

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

Order Instituting Rulemaking on the)	
Commission's Own Motion to Determine)	
Whether Sharing of Customer Information)	Rulemaking 09-12-017
Between Regulated Water Utilities and)	(Filed December 17, 2009)
Regulated Energy Utilities/Municipal)	
Energy Providers Should be Required;)	
and if so, to Develop the Rules and)	
Procedures Governing Such Sharing.)	
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**COMMENTS OF CALIFORNIA WATER ASSOCIATION
ON ADMINISTRATIVE LAW JUDGE'S
RULING REQUESTING COMMENTS ON
SHARING OF CUSTOMER INFORMATION**

John K. Hawks
Executive Director
CALIFORNIA WATER ASSOCIATION
601 Van Ness Avenue, Suite 2047
Mail Code #E3-608
San Francisco, CA 94102-3200
Tel: (415) 561-9650
Fax: (415) 561-9652
email: jhawks_cwa@comcast.net

February 1, 2011

NOSSAMAN LLP

Martin A. Mattes
Mari R. Lane

50 California Street, 34th Floor
San Francisco, CA 94111
Tel: (415) 398-3600
Fax: (415) 398-2438
e-mail: mlane@nossaman.com

Attorneys for CALIFORNIA WATER
ASSOCIATION

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In accordance with Rule 6.2 of the Rules of Practice and Procedure of the California Public Utilities Commission (the "Commission"), and the instructions accompanying the Administrative Law Judge's Ruling Requesting Comments issued on January 18, 2011 (the "Ruling") in the above-captioned proceeding (the "Rulemaking"), California Water Association ("CWA") submits the following comments responsive to the questions posed in the Ruling.

I. INTRODUCTION

CWA is a statewide association that represents the interests of investor-owned water utilities regulated by the Commission, including especially the Respondent

Class A and Class B water utilities that are the subject of this Rulemaking (collectively, the “Respondent Water Utilities”).¹ CWA supports the Commission’s efforts to promote the successful implementation of low-income customer assistance programs and appreciates having had the opportunity to discuss the significant issues related to the sharing of confidential customer data among the water and energy utilities.

During the March 3, 2010 workshop, the Respondent Water Utilities, representatives of the energy utilities, DRA and DWA, among others, discussed a set of proposed guidelines intended to help steer the development of the data sharing protocols by the water utilities. It is unclear from the Ruling whether the Commission, in addition to promulgating rules for the submission of data sharing plans, authorizing cost recovery and establishing monitoring/reporting requirements, intends to adopt a set of guiding principles concerning significant issues such as customer privacy, data security and strength of a customer “match.” If yes, CWA urges the Commission to consider its April 23, 2010 Opening Comments on Customer Information-Sharing (“Opening Comments”) in refining and promulgating those guidelines.² If no, and the Commission adopts a decision in this proceeding that would require the submission of data sharing plans to DWA, CWA anticipates that these issues will arise in the course of each such review by DWA.

¹ CWA members Alisal Water Corporation (dba Alco Water Service); Apple Valley Ranchos Water Company, California American Water Company, Del Oro Water Company, East Pasadena Water Company, Golden State Water Company, Park Water Company, San Gabriel Valley Water Company, San Jose Water Company, and Valencia Water Company join with CWA in submitting these comments.

² CWA’s Opening Comments recommended, among other things, that the customer information subject to exchange be limited to customer name and address, and that a “hard match” of customer surname and address be the sole basis for automatic enrollment, while a lesser match be the basis for customer outreach to a potential LIRA program participant.

II. ADDRESSING THE ENUMERATED QUESTIONS

The Ruling poses five broadly-stated questions that relate to the sharing of customer information in the manner set forth in Sections 2.1, 2.2, 2.3 and 2.4 of the Ruling. CWA's responses to these questions and their corresponding proposals are set forth below, and include comments on the assumptions (express or apparent) underlying each proposal, as appropriate.

A. Are consistent CARE and low-income assistance self-certification/income verification, re-certification, and income eligibility guidelines required to enable customer information sharing and automatic enrollment?

Yes. CWA agrees that consistent and comparable eligibility requirements among low income programs³ are necessary to facilitate the efficient and cost-effective enrollment of eligible customers.⁴ However, the need for consistency among data exchange partners extends beyond creating comparable eligibility requirements. Technical compatibility for data file transfer and uniform terms for non-disclosure agreements are also needed to ensure the streamlined implementation of a single set of protocols to govern the transfer and security of data exchanged between the water company and each of its energy company partners.

CWA believes a practical dialog between the energy and water companies will be necessary to achieve such coordination and recommends that the Commission convene technical workshops to facilitate the effort, which will focus primarily on ensuring matches between eligible energy and water utility customers in single-family dwellings where both types of utilities have metered accounts or customers. The issues

³ To clarify page 4 of the Ruling, as of December 20, 2010, Golden State Water Company's income eligibility for its low-income assistance program is 200 percent of the federal poverty level. D.10-12-059, Settlement Agreement pp. 68-69.

⁴ Ruling Section 2.1, p. 4.

associated with non-customers behind master-meters should be addressed in a separate technical workshop.

Using the proposed plan components listed in Section 2.2 of the Ruling as a starting point for the discussion, the companies could assemble their technical staff and undertake to draft a model data sharing plan. This model plan could serve as a template for those plans proposed to be submitted to DWA for review and approval. CWA is concerned that if the Commission forgoes an early effort to coordinate plan development, each company – both water and energy – will bear that administrative burden individually during the proposed six-month plan development period,⁵ and that DWA will ultimately shoulder the lion’s share of the work to harmonize the various plans submitted.

B. Is submitting a proposed data sharing plan to the Director of DWA a reasonable means to implement a low-income customer information sharing program? Is the information required to be submitted in the proposed data sharing plan sufficient?

CWA agrees that submitting a proposed data sharing plan to the Director of DWA is a reasonable means to implement a low-income customer information sharing program, except that, as stated above, CWA suggests that a technical workshop be convened to draft a template for individual company plans. The purpose of this technical workshop would be two-fold: to develop, to the fullest extent achievable, a

⁵ One example where a coordinated effort among all data sharing partners could result in significant savings to all parties involves the requisite Memorandum of Understanding/Non-disclosure Agreement(s). During the March workshop, representatives of the energy companies stated that significant resources had been expended in the effort to negotiate and draft agreements governing the security of customer information data exchanged with their various utility partners (e.g. Los Angeles Department of Water and Power). Energy representatives expressed a preference for using those heavily-negotiated agreements in future data sharing partnerships with the Respondent Water Companies so as to minimize future transaction costs. While reserving the right to tailor agreements to meet individual needs, the water companies would also benefit from not having to “start from scratch” with respect to the content and form of these agreements.

uniform set of procedures that could be implemented by the water companies; and to better inform the water companies' technical staff on the costs and types of systems modifications necessary to automate the data exchange. Absent this effort, the water companies are in a poor position to provide fully informed comment on the sufficiency of the information required to be submitted as part of a data sharing plan and on the suitability of all of the data points listed in Section 2.2 of the Ruling.

Notwithstanding the foregoing, CWA objects to certain of the proposed data points listed as unworkable. First, the Ruling would require the water utilities to submit as a component of a data sharing plan a “[p]roposal on a methodology to estimate eligible low-income customers in the service areas by using methods similar to those used by the energy utilities to calculate their own estimates of program eligible customers.”⁶ The estimating methods used by the energy companies, which survey submetered customers in the service area, are not transferable to the water companies because of the unique circumstances presented by water service delivery to tenants behind a master meter, which may be served directly by the energy utilities. For instance, the energy utilities either serve the submetered customers directly – in which case they have the ability to identify those that might be eligible for low-income assistance, or they have a direct business relationship with the third party that manages the submetered accounts (e.g., they provide the billing service for that third party) that enables them to have ready access to the names and addresses of the submetered customers. The water companies, on the other hand, have no access to the water users behind the meter, regardless of whether they are tenants or whether they are submetered energy customers. Beyond the practical barriers, water utilities should not,

⁶ Ruling Section 2.2, p. 7 (emphasis added).

as a matter of policy, be required to have their cost-of-service customers subsidizing those water users that are not their customers. This segment of the low-income rate assistance universe for energy utilities is not accessible by the water companies. Therefore, if a proposal to estimate eligible low-income customers is to be included in a data sharing plan, it should be developed to meet water company-specific circumstances.

Second, the Ruling would require the data sharing plans to include a “calculation of current penetration rates using the methodology described in DWA’s ‘Assessment of Water Utility Low-Income Assistance Programs’”(the “2007 Assessment”). In its Opening Comments, CWA expressed its concern that the 2007 Assessment did not provide a useful baseline (2006 and 2007 penetration rates) against which to compare future penetration rates because the underlying estimates of eligible households did not accurately exclude master-metered water users.⁷ Calculating current penetration rates using the same imperfect information would further limit the value of the resulting data.

C. Are the procedures for cost recovery reasonable?

It is both reasonable and necessary to authorize the water companies to track both one-time program implementation costs, as well as ongoing incremental program costs for future recovery. As set forth in the Ruling Section 2.3, however, the intended parameters for tracking costs are somewhat unclear.

First, the Ruling seems to suggest that a memorandum account is the appropriate mechanism for cost recovery, except where a water company has already been authorized to establish a balancing account. CWA considers memorandum

⁷ See 2007 Assessment, pp. 14-18, 26-27.

account treatment to be an inadequate remedy. Already, certain of the water utilities are having difficulty with timely recovery of costs associated with LIRA programs. These costs are significant, reaching into the seven figures for at least one water utility. Therefore, each of the water utilities should be authorized to establish a balancing account with an annual true-up⁸ to record low-income assistance-related discounts, surcharges, and program costs, including any additional one-time and ongoing costs incurred as a result of data sharing efforts.

Second, the Ruling references one-time costs, “significant” additional costs for implementation, “program costs” and “data sharing costs” without definitively stating which costs are intended to be recoverable and which are not. For the purpose of clarity, CWA supports cost recovery procedures that authorize the following:

- (1) tracking of both one-time implementation costs, including, but not limited to, billing system changes, and ongoing incremental program costs for implementing data sharing programs related to authorized low income assistance programs that exceed costs already included in rates; and
- (2) to the extent that a water company does not have a balancing account in place that permits tracking of each of the above types of costs and an annual true-up, the water company shall be authorized to use the Tier 1 advice letter process to establish a new, or augment an existing, account.

D. Is the low-income data sharing program monitoring proposal reasonable?

Yes, but not in all respects. CWA agrees that the evaluation of a water utility’s data sharing program should occur in the water utility’s general rate case (“GRC”).

⁸ One problem with some existing balancing accounts is that the threshold for recovery is too high – into the several millions of dollars – which means that a significant surcharge to customers is required once the balance finally reaches that threshold.

CWA is concerned, however, that the proposed requirement to track the “[n]umber of CARE customers ineligible for enrollment due to metering conditions (as compared with water utility records)” presents problems. The Ruling suggests that the water companies should “extrapolate the number of indirect customer by comparing their billing records to the CARE customer records received, which did not result in a match but were located in their service territory.” If the proposed data sharing procedures are intended to boost participation by eligible customers, CWA is concerned that the tracking and reporting of these estimated populations does not serve this purpose, since it is only the utility’s “direct customers” who can become participants in a program for low-income customers.⁹

If the Commission is seeking to extend low-income assistance to water users that are not the customers of the water company,¹⁰ CWA cautions that such efforts are neither feasible nor desirable.¹¹ Even if the water companies could work with the energy companies to identify energy-submetered tenants that reside in the water company’s service area (at potentially high administrative costs), the only water bill that could be credited to reflect an assistance amount would be the tenant’s landlord – the water company’s master-meter customer. Once the credit is applied to the landlord’s bill, the water company would have no authority to police the pass-through of the credit to the low-income tenant. The potential for misappropriation is high, which could, in

⁹ Pub. Util. Code, Section 737.8 provides, in relevant part, that the Commission “may implement programs to provide rate relief for low-income ratepayers” (emphasis added).

¹⁰ To clarify, the water customers only have “direct customers” – their ratepayers – with whom they have a business relationship that imparts reciprocal obligations.

¹¹ DWA’s 2007 Assessment comes to essentially the same conclusion, finding “no stand-alone water distribution utility provides rate assistance to low-income residents of master-metered MFHU [multi-family housing units]” and noting that the “only water distribution utilities that have resolved this issue are part of a multi-utility municipal provider,” where the water and power are provided and billed by the same entity. 2007 Assessment, pp. 26-27.

turn, undermine the legitimacy of the LIRA program, particularly among the cost-of-service customers that provide such subsidy.

As was suggested by CWA in the March 3, 2010 workshop, the only practical alternative is for the water utility to provide the discount (via a payment) to the energy utility, which in turn will furnish that water utility credit to the energy customer behind the water customer's master meter. This suggestion was not met with enthusiasm by the energy utility representatives present at the workshop. Moreover, while this alternative might be capable of being implemented, CWA still objects to requiring its cost-of-service customers to provide a subsidy to non-customer water users.

E. Whether it is appropriate to predicate a discussion of current CARE penetration rates and outreach efforts by reference to the energy utilities' low-income assistance program monthly reports for November 2010.

Because the circumstances and potential universe of low-income customers differ dramatically between the energy and water utilities, and because the practical constraints associated with the water utility master-metered customers will always ensure that the penetration rates in the water utility LIRA programs will be significantly less than those of the energy utilities, it's not likely that reference to the energy utilities' LIRA monthly reports for November 2010 will be helpful in a discussion of current CARE penetration and outreach efforts. Indeed, without the water users behind the master-meter factored into the rates, penetration among water utility customers may be quite high.

III. CONCLUSION

CWA supports the adoption of procedures to facilitate the exchange of customer data among the regulated and municipal water and energy utilities, provided that the

customer approves of such exchange. CWA encourages the Commission, in determining the sufficiency of such procedures, to: (1) convene a technical workshop for the energy and water companies; (2) focus on improving low income assistance program enrollment of water service customers, consistent with Public Utilities Code section 739.8, instead of the broader population of water users; and (3) clarify and modify the Ruling's proposed procedures, including cost recovery rules, as detailed herein.

Respectfully submitted,

NOSSAMAN LLP

Martin A. Mattes
Mari R. Lane

John K. Hawks
Executive Director
CALIFORNIA WATER ASSOCIATION
601 Van Ness Avenue, Suite 2047
Mail Code #E3-608
San Francisco, CA 94102-3200
Tel: (415) 561-9650
Fax: (415) 561-9652
E-mail: jhawks_cwa@comcast.net

By: /S/ MARI R. LANE

Mari R. Lane

50 California Street, 34th Floor
San Francisco, CA 94111
Tel: (415) 398-3600
Fax: (415) 398-2438
E-mail: mlane@nossaman.com
Attorneys for CALIFORNIA WATER ASSOCIATION

Dated: February 1, 2011

CERTIFICATE OF SERVICE

I, Jeannie Wong, hereby certify that on this date I will serve the foregoing COMMENTS OF CALIFORNIA WATER ASSOCIATION ON ADMINISTRATIVE LAW JUDGE'S RULING REQUESTING COMMENTS ON SHARING OF CUSTOMER INFORMATION by electronic mail and by hand delivery on the parties to R.09-12-017:

By electronic mail:

owein@nclcdc.org; catherine.mazzeo@swgas.com; emello@sppc.com; MThorp@SempraUtilities.com; ed.jackson@parkwater.com; dadellosa@sgvwater.com; tjryan@sgvwater.com; monica.ghattas@sce.com; rkmoore@gswater.com; KHassan@SempraUtilities.com; lb3@cpuc.ca.gov; cmailloux@turn.org; dfc2@pge.com; lhj2@pge.com; mlane@nossaman.com; sleeper@manatt.com; ldolqueist@manatt.com; CJN3@pge.com; pucservice@dralegal.org; michelle.mishoe@pacificcorp.com; darlenewong@nclc.org; jhowat@nclc.org; kristien.tary@swgas.com; bobbi.sterrett@swgas.com; holly.lloyd@swgas.com; bobkelly@bobkelly.com; case.admin@sce.com; Jennifer.Shigekawa@sce.com; Sharon.yang@sce.com; JYamagata@SempraUtilities.com; olivia.para@amwater.com; jhawks_cwa@comcast.net; bjsv@pge.com; MEWR@pge.com; marg@tobiaslo.com; mmattes@nossaman.com; cem@newsdata.com; pucservice@dralegal.org; dstephen@amwater.com; californiadockets@pacificcorp.com; ccg@cpuc.ca.gov; jlg@cpuc.ca.gov; leh@cpuc.ca.gov;

By hand delivery:

Hon. Janice L. Grau
Administrative Law Judge
California Public Utilities Commission
505 Van Ness Avenue, Room 5011
San Francisco, CA 94102

Hon. Michael R. Peevey
Assigned Commissioner
California Public Utilities Commission
505 Van Ness Avenue, 5th Floor
San Francisco, CA 94102

Executed this 1st day of February, 2011 in San Francisco, California.

/S/ JEANNIE WONG

Jeannie Wong

CALIFORNIA PUBLIC UTILITIES COMMISSION

Service Lists

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LAST CHANGED: JANUARY 28, 2011

Parties

OLIVIA B. WEIN
ATTORNEY AT LAW
NATIONAL CONSUMER LAW CENTER
1001 CONNECTICUT AVE., NW., STE. 510
WASHINGTON, DC 20036
FOR: NATIONAL CONSUMER LAW CENTER

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

EDWARD N. JACKSON
DIRECTOR OF REVENUE REQUIREMENTS
PARK WATER COMPANY
PO BOX 7200
DOWNEY, CA 90241
FOR: PARK WATER COMPANY

TIMOTHY J. RYAN
SAN GABRIEL VALLEY WATER CO.
11142 GARVEY AVE., PO BOX 6010
EL MONTE, CA 91733-2425
FOR: SAN GABRIEL WATER COMPANY

RONALD MOORE
SR. REGULATORY ANALYST
GOLDEN STATE WATER COMPANY
630 EAST FOOTHILL BLVD.
SAN DIMAS, CA 91773
FOR: GOLDEN STATE WATER COMPANY

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

DANIEL F. COOLEY
STAFF COUNSEL - LAW DEPARTMENT
PACIFIC GAS & ELECTRIC COMPANY
77 BEALE ST., STE. 3161
SAN FRANCISCO, CA 94105
FOR: PACIFIC GAS & ELECTRIC COMPANY

CATHERINE MAZZEO
SOUTHWEST GAS CORPORATION
5241 SPRING MOUNTAIN ROAD
LAS VEGAS, NV 89150-0002
FOR: SOUTHWEST GAS CORPORATION

MICHAEL R. THORPE
SAN DIEGO GAS & ELECTRIC CO.
555 WEST FIFTH STREET, GT-14E7
LOS ANGELES, CA 90013-1011
FOR: SAN DIEGO GAS & ELECTRIC
CO./SOUTHERN CALIFORNIA GAS CO.

DANIEL A. DELL'OSA
SAN GABRIEL VALLEY WATER COMPANY
11142 GARVEY AVE., PO BOX 6010
EL MONTE, CA 91733-2425
FOR: SAN GABRIEL WATER COMPANY

MONICA GHATTAS
SOUTHERN CALIFORNIA EDISON COMPANY
2244 WALNUT GROVE AVENUE
ROSEMEAD, CA 91770
FOR: SOUTHERN CALIFORNIA EDISON COMPANY

KIM F. HASSAN
SAN DIEGO GAS & ELECTRIC COMPANY
101 ASH STREET, HQ-12
SAN DIEGO, CA 92101
FOR: SAN DIEGO GAS & ELECTRIC COMPANY,
SOUTHERN CALIFORNIA GAS COMPANY

CHRISTINE MAILLOUX
THE UTILITY REFORM NETWORK
115 SANSOME STREET, SUITE 900
SAN FRANCISCO, CA 94104
FOR: TURN

LISE H. JORDAN
PACIFIC GAS AND ELECTRIC COMPANY
77 BEALE STREET, MC B30A
SAN FRANCISCO, CA 94105
FOR: PACIFIC GAS AND ELECTRIC COMPANY

MARI R. LANE
ATTORNEY AT LAW
NOSSAMAN, LLP
50 CALIFORNIA STREET, STE. 3400
SAN FRANCISCO, CA 94111
FOR: CALIFORNIA WATER ASSOCIATION

LORI ANNE DOLQUEIST
MANATT PHELPS & PHILLIPS LLP
ONE EMBARCADERO CENTER, 30TH FLOOR
SAN FRANCISCO, CA 94111-3719
FOR: SUBURBAN WATER SYSTEMS

MELISSA KASNITZ
DISABILITY RIGHTS ADVOCATES
2001 CENTER STREET, THIRD FLOOR
BERKELEY, CA 94704-1204
FOR: DISABILITY RIGHTS ADVOCATES

Information Only

DARLENE R. WONG
STAFF ATTORNEY
NATIONAL CONSUMER LAW CENTER
7 WINTHROP SQUARE, 4TH FLOOR
BOSTON, MA 02110-1245

KRISTIEN TARY
STATE REGULATORY AFFAIRS
SOUTHWEST GAS CORPORATION
5241 SPRING MOUNTAIN ROAD
LAS VEGAS, NV 89150

HOLLY J. LLOYD
ANALYST III/STATE REGULATORY AFFAIRS
SOUTHWEST GAS CORPORATION
5241 SPRING MOUNTAIN ROAD
LAS VEGAS, NV 89150-0002

CASE ADMINISTRATION
SOUTHERN CALIFORNIA EDISON COMPANY
2244 WALNUT GROVE AVENUE, RM. 370
ROSEMEAD, CA 91770

SHARON YANG
ATTORNEY
SOUTHERN CALIFORNIA EDISON COMPANY
2244 WALNUT GROVE AVE. / PO BOX 800
ROSEMEAD, CA 91770

OLIVIA PARA
CALIFORNIA AMERICAN WATER
333 HAYES AVENUE, SUITE 202
SAN FRANCISCO, CA 94102

SARAH E. LEEPER
MANATT, PHELPS & PHILLIPS, LLP
ONE EMBARCADERO CENTER 30TH FLOOR
SAN FRANCISCO, CA 94111
FOR: CALIFORNIA AMERICAN WATER COMPANY

CHONDA J. NWAMU
PACIFIC GAS AND ELECTRIC COMPANY
77 BEALE STREET, B30A
SAN FRANCISCO, CA 94177
FOR: PACIFIC GAS AND ELECTRIC COMPANY

MICHELLE R. MISHOE
PACIFICORP
825 NE MULTNOMAH STREET, SUITE 1800
PORTLAND, OR 97232
FOR: PACIFICORP

JOHN HOWAT
NATIONAL CONSUMER LAW CENTER
7 WINTHROP SQUARE, 4TH FLOOR
BOSTON, MA 02110-1245

BOBBI J. STERRETT
SNR. SPECIALIST/STATE REGULATORY AFFAIRS
SOUTHWEST GAS CORPORATION
5241 SPRING MOUNTAIN ROAD
LAS VEGAS, NV 89150-0002

ROBERT KELLY
SUBURBAN WATER SYSTEMS
1211 EAST CENTER COURT DRIVE
COVINA, CA 91724-3603
FOR: SUBURBAN WATER SYSTEMS

JENNIFER M. TSAO SHIGEKAWA
SOUTHERN CALIFORNIA EDISON COMPANY
2244 WALNUT GROVE AVENUE
ROSEMEAD, CA 91770

JOY C. YAMAGATA
SAN DIEGO GAS & ELECTRIC/SOCALGAS
8330 CENTURY PARK COURT, CP 32 D
SAN DIEGO, CA 92123-1533

JOHN K. HAWKS
EXECUTIVE DIRECTOR
CALIFORNIA WATER ASSOCIATION
601 VAN NESS AVE., STE 2047 / MC E3-608
SAN FRANCISCO, CA 94102-3200
FOR: CALIFORNIA WATER ASSOCIATION

BRETT SEARLE
SR. PROJECT MGMT ANALYST
PACIFIC GAS AND ELECTRIC COMPANY
77 BEALE STREET, RM 559A, MCB5K
SAN FRANCISCO, CA 94105

MARDI WALTON
SR. REGULATORY ANALYST
PACIFIC GAS AND ELECTRIC COMPANY
77 BEALE STREET, MC B9A
SAN FRANCISCO, CA 94105
FOR: PG&E: CUSTOMER DEMAND SIDE
MANAGEMENT

MARGARET TOBIAS
ATTORNEY AT LAW
TOBIAS LAW OFFICE
460 PENNSYLVANIA AVE
SAN FRANCISCO, CA 94107

MARTIN A. MATTES
COUNSEL
NOSSAMAN, LLP
50 CALIFORNIA STREET, 34TH FLOOR
SAN FRANCISCO, CA 94111-4799

CALIFORNIA ENERGY MARKETS
425 DIVISADERO STREET, SUITE 303
SAN FRANCISCO, CA 94117-2242

BECCA VON BEHREN
DISABILITY RIGHTS ADVOCATES
2001 CENTER STREET, 4TH FLOOR
BERKELEY, CA 94704

DAVID P. STEPHENSON
CALIFORNIA-AMERICAN WATER COMPANY
4701 BELOIT DRIVE
SACRAMENTO, CA 95838

CATHIE ALLEN
DIR., REGULATORY AFFAIRS
PACIFICORP
825 NE MULTNOMAH STREET, SUITE 2000
PORTLAND, OR 97232

State Service

CAROLINA CONTRERAS
CALIF PUBLIC UTILITIES COMMISSION
WATER AND SEWER ADVISORY BRANCH
ROOM 3-C
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

JANICE L. GRAU
CALIF PUBLIC UTILITIES COMMISSION
DIVISION OF ADMINISTRATIVE LAW JUDGES
ROOM 5011
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

ROBERT LEHMAN
CALIF PUBLIC UTILITIES COMMISSION
COMMUNICATIONS POLICY BRANCH
ROOM 4209
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214