

# Department of Water and Power



# the City of Los Angeles

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July 2, 2007

California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102  
Attn: Rulemaking 06-04-009

California Energy Commission Dockets Unit  
1516 Ninth Street, MS-4  
Sacramento, CA 95814-5512  
Attn: Docket No. 07-OIIP-1

To Whom It May Concern:

Regarding: CPUC Rulemaking 06-04-009 and CEC Docket No. 07-OIIP-1

Enclosed herewith are Opening Comments of the Los Angeles Department of Water and Power submitted in response to the "Joint California Public Utilities Commission and California Energy Commission Staff Proposal for an Electricity Retail Provider GHG Reporting Protocol," filed June 12, 2007. These comments were provided to all known parties to R.06-04-009 by transmitting an e-mail message with the document attached to each party named in the official service list. The comments were also submitted electronically at [docket@energy.state.ca.us](mailto:docket@energy.state.ca.us) on July 2, 2007.

If any additional attention is required concerning this matter, please contact Ms. Lorraine Paskett at (213) 367-8698 or Randy Howard at (213) 367-0381.

Sincerely,

  
Ronald F. Deaton  
General Manager

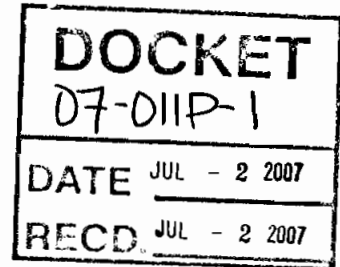
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c: Ms. Lorraine Paskett  
Mr. Randy S. Howard

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**Order Instituting Rulemaking to Implement the Commission's Procurement Incentive Framework and to Examine the Integration of Greenhouse Gas Emissions Standards into Procurement Policies.**

**In the Matter of:**

Docket 07-OIIP-01

**Ronald F. Deaton, General Manager**  
**Los Angeles Department of Water and Power**  
**111 North Hope Street, Room 1550**  
**Los Angeles, CA 90012**  
**(213) 367-1320 office phone**  
**Email: [Ron.Deaton@ladwp.com](mailto:Ron.Deaton@ladwp.com)**

**COMMENTS OF THE  
LOS ANGELES DEPARTMENT OF WATER AND POWER ON THE  
JOINT CPUC/CEC STAFF PROPOSAL FOR A GHG REPORTING PROTOCOL**

In accordance with Rule 14 of the Rules of Practice and Procedure of the Public Utilities Commission (“CPUC” or “Commission”) of the State of California, the Los Angeles Department of Water and Power (“LADWP”) hereby files these Comments on the *Joint California Public Utilities Commission and California Energy Commission Staff Proposal for an Electricity Retail Provider GHG Reporting Protocol* (“Staff Proposal”) filed June 12, 2007, in Rulemaking R.06-04-009 (“Rulemaking”) and Docket D.07-OIIP-01.

**I. INTRODUCTION**

The LADWP serves over 4 million people, and is the nation’s largest municipal utility. The LADWP is a “vertically integrated” company, both owning and operating its generation, transmission and distribution systems. The LADWP has an installed generation capacity of 7,336 MW and has a service territory that covers 469 square miles including Los Angeles and Owens Valley, with annual sales exceeding 26 million MW-hours (MWh).

The LADWP transmission system consists of High Voltage alternating current and direct current transmission corridors with a network totaling more than 3,600 miles. Of those, over 2,900 miles of transmission lines provide over 10,000 MW of import capability. The City utilizes these lines to transport power from the Pacific Northwest, Utah, Arizona, Nevada, and within California.

The LADWP is submitting these comments as an Intervenor in the CPUC Rulemaking R.06-04-009 and CEC Docket 07-OIIP-01, and as an electric retail provider

that is subject to the requirements of Assembly Bill 32, the California Global Warming Solutions Act of 2006. As requested in the Administrative Law Judge's Ruling regarding Comments on Staff Reporting Proposal, these Comments are organized along the same outline used in the Staff Proposal. The LADWP is unable at this time to comment regarding whether modifications to the Staff Proposal would be needed to support implementation of the recommendations in the Market Advisory Committee's report, in particular, the "first seller" structure. We will provide comments on that approach after the CPUC/CEC workshop on this topic that is scheduled for August 2007.

## **II. CHAPTER 2 – KEY ISSUES, DEFINITIONS, AND CRITERIA FOR THE PROTOCOL**

### **A. Subsection 2.3 - Criteria**

The LADWP supports the criteria set forth by the CPUC/CEC of 1) accuracy, 2) consistency, 3) simplicity, 4) transparency, 5) minimization of unintended consequences, 6) setting appropriate policy signals, and 7) expandability.

#### **1. Section 2.3.1 Accuracy – Better and More Accurate Data Should Be Relied Upon Where Available**

The LADWP supports the first criterion of accuracy set forth in Section 2.3.1 that "reporting protocol should be designed to produce an accurate estimate of the GHG emissions that result from the consumption of electricity in California, at the retail provider level and the statewide total...The protocol should not yield emission totals that deviate substantially from the result of in-depth analysis." The LADWP recommends that the basis for calculating emissions and emission factors for coal resources use the most accurate methodology available that also provides consistency between the 1990 emissions inventory baseline, current emissions, and future mandatory emissions

reporting. This recommendation is described in greater detail in the following Section 2.3.2.

Additionally, the LADWP recommends that the methodology for calculating emissions from jointly-owned resources be clarified in the Staff Proposal to reflect emissions based on actual generation (MWh) received by a retail provider and not based on ownership share. (Page 29). This approach would provide greater accuracy in calculating emissions and would allow co-owners to manage their individual carbon footprint more effectively by assigning emissions, or emission reductions, directly. More detailed discussion is provided below under Item IV. Chapter 7 – Recommendations for Electricity Sector Reporting Protocol.

2. **Section 2.3.2 Consistency – Reporting Methodologies for Calculating 1990 Emissions Inventory Baseline, Current Emissions Levels and Future Mandatory Reporting Must Be Consistent**

The Staff Proposal recommends that all reporting entities should use the same emission factors for the same sources of purchased electricity. The LADWP recommends that the consistency criterion extend beyond development of emission factors and include the methodology for calculating plant-specific emissions. The LADWP also supports using a consistent methodology for calculating emissions for three key emissions levels including 1) the electricity-sector 1990 emissions inventory baseline, 2) current emissions levels, and 3) future mandatory compliance reporting.

Use of inconsistent methodologies between these critical emissions levels could lead to either over-reporting or under-reporting emissions by retail providers. Such inconsistencies could lead to, on one hand, an entity being substantially penalized with additional emission reductions unreasonably required of them, or on the other hand, the

State's efforts to reduce GHG emissions being undermined by requiring too few emission reductions in relation to actual 1990 emissions levels.

For instance, the Air Resources Board is evaluating the potential for using continuous emissions monitoring systems (CEMS) in-stack data for developing the power/utility reporting protocols. CEMS has been observed to vary from fuel-based CO<sub>2</sub> calculations over the same time period for the Intermountain Generating Station (+11.6%) and Navajo Generating Station (+12.2%). LADWP suspects this variation would be observed at other coal plants as well. The LADWP is currently investigating and analyzing these differences to determine the source of this variation.

Second, for the 1990 emissions inventory baseline, emissions were calculated using a fuel-based methodology based upon fuel data from either the U.S. Department of Energy's Energy Information Administration (EIA) or the CEC. CEMS was not in existence in 1990. CEMS is being considered by the ARB as a reporting protocol methodology for mandatory reporting. This combination of fuel-based methodology for the 1990 baseline and CEMS for current and future emissions reporting sets up an immediate consistency issue, particularly in light of the observed variation described above. It is critical that the source of the variation between CEMS and fuel-based methodologies be identified and corrected.

The State must address this variation observed in coal emissions by selecting a single methodology to measure emissions limits for the 1990 baseline, current emissions, and future emissions. This would ensure a more accurate and consistent "apples-to-apples" comparison and measurement of emission reductions over time. The LADWP looks forward to working with the State to examine this issue carefully and

determine the best means to ensure consistent and accurate emissions measurements under AB 32.

3. **Section 2.3.3 Simplicity – Reporting Protocols Must Be Clearly Defined Up Front For Purposes of Demonstrating Compliance**

The LADWP supports the criterion of simplicity in that “the final reporting protocol should not impose an overly burdensome procedure on either reporting entities or the state agencies overseeing the program.” (Page 7). To this end, the LADWP recommends that reporting protocols be clear and concise, and identify up front the emissions data necessary to demonstrate compliance that would then be subject to third-party verification and certification.

The LADWP conducts up to 100 wholesale transactions per day on busy days between real-time, day-ahead, and forward transactions with an average of 24,000 transactions annually. The LADWP does not support a reporting protocol that requires submittal of supplemental information, such as contract terms or transaction-specific settlement data, for ex post evaluation purposes that extend beyond the scope of demonstrating compliance with GHG emissions caps. The use of regional emission factors would help to streamline the reporting requirements and provide clarity to staff in advance of making transactions, and minimize the administrative burden to both the retail provider and regulatory agencies.

4. **Section 2.3.4 Transparency – Use Publicly Available Data to Calculate Emission Factors**

The LADWP supports the criterion of transparency in that “any derived emission factors used for reporting should use publicly available data.” (Page 7). The LADWP does not support the reporting of any proprietary information that would put retail providers at a competitive disadvantage or create an opportunity for gaming in the

wholesale market. Power purchase and emissions data should be reported at an aggregated level, not by individual transaction. The LADWP recommends that this be clarified in Section 7.3 of the Staff Proposal.

### **III. CHAPTER 4 – CATEGORIES OF SOURCES**

#### **A. Subsection 4.1.4 – Facility-Specific Contracts Should Be Treated The Same Whether In-State or Out-Of-State**

The Staff Proposal states that “Staff believes that new claims to existing low- or zero-GHG plants should be treated with some skepticism since there is little reason to believe that an agreement between a retail provider and an existing plant will induce generation that would not have occurred anyway...Staff proposes that claims on existing sources meet certain conditions in order to mitigate the potential for contract shuffling by California retail providers.” (Page 11). During the June 21, 2007 ARB Power/Utility Technical Discussion meeting, CPUC staff reiterated the concern during the discussion on the Staff Proposal and suggested that contracting with “existing” low- or zero-GHG plants would constitute contract shuffling and would not be allowed, because it would not result in any beneficial impact to overall GHG emissions.

The Staff Proposal suggests that “One way to limit the pool of available clean resources might be to allow claims to facilities *within* the State of California, provided that the generating facility agrees to these claims. [emphasis added]” (Page 11). With 10,000 MW’s of import capacity, the LADWP recommends clean generation resources be treated the same regardless of whether they are in-state or out-of-state. The in-state and out-of-state contracts are written to require the transference of all environmental attributes and attestations are provided. For the purchase of clean resources, both



parties agree that emission attributes are assigned to the buyer and GHG emission benefits are not claimed elsewhere.

#### **IV. CHAPTER 7 – RECOMMENDATIONS FOR ELECTRICITY SECTOR REPORTING PROTOCOL**

##### **A. Subsection 7.3.2 – Emissions Should Be Reported Based On Actual MWh Received Rather Than Ownership Share**

Consistent with the criterion of accuracy as described in Section 2.3.1 of the Staff Proposal, the LADWP recommends that for jointly owned generating stations, the Staff Proposal be clarified to reflect that emissions be reported based on actual MWhs received rather than “retail provider’s share of net generation taken,” which is open to interpretation. It is more accurate to report each participant’s share of emissions based on actual MWh received/total facility net generation rather than based on ownership/entitlement share. Actual MWh received by each participant is different from the value obtained by multiplying each participant’s entitlement percentage by the total monthly or annual output of the plant for the following reasons:

- 1) Energy for each participant is scheduled 1 hour ahead based on expected plant output. Each participant can request up to their maximum entitlement share of the expected plant output for each hour. Any difference (surplus or deficit) between what the participants schedule and the actual plant output is absorbed by the operating agent.
- 2) Each participant’s account is rounded to the nearest MWh on an hourly basis. This is the primary reason for the difference between the actual MWh received compared to multiplying each participant’s entitlement percentage by the total plant monthly or annual output.

Differences in actual MWh received versus entitlement share can be more pronounced for the utility serving as operating agent, because the operating agent

absorbs any differences between actual plant output and what is scheduled by the other participants.

Therefore, it is more accurate to report each participant's share of emissions from jointly owned generating stations by calculating their percent share from actual MWh received/total facility net generation. Reporting based on straight ownership/entitlement percentage results in either under-reporting or over-reporting each participant's share of emissions compared to the energy they actually received. In addition, reporting based on actual MWh received is consistent with the methodology for reporting emissions from purchased power.

**V. CHAPTER 9 – TECHNIQUES FOR ADDRESSING THE POTENTIAL FOR CONTRACT SHUFFLING AND LEAKAGE**

The Staff Proposal states that "Contract shuffling is the practice of claiming that one resource is sent to California, while leaving the high carbon intensive power to be sold in states which do not have a tracking system or a cap that requires allowances. Contract shuffling reduces the environmental integrity of AB 32 implementation, because no actual changes in generation occur." (Page 34). The Staff Proposal attempts to address contract shuffling through specific mechanisms that are based on an overly narrow view of the GHG policies that would be applicable outside of California and eligibility requirements that conflict with other programs designed to enhance the State's overall renewable resource mix.

The LADWP requests that this issue be more appropriately evaluated beyond the confines of a Staff Proposal for electricity retail provider GHG reporting protocols, and that additional workshop(s) be scheduled to specifically address contract shuffling and

leakage at a higher policy level as opposed to a technical reporting level. This issue is critical to the effective and successful implementation of AB 32. It is also important that unintended consequences be minimized, particularly for renewables policies and impacts on low-income and minority communities.

1. **The Reporting Protocols Should Be Adopted In a Manner that Recognizes Broader Regional and National GHG Emission Reduction Policy and Long-Term 2050 Emission Reduction Horizon**

The LADWP believes that the Staff Proposal takes too narrow of an approach on GHG emission reduction policy by assuming that a GHG program will remain a California-only effort into the future. An effective GHG emission reduction policy is one that includes broad coverage and effectuates emission reductions over the long-term without penalizing any particular sector or region unnecessarily.

The criterion of “expandability” as noted in Section 2.3.7 recognizes the need to track emissions to avoid double-counting. Under a broader effort such as the Western Regional Climate Action Initiative (WRCAI), the potential for double-counting clean generation resources would be minimized. The WRCAI now includes Arizona, California, Oregon, Washington, New Mexico, Utah, British Columbia, and Manitoba.

The WRCAI Memorandum of Understanding includes the following commitments:

- 1) Setting an overall regional goal, within six months of the effective date of this initiative, to reduce emissions from our states collectively, consistent with state-by-state goals;
- 2) Developing, within eighteen months of the effective date of this agreement, a design for a regional market-based multi-sector mechanism, such as a load-based cap and trade program, to achieve the regional GHG reduction goal; and
- 3) Participating in a multi-state GHG registry to enable tracking, management, and crediting for entities that

reduce GHG emissions, consistent with state GHG reporting mechanisms and requirements.

In the U.S. Congress, there are several legislative proposals introduced and/or being developed to address GHG emissions at the national level. It is possible that a multi-sector program will be established at the national level in the near future. Given this possibility, the LADWP recommends that the mandatory reporting requirements proposed here to address contract shuffling take into account a broader coordinated effort that extends beyond California's borders and that extends beyond 2020 and recognizes that emission reductions through 2050 are necessary to reduce the impacts of global warming.

The LADWP supports the State's efforts to add additional western states to the WRCAL, such that GHG emission reductions are accounted for throughout the region and the potential for leakage and contract shuffling in the WECC is minimized. The LADWP does not support the Staff Proposal's approach to contract shuffling that would result in additional concerns as noted below.

2. **The Reporting Protocols Should Be Adopted In a Manner That Complements and Does Not Conflict with Efforts to Increase Renewable Resources Under a Renewable Portfolio Standard Program**

California has recognized the benefits and importance of providing more of its energy needs from renewable, sustainable resources, and in 2002 passed Senate Bill 1078 which implemented a Renewable Portfolio Standard (RPS) program for California Investor Owned Utilities (IOUs). In 2005, the LADWP approved its RPS framework that set a goal of increasing its supply of electricity from "eligible" renewable resources until a target portfolio level of 20 percent is reached by December 31, 2017, measured by the amount of electricity energy sales to retail customers.

The LADWP has made it a priority to shift our energy resource mix to cleaner resources and thereby reduce our carbon footprint. The LADWP accelerated its Renewable Portfolio Standard goal to 20% by 2010. On May 15, 2007, Mayor Antonio Villaraigosa released the “Green LA – An Action Plan to Lead the Nation in Fighting Global Warming” (GREEN LA Plan) that has an overall goal of reducing the City of Los Angeles’ greenhouse gas emissions by 35% below 1990 levels by 2030. The cornerstone of the GREEN LA Plan is increasing the City’s use of renewable energy to 35% by 2020.

The LADWP does not support a policy that would restrict our ability to shift our resource mix to cleaner and more sustainable low- and zero-GHG resources, regardless of whether they are 1) new or existing, or 2) in-state or out-of-state. Such restrictions would severely hinder our ability to meet both RPS and GHG goals due to the long-term financial commitments and planning required years in advance of new renewable projects coming on-line. The LADWP is investing aggressively in new renewable generation resources, and is also investing in existing renewable generation to meet near-term RPS goals. It is imperative that we continue to invest in both if we are to effectively shift our generation mix to more sustainable resources.

It does not appear that AB 32 gives the State the authority to approve or disapprove such contracts, as suggested by the Staff Proposal, “The proposed protocol attempts to deal with this possibility [contract shuffling] by imposing conditions on new claims to the generation of existing facilities.” (Page 36). However, AB 32 is intended to regulate only statewide greenhouse gas emissions, which is defined as the “...total annual emissions of greenhouse gases in the state, including all emissions of

greenhouse gases from the generation of electricity delivered to and *consumed* in California [emphasis added].” Instead, the LADWP supports the State’s efforts to work with other states to develop a WECC-wide generation information system that would allow regulators to identify power that has been sold for another purpose, and thereby minimize leakage and contract shuffling.

3. **The Reporting Protocols Should Not Arbitrarily Delineate Between New and Existing Renewable and/or Low-/Zero-GHG Generation Resources**

It is unclear how to appropriately delineate between what is considered a new resource and an existing resource, and when a new resource becomes an existing resource over time. The Staff Proposal states, “For example, claims to a specific new facility might be permitted if a long-term PPA [Power Purchase Agreement] is signed between a retail provider and a developer prior to a plant’s construction. The imposition of a pre-construction condition is to demonstrate a causal link between the retail provider and the addition of specified new capacity.” (Page 12).

This arbitrary delineation would conflict with the criterion of minimizing unintended consequences as set forth in Section 2.3.5. Under this scenario, existing low- or zero-GHG resources would be characterized as “AB 32 non-compliant resources.” Parties that already invested in renewable or low- or zero-GHG resources (i.e. “existing” resources) would not be able to take advantage of the growing demand by California for cleaner generation, because retail providers like LADWP would be disincentivized from entering into contracts for that existing clean generation, only because it would be classified as “existing” and therefore non-compliant.

4. **The Reporting Protocols Should Avoid Creating a Two-Tiered Renewables Standard**

The Staff Proposal's approach has the potential to create a two-tiered renewables standard in which one type of renewables (i.e. existing) would be acceptable for meeting compliance with RPS goals and a second type of renewables (i.e. new) would be acceptable for meeting compliance with GHG goals. Such an approach is unnecessary and impractical, and would place certain renewable energy projects at a disadvantage in the marketplace.

5. **The Reporting Protocols Should Avoid Placing California Ratepayers At An Economic Disadvantage and Impact Grid Reliability**

The approach to contract shuffling outlined in the Staff Proposal would place California at a significant economic disadvantage and impact the power grid reliability by placing restrictions on resources planning and portfolio management. Under SB 1368, the CEC and CPUC recently adopted the GHG Emissions Performance Standards for POU's and LSEs respectively. The EPS established the emissions criteria at 1,100 lbs/MWh for all new financial investments in baseload generation. The EPS effectively restricts long-term financial investments to cleaner generation resources. Placing additional restrictions on limited available clean generation in the WECC would result in California ratepayers paying significantly higher prices for limited clean generation or eliminating the limited options that are available. This is of particular concern to the LADWP that serves a large portion of low-income and minority communities that would shoulder the burden of these additional costs for compliance. Such environmental justice impacts on these communities would result in unintended consequences that must be minimized.

As more utilities accelerate the development of renewable resources, the resistance to development of the resources and the transmission lines required to transport these resources continues to increase. Without the additional renewable resources, the utility sector will not have the alternative resources available to replace the higher GHG resources and will find difficulty meeting the grid reliability requirements. LADWP does not support placing arbitrary restrictions on clean generation.

**VI. CONCLUSION**

The LADWP appreciates the opportunity to provide these opening comments to the CPUC and CEC for your consideration.

Dated: July 2, 2007

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "R. Deaton", followed by a horizontal line.

Ronald F. Deaton, General Manager  
Los Angeles Department of Water and Power  
111 North Hope Street, Room 1550  
Los Angeles, CA 90012  
(213) 367-1320 office phone  
Email: [Ron.Deaton@ladwp.com](mailto:Ron.Deaton@ladwp.com)



## **CERTIFICATE OF SERVICE**

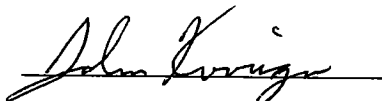
I hereby certify that I have this day served a copy of the attached:

### **COMMENTS OF THE LOS ANGELES DEPARTMENT OF WATER AND POWER ON THE JOINT CPUC/CEC STAFF PROPOSAL FOR A GHG REPORTING PROTOCOL**

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

See attached service list

Executed this 2<sup>nd</sup> day of July 2007, at Los Angeles, California.

A handwritten signature in cursive script, appearing to read "John Kerrigan", written over a horizontal line.

John Kerrigan

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

STEVEN HUHMAN  
MORGAN STANLEY CAPITAL GROUP  
2000 WESTCHESTER AVENUE  
PURCHASE, NY 10577  
steven.huhman@morganstanley.com

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

KEITH R. MCCREA  
SUTHERLAND, ASBILL & BRENNAN, LLP  
1275 PENNSYLVANIA AVE., N.W.  
WASHINGTON, DC 20004-2415  
keith.mccrea@sablaw.com

ERIN M. MURPHY  
MCDERMOTT WILL & EMERY LLP  
600 THIRTEENTH STREET, N.W.  
WASHINGTON, DC 20005  
emmurphy@mwe.com

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

LISA M. DECKER  
CONSTELLATION ENERGY GROUP, INC.  
111 MARKET PLACE, SUITE 500  
BALTIMORE, MD 21202  
lisa.decker@constellation.com

KEVIN BOUDREAUX  
CALPINE POWER AMERICA-CA, LLC  
717 TEXAS AVENUE, SUITE 1000  
HOUSTON, TX 77002  
kevin.boudreaux@calpine.com

THOMAS DILL  
LODI GAS STORAGE, L.L.C.  
1021 MAIN ST STE 1500  
HOUSTON, TX 77002-6509  
trdill@westernhubs.com

E.J. WRIGHT  
OCCIDENTAL POWER SERVICES, INC.  
5 GREENWAY PLAZA, SUITE 110  
HOUSTON, TX 77046  
ej\_wright@oxy.com

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

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

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

JOHN B. WELDON, JR.  
SALMON, LEWIS & WELDON, P.L.C.  
2850 EAST CAMELBACK ROAD, SUITE 200  
PHOENIX, AZ 85016  
jbw@slwplc.com

KELLY BARR  
SALT RIVER PROJECT  
PO BOX 52025, PAB 221  
PHOENIX, AZ 85072-2025  
kelly.barr@srpnet.com

STEVEN S. MICHEL  
WESTERN RESOURCE ADVOCATES  
2025 SENDA DE ANDRES  
SANTA FE, NM 87501  
smichel@westernresources.org

ROGER C. MONTGOMERY  
SOUTHWEST GAS CORPORATION  
PO BOX 98510  
LAS VEGAS, NV 89193-8510  
roger.montgomery@swgas.com

SID NEWSOME  
SOUTHERN CALIFORNIA GAS COMPANY  
555 WEST 5TH STREET  
LOS ANGELES, CA 90051  
snewsom@semprautilities.com

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

CURTIS L. KEBLER  
J. ARON & COMPANY  
2121 AVENUE OF THE STARS  
LOS ANGELES, CA 90067  
curtis.kebler@gs.com

DENNIS M.P. EHRLING  
KIRKPATRICK & LOCKHART NICHOLSON  
GRAHAM  
10100 SANTA MONICA BLVD., 7TH FLR  
LOS ANGELES, CA 90067  
dehling@klng.com

GREGORY KOISER  
CONSTELLATION NEW ENERGY, INC.  
350 SOUTH GRAND AVENUE, Ste. 3800  
LOS ANGELES, CA 90071  
gregory.koiser@constellation.com

NORMAN A. PEDERSEN  
HANNA AND MORTON, LLP  
444 SOUTH FLOWER STREET, NO. 1500  
LOS ANGELES, CA 90071  
npedersen@hanmor.com

MICHAEL MAZUR  
3 PHASES ENERGY SERVICES, LLC  
2100 SEPULVEDA BLVD., SUITE 38  
MANHATTAN BEACH, CA 90266  
mmazur@3phases.com

TIFFANY RAU  
CARSON HYDROGEN POWER PROJECT  
ONE WORLD TRADE CENTER, Ste 1600  
LONG BEACH, CA 90831-1600  
tiffany.rau@bp.com

GREGORY KLATT  
DOUGLASS & LIDDELL  
411 E. HUNTINGTON DR., STE. 107-356  
ARCADIA, CA 91006  
klatt@energyattorney.com

MAUREEN LENNON  
CALIFORNIA COGENERATION COUNCIL  
595 EAST COLORADO BLVD., SUITE 623  
PASADENA, CA 91101  
maureen@lennonassociates.com

RICHARD HELGESON  
SOUTHERN CALIFORNIA PUBLIC  
POWER AUTHORITY  
225 S. LAKE AVE., SUITE 1250  
PASADENA, CA 91101  
rhelgeson@scppa.org

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

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

AKBAR JAZAYEIRI  
SOUTHERN CALIFORNIA EDISON  
2244 WALNUT GROVE AVE. ROOM 390  
ROSEMEAD, CA 91770  
akbar.jazayeri@sce.com

ANNETTE GILLIAM  
SOUTHERN CALIFORNIA EDISON  
2244 WALNUT GROVE AVENUE  
ROSEMEAD, CA 91770  
annette.gilliam@sce.com

LAURA I. GENAO  
SOUTHERN CALIFORNIA EDISON  
2244 WALNUT GROVE AVENUE  
ROSEMEAD, CA 91770  
Laura.Genao@sce.com

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

DON WOOD  
PACIFIC ENERGY POLICY CENTER  
4539 LEE AVENUE  
LA MESA, CA 91941  
dwood8@cox.net

ALLEN K. TRIAL  
SDGE&SCG  
101 ASH STREET  
SAN DIEGO, CA 92101  
atrial@semptra.com

DAN HECHT  
SEMPRA ENERGY  
101 ASH STREET  
SAN DIEGO, CA 92101  
dhecht@semptratading.com

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

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

THEODORE ROBERTS  
SEMPRA GLOBAL  
101 ASH STREET, HQ 13D  
SAN DIEGO, CA 92101-3017  
troberts@semptra.com

JOSEPH R. KLOBERDANZ  
SAN DIEGO GAS & ELECTRIC  
PO BOX 1831  
SAN DIEGO, CA 92112  
jkloberdanz@semptrautilities.com

BILL LYONS  
CORAL POWER, LLC  
4445 EASTGATE MALL, SUITE 100  
SAN DIEGO, CA 92121  
Bill.Lyons@shell.com

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

STEVE RAHON  
SAN DIEGO GAS & ELECTRIC COMPANY  
8330 CENTURY PARK COURT, CP32C  
SAN DIEGO, CA 92123-1548  
lschavrien@semptrautilities.com

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

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

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

JEANNE M. SOLE  
CITY AND COUNTY OF SAN FRANCISCO  
1 DR. CARLTON B. GOODLETT PLACE,  
RM. 234  
SAN FRANCISCO, CA 94102  
jeanne.sole@sfgov.org

JOHN P. HUGHES  
SOUTHERN CALIFORNIA EDISON  
601 VAN NESS AVENUE, STE. 2040  
SAN FRANCISCO, CA 94102  
john.hughes@sce.com

LAD LORENZ  
SOUTHERN CALIFORNIA GAS COMPANY  
601 VAN NESS AVENUE, SUITE 2060  
SAN FRANCISCO, CA 94102  
llorenz@semptrautilities.com

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

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

Diana L. Lee  
CALIF PUBLIC UTILITIES COMMISSION  
505 VAN NESS AVENUE ROOM 4300  
SAN FRANCISCO, CA 94102-3214  
dil@cpuc.ca.gov

F. Jackson Stoddard  
CALIF PUBLIC UTILITIES COMMISSION  
505 VAN NESS AVENUE ROOM 5125  
SAN FRANCISCO, CA 94102-3214  
fjs@cpuc.ca.gov

AUDREY CHANG  
NATURAL RESOURCES DEFENSE  
COUNCIL  
111 SUTTER STREET, 20TH FLOOR  
SAN FRANCISCO, CA 94104  
achang@nrdc.org

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

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

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

WILLIAM H. CHEN  
CONSTELLATION NEW ENERGY, INC.  
ONE MARKET STREET  
SAN FRANCISCO, CA 94105  
bill.chen@constellation.com

BRIAN K. CHERRY  
PACIFIC GAS AND ELECTRIC COMPANY  
77 BEALE STREET, B10C  
SAN FRANCISCO, CA 94106  
bkc7@pge.com

EDWARD G POOLE  
ANDERSON DONOVAN & POOLE  
601 CALIFORNIA STREET SUITE 1300  
SAN FRANCISCO, CA 94108  
epoole@adplaw.com

JAMES D. SQUERI  
GOODIN MACBRIDE SQUERI RITCHIE &  
DAY LLP  
505 SANSOME STREET, STE 900  
SAN FRANCISCO, CA 94111  
jsqueri@gmssr.com

LISA A. COTTLE  
WINSTON & STRAWN LLP  
101 CALIFORNIA STREET, 39TH FLOOR  
SAN FRANCISCO, CA 94111  
lcottle@winston.com

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

LARS KVALE  
CENTER FOR RESOURCE SOLUTIONS  
PO BOX 39512  
SAN FRANCISCO, CA 94129  
lars@resource-solutions.org

KERRY HATTEVIK  
MIRANT CORPORATION  
696 WEST 10TH STREET  
PITTSBURG, CA 94565  
kerry.hattevik@mirant.com

J. ANDREW HOERNER  
REDEFINING PROGRESS  
1904 FRANKLIN STREET  
OAKLAND, CA 94612  
hoerner@redefiningprogress.org

GREGG MORRIS  
GREEN POWER INSTITUTE  
2039 SHATTUCK AVENUE, STE 402  
BERKELEY, CA 94704  
gmorris@emf.net

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

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

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

JEANNE B. ARMSTRONG  
GOODIN MACBRIDE SQUERI RITCHIE &  
DAY LLP  
505 SANSOME STREET, SUITE 900  
SAN FRANCISCO, CA 94111  
jarmstrong@gmssr.com

SEAN P. BEATTY  
COOPER, WHITE & COOPER, LLP  
201 CALIFORNIA ST., 17TH FLOOR  
SAN FRANCISCO, CA 94111  
sbeatty@cwclaw.com

CHRISTOPHER J. WARNER  
PACIFIC GAS AND ELECTRIC COMPANY  
77 BEALE STREET, PO BOX 7442  
SAN FRANCISCO, CA 94120-7442  
cjlw5@pge.com

ANDREA WELLER  
STRATEGIC ENERGY  
3130 D BALFOUR RD., SUITE 290  
BRENTWOOD, CA 94513  
aweller@sel.com

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

JANILL RICHARDS  
CALIFORNIA ATTORNEY GENERAL'S  
OFFICE  
1515 CLAY STREET, 20TH FLOOR  
OAKLAND, CA 94702  
janill.richards@doj.ca.gov

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

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

JOHN JENSEN  
MOUNTAIN UTILITIES  
PO BOX 205  
KIRKWOOD, CA 95646  
jjensen@kirkwood.com

BRIAN T. CRAGG  
GOODIN, MACBRIDE, SQUERI, RITCHIE  
& DAY  
505 SANSOME STREET, SUITE 900  
SAN FRANCISCO, CA 94111  
bcragg@goodinmacbride.com

KAREN BOWEN  
WINSTON & STRAWN LLP  
101 CALIFORNIA STREET  
SAN FRANCISCO, CA 94111  
kbowen@winston.com

JOSEPH M. KARP  
WINSTON & STRAWN LLP  
101 CALIFORNIA STREET  
SAN FRANCISCO, CA 94111-5802  
jkarp@winston.com

SARA STECK MYERS  
122 28TH AVENUE  
SAN FRANCISCO, CA 94121  
ssmyers@att.net

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

WILLIAM H. BOOTH  
LAW OFFICES OF WILLIAM H. BOOTH  
1500 NEWELL AVENUE, 5TH FLOOR  
WALNUT CREEK, CA 94596  
wbooth@booth-law.com

CLIFF CHEN  
UNION OF CONCERNED SCIENTIST  
2397 SHATTUCK AVENUE, STE 203  
BERKELEY, CA 94704  
cchen@ucsusa.org

BARRY F. MCCARTHY  
MCCARTHY & BERLIN, LLP  
100 PARK CENTER PLAZA, SUITE 501  
SAN JOSE, CA 95113  
bmcc@mccarthyllaw.com

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

MARY LYNCH  
CONSTELLATION ENERGY  
COMMODITIES GROUP  
2377 GOLD MEDAL WAY  
GOLD RIVER, CA 95670  
mary.lynych@constellation.com

LEONARD DEVANNA  
CLEAN ENERGY SYSTEMS, INC.  
11330 SUNCO DRIVE, SUITE A  
RANCHO CORDOVA, CA 95742  
lrdevanna-rf@cleanenergysystems.com

ANDREW BROWN  
ELLISON, SCHNEIDER & HARRIS, LLP  
2015 H STREET  
SACRAMENTO, CA 95814  
abb@eslawfirm.com

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

GREGGORY L. WHEATLAND  
ELLISON, SCHNEIDER & HARRIS, LLP  
2015 H STREET  
SACRAMENTO, CA 95814  
glw@eslawfirm.com

JANE E. LUCKHARDT  
DOWNEY BRAND LLP  
555 CAPITOL MALL, 10TH FLOOR  
SACRAMENTO, CA 95814  
jluckhardt@downeybrand.com

JEFFERY D. HARRIS  
ELLISON, SCHNEIDER & HARRIS LLP  
2015 H STREET  
SACRAMENTO, CA 95814  
jdh@eslawfirm.com

VIRGIL WELCH  
ENVIRONMENTAL DEFENSE  
1107 9TH STREET, SUITE 540  
SACRAMENTO, CA 95814  
vwelch@environmentaldefense.org

WILLIAM W. WESTERFIELD, 111  
ELLISON, SCHNEIDER & HARRIS L.L.P.  
2015 H STREET  
SACRAMENTO, CA 95814  
www@eslawfirm.com

DOWNEY BRAND  
JANE E. LUCKHARDT  
555 CAPITOL MALL, 10TH FLOOR  
SACRAMENTO, CA 95814-4686

RAYMOND J. CZAHR, C.P.A.  
WEST COAST GAS COMPANY  
9203 BEATTY DRIVE  
SACRAMENTO, CA 95826  
westgas@aol.com

STEVEN M. COHN  
SACRAMENTO MUNICIPAL UTILITY  
DISTRICT  
PO BOX 15830  
SACRAMENTO, CA 95852-1830  
scohn@smud.org

ANN L. TROWBRIDGE  
DAY CARTER & MURPHY, LLP  
3620 AMERICAN RIVER DRIVE, STE 205  
SACRAMENTO, CA 95864  
atrowbridge@daycartermurphy.com

DAN SILVERIA  
SURPRISE VALLEY ELECTRIC  
COOPERATIVE  
PO BOX 691  
ALTURAS, CA 96101  
dansvec@hdo.net

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

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

CYNTHIA SCHULTZ  
PACIFIC POWER AND LIGHT COMPANY  
825 N.E. MULTNOMAH  
PORTLAND, OR 97232  
cynthia.schultz@pacificcorp.com

KYLE L. DAVIS  
PACIFICORP  
825 NE MULTNOMAH,  
PORTLAND, OR 97232  
kyle.l.davis@pacificcorp.com

RYAN FLYNN  
PACIFICORP  
825 NE MULTNOMAH STREET  
PORTLAND, OR 97232  
ryan.flynn@pacificcorp.com

TARA KNOX  
AVISTA CORPORATION  
PO BOX 3727  
SPOKANE, WA 99220

IAN CARTER  
INTERNATIONAL EMISSIONS TRADING  
ASSN.  
350 SPARKS STREET, STE. 809  
OTTAWA, ON K1R 7S8  
carter@ieta.org

JASON DUBCHAK  
NISKA GAS STORAGE  
1200 855 2ND STREET, S.W.  
CALGARY, AB T2P 4Z5  
jason.dubchak@niskags.com

BRIAN M. JONES  
M. J. BRADLEY & ASSOCIATES, INC.  
47 JUNCTION SQUARE DRIVE  
CONCORD, MA 1742  
bjones@mjbbradley.com

KENNETH A. COLBURN  
SYMBIOTIC STRATEGIES, LLC  
26 WINTON ROAD  
MEREDITH, NH 3253  
kcolburn@symbioticstrategies.com

RICHARD COWART  
REGULATORY ASSISTANCE PROJECT  
50 STATE STREET, SUITE 3  
MONTPELIER, VT 5602  
rapcowart@aol.com

KATHRYN WIG  
NRG ENERGY, INC.  
211 CARNEGIE CENTER  
PRINCETON, NY 8540  
Kathryn.Wig@nrgenergy.com

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

GEORGE HOPLEY  
BARCLAYS CAPITAL  
200 PARK AVENUE  
NEW YORK, NY 10166  
george.hopley@barcap.com

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

ELIZABETH ZELLJADT  
1725 I STREET, N.W. SUITE 300  
WASHINGTON, DC 20006  
ez@pointcarbon.com

DALLAS BURTRAW  
1616 P STREET, NW  
WASHINGTON, DC 20036  
burtraw@rff.org

VERONIQUE BUGNION  
POINT CARBON  
205 SEVERN RIVER RD  
SEVERNA PARK, MD 21146  
vb@pointcarbon.com

GARY BARCH  
FELLON-MCCORD & ASSOCIATES, INC.  
9960 CORPORATE CAMPUS DRIVE  
LOUISVILLE, KY 40223  
gbarch@knowledgeinenergy.com

BARRY RABE  
1427 ROSS STREET  
PLYMOUTH, MI 48170  
brabe@umich.edu

JAMES W. KEATING  
BP AMERICA, INC.  
150 W. WARRENVILLE RD.  
NAPERVILLE, IL 60563  
james.keating@bp.com

GARY HINNERS  
RELIANT ENERGY, INC.  
PO BOX 148  
HOUSTON, TX 77001-0148  
ghinners@reliant.com

NADAV ENBAR  
ENERGY INSIGHTS  
1750 14TH STREET, SUITE 200  
BOULDER, CO 80302  
nenbar@energy-insights.com

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

BRIAN MCQUOWN  
RELIANT ENERGY  
7251 AMIGO ST., SUITE 120  
LAS VEGAS, NV 89119  
bmcquown@reliant.com

JJ PRUCNAL  
SOUTHWEST GAS CORPORATION  
PO BOX 98510  
LAS VEGAS, NV 89193-8510  
jj.prucnal@swgas.com

CHRISTOPHER A. HILEN  
SIERRA PACIFIC POWER COMPANY  
6100 NEIL ROAD  
RENO, NV 89511  
chilen@sppc.com

KYLE D. BOUDREAUX  
FPL GROUP  
700 UNIVERSE BLVD., JES/JB  
JUNO BEACH, FL 33408  
kyle\_boudreaux@fpl.com

RALPH E. DENNIS  
FELLON-MCCORD & ASSOCIATES  
9960 CORPORATE CAMPUS DRIVE, STE 2000  
LOUISVILLE, KY 40223  
ralph.dennis@constellation.com

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

JAMES ROSS  
RCS, INC.  
500 CHESTERFIELD CENTER, SUITE 320  
CHESTERFIELD, MO 63017  
jimross@r-c-s-inc.com

JULIE L. MARTIN  
NORTH AMERICA GAS AND POWER  
501 WESTLAKE PARK BLVD.  
HOUSTON, TX 77079  
julie.martin@bp.com

NICHOLAS LENSSEN  
ENERGY INSIGHTS  
1750 14TH STREET, SUITE 200  
BOULDER, CO 80302  
nlenssen@energy-insights.com

PHILIP D. LUSK  
WESTERN ELECTRICITY  
COORDINATING COUNCIL  
615 ARAPEEN DRIVE, SUITE 210  
SALT LAKE CITY, UT 84108-1262  
plusk@wecc.biz

DOUGLAS BROOKS  
SIERRA PACIFIC POWER COMPANY  
6226 WEST SAHARA AVENUE  
LAS VEGAS, NV 89151  
dbrooks@nevpc.com

MERIDITH J. STRAND  
SOUTHWEST GAS CORPORATION  
PO BOX 98510  
LAS VEGAS, NV 89193-8510  
meridith.strand@swgas.com

ELENA MELLO  
SIERRA PACIFIC POWER COMPANY  
6100 NEIL ROAD  
RENO, NV 89520  
emello@sppc.com

ANDREW BRADFORD  
FELLON-MCCORD & ASSOCIATES  
9960 CORPORATE CAMPUS DRIVE  
LOUISVILLE, KY 40223  
andrew.bradford@constellation.com

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

BRIAN POTTS  
ONE SOUTH PINCKNEY STREET  
MADISON, WI 53703  
bhpotts@michaelbest.com

TRENT A. CARLSON  
RELIANT ENERGY  
1000 MAIN STREET  
HOUSTON, TX 77001  
tcarlson@reliant.com

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

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

SANDRA ELY  
NEW MEXICO ENVIRONMENT  
DEPARTMENT  
1190 ST FRANCIS DRIVE  
SANTA FE, NM 87501  
Sandra.ely@state.nm.us

BILL SCHRAND  
SOUTHWEST GAS CORPORATION  
PO BOX 98510  
LAS VEGAS, NV 89193-8510  
bill.schrand@swgas.com

CYNTHIA MITCHELL  
ENERGY ECONOMICS, INC.  
530 COLGATE COURT  
RENO, NV 89503  
ckmitchell1@sbcglobal.net

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

DARRELL SOYARS  
SIERRA PACIFIC RESOURCES  
6100 NEIL ROAD  
RENO, NV 89520-0024  
dsoyars@sppc.com

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

RASHA PRINCE  
SAN DIEGO GAS & ELECTRIC  
555 WEST 5TH STREET, GT14D6  
LOS ANGELES, CA 90013  
rprince@semprautilities.com

MICHAEL MCCORMICK  
CALIFORNIA CLIMATE ACTION  
REGISTRY  
515 S. FLOWER ST. SUITE 1640  
LOS ANGELES, CA 90071  
mike@climateregistry.org

STEVEN G. LINS  
CITY OF GLENDALE  
613 EAST BROADWAY, SUITE 220  
GLENDALE, CA 91206-4394  
slins@ci.glendale.ca.us

ROGER PELOTE  
WILLIAMS POWER COMPANY  
12736 CALIFA STREET  
VALLEY VILLAGE, CA 91607  
roger.pelote@williams.com

TIM HEMIG  
NRG ENERGY, INC.  
1819 ASTON AVENUE, SUITE 105  
CARLSBAD, CA 92008  
tim.hemig@nrgenergy.com

ALDYN HOEKSTRA  
PACE GLOBAL ENERGY SERVICES  
420 WEST BROADWAY, 4TH FLOOR  
SAN DIEGO, CA 92101  
aldyn.hoekstra@paceglobal.com

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

ANDREW MCALLISTER  
CALIFORNIA CENTER FOR  
SUSTAINABLE ENERGY  
8690 BALBOA AVE., SUITE 100  
SAN DIEGO, CA 92123  
andrew.mcallister@energycenter.org

FRANK LUCHETTI  
NEVADA DIV. OF ENVIRONMENTAL  
PROTECTION  
901 S. STEWART ST., SUITE 4001  
CARSON CITY, NV 89701  
fluchetti@ndep.nv.gov

ROBERT L. PETTINATO  
LOS ANGELES DEPARTMENT OF  
WATER & POWER  
111 NORTH HOPE STREET, SUITE 1150  
LOS ANGELES, CA 90012  
robert.pettinato@ladwp.com

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

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

TOM HAMILTON  
ENERGY CONCIERGE SERVICES  
321 MESA LILA RD  
GLENDALE, CA 91208  
THAMILTON5@CHARTER.NET

CASE ADMINISTRATION  
SOUTHERN CALIFORNIA EDISON  
COMPANY  
2244 WALNUT GROVE AVE., RM. 370  
ROSEMEAD, CA 91770  
case.admin@sce.com

BARRY LOVELL  
15708 POMERADO RD., SUITE 203  
POWAY, CA 92064  
bjl@bry.com

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

KIM KIENER  
504 CATALINA BLVD.  
SAN DIEGO, CA 92106  
kмкиener@fox.net

JACK BURKE  
CALIFORNIA CENTER FOR  
SUSTAINABLE ENERGY  
8690 BALBOA AVE., SUITE 100  
SAN DIEGO, CA 92123  
jack.burke@energycenter.org

LEILANI JOHNSON KOWAL  
LOS ANGELES DEPT. OF WATER AND  
POWER  
111 N. HOPE STREET, ROOM 1050  
LOS ANGELES, CA 90012  
leilani.johnson@ladwp.com

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

S. NANCY WHANG  
MANATT, PHELPS & PHILLIPS, LLP  
11355 WEST OLYMPIC BLVD.  
LOS ANGELES, CA 90064  
nwhang@manatt.com

STEVE ENDO  
DEPARTMENT OF WATER & POWER  
150 S LOS ROBLES AVE., STE. 200  
PASADENA, CA 91101  
sendo@ci.pasadena.ca.us

BRUNO JEIDER  
BURBANK WATER & POWER  
164 WEST MAGNOLIA BLVD.  
BURBANK, CA 91502  
bjeider@ci.burbank.ca.us

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

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

YVONNE GROSS  
SEMPRA ENERGY  
101 ASH STREET  
SAN DIEGO, CA 92103  
ygross@sempraglobal.com

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

JENNIFER PORTER  
CALIFORNIA CENTER FOR  
SUSTAINABLE ENERGY  
8690 BALBOA AVENUE, SUITE 100  
SAN DIEGO, CA 92123  
jennifer.porter@energycenter.org

SEPHRA A. NINOW  
CALIFORNIA CENTER FOR  
SUSTAINABLE ENERGY  
8690 BALBOA AVENUE, SUITE 100  
SAN DIEGO, CA 92123  
sephra.ninow@energycenter.org

ELSTON K. GRUBAUGH  
IMPERIAL IRRIGATION DISTRICT  
333 EAST BARIONI BLVD.  
IMPERIAL, CA 92251  
ekgrubaugh@iid.com

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

HAYLEY GOODSON  
THE UTILITY REFORM NETWORK  
711 VAN NESS AVENUE, SUITE 350  
SAN FRANCISCO, CA 94102  
hayley@turn.org

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

ANNABELLE MALINS  
BRITISH CONSULATE-GENERAL  
ONE SANSOME STREET, SUITE 850  
SAN FRANCISCO, CA 94104  
annabelle.malins@fco.gov.uk

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

SHERYL CARTER  
NATURAL RESOURCES DEFENSE  
COUNCIL  
111 SUTTER STREET, 20TH FLOOR  
SAN FRANCISCO, CA 94104  
scarter@nrdc.org

COLIN PETHERAM  
SBC CALIFORNIA  
140 NEW MONTGOMERY ST., SUITE  
1325  
SAN FRANCISCO, CA 94105  
colin.petheram@att.com

KEVIN FOX  
WILSON SONSINI GOODRICH & ROSATI  
ONE MARKET STREET, SPEAR TOWER,  
3300  
SAN FRANCISCO, CA 94105  
kfox@wsgr.com

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

MWIRIGI IMUNGI  
15615 ALTON PARKWAY  
IRVINE, CA 92618  
Mimungi@energycoalition.org

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

MATTHEW FREEDMAN  
THE UTILITY REFORM NETWORK  
711 VAN NESS AVENUE, SUITE 350  
SAN FRANCISCO, CA 94102  
freedman@turn.org

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

DEVRA WANG  
NATURAL RESOURCES DEFENSE  
COUNCIL  
111 SUTTER STREET, 20TH FLOOR  
SAN FRANCISCO, CA 94104  
dwang@nrdc.org

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

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

DAVID R MILLER  
TETRA TECH EM INC.  
135 MAIN STREET, SUITE 1800  
SAN FRANCISCO, CA 94105  
dave.millar@ttemi.com

KHURSHID KHOJA  
THELEN REID BROWN RAYSMAN &  
STEINER  
101 SECOND STREET, SUITE 1800  
SAN FRANCISCO, CA 94105  
kkhoja@thelenreid.com

ORLANDO B. FOOTE, III  
HORTON, KNOX, CARTER & FOOTE  
895 BROADWAY, SUITE 101  
EL CENTRO, CA 92243  
ofoote@hkcf-law.com

JAN PEPPER  
CLEAN POWER MARKETS, INC.  
418 BENVENUE AVENUE  
LOS ALTOS, CA 94024  
pepper@cleanpowermarkets.com

DIANE I. FELLMAN  
LAW OFFICES OF DIANE I. FELLMAN  
234 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102  
diane\_fellman@fpl.com

MICHEL FLORIO  
711 VAN NESS AVE., STE. 350  
SAN FRANCISCO, CA 94102  
mflorio@turn.org

NORMAN J. FURUTA  
FEDERAL EXECUTIVE AGENCIES  
1455 MARKET ST., SUITE 1744  
SAN FRANCISCO, CA 94103-1399  
norman.furuta@navy.mil

ERIC WANLESS  
NATURAL RESOURCES DEFENSE  
COUNCIL  
111 SUTTER STREET, 20TH FLOOR  
SAN FRANCISCO, CA 94104  
ewanless@nrdc.org

OLOF BYSTROM  
CAMBRIDGE ENERGY RESEARCH  
ASSOCIATES  
555 CALIFORNIA STREET, 3RD FLOOR  
SAN FRANCISCO, CA 94104  
obystrom@cera.com

CARMEN E. BASKETTE  
594 HOWARD ST., SUITE 400  
SAN FRANCISCO, CA 94105  
cbaskette@enernoc.com

DEBORAH BROCKETT  
NAVIGANT CONSULTING, INC.  
ONE MARKET STREET  
SAN FRANCISCO, CA 94105  
dbrockett@navigantconsulting.com

STEPHANIE LA SHAWN  
PACIFIC GAS AND ELECTRIC COMPANY  
77 BEALE STREET, RM. 996B  
SAN FRANCISCO, CA 94105  
S1L7@pge.com



CALIFORNIA ENERGY MARKETS  
517-B POTRERO AVENUE  
SAN FRANCISCO, CA 94110  
cem@newsdata.com

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

LISA WEINZIMER  
PLATTS  
695 NINTH AVENUE, NO. 2  
SAN FRANCISCO, CA 94118  
lisa\_weinzimer@platts.com

ARNO HARRIS  
RECURRENT ENERGY, INC.  
220 HALLECK ST., SUITE 220  
SAN FRANCISCO, CA 94129  
arno@recurrentenergy.com

JASMIN ANSAR  
PG&E  
PO BOX 770000  
SAN FRANCISCO, CA 94177  
jxa2@pge.com

SOUMYA SASTRY  
PACIFIC GAS AND ELECTRIC COMPANY  
PO BOX 770000  
SAN FRANCISCO, CA 94177  
svs6@pge.com

GREG BLUE  
140 MOUNTAIN PKWY.  
CLAYTON, CA 94517  
greg.blue@sbcglobal.net

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

MONICA A. SCHWEBS, ESQ.  
BINGHAM MCCUTCHEN LLP  
1333 N. CALIFORNIA BLVD.  
WALNUT CREEK, CA 94596  
monica.schwebs@bingham.com

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

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

MARTIN A. MATTES  
NOSSAMAN, GUTHNER, KNOX &  
ELLIOTT, LLP  
50 CALIFORNIA STREET, 34TH FLOOR  
SAN FRANCISCO, CA 94111  
mmattes@nossaman.com

STEVEN MOSS  
SAN FRANCISCO COMMUNITY POWER  
COOP  
2325 3RD STREET, SUITE 344  
SAN FRANCISCO, CA 94120  
steven@moss.net

ED LUCHA  
PACIFIC GAS AND ELECTRIC COMPANY  
PO BOX 770000, MAIL CODE: B9A  
SAN FRANCISCO, CA 94177  
ell5@pge.com

JONATHAN FORRESTER  
PG&E  
PO BOX 770000  
SAN FRANCISCO, CA 94177  
JDF1@PGE.COM

VALERIE J. WINN  
PACIFIC GAS AND ELECTRIC COMPANY  
PO BOX 770000, B9A  
SAN FRANCISCO, CA 94177-0001  
vjw3@pge.com

DEAN R. TIBBS  
ADVANCED ENERGY STRATEGIES, INC.  
1390 WILLOW PASS ROAD, SUITE 610  
CONCORD, CA 94520  
dtibbs@aes4u.com

SUE KATELEY  
CALIFORNIA SOLAR ENERGY  
INDUSTRIES ASSN  
PO BOX 782  
RIO VISTA, CA 94571  
info@calseia.org

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

WILLIAM F. DIETRICH  
DIETRICH LAW  
2977 YGNACIO VALLEY ROAD, 613  
WALNUT CREEK, CA 94598-3535  
dietrichlaw2@earthlink.net

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

JEN MCGRAW  
CENTER FOR NEIGHBORHOOD  
TECHNOLOGY  
PO BOX 14322  
SAN FRANCISCO, CA 94114  
jen@cnt.org

SHAUN ELLIS  
2183 UNION STREET  
SAN FRANCISCO, CA 94123  
sellis@fypower.org

GRACE LIVINGSTON-NUNLEY  
PACIFIC GAS AND ELECTRIC COMPANY  
PO BOX 770000 MAIL CODE B9A  
SAN FRANCISCO, CA 94177  
gxl2@pge.com

SEBASTIEN CSAPO  
PACIFIC GAS AND ELECTRIC COMPANY  
PO BOX 770000  
SAN FRANCISCO, CA 94177  
sscb@pge.com

FARROKH ALBUYEH  
OPEN ACCESS TECHNOLOGY  
INTERNATIONAL INC  
1875 SOUTH GRANT STREET  
SAN MATEO, CA 94402  
farrokh.albuyeh@oati.net

JEFFREY L. HAHN  
COVANTA ENERGY CORPORATION  
876 MT. VIEW DRIVE  
LAFAYETTE, CA 94549  
jhahn@covantaenergy.com

JOSEPH M. PAUL  
DYNEGY, INC.  
2420 CAMINO RAMON, SUITE 215  
SAN RAMON, CA 94583  
Joe.paul@dynegy.com

JOSEPH HENRI  
31 MIRAMONTE ROAD  
WALNUT CREEK, CA 94597  
josephhenri@hotmail.com

BETTY SETO  
KEMA, INC.  
492 NINTH STREET, SUITE 220  
OAKLAND, CA 94607  
Betty.Seto@kema.com

GERALD L. LAHR  
ABAG POWER  
101 EIGHTH STREET  
OAKLAND, CA 94607  
JerryL@abag.ca.gov

JODY S. LONDON  
JODY LONDON CONSULTING  
PO BOX 3629  
OAKLAND, CA 94609  
jody\_london\_consulting@earthlink.net

STEVEN SCHILLER  
SCHILLER CONSULTING, INC.  
111 HILLSIDE AVENUE  
PIEDMONT, CA 94611  
steve@schiller.com

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

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

ADAM BRIONES  
THE GREENLINING INSTITUTE  
1918 UNIVERSITY AVENUE, 2ND FLOOR  
BERKELEY, CA 94704  
adamb@greenlining.org

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

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

CARLA PETERMAN  
UCEI  
2547 CHANNING WAY  
BERKELEY, CA 94720  
carla.peterman@gmail.com

EDWARD VINE  
LAWRENCE BERKELEY NATIONAL  
LABORATORY  
BUILDING 90-4000  
BERKELEY, CA 94720  
elvine@lbl.gov

RYAN WISER  
BERKELEY LAB  
ONE CYCLOTRON ROAD  
BERKELEY, CA 94720  
rhwiser@lbl.gov

CHRIS MARNAY  
1 CYCLOTRON RD MS 90R4000  
BERKELEY, CA 94720-8136  
C\_Marnay@1b1.gov

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

RITA NORTON  
RITA NORTON AND ASSOCIATES, LLC  
18700 BLYTHSWOOD DRIVE,  
LOS GATOS, CA 95030  
rita@ritanortonconsulting.com

CARL PECHMAN  
POWER ECONOMICS  
901 CENTER STREET  
SANTA CRUZ, CA 95060  
cpechman@powereconomics.com

KENNY SWAIN  
POWER ECONOMICS  
901 CENTER STREET  
SANTA CRUZ, CA 95060  
kswain@powereconomics.com

MAHLON ALDRIDGE  
ECOLOGY ACTION  
PO BOX 1188  
SANTA CRUZ, CA 95060  
emahlon@ecoact.org

RICHARD SMITH  
MODESTO IRRIGATION DISTRICT  
1231 11TH STREET  
MODESTO, CA 95352-4060  
richards@mid.org

CHRISTOPHER J. MAYER  
MODESTO IRRIGATION DISTRICT  
1231 11TH STREET  
MODESTO, CA 95354  
chrism@mid.org

ROGER VAN HOY  
MODESTO IRRIGATION DISTRICT  
1231 11TH STREET  
MODESTO, CA 95354  
rogerv@mid.org

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

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

CLARK BERNIER  
RLW ANALYTICS  
1055 BROADWAY, SUITE G  
SONOMA, CA 95476  
clark.bernier@rlw.com

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

CAROLYN M. KEHREIN  
ENERGY MANAGEMENT SERVICES  
1505 DUNLAP COURT  
DIXON, CA 95620-4208  
cmkehrein@ems-ca.com

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

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

KAREN EDSON  
151 BLUE RAVINE ROAD  
FOLSOM, CA 95630

ROBIN SMUTNY-JONES  
CALIFORNIA ISO  
151 BLUE RAVINE ROAD  
FOLSOM, CA 95630  
rsmutny-jones@caiso.com

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

DAVID BRANCHCOMB  
BRANCHCOMB ASSOCIATES, LLC  
9360 OAKTREE LANE  
ORANGEVILLE, CA 95662  
david@branchcomb.com

SCOTT TOMASHEFSKY  
NORTHERN CALIFORNIA POWER  
AGENCY  
180 CIRBY WAY  
ROSEVILLE, CA 95678-6420  
scott.tomashefsky@ncpa.com

CURT BARRY  
717 K STREET, SUITE 503  
SACRAMENTO, CA 95814  
curt.barry@iwpnews.com

RACHEL MCMAHON  
CEERT  
1100 11TH STREET, SUITE 311  
SACRAMENTO, CA 95814  
rachel@ceert.org

STEVEN KELLY  
INDEPENDENT ENERGY PRODUCERS  
ASSN  
1215 K STREET, SUITE 900  
SACRAMENTO, CA 95814-3947  
steven@iepa.com

OBADIAH BARTHOLOMY  
SACRAMENTO MUNICIPAL UTILITY  
DISTRICT  
6201 S. STREET  
SACRAMENTO, CA 95817  
obarto@smud.org

DOUGLAS MACMULLEN  
CA DEPARTMENT OF WATER  
RESOURCES  
3310 EL CAMINO AVE., ROOM 356  
SACRAMENTO, CA 95821  
dmacmll@water.ca.gov

DENISE HILL  
4004 KRUSE WAY PLACE, SUITE 150  
LAKE OSWEGO, OR 97035  
Denise\_Hill@transalta.com

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

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

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

ELLEN WOLFE  
RESERO CONSULTING  
9289 SHADOW BROOK PL.  
GRANITE BAY, CA 95746  
ewolfe@resero.com

DAVID L. MODISETTE  
CALIFORNIA ELECTRIC TRANSP.  
COALITION  
1015 K STREET, SUITE 200  
SACRAMENTO, CA 95814  
dave@ppallc.com

WEBSTER TASAT  
AIR RESOURCES BOARD  
1001 I STREET  
SACRAMENTO, CA 95814  
wtasat@arb.ca.gov

EDWARD J. TIEDEMANN  
KRONICK, MOSKOVITZ, TIEDEMANN &  
GIRARD  
400 CAPITOL MALL, 27TH FLOOR  
SACRAMENTO, CA 95814-4416  
etiedemann@kmtg.com

BUD BEEBE  
SACRAMENTO MUNICIPAL UTIL DIST  
6201 S STREET  
SACRAMENTO, CA 95817-1899  
bbeebe@smud.org

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

ANNIE STANGE  
ALCANTAR & KAHL  
1300 SW FIFTH AVE., SUITE 1750  
PORTLAND, OR 97201  
sas@a-klaw.com

ALAN COMNES  
WEST COAST POWER  
3934 SE ASH STREET  
PORTLAND, OR 97214  
alan.comnes@nrenergy.com

PHIL CARVER  
OREGON DEPARTMENT OF ENERGY  
625 MARION ST., NE  
SALEM, OR 97301-3737  
Philip.H.Carver@state.or.us

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

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

LARRY HUNSAKER  
AIR RESOURCES BOARD  
1001 I STREET  
SACRAMENTO, CA 95814  
lhunsake@arb.ca.gov

WEBSTER TASAT  
AIR RESOURCES BOARD  
1001 I STREET  
SACRAMENTO, CA 95814  
wtasat@arb.ca.gov

LYNN HAUG  
ELLISON, SCHNEIDER & HARRIS, LLP  
2015 H STREET  
SACRAMENTO, CA 95816  
lmh@eslawfirm.com

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

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

ELIZABETH WESTBY  
ALCANTAR & KAHL, LLP  
1300 SW FIFTH AVENUE, SUITE 1750  
PORTLAND, OR 97201  
egw@a-klaw.com

KYLE SILON  
ECOSECURITIES CONSULTING LIMITED  
529 SE GRAND AVENUE  
PORTLAND, OR 97214  
kyle.silon@ecosecurities.com

SAM SADLER  
OREGON DEPARTMENT OF ENERGY  
625 NE MARION STREET  
SALEM, OR 97301-3737  
samuel.r.sadler@state.or.us

LISA SCHWARTZ  
ORGEON PUBLIC UTILITY COMMISSION  
PO BOX 2148  
SALEM, OR 97308-2148  
lisa.c.schwartz@state.or.us

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

JESUS ARREDONDO  
NRG ENERGY INC.  
4600 CARLSBAD BLVD.  
CARLSBAD, CA 92008  
jesus.arredondo@nrgenergy.com

KAREN MCDONALD  
POWEREX CORPORATION  
666 BURRAND STREET  
VANCOUVER, BC V6C 2X8  
karen.mcdonald@powerex.com

James Loewen  
CALIF PUBLIC UTILITIES COMMISSION  
320 WEST 4TH STREET SUITE 500  
LOS ANGELES, CA 90013  
loe@cpuc.ca.gov

Andrew Campbell  
CALIF PUBLIC UTILITIES COMMISSION  
505 VAN NESS AVENUE ROOM 5203  
SAN FRANCISCO, CA 94102-3214  
agc@cpuc.ca.gov

Anne Gillette  
CALIF PUBLIC UTILITIES COMMISSION  
505 VAN NESS AVENUE AREA 4-A  
SAN FRANCISCO, CA 94102-3214  
aeg@cpuc.ca.gov

Charlotte TerKeurst  
CALIF PUBLIC UTILITIES COMMISSION  
505 VAN NESS AVENUE ROOM 5117  
SAN FRANCISCO, CA 94102-3214  
cft@cpuc.ca.gov

Christine S. Tam  
CALIF PUBLIC UTILITIES COMMISSION  
505 VAN NESS AVENUE ROOM 4209  
SAN FRANCISCO, CA 94102-3214  
tam@cpuc.ca.gov

Donald R. Smith  
CALIF PUBLIC UTILITIES COMMISSION  
505 VAN NESS AVENUE ROOM 4209  
SAN FRANCISCO, CA 94102-3214  
dsh@cpuc.ca.gov

Ed Moldavsky  
CALIF PUBLIC UTILITIES COMMISSION  
505 VAN NESS AVENUE ROOM 5130  
SAN FRANCISCO, CA 94102-3214  
edm@cpuc.ca.gov

Eugene Cadenasso  
CALIF PUBLIC UTILITIES COMMISSION  
505 VAN NESS AVENUE AREA 4-A  
SAN FRANCISCO, CA 94102-3214  
cpe@cpuc.ca.gov

Harvey Y. Morris  
CALIF PUBLIC UTILITIES COMMISSION  
505 VAN NESS AVENUE ROOM 5036  
SAN FRANCISCO, CA 94102-3214  
hym@cpuc.ca.gov

Jaclyn Marks  
CALIF PUBLIC UTILITIES COMMISSION  
505 VAN NESS AVENUE ROOM 5306  
SAN FRANCISCO, CA 94102-3214  
jm3@cpuc.ca.gov

George S. Tagnipes  
CALIF PUBLIC UTILITIES COMMISSION  
505 VAN NESS AVENUE AREA 4-A  
SAN FRANCISCO, CA 94102-3214  
jst@cpuc.ca.gov

Joel T. Perlestein  
CALIF PUBLIC UTILITIES COMMISSION  
505 VAN NESS AVENUE ROOM 5133  
SAN FRANCISCO, CA 94102-3214  
jtp@cpuc.ca.gov

Jonathan Lakritz  
CALIF PUBLIC UTILITIES COMMISSION  
505 VAN NESS AVENUE ROOM 5020  
SAN FRANCISCO, CA 94102-3214  
jol@cpuc.ca.gov

Judith Ikle  
CALIF PUBLIC UTILITIES COMMISSION  
505 VAN NESS AVENUE ROOM 4012  
SAN FRANCISCO, CA 94102-3214  
jci@cpuc.ca.gov

Julie A. Fitch  
CALIF PUBLIC UTILITIES COMMISSION  
505 VAN NESS AVENUE ROOM 5119  
SAN FRANCISCO, CA 94102-3214  
jf2@cpuc.ca.gov

Kristin Ralff Douglas  
CALIF PUBLIC UTILITIES COMMISSION  
505 VAN NESS AVENUE ROOM 5119  
SAN FRANCISCO, CA 94102-3214  
krd@cpuc.ca.gov

Lainie Motamedi  
CALIF PUBLIC UTILITIES COMMISSION  
505 VAN NESS AVENUE ROOM 5119  
SAN FRANCISCO, CA 94102-3214  
lrm@cpuc.ca.gov

Matthew Deal  
CALIF PUBLIC UTILITIES COMMISSION  
505 VAN NESS AVENUE AREA 4-A  
SAN FRANCISCO, CA 94102-3214  
mjd@cpuc.ca.gov

Meg Gottstein  
CALIF PUBLIC UTILITIES COMMISSION  
505 VAN NESS AVENUE ROOM 2106  
SAN FRANCISCO, CA 94102-3214  
meg@cpuc.ca.gov

Merideth Sterkel  
CALIF PUBLIC UTILITIES COMMISSION  
505 VAN NESS AVENUE AREA 4-A  
SAN FRANCISCO, CA 94102-3214  
mts@cpuc.ca.gov

Nancy Ryan  
CALIF PUBLIC UTILITIES COMMISSION  
505 VAN NESS AVENUE ROOM 5217  
SAN FRANCISCO, CA 94102-3214  
ner@cpuc.ca.gov

Pamela Wellner  
CALIF PUBLIC UTILITIES COMMISSION  
505 VAN NESS AVENUE AREA 4-A  
SAN FRANCISCO, CA 94102-3214  
pw1@cpuc.ca.gov

Paul S. Phillips  
CALIF PUBLIC UTILITIES COMMISSION  
505 VAN NESS AVENUE ROOM 4101  
SAN FRANCISCO, CA 94102-3214  
psp@cpuc.ca.gov

Sara M. Kamins  
CALIF PUBLIC UTILITIES COMMISSION  
505 VAN NESS AVENUE AREA 4-A  
SAN FRANCISCO, CA 94102-3214  
smk@cpuc.ca.gov

Scott Murtishaw  
CALIF PUBLIC UTILITIES COMMISSION  
505 VAN NESS AVENUE AREA 4-A  
SAN FRANCISCO, CA 94102-3214  
sgm@cpuc.ca.gov

Steve Roscow  
CALIF PUBLIC UTILITIES COMMISSION  
505 VAN NESS AVENUE AREA 4-A  
SAN FRANCISCO, CA 94102-3214  
scr@cpuc.ca.gov

Suzy Hong  
CALIF PUBLIC UTILITIES COMMISSION  
505 VAN NESS AVENUE ROOM 5037  
SAN FRANCISCO, CA 94102-3214  
suh@cpuc.ca.gov

Theresa Cho  
CALIF PUBLIC UTILITIES COMMISSION  
505 VAN NESS AVENUE ROOM 5207  
SAN FRANCISCO, CA 94102-3214  
tcx@cpuc.ca.gov

Tim G. Drew  
CALIF PUBLIC UTILITIES COMMISSION  
505 VAN NESS AVENUE AREA 4-A  
SAN FRANCISCO, CA 94102-3214  
zap@cpuc.ca.gov

BILL LOCKYER  
STATE OF CALIFORNIA, DEPT OF  
JUSTICE  
PO BOX 944255  
SACRAMENTO, CA 94244-2550  
ken.alex@doj.ca.gov

KEN ALEX  
1300 I STREET, SUITE 125  
SACRAMENTO, CA 94244-2550  
ken.alex@doj.ca.gov

JUDITH B. SANDERS  
CALIFORNIA INDEPENDENT SYSTEM  
OPERATOR  
151 BLUE RAVINE ROAD  
FOLSOM, CA 95630  
jsanders@caiso.com

JULIE GILL  
CALIFORNIA INDEPENDENT SYSTEM  
OPERATOR  
151 BLUE RAVINE ROAD  
FOLSOM, CA 95630  
jgill@caiso.com

MARY MCDONALD  
CALIFORNIA INDEPENDENT SYSTEM  
OPERATOR  
151 BLUE RAVINE ROAD  
FOLSOM, CA 95630

PHILIP D. PETTINGILL  
CALIFORNIA INDEPENDENT SYSTEM  
OPERATOR  
151 BLUE RAVINE ROAD  
FOLSOM, CA 95630  
ppettingill@caiso.com

MICHAEL SCHEIBLE  
CALIFORNIA AIR RESOURCES BOARD  
1001 I STREET  
SACRAMENTO, CA 95677  
mscheibl@arb.ca.gov

MEG GOTTSTEIN  
PO BOX 210/21496 NATIONAL STREET  
VOLCANO, CA 95689  
gottstein@volcano.net

PAM BURMICH  
AIR RESOURCES BOARD  
1001 I STREET, BOX 2815  
SACRAMENTO, CA 95812  
pburnich@arb.ca.gov

B. B. BLEVINS  
CALIFORNIA ENERGY COMMISSION  
1516 9TH STREET, MS-39  
SACRAMENTO, CA 95814  
bblevins@energy.state.ca.us

DEBORAH SLON  
OFFICE OF THE ATTORNEY GENERAL  
1300 I STREET, 15TH FLOOR  
SACRAMENTO, CA 95814  
deborah.slon@doj.ca.gov

Don Schultz  
CALIF PUBLIC UTILITIES COMMISSION  
770 L STREET, SUITE 1050  
SACRAMENTO, CA 95814  
dks@cpuc.ca.gov

KAREN GRIFFIN  
CALIFORNIA ENERGY COMMISSION  
1516 9TH STREET, MS 39  
SACRAMENTO, CA 95814  
kgriffin@energy.state.ca.us

LISA DECARLO  
CALIFORNIA ENERGY COMMISSION  
1516 9TH STREET MS-14  
SACRAMENTO, CA 95814  
ldecarlo@energy.state.ca.us

MICHELLE GARCIA  
AIR RESOURCES BOARD  
1001 I STREET  
SACRAMENTO, CA 95814  
mgarcia@arb.ca.gov

PIERRE H. DUVAIR  
CALIFORNIA ENERGY COMMISSION  
1516 NINTH STREET, MS-41  
SACRAMENTO, CA 95814  
pduvair@energy.state.ca.us

Wade McCartney  
CALIF PUBLIC UTILITIES COMMISSION  
770 L STREET, SUITE 1050  
SACRAMENTO, CA 95814  
wsm@cpuc.ca.gov

ANDREW ULMER  
CALIFORNIA DEPARTMENT OF WATER  
RESOURCES  
3310 EL CAMINO AVENUE, SUITE 120  
SACRAMENTO, CA 95821  
aulmer@water.ca.gov

CAROL J. HURLOCK  
CALIFORNIA DEPT. OF WATER  
RESOURCES  
3310 EL CAMINO AVE. RM 300  
SACRAMENTO, CA 95821  
hurlock@water.ca.gov

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