



Board of Directors Meeting
Thursday, May 19, 2016
7:00 P.M.

The Charles F. McGlashan Board Room
1125 Tamalpais Avenue, San Rafael, CA 94901

Kathrin Sears, Chair
County of Marin

Tom Butt, Vice Chair
City of Richmond

Bob McCaskill
City of Belvedere

Alan Schwartzman
City of Benicia

Sloan C. Bailey
Town of Corte Madera

Greg Lyman
City of El Cerrito

Barbara Coler
Town of Fairfax

Kevin Haroff
City of Larkspur

Sashi McEntee
City of Mill Valley

Brad Wagenknecht
County of Napa

Denise Athas
City of Novato

Carla Small
Town of Ross

Ford Greene
Town of San Anselmo

Genoveva Calloway
City of San Pablo

Andrew McCullough
City of San Rafael

Ray Withy
City of Sausalito

Emmett O'Donnell
Town of Tiburon

1125 Tamalpais Avenue
San Rafael, CA 94901

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1. Board Announcements (Discussion)
2. Public Open Time (Discussion)
3. Report from Chief Executive Officer (Discussion)
4. Consent Calendar (Discussion/Action)
 - C.1 4.21.16 Meeting Minutes
 - C.2 Approved Contracts Update
5. Procurement Authorization for Service to New Communities (Discussion/Action)
6. Preliminary Proposed Rate Adjustment for FY 2016/17 (Discussion/Action)
7. Preliminary Proposed Budget Adjustment for FY 2016/17 (Discussion/Action)
8. MCE Executive Committee and Technical Committee Overview and Scope (Discussion/Action)



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9. Resolution 2016-02 Approving Amendment 11 to the MCE Joint Powers Authority Agreement Authorizing Multi-Jurisdiction Board Representation (Discussion/Action)
10. Resolution 2016-03 Approving Second Amendment to River City Bank Non-Revolving Credit Agreement in the Principal Amount of \$20,000,000 (Discussion/Action)
11. Creation of MCE Power Settlements Analyst Staff Position (Discussion/Action)
12. Board Member & Staff Matters (Discussion)
13. Adjourn



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MCE BOARD MEETING MINUTES
Thursday, April 21, 2016
7:00 P.M.
THE CHARLES F. MCGLASHAN BOARD ROOM
1125 TAMALPAIS AVENUE, SAN RAFAEL, CA 94901

Roll Call: Director Tom Butt called the regular Board meeting to order at 7:09 p.m. An established quorum was met.

Present: Tom Butt, Vice Chair, City of Richmond
Denise Athas, City of Novato
Sloan Bailey, Town of Corte Madera
Peter Lacques, Alternate, Town of Fairfax
Greg Lyman, City of El Cerrito
Bob McCaskill, City of Belvedere
Sashi McEntee, City of Mill Valley
Andrew McCullough, City of San Rafael
Alan Schwartzman, City of Benicia
Brad Wagenknecht, County of Napa
Ray Withy, City of Sausalito

Absent: Genoveva Calloway, City of San Pablo
Ford Greene, Town of San Anselmo
Kevin Haroff, City of Larkspur
Emmett O'Donnell, Town of Tiburon
Kate Sears, Chair, County of Marin
Carla Small, Town of Ross

Staff: John Dalessi, Operations & Development
Alex DiGiorgio, Community Development Manager
Carol Dorsett, Administrative Assistant
Kirby Dusel, Resource Planning & Renewable Energy Programs
Darlene Jackson, Board Clerk
David McNeil, Finance and Project Manager
Justine Parmelee, Administrative Assistant
Jamie Tuckey, Director of Public Affairs
Dawn Weisz, Chief Executive Officer

1. Board Announcements (Discussion)

There were no announcements.

2. Public Open Time (Discussion)

There were no speakers.

3. Report from Chief Executive Officer (Discussion)

Dawn Weisz, Executive Officer reported on the following:

- MCE has been selected to receive the Green Leadership award for “Renewable Energy” at the Green California Summit, being held April 21st and April 22nd at the Sacramento Convention Center.
- There was a very strong response (20 bids received) in the Open Season bidding process. Bids included solar, wind, geothermal and small hydroelectric. Shortlist selections were discussed at the Ad Hoc Contracts Committee meeting on April 11th.
- Earth Day Event to be held at MCE Headquarters on April 22, 2016 from 10AM – 2PM to include actual launch of the Barbara George Learning Center with guest speakers.

4. Consent Calendar (Discussion/Action)

- C.1 3.17.16 Meeting Minutes
- C.2 Approved Contracts Update
- C.3 Monthly Budget Report
- C.4 2nd Addendum to 3rd Agreement with Troutman Sanders

Vice Chair, Butt opened the public comment period and there were no speakers.

ACTION: It was M/S/C (Lyman/Wagenknecht) to approve Consent Calendar Items C.1 through C.4. Motion carried by unanimous roll call vote: (Absent: Calloway, Greene, Haroff, O'Donnell, Sears and Small).

5. Receive Economic Impact Analysis and Consider 1. Resolution 2016-01 Approving the Cities of American Canyon, Calistoga, Lafayette, Napa, St. Helena, Walnut Creek and the Town of Yountville as MCE Members, 2. Authorizing Amendment 10 to the MCE JPA Agreement and 3. Submittal of Addendum 4 to the MCE Revised Implementation Plan (Discussion/Action)

Dawn Weisz, CEO, introduced this item providing brief history and summary of the inclusion process.

John Dalessi, Operations and Development Consultant, presented additional information directly related to the Economic Impact Analysis and addressed questions during Q&A.

Vice Chair, Butt opened the public comment period and there were no speakers.

ACTION: It was M/S/C (Bailey/Athas) to approve 1. Resolution 2016-01 Approving the Cities of American Canyon, Calistoga, Lafayette, Napa, St. Helena, Walnut Creek and the Town of Yountville, 2. It was M/S/C

(Bailey/Lyman) Authorizing Amendment 10 to the MCE JPA Agreement, and 3. It was M/S/C (Bailey/Wagenknecht) Approving Submittal of Addendum 4 to the MCE Revised Implementation Plan to the CPUC. Motion carried by unanimous roll call vote: (Absent: Calloway, Greene, Haroff, O'Donnell, Sears and Small).

6. Proposed Ad Hoc Audit Committee (Discussion/Action)

David McNeil, Finance and Project Manager, presented this item and addressed questions from Board members.

Vice Chair, Butt opened the public comment period and there were no speakers.

ACTION: It was M/S/C (Schwartzman/Athas) to approve creation of the Ad Hoc Audit Committee. Motion carried by unanimous roll call vote. The following Directors volunteered to participate on the Ad Hoc Audit Committee: Bob McCaskill, Sashi McEntee and Ray Withy. (Absent: Calloway, Greene, Haroff, O'Donnell, Sears and Small).

7. Policy 014: Investment Policy (Discussion)

David McNeil, Finance and Project Manager, presented this item and addressed questions from Board members.

Vice Chair, Butt opened the public comment period and there were no speakers.

ACTION: It was M/S/C (Lyman/McCullough) to approve the proposed Investment Policy 014. Motion carried by unanimous roll call vote. (Absent: Calloway, Greene, Haroff, O'Donnell, Sears and Small).

8. Communications Update (Discussion)

Alex DiGiorgio, Community Development Manager and Jamie Tuckey, Director of Public Affairs, co-presented this discussion item.

Vice Chair, Butt opened the public comment period and there were no speakers.

ACTION: No action required.

9. Board Member & Staff Matters (Discussion)

There were none.

10. Adjournment

The Board of Directors adjourned the meeting at 8:38 p.m. to the next Regular Board Meeting on May 19, 2016.

Tom Butt, Vice Chair

Attest:

Dawn Weisz, Secretary



May 19, 2016

TO: MCE Board of Directors

FROM: Sarah Estes-Smith, Director of Internal Operations

RE: Report on Approved Contracts (Agenda Item #04 – C.2)

Dear Board Members:

SUMMARY: This report summarizes agreements entered into by the Chief Executive Officer in the past month. This summary is provided to your Board for information purposes only.

Review of Procurement Authorities

In March 2013 your Board adopted Resolution 2013-04 as follows;

The Chief Executive Officer is hereby authorized to enter into and execute contracts for an amount not to exceed \$25,000 per contractor per fiscal year, consistent with the Board approved budget, the Joint Powers Agreement, and the Operating Rules and Regulations.

In November 2012 your Board approved the MCE Integrated Resource Plan stating;

Power purchase agreements (energy, capacity, RECs) with terms of 12 months or less may be entered into on MCE's behalf by the Chief Executive Officer.

Power purchase agreements (energy, capacity, RECs) with terms of greater than 12 months and less than or equal to 5 years and which are made pursuant to a Board approved resource plan may be entered into on MCE's behalf by the Chief Executive Officer in conjunction with the MCE Board Chair. An ad hoc committee of the MCE Board will be consulted prior to execution of any medium-term contracts.

Power purchase agreements (energy, capacity, RECs) with terms of greater than 5 years shall require Board approval prior to execution.

The Chief Executive Officer is required to report all such contracts and agreements to the MCE Board on a regular basis.

Summary of Agreements entered into by the Chief Executive Officer since the last Board meeting:

Month	Purpose	Contractor	Maximum Annual Contract Amount	Term of Contract
April	Regulatory technical reporting coordination services	Bevilacqua-Knight, Inc.	\$9,240	8 months

April	Retirement Plan Administrative Services for 401(a) and 457(b) plans	Benefit Resources, Inc.	\$7,500	1 year
April	2015 Green-e Energy Audit	Hein & Associates	\$10,500	2 months
April	Purchase of Renewable Energy	Avangrid Renewables	\$1,487,614	3 years
May	Consulting for enrollment of new communities	Allison Hang	\$6,400	1 month
May	MCE sale of July Resource Adequacy	City of Lancaster	(\$29,750)	1 month
May	MCE sale of July Resource Adequacy	Shell Energy North America	(\$14,000)	1 month

Fiscal Impact: Expenses associated with these contracts are included in the approved FY 2015/16 and/or FY2016/17 Budgets.

Recommendation: Information only. No action required.



May 19, 2016

TO: MCE Board of Directors

FROM: Dawn Weisz, CEO
John Dalessi, Operations and Development

RE: Procurement Authorization for Electricity Supply to New Communities (Agenda Item #05)

ATTACHMENT: Applicant Analysis for the Cities of American Canyon, Calistoga, Lafayette, Napa, St. Helena, Walnut Creek and the Town of Yountville

Background

On April 21, 2016 your Board adopted Resolution No. 2016-01 approving the Cities of American Canyon, Calistoga, Lafayette, Napa, St. Helena, Walnut Creek and the Town of Yountville as members of MCE. Prior to taking this action a quantitative Applicant Analysis (see attached) was presented to your Board that included projected budgetary impacts of service to these communities.

The Applicant Analysis demonstrated that anticipated revenue would be more than sufficient to cover the cost of power supply at current market costs, and to cover other anticipated operational expenditures. The Applicant Analysis projected an increase in annual MCE electricity sales of 1,034,537 MWh or approximately 59%. Rate and financial impacts were based on wholesale electricity pricing at the time the analysis was completed and such pricing is subject to change. Actual costs will be based on wholesale electricity pricing that is offered to MCE at the time of power supply contract execution. The electric requirements for the new communities are as follows:

Classification	Accounts	Annual Energy (MWh)	Monthly Per Account (KWh)
Residential	83,909	502,470	499
Small Commercial	7,765	150,719	1,618
Medium Commercial	943	196,064	17,326
Large Commercial	323	293,970	75,844
Industrial	Included in Large Commercial		
Agricultural and Pumping	83	759	762
Street Lighting	<u>719</u>	<u>5,504</u>	<u>638</u>
Total	93,741	1,149,486	1,022
Peak Demand (MW)			210

The next step required to prepare for service to the new communities is procurement of electric supply in accordance with the Board-approved Integrated Resource Plan. After power supply agreements are in place and costs are final, a final budget adjustment for FY 2016/17 will be presented to your Board to account for the increases in revenue and expenditures.

Fiscal Impact

Budgetary impacts of the recommended actions are expected to be positive as increases in revenues would more than compensate for power supply expenses. The projected cost of power is expected to range from \$30M to \$40M, and specific budgetary impacts will be included in a FY 2016/17 budget amendment to be presented to the Board in June.

Recommendation

Authorize CEO and Board Chair to enter into power purchase agreements to satisfy electricity supply needs for the new MCE communities in alignment with the Integrated Resource Plan, and within limits of projected revenue.

Marin Clean Energy Applicant Analysis for 2016

April 8, 2016

SUMMARY

MCE's currently effective policy regarding new membership requires the completion of a quantitative analysis as part of the preliminary evaluative process. The primary focus of the quantitative analysis is to determine the anticipated net rate impacts that would affect MCE's existing customer base following the addition of the prospective new community – in particular, the quantitative analysis must demonstrate that the addition of the prospective new community will result in a projected net rate reduction for MCE's existing customer base; this is a threshold requirement that must be met before proceeding with further membership activities. In addition, the quantitative analysis addresses the projected environmental impacts that would result from offering CCA service to the prospective new community. More specifically, the analysis prospectively determines whether or not the new community will accelerate greenhouse gas (GHG) reductions (beyond those reductions already achieved by MCE's existing membership) while increasing the amount of renewable energy being used within California's energy market.

During the course of the past several months, MCE has received membership requests from seven municipalities that have taken the requisite steps to be considered for membership in MCE. These municipalities include American Canyon, Calistoga, Lafayette, Napa, Saint Helena, Walnut Creek and Yountville. MCE established a March 31st, 2016 cutoff date for consideration of membership requests in this phase, and these requests are being evaluated together, due to the efficiencies in resource planning, electric procurement and customer outreach that would be gained from extending service to the new communities at the same time. The membership requests have been grouped together and the quantitative analysis performed on the aggregate electric load data of all seven municipalities. The results of the quantitative analysis are summarized in this report.

In general, the quantitative analysis indicates that rate benefits would likely accrue to existing MCE customers following the addition of prospective customers located within the applicant jurisdictions. **It is estimated that the additional customer base would yield net revenues that could result in an average 8% reduction in MCE rates. The analysis also indicates that service to the new customers would increase the amount of renewable energy being used in California's energy market by approximately 269,000 MWh per year while reducing GHG emissions by an estimated 105 million pounds of carbon dioxide equivalent per year.**¹

¹ GHG emission reduction estimates are based on MCE's actual 2012 emission factor of 334 lbs. CO₂e/MWh and PG&E's verified 2014 emission factor of 435 lbs. CO₂e/MWh, as released in February 2016. The projected GHG savings of 101 lbs. CO₂e/MWh (based on the difference between MCE's emission factor PG&E's emission factor) was multiplied by the projected increase in MCE's annual sales volume resulting from the addition of CCA customers located within applicant municipalities, a volume approximating 1,034,537 MWh/year. Note that these projections are subject to change.

ANALYSIS

MCE conducted an analysis of the potential new electric customers to estimate the revenues and costs associated with extending MCE service to the applicant jurisdictions. The analysis incorporated historical monthly electric usage data provided by PG&E for all current electric customers located within these municipalities.

The number of potential customers by applicant municipality is shown in Figure 1.

Figure 1: Electric Service Accounts by Municipality

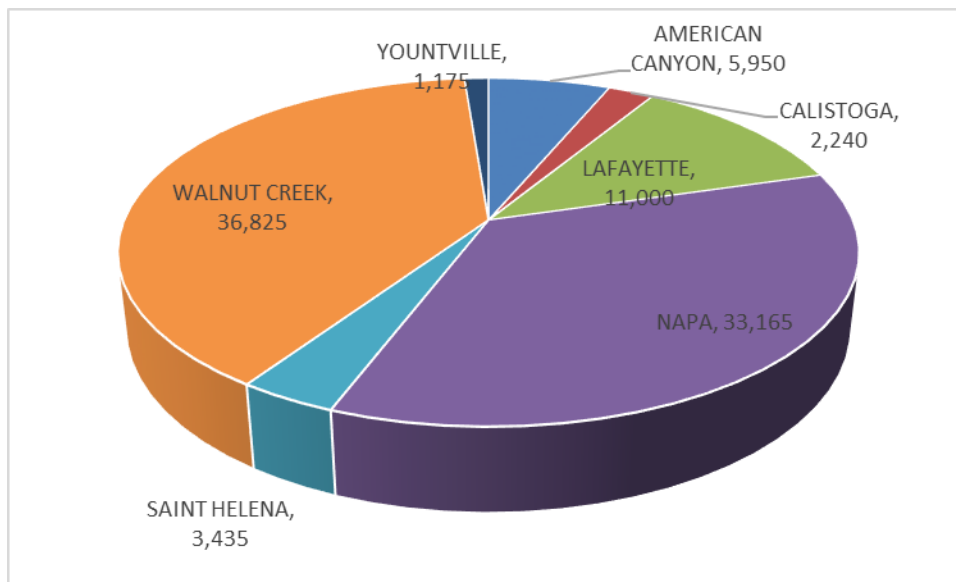


Table 1 summarized the aggregate account and electricity usage data for the major customer classifications in the applicant municipalities. The electric data indicate the potential for nearly 94,000 new MCE customers with a potential increase in annual electricity sales approximating 1,150,000 MWh per year. The aggregate peak demand of these customers is estimated at 210 MW.²

Table 1: 2016 Applicant Electric Data

Classification	Accounts	Annual Energy (MWh)	Monthly Per Account (KWh)

² These figures are for bundled electric customers of PG&E and exclude customers taking service from non-utility energy service providers through the state's direct access program as well as certain accounts on generation service contracts. These figures are unadjusted for expected customer participation rates.

Residential	83,909	502,470	499
Small Commercial	7,765	150,719	1,618
Medium Commercial	943	196,064	17,326
Large Commercial	323	293,970	75,844
Industrial	Included in Large Commercial		
Agricultural and Pumping	83	759	762
Street Lighting	<u>719</u>	<u>5,504</u>	<u>638</u>
Total	93,741	1,149,486	1,022
Peak Demand (MW)			210

As compared to the current MCE customer base, summarized in Table 2 below, the applicant municipalities include a similar mix of customer service classifications, with a slightly higher proportion of residential customers and proportionately fewer small commercial customers. Aggregate per capita electricity consumption is higher in the new communities by approximately 12% for residential customers and 19% overall. The industrial sector in the applicant communities uses almost twice the electricity on a per customer basis as the current MCE industrial customer base. Note that the data for industrial accounts in Table 1 are included in the Large Commercial category in order to comply with customer confidentiality rules.³

³ Generally, data must be aggregated if there are fewer than 15 customers in a category or if any customer accounts for 15% or more of the category total: the so-called “15/15 rule”.

Table2: 2016 MCE Electricity Data

Classification	Accounts	Annual Energy (MWh)	Monthly Per Account (KWh)
Residential	149,610	796,573	444
Small Commercial	17,119	271,610	1,322
Medium Commercial	1,429	238,002	13,879
Large Commercial	575	273,019	39,568
Industrial	24	150,535	522,691
Agricultural and Pumping	1,625	18,964	972
Street Lighting	<u>1,219</u>	<u>16,622</u>	<u>1,136</u>
Total	171,601	1,765,324	857
Peak Demand (MW)			310

In regards to seasonal consumption patterns, electric usage in the applicant communities peaks during the summer months, whereas the current MCE load is flatter across the year, showing similar peaks in the summer as well as during the colder winter months of December and January. These differences can be seen in comparing Figure 2 and Figure 3 below. All else being equal, service costs are higher during the summer season due to higher costs for energy and capacity needed to supply the load. However, MCE has a seasonal rate structure for most non-residential customers such that rates are higher during the summer season, and the net revenue impact of increased summer energy usage is generally positive.

Figure 2: Applicant Communities Hourly Load Profile (KW)

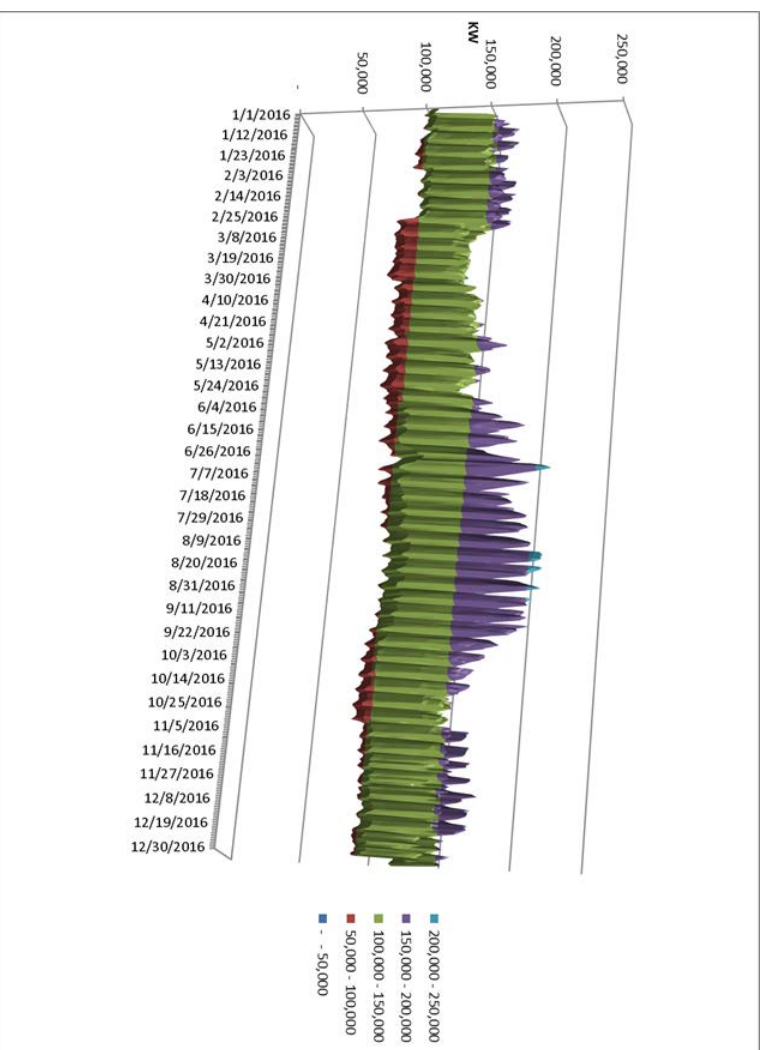


Figure 3: MCE Hourly Load Profile (KW)

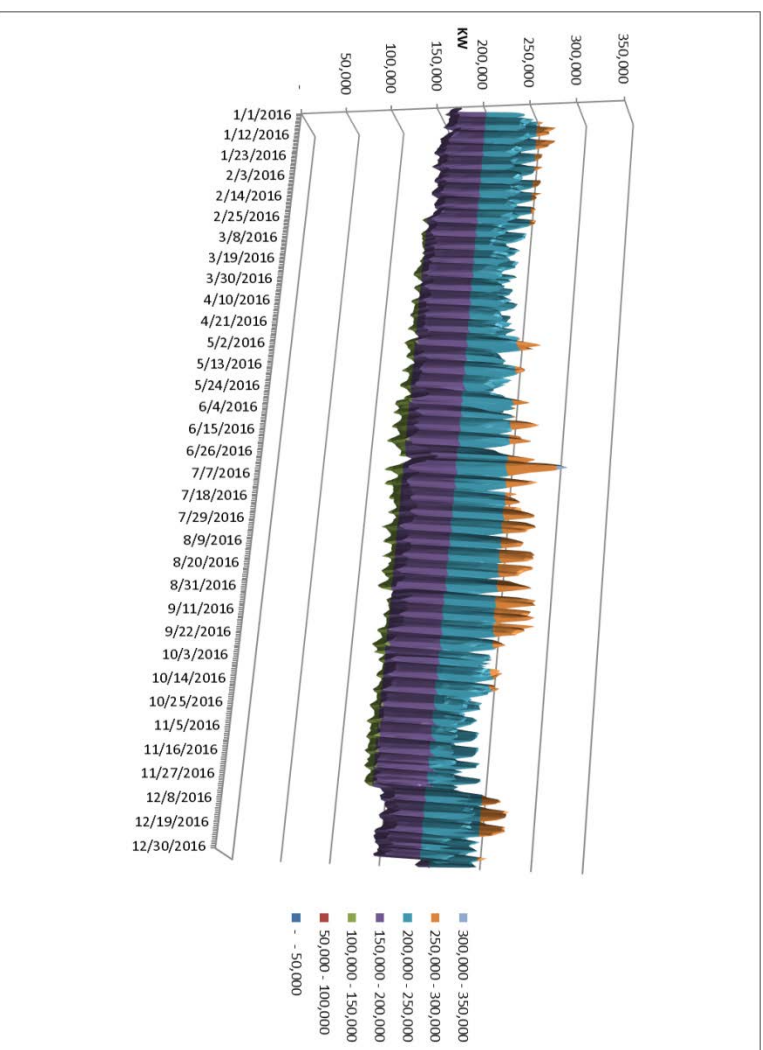
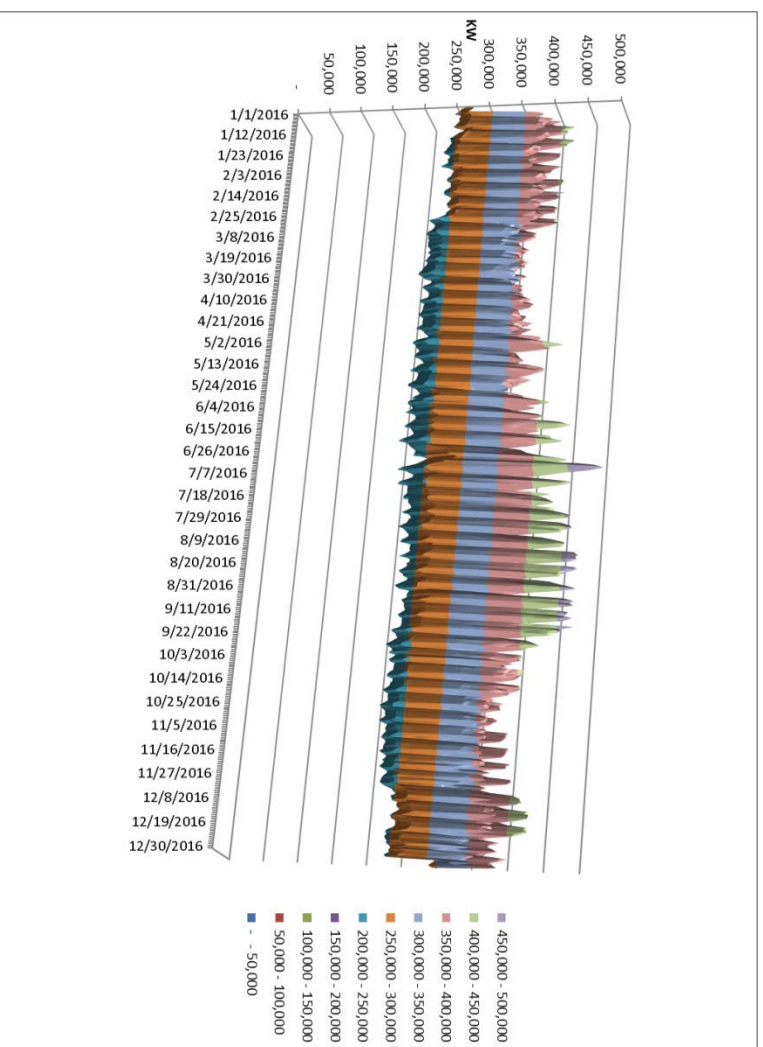


Figure 4: MCE Adjusted Hourly Load Profile Including Applicant Communities



RATE IMPACTS

For purposes of the rate impact analysis, it was assumed that service would be initiated to the new communities in September, 2016 and that 90% of customers who would be offered MCE service would elect to participate. This would equate to an increase in annual MCE electricity sales of 1,034,537 MWh or approximately 59%. In order to quantify rate impacts on a fiscal year basis, the incremental revenues and costs were examined for the first complete fiscal year following the planned enrollment; i.e., the period from April 1, 2017 through March 31, 2018.

The incremental revenue surplus, based on the difference between projected revenues and costs directly related to the addition of these customers, is assumed to offset a share of MCE's fixed costs and could be used to reduce overall MCE rates. The incremental cost analysis accounts for ongoing costs related to additional power supplies, customer billing, customer service support (call center), PG&E service fees, incremental staffing and legal costs, communications and ongoing customer notices associated with serving the additional customers.

Table 3 presents the estimated potential rate impacts for FY 2017/18, the first full fiscal year that would include the new customers.

Table 3: FY2017/2018 MCE Rate Impact from Applicant Communities

Volume (MWh)	1,034,537

Revenue	\$84,879,341
Costs	
Power Supply Cost	\$58,875,810
Billing and Other Costs	\$3,729,100
Total Cost	\$62,604,911
Targeted Reserve (@4%)	\$3,395,174
Rate Benefit	\$18,879,257
MCE Rate Impact	8%

The rate impact analysis indicates that the addition of the applicant communities' customers to MCE's total customer base would provide benefits to MCE ratepayers; it is estimated that expanding MCE service to the applicant communities would allow for MCE rates to be 8% lower than without such customers. This benefit accrues due to the margins generated by a higher sales volume; economies of scale as fixed administrative costs can be spread over a larger sales base; and a reduction in MCE's average power supply costs, as the cost of marginal power purchases is below MCE's average cost of power.

Additional costs related to the expansion would be incurred during the current fiscal year, prior to initiation of service to the new customers. These costs would be incurred for marketing and outreach, customer noticing, regulatory, legal, internal operations, resource planning and electric procurement activities that would be necessary to incorporate the new member communities and its customers into MCE and provide outreach to the new customers. The projected implementation costs are expected to be less than \$900,000, and would be more than offset during the remainder of the fiscal year by incremental net revenues from electric sales to the new customers.

RATE IMPACT SENSITIVITIES

The rate impact estimate is based on current power supply pricing, which could change prior to the time when power supply contracts are executed to cover the new load. Additionally, actual customer participation may vary from the currently projected 90% participation rate. A sensitivity analysis was performed to evaluate the risk associated with these variables. The sensitivity results, shown in Table 4, indicate that rate impacts will be positive under a reasonable range of possible scenarios.

Table 4: Rate Impact Sensitivities

Scenario	Rate Impact
Base Projection	8%
Power Costs + 10%	6%
Power Costs +30%	3%
Power Costs -10%	10%
75% Participation Rate	7%
0% Industrial Participation	8%

RENEWABLE ENERGY IMPACTS

Renewable energy requirements were calculated for the applicant municipalities to ensure compliance with the statewide Renewables Portfolio Standard (RPS) as well as the more aggressive MCE renewable energy content standards adopted by MCE. The total renewable energy requirement associated with prospective expansion to the applicant municipalities would be approximately 548,000 MWh annually. This renewable energy volume is equivalent to the energy produced by 63 MW of geothermal capacity (or a similar baseload renewable generating technology using a fuel source such as biomass or landfill gas) or approximately 210 MW solar PV generating capacity.

Table 5: Incremental Renewable Energy Requirements

Renewable Energy Product Content Category	Annual MWh (2017)
PCC1	383,813
PCC2	131,593
PCC3	32,898
Total Renewable Energy	548,305

Enrolling the applicant municipalities' electric customers in MCE service will increase the amount of renewable energy being used in California's energy market by approximately 269,000 MWh annually, based on the increased renewable energy procurement targets voluntarily adopted by MCE's governing Board relative to California's then-current RPS mandate (which must be followed by PG&E).

Table 6: Renewable Energy Impacts

	Annual MWh (2017)
Retail Sales	1,034,537
MCE Renewable Energy Standard	548,305
State Renewable Portfolio Standard	279,325
Increase in Renewable Energy	268,980

GREEN HOUSE GAS EMISSIONS IMPACTS

With regard to projected GHG emission reductions that would result from the expansion of MCE service to the applicant communities, estimates were derived by comparing the most current, validated emission statistics related to the MCE and PG&E electric supply portfolios. With regard to these statistics, PG&E and MCE both recently reported their respective emission statistics for the 2014 calendar year. Due to typical timelines affecting the availability of such information, PG&E's current statistics (focused on the 2014 calendar year) will generally reference data related to utility operations occurring twelve to twenty-four months prior to the current calendar year. This waiting period is necessary to facilitate the compilation of final electric energy statistics (e.g., customer energy use and renewable energy deliveries) and to allow sufficient time for data computation, review and third-party audit before releasing such information to the public. As noted by PG&E, its 2014 emission factor was determined to be 435 lbs. CO₂/MWh. By comparison, MCE's aggregate portfolio emission factor for the

2014 calendar year for the default Light Green product was determined to be 334 lbs. CO₂e/MWh, a difference of 23%.

To estimate the projected GHG emissions reductions that would likely result from the addition of prospective CCA customers located within the applicant municipalities, MCE calculated the difference between its own emission factor (334 lbs. CO₂e/MWh) and the related metric reported by PG&E (435 lbs. CO₂/MWh): 101 lbs. CO₂/MWh. This difference was multiplied by the projected increase in annual electricity sales that would result from the addition of the applicant municipalities' CCA customers (1,034,537 MWh), resulting in a projected GHG emissions savings related to the transition of these customers to MCE's cleaner electricity supply. The projected emissions savings/reduction related to this service transition (from PG&E to MCE) was determined to be approximately 105 million pounds of carbon dioxide equivalent per year.

It is noteworthy that the future emission factors reported by MCE and PG&E will likely differ from the statistics applied in this analysis – this is due to a variety of factors, including planned/unplanned changes in renewable energy procurement (including planned increases in California's RPS procurement requirements), variations in hydroelectric power production (which may change substantially from year to year based on prevailing regional hydrological conditions) and changes/adjustments in the general procurement policies of each service provider as well as many other factors. Also note that MCE has committed to assembling a power supply portfolio that not only exceeds the renewable energy content offered by PG&E but also provides customers with a "cleaner" energy alternative, as measured by a comparison of the portfolio GHG emission rate (or emission factor) published by each organization. As such, MCE plans to continue procuring electricity from non-GHG emitting resources in sufficient quantities to maintain an emission rate that is continually lower than PG&E's.



May 19, 2016

TO: MCE Board of Directors

FROM: John Dalessi, Operations and Development

RE: Preliminary Proposed Rate Adjustment for FY 2016-17 (Agenda Item #06)

ATTACHMENT: Proposed FY 2016/17 Revised Rates

Background

On April 21, 2016 your Board adopted Resolution No. 2016-01 approving the Cities of American Canyon, Calistoga, Lafayette, Napa, St. Helena, Walnut Creek and the Town of Yountville as members of MCE. Prior to taking this action a quantitative Applicant Analysis was presented to your Board that included projected budgetary impacts of service to these communities.

The Applicant Analysis demonstrated that anticipated revenue would be more than sufficient to cover the cost of power supply at current market costs, and to cover other anticipated operational expenditures. The projected surplus of revenues over costs would allow for a reduction in MCE rates, while still maintaining a targeted contribution to reserves of approximately 4% of revenue.

MCE plans to commence service to the new communities in September 2016. Under MCE's normal ratesetting cycle, the next opportunity for rate adjustments would occur in April 2017, but your Board has discretion to adjust rates at any time subject to a 30-day customer notice period. Staff recommends your Board consider a rate reduction to become effective on September 1st 2016. This action will allow for MCE to offset a larger portion of the PCIA increase that was imposed by PG&E on January 1, 2016, and bring MCE service closer to cost parity with PG&E.

Proposed Rate Adjustment

Current MCE rates were designed to yield a contribution to reserves in the current fiscal year of approximately 4% of annual revenues. Staff preliminarily projects, based on current market pricing for energy to be purchased on behalf of the new MCE customers, that lowering MCE rates by an average of 7.5% would maintain the targeted reserve contribution of 4% for the current fiscal year. The precise rate adjustment will be known once the requisite power supply contracts are executed and a final budget adjustment is presented to your Board in June. Final rates effective September 1, 2016 will be presented for adoption at that time.

Fiscal Impact

The budgetary impacts of the recommended actions are reflected in the preliminary proposed Budget Adjustment for FY 2016/17 contained in Agenda Item #07. If

approved, the projected impact on revenues for the current fiscal year would be a reduction of approximately \$10 million.

Recommendation

Accept proposal to reduce MCE rates effective September 1, 2016 to achieve a targeted contribution to reserves for FY 2016-17 of 4% of annual revenue, and prepare final rates for approval at the June Board meeting.



May 19, 2016

TO: MCE Board of Directors

FROM: David McNeil, Finance and Project Manager
Mike Maher, Maher Accountancy

RE: Preliminary Proposed Budget Amendment for FY 2016/17 (Agenda Item #07)

ATTACHMENT: Preliminary Proposed Budget Amendment (Operating Only) for FY 2016/17

SUMMARY:

On April 21, 2016 your Board adopted Resolution No. 2016-01 approving the Cities of American Canyon, Calistoga, Lafayette, Napa, St. Helena, Walnut Creek and the Town of Yountville as members of MCE. The Proposed Budget Amendment for Fiscal Year Ending March 31, 2017 sets forth the following adjustments to the Operating Fund in order to accommodate the expansion of MCE's service area. Additional funding is requested to support such activities as obtaining a credit rating, supporting continued CCA cooperation and obtaining Scheduling Services to support energy procurement.

Revenue – Electricity (+\$38,619,000, 27% increase): The increase in revenues results from the addition of new communities beginning in September, 2016. Budgeted revenues assume an average decrease in rates of 7.5% beginning in September, 2016 and a 10% opt out rate for new communities.

Cost of Energy (+\$33,983,000, 27% increase): Increased energy costs reflect the projected cost of purchasing additional energy to serve new communities. Cost increase estimates are based on market energy price information and from preliminary bids from prospective suppliers.

Service Fees – PG&E (+\$307,000, 37% Increase): PG&E Service Fees are based on the number of customer meters and are expected to increase as a result of the addition of new communities.

Personnel (+ \$887,000, 6.0% increase): Increased budgeted personnel costs represent a \$150,000 increase in contingencies and a \$737,000 increase related to new positions and bringing some external functions in-house. The new positions in the Electric Supply, Public Affairs and Legal and Regulatory teams and are intended to support the growth of the organization.

Data Manager (+ \$819,000, 0.2% increase): Data manager costs are based on the number of customer meters which is expected to increase by approximately 87,000 with the addition of new communities.

Technical and Scheduling Services (+278,000, 52% increase): Technical consultant costs are tied to the volume of customer usage which is increasing with the addition of new communities. Projected costs in this category will also increase as a result of costs associated with contracting for a Scheduling Coordinator services provider. MCE is currently evaluating several offers to provide Scheduling Coordinator services.

Legal (+ \$100,000, 14% increase): Legal expenditures are budgeted to increase to support new legal

review of new Power Purchase Agreements related to the addition of new communities.

Communications Consultants and Related (+200,000, 27% increase): Increased communications cost estimates result from the addition of new communities most notably to pay for mailers and other communications material.

Other Services (+ \$65,000, 16% increase): The increase requested is primarily driven by an increase in contingencies and funding to support greater CCA cooperation.

General & Administration (+ \$50,000, 14% increase): The increase in this category is primarily driven by costs associated with an increase in the number of employees.

Occupancy (+25,000, 9% increase): The increase represents an increase in contingencies for adjustments to MCE's offices associated with an increase in the number of employees.

Interest Income (+\$35,000, 230% increase): Increased interest income is expected to result from an increase in interest rates on savings accounts at River City Bank.

Capital Outlay (+ \$102,000, 65% increase): The increase in capital outlay is due to various leasehold improvements made at MCE's facilities.

Interest Expense and Financing Costs (+ \$245,000, 115% increase): These costs are associated with increased issuance of letters of credit and with costs associated with obtaining a credit rating.

FISCAL IMPACT: The net impact of increased revenues and expenses is expected to add \$1,565,000 to MCE's net position during the balance of the fiscal year, pending final costs of power supply.

RECOMMENDATION: Provide feedback to staff on proposed Amendment to FY 2016/17 Operating Fund and direct staff to finalize the Amendment for approval in the June Board meeting.

MARIN CLEAN ENERGY			
OPERATING FUND			
Proposed Budget			
Fiscal Year 2016/17			
	2016/17 Original Budget	Proposed Amendment	Proposed Amended 2016/17 Budget
ENERGY REVENUE			
Revenue - Electricity (net of allowance)	\$ 144,507,000	38,619,000	\$ 183,126,000
Other Revenue			
TOTAL ENERGY REVENUE	144,507,000	38,619,000	183,126,000
ENERGY EXPENSES			
Cost of energy	126,864,000	33,983,000	160,847,000
Service fees - PG&E	918,000	337,000	1,255,000
TOTAL ENERGY EXPENSES	127,782,000	34,320,000	162,102,000
NET ENERGY REVENUE	16,725,000	4,299,000	21,024,000
OPERATING EXPENSES			
Personnel	4,489,000	887,000	5,376,000
Data manager	2,899,000	919,000	3,818,000
Technical and Scheduling Services	536,000	278,000	814,000
Legal counsel	717,000	100,000	817,000
Communications consultants & related	751,000	200,000	951,000
Other services	404,000	65,000	469,000
General and administration	368,000	50,000	418,000
Occupancy	288,000	25,000	313,000
Integrated demand side pilot programs	50,000	-	50,000
Marin County green business program	10,000	-	10,000
Low income solar programs	35,000	-	35,000
TOTAL OPERATING EXPENSES	10,547,000	2,524,000	13,071,000
OPERATING INCOME	6,178,000	1,775,000	7,953,000
NONOPERATING REVENUES (EXPENSES)			
Interest income	15,000	35,000	50,000
Interest expense and financing costs	(213,000)	(245,000)	(458,000)
Depreciation (supplemental)	(100,000)	-	(100,000)
TOTAL NONOPERATING REVENUES (EXPENSES)	(298,000)	(210,000)	(508,000)
CHANGE IN NET POSITION	5,880,000	1,565,000	7,445,000
Net position beginning of period	25,468,048		25,468,048
Change in net position	5,880,000	1,565,000	7,445,000
Net position end of period	31,348,048	1,565,000	32,913,048
CAPITAL EXPENDITURES, INTERFUND TRANSFERS & OTHER			
Capital Outlay	(156,000)	(102,000)	(258,000)
Depreciation (supplemental)	100,000	-	100,000
Repayment of Loan Principal	-	-	-
Transfer to Renewable Energy Reserve	-	-	-
Transfer to Local Renewable Energy Development Fund	(173,263)	-	(173,263)
TOTAL CAPITAL EXPENDITURES, INTERFUND TRANSFERS & OTHER	(229,263)	(102,000)	(331,263)
Net increase (decrease) in Operating Fund balance	\$ 5,650,737	\$ 1,463,000	\$ 7,113,737



May 19, 2016

TO: MCE Board of Directors

FROM: Dawn Weisz, CEO

RE: MCE Standing Committee Overview and Scope (Agenda Item #08)

ATTACHMENTS: A. Executive Committee Overview and Scope
B. Technical Committee Overview and Scope

Dear Board Members:

Summary:

As the MCE service area and Board membership has grown in recent years there has been some discussion in MCE Board and committee meetings about clearly defining the scope of MCE's two standing committees, Executive Committee and Technical Committee, and delegating authority for some items that have come to the full Board at times in the past to these standing committees. The attached 'Overview and Scope' documents for the Executive and Technical Committee have been prepared based on those discussions.

In addition to the discussions about scope, efforts have been made to broaden the membership of these committees to include representation from MCE's newer communities. As described in the attached documents, MCE strives to assemble an Executive Committee and Technical Committee comprised of at least one county representative and one city/town representative from each county in the MCE service area. Available seats on these committees are therefore first offered to any interested and applicable Board member whose county is not yet represented by one county and one city member.

The attached Overview and Scope documents were discussed and refined at the committee level in April and May, and were recommended for approval by your Board at the regular Executive Committee meeting held on May 5, 2016.

Fiscal Impact: No fiscal impact.

Recommendation: Approve Executive Committee and Technical Committee Overview and Scope documents for general use, and direct staff to update as needed.



MCE Executive Committee Overview of Scope

Maximum Membership: 9

Current Members: Tom Butt, City of Richmond (Chair)
Denise Athas, City of Novato
Sloan Bailey, Town of Corte Madera
Ford Greene, Town of San Anselmo
Kevin Haroff, City of Larkspur
Bob McCaskill, City of Belvedere
Kate Sears, County of Marin

New Members: MCE strives to assemble an Executive Committee comprised of at least one county representative and one city/town representative from each county in the MCE service area. Available seats on the Executive Committee are therefore first offered to any interested and applicable Board member whose county is not yet represented by one county and one city member.

Current meeting date: First Wednesday of each month at 10:00am

Scope of Authority Assigned by MCE Board of Directors:

The scope of the MCE Executive Committee is to explore, discuss and provide direction or approval on general issues related to MCE including legislation, regulatory compliance, strategic planning, outreach and marketing, contracts with vendors, human resources, finance and budgeting, and agenda setting for the regular MCE Board meetings and annual Board retreat.

Specific Authority Includes:

- Recommendations to Board regarding annual budget and any budget adjustments
- Recommendations to Board regarding rate setting
- Recommendations to Board to enter into debt
- Recommendations to Board regarding adjustments to staff benefits and compensation ranges
- Recommendations to Board regarding Policies (such as Operating Reserve Policy, Financing Policy)
- Recommendations to Board regarding legislative positions outside of Board-approved legislative plan
- Recommendation to Board regarding MCE inclusion of new communities
- Recommendations to Board regarding governance issues or adjustments
- Approval of contracts with vendors within the Board-approved budget
- Approval of new staff positions within Board-approved budget

Agenda Item #08_Att. A: Executive Committee Overview and Scope

- Approval of Petitions for Rulemaking or Complaints before regulatory bodies
- Oversight of litigation activity where Board action is not required
- Approval of recipient of honorary resolutions and awards



MCE Technical Committee Overview and Scope

Maximum Membership: 9

Current Members: Kate Sears, County of Marin (Chair)
Ford Greene, Town of San Anselmo
Kevin Haroff, City of Larkspur
Greg Lyman, City of El Cerrito
Emmett O'Donnell, City of Tiburon
Carla Small, Town of Ross
Ray Withy, City of Sausalito

New Members: MCE strives to assemble a Technical Committee comprised of at least one county representative and one city/town representative from each county in the MCE service area. Available seats on the Technical Committee are therefore first offered to any interested and applicable Board member whose county is not yet represented by one county and one city member.

Current meeting date: First Monday of each month at 5:00pm

Scope of Authority Assigned by MCE Board of Directors:

The scope of the MCE Technical Committee is to explore, discuss and provide direction or approval on issues related to electricity supply, distributed generation, greenhouse gas emissions, energy efficiency, and other topics of a technical nature.

Frequent topics include electricity generation technology and procurement, greenhouse gas accounting and reporting, energy efficiency programs and technology, energy storage technology, Net Energy Metering Tariff, local solar rebates, electric vehicle programs and technology, Feed-in Tariff activity and other local development, Light Green, Deep Green and Local Sol power content planning, long term integrated resource planning, regulatory compliance, and other activity related to the energy sector.

Specific Authority Includes:

- Review and discuss new technologies and potential application within MCE
- Recommendation to Board regarding any contracts with technical vendors outside of Board approved budget
- Recommendation to Board regarding any power purchase agreements outside of Board-approved budget
- Approval of and changes to MCE's Net Energy Metering Tariff
- Approval of and changes to MCE's Feed-in Tariff

- Approval of annual GHG emissions level and related reporting
- Approval of contracts with vendors for technical programs or services, energy efficiency program or services and procurement functions or services within the Board approved budget
- Approval of power purchase agreements within Board-approved budget
- Approval of adjustments to power supply product offerings for customers
- Approval of updates to the Integrated Resource Plan



May 19, 2016

TO: MCE Board of Directors

FROM: Dawn Weisz, CEO

RE: Resolution 2016-02 Approving Amendment 11 to the MCE Joint Powers Authority Agreement Authorizing Multi-Jurisdictional Board Representation (Agenda Item #09)

ATTACHMENTS: A. Resolution 2016-02 Approving Amendment 11 to the MCE Joint Powers Authority Agreement Authorizing Multi-Jurisdictional Board Representation
B. Draft Amendment 11 to the MCE Joint Powers Authority Agreement

Dear Board Members:

SUMMARY:

As the MCE service area and Board membership has grown in recent years there has been some discussion in regular Board meetings, committee meetings, and at the 2015 Board retreat about allowing some communities to combine Board representation into a shared representative for one or more communities. Some communities that have been approved for membership in MCE have expressed an interest in potentially providing one shared city representative to represent multiple cities within their county.

Because there is some benefit to the member communities and to MCE in allowing this approach for Board representation, an Amendment has been prepared for the MCE JPA Agreement, to accommodate this form of representation. The draft Amendment is attached as Amendment 11.

Amendment 11 provides that the 'designated Party' must be selected from within the same county as the Party making the designation; and also provides that in the case of multi-jurisdiction representation the designated Party shall have the combined votes and voting shares of the consolidated Parties and shall vote on behalf of the consolidated Parties.

Fiscal Impact: No fiscal impact.

Recommendation: Adopt Resolution 2016-02 Approving Amendment 11 to the MCE Joint Powers Authority Agreement Authorizing Multi-Jurisdictional Board Representation.

RESOLUTION NO. 2016-02

A RESOLUTION OF THE BOARD OF DIRECTORS OF MCE APPROVING AMENDMENT 11 TO THE MCE JPA AGREEMENT TO AUTHORIZE MULTI-JURISDICTION BOARD REPRESENTATION

WHEREAS, Marin Clean Energy (formerly, Marin Energy Authority) is a joint powers authority established on December 19, 2008, and organized under the Joint Exercise of Powers Act (Government Code Section 6500 et seq.); and

WHEREAS, Marin Clean Energy (MCE) members include the following communities: the County of Marin, the County of Napa, the City of American Canyon, the City of Belvedere, the City of Benicia, the City of Calistoga, the Town of Corte Madera, the City of El Cerrito, the Town of Fairfax, the City of Lafayette, the City of Larkspur, the City of Mill Valley, the City of Napa, the City of Novato, the City of Richmond, the Town of Ross, the Town of San Anselmo, the City of San Pablo, the City of San Rafael, the City of Sausalito, the City of St. Helena, the Town of Tiburon, the City of Walnut Creek, and the Town of Yountville; and

WHEREAS, the governing body of some Parties to the MCE Joint Powers Authority Agreement may desire to designate another Party within the same county (the “designated Party”) to represent it on the MCE Board with the Director and alternate Director from the designated Party;

WHEREAS, Amendment 11 to the MCE JPA Agreement has been prepared to allow for multi-jurisdiction Board representation through a “designated Party”; and

WHEREAS, Amendment 11 provides that the ‘designated Party’ must be selected from within the same county as the Party making the designation; and

WHEREAS, Amendment 11 provides that in the case of multi-jurisdiction representation the designated Party shall have the combined votes and voting shares of the consolidated Parties and shall vote on behalf of the consolidated Parties.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Directors of MCE that the MCE Board approves Amendment 11 to the MCE JPA Agreement to authorize multi-jurisdiction Board representation.

PASSED AND ADOPTED at a regular meeting of the MCE Board of Directors on this 19th day of May 2016, by the following vote:

	AYES	NOES	ABSTAIN	ABSENT
City of American Canyon				
City of Belvedere				
City of Benicia				
City of Calistoga				
Town of Corte Madera				
City of El Cerrito				
Town of Fairfax				
City of Lafayette				
City of Larkspur				
County of Marin				
City of Mill Valley				
City of Napa				
County of Napa				
City of Novato				
City of Richmond				
Town of Ross				
Town of San Anselmo				
City of San Pablo				
City of San Rafael				
City of Sausalito				
City of St. Helena				
Town of Tiburon				
City of Walnut Creek				
Town of Yountville				

CHAIR, MARIN CLEAN ENERGY BOARD

Attest:

SECRETARY, MARIN CLEAN ENERGY BOARD

**AMENDMENT NO. 11 TO MARIN ENERGY AUTHORITY
JOINT POWERS AUTHORITY AGREEMENT**

1. Section 4.2 of the Marin Energy Authority Joint Powers Authority Agreement (“Agreement”) referring to the “Appointment and Removal of Directors” is hereby amended to read:

“4.2 Appointment and Removal of Directors. The Directors shall be appointed and may be removed as follows:

4.2.1 The governing body of each Party shall appoint and designate in writing one regular Director who shall be authorized to act for and on behalf of the Party on matters within the powers of the Authority. The governing body of each Party also shall appoint and designate in writing one alternate Director who may vote on matters when the regular Director is absent from a Board meeting. The person appointed and designated as the Director or the alternate Director shall be a member of the governing body of the Party. As an alternative to appointing its own Director and alternate Director, the governing body of any Party may elect to designate another Party within the same county (the “designated Party”) to represent it on the Board with the Director and alternate Director from the designated Party (the “consolidated Parties”). Notwithstanding any provision in this Agreement to the contrary, in the case of such an election by one or more Parties in the same county, the designated Party shall have the combined votes and voting shares of the consolidated Parties and shall vote on behalf of the consolidated Parties. The governing body of a Party may revoke its designation of another Party to vote on its behalf at any time. Neither an election by a Party to designate another Party to vote on its behalf or a revocation of this election shall be effective unless provided in a written notice to the Authority.

4.2.2 The Operating Rules and Regulations, to be developed and approved by the Board in accordance with Section 2.5.11, shall specify the reasons for and process associated with the removal of an individual Director for cause. Notwithstanding the foregoing, no Party shall be deprived of its right to seat a Director on the Board and any such Party for which its Director and/or alternate Director has been removed may appoint a replacement.

This Amendment No. 11 to the Marin Energy Authority Joint Powers Authority Agreement was duly adopted by the Board of Directors in accordance with Article 8.4 of this Agreement on May 19, 2016.



May 19, 2016

TO: MCE Board of Directors

FROM: David McNeil, Finance and Project Manager

RE: Amendment to the Non-Revolving Credit Agreement with River City Bank (Agenda Item #10)

ATTACHMENTS: A. Resolution No. 2016-03 Approving the Amendment to the Non-Revolving Credit Agreement with River City Bank
B. Non-Revolving Credit Agreement with River City Bank
C. First Amendment to the Credit Agreement.
D. Draft Second Amendment to the Credit Agreement

Dear Board Members:

Summary:

MCE Staff have negotiated the terms of an amendment to MCE's credit agreement with River City Bank. The Non-Revolving Credit Agreement was approved by your Board in August 2015 in order to enable MCE to provide credit backing for power purchase contracts. The key terms of the Second Amendment to this agreement are:

- Change the facility from a Non-Revolving to a Revolving line of credit
- Increase the Credit Commitment amount from \$15MM to \$20MM
- Increase the Debt Service Reserve (DSR) amount from \$1.65MM to \$2.2MM
- Change the maturity date of the agreement from 8/31/2016 to 8/31/2017
- Reduce the loan fee from .25% to .15% of the Credit Commitment amount

The Second Amendment will give MCE greater financial flexibility and enable it to better provide credit support for power contracts needed to supply new communities. The First Amendment to Assignment of Deposit Account facilitates the increase in the DSR amount. Approval by River City Bank of the Amendment is conditioned on 1) MCE providing final compiled fiscal year end 2016 financial statements, 2) payment of \$34,500 in renewal fees and 3) the approval by your Board of the referenced agreements.

Fiscal Impact: Costs associated with the Second Amendment to the Credit Agreement and First Amendment to Assignment of Deposit Account are included in the 2016/17 Budget.

Recommendation: Adopt Resolution No. 2016-03 Approving the Second Amendment to the Non-Revolving Credit Agreement with River City Bank.

RESOLUTION NO. 2016-03

A RESOLUTION OF THE BOARD OF DIRECTORS OF MARIN CLEAN ENERGY APPROVING SECOND AMENDMENT TO CREDIT AGREEMENT WITH RIVER CITY BANK IN THE PRINCIPAL AMOUNT OF \$20,000,000

WHEREAS, Marin Clean Energy (MCE) is a joint powers authority established on December 19, 2008, and organized under the Joint Exercise of Powers Act (Government Code Section 6500 et seq.); and

WHEREAS, MCE members include the following communities: the County of Marin, the County of Napa, the City of American Canyon, the City of Belvedere, the City of Benicia, the City of Calistoga, the Town of Corte Madera, the City of El Cerrito, the Town of Fairfax, the City of Lafayette, the City of Larkspur, the City of Mill Valley, the City of Napa, the City of Novato, the City of Richmond, the Town of Ross, the Town of San Anselmo, the City of San Pablo, the City of San Rafael, the City of Sausalito, the City of St. Helena, the Town of Tiburon, the City of Walnut Creek, and the Town of Yountville; and

WHEREAS, River City Bank (RCB) has been MCE's primary bank since March 8, 2010; and

WHEREAS, MCE continues to expand the number of entities with which it contracts for power supply, and it is beneficial to utilize industry standard credit terms for power purchase contracts; and

WHEREAS, MCE staff negotiated the terms of a non-revolving credit facility with River City Bank to provide credit support for future power purchase contracts; and

WHEREAS, the RCB credit facility allows MCE to borrow cash or to direct the issuance of standby letters of credit (SBLC) that would be used as credit support for MCE's forward purchases of energy.

WHEREAS, MCE Board of Directors approved the Non-Revolving Credit Agreement by and between MCE and RCB on August 21, 2015; and

WHEREAS, CEO Dawn Weisz approved the First Amendment to the Non-Revolving Credit Agreement on February 23, 2016 by and between MCE and RCB making ministerial changes to the Agreement; and

WHEREAS, the proposed Second Amendment to the Non-Revolving Credit Agreement would convert the Non-Revolving Credit Agreement to a revolving credit agreement and would increase the principal amount of the credit agreement from \$15,000,000 to \$20,000,000.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Directors of MCE that the MCE Board approves the second amendment to the Non-Revolving Credit Agreement with River City Bank for Power Supply Collateral.

PASSED AND ADOPTED at a regular meeting of the MCE Board of Directors on this 19th day of May 2016, by the following vote:

	AYES	NOES	ABSTAIN	ABSENT
City of American Canyon				
City of Belvedere				
City of Benicia				
City of Calistoga				
Town of Corte Madera				
City of El Cerrito				
Town of Fairfax				
City of Lafayette				
City of Larkspur				
County of Marin				
City of Mill Valley				
City of Napa				
County of Napa				
City of Novato				
City of Richmond				
Town of Ross				
Town of San Anselmo				
City of San Pablo				
City of San Rafael				
City of Sausalito				
City of St. Helena				
Town of Tiburon				
City of Walnut Creek				
Town of Yountville				

CHAIR, MCE BOARD

ATTEST:

SECRETARY, MCE BOARD

\$15,000,000

NON-REVOLVING CREDIT AGREEMENT

Dated as of August 21, 2015

by and between

**MARIN CLEAN ENERGY,
as Borrower**

and

**RIVER CITY BANK,
as Lender**

NON-REVOLVING CREDIT AGREEMENT

This NON-REVOLVING CREDIT AGREEMENT (this "*Agreement*") is entered into as of August 21, 2015, by and between **MARIN CLEAN ENERGY**, a public agency formed under the provisions of the Joint Exercise of Powers Act of the State of California, Government Code Section 6500 et. seq. ("*Borrower*"), and **RIVER CITY BANK**, a California corporation ("*Lender*").

WITNESSETH:

WHEREAS, Borrower has requested, and Lender has agreed to make available to Borrower, a non-revolving credit facility upon and subject to the terms and conditions set forth in this Agreement;

NOW, THEREFORE, in consideration of the mutual agreements, provisions and covenants contained herein, the parties agree as follows:

SECTION 1. DEFINITIONS AND INTERPRETATION.

Section 1.1. Definitions. All capitalized terms used in this Agreement and not otherwise defined have the meanings ascribed to them on **Exhibit A**.

Section 1.2. Other Interpretive Provisions.

(a) Defined Terms. Unless otherwise specified herein or therein, all terms defined in this Agreement will have the same defined meanings when used in any certificate or other document made or delivered pursuant hereto. The meaning of defined terms is equally applicable to the singular and plural forms of the defined terms.

(b) References. The words "hereof", "herein", "hereunder" and words of similar import when used in this Agreement will refer to this Agreement as a whole and not to any particular provision of this Agreement; and subsection, section, schedule and exhibit references are to this Agreement unless otherwise specified.

(c) Certain Common Terms. The term "documents" includes any and all instruments, documents, agreements, certificates, indentures, notices and other writings, however evidenced. The term "including" is not limiting and means "including without limitation."

(d) Performance; Time. Whenever any performance obligation hereunder is stated to be due or required to be satisfied on a day other than a Business Day, such performance may be made or satisfied on the next succeeding Business Day. In the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including"; the words "to" and "until" each mean "to but excluding", and the word "through" means "to and including." If any provision of this Agreement refers to any action taken or to be taken by any Person, or which such Person is prohibited from taking, such provision will be interpreted to encompass any and all means, direct or indirect, of taking, or not taking, such action.

(e) Contracts. Unless otherwise expressly provided herein, references to agreements and other contractual instruments, including this Agreement and the other Loan Documents, will be deemed to include all subsequent amendments thereto, restatements thereof and other modifications and supplements thereto which are in effect from time to time, but only to the extent such amendments and other modifications are not prohibited by the terms of any Loan Document.

(f) Laws. References to any statute or regulation are to be construed as including all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting the statute or regulation.

(g) Dollars and \$. All references to "dollars" or "\$" refer to United States dollars.

Section 1.3. Accounting Principles.

(a) Unless the context otherwise clearly requires, all accounting terms not expressly defined herein will be construed, and all financial computations required under this Agreement will be made, in accordance with GAAP, consistently applied.

(b) References herein to "fiscal year", "fiscal quarter" and "fiscal month" refer to such fiscal periods of Borrower.

(c) If any change in GAAP results in a change in the calculation of the financial covenants or interpretation of related provisions of this Agreement or any other Loan Document, then Borrower and Lender agree to amend such provisions of this Agreement so as to equitably reflect such changes in GAAP with the desired result that the criteria for evaluating Borrower's financial condition will be the same after such change in GAAP as if such change had not been made.

SECTION 2. THE NON-REVOLVING CREDIT.

Section 2.1. Non-Revolving Credit. Subject to the terms and conditions hereof, Lender agrees to make a non-revolving credit facility (the "*Non-Revolving Credit*") available to Borrower for the sole purpose of providing credit support for energy procurement contracts in an aggregate principal amount not to exceed, at any one time, the Non-Revolving Credit Commitment at any time prior to the Non-Revolving Credit Termination Date. The Non-Revolving Credit will be disbursed in one or more advances (each, an "*Advance*" and, collectively, the "*Advances*"), provided that the conditions precedent to Advances specified in Section 8 are satisfied. Subject to the Non-Revolving Credit Commitment and the other terms and conditions of this Agreement, Borrower may periodically request Advances; provided, however, that Lender will have no obligation to make Advances on or after the Termination Date, and Borrower may not re-borrow Advances as they are repaid.

Section 2.2. Advances. Advances under this Agreement may be requested in writing by Borrower or any Authorized Representative appointed by Borrower. Borrower agrees that

Lender may rely upon any written notice given by any person Lender in good faith believes is an Authorized Representative without the necessity of independent investigation.

Section 2.3. Promissory Notes. Each Advance made under the Non-Revolver Credit will be evidenced by a promissory note (each, a "*Promissory Note*") made, executed and delivered by Borrower and payable to the order of Lender in the form (with appropriate insertions) attached hereto as **Exhibit B** (the "*Letter of Credit Note*"), **Exhibit C** (the "*Cash Advance Note*"), or, if converted to a Term Loan as provided in Section 5, **Exhibit D** (the "*Term Note*"), as set forth herein.

(a) Letter of Credit Notes. For each Letter of Credit requested by Borrower and issued by the L/C Issuer in accordance with Section 4, Borrower will execute and deliver to Lender a Letter of Credit Note in the stated principal amount equal to the face amount of such Letter of Credit. Each Letter of Credit Note will be deemed an Advance in the full stated principal amount thereof for purposes of determining the Non-Revolver Credit Commitment; provided that each Letter of Credit Note will evidence Borrower's obligation to repay the lesser of the stated principal amount thereof or the outstanding principal amount of any Advances actually made by Lender under the Non-Revolver Credit as a result of an unreimbursed drawing (the "*Unreimbursed Amount*"), in accordance with Section 4.3. Each Letter of Credit Note will (i) be due and payable in full on the earlier of (x) the applicable Maturity Date, or (y) the Non-Revolver Credit Termination Date, and (ii) bear interest on the Unreimbursed Amount from and after the Honor Date, payable monthly as provided in Section 3. All references to "Advances" in in Section 3 shall, with respect to a Letter of Credit Note, refer solely to the outstanding Unreimbursed Amount(s) evidenced by such Letter of Credit Note. Subject to the terms and conditions of this Agreement and provided that no Event of Default has occurred, Borrower will have a one-time option to convert the indebtedness evidenced by the Letter of Credit Notes into a Term Loan as provided in Section 5.

(b) Cash Advance Notes. Borrower may request Advances under the Non-Revolver Credit in the form of cash disbursements (each a "*Cash Advance*") deposited by Lender into a designated account of Borrower maintained with Lender. Borrower will make each request for a Cash Advance in writing in substantially the form of **Exhibit G**. On the date of each Cash Advance, Borrower will execute a Cash Advance Note to evidence the Cash Advance. Each Cash Advance Note will (i) be due and payable in full on the Non-Revolver Credit Termination Date, and (ii) bear interest, payable monthly as provided in Section 3. Subject to the terms and conditions of this Agreement and provided that no Event of Default has occurred, Borrower will have the option to convert the indebtedness evidenced by the Cash Advance Notes into a Term Loan as provided in Section 5.

Section 2.4. Repayment on Non-Revolver Credit Termination Date. All Advances (including all outstanding principal and accrued but unpaid interest) that have not been converted to a Term Loan shall be due and payable in full on the Non-Revolver Credit Termination Date. Until the Non-Revolver Credit Termination Date, Borrower shall repay the Advances with interest as provided herein and in the applicable Promissory Notes.

SECTION 3. INTEREST, LATE FEES, PREPAYMENTS AND APPLICATIONS.

Section 3.1. Interest Payments.

(a) Advances. The outstanding principal balance of Advances will bear interest (which Borrower hereby promises to pay at the rates and at the times set forth therein) prior to maturity (whether by lapse of time, acceleration or otherwise) at the Applicable Rate and after maturity (whether by lapse of time, acceleration or otherwise), whether before or after judgment, at the Default Rate, until paid in full. The determination of the Applicable Rate by Lender shall be conclusive and binding on Borrower in the absence of demonstrable error.

(b) Interest Payment Dates. Borrower will pay regular monthly payments of all accrued but unpaid interest on the Advances as of each Payment Date beginning on October 1, 2015, with all subsequent interest payments due and payable on each Payment Date thereafter. Interest on the Advances will be payable monthly in arrears on each Payment Date. Interest on any installment of principal that is not paid when due (whether by lapse of time, acceleration or otherwise) will be due and payable on demand. Borrower will make all payments at the address specified in Section 3.4.

(c) Late Fees. If Borrower fails to make any payment of principal or interest under the Promissory Notes or any other sum payable hereunder or under any other Loan Document within five (5) calendar days after its due date, Lender will be entitled at its option to impose a late charge in an amount equal to six percent (6.00%) of the amount of such past due payment, which charge, if imposed by Lender, shall be due and payable by Borrower immediately upon receipt of written notice thereof.

Section 3.2. Computation of Interest; Minimum and Maximum Interest Rates. All interest on the Advances will be calculated on the basis of a year of 360 days for the actual number of days elapsed. In no event shall the applicable interest rate exceed than the maximum rate allowed by law (including Government Code Section 53854).

Section 3.3. Prepayments.

(a) Voluntary Prepayment. Borrower may voluntarily prepay Advances, in whole or in part, at any time without any penalty or fee. In connection with such prepayment, Borrower may prepay the principal amount of any Promissory Note together with interest accrued thereon, at its option and without premium, prior to the applicable Maturity Date or the Termination Date, as the case may be.

(b) Mandatory Prepayment. Borrower will, upon demand, prepay Advances at any time and to the extent that the outstanding principal amount of all Advances exceeds the Non-Revolving Credit Commitment.

(c) Application of Prepayments. All prepayments shall be applied in accordance with Section 3.4.

Section 3.4. Place and Application of Payments and Collections. All payments of principal, interest, fees and all other Obligations payable hereunder will be made to Lender at the following address no later than 2:00 p.m. (Pacific Standard Time) on the date any such payment is due and payable:

River City Bank
Loan Center
2485 Natomas Park Drive, Suite 400
Sacramento, CA 95833

So long as any Event of Default has occurred and is continuing, Borrower agrees that Lender, in its sole and absolute discretion, may apply any payments or collections received by Lender in respect of the Non-Revolving Credit to any of the Obligations in any manner or order as Lender desires. Lender's receipt and application of payments or collections shall not constitute a waiver or cure of any Default.

Section 3.5. Notations. All Advances made and evidenced by the Promissory Notes and the rates of interest applicable thereto will be recorded by Lender on its books and records or, at its option in any instance, endorsed on a schedule to the Promissory Notes, and the unpaid principal balance and interest rates so recorded or endorsed by Lender will be *prima facie* evidence in any court or other proceeding brought to enforce the Promissory Note of the principal amount remaining unpaid, the status of the Advances evidenced by the Promissory Note and the applicable interest rates; provided, however, that the failure of Lender to record any of the foregoing will not limit or otherwise affect the obligation of Borrower to repay the principal amount of the Promissory Note together with accrued interest thereon. Prior to any negotiation of the Promissory Note, Lender will record on a schedule thereto the status of all amounts evidenced by the Promissory Note and the rates of interest applicable thereto.

SECTION 4. LETTERS OF CREDIT.

Section 4.1. Letter of Credit Commitment.

(a) Subject to the terms and conditions set forth herein, the L/C Issuer agrees, in reliance upon the agreements of Borrower, (1) from time to time on any Business Day during the period from the date of this Agreement until the Letter of Credit Expiration Date, to issue Letters of Credit in Dollars for the account of Borrower, and to amend or extend Letters of Credit previously issued by it, in accordance with subsection (b) below, and (2) to honor drawings under the Letters of Credit; provided that after giving effect to any L/C Credit Extension, the aggregate principal amount of all Advances shall not exceed the Non-Revolving Commitment. Each request by Borrower for the issuance or amendment of a Letter of Credit shall be deemed to be a representation by Borrower that the L/C Credit Extension so requested complies with the conditions set forth in the proviso to the preceding sentence and the other terms and conditions of this Agreement.

- (b) The L/C Issuer shall have no obligation to issue any Letter of Credit if:
- (i) The expiry date of the requested Letter of Credit would occur more than twelve months after the date of issuance or last extension;
 - (ii) The expiry date of the requested Letter of Credit would occur after the Letter of Credit Expiration Date;
 - (iii) The requested Letter of Credit requires the L/C Issuer to provide a notice of non-renewal, if any, earlier than 120 days before the expiration of the Letter of Credit;
 - (iv) The requested Letter of Credit contains terms and conditions required by the beneficiary that are deemed unacceptable to the L/C Issuer;
 - (v) Any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin the L/C Issuer from issuing such Letter of Credit, or any law applicable to the L/C Issuer or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over the L/C Issuer shall prohibit, or request that the L/C Issuer refrain from, the issuance of letters of credit generally or such Letter of Credit in particular or shall impose upon the L/C Issuer with respect to such Letter of Credit any restriction, reserve or capital requirement (for which the L/C Issuer is not otherwise compensated hereunder) not in effect on the date of this Agreement, or shall impose upon the L/C Issuer any unreimbursed loss, cost or expense which was not applicable as of the date of this Agreement and which the L/C Issuer in good faith deems material to it;
 - (vi) The issuance of such Letter of Credit would violate one or more policies of the L/C Issuer generally applicable to the issuance of letters of credit;
 - (vii) The Letter of Credit is to be denominated in a currency other than Dollars;
 - (viii) The Letter of Credit provides for automatic reinstatement or renewal of the stated amount after any drawing thereunder; or
 - (ix) The issuance of the Letter of Credit would result in an L/C Credit Extension and a deemed Advance under the corresponding Letter of Credit Note that exceeds the Non-Revolving Credit Commitment at the time of issuance.
- (c) The L/C Issuer shall not amend any Letter of Credit if the L/C Issuer would not be permitted at such time to issue such Letter of Credit in its amended form under the terms hereof.
- (d) The L/C Issuer shall have no obligation to amend any Letter of Credit if (i) the L/C Issuer would have no obligation at such time to issue the Letter of Credit in its amended form under the terms hereof, or (ii) the beneficiary of the Letter of Credit does not accept the proposed amendment to the Letter of Credit.

Section 4.2. Issuance and Amendment of Letters of Credit.

(a) Each Letter of Credit shall be issued or amended, as the case may be, upon the request of Borrower delivered to Lender and the L/C Issuer in the form of a Letter of Credit Application substantially in the form of **Exhibit E**, completed to the satisfaction of Lender and the L/C Issuer and signed by a Responsible Officer of Borrower. Such Letter of Credit Application may be sent via electronic image or other electronic format, by US mail, overnight courier, or by any other means acceptable to Lender and the L/C Issuer and must be received by Lender and the L/C Issuer not later than ten (10) Business Days (or such later date as Lender and the L/C Issuer may agree in their sole discretion) before the proposed issuance date or date of amendment, as the case may be. In the case of a request for initial issuance of a Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to Lender and the L/C Issuer: (i) the proposed issuance date of the requested Letter of Credit (which shall be a Business Day); (ii) the amount thereof; (iii) the expiry date thereof; (iv) the name and address of the beneficiary thereof; (v) the documents to be presented by such beneficiary in the case of any drawing thereunder; (vi) the full text of any certificate to be presented by such beneficiary in case of any drawing thereunder; (vii) the purpose and nature of the requested Letter of Credit; and (viii) such other matters as Lender or the L/C Issuer may require. In the case of a request for amendment of any outstanding Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to Lender and the L/C Issuer (A) the Letter of Credit to be amended; (B) the proposed date of the amendment (which shall be a Business Day); (C) the nature of the proposed amendment; and (D) such other matters as Lender or the L/C Issuer may require. Additionally, Borrower will furnish to Lender and the L/C Issuer such other documents and information pertaining to such requested Letter of Credit issuance or amendment, including any L/C Issuing Documents, as Lender or the L/C Issuer may request.

(b) Promptly after receipt of any Letter of Credit Application, the L/C Issuer will confirm with Lender that the Lender has received a copy of such Letter of Credit Application from Borrower and, if not, the L/C Issuer will provide Lender with a copy thereof. Unless the L/C Issuer has received written notice from Lender or Borrower, at least two (2) Business Days prior to the requested date of issuance or amendment of the applicable Letter of Credit, that one or more applicable conditions set forth in Section 8 has not then been satisfied, then, subject to the terms and conditions hereof, the L/C Issuer shall, on the requested date, issue a Letter of Credit for the account of Borrower or enter into the applicable amendment, as the case may be, in each case in such form as may be approved from time to time by the L/C Issuer and in accordance with the L/C Issuer's usual and customary business practices.

(c) Promptly after its delivery of any Letter of Credit or any amendment to a Letter of Credit to the beneficiary thereof, the L/C Issuer will also deliver to Borrower and Lender a true and complete copy of such Letter of Credit or amendment.

Section 4.3. Drawings and Reimbursements of Letters of Credit.

(a) Upon the presentment of any notice of drawing under any Letter of Credit by the beneficiary thereof which the L/C Issuer determines to be in compliance with the conditions for payment thereunder, the L/C Issuer will notify Borrower and Lender of the intended date of

honor of such drawing. Not later than 5:00 p.m. (Pacific Standard Time) on the date (the "*Reimbursement Date*") that is three (3) calendar days after any payment by the L/C Issuer under a Letter of Credit (each such date, an "*Honor Date*"), Borrower shall reimburse the L/C Issuer by making payment to Lender in an amount equal to the amount of such payment. If Borrower fails to so reimburse the L/C Issuer on or before the Reimbursement Date, Lender will make an Advance under the Letter of Credit Note to be disbursed as of the Honor Date in an amount equal to the Unreimbursed Amount, subject to the limits of the Non-Revolver Credit Commitment and the conditions precedent set forth in Section 8.

(b) With respect to any Unreimbursed Amount that is not fully refinanced by an Advance under a corresponding Letter of Credit Note for any reason, Borrower shall be deemed to have incurred an L/C Borrowing in the amount of the Unreimbursed Amount that is not so refinanced, which L/C Borrowing shall be due and payable on demand (together with interest) and shall bear interest at the Default Rate.

Section 4.4. Obligations Absolute.

(a) The obligation of Borrower to reimburse the L/C Issuer for each drawing under each Letter of Credit and to repay each L/C Borrowing shall be absolute, unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including the following:

(i) any lack of validity or enforceability of such Letter of Credit, this Agreement or any other Loan Document;

(ii) the existence of any claim, counterclaim, setoff, defense or other right that any Borrower may have at any time against any beneficiary or any transferee of such Letter of Credit (or any Person for whom any such beneficiary or any such transferee may be acting), the L/C Issuer or any other Person, whether in connection with this Agreement, the transactions contemplated hereby or by such Letter of Credit or any agreement or instrument relating thereto, or any unrelated transaction;

(iii) any draft, demand, certificate or other document presented under such Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; or any loss or delay in the transmission or otherwise of any document required in order to make a drawing under such Letter of Credit;

(iv) any waiver by the L/C Issuer of any requirement that exists for the L/C Issuer's protection and not the protection of Borrower or any waiver by the L/C Issuer which does not in fact materially prejudice Borrower;

(v) any honor of a demand for payment presented electronically even if such Letter of Credit requires that demand be in the form of a draft;

(vi) any payment made by the L/C Issuer in respect of an otherwise complying item presented after the date specified as the expiration date of, or the date by which documents must be received under such Letter of Credit if presentation after such date is authorized by the UCC, the ISP or the UCP, as applicable.

(vii) any payment by the L/C Issuer under such Letter of Credit against presentation of a draft or certificate that does not strictly comply with the terms of such Letter of Credit; or any payment made by the L/C Issuer under such Letter of Credit to any Person purporting to be a trustee in bankruptcy, debtor-in-possession, assignee for the benefit of creditors, liquidator, receiver or other representative of or successor to any beneficiary or any transferee of such Letter of Credit, including any arising in connection with any proceeding under any Debtor Relief Law; or

(viii) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including any other circumstance that might otherwise constitute a defense available to, or discharge of, any party to the Loan Documents.

(b) Borrower shall promptly examine a copy of each Letter of Credit and each amendment thereto that is delivered to it and, in the event of any claim of noncompliance with Borrower's instructions or other irregularity, Borrower will immediately notify Lender and the L/C Issuer in writing. Borrower shall be conclusively deemed to have waived any such claim it would have against Lender or the L/C Issuer and its correspondents unless such notice is given.

Section 4.5. Role of L/C Issuer. Borrower agrees that, in paying any drawing under a Letter of Credit, the L/C Issuer shall not have any responsibility to obtain any document (other than any sight draft, certificates and documents expressly required by such Letter of Credit) or to ascertain or inquire as to the validity or accuracy of any such document or the authority of the Person executing or delivering such document. None of the L/C Issuer, Lender, any of their respective Related Parties nor any correspondent, participant or assignee of the L/C Issuer shall be liable to Borrower for (i) any action taken or omitted in connection herewith at the request of Borrower; (ii) any action taken or omitted in the absence of gross negligence or willful misconduct; or (iii) the due execution, effectiveness, validity or enforceability of any document or instrument related to any Letter of Credit or L/C Issuing Document. Borrower hereby assumes all risks of the acts or omissions of any beneficiary or transferee with respect to its use of any Letter of Credit; provided, however, that this assumption is not intended to, and shall not, preclude Borrower from pursuing such rights and remedies as it may have against the beneficiary or transferee at law or under any other agreement. Neither the L/C Issuer or Lender, nor any correspondent, participant or assignee of the L/C Issuer shall be liable or responsible for any of the matters described in Section 4.4; provided, however, that anything in such clauses to the contrary notwithstanding, Borrower may have a claim against the L/C Issuer, and the L/C Issuer may be liable to Borrower, to the extent, but only to the extent, of any direct, as opposed to consequential or exemplary, damages suffered by Borrower which Borrower proves were caused by the L/C Issuer's willful misconduct or gross negligence or the L/C Issuer's willful failure to pay under any Letter of Credit after the presentation to it by the beneficiary of a sight draft and certificate(s) complying with the terms and conditions of such Letter of Credit. In furtherance and not in limitation of the foregoing, the L/C Issuer may accept documents that appear on their

face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary, and the L/C Issuer shall not be responsible for the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign a Letter of Credit or conduct any communication to or from the beneficiary via the Society for Worldwide Interbank Financial Telecommunications ("SWIFT") message or overnight courier, or any other commercially reasonable means of communicating with a beneficiary.

Section 4.6. Applicability of ISP, Limitation of Liability. Unless otherwise expressly agreed by the L/C Issuer and Borrower when a Letter of Credit is issued, the rules of the ISP shall apply to each Letter of Credit. Notwithstanding the foregoing, the L/C Issuer shall not be responsible to Borrower for, and the L/C Issuer's rights and remedies against Borrower shall not be impaired by, any action or inaction of the L/C Issuer required or permitted under any law, order or practice that is required or permitted to be applied to any Letter of Credit or this Agreement, including the law of any jurisdiction where the L/C Issuer or the beneficiary is located, the practice stated in the ISP or UCP, as applicable, or in the decisions, opinions, practice statements, or official commentary of the ICC Banking Commission, the Bankers Association for Finance and Trade – International Finance Services Association (BAFT-IFSA), or the Institute of International Banking Law & Practice, whether or not any Letter of Credit chooses such law or practice.

Section 4.7. Letter of Credit Fees. Borrower shall pay to Lender fees for each Letter of Credit as follows:

(a) Issuance Fee. Upon issuance of any Letter of Credit, an amount equal to 1.25% per annum of the face amount of any Union Letter of Credit or 1.00% per annum for any RCB Letter of Credit (the "Issuance Fee").

(b) Renewal Fee. Upon renewal or extension of any Letter of Credit, whether automatic, by operation of the Letter of Credit or other request by beneficiary under the Letter of Credit, the applicable Issuance Fee plus a renewal fee equal to \$1,250.00 (collectively, the "Renewal Fee").

(c) Other Letter of Credit Costs and Fees. Borrower shall be subject and agrees to pay any and all fees due under a Union Letter of Credit that are imposed or charged to Lender by MUFG Union Bank, N.A., in connection with the Union Letter of Credit as provided on **Exhibit F**. In addition, Borrower agrees to pay Lender for any Letter of Credit amendment or other fees as quoted on Lender's Letter of Credit Fee Schedule provided to Borrower by Lender. Nothing in this Section 4.7(c) shall obligate Borrower to pay more than one Issuance Fee upon issuance of each Letter of Credit and one Renewal Fee (including the applicable Issuance Fee) upon each renewal or extension thereof.

Section 4.8. Conflicts and Inconsistencies with L/C Issuing Documents. In the event of any conflict or inconsistency between the terms and conditions of this Agreement and the terms and conditions of any L/C Issuing Document, the terms and conditions of this Agreement shall control, and if any L/C Issuing Document contains provisions that impose obligations on the L/C

Issuer or grant rights to Borrower beyond those imposed or granted under this Agreement, such provisions shall be of no force or effect and shall not be binding on the L/C Issuer.

SECTION 5. CONVERSION OF PROMISSORY NOTES TO TERM NOTES.

Section 5.1. Term Loans. Provided no Default or Event of Default has occurred or is continuing, Borrower shall have an option to convert outstanding balances under the Letter of Credit Notes or a Cash Advance Note to a term loan (each a "*Term Loan*") payable in sixty (60) equal monthly amortizing payments of principal and interest at the Applicable Rate.

Section 5.2. Conversion of Letter of Credit Notes. To the extent there are any unpaid Advances under any Letter of Credit Notes due and payable on the Termination Date, Borrower, by written notice to Lender on the Termination Date, may request that the aggregate outstanding Advances and other indebtedness under the Letter of Credit Notes be converted to a single Term Loan. Borrower's option to convert the Letter of Credit Notes may be exercised no more frequently than once and must be exercised on the Termination Date. The Term Loan described in this Section 5.2 will accrue interest from the Termination Date and will be evidenced by a single Term Note made, executed and delivered by Borrower in the form (with appropriate insertions) attached hereto **Exhibit D**.

Section 5.3. Conversion of Cash Advance Notes. At any time before the Non-Revolving Credit Termination Date, Borrower, by written notice to Lender, may request that any unpaid Advances under the Cash Advance Notes be converted to a Term Loan. Any Term Loan described in this Section 5.3 may, at Lender's option, be evidenced by a Term Note or by a modification of the applicable Cash Advance Note.

SECTION 6. COLLATERAL.

Section 6.1. Debt Service Reserve Account. As a condition to Lender's obligation to make any Advances hereunder, Borrower will open and establish a restricted deposit account or certificate of deposit with Lender (the "*Debt Service Reserve Account*") with a balance of not less than \$1,657,487.00 at any time. The Debt Service Reserve Account will be held in the name of Borrower and will serve as collateral for the Obligations. Borrower will pay on demand therefor from time to time all customary account opening, activity and other administrative fees and charges in connection with the maintenance and disbursement of the Debt Service Reserve Account.

Section 6.2. Assignment of Debt Service Reserve Account. As security for the prompt payment and performance by Borrower of all Obligations, Borrower hereby unconditionally and irrevocably assigns, conveys, pledges, transfers, delivers, and confirms unto Lender, and hereby grants to Lender a continuing security interest in (i) the Debt Service Reserve Account, (ii) all replacements, substitutions or proceeds thereof, (iii) all instruments and documents now or hereafter evidencing the Debt Service Reserve Account, (iv) all powers, options, rights, privileges and immunities pertaining to the Debt Service Reserve Account, including the right to make withdrawals therefrom, and (v) all interest, income, profits and proceeds of the foregoing. Borrower hereby acknowledges and agrees that Lender shall have exclusive control over the

Debt Service Reserve Account, and Borrower shall have no right to withdraw funds from the Debt Service Reserve Account; provided, however, that Borrower may withdraw funds from the Debt Service Reserve Account from time to time if (1) the balance of the Debt Service Reserve Account will not be less than \$1,657,487.00 after giving effect to such withdrawal, (2) no default or Event of Default has occurred and is continuing, and (3) no Event of Default would occur as a result of such withdrawal. If an Event of Default shall occur hereunder or under any of the Obligations, then Lender may, without notice or demand on Borrower, at its option: (A) withdraw any or all of the funds (including without limitation, interest) then remaining in the Debt Service Reserve Account and apply the same, after deducting all costs and expenses of safekeeping, collection and delivery, and all reasonable attorneys' fees, costs and expenses incurred by Lender in connection with the Event of Default, to any amounts due and unpaid under this Agreement, any Promissory Note or any other Obligations in such manner and order as Lender shall deem appropriate in its sole discretion, (B) exercise any and all rights and remedies of a secured party under any applicable Uniform Commercial Code, and/or (C) exercise any other remedies available at law or in equity. All rights and remedies of Lender hereunder and under that certain Assignment of Deposit Account entered into as of the date hereof between Borrower and Lender shall be cumulative.

SECTION 7. REPRESENTATIONS AND WARRANTIES.

Borrower represents and warrants to Lender as follows:

Section 7.1. Organization and Qualification; Authority; Consents. Borrower (a) is a public agency formed under the provisions of the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et seq.) that is qualified to be a community choice aggregator pursuant to California Public Utilities Code Section 366.2 and (b) has full and adequate power to own its Property and conduct its business as now conducted, and is duly licensed or qualified in each jurisdiction in which the nature of the business conducted by it or the nature of the Property owned or leased by it requires such licensing or qualifying unless the failure to be so licensed or qualified would not have a material adverse effect on its business, operations or assets. Borrower has the agency power to enter into this Agreement and the other Loan Documents to which it is a party, to request the Advances and incur the Obligations provided for herein, to execute Promissory Notes in evidence thereof, to pledge and encumber assets as security therefor, and to perform each and all of the promises herein and therein. This Agreement and the other Loan Documents to which Borrower is a party do not, nor does the performance or observance by Borrower of any of the matters or things herein or therein provided for, contravene any provision of law or the Joint Powers Agreement or any covenant, indenture or agreement of or affecting Borrower or any of its Properties, including the Shell Agreements. The execution, delivery, performance and observance by Borrower of this Agreement and the other Loan Documents do not and, at the time of delivery hereof, will not require any consent or approval of any other Person, other than such consents and approvals that have been given or obtained.

Section 7.2. Legal Effect. This Agreement and the other Loan Documents to which Borrower is a party constitute legal, valid and binding agreements of Borrower, enforceable in accordance with their respective terms, subject to laws relating to bankruptcy, insolvency or

other laws affecting the enforcement of creditors' rights generally and the application of equitable remedies if equitable remedies are sought.

Section 7.3. Subsidiaries. Borrower has no Subsidiaries.

Section 7.4. Use of Proceeds. Borrower will use the proceeds of the Advances solely for purposes consistent with the purpose of Borrower as set forth in the Joint Powers Agreement, including for purposes consistent with the community choice aggregation program established by Borrower pursuant to California Public Utilities Code Section 366.2.

Section 7.5. Financial Reports. Effective with the delivery to Lender of the financial statements required by Section 9.2, the statements of financial condition of Borrower as at the date of such statements delivered to Lender, and the related statements of income, retained earnings and cash flows of Borrower for the fiscal year then ended and accompanying notes thereto, which financial statements are accompanied by the audit of independent public accountants, and the unaudited interim statements of financial condition of Borrower as at the date of such statements delivered to Lender and the related statements of income and cash flows of Borrower for the period then ended, fairly present the financial condition of Borrower as at said dates and the results of its operations and cash flows for the periods then ended in conformity with GAAP applied on a consistent basis. Borrower has no contingent liabilities which are material to it other than, with respect to any financial statements delivered to Lender, as indicated on said financial statements.

Section 7.6. Full Disclosure. The statements and other information furnished to Lender in connection with the negotiation of this Agreement and the other Loan Documents and the commitment by Lender to provide the financing contemplated hereby do not contain any untrue statements of a material fact or omit a material fact necessary to make the material statements contained herein or therein not misleading; provided that Lender acknowledges that, as to any projections furnished to Lender, Borrower only represents that the same were prepared on the basis of information and estimates Borrower believed to be reasonable at the time such information was prepared.

Section 7.7. Litigation. There is no litigation or governmental proceeding pending, nor to the knowledge of Borrower threatened in writing, against Borrower which if adversely determined would result in any material adverse change in the financial condition, Properties, business or operations of Borrower.

Section 7.8. Good Title. Borrower has good and defensible title to its Properties as reflected on the most recent balance sheet of Borrower furnished to Lender, subject to no Liens other than Permitted Liens or as otherwise limited by applicable law.

Section 7.9. Members. Borrower is not a party to any contracts or agreements with any of its members on terms and conditions which are less favorable to Borrower than would be usual and customary in similar contracts or agreements between Persons not affiliated with each other.

Section 7.10. Compliance with Laws. Borrower is in compliance with the requirements of all federal, state and local laws, rules and regulations applicable to or pertaining to its Properties or business operations (including, without limitation, laws and regulations establishing quality criteria and standards for air, water, land and toxic or hazardous wastes and substances), non-compliance with which could have a material adverse effect on the financial condition, Properties, business or operations of Borrower. Borrower has not received notice to the effect that its operations are not in compliance with any of the requirements of applicable federal, state or local environmental, health and safety statutes and regulations or are the subject of any governmental investigation evaluating whether any remedial action is needed to respond to a release of any toxic or hazardous waste or substance into the environment, which non-compliance or remedial action could have a material adverse effect on the financial condition, Properties, business or operations of Borrower.

Section 7.11. Other Agreements. Borrower is not in default under the terms of any covenant, indenture or agreement of or affecting Borrower or any of its Properties, which default if uncured would have a material adverse effect on the financial condition, Properties, business or operations of Borrower.

Section 7.12. No Default. No Default or Event of Default has occurred or is continuing.

SECTION 8. CONDITIONS PRECEDENT.

The obligation of Lender to make any Advance is subject to the following conditions precedent:

Section 8.1. All Advances. As of the time of the making of each Advance (including the initial Advance unless otherwise specified):

(a) each of the representations and warranties set forth in Section 7 hereof and in the other Loan Documents shall be true and correct as of said time, except that the representations and warranties made under Section 7.5 (except for the initial Advance) shall be deemed to refer to the most recent financial statements furnished to Lender pursuant to Section 9.2 hereof; and

(b) Borrower shall be in full compliance with all of the material terms and conditions of this Agreement, the Promissory Notes, the Assignment of Debt Service Reserve Account and all other Loan Documents, and no Default or Event of Default shall have occurred or be continuing.

Section 8.2. Initial Advance. At or prior to the making of the first Advance, the following conditions precedent must also be satisfied:

(a) Lender shall have received properly completed and executed originals of the following in form and substance approved by Lender:

(i) this Agreement;

(ii) the Request for Advance and Letter of Credit Application (if applicable);

(iii) each of the resolutions adopted by the Board of Directors of Borrower with respect to this Agreement and the other Loan Documents, certified by an Authorized Representative;

(iv) an incumbency certificate containing the name, title and genuine signatures of each of Borrower's Authorized Representatives;

(v) payment by Borrower of the Loan Fee and all payments and expenses required to be paid by Borrower pursuant to Section 11.4(a) of this Agreement;

(vi) an updated Schedule 9.7 listing all outstanding Indebtedness for Borrowed Money;

(vii) copies (executed and certified, as may be appropriate) of the organizational documents of Borrower and all legal documents or proceedings (including minutes of board meetings) taken in connection with the execution and delivery of this Agreement to the extent Lender or its counsel may reasonably request; and

(viii) the Assignment of Debt Service Reserve Account.

(b) The Debt Service Reserve Account shall have been established with Lender; and

(c) Any legal matters incident to the execution and delivery of this Agreement and the other Loan Documents and to the transactions contemplated hereby and thereby shall be reasonably satisfactory to Lender and its counsel.

SECTION 9. COVENANTS.

Borrower agrees that, so long as any credit is available to or in use by Borrower hereunder, except to the extent compliance in any case or cases is waived in writing by Lender:

Section 9.1. Maintenance of Business. Borrower shall preserve and maintain its existence. Borrower shall preserve and keep in force and effect all licenses, permits and franchises necessary to the proper conduct of its business and shall conduct its business affairs in a reasonable and prudent manner. Borrower shall maintain executive and management personnel with substantially the same qualifications and experience as the present executive and management personnel, and shall provide Lender with written notice of any change in executive and management personnel.

Section 9.2. Financial Reports. Borrower shall maintain a standard system of accounting in accordance with GAAP and shall furnish to Lender and its duly authorized representatives such information respecting the business and financial condition of Borrower as Lender may reasonably request; and without any request, shall furnish to Lender:

(a) as soon as available, and in any event within forty-five (45) days after the close of each quarter, an unaudited balance sheet of Borrower as of the last day of the period then ended and

the statements of income, retained earnings and cash flows of Borrower for the period then ended, prepared in accordance with GAAP and in a form acceptable to Lender;

(b) as soon as available, and in any event within six (6) months after the close of each annual accounting period of Borrower, a copy of the audited balance sheet of Borrower as of the last day of the period then ended and the statements of income, retained earnings and cash flows of Borrower for the period then ended, and accompanying notes thereto, each in reasonable detail showing in comparative form the figures for the previous fiscal year, accompanied by an unqualified opinion thereon of Borrower's independent public accountants, to the effect that the financial statements have been prepared in accordance with GAAP and present fairly in accordance with GAAP the financial condition of Borrower as of the close of such fiscal year and the results of its operations and cash flows for the fiscal year then ended and that an examination of such accounts in connection with such financial statements has been made in accordance with generally accepted auditing standards and, accordingly, such examination included such tests of the accounting records and such other auditing procedures as were considered necessary in the circumstances;

(c) promptly after receipt thereof, any additional written reports, management letters or other detailed information contained in writing concerning significant aspects of Borrower's operations and financial affairs given to it by its independent public accountants;

(d) promptly after knowledge thereof shall have come to the attention of any responsible officer of Borrower, written notice of any litigation threatened in writing or any pending litigation or governmental proceeding or labor controversy against Borrower which, if adversely determined, would materially adversely effect the financial condition, Properties, business or operations of Borrower or result in the occurrence of any Default or Event of Default hereunder; and

(e) promptly after the request therefore, all such other information as Lender may reasonably request.

Each of the financial statements furnished to Lender pursuant to subsection (b) of this Section 9.2 shall be accompanied by a written certificate signed by the chief financial officer of Borrower to the effect that to the best of such officer's knowledge and belief no Default or Event of Default has occurred during the period covered by such statements or, if any such Default or Event of Default has occurred during such period, setting forth a description of such Default or Event of Default and specifying the action, if any, taken by Borrower to remedy the same.

Section 9.3. Maintenance of Debt Service Reserve Account. Borrower shall ensure that the Debt Service Reserve Account remains pledged and assigned to Lender as collateral for the Obligations in accordance with Section 6.

Section 9.4. Primary Depository Relationship. Borrower shall maintain its primary business banking deposit account relationship with Lender for so long as any amounts under this Agreement, any Promissory Note or Letter of Credit remain outstanding. In the event that this condition is not met, as determined by Lender, the Applicable Rate (or the Default Rate, if applicable) and any commissions charge on any outstanding Letters of Credit will immediately increase by an additional 0.25 percentage points.

Section 9.5. Fixed Charge Coverage Ratio. Borrower agrees to maintain a minimum Fixed Charge Coverage Ratio at all times greater than or equal to 1.25, measured quarterly as of the end of each fiscal quarter. As used herein,

“*Fixed Charge Coverage Ratio*” is defined as EBIDAR divided by total required Debt Service plus rent expense.

“*EBIDAR*” is defined as Change in Net Position plus depreciation, amortization, interest expense, and rent expense.

“*Change in Net Position*” is defined as the difference between current Net Position and prior period's Net Position.

“*Net Position*” is defined as total assets less total liabilities.

“*Debt Service*” is defined as interest expense for the calculated period, plus current maturities of long term debt reported at the beginning of the calculated period (twelve months prior to the current period), plus current maturities of capital lease payments.

Section 9.6. Total Liabilities to Tangible Adjusted Unrestricted Net Position. Borrower agrees to maintain a maximum Total Liabilities to Tangible Adjusted Unrestricted Net Position not at any time greater than 2.50:1.00, measured quarterly. As used herein,

“*Total Liabilities to Tangible Adjusted Unrestricted Net Position*” is defined as the total of current liabilities, non-current liabilities and Contingent Liabilities, then divided by Tangible Adjusted Unrestricted Net Position.

“*Tangible Adjusted Unrestricted Net Position*” is defined as total Adjusted Unrestricted Net Position less any intangible assets.

“*Adjusted Unrestricted Net Position*” is defined as total net assets (i.e., total assets less total liabilities) less temporarily and permanently restricted net assets as presented in Borrower's financial statements, plus the Debt Service Reserve Account.

“*Contingent Liabilities*” are defined as a present obligation that arises from past events, but is not recognized because (i) it is not probable that an outflow of resources embodying economic benefits will be required to settle the obligation; or (ii) the amount of the obligation cannot be measured with sufficient reliability. Contingent Liabilities will include outstanding Letters of Credit issued and will exclude power purchase contingencies and the available Non-Revolving Credit Commitment.

Section 9.7. Inspection. Borrower shall permit Lender and its duly authorized representatives and agents, at such times and intervals as Lender may designate, but in any event, no more than six (6) times during any twelve (12) month period so long as no Default or Event of Default has occurred and is continuing: (i) to visit and inspect any of the Properties, books and

financial records of Borrower and to examine and make copies of the books of accounts and other financial records of Borrower, and (ii) to discuss the affairs, finances and accounts of Borrower with, and to be advised as to the same by, the executive officers of Borrower and other officers, employees and independent public accountants of Borrower (and by this provision Borrower each authorizes such accountants to discuss with Lender or its agents and representatives the finances and affairs of Borrower). Without limiting the generality of the foregoing, Borrower shall promptly provide all information and access requested by Lender as Lender determines is necessary or required in connection with the preparation of its own financial statements.

Section 9.8. Liens. Borrower shall not create, incur or permit to exist any Lien of any kind on any Property owned by Borrower or any Subsidiary; provided, however, that the foregoing shall not apply to nor operate to prevent:

(a) Liens arising by statute in connection with worker's compensation, unemployment insurance, old age benefits, social security obligations, taxes, assessments, statutory obligations or other similar charges, good faith cash deposits in connection with tenders, contracts or leases to which Borrower is a party or other cash deposits required to be made in the ordinary course of business, provided in each case that the obligation is not Indebtedness for Borrowed Money and that the obligation secured is not overdue or, if overdue, is being contested in good faith by appropriate proceedings which prevent enforcement of the matter under contest and adequate reserves have been established therefor;

(b) mechanics', workmen's, materialmen's, landlords', carriers', or other similar Liens arising in the ordinary course of business with respect to obligations which are not due or which are being contested in good faith by appropriate proceedings which prevent enforcement of the matter under contest;

(c) the pledge of assets for the purpose of securing an appeal, stay or discharge in the course of any legal proceeding, provided that the aggregate amount of liabilities of Borrower secured by a pledge of assets permitted under this subsection, including interest and penalties thereon, if any, shall not be in excess of \$500,000 at any one time outstanding;

(d) the Liens identified on Schedule 7.4 hereto; and

(e) the Liens of Shell Energy under the Shell Security Agreement and Shell Collateral Account Agreements.

The Liens described in clauses (a) through (e) of this Section 9.8 are collectively referred to in this Agreement as the "*Permitted Liens*."

Section 9.9. Investments, Acquisitions, Loans, Advances and Guaranties. Borrower shall not directly or indirectly, make, retain or have outstanding any investments (whether through purchase of stock or obligations or otherwise) in, or loans or advances (other than for travel advances and other similar cash advances made to employees, vendors and suppliers in the ordinary course of business) to, any other Person, or acquire all or any substantial part of the assets or business of any other Person or division thereof, or be or become liable as endorser, guarantor,

surety or otherwise for any debt, obligation or undertaking of any other Person, or otherwise agree to provide funds for payment of the obligations of another, or supply funds thereto or invest therein or otherwise assure a creditor of another against loss, or apply for or become liable to the issuer of a letter of credit which supports an obligation of another, or subordinate any claim or demand it may have to the claim or demand of any other Person.

Section 9.10. Compliance with Laws. Borrower shall comply in all respects with the requirements of all laws, rules, regulations, ordinances and orders applicable to or pertaining to its Properties or business operations, non-compliance with which could have a material adverse effect on the financial condition, Properties, business or operations of Borrower or could result in a Lien upon any of its Property.

Section 9.11. Burdensome Contracts With Members. Borrower shall not enter into any contract, agreement or business arrangement with any of its members on terms and conditions which are less favorable to Borrower than would be usual and customary in similar contracts, agreements or business arrangements between Persons not affiliated with each other.

Section 9.12. Notices of Claims and Litigation. Borrower shall promptly inform Lender in writing of (a) all material adverse changes in Borrower's financial condition, (b) all existing or written threats of litigation, claims, investigations, administrative proceedings or similar actions affecting Borrower which could materially affect the financial condition of Borrower.

Section 9.13. Other Agreements. Borrower shall comply with all terms and conditions of all other agreements, whether now or hereafter existing, between Borrower and any other party and notify Lender immediately in writing of any default in connection with any other such agreements.

Section 9.14. Performance. Borrower shall timely perform and comply with all terms, conditions, and provisions set forth in this Agreement, the Promissory Notes and in all other instruments and agreements between Borrower and Lender. Borrower shall notify Lender immediately in writing of any Default in connection with any Loan Document.

Section 9.15. Compliance Certificates. Borrower shall, unless waived in writing by Lender, provide Lender, at least annually, with a certificate executed by Borrower's chief financial officer, or other officer or person acceptable to Lender, certifying that the representations and warranties set forth in this Agreement are true and correct as of the date of the certificate and further certifying that, as of the date of the certificate, no Event of Default exists under this Agreement.

Section 9.16. Fiscal Year. Borrower shall not change its fiscal year without the prior written consent of Lender.

Section 9.17. Indebtedness for Borrowed Money. As of the date hereof, Borrower has no outstanding Indebtedness for Borrowed Money, except as set forth on Schedule 7.4. Except as disclosed on Schedule 7.4, Borrower shall not issue, incur, assume, create or have outstanding any Indebtedness for Borrowed Money; provided, however, that the foregoing shall not restrict nor operate to prevent the Obligations of Borrower owing to Lender hereunder.

SECTION 10. EVENTS OF DEFAULT AND REMEDIES.

Section 10.1. Events of Default. Any one or more of the following will constitute an "Event of Default" hereunder:

- (a) any default in the payment when due (whether by lapse of time, acceleration or otherwise) of (i) any payment of principal or interest under the Promissory Notes, or (ii) any other Obligation within five (5) days after payment or performance is due from Borrower; or
- (b) any representation or warranty made by Borrower herein or in any other Loan Document, or in any statement or certificate furnished by it pursuant hereto or thereto, or in connection with any Letter of Credit Application or Advance (including an L/C Borrowing) made hereunder, is inaccurate or untrue in any material respect as of the date of the issuance or making thereof; or
- (c) any event occurs or condition exists (other than those described in clauses (a) through (b) above) which is specified as an event of default under any of the other Loan Documents, or any of the Loan Documents for any reason ceases to be in full force and effect, or any of the Loan Documents is declared to be null and void, or Borrower takes any action for the purpose of repudiating or rescinding any Loan Document executed by it; or
- (d) any judgment, order, writ of attachment, writ of execution, writ of possession or any similar legal process is entered or filed against Borrower or any of Borrower's Properties and remains unvacated, unbonded and unstayed for a period of ten (10) or more calendar days; or
- (e) Borrower defaults under any loan, extension of credit, security agreement, purchase or sales agreement, or any other agreement in favor of any other creditor or Person that may materially affect any of Borrower's Properties, Borrower's ability to repay the Non-Revolving Credit or Borrower's ability to perform its Obligations under this Agreement or any of the other Loan Documents; or
- (f) a material adverse change occurs in Borrower's financial condition, or Lender believes, in its reasonable discretion, the prospect of payment or performance of Borrower's obligations under this Agreement is materially impaired; or
- (g) Borrower (i) takes any steps to effect a Winding-Up, (ii) fails to pay, or admits in writing its inability to pay, its debts generally as they become due; or
- (h) a custodian, receiver, administrative receiver, administrator, trustee, examiner, liquidator or similar official is appointed over Borrower or any substantial part of any of its Properties, or a Winding-Up proceeding is instituted against Borrower, and such appointment continues undischarged or such proceeding continues undismissed or unstayed for a period of thirty (30) or more days, or Borrower becomes unable to pay or admits in writing its inability to pay its debts as they become due.

Section 10.2. Non-Insolvency Default Remedies. Upon the occurrence of any Event of Default described in clauses (a) through (g) of Section 10.1, Lender or any permitted holder of any Promissory Note may, by notice to Borrower, take any of the following actions:

- (a) terminate any obligation to extend any further credit hereunder (including but not limited to Advances) on the date (which may be the date thereof) stated in such notice;
- (b) declare all Advances and all indebtedness under the Promissory Notes then outstanding (including all outstanding principal and all accrued but unpaid interest), and all other Obligations of Borrower to Lender, to be immediately due and payable without further demand, presentment, protest or notice of any kind; and
- (c) exercise and enforce any and all rights and remedies contained in any other Loan Document or otherwise available to Lender at law or in equity.

Section 10.3. Insolvency Default Remedies. Upon the occurrence of any Event of Default described in Section 10.1(h), all Advances and all indebtedness under the Promissory Notes then outstanding (including all outstanding principal and all accrued but unpaid interest), and all other Obligations of Borrower to Lender, will immediately become due and payable without presentment, demand, protest or notice of any kind, and the Lender shall have no obligation to extend any further credit hereunder (including but not limited to Advances).

SECTION 11. MISCELLANEOUS.

Section 11.1. Holidays. If any payment hereunder becomes due and payable on a day which is not a Business Day, the due date of such payment will be extended to the next succeeding Business Day on which date such payment will be due and payable. In the case of any principal falling due on a day which is not a Business Day, interest on such principal amount will continue to accrue during such extension at the Applicable Rate, which accrued amount will be due and payable on the next scheduled date for the payment of interest.

Section 11.2. No Waiver, Cumulative Remedies. No delay or failure on the part of Lender or on the part of the holder of any Promissory Note in the exercise of any power or right will operate as a waiver thereof or as an acquiescence in any Default, nor will any single or partial exercise of any power or right preclude any other or further exercise thereof, or the exercise of any other power or right. All rights and remedies of Lender and the holder of any Promissory Note are cumulative to, and not exclusive of, any rights or remedies which any of them would otherwise have. Borrower agrees that in the event of any breach or threatened breach by Borrower of any covenant, obligation or other provision contained in this Agreement, Lender shall be entitled (in addition to any other remedy that may be available to Lender) to: (i) a decree or order of specific performance or mandamus to enforce the observance and performance of such covenant, obligation or other provision; and (ii) an injunction restraining such breach or threatened breach. Borrower further agrees that neither Lender nor any other person or entity shall be required to obtain, furnish or post any bond or similar instrument in connection with or as a condition to obtaining any remedy referred to in this Section 11, and Borrower irrevocably

waives any right it may have to require the obtaining, furnishing or posting of any such bond or similar instrument.

Section 11.3. Amendments, Etc. No amendment, modification, termination or waiver of any provision of this Agreement or any other Loan Document nor consent to any departure by Borrower therefrom, will in any event be effective unless the same is in writing and signed by Lender. No notice to or demand on Borrower in any case will entitle Borrower to any other or further notice or demand in similar or other circumstances.

Section 11.4. Costs and Expenses.

(a) Borrower shall pay all reasonable out-of-pocket expenses incurred by Lender, if any, in connection with the preparation, negotiation, execution, delivery and administration of this Agreement and the other Loan Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated) including, without limitation, a \$2,500.00 documentation fee.

(b) Borrower agrees to pay on demand all reasonable costs and expenses (including attorneys' fees and expert witness fees), if any, incurred by Lender or any other holder of the Obligations in connection with any Event of Default or the enforcement of this Agreement, any other Loan Document or any other instrument or document to be delivered hereunder, including without limitation any action, suit or proceeding brought against Lender by any Person which arises out of the transactions contemplated hereby or out of any action or inaction by Lender hereunder or thereunder.

Section 11.5. Indemnity. Whether or not the transactions contemplated hereby shall be consummated, Borrower shall indemnify, defend and hold harmless Lender and the L/C Issuer and their respective officers, directors, employees, counsel, agents and attorneys-in-fact (each, an "*Indemnified Person*") from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, charges, expenses or disbursements (including attorneys' costs and expert witnesses' fees), of any kind or nature whatsoever; that (a) arise from or relate in any way to the execution, delivery, enforcement, performance and administration of this Agreement and any other Loan Document, or the transactions contemplated hereby and thereby, and with respect to any investigation, litigation or proceeding (including any Winding-Up or appellate proceeding) related to this Agreement or the Advances or the use of the proceeds thereof, whether or not any Indemnified Person is a party thereto, and/or (b) may be incurred by or asserted against such Indemnified Person in connection with or arising out of any pending or threatened investigation, litigation or proceeding, or any action taken by any Person, arising out of or related to any Property of Borrower (all the foregoing, collectively, the "*Indemnified Liabilities*"); provided that Borrower shall have no obligation hereunder to any Indemnified Person with respect to Indemnified Liabilities to the extent arising from the gross negligence or willful misconduct of such Indemnified Person.

No action taken by legal counsel chosen by Lender or the L/C Issuer in defending against any investigation, litigation or proceeding or requested remedial, removal or response action vitiates or in any way impairs Borrower's obligation and duty hereunder to indemnify and hold

harmless Lender unless such action involved gross negligence or willful misconduct. Neither Borrower nor any other Person is entitled to rely on any inspection, observation, or audit by Lender or its representatives or agents. Lender and the L/C Issuer owe no duty of care to protect Borrower or any other Person against, or to inform Borrower or any other Person of, any adverse condition affecting any site or Property. Neither Lender nor the L/C Issuer are obligated to disclose to Borrower or any other Person any report or findings made as a result of, or in connection with, any inspection, observation or audit by Lender or the L/C Issuer or their respective representatives or agents.

The obligations of Borrower in this Section 11.5 shall survive the payment and performance of all other Obligations. At the election of any Indemnified Person, Borrower shall defend such Indemnified Person using legal counsel satisfactory to such Indemnified Person in such Indemnified Person's sole discretion, at the sole cost and expense of Borrower. All amounts owing under this Section 11.5 shall be paid within thirty (30) days after demand.

Section 11.6. Right of Set Off. To the extent permitted by applicable law, Lender reserves a right of setoff in all of Borrower's accounts with Lender (whether checking, savings, or some other account). Borrower authorizes Lender, to the extent permitted by applicable law, to charge or setoff all sums due and owing from Borrower against any and all such accounts. This includes all accounts Borrower holds jointly with someone else and all accounts Borrower may open in the future. However, this does not include the Loan Loss Reserve Accounts, the Energy Efficiency Account or any trust accounts that are not subject to setoff under applicable law. In addition, Lender's right of setoff shall apply to the Shell Energy Accounts, but only to the extent that the funds on deposit therein are not subject to a valid and perfected first-priority security interest in favor of Shell Energy.

Section 11.7. Survival of Representations. All representations and warranties made herein or in certificates given pursuant hereto will survive the execution and delivery of this Agreement and the other Loan Documents, and will continue in full force and effect with respect to the date as of which they were made as long as any credit is in use or available hereunder.

Section 11.8. Notices. Except as otherwise specified herein, all notices hereunder will be in writing (including by hand, post, courier or telecopy) and will be given to the relevant party at its address or telecopier number set forth below, or such other address or telecopier number as such party may hereafter specify by notice to the other given by certified or registered mail, by Federal Express or DHL, by telecopy or by other telecommunication device capable of creating a written record of such notice and its receipt. Notices hereunder will be addressed:

To Borrower at:

Marin Clean Energy
1125 Tamalpais Ave.
San Rafael, CA 94901
Telephone: (415) 464-6010
Telecopy: (415) 499-7880
Attention: Executive Officer

With a copy (not constituting notice) to:

Richards Watson & Gershon
44 Montgomery Street, Suite 3800
San Francisco, California 94104-4811
Telephone: (415) 421-8484
Telecopy: (415) 421-8486
Attention: Greg Stepanicich

To Lender at:

River City Bank
2485 Natomas Park Drive, Suite 400
Sacramento, CA 95833
Telephone: (916) 567-2700
Telecopy: (916) 567-2780
Attention: Alice Harris
Loan Center

Each such notice, request or other communication will be effective (i) if given by telecopier, when such telecopy is transmitted to the telecopier number specified in this Section and a confirmation of such telecopy has been received by the sender, (ii) if given by mail, three (3) days after such communication is deposited in the mail, certified or registered with return receipt requested, addressed as aforesaid or (iii) if given by any other means, when delivered at the addresses specified in this Section 11.8; *provided that* any notice given pursuant to Section 2.2 hereof will be effective only upon receipt.

For notice purposes, Borrower agrees to keep Lender informed at all times of Borrower's current address.

Section 11.9. Headings. Section headings used in this Agreement are for convenience of reference only and are not a part of this Agreement for any other purpose.

Section 11.10. Severability of Provisions. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction will, as to such jurisdiction, be ineffective to the

extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.

Section 11.11. Counterparts. This Agreement may be executed in any number of counterparts, and by different parties hereto on separate counterparts, and all such counterparts taken together will be deemed to constitute one and the same instrument.

Section 11.12. Assignments, Binding Nature, Governing Law, Etc. This Agreement will be binding upon Borrower and its permitted successors and assigns, and will inure to the benefit of Lender and the benefit of its permitted successors and assigns, including any permitted subsequent holder of the Promissory Note. This Agreement and the rights and duties of the parties hereto will be construed and determined in accordance with the internal laws of the State of California without regard to principles of conflicts of laws. This Agreement constitutes the entire understanding of the parties with respect to the subject matter hereof and any prior agreements, whether written or oral, with respect thereto are superseded hereby. Borrower may not assign its rights hereunder without the written consent of Lender. Lender may assign its rights hereunder without the consent of Borrower, but only if after any such assignment Lender acts as the lead agent or administrative agent with respect to this Agreement.

Section 11.13. Submission to Jurisdiction; Waiver of Jury Trial. Borrower hereby submits to the nonexclusive jurisdiction of the United States District Court for the Eastern District of California and of any California State court sitting in the County of Sacramento for purposes of all legal proceedings arising out of or relating to this Agreement, the other Loan Documents or the transactions contemplated hereby or thereby. Borrower irrevocably waives, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of the venue of any such proceeding brought in such a court has been brought in an inconvenient forum. Borrower hereby irrevocably waives any and all right to trial by jury in any legal proceeding arising out of or relating to any Loan Document or in the transactions contemplated thereby.

Section 11.14. Time is of the Essence. Time is of the essence in the performance and enforcement of this Agreement and the other Loan Documents.

Section 11.15. Consent to Loan Participation. Borrower agrees and consents to Lender's sale or transfer, whether now or later, of one or more participation interests in the Non-Revolving Credit to one or more purchasers, whether related or unrelated to Lender. Lender may provide, without any limitation whatsoever, to any one or more purchasers or potential purchasers, any information or knowledge Lender may have about Borrower or about any other matter relating to this Agreement, and Borrower hereby waives any rights to privacy Borrower may have with respect to such matters. Borrower additionally waives any and all notices of sale of participation interests, as well as all notices of any repurchase of such participation interests. Borrower also agrees that the purchasers of any such participation interests will be considered as the absolute owners of such interest in the Promissory Note and will have all the rights granted under the participation agreement or agreements governing the same of such participation interests. Borrower further waives all rights of offset or counterclaim that it may have now or later against Lender or against any purchaser of such a participation interest and unconditionally

agrees that either Lender or such purchaser may enforce Borrower's obligations under this Agreement irrespective of the failure or insolvency of any holder of any interest in the Promissory Note. Borrower further agrees that the purchaser of any such participation interests may enforce the interests irrespective of any personal claims or defenses that Borrower may have against Lender.

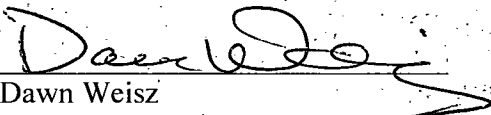
Section 11.16. No Recourse Against Constituent Members of Borrower. Borrower is organized as a Joint Powers Authority in accordance with the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et seq.) pursuant to the Joint Powers Agreement and is a public entity separate from its constituent members. Borrower shall be solely responsible for all debts, obligations and liabilities accruing and arising out of this Agreement and the Promissory Notes. Lender shall not make any claims, take any actions or assert any remedies against any of Borrower's constituent members in connection with any payment default by Borrower under this Agreement or any other Loan Document.

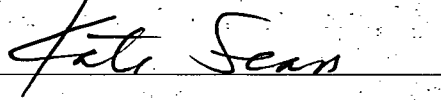
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Upon your acceptance hereof in the manner hereinafter set forth, this Agreement will constitute a contract between us for the uses and purposes hereinabove set forth.

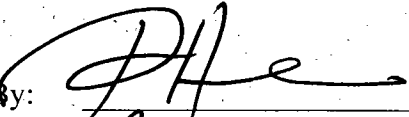
Executed and delivered in Sacramento, California, as of the first date written above.

MARIN CLEAN ENERGY

By: 
Dawn Weisz
Executive Officer

By: 
Chairman of the Board

RIVER CITY BANK

By: 
Name: PATRICK MCHONE
Its: CHIEF CREDIT OFFICER

SCHEDULE 7.4

Indebtedness for Borrowed Money

EXHIBIT A

Definitions

"Advance" and *"Advances"* is defined in Section 2.1.

"Agreement" means this Non-Revolving Credit Agreement, as the same may be amended, modified or restated from time to time in accordance with the terms hereof.

"Applicable Rate" means a variable rate of interest equal to the One-Month LIBOR plus 1.75 percentage points per annum as adjusted for any maximum or minimum rate limitations as provided in the Loan Documents. The Applicable Rate is subject to increase as provided in Section 9.4.

"Authorized Representative" means those persons shown on the list of officers provided by Borrower pursuant to Section 8.2(a)(iv), or on any update of any such list provided by Borrower to Lender, or any further or different officer of Borrower so named by any Authorized Representative of Borrower in a written notice to Lender.

"Borrower" is defined in the introductory paragraph.

"Business Day" means a day (other than a Saturday or Sunday) on which banks are not authorized or required to be closed in Sacramento, California.

"Capital Lease" means at any date any lease of Property which in accordance with GAAP is required to be capitalized on the balance sheet of the lessee.

"Capitalized Lease Obligation" means the amount of liability as shown on the balance sheet of any Person in respect of a Capital Lease as determined at any date in accordance with GAAP.

"Cash Advance Note" means a Promissory Note substantially in the form of **Exhibit C** attached hereto, executed by Borrower in connection with each Cash Advance.

"Consulting Engineer" means the engineer, engineering firm or consulting firm retained from time to time by Borrower to provide independent analysis and planning advice regarding the business strategy and operations of Borrower.

"Debtor Relief Laws" means the United States Bankruptcy Code and all other liquidation, conservatorship, insolvency, reorganization, or similar debtor relief laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

"Default" means any event or condition the occurrence of which would, with the passage of time or the giving of notice, or both, constitute an Event of Default.

"Default Rate" means the Applicable Rate plus five percent (5.0%).

"Dollars and \$" mean lawful money of the United States.

"Energy Efficiency Account" means the River City Bank Account No. xxxxxx-181 held by Borrower with Lender.

"Event of Default" is defined in Section 10.1.

"GAAP" means generally accepted accounting principles as established and interpreted by the Governmental Accounting Standards Board (GASB) and as applied by Borrower.

"Governmental Authority" means the government of the United States or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank, or other entity exercising executive, legislative, judicial taxing, regulatory or administrative powers or functions of or pertaining to government.

"Honor Date" is defined in Section 4.3(a).

"Indebtedness for Borrowed Money" means, for any Person (without duplication), (i) all indebtedness created, assumed or incurred in any manner by such Person representing money borrowed (including by the issuance of debt securities), (ii) all indebtedness for the deferred purchase price of property or services (other than trade accounts payable arising in the ordinary course of business not more than 90 days past due), (iii) all indebtedness secured by any Lien upon Property of such Person, whether or not such Person has assumed or become liable for the payment of such indebtedness, (iv) all Capitalized Lease Obligations of such Person, and (v) all obligations of such Person on or with respect to letters of credit, banker's acceptances and other evidences of indebtedness representing extensions of credit whether or not representing obligations for borrowed money.

"Indemnified Liabilities" is defined in Section 11.5.

"Indemnified Person" is defined in Section 11.5.

"Initial Rate Set Date" means the date of issuance of each Promissory Note at which time Lender will determine the One-Month LIBOR which shall be in effect until the next Rate Change Date.

"ISP" means, with respect to any Letter of Credit, the "International Standby Practices 1998" published by the Institute of International Banking Law & Practice, Inc. (or other such later version thereof as may be in effect at the time of issuance).

"Joint Powers Agreement" means the Joint Powers Agreement of Borrower effective as of December 19, 2008, and as amended from time to time.

"L/C Borrowing" means an Advance arising from a drawing under a Letter of Credit that Borrower has not reimbursed by the Reimbursement Date in accordance with Section 4.3(a).

"L/C Credit Extension" means, with respect to any Letter of Credit, the issuance thereof, increase in the amount thereof, or extension of the expiration date thereof.

"L/C Issuer" means either River City Bank or MUFG Union Bank, N.A. on behalf of River City Bank, as the case may be.

"L/C Issuing Documents" means, with respect to any Letter of Credit, the Letter of Credit Application, and any other document, agreement and instrument entered into by the L/C Issuer and Borrower or in favor of the L/C Issuer and relating to any such Letter of Credit.

"Lender" is defined in the introductory paragraph.

"Letter of Credit" means any letter of credit issued hereunder that provides for the payment of cash upon the honoring of a presentation thereunder.

"Letter of Credit Application" means a written request for a Letter of Credit substantially in the form of **Exhibit E** attached hereto.

"Letter of Credit Expiration Date" means the day that is thirty (30) calendar days before the Termination Date.

"Letter of Credit Fees" mean the fees and charges related to the issuance of a Letter of Credit as provided in Section 4.6.

"Letter of Credit Note" means a Promissory Note substantially in the form of **Exhibit B** attached hereto, executed by Borrower in connection with each unreimbursed drawing under a Letter of Credit in accordance with Section 2.3(a).

"Lien" means any mortgage, lien, security interest, pledge, charge or encumbrance of any kind in respect of any Property, including the interests of a vendor or lessor under any conditional sale, Capital Lease or other title retention arrangement.

"Loan Documents" means this Agreement, the Promissory Notes, the Assignment of Debt Service Reserve Account, the Letters of Credit, the L/C Issuing Documents and all other documents, certificates, instruments and agreements relating to the foregoing or otherwise executed by Borrower in connection with the Non-Revolving Credit.

"Loan Fee" means one-quarter of one percent (0.25%) of the Non-Revolving Credit Commitment.

"Loan Loss Reserve Accounts" means the River City Bank Account Nos. xxxxxx-960, xxxxxx-088 and xxxxxx-096, and any other "Loan Loss Reserve Account"

established pursuant to the MCE On-Bill Repayment Program Operating Agreement between Borrower and Lender dated as of July 8, 2013, as amended from time to time.

"Maintenance and Operation Costs" shall be determined in accordance with the accrual basis of accounting in accordance with GAAP and shall mean the reasonable and necessary costs paid or incurred by Borrower for maintaining and operating the System, including costs of electric energy and power generated or purchased, costs of transmission and fuel supply, and including all reasonable expenses of management and repair and other expenses necessary to maintain and preserve the System in good repair and working order, and including all administrative costs of Borrower that are charged directly or apportioned to the maintenance and operation of the System, such as salaries and wages of employees, overhead, insurance, taxes (if any) and insurance premiums, and including all other reasonable and necessary costs of Borrower such as fees and expenses of an independent certified public accountant and the Consulting Engineer, and including Borrower's share of the foregoing types of costs of any electric properties co-owned with others, excluding in all cases depreciation, replacement and obsolescence charges or reserves therefore and amortization of intangibles and extraordinary items computed in accordance with GAAP or other bookkeeping entries of a similar nature. Maintenance and Operation Costs shall include all amounts required to be paid by Borrower under Take or Pay Contracts.

"Maturity Date" means, for any Letter of Credit Note, the initial expiration date of the Letter of Credit corresponding to such Letter of Credit Note; and for any Cash Advance Note or Term Note, the date so specified in such Cash Advance Note or Term Note as the Maturity Date.

"Non-Revolving Credit" is defined in Section 2.1.

"Non-Revolving Credit Commitment" means, at any time of determination, an amount equal to \$15,000,000.00 less the aggregate principal amount of Advances made by Lender under the Non-Revolving Credit.

"Non-Revolving Credit Termination Date" means the earlier to occur of (a) the Termination Date, and (b) the date on which Lender's obligation to make Advances under the Non-Revolving Credit terminates pursuant to Section 10.

"Obligations" means and includes all loans, advances, debts, liabilities and obligations of Borrower to Lender, of every kind and description (whether or not evidenced by any note or instrument and whether or not for the payment of money), direct or indirect, absolute or contingent, due or to become due, now existing or hereafter owed by Borrower to Lender, whether in connection with the Loan Documents or otherwise, including without limitation all interest, fees (including Letter of Credit Fees), charges, expenses, attorneys' fees and accountants' fees chargeable to Borrower or payable by Borrower thereunder.

"One-Month LIBOR" means, as of each Rate Change Date or the Initial Rate Set Date, the rate determined by Lender to be the One-Month LIBOR rate as posted on

Bankrate.com (or, if such rate becomes unavailable to Lender, a substitute rate based on an index selected by Lender in its sole discretion) as in effect from time to time, which rate is not necessarily the lowest rate charged by Lender on its loans and is set by Lender in its sole discretion.

"Payment Date" means, other than the Termination Date or any Maturity Date, the first day of each calendar month.

"Permitted Liens" is defined in Section 9.8.

"Person" means an individual, partnership, corporation, company, limited liability company, association, trust, unincorporated organization or any other entity or organization, including a government or agency or political subdivision thereof.

"Property" means any interest in any kind of property or asset, whether real, personal or mixed, or tangible or intangible.

"Rate Change Date" means the first calendar day of each calendar month.

"Reimbursement Date" is defined in Section 4.3(a).

"Related Parties" means, with respect to any Person, such Person's affiliates and the partners, directors, officers, employees, agents, trustees, administrators, managers, advisors and representatives of such Person and of such Person's affiliates.

"Responsible Officer" means the Chief Executive Officer of Borrower.

"RCB Letter of Credit" means a Letter of Credit issued by River City Bank.

"Shell Agreements" means (i) that certain Master Power Purchase and Sale Agreement, dated as of February 5, 2010, between Shell Energy and Borrower, (ii) the Shell Security Agreement, (iii) the Shell Collateral Account Agreement, and (iv) any and all amendments, modifications, and restatements of the documents referred to in the preceding clauses (i) through (iii).

"Shell Collateral Account Agreements" means the "Secured Account Agreement(s)" as defined in the Shell Security Agreement.

"Shell Energy" means Shell Energy North America (US), L.P., a Delaware limited partnership.

"Shell Energy Accounts" means the River City Bank Account Nos. xxxxxx-221 and xxxxxx-388, and any other accounts maintained with Lender in which Borrower has granted a security interest to Shell Energy pursuant to the Shell Security Agreement.

"Shell Security Agreement" means that certain Second Amendment to and Restatement of Security Agreement, dated as of February 2, 2012, between Shell Energy and Borrower.

"System" means (i) all facilities, works, properties, structures and contractual rights to distribution, metering and billing services, electric power, scheduling and coordination, transmission capacity, and fuel supply of Borrower for the generation, transmission and distribution of electric power, (ii) all general plant facilities, works, properties and structures of Borrower, and (iii) all other facilities, properties and structures of Borrower, wherever located, reasonably required to carry out any lawful purpose of Borrower. The term shall include all such contractual rights, facilities, works, properties and structures now owned or hereafter acquired by Borrower.

"Termination Date" means August 31, 2016.

"UCC" means the Uniform Commercial Code as enacted in the State of California.

"UCP" means, with respect to any Letter of Credit, the Uniform Customs and Practice for Documentary Credits, International Chamber of Commerce ("ICC") Publication No. 600 (or other such later version thereof as may be in effect at the time of issuance).

"Union Letter of Credit" means a Letter of Credit issued by MUFG Union Bank, N.A.

"Winding-Up" means, in relation to a Person, a voluntary or involuntary case or other proceeding or petition seeking dissolution, liquidation, reorganization, administration, assignment for the benefit of creditors or other relief under any federal, state or foreign bankruptcy, insolvency or other similar law now or hereafter in effect, or seeking the appointment of a custodian, trustee, receiver, liquidator or other similar official over that Person or any substantial part of that Person's Properties.

724319.4A

EXHIBIT B

LETTER OF CREDIT NOTE

\$ _____

Date: _____

FOR VALUE RECEIVED, **MARIN CLEAN ENERGY**, a public agency formed under the provisions of the Joint Exercise of Powers Act of the State of California, Government Code Section 6500 et seq. ("*Borrower*"), promises to pay to the order of **RIVER CITY BANK** ("*Lender*") the lesser of (a) the principal sum of _____/100 DOLLARS (\$ _____), or (b) the aggregate unpaid principal amount of Advances made to Borrower by Lender under the Letter of Credit described below to which this Letter of Credit Note (this "*Note*") relates, pursuant to the terms of that certain Non-Revolving Credit Agreement (the "*Credit Agreement*") dated as of July 31, 2015, between Borrower and Lender, together with interest thereon as provided herein and therein. All payments under this Note shall be made to Lender at its address specified in the Credit Agreement, or at such other place as the holder of this Note may from time to time designate in writing, in accordance with the terms of this Note and the Credit Agreement. Capitalized terms used but not defined in this Note shall have the definitions provided in the Credit Agreement.

This Note is executed in connection with that certain standby letter of credit (the "*Letter of Credit*") dated as of [____], and issued by [____], as "*Issuing Bank*," for the benefit of [____], as "*Beneficiary*," in the face amount of [____]. Under Section 4.3 of the Credit Agreement, if Borrower fails to reimburse the Issuing Bank for the honor of a drawing under the Letter of Credit on or before the Reimbursement Date, the Unreimbursed Amount will become an Advance of principal under this Note made as of the Honor Date and will bear interest from the Honor Date.

Payment Terms. Borrower agrees to pay monthly payments of interest only on the unpaid principal balance of this Note as of each Payment Date beginning on the latter of (a) the first Payment Date after the Honor Date, or (b) October 1, 2015, with all subsequent payments due and payable on each Payment Date thereafter as provided in Section 3 of the Credit Agreement. Interest will accrue prior to maturity (whether by lapse of time, acceleration or otherwise) at the Applicable Rate and after maturity (whether by lapse of time, acceleration or otherwise), whether before or after judgment, at the Default Rate, until paid in full.

Maturity Date. The outstanding principal balance of this Note and all accrued but unpaid interest thereon shall be due and payable in full on the earlier of (x) the expiration date of the Letter of Credit, subject to amendment or extension from time to time in accordance with the terms of the Loan Documents, or (y) the Non-Revolving Credit Termination Date. Under Section 5.2 of the Credit Agreement and subject to the conditions set forth therein, Borrower may request that any amounts due and payable hereunder on the Termination Date be converted into a Term Loan evidenced by a Term Note.

Default and Acceleration. Upon the occurrence of any Event of Default described in Section 10.1 of the Credit Agreement, Lender or any permitted holder of this Note may exercise

"System" means (i) all facilities, works, properties, structures and contractual rights to distribution, metering and billing services, electric power, scheduling and coordination, transmission capacity, and fuel supply of Borrower for the generation, transmission and distribution of electric power, (ii) all general plant facilities, works, properties and structures of Borrower, and (iii) all other facilities, properties and structures of Borrower, wherever located, reasonably required to carry out any lawful purpose of Borrower. The term shall include all such contractual rights, facilities, works, properties and structures now owned or hereafter acquired by Borrower.

"Termination Date" means August 31, 2016.

"UCC" means the Uniform Commercial Code as enacted in the State of California.

"UCP" means, with respect to any Letter of Credit, the Uniform Customs and Practice for Documentary Credits, International Chamber of Commerce ("ICC") Publication No. 600 (or other such later version thereof as may be in effect at the time of issuance).

"Union Letter of Credit" means a Letter of Credit issued by MUFG Union Bank, N.A.

"Winding-Up" means, in relation to a Person, a voluntary or involuntary case or other proceeding or petition seeking dissolution, liquidation, reorganization, administration, assignment for the benefit of creditors or other relief under any federal, state or foreign bankruptcy, insolvency or other similar law now or hereafter in effect, or seeking the appointment of a custodian, trustee, receiver, liquidator or other similar official over that Person or any substantial part of that Person's Properties.

any or all of the rights and remedies set forth therein, including the exercise of Lender's option to accelerate this Note and declare all Advances and all indebtedness under this Note then outstanding to be immediately due and payable, with or without notice to Borrower, as applicable.

Miscellaneous. This Note and the holder hereof are entitled to all of the rights benefits provided for in the Credit Agreement. All of the terms, covenants and conditions contained in the Credit Agreement are hereby made part of this Note to the same extent and with the same force as if they were fully set forth herein. In the event of a conflict or inconsistency between the terms of this Note and the Credit Agreement, the terms and provisions of the Credit Agreement shall control.

This Note may not be modified, amended, waived, extended, changed, discharged or terminated orally or by any act or failure to act on the part of Borrower or Lender, but only by an agreement in writing signed by the party against whom enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.

This Note will be construed in accordance with, and governed by, the internal laws of the State of California.

Borrower promises to pay all costs and expenses (including reasonable attorneys' fees and expert witnesses' fees) suffered or incurred by Lender or subsequent holder of this Note in the collection of this Note or the enforcement Lender's rights and remedies under the Credit Agreement.

Borrower hereby waives presentment for payment and demand. If any part of this Note cannot be enforced, this fact will not affect the rest of the Note. Lender may delay or forego enforcing any of its rights or remedies under this Note without losing them. Borrower and any other person who signs, guarantees or endorses this Note, to the extent allowed by law, waive any applicable statute of limitations, presentment, demand for payment, and notice of dishonor. Upon any change in the terms of this Note, and unless otherwise expressly stated in writing, no party who signs this Note, whether as maker, guarantor, accommodation maker or endorser, shall be released from liability. All such parties agree that Lender may renew or extend (repeatedly and for any length of time) the obligations evidenced by this Note or release any party or guarantor or collateral, or impair, fail to realize upon or perfect Lender's security interest in the collateral, if any; and take any other action deemed necessary by Lender without the consent of or notice to anyone. All such parties also agree that Lender may modify the terms of this Note without the consent of or notice to anyone other than the party with whom the modification is made.

Prior to signing this Note, Borrower read and understood all the provisions of this Note and the Credit Agreement, including the variable interest rate provisions in the Credit Agreement. Borrower agrees to the terms of this Note and the Credit Agreement. Borrower acknowledges receipt of complete copies of this Note and the Credit Agreement.

IN WITNESS WHEREOF, Borrower has duly executed this Note as of the day and year first above written.

MARIN CLEAN ENERGY

By: _____

Dawn Weisz
Executive Officer

By: _____

Chairman of the Board

EXHIBIT C

CASH ADVANCE NOTE

\$ _____

Date: _____

FOR VALUE RECEIVED, **MARIN CLEAN ENERGY**, a public agency formed under the provisions of the Joint Exercise of Powers Act of the State of California, Government Code Section 6500 et seq. ("*Borrower*"), promises to pay to the order of **RIVER CITY BANK** ("*Lender*") the principal sum of _____/100 DOLLARS (\$ _____), pursuant to the terms of that certain Non-Revolving Credit Agreement (the "*Credit Agreement*") dated as of July 31, 2015, between Borrower and Lender, together with interest thereon as provided herein and therein. All payments under this Cash Advance Note (this "*Note*") shall be made to Lender at its address specified in the Credit Agreement, or at such other place as the holder of this Note may from time to time designate in writing, in accordance with the terms of this Note and the Credit Agreement. Capitalized terms used but not defined in this Note shall have the definitions provided in the Credit Agreement.

Payment Terms. Under the terms of the Credit Agreement, Borrower may request Cash Advances under the Non-Revolving Credit. This Note evidences a Cash Advance and will bear interest from the date of such Cash Advance. Borrower agrees to pay monthly payments of interest only on the unpaid principal balance of this Note as of each Payment Date beginning on the latter of (a) the first Payment Date after the date of the Cash Advance, or (b) October 1, 2015, with all subsequent payments due and payable on each Payment Date thereafter as provided in Section 3 of the Credit Agreement. Interest will accrue prior to maturity (whether by lapse of time, acceleration or otherwise) at the Applicable Rate and after maturity (whether by lapse of time, acceleration or otherwise), whether before or after judgment, at the Default Rate, until paid in full.

Maturity Date. The outstanding principal balance of this Note and all accrued but unpaid interest thereon shall be due and payable in full on the Non-Revolving Credit Termination Date. Under Section 5.3 of the Credit Agreement and subject to the conditions set forth therein, at any time before the Non-Revolving Credit Termination Date, Borrower may request that any amounts due and payable hereunder be converted into a Term Loan evidenced by a Term Note.

Default and Acceleration. Upon the occurrence of any Event of Default described in Section 10.1 of the Credit Agreement, Lender or any permitted holder of this Note may exercise any or all of the rights and remedies set forth therein, including the exercise of Lender's option to accelerate this Note and declare all Advances and all indebtedness under this Note then outstanding to be immediately due and payable, with or without notice to Borrower, as applicable.

Miscellaneous. This Note and the holder hereof are entitled to all of the rights benefits provided for in the Credit Agreement. All of the terms, covenants and conditions contained in the Credit Agreement are hereby made part of this Note to the same extent and with the same force as if they were fully set forth herein. In the event of a conflict or inconsistency between the

terms of this Note and the Credit Agreement, the terms and provisions of the Credit Agreement shall control.

This Note may not be modified, amended, waived, extended, changed, discharged or terminated orally or by any act or failure to act on the part of Borrower or Lender, but only by an agreement in writing signed by the party against whom enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.

This Note will be construed in accordance with, and governed by, the internal laws of the State of California.

Borrower promises to pay all costs and expenses (including reasonable attorneys' fees and expert witnesses' fees) suffered or incurred by Lender or subsequent holder of this Note in the collection of this Note or the enforcement Lender's rights and remedies under the Credit Agreement.

Borrower hereby waives presentment for payment and demand. If any part of this Note cannot be enforced, this fact will not affect the rest of the Note. Lender may delay or forego enforcing any of its rights or remedies under this Note without losing them. Borrower and any other person who signs, guarantees or endorses this Note, to the extent allowed by law, waive any applicable statute of limitations, presentment, demand for payment, and notice of dishonor. Upon any change in the terms of this Note, and unless otherwise expressly stated in writing, no party who signs this Note, whether as maker, guarantor, accommodation maker or endorser, shall be released from liability. All such parties agree that Lender may renew or extend (repeatedly and for any length of time) the obligations evidenced by this Note or release any party or guarantor or collateral, or impair, fail to realize upon or perfect Lender's security interest in the collateral, if any; and take any other action deemed necessary by Lender without the consent of or notice to anyone. All such parties also agree that Lender may modify the terms of this Note without the consent of or notice to anyone other than the party with whom the modification is made.

Prior to signing this Note, Borrower read and understood all the provisions of this Note and the Credit Agreement, including the variable interest rate provisions in the Credit Agreement. Borrower agrees to the terms of this Note and the Credit Agreement. Borrower acknowledges receipt of complete copies of this Note and the Credit Agreement.

MARIN CLEAN ENERGY

By: _____

Dawn Weisz
Executive Officer

By: _____

Chairman of the Board

EXHIBIT D

TERM NOTE

\$ _____

Date: _____

FOR VALUE RECEIVED, **MARIN CLEAN ENERGY**, a public agency formed under the provisions of the Joint Exercise of Powers Act of the State of California, Government Code Section 6500 et seq. ("*Borrower*"), promises to pay to the order of **RIVER CITY BANK** ("*Lender*") the principal sum of _____/100 DOLLARS (\$ _____), pursuant to the terms of that certain Non-Revolver Credit Agreement (the "*Credit Agreement*") dated as of July 31, 2015, between Borrower and Lender, together with interest thereon as provided herein and therein. All payments under this Term Note (this "*Note*") shall be made to Lender at its address specified in the Credit Agreement, or at such other place as the holder of this Note may from time to time designate in writing, in accordance with the terms of this Note and the Credit Agreement. Capitalized terms used but not defined in this Note shall have the definitions provided in the Credit Agreement.

Payment Terms. Under Section 5 of the Credit Agreement and subject to the conditions set forth therein, Borrower may request that unpaid Advances under the Letter of Credit Notes and/or the Cash Advance Notes be converted to a Term Loan. This Note evidences a Term Loan made to Borrower as of _____ [date] in the original principal amount of \$ _____, and will bear interest from the date hereof. Borrower agrees to repay this Note by making sixty (60) equal monthly payments of principal hereunder in the amount of \$ _____ each, plus all accrued but unpaid interest on the unpaid principal balance of this Note as of each Payment Date, beginning on the first Payment Date after the date of this Note, with all subsequent payments due and payable on each Payment Date thereafter as provided in the Credit Agreement. Interest will accrue prior to maturity (whether by lapse of time, acceleration or otherwise) at the Applicable Rate and after maturity (whether by lapse of time, acceleration or otherwise), whether before or after judgment, at the Default Rate, until paid in full.

Maturity Date. The outstanding principal balance of this Note and all accrued but unpaid interest thereon shall be due and payable in full on _____ [date – not to exceed 60 months].

Default and Acceleration. Upon the occurrence of any Event of Default described in Section 10.1 of the Credit Agreement, Lender or any permitted holder of this Note may exercise any or all of the rights and remedies set forth therein, including the exercise of Lender's option to accelerate this Note and declare all indebtedness under this Note then outstanding to be immediately due and payable, with or without notice to Borrower, as applicable.

Miscellaneous. This Note and the holder hereof are entitled to all of the rights benefits provided for in the Credit Agreement. All of the terms, covenants and conditions contained in the Credit Agreement are hereby made part of this Note to the same extent and with the same force as if they were fully set forth herein. In the event of a conflict or inconsistency between the terms of this Note and the Credit Agreement, the terms and provisions of the Credit Agreement shall control.

terms of this Note and the Credit Agreement, the terms and provisions of the Credit Agreement shall control.

This Note may not be modified, amended, waived, extended, changed, discharged or terminated orally or by any act or failure to act on the part of Borrower or Lender, but only by an agreement in writing signed by the party against whom enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.

This Note will be construed in accordance with, and governed by, the internal laws of the State of California.

Borrower promises to pay all costs and expenses (including reasonable attorneys' fees and expert witnesses' fees) suffered or incurred by Lender or subsequent holder of this Note in the collection of this Note or the enforcement Lender's rights and remedies under the Credit Agreement.

Borrower hereby waives presentment for payment and demand. If any part of this Note cannot be enforced, this fact will not affect the rest of the Note. Lender may delay or forego enforcing any of its rights or remedies under this Note without losing them. Borrower and any other person who signs, guarantees or endorses this Note, to the extent allowed by law, waive any applicable statute of limitations, presentment, demand for payment, and notice of dishonor. Upon any change in the terms of this Note, and unless otherwise expressly stated in writing, no party who signs this Note, whether as maker, guarantor, accommodation maker or endorser, shall be released from liability. All such parties agree that Lender may renew or extend (repeatedly and for any length of time) the obligations evidenced by this Note or release any party or guarantor or collateral, or impair, fail to realize upon or perfect Lender's security interest in the collateral, if any; and take any other action deemed necessary by Lender without the consent of or notice to anyone. All such parties also agree that Lender may modify the terms of this Note without the consent of or notice to anyone other than the party with whom the modification is made.

Prior to signing this Note, Borrower read and understood all the provisions of this Note and the Credit Agreement, including the variable interest rate provisions in the Credit Agreement. Borrower agrees to the terms of this Note and the Credit Agreement. Borrower acknowledges receipt of complete copies of this Note and the Credit Agreement.

MARIN CLEAN ENERGY

By: _____
Dawn Weisz
Executive Officer

By: _____
Chairman of the Board

EXHIBIT E

Letter of Credit Application


River City Bank

APPLICATION AND AGREEMENT FOR IRREVOCABLE STANDBY LETTER OF CREDIT

PLEASE CHECK AND COMPLETE APPLICABLE BOXES BELOW.

Marin Clean Energy ("Applicant") requests the Issuing Bank selected below ("Bank") to issue an irrevocable standby letter of credit ("Credit") with the following terms and conditions for delivery to the beneficiary named below ("Beneficiary") by Courier:

Select (X)	Issuing Bank
	River City Bank
	Union Bank
Amount in USD\$	\$
Applicant	Marin Clean Energy
Beneficiary	(Enter complete name and address of energy company)
Expiration Date	
Other LC Conditions	<input type="checkbox"/> Partial Drawing Allowed <input type="checkbox"/> Partial Drawings NOT Allowed
Credit Available by Payment:	Against presentation of the documents detailed therein.
Documents Required: (Provide an attachment from energy contract which provides language required from Beneficiary)	A dated statement purportedly signed by an authorized officer or representative of Beneficiary stating: "The undersigned being a duly authorized officer or representative of [Beneficiary Name] hereby represents and warrants that the amount of the accompanying draft represents and covers: [insert text as required]"
Special Conditions	<input type="checkbox"/> Automatic Renewal Clause for [12 months] with [120] days prior Notification of non-renewal <input type="checkbox"/> Other
Final Expiration Date (if applicable)	
IMPORTANT NOTICE	(A) Applicant understands that the risk is greater if Applicant requests a standby letter of credit which requires only a simple demand without any supporting documentation. Typically, standby letters of credit require the beneficiary to provide some written statement in order to obtain payment. However, a beneficiary that can obtain a standby letter of credit available only against presentation of a simple demand, relieves itself of any documentary requirements. (B) Applicant understands that the final form of Credit may be subject to such revision and changes as are deemed necessary or appropriate by Bank and Applicant hereby consents to such revisions and changes.
<p>The opening of the Credit is subject to the terms and conditions appearing on this page and on the subsequent page(s) hereof and on the terms and conditions of the Non-Revolving Credit Agreement, as may be amended from time to time, between Applicant and Bank.</p> <p>Applicant agrees to be bound by the terms and conditions set forth or referred to above and certifies to Bank that Applicant has duly and validly executed and entered into the below Authorization and Agreement.</p>	

APPLICANT #10 ALL R-NRCA with PCB **AUTHORIZATION AND AGREEMENT BY APPLICANT**

The undersigned Applicant hereby requests Bank to issue the Credit, and, in consideration of issuance by Bank, irrevocably agrees: (i) to all terms and conditions of this Application and Agreement and the Credit; (ii) that Bank is issuing the Credit for Applicant based solely on Applicant's credit with Applicant having sole right to give instructions and make agreements or amendments with respect to this Application and Agreement and the Credit, and any presentation made under the Credit.

Marin Clean Energy

Authorized Signature

Date:

In consideration of MUFG Union Bank, N.A. ("Bank") issuing an irrevocable standby letter of credit (as amended or modified from time to time, the "Credit") as provided on the previous page(s) of this Application and Agreement for Irrevocable Standby Letter of Credit (the "Agreement") for the account of the party or parties executing such previous pages as applicant (individually and collectively, "Applicant" or "you"), you hereby agree with Bank as follows:

1. That you shall:

(a) Pay Bank, on demand, such amounts as are required to pay or reimburse Bank for all disbursements ("Disbursement(s)") made or to be made by Bank or Bank's correspondents in connection with the Credit.

(b) Pay Bank, on demand, all commissions, fees and other charges ("Charge(s)") arising out of or in connection with the Credit (including without limitation those for the account of the person or entity in whose favor the Credit is issued (the "Beneficiary") if the Beneficiary fails to pay on first demand).

(c) Pay Bank, on demand, all expenses ("Expense(s)") which Bank or Bank's correspondents may sustain or incur in connection with the Credit.

(d) Make each such payment in immediately available funds in the currency of the applicable Disbursement, Charge or Expense; provided, however, if such payment is to be in a currency other than U.S. Dollars, Bank may, at its option, require such amount to be paid in an equivalent amount of U.S. Dollars converted at Bank's then current rate of exchange.

You agree that Bank may make demand for payment in writing or by telephone, facsimile, SWIFT, telex, Bank's Global Trade Services web product or other method of teletransmission (collectively, "Telecommunications"), and expressly authorize Bank to debit any of your accounts maintained with Bank or any of Bank's affiliates or subsidiaries for any or all of your obligations hereunder as and when the same become due.

2. In addition to all other amounts required to be paid hereunder, you agree to pay Bank, on demand: (a) all charges, costs and expenses (including without limitation the allocated costs of Bank's business staff and reasonable attorneys' fees and costs of all kinds, including the allocated costs of Bank's in-house legal counsel and staff) incurred by Bank in connection with (i) any amendments or negotiations in respect of any documents evidencing your obligations hereunder; (ii) any legal advice sought by Bank in connection with Bank's rights, remedies, legal position or obligations; (iii) enforcing your obligations hereunder; and (iv) any proceeding for declaratory relief, interpleader, injunction, restraining order or similar relief, or any counterclaim or appeal to any such proceeding brought by or against Bank; (b) all taxes levied or imposed by any government agency in connection with this Agreement or the Credit; and (c) interest on any amount owed hereunder which is not paid when due as provided under the Non-Revolving Credit Agreement, and if the Non-Revolving Credit Agreement is not in effect, then at a per annum rate (computed for actual days elapsed on the basis of a 360-day year) equal to (i) 5% in excess of the Reference Rate in the case of amounts due in U.S. Dollars; or (ii) 5% in excess of the rate Bank determines to be its cost of funding the relevant loan or advance (the "Funding Rate") in the case of amounts due in a currency other than U.S. Dollars. Each of these rates shall change from time to time as and when the Reference Rate or the applicable Funding Rate, as the case may be, changes. As used herein, "Reference Rate" means the rate announced by Bank from time to time at its corporate headquarters as its Reference Rate. The Reference Rate is an index rate determined by Bank from time to time as a means of pricing certain extensions of credit and is neither directly tied to any external rate or index nor necessarily the lowest rate of interest charged by Bank at any given time. No provision of this Agreement shall require the payment or permit the collection of interest in excess of the maximum rate permitted by applicable law.

3. In connection with the Credit, you acknowledge and agree:

(a) That the Credit may be issued by any branch of Bank.

(b) That Bank and Bank's correspondents shall be entitled to make payments or to accept or negotiate drafts drawn under the Credit if the documents presented thereunder appear on their face to be in compliance with the terms and conditions of the Credit. In addition, neither Bank nor Bank's correspondents shall have any liability or responsibility for the form, sufficiency, accuracy, genuineness, falsification or legal effect of the documents presented under the Credit, for the authority of any persons signing such documents, for the description, quantity, quality, weight, condition, packing, delivery, value or existence of the goods represented by such documents, for the acts, omissions, good faith, solvency, performance or capacity of the Beneficiary of the Credit, the consignors, carriers, forwarders, consignees or insurers of the goods described therein, or any other persons, for the performance of any contracts which you enter into with the Beneficiary of the Credit, or for the consequences arising out of any delay or loss in transit of any messages, letters or documents, any delay, interruption, mutilation or other error in the transmission of any communications by any method of Telecommunications or any error in the translation or interpretation of any technical terms or any messages or documents relating to the Credit.

(c) Except in the case where the Credit expressly provides otherwise, the Credit shall be subject to, and performance by Bank, Bank's correspondents and the Beneficiary under the Credit shall be governed by, the Uniform Customs and Practice for Documentary Credits, 1993 Revision, ICC Publication No. 500, or such subsequent revision thereof, adopted by the International Chamber of Commerce, as is in effect on the date the Credit is issued.

(d) If the Credit is expressed to be governed by the laws of any jurisdiction other than the laws of the State of California, or any other state that has adopted into law a law in the same form as Section 5113 of the California Commercial Code as in effect on the date the Credit is issued, and the Credit expressly provides that it shall be available to successors in interest (or parties similar in nature) to the named Beneficiary, that Bank shall regard any person or entity purporting to be such a successor as such a successor, without any responsibility for verifying the facts of such purported succession, all on your complete responsibility, even if the wrong party is paid.

(e) If you, or some other person or entity acting on your behalf, grant Bank a security interest in any real or personal property as collateral for your obligations arising in connection with the Credit, that Bank, at its discretion, may continue to hold such collateral even after the expiration date of the Credit until the Credit is returned to Bank undrawn, and that in no event shall any release of the collateral be construed to be a release or discharge of your obligations relating to the Credit.

(f) If you have requested that the Credit recite that it is issued for a party other than you ("Account Party"), that such Account Party has and will have no interest in the Credit or its subject matter and that all interests in the Credit and its subject matter will be held exclusively and absolutely by you.

(g) That you irrevocably waive and surrender, and agree not to exercise, any rights that would otherwise accrue to you through Bank or Bank's making payment under the Credit, whether by operation of law, equity or contract and whether under the doctrine of subrogation or otherwise, and that you agree that you will pursue only such remedies as you may have or such obligations as you may be owed in respect of such payments solely and directly on the basis of the contract(s) you have with, or the tort liability of, the Beneficiary or transferee of the Credit, the assignee of the proceeds of the Credit, or other persons or entities, as applicable.

(h) If the Credit is the subject of an "extend or pay" request received by Bank from the Beneficiary and provided by Bank to you, that you will continue to be liable to Bank for the Credit, even though an expiry or reduction in amount thereof might otherwise appear to occur after Bank's receipt, until the matter has been resolved to Bank's satisfaction. You understand that Bank retains every right to decline to amend or extend the Credit.

(i) If the Beneficiary of the Credit is a bank or other financial institution (other than Bank) which, in reliance upon the Credit, is asked to issue its own guaranty or other form of undertaking (including a letter of credit) on your behalf (a "Local Bank") and, in fact, issues such guaranty or other form of undertaking on your behalf, that Bank shall have no responsibility to you for the wording of such guaranty or other form of undertaking, or its legal effect, whether under foreign law or

otherwise, and that you will have complete, continuing liability to the local Bank and to Bank for any and all claims made under such guaranty or other form of undertaking until it terminates, whether or not the Credit has expired.

(j) If any commercial type documents (such as invoices or bills of lading, but not a default or claim statement) are required to be presented under the Credit, that Bank shall have no responsibility whatsoever for examining any such documents under any standard under any circumstances.

4. The occurrence of any one or more of the following shall constitute a Default ("Default") hereunder: (a) your failure to make any payment required hereunder when due, or to perform or observe any other covenant, obligation or agreement contained herein; (b) any breach, misrepresentation or other default by you, any guarantor or any person or entity other than you providing security for your obligations hereunder (each, including you, an "Obligor") under any security agreement, guaranty or other agreement between Bank and any Obligor; (c) the insolvency of any Obligor or the failure of any Obligor generally to pay such Obligor's debts as such debts become due; (d) the commencement as to any Obligor of any voluntary or involuntary proceeding under any laws relating to bankruptcy, insolvency, reorganization, arrangement, debt adjustment or debtor relief; (e) the assignment by any Obligor for the benefit of such Obligor's creditors; (f) the appointment or commencement of any proceeding for the appointment of a receiver, trustee, custodian or similar official for all or substantially all of any Obligor's property; (g) the commencement of any proceeding for the dissolution or liquidation of any Obligor; (h) the termination of existence or death (if an individual) of any Obligor; (i) the revocation of any guaranty or subordination agreement given in connection with your obligations hereunder; (j) the failure of any Obligor to comply with any order, judgment, injunction, decree, writ or demand of any court or other public authority; (k) the filing or recording against any Obligor or the property of any Obligor of any notice of levy, notice to withhold or other legal process for taxes other than property taxes; (l) the default by any Obligor who or which is personally liable for your obligations hereunder on any other obligation concerning the borrowing of money; (m) the issuance against any Obligor or the property of any Obligor of any writ of attachment, execution or other judicial lien; or (n) the deterioration of the financial condition of any Obligor which results in Bank deeming itself, in good faith, insecure.

Immediately and without notice upon the occurrence of a Default specified in clauses (c), (d), (e) or (f) of this Section 4, or, at the option and upon the declaration of Bank, upon the occurrence of any other Default, your obligations hereunder shall immediately become due and payable, without presentment, demand, protest or notice of any kind, all of which are hereby expressly waived, and Bank may immediately, and without the expiration of any period of grace, enforce payment of such obligations and exercise any and all other rights and remedies granted to it hereunder or by law. If at the time of any such Default and acceleration of your obligations hereunder, Bank remains liable under the Credit for any reason, then you will provide Bank, on demand, with sufficient funds ("Contingent Security") from which to pay all amounts which Bank may thereafter be called upon to pay in respect of the Credit. All amounts constituting Contingent Security shall be deposited in an account to be maintained with Bank and are hereby pledged to Bank by you as security for your obligations hereunder.

5. This Agreement may not be amended, modified or waived except by a written instrument signed by the party or parties against whom enforcement thereof is sought. No failure or delay on Bank's part in exercising any right hereunder shall operate as a waiver of any right, nor shall any partial exercise of any such right preclude any other further exercise thereof or the exercise of any other right. Each waiver or consent under any provision hereof shall be effective only in the specific instance and for the specific purpose for which given. If this Agreement is executed by more than one person or entity, the obligations of each of you hereunder shall be joint and several, and each of you agree that any one of you, acting alone, shall have full right and authority, binding on all of you, to request or consent to amendments, renewals, extensions, waivers or modifications of the Credit. You hereby acknowledge and agree that Bank is authorized, at any time and from time to time, without notice to you (any such notice being expressly waived), and to the fullest extent permitted by law, to set off and apply any and all deposits (whether general or special, time or demand, or provisional or final) at any time held, and all other indebtedness at any time owing by Bank to or for your credit, against any and all of your obligations hereunder.

6. You shall indemnify and hold Bank and each of Bank's employees, officers, shareholders, affiliates, correspondents, agents and representatives and, as to each entity, each of its respective employees, officers, shareholders, affiliates, correspondents, agents and representatives (each, a "Bank-related Person") harmless from and against any and all claims, demands, actions, causes of action, liabilities, damages, losses, costs and expenses (including without limitation the allocated costs of Bank's business staff and reasonable attorneys' fees and costs of all kinds, including the allocated costs of Bank's in-house legal counsel and staff) incurred by Bank and each Bank-related Person arising from (a) the matters contemplated by this Agreement or the Credit; (b) any contention that you have failed to comply with any law, rule, regulation, order or directive applicable to your sales, leases or performance of services to your customers; or (c) any dispute with the Beneficiary or a transferee of the Credit, an assignee of the proceeds of the Credit or any third party relating to the Credit (including without limitation actions brought by you to enjoin payment or drawings under the Credit); provided, however, that this indemnity shall not apply to any of the foregoing incurred solely as a result of the gross negligence or willful misconduct of Bank or any Bank-related Person. The obligation to indemnify set forth in this section shall survive the payment and satisfaction of all of your obligations and liabilities to Bank.

7. Any written notice or other written communication to be given by Bank under this Agreement will be addressed to you at the address specified on the previous page(s) of this Agreement, or at such other address as you may specify in writing. Unless Bank advises you otherwise, all written communications to Bank should be sent to your office of account. Notices are effective upon receipt; provided, however, that notices received after 3:00 p.m., California time, on a Business Day, or on a day other than a Business Day, shall be deemed received as of the next Business Day. As used herein, "Business Day" means a day (other than a Saturday or Sunday) on which banks are open for business in California. Bank shall be protected in acting on any oral or written request or instruction, whether received in writing, by telephone or other form of Telecommunication, which Bank in good faith believes to be genuine and to have been made by you or your authorized agents.

8. This Agreement shall be binding upon and inure to the benefit of Bank, Applicant and each of our respective successors and permitted assigns (and the heirs and personal representatives of Applicant if Applicant is an individual); provided, however, that Applicant may not assign its rights or delegate its duties without the prior written consent of Bank. If, at the request of Applicant, the amount of the Credit is increased, the maturity of the Credit or the time for presentation of drafts or acceptance of documents thereunder is extended or the terms of the Credit are otherwise modified, this Agreement shall continue to be binding on Applicant with regard to the Credit as so increased, extended or otherwise modified, to the drafts and documents covered thereby, and to any actions taken by Bank or Bank's correspondents in accordance with such increase, extension or other modification.

9. This Agreement hereby incorporates any alternative dispute resolution agreement previously, concurrently or hereafter executed between Bank and Applicant. In the event of any challenge to the legality or enforceability of any provision of this Agreement, the prevailing party shall be entitled to recover its costs and expenses, including reasonable attorneys' fees and the allocated costs of Bank's in-house legal counsel and staff, incurred in connection therewith. This Agreement will control in the event of any conflict between it and any other document or agreement entered into between Bank and Applicant. This Agreement shall be governed by and construed in accordance with the laws of the State of California, and Applicant hereby consents to service of process by any means authorized by California law. Applicant hereby waives notice of acceptance by Bank of this Agreement.

EXHIBIT F

Union Bank Fee Schedule



Preferred Pricing Exclusively for River City Bank's Client Marin Clean Energy - Schedule of Fees and Charges for Global Trade Services

Standby Letters of Credit

Issuance

Opening Commission	1.25% p.a., minimum \$ 500
Plus processing fee if paid by invoice	\$ 150
Periodic Commission	1.25% p.a., minimum \$ 500
Auto-Renewal/Evergreen	\$ 1,250 per renewal period + Periodic Commission

Amendment

Increase or Extension	1.25% p.a., minimum \$ 500
Narrative	\$ 150

Advice

Advising Fee	\$ 150
Amendment	\$ 150
Add Confirmation	by arrangement, minimum \$ 250

Examination/Payment

Standby Letter of Credit	1/4% per drawing, minimum \$ 200
Direct Pay Examination/Payment	\$ 150
Discrepancy	\$ 100 per examination
Expired, Unutilized, or Canceled	\$ 150
Drafted - Not issued	\$ 250 per draft
Transfer Letter of Credit	1/4%, minimum \$ 250
Direction to Pay Proceeds	1/4%, minimum \$ 250

Other Trade Services

Postage

Domestic	\$ 15
Registered/Certified Mail	\$ 25

Courier

Domestic	\$ 30
International	\$ 65
Handling Charge (Customer's Courier)	\$ 10
Scan Shipping Documents	by arrangement

Fax/Email Messages

Domestic	\$ 10
International	\$ 20

Swift or Telex

Short (1 Page)	\$ 30
Long (2 + Pages)	\$ 65

Payment

Fedwire or CHIPS	\$ 30
Cashier's Check	\$ 45
Foreign Currency Processing	\$ 65

International Services Activity Statement-Mailed

Account charge/quarter	\$ 45
Payment by invoice/year	\$ 180

Special Handling

Excess Detail	by arrangement, minimum \$ 125
Consultation Fee (Applies to Drafting only)	\$ 250 per hour, minimum \$ 250
Credit Reports	by arrangement, minimum \$ 100
Tracers	\$ 35
Trade Finance Investigations	per hour \$ 75, plus cable charges

Note: Fees assessed by other banks will be additional. Transactions that are not standard may be subject to different charges. MUFG Union Bank, N.A., reserves the right to charge for services not covered by this fee schedule, and to effect any alterations or amendments as we may consider necessary. Preferred Pricing Exclusively for River City Bank's Client Marin Clean Energy - Valid through August 21, 2016 and subject to Annual Renewal.



River City Bank

EXHIBIT G
REQUEST FOR CASH ADVANCE UNDER
NON-REVOLVING CREDIT AGREEMENT DATED AUGUST 21, 2015
(the "Agreement")

Marin Clean Energy ("Borrower") hereby requests River City Bank as Lender to fund a Cash Advance under the above referenced Agreement for the express purpose and under the terms provided herein.

Purpose:	
Date of this Request:	
Amount:	
Date of Proposed Advance:	
Interest and Term:	<input type="checkbox"/> Interest Only with Full Repayment due on Termination Date (August 31, 2016) <input type="checkbox"/> Term Note with Advance payable over 60 months
Account Number for Disbursement:	
<p>The undersigned hereby certifies that the following statements are true on the date hereof, and will be true on the date of the Proposed Advance:</p> <p>(A) The representations and warranties of the Borrower set forth in the Agreement and in the Loan Documents are and will be true and correct in all material respects, on and as of the date of the Proposed Advance,</p> <p>(B) At the time and immediately after giving effect to the Proposed Advance, no default or Event of Default has occurred and is continuing.</p>	
<p>The Borrower has caused this Request for Cash Advance to be executed and delivered by its duly authorized officer as of the date first written above.</p> <p>By: _____</p> <p>Title: _____</p>	

FIRST AMENDMENT TO

\$15,000,000

NON-REVOLVING CREDIT AGREEMENT

Dated as of March 17, 2016

by and between

**MARIN CLEAN ENERGY,
as Borrower**

and

**RIVER CITY BANK,
as Lender**

This First Amendment to Non-Revolving Credit Agreement (this "First Amendment") is entered into as of March 17, 2016, by and between **MARIN CLEAN ENERGY**, a public agency formed under the provisions of the Joint Exercise of Powers Act of the State of California, Government Code Section 6500 et. seq. ("Borrower"), and **RIVER CITY BANK**, a California corporation ("Lender").

WITNESSETH:

WHEREAS, Borrower has requested, and Lender has agreed to make available to Borrower a non-revolving credit facility upon and subject to the terms and conditions set forth in a Non-Revolving Credit Agreement dated August 21, 2015 between Borrower and Lender (the "Agreement") for issuance of Letters of Credit as sub-facilities thereunder and;

(1) Section 2.3 of the Agreement requires Borrower to execute a Letter of Credit Note in a form attached thereto as Exhibit B upon issuance of each Letter of Credit and ;

(2) Borrower and Lender desires to clarify the maturity date of the Letter of Credit Note as stated in Section 2.3(a)(i) of the Agreement and to clarify the paragraph titled "Maturity Date" as stated in the Exhibit B and replace it with the Exhibit B attached hereto wherein such clarification appears.

NOW, THEREFORE, in consideration of the mutual agreements, provisions and covenants contained herein, the parties agree as follows:

(1) Section 2.3(a)(i) of the Agreement is modified as follows:

"...(i) be due and payable on (x) the applicable Maturity Date, or (y) the Non-Revolving Credit Termination Date, whichever occurs later".

(2) The Original Note attached as Exhibit B to the Agreement is hereby replaced in its entirety by the Exhibit B attached hereto.

Borrower's Representations and Warranties. By signing this Agreement, Borrower represents and warrants that (a) Borrower is duly authorized to enter into this Agreement and (b) No default or Event of Default has occurred or is continuing under the Agreement.


Continuing Validity. Except as expressly changed in this First Amendment, the terms of the original Agreement remain unchanged and in full force and effect. Consent by Lender to this First Amendment does not waive Lender's right to strict performance of the Agreement as changed, nor obligate Lender to make any future change in terms. Nothing in this First Amendment will constitute a satisfaction of the obligation(s) under the Agreement. It is the intention of Lender to retain as liable parties all makers and endorsers of the original Agreement, including accommodation parties, unless a party is expressly released by Lender in writing. Any

maker or endorser, including accommodation makers, will not be released by virtue of this First Amendment. If any person who signed the original Agreement does not sign this First Amendment below, then all persons signing below acknowledge that this First Amendment is given conditionally, based on the representation to Lender that the non-signing party consents to the changes and provisions of this First Amendment or otherwise will not be released by it. This waiver applies not only to any initial extension, modification or release, but also to all such subsequent actions.

Executed and delivered in Sacramento, California, as of the first date written above.

MARIN CLEAN ENERGY

By: 
Dawn Weisz
Chief Executive Officer

By: 
Kate Sears
Chair of the Board

RIVER CITY BANK

By: 
Name: BRUCE HARRIS
Its: SVD

EXHIBIT B

LETTER OF CREDIT NOTE

\$ _____

Date: _____

FOR VALUE RECEIVED, **MARIN CLEAN ENERGY**, a public agency formed under the provisions of the Joint Exercise of Powers Act of the State of California, Government Code Section 6500 et seq. ("*Borrower*"), promises to pay to the order of **RIVER CITY BANK** ("*Lender*") the lesser of (a) the principal sum of _____/100 DOLLARS (\$ _____), or (b) the aggregate unpaid principal amount of Advances made to Borrower by Lender under the Letter of Credit described below to which this Letter of Credit Note (this "*Note*") relates, pursuant to the terms of that certain Non-Revolving Credit Agreement (the "*Credit Agreement*") dated as of August 21, 2015, between Borrower and Lender, together with interest thereon as provided herein and therein. All payments under this Note shall be made to Lender at its address specified in the Credit Agreement, or at such other place as the holder of this Note may from time to time designate in writing, in accordance with the terms of this Note and the Credit Agreement. Capitalized terms used but not defined in this Note shall have the definitions provided in the Credit Agreement.

This Note is executed in connection with that certain standby letter of credit (the "*Letter of Credit*") dated as of [____], and issued by [____], as "*Issuing Bank*," for the benefit of [____], as "*Beneficiary*," in the face amount of [____]. Under Section 4.3 of the Credit Agreement, if Borrower fails to reimburse the Issuing Bank for the honor of a drawing under the Letter of Credit on or before the Reimbursement Date, the Unreimbursed Amount will become an Advance of principal under this Note made as of the Honor Date and will bear interest from the Honor Date.

Payment Terms. Borrower agrees to pay monthly payments of interest only on the unpaid principal balance of this Note as of each Payment Date beginning on the latter of (a) the first Payment Date after the Honor Date, or (b) October 1, 2015, with all subsequent payments due and payable on each Payment Date thereafter as provided in Section 3 of the Credit Agreement. Interest will accrue prior to maturity (whether by lapse of time, acceleration or otherwise) at the Applicable Rate and after maturity (whether by lapse of time, acceleration or otherwise), whether before or after judgment, at the Default Rate, until paid in full.

Maturity Date. The outstanding principal balance of this Note and all accrued but unpaid interest thereon shall be due and payable in full on (x) the expiration date of the Letter of Credit, subject to amendment or extension from time to time in accordance with the terms of the Loan Documents, or (y) the Non-Revolving Credit Termination Date, whichever occurs later. Under Section 5.2 of the Credit Agreement and subject to the conditions set forth therein, Borrower may request that any amounts due and payable hereunder on the Termination Date be converted into a Term Loan evidenced by a Term Note.

Default and Acceleration. Upon the occurrence of any Event of Default described in Section 10.1 of the Credit Agreement, Lender or any permitted holder of this Note may exercise any or all of the rights and remedies set forth therein, including the exercise of Lender's option to accelerate this Note and declare all Advances and all indebtedness under this Note then outstanding to be immediately due and payable, with or without notice to Borrower, as applicable.

Miscellaneous. This Note and the holder hereof are entitled to all of the rights benefits provided for in the Credit Agreement. All of the terms, covenants and conditions contained in the Credit Agreement are hereby made part of this Note to the same extent and with the same force as if they were fully set forth herein. In the event of a conflict or inconsistency between the terms of this Note and the Credit Agreement, the terms and provisions of the Credit Agreement shall control.

This Note may not be modified, amended, waived, extended, changed, discharged or terminated orally or by any act or failure to act on the part of Borrower or Lender, but only by an agreement in writing signed by the party against whom enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.

This Note will be construed in accordance with, and governed by, the internal laws of the State of California.

Borrower promises to pay all costs and expenses (including reasonable attorneys' fees and expert witnesses' fees) suffered or incurred by Lender or subsequent holder of this Note in the collection of this Note or the enforcement Lender's rights and remedies under the Credit Agreement.

Borrower hereby waives presentment for payment and demand. If any part of this Note cannot be enforced, this fact will not affect the rest of the Note. Lender may delay or forego enforcing any of its rights or remedies under this Note without losing them. Borrower and any other person who signs, guarantees or endorses this Note, to the extent allowed by law, waive any applicable statute of limitations, presentment, demand for payment, and notice of dishonor. Upon any change in the terms of this Note, and unless otherwise expressly stated in writing, no party who signs this Note, whether as maker, guarantor, accommodation maker or endorser, shall be released from liability. All such parties agree that Lender may renew or extend (repeatedly and for any length of time) the obligations evidenced by this Note or release any party or guarantor or collateral, or impair, fail to realize upon or perfect Lender's security interest in the collateral, if any; and take any other action deemed necessary by Lender without the consent of or notice to anyone. All such parties also agree that Lender may modify the terms of this Note without the consent of or notice to anyone other than the party with whom the modification is made.

Prior to signing this Note, Borrower read and understood all the provisions of this Note and the Credit Agreement, including the variable interest rate provisions in the Credit Agreement. Borrower agrees to the terms of this Note and the Credit Agreement. Borrower acknowledges receipt of complete copies of this Note and the Credit Agreement.

IN WITNESS WHEREOF, Borrower has duly executed this Note as of the day and year first above written.

MARIN CLEAN ENERGY

By: _____
Dawn Weisz
Executive Officer



May 19, 2016

TO: MCE Board of Directors

FROM: Katie Gaier, Human Resources Manager

RE: Creation of MCE Power Settlements Analyst Position (Agenda Item #11)

ATTACHMENT: Job Description – Power Settlements Analyst

Summary:

At the April meeting, your Board approved the inclusion of seven new communities into the MCE service areas. Providing renewable energy to customers in these new communities along with continued service to the existing 17 communities will increase the volume of work for the Procurement and Power Resources Team. The 2016-17 budget includes the addition of two Power Supply Contracts Manager positions to supplement the work of the existing 3-person staff. It has been recognized by the Director of Power Resources that there is a need for an additional new job class of Power Settlements Analyst. The incumbent in the position would be responsible for power portfolio monitoring, tracking and settlement of CAISO statement discrepancies, risk mitigation, and operations reporting, as well as invoice review and validation to support the MCE power supply portfolio.

The addition of the position would allow the Director and the Power Supply Contract Managers to focus on the higher level tasks of negotiation and administration of power purchase agreements, contract performance monitoring, dispute resolution and compliance oversight. Compensation for this position was determined by looking at the labor market, in particular a current opening in San Francisco, as well as the next level on the Procurement Team. It was set below the Power Supply Contracts Manager I due to the latter's higher level of responsibilities as well as to create a trajectory for promotion within the Procurement Team. A full compensation analysis will be conducted prior to the 2017/18 fiscal year.

Fiscal Impact:

The cost of this position is included in the preliminary FY 2016/17 budget adjustment being introduced to the Board this meeting, and expected to be presented to the Board for final approval in June, 2016.

Recommendation:

Approve the position of Power Settlements Analyst with the attached job description at a salary range of \$65,000 - \$109,250, with the exact compensation to be determined by the Chief Executive Officer.



DRAFT
POWER SETTLEMENTS ANALYST
JOB DESCRIPTION

SUMMARY

The Power Settlements Analyst, under general direction of a Power Supply Contracts Manager II, has responsibility for power portfolio monitoring, tracking and resolution of CAISO Statement discrepancies, risk mitigation, and operations reporting as well as invoice review and validation to support the MCE power supply portfolio. The incumbent may assist in the administration of RFO processes, MCE procurement process, ongoing correspondence with counterparties including performance tracking, and other duties as assigned in support of the power supply procurement process.

CLASS CHARACTERISTICS

The Power Settlements Analyst performs assignments under general direction of a Power Supply Contracts Manager II as part of the Power Resources and Procurement team and works closely with MCE's technical team including external consultants, Portfolio Manager, and Scheduling Coordinator. This position provides support to the Power Resources and Procurement Team by developing reports and reviewing CAISO Statements, analyzing transactions, and identifying Imbalance energy impacts and monitoring Congestion Revenue Rights (CRR) positions for existing and potential power supply contracts as well as reviewing, validating and processing power supply invoices for payment.

SUPERVISORY RESPONSIBILITIES

This position does not have lead worker and/or supervisory responsibilities

ESSENTIAL DUTIES AND RESPONSIBILITIES (ILLUSTRATIVE ONLY)

Power Supply Contract Facilitation

- Under direction of a Power Supply Contracts Manager II, establish standard operating procedures, protocols and safeguards to ensure procurement team decision making processes are aligned with agency goals
- Evaluates congestion impacts of contracted physical paths and identifies financially advantageous paths for nomination to the annual, monthly, and quarterly CAISO allocations and auctions
- Responsible for developing and monitoring positions and completing risk analysis for energy generation and trading portfolio

- Work with consultants, vendors, Scheduling Coordinator, and senior management to analyze risk and value around complex transactions and portfolio positions, including power generation, load forecasts and load scheduling, hedging strategies
- Interact with IT consultants and Scheduling software vendor for process improvements to resolve system and application issues
- Work with accounting and settlement groups to deliver critical financial reporting information
- Serve as point of contact for counterparties in ensuring compliance with supply agreements demonstrating excellent interpersonal skills and project management acumen
- Assist with creation of materials to facilitate Board review of counterparty performance with supplier agreements, and staff reports
- Conduct research and other due diligence to compile relevant information as needed for staff, technical consultants, legal consultants and Board members
- Maintain current knowledge of regulatory/ legislative and market trends and changes as well as current and future market conditions

Performance Monitoring

- Monitoring and management of assigned counterparty relationships as required to improve performance and contract compliance
- Performance auditing and monitoring for existing MCE contracts
- Track counterparty compliance with contract milestones and other deliverables
- Manage vendor and contractor agreements
- Maintain and update files as needed
- Maintain, update, and track contract files through contract management system

Invoice Management and Validation

- Identify opportunities for portfolio optimization, budget savings, congestion cost avoidance and project development
- Interface with power suppliers and contractors regarding timely invoicing
- Receive, file and process invoices in a timely and correct manner
- Perform validation on invoices as assigned to insure accurate charges and credits have been applied.
- CAISO statement validation and CAISO cost recovery from counterparties as provided for in contract terms.
- Track invoice payments and prepare related reports to management, technical team and external accountant
- Resolve, or provide support in resolving invoice and billing issues
- Provide information to assist external accountant with problem resolution

Other duties

- Prepare materials for the MCE staff to facilitate policy discussions related to procurement and resource planning
- Assist with the administration of RFO processes, the open season process and the assessment of unsolicited proposals
- May review and analyze proposals for electric power supply submitted to MCE by

- developers and brokers and provide summary information for staff and technical team
- May assist in managing MCE's various renewable energy certificate accounts within the WREGIS system
- May assist with preparation of compliance reports and materials related to MCE power supply, including those required by the California Public Utilities Commission (CPUC), California Energy Commission (CEC), The Climate Registry, and the Department of Energy (DOE).

BREAKDOWN OF TIME

- | | |
|-------------------------------------|-----|
| • Vendor Performance Monitoring | 25% |
| • Invoice Management and Validation | 50% |
| • Document Processes and Procedures | 10% |
| • Other as assigned | 15% |

MINIMUM QUALIFICATIONS

Experience/Education

Education and experience equivalent to a Bachelor's degree in business, economics, operations research, or accounting, supplemented by a minimum of 3 years of progressively responsible experience in electric utility power settlements, a Community Choice Aggregation or Direct Access program or in a closely related field. Technical experience in the management of CAISO Settlements is required.

Knowledge of

- Microsoft Office software including Excel, Word and PowerPoint, Project.
- Energy generation technologies including carbon neutral electric energy, conventional energy, and renewable energy such as wind, biomass, geothermal, solar, concentrating solar, and hydroelectric
- Procurement process and use of renewable energy certificates to support mandatory and voluntary compliance programs
- The California Independent System Operator (CAISO) settlement process
- The structure and content of standard power purchase agreements for various resource types
- Renewable energy project development including environmental and local use permitting, interconnection agreements and processes
- California's Renewables Portfolio Standard, Power Content Label and Power Source Disclosure program
- Power scheduling and settlement
- The Western Renewable Energy Information System (WREGIS)
- Regulatory reporting and compliance requirements of the California Public Utilities Commission (CPUC).

Language and Reasoning Skills

- Manage projects and time efficiently with a high level of attention to detail.
- Apply strong task prioritization, analytical and problem-solving skills.
- Exercise sound judgment, creative problem solving, and commercial awareness.

- Develop high-quality writing, research and communication work products.
- Deliver clear oral communications.
- Effectively interpret and apply contract language and commercial agreements.
- Analytical skills to evaluate contractor performance and potential project opportunities, and project siting, permitting and interconnection issues.
- Interact professionally and effectively with counterparties, consultants, MCE staff team and, when necessary, the Board of Directors.

Ability to

- Be thorough and detail-oriented.
- Manage multiple priorities and quickly adapt to changing priorities in a fast paced dynamic environment.
- Establish and maintain effective working relationships with persons encountered during the performance of duties.
- Take responsibility and work independently, as well as work as a team member
- Prepare professional written work products.
- Perform quantitative data and statistical analysis and effectively communicate results to others.
- Work accurately and swiftly under pressure.
- Demonstrate patience, tact, and courtesy.

MATHEMATICAL SKILLS

Ability to add, subtract, multiply, and divide in all units of measure, using whole numbers, common fractions, and decimals; compute rate, ratio, and percent and to create and interpret bar graphs

PHYSICAL DEMANDS

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. While performing the duties of this job, the employee is frequently required to use hands to finger, handle, or feel and reach with hands and arms. The employee is occasionally required to stand.

The employee must occasionally lift and/or move up to 20 pounds.

WORK ENVIRONMENT

The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job.

The noise level in the work environment is usually moderate.

ADA COMPLIANCE

MCE will make reasonable accommodation of the known physical or mental limitations of a qualified person with a disability upon request.



May 19, 2016

TO: MCE Board of Directors

FROM: Shalini Swaroop, Regulatory and Legislative Counsel

RE: Legislative Executive Staff Report, Non-Agenda Information Only

ATTACHMENTS: None

SUMMARY:

Most bills have passed through one or two policy committees and are moving forward with amendments being negotiated with the author's office. MCE has partnered with the other California CCA programs in order to maximize effective staffing on legislative tasks.

I. MCE Legislative Priorities

1) AB 1110 (Ting) – Calculating Greenhouse Gas Emissions for Annual Customer Disclosures

MCE was very active on this bill in last year's session. AB 1110 (Ting) changes annual customer reporting requirements for load serving entities (LSEs), including CCAs. MCE was particularly concerned that the bill calculates emissions for customer disclosures differently than emissions are calculated by national and state accounting programs, such as the Environmental Protection Agency, and is inconsistent with California's Renewable Portfolio Standard. As currently written, Category 2 and Category 3 Renewable Energy Certificates (RECs) would not have any GHG emissions reduction impact to energy procurement, contrary to overarching national and state policy.

It has been indicated that AB 1110 is being significantly re-written by the author's office, particularly in wake of opposition from the City and County of San Francisco.

2) AB 2868 (Gatto) – Cost-Shifting for Installation of Distributed Energy Storage Systems

AB 2868 (Gatto) requires Investor-Owned Utilities (IOUs) to submit applications to the California Public Utilities Commission (CPUC) to accelerate widespread deployment of distributed energy storage systems. The bill is problematic because it specifically indicates cost recovery from all transmission and distribution customers, which includes CCA customers, for energy storage systems put in by IOUs.

The bill passed out of the Assembly Utilities and Commerce Committee. MCE is working with other CCAs on this bill.

3) SB 886 (Pavley) – Battery Storage Requirements for All LSEs

SB 886 (Pavley) requires Load Serving Entities (LSEs), including CCAs, to consider battery storage in their Integrated Resource Plans filed to the CPUC under SB 350. This bill may affect the procurement autonomy of a CCA's Board of Directors.

In the Senate Energy, Utilities, and Communications Committee hearing on the bill, Senator Pavley indicated she was committed to working with CCAs to ensure their interests were reflected in future versions of the bill. The bill passed out of that Committee.

4) AB 1530 (Levine) – Reducing Non-Bypassable Charges for Installation of Distributed Energy Resources

In order to encourage the installation of distributed energy resources, this bill reduces non-bypassable charges on customers who install these resources on their properties. While the goal is laudable, shifting those non-bypassable charges onto other customers will increase those costs paid by CCA customers.

The bill passed out of the Assembly Utilities and Commerce Committee.



May 19, 2016

TO: MCE Board of Directors

FROM: Shalini Swaroop, Regulatory & Legislative Counsel

RE: Regulatory Update, Non-Agenda Information Only

ATTACHMENTS: Regulatory Packet

SUMMARY:

Below is a summary of the key activities at the California Public Utilities Commission (CPUC) for May 2016 impacting Community Choice Aggregation (CCA) and MCE. Highlights include:

1. CPUC Proposed Decision Would Authorize a Budget Increase for Energy Efficiency Programs for New MCE Communities Included in 2015 (R.13-11-005)

Earlier this year, MCE requested a 30% budget increase to its energy efficiency programs to serve the communities that joined MCE in 2015: El Cerrito, San Pablo, and unincorporated Napa County. On April 9, the CPUC issued a Proposed Decision granting MCE's request for an increased budget. MCE filed both Comments and Reply Comments on the Proposed Decision, which is expected to be approved by the Commission at its May 12 voting meeting.

2. MCE Leads Statewide Advocacy on Minimizing PCIA Costs due to Energy Storage Procurement (A.15-12-003 and A.15-12-004)

Assembly Bill 2514 (2010) directed the CPUC to determine energy storage targets for each Load Serving Entity (LSE) in California. Therefore, the CPUC directed Investor Owned Utilities (IOUs) to procure storage similar to the manner in which they procure energy resources. These storage contracts will add costs to the IOUs' procurement portfolios and will be reflected in the calculation of the Power Charge Indifference Adjustment (PCIA) levied upon CCA customers. MCE's interest in this proceeding is how these storage costs will be incorporated into the PCIA.

The IOUs previously proposed a methodology that would result in inflated indifference adjustment. MCE has taken a leadership role in a statewide coalition that filed comments responding to the Administrative Law Judge's Ruling. These comments were filed jointly with Sonoma Clean Power, Lancaster Choice Energy, Direct Access Customer Coalition, Alliance of Retail Energy Market, and Shell Energy of North America on May 2. The joint parties proposed

a methodology for developing a "storage adder," similar to the green adder for renewable energy sources, to accurately capture the value of storage in PCIA calculation.

3. MCE Protects Its Jurisdictional Authority During the Implementation of Senate Bill (SB) 350 (R.16-02-007)

The CPUC will address rules that apply to Load Serving Entities, such as CCAs, that will submit Integrated Resource Plans (IRPs) to the CPUC pursuant to new provisions promulgated by SB 350 (2015). Several CCAs, including MCE, Lancaster Choice Energy, and Sonoma Clean Power spoke at the Commission's Pre-Hearing Conference in this matter. The CCAs argued that existing statutory authority indicates their boards are "solely responsible" for their procurement decisions and that CCA IRPs should be used to properly forecast CCA departing load. The CCAs also argued that the Commission must establish procedures to recognize when CCAs "self-provide" resources that would normally be charged to CCA customers via the Cost Allocation Mechanism (CAM).

4. MCE Responds to Commissioner Florio's Proposal to Offer Shareholder Incentives to IOUs for Distributed Energy Resources (R.14-10-003)

Commissioner Florio issued a ruling in April to propose a pilot that would provide IOUs with shareholder incentives in order to optimize Distributed Energy Resource (DER) deployment. MCE filed comments to express its concerns about the pilot proposal and to urge the Commission to ensure that the pilot does not result in unfair cross-subsidization of PG&E's generation rate. Cross-subsidization of an IOU's generation rate not only requires CCA customers to pay twice for the same services, but also artificially decreases the IOU generation rate that CCAs compete against. MCE also recommended the Commission consider a performance-based ratemaking structure so that the IOUs would only receive incentives for achieving market transformation goals.

5. MCE Raises Misallocation of \$1,000,000 to CCA Customers in PG&E's General Rate Case (A.15-09-001)

MCE submitted its testimony to the PG&E's Generate Rate Case ("GRC") on April 29. MCE's testimony focused on PG&E's proposed allocation of overhead expenses that would unfairly shift PG&E's generation costs to distribution and transmission. In addition, MCE asked PG&E to exclusively allocate legal costs related to power purchasing to its generation rate. MCE's advocacy in the GRC should address approximately \$1,000,000 in misallocated costs.

6. The Commission Proposed that IOUs Cannot Indicate Emissions Data for Their Voluntary Green Products (A.12-01-008)

The CPUC released a Proposed Decision that restricts the IOUs from advertising any Greenhouse Gas (GHG) emission values to their 100% renewable product offerings. These products are being offered under the Green Tariff/Shared Renewables programs that were created by Senate Bill 43 (2013). The Proposed Decision may also influence the course of Assembly Bill 1110 (Ting), which aims to quantify GHG emissions on every LSE's annual joint cost comparison mailer.

MCE supported the Proposed Decision and also indicated that the PCIA should not apply to any customers receiving electricity that exceeds the Renewable Portfolio Standard (RPS) renewable energy requirements. MCE's argument applies equally to CCA and IOU customers.

7. MCE Provides Comments on Implementation of New RPS Pursuant to SB 350 (R.15-02-020)

The CPUC requested comments from parties to address the implementation of the new RPS standards promulgated by SB 350 (2015). Specifically the proceeding will address the new requirement to achieve 50% renewable energy by 2030 and related topics. This proceeding will also address issues related to compliance reporting, compliance periods, procurement quantity requirements, and long-term contracts and agreements. MCE filed comments to urge the Commission to maintain existing rules and methodologies and to consider the unique procurement perspective of CCAs.

8. MCE Develops “PCIA Recommendations” One-Pager to Chart Path to PCIA Reform

As a result of the participation of Jeremy Waen, MCE’s Senior Regulatory Analyst, in the Commission’s March 8th PCIA workshop, MCE was able to consolidate recommendations for PCIA reform and create a public document that comprehensively offers solutions to methodological issues with PCIA. This document has been disseminated throughout the state to legislators, regulatory agencies, local governments, and CCA advocates.



PCIA Reform Recommendations

Power Charge Indifference Adjustment

CCAs need **Transparency** of inputs, projections, and calculations; **Accountability** to ensure IOUs exclude avoidable costs; and **Reasonableness** to ensure fair treatment of CCA and bundled customers.

Increase Transparency in PCIA

- *Inputs are hidden from those directly impacted*
- *Confidentiality rules overlook public agency participants, such as CCAs*
- *PCIA is impossible to plan around and procure accordingly*

RECOMMENDATIONS

- Make pricing, volumes, cost projections and terms public upon approval, or at most after one year
- Ensure ongoing compliance with CPUC Confidentiality Rules
- Ensure IOU data is available in other public forums
- Revise CPUC Confidentiality Rules to allow review of PCIA data by Public Agency Participants
- Require IOUs to forecast all volume and cost inputs of the PCIA for its full duration
- Provide forward forecasts of the PCIA for its full duration

Minimize Anticompetitive Impacts of PCIA

- *Does not encourage efficient procurement planning by the IOUs*
- *Lacks accountability for IOUs to avoid stranded costs*

RECOMMENDATIONS

- Implement an annual Commission-led audit to ensure only unavoidable costs are included in PCIA stranded cost recovery. (Public Utilities Code Section 366.2(f)(2), D.04-12-046.) The audit should ensure:
 - Proper forecasting of CCA departing load (D.12-10-031)
 - IOUs mitigate damages by curtailing above-market resources and re-vintaging amended contracts (but not extending the duration of cost recovery)
 - Stranded cost recovery is only available for renewable procurement that exceeds “least-cost” resources on a portfolio basis for RPS compliance

Ensure PCIA Costs are Reasonable

- *Lacks clear duration limits*
- *Highly volatile and unpredictable*
- *Creates CCA customer confusion*

RECOMMENDATIONS

- Limit cost recovery to 10 years for all resource types
- Adjust the Market Price Benchmark calculation to use multi-year gas prices rather than spot market prices
- Allow a Menu of Options for PCIA payment, including:
 - Paying the annually adjusted PCIA rate by a CCA or by customers
 - Paying a fixed valuation of any PCIA costs as a lump-sum payment or as amortized over a payment period