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

Order Instituting Rulemaking to Develop)
Additional Methods to Implement the California) Rulemaking: 06-02-012
Renewables Portfolio Standard Program) (Filed February 16, 2006)
_____)

**Reply Comments
of the California Wind Energy Association,
the California Cogeneration Council,
the Large-scale Solar Association, and
the Solar Alliance
on the Proposed Decision of ALJ Simon**

R. Thomas Beach
Patrick G. McGuire
Crossborder Energy
2560 Ninth Street, Suite 213A
Berkeley, California 94710
Telephone: 510-549-6922
Facsimile: 510-649-9793
E-mail: tomb@crossborderenergy.com

On Behalf of
**CALIFORNIA WIND ENERGY ASSOCIATION,
CALIFORNIA COGENERATION COUNCIL,
LARGE-SCALE SOLAR ASSOCIATION, and
THE SOLAR ALLIANCE**

October 14, 2008

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Reply Comments of the CalWEA *et al.* on the Proposed Decision of ALJ Simon

In accordance with the Commission’s Rule 14.3(d), the California Wind Energy Association, the California Cogeneration Council, the Large-scale Solar Association, and the Solar Alliance (collectively, CalWEA *et al.*) hereby submit reply comments on the Proposed Decision of ALJ Simon (PD) on issues concerning the 2008 market price referent (2008 MPR).

1. Gas Forecasting Methodology. At the outset, CalWEA *et al.* wish to express dismay that Southern California Edison (Edison) and San Diego Gas & Electric (SDG&E) have chosen to wait until their opening comments on the PD to present significant new proposals and factual information concerning the MPR gas forecasting methodology. SCE and SDG&E have known since the ALJ’s February 8, 2008 Ruling Requesting Pre-Workshop Comments and the parties’ pre-workshop comments filed on March 6, 2008 that this case would review (1) the use of 12 years of NYMEX data and (2) the premium in the MPR gas forecast over fundamentals forecasts. The two utilities raised their concerns with these issues at the workshop and in post-workshop comments. Their comments were brief: for example, SDG&E’s comments on these issues in their post-workshop comments were just two pages. Now, SDG&E’s opening comments on the PD on gas issues include 10 pages of discussion, several tables and figures with new NYMEX and CEC data, and a 30-page FERC order. Replies to this new evidence, and to all other comments, are limited to five pages. The Commission’s Rule 14.3(c) specifies that comments on a PD “shall make specific references to the record.” Edison and SDG&E failed to develop that record when they had ample opportunity to do so. The Commission should give little weight to the efforts of Edison and SDG&E to create a new record at this eleventh hour.

The first new proposal that the Commission should reject is Edison's request that the MPR gas forecast should be based on today's natural gas prices.¹ This would change the past, Commission-approved practice of using gas price data from the month prior to the date when the RPS solicitation closes. Commodity and energy prices have recently spiked downwards as a result of the turmoil from the global financial crisis. Edison is clearly trying to use this downward spike to depress the 2008 MPR price. Edison would never have made such a proposal if circumstances were the reverse, as they were exactly three years ago when Hurricanes Katrina and Rita caused natural gas prices to spike higher for several months in the fall of 2005. The Commission has wisely determined that MPR gas prices should be sampled based on a date that, when it is chosen, is far enough in the future such that the MPR cannot be gamed based on circumstances in the gas market. Based on this wise past practice, the 2008 MPR will be based on forward gas prices sampled in the month ending May 12, 2008. Some parties might prefer to use prices from July 2008 (when gas prices peaked almost 30% higher than in April/May); Edison wants to use today's depressed prices (which it says are 10% below April prices). The bottom line is that the Commission cannot open the door to such blatant gaming of the MPR.

SDG&E and Edison oppose the PD's adoption of the use of the full 12 years of NYMEX price data and the change that the PD adopts to the MPR gas forecast for years 13 and beyond; they urge the Commission to retain the present gas forecasting methodology. The utilities assert that the NYMEX data for years 7-12 are thinly-traded, do not reflect market transactions, are volatile, and do not meet FERC standards for the use of price indices in jurisdictional tariffs.

CalWEA *et al.* first observe that there are relatively few trades in years 3-6 of the NYMEX market, yet these years have been used in the MPR method since 2004, with no problems.² When the MPR methodology was formulated in 2004, there were only a few years of experience with years 4-6 of the NYMEX contract, which NYMEX added in 2001. This positive

¹ SCE PD Comments, at 2-3.

² SDG&E attaches a single day of trading data that shows no trades on that day for the last six years of the NYMEX contract. It is unclear how representative this day is.

experience, as well as the long history and reliable record of the NYMEX gas futures market, should provide the Commission with confidence to use all 12 years.³ Further, SDG&E's assertion that its data show that the last year (2020) of NYMEX data is "volatile" is simply wrong. In fact, the data show that the price for 2020 is much less volatile than the price for 2009 (which SDG&E agrees is robust).⁴ In addition, NYMEX prices contain important market information even when there are relatively few or no trades. As observed in the most recent Lawrence Berkeley National Laboratory (LBNL) study (which both the PD and SDG&E cite):

...while thin liquidity may prohibit large-volume trades, it does not necessarily discredit the quality of the price information contained in settlement prices. If the price were way out of line with general market expectations, traders and speculators would be expected to brave the wide bid/offer spreads (resulting from illiquidity) to make a profit while driving the price back into line with expectations.⁵

The LBNL researchers also commented on the NYMEX data for years 7-12, stating that "this additional level of price discovery in longer-dated forwards should facilitate the construction of longer-term market-based forecasts that can be used to more-clearly replicate the long-term price stability that renewables can provide."⁶

Even if the Commission continues to use just the first six years of NYMEX data, the new NYMEX data for years 7-12 show clearly that the 2005 - 2007 MPR models were wrong to use just a short transition in years 7-10 from NYMEX to the fundamental forecast. The current

³ The NYMEX gas market is far deeper and has a much longer track record than the forward electric markets in California, which D. 07-09-040 adopted for use in QF pricing. The fact that the Commission limited the use of those electric forward markets (whose prices are not even public) to 12 months is appropriate given the limited extent and reduced transparency of those markets. However, such limits are not needed for the far more robust and visible NYMEX gas futures market.

⁴ In SDG&E's data set, the price for 2020 rises by 18% from March to July 2008, then drops by 23% by September 2008. This is much less volatile than the 2009 NYMEX contract: the price for 2009 rises by 31% from March to July, then drops by 35% by September.

⁵ This quote is from page 3, fn 2, of the last LBNL study cited in footnote 7 of the PD. SDG&E also fails to note that, in the passage that they cite from the LBNL study, it is clear that the LBNL researchers consider NYMEX's approach to setting prices when there are no consummated trades to be "methodologically sound."

⁶ *Ibid.*, at 11.

method assumes that the price premium for a fixed-price gas supply declines to zero by year 10. The new NYMEX data, even if it is not completely reliable, shows that the premium in NYMEX prices that is seen in years 1 - 6 continues in years 7-12 and should be extended to all years of the MPR gas forecast. There is no basis to conclude that, if there is a significant cost to fix the price of a gas supply for years 1 - 6, this cost disappears in subsequent years. Thus, even if the Commission decides to use just the first six years of NYMEX data, the Commission should retain the PD's provision that the first year of the forecast after the NYMEX data ends (i.e. year 7) should be based on a linear trend derived from years 4-6 at the end of the NYMEX data set. Then the price in year 7 would escalate at the same rate as the fundamental forecast.

2. GHG Adder. Edison continues to argue against making the greenhouse gas adder to the MPR permanent; in a nutshell, its argument is that “California does not have sufficient information on which to base a GHG adder for a regional or national cap-and-trade program.”⁷ We remind the Commission that the currently-adopted E3 GHG values are not California-specific, and were developed in large part from models of national and international GHG mitigation costs under the Kyoto Protocol.⁸ The PD would allow the Commission to update the E3 GHG values using recent, similarly-broad models that the Synapse study reviews. GHG emissions are a planetary problem, and accurate estimates of GHG mitigation costs require a perspective that is not limited to California or the western U.S..

3. Confidentiality of the MPR. PG&E continues to assert that the MPR is “market-sensitive” information and should be kept confidential; SDG&E joins PG&E in arguing that whether an RPS contract is above or below the MPR also should be protected.⁹ PG&E claims that the MPR meets the test set forth in D. 06-06-066 as “market-sensitive” information because the MPR may have a material impact on the price of electricity. PG&E continues to ignore the fact that bidders do not know the MPR when they bid – bidders do not know the MPR input

⁷ Edison Opening Comments, at 10-11.

⁸ The source of the current E3 GHG values are summarized in CalWEA's Opening Comments, at 11.

⁹ PG&E Opening Comments, at 5-7; SDG&E Opening Comments, at 13-14.

assumptions that Energy Division will choose, nor do they know how the Commission will decide pending MPR methodology issues (such as the complex issues in this case). All of these choices have significant impacts on the MPR. The argument that an RPS contract's relationship to the MPR is "market sensitive" is even harder to understand. The utilities are concerned about information on whether a contract price from a prior solicitation is above or below the MPR from a past year. This provides no additional information about the MPR in the current solicitation, and no information about whether the contract is 0.01 cents/kWh above the MPR or 5 cents/kWh higher. If the MPR influences RPS prices, it is because the utilities allow MPR-linked bids or permit bidders to change their bids once the MPR is known – matters that are within the utility's control. The way to reduce any possible influence that the MPR might have on RPS bids is for the utilities to make clear that the MPR has no role in their own least-cost, best-fit evaluation of RPS bids. In sum, the MPR does not meet D. 06-06-066's definition of "market sensitive" information, and PG&E's effort to make the MPR confidential is contrary to the Commission's intent in D. 06-06-066 that there should be "greater openness for RPS data" due to the substantial public interest in meeting California's renewable energy goals.¹⁰

CalWEA, CCC, LSA, and SA appreciate the Commission's attention to these reply comments on ALJ Simon's Proposed Decision on the 2008 MPR.

Respectfully submitted,

/ s / R. Thomas Beach

R. Thomas Beach,
Crossborder Energy
2560 Ninth Street,
Suite 213A, Berkeley CA 94710
Telephone: 510-549-6922
E-mail: tomb@crossborderenergy.com

October 14, 2008

¹⁰ D. 06-06-066, at 59-60.

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused to be served a copy of the foregoing document, **Reply Comments of the California Wind Energy Association, the California Cogeneration Council, the Large-scale Solar Association, and the Solar Alliance on the Proposed Decision of ALJ Simon**, by Electronic Mail where possible and First-Class Mail where not, on all known parties to R. 06-02-012, named on the service list attached to the original certificate of this document pursuant to the Commission's Rules of Practice and Procedure.

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

Executed at Berkeley, California, Tuesday, October 14, 2008.

/s/ Christa Goldblatt

Christa Goldblatt

PHILIPPE AUCLAIR
11 RUSSELL COURT
WALNUT CREEK, CA 94598
philha@astound.net

CLARE BREIDENICH
224 1/2 24TH AVE. EAST
SEATTLE, WA 98112
cbreidenich@yahoo.com

GRAIG COOPER
55 2ND STREET, SUITE 525
SAN FRANCISCO, CA 94105
gcooper@cpv.com

PAUL D. HUNT
4929 WEBSTER STREET
OAKLAND, CA 94609-2116
pdh9@columbia.edu

TODD JAFFE
3420 KEYSER ROAD
BALTIMORE, MD 21208
tjaffe@energybusinessconsultants.com

LIZBETH MCDANNELL
2244 WALNUT GROVE AVE., QUAD 4D
ROSEMEAD, CA 91770
lizbeth.mcdannel@sce.com

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

DAVID TOWNLEY
18 BASSWOOD AVENUE
OAK PARK, CA 91377
David.Townley@townleytech.com

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

KEITH WHITE
312 KELLER ST
PETALUMA, CA 94952
keithwhite@earthlink.net

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

MICHAEL MAZUR
3 PHASES RENEWABLES, LLC
2100 SEPULVEDA BLVD. STE 37
MANHATTAN BEACH, CA 90266
mmazur@3phasesRenewables.com

GABE PETLIN
3DEGREES
6 FUNSTON AVENUE
SAN FRANCISCO, CA 94129
gpetlin@3degreesinc.com

DENNIS W. DE CUIR
A LAW CORPORATION
2999 DOUGLAS BLVD., SUITE 325
ROSEVILLE, CA 95661
dennis@ddecuir.com

MARC D. JOSEPH
ADAMS, BROADWELL, JOSEPH &
CARDOZO
601 GATEWAY BLVD., STE. 1000
SOUTH SAN FRANCISCO, CA 94080
mdioseph@adamsbroadwell.com

JAMES WEIL
AGLET CONSUMER ALLIANCE
PO BOX 37
COOL, CA 95614
jweil@aglet.org

GARY COLLORD
AIR RESOURCES BOARD
1001 I STREET, PO BOX 2815
SACRAMENTO, CA 95812
gcollord@arb.ca.gov

KAREN TERRANOVA
ALCANTAR & KAHL, LLP
120 MONTGOMERY STREET, STE 2200
SAN FRANCISCO, CA 94104
filings@a-klaw.com

MICHAEL ALCANTAR
ALCANTAR & KAHL, LLP
120 MONTGOMERY STREET, SUITE
2200
SAN FRANCISCO, CA 94104
mpa@a-klaw.com

DONALD BROOKHYSER
ALCANTAR & KAHL
1300 SW FIFTH AVE., SUITE 1750
PORTLAND, OR 97210
deb@a-klaw.com

ROD AOKI
ALCANTAR & KAHL, LLP
120 MONTGOMERY STREET, SUITE
2200
SAN FRANCISCO, CA 94104
rsa@a-klaw.com

EVELYN KAHL
ALCANTAR & KAHL, LLP
120 MONTGOMERY STREET, SUITE
2200
SAN FRANCISCO, CA 94104
ek@a-klaw.com

NORA SHERIFF
ALCANTAR & KAHL, LLP
120 MONTGOMERY STREET, SUITE
2200
SAN FRANCISCO, CA 94104
nes@a-klaw.com

SEEMA SRINIVASAN
ALCANTAR & KAHL, LLP
120 MONTGOMERY STREET, SUITE
2200
SAN FRANCISCO, CA 94104
sls@a-klaw.com

TODD J. MARTIN
ALTERNITY WIND POWER, LLC
ONE CRAGWOOD ROAD
SOUTH PLAINFIELD, NJ 07080
tmartin@alternitywindpower.com

AMERICAN UTILITY NETWORK
10705 DEER CANYON DRIVE
ALTA LOMA, CA 91737
pssed@adelphia.net

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

GLORIA BRITTON
ANZA ELECTRIC COOPERATIVE, INC.
PO BOX 391909
ANZA, CA 92539
GloriaB@anzaelectric.org

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

STACY AGUAYO
APS ENERGY SERVICES
400 E. VAN BUREN STREET, SUITE 750
PHOENIX, AZ 85004
stacy.aguayo@apses.com

JENINE SCHENK
APS ENERGY SERVICES
400 E. VAN BUREN STREET, SUITE 750
PHOENIX, AZ 85004
jenine.schenk@apses.com

APS ENERGY SERVICES COMPANY,
INC.
400 E. VAN BUREN STREET, SUITE 750
PHOENIX, AZ 85004
stacy.aguayo@apses.com

JOHN R. REDDING
ARCTURUS ENERGY CONSULTING
44810 ROSEWOOD TERRACE
MENDOCINO, CA 95460
johnredding@earthlink.net

ROGER LEE
BAKER & HOSTETLER LLP
600 ANTON BLVD., SUITE 900
COSTA MESA, CA 92626
rblee@bakerlaw.com

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

STEVEN S. SCHLEIMER
BARCLAYS BANK, PLC
200 PARK AVENUE, FIFTH FLOOR
NEW YORK, NY 10166
steven.schleimer@barclayscapital.com

BARBARA R. BARKOVICH
BARKOVICH & YAP, INC.
44810 ROSEWOOD TERRACE
MENDOCINO, CA 95460
brbarkovich@earthlink.net

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

RYAN WISER
BERKELEY LAB
1 CYCLOTRON ROAD, MS-90-4000
BERKELEY, CA 94720
rhwiser@lbl.gov

RYAN PLETKA
BLACK & VEATCH
2999 OAK ROAD, SUITE 490
WALNUT CREEK, CA 94597
pletkarj@bv.com

RYAN BERNARDO
BRAUN BLAISING MCLAUGHLIN, P.C.
915 L STREET, SUITE 1270
SACRAMENTO, CA 95814
bernardo@braunlegal.com

SCOTT BLAISING
BRAUN & BLAISING, P.C.
915 L STREET, SUITE 1420
SACRAMENTO, CA 95814
blaising@braunlegal.com

BRUCE MCLAUGHLIN
BRAUN & BLAISING, P.C.
915 L STREET SUITE 1420
SACRAMENTO, CA 95814
mclaughlin@braunlegal.com

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

JAN MCFARLAND
CAEATFA
915 CAPITOL MALL, RM. 457
SACRAMENTO, CA 95814
jmcfarland@treasurer.ca.gov

Amanda C. Baker
CALIF PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214
ab1@cpuc.ca.gov

Paul Douglas
CALIF PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214
psd@cpuc.ca.gov

Dorothy Duda
CALIF PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214
dot@cpuc.ca.gov

Gretchen T. Dumas
CALIF PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214
gtd@cpuc.ca.gov

Julie A. Fitch
CALIF PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214
jf2@cpuc.ca.gov

Anne Gillette
CALIF PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214
aeg@cpuc.ca.gov

Louis M. Irwin
CALIF PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214
lmi@cpuc.ca.gov

Sara M. Kamins
CALIF PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214
smk@cpuc.ca.gov

Cheryl Lee
CALIF PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214
cni@cpuc.ca.gov

Mark R. Loy
CALIF PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214
mrl@cpuc.ca.gov

Jaclyn Marks
CALIF PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214
jm3@cpuc.ca.gov

Burton Mattson
CALIF PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214
bwm@cpuc.ca.gov

Beth Moore
CALIF PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214
blm@cpuc.ca.gov

Noel Obiora
CALIF PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214
nao@cpuc.ca.gov

David Peck
CALIF PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214
dbp@cpuc.ca.gov

Brian D. Schumacher
CALIF PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214
bds@cpuc.ca.gov

Andrew Schwartz
CALIF PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214
as2@cpuc.ca.gov

Anne E. Simon
CALIF PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214
aes@cpuc.ca.gov

Sean A. Simon
CALIF PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214
svn@cpuc.ca.gov

Donald R. Smith
CALIF PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214
dsh@cpuc.ca.gov

Elizabeth Stoltzfus
CALIF PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214
eks@cpuc.ca.gov

DAN ADLER
CALIFORNIA CLEAN ENERGY FUND
5 THIRD STREET, SUITE 1125
SAN FRANCISCO, CA 94103
Dan.adler@calcef.org

BETH VAUGHAN
CALIFORNIA COGENERATION
COUNCIL
4391 N. MARSH ELDER COURT
CONCORD, CA 94521
beth@beth411.com

HOLLY B. CRONIN
CALIFORNIA DEPARTMENT OF
WATER RESOURCES
3310 EL CAMINO AVE., LL-90
SACRAMENTO, CA 95821
hcronin@water.ca.gov

MOHAN NIROULA
CALIFORNIA DEPARTMENT OF
WATER RESOURCES
3310 EL CAMINO AVENUE, STE 256
SACRAMENTO, CA 95821
mniroula@water.ca.gov

JOSEPH FLESHMAN
CALIFORNIA ENERGY COMMISSION
1516 9TH STREET, MS-45
SACRAMENTO, CA 95814
jflashma@energy.state.ca.us

LORRAINE GONZALES
CALIFORNIA ENERGY COMMISSION
1516 9TH STREET MS-45
SACRAMENTO, CA 95814
lgonzale@energy.state.ca.us

BILL KNOX
CALIFORNIA ENERGY COMMISSION
1516 NINTH STREET, MS 28
SACRAMENTO, CA 95814-5504
bknox@energy.state.ca.us

CLARE LAUFENBERG
CALIFORNIA ENERGY COMMISSION
1516 NINTH STREET, MS 46
SACRAMENTO, CA 95814
claufenb@energy.state.ca.us

HEATHER LOUIE
CALIFORNIA ENERGY COMMISSION
1516 9TH STREET, MS-45
SACRAMENTO, CA 95818
hlouie@energy.state.ca.us

MANPREET MATTU
CALIFORNIA ENERGY COMMISSION
1516 9TH STREET, MS-45
SACRAMENTO, CA 95814
Mmattu@energy.state.ca.us

ROSS MILLER
CALIFORNIA ENERGY COMMISSION
1516 9TH STREET
SACRAMENTO, CA 95814
rmiller@energy.state.ca.us

HEATHER RAITT
CALIFORNIA ENERGY COMMISSION
1516 9TH STREET, MS 45
SACRAMENTO, CA 95814
hrait@energy.state.ca.us

KATE ZOCCHETTI
CALIFORNIA ENERGY COMMISSION
1516 9TH STREET, MS-45
SACRAMENTO, CA 95814
kzocchet@energy.state.ca.us

CALIFORNIA ENERGY MARKETS
425 DIVISADERO ST.
SAN FRANCISCO, CA 94117
cem@newsdata.com

CALIFORNIA ENERGY MARKETS
425 DIVISADERO ST. SUITE 303
SAN FRANCISCO, CA 94117
cem@newsdata.com

KAREN MILLS
CALIFORNIA FARM BUREAU
FEDERATION
2300 RIVER PLAZA DRIVE
SACRAMENTO, CA 95833
kmills@cfbf.com

CALIFORNIA ISO
151 BLUE RAVINE ROAD
FOLSOM, CA 95630
e-recipient@caiso.com

BALDASSARO DICAPO
CALIFORNIA ISO
151 BLUE RAVINE ROAD
FOLSOM, CA 95630
bdicapo@caiso.com

GRANT A. ROSENBLUM
CALIFORNIA ISO
151 BLUE RAVINE ROAD
FOLSOM, CA 95630
grosenblum@caiso.com

JUDITH SANDERS
CALIFORNIA ISO
151 BLUE RAVINE ROAD
FOLSOM, CA 95630
jsanders@caiso.com

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

SARAH BESERRA
CALIFORNIA REPORTS.COM
39 CASTLE HILL COURT
VALLEJO, CA 94591
sbeserra@sbcglobal.net

NANCY RADER
CALIFORNIA WIND ENERGY
ASSOCIATION
2560 NINTH STREET, SUITE 213A
BERKELEY, CA 94710
nrader@calwea.org

KEVIN DUGGAN
CALPINE COPROPRATION
3875 HOPYARD ROAD, SUITE 345
PLEASANTON, CA 94588
duggank@calpine.com

AVIS KOWALEWSKI
CALPINE CORPORATION
3875 HOPYARD ROAD, SUITE 345
PLEASANTON, CA 94588
kowalewskia@calpine.com

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

JOSEPH LANGENBERG
CENTRAL CALIFORNIA POWER
949 EAST ANNADALE AVE., A210
FRESNO, CA 93706
Joe.Langenberg@gmail.com

STEPHEN A. S. MORRISON
CITY & COUNTY OF SAN FRANCISCO
1 DR CARLTON B. GOODLET PLACE
SAN FRANCISCO, CA 94102-4682
stephen.morrison@sfgov.org

KERRY EDEN
CITY OF CORONA DEPT. OF WATER &
POWER
730 CORPORATION YARD WAY
CORONA, CA 92880
kerry.eden@ci.corona.ca.us

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

COURTNEY WEDDINGTON
COMMERCE ENERGY INC
222 W. LAS COLINAS BLVD., STE.
950-E
IRVING, TX 75039
cweddington@commerceenerg.com

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

CONSTELLATION NEW ENERGY, INC.
350 SOUTH GRAND AVENUE, SUITE
3800
LOS ANGELES, CA 90071
bill.chen@constellation.com

TONY CHEN
COOL EARTH
7665 HAWTHORNE AVE
LIVERMORE, CA 94550
tchen@coolearthsolar.com

DANIELLE MATTHEWS SEPERAS
CALPINE CORPORATION
1127 11TH STREET, SUITE 242
SACRAMENTO, CA 95814
dseperas@calpine.com

STEVEN SIEGEL
CENTER FOR BIOLOGICAL DIVERSITY
3421 PARK PLACE
EVANSTON, IL 60201
ssiegel@biologicaldiversity.org

CLAIRE E. TORCHIA
CHADBOURNE & PARKE LLP
350 SOUTH GRAND AVE., STE 3300
LOS ANGELES, CA 90071
ctorchia@chadbourne.com

SANDRA ROVETTI
CITY AND COUNTY OF SAN
FRANCISCO
1155 MARKET STREET, 4TH FLOOR
SAN FRANCISCO, CA 94103
srovetti@sfgov.org

FREDERICK M. ORTLIEB
CITY OF SAN DIEGO
1200 THIRD AVENUE, SUITE 1200
SAN DIEGO, CA 92101
fortlieb@sandiego.gov

BILL BARNES
CLEANTECH AMERICA, INC.
50 CALIFORNIA STREET, SUITE 1500
SAN FRANCISCO, CA 94111
b.barnes@cleantechamerica.com

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

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

SARA O'NEILL
CONSTELLATION NEWENERGY, INC.
ONE MARKET STREET, SPEAR
TOWER, 36TH FR.
SAN FRANCISCO, CA 94105
sara.oneill@constellation.com

MARCIE MILNER
CORAL ENERGY RESOURCES, L P
4445 EASTGATE MALL, SUITE 100
SAN DIEGO, CA 92121
marcie.milner@shell.com

LINDA Y. SHERIF
CALPINE CORPORATION
3875 HOPYARD ROAD, SUITE 345
PLEASANTON, CA 94588
linda.sherif@calpine.com

JANICE G. HAMRIN
CENTER FOR RESOURCE SOLUTIONS
PO BOX 29512
SAN FRANCISCO, CA 94129
jhamrin@resource-solutions.org

BILL GOLOVE
CHEVRON ENERGY SOLUTIONS
345 CALIFORNIA STREET, 18TH
FLOOR
SAN FRANCISCO, CA 94104
whaolove@chevron.com

NEAL DE SNOO
CITY OF BERKELEY
2180 MILVIA AVENUE
BERKELEY, CA 94704
ndesnoo@ci.berkeley.ca.us

SUSAN MUNVES
CITY OF SANTA MONICA
1212 5TH STREET, FIRST FLOOR
SANTA MONICA, CA 90401
susan.munves@smgov.net

L. JAN REID
COAST ECONOMIC CONSULTING
3185 GROSS ROAD
SANTA CRUZ, CA 95062
janreid@coastecon.com

TAMLYN M. HUNT
COMMUNITY ENVIRONMENTAL
COUNCIL
26 W. ANAPAMU ST., 2ND FLOOR
SANTA BARBARA, CA 93101
thunt@cecmail.org

CYNTHIA A. FONNER
CONSTELLATION ENERGY GROUP
INC
500 WEST WASHINGTON ST, STE 300
CHICAGO, IL 60661
Cynthia.A.Fonner@constellation.com

CLYDE MURLEY
CONSULTANT TO NRDC
1031 ORDWAY STREET
ALBANY, CA 94706
clyde.murley@comcast.net

JAMES MCMAHON
CRA INTERNATIONAL
50 CHURCH ST.
CAMBRIDGE, MA 02138
jmcmahon@crai.com

R. THOMAS BEACH
CROSSBORDER ENERGY
2560 NINTH STREET, SUITE 213A
BERKELEY, CA 94710-2557
tomb@crossborderenergy.com

JUDY PAU
DAVIS WRIGHT TREMAINE LLP
505 MONTGOMERY STREET, SUITE
800
SAN FRANCISCO, CA 94111-6533
iudvpau@dwt.com

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

WILLIAM F. DIETRICH
DIETRICH CONSULTING
2977 YGNACIO VALLEY ROAD, NO. 613
WALNUT CREEK, CA 94598-3535
dietrichlaw2@earthlink.net

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

AUDRA HARTMANN
DYNEGY INC.
980 NINTH STREET, SUITE 2130
SACRAMENTO, CA 95814
Audra.Hartmann@Dynegy.com

AIMEE BARNES
ECOSECURITIES
206 W. BONITA AVENUE
CLAREMONT, CA 91711
aimee.barnes@ecosecurities.com

ANDREW B. BROWN
ELLISON SCHNEIDER & HARRIS, LLP
2015 H STREET
SACRAMENTO, CA 95811
abb@eslawfirm.com

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

SNULLER PRICE
ENERGY AND ENVIRONMENTAL
ECONOMICS
101 MONTGOMERY, SUITE 1600
SAN FRANCISCO, CA 94104
snuller@ethree.com

DOUG DAVIE
DAVIE CONSULTING, LLC
3390 BEATTY DRIVE
EL DORADO HILLS, CA 95762
dougdpucmail@yahoo.com

JEFFREY P. GRAY
DAVIS WRIGHT TREMAINE, LLP
505 MONTGOMERY STREET, SUITE
800
SAN FRANCISCO, CA 94111-6533
ieffarav@dwt.com

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

RONALD M. CERNIGLIA
DIRECT ENERGY SERVICES, LLC
40 COLUMBINE DRIVE
GLENMONT, NY 12077-2966
ron.cerniglia@directenergy.com

DONALD C. LIDDELL
DOUGLASS & LIDDELL
2928 2ND AVENUE
SAN DIEGO, CA 92103
liddell@energyattorney.com

JOSEPH PAUL
DYNEGY, INC.
4140 DUBLIN BLVD., STE. 100
DUBLIN, CA 94568
joe.paul@dynegy.com

MARK E. IRWIN
EDISON MISSION ENERGY
18101 VON KARMAN AVE. STE 1700
IRVINE, CA 92612
mirwin@edisonmission.com

JEFFREY HARRIS
ELLISON & SCHNEIDER
2015 H STREET
SACRAMENTO, CA 95811
jdh@eslawfirm.com

LYNN M. HAUG
ELLISON, SCHNEIDER & HARRIS, LLP
2015 H STREET
SACRAMENTO, CA 95814-3109
lmh@eslawfirm.com

STEVE CHADIMA
ENERGY INNOVATIONS, INC.
130 WEST UNION STREET
PASADENA, CA 91103
steve@energyinnovations.com

ROBERT B. GEX
DAVIS WRIGHT TREMAINE LLP
505 MONTGOMERY STREET, SUITE
800
SAN FRANCISCO, CA 94111-6533
bobaex@dwt.com

BALWANT S. PUREWAL
DEPARTMENT OF WATER
RESOURCES
3310 EL CAMINO AVE., LL-90
SACRAMENTO, CA 95821
bpurewal@water.ca.gov

MARK L. PERLIS
DICKSTEIN SHAPIRO LLP
1825 EYE STREET, NW
WASHINGTON, DC 20006
perlism@dicksteinshapiro.com

DANIEL W. DOUGLASS
DOUGLASS & LIDDELL
21700 OXNARD STREET, SUITE 1030
WOODLAND HILLS, CA 91367
douglass@energyattorney.com

DAN L. CARROLL
DOWNEY BRAND LLP
555 CAPITOL MALL, 10TH FLOOR
SACRAMENTO, CA 95814
dcarroll@downeybrand.com

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

ROY D. MCCOY
ELECTRIC RELIABILITY COUNCIL OF
TEXAS
2705 W. LAKE DRIVE
TAYLOR, TX 76574
rmccov@ercot.com

GREGGORY L. WHEATLAND
ELLISON SCHNEIDER & HARRIS L.L.P.
2015 H STREET
SACRAMENTO, CA 95811-3109
glw@eslawfirm.com

DOUGLAS K. KERNER
ELLISON, SCHNEIDER & HARRIS, LLP
2015 H STREET
SACRAMENTO, CA 95814
dkk@eslawfirm.com

CAROLYN KEHREIN
ENERGY MANAGEMENT SERVICES
2602 CELEBRATION WAY
WOODLAND, CA 95776
cmkehrein@ems-ca.com

KEVIN J. SIMONSEN
ENERGY MANAGEMENT SERVICES
646 EAST THIRD AVENUE
DURANGO, CO 81301
kjsimonsen@ems-ca.com

KEVIN PORTER
EXETER ASSOCIATES, INC.
5565 STERRETT PLACE
COLUMBIA, MD 21044
porter@exeterassociates.com

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

GARSON KNAPP
FPL ENERGY, LLC
770 UNIVERSE BLVD.
JUNO BEACH, FL 33408
garson_knapp@fpl.com

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

JOSEPH F. WIEDMAN
GOODIN MACBRIDE SQUERI DAY &
LAMPREY LLP
505 SANSOME STREET, SUITE 900
SAN FRANCISCO, CA 94111
iwiedman@goodinmacbride.com

GREGORY MORRIS
GREEN POWER INSTITUTE
2039 SHATTUCK AVE., SUITE 402
BERKELEY, CA 94704
gmorris@emf.net

MARY ANNE SULLIVAN
HAGAN & HARTSON, LLP
555 THIRTEENTH STREET, NW
WASHINGTON, DC 20006
MASullivan@hhlaw.com

BRENDA LEMAY
HORIZON WIND ENERGY
1600 SHATTUCK, SUITE 222
BERKELEY, CA 94709
brenda.lemay@horizonwind.com

PETER BREHM
INFINIA CORPORATION
6811 OKANOGAN PLACE
KENNEWICK, WA 99336
pbrehm@infiniacorp.com

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

SAEED FARROKHPAY
FEDERAL ENERGY REGULATORY
COMMISSION
110 BLUE RAVINE RD., SUITE 107
FOLSOM, CA 95630
saeed.farrokhpay@ferc.gov

JANINE L. SCANCARELLI
FOLGER, LEVIN & KAHN, LLP
275 BATTERY STREET, 23RD FLOOR
SAN FRANCISCO, CA 94111
jscancarelli@flk.com

STANDISH O'GRADY
FRIENDS OF KIRKWOOD
ASSOCIATION
31 PARKER AVENUE
SAN FRANCISCO, CA 94118
sho@oogradv.us

RONALD MOORE
GOLDEN STATE WATER/BEAR VALLEY
ELECTRIC
630 EAST FOOTHILL BOULEVARD
SAN DIMAS, CA 91773
rkmoore@aswater.com

BRIAN CRAGG
GOODIN, MAC BRIDE, SQUERI, DAY &
LAMPREY
505 SANSOME STREET, SUITE 900
SAN FRANCISCO, CA 94111
bcraaa@goodinmacbride.com

CRAIG LEWIS
GREENVOLTS
50 FIRST STREET, SUITE 507
SAN FRANCISCO, CA 94105
craig.lewis@greenvolts.com

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

DONALD N. FURMAN
IBERDROLA RENEWABLES INC
1125 NW COUCH STREET, SUITE 700
PORTLAND, OR 97209

MICHAEL J. GILMORE
INLAND ENERGY
3501 JAMBOREE RD
NEWPORT BEACH, CA 92660
michaelgilmore@inlandenergy.com

BILL MASON
ENXCO, INC.
PO BOX 581043
N. PALM SPRINGS, CA 92258
billm@enxco.com

SAMARA MINDEL
FELLON-MCCORD & ASSOCIATES
9960 CORPORATE CAMPUS DRIVE,
SUITE 2000
LOUISVILLE, KY 40223
smindel@knowledaeinenergy.com

DIANE I. FELLMAN
FPL ENERGY, LLC
234 VAN NESS AVENUE
SAN FRANCISCO, CA 94102
diane_fellman@fpl.com

RICH LAUCKHART
GLOBAL ENERGY
2379 GATEWAY OAKS DR.
SACRAMENTO, CA 95833
rlauckhart@globalenergy.com

MICHAEL B. DAY
GOODIN MACBRIDE SQUERI DAY &
LAMPREY LLP
505 SANSOME STREET, SUITE 900
SAN FRANCISCO, CA 94111
mdav@goodinmacbride.com

JAMES D. SQUERI
GOODIN, MACBRIDE, SQUERI, DAY &
LAMPREY
505 SANSOME STREET, SUITE 900
SAN FRANCISCO, CA 94111
isqueri@goodinmacbride.com

DIARMUID MCGARRY
GREENWOOD ENVIRONMENTAL
330 TOWNSEND ST. SUITE 118
SAN FRANCISCO, CA 94107
diarmuid@greenwoodenv.com

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

STEVEN KELLY
INDEPENDENT ENERGY PRODUCERS
1215 K STREET, SUITE 900
SACRAMENTO, CA 95814
steven@iepa.com

ALEX KANG
ITRON, INC.
1111 BROADWAY, STE. 1800
OAKLAND, CA 94607
alex.kang@itron.com

JODY S. LONDON
JODY LONDON CONSULTING
PO BOX 3629
OAKLAND, CA 94609
jody_london_consulting@earthlink.net

WILLIAM H. BOOTH
LAW OFFICE OF WILLIAM H. BOOTH
67 CARR DRIVE
MORAGA, CA 94596
wbooth@booth-law.com

JANE H. TURNBULL
LEAGUE OF WOMEN VOTERS OF
CALIFORNIA
64 LOS ALTOS SQUARE
LOS ALTOS, CA 94022
jturnbu@ix.netcom.com

PAUL FENN
LOCAL POWER
4281 PIEDMONT AVE.
OAKLAND, CA 94611
paulfenn@local.org

CYNTHIA WOOTEN
LUMENX CONSULTING, INC.
1126 DELAWARE STREET
BERKELEY, CA 94702
cwooten@lumenxconsulting.com

RANDALL W. KEEN
MANATT PHELPS & PHILLIPS, LLP
11355 WEST OLYMPIC BLVD.
LOS ANGELES, CA 90064
rkeen@manatt.com

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

JOY A. WARREN
MODESTO IRRIGATION DISTRICT
1231 11TH STREET
MODESTO, CA 95354
joyw@mid.org

PETER W. HANSCHEN
MORRISON & FOERSTER, LLP
101 YGNACIO VALLEY ROAD, SUITE
450
WALNUT CREEK, CA 94596
phansch@mofo.com

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

NELLIE TONG
KEMA, INC.
492 NINTH STREET, SUITE 220
OAKLAND, CA 94607
nellie.tong@us.kema.com

JEREMY D. WEINSTEIN
LAW OFFICES OF JEREMY D.
WEINSTEIN
1512 BONANZA STREET
WALNUT CREEK, CA 94596
jeremv.weinstein@pacificorp.com

LYNN M. ALEXANDER
LMA CONSULTING
129 REDWOOD AVENUE
CORTE MADERA, CA 94925
lynn@lmaconsulting.com

ELIZABETH DOUGLASS
LOS ANGELES TIMES
202 WEST FIRST STREET
LOS ANGELES, CA 90012
elizabeth.douglass@latimes.com

RICHARD MCCANN
M.CUBED
2655 PORTAGE BAY ROAD, SUITE 3
DAVIS, CA 95616
rmccann@umich.edu

DAVID L. HUARD
MANATT, PHELPS & PHILLIPS, LLP
11355 WEST OLYMPIC BOULEVARD
LOS ANGELES, CA 90064
dhuard@manatt.com

THOMAS S KIMBALL
MODESTO IRRIGATION DISTRICT
1231 11TH STREET
MODESTO, CA 95352-4060
tomk@mid.org

SEAN HAZLETT
MORGAN STANLEY
555 CALIFORNIA ST., SUITE 2200,
21ST FL
SAN FRANCISCO, CA 94104
sean.hazlett@morganstanlev.com

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

BRAD BAUER
MP2CAPITAL
1101 FIFTH AVENUE, SUITE 360
SAN RAFAEL, CA 94901
brad@mp2capital.com

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

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

PATRICK STONER
LOCAL GOVERNMENT COMMISSION
1303 J STREET, SUITE 250
SACRAMENTO, CA 95814
pstoner@lgc.org

JOHN W. LESLIE
LUCE, FORWARD, HAMILTON &
SCRIPPS, LLP
11988 EL CAMINO REAL, SUITE 200
SAN DIEGO, CA 92130-2592
ileslie@luce.com

JACK MCNAMARA
MACK ENERGY COMPANY
PO BOX 1380
AGOURA HILLS, CA 91376-1380
jackmack@suesec.com

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

DAVID OLIVARES
MODESTO IRRIGATION DISTRICT
PO BOX 4060
MODESTO, CA 95352
davido@mid.org

NICK ALLEN
MORGAN STANLEY RESEARCH
555 CALIFORNIA STREET STE 2200
21ST FLR
SAN FRANCISCO, CA 94104
Nick.Allen@morganstanlev.com

JOHN DUTCHER
MOUNTAIN UTILITIES
3210 CORTE VALENCIA
FAIRFIELD, CA 94534-7875
ralf1241a@cs.com

MICHAEL LAINE
MP2CAPITAL
1101 5TH AVENUE, STE. 360
SASN RAFAEL, CA 94901
michael@mp2capital.com

MRW & ASSOCIATES, INC.
1814 FRANKLIN STREET, SUITE 720
OAKLAND, CA 94612
mrw@mrwassoc.com

DAVID OLIVER
NAVIGANT CONSULTING
3100 ZINFANDEL DRIVE, SUITE 600
RANCHO CORDOVA, CA 95670
david.oliver@navigantconsulting.com

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

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

PAUL D. MAXWELL
NAVIGANT CONSULTING, INC.
3100 ZINFANDEL DRIVE, SUITE 600
RANCHO CORDOVA, CA 95670-6078
pmaxwell@navigantconsulting.com

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

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

KENNETH SWAIN
NAVIGANT CONSULTING, INC.
3100 ZINFANDEL DR., SUITE 600
RANCHO CORDOVA, CA 95670
kenneth.swain@navigantconsulting.com

FRED WELLINGTON
NAVIGANT CONSULTING, INC.
1 MARKET ST., SPEAR ST. TOWER,
STE 1200
SAN FRANCISCO, CA 94105
fred.wellington@navigantconsulting.com

ROBERT NICHOLS
NEW WEST ENERGY
PO BOX 61868 MAILING STATION ISB
665
PHOENIX, AZ 85082-1868
rsnichol@srpnet.com

JAMES B. WOODRUFF
NEXTLIGHT RENEWABLE POWER, LLC
101 CALIFORNIA STREET, STE 2450
SAN FRANCISCO, CA 94111
jwoodruff@nextlighttrp.com

KERRY HATTEVIK
NRG ENERGY
829 ARLINGTON BLVD.
EL CERRITO, CA 94530
kerry.hattevik@nrgenergy.com

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

OCCIDENTAL POWER SERVICES, INC.
5 GREENWAY PLAZA, SUITE 110
HOUSTON, TX 77046
ej_wright@oxy.com

ANN MOORE
OFFICE OF THE CITY ATTORNEY
276 FOURTH AVENUE
CHULA VISTA, CA 91910
amoore@ci.chula-vista.ca.us

VALERIE WINN
PACIFIC GAS & ELECTRIC
77 BEALE STREET, B9A
SAN FRANCISCO, CA 94105
vjw3@pge.com

EVELYN C. LEE
PACIFIC GAS AND ELECTRIC
COMPANY
PO BOX 7442
SAN FRANCISCO, CA 94120
ECL8@pae.com

BIANCA BOWMAN
PACIFIC GAS AND ELECTRIC
COMPANY
77 BEALE STREET, MAIL CODE B9A
SAN FRANCISCO, CA 94105
brbc@pae.com

CASE COORDINATION
PACIFIC GAS AND ELECTRIC
COMPANY
PO BOX 770000; MC B9A
SAN FRANCISCO, CA 94177
rearelcpuccases@pae.com

LAW DEPARTMENT FILE ROOM
PACIFIC GAS AND ELECTRIC
COMPANY
PO BOX 7442
SAN FRANCISCO, CA 94120-7442
cpuccases@pae.com

MATHEW A. FOGELSON
PACIFIC GAS AND ELECTRIC
COMPANY
PO BOX 7442, MC B30A-2487
SAN FRANCISCO, CA 94120-7442
MAFv@pae.com

SHAUN HALVERSON
PACIFIC GAS AND ELECTRIC
COMPANY
PO BOX 770000
SAN FRANCISCO, CA 94177
SEHC@pae.com

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

NIELS KJELLUND
PACIFIC GAS AND ELECTRIC
COMPANY
77 BEALE STREET, MAIL CODE B9A
SAN FRANCISCO, CA 94105-1814
nxk2@pae.com

EDWARD V. KURZ
PACIFIC GAS AND ELECTRIC
COMPANY
77 BEALE ST., B30A
SAN FRANCISCO, CA 94105
evk1@pae.com

STEPHANIE LA SHAWN
PACIFIC GAS AND ELECTRIC
COMPANY
PO BOX 770000, MAIL CODE B9A
SAN FRANCISCO, CA 94177
S1L7@pae.com

GRACE LIVINGSTON-NUNLEY
PACIFIC GAS AND ELECTRIC
COMPANY
PO BOX 770000 MAIL CODE B9A
SAN FRANCISCO, CA 94177
GXL2@pae.com

ED LUCHA
PACIFIC GAS AND ELECTRIC
COMPANY
PO BOX 770000, MAIL CODE B9A
SAN FRANCISCO, CA 94177
ELL5@pae.com

WILLIAM V. MANHEIM
PACIFIC GAS AND ELECTRIC
COMPANY
77 BEALE STREET, ROOM 3025-B30A
SAN FRANCISCO, CA 94105
wvm3@pae.com

CORY M. MASON
PACIFIC GAS AND ELECTRIC
COMPANY
77 BEALE STREET, MC B30A
SAN FRANCISCO, CA 94105-1814
cmmw@pae.com

CHARLES MIDDLEKAUFF
PACIFIC GAS AND ELECTRIC
COMPANY
PO BOX 7442
SAN FRANCISCO, CA 94120
crmd@pge.com

KYLE L. DAVIS
PACIFICORP
825 NE MULTNOMAH ST., 20TH FLOOR
PORTLAND, OR 97232
kyle.l.davis@pacificorp.com

MAGGIE CHAN
PG&E
PO BOX 770000
SAN FRANCISCO, CA 94177
MMCL@pge.com

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

PRAXAIR PLAINFIELD, INC.
2711 CENTERVILLE ROAD, SUITE 400
WILMINGTON, DE 19808
rick_noger@praxair.com

TOM HAMILTON
QUALITY BUILT
15330 AVENUE OF SCIENCE
SAN DIEGO, CA 92128
thamilton@qualitybuilt.com

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

DANIEL V. GULINO
RIDGEWOOD POWER MANAGEMENT,
LLC
947 LINWOOD AVENUE
RIDGEWOOD, NJ 07450
dgulino@ridgewoodpower.com

ROB ROTH
SACRAMENTO MUNICIPAL UTILITY
DISTRICT
6201 S STREET MS 75
SACRAMENTO, CA 95817
rroth@smud.org

CENTRAL FILES
SAN DIEGO GAS & ELECTRIC
8330 CENTURY PARK COURT, CP31E
SAN DIEGO, CA 92123
centralfiles@semprautilities.com

DAVID SAUL
PACIFIC SOLAR & POWER
CORPORATION
2850 W. HORIZON RIDGE PKWY,
SUITE 200
HENDERSON, NV 89052

RYAN FLYNN
PACIFICORP
825 NE MULTNOMAH, SUITE 1800
PORTLAND, OR 97232
ryan.flynn@pacificorp.com

PILOT POWER GROUP, INC.
8910 UNIVERSITY CENTER LANE, STE
520
SAN DIEGO, CA 92122
tdarton@pilotpowergroup.com

LISA WEINZIMER
PLATTS MCGRAW-HILL
695 NINTH AVENUE, NO. 2
SAN FRANCISCO, CA 94118
lisa_weinzimer@platts.com

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

ERIC LARSEN
RCM INTERNATIONAL, L.L.C.
PO BOX 4716
BERKELEY, CA 94704
elarsen@rcmdigesters.com

JASON ABIECUNAS
RENEWABLE ENERGY CONSULTANT
11401 LAMAR
OVERLAND PARK, KS 66211
abiecunasjp@bv.com

WILLIAM P. SHORT
RIDGEWOOD POWER MANAGEMENT,
LLC
947 LINWOOD AVENUE
RIDGEWOOD, NJ 07450
bshort@ridgewoodpower.com

WILLIAM W. WESTERFIELD III
SACRAMENTO MUNICIPAL UTILITY
DISTRICT
6201 S STREET
SACRAMENTO, CA 95817
wwester@smud.org

JENNIFER WRIGHT
SAN DIEGO GAS & ELECTRIC CO.
8330 CENTURY PARK, CT
SAN DIEGO, CA 92123
jwright@semprautilities.com

CATHIE ALLEN
PACIFICORP
825 NE MULTNOMAH STREET, SUITE
2000
PORTLAND, OR 97232
californiadockets@pacificorp.com

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

THOMAS DARTON
PILOT POWER GROUP, INC.
8910 UNIVERSITY CENTER LANE, STE
520
SAN DIEGO, CA 92122
tdarton@pilotpowergroup.com

THOMAS ELGIE
POWEREX CORPORATION
1400, 666 BURRAND ST
VANCOUVER, BC V6C 2X8
Tom.Elgie@powerex.com

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

DONALD SCHOENBECK
RCS, INC.
900 WASHINGTON STREET, SUITE 780
VANCOUVER, WA 98660
dws@r-c-s-inc.com

LENNY HOCHSCHILD
RENEWABLE ENERGY MARKETS
425 MARKET STREET, SUITE 2200
SAN FRANCISCO, CA 94105
lennyh@evomarkets.com

MICHAEL DEANGELIS
SACRAMENTO MUNICIPAL UTILITY
DISTRICT
6201 S STREET
SACRAMENTO, CA 95817-1899
mdeanae@smud.org

VIKKI WOOD
SACRAMENTO MUNICIPAL UTILITY
DISTRICT
6301 S STREET, MS A204
SACRAMENTO, CA 95817-1899
vwood@smud.org

BILLY BLATTNER
SAN DIEGO GAS & ELECTRIC
COMPANY
601 VAN NESS AVENUE, SUITE 2060
SAN FRANCISCO, CA 94102
wblattner@semprautilities.com

KIM F. HASSAN
SAN DIEGO GAS & ELECTRIC
COMPANY
101 ASH STREET, HQ-12
SAN DIEGO, CA 92101
khassan@sempra.com

MICHAEL A. HYAMS
SAN FRANCISCO PUBLIC UTILITIES
COMM
1155 MARKET ST., 4TH FLOOR
SAN FRANCISCO, CA 94103
mhvams@sfgwater.org

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

LINDA WRAZEN
SEMPRA ENERGY REGULATORY
AFFAIRS
101 ASH STREET, HQ16C
SAN DIEGO, CA 92101
lwrazen@sempraenergy.com

DANIEL M. HECHT
SEMPRA ENERGY TRADING CORP.
58 COMMERCE ROAD
STANFORD, CT 06902
dhecht@sempratrading.com

ELENA MELLO
SIERRA PACIFIC POWER COMPANY
6100 NEIL RD.
RENO, NV 89511
emello@sppc.com

KEVIN DAVIES
SOLAR DEVELOPMENT INC.
5420 DOUGLAS BLVD. STE F
GRANITE BAY, CA 95746-6253
kevin@solardevelop.com

FRANK W. HARRIS
SOUTHERN CALIFORNIA EDISON
2244 WALNUT GROVE
ROSEMEAD, CA 91770
frank.w.harris@sce.com

CATHY A. KARLSTAD
SOUTHERN CALIFORNIA EDISON
COMPANY
2244 WALNUT GROVE AVE.
ROSEMEAD, CA 91770
cathv.karlstad@sce.com

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

DESPINA NIEHAUS
SAN DIEGO GAS AND ELECTRIC
COMPANY
8330 CENTURY PARK COURT, CP32H
SAN DIEGO, CA 92123-1530
dniehaus@semprautilities.com

DAVID ORTH
SAN JOAQUIN VALLEY POWER
AUTHORITY
4886 EAST JENSEN AVENUE
FRESNO, CA 93725
dorth@krcd.org

AIMEE M. SMITH
SEMPRA ENERGY
101 ASH STREET HQ13
SAN DIEGO, CA 92101
amsmith@sempra.com

SEMPRA ENERGY SOLUTIONS
101 ASH STREET, HQ09
SAN DIEGO, CA 92101-3017
email@semprasolutions.com

THEODORE ROBERTS
SEMPRA GLOBAL
101 ASH STREET, HQ 12B
SAN DIEGO, CA 92101-3017
troberts@sempra.com

MARCO LEMES
SMUD
6201 S STREET MS B257
SACRAMENTO, CA 95817-1899
mlemes@smud.org

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

WILLIAM V. WALSH
SOUTHERN CALIFORNIA EDISON
2244 WALNUT GROVE AVE.
ROSEMEAD, CA 91770
william.v.walsh@sce.com

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

JANICE LIN
STRATEGEN CONSULTING LLC
146 VICENTE ROAD
BERKELEY, CA 94705
janice@strategenconsulting.com

THERESA L. MUELLER
SAN FRANCISCO CITY ATTORNEY
CITY HALL, ROOM 234
SAN FRANCISCO, CA 94102-4682
theresa.mueller@sfgov.org

YVONNE GROSS
SEMPRA ENERGY
101 ASH STREET, HQ08C
SAN DIEGO, CA 92101
ygross@sempraglobal.com

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

GREG BASS
SEMPRA ENERGY SOLUTIONS
401 WEST BROADWAY, STE 500
SAN DIEGO, CA 92101-3017
gbass@semprasolutions.com

TREVOR DILLARD
SIERRA PACIFIC POWER COMPANY
6100 NEIL ROAD, MS S4A50
RENO, NV 89520-0024
tdillard@sppc.com

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

GARY L. ALLEN
SOUTHERN CALIFORNIA EDISON
2244 WALNUT GROVE AVENUE
ROSEMEAD, CA 91770
gary.allen@sce.com

CASE ADMINISTRATION
SOUTHERN CALIFORNIA EDISON
COMPANY
2244 WALNUT GROVE AVENUE
ROSEMEAD, CA 91770
case.admin@sce.com

RASHA PRINCE
SOUTHERN CALIFORNIA GAS
COMPANY
555 WEST 5TH STREET, GT14D6
LOS ANGELES, CA 90013
rprince@semprautilities.com

JENNIFER CHAMBERLIN
STRATEGIC ENERGY, LLC
2633 WELLINGTON CT.
CLYDE, CA 94520
jchamberlin@strategicenergy.com

STRATEGIC ENERGY, LTD.
7220 AVENIDA ENCINAS, SUITE 120
CARLSBAD, CA 92009
customerrelations@sel.com

JP ROSS
SUNGEVITY
1625 SHATTUCK AVE., STE 210
BERKELEY, CA 94709
jpross@sungevity.com

JOE GRECO
TERRA-GEN POWER LLC
9590 PROTOTYPE COURT, SUITE 200
RENO, NV 89521
jgreco@terra-genpower.com

NINA SUETAKE
THE UTILITY REFORM NETWORK
711 VAN NESS AVE., STE. 350
SAN FRANCISCO, CA 94102
nsuetake@turn.org

ASHLEE M. BONDS
THELEN REID BROWN
RAYSMAN&STEINER LLP
101 SECOND STREET
SAN FRANCISCO, CA 94105
abonds@thelen.com

MICHAEL SHAMES
UTILITY CONSUMERS' ACTION
NETWORK
3100 FIFTH AVENUE, SUITE B
SAN DIEGO, CA 92103
mshames@ucan.org

SHERIDAN J. PAUKER
WILSON SONSINI GOODRICH &
ROSATI
ONE MARKET ST
SAN FRANCISCO, CA 94105
spauker@wsqr.com

DAN PERKINS
WWW.ENERGYSMARTHOMES.NET
983 PHILLIPS ST.
VISTA, CA 92083
dan@energysmarthomes.net

ELIZABETH BAKER
SUMMIT BLUE CONSULTING
1722 14TH STREET, SUITE 230
BOULDER, CO 80304
bbaker@summitblue.com

ED SMELOFF
SUNPOWER CORPORATION
1414 HARBOUR WAY SOUTH
RICHMOND, CA 94804
ed.smeloff@sunpowercorp.com

ROBERT FINKELSTEIN
THE UTILITY REFORM NETWORK
711 VAN NESS AVE., SUITE 350
SAN FRANCISCO, CA 94102
bfinkelstein@turn.org

MICHEL P. FLORIO
THE UTILITY REFORM NETWORK
(TURN)
711 VAN NESS AVENUE, SUITE.350
SAN FRANCISCO, CA 94102
mflorio@turn.org

CLIFF CHEN
UNION OF CONCERNED SCIENTISTS
2397 SHATTUCK AVENUE, STE 203
BERKELEY, CA 94708
cchen@ucsusa.org

ANDREW J. VAN HORN
VAN HORN CONSULTING
12 LIND COURT
ORINDA, CA 94563
andy.vanhorn@vhcenergy.com

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

PATRICIA THOMPSON
SUMMIT BLUE CONSULTING
2920 CAMINO DIABLO, SUITE 210
WALNUT CREEK, CA 94597
pthompson@summitblue.com

KEITH MCCREA
SUTHERLAND, ASBILL & BRENNAN
1275 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20004-2415
keith.mccrea@sablaw.com

MARCEL HAWIGER
THE UTILITY REFORM NETWORK
711 VAN NESS AVENUE, SUITE 350
SAN FRANCISCO, CA 94102
marcel@turn.org

PETER V. ALLEN
THELEN REID BROWN RAYSMAN &
STEINER
101 SECOND STREET, SUITE 1800
SAN FRANCISCO, CA 94105-3606
pvallen@thelen.com

SCOTT J. ANDERS
UNIVERSITY OF SAN DIEGO SCHOOL
OF LAW
5998 ALCALA PARK
SAN DIEGO, CA 92110
scottanders@sandiego.edu

CHRISTOPHER O'BRIEN
VP STRATEGY AND GOVERNMENT
RELATIONS
3808 ALTON PLACE NW
WASHINGTON, DC 20016
obrienc@sharpsec.com

JOSEPH M. KARP
WINSTON & STRAWN LLP
101 CALIFORNIA STREET, 39TH
FLOOR
SAN FRANCISCO, CA 94111-5894
ikarp@winston.com