



12745 N. Thornton Road  
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## Memo

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**Date:** January 8, 2014  
**To:** NCPA Lodi Energy Center Project Participant Committee  
**From:** Michael Werner, Chairman  
**Subject:** **January 13, 2014 LEC Project Participant Committee Meeting Notice & Agenda**

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PLEASE TAKE NOTICE that pursuant to Government Code section 94956, a meeting of the Northern California Power Agency Lodi Energy Center Project Participant Committee is hereby called for Monday, January 13, 2014 at 10:00 a.m. to discuss those matters listed in the attached Agenda. The meeting will be held at the Northern California Power Agency, 12745 N. Thornton Road, Lodi, California.

If you are unable to attend the meeting in person at the Lodi location and wish to attend via teleconference, in accordance with The Brown Act, you must attend at one of the locations listed on the Agenda and post the Agenda at that location by 10:00 a.m. on Friday, January 10, 2014, in a location that is accessible to the public until the completion of the meeting.

  
Michael Werner, Chairman



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Lodi, CA 95242

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## Agenda

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**Date:** January 8, 2013

**Subject:** January 13, 2014 Lodi Energy Center Project Participant Committee Meeting

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**Location:** 12745 N. Thornton Road, Lodi, CA or via teleconference

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**Time:** 10:00 A.M.

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**\*\*\* In compliance with the Brown Act, you may participate in person at the meeting location or via teleconference at one of the locations listed below. In either case, please: (1) post this notice at a publicly accessible location at the participation location at least 72-hours before the call begins, and (2) have a speaker phone available for any member of the public who may wish to attend at your location.**

NCPA 651 Commerce Drive Roseville, CA	NCPA 12745 N. Thornton Road Lodi, CA	CITY OF HEALDSBURG 401 Grove Street Healdsburg, CA
BAY AREA RAPID TRANSIT 300 Lakeside Drive, 16th Floor Oakland, CA	CITY OF GRIDLEY 685 Kentucky Street Gridley, CA	PLUMAS-SIERRA RURAL ELECTRIC COOP 73233 Highway 70 Portola, CA
CITY OF BIGGS 465 "C" Street Biggs, CA	CITY OF SANTA CLARA 1500 Warburton Avenue Santa Clara, CA	
CITY OF UKIAH 411 W Clay Street Ukiah, CA	POWER & WATER RESOURCES POOLING AUTHORITY 2106 Homewood Way, Suite 100 Carmichael, CA	

The Lodi Energy Center Project Participant Committee may take action on any of the items listed on this Agenda regardless of whether the matter appears on the Consent Calendar or is described as an action item, a report, or an information item. If this Agenda is supplemented by staff reports, they are available to the public upon written request. Pursuant to California Government Code Section 54957.5, the following is the location at which the public can view Agendas and other public writings: NCPA, 651 Commerce Drive, Roseville, CA or [www.ncpa.com](http://www.ncpa.com)

### 1. Call Meeting to Order and Roll Call

### 2. Meeting Minutes - Approval of PPC meeting minutes for the December 9, 2013 regular meeting

## **PUBLIC FORUM**

Any member of the public who desires to address the Lodi Energy Center Project Participant Committee on any item considered by the Lodi Energy Center Project Participant Committee at this meeting before or during the Lodi Energy Center Project Participant Committee's PPC consideration of that item shall so advise the Chair and shall thereupon be given an opportunity to do so. Any member of the public who desires to address the Lodi Energy Center Project Participant Committee on any item within the jurisdiction of the Lodi Energy Center Project Participant Committee and not listed on the Agenda may do so at this time.

## **MONTHLY REPORTS**

- 3. Operational Report for December 2013** (*Jeremy Lawson*)
- 4. Market Data Report for December 2013** – Verbal Report (*Bob Caracristi*)
- 5. Final Fiscal Year 2013 Annual Billing Settlements Report** - Staff to present the final FY13 year-end settlements report for approval (*Donna Stevener*)

## **CONSENT CALENDAR**

All items on the Consent Calendar are considered routine and will be approved without discussion by a single roll call vote. Any Project Participant or member of the public may remove any item from the Consent Calendar. If an item is removed, it will be discussed separately following approval of the remainder of the Consent Calendar. Prior to the roll call vote to approve the Consent Calendar, the Participants will be polled to determine if any Participant wishes to abstain from one or more items on the Consent Calendar.

- 6. Treasurer's Report for December 2013** – Accept by all Participants
- 7. Financial Report for December 2013** – Approve by all Participants
- 8. GHG Reports (excerpted from monthly ARB)** - Accept by all Participants
- 9. Power Engineers, Inc. Agreement** – Staff seeking approval of a three year Multi-Task Consulting Services Agreement in an amount not-to-exceed \$500,000 for general engineering services as needed at all facility locations. All purchase orders issued pursuant to this agreement will be charged against existing and future approved Annual Operating Budgets.
- 10. West Valley Construction Company, Inc. Agreement** – Staff seeking approval of a five year Multi-Task General Services Agreement in an amount not-to-exceed \$260,000 for maintenance services including but not limited to piping installation, hydro testing, HRSG erection, underground piping, catalyst work, and outage support as needed at all facility locations. All purchase orders issued pursuant to this agreement will be charged against existing and future approved Annual Operating Budgets.
- 11. Emission Reduction Credit (ERC) Service Agreement with Element Markets** – Staff seeking approval of a three year Service Agreement with Element Markets for the selling, optioning, and/or marketing of ERCs and establishing a 3% service fee of the total purchase price for such transactions and other terms as approved by the NCPA General Counsel.

Consent Items pulled for discussion: \_\_\_\_\_

## **BUSINESS ACTION ITEMS**

- 12. Emission Reduction Credits Purchase and Sale Agreement with Element Markets** – Staff seeking approval of the December 9, 2013 Transaction Purchase and Sale Agreement for the sale by NCPA to Element Markets of NOx and SOx credits for a total purchase price of \$802,566 to be paid to Seller, less applicable brokerage fee. *(Mike DeBortoli)*
- 13. Rotor Air Cooler** – Staff to present update regarding current status of the Rotor Air Cooler (RAC) and seeking approval for purchase of replacement unit at a cost not-to-exceed \$500,000 while dispute about responsibility ensues *(Mike DeBortoli)*
- 14. LEC Project Management and Operations Agreement (PMOA) Schedule 1.00 Exhibit 5** – Staff seeking approval of a revised Exhibit 5-CAISO Settlement Charge Matrix, to PMOA Schedule 1.00-Scheduling and Dispatch Operations and Economic Criteria, to update the CAISO revenue requirement and adjust the rates accordingly *(Bob Caracristi)*
- 15. Format for Budget to Actual Monthly Report** – Staff to present alternatives for reporting format to be utilized going forward *(Ken Speer)*

## **INFORMATIONAL ITEMS**

- 16. NCPA Preparation for CAISO Implementation of FERC Order No. 764 Market Changes** – Staff will make an informational presentation *(Bob Caracristi)*
- 17. Standard Large Generator Interconnection Agreement Among NCPA, PG&E and CAISO** – Staff to present update regarding application to CAISO for increase of the delivered capacity for LEC from 280 MW to 304 MW *(Mike DeBortoli)*
- 18. PG&E Charges per Interconnection Agreement** – Staff to present update regarding meeting with PG&E to discuss overcharges *(Mike DeBortoli)*
- 19. Update Regarding Services by Nexant Relative to Congestion Issue** – Staff to present brief update regarding services by Nexant *(Ken Speer)*
- 20. Other New Business**

## **ADJOURNMENT**

Next Meeting: February 10, 2014

**Lodi Energy Center  
Project Participant Committee Meeting  
December 9, 2013 - MEETING MINUTES**

Location: Lodi Energy Center Project Site  
12745 N. Thornton Rd, Lodi CA 95242  
and by teleconference  
10:00 A.M.

**1. Call Meeting to Order and Roll Call**

The PPC meeting was called to order at 10:00 a.m. by Chairman Michael Werner. He asked that roll be called as listed below.

George Morrow (Azusa)  
Connee Lloyd (BART by telephone)  
Mike Werner (CDWR)  
Lloyd Rowe (CDWR)  
Owen Stiles (Gridley by telephone)  
Melissa Price (Lodi)  
Marty Hostler ( Lompoc)  
Martin Caballero (MID)  
Steve Hance (SVP)  
Ken Speer (NCPA)  
Mike DeBortoli (NCPA)  
Jeremy Lawson (NCPA)  
Steve Hill (NCPA)  
Linda Stone (NCPA)  
Bob Caracristi (NCPA by telephone)  
Donna Stevener (NCPA by telephone)  
Gillian Biedler (NCPA by telephone)  
Ruthann Ziegler (Meyers-Nave by telephone)

Absent at roll call: Biggs, Healdsburg, Plumas-Sierra, PWRPA, and Ukiah. A PPC quorum was present at roll call by both number and percentage share of Project capacity.

**Public Forum**

Chairman Werner asked if any members of the public were present in Lodi or at any of the other noticed meeting locations that would like to address the PPC on any agenda items. No members of the public were present.

**2. Meeting Minutes**

The draft minutes for the November 4, 2013 regular meeting and November 18, 2013 special meeting were considered. The LEC PPC considered the following motion:

**Motion:** The PPC approves the meeting minutes for the November 4, 2013 regular meeting and the November 18, 2013 special meeting, including any edits discussed at today's meeting.

**Moved by:**

**Azusa**

**Seconded by:**

**Gridley**

Discussion: It was noted that spelling of NOx and SOx needed correction in the November 18 special meeting minutes. There was no further discussion.

Vote Summary on Motion		
Participant	Vote	Particulars / GES
Azusa	Yes	2.7857%
BART	Yes	6.6000%
Biggs	Absent	0.2679%
CDWR	Yes	33.5000%
Gridley	Yes	1.9643%
Healdsburg	Absent	1.6428%
Lodi	Yes	9.5000%
Lompoc	Yes	2.0357%
Modesto	Yes	10.7143%
Plumas-Sierra	Absent	0.7857%
PWRPA	Absent	2.6679%
Silicon Valley Power	Yes	25.7500%
Ukiah	Absent	1.7857%
Vote Summary		
Total Ayes	8	92.8500%
Total Noes	0	0.0000%
Total Abstain	0	0.0000%
Total Absent	5	7.1500%
Result:		Motion Passed by quorum and GES share

## **REPORTS**

### **3. Operational Reports for November 2013**

Jeremy Lawson presented the written Operational Report including Safety, Notice of Violations, Outages, and Generating Unit Statistics for November. There were no OSHA Recordable accidents, no Permit violations and no NERC/WECC violations. There were two outages during November, the first on November 4 due to LP Rotor Air Cooler (RAC) failure as a result of multiple tubes cracked on the upstream/hot side of the boiler. The metallurgist report concluded the failures were caused by trans granular chloride stress corrosion cracking. The unit was down for two days. Mike DeBortoli said they are hoping that the RAC can survive until the planned outage in April 2014. The second occurred on November 8 and lasted for six days as a result of Steam Turbine Generator Excitation. During start-up the steam turbine generator failed to excite the generator causing a shutdown. After inspection, the generator proved to be good, the Automatic Voltage Regulator was inspected and analyzed; and steam was reset and placed back in service.

The report reflected monthly production of 105,083 net MWH, 384 service hours, and equivalent operating availability of 45.13%. This is based on MW not just time. The report set forth the

Capacity Factor @ 280MW Pmax of 52.05% and @ 302MW Pmax of 48.26%. During the month the plant had four hot starts, four warm starts, and one cold start.

Mike DeBortoli then presented a PowerPoint to provide more detail regarding the outages and technical findings. Highlighted concerns regarding the RAC failure are the fact that to date 43 of 315 tubes have failed or 13% and the unit is allowed only a 30% (95 tubes) failure rate; given the findings, he expects additional tubes to fail; and the order lead time for delivery of a RAC is approximately 22 weeks. The hope is that additional tube failures can be plugged and the RAC will make it until the April scheduled outage. Mike Werner asked if there was an estimate of when the maximum number of tube plugs will be reached. Mike DeBortoli said it is impossible to predict due to the many issues involved. Ken Speer noted that the RAC is technically out of warranty but Siemens is pushing to have the vendor step up and take responsibility for repair or replacement of the RAC. The presentation also discussed the Generator/Excitation system outage and the issues faced with obtaining the drawings on the system to diagnose and the lack of Siemens staff to support this product. Ken Speer said that the controls for this came out of Germany and there is only one person in the U.S. left with knowledge for support. Ken said NCPA has asked for training.

Mike's presentation also discussed an outage which occurred in early December, not noted on Jeremy's November Operational report. It was due to a Reheater crack which was similar to a crack previously discovered during the Generator outage which was repaired. Consultant Nooter Engineering is evaluating the issue and considering whether there may be inadequately supported drain line vibrations or improper stress relief on shop welds. Mike said once back up, the unit has been running virtually non-stop. Mike also noted that 2013 is the driest year on record at only 1% precipitation of normal.

#### **4. Injury Claim from Subcontractor Cupertino Electric**

Mike DeBortoli advised the Committee that he received a vague email from Marsh advising that NCPA may be responsible for the first \$50,000 of deductible for the OCIP insurance program for a claim which apparently dates back to March 2012. Mike noted that paperwork indicates ARB knew about the claim in June 2012 but never reported it to NCPA. Further, ARB filed reports after June that indicated there were no injuries and ARB was obligated to inform about any injuries sustained. The incident apparently involved a falling object when scaffolding was dropped but no information is available about whether any time was lost. Mike will update the Committee with new information as received.

#### **5. Market Data Report for November 2013**

Bob Caracristi discussed the operating and financial settlement results for the month, the impact of day-ahead congestion costs on LEC margin, the CAISO accuracy metric related to Pay for Performance Regulation, Standard Capacity Project (SCP) RA incentive payment distribution, and SCP RA Non-Availability Charge.

#### **6. GHG Reports**

Copies of the NCPA All Resources Bill LEC GHG Compliance Instrument Detail Report for LEC and GHG Obligation Detail Report (Cumulative) were provided with the meeting materials to provide GHG information. There was no discussion.

## **7. Treasurer's Reports**

The Treasurer's Reports for October and November 2013 were provided with the meeting materials. There were no questions or discussion and the reports were accepted.

## **8. Financial Reports**

The Financial Reports for October and November were provided with the meeting materials. There were no questions or discussion and the reports were accepted. Mike DeBortoli presented a Monthly Budget Analysis through October in a different format than previously presented. His efforts were to present the budget to actuals in a way as requested by the Participants and as compared to the year-end forecast requested at the last meeting. Connie Lloyd of BART said that the report format does not provide the variance explanation she is seeking. It was agreed that she and Mike DeBortoli would have a discussion subsequent to the meeting to discuss her specific requests in an effort to come up with a report which will satisfy the Participants' needs.

## **9. Final Construction Cost Report**

Donna Stevener presented the Final Construction Cost Report as set forth in the Staff Report. The report summarized the Final Approved Budget of \$388,500,000, Final Actual Cost of \$385,713,666, and result that the Project came in \$2,786,334 under budget. The funding of the Project amounted to \$387,275,783, thus the excess funded amount of \$1,562,117 is available for distribution. The following motion was considered:

**Motion:** The PPC approves the final construction cost report for LEC listing funding of \$387,275,783, actual costs of \$385,713,666, which results in a Project excess fund amount of \$1,562,117, and authorizes distribution of the excess funds in the amount of \$1,562,117 to the LEC Project Participants, as discussed at today's meeting.

**Moved by:** Gridley  
**Seconded by:** BART

Discussion: There was no further discussion.

Vote Summary on Motion		
Participant	Vote	Particulars / GES
Azusa	Yes	2.7857%
BART	Yes	6.6000%
Biggs	Absent	0.2679%
CDWR	Yes	33.5000%
Gridley	Yes	1.9643%
Healdsburg	Absent	1.6428%
Lodi	Yes	9.5000%
Lompoc	Yes	2.0357%
Modesto	Yes	10.7143%
Plumas-Sierra	Absent	0.7857%
PWRPA	Absent	2.6679%
Silicon Valley Power	Yes	25.7500%



Ukiah	Absent	1.7857%
<b>Vote Summary</b>		
Total Ayes	8	92.8500%
Total Noes	0	0.0000%
Total Abstain	0	0.0000%
Total Absent	5	7.1500%
Result:		Motion passed by quorum and GES share.

#### 10. **Fiscal Year 2013 Annual Billing Settlements and Option for Refund**

Donna Stevener presented a draft settlements report for FY13 covering the period November 27, 2012 through June 30, 2013 as detailed in the Staff Report. Donna said the final report will be brought to the PPC for approval at its January 2014 meeting. Donna also discussed options for refund of the excess collections including crediting the February ARB, retaining the excess in the 2014 maintenance reserve account to reduce future budget increases for this purpose, or retaining just a portion of the excess. George Morrow suggested that the excess be refunded to the Participants. An informal poll was taken of the Participants present and consensus was reached that the excess collections shall be refunded to the Participants.

#### 11. **Fiscal Year 2014 Budget Amendment**

Donna Stevener presented a proposal to amend the Fiscal Year 2014 budget to include projected third party energy sales revenue. At the time the 2014 was approved, projected energy sales to the ISO had not been calculated. Actual energy sales are recorded monthly and have a significant impact on the calculation of Net Annual Budget Costs to Participants. In response to a question from Connee Lloyd, Donna confirmed that the budget amendment just formally shows the revenue expected to be received. The PPC considered the following motion:

**Motion:** The PPC approves the amendment to the LEC Fiscal Year 2014 annual budget to include projected third party energy sales revenue from CAISO in the amount of \$53.2, as discussed at today's meeting.

**Moved by:** DWR  
**Seconded by:** MID

Discussion: There was no further discussion.

<b>Vote Summary on Motion</b>		
<b>Participant</b>	<b>Vote</b>	<b>Particulars / GES</b>
Azusa	Yes	2.7857%
BART	Yes	6.6000%
Biggs	Absent	0.2679%
CDWR	Yes	33.5000%
Gridley	Absent	1.9643%
Healdsburg	Absent	1.6428%
Lodi	Yes	9.5000%
Lompoc	Yes	2.0357%

Modesto	Yes	10.7143%
Plumas-Sierra	Absent	0.7857%
PWRPA	Absent	2.6679%
Silicon Valley Power	Yes	25.7500%
Ukiah	Absent	1.7857%
<b>Vote Summary</b>		
Total Ayes	7	90.8857%
Total Noes	0	0.0000%
Total Abstain	0	0.0000%
Total Absent	6	9.1143%
Result:		Motion Passed by quorum and GES share.

## 12. **Congestion Update and Discussion regarding Consultant Nexant**

Steve Hill presented an oral update about efforts to look further into the congestion issues experienced by LEC earlier in the year. Steve identified Nexant, Inc. as a consultant with the necessary experience regarding this issue and said he has been negotiating with its representative to reduce the costs outlined in a proposal received from this vendor. It was noted that CDWR has worked with Nexant previously and Mike Werner said CDWR is generally satisfied with them. NCPA is not only negotiating with Nexant to bring the proposal cost down, but to structure the scope of work into various phases to allow NCPA to ability to choose the work to be performed it feels will provide the most value for the associated expenditure of funds. The phases of work contemplated include 1) Historical Data Analysis, 2) Modeling and Simulation of the Issues, and 3) Forecasting and Mitigation Analysis. In total, Steve said he estimates this to be about a \$150,000 project with associated costs for the phases of work at approximately \$30,000/\$70,000/\$50,000. NCPA seeks confirmation from the PPC that it would like NCPA to continue with its negotiations with Nexant for a services contract regarding the congestion issue. George Morrow said if NCPA can manage the costs to \$150,000 for the services described, it sounds to be beneficial to the Project. The Participants present concurred. Steve Hance noted that there may be confidentiality issues with CAISO regarding presentation of data at the meeting. Staff will look into confidentiality issues and be cognizant when presenting information. Steve Hill said NCPA will report back at the next meeting about its efforts in negotiating an agreement with Nexant, Inc.

## 13. **PG&E Gas Line 108 Pipeline Section Replacement Work**

Mike DeBortoli advised that he received notification from PG&E, that the gas will be turned off on December 18 and not back on until December 21 as PG&E is cutting its main line for necessary work. The gas coming to the plant from the alternative line source is insufficient to run the plant.

## 14. **Precision Pump and Machine-KSB, Inc. Agreement**

Melissa Philpot presented this item seeking approval for a five year Multi-Task General Services Agreement with Precision Pump and Machine-KSB, Inc. in an amount not-to-exceed \$260,000 for pump maintenance as needed at all NCPA facility locations, as detailed in the Staff Report. The PPC considered the following motion:

**Motion:** The PPC approves the five year Multi-Task General Services Agreement with Precision Pump and Machine-KSB, Inc., with any non-substantial changes recommended and approved by the NCPA General Counsel, in an amount not-to-exceed \$260,000 for pump maintenance as needed at all facility locations.

**Moved by:** Azusa

**Seconded by:** Lodi

Discussion: There was no further discussion.

Vote Summary on Motion		
Participant	Vote	Particulars / GES
Azusa	Yes	2.7857%
BART	Yes	6.6000%
Biggs	Absent	0.2679%
CDWR	Yes	33.5000%
Gridley	Absent	1.9643%
Healdsburg	Absent	1.6428%
Lodi	Yes	9.5000%
Lompoc	Yes	2.0357%
Modesto	Yes	10.7143%
Plumas-Sierra	Absent	0.7857%
PWRPA	Absent	2.6679%
Silicon Valley Power	Yes	25.7500%
Ukiah	Absent	1.7857%
<b>Vote Summary</b>		
Total Ayes	7	90.8857%
Total Noes	0	0.0000%
Total Abstain	0	0.0000%
Total Absent	6	9.1143%
Result:		Motion passed by quorum and GES share.

## 15. Eaton Corporation Agreement

Melissa Philpot presented this item seeking approval for a five year Multi-Task General Services Agreement with Eaton Corporation in an amount not-to-exceed \$260,000 for electrical services as needed at all NCPA facility locations, as detailed in the Staff Report. The PPC considered the following motion:

**Motion:** The PPC approves the five year Multi-Task General Services Agreement with Eaton Corporation, with any non-substantial changes recommended and approved by the NCPA General Counsel, in an amount not-to-exceed \$260,000 for electrical services as needed at all facility locations.

**Moved by:** Azusa

**Seconded by:** Lodi

Discussion: There was no further discussion.

Vote Summary on Motion		
Participant	Vote	Particulars / GES
Azusa	Yes	2.7857%
BART	Yes	6.6000%
Biggs	Absent	0.2679%
CDWR	Yes	33.5000%
Gridley	Absent	1.9643%
Healdsburg	Absent	1.6428%
Lodi	Yes	9.5000%
Lompoc	Yes	2.0357%
Modesto	Yes	10.7143%
Plumas-Sierra	Absent	0.7857%
PWRPA	Absent	2.6679%
Silicon Valley Power	Yes	25.7500%
Ukiah	Absent	1.7857%
<b>Vote Summary</b>		
Total Ayes	7	90.8857%
Total Noes	0	0.0000%
Total Abstain	0	0.0000%
Total Absent	6	9.1143%
Result:	Motion passed by quorum and GES share.	

#### 16. Wagner Mechanical, Inc. Agreement

Melissa Philpot presented this item seeking approval of a five year Multi-Task General Services Agreement with Wagner Mechanical, Inc. in an amount not-to-exceed \$260,000 for various maintenance services at all NCPA facilities, as detailed in the Staff Report. The PPC considered the following motion:

**Motion:** The PPC approves the five year Multi-Task General Services Agreement with Wagner Mechanical, Inc., with any non-substantial changes recommended and approved by the NCPA General Counsel, in an amount not-to-exceed \$260,000 for various maintenance services including but not limited to piping installation, hydrotesting, HRSG erection, underground piping, catalyst work, and outage support as needed at all facility locations.

**Moved by:** Azusa

**Seconded by:** Lodi

Discussion: There was no further discussion.

Vote Summary on Motion		
Participant	Vote	Particulars / GES
Azusa		2.7857%
BART		6.6000%
Biggs		0.2679%
CDWR		33.5000%
Gridley		1.9643%

Healdsburg		1.6428%
Lodi		9.5000%
Lompoc		2.0357%
Modesto		10.7143%
Plumas-Sierra		0.7857%
PWRPA		2.6679%
Silicon Valley Power		25.7500%
Ukiah		1.7857%
<b>Vote Summary</b>		
Total Ayes	0	0.0000%
Total Noes	0	0.0000%
Total Abstain	0	0.0000%
Total Absent	0	0.0000%
Result:	Motion passed by quorum and GES share.	

#### 17. **Calendar Year 2013 Project Report**

Mike DeBortoli presented a PowerPoint outlining 2013 accomplishments for LEC. The presentation will be dispatched to the Participants after the meeting to share with their organizations.

The next meeting of the PPC is scheduled for Monday, January 13, 2014. Chairman Werner adjourned the meeting at 12:17 p.m.



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## **Lodi Energy Center Project Participant Committee Operational Report**

Agenda Item 3

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**Date:** 1/14/2014  
**To:** Lodi Energy Center Project Participant Committee

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### **Safety**

- OSHA Recordable: 0 Accidents

### **Notice of Violations**

- Permits: 0 Violations
- NERC/WECC: 0 Violations

### **Outage Summaries:**

- **Re-Heater #3 Tube Leak** – 12/1/13 20:15 to 12/4/2013 04:59 – A Lower Re-heater header drain developed a crack creating a steam leak in the HRSG. LEC was forced offline for the weld repair and returned back to service.
- **Steam Turbine Trip** – 12/04/2013 12:15 to 12/04/2013 15:45 – During start-up, the steam turbine tripped offline due to failed cold reheat pressure switch. The switch was repaired and the unit was returned to service
- **Transmission De-Rate** – 12/08/2013 16:15 to 12/08/2013 2100 – Curtailed LEC to 280MWs during CT2 STIG operation.
- **Transmission De-Rate** – 12/09/2013 16:15 to 12/09/2013 1932 – Curtailed LEC to 280MWs during CT2 STIG operation.
- **PGE Gas Curtailment** – 12/18/2013 00:00 to 12/22/2013 00:00 – LEC was forced out of service due to PGE gas pipeline maintenance work. The PGE work curtailed gas capacity below LEC's minimum power output.
- **Gas Compressor High Discharge Pressure** – 12/27/2013 20:00 to 12/28/2013 07:24 – LEC Gas Compressor tripped on high gas pressure. Staff swapped to the secondary gas compressor and returned unit to service.

### **Planned Outage Summaries:**

- 2014, April – Combustion Turbine Borescope
- 2014, April – Steam Turbine Minor Inspection
- 2015, April – Combustion Inspection

**Generating Unit Statistics:****Report****Date:**

Start Date 12/1/2013

End Date 12/31/201

3

1. Monthly Production 135,587 MWH

## 2. Productivity Factor

a. Service Hours 482 Hours

b. Service Factor 66.93 %

c. Capacity Factor @ 280MW Pmax 67.25 %

d. Capacity Factor @ 302MW Pmax 62.35 %

3. Equivalent Operating Availability (EOA) 74.32 %

## 4. Forced Outage Rate (FOR)

a. Combustion Turbine Generator 27.68 %

b. Steam Turbine Generator 28.05 %

## 5. Heat Rate Deviation (HRD)

a. Fuel Cost (Not Current Market Price) 4.00 \$/mmBTU

MW Range		Average HR	PMOA HR	Deviation	Production	Cost
		BTU/kW-Hr	BTU/kW-Hr	%	MWH	\$
Seg. 1	296 - 302	6,922	6850	1.05%	69,359	\$19,886
Seg. 2	284 - 296	6,940	6870	1.02%	38,417	\$10,758
Seg. 3	275 - 284	6,962	6971	-0.13%	6,264	-\$223
Seg. 4	250 - 275	7,003	7081	-1.10%	11,462	-\$3,568
Seg. 5	225 - 250	7,066	7130	-0.90%	4,838	-\$1,243
Seg. 6	200 - 225	7,247	7315	-0.93%	2,328	-\$633
Seg. 7	175 - 225	7,572	7711	-1.80%	517	-\$288
Seg. 8	165 - 175	7,845	0	0.00%	498	\$15,632
					<b>133,682</b>	<b>\$40,322</b>

## 6. AGC Control Deviation

MW Range		High Dev	Low Dev	Absolute Dev	Cost
		MWH	MWH	MWH	\$
Seg. 1	296 - 302	117	41	76	\$2,107
Seg. 2	284 - 296	60	-46	106	\$2,930
Seg. 3	275 - 284	18	-5	23	\$633
Seg. 4	250 - 275	33	-13	47	\$1,304
Seg. 5	225 - 250	15	-7	23	\$638
Seg. 6	200 - 225	6	-4	10	\$297
Seg. 7	175 - 225	4	-4	8	\$229
Seg. 8	165 - 175	2	-1	3	\$83
		255	-39	294	<b>\$8,222</b>

## 7. Starting Reliability

Start Type	Hot Starts	Warm Starts	Cold Starts
Number of Starts	6	0	2
Start Time Benchmark (Minutes)	85	160	235
Start Time Actual (Average Minute)	63.2	160.0	269.5
Start Time Deviation (%)	-25.7%	0.0%	14.7%
Start Fuel Benchmark PMOA (mmBTU)	1,967	5,200	5,430
Start Fuel Actual (Average mmBTU)	1,219	5,200	6,147
Fuel Deviation	-38.0%	0.0%	13.2%
Costs of Fuel Deviations (\$)	<b>-\$2,992</b>	<b>\$0</b>	<b>\$2,868</b>

**Definitions:**

1. Monthly Production = Plant Net MWH's
2. Capacity Factor
  - a. Service Hours = In Production or in Service State
  - b. Service Factor =  $SH / PH \times 100\%$
  - c. Capacity Factor =  $Production / 302MW \times PH$
  - d. Capacity Factor =  $Production / 280MW \times PH$
3. Monthly Equivalent Operating Availability =  $(AH - EPDH - EFDH - EUDH) / PH \times 100\%$
4. Forced Outage Rate =  $(FOH / (FOH + SH)) \times 100\%$
5. Heat Rate Deviation (HRD)
  - a. Fuel Cost = Cost of Fuel in \$/mmBTU
  - b. Average Heat Rate = The Average Heat Rate for the given Range
  - c. Heat Rate Deviation =  $(Heat\ Rate\ Average - Heat\ Rate\ Expected) / Heat\ Rate\ Expected \times 100\%$
  - d. Production = The Sum of Production for the given Range
  - e. Costs of Heat Rate Deviations =  $(Average\ Heat\ Rate - Expected\ Heat\ Rate) \times Production \times Cost\ of\ Fuel$
6. AGC Deviation-
  - a. MWH's = AGC Set Point Generation - LEC Actual Generation
  - b. Cost of Deviations = Fuel Cost x Heat Rate x Generation
7. Starting Reliability
  - a. Number of Starts = Start Count for Hot, Warm, and Cold
  - b. Start Time = Average Time from 0 Fuel Flow to Pmin
  - c. Start Fuel = Average Fuel Consumption to Pmin
  - d. Cost of Fuel Deviation =  $(Actual\ Fuel\ Consumed - Expected\ Fuel) \times Cost\ of\ Fuel$





## **Lodi Energy Center Project Participant Committee Staff Report**

AGENDA ITEM NO.: \_\_\_\_

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**Date:** January 8, 2014  
**To:** Lodi Energy Center Project Participant Committee  
**Subject:** FY 13 Annual Billing Settlements

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### Proposal

The FY 13 Annual Billing Settlements for the period November 27, 2012 through June 30, 2013, is presented for approval and for recommendation to the Agency Commission for approval.

### Background

The attached FY 2012-2013 Annual Billing Settlement reports are submitted for your review. The settlement covers the seven months of operations ending June 30, 2013.

The Annual Cost to Participants was approximately \$56.1 million or 14.3% under the adjusted budget due primarily to the reduction in anticipated Green House Gas Offset costs. Participants have transferred acquired allowances to the Project to meet its compliance obligation. Third Party Revenues were \$28.1 million primarily due to project energy sales to the ISO. When combined the Net Annual Cost to Participants was approximately \$28.0 million.

As a result of the Independent System Operator (ISO) shortened settlement process, ISO charges and energy and ancillary services sales no longer play a material role, if any at all, in the Agency's Annual Billing Settlement process. Rather, these categories are settled up concurrently with ISO processes in the Agency's All Resource Bill (ARB) monthly process.

This year's Net Refund of Excess Collections due to LEC participants at fiscal year-end was \$919,319 or 3.2% of collections of \$28.9 million.

### Fiscal Impact

Upon approval by this Committee and the Agency Commission the Amount of \$919,319 will be distributed to the LEC project participants. NCPA member refund amounts will be deposited into their respective General Operating Reserve accounts, while non-members will receive payment.

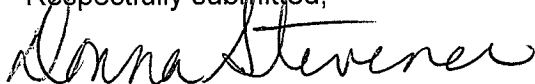
Environmental Analysis

This activity would not result in a direct or reasonably foreseeable indirect change in the physical environment and is therefore not a "project" for purposes of Section 21065 of the California Environmental Quality Act. No environmental review is necessary.

Recommendation

NCPA staff recommends that the PPC pass a motion to approve the FY 2013 Annual Billing Settlements and to recommend that the NCPA Commission also approve the Settlements.

Respectfully submitted,



DONNA STEVENER  
Assistant General Manager/CFO  
Administrative Services/Finance

Prepared by:



KEVIN W. WALLACE  
Treasurer-Controller

Attachments:

1. Settlement Summary
2. Allocation of Project Costs
3. Budget Settlement Analysis

LODI ENERGY CENTER  
Billing Settlement Summary  
FY 2013

	Total	Azusa	BART	Biggs	CDWR	Gridley	Healdsburg	Lodi	Lompoc	MID	Plumas-Sierra	PWRPA	SVP	Ukiah
Total All Resources Bill Collections	\$ 28,950,484	\$ 919,790	\$ 2,026,959	\$ 75,466	\$ 10,751,664	\$ 558,840	\$ 466,429	\$ 2,667,176	\$ 545,287	\$ 621,121	\$ 242,465	\$ 1,656,246	\$ 7,916,849	\$ 502,192
Net Project Costs	\$ 28,031,165	\$ 896,232	\$ 1,971,146	\$ 73,201	\$ 10,314,460	\$ 542,229	\$ 452,537	\$ 2,586,839	\$ 528,073	\$ 610,760	\$ 235,820	\$ 1,633,684	\$ 7,699,094	\$ 487,091
Net Refund of Excess Collections	\$ 919,319	\$ 23,558	\$ 55,813	\$ 2,265	\$ 437,204	\$ 16,611	\$ 13,892	\$ 80,337	\$ 17,214	\$ 10,361	\$ 6,645	\$ 22,562	\$ 217,755	\$ 15,101

LODI ENERGY CENTER  
Allocation of Project Costs  
FY 2013

ALLOCATION PERCENTAGES:

Generation Entitlement Share	GES	100.0000%	2.7857%	6.6000%	0.2679%	33.5000%	1.9643%	1.6428%	9.5000%	2.0357%	10.7143%	0.7857%	2.6679%	25.7500%	1.7857%
Indenture Cost Share A	ICS A	100.0000%	4.9936%	11.8310%	0.4802%	0.0000%	3.5212%	2.9448%	17.0295%	3.6491%	0.0000%	1.4084%	4.7824%	46.1588%	3.2010%
Indenture Cost Share B	ICS B	100.0000%	0.000%	0.000%	0.000%	100.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%

MWH		1,460,475	40,684	96,391	3,913	489,259	28,688	23,993	138,745	29,731	156,480	11,475	38,964	376,072	26,080
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PROJECT COSTS:

Routine O&M Costs	GES	\$ 8,946,712	\$ 249,229	\$ 590,483	\$ 23,968	\$ 2,997,149	\$ 175,740	\$ 146,977	\$ 849,938	\$ 182,128	\$ 958,578	\$ 70,294	\$ 238,689	\$ 2,303,778	\$ 159,761
O&M Reserve Funding		\$ 787,500				\$ 787,500									
Fuel Cost	GES	\$ 20,907,265	\$ 582,414	\$ 1,379,879	\$ 56,011	\$ 7,003,934	\$ 410,681	\$ 343,465	\$ 1,986,190	\$ 425,609	\$ 2,240,067	\$ 164,268	\$ 557,785	\$ 5,383,621	\$ 373,341
AB32 GHG Offsets		\$ 62,984	\$ 60,991	\$ -	\$ 143	\$ -	\$ 1,103	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 747
Transmission (CAISO)		\$ 407,219	\$ 13,874	\$ 18,296	\$ 1,334	\$ 166,841	\$ 9,779	\$ 8,179	\$ 47,294	\$ 10,134	\$ 29,702	\$ 3,912	\$ 17,652	\$ 71,332	\$ 8,890
Operations & Capital Projects	GES	\$ 26,761	\$ 745	\$ 1,766	\$ 72	\$ 8,965	\$ 526	\$ 440	\$ 2,542	\$ 545	\$ 2,867	\$ 210	\$ 714	\$ 6,891	\$ 478
Debt Service Cost:															
Indenture Group A Cost	ICS A	\$ 16,767,852	\$ 837,319	\$ 1,983,805	\$ 80,519	\$ -	\$ 590,430	\$ 493,780	\$ 2,855,481	\$ 611,876	\$ -	\$ 236,158	\$ 801,906	\$ 7,739,839	\$ 536,739
BAB's Subsidy (Group A)	ICS A	\$ (3,160,307)	\$ (157,813)	\$ (373,896)	\$ (15,176)	\$ -	\$ (111,281)	\$ (93,065)	\$ (538,184)	\$ (115,323)	\$ -	\$ (44,510)	\$ (151,139)	\$ (1,458,760)	\$ (101,161)
Debt Fees (Group A)	ICS A	\$ 10,270	\$ 513	\$ 1,215	\$ 49	\$ -	\$ 362	\$ 302	\$ 1,749	\$ 375	\$ -	\$ 145	\$ 491	\$ 4,741	\$ 329
Indenture Group B Cost	ICS B	\$ 9,147,689	\$ -	\$ -	\$ -	\$ 9,147,689	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
BAB's Subsidy (Group B)	ICS B	\$ (1,518,636)	\$ -	\$ -	\$ -	\$ (1,518,636)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Debt Fees (Group B)	ICS B	\$ 6,581	\$ -	\$ -	\$ -	\$ 6,581	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Other Costs	GES	\$ 3,754,837	\$ 104,598	\$ 247,819	\$ 10,059	\$ 1,257,870	\$ 73,756	\$ 61,684	\$ 356,710	\$ 76,437	\$ 402,305	\$ 29,502	\$ 100,175	\$ 966,871	\$ 67,050
Total Project Costs		\$ 56,146,727	\$ 1,691,870	\$ 3,849,368	\$ 156,979	\$ 19,857,893	\$ 1,151,096	\$ 961,762	\$ 5,561,719	\$ 1,191,781	\$ 3,633,518	\$ 459,980	\$ 1,566,274	\$ 15,018,313	\$ 1,046,174

THIRD PARTY REVENUE:

Energy Sales and Ancillary Services Sales		\$ (26,928,158)	\$ (787,519)	\$ (1,858,985)	\$ (75,652)	\$ (9,474,260)	\$ (554,609)	\$ (463,901)	\$ (2,681,936)	\$ (574,458)	\$ (3,017,838)	\$ (221,870)	\$ 531,290	\$ (7,244,167)	\$ (504,253)
Transfer Gas Credit		\$ (950,716)	\$ -	\$ -	\$ (7,346)	\$ -	\$ (48,533)	\$ (40,536)	\$ (265,255)	\$ (83,317)	\$ -	\$ -	\$ (456,104)	\$ -	\$ (49,625)
Interest Income	GES	\$ (5,351)	\$ (149)	\$ (353)	\$ (14)	\$ (1,793)	\$ (105)	\$ (88)	\$ (508)	\$ (109)	\$ (573)	\$ (42)	\$ (143)	\$ (1,378)	\$ (96)
Interest Income (Group A)	ICS A	\$ (136,976)	\$ (6,840)	\$ (16,206)	\$ (658)	\$ -	\$ (4,823)	\$ (4,034)	\$ (23,326)	\$ (4,998)	\$ -	\$ (1,929)	\$ (6,551)	\$ (63,226)	\$ (4,385)
Interest Income (Group B)	ICS B	\$ (53,788)	\$ -	\$ -	\$ -	\$ (53,788)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Other Income	GES	\$ (40,573)	\$ (1,130)	\$ (2,678)	\$ (109)	\$ (13,592)	\$ (797)	\$ (667)	\$ (3,854)	\$ (826)	\$ (4,347)	\$ (319)	\$ (1,082)	\$ (10,448)	\$ (725)
		\$ (28,115,562)	\$ (795,638)	\$ (1,878,222)	\$ (83,779)	\$ (9,543,433)	\$ (608,867)	\$ (509,225)	\$ (2,974,880)	\$ (663,708)	\$ (3,022,758)	\$ (224,160)	\$ 67,410	\$ (7,319,219)	\$ (559,083)

Net Project Costs, net		\$ 28,031,165	\$ 896,232	\$ 1,971,146	\$ 73,201	\$ 10,314,460	\$ 542,229	\$ 452,537	\$ 2,586,839	\$ 528,073	\$ 610,760	\$ 235,820	\$ 1,633,684	\$ 7,699,094	\$ 487,091
Net Project Costs per Mwh, net		\$ 19.19	\$ 22.03	\$ 20.45	\$ 18.71	\$ 21.08	\$ 18.90	\$ 18.86	\$ 18.64	\$ 17.76	\$ 3.90	\$ 20.55	\$ 41.93	\$ 20.47	\$ 18.68

JPA Assessment (per PMOA)		\$ 97,456	\$ 5,464	\$ -	\$ -	\$ 65,736	\$ -	\$ -	\$ -	\$ -	\$ 21,024	\$ -	\$ 5,232	\$ -	\$ -
Actual billed in ARB		97,456	5,464			65,736					21,024		5,232		

NORTHERN CALIFORNIA POWER AGENCY  
LODI ENERGY CENTER  
BUDGET VARIANCE ANALYSIS  
FOR THE SEVEN MONTHS ENDED JUNE 30, 2013

	Original Budget	Adjusted Budget <sup>(A)</sup> (Partial Year)	Actual	Variance Unfunded/(Excess)
<b>COST ANALYSIS:</b>				
Operations	\$ 1,947,585	\$ 1,136,091	\$ 1,080,393	\$ (55,698)
Maintenance	4,666,891	4,170,270	4,117,493	(52,777)
Administration	207,340	120,948	700,495	579,547
Mandated Costs	456,000	266,000	334,528	68,528
Inventory Stock	400,000	400,000	230,459	(169,541)
Routine O & M Costs without Labor	7,677,816	6,093,309	6,463,368	370,059
Labor	4,046,379	2,360,388	3,270,844	910,456
Total Routine O & M Costs	11,724,195	8,453,697	9,734,212	1,280,515
Other Costs				
Fuel	40,187,133	22,916,192	20,907,265	(2,008,927)
AB32 GHG Offset	8,746,047	8,746,047	62,984	(8,683,063)
CA ISO Charges	617,083	363,292	407,219	43,927
Debt Service	25,956,005	21,236,597	21,236,597	-
Other Costs	2,712,581	1,999,006	1,924,709	(74,297)
Administrative & General	1,567,574	914,418	1,181,401	266,983
Generation Services Shared	481,997	281,165	287,245	6,080
Maintenance Reserve	567,500	378,334	378,334	-
Total O & M Costs	92,560,115	65,288,748	56,119,966	(9,168,782)
Projects				
O&M Projects (Betterments & Improvement)	136,626	136,626	26,761	(109,865)
Capital Projects	125,000	125,000	-	(125,000)
Total Projects	261,626	261,626	26,761	(234,865)
Annual Cost	92,821,741	65,550,374	56,146,727	(9,403,647)
<b>THIRD PARTY REVENUE ANALYSIS:</b>				
ISO Energy Sales	-	-	26,593,321	26,593,321
Ancillary Services Sales	2,599,495	1,516,372	334,837	(1,181,535)
Transfer Gas Credit	-	-	950,716	950,716
Interest Income - Operations	13,250	7,729	5,351	(2,378)
Interest Income (NCPA)	91,585	53,425	136,976	83,551
Interest Income (CDWR)	23,029	13,434	53,788	40,354
NERC Compliance Encumbrance Release	-	-	30,960	30,960
Other Income	-	-	9,613	9,613
Total Third Party Revenue	2,727,359	1,590,959	28,115,562	26,524,603
Net Annual Cost	\$ 90,094,382	\$ 63,959,415	\$ 28,031,165	\$ (35,928,249)
Net Generation Mwh	1,460,475	775,150	678,869	
Net Annual Cost per Mwh	\$ 62	\$ 83	\$ 41	

Explanations and Comments

**General:**

Lodi Energy Center provides base and peak load and ancillary power services designed to meet electric generation demand and reliability requirements for participating members. The plant began operations late November 2013.

Routine O&M w/o Labor is over budget by \$370.0 thousand primarily due to an unplanned groundpayment of \$479.0 thousand offset by lower than anticipated inventory and other costs of \$109.0 thousand during FY 2013.

Labor is over budget by \$910,456 or 38.6% of the adjusted budgeted labor primarily due to the problems encountered during the initial commercial period such as equipment failures and valve replacements.

**Other Costs:**

Fuel costs are less than anticipated due to lower than anticipated generation. AB32 GHG Offset costs are lower due to participants GHG Allowances transfers to cover their obligations. Transferred allowances are recorded at zero costs.

Administrative and General costs are allocated based on either weighted average percentages or person years where appropriate. FY2013 budget to actual variances are a result of actual costs totaling approximately \$1.7 million less than budget and differences in weighted average and other allocations.

**Third Party Revenues:**

Energy sales into the California ISO market were not known at the time of budget preparation. Revenues were credited to participants as received from the ISO.

Ancillary services were \$1.2 million under budget. Optimistic projections, including of Reg. up/Reg. down Capacity in GW and higher than normal prices, resulted in actual revenue of 22.1% of budget.

Gas transfer credits represent credits issued to those participants that supplied owned gas for Plant operations. The amount was not known at the time of budget preparation. Credits were issued monthly on the ARB.

(A) Lodi Energy Center began operations on November 27, 2012.

NORTHERN CALIFORNIA POWER AGENCY  
LODI ENERGY CENTER  
BUDGET VARIANCE ANALYSIS  
FOR THE YEAR ENDED JUNE 30, 2013

	Revised Budget	Actual	Variance Unfunded/(Excess)
<b>Labor</b>			
Generation	\$4,003,489	\$407,965	(\$3,595,524)
Maintenance	0	2,820,991	2,820,991
Power Management	35,646	41,888	6,242
Administrative	7,244	0	(7,244)
	<u>\$4,046,379</u>	<u>\$3,270,844</u>	<u>(\$775,535)</u>
<b>Operations Expense</b>			
Operations -			
Travel	\$0	\$3,085	\$3,085
Water Supply Expense	720,000	358,953	(361,047)
Legal Services	0	3,640	3,640
Outside Services	0	7,703	7,703
Telecommunications	0	1,299	1,299
Raw Water Treatment System	777,978	389,125	(388,853)
Demin and Evap Cooler Water Systems	18,841	98,960	80,119
Cooling Tower Treatment	114,000	67,856	(46,144)
Cooling Tower Blow Down Treatment	26,420	231	(26,189)
Ammonia (SCR)	135,000	72,512	(62,488)
Emissions Chemicals/Gases	26,250	14,664	(11,586)
Water Treatment Waste Disposal	63,750	9,287	(54,463)
Liquidated Gas Turbines Shared Facilities - Operations	65,346	51,401	(13,945)
	<u>1,947,585</u>	<u>1,078,716</u>	<u>(868,869)</u>
<b>Utilities -</b>			
Telephone & Dedicated Comm.	0	1,677	1,677
Telephone-Data CMU Link	0	0	0
	<u>0</u>	<u>1,677</u>	<u>1,677</u>
	<u>\$1,947,585</u>	<u>\$1,080,393</u>	<u>(\$867,192)</u>

NORTHERN CALIFORNIA POWER AGENCY  
LODI ENERGY CENTER  
BUDGET VARIANCE ANALYSIS  
FOR THE YEAR ENDED JUNE 30, 2013

	Revised Budget	Actual	Variance Unfunded/(Excess)
<b>Maintenance Expense</b>			
Plant -			
Tools/Shop/Warehouse Equipment	\$0	\$1,468	\$1,468
Equipment Rental	51,500	18,677	(32,823)
Safety Equipment	30,900	19,892	(11,008)
Lubricants	7,725	4,891	(2,834)
Consumables	61,800	42,752	(19,048)
HRSG/Boilers	77,250	13,139	(64,111)
Gas Turbine	70,000	70,272	272
Steam Turbine	51,500	56,678	5,178
Generator	61,800	188,041	126,241
Misc Maintenance Mat. & Sup.	125,000	626,288	501,288
Water Treatment	100,000	64,619	(35,381)
GT Inlet Air Filters	75,000	9,124	(65,876)
Liquidated Gas Turbines Shared Facilities - Maintenance	56,956	53,509	(3,447)
	769,431	1,169,350	399,919
Outside Services -			
Legal	10,000	83,056	73,056
Engineering	50,000	110,993	60,993
Electrical/Substation Maintenance	30,000	8,266	(21,734)
Insulation Maintenance	50,000	48,118	(1,882)
Temporary Labor	30,000	6,361	(23,639)
Buildings and Grounds	20,600	80,143	59,543
Consultants	25,600	227,220	201,620
Corrosion Control	5,150	0	(5,150)
CEMS Support Contact	10,000	11,129	1,129
Fire Protection	5,150	23,450	18,300
Siemens LTSA	3,475,000	1,825,085	(1,649,915)
	3,711,500	2,423,821	(1,287,679)
Other Maintenance Costs -			
Auxiliary Power Usage	135,960	399,878	263,918
Painting of Structures	50,000	180	(49,820)
Aux Equip Maint Mat/Supplies	0	124,264	124,264
	185,960	524,322	338,362
	<u>\$4,666,891</u>	<u>\$4,117,493</u>	<u>(\$549,398)</u>

NORTHERN CALIFORNIA POWER AGENCY  
LODI ENERGY CENTER  
BUDGET VARIANCE ANALYSIS  
FOR THE YEAR ENDED JUNE 30, 2013

	Revised Budget	Actual	Variance Unfunded/(Excess)
<b>Administration Expense</b>			
Travel & Staff Development-			
Travel	\$0	\$3,384	\$3,384
Meals	0	201	201
Safety Equipment/Program	0	566	566
	0	4,151	4,151
Outside Services-			
Janitorial	5,000	0	(5,000)
Consulting Services - BU Mgr			
	5,000	0	(5,000)
Other Costs-			
General Office Supplies	0	54,346	54,346
Janitorial Supplies & Misc Expenses	0	1,144	1,144
Computer (software, hardware, network, licenses)	0	22,910	22,910
Ground Lease	0	478,988	478,988
Office Expense	0	51,343	51,343
Liquidated Gas Turbines Shared Facilities - Administration	202,340	87,613	(114,727)
	202,340	696,344	494,004
	<u>\$207,340</u>	<u>\$700,495</u>	<u>\$493,155</u>
<b>Mandatory Costs</b>			
Air Permit Fee	\$60,000	\$3,120	(\$56,880)
Hazardous Waste Disposal	240,000	200,278	(39,722)
Regulatory Permit Services	51,000	84,772	33,772
Title V Permit Fee	105,000	29,043	(75,957)
Security Upgrades	0	17,315	17,315
	<u>\$456,000</u>	<u>\$334,528</u>	<u>(\$121,472)</u>



NORTHERN CALIFORNIA POWER AGENCY  
LODI ENERGY CENTER  
BUDGET VARIANCE ANALYSIS  
FOR THE YEAR ENDED JUNE 30, 2013

	Revised Budget	Actual	Variance Unfunded/(Excess)
<b>Debt Service</b>			
Issue #1 (NCPA) -			
Principal	4,551,250	4,551,251	1
Interest	16,680,654	10,827,505	(5,853,149)
Construction Interest Transfer		1,389,096	1,389,096
BABS Interest Subsidy	(4,519,569)	(3,160,307)	1,359,262
	<u>16,712,335</u>	<u>13,607,545</u>	<u>(3,104,790)</u>
Issue #2 (CDWR) -			
Principal	3,790,833	3,790,834	1
Interest	7,624,596	4,968,355	(2,656,241)
Construction Interest Transfer		388,500	388,500
BABS Interest Subsidy	(2,171,759)	(1,518,636)	653,123
	<u>9,243,670</u>	<u>7,629,053</u>	<u>(1,614,617)</u>
	<u>\$25,956,005</u>	<u>\$21,236,597</u>	<u>(\$4,719,408)</u>
<b>Other Costs</b>			
Property Insurance	\$1,100,000	\$684,265	(\$415,735)
Liability Insurance	400,000	91,103	(308,897)
Debt Fees	34,420	16,851	(17,569)
Trustee Fees	11,000	0	(11,000)
NERC Compliance	11,670	114,167	102,497
Power Management Allocated Costs	1,155,491	1,018,323	(137,168)
	<u>\$2,712,581</u>	<u>\$1,924,709</u>	<u>(\$787,872)</u>

NORTHERN CALIFORNIA POWER AGENCY  
LODI ENERGY CENTER  
BUDGET VARIANCE ANALYSIS  
FOR THE YEAR ENDED JUNE 30, 2013

	Revised Budget	Actual	Variance Unfunded/(Excess)
<b>Administrative &amp; General (Allocated)</b>			
Administrative Support	\$1,151,111	\$936,185	(\$214,926)
General Support	416,463	245,216	(171,247)
	<u>\$1,567,574</u>	<u>\$1,181,401</u>	<u>(\$386,173)</u>
 <b>Generation Services Shared</b>			
Salaries & Benefits	\$317,792	\$245,144	(\$72,648)
Outside Services	0	15,155	15,155
Other Costs	164,205	26,946	(137,259)
	<u>\$481,997</u>	<u>\$287,245</u>	<u>(\$194,752)</u>
 <b>Inventory Stock</b>			
Critical Gas Turbine Spares	\$100,000	\$230,459	\$130,459
Critical Spare Parts	300,000	0	(300,000)
	<u>\$400,000</u>	<u>\$230,459</u>	<u>(\$169,541)</u>
 <b>O&amp;M Projects</b>			
HRSG/Boiler Overhauls	\$30,000	\$0	(\$30,000)
Switchyard Breaker Maintenance	80,626	26,743	(53,883)
NERC Security	26,000	18	(25,982)
	<u>\$136,626</u>	<u>\$26,761</u>	<u>(\$109,865)</u>
 <b>Capital Items</b>			
Mobile Crane	125,000	0	(125,000)
	<u>\$125,000</u>	<u>\$0</u>	<u>(\$125,000)</u>



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# LEC Treasurer's Report

AGENDA ITEM NO.: \_\_\_\_\_

**Date:** January 8, 2014  
**To:** LEC Project Participant Committee  
**Subject:** Treasurer's Report for the Month Ended December 31, 2013

In compliance with NCPA policy and State of California Government Code Sections 53601 and 53646(b), the following monthly report is submitted for your information and acceptance.

Cash - At month end cash totaled \$0.

The cash balance held at U.S. Bank includes outstanding checks that have not yet cleared.

Investments - The carrying value of the LEC's investment portfolio totaled \$29,697,286 at month end. The current market value of the portfolio totaled \$29,673,962.

The overall portfolio had a combined weighted average interest rate of 0.271% with a bond equivalent yield (yield to maturity) of 0.281%. Investments with a maturity greater than one year totaled \$11,368,000. December maturities totaled \$13 million and during the month \$2 million was invested.

Funds not required to meet annual cash flow are reinvested and separately reported as they occur.

Interest Rates - During the month, rates on 90 day T-Bills stayed the same (at 0.07%) and rates on one year T-Bills stayed the same (at 0.13%).

To the best of my knowledge and belief, all securities held by LEC as of January 13, 2014, are in compliance with the Agency's investment policy. There are adequate cash flow and investment maturities to meet next month's cash requirements.

## Environmental Analysis

The Treasurer's report will not result in a direct or reasonably foreseeable indirect change in the physical environment and is therefore not a "project" for purposes of Section 21065 of the California Environmental Quality Act. No environmental review is necessary.

Respectfully submitted,

DONNA STEVENER  
Assistant General Manager/CFO  
Administrative Services/Finance

Prepared by:

KEVIN W. WALLACE  
Treasurer-Controller

Attachments

# **LODI ENERGY CENTER**

## **TREASURER'S REPORT**

**DECEMBER 31, 2013**

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**Northern California Power Agency/Lodi Energy Center**  
**Treasurer's Report**  
**Cash & Investment Balance**  
**December 31, 2013**

	CASH	INVESTMENTS	TOTAL	PERCENT	INVESTMENTS at MARKET
<b>MANDATORY FUNDS</b>					
Construction Revolving	\$ -	\$ 698,801	\$ 698,801	2.353%	\$ 698,801
Debt Service Account	-	6,566,003	6,566,003	22.110%	6,566,228
Debt Service Reserve	-	11,735,777	11,735,777	39.518%	11,713,685
O & M Reserve	-	10,633,454	10,633,454	35.806%	10,631,998
	-	29,634,036	29,634,036	99.787%	29,610,712
<b>ADDITIONAL PROJECT FUNDS</b>					
GHG Cash Account	-	63,250	63,250	0.213%	63,250
	\$ -	\$ 29,697,286	\$ 29,697,286	100.000%	\$ 29,673,962

NOTE A -Investment amounts shown at book carrying value.

**Northern California Power Agency/Lodi Energy Center  
Treasurer's Report  
Cash Activity Summary  
December 31, 2013**

	RECEIPTS			EXPENDITURES			CASH
	OPS/CONSTR	INTEREST (NOTE B)	INVESTMENTS (NOTE A)	OPS/CONSTR	INVESTMENTS (NOTE B)	INTER-COMPANY/ FUND TRANSFERS	INCREASE / (DECREASE)
<b>MANDATORY FUNDS</b>							
Construction Revolving	\$ -	\$ -	\$ 1,562,117	\$ (675,169)	\$ -	\$ (886,948)	\$ -
Debt Service Account	-	112	11,838,185	(12,003,689)	(2,046,125)	2,211,517	-
Debt Service Reserve	-	83	-	-	(83)	-	-
O & M Reserve	-	7,500	(7,500)	-	-	-	-
	-	7,695	13,392,802	(12,678,858)	(2,046,208)	1,324,569	-
<b>ADDITIONAL PROJECT FUNDS</b>							
GHG Cash Account	-	-	-	-	-	-	-
<b>TOTAL</b>	<b>\$ -</b>	<b>\$ 7,695</b>	<b>\$ 13,392,802</b>	<b>\$ (12,678,858)</b>	<b>\$ (2,046,208)</b>	<b>\$ 1,324,569</b>	<b>\$ -</b>

NOTE A -Investment amounts shown at book carrying value.

NOTE B -Net of accrued interest purchased on investments.

**Northern California Power Agency/Lodi Energy Center**  
**Treasurer's Report**  
**Investment Activity Summary**  
**December 31, 2013**

	PURCHASED	SOLD OR MATURED	(NON-CASH) DISC/(PREM) AMORT	(NON-CASH) GAIN/(LOSS) ON SALE	INVESTMENTS TRANSFERS	INCREASE / (DECREASE)
<b>MANDATORY FUNDS</b>						
Construction Revolving		\$ (1,562,117)	\$ -	\$ -	\$ -	\$ (1,562,117)
Debt Service Account	2,046,125	(11,838,185)	320	-	-	(9,791,740)
Debt Service Reserve	83			-		83
O & M Reserve	-	7,500	926	-		8,426
	<u>2,046,208</u>	<u>(13,392,802)</u>	<u>1,246</u>	<u>-</u>	<u>-</u>	<u>(11,345,348)</u>
<b>ADDITIONAL PROJECT FUNDS</b>						
GHG Cash Account	-	-	-	-		-
<b>TOTAL</b>	<u>\$ 2,046,208</u>	<u>\$ (13,392,802)</u>	<u>\$ 1,246</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ (11,345,348)</u>

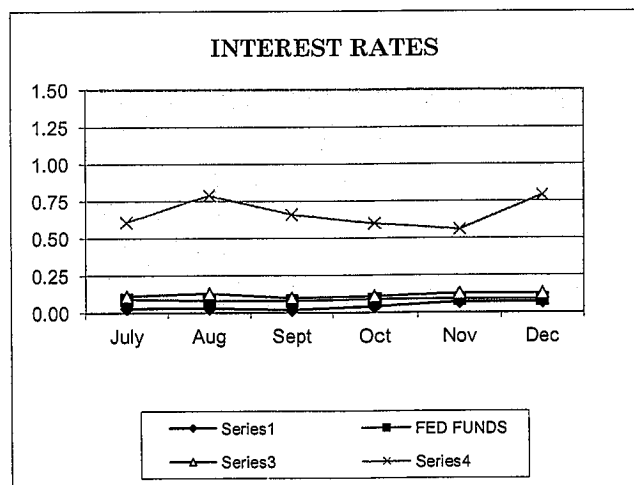
Less Non- Cash Activity	
Disc/(Prem) Amortization & Gain/(Loss) on Sale	(1,246)
Net Change in Investment --Before Non-Cash Activity	<u>\$ (11,346,595)</u>

NOTE A -Investment amounts shown at book carrying value.

**NORTHERN CALIFORNIA POWER AGENCY  
LODI ENERGY CENTER  
INTEREST RATE/YIELD ANALYSIS  
DECMEBER 31, 2013**

	<b>WEIGHTED AVERAGE INTEREST RATE</b>	<b>BOND EQUIVALENT YIELD</b>
<b>OVERALL COMBINED</b>	<b><u>0.271%</u></b>	<b><u>0.281%</u></b>
<b><u>Construction Revolving Acct</u></b>	<b>0.256%</b>	<b>0.256%</b>
<b><u>Funds:</u></b>		
Debt Service Account	0.092%	0.093%
Debt Service Reserve	0.399%	0.399%
O & M Reserve	0.241%	0.268%
GHG Cash Account	0.256%	0.256%

<b>KEY INTEREST RATES</b>		
	<b>CURRENT</b>	<b>PRIOR YEAR</b>
Fed Fds (Ovrnight)	0.09%	0.17%
T-Bills (90da.)	0.07%	0.06%
Agency Disc (90da.)	0.04%	0.08%
T-Bills (1yr.)	0.13%	0.16%
Agency Disc (1yr.)	0.15%	0.17%
T-Notes (3yr.)	0.79%	0.38%





Lodi Energy Center  
Total Portfolio  
Investment Maturities Analysis  
December 31, 2013

Type	0-7 Days	8-90 Days	91-180 Days	181-270 Days	271-360 Days	1-5 Years	5-10 Years	Total	Percent
US Government Agencies	\$0	\$0	\$10,308	\$0	\$632	\$11,368	\$0	\$22,308	75.09%
US Bank Trust Money Market	5,631							5,631	18.96%
Investment Trusts (LAIF)	1,769							1,769	5.96%
U.S.Treasury Market Acct. *	0							0	0.00%
U.S.Treasury Bill								0	0.00%
Certificates of Deposit	0							0	0.00%
Total Dollars	\$7,401	\$0	\$10,308	\$0	\$632	\$11,368	\$0	\$29,709	100.00%
Total Percents	24.91%	0.00%	34.70%	0.00%	2.13%	38.26%	0.00%	100.00%	

Investment are shown at Face Value, in thousands.

\* The cash balance held at US Bank includes outstanding checks that have not yet cleared. This cash balance is invested nightly in a fully collateralized (U.S. Government Securities) repurchase agreement.

\*\* Cash held by Union Bank of California is invested nightly in fully collateralized U.S. Treasury Securities.

# **NORTHERN CALIFORNIA POWER AGENCY**

## **Detail Report Of Investments**

### **APPENDIX**

**Note:**            **This appendix has been prepared to comply with  
Government Code section 53646.**



Northern California Power Agency  
Treasurer's Report  
12/31/2013

LEC Construction Revolving

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
Local Agency Investm		698,801	0.255	08/06/2012	698,801		1	0.255	698,801	SYS70040	70040	698,801
Fund Total and Average		\$ 698,801	0.256		\$ 698,801		1	0.256	\$ 698,801			\$ 698,801
GRAND TOTALS:		\$ 698,801	0.256		\$ 698,801		1	0.256	\$ 698,801.			\$ 698,801

\*Bond Equivalent Yield to Maturity is shown based on a 365 day year to provide a basis for comparison between all types. Investments with less than 6 months to maturity use an approximate method, all others use an exact method.

Current Market Value is based on prices from Trustee/ Custodian Statements or bid prices from the Wall Street Journal as of 12/31/2013



Northern California Power Agency  
Treasurer's Report  
12/31/2013

LEC Issue#1 2010A DS Fund

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
US Bank Trust	USB	693,333	0.100		693,333		1	0.100	693,333	SYS79003	79003	693,333
Federal Home Loan Mt	USB	1,387,000	0.090	10/25/2013	1,386,248	05/30/2014	149	0.091	1,386,598	313397XL0	26057	1,386,483
Federal Home Loan Ba	USB	952,000	0.085	12/03/2013	951,593	06/02/2014	152	0.086	951,676	313385XP6	26071	951,658
Fund Total and Average		\$ 3,032,333	0.091		\$ 3,031,174		116	0.092	\$ 3,031,607			\$ 3,031,474

LEC Issue #1 2010B DS Fund

US Bank Trust	USB	766,745	0.100		766,745		1	0.100	766,745	SYS79004	79004	766,745
Fund Total and Average		\$ 766,745	0.100		\$ 766,745		1	0.100	\$ 766,745			\$ 766,745

LEC Issue #2 2010A DS Fund

US Bank Trust	USB	435,059	0.100		435,059		1	0.100	435,059	SYS79011	79011	435,059
Federal Home Loan Mt	USB	870,000	0.089	10/25/2013	869,528	05/30/2014	149	0.091	869,748	313397XL0	26058	869,676
Federal Home Loan Ba	USB	1,095,000	0.085	12/03/2013	1,094,532	06/02/2014	152	0.086	1,094,628	313385XP6	26072	1,094,607
Fund Total and Average		\$ 2,400,059	0.090		\$ 2,399,119		124	0.091	\$ 2,399,435			\$ 2,399,342

LEC Issue #2 2010B DS Fund

US Bank Trust	USB	368,441	0.100		368,441		1	0.100	368,441	SYS79012	79012	368,441
Fund Total and Average		\$ 368,441	0.100		\$ 368,441		1	0.100	\$ 368,441			\$ 368,441
GRAND TOTALS:		\$ 6,567,578	0.092		\$ 6,565,479		99	0.093	\$ 6,566,228			\$ 6,566,002

\*Bond Equivalent Yield to Maturity is shown based on a 365 day year to provide a basis for comparison between all types. Investments with less than 6 months to maturity use an approximate method, all others use an exact method.

Current Market Value is based on prices from Trustee/ Custodian Statements or bid prices from the Wall Street Journal as of 12/31/2013



Northern California Power Agency  
Treasurer's Report  
12/31/2013

**LEC Issue #1 2010 DSR Fund**

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
US Bank Trust	USB	21,523	0.100		21,523		1	0.100	21,523	SYS79005	79005	21,523
Federal National Mtg	USB	8,368,000	0.520	05/30/2013	8,368,000	05/27/2016	877	0.520	8,345,908	3135G0XU2	26020	8,368,000
<b>Fund Total and Average</b>		<b>\$ 8,389,523</b>	<b>0.519</b>		<b>\$ 8,389,523</b>		<b>875</b>	<b>0.519</b>	<b>\$ 8,367,431</b>			<b>\$ 8,389,523</b>

**LEC Iss#1 2010B BABS Subs Resv**

US Bank Trust	USB	2,260,183	0.100	07/01/2012	2,260,183		1	0.100	2,260,183	SYS79006	79006	2,260,183
<b>Fund Total and Average</b>		<b>\$ 2,260,183</b>	<b>0.100</b>		<b>\$ 2,260,183</b>		<b>1</b>	<b>0.100</b>	<b>\$ 2,260,183</b>			<b>\$ 2,260,183</b>

**LEC Issue #2 2010B DSR BABS**

US Bank Trust	USB	1,086,071	0.100		1,086,071		1	0.100	1,086,071	SYS79013	79013	1,086,071
<b>Fund Total and Average</b>		<b>\$ 1,086,071</b>	<b>0.100</b>		<b>\$ 1,086,071</b>		<b>1</b>	<b>0.100</b>	<b>\$ 1,086,071</b>			<b>\$ 1,086,071</b>
<b>GRAND TOTALS:</b>		<b>\$ 11,735,777</b>	<b>0.399</b>		<b>\$ 11,735,777</b>		<b>626</b>	<b>0.399</b>	<b>\$ 11,713,685.</b>			<b>\$ 11,735,777</b>

\*Bond Equivalent Yield to Maturity is shown based on a 365 day year to provide a basis for comparison between all types. Investments with less than 6 months to maturity use an approximate method, all others use an exact method.

Current Market Value is based on prices from Trustee/ Custodian Statements or bid prices from the Wall Street Journal as of 12/31/2013



Northern California Power Agency  
Treasurer's Report  
12/31/2013

LEC O & M Reserve

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
Local Agency Investm		1,007,322	0.255	06/30/2013	1,007,322		1	0.255	1,007,322	SYS70047	70047	1,007,322
Union Bank of Califo	UBOC	0	0.002	07/18/2013	0		1	0.002	0	SYS70041	70041	0
Federal National Mtg	UBOC	3,001,000	0.100	07/18/2013	2,999,199	02/19/2014	49	0.101	3,000,880	313589TG8	26027	3,000,592
Federal National Mtg	UBOC	3,003,000	0.140	07/18/2013	2,999,006	06/25/2014	175	0.142	3,001,829	313589YN7	26028	3,000,956
Federal Home Loan Mt	UBOC	632,000	0.140	10/31/2013	631,127	10/21/2014	293	0.142	631,387	313397L41	26066	631,280
Federal Home Loan Mt	UBOC	3,000,000	0.500	10/25/2013	2,992,800	06/06/2016	887	0.592	2,990,580	3134G46A1	26052	2,993,305
Fund Total and Average		\$ 10,643,322	0.241		\$ 10,629,454		330	0.268	\$ 10,631,998			\$ 10,633,455
GRAND TOTALS:		\$ 10,643,322	0.241		\$ 10,629,454		330	0.268	\$ 10,631,998.			\$ 10,633,455

\*Bond Equivalent Yield to Maturity is shown based on a 365 day year to provide a basis for comparison between all types. Investments with less than 6 months to maturity use an approximate method, all others use an exact method.

Current Market Value is based on prices from Trustee/ Custodian Statements or bid prices from the Wall Street Journal as of 12/31/2013



Northern California Power Agency  
Treasurer's Report  
12/31/2013

LEC GHG Auction Acct

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equiv Yield	Market Value	CUSIP	Investment #	Carrying Value
Local Agency Investm		63,250	0.255	10/19/2012	63,250		1	0.255	63,250	SYS70046	70046	63,250
Fund Total and Average		\$ 63,250	0.256		\$ 63,250		1	0.256	\$ 63,250			\$ 63,250
GRAND TOTALS:		\$ 63,250	0.256		\$ 63,250		1	0.256	\$ 63,250.			\$ 63,250

\*Bond Equivalent Yield to Maturity is shown based on a 365 day year to provide a basis for comparison between all types. Investments with less than 6 months to maturity use an approximate method, all others use an exact method.

Current Market Value is based on prices from Trustee/ Custodian Statements or bid prices from the Wall Street Journal as of 12/31/2013



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# LEC Financial Reports

AGENDA ITEM NO.: \_\_\_\_\_

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**Date:** January 8, 2014

**Subject:** December 31, 2013 Financial Reports (Unaudited)

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**NORTHERN CALIFORNIA POWER AGENCY  
LODI ENERGY CENTER  
STATEMENT OF NET POSITION  
UNAUDITED**

<b>ASSETS</b>	<b>December 31</b>	
	<b>2013</b>	<b>2012 (Note A)</b>
<b>CURRENT ASSETS</b>		
Cash and cash equivalents	\$ 63,250	\$ 1,311
Interest receivable	1,749	
Supplies inventory	1,005,172	1,170,901
Prepaid insurance	781,761	
Due from (to) Agency, net	15,949,268	3,991,775
<b>TOTAL CURRENT ASSETS</b>	<b>17,801,200</b>	<b>5,163,987</b>
<b>RESTRICTED ASSETS</b>		
Cash and cash equivalents	698,801	6,576,221
Investments	28,935,235	42,403,258
	-	-
<b>TOTAL RESTRICTED ASSETS</b>	<b>29,641,149</b>	<b>49,003,792</b>
<b>ELECTRIC PLANT</b>		
Electric plant in service	423,354,890	430,551,654
Less: accumulated depreciation	(15,835,096)	
<b>TOTAL ELECTRIC PLANT</b>	<b>407,519,794</b>	<b>430,551,654</b>
<b>OTHER ASSETS</b>		
Regulatory assets	8,831,760	
Unamortized debt issuance expenses	3,526,268	3,601,601
<b>TOTAL OTHER ASSETS</b>	<b>12,358,028</b>	<b>3,601,601</b>
<b>TOTAL ASSETS</b>	<b>\$ 467,320,171</b>	<b>\$ 488,321,034</b>

Note A:

Commercial operation began November 27, 2012. Prior to commercial operation, all costs of construction, test start-up and financing were capitalized.

**NORTHERN CALIFORNIA POWER AGENCY  
LODI ENERGY CENTER  
STATEMENT OF NET POSITION  
UNAUDITED**

<b>LIABILITIES &amp; NET POSITION</b>	<b>December 31</b>	
	<b>2013</b>	<b>2012 (Note A)</b>
<b>CURRENT LIABILITIES</b>		
Accounts and retentions payable	\$ 2,869,657	\$ 11,683,476
Operating reserves	11,149,667	
Current portion of long-term debt	8,640,000	
Accrued interest payable	1,475,465	14,227,611
<b>TOTAL CURRENT LIABILITIES</b>	<b>24,134,789</b>	<b>25,911,087</b>
<b>NON-CURRENT LIABILITIES</b>		
Other deposits	63,194	1,945,481
Regulatory liability	45,553,095	49,782,454
Long-term debt, net	382,389,357	400,519,820
<b>TOTAL NON-CURRENT LIABILITIES</b>	<b>428,005,646</b>	<b>452,247,755</b>
<b>TOTAL LIABILITIES</b>	<b>452,140,435</b>	<b>478,158,842</b>
<b>NET POSITION</b>		
Invested in capital assets, net of related debt	(6,551,684)	(71,081)
Restricted	17,949,544	9,351,429
Unrestricted	3,781,876	881,844
<b>TOTAL NET POSITION</b>	<b>15,179,736</b>	<b>10,162,192</b>
<b>TOTAL LIABILITIES AND NET POSITION</b>	<b>\$ 467,320,171</b>	<b>\$ 488,321,034</b>

Note A:

Commercial operation began November 27, 2012. Prior to commercial operation, all costs of construction, test start-up and financing were capitalized.

**NORTHERN CALIFORNIA POWER AGENCY  
LODI ENERGY CENTER  
STATEMENT OF REVENUES, EXPENSES  
& CHANGES IN NET POSITION  
UNAUDITED**

	Six Months Ended December 31	
	2013	2012 (Note A)
<b>SALES FOR RESALE</b>		
Participants	\$ 18,157,783	\$ 16,355,234
Other	30,108,869	
<b>TOTAL SALES FOR RESALE</b>	<b>48,266,652</b>	<b>16,355,234</b>
<b>OPERATING EXPENSES</b>		
Intercompany (sales) purchases	118,019	17,676
Transmission	1,353,039	
Operations	18,443,228	3,366,747
Depreciation	7,299,222	
Administrative and general	2,004,774	195,435
Maintenance expenses	3,920,529	623,922
<b>TOTAL OPERATING EXPENSES</b>	<b>33,138,811</b>	<b>4,203,780</b>
<b>NET OPERATING REVENUES</b>	<b>15,127,841</b>	<b>12,151,454</b>
<b>OTHER REVENUES (EXPENSES)</b>		
Interest expense	(7,827,416)	(11,523,507)
Interest income	43,538	95,905
Capitalized Interest	-	9,404,666
Amortizations	(38,130)	
Other	350,862	33,674
<b>TOTAL OTHER REVENUES (EXPENSES)</b>	<b>(7,471,146)</b>	<b>(1,989,262)</b>
<b>FUTURE RECOVERABLE/(REFUNDABLE) AMOUNTS</b>	<b>2,044,047</b>	
<b>INCREASE IN NET POSITION</b>	<b>9,700,742</b>	<b>10,162,192</b>
<b>NET POSITION</b>		
Beginning of year	5,478,994	
End of period	<b>\$ 15,179,736</b>	<b>\$ 10,162,192</b>

Note A:

Commercial operation began November 27, 2012. Prior to commercial operation, all costs of construction, test start-up and financing were capitalized.

**Lodi Energy Center - Adjusted Budget  
FY 2014 Operating Costs  
As of December 31, 2013**

	Annual Budget	Actual	Remaining	YTD % Remaining	Notes
<b>Routine O&amp;M Costs</b>					
<b>Operations</b>	\$ 1,300,738	\$ 526,187	\$ 774,551	60%	<b>B</b>
<b>Maintenance</b>	3,752,752	1,657,039	2,095,713	56%	
<b>Administration</b>	1,214,657	588,638	626,019	52%	
<b>Mandatory Costs</b>	456,000	276,327	179,673	39%	
<b>Inventory Stock</b>	400,000	14,393	385,607	96%	
<b>Routine O&amp;M Costs without Labor</b>	7,124,147	3,062,584	4,061,563	57%	
<b>Labor</b>	4,227,098	2,292,834	1,934,264	46%	
<b>Total Routine O&amp;M Costs</b>	11,351,245	5,355,418	5,995,827	53%	
<b>Other Costs</b>					<b>C D</b>
<b>Fuel</b>	41,400,588	17,064,714	24,335,874	59%	
<b>AB32 GHG Offset</b>	5,650,224	-	5,650,224	100%	
<b>CA ISO Charges</b>	528,800	773,218	(244,418)	-46%	
<b>Debt Service</b>	25,956,029	12,709,805	13,246,224	51%	
<b>Other Costs</b>	2,309,776	1,145,917	1,163,860	50%	
<b>Administrative &amp; General (Allocated)</b>	1,750,798	596,716	1,154,082	66%	
<b>Generation Services Shared</b>	510,711	118,019	392,692	77%	
<b>Maintenance Reserve</b>	397,250	198,625	198,625	50%	
<b>Total O&amp;M Costs</b>	89,855,421	37,962,432	51,892,990	58%	
<b>Projects</b>					
<b>Operations &amp; Maintenance</b>	168,000	64,407	103,593	62%	
<b>Capital</b>	550,000	-	550,000	100%	
<b>Total Capital Budget</b>	718,000	64,407	653,593	91%	
<b>Budget Cost</b>	90,573,421	38,026,839	52,546,583	58%	
<b>Less: Third Party Revenue</b>					<b>A</b>
Interest Income	73,258	15,256	58,002	79%	
ISO Energy Sales	53,249,904	29,440,329	23,809,575	45%	
Ancillary Services Sales	2,290,040	668,540	1,621,500	71%	
Transfer Gas Credit	-	544,088	(544,088)	N/A	
Other Income	-	3,132	(3,132)	N/A	
	55,613,202	30,671,345	24,941,857	45%	
<b>Net Budget Cost to Participants</b>	\$ 34,960,219	\$ 7,355,494	\$ 27,604,726	79%	

<b>Net Cumulative Generation (MWh)</b>	1,354,957	651,089
<b>O&amp;M Cost Per MWh</b>	\$ 66.32	\$ 58.31
<b>Net Annual Cost Per MWh</b>	\$ 25.80	\$ 11.30

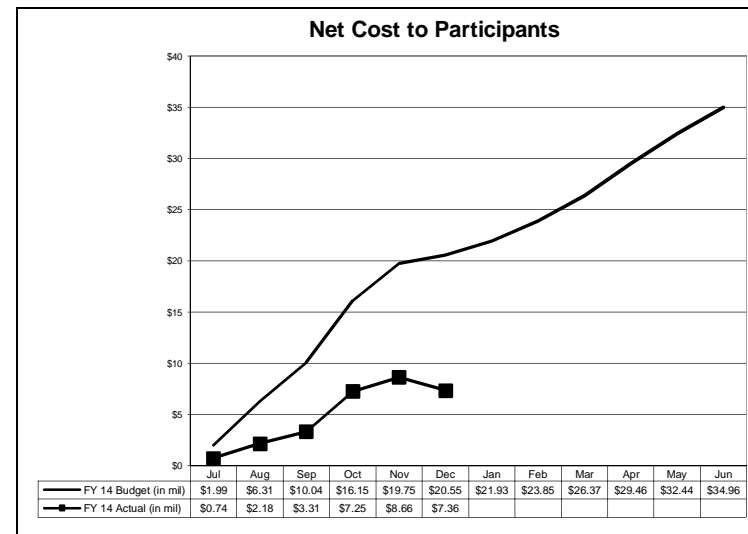
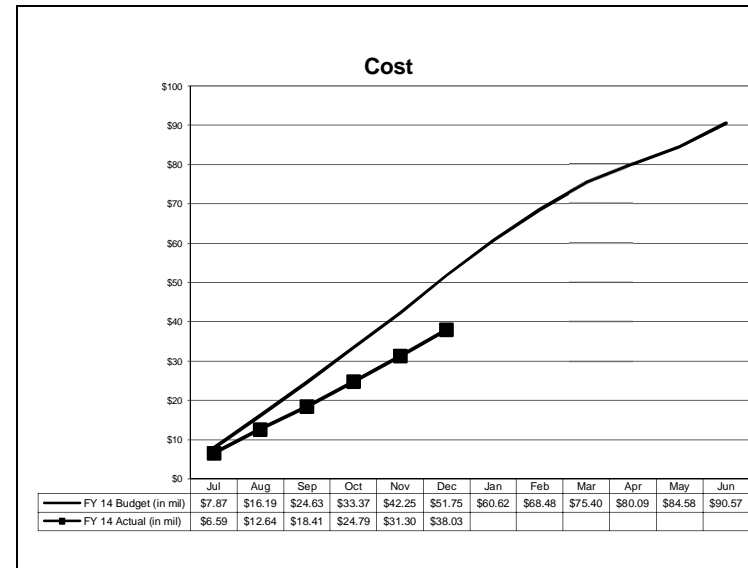
**Footnotes:**

**A** - Represents credits to participants who delivered gas to the project. These credits were not budgeted for FY 2014.

**B** - Payments for hazardous waste fee and air resources board fee. Costs are expected to normalize during the year.

**C** - The project did not purchase any GHG Allowances as participants have delivered sufficient allowances through December 31, 2013.

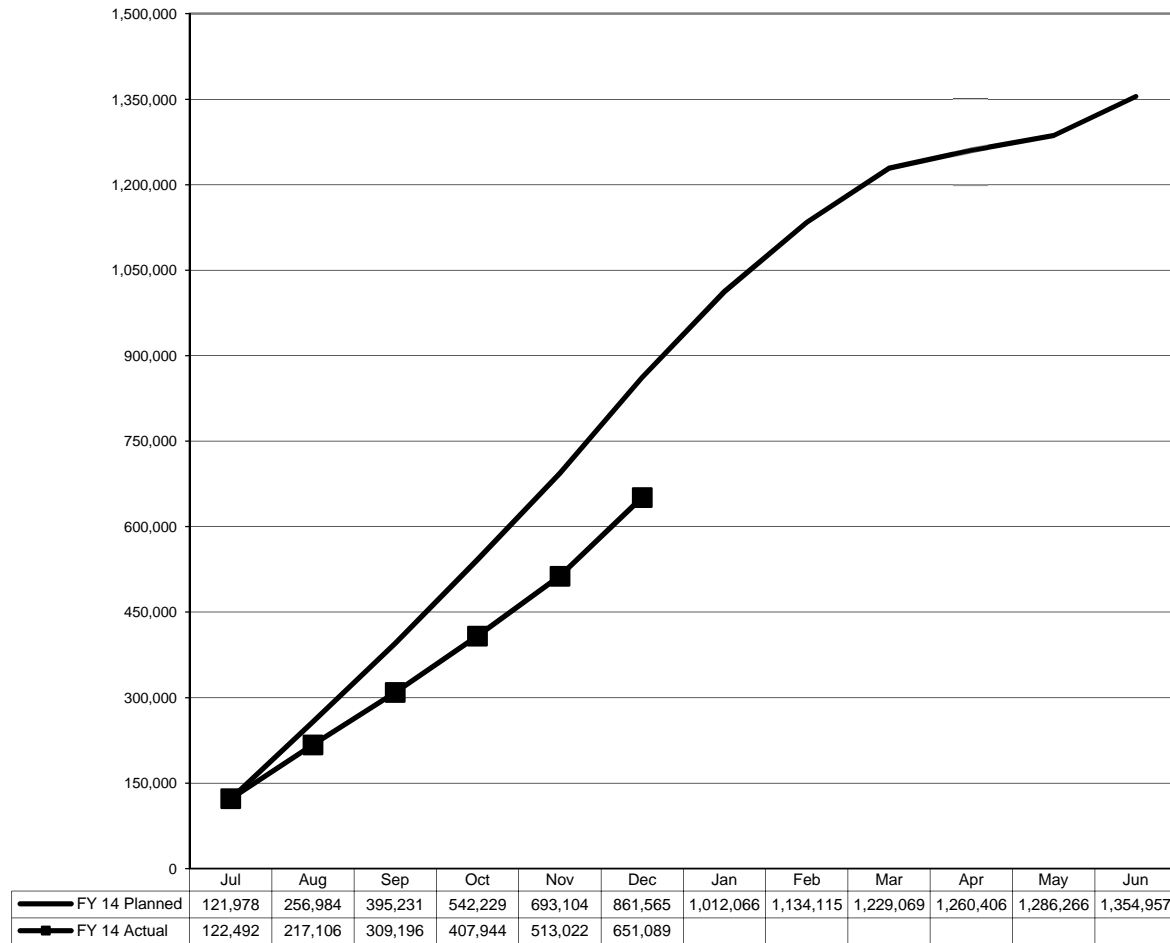
**D** - CA ISO Charges are higher than anticipated due unplanned charges for Regulation Energy and Resource Adequacy Standard Capacity.



# Annual Budget LEC Generation Analysis Planned vs. Actual FY 2014

In MWh

## Lodi Energy Center



2013 NCPA All Resources Bill LEC GHG Compliance Instrument Detail Report  
for the Lodi Energy Center

	Actual												Estimated	Compliance Year 2013
IDENTIFIER	DECEMBER	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	Total
Energy (MWh)	0	82,787	101,925	128,167	134,284	32,545	80,153	122,492	94,615	92,091	98,739	105,078	76,346	1,149,222
Gas Schedule (MMBtu)	0	593,484	723,038	894,657	952,529	229,724	579,650	870,331	673,965	650,250	692,396	738,008	534,420	8,132,452
Emissions Factor (MT/MMBtu)	0	0.053	0.053	0.053	0.053	0.053	0.053	0.053	0.053	0.053	0.053	0.053	0.053	0.053
Monthly MT Emissions (MT)	0	31,455	38,321	47,417	50,484	12,175	30,721	46,128	35,720	34,463	36,697	39,114	28,324	431,020
Cumulative MT Obligation (MT)	0	31,455	69,776	117,193	167,677	179,852	210,573	256,701	292,421	326,884	363,581	402,696	431,020	431,020
Compliance Instrument Participant Transfers (to LEC)														
Auction Allowances	92,695	5,350	0	13,644	105,000	50,632	30,628	1,600	102,200	12,594	0	0	46,290	460,633
Secondary Market Allowances	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Reserve Sale Allowances	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Offsets	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Compliance Instrument Participant Transfers (MT)	92,695	5,350	0	13,644	105,000	50,632	30,628	1,600	102,200	12,594	0	0	46,290	460,633
NCPA Compliance Instrument Purchases (for LEC)														
Auction Purchases	47,000	0	0	0	0	0	0	0	0	0	0	0	0	47,000
Secondary Market Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Reserve Sale Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Offset Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total NCPA Compliance Instrument Purchases (MT)	47,000	0	0	0	0	0	0	0	0	0	0	0	0	47,000
Compliance Instruments Surrendered to CARB (MT)	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Monthly Activity (MT)	139,695	5,350	0	13,644	105,000	50,632	30,628	1,600	102,200	12,594	0	0	46,290	507,633
Cumulative MT Account Balance [MTA] (MT)	139,695	145,045	145,045	158,689	263,689	314,321	344,949	346,549	448,749	461,343	461,343	461,343	507,633	507,633
MTA Shortfall (MT)	(139,695)	(113,590)	(75,269)	(41,496)	(96,012)	(134,469)	(134,376)	(89,848)	(156,328)	(134,459)	(97,762)	(58,647)	(76,613)	(76,613)

	2014 NCPA All Resources Bill LEC GHG Compliance Instrument Detail Report for the Lodi Energy Center															
	Estimated												Compliance Year 2014	Cumulative Totals		
IDENTIFIER	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	Total	Total	Charge Code	Source
Energy (MWh)	94,538	83,416	94,538	103,992	103,992	100,100	122,492	94,615	92,091	98,739	73,883	76,346	1,138,742	2,287,964		Forecast/Meter
Gas Schedule (MMBtu)	661,766	583,912	661,766	727,944	727,944	700,700	857,444	662,305	644,637	691,173	517,181	534,420	7,971,192	16,103,645		Forecast/Meter
Emissions Factor (MT/MMBtu)	0.053	0.053	0.053	0.053	0.053	0.053	0.053	0.053	0.053	0.053	0.053	0.053				MARS
Monthly MT Emissions (MT)	35,074	30,947	35,074	38,581	38,581	37,137	45,445	35,102	34,166	36,632	27,411	28,324	422,473	853,493		derived
Cumulative MT Obligation (MT)	466,094	497,041	532,115	570,696	609,277	646,414	691,858	726,960	761,126	797,758	825,169	853,493		853,493		derived
Compliance Instrument Participant Transfers (to LEC)																
Auction Allowances	0	0	0	0	0	0	0	0	0	0	0	0	0	460,633		CITSS
Secondary Market Allowances	0	0	0	0	0	0	0	0	0	0	0	0	0	0		CITSS
Reserve Sale Allowances	0	0	0	0	0	0	0	0	0	0	0	0	0	0		CITSS
Offsets	0	0	0	0	0	0	0	0	0	0	0	0	0	0		CITSS
Total Compliance Instrument Participant Transfers (MT)	0	0	0	0	0	0	0	0	0	0	0	0	0	460,633		
NCPA Compliance Instrument Purchases (for LEC)																
Auction Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0	47,000		CITSS
Secondary Market Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0	0		CITSS
Reserve Sale Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0	0		CITSS
Offset Purchases	0	0	0	0	0	0	0	0	0	0	0	0	0	0		CITSS
Total NCPA Compliance Instrument Purchases (MT)	0	0	0	0	0	0	0	0	0	0	0	0	0	47,000		
Compliance Instruments Surrendered to CARB (MT)	0	0	0	0	0	0	0	0	0	0	0	0	0	0		CITSS
Total Monthly Activity (MT)	0	0	0	0	0	0	0	0	0	0	0	0	0	507,633		derived
Cumulative MT Account Balance [MTA] (MT)	507,633	507,633	507,633	507,633	507,633	507,633	507,633	507,633	507,633	507,633	507,633	507,633		507,633		derived
MTA Shortfall (MT)	(41,539)	(10,592)	24,482	63,063	101,644	138,781	184,225	219,327	253,493	290,125	317,536	345,860		345,860	MTA SHORTFALL	derived

Forecast for July-December 2014 has not been updated.  
Numbers are based on 2013 original forecast.

NCPA All Resources Bill LEC GHG Obligation Detail Report (Cumulative) January 2014																
IDENTIFIER	AZUSA	BART	BIG	CDWR	GRI	HEA	LOD	LOM	MID	PLU	PWRPA	SNCL	UKI	TOTAL	Charge Code	Source
Allocation Percentages																
Generation Entitlement Share %	2.7857%	6.6000%	0.2679%	33.5000%	1.9643%	1.6428%	9.5000%	2.0357%	10.7143%	0.7857%	2.6679%	25.7500%	1.7857%	100%		MARS
Obligation Accounts																
Current MT Compliance Obligation (MTO) Balance (MT)	12,984	30,762	1,249	156,141	9,155	7,657	44,279	9,488	49,939	3,662	12,435	120,019	8,323	466,094		derived
Current MT Compliance Instrument Account (MTA) Balance (MT)	15,000	46,200	1,739	160,000	12,547	9,120	54,978	9,500	70,000	3,950	14,000	140,000	8,100	545,134		derived
MTA Shortfall (MT)	(2,016)	(15,438)	(490)	(3,859)	(3,392)	(1,463)	(10,699)	(12)	(20,061)	(288)	(1,565)	(19,981)	223	(79,041)	MTA SHORTFALL	Derived
Monthly GHG Price \$/MT	11.89	11.89	11.89	11.89	11.89	11.89	11.89	11.89	11.89	11.89	11.89	11.89	11.89	11.89	MTA SHORTFALL	ICE Index
GHG Minimum Cash Compliance Obligation (\$)	0	0	0	0	0	0	0	0	0	0	0	0	2,652	2,652	MTA SHORTFALL	Derived
Current Month CCA Balance (\$)*	60,991	0	143	0	1,103	0	0	0	0	0	0	0	747	62,984	CCA BALANCE	Accounting
Net GHG Obligation (\$)	0	0	0	0	0	0	0	0	0	0	0	0	1,905	1,905	NET GHG OBLIG	Derived

\* The Current Month CCA Balance (\$) consists of the current cash balance plus any outstanding balance of Net GHG Obligation (\$) billed but not yet received.





## **Lodi Energy Center Project Participant Committee**

### **Staff Report**

AGENDA ITEM NO.: 9

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**Date:** January 13, 2014  
**To:** Lodi Energy Center Project Participant Committee  
**Subject:** Power Engineers, Inc. Multi-Task Consulting Services Agreement For General Engineering Services – All NCPA Sites

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#### Proposal

Approve a Multi-Task Consulting Services Agreement with Power Engineers, Inc. for an amount not-to-exceed \$500,000 over three years to be used for general engineering services as needed at all NCPA Facilities.

#### Background

Various engineering services are required at the NCPA locations from time to time for operations and maintenance. Power Engineers, Inc. is a provider of these services. The prior enabling agreement with Power Engineers, Inc. expired on December 10, 2013.

#### Fiscal Impact

Total cost of the agreement is not-to-exceed \$500,000 over three years to be used out of NCPA approved budgets as services are rendered. Purchase orders referencing the terms and conditions of the Agreement will be issued following NCPA procurement policies and procedures.

#### Environmental Analysis

This activity would not result in a direct or reasonably foreseeable indirect change in the physical environment and is therefore not a “project” for purposes of Section 21065 the California Environmental Quality Act. No environmental review is necessary.

#### Recommendation

Staff recommends that the PPC pass a motion approving the Multi-Task Consulting Services Agreement with Power Engineers, Inc., with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$500,000 over three years.

Prepared by:

MELISSA C. PHILPOT  
Material Procurement/Warehouse Coordinator  
Lodi Energy Center

Attachments: (1)

- Multi-Task Consulting Services Agreement with Power Engineers, Inc.



**MULTI-TASK  
CONSULTING SERVICES AGREEMENT BETWEEN  
THE NORTHERN CALIFORNIA POWER AGENCY AND  
POWER ENGINEERS, INC.**

This agreement for consulting services ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 ("Agency") and Power Engineers, Inc., an Idaho corporation with its office located at 3940 Glenbrook Drive, Hailey, ID 83333 ("Consultant") (together sometimes referred to as the "Parties") as of \_\_\_\_\_, 201\_ ("Effective Date") in Roseville, California.

**Section 1. SERVICES.** Subject to the terms and conditions set forth in this Agreement, Consultant is willing to provide to Agency the range of services described in the Scope of Work attached hereto as Exhibit A and incorporated herein ("Services").

- 1.1 **Term of Agreement.** This Agreement shall begin on the Effective Date and shall end three (3) years from the date this Agreement was signed by Agency, unless the term of the Agreement is otherwise terminated or modified, as provided for herein. If the performance of the Scope of Services extends beyond the three (3) year term of this Agreement, then the term of this Agreement shall be extended solely for and until completion of the Scope of Services.
- 1.2 **Standard of Performance.** Consultant shall perform the Services in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged and for which Consultant is providing the Services. Consultant represents that it is licensed, qualified and experienced to provide the Services set forth herein.
- 1.3 **Assignment of Personnel.** Consultant shall assign only competent personnel to perform the Services. In the event that Agency, in its sole discretion, at any time during the term of this Agreement, requests the reassignment of any such personnel, Consultant shall, immediately upon receiving written notice from Agency of such request, reassign such personnel.
- 1.4 **Request for Services.** At such time that Agency determines to use Consultant's Services under this Agreement, Agency shall issue a Purchase Order. The Purchase Order shall identify the specific services to be performed ("Requested Services"), may include a not-to-exceed monetary cap on Requested Services and expenditures authorized by that Purchase Order, and a time by which the Requested Services shall be completed.

**Section 2. COMPENSATION.** Agency hereby agrees to pay Consultant an amount **NOT TO EXCEED FIVE HUNDRED THOUSAND dollars (\$500,000.00)** for the Services, which shall include all fees, costs, expenses and other reimbursables, as set forth in Consultant's fee schedule, attached hereto and

Multi-Task Consulting Services Agreement between  
Northern California Power Agency and Power Engineers, Inc.

6/25/12  
1926712.1

incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Consultant, but is merely a limit of potential Agency expenditures under this Agreement.

2.1 **Invoices.** Consultant shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information:

- The beginning and ending dates of the billing period;
- Services performed;
- The Purchase Order number authorizing the Requested Services;
- At Agency's option, the total number of hours of work performed under the Agreement by Consultant and each employee, agent, and subcontractor of Consultant performing services hereunder.
- At Agency's option, for each work item in each task, a copy of the applicable time entries showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense, with supporting documentation;

Invoices shall be sent to:

Northern California Power Agency  
651 Commerce Drive  
Roseville, California 95678  
Attn: Accounts Payable

2.2 **Monthly Payment.** Agency shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. Agency shall have thirty (30) days from the receipt of an invoice that complies with all of the requirements above to pay Consultant. If Agency objects to all or any portion of an invoice, Agency shall notify Contractor within seven (7) calendar days of invoice date, identify the cause of disagreement, and pay when due that portion of the invoice not in dispute.

2.3 **Payment of Taxes.** Consultant is solely responsible for the payment of all federal, state and local taxes, including employment taxes, incurred under this Agreement.

2.4 **Authorization to Perform Services.** The Consultant is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of a Purchase Order from the Contract Administrator.

2.5 **Timing for Submittal of Final Invoice.** Consultant shall have ninety (90) days after completion of the Requested Services to submit its final invoice for the Requested Services. In the event Consultant fails to submit an invoice to Agency for any amounts

due within the ninety (90) day period, Consultant is deemed to have waived its right to collect its final payment for the Requested Services from Agency.

**Section 3. FACILITIES AND EQUIPMENT.** Except as set forth herein, Consultant shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the Services.

**Section 4. INSURANCE REQUIREMENTS.** Before beginning any work under this Agreement, Consultant, at its own cost and expense, shall procure the types and amounts of insurance listed below and shall maintain the types and amounts of insurance listed below for the period covered by this Agreement.

4.1 **Workers' Compensation.** If Consultant employs any person, Consultant shall maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Consultant with limits of one million dollars (\$1,000,000.00) per accident.

4.2 **Commercial General and Automobile Liability Insurance.**

4.2.1 **Commercial General Insurance.** Consultant shall maintain commercial general liability insurance for the term of this Agreement, including products liability, covering any loss or liability, including the cost of defense of any action, for bodily injury, death, personal injury and broad form property damage which may arise out of the operations of Consultant. The policy shall provide a limit of \$1,000,000 per occurrence/\$2,000,000 aggregate. Commercial general coverage shall be at least as broad as ISO Commercial General Liability form CG 0001 (current edition) on "an occurrence" basis covering comprehensive General Liability, with a self-insured retention or deductible of no more than \$100,000. No endorsement shall be attached limiting the coverage.

4.2.2 **Automobile Liability.** Consultant shall maintain automobile liability insurance form CA 0001 (current edition) for the term of this Agreement covering any loss or liability, including the cost of defense of any action, arising from the operation, maintenance or use of any vehicle (symbol 1), whether or not owned by the Consultant, on or off Agency premises. The policy shall provide a limit of \$1,000,000 per each accident, with a self-insured retention or deductible of no more than \$100,000. This insurance shall provide contractual liability covering all motor vehicles and mobile equipment to the extent coverage may be excluded from general liability insurance.

4.2.3 **General Liability/Umbrella Insurance.** The coverage amounts set forth above may be met by a combination of underlying and umbrella policies as long as in combination the limits equal or exceed those stated.

4.3 **Professional Liability Insurance.** Consultant shall maintain professional liability insurance appropriate to Consultant's profession performing work in connection with this

Agreement in an amount of one million dollars (\$1,000,000.00) and two million dollars (\$2,000,000) aggregate covering the Consultant's errors and omissions. Any deductible or self-insured retention shall not exceed seven hundred fifty thousand (\$750,000) per claim.

#### **4.4 All Policies Requirements.**

**4.4.1 Verification of coverage.** Prior to beginning any work under this Agreement, Contractor shall provide Agency with (1) a Certificate of Insurance that demonstrates compliance with all applicable insurance provisions contained herein and (2) policy endorsements to the policies referenced in Section 4.2, adding the Agency as an additional insured and declaring such insurance primary in regard to work performed pursuant to this Agreement.

**4.4.2 Notice of Reduction in or Cancellation of Coverage.** Consultant shall provide at least thirty (30) days prior written notice to Agency of any reduction in scope or amount, cancellation, or modification adverse to Agency of the policies referenced in Section 4.

**4.5 Waiver of Subrogation.** Consultant agrees to waive subrogation which any insurer of Consultant may acquire from Consultant by virtue of the payment of any loss. Consultant agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of Agency for all work performed by Consultant, its employees, agents and subcontractors.

**4.6 Consultant's Obligation.** Consultant shall be solely responsible for ensuring that all equipment, vehicles and other items utilized in the performance of Services are operated, provided or otherwise utilized in a manner that ensures they are and remain covered by the policies referenced in Section 4 during this Agreement. Consultant shall also ensure that all workers involved in the provision of Services are properly classified as employees, agents or independent contractors and are and remain covered by any and all workers' compensation insurance required by applicable law during this Agreement.

### **Section 5. INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES.**

**5.1 Effect of Insurance.** Agency's acceptance of insurance certificates and endorsements required under this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Consultant acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

- 5.2 **Scope.** Consultant shall indemnify, defend with counsel reasonably acceptable to the Agency, and hold harmless the Agency and its officials, commissioners, officers, employees, and volunteers from and against any and all claims to the extent caused by the negligence, recklessness or willful misconduct of the Consultant in its performance of Services under this Agreement. Consultant shall bear all losses, costs, damages, expense and liability of every kind, nature and description that arise out of, pertain to, or relate to such claims, whether directly or indirectly ("Liabilities").

Notwithstanding the foregoing, in the event that Contractor defends the Agency and it is ultimately determined or agreed to that the Contractor was either not negligent or was only partially negligent with respect to the loss, liability, claim, suit, action or damages, the Agency agrees that it shall promptly reimburse Contractor for such proportion of the Contractor's costs incurred in defending the Agency that it is not attributable to the negligence of the Contractor.

- 5.3 **Limitation of Liability.** Agency agrees to limit Contractor's liability for insurable events arising from Contractor's performance to the insurance limits stated in Section 5 above, or to the total compensation received by Consultant for the Services under which the liability arises, whichever is greater. Consultant's liability for non-insurable events including breach of contract or breach of warranty shall not exceed \$500,000.00, or the compensation received by Consultant, whichever is greater. Neither Consultant nor Agency nor either party's suppliers, agents, officers, and directors shall have any liability regardless of the theory of recovery, including breach of contract or negligence, to the other party or any other person or entity for any indirect, incidental, special, or consequential damages, cost or expense whatsoever, including but not limited to loss of revenue or profit, whether actual or anticipated, loss of use, failure to realize anticipated savings, loss of or damage to data or other commercial or economic loss, which exceed the dollar amounts set forth and/or otherwise referenced in this Section..

## **Section 6. STATUS OF CONSULTANT.**

- 6.1 **Independent Contractor.** Consultant is an independent contractor and not an employee of Agency. Agency shall have the right to control Consultant only insofar as the results of Consultant's Services and assignment of personnel pursuant to Section 1; otherwise, Agency shall not have the right to control the means by which Consultant accomplishes Services rendered pursuant to this Agreement. Notwithstanding any other Agency, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by Agency, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of Agency and entitlement to any contribution to be paid by Agency for employer contributions and/or employee contributions for PERS benefits.

Consultant shall indemnify, defend, and hold harmless Agency for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of Agency. Consultant and Agency acknowledge and agree that compensation paid by Agency to Consultant under this Agreement is based upon Consultant's estimated costs of providing the Services, including salaries and benefits of employees, agents and subcontractors of Consultant.

- 6.2 **Consultant Not Agent.** Except as Agency may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of Agency in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind Agency to any obligation whatsoever.
- 6.3 **Assignment and Subcontracting.** This Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant's unique professional competence, experience, and specialized professional knowledge. A substantial inducement to Agency for entering into this Agreement was and is the personal reputation and competence of Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the Agency. Consultant shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors identified in Exhibit A, without prior written approval of the Agency. Where written approval is granted by the Agency, Consultant shall supervise all work subcontracted by Consultant in performing the services and shall be responsible for all work performed by a subcontractor as if Consultant itself had performed such work. The subcontracting of any work to subcontractors shall not relieve Consultant from any of its obligations under this Agreement with respect to the services and Consultant is obligated to ensure that any and all subcontractors performing any services shall be fully insured in all respects and to the same extent as set forth under Section 4, to Agency's satisfaction.
- 6.4 **Certification as to California Energy Commission.** If requested by the Agency, Consultant shall, at the same time it executes this Agreement, execute Exhibit C.

## **Section 7. LEGAL REQUIREMENTS.**

- 7.1 **Governing Law.** The laws of the State of California shall govern this Agreement.
- 7.2 **Compliance with Applicable Laws.** Consultant and its subcontractors and agents, if any, shall comply with all laws applicable to the performance of the work hereunder.
- 7.3 **Licenses and Permits.** Consultant represents and warrants to Agency that Consultant and its employees, agents, and subcontractors (if any) have and will maintain at their sole expense during the term of this Agreement all licenses, permits, qualifications, and

approvals of whatever nature that are legally required to practice their respective professions.

- 7.4 **Work Requiring Payment of Prevailing Wages.** If applicable, in accordance with California Labor Code Section 1771, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which these services are to be performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in the California Labor Code shall be paid to all workers engaged in performing the services under this Agreement.

## **Section 8. TERMINATION AND MODIFICATION.**

- 8.1 **Termination.** Agency may cancel this Agreement at any time and without cause upon ten (10) days prior written notice to Consultant.

In the event of termination, Consultant shall be entitled to compensation for Services satisfactorily completed as of the effective date of termination; Agency, however, may condition payment of such compensation upon Consultant delivering to Agency any or all records or documents, as referenced in Section 9.1 hereof.

- 8.2 **Amendments.** The Parties may amend this Agreement only by a writing signed by all the Parties.

- 8.3 **Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between Agency and Consultant shall survive the termination of this Agreement.

- 8.4 **Options upon Breach by Consultant.** If Consultant materially breaches any of the terms of this Agreement, including but not limited to those set forth in Section 4, Agency's remedies shall include, but not be limited to, the following:

- 8.4.1 Immediately terminate the Agreement;
- 8.4.2 Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement;
- 8.4.3 Retain a different consultant to complete the Services not finished by Consultant; and/or
- 8.4.4 Charge Consultant the difference between the costs to complete the Services that is unfinished at the time of breach and the amount that Agency would have paid Consultant pursuant hereto if Consultant had completed the Services.

## **Section 9. KEEPING AND STATUS OF RECORDS.**



- 9.1 **Records Created as Part of Consultant's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Consultant prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the Agency. Consultant hereby agrees to deliver those documents to the Agency upon termination of the Agreement. Agency and Consultant agree that, unless approved by Agency in writing, Consultant shall not release to any non-parties to this Agreement any data, plans, specifications, reports and other documents.
- 9.2 **Consultant's Books and Records.** Consultant shall maintain any and all records or other documents evidencing or relating to charges for Services or expenditures and disbursements charged to the Agency under this Agreement for three (3) years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement.
- 9.3 **Inspection and Audit of Records.** Any records or documents that this Agreement requires Consultant to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the Agency. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds ten thousand dollars (\$10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of Agency or as part of any audit of the Agency, for a period of three (3) years after final payment under the Agreement.
- 9.4 **Confidential Information and Disclosure.**
- 9.4.1 **Confidential Information.** The term "Confidential Information", as used herein, shall mean any and all confidential, proprietary, or trade secret information, whether written, recorded, electronic, oral or otherwise, where the Confidential Information is made available in a tangible medium of expression and marked in a prominent location as confidential, proprietary and/or trade secret information. Confidential Information shall not include information that: (a) was already known to the Receiving Party or is otherwise a matter of public knowledge, (b) was disclosed to Receiving Party by a third party without violating any confidentiality agreement, (c) was independently developed by Receiving Party without reverse engineering, as evidenced by written records thereof, or (d) was not marked as confidential Information in accordance with this section.
- 9.4.2 **Non-Disclosure of Confidential Information.** During the term of this Agreement, either party may disclose ("The Disclosing Party") confidential Information to the other party ("the Receiving Party"). The Receiving Party: (a) shall hold the Disclosing Party's Confidential Information in confidence; and (b) shall take all

reasonable steps to prevent any unauthorized possession, use, copying, transfer or disclosure of such Confidential Information.

**9.4.3 Permitted Disclosure.** Notwithstanding the foregoing, the following disclosures of Confidential Information are allowed. Receiving Party shall endeavor to provide prior written notice to Disclosing Party of any permitted disclosure made pursuant to Section 9.4.3.2 or 9.4.3.3. Disclosing Party may seek a protective order, including without limitation, a temporary restraining order to prevent or contest such permitted disclosure; provided, however, that Disclosing Party shall seek such remedies at its sole expense. Neither party shall have any liability for such permitted disclosures:

**9.4.3.1** Disclosure to employees, agents, consultants, contractors, subcontractors or other representatives of Receiving Party that have a need to know in connection with this Agreement.

**9.4.3.2** Disclosure in response to a valid order of a court, government or regulatory agency or as may otherwise be required by law; and

**9.4.3.3** Disclosure by Agency in response to a request pursuant to the California Public Records Act.

**9.4.4 Handling of Confidential Information.** Conclusion of Agreement. Receiving Party shall return to Disclosing Party or destroy Confidential Information (including all copies thereof) upon termination of this Agreement, if requested by Disclosing Party in writing. Notwithstanding the foregoing, the Receiving Party may retain copies of such Confidential Information, subject to the confidentiality provisions of this Agreement: (a) for archival purposes in its computer system; (b) in its legal department files; and (c) in files of Receiving Party's representatives where such copies are necessary to comply with applicable law. Party shall not disclose the Disclosing Party's Information to any person other than those of the Receiving Party's employees, agents, consultants, contractors and subcontractors who have a need to know in connection with this Agreement.

## **Section 10 MISCELLANEOUS PROVISIONS.**

**10.1 Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.

**10.2 Venue.** In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the

state courts of California in the County of Placer or in the United States District Court for the Eastern District of California.

10.3 **Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

10.4 **No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.

10.5 **Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.

10.6 **Conflict of Interest.** Consultant may serve other clients, but none whose activities within the corporate limits of Agency or whose business, regardless of location, would place Consultant in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

Consultant shall not employ any Agency official in the work performed pursuant to this Agreement. No officer or employee of Agency shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.*

10.7 **Contract Administrator.** This Agreement shall be administered by Ken Speer, Assistant General Manager, or his/her designee, who shall act as the Agency's representative. All correspondence shall be directed to or through the representative

10.8 **Notices.** Any written notice to Consultant shall be sent to:

Power Engineers, Inc.  
Attn: Greg Clark, Sr. Project Manager  
3940 Glenbrook Drive  
Hailey, ID 83333

Any written notice to Agency shall be sent to:

James H. Pope  
General Manager  
Northern California Power Agency  
651 Commerce Drive  
Roseville, CA 95678

With a copy to:

Michael F. Dean  
General Counsel  
Northern California Power Agency  
Meyers Nave  
555 Capitol Mall, Suite 1200  
Sacramento, CA 95814

- 10.9 **Professional Seal.** Where applicable in the determination of the Agency, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation.
- 10.10 **Integration; Incorporation.** This Agreement, including all the exhibits attached hereto, represents the entire and integrated agreement between Agency and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral. All exhibits attached hereto are incorporated by reference herein.
- 10.11 **Alternative Dispute Resolution.** If any dispute arises between the Parties that cannot be settled after engaging in good faith negotiations, Agency and Consultant agree to resolve the dispute in accordance with the following:
- 10.11.1 Each party shall designate a senior management or executive level representative to negotiate any dispute;
- 10.11.2 The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.
- 10.11.3 If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiation between legal counsel. If the above process fails, the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.
- 10.11.4 The mediation process shall provide for the selection within fifteen (15) days by both Parties of a disinterested third person as mediator, shall be commenced within thirty (30) days and shall be concluded within fifteen (15) days from the commencement of the mediation.
- 10.11.5 The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.

10.11.6 The alternative dispute resolution process is a material condition to this Agreement and must be exhausted as an administrative prior to either Party initiating legal action. This alternative dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 *et seq.*

10.12 **Controlling Provisions.** In the case of any conflict between the terms of this Agreement and the Exhibits hereto, and Consultant's Proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and the Consultant's Proposal, the Exhibits shall control.

10.13 **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

10.14 **Construction of Agreement.** Each party hereto has had an equivalent opportunity to participate in the drafting of the Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting party shall not apply hereto.

10.15 **No Third Party Beneficiaries.** This Agreement is made solely for the benefit of the parties hereto, with no intent to benefit any non-signator third parties.

The Parties have executed this Agreement as of the date signed by the Agency.

NORTHERN CALIFORNIA POWER AGENCY

POWER ENGINEERS, INC.

Date\_\_\_\_\_

Date\_\_\_\_\_

\_\_\_\_\_  
JAMES H. POPE, General Manager

\_\_\_\_\_  
GREG CLARK, Sr. Project Manager

Attest:

\_\_\_\_\_  
Assistant Secretary of the Commission

Approved as to Form:

\_\_\_\_\_  
Assistant General Counsel

## EXHIBIT A

### SCOPE OF SERVICES

Power Engineers, Inc. ("Consultant") shall provide engineering services as requested by the Northern California Power Agency ("Agency").

Services to include, but not be limited to the following:

- Review of existing protection settings;
- Design and recommendation for new protection systems and settings;
- Review of engineering documents created by other firms;
- Phone consultation and/or attendance at on-site meetings;
- Review and analysis of SEL event files for line and unit trips;
- Review and update of Arc-Flash studies;
- Provide transmission line engineering and review;
- Preparation of technical specifications; and
- General Mechanical, Civil, Electrical, and Protection Engineering.

## EXHIBIT B

### COMPENSATION SCHEDULE AND HOURLY FEES

Compensation for all tasks, including hourly fees and expenses, shall not exceed the amount as set forth in Section 2 of this Agreement. The hourly rates and or compensation break down and an estimated amount of expenses is as follows:

See Attached Rate Sheet.

NOTE: As a public agency, NCPA shall not reimburse Consultant for travel, food and related costs in excess of those permitted by the Internal Revenue Service.

**POWER ENGINEERS INC.  
SCHEDULE OF CHARGES – 2014  
NORTHERN CALIFORNIA POWER AGENCY**

This standard Schedule of Charges is for professional services. Unless agreed otherwise, charges for work on continuing projects will be based on the then current Schedule of Charges. A new Schedule of Charges will be issued to be effective January 1 of each new year and as necessary on an intermediate basis to accommodate new items or revised charges. Invoices will be submitted monthly and/or upon completion of the work and will be due and payable when issued. All accounts not paid within thirty (30) days after Owner's receipt of the invoice will bear a SERVICE CHARGE OF 1.0% PER MONTH for each month the invoice is unpaid.

<b>GRADE</b>	<b>PERSONNEL CLASSIFICATION</b>	
12	Project Manager Director .....	\$240.00/hr.
	Senior Project Manager III .....	
11	Senior Project Manager II .....	\$225.00/hr.
	Senior Program Manager II .....	
10	Senior Project Manager I .....	\$214.00/hr.
	Senior Program Manager I .....	
	Senior Project Engineer III .....	
	Strategic Consultant III .....	
9	Project Manager III .....	\$200.00/hr.
	Project Lead IV .....	
	Construction Manager III .....	
	Senior Project Engineer II .....	
	Strategic Consultant II .....	
	Senior Consultant III .....	
8	Project Manager II .....	\$179.00/hr.
	Project Lead III .....	
	Strategic Consultant I .....	
	Senior Consultant II .....	
	Project Engineer III .....	
	Construction Manager II .....	
	Senior Project Engineer I .....	
	Engineer V .....	
7	Project Manager I .....	\$154.00/hr.
	Project Lead II .....	
	Construction Manager I .....	
	Environmental Specialist IV .....	
	Project Engineer II .....	
	Engineer IV .....	
	Designer V .....	
	Project Administrator III .....	
	Senior Consultant I .....	
	Consultant III .....	
6	Project Lead I .....	\$144.00/hr.
	Project Engineer I .....	
	Engineer III .....	
	Designer IV .....	
	Environmental Specialist III .....	
	Procurement Specialist III .....	
	Scheduling Specialist III .....	
	Project Administrator II .....	
	Consultant II .....	
5	Engineer II .....	\$133.00/hr.
	Designer III .....	
	Technician IV .....	
	Environmental Specialist II .....	
	Procurement Specialist II .....	
	Scheduling Specialist II .....	
	Project Administrator I .....	
	Consultant I .....	
4	Engineer I .....	\$122.00/hr.
	Designer II .....	
	Technician III .....	
	Environmental Specialist I .....	
	Procurement Specialist I .....	
	Field Representative IV .....	
	Scheduling Specialist I .....	
	Project Managers Assistant III .....	
3	Designer I .....	\$107.00/hr.
	Drafter III .....	
	Technician II .....	
	Administrative Assistant I .....	
	Field Representative III .....	
	Staff Assistant II .....	
	Project Managers Assistant II .....	
2	Drafter II .....	\$90.00/hr.
	Staff Assistant .....	
	Field Representative II .....	
	Project Managers Assistant I .....	
1	Drafter I .....	\$71.00/hr.
	General Office Assistant .....	
	Field Representative I .....	

Personnel with specialized experience are employed by or on retainer to POWER. Charges for these specialists are negotiated on an individual basis depending on the assignment. Professional time for depositions and testimony is charged at 1.5 times the rate for services; full-day minimums apply.

Northern California Power Agency 2014 Fees (12/17/13) rt



**POWER ENGINEERS INC.  
SCHEDULE OF CHARGES – 2014  
NORTHERN CALIFORNIA POWER AGENCY**

This standard Schedule of Charges is for professional services. Unless agreed otherwise, charges for work on continuing projects will be based on the then current Schedule of Charges. A new Schedule of Charges will be issued to be effective January 1 of each new year and as necessary on an intermediate basis to accommodate new items or revised charges. Invoices will be submitted monthly and/or upon completion of the work and will be due and payable when issued. All accounts not paid within thirty (30) days after Owner's receipt of the invoice will bear a SERVICE CHARGE OF 1.0% PER MONTH for each month the invoice is unpaid.

**SPECIAL APPLICATION SOFTWARE**

Level I Software *	\$10.00/hr.
Level II Software **	\$20.00/hr.
Level III Software ***	\$35.00/hr.
Level IV Software ****	\$60.00/hr.

\* Level I Software Includes, among others: CPM, Traverse PC, Structural Design, Foundation Design, HVAC Design, Conveyor Design, Rockwell RSView & RSLogix, Subnet Solutions Substation Server.net, Subnet Solutions Substation Explorer, and Wonderware.

\*\* Level II Software Includes, among others: ArcPro, ASPEN OneLiner, ESA Easy Power, Milssoft Windmit, OSI ETAP, Pathloss VS, SKM PTW, SynerGee DPAVG (Distribution Primary Analysis/Graphics), Smart Plant P&ID, Smart Plant Instrumentation, SIMPLEXS, DPAG, PTW, Harmfo, Matlab, PLS-CADD, TL-CADD, AutoCAD, MicroStation, Drafting Station w/software, and specialized estimating programs.

\*\*\*Level III Software Includes, among others: CDEGS (RESAP/MALZ), GE PSLF, PSCAD (PSCAD/EMTDC), PTI PSS/E, WinIGS, Smart Plant 3D, PDS, Rebis, GIS Workstation, Engineering Workstation, and Electrocon CAPE.

\*\*\*\*Level IV Software Includes, among others: CDEGS, CDEGS (HIFREQ), COMSOL Multiphysics, Sigma SLP, STRI Line Performance Software, and Animation.

**REPRODUCTION****Drawings – Black & White**

Large Scale Drawings (C Size)	\$1.90/ea.
Large Scale Drawings (D Size)	\$3.30/ea.
Large Scale Drawings (E Size)	\$5.50/ea.

**Drawings – Color**

Large Scale Drawings (C Size)	\$6.00/ea.
Large Scale Drawings (D Size)	\$10.90/ea.
Large Scale Drawings (E Size)	\$17.50/ea.

**Documents – Black & White**

Single-sided Copies	8 x 11 \$0.05/ea.	11 x 17 \$0.15/ea.
Double-sided Copies	8 x 11 \$0.10/ea.	

**Documents – Color**

Single-sided Copies	8 x 11 \$0.50/ea.	11 x 17 \$1.00/ea.
Double-sided Copies	8 x 11 \$1.00/ea.	
Spiral Comb		\$2.65/ea.
3 Ring Binder		Dependent on size
Special Copy Center Projects (Labor)		\$45.00/hr.

**SURVEY EQUIPMENT**

Survey Equip. to support field crew		\$70.00/day
GPS Equipment 2 Units	\$60.00/hour	\$350.00/day
GPS Equipment 3 Units	\$80.00/hour	\$450.00/day

Other expenses including but not limited to subcontractors, airfare, lodging, meals, postage and shipping, purchases, rentals, are charged at cost plus a carrying and handling charge of 10%.

Communication Charge - including but not limited to long distance telephone and fax, charged at 1% of labor billing charges.

CAD Usage Charge – charged at 3% of labor billing charges.

EXHIBIT C

CERTIFICATION

**Affidavit of Compliance for Consultants**

I,

---

(Name of person signing affidavit)(Title)

do hereby certify that background investigations to ascertain the accuracy of the identity and employment history of all employees of

---

(Company name)

for contract work at

---

(Project name and location)

have been conducted as required by the California Energy Commission Decision for the above-named project.

---

(Signature of officer or agent)

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

THIS AFFIDAVIT OF COMPLIANCE SHALL BE APPENDED TO THE PROJECT SECURITY PLAN AND SHALL BE RETAINED AT ALL TIMES AT THE PROJECT SITE FOR REVIEW BY THE CALIFORNIA ENERGY COMMISSION COMPLIANCE PROJECT MANAGER.

2218905.3



## **Lodi Energy Center Project Participant Committee**

### **Staff Report**

AGENDA ITEM NO.: 10

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**Date:** December 9, 2013  
**To:** Lodi Energy Center Project Participant Committee  
**Subject:** West Valley Construction Company, Inc. Multi-Task General Services Agreement for Maintenance Services – All NCPA Sites

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#### Proposal

Approve a Multi-Task General Services Agreement with West Valley Construction Company, Inc. for an amount not to exceed Two Hundred Sixty Thousand Dollars (\$260,000) over five years, to be used on an as-needed basis for maintenance services at all NCPA facilities.

#### Background

Various maintenance services are required at the NCPA locations from time to time including but not limited to piping fabrication and installation, hydrotesting, HRSG maintenance, troubleshooting, outage support, and underground piping maintenance. West Valley Construction Company, Inc. is a provider of these services. In addition to this agreement with West Valley Construction Company, Inc., NCPA currently has two other enabling agreements with similar providers for maintenance services. NCPA will issue purchase orders based on cost and availability of the service(s) needed at the time.

#### Fiscal Impact

The total cost of the agreement will be not-to-exceed \$260,000 over the five year term to be used out of NCPA approved budgets as services are rendered. Purchase orders referencing the terms and conditions of the Agreement will be issued following NCPA procurement policies and procedures.

#### Environmental Analysis

This activity would not result in a direct or reasonably foreseeable indirect change in the physical environment and is therefore not a “project” for purposes of Section 21065 the California Environmental Quality Act. No environmental review is necessary.

#### Recommendation

Staff recommends that the PPC pass a motion approving the Multi-Task General Services Agreement with West Valley Construction Company, Inc., with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$260,000 over five years.

Prepared by:

MELISSA C. PHILPOT  
Material Procurement/Warehouse Coordinator  
Lodi Energy Center

Attachments: (1)

- Multi-Task General Services Agreement with West Valley Construction Company, Inc.



**MULTI-TASK  
GENERAL SERVICES AGREEMENT BETWEEN  
THE NORTHERN CALIFORNIA POWER AGENCY AND  
WEST VALLEY CONSTRUCTION COMPANY, INC.**

This agreement for general services ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 ("Agency") and West Valley Construction Company, Inc., a corporation with its office located at 580 McGlinchy Lane, Campbell, CA 95008 ("Contractor") (together sometimes referred to as the "Parties") as of \_\_\_\_\_, 2014 ("Effective Date") in Roseville, California.

**Section 1. SCOPE OF WORK.** Subject to the terms and conditions set forth in this Agreement, Contractor is willing to provide to Agency the range of services and/or goods described in the Scope of Work attached hereto as Exhibit A and incorporated herein ("Work").

- 1.1 **Term of Agreement.** The term of this Agreement shall begin on the Effective Date and shall end when Contractor completes the Work, or no later than five (5) years from the date this Agreement was signed by Agency, whichever is shorter.
- 1.2 **Standard of Performance.** Contractor shall perform the Work in the manner and according to the standards observed by a competent practitioner of the profession in which Contractor is engaged and for which Contractor is providing the Work. Contractor represents that it is licensed, qualified and experienced to provide the Work set forth herein.
- 1.3 **Assignment of Personnel.** Contractor shall assign only competent personnel to perform the Work. In the event that Agency, in its sole discretion, at any time during the term of this Agreement, requests the reassignment of any such personnel, Contractor shall, immediately upon receiving written notice from Agency of such request, reassign such personnel.
- 1.4 **Request for Work to be Performed.** At such time that Agency determines to have Contractor perform Work under this Agreement, Agency shall issue a Purchase Order. The Purchase Order shall identify the specific Work to be performed ("Requested Work"), may include a not-to-exceed cap on monetary cap on Requested Work and all related expenditures authorized by that Purchase Order, and shall include a time by which the Requested Work shall be completed. If it becomes apparent that the NTE is not sufficient to complete the Work, either on the Purchase Order or in total, Contractor will notify Agency as soon as possible.

**Section 2. COMPENSATION.** Agency hereby agrees to pay Contractor an amount **NOT TO EXCEED TWO HUNDRED SIXTY THOUSAND** dollars (\$260,000.00) for the Work, which shall include all fees, costs, expenses and other reimbursables, as set forth in Contractor's fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Contractor, but is merely a limit of potential Agency expenditures under this Agreement.

Multi-Task General Services Agreement between  
Northern California Power Agency and West Valley Construction Company, Inc.

6/25/12  
1926708.1

2.1 **Invoices.** Contractor shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information:

- The beginning and ending dates of the billing period;
- Work performed;
- The Purchase Order number authorizing the Requested Work;
- At Agency's option, for each work item in each task, a copy of the applicable time entries or time sheets shall be submitted showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense, with supporting documentation;
- At Agency's option, the total number of hours of work performed under the Agreement by Contractor and each employee, agent, and subcontractor of Contractor performing work hereunder.

Invoices shall be sent to:

Northern California Power Agency  
651 Commerce Drive  
Roseville, California 95678  
Attn: Accounts Payable

2.2 **Monthly Payment.** Agency shall make monthly payments, based on invoices received, for Work satisfactorily performed, and for authorized reimbursable costs incurred. Agency shall have thirty (30) days from the receipt of an invoice that complies with all of the requirements above to pay Contractor.

2.3 **Payment of Taxes.** Contractor is solely responsible for the payment of all federal, state and local taxes, including employment taxes, incurred under this Agreement.

2.4 **Authorization to Perform Work.** The Contractor is not authorized to perform any Work or incur any costs whatsoever under the terms of this Agreement until receipt of a Purchase Order from the Contract Administrator.

2.5 **Timing for Submittal of Final Invoice.** Contractor shall have ninety (90) days after completion of the Requested Work to submit its final invoice for the Requested Work. In the event Contractor fails to submit an invoice to Agency for any amounts due within the ninety (90) day period, Contractor is deemed to have waived its right to collect its final payment for the Requested Work from Agency.

**Section 3. FACILITIES AND EQUIPMENT.** Except as set forth herein, Contractor shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the Work.

**Section 4. INSURANCE REQUIREMENTS.** Before beginning any Work under this Agreement, Contractor, at its own cost and expense, shall procure the types and amounts of insurance listed below and shall maintain the types and amounts of insurance listed below for the period covered by this Agreement.

**4.1 Workers' Compensation.** If Contractor employs any person, Contractor shall maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Contractor with limits of not less than one million dollars (\$1,000,000.00) per accident.

**4.2 Commercial General and Automobile Liability Insurance.**

**4.2.1 Commercial General Insurance.** Contractor shall maintain commercial general liability insurance for the term of this Agreement, including products liability, covering any loss or liability, including the cost of defense of any action, for bodily injury, death, personal injury and broad form property damage which may arise out of the operations of Contractor. The policy shall provide a minimum limit of \$1,000,000 per occurrence/\$2,000,000 aggregate. Commercial general coverage shall be at least as broad as ISO Commercial General Liability form CG 0001 (current edition) on "an occurrence" basis covering comprehensive General Liability, with a self-insured retention or deductible of no more than \$100,000. No endorsement shall be attached limiting the coverage.

**4.2.2 Automobile Liability.** Contractor shall maintain automobile liability insurance form CA 0001 (current edition) for the term of this Agreement covering any loss or liability, including the cost of defense of any action, arising from the operation, maintenance or use of any vehicle (symbol 1), whether or not owned by the Contractor, on or off Agency premises. The policy shall provide a minimum limit of \$1,000,000 per each accident, with a self-insured retention or deductible of no more than \$100,000. This insurance shall provide contractual liability covering all motor vehicles and mobile equipment to the extent coverage may be excluded from general liability insurance.

**4.2.3 General Liability/Umbrella Insurance.** The coverage amounts set forth above may be met by a combination of underlying and umbrella policies as long as in combination the limits equal or exceed those stated.

**4.3 Professional Liability Insurance.** Intentionally left blank.

**4.4 All Policies Requirements.**

**4.4.1 Verification of coverage.** Prior to beginning any work under this Agreement, Contractor shall provide Agency with (1) a Certificate of Insurance that demonstrates compliance with all applicable insurance provisions contained herein and (2) policy endorsements to the policies referenced in Section 4.2, adding the

Agency as an additional insured and declaring such insurance primary in regard to work performed pursuant to this Agreement.

4.4.2 **Notice of Reduction in or Cancellation of Coverage.** Contractor shall provide at least thirty (30) days prior written notice to Agency of any reduction in scope or amount, cancellation, or modification adverse to Agency of the policies referenced in Section 4.

4.4.3 **Higher Limits.** If Contractor maintains higher limits than the minimums specified herein, the Agency shall be entitled to coverage for the higher limits maintained by the Contractor.

4.5 **Waiver of Subrogation.** Contractor agrees to waive subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of Agency for all work performed by Contractor, its employees, agents and subcontractors.

4.6 **Contractor's Obligation.** Contractor shall be solely responsible for ensuring that all equipment, vehicles and other items utilized in the performance of Work are operated, provided or otherwise utilized in a manner that ensures they are and remain covered by the policies referenced in Section 4 during this Agreement. Contractor shall also ensure that all workers involved in the provision of Work are properly classified as employees, agents or independent contractors and are and remain covered by any and all workers' compensation insurance required by applicable law during this Agreement.

## **Section 5. INDEMNIFICATION AND CONTRACTOR'S RESPONSIBILITIES.**

5.1 **Effect of Insurance.** Agency's acceptance of insurance certificates and endorsements required under this Agreement does not relieve Contractor from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Contractor acknowledges and agrees to the provisions of this section and that it is a material element of consideration.

5.2 **Scope.** Contractor shall indemnify, defend with counsel reasonably acceptable to the Agency, and hold harmless the Agency, and its officials, commissioners, officers, employees, agents and volunteers from and against all losses, liabilities, claims, demands, suits, actions, damages, expenses, penalties, fines, costs (including without limitation costs and fees of litigation), judgments and causes of action arising out of or in connection with any acts or omissions by Contractor, its officers, officials, agents, and employees, except as caused by the sole or gross negligence of Agency. Notwithstanding, should this

Agreement be construed as a construction agreement under Civil Code section 2783, then the exception referenced above shall also be for the active negligence of Agency.

**Section 6. STATUS OF CONTRACTOR.**

- 6.1 **Independent Contractor.** Contractor is an independent contractor and not an employee of Agency. Agency shall have the right to control Contractor only insofar as the results of Contractor's Work and assignment of personnel pursuant to Section 1; otherwise, Agency shall not have the right to control the means by which Contractor accomplishes Work rendered pursuant to this Agreement. Notwithstanding any other Agency, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Contractor and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by Agency, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of Agency and entitlement to any contribution to be paid by Agency for employer contributions and/or employee contributions for PERS benefits.

Contractor shall indemnify, defend, and hold harmless Agency for the payment of any employee and/or employer contributions for PERS benefits on behalf of Contractor or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of Agency. Contractor and Agency acknowledge and agree that compensation paid by Agency to Contractor under this Agreement is based upon Contractor's estimated costs of providing the Work, including salaries and benefits of employees, agents and subcontractors of Contractor.

- 6.2 **Contractor Not Agent.** Except as Agency may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of Agency in any capacity whatsoever as an agent. Contractor shall have no authority, express or implied, pursuant to this Agreement to bind Agency to any obligation whatsoever.
- 6.3 **Assignment and Subcontracting.** This Agreement contemplates personal performance by Contractor and is based upon a determination of Contractor's unique professional competence, experience, and specialized professional knowledge. A substantial inducement to Agency for entering into this Agreement was and is the personal reputation and competence of Contractor. Contractor may not assign this Agreement or any interest therein without the prior written approval of the Agency. Contractor shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors identified in Exhibit A, without prior written approval of the Agency. Where written approval is granted by the Agency, Contractor shall supervise all work subcontracted by Contractor in performing the Work and shall be responsible for all work performed by a subcontractor as if Contractor itself had performed such Work. The subcontracting of any work to subcontractors shall not relieve Contractor from any of its



obligations under this Agreement with respect to the Work and Contractor is obligated to ensure that any and all subcontractors performing any Work shall be fully insured in all respects and to the same extent as set forth under Section 4, to Agency's satisfaction.

- 6.4 **Certification as to California Energy Commission.** If requested by the Agency, Contractor shall, at the same time it executes this Agreement, execute Exhibit C.

## **Section 7. LEGAL REQUIREMENTS.**

- 7.1 **Governing Law.** The laws of the State of California shall govern this Agreement.
- 7.2 **Compliance with Applicable Laws.** Contractor and its subcontractors and agents, if any, shall comply with all laws applicable to the performance of the work hereunder.
- 7.3 **Licenses and Permits.** Contractor represents and warrants to Agency that Contractor and its employees, agents, and subcontractors (if any) have and will maintain at their sole expense during the term of this Agreement all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice their respective professions.
- 7.4 **Work Requiring Payment of Prevailing Wages.** If applicable, in accordance with California Labor Code Section 1771, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which these services are to be performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in the California Labor Code shall be paid to all workers engaged in performing the services under this Agreement.

## **Section 8. TERMINATION AND MODIFICATION.**

- 8.1 **Termination.** Agency may cancel this Agreement at any time and without cause upon ten (10) days prior written notice to Contractor.

In the event of termination, Contractor shall be entitled to compensation for Work satisfactorily completed as of the effective date of termination and for any materials on order that cannot be cancelled; Agency, however, may condition payment of such compensation upon Contractor delivering to Agency any or all records or documents (as referenced in Section 9.1 hereof).

- 8.2 **Amendments.** The Parties may amend this Agreement only by a writing signed by all the Parties.
- 8.3 **Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between Agency and Contractor shall survive the termination of this Agreement.

8.4 **Options upon Breach by Contractor.** If Contractor materially breaches any of the terms of this Agreement and such breach is not cured within ten (10) working days, including but not limited to those set forth in Section 4, Agency's remedies shall include, but not be limited to, the following:

8.4.1 Immediately terminate the Agreement;

8.4.2 Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Contractor pursuant to this Agreement;

8.4.3 Retain a different Contractor to complete the Work not finished by Contractor; and/or

8.4.4 Charge Contractor the difference between the costs to complete the Work that is unfinished at the time of breach and the amount that Agency would have paid Contractor pursuant hereto if Contractor had completed the Work.

## **Section 9. KEEPING AND STATUS OF RECORDS.**

9.1 **Records Created as Part of Contractor's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Contractor prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the Agency. Contractor hereby agrees to deliver those documents to the Agency upon termination of the Agreement. Agency and Contractor agree that, unless approved by Agency in writing, Contractor shall not release to any non-parties to this Agreement any data, plans, specifications, reports and other documents.

9.2 **Contractor's Books and Records.** Contractor shall maintain any and all records or other documents evidencing or relating to charges for Work or expenditures and disbursements charged to the Agency under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Contractor to this Agreement.

9.3 **Inspection and Audit of Records.** Any records or documents that this Agreement requires Contractor to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the Agency. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds ten thousand dollars (\$10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of Agency or as part of any audit of the Agency, for a period of three (3) years after final payment under the Agreement.

## 9.4 Confidential Information and Disclosure.

9.4.1 **Confidential Information.** The term "Confidential Information", as used herein, shall mean any and all confidential, proprietary, or trade secret information, whether written, recorded, electronic, oral or otherwise, where the Confidential Information is made available in a tangible medium of expression and marked in a prominent location as confidential, proprietary and/or trade secret information. Confidential Information shall not include information that: (a) was already known to the Receiving Party or is otherwise a matter of public knowledge, (b) was disclosed to Receiving Party by a third party without violating any confidentiality agreement, (c) was independently developed by Receiving Party without reverse engineering, as evidenced by written records thereof, or (d) was not marked as confidential Information in accordance with this section.

9.4.2 **Non-Disclosure of Confidential Information.** During the term of this Agreement, either party may disclose ("The Disclosing Party") confidential Information to the other party ("the Receiving Party"). The Receiving Party: (a) shall hold the Disclosing Party's Confidential Information in confidence; and (b) shall take all reasonable steps to prevent any unauthorized possession, use, copying, transfer or disclosure of such Confidential Information.

9.4.3 **Permitted Disclosure.** Notwithstanding the foregoing, the following disclosures of Confidential Information are allowed. Receiving Party shall endeavor to provide prior written notice to Disclosing Party of any permitted disclosure made pursuant to Section 9.4.3.2 or 9.4.3.3. Disclosing Party may seek a protective order, including without limitation, a temporary restraining order to prevent or contest such permitted disclosure; provided, however, that Disclosing Party shall seek such remedies at its sole expense. Neither party shall have any liability for such permitted disclosures:

9.4.3.1 Disclosure to employees, agents, Contractors, contractors, subcontractors or other representatives of Receiving Party that have a need to know in connection with this Agreement.

9.4.3.2 Disclosure in response to a valid order of a court, government or regulatory agency or as may otherwise be required by law; and

9.4.3.3 Disclosure by Agency in response to a request pursuant to the California Public Records Act.

9.4.4 **Handling of Confidential Information.** Conclusion of Agreement. Receiving Party shall return to Disclosing Party or destroy Confidential Information (including all copies thereof) upon termination of this Agreement, if requested by Disclosing Party in writing. Notwithstanding the foregoing, the Receiving Party may retain

copies of such Confidential Information, subject to the confidentiality provisions of this Agreement: (a) for archival purposes in its computer system; (b) in its legal department files; and (c) in files of Receiving Party's representatives where such copies are necessary to comply with applicable law. Party shall not disclose the Disclosing Party's Information to any person other than those of the Receiving Party's employees, agents, Contractors, contractors and subcontractors who have a need to know in connection with this Agreement.

## **Section 10. PROJECT SITE.**

- 10.1 **Operations at the Project Site.** Each Project site may include the power plant areas, all buildings, offices, and other locations where Work is to be performed, including any access roads. Contractor shall perform the Work in such a manner as to cause a minimum of interference with Agency's operations and the operations of other contractors at the Project site and to protect all persons and property thereon from damage or injury. Upon completion of the Work at a Project site, Contractor shall leave such Project site clean and free of all tools, equipment, waste materials and rubbish, stemming from or relating to Contractor's Work.
- 10.2 **Contractor's Equipment, Tools, Supplies and Materials.** Contractor shall be solely responsible for the transportation, loading and unloading, and storage of any equipment, tools, supplies or materials required for performing the Work, whether owned, leased or rented. Agency will not be responsible for any such equipment, supplies or materials which may be lost, stolen or damaged or for any additional rental charges for such. Equipment, tools, supplies and materials left or stored at a Project site, with or without permission, are at Contractor's sole risk. Agency may assume that anything left on the Project site for an unreasonable length of time after the Work is completed has been abandoned. Any transportation furnished by Agency shall be solely as an accommodation and Agency shall have no liability therefor. Contractor shall assume the risk and is solely responsible for its owned, non-owned and hired automobiles, trucks or other motorized vehicles as well as any equipment, tools, supplies, materials or other property which is utilized by Contractor on the Project site. All materials and supplies used by Contractor in the Work shall be new and in good condition.
- 10.3 **Use of Agency Equipment.** Contractor shall assume the risk and is solely responsible for its use of any Agency owned equipment and property provided by Agency for the performance of Work.

## **Section 11. WARRANTY.**

- 11.1 **Nature of Work.** In addition to any and all warranties provided or implied by law or public policy, Contractor warrants that all Work shall be free from defects in workmanship, and that Contractor shall perform all Work in accordance with applicable federal, state, and local laws, rules and regulations including engineering, construction and other codes and

standards and prudent electrical utility standards, and in accordance with the terms of this Agreement.

**11.2 Deficiencies in Work.** In addition to all other rights and remedies which Agency may have, Agency shall have the right to require, and Contractor shall be obligated at its own expense to perform, all further Work which may be required to correct any deficiencies which result from Contractor's failure to perform any Work in accordance with the standards required by this Agreement. If during the term of this Agreement or the one (1) year period following completion of the Work, any equipment, supplies or other materials or Work used or provided by Contractor under this Agreement fails due to defects in material and/or workmanship or other breach of this Agreement, Contractor shall, upon any reasonable written notice from Agency, replace or repair the same to Agency's satisfaction.

**11.3 Assignment of Warranties.** Contractor hereby assigns to Agency all additional warranties, extended warranties, or benefits like warranties, such as insurance, provided by or reasonably obtainable from suppliers of equipment and material used in the Work.

**Section 12. HEALTH AND SAFETY PROGRAMS.** The Contractor shall establish, maintain, and enforce safe work practices, and implement an accident/incident prevention program intended to ensure safe and healthful operations under their direction. The program shall include all requisite components of such a program under Federal, State and local regulations and shall comply with all Agency site programs.

**12.1** Contractor is responsible for acquiring job hazard assessments as necessary to safely perform the Work and provide a copy to Agency upon request.

**12.2** Contractor is responsible for providing all employee health and safety training and personal protective equipment in accordance with potential hazards that may be encountered in performance of the Work and provide copies of the certified training records upon request by Agency. Contractor shall be responsible for proper maintenance and/or disposal of their personal protective equipment and material handling equipment.

**12.3** Contractor is responsible for ensuring that its lower-tier subcontractors are aware of and will comply with the requirements set forth herein.

**12.4** Agency, or its representatives, may periodically monitor the safety performance of the Contractor performing the Work. Contractors and its subcontractors shall be required to comply with the safety and health obligations as established in the Agreement. Non-compliance with safety, health, or fire requirements may result in cessation of work activities, until items in non-compliance are corrected. It is also expressly acknowledged, understood and agreed that no payment shall be due from Agency to Contractor under this Agreement at any time when, or for any Work performed when, Contractor is not in full compliance with this Section 12.

- 12.5 Contractor shall immediately report any injuries to the Agency site safety representative. Additionally, the Contractor shall investigate and submit to the Agency site safety representative copies of all written accident reports, and coordinate with Agency if further investigation is requested.
- 12.6 Contractor shall take all reasonable steps and precautions to protect the health of its employees and other site personnel with regard to the Work. Contractor shall conduct occupational health monitoring and/or sampling to determine levels of exposure of its employees to hazardous or toxic substances or environmental conditions. Copies of any sampling results will be forwarded to the Agency site safety representative upon request.
- 12.7 Contractor shall develop a plan to properly handle and dispose of any hazardous wastes, if any, Contractor generates in performing the Work. Note: If Contractor encounters hazardous waste/materials, through no fault of its actions, Contractor will immediately stop work and notify the Agency.
- 12.8 Contractor shall advise its employees and subcontractors that any employee, who jeopardizes his/her safety and health, or the safety and health of others, may be subject to actions including removal from Work.
- 12.9 Contractor shall, at the sole option of the Agency, develop and provide to the Agency a Hazardous Material Spill Response Plan that includes provisions for spill containment and clean-up, emergency contact information including regulatory agencies and spill sampling and analysis procedures. Hazardous Materials to include diesel fuel used for trucks owned or leased by the Contractor.

### **Section 13 MISCELLANEOUS PROVISIONS.**

- 13.1 **Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 13.2 **Venue.** In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Placer or in the United States District Court for the Eastern District of California.
- 13.3 **Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

13.4 **No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.

13.5 **Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.

13.6 **Conflict of Interest.** Contractor may serve other clients, but none whose activities within the corporate limits of Agency or whose business, regardless of location, would place Contractor in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

Contractor shall not employ any Agency official in the work performed pursuant to this Agreement. No officer or employee of Agency shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.*

13.7 **Contract Administrator.** This Agreement shall be administered by Ken Speer, Assistant General Manager, or his/her designee, who shall act as the Agency's representative. All correspondence shall be directed to or through the representative.

13.8 **Notices.** Any written notice to Contractor shall be sent to:

West Valley Construction Company, Inc.  
Attn: Patrick Miller  
580 McGlinchey Lane  
Campbell, CA 95008

Any written notice to Agency shall be sent to:

James H. Pope  
General Manager  
Northern California Power Agency  
651 Commerce Drive  
Roseville, CA 95678

With a copy to:

Michael F. Dean  
General Counsel  
Northern California Power Agency  
Meyers Nave  
555 Capitol Mall, Suite 1200  
Sacramento, CA 95814

- 13.9 **Professional Seal.** Where applicable in the determination of the Agency, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation.
- 13.10 **Integration; Incorporation.** This Agreement, including all the exhibits attached hereto, represents the entire and integrated agreement between Agency and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral. All exhibits attached hereto are incorporated by reference herein.
- 13.11 **Alternative Dispute Resolution.** If any dispute arises between the Parties that cannot be settled after engaging in good faith negotiations, Agency and Contractor agree to resolve the dispute in accordance with the following:
- 13.11.1 Each party shall designate a senior management or executive level representative to negotiate any dispute;
- 13.11.2 The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.
- 13.11.3 If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiation between legal counsel. If the above process fails, the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.
- 13.11.4 The mediation process shall provide for the selection within fifteen (15) days by both Parties of a disinterested third person as mediator, shall be commenced within thirty (30) days and shall be concluded within fifteen (15) days from the commencement of the mediation.
- 13.11.5 The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.
- 13.11.6 The alternative dispute resolution process is a material condition to this Agreement and must be exhausted as an administrative prior to either Party initiating legal action. This alternative dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 *et seq.*
- 13.12 **Controlling Provisions.** In the case of any conflict between the terms of this Agreement and the Exhibits hereto, and Contractor's Proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and the Contractor's Proposal, the Exhibits shall control.



13.13 **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

13.14 **Construction of Agreement.** Each party hereto has had an equivalent opportunity to participate in the drafting of the Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting party shall not apply hereto.

13.15 **No Third Party Beneficiaries.** This Agreement is made solely for the benefit of the parties hereto, with no intent to benefit any non-signator third parties.

The Parties have executed this Agreement as of the date signed by the Agency.

NORTHERN CALIFORNIA POWER AGENCY  
COMPANY, INC.

WEST VALLEY CONSTRUCTION

Date \_\_\_\_\_

Date \_\_\_\_\_

\_\_\_\_\_  
JAMES H. POPE, General Manager

\_\_\_\_\_  
PATRICK MILLER,  
Assistant Vice President

Attest:

\_\_\_\_\_  
Assistant Secretary of the Commission  
Approved as to Form:

\_\_\_\_\_  
Assistant General Counsel

## EXHIBIT A

### SCOPE OF WORK

West Valley Construction Company, Inc. ("Contractor") shall provide general services related to project support and plant operations as requested by the Northern California Power Agency ("Agency"). Types of service to be performed may include, but not be limited to mechanical, structural and civil work.

This work will be as support only to NCPA Staff and Contractor will not perform any duties as an agent of NCPA. This work shall not include any work subject to bidding as a public works project.

## EXHIBIT B

### COMPENSATION SCHEDULE AND HOURLY FEES

Compensation for all work, including hourly fees and expenses, shall not exceed the amount as set forth in Section 2 of this Agreement. The hourly rates and or compensation break down and an estimated amount of expenses is as follows:



Wage Rates For: **WVC STOCKTON**  
Effective: **11/ 1/2013 - 12/31/2013**

<u>Code</u>	<u>Description</u>	<u>Reg Time</u>	<u>OverTime</u>	<u>Double Time</u>
<b>WSK-01</b>				
<b>Standard Rates</b>				
<b>LABORER - DEFAULT (40A)</b>				
<i>07/ 1/2013 - 06/29/2014</i>				
LND02\Apr-1	Apprentice 0-500 hrs	47.56	63.70	79.83
LND02\Apr-2	Apprentice 501-1000 hrs	50.04	67.41	84.79
LND02\Apr-3	Apprentice 1001-1500 hrs	73.40	92.01	110.63
LND02\Apr-4	Apprentice 1501-2000	75.88	95.73	115.58
LND02\Apr-5	Apprentice 2001-2500 hrs	78.36	99.45	120.54
LND02\Apr-6	Apprentice 2501-3000 hrs	80.85	103.19	125.53
LND02\CS	Const Specialist	87.58	113.28	138.98
LND02\For	Foreman	89.07	115.52	141.96
LND02\Skld-gr1	Skilled Group 1	86.28	111.32	136.37
 <b>OPERATOR - DEFAULT-AREA 1 (46A)</b>				
<i>07/ 1/2013 - 06/29/2014</i>				
OND01\Apr-2	Apprentice 2nd Period	87.52	106.88	126.24
OND01\Apr-3	Apprentice 3rd Period	90.75	111.71	132.68
OND01\Apr-4	Apprentice 4th Period	93.97	116.55	139.13
OND01\Apr-5	Apprentice 5th Period	103.66	131.08	158.50
OND01\For	Foreman	120.70	155.63	190.55
OND01\Opr-Ex-gr3	Opr Excv Only Group 3	117.95	151.49	185.03
OND01\Opr-NEx-g4	Opr Other Equip Group 4	115.38	147.63	179.89
OND01\AprProb	Apprentice Probationary	84.30	102.05	119.79
 <b>PLUMBER - LOCAL #355-NEW HIRES (49A)</b>				
<i>07/ 1/2013 - 06/30/2014</i>				
PND03\Asst.Jrmy	Assistant Journeyman	50.39	64.88	79.36
PND03\For	Foreman	73.59	99.25	124.91
PND03\Jrmy	Journeyman	71.73	96.46	121.19

**TEAMSTER - DEFAULT TEAMSTERS NO CAL (46A)**

07/ 1/2013 - 06/30/2014

TND01\TmDM4-24Yt	Dump Truck 4-24 Yd Grp 4	97.30	123.75	150.20
TND01\Dmp4-6y	Dump Truck 4-6y	95.53	121.10	146.66
TND01\Dmp6-8y	Dump Truck 6-8y	96.09	121.93	147.77
TND01\Tm 8-24yd	Dump Truck 8-24yd	96.65	122.77	148.89
TND01\FrWkg8-24y	Foreman Wkg 8-24y	98.52	125.57	152.62
TND01\Lowbed	Lowbed	97.30	123.75	150.20
TND01\WtrTrk	Water Truck	96.09	121.93	147.77

**TEAMSTER - DEFAULT TEAMSTERS NO CAL (46A)**

07/ 1/2013 - 06/30/2014

TND01\RichardsS	Richards, Steve	104.09	133.92	163.76
TND01\UsherJ	Usher, James B	100.10	127.94	155.78

Labor rates increase every year – West Valley Construction will notify NCPA in writing 30 days prior to rate increase.

Material and rented equipment will be at cost plus 15%.

Subcontractors, if required, will be at cost plus 10%.

West Valley Construction owned equipment rental rates on following pages.

NOTE: As a public agency, NCPA shall not reimburse Contractor for travel, food and related costs in excess of those permitted by the Internal Revenue Service.

EXHIBIT C

CERTIFICATION

Affidavit of Compliance for Contractors

I,

\_\_\_\_\_  
(Name of person signing affidavit)(Title)

do hereby certify that background investigations to ascertain the accuracy of the identity and employment history of all employees of

\_\_\_\_\_  
(Company name)

for contract work at

\_\_\_\_\_  
(Project name and location)

have been conducted as required by the California Energy Commission Decision for the above-named project.

\_\_\_\_\_  
(Signature of officer or agent)

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

THIS AFFIDAVIT OF COMPLIANCE SHALL BE APPENDED TO THE PROJECT SECURITY PLAN AND SHALL BE RETAINED AT ALL TIMES AT THE PROJECT SITE FOR REVIEW BY THE CALIFORNIA ENERGY COMMISSION COMPLIANCE PROJECT MANAGER.

2219597.2



## **Lodi Energy Center Project Participant Committee**

### **Staff Report**

AGENDA ITEM NO.: 11

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**Date:** January 9, 2014

**To:** Lodi Energy Center Project Participant Committee

**Subject:** Element Markets, LLC Emission Reduction Credit (ERC) Service Agreement

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#### Proposal

Approve a three year Services Agreement with Element Markets, LLC for the selling, optioning, and/or marketing of ERCs and establishing a 3% service fee of the total purchase price for such transactions and other terms.

#### Background

During the course of permitting, the Lodi Energy Center (LEC) was required to purchase ERCs to offset the pollutants discharged by the plant during its life. Due to timing of engineering and permitting, ERCs were purchased based on preliminary data. At the conclusion of the permitting process, specific ERCs were identified for surrender. As reported to the PPC at its January 9, 2012 meeting, the remaining ERCs are excess and can be sold.

Based on prior approval by the PPC, on January 11, 2012, NCPA entered into a Service Agreement with Element Markets, LLC for a one year term which expired on December 31, 2012. Staff now seeks to enter into a three year agreement Service Agreement establishing the terms and conditions for the selling, optioning, and/or marketing of ERCs, as approved by the NCPA General Counsel.

#### Fiscal Impact

There are approximately 20 tons of NOx ERC available to sell, 19 tons of SOx, and a small amount of VOCs. Value of these excess ERC will vary based on market conditions over time. The agreement contains a service fee of 3% for brokerage services.

#### Environmental Analysis

This activity would not result in a direct or reasonably foreseeable indirect change in the physical environment and is therefore not a "project" for purposes of Section 21065 the California Environmental Quality Act. No environmental review is necessary.

#### Recommendation

Staff recommends that the PPC pass a motion approving the three year Service Agreement with Element Markets, LLC for the selling, optioning, and/or marketing of ERCs and directing the NCPA General Manager to enter into the agreement, subject to approval by the NCPA General Counsel.

Prepared by:

KEN SPEER  
Assistant General Manager  
Generation Services

Attachment: Service Agreement between Element Markets, LLC and NCPA

## SERVICE AGREEMENT

THIS SERVICE AGREEMENT ("Agreement") is entered into as of the \_\_\_\_ day of January, 2014, by and between Element Markets, LLC ("EM"), a Delaware limited liability company, with its principal office located at 3555 Timmons Lane, Suite 900, Houston, Texas 77027, and Northern California Power Agency ("NCPA"), a California Joint Powers Authority, with its principal office located at 651 Commerce Drive, Roseville, California 95678. EM and NCPA can be individually referred to as "Party" or, collectively, as "Parties."

WHEREAS, NCPA desires to engage EM as its exclusive agent relative to selling, optioning, and/or marketing San Joaquin Emission Reduction Credits ("ERCs") (each a "Transaction," and collectively, the "Transactions"), and EM desires to be so engaged in accordance with the terms herein; and

WHEREAS, the Parties also desire to establish terms governing the use and protection of certain information one Party ("Owner") may disclose to the other Party ("Recipient") in connection herewith.

NOW, THEREFORE, in consideration of the foregoing, in reliance on the mutual conditions, covenants, and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties intending to be legally bound agree as follows:

1. This Agreement shall become effective as of the date of execution by both Parties, and shall remain in effect through December 31, 2017 ("Term").
2. EM will provide consultation to NCPA in the selling, optioning, and/or marketing of ERCs in the San Joaquin Valley region of California.
3. EM shall be the sole and exclusive representative of NCPA for all purchases of ERCs during the term of this Agreement. EM, on the other hand, may provide services similar to those provided to NCPA pursuant hereto to other purchasers and/or sellers of ERCs.
4. NCPA agrees to pay EM a service fee equal to three percent (3.0%) of the total purchase price ("Service Fee") for any Transaction regarding the selling, optioning, and/or marketing of ERCs, which Service Fee shall be payable on or before the fifth (5<sup>th</sup>) business day following the date the total purchase price (regardless of the form of such total purchase price) is delivered by the buyer to the seller in the applicable Transaction (each, a "Closing"). While NCPA will have full discretion over any purchase of ERCs, all transactions shall be exclusively conducted through EM who shall act as NCPA's exclusive representative agent for such Transaction and will be entitled to its Service Fee from NCPA. In exchange for the Service Fee, EM will introduce NCPA to potential buyers of ERCs and EM will handle all formation of contract documents, transfer documentation, and other required documentation for the selling, optioning, and/or marketing of ERCs for NCPA, including but not limited to any documentation of the transfer necessary for the San Joaquin Valley Air Pollution Control District or any other



applicable agency to fully recognize and give full credit to the transfer. EM will indemnify and hold NCPA harmless from any failure by EM to fulfill its transfer documentation obligations pursuant to this paragraph. NCPA recognizes that EM may represent a buyer or seller in a transaction as well, and may receive a fee from the buyer or seller for EM's role as introducing broker or consultant in a transaction. In the event that another broker, principal or merchant offers a transaction to NCPA in which NCPA would like to act upon, NCPA shall promptly notify EM, and EM will act as NCPA's representative agent and will be entitled to its Service Fee from NCPA. Should any deal be executed within the six (6) month period after termination with any party that was introduced to NCPA by EM, EM will be due its Service Fee.

5. This Agreement is deemed binding on NCPA through the conclusion of the Term as provided in Paragraph 1, and for a period of six (6) months thereafter. Should a Closing occur in any Transaction during the six (6) month period after termination of this Agreement, and such Transaction was originated by EM prior to the expiration of the Term, NCPA shall pay EM the herein provided Service Fee in accordance with Paragraph 4 for each such Transaction. In no event will NCPA be required to pay EM its Service Fee for a Transaction which occurs more than six (6) months after the end of the Term.
6. Recipient may use Confidential Information of Owner only for the purpose of this Agreement and shall protect such Confidential Information from disclosure to others, using the same degree of care used to protect its own proprietary information of like importance, but in any case using no less than a reasonable degree of care. Recipient may disclose Confidential Information received hereunder only for the purpose described in the recital of this Agreement and only to its employees and consultants who have a need to know for such purpose and who are bound by signed, written agreements to protect the received Confidential Information from unauthorized use and disclosure.<sup>1</sup>
7. Notwithstanding the restrictions regarding disclosure of Confidential Information stated in Paragraph 6 above, in the event Recipient becomes legally compelled or it is necessitated under law for Recipient to disclose any Confidential Information, Recipient shall provide Owner with prompt notice so that Owner may seek a protective order or other appropriate remedy and/or waive compliance with the confidentiality provisions of this Agreement. In the event that such protective order or other remedy is not obtained, or that Owner waives compliance with the provisions of this Agreement, Recipient will furnish only that portion of the Confidential Information that it is legally required to furnish.
8. This Agreement: (i) is the complete agreement of the Parties concerning the subject matter hereof and supersedes any prior such agreements with respect to further disclosures on such subject matter, and (ii) may not be amended or modified in any manner except in writing signed by the Parties. If any provision of this Agreement is

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<sup>1</sup> "Confidential Information" means information of an Owner (i) which in any way relates to the purpose and subject matter identified in the recital to this Agreement, including, business and technical information, marketing plans, and related data, or (ii) which, although not related to such purpose or subject matter, is nevertheless disclosed hereunder, and which, in any case, is disclosed by an Owner or an affiliate to Recipient.

found to be unenforceable, the remainder shall be enforced as fully as possible and the unenforceable provision shall be deemed modified to the limited extent required to permit its enforcement in a manner most closely representing the intention of the Parties as expressed herein.

9. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. Neither Party may transfer or assign this Agreement, in whole or in part, without the other Party's prior written consent, which consent shall not be unreasonably withheld, conditioned, or delayed; provided that NCPA agrees to grant such consent in the context of a merger or sale of all or substantially all of EM's assets or the assets of a business unit of EM to which this Agreement relates. Notwithstanding the foregoing, EM may, without the consent of Seller, assign its rights and obligations under this Agreement to an affiliate of EM so long as such affiliate entity agrees to assume all rights and obligations of EM hereunder and Buyer provides written notice of such assignment or transfer to NCPA. Upon any transfer or assignment permitted by this Agreement, the assignor shall be released from its obligations hereunder to the extent such obligations are assumed by the assignee.
10. The validity, interpretation, enforceability and performance of this Agreement shall be governed by and construed in accordance with the laws of the State of California.
11. Any dispute that cannot be resolved between the Parties shall be subject to binding mediation, whether such dispute is based in contract, tort or otherwise, at law or in equity. The mediation shall be conducted in accordance with the laws of the State of California. The validity, construction, and interpretation of this Agreement to mediate and all procedural aspects of the mediation conducted pursuant hereto shall be decided by the Parties. The mediator shall be a person who has over five (5) years of experience in energy-related transactions or commodity trading markets, and the mediator shall not have been previously employed by or have any direct interest in either Party, unless such conflict is expressly acknowledged and waived in writing by both Parties. The mediation will occur within two (2) months after appointment of the mediator. The compensation and any costs and expenses of the mediator shall be borne equally by the Parties. Any mediation proceedings, decision or settlement negotiated hereunder and the validity, effect and interpretation of this mediation provision shall be governed by California law. The mediation shall either (i) take place at a neutral venue to be determined by the mediator, or (ii) alternate between the Parties' offices, beginning with the respondent's. The Parties agree that all information exchanged as a result of any proceeding as described herein shall be deemed Confidential Information, except to regulatory or judicial bodies to the extent necessary to enforce the decision.
12. The Parties agree that the liability of EM arising out of or relating to this Agreement shall be limited to the amount of fees paid or due to EM under this Agreement.
13. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall be deemed to be one and the same instrument. Facsimile or electronic transmission of any signed original document, and retransmission

of any facsimile or electronic transmission, will be the same as delivery of any original document.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement signed by their duly authorized officers or individuals, as of the last day and year written below.

**Element Markets, LLC**

**Northern California Power Agency**

By: \_\_\_\_\_

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Assistant Secretary of the Commission

Approved as to Form:

\_\_\_\_\_  
Assistant General Counsel



## **Lodi Energy Center Project Participant Committee**

### **Staff Report**

AGENDA ITEM NO.: 12

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**Date:** January 9, 2014  
**To:** Lodi Energy Center Project Participant Committee  
**Subject:** Element Markets, LLC Emission Reduction Credit Purchase and Sale Agreement; Transaction Date reference December 9, 2013

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#### Proposal

Approve a Purchase and Sale Agreement with Element Markets, LLC for a transaction whereby Northern California Power Agency (NCPA), as Seller, sells to Element Markets, LLC, as Buyer, excess ERCs for a total purchase price of \$802,566. Purchase price to be paid to Seller less applicable service/brokerage fee.

#### Background

NCPA has contracted with Element Markets, LLC for the sale, optioning, and/or marketing of excess ERCs. Previously, at its March 12, 2012 meeting, the PPC approved the minimum conditions for the sale of the ERCs in light of both the common characteristic of buyers of ERCs and that such buyers do not wish to wait for NCPA's typical approval process to consummate a transaction. At that March meeting, the PPC approved the Element Markets standard Purchase and Sale Agreement and authorized the NCPA General Manager or his designee to approve sales to one or more buyers at specific terms, conditions and specified pricing levels in order to expedite the process. Subsequently, by motion at the November 13, 2013 PPC special meeting, the minimum conditions for sale of the NOx credits was modified. The NCPA General Counsel has recommended that the Committee modify its approval of the Purchase and Sale Agreement for the transaction referenced December 9, 2013, to effect currently anticipated dates in 2014.

#### Fiscal Impact

The cost for the ERCs was expended in the Phase II budget of the LEC process, which was mostly reimbursed from bond proceeds when the project was financed. Proceeds from the sale of excess ERCs will be placed in the debt service account for the portion funded by bond proceeds and will be used to pay future debt service payments on the project bonds. Future debt service collections will be reduced by a like amount, providing budget reductions for Indenture Groups A & B equal to the ERC net proceeds placed in the debt service account. The amount funded by cash collection from MID can be refunded. The Purchase and Sale Agreement for the December 9, 2013 transaction provides for a total purchase price of \$802,566. After deduction of the 3% service/brokerage fee (calculated at \$24,076.98), net proceeds will be \$778,489.02 and will be allocated to Participants based on Generation Entitlement Share.

Environmental Analysis

This activity would not result in a direct or reasonably foreseeable indirect change in the physical environment and is therefore not a "project" for purposes of Section 21065 the California Environmental Quality Act. No environmental review is necessary.

Recommendation

Staff recommends that the PPC pass a motion approving the Purchase and Sale Agreement with Element Markets, LLC for the December 9, 2013 transaction and directs the NCPA General Manager to enter into the Purchase and Sale Agreement, subject to approval by the NCPA General Counsel.

Prepared by:

KEN SPEER  
Assistant General Manager  
Generation Services

Attachment: Purchase and Sale Agreement between Element Markets, LLC and NCPA

## EMISSION REDUCTION CREDITS PURCHASE AND SALE AGREEMENT ("Agreement")

Buyer:	Element Markets, LLC	Address: 3555 Timmons Lane, Suite 900 Houston, TX 77027							
Buyer Contact :	Contact Name: Contract Administration	Contact Telephone Number: (281) 207-7200 Contact Fax Number: (281) 207-7211 Contact E-mail: ContractAdmin@elementmarkets.com							
Seller:	Northern California Power Agency	Address: 651 Commerce Drive Roseville, CA 95678-6411							
Seller Contact:	Contact Name:	Contact Telephone Number: (916) 781-3636 Contact Fax Number: (916) 783-7693 Contact E-mail:							
Transaction Date:	December 9, 2013								
Product, Quantity, and Unit Price:	Seller shall sell to Buyer, and Buyer shall purchase from Seller, the following types and quantities of San Joaquin Valley Air Pollution Control District ("SJVAPCD") Emission Reduction Credits, all as further specified in the table immediately below (collectively, the "ERCs"):								
	Pollutant	Certificate	Q1 lbs.	Q2 lbs.	Q3 lbs.	Q4 lbs.	Total lbs.	Total Tons	Unit Price per Ton
	NOx	S-3746-2	0	1,432	15,919	8,622	25,973	12.9865	\$40,000.00
	NOx	C-1129-2	0	6,728	1,787	0	8,515	4.2575	\$40,000.00
	SOx	S-3742-5	3,134	3,076	3,134	3,190	12,534	6.267	\$18,000.00
Purchase and Sale:	Seller shall sell to Buyer, and Buyer shall purchase from Seller, the ERCs for the applicable Unit Price per Ton specified immediately above, for a total purchase price of \$802,566.00 ("Total Purchase Price"). Buyer shall be responsible for all SJVAPCD transfer fees associated with the transfer of the ERCs. Seller agrees to pay to Buyer a brokerage fee in the amount of three percent (3%) of the Total Purchase Price ("Brokerage Fee").								
Transfer of ERCs:	Buyer and Seller shall cooperate fully with each other to prepare all documents and paperwork required to be submitted to the SJVAPCD ("Transfer Documentation") no later than January 24, 2014. Upon completion of the Transfer Documentation, Buyer shall simultaneously submit the Transfer Documentation as well as any transfer fees required by the SJVAPCD in connection with the requested transfer.  Buyer and Seller shall cooperate fully to obtain any and all required approvals and/or certificates which may be required to effectuate the transfer of the ERCs and to comply with any and all other regulatory obligations relating to recording and tracking of the transfer and/or use of the ERCs as required by the SJVAPCD. Should the SJVAPCD not timely approve the transaction, this Agreement will become null and void.								
Payment:	By the later of four (4) business days after receipt of documentation from the SJVAPCD confirming the transfer of the ERCs from Seller to Buyer or (ii) January 30, 2014, subject to the receipt of an invoice from Seller, Buyer shall remit to Seller the Total Purchase Price less the Brokerage Fee. All funds to be paid to Seller shall be rendered in the form of immediately available funds (U.S. Dollars) by wire transfer or in such other form as agreed to by the parties. If either party fails to remit any amount payable by it when due, interest on such unpaid portion shall accrue at a rate equal to the prime interest rate in effect at the time as published in <i>The Wall Street Journal</i> plus two percent (2%) from the date payment is due to the date of payment.  Seller's Banking Instructions: To Be Provided By Separate Communication  Bank: Account Name: ABA Routing No: Account No.:								
Additional Terms and Conditions:	<u>Taxes.</u> Seller shall be responsible for all taxes applicable to the ERCs for all periods prior to transfer of title of the ERCs to Buyer. Buyer shall be responsible for all taxes applicable to the ERCs for all periods from and after transfer of title of the ERCs to Buyer from Seller. In no event shall either party be responsible for any income taxes of the other party.  <u>Mutual Representations and Warranties.</u> Each party represents and warrants to the other party as of the date of								

this Agreement, and as of the date of each delivery of ERCs that (i) it has, and at all times during the term of this Agreement will have, all necessary power and authority to execute, deliver, and perform its obligations under this Agreement, other than the approval of the SJVAPCD in the case of Seller; (ii) the execution, delivery, and performance of this Agreement has been duly authorized by all necessary action and does not violate any of the terms or conditions of its governing documents, or any contract to which it is a party, or any law or other legal or regulatory determination applicable to it; and (iii) there is no pending or (to its knowledge) threatened litigation, arbitration, or administrative proceeding that materially adversely affects its ability to perform its obligations under this Agreement.

Representations and Warranties of Seller. Seller represents and warrants to Buyer that as of and at the time of transfer of the ERCs hereunder (i) it has good title to and is the sole owner of record of the ERCs; (ii) the ERCs are valid, freely transferable, and unrestricted for use in the SJVAPCD; and (iii) such ERCs are and will be transferred to Buyer free and clear of all encumbrances. SELLER EXPRESSLY NEGATES ANY OTHER REPRESENTATION OR WARRANTY, WRITTEN OR ORAL, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY REPRESENTATION OR WARRANTY WITH RESPECT TO MERCHANTABILITY, OR FITNESS FOR ANY PARTICULAR PURPOSE.

Event of Default. For purposes of this Agreement, a party shall be in default (each of the following, an "Event of Default"): (i) if that party fails to make, when due, any payment required pursuant to this Agreement if such failure is not remedied within three (3) business days of written notice from the other party; (ii) if that party materially breaches any or all of its obligations under this Agreement and such breach is not cured within seven (7) business days of written notice of such breach from the other party; (iii) if any representation or warranty made by a party pursuant to this Agreement proves to have been misleading or false in any material respect when made and such party does not cure the underlying facts so as to make such representation and warranty correct and not misleading within seven (7) business days of written notice from the other party; or (iv) if a Party makes an assignment or any general arrangement for the benefit of its creditors; files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause under any bankruptcy or similar law for the protection of creditors; has a petition filed against it, and such petition is not dismissed within sixty (60) days; or otherwise becomes bankrupt or insolvent (however evidenced).

Remedies upon Default. If either Party is in default, the non-defaulting party may select any or all of the following remedies: (i) upon two (2) business days' written notice to the defaulting party, terminate this Agreement; (ii) withhold any payments and deliveries due in respect of this Agreement; and (iii) exercise such other remedies available at law or in equity.

If Buyer is in default and Seller elects to terminate this Agreement, then Buyer shall pay Seller, within five (5) business days of invoice receipt, an amount equal to the sum of (i) the contract price multiplied by the quantity for any ERCs delivered to Buyer for which Seller has not been paid; (ii) the positive difference, if any, obtained by subtracting the market price, as reasonably determined by Seller, for the ERCs from the contract price multiplied by the quantity of ERCs not received; plus (iii) reasonable third party fees (including broker fees) and legal costs incurred by Seller in enforcement and protection of its rights under this Agreement.

If Seller is in default and Buyer elects to terminate this Agreement, then Seller shall pay Buyer, within five (5) business days of invoice receipt, an amount equal to (i) the positive difference, if any, obtained by subtracting the contract price from the market price, as reasonably determined by Buyer, for the ERCs multiplied by the quantity of ERCs not delivered; plus (ii) reasonable third party fees (including broker fees) and legal costs incurred by Buyer in enforcement and protection of its rights under this Agreement. In no event does the foregoing relieve Buyer of its obligation to pay Seller the contract price multiplied by the quantity for any ERCs delivered to Buyer for which Seller has not been paid.

Change of Law. Immediately upon Buyer's receipt of documentation evidencing that the ERCs have been transferred to Buyer, the ERCs shall become the sole property and entitlement of Buyer. Should any change in law governing the ERCs occur prior to Buyer's receipt of documentation evidencing that the ERCs have been transferred to Buyer, and such change of law restricts or limits the nature, use, quality, duration or transferability of the ERCs (i.e. not simply a clarification or modification of existing law which has little or no effect on the ability of the parties hereto to effectuate this sale transaction or upon the nature and quality of the ERCs) (a "Change of Law"), then Buyer's sole recourse and remedy shall be to terminate this Agreement upon written notice to Seller, and upon Buyer's exercise of said termination, Seller shall return any amounts received from Buyer and Buyer shall cooperate to effect the return of the ERCs to Seller (if applicable), and thereafter no party shall have any further liability or obligation to any other party hereto. If a Change of Law occurs after Buyer's receipt of documentation evidencing that the ERCs have been transferred to Buyer, then Buyer shall have no recourse or remedy against Seller.

Limitations of Liability. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR SPECIAL,

PUNITIVE, INCIDENTAL, INDIRECT, EXEMPLARY, OR CONSEQUENTIAL DAMAGES OF ANY NATURE WHATSOEVER, INCLUDING LOSS OF PROFITS (EXCEPT TO THE EXTENT THAT ANY DIRECT DAMAGES INCLUDE AN ELEMENT OF PROFIT).

Confidentiality. The parties agree to keep confidential the contents of this Agreement and any information made available by one party to the other party with respect to this Agreement.

Indemnification. Each party (the "Indemnifying Party") shall indemnify and hold harmless the other party, its shareholders, officers, directors, employees, and agents (collectively, the "Indemnified Party"), from and against any and all third-party claims, costs, suits, liabilities, damages, losses, demands, and expenses of every kind including, without limitation, reasonable attorneys' fees and disbursements, resulting from or arising out of: (i) a material breach by the Indemnifying Party of any covenant or agreement in this Agreement; or (ii) the gross negligence or willful misconduct of the Indemnifying Party.

Notices. All notices, demands, and other communications hereunder shall be effective only if given in writing and shall be deemed given (i) when delivered in person; (ii) when delivered by private courier (with confirmation of delivery); (iii) when transmitted by facsimile (with confirmation of transmission); or (iv) five (5) business days after being deposited in the United States mail, first-class, registered or certified, return receipt requested, with postage paid. For purposes hereof, all notices, demands and other communications shall be sent to the contacts and addresses above (or to such other address furnished in writing by one party to the other party).

Assignment. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns. Neither party may transfer or assign this Agreement, in whole or in part, without the other party's prior written consent, which consent shall not be unreasonably withheld, conditioned, or delayed; provided that Seller agrees to grant such consent in the context of a merger or sale of all or substantially all of Buyer's assets or the assets of a business unit of Buyer to which this Agreement relates. Notwithstanding the foregoing, Buyer may, without the consent of Seller, assign its rights and obligations under this Agreement to an affiliate of Buyer so long as such affiliate entity agrees to assume all rights and obligations of Buyer hereunder and Buyer provides written notice of such assignment or transfer to Seller. Upon any transfer or assignment permitted by this Agreement, the assignor shall be released from its obligations hereunder to the extent such obligations are assumed by the assignee.

Amendment. This Agreement may be amended at any time, but only by a written agreement signed by both parties.

No Waiver. No delay or omission by a party in the exercise of any right under this Agreement shall be taken, construed, or considered as a waiver or relinquishment thereof. If any of the terms and conditions herein are breached and thereafter waived in writing by a party, such waiver is limited to the particular breach so waived and is not deemed to waive any other breach hereunder.

Severability. If any provision or portion of this Agreement is found to be unenforceable, the remainder shall be enforced as fully as possible and the unenforceable provision shall be deemed modified to the limited extent required to permit its enforcement in a manner most closely representing the intention of the Parties as expressed herein.

Complete Agreement. This Agreement represents the parties' final and mutual understanding concerning its subject matter. It replaces and supersedes any prior agreements or understandings, whether written or oral.

Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of California, excluding any choice of law or conflicts of law rules or principles that would result in application of the laws of a different jurisdiction.

Dispute Resolution. Any dispute between the Parties arising under or pertaining to this Agreement shall be referred to representatives of the Parties for informal dispute resolution discussions as soon as practicable. In the event that the designated representatives do not reach a mutually acceptable resolution of the dispute within thirty (30) days of such referral, then the Parties may agree to submit such dispute to mediation or other dispute resolution process as may be agreed upon by the Parties. If the dispute is not resolved within ninety (90) days from the date of such submission for mediation or other dispute resolution process, either Party may bring an appropriate action at law or in equity with a court of competent jurisdiction located in the State of California. Nothing herein shall prevent either Party from bringing an action in equity to seek injunctive relief, if necessary to avoid irrevocable harm.

Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall be deemed to be one and the same instrument. Facsimile or PDF transmission of any signed original document, and retransmission of any facsimile or PDF transmission, will be the same as delivery of any original document.

Forward Contract. The parties acknowledge and agree that this Agreement constitutes a "forward contract" as



	defined in Section 101(25) of the United States Bankruptcy Code and/or a “commodities contract” as defined in Section 761(4) of the United States Bankruptcy Code, as these terms are used in Section 556 of the United States Bankruptcy Code.
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**By signing below, the parties agree to be bound by the terms and conditions contained in this Agreement.**

<b>Buyer: Element Markets, LLC</b>	<b>Seller: Northern California Power Agency</b>
<i>Signature:</i> _____ <i>Date:</i> _____	<i>Signature:</i> _____ <i>Date:</i> _____
<i>Printed Name:</i> _____ <i>Title:</i> _____	<i>Printed Name:</i> _____ <i>Title:</i> _____



## **Lodi Energy Center Project Participant Committee**

### **Staff Report**

AGENDA ITEM NO.: 13

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**Date:** January 9, 2014  
**To:** Lodi Energy Center Project Participant Committee  
**Subject:** LEC Rotor Air Cooler Replacement

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#### Proposal

Approve replacement of the LEC Rotor Air Cooler at a cost not-to-exceed \$500,000 and continue pursuit of original manufacturer for responsibility for replacement cost.

#### Background

The LEC has suffered various forced outages as a result of tube failures in the Rotor Air Cooler (RAC). Staff has been working with Siemens to address the issues. Various testing has been done to determine the cause of the failures. It appears the unit has suffered stress corrosion cracks due to high chlorides. Review of the tube rolling process was examined in detail and the tubes do not appear to have been rolled correctly. As of this date, 55 tubes have failed out of the 315 total, or 17.5%. The RAC is allowed a 30% tube failure rate.

Staff continues to work with Siemens for repair or replacement of the RAC under warranty although the technical warranty period has expired. Due to the continued risk of tube failures and the extensive lead time of 22 to 24 weeks to order a replacement RAC, staff recommends that a replacement unit be ordered as soon as possible. The concern is that the RAC may render the LEC inoperable before the scheduled outage occurs in April, 2014.

#### Fiscal Impact

The cost for the replacement of the RAC is estimated at \$500,000. There are no funds in the current Operating Budget or maintenance reserve for this item. Staff is challenging Siemens to accept responsibility for the RAC costs. Siemens has not declined but to date has not confirmed acceptance of responsibility.

#### Environmental Analysis

These activities are categorically exempt under Class 1, 2, 3, 4, and 11 from the provisions of the California Environmental Quality Act pursuant to Section 15301 (b) and 15302 (c) of the CEQA Guidelines.

#### Recommendation

Staff recommends that the PPC pass a motion approving expenditure of not-to-exceed \$500,000 for replacement of the LEC Rotor Air Cooler and continued pursuit of the manufacturer for responsibility for the replacement cost and directing the NCPA General Manager to enter into the agreement, as approved by the NCPA General Counsel, for this purchase.

Prepared by:

KEN SPEER  
Assistant General Manager  
Generation Services



## Lodi Energy Center Project Participant Committee

### Staff Report

AGENDA ITEM NO.: 14

**Date:** January 12, 2014  
**To:** Lodi Energy Center Project Participant Committee  
**Subject:** Revision to Exhibit 5 of PMOA Agreement Schedule 1.00

#### Proposal

Adopt revision of PMOA Exhibit 5 of Schedule 1.00 for revised 2014 CAISO Grid Management Charge (GMC) rates related to the Market Services and System Operation Charge.

#### Background

The CAISO recovers its cost through allocation among three defined service categories that are billed based on five different grid management charges and fees assessed to market participants. The CAISO recently completed its 2014 budget stakeholder process based on a slightly increased 2014 revenue requirement. Two GMC rates were adjusted to account for the increased revenue requirement as indicated in the table below. As indicated in a market notice issued by the CAISO on December 19, these revised GMC rates were to become effective on January 1, 2014.

Charge Code	CAISO GMC Charge Code Name	2013 Rate	2014 Rate	Unit of Measure
4560	GMC - Market Services Charge	\$ 0.0754	\$ 0.0867	Metered Energy (MWh)
4561	GMC - System Operation Charge	\$ 0.2872	\$ 0.2890	Awarded Schedules (MW)

The market services charge is assessed to the LEC Project based on awarded CAISO energy and ancillary service schedules, while the system operations charge is assessed to the Project based on metered energy. NCPA includes these GMC rates into the Economic Operations bid calculation indicated in Agreement Schedule 1.00 under the defined term 'CAISO GMC' in order to internalize these costs in the awarded energy bid amount.

#### Fiscal Impact

There is no fiscal impact on an overall basis to Participants as these costs will be included in the Economic Operations bid calculation in order to achieve economic awards.

#### Environmental Analysis

This activity would not result in a direct or reasonably foreseeable indirect change in the physical environment and is therefore not a "project" for purposes of Section 21065 the California Environmental Quality Act. No environmental review is necessary.

Recommendation

NCPA staff recommends that the PPC pass a motion authorizing adoption of the revised PMOA Exhibit 5 of Schedule 1.00 for revised 2014 CAISO Grid Management Charge (GMC) rates.

Prepared by:

ROBERT W. CARACRISTI  
Manager  
Information Services and Power Settlements

Attachment: (1)

- PMOA Exhibit 5 Schedule 1.00

## EXHIBIT 5

### CAISO Charges

The CAISO Charges component used to determine Economic Operations is calculated as shown in the table below:

Market Charge Code	CAISO Charge Code Name	<del>2013</del> <b>2014</b> Rate	Unit of Measure
4560	GMC - Market Services Charge	\$ <del>0.0754</del> <b>0.0867</b>	per MWh
4561	GMC - System Operation Charge	\$ <del>0.2872</del> <b>0.2890</b>	per MWh
Total GMC Amount		<u>\$ <del>0.3626</del> <b>0.3757</b></u>	per MWh

Schedule 1.00 – Exhibit 5

LEC Project Management and Operations Agreement

Effective ~~8/1/12~~ **1/1/14**

## **LEC PPC Meeting January 12, 2014**

**Informational Presentation regarding  
NCPA Preparation for  
Scheduled April 1, 2014  
CAISO Implementation of  
FERC Order No. 764 Market Changes**

# CAISO Implementation of FERC Order 764

## **Objective:**

- Overview of CAISO market changes;
- CAISO timeline for readiness and implementation;
- NCPA preparation and readiness for FO No. 764 Market Changes;
- Required changes to Data Portal for revised scheduling and settlements data
- Provide readiness preparation for LEC Project Participants



# NCPA Preparation for FERC Order 764

## Market Changes

### CAISO Market Changes include the following:

- FERC Order No. 764 requires transmission providers (i.e. ISO) to offer intra-hour scheduling option to interties;
- Discontinue financially binding settlements related to the Hour-Ahead Scheduling Process (“HASP”) for intertie energy schedules;
- Three Markets: 1) Day Ahead; 2) FMM; 3) RTD
- FMM (15-minute scheduling) applies to all imports, generation, loads, and exports;
- Real-Time Settlements changes to more granular 5-minute settlements from current 10-minute interval.
- PIRP is essentially discontinued or phased out.

# FO 764 NCPA Preparation and Readiness

People, Process and Systems:

## Systems

- Database table(s) for 5-minute meter data;
- New Power Scheduling Application to replace 13-year old ACES application;
- Modify Unit Energy Allocation (“UEA”) Process to 5-minute granularity and utilize 15-Minute Energy Schedules as allocators;
- Create: 1) new settlement bill determinant mappings, 2) ESP estimates and 3) ESP allocations for approx. 50 settlement charge codes;
- Update meter validation;
- More Data!

# FO 764 NCPA Preparation and Readiness

## ■ Process

- New scheduling procedures for new Fifteen-Minute Market (“FMM”) for generators and interties;
- NCPA to continue submit hourly bid submissions;
- Goal to maintain similar operations and business processes under FO 764;

## ■ People

- Power Mgmt. Dispatch staff -- Submit 15-minute FMM bidding into CAISO and retrieve/process awarded schedules;
- Test and Check actual vs expected results related to scheduling operations and settlements

# CAISO Implementation of FERC Order 764

## CAISO Market Simulation Timeline

- February 10 – February 21
  - CAISO performing Structured Market Simulation
  - Includes bid-to-bill results
  
- February 21 – March 17
  - Unstructured Market Simulation Testing
  
- April 1 – FERC Order No. 764 Implementation

# NCPA Preparation for FERC Order 764 Market Changes

Questions?

