CALIFORNIA TELCOM II, LLC  
350 10TH AVENUE, SUITE 600  
SAN DIEGO, CA 92101

KELLY M. FOLEY  
ATTORNEY AT LAW  
SAN DIEGO GAS & ELECTRIC COMPANY  
101 ASH STREET, HQ12  
SAN DIEGO, CA 92101-3017

KIM KIENER  
504 CATALINA BLVD  
SAN DIEGO, CA 92106

YVONNE GROSS  
LEGISLATIVE ANALYSIS MANGER  
SEMPRA ENERGY FEDERAL & STATE AFFAIRS  
101 ASH STREET, HQ08  
SAN DIEGO, CA 92118

REID A. WINTHROP  
CORPORATE COUNSEL  
PILOT POWER GROUP, INC.  
8910 UNIVERSITY CENTER LANE, SUITE 520  
SAN DIEGO, CA 92122

CENTRAL FILES  
SAN DIEGO GAS & ELECTRIC CO.  
8330 CENTURY PARK COURT, CP31-E  
SAN DIEGO, CA 92123

TODD CAHILL  
REGULATORY AFFAIRS  
SAN DIEGO GAS & ELECTRIC COMPANY  
8306 CENTURY PARK COURT  
SAN DIEGO, CA 92123

CAROL MANSON  
REGULATORY AFFAIRS  
SAN DIEGO GAS & ELECTRIC CO.  
8330 CENTURY PARK COURT CP32D  
SAN DIEGO, CA 92123-1530

JERRY MELCHER  
ENERNEX  
4623 TORREY CIRCLE, APT Q303  
SAN DIEGO, CA 92130

TRACEY L. DRABANT  
ENERGY RESOURCE MANAGER  
BEAR VALLEY ELECTRIC SERVICE  
PO BOX 1547  
BIG BEAR LAKE, CA 92315

PETER T. PEARSON  
ENERGY SUPPLY SPECIALIST  
BEAR VALLEY ELECTRIC SERVICE  
42020 GARSTIN DRIVE, PO BOX 1547  
BIG BEAR LAKE, CA 92315-1547

DAVID X. KOLK  
COMPLETE ENERGY SERVICES INC  
41422 MAGNOLIA STREET  
MURRIETA, CA 92562

EVELYN KAHL  
ATTORNEY AT LAW  
ALCANTAR & KAHL, LLP  
33 NEW MONTGOMERY STREET, SUITE 1850  
SAN FRANCISCO, CA 94015

JACK ELLIS  
PRINCIPAL CONSULTANT  
RESERO CONSULTING  
490 RAQUEL COURT  
LOS ALTOS, CA 94022

RICK BOLAND  
E-RADIO USA, INC.  
1062 RAY AVENUE  
LOS ALTOS, CA 94022

SUE MARA  
RTO ADVISORS, LLC.  
164 SPRINGDALE WAY  
REDWOOD CITY, CA 94062

JUAN OTERO  
ATTORNEY AT LAW  
TRILLIANT NETWORKS, INC.  
1100 ISLAND DRIVE  
REDWOOD CITY, CA 94065

MOZHI HABIBI  
SR. DIRECTOR STRATEGIC MARKETING  
VENTYX  
1035 DRAKE COURT  
SAN CARLOS, CA 94070

FARAMARZ MAGHSOODLOU  
PRESIDENT  
MITRA POWER  
PO BOX 60549  
SUNNYVALE, CA 94088

DIANE FELLMAN  
NEXTERA ENERGY RESOURCES LLC  
234 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102

ELAINE M. DUNCAN  
VERIZON  
711 VAN NESS AVENUE, SUITE 300  
SAN FRANCISCO, CA 94102

AMANDA WALLACE

NORMAN J. FURUTA

10 MINT PLAZA NO. 4  
SAN FRANCISCO, CA 94103

FEDERAL EXECUTIVE AGENCIES  
1455 MARKET ST., SUITE 1744  
SAN FRANCISCO, CA 94103-1399

AUDREY CHANG  
DIRECTOR-CALIFORNIA CLIMATE PROGRAM  
NATURAL RESOURCES DEFENSE COUNCIL  
111 SUTTER STREET, 20TH FLOOR  
SAN FRANCISCO, CA 94104

KRISTIN GRENFELL  
PROJECT ATTORNEY, CALIF. ENERGY PROGRAM  
NATURAL RESOURCES DEFENSE COUNCIL  
111 SUTTER STREET, 20TH FLOOR  
SAN FRANCISCO, CA 94104

MICHAEL E. CARBOY  
MANAGING DIRECTOR-EQUITY RESEARCH  
SIGNAL HILL CAPITAL LLC  
343 SANSOME STREET, SUITE 950  
SAN FRANCISCO, CA 94104

NINA SUETAKE  
ATTORNEY AT LAW  
THE UTILITY REFORM NETWORK  
115 SANSOME STREET, SUITE 900  
SAN FRANCISCO, CA 94104

ROBERT FINKELSTEIN  
LEGAL DIRECTOR  
THE UTILITY REFORM NETWORK  
115 SANSOME STREET, SUITE 900  
SAN FRANCISCO, CA 94104

ANDREW MEIMAN  
SENIOR PROGRAM MANAGER  
NEWCOMB ANDERSON MCCORMICK  
201 MISSION STREET, SUITE 2000  
SAN FRANCISCO, CA 94105

ANNABELLE LOUIE  
PACIFIC GAS AND ELECTRIC COMPANY  
245 MARKET STREET  
SAN FRANCISCO, CA 94105

DIONNE ADAMS  
PACIFIC GAS AND ELECTRIC COMPANY  
77 BEALE ST., MAIL CODE B10A  
SAN FRANCISCO, CA 94105

FRANCES YEE  
PACIFIC GAS AND ELECTRIC COMPANY  
77 BEALE STREET, MC B10A  
SAN FRANCISCO, CA 94105

KAREN TERRANOVA  
ALCANTAR & KAHL  
33 NEW MONTGOMERY STREET, SUITE 1850  
SAN FRANCISCO, CA 94105

KIMBERLY C. JONES  
PACIFIC GAS AND ELECTRIC COMPANY  
77 BEALE STREET, MC B9A, ROOM 904  
SAN FRANCISCO, CA 94105

RICHARD H. COUNIHAN  
SR. DIRECTOR CORPORATE DEVELOPMENT  
ENERNOC, INC.  
500 HOWARD ST., SUITE 400  
SAN FRANCISCO, CA 94105

STEPHEN J. CALLAHAN  
IBM  
425 MARKET STREET  
SAN FRANCISCO, CA 94105

TERRY FRY  
SR. VP, ENERGY & CARBON MANAGEMENT  
NEXANT INC  
101 SECOND ST. 10TH FLR  
SAN FRANCISCO, CA 94105

BRIAN CRAGG  
ATTORNEY AT LAW  
GOODIN, MACBRIDE, SQUERI, DAY & LAMPREY  
505 SANSOME STREET, SUITE 900  
SAN FRANCISCO, CA 94111

BRYCE DILLE  
CLEAN TECHNOLOGY RESERACH  
600 MONTGOMERY ST. SUITE 1100  
SAN FRANCISCO, CA 94111

CASSANDRA SWEET  
DOW JONES NEWSWIRES  
201 CALIFORNIA ST., 13TH FLOOR  
SAN FRANCISCO, CA 94111

JEFFREY SINSHEIMER  
COBLENTZ, PATCH, DUFFY & BASS, LLP  
ONE FERRY BUILDING, STE. 200  
SAN FRANCISCO, CA 94111

MARLO A. GO  
GOODIN MACBRIDE SQUERI DAY & LAMPREY LLP  
505 SANSOME STREET, SUITE 900  
SAN FRANCISCO, CA 94111

NORENE LEW  
COBLEUTZ PATCH DUFFY & BASS, LLP  
ONE FERRY BUILDING, STE.200  
SAN FRANCISCO, CA 94111

STEVE HILTON  
STOEL RIVES LLP  
555 MONTGOMERY ST., SUITE 1288  
SAN FRANCISCO, CA 94111

CALIFORNIA ENERGY MARKETS  
425 DIVISADERO ST STE 303  
SAN FRANCISCO, CA 94117-2242

LISA WEINZIMER  
ASSOCIATE EDITOR  
PLATTS MCGRAW-HILL  
695 NINTH AVENUE, NO. 2  
SAN FRANCISCO, CA 94118

PAUL PRUDHOMME  
OPERATIONS REVENUE REQUIREMENTS  
PACIFIC GAS AND ELECTRIC COMPANY  
77 BEALE ST., MC B10B., ROOM 1001  
SAN FRANCISCO, CA 94120

ANGELA CHUANG  
ELECTRIC POWER RESEARCH INSTITUTE  
PO BOX 10412  
PALO ALTO, CA 94303

CARYN LAI  
ATTORNEY AT LAW  
BINGHAM MCCUTCHEM, LLP  
1900 UNIVERSITY AVENUE  
EAST PALO ALTO, CA 94303

MEGAN KUIZE  
DEWEY & LEBOUF  
1950 UNIVERSITY CIRCLE, SUITE 500  
EAST PALO ALTO, CA 94303

ELLEN PETRILL  
DIRECTOR, PUBLIC/PRIVATE PARTNERSHIPS  
ELECTRIC POWER RESEARCH INSTITUTE  
3420 HILLVIEW AVENUE  
PALO ALTO, CA 94304-1338

ALI IPAKCHI  
VP SMART GRID AND GREEN POWER  
OPEN ACCESS TECHNOLOGY, INC  
1875 SOUTH GRANT, SUITE 910  
SAN MATEO, CA 94402

CHRIS KING  
PRESIDENT  
EMETER CORPORATION  
2215 BRIDGEPOINTE PARKWAY, SUITE 300  
SAN MATEO, CA 94404

SHARON TALBOTT  
EMETER CORPORATION  
2215 BRIDGEPOINTE PARKWAY, SUITE 300  
SAN MATEO, CA 94404

JENNIFER CHAMBERLIN  
DIRECT ENERGY  
2633 WELLINGTON CT  
CLYDE, CA 94520

MICHAEL ROCHMAN  
MANAGING DIRECTOR  
SPURR  
1430 WILLOW PASS ROAD, SUITE 240  
CONCORD, CA 94520

JOHN DUTCHER  
VICE PRESIDENT - REGULATORY AFFAIRS  
MOUNTAIN UTILITIES  
3210 CORTE VALENCIA  
FAIRFIELD, CA 94534-7875

SEAN P. BEATTY  
SR. MGR. EXTERNAL & REGULATORY AFFAIRS  
MIRANT CALIFORNIA, LLC  
696 WEST 10TH ST., PO BOX 192  
PITTSBURG, CA 94565

JOHN GUTIERREZ  
DIRECTOR OF GOVERNMENT AFFAIRS  
COMCAST PHONE OF CALIFORNIA LLC  
12647 ALCOSTA BLVD., SUITE 200  
SAN RAMON, CA 94583

THOMAS W. LEWIS  
116 GALISTEO CT.  
SAN RAMON, CA 94583

DR. ERIC C. WOYCHIK  
VICE PRESIDENT REGULATORY AFFAIRS  
COMVERGE, INC.  
9901 CALODEN LANE  
OAKLAND, CA 94605

VALERIE RICHARDSON  
KEMA, INC.  
492 NINTH STREET  
OAKLAND, CA 94605

NELLIE TONG  
SENIOR ANALYST  
KEMA, INC.  
492 NINTH STREET, SUITE 220  
OAKLAND, CA 94607

DOUG GARRETT  
COX CALIFORNIA TELCOM LLC  
2200 POWELL STREET, SUITE 1035  
EMERYVILLE, CA 94608

BOB STUART  
BRIGHT SOURCE ENERGY, INC.  
1999 HARRISON STREET, SUITE 2150  
OAKLAND, CA 94612

DOCKET COORDINATOR  
5727 KEITH ST.  
OAKLAND, CA 94618

DAVID MARCUS  
ADAMS BROADWELL & JOSEPH  
PO BOX 1287  
BERKELEY, CA 94701

REED V. SCHMIDT  
BARTLE WELLS ASSOCIATES  
1889 ALCATRAZ AVENUE

KINGSTON COLE  
KINGSTON COLE & ASSOCIATES  
1537 FOURTH STREET, SUITE 169

BERKELEY, CA 94703-2714

SAN RAFAEL, CA 94901

PHILLIP MULLER  
SCD ENERGY SOLUTIONS  
436 NOVA ALBION WAY  
SAN RAFAEL, CA 94903

JANET PETERSON  
OUR HOME SPACES  
20 PIMENTEL COURT, B8  
NOVATO, CA 94949

RICH QUATTRINI  
VICE PRESIDENT - WESTERN REGION  
ENERGYCONNECT, INC.  
51 E. CAMPBELL AVENUE, SUITE 145  
CAMPBELL, CA 95008

JOSEPH WEISS  
APPLIED CONTROL SOLUTIONS, LLC  
10029 OAKLEAD PLACE  
CUPERTINO, CA 95014

MICHAEL E. BOYD  
PRESIDENT  
CALIFORNIANS FOR RENEWABLE ENERGY, INC.  
5439 SOQUEL DRIVE  
SOQUEL, CA 95073

BARRY F. MCCARTHY  
ATTORNEY AT LAW  
MCCARTHY & BERLIN, LLP  
100 W. SAN FERNANDO ST., SUITE 501  
SAN JOSE, CA 95113

C. SUSIE BERLIN  
ATTORNEY AT LAW  
MCCARTHY & BERLIN LLP  
100 W. SAN FERNANDO ST., SUITE 501  
SAN JOSE, CA 95113

MICHAEL G. NELSON  
MCCARTHY & BERLIN, LLP  
100 W. SAN FERNANDO STREET, SUITE 501  
SAN JOSE, CA 95113

MICHAEL G. NELSON  
MACCARTHY & BERLIN, LLP  
100 W. SAN FERNANDO STREET, SUITE 501  
SAN JOSE, CA 95113

MARY TUCKER  
CITY OF SAN JOSE  
200 EAST SANTA CLARA ST., 10TH FLOOR  
SAN JOSE, CA 95113-1905

TOM KIMBALL  
MODESTO IRRIGATION DISTRICT  
PO BOX 4069  
MODESTO, CA 95352

JOY A. WARREN  
REGULATORY ADMINISTRATOR  
MODESTO IRRIGATION DISTRICT  
1231 11TH STREET  
MODESTO, CA 95354

DAVID KATES  
DAVID MARK & COMPANY  
3510 UNOCAL PLACE, SUITE 200  
SANTA ROSA, CA 95403

BARBARA R. BARKOVICH  
BARKOVICH & YAP, INC.  
44810 ROSEWOOD TERRACE  
MENDOCINO, CA 95460

GAYATRI SCHILBERG  
JBS ENERGY SERVICES  
311 D STREET, SUITE A  
W. SACRAMENTO, CA 95605

DOUGLAS M. GRANDY, P.E.  
DG TECHNOLOGIES  
1220 MACAULAY CIRCLE  
CARMICHAEL, CA 95608

DAVID MORSE  
1411 W, COVELL BLVD., SUITE 106-292  
DAVIS, CA 95616-5934

MARTIN HOMEC  
ATTORNEY AT LAW  
CALIFORNIANS FOR RENEWABLE ENERGY, INC.  
PO BOX 4471  
DAVIS, CA 95617

E-RECIPIENT  
CALIFORNIA ISO  
151 BLUE RAVINE ROAD  
FOLSOM, CA 95630

JOHN GOODIN  
CALIFORNIA ISO  
151 BLUE RAVINE RD.  
FOLSOM, CA 95630

WAYNE AMER  
PRESIDENT  
MOUNTAIN UTILITIES  
PO BOX 205  
KIRKWOOD, CA 95646

BRIAN THEAKER  
DYNEGY, INC.  
3161 KEN DEREK LANE  
PLACERVILLE, CA 95667

TOM POMALES  
CALIFORNIA AIR RESOURCES BOARD

BRIAN GORBAN  
SENIOR FINANCIAL ANALYST

1001 I STREET  
SACRAMENTO, CA 95812

CAEATFA  
915 CAPITOL MALL, ROOM 468  
SACRAMENTO, CA 95814

DANIELLE OSBORN-MILLS  
REGULATORY AFFAIRS COORDINATOR  
CEERT  
1100 11TH STREET, SUITE 311  
SACRAMENTO, CA 95814

DAVID L. MODISETTE  
EXECUTIVE DIRECTOR  
CALIFORNIA ELECTRIC TRANSP. COALITION  
1015 K STREET, SUITE 200  
SACRAMENTO, CA 95814

JAN MCFARLAND  
CAEATFA  
915 CAPITOL MALL, RM. 468  
SACRAMENTO, CA 95814

JOHN SHEARS  
CEERT  
1100 11TH STREET, SUITE 311  
SACRAMENTO, CA 95814  
FOR: THE CENTER FOR ENERGY EFFICIENCY  
AND RENEWABLE TECHNOLOGIES

KELLIE SMITH  
SENATE ENERGY/UTILITIES & COMMUNICATION  
STATE CAPITOL, ROOM 2195  
SACRAMENTO, CA 95814

LINDA KELLY  
ELECTRICITY ANALYSIS OFFICE  
CALIFORNIA ENERGY COMMISSION  
1516 9TH STREET, MS 20  
SACRAMENTO, CA 95814

MICHELLE GARCIA  
CALIFORNIA AIR RESOURCES BOARD  
1001 I STREET  
SACRAMENTO, CA 95814

STEVEN A. LIPMAN  
STEVEN LIPMAN CONSULTING  
500 N. STREET 1108  
SACRAMENTO, CA 95814

LYNN HAUG  
ELLISON, SCHNEIDER & HARRIS LLP  
2600 CAPITAL AVENUE, SUITE 400  
SACRAMENTO, CA 95816

ANDREW B. BROWN  
ATTORNEY AT LAW  
ELLISON SCHNEIDER & HARRIS, LLP (1359)  
2600 CAPITAL AVENUE, SUITE 400  
SACRAMENTO, CA 95816-5905  
FOR: CONSTELLATION COMMODITY GROUP &  
CONSTELLATION NEW ENERGY INC./ SIERRA  
PACIFIC

BRIAN S. BIERING  
ELLISON SCHNEIDER & HARRIS, LLP  
2600 CAPITAL AVENUE, SUITE 400  
SACRAMENTO, CA 95816-5905

GREGGORY L. WHEATLAND  
ATTORNEY AT LAW  
ELLISON SCHNEIDER & HARRIS L.L.P.  
2600 CAPITAL AVENUE, SUITE 400  
SACRAMENTO, CA 95816-5905  
FOR: SIERRA PACIFIC POWER CORP.

JEDEDIAH J. GIBSON  
ELLISON SCHNEIDER & HARRIS LLP  
2600 CAPITAL AVENUE, SUITE 400  
SACRAMENTO, CA 95816-5905  
FOR: SIERRA PACIFIC POWER CORP.

JIM PARKS  
SACRAMENTO MUNICIPAL UTILITY DIST.  
6301 S STREET, A204  
SACRAMENTO, CA 95817-1899

LOURDES JIMENEZ-PRICE  
OFFICE OF THE GENERAL COUNSEL  
SACRAMENTO MUNICIPAL UTILITY DISTRICT  
6201 S STREET, MS B406  
SACRAMENTO, CA 95817-1899

TIMOTHY N. TUTT  
SACRAMENTO MUNICIPAL UTILITIES DISTRICT  
6201 S. STREET, M.S. B404  
SACRAMENTO, CA 95817-1899

VICKY ZAVATTERO  
SACRAMENTO MUNICIPAL UTILITY DISTRICT  
6301 S STREET, MS A204  
SACRAMENTO, CA 95817-1899

VIKKI WOOD  
SACRAMENTO MUNICIPAL UTILITY DISTRICT  
6301 S STREET, MS A204  
SACRAMENTO, CA 95817-1899

DAN MOOY  
VENTYX  
2379 OATEWAY OAKS DRIVE  
SACRAMENTO, CA 95833

KAREN NORENE MILLS  
ATTORNEY AT LAW  
CALIFORNIA FARM BUREAU FEDERATION  
2300 RIVER PLAZA DRIVE  
SACRAMENTO, CA 95833

ROGER LEVY  
LEVY ASSOCIATES  
2805 HUNTINGTON ROAD  
SACRAMENTO, CA 95864

JESSICA NELSON  
ENERGY SERVICES MANAGER  
PLUMAS SIERRA RURAL ELECTRIC COOP.  
73233 STATE RT 70  
PORTOLA, CA 96122-7069

MICHAEL JUNG  
POLICY DIRECTOR  
SILVER SPRING NETWORKS  
555 BROADWAY STREET  
REDWOOD CITY, CA 97063

MIKE CADE  
ALCANTAR & KAHL, LLP  
1300 SE 5TH AVE., 1750  
PORTLAND, OR 97201

BENJAMIN SCHUMAN  
PACIFIC CREST SECURITIES  
111 SW 5TH AVE, 42ND FLR  
PORTLAND, OR 97204

SHARON K. NOELL  
PORTLAND GENERAL ELECTRIC COMPANY  
121 SW SALMONT ST.  
PORTLAND, OR 97204

MARK TUCKER  
PACIFICORP  
825 NE MULTNOMAH, SUITE 2000  
PORTLAND, OR 97232

## State Service

---

ALOKE GUPTA  
CALIF PUBLIC UTILITIES COMMISSION  
ENERGY DIVISION  
AREA 4-A  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214

ANDREW CAMPBELL  
CALIF PUBLIC UTILITIES COMMISSION  
EXECUTIVE DIVISION  
ROOM 5203  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214

ANTHONY MAZY  
CALIF PUBLIC UTILITIES COMMISSION  
ELECTRICITY PLANNING & POLICY BRANCH  
ROOM 4209  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214

CHRISTOPHER R VILLARREAL  
CALIF PUBLIC UTILITIES COMMISSION  
POLICY & PLANNING DIVISION  
ROOM 5119  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214

DAMON A. FRANZ  
CALIF PUBLIC UTILITIES COMMISSION  
ENERGY DIVISION  
AREA 4-A  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214

DAVID PECK  
CALIF PUBLIC UTILITIES COMMISSION  
ELECTRICITY PLANNING & POLICY BRANCH  
ROOM 4103  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214

EDWARD HOWARD  
CALIF PUBLIC UTILITIES COMMISSION  
POLICY & PLANNING DIVISION  
ROOM 5119  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214

FARZAD GHAZZAGH  
CALIF PUBLIC UTILITIES COMMISSION  
ELECTRICITY PLANNING & POLICY BRANCH  
ROOM 4102  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214

GRETCHEN T. DUMAS  
CALIF PUBLIC UTILITIES COMMISSION  
LEGAL DIVISION  
ROOM 4300  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214

JAKE WISE  
CALIF PUBLIC UTILITIES COMMISSION  
ENERGY DIVISION  
AREA 4-A  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214

JOY MORGENSTERN  
CALIF PUBLIC UTILITIES COMMISSION  
ENERGY DIVISION  
AREA 4-A  
505 VAN NESS AVENUE

JOYCE DE ROSSETT  
CALIF PUBLIC UTILITIES COMMISSION  
UTILITY AUDIT, FINANCE & COMPLIANCE BRAN  
AREA 3-C  
505 VAN NESS AVENUE

SAN FRANCISCO, CA 94102-3214

JULIE HALLIGAN  
CALIF PUBLIC UTILITIES COMMISSION  
CONSUMER PROTECTION AND SAFETY DIVISION  
ROOM 2203  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214

KEVIN R. DUDNEY  
CALIF PUBLIC UTILITIES COMMISSION  
ENERGY DIVISION  
AREA 4-A  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214

MARZIA ZAFAR  
CALIF PUBLIC UTILITIES COMMISSION  
PUBLIC ADVISOR OFFICE  
ROOM 2-B  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214

MERIDETH STERKEL  
CALIF PUBLIC UTILITIES COMMISSION  
ENERGY DIVISION  
AREA 4-A  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214

REBECCA TSAI-WEI LEE  
CALIF PUBLIC UTILITIES COMMISSION  
ENERGY PRICING AND CUSTOMER PROGRAMS BRA  
ROOM 4209  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214  
FOR: DRA

SARAH R. THOMAS  
CALIF PUBLIC UTILITIES COMMISSION  
LEGAL DIVISION  
ROOM 5033  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214

STEVE ROSCOW  
CALIF PUBLIC UTILITIES COMMISSION  
ENERGY DIVISION  
AREA 4-A  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214

VALERIE BECK  
CALIF PUBLIC UTILITIES COMMISSION  
ELECTRIC GENERATION PERFORMANCE BRANCH  
AREA 2-D  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214

ALLEN BENITEZ  
CALIF PUBLIC UTILITIES COMMISSION  
CONSUMER PROTECTION AND SAFETY DIVISION  
515 L STREET, SUITE 1119  
SACRAMENTO, CA 95814

SAN FRANCISCO, CA 94102-3214

KARIN M. HIETA  
CALIF PUBLIC UTILITIES COMMISSION  
ENERGY PRICING AND CUSTOMER PROGRAMS BRA  
ROOM 4102  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214  
FOR: DRA

LAURENCE CHASET  
CALIF PUBLIC UTILITIES COMMISSION  
LEGAL DIVISION  
ROOM 5131  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214

MATTHEW DEAL  
CALIF PUBLIC UTILITIES COMMISSION  
EXECUTIVE DIVISION  
ROOM 5215  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214

MICHAEL COLVIN  
CALIF PUBLIC UTILITIES COMMISSION  
POLICY & PLANNING DIVISION  
ROOM 5119  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214

RISA HERNANDEZ  
CALIF PUBLIC UTILITIES COMMISSION  
ENERGY PRICING AND CUSTOMER PROGRAMS BRA  
ROOM 4209  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214

SCARLETT LIANG-UEJIO  
CALIF PUBLIC UTILITIES COMMISSION  
ENERGY DIVISION  
AREA 4-A  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214

TIMOTHY J. SULLIVAN  
CALIF PUBLIC UTILITIES COMMISSION  
DIVISION OF ADMINISTRATIVE LAW JUDGES  
ROOM 2106  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214

BRYAN LEE  
CALIFORNIA ENERGY COMMISSION  
1516 NINTH STREET - MS 43  
SACRAMENTO, CA 95678

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