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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Implement the Commission's Procurement Incentive Framework and to Examine the Integration of Greenhouse Gas Emissions Standards into Procurement Policies.	)	Rulemaking 06-04-009 (Filed April 13, 2006)

ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION
OF THE STATE OF CALIFORNIA

In the Matter of: Order Instituting Informational Proceeding on a Greenhouse Gas Emissions Cap	)	Docket 07-OIIP-01

COMMENTS OF THE CALIFORNIA MUNICIPAL UTILITIES ASSOCIATION ON THE INTERIM OPINION ON GHG REGULATORY STRATEGIES

February 28, 2008

Bruce McLaughlin
Justin Wynne
Braun & Blaising, P.C.
915 L Street, Suite 1270
Sacramento, CA 95814
Tel: (916) 326-5812
Fax: (916) 441-4468
Email: mclaughlin@braunlegal.com

Attorneys for the
California Municipal Utilities Association

COMMENTS OF THE
CALIFORNIA MUNICIPAL UTILITIES ASSOCIATION
ON THE INTERIM OPINION ON GHG REGULATORY STRATEGIES

In accordance with the Rules of Practice and Procedure of the Public Utilities Commission ("CPUC") of the State of California, the California Municipal Utilities Association ("CMUA") hereby files these Comments on the *Interim Opinion on Greenhouse Gas Regulatory Strategies* ("Interim Opinion") mailed on February 8, 2008, in the R.06-04-009. CMUA also files these Comments with the California Energy Commission ("CEC") in Docket 07-OIIP-01. In these Comments, the CPUC and CEC will collectively be called the "Joint Agencies" and the California Air Resources Board will be called the "CARB."

I. CMUA'S SPECIFIC COMMENTS ON THE INTERIM OPINION

CMUA unequivocally states here that it supports the goals and the effective implementation of Assembly Bill ("AB") 32. CMUA, however, disagrees with several determinations made by the Joint Agencies in the Interim Opinion. The following Comments are offered as principles that would be essential components for a regulatory regime to, in fact, achieve the greenhouse gas ("GHG") emission reductions necessary to reach the AB 32 goals. Each of these principles listed below fulfills the Joint Agencies' criteria of environmental integrity, compatibility and expandability to a regional / national market-based system, accuracy, and compatibility with the CAISO MRTU.[1] CMUA's principles also meet the mandatory statutory criterion of cost-effectiveness.[2]

A. AB 32's implementation must not result in any cost shifts.

The AB 32 goal is a statewide GHG emission reduction target that, as stated by the Legislature, responds to a serious threat to *all* Californians.[3] AB 32 must not result in cost shifts: (1) between the different retail providers; (2) between their respective ratepayers; or (3) between the

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[1] Interim Opinion at 53.

[2] Health & Safety Code §§ 38501(h), 38560, 38560.5(c), 38561(a), 38561(b), 38561(h), 38562(a), 38562(b)(5), 38564.

[3] *Id*. at § 38501. The Legislature states that "[g]lobal warming poses a serious threat to the economic well-being, public health, natural resources, and the environment of California" and "the potential adverse impacts . . . include the exacerbation of air quality problems, a reduction in the quality and supply of water to the state from the Sierra snowpack, a rise in sea levels resulting in the displacement of thousands of coastal businesses and residences, damage to marine ecosystems and the natural environment, and an increase in the incidences of infectious diseases, asthma, and other human health-related problems." *Id.* at § 38501(a).

different sectors of the economy that have quantified GHG emissions.[4]

B. Funds spent by retail providers and consumers in connection with achieving the AB 32 goals should go directly to pay for GHG emission reductions.

CMUA believes that the CARB's overarching policy should give maximum discretion to *all* retail providers to decide on the best tools for their specific portfolios. The CARB's regulatory program should rely primarily upon robust and enforceable performance goals whereby each retail provider is empowered to utilize every available lawful option for maximizing its cost-effective implementation of reduction measures. Similar to California's disastrous foray into electricity market restructuring, CMUA believes that a regulatory program design that requires retail providers to participate in a California-only cap and trade program with an auction will shift moneys to various participants such as hedge funds and market traders. Such a program would result in economic rents to some entities, but not in real GHG emission reductions.

C. California is not a large enough market to support a viable cap and trade program for achieving GHG emission reductions.

CMUA disagrees with the Interim Opinion in its conclusion that a California-only cap and trade program will necessarily reduce the costs of compliance.[5] A mandatory cap and trade program must be deferred unless and until a market-based system is implemented regionally and preferably nationally.[6] As noted by the Interim Opinion, this position supporting a deferral is held by parties representing a majority of the load and customers served in California.[7] Furthermore, CMUA believes that the eventual market-based program should encompass all GHG-emitting sectors of the economy.

D. The regulatory program should include a specific emissions cap for each retail provider.

In the short term, until a regional or national cap and trade program is developed, CMUA supports the implementation of a specific emissions cap for each retail provider. These caps will

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[4] *Id.* at § 38562(b)(1) (requiring the regulations to be designed in a manner that is equitable, minimizes costs, and maximizes the total benefits to *California*). The Air Resources Board approved the total statewide greenhouse gas 2020 limit on December 6, 2007. *See California 1990 Greenhouse Gas Emissions Level and 2020 Emissions Limit*, November 16, 2007. http://www.arb.ca.gov/cc/inventory/pubs/reports/staff_report_1990_level.pdf.

[5] Interim Opinion at 32. Interestingly, the Interim Opinion states that a cap and trade program will increase wholesale power costs. *Id.* at 61.

[6] AB 32 requires the CARB to "consult with other states, and the federal government, and other nations to identify the most effective strategies and methods to reduce greenhouse gases, manage greenhouse gas control programs, and to facilitate the development of integrated and cost-effective regional, national, and international greenhouse gas reduction programs." Health & Safety Code § 38564.

[7] Interim Opinion at 22, 31 (the parties listed include CMUA, PG&E, SDG&E, CAISO, TURN, and DRA).

provide milestones for retail providers on the amount of GHG emissions reductions each must achieve to meet the AB 32 requirements without resulting in cost shifts. Each retail provider will be authorized to make prudent judgments for achieving its compliance obligation through the most cost-effective means. As guided by the particulars of its specific compliance obligation, a retail provider's judgments may include making substantial investments for energy efficiency and/or additional renewable resources.[8]

CMUA strongly agrees with the Joint Agencies that the regulatory program should create a "level playing field."[9] Yet, CMUA does not agree with the Joint Agencies' position that a "level playing field" is measured by having all retail providers using the same percentage of certain tools or even using the same tools. The regulatory program will ensure a "level playing field" for all retail providers by virtue of setting the appropriate individual caps. Then, in compliance with AB 32's core principles, all retail providers will exercise discretion to determine the most cost-effective means to meet their respective emissions cap.

II. CONCLUSION

CMUA requests the Joint Agencies to consider these comments and make the appropriate amendments to the Interim Opinion.

Dated: February 28, 2008

Respectfully submitted,

Bruce McLaughlin
Braun & Blaising, P.C.
915 L Street, Suite 1270
Sacramento, CA 95814
(916) 326-5812
(916) 441-4468 (facsimile)
mclaughlin@braunlegal.com

Attorneys for the California Municipal Utilities Assn.

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[8] The AB 32 goal is an overriding performance target and the regulatory program should not restrict the means of compliance, so far as the "greenhouse gas emission reductions achieved are real, permanent, quantifiable, verifiable, and enforceable by the state board." Health & Safety Code § 38562(d)(1). CMUA also believes that small utilities should be allowed to pool their resources and work collectively to meet their emission reduction goals.

[9] Interim Opinion at 16, 29.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the attached:

COMMENTS OF THE
CALIFORNIA MUNICIPAL UTILITIES ASSOCIATION
ON THE INTERIM OPINION ON GHG REGULATORY STRATEGIES

on all known parties to R.06-04-009 by transmitting an e-mail message with the document attached to each party named in the official service list. I served a copy of the document on those without e-mail addresses by mailing the document by first-class mail addressed as follows:

See attached service list

Executed this 28th day of February 2008, at Sacramento, California.

Vicki Ferguson

CALIFORNIA PUBLIC UTILITIES COMMISSION
Service Lists

Proceeding: R0604009 - CPUC - PG&E, SDG&E,
Filer: CPUC - PG&E, SDG&E, SOCALGAS, EDISON
List Name: LIST
Last changed: February 22, 2008

Parties

CINDY ADAMS
COVANTA ENERGY CORPORATION
40 LANE ROAD
FAIRFIELD, NJ 07004
FOR: COVANTA ENERGY CORPORATION

STEVEN S. SCHLEIMER
DIRECTOR,COMPLIANCE & REGULATORY AFFAIRS
BARCLAYS BANK, PLC
200 PARK AVENUE, FIFTH FLOOR
NEW YORK, NY 10166
FOR: BARCLAYS CAPITAL

STEVEN HUHMAN
MORGAN STANLEY CAPITAL GROUP INC.
2000 WESTCHESTER AVENUE
PURCHASE, NY 10577

RICK C. NOGER
PRAXAIR PLAINFIELD, INC.
2711 CENTERVILLE ROAD, SUITE 400
WILMINGTON, DE 19808
FOR: PRAXAIR PLAINFIELD, INC.

KEITH R. MCCREA
ATTORNEY AT LAW
SUTHERLAND, ASBILL & BRENNAN, LLP
1275 PENNSYLVANIA AVE., N.W.
WASHINGTON, DC 20004-2415
FOR: CALIFORNIA MANUFACTURERS &
TECHNOLOGY ASSN.

ADAM J. KATZ
MCDERMOTT WILL & EMERY LLP
600 13TH STREET, NW.
WASHINGTON, DC 20005
FOR: MORGAN STANLEY CAPITAL GROUP, INC.

CATHERINE M. KRUPKA
MCDERMOTT WILL AND EMERY LLP
600 THIRTEEN STREEET, NW
WASHINGTON, DC 20005
FOR: MORGAN STANLEY CAPITAL GROUP, INC.

KYLE D. BOUDREAUX
FPL GROUP
700 UNIVERSE BLVD., JES/JB
JUNO BEACH, FL 33408
FOR: FPL ENERGY PROJECT MANAGEMENT

CATHY S. WOOLLUMS
MIDAMERICAN ENERGY HOLDINGS COMPANY
106 EAST SECOND STREET
DAVENPORT, IA 52801
FOR: KERN RIVER GAS TRANSMISSION

CYNTHIA A. FONNER
SENIOR COUNSEL
CONSTELLATION ENERGY GROUP INC
550 W. WASHINGTON ST, STE 300
CHICAGO, IL 60661
FOR: CONSTELLATION ENERGY GROUP INC

KEVIN BOUDREAUX
CALPINE POWER AMERICA-CA, LLC
717 TEXAS AVENUE, SUITE 1000
HOUSTON, TX 77002
FOR: CALPINE POWER AMERICA

THOMAS DILL
PRESIDENT
LODI GAS STORAGE, L.L.C.
1021 MAIN ST STE 1500
HOUSTON, TX 77002-6509

E.J. WRIGHT
OCCIDENTAL POWER SERVICES, INC.
5 GREENWAY PLAZA, SUITE 110
HOUSTON, TX 77046

TIMOTHY R. ODIL
MCKENNA LONG & ALDRIDGE LLP
1875 LAWRENCE STREET, SUITE 200
DENVER, CO 80202
FOR: CENTER FOR ENERGY AND ECONOMIC
DEVELOPMENT

STEPHEN G. KOERNER, ESQ.
EL PASO CORPORATION
WESTERN PIPELINES
2 NORTH NEVADA AVENUE
COLORADO SPRINGS, CO 80903
FOR: EL PASO NATURAL GAS COMPANY/MOJAVE
PIPELINE COMPANY

JENINE SCHENK
APS ENERGY SERVICES
400 E. VAN BUREN STREET, SUITE 750
PHOENIX, AZ 85004
FOR: APS ENERGY SERVICES COMPANY

JOHN B. WELDON, JR.
SALMON, LEWIS & WELDON, P.L.C.
2850 EAST CAMELBACK ROAD, SUITE 200
PHOENIX, AZ 85016
FOR: SALT RIVER PROJECT AGRICULTURAL
IMPROVEMENT AND POWER DISTRICT

KELLY BARR
MANAGER, REGULATORY AFFAIRS & CONTRACTS
SALT RIVER PROJECT
PO BOX 52025, PAB 221
PHOENIX, AZ 85072-2025
FOR: SALT RIVER PROJECT AGRICULTURAL
IMPROVEMENT AND POWER DISTRICT

ROBERT R. TAYLOR
AGRICULTURAL IMPROVEMENT AND POWER DIST.
1600 NORTH PRIEST DRIVE, PAB221
TEMPE, AZ 85281

STEVEN S. MICHEL
WESTERN RESOURCE ADVOCATES
2025 SENDA DE ANDRES
SANTA FE, NM 87501
FOR: WESTERN RESOURCE ADVOCATES

ROGER C. MONTGOMERY
VICE PRESIDENT, PRICING
SOUTHWEST GAS CORPORATION
PO BOX 98510
LAS VEGAS, NV 89193-8510

LORRAINE PASKETT
DIRECTOR, LEGISLATIVE AND REG. AFFAIRS
LA DEPT. OF WATER & POWER
PO BOX 51111
111 N. HOWARD ST., ROOM 1536
LOS ANGELES, CA 90012
FOR: LOS ANGELES DEPT OF WATER AND POWER

RONALD F. DEATON
LOS ANGELES DEPARTMENT OF WATER & POWER
111 NORTH HOPE STREET, ROOM 1550
LOS ANGELES, CA 90012
FOR: LOS ANGELES DEPARTMENT OF WATER AND POWER

SID NEWSOM
TARIFF MANAGER
SOUTHERN CALIFORNIA GAS COMPANY
GT 14 D6
555 WEST 5TH STREET
LOS ANGELES, CA 90051

DAVID L. HUARD
ATTORNEY AT LAW
MANATT, PHELPS & PHILLIPS, LLP
11355 WEST OLYMPIC BOULEVARD
LOS ANGELES, CA 90064
FOR: LOS ANGELES COUNTY/TRANS CANADA PIPELINES

CURTIS L. KEBLER
J. ARON & COMPANY
SUITE 2600
2121 AVENUE OF THE STARS
LOS ANGELES, CA 90067
FOR: J. ARON

DENNIS M.P. EHLING
ATTORNEY AT LAW
KIRKPATRICK & LOCKHART NICHOLSON GRAHAM
10100 SANTA MONICA BLVD., 7TH FLOOR
LOS ANGELES, CA 90067
FOR: CITY OF VERNON

GREGORY KOISER
CONSTELLATION NEW ENERGY, INC.
350 SOUTH GRAND AVENUE, SUITE 3800
LOS ANGELES, CA 90071
FOR: CONSTELLATION NEW ENERGY

NORMAN A. PEDERSEN
ATTORNEY AT LAW
HANNA AND MORTON, LLP
444 SOUTH FLOWER STREET, NO. 1500
LOS ANGELES, CA 90071
FOR: SOUTHERN CALIFORNIA GENERATION COALITION/SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

MICHAEL MAZUR
CHIEF TECHNICAL OFFICER
3 PHASES RENEWABLES, LLC
8333 ZITOLA TER
PLAYA DEL REY, CA 90293-7835
FOR: 3 PHASES ENERGY SERVICES

VITALY LEE
AES ALAMITOS, LLC
690 N. STUDEBAKER ROAD
LONG BEACH, CA 90803
FOR: AES SOUTHLAND LLC

TIFFANY RAU
POLICY AND COMMUNICATIONS MANAGER
CARSON HYDROGEN POWER PROJECT LLC
ONE WORLD TRADE CENTER, SUITE 1600
LONG BEACH, CA 90831-1600
FOR: CARSON HYDROGEN POWER PROJECT LLC

GREGORY KLATT
ATTORNEY AT LAW
DOUGLASS & LIDDELL
411 E. HUNTINGTON DRIVE, STE. 107-356
ARCADIA, CA 91006
FOR: ALLIANCE FOR RETAIL ENERGY MARKETS

RICHARD HELGESON
SOUTHERN CALIFORNIA PUBLIC POWER AUTHORI
225 S. LAKE AVE., SUITE 1250
PASADENA, CA 91101
FOR: SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

DANIEL W. DOUGLASS
ATTORNEY AT LAW
DOUGLASS & LIDDELL
21700 OXNARD STREET, SUITE 1030
WOODLAND HILLS, CA 91367
FOR: WESTERN POWER TRADING FORUM

PAUL DELANEY
AMERICAN UTILITY NETWORK (A.U.N.)
10705 DEER CANYON DRIVE
ALTA LOMA, CA 91737
FOR: AMERICAN UTILITY NETWORK

BARRY R. WALLERSTEIN
EXECUTIVE OFFICER
SOUTH COAST AQMD
21865 COPLEY DRIVE
DIAMOND BAR, CA 91765-4182
FOR: SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

AKBAR JAZAYEIRI
SOUTHERN CALIFORNIA EDISON COMPANY
PO BOX 800
2241WALNUT GROVE AVE. ROOM 390
ROSEMEAD, CA 91770
FOR: SOUTHERN CALIFORNIA EDISON COMPANY

CATHY A. KARLSTAD
SOUTHERN CALIFORNIA EDISON COMPANY
2244 WALNUT GROVE AVE.
ROSEMEAD, CA 91770
FOR: SOUTHERN CALIFORNIA EDISON COMPANY

LAURA I. GENAO
ATTORNEY
SOUTHERN CALIFORNIA EDISON
PO BOX 800
2244 WALNUT GROVE AVENUE
ROSEMEAD, CA 91770
FOR: SOUTHERN CALIFORNIA EDISON

RONALD MOORE
GOLDEN STATE WATER/BEAR VALLEY ELECTRIC
630 EAST FOOTHILL BOULEVARD
SAN DIMAS, CA 91773
FOR: GOLDEN STATE WATER/BEAR VALLEY ELECTRIC

DON WOOD
PACIFIC ENERGY POLICY CENTER
4539 LEE AVENUE
LA MESA, CA 91941

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

ALVIN PAK
SEMPRA GLOBAL ENTERPRISES
101 ASH STREET
SAN DIEGO, CA 92101
FOR: SEMPRA GLOBAL ENTERPRISES

DAN HECHT
SEMPRA ENERGY
101 ASH STREET
SAN DIEGO, CA 92101

DANIEL A. KING
SEMPRA ENERGY
101 ASH STREET, HQ 12
SAN DIEGO, CA 92101

SYMONE VONGDEUANE
SEMPRA ENERGY SOLUTIONS
101 ASH STREET, HQ09
SAN DIEGO, CA 92101-3017
FOR: SEMPRA ENERGY SOLUTIONS

THEODORE ROBERTS
ATTORNEY AT LAW
SEMPRA GLOBAL
101 ASH STREET, HQ 13D
SAN DIEGO, CA 92101-3017
FOR: SEMPRA GLOBAL/SEMPRA ENERGY SOLUTIONS

DONALD C. LIDDELL
DOUGLASS & LIDDELL
2928 2ND AVENUE
SAN DIEGO, CA 92103
FOR: CALIFORNIA NATURAL GAS VEHICLE ASSOCIATION/ CLEAN ENERGY FUELS CORPORATION

MARCIE MILNER
DIRECTOR - REGULATORY AFFAIRS
SHELL TRADING GAS & POWER COMPANY
4445 EASTGATE MALL, SUITE 100
SAN DIEGO, CA 92121

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

THOMAS DARTON
PILOT POWER GROUP, INC.
SUITE 520
8910 UNIVERSITY CENTER LANE
SAN DIEGO, CA 92122
FOR: PILOT POWER GROUP

STEVE RAHON
DIRECTOR, TARIFF & REGULATORY ACCOUNTS
SAN DIEGO GAS & ELECTRIC COMPANY
8330 CENTURY PARK COURT, CP32C
SAN DIEGO, CA 92123-1548
FOR: SAN DIEGO GAS & ELECTRIC COMPANY

GLORIA BRITTON
ANZA ELECTRIC COOPERATIVE, INC.
58470 HWY 371
PO BOX 391909
ANZA, CA 92539
FOR: ANZA ELECTRIC COOPERATIVE INC.

LYNELLE LUND
COMMERCE ENERGY, INC.
600 ANTON BLVD., SUITE 2000
COSTA MESA, CA 92626
FOR: COMMERCE ENERGY, INC.

TAMLYN M. HUNT
ENERGY PROGRAM DIRECTOR
COMMUNITY ENVIRONMENTAL COUNCIL
26 W. ANAPAMU ST., 2ND FLOOR
SANTA BARBARA, CA 93101
FOR: COMMUNITY ENVIRONMENTAL COUNCIL

JEANNE M. SOLE
DEPUTY CITY ATTORNEY
CITY AND COUNTY OF SAN FRANCISCO
1 DR. CARLTON B. GOODLETT PLACE, RM. 234
SAN FRANCISCO, CA 94102
FOR: CITY AND COUNTY OF SAN FRANCISCO

JOHN P. HUGHES
MANAGER, REGULATORY AFFAIRS
SOUTHERN CALIFORNIA EDISON COMPANY
601 VAN NESS AVENUE, STE. 2040
SAN FRANCISCO, CA 94102

LAD LORENZ
V.P. REGULATORY AFFAIRS
SEMPRA UTILITIES
601 VAN NESS AVENUE, SUITE 2060
SAN FRANCISCO, CA 94102

MARCEL HAWIGER
THE UTILITY REFORM NETWORK
711 VAN NESS AVENUE, SUITE 350
SAN FRANCISCO, CA 94102

NINA SUETAKE
ATTORNEY AT LAW
THE UTILITY REFORM NETWORK
711 VAN NESS AVE., STE. 350
SAN FRANCISCO, CA 94102

DIANA L. LEE
CALIF PUBLIC UTILITIES COMMISSION
LEGAL DIVISION
ROOM 4300
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214
FOR: DRA

F. JACKSON STODDARD
CALIF PUBLIC UTILITIES COMMISSION
EXECUTIVE DIVISION
ROOM 5125
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

AUDREY CHANG
STAFF SCIENTIST
NATURAL RESOURCES DEFENSE COUNCIL
111 SUTTER STREET, 20TH FLOOR
SAN FRANCISCO, CA 94104
FOR: NATURAL RESOURCES DEFENSE COUNCIL

DONALD BROOKHYSER
ATTORNEY AT LAW
ALCANTAR & KAHL
120 MONTGOMERY STREET
SAN FRANCISCO, CA 94104
FOR: COGENERATION ASSOCIATION OF CALIFORNIA/ENERGY PRODUCERS AND USERS COALITION

EVELYN KAHL
ATTORNEY AT LAW
ALCANTAR & KAHL, LLP
120 MONTGOMERY STREET, SUITE 2200
SAN FRANCISCO, CA 94104
FOR: ENERGY PRODUCERS & USERS COALITION

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

MICHAEL P. ALCANTAR
ATTORNEY AT LAW
ALCANTAR & KAHL, LLP
120 MONTGOMERY STREET, SUITE 2200
SAN FRANCISCO, CA 94104
FOR: COGENERATION ASSOCIATION OF CALIFORNIA/ENERGY PRODUCERS AND USERS COALITION

SEEMA SRINIVASAN
ATTORNEY AT LAW
ALCANTAR & KAHL, LLP
120 MONTGOMERY STREET, SUITE 2200
SAN FRANCISCO, CA 94104
FOR: ENERGY PRODUCERS & USERS COALITION

WILLIAM H. CHEN
DIRECTOR, ENERGY POLICY WEST REGION
CONSTELLATION NEW ENERGY, INC.
SPEAR TOWER, 36TH FLOOR
ONE MARKET STREET
SAN FRANCISCO, CA 94105
FOR: UNION OF CONCERNED SCIENTISTS

EDWARD G POOLE
ANDERSON DONOVAN & POOLE
601 CALIFORNIA STREET SUITE 1300
SAN FRANCISCO, CA 94108
FOR: SAN FRANCISCO COMMUNITY POWER

ANN G. GRIMALDI
MCKENNA LONG & ALDRIDGE LLP
101 CALIFORNIA STREET, 41ST FLOOR
SAN FRANCISCO, CA 94111
FOR: CENTER FOR ENERGY AND ECONOMIC DEVELOPMENT

BRIAN T. CRAGG
ATTORNEY AT LAW
GOODIN, MACBRIDE, SQUERI, RITCHIE & DAY
505 SANSOME STREET, SUITE 900
SAN FRANCISCO, CA 94111
FOR: INDEPENDENT ENERGY PRODUCERS ASSOCIATION

JAMES D. SQUERI
ATTORNEY AT LAW
GOODIN MACBRIDE SQUERI RITCHIE & DAY LLP
505 SANSOME STREET, STE 900
SAN FRANCISCO, CA 94111
FOR: POWEREX CORP.

JEANNE B. ARMSTRONG
ATTORNEY AT LAW
GOODIN MACBRIDE SQUERI DAY & LAMPREY
505 SANSOME STREET, SUITE 900
SAN FRANCISCO, CA 94111
FOR: WILD GOOSE STORAGE LLC

KAREN BOWEN
ATTORNEY AT LAW
WINSTON & STRAWN LLP
101 CALIFORNIA STREET
SAN FRANCISCO, CA 94111
FOR: MIRANT CALIFORNIA, LLCMIRANT DELTA,LLC, AND MIRANT POTRERO, LLC

LISA A. COTTLE
ATTORNEY AT LAW
WINSTON & STRAWN LLP
101 CALIFORNIA STREET, 39TH FLOOR
SAN FRANCISCO, CA 94111
FOR: MIRANT CALIFORNIA, LLC,MIRANT DELTA, LLC, AND MIRANT POTRERO, LLC

MICHAEL B. DAY
ATTORNEY AT LAW
GOODIN MACBRIDE SQUERI DAY & LAMPREY LLP
505 SANSOME STREET, SUITE 900
SAN FRANCISCO, CA 94111
FOR: SOLAR ALLIANCE

SEAN P. BEATTY
ATTORNEY AT LAW
COOPER, WHITE & COOPER, LLP
201 CALIFORNIA ST., 17TH FLOOR
SAN FRANCISCO, CA 94111

VIDHYA PRABHAKARAN
GOODIN,MACBRIDE,SQUERI,DAY,LAMPREY
505 SANSOME STREET, SUITE 900
SAN FRANCISCO, CA 94111
FOR: INDEPENDENT ENERGY PRODUCERS ASSOCIATION

JOSEPH M. KARP
ATTORNEY AT LAW
WINSTON & STRAWN LLP
101 CALIFORNIA STREET
SAN FRANCISCO, CA 94111-5802
FOR: CALIFORNIA COGENERATION COUNCIL

EDWARD W. O'NEILL
ATTORNEY AT LAW
DAVIS WRIGHT TREMAINE LLP
505 MONTGOMERY STREET, SUITE 800
SAN FRANCISCO, CA 94111-6533
FOR: CALIFORNIA LARGE ENERGY CONSUMERS ASSOCIATION

JEFFREY P. GRAY
DAVIS WRIGHT TREMAINE, LLP
505 MONTGOMERY STREET, SUITE 800
SAN FRANCISCO, CA 94111-6533
FOR: CALPINE CORPORATION

CHRISTOPHER J. WARNER
PACIFIC GAS AND ELECTRIC COMPANY
77 BEALE STREET, PO BOX 7442
SAN FRANCISCO, CA 94120-7442
FOR: PACIFIC GAS AND ELECTRIC

SARA STECK MYERS
ATTORNEY AT LAW
122 28TH AVENUE
SAN FRANCISCO, CA 94121
FOR: CENTER FOR ENERGY EFFICIENCY AND RENEWABLE TECHNOLOGIES

LARS KVALE
CENTER FOR RESOURCE SOLUTIONS
PRESIDIO BUILDIING 97
PO BOX 39512
SAN FRANCISCO, CA 94129
FOR: CENTER FOR RESOURCE SOLUTION

ANDREW L. HARRIS
PACIFIC GAS & ELECTRIC COMPANY
PO BOX 770000 MAIL CODE B9A
SAN FRANCISCO, CA 94177

BRIAN K. CHERRY
VICE PRESIDENT, REGULATORY RELATIONS
PACIFIC GAS AND ELECTRIC COMPANY
PO BOX 770000, MAIL CODE: B10C
SAN FRANCISCO, CA 94177
FOR: PACIFIC GAS AND ELECTRIC COMPANY

ANDREA WELLER
STRATEGIC ENERGY
3130 D BALFOUR RD., SUITE 290
BRENTWOOD, CA 94513
FOR: STRATEGIC ENERGY

JENNIFER CHAMBERLIN
MGR. OF REG. AND GOV. AFFAIRS
STRATEGIC ENERGY, LLC
2633 WELLINGTON CT.
CLYDE, CA 94520
FOR: STRATEGIC ENERGY, LLC

BETH VAUGHAN
CALIFORNIA COGENERATION COUNCIL
4391 N. MARSH ELDER COURT
CONCORD, CA 94521

KERRY HATTEVIK
MIRANT CORPORATION
696 WEST 10TH STREET
PITTSBURG, CA 94565
FOR: MIRANT CORPORATION

AVIS KOWALEWSKI
CALPINE CORPORATION
3875 HOPYARD ROAD, SUITE 345
PLEASANTON, CA 94588

J. ANDREW HOERNER
REDEFINING PROGRESS
1904 FRANKLIN STREET
OAKLAND, CA 94612

JANILL RICHARDS
DEPUTY ATTORNEY GENERAL
CALIFORNIA ATTORNEY GENERAL'S OFFICE
1515 CLAY STREET, 20TH FLOOR
OAKLAND, CA 94702
FOR: PEOPLE OF THE STATE OF CALIFORNIA

CLIFF CHEN
UNION OF CONCERNED SCIENTIST
2397 SHATTUCK AVENUE, STE 203
BERKELEY, CA 94704
FOR: UNION OF CONCERNED SCIENTISTS

GREGG MORRIS
DIRECTOR
GREEN POWER INSTITUTE
2039 SHATTUCK AVENUE, STE 402
BERKELEY, CA 94704
FOR: GREEN POWER INSTITUTE

R. THOMAS BEACH
CROSSBORDER ENERGY
2560 NINTH STREET, SUITE 213A
BERKELEY, CA 94710-2557
FOR: THE CALIFORNIA COGENERATION COUNCIL

KENNETH C. JOHNSON
KENNETH CARLISLE JOHNSON
2502 ROBERTSON RD
SANTA CLARA, CA 95051
FOR: KENNETH CARLISLE JOHNSON

BARRY F. MCCARTHY
ATTORNEY AT LAW
MCCARTHY & BERLIN, LLP
100 PARK CENTER PLAZA, SUITE 501
SAN JOSE, CA 95113
FOR: NORTHERN CALIFORNIA GENERATION COALITION

C. SUSIE BERLIN
ATTORNEY AT LAW
MC CARTHY & BERLIN, LLP
100 PARK CENTER PLAZA, SUITE 501
SAN JOSE, CA 95113
FOR: NORTHERN CALIFORNIA POWER AGENCY

MIKE LAMOND
ALPINE NATURAL GAS OPERATING CO. #1 LLC
PO BOX 550
VALLEY SPRINGS, CA 95252

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

BALDASSARO DI CAPO
151 BLUE RAVINE ROAD
FOLSOM, CA 95630
FOR: CALIFORNIA INDEPENDENT SYSTEM OPERATOR

UDI HELMAN
CALIFORNIA INDEPENDENT SYS. OPER. CORP
151 BLUE RAVINE ROAD
FOLSOM, CA 95630
FOR: CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION

JOHN JENSEN
PRESIDENT
MOUNTAIN UTILITIES
PO BOX 205
KIRKWOOD, CA 95646
FOR: MOUNTAIN UTILITIES

MARY LYNCH
VP - REGULATORY AND LEGISLATIVE AFFAIRS
CONSTELLATION ENERGY COMMODITIES GROUP
2377 GOLD MEDAL WAY, SUITE 100
GOLD RIVER, CA 95670

LEONARD DEVANNA
EXECUTIVE VICE PRESIDENT
CLEAN ENERGY SYSTEMS, INC.
11330 SUNCO DRIVE, SUITE A
RANCHO CORDOVA, CA 95742
FOR: CLEAN ENERGY SYSTEMS, INC.

ANDREW BROWN
ATTORNEY AT LAW
ELLISON, SCHNEIDER & HARRIS, LLP
2015 H STREET
SACRAMENTO, CA 95811
FOR: CONSTELLATION NEW ENERGY, INC.,CONSTELLATION ENERGY COMMODITIES GROUP, INC.CONSTELLATION GENRATION

BRUCE MCLAUGHLIN
BRAUN & BLAISING, P.C.
915 L STREET, SUITE 1270
SACRAMENTO, CA 95814
FOR: CALIFORNIA MUNICIPAL UTILITIES ASSOCIATION

GREGGORY L. WHEATLAND
ATTORNEY AT LAW
ELLISON, SCHNEIDER & HARRIS, LLP
2015 H STREET
SACRAMENTO, CA 95814
FOR: LS POWER, INC.

JANE E. LUCKHARDT
ATTORNEY AT LAW
DOWNEY BRAND LLP
555 CAPITOL MALL, 10TH FLOOR
SACRAMENTO, CA 95814
FOR: SACRAMENTO MUNICIPAL UTILITY DISTRICT

JEFFERY D. HARRIS
ATTORNEY AT LAW
ELLISON, SCHNEIDER & HARRIS LLP
2015 H STREET
SACRAMENTO, CA 95814
FOR: DYNEGY

VIRGIL WELCH
STAFF ATTORNEY
ENVIRONMENTAL DEFENSE
1107 9TH STREET, SUITE 540
SACRAMENTO, CA 95814

WILLIAM W. WESTERFIELD, 111
ATTORNEY AT LAW
ELLISON, SCHNEIDER & HARRIS L.L.P.
2015 H STREET
SACRAMENTO, CA 95814
FOR: SIERRA PACIFIC POWER COMPANY

DOWNEY BRAND
DOWNEY BRAND
555 CAPITOL MALL, 10TH FLOOR
SACRAMENTO, CA 95814-4686
FOR: SACRAMENTO MUNICIPAL

RAYMOND J. CZAHAR, C.P.A.
CHIEF FINANCIAL OFFICER
WEST COAST GAS COMPANY
9203 BEATTY DRIVE
SACRAMENTO, CA 95826

STEVEN M. COHN
ASSISTANT GENERAL COUNSEL
SACRAMENTO MUNICIPAL UTILITY DISTRICT
PO BOX 15830
SACRAMENTO, CA 95852-1830
FOR: SACRAMENTO MUNICIPAL UTILITY DISTRICT

ANN L. TROWBRIDGE
ATTORNEY AT LAW
DAY CARTER & MURPHY, LLP
3620 AMERICAN RIVER DRIVE, SUITE 205
SACRAMENTO, CA 95864
FOR: CALIFORNIA CLEAN DG COALITION/NORTHWEST NATURAL GAS

DAN SILVERIA
SURPRISE VALLEY ELECTRIC CORPORATION
PO BOX 691
ALTURAS, CA 96101
FOR: SURPRISE VALLEY ELECTRIC COOPERATIVE

JESSICA NELSON
PLUMAS-SIERRA RURAL ELECTRIC CO-OP
73233 STATE ROUTE 70, STE A
PORTOLA, CA 96122-7064
FOR: PLUMAS-SIERRA RURAL ELECTRIC COOP

CYNTHIA SCHULTZ
REGULATORY FILING COORDINATOR
PACIFIC POWER AND LIGHT COMPANY
825 N.E. MULTNOMAH
PORTLAND, OR 97232

KYLE L. DAVIS
PACIFICORP
825 NE MULTNOMAH ST., 20TH FLOOR
PORTLAND, OR 97232
FOR: PACIFICORP

RYAN FLYNN
PACIFICORP
825 NE MULTNOMAH STREET, 18TH FLOOR
PORTLAND, OR 97232

IAN CARTER
POLICY COORDINATOR-NORTH AMERICA
INTERNATIONAL EMISSIONS TRADING ASSN.
350 SPARKS STREET, STE. 809
OTTAWA, ON K1R 7S8
CANADA
FOR: INTERNATIONAL EMISSIONS TRADING ASSOCIATION

JASON A. DUBCHAK
VICE PRESIDENT/GENERAL COUNSEL
WILD GOOSE STORAGE LLC
C/O NISKA GAS STORAGE, SUITE 400
607 8TH AVENUE S.W.
CALGARY, AB T2P OA7
CANADA
FOR: WILD GOOSE STORAGE LLC

Information Only

BRIAN M. JONES
M. J. BRADLEY & ASSOCIATES, INC.
47 JUNCTION SQUARE DRIVE
CONCORD, MA 01742

MATTHEW MOST
EDISON MISSION MARKETING & TRADING, INC.
160 FEDERAL STREET
BOSTON, MA 02110-1776

KENNETH A. COLBURN
SYMBILTIC STRATEGIES, LLC
26 WINTON ROAD
MEREDITH, NH 03253

RICHARD COWART
REGULATORY ASSISTANCE PROJECT
50 STATE STREET, SUITE 3
MONTPELIER, VT 05602

KATHRYN WIG
PARALEGAL
NRG ENERGY, INC.
211 CARNEGIE CENTER
PRINCETON, NY 08540

SAKIS ASTERIADIS
APX INC
1270 FIFTH AVE., SUITE 15R
NEW YORK, NY 10029

GEORGE HOPLEY
BARCLAYS CAPITAL
200 PARK AVENUE
NEW YORK, NY 10166

ELIZABETH ZELLJADT
1725 I STREET, N.W. SUITE 300
WASHINGTON, DC 20006

DALLAS BURTRAW
1616 P STREET, NW
WASHINGTON, DC 20036

VERONIQUE BUGNION
POINT CARBON
205 SEVERN RIVER RD
SEVERNA PARK, MD 21146

ANDREW BRADFORD
SENIOR MARKET RESEARCH ASSOCIATE
FELLON-MCCORD & ASSOCIATES
SUITE 2000
9960 CORPORATE CAMPUS DRIVE
LOUISVILLE, KY 40223

GARY BARCH
FELLON-MCCORD & ASSOCIATES, INC.
SUITE 2000
9960 CORPORATE CAMPUS DRIVE
LOUISVILLE, KY 40223

RALPH E. DENNIS
DIRECTOR, REGULATORY AFFAIRS
FELLON-MCCORD & ASSOCIATES
CONSTELLATION NEWENERGY-GAS DIVISION
9960 CORPORATE CAMPUS DRIVE, STE 2000
LOUISVILLE, KY 40223

SAMARA MINDEL
REGULATORY AFFAIRS ANALYST
FELLON-MCCORD & ASSOCIATES
9960 CORPORATE CAMPUS DRIVE, SUITE 2000
LOUISVILLE, KY 40223

BARRY RABE
1427 ROSS STREET
PLYMOUTH, MI 48170

BRIAN POTTS
FOLEY & LARDNER
PO BOX 1497
150 EAST GILMAN STREET
MADISON, WI 53701-1497

JAMES W. KEATING
BP AMERICA, INC.
MAIL CODE 603-1E
150 W. WARRENVILLE RD.
NAPERVILLE, IL 60563

JAMES ROSS
RCS, INC.
500 CHESTERFIELD CENTER, SUITE 320
CHESTERFIELD, MO 63017

ANNE HENDRICKSON
DIRECTOR, REGULATORY AFFAIRS
COMMERCE ENERGY INC
222 W. LAS COLINAS BLVD., STE. 950-E
IRVING, TX 75039
FOR: COMMERCE ENERGY INC

COURTNEY WEDDINGTON
COMPLIANCE ANALYST
COMMERCE ENERGY INC
222 W. LAS COLINAS BLVD., STE. 950-E
IRVING, TX 75039

TRENT A. CARLSON
RELIANT ENERGY
1000 MAIN STREET
HOUSTON, TX 77001

GARY HINNERS
RELIANT ENERGY, INC.
PO BOX 148
HOUSTON, TX 77001-0148

JEANNE ZAIONTZ
BP ENERGY COMPANY
501 WESTLAKE PARK BLVD, RM. 4328
HOUSTON, TX 77079

JULIE L. MARTIN
WEST ISO COORDINATOR
NORTH AMERICA GAS AND POWER
BP ENERGY COMPANY
501 WESTLAKE PARK BLVD.
HOUSTON, TX 77079

FIJI GEORGE
EL PASO CORPORATION
EL PASO BUILDING
PO BOX 2511
HOUSTON, TX 77252

ED CHIANG
ELEMENT MARKETS, LLC
ONE SUGAR CREEK CENTER BLVD., SUITE 250
SUGAR LAND, TX 77478

FRANK STERN
SUMMIT BLUE CONSULTING
1722 14TH STREET, SUITE 230
BOULDER, CO 80302
FOR: SUMMIT BLUE CONSULTING

NADAV ENBAR
ENERGY INSIGHTS
1750 14TH STREET, SUITE 200
BOULDER, CO 80302

NICHOLAS LENSSEN
ENERGY INSIGHTS
1750 14TH STREET, SUITE 200
BOULDER, CO 80302

ELIZABETH BAKER
SUMMIT BLUE CONSULTING
1722 14TH STREET, SUITE 230
BOULDER, CO 80304

WAYNE TOMLINSON
EL PASO CORPORATION
WESTERN PIPELINES
2 NORTH NEVADA AVENUE
COLORADO SPRINGS, CO 80903

KEVIN J. SIMONSEN
ENERGY MANAGEMENT SERVICES
646 EAST THIRD AVENUE
DURANGO, CO 81301

JAMES A. HOLTKAMP
HOLLAND & HART, LLP
60 EAST SOUTH TEMPLE, STE. 2000
SALT LAKE CITY, UT 84111

SANDRA ELY
NEW MEXICO ENVIRONMENT DEPARTMENT
1190 ST FRANCIS DRIVE
SANTA FE, NM 87501

BRIAN MCQUOWN
RELIANT ENERGY
7251 AMIGO ST., SUITE 120
LAS VEGAS, NV 89119

DOUGLAS BROOKS
NEVADA POWER COMPANY
SIERRA PACIFIC POWER COMPANY
6226 WEST SAHARA AVENUE
LAS VEGAS, NV 89151

ANITA HART
SENIOR SPECIALIST/STATE REGULATORYAFFAIR
SOUTHWEST GAS CORPORATION
5241 SPRING MOUNTAIN ROAD
LAS VEGAS, NV 89193

RANDY SABLE
SOUTHWEST GAS CORPORATION
MAILSTOP: LVB-105
5241 SPRING MOUNTAIN ROAD
LAS VEGAS, NV 89193

BILL SCHRAND
SOUTHWEST GAS CORPORATON
PO BOX 98510
LAS VEGAS, NV 89193-8510

JJ PRUCNAL
SOUTHWEST GAS CORPORATION
PO BOX 98510
LAS VEGAS, NV 89193-8510

SANDRA CAROLINA
SOUTHWEST GAS CORPORATION
PO BOX 98510
LAS VEGAS, NV 89193-8510

CYNTHIA MITCHELL
ENERGY ECONOMICS, INC.
530 COLGATE COURT
RENO, NV 89503

CHRISTOPHER A. HILEN
ASSISTANT GENERAL COUNSEL
SIERRA PACIFIC POWER COMPANY
6100 NEIL ROAD
RENO, NV 89511

ELENA MELLO
SIERRA PACIFIC POWER COMPANY
6100 NEIL ROAD
RENO, NV 89520

DARRELL SOYARS
MANAGER-RESOURCE PERMITTING&STRATEGIC
SIERRA PACIFIC RESOURCES
6100 NEIL ROAD
RENO, NV 89520-0024
FOR: SIERRA PACIFIC RESOURCES

TREVOR DILLARD
SIERRA PACIFIC POWER COMPANY
PO BOX 10100
6100 NEIL ROAD, MS S4A50
RENO, NV 89520-0024

JOSEPH GRECO
TERRA-GEN POWER LLC
9590 PROTOTYPE COURT, SUITE 200
RENO, NV 89521

LEILANI JOHNSON KOWAL
LOS ANGELES DEPT. OF WATER AND POWER
111 N. HOPE STREET, ROOM 1050
LOS ANGELES, CA 90012
FOR: LOS ANGELES DEPT. OF WATER AND POWER

RANDY S. HOWARD
LOS ANGELES DEPT. OF WATER AND POWER
111 NORTH HOPE STREET, ROOM 921
LOS ANGELES, CA 90012

ROBERT K. ROZANSKI
LOS ANGELES DEPT OF WATER AND POWER
111 NORTH HOPE STREET, ROOM 1520
LOS ANGELES, CA 90012

ROBERT L. PETTINATO
LOS ANGELES DEPARTMENT OF WATER & POWER
111 NORTH HOPE STREET, SUITE 1151
LOS ANGELES, CA 90012

HUGH YAO
SOUTHERN CALIFORNIA GAS COMPANY
555 W. 5TH ST, GT22G2
LOS ANGELES, CA 90013

RASHA PRINCE
SOUTHERN CALIFORNIA GAS COMPANY
555 WEST 5TH STREET, GT14D6
LOS ANGELES, CA 90013

RANDALL W. KEEN
ATTORNEY AT LAW
MANATT PHELPS & PHILLIPS, LLP
11355 WEST OLYMPIC BLVD.
LOS ANGELES, CA 90064
FOR: LOS ANGELES COUNTY

S. NANCY WHANG
ATTORNEY AT LAW
MANATT, PHELPS & PHILLIPS, LLP
11355 WEST OLYMPIC BLVD.
LOS ANGELES, CA 90064

PETER JAZAYERI
STROOCK & STROOCK & LAVAN LLP
2029 CENTURY PARK EAST, SUITE 1800
LOS ANGELES, CA 90067

DEREK MARKOLF
CALIFORNIA CLIMATE ACTION REGISTRY
515 S. FLOWER STREET, SUITE 1640
LOS ANGELES, CA 90071

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

HARVEY EDER
PUBLIC SOLAR POWER COALITION
1218 12TH ST., 25
SANTA MONICA, CA 90401

STEVE ENDO
PASADENA DEPARTMENT OF WATER & POWER
45 EAST GLENARM STREET
PASADENA, CA 91105

STEVEN G. LINS
GENERAL COUNSEL
GLENDALE WATER AND POWER
613 EAST BROADWAY, SUITE 220
GLENDALE, CA 91206-4394

TOM HAMILTON
MANAGING PARTNER
ENERGY CONCIERGE SERVICES
321 MESA LILA RD
GLENDALE, CA 91208

BRUNO JEIDER
BURBANK WATER & POWER
164 WEST MAGNOLIA BLVD.
BURBANK, CA 91502

RICHARD J. MORILLO
ASSISTANT CITY ATTORNEY
CITY OF BURBANK
215 E. OLIVE AVENUE
BURBANK, CA 91502

AIMEE BARNES
MANAGER REGULATORY AFFAIRS
ECOSECURITIES
HARVARD SQUARE
206 W. BONITA AVENUE
CLAREMONT, CA 91711

CASE ADMINISTRATION
SOUTHERN CALIFORNIA EDISON COMPANY
2244 WALNUT GROVE AVE., RM. 370
ROSEMEAD, CA 91770

JAIRAM GOPAL
SOUTHERN CALIFORNIA EDISON
2244 WALNUT GROVE, GO1-C
ROSEMEAD, CA 91770

TIM HEMIG
NRG ENERGY, INC.
1819 ASTON AVENUE, SUITE 105
CARLSBAD, CA 92008

BARRY LOVELL
15708 POMERADO RD., SUITE 203
POWAY, CA 92064

ALDYN HOEKSTRA
PACE GLOBAL ENERGY SERVICES
420 WEST BROADWAY, 4TH FLOOR
SAN DIEGO, CA 92101

YVONNE GROSS
REGULATORY POLICY MANAGER
SEMPRA ENERGY
HQ08C
101 ASH STREET
SAN DIEGO, CA 92103

JOHN LAUN
APOGEE INTERACTIVE, INC.
1220 ROSECRANS ST., SUITE 308
SAN DIEGO, CA 92106

KIM KIENER
504 CATALINA BLVD.
SAN DIEGO, CA 92106

SCOTT J. ANDERS
RESEARCH/ADMINISTRATIVE DIRECTOR
UNIVERSITY OF SAN DIEGO SCHOOL OF LAW
5998 ALCALA PARK
SAN DIEGO, CA 92110

JOSEPH R. KLOBERDANZ
SAN DIEGO GAS & ELECTRIC
PO BOX 1831
SAN DIEGO, CA 92112

ANDREW MCALLISTER
DIRECTOR OF OPERATIONS
CALIFORNIA CENTER FOR SUSTAINABLE ENERGY
8690 BALBOA AVE., SUITE 100
SAN DIEGO, CA 92123

JENNIFER PORTER
POLICY ANALYST
CALIFORNIA CENTER FOR SUSTAINABLE ENERGY
8690 BALBOA AVENUE, SUITE 100
SAN DIEGO, CA 92123

SEPHRA A. NINOW
POLICY ANALYST
CALIFORNIA CENTER FOR SUSTAINABLE ENERGY
8690 BALBOA AVENUE, SUITE 100
SAN DIEGO, CA 92123

DESPINA NIEHAUS
SAN DIEGO GAS AND ELECTRIC COMPANY
8330 CENTURY PARK COURT, CP32H
SAN DIEGO, CA 92123-1530
FOR: SAN DIEGO GAS AND ELECTRIC COMPANY

JOHN W. LESLIE
ATTORNEY AT LAW
LUCE, FORWARD, HAMILTON & SCRIPPS, LLP
11988 EL CAMINO REAL, SUITE 200
SAN DIEGO, CA 92130

ORLANDO B. FOOTE, III
ATTORNEY AT LAW
HORTON, KNOX, CARTER & FOOTE
895 BROADWAY, SUITE 101
EL CENTRO, CA 92243

ELSTON K. GRUBAUGH
IMPERIAL IRRIGATION DISTRICT
333 EAST BARIONI BLVD.
IMPERIAL, CA 92251

THOMAS MCCABE
EDISON MISSION ENERGY
18101 VON KARMAN AVE., SUITE 1700
IRVINE, CA 92612

MONA TIERNEY-LLOYD
LANDSITE, INC
PO BOX 378
CAYUCOS, CA 93430
FOR: LANDSITE, INC

JAN PEPPER
CLEAN POWER MARKETS, INC.
PO BOX 3206
418 BENVENUE AVENUE
LOS ALTOS, CA 94024

GLORIA D. SMITH
ADAMS, BROADWELL, JOSEPH & CARDOZO
601 GATEWAY BLVD., SUITE 1000
SOUTH SAN FRANCISCO, CA 94080

MARC D. JOSEPH
ADAMS BRADWELL JOSEPH & CARDOZO
601 GATEWAY BLVD. STE 1000
SOUTH SAN FRANCISCO, CA 94080
FOR: CALIFORNIA UNIONS FOR RELIABLE ENERGY&COALITION OF CALIFORNIA UTILITY EMPLOYEES

DIANE I. FELLMAN
DIRECTOR, REGULATORY AFFAIRS
FPL ENERGY PROJECT MANAGEMENT, INC.
234 VAN NESS AVENUE
SAN FRANCISCO, CA 94102
FOR: FPL ENERGY PROJECT MANAGEMENT INC

HAYLEY GOODSON
ATTORNEY AT LAW
THE UTILITY REFORM NETWORK
711 VAN NESS AVENUE, SUITE 350
SAN FRANCISCO, CA 94102

MICHEL FLORIO
ATTORNEYS AT LAW
711 VAN NESS AVE., STE. 350
SAN FRANCISCO, CA 94102

DAN ADLER
DIRECTOR, TECH AND POLICY DEVELOPMENT
CALIFORNIA CLEAN ENERGY FUND
5 THIRD STREET, SUITE 1125
SAN FRANCISCO, CA 94103

MICHAEL A. HYAMS
POWER ENTERPRISE-REGULATORY AFFAIRS
SAN FRANCISCO PUBLIC UTILITIES COMM
1155 MARKET ST., 4TH FLOOR
SAN FRANCISCO, CA 94103

THERESA BURKE
REGULATORY ANALYSTI
SAN FRANCISCO PUC
1155 MARKET STREET, 4TH FLOOR
SAN FRANCISO, CA 94103

NORMAN J. FURUTA
ATTORNEY AT LAW
FEDERAL EXECUTIVE AGENCIES
1455 MARKET ST., SUITE 1744
SAN FRANCISCO, CA 94103-1399

AMBER MAHONE
ENERGY & ENVIRONMENTAL ECONOMICS, INC.
101 MONTGOMERY STREET, SUITE 1600
SAN FRANCISCO, CA 94104

ANNABELLE MALINS
CONSUL-SCIENCE AND TECHNOLOGY
BRITISH CONSULATE-GENERAL
ONE SANSOME STREET, SUITE 850
SAN FRANCISCO, CA 94104

DEVRA WANG
NATURAL RESOURCES DEFENSE COUNCIL
111 SUTTER STREET, 20TH FLOOR
SAN FRANCISCO, CA 94104

KAREN TERRANOVA
ALCANTAR & KAHL, LLP
120 MONTGOMERY STREET, STE 2200
SAN FRANCISCO, CA 94104

NORA SHERIFF
ATTORNEY AT LAW
ALCANTAR & KAHL, LLP
120 MONTGOMERY STREET, SUITE 2200
SAN FRANCISCO, CA 94104

OLOF BYSTROM
DIRECTOR, WESTERN ENERGY
CAMBRIDGE ENERGY RESEARCH ASSOCIATES
555 CALIFORNIA STREET, 3RD FLOOR
SAN FRANCISCO, CA 94104

SETH HILTON
ATTORNEY AT LAW
STOEL RIVES
111 SUTTER ST., SUITE 700
SAN FRANCISCO, CA 94104
FOR: EL PASO NATURAL GAS

SHERYL CARTER
NATURAL RESOURCES DEFENSE COUNCIL
111 SUTTER STREET, 20TH FLOOR
SAN FRANCISCO, CA 94104

ASHLEE M. BONDS
THELEN REID BROWN RAYSMAN&STEINER LLP
SUITE 1800
101 SECOND STREET
SAN FRANCISCO, CA 94105

BIANCA BOWMAN
RATE CASE COORDINATOR
PACIFIC GAS AND ELECTRIC COMPANY
77 BEALE STREET, MAIL CODE B9A
SAN FRANCISCO, CA 94105
FOR: PACIFIC GAS AND ELECTRIC COMPANY

CARMEN E. BASKETTE
SENIOR MGR MARKET DEVELOPMENT
ENERNOC
594 HOWARD ST., SUITE 400
SAN FRANCISCO, CA 94105
FOR: ENERNOC, INC.

COLIN PETHERAM
DIRECTOR-REGULATORY
SBC CALIFORNIA
140 NEW MONTGOMERY ST., SUITE 1325
SAN FRANCISCO, CA 94105

JAMES W. TARNAGHAN
DUANE MORRIS LLP
SUITE 2000
ONE MARKET, SPEAR TOWER
SAN FRANCISCO, CA 94105
FOR: LODI GAS STORAGE

KEVIN FOX
WILSON SONSINI GOODRICH & ROSATI
ONE MARKET STREET, SPEAR TOWER, 3300
SAN FRANCISCO, CA 94105

KHURSHID KHOJA
ASSOCIATE
THELEN REID BROWN RAYSMAN & STEINER
101 SECOND STREET, SUITE 1800
SAN FRANCISCO, CA 94105

PETER V. ALLEN
THELEN REID BROWN RAYSMAN & STEINER
101 SECOND STREET, SUITE 1800
SAN FRANCISCO, CA 94105

RAY WELCH
ASSOCIATE DIRECTOR
NAVIGANT CONSULTING, INC.
ONE MARKET PLAZA, SUITE 1200
SAN FRANCISCO, CA 94105

SHERIDAN J. PAUKER
WILSON SONSINI GOODRICH & ROSATI
SPEAR TOWER, SUITE 3300
ONE MARKET ST
SAN FRANCISCO, CA 94105

JAMES W. MCTARNAGHAN
ATTORNEY AT LAW
DUANE MORRIS LLP
ONE MARKET, SPEAR TOWER 2000
SAN FRANCISCO, CA 94105-1104

ROBERT J. REINHARD
MORRISON AND FOERSTER
425 MARKET STREET
SAN FRANCISCO, CA 94105-2482

CALIFORNIA ENERGY MARKETS
517-B POTRERO AVENUE
SAN FRANCISCO, CA 94110

ARNO HARRIS
RECURRENT ENERGY, INC.
1700 MONTGOMERY ST., SUITE 251
SAN FRANCISCO, CA 94111

HOWARD V. GOLUB
NIXON PEABODY LLP
2 EMBARCADERO CENTER, STE. 2700
SAN FRANCISCO, CA 94111

JANINE L. SCANCARELLI
ATTORNEY AT LAW
FOLGER, LEVIN & KAHN, LLP
275 BATTERY STREET, 23RD FLOOR
SAN FRANCISCO, CA 94111

JOSEPH F. WIEDMAN
ATTORNEY AT LAW
GOODIN MACBRIDE SQUERI DAY & LAMPREY LLP
505 SANSOME STREET, SUITE 900
SAN FRANCISCO, CA 94111

MARTIN A. MATTES
NOSSAMAN, GUTHNER, KNOX & ELLIOTT, LLP
50 CALIFORNIA STREET,SUITE 3400
SAN FRANCISCO, CA 94111

BRAD WETSTONE
236 HARTFORD STREET
SAN FRANCISCO, CA 94114

JEN MCGRAW
CENTER FOR NEIGHBORHOOD TECHNOLOGY
PO BOX 14322
SAN FRANCISCO, CA 94114

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

STEVEN MOSS
SAN FRANCISCO COMMUNITY POWER COOP
2325 3RD STREET, SUITE 344
SAN FRANCISCO, CA 94120

SHAUN ELLIS
2183 UNION STREET
SAN FRANCISCO, CA 94123

ED LUCHA
CASE COORDINATOR
PACIFIC GAS AND ELECTRIC COMPANY
PO BOX 770000, MAIL CODE B9A
SAN FRANCISCO, CA 94177

GRACE LIVINGSTON-NUNLEY
ASSISTANT PROJECT MANAGER
PACIFIC GAS AND ELECTRIC COMPANY
PO BOX 770000 MAIL CODE B9A
SAN FRANCISCO, CA 94177

JASMIN ANSAR
PG&E
MAIL CODE B24A
PO BOX 770000
SAN FRANCISCO, CA 94177

JONATHAN FORRESTER
PG&E
MAIL CODE N13C
PO BOX 770000
SAN FRANCISCO, CA 94177

RAYMOND HUNG
PG&E
PO BOX 770000 MAIL CODE B9A
SAN FRANCISCO, CA 94177

SEBASTIEN CSAPO
PG&E PROJECT MGR.
MAIL CODE B9A
PO BOX 770000
SAN FRANCISCO, CA 94177

SHAUN HALVERSON
PACIFIC GAS AND ELECTRIC COMPANY
PG&E MAIL CODE B9A
PO BOX 770000
SAN FRANCISCO, CA 94177
FOR: PACIFIC GAS AND ELECTRIC COMPANY

SOUMYA SASTRY
PACIFIC GAS AND ELECTRIC COMPANY
MAIL CODE B9A
PO BOX 770000
SAN FRANCISCO, CA 94177

STEPHANIE LA SHAWN
PACIFIC GAS AND ELECTRIC COMPANY
PO BOX 770000, MAIL CODE B9A
SAN FRANCISCO, CA 94177

VALERIE J. WINN
PACIFIC GAS AND ELECTRIC COMPANY
PO BOX 770000, B9A
SAN FRANCISCO, CA 94177-0001

KARLA DAILEY
CITY OF PALO ALTO
UTILITIES DEPARTMENT
BOX 10250
PALO ALTO, CA 94303

FARROKH ALBUYEH
VICE PRESIDENT
OPEN ACCESS TECHNOLOGY INTERNATIONAL INC
SUITE 910
1875 SOUTH GRANT STREET
SAN MATEO, CA 94402

DEAN R. TIBBS
PRESIDENT
ADVANCED ENERGY STRATEGIES, INC.
1390 WILLOW PASS ROAD, SUITE 610
CONCORD, CA 94520

JEFFREY L. HAHN
COVANTA ENERGY CORPORATION
876 MT. VIEW DRIVE
LAFAYETTE, CA 94549

ANDREW J. VAN HORN
VAN HORN CONSULTING
12 LIND COURT
ORINDA, CA 94563

JOSEPH PAUL
SENIOR CORPORATE COUNSEL
DYNEGY, INC.
4140 DUBLIN BLVD., STE. 100
DUBLIN, CA 94568

SUE KATELEY
EXECUTIVE DIRECTOR
CALIFORNIA SOLAR ENERGY INDUSTRIES ASSN
PO BOX 782
RIO VISTA, CA 94571

GREG BLUE
ENXCO DEVELOPMENT CORP
5000 EXECUTIVE PARKWAY, STE.140
SAN RAMON, CA 94583

SARAH BESERRA
CALIFORNIA REPORTS
39 CASTLE HILL COURT
VALLEJO, CA 94591
FOR: CALIFORNIA REPORTS

MONICA A. SCHWEBS, ESQ.
BINGHAM MCCUTCHEN LLP
PO BOX V
1333 N. CALIFORNIA BLVD., SUITE 210
WALNUT CREEK, CA 94596

PETER W. HANSCHEN
ATTORNEY AT LAW
MORRISON & FOERSTER, LLP
101 YGNACIO VALLEY ROAD, SUITE 450
WALNUT CREEK, CA 94596

WILLIAM H. BOOTH
ATTORNEY AT LAW
LAW OFFICES OF WILLIAM H. BOOTH
67 CARR DRIVE
MORAGA, CA 94596
FOR: CALIFORNIA LARGE ENERGY CONSUMERS ASSOCIATION

JOSEPH HENRI
31 MIRAMONTE ROAD
WALNUT CREEK, CA 94597

PATRICIA THOMPSON
SUMMIT BLUE CONSULTING
2920 CAMINO DIABLO, SUITE 210
WALNUT CREEK, CA 94597

WILLIAM F. DIETRICH
ATTORNEY AT LAW
DIETRICH LAW
2977 YGNACIO VALLEY ROAD, 613
WALNUT CREEK, CA 94598-3535

ALEX KANG
ITRON, INC.
1111 BROADWAY, STE. 1800
OAKLAND, CA 94607

BETTY SETO
POLICY ANALYST
KEMA, INC.
492 NINTH STREET, SUITE 220
OAKLAND, CA 94607

GERALD L. LAHR
ABAG POWER
101 EIGHTH STREET
OAKLAND, CA 94607
FOR: ASSOCIATION OF BAY AREA GOVERNMENTS

JODY S. LONDON
JODY LONDON CONSULTING
PO BOX 3629
OAKLAND, CA 94609

STEVEN SCHILLER
SCHILLER CONSULTING, INC.
111 HILLSIDE AVENUE
PIEDMONT, CA 94611

MRW & ASSOCIATES, INC.
1814 FRANKLIN STREET, SUITE 720
OAKLAND, CA 94612

REED V. SCHMIDT
VICE PRESIDENT
BARTLE WELLS ASSOCIATES
1889 ALCATRAZ AVENUE
BERKELEY, CA 94703
FOR: CALIFORNIA CITY-COUNTY STREET LIGHT ASSOCIATION

ADAM BRIONES
THE GREENLINING INSTITUTE
1918 UNIVERSITY AVENUE, 2ND FLOOR
BERKELEY, CA 94704

STEVE KROMER
3110 COLLEGE AVENUE, APT 12
BERKELEY, CA 94705
FOR: STEVE KROMER

CLYDE MURLEY
CONSULTANT TO NRDC
1031 ORDWAY STREET
ALBANY, CA 94706

BRENDA LEMAY
DIRECTOR OF PROJECT DEVELOPMENT
HORIZON WIND ENERGY
1600 SHATTUCK, SUITE 222
BERKELEY, CA 94709

CARLA PETERMAN
UCEI
2547 CHANNING WAY
BERKELEY, CA 94720

EDWARD VINE
LAWRENCE BERKELEY NATIONAL LABORATORY
BUILDING 90R4000
BERKELEY, CA 94720

RYAN WISER
BERKELEY LAB
MS-90-4000
ONE CYCLOTRON ROAD
BERKELEY, CA 94720

CHRIS MARNAY
BERKELEY LAB
1 CYCLOTRON RD MS 90R4000
BERKELEY, CA 94720-8136

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

RITA NORTON
RITA NORTON AND ASSOCIATES, LLC
18700 BLYTHSWOOD DRIVE,
LOS GATOS, CA 95030

CARL PECHMAN
POWER ECONOMICS
901 CENTER STREET
SANTA CRUZ, CA 95060

MAHLON ALDRIDGE
ECOLOGY ACTION
PO BOX 1188
SANTA CRUZ, CA 95060

RICHARD SMITH
MODESTO IRRIGATION DISTRICT
1231 11TH STREET
MODESTO, CA 95352-4060

ROGER VAN HOY
MODESTO IRRIGATION DISTRICT
1231 11TH STREET
MODESTO, CA 95354

THOMAS S. KIMBALL
MODESTO IRRIGATION DISTRICT
1231 11TH STREET
MODESTO, CA 95354

WES MONIER
STRATEGIC ISSUES AND PLANNING MANAGER
TURLOCK IRRIGATION DISTRICT
333 EAST CANAL DRIVE, PO BOX 949
TURLOCK, CA 95381-0949

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

JOHN R. REDDING
ARCTURUS ENERGY CONSULTING
44810 ROSEWOOD TERRACE
MENDOCINO, CA 95460

CLARK BERNIER
RLW ANALYTICS
1055 BROADWAY, SUITE G
SONOMA, CA 95476

RICHARD MCCANN, PH.D
M. CUBED
2655 PORTAGE BAY, SUITE 3
DAVIS, CA 95616

CAROLYN M. KEHREIN
ENERGY MANAGEMENT SERVICES
1505 DUNLAP COURT
DIXON, CA 95620-4208

GRANT ROSENBLUM, ESQ.
CALIFORNIA ISO
LEGAL AND REGULATORY DEPARTMENT
151 BLUE RAVINE ROAD
FOLSOM, CA 95630

MELANIE GILLETTE
SR MGR WESTERN REG. AFFAIRS
ENERNOC, INC.
115 HAZELMERE DRIVE
FOLSOM, CA 95630

ROBIN SMUTNY-JONES
CALIFORNIA ISO
151 BLUE RAVINE ROAD
FOLSOM, CA 95630

SAEED FARROKHPAY
FEDERAL ENERGY REGULATORY COMMISSION
110 BLUE RAVINE RD., SUITE 107
FOLSOM, CA 95630

CALIFORNIA ISO
LEGAL AND REGULATORY DEPARTMENT
151 BLUE RAVINE ROAD
FOLSOM, CA 95630

DAVID BRANCHCOMB
BRANCHCOMB ASSOCIATES, LLC
9360 OAKTREE LANE
ORANGEVILLE, CA 95662

KENNY SWAIN
NAVIGANT CONSULTING
3100 ZINFANDEL DRIVE, SUITE 600
RANCHO CORDOVA, CA 95670

KIRBY DUSEL
NAVIGANT CONSULTING, INC.
3100 ZINFANDEL DRIVE, SUITE 600
RANCHO CORDOVA, CA 95670

GORDON PICKERING
PRINCIPAL
NAVIGANT CONSULTING, INC.
3100 ZINFANDEL DRIVE, SUITE 600
RANCHO CORDOVA, CA 95670-6078

LAURIE PARK
NAVIGANT CONSULTING, INC.
3100 ZINFANDEL DRIVE, SUITE 600
RANCHO CORDOVA, CA 95670-6078

DAVID REYNOLDS
MEMBER SERVICES MANAGER
NORTHERN CALIFORNIA POWER AGENCY
180 CIRBY WAY
ROSEVILLE, CA 95678-6420

SCOTT TOMASHEFSKY
NORTHERN CALIFORNIA POWER AGENCY
180 CIRBY WAY
ROSEVILLE, CA 95678-6420

ELLEN WOLFE
RESERO CONSULTING
9289 SHADOW BROOK PL.
GRANITE BAY, CA 95746

AUDRA HARTMANN
DYNEGY INC.
980 NINTH STREET, SUITE 2130
SACRAMENTO, CA 95814

BOB LUCAS
LUCAS ADVOCATES
1121 L STREET, SUITE 407
SACRAMENTO, CA 95814

CURT BARRY
717 K STREET, SUITE 503
SACRAMENTO, CA 95814

DAN SKOPEC
CLIMATE & ENERGY CONSULTING
1201 K STREET SUITE 970
SACRAMENTO, CA 95814
FOR: CLIMATE & ENERGY CONSULTING

DANIELLE MATTHEWS SEPERAS
CALPINE CORPORATION
1127 11TH STREET, SUITE 242
SACRAMENTO, CA 95814
FOR: CALPINE CORPORATION

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

DOUGLAS K. KERNER
ATTORNEY AT LAW
ELLISON, SCHNEIDER & HARRIS, LLP
2015 H STREET
SACRAMENTO, CA 95814

JUSTIN C. WYNNE
BRAU & BLAISING, P.C.
915 L STREET, SUITE 1270
SACRAMENTO, CA 95814

KASSANDRA GOUGH
CALPINE CORPORATION
1127 11TH STREET, SUITE 242
SACRAMENTO, CA 95814
FOR: CALPINE CORPORATION

KELLIE SMITH
SENATE ENERGY/UTILITIES & COMMUNICATION
STATE CAPITOL, ROOM 4038
SACRAMENTO, CA 95814

KEVIN WOODRUFF
WOODRUFF EXPERT SERVICES
1100 K STREET, SUITE 204
SACRAMENTO, CA 95814

MICHAEL WAUGH
AIR RESOURCES BOARD
1001 10TH STREET
SACRAMENTO, CA 95814

PANAMA BARTHOLOMY
ADVISOR TO CHAIR PFANNENSTIEL
CALIFORNIA ENERGY COMMISSION
1516 9TH STREET
SACRAMENTO, CA 95814

PATRICK STONER
PROGRAM DIRECTOR
LOCAL GOVERNMENT COMMISSION
1303 J STREET, SUITE 250
SACRAMENTO, CA 95814

RACHEL MCMAHON
DIR. OF REG. AFFAIRS
CEERT
1100 11TH STREET, SUITE 311
SACRAMENTO, CA 95814

RYAN BERNARDO
BRAUN & BLAISING, P.C.
915 L STREET, SUITE 1270
SACRAMENTO, CA 95814

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

STEVEN KELLY
INDEPENDENT ENERGY PRODUCERS
1215 K STREET, SUITE 900
SACRAMENTO, CA 95814

WEBSTER TASAT
AIR RESOURCES BOARD
1001 I STREET
SACRAMENTO, CA 95814

LYNN HAUG
ELLISON, SCHNEIDER & HARRIS, LLP
2015 H STREET
SACRAMENTO, CA 95814-3109

EDWARD J. TIEDEMANN
ATTORNEY AT LAW
KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD
400 CAPITOL MALL, 27TH FLOOR
SACRAMENTO, CA 95814-4416
FOR: PLACER COUNTY WATER AGENCY & KINGS RIVER CONSERVATION DISTRICT

LAURIE TEN HOPE
ADVISOR TO COMMISSIONER BYRON
CALIFORNIA ENERGY COMMISSION
1516 9TH STREET, MS-32
SACRAMENTO, CA 95814-5512

JOSHUA BUSHINSKY
WESTERN POLICY COORDINATOR
PEW CENTER ON GLOBAL CLIMATE CHANGE
2101 WILSON BLVD., SUITE 550
ARLINGTON, VA 95816

OBADIAH BARTHOLOMY
MECHANICAL ENGINEER
SACRAMENTO MUNICIPAL UTILITY DISTRICT
M.S. B257
6201 S. STREET
SACRAMENTO, CA 95817

BUD BEEBE
SACRAMENTO MUNICIPAL UTIL DIST
MS B257
6201 S STREET
SACRAMENTO, CA 95817-1899

BALWANT S. PUREWAL
DEPARTMENT OF WATER RESOURCES
3310 EL CAMINO AVE., LL-90
SACRAMENTO, CA 95821

DOUGLAS MACMULLLEN
CHIEF, POWER PLANNING SECTION
CA DEPARTMENT OF WATER RESOURCES
3310 EL CAMINO AVE., ROOM 356
SACRAMENTO, CA 95821

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

KAREN LINDH
CALIFORNIA ONSITE GENERATION
7909 WALERGA ROAD, NO. 112, PMB 119
ANTELOPE, CA 95843

ELIZABETH W. HADLEY
CITY OF REDDING
777 CYPRESS AVENUE
REDDING, CA 96001

ANNIE STANGE
ALCANTAR & KAHL
1300 SW FIFTH AVE., SUITE 1750
PORTLAND, OR 97201

ELIZABETH WESTBY
ALCANTAR & KAHL, LLP
1300 SW FIFTH AVENUE, SUITE 1750
PORTLAND, OR 97201

ALEXIA C. KELLY
THE CLIMATE TRUST
65 SW YAMHILL STREET, SUITE 400
PORTLAND, OR 97204

ALAN COMNES
WEST COAST POWER
3934 SE ASH STREET
PORTLAND, OR 97214

KYLE SILON
ECOSECURITIES CONSULTING LIMITED
529 SE GRAND AVENUE
PORTLAND, OR 97214

CATHIE ALLEN
CA STATE MGR.
PACIFICORP
825 NE MULTNOMAH STREET, SUITE 2000
PORTLAND, OR 97232

PHIL CARVER
OREGON DEPARTMENT OF ENERGY
625 MARION ST., NE
SALEM, OR 97301-3737

SAM SADLER
OREGON DEPARTMENT OF ENERGY
625 NE MARION STREET
SALEM, OR 97301-3737

LISA SCHWARTZ
SENIOR ANALYST
ORGEON PUBLIC UTILITY COMMISSION
PO BOX 2148
SALEM, OR 97308-2148

CLARE BREIDENICH
WESTERN POWER TRADING FORUM
224 1/2 24TH AVENUE EAST
SEATTLE, WA 98112
FOR: WESTERN POWER TRADING FORUM

DONALD SCHOENBECK
RCS, INC.
900 WASHINGTON STREET, SUITE 780
VANCOUVER, WA 98660

JESUS ARREDONDO
NRG ENERGY INC.
4600 CARLSBAD BLVD.
CARLSBAD, CA 99208

CHARLIE BLAIR
DELTA ENERGY & ENVIRONMENT
15 GREAT STUART STREET
EDINBURGH, UK EH2 7TP
UNITED KINGDOM

THOMAS ELGIE
POWEREX CORPORATION
1400, 666 BURRAND ST
VANCOUVER, BC V6C 2X8
CANADA

State Service

CLARENCE BINNINGER
DEPUTY ATTORNEY GENERAL
DEPARTMENT OF JUSTICE
455 GOLDEN GATE AVENUE, SUITE 11000
SAN FRANICSCO, CA 94102

DAVID ZONANA
DEPUTY ATTORNEY GENERAL
CALIFORNIA ATTORNEY GENERAL'S OFFICE
455 GOLDEN GATE AVENUE, SUITE 11000
SAN FRANCISCO, CA 94102

AMY C. YIP-KIKUGAWA
CALIF PUBLIC UTILITIES COMMISSION
DIVISION OF ADMINISTRATIVE LAW JUDGES
ROOM 2106
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

ANNE GILLETTE
CALIF PUBLIC UTILITIES COMMISSION
ENERGY RESOURCES BRANCH
AREA 4-A
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

BETH MOORE
CALIF PUBLIC UTILITIES COMMISSION
ELECTRICITY PLANNING & POLICY BRANCH
ROOM 4103
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214
FOR: DRA

BISHU CHATTERJEE
CALIF PUBLIC UTILITIES COMMISSION
RATEMAKING BRANCH
AREA 3-E
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

CATHLEEN A. FOGEL
CALIF PUBLIC UTILITIES COMMISSION
ENERGY RESOURCES BRANCH
AREA 4-A
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

CHARLOTTE TERKEURST
CALIF PUBLIC UTILITIES COMMISSION
DIVISION OF ADMINISTRATIVE LAW JUDGES
ROOM 5117
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

CHRISTINE S. TAM
CALIF PUBLIC UTILITIES COMMISSION
ELECTRICITY PLANNING & POLICY BRANCH
ROOM 4209
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

DONALD R. SMITH
CALIF PUBLIC UTILITIES COMMISSION
ELECTRICITY PLANNING & POLICY BRANCH
ROOM 4209
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

ED MOLDAVSKY
CALIF PUBLIC UTILITIES COMMISSION
LEGAL DIVISION
ROOM 5037
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

ELIZABETH STOLTZFUS
CALIF PUBLIC UTILITIES COMMISSION
ENERGY RESOURCES BRANCH
AREA 4-A
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

EUGENE CADENASSO
CALIF PUBLIC UTILITIES COMMISSION
RATEMAKING BRANCH
AREA 4-A
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

HARVEY Y. MORRIS
CALIF PUBLIC UTILITIES COMMISSION
LEGAL DIVISION
ROOM 5036
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

JACLYN MARKS
CALIF PUBLIC UTILITIES COMMISSION
EXECUTIVE DIVISION
ROOM 5306
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

JACQUELINE GREIG
CALIF PUBLIC UTILITIES COMMISSION
ENERGY COST OF SERVICE & NATURAL GAS BRA
ROOM 4102
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

JAMIE FORDYCE
CALIF PUBLIC UTILITIES COMMISSION
POLICY & PLANNING DIVISION
AREA 5-B
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

JASON R. SALMI KLOTZ
CALIF PUBLIC UTILITIES COMMISSION
ENERGY RESOURCES BRANCH
AREA 4-A
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

JEORGE S. TAGNIPES
CALIF PUBLIC UTILITIES COMMISSION
ENERGY RESOURCES BRANCH
AREA 4-A
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

JOEL T. PERLSTEIN
CALIF PUBLIC UTILITIES COMMISSION
LEGAL DIVISION
ROOM 5133
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

JONATHAN LAKRITZ
CALIF PUBLIC UTILITIES COMMISSION
DIVISION OF ADMINISTRATIVE LAW JUDGES
ROOM 5020
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

JUDITH IKLE
CALIF PUBLIC UTILITIES COMMISSION
ENERGY RESOURCES BRANCH
ROOM 4012
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214
FOR: ENERGY RESOURCES BRANCH

JULIE A. FITCH
CALIF PUBLIC UTILITIES COMMISSION
POLICY & PLANNING DIVISION
ROOM 5119
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

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

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

NANCY RYAN
CALIF PUBLIC UTILITIES COMMISSION
EXECUTIVE DIVISION
ROOM 5217
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

PAUL S. PHILLIPS
CALIF PUBLIC UTILITIES COMMISSION
ELECTRICITY PLANNING & POLICY BRANCH
ROOM 4101
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

RAHMON MOMOH
CALIF PUBLIC UTILITIES COMMISSION
ELECTRICITY PLANNING & POLICY BRANCH
ROOM 4205
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

SARA M. KAMINS
CALIF PUBLIC UTILITIES COMMISSION
ENERGY RESOURCES BRANCH
AREA 4-A
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

SEAN A. SIMON
CALIF PUBLIC UTILITIES COMMISSION
ENERGY RESOURCES BRANCH
AREA 4-A
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

THERESA CHO
CALIF PUBLIC UTILITIES COMMISSION
EXECUTIVE DIVISION
ROOM 5207
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

KEN ALEX
PO BOX 944255
1300 I STREET, SUITE 125
SACRAMENTO, CA 94244-2550
FOR: PEOPLE OF THE STATE OF CALIFORNIA

JULIE GILL
EXTERNAL AFFAIRS MANAGER
CALIFORNIA INDEPENDENT SYSTEM OPERATOR
151 BLUE RAVINE ROAD
FOLSOM, CA 95630
FOR: CAISO

PHILIP D. PETTINGILL
CALIFORNIA INDEPENDENT SYSTEM OPERATOR
151 BLUE RAVINE ROAD
FOLSOM, CA 95630
FOR: CAISO

LAINIE MOTAMEDI
CALIF PUBLIC UTILITIES COMMISSION
POLICY & PLANNING DIVISION
ROOM 5119
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

PAMELA WELLNER
CALIF PUBLIC UTILITIES COMMISSION
ENERGY RESOURCES BRANCH
AREA 4-A
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

PEARLIE SABINO
CALIF PUBLIC UTILITIES COMMISSION
ENERGY COST OF SERVICE & NATURAL GAS BRA
ROOM 4209
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

RICHARD A. MYERS
CALIF PUBLIC UTILITIES COMMISSION
RATEMAKING BRANCH
AREA 4-A
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

SCOTT MURTISHAW
CALIF PUBLIC UTILITIES COMMISSION
ENERGY RESOURCES BRANCH
AREA 4-A
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

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

BILL LOCKYER
STATE ATTORNEY GENERAL
STATE OF CALIFORNIA, DEPT OF JUSTICE
PO BOX 944255
SACRAMENTO, CA 94244-2550

JUDITH B. SANDERS
ATTORNEY AT LAW
CALIFORNIA INDEPENDENT SYSTEM OPERATOR
151 BLUE RAVINE ROAD
FOLSOM, CA 95630
FOR: CAISO

MARY MCDONALD
DIRECTOR OF STATE AFFAIRS
CALIFORNIA INDEPENDENT SYSTEM OPERATOR
151 BLUE RAVINE ROAD
FOLSOM, CA 95630
FOR: CAISO

MICHAEL SCHEIBLE
DEPUTY EXECUTIVE OFFICER
CALIFORNIA AIR RESOURCES BOARD
1001 I STREET
SACRAMENTO, CA 95677
FOR: CALIFORNIA AIR RESOURCES BOARD

GARY COLLORD
STATIONARY SOURCE DIVISION
AIR RESOURCES BOARD
1001 I STREET, PO BOX 2815
SACRAMENTO, CA 95812

JEFFREY DOLL
CALIFORNIA AIR RESOURCES BOARD
PO BOX 2815 1001 I STREET
SACRAMENTO, CA 95812

PAM BURMICH
AIR RESOURCES BOAD
1001 I STREET, BOX 2815
SACRAMENTO, CA 95812

B. B. BLEVINS
EXECUTIVE DIRECTOR
CALIFORNIA ENERGY COMMISSION
1516 9TH STREET, MS-39
SACRAMENTO, CA 95814
FOR: CALIFORNIA ENERGY COMMISSION

DARYL METZ
CALIFORNIA ENERGY COMMISSION
1516 9TH ST., MS-20
SACRAMENTO, CA 95814

DEBORAH SLON
DEPUTY ATTORNEY GENERAL, ENVIRONMENT
OFFICE OF THE ATTORNEY GENERAL
1300 I STREET, 15TH FLOOR
SACRAMENTO, CA 95814

DON SCHULTZ
CALIF PUBLIC UTILITIES COMMISSION
ENERGY PRICING AND CUSTOMER PROGRAMS BRA
770 L STREET, SUITE 1050
SACRAMENTO, CA 95814

KAREN GRIFFIN
EXECUTIVE OFFICE
CALIFORNIA ENERGY COMMISSION
1516 9TH STREET, MS 39
SACRAMENTO, CA 95814

LISA DECARLO
STAFF COUNSEL
CALIFORNIA ENERGY COMMISSION
1516 9TH STREET MS-14
SACRAMENTO, CA 95814

MARC PRYOR
CALIFORNIA ENERGY COMMISSION
1516 9TH ST., MS-20
SACRAMENTO, CA 95814

MICHELLE GARCIA
AIR RESOURCES BOARD
1001 10TH STREET
SACRAMENTO, CA 95814

PIERRE H. DUVAIR
CALIFORNIA ENERGY COMMISSION
1516 NINTH STREET, MS-41
SACRAMENTO, CA 95814

WADE MCCARTNEY
CALIF PUBLIC UTILITIES COMMISSION
POLICY & PLANNING DIVISION
770 L STREET, SUITE 1050
SACRAMENTO, CA 95814

NANCY TRONAAS
CALIFORNIA ENERGY COMMISSION
1516 9TH ST. MS-20
SACRAMENTO, CA 95814-5512

CAROL J. HURLOCK
CALIFORNIA DEPT. OF WATER RESOURCES
JOINT OPERATIONS CENTER
3310 EL CAMINO AVE. RM 300
SACRAMENTO, CA 95821

HOLLY B. CRONIN
STATE WATER PROJECT OPERATIONS DIV
CALIFORNIA DEPARTMENT OF WATER RESOURCES
3310 EL CAMINO AVE., LL-90
SACRAMENTO, CA 95821

ROSS A. MILLER
ELECTRICITY ANALYSIS OFFICE
CALIFORNIA ENERGY COMMISSION
1516 9TH STREET MS 20
SACRAMENTO, CA 96814-5512
FOR: CALIFORNIA ENERGY COMMISSION