

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

Application of San Diego Gas & Electric Company (U 902 E) for Approval of a Power Purchase Agreement with Envirepel Energy, Inc., for Authority to Recover the Costs of Such Power Purchase Agreement in Rates and for Issuance of Certain Findings Related to Compliance with Renewable Portfolio Standard Program Requirements.

Application 07-09-____
(Filed September 26, 2007)

**APPLICATION OF SAN DIEGO GAS & ELECTRIC COMPANY
(U 902 E) FOR APPROVAL OF POWER PURCHASE
AGREEMENT WITH ENVIREPEL ENERGY, INC.**

AIMEE M. SMITH
101 Ash Street, HQ-12
San Diego, CA 92101
Phone: (619) 699-5042
Fax: (619) 699-5027
E-mail: amsmith@sempra.com

Attorney for
SAN DIEGO GAS & ELECTRIC COMPANY

September 26, 2007

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**I.
INTRODUCTION**

In accordance with Public Utilities Code §§ 454.5, 399.11, *et seq.*, 380 and 701,^{1/} the Rules of Practice and Procedure of the California Public Utilities Commission (the “Commission”) and D.04-12-048, San Diego Gas & Electric Company (“SDG&E”) hereby submits this application for approval of a Power Purchase Agreement and First Amendment thereto (together, the “Proposed Agreement”) with Envirepel Energy, Inc. (“Envirepel”). SDG&E also seeks recovery of costs associated with the Proposed Agreement and issuance of certain findings related to compliance with renewable portfolio standard (“RPS”) requirements established under § 399.11, *et seq.* SDG&E requests expedited treatment of this application.

^{1/} All statutory references herein are to the Public Utilities Code unless otherwise noted.

II. BACKGROUND AND SUMMARY OF RELIEF REQUESTED

The accompanying testimony of SDG&E witness, Michael McClenahan, provides a detailed description of the background of SDG&E's All Source 2007-2009 Demand Response, Renewables and Peak Capacity Request for Offers (the "2007/08/09 All Source RFO"), the RFO process, the screening and evaluation of offers, and the creation of the relevant shortlist. Mr. McClenahan also describes the need for the Proposed Agreement and demonstrates that the Proposed Agreement complies with applicable RPS requirements.

The 2007/08/09 All Source RFO was issued in response to the reduction of resources resulting from the loss of the dispatchable CDWR-Williams contract (known as "Williams D") from SDG&E's portfolio. The RFO was issued on May 24, 2006, with responses due on July 7, 2006, and solicited projects that would deliver in 2007, 2008 and/or 2009. It was conducted in accordance with guidance provided in D.04-12-048; it was open to all resources (conventional and renewable) bidding all types of projects (turnkeys, buyouts and PPAs). Alternative II described in the RFO specifically solicited Renewable Capacity and Energy and the RFO stated that SDG&E would give preference to resources that met Resource Adequacy ("RA") needs. One of the RA requirements stated was that resources had to be located in the CAISO Control Area or connected to the CAISO Controlled Grid.

SDG&E met with its Procurement Review Group ("PRG") several times during the course of the 2007/08/09 All Source RFO process to communicate the status of the evaluation, selection and contracting process. The Proposed Agreement resulted from a bid that was one of two renewable proposals (one of which had four pricing approaches)

that SDG&E received in response to its 2007/08/09 All Source RFO. Both renewable bids were selected for the shortlist.

When compared to shortlisted bids from the other three solicited resource alternatives, the Proposed Agreement remained an attractive choice. As described in the testimony of Mr. McClenahan, the project was selected because, in competition with all other offers in the All Source RFO, it was included in the lowest cost portfolios that helped SDG&E meet its identified needs for Local and System RA. In addition, it should be noted that while the Envirepel bid competed successfully with all other offers bid into the RFO, SDG&E's selection of this bid also reflects SDG&E's adherence to the preferred loading order and the Commission's direction to procure the maximum feasible amount of renewable energy in all-source solicitations.^{2/}

The Proposed Agreement involves the purchase of renewable (biomass) energy at Envirepel's Vista, CA facility. The Proposed Agreement will add approximately 1.5 MW of renewable energy to SDG&E's portfolio and will serve as a proof of concept project for Envirepel. The term of the Proposed Agreement is approximately two years, with five one-year options for extension of the Proposed Agreement (at SDG&E's option). SDG&E's obligation to purchase energy from the Vista project is conditioned upon Commission approval.

D.04-12-048 specifically provides that "IOUs are directed to procure the maximum feasible amount of renewable energy in the general solicitations authorized by this decision, ***and will be allowed to credit this procurement towards their RPS targets.***"^{3/} Accordingly, SDG&E requests that the Commission issue a finding that the

^{2/} See, D.04-12-048, *mimeo*, p. 70.

^{3/} *Id.* (emphasis added).

generation procured pursuant to the Proposed Agreement constitutes eligible renewable energy for purposes of determining SDG&E's compliance with applicable RPS requirements.

SDG&E submits that RPS credit is appropriate in the instant case, notwithstanding the fact that the Proposed Agreement resulted from a utility solicitation of short-term contracts. The Commission noted in D.07-05-028 that it had placed limitations on the ability of RPS-obligated entities to solicit short-term contracts (*i.e.*, contracts of less than 10 years duration) in RPS solicitations.^{4/} This limitation does not, however, extend to contracts negotiated outside of the RPS solicitation context, for example, bilateral contracts or contracts resulting from all-source solicitations. As noted above, D.04-12-048 specifically directs RPS-obligated utilities to procure renewable energy through all-source solicitations and places no limitation on the ability of the utilities to avail themselves of the short-term contracting authority granted under that decision.

D.07-05-028 does, however, provide that RPS credit for short-term contracts will be available only where the utility has satisfied Commission-established requirements for minimum quantities of long-term contracts (with new or existing facilities) and/or short-term contracts with new facilities.^{5/} As is explained in the testimony of Mr. McClenahan, SDG&E has satisfied these minimum quantity requirements. Accordingly, RPS credit for the Proposed Agreement should be granted.

Approval of the Proposed Agreement will assist SDG&E in its efforts to achieve its RPS objective of a 20% renewable portfolio by 2010. As SDG&E notes above, the

^{4/} D.07-05-028, *mimeo*, pp. 4-5.

^{5/} *Id.* at p. 7.

Proposed Agreement will add approximately 1.5 MW of renewable energy to SDG&E's portfolio. Moreover, once Envirepel is able to prove that its technology is successful by delivering to SDG&E, SDG&E envisions that it will be able to procure energy from additional Envirepel facilities pursuant to contracts that the parties have executed for larger projects using the same technology. The sooner that Envirepel is able to begin deliveries from its Vista facility, the sooner SDG&E will be able to eliminate risk involved with the new technology and move forward with larger Envirepel projects that will have a greater impact on SDG&E's renewable portfolio.

The Commission recognized in D.07-02-011 the public interest in ensuring prompt and timely processing of renewables contracts.^{6/} Accordingly, SDG&E respectfully requests that the Commission approve the Proposed Agreement in an expedited fashion, and in no event later than February 1, 2008. SDG&E requests expedited treatment in order to facilitate the progress of this much-needed renewable resource and future projects that may follow. In addition, SDG&E requests that RPS eligibility be granted retroactively to generation, if any, procured under the Proposed Agreement prior to Commission approval of the PPA. While SDG&E's obligation to purchase energy from the Vista project is conditioned upon Commission approval of the proposed PPA, if the facility is able to begin deliveries prior to such approval, SDG&E anticipates that it may take deliveries in order to avoid wasting a potential renewable resource.

SDG&E's proposal for cost recovery is addressed in the testimony of Mr. McClenahan. SDG&E proposes to use its Energy Resource Recovery Account ("ERRA") to recover the costs associated with the Proposed Agreement from bundled

^{6/} See, D.07-02-011, *mimeo*, pp. 48-49.

customers. Mr. McClenahan further points out the need for the Commission to recognize that the impact of long-term contracts, as well as other similar contracts, must be addressed and mitigated since rating agencies will include this obligation as a debt equivalent when assessing SDG&E's credit ratios. Although the term of the Proposed Agreement is relatively short in the instant case, the exercise of the options to extend the term could create an obligation that could be treated as a debt equivalent. Based upon direction previously provided by the Commission,^{7/} SDG&E intends to seek relief from costs associated with debt equivalence issues through its cost of capital proceedings.

In summary, SDG&E respectfully requests that the Commission (i) approve the Proposed Agreement in its entirety, without modification, as reasonable and prudent; (ii) find that SDG&E may count the generation procured under the Proposed Agreement toward its RPS compliance obligations; and (iii) find that such RPS credit is granted retroactively to generation, if any, procured under the Proposed Agreement prior to Commission approval of the Proposed Agreement. In addition, SDG&E requests that the Commission issue a finding that there is a risk that the deliveries contemplated in the Proposed Agreement will not occur due to factors that are not within SDG&E's control, that SDG&E's efforts to reduce the risk of such non-performance and to minimize cost impacts are reasonable, and that SDG&E shall not be subjected to penalties for RPS delivery shortfalls due to seller non-performance, consistent with previous Commission decisions.

^{7/} See, D.07-02-011, *mimeo*, p. 32.

**III.
STATUTORY AND PROCEDURAL REQUIREMENTS**

A. Proposed Category, Issues to Be Considered, Need for Hearings and Proposed Schedule -- Rule 2.1

SDG&E proposes that this proceeding be categorized as "ratesetting." The issues to be considered in this proceeding include whether the Commission should approve the Proposed Agreement and the proposal to recover the costs incurred under the Proposed Agreement from its ratepayers, which would influence SDG&E's rates. In addition, this application requests issuance of certain findings regarding RPS eligibility and credit, and protection from RPS penalties. SDG&E has provided supporting testimony and documentation that provides the Commission with a sufficient record upon which to grant the relief requested. Accordingly, SDG&E does not anticipate that hearings will be necessary. In order to enable procurement of this renewable power at the earliest possible date, SDG&E proposes the following expedited schedule:

Proposed Schedule

September 28, 2007 -- *Published in Daily Calendar (estimated)*
October 8, 2007 -- *Deadline for Filing Protests (10-day protest period)*
October 11, 2007-- *Deadline for Filing Reply to Protests (3-day reply period)*
October 19, 2007-- *Pre-Hearing Conference Held (if necessary)*
November 2, 2007-- *Concurrent Opening Briefs*
November 9, 2007-- *Concurrent Reply Briefs*
Mid-December, 2007 -- *Proposed Decision Issued*
January, 2008 -- *Issuance of Final Decision*

B. Statutory Authority - Rule 2.1

This Application is made pursuant to §§ 454.5, 399.11, *et seq.*, 380 and 701 of the Public Utilities Code of the State of California, the Commission's Rules of Practice and

Procedure, and prior decisions, orders and resolutions of the Commission, including those specifically addressed herein.

C. Legal Name and Correspondence

SDG&E is a public utility organized and existing under the laws of the State of California. SDG&E is engaged in the business of providing electric service in a portion of Orange County and electric and gas service in San Diego County. SDG&E's principal place of business is 8330 Century Park Court, San Diego, California 92123.

Correspondence or communications regarding this Application should be addressed to:

Despina Niehaus
Regulatory Case Administrator
San Diego Gas & Electric Company
8316 Century Park Court, CP32D
San Diego, CA 92123-1530
Telephone: (858) 654-1714
Facsimile: (858) 654-1788
dniehaus@semprautilities.com

with a copy to:

Aimee M. Smith
Attorney for:
San Diego Gas & Electric Company
101 Ash Street, HQ-12
San Diego, CA 92101-3017
Telephone: (619) 699-5042
Facsimile: (619) 699-5027
amsmith@sempra.com

D. Articles of Incorporation - Rule 2.2

A copy of SDG&E's Restated Articles of Incorporation as last amended, presently in effect and certified by the California Secretary of State, was filed with the Commission on December 4, 1997 in connection with SDG&E's Application No. 97-12-012, and is incorporated herein by reference.

E. Attachments served (but not filed) with Application

SDG&E's submission in support of this Application includes the following, which are incorporated herein by reference.

Served with, but not filed:

- Testimony of Michael McClenahan and Declaration
 - Exhibit A (Confidential): Alternative II Shortlist Candidates Ranking
 - Exhibit B (Confidential): Portfolio Scenarios Analysis
 - Exhibit C (Confidential): Contract Terms Comparison Matrix
 - Exhibit D: RFO Document
 - Exhibit E (Confidential): Proposed Agreement
- Independent Evaluator Report

F. Service of Notice - Rules 1.9 and 1.10

SDG&E will serve a copy of this Application and the redacted public version of related testimony on parties of record in R.06-02-013, R.06-02-012 and R.06-05-027 and will post copies of such documents on its website. The service list identifying these potentially interested parties is attached as Appendix A to this Application.

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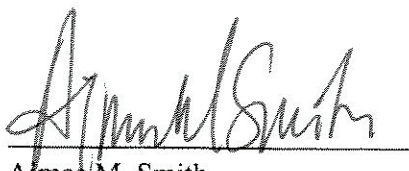
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Respectfully submitted this 26th day of September, 2007.



Matt Burkhart
Vice President – Electric Gas & Procurement



Aimee M. Smith

Attorney for:
San Diego Gas & Electric Company
101 Ash Street, HQ-12
San Diego, CA 92101
Telephone: (619) 699-5042
Facsimile: (619) 699-5027
amsmith@sempra.com

VERIFICATION

The undersigned states as follows:

I am an officer of SAN DIEGO GAS & ELECTRIC COMPANY and am authorized to make this verification for and on behalf of said corporations. The content of this document is true, except as to matters that are stated on information and belief. As to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 25th day of September, 2007, at San Diego, California.

A handwritten signature in black ink, appearing to read "Matt Burkhart", written over a horizontal line.

Matt Burkhart
Vice President – Electric Gas & Procurement

CERTIFICATE OF SERVICE

I hereby certify that a copy of **APPLICATION OF SAN DIEGO GAS & ELECTRIC COMPANY (U 902 E) FOR APPROVAL OF POWER PURCHASE AGREEMENT WITH ENVIREPEL ENERGY, INC.** has been electronically mailed to each party of record on the service list in R.06-02-012, R.06-02-013, and R.06-05-027. Any party on the service list who has not provided an electronic mail address was served by placing a copy of a Notice of Availability in properly addressed and sealed envelopes and depositing such envelopes in the United States Mail with first-class postage prepaid.

Copies were also sent via Federal Express to Commissioners Michael R. Peevey, Timothy Simon, Dian Grueneich, John Bohn, and Rachelle Chong.

Executed this 26th day of September 2007 at San Diego, California

/s/ Jodi Ostrander
Jodi Ostrander

APPENDIX A

CALIFORNIA PUBLIC UTILITIES COMMISSION

Service Lists

Proceeding: R0602012 - CPUC - PG&E, SDG&E,

Filed: CPUC - PG&E, SDG&E, EDISON, ESPS, SMALL & MULTI-JURISDICTIONAL UTILITIES, CITY OF CHULA VISTA, CCSF

List Name: LIST

Last changed: September 25, 2007

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Parties

ENERGY AMERICA, LLC
ONE STAMFORD PLAZA, 8TH FLOOR
263 TRESSER BLVD.
STAMFORD, CT 06901

WILLIAM CRONIN
ENERGY AMERICA, LLC
ONE STAMFORD FPLAZA, 8TH FLOOR
263 TRESSER BLVD.
STAMFORD, CT 06901

DANIEL V. GULINO
RIDGWOOD POWER MANAGEMENT, LLC
947 LINWOOD AVENUE
RIDGWOOD, NJ 07450

PRAXAIR PLAINFIELD, INC.
2711 CENTERVILLE ROAD, SUITE 400
WILMINGTON, DE 19808

KEITH MC CREA
ATTORNEY AT LAW
SUTHERLAND, ASBILL & BRENNAN
1275 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20004-2415

CAROL A. SMOOTS
PERKINS COIE LLP
607 FOURTEENTH STREET, NW, SUITE 800
WASHINGTON, DC 20005

RHONE RESCH
SOLAR ENERGY INDUSTRIES ASSOCIATION
805 FIFTEENTH STREET, N.W., SUITE 510
WASHINGTON, DC 20005

LARRY F. EISENSTAT
DICKSTEIN SHAPIRO LLP
1825 EYE STREET, NW
WASHINGTON, DC 20006

RICHARD LEHFELDT

LISA M. DECKER

DICKSTEIN SHAPIRO LLP
1825 EYE STREET, NW
WASHINGTON, DC 20006

CONSTELLATION ENERGY GROUP, INC.
111 MARKET PLACE, SUITE 500
BALTIMORE, MD 21202

GARSON KNAPP
FPL ENERGY, LLC
770 UNIVERSE BLVD.
JUNO BEACH, FL 33408

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

APS ENERGY SERVICES COMPANY, INC.
400 E. VAN BUREN STREET, SUITE 750
PHOENIX, AZ 85004

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

NEW WEST ENERGY
ISB665
BOX 61868
PHOENIX, AZ 85082-1868

DAVID SAUL
COO
SOLEL, INC.
701 NORTH GREEN VALLEY PKY, STE 200
HENDERSON, NV 89074

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

DAVID L. HUARD
ATTORNEY AT LAW
MANATT, PHELPS & PHILLIPS, LLP
11355 WEST OLYMPIC BOULEVARD
LOS ANGELES, CA 90064

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

CONSTELLATION NEW ENERGY, INC.
TWO CALIFORNIA PLAZA
350 SOUTH GRAND AVENUE, SUITE 3800
LOS ANGELES, CA 90071

3 PHASES ENERGY SERVICES
2100 SEPULVEDA BLVD., SUITE 37
MANHATTAN BEACH, CA 90266

MICHAEL MAZUR
CHIEF TECHNICAL OFFICER
3 PHASES RENEWABLES, LLC
2100 SEPULVEDA BLVD., SUITE 37
MANHATTAN BEACH, CA 90266

SUSAN MUNVES
ENERGY AND GREEN BLDG. PROG. ADMIN.
CITY OF SANTA MONICA
1212 5TH STREET, FIRST FLOOR
SANTA MONICA, CA 90401

DANIEL W. DOUGLASS
ATTORNEY AT LAW
DOUGLASS & LIDDELL
21700 OXNARD STREET, SUITE 1030
WOODLAND HILLS, CA 91367

GREGORY S. G. KLATT
DOUGLASS & LIDDELL
21700 OXNARD STREET, SUITE 1030
WOODLAND HILLS, CA 91367-8102

AMERICAN UTILITY NETWORK
10705 DEER CANYON DRIVE
ALTA LOMA, CA 91737

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

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

WILLIAM V. WALSH
ATTORNEY AT LAW
SOUTHERN CALIFORNIA EDISON
2244 WALNUT GROVE AVE.
ROSEMEAD, CA 91770

SOCAL WATER/BEAR VALLEY ELECTRIC
630 EAST FOOTHILL BLVD.
SAN DIMAS, CA 91773

KEITH SWITZER
GOLDEN STATE WATER COMPANY
630 EAST FOOTHILL BLVD.
SAN DIMAS, CA 91773-9016

ANN MOORE
CITY OF CHULA VISTA
276 FOURTH AVENUE
CHULA VISTA, CA 91910

STRATEGIC ENERGY, LTD.
7220 AVENIDA ENCINAS, SUITE 120
CARLSBAD, CA 92009

AIMEE M. SMITH
ATTORNEY AT LAW
SEMPRA ENERGY
101 ASH STREET HQ13
SAN DIEGO, CA 92101

FREDERICK M. ORTLIEB
OFFICE OF CITY ATTORNEY
CITY OF SAN DIEGO
1200 THIRD AVENUE, SUITE 1100
SAN DIEGO, CA 92101

SEMPRA ENERGY SOLUTIONS
101 ASH STREET, HQ09
SAN DIEGO, CA 92101-3017

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

CORAL POWER, LLC
4445 EASTGATE MALL, SUITE 100
SAN DIEGO, CA 92121

REID A. WINTHROP

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

PILOT POWER GROUP, INC.
9320 CHESAPEAKE DRIVE, SUITE 112
SAN DIEGO, CA 92123

THOMAS DARTON
PILOT POWER GROUP, INC.
9320 CHESAPEAKE DRIVE, SUITE 112
SAN DIEGO, CA 92123

JOHN W. LESLIE
ATTORNEY AT LAW
LUCE, FORWARD, HAMILTON & SCRIPPS, LLP
11988 EL CAMINO REAL, SUITE 200
SAN DIEGO, CA 92130-2592

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

WILL PLAXICO
HELIOS ENERGY, LLC
31897 DEL OBISPO ST. SUITE 220
SAN JUAN CAPISTRANO, CA 92675

AOL UTILITY CORP.
12752 BARRETT LANE
SANTA ANA, CA 92705

KERRY EDEN
DEPARTMENT OF WATER
CITY OF CORONA DEPT. OF WATER & POWER
730 CORPORATION YARD WAY
CORONA, CA 92880

TAMLYN M. HUNT
ENERGY PROGRAM DIRECTOR
COMMUNITY ENVIRONMENTAL COUNCIL
26 W. ANAPAMU ST., 2/F
SANTA BARBARA, CA 93101

JOSEPH LANGENBERG
CENTRAL CALIFORNIA POWER
949 EAST ANNADALE AVE., A210
FRESNO, CA 93706

DAVID ORTH
KINGS RIVER CONSERVATION DISTRICT
4886 EAST JENSEN AVENUE
FRESNO, CA 93725

JANE H. TURNBULL
LEAGUE OF WOMEN VOTERS OF CALIFORNIA
64 LOS ALTOS SQUARE
LOS ALTOS, CA 94022

JANIS C. PEPPER
CLEAN POWER MARKETS, INC.
PO BOX 3206
LOS ALTOS, CA 94024

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

STEPHEN A. S. MORRISON
ATTORNEY AT LAW
CITY & COUNTY OF SAN FRANCISCO
OFFICE OF THE CITY ATTORNEY
1 DR. CARLTON B.GOODLETT PLACE STE 234

NOEL OBIORA
CALIF PUBLIC UTILITIES COMMISSION
LEGAL DIVISION
ROOM 4107
505 VAN NESS AVENUE

SAN FRANCISCO, CA 94102

THERESA L. MUELLER
ATTORNEY AT LAW
SAN FRANCISCO CITY ATTORNEY
CITY HALL, ROOM 234
SAN FRANCISCO, CA 94102-4682

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

ARTHUR L. HAUBENSTOCK
PACIFIC GAS AND ELECTRIC COMPANY
77 BEALE STREET, B30A
SAN FRANCISCO, CA 94105

WILLIAM H. CHEN
CONSTELLATION NEW ENERGY, INC.
SPEAR TOWER, 36TH FLOOR
ONE MARKET STREET
SAN FRANCISCO, CA 94105

JAMES D. SQUERI
ATTORNEY AT LAW
GOODIN MACBRIDE SQUERI DAY & LAMPREY
505 SANSOME STREET, SUITE 900
SAN FRANCISCO, CA 94111

KAREN E. BOWEN
WINSTON & STRAWN LLP
101 CALIFORNIA STREET, 39TH FLOOR
SAN FRANCISCO, CA 94111

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

STANDISH O'GRADY

SAN FRANCISCO, CA 94102-3214

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

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

CHARLES MIDDLEKAUFF
ATTORNEY AT LAW
PACIFIC GAS AND ELECTRIC COMPANY
77 BEALE STREET
SAN FRANCISCO, CA 94105

BRIAN CRAGG
ATTORNEY AT LAW
GOODIN, MAC BRIDE, SQUERI, RITCHIE & DAY
505 SANSOME STREET, SUITE 900
SAN FRANCISCO, CA 94111

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

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

JEFFREY P. GRAY
ATTORNEY AT LAW
DAVIS WRIGHT TREMAINE, LLP
505 MONTGOMERY STREET, SUITE 800
SAN FRANCISCO, CA 94111-6533

MATHEW A. FOGELSON

FRIENDS OF KIRKWOOD ASSOCIATION
31 PARKER AVENUE
SAN FRANCISCO, CA 94118

PACIFIC GAS AND ELECTRIC COMPANY
PO BOX 7442, MC B30A-2487
SAN FRANCISCO, CA 94120-7442

SARA STECK MYERS
LAW OFFICES OF SARA STECK MYERS
122 28TH AVE.
SAN FRANCISCO, CA 94121

GABE PETLIN
3DEGREES
PRESIDIO OF SAN FRANCISCO
6 FUNSTON AVENUE
SAN FRANCISCO, CA 94129

JANICE G. HAMRIN
CENTER FOR RESOURCE SOLUTIONS
PRESIDIO BUILDING 97
PO BOX 29512
SAN FRANCISCO, CA 94129

EVELYN C. LEE
ATTORNEY
PACIFIC GAS AND ELECTRIC COMPANY
MAIL CODE B30A
PO BOX 770000
SAN FRANCISCO, CA 94177

JENNIFER CHAMBERLIN
STRATEGIC ENERGY, LLC
2633 WELLINGTON CT.
CLYDE, CA 94520

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

WILLIAM H. BOOTH
ATTORNEY AT LAW
LAW OFFICE OF WILLIAM H. BOOTH
1500 NEWELL AVE., 5TH FLOOR
WALNUT CREEK, CA 94556

LINDA Y. SHERIF
ATTORNEY AT LAW
CALPINE CORPORATION
3875 HOPYARD ROAD, SUITE 345
PLEASANTON, CA 94588

JEREMY D. WEINSTEIN
ATTORNEY AT LAW
LAW OFFICES OF JEREMY D. WEINSTEIN
1512 BONANZA STREET
WALNUT CREEK, CA 94596

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

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

GREGORY MORRIS
GREEN POWER INSTITUTE
2039 SHATTUCK AVE., SUITE 402
BERKELEY, CA 94704

NEAL DE SNOO
ENERGY OFFICE
CITY OF BERKELEY
2180 MILVIA AVENUE
BERKELEY, CA 94704

CLYDE MURLEY
1031 ORDWAY STREET
ALBANY, CA 94706

JP ROSS
VP STRATEGOC RELATIONSHIPS
SUNGEVITY
1625 SHATTUCK AVE., STE 210
BERKELEY, CA 94709

R. THOMAS BEACH
PRINCIPAL CONSULTANT
CROSSBORDER ENERGY
2560 NINTH STREET, SUITE 213A
BERKELEY, CA 94710-2557

L. JAN REID
COAST ECONOMIC CONSULTING
3185 GROSS ROAD
SANTA CRUZ, CA 95062

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

JAMES WEIL
DIRECTOR
AGLET CONSUMER ALLIANCE
PO BOX 37
COOL, CA 95614

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

JUDITH SANDERS
CALIFORNIA ISO
151 BLUE RAVINE ROAD
FOLSOM, CA 95630

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

WILLIAM W. WESTERFIELD III
ATTORNEY AT LAW
ELLISON, SCHNEIDER & HARRIS L.L.P.
2015 H STREET
SACRAMENTO, CA 95814

ANDREW B. BROWN
ATTORNEY AT LAW
ELLISON, SCHNEIDER & HARRIS, LLP
2015 H STREET
SACRAMENTO, CA 95814

DAN L. CARROLL
ATTORNEY AT LAW
DOWNEY BRAND LLP
555 CAPITOL MALL, 10TH FLOOR
SACRAMENTO, CA 95814

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

GREGGORY L. WHEATLAND
ELLISON, SCHNEIDER & HARRIS, L.L.P.
2015 H STREET
SACRAMENTO, CA 95814

JAN MCFARLAND
AMERICANS FOR SOLAR POWER
1100 11TH STREET, SUITE 323
SACRAMENTO, CA 95814

STEVEN KELLY

DONALD N. FURMAN

POLICY DIRECTOR
INDEPENDENT ENERGY PRODUCERS ASSN
1215 K STREET, SUITE 900
SACRAMENTO, CA 95814

SENIOR VICE PRESIDENT
PPM ENERGY, INC.
1125 NW COUCH STREET, SUITE 700
PORTLAND, OR 97209

RYAN FLYNN
ATTORNEY
PACIFICORP
825 NE MULTNOMAH, SUITE 1800
PORTLAND, OR 97232

KAREN MCDONALD
POWEREX CORPORATION
1400,
666 BURRAND STREET
VANCOUVER, BC V6C 2X8
CANADA

Information Only

SEAN J. FINNERTY
SR. VICE PRESIDENT
COMPETITIVE POWER VENTURES, INC.
35 BRAINTREE HILL OFFICE PARK, SUITE 400
BRAINTREE, MA 02184

DANIEL M. HECHT
ASSOCIATE GENERAL COUNSEL
SEMPRA ENERGY TRADING CORP.
58 COMMERCE ROAD
STAMFORD, CT 06902

WILLIAM P. SHORT
RIDGEWOOD POWER MANAGEMENT, LLC
947 LINWOOD AVENUE
RIDGEWOOD, NJ 07450

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

AMY C. ROMA
HOGAN & HARTSON, LLP
555 THIRTEENTH STREET, N.W.
WASHINGTON, DC 20004

MARK L. PERLIS
DICKSTEIN SHAPIRO LLP
1825 EYE STREET, NW
WASHINGTON, DC 20006

MARY ANNE SULLIVAN
HAGAN & HARTSON, LLP
555 THIRTEENTH STREET, NW
WASHINGTON, DC 20006

CHRISTOPHER O'BRIEN
SHARP SOLAR
VP STRATEGY AND GOVERNMENT RELATIONS
3808 ALTON PLACE NW
WASHINGTON, DC 20016

VENKAT SURAVARAPU
ASSOCIATES DIRECTOR
CAMBRIDGE ENERGY RESEARCH ASSOCIATES
1150 CONNECTICUT AVENUE NW, STE. 201
WASHINGTON, DC 20036

KEVIN PORTER
EXETER ASSOCIATES, INC.
SUITE 310
5565 STERRETT PLACE
COLUMBIA, MD 21044

TODD JAFFE

RALPH E. DENNIS

ENERGY BUSINESS BROKERS AND CONSULTANTS
3420 KEYSER ROAD
BALTIMORE, MD 21208

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

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

CATHY S. WOOLLUMS
MIDAMERICAN ENERGY HOLDINGS COMPANY
106 EAST SECOND STREET
DAVENPORT, IA 52801

JASON ABIECUNAS
BLACK & BEATCH GLOBAL RENEWABLE ENERGY
RENEWABLE ENERGY CONSULTANT
11401 LAMAR
OVERLAND PARK, KS 66211

RYAN PLETKA
RENEWABLE ENERGY PROJECT MANAGER
BLACK & VEATCH
11401 LAMAR
OVERLAND PARK, KS 66211

ANN HENDRICKSON
COMMERCE ENERGY, INC.
222 WEST LAS COLINAS BLVD., SUITE 950E
IRVING, TX 75039

ROY D. MCCOY
MANAGER, REGULATORY SUPPORT & REPORTING
ELECTRIC RELIABILITY COUNCIL OF TEXAS
2705 W. LAKE DRIVE
TAYLOR, TX 76574

JOHN SNIFFEN
VICE PRESIDENT
ELEMENT MARKETS
1 SUGARCREEK BLVD., 201
SUGARLAND, TX 77478

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

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

STACY AGUAYO
APS ENERGY SERVICES
400 E. VAN BUREN STREET, SUITE 750
PHOENIX, AZ 85004

SUSAN G. TRAUTMANN
SIERRA PACIFIC POWER COMPANY
6226 WEST SAHARA AVENUE
LAS VEGAS, NV 89151

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

ELENA MELLO
SIERRA PACIFIC POWER COMPANY
6100 NEIL RD.
RENO, NV 89511

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

JOE GRECO
CAITHNESS OPERATING COMPANY
9590 PROTOTYPE COURT, SUITE 200
RENO, NV 89521

ELIZABETH DOUGLASS
STAFF WRITER
LOS ANGELES TIMES
202 WEST FIRST STREET
LOS ANGELES, CA 90012

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

STEVE CHADIMA
ENERGY INNOVATIONS, INC.
130 WEST UNION STREET
PASADENA, CA 91103

JACK MCNAMARA
ATTORNEY AT LAW
MACK ENERGY COMPANY
PO BOX 1380
AGOURA HILLS, CA 91376-1380

DAVID TOWNLEY
18 BASSWOOD AVENUE
OAK PARK, CA 91377

CASE ADMINISTRATION
SOUTHERN CALIFORNIA EDISON COMPANY
2244 WALNUT GROVE AVENUE
ROSEMEAD, CA 91770

FRANK W. HARRIS
REGULATORY ECONOMIST
SOUTHERN CALIFORNIA EDISON
2244 WALNUT GROVE
ROSEMEAD, CA 91770

GARY L. ALLEN
SOUTHERN CALIFORNIA EDISON
2244 WALNUT GROVE AVENUE
ROSEMEAD, CA 91770

JAMES B. WOODRUFF
SOUTHERN CALIFORNIA EDISON COMPANY
2244 WALNUT GROVE AVENUE, SUITE 342, GO1
ROSEMEAD, CA 91770

LIZBETH MCDANNEL
2244 WALNUT GROVE AVE., QUAD 4D
ROSEMEAD, CA 91770

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

DAN PERKINS
ENERGY SMART HOMES
983 PHILLIPS ST.
VISTA, CA 92083

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

LINDA WRAZEN

THOMAS P. CORR

SEMPRA ENERGY REGULATORY AFFAIRS
101 ASH STREET, HQ16C
SAN DIEGO, CA 92101

SEMPRA ENERGY GLOBAL ENTERPRISES
101 ASH STREET, HQ16C
SAN DIEGO, CA 92101

YVONNE GROSS
REGULATORY POLICY MANAGER
SEMPRA ENERGY
101 ASH STREET, HQ08C
SAN DIEGO, CA 92101

DONALD C. LIDDELL, P.C.
DOUGLASS & LIDDELL
2928 2ND AVENUE
SAN DIEGO, CA 92103

MICHAEL SHAMES
ATTORNEY AT LAW
UTILITY CONSUMERS' ACTION NETWORK
3100 FIFTH AVENUE, SUITE B
SAN DIEGO, CA 92103

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

MARCIE MILNER
CORAL ENERGY RESOURCES, L P
4445 EASTGATE MALL, SUITE 100
SAN DIEGO, CA 92121

CENTRAL FILES
SAN DIEGO GAS & ELECTRIC
8330 CENTURY PARK COURT, CP31E
SAN DIEGO, CA 92123

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

BILL MASON
SENIOR ASSET ADMINISTRATOR
ENXCO, INC.
PO BOX 581043
N. PALM SPRINGS, CA 92258

CARL STEEN
BAKER & HOSTETLER LLP
600 ANTON BLVD., SUITE 900
COSTA MESA, CA 92626

JUDE LEBLANC
BAKER & HOSTETLER LLP
600 ANTON BLVD., SUITE 900
COSTA MESA, CA 92626

MICHAEL J. GILMORE
INLAND ENERGY
SOUTH TOWER SUITE 606
3501 JAMBOREE RD
NEWPORT BEACH, CA 92660

HAROLD M. ROMANOWITZ
OAK CREEK ENERGY SYSTEMS, INC.
14633 WILLOW SPRINGS ROAD
MOJAVE, CA 93501

MARC D. JOSEPH
ATTORNEY AT LAW
ADAMS, BROADWELL, JOSEPH & CARDOZO
601 GATEWAY BLVD., STE. 1000
SOUTH SAN FRANCISCO, CA 94080

BILLY BLATTNER
SAN DIEGO GAS & ELECTRIC COMPANY
601 VAN NESS AVENUE, SUITE 2060
SAN FRANCISCO, CA 94102

DIANE I. FELLMAN
ATTORNEY AT LAW
FPL ENERGY, LLC
234 VAN NESS AVENUE
SAN FRANCISCO, CA 94102

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

ROBERT FINKELSTEIN
ATTORNEY AT LAW
THE UTILITY REFORM NETWORK
711 VAN NESS AVE., SUITE 350
SAN FRANCISCO, CA 94102

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

BILL GOLOVE
CHEVRON ENERGY SOLUTIONS
345 CALIFORNIA STREET, 18TH FLOOR
SAN FRANCISCO, CA 94104

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

DOUGLAS E. COVER
ENVIRONMENTAL SCIENCE ASSOCIATES
225 BUSH STREET, SUITE 1700
SAN FRANCISCO, CA 94104

JAMES STACK
FREEMAN, SULLIVAN & CO.
101 MONTGOMERY ST. 15TH FLOOR
SAN FRANCISCO, CA 94104

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

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

SETH D. HILTON
STOEL RIVES
111 SUTTER ST., SUITE 700
SAN FRANCISCO, CA 94104

SNULLER PRICE
ENERGY AND ENVIRONMENTAL ECONOMICS
101 MONTGOMERY, SUITE 1600
SAN FRANCISCO, CA 94104

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

DEBORAH BROCKETT
CONSULTANT
NAVIGANT CONSULTING, INC.
SPEAR STREE TOWER, SUITE 1200
ONE MARKET STREET
SAN FRANCISCO, CA 94105

EDWARD V. KURZ

GRAIG COOPER

ATTORNEY AT LAW
PACIFIC GAS AND ELECTRIC COMPANY
77 BEALE ST., B30A
SAN FRANCISCO, CA 94105

55 2ND STREET, SUITE 525
SAN FRANCISCO, CA 94105

LENNY HOCHSCHILD
EVOLUTION MARKETS, LLC
RENEWABLE ENERGY MARKETS
425 MARKET STREET, SUITE 2200
SAN FRANCISCO, CA 94105

MELANIE FALLS
COMPETITIVE POWER VENTURES, INC.
55 SECOND STREET, SUITE 525
SAN FRANCISCO, CA 94105

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

REGULATORY FILE ROOM
PACIFIC GAS AND ELECTRIC COMPANY
77 BEALE STREET, B30A
SAN FRANCISCO, CA 94105

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

VALERIE WINN
PROJECT MANAGER
PACIFIC GAS & ELECTRIC
77 BEALE STREET, B9A
SAN FRANCISCO, CA 94105

NIELS KJELLUND
PACIFIC GAS AND ELECTRIC COMPANY
77 BEALE STREET, MAIL CODE B9A
SAN FRANCISCO, CA 94105-1814

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

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

CALIFORNIA ENERGY MARKETS
517-B POTRERO AVE.
SAN FRANCISCO, CA 94110-1431

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

JUDY PAU
DAVIS WRIGHT TREMAINE LLP
505 MONTGOMERY STREET, SUITE 800
SAN FRANCISCO, CA 94111-6533

ROBERT B. GEX
ATTORNEY AT LAW,
DAVIS WRIGHT TREMAINE LLP
505 MONTGOMERY STREET, SUITE 800
SAN FRANCISCO, CA 94111-6533

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

LAW DEPARTMENT FILE ROOM
PACIFIC GAS AND ELECTRIC COMPANY
PO BOX 7442
SAN FRANCISCO, CA 94120-7442

ARNO HARRIS
RECURRENT ENERGY, INC.
220 HALLECK ST., SUITE 220
SAN FRANCISCO, CA 94129

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

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

KATE BEARDSLEY
PG&E
MAILCODE B9A
PO BOX 770000
SAN FRANCISCO, CA 94177

MAGGIE CHAN
PG&E
MAILCODE B9A
PO BOX 770000
SAN FRANCISCO, CA 94177

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

ROBIN J. WALTHER
1380 OAK CREEK DRIVE, NO. 316
PALO ALTO, CA 94304-2016

NICOLAS PROCOS
ALAMEDA POWER & TELECOM
2000 GRAND STREET
ALAMEDA, CA 94501-0263

KEITH WHITE
931 CONTRA COSTA DRIVE
EL CERRITO, CA 94530

JACK PIGOTT
OPTISOLAR, INC
31302 HUNTSWOOD AVENUE
HAYWARD, CA 94544

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

RICK C. NOGER
PRAXAIR PLAINFIELD, INC.
2678 BISHOP DRIVE
SAN RAMON, CA 94583

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

KEVIN DUGGAN

PETER W. HANSCHEN

CALPINE COPORATION
3875 HOPYARD ROAD, SUITE 345
PLEASANTON, CA 94588

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

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

PHILIPPE AUCLAIR
11 RUSSELL COURT
WALNUT CREEK, CA 94598

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

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

RAMONA GONZALEZ
EAST BAY MUNICIPAL UTILITY DISTRICT
375 ELEVENTH STREET, M/S NO. 205
OAKLAND, CA 94607

PAUL D. HUNT
4929 WEBSTER STREET
OAKLAND, CA 94609-2116

PAUL FENN
LOCAL POWER
4281 PIEDMONT AVE.
OAKLAND, CA 94611

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

BARRY H. EPSTEIN
FITZGERALD, ABBOTT & BEARDSLEY, LLP
1221 BROADWAY, 21ST FLOOR
OAKLAND, CA 94612

CYNTHIA WOOTEN
LUMENX CONSULTING, INC.
1126 DELAWARE STREET
BERKELEY, CA 94702

REED V. SCHMIDT
BARTLE WELLS ASSOCIATES
1889 ALCATRAZ AVENUE
BERKELEY, CA 94703-2714

ERIC LARSEN
ENVIRONMENTAL SCIENTIST
RCM INTERNATIONAL, L.L.C.
PO BOX 4716
BERKELEY, CA 94704

JANICE LIN
MANAGING PARTNER
STRATEGEN CONSULTING LLC
146 VICENTE ROAD
BERKELEY, CA 94705

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

NANCY RADER
CALIFORNIA WIND ENERGY ASSOCIATION
2560 NINTH STREET, SUITE 213A
BERKELEY, CA 94710

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

BRAD BAUER
MP2CAPITAL
1101 FIFTH AVENUE, SUITE 360
SAN RAFAEL, CA 94901

MICHAEL LAINE
MP2CAPITAL
1101 5TH AVENUE, STE. 360
SASN RAFAEL, CA 94901

WHITNEY BARDWICK
MP2 CAPITAL
1101 5TH AVENUE, SUITE 360
SAN RAFAEL, CA 94901

BRIAN C. FRECKMANN
C/O FOUNDATION PARTNERS
100 DRAKES LANDING ROAD NO. 125
GREENBRAE, CA 94904

DAI OWEN
607 VIA CASITAS
GREENBRAE, CA 94904

LYNN M. ALEXANDER
LMA CONSULTING
129 REDWOOD AVENUE
CORTE MADERA, CA 94925

C. SUSIE BERLIN
MCCARTHY & BERLIN LLP
100 PARK CENTER PLAZA, STE. 501
SAN JOSE, CA 95113

DAVID OLIVARES
ELECTRIC RESOURCE
MODESTO IRRIGATION DISTRICT
PO BOX 4060
MODESTO, CA 95352

CHRISTOPHER J. MAYER
MODESTO IRRIGATION DISTRICT
PO BOX 4060
MODESTO, CA 95352-4060

JOY A. WARREN
ATTORNEY AT LAW
MODESTO IRRIGATION DISTRICT
1231 11TH STREET
MODESTO, CA 95354

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

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

DAVID MORSE

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

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

GRANT A. ROSENBLUM
STAFF COUNSEL
CALIFORNIA ISO
151 BLUE RAVINE ROAD
FOLSOM, CA 95630

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

DENNIS W. DE CUIR
ATTY AT LAW
A LAW CORPORATION
2999 DOUGLAS BLVD., SUITE 325
ROSEVILLE, CA 95661

KEVIN DAVIES
SOLAR DEVELOPMENT INC.
2424 PROFESSIONAL DR.
ROSEVILLE, CA 95661-7773

DAVID OLIVER
NAVIGANT CONSULTING
3100 ZINFANDEL DRIVE, SUITE 600
RANCHO CORDOVA, CA 95670

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

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

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

DOUG DAVIE
DAVIE CONSULTING, LLC
3390 BEATTY DRIVE
EL DORADO HILLS, CA 95762

JEDEDIAH J. GIBSON
ELLISON SCHNEIDER & HARRIS LLP
2015 H STREET
SACRAMENTO, CA 95811

BRUCE MCLAUGHLIN
ATTORNEY AT LAW
BRAUN & BLAISING, P.C.
915 L STREET SUITE 1420
SACRAMENTO, CA 95814

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

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

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

SCOTT BLAISING
ATTORNEY AT LAW
BRAUN & BLAISING, P.C.
915 L STREET, SUITE 1420
SACRAMENTO, CA 95814

LYNN M. HAUG
ATTORNEY AT LAW
ELLISON, SCHNEIDER & HARRIS, LLP
2015 H STREET
SACRAMENTO, CA 95814-3512

ROB ROTH
SACRAMENTO MUNICIPAL UTILITY DISTRICT
6201 S STREET MS 75
SACRAMENTO, CA 95817

MICHAEL DEANGELIS
SACRAMENTO MUNICIPAL UTILITY DISTRICT
6201 S STREET
SACRAMENTO, CA 95817-1899

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

RICH LAUCKHART
GLOBAL ENERGY
SUITE 200
2379 GATEWAY OAKS DR.
SACRAMENTO, CA 95833

KAREN LINDH
LINDH & ASSOCIATES
7909 WALERGA ROAD, NO. 112, PMB 119
ANTELOPE, CA 95843

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

KYLE L. DAVIS
PACIFICORP
825 NE MULTNOMAH,
PORTLAND, OR 97232

CLARE BREIDENICH
224 1/2 24TH AVE. EAST
SEATTLE, WA 98112

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

TIMOTHY CASTILLE
LANDS ENERGY CONSULTING, INC.
18109 SE 42ND STREET
VANCOUVER, WA 98683

PETER BREHM
INFINIA CORPORATION
6811 OKANOGAN PLACE
KENNEWICK, WA 99336

State Service

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

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

ANNE E. SIMON
CALIF PUBLIC UTILITIES COMMISSION
DIVISION OF ADMINISTRATIVE LAW JUDGES
ROOM 5024
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

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

BETH MOORE
CALIF PUBLIC UTILITIES COMMISSION
ELECTRICITY RESOURCES & PRICING BRANCH
ROOM 4103
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

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

BURTON MATTSON
CALIF PUBLIC UTILITIES COMMISSION
DIVISION OF ADMINISTRATIVE LAW JUDGES
ROOM 5104
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

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

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

DOROTHY DUDA
CALIF PUBLIC UTILITIES COMMISSION
DIVISION OF ADMINISTRATIVE LAW JUDGES
ROOM 5109
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

ELLEN S. LEVINE
CALIF PUBLIC UTILITIES COMMISSION
LEGAL DIVISION
ROOM 5028
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

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

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

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

LAURA WISLAND

LOUIS M. IRWIN

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

CALIF PUBLIC UTILITIES COMMISSION
ELECTRICITY RESOURCES & PRICING BRANCH
ROOM 4209
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

MARK R. LOY
CALIF PUBLIC UTILITIES COMMISSION
ENERGY COST OF SERVICE & NATURAL GAS BRA
ROOM 4205
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

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

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

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

SUZANNE KOROSEK
CALIFORNIA ENERGY COMMISSION
MS-31
1516 9TH STREET
SACRAMENTO, CA 95184

JAMES MCMAHON
SENIOR ENGAGEMENT MANAGER
NAVIGANT CONSULTING, INC.
3100 ZINFANDEL DRIVE, SUITE 600
RANCHO CORDOVA, CA 95670-6078

CLARE LAUFENBERG
CALIFORNIA ENERGY COMMISSION
1516 NINTH STREET, MS 46
SACRAMENTO, CA 95814

HEATHER RAITT
CALIFORNIA ENERGY COMMISSION
1516 9TH STREET, MS 45
SACRAMENTO, CA 95814

KATE ZOCCHETTI
CALIFORNIA ENERGY COMMISSION
1516 9TH STREET, MS-45
SACRAMENTO, CA 95814

ROSS MILLER
CALIFORNIA ENERGY COMMISSION
1516 9TH STREET
SACRAMENTO, CA 95814

BILL KNOX
CALIFORNIA ENERGY COMMISSION
1516 NINTH STREET, MS 45
SACRAMENTO, CA 95814-5504

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

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Parties

CHRISTOPHER C. O'HARA
ASSISTANT GENERAL COUNSEL-REGULATORY
NRG ENERGY
211 CARNEGIE CENTER DRIVE
PRINCETON, NJ 08540

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

KEITH R. MCCREA
ATTORNEY AT LAW
SUTHERLAND, ASBILL & BRENNAN, LLP
1275 PENNSYLVANIA AVE., N.W.
WASHINGTON, DC 20004-2415

LISA DECKER
COUNSEL
CONSTELLATION ENERGY GROUP, INC.
111 MARKET PLACE, SUITE 500
BALTIMORE, MD 21202

STEVE ISSER
VP, GENERAL COUNSEL
GOOD COMPANY ASSOCIATES
816 CONGRESS AVE., SUITE 1400
AUSTIN, TX 78701

PAUL M. SEBY
MCKENNA LONG & ALDRIDGE LLP
1875 LAWRENCE STREET, SUITE 200
DENVER, CO 80202

JOSEPH GRECO
VICE PRESIDENT - WESTERN REGION
CAITHNESS ENERGY, LLC.
9590 PROTOTYPE COURT, SUITE 200
RENO, NV 89521

CURTIS KEBLER
J. ARON & COMPANY (GOLDMAN SACHS)
2121 AVENUE OF THE STARS
LOS ANGELES, CA 90067

DANIEL W. DOUGLASS
ATTORNEY AT LAW
DOUGLASS & LIDDELL

GREGORY KLATT
ATTORNEY AT LAW
DOUGLASS & LIDDELL

21700 OXNARD STREET, SUITE 1030
WOODLAND HILLS, CA 91367

21700 OXNARD STREET, NO.1030
WOODLAND HILLS, CA 91367

BERJ K. PARSEGHIAN
ATTORNEY AT LAW
SOUTHERN CALIFORNIA EDISON COMPANY
2244 WALNUT GROVE AVENUE
ROSEMEAD, CA 91770

BETH A. FOX
ATTORNEY AT LAW
SOUTHERN CALIFORNIA EDISON COMPANY
2244 WALNUT GROVE AVENUE, GO1, ROOM 351C
ROSEMEAD, CA 91770

CASE ADMINISTRATION
SOUTHERN CALIFORNIA EDISON COMPANY
LAW DEPARTMENT
2244 WALNUT GROVE AVENUE
ROSEMEAD, CA 91770

LAURA GENAO
ATTORNEY AT LAW
SOUTHERN CALIFORNIA EDISON COMPANY
2244 WALNUT GROVE AVENUE
ROSEMEAD, CA 91770

G. ALAN COMNES
NRG ENERGY, INC.
1819 ASTON STREET, SUITE 105
CARLSBAD, CA 92008

FRITZ ORTLIEB
ATTORNEY AT LAW
CITY OF SAN DIEGO
1200 THIRD AVENUE, SUITE 1200
SAN DIEGO, CA 92101

JOHN PACHECO
ATTORNEY AT LAW
SAN DIEGO GAS & ELECTRIC
101 ASH STREET
SAN DIEGO, CA 92101

LISA URICK
ATTORNEY AT LAW
SAN DIEGO GAS & ELECTRIC COMPANY
101 ASH STREET
SAN DIEGO, CA 92101

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

MICHAEL SHAMES
ATTORNEY AT LAW
UCAN
3100 FIFTH AVE., STE. B
SAN DIEGO, CA 92111

MICHAEL D. EVANS
CORAL POWER L.L.C.
4445 EASTGATE MALL, SUITE 100
SAN DIEGO, CA 92120

CENTRAL FILES
SAN DIEGO GAS & ELECTRIC
8330 CENTURY PARK COURT, CP31E
SAN DIEGO, CA 92123

WENDY KEILANI
SAN DIEGO GAS & ELECTRIC
8330 CENTURY PARK COURT, CP32D
SAN DIEGO, CA 92123

CRYSTAL NEEDHAM
SENIOR DIRECTOR, COUNSEL
EDISON MISSION ENERGY
18101 VON KARMAN AVE, STE 1700
IRVINE, CA 92612-1046

MARC D. JOSEPH
ATTORNEY AT LAW
ADAMS, BROADWELL, JOSEPH & CARDOZO
601 GATEWAY BLVD., STE. 1000
SOUTH SAN FRANCISCO, CA 94080

MICHEL PETER FLORIO
ATTORNEY AT LAW
THE UTILITY REFORM NETWORK (TURN)
711 VAN NESS AVENUE, SUITE 350
SAN FRANCISCO, CA 94102

ROBERT FINKELSTEIN
ATTORNEY AT LAW
THE UTILITY REFORM NETWORK
711 VAN NESS AVE., SUITE 350
SAN FRANCISCO, CA 94102

STEPHEN A. S. MORRISON
ATTORNEY AT LAW
CITY & COUNTY OF SAN FRANCISCO
OFFICE OF THE CITY ATTORNEY
1 DR. CARLTON B.GOODLETT PLACE STE 234
SAN FRANCISCO, CA 94102

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

NOEL OBIORA
CALIF PUBLIC UTILITIES COMMISSION
LEGAL DIVISION
ROOM 4107
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

JIM HENDRY
SAN FRANCISCO PUBLIC UTILITIES COMM.
1155 MARKET STREET, 4TH FLOOR
SAN FRANCISCO, CA 94103

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

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

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

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

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

RORY COX
RATEPAYERS FOR AFFORDABLE CLEAN ENERGY
311 CALIFORNIA STREET, SUITE 650
SAN FRANCISCO, CA 94104

CHARLES MIDDLEKAUFF
ATTORNEY AT LAW
PACIFIC GAS AND ELECTRIC COMPANY
77 BEALE STREET
SAN FRANCISCO, CA 94105

EDWARD V. KURZ
ATTORNEY AT LAW
PACIFIC GAS AND ELECTRIC COMPANY

SARA O'NEILL
VP - REGULATORY AND GOVERNMENT AFFAIRS
CONSTELLATION NEW ENERGY, INC.

77 BEALE ST., B30A
SAN FRANCISCO, CA 94105

SPEAR TOWER, 36TH FLOOR
ONE MARKET STREET
SAN FRANCISCO, CA 94105

WILLIAM H. CHEN
CONSTELLATION NEW ENERGY, INC.
SPEAR TOWER, 36TH FLOOR
ONE MARKET STREET
SAN FRANCISCO, CA 94105

ANN G. GRIMALDI
MCKENNA LONG & ALDRIDGE LLP
101 CALIFORNIA STREET, 41ST FLOOR
SAN FRANCISCO, CA 94111

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

CARL K. OSHIRO
ATTORNEY AT LAW
CSBRT/CSBA
100 PINE STREET, SUITE 3110
SAN FRANCISCO, CA 94111

JAMES D. SQUERI
ATTORNEY AT LAW
GOODIN, MACBRIDE, SQUERI, RITCHIE & DAY
505 SANSOME STREET, SUITE 900
SAN FRANCISCO, CA 94111

JEANNE ARMSTRONG
ATTORNEY AT LAW
GOODIN, MACBRIDE, SQUERI, RITCHIE & DAY
505 SANSOME STREET, SUITE 900
SAN FRANCISCO, CA 94111

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

KAREN E. BOWEN
WINSTON & STRAWN LLP
101 CALIFORNIA STREET, 39TH FLOOR
SAN FRANCISCO, CA 94111

LISA A. COTTLE
ATTORNEY AT LAW
WINSTON & STRAWN LLP
101 CALIFORNIA STREET, 39TH FLOOR
SAN FRANCISCO, CA 94111

VIDHYA PRABHAKARAN
GOODIN, MACBRIDE, SQUERI, DAY, LAMPREY
505 SANSOME STREET, SUITE 900
SAN FRANCISCO, CA 94111

JEFFREY P. GRAY
ATTORNEY AT LAW
DAVIS WRIGHT TREMAINE, LLP
505 MONTGOMERY STREET, SUITE 800
SAN FRANCISCO, CA 94111-6533

SALLE E. YOO
ATTORNEY AT LAW
DAVIS WRIGHT TREMAINE
505 MONTGOMERY STREET, SUITE 800
SAN FRANCISCO, CA 94111-6533

SARA STECK MYERS
ATTORNEY AT LAW
122 28TH AVENUE
SAN FRANCISCO, CA 94121

FRANCISCO DA COSTA
ENVIRONMENTAL JUSTICE ADVOCACY
4909 3RD STREET
SAN FRANCISCO, CA 94124

LYNNE M. BROWN
CALIFORNIANS FOR RENEWABLE ENERGY INC.
24 HARBOR ROAD
SAN FRANCISCO, CA 94124

JENNIFER CHAMBERLIN
STRATEGIC ENERGY, LLC
2633 WELLINGTON CT.
CLYDE, CA 94520

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

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

WILLIAM H. BOOTH
ATTORNEY AT LAW
LAW OFFICES OF WILLIAM H. BOOTH
1500 NEWELL AVENUE, 5TH FLOOR
WALNUT CREEK, CA 94596

ERIC C. WOYCHIK
STRATEGY INTEGRATION LLC
9901 CALODEN LANE
OAKLAND, CA 94605

LOCAL POWER
4281 PIEDMONT AVENUE
OAKLAND, CA 94611

ERIC LARSEN
ENVIRONMENTAL SCIENTIST
RCM INTERNATIONAL, L.L.C.
PO BOX 4716
BERKELEY, CA 94704

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

CLYDE MURLEY
1031 ORDWAY STREET
ALBANY, CA 94706

NANCY RADER
CALIFORNIA WIND ENERGY ASSOCIATION
2560 NINTH STREET, SUITE 213A
BERKELEY, CA 94710

R. THOMAS BEACH
PRINCIPAL
CROSSBORDER ENERGY
2560 NINTH STREET, SUITE 213A
BERKELEY, CA 94710-2557

BARBARA GEORGE
WOMEN'S ENERGY MATTERS
PO BOX 548
FAIRFAX, CA 94978

L. JAN REID
COAST ECONOMIC CONSULTING
3185 GROSS ROAD
SANTA CRUZ, CA 95062

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

JEFFREY SHIELDS
SOUTH SAN JOAQUIN IRRIGATION DISTRICT
PO BOX 747

SOQUEL, CA 95073

RIPON, CA 95366

JOHN R. REDDING
ARCTURUS ENERGY CONSULTING, INC.
44810 ROSEWOOD TERRACE
MENDOCINO, CA 95460-9525

JAMES WEIL
DIRECTOR
AGLET CONSUMER ALLIANCE
PO BOX 37
COOL, CA 95614

JAMES WEIL
AGLET CONSUMER ALLIANCE
PO BOX 37
COOL, CA 95614

RICHARD D. ELY
DAVIS HYDRO
27264 MEADOWBROOK DRIVE
DAVIS, CA 95618

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

ROBERT FREEHLING
LOCAL POWER RESEARCH DIRECTOR
LOCAL POWER
PO BOX 606
FAIR OAKS, CA 95628

BALDASSARO DI CAPO, ESQ.
CALIFORNIA ISO
LEGAL AND REGULATORY DEPARTMENT
151 BLUE RAVINE ROAD
FOLSOM, CA 95630

GRANT A. ROSENBLUM
STAFF COUNSEL
CALIFORNIA ISO
151 BLUE RAVINE ROAD
FOLSOM, CA 95630

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

ANDREW BROWN
ATTORNEY AT LAW
ELLISON & SCHNEIDER, LLP
2015 H STREET
SACRAMENTO, CA 95811

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

CARYN HOLMES
CALIFORNIA ENERGY COMMISSION
1516 9TH STREET, MS-14
SACRAMENTO, CA 95814

DAN L. CARROLL
ATTORNEY AT LAW
DOWNEY BRAND, LLP
555 CAPITOL MALL, 10TH FLOOR
SACRAMENTO, CA 95814

GREGGORY L. WHEATLAND
ATTORNEY AT LAW
ELLISON, SCHNEIDER & HARRIS, LLP
2015 H STREET
SACRAMENTO, CA 95814

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

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

WILLIAM W. WESTERFIELD III
ATTORNEY AT LAW
ELLISON, SCHNEIDER & HARRIS LLP
2015 H STREET
SACRAMENTO, CA 95814

JEFFERY D. HARRIS
ATTORNEY AT LAW
ELLISON, SCHNEIDER & HARRIS
2015 H STREET
SACRAMENTO, CA 95814-3109

KRIS G. CHISHOLM
STAFF COUNSEL
CALIFORNIA ELECTRICITY OVERSIGHT BOARD
770 L STREET, SUITE 1250
SACRAMENTO, CA 95831

ANN L. TROWBRIDGE
DAY CARTER MURPHY LLC
3620 AMERICAN RIVER DRIVE, SUITE 205
SACRAMENTO, CA 95864

MICHAEL ALCANTAR
ATTORNEY AT LAW
ALCANTAR & KAHL, LLP
1300 SW FIFTH AVENUE, SUITE 1750
PORTLAND, OR 97201

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

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

Information Only

JOSEPH ROSSIGNOLI
NATIONAL GRID
25 RESEARCH DRIVE
WESTBOROUGH, MA 01582-0001

JAMES MCMAHON
NAVIGANT CONSULTING
29 DANBURY RD
NASHUA, NH 03064

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

DOUGLAS R. KIVIAT
EXECUTIVE DIRECTOR
MORGAN STANLEY / COMMODITIES
2000 WESTCHESTER AVENUE
PURCHASE, NY 10577

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

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

ADAM J. KATZ
MCDERMOTT WILL & EMERY LLP
600 13TH STREET, NW.
WASHINGTON, DC 20005

MICHAEL A. YUFFEE
MCDERMOTT WILL & EMERY LLP
600 THIRTEENTH STREET, N.W.
WASHINGTON, DC 20005-3096

RALPH DENNIS
DIRECTOR, REGULATORY AFFAIRS
FELLON-MCCORD & ASSOCIATES
9960 CORPORATE CAMPUS DRIVE, SUITE 2000
LOUISVILLE, KY 40223

STEPHEN D. BAKER
SENIOR REGULATORY ANALYST
FELLON-MCCORD AND ASSOCIATES
CONSTELLATION NEW ENERGY-GAS DIVISION
9960 CORPORATE CAMPUS DRIVE, STE. 2000
LOUISVILLE, KY 40223

DOUGLAS MCFARLAN
VP, PUBLIC AFFAIRS
MIDWEST GENERATION EME
440 SOUTH LASALLE ST., SUITE 3500
CHICAGO, IL 60605

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

LYNNE MACKEY
LS POWER DEVELOPMENT
400 CHESTERFIELD CTR., SUITE 110
ST. LOUIS, MO 63017

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

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

ROBERT OTT
RELIANT ENERGY
PO BOX 148
HOUSTON, TX 77001-0148

KEVIN BOUDREAUX
CALPINE CORPORATION
717 TEXAS AVE.
HOUSTON, TX 77002

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

JULIE L. MARTIN
WEST ISO COORDINATOR
NORTH AMERICA GAS AND POWER

ISSER STEVE
VICE PRESIDENT/GENERAL COUNSEL
GOOD COMPANY ASSOCIATES

BP ENERGY COMPANY
501 WESTLAKE PARK BLVD.
HOUSTON, TX 77079

816 CONGRESS AVENUE, STE 1400
AUSTIN, TX 78701

TIMOTHY R. ODIL
MCKENNA LONG & ALDRIDGE LLP
1875 LAWRENCE STREET, SUITE 200
DENVER, CO 80202

STEVE KOERNER
SENIOR CONSEL
EL PASO CORPORATION
2 NORTH NEVADA AVENUE
COLORADO SPRINGS, CO 80903

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

KATHLEEN ESPOSITO
CRESTED BUTTE CATALYSTS LLC
PO BOX 668
CRESTED BUTTE, CO 81224

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

STACY AGUAYO
APS ENERGY SERVICES
400 E. VAN BUREN STREET, SUITE 750
PHOENIX, AZ 85004

ROBERT S. NICHOLS
NEW WEST ENERGY
MAILING STATION ISB 665
PO BOX 61868
PHOENIX, AZ 85082-1868

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

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

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

NORMAN A. PEDERSEN
HANNA AND MORTON LLP
444 SOUTH FLOWER STREET, SUITE 1500
LOS ANGELES, CA 90071-2916

MICHAEL MAZUR
CHIEF TECHNICAL OFFICER
3 PHASES RENEWABLES, LLC
2100 SEPULVEDA BLVD., SUITE 37
MANHATTAN BEACH, CA 90266

GUSTAVO LUNA
AES CORPORATION
690 N. STUDEBAKER RD.
LONG BEACH, CA 90803

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

ROGER PELOTE
WILLIAMS POWER COMPANY
12736 CALIFA STREET
VALLEY VILLAGE, CA 91607

BOB TANG
ASSISTANT DIRECTOR
CITY OF AZUSA
729 NORTH AZUSA AVENUE
AZUSA, CA 91702-9500

FRANK ANNUNZIATO
PRESIDENT
AMERICAN UTILITY NETWORK INC.
10705 DEER CANYON DR.
ALTA LOMA, CA 91737-2483

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

DEANA M. WHITE
ATTORNEY AT LAW
SOUTHERN CALIFORNIA EDISON
2244 WALNUT GROVE AVENUE
ROSEMEAD, CA 91770

LEON BASS
ATTORNEY AT LAW
SOUTHERN CALIFORNIA EDISON COMPANY
2244 WALNUT GROVE AVENUE
ROSEMEAD, CA 91770

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

ROBERT KEELER
ATTORNEY AT LAW
SOUTHERN CALIFORNIA EDISON COMPANY
2244 WALNUT GROVE AVENUE
ROSEMEAD, CA 91770

ROBYN NARAMORE
SOUTHERN CALIFORNIA EDISON
2244 WALNUT GROVE AVE
ROSEMEAD, CA 91770

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

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

ABBAS M. ABED
ASSOCIATE DIRECTOR
NAVIGANT CONSULTING, INC.
402 WEST BROADWAY, SUITE 400
SAN DIEGO, CA 92101

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

CARLOS F. PENA
SEMPRA ENERGY LAW DEPARTMENT
101 ASH STREET
SAN DIEGO, CA 92101

LINDA WRAZEN
SEMPRA GLOBAL ENTERPRISES
101 ASH STREET, HQ 08C

SUSAN FREEDMAN
SENIOR REGIONAL ENERGY PLANNER
SAN DIEGO ASSOCIATION OF GOVERNMENTS

SAN DIEGO, CA 92101

401 B STREET, SUITE 800
SAN DIEGO, CA 92101

WILLIAM TOBIN
SEMPRA GLOBAL
101 ASH STREET, HQ08C
SAN DIEGO, CA 92101

YVONNE GROSS
SEMPRA GLOBAL
101 ASH STREET, HQ08C
SAN DIEGO, CA 92101

DONALD C. LIDDELL
ATTORNEY AT LAW
DOUGLASS & LIDDELL
2928 2ND AVENUE
SAN DIEGO, CA 92103

KIM KIENER
504 CATALINA BLVD.
SAN DIEGO, CA 92106

KIMBERLY KIENER
IMPERIAL IRRIGATION DISTRICT
504 CATALINA BLVD.
SAN DIEGO, CA 92106

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

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

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

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

THOMAS BLAIR
CITY OF SAN DIEGO
9601 RIDGEHAVEN COURT, STE. 120/MS11
SAN DIEGO, CA 92123

THOMAS DARTON
PILOT POWER GROUP, INC.
9320 CHESAPEAKE DRIVE, SUITE 112
SAN DIEGO, CA 92123

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

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

KURT KAMMERER
DIRECTOR OF PROGRAMS
SAN DIEGO REGIONAL ENERGY OFFICE
PO BOX 60738
SAN DIEGO, CA 92166-8738

ANDREA WELLER
STRATEGIC ENERGY, LTD
7220 AVENIDA ENCINAS, SUITE 120
CARLSBAD, CA 92209

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

DAVID J. COYLE
ANZA ELECTRIC COOPERATIVE, INC
58470 HIGHWAY 371
ANZA, CA 92539-1909

DAVID X. KOLK, PH.D.
COMPLETE ENERGY SERVICE, INC.
41422 MAGNOLIA STREET
MURRIETA, CA 92562

LAWRENCE KOSTRZEWA
REGIONAL VP, DEVELOPMENT
EDISON MISSION ENERGY
18101 VON KARMAN AVE., STE 1700
IRVINE, CA 92612-1046

PHILIP HERRINGTON
REGIONAL VP, BUSINESS MANAGEMENT
EDISON MISSION ENERGY
18101 VON KARMAN AVENUE, STE 1700
IRVINE, CA 92612-1046

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

DAVID OLSEN
IMPERIAL VALLEY STUDY GROUP
3804 PACIFIC COAST HIGHWAY
VENTURA, CA 93001

DIANE I. FELLMAN
ATTORNEY AT LAW
FPL ENERGY, LLC
234 VAN NESS AVENUE
SAN FRANCISCO, CA 94102

OSA L. WOLFF
ATTORNEY AT LAW
SHUTE, MIHALY & WEINBERGER, LLC
396 HAYES STREET
SAN FRANCISCO, CA 94102

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

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

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

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

SETH D. HILTON
STOEL RIVES
111 SUTTER ST., SUITE 700

ANGELA TORR
PACIFIC GAS & ELECTRIC COMPANY
MC N13E

SAN FRANCISCO, CA 94104

245 MARKET STREET
SAN FRANCISCO, CA 94105

ED LUCHA
PACIFIC GAS AND ELECTRIC COMPANY
77 BEALE STREET, MAIL CODE B9A
SAN FRANCISCO, CA 94105

GEORGE ZAHARIUDAKIS
PACIFIC GAS AND ELECTRIC COMPANY
MAIL CODE B9A
77 BEALE STREET, RM. 904
SAN FRANCISCO, CA 94105

JOHN CROSSON
PACIFIC GAS & ELECTRIC COMPANY
MC N13R
245 MARKET STREET
SAN FRANCISCO, CA 94105

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

PAUL C. LACOURCIERE
THELEN REID BROWN RAYSMAN & STEINER
SUITE 1800
101 SECOND STREET
SAN FRANCISCO, CA 94105

VALERIE WINN
PROJECT MANAGER
PACIFIC GAS & ELECTRIC
77 BEALE STREET, B9A
SAN FRANCISCO, CA 94105

BRIAN K. CHERRY
DIRECTOR REGULATORY RELATIONS
PACIFIC GAS AND ELECTRIC COMPANY
77 BEALE STREET, B10C
SAN FRANCISCO, CA 94106

EDWARD G. POOLE
ATTORNEY AT LAW
ANDERSON & POOLE
601 CALIFORNIA STREET, SUITE 1300
SAN FRANCISCO, CA 94108-2818

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

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

RICHARD W. RAUSHENBUSH
ATTORNEY AT LAW
LATHAM & WATKINS LLP
505 MONTGOMERY STREET, SUITE 2000
SAN FRANCISCO, CA 94111

JUDY PAU
DAVIS WRIGHT TREMAINE LLP
505 MONTGOMERY STREET, SUITE 800
SAN FRANCISCO, CA 94111-6533

ROBERT B. GEX
ATTORNEY AT LAW,
DAVIS WRIGHT TREMAINE LLP
505 MONTGOMERY STREET, SUITE 800
SAN FRANCISCO, CA 94111-6533

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

WILLIAM V. MANHEIM
ATTORNEY AT LAW
PACIFIC GAS AND ELECTRIC COMPANY
PO BOX 7442, LAW DEPT.
SAN FRANCISCO, CA 94120

EDWARD C. REMEDIOS
33 TOLEDO WAY
SAN FRANCISCO, CA 94123-2108

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

SEBASTIEN CSAPO
PROJECT MANAGER
PACIFIC GAS AND ELECTRIC COMPANY
MAIL CODE B9A
PO BOX 770000
SAN FRANCISCO, CA 94177

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

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

ROBIN J. WALTHER
1380 OAK CREEK DRIVE, NO. 316
PALO ALTO, CA 94304-2016

KENNETH E. ABREU
853 OVERLOOK COURT
SAN MATEO, CA 94403

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

RAJ N. PANKHANIA
HERCULES MUNICIPAL UTILITY
111 CIVIC DRIVE
HERCULES, CA 94547

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

GREGORY T. BLUE
ENXCO DEVELOPMENT CORP.
5000 EXEXUTIVE PARKWAY, STE. 140
SAN RAMON, CA 94583

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

KEVIN DUGGAN
CALPINE COPRORATION
3875 HOPYARD ROAD, SUITE 345
PLEASANTON, CA 94588

DALE E. FREDERICKS
DG POWER LLC
PO BOX 4400

PATRICIA THOMPSON
SUMMIT BLUE CONSULTING
2920 CAMINO DIABLO, SUITE 210

WALNUT CREEK, CA 94596-0400

WALNUT CREEK, CA 94597

PHILIPPE AUCLAIR
11 RUSSELL COURT
WALNUT CREEK, CA 94598

TED POPE
DIRECTOR
COHEN VENTURES, INC./ENERGY SOLUTIONS
1738 EXCELSIOR AVENUE
OAKLAND, CA 94602

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

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

DAVID MARCUS
PO BOX 1287
BERKELEY, CA 94701

REED V. SCHMIDT
BARTLE WELLS ASSOCIATES
1889 ALCATRAZ AVENUE
BERKELEY, CA 94703-2714

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

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

JANICE LIN
MANAGING PARTNER
STRATEGEN CONSULTING LLC
146 VICENTE ROAD
BERKELEY, CA 94705

CARLA PETERMAN
UCEI
2547 CHANNING WAY
BERKELEY, CA 94720

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

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

JUSTIN D. BRADLEY
DIRECTOR
SILICON VALLEY LEADERSHIP GROUP
224 AIRPORT PARKWAY, SUITE 620
SAN JOSE, CA 95110

BARRY F. MCCARTHY
ATTORNEY AT LAW
MCCARTHY & BERLIN, LLP
100 PARK CENTER PLAZA, SUITE 501
SAN JOSE, CA 95113

C. SUSIE BERLIN
MCCARTHY & BERLIN LLP
100 PARK CENTER PLAZA, STE. 501
SAN JOSE, CA 95113

CHRISTOPHER J. MAYER
MODESTO IRRIGATION DISTRICT
1231 11TH STREET
MODESTO, CA 95354

JOY A. WARREN
ATTORNEY AT LAW
MODESTO IRRIGATION DISTRICT
1231 11TH STREET
MODESTO, CA 95354

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

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

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

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

CALIFORNIA ISO
151 BLUE RAVINE ROAD
FOLSOM, CA 95630

JUDITH SANDERS
CALIFORNIA ISO
151 BLUE RAVINE ROAD
FOLSOM, CA 95630

KEITH G. JOHNSON
SENIOR MARKET AND PRODUCT DEVELOPER
151 BLUE RAVINE ROAD
FOLSOM, CA 95630

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

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

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

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

KIRBY DUSEL
NAVIGANT CONSULTING, INC.
3100 ZINFANDEL DRIVE, SUITE 600

ERIC OLSON
NAVIGANT CONSULTING INC.
3100 ZINFANDEL DR., STE 600

RANCHO CORDOVA, CA 95670

RANCHO CORDOVA, CA 95670-6078

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

ED CHANG
FLYNN RESOURCE CONSULTANTS, INC.
2165 MOONSTONE CIRCLE
EL DORADO HILLS, CA 95762

BRUCE MCLAUGHLIN
ATTORNEY AT LAW
BRAUN & BLAISING, P.C.
915 L STREET SUITE 1420
SACRAMENTO, CA 95814

CONTANCE LENI
CALIFORNIA ENERGY COMMISSION
1516 NINTH ST., MS-20
SACRAMENTO, CA 95814

DOUG DAVIE
WELLHEAD ELECTRIC COMPANY
650 BERCUT DRIVE, SUITE C
SACRAMENTO, CA 95814

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

MELANIE GILLETTE
DUKE ENERGY NORTH AMERICA
980 NINTH STREET, SUITE 1420
SACRAMENTO, CA 95814

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

PIERRE H. DUVAIR, PH.D
CALIFORNIA ENERGY COMMISSION
1516 NINTH STREET
SACRAMENTO, CA 95814

RACHEL MCMAHON
CEERT
1100 11TH STREET, SUITE 311
SACRAMENTO, CA 95814

SCOTT BLAISING
ATTORNEY AT LAW
BRAUN & BLAISING, P.C.
915 L STREET, STE. 1270
SACRAMENTO, CA 95814

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

LYNN HAUG
ELLISON, SCHNEIDER & HARRIS, LLP
2015 H STREET
SACRAMENTO, CA 95816

J. RICHARD LAUCKHART
GLOBAL ENERGY
2379 GATEWAY OAKS DRIVE, STE 200
SACRAMENTO, CA 95833

KAREN MILLS
CALIFORNIA FARM BUREAU FEDERATION
2300 RIVER PLAZA DRIVE
SACRAMENTO, CA 95833

ROBERT E. BURT
INSULATION CONTRACTORS ASSN.
4153 NORTHGATE BLVD., NO.6
SACRAMENTO, CA 95834

KAREN LINDH
LINDH & ASSOCIATES
7909 WALERGA ROAD, NO. 112, PMB 119
ANTELOPE, CA 95843

RALPH R. NEVIS
DAY CARTER & MURPHY LLP
3620 AMERICAN RIVER DR., SUITE 205
SACRAMENTO, CA 95864

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

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

JESUS ARREDONDO
NRG ENERGY INC.
4600 CARLSBAD BLVD.
CARLSBAD, CA 92008

State Service

JAMES LOEWEN
CALIF PUBLIC UTILITIES COMMISSION
RATEMAKING BRANCH
320 WEST 4TH STREET SUITE 500
LOS ANGELES, CA 90013

FRED MOBASHERI
ELECTRIC POWER GROUP
201 S. LAKE AVE., SUITE 400
PASADENA, CA 91101

JACK BURKE
LEGISLATIVE AFFAIRS MANAGER
CALIFORNIA CENTER FOR SUSTAINABLE ENERGY
8690 BALBOA AVE., SUITE 100
SAN DIEGO, CA 92123

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

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

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

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

CAROL A. BROWN
CALIF PUBLIC UTILITIES COMMISSION
DIVISION OF ADMINISTRATIVE LAW JUDGES
ROOM 5103
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

DAVID K. FUKUTOME
CALIF PUBLIC UTILITIES COMMISSION
DIVISION OF ADMINISTRATIVE LAW JUDGES
ROOM 5042
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

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

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

DONNA J. HINES
CALIF PUBLIC UTILITIES COMMISSION
ELECTRICITY RESOURCES & PRICING BRANCH
ROOM 4102
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

ELLEN S. LEVINE
CALIF PUBLIC UTILITIES COMMISSION
LEGAL DIVISION
ROOM 5028
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

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

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

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

JERRY OH
CALIF PUBLIC UTILITIES COMMISSION
WATER BRANCH
ROOM 3200
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

JOE COMO
CALIF PUBLIC UTILITIES COMMISSION
LEGAL DIVISION
ROOM 5033
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

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

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

KENNETH BRUNO
CALIF PUBLIC UTILITIES COMMISSION
UTILITY AUDIT, FINANCE & COMPLIANCE BRAN

KENNETH L. KOSS
CALIF PUBLIC UTILITIES COMMISSION
DIVISION OF ADMINISTRATIVE LAW JUDGES

ROOM 3-C
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

ROOM 5041
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

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

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

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

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

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

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

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

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

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

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

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

SEPIDEH KHOSROWJAH
CALIF PUBLIC UTILITIES COMMISSION
ELECTRICITY RESOURCES & PRICING BRANCH
ROOM 4101
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

CLARE LAUFENBERG
CALIFORNIA ENERGY COMMISSION
1516 NINTH STREET, MS 46
SACRAMENTO, CA 95814

DAVID VIDAVER
CALIFORNIA ENERGY COMMISSION
1516 NINTH STREET, MS-20
SACRAMENTO, CA 95814

JEFF DIAMOND
CALIFORNIA ELECTRICITY OVERSIGHT BOARD
770 L STREET, SUITE 1250
SACRAMENTO, CA 95814

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

KEVIN KENNEDY
SUPERVISOR, SPECIAL PROJECTS
CALIFORNIA ENERGY COMMISSION
1516 9TH STREET, MS-48
SACRAMENTO, CA 95814

LANA WONG
CALIFORNIA ENERGY COMMISSION
1516 NINTH ST., MS-20
SACRAMENTO, CA 95814

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

MIKE RINGER
CALIFORNIA ENERGY COMMISSION
1516 NINTH STREET, MS-20
SACRAMENTO, CA 95814

ROSS MILLER
CALIFORNIA ENERGY COMMISSION
1516 9TH STREET
SACRAMENTO, CA 95814

JIM WOODWARD
CALIFORNIA ENERGY COMMISSION
1516 NINTH STREET, MS 20
SACRAMENTO, CA 95814-5504

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

CHI DOAN
CALIFORNIA DEPARTMENT OF WATER RESOURCES
3310 EL CAMINO AVE., ROOM LL94
SACRAMENTO, CA 95821

IRYNA KWASNY
DEPT. OF WATER RESOURCES-CERS DIVISION
3310 EL CAMINO AVE., STE.120
SACRAMENTO, CA 95821

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Parties

ENERGY AMERICA, LLC
ONE STAMFORD PLAZA, 8TH FLOOR
263 TRESSER BLVD.
STAMFORD, CT 06901

DANIEL V. GULINO
RIDGEWOOD POWER MANAGEMENT, LLC
947 LINWOOD AVENUE
RIDGEWOOD, NJ 07450

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

KEITH MC CREA
ATTORNEY AT LAW
SUTHERLAND, ASBILL & BRENNAN
1275 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20004-2415

CAROL A. SMOOTS
PERKINS COIE LLP
607 FOURTEENTH STREET, NW, SUITE 800
WASHINGTON, DC 20005

RHONE RESCH
SOLAR ENERGY INDUSTRIES ASSOCIATION
805 FIFTEENTH STREET, N.W., SUITE 510
WASHINGTON, DC 20005

GARSON KNAPP
FPL ENERGY, LLC
770 UNIVERSE BLVD.
JUNO BEACH, FL 33408

KEVIN BOUDREAUX
MANAGER-RETAIL OPERATIONS
CALPINE POWERAMERICA CA, LLC
717 TEXAS AVENUE, SUITE 1000
HOUSTON, TX 77002

ELIZABETH WRIGHT
OCCIDENTAL POWER SERVICES, INC.
5 GREENWAY PLAZA, SUITE 110

STACY AGUAYO
APS ENERGY SERVICES COMPANY, INC.
400 E. VAN BUREN STREET, STE 750

HOUSTON, TX 77046

PHOENIX, AZ 85004

ROBERT NICHOLS
NEW WEST ENERGY
MAILING STATION ISB 665
BOX 61868
PHOENIX, AZ 85082-1868

DAVID SAUL
COO
SOLEL, INC.
701 NORTH GREEN VALLEY PKY, STE 200
HENDERSON, NV 89074

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

DAVID L. HUARD
ATTORNEY AT LAW
MANATT, PHELPS & PHILLIPS, LLP
11355 WEST OLYMPIC BOULEVARD
LOS ANGELES, CA 90064

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

NORMAN A. PEDERSEN
HANNA AND MORTON LLP
444 S FLOWER ST., SUITE 1500
LOS ANGELES, CA 90071-2916

3 PHASES ENERGY SERVICES
2100 SEPULVEDA BLVD., SUITE 37
MANHATTAN BEACH, CA 90266

MICHAEL MAZUR
CHIEF TECHNICAL OFFICER
3 PHASES RENEWABLES, LLC
2100 SEPULVEDA BLVD., SUITE 37
MANHATTAN BEACH, CA 90266

SUSAN MUNVES
ENERGY AND GREEN BLDG. PROG. ADMIN.
CITY OF SANTA MONICA
1212 5TH STREET, FIRST FLOOR
SANTA MONICA, CA 90401

DANIEL W. DOUGLASS
ATTORNEY AT LAW
DOUGLASS & LIDDELL
21700 OXNARD STREET, SUITE 1030
WOODLAND HILLS, CA 91367

GREGORY S. G. KLATT
DOUGLASS & LIDDELL
21700 OXNARD STREET, SUITE 1030
WOODLAND HILLS, CA 91367-8102

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

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

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

WILLIAM V. WALSH
ATTORNEY AT LAW
SOUTHERN CALIFORNIA EDISON
2244 WALNUT GROVE AVE.
ROSEMEAD, CA 91770

SOCAL WATER/BEAR VALLEY ELECTRIC
630 EAST FOOTHILL BLVD.
SAN DIMAS, CA 91773

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

ANN MOORE
CITY OF CHULA VISTA
276 FOURTH AVENUE
CHULA VISTA, CA 91910

MICHAEL MEACHAM
ENVIRONMENTAL RESOURCE MANAGER
CITY OF CHULA VISTA
276 FOURTH AVENUE
CHULA VISTA, CA 91910

STRATEGIC ENERGY, LTD.
7220 AVENIDA ENCINAS, SUITE 120
CARLSBAD, CA 92009

AIMEE M. SMITH
ATTORNEY AT LAW
SEMPRA ENERGY
101 ASH STREET HQ13
SAN DIEGO, CA 92101

FREDERICK M. ORTLIEB
OFFICE OF CITY ATTORNEY
CITY OF SAN DIEGO
1200 THIRD AVENUE, SUITE 1100
SAN DIEGO, CA 92101

SEMPRA ENERGY SOLUTIONS
101 ASH STREET, HQ09
SAN DIEGO, CA 92101-3017

GREG BASS
SEMPRA ENERGY SOLUTIONS
101 ASH STREET. HQ09
SAN DIEGO, CA 92101-3017

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

THEODORE E. ROBERTS
ATTORNEY AT LAW
SEMPRA ENERGY
101 ASH STREET, HQ 12B
SAN DIEGO, CA 92101-3017

DONALD C. LIDDELL
ATTORNEY AT LAW
DOUGLASS & LIDDELL
2928 2ND AVENUE
SAN DIEGO, CA 92103

MARCIE MILNER
CORAL ENERGY RESOURCES, L P
4445 EASTGATE MALL, SUITE 100
SAN DIEGO, CA 92121

REID WINTHROP
PILOT POWER GROUP, INC.
8910 UNIVERSITY CENTER LANE, SUITE 520

THOMAS R. DARTON
PILOT POWER SERVICES, INC.
SUITE 112

SAN DIEGO, CA 92122

9320 CHESAPEAKE DRIVE
SAN DIEGO, CA 92123

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

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

ROB GUNNIN
VICE PRESIDENT SUPPLY
COMMERCE ENERGY, INC.
600 ANTON BLVD., SUITE 2000
COSTA MESA, CA 92626

WILL PLAXICO
HELIOS ENERGY, LLC
31897 DEL OBISPO ST. SUITE 220
SAN JUAN CAPISTRANO, CA 92675

AOL UTILITY CORP.
12752 BARRETT LANE
SANTA ANA, CA 92705

KERRY EDEN
DEPARTMENT OF WATER
CITY OF CORONA DEPT. OF WATER & POWER
730 CORPORATION YARD WAY
CORONA, CA 92880

PHILLIP REESE
INC.
C/O REESE-CHAMBERS SYSTEMS CONSULTANTS,
PO BOX 8
3379 SOMIS ROAD
SOMIS, CA 93066

TAMLYN M. HUNT
ENERGY PROGRAM DIRECTOR
COMMUNITY ENVIRONMENTAL COUNCIL
26 W. ANAPAMU ST., 2/F
SANTA BARBARA, CA 93101

JOSEPH LANGENBERG
CENTRAL CALIFORNIA POWER
949 EAST ANNADALE AVE., A210
FRESNO, CA 93706

DAVID ORTH
KINGS RIVER CONSERVATION DISTRICT
4886 EAST JENSEN AVENUE
FRESNO, CA 93725

JANE H. TURNBULL
LEAGUE OF WOMEN VOTERS OF CALIFORNIA
64 LOS ALTOS SQUARE
LOS ALTOS, CA 94022

JANIS C. PEPPER
CLEAN POWER MARKETS, INC.
PO BOX 3206
LOS ALTOS, CA 94024

BRUCE FOSTER
VICE PRESIDENT
SOUTHERN CALIFORNIA EDISON COMPANY
601 VAN NESS AVENUE, STE. 2040
SAN FRANCISCO, CA 94102

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

STEPHEN A.S. MORRISON
ATTORNEY AT LAW
CITY AND COUNTY OF SAN FRANCISCO
1 DR. CARLTON B. GOODLETT PLACE, RM 234
SAN FRANCISCO, CA 94102-4682

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

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

ARTHUR HAUBENSTOCK
ATTORNEY AT LAW
PACIFIC GAS AND ELECTRIC COMPANY
77 BEALE STREET, B30A
SAN FRANCISCO, CA 94105

CHARLES MIDDLEKAUFF
ATTORNEY AT LAW
PACIFIC GAS AND ELECTRIC COMPANY
77 BEALE STREET
SAN FRANCISCO, CA 94105

CRAIG M. BUCHSBAUM
ATTORNEY AT LAW
PACIFIC GAS AND ELECTRIC COMPANY
77 BEALE STREET, B30A
SAN FRANCISCO, CA 94105

EDWARD V. KURZ
ATTORNEY AT LAW
PACIFIC GAS AND ELECTRIC COMPANY
77 BEALE ST., B30A
SAN FRANCISCO, CA 94105

EVELYN C. LEE
ATTORNEY AT LAW
PACIFIC GAS AND ELECTRIC COMPANY
77 BEALE STREET, MAIL DROP 30A
SAN FRANCISCO, CA 94105

JEANNE MCKINNEY
THELEN REID BROWN RAYSMAN & STEINER
101 SECOND STREET, SUITE 1800
SAN FRANCISCO, CA 94105

WILLIAM H. CHEN
CONSTELLATION NEW ENERGY, INC.
SPEAR TOWER, 36TH FLOOR
ONE MARKET STREET
SAN FRANCISCO, CA 94105

BRIAN CRAGG
ATTORNEY AT LAW
GOODIN, MAC BRIDE, SQUERI, RITCHIE & DAY
505 SANSOME STREET, SUITE 900
SAN FRANCISCO, CA 94111

JAMES D. SQUERI
ATTORNEY AT LAW
GOODIN MACBRIDE SQUERI DAY & LAMPREY
505 SANSOME STREET, SUITE 900
SAN FRANCISCO, CA 94111

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

JEFFREY P. GRAY
ATTORNEY AT LAW
DAVIS WRIGHT TREMAINE, LLP
505 MONTGOMERY STREET, SUITE 800
SAN FRANCISCO, CA 94111-6533

SARA STECK MYERS
LAW OFFICES OF SARA STECK MYERS
122 28TH AVE.

ARNO HARRIS
RECURRENT ENERGY, INC.
220 HALLECK ST., SUITE 220

SAN FRANCISCO, CA 94121

GABE PETLIN
3DEGREES
PRESIDIO OF SAN FRANCISCO
6 FUNSTON AVENUE
SAN FRANCISCO, CA 94129

JENNIFER CHAMBERLIN
STRATEGIC ENERGY, LLC
2633 WELLINGTON CT.
CLYDE, CA 94520

WILLIAM H. BOOTH
ATTORNEY AT LAW
LAW OFFICE OF WILLIAM H. BOOTH
1500 NEWELL AVE., 5TH FLOOR
WALNUT CREEK, CA 94556

LINDA Y. SHERIF
ATTORNEY AT LAW
CALPINE CORPORATION
3875 HOPYARD ROAD, SUITE 345
PLEASANTON, CA 94588

ERIC LARSEN
ENVIRONMENTAL SCIENTIST
RCM INTERNATIONAL
PO BOX 4716
BERKELEY, CA 94704

NEAL DE SNOO
CITY OF BERKELEY
2180 MILVIA STREET, 2ND FLOOR
BERKELEY, CA 94704

JP ROSS
VP STRATEGOC RELATIONSHIPS
SUNGEVITY
1625 SHATTUCK AVE., STE 210
BERKELEY, CA 94709

SAN FRANCISCO, CA 94129

JANICE G. HAMRIN
CENTER FOR RESOURCE SOLUTIONS
PRESIDIO BUILDING 97
PO BOX 29512
SAN FRANCISCO, CA 94129

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

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

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

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

CLYDE MURLEY
1031 ORDWAY STREET
ALBANY, CA 94706

NANCY RADER
CALIFORNIA WIND ENERGY ASSOCIATION
2560 NINTH STREET, SUITE 213A
BERKELEY, CA 94710

R. THOMAS BEACH
PRINCIPAL CONSULTANT
CROSSBORDER ENERGY
2560 NINTH STREET, SUITE 213A
BERKELEY, CA 94710-2557

L. JAN REID
COAST ECONOMIC CONSULTING
3185 GROSS ROAD
SANTA CRUZ, CA 95062

MEGAN MACNEIL MYERS
ATTORNEY AT LAW
LAW OFFICES OF MEGAN MACNEIL MYERS
PO BOX 638
LAKEPORT, CA 95453

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

JAMES WEIL
DIRECTOR
AGLET CONSUMER ALLIANCE
PO BOX 37
COOL, CA 95614

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

JUDITH SANDERS
CALIFORNIA ISO
151 BLUE RAVINE ROAD
FOLSOM, CA 95630

ANDY WUELLNER
MOUNTAIN UTILITIES
PO BOX 1
KIRKWOOD, CA 95646

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

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

ANDREW B. BROWN
ATTORNEY AT LAW
ELLISON, SCHNEIDER & HARRIS, LLP
2015 H STREET
SACRAMENTO, CA 95814

DAN GEIS
THE DOLPHIN GROUP
925 L STREET, SUITE 800
SACRAMENTO, CA 95814

DAN L. CARROLL
ATTORNEY AT LAW
DOWNEY BRAND, LLP
555 CAPITOL MALL, 10TH FLOOR
SACRAMENTO, CA 95814

DAVID A. BISCHERL
PRESIDENT
CALIFORNIA FORESTRY ASSOCIATION
1215 K STREET, SUITE 1830
SACRAMENTO, CA 95814

JAN MCFARLAND
AMERICANS FOR SOLAR POWER
1100 11TH STREET, SUITE 323

JOHN B. HOFMANN
REGIONAL COUNCIL OF RURAL COUNTIES
801 12TH STREET, SUITE 600

SACRAMENTO, CA 95814

WILLIAM W. WESTERFIELD III
ATTORNEY AT LAW
ELLISON, SCHNEIDER & HARRIS LLP
2015 H STREET
SACRAMENTO, CA 95814

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

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

SACRAMENTO, CA 95814

LYNN M. HAUG
ATTORNEY AT LAW
ELLISON, SCHNEIDER & HARRIS, LLP
2015 H STREET
SACRAMENTO, CA 95814-3512

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

KAREN MCDONALD
POWEREX CORPORATION
1400,
666 BURRAND STREET
VANCOUVER, BC V6C 2X8
CANADA

Information Only

WILLIAM P. SHORT
RIDGEWOOD POWER MANAGEMENT, LLC
947 LINWOOD AVENUE
RIDGEWOOD, NJ 07450

CHRISTOPHER O'BRIEN
SHARP SOLAR
VP STRATEGY AND GOVERNMENT RELATIONS
3808 ALTON PLACE NW
WASHINGTON, DC 20016

KEVIN PORTER
EXETER ASSOCIATES, INC.
SUITE 310
5565 STERRETT PLACE
COLUMBIA, MD 21044

RALPH E. DENNIS
DIRECTOR, REGULATORY AFFAIRS
FELLON-MCCORD & ASSOCIATES

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

VENKAT SURAVARAPU
ASSOCIATES DIRECTOR
CAMBRIDGE ENERGY RESEARCH ASSOCIATES
1150 CONNECTICUT AVENUE NW, STE. 201
WASHINGTON, DC 20036

TODD JAFFE
ENERGY BUSINESS BROKERS AND CONSULTANTS
3420 KEYSER ROAD
BALTIMORE, MD 21208

CATHY S. WOOLLUMS
MIDAMERICAN ENERGY HOLDINGS COMPANY
106 EAST SECOND STREET

CONSTELLATION NEWENERGY-GAS DIVISION
9960 CORPORATE CAMPUS DRIVE, STE 2000
LOUISVILLE, KY 40223

DAVENPORT, IA 52801

MARY COLLINS
POLICY ADVISOR TO COMMISSIONER LIEBERMAN
ILLINOIS COMMERCE COMMISSION
160 NORTH LASALLE STREET, STE. C-800
CHICAGO, IL 60601

JASON ABIECUNAS
BLACK & BEATCH GLOBAL RENEWABLE ENERGY
RENEWABLE ENERGY CONSULTANT
11401 LAMAR
OVERLAND PARK, KS 66211

RYAN PLETKA
RENEWABLE ENERGY PROJECT MANAGER
BLACK & VEATCH
11401 LAMAR
OVERLAND PARK, KS 66211

ANN HENDRICKSON
COMMERCE ENERGY, INC.
222 WEST LAS COLINAS BLVD., SUITE 950E
IRVING, TX 75039

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

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

JONATHAN JACOBS
PA CONSULTING GROUP
390 INTERLOCKEN CRESCENT, SUITE 410
BROOMFIELD, CO 80021

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

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

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

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

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

JOE GRECO
CAITHNESS OPERATING COMPANY
9590 PROTOTYPE COURT, SUITE 200
RENO, NV 89521

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

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

STEVE CHADIMA
ENERGY INNOVATIONS, INC.
130 WEST UNION STREET
PASADENA, CA 91103

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

JACK MCNAMARA
ATTORNEY AT LAW
MACK ENERGY COMPANY
PO BOX 1380
AGOURA HILLS, CA 91376-1380

CASE ADMINISTRATION
SOUTHERN CALIFORNIA EDISON COMPANY
2244 WALNUT GROVE AVENUE
ROSEMEAD, CA 91770

FRANK W. HARRIS
REGULATORY ECONOMIST
SOUTHERN CALIFORNIA EDISON
2244 WALNUT GROVE
ROSEMEAD, CA 91770

GARY L. ALLEN
SOUTHERN CALIFORNIA EDISON
2244 WALNUT GROVE AVENUE
ROSEMEAD, CA 91770

JAMES B. WOODRUFF
SOUTHERN CALIFORNIA EDISON COMPANY
2244 WALNUT GROVE AVENUE, SUITE 342, GO1
ROSEMEAD, CA 91770

LIZBETH MCDANNEL
2244 WALNUT GROVE AVE., QUAD 4D
ROSEMEAD, CA 91770

KEITH SWITZER
GOLDEN STATE WATER COMPANY
630 EAST FOOTHILL BLVD.
SAN DIMAS, CA 91773-9016

ABBAS M. ABED
ASSOCIATE DIRECTOR
NAVIGANT CONSULTING, INC.
402 WEST BROADWAY, SUITE 400
SAN DIEGO, CA 92101

LINDA WRAZEN
SEMPRA ENERGY REGULATORY AFFAIRS
101 ASH STREET, HQ16C
SAN DIEGO, CA 92101

THOMAS P. CORR
SEMPRA ENERGY GLOBAL ENTERPRISES
101 ASH STREET, HQ16C
SAN DIEGO, CA 92101

MICHAEL SHAMES
ATTORNEY AT LAW
UTILITY CONSUMERS' ACTION NETWORK
3100 FIFTH AVENUE, SUITE B
SAN DIEGO, CA 92103

SCOTT J. ANDERS
RESEARCH/ADMINISTRATIVE DIRECTOR
UNIVERSITY OF SAN DIEGO SCHOOL OF LAW

CENTRAL FILES
SAN DIEGO GAS & ELECTRIC
8330 CENTURY PARK COURT, CP31E

5998 ALCALA PARK
SAN DIEGO, CA 92110

SAN DIEGO, CA 92123

CHARLES MANZUK
SAN DIEGO GAS & ELECTRIC
8330 CENTURY PARK COURT, CP 32D
SAN DIEGO, CA 92123

SUSAN FREEDMAN
SAN DIEGO REGIONAL ENERGY OFFICE
8520 TECH WAY, SUITE 110
SAN DIEGO, CA 92123

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

JOHN W. LESLIE
ATTORNEY AT LAW
LUCE, FORWARD, HAMILTON & SCRIPPS, LLP
11988 EL CAMINO REAL, SUITE 200
SAN DIEGO, CA 92130-2592

MWIRIGI IMUNGI
THE ENERGY COALITION
15615 ALTON PARKWAY, SUITE 245
IRVINE, CA 92618

CARL STEEN
BAKER & HOSTETLER LLP
600 ANTON BLVD., SUITE 900
COSTA MESA, CA 92626

JUDE LEBLANC
BAKER & HOSTETLER LLP
600 ANTON BLVD., SUITE 900
COSTA MESA, CA 92626

MICHAEL J. GILMORE
INLAND ENERGY
SOUTH TOWER SUITE 606
3501 JAMBOREE RD
NEWPORT BEACH, CA 92660

HAROLD M. ROMANOWITZ
OAK CREEK ENERGY SYSTEMS, INC.
14633 WILLOW SPRINGS ROAD
MOJAVE, CA 93501

MARC D. JOSEPH
ATTORNEY AT LAW
ADAMS, BROADWELL, JOSEPH & CARDOZO
601 GATEWAY BLVD., STE. 1000
SOUTH SAN FRANCISCO, CA 94080

BILLY BLATTNER
SAN DIEGO GAS & ELECTRIC COMPANY
601 VAN NESS AVENUE, SUITE 2060
SAN FRANCISCO, CA 94102

DIANE I. FELLMAN
ATTORNEY AT LAW
FPL ENERGY, LLC
234 VAN NESS AVENUE
SAN FRANCISCO, CA 94102

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

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

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

BILL GOLOVE
CHEVRON ENERGY SOLUTIONS
345 CALIFORNIA STREET, 18TH FLOOR
SAN FRANCISCO, CA 94104

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

DOUGLAS E. COVER
ENVIRONMENTAL SCIENCE ASSOCIATES
225 BUSH STREET, SUITE 1700
SAN FRANCISCO, CA 94104

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

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

SETH D. HILTON
STOEL RIVES
111 SUTTER ST., SUITE 700
SAN FRANCISCO, CA 94104

SNULLER PRICE
ENERGY AND ENVIRONMENTAL ECONOMICS
101 MONTGOMERY, SUITE 1600
SAN FRANCISCO, CA 94104

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

ED LUCHA
PACIFIC GAS AND ELECTRIC COMPANY
77 BEALE STREET, MAIL CODE B9A
SAN FRANCISCO, CA 94105

JASON YAN
PACIFIC GAS AND ELECTRIC COMPANY
77 BEALE STREET, MAIL CODE B13L
SAN FRANCISCO, CA 94105

JOHN PAPPAS
UTILITY ELECTRIC PORTFOLIO MANAGEMENT
PACIFIC GAS AND ELECTRIC COMPANY
77 BEALE STREET, N12E
SAN FRANCISCO, CA 94105

LENNY HOCHSCHILD
EVOLUTION MARKETS, LLC
RENEWABLE ENERGY MARKETS
425 MARKET STREET, SUITE 2200
SAN FRANCISCO, CA 94105

MADDIE REICHER
EVOLUTION MARKETS
425 MARKET STREET, SUITE 2209
SAN FRANCISCO, CA 94105

PAUL LACOURCIERE
ATTORNEY AT LAW
THELEN REID BROWN RAYSMAN & STEINER LLP

KEVIN T. FOX
WILSON SONSINI GOODRICH AND ROSATI
ONE MARKET, SPEAR TOWER

101 SECOND STREET, SUITE 1800
SAN FRANCISCO, CA 94105

SAN FRANCISCO, CA 94105-1126

NIELS KJELLUND
PACIFIC GAS AND ELECTRIC COMPANY
77 BEALE STREET, MAIL CODE B9A
SAN FRANCISCO, CA 94105-1814

JON WELNER
PAUL HASTINGS JANOFFSKY & WALKER LLP
55 SECOND STREET, 24TH FLOOR
SAN FRANCISCO, CA 94105-3441

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

CALIFORNIA ENERGY MARKETS
517-B POTRERO AVE.
SAN FRANCISCO, CA 94110-1431

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

KARLEEN O'CONNOR
WINSTON & STRAWN LLP
101 CALIFORNIA STREET
SAN FRANCISCO, CA 94111

JUDY PAU
DAVIS WRIGHT TREMAINE LLP
505 MONTGOMERY STREET, SUITE 800
SAN FRANCISCO, CA 94111-6533

ROBERT B. GEX
ATTORNEY AT LAW,
DAVIS WRIGHT TREMAINE LLP
505 MONTGOMERY STREET, SUITE 800
SAN FRANCISCO, CA 94111-6533

STANDISH O'GRADY
FRIENDS OF KIRKWOOD ASSOCIATION
31 PARKER AVENUE
SAN FRANCISCO, CA 94118

LAW DEPARTMENT FILE ROOM
PACIFIC GAS AND ELECTRIC COMPANY
PO BOX 7442
SAN FRANCISCO, CA 94120-7442

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

KATE BEARDSLEY
PG&E
MAILCODE B9A
PO BOX 770000
SAN FRANCISCO, CA 94177

MAGGIE CHAN
PG&E
MAILCODE B9A
PO BOX 770000
SAN FRANCISCO, CA 94177

NINA BUBNOVA
CASE MANAGER
PACIFIC GAS AND ELECTRIC COMPANY
PO BOX 770000, MAIL CODE B9A
SAN FRANCISCO, CA 94177

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

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

ROBIN J. WALTHER
1380 OAK CREEK DRIVE, NO. 316
PALO ALTO, CA 94304-2016

NICOLAS PROCOS
ALAMEDA POWER & TELECOM
2000 GRAND STREET
ALAMEDA, CA 94501-0263

KEITH WHITE
931 CONTRA COSTA DRIVE
EL CERRITO, CA 94530

JACK PIGOTT
OPTISOLAR, INC
31302 HUNTSWOOD AVENUE
HAYWARD, CA 94544

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

KEVIN DUGGAN
CALPINE COPORATION
3875 HOPYARD ROAD, SUITE 345
PLEASANTON, CA 94588

ROBERT T. BOYD
GE WIND ENERGY
6130 STONERIDGE MAIL ROAD, SUITE 300B
PLEASANTON, CA 94588-3287

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

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

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

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

RAMONA GONZALEZ
EAST BAY MUNICIPAL UTILITY DISTRICT
375 ELEVENTH STREET, M/S NO. 205
OAKLAND, CA 94607

PAUL FENN
LOCAL POWER
4281 PIEDMONT AVE.

MRW & ASSOCIATES, INC.
1814 FRANKLIN STREET, SUITE 720

OAKLAND, CA 94611

BARRY H. EPSTEIN
FITZGERALD, ABBOTT & BEARDSLEY, LLP
1221 BROADWAY, 21ST FLOOR
OAKLAND, CA 94612

REED V. SCHMIDT
BARTLE WELLS ASSOCIATES
1889 ALCATRAZ AVENUE
BERKELEY, CA 94703-2714

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

TIM MASON
1000 FRESNO AVE.
BERKELEY, CA 94707

EDWARD VINE
LAWRENCE BERKELEY NATIONAL LABORATORY
BUILDING 90-4000
BERKELEY, CA 94720

BRIAN C. FRECKMANN
C/O FOUNDATION PARTNERS
100 DRAKES LANDING ROAD, NO. 125
GREENBRAE, CA 94904

DEREK DENNISTON
THE DENNISTON GROUP, LLC
101 BELLA VISTA AVE
BELVEDERE, CA 94920

OAKLAND, CA 94612

CYNTHIA WOOTEN
LUMENX CONSULTING, INC.
1126 DELAWARE STREET
BERKELEY, CA 94702

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

JANICE LIN
MANAGING PARTNER
STRATEGEN CONSULTING LLC
146 VICENTE ROAD
BERKELEY, CA 94705

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

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

DAI OWEN
607 VIA CASITAS
GREENBRAE, CA 94904

LYNN M. ALEXANDER
LMA CONSULTING
129 REDWOOD AVENUE
CORTE MADERA, CA 94925

TIM ROSENFELD
131 CAMINO ALTO, SUITE D
MILL VALLEY, CA 94941

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

SUSAN M. O'BRIEN
MCCARTHY & BERLIN, LLP
100 PARK CENTER PLAZA, SUITE 501
SAN JOSE, CA 95113

DAVID OLIVARES
ELECTRIC RESOURCE
MODESTO IRRIGATION DISTRICT
PO BOX 4060
MODESTO, CA 95352

JOY A. WARREN
ATTORNEY AT LAW
MODESTO IRRIGATION DISTRICT
1231 11TH STREET
MODESTO, CA 95354

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

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

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

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

GRANT A. ROSENBLUM
STAFF COUNSEL
CALIFORNIA ISO
151 BLUE RAVINE ROAD
FOLSOM, CA 95630

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

DENNIS W. DE CUIR
ATTY AT LAW
A LAW CORPORATION
2999 DOUGLAS BLVD., SUITE 325
ROSEVILLE, CA 95661

KEVIN DAVIES
SOLAR DEVELOPMENT INC.
2424 PROFESSIONAL DR.
ROSEVILLE, CA 95661-7773

DAVID OLIVER
NAVIGANT CONSULTING
3100 ZINFANDEL DRIVE, SUITE 600
RANCO CORDOVA, CA 95670

KENNY SWAIN
NAVIGANT CONSULTING
3100 ZINFANDEL DRIVE, SUITE 600

ERIN RANSLOW
NAVIGANT CONSULTING, INC.
3100 ZINFANDEL DRIVE, SUITE 600

RANCHO CORDOVA, CA 95670

RANCHO CORDOVA, CA 95670-6078

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

KARLY MCCRORY
SOLAR DEVELOPMENT
2424 PROFESSIONAL DRIVE
ROSEVILLE, CA 95677

DOUG DAVIE
DAVIE CONSULTING, LLC
3390 BEATTY DRIVE
EL DORADO HILLS, CA 95762

JEDEDIAH J. GIBSON
ELLISON SCHNEIDER & HARRIS LLP
2015 H STREET
SACRAMENTO, CA 95811

BRUCE MCLAUGHLIN
ATTORNEY AT LAW
BRAUN & BLAISING P.C.
915 L STREET, SUITE 1420
SACRAMENTO, CA 95814

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

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

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

RACHEL MCMAHON
CEERT
1100 11TH STREET, SUITE 311
SACRAMENTO, CA 95814

SCOTT BLAISING
ATTORNEY AT LAW
BRAUN & BLAISING, P.C.
915 L STREET, SUITE 1420
SACRAMENTO, CA 95814

STEVE BRINK
CALIFORNIA FORESTRY ASSOCIATION
1215 K STREET, SUITE 1830
SACRAMENTO, CA 95814

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

ROB ROTH
SACRAMENTO MUNICIPAL UTILITY DISTRICT
6201 S STREET MS 75
SACRAMENTO, CA 95817

MICHAEL DEANGELIS
SACRAMENTO MUNICIPAL UTILITY DISTRICT
6201 S STREET
SACRAMENTO, CA 95817-1899

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

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

LEE TERRY
CALIFORNIA DEPARTMENT OF WATER RESOURCES
3310 EL CAMINO AVENUE
SACRAMENTO, CA 95821

RICH LAUCKHART
GLOBAL ENERGY
SUITE 200
2379 GATEWAY OAKS DR.
SACRAMENTO, CA 95833

RONALD LIEBERT
ATTORNEY AT LAW
CALIFORNIA FARM BUREAU FEDERATION
2300 RIVER PLAZA DRIVE
SACRAMENTO, CA 95833

KAREN LINDH
LINDH & ASSOCIATES
7909 WALERGA ROAD, NO. 112, PMB 119
ANTELOPE, CA 95843

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

KYLE DAVIS
PACIFICORP
825 NE MULNOMAH, SUITE 2000
PORTLAND, OR 97232

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

TIMOTHY CASTILLE
LANDS ENERGY CONSULTING, INC.
18109 SE 42ND STREET
VANCOUVER, WA 98683

MONIQUE STEVENSON
SEA BREEZE PACIFIC REGIONAL TRANSMISSION
LOBBY BOX 91
333 SEYMOUR ST., SUITE 1400
VANCOUVER, BC V5B 5A6
CANADA

State Service

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

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

ANNE E. SIMON
CALIF PUBLIC UTILITIES COMMISSION
DIVISION OF ADMINISTRATIVE LAW JUDGES
ROOM 5024
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

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

BETH MOORE
CALIF PUBLIC UTILITIES COMMISSION
ELECTRICITY RESOURCES & PRICING BRANCH
ROOM 4103
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

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

BURTON MATTSON
CALIF PUBLIC UTILITIES COMMISSION
DIVISION OF ADMINISTRATIVE LAW JUDGES
ROOM 5104
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

CHRISTOPHER DANFORTH
CALIF PUBLIC UTILITIES COMMISSION
ELECTRICITY RESOURCES & PRICING BRANCH
ROOM 4209
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

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

DOROTHY DUDA
CALIF PUBLIC UTILITIES COMMISSION
DIVISION OF ADMINISTRATIVE LAW JUDGES
ROOM 5109
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

ELLEN S. LEVINE
CALIF PUBLIC UTILITIES COMMISSION
LEGAL DIVISION
ROOM 5028
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

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

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

JANE WHANG
CALIF PUBLIC UTILITIES COMMISSION
LEGAL DIVISION
ROOM 5029
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

JAY MORSE
CALIF PUBLIC UTILITIES COMMISSION
ENERGY RESOURCES BRANCH
ROOM 4209
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

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

JULIE HALLIGAN
CALIF PUBLIC UTILITIES COMMISSION
CONSUMER PROTECTION AND SAFETY DIVISION

MARK R. LOY
CALIF PUBLIC UTILITIES COMMISSION
ENERGY COST OF SERVICE & NATURAL GAS BRA

ROOM 2203
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

ROOM 4205
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

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

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

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

NILGUN ATAMTURK
CALIF PUBLIC UTILITIES COMMISSION
EXECUTIVE DIVISION
ROOM 5303
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

NOEL OBIORA
CALIF PUBLIC UTILITIES COMMISSION
LEGAL DIVISION
ROOM 4107
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

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

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

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

TRACI BONE
CALIF PUBLIC UTILITIES COMMISSION
LEGAL DIVISION
ROOM 5206
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

SUZANNE KOROSEC
CALIFORNIA ENERGY COMMISSION
MS-31
1516 9TH STREET
SACRAMENTO, CA 95184

JAMES MCMAHON
SENIOR ENGAGEMENT MANAGER
NAVIGANT CONSULTING, INC.
3100 ZINFANDEL DRIVE, SUITE 600
RANCHO CORDOVA, CA 95670-6078

CLARE LAUFENBERG GALLARDO
CALIFORNIA ENERGY COMMISSION
1516 NINTH STREET, MS-46
SACRAMENTO, CA 95814

CLARE LAUFENBERG
CALIFORNIA ENERGY COMMISSION
1516 NINTH STREET, MS 46
SACRAMENTO, CA 95814

CONSTANCE LENI
CALIFORNIA ENERGY COMMISSION
MS-20
1516 NINTH STREET
SACRAMENTO, CA 95814

HEATHER RAITT
CALIFORNIA ENERGY COMMISSION
1516 9TH STREET, MS 45
SACRAMENTO, CA 95814

KATE ZOCCHETTI
CALIFORNIA ENERGY COMMISSION
1516 9TH STREET, MS-45
SACRAMENTO, CA 95814

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

ROSS MILLER
CALIFORNIA ENERGY COMMISSION
1516 9TH STREET
SACRAMENTO, CA 95814

THOMAS FLYNN
CALIF PUBLIC UTILITIES COMMISSION
ENERGY RESOURCES BRANCH
770 L STREET, SUITE 1050
SACRAMENTO, CA 95814

BILL KNOX
CALIFORNIA ENERGY COMMISSION
1516 NINTH STREET, MS 45
SACRAMENTO, CA 95814-5504

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

[Top of Page](#)

[Back to INDEX OF SERVICE LISTS](#)



Aimee M. Smith
Senior Counsel

101 Ash Street, HQ-12
San Diego, CA 92101

Telephone: (619) 699-5042
Facsimile: (619) 699-5027
amsmith@sempra.com

September 26, 2007

To Parties Appearing on Service Lists:
R.06-05-027, R.06-02-012, and R.06-02-013

Re: A.07-09-___: Application of SDG&E for Approval of Power Purchase Agreement with Envirepel Energy, Inc. and Related Testimony

Dear Parties,

Pursuant to Rule 1.9(c) of the Rules of Practice and Procedure of the California Public Utilities Commission (the "Commission"), San Diego Gas & Electric Company hereby provides this Notice of Availability of their **APPLICATION FOR APPROVAL OF POWER PURCHASE AGREEMENT WITH ENVIREPEL ENERGY, INC.** and related Testimony, filed with the Commission on September 26, 2007.

Should you have any questions or wish to receive a copy of the above, please do not hesitate to contact me directly at (619) 699-5042 or amsmith@sempra.com.

Best regards,

/s/ Aimee M. Smith
Aimee M. Smith

SERVICE LIST

MELANIE GILLETTE
DUKE ENERGY NORTH AMERICA
980 NINTH STREET, SUITE 1420
SACRAMENTO, CA 95814

DAVID J. COYLE
ANZA ELECTRIC COOPERATIVE, INC
58470 HIGHWAY 371
ANZA, CA 92539-1909

LOCAL POWER
4281 PIEDMONT AVENUE
OAKLAND, CA 94611

FRANCISCO DA COSTA
ENVIRONMENTAL JUSTICE ADV
BAYVIEW HUNTERS
POINT COMMUNITY
4909 3RD STREET
SAN FRANCISCO, CA 94124

ANDY WUELLNER
MOUNTAIN UTILITIES
PO BOX 1
KIRKWOOD, CA 95646

JEANNE MCKINNEY
THELEN REID BROWN RAYSMAN
& STEINER
101 2ND STREET, SUITE 1800
SAN FRANCISCO, CA 94105

MICHAEL MEACHAM
ENV RESOURCE MANAGER
CITY OF CHULA VISTA
276 FORTH AVENUE
CHULA VISTA, CA 91910

MARK L. PERLIS
DICKSTEIN SHAPIRO LLP
1825 EYE STREET, NW
WASHINGTON, DC 20006

DONALD N. FURMAN
SENIOR VICE PRESIDENT
PPM ENERGY, INC.
1125 NW COUCH STREET, STE 700
PORTLAND, OR 97209

MWIRIGI IMUNGI
THE ENERGY COALITION
15615 ALTON PARKWAY, STE 245
IRVINE, CA 92618

RICHARD LEHFELDT
SHAPIRO LLP
CPV RENEWABLE ENERGY CO, LLC
1825 EYE STREET, NW
WASHINGTON, DC 20006

LARRY F. EISENSTAT
DICKSTEIN SHAPIRO, LLP
CPV RENEWABLE ENERGY CO, LLC
1825 EYE STREET, NW
WASHINGTON, DC 20006

WILLIAM CRONIN
ENERGY AMERICA, LLC
ONE STAMFORD PLAZA, 8TH FL
263 TRESSER BLVD.
STAMFORD, CT 06901