COM/MF1/sbf **DRAFT** Agenda ID #11659 (Rev. 1)

 Ratesetting

 10/25/2012 Item 34

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

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| Order Instituting Investigation on the Commission’s Own Motion into the Rates, Operations, Practices, Services and Facilities of Southern California Edison Company and San Diego Gas and Electric Company Associated with the San Onofre Nuclear Generating Station Units 2 and 3. | Investigation\_\_\_\_\_\_\_\_\_ |

ORDER INSTITUTING INVESTIGATION REGARDING
SAN ONOFRE NUCLEAR GENERATING STATION
UNITS 2 AND 3

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**ORDER INSTITUTING INVESTIGATION REGARDING
SAN ONOFRE NUCLEAR GENERATING STATION
UNITS 2 AND 3**

# Introduction

We open this investigation to consolidate and consider issues raised by the extended outages of Units 2 and 3 at the San Onofre Nuclear Generating Station (SONGS). This includes determining whether to order the immediate removal effective today of all costs related to SONGS from the rates of Southern California Edison Company (SCE) and San Diego Gas & Electric Company (SDG&E), with placement of those costs in a deferred debit account pending the return of one or both facilities to useful service or other possible action. It also includes considering appropriate rate treatment for all SONGS-related costs in other proceedings.

This investigation will consider the causes of the outages, the utilities’ responses, the future of the SONGS units, and the resulting effects on the provision of safe and reliable electric service at just and reasonable rates. Due to the size, location, ownership structure, and unique nuclear licensing requirements of SONGS, the unexpected outages raise particularly complex issues. These issues come before us in many proceedings. This investigation will consider these issues in a consolidated manner that is efficient for the utilities, parties and the Commission. To facilitate that objective, all costs incurred on and after January 1, 2012 that are associated with SONGS shall be tracked in a memorandum account. SCE and SDG&E shall each, within 30 days of today, file with the Energy Division Director and serve on the service list a Tier 1 advice letter to establish that account, including specified subaccounts.

Appeals to categorization shall be filed and served within 10 days. Comments on this investigation shall be filed and served within 30 days. SCE and SDG&E shall each, within 45 days of today, serve proposed testimony with its recommended rate adjustments.

# Background

The San Onofre Nuclear Generation Stations (SONGS) Units 2 and 3 are located adjacent to Camp Pendleton near San Clemente California. They are jointly owned by Southern California Edison Company (SCE), San Diego
Gas & Electric Company (SDG&E), and the City of Riverside (with shares of 78%, 20% and 2% respectively).[[1]](#footnote-2) These units generate approximately 2,340 megawatts (MW) of baseload power, and they play a critical role in the reliability of the California electricity grid. SCE is the operator of these units.

Unit 2 steam generators were replaced in January 2010. Unit 3 steam generators were replaced in January 2011. Both units have been off-line since January 2012.

Unit 3 was taken offline on January 31, 2012, after station operators detected a leak in a steam generator tube. The Nuclear Regulatory Commission (NRC) was formally notified of the Unit 3 steam generator leak on the same day. Unit 2 was taken out of service on January 10, 2012 for a scheduled outage, which was expected to end March 5, 2012. However, on February 6, 2012, the first inspection of Unit 2 steam generators installed in 2010 showed accelerated wear requiring some tubes to be taken out of service.

On March 19, 2012, the NRC dispatched an Augmented Inspection Team to gather facts regarding the SONGS outages. On July 18, 2012, the NRC issued its report: “San Onofre Nuclear Generating Station – NRC Augmented Inspected Team Report.”[[2]](#footnote-3) The report provides background information that will be useful for this investigation, and a copy is attached. (Attachment A.) Among other things, the report identifies design flaws in the SONGS replacement steam generators.

On August 28, 2012, SCE announced plans to remove the nuclear fuel from the SONGS Unit 3 reactor. SCE intends to place the unit in a longer term safe shutdown mode.

Both units have now been out of service since January 2012. This presents many questions regarding the future operation of the units, along with the provision of safe and reasonable service at just and reasonable rates.

# Commission Jurisdiction

SCE and SDG&E are public utility companies under the Commission’s jurisdiction. The Commission regulates their rates, operations, practices, programs, and services, plus the reliability, safety, and adequacy of facilities, pursuant to Pub. Util. Code Sections 451, 454, 701, and other statutes.[[3]](#footnote-4) The Commission executes these responsibilities in a range of different proceedings. These include applications, investigations, rulemakings, and other forums as appropriate. Applications involve a range of matters including general rate cases (GRC), energy resource recovery account (ERRA) proceedings, special cost recovery proceedings (such as (a) the steam generator replacement program and (b) seismic safety programs), and others at the request of utilities or when ordered by the Commission.

Under Section 451, the Commission is responsible for ensuring safe and reliable service at just and reasonable rates:

All charges demanded or received by any public utility…shall be just and reasonable.

Every public utility shall furnish and maintain such adequate, efficient, just, and reasonable service, instrumentalities, equipment, and facilities…as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public.

Sections 455.5(a) and (f) address rate adjustments to eliminate the value of, and expenses related to, major facilities when they are out of service:

1. In establishing rates for any electrical, gas, heat, or water corporation, the Commission may eliminate consideration of the value of any portion of any electric, gas, heat, or water generation or production facility which, after having been placed in service, remains out of service for nine or more consecutive months, and may disallow any expenses related to that facility. Upon eliminating consideration of any portion of a facility or disallowing any expenses related thereto under this section, the Commission shall reduce the rates of the corporation accordingly and shall, for accounting purposes, record the value of that portion of the facility in a deferred debit account and shall treat this amount similar to the treatment of the allowance for funds used during construction. When that portion of the facility is returned to useful service…the corporation may apply to the commission for the inclusion of its value and expenses related to its operation for purposes of the establishment of the corporation's rates.

(f) For purposes of this section, an electric, gas, heat, or water generation or production facility includes only such a facility that the commission determines to be a major facility of the corporation…[[4]](#footnote-5)

Section 455.5(b) requires that utilities keep the Commission informed regarding outages of such facilities:

(b) Every electrical, gas, heat, and water corporation shall periodically, as required by the commission, report to the commission on the status of any portion of any electric, gas, heat, or water generation or production facility which is out of service and shall immediately notify the commission when any portion of the facility has been out of service for nine consecutive months.

Section 455.5(c) requires that the Commission, upon notification by the utility, take specific action and make rates associated with the facility subject to refund, in coordination with other proceedings:

(c) Within 45 days of receiving the notification specified in subdivision (b), the commission shall institute an investigation to determine whether to reduce the rates of the corporation to reflect the portion of the electric, gas, heat, or water generation or production facility which is out of service. For purposes of this subdivision,
out-of-service periods shall not include planned outages of predetermined duration scheduled in advance. The commission's order shall require that rates associated with that facility are subject to refund from the date the order instituting the investigation was issued. The commission shall consolidate the hearing on the investigation with the next general rate proceeding instituted for the corporation.

Section 455.5(d) provides, upon a facility’s return to useful service, that a utility may apply for the inclusion of its value and associated operating expenses in rates:

(d) Upon being informed by the corporation that any portion of its electric, gas, heat, or water generation or production facility which was eliminated from consideration by the commission in establishing rates for being out of service for nine or more consecutive months pursuant to subdivision (a) or (b), has been restored to service and has achieved at least 100 continuous hours of operation, the commission may again consider that portion of the facility for purposes of establishing rates, and may adjust the corporation's rates accordingly without a hearing, except that a hearing is required on whether to include, for purposes of establishing rates, any additional plant value added.

Section 701 provides that:

The Commission may supervise and regulate every public utility in the State and may do all things, whether specifically designated in this part or in addition thereto, which are necessary and convenient in the exercise of such power and jurisdiction.

# Discussion

SONGS Units 2 and 3 have been out of service since early 2012. Consistent with § 455.5(b), we expect to be notified soon by SCE and SDG&E that these units have experienced an unplanned outage of nine consecutive months.

Utility rates currently include recovery for SONGS costs of over
$800 million in fixed costs (rate base), for which ratepayers provide a return to shareholders, and over $300 million in annual variable costs (operation and maintenance). They include costs related to the steam generator replacement program and seismic programs. The outages may result in more costs, including but not limited to the cost of investigations, studies, repairs, replacement power, litigation, and appearing in regulatory proceedings (before the NRC and this Commission).

Design flaws identified by NRC may have contributed to the accelerated wear and tear of the steam generators. If so, there may be questions about the degree to which the manufacturer may be responsible for expenses related to the shutdown. There may or may not be other sources of funds for some or all of the resulting costs (e.g., warranties, insurance, federal assistance). There are issues about how much cost, if any, should be paid by ratepayers and company owners. Therefore, it is in the public interest to undertake an investigation into the facts and circumstances of the SONGS outages for the purpose of exercising our statutory authority over rate recovery of associated utility costs, and to ensure safe and reliable service at just and reasonable rates.

Several rate-related proceedings have recently been decided or are currently pending before the Commission. These include GRC, ERRA and other proceedings such as but not limited to (these proceedings are open unless noted otherwise, and in some cases are joint proceedings):

1. SCE
	1. Application (A.) 10-11-015 (2012 test year GRC)
	2. A.11-04-001 (2010 ERRA compliance)
	3. A.12-04-001 (2011 ERRA compliance)
	4. A.11-08-002 (2012 ERRA forecast; D.12-07-007; closed)
	5. A.12-08-001 (2013 ERRA forecast)
	6. A.11-04-006 (Seismic Program Costs; D.12-05-004; closed) [[5]](#footnote-6)
	7. A.04-02-026 (Steam Generator Replacement;
	D.05-12-040; D.11-05-035; closed)
	8. A.09-04-009 (Joint application for nuclear decommissioning cost recovery)
2. SDG&E
	1. A.10-12-005 (2012 test year 2012 GRC)
	2. A.11-06-003 (2010 ERRA compliance)
	3. A.11-09-022 (2012 ERRA forecast; D.12-07-006; closed)
	4. A.12-04-003 (ERRA trigger; D.12-08-007; closed)
	5. A.12-10-002 (2013 ERRA forecast)
	6. A.11-05-011 (Seismic Program Costs; D.12-05-004; closed)[[6]](#footnote-7)

There is also the potential for review of some or all of the $671 million authorized for the steam generator replacement program (SGRP).[[7]](#footnote-8) In particular, we authorized up to $671 million with the intention not to conduct an
after-the-fact reasonableness review if the costs did not exceed $671 million. However, we also ordered:

If the SGRP cost exceeds [$671 million], or the Commission later finds that it has reason to believe the costs may be unreasonable regardless of the amount, the entire SRGP cost may be subject to reasonableness review.” (D.05-12-040, Ordering Paragraph 5.)

It is important that all relevant costs be properly treated. To do this, all SONGS costs and expenditures, including SRGP, should be tracked in a memorandum account for review by the Commission. This is the case whether or not the costs have been previously approved. Thus, pending conclusion of this investigation, we direct SCE and SDG&E to track all costs associated with SONGS Units 2 and 3 (and all related costs as explained below) that were or are incurred on or after January 1, 2012, in a memorandum account and, to the extent included in rates, collect these costs subject to refund.

SCE and SDG&E should each establish a memorandum account for this purpose, called the SONGS Outage Memorandum Account (SONGS OMA). SONGS OMA should contain subaccounts that separately identify:

1. existing SONGS fixed costs (e.g., capital costs in rate base)
2. revenue requirements for SONGS ratebase costs
(e.g., depreciation, return, taxes),
3. existing SONGS variable costs (e.g., fuel, operation, maintenance),
4. existing SONGS seismic safety program costs,
5. SGRP costs,
6. other existing SONGS costs,
7. outage investigation costs,
8. replacement generation costs,
9. safety-related program costs implemented pursuant to NRC findings or orders,
10. the cost of other energy products or services to provide reliable electric service during the period of the outage (including Demand Response programs),
11. the cost of other transmission upgrades or other system improvements to provide reliable electric service during the period of the outage (including substation or line related work),
12. other repair costs (separately identified as fixed and variable),
13. other routine operational costs,
14. regulatory costs,
15. litigation costs, and
16. any other costs related to SONGS.

The subaccounts should include reasonable and appropriate subdivisions as necessary to further identify costs and cost categories. The memorandum account should record all costs incurred beginning January 1, 2012 and thereafter with the exception of the SGRP subaccount. The SGRP subaccount should track all SGRP costs. SCE and SDG&E should file Tier 1 Advice Letters establishing the memorandum accounts within 30 days of this order.[[8]](#footnote-9)

This formal proceeding allows the Commission to exercise its regulatory oversight, responsibilities and duties in the best interests of ratepayers and the public. We will consider information and proposals by SCE, SDG&E, Commission staff and others regarding the rates, operations, practices, programs, services, and facilities of SCE and SDG&E as they relate to the outages of SONGS Unit 2 and 3, and as are necessary to promote the safety, health, comfort, and convenience of their patrons, employees, and the public. We will also do all things that are necessary and convenient to supervise and regulate matters under our jurisdiction in the public interest.

The investigation provides a forum to consider evidence and argument on the issues. It may result in directives to SCE and SDG&E that promote just and reasonable rates, services, and facilities in furtherance of the public interest. The Commission may enter orders on matters for which one or the other respondent may not be the proponent. SCE, SDG&E and the public are placed on notice that the evidence taken in this proceeding may be the basis for findings, conclusions, and Commission orders, and all SONGS related costs collected in rates from January 1, 2012 forward are subject to refund.

Accordingly, we open this Order Instituting Investigation (OII) pursuant, but not limited, to Pub. Util. Code §§ 451, 455.5 and 701, along with Rule 5.1 of the Commission’s Rules of Practice and Procedure (Rules). In addition to or as part of the memorandum account specified above, we direct the following ratemaking treatment in order to preserve the information, consolidate the data in one place, and provide a full opportunity to consider all reasonable options:

1. SCE and SDG&E shall each track all costs related to SONGS incurred on or after January 1, 2012 in a subaccount of SONGS OMA for subsequent review in this proceeding; this involves all SONGS-related ERRA entries including replacement energy and capacity resulting from the SONGS outages;
2. SCE and SDG&E shall each track all costs related to Huntington Beach and Demand Response specifically implemented to address loss of SONGS Units 2 and 3 capacity into a subaccount of SONGS OMA.
3. SCE and SDG&E shall each identify and track any and all excess energy sales foregone (actual or estimated) by SCE and SDG&E due to the loss of SONGS Units 2 and 3; the amount of the energy and the foregone revenue shall be reported to the Commission in a separate document submitted each time the SONGS OMA is reported to the Commission, in the monthly report noted below, or as directed by the Energy Division Director.

In addition, we order the following:

1. SCE and SDG&E shall each file and serve, no less than seven days before a utility management final decision to proceed with a major project, a Tier 1 informational Advice Letter with the Energy Division Director before making any major capital expenditures related to SONGS. For this purpose, a major capital expenditure is any amount in excess of $10 million (total expenditure before allocation to SCE, SDG&E and City of Riverside).
2. SCE and SDG&E shall each track all expenditures in excess of those removed pursuant to § 455.5 in a separate subaccount of SONGS OMA. The recovery of amounts booked in this memorandum account shall be requested through a formal application filed by each utility with the Commission; and
3. SCE and SDG&E shall each file a monthly status report with the Commission’s Energy Division with service on the service list. The monthly report shall include an operational update for the units, description of any NRC actions, estimated replacement energy and capacity costs, estimated other operational expenses, estimated foregone revenues due to lost sales of excess energy, and any other information either utility believes is relevant that may impact the Commission’s consideration of safe and reliable service at just and reasonable rates, including any additional information directed by the Energy Division Director.

All costs tracked in the SONGS OMA are subject to audit by the Commission.

The Commission recognizes that SONGS Units 2 and 3 may be out of service for some time, and may or may not return to full service. This situation requires that the Commission consider long term options regarding each utility’s provision of safe and reliable electric service without SONGS. These long term resource issues are most appropriately considered in the Commission’s Long Term Procurement Planning (LTPP) proceeding (Rulemaking (R.) 12-03-014). While issues regarding long term planning without SONGS will be addressed in the LTPP, issues regarding short and medium term service and reliability should be part of this proceeding. Issues regarding costs for replacement power or expanded demand side management programs in the absence of SONGS should also be discussed as part of this proceeding.

# Preliminary Scoping Memo

Pursuant to Rule 7.1(c), we include a preliminary Scoping Memo to provide an initial determination of this proceeding’s scope, schedule, need for hearing, and other procedural matters. The determination of category may be appealed as described below.

## Issues

The general scope of this OII is to review the effect on safe and reliable service at just and reasonable rates on and after January 1, 2012 of the outages at SONGS Units 2 and 3. The issues include:

1. Whether or not rate adjustments should be made; if so, when they should start, the correct amount, and the correct accounting of these adjustments.
2. The reasonableness and prudency of each utility action and expenditure with respect to the steam generator replacement program and subsequent activities related thereto.
3. The reasonableness and prudency of each utility action and expenditures in securing energy, capacity and other related services to replace the output of SONGS during the outage.
4. The cost-effectiveness of various options for repairing or replacing one or both units of SONGS.
5. Any additional ratemaking issues associated with the above, including the availability of warranty coverage or insurance for any costs related to the SONGS outage.
6. The reasonableness and necessity of each SONGS-related operation and maintenance expense, and capital expenditure made, on and after January 1, 2012 reviewed within the context of the facts and circumstances of the extended outages of Units 2 and 3.

## Category

We determine that the category of this proceeding is ratesetting. (Rules 1.3(e) and 7.1(c).) This is consistent with the preliminary issues focusing on the economic consequences of the outages, repairs, source of replacement electricity, cost of replacement electricity, and cost responsibility. This determination may be appealed under the procedures stated in Rule 7.6.

## Need for Hearing

We expect disputed issues of material fact over which parties will seek to cross-examine others. Therefore, we preliminarily determine that a hearing will be needed. (Rule 7.1(c).)

## Schedule

Appeals of the categorization of this proceeding, if any, are to be filed and served within 10 days of the date this OII was issued. (Rule 7.6(a).) As required by our rules, an appeal shall state why the designated category is wrong as a matter of law or policy, and shall be served on the Commission’s General Counsel, Chief Administrative Law Judge, the President of the Commission, and the service list used for this OII. Responses to an appeal shall be filed within five days of the date an appeal is filed, and shall be served on appellant and all persons on the service list for this OII. (Rule 7.6(b).)

Responses to this OII may also be filed and served, and shall be filed and served within 30 days of the date this OII is issued. (Rule 5.2.) Responses shall state objections, if any, to the preliminary Scoping Memo regarding the issues, need for hearing, and schedule. Replies to responses may be submitted, and must be filed and served within seven days after the date of responses.

The assigned Commissioner shall set a prehearing conference (PHC) for as soon as practicable after responses to this order are filed. (Rule 7.2(a).) The assigned Commissioner and/or the assigned Administrative Law Judge (ALJ) may direct that the two respondent utilities provide background information before the PHC so all participants in the investigation have the same essential starting data (e.g., factual overview of SONGS 2 and 3; dates and causes of recent outages; status of investigation; current engineering and construction schedule to address outages; costs incurred to date with respect to the outages).

The notice setting the PHC may set a date for the filing and service of PHC statements. PHC statements, if any, should state with specificity the party’s recommendations for anything necessary to complete the assigned Commissioner’s Scoping Memo, plus anything else necessary to reasonably proceed with this investigation. For example, PHC statements should, to the extent feasible, include the party’s recommended exact proposed wording for issues, specific dates for the schedule, and necessary detail for hearing (to the extent known at that time). Moreover, to the extent it is possible for parties to agree on issues, schedule and other matters for the Scoping Memo, parties should employ their best efforts to prepare a joint PHC Statement.

We expect respondents and parties will advise the Commission at the PHC regarding the most efficient way to proceed. We leave the details of process and schedule to the assigned Commissioner or ALJ’s.

The first matter, however, is whether or not, pursuant to § 455.5, to reduce rates and by how much. We direct SCE and SDG&E to produce their proposals within 45 days of the date of this order. These proposals should be in the form of proposed testimony. Each proposal should clearly show the amount of SONGS costs in current rates, the amount to be removed, the effective date, and any other information necessary for the Commission to fully implement a just and reasonable rate adjustment pursuant to § 455.5.

The adopted schedule is summarized in Attachment B. The adopted schedule may be changed by the assigned Commissioner or ALJ as necessary to promote efficient and equitable development of the record in this proceeding. It is anticipated that this proceeding shall be resolved within 18 months of the date the Scoping Memo is issued. (*See* § 1701.5.)

# Service and Official Service List

A service list has been established for this proceeding, a copy of which is attached (*see* Attachment C) and posted on the Commission’s website. The service list is composed of all persons on the official service lists for:

* A.11-04-006 (SCE SONGS seismic safety program costs)
* A.10-11-015 (SCE GRC)
* A.10-12-005 (SDG&E GRC)
* A.09-04-009 (Joint application of SCE and SDG&E for nuclear decommissioning cost recovery)[[9]](#footnote-10)
* R.12-03-014 (Long-Term Procurement Rulemaking)
* R.11-10-023 (Resource Adequacy Rulemaking)
* A.11-04-001 (SCE 2010 ERRA compliance)
* A.12-04-001 (SCE 2011 ERRA compliance)
* A.11-08-002 (SCE 012 ERRA forecast)
* A.12-08-001 (SCE 2013 ERRA forecast)
* A.11-06-003 (SDG&E 2010 ERRA compliance)
* A.11-09-022 (SDG&E 2012 ERRA forecast)
* A.12-04-003 (SDG&E ERRA trigger)
* A.12-10-002 (SDG&E 2013 ERRA forecast)
* A.11-05-011 (SDG&E Seismic Program Costs)

We also serve this order on the City of Riverside.[[10]](#footnote-11)

At the present time, all persons shall be entered on the official service list for this proceeding as “information only,” with the exception of SCE, SDG&E, and those in state service. SCE and SDG&E are respondents, and are entered in the party category. State service participants from prior lists shall remain in the state service category.

Persons in the information only category may seek party status by making an oral motion at the PHC or hearing, by filing a written motion, or as otherwise directed by the ALJ. (*See* Rule 1.4(a)(3) and (4).) Commission practice is to allow only one person to formally represent each party. (*See* Commission’s form for “Addition/Change to Service List.”[[11]](#footnote-12)) To assist with efficient execution of this practice, motions for party status should clearly identify the lead person to be placed in party status, plus the names with other necessary information (e.g., e‑mail addresses) for anyone else to be placed into (or remain in) information only.[[12]](#footnote-13)

In addition, any person not on the official service list contained in Attachment C may request addition to the category of state service or information only by making that request to the Process Office. (*See* Rule 1.9(f).) The request should be sent to the Commission’s Process Office by e-mail (Process\_Office@cpuc.ca.gov) or letter (Process Office, California Public Utilities Commission, 505 Van Ness Avenue, San Francisco, CA  94102). The request must include an e-mail address to receive service of electronically served documents. (*See* Rule 1.10(b).) It is the responsibility of each person to notify the Process Office of his or her current postal service mailing address, current electronic-mail address, and any changes or corrections. (Rule 1.9(e).) A person may ask to be removed from the state service or information only portions of the service list at any time by request to the Process Office.

All pleadings in this proceeding shall be served on the official service list, including all those in the information only category (as periodically updated on the Commission’s website). The Commission encourages electronic filing and
e-mail service in this investigation. Information about electronic filing may be found at <http://www.cpuc.ca.gov/PUC/efiling>. E-mail service is governed by Rule 1.10. The electronic copy should be in Microsoft Word or Excel formats to the extent possible. E‑mail service of documents must occur no later than 5:00 p.m. on the date that service is scheduled to occur. Those persons using e‑mail service must also serve a paper copy on the ALJ. (*See* Rule 1.10(e).) Questions about the Commission’s filing and service procedures should be directed to the Commission’s Docket Office by telephone at (415) 703-2121, by e‑mail at efile-help@cpuc.ca.gov, or by letter to Docket Office, California Public Utilities Commission, 505 Van Ness Avenue, San Francisco, CA 94102.

# Public Advisor

Any person or entity interested in participating in this investigation who is unfamiliar with the Commission’s procedures should contact the Commission’s Public Advisor in San Francisco by telephone at (415) 703-2074 or (866) 849-8390, or by e-mail at public.advisor@cpuc.ca.gov. The Public Advisor’s office in Los Angeles may be reached by telephone at (213) 576-7055 or (866) 849-8391, or by e‑mail at public.advisor.la@cpuc.ca.gov. The TTY number is (866) 836-7825. Written communication may be sent to Public Advisor, California Public Utilities Commission, 505 Van Ness Avenue, San Francisco, CA 94102.

# Intervenor Compensation

Any party that expects to claim intervenor compensation for its participation in this investigation shall file its notice of intent to claim intervenor compensation no later than 30 days after the PHC. (*See* Rule 17.1.) Parties are strongly encouraged to use the standardized form attached to the Intervenor Compensation Program Guide, which may be found at: <http://www.cpuc.ca.gov/PUC/IntervenorCompGuide/index3.htm>. Questions may be directed to the Commission’s Public Advisor.

# *Ex Parte* Communications

Communications with decision makers and advisors in this rulemaking are governed by Article 8 of the Rules of Practice and Procedure. (Rule 8.1, *et seq*.) Specifically, Rule 8.3(c) states that *ex parte* communications in ratesetting proceedings are subject to the restrictions stated in Rule 8.3, and the reporting requirements set forth in Rule 8.4.

**IT IS ORDERED** that:

1. In accordance with Public Utilities Code §§ 451, 455.5 and 701, and Rule 5.1 of the Commission’s Rules of Practice and Procedure, the Commission institutes this Order Instituting Investigation. This investigation shall obtain information on the outages at the San Onofre Nuclear Generating Station (SONGS) Units 2 and 3. It shall investigate the causes, each utility’s responses, the future of the SONGS units, and the resulting effect on the provision of safe and reliable electric service at just and reasonable rates. The Commission shall determine whether to adjust rates due to the outages and shall issue orders, as necessary and appropriate, based on this investigation to address ratemaking and other matters under our jurisdiction.
2. Southern California Edison Company and San Diego Gas & Electric Company are respondents to this Investigation, and shall be subject to Commission orders in this matter, unless determined otherwise by the Commission.
3. All revenues collected in recovery of costs on and after January 1, 2012 related to San Onofre Generating Station Units 2 and 3 are subject to refund. All Steam Generator Replacement Program costs, and rates collected in recovery of those costs, are subject to reasonableness review and refund.
4. Southern California Edison Company (SCE) and San Diego Gas & Electric Company (SDG&E) shall take the following actions:
5. SCE and SDG&E shall, after a meet and confer session with Commission staff and within 30 days of the date this order is issued, each file and serve a Tier 1 advice letter to establish a San Onofre Nuclear Generating Station (SONGS) Outage Memorandum Account (OMA). Each utility shall track in SONGS OMA all SONGS costs and expenditures incurred on and after January 1, 2012, and the revenues collected in recovery of those costs; except Steam Generator Replacement Program (SGRP) costs and revenues collected in recovery of those costs, which shall track all SGRP costs from SGRP inception. Each utility shall also track in SONGS OMA all costs, expenditures, and related revenues on and after January 1, 2012 for other costs incurred as a result of the outages (e.g., replacement power, repairs, litigation). SONGS OMA shall contain at least the following subaccounts (subject to adjustment at the direction of the Energy Division Director): existing fixed costs, revenue requirements for SONGS, existing variable costs, existing seismic safety program costs, SGRP costs, other existing costs, outage investigation costs, replacement generation costs, safety-related program costs pursuant to Nuclear Regulatory Commission findings or orders, other product and service costs, cost of transmission upgrades or other system improvements related to the outages, repair costs, other routine operational costs, regulatory costs, litigation costs, other costs.
6. SCE and SDG&E shall each track costs recorded in the Energy Resource Recovery Account (ERRA) that are incurred on and after January 1, 2012 in a subaccount of SONGS OMA for subsequent review in this proceeding; this involves all ERRA entries including replacement energy and capacity resulting from the SONGS outages;
7. SCE and SDG&E shall each track all costs related to Huntington Beach and Demand Response specifically implemented to address loss of SONGS Units 2 and 3 capacity in a subaccount of SONGS OMA.
8. SCE and SDG&E shall each identify and record any and all excess energy sales foregone (actual or estimated) by SCE and SDG&E due to the loss of SONGS Units 2 and 3; the amount of the energy and the foregone revenue shall be reported to the Commission in a separate document submitted each time the SONGS OMA is reported to the Commission, in a monthly report, or as directed by the Energy Division Director.
9. SCE and SDG&E shall each file and serve, no less than five days before a utility management final decision to proceed with a major project, a Tier 1 informational Advice Letter with the Energy Division Director before making any major capital expenditures related to SONGS. For this purpose, a major capital expenditure is any amount in excess of
$10 million (total expenditure before allocation to SCE, SDG&E and City of Riverside).
10. SCE and SDG&E shall each track all expenditures in excess of those removed pursuant to § 455.5 in a separate subaccount of SONGS OMA. The recovery of amounts booked in this memorandum subaccount shall be requested through a formal application filed by each utility with the Commission; and
11. SCE and SDG&E shall each file a monthly status report with the Commission’s Energy Division, with service on the service list. The monthly report shall include an operational update for the units, description of any Nuclear Regulatory Commission actions, estimated replacement energy and capacity costs, estimated other operational expenses, estimated foregone revenues due to lost sales of excess energy, and any other relevant information that either utility believes is relevant and which may impact the Commission’s consideration of safe and reliable service at just and reasonable rates, including any additional information directed by the Energy Division Director.
12. SCE and SDG&E shall, within 45 days of the date of this order (unless changed by the assigned Commissioner or Administrative Law Judge), each serve proposed testimony. The testimony shall state each utility’s proposed rate adjustments, pursuant to Public Utilities Code § 455.5, due to the outages at San Onofre Nuclear Generation Station Units 2 and 3, inclusive of a clear showing of the amount of SONGS costs in current rates, the amount to be removed, the effective date, and any other information necessary for the Commission to make an informed decision to fully implement a just and reasonable rate adjustment pursuant to Pub. Util. Code § 455.5.

5. The preliminarily scope of issues is as stated in the body of this order.

6. The category of this proceeding is ratesetting. This determination may be appealed under the procedures stated in Rule 7.6 of the Commission’s Rules of Practice and Procedure.

7. It is preliminarily determined that hearing is needed.

8. Unless changed by the assigned Commissioner or Administrative Law Judge, the schedule stated in the body of this order and summarized in Attachment B is adopted. It is the Commission’s intent to resolve this proceeding within 18 months of the date the Scoping Memo is issued.

9. The Executive Director shall perform service of this order on each person on the official service list. The official service list for this proceeding (*see* Attachment C) is composed of everyone on the service lists for: Application
(A.) 11-04-006, A.10-11-015, A.10-12-005, A.09-04-009, Rulemaking (R.) 12-03-014, R.11-10-023, A.11-04-001, A.12-04-001, A.11-08-002, A.12-08-001, A.11-06-003, A.11-09-022, A.12-04-003, A.12-10-002, and A.11-05-011. The official service list shall also include the City of Riverside. Southern California Edison Company and San Diego Gas & Electric Company, as respondents to this proceeding, are entered into the party category. State service participants from prior service lists are continued in the state service category for this proceeding. All others are included in the information only category for this proceeding. Persons may seek party status by oral motion at the prehearing conference or hearing, by written motion, or as directed by the Administrative Law Judge.

10. A person expecting to file an intervenor compensation claim for participation in this proceeding shall file a notice of intent to claim intervenor compensation no later than 30 days after the date of the prehearing conference, or as otherwise directed by the Administrative Law Judge.

11*. Ex parte* communications in this proceeding are subject to the restrictions and reporting requirements stated in Article 8 of the Commission’s Rules of Practice and Procedure (Rule 8.1, *et seq*.).

This order is effective today.

Dated , at San Francisco, California

**ATTACHMENT B**

**ATTACHMENT B**

**ADOPTED SCHEDULE**

|  |  |  |
| --- | --- | --- |
| **LINE NO** | **ITEM** | **DATE** |
| 1 | Appeal of categorization | Filed and served within 10 days of date OII issued  |
| 2 | Response to appeal of categorization | Filed and served within five days of appeal  |
| 3 | SCE and SDG&E each file Tier 1 Advice Letters to establish SONGS OMA | Filed and served within 30 days of date OII issued |
| 4 | Response to OII (regarding issues, need for hearing, schedule) | Filed and served within 30 days of date OII issued |
| 5 | Reply to Response to OII | Filed and served within seven days of response to OII |
| 6 | If directed by assigned Commissioner or ALJ, SCE/SDG&E file and serve background information | To be determined |
| 7 | SCE and SDG&E proposed testimony on rate adjustment pursuant to PU Code § 455.5 (date, amount)  | Served within 45 days of date OII issued |
| 8 | Ruling to set Prehearing Conference | To be set by ruling as soon as practicable after responses |
| 9 | Prehearing Conference | Early 2013 |
| 10 | Scoping Memo | Shortly after PHC  |
| 11 | Investigation Concluded | Within 18 months of the date of the Scoping Memo |

**(END OF ATTACHMENT B)**

**ATTACHMENT C**

**Service List**

|  |  |
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| **\*\*\*\*\*\*\*\*\*\*\*\*\*\* PARTIES \*\*\*\*\*\*\*\*\*\*\*\*\*\*** Rochelle Becker Executive Director ALLIANCE FOR NUCLEAR RESPONSIBILITY PO BOX 1328 SAN LUIS OBISPO CA 93406 (858) 337-2703 rochelle@a4nr.org For: Alliance for Nuclear Responsibility \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Rashid A. Rashid Legal Division RM. 4107 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-2705 rhd@cpuc.ca.gov For: DRA Alvin S. Pak SAN DIEGO GAS & ELECTRIC COMPANY 101 ASH STREET, HQ12C SAN DIEGO CA 92101-3017 (619) 696-2190 APak@SempraUtilities.com For: San Diego Gas & Electric Company \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Gloria M. Ing Attorney At Law SOUTHERN CALIFORNIA EDISON COMPANY 2244 WALNUT GROVE AVE. / PO BOX 800 ROSEMEAD CA 91770 (626) 302-1999 gloria.ing@sce.com For: Southern California Edison Company \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**\*\*\*\*\*\*\*\*\*\* STATE EMPLOYEE \*\*\*\*\*\*\*\*\*\*\*** Robert A. Barnett Administrative Law Judge Division RM. 2208 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1504 rab@cpuc.ca.gov  | Truman L. Burns Division of Ratepayer Advocates RM. 4205 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-2932 txb@cpuc.ca.gov Eric Greene Energy Division AREA 4-A 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-5560 eg1@cpuc.ca.gov Sepideh Khosrowjah Executive Division RM. 5202 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1190 skh@cpuc.ca.gov Scott Logan Division of Ratepayer Advocates RM. 4108 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1418 sjl@cpuc.ca.gov Robert M. Pocta Division of Ratepayer Advocates RM. 4205 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-2871 rmp@cpuc.ca.gov **\*\*\*\*\*\*\*\*\* INFORMATION ONLY \*\*\*\*\*\*\*\*\*\*** Patricia Borchmann 1141 CARROTWOOD GLEN ESCONDIDO CA 92026 (760) 580-7046 patricia.borchmann@yahoo.com CALIFORNIA ENERGY MARKETS 425 DIVISADERO STREET, SUITE 303 SAN FRANCISCO CA 94117 (415) 963-4439 cem@newsdata.com  |
| MRW & ASSOCIATES, LLC EMAIL ONLY EMAIL ONLY CA 00000 (510) 834-1999 mrw@mrwassoc.com Sara Steck Myers Attorney At Law 122 - 28TH AVENUE SAN FRANCISCO CA 94121 (415) 387-1904 ssmyers@att.net Case Coordination PACIFIC GAS AND ELECTRIC COMPANY PO BOX 770000, MC B9A SAN FRANCISCO CA 94177 regrelcpuccases@pge.com Wendy Keilani SAN DIEGO GAS & ELECTRIC 8330 CENTURY PARK COURT, CP32D SAN DIEGO CA 92123 (858) 654-1185 WKeilani@SempraUtilities.com Linda Wrazen Regulatory Case Administrator SAN DIEGO GAS & ELECTRIC COMPANY 8330 CENTURY PARK COURT, CP32D SAN DIEGO CA 92123-1530 (858) 637-7914 LWrazen@SempraUtilities.com Central Files SAN DIEGO GAS AND ELECTRIC CO. 8330 CENTURY PARK COURT, CP31-E SAN DIEGO CA 92123 (858) 654-1240 CentralFiles@SempraUtilities.com Case Administration SOUTHERN CALIFORNIA EDISON COMPANY 2244 WALNUT GROVE AVE. / PO BOX 800 ROSEMEAD CA 91770 (626) 302-1063 case.admin@sce.com Walker A. Matthews, Iii Attorney At Law SOUTHERN CALIFORNIA EDISON COMPANY 2244 WALNUT GROVE AVENUE, PO BOX 800 ROSEMEAD CA 91770 (626) 302-6879 walker.matthews@sce.com  |  |

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| **\*\*\*\*\*\*\*\*\*\*\*\*\*\* PARTIES \*\*\*\*\*\*\*\*\*\*\*\*\*\*** Rachael E. Koss ADAMS BROADWELL JOSEPH & CARDOZO 601 GATEWAY BOULEVARD, SUITE 1000 SOUTH SAN FRANCISCO CA 94080 (650) 589-1660 X20 rkoss@adamsbroadwell.com For: Coalition of California Utility Employees (CUE) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_James Weil Director AGLET CONSUMER ALLIANCE PO BOX 866 NOVATO CA 94948 (415) 895-5296 jweil@aglet.org For: Aglet Consumer Alliance \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Nora Sheriff ALCANTAR & KAHL 33 NEW MONTGOMERY STREET, SUITE 1850 SAN FRANCISCO CA 94105 (415) 421-4143 nes@a-klaw.com For: Energy Producers & Users Coalition \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Rochelle Becker Executive Director ALLIANCE FOR NUCLEAR RESPONSIBILITY PO BOX 1328 SAN LUIS OBISPO CA 93406 (858) 337-2703 rochelle@a4nr.org For: Alliance for Nuclear Responsibility \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Edward G. Poole Attorney ANDERSON & POOLE 601 CALIFORNIA STREET, SUITE 1300 SAN FRANCISCO CA 94108-2818 (415) 956-6413 X-102 epoole@adplaw.com For: Western Manufactured Housing Communities Association \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Rick D. Chamberlain Attorney BEHRENS, WHEELER & CHAMBERLAIN 6 N.E. 63RD STREET, SUITE 400 OKLAHOMA CITY OK 73105 (405) 848-1014 rdc\_law@swbell.net For: Wal-Mart Stores, Inc. and Sam's West, Inc. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_David J. Byers, Esq. Attorney At Law BYERS / RICHARDSON 259 W. 3RD AVENUE SAN MATEO CA 94402 (650) 759-3375 dbyers@landuselaw.net For: California City-County Street Light Associaion "CAL-SLA" \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Karen Norene Mills Assoc. Counsel CALIFORNIA FARM BUREAU FEDERATION 2300 RIVER PLAZA DRIVE SACRAMENTO CA 95833 (916) 561-5655 kmills@cfbf.com For: California Farm Bureau Federation \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Melissa W. Kasnitz CENTER FOR ACCESSIBLE TECHNOLOGY 3075 ADELINE STREET, SUITE 220 BERKELEY CA 94703 (510) 841-3224 X2019 service@cforat.org For: Disability Rights Advocates \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Ann Trowbridge Attorney At Law DAY CARTER MURPHY LLC 3620 AMERICAN RIVER DRIVE, SUITE 205 SACRAMENTO CA 95864 (916) 570-2500 X103 atrowbridge@daycartermurphy.com For: Agricultural Energy Consumer Assoc. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Daniel W. Douglass DOUGLASS & LIDDELL EMAIL ONLY EMAIL ONLY CA 00000 (818) 961-3001 douglass@energyattorney.com For: Western Power Trading Forum \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Suma Peesapati EARTHJUSTICE 50 CALIFORNIA ST., STE. 500 SAN FRANCISCO CA 94111 (510) 550-6725 speesapati@earthjustice.org For: Sierra Club \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Robert Gnaizda Of Counsel 200 29TH STREET, NO. 1 SAN FRANCISCO CA 94131 (415) 307-3320 RobertGnaizda@gmail.com For: National Asian American Coalition/Latino Business Chamber of Greater Los Ageles/Black Economic Council \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Brian T. Cragg GOODIN, MACBRIDE, SQUERI, DAY & LAMPREY 505 SANSOME STREET, SUITE 900 SAN FRANCISCO CA 94111 (415) 392-7900 bcragg@goodinmacbride.com For: Independent Energy Producers Association \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Norman A. Pedersen Attorney HANNA AND MORTON LLP 444 SOUTH FLOWER ST. SUITE 1500 LOS ANGELES CA 90071-2916 (213) 430-2510 npedersen@hanmor.com For: Southern California Generation Coalition \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Kathleen M. Bellomo Attorney At Law KATHLEEN MALONEY BELLOMO PO BOX 217 LEE VINING CA 93541 (760) 647-6473 hydroesq@schat.net For: Eastern Sierra Ratepayer Association \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_David L. Huard Attorney At Law MANATT, PHELPS & PHILLIPS, LLP ONE EMBARCADERO CENTER, 30TH FLOOR SAN FRANCISCO CA 94111 (415) 291-7430 dhuard@manatt.com For: County of Los Angeles \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | John W. Leslie, Esq. MCKENNA LONG & ALDRIDGE LLP EMAIL ONLY EMAIL ONLY CA 00000 (619) 699-2536 jleslie@McKennaLong.com For: Exxon Mobil Corporaton \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Howard V. Golub NIXON PEABODY, LLP 1 EMBARCADERO CENTER, STE. 1800 SAN FRANCISCO CA 94111 (415) 984-8200 hgolub@nixonpeabody.com For: City of Long Beach, California \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Steven W. Frank PACIFIC GAS AND ELECTRIC CO 77 BEALE STREET, B30A SAN FRANCISCO CA 94105 (415) 973-6976 swf5@pge.com For: Pacific Gas and Electric Company \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_James F. Walsh SAN DIEGO GAS & ELECTRIC COMPANY 101 ASH STREET, HQ12B SAN DIEGO CA 92101 (619) 699-5022 JFWalsh@semprautilities.com For: San Diego Gas & Electric Company \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_John A. Pacheco Attorney SAN DIEGO GAS & ELECTRIC COMPANY 101 ASH STREET, HQ12B SAN DIEGO CA 92101-3017 (619) 699-5130 JPacheco@SempraUtilities.com For: San Diego Gas & Electric \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Frank A. Mcnulty K. VYAS, J.L. COLE, J. COMBS, G.M. ING, R. LESOUTHERN CALIFORNIA EDISON COMPANY 2244 WALNUT GROVE AVE. / PO BOX 800 ROSEMEAD CA 91770 (626) 302-1499 Francis.McNulty@sce.com For: Southern California Edison Company \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Stephanie Chen Attorney At Law THE GREENLINING INSTITUTE EMAIL ONLY EMAIL ONLY CA 00000 (510) 398-0506 stephaniec@greenlining.org For: The Greenlining Institute \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Robert Finkelstein General Counsel THE UTILITY REFORM NETWORK 115 SANSOME STREET, SUITE 900 SAN FRANCISCO CA 94104 (415) 929-8876 X-307 bfinkelstein@turn.org For: TURN \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Thomas Long THE UTILITY REFORM NETWORK 115 SANSOME ST., STE. 900 SAN FRANCISCO CA 94104 (415) 929-8876 tlong@turn.org For: The Utility Reform Network \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Kelly M. Foley Attorney THE VOTE SOLAR INITIATIVE 2089 TRACY COURT FOLSOM CA 95630 (916) 367-2017 kelly@votesolar.org For: The Vote Solar Initiative \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Laura J. Rosen Legal Division RM. 5032 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-2164 ljt@cpuc.ca.gov For: DRA Carl Wood Afl-Cio, Natl Regulatory Affairs Dir. UTILITY WORKERS UNION OF AMERICA 10103 LIVE OAK AVENUE CHERRY VALLEY CA 92223 (951) 567-1199 carlwood@uwua.net For: Utility Workers Union of America \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | **\*\*\*\*\*\*\*\*\*\* STATE EMPLOYEE \*\*\*\*\*\*\*\*\*\*\*** Sheri Inouye Boles Executive Division AREA 2-B 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1182 sni@cpuc.ca.gov Traci Bone Legal Division RM. 5027 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-2048 tbo@cpuc.ca.gov Donna-Fay Bower Division of Ratepayer Advocates RM. 4205 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1420 dfb@cpuc.ca.gov Roland Esquivias CPUC EMAIL ONLY EMAIL ONLY CA 00000 (415) 703-2212 roe@cpuc.ca.gov Bishu Chatterjee Executive Division RM. 5303 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1247 bbc@cpuc.ca.gov Melanie Darling Administrative Law Judge Division RM. 5041 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1461 md2@cpuc.ca.gov Eric Greene Energy Division AREA 4-A 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-5560 eg1@cpuc.ca.gov  |
| Donald J. Lafrenz Energy Division AREA 4-A 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1063 dlf@cpuc.ca.gov Rahmon Momoh Executive Division RM. 5206 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1725 rmm@cpuc.ca.gov Robert M. Pocta Division of Ratepayer Advocates RM. 4205 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-2871 rmp@cpuc.ca.gov Felix Robles Energy Division AREA 4-A 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-2801 fvr@cpuc.ca.gov Clayton K. Tang Division of Ratepayer Advocates RM. 4205 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-2728 ckt@cpuc.ca.gov Christopher R Villarreal Policy & Planning Division RM. 5119 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1566 crv@cpuc.ca.gov **\*\*\*\*\*\*\*\*\* INFORMATION ONLY \*\*\*\*\*\*\*\*\*\***  | Marc D. Joseph ADAMS BROADWELL JOSEPH & CARDOZO 601 GATEWAY BLVD., STE. 1000 SOUTH SAN FRANCISCO CA 94080-7037 (650) 589-1660 mdjoseph@adamsbroadwell.com Tom Adams EMAIL ONLY EMAIL ONLY CA 00000 ThomasgAdams@gmail.com Eileen Anthony 410 DOGWOOD DRIVE BUELLTON CA 93427 resanthony@hotmail.com Andrew Gay ARC ASSET MANAGEMENT EMAIL ONLY EMAIL ONLY NY 00000 (212) 231-4960 andrewgay@arcassetltd.com Richard Mccann ASPEN ENVIRONMENTAL GROUP 2655 PORTAGE BAY AVE E, SUITE 3 DAVIS CA 95616 (530) 757-6363 rmccann@umich.edu Gregg Orrill Director, Equity Research BARCLAYS CAPITAL 745 7TH AVENU NEW YORK NY 10019 (212) 526-0865 gregg.orrill@barclays.com Barbara R. Barkovich BARKOVICH & YAP, INC. EMAIL ONLY EMAIL ONLY CA 00000 (707) 937-6203 brbarkovich@earthlink.net Alison Lechowicz BARTLE WELLS ASSOCIATES EMAIL ONLY EMAIL ONLY CA 00000-0000 (510) 653-3399 alison@bartlewells.com  |
| Reed Schmidt BARTLE WELLS ASSOCIATES 1889 ALCATRAZ AVENUE BERKELEY CA 94703-2714 (510) 653-3399 X-111 rschmidt@bartlewells.com Kit Konolige BGC FINANCIAL L.P. 199 WATER STREET, 23RD FL. NEW YORK NY 10038 (646) 346-6865 KKONOLIGE@BGCPARTNERS.COM Len Canty Chairman BLACK ECONOMIC COUNCIL 484 LAKE PARK AVE., SUITE 338 OAKLAND CA 94610 (510) 452-1337 lencanty@BlackEconomicCouncil.org Scott Blaising Attorney BRAUN BLAISING MCLAUGHLIN, P.C. EMAIL ONLY EMAIL ONLY CA 00000 (916) 682-9702 blaising@braunlegal.com CALIFORNIA ENERGY MARKETS 425 DIVISADERO ST STE 303 SAN FRANCISCO CA 94117-2242 (415) 552-1764 cem@newsdata.com Uthman Arogundade CATAPULT CAPITAL 666 FIFTH AVENUE, 9TH FL. NEW YORK NY 10103 (212) 320-1057 uthman.arogundade@catapult-llc.com Joanne Genis CITIZENS FOR ALTERNATE ROUTING OF ELECT 3766 GARDEN COURT CHINO HILLS CA 91709 (909) 597-0449 jgenis3833@aol.com  | Fred Lyn CITY OF RANCHO CUCAMONGA EMAIL ONLY EMAIL ONLY CA 00000 (909) 477-2740 fred.lyn@cityofrc.us Henry / Dorothy Collins 3345 VIRGINIA STREET LYNWOOD CA 90262-0482 Howard Choy Dir. - Office Of Sustainability COUNTY OF LOS ANGELES 1100 NORTH EASTERN AVENUE, ROOM 300 LOS ANGELES CA 90063 (323) 881-3939 hchoy@isd.co.la.ca.us Scott Senchak DECADE CAPITAL EMAIL ONLY EMAIL ONLY NY 00000-0000 (212) 320-1933 scott.senchak@decade-llc.com Anjani Vedula DEUTSCHE BANK 60 WALL STREET NEW YORK NY 10005 (215) 300-3328 anjani.vedula@db.com Jonathan Arnold DEUTSCHE BANK 60 WALL STREET NEW YORK NY 10005 (212) 250-3182 jonathan.arnold@db.com Lauren Duke DEUTSCHE BANK SECURITIES INC. EMAIL ONLY EMAIL ONLY NY 00000 (212) 250-8204 lauren.duke@db.com Donald C. Liddell Counsel DOUGLASS & LIDDELL 2928 2ND AVENUE SAN DIEGO CA 92103 (619) 993-9096 liddell@EnergyAttorney.com  |
| Gregory Klatt DOUGLASS & LIDDELL 411 E. HUNTINGTON DR., STE. 107-356 ARCADIA CA 91006 (818) 961-3002 klatt@energyattorney.com Jessie Baird EARTHJUSTICE EMAIL ONLY EMAIL ONLY CA 00000 (510) 550-6725 jbaird@earthjustice.org Ross Boomer EDISON INTERNATIONAL 2244 WALNUT GROVE AVE. ROSEMEAD CA 91770 (626) 302-3548 ross.boomer@edisonintl.com Ronald Liebert Attorney At Law ELLISON SCHNEIDER & HARRIS LLP 2600 CAPITOL AVENUE, STE. 400 SACRAMENTO CA 95816 (916) 447-2166 rl@eslawfirm.com Lynn M. Haug ELLISON, SCHNEIDER & HARRIS, L.L.P. 2600 CAPITOL AVENUE, SUITE 400 SACRAMENTO CA 95816-5931 (916) 447-2166 lmh@eslawfirm.com S. Julio Friedmann ENERGY & ENVIRONMENTAL SECURITY PO BOX 808 L-184 LIVERMORE CA 94551 Friedmann2@llnl.gov Marc C. Johnson Law EXXON MOBIL GAS & POWER MRKTNG CO. 800 BELL STREET, NO. 3497-N HOUSTON TX 77002 (713) 656-4786 marc.c.johnson@exxonmobil.com  | Paul Patterson GLENROCK ASSOCIATES LLC EMAIL ONLY EMAIL ONLY NY 00000 (212) 246-3318 ppatterson2@nyc.rr.com Steven Kelly INDEPENDENT ENERGY PRODUCERS ASSN EMAIL ONLY EMAIL ONLY CA 00000-0000 (916) 448-9499 steven@iepa.com Garrick Jones JBS ENERGY 311 D STREET WEST SACRAMENTO CA 95605 (916) 372-0534 garrick@jbsenergy.com Jorge Corralejo Chairman / President LAT. BUS. CHAMBER OF GREATER L.A. 634 S. SPRING STREET, STE 600 LOS ANGELES CA 90014 (213) 347-0008 JCorralejo@LBCgla.org James J. Heckler LEVIN CAPITAL STRATEGIES 595 MADISON AVENUE NEW YORK NY 10022 (212) 259-0851 jheckler@levincap.com Aaron Lewis 1472 FILBERT ST., APT. 408 SAN FRANCISCO CA 94109-1629 (530) 400-9136 aaron.joseph.lewis@gmail.com Stefanie Warren LUCE FORWARD HAMILTON & SCRIPPS LLP EMAIL ONLY EMAIL ONLY CA 00000 (619) 533-7378 swarren@luce.com Michael Goldenberg LUMINUS MANAGEMENT 1700 BROADWAY, 38TH FLOOR NEW YORK NY 10019 (212) 615-3427 mgoldenberg@luminusmgmt.com  |
| Cleo Zagrean MACQUARIE CAPITAL (USA) EMAIL ONLY EMAIL ONLY NY 00000 (212) 231-1749 cleo.zagrean@macquarie.com Jack Stoddard MANATT PHELPS & PHILLIPS, LLP ONE EMBARCADERO CENTER, 30TH FL. SANFRANCISCO CA 94111 (415) 291-7400 JStoddard@manatt.com Phyllis A. Marshall Attorney MANATT, PHELPS & PHILLIPS, LLP ONE EMBARCADERO CENTER, 30TH FL SAN FRANCISCO CA 94111 (415) 291-7400 pmarshall@manatt.com For: The California Black Chamber of Commerce \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Randy Keen MANATT, PHELPS & PHILLIPS, LLP ONE EMBARCADERO CENTER, 30TH FLOOR SAN FRANCISCO CA 94111 (415) 291-7400 rkeen@manatt.com For: County of Los Angeles; The California Black Chamber of Commerce \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Tara Kaushik Attorney MANATT, PHELPS & PHILLIPS, LLP ONE EMBARCADERO CENTER, 30TH FLOOR SAN FRANCISCO CA 94111 (415) 291-7409 TKaushik@manatt.com For: County of Los Angeles; The California Black Chamber of Commerce. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_David Marcus PO BOX 1287 BERKELEY CA 94701 (510) 528-0728 dmarcus2@sbcglobal.net Naaz Khumawala MERRILL LYNCH, PIERCE, FENNER & SMITH EMAIL ONLY EMAIL ONLY TX 00000 (713) 247-7313 naaz.khumawala@baml.com  | MRW & ASSOCIATES, LLC EMAIL ONLY EMAIL ONLY CA 00000 (510) 834-1999 mrw@mrwassoc.com Faith Bautista President & Ceo NATIONAL ASIAN AMERICAN COALITION 1758 EL CAMINO REAL SAN BRUNO CA 94066 (650) 952-0522 bautistafaith@yahoo.com Shalini Swaroop Sr. Staff Attorney NATIONAL ASIAN AMERICAN COALITION 1758 EL CAMINO REAL SAN BRUNO CA 94066 (650) 953-0522 X-231 sswaroop@naacoalition.org Joanie Yuen Case Coordinator PACIFIC GAS & ELECTRIC COMPANY EMAIL ONLY EMAIL ONLY CA 00000 JXYR@pge.com Minci Han PACIFIC GAS & ELECTRIC COMPANY EMAIL ONLY EMAIL ONLY CA 00000 m2h9@pge.com Shelly Sharp PACIFIC GAS & ELECTRIC COMPANY EMAIL ONLY EMAIL ONLY CA 00000 ssm3@pge.com Case Coordination PACIFIC GAS AND ELECTRIC COMPANY PO BOX 770000; MC B9A SAN FRANCISCO CA 94177 (415) 973-4744 regrelcpuccases@pge.com Janet Liu Case Coordinator PACIFIC GAS AND ELECTRIC COMPANY 77 BEALE STREET, MC B9A SAN FRANCISCO CA 94105 (415) 973-7653 J4LR@pge.com  |
| Edward Heyn POINTSTATE CAPITAL 40 WEST 57TH STREET, 25TH FL. NEW YORK NY 10019 (212) 830-7061 ted@PointState.com Tracy Porter PREMIERE SOLUTIONS, LLC 4695 CHABOT DRIVE, STE. 200 PLEASANTON CA 94588 (925) 467-1000 Tracy@Premieresolutionsllc.com Ellen Ngai RBC CAPITAL MARKETS 111 WORTH ST., APT. 18K NEW YORK NY 10013 (212) 558-0412 ellen.ngai@rbccm.com Donald W. Schoenbeck RCS, INC. 900 WASHINGTON STREET, SUITE 780 VANCOUVER WA 98660 (360) 737-3877 dws@r-c-s-inc.com Joan Renehan 913 CROWN AVENUE SANTA BARBARA CA 93111 Sue Mara Consultant RTO ADVISORS, LLC 164 SPRINGDALE WAY REDWOOD CITY CA 94062 (415) 902-4108 sue.mara@RTOadvisors.com Pete Girard SAN DIEGO GAS & ELECTRIC 8330 CENTURY PARK CT., STE. 32E SAN DIEGO CA 92123 (858) 654-8218 pgirard@semprautilities.com Keith Melville SAN DIEGO GAS & ELECTRIC COMPANY 101 ASH STREET, HQ-12B SAN DIEGO CA 92101 (619) 699-5039 KMelville@SempraUtilities.com  | Laura Earl Sr. Counsel - Regulatory SAN DIEGO GAS & ELECTRIC COMPANY 101 ASH STREET SAN DIEGO CA 92101 (619) 696-0583 learl@SempraUtilities.com Onell Soto SAN DIEGO UNION-TRIBUNE PO BOX 120191 SAN DIEGO CA 92112-0191 (619) 293-1280 onell.soto@uniontrib.com Clay Faber SEMPRA UTILITIES EMAIL ONLY EMAIL ONLY CA 00000 cfaber@semprautilities.com Marcie A. Milner SHELL ENERGY NORTH AMERICA (US), L.P. 4445 EASTGATE MALL, STE. 100 SAN DIEGO CA 92121 (858) 526-2106 marcie.milner@shell.com Kevin Fallon SIR CAPITAL MANAGEMENT 620 EIGHTH AVENUE, 22ND FLOOR NEW YORK NY 10018 (212) 993-7104 kfallon@sirfunds.com Case Administration SOUTHERN CALIFORNIA EDISON COMPANY 2244 WALNUT GROVE AVE./ PO BOX 800 ROSEMEAD CA 91770 (626) 302-4875 scegrc@sce.com Kris G. Vyas Attorney SOUTHERN CALIFORNIA EDISON COMPANY 2244 WALNUT GROVE AVE./PO BOX 800 ROSEMEAD CA 91770 (626) 302-6613 kris.vyas@sce.com  |
| Russell Worden SOUTHERN CALIFORNIA EDISON COMPANY 2244 WALNUT GROVE AVE./PO BOX 800 ROSEMEAD CA 91770 (626) 302-6705 Russell.Worden@sce.com Johnny J. Pong SOUTHERN CALIFORNIA GAS COMPANY 555 W. 5TH ST. GT14E7, SUITE 1400 LOS ANGELES CA 90013-1034 (213) 244-2990 JPong@SempraUtilities.com For: San Diego Gas & Electric \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Daniel Dominguez UTILITY WORKERS UNION OF AMERICA LOC 246 10355 LOS ALAMITOS BLVD. LOS ALAMITOS CA 92673 (562) 594-8881 dand2847@aol.com Kevin Woodruff WOODRUFF EXPERT SERVICES 1100 K STREET, SUITE 204 SACRAMENTO CA 95814 (916) 442-4877 kdw@woodruff-expert-services.com  |  |

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| **\*\*\*\*\*\*\*\*\*\*\*\*\*\* PARTIES \*\*\*\*\*\*\*\*\*\*\*\*\*\*** Rachael E. Koss ADAMS BROADWELL JOSEPH & CARDOZO 601 GATEWAY BOULEVARD, SUITE 1000 SOUTH SAN FRANCISCO CA 94080 (650) 589-1660 rkoss@adamsbroadwell.com For: Coalition of California Utility Employees \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_James Weil Director AGLET CONSUMER ALLIANCE PO BOX 866 NOVATO CA 94948 (415) 895-5296 jweil@aglet.org For: Aglet Consumer Alliance \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Seema Srinivasan ALCANTAR & KAHL LLP 33 NEW MONTGOMERY STREET, SUITE 1850 SAN FRANCISCO CA 94105 (415) 421-4143 sls@a-klaw.com For: Indicated Producers \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Evelyn Kahl ALCANTAR & KAHL, LLP 33 NEW MONTGOMERY STREET, SUITE 1850 SAN FRANCISCO CA 94015 (415) 403-5542 ek@a-klaw.com For: Clean Energy Fuels Corp. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Rick D. Chamberlain Attorney BEHRENS, WHEELER & CHAMBERLAIN 6 N.E. 63RD STREET, SUITE 400 OKLAHOMA CITY OK 73105 (405) 848-1014 rdc\_law@swbell.net For: Wal-Mart Stores, Inc. and Sam's West, Inc. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Len Canty Chairman BLACK ECONOMIC COUNCIL 484 LAKE PARK AVE., SUITE 338 OAKLAND CA 94610 (510) 452-1337 lencanty@BlackEconomicCouncil.org For: Black Economic Council \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | David J. Byers, Esq. Attorney At Law BYERS / RICHARDSON 259 W. 3RD AVENUE SAN MATEO CA 94402 (650) 759-3375 dbyers@landuselaw.net For: California City-County Street Light Association "CAL-SLA" \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Jonathan Bromson Legal Division RM. 4107 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-2362 jab@cpuc.ca.gov For: DRA Karen Norene Mills Assoc. Counsel CALIFORNIA FARM BUREAU FEDERATION 2300 RIVER PLAZA DRIVE SACRAMENTO CA 95833 (916) 561-5655 kmills@cfbf.com For: California Farm Bureau Federation \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Melissa W. Kasnitz CENTER FOR ACCESSIBLE TECHNOLOGY 3075 ADELINE STREET, STE. 220 BERKELEY CA 94703 (510) 841-3224 X2019 service@cforat.org For: Center for Accessible Technology \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_DISABILITY RIGHTS ADVOCATES EMAIL ONLY EMAIL ONLY CA 00000 pucservice@dralegal.org For: Disability Rights Advocates \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Daniel W. Douglass Attorney DOUGLASS & LIDDELL 21700 OXNARD ST., STE. 1030 WOODLAND HILLS CA 91367 (818) 961-3001 douglass@energyattorney.com For: Direct Access Custome Coalition \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Norman J. Furuta FEDERAL EXECUTIVE AGENCIES 1455 MARKET ST., SUITE 1744 SAN FRANCISCO CA 94103-1399 (415) 503-6994 norman.furuta@navy.mil For: Federal Executive Agencies \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Norman A. Pedersen Attorney At Law HANNA AND MORTON, LLP 444 SOUTH FLOWER STREET, NO. 1500 LOS ANGELES CA 90071-2916 (213) 430-2510 npedersen@hanmor.com For: Southern California Generation Coalition \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Jorge Corralejo Chairman / President LAT. BUS. CHAMBER OF GREATER L.A. 634 S. SPRING STREET, STE 600 LOS ANGELES CA 90014 (213) 347-0008 JCorralejo@LBCgla.org For: Latino Business Chamber of Greater L.A. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_John W. Leslie, Esq. MCKENNA LONG & ALDRIDGE LLP EMAIL ONLY EMAIL ONLY CA 00000 (619) 699-2536 JLeslie@McKennaLong.com For: Shell Energy North America \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Diane Conklin Spokesperson MUSSEY GRADE ROAD ALLIANCE PO BOX 683 RAMONA CA 92065 (760) 787-0794 dj0conklin@earthlink.net For: Mussey Grade Road Alliance \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Faith Bautista President NATIONAL ASIAN AMERICAN COALITION 1758 EL CAMINO REAL SAN BRUNO CA 94066 (650) 953-0522 Faith.MabuhayAlliance@gmail.com For: National Asian American Coalition \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Steven W. Frank PACIFIC GAS AND ELECTRIC CO 77 BEALE STREET, B30A SAN FRANCISCO CA 94105 (415) 973-6976 swf5@pge.com For: Pacific Gas and Electric Company \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_John A. Pacheco Attorney SAN DIEGO GAS & ELECTRIC COMPANY 101 ASH STREET, HQ12B SAN DIEGO CA 92101-3017 (619) 699-5130 JPacheco@SempraUtilities.com For: San Diego Gas & Electric \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Keith Melville SAN DIEGO GAS & ELECTRIC COMPANY 101 ASH STREET, HQ-12B SAN DIEGO CA 92101 (619) 699-5039 KMelville@SempraUtilities.com For: San Diego Gas & Electric/SoCal Gas \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Ronald Van Der Leeden Dir.-General Rate Case & Revenue Req. SAN DIEGO GAS & ELECTRIC COMPANY 555 WEST 5TH STREET, GT15C2 LOS ANGELES CA 90013-1011 (213) 244-2009 RVanderleeden@SempraUtilities.com For: San Deigo Gas & Electric Company \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Francis Mcnulty Attorney At Law SOUTHERN CALIFORNIA EDISON COMPANY 2244 WALNUT GROVE AVENUE ROSEMEAD CA 91770 (626) 302-1499 Francis.McNulty@sce.com For: SCE \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_David J. Gilmore SOUTHERN CALIFORNIA GAS COMPANY 555 WEST FIFTH STREET, GT-14E7 LOS ANGELES CA 90071 (213) 244-2945 DGilmore@SempraUtilities.com For: SDG&E/SoCal Gas \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Nicholas Sher Legal Division RM. 4007 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-4232 nms@cpuc.ca.gov For: DRA Stephanie Chen Attorney At Law THE GREENLINING INSTITUTE EMAIL ONLY EMAIL ONLY CA 00000 (510) 398-0506 stephaniec@greenlining.org For: The Greenlining Institute \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Nina Suetake THE UTILITY REFORM NETWORK 115 SANSOME STREET, SUITE 900 SAN FRANCISCO CA 94104 (415) 929-8876 X 308 nsuetake@turn.org For: The Utility Reform Network \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_David A. Peffer, Esq. UTILITY CONSUMERS ACTION NETWORK 3405 KENYON STREET, STE. 401 SAN DIEGO CA 92110 (619) 696-6966 DPeffer@ucan.org For: UCAN \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_William Julian Ii UTILITY WORKERS UNION OF AMERICA 43556 ALMOND LANE DAVIS CA 95618 (530) 219-7638 billjulian@sbcglobal.net For: Utility Workers Union of America \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**\*\*\*\*\*\*\*\*\*\* STATE EMPLOYEE \*\*\*\*\*\*\*\*\*\*\*** Sheri Inouye Boles Executive Division AREA 2-B 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1182 sni@cpuc.ca.gov  | Donna-Fay Bower Division of Ratepayer Advocates RM. 4205 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1420 dfb@cpuc.ca.gov Truman L. Burns Division of Ratepayer Advocates RM. 4205 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-2932 txb@cpuc.ca.gov Michael Colvin Executive Division RM. 5212 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 355-5484 mc3@cpuc.ca.gov Belinda Gatti Energy Division AREA 4-A 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-3272 beg@cpuc.ca.gov Stephanie Green Executive Division AREA 2-B 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-5245 sjg@cpuc.ca.gov Donald J. Lafrenz Energy Division AREA 4-A 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1063 dlf@cpuc.ca.gov Elaine Lau Energy Division AREA 4-A 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-5621 ec2@cpuc.ca.gov  |
| Richard A. Myers Energy Division AREA 4-A 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1228 ram@cpuc.ca.gov Noel Obiora Legal Division RM. 5121 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-5987 nao@cpuc.ca.gov Robert M. Pocta Division of Ratepayer Advocates RM. 4205 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-2871 rmp@cpuc.ca.gov John S. Wong Administrative Law Judge Division RM. 5106 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-3130 jsw@cpuc.ca.gov James R. Wuehler Division of Ratepayer Advocates RM. 4208 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1667 jrw@cpuc.ca.gov Marzia Zafar Executive Division RM. 2-B 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1997 zaf@cpuc.ca.gov **\*\*\*\*\*\*\*\*\* INFORMATION ONLY \*\*\*\*\*\*\*\*\*\***  | Marc D. Joseph ADAMS BROADWELL JOSEPH & CARDOZO 601 GATEWAY BLVD., STE. 1000 SOUTH SAN FRANCISCO CA 94080-7037 (650) 589-1660 mdjoseph@adamsbroadwell.com Maria C. Severson MICHAEL J. AGUIRRE Counsel AGUIRRE MORRIS & SEVERSON 444 W. C STREET, SUITE 210 SAN DIEGO CA 92101 (619) 876-5364 mseverson@amslawyers.com For: Ruth Henricks \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Karen Terranova ALCANTAR & KAHL 33 NEW MONTGOMERY STREET, SUITE 1850 SAN FRANCISCO CA 94105 (415) 403-5542 filings@a-klaw.com Nora Sheriff ALCANTAR & KAHL EMAIL ONLY EMAIL ONLY CA 00000 (415) 403-5542 nes@a-klaw.com Ross Van Ness ALCANTAR & KAHL 1300 SW FIFTH AVE., STE. 1750 PORTLAND OR 97209 (503) 402-9900 rvn@a-klaw.com Mike Cade ALCANTAR & KAHL, LLP 1300 SW 5TH AVE, SUITE 1750 PORTLAND OR 97201 (503) 402-8711 wmc@a-klaw.com Fassil T. Fenikile Director, Regulatory AT&T CALIFORNIA 525 MARKET STREET, ROOM 1925 SAN FRANCISCO CA 94105 (415) 778-1455 Fassil.t.Fenikile@att.com  |
| Noah Hauser BARCLAYS CAPITAL 745 - 7TH AVENUE, 17TH FLOOR NEW YORK NY 10003 (212) 526-6203 noah.hauser@barclayscapital.com Catherine E. Yap BARKOVICH & YAP, INC. PO BOX 11031 OAKLAND CA 94611 (510) 450-1270 ceyap@earthlink.net Alison Lechowicz BARTLE WELLS ASSOCIATES EMAIL ONLY EMAIL ONLY CA 00000-0000 (510) 653-3399 alison@bartlewells.com Reed Schmidt BARTLE WELLS ASSOCIATES 1889 ALCATRAZ AVENUE BERKELEY CA 94703-2714 (510) 653-3399 X-111 rschmidt@bartlewells.com Bruno Jeider BURBANK WATER & POWER 164 WEST MAGNOLIA BLVD. BURBANK CA 91502 (818) 238-3700 bjeider@ci.burbank.ca.us CALIFORNIA ENERGY MARKETS 425 DIVISADERO STREET, SUITE 303 SAN FRANCISCO CA 94117 (415) 963-4439 cem@newsdata.com Charles Guss CITY OF ANAHEIM 200 SOUTH ANAHEIM BLVD. ANAHEIM CA 92805 (415) 765-4242 cguss@anaheim.net Steven Sciortino CITY OF ANAHEIM 200 SOUTH ANAHEIM BOULEVARD ANAHEIM CA 92805 (714) 765-5177 ssciortino@anaheim.net  | Mark Sweeney CLEAN ENERGY FUELS CORPORATION 4638 SANTA CRUZ AVENUE SAN DIEGO CA 92107 (619) 223-2629 mpsweeney@earthlink.net DAVIS WRIGHT TREMAINE, LLP EMAIL ONLY EMAIL ONLY CA 00000 dwtcpucdockets@dwt.com Ralph E. Dennis DENNIS CONSULTING 2805 BITTERSWEET LANE LA GRANGE KY 40031 (502) 241-5686 ralphdennis@insightbb.com Jonathan Arnold DEUTSCHE BANK 60 WALL STREET NEW YORK NY 10005 (212) 250-3182 jonathan.arnold@db.com Alana Chavez-Langdon ECOTALITY, INC. 80 E RIO SALADO PKWY, STE. 710 TEMPE AZ 85281-9110 (480) 776-2175 AChavez@ecotality.com Ronald Liebert Attorney At Law ELLISON SCHNEIDER & HARRIS LLP 2600 CAPITOL AVENUE, STE. 400 SACRAMENTO CA 95816 (916) 447-2166 rl@eslawfirm.com Lynn Haug ELLISON, SCHNEIDER & HARRIS L.L.P. 2600 CAPITOL AVENUE, SUITE 400 SACRAMENTO CA 95816-5931 (916) 447-2166 lmh@eslawfirm.com For: ECOtality North America \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Daniel J. Brink Counsel EXXON MOBIL CORP. 800 BELL ST., RM. 3497-0 HOUSTON TX 77002 (713) 656-4418 daniel.j.brink@exxonmobil.com Randy E. Parker EXXON MOBIL CORPORATION 800 BELL STREET, CORP-EMB- 3505CC HOUSTON TX 77002 (713) 656-4418 randy.e.parker@exxonmobil.com Valerie Puffer GLENDALE WATER & POWER 700 N. BRAND, SUITE 590 GLENDALE CA 91203 (818) 548-4096 VPuffer@ci.glendale.ca.us Steven G. Lins Chief Assistant General Manager GLENDALE WATER AND POWER 141 N. GLENDALE AVENUE, LEVEL 4 GLENDALE CA 91206-4394 (818) 548-2136 slins@ci.glendale.ca.us Paul Patterson GLENROCK ASSOCIATES LLC EMAIL ONLY EMAIL ONLY NY 00000 (212) 246-3318 ppatterson2@nyc.rr.com Robert Gnaizda Of Counsel 200 29TH STREET, NO. 1 SAN FRANCISCO CA 94131 (415) 307-3320 RobertGnaizda@gmail.com Tom O'Neill Managing Director GREEN ARROW, LLC 3650 MT. DIABLO BLVD., STE. 106 LAFAYETTE CA 94549 (415) 844-4019 tom.oneill@greenarrow-llc.com  | Stephen J. Keene Asst. General Counsel IMPERIAL IRRGATION DISTRICT 333 EAST BARIONI BLVD. IMPERIAL CA 92251 (760) 339-9574 sjkeene@iid.com Garrick Jones JBS ENERGY 311 D STREET WEST SACRAMENTO CA 95605 (916) 372-0534 garrick@jbsenergy.com John Sugar JBS ENERGY 311 D STREET, SUITE A WEST SACRAMENTO CA 95605 (916) 372-0534 john@jbsenergy.com Kirby Bosley JP MORGAN VENTURES ENERGY CORP. 700 LOUISIANA ST. STE 1000, 10TH FLR HOUSTON TX 77002 (713) 236-3383 kirby.bosley@jpmorgan.com Paul Tramonte JP MORGAN VENTURES ENERGY CORP. 700 LOUISIANA ST., STE 1000, 10TH FLR HOUSTON TX 77002 (713) 236-3079 Paul.Tramonte@jpmorgan.com Paul Gendron JP MORGAN VENTURES ENERGYCORP. 700 LOUISIANA STREET SUITE 1000 HOUSTON TX 77002 (925) 708-4994 paul.gendron@JPMorgan.com Ralph Smith LARKIN & ASSOCIATES 15728 FARMINGTON ROAD LIVONIA MI 48154 (734) 522-3420 rsmithla@aol.com  |
| Carrie A. Downey LAW OFFICES OF CARRIE ANNE DOWNEY EMAIL ONLY EMAIL ONLY CA 00000 (619) 522-2040 cadowney@cadowneylaw.com James J. Heckler LEVIN CAPITAL STRATEGIES 595 MADISON AVENUE NEW YORK NY 10022 (212) 259-0851 jheckler@levincap.com Aaron Lewis 1472 FILBERT ST., APT. 408 SAN FRANCISCO CA 94109-1629 (530) 400-9136 aaron.joseph.lewis@gmail.com Robert L. Pettinato LOS ANGELES DEPT. OF WATER & POWER 111 NORTH HOPE STREET, RM. 1150 LOS ANGELES CA 90012 (213) 367-1735 robert.pettinato@ladwp.com Michael Goldenberg LUMINUS MANAGEMENT 1700 BROADWAY, 38TH FLOOR NEW YORK NY 10019 (212) 615-3427 mgoldenberg@luminusmgmt.com Joseph W. Mitchell, Ph. D. M-BAR TECHNOLOGIES AND CONSULTING, LLC EMAIL ONLY EMAIL ONLY CA 00000 (760) 703-7521 jwmitchell@mbartek.com Cleo Zagrean MACQUARIE CAPITAL (USA) 125 W 55TH STREET NEW YORK NY 10019 (212) 231-1749 cleo.zagrean@macquarie.com David Marcus PO BOX 1287 BERKELEY CA 94701 (510) 528-0728 dmarcus2@sbcglobal.net  | Naaz Khumawala MERRILL LYNCH, PIERCE, FENNER & SMITH EMAIL ONLY EMAIL ONLY TX 00000 (713) 247-7313 naaz.khumawala@baml.com Rajeev Lalwani MORGAN STANLEY EMAIL ONLY EMAIL ONLY NY 00000 (212) 761-6978 rajeev.lalwani@morganstanley.com Richard J. Morillo PO BOX 6459 BURBANK CA 91510-6459 (818) 238-5702 rmorillo@ci.burbank.ca.us Phillip Moskal PO BOX 371414 SAN DIEGO CA 92137 (619) 414-9703 thnxvm@gmail.com For: Phillip Moskal \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_MRW & ASSOCIATES, LLC EMAIL ONLY EMAIL ONLY CA 00000 (510) 834-1999 mrw@mrwassoc.com Shalini Swaroop Sr. Staff Attorney NATIONAL ASIAN AMERICAN COALITION 1758 EL CAMINO REAL SAN BRUNO CA 94066 (650) 953-0522 X-231 sswaroop@naacoalition.org Khojasteh Davoodi NAVY UTILITY RATES AND STUDIES OFFICE DEPARTMENT OF THE NAVY 1322 PATTERSON AVENUE SE WASHINGTON NAVY YARD DC 20374-5018 (202) 685-0130 khojasteh.davoodi@navy.mil  |
| Makda Solomon NAVY UTILITY RATES AND STUDIES OFFICE 1322 PATTERSON AVENUE SE - BLDG. 33 WASHINGTON DC 20374-5018 (202) 685-0130 makda.solomon@navy.mil Jessica Yip ONGRID SOLAR EMAIL ONLY EMAIL ONLY CA 00000 jessica@ongrid.net PACIFIC GAS & ELECTRIC COMPANY EMAIL ONLY EMAIL ONLY CA 00000 regrelcpuccases@pge.com Janet Liu PACIFIC GAS & ELECTRIC COMPANY EMAIL ONLY EMAIL ONLY CA 00000 (415) 973-7653 j4lr@pge.com Joanie Yuen Case Coordinator PACIFIC GAS & ELECTRIC COMPANY EMAIL ONLY EMAIL ONLY CA 00000 JXYR@pge.com Case Coordination PACIFIC GAS AND ELECTRIC COMPANY PO BOX 770000; MC B9A, 77 BEALE STREET SAN FRANCISCO CA 94105 (415) 973-4744 regrelcpuccases@pge.com Shelly Sharp PACIFIC GAS AND ELECTRIC COMPANY 77 BEALE STREET SAN FRANCISCO CA 94177 (415) 973-2636 ssm3@pge.com Cathie Allen Regulatory Mgr. PACIFICORP EMAIL ONLY EMAIL ONLY OR 00000 (503) 813-5934 CaliforniaDockets@pacificorp.com  | Steven Endo PASADENA DEPARTMENT OF WATER & POWER 150 S. LOS ROBLES, SUITE 200 PASADENA CA 91101 (626) 744-7599 sendo@cityofpasadena.net Eric Klinkner PASADENA DEPARTMENT OF WATER AND POWER 150 SOUTH LOS ROBLES AVENUE, SUITE 200 PASADENA CA 91101-2437 (626) 744-4478 eklinkner@cityofpasadena.net Edward Heyn POINTSTATE CAPITAL 40 WEST 57TH STREET, 25TH FL. NEW YORK NY 10019 (212) 830-7061 ted@PointState.com Tom Roth ROTH ENERGY COMPANY 545 S. FIGUEROA STREET, SUITE 1235 LOS ANGELES CA 90071 (213) 622-6700 rothenergy@sbcglobal.net Sue Mara Consultant RTO ADVISORS, LLC 164 SPRINGDALE WAY REDWOOD CITY CA 94062 (415) 902-4108 sue.mara@RTOadvisors.com Rosann Gallien Deputyt General Counsel SAN DIEGO COUNTY WATER AUTHORITY EMAIL ONLY EMAIL ONLY CA 00000 (858) 522-6794 RGallien@sdcwa.org Pete Girard SAN DIEGO GAS & ELECTRIC 8330 CENTURY PARK CT., STE. 32E SAN DIEGO CA 92123 (858) 654-8218 pgirard@semprautilities.com  |
| Laura Earl Sr. Counsel - Regulatory SAN DIEGO GAS & ELECTRIC COMPANY 101 ASH STREET SAN DIEGO CA 92101 (619) 696-0583 learl@SempraUtilities.com Rasha Prince SAN DIEGO GAS & ELECTRIC COMPANY 555 WEST 5TH STREET, GT14D6 LOS ANGELES CA 90013 (213) 244-5141 RPrince@SempraUtilities.com Steven C. Nelson SAN DIEGO GAS & ELECTRIC COMPANY 101 ASH STREET, HQ12 SAN DIEGO CA 92101 (619) 699-5136 SNelson@sempra.com Central Files SAN DIEGO GAS AND ELECTRIC COMPANY 8330 CENTURY PARK CT, CP31-E SAN DIEGO CA 92123-1530 (858) 654-1852 CentralFiles@SempraUtilities.com Chuck Manzuk SAN DIEGO GAS AND ELECTRIC COMPANY 8330 CENTURY PARK CT, CP32D SAN DIEGO CA 92123 (858) 654-1782 CManzuk@SempraUtilities.com Onell Soto SAN DIEGO UNION-TRIBUNE PO BOX 120191 SAN DIEGO CA 92112-0191 (619) 293-1280 onell.soto@uniontrib.com Richard H. Schulte EMAIL ONLY EMAIL ONLY CA 00000 rickschulte@cox.net Clay Faber SEMPRA UTILITIES EMAIL ONLY EMAIL ONLY CA 00000 cfaber@semprautilities.com  | Marcie A. Milner SHELL ENERGY NORTH AMERICA (US), L.P. 4445 EASTGATE MALL, STE. 100 SAN DIEGO CA 92121 (858) 526-2106 marcie.milner@shell.com Case Administration SOUTHERN CALIFORNIA EDISON COMPANY 2244 WALNUT GROVE AVE., PO BOX 800 ROSEMEAD CA 91770 (626) 302-4875 case.admin@sce.com Johnny Pong SOUTHERN CALIFORNIA GAS / SDG&E COMPANY 555 WEST FIFTH STREET NO. 1400, GT14E7 LOS ANGELES CA 90013-1011 (213) 244-2990 JPong@SempraUtilities.com Andrew Steinberg SOUTHERN CALIFORNIA GAS CO. 555 W. 5TH STREET, GT19A7 LOS ANGELES CA 90013-1034 (213) 244-3817 ASteinberg@SempraUtilities.com Marcel Hawiger Energy Atty THE UTILITY REFORM NETWORK 115 SANSOME STREET, SUITE 900 SAN FRANCISCO CA 94104 (415) 929-8876 X311 marcel@turn.org Robert Finkelstein General Counsel THE UTILITY REFORM NETWORK 115 SANSOME STREET, SUITE 900 SAN FRANCISCO CA 94104 (415) 929-8876 X-307 bfinkelstein@turn.org Thomas J. Long Attorney At Law TURN 115 SANSOME STREET, SUITE 900 SAN FRANCISCO CA 94104 (415) 929-8876 tlong@turn.org  |
| Morgan Lee U-T SAN DIEGO 350 CAMINO DEL LA REINA SAN DIEGO CA 92108 (619) 293-1251 Morgan.Lee@UTSanDiego.com Carl Wood UTILITY WORKERS UNION OF AMERICA 10103 LIVE OAK AVE. CHERRY VALLEY CA 92223 (951) 567-1199 carl.wood@verizon.net Kevin Woodruff WOODRUFF EXPERT SERVICES 1100 K STREET, SUITE 204 SACRAMENTO CA 95814 (916) 442-4877 kdw@woodruff-expert-services.com  |  |

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| **\*\*\*\*\*\*\*\*\*\*\*\*\*\* PARTIES \*\*\*\*\*\*\*\*\*\*\*\*\*\*** **\*\*\*\*\*\*\*\*\*\* STATE EMPLOYEE \*\*\*\*\*\*\*\*\*\*\*** **\*\*\*\*\*\*\*\*\* INFORMATION ONLY \*\*\*\*\*\*\*\*\*\***  |  |

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| **\*\*\*\*\*\*\*\*\*\*\*\*\*\* PARTIES \*\*\*\*\*\*\*\*\*\*\*\*\*\*** Michael Mazur Principal 3 PHASES RENEWABLES LLC (1373) 2100 SEPULVEDA BLVD, SUITE 37 MANHATTAN BEACH CA 90266 (310) 798-5275 mmazur@3PhasesRenewables.com For: 3 Phases Renewables, LLC \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Marc D. Joseph ADAMS BROADWELL JOSEPH & CARDOZO 601 GATEWAY BLVD., SUITE 1000 SOUTH SAN FRANCISCO CA 94080 (650) 589-1660 mdjoseph@adamsbroadwell.com For: Coalition of California Utility Employees \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Donald Brookhyser ALCANTAR & KAHL 1300 SW FIFTH AVE., SUITE 1750 PORTLAND OR 97210 (503) 402-8702 deb@a-klaw.com For: Cogeneration Association of California \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Nora Sheriff ALCANTAR & KAHL 33 NEW MONTGOMERY STREET, SUITE 1850 SAN FRANCISCO CA 94105 (415) 421-4143 nes@a-klaw.com For: California Large Energy Consumers Association (CLECA) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Evelyn Kahl ALCANTAR & KAHL, LLP 33 NEW MONTGOMERY STREET, SUITE 1850 SAN FRANCISCO CA 94015 (415) 403-5542 ek@a-klaw.com For: Energy Producers & Users Coalition \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Gloria Britton Regulatory Affairs Mgr. ANZA ELECTRIC CO-OPERATIVE, INC (909) PO BOX 39109 / 58470 HIGHWAY 371 ANZA CA 92539-1909 (909) 763-4333 GloriaB@anzaelectric.org For: Anza Electric Co-Operative, Inc. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Scott Blaising BRAUN BLAISING MCLAUGHLIN P.C. EMAIL ONLY EMAIL ONLY CA 00000 (916) 682-9702 blaising@braunlegal.com For: Kings River Conservation District (KRCD) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Margaret Miller BROOKFIELD RENEWABLE ENERGY GROUP 513 SAN MARCO PLACE EL DORADO HILLS CA 95762 (916) 673-3082 margaret.miller@brookfieldrenewable.com For: Brookfield Renewable Energy Group \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Andrew O. Kaplan, Esq. BROWN RUDNICK LLP ONE FINANCIAL CENTER BOSTON MA 02111 (617) 856-8369 AKaplan@BrownRudnick.com For: Beacon Power, LLC \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Judith B. Sanders NANCY SARACINO/ANTHONY IVANCOVICH/BETH ANN BUSr. Counsel CALIF. INDEPENDENT SYSTEM OPERATOR CORP 250 OUTCROPPING WAY FOLSOM CA 95630 (916) 608-7143 jsanders@caiso.com For: California Independent System Operator Corporation \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Karen Mills CALIFORNIA FARM BUREAU FEDERATION 2300 RIVER PLAZA DRIVE SACRAMENTO CA 95833 (916) 561-5655 kmills@cfbf.com For: California Farm Bureau Federation \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Jason Armenta CALPINE POWERAMERICA-CA, LLC 717 TEXAS AVENUE, SUITE 1000 HOUSTON TX 77002 (713) 830-8362 cpacc@calpine.com For: Calpine PowerAmerica-CA, LLC \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Sarah Tomec Sr. Advisor, Regulatory Affairs West CAPITAL POWER CORPORATION 9255 TOWNE CENTRE DRIVE, STE. 900 SAN DIEGO CA 92121 (858) 450-3214 STomec@CapitalPower.com For: Capital Power Corporation \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Mike Campbell Community Choice Aggregation Dir. CITY AND COUNTY OF SAN FRANCISCO 1155 MARKET STREET, 4TH FL. SAN FRANCISCO CA 94103 mcampbell@sfwater.org For: City and County of San Francisco \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Theresa L. Mueller DENNIS HERRERA/JEANNE M. SOLE CITY AND COUNTY OF SAN FRANCISCO CITY HALL, ROOM 234 1 DR. CARLTON B. GOODLETT PLACE SAN FRANCISCO CA 94102-4682 (415) 554-4640 theresa.mueller@sfgov.org For: City and County of San Francisco \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Jan Reid COAST ECONOMICS CONSULTING 3185 GROSS ROAD SANTA CRUZ CA 95062 (831) 476-5700 janreid@coastecon.com For: L. Jan Reid \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Inger Goodman COMMERCE ENERGY INC 1 CENTERPOINTE DRIVE, SUITE 350 LA PALMA CA 90623-2520 (714) 259-2508 igoodman@commerceenergy.com For: Commerce Energy, Inc. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Patrick Vanbeek Dir - Customer Support COMMERCIAL ENERGY OF CALIFORNIA 7677 OAKPORT STREET, STE. 525 OAKLAND CA 94621 patrick.vanbeek@commercialenergy.net For: Commercial Energy of California \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Victor Gonzales CONSTELLATION NEW ENERGY, INC. (1359) 111 MARKET PLACE, SUITE 500 BALTIMORE MD 21202 (713) 652-5544 For: Constellation New Energy, Inc. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_R. Thomas Beach CROSSBORDER ENERGY 2560 9TH ST., SUITE 213A BERKELEY CA 94710-2557 (510) 549-6922 tomb@crossborderenergy.com For: The California Cogeneration Council \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Marcus V. Da Cunha EMAIL ONLY EMAIL ONLY CA 00000 marcusdacunha@hotmail.com For: Marcus V. Da Cunha \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Edward O'Neill DAVIS WRIGHT TREMAINE LLP 505 MONTGOMERY STREET, SUITE 800 SAN FRANCISCO CA 94111-6533 (415) 276-6500 edwardoneill@dwt.com For: South San Joaquin Irrigation District \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Jeffrey P. Gray OLIVIA PARA DAVIS WRIGHT TREMAINE, LLP 505 MONTGOMERY STREET, SUITE 800 SAN FRANCISCO CA 94111-6533 (415) 276-6587 jeffgray@dwt.com For: Calpine Corporation \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_John L. Geesman Attorney DICKSON GEESMAN LLP 1999 HARRISON STREET, STE. 2000 OAKLAND CA 94612 (510) 899-4670 John@DicksonGeesman.com For: Alliance For Nuclear Responsibility (A4NR) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Andrea Morrison Director - Gov'T. And Regulatory Affairs DIRECT ENERGY SERVICES, LLC (1341) 415 DIXON STREET ARROYO GRANDE CA 93420 (916) 759-7052 andrea.morrison@directenergy.com For: Direct Energy, LLC/Direct Energy Services \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Brad Bordine DISTRIBUTED ENERGY CONSUMER ADVOCATES 516 WHITEWOOD DRIVE SAN RAFAEL CA 94903 b.bordine@d-e-c-a.org For: Distributed Energy Consumer Advocates \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Daniel W. Douglass DOUGLASS & LIDDELL 21700 OXNARD STREET, SUITE 1030 WOODLAND HILLS CA 91367 (818) 961-3001 douglass@energyattorney.com For: ConEdison Solutions, Inc./Western Power Trading Forum \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Donald C. Liddell Counsel DOUGLASS & LIDDELL 2928 2ND AVENUE SAN DIEGO CA 92103 (619) 993-9096 liddell@EnergyAttorney.com For: Starwood Power-Midway, LLC/California Energy Storage Alliance/Camco International Group, Inc. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Donald C. Liddell DOUGLASS & LIDDELL 2928 2ND AVENUE SAN DIEGO CA 92103 (619) 993-9096 liddell@energyattorney.com For: TAS Energy \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_William V. Rostov EARTHJUSTICE 50 CALIFORNIA ST., STE. 500 SAN FRANCISCO CA 94111 (415) 217-2000 wrostov@earthjustice.org For: Sierra Club California \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Christopher T. Ellison Attorney ELLISON, SCHNEIDER & HARRIS, L.L.P 2600 CAPITOL AVENUE, SUITE 400 SACRAMENTO CA 95816-5905 (916) 447-2166 cte@eslawfirm.com For: Pathfinder Renewable Wind Energy, LLC \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_C/O Andy Brown ELLISON, SCHNEIDER & HARRIS, LLP 2600 CAPITAL AVENUE, SUITE 400 SACRAMENTO CA 95816-5931 (916) 447-2166 abb@eslawfirm.com For: NV Energy / California Pacific Electric Company (CalPeco) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Kevin Boudreaux ENERCAL USA LLC 7660 WOODWAY DRIVE, STE. 471A HOUSTON TX 77063 (713) 395-5372 kb@enercalusa.com For: Enercal USA, LLC \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Mona Tierney-Lloyd Dir., Western Regualtory Affairs ENERNOC, INC. PO BOX 378 CAYUCOS CA 93430 (805) 995-1618 mtierney-lloyd@enernoc.com For: Enernoc, Inc. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Adam Gusman Corporate Counsel GLACIAL ENERGY OF CALIFORNIA, INC. EMAIL ONLY EMAIL ONLY VI 00000 Adam.Gusman@GlacialEnergy.com For: Glacial Energy of California, Inc. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Deborah N. Behles Environmental Law And Justice Clinic GOLDEN GATE UNIVERSITY SCHOOL OF LAW 536 MISSION STREET SAN FRANCISCO CA 94105-2968 (415) 442-6647 dbehles@ggu.edu For: The California Environmental Justice Alliance \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Ronald Moore Sr. Regulatory Analyst GOLDEN STATE WATER CO / BEAR VALLEY ELEC 630 EAST FOOTHILL BLVD. SAN DIMAS CA 91773-9016 (909) 394-3600 X682 rkmoore@gswater.com For: Golden State Water Company / Bear Valley Electric \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Michael B. Day Attorney GOODIN MACBRIDE SQUERI DAY & LAMPREY LLP 505 SANSOME STREET, STE 900 SAN FRANCISCO CA 94111-3133 (415) 392-7900 mday@goodinmacbride.com For: CalEnergy Generation \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Brian T. Cragg GOODIN, MACBRIDE, SQUERI, DAY & LAMPREY 505 SANSOME STREET, SUITE 900 SAN FRANCISCO CA 94111 (415) 392-7900 bcragg@goodinmacbride.com For: Independent Energy Producers Association \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Gregg Morris Director GREEN POWER INSTITUTE 2039 SHATTUCK AVENUE, STE 402 BERKELEY CA 94704 (510) 644-2700 gmorris@emf.net For: Green Power Institute \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Tam Hunt Attorney 124 W. ALAMAR AVE., NO. 3 SANTA BARBARA CA 93105 (805) 214-6150 tam.hunt@gmail.com For: Community Environmental Council \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Stephen T. Greenleaf V.P. & Compliance Director J.P. MORGAN CHASE BANK, N.A. 2864 ABERDEEN LANE EL DORADO HILLS CA 95762 (916) 933-1001 stephen.t.greenleaf@jpmorgan.com For: J.P. Morgan Ventures Energy Corporation (JPMVEC) / BE CA LLC \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Laurence G. Chaset KEYES FOX & WIEDMAN, LLP 436 14TH STREET, STE. 1305 OAKLAND CA 94612 (510) 314-8386 lchaset@keyesandfox.com For: Interstate Renewable Energy Council, Inc. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Linda Agerter LARGE-SCALE SOLAR ASSOCIATION 51 PARKSIDE DRIVE BERKELEY CA 94705 (510) 684-3093 agerterlinda@gmail.com For: Large-Scale Solar Association \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Deanna Bodine Compliance Mgr. LIBERTY POWER DELAWARE LLC 1901 W. CYPRESS CREEK ROAD, SUITE 600 FORT LAUDERDALE FL 33309 (954) 489-7101 DBodine@LibertyPowerCorp.com For: Liberty Power Delaware LLC \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Deanna Bodine Compliance Mgr. LIBERTY POWER HOLDINGS LLC (1371) 1901 W. CYPRESS CREEK ROAD, SUITE 600 FORT LAUDERDALE FL 33309 (954) 489-7101 DBodine@LibertyPowerCorp.com For: Liberty Power Holdings LLC \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Jennifer Chamberlin LS POWER DEVELOPMENT, LLC 5000 HOPYARD ROAD, SUITE 480 PLEASANTON CA 94588 (925) 201-5253 JChamberlin@LSPower.com For: LS Power \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Diana L. Lee Legal Division RM. 4107 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-4342 dil@cpuc.ca.gov For: DRA  |
| Jack Stoddard DAVID HUARD; TARA KAUSHIK MANATT PHELPS & PHILLIPS, LLP ONE EMBARCADERO CENTER, 30TH FL. SANFRANCISCO CA 94111 (415) 291-7400 JStoddard@manatt.com For: Panoche Energy Center, LLC \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Elizabeth Rasmussen Reg. And Legal Counsel MARIN ENERGY AUTHORITY 781 LINCOLN AVENUE, SUITE 320 SAN RAFAEL CA 94901 (415) 464-6022 ERasmussen@MarinEnergy.com For: Marin Energy Authority \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_David Macmillan President MEGAWATT STORAGE FARMS, INC. 3931 JEFFERSON AVE. WOODSIDE CA 94062 (650) 365-3392 proceedings@megawattsf.com For: MegaWatt Storage Farms, Inc. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Sara Steck Myers Attorney At Law 122 - 28TH AVENUE SAN FRANCISCO CA 94121 (415) 387-1904 ssmyers@att.net For: Center for Energy Efficiency and Renewable Technologies (CEERT) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Sierra Martinez Attorney NATURAL RESOURCES DEFENSE COUNCIL 111 SUTTER STREET, 20TH FLOOR SAN FRANCISCO CA 94104 (415) 875-6100 smartinez@nrdc.org For: National Resources Defense Council \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Greg Bass NOBLE AMERICAS ENERGY SOLUTIONS, LLC 401 WEST A STREET, STE. 500 SAN DIEGO CA 92101 (619) 684-8199 gbass@noblesolutions.com For: Noble Americas Energy Solutions LLC \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Martin A. Mattes NOSSAMAN, LLP 50 CALIFORNIA STREET, 34TH FL. SAN FRANCISCO CA 94111-4799 (415) 398-3600 mmattes@nossaman.com For: Nossaman, LLP \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Abraham Silverman Sr. Counsel, Regulatory NRG ENERGY, INC. 211 CARNEGIE CENTER DRIVE PRINCETON NJ 08540 (609) 524-4696 abraham.silverman@nrgenergy.com For: NRG Energy, Inc. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Mark Huffman CHARLES MIDDLEKAUFF Law Dept PACIFIC GAS & ELECTRIC COMPANY PO BOX 7442, B30A SAN FRANCISCO CA 94120 (415) 973-3842 mrh2@pge.com For: Pacific Gas and Electric Company \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Brian Cherry Director - Regulatory Relations PACIFIC GAS AND ELECTRIC COMPANY (39) 77 BEALE STREET ROOM 1087 SAN FRANCISCO CA 94105 BKC7@pge.com For: Pacific Gas and Electric Company \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Mary Wiencke PACIFICORP 825 N. E. MULTNOMAH, SUITE 1800 PORTLAND OR 97232 (503) 813-5058 mary.wiencke@pacificorp.com For: PacifiCorp \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Thomas R. Darton PILOT POWER GROUP, INC. (1365) 8910 UNIVERSITY CENTER LANE, STE. 520 SAN DIEGO CA 92122 (858) 678-0118 tdarton@pilotpowergroup.com For: Pilot Power Group, Inc. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Robert Marshall General Manager PLUMAS SIERRA RURAL ELECTRIC COOP. (908) 73233 STATE ROUTE 70 / PO BOX 2000 PORTOLA CA 96122-7069 (916) 832-4261 bmarshall@psrec.coop For: Plumas Sierra Rural Electric Corp \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Gifford Jung POWEREX CORPORATION 666 BURRARD STREET, SUITE 1400 VANCOUVER BC V5R 4Y2 CANADA (604) 891-6040 gifford.jung@powerex.com For: Powerex Corporation \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Rick C. Noger PRAXAIR PLAINFIELD, INC. 2711 CENTERVILLE ROAD, SUITE 400 WILMINGTON DE 19808 (925) 866-6809 rick\_noger@praxair.com For: Praxair Plainfield, Inc. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Sue Mara Consultant RTO ADVISORS, LLC 164 SPRINGDALE WAY REDWOOD CITY CA 94062 (415) 902-4108 sue.mara@RTOadvisors.com For: Alliance for Retail Energy Markets/Direct Access Customer Coalition \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Aimee Smith SAN DIEGO GAS & ELECTRIC COMPANY 101 ASH STREET, HQ-12 SAN DIEGO CA 92101 (619) 699-5042 amsmith@semprautilities.com For: San Diego Gas & Electric Company \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_David Orth SAN JOAQUIN VALLEY POWER AUTHORITY ADMIN OFF @KINGS RIVER CONSERV DISTRICT 4886 EAST JENSEN AVENUE FRESNO CA 93725 (559) 237-5567 dorth@krcd.org For: San JoaquinValley Power Authority \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Daniel King LISA J. HUBBARD SEMPRA U.S. GAS & POWER, LLC 101 ASH STREET, HQ-15B SAN DIEGO CA 92101 (619) 696-4350 daking@semprausgp.com For: Sempra U.S. Gas & Power, LLC \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Marcie Milner SHELL ENERGY (1374) 4445 EASTGATE MALL, SUITE 100 SAN DIEGO CA 92121 martin.kadillak@shell.com For: Shell Energy North America (US), L.P. (Shell Energy) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Andrew Wang SOLARRESERVE, LLC EMAIL ONLY EMAIL ONL Y CA 00000 (310) 315-2225 Andrew.Wang@SolarReserve.com For: SolarReserve \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Akbar Jazayeiri Dir Of Revenue & Tariffs SOUTHERN CALIFORNIA EDISON COMPANY (338) 2241 WALNUT GROVE AVE. / PO BOX 800 ROSEMEAD CA 91770 (626) 302-3630 akbar.jazayeri@sce.com For: SCE \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Kristine Michaels Chief Financial Officer SOUTHERN CALIFORNIA TELEPHONE & ENERGY 27515 ENTERPRISE CIRCLE WEST TEMECULA CA 92590 kristine@SoCalTelephone.com For: Southern California Telephone & Energy \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Seth D. Hilton Attorney At Law STOEL RIVES LLP 555 MONTGOMERY STREET, SUITE 1288 SAN FRANCISCO CA 94111 (415) 617-8943 sdhilton@stoel.com For: AES Southland/Zephyr Power Transmission \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Daniel Silveria Gen Mgr SURPRISE VALLEY ELECTRIC CORP. PO BOX 691 ALTURAS CA 96101 (916) 233-3511 dansvec@hdo.net For: Surprise Valley Electric Corporation \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Ben Vitale THE CLIMATE TRUST 65 SW YAMHILL ST., STE. 400 PORTLAND OR 97204 (503) 238-1915 bvitale@climatetrust.org For: The Climate Trust \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Matthew Freedman THE UTILITY REFORM NETWORK 115 SANSOME STREET, SUITE 900 SAN FRANCISCO CA 94104 (415) 929-8876 X304 matthew@turn.org For: The Utility Reform Network \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Kelly M. Foley Attorney THE VOTE SOLAR INITIATIVE 2089 TRACY COURT FOLSOM CA 95630 (916) 367-2017 kelly@votesolar.org For: The Vote Solar Initiative \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Tracy Phillips Vp Of Marketing TIGER NATURAL GAS, INC. 1422 E. 71ST., STE J TULSA OK 74136 (918) 491-6998 X-202 tphillips@tigernaturalgas.com For: Tiger Natural Gas, Inc. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Kara Morgan TRANSWEST EXPRESS, LLC 555 SEVENTEENTH STREET, SUITE 2400 DENVER CO 80202 (303) 299-1549 kara.morgan@tac-denver.com For: TransWest Express, LLC \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Laura Wisland Senior Energy Analyst UNION OF CONCERNED SCIENTISTS 2397 SHATTUCK AVE., STE. 203 BERKELEY CA 94704 (510) 809-1565 lwisland@ucsusa.org For: Union of Concerned Scientists \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Brian Fickett VALLEY ELECTRIC ASSOCIATION 800 E. HWY 372 PAHRUMP NV 89048 For: Valley Electric Association \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Kyle W. Danish VAN NESS FELDMAN, P.C. 1050 THOMAS JEFFERSON ST., N. W. WASHINGTON DC 20007-3877 (202) 298-1876 kwd@vnf.com For: Coalition for Emission Reduction Policy \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Douglas E. Davie WELLHEAD ELECTRIC COMPANY 650 BERCUT DRIVE, STE. C SACRAMENTO CA 95811 (916) 447-5171 ddavie@wellhead.com For: Wellhead Electric Company \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Paul Shepard WILDFLOWER ENERGY 333 S. GRAND AVENUE, SUITE 1570 LOS ANGELES CA 90071 (213) 820-2220 p.shepard@dgc-us.com For: Wildflower Energy \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Lisa A. Cottle Attorney At Law WINSTON & STRAWN LLP 101 CALIFORNIA STREET, 39TH FLOOR SAN FRANCISCO CA 94111-5802 (415) 591-1579 lcottle@winston.com For: GenOn Energy, Inc. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Barbara George WOMEN'S ENERGY MATTERS PO BOX 548 FAIRFAX CA 94978-0548 (415) 755-3147 wem@igc.org For: Women's Energy Matters \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**\*\*\*\*\*\*\*\*\*\* STATE EMPLOYEE \*\*\*\*\*\*\*\*\*\*\*** Constance Leni CALIFORNIA ENERGY COMMISSION MS-20 1516 NINTH STREET SACRAMENTO CA 95814 (916) 654-4762 connie.leni@energy.ca.gov Marc S. Pryor CALIFORNIA ENERGY COMMISSION 1516 NINTH STREET SACRAMENTO CA 95814 (916) 653-0159 MPryor@energy.state.ca.us Michael Jaske CALIFORNIA ENERGY COMMISSION 1516 9TH STREET, MS-20 SACRAMENTO CA 95814 (916) 654-4777 mike.jaske@energy.state.ca.us David Peck CALIFORNIA PUBLIC UTILITIES COMMISSION EMAIL ONLY EMAIL ONLY CA 00000 (415) 703-1213 DBP@cpuc.ca.gov Jordan Parrillo CALIFORNIA PUBLIC UTILITIES COMMISSION EMAIL ONLY EMAIL ONLY CA 00000 (415) 703-1562 jordan.parrillo@cpuc.ca.gov Lily Chow Regulatory Analyst CALIFORNIA PUBLIC UTILITIES COMMISSION EMAIL ONLY EMAIL ONLY CA 00000 (415) 703-2575 lily.chow@cpuc.ca.gov  | Valerie Kao CALIFORNIA PUBLIC UTILITIES COMMISSION EMAIL ONLY EMAIL ONLY CA 00000 (415) 703-1341 vuk@cpuc.ca.gov William Dietrich CPUC INFRASTRUCTURE PLANNING BRANCH 505 VAN NESS AVE., AREA 4-A SAN FRANCISCO CA 94105-3214 (415) 703-1146 dietrichlaw2@earthlink.net Radu Ciupagea Division of Ratepayer Advocates RM. 4104 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-5235 rc5@cpuc.ca.gov Kevin R. Dudney Energy Division AREA 4-A 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-2557 kd1@cpuc.ca.gov Damon A. Franz Energy Division AREA 4-A 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-2165 df1@cpuc.ca.gov David M. Gamson Administrative Law Judge Division RM. 5019 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1232 dmg@cpuc.ca.gov Aloke Gupta Energy Division AREA 4-A 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-5239 ag2@cpuc.ca.gov  |
| Karin M. Hieta Division of Ratepayer Advocates RM. 4102 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-4253 kar@cpuc.ca.gov Noushin Ketabi Energy Division AREA 4-A 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-2230 nk1@cpuc.ca.gov Sepideh Khosrowjah Executive Division RM. 5202 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1190 skh@cpuc.ca.gov Michele Kito Energy Division AREA 4-A 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-2197 mk1@cpuc.ca.gov Iryna Kwasny Legal Division RM. 4107 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1477 iak@cpuc.ca.gov Megha Lakhchaura Energy Division AREA 4-A 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1183 mla@cpuc.ca.gov Yakov Lasko Division of Ratepayer Advocates RM. 4101 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-2287 ynl@cpuc.ca.gov  | Chloe Lukins Division of Ratepayer Advocates RM. 4101 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1637 clu@cpuc.ca.gov Arthur J. O'Donnell Energy Division RM. 4-A 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1184 ao1@cpuc.ca.gov Ke Hao Ouyang Division of Ratepayer Advocates RM. 4104 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1235 kho@cpuc.ca.gov Marcelo Poirier Legal Division RM. 5025 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-2913 mpo@cpuc.ca.gov Edward F. Randolph Energy Division RM. 4004 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-2083 efr@cpuc.ca.gov Nika Rogers Division of Ratepayer Advocates RM. 4101 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1529 nlr@cpuc.ca.gov David Siao Division of Ratepayer Advocates RM. 4101 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-5251 ds1@cpuc.ca.gov  |
| Nathaniel Skinner Energy Division AREA 4-A 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1393 nws@cpuc.ca.gov Peter Spencer Division of Ratepayer Advocates RM. 4104 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-2109 phs@cpuc.ca.gov Brian Stevens Energy Division AREA 4-A 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-2148 brc@cpuc.ca.gov Rebecca Tsai-Wei Lee Division of Ratepayer Advocates RM. 1250 770 L Street, Suite 1250 Sacramento CA 95814 (916) 327-1407 wtr@cpuc.ca.gov Chris Ungson Division of Ratepayer Advocates RM. 4104 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-2574 cu2@cpuc.ca.gov Carlos A. Velasquez Energy Division AREA 4-A 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1124 los@cpuc.ca.gov Alan Wecker Division of Ratepayer Advocates RM. 4102 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1923 aw3@cpuc.ca.gov  | Keith D White Energy Division AREA 4-A 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 355-5473 kwh@cpuc.ca.gov Patrick L. Young Energy Division AREA 4-A 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-5357 py2@cpuc.ca.gov **\*\*\*\*\*\*\*\*\* INFORMATION ONLY \*\*\*\*\*\*\*\*\*\*** Eric Hsieh A 123 SYSTEMS INC. 155 FLANDERS RD WESTBOROUGH MA 01581-1032 (617) 686-0975 ehsieh@a123systems.com Karen Terranova ALCANTAR & KAHL 33 NEW MONTGOMERY STREET, SUITE 1850 SAN FRANCISCO CA 94105 (415) 403-5542 filings@a-klaw.com Ross Van Ness ALCANTAR & KAHL 1300 SW FIFTH AVE., STE. 1750 PORTLAND OR 97209 (503) 402-9900 rvn@a-klaw.com William H. Booth ALCANTAR & KAHL 33 NEW MONTGOMERY ST., STE. 1850 SAN FRANCISCO CA 94105 (415) 403-5542 whb@a-klaw.com Michael Alcantar Attorney At Law ALCANTAR & KAHL LLP 33 NEW MONTGOMERY STREET, SUITE 1850 SAN FRANCISCO CA 94105 (415) 403-5542 mpa@a-klaw.com  |
| John Candelaria ASPEN ENVIRONMENTAL GROUP 10624 S. EASTERN AVE., STE. A-577 HENDERSON NV 89052 (702) 646-8282 jcandelaria@aspeneg.com Barbara R. Barkovich BARKOVICH & YAP, INC. EMAIL ONLY EMAIL ONLY CA 00000 (707) 937-6203 brbarkovich@earthlink.net Mike Berlinski BEACON POWER, LLC 65 MIDDLESEX ROAD TYNGSBORO MA 01879 (978) 661-2075 Berlinski@BeaconPower.com Todd O. Edmister Counsel BINGHAM MCCUTCHEN LLP THREE EMBARCADERO CENTER SAN FRANCISCO CA 94111 (415) 393-2520 todd.edmister@bingham.com Nicole Wright BRAUN BLAISING MCLAUGHLIN & SMITH 915 L STREET, SUITE 1270 SACRAMENTO CA 95814 (916) 326-5812 nicole@braunlegal.com S.David Freeman C/O FRIENDS OF THE EARTH 1100 15HT STREET, NW, 11TH FLOOR WASHINGTON DC 20005 (310) 902-2147 GreenCowboySDF@gmail.com CAL. INDEPENDENT SYSTEM OPERATOR CORP. 250 OUTCROPPING WAY FOLSOM CA 95630 (916) 351-4400 e-recipient@caiso.com Randy Keller Director Of Development CALENERGY OPERATING CORPORATION EMAIL ONLY EMAIL ONLY CA 00000 (760) 348-4005 randy.keller@calenergy.com  | Delphine Hou CALIF. INDEPENDENT SYSTEMS OPERATOR 250 OUTCROPPING WAY FOLSOM CA 95630 (916) 608-5910 dhou@caiso.com Beth Vaughn CALIFORNIA COGENERATION COUNCIL 4391 N. MARSH ELDER COURT CONCORD CA 94521 (925) 408-5124 beth@beth411.com Ron Dickerson CALIFORNIA CONSUMERS ALLIANCE PO BOX 3751 CLOVIS CA 93613 (559) 392-7850 calconsumersalliance@gmail.com CALIFORNIA ENERGY MARKETS 425 DIVISADERO ST. STE 303 SAN FRANCISCO CA 94117-2242 (415) 963-4439 cem@newsdata.com Alexander Daberko CALPEAK POWER, LLC 591 PUTNAM AVENUE GREENWICH CT 06830 (925) 248-1000 adaberko@starwood.com Avis Kowalewski CALPINE CORPORATION 4160 DUBLIN BLVD, SUITE 100 DUBLIN CA 94568 (925) 557-2284 kowalewskia@calpine.com Matthew Barmack CALPINE CORPORATION EMAIL ON LY EMAIL ONLY CA 00000 matthew.barmack@calpine.com Charles Purshouse CAMCO INTERNATIONAL GROUP, INC. 390 INTERLOCKEN CRESCENT, SUITE 490 BROOMFIELD CO 80021 (720) 897-6683 charles.purshouse@camcoglobal.com  |
| Daniel Jurijew Sr. Mgr - Regulatory Affairs West CAPITAL POWER CORPORATION 1200 - 10423 101 ST. NW EDMONTON AB T5H 0E9 CANADA (780) 392-5167 djurijew@capitalpower.com Dennis J. Herrera CITY AND COUNTY OF SAN FRANCISCO CITY HALL, ROOM 234 1 DR. CARLTON B. GOODLET PLACE SAN FRANCISCO CA 94102 (415) 554-4637 Irene K. Moosen Attorney At Law CITY AND COUNTY OF SAN FRANCISCO 53 SANTA YNEZ AVE. SAN FRANCISCO CA 94112 (415) 587-7343 irene@igc.org Jeanne M. Sole Deputy City Attorney CITY AND COUNTY OF SAN FRANCISCO 1 DR. CARLTON B. GOODLETT PLACE, RM. 234 SAN FRANCISCO CA 94102-4682 (415) 554-4619 jeanne.sole@sfgov.org Dyana Marie Delfin-Polk CLEAN COALITION EMAIL ONLY EMAIL ONLY CA 00000 (209) 658-5837 dyana@clean-coalition.org Kenneth Sahm White CLEAN COALITION EMAIL ONLY EMAIL ONLY CA 00000 (831) 425-5866 sahm@clean-coalition.org For: Clean Coalition \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Tam Hunt CLEAN COALITION EMAIL ONLY EMAIL ONLY CA 00000 (805) 705-1352 tam@clean-coalition.org  | Erin Szalkowski Corporate Counsel CLEAN LINE ENERGY PARTNERS, LLC 1001 MCKINNEY STREET, SUITE 700 HOUSTON TX 77002 (832) 319-6323 eszalkowski@cleanlineenergy.com For: Centennial West Clean Line LLC \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Shana Lazerow Attorney COMMUNITIES FOR A BETTER ENVIRONMENT 1904 FRANKLIN STREET, STE 600 OAKLAND CA 94612 (510) 302-0430 X-18 slazerow@cbecal.org For: California Environmental Justice Alliance \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Will Mitchell COMPETITIVE POWER VENTURES, INC. 505 SANSOME STREET, STE. 475 SAN FRANCISCO CA 94111 (415) 293-1469 will.mitchell@cpv.com Adam Fairbanks Dir - Regulatory And Retail Structuring CONEDISON SOLUTIONS, INC. 100 SUMMIT LAKE DRIVE, STE. 410 VALHALLA NY 10595 (914) 286-7035 FairbanksA@ConEdSolutions.com Richard J. Hudson, Jr. Dir. - Regulatory & Legislative Affairs CONEDISON SOLUTIONS, INC. 100 SUMMIT LAKE DR., STE. 410 VALHALLA NY 10595 (412) 368-5988 hudsonr@conedsolutions.com David Miller, Phd CTR. FOR ENERGY EFFECIENCY & RENEWABLE 1100 ELEVENTH ST., STE. 311 SACRAMENTO CA 95814 (916) 340-2638 david@ceert.org  |
| DAVIS WRIGHT TREMAINE LLP EMAIL ONLY EMAIL ONLY CA 00000 dwtcpucdockets@dwt.com Olivia Para DAVIS WRIGHT TREMAINE LLP EMAIL ONLY EMAIL ONLY CA 00000 (415) 276-6587 oliviapara@dwt.com Robert Gex DAVIS WRIGHT TREMAINE LLP EMAIL ONLY EMAIL ONLY CA 00000 (415) 276-6500 bobgex@dwt.com Ann Trowbridge Attorney DAY CARTER & MURPHY LLP 3620 AMERICAN RIVER DR., STE. 205 SACRAMENTO CA 95864 (916) 570-2500 X103 ATrowbridge@DayCarterMurphy.com David Hicks DIAMOND GENERATING CORPORATION EMAIL ONLY EMAIL ONLY CA 00000 d.hicks@dgc-us.com Gregory Klatt DOUGLASS & LIDDELL 411 E. HUNTINGTON DR., STE. 107-356 ARCADIA CA 91006 (818) 961-3002 klatt@energyattorney.com For: Tiger Natural Gas, Inc. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Adenike Adeyeye EARTHJUSTICE 50 CALIFORNIA ST., STE. 500 SAN FRANCISCO CA 94111 (415) 217-2000 aadeyeye@earthjustice.org Jessie Baird EARTHJUSTICE 50 CALIFORNIA ST., STE. 500 SAN FRANCISCO CA 94111 (510) 550-6725 jbaird@earthjustice.org  | Paul R. Cort WILLIAM B. ROSTOV EARTHJUSTICE 50 CALIFORNIA ST., STE. 500 SAN FRANCISCO CA 94111 (415) 217-2000 pcort@earthjustice.org Craig Pospisil EDISON MISSION ENERGY 3 MACARTHUR PLACE, STE. 100 SANTA ANA CA 92707 (714) 513-8094 cpospisil@edisonmission.com Fred Mobasheri Consultant ELECTRIC POWER GROUP, LLC 201 SOUTH LAKE AVE., SUITE 400 PASADENA CA 91101 (626) 658-2015 fmobasheri@electricpowergroup.com Jack Ellis 1425 ALPINE WAY / PO BOX 6600 LAKE TRAHOE CA 96145-6600 (530) 581-2134 jack@casaraquel.com Brian Biering ELLISON SCHNEIDER & HARRIS L.L.P. 2600 CAPITOL AVENUE, SUITE 400 SACRAMENTO CA 95816-5905 (916) 447-2166 bsb@eslawfirm.com For: PacifiCorp \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Greggory L. Wheatland ELLISON SCHNEIDER & HARRIS L.L.P. 2600 CAPITOL AVENUE, SUITE 400 SACRAMENTO CA 95816-5905 (916) 447-2166 glw@eslawfirm.com Lynn Haug ELLISON SCHNEIDER & HARRIS L.L.P. EMAIL ONLY EMAIL ONLY CA 00000 lmh@eslawfirm.com  |
| Chase B. Kappel ELLISON SCHNEIDER & HARRIS LLP 2600 CAPITOL AVENUE, SUITE 400 SACRAMENTO CA 95816-5905 (916) 447-2166 cbk@eslawfirm.com Douglas K. Kerner Attorney At Law ELLISON, SCHNEIDER & HARRIS, LLP 2600 CAPITOL AVENUE, SUITE 400 SACRAMENTO CA 95816-5905 (916) 447-2166 dkk@eslawfirm.com Nicolai Schlag ENERGY & ENVIRONMENTAL ECONOMICS, INC. 101 MONTGOMERY ST., STE 1600 SAN FRANCISCO CA 94101 (415) 391-5100 nick@ethree.com Caitlin Collins Liotiris ENERGY STRATEGIES, LLC 215 SOUTH STATE STREET, STE 200 SALT LAKE CITY UT 84111 (801) 355-4365 ccollins@energystrat.com Shana Foley ENVIRONMENTAL LAW & JUSTICE CLINIC 536 MISSION STREET SAN FRANCISCO CA 94102 (415) 369-5351 sfoley@ggu.edu Rachel Mcmahon FIRST SOLAR 525 MARKET STREET, 15TH FLOOR SAN FRANCISCO CA 94105 (415) 935-2550 rachel.mcmahon@firstsolar.com Andra Pligavko FIRST SOLAR DEVELOPMENT, INC. EMAIL ONLY EMAIL ONLY CA 00000 (415) 935-2553 andra.pligavko@gmail.com  | Pushkar G. Wagle FLYNN RESOURCE CONSULTANTS, INC. 2900 GORDON AVENUE, SUITE 100-3 SANTA CLARA CA 95051 (888) 634-3339 pushkarwagle@flynnrci.com Kendra Ulrich Nuclear Campaigner FRIENDS OF THE EARTH 1100 15TH STREET, NW, 11TH FLOOR WASHINGTON DC 20005 (202) 222-0715 KUlrich@foe.org Sean Beatty Director - West Regulatory Affairs GENON ENERGY, INC. PO BOX 192 PITTSBURG CA 94565 (925) 427-3483 sean.beatty@genon.com Suzy Hong Attorney At Law GOODIN MACBRIDE SQUERI DAY & LAMPREY 505 SANSOME STREET, SUITE 900 SAN FRANCISCO CA 94111 (415) 392-7900 shong@goodinmacbride.com Michael B. Day MEGAN SOMOGYI Attorney GOODIN, MACBRIDE, SQUERI, DAY & LAMPREY, 505 SANSOME ST., STE. 900 SAN FRANCISCO CA 94111 (315) 392-7900 mday@goodinmacbride.com For: Abengoa Solar, Inc. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Gregory Blue Principal GTB CONSULTING 3161 WALNUT BLVD WALNUT CREEK CA 94596 (925) 323-3612 greg.blue@sbcglobal.net  |
| Martin Homec PO BOX 4471 DAVIS CA 95617 (530) 867-1850 martinhomec@gmail.com Steven Kelly Policy Director INDEPENDENT ENERGY PRODUCERS ASSCIATION 1215 K STREET, STE. 900 SACRAMENTO CA 95814 (916) 448-9499 steven@iepa.com Anthony Mansell INTERNATIONAL EMISSIONS TRADING ASSN. 1730 RHODE ISLAND AVE., NW, STE. 802 WASHINGTON DC 20036 (202) 629-5980 mansell@ieta.org Ethan Ravage West Coast Lead - Us INTERNATIONAL EMISSIONS TRADING ASSN. 456 MONTGOMERY ST., 18TH FLOOR SAN FRANCISCO CA 94104 (415) 545-8328 ravage@ieta.org For: International Emissions Trading Association (IETA) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Tim Lindl . INTERSTATE RENEWABLE ENERGY COUNCIL, INC 436 14TH ST., STE. 1305 OAKLAND CA 94612 (510) 314-8385 tlindl@kfwlaw.com Jody S. London JODY LONDON CONSULTING EMAIL ONLY EMAIL ONLY CA 00000 (510) 459-0667 jody\_london\_consulting@earthlink.net David Weidberg JOHNSON CONTROLS 901 CAMPISI AVE. CAMPBELL CA 95008 (408) 898-2713 David.Weidberg@jci.com  | Rich Quattrini Vice President - Western Region JOHNSON CONTROLS 901 CAMPISI AVE., SUITE 260 CAMPBELL CA 95008-2348 (408) 370-3311 X125 Rich.Quattrini@jci.com William J. Keese EMAIL ONLY EMAIL ONLY CA 00000 (916) 834-7427 WJKeese@aol.com Laurence G. Chaset TIM LINDL; THADEUS B. CULLEY KEYES FOX & WIEDMAN LLP 436 14TH STREET, STE. 1305 OAKLAND CA 94612 (510) 314-8386 lchaset@keyesandfox.com For: Firends of the Earth \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Thadeus B. Culley KEYES, FOX & WIEDMAN LLP 436 14TH STREET, STE. 1305 OAKLAND CA 94612 (510) 314-8205 tculley@kfwlaw.com For: Friends of the Earth \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Giancarlo Estrada KIS MAYES LAW FIRM ONE EAST CAMELBACK ROAD, STE. 550 PHOENIX AZ 85012 (602) 388-4640 gestrada@krismayeslaw.com Ron Knecht 1009 SPENCER ST CARSON NY 89703-5422 (775) 882-2935 ronknecht@aol.com Rachel Gold LARGE SCALE SOLAR ASSOCIATION 2501 PORTOLA WAY SACRAMENTO CA 95818 (510) 629-1024 Rachel@consciousventuresgroup.com  |
| Shannon Eddy KRISTIN BURFORD Executive Director LARGE SCALE SOLAR ASSOCIATION 2501 PORTOLA WAY SACRAMENTO CA 95818 (916) 731-8371 eddyconsulting@gmail.com David Marcus PO BOX 1287 BERKELEY CA 94701 (510) 528-0728 dmarcus2@sbcglobal.net Jeremy Waen Regulatory Analyst MARIN ENERGY AUTHORITY 781 LINCOLN AVENUE, STE. 320 SAN RAFAEL CA 94901 (415) 464-6027 JWaen@MarinEnergy.com John W. Leslie, Esq. MCKENNA LONG & ALDRIDGE LLP EMAIL ONLY EMAIL ONLY CA 00000 (619) 699-5464 jleslie@McKennaLong.com MRW & ASSOCIATES, LLC EMAIL ONLY EMAIL ONLY CA 00000 (510) 834-1999 mrw@mrwassoc.com Devra Wang Staff Scientist NATURAL RESOURCES DEFENSE COUNCIL 111 SUTTER STREET, 20TH FLOOR SAN FRANCISCO CA 95104 (415) 875-6100 dwang@nrdc.org Bruce Perlstein, Ph.D. NAVIGANT CONSULTING, INC. SPEAR STREET TOWER ONE MARKET ST., STE. 1200 SAN FRANCISCO CA 94105 (415) 356-7189 bruce.perlstein@navigant.com  | Barney Speckman Vp - Grid Management NEXANT 101 SECOND STREET, 11TH FLOOR SAN FRANCISCO CA 94105 (415) 369-1017 bspeckman@nexant.com Brian Theaker NRG ENERGY 3161 KEN DEREK LANE PLACERVILLE CA 95667 (530) 295-3305 brian.theaker@nrgenergy.com Diane Fellman Dir - Governmental & Regulatory Affairs NRG ENERGY, INC. EMAIL ONLY EMAIL ONLY CA 00000 (415) 665-3824 diane.fellman@nrgenergy.com Paul Thomsen Dir. - Policy & Business Development ORMAT TECHNOLOGIES INC. 6225 NEIL ROAD RENO NV 89511 (775) 356-9029 pthomsen@ormat.com For: Ormat Technologies \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Miyuki Iwahashi PACIFIC GAS & ELECTRIC COMPANY PO BOX 770000 SAN FRANCISCO CA 94177 mxi8@pge.com Rosa Duenas PACIFIC GAS & ELECTRIC COMPANY EMAIL ONLY EMAIL ONLY CA 00000 R1DJ@pge.com Alice Gong PACIFIC GAS AND ELECTRIC COMPANY EMAIL ONLY EMAIL ONLY CA 00000-0000 axl3@pge.com  |
| Case Coordination PACIFIC GAS AND ELECTRIC COMPANY PO BOX 770000; MC B9A SAN FRANCISCO CA 94177 (415) 973-4744 regrelcpuccases@pge.com Charles R. Middlekauff PACIFIC GAS AND ELECTRIC COMPANY PO BOX 7442, MC-B30A-2475 SAN FRANCISCO CA 94120 (415) 973-6971 crmd@pge.com Daniel Patry PACIFIC GAS AND ELECTRIC COMPANY EMAIL ONLY EMAIL ONLY CA 00000 DbP0@pge.com George Zahariudakis PACIFIC GAS AND ELECTRIC COMPANY EMAIL ONLY EMAIL ONLY CA 00000 gxz5@pge.com Kimberly C. Jones PACIFIC GAS AND ELECTRIC COMPANY 77 BEALE STREET, MC B9A, ROOM 904 SAN FRANCISCO CA 94105 (415) 973-8844 Kcj5@pge.com Matthew Gonzales Senior Case Manager PACIFIC GAS AND ELECTRIC COMPANY 77 BEALE STREET, ROOM 918 SAN FRANCISCO CA 94105 (415) 973-8466 mrgg@pge.com Tom Jarman Energy PACIFIC GAS AND ELECTRIC COMPANY 77 BEALE STREET, RM. 909, MC B9A SAN FRANCISCO CA 94105-1814 (415) 973-7157 taj8@pge.com Cathie Allen Regulatory Mgr. PACIFICORP EMAIL ONLY EMAIL ONLY OR 00000 (503) 813-5934 CaliforniaDockets@pacificorp.com  | Mark Tucker PACIFICORP (901) 825 NE MULTNOMAH, SUITE 2000 PORTLAND OR 97232 (503) 813-5269 Mark.Tucker@PacifiCorp.com Peter Cavan PULSE ENERGY 576 SEYMOUR ST., STE. 600 VANCOUVER BC V6B 3K1 CANADA (778) 331-0514 peter.cavan@pulseenergy.com Donald Schoenbeck RCS INC. 900 WASHINGTON STREET, SUITE 780 VANCOUVER WA 98660 (360) 737-3877 dws@r-c-s-inc.com Jim Ross RCS, INC. 500 CHESTERFIELD CENTER, SUITE 320 CHESTERFIELD MO 63017 (314) 530-9544 jimross@r-c-s-inc.com Lisa Schwartz REGULATORY ASSISTANCE PROJECT 429 NE NORTH NEBERGALL LOOP ALBANY OR 97321 (541) 990-9526 lschwartz@raponline.org Wendy Keilani SAN DIEGO GAS & ELECTRIC 8330 CENTURY PARK COURT, CP32D SAN DIEGO CA 92123 (858) 654-1185 WKeilani@SempraUtilities.com Remedios Santos SAN DIEGO GAS & ELECTRIC COMPANY 8330 CENTURY PARK CT., CP31E SAN DIEGO CA 92123 (858) 654-1852 rpsantos@semprautilities.com  |
| Thomas C. Saile Energy Contracts Originator SAN DIEGO GAS & ELECTRIC COMPANY 8315 CENTURY PARK COURT, CP21D SAN DIEGO CA 92123-1548 (858) 636-5543 TCSaile@SempraUtilities.com Central Files SAN DIEGO GAS AND ELECTRIC COMPANY 8330 CENTURY PARK COURT, CP31-E SAN DIEGO CA 92123 (858) 654-1240 CentralFiles@SempraUtilities.com Philip Muller SCD ENERGY SOLUTIONS 436 NOVA ALBION WAY SAN RAFAEL CA 94903 (415) 479-1710 philm@scdenergy.com Kari Kloberdanz Regulatory Relations Manager SEMPRA ENERGY UTILITIES 601 VAN NESS AVE., STE. 2060 SAN FRANCISCO CA 94102 kkloberdanz@semprautilities.com Shawn Bailey Director - Planning & Analysis SEMPRA US GAS AND POWER 101 ASH STREET SAN DIEGO CA 92101-3017 (619) 696-2962 sbailey@semprausgp.com Mathew Vespa SIERRA CLUB 85 SECOND STREET, 2ND FLOOR SAN FRANCISCO CA 94105 (415) 977-5753 matt.vespa@sierraclub.org Sarah Friedman SIERRA CLUB 714 W. OLYMPIC BLVD., STE. 1000 LOS ANGELES CA 90015 (215) 300-8572 Sarah.Friedman@SierraClub.org  | Adam Green SOLARRESERVE 2425 OLYMPIC BLVD., STE. 500E SANTA MONICA CA 90404 (310) 315-2272 adam.green@solarreserve.com Marilyn Lyon South Bay Cities Council Of Governments SOUTH BAY ENVIRONMENTAL SERVICES CTR. 20285 S. WESTERN AVE., STE. 100 TORRANCE CA 90501 (310) 543-3022 marilyn@sbesc.com Jeffrey Shields Gen Mgr. SOUTH SAN JOAQUIN IRRIGATION DISTRICT PO BOX 747 RIPON CA 95366-0747 (209) 249-4645 jshields@ssjid.com Amanda Klopf SOUTHERN CALIFORNIA EDISON COMPANY PO BOX 800/2244 WALNUT GROVE AVE. ROSEMEAD CA 91770 amanda.klopf@sce.com Carol Schmid-Frazee Attorney At Law SOUTHERN CALIFORNIA EDISON COMPANY 2244 WALNUT GROVE AVENUE ROSEMEAD CA 91765 (626) 302-1337 carol.schmidfrazee@sce.com Case Administration SOUTHERN CALIFORNIA EDISON COMPANY 2244 WALNUT GROVE AVENUE, RM. 321 ROSEMEAD CA 91770 (626) 302-3101 case.admin@sce.com Melissa A. Hovsepian SOUTHERN CALIFORNIA EDISON COMPANY 2244 WALNUT GROVE AVE. / PO BOX 800 ROSEMEAD CA 91770 (626) 302-6054 Melissa.Hovsepian@sce.com  |
| Brad Meikle SOVEREIGN ENERGY, LLC EMAIL ONL Y EMAIL ONLY CA 00000 (415) 692-7731 brad.meikle@sovereignenergy.net Shawn Nichols SUMMIT POWER GROUP 1324 CLARKSON CLAYTON CENTER, STE. 119 BALLWIN MO 63011-2145 (206) 239-7572 snichols@summitpower.com Robert Fagan SYNAPSE ENERGY & ECONOMICS 485 MASSACHUSETTS AVE., 2ND FLOOR CAMBRIDGE MA 02139 (617) 453-7040 rfagan@synapse-energy.com Nehal Divekar SYNAPSE ENERGY ECONOMICS INC. 485 MASSACHUSETTS AVENUE, STE. 2 CAMBRIDGE MA 02139 (617) 661-3248 ndivekar@synapse-energy.com Patrick Luckow SYNAPSE ENERGY ECONOMICS, INC. 485 MASSACHUSETTS AVE., 2ND FL. CAMBRIDGE MA 02139 (617) 453-7052 PLuckow@Synapse-Energy.com Thomas J. Vitolo SYNAPSE ENERGY ECONOMICS, INC. 485 MASSACHUSETTS AVENUE, STE. 2 CAMBRIDGE MA 02139 (617) 453-7036 tvitolo@synapse-energy.com Rachel Wilson SYNAPSE ENERGY ECONOMIS, INC. 485 MASSACHUSETTS AVE., 2ND FLOOR CAMBRIDGE MA 02129 (617) 453-7044 rwilson@synapse-energy.com Kelsey Southerland TAS ENERGY EMAIL ONLY EMAIL ONLY TX 00000 (979) 571-8094 ksoutherland@tas.com  | Chris Hendrix TEXAS RETAIL ENERGY 2001 SE 10TH STREET BENTONVILLE AR 72716 (479) 204-0845 Chris.Hendrix@wal-mart.com Ahmad Faruqui THE BRATTLE GROUP 201 MISSION ST., STE. 2800 SAN FRANCISCO CA 94105 (415) 217-1026 ahmad.faruqui@brattle.com Eric G. Gimon Technical Consultant THE VOTE SOLAR INITIATIVE 2727 MARIN AVE. BERKELEY CA 94708 (510) 540-8469 ericg@votesolar.org Daniel Kim WESTLANDS SOLAR PARK PO BOX 582844 ELK GROVE CA 95757 (916) 709-9289 daniel.h.kim@me.com Kevin Woodruff WOODRUFF EXPERT SERVICES 1100 K STREET, SUITE 204 SACRAMENTO CA 95814 (916) 442-4877 kdw@woodruff-expert-services.com For: The Utility Reform Network \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

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| **\*\*\*\*\*\*\*\*\*\*\*\*\*\* PARTIES \*\*\*\*\*\*\*\*\*\*\*\*\*\*** Charles R. Middlekauff Attorney PACIFIC GAS AND ELECTRIC COMPANY 77 BEALE STREET, B30A SAN FRANCISCO CA 94105 (415) 973-6971 CRMd@pge.com For: Pacific Gas & Electric Company \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Russell A. Archer SOUTHERN CALIFORNIA EDISON COMPANY 2244 WALNUT GROVE AVE. / PO BOX 800 ROSEMEAD CA 91770 (626) 302-2865 Russell.Archer@SCE.com For: Southern California Edison Company \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Mitchell Shapson Legal Division RM. 4107 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-2727 sha@cpuc.ca.gov For: DRA **\*\*\*\*\*\*\*\*\*\* STATE EMPLOYEE \*\*\*\*\*\*\*\*\*\*\*** Matt Miley CPUC LEGAL DIVISION EMAIL ONLY EMAIL ONLY CA 00000 (415) 703-3066 mm2@cpuc.ca.gov Maryam Ghadessi Energy Division AREA 4-A 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1191 mmg@cpuc.ca.gov Eric Greene Energy Division AREA 4-A 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-5560 eg1@cpuc.ca.gov  | Robert Haga Legal Division RM. 5137 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-2538 rwh@cpuc.ca.gov Donald J. Lafrenz Energy Division AREA 4-A 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1063 dlf@cpuc.ca.gov Stephen C. Roscow Administrative Law Judge Division RM. 5010 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1053 scr@cpuc.ca.gov Mary Jo Stueve Division of Ratepayer Advocates RM. 4101 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-2673 mjs@cpuc.ca.gov Michael Yeo Division of Ratepayer Advocates RM. 4103 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-5248 mey@cpuc.ca.gov **\*\*\*\*\*\*\*\*\* INFORMATION ONLY \*\*\*\*\*\*\*\*\*\*** Karen Terranova ALCANTAR & KAHL 33 NEW MONTGOMERY STREET, SUITE 1850 SAN FRANCISCO CA 94105 (415) 403-5542 filings@a-klaw.com Nora Sheriff ALCANTAR & KAHL 33 NEW MONTGOMERY STREET, SUITE 1850 SAN FRANCISCO CA 94105 (415) 421-4143 nes@a-klaw.com  |
| CALIFORNIA ENERGY MARKETS 425 DIVISADERO ST. SUTIE 303 SAN FRANCISCO CA 94117-2242 (415) 963-4439 cem@newsdata.com MRW & ASSOCIATES, LLC EMAIL ONLY EMAIL ONLY CA 00000 (510) 834-1999 mrw@mrwassoc.com Regulatory File Room PACIFIC GAS & ELECTRIC COMPANY PO BOX 7442 SAN FRANCISCO CA 94120 (415) 973-4295 cpuccases@pge.com Alice L. Reid PACIFIC GAS AND ELECTRIC COMPANY 77 BEALE STREET, RM 3081-B30A SAN FRANCISCO CA 94105 (415) 973-2966 ALR4@pge.com Angelia Lim PACIFIC GAS AND ELECTRIC COMPANY 77 BEALE STREET, RM. 1001 SAN FRANCISCO CA 94105 (415) 973-9589 A1L0@pge.com Case Coordination PACIFIC GAS AND ELECTRIC COMPANY EMAIL ONLY EMAIL ONLY CA 00000 (415) 973-4744 RegRelCPUCCases@pge.com Jamie York Regulatory Case Admin. SAN DIEGO GAS & ELECTRIC COMPANY 8330 CENTURY PARK COURT, CP32D SAN DIEGO CA 92123 (858) 637-7960 JYork@SempraUtilities.com Case Administration SOUTHERN CALIFORNIA EDISON COMPANY 2244 WALNUT GROVE AVE., PO BOX 800 ROSEMEAD CA 91770 (626) 302-3101 case.admin@sce.com  | Matthew Dwyer SOUTHERN CALIFORNIA EDISON COMPANY 2244 WALNUT GROVE AVE./PO BOX 800 ROSEMEAD CA 91770 (626) 302-6521 matthew.dwyer@sce.com  |

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| **\*\*\*\*\*\*\*\*\*\*\*\*\*\* PARTIES \*\*\*\*\*\*\*\*\*\*\*\*\*\*** Michael Mazur 3 PHASES ELECTRICAL CONSULTING (1373) 2100 SEPULVEDA BLVD., STE. 37 MANHATTAN BEACH CA 90266 energy@3phasesrenewables.com For: 3 Phases Electrical Consulting \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_William H. Booth ALCANTAR & KAHL 33 NEW MONTGOMERY ST., STE. 1850 SAN FRANCISCO CA 94105 (415) 403-5542 whb@a-klaw.com For: California Large Energy Consumers Association \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Michael Alcantar Attorney At Law ALCANTAR & KAHL LLP 33 NEW MONTGOMERY STREET, SUITE 1850 SAN FRANCISCO CA 94105 (415) 403-5542 mpa@a-klaw.com For: Cogeneration Association of California \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Gloria Britton Regulatory Affairs Mgr. ANZA ELECTRIC CO-OPERATIVE, INC (909) PO BOX 39109 / 58470 HIGHWAY 371 ANZA CA 92539-1909 (909) 763-4333 GloriaB@anzaelectric.org For: Anza Electric Co-Operative, Inc. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Ronald Moore Sr Analyst, Regulatory Affairs BEAR VALLEY ELECTRIC 630 EAST FOOTHILL BOULEVARD SAN DIMAS CA 91773 (909) 394-3600 X 682 rkmoore@gswater.com For: Golden State Water Company/Bear Valley Electric (133) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_John Casadont General Counsel BLUE STAR ENERGY SOLUTIONS 363 WEST ERIE ST., STE. 700 CHICAGO IL 60654 (312) 628-8666 jccasadont@bluestarenergy.com For: Blue Star Energy (1379) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Arthur L. Haubenstock BRIGHTSOURCE ENERGY, INC. 1999 HARRISON STREET, SUITE 2150 OAKLAND CA 94612 (510) 250-8150 ahaubenstock@brightsourceenergy.com For: BrightSource Energy, Inc. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Joseph B. Williams VICTORIA M. LAUTERBACH CADWALADER, WICKERSHAM, & TAFT LLP 700 SIXTH STREET, N.W. WASHINGTON DC 20001 (202) 862-2480 Joseph.williams@cwt.com For: Brookfield Renewable Energy Partners LP \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Anthony Ivancovich Regulatory Counsel CALIFORNIA INDEPENDENT SYSTEM OPERATOR 151 BLUE RAVINE ROAD FOLSOM CA 95630 (916) 608-7135 aivancovich@caiso.com For: California Independent System Operatror \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Kevin Boudreaux CALPINE POWER AMERICA-CA, LLC (1362) EMAIL ONLY EMAIL ONLY CA 00000-0000 kevin.boudreaux@calpine.com For: Calpine Power America-CA, LLC \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Mike Campbell Community Choice Aggregation Dir. CITY AND COUNTY OF SAN FRANCISCO 1155 MARKET STREET, 4TH FL. SAN FRANCISCO CA 94103 mcampbell@sfwater.org For: City and County of San Francisco \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Kenneth Sahm White CLEAN COALITION EMAIL ONLY EMAIL ONLY CA 00000 (831) 425-5866 sahm@clean-coalition.org For: Clean Coalition \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Goodman Inger COMMERCE ENERGY, INC. (1092) I CENTERPOINT DRIVE, STE. 350 LA PALMA CA 90623-2520 (714) 259-2508 igoodman@commerceenergy.com For: Commerce Energy, Inc. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Patrick Vanbeek Dir - Customer Support COMMERCIAL ENERGY OF CALIFORNIA 7677 OAKPORT STREET, STE. 525 OAKLAND CA 94621 patrick.vanbeek@commercialenergy.net For: Commercial Energy of California (1378) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Carlos Lamas-Babbini COMVERGE, INC. EMAIL ONLY EMAIL ONLY CA 00000 (510) 270-5963 clamasbabbini@comverge.com For: Comverge, Inc. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Mary Lynch CONSTELLATION NEWENERGY, INC 5074 NAWAL DRIVE EL DORADO HILLS CA 95762 (916) 447-2166 mary.lynch@constellation.com For: Constellation NewEnergy, Inc. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_R. Thomas Beach CROSSBORDER ENERGY 2560 NINTH STREET, SUITE 213A BERKELEY CA 94710-2557 (510) 549-6922 tomb@crossborderenergy.com For: California Wind Energy Association \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Jeffrey P. Gray DAVIS WRIGHT TREMAINE, LLP 505 MONTGOMERY STREET, SUITE 800 SAN FRANCISCO CA 94111-6533 (415) 276-6587 jeffgray@dwt.com For: Calpine Corporation \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Andrea Morrison DIRECT ENERGY SERVICES, LLC 415 DIXSON STREET ARROYO GRANDE CA 93420 (916) 759-7052 andrea.morrison@directenergy.com For: Direct Energy Services, LLC (1341) / Direct Energy Business (1351) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Brad Bordine DISTRIBUTED ENERGY CONSUMER ADVOCATES 516 WHITEWOOD DRIVE SAN RAFAEL CA 94903 (213) 784-2507 b.bordiine@d-e-c-a.org For: Distributed Energy Consumer Advocates \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Daniel W. Douglass Attorney DOUGLASS & LIDDELL 21700 OXNARD ST., STE. 1030 WOODLAND HILLS CA 91367 (818) 961-3001 douglass@energyattorney.com For: Western Power Trading Forum \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Donald C. Liddell DOUGLASS & LIDDELL 2928 2ND AVENUE SAN DIEGO CA 92103 (619) 993-9096 liddell@energyattorney.com For: California Energy Storage Alliance \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_C/O Andy Brown ELLISON, SCHNEIDER & HARRIS, LLP 2600 CAPITAL AVENUE, SUITE 400 SACRAMENTO CA 95816-5931 (916) 447-2166 abb@eslawfirm.com For: NV Energy/Sierra Pacific Power Company (903) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Carolyn Kehrein ENERGY MANAGEMENT SERVICES 2602 CELEBRATION WAY WOODLAND CA 95776 (530) 668-5600 cmkehrein@ems-ca.com For: Energy Users Forum \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Mona Tierney-Lloyd Dir., Western Regualtory Affairs ENERNOC, INC. PO BOX 378 CAYUCOS CA 93430 (805) 995-1618 mtierney-lloyd@enernoc.com For: EnerNoc, Inc. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Rachel Mcmahon FIRST SOLAR 353 SACRAMENTO ST., STE. 2100 SAN FRANCISCO CA 94111 (415) 935-2550 Rachel.McMahon@firstsolar.com For: First Solar \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Andrew Luscz GLACIAL ENERGY OF CALIFORNIA 5326 YACHT HAVEN GRANDE BOX 36 ST THOMAS VI 00802 Andrew.Luscz@GlacialEnergy.com For: Glacial Energy of California (1377) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Nguyen Quan Mgr - Regulatory Affairs GOLDEN STATE WATER CO. - ELECTRIC OP. 630 EAST FOOTHILL BOULEVARD SAN DIMAS CA 91773 (909) 394-3600 X664 nquan@gswater.com For: Golden State Water Company \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Michael B. Day Attorney GOODIN MACBRIDE SQUERI DAY & LAMPREY LLP 505 SANSOME STREET, STE 900 SAN FRANCISCO CA 94111-3133 (415) 392-7900 mday@goodinmacbride.com For: Abengoa Solar, Inc. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Marlo Go Stroud GOODIN MACBRIDE SQUERI DAY LAMPREY, LLP 505 SANSOME STREET, SUITE 900 SAN FRANCISCO CA 94111 (415) 765-8409 mgo@goodinmacbride.com For: North America Power Partners (NAPP) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Brian T. Cragg Attorney GOODIN, MACBRIDE, SQUERI, DAY & LAMPREY 505 SANSOME STREET, SUITE 900 SAN FRANCISCO CA 94111 (415) 392-7900 BCragg@GoodinMacbride.com For: Independent Energy Producers Association \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Stephen Greenleaf Vp, Compliance Director JPMORGAN CHASE BANK, N.A. 2864 ABERDEEN LANE EL DORADO HILLS CA 95762 (916) 802-5420 stephen.t.greenleaf@jpmorgan.com For: JPMorgan Chase Bank, N.A. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Rachel Gold LARGE SCALE SOLAR ASSOCIATION 2501 PORTOLA WAY SACRAMENTO CA 95818 (510) 629-1024 Rachel@consciousventuresgroup.com For: Large Scale Solar Association \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Deanna Bodine LIBERTY POWER HOLDING LLC (1371) 1901 W. CYPRESS CREEK ROAD, STE. 600 FORT LAUDERDALE FL 33309 (954) 489-7101 dbodine@libertypowercorp.com For: Liberty Power Delaware, LLC \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Deanna Bodine LIBERTY POWER HOLDINGS, LLC (1371) 1901 W. CYPRESS CREEK ROAD, STE. 600 FORT LAUDERDALE FL 33309 (954) 598-7063 dbodine@libertypowercorp.com For: Liberty Power Holdings, LLC \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Dawn Weisz Executive Director MARIN ENERGY AUTHORITY 781 LINCOLN AVE., STE. 320 SAN RAFAEL CA 94901 (415) 464-6020 dweisz@marinenergy.com For: Marin Energy Authority \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| John W. Leslie, Esq. MCKENNA LONG & ALDRIDGE LLP EMAIL ONLY EMAIL ONLY CA 00000 (619) 699-5464 jleslie@McKennaLong.com For: Shell Energy North America (U.S.) L.P. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Sara Steck Myers Attorney At Law 122 - 28TH AVENUE SAN FRANCISCO CA 94121 (415) 387-1904 ssmyers@att.net For: Center for Energy Effeciency and Renewable Technologies \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Matt Miley Legal Division RM. 5135 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-3066 mm2@cpuc.ca.gov For: DRA Greg Bass NOBLE AMERICAS ENERGY SOLUTIONS LLC 401 WEST A STREET, SUITE 500 SAN DIEGO CA 92101-3017 (619) 684-8199 gbass@noblesolutions.com For: Noble Americas Energy Solutions, LLC (formerly Sempra Energy Solutions)(1364) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Abraham Silverman Sr. Counsel, Regulatory NRG ENERGY, INC. 211 CARNEGIE CENTER DRIVE PRINCETON NJ 08540 (609) 524-4696 abraham.silverman@nrgenergy.com For: NRG Energy, Inc. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Brian Cherry Director - Regulatory Relations PACIFIC GAS AND ELECTRIC COMPANY (39) 77 BEALE STREET ROOM 1087 SAN FRANCISCO CA 94105 BKC7@pge.com For: Pacific Gas & Electric Company \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Thomas R. Darton PILOT POWER GROUP, INC. (1365) 8910 UNIVERSITY CENTER LANE, STE. 520 SAN DIEGO CA 92122 (858) 678-0118 tdarton@pilotpowergroup.com For: Pilot Power Group, Inc. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Robert Marshall General Manager PLUMAS SIERRA RURAL ELECTRIC COOP. (908) 73233 STATE ROUTE 70 / PO BOX 2000 PORTOLA CA 96122-7069 (916) 832-4261 bmarshall@psrec.coop For: Plumas Sierra Rural Electric Coop \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Rick C. Noger PRAXAIR PLAINFIELD, INC. 2711 CENTERVILLE ROAD, SUITE 400 WILMINGTON DE 19808 (925) 866-6809 rick\_noger@praxair.com For: Praxair Plainfield, Inc. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Joann Trout PRIMUS POWER CORP. 3967 TRUST WAY HAYWARD CA 94545 (510) 342-7666 cpuc@primuspower.com For: Primus Power Corporation \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Sue Mara RTO ADVISORS L.L.C. EMAIL ONLY EMAIL ONLY CA 00000 (415) 902-4108 sue.mara@rtoadvisors.com For: Alliance for Retail Energy Markets \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Alvin S. Pak SAN DIEGO GAS & ELECTRIC COMPANY 101 ASH STREET, HQ12C SAN DIEGO CA 92101-3017 (619) 696-2190 APak@SempraUtilities.com For: San Diego Gas & Electric Company \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| David Orth SAN JOAQUIN VALLEY POWER AUTHORITY ADMIN OFF @KINGS RIVER CONSERV DISTRICT 4886 EAST JENSEN AVENUE FRESNO CA 93725 (559) 237-5567 dorth@krcd.org For: San Joaquin Valley Power Authority \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Marcie Milner SHELL ENERGY (1374) 4445 EASTGATE MALL, SUITE 100 SAN DIEGO CA 92121 martin.kadillak@shell.com For: Shell Energy \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Matthew Vespa Staff Attorney SIERRA CLUB 85 SECOND ST,, 2ND FL SAN FRANCISCO CA 94105 (415) 977-5753 matt.vespa@sierraclub.org For: Sierra Club \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Joni A. Templeton Attorney At Law SOUTHERN CALIFORNIA EDISON COMPANY 2244 WALNUT GROVE AVENUE, PO BOX 800 ROSEMEAD CA 91770 (626) 302-6210 Joni.Templeton@sce.com For: Southern California Edison Company \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Akbar Jazayeiri Dir Of Revenue & Tariffs SOUTHERN CALIFORNIA EDISON COMPANY (338) 2241 WALNUT GROVE AVE. / PO BOX 800 ROSEMEAD CA 91770 (626) 302-3630 akbar.jazayeri@sce.com For: Southern California Edison Company \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Daniel Silveria Gen Mgr SURPRISE VALLEY ELECTRIC CORP. PO BOX 691 ALTURAS CA 96101 (916) 233-3511 dansvec@hdo.net For: Surprise Valley Electric Corp. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Maybelle Ang THE UTILITY REFORM NETWORK 115 SANSOME STREET, STE. 900 SAN FRANCISCO CA 94104 (415) 929-8876 X321 mang@turn.org For: TURN \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Kelly M. Foley Attorney THE VOTE SOLAR INITIATIVE 2089 TRACY COURT FOLSOM CA 95630 (916) 367-2017 kelly@votesolar.org For: The Vote Solar Initiative \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_William Lyons TIGER NATURAL GAS, INC. EMAIL ONLY EMAIL ONLY TX 00000 blyons@TigerNaturalGas.com For: Tiger National Gas (1376) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Stacie Behnke VALLEY ELECTRIC ASSOCIATION 800 E. HWY. 372 PAHRUMP NV 89048 For: Valley Electric Association \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Lisa A. Cottle Attorney WINSTON & STRAWN LLP 101 CALIFORNIA ST., STE. 3900 SAN FRANCISCO CA 94111-5894 (415) 591-1579 LCottle@Winston.com For: GenOn Energy, Inc. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**\*\*\*\*\*\*\*\*\*\* STATE EMPLOYEE \*\*\*\*\*\*\*\*\*\*\*** Donald J. Brooks Energy Division AREA 4-A 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-2626 dbr@cpuc.ca.gov  |
| Jim Woodward CALIFORNIA ENERGY COMMISSION EMAIL ONLY EMAIL ONLY CA 00000 (916) 654-5180 jwoodwar@energy.state.ca.us Marc Pryor CALIFORNIA ENERGY COMMISSION 1516 9TH ST, MS 20 SACRAMENTO CA 95814 (916) 653-0159 mpryor@energy.state.ca.us Michael Jaske CALIFORNIA ENERGY COMMISSION 1516 9TH STREET, MS-20 SACRAMENTO CA 95814 (916) 654-4777 mike.jaske@energy.state.ca.us Chloe Lukins CALIFORNIA PUBLIC UTILITIES COMMISSION EMAIL ONLY EMAIL ONLY CA 00000 (415) 703-1637 chloe.lukins@cpuc.ca.gov Elizabeth Dorman CALIFORNIA PUBLIC UTILITIES COMMISSION EMAIL ONLY EMAIL ONLY CA 00000 (415) 703-1415 elizabeth.dorman@cpuc.ca.gov Sara Kamins CALIFORNIA PUBLIC UTILITIES COMMISSION EMAIL ONLY EMAIL ONLY CA 00000 (415) 703-1388 SMK@cpuc.ca.gov Lily Chow CPUC - ENERGY DIV. EMAIL ONLY EMAIL ONLY CA 00000 (415) 703-2475 cho@cpuc.ca.gov Ed Charkowicz Energy Division AREA 4-A 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-2421 eac@cpuc.ca.gov  | Michael Colvin Executive Division RM. 5212 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 355-5484 mc3@cpuc.ca.gov Paul Douglas Energy Division AREA 4-A 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 355-5579 psd@cpuc.ca.gov Damon A. Franz Energy Division AREA 4-A 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-2165 df1@cpuc.ca.gov David M. Gamson Administrative Law Judge Division RM. 5019 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1232 dmg@cpuc.ca.gov Jaime Rose Gannon Energy Division AREA 4-A 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-2818 jrg@cpuc.ca.gov Aloke Gupta Energy Division AREA 4-A 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-5239 ag2@cpuc.ca.gov Megha Lakhchaura Energy Division AREA 4-A 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1183 mla@cpuc.ca.gov  |
| Yakov Lasko Division of Ratepayer Advocates RM. 4101 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-2287 ynl@cpuc.ca.gov Scarlett Liang-Uejio Energy Division AREA 4-A 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1851 scl@cpuc.ca.gov Arthur J. O'Donnell Energy Division RM. 4-A 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1184 ao1@cpuc.ca.gov Peter Spencer Division of Ratepayer Advocates RM. 4104 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-2109 phs@cpuc.ca.gov Rebecca Tsai-Wei Lee Division of Ratepayer Advocates RM. 1250 770 L Street, Suite 1250 Sacramento CA 95814 (916) 327-1407 wtr@cpuc.ca.gov Alan Wecker Division of Ratepayer Advocates RM. 4102 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1923 aw3@cpuc.ca.gov **\*\*\*\*\*\*\*\*\* INFORMATION ONLY \*\*\*\*\*\*\*\*\*\***  | Margo Burrows Manager - Office & Accounts 3 PHASES RENEWABLES 2100 SEPULVEDA BLVD., STE. 37 MANHATTAN BEACH CA 90266 (310) 939-1283 X-301 mburrows@3phasesRenewables.com Tandy Mcmannes ABENGOA SOLAR, INC. 235 PINE STREET, STE. 1800 SAN FRANCISCO CA 94104 (415) 391-1782 tandy.mcmannes@solar.abengoa.com Donald Brookhyser ALCANTAR & KAHL 1300 SW FIFTH AVE., SUITE 1750 PORTLAND OR 97210 (503) 402-8702 deb@a-klaw.com Karen Terranova ALCANTAR & KAHL 33 NEW MONTGOMERY STREET, SUITE 1850 SAN FRANCISCO CA 94105 (415) 403-5542 filings@a-klaw.com Nora Sheriff ALCANTAR & KAHL 33 NEW MONTGOMERY STREET, SUITE 1850 SAN FRANCISCO CA 94105 (415) 421-4143 nes@a-klaw.com For: California Large Energy Consumers Association \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Barbara R. Barkovich BARKOVICH & YAP, INC. EMAIL ONLY EMAIL ONLY CA 00000 (707) 937-6203 brbarkovich@earthlink.net Joseph Phalen Energy Prescheduler BEAR VALLEY ELECTRIC SERVICE 42020 GARSTIN DRIVE / PO BOX 1547 BIG BEAR LAKE CA 92315 (909) 866-4678 Joseph.Phalen@bves.com  |
| Peter T. Pearson BEAR VALLEY ELECTRIC SERVICE EMAIL ONLY EMAIL ONLY CA 00000 (909) 866-1669 Peter.Pearson@bves.com Sean Matlock Energy Prescheduler BEAR VALLEY ELECTRIC SERVICE 42020 GARSTIN DRIVE / PO BOX 1547 BIG BEAR LAKE CA 92315 (909) 866-4678 smatlock@gswater.com Tracey Drabant Energy Resource Manager BEAR VALLEY ELECTRIC SERVICE 42020 GARSTIN DR. / PO BOX 1547 BIG BEAR LAKE CA 92315 (909) 866-4678 TraceyDrabant@gswater.com Michael Crane BLUESTAR ENERGY SOLUTIONS 363 W. ERIE ST., STE. 700 CHICAGO IL 60654 mcrane@bluestarenergy.com Tony Braun BRAUN BALISING MCLAUGHLIN PC EMAIL ONLY EMAIL ONLY CA 00000 (916) 326-4449 braun@braunlegal.com Nicole Wright BRAUN BLAISING MCLAUGHLIN & SMITH 915 L STREET, SUITE 1270 SACRAMENTO CA 95814 (916) 326-5812 nicole@braunlegal.com Justin C. Wynne Attorney At Law BRAUN BLAISING MCLAUGHLIN, P.C. EMAIL ONLY EMAIL ONLY CA 00000 (916) 326-5813 wynne@braunlegal.com  | Scott Blaising Attorney BRAUN BLAISING MCLAUGHLIN, P.C. EMAIL ONLY EMAIL ONLY CA 00000 (916) 682-9702 blaising@braunlegal.com Shaun Logue BROOKFIELD ENERGY MARKETING, INC. 480 BLVD. DE LA CITE GATINEAU PQ J8T 8R3 CANADA (819) 561-8851 shaun.logue@brookfieldrenewable.com For: Brookfield Renwable Energy Group / Brookfield Renwable Energy Partners LP \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Margaret Miller Director Of Regulatory Affairs BROOKFIELD RENEWABLE ENERGY GROUP EMAIL ONLY EMAIL ONLY CA 00000 (916) 673-3082 margaret.miller@brookfieldrenewable.com For: Brookfield Renwable Energy Group / Brookfield Renwable Energy Partners LP \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Andrew O. Kaplan, Esq. BROWN RUDNICK LLP ONE FINANCIAL CENTER BOSTON MA 02111 (617) 856-8369 AKaplan@BrownRudnick.com Beth Ann Burns CAL. INDEPENDENT SYSTEM OPERATOR CORP. 250 OUTCROPPING WAY FOLSOM CA 95630 (916) 608-7146 bburns@caiso.com Delphine Hou CALIF. INDEPENDENT SYSTEMS OPERATOR 250 OUTCROPPING WAY FOLSOM CA 95630 (916) 608-5910 dhou@caiso.com Pramod P. Kulkarni CALIFORNIA ENERGY COMMISSION 1516 9TH STREET, MS 20 SACRAMENTO CA 95814-5512 (916) 654-4637 pkulkarn@energy.state.ca.us  |
| CALIFORNIA ENERGY MARKETS 425 DIVISADERO STREET, SUITE 303 SAN FRANCISCO CA 94117 (415) 963-4439 cem@newsdata.com Brad Cooper CALIFORNIA INDEPENDENT SYSTEM OPERATOR 250 OUTCROPPING WAY FOLSOM CA 95630 (916) 608-7156 bcooper@caiso.com Gautham Katta CALIFORNIA INDEPENDENT SYSTEM OPERATOR 250 OUTCROPPINT WAY FOLSOM CA 95630 gkatta@caiso.com John Goodin CALIFORNIA INDEPENDENT SYSTEM OPERATOR 250 OUTCROPPING WAY FOLSOM CA 95630 (916) 802-6936 jgoodin@caiso.com Ken Barrentine CALIFORNIA INDEPENDENT SYSTEM OPERATOR 250 OUTCROPPING WAY FOLSOM CA 95630 kbarrentine@caiso.com CALIFORNIA ISO 250 OUTCROPPING WAY FOLSOM CA 95630 e-recipient@caiso.com Nancy Rader Executive Director CALIFORNIA WIND ENERGY ASSOCIATION EMAIL ONLY EMAIL ONLY CA 00000-0000 (510) 845-5077 nrader@calwea.org Matthew Barmack CALPINE CORPORATION EMAIL ON LY EMAIL ONLY CA 00000 matthew.barmack@calpine.com  | Eric Osborn CALPINE POWER AMERICA-CA, LLC 717 TEXAS AVENUE, STE 100 HOUSTON TX 77002 cpacc@calpine.com For: Calpine PowerAmerica-CA, LLC (1362) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Sarah Tomec Sr. Advisor, Regulatory Affairs West CAPITAL POWER CORPORATION 9255 TOWNE CENTRE DRIVE, STE. 900 SAN DIEGO CA 92121 (858) 450-3214 STomec@CapitalPower.com Danielle Osborn Mills Renewable Technologies (Ceert) CENTER FOR ENERGY EFFICIENCY AND 1100 11TH STREET, STE. 1100 SACRAMENTO CA 95814 (916) 442-7785 danielle@ceert.org Irene K. Moosen Attorney At Law CITY AND COUNTY OF SAN FRANCISCO 53 SANTA YNEZ AVE. SAN FRANCISCO CA 94112 (415) 587-7343 irene@igc.org William K. Sanders THERESA L. MUELLER, JEANNE M. SOLE' Deputy City Attorney CITY AND COUNTY OF SAN FRANCISCO 1 DR. CARLTON B. GOODLETT PLACE, RM. 234 SAN FRANCISCO CA 94102-4682 (415) 554-6771 william.sanders@sfgov.org Carrie Thompson CITY OF ANAHEIM 201 S. ANAHEIM BLVD., STE. 802 ANAHEIM CA 92805 (714) 465-4131 cathompson@anaheim.net Whitney Richardson CLEAN COALITION EMAIL ONLY EMAIL ONLY CA 00000 (510) 334-5890 whitney@clean-coalition.org  |
| Inger Goodman COMMERCE ENERGY, INC. I CENTERPOINTE DR., STE. 350 LA PALMA CA 90623-2520 (714) 259-2508 igoodman@commerceenergy.com Richard J. Hudson, Jr. Dir. - Regulatory & Legislative Affairs CONEDISON SOLUTIONS, INC. 100 SUMMIT LAKE DR., STE. 410 VALHALLA NY 10595 (412) 368-5988 hudsonr@conedsolutions.com Jacqueline M. Derosa Director Of Regulatory Affairs - Ca CUSTOMIZED ENERGY SOLUTIONS 101 PARKSHORE DRIVE SUITE 100 FOLSOM CA 95630 (916) 932-7226 jderosa@ces-ltd.com DAVIS WRIGHT & TREMAINE LLP EMAIL ONLY EMAIL ONLY CA 00000 dwtcpucdockets@dwt.com Vidhya Prabhakaran DAVIS WRIGHT & TREMAINE LLP 505 MONTGOMERY STREET, SUITE 800 SAN FRANCISCO CA 94111 (415) 276-6568 VidhyaPrabhakaran@dwt.com Ann Trowbridge Attorney DAY CARTER & MURPHY LLP 3620 AMERICAN RIVER DR., STE. 205 SACRAMENTO CA 95864 (916) 570-2500 X103 ATrowbridge@DayCarterMurphy.com Dennis De Cuir DENNIS W. DE CUIR, A LAW CORPORATION 2999 DOUGLAS BOULEVARD, SUITE 325 ROSEVILLE CA 95661 (916) 788-1022 dennis@ddecuir.com  | Amanda Bergfield DIRECT ENERGY 12 GREENWAY PLAZA, STE. 250 HOUSTON TX 77046 (713) 877-3663 amanda.bergfield@directenergy.com Jay Robertson DIRECT ENERGY 12 GREENWAY PLAZA, STE. 250 HOUSTON TX 77046 (713) 877-5712 jay.robertson@directenergy.com Donald C. Liddell Counsel DOUGLASS & LIDDELL 2928 2ND AVENUE SAN DIEGO CA 92103 (619) 993-9096 liddell@EnergyAttorney.com George Klatt DOUGLASS & LIDDELL EMAIL ONLY EMAIL ONLY CA 00000 (818) 961-3002 klatt@energyattorney.com William Rostov EARTHJUSTICE 50 CALIFORNIA ST., STE. 500 SAN FRANCISCO CA 94111 (415) 217-2000 wrostov@earthjustice.org Fred Mobasheri Consultant ELECTRIC POWER GROUP, LLC 201 SOUTH LAKE AVE., SUITE 400 PASADENA CA 91101 (626) 658-2015 fmobasheri@electricpowergroup.com Jedediah J. Gibson Attorney At Law ELLISON SCHNEIDER & HARRIS LLP 2600 CAPITOL AVENUE, SUITE 400 SACRAMENTO CA 95816-5905 (916) 447-2166 jjg@eslawfirm.com  |
| Andrew B. Brown Attorney At Law ELLISON SCHNEIDER & HARRIS, LLP 2600 CAPITAL AVENUE, SUITE 400 SACRAMENTO CA 95816-5905 (916) 447-2166 abb@eslawfirm.com For: Constellation NewEnergy, Inc. (1359) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Andra Pligavko FIRST SOLAR DEVELOPMENT, INC. EMAIL ONLY EMAIL ONLY CA 00000 (415) 935-2553 andra.pligavko@gmail.com Barry R. Flynn FLYNN RESOURCE CONSULTANTS 5440 EDGEVIEW DRIVE DISCOVERY BAY CA 94505 (888) 634-7516 brflynn@flynnrci.com For: Bay Area Municipal Transmission Group (BAMx) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Sean P. Beatty Dir - West Regulatory Affairs GENON ENERGY, INC. PO BOX 192 PITTSBURGH CA 94565 (925) 427-3483 sean.beatty@genon.com Suzy Hong Attorney At Law GOODIN MACBRIDE SQUERI DAY & LAMPREY 505 SANSOME STREET, SUITE 900 SAN FRANCISCO CA 94111 (415) 392-7900 shong@goodinmacbride.com For: Abengoa Solar, Inc. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_David Weidberg JOHNSON CONTROLS 901 CAMPISI AVE. CAMPBELL CA 95008 (408) 898-2713 David.Weidberg@jci.com  | Rich Quattrini Vice President - Western Region JOHNSON CONTROLS 901 CAMPISI AVE., SUITE 260 CAMPBELL CA 95008-2348 (408) 370-3311 X125 Rich.Quattrini@jci.com Jason A. Lewis Vp, Assist General Counsel JPMORGAN CHASE BANK, N.A. 245 PARK AVENUE 11TH FLOOR NEW YORK NY 10167 (212) 648-0762 jason.lewis@jpmorgan.com Tim Lindl KEYES FOX & WIEDMAN LLP 314 14TH STREET, STE. 1350 OAKLAND CA 94612 (510) 314-8385 tlindl@kfwlaw.com Kevin T. Fox TIM LINDL KEYES FOX & WIEDMAN, LLP 436 14TH STREET, SUITE 1305 OAKLAND CA 94612 (510) 314-8201 kfox@kfwlaw.com For: The Interstate Renewable Energy Council, Inc. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Shannon Eddy Executive Director LARGE SCALE SOLAR ASSOCIATION 2501 PORTOLA WAY SACRAMENTO CA 95818 (916) 731-8371 eddyconsulting@gmail.com Oliver N. Myers LAW OFFICES OF SARA STECK MYERS 122 - 28TH AVENUE SAN FRANCISCO CA 94121 (415) 412-1800 onmyers@gmail.com Neil O'Donovan LINCOLN RENEWABLE ENERGY 1675 LARIMER STREET, STE. 440 DENVER CO 80202 (602) 321-6878 nodonovan@lrenergy.com  |
| Jennifer Chamberlin LS POWER DEVELOPMENT, LLC 5000 HOPYARD ROAD, SUITE 480 PLEASANTON CA 94588 (925) 201-5253 JChamberlin@LSPower.com Elizabeth Rasmussen MARIN ENERGY AUTHORITY 781 LINCOLN AVENUE, STE. 320 SAN RAFAEL CA 94901 (415) 464-6022 erasmussen@marinenergyauthority.org Jeremy Waen Regulatory Analyst MARIN ENERGY AUTHORITY 781 LINCOLN AVENUE, STE. 320 SAN RAFAEL CA 94901 (415) 464-6027 JWaen@MarinEnergy.com Barry F. Mccarthy Attorney MCCARTHY & BERLIN, LLP 100 W. SAN FERNANDO ST., SUITE 501 SAN JOSE CA 95113 (408) 288-2080 bmcc@mccarthylaw.com For: Bay Area Municipal Transmission Group (BAMx) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_David Miller 651 FAIRMONT AVE. OAKLAND CA 94611 (510) 502-6117 david@ceert.org David Morse EMAIL ONLY EMAIL ONLY CA 00000-0000 (530) 756-5033 davidmorse9@gmail.com MRW & ASSOCIATES, LLC EMAIL ONLY EMAIL ONLY CA 00000 (510) 834-1999 mrw@mrwassoc.com  | David Nemtzow NEMTZOW & ASSOCIATES EMAIL ONLY EMAIL ONLY CA 00000 (310) 622-2981 david@nemtzow.com Kerry Hattevik Director Of West Market Affairs NEXT ERA ENERGY RESOURCES LLC 829 ARLINGTON BLVD. EL CERRITO CA 94530 (510) 898-1847 kerry.hattevik@nee.com Shelly-Ann Maye NORTH AMERICA POWER PARTNERS 308 HARPER DRIVE, SUITE 320 MOORESTOWN NJ 08057 (856) 439-0800 smaye@nappartners.com Brian Theaker Director - Market Affairs NRG ENERGY, INC. 211 CARNEGIE CENTER PRINCETON NJ 08540 (530) 295-3305 brian.theaker@nrgenergy.com Brad Wetstone PACIFIC GAS & ELECTRIC COMPANY EMAIL ONLY EMAIL ONLY CA 00000 b1wa@pge.com Mark Huffman Law Dept PACIFIC GAS & ELECTRIC COMPANY PO BOX 7442, B30A SAN FRANCISCO CA 94120 (415) 973-3842 mrh2@pge.com Alice Gong PACIFIC GAS AND ELECTRIC COMPANY PO BOX 770000, MAIL CODE B9A SAN FRANCISCO CA 94177 axl3@pge.com  |
| Case Coordination PACIFIC GAS AND ELECTRIC COMPANY EMAIL ONLY EMAIL ONLY CA 00000 (415) 973-4208 regrelcpuccases@pge.com George Zahariudakis PACIFIC GAS AND ELECTRIC COMPANY EMAIL ONLY EMAIL ONLY CA 00000 gxz5@pge.com Matthew Gonzales Senior Case Manager PACIFIC GAS AND ELECTRIC COMPANY 77 BEALE STREET, ROOM 918 SAN FRANCISCO CA 94105 (415) 973-8466 mrgg@pge.com Tom Jarman Energy PACIFIC GAS AND ELECTRIC COMPANY 77 BEALE STREET, RM. 909, MC B9A SAN FRANCISCO CA 94105-1814 (415) 973-7157 taj8@pge.com Cathie Allen Regulatory Mgr. PACIFICORP EMAIL ONLY EMAIL ONLY OR 00000 (503) 813-5934 CaliforniaDockets@pacificorp.com Mary Wiencke PACIFICORP 825 N. E. MULTNOMAH, SUITE 1800 PORTLAND OR 97232 (503) 813-5058 mary.wiencke@pacificorp.com John S. Friderichs Director - Origination & Development PILOT POWER GROUP, INC. 8910 UNIVERSITY CENTER LANE, STE. 520 SAN DIEGO CA 92122 (858) 678-0118 X-105 JFriderichs@pilotpowergroup.com  | Steve Taber PRINCETON ENERGY GROUP 860 BUTTERFIELD SAN ANSELMO CA 94960 (415) 457-1848 Taber@PrincetonEnergy.net Donald W. Schoenbeck RCS, INC. 900 WASHINGTON STREET, SUITE 780 VANCOUVER WA 98660 (360) 737-3877 dws@r-c-s-inc.com Nuo Tang SAN DIEGO GAS & ELECTRIC 8315 CENTURY PARK COURT, CP21D SAN DIEGO CA 92123 (858) 654-1818 NTang@SempraUtilities.com Randy Nicholson SAN DIEGO GAS & ELECTRIC 8330 CENTURY PARK COURT, CP32H SAN DIEGO CA 92123 (858) 654-3567 RNicholson@SempraUtilities.com Ana Garza-Beutz SAN DIEGO GAS & ELECTRIC COMPANY 8315 CENTURY PARK CT., CP21D SAN DIEGO CA 92123 (858) 637-3760 AGarza-Beutz@semprautilities.com Thomas C. Saile Energy Contracts Originator SAN DIEGO GAS & ELECTRIC COMPANY 8315 CENTURY PARK COURT, CP21D SAN DIEGO CA 92123-1548 (858) 636-5543 TCSaile@SempraUtilities.com Central Files SAN DIEGO GAS AND ELECTRIC CO. 8330 CENTURY PARK COURT, CP31-E SAN DIEGO CA 92123 (858) 654-1240 CentralFiles@SempraUtilities.com  |
| Kathryn Gillick SAN FRANCISCO PUBLIC UTILITIES COMM. 1155 MARKET STREET SAN FRANCISCO CA 94103 (415) 554-2487 kgillick@sfwater.org Shawn Bailey Director - Planning & Analysis SEMPRA US GAS AND POWER 101 ASH STREET SAN DIEGO CA 92101-3017 (619) 696-2962 sbailey@semprausgp.com Susan Smith Associate Originator Bus. Development SHELL ENERGY NORTH AMERICA 4 CLINTON SQUARE, STE. 101 SYRACUSE NY 13202 (315) 423-4817 Susan.E.Smith@shell.com Steve Zuretti SOLAR ENERGY INDUSTRIES ASSOCIATION EMAIL ONLY EMAIL ONLY CA 00000 (323) 400-9715 SZuretti@seia.org Ariel Lin SOUTHERN CALIFORNIA EDISON COMPANY EMAIL ONLY EMAIL ONLY CA 00000 ariel.lin@sce.com Case Administration SOUTHERN CALIFORNIA EDISON COMPANY 2244 WALNUT GROVE AVE., PO BOX 800 ROSEMEAD CA 91770 (626) 302-4875 case.admin@sce.com Justin Boone SOUTHERN CALIFORNIA EDISON COMPANY EMAIL ONLY EMAIL ONLY CA 00000 (626) 302-5576 justin.boone@sce.com  | Eric G. Gimon Technical Consultant THE VOTE SOLAR INITIATIVE 2727 MARIN AVE. BERKELEY CA 94708 (510) 540-8469 ericg@votesolar.org Julien Dumoulin-Smith Director UBS INVESTMENT RESEARCH 1285 AVENUE OF THE AMERICAS NEW YORK NY 10019 (212) 713-9848 julien.dumoulin-smith@ubs.com For: US Electric Utilities & IPPs Group \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Megan Cyr UBS INVESTMENT RESEARCH 1285 AVENUE OF THE AMERICAS NEW YORK NY 10019 (212) 713-9848 megan.cyr@ubs.com Nicholas Lenssen VESTAS-AMERICAN WIND TECHNOLOGY, INC 1195 ALBION ROAD BOULDER CO 80305 (303) 655-5544 NILEN@vestas.com Doug Davie WELLHEAD ELECTRIC EMAIL ONLY EMAIL ONLY CA 00000 (916) 447-5171 ddavie@wellhead.com Sheridan Pauker Attorney WILSON SONSINI GOODRICH & ROSATI ONE MARKET PLAZA, SPEAR TOWER, STE 3300 SAN FRANCISCO CA 94105 (415) 947-2136 spauker@wsgr.com Thomas W. Solomon Attorney At Law WINSTON & STRAWN LLP 101 CALIFORNIA STREET, 39TH FLOOR SAN FRANCISCO CA 94111-5894 (415) 591-1000 tsolomon@winston.com  |
| Kevin Woodruff EMAIL ONLY EMAIL ONLY CA 00000 (916) 442-4877 kdw@woodruff-expert-services.com  |  |

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| **\*\*\*\*\*\*\*\*\*\*\*\*\*\* PARTIES \*\*\*\*\*\*\*\*\*\*\*\*\*\*** Robert Haga Legal Division RM. 5137 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-2538 rwh@cpuc.ca.gov For: DRA Russell A. Archer DOUGLAS K. PORTER; LINDA J. ANABTAWI SOUTHERN CALIFORNIA EDISON COMPANY 2244 WALNUT GROVE AVE. / PO BOX 800 ROSEMEAD CA 91770 (626) 302-2865 Russell.Archer@SCE.com For: Southern California Edison Company \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**\*\*\*\*\*\*\*\*\*\* STATE EMPLOYEE \*\*\*\*\*\*\*\*\*\*\*** Claire Eustace CALIFORNIA PUBLIC UTILITIES COMMISSION EMAIL ONLY EMAIL ONLY CA 00000 (415) 703-1889 CCE@cpuc.ca.gov Mitchell Shapson CPUC LEGAL DIVISION EMAIL ONLY EMAIL ONLY CA 00000 (415) 703-2727 mitchell.shapson@cpuc.ca.gov Richard Clark Administrative Law Judge Division RM. 5109 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 355-5506 rwc@cpuc.ca.gov Michele Kito Energy Division AREA 4-A 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-2197 mk1@cpuc.ca.gov  | Donald J. Lafrenz Energy Division AREA 4-A 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1063 dlf@cpuc.ca.gov Ke Hao Ouyang Division of Ratepayer Advocates RM. 4104 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1235 kho@cpuc.ca.gov Michael Yeo Division of Ratepayer Advocates RM. 4103 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-5248 mey@cpuc.ca.gov **\*\*\*\*\*\*\*\*\* INFORMATION ONLY \*\*\*\*\*\*\*\*\*\*** Len Canty Chairman BLACK ECONOMIC COUNCIL 484 LAKE PARK AVE., SUITE 338 OAKLAND CA 94610 (510) 452-1337 lencanty@BlackEconomicCouncil.org For: Black Economic Council \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_CALIFORNIA ENERGY MARKETS 425 DIVISADERO ST STE 303 SAN FRANCISCO CA 94117-2242 (415) 552-1764 cem@newsdata.com Robert Gnaizda Of Counsel 1758 EL CAMINO REAL SAN BRUNO CA 94066 (650) 953-0522 robertgnaizda@gmail.com Jorge Corralejo Chairman / President LAT. BUS. CHAMBER OF GREATER L.A. 634 S. SPRING STREET, STE 600 LOS ANGELES CA 90014 (213) 347-0008 JCorralejo@LBCgla.org For: Latino Business Chamber of Greater Los Angeles \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| MRW & ASSOCIATES, LLC EMAIL ONLY EMAIL ONLY CA 00000 (510) 834-1999 mrw@mrwassoc.com Faith Bautista President NATIONAL ASIAN AMERICAN COALITION 1758 EL CAMINO REAL SAN BRUNO CA 94066 (650) 953-0522 Faith.MabuhayAlliance@gmail.com For: National Asian American Coalition \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Shalini Swaroop Sr. Staff Attorney NATIONAL ASIAN AMERICAN COALITION 1758 EL CAMINO REAL SAN BRUNO CA 94066 (650) 953-0522 X-231 sswaroop@naacoalition.org Jamie York Regulatory Case Admin. SAN DIEGO GAS & ELECTRIC COMPANY 8330 CENTURY PARK COURT, CP32D SAN DIEGO CA 92123 (858) 637-7960 JYork@SempraUtilities.com Case Administration Law Department SOUTHERN CALIFORNIA EDISON COMPANY 2244 WALNUT GROVE AVENUE ROSEMEAD CA 91770 (626) 302-4875 case.admin@sce.com  |  |

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| **\*\*\*\*\*\*\*\*\*\*\*\*\*\* PARTIES \*\*\*\*\*\*\*\*\*\*\*\*\*\*** Nora Sheriff ALCANTAR & KAHL 33 NEW MONTGOMERY STREET, SUITE 1850 SAN FRANCISCO CA 94105 (415) 421-4143 nes@a-klaw.com For: Energy Producers & Users Coalition \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_William H. Booth ALCANTAR & KAHL 33 NEW MONTGOMERY ST., STE. 1850 SAN FRANCISCO CA 94105 (415) 403-5542 whb@a-klaw.com For: California Large Energy Consumers Association \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Daniel W. Douglass Attorney DOUGLASS & LIDDELL 21700 OXNARD ST., STE. 1030 WOODLAND HILLS CA 91367 (818) 961-3001 douglass@energyattorney.com For: Alliance for Retail Energy Markets (AReM); Direct Access Customer Coalition (DACC) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Robert Haga Legal Division RM. 5137 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-2538 rwh@cpuc.ca.gov For: DRA Russell A. Archer SOUTHERN CALIFORNIA EDISON COMPANY 2244 WALNUT GROVE AVE. / PO BOX 800 ROSEMEAD CA 91770 (626) 302-2865 Russell.Archer@SCE.com For: Southern California Edison Company \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**\*\*\*\*\*\*\*\*\*\* STATE EMPLOYEE \*\*\*\*\*\*\*\*\*\*\***  | Maryam Ghadessi Energy Division AREA 4-A 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1191 mmg@cpuc.ca.gov Teresa Hortinela Division of Ratepayer Advocates RM. 4102 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1784 mth@cpuc.ca.gov For: DRA Donald J. Lafrenz Energy Division AREA 4-A 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1063 dlf@cpuc.ca.gov Stephen C. Roscow Administrative Law Judge Division RM. 5010 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1053 scr@cpuc.ca.gov **\*\*\*\*\*\*\*\*\* INFORMATION ONLY \*\*\*\*\*\*\*\*\*\*** Karen Terranova ALCANTAR & KAHL 33 NEW MONTGOMERY ST., STE. 1850 SAN FRANCISCO CA 94105 (415) 403-5542 filings@a-klaw.com Ross Van Ness ALCANTAR & KAHL 1300 SW FIFTH AVE., STE. 1750 PORTLAND OR 97209 (503) 402-9900 rvn@a-klaw.com Seema Srinivasan ALCANTAR & KAHL 33 NEW MONTGOMERY ST., SUITE 1850 SAN FRANCISCO CA 94105 (415) 403-5542 sls@a-klaw.com  |
| Evelyn Kahl ALCANTAR & KAHL, LLP 33 NEW MONTGOMERY STREET, SUITE 1850 SAN FRANCISCO CA 94015 (415) 403-5542 ek@a-klaw.com Barbara R. Barkovich BARKOVICH & YAP, INC. 44810 ROSEWOOD TERRACE MENDOCINO CA 95460 (707) 937-6203 brbarkovich@earthlink.net Scott Blaising Attorney BRAUN BLAISING MCLAUGHLIN, P.C. EMAIL ONLY EMAIL ONLY CA 00000 (916) 682-9702 blaising@braunlegal.com CALIFORNIA ENERGY MARKETS 425 DIVISADERO ST. SUITE 303 SAN FRANCISCO CA 94117 (415) 963-4439 cem@newsdata.com Carolyn M. Kehrein ENERGY USERS FORUM 2602 CELEBRATION WAY WOODLAND CA 95776 (530) 668-5600 cmkehrein@ems-ca.com MRW & ASSOCIATES, LLC EMAIL ONLY EMAIL ONLY CA 00000 (510) 834-1999 mrw@mrwassoc.com Sue Mara Principal RTO ADVISORS, LLC EMAIL ONLY EMAIL ONLY CA 00000 (415) 902-4108 Sue.Mara@rtoadvisors.com Jamie York Regulatory Case Admin. SAN DIEGO GAS & ELECTRIC COMPANY 8330 CENTURY PARK COURT, CP32D SAN DIEGO CA 92123 (858) 637-7960 JYork@SempraUtilities.com  | Case Administration SOUTHERN CALIFORNIA EDISON COMPANY 2244 WALNUT GROVE AVENUE, RM. 370 ROSEMEAD CA 91770 (626) 302-6838 case.admin@sce.com Matthew Dwyer SOUTHERN CALIFORNIA EDISON COMPANY 2244 WALNUT GROVE AVE./PO BOX 800 ROSEMEAD CA 91770 (626) 302-6521 matthew.dwyer@sce.com  |

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| **\*\*\*\*\*\*\*\*\*\*\*\*\*\* PARTIES \*\*\*\*\*\*\*\*\*\*\*\*\*\*** Daniel W. Douglass Attorney DOUGLASS & LIDDELL 21700 OXNARD ST., STE. 1030 WOODLAND HILLS CA 91367 (818) 961-3001 douglass@energyattorney.com For: Alliance for Retail Energy Markets and Direct Access Customer Coalition \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Claire Eustace Legal Division RM. 4104 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1889 cce@cpuc.ca.gov For: DRA Russell A. Archer DOUGLAS K. PORTER/MATTHEW DWYER SOUTHERN CALIFORNIA EDISON COMPANY 2244 WALNUT GROVE AVE. / PO BOX 800 ROSEMEAD CA 91770 (626) 302-2865 Russell.Archer@SCE.com For: Southern California Edison Company \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**\*\*\*\*\*\*\*\*\*\* STATE EMPLOYEE \*\*\*\*\*\*\*\*\*\*\*** Valerie Kao Division of Ratepayer Advocates RM. 4104 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1341 vuk@cpuc.ca.gov For: DRA Ravinder Mangat Division of Ratepayer Advocates RM. 4102 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 355-5556 rm1@cpuc.ca.gov For: DRA  | Sean Wilson Administrative Law Judge Division RM. 5022 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1525 smw@cpuc.ca.gov **\*\*\*\*\*\*\*\*\* INFORMATION ONLY \*\*\*\*\*\*\*\*\*\*** Scott Blaising BRAUN BLAISING MCLAUGHLIN P.C. 915 L STREET, STE. 1270 SACRAMENTO CA 95814 (916) 682-9702 blaising@braunlegal.com CALIFORNIA ENERGY MARKETS 425 DIVISADERO STREET, SUITE 303 SAN FRANCISCO CA 94117-2242 (415) 963-4439 cem@newsdata.com MRW & ASSOCIATES, LLC EMAIL ONLY EMAIL ONLY CA 00000 (510) 834-1999 mrw@mrwassoc.com Case Administration SOUTHERN CALIFORNIA EDISON COMPANY LAW DEPT., ROOM 370 2244 WALNUT GROVE AVE., RM 370 ROSEMEAD CA 91770 (626) 302-4875 case.admin@sce.com  |

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| **\*\*\*\*\*\*\*\*\*\*\*\*\*\* PARTIES \*\*\*\*\*\*\*\*\*\*\*\*\*\*** Matt Miley CPUC LEGAL DIVISION EMAIL ONLY EMAIL ONLY CA 00000 (415) 703-3066 mm2@cpuc.ca.gov For: DRA \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Charles R. Middlekauff PACIFIC GAS AND ELECTRIC COMPANY PO BOX 7442, MC-B30A-2475 SAN FRANCISCO CA 94120 (415) 973-6971 crmd@pge.com For: Pacific Gas and Electric Company \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_John A. Pacheco Attorney SAN DIEGO GAS & ELECTRIC COMPANY 101 ASH STREET, HQ12B SAN DIEGO CA 92101-3017 (619) 699-5130 JPacheco@SempraUtilities.com For: San Diego Gas & Electric \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**\*\*\*\*\*\*\*\*\*\* STATE EMPLOYEE \*\*\*\*\*\*\*\*\*\*\*** Ke Hao Ouyang CPUC EMAIL ONLY EMAIL ONLY CA 00000 (415) 703-1235 kho@cpuc.ca.gov Robert Haga Legal Division RM. 5137 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-2538 rwh@cpuc.ca.gov Stephen C. Roscow Administrative Law Judge Division RM. 5010 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1053 scr@cpuc.ca.gov  | Mitchell Shapson Legal Division RM. 4107 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-2727 sha@cpuc.ca.gov For: DRA Michael Yeo Division of Ratepayer Advocates RM. 4103 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-5248 mey@cpuc.ca.gov **\*\*\*\*\*\*\*\*\* INFORMATION ONLY \*\*\*\*\*\*\*\*\*\*** CALIFORNIA ENERGY MARKETS 425 DIVISADERO ST. STE 303 SAN FRANCISCO CA 94117-2242 (415) 936-4439 cem@newsdata.com DAVIS WRIGHT TREMAINE LLP EMAIL ONLY EMAIL ONLY CA 00000 dwtcpucdockets@dwt.com MRW & ASSOCIATES, LLC EMAIL ONLY EMAIL ONLY CA 00000 (510) 834-1999 mrw@mrwassoc.com Regulatory File Room PACIFIC GAS & ELECTRIC COMPANY PO BOX 7442 SAN FRANCISCO CA 94120 (415) 973-4295 cpuccases@pge.com Alice L. Reid PACIFIC GAS AND ELECTRIC COMPANY 77 BEALE STREET, RM 3081-B30A SAN FRANCISCO CA 94105 (415) 973-2966 ALR4@pge.com For: Pacific Gas & Electric Company \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Georgetta J. Baker JOHN A. PACHECO Attorney SAN DIEGO GAS & ELECTRIC COMPANY 101 ASH STREET, HQ 12 SAN DIEGO CA 92101-3017 (619) 699-5064 GBaker@SempraUtilities.com Jamie York Regulatory Case Admin. SAN DIEGO GAS & ELECTRIC COMPANY 8330 CENTURY PARK COURT, CP32D SAN DIEGO CA 92123 (858) 637-7960 JYork@SempraUtilities.com For: San Diego Gas & Electric Company \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Central Files SAN DIEGO GAS AND ELECTRIC CO. 8330 CENTURY PARK COURT, CP31-E SAN DIEGO CA 92123 (858) 654-1240 CentralFiles@SempraUtilities.com Case Administration SOUTHERN CALIFORNIA EDISON COMPANY 2244 WALNUT GROVE AVENUE / PO BOX 800 ROSEMEAD CA 91770 (626) 302-1063 case.admin@sce.com  |  |

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| **\*\*\*\*\*\*\*\*\*\*\*\*\*\* PARTIES \*\*\*\*\*\*\*\*\*\*\*\*\*\*** Michelle R. Mishoe Attorney PACIFICORP 825 NE MULTNOMAH STREET, SUITE 1800 PORTLAND OR 97232 (503) 813-5977 michelle.mishoe@pacificorp.com For: PacifiCorp \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**\*\*\*\*\*\*\*\*\*\* STATE EMPLOYEE \*\*\*\*\*\*\*\*\*\*\*** Richard Clark Administrative Law Judge Division RM. 5109 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 355-5506 rwc@cpuc.ca.gov **\*\*\*\*\*\*\*\*\* INFORMATION ONLY \*\*\*\*\*\*\*\*\*\*** CALIFORNIA ENERGY MARKETS 425 DIVISADERO ST. STE 303 SAN FRANCISCO CA 94117-2242 (415) 963-4439 cem@newsdata.com Cathie Allen Regulatory Mgr. PACIFICORP EMAIL ONLY EMAIL ONLY OR 00000 (503) 813-5934 CaliforniaDockets@pacificorp.com  |  |

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| **\*\*\*\*\*\*\*\*\*\*\*\*\*\* PARTIES \*\*\*\*\*\*\*\*\*\*\*\*\*\*** Matt Miley Legal Division RM. 5135 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-3066 mm2@cpuc.ca.gov For: DRA Jamie York Regulatory Case Admin. SAN DIEGO GAS & ELECTRIC COMPANY 8330 CENTURY PARK COURT, CP32D SAN DIEGO CA 92123 (858) 637-7960 JYork@SempraUtilities.com For: San Diego Gas & Electric Company \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Kim Malcolm UTILITY CONSUMERS' ACTION NETWORK 3405 KENYON ST., STE. 401 SAN DIEGO CA 92110 (619) 696-6966 kmalcolm@ucan.org For: UCAN \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**\*\*\*\*\*\*\*\*\*\* STATE EMPLOYEE \*\*\*\*\*\*\*\*\*\*\*** Joseph A. Abhulimen Division of Ratepayer Advocates RM. 4209 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1552 jaa@cpuc.ca.gov Donald J. Lafrenz Energy Division AREA 4-A 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1063 dlf@cpuc.ca.gov Ravinder Mangat Division of Ratepayer Advocates RM. 4102 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 355-5556 rm1@cpuc.ca.gov  | Stephen C. Roscow Administrative Law Judge Division RM. 5010 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1053 scr@cpuc.ca.gov **\*\*\*\*\*\*\*\*\* INFORMATION ONLY \*\*\*\*\*\*\*\*\*\*** CALIFORNIA ENERGY MARKETS 425 DIVISADERO STREET, SUITE 303 SAN FRANCISCO CA 94117-2242 (415) 963-4439 cem@newsdata.com MRW & ASSOCIATES, LLC EMAIL ONLY EMAIL ONLY CA 00000 (510) 834-1999 mrw@mrwassoc.com John A. Pacheco Attorney SAN DIEGO GAS & ELECTRIC COMPANY 101 ASH STREET, HQ12B SAN DIEGO CA 92101-3017 (619) 699-5130 JPacheco@SempraUtilities.com Case Administration SOUTHERN CALIFORNIA EDISON COMPANY EMAIL ONLY EMAIL ONLY CA 00000 (626) 302-6509 case.admin@sce.com Michael Shames UTILITY CONSUMERS' ACTION NETWORK 3405 KENYON ST., STE. 401 SAN DIEGO CA 92110 (619) 696-6966 mshames@sandiegocan.org  |

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| **\*\*\*\*\*\*\*\*\*\*\*\*\*\* PARTIES \*\*\*\*\*\*\*\*\*\*\*\*\*\*** Jamie K. York SAN DIEGO GAS & ELECTRIC COMPANY 8330 CENTURY PARK COURT, CP32D SAN DIEGO CA 92123 (858) 654-1739 JYork@SempraUtilities.com For: San Diego Gas & Electric Company \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**\*\*\*\*\*\*\*\*\*\* STATE EMPLOYEE \*\*\*\*\*\*\*\*\*\*\*** Sean Wilson Administrative Law Judge Division RM. 5022 505 Van Ness Avenue San Francisco CA 94102 3298 (415) 703-1525 smw@cpuc.ca.gov **\*\*\*\*\*\*\*\*\* INFORMATION ONLY \*\*\*\*\*\*\*\*\*\*** MRW & ASSOCIATES, LLC EMAIL ONLY EMAIL ONLY CA 00000 (510) 834-1999 mrw@mrwassoc.com Paul A. Szymanski Sr. Counsel SAN DIEGO GAS & ELECTRIC COMPANY 101 ASH STREET HQ 12 SAN DIEGO CA 92101-3017 (619) 699-5078 PSzymanski@SempraUtilities.com Central Files SAN DIEGO GAS AND ELECTRIC CO. 8330 CENTURY PARK COURT, CP31-E SAN DIEGO CA 92123 (858) 654-1240 CentralFiles@SempraUtilities.com  |  |

**\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*SERVICE LIST\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\***

City of Riverside
C/O Scott C. Barber
City Manager
3900 Main Street, 7th Floor
Riverside, CA 92501

1. The City of Riverside is a municipal utility not under the California Public Utilities Commission’s (Commission’s) jurisdiction. [↑](#footnote-ref-2)
2. <http://www.nrc.gov/info-finder/reactor/songs/ML12188A748.pdf>. [↑](#footnote-ref-3)
3. All statutory citations are to the Public Utilities Code unless noted otherwise. [↑](#footnote-ref-4)
4. The Commission has determined major facilities to be: “For electric utilities, a ‘major generation or production facility’ for purposes of the requirements of Pub. Util. Code
§ 455.5 includes any generation plant or facility with nameplate capacity of
50 megawatts (MW) or more, or that represents at least one percent (1%) of an electric utility's retained generation system capacity, whichever is smaller. System capacity includes the utility's ownership share in jointly-owned and out-of-state facilities.” (Decision (D.) 07-09-021 at 8.) [↑](#footnote-ref-5)
5. Costs up to $50.1 million are entered into the Base Revenue Requirement Balancing Account, recoverable in a subsequent ERRA compliance filing. Costs in excess of
$64.0 million may be recorded, but require reopening the proceeding. Costs for Energy Division Director Review may be entered into an Energy Division Director’s Review Memorandum Account, recoverable in a subsequent ERRA compliance filing. [↑](#footnote-ref-6)
6. Costs up to $12.8 million are entered into one of two balancing accounts. Costs in excess of $12.8 may be recorded in a SONGS Seismic Research Memorandum Account (SRMA), with recovery subject to review for reasonableness and prudence. Costs for Energy Division Director Review may be entered into the SONGS SRMA. [↑](#footnote-ref-7)
7. The original authorization of $680 million (D.05-12-040) was reduced to $671 million. (D.11-05-035.) [↑](#footnote-ref-8)
8. The Energy Division Director may specify more or other subaccounts (or subdivisions of subaccounts). The Director may also consolidate or eliminate subaccounts or subdivisions. We expect each utility to propose clear, accurate and correct accounts and accounting treatment to accomplish the required purpose. Before filing the Tier 1 advice letter, each utility should meet and confer with Commission staff to explain proposals and address issues or concerns, if any. We expect each utility and Energy Division to use their best efforts to resolve all necessary accounting matters for efficient and timely disposition of the Tier 1 advice letter. [↑](#footnote-ref-9)
9. Consolidated with A.09-04-007 (Pacific Gas and Electric Company nuclear decommissioning cost recovery). [↑](#footnote-ref-10)
10. We include the City of Riverside in the information only category. The City may determine whether or not it wishes to monitor this investigation (by continuing in the information only category), participate in this investigation (by filing a motion for party status), or be removed from the information only portion of the service list. [↑](#footnote-ref-11)
11. *See* <http://docs.cpuc.ca.gov/published/service_lists/sl_index.htm>. [↑](#footnote-ref-12)
12. This is also true for state service. That is, for example, one person representing the Commission’s Division of Ratepayer Advocates may be identified for entry into the party category, with others listed in the state service category. [↑](#footnote-ref-13)