



651 Commerce Drive
Roseville, CA 95678

phone (916) 781-3636
fax (916) 783-7693
web www.ncpa.com

Agenda – Legal Committee Meeting

Notice Date: January 29, 2021
Meeting Date: February 4, 2021 Legal Committee Meeting
Meeting Time: 8:30 a.m. PT
Location: Teleconference Meeting

This meeting is being held in accordance with the Brown Act as currently in effect under the State Emergency Act, Governor Gavin Newsom’s Emergency Declaration related to COVID-19, and Governor Newsom’s Executive Order N-29-20 issued March 17, 2020 that allows attendance by NCPA Legal Committee Members, staff, and the public to participant and conduct the meeting by phone or teleconference.

To participate by phone only:

Dial: 1-669-900-6833
Meeting ID: 943 2999 7527

To participate via Zoom Teleconference: Follow this link: <https://zoom.us/j/94329997527>

The Committee may act on any of the items listed on this Agenda regardless of whether an item is described as an Action Item, a Report or an Informational Item. This agenda may be supplemented by Staff Reports which are available to the public upon 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 Offices, 651 Commerce Drive, Roseville, California, or www.ncpa.com.

- **Review Safety Procedures**

- 1. CALL MEETING TO ORDER AND ROLL CALL**
- 2. PUBLIC COMMENT**

Any member of the public who desires to address the NCPA Legal Committee on any item considered by the Legal Committee at this meeting, before or during the Committee’s 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 NCPA Legal Committee on any item within the jurisdiction of the Legal Committee and not listed on the Agenda may do so at this time.

3. **APPROVAL OF MINUTES** – Seeking approval of minutes for the following meetings: October 1, 2020 special meeting, October 27, 2020 special meeting, November 5, 2020 regular meeting, November 17, 2020 special meeting, and January 7, 2021 regular meeting.

CLOSED SESSION

4. **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION** – Discussion pursuant to Government Code Section 54956.9(d)(1) – two (2) cases.
 - a. Case Name: *Northern California Power Agency, City of Redding, City of Roseville, and City of Santa Clara v. the United States, United States Court of Federal Claims No. 14-817-C.*
 - b. Case Name: *Voluntary Petitions for Filing of Chapter 11 Bankruptcy, PG&E Corporation, Debtor, and Pacific Gas and Electric Company, Debtor, United States Bankruptcy Court, Northern District of California, San Francisco Division, jointly administered under No. 19-30088.*

OPEN SESSION

5. **REPORT FROM CLOSED SESSION**
6. **NCPA STRATEGIC PLAN – ORGANIZATIONAL STRUCTURE OPTIONS** – Discuss organizational structure options (JPA, Corp, etc.) for acquisition, ownership or construction of generation and transmission assets. What are the options and what are the benefits of the options?
7. **SOUTH FEATHER WATER AND POWER AGENCY – THIRD PHASE AGREEMENT** – Introduction of Third Phase Agreement between South Feather Water and Power Agency and Northern California Power Agency.
8. **GENERAL COUNSEL UPDATES** - NCPA's General Counsel will update the Committee on miscellaneous business matters of interest.
9. **ADJOURNMENT**

Persons requiring accommodations in accordance with the Americans with Disabilities Act in order to participate in this meeting are requested to contact the NCPA Secretary at 916.781.3636 in advance of the meeting to arrange for such accommodations.



651 Commerce Drive
Roseville, CA 95678

phone (916) 781-3636
fax (916) 783-7693
web www.ncpa.com

Minutes – Legal Committee Special Meeting

To: NCPA Legal Committee
From: Linda Stone
Subject: October 1, 2020, NCPA Legal Committee Special Meeting Minutes

1. Call Meeting to Order and Roll Call

The special meeting was called to order at 8:35 pm by Chair Barry DeWalt. At roll call the following members were present by telephone:

Alameda Municipal Power- Alan Cohen, BART-Marco Gomez, Biggs-Gregory Einhorn, Lodi-Janice Magdich, Lompoc-Joe Pannone, Palo Alto-Molly Stump, Port of Oakland-Catrina Fobian, Redding-Barry DeWalt, Roseville-Joe Mandell, Santa Clara-Brian Doyle, and Ukiah-David Rapport. A quorum was present.

Also participating in the meeting were Palo Alto-Lena Perkins and Greg Scharff, NCPA General Counsel Jane Luckhardt, NCPA General Manager Randy Howard, NCPA Legislative and Regulatory Assistant General Manager Jane Cirrincione, NCPA Power Management Assistant General Manager Tony Zimmer, consultant Jerry Toenyas, special counsel Lisa Dowden and Jeff Schwarz of the Spiegel firm, and NCPA administrative support Linda Stone.

2. Public Comment

The Chair read the notification regarding Public Comment and asked if any member of the public would like to address the Committee. There was no public comment.

3. Approval of Meeting Minutes

The minutes of the September 3, 2020 meeting were presented by staff for review and approval. Molly Stump (Palo Alto) made a motion to approve the minutes as presented; second by Alan Cohen (Alameda). There was no discussion. A roll call vote was taken, as follows. The motion passed.

Vote Summary on Motion	
Participant	Vote
Alameda Municipal Power	Yes
BART	Yes
Biggs	Yes
Gridley	Absent
Healdsburg	Absent
Lodi	Yes
Lompoc	Yes
Palo Alto	Yes
Plumas-Sierra	Absent
Port of Oakland	Yes
Redding	Yes
Roseville	Yes
Santa Clara	Yes
Shasta Lake	Absent
Truckee Donner PUD	Absent
Ukiah	Yes
Vote Summary	
Total Yes	11
Total Noes	0
Total Abstain	0
Total Absent	5
Result:	Pass

4. Closed Session

The committee went into Closed Session at 8:42 a.m. - Conference with Legal Counsel – existing litigation pursuant to Government Code Section 54956.9(d)(1) – one case.

Case Name: Northern California Power Agency, City of Redding, City of Roseville, and City of Santa Clara v. the United States, United States Court of Appeals for the Federal Circuit - Appeal from the United States Court of Claims No. 14-817-TCW.

The meeting reconvened to Open Session at 9:02 a.m.

5. Report from Closed Session

General Counsel Jane Luckhardt advised that no reportable action was taken during Closed Session.

6. 2025 Power Marketing Plan – Western Area Power Administration Base Resource Contract

Jane Luckhardt introduced this item and turned it over to Tony Zimmer for discussion, as Regina Rieger was not then available. Documents pertinent to the discussion were included with the meeting materials for committee review. Tony discussed WAPA's 2025 Power Marketing Plan, and the proposed Base Resource Final Contract which has an effective date of January 1, 2025, and runs through 2054,

but includes a provision for early termination every five years within the contract term. It is a “take-or-pay” contract. Tony discussed the new sections of the contract. Western has said this is the final version of the agreement and is not subject to further negotiations. The deadline for execution of the agreement is March 16, 2021. Jane Luckhardt commented that we wanted to be sure participants have an exit strategy. Barry DeWalt said he is very happy for the off-ramp every five years.

7. Proposed Legal Committee Meeting Dates for 2021

Staff presented the proposed regular meeting dates for 2021. Brian Doyle (Santa Clara) made a motion to approve the regular meeting schedule as presented; second by Janice Magdich (Lodi). There was no discussion. A roll call vote was taken, as follows. The motion passed.

Vote Summary on Motion	
Participant	Vote
Alameda Municipal Power	Yes
BART	Yes
Biggs	Yes
Gridley	Absent
Healdsburg	Absent
Lodi	Yes
Lompoc	Yes
Palo Alto	Yes
Plumas-Sierra	Absent
Port of Oakland	Yes
Redding	Yes
Roseville	Yes
Santa Clara	Yes
Shasta Lake	Absent
Truckee Donner PUD	Absent
Ukiah	Yes
Vote Summary	
Total Yes	11
Total Noes	0
Total Abstain	0
Total Absent	5
Result:	Pass

8. General Counsel Updates

Jane Luckhardt reported that on September 28, 2020, counsel for APPA filed a Petition for Rehearing *En Banc* in the Ninth Circuit Court of Appeal in the matter of the American Public Power Association v. Federal Communications Commission, *et al.* APPA will keep us advised and let us know if it wants any support for this petition.

9. Adjournment

The meeting was adjourned at 9:33 a.m.



651 Commerce Drive
Roseville, CA 95678

phone (916) 781-3636
fax (916) 783-7693
web www.ncpa.com

Minutes – Legal Committee Special Meeting

To: NCPA Legal Committee
From: Linda Stone
Subject: October 27, 2020 NCPA Legal Committee Special Meeting Minutes

1. Call Meeting to Order and Roll Call

The special meeting was called to order at 8:35 pm by Vice Chair Molly Stump. At roll call the following members were present by telephone:

Biggs-Gregory Einhorn, Gridley-Anthony Galyean, Healdsburg-Samantha Zutler, Lodi-Janice Magdich, Palo Alto-Molly Stump, Plumas-Sierera- Michael Vergara, Port of Oakland-Catrina Fobian, Redding-Jake Baldwin, Roseville-Joe Mandell, Santa Clara-Caio Arellano, and Ukiah-David Rapport. A quorum was present.

Also participating in the meeting were NCPA General Counsel Jane Luckhardt, NCPA Legislative and Regulatory Assistant General Manager Jane Cirrincione, special counsel Lisa Dowden and Jeff Schwarz of the Spiegel firm, and NCPA administrative support Linda Stone.

2. Public Comment

The Vice Chair read the notification regarding Public Comment and asked if any member of the public would like to address the Committee. There was no public comment.

3. Closed Session

The committee went into Closed Session at 8:40 a.m. - Conference with Legal Counsel – existing litigation pursuant to Government Code Section 54956.9(d)(1) – one case.

Case Name: Northern California Power Agency, City of Redding, City of Roseville, and City of Santa Clara v. the United States, United States Court of Appeals for the Federal Circuit - Appeal from the United States Court of Claims No. 14-817-TCW.

The meeting reconvened to Open Session at 9:12 a.m.

4. Report from Closed Session

General Counsel Jane Luckhardt advised that no reportable action was taken during Closed Session.

5. General Counsel Updates

Jane Luckhardt reported that on October 22, 2020, the Ninth Circuit Court of Appeal denied the Petition for Rehearing *En Banc* in the matter of the American Public Power Association v. Federal Communications Commission, *et al.*

6. Adjournment

The meeting was adjourned at 9:14 a.m.



651 Commerce Drive
Roseville, CA 95678

phone (916) 781-3636
fax (916) 783-7693
web www.ncpa.com

Minutes – Legal Committee Meeting

To: NCPA Legal Committee
From: Linda Stone
Subject: November 5, 2020 NCPA Legal Committee Meeting Minutes

1. Call Meeting to Order and Roll Call

The meeting was called to order at 8:35 pm by Chair Barry DeWalt. At roll call the following members were present by telephone:

Alameda-Alan Cohen, Bart-Marco Gomez, Biggs-Gregory Einhorn, Gridley-Anthony Galyean, Healdsburg-Samantha Zutler, Lodi-Janice Magdich, Lompoc-Joe Pannone, Palo Alto-Molly Stump, Plumas-Sierra-Michael Vergara, Port of Oakland-Catrina Fobian, Redding-Barry DeWalt, Roseville-Joe Mandell, and Santa Clara-Caio Arellano. A quorum was present.

Also participating in the meeting were Palo Alto-Amy Bartell, Roseville-Michelle Bertolino and Brian Sch, NCPA General Counsel Jane Luckhardt, NCPA General Counsel Randy Howard, NCPA Legislative and Regulatory Assistant General Manager Jane Cirrincione, special counsel Lisa Dowden and Jeff Schwarz of the Spiegel firm, consultant Jerry Toenyas, and NCPA administrative support Linda Stone.

2. Public Comment

The Chair read the notification regarding Public Comment and asked if any member of the public would like to address the Committee. There was no public comment.

3. Closed Session

The committee went into Closed Session at 8:40 a.m. - Conference with Legal Counsel – existing litigation pursuant to Government Code Section 54956.9(d)(1) – one case.

Case Name: Northern California Power Agency, City of Redding, City of Roseville, and City of Santa Clara v. the United States, United States Court of Appeals for the Federal Circuit - Appeal from the United States Court of Claims No. 14-817-TCW.

The meeting reconvened to Open Session at 9:27 a.m.

4. Report from Closed Session

General Counsel Jane Luckhardt advised that no reportable action was taken during Closed Session.

5. General Counsel Updates

There were no updates.

6. Adjournment

The meeting was adjourned at 9:28 a.m.



651 Commerce Drive
Roseville, CA 95678

phone (916) 781-3636
fax (916) 783-7693
web www.ncpa.com

Minutes – Legal Committee Special Meeting

To: NCPA Legal Committee
From: Linda Stone
Subject: November 17, 2020 NCPA Legal Committee Special Meeting Minutes

1. Call Meeting to Order and Roll Call

The special meeting was called to order at 8:35 pm by Chair Barry DeWalt. At roll call the following members were present by telephone:

Bart-Marco Gomez, Biggs-Gregory Einhorn, Gridley-Anthony Galyean, Healdsburg-Samantha Zutler, Lodi-Janice Magdich, Lompoc-Joe Pannone, Palo Alto-Molly Stump, Port of Oakland-Catrina Fobian, Redding-Barry DeWalt, Roseville-Joe Mandell, Santa Clara-Brian Doyle, and Ukiah-David Rapport. A quorum was present.

Also participating in the meeting were Palo Alto-Amy Bartell and Lena Perkins, Santa Clara-Caio Arellano, NCPA General Counsel Jane Luckhardt, NCPA General Counsel Randy Howard, NCPA Legislative and Regulatory Assistant General Manager Jane Cirrincione, special counsel Lisa Dowden and Jeff Schwarz of the Spiegel firm, consultant Jerry Toenyas, and NCPA administrative support Linda Stone.

2. Public Comment

The Chair read the notification regarding Public Comment and asked if any member of the public would like to address the Committee. There was no public comment.

3. Closed Session

The committee went into Closed Session at 8:39 a.m. - Conference with Legal Counsel – existing litigation pursuant to Government Code Section 54956.9(d)(1) – one case.

Case Name: Northern California Power Agency, City of Redding, City of Roseville, and City of Santa Clara v. the United States, United States Court of Appeals for the Federal Circuit - Appeal from the United States Court of Claims No. 14-817-TCW.

The meeting reconvened to Open Session at 9:20 a.m.

4. Report from Closed Session

General Counsel Jane Luckhardt advised that no reportable action was taken during Closed Session.

5. General Counsel Updates

Jane Luckhardt reported that work has started on a request for proposal for physical security plan evaluation services as a result of a CPUC decision. She expects that item will be on the agenda in December for discussion.

6. Adjournment

The meeting was adjourned at 9:28 a.m.



651 Commerce Drive
Roseville, CA 95678

phone (916) 781-3636
fax (916) 783-7693
web www.ncpa.com

Minutes – Legal Committee Meeting

To: NCPA Legal Committee
From: Linda Stone
Subject: January 7, 2021, NCPA Legal Committee Meeting Minutes

1. Call Meeting to Order and Roll Call

The meeting was called to order at 8:34 am by Chair Barry DeWalt. At roll call the following members were present by telephone:

Alameda Municipal Power- Alan Cohen, BART-Marco Gomez, Biggs-Gregory Einhorn, Gridley-Anthony Galyean, Healdsburg-Samantha Zutler, Lodi-Janice Magdich, Lompoc-Joe Pannone, Palo Alto-Molly Stump, Plumas-Sierra- Michael Vergara, Port of Oakland-Catrina Fobian, Redding-Barry DeWalt, Roseville-Joe Mandell, Santa Clara-Brian Doyle, and Ukiah-David Rapport. A quorum was present.

Also participating in the meeting were Palo Alto-Amy Bartell, Lena Perkins and Greg Scharff, Santa Clara-Caio Arellano, NCPA General Counsel Jane Luckhardt, NCPA General Manager Randy Howard, NCPA Legislative and Regulatory Assistant General Manager Jane Cirrincione, and NCPA administrative support Linda Stone.

2. Public Comment

The Chair read the notification regarding Public Comment and asked if any member of the public would like to address the Committee. There was no public comment.

3. Closed Session

The committee went into Closed Session at 8:40 a.m. - Conference with Legal Counsel – existing litigation pursuant to Government Code Section 54956.9(d)(1) – one case.

- a. Case Name: *Northern California Power Agency, City of Redding, City of Roseville, and City of Santa Clara v. the United States, United States Court of Appeals for the Federal Circuit - Appeal from the United States Court of Claims No. 14-817-TCW.*

The meeting reconvened to Open Session at 9:01 a.m.

4. Report from Closed Session

General Counsel Jane Luckhardt advised that no reportable action was taken during Closed Session. Lena Perkins from Palo Alto left the meeting after Closed Session.

5. RFP Regarding “Qualified Authority” Review

Jane Luckhardt briefed the committee about the Request for Proposal for Utility Physical Security Plan Evaluation Services issued by Emily Lemei of the L&R division. The RFP is a result of the CPUC physical security plan requirement that all utilities, including publicly-owned utilities, develop a plan for their distribution facilities. POUs must provide notice to the CPUC by July 10, 2021, that an independently-reviewed plan is adopted. Responses to NCPA’s RFP are due by January 15, 2021.

6. Review of Power Purchase Agreements

Jane Luckhardt presented a PowerPoint which outlined information about the South Feather Water and Power and Glover Solar Power Purchase Agreements under review. The South Feather PPA is an existing hydroelectric resource with four power houses, in which 10 of NCPA’s members are interested. Jane outlined the contract structure, some terms, operational requirements, outage scheduling, and curtailment. She noted that resource adequacy (RA) is extremely valuable now, especially due to the ISO’s change in how RA is required. The Glover Solar is a new build 19.95 MW photovoltaic project in Tulare County. The commercial operation date is targeted for December 31, 2023. Jane discussed the contract provisions and noted differences from the South Feather agreement, including that the Glover Solar is a private developer so it will indemnify us, we will not indemnify them. She said we just receive the off-take, and are not involved in the construction or maintenance of the project. Brian Doyle requested a copy of the environmental documents for the Glover Solar project. Randy Howard commented that both projects should meet the 10-year 65% RPS requirement; we will just need to make sure both contracts continue to do so. Joe Pannone requested that Jane provide the committee with a copy of the PowerPoint presentation. It will be dispatched at the conclusion of the meeting.

7. General Counsel Updates

- a. Clean Fuel Reward Program Non-Disclosure and Use of Confidential Materials Agreement. Jane Luckhardt thanked the legal committee members who agreed to serve on the ad hoc committee to review the CFR NDA. The NDA is required to access customer data from the clean fuels reward program. She advised the group that an updated draft incorporating input from the ad hoc committee was finalized and sent to Southern California Edison. Undoubtedly the committee members will be asked to sign-off on the NDA in order that their utilities may access its customer data from the CFR Program. It was noted that the NDA provides the cities must have a privacy policy. At this point, there is no identified expected date when the agreement will be presented for execution.
- b. Other Updates. No other updates or questions from the committee were discussed.

8. Adjournment

The meeting was adjourned at 9:30 a.m.