

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

Application of Southern California Edison)
Company (U 338-E) for Authority to Implement)
and Recover in Rates the Cost of its Proposed)
Solar Photovoltaic (PV) Program.)
_____)

A.08-03-015
(Filed March 27, 2008)

(NOT CONSOLIDATED)

Order Instituting Rulemaking to Continue)
Implementation and Administration of California)
Renewables Portfolio Standard Program.)
_____)

R.11-05-005
(Filed May 5, 2011)

**SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338 E) MOTION FOR LEAVE
TO FILE ITS CONFIDENTIAL FOURTH ANNUAL COMPLIANCE REPORT ON THE
SOLAR PHOTOVOLTAIC PROGRAM UNDER SEAL**

JENNIFER TSAO SHIGEKAWA
ANNETTE GILLIAM

Attorneys for
SOUTHERN CALIFORNIA EDISON COMPANY

2244 Walnut Grove Avenue
Post Office Box 800
Rosemead, California 91770
Telephone: (626) 302-4880
Facsimile: (626) 302-6962
E-mail: Annette.Gilliam@sce.com

Dated: July 1, 2013

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ITS CONFIDENTIAL FOURTH ANNUAL COMPLIANCE REPORT ON THE SOLAR
PHOTOVOLTAIC PROGRAM UNDER SEAL**

Pursuant to Rules 11.1 and 11.4 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”), Southern California Edison Company (“SCE”) respectfully files this Motion for Leave to File its Confidential Fourth Annual Compliance Report on the Solar Photovoltaic Program (“SPVP”) Under Seal (“Motion”). Concurrently with this Motion, SCE is filing confidential and public versions of its Fourth Annual Compliance Report on the Solar Photovoltaic Program (“Fourth Annual SPVP Report”). SCE moves the Commission for an order granting leave to file the confidential version of its Fourth Annual SPVP Report under seal.¹

This Motion is made pursuant to Public Utilities Code Sections 394.4(a) and 454.5(g), General Order 66-C, and Decision (“D.”) 90-12-121 and D.97-10-031. As explained in Section I below, the

¹ As discussed below, the only confidential information included in SCE’s Fourth Annual SPVP Report is included in Attachment A to the report. That information is redacted in the public version of SCE’s Fourth Annual SPVP Report.

confidential lease cost and customer load data included in Attachment A of SCE’s Fourth Annual SPVP Report is confidential pursuant to statute and Commission orders and decisions, and is therefore protected from public disclosure. Moreover, the Commission already found that this type of information is entitled to be filed under seal in granting SCE’s motion to file the same information under seal in its first, second and third annual SPVP reports. SCE has included a summary table identifying the specific data it requests to file under seal and the requested duration of the seal in Section II.

I.

THE CONFIDENTIAL INFORMATION PROVIDED IN SCE’S FOURTH ANNUAL SPVP REPORT IS PROTECTED BY STATUTE AND COMMISSION ORDERS AND DECISIONS, AND THE COMMISSION HAS ALREADY FOUND THAT IT IS ENTITLED TO BE FILED UNDER SEAL

A. **Confidential Lease Cost Data Contained in Attachment A**

The gray highlighted portions on page 1 of Attachment A in the “CONFIDENTIAL SPVP Site Descriptions” at the column entitled “Annual Lease Costs”, contain confidential information regarding the costs of the leases negotiated by SCE and the lessors for roof or other space for SPVP projects. Such information should be filed under seal and protected from public disclosure.

In particular, Public Utilities Code Section 454.5(g) requires the Commission to maintain the confidentiality of “market sensitive information.” Similarly, General Order 66-C requires the Commission to protect confidential information that would place a utility at an “unfair business disadvantage” if it were publicly disclosed. It categorizes as information that is “not open to Public inspection,” those “[r]eports, records, and information requested or required by the Commission which, if revealed, would place the regulated company at an unfair business disadvantage.”²

The confidential lease cost data contained in Attachment A of SCE’s Fourth Annual SPVP Report is subject to confidentiality protection pursuant to the lease agreements between SCE and the

² General Order 66-C § 2.2(b).

lessors. SCE and the lessors negotiated the confidentiality provisions to preclude market manipulation; disclosure of such information could cause the parties to the lease agreements to suffer adverse financial consequences.

Moreover, lease cost data is market sensitive and disclosure of it would place SCE at an unfair business disadvantage. If the Commission mandates the release of this information, it will essentially “set the floor” for all future lease negotiations. Market participants will know what SCE has paid for leases in the past, and SCE’s ability to negotiate for lower-priced leases in the future will be hampered. If SCE’s ability to advocate for lower-priced leases is hindered, customer costs are likely to rise. Further, current leaseholders may seek to renegotiate the terms of their leases based on the information that is released. Thus, the release of this non-public, confidential information will allow market participants to utilize this information to SCE’s business disadvantage.

This information is also market sensitive from the perspective of the lessors. To the extent a lessor may be seeking to negotiate a similar lease with another third party or an independent power producer, the release of this information could weaken the lessor’s bargaining position.

For these reasons, SCE maintains that the information concerning lease costs is market sensitive information which should remain confidential. The Commission agreed with SCE in ruling on the confidentiality of SCE’s first annual SPVP report. Specifically, in granting SCE’s motion for reconsideration of her prior ruling on the confidentiality of SCE’s first annual SPVP report, Administrative Law Judge (“ALJ”) Ebke found that cost information regarding the SPVP project leases should remain confidential.³ In this Motion, SCE is seeking confidential treatment for the same type of lease cost information contained in its Fourth Annual SPVP Report. Accordingly, the Commission should again find that such information may be filed under seal.

³ Administrative Law Judge’s Ruling Granting Motion for Reconsideration of Confidential Material and Placing Additional Material Under Seal, A.08-03-015, R.08-08-009, and R.11-05-005, at 2-3 (May 18, 2011).

B. Confidential Customer Load Data Contained in Attachment A

The customer load data for sites used in the utility-owned generation portion of the SPVP that is contained in gray highlighted portions on page 2 of Attachment A in the “CONFIDENTIAL SPVP Site Specific On-Site Load” is confidential pursuant to statute and Commission decisions. Such data must therefore be submitted confidentially.⁴ The information being provided contains confidential customer and business proprietary information, and therefore public disclosure is restricted. Further, obligations to maintain customer information as confidential are codified in Public Utilities Code Section 394.4(a), D.90-12-121 and D.97-10-031, and the Affiliate Transaction Rules, among other decisions. Specifically, Section 394.4(a) states, “[c]ustomer information shall be confidential unless the customer consents in writing. This shall encompass confidentiality of customer specific billing, credit, or usage information.”⁵ This is precisely the type of information that was requested by the Commission in Resolution E-4299, and that SCE now files under seal as part of its Fourth Annual SPVP Report.

Additionally, ALJ Ebke found that this same type of information is entitled to be filed under seal in ruling on the confidentiality of SCE’s first annual SPVP Report. In particular, SCE sought to file the same type of customer load data under seal in its first annual SPVP Report,⁶ and ALJ Ebke granted SCE’s motion to file such data under seal.⁷ The Commission should grant SCE’s Motion and find this information is entitled to be filed under seal again here.

⁴ See Cal. Pub. Util. Code § 583; General Order 66-C.

⁵ Cal. Pub. Util. Code § 394.4(a).

⁶ Southern California Edison Company’s (U 338-E) Motion for Confidentiality and Leave to File Confidential Materials in its Annual Compliance Report on the Solar Photovoltaic Program Under Seal, A.08-03-015 and R.08-08-009, at 6-8 (July 1, 2010).

⁷ Administrative Law Judge’s Ruling on Motions for Confidentiality, A.08-03-015 and R.08-08-009, at 2-4 (April 4, 2011).

III.

SUMMARY TABLE

Specific Information For Which Seal is Requested	Requested Duration of Seal
Confidential lease cost data, contained in Attachment A	Lease cost information is to remain confidential for the term of the leases.
Confidential customer data for sites used in the utility-owned generation portion of the SPVP, contained in Attachment A	Confidential customer and business proprietary data is confidential pursuant to statute.

IV.

CONCLUSION

For all the foregoing reasons, SCE respectfully moves the Commission for an order directing that the confidential, market sensitive information appearing in the confidential version of SCE's Fourth Annual SPVP Report, which has been redacted in the public version, shall be placed under seal and shall not be made accessible or disclosed to anyone other than Commission staff.

Respectfully submitted,

JENNIFER TSAO SHIGEKAWA
ANNETTE GILLIAM

/s/ Annette Gilliam

By: ANNETTE GILLIAM

Attorney for
SOUTHERN CALIFORNIA EDISON COMPANY

2244 Walnut Grove Avenue
Post Office Box 800
Rosemead, California 91770
Telephone: (626) 302-4880
Facsimile: (626) 302-6962
E-mail: Annette.Gilliam@sce.com

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_____)	

**ADMINISTRATIVE LAW JUDGE’S [PROPOSED] RULING ON SOUTHERN
CALIFORNIA EDISON COMPANY’S MOTION FOR LEAVE TO FILE ITS
CONFIDENTIAL FOURTH ANNUAL COMPLIANCE REPORT ON THE SOLAR
PHOTOVOLTAIC PROGRAM UNDER SEAL**

On July 1, 2013, Southern California Edison Company (“SCE”) filed a Motion for Leave to File its Confidential Fourth Annual SPVP Report on the Solar Photovoltaic Program Under Seal (“Motion”), seeking an order granting leave to file the confidential version of its concurrently filed Fourth Annual SPVP Report for the Solar Photovoltaic Program (“Confidential Information”) under seal. In accordance with the California Public Utilities Commission’s (“Commission”) Rules of Practice and Procedure, the Commission has considered SCE’s Motion. This ruling grants SCE’s Motion.

Accordingly, it is ORDERED that:

1. SCE’s Motion is granted. The Confidential Information that SCE seeks to protect is protected by Public Utilities Code Sections 394.4(a) and 454.5(g), General Order 66-C, and Decision (“D.”) 90-12-121 and D.97-10-031.

2. Public disclosure of the Confidential Information that SCE seeks to protect would cause imminent and direct harm to SCE and its customers, and therefore, the Confidential Information must be protected.

3. The Confidential Information, which confidential version has been submitted under seal, shall remain under seal and shall not be made accessible or disclosed to anyone other than Commission staff except pursuant to protective order or on the further order or ruling of the Commission, the assigned Administrative Law Judge (“ALJ”) or the ALJ then designated as Law and Motion Judge.

Dated _____, 2013, at San Francisco, California.

Administrative Law Judge

VERIFICATION

I am a Manager in the Regulatory Policy and Affairs Department of Southern California Edison Company and am authorized to make this verification on its behalf. I am informed and believe that the matters stated in the foregoing pleading are true.

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

Executed this **1st day of July, 2013**, at Rosemead, California.

Kathleen M. Sloan

By: Kathleen M. Sloan

SOUTHERN CALIFORNIA EDISON COMPANY

2244 Walnut Grove Avenue
Post Office Box 800
Rosemead, California 91770

CERTIFICATE OF SERVICE

I hereby certify that, pursuant to the Commission's Rules of Practice and Procedure, I have this day served a true copy of **SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338 E) MOTION FOR LEAVE TO FILE ITS CONFIDENTIAL FOURTH ANNUAL COMPLIANCE REPORT ON THE SOLAR PHOTOVOLTAIC PROGRAM UNDER SEAL** on all parties identified on the attached service list(s) **A.08-03-015** and **R.11-05-005**. Service was effected by one or more means indicated below:

- Transmitting the copies via e-mail to all parties who have provided an e-mail address.
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ALJ DeAngelis
ALJ Simon
ALJ Ebke

CPUC
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- Placing copies in properly addressed sealed envelopes and depositing such copies in the United States mail with first-class postage prepaid to all parties for those listed on the attached non-email list.
- Directing Prographics to place the copies in properly addressed sealed envelopes and to deposit such envelopes in the United States mail with first-class postage prepaid to all parties.

Executed this **1st day of July, 2013**, at Rosemead, California.

/S/ Melissa Hernandez

Melissa Hernandez
Project Analyst
SOUTHERN CALIFORNIA EDISON COMPANY

2244 Walnut Grove Avenue
Post Office Box 800
Rosemead, California 91770



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Parties

JUSTIN C. WYNNE
 ATTORNEY AT LAW
 BRAUN BLAISING MCLAUGHLIN, P.C.
 EMAIL ONLY
 EMAIL ONLY, CA 00000
 FOR: SAN JOAQUIN VALLEY POWER AUTHORITY

KENNETH SAHM WHITE
 CLEAN COALITION
 EMAIL ONLY
 EMAIL ONLY, CA 00000
 FOR: CLEAN COALITION

MIGNON MARKS
 ACTING EXEC. DIR.
 CALIFORNIA SOLAR ENERGY INDUSTRIES ASSN.
 EMAIL ONLY
 EMAIL ONLY, CA 00000
 FOR: CALIFORNIA SOLAR ENERGY INDUSTRIES
 ASSOCIATION

SCOTT BLAISING
 BRAUN BLAISING MCLAUGHLIN P.C.
 EMAIL ONLY
 EMAIL ONLY, CA 00000
 FOR: CITY OF VICTORVILLE/SAN JOAQUIN
 VALLEY POWER AUTHORITY

STEPHANIE C. CHEN
 SR. LEGAL COUNSEL
 THE GREENLINING INSTITUTE
 EMAIL ONLY
 EMAIL ONLY, CA 00000
 FOR: GREENLINING INSTITUTE

ALEXANDER B. CVITAN
 REICH ADELL & CVITAN
 3550 WILSHIRE BLVD., STE. 2000
 LOS ANGELES, CA 90010
 FOR: SOUTHERN CALIFORNIA DISTRICT
 COUNCIL OF LABORERS

ANGELICA M. MORALES
 SOUTHERN CALIFORNIA EDISON COMPANY
 2244 WALNUT GROVE AVE., PO BOX 800
 ROSEMEAD, CA 91770
 FOR: SOUTHERN CALIFORNIA EDISON COMPANY

CAROL SCHMID-FRAZEE
 ATTORNEY AT LAW
 SOUTHERN CALIFORNIA EDISON
 2244 WALNUT GROVE AVE. / PO BOX 800
 ROSEMEAD, CA 91770

FOR: SOUTHERN CALIFORNIA EDISON COMPANY

MICHAEL WILLIAM LATHAM
COMMERCIAL SOLAR SOLUTIONS, LLC
5707 ROCKING HORSE WAY
ORANGE, CA 92869
FOR: COMMERCIAL SOLAR SOLUTIONS, LLC

MARC D. JOSEPH
ATTORNEY AT LAW
ADAMS BROADWELL JOSEPH & CARDOZO
601 GATEWAY BLVD. STE 1000
SOUTH SAN FRANCISCO, CA 94080
FOR: COALITION OF CA UTILITY EMPLOYEES

CHRISTOPHER CLAY
CALIF PUBLIC UTILITIES COMMISSION
LEGAL DIVISION
ROOM 4300
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214
FOR: DRA

MARCEL HAWIGER
ENERGY ATTY
THE UTILITY REFORM NETWORK
115 SANSOME STREET, SUITE 900
SAN FRANCISCO, CA 94104
FOR: THE UTILITY REFORM NETWORK

ARNO HARRIS
RECURRENT ENERGY, INC.
300 CALIFORNIA ST., 8TH FL.
SAN FRANCISCO, CA 94104-1416
FOR: RECURRENT ENERGY

NORA SHERIFF
ALCANTAR & KAHL, LLP
33 NEW MONTGOMERY STREET, SUITE 1850
SAN FRANCISCO, CA 94105
FOR: FIRST SOLAR

BRIAN T. CRAGG
GOODIN, MACBRIDE, SQUERI, DAY & LAMPREY
505 SANSOME STREET, SUITE 900
SAN FRANCISCO, CA 94111
FOR: INDEPENDENT ENERGY PRODUCERS ASSOC.

JEANNE ARMSTRONG
GOODIN, MACBRIDE, SQUERI, DAY & LAMPREY
505 SANSOME ST., STE. 900
SAN FRANCISCO, CA 94111
FOR: SOLAR ALLIANCE/SOLAR ENERGY
INDUSTRIES ASSOCIATION

MICHAEL B. DAY
ATTORNEY
GOODIN MACBRIDE SQUERI DAY & LAMPREY LLP
505 SANSOME STREET, STE 900
SAN FRANCISCO, CA 94111-3133
FOR: SOLAR ENERGY INDUSTRIES ASSOCIATION

KEVIN T. FOX
KEYES FOX & WIEDMAN, LLP
436 14TH STREET, SUITE 1305
OAKLAND, CA 94612
FOR: SILVERADO POWER, LLC

SANDRA RAE BENSON
ATTORNEY
WEINBERG, ROGER & ROSENFELD
1001 MARINA VILLAGE PKWY., STE. 200
ALAMEDA, CA 94612
FOR: NORTHERN CALIFORNIA BASIC CRAFTS
ALLIANCE

DANIEL M. PELLEGRINI
COOPERATIVE COMMUNITY ENERGY CORP.
534 FOURTH STREET, STE C
SAN RAFAEL, CA 94901
FOR: COOPERATIVE COMMUNITY ENERGY CORP.

JOHN NIMMONS
COUNSEL
JOHN NIMMONS & ASSOCIATES, INC.
175 ELINOR AVE., STE. G
MILL VALLEY, CA 94941
FOR: RECURRENT ENERGY

MICHAEL E. BOYD
PRESIDENT
CALIFORNIANS FOR RENEWABLE ENERGY, INC.
5439 SOQUEL DRIVE
SOQUEL, CA 95073-2659
FOR: CALIFORNIANS FOR RENEWABLE ENERGY,
INC. (CARE)

JOSEPH PASETTI

MARTIN HOMEC

DIR - GOV'T RELATIONS
 SOLYNDRA LLC
 2880 ZANKER ROAD, STE. 203
 SAN JOSE, CA 95134-2122
 FOR: SOLYNDRA LLC, SOLARCITY
 CORPORATION, UNITED SOLAR OVONIC
 (UNI-SOLAR)

PO BOX 4471
 DAVIS, CA 95617
 FOR: CALIFORNIANS FOR RENEWABLE ENERGY

MARY WIENCKE
 PACIFICORP
 825 N. E. MULTNOMAH, SUITE 1800
 PORTLAND, OR 97232
 FOR: PACIFICORP

Information Only

BARBARA R. BARKOVICH
 BARKOVICH & YAP, INC.
 EMAIL ONLY
 EMAIL ONLY, CA 00000

CURTIS SEYMOUR
 SUNEDISON
 EMAIL ONLY
 EMAIL ONLY, CA 00000

DIANE I. FELLMAN
 NRG WEST & SOLAR
 EMAIL ONLY
 EMAIL ONLY, CA 00000
 FOR: FPL ENERGY PROJECT MANAGEMENT, INC.

DOCKET COORDINATOR
 KEYS AND FOX
 EMAIL ONLY
 EMAIL ONLY, CA 00000

DONALD C. LIDDELL
 DOUGLASS & LIDDELL
 EMAIL ONLY
 EMAIL ONLY, CA 00000

EDRIC GUISE
 NATIONAL ENERGY SOLUTIONS, LLC
 EMAIL ONLY
 EMAIL ONLY, CA 00000

FREEMAN S. HALL
 SOLAR ELECTRIC SOLUTIONS, LLC
 EMAIL ONLY
 EMAIL ONLY, CA 00000

HUGH YAO
 SOUTHERN CALIFORNIA GAS COMPANY
 EMAIL ONLY
 EMAIL ONLY, CA 00000

JODY S. LONDON
 JODY LONDON CONSULTING
 EMAIL ONLY
 EMAIL ONLY, CA 00000

KAREN MILLS
 ATTORNEY AT LAW
 CALIFORNIA FARM BUREAU FEDERATION
 EMAIL ONLY
 EMAIL ONLY, CA 00000

MICHAEL BASS
 ESOLAR, INC.
 EMAIL ONLY
 EMAIL ONLY, CA 00000

MICHAEL BERLIN
 DEVELOPMENT ANALYST
 RECURRENT ENERGY
 EMAIL ONLY
 EMAIL ONLY, CA 00000

ROB LONGNECKER
 CLEAN COALITION
 EMAIL ONLY

RYAN BERNARDO
 BRAUN BLAISING MCLAUGHLIN, P.C.
 EMAIL ONLY

EMAIL ONLY, CA 00000

SARA BIRMINGHAM
DIRECTOR - WESTERN POLICY
SOLAR ENERGY INDUSTRIES ASSOCIATION
EMAIL ONLY
EMAIL ONLY, CA 00000

MRW & ASSOCIATES, LLC
EMAIL ONLY
EMAIL ONLY, CA 00000

STEVEN KELLY
POLICY DIR.
INDEPENDENT ENERGY PRODUCERS ASSN
EMAIL ONLY
EMAIL ONLY, CA 00000-0000

MICHAEL E. CARBOY
SIGNAL HILL CAPITAL LLC
300 D. LOMBARD ST., STE. 1700
BALTIMORE, MD 21202-3243

MATTHEW M. GORMAN
ALVAREZ-GLASMAN & COLVIN
13181 CROSSROADS PKWY., NORTH, SUITE 400
CITY OF INDUSTRY, CA 91746

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

MELISSA A. HOVSEPIAN
SOUTHERN CALIFORNIA EDISON COMPANY
2244 WALNUT GROVE AVE. / PO BOX 800
ROSEMEAD, CA 91770

MARY C. HOFFMAN
PRESIDENT
SOLUTIONS FOR UTILITIES, INC.
1192 SUNSET DRIVE
VISTA, CA 92081

SAN DIEGO GAS & ELECTRIC COMPANY
8330 CENTURY PARK COURT
SAN DIEGO, CA 92123

EMAIL ONLY, CA 00000

COMMUNITY RENEWABLE SOLUTIONS LLC
EMAIL ONLY
EMAIL ONLY, CA 00000

MARK STOUT
MERIDIAN ENERGY USA, INC
EMAIL ONLY
EMAIL ONLY, CA 00000-0000

KEVIN PORTER
SENIOR ANALYST
EXETER ASSOCIATES, INC.
10480 LITTLE PATUXENT PARKWAY, SUITE 300
COLUMBIA, MD 21044

STEVEN D. PATRICK
ATTORNEY
SAN DIEGO GAS AND ELECTRIC COMPANY
555 WEST FIFTH STREET, SUITE 1400
LOS ANGELES, CA 90013-1011

AMBER DEAN WYATT
SOUTHERN CALIFORNIA EDISON COMPANY
2244 WALNUT GROVE AVE., PO BOX 800
ROSEMEAD, CA 91770

GLORIA ING
ATTORNEY AT LAW
SOUTHERN CALIFORNIA EDISON COMPANY
2244 WALNUT GROVE AVE./PO BOX 800
ROSEMEAD, CA 91770

ROBERT J. GILLESKIE
LIGHTPOINT CONSULTING SERVICES
2570 PINWOOD STREET
DEL MAR, CA 92014

BRIAN COWAN
KYOCERA SOLAR INC
8611 BALBOA AVE
SAN DIEGO, CA 92123

DESPINA NIEHAUS
REGULATORY MGR.
SAN DIEGO GAS AND ELECTRIC COMPANY
8330 CENTURY PARK COURT, CP32D
SAN DIEGO, CA 92123-1530

DAVID SAUL
 PACIFIC VALLEY LLC
 115 WEST CANON PERDIDO STREET
 SANTA BARBARA, CA 93101

HOWARD GREEN
 SUN EDISON
 600 CLIPPER DRIVE
 BELMONT, CA 94002-4119

EVELYN KAHL
 ALCANTAR & KAHL, LLP
 33 NEW MONTGOMERY STREET, SUITE 1850
 SAN FRANCISCO, CA 94015

ELIZABETH KLEBANER
 ATTORNEY AT LAW
 ADAMS BROADWELL JOSEPH & CARDOZO
 601 GATEWAY BLVD, SUITE 1000
 SO. SAN FRANCISCO, CA 94080

ADAM BROWNING
 THE VOTE SOLAR INITIATIVE
 101 MONTGOMERY ST., STE. 2600
 SAN FRANCISCO, CA 94104

ANDRE DEVILBISS
 ASSOCIATE, DEVELOPMENT
 RECURRENT ENERGY
 300 CALIFORNIA STREET, 8TH FLOOR
 SAN FRANCISCO, CA 94104

DAVID KENNY
 FOTOWATIO RENEWABLE VENTURES, INC.
 44 MONTGOMERY STREET, SUITE 2200
 SAN FRANCISCO, CA 94104

HANS ISERN
 VP - ENGINEERING
 SILVERADO POWER LLC
 44 MONTGOMERY STREET, SUITE 3065
 SAN FRANCISCO, CA 94104

LUKE DUNNINGTON
 ASSOCIATE, DEVELOPMENT
 RECURRENT ENERGY
 300 CALIFORNIA STREET, 8TH FL
 SAN FRANCISCO, CA 94104

RECURRENT ENERGY
 300 CALIFORNIA ST., 8TH FLOOR
 SAN FRANCISCO, CA 94104-1416

EILEEN COTRONEO
 PACIFIC GAS AND ELECTRIC COMPANY
 77 BEALE STREET, MC B9A, RM. 969
 SAN FRANCISCO, CA 94105

KAREN TERRANOVA
 ALCANTAR & KAHL, LLP
 33 NEW MONTGOMERY STREET, SUITE 1850
 SAN FRANCISCO, CA 94105

RANDY LITTENEKER
 PACIFIC GAS AND ELECTRIC COMPANY
 77 BEALE STREET, RM 3173 / PO BOX 7442
 SAN FRANCISCO, CA 94105

STACY W. WALTER
 PACIFIC GAS AND ELECTRIC COMPANY
 77 BEALE STREET, MC B30A
 SAN FRANCISCO, CA 94105

VALERIE WINN
 PROJECT MANAGER
 PACIFIC GAS & ELECTRIC
 77 BEALE ST., MC B10C
 SAN FRANCISCO, CA 94105

RAFI HASSAN
 SUSQUEHANNA FINANCIAL GROUP, LLLP
 101 CALIFORNIA STREET, SUITE 3250
 SAN FRANCISCO, CA 94111

RICHARD MRLIK
 INTERTIE
 2130 FILLMORE STREET, 211
 SAN FRANCISCO, CA 94115

CALIFORNIA ENERGY MARKETS
 425 DIVISADERO ST., SUITE 303
 SAN FRANCISCO, CA 94117

HILARY CORRIGAN
 CALIFORNIA ENERGY MARKETS

SARA STECK MYERS
 ATTORNEY AT LAW

425 DIVISADERO ST. SUITE 303
SAN FRANCISCO, CA 94117-2242

122 28TH AVE.
SAN FRANCISCO, CA 94121

GENEVIEVE NOWICKI
SOLAR POWER PARTNERS, INC.
744A PORTOLA STREET
SAN FRANCISCO, CA 94129

CASE COORDINATION
PACIFIC GAS AND ELECTRIC COMPANY
PO BOX 770000; MC B9A
SAN FRANCISCO, CA 94177

ERICA SCHROEDER
KEYES FOX & WIEDMAN, LLP
436 14TH ST., STE. 1305
OAKLAND, CA 94612
FOR: SILVERADO POWER, LLC

DAVID MARCUS
ADAMS BROADWELL & JOSEPH
PO BOX 1287
BERKELEY, CA 94701

SAMUEL KANG
MANAGING ATTORNEY
THE GREENLINING INSTITUTE
1918 UNIVERSITY AVE., 2ND FLOOR
BERKELEY, CA 94704

PATRICK G. MCGUIRE
CROSSBORDER ENERGY
2560 NINTH STREET, NO. 213A
BERKELEY, CA 94710

JULIETTE ANTHONY
678 BLACKBERRY LANE
SAN RAFAEL, CA 94903

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

JAMES WEIL
DIRECTOR
AGLET CONSUMER ALLIANCE
PO BOX 866
NOVATO, CA 94948

ERROL HUNTER
SOLYNDRA LLC
LEGAL DEPT
2880 ZANKER RD., STE. 203
SAN JOSE, CA 95134-2122
FOR: SOLYNDRA LLC, SOLARCITY
CORPORATION AND UNITED SOLAR OVONIC

DOUGLAS M. GRANDY, P.E.
CA ONSITE GENERATION
1220 MACAULAY CIRCLE
CARMICHAEL, CA 95608

ANDREW B. BROWN
ATTORNEY AT LAW
ELLISON SCHNEIDER & HARRIS, LLP
2600 CAPITAL AVENUE, SUITE 400
SACRAMENTO, CA 95816-5905

CHRISTOPHER T. ELLISON
ATTORNEY AT LAW
ELLISON, SCHNEIDER & HARRIS, LLP
2600 CAPITOL AVENUE, SUITE 400
SACRAMENTO, CA 95816-5905

LYNN HAUG
ATTORNEY AT LAW
ELLISON, SCHNEIDER & HARRIS, LLP
2600 CAPITOL AVENUE, SUITE 400
SACRAMENTO, CA 95816-5905

EMILIO E. VARANINI, III
4660 NATOMAS BLVD.
SACRAMENTO, CA 95835

MARK W. BACHMAN
SENIOR EQUITY ANALYST
PACIFIC CREST SECURITIES
111 SW FIFTH AVENUE, 42ND FL
PORTLAND, OR 97204

CATHIE ALLEN
PACIFICORP

825 NE MULTNOMAH STREET, STE 2000
PORTLAND, OR 97232

State Service

JACLYN MARKS
CALIFORNIA PUBLIC UTILITIES COMMISSION
EMAIL ONLY
EMAIL ONLY, CA 00000

MICHAEL COLVIN
ADVISOR - ENERGY
CPUC
EMAIL ONLY
EMAIL ONLY, CA 00000

BURTON MATTSON
CALIF PUBLIC UTILITIES COMMISSION
DIVISION OF ADMINISTRATIVE LAW JUDGES
ROOM 2106
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

DAMON A. FRANZ
CALIF PUBLIC UTILITIES COMMISSION
PROCUREMENT STRATEGY AND OVERSIGHT BRANC
AREA 4-A
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

DAVID PECK
CALIF PUBLIC UTILITIES COMMISSION
ELECTRICITY PRICING AND CUSTOMER PROGRAM
ROOM 4108
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

FRANK LINDH
CALIF PUBLIC UTILITIES COMMISSION
LEGAL DIVISION
ROOM 5138
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

KARIN M. HIETA
CALIF PUBLIC UTILITIES COMMISSION
ELECTRICITY PLANNING & POLICY BRANCH
ROOM 4102
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

MARYAM EBKE
CALIF PUBLIC UTILITIES COMMISSION
DIVISION OF ADMINISTRATIVE LAW JUDGES
ROOM 5112
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

MERIDETH STERKEL
CALIF PUBLIC UTILITIES COMMISSION
INFRASTRUCTURE PLANNING AND PERMITTING B
AREA 4-A
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

NIKA ROGERS
CALIF PUBLIC UTILITIES COMMISSION
ELECTRICITY PLANNING & POLICY BRANCH
ROOM 4101
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214
FOR: DRA

RAHMOM MOMOH
CALIF PUBLIC UTILITIES COMMISSION
UTILITY & PAYPHONE ENFORCEMENT BRANCH
AREA 2-E
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

SEAN A. SIMON
CALIF PUBLIC UTILITIES COMMISSION
PROCUREMENT STRATEGY AND OVERSIGHT BRANC
AREA 4-A
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

KELLIE SMITH
SENATE ENERGY/UTILITIES & COMMUNICATION
STATE CAPITOL, ROOM 2195
SACRAMENTO, CA 95814

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Parties

CARRIE A. DOWNEY
 LAW OFFICES OF CARRIE ANNE DOWNEY
 EMAIL ONLY
 EMAIL ONLY, CA 00000
 FOR: IMPERIAL IRRIGATION DISTRICT

CHRIS LEVERIZA
 GLACIAL ENERGY
 EMAIL ONLY
 EMAIL ONLY, CA 00000
 FOR: GLACIAL ENERGY

CRAIG LEWIS
 RIGHTCYCLE ENTERPRISES
 EMAIL ONLY
 EMAIL ONLY, CA 00000
 FOR: RIGHTCYCLE

DANIEL W. DOUGLASS
 DOUGLASS & LIDDELL
 EMAIL ONLY
 EMAIL ONLY, CA 00000
 FOR: DIRECT ACCESS CUSTOMER
 COALITION/WESTERN POWER TRADING
 FORUM/EDF RENEWABLE ENERGY./RECURRENT
 ENERGY/EDF INDUSTRIAL POWER SERVICES
 (CA), LLC

ELIZABETH WRIGHT
 OCCIDENTAL POWER SERVICES, INC.
 EMAIL ONLY
 EMAIL ONLY, CA 00000
 FOR: OCCIDENTAL POWER SERVICES, INC.

GABE PETLIN
 3DEGREES
 EMAIL ONLY
 EMAIL ONLY, CA 00000

JEAN-CALUDE BERTET
 DEPUTY CITY ATTORNEY
 LOS ANGELES DEPT. OF WATER AND POWER
 EMAIL ONLY
 EMAIL ONLY, CA 00000

JODY LONDON
 JODY LONDON CONSULTING
 EMAIL ONLY
 EMAIL ONLY, CA 00000
 FOR: SUSTAINABLE CONSERVATION AND RCM

FOR: LOS ANGELES DEPARTMENT OF WATER &
POWER

INTERNATIONAL

JOHN W. LESLIE, ESQ
MCKENNA LONG & ALDRIDGE LLP
EMAIL ONLY
EMAIL ONLY, CA 00000
FOR: SHELL ENERGY NORTH AMERICA (U.S.),
L.P.

JUSTIN C. WYNNE
ATTORNEY AT LAW
BRAUN BLAISING MCLAUGHLIN, P.C.
EMAIL ONLY
EMAIL ONLY, CA 00000
FOR: CALIFORNIA MUNICIPAL UTILITIES
ASSOCIATION

LYNN M. HAUG
ELLISON, SCHNEIDER & HARRIS, L.L.P.
EMAIL ONLY
EMAIL ONLY, CA 00000
FOR: FUELCELL ENERGY, INC.

M. GRADY MATHAI-JACKSON
PACIFIC GAS & ELECTRIC COMPANY
EMAIL ONLY
EMAIL ONLY, CA 00000
FOR: PACIFIC GAS & ELECTRIC COMPANY

MATTHEW FREEDMAN
THE UTILITY REFORM NETWORK
EMAIL ONLY
EMAIL ONLY, CA 00000
FOR: THE UTILITY REFORM NETWORK

RICK NOGER
PRAXAIR PLAINFIELD, INC.
EMAIL ONLY
EMAIL ONLY, CA 00000
FOR: PRAXAIR PLAINFIELD, INC.

SCOTT BLAISING
BRAUN BLAISING MCLAUGHLIN, P.C.
EMAIL ONLY
EMAIL ONLY, CA 00000
FOR: CITY OF CERRITOS

STEPHEN BURNAGE
SOLAR EXPRESS TRANSMISSION, LLC
EMAIL ONLY
EMAIL ONLY, NV 00000
FOR: SOLAR EXPRESS TRANSMISSION, LLC

TAM HUNT
HUNT CONSULTING
EMAIL ONLY
EMAIL ONLY, CA 00000
FOR: CLEAN COALITION (FORMERLY FIT) /
RIGHTCYCLE / COMMUNITY ENVIRONMENTAL
COUNCIL /

TOM KIRK
EXECUTIVE DIRECTOR
COACHELLA VALLEY ASSN. OF GOVERNMENTS
EMAIL ONLY
EMAIL ONLY, CA 00000
FOR: COACHELLA VALLEY ASSOCIATION OF
GOVERNMENTS

TRACY PHILLIPS
TIGER NATURAL GAS
EMAIL ONLY
EMAIL ONLY, TX 00000
FOR: TIGER NATURAL GAS

WILL PLAXICO
PROJECT DEVELOPMENT MGR
AXIO POWER, INC.
EMAIL ONLY
EMAIL ONLY, CA 00000
FOR: AXIO POWER, INC.

LAURA WISLAND
UNION OF CONCERNED SCIENTISTS
EMAIL ONLY
EMAIL ONLY, CA 00000-0000
FOR: UNION OF CONCERNED SCIENTISTS

NOAH LONG
ENERGY PROGRAM ATTORNEY
NATURAL RESOURCES DEFENSE COUNCIL
EMAIL ONLY
EMAIL ONLY, CA 00000-0000
FOR: NRDC

RANDALL W. HARDY
HARDY ENERGY CONSULTING
EMAIL ONLY

ROBERT B. GEX
ATTORNEY AT LAW,
DAVIS WRIGHT TREMAINE LLP

EMAIL ONLY, WA 00000-0000
FOR: RANDALL W. HARDY

EMAIL ONLY
EMAIL ONLY, CA 00000-0000
FOR: REPUBLIC CLOVERLEAF SOLAR LLC

ANDREW LUSCZ
GLACIAL ENERGY OF CALIFORNIA
5326 YACHT HAVEN GRANDE BOX 36
ST THOMAS, VI 00802
FOR: GLACIAL ENERGY OF CALIFORNIA

JOHN B. HOWE
DIRECTOR OF PUBLIC AFFAIRS
NEW DIMENSION ENERGY COMPANY, LLC
221 CRESCENT ST., SUITE 103A
WALTHAM, MA 02453
FOR: NEW DIMENSION ENERGY COMPANY, LLC

DANIEL V. GULINO
RIDGEWOOD POWER MANAGEMENT, LLC
14 PHILIPS PKWY
MONTVALE, NJ 07645-1811
FOR: RIDGEWOOD POWER MANAGEMENT, LLC

ABRAHAM SILVERMAN
ASSIST. GEN. COUNSEL - REGULATORY
NRG ENERGY, INC.
211 CARNEGIE CENTER DRIVE
PRINCETON, NJ 08540
FOR: NRG COMPANIES, INC. (CABRILLO
POWER I, LLC/CABRILLO POWER II, LLC/EL
SEGUNDO POWER, LLC/LONG BEACH
GENERATION, LLC/NRG SOLAR BLYTHE, LLC

JAMES MUELLER
CONSOLIDATED EDISON SOLUTIONS, INC.
100 SUMMIT LAKE DRIVE, STE. 410
VALHALLA, NY 10595
FOR: CONSOLIDATED EDISON SOLUTIONS, INC.

RHONE RESCH
SOLAR ENERGY INDUSTRIES ASSOCIATION
575 7TH ST., NW, STE. 400
WASHINGTON, DC 20004-1612
FOR: SOLAR ENERGY INDUSTRIES ASSOCIATION

JAMES P. WHITE
TRANSCANADA CORPORATION
4547 RINCON PLACE
MONTCLAIR, VA 22025
FOR: CHINOOK POWER TRANSMISSION,
LLC/ZEPHYR POWER TRANSMISSION, LLC

JEFF MEYER
PATHFINDER RENEWABLE WIND ENERGY, LLC
2720 PARK STREET, STE. 222
JACKSONVILLE, FL 32205
FOR: PATHFINDER RENEWABLE WIND ENERGY,
LLC

ALRINE WILLIAMS
LEGAL COUNSEL
LIBERTY POWER HOLDINGS, LLC (1371)
1901 W. CYPRESS CREEK ROAD, STE. 600
FORT LAUDERDALE, FL 33309
FOR: LIBERTY POWER DELAWARE, LLC AND
LIBERTY POWER HOLDINGS, LLC

JOHN KERN
BLUESTAR ENERGY SERVICES
363 ERDY ERIE STREET, 7TH FLOOR
CHICAGO, IL 60654
FOR: BLUESTAR ENERGY SERVICES

MADOLON A. KUCHERA
ASSOC. GEN. COUNSEL - VP REGULATORY
BLUESTAR ENERGY SOLUTIONS
363 WEST ERIE STREET, SUITE 700
CHICAGO, IL 60654
FOR: BLUESTAR ENERGY SOLUTIONS

ERIN SZALSKOWSKI
CORPORATE COUNSEL
CLEAN LINE ENERGY PARTNERS, LLC
1001 MCKINNEY ST., STE. 700
HOUSTON, TX 77002
FOR: CENTENNIAL WEST CLEAN LINE, LLC

GRETCHEN SCHOTT
BP WIND ENERGY NORTH AMERICA INC.
700 LOUISIANA STREET, 33RD FLOOR
HOUSTON, TX 77002
FOR: BP WIND ENERGY NORTH AMERICA, INC.

ANGELA GREGORY
DIR - WHOLESALE COMPLIANCE, U.S.
DIRECT ENERGY BUSINESS
12 GREENWAY PLAZA, STE. 600
HOUSTON, TX 77046
FOR: DIRECT ENERGY BUSINESS

KEVIN BOUDREAU
ENERCAL USA
7660 WOODWAY DRIVE, STE 471A
HOUSTON, TX 77063
FOR: ENERCAL USA

GARSON KNAPP
GEXA ENERGY CALIFORNIA, LLC
20455 STATE HIGHWAY 249, STE. 200
HOUSTON, TX 77070
FOR: GEXA ENERGY CALIFORNIA, LLC

KARA MORGAN
TRANSWEST EXPRESS LLC
555 SEVENTEENTH STREET, STE. 2400
DENVER, CO 80202
FOR: TRANSWEST EXPRESS, LLC

THOMAS LOQUVAM
SENIOR ATTORNEY
PINNACLE WEST CAPITAL CORPORATION
400 N. FIFTH STREET, MS 8695
PHOENIX, AZ 85004
FOR: ARIZONA PUBLIC SERVICE COMPANY

ADRIENNE SMITH
VP - ADMINISTRATION
TRES AMIGAS, LLC
119 EAST MARCY ST., STE. 104
SANTA FE, NM 87501
FOR: TRES AMIGAS, LLC

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

PAUL THOMSEN
DIR. - POLICY & BUSINESS DEVELOPMENT
ORMAT TECHNOLOGIES INC.
6225 NEIL ROAD
RENO, NV 89511
FOR: ORMAT TECHNOLOGIES INC.

CAMILLE A. GOULET
GENERAL COUNSEL
LOS ANGELES COMMUNITY COLLEGE DISTRICT
770 WILSHIRE BOULEVARD
LOS ANGELES, CA 90017
FOR: LOS ANGELES COMMUNITY COLLEGE
DISTRICT

KELLY CAUVEL
BUILD-LACCD
915 WILSHIRE BOULEVARD
LOS ANGELES, CA 90017
FOR: LOS ANGELES COMMUNITY COLLEGE
DISTRICT

TOM HALL
INTERIM EXEC. DIR.-FACILITIES PLANNING
LOS ANGELES COMMUNITY COLLEGE DISTRICT
770 WILSHIRE BOULEVARD
LOS ANGELES, CA 90017
FOR: LOS ANGELES COMMUNITY COLLEGE
DISTRICT

NORMAN A. PEDERSEN
HANNA AND MORTON LLP
444 S FLOWER ST., SUITE 1500
LOS ANGELES, CA 90071-2916
FOR: SOUTHERN CALIFORNIA GENERATION
COALITION / SOUTHERN CALIFORNIA PUBLIC
POWER AUTHORITY

DIANE MOSS
FOUNDER, SECRETARY OF THE BOARD
RENEWABLES 100 POLICY INSTITUTE
35316 MULHOLLAND HWY
MALIBU, CA 90265
FOR: RENEWABLES 100 POLICY INSTITUTE

MICHAEL MAZUR
PRINCIPAL
3 PHASES RENEWABLES, LLC
2100 SEPULVEDA BLVD, SUITE 38
MANHATTAN BEACH, CA 90266
FOR: 3 PHASES RENEWABLES/3 PHASES
ELECTRICAL CONSULTING

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

ADAM GREEN

MARK MCDANNEL

SOLARRESERVE
2425 OLYMPIC BLVD., STE. 500E
SANTA MONICA, CA 90404
FOR: SOLARRESERVE, LLC

COUNTY SANITATION DISTRICT OF L.A.
1955 WORKMAN MILL ROAD
WHITTIER, CA 90601
FOR: COUNTY SANITATION DISTRICT OF LOS ANGELES (LOS ANGELES COUNTY SANITATION DISTRICTS)

INGER GOODMAN
COMMERCE ENERGY INC
1 CENTERPOINTE DRIVE, SUITE 350
LA PALMA, CA 90623-2520
FOR: COMMERCE ENERGY, INC.

ANGEL AYALA
AMONIX, INC.
1709 APOLLO COURT
SEAL BEACH, CA 90740
FOR: AMONIX, INC.

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

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

KEITH SWITZER
VP REGULATORY AFFAIRS
GOLDEN STATE WATER COMPANY
630 EAST FOOTHILL BLVD.
SAN DIMAS, CA 91773-9016
FOR: GOLDEN STATE WATER COMPANY

CHERYL PONDS
OFFICE OF THE CITY ATTORNEY
276 FOURTH AVENUE
CHULA VISTA, CA 91910
FOR: THE CITY OF CHULA VISTA

MARY C. HOFFMAN
PRESIDENT
SOLUTIONS FOR UTILITIES, INC.
1192 SUNSET DRIVE
VISTA, CA 92081
FOR: SOLUTIONS FOR UTILITIES, INC.

AIMEE M. SMITH
SEMPRA ENERGY
101 ASH STREET, HQ-12
SAN DIEGO, CA 92101
FOR: SAN DIEGO GAS AND ELECTRIC CO.

DANIEL A. KING
SEMPRA GENERATION
101 ASH STREET, HQ 14
SAN DIEGO, CA 92101
FOR: SEMPRE GENERATION

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

DONALD C. LIDDELL
DOUGLASS & LIDDELL
2928 2ND AVENUE
SAN DIEGO, CA 92103
FOR: CALIF. ENERGY STORAGE ALLIANCE / WALMART STORES, INC. AND SAM'S WEST, INC. / AGPOWER GROUP, LLC / CLEAN ENERGY RENEWABLE FUELS, LLC.

THOMAS CORR
LAW OFFICE OF THOMAS CORR
618 W. LEWIS STREET
SAN DIEGO, CA 92103
FOR: NOBLE AMERICAS ENERGY SOLUTIONS, LLC

THOMAS R. DARTON
PILOT POWER GROUP, INC. (1365)
8910 UNIVERSITY CENTER LANE, STE. 520
SAN DIEGO, CA 92122
FOR: PILOT POWER GROUP, INC.

JAMES TURNER
ENERGYSOURCE, LLC
321 SOUTH WATERMAN AVE., STE. 200
EL CENTRO, CA 92243
FOR: ENERGYSOURCE, LLC

MARK S. SHIRILAU, PH.D, PE
 PRESIDENT & CEO
 ALOHA SYSTEMS, INCORPORATED
 8539 BARNWOOD LANE
 RIVERSIDE, CA 92508-7126
 FOR: ALOHA SYSTEMS, INCORPORATED

GLORIA BRITTON
 ANZA ELECTRIC COOPERATIVE, INC. (909)
 PO BOX 391909 / 58470 HWY 371
 ANZA, CA 92539
 FOR: ANZA ELECTRIC COOPERATIVE

MICHAEL LEVIN
 DIRECTOR - GOVERNMENT AFFAIRS
 FLEXENERGY, INC.
 9400 TOLEDO WAY
 IRVINE, CA 92618
 FOR: FLEXENERGY, INC.

TAM HUNT
 629 W. VALERIO ST.
 SANTA BARBARA, CA 93101
 FOR: ZANNON FOUNDATION

ANDREA MORRISON
 MARKET DEVELOPMENT REGIONAL DIR.
 DIRECT ENERGY SERVICES, LLC
 415 DIXON STREET
 ARROYO GRANDE, CA 93420
 FOR: DIRECT ENERGY SERVICES, LLC

TOM WHEELER
 SUPERVISOR - DISTRICT 5
 MADERA COUNTY BOARD OF SUPERVISORS
 200 W. FOURTH STREET
 MADERA, CA 93637
 FOR: COUNTY OF MADERA

JOSEPH LANGENBERG
 CENTRAL CALIFORNIA POWER
 5125 NORTH MARTY AVENUE, NO.324
 FRESNO, CA 93711

DAVID ORTH
 SAN JOAQUIN VALLEY POWER AUTHORITY
 ADMIN OFF @KINGS RIVER CONSERV DISTRICT
 4886 EAST JENSEN AVENUE
 FRESNO, CA 93725
 FOR: SAN JOAQUIN VALLEY POWER
 AUTHORITY/KING'S RIVER CONSERVATION
 DISTRICT

SUE MARA
 PRINCIPAL
 RTO ADVISORS, LLC
 164 SPRINGDALE WAY
 REDWOOD CITY, CA 94062
 FOR: RETAIL ENERGY SUPPLY ASSOCIATION
 (RESA)

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

DIANA L. LEE
 CALIF PUBLIC UTILITIES COMMISSION
 LEGAL DIVISION
 ROOM 4107
 505 VAN NESS AVENUE
 SAN FRANCISCO, CA 94102-3214
 FOR: DRA

JEANNE M. SOLE
 DEPUTY CITY ATTORNEY
 CITY AND COUNTY OF SAN FRANCISCO
 1 DR. CARLTON B. GOODLETT PLACE, RM. 234
 SAN FRANCISCO, CA 94102-4682
 FOR: CITY AND COUNTY OF SAN FRANCISCO

NORMAN J. FURUTA
 ASSOC. COUNSEL - REG LAW
 FEDERAL EXECUTIVE AGENCIES
 DEPT OF THE NAVY
 1455 MARKET ST., SUITE 1744
 SAN FRANCISCO, CA 94103-1399
 FOR: FEDERAL EXECUTIVE AGENCIES

ERICA BRAND
 THE NATURE CONSERVANCY CALIFORNIA
 201 MISSION STREET, 4TH FLOOR
 SAN FRANCISCO, CA 94105
 FOR: THE NATURE CONSERVANCY

NORA SHERIFF
 ALCANTAR & KAHL, LLP
 33 NEW MONTGOMERY ST., STE. 1850
 SAN FRANCISCO, CA 94105
 FOR: CALIFORNIA LARGE ENERGY CONSUMERS
 ASSOCIATION (CLECA)

NORA SHERIFF
 ALCANTAR & KAHL
 33 NEW MONTGOMERY ST., STE. 1850
 SAN FRANCISCO, CA 94105
 FOR: ENERGY PRODUCERS AND USERS
 COALITION.

BRIAN T. CRAGG
 GOODIN, MACBRIDE, SQUERI, DAY & LAMPREY
 505 SANSOME STREET, SUITE 900
 SAN FRANCISCO, CA 94111
 FOR: INDEPENDENT ENERGY PRODUCERS
 ASSOCIATION (IEPA)/CAITHNESS CORPORATION

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

JEANNE B. ARMSTRONG
 ATTORNEY
 GOODIN MACBRIDE SQUERI DAY & LAMPREY LLP
 505 SANSOME STREET, SUITE 900
 SAN FRANCISCO, CA 94111
 FOR: SOLAR ENERGY INDUSTRIES ASSOCIATION

NANCY L. MURRAY
 ATTORNEY AT LAW
 NATURENER USA, LLC.
 394 PACIFIC AVENUE, SUITE 300
 SAN FRANCISCO, CA 94111
 FOR: NATURENER USA, LLC

SETH D. HILTON
 STOEL RIVES, LLP
 THREE EMBARCADERO CENTER, STE. 1120
 SAN FRANCISCO, CA 94111
 FOR: DUKE ENERGY

SUZY HONG
 ATTORNEY AT LAW
 GOODIN MACBRIDE SQUERI DAY & LAMPREY
 505 SANSOME STREET, SUITE 900
 SAN FRANCISCO, CA 94111
 FOR: TERRA-GEN POWER, LLC

VIDHYA PRABHAKARAN
 DAVIS WRIGHT & TREMAINE LLP
 505 MONTGOMERY STREET, SUITE 800
 SAN FRANCISCO, CA 94111
 FOR: THE LEAF EXCHANGE, LLC

MICHAEL B. DAY
 ATTORNEY
 GOODIN MACBRIDE SQUERI DAY & LAMPREY LLP
 505 SANSOME STREET, STE 900
 SAN FRANCISCO, CA 94111-3133
 FOR: CALENERGY GENERATION/ABENGOA
 SOLAR, INC.

DAVID L. HUARD
 MANATT, PHELPS & PHILLIPS, LLP
 ONE EMBARCADERO CENTER, STE 2900
 SAN FRANCISCO, CA 94111-3736
 FOR: COUNTY OF LOS ANGELES

NICOLE SHAUGHNESSY
 MANAGING DIR.
 EVOLUTION MARKETS
 3 EMBARCADERO CENTER, STE. 1630
 SAN FRANCISCO, CA 94111-4041
 FOR: EVOLUTION MARKETS, INC.

JOSEPH M. KARP
 ATTORNEY AT LAW
 WINSTON & STRAWN LLP
 101 CALIFORNIA STREET, 39TH FLOOR
 SAN FRANCISCO, CA 94111-5894
 FOR: CALIFORNIA WIND ENERGY
 ASSN./ABENGOA SOLAR INC./AUSRA INC AND
 BRIGHTSOURCE ENERGY INC.

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

JEFFREY P. GRAY
 DAVIS WRIGHT TREMAINE, LLP

STEVEN F. GREENWALD
 ATTORNEY AT LAW

505 MONTGOMERY STREET, SUITE 800
 SAN FRANCISCO, CA 94111-6533
 FOR: CALPINE POWER AMERICA-CA, LLC

DAVIS WRIGHT TREMAINE LLP
 505 MONTGOMERY STREET, SUITE 800
 SAN FRANCISCO, CA 94111-6533
 FOR: NEWBERRY GEOTHERMAL LLC /
 DAVENPORT NEWBERRY HOLDINGS, LLC /
 NORTHWEST ENERGY SYSTEMS CO./IDAHO WIND
 PARTNERS 1, LLC/CAPITAL POWER
 CORPORATION

SARA STECK MYERS
 ATTORNEY AT LAW
 122 28TH AVE.
 SAN FRANCISCO, CA 94121
 FOR: CENTER FOR ENERGY EFFICIENCY AND
 RENEWABLE TECHNOLOGIES (CEERT)

PATRICK DOHERTY
 POLICY ASSOCIATE
 PACIFIC FOREST TRUST
 1001A OREILLY AVENUE
 SAN FRANCISCO, CA 94129
 FOR: PACIFIC FOREST TRUST

KERRY HATTEVIK
 DIR - WEST MARKET AFFAIRS
 NEXTERA ENERGY RESOURCES
 829 ARLINGTON BLVD.
 EL CERRITO, CA 94530
 FOR: NEXTERA ENERGY RESOURCES

JASON B. KEYES
 KEYES FOX & WIEDMAN, LLP
 436 14TH STREET, STE. 1305
 OAKLAND, CA 94612
 FOR: SUNEDISON

JOSEPH F. WIEDMAN
 COUNSEL
 KEYES, FOX & WIEDMAN LLP
 436 14TH STREET, SUITE 1305
 OAKLAND, CA 94612
 FOR: SUNPOWER CORPORATION

KEVIN T. FOX
 KEYES FOX & WIEDMAN, LLP
 436 14TH STREET, SUITE 1305
 OAKLAND, CA 94612
 FOR: SILVERADO POWER, LLC

LAURENCE G. CHASET
 KEYES FOX & WIEDMAN, LLP
 436 14TH STREET, STE. 1305
 OAKLAND, CA 94612
 FOR: TENASKA SOLAR VENTURES

SKY STANFIELD
 KEYES, FOX & WIEDMAN LLP
 436 14TH ST., STE. 1305
 OAKLAND, CA 94612
 FOR: INTERSTATE RENEWABLE ENERGY COUNCIL

ZEYNEP ERDAL
 CAL. WASTEWATER CLIMATE CHANGE GROUP
 155 GRAND AVE., STE. 800
 OAKLAND, CA 94612
 FOR: CALIFORNIA WASTEWATER CLIMATE
 CHANGE GROUP

PATRICK VAN BEEK
 DIR - OPER
 COMMERCIAL ENERGY OF CALIFORNIA
 7677 OAKPORT STREET, STE. 525
 OAKLAND, CA 94621
 FOR: COMMERCIAL ENERGY OF CALIFORNIA
 DBA COMMERCIAL ENERGY OF MONTANA

ANDY KATZ
 SIERRA CLUB CALIFORNIA
 2150 ALLSTON WAY, STE. 400
 BERKELEY, CA 94704
 FOR: SIERRA CLUB CALIFORNIA

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

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

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

FOR: EAST BAY POWER AUTHORITY/CITY OF
BERKELEY

FOR: THE COMMUNITY COLLEGE LEAGUE OF
CALIFORNIA

JULIA A. LEVIN
EXECUTIVE DIRECTOR
BIOENERGY ASSOCIATION OF CALIFORNIA
PO BOX 6184
ALBANY, CA 94706
FOR: BIOENERGY ASSOCIATION OF CALIFORNIA

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

ELIZABETH KELLY
LEGAL DIRECTOR
MARIN ENERGY AUTHORITY
781 LINCOLN AVENUE, SUITE 320
SAN RAFAEL, CA 94901
FOR: MARIN ENERGY AUTHORITY

ROY PHILLIPS
PRESIDENT / CEO
REP ENERGY, INC.
40 MARK DRIVE
SAN RAFAEL, CA 94903
FOR: REP ENERGY, INC.

JAMES WEIL
DIRECTOR
AGLET CONSUMER ALLIANCE
PO BOX 866
NOVATO, CA 94948
FOR: AGLET CONSUMER ALLIANCE

MAHLON ALDRIDGE
VP - STRATEGIC DEVELOPMENT
ECOLOGY ACTION
877 CEDAR STREET, STE. 240
SANTA CRUZ, CA 95060-3938
FOR: ECOLOGY ACTION

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

MICHAEL E. BOYD
PRESIDENT
CALIFORNIANS FOR RENEWABLE ENERGY, INC.
5439 SOQUEL DRIVE
SOQUEL, CA 95073
FOR: CALIFORNIANS FOR RENEWABLE
ENERGY, INC.

JOHN R. REDDING
ARCTURUS ENERGY CONSULTING
44810 ROSEWOOD TERRACE
MENDOCINO, CA 95460
FOR: SILICON VALLEY MANUFACTURERS GROUP

CHRISTIANA DARLINGTON
GENERAL COUNSEL
PLACER COUNTY AIR POLLUTION CONTROL DIST
175 FULWEILER AVE.
AUBURN, CA 95603
FOR: PLACER COUNTY AIR POLLUTION
CONTROL DISTRICT

JUDITH SANDERS
CALIFORNIA ISO
250 OUTCROPPING WAY
FOLSOM, CA 95630
FOR: CALIFORNIA INDEPENDENT SYSTEM
OPERATORS

MARTIN HERMANN
8MINUTENERGY RENEWABLES, LLC
111 WOODMERE ROAD, STE. 190
FOLSOM, CA 95630
FOR: 8MINUTENERGY RENEWABLES, LLC

CAROLYN KEHREIN
ENERGY MANAGEMENT SERVICES
2602 CELEBRATION WAY
WOODLAND, CA 95776
FOR: ENERGY USERS FORUM

CHARLES WHITE
DIR. - REGULATORY AFFAIRS, WEST
WASTE MANAGEMENT
915 L STREET, SUITE 1430
SACRAMENTO, CA 95814
FOR: WASTE MANAGEMENT

DOROTHY ROTHROCK
 VP - GOVERNMENT RELATIONS
 CALIFORNIA MANUFACTURERS & TECHNO. ASSN.
 1115 11TH STREET
 SACRAMENTO, CA 95814
 FOR: CA MANUFACTURERS & TECHNOLOGY ASSN.

JAN MCFARLAND
 CAEATFA
 915 CAPITOL MALL, RM. 468
 SACRAMENTO, CA 95814
 FOR: AMERICANS FOR SOLAR POWER

JULEE MALINOWSKI BALL
 EXECUTIVE DIR.
 CALIFORNIA BIOMASS ENERGY ALLIANCE
 1015 K STREET
 SACRAMENTO, CA 95814
 FOR: CALIFORNIA BIOMASS ENERGY ALLIANCE

KIMBERLEY DELFINO
 CALIF. PROGRAM DIR.
 DEFENDERS OF WILDLIFE
 1303 J STREET, STE. 270
 SACRAMENTO, CA 95814
 FOR: DEFENDERS OF WILDLIFE

LES NELSON
 CALIFORNIA SOLAR ENERGY INDUSTRIES ASSN
 1107 NINTH ST., STE. 820
 SACRAMENTO, CA 95814
 FOR: CALIFORNIA SOLAR ENERGY INDUSTRIES
 ASSOCIATION (CSEIA)

JEDEDIAH J. GIBSON
 ATTORNEY
 ELLISON, SCHNEIDER & HARRIS, L.L.P.
 2600 CAPITOL AVENUE, SUITE 400
 SACRAMENTO, CA 95816
 FOR: BEAR VALLEY ELECTRIC SERVICE

RONALD LIEBERT
 ATTORNEY AT LAW
 ELLISON SCHNEIDER & HARRIS LLP
 2600 CAPITOL AVENUE, STE. 400
 SACRAMENTO, CA 95816
 FOR: NV ENERGY, INC.

SAMANTHA G. POTTENGER
 ELLISON, SCHNEIDER AND HARRIS L.L.P.
 2600 CAPITOL AVENUE, SUITE 400
 SACRAMENTO, CA 95816
 FOR: FORTISTAR METHANE GROUP

ANDREW B. BROWN
 ELLISON SCHNEIDER & HARRIS, L.L.P.
 2600 CAPITOL AVENUE, SUITE 400
 SACRAMENTO, CA 95816-5905
 FOR: CONSTELLATION NEWENERGY,
 INC./ALLIANCE FOR RETAIL ENERGY MARKETS

DOUGLAS K. KERNER
 ATTORNEY AT LAW
 ELLISON, SCHNEIDER & HARRIS, LLP
 2600 CAPITOL AVENUE, SUITE 400
 SACRAMENTO, CA 95816-5905
 FOR: SIERRA PACIFIC INDUSTRIES

JEDEDIAH J. GIBSON
 ATTORNEY AT LAW
 ELLISON SCHNEIDER & HARRIS LLP
 2600 CAPITOL AVENUE, SUITE 400
 SACRAMENTO, CA 95816-5905
 FOR: SIERRA PACIFIC POWER COMPANY

WILLIAM W. WESTERFIELD III
 SR. ATTORNEY - OFF. OF GEN. COUNSEL
 SACRAMENTO MUNICIPAL UTILITY DISTRICT
 6201 S STREET, M.S. B402
 SACRAMENTO, CA 95817
 FOR: SACRAMENTO MUNICIPAL UTILITY
 DISTRICT

RACHEL GOLD
 LARGE-SCALE SOLAR ASSOCIATION
 2501 PORTOLA WAY
 SACRAMENTO, CA 95818
 FOR: LARGE SCALE SOLAR ASSOCIATION

MARK HENWOOD
 HENWOOD ASSOCIATES, INC.
 7311 GREENHAVEN DRIVE, STE. 275
 SACRAMENTO, CA 95831
 FOR: HENWOOD ASSOCIATES, INC.

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

ROB NEENAN
 CALIFORNIA LEAGUE OF FOOD PROCESSORS
 1755 CREEKSIDE OAKS DRIVE, SUITE 250
 SACRAMENTO, CA 95833
 FOR: CALIFORNIA LEAGUE OF FOOD
 PROCESSORS

ANN L. TROWBRIDGE
 DAY CARTER & MURPHY LLP
 3620 AMERICAN RIVER DRIVE, SUITE 205
 SACRAMENTO, CA 95864
 FOR: AGRICULTURAL ENERGY CONSUMERS
 ASSOCIATION

CORBY GARDNER
 PLUMAS-SIERRA RURAL ELECTRIC CO-OP
 73233 STATE ROUTE 70
 PORTOLA, CA 96122-7069

PETER EICHLER
 CALIFORNIA PACIFIC ELECTRIC COMPANY
 933 ELOISE AVENUE
 SOUTH LAKE TAHOE, CA 96150
 FOR: CALIFORNIA PACIFIC ELECTRIC
 COMPANY (CALPECO)

KEVIN A. LYNCH
 IBERDROLA RENEWABLES INC
 1125 NW COUCH ST., SUITE 700
 PORTLAND, OR 97209
 FOR: IBERDROLA RENEWABLES, INC.

ETTA LOCKEY
 LEGAL COUNSEL
 PACIFICORP
 825 NE MULTNOMAH ST., STE. 1800
 PORTLAND, OR 97232
 FOR: PACIFICORP

THOM A. FISCHER
 PRESIDENT
 TOLLHOUSE ENERGY COMPANY
 3633 ALDERWOOD AVENUE
 BELLINGHAM, WA 98225
 FOR: TOLLHOUSE ENERGY COMPANY

PAUL BRACHVOGEL
 GEN. COUNSEL
 PU DISTRICT NO.1 OF COWLITZ COUNTY
 961 12TH AVENUE / PO BOX 3007
 LONGVIEW, WA 98632
 FOR: PUBLIC UTILITY DISTRICT NO.1 OF
 COWLITZ COUNTY

Information Only

KIM MOORE
 ARGUS MEDIA
 EMAIL ONLY
 EMAIL ONLY, UK 000 000
 UNITED KINGDOM

NANCY NORRIS
 POWEREX CORPORATION
 EMAIL ONLY
 EMAIL ONLY, BC 000 000
 CANADA

ADAM ATKINSON-LEWIS
 NATEL ENERGY
 EMAIL ONLY
 EMAIL ONLY, CA 00000

ALEX MARTIN
 NEXTLIGHT RENEWABLE POWER, LLC
 EMAIL ONLY
 EMAIL ONLY, CA 00000

AMBER RIESENHUBER
 ENERGY ANALYST
 INDEPENDENT ENERGY PRODUCERS ASSOC.
 EMAIL ONLY
 EMAIL ONLY, CA 00000

ANDRA PLIGAVKO
 FIRST SOLAR DEVELOPMENT, INC.
 EMAIL ONLY
 EMAIL ONLY, CA 00000

ANDREW WANG
 SOLARRESERVE, LLC
 EMAIL ONLY

ANTHONY M. NICOLA
 EMAIL ONLY
 EMAIL ONLY, CA 00000

EMAIL ONLY, CA 00000

ANU VEGE
PACIFIC GAS & ELECTRIC COMPANY
EMAIL ONLY
EMAIL ONLY, CA 00000

ARI CITRIN
PROSOLIA SOLAR, CFO NORTH AMERICA
EMAIL ONLY
EMAIL ONLY, CA 00000

BARBARA R. BARKOVICH
BARKOVICH & YAP, INC.
EMAIL ONLY
EMAIL ONLY, CA 00000
FOR: .

BEN REES
EVOLUTION MARKETS, INC.
EMAIL ONLY
EMAIL ONLY, CA 00000

BILLY BLATTNER
SAN DIEGO GAS & ELECTRIC COMPANY
EMAIL ONLY
EMAIL ONLY, CA 00000

BRADLEY A. ANDERSON
EMAIL ONLY
EMAIL ONLY, CA 00000

BRENDON CUSSIO
EMAIL ONLY
EMAIL ONLY, CA 00000

BRUCE MCLAUGHLIN
ATTORNEY AT LAW
BRAUN & BLAISING P.C.
EMAIL ONLY
EMAIL ONLY, CA 00000

CAITLIN COLLINS LIOTIRIS
ENERGY STRATEGIES, LLC
EMAIL ONLY
EMAIL ONLY, UT 00000

CARLOS LAMAS-BABBINI
PROGRAM MGR.
COMVERGE, INC.
EMAIL ONLY
EMAIL ONLY, CA 00000

CASE COORDINATION
PACIFIC GAS AND ELECTRIC COMPANY
EMAIL ONLY
EMAIL ONLY, CA 00000

CATHIE ALLEN
REGULATORY MGR.
PACIFICORP
EMAIL ONLY
EMAIL ONLY, OR 00000

CHASE ADAMS
EMAIL ONLY
EMAIL ONLY, CA 00000

CHUCK GILFOY
DIR. - MARKETING & ASSET OPTIMIZATION
CALENERGY OPERATING CORPORATION
EMAIL ONLY
EMAIL ONLY, CA 00000

DAN CHIA
DEP. DIR. - GOVERNMENT AFFAIRS
SOLARCITY
EMAIL ONLY
EMAIL ONLY, CA 00000

DAN CHIA
DEPUTY DIRECTOR - GOVERNMENT AFFAIRS
SOLARCITY
EMAIL ONLY
EMAIL ONLY, CA 00000

DANIEL HOPPER
EMAIL ONLY
EMAIL ONLY, CA 00000

DANIELLE OSBORN-MILLS
REGULATORY AFFAIRS COORDINATOR
CEERT
EMAIL ONLY
EMAIL ONLY, CA 00000

DAVE OMINSKY
 EMAIL ONLY
 EMAIL ONLY, CA 00000

DAVID E. MORSE
 EMAIL ONLY
 EMAIL ONLY, CA 00000

DAVID TOWNLEY
 US SALES & MARKETING
 INFANIA CORPORATION
 EMAIL ONLY
 EMAIL ONLY, WA 00000

DIANE I. FELLMAN
 DIRECTOR, REGULATORY & GOV'T AFFAIRS
 NRG WEST & SOLAR
 EMAIL ONLY
 EMAIL ONLY, CA 00000

DOCKET COORDINATOR
 KEYS AND FOX
 EMAIL ONLY
 EMAIL ONLY, CA 00000

DONALD E. OSBORN
 SPECTRUM ENERGY DEVELOPMENT INC.
 EMAIL ONLY
 EMAIL ONLY, CA 00000

DOUG DAVIE
 WELLHEAD ELECTRIC
 EMAIL ONLY
 EMAIL ONLY, CA 00000

ELAINE SISON-LEBRILLA
 SACRAMENTO MUNICIPAL UTILITY DISTRICT
 EMAIL ONLY
 EMAIL ONLY, CA 00000

ELIZABETH HADLEY
 REDDING ELECTRIC UTILITY
 EMAIL ONLY
 EMAIL ONLY, CA 00000

ERIC THOMPSON
 NATELENERGY
 EMAIL ONLY
 EMAIL ONLY, CA 00000

ERIN GRIZARD
 BLOOM ENERGY, INC.
 EMAIL ONLY
 EMAIL ONLY, CA 00000

FRANK DE ROSA
 NEXTLIGHT RENEWABLE POWER, LLC
 EMAIL ONLY
 EMAIL ONLY, CA 00000

FREEMAN S. HALL
 SOLAR ELECTRIC SOLUTIONS, LLC
 EMAIL ONLY
 EMAIL ONLY, CA 00000

GENE THOMAS
 ECOLOGY ACTION
 EMAIL ONLY
 EMAIL ONLY, CA 00000

GREG KESTER
 PROG. MGR.-BIOSOLIDS
 CALIF. ASSN. OF SANITATION AGENCIES
 EMAIL ONLY
 EMAIL ONLY, CA 00000
 FOR: CALIFORNIA ASSOCIATION OF
 SANITATION AGENCIES (CASA)

GREGG FISHMAN
 ECOLOGY ACTION
 EMAIL ONLY
 EMAIL ONLY, CA 00000

GREGORY S.G. KLATT
 DOUGLASS & LIDDELL
 EMAIL ONLY
 EMAIL ONLY, CA 00000

GUINNESS MCFADDEN
 EMAIL ONLY
 EMAIL ONLY, CA 00000

GWENNETH O'HARA
 CALIFORNIA POWER LAW GROUP
 EMAIL ONLY

HARRY SINGH
 GOLDMAN SACHS & CO.
 EMAIL ONLY

EMAIL ONLY, CA 00000

HUGH YAO
SOUTHERN CALIFORNIA GAS COMPANY
EMAIL ONLY
EMAIL ONLY, CA 00000

JAMIE L. MAULDIN
ADAMS BROADWELL JOSEPH & CARDOZO, PC
EMAIL ONLY
EMAIL ONLY, CA 00000

JAN MCFARLAND
SONIC
EMAIL ONLY
EMAIL ONLY, CA 00000

JANICE LIN
MANAGING PARTNER
STRATEGEN CONSULTING LLC
EMAIL ONLY
EMAIL ONLY, CA 00000

JAY CORRALES
TURNER REAL ESTATE
EMAIL ONLY
EMAIL ONLY, CA 00000

JIAN ZHANG
GRIDX, INC.
EMAIL ONLY
EMAIL ONLY, CA 00000

JOHN BARNES
PRESIDENT / CEO
SOLAR LAND PARTNERS, INC.
EMAIL ONLY
EMAIL ONLY, CA 00000

JUANCHO EEKHOUT
SAN DIEGO GAS & ELECTRIC COMPANY
EMAIL ONLY
EMAIL ONLY, CA 00000

KELLY GIDDENS
ORRICK HERINTON & SUTCLIFFE
EMAIL ONLY
EMAIL ONLY, CA 00000

KEVIN CHEN

EMAIL ONLY, CA 00000

JAMES B. WOODRUFF
ATTORNEY AT LAW
NEXTLIGHT RENEWABLE POWER, LLC
EMAIL ONLY
EMAIL ONLY, CA 00000

JAN MCFAR
EMAIL ONLY
EMAIL ONLY, CA 00000

JAN PEPPER
ELECTRIC DIV., MGR.
SILICON VALLEY POWER
EMAIL ONLY
EMAIL ONLY, CA 00000

JASON YAN
PACIFIC GAS AND ELECTRIC COMPANY
EMAIL ONLY
EMAIL ONLY, CA 00000

JESSICA HILGART
PACIFIC GAS & ELECTRIC COMPANY
EMAIL ONLY
EMAIL ONLY, CA 00000

JIM FERGUSON
FERGUSON LAW FIRM
EMAIL ONLY
EDMAIL ONLY, CA 00000

JOSH RICHMAN
BLOOM ENERGY CORPORATION
EMAIL ONLY
EMAIL ONLY, CA 00000

JULIANNE SPEARS
ORRICK HERRINGTON & SUTCLIFFE, LLP
EMAIL ONLY
EMAIL ONLY, CA 00000

KENNETH SAHM WHITE
CLEAN COALITION
EMAIL ONLY
EMAIL ONLY, CA 00000

LAUREN ROHDE

TRINA SOLAR
 EMAIL ONLY
 EMAIL ONLY, CA 00000

PACIFIC GAS AND ELECTRIC COMPANY
 EMAIL ONLY
 EMAIL ONLY, CA 00000

LESLIE E. SHERMAN
 ORRICK, HERRINGTON & SUTCLIFFE LLP
 EMAIL ONLY
 EMAIL ONLY, CA 00000

LON W. HOUSE, PH.D
 WATER AND ENERGY CONSULTING (WEC)
 EMAIL ONLY
 EMAIL ONLY, CA 00000

LUKE SOULE
 KOMODO ENTERPRISES, INC.
 EMAIL ONLY
 EMAIL ONLY, CA 00000

MARCO LOPEZ
 EMAIL ONLY
 EMAIL ONLY, CA 00000

MARCUS V. DA CUNHA
 EMAIL ONLY
 EMAIL ONLY, CA 00000

MARGARET BRUCE
 ECOLOGY ACTION
 EMAIL ONLY
 EMAIL ONLY, CA 00000

MARJORIE OXSEN
 CALPINE CORPORATION
 EMAIL ONLY
 EMAIL ONLY, CA 00000

MARK CHEDIAK
 ENERGY REPORTER
 BLOOMBERG NEWS
 EMAIL ONLY
 EMAIL ONLY, CA 00000

MARK FRAZEE
 CITY OF ANAHEIM-PUBLIC UTILITIES DEPT.
 EMAIL ONLY
 EMAIL ONLY, CA 00000

MARK ROBERTS
 DIR - PROGRAM DEVELOPMENT
 SUNLIGHT PARTNERS, LLC
 EMAIL ONLY
 EMAIL ONLY, AZ 00000

MATT KLOPFENSTEIN
 GONZALEZ QUINTANA & HUNTER LLC
 EMAIL ONLY
 EMAIL ONLY, CA 00000

MATT SUHR
 CALPINE
 EMAIL ONLY
 EMAIL ONLY, CA 00000

MEGAN COX
 CALIFORNIA POWER LAW GROUP
 EMAIL ONLY
 EMAIL ONLY, CA 00000

MELISSA P. MARTIN
 STATESIDE ASSOCIATES
 EMAIL ONLY
 EMAIL ONLY, CA 00000

MEREDITH CONNOLLY
 NATURAL RESOURCES DEFENSE COUNCIL
 EMAIL ONLY
 EMAIL ONLY, CA 00000

MICHAEL BASS
 ESOLAR, INC.
 EMAIL ONLY
 EMAIL ONLY, CA 00000

MICHAEL DEANGELIS
 SACRAMENTO MUNICIPAL UTILITY DISTRICT
 EMAIL ONLY
 EMAIL ONLY, CA 00000

MICHAEL WHEELER
 RECURRENT ENERGY
 EMAIL ONLY
 EMAIL ONLY, CA 00000

MIYUKI IWAHASHI

NEDRA YOUNG

PACIFIC GAS & ELECTRIC COMPANY
 EMAIL ONLY
 EMAIL ONLY, CA 00000

WINTEC ENERGY, LTD
 EMAIL ONLY
 EMAIL ONLY, CA 00000

NEIL BLACK
 CALIFORNIA BIOENERGY LLC
 EMAIL ONLY
 EMAIL ONLY, NY 00000

NICHOLAS WEBER
 EMAIL ONLY
 EMAIL ONLY, CA 00000

OBADIAH BARTHOLOMY
 SACRAMENTO MUNICIPAL UTILITY DISTRICT
 EMAIL ONLY
 EMAIL ONLY, CA 00000

PAMELA L. BARBER, ESQ.
 SR. ANALYST, COMPLIANCE
 BEAR VALLEY ELECTRIC SERVICE
 EMAIL ONLY
 EMAIL ONLY, CA 00000

PRAMOD KULKARNI
 CUSTOMIZED ENERGY SOLUTIONS
 EMAIL ONLY
 EMAIL ONLY, CA 00000

RACHEL MCMAHON
 EMAIL ONLY
 EMAIL ONLY, CA 00000

RANDY KELLER
 DIRECTOR OF DEVELOPMENT
 CAENERGY OPERATING CORPORATION
 EMAIL ONLY
 EMAIL ONLY, CA 00000

RICHARD SMITH
 SAN FRANCISCO WATER, POWER & SEWER
 EMAIL ONLY
 EMAIL ONLY, CA 00000

ROSS BUCKENHAM
 CALIFORNIA BIOENERGY LLC
 EMAIL ONLY
 EMAIL ONLY, TX 00000

RYAN BERNARDO
 BRAUN BLAISING MCLAUGHLIN, P.C.
 EMAIL ONLY
 EMAIL ONLY, CA 00000

RYAN HEIDARI
 ENDIMENSIONS LLC
 EMAIL ONLY
 EMAIL ONLY, CA 00000

SARA BIRMINGHAM
 DIRECTOR - WESTERN POLICY
 SOLAR ENERGY INDUSTRIES ASSOCIATION
 EMAIL ONLY
 EMAIL ONLY, CA 00000

SEAN GALLAGHER
 MANAGING DIRECTOR-GOV'T RELATIONS
 K ROAD POWER
 EMAIL ONLY
 EMAIL ONLY, CA 00000

SEAN P. BEATTY
 DIRECTOR-WEST REGULATORY AFFAIRS
 NRG WEST
 EMAIL ONLY
 EMAIL ONLY, CA 00000

SEPHRA A. NINOW, J.D.
 REGULATORY AFFAIRS MGR.
 CALIFORNIA CENTER FOR SUSTAINABLE ENERGY
 EMAIL ONLY
 EMAIL ONLY, CA 00000

SHALINI SWAROOP
 REGULATORY COUNSEL
 MARIN ENERGY AUTHORITY
 EMAIL ONLY
 EMAIL ONLY, CA 00000

SHANNON EDDY
 LARGE-SCALE SOLAR ASSOCIATION
 EMAIL ONLY
 EMAIL ONLY, CA 00000

SHIVANI BALLESTEROS
 SAN DIEGO GAS & ELECTRIC COMPANY
 EMAIL ONLY
 EMAIL ONLY, CA 00000

SNULLER PRICE
ENERGY AND ENVIRONMENTAL ECONOMICS
EMAIL ONLY
EMAIL ONLY, CA 00000

STEPHANIE WANG
DIRECTOR
CLEAN COALITION
EMAIL ONLY
EMAIL ONLY, CA 00000

STEPHEN SMITH
SOLVIDA ENERGY GROUP
EMAIL ONLY
EMAIL ONLY, CA 00000

STEVEN KELLY
INDEPENDENT ENERGY PRODUCERS ASSOCIATION
EMAIL ONLY
EMAIL ONLY, CA 00000

STEVEN ZHU
TRINA SOLAR
EMAIL ONLY
EMAIL ONLY, CA 00000

THADEUS B. CULLEY
KEYES FOX & WIEDMAN LLP
EMAIL ONLY
EMAIL ONLY, CA 00000

TIMOTHY N. TUTT
SACRAMENTO MUNICIPAL UTILITIES DISTRICT
EMAIL ONLY
EMAIL ONLY, CA 00000

TONY BRAUN
BRAUN BALISING MCLAUGHLIN PC
EMAIL ONLY
EMAIL ONLY, CA 00000

TONY D. PASTORE
EMAIL ONLY
EMAIL ONLY, CA 00000

VALERIE J. WINN
PACIFIC GAS & ELECTRIC COMPANY
EMAIL ONLY
EMAIL ONLY, CA 00000

VALERIE SEYMOUR
POLICY ASSOCIATE
CLEAN COALITION
EMAIL ONLY
EMAIL ONLY, CA 00000

VENKAT SURAVARAPU
IHS CERA
EMAIL ONLY
EMAIL ONLY, CA 00000

VIRINDER SINGH
EDF RENEWABLE ENERGY
EMAIL ONLY
EMAIL ONLY, CA 00000

SPECTRUM ENERGY DEVELOPMENT INC.
EMAIL ONLY
EMAIL ONLY, CA 00000

MRW & ASSOCIATES, LLC
EMAIL ONLY
EMAIL ONLY, CA 00000

SILVERADO POWER LLC
EMAIL ONLY
EMAIL ONLY, CA 00000

CURTIS KEBLER
SEMPRA GENERATION
EMAIL ONLY
EMAIL ONLY, CA 00000-0000

DEREK DENNISTON
EMAIL ONLY
EMAIL ONLY, CA 00000-0000

G. PATRICK STONER
PROGRAM DIRECTOR
LOCAL GOVERNMENT COMMISSION
EMAIL ONLY
EMAIL ONLY, CA 00000-0000

IAN MCGOWAN
MANAGER - REGULATORY AFFAIRS
3DEGREES
EMAIL ONLY
EMAIL ONLY, CA 00000-0000

JAMIE NAGEL
ZGLOBAL, INC
EMAIL ONLY
EMAIL ONLY, CA 00000-0000

JENNIFER BARNES
NAVIGANT CONSULTING, INC.
EMAIL ONLY
EMAIL ONLY, CA 00000-0000

JIM STACK, PH.D.
RESOURCE PLANNER
CITY OF PALO ALTO UTILITIES
EMAIL ONLY
EMAIL ONLY, CA 00000-0000

JUDY PAU
DAVIS WRIGHT TREMAINE LLP
EMAIL ONLY
EMAIL ONLY, CA 00000-0000

LILY M. MITCHELL
HANNA AND MORTON LLP
EMAIL ONLY
EMAIL ONLY, CA 00000-0000

MARK STOUT
MERIDIAN ENERGY USA, INC
EMAIL ONLY
EMAIL ONLY, CA 00000-0000

MARTIN HOMEC
REDWOOD RENEWABLES/CARE
EMAIL ONLY
EMAIL ONLY, CA 00000-0000

MOHAN NIROULA
CALIF DEPT OF WATER RESOURCES
EMAIL ONLY
EMAIL ONLY, CA 00000-0000

NANCY RADER
EXECUTIVE DIRECTOR
CALIFORNIA WIND ENERGY ASSOCIATION
EMAIL ONLY
EMAIL ONLY, CA 00000-0000
FOR: CALIFORNIA WIND ENERGY ASSOCIATION

PETER BLOOD
COLUMBIA ENERGY PARTNERS, LLC
EMAIL ONLY
EMAIL ONLY, WA 00000-0000

POLLY SHAW
SUNTECH AMERICA, INC.
EMAIL ONLY
EMAIL ONLY, CA 00000-0000

RICHARD F. CHANDLER
BP SOLAR
EMAIL ONLY
EMAIL ONLY, MA 00000-0000

RICHARD W. RAUSHENBUSH
EMAIL ONLY
EMAIL ONLY, CA 00000-0000

ROBIN J. WALTHER
EMAIL ONLY
EMAIL ONLY, CA 00000-0000

RYAN PLETKA
RENEWABLE ENERGY PROJECT MANAGER
BLACK & VEATCH
EMAIL ONLY
EMAIL ONLY, CA 00000-0000

SHAUN HALVERSON
PACIFIC GAS AND ELECTRIC COMPANY
EMAIL ONLY
EMAIL ONLY, CA 00000-0000

SHERIDAN J. PAUKER
WILSON SONSINI GOODRICH & ROSATI
EMAIL ONLY
EMAIL ONLY, CA 00000-0000

TED KO
ASSOCIATE EXECUTIVE DIRECTOR
CLEAN COALITION (FORMERLY FIT)
EMAIL ONLY
EMAIL ONLY, CA 00000-0000

THOMAS HOBSON
GE ENERGY

DAVIS WRIGHT TREMAINE, LLC
EMAIL ONLY

EMAIL ONLY
EMAIL ONLY, CA 00000-0000

EMAIL ONLY, CA 00000-0000

COOL EARTH SOLAR
EMAIL ONLY
EMAIL ONLY, CA 00000-0000

JAMES MCMAHON
29 DANBURY ROAD
NASHUA, NH 03064

TRACY REID
FUELCELL ENERGY, INC.
3 GREAT PASTURE ROAD
DANBURY, CT 06810

KAREN KOCHONIES
MORGAN STANLEY
2000 WESTCHESTER AVE., 1ST FLOOR
PURCHASE, NY 10577

MORGAN HANSEN
MORGAN STANLEY - COMMODITIES
2000 WESTCHESTER AVE., 1ST FLOOR
PURCHASE, NY 10577

NICHOLE FABRI ZANDOLI
PRESIDENT
CLEAR ENERGY BROKERAGE & CONSULTING LLC
403 PARKSIDE AVENUE
BROOKLYN, NY 11226

ARIEL LAGER
CUSTOMIZED ENERGY SOLUTIONS
1528 WALNUT STREET
PHILADELPHIA, PA 19102

ERIKA SCHMITT
CUSTOMIZED ENERGY SOLUTIONS
1528 WALNUT STREET, 22ND FL.
PHILADELPHIA, PA 19102

CATHERINE M. KRUPKA
LS POWER ASSOCIATES, L.P.
1275 PENNSYLVANIA AVE., NW
WASHINGTON, DC 20004

ALEXANDRA KONIECZNY
SUTHERLAND ASHBILL & BRENNAN
1275 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20004-2415

PAUL ACKERMAN
SENIOR COUNSEL
CONSTELLATION ENERGY RESOURCES, INC.
111 MARKET PLACE
BALTIMORE, MD 21202

MICHAEL E. CARBOY
SIGNAL HILL CAPITAL LLC
300 D. LOMBARD ST., STE. 1700
BALTIMORE, MD 21202-3243

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

RONALD M. CERNIGLIA
DIRECTOR- NATIONAL ADVOCACY
DIRECT ENERGY SERVICES, LLC
7240 RYEHILL DR.
CARY, NC 27519-1570

ALRINE WILLIAMS
LEGAL COUNSEL
LIBERTY POWER HOLDINGS LLC
1901 W. CYPRESS CREEK ROAD, STE. 600
FORT LAUDERDALE, FL 33309

YANIRA M. GOMEZ
LIBERTY POWER CORP.
1901 W. CYPRESS CREEK RD., STE. 600
FORT LAUDERDALE, FL 33309

CHRISTOPHER SHERMAN
DIR - REGULATORY GOV'T AFFAIRS
NEXTERA ENERGY RESOURCES
700 UNIVERSE BLVD.
JUNO BEACH, FL 33408

WINTON KELLY
DIRECTOR OF POWER MARKETS
NEXTERA ENERGY RESOURCES
700 UNIVERSE BLVD.
JUNO BEACH, FL 33408

SAMARA M. RASSI
 REGULATORY AFFAIRS ANALYST
 FELLON-MCCORD & ASSOCIATES
 10200 FOREST GREEN BLVD., STE. 601
 LOUISVILLE, KY 40223-5183

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

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

ERIC OSBORN
 CALPINE POWER AMERICA-CA, LLC
 717 TEXAS AVENUE, STE 100
 HOUSTON, TX 77002
 FOR: CALPINE POWER AMERICA - CA, LLC

MARTY ROGERS
 MANAGING ATTORNEY
 NEXTERA ENERGY RESOURCES
 601 TRAVIS STREET, STE. 1900
 HOUSTON, TX 77002

MICHAEL D. HANSEN
 CHAIRMAN
 IGNITE SOLAR
 811 DALLAS ST., SUITE 1422
 HOUSTON, TX 77002

PETER MATHEY
 PRESIDENT & CEO
 IGNITE SOLAR
 811 DALLAS STREET, STE. 1422
 HOUSTON, TX 77002

ED CHIANG
 ELEMENT MARKETS, LLC
 3555 TIMMONS LANE, STE. 900
 HOUSTON, TX 77027-6453

COMMERCE ENERGY, INC.
 5251 WESTHEIMER RD., STE. 1000
 HOUSTON, TX 77056-5414

EDWIN DEARMAN
 SR. REGULATORY ANALYST
 GEXA ENERGY CALIFORNIA , LLC
 20455 STATE HIGHWAY 249, STE. 200
 HOUSTON, TX 77070

JONATHAN JACOBS
 PA CONSULTING GROUP
 1700 LINCOLN ST STE 4600
 DENVER, CO 80203-4509

KEVIN J. SIMONSEN
 ENERGY MANAGEMENT SERVICES
 1537 FLORIDA RD., STE. 108
 DURANGO, CO 81301-5792

JEFF GULDNER
 ARIZONA PUBLIC SERVICE COMPANY
 400 N 5TH STREET, MS 9040
 PHOENIX, AZ 85004

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

MARK ETHELTON
 PDS CONSULTING
 3231 S. COUNTRY CLUB WAY, STE. 103
 TEMPE, AZ 85283

TIMOTHY CASTILLE
 LANDS ENERGY CONSULTING, INC.
 1050 CRACKER BARREL CIRCLE
 MESQUITE, NV 89034-1017

CHRISTOPHER A. HILEN
 NV ENERGY
 6100 NEIL ROAD, MS A35
 RENO, NV 89511

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

TREVOR DILLARD
 RATE REGULATORY RELATIONS
 SIERRA PACIFIC POWER COMPANY

JOE GRECO
 TERRA-GEN POWER LLC
 9590 PROTOTYPE COURT, SUITE 200

6100 NEAL ROAD, MS S4A50 / PO BOX 10100 RENO, NV 89521-5916
 RENO, NV 89520-0026

BRYAN SCHWEICKERT
 ENVIRONMENTAL SUPERVISOR
 LOS ANGELES DEPT. OF WATER & POWER
 111 N. HOPE ST.
 LOS ANGELES, CA 90012

RANDY HOWARD
 POWER ENGINEERING MGR.
 LOS ANGELES DEPT. OF WATER & POWER
 111 N HOPE STREET, STE. 921
 LOS ANGELES, CA 90012

SARAH FRIEDMAN
 SIERRA CLUB
 714 W. OLYMPIC BLVD., STE. 1000
 LOS ANGELES, CA 90015

AL ROSEN
 ABSOLUTELY SOLAR INC.
 PO BOX 491878
 LOS ANGELES, CA 90049-8878

LEILANI JOHNSON KOWAL
 LOS ANGELES DEPT. OF WATER AND POWER
 PO BOX 51111, ROOM 1541
 LOS ANGELES, CA 90051-0100

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

JEFF NEWMAN
 CALTRANS
 100 S. MAIN
 LOS ANGELES, CA 90068

CARL STEEN
 FULBRIGHT & JAWORSKI L.L.P.
 555 SOUTH FLOWER STREET, 41ST FLOOR
 LOS ANGELES, CA 90071

ANGELINA GALITEVA
 FOUNDER, CHAIR OF THE BOARD
 RENEWABLES 100 POLICY INSTITUTE
 35316 MULHOLLAND HWY
 MALIBU, CA 90265

3 PHASES RENEWABLES LLC
 2100 SEPULVEDA BLVD, SUITE 37
 MANHATTAN BEACH, CA 90266

HARVEY M. EDER
 PUBLIC SOLAR POWER COALITION
 1218 12TH STREET, NO. 25
 SANTA MONICA, CA 90401

ANDRE SCHMIDT
 SR. ENGINEER
 LOS ANGELES COUNTY SANITATION DISTRICTS
 1955 WORKMAN MILL ROAD
 WHITTIER, CA 90601

FRED G. YANNEY
 YANNEY LAW OFFICE
 17409 MARQUARDT AVE. UNIT C-4
 CERRITOS, CA 90703

GURCHARAN BAWA
 PASADENA WATER AND POWER
 150 S. LOS ROBLES, SUITE 200
 PASADENA, CA 91101

CHARLES CHANG
 ENGINEER-ENVIRONMENTAL PROGRAMS
 PASADENA WATER & POWER
 85 EAST STATE STREET
 PASADENA, CA 91105

VALERIE PUFFER
 POWER CONTRACTS MANAGER
 GLENDALE WATER & POWER
 700 N. BRAND BLVD., STE. 590
 GLENDALE, CA 91203

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

LINCOLN BLEVEANS
 POWER RESOURCES MANAGER
 BURBANK WATER & POWER
 164 W. MAGNOLIA BLVD.
 BURBANK, CA 91502

YAREK LEHR
 AZUSA LIGHT & WATER
 729 N. AZUSA AVENUE
 AZUSA, CA 91702

KENYON HOLMES
 TRANE
 17748 ROWLAND STREET
 CITY OF INDUSTRY, CA 91748

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

CURT RONEY
 SOUTHERN CALIFORNIA EDISON
 2244 WALNUT GROVE, G01-C
 ROSEMEAD, CA 91770

GEORGE WILTSEE
 SOUTHERN CALIFORNIA EDISON COMPANY
 2244 WALNUT GROVE AVENUE
 ROSEMEAD, CA 91770

JANICE WANG
 SOUTHERN CALIFORNIA EDISON COMPANY
 2244 WALNUT GROVE AVE.
 ROSEMEAD, CA 91770

JONI A. TEMPLETON
 ATTORNEY AT LAW
 SOUTHERN CALIFORNIA EDISON COMPANY
 2244 WALNUT GROVE AVENUE, PO BOX 800
 ROSEMEAD, CA 91770

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

MELISSA A. HOVSEPIAN
 SOUTHERN CALIFORNIA EDISON COMPANY
 2244 WALNUT GROVE AVE. / PO BOX 800
 ROSEMEAD, CA 91770

JENNIFER TSAO SHIGEKAWA
 SR. ATTORNEY, CUSTOMER & TARIFF LAW
 SOUTHERN CALIFORNIA EDISON COMPANY
 2244 WALNUT GROVE AVE. / PO BOX 800
 ROSEMEAD, CA 91770-3714

NGUYEN QUAN
 MGR - REGULATORY AFFAIRS
 GOLDEN STATE WATER CO. - ELECTRIC OP.
 630 EAST FOOTHILL BOULEVARD
 SAN DIMAS, CA 91773

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

CHAD CHAHBAZI
 BAP POWER CORPORATION D/B/A CENERGY
 3176 LIONSHEAD AVENUE, STE. 1
 CARLSBAD, CA 92010-4708

ROBERT J. GILLESKIE
 LIGHTPOINT CONSULTING SERVICES
 2570 PINWOOD STREET
 DEL MAR, CA 92014

ARLEN BARKSDALE, PHD
 CEO / CTO
 DESMON ENERGY, LLC
 1538 ENCINITAS BLVD.
 ENCINITAS, CA 92024

HAROLD M. ROMANOWITZ
 OAK CREEK ENERGY SYSTEMS, INC.
 150 LA TERRAZA BLVD.
 ESCONDIDO, CA 92025

JEFF COX
 1557 MANDEVILLE PLACE
 ESCONDIDO, CA 92029

GEOREG GISEL
 INDEPENDENT ENERGY SOLUTIONS, INC.
 1090 JOSHUA WAY
 VISTA, CA 92081

CHRISTOPHER SUMMERS
 SAN DIEGO GAS & ELECTRIC COMPANY

GREG BASS
 NOBLE AMERICAS ENERGY SOLUTIONS LLC

REGULATORY AFFAIRS
8326 CENTURY PARK COURT
SAN DIEGO, CA 92101

401 WEST A STREET, SUITE 500
SAN DIEGO, CA 92101-3017

SHAWN BAILEY
DIRECTOR - PLANNING & ANALYSIS
SEMPRA US GAS AND POWER
101 ASH STREET
SAN DIEGO, CA 92101-3017

THEODORE E. ROBERTS
SEMPRA GENERATION / SEMBRA BROADBAND
101 ASH STREET, HQ 12B
SAN DIEGO, CA 92101-3017

NOBLE AMERICAS ENERGY SOLUTIONS LLC
101 ASH STREET, HQ09
SAN DIEGO, CA 92101-3017

TERRY FARRELLY
269 G AVENUE
CORONADO, CA 92118

MARCIE MILNER
SHELL ENERGY NORTH AMERICA
4445 EASTGATE MALL, SUITE 100
SAN DIEGO, CA 92121

SARAH TOMEK
SR. ADVISOR, REGULATORY AFFAIRS WEST
CAPITAL POWER CORPORATION
9255 TOWNE CENTRE DRIVE, STE. 900
SAN DIEGO, CA 92121

JOHN S. FRIDERICHS
DIRECTOR - ORIGINATION & DEVELOPMENT
PILOT POWER GROUP, INC.
8910 UNIVERSITY CENTER LANE, STE. 520
SAN DIEGO, CA 92122

JENNIFER PIERCE
SAN DIEGO GAS & ELECTRIC COMPANY
8330 CENTURY PARK CT
SAN DIEGO, CA 92123

DEAN A. KINPORTS
REGULATORY CASE ADMINISTRATOR
SAN DIEGO GAS & ELECTRIC COMPANY
8330 CENTURY PARK CT., CP32D
SAN DIEGO, CA 92123-1530

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

CENTRAL FILES
SDG&E AND SOCALGAS
8330 CENTURY PARK COURT, CP31-E
SAN DIEGO, CA 92123-1550

SCOTT HARDING
ENERGY RESOURCE PLANNER, SR.
IMPERIAL IRRIGATION DISTRICT
333 E. BARIONI BLVD.
IMPERIAL, CA 92251

FRED W. NOBLE
PRESIDENT
WINTEC ENERGY, LTD
1090 N. PALM CANYON DR., SUITE A
PALM SPRINGS, CA 92260

ROGER KROPKE
BEAR VALLEY ELECTRIC SERVICE
PO BOX 1547
BIG BEAR LAKE, CA 92315
FOR: BEAR VALLEY ELECTRIC SERVICE

PETER T. PEARSON
ENERGY SUPPLY SPECIALIST
BEAR VALLEY ELECTRIC SERVICE
42020 GARSTIN DRIVE, PO BOX 1547
BIG BEAR LAKE, CA 92315-1547

CHARLES J. BLACK
RIVERSIDE PUBLIC UTILITIES
3435 14TH STREET
RIVERSIDE, CA 92501

JOHN DEWEY
THE DEWEY GROUP
PO BOX 12913

CARRIE THOMPSON
CITY OF ANAHEIM
201 S. ANAHEIM BLVD., STE. 802

NEWPORT BEACH, CA 92658-5079

CARRIE TOMPSON
CITY OF ANAHEIM
201 S. ANAHEIM BLVD., STE. 802
ANAHEIM, CA 92805

MANDIP KAUR SAMRA
INTEGRATED RESOURCES PLANNER
CITY OF ANAHEIM-PUBLIC UTILITIES DEPT.
201 S. ANAHEIM BLVD., SUITE 802
ANAHEIM, CA 92805

JEFF HIRSCH
JAMES J. HIRSCH & ASSOCIATES
12185 PRESILLA ROAD
CAMARILLO, CA 93012-9243

CURTIS SEYMOUR
SR. MANAGER - GOVERNMENT AFFAIRS
SUNEDISON LLC
600 CLIPPER DR.
BELMONT, CA 94002

ELIZABETH KLEBANER
ADAMS BROADWELL JOSEPH & CARDOZO
601 GATEWAY BLVD., STE. 1000
SOUTH SAN FRANCISCO, CA 94080
FOR: INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS LOCAL 569

AUSTIN M. YANG
CITY AND COUNTY OF SAN FRANCISCO
OFFICE OF THE CITY ATTORNEY, RM. 234
1 DR. CARLTON B. GODDLETT PLACE
SAN FRANCISCO, CA 94102-4682

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

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

ANAHEIM, CA 92805

JANIS LEHMAN
CHIEF RISK OFFICER
CITY OF ANAHEIM-PUBLIC UTILITIES DEPT.
201 S. ANAHEIM BLVD., STE.802
ANAHEIM, CA 92805

PETER MORITZBURKE
3 ECHO AVENUE
CORTE MADERA, CA 92925

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

EVELYN KAHL
ATTORNEY AT LAW
ALCANTAR & KAHL, LLP
33 NEW MONTGOMERY STREET, SUITE 1850
SAN FRANCISCO, CA 94015
FOR: OCCIDENTAL POWER SERVICES,
INC./ENERGY PRODUCERS AND USERS
COALITION.

SOLAR SEMICONDUCTOR INC.
1292 KIFER ROAD, SUITE 808
SUNNYVALE, CA 94086

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

SUSAN PRESTON
CALCEF CLEAN ENERGY ANGEL FUND
5 THIRD STREET, STE. 1125
SAN FRANCISCO, CA 94103

ADAM BROWNING
THE VOTE SOLAR INITIATIVE
101 MONTGOMERY ST., STE. 2600
SAN FRANCISCO, CA 94104

ANDRE DEVILBISS
ASSOCIATE, DEVELOPMENT
RECURRENT ENERGY
300 CALIFORNIA STREET, 8TH FLOOR
SAN FRANCISCO, CA 94104

HANS ISERN
VP - ENGINEERING
SILVERADO POWER LLC
44 MONTGOMERY STREET, SUITE 3065
SAN FRANCISCO, CA 94104

KEVIN P. BUNDY
SR. ATTORNEY
CENTER FOR BIOLOGICAL DIVERSITY
351 CALIFORNIA ST., STE. 600
SAN FRANCISCO, CA 94104
FOR: CENTER FOR BIOLOGICAL DIVERSITY

LUKE DUNNINGTON
ASSOCIATE, DEVELOPMENT
RECURRENT ENERGY
300 CALIFORNIA STREET, 8TH FL
SAN FRANCISCO, CA 94104

MARCEL HAWIGER
ENERGY ATTY
THE UTILITY REFORM NETWORK
115 SANSOME STREET, SUITE 900
SAN FRANCISCO, CA 94104

PETER MILLER
NATURAL RESOURCES DEFENSE COUNCIL
111 SUTTER STREET, 20TH FLOOR
SAN FRANCISCO, CA 94104

SUSANNAH CHURCHILL
ADVOCATE - SOLAR POLICY
THE VOTE SOLAR INITIATIVE
101 MONTGOMERY ST., STE. 2600
SAN FRANCISCO, CA 94104

TANDY MCMANNES
ABENGOA SOLAR, INC.
235 PINE STREET, STE. 1800
SAN FRANCISCO, CA 94104
FOR: ABENGOA SOLAR, INC.

ARNO HARRIS
RECURRENT ENERGY, INC.
300 CALIFORNIA ST., 8TH FL.
SAN FRANCISCO, CA 94104-1416

BRUCE PERLSTEIN, PH.D.
NAVIGANT CONSULTING, INC.
SPEAR STREET TOWER
ONE MARKET ST., STE. 1200
SAN FRANCISCO, CA 94105

CARLOS M. ABREU
PACIFIC GAS & ELECTRIC COMPANY
RENEWABLE TRANSACTIONS DEPT.
77 BEALE ST., RM. 2597F
SAN FRANCISCO, CA 94105

CHARLES R. MIDDLEKAUFF
PACIFIC GAS AND ELECTRIC COMPANY
LAW DEPT.
77 BEALE STREET, B30A / PO BOX 7442
SAN FRANCISCO, CA 94105

DEREK JONES
PACIFIC GAS & ELECTRIC COMPANY
245 MARKET STREET
SAN FRANCISCO, CA 94105

ED LUCHA
CASE COORDINATOR
PACIFIC GAS AND ELECTRIC COMPANY
77 BEALE STREET, MC B9A, ROOM 991
SAN FRANCISCO, CA 94105

FRED WELLINGTON
NAVIGANT CONSULTING, INC.
1 MARKET ST., SPEAR ST. TOWER, STE 1200
SAN FRANCISCO, CA 94105

JOHN PAPPAS
UTILITY ELECTRIC PORTFOLIO MANAGEMENT
PACIFIC GAS AND ELECTRIC COMPANY
245 MARKET STREET, MC N12G
SAN FRANCISCO, CA 94105

KAREN TERRANOVA
ALCANTAR & KAHL, LLP
33 NEW MONTGOMERY STREET, SUITE 1850
SAN FRANCISCO, CA 94105

MAGGIE CHAN
PACIFIC GAS AND ELECTRIC COMPANY
PO BOX 770000
77 BEALE ST., MAIL CODE B9A
SAN FRANCISCO, CA 94105

MARIA VANKO
LAW DEPARTMENT
PACIFIC GAS & ELECTRIC COMPANY
77 BEALE ST., MCB30A
SAN FRANCISCO, CA 94105

PETER W. HANSCHEN
ATTORNEY AT LAW
MORRISON & FOERSTER, LLP
425 MARKET STREET
SAN FRANCISCO, CA 94105

WADE GREENACRE
REGULATORY CASE COORDINATOR
PACIFIC GAS AND ELECTRIC COMPANY
77 BEALE ST., MC B9A
SAN FRANCISCO, CA 94105

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

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

BRIAN ORION
LAWYERS FOR CLEAN ENERGY
1156 FLORIDA STREET
SAN FRANCISCO, CA 94110

ASHIANNA T. ESMAIL
LATHAM & WATKINS
505 MONTGOMERY STREET, STE. 2000
SAN FRANCISCO, CA 94111

JACK STODDARD
MANATT PHELPS & PHILLIPS, LLP
ONE EMBARCADERO CENTER, 30TH FL.
SAN FRANCISCO, CA 94111

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

JARED W. JOHNSON
LATHAM & WATKINS, LLP
505 MONTGOMERY ST., SUITE 2000
SAN FRANCISCO, CA 94111
FOR: TRANSWEST EXPRESS, LLC/TRANSALTA
CORP.

JOE PAUL
NATURENER USA
394 PACIFIC AVENUE, STE. 300
SAN FRANCISCO, CA 94111

JONATHAN MALTA-WEINGARD
NATURENER USA, INC.
394 PACIFIC AVENUE, STE. 300
SAN FRANCISCO, CA 94111

MARK FUMIA
DAVIS WRIGHT TREMAINE LLP
505 MONTGOMERY STREET, SUITE 800
SAN FRANCISCO, CA 94111
FOR: NORTHWEST ENERGY SYSTEMS CO.

MICHAEL S. HINDUS
PILLSBURY WINTHROP SHAW PITTMAN LLP
FOUR EMBARCADERO CENTER, 22ND FLR.
SAN FRANCISCO, CA 94111
FOR: ALPAUGH IRRIGATION DISTRICT

RAFI HASSAN
SUSQUEHANNA FINANCIAL GROUP, LLLP
101 CALIFORNIA STREET, SUITE 3250
SAN FRANCISCO, CA 94111

SARAH BARKER-BALL
BINGHAM MCCUTCHEN LLP
3 EMBARCADERO CENTER
SAN FRANCISCO, CA 94111

TARA S. KAUSHIK
ATTORNEY
MANATT, PHELPS & PHILLIPS, LLP
ONE EMBARCADERO CENTER, 30TH FLOOR
SAN FRANCISCO, CA 94111

WESLEY M. SPOWHN
PILLSBURY WINTHROP SHAW PITTMAN LLP
FOUR EMBARCADERO CENTER, 22ND FLOOR
SAN FRANCISCO, CA 94111

KATHERINE RYZHAYA
VP
EVOLUTION MARKETS INC.
3 EMBARCADERO CENTER , STE. 1630
SAN FRANCISCO, CA 94111-4041
FOR: EVOLUTION MARKETS INC.

MONICA SCHWEBS
BINGHAM MCCUTCHEM LLP
THREE EMBARCADERO CENTER
SAN FRANCISCO, CA 94111-4067
FOR: SOLAR RESERVE, LLC

LISA A. COTTLE
ATTORNEY AT LAW
WINSTON & STRAWN LLP
101 CALIFORNIA STREET, 39TH FLOOR
SAN FRANCISCO, CA 94111-5802

NOELLE R. FORMOSA
WINSTON & STRAWN, LLP
101 CALIFORNIA STREET, 39TH FLOOR
SAN FRANCISCO, CA 94111-5894

THOMAS W. SOLOMON
ATTORNEY AT LAW
WINSTON & STRAWN LLP
101 CALIFORNIA STREET, 39TH FLOOR
SAN FRANCISCO, CA 94111-5894

HILARY CORRIGAN
CALIFORNIA ENERGY MARKETS
425 DIVISADERO ST. SUITE 303
SAN FRANCISCO, CA 94117-2242

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

REGULATORY FILE ROOM
PACIFIC GAS AND ELECTRIC COMPANY
PO BOX 7442
SAN FRANCISCO, CA 94120

MEGAN M. MYERS
LAW OFFICES OF SARA STECK MYERS
122 - 28TH AVENUE
SAN FRANCISCO, CA 94121

DAN PATRY
MANAGER OF POLICY INITIATIVES
RECURRENT ENERGY
300 CALIFORNIA STREET, 8TH FLOOR
SAN FRANCISCO, CA 94123

ROBIN QUARRIER
COUNSEL
CENTER FOR RESOURCE SOLUTIONS
1012 TORNEY AVENUE, 2ND FL.
SAN FRANCISCO, CA 94129

BRIAN K. CHERRY
MGR - REGULATORY RELATIONS
PACIFIC GAS AND ELECTRIC COMPANY
77 BEALE ST., PO BOX 770000, MC B10C
SAN FRANCISCO, CA 94177

BROOKE A. REILLY
PACIFIC GAS & ELECTRIC COMPANY
77 BEALE ST., RM. 2439B, MC B24V
SAN FRANCISCO, CA 94177

MARK HUFFMAN
ATTORNEY AT LAW
PACIFIC GAS AND ELECTRIC COMPANY
PO BOX 770000, MC B30A
SAN FRANCISCO, CA 94177

KAREN KHAMOU
PACIFIC GAS AND ELECTRIC COMPANY
245 MARKET ST., RM. 1255C
SAN FRANCISCO, CA 94177-0001

CHRIS KING
CHIEF REGULATORY OFFICER
EMETER CORPORATION
2215 BRIDGEPOINTE PARKWAY, STE. 300
SAN MATEO, CA 94404

JENNIFER CHAMBERLIN
ENERGY POLICY ADVOCATES
2633 WELLINGTON CT
CLYDE, CA 94520

BETH VAUGHAN
CALIFORNIA COGENERATION COUNCIL
4391 NORTH MARSH ELDER CT.
CONCORD, CA 94521

TONY CHEN
 SR. MANGER, BUSINESS DEVEL.
 COOL EARTH SOLAR
 4659 LAS POSITAS RD., STE. 94551
 LIVERMORE, CA 94551

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

AVIS KOWALEWSKI
 CALPINE CORPORATION
 4160 DUBLIN BLVD., SUITE 100
 DUBLIN, CA 94568
 FOR: CALPINEPOWERAMERICA-CA,LLC

JILL VAN DALEN
 CALPINE CORPORATION
 4160 DUBLIN BLVD., STE. 100
 DUBLIN, CA 94568

MATTHEW BARMACK
 CALPINE CORPORATION
 4160 DUBLIN BLVD., STE. 100
 DUBLIN, CA 94568

JENNIFER CHAMBERLIN
 LS POWER DEVELOPMENT, LLC
 5000 HOPYARD ROAD, SUITE 480
 PLEASANTON, CA 94588

TIM MASON
 BLACK & VEATCH CORP.
 2999 OAK ROAD, SUITE 490
 WALNUT CREEK, CA 94597

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

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

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

ERICA SCHROEDER
 KEYES FOX & WIEDMAN, LLP
 436 14TH ST., STE. 1305
 OAKLAND, CA 94612

TIM LINDL
 KEYES FOX & WIEDMAN LLP
 436 14TH STREET, STE. 1305
 OAKLAND, CA 94612

MATTHEW SCHAFER
 NEXTERA ENERGY RESOURCES
 505 14TH STREET, SUITE 300
 OAKLAND, CA 94612-1935

NELLIE TONG
 SENIOR ANALYST
 KEMA, INC.
 155 GRAND AVE., STE. 500
 OAKLAND, CA 94612-3747

RAMESH RAMCHANDANI
 COMMERCIAL ENERGY
 7677 OAKPORT ST., STE. 525
 OAKLAND, CA 94621

RON PERRY
 CEO
 COMMERCIAL ENERGY
 7677 OAKPORT ST., STE. 525
 OAKLAND, CA 94621

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

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

JOSHUA BAR-LEV
 BAR-LEV ASSOCIATES
 84 GYPSY LANE
 BERKELEY, CA 94705

LINDA AGERTER
 LARGE-SCALE SOLAR ASSOCIATION
 51 PARKSIDE DRIVE
 BERKELEY, CA 94705

GERALD T. ROBINSON
LAWRENCE BERKLEY NATIONAL LABS
ONE CYCLOTRON ROAD
BERKLEY, CA 94720

ED SMELOFF
SENIOR MANAGER
SUNPOWER CORPORATION
1414 HARBOUR WAY SOUTH
RICHMOND, CA 94804

JEREMY WAEN
REGULATORY ANALYST
MARIN ENERGY AUTHORITY
781 LINCOLN AVENUE, STE. 320
SAN RAFAEL, CA 94901

TOM FAUST
REDWOOD RENEWABLES LLC
6 ENDEAVOR DRIVE
CORTE MADERA, CA 94925

PAUL FENN
LOCAL POWER
22888 HIGHWAY 1 / PO BOX 744
MARSHALL, CA 94940-9701

ANDERS GLADER
SVP, ORIGINATION
IBERDROLA RENEWABLES
114 MORNING SUN AVENUE
MILL VALLEY, CA 94941

JOHN NIMMONS
COUNSEL
JOHN NIMMONS & ASSOCIATES, INC.
175 ELINOR AVE., STE. G
MILL VALLEY, CA 94941
FOR: RECURRENT ENERGY

TIM ROSENFELD
MARIN ENERGY MANAGEMENT TEAM
131 CAMINO ALTO, SUITE D
MILL VALLEY, CA 94941

JOHN M. SPILMAN
LAW OFFICE OF JOHN M. SPILMAN
22 FAIRWAY DRIVE
MILL VALLEY, CA 94941-1309

EDWARD A. MAINLAND
CO-CHAIR, ENERGY-CLIMATE COMMITTEE
SIERRA CLUB CALIFORNIA
1017 BEL MARIN KEYS BLVD.
NOVATO, CA 94949

KEITH WHITE
312 KELLER ST
PETALUMA, CA 94952

BARBARA GEORGE
WOMEN'S ENERGY MATTERS
PO BOX 548
FAIRFAX, CA 94978-0548

ERIC CHERNISS
SOLARGEN ENERGY
20400 STEVENS CREEK BLVD, SUITE 700
CUPERTINO, CA 95014

SHANI KLEINHAUS
SANTA CLARA VALLEY AUDUBON SOCIETY
22221 MCLELLAN ROAD
CUPERTINO, CA 95014

JERRY MIX
PRESIDENT
WATTSTOPPER
2800 DE LA CRUZ BLVD.
SANTA CLARA, CA 95050

MARY TUCKER
MARY TUCKER CONSULTING
359 N. 5TH STREET
SAN JOSE, CA 95112

C. SUSIE BERLIN
LAW OFFICES OF SUSIE BERLIN
1346 THE ALAMEDA, SUITE 7, NO. 141
SAN JOSE, CA 95126

THOMAS J. VICTORINE
SAN JOSE WATER COMPANY
1221 S. BASCOM AVENUE
SAN JOSE, CA 95128

MIKE JENSEN
 MERCED IRRIGATION DISTRICT
 PO BOX 2288
 MERCED, CA 95344-0288

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

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

LINDA FISCHER
 LEGAL DEPARTMENT
 MODESTO IRRIGATION DISTRICT
 1231 11TH STREET
 MODESTO, CA 95354

NORMAN ROSS BURGESS
 PO BOX 200
 ZENIA, CA 95595

MICHAEL THEROUX
 V.P.
 JDMT, INC.
 PO BOX 7751
 AUBURN, CA 95604-7551

DOUGLAS M. GRANDY, P.E.
 CA ONSITE GENERATION
 1220 MACAULAY CIRCLE
 CARMICHAEL, CA 95608

MARK BERMAN
 DAVIS ENERGY GROUP
 123 C STREET
 DAVIS, CA 95616

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

TOBIN RICHARDSON
 RICHARDSON GROUP
 1416 VIGO COURT
 DAVIS, CA 95618

GEORGE SIMONS
 DIRECTOR
 ITRON, INC.
 330 MADSON PLACE
 DAVIS, CA 95618-6599

DAN AUSTIN
 ZGLOBAL, INC.
 604 SUTTER STREET, STE. 250
 FOLSOM, CA 95630

JACQUELINE M. DEROSA
 DIRECTOR OF REGULATORY AFFAIRS - CA
 CUSTOMIZED ENERGY SOLUTIONS
 101 PARKSHORE DRIVE SUITE 100
 FOLSOM, CA 95630

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

SAEED FARROKHPAY
 FEDERAL ENERGY REGULATORY COMMISSION
 1835 IRON POINT RD., SUITE 160
 FOLSOM, CA 95630-8771

C. RICHARD WYLIE
 BEUTLER CORPORATION
 4700 LANG AVE.
 MCCLELLAN, CA 95652

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

BRIAN THEAKER
 NRG ENERGY
 3161 KEN DEREK LANE
 PLACERVILLE, CA 95667

RICK A. LIND
 SIERRA ECOSYSTEM ASSOCIATES

ART RIVERA
 GEOSUN ENERGY, INC.

PO BOX 2260
PLACERVILLE, CA 95667

10923 PROGRESS COURT, NO. 2011
RANCHO CORDOVA, CA 95670

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

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

DANIEL KIM
WESTLANDS SOLAR PARK
PO BOX 582844
ELK GROVE, CA 95757

MARGARET MILLER
DIR - REGULATORY AFFAIRS
BROOKFIELD ENERGY MARKETING
513 SAN MARCO PLACE
EL DORADO HILLS, CA 95762

TOM POMALES
CALIFORNIA AIR RESOURCES BOARD
1001 I STREET
SACRAMENTO, CA 95812

ADAM LINK
DIR. - LEGAL & REGULATORY AFFAIRS
CALIF. ASSN. OF SANITATION AGENCIES
1215 K STREET, SUITE 940
SACRAMENTO, CA 95814

ALLISON C. SMITH
ATTORNEY
STOEL RIVES LLP
500 CAPITOL MALL, SUITE 1600
SACRAMENTO, CA 95814

ANTHONY BRUNELLO
CALIFORNIA STRATEGIES LLC
980 NINTH STREET, SUITE 2000
SACRAMENTO, CA 95814

AUTUMN BERNSTEIN
DIRECTOR
CLIMATE PLAN
717 K STREET, SUITE 330
SACRAMENTO, CA 95814

CURT BARRY
SENIOR WRITER
CLEAN ENERGY REPORT
717 K STREET, SUITE 503
SACRAMENTO, CA 95814

JANE E. LUCKHARDT
ATTORNEY AT LAW
DOWNEY BRAND LLP
621CAPITOL MALL, 18TH FLOOR
SACRAMENTO, CA 95814

KATE KELLY
DEFENDERS OF WILDLIFE
1303 J STREET, SUITE 270
SACRAMENTO, CA 95814

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

MARK A. LOWDER
DIR - HOUSING FINANCE
CRHMFA HOMEBUYERS FUND
1215 K STREET, STE. 1650
SACRAMENTO, CA 95814

NICOLE WRIGHT
BRAUN BLAISING MCLAUGHLIN & SMITH
915 L STREET, SUITE 1270
SACRAMENTO, CA 95814

PAUL J. MASON
VP, POLICY & INCENTIVES
THE PACIFIC FOREST TRUST
1107 9TH ST., STE 1050
SACRAMENTO, CA 95814

STEVEN A. BRINK
VP - PUBLIC RESOURCES
CALIFORNIA FORESTRY ASSOCIATION

TIFFANY K. ROBERTS
CALIFORNIA LEGISLATURE
LEGISLATIVE ANALYST'S OFFICE

1215 K STREET, SUITE 1830
SACRAMENTO, CA 95814

925 L STREET, SUITE 1000
SACRAMENTO, CA 95814

MICHAEL BOCCADORO
AGRICULTURAL ENERGY CONSUMERS ASSN
925 L STREET, SUITE 800
SACRAMENTO, CA 95814-3704
FOR: AGRICULTURAL ENERGY CONSUMERS
ASSOCIATION

GREGGORY L. WHEATLAND
ELLISON SCHNEIDER & HARRIS, L.L.P.
2600 CAPITOL AVENUE, SUITE 400
SACRAMENTO, CA 95816
FOR: ENERGYSOURCE, LLC

CHRISTOPHER T. ELLISON
ATTORNEY
ELLISON, SCHNEIDER & HARRIS, L.L.P
2600 CAPITOL AVENUE, SUITE 400
SACRAMENTO, CA 95816-5905

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

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

MICHAEL S. DAY
PRINCIPAL
ROCKWOOD CONSULTING
2701 2ND AVE.
SACRAMENTO, CA 95818

CAROL J. HURLOCK
CALIFORNIA DEPT. OF WATER RESOURCES
JOINT OPERATIONS CENTER
2033 HOWE AVE., STE. 220
SACRAMENTO, CA 95825-0181

LEE TERRY
CALIFORNIA DEPARTMENT OF WATER RESOURCES
2033 HOWE AVE., STE. 220
SACRAMENTO, CA 95825-0181

EMILIO E. VARANINI, III
4660 NATOMAS BLVD.
SACRAMENTO, CA 95835

STEVEN A. LIPMAN
STEVEN LIPMAN CONSULTING
5350 DUNLAY DRIVE, STE. 811
SACRAMENTO, CA 95835-1570

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

MIKE CHAPEL
CONSULTANT
16136 JANET WAY
GRASS VALLEY, CA 95949

JAMES L. BYARD PH.D.
11693 PHELPS HILL ROAD
NEVADA CITY, CA 95959-9150

KIM CARR
SUSTAINABLE INITIATIVES COORDINATOR
SIERRA NEVADA CONSERVANCY
1061 3RD STREET
SOUTH LAKE TAHOE, CA 96150

CALIFORNIA PACIFIC ELECTRIC COMPANY, LLC
933 ELOISE AVENUE
SOUTH LAKE TAHOE, CA 96150

CHRISTIAN MENTZEL
CEM LLC
619 KUPULAU DR
KIHEI, HI 96753

MICHAEL ALCANTAR
ATTORNEY AT LAW
ALCANTAR & KAHL LLP
1300 SW 5TH AVE., STE 1750

TERI IKEDA
RENEWABLE COMPLIANCE OFFICER
PACIFICORP
825 NE MULTNOMAH, STE. 600

PORTLAND, OR 97201

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

LISA CHERKAS
MORGAN STANLEY CAPITAL GROUP, INC.
200 BURRAND ST., STE. 610
VANCOUVER, BC V6C 3L6
CANADA

PORTLAND, OR 97232

DANIEL JURIJEW
CAPITAL POWER CORPORATION
12TH FLOOR EPCOR TOWER
1200 - 10423 101 ST. NW
EDMONTON, AB T5H 0E9
CANADA

State Service

CHERYL LEE
CALIFORNIA PUBLIC UTILITIES COMMISSION
EMAIL ONLY
EMAIL ONLY, CA 00000

CLARE LAUFENBERG GALLARDO
CALIFORNIA ENERGY COMMISSION
EMAIL ONLY
EMAIL ONLY, CA 00000

DARYL METZ
CALIFORNIA ENERGY COMMISSION
EMAIL ONLY
EMAIL ONLY, CA 00000

DAVID PECK
CALIFORNIA PUBLIC UTILITIES COMMISSION
EMAIL ONLY
EMAIL ONLY, CA 00000

JACLYN MARKS
CALIFORNIA PUBLIC UTILITIES COMMISSION
EMAIL ONLY
EMAIL ONLY, CA 00000

MATT MILEY
CPUC
LEGAL DIVISION
EMAIL ONLY
EMAIL ONLY, CA 00000
FOR: DRA

MICHAEL COLVIN
ADVISOR - ENERGY
CPUC
EMAIL ONLY
EMAIL ONLY, CA 00000

ROBERT BLACKNEY
CALIFORNIA PUBLIC UTILITIES COMMISSION
EMAIL ONLY
EMAIL ONLY, CA 00000

SARA KAMINS
CALIFORNIA PUBLIC UTILITIES COMMISSION
EMAIL ONLY
EMAIL ONLY, CA 00000

WILLIAM DIETRICH
CALIFORNIA PUBLIC UTILITIES COMMISSION
EMAIL ONLY
EMAIL ONLY, CA 00000

LORRAINE GONZALES
CALIFORNIA ENERGY COMMISSION
EMAIL ONLY
EMAIL ONLY, CA 00000-0000

ADAM SCHULTZ
CALIF PUBLIC UTILITIES COMMISSION
PROCUREMENT STRATEGY AND OVERSIGHT BRANC
AREA 4-A
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

ANDREW KOTCH
CALIF PUBLIC UTILITIES COMMISSION
EXECUTIVE DIVISION
ROOM 5301
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

ANNE E. SIMON
CALIF PUBLIC UTILITIES COMMISSION
DIVISION OF ADMINISTRATIVE LAW JUDGES
ROOM 5104
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

CHLOE LUKINS
CALIF PUBLIC UTILITIES COMMISSION
ELECTRICITY PLANNING & POLICY BRANCH
ROOM 4102
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214
FOR: DRA

CHRISTOPHER DANFORTH
CALIF PUBLIC UTILITIES COMMISSION
ELECTRICITY PRICING AND CUSTOMER PROGRAM
ROOM 4209
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214
FOR: DRA

CHRISTOPHER MYERS
CALIF PUBLIC UTILITIES COMMISSION
ELECTRICITY PLANNING & POLICY BRANCH
ROOM 4104
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214
FOR: DRA

COLIN RIZZO
CALIF PUBLIC UTILITIES COMMISSION
ELECTRICITY PLANNING & POLICY BRANCH
ROOM 4102
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

DAVID SIAO
CALIF PUBLIC UTILITIES COMMISSION
ELECTRICITY PLANNING & POLICY BRANCH
ROOM 4101
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

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

IRYNA KWASNY
CALIF PUBLIC UTILITIES COMMISSION
LEGAL DIVISION
ROOM 4107
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214
FOR: DRA

JASON SIMON
CALIF PUBLIC UTILITIES COMMISSION
PROCUREMENT STRATEGY AND OVERSIGHT BRANC
AREA 4-A
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

JONATHAN J. REIGER
CALIF PUBLIC UTILITIES COMMISSION
LEGAL DIVISION
ROOM 5035
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

JORDAN PARRILLO
CALIF PUBLIC UTILITIES COMMISSION
ELECTRICITY PLANNING & POLICY BRANCH
ROOM 4104
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214
FOR: DRA

JOSEPH A. ABHULIMEN
CALIF PUBLIC UTILITIES COMMISSION
ELECTRICITY PLANNING & POLICY BRANCH
ROOM 4209
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214
FOR: DRA

JULIE A. FITCH
CALIF PUBLIC UTILITIES COMMISSION
EXECUTIVE DIVISION
ROOM 5214
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

JULIE HALLIGAN
 CALIF PUBLIC UTILITIES COMMISSION
 DIVISION OF ADMINISTRATIVE LAW JUDGES
 ROOM 5041
 505 VAN NESS AVENUE
 SAN FRANCISCO, CA 94102-3214
 FOR: CPSD

JUNAID RAHMAN
 CALIF PUBLIC UTILITIES COMMISSION
 DEMAND SIDE ANALYSIS BRANCH
 ROOM 4-A
 505 VAN NESS AVENUE
 SAN FRANCISCO, CA 94102-3214

KARIN M. HIETA
 CALIF PUBLIC UTILITIES COMMISSION
 ELECTRICITY PLANNING & POLICY BRANCH
 ROOM 4102
 505 VAN NESS AVENUE
 SAN FRANCISCO, CA 94102-3214
 FOR: DRA

KE HAO OUYANG
 CALIF PUBLIC UTILITIES COMMISSION
 UTILITY & PAYPHONE ENFORCEMENT BRANCH
 AREA 2-E
 505 VAN NESS AVENUE
 SAN FRANCISCO, CA 94102-3214
 FOR: SED

KEITH D WHITE
 CALIF PUBLIC UTILITIES COMMISSION
 INFRASTRUCTURE PLANNING AND PERMITTING B
 AREA 4-A
 505 VAN NESS AVENUE
 SAN FRANCISCO, CA 94102-3214

LEWIS BICHKOFF
 CALIF PUBLIC UTILITIES COMMISSION
 PROCUREMENT STRATEGY AND OVERSIGHT BRANC
 AREA 4-A
 505 VAN NESS AVENUE
 SAN FRANCISCO, CA 94102-3214

MARCELO POIRIER
 CALIF PUBLIC UTILITIES COMMISSION
 EXECUTIVE DIVISION
 ROOM 5025
 505 VAN NESS AVENUE
 SAN FRANCISCO, CA 94102-3214

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

MARYAM EBKE
 CALIF PUBLIC UTILITIES COMMISSION
 DIVISION OF ADMINISTRATIVE LAW JUDGES
 ROOM 5112
 505 VAN NESS AVENUE
 SAN FRANCISCO, CA 94102-3214

NIKA ROGERS
 CALIF PUBLIC UTILITIES COMMISSION
 ELECTRICITY PLANNING & POLICY BRANCH
 ROOM 4101
 505 VAN NESS AVENUE
 SAN FRANCISCO, CA 94102-3214

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

NOEL OBIORA
 CALIF PUBLIC UTILITIES COMMISSION
 LEGAL DIVISION
 ROOM 5121
 505 VAN NESS AVENUE
 SAN FRANCISCO, CA 94102-3214

PAUL DOUGLAS
 CALIF PUBLIC UTILITIES COMMISSION
 PROCUREMENT STRATEGY AND OVERSIGHT BRANC
 AREA 4-A
 505 VAN NESS AVENUE
 SAN FRANCISCO, CA 94102-3214

RAHMON MOMOH
 CALIF PUBLIC UTILITIES COMMISSION
 UTILITY & PAYPHONE ENFORCEMENT BRANCH
 AREA 2-E
 505 VAN NESS AVENUE
 SAN FRANCISCO, CA 94102-3214

REGINA DEANGELIS
 CALIF PUBLIC UTILITIES COMMISSION
 DIVISION OF ADMINISTRATIVE LAW JUDGES

SEAN A. SIMON
 CALIF PUBLIC UTILITIES COMMISSION
 PROCUREMENT STRATEGY AND OVERSIGHT BRANC

ROOM 5105
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

AREA 4-A
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

SHANNON O'ROURKE
CALIF PUBLIC UTILITIES COMMISSION
PROCUREMENT STRATEGY AND OVERSIGHT BRANC
AREA 4-A
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

TRACI BONE
CALIF PUBLIC UTILITIES COMMISSION
LEGAL DIVISION
ROOM 5027
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

XIAO SELENA HUANG
CALIF PUBLIC UTILITIES COMMISSION
ELECTRICITY PLANNING & POLICY BRANCH
ROOM 4102
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

CONSTANCE LENI
CALIFORNIA ENERGY COMMISSION
MS-20
1516 NINTH STREET
SACRAMENTO, CA 95814

GINA BARKALOW
CALIFORNIA ENERGY COMMISSION (CEC)
1516 NINTH STREET MS-45
SACRAMENTO, CA 95814

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

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

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

MICHAEL JASKE
CALIFORNIA ENERGY COMMISSION
1516 9TH STREET, MS-20
SACRAMENTO, CA 95814

OTTO TANG
CALIFORNIA ENERGY COMMISSION
1516 NINTH STREET
SACRAMENTO, CA 95814

PAMELA DOUGHMAN
CALIFORNIA ENERGY COMMISSION
TECHNOLOGY SYSTEMS DIVISION
1516 9TH STREET, MS 45
SACRAMENTO, CA 95814

REBECCA TSAI-WEI LEE
CALIF PUBLIC UTILITIES COMMISSION
DRA - ADMINISTRATIVE BRANCH
770 L Street, Suite 1250
Sacramento, CA 95814

DAVID VIDAVER
CALIFORNIA ENERGY COMMISSION
1516 NINTH STREET, MS-20
SACRAMENTO, CA 95814-5512

GABRIEL HERRERA
OFFICE OF CHIEF COUNSEL
CALIFORNIA ENERGY COMMISSION
1516 NINTH STREET, MS 14
SACRAMENTO, CA 95814-5512

JAMES HAILE
CALIFORNIA ENERGY COMMISSION
1516 NINTH STREET, MS 45
SACRAMENTO, CA 95814-5512

JIM WOODWARD
ELECTRICITY SUPPLY ANALYSIS DIVISION
CALIFORNIA ENERGY COMMISSION
1516 NINTH STREET, MS 20
SACRAMENTO, CA 95814-5512

KEVIN CHOU
ANALYST - ENERGY

ROSS A. MILLER
ELECTRICITY ANALYSIS OFFICE

CALIFORNIA ENERGY COMMISSION
1516 NINTH STREET, MS 45
SACRAMENTO, CA 95814-5512

CALIFORNIA ENERGY COMMISSION
1516 9TH STREET MS 20
SACRAMENTO, CA 96814-5512

[TOP OF PAGE](#)
[BACK TO INDEX OF SERVICE LISTS](#)

Non-Email Parties

Joseph Pasetti
Director – Government Relations
Solyndra, LLC
2880 Zanker Rd. Ste 203
San Jose, CA 95134
(A.08-03-015)

Angel Ayala
Amonix, Inc.
1709 Apollo Ct.
Seal Beach, CA 90740
(R.11-05-005)