



**Marin Clean Energy
Board of Directors Meeting
Thursday, June 5, 2014
7:00 P.M.**

**San Rafael Corporate Center, Tamalpais Room
750 Lindero Street, San Rafael, CA 94901**

Dawn Weisz
Executive Officer

Damon Connolly
Chair
City of San Rafael

Kathrin Sears
Vice Chair
County of Marin

Bob McCaskill
City of Belvedere

Sloan C. Bailey
Town of Corte Madera

Larry Bragman
Town of Fairfax

Kevin Haroff
City of Larkspur

Garry Lion
City of Mill Valley

Denise Athas
City of Novato

Tom Butt
City of Richmond

Carla Small
Town of Ross

Ford Greene
Town of San Anselmo

Ray Withy
City of Sausalito

Emmett O'Donnell
Town of Tiburon

1 (888) 632-3674
mceCleanEnergy.org

781 Lincoln Ave., #320
San Rafael, CA 94901

Agenda Page 1 of 2

1. Board Announcements (Discussion)
2. Public Open Time (Discussion)
3. Report from Executive Officer (Discussion)
4. Consent Calendar (Discussion/Action)
 - C.1 5.1.14 Board Minutes
 - C.2 Monthly Budget Report
 - C.3 Approved Contract Update
 - C.4 Records Retention
5. Ad Hoc Committee for Special Consideration Membership (Discussion/Action)
6. MCE Feed-in-Tariff Amendment (Discussion/Action)



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Agenda Page 2 of 2

7A. A Resolution of the Board of Directors of Marin Clean Energy Approving the County of Napa as a Member of MCE (Discussion/Action)

7B. MCE Implementation Plan Update (Discussion/Action)

8. Power Purchase Agreements with Exelon Generation Company, LLC. for Power Supply Including Renewable Energy (Discussion/Action)

9. Energy Efficiency Update (Discussion)

10. Communications Update (Discussion)

11. Regulatory and Legislative Update (Discussion)

12. Board Member & Staff Matters (Discussion)

13. Adjourn



Overview of MCE Board Offices and Committees June 5, 2014

Board Offices

Damon Connolly, Chair
Kate Sears, Vice Chair
Denise Athas, Auditor/Treasurer
Dawn Weisz, Secretary

Executive Committee

1. Damon Connolly, Chair
2. Denise Athas
3. Tom Butt
4. Kate Sears
5. Bob McCaskill
6. Sloan Bailey

Technical Committee

1. Kate Sears, Chair
2. Carla Small
3. Ford Greene
4. Emmett O'Donnell
5. Ray Withy
6. Kevin Haroff

Ad Hoc Contracts Committee for 2014 Open Season

1. Kate Sears
2. Emmett O'Donnell
3. Bob McCaskill
4. Kevin Haroff
5. Sloan Bailey
6. Gary Lion

Proposed Ad Hoc Special Consideration Membership Committee

1. Tom Butt
2. Denise Athas
3. Sloan Bailey
4. Bob McCaskill
5. Ford Greene



June 5, 2014

TO: Marin Clean Energy Board

FROM: Dawn Weisz, Executive Officer

RE: Resolution No. 2014-03 of the Board of Directors of Marin Clean Energy approving the County of Napa as a member of Marin Clean Energy subject to (1) the adoption by the County of Napa of the ordinance required by Public Utilities Code Section 366.2(c) (10) and such ordinance becoming effective and (2) the execution of the Marin Clean Energy (formerly Marin Energy Authority) Joint Powers Agreement by the County of Napa (Agenda Item #7A).

ATTACHMENT: Resolution No. 2014-03 of the Board of Directors of Marin Clean Energy approving the County of Napa as a member of Marin Clean Energy subject to (1) the adoption by the County of Napa of the ordinance required by Public Utilities Code Section 366.2(c) (10) and such ordinance becoming effective and (2) the execution of the Marin Clean Energy (formerly "Marin Energy Authority") Joint Powers Agreement by the County of Napa.

Dear Board Members:

Background

On September 7, 2013, staff received a letter from Napa County expressing interest in MCE membership. Following the receipt of this letter, your Board authorized the completion of a quantitative membership analysis for the purpose of determining projected environmental benefits (e.g. incremental increases in renewable energy deliveries and expected reductions in greenhouse gases (GHGs) related to electric energy consumption) and rate/financial impacts related to the addition of customers located within the unincorporated areas of Napa County. Such analysis was completed on March 31, 2014, and results were presented to both the Technical Committee on April 14, 2014 and your Board on May 1, 2014. As discussed during these public meetings, the projected impacts of this prospective membership expansion were entirely

positive, demonstrating meaningful increases in renewable energy sales, expected reductions in GHG emissions, and an approximate 3% rate reduction for all MCE customers, both current and prospective.¹

As a result of these positive findings, the Napa County Board of Supervisors will be considering adoption of the requisite Community Choice Aggregation (“CCA”) ordinance, which states the County’s intent to implement a CCA program through its participation in MCE, on June 3, 2014. The attached Resolution and updated JPA Agreement will comply with the statutory requirements of AB 117, the legislation enabling CCA service in California.

Recommendation: Approve Resolution No. 2014-03 of the Board of Directors of Marin Clean Energy approving the County of Napa as a member of Marin Clean Energy subject to (1) the adoption by the County of Napa of the ordinance required by Public Utilities Code Section 366.2(c) (10) and such ordinance becoming effective and (2) the execution of the Marin Clean Energy (formerly “Marin Energy Authority”) Joint Powers Agreement by the County of Napa (Agenda Item #7A). MCE’s Revised Implementation Plan, subject to the noted revisions, and approved submittal of the Revised Implementation Plan to the California Public Utilities Commission after such revisions have been completed.

¹ Note that any rate/financial impacts were based on wholesale electricity pricing at the time the quantitative analysis was completed. Such pricing is subject to change. Actual rate/financial impacts will be based on wholesale electricity pricing that is offered to MCE at the time of contract execution.

RESOLUTION NO. 2014-03

A RESOLUTION OF THE BOARD OF DIRECTORS OF MARIN CLEAN ENERGY APPROVING THE COUNTY OF NAPA AS A MEMBER OF MARIN CLEAN ENERGY SUBJECT TO (1) THE ADOPTION BY THE COUNTY OF NAPA OF THE ORDINANCE REQUIRED BY PUBLIC UTILITIES CODE SECTION 366.2(C)(10) AND SUCH ORDINANCE BECOMING EFFECTIVE AND (2) THE EXECUTION OF THE MARIN CLEAN ENERGY (FORMERLY MARIN ENERGY AUTHORITY) JOINT POWERS AGREEMENT BY THE COUNTY OF NAPA.

WHEREAS, on September 24, 2002, the Governor signed into law Assembly Bill 117 (Stat. 2002, Ch. 838; see California Public Utilities Code section 366.2; hereinafter referred to as the "Act"), which authorizes any California city or county, whose governing body so elects, to combine the electricity load of its residents and businesses in a community-wide electricity aggregation program known as Community Choice Aggregation ("CCA"); and,

WHEREAS, the Act expressly authorizes participation in a CCA program through a joint powers agency, and on December 19, 2008, Marin Clean Energy ("MCE"), (formerly the Marin Energy Authority) was established as a joint power authority pursuant to a Joint Powers Agreement, as amended from time to time ("MCE Joint Powers Agreement"); and,

WHEREAS, on February 2, 2010, the California Public Utilities Commission certified the "Implementation Plan" of MCE, confirming MCE's compliance with the requirements of the Act; and,

WHEREAS, MCE members include the following communities: the County of Marin, the City of Belvedere, the Town of Corte Madera, the Town of Fairfax, the City of Larkspur, the City of Mill Valley, the City of Novato, the City of Richmond, the Town of Ross, the Town of San Anselmo, the City of San Rafael, the City of Sausalito and the Town of Tiburon; and

WHEREAS, the County of Napa adopted a Resolution requesting membership in the Marin Clean Energy on June 3, 2014; and,

WHEREAS, the County of Napa approved the first reading of the required Ordinance on June 3, 2014, electing to implement a Community Choice Aggregation program within its jurisdiction through Marin Clean Energy.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED, by the Board of Directors of Marin Clean Energy that the County of Napa is approved as a member of the Marin Clean Energy subject to (1) the adoption by the County of Napa of the Ordinance required by Public Utilities Code Section 366.2(c)(10) and such ordinance becoming effective and (2) the execution of the Marin Clean Energy Joint Powers Agreement by the County of Napa.

PASSED AND ADOPTED at a regular meeting of the Marin Clean Energy Board of Directors on this Fifth day of June, 2014 by the following vote:

AYES NOES ABSTAIN ABSENT

City of Belvedere

Town of Corte Madera

Town of Fairfax

City of Larkspur

County of Marin

City of Mill Valley

City of Novato

City of Richmond

Town of Ross

Town of San Anselmo

City of San Rafael

City of Sausalito

Town of Tiburon

CHAIR, MARIN CLEAN ENERGY BOARD

ATTEST:

SECRETARY, MARIN CLEAN ENERGY BOARD



June 5, 2014

TO: Marin Clean Energy Board
FROM: Dawn Weisz, Executive Officer
RE: MCE Implementation Plan Update (Agenda Item #07B)
ATTACHMENT: MCE Implementation Plan – Initial Redline Draft

Dear Board Members:

Background

On September 7, 2013, staff received a letter from Napa County expressing interest in MCE membership. Following the receipt of this letter, your Board authorized the completion of a quantitative membership analysis for the purpose of determining projected environmental benefits (e.g. incremental increases in renewable energy deliveries and expected reductions in greenhouse gases (GHGs) related to electric energy consumption) and rate/financial impacts related to the addition of customers located within the unincorporated areas of Napa County. Such analysis was completed on March 31, 2014, and results were presented to both the Technical Committee on April 14, 2014 and your Board on May 1, 2014. As discussed during these public meetings, the projected impacts of this prospective membership expansion were entirely positive, demonstrating meaningful increases in renewable energy sales, expected reductions in GHG emissions, and an approximate 3% rate reduction for all MCE customers, both current and prospective.¹

As a result of these positive findings, the Napa County Board of Supervisors will be considering adoption of the requisite Community Choice Aggregation (“CCA”) ordinance, which states the County’s intent to implement a CCA program through its participation in MCE, on June 3, 2014. As such, staff has commenced the process of updating MCE’s Revised Community Choice Aggregation Implementation Plan and Statement of Intent (“Implementation Plan”) to reflect certain important changes related to MCE’s expanded

¹ Note that any rate/financial impacts were based on wholesale electricity pricing at the time the quantitative analysis was completed. Such pricing is subject to change. Actual rate/financial impacts will be based on wholesale electricity pricing that is offered to MCE at the time of contract execution.

membership and recent name change (from the “Marin Energy Authority” to “Marin Clean Energy”, or “MCE”). More specifically, these changes include the following items:

Key Revisions	Description of Revisions	Updated Document Sections
1. Organizational name change	Updated all references to “Marin Energy Authority” and “MEA” to reflect “Marin Clean Energy” or “MCE”	Throughout document
2. Identification of new member, discussion of membership expansion, Board representation and planned customer phase-in	References to Napa County have been inserted, reflecting the Board’s approval of Napa County’s: 1) request for membership; 2) addition as a MCE member; and 3) representation on the Board. A discussion of MCE’s intended phase-in schedule for Napa County customers is also reflected in the document	Chapter 1 – Introduction Chapter 2 – Aggregation Process Chapter 3 – Organizational Structure Chapter 5 – Program Phase-In
3. MCE Organization and Staffing	Text and tables to be updated to reflect MCE’s current organization and staffing, including existing title structures and planned resources additions	Chapter 3 – Organizational Structure
4. Quantitative references	Tables, charts and text references are being updated to reflect increased customer counts, increased retail energy sales, increased peak demands and anticipated financial impacts – such changes shall be consistent with findings presented in the quantitative analysis that was previously discussed with your Board (May 1, 2014 meeting)	Chapter 6 – Load Forecast and Resource Plan Chapter 7 – Financial Plan Other quantitative references have been completed throughout the document, as necessary
5. Updated MCE Resolution approving submittal of the Revised Implementation Plan	Subject to Board approval, Resolution 2014-03 will be inserted in the document to reflect your Board’s approval to submit the Revised Implementation Plan to the California Public Utilities Commission (“CPUC” or “Commission”)	Chapter 12 - Appendices

Key Revisions	Description of Revisions	Updated Document Sections
6. CCA Resolution (Napa County)	Per California law, municipalities participating in a CCA program must first adopt a resolution indicating their intent to do so. Napa County will be completing its first reading of the requisite ordinance on July 3, 2014	Chapter 12 - Appendices
7. Updated MCE JPA	As an appendix to the Implementation Plan, the updated Joint Powers Agreement, reflecting the addition of Napa County as a MCE member, has been added	Chapter 12 - Appendices

Your Board is aware that the Public Utilities Code requires that an Implementation Plan be adopted at a duly noticed public hearing and that it be filed with the CPUC. As such, staff is in the process of revising the Implementation Plan consistent with the aforementioned changes and anticipates that such changes will be completed no later than June 10, 2014. As noted, all quantitative updates to the Implementation Plan will draw directly from the recently completed quantitative analysis – pertinent charts, tables and text references will be updated to reflect anticipated increases in customer counts, retail energy sales, peak demands and financial impacts.

The content of the Revised Implementation Plan will also comply with the statutory requirements of AB 117. Because MCE has already successfully implemented its CCA program, the Revised Implementation Plan will include narrative discussion, updates and projections focused on on-going operation and expansion of the MCE program rather than previously completed implementation efforts. As a result, certain sections of the document have been substantially abbreviated.

Immediately following the completion of these changes, the Revised Implementation Plan will be submitted by staff to the CPUC for certification, which primarily entails an administrative review of the document (which may take up to 90 days) to ensure consistency with state law. Following the CPUC’s certification of its receipt of the Revised Implementation Plan and resolution of any outstanding issues, MCE will take the final steps needed to expand CCA service to MCE’s new member, Napa County, including procurement of requisite energy products, customer notification and enrollment. Subject to MCE procurement policy, certain contractual commitments required to provide service to customers within the unincorporated areas of Napa County will be discussed with your Board prior to execution.

Recommendation: Adopt MCE’s Revised Implementation Plan, subject to the noted revisions, and approved submittal of the Revised Implementation Plan to the California Public Utilities Commission after such revisions have been completed.

~~MARIN ENERGY~~
~~AUTHORITY CLEAN ENERGY~~

REVISED COMMUNITY CHOICE
AGGREGATION
IMPLEMENTATION PLAN AND
STATEMENT OF INTENT



~~October 4 June XX, 2014~~

For copies of this document contact the Marin ~~Energy Authority~~ ~~Clean Energy~~ in San Rafael, California or visit www.marinenergyauthoritymcecleanenergy.org

Field Code Changed

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CHAPTER 1 – Introduction

Marin Clean Energy (“MCE”; MCE was ~~formerly known as the “Marin Energy Authority,” “MEA,” or the “Authority”~~ (“MEAMCE” or “Authority”), a public agency, was formed in December 2008 for the purposes of implementing a community choice aggregation (“CCA”) program and other energy-related programs targeting significant greenhouse gas emissions (“GHG”) reductions. At that time, the Member Agencies of ~~the Authority~~ MCE included eight of the twelve municipalities located within the geographic boundaries of Marin County: the cities/towns of Belvedere, Fairfax, Mill Valley, San Anselmo, San Rafael, Sausalito and Tiburon and the County of Marin (together the “Members” or “Member Agencies”). In anticipation of CCA program implementation and in compliance with state law, ~~MEAMCE~~ MCE submitted the Marin Energy Authority Community Choice Aggregation Implementation Plan and Statement of Intent (“Implementation Plan”) to the California Public Utilities Commission (“CPUC” or “Commission”) on January 25, 2010. Consistent with its expressed intent, ~~MEAMCE~~ MCE successfully launched its CCA program, Marin Clean Energy (“MCE” or “Program”), on May 7, 2010 and has been successfully serving customers since that time.

During the second half of 2011, four additional municipalities within Marin County, the cities of Novato and Larkspur and the towns of Ross and Corte Madera, joined ~~MEAMCE~~ MCE, and a revised Implementation Plan reflecting updates related to said expansion was ~~submitted to~~ filed with the CPUC on December 3, 2011.

Following the aforementioned expansion, the City of Richmond, located in Contra Costa County, joined MCE, and a revised Implementation Plan reflecting updates related to this expansion was filed with the CPUC on July 6, 2012.

A subsequent revision to MCE’s Implementation Plan was filed with the Commission on November 6, 2012 to ensure compliance with Commission Decision 12-08-045, which was issued on August 31, 2012. In Decision 12-08-045, the Commission directed existing CCA programs to file revised Implementation Plans to conform to the privacy rules in Attachment B of this Decision.

MCE gives electric customers of the Member Agencies an opportunity to procure electricity from competitive suppliers, with such electricity being delivered over PG&E’s transmission and distribution system. To date, the electricity delivered to MCE customers has included over 27 percent Renewables Portfolio Standard (“RPS”) qualifying renewable energy, an amount which has surpassed all reporting entities, including the incumbent utility. Over the course of ~~MEAMCE’s~~ MCE’s phased implementation schedule, all current PG&E customers within ~~the MCE’s Authority’s~~ service area will receive information describing the Program and will have multiple opportunities to express their desire to remain bundled customers of PG&E, in which case they will not be enrolled in the Program. Thus, participation in the CCA Program is completely voluntary; however, customers, as provided by law, will be automatically enrolled unless they affirmatively elect to opt-out of the CCA Program.

The MCE program has received considerable interest from other communities in response to its innovative, environmentally focused energy service alternative, which now provides electric generation service to approximately 9120,000 customers, including a cross section of residential and commercial accounts. During its ~~two~~four-year operating history, non-member municipalities have monitored ~~MEAMCE's~~ progress, evaluating the potential opportunity for membership ~~in the Authority~~, which would enable customer choice with respect to electric generation service. In response to public interest and ~~the AuthorityMCE's~~ successful operational track record, the ~~City of Richmond~~County of Napa has requested ~~MEAMCE~~ membership and adopted the requisite ordinances for joining ~~MEAMCE~~. ~~The AuthorityMCE's~~ Board of Directors approved the ~~City of Richmond~~County of Napa's membership request at a duly noticed public meeting on June 75, 20142.

This revision of the Marin ~~Energy Authority~~Clean Energy Community Choice Aggregation Implementation Plan and Statement of Intent ("Revised Implementation Plan") describes ~~the AuthorityMCE's~~ expansion plans to include the ~~City of Richmond~~County of Napa. According to the Commission, "the Energy Division is required to receive and review a revised ~~MEAMCE~~ implementation plan reflecting changes/consequences of additional members." With this in mind, ~~MEAMCE~~ has reviewed its revised Implementation Plan, which was filed with the Commission on November 6, 2012, December 3, 2011 Implementation Plan and has identified certain information that requires updating to reflect the changes and consequences of adding the new member and to address MCE's name change (from MEA), which occurred via Resolution of 2013-11 of MCE's Governing Board on December 5, 2013. This Revised Implementation Plan reflects such changes and includes related projections that account for ~~MEAMCE's~~ planned expansion.

Implementation of MCE has enabled customers within ~~MEAMCE's~~ service area to take advantage of the opportunities granted by Assembly Bill 117 ("AB 117"), the Community Choice Aggregation Law. ~~MEAMCE's~~ primary objective in implementing this Program continues to focus on increased utilization of renewable energy supplies for the purpose of promoting significant GHG emissions reductions. To date, ~~MEAMCE~~ has achieved this objective by offering customers two energy supply options: 1) a minimum 50 percent renewable content, which will be the default service option for participating customers¹; or 2) 100 percent renewable content. The prospective benefits to consumers include a substantial increase in renewable energy supply, stable and competitive electric rates, public participation in determining which technologies are utilized to meet local electricity needs, and local/regional economic benefits.

To ensure successful operation of the MCE program, ~~the AuthorityMCE~~ has received assistance from experienced energy suppliers and contractors in providing energy services to Program customers. As a result of a competitive solicitation process and subsequent contract negotiations, a highly qualified firm, Shell Energy North America ("SENA") was selected as ~~MEAMCE's~~ initial energy services provider and scheduling coordinator. To serve the

¹ MCE customers received ~~more than~~nearly 297 percent RPS-qualifying renewable energy in 20134. The default renewable energy content, which includes RPS-qualifying renewable energy and supplemental renewable energy credit purchases, was voluntarily increased from 25% to 50% beginning in January, 2012.

increasing energy requirements resulting from expanded membership, MEAMCE anticipates that its existing supply agreement with SENA ~~will~~ may be amended and/or supplemented with purchases from other qualified suppliers of requisite energy products to reflect the Program's increased future needs. Information regarding ~~this company~~ SENA is contained in Chapter 10.

MEAMCE's Implementation Plan reflects a collaborative effort among ~~the AuthorityMCE~~, its Members, and the private sector to bring the benefits of competition and choice to Member residents and businesses. By exercising its legal right to form a CCA Program, ~~the AuthorityMCE~~ has enabled its Members' constituents to access the competitive market for energy services and obtain access to increased renewable energy supplies and resultant reductions in GHG emissions. Absent action by ~~the AuthorityMCE~~ or its individual Members, most customers would have no ability to choose an electric supplier and would remain captive customers of their incumbent utility.

The California Public Utilities Code provides the relevant legal authority for ~~the AuthorityMCE~~ to become a Community Choice Aggregator and invests the California Public Utilities Commission ("CPUC" or "Commission") with the responsibility for establishing the cost recovery mechanism that must be in place before customers can begin receiving electrical service through ~~the AuthorityMCE's~~ CCA Program. The CPUC has also registered ~~the AuthorityMCE~~ as a Community Choice Aggregator and continues to ensure compliance with basic consumer protection rules. The Public Utilities Code requires that an Implementation Plan be adopted at a duly noticed public hearing and that it be filed with the Commission in order for the Commission to determine the cost recovery mechanism to be paid by customers of the Program in order to prevent shifting of costs. Each of these milestones has been accomplished. The Commission has established the methodology that will be used to determine the cost recovery mechanism, and PG&E now has approved tariffs for imposition of the cost recovery mechanism. Finally, each of ~~the AuthorityMCE's~~ Members has adopted an ordinance to implement a CCA program through its participation in ~~the AuthorityMCE~~ (copies of individual ordinances adopted by MEAMCE's members are included as Appendix B). Following the CPUC's certification of its receipt of this Revised Implementation Plan and resolution of any outstanding issues, ~~the AuthorityMCE~~ will take the final steps needed to expand CCA service to MEAMCE's new member, including customer notification and enrollment.

Organization of this Implementation Plan

The content of this Revised Implementation Plan complies with the statutory requirements of AB 117. Because MEAMCE has already successfully implemented its CCA program, this Revised Implementation Plan includes narrative discussion, updates and projections focused on on-going operation and expansion of the MCE program rather than previously completed implementation efforts. As a result, certain sections of this document are now substantially abbreviated. Consistent with requirements identified in PU Code Section 366.2(c)(4), this Revised Implementation Plan addresses:

- Universal access;
- Reliability;
- Equitable treatment of all customer classes; and

- Any requirements established by state law or by the CPUC concerning aggregated service.

To promote consistency with ~~MEAMCE's~~ original January 25, 2010 Implementation Plan, the remainder of this Revised Implementation Plan is organized as follows:

Chapter 2: Aggregation Process

Chapter 3: Organizational Structure

Chapter 4: CCA Startup

Chapter 5: Program Phase-In

Chapter 6: Load Forecast and Resource Plan

Chapter 7: Financial Plan

Chapter 8: Ratesetting

Chapter 9: Customer Rights and Responsibilities

Chapter 10: Procurement Process

Chapter 11: Contingency Plan for Program Termination

Appendix A: ~~Authority Marin Clean Energy Resolution 200914-0310 and Authority Member Ordinances~~

Appendix B: County of Napa, Resolution 2014-XX

Appendix ~~CB~~: Joint Powers Agreement

The requirements of AB 117 are cross-referenced to Chapters of this Implementation Plan in the following table.

AB 117 Cross References

AB 117 REQUIREMENT	IMPLEMENTATION PLAN CHAPTER
Process and consequences of aggregation	Chapter 2: Aggregation Process
Organizational structure of the program, its operations and funding	Chapter 3: Organizational Structure Chapter 4: Startup Plan and Funding Chapter 7: Financial Plan
Ratesetting and other costs to participants	Chapter 8: Ratesetting Chapter 9: Customer Rights and Responsibilities
Disclosure and due process in setting rates and allocating costs among participants	Chapter 8: Ratesetting
Methods for entering and terminating agreements with other entities	Chapter 10: Procurement Process
Participant rights and responsibilities	Chapter 9: Customer Rights and Responsibilities
Termination of the program	Chapter 11: Contingency Plan for Program Termination
Description of third parties that will be supplying electricity under the program, including information about financial, technical and operational capabilities	Chapter 10: Procurement Process
Statement of Intent	Chapter 1: Introduction

Chapter 2 – Aggregation Process

Introduction

As previously noted, ~~MEAMCE~~ successfully launched its CCA Program, MCE, on May 7, 2010 after meeting applicable statutory requirements and in consideration of planning elements described in its January 25, 2010 Implementation Plan. At this point in time, ~~MEAMCE~~ plans to expand agency membership to include the ~~City of Richmond~~ County of Napa. This community has requested ~~MEAMCE~~ membership, and ~~the Authority~~ MCE's Board of Directors subsequently approved the membership request at a duly noticed public meeting.

As planned, the residents and businesses within ~~MEAMCE's~~ expanded service territory will be offered electric generation service from ~~MEAMCE's~~ currently operating CCA program, MCE, which represents a culmination of planning efforts that are responsive to the expressed needs and priorities of the citizenry and business community within the region. Through the MCE program, ~~the Marin Energy Authority it has eligible customers have received~~ expanded ~~the energy choices available to eligible customers~~, including the creation of a 100% renewable energy product and 100% local solar product. In effect, MCE provides Marin residents and businesses with ~~three~~ four electric service options, which include: 1) the default 50% (minimum) renewable energy service option – Light Green; 2) a 100% renewable energy service option – Deep Green – which can be chosen on a voluntary basis; 3) a 100% local solar energy service option – Sol Shares – in which customers can enroll on a voluntary basis²; or ~~3) a 100% local solar energy service option – Sol Shares – in which customers can enroll on a voluntary basis²~~ or 4) bundled energy service from the incumbent utility. It remains ~~MEAMCE's~~ long-term goal to supply its customers entirely with clean, renewable energy, subject to economic and operational constraints.

Each of the Member Agencies has adopted an ordinance to implement a CCA program through its participation in ~~the Authority~~ MCE. A Revised Implementation Plan was adopted at a duly noticed public hearing of ~~the Authority~~ MCE on ~~October 4, 2012~~ June 5, 2014.

Process of Aggregation

All customers currently enrolled in the MCE program were appropriately noticed. Before additional phases of customers are enrolled in the Program, these customers will receive ~~two~~ three written notices in the mail, from ~~the Authority~~ MCE, that will provide information needed to understand the Program's terms and conditions of service and explain how these customers can opt-out of the Program, if desired. All customers that do not follow the opt-out process specified in the customer notices will be automatically enrolled, and service will begin at their next regularly scheduled meter read date at least thirty days following the date of automatic enrollment, subject to the service phase-in plan described in Chapter 5. These notices will be sent to customers beginning 90 to 105 days prior to commencement of service or twice within 60

² The Sol Shares program is currently accepting customer enrollments but will not begin delivering electric power to participating customers until the 2015 calendar year. In the meantime, Sol Shares enrollees may continue taking MCE service under the Light Green or Deep Green service options.

days of automatic enrollment. Follow-up opt-out notices will be provided within the first two months of service. All customers will be provided with a total of five (5) opt-out notices.

Customers enrolled in the Program will continue to have their electric meters read and be billed for electric service by the distribution utility (PG&E). The electric bill for Program customers will show separate charges for generation procured by the Program and all other charges related to delivery of the electricity and other utility charges that will continue to be assessed by PG&E.

After service cutover, customers will be given two additional opportunities to opt-out of the Program and return to the distribution utility (PG&E) following receipt of their first and second bills. Customers that opt-out between the initial cutover date and the close of the post enrollment opt-out period will be responsible for program charges for the time they were served by ~~the Authority~~MCE but will not otherwise be subject to any penalty for leaving the program. Customers that have not opted-out within thirty days of the fourth opt-out notice will be deemed to have elected to become a participant in the Program and to have agreed to the Program's terms and conditions, including those pertaining to requests for termination of service, as further described in Chapter 8.

Consequences of Aggregation

Rate Impacts

Customers will pay the generation charges set by ~~the Authority~~MCE and no longer pay the costs of PG&E generation. Customers enrolled in the Program will be subject to the Program's terms and conditions, including responsibility for payment of all Program charges as described in Chapter 9. ~~The Authority~~MCE's rate setting policies are described in Chapter 7. ~~The Authority~~MCE will establish rates sufficient to recover all costs related to operation of the Program, and actual rates will be adopted by ~~the Authority~~MCE's governing board.

Information regarding current Program rates will be disclosed along with other terms and conditions of service in the pre-enrollment opt-out notices sent to potential customers.

Program customers are not expected to be responsible in any way for costs associated with the utilities' future electricity procurement contracts or power plant investments that are made on behalf of utility bundled service customers. Certain pre-existing generation costs will continue to be charged by PG&E to CCA customers through a separate rate component, called the Cost Responsibility Surcharge or CRS. This charge is shown in PG&E's tariff, which can be accessed from the utility's website.

Renewable Energy Impacts

The MCE program has substantially increased the proportion of energy generated and supplied to its customers by renewable resources. The resource plan includes procurement of renewable energy sufficient to meet a minimum of 50 percent of the Program's electricity needs. Customers of ~~the Authority~~MCE may voluntarily participate in a 100 percent renewable supply option. To the extent that customers choose to participate in this voluntary program, the renewable content of ~~MEAMCE's~~ power supply would increase. The renewable energy

requirements of MCE customers are being supplied through contractual arrangements, but may be delivered, at an indeterminate point in the future, by new renewable generation resources developed by or for ~~the Authority~~MCE subject to then-current considerations (such as development costs, regulatory requirements and other concerns).

Energy Efficiency Impacts

~~MEAMCE~~ also plans to increase investment in energy efficiency programs and activities. The existing energy efficiency programs administered by the distribution utility have not changed as a result of ~~the Authority~~MCE forming the Program. CCA customers continue to pay charges to the distribution utility which fund energy efficiency programs for all customers, regardless of generation supplier. ~~MCE presently administers its own energy efficiency programs within its service area. Such programs are independently administered by MCE staff with oversight provided by MCE's Governing Board and the Commission.~~ The energy efficiency investments ~~ultimately planned~~currently ~~formed by~~ the Program, as described in Chapter 5, ~~will bear~~ in addition to the level of investment that would continue in the absence of the Program. Thus, the Program has the potential for increased energy savings and a further reduction in emissions due to expanded energy efficiency programs. As ~~planned~~previously noted, ~~MEAMCE has elected to now independently administer requisite energy efficiency program funding within its jurisdiction, having received certification of its energy efficiency plan by submitting the Commission a plan to independently administer energy efficiency programs within its jurisdiction for CPUC certification.~~ An MCE's initial Energy Efficiency plan was submitted to the CPUC on February 3, 2012 and an amended Energy Efficiency plan was submitted to the CPUC on June 22, 2012.

CHAPTER 3 – Organizational Structure

This section provides an overview of the organizational structure of ~~the Authority~~MCE

Organizational Overview

The MCE program is governed by ~~MEAMCE's~~ Board of Directors ("Board"), appointed by the Members. ~~MEAMCE~~ is a joint powers agency created in December 2008 and formed under California law. Originally, the County of Marin and eight municipalities within the geographic boundaries of the County became Members of ~~MEA-MCE~~ and elected to offer the Program to their constituents. Since that time, the remaining four municipalities within Marin, which include the cities of Novato and Larkspur and the towns of Ross and Corte Madera, have requested and received approval for ~~MEA-MCE~~ membership as has the City of Richmond ~~and, most recently, the County of Napa~~. ~~MCE (formerly known as "The Marin Energy Authority")~~ is the CCA entity that has registered with the CPUC and has been responsible for implementing and managing the program pursuant to ~~the Authority~~MCE's Joint Powers Agreement ("JPA Agreement" or "Agreement"). The Program is operated under the direction of an Executive Officer, who has been appointed by the Board. The Executive Officer reports to the Board comprised of one representative from each participating Member of ~~MEAMCE~~. Those who are eligible to serve as representatives on the Board include elected officials from the then-current County Board of Supervisors (one Board representative has been selected from the County Board of Supervisors) and the City and Town Councils (one representative has been selected from each of the City and Town Councils) of the Members.

The Board's primary duties are to establish program policies, set rates and provide policy direction to the Executive Officer, who has general responsibility for program operations, consistent with the policies established by the Board. The Board has also determined necessary staffing levels, individual titles and related compensation ranges for the organization. The Board may also adjust staffing levels and compensation over time in response to varying workloads, specific programs and/or general responsibilities of MCE.

The Executive Officer is an employee of ~~MEAMCE~~, and the Board is responsible for evaluating the Executive Officer's performance.

The Board has established a Chairman and other officers from among its membership and has established an Executive Committee and Technical Committee and may establish other committees and sub-committees as needed to address issues that require greater expertise in particular areas (e.g., finance or contracts). MCE may also establish an "Energy Commission" formed of Board-selected designees. The Energy Commission would have responsibility for evaluating various issues that may affect MCE and its customers, including rate setting, and would provide analytical support and recommendations to the Board in these regards.

The Executive Officer has responsibilities over the functional areas of Finance, Regulatory Affairs, and Operations. In performing these responsibilities, the Executive Officer utilizes a combination of internal staff and contractors. Certain specialized functions needed for program operations, namely the electric supply and customer account management functions described below, are performed by experienced third-party contractors.

Governance

~~MEA-MCE~~ has a Board of Directors consisting of one representative from each Member. Following satisfaction of certain administrative conditions, the Board will add an additional representative from the ~~City of Richmond~~County of Napa. The Board meets at regular intervals to provide the overall management and guidance for MCE. All Board meetings are public and held in accordance with the Ralph M. Brown Act.

Decisions by ~~MEA-MCE~~ are under voting procedures defined in the JPA Agreement, attached hereto as Appendix B. All votes on a particular matter are subject to the two-tiered approval process described in the JPA Agreement.

Officers

~~MEAMCE~~ has a Chair and Vice-Chair elected to one-year terms by the Board of Directors. Both the Chair and Vice-Chair must be members of the Board. In addition, ~~MEAMCE~~ has a Board Clerk and Auditor; neither of which will be members of the Board of Directors. The JPA Agreement provides further detail with respect to each of these positions.

Committees

~~MEAMCE~~ may form various committees, an appointed Energy Commission, which would be comprised of Board designees from the Member communities. Appointments would be made based on various skill sets and expertise that will be useful in evaluating matters affecting ~~MEAMCE~~ and its customers, specifically issues related to rate setting, procurement of energy products and other technical matters. ~~These committees - Energy Commission~~ would provide the Board with recommendations and related analysis to support policy-level decisions of the Board. ~~MEAMCE~~ may elect to have additional committees or working groups to address various topics. Any additional committees and their functions will be determined by the Board of Directors at the time each committee is created. At present, MCE has formed the following standing committees: 1) the Executive Committee; and 2) the Technical Committee. MCE also utilizes Ad Hoc Committees from time to time on an as needed basis.

Addition/Termination of Participation

The JPA Agreement provides for the addition of new participants subject to the affirmative vote of ~~MEAMCE's - MCE's~~ Board of Directors pursuant to the voting structure described in the Agreement. The Board has determined the specific terms and conditions under which new Members can be admitted and has recently approved the membership request received from the ~~City of Richmond~~County of Napa. Following the satisfaction of certain administrative

requirements determined by the Board, a representative from the new Member will be added to the Board and will begin participating in governance activities.

A JPA Member can withdraw itself from the JPA subject to the specific terms and conditions contained in the JPA Agreement.

Agreements Overview

There are two principal agreements that govern ~~MEAMCE~~ and the initial operation of its CCA Program: the JPA Agreement and Program Agreement No. 1 (PA-1). Each of these agreements and its functions are discussed below.

Joint Powers Agreement

The JPA Agreement created ~~MEAMCE~~ and delineates a broad set of powers related to the study, promotion, development, and conduct of electricity-related projects and programs. The JPA Agreement describes ~~the Authority~~ ~~MCE~~ as having broad powers, but a very limited role without implementing agreements (“program agreements”) to carry out specific programs. This structure is intended to provide flexibility for ~~MEAMCE~~ to undertake other programs in the future that may be unrelated to CCA on behalf of all or a subset of ~~MEA-MCE’s~~ Members. The Board has limited decision making authority regarding land use within the Member communities. Any issues involving land use within Member communities will be raised with the potentially affected Member. The land use and building regulations of each Member shall apply to any JPA facilities located within the jurisdiction of that Member. Any amendments to the JPA Agreement will be subject to prior approval by the Board.

The first program agreement or PA-1, discussed in greater detail below, provides for electric generation service to customers of the CCA Program. At ~~MEAMCE’s~~ Members’ discretion, future program agreements could provide for other energy related programs or subsequent energy transactions.

Program Agreement No. 1

PA-1 consists of three components: 1) the Edison Electric Institute (“EEI”) Master Power Purchase & Sale Agreement (“Master EEI Agreement”), which is a standard industry contract used by public and private utilities across the United States; 2) the EEI Master Power Purchase & Sale Agreement Cover Sheet, which provides additional detail related to ~~MEAMCE’s~~ specific transaction, identifying exceptions, clarifications and areas of applicability that modify the standard terms and conditions of the Master EEI Agreement; and 3) one or more Confirmations, inclusive of any amendments thereto, which is referenced in the Master EEI Agreement and defines the commercial terms of ~~MEAMCE’s~~ transaction. PA-1 is the agreement under which ~~MEAMCE~~ currently procures ~~all necessary~~ a significant portion of the electric supply services for MCE customers. PA-1 specifies a five year delivery period, which commenced on May 7, 2010 and ends on May 6, 2015. PA-1 specifies a full requirements energy product, including electric energy, renewable energy, capacity, ancillary services and scheduling coordination services. Based on contract negotiations, PA-1 specifies fixed annual prices for each year of the

delivery period and insulates municipal funds/budgets of the Member Agencies before, during and after the delivery period. PA-1 was executed by ~~MEAMCE~~ and its energy supplier, SENA, on February 5, 2010 and has since incorporated a series of most-recently amendments to accommodate Program ~~ed on February 2, 2012 expansion~~. It is ~~MEA-MCE's~~ intent to provide for the additional energy requirements of future MCE customers by negotiating other contracts for requisite energy products and/or an subsequent amendments to PA-1, which will be completed prior to service commencement. ~~MEAMCE~~ anticipates that SENA will continue in its role as ~~MEAMCE's~~ primary energy supplier and scheduling coordinator over the near-term (through ~~May 6, 2015~~December 31, 2016) but will also pursue supply arrangements with renewable energy generators to supplement planned renewable energy deliveries from SENA.

Agency Operations

~~The Authority~~~~MCE~~ conducts program operations through its own internal staff and through contracts for services with third parties. ~~MEAMCE~~ has its own General Counsel to manage its legal affairs. ~~MEAMCE's~~ Executive Officer will have responsibility for day-to-day operations of the Program. To assist the Executive Officer, ~~MEAMCE~~ has hired a full-time Administrative Assistant and a Clerk. Other staff positions may be added as necessary to include positions in finance, customer services, energy efficiency and other local energy programs, and operations.

Major MCE functions that are performed and managed by the Executive Officer are summarized below.

Resource Planning

~~MEAMCE~~ is charged with developing both short (one and two-year) and long-term resource plans for the program. The Executive Officer manages staff and contractors to develop the resource plan under the guidance provided by the Board and in compliance with California Law, and other requirements of California regulatory bodies (CPUC and CEC).

Long-term resource planning includes load forecasting and supply planning on a ten- to twenty-year time horizon. ~~MEAMCE's~~ technical team develops integrated resource plans that meet program supply objectives and balance cost, risk and environmental considerations. Integrated resource planning considers demand side energy efficiency and demand response programs as well as traditional supply options. The CCA Program requires an independent planning function despite day-to-day supply operations being contracted to a third party energy supplier. Plans are updated and adopted by the Board on an annual basis.

Portfolio Operations

Portfolio operations encompass the activities necessary for wholesale procurement of electricity to serve end use customers. These highly specialized activities include the following:

- *Electricity Procurement* – assemble a portfolio of electricity resources to supply the electric needs of program customers.

- *Risk Management* – standard industry techniques are employed to reduce exposure to the volatility of energy markets and insulate customer rates from sudden changes in wholesale market prices.
- *Load Forecasting* – develop accurate load forecasts, both long-term for resource planning and short-term for the electricity purchases and sales needed to maintain a balance between hourly resources and loads.
- *Scheduling Coordination* – scheduling and settling electric supply transactions with the CAISO.

MEAMCE has initially contracted with an experienced and financially sound third party, SENA, to perform most of the portfolio operation requirements for the CCA Program. These requirements include the procurement of energy and ancillary services, scheduling coordinator services, and day-ahead and real-time trading. PA-1 is the contractual instrument that has been developed for this purpose; additional detail related to PA-1 is provided in the preceding discussion.

MEAMCE will approve and adopt a set of *Program Controls* that will serve as the risk management tools for the Executive Officer and any third party involved in the program's portfolio operations. Program Controls will define risk management policies and procedures and a process for ensuring compliance throughout the organization. During initial operations, SENA will bear the majority of program operational risks, pursuant to the terms and conditions of PA-1.

Operations & Local Energy Programs

A key focus of the CCA Program will be the development and implementation of local energy programs for its Members, including energy efficiency programs, net energy metering, distributed generation programs and other energy programs responsive to Member interests. The Executive Officer is responsible for further development of these Programs. To assist the Executive Officer in this regard, MEAMCE may hire additional staff to oversee program operations and local energy program administration as well as develop energy efficiency marketing strategies, perform customer outreach and conduct related analyses to support chosen courses of action. As experience is gained from the retail energy side of the CCA Program, MEAMCE will continue enhancing its local energy programs to achieve MEA-MCE's desired goals and objectives.

MEAMCE will administer energy efficiency, demand response and distributed (solar) generation programs that can be used as cost-effective alternatives to procurement of supply-side resources. MEAMCE will attempt to consolidate existing demand side programs into this organization and leverage the structure to expand energy efficiency offerings to customers throughout its service territory, including the CPUC process for third party administration of energy efficiency programs and use of funds collected through the existing public goods surcharges paid by MCE customers.

Rate Setting

The Board of Directors has the ultimate responsibility for setting the electric generation rates for the Program's customers. The Executive Officer in cooperation with technical staff and appropriate advisors, consultants and committees of the Board is responsible for developing proposed rates and options for the Board to consider before finalization. The final approved rates must, at a minimum, meet the annual revenue requirement developed by the Executive Officer, including any reserves or coverage requirements set forth in electric supply agreements and/or bond covenants. The Board has the flexibility to consider rate adjustments within certain ranges, provided that the overall revenue requirement is achieved; this provides an opportunity for economic development rates or other rate incentives.

Financial Management/Accounting

The Executive Officer in cooperation with technical staff, advisors and consultants is responsible for managing the financial affairs of MCE, including the development of an annual budget and revenue requirement; managing and maintaining cash flow requirements; potential bridge loans and other financial tools; and a large volume of billing settlements. The Executive Officer uses contractors and/or staff in support of these activities, as appropriate.

The Finance function arranges financing for capital projects, prepares financial reports, and ensures sufficient cash flow for the Program. This function also plays an important role in risk management by monitoring the credit of suppliers so that credit risk is properly understood and mitigated by the Program. In the event that changes in a supplier's financial condition and/or credit rating are identified, the Program will be able to take appropriate action, as would be provided for in the electric supply agreement. The Finance function establishes credit policies that the program must follow.

The retail settlements (customer billing) is contracted out to an organization with the necessary infrastructure and capability to handle ~~approximately in excess of 100~~34,000 accounts during full Program phase-in and near-term expansion (to the County of Napa), which is scheduled to occur in ~~July 2012~~December 2014. This function is described under Customer Services, below.

Customer Services

In addition to general program communications and marketing, a significant focus on customer service, particularly representation for key accounts, is necessary. This includes both a call center designed to field customer inquiries and routine interaction with customer accounts. The Executive Officer is responsible for the Customer Services function and uses staff and/or contractors in support of these activities as appropriate.

The Customer Account Services function performs retail settlements-related duties and manages customer account data. It processes customer service requests and administers customer enrollments and departures from the Program, maintaining a current database of customers enrolled in the Program. This function coordinates the issuance of monthly bills through the distribution utility's billing process and tracks customer payments. Activities

include the electronic exchange of usage, billing, and payments data with the distribution utility and MCE, tracking of customer payments and accounts receivable, issuance of late payment and/or service termination notices, and administration of customer deposits in accordance with MCE credit policies.

The Customer Account Services function also manages billing related communications with customers, customer call centers, and routine customer notices. MEAMCE has initially contracted with a third party, Noble Americas Energy Solutions (“Noble”), which has demonstrated the necessary experience and administers appropriate computer systems (customer information system), to perform the customer account and billing services functions.

MEAMCE conducts Program marketing and key customer account management functions. These responsibilities will include the assignment of account representatives to key accounts, which will ensure high levels of customer service to these businesses, and implementation of a marketing strategy to promote customer satisfaction with the CCA Program. Effectively administering communications, marketing messages, and delivering information regarding the CCA Program to all customers is critical for the overall success of the CCA Program.

Legal and Regulatory Representation

The CCA Program requires ongoing regulatory representation to file resource plans, resource adequacy, compliance with California RPS, and overall representation on issues that will impact MEAMCE, its Members and MCE customers. MEAMCE maintains an active role at the CPUC, CEC, and, as necessary, FERC and the California legislature. Day-to-day analysis and reporting of pertinent legal and regulatory issues is completed by the Program’s Legal and Regulatory Counsel and/or qualified contractors.

MEAMCE also retains legal services, as necessary, to administer MEAMCE, review contracts, and provide overall legal support to the activities of MEAMCE.

Roles and Functions

The Board performs the functions inherent in its policy-making, management and planning roles. MEAMCE is the public face of the Program and has a direct role in marketing, communications and customer service. Other highly specialized functions, such as energy supply and data management, are contracted out to third parties with sufficient experience, technical and financial capabilities. The functions that are currently being performed by MEAMCE’s Board of Directors, the Executive Officer and third parties are specified below:

Organization	Roles/Functions/Activities
MEAM MCE Board of Directors	<i>Executive/Policy/Legal</i>
Executive Officer	<i>Finance</i>
	<i>Legal and Regulatory</i> <ul style="list-style-type: none"> - <i>Legal support</i> - <i>Participation in regulatory proceedings</i> - <i>Regulatory reporting</i>
	<i>Marketing/Communications</i>
	<i>Rates & Support</i> <ul style="list-style-type: none"> - <i>Rate policy</i> - <i>Rate design</i> - <i>Cost-of-service planning</i>
	<i>Resource Planning</i> <ul style="list-style-type: none"> - <i>Load research</i> - <i>Load forecasting</i> - <i>Supply-side/Demand side portfolio planning</i>
	<i>Contract Management – RFP/RFQ</i>
	<i>Customer Service</i> <ul style="list-style-type: none"> - <i>Account representatives</i> - <i>Energy efficiency/DG program management</i>
Energy Suppliers (SENA)	<i>Supply Operations</i> <ul style="list-style-type: none"> - <i>Procurement</i> - <i>Scheduling coordination</i> - <i>Settlements (ISO/Wholesale)</i> - <i>Short-term load forecasting</i>
Customer Account Services Provider/Data Manager (Noble)	<i>Account Management (Customer Information System)</i> <ul style="list-style-type: none"> - <i>Customer switching</i> - <i>New customer processing</i> - <i>Data exchange (EDI)</i> - <i>Payment processing (AR/AP)</i> - <i>Billing and retail settlements</i> - <i>Call center</i>

Staffing

Staffing requirements for the above MCE functions will be approximately ten full time equivalent positions, once the customer phase-in is complete and the program is fully operational. These staffing requirements are in addition to the services provided by the third party energy suppliers and the data manager. The Executive Officer will have discretion whether to internally staff these required functions or to contract for these services.

The following table shows the staffing plan for Marin Clean Energy at initial full-scale operational levels, following full phase-in. Customer service for the mass market residential and small commercial customers will be provided by the Program’s third party customer account services provider.

**Staffing Plan for Marin Clean Energy
Community Choice Aggregation Program**

Position	Staff (Full Time Equivalents)
Management	
Executive Officer	1.0
Resource Analyst	1.0
Data Analyst	1.0
Administrative Assistant	1.0
Clerk	1.0
Sales and Marketing	
Communications Director	1.0
Account Manager	1.0
Local Energy Programs	
Energy Efficiency Program Coordinator	1.0
Legal & Regulatory	
Legal & Regulatory Counsel	1.0
Regulatory Analyst	1.0
Total Staffing	10.0

Longer-term staffing needs will include additional energy efficiency and distributed generation activities and potentially the creation of an internal organization to perform the portfolio operations and account services functions that are currently performed under contract arrangements.

CHAPTER 4 – CCA Startup

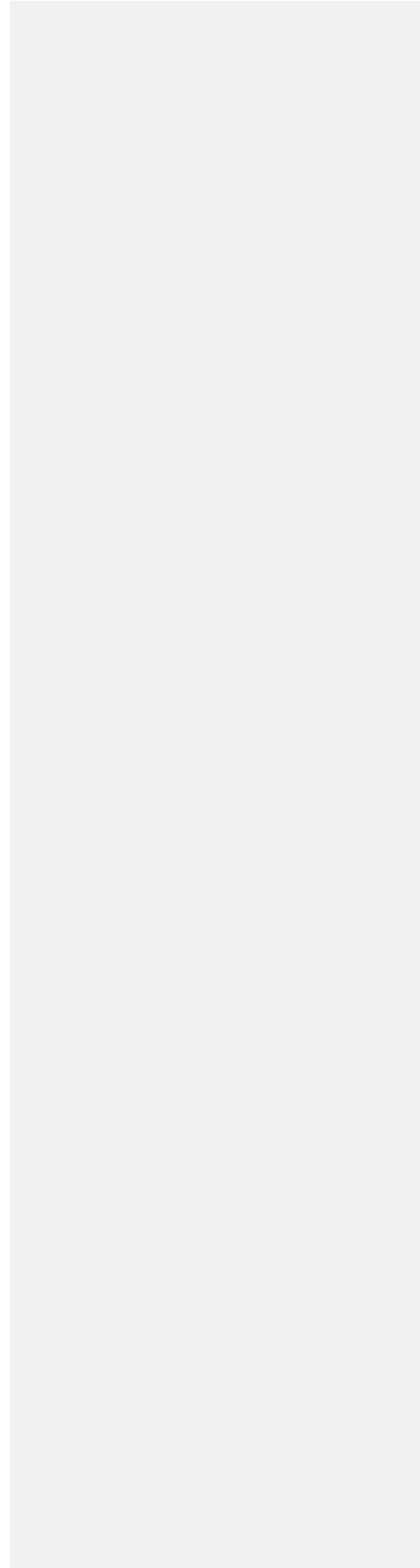
As previously noted, ~~MEAMCE~~ successfully launched the MCE program on May 7, 2010. To ensure successful operation during the implementation and start-up period, ~~the Authority~~~~MCE~~ utilized a mix of staff and contractors in its CCA Program implementation. The following table illustrates current start-up responsibilities as well as expectations for near-term (two to five years), and long-term staffing roles.

Expectations for Staffing Roles

Function	Start-Up	Near-Term (2 to 5 Years)	Long-Term
Program Governance	MEAMCE Board	MEAMCE Board	MEAMCE Board
Program Management	MEAMCE EO	MEAMCE EO	MEAMCE EO
Outreach	MEAMCE EO	MEAMCE EO	MEAMCE EO
Customer Service	MEAMCE EO	MEAMCE EO	MEAMCE EO
Key Account Management	MEAMCE EO	MEAMCE EO	MEAMCE EO
Regulatory	Third Party (MEAMCE EO support)	MEAMCE EO (Regulatory Analyst support)	MEAMCE EO (Regulatory Analyst support)
Legal	MEAMCE EO	MEAMCE EO	MEAMCE EO
Finance	MEAMCE EO	MEAMCE EO	MEAMCE EO
Rates: Approve Develop	MEAMCE Board MEAMCE EO (third Party support)	MEAMCE Board MEAMCE EO (third Party support)	MEAMCE Board MEAMCE EO (third party support)
Resource Planning	Third Party (MEAMCE EO support)	MEAMCE EO (third party support)	MEAMCE EO (third party support)
Energy Efficiency	MEAMCE EM (third Party Support)	MEAMCE EO (Program Energy Efficiency Staff)	MEAMCE EO (Program Energy Efficiency Staff)
Resource Development	MEAMCE EO (third party support)	MEAMCE EO (third party support)	MEAMCE EO (third party support)
Portfolio Operations	Third Party	Third Party (MEAMCE EO support)	MEAMCE EO (third party support)
Scheduling Coordinator	Third Party	Third Party	Third Party (potentially MEAMCE EO)
Data Management	Third Party	Third Party	Third Party (potentially MEAMCE EO)

Staffing Requirements

Staff will be added incrementally to match workloads involved in forming the new organization, managing contracts, and initiating customer outreach/marketing during the pre-operations period. Actual staff will be dependent upon several factors, including the ability to recruit and hire qualified staff and personnel policies ultimately established by the Executive Officer and the Board of Directors.



CHAPTER 5 – Program Phase-In

~~The Authority~~MCE continues to phase-in the customers of its CCA Program as communicated in its January 25, 2010 Implementation Plan. To date, two phases have been successfully implemented, and a third phase is underway as of July 2012 that includes remaining customers within Marin County. ~~MEAMCE~~ plans to serve customers within the City of Richmond in a fourth phase planned for April, 2013:

- Phase 1. Complete: ~~MEAMCE~~ Member (municipal) accounts & a subset of residential, commercial and/or industrial accounts, comprising approximately 20 percent of total customer load.
- Phase 2. Complete: Additional commercial and residential accounts, comprising an approximately 20 percent of total customer load (incremental addition to Phase 1).
- Phase 3. In Progress: Remaining accounts within Marin County.
- ~~Phase 4.~~ Residential, commercial, agricultural, and street lighting accounts within the City of Richmond, subject to economic and operational constraints.
- ~~Phase 4.~~Phase 5. Residential, commercial, agricultural, and street lighting accounts within the unincorporated areas of Napa County, subject to economic and operational constraints.

This approach has provided ~~the Authority~~MCE with the ability to start slow, addressing any problems or unforeseen challenges on a small manageable program before gradually building to full program integration for an expected customer base of approximately ~~120~~34,000 accounts. This approach has also allowed ~~the Authority~~MCE and its energy supplier(s) to address all system requirements (billing, collections, payments) under a phase-in approach to minimize potential exposure to uncertainty and financial risk by “walking” prior to ultimately “running”.

~~MEAMCE~~ will offer service to all customers on a phased basis expected to be completed within twenty four to thirty six months of initial service to Phase 1 customers, which occurred on May 7, 2010. Phase 2 was implemented in August, 2011. Phase 3 of the Program began in July, 2012. Phase 4 ~~is planned to begin in~~was implemented April in July, 2013 and ~~will include~~ all residential, commercial, agricultural, and street lighting customers within the City of Richmond. Phase 5 is planned to begin in December 2014 and will include all residential, commercial, agricultural, and street lighting customers within the unincorporated areas of Napa County. Service may be offered to industrial customers within the City of Richmond at an undetermined date in the future.—The Board may evaluate other phase-in options based on then-current market conditions, statutory requirements and regulatory considerations as well as other factors potentially affecting the integration of additional customer accounts.

CHAPTER 6 - Load Forecast and Resource Plan

Introduction

This Chapter describes MCE's proposed ten-year integrated resource plan, which will create a highly renewable, diversified portfolio of electricity supplies capable of meeting the electric demands of MCE's retail customers, plus sufficient reliability reserves.

This integrated resource plan reflects a progression towards ~~MEAMCE~~'s long-term, programmatic goal of 100 percent renewable energy supply. Within five years of program commencement (2015), this significant commitment to renewable resources is projected to result in MCE meeting approximately 55 percent of its total electric needs through renewable resources. As the Program moves forward, incremental renewable supply additions will be made based on resource availability as well as economic goals of the Program. MCE's aggressive commitment to renewable generation adoption may involve both direct investment in new renewable generating resources through partnerships with experienced public power developers/operators, significant purchases of renewable energy from third party suppliers and the purchase of Renewable Energy Certificates ("RECs") from the market. The resource plan also sets forth ambitious targets for improving customer side energy efficiency as well as for potential deployment of approximately 14 MW of new distributed solar capacity within the jurisdictional boundaries of MCE by 2019 (year ten of Program operations).

The plan described in this section would accomplish the following by 2019:

- Procure energy needed to offer two generation rate tariffs: 100 percent Deep Green and 50 percent (minimum) Light Green.
- Increase the aggregate RPS-eligible renewable energy supply of the Program to a minimum 33 percent by 2020.
- Continue increasing renewable energy supplies of the Program to approximately 55 percent by 2015 based on resource availability and economic goals of the program.
- Develop partnership(s) with experienced public power developer(s) to responsibly evaluate development opportunities for Program-owned/controlled renewable generating capacity.
- Achieve significant reductions in greenhouse gas emissions within the Member Agencies.

~~MEAMCE~~ is responsible for complying with regulatory rules applicable to California load serving entities. ~~MEAMCE~~ has arranged for the scheduling of sufficient electric supplies to meet the hour-by-hour demands of its customers. ~~MEAMCE~~ has adhered to capacity reserve requirements established by the CPUC and the CAISO designed to address uncertainty in load forecasts and potential supply disruptions caused by generator outages and/or transmission contingencies. These rules also ensure that physical generation capacity is in place to serve the Program's customers, even if there were to be a need for the Program to cease operations and return customers to PG&E. In addition, ~~MEAMCE~~ is responsible for ensuring that its resource mix contains sufficient production from renewable energy resources needed to comply with the

statewide renewable portfolio standards. The resource plan will meet or exceed all of the applicable regulatory requirements related to resource adequacy and the renewable portfolio standard.

Resource Plan Overview

The criteria used to guide development of the proposed resource plan included the following:

- Environmental responsibility and commitment to renewable resources;
- Price/rate stability;
- Reliability and maintenance of adequate reserves; and
- Cost effectiveness.

To meet these objectives and the applicable regulatory requirements, MEAMCE's resource plan includes a diverse mix of power purchases, renewable energy, new energy efficiency programs, demand response, and distributed generation. A diversified resource plan minimizes risk and volatility that can occur from over-reliance on a single resource type or fuel source. The ultimate goal of MEAMCE's resource plan is to maximize use of renewable resources subject to economic and operational constraints. The result is a resource plan that will source approximately 55 percent of MCE's resource mix from renewable resources by 2015. The planned resource mix is initially comprised of power and renewable energy credit purchases from third party electric suppliers and, in the longer-term, may also include renewable generation assets owned and/or controlled by MEAMCE.

Eventually, MEAMCE may begin evaluating opportunities for investment in renewable generating assets, subject to then-current market conditions, statutory requirements and regulatory considerations. Any renewable generation owned by MEAMCE or controlled under long-term power purchase agreement with a proven public power developer, could provide a portion of MEAMCE's electricity requirements on a cost-of-service basis. Electricity purchased under a cost-of-service arrangement should be more cost-effective than purchasing renewable energy from third party developers, which will allow the Program to pass on cost savings to its customers through competitive generation rates. Any investment decisions will be made following thorough environmental reviews and in consultation with the Marin Communities' financial advisors, investment bankers, attorneys, and potentially with customer input.

As an alternative to direct investment, MEAMCE may consider partnering with an experienced public power developer and enter into a long-term (20-to-30 year) power purchase agreement that would support the development of new renewable generating capacity. Such an arrangement could be structured to greatly reduce the Program's operational risk associated with capacity ownership while providing Program customers with all renewable energy generated by the facility under contract. This option may be preferable to MEAMCE as it works to achieve increasing levels of renewable energy supply to its customers.

MEAMCE's resource plan will integrate supply-side resources with programs that will help customers reduce their energy costs through improved energy efficiency and other demand-side measures. As part of its integrated resource plan, MEAMCE will actively pursue, promote and ultimately administer a variety of customer energy efficiency programs that can cost-

effectively displace supply-side resources. Included in this plan is a targeted deployment of over 14 MW of distributed solar by 2019.

MEAMCE's proposed resource plan for the years 2010 through 2019 is summarized in the following table:

Marin Clean Energy Proposed Resource Plan (GWh) 2010 to 2019										
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Marin Demand (GWh)										
Retail Demand	-91	-196	-621	-1,210	-1,301	-1,301	-1,301	-1,301	-1,301	-1,301
Distributed Generation	0	1	2	6	13	16	18	19	20	20
Energy Efficiency	0	0	0	4	11	15	15	15	15	15
Losses and UFE	-5	-12	-37	-72	-77	-76	-76	-76	-76	-76
Total Demand	-96	-208	-657	-1,272	-1,353	-1,346	-1,344	-1,343	-1,341	-1,341
Marin Supply (GWh)										
Renewable Resources										
Generation	0	0	0	0	0	0	0	219	219	219
Power Purchase Contracts	23	53	328	636	689	698	697	478	477	477
Total Renewable Resources	23	53	328	636	689	698	697	697	696	696
Conventional Resources										
Generation	0	0	0	0	0	0	0	0	0	0
Power Purchase Contracts	74	155	328	636	664	648	646	646	645	645
Total Conventional Resources	74	155	328	636	664	648	646	646	645	645
Total Supply	96	208	657	1,272	1,353	1,346	1,344	1,343	1,341	1,341
Energy Open Position (GWh)	0	0	0	0	0	0	0	0	0	0

Supply Requirements

The starting point for MEAMCE's resource plan is a projection of participating customers and associated electric consumption. Projected electric consumption is evaluated on an hourly basis, and matched with resources best suited to serving the aggregate of hourly demands or the program's "load profile". The electric sales forecast and load profile will be affected by MEAMCE's plan to introduce the Program to customers in phases and the degree to which customers choose to remain with PG&E during the customer enrollment and opt-out periods. It is anticipated that MEAMCE's contracted energy supplier will bear a portion of the financial risks associated with deviations from the electric sales forecast during the initial operating period. It will be the obligation of this energy supplier to appropriately reflect these risks in the full requirements energy price. MEAMCE's phased roll-out plan and assumptions regarding customer participation rates are discussed below.

Customer Participation Rates

Customers will be automatically enrolled in MCE's electricity program unless they opt-out during the customer notification process conducted during the 60-day period prior to enrollment and continuing through the 60-day period following commencement of service. MCE anticipated an overall customer participation rate of approximately 80 percent during Phase 1, when service is being offered to the service accounts that are affiliated with MCE's participating members (municipal accounts) and a subset of residential, commercial and/or industrial customers, totaling approximately 20 percent of total customer load. The actual participation rate for Phase 1 was very similar to MEAMCE's projection. Participation rates for

Phase 2 were approximately 80 percent of bundled service customers and 0 percent of direct access customers. Participation rates for Phases 3 and 4 are projected to range from 70 percent to 80 percent, with the lower figure used as the basis for load projections contained in this plan. The participation rate is not expected to vary significantly among customer classes, in part due to the fact that **MEAMCE** will offer two distinct rate tariffs that will address the needs of cost-sensitive customers within the Marin Communities as well as the needs of both residential and business customers that prefer a highly renewable energy product. The assumed participation rates will be refined as **MEAMCE**'s public outreach and market research efforts continue to develop.

Customer Forecast

Once customers enroll in each phase, they will be switched over to service by MCE on their regularly scheduled meter read date over an approximately thirty day period. The number of accounts served by MCE at the end of each phase is shown in the table below.

Marin Clean Energy Enrolled Retail Service Accounts Phase-In Period (End of Month)				
Marin Customers	May-10	Aug-11	Jul-12	Apr-13
Residential	7,354	12,503	77,345	104,003
Small Commercial	522	605	8,934	11,058
Medium Commercial	52	498	749	975
Large Commercial	2	8	220	302
Industrial	3	3	10	10
Street Lighting & Traffic	138	141	443	553
Ag & Pump.	-	1	113	114
Total	8,071	13,759	87,814	117,015

MEAMCE assumes that MCE customer growth will generally offset customer attrition (opt-outs) over time, resulting in a relatively stable customer base over the noted planning horizon. Because MCE is the first program of its kind within California, it is very difficult to anticipate with any precision the actual levels of customer participation within this CCA program. **MEAMCE** believes that its assumptions regarding the offsetting effects of growth and attrition are reasonable in consideration of the limited build-out potential within Marin County and the observed rate of customer opt-outs following mandatory customer notification periods. The forecast of service accounts (customers) served by MCE for each of the next ten years is shown in the following table:

**Marin Clean Energy
Retail Service Accounts (End of Year)
2010 to 2019**

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Marin Customers										
Residential	7,354	12,503	77,345	104,003	104,003	104,003	104,003	104,003	104,003	104,003
Small Commercial	522	605	8,934	11,058	11,058	11,058	11,058	11,058	11,058	11,058
Medium Commercial	52	498	749	975	975	975	975	975	975	975
Large Commercial	2	8	220	302	302	302	302	302	302	302
Industrial	3	3	10	10	10	10	10	10	10	10
Street Lighting & Traffic	138	141	443	553	553	553	553	553	553	553
Ag & Pump.	-	1	113	114	114	114	114	114	114	114
Total	8,071	13,759	87,814	117,015	117,015	117,015	117,015	117,015	117,015	117,015

Sales Forecast

MCE's forecast of kWh sales reflects the roll-out and customer enrollment schedule shown above. The annual electricity needed to serve MCE's retail customers increases from approximately 200 GWh in 2011 to approximately 1,35600 GWh at full roll-out, which includes planned expansion to the County of Napa. Annual energy requirements are shown below.

**Marin Clean Energy
Energy Requirements
(GWH)
2010 to 2019**

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Marin Demand (GWh)										
Retail Demand	91	196	621	1,210	1,301	1,301	1,301	1,301	1,301	1,301
Distributed Generation	0	-1	-2	-6	-13	-16	-18	-19	-20	-20
Energy Efficiency	0	0	0	-4	-11	-15	-15	-15	-15	-15
Losses and UFE	5	12	37	72	77	76	76	76	76	76
Total Load Requirement	96	208	657	1,272	1,353	1,346	1,344	1,343	1,341	1,341

Capacity Requirements

The CPUC's resource adequacy standards applicable to MEAMCE require a demonstration one year in advance that MEAMCE has secured physical capacity for 90 percent of its projected peak loads for each of the five months May through September, plus a minimum 15 percent reserve margin. On a month-ahead basis, MEAMCE must demonstrate 100 percent of the peak load plus a minimum 15 percent reserve margin.

A portion of MEAMCE's capacity requirements must be procured locally, from the Greater Bay area as defined by the CAISO and another portion must be procured from local reliability areas outside the Greater Bay Area. MEAMCE is required to demonstrate its local capacity requirement for each month of the following calendar year. The local capacity requirement is a percentage of the total (PG&E service area) local capacity requirements adopted by the CPUC based on MEAMCE's forecasted peak load. MEAMCE must demonstrate compliance or request a waiver from the CPUC requirement as provided for in cases where local capacity is not available.

The forward resource adequacy requirements for 2010 through 2015³ are shown in the following tables:

**Marin Clean Energy
Forward Capacity and Reserve Requirements
(MW)
2010 to 2013**

Month	2010	2011	2012	2013
January	-	31	51	195
February	-	32	51	198
March	-	28	46	169
April	-	27	44	212
May	30	29	46	218
June	34	33	49	260
July	29	28	183	229
August	30	53	198	248
September	30	54	218	273
October	28	48	167	209
November	30	51	194	241
December	30	52	191	241

MEAMCE's plan ensures sufficient reserves are procured to meet its peak load at all times. MEAMCE's annual capacity requirements are shown in the following table:

**Marin Clean Energy
Capacity Requirements
(MW)
2010 to 2019**

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Demand (MW)										
Retail Demand	28	46	182	233	233	233	233	233	233	233
Distributed Generation	(0)	(1)	(4)	(9)	(11)	(12)	(12)	(14)	(14)	(14)
Energy Efficiency	-	-	-	(1)	(2)	(3)	(3)	(3)	(3)	(3)
Losses and UFE	2	3	11	13	13	13	13	13	13	13
Total Net Peak Demand	30	47	189	237	233	231	231	229	229	229
Reserve Requirement (%)	15%	15%	15%	15%	15%	15%	15%	15%	15%	15%
Capacity Reserve Requirement	4	7	28	36	35	35	35	34	34	34
Capacity Requirement Including Reserve	34	54	218	273	268	266	265	264	264	264

Local capacity requirements are a function of the PG&E area resource adequacy requirements and MCE's projected peak demand. MEAMCE works with the CPUC's Energy Division and staff at the California Energy Commission as needed to obtain the data necessary to calculate MEAMCE's monthly local capacity requirement. A preliminary estimate of MEAMCE's annual local capacity requirement for the ten year planning period ranges from approximately 13 to 104 MW as shown in the following table:

**Marin Clean Energy
Local Capacity Requirements
(MW)
2010 to 2019**

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Authority Peak (MW)	30	47	189	237	233	231	231	229	229	229
Local Capacity Requirement (% of Peak)	45%	45%	45%	45%	45%	45%	45%	45%	45%	45%
Greater Bay Area Share of Local Capacity Requirement (%)	40%	40%	40%	40%	40%	40%	40%	40%	40%	40%
Other PG&E Areas Share of Local Capacity Requirement (%)	60%	60%	60%	60%	60%	60%	60%	60%	60%	60%
Authority Local Capacity Requirement Greater Bay (MW)	5	9	34	43	42	42	42	42	42	42
Authority Local Capacity Requirement Other PG&E (MW)	8	13	51	64	63	63	63	62	62	62
Authority Local Capacity Requirement, Total (MW)	13	21	86	107	106	105	105	104	104	104

MEAMCE will continue to coordinate with PG&E and appropriate state agencies to manage the transition of responsibility for resource adequacy from PG&E to **MEAMCE** during 2012 and 2013. For system resource adequacy requirements, **MEAMCE** will make month-ahead showings for each month of 2012 and 2013 that **MEAMCE** plans to serve load, and load migration issues would be addressed through the CPUC's approved procedures. **MEAMCE** will work with the California Energy Commission and CPUC prior to commencing service to additional customers to ensure it meets its local and system resource adequacy obligations for 2012 and 2013 through its agreement with its chosen electric supplier.

Renewable Portfolio Standards Energy Requirements

Basic RPS Requirements

As a CCA, **MEAMCE** is required by law and ensuing CPUC regulations to procure a certain minimum percentage of its retail electricity sales from qualified renewable energy resources. For purposes of determining **MEAMCE's** renewable energy requirements, the same standards for RPS compliance that are applicable to the distribution utilities are assumed to apply to **MEAMCE**.

California's RPS program is currently undergoing reform. On April 12, 2011, Governor Jerry Brown signed SB x1 2, requiring public and private utilities as well as community choice aggregators to obtain 33 percent of their electricity from renewable energy sources by December 31, 2020. **MEAMCE** is familiar with California's new RPS, including certain procurement quantity requirements identified in D.11-12-020 (December 1, 2011). To date, **MEAMCE** has significantly exceeded California's RPS, providing MCE customers with approximately over 297 percent RPS-eligible renewable energy delivered to MCE customers in 2010 and 2011 ~~2012—this was the highest percentage represented by any reporting entity and surpassed **MEAMCE's** internal target of 25 percent (by 7.6 percent).~~ A similar renewable energy percentage, which is estimated to be 28.7 percent, will be supplied to MCE customers in 2013~~2~~, consistent with renewable procurement targets identified in the following tables.

Marin Energy Authority **MEAMCE's Renewable Portfolio Standards Requirement**

MEAMCE's annual RPS requirements are shown in the table below. When reviewing this table, it is important to note that **MEAMCE** projects increases in energy efficiency savings as well as increases in locally situated distributed generation capacity (an additional 14 MW by 2019), resulting in a slight downward trend in projected retail electricity sales.

Marin Clean Energy
RPS Requirements
(MWh)
2010 to 2019

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Retail Sales	90,792	195,887	619,467	1,200,413	1,276,463	1,269,665	1,267,636	1,267,346	1,265,490	1,265,490
Baseline	-	18,158	39,177	123,893	240,083	276,992	295,832	316,909	342,183	366,992
Incremental Procurement Target	18,158	21,019	84,716	116,189	36,910	18,840	21,077	25,274	24,809	25,310
Annual Procurement Target	18,158	39,177	123,893	240,083	276,992	295,832	316,909	342,183	366,992	392,302
% of Current Year Retail Sales	20%	20%	20%	20%	22%	23%	25%	27%	29%	31%

Based on planned renewable energy procurement objectives, ~~MEAMCE~~ anticipates that it will significantly exceed the minimum RPS requirements as shown below.

Marin Clean Energy
RPS Requirements and Program Renewable Energy Targets
(MWh)
2010 to 2019

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Retail Sales (MWh)	90,792	195,887	619,467	1,200,413	1,276,463	1,269,665	1,267,636	1,267,346	1,265,490	1,265,490
Annual RPS Target (Minimum MWh)	18,158	39,177	123,893	240,083	276,992	295,832	316,909	342,183	366,992	392,302
Program Target (% of Retail Sales)	25%	27%	53%	53%	54%	55%	55%	55%	55%	55%
Program Renewable Target (MWh)	22,698	52,890	328,318	636,219	689,290	698,316	697,200	697,040	696,019	696,019
Surplus In Excess of RPS (MWh)	4,540	13,712	204,424	396,136	412,298	402,484	380,291	354,857	329,027	303,718
Annual Increase (MWh)	22,698	30,192	275,428	307,901	53,071	9,026	(1,116)	(159)	(1,021)	-

Resources

~~In the future, MEAMCE may begin~~ has begun evaluating opportunities for future investment in renewable generating assets. ~~—subject to then current market conditions, statutory requirements and regulatory considerations. Such opportunities will be evaluated on a case by case basis in consideration of resource location, market conditions, statutory requirements and regulatory considerations.~~ Any renewable generation owned by ~~MEAMCE~~ or controlled under long-term power purchase agreement with a proven public power developer, could provide a portion of ~~MEAMCE's~~ electricity requirements on a cost-of-service basis. Electricity purchased under a cost-of-service arrangement should be more cost-effective than purchasing renewable energy from third party developers, which will allow the Program to pass on cost savings to its customers through competitive generation rates. ~~—Any investment decisions will be made following thorough environmental reviews and in consultation with the Marin Communities~~ MCE's financial advisors, investment bankers, attorneys, and potentially with customer input.

As an alternative to direct investment, ~~MEAMCE~~ may consider partnering with an experienced public power developer and enter into a long-term (20-to-30 year) power purchase agreement that would support the development of new renewable generating capacity. Such an arrangement could be structured to greatly reduce the Program's operational risk associated

with capacity ownership while providing Program customers with all renewable energy generated by the facility under contract. This option may be preferable to MEAMCE as it works to achieve increasing levels of renewable energy supply to its customers.

Purchased Power

Power purchased from utilities, power marketers, public agencies, and/or generators will likely be the predominant source of supply from 2010 to 2015⁴ (MEAMCE may consider the development of certain renewable energy projects, subject to Board approval, which may supply electric generation to MEAMCE customers as soon as January 2016⁵) and may still remain a significant source of power in the event that MEAMCE considers the development of its own renewable generation assets. During the period from 2010 – 2016⁵, MCE plans to contract ~~for the majority of its electricity~~ with SENA ~~for a substantial portion of its electricity needs~~ under a full requirements power supply agreement, and SENA will be responsible for procuring a mix of power purchase contracts, including specified renewable energy targets, to provide a stable and cost-effective resource portfolio for the Program. Deliveries under this agreement have been supplemented with purchases of other energy products from qualified renewable project developers, asset owners and power marketers. Based on terms established in this third-party contract, MEAMCE will ~~be able to~~ continue to substitute electric energy generated by MEAMCE-owned/controlled renewable resources for contract quantities in the event that such resources become operational during the delivery period. ~~Initially, SENA will be responsible for managing the overall supply portfolio.~~

Renewable Resources

MEAMCE will initially secure necessary renewable power supply from SENA. MEAMCE has supplemented the renewable energy provided under the initial full requirements contract with direct purchases of renewable energy from renewable energy facilities.

For planning purposes, MEAMCE should anticipate procurement from the following types of large scale renewable resources in the near to midterm, which would require little or no transmission expansion to ensure deliverability:

- Local resources (solar, wind, biogas, biomass);
- Wind resources in Solano County;
- Existing Qualifying Facilities with expiring PG&E contracts;
- Expansion and re-powering of wind resources in Alameda County;
- Geothermal in Lake and Sonoma Counties;
- Local biomass projects; and
- Renewable Energy Certificates.

Medium and Long-Term Renewable Potential

For mid and long term planning purposes, MEAMCE should anticipate procurement from the following types of large scale renewable resources³:

³ In the long term, new technologies such as wave or tidal energy may become economically feasible as well.

- Wind imports from the Tehachapi Area;
- Wind imports from the Pacific Northwest;
- Geothermal imports from Nevada;
- Geothermal imports from the Imperial Valley;
- Photovoltaic solar imports from California's Central Valley; and
- Solar CSP imports from Southern California (Riverside and San Bernardino Counties).

Although this resource plan identifies likely resource types and locations, it is not possible to predict what projects might be proposed in response to MEAMCE's future solicitations for renewable energy or that may stem from discussions with other public agencies. Renewable projects that are located virtually anywhere in the Western Interconnection can be considered as long as the electricity is deliverable to the CAISO control area, as required to meet the Commission's RPS rules and any additional guidelines ultimately adopted by MEAMCE's Board of Directors. The costs of transmission access and the risk of transmission congestion costs would need to be considered in the bid evaluation process if the delivery point is outside of MEAMCE's load zone, as defined by the CAISO.

Energy Efficiency

This section addresses the treatment of energy efficiency as a component of MEAMCE's integrated resource plan. As described below there are opportunities for significant cost effective energy efficiency programs within the region, and MEAMCE will seek to maximize end-use customer energy efficiency by facilitating customer participation in existing utility programs as well as by forming new programs that displace MEAMCE's need for procuring electric supply.

This energy efficiency potential forecast serves as a means to estimate the scope and types of energy efficiency programs the Program might include within its resource portfolio within the following customer segments:

- 1) Residential – Low-Income and Multi-Family;
- 2) Residential;
- 3) Commercial/Small Commercial; and
- 4) Large Commercial/Industrial.

Preliminary program planning has been prepared based on the conduct of an energy efficiency forecast that employs key assumptions and methodologies adopted by California's investor owned utilities, tailored to the County's service territory weather, demographics, and commercial and industrial customer base. The forecast identifies the size and characteristics of customer market segments, energy efficiency technology options, and projects the costs and benefits associated with forecast program achievable energy efficiency potential.

Baseline Energy Efficiency Potential Estimates

Conservative estimates indicate cost effective (“economic”) energy efficiency potential exists in Marin County to save 181,252 MWh annually. Discounting the economic potential for customer awareness and willingness to adopt based on industry standard assumptions yields achievable energy efficiency potential of 15,100 MWh annually achievable through implementing energy efficiency programs funded at approximately \$2.8 million. The following table summarizes these findings below:

Forecast Annualized Energy Efficiency Potential and Program Budgets							
	Sector Use	Technical Potential	Economic Potential	Achievable Program Potential		Achievable Program Potential	Program Costs
	(kWh)	(kWh)	(kWh)	(kWh)		(kW)	
Residential	732,840,248	217,934,292	107,356,272	7,459,777	1.0%	2,774	\$1,889,983
Commercial	576,235,343	78,085,059	59,356,212	7,380,674	1.3%	1,334	\$874,346
Industrial	107,454,070	15,924,110	14,539,192	255,323	0.2%	39	\$37,825
Composite	1,416,529,661	311,943,461	181,251,677	15,095,774	1.1%	4,147	\$2,802,154

The National Action Plan for Energy Efficiency states among its key findings “consistently funded, well-designed efficiency programs are cutting annual savings for a given program year of 0.15 to 1 percent of energy sales.”⁴ The American Council for an Energy-Efficient Economy (ACEEE) reports for states already operating substantial energy efficiency programs energy efficiency goals of one percent, as a percentage of energy sales, is a reasonable level to target.⁵ Forecast achievable energy efficiency equal to 1.1 percent of the CCA’s forecast energy sales, as indicated in the table above, appears to be a reasonable and conservative baseline for the demand-side portion of CCA’s resource plan. These savings would be in addition to the savings achieved by PG&E administered programs.

CCA Program Energy Efficiency Goals

The Program’s energy efficiency goals reflect a strong commitment to increasing energy efficiency within the County and expanding beyond the savings achieved by PG&E’s programs. A realistic goal is to increase annual savings through energy efficiency programs to two percent (combined MCE and PG&E programs) of annualized electric sales, as has been adopted by the State of New York. Achieving this goal would mean at least a doubling of energy savings relative to the status quo situation without the CCA program. ~~MEAMCE~~ programs will focus on closing the gap between the vast economic potential of energy efficiency within the County and what is actually achieved.

⁴ National Action Plan for Energy Efficiency, July 2006, Section 6: Energy Efficiency Program Best Practices (pages 5-6)

⁵ Energy Efficiency Resource Standards: Experience and Recommendations, Steve Nadel, March 2006, ACEEE Report E063 (pages 28 - 30).

The following table summarizes the estimated energy efficiency potential for each type of energy efficiency initiative:⁶

Energy Efficiency Market Potential

EXISTING RESIDENTIAL	53.0%
Existing Commercial	18.0%
Existing Industrial	14.0%
Residential New Construction	1.0%
Commercial New Construction	6.0%
Industrial New Construction	1.0%
Emerging Technologies	7.0%

The retrofit of existing buildings represents 85 percent of the total forecast energy efficiency market potential. Studies show that the residential customer sector presents the largest untapped efficiency gains.

MEAMCE plans to hire Program staff that will develop specific energy efficiency programs that will refine and obtain these energy savings. MCE will also elect to obtain requisite program funding from the CPUC to administer the energy efficiency programs. Additional details of MCE’s energy efficiency plans are set forth in a separate planning document.⁷

Demand Response

Demand response programs provide incentives to customers to reduce demand upon request by the load serving entity (i.e., MCE), reducing the amount of generation capacity that must be maintained as infrequently used reserves. Demand response programs can be cost effective alternatives to capacity otherwise needed to comply with the resource adequacy requirements. The programs also provide rate benefits to customers who have the flexibility to reduce or shift consumption for relatively short periods of time when generation capacity is most scarce. Like energy efficiency, demand response can be a win/win proposition, providing economic benefits to the electric supplier and customer service benefits to the customer.

In its ruling on local resource adequacy, the CPUC found that dispatchable demand response resources as well as distributed generation resources should be allowed to count for local capacity requirements. This resource plan anticipates that MCE’s demand response programs would partially offset its local capacity requirements beginning in 2013.

PG&E offers several demand response programs to its customers, and **MEAMCE** intends to recruit those customers that have shown a willingness to participate in utility programs into

⁶ California Energy Efficiency Potential Study Volume 1, California Measurement Advisory Council (CALMAC) Study ID: PGE0211.01, May 24, 2006, Figure 12-2: Distribution of Electric Energy Market Potential, Existing Incentive Levels through 2016.

⁷ Marin Energy Authority’s Proposal to Administer Energy Efficiency Programs Pursuant to Public Utilities Code 381.1(e) and (f) for 2012, June 22, 2012.

MCE's demand response programs.⁸ The goal for this resource plan is to meet 5 percent of the Program's total capacity requirements through dispatchable demand response programs that qualify to meet local resource adequacy requirements. This goal translates into approximately 13 MW of peak demand enrolled in MEAMCE's demand response programs. Achievement of this goal would displace approximately 32 percent of MEAMCE's local capacity requirement within the Greater Bay Area.

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Total Capacity Requirement (MW)	34	54	218	273	268	266	265	264	264	264
Demand Response Target	-	-	-	3	10	13	13	13	13	13
Percentage of Local Capacity Requirement	0%	0%	0%	8%	24%	32%	32%	32%	32%	32%

MEAMCE will adopt a demand response program that enables it to request customer demand reductions during times when capacity is in short supply or spot market energy costs are exceptionally high. The level of customer payments should be related to the cost of local capacity that can be avoided as a result of the customer's willingness to curtail usage upon request.

Appropriate limits on customer curtailments, both in terms of the length of individual curtailments and the total number of curtailment hours that can be called should be included in MEAMCE's demand response program design. It will also be important to establish a reasonable measurement protocol for customer performance of its curtailment obligations. Performance measurement should include establishing a customer specific baseline of usage prior to the curtailment request from which demand reductions can be measured. MEAMCE will likely utilize experienced third party contractors to design, implement and administer its demand response programs.

Distributed Generation

Consistent with MEAMCE's environmental policies and the state's Energy Action Plan, clean distributed generation is a significant component of the integrated resource plan. MEAMCE will work with state agencies and PG&E to promote deployment of photovoltaic (PV) systems within MEAMCE's jurisdiction, with the goal of maximizing use of the available incentives that are funded through current utility distribution rates and public goods surcharges. MEAMCE has also implemented an aggressive net energy metering program to promote local investment in distributed generation.

There are significant associated environmental benefits and strong customer interest in distributed PV systems. The economics of PV should improve over time as utility rates continue to increase and the costs of the systems decline with technological improvements and

⁸ These utility programs include the Base Interruptible Program (E-BIP), the Demand Bidding Program (E-DBP), Critical Peak Pricing (E-CPP), Optional Binding Mandatory Curtailment Plan (E-OBMC), the Scheduled Load Reduction Program (E-SLRP), and the Capacity Bidding Program (E-CBP). MEA plans to develop its own demand response programs, which may be similar to those currently administered by the incumbent utility.

added manufacturing capacity. MEAMCE can also promote distributed PV without providing direct financial assistance by being a source of unbiased consumer information and by facilitating customer purchases of PV systems through established networks of pre-qualified vendors. It may also provide direct financial incentives from revenues funded by customer rates to further support use of solar power within the Marin Communities. As previously noted, MEAMCE has provided direct incentives for PV by offering an aggressive net metering rate to customers who install PV systems so that customers are able to sell excess energy to MEAMCE.

MEAMCE's CCA customers will contribute funds to the California Solar Initiative (CSI) through the public goods charge collected by PG&E, and will be eligible for the incentives provided under that program for installation of PV systems. The California Solar Initiative provides \$2.2 billion of funding to target installation of 1,940 MW of solar systems within the investor owned utility service areas by 2017. All electric customers of PG&E, SCE, and SDG&E are eligible to apply for incentives. Approximately 44 percent of program funding is allocated to the PG&E service territory. Assuming solar deployment would be proportionate to funding, the program is intended to yield approximately 775 MW of solar within the PG&E service area. A minimum of 14 MW should be deployed within the jurisdictional boundaries of MEAMCE.

California Solar Initiative Deployment

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
IOU Territory Target (MW)	705	882	1,058	1,235	1,411	1,587	1,764	1,940	1,940	1,940
Total Funding (\$Millions)	240	240	240	160	160	160	5	0	0	0
PG&E Funding (\$Millions)	105	105	105	70	70	70	2	0	0	0
PG&E Incentives Share	44%	44%	44%	44%	44%	44%	40%	40%	40%	40%
PG&E Area Deployment (MW)	309	386	463	540	617	694	705	776	776	776
Marin Share of PG&E Load	0.1%	0.3%	0.8%	1.6%	1.8%	1.8%	1.8%	1.8%	1.8%	1.8%
Marin Solar Deployment (MW)	0	1	4	9	11	12	12	14	14	14

The Authority MCE will work to ensure that customers within its jurisdiction take full advantage of this solar incentive and will develop programs of its own with the goal of doubling the CSI deployment targets shown above.

CHAPTER 7 – Financial Plan

This Chapter examines the monthly cash flows expected during the phase-in period of the CCA Program and identifies the anticipated financing requirements for the overall CCA Program by MEAMCE. It also describes the requirements for working capital and long-term financing for the potential investment in renewable generation, consistent with the resource plan contained in Chapter 6.

Description of Cash Flow Analysis

This cash flow analysis estimates the level of working capital that will be required during the phase-in period. In general, the components of the cash flow analysis can be summarized into two distinct categories: (1) Cost of CCA Program Operations, and (2) Revenues from CCA

Program Operations. The cash flow analysis identifies and provides monthly estimates for each of these two categories. A key aspect of the cash flow analysis is to focus primarily on the monthly costs and revenues associated with the CCA Program phase-in period, and specifically account for the transition or “Phase-In” of CCA Customers from PG&E’s service territory described in Chapter 5.

Cost of CCA Program Operations

The first category of the cash flow analysis is the Cost of CCA Program Operations. To estimate the overall costs associated with CCA Program Operations, the following components were taken into consideration:

- Electricity Procurement;
- Ancillary Service Requirements;
- Exit Fees;
- Staffing Requirements;
- Contractor Costs;
- Infrastructure Requirements;
- Billing Costs;
- Scheduling Coordination;
- Grid Management Charges;
- CCA Bond Premiums;
- Interest Expense; and
- Franchise Fees.

The focus of this cash flow analysis is during the phase-in period.

Revenues from CCA Program Operations

The cash flow analysis also provides estimates for revenues generated from CCA operations or from electricity sales to customers. In determining the level of revenues, the cash flow analysis assumes the customer phase-in schedule noted above, and assumes that **MEAMCE**’s CCA Program provides a Light Green Tariff at comparable generation rates to those of the existing distribution utility for each customer class and a 100 percent Green Tariff at a premium reflective of incremental renewable power costs.

Over time, MCE’s preference for renewable energy will significantly reduce its exposure to volatile input costs (fuel – natural gas) associated with natural gas-fired generation, which are expected to increase steadily, and potentially significantly, for the foreseeable future. Because a significant portion of **MEAMCE**’s power supply will be from renewable energy sources, upward price pressures on its power supply should be significantly reduced over long-term operations.

Projected long-term cost savings can be passed on to Program customers in the form of lower generation rates or can be applied to the procurement of additional renewable energy supplies (moving the program’s renewable energy supply closer to its 100 percent goal), energy

efficiency programs or other energy/climate initiatives within the scope of broad-based powers established for MEAMCE. Ultimately, MEAMCE will have flexibility when making these decisions and can respond to the evolving needs of local residents and businesses when developing rate tariffs and energy/climate-focused programs.

Cash Flow Analysis Results

The results of the cash flow analysis provide an estimate of the level of working capital required for MEAMCE to move through the CCA phase-in period. This estimated level of working capital is determined by examining the monthly cumulative net cash flows (revenues from CCA operations minus cost of CCA operations) based on assumptions for payment of costs by MEAMCE, along with an assumption for when customer payments will be received. This identifies, on a monthly basis, what level of cash flow is available in terms of a surplus or deficit.

With the assumptions regarding payment streams, the cash flow analysis identifies funding requirements while recognizing the potential lag between payments received and payments made during the phase-in period. The estimated financing requirements for the phase-in period, including working capital, based on the phase-in of customers as described above is approximately \$3 million. Working capital requirements reach this peak immediately after enrollment of the Phase 3 customers.

CCA Program Implementation Feasibility Analysis

In addition to developing a cash flow analysis which estimates the level of working capital required to get MEAMCE through full CCA phase-in, a summary analysis that evaluates the feasibility of the CCA program during the phase-in period has been prepared. The difference between the cash flow analysis and the CCA feasibility analysis is that the feasibility analysis does not include a lag associated with payment streams. In essence, costs and revenues are reflected in the month in which service is provided. All other items, such as costs associated with CCA Program operations and rates charged to customers remain the same.

The results of the feasibility analysis are shown in the following table. Under these assumptions, over the entire phase-in period the CCA program is projected to accrue a reserve account balance of approximately \$20 million.

Marin Clean Energy
Summary of CCA Program Phase-In
(January 2010 through December 2015)

CATEGORY	2010	2011	2012	2013	2014	2015	TOTAL
I. REVENUES FROM OPERATIONS (\$)							
ELECTRIC SALES REVENUE	10,610,804	16,454,790	46,310,210	88,226,087	102,349,665	105,410,581	369,362,137
LESS UNCOLLECTIBLE ACCOUNTS	(106,108)	(164,548)	(463,102)	(882,261)	(1,023,497)	(1,054,106)	(3,693,621)
TOTAL REVENUES	10,504,696	16,290,242	45,847,108	87,343,826	101,326,168	104,356,475	365,668,515
II. COST OF OPERATIONS (\$)							
(A) ADMINISTRATIVE AND GENERAL (A&G)							
STAFFING	321,117	430,659	1,279,382	1,496,983	1,541,892	1,588,149	6,658,182
CONTRACT SERVICES	1,035,333	848,063	2,819,953	4,186,559	4,385,539	4,432,586	17,708,033
IOU FEES (INCLUDING BILLING)	19,548	75,590	442,656	978,924	1,066,244	1,098,232	3,681,193
OTHER A&G	191,261	174,408	160,772	171,756	181,783	189,944	1,069,924
SUBTOTAL A&G	1,567,259	1,528,720	4,702,762	6,834,222	7,175,459	7,308,910	29,117,333
(B) COST OF ENERGY	7,418,662	11,881,494	36,774,213	74,224,360	89,152,474	89,975,773	309,426,976
(C) DEBT SERVICE	654,595	394,777	807,082	1,543,060	1,656,287	1,612,619	6,668,420
TOTAL COST OF OPERATION	9,640,516	13,804,991	42,284,057	82,601,642	97,984,220	98,897,303	345,212,729
CCA PROGRAM SURPLUS/(DEFICIT)	864,180	2,485,251	3,563,052	4,742,184	3,341,948	5,459,172	20,455,786

The surpluses achieved during the phase-in period serve as operating reserves for MEAMCE in the event that operating costs (such as power purchase costs) exceed collected revenues for short periods of time.

Marin Clean Energy Financings

It is anticipated that three financings may be necessary in support of the CCA Program. The anticipated financings are listed below and discussed in greater detail.

CCA Program Start-up and Working Capital (Phases 1 and 2)

As previously discussed, the start-up and working capital requirements for the CCA Program were approximately \$2 million. These costs are currently being recovered from retail customers through retail rates.

CCA Program Working Capital (Phase 3)

Working capital for Phase 3 was \$3 million financed through a short term credit agreement from a commercial bank.

CCA Program Working Capital (Phase 4)

MEAMCE anticipates it will have sufficient internally generated funds to fund the Phase 54 customer expansion. If additional funds are required, a short term credit agreement would be used to support the expansion.

Renewable Resource Project Financing

MEAMCE's CCA Program may consider large project financings for renewable resources (likely wind, solar, biomass or geothermal), which may total as much as \$375 million (combined). These financings would only occur after a sustained period of successful Program operation

and after appropriate project opportunities are identified and subjected to appropriate environmental review. Such financing would likely occur after several successful years of operating history have been observed and following MEAMCE's receipt of an institutional credit rating. In the event that such financing becomes necessary, funds would include any short-term financing for the renewable resource project development costs, and would extend over a 20- to 30-year term.

The security for such bonds would likely be a hybrid of the revenue from sales to the retail customers of MEAMCE, including a Termination Fee as described in Chapter 9, and the renewable resource project itself.

The following table summarizes the potential financings in support of the CCA Program:

Proposed Financing	Estimated Total Amount	Estimated Term	Estimated Issuance
Start-Up and Working Capital	\$2 million	No longer than 7 years	Early 2010
Working Capital Phase 3	\$3 million	No longer than 5 years	Mid 2012
Potential Renewable Resource Project Financings	\$375 million (aggregate)	20 to 30 years	Undetermined

CHAPTER 8 - Ratesetting and Program Terms and Conditions

Introduction

This Chapter describes ~~the Authority~~MCE's rate setting policies for electric aggregation services. These include policies regarding rate design, objectives, and provision for due process in setting Program rates. Program rates are ultimately approved by the Board. The Board would retain authority to modify program policies from time to time at its discretion.

Rate Policies

~~MEAMCE~~ has established rates sufficient to recover all costs related to operation of the program, including any reserves that may be required as a condition of financing and other discretionary reserve funds that may be approved by the Board of Directors. As a general policy, rates will be uniform for all similarly situated customers enrolled in the Program throughout the service area of ~~MEAMCE~~, comprised of the jurisdictional boundaries of its members.

The primary objectives of the ratesetting plan are to set rates that achieve the following:

- 100 percent renewable energy supply option – ~~100 percent~~Deep Green Tariff;
- 100 percent local solar energy supply option – Sol Shares Tariff
- Rate competitive tariff option – Light Green Tariff (at 50 percent renewable energy);
- Rate stability;
- Equity among customers in each tariff;
- Customer understanding; and
- Revenue sufficiency.

Each of these objectives is described below.

Rate Competitiveness

The goal is to offer competitive rates for the electric services ~~MEAMCE~~ provides to participating customers. For Deep Green participants, ~~in MEAMCE's 100 percent Green Tariff~~, the goal is to offer the lowest possible customer rates with an incremental monthly cost premium of approximately 10 percent. For Sol Shares customers, the goal is to offer rates that are generally reflective of local, small utility scale solar development costs, which will initially relate to prices paid under MCE's Feed-In Tariff.

Competitive rates will be critical to attracting and retaining key customers. As discussed above, the principal long-term Program goal is to achieve 100 percent renewable energy supply subject to economic and operating constraints. As previously discussed, the Program will significantly increase renewable energy supply to Program customers, relative to the incumbent utility, by offering two distinct rate tariffs. The default tariff for Program customers will be the Light Green service option, which will maximize renewable energy supply (minimum 50 percent)

while maintaining competitive generation rates to those currently offered by PG&E. **MEAMCE** will also offer its customers a voluntary Deep Green Tariff, which will supply participating customers with 100 percent renewable energy supply at rates that reflect the Program's cost for procuring necessary energy supplies. A third service option, which is planned begin serving customers during the 2015 calendar year is Sol Shares, which will supply participating customers with 100 percent locally generated solar electricity – MCE is currently accepting enrollments in the Sol Shares program.

As previously suggested, the default tariff for Program customers will be the Light Green Tariff. Consistent with this **MEAMCE** policy, participating qualified low- or fixed-income households, such as those currently enrolled in the California Alternate Rates for Energy (CARE) program, will be automatically enrolled in the Light Green Tariff and will continue to receive related discounts on monthly electricity bills. Based on projected participation in each tariff, the amount of renewable energy supplied to Program customers as a percentage of the Program's total energy requirements is projected to approximate 55 percent in 2015.

Rate Stability

MEAMCE will offer stable rates by hedging its supply costs over multiple time horizons. Rate stability considerations may mean that program rates relative to PG&E's may differ at any point in time from the general rate targets set for the Program. Although **MEAMCE**'s rates will be stabilized through execution of appropriate price hedging strategies, the distribution utility's rates can fluctuate significantly from year-to-year based on energy market conditions such as natural gas prices, the utilities' hedging strategies, and hydro-electric conditions; and from rate impacts caused by periodic additions of generation to utility rate base. **MEAMCE** will have more flexibility in procurement and ratesetting than PG&E to stabilize electricity costs for customers.

Equity among Customer Classes

MEAMCE's policy will be to provide rate benefits to all customer classes relative to the rates that would otherwise be paid to the local distribution utility. Rate differences among customer classes will reflect the rates charged by the local distribution utility as well as differences in the costs of providing service to each class. Rate benefits may also vary among customers within the major customer class categories, depending upon the specific rate designs adopted by the Board of Directors.

Customer Understanding

The goal of customer understanding involves rate designs that are relatively straightforward so that customers can readily understand how their bills are calculated. This not only minimizes customer confusion and dissatisfaction but will also result in fewer billing inquiries to **MEAMCE**'s customer service call center. Customer understanding also requires rate structures to make sense (i.e., there should not be differences in rates that are not justified by costs or by other policies such as providing incentives for conservation).

Revenue Sufficiency

MEAMCE's rates must collect sufficient revenue from participating customers to fully fund MEAMCE's annual budget. Rates will be set to collect the adopted budget based on a forecast of electric sales for the budget year. Rates will be adjusted as necessary to maintain the ability to fully recover all of MEAMCE's costs, subject to the disclosure and due process policies described later in this chapter.

Rate Design

MEAMCE will generally match the rate structures from the utilities' standard rates to avoid the possibility that customers would see significantly different bill impacts as a result of changes in rate structures when beginning service in MEAMCE's program. MEAMCE may also introduce new rate options for customers, such as rates designed to encourage economic expansion or business retention within MEAMCE's service area.

Net Energy Metering

Customers with on-site generation eligible for net metering from PG&E will be offered a net energy metering rate from MEAMCE. Net energy metering allows for customers with certain qualified solar or wind distributed generation to be billed on the basis of their net energy consumption. The PG&E net metering tariff (E-NEM) requires the CCA to offer a net energy metering tariff in order for the customer to continue to be eligible for service on Schedule E-NEM. The objective is that MEAMCE's net energy metering tariff will apply to the generation component of the bill, and the PG&E net energy metering tariff will apply to the utility's portion of the bill. MEAMCE will pay customers for excess power produced from net energy metered generation systems in accordance with the rate designs adopted by the MEAMCE Board.

Disclosure and Due Process in Setting Rates and Allocating Costs among Participants

The Executive Officer, with support of appropriate staff, advisors and committees, will prepare an annual budget and corresponding customer rates and submit these as an application for a change in rates to the Board of Directors. The rates will be approved at a public meeting of the Board of Directors no sooner than sixty days following submission of the proposed rates, during which affected customers will be able to provide comment on the proposed rate changes.

MEAMCE will initially adopt customer noticing requirements similar to those the CPUC requires of PG&E. These notice requirements are described as follows:

Notice of rate changes will be published at least once in a newspaper of general circulation in the county within ten days of after submitting the application. Such notice will state that a copy of said application and related exhibits may be examined at the offices of MEAMCE as are specified in the notice, and shall state the locations of such offices.

Within forty-five days after the submitting an application to increase any rate, MEAMCE will furnish notice of its application to its customers affected by the proposed increase, either by

mailing such notice postage prepaid to such customers or by including such notice with the regular bill for charges transmitted to such customers. The notice will state the amount of the proposed increase expressed in both dollar and percentage terms, a brief statement of the reasons the increase is required or sought, and the mailing address of ~~MEAMCE~~ to which any customer inquiries relative to the proposed increase, including a request by the customer to receive notice of the date, time, and place of any hearing on the application, may be directed.

CHAPTER 9 – Customer Rights and Responsibilities

This chapter discusses customer rights, including the right to opt-out of the CCA Program and the right to privacy of customer energy usage information, as well as obligations customers undertake upon agreement to enroll in the CCA Program. All customers that do not opt out within 30 days of the fourth opt-out notice will have agreed to become full status program participants and must adhere to the obligations set forth below, as may be modified and expanded by the MEAMCE Board from time to time.

By adopting this Implementation Plan, the MEAMCE Board approved the customer rights and responsibilities policies contained herein to be effective at Program initiation. The Board retains authority to modify program policies from time to time at its discretion.

Customer Notices

At the initiation of the customer enrollment process, a total of four notices will be provided to customers describing the Program, informing them of their opt-out rights to remain with utility bundled generation service, and containing a simple mechanism for exercising their opt-out rights. The first notice will be mailed to customers approximately sixty days prior to the date of automatic enrollment. A second notice will be sent approximately thirty days later. MEAMCE will likely use its own mailing service for requisite opt-out notices rather than including the notices in PG&E's monthly bills. This is intended to increase the likelihood that customers will read the opt-out notices, which may otherwise be ignored if included as a bill insert. Customers may opt out by notifying MEAMCE using the Authority's MCE's designated, telephone-based opt out processing service. Should customers choose to initiate an opt-out request by contacting PG&E, they will be transferred to MEAMCE's call center to complete the opt-out request. Consistent with CPUC regulations, notices returned as undelivered mail would be treated as a failure to opt out, and the customer would be automatically enrolled.

Following automatic enrollment, a third opt-out notice will be mailed to customers, and a fourth and final opt-out notice will be mailed 30 days after automatic enrollment. Opt-out requests made on or before the sixtieth day following start of MEAMCE service would result in customer transfer to bundled utility service with no penalty. Such customers will be obligated to pay MEAMCE's charges for electric services provided during the time the customer took service from the Program, but will otherwise not be subject to any penalty or transfer fee from MEAMCE.

New customers who establish service within the Program service area will be automatically enrolled in the Program and will have sixty days from the start of MEAMCE service to opt out of the Program. Such customers will be provided with two opt-out notices within this sixty-day post enrollment period. Such customers will also receive a notice detailing MEAMCE's privacy policy regarding customer energy usage information. MEAMCE's Board of Directors will have the authority to implement entry fees for customers that initially opt out of the Program, but later decide to participate. Entry fees, if deemed necessary, would help prevent potential

gaming, particularly by large customers, and aid in resource planning by providing additional control over the Program’s customer base. Entry fees would not be practical to administer, nor would they be necessary, for residential and other small customers.

Termination Fee

Customers that are automatically enrolled in the Program can elect to transfer back to the incumbent utility without penalty within the first two months of service. After this free opt-out period, customers will be allowed to terminate their participation subject to payment of a Termination Fee. The Termination Fee may apply to all Program customers that elect to return to bundled utility service or elect to take “direct access” service from an energy services provider. Program customers that relocate within the Program’s service territory would have their CCA service continued at the new address. If a customer relocating to an address within the Program service territory elected to cancel CCA service, the Termination Fee may apply. Program customers that move out of the Program’s service territory would not be subject to the Program’s Termination Fee.

The Termination Fee will consist of two parts: an Administrative Fee set to recover the costs of processing the customer transfer and other administrative or termination costs and a Cost Recovery Charge (“CRC”) that would apply in the event MEAMCE is unable to recover the costs of supply commitments attributable to the customer that is terminating service. PG&E will collect the Administrative Fee from returning customers as part of the final bill to the customer from the CCA Program and will collect the CRC as a lump sum or on a monthly basis pursuant to a negotiated servicing agreement between MEAMCE and PG&E.

The Administrative Fee would vary by customer class as set forth in the table below.

Administrative Fee for Service Termination

Customer Class	Fee
Residential	\$5
Non-Residential	\$25

The customer CRC will be equal to a pro rata share of any above market costs of MEAMCE’s actual or planned supply portfolio at the time the customer terminates service. The proposed CRC is similar in concept to the Cost Responsibility Surcharge charged by PG&E, and it is designed to prevent shifting of costs to remaining Program customers. The CRC will be set on an annual basis by MEAMCE’s Governing Board as part of the annual ratemaking process. At this time, MEAMCE’s CRC is set to zero.

If customers terminate service, MEAMCE anticipates it will re-market the excess supply and recover all or the majority of its costs. Depending upon market conditions, the CRC may not be needed for recovery of stranded costs. However, MEAMCE’s ability to assess a Cost Recovery Charge, if necessary, can be an important condition for obtaining financing for MCE’s power

supply. The low cost financing will, in turn, enable MEAMCE to charge rates that are competitive with PG&E's.

The Termination Fee will be clearly disclosed in the four opt-out notices sent to customers during the sixty-day period before automatic enrollment and following commencement of service. The fee could be changed prospectively by MEAMCE's Board of Directors, subject to MEAMCE's customer noticing requirements. As previously noted, customers that opt-out during the statutorily mandated notification period will not pay the Termination Fee that may be imposed by MEAMCE.

Customers electing to terminate service after the initial notification period that provided them with at least four opt-out notices would be transferred to PG&E on their next regularly scheduled meter read date if the termination notice is received a minimum of fifteen days prior to that date. Customers who voluntarily transfer back to PG&E after the initial notification period that provided them with at least four opt-out notices would also be liable for the nominal reentry fees imposed by PG&E as set forth in the applicable utility CCA tariffs. Such customers would also be required to remain on bundled utility service for a period of one year, as described in the utility tariffs.

Customer Confidentiality

MEAMCE has established policies covering confidentiality of customer data. These policies are fully compliant with the California Public Utility Commission's required privacy protection rules for CCA customer energy usage information detailed within Decision D.12-08-045. MEAMCE's policies will maintain confidentiality of individual customer data. Confidential data includes individual customers' name, service address, billing address, telephone number, account number and electricity consumption. Aggregate data may be released at MEAMCE's discretion or as required by law or regulation.

Responsibility for Payment

Customers will be obligated to pay MEAMCE charges for service provided through the date of transfer including any applicable Termination Fees. Pursuant to current CPUC regulations, MEAMCE will not be able to direct that electricity service be shut off for failure to pay MEAMCE's bill. However, PG&E has the right to shut off electricity to customers for failure to pay electricity bills, and Rule 23 mandates that partial payments are to be allocated pro rata between PG&E and the CCA. In most circumstances, customers would be returned to utility service for failure to pay bills in full and customer deposits would be withheld in the case of unpaid bills. PG&E would attempt to collect any outstanding balance from customers in accordance with Rule 23 and the related CCA Service Agreement. The proposed process is for two late payment notices to be provided to the customer within 30 days of the original bill due date. If payment is not received within 45 days from the original due date, service would be transferred to the utility on the next regular meter read date, unless alternative payment arrangements have been made. Consistent with the CCA tariffs, Rule 23, service cannot be discontinued to a residential customer for a disputed amount if that customer has filed a

complaint with the CPUC, and that customer has paid the disputed amount into an escrow account.

Customer Deposits

Customers may be required to post a deposit equal to two months' estimated bills for MEAMCE's charges to obtain service from the Program. MEAMCE has adopted a related policy, Rule No. 002, which specifies the circumstances under which a customer deposit will be required. This policy specifies that "An applicant who previously has been a customer of PG&E or MCE and whose electric service has been discontinued by PG&E or MCE during the last twelve months of that prior service because of nonpayment of bills, may be required to reestablish credit by depositing the amount prescribed in Rule 003 (Deposits) for that purpose." Rule No. 002 also states that, "A customer who fails to pay bills before they become past due as defined in PG&E Electric Rule 11 (Discontinuance and Restoration of Service), and who further fails to pay such bills within five days after presentation of a discontinuance of service notice for nonpayment of bills, may be required to pay said bills and reestablish credit by depositing the amount prescribed in Rule 003 (Deposits). This rule will apply regardless of whether or not service has been discontinued for such nonpayment⁹." Rule 003 specifies that the amount of deposit for such a customer shall be equal to two months' estimated charges for MCE service. Failure to post deposit as required would cause the account service transfer request to be rejected, and the account would remain with PG&E. To date, MEAMCE has not collected any customer deposits.

⁹ A customer whose service is discontinued by MCE is returned to PG&E generation service.

CHAPTER 10 - Procurement Process

Introduction

This Chapter describes ~~MEAMCE~~'s initial procurement policies and the key third party service agreements by which ~~MEAMCE~~ has obtained operational services for the CCA Program. By adopting the original Implementation Plan, ~~the Authority~~MCE's Board of Directors approved general procurement policies to be effective at Program initiation. The Board retains authority to modify Program policies from time to time at its discretion.

Procurement Methods

~~MEAMCE~~ has entered into agreements for a variety of services needed to support program development, operation and management. It is anticipated ~~MEAMCE~~ will utilize Competitive Procurement, Direct Procurement or Sole Source Procurement, depending on the nature of the services to be procured. Direct Procurement is the purchase of goods or services without competition when multiple sources of supply are available. Sole Source Procurement is generally to be performed only in the case of emergency or when a competitive process would be an idle act.

~~MEAMCE~~ utilized a competitive solicitation process to enter into agreements with SENA, which provides electrical services for the program. Agreements with entities that provide professional legal or consulting services, and agreements pertaining to unique or time sensitive opportunities, may be entered into on a direct procurement or sole source basis at the discretion of ~~MEAMCE~~'s Executive Officer or Board of Directors.

The Executive Officer periodically reports (e.g., quarterly) to the Board a summary of the actions taken with respect to the delegated procurement authority.

Authority for terminating agreements will generally mirror the authority for entering into the agreements.

Key Contracts

Electric Supply Contract

~~MEAMCE~~ successfully negotiated an ~~long term~~ (through ~~May 6, 2015~~December 31, 2016) electricity supply contract with SENA. For the initial ~~five~~ years of program operations (~~5/7/2010 through 5/6/2015~~through December 31, 2016), SENA will supply ~~a significant portion of the~~ electricity ~~delivered to MCE customers under a full requirements contract between the provider and MEAMCE~~. For the post-2016~~5~~ period, ~~MEAMCE~~ will be obligated to complete additional solicitations to secure its resource ~~portfolio~~requirements. In anticipation of this future obligation, ~~MEAMCE~~ has initiated procurement efforts, focusing on necessary renewable energy supply, to facilitate the transition from full requirements service to a managed portfolio of contracts/resources. This proactive, ongoing approach will avoid dependence on market

conditions existing at any single point in time. Under the initial full requirements contract, SENA has committed to serving the composite electrical loads of customers in the Program. SENA also serves as MEAMCE's certified Scheduling Coordinator and will schedule the loads of all customers in the Program, providing necessary electric energy, capacity/resource adequacy requirements, renewable energy and ancillary services. SENA is wholly responsible for the Program's portfolio operations functions and managing the predominant supply risks for the term of the contract. SENA must also meet the Program's renewable energy goals and comply with all applicable resource adequacy and regulatory requirements imposed by the CPUC or FERC.

Certain financial risks related to changes in Program loads during the term of the agreement are borne by SENA, within the ranges specified in the electric supply agreement. The supplier has also committed to deliver a specific quantity of RPS-eligible renewable energy, as determined by the Authority MCE, during each year of the agreement term. The supplier is also required to procure sufficient renewable energy to meet the requirements of serving customers enrolled in the Deep Green MEAMCE service option.

Data Management Contract

Noble Americas Energy Solutions will provide the retail customer services of billing and other customer account services (electronic data interchange or EDI with PG&E, billing, remittance processing, and account management). Recognizing that some qualified wholesale energy suppliers do not typically conduct retail customer services whereas others (i.e., direct access providers) do, the data management contract is separate from the electric supply contract..¹⁰

The data manager is responsible for the following services:

- Data exchange with PG&E;
- Technical testing;
- Customer information system;
- Customer call center;
- Billing administration/retail settlements; and
- Reporting and audits of utility billing.

Utilizing a third party for account services eliminates a significant expense associated with implementing a customer information system. Such systems can cost from five to ten million dollars to implement and take significant time to deploy. A longer term contract is appropriate for this service because of the time and expense that would be required to migrate data to a new system. Separation of the data management contract from the energy supply contract gives

¹⁰ The contractor performing account services may be the same entity as the contractor supplying electricity for the program.

| ~~MEAMCE~~ greater flexibility to change energy suppliers, if desired, without facing an expensive data migration issue.

Electric Supply Procurement Process

| As previously noted, ~~MEAMCE~~ selected SENA as its energy supplier through a competitive solicitation process, which was administered in mid-2009. Additional information regarding ~~MEAMCE's energy supplier, SENA,~~ is provided below.

Shell Energy North America

Shell Energy North America (US), L.P. (SENA) is a leading supplier of energy and associated services in North America. SENA provides natural gas, electrical energy and capacity, scheduling and asset optimization, risk management, and renewable energy and environmental products to a wide variety of customers. SENA is 100% owned by Royal Dutch Shell Company and its subsidiaries. SENA owns and manages a variety of energy assets in the West, including generation, a portfolio of renewable energy, transmission capacity, natural gas production, liquefied natural gas capacity, natural gas storage capacity, and natural gas pipeline capacity. SENA's West Region operation includes regional offices in San Diego, Portland, Spokane, Berkeley, Salt Lake City, Denver and Mexico City, with 7 X 24 power and gas operations in San Diego and Spokane.

SENA has an extensive list of public and privately owned customers in the West, including all WECC region investor-owned utilities, twenty-five publicly owned (municipal) electric utilities/other public agencies in California, and publicly owned utilities/public agencies in neighboring states. SENA's West Region full requirements power experience includes provision of retail electric service, including provision of resource adequacy, for direct access customers in California.

Renewable energy products offered by SENA include renewable energy, bundled renewable energy, landfill gas, biogas and renewable energy credits. SENA states it is actively developing renewable portfolios and provides related services such as scheduling and shaping of intermittent energy. SENA's affiliate, Shell WindEnergy, develops and owns wind generation in California and other parts of North America. SENA also offers a variety of environmental products including emission offsets and other carbon reducing products.

SENA is rated A- by S&P and A2 by Moody's.

Chapter 11 – Contingency Plan for Program Termination

Introduction

This Chapter describes the process to be followed in the case of Program termination. By adopting the original Implementation Plan, ~~the Authority~~MCE's Board of Directors approved the general termination process contained herein to be effective at Program initiation. In the unexpected event that ~~MEAMCE~~ would terminate the Program and return its customers to PG&E service, the proposed process is designed to minimize the impacts on its customers and on PG&E. The proposed termination plan follows the requirements set forth in PG&E's tariff Rule 23 governing service to CCAs. The Board retains authority to modify program policies from time to time at its discretion.

Termination by Marin Clean Energy

~~The Authority~~MCE will offer services for the long term with no planned Program termination date. In the unanticipated event that the majority of the Member's governing bodies (County Board of Supervisors and/or City/Town Councils) decide to terminate the Program, each governing body would be required to adopt a termination ordinance or resolution and provide adequate notice to ~~MEAMCE~~ consistent with the terms set forth in the JPA Agreement. Following such notice, ~~MEAMCE~~ would vote on Program termination subject to a two-tiered vote, as described in the JPA Agreement. In the event that the Board affirmatively votes to proceed with JPA termination, the Board would disband under the provisions identified in its JPA Agreement.

After any applicable restrictions on such termination have been satisfied, notice would be provided to customers six months in advance that they will be transferred back to PG&E. A second notice would be provided during the final sixty-days in advance of the transfer. The notice would describe the applicable distribution utility bundled service requirements for returning customers then in effect, such as any transitional or bundled portfolio service rules.

At least one year advance notice would be provided to PG&E and the CPUC before transferring customers, and ~~MEAMCE~~ would coordinate the customer transfer process to minimize impacts on customers and ensure no disruption in service. Once the customer notice period is complete, customers would be transferred *en masse* on the date of their regularly scheduled meter read date.

~~MEAMCE~~ will post a bond or maintain funds held in reserve to pay for potential transaction fees charged to the Program for switching customers back to distribution utility service. Reserves would be maintained against the fees imposed for processing customer transfers (CCASRs). The Public Utilities Code requires demonstration of insurance or posting of a bond sufficient to cover reentry fees imposed on customers that are involuntarily returned to distribution utility service under certain circumstances. The cost of reentry fees are the responsibility of the energy services provider or the community choice aggregator, except in the case of a customer returned for default or because its contract has expired. ~~MEAMCE~~ will post

financial security in the appropriate amount as part of its registration materials and will maintain the financial security in the required amount, as necessary.

Termination by Members

The JPA Agreement defines the terms and conditions under which Members may terminate their participation in the program.

CHAPTER 12 – Appendices

Appendix A: ~~Authority~~ MCE Resolution 20124-~~0316~~XX

Appendix B: County of Napa, Resolution 2014-XX

Appendix CB: Marin ~~Energy Authority~~ Clean Energy Joint Powers Agreement



June 5, 2014

TO: Marin Clean Energy Board

FROM: Greg Brehm, Director of Power Resources

RE: Power Purchase Agreements with Exelon Generation Company, LLC. for Power Supply Including Renewable Energy (Agenda Item #8)

ATTACHMENTS:

- A. Edison Electric Institute Master Power Purchase and Sale Agreement
- B. Edison Electric Institute Master Power Purchase and Sale Agreement Cover Sheet with Exelon Generation Company, LLC
- C. Confirmation Letter Agreement with Exelon Generation Company, LLC for Renewable Energy Supply in 2014 & 2015.
- D. Collateral Annex - Edison Electric Institute Master Power Purchase and Sale Agreement

Dear Board Members:

Overview:

Through MCE's 2014 Open Season procurement process ("Open Season") for Renewable Energy ("RE"), MCE received a limited number of offers for Product Category 2 "PCC 2" renewable energy. The subsequent evaluation of these proposals by staff and the Ad Hoc Contracts Committee yielded no shortlisted PCC 2 offers. Exelon Generation Company, LLC ("Exelon") a.k.a. Constellation Energy however provided a non-conforming – indicative price offer in the Open Season for a PCC 1 southern California Wind project. In an effort to fill MCE's 2014 and 2015 net short position for PCC2 renewable energy, MCE staff reached out to Exelon regarding potential PCC 2 options, as well as conventional power supply opportunities. Exelon provided a term sheet for:

Deal # 1 - 60,000 MWh renewable energy for 2014 and

Deal # 2 - 50,000 MWh renewable energy for 2015

Staff initiated negotiations with Exelon for the purpose of developing a mutually agreeable power purchase agreement that would supply future renewable energy requirements of MCE customers and we continue to discuss future conventional energy supply. The immediate transaction is for purchase by MCE of renewable energy meeting the PCC 2 definition for the 2014 and 2015 delivery years. Requisite enabling documents, including pertinent commercial terms addressing the various energy products to be purchased/sold by the parties, are attached. The resultant draft agreements, attached hereto, accurately reflect the intended terms and conditions of this proposed transaction, which would supplement MCE's existing RE supply portfolio with a reasonably priced bundled PCC 2 resource and provide for the flexibility to add additional renewable and conventional products in the future.

Location & Project Viability:

One or more of the resources listed in the contract exhibit, as may be updated from time to time.

Portfolio Fit:

During the Delivery Term, on a day-ahead basis, Exelon shall schedule energy, in 25 MW firmed and shaped blocks up to the Energy Contract Quantity, to the CAISO Balancing Authority as a Scheduling Coordinator (SC) to SC inter-SC (IST) sale from Exelon to MCE. Additional information is provided below regarding the prospective counterparty.

Counterparty Strength:**Exelon Generation Company, LLC**

- Exelon Generation Company, LLC (“Exelon”) is an affiliate of Chicago-based electric utility holding company Exelon Corporation.
- Exelon Corp. is rated Baa2, by Moody’s; and BBB- by S&P; and BBB+ by Fitch
- Constellation Energy Group merged with Exelon Corporation in April of 2011.
- Exelon is one of the largest U.S. power generators with 34,700 MW of owned capacity and more than \$78 billion in assets.



Exelon Wind - Tuana Springs Wind Project Hagerman Idaho

Contract Terms:

In addition to the RE included in these contracts, Exelon is able to offer additional products and services which MCE may choose to utilize as it phases out its mid-term “full requirements” contract with Shell Energy North America (SENA). Staff chose to use an industry standard contract, the Edison Electric Institute (EEI) Master Agreement and associated confirmation letters for each of the products under this contract to maximize contracting flexibility. MCE’s standard PPA terms have been incorporated into the EEI agreement (through a cover sheet, which notes specific changes to the master EEI agreement that will apply under this transaction and the confirmation agreements) to the extent possible and applicable.

The EEI master agreement was developed through industry-wide collaboration with the National Energy Marketers Association (and others) and is widely used in the electric utility industry as the contractual basis for various energy transactions. The agreement contains the essential terms that govern forward purchases and sales of wholesale electricity, and is the same agreement MCE used in contracting with SENA and Calpine. Use of an industry-vetted master contract streamlines the process of establishing a trading relationship, provides credit provisions, standardizes product definitions, and allows counterparties to focus on the transaction's commercial elements, e.g., price, quantity, location, and duration.

As a result of the Open Season process and related contract negotiations, Staff has negotiated mutually agreeable terms with Exelon to address the following items:

1. Master Power Purchase Agreement (EEI Master Agreement) – this agreement establishes a contractual relationship between Exelon and MCE, enabling the parties to transact for specific energy products.
2. Deal # 1 (2014) 60,000 MWh renewable energy – this agreement will provide MCE customers with necessary renewable energy - filling projected deficits that would otherwise occur during the 2014 calendar year.
3. Deal # 2 (2015) 50,000 MWh renewable energy – this agreement will provide MCE customers with necessary renewable energy - filling projected deficits that would otherwise occur during the 2015 calendar year.

Contract Overview:

- Project location: various
- Guaranteed commercial operation date: online
- Delivery profile: Firm and shaped PCC 2 renewable energy
- Energy price: Index plus renewable premium
- \$1,000,000 credit threshold before collateral obligations to MCE

Summary:

The Exelon master agreement and PCC 2 confirmation is a good fit for MCE's resource portfolio based on the following considerations:

- The project size and expected energy production will support the future renewable energy requirements of MCE customers.
- The project is being operated by an experienced team, which is currently supplying power from various projects to multiple counterparties.
- Energy from the project is competitively priced.

Recommendation: Authorize approval of two agreements as follows:

1. Edison Electric Institute Master Power Purchase and Sale Agreement Cover Sheet with Exelon Generation Company, LLC
2. Confirmation Letter Agreement with Exelon Generation Company, LLC. for Renewable Energy Supply in 2014 & 2015.

Master Power Purchase & Sale Agreement



Version 2.1 (modified 4/25/00)

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MASTER POWER PURCHASE AND SALES AGREEMENT

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MASTER POWER PURCHASE AND SALE AGREEMENT

COVER SHEET

This *Master Power Purchase and Sale Agreement* (“*Master Agreement*”) is made as of the following date: _____ (“Effective Date”). The *Master Agreement*, together with the exhibits, schedules and any written supplements hereto, the Party A Tariff, if any, the Party B Tariff, if any, any designated collateral, credit support or margin agreement or similar arrangement between the Parties and all Transactions (including any confirmations accepted in accordance with Section 2.3 hereto) shall be referred to as the “Agreement.” The Parties to this *Master Agreement* are the following:

Name (“_____” or “Party A”)
All Notices:
Street: _____
City: _____ Zip: _____
Attn: Contract Administration
Phone: _____
Facsimile: _____
Duns: _____
Federal Tax ID Number: _____

Invoices:
Attn: _____
Phone: _____
Facsimile: _____

Scheduling:
Attn: _____
Phone: _____
Facsimile: _____

Payments:
Attn: _____
Phone: _____
Facsimile: _____

Wire Transfer:
BNK: _____
ABA: _____
ACCT: _____

Credit and Collections:
Attn: _____
Phone: _____
Facsimile: _____

With additional Notices of an Event of Default or Potential Event of Default to:
Attn: _____
Phone: _____
Facsimile: _____

Name (“Counterparty” or “Party B”)
All Notices:
Street: _____
City: _____ Zip: _____
Attn: Contract Administration
Phone: _____
Facsimile: _____
Duns: _____
Federal Tax ID Number: _____

Invoices:
Attn: _____
Phone: _____
Facsimile: _____

Scheduling:
Attn: _____
Phone: _____
Facsimile: _____

Payments:
Attn: _____
Phone: _____
Facsimile: _____

Wire Transfer:
BNK: _____
ABA: _____
ACCT: _____

Credit and Collections:
Attn: _____
Phone: _____
Facsimile: _____

With additional Notices of an Event of Default or Potential Event of Default to:
Attn: _____
Phone: _____
Facsimile: _____

If applicable, complete the following:

Party B Collateral Threshold: \$ _____; provided, however, that Party B's Collateral Threshold shall be zero if an Event of Default or Potential Event of Default with respect to Party B has occurred and is continuing.

Party B Independent Amount: \$ _____

Party B Rounding Amount: \$ _____

(d) Downgrade Event:

- Not Applicable
- Applicable

If applicable, complete the following:

- It shall be a Downgrade Event for Party B if Party B's Credit Rating falls below _____ from S&P or _____ from Moody's or if Party B is not rated by either S&P or Moody's

- Other:
Specify: _____

(e) Guarantor for Party B: _____

Guarantee Amount: _____

8.2 Party B Credit Protection:

(a) Financial Information:

- Option A
- Option B Specify: _____
- Option C Specify: _____

(b) Credit Assurances:

- Not Applicable
- Applicable

(c) Collateral Threshold:

- Not Applicable
- Applicable

If applicable, complete the following:

Party A Collateral Threshold: \$ _____; provided, however, that Party A's Collateral Threshold shall be zero if an Event of Default or Potential Event of Default with respect to Party A has occurred and is continuing.

Party A Independent Amount: \$ _____

Party A Rounding Amount: \$ _____

(d) Downgrade Event:

- Not Applicable
- Applicable

If applicable, complete the following:

- It shall be a Downgrade Event for Party A if Party A's Credit Rating falls below _____ from S&P or _____ from Moody's or if Party A is not rated by either S&P or Moody's
- Other:
Specify: _____

(e) Guarantor for Party A: _____
Guarantee Amount: _____

Article 10

Confidentiality Confidentiality Applicable If not checked, inapplicable.

Schedule M

- Party A is a Governmental Entity or Public Power System
- Party B is a Governmental Entity or Public Power System
- Add Section 3.6. If not checked, inapplicable
- Add Section 8.6. If not checked, inapplicable

Other Changes

Specify, if any: _____

IN WITNESS WHEREOF, the Parties have caused this Master Agreement to be duly executed as of the date first above written.

Party A Name

Party B Name

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

DISCLAIMER: This Master Power Purchase and Sale Agreement was prepared by a committee of representatives of Edison Electric Institute (“EEI”) and National Energy Marketers Association (“NEM”) member companies to facilitate orderly trading in and development of wholesale power markets. Neither EEI nor NEM nor any member company nor any of their agents, representatives or attorneys shall be responsible for its use, or any damages resulting therefrom. By providing this Agreement EEI and NEM do not offer legal advice and all users are urged to consult their own legal counsel to ensure that their commercial objectives will be achieved and their legal interests are adequately protected.

GENERAL TERMS AND CONDITIONS

ARTICLE ONE: GENERAL DEFINITIONS

1.1 “Affiliate” means, with respect to any person, any other person (other than an individual) that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such person. For this purpose, “control” means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having ordinary voting power.

1.2 “Agreement” has the meaning set forth in the Cover Sheet.

1.3 “Bankrupt” means with respect to any entity, such entity (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it, (ii) makes an assignment or any general arrangement for the benefit of creditors, (iii) otherwise becomes bankrupt or insolvent (however evidenced), (iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (v) is generally unable to pay its debts as they fall due.

1.4 “Business Day” means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday. A Business Day shall open at 8:00 a.m. and close at 5:00 p.m. local time for the relevant Party’s principal place of business. The relevant Party, in each instance unless otherwise specified, shall be the Party from whom the notice, payment or delivery is being sent and by whom the notice or payment or delivery is to be received.

1.5 “Buyer” means the Party to a Transaction that is obligated to purchase and receive, or cause to be received, the Product, as specified in the Transaction.

1.6 “Call Option” means an Option entitling, but not obligating, the Option Buyer to purchase and receive the Product from the Option Seller at a price equal to the Strike Price for the Delivery Period for which the Option may be exercised, all as specified in the Transaction. Upon proper exercise of the Option by the Option Buyer, the Option Seller will be obligated to sell and deliver the Product for the Delivery Period for which the Option has been exercised.

1.7 “Claiming Party” has the meaning set forth in Section 3.3.

1.8 “Claims” means all third party claims or actions, threatened or filed and, whether groundless, false, fraudulent or otherwise, that directly or indirectly relate to the subject matter of an indemnity, and the resulting losses, damages, expenses, attorneys’ fees and court costs, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Agreement.

1.9 “Confirmation” has the meaning set forth in Section 2.3.

1.10 “Contract Price” means the price in \$U.S. (unless otherwise provided for) to be paid by Buyer to Seller for the purchase of the Product, as specified in the Transaction.

1.11 “Costs” means, with respect to the Non-Defaulting Party, brokerage fees, commissions and other similar third party transaction costs and expenses reasonably incurred by such Party either in terminating any arrangement pursuant to which it has hedged its obligations or entering into new arrangements which replace a Terminated Transaction; and all reasonable attorneys’ fees and expenses incurred by the Non-Defaulting Party in connection with the termination of a Transaction.

1.12 “Credit Rating” means, with respect to any entity, the rating then assigned to such entity’s unsecured, senior long-term debt obligations (not supported by third party credit enhancements) or if such entity does not have a rating for its senior unsecured long-term debt, then the rating then assigned to such entity as an issues rating by S&P, Moody’s or any other rating agency agreed by the Parties as set forth in the Cover Sheet.

1.13 “Cross Default Amount” means the cross default amount, if any, set forth in the Cover Sheet for a Party.

1.14 “Defaulting Party” has the meaning set forth in Section 5.1.

1.15 “Delivery Period” means the period of delivery for a Transaction, as specified in the Transaction.

1.16 “Delivery Point” means the point at which the Product will be delivered and received, as specified in the Transaction.

1.17 “Downgrade Event” has the meaning set forth on the Cover Sheet.

1.18 “Early Termination Date” has the meaning set forth in Section 5.2.

1.19 “Effective Date” has the meaning set forth on the Cover Sheet.

1.20 “Equitable Defenses” means any bankruptcy, insolvency, reorganization and other laws affecting creditors’ rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain same may be pending.

1.21 “Event of Default” has the meaning set forth in Section 5.1.

1.22 “FERC” means the Federal Energy Regulatory Commission or any successor government agency.

1.23 “Force Majeure” means an event or circumstance which prevents one Party from performing its obligations under one or more Transactions, which event or circumstance was not anticipated as of the date the Transaction was agreed to, which is not within the reasonable control of, or the result of the negligence of, the Claiming Party, and which, by the exercise of due diligence, the Claiming Party is unable to overcome or avoid or cause to be avoided. Force Majeure shall not be based on (i) the loss of Buyer’s markets; (ii) Buyer’s inability economically

to use or resell the Product purchased hereunder; (iii) the loss or failure of Seller's supply; or (iv) Seller's ability to sell the Product at a price greater than the Contract Price. Neither Party may raise a claim of Force Majeure based in whole or in part on curtailment by a Transmission Provider unless (i) such Party has contracted for firm transmission with a Transmission Provider for the Product to be delivered to or received at the Delivery Point and (ii) such curtailment is due to "force majeure" or "uncontrollable force" or a similar term as defined under the Transmission Provider's tariff; provided, however, that existence of the foregoing factors shall not be sufficient to conclusively or presumptively prove the existence of a Force Majeure absent a showing of other facts and circumstances which in the aggregate with such factors establish that a Force Majeure as defined in the first sentence hereof has occurred. The applicability of Force Majeure to the Transaction is governed by the terms of the Products and Related Definitions contained in Schedule P.

1.24 "Gains" means, with respect to any Party, an amount equal to the present value of the economic benefit to it, if any (exclusive of Costs), resulting from the termination of a Terminated Transaction, determined in a commercially reasonable manner.

1.25 "Guarantor" means, with respect to a Party, the guarantor, if any, specified for such Party on the Cover Sheet.

1.26 "Interest Rate" means, for any date, the lesser of (a) the per annum rate of interest equal to the prime lending rate as may from time to time be published in *The Wall Street Journal* under "Money Rates" on such day (or if not published on such day on the most recent preceding day on which published), plus two percent (2%) and (b) the maximum rate permitted by applicable law.

1.27 "Letter(s) of Credit" means one or more irrevocable, transferable standby letters of credit issued by a U.S. commercial bank or a foreign bank with a U.S. branch with such bank having a credit rating of at least A- from S&P or A3 from Moody's, in a form acceptable to the Party in whose favor the letter of credit is issued. Costs of a Letter of Credit shall be borne by the applicant for such Letter of Credit.

1.28 "Losses" means, with respect to any Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from termination of a Terminated Transaction, determined in a commercially reasonable manner.

1.29 "Master Agreement" has the meaning set forth on the Cover Sheet.

1.30 "Moody's" means Moody's Investor Services, Inc. or its successor.

1.31 "NERC Business Day" means any day except a Saturday, Sunday or a holiday as defined by the North American Electric Reliability Council or any successor organization thereto. A NERC Business Day shall open at 8:00 a.m. and close at 5:00 p.m. local time for the relevant Party's principal place of business. The relevant Party, in each instance unless otherwise specified, shall be the Party from whom the notice, payment or delivery is being sent and by whom the notice or payment or delivery is to be received.

1.32 “Non-Defaulting Party” has the meaning set forth in Section 5.2.

1.33 “Offsetting Transactions” mean any two or more outstanding Transactions, having the same or overlapping Delivery Period(s), Delivery Point and payment date, where under one or more of such Transactions, one Party is the Seller, and under the other such Transaction(s), the same Party is the Buyer.

1.34 “Option” means the right but not the obligation to purchase or sell a Product as specified in a Transaction.

1.35 “Option Buyer” means the Party specified in a Transaction as the purchaser of an option, as defined in Schedule P.

1.36 “Option Seller” means the Party specified in a Transaction as the seller of an option , as defined in Schedule P.

1.37 “Party A Collateral Threshold” means the collateral threshold, if any, set forth in the Cover Sheet for Party A.

1.38 “Party B Collateral Threshold” means the collateral threshold, if any, set forth in the Cover Sheet for Party B.

1.39 “Party A Independent Amount” means the amount , if any, set forth in the Cover Sheet for Party A.

1.40 “Party B Independent Amount” means the amount , if any, set forth in the Cover Sheet for Party B.

1.41 “Party A Rounding Amount” means the amount, if any, set forth in the Cover Sheet for Party A.

1.42 “Party B Rounding Amount” means the amount, if any, set forth in the Cover Sheet for Party B.

1.43 “Party A Tariff” means the tariff, if any, specified in the Cover Sheet for Party A.

1.44 “Party B Tariff” means the tariff, if any, specified in the Cover Sheet for Party B.

1.45 “Performance Assurance” means collateral in the form of either cash, Letter(s) of Credit, or other security acceptable to the Requesting Party.

1.46 “Potential Event of Default” means an event which, with notice or passage of time or both, would constitute an Event of Default.

1.47 “Product” means electric capacity, energy or other product(s) related thereto as specified in a Transaction by reference to a Product listed in Schedule P hereto or as otherwise specified by the Parties in the Transaction.

1.48 “Put Option” means an Option entitling, but not obligating, the Option Buyer to sell and deliver the Product to the Option Seller at a price equal to the Strike Price for the Delivery Period for which the option may be exercised, all as specified in a Transaction. Upon proper exercise of the Option by the Option Buyer, the Option Seller will be obligated to purchase and receive the Product.

1.49 “Quantity” means that quantity of the Product that Seller agrees to make available or sell and deliver, or cause to be delivered, to Buyer, and that Buyer agrees to purchase and receive, or cause to be received, from Seller as specified in the Transaction.

1.50 “Recording” has the meaning set forth in Section 2.4.

1.51 “Replacement Price” means the price at which Buyer, acting in a commercially reasonable manner, purchases at the Delivery Point a replacement for any Product specified in a Transaction but not delivered by Seller, plus (i) costs reasonably incurred by Buyer in purchasing such substitute Product and (ii) additional transmission charges, if any, reasonably incurred by Buyer to the Delivery Point, or at Buyer’s option, the market price at the Delivery Point for such Product not delivered as determined by Buyer in a commercially reasonable manner; provided, however, in no event shall such price include any penalties, ratcheted demand or similar charges, nor shall Buyer be required to utilize or change its utilization of its owned or controlled assets or market positions to minimize Seller’s liability. For the purposes of this definition, Buyer shall be considered to have purchased replacement Product to the extent Buyer shall have entered into one or more arrangements in a commercially reasonable manner whereby Buyer repurchases its obligation to sell and deliver the Product to another party at the Delivery Point.

1.52 “S&P” means the Standard & Poor’s Rating Group (a division of McGraw-Hill, Inc.) or its successor.

1.53 “Sales Price” means the price at which Seller, acting in a commercially reasonable manner, resells at the Delivery Point any Product not received by Buyer, deducting from such proceeds any (i) costs reasonably incurred by Seller in reselling such Product and (ii) additional transmission charges, if any, reasonably incurred by Seller in delivering such Product to the third party purchasers, or at Seller’s option, the market price at the Delivery Point for such Product not received as determined by Seller in a commercially reasonable manner; provided, however, in no event shall such price include any penalties, ratcheted demand or similar charges, nor shall Seller be required to utilize or change its utilization of its owned or controlled assets, including contractual assets, or market positions to minimize Buyer’s liability. For purposes of this definition, Seller shall be considered to have resold such Product to the extent Seller shall have entered into one or more arrangements in a commercially reasonable manner whereby Seller repurchases its obligation to purchase and receive the Product from another party at the Delivery Point.

1.54 “Schedule” or “Scheduling” means the actions of Seller, Buyer and/or their designated representatives, including each Party’s Transmission Providers, if applicable, of notifying, requesting and confirming to each other the quantity and type of Product to be delivered on any given day or days during the Delivery Period at a specified Delivery Point.

1.55 “Seller” means the Party to a Transaction that is obligated to sell and deliver, or cause to be delivered, the Product, as specified in the Transaction.

1.56 “Settlement Amount” means, with respect to a Transaction and the Non-Defaulting Party, the Losses or Gains, and Costs, expressed in U.S. Dollars, which such party incurs as a result of the liquidation of a Terminated Transaction pursuant to Section 5.2.

1.57 “Strike Price” means the price to be paid for the purchase of the Product pursuant to an Option.

1.58 “Terminated Transaction” has the meaning set forth in Section 5.2.

1.59 “Termination Payment” has the meaning set forth in Section 5.3.

1.60 “Transaction” means a particular transaction agreed to by the Parties relating to the sale and purchase of a Product pursuant to this Master Agreement.

1.61 “Transmission Provider” means any entity or entities transmitting or transporting the Product on behalf of Seller or Buyer to or from the Delivery Point in a particular Transaction.

ARTICLE TWO: TRANSACTION TERMS AND CONDITIONS

2.1 Transactions. A Transaction shall be entered into upon agreement of the Parties orally or, if expressly required by either Party with respect to a particular Transaction, in writing, including an electronic means of communication. Each Party agrees not to contest, or assert any defense to, the validity or enforceability of the Transaction entered into in accordance with this Master Agreement (i) based on any law requiring agreements to be in writing or to be signed by the parties, or (ii) based on any lack of authority of the Party or any lack of authority of any employee of the Party to enter into a Transaction.

2.2 Governing Terms. Unless otherwise specifically agreed, each Transaction between the Parties shall be governed by this Master Agreement. This Master Agreement (including all exhibits, schedules and any written supplements hereto), , the Party A Tariff, if any, and the Party B Tariff, if any, any designated collateral, credit support or margin agreement or similar arrangement between the Parties and all Transactions (including any Confirmations accepted in accordance with Section 2.3) shall form a single integrated agreement between the Parties. Any inconsistency between any terms of this Master Agreement and any terms of the Transaction shall be resolved in favor of the terms of such Transaction.

2.3 Confirmation. Seller may confirm a Transaction by forwarding to Buyer by facsimile within three (3) Business Days after the Transaction is entered into a confirmation (“Confirmation”) substantially in the form of Exhibit A. If Buyer objects to any term(s) of such Confirmation, Buyer shall notify Seller in writing of such objections within two (2) Business Days of Buyer’s receipt thereof, failing which Buyer shall be deemed to have accepted the terms as sent. If Seller fails to send a Confirmation within three (3) Business Days after the Transaction is entered into, a Confirmation substantially in the form of Exhibit A, may be forwarded by Buyer to Seller. If Seller objects to any term(s) of such Confirmation, Seller shall notify Buyer of such objections within two (2) Business Days of Seller’s receipt thereof, failing

which Seller shall be deemed to have accepted the terms as sent. If Seller and Buyer each send a Confirmation and neither Party objects to the other Party's Confirmation within two (2) Business Days of receipt, Seller's Confirmation shall be deemed to be accepted and shall be the controlling Confirmation, unless (i) Seller's Confirmation was sent more than three (3) Business Days after the Transaction was entered into and (ii) Buyer's Confirmation was sent prior to Seller's Confirmation, in which case Buyer's Confirmation shall be deemed to be accepted and shall be the controlling Confirmation. Failure by either Party to send or either Party to return an executed Confirmation or any objection by either Party shall not invalidate the Transaction agreed to by the Parties.

2.4 Additional Confirmation Terms. If the Parties have elected on the Cover Sheet to make this Section 2.4 applicable to this Master Agreement, when a Confirmation contains provisions, other than those provisions relating to the commercial terms of the Transaction (e.g., price or special transmission conditions), which modify or supplement the general terms and conditions of this Master Agreement (e.g., arbitration provisions or additional representations and warranties), such provisions shall not be deemed to be accepted pursuant to Section 2.3 unless agreed to either orally or in writing by the Parties; provided that the foregoing shall not invalidate any Transaction agreed to by the Parties.

2.5 Recording. Unless a Party expressly objects to a Recording (defined below) at the beginning of a telephone conversation, each Party consents to the creation of a tape or electronic recording ("Recording") of all telephone conversations between the Parties to this Master Agreement, and that any such Recordings will be retained in confidence, secured from improper access, and may be submitted in evidence in any proceeding or action relating to this Agreement. Each Party waives any further notice of such monitoring or recording, and agrees to notify its officers and employees of such monitoring or recording and to obtain any necessary consent of such officers and employees. The Recording, and the terms and conditions described therein, if admissible, shall be the controlling evidence for the Parties' agreement with respect to a particular Transaction in the event a Confirmation is not fully executed (or deemed accepted) by both Parties. Upon full execution (or deemed acceptance) of a Confirmation, such Confirmation shall control in the event of any conflict with the terms of a Recording, or in the event of any conflict with the terms of this Master Agreement.

ARTICLE THREE: OBLIGATIONS AND DELIVERIES

3.1 Seller's and Buyer's Obligations. With respect to each Transaction, Seller shall sell and deliver, or cause to be delivered, and Buyer shall purchase and receive, or cause to be received, the Quantity of the Product at the Delivery Point, and Buyer shall pay Seller the Contract Price; provided, however, with respect to Options, the obligations set forth in the preceding sentence shall only arise if the Option Buyer exercises its Option in accordance with its terms. Seller shall be responsible for any costs or charges imposed on or associated with the Product or its delivery of the Product up to the Delivery Point. Buyer shall be responsible for any costs or charges imposed on or associated with the Product or its receipt at and from the Delivery Point.

3.2 Transmission and Scheduling. Seller shall arrange and be responsible for transmission service to the Delivery Point and shall Schedule or arrange for Scheduling services

with its Transmission Providers, as specified by the Parties in the Transaction, or in the absence thereof, in accordance with the practice of the Transmission Providers, to deliver the Product to the Delivery Point. Buyer shall arrange and be responsible for transmission service at and from the Delivery Point and shall Schedule or arrange for Scheduling services with its Transmission Providers to receive the Product at the Delivery Point.

3.3 Force Majeure. To the extent either Party is prevented by Force Majeure from carrying out, in whole or part, its obligations under the Transaction and such Party (the “Claiming Party”) gives notice and details of the Force Majeure to the other Party as soon as practicable, then, unless the terms of the Product specify otherwise, the Claiming Party shall be excused from the performance of its obligations with respect to such Transaction (other than the obligation to make payments then due or becoming due with respect to performance prior to the Force Majeure). The Claiming Party shall remedy the Force Majeure with all reasonable dispatch. The non-Claiming Party shall not be required to perform or resume performance of its obligations to the Claiming Party corresponding to the obligations of the Claiming Party excused by Force Majeure.

ARTICLE FOUR: REMEDIES FOR FAILURE TO DELIVER/RECEIVE

4.1 Seller Failure. If Seller fails to schedule and/or deliver all or part of the Product pursuant to a Transaction, and such failure is not excused under the terms of the Product or by Buyer’s failure to perform, then Seller shall pay Buyer, on the date payment would otherwise be due in respect of the month in which the failure occurred or, if “Accelerated Payment of Damages” is specified on the Cover Sheet, within five (5) Business Days of invoice receipt, an amount for such deficiency equal to the positive difference, if any, obtained by subtracting the Contract Price from the Replacement Price. The invoice for such amount shall include a written statement explaining in reasonable detail the calculation of such amount.

4.2 Buyer Failure. If Buyer fails to schedule and/or receive all or part of the Product pursuant to a Transaction and such failure is not excused under the terms of the Product or by Seller’s failure to perform, then Buyer shall pay Seller, on the date payment would otherwise be due in respect of the month in which the failure occurred or, if “Accelerated Payment of Damages” is specified on the Cover Sheet, within five (5) Business Days of invoice receipt, an amount for such deficiency equal to the positive difference, if any, obtained by subtracting the Sales Price from the Contract Price. The invoice for such amount shall include a written statement explaining in reasonable detail the calculation of such amount.

ARTICLE FIVE: EVENTS OF DEFAULT; REMEDIES

5.1 Events of Default. An “Event of Default” shall mean, with respect to a Party (a “Defaulting Party”), the occurrence of any of the following:

- (a) the failure to make, when due, any payment required pursuant to this Agreement if such failure is not remedied within three (3) Business Days after written notice;

- (b) any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated;
- (c) the failure to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default, and except for such Party's obligations to deliver or receive the Product, the exclusive remedy for which is provided in Article Four) if such failure is not remedied within three (3) Business Days after written notice;
- (d) such Party becomes Bankrupt;
- (e) the failure of such Party to satisfy the creditworthiness/collateral requirements agreed to pursuant to Article Eight hereof;
- (f) such Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of such Party under this Agreement to which it or its predecessor was a party by operation of law or pursuant to an agreement reasonably satisfactory to the other Party;
- (g) if the applicable cross default section in the Cover Sheet is indicated for such Party, the occurrence and continuation of (i) a default, event of default or other similar condition or event in respect of such Party or any other party specified in the Cover Sheet for such Party under one or more agreements or instruments, individually or collectively, relating to indebtedness for borrowed money in an aggregate amount of not less than the applicable Cross Default Amount (as specified in the Cover Sheet), which results in such indebtedness becoming, or becoming capable at such time of being declared, immediately due and payable or (ii) a default by such Party or any other party specified in the Cover Sheet for such Party in making on the due date therefor one or more payments, individually or collectively, in an aggregate amount of not less than the applicable Cross Default Amount (as specified in the Cover Sheet);
- (h) with respect to such Party's Guarantor, if any:
 - (i) if any representation or warranty made by a Guarantor in connection with this Agreement is false or misleading in any material respect when made or when deemed made or repeated;
 - (ii) the failure of a Guarantor to make any payment required or to perform any other material covenant or obligation in any guaranty made in connection with this Agreement and such failure shall not be remedied within three (3) Business Days after written notice;

- (iii) a Guarantor becomes Bankrupt;
- (iv) the failure of a Guarantor's guaranty to be in full force and effect for purposes of this Agreement (other than in accordance with its terms) prior to the satisfaction of all obligations of such Party under each Transaction to which such guaranty shall relate without the written consent of the other Party; or
- (v) a Guarantor shall repudiate, disaffirm, disclaim, or reject, in whole or in part, or challenge the validity of any guaranty.

5.2 Declaration of an Early Termination Date and Calculation of Settlement Amounts. If an Event of Default with respect to a Defaulting Party shall have occurred and be continuing, the other Party (the "Non-Defaulting Party") shall have the right (i) to designate a day, no earlier than the day such notice is effective and no later than 20 days after such notice is effective, as an early termination date ("Early Termination Date") to accelerate all amounts owing between the Parties and to liquidate and terminate all, but not less than all, Transactions (each referred to as a "Terminated Transaction") between the Parties, (ii) withhold any payments due to the Defaulting Party under this Agreement and (iii) suspend performance. The Non-Defaulting Party shall calculate, in a commercially reasonable manner, a Settlement Amount for each such Terminated Transaction as of the Early Termination Date (or, to the extent that in the reasonable opinion of the Non-Defaulting Party certain of such Terminated Transactions are commercially impracticable to liquidate and terminate or may not be liquidated and terminated under applicable law on the Early Termination Date, as soon thereafter as is reasonably practicable).

5.3 Net Out of Settlement Amounts. The Non-Defaulting Party shall aggregate all Settlement Amounts into a single amount by: netting out (a) all Settlement Amounts that are due to the Defaulting Party, plus, at the option of the Non-Defaulting Party, any cash or other form of security then available to the Non-Defaulting Party pursuant to Article Eight, plus any or all other amounts due to the Defaulting Party under this Agreement against (b) all Settlement Amounts that are due to the Non-Defaulting Party, plus any or all other amounts due to the Non-Defaulting Party under this Agreement, so that all such amounts shall be netted out to a single liquidated amount (the "Termination Payment") payable by one Party to the other. The Termination Payment shall be due to or due from the Non-Defaulting Party as appropriate.

5.4 Notice of Payment of Termination Payment. As soon as practicable after a liquidation, notice shall be given by the Non-Defaulting Party to the Defaulting Party of the amount of the Termination Payment and whether the Termination Payment is due to or due from the Non-Defaulting Party. The notice shall include a written statement explaining in reasonable detail the calculation of such amount. The Termination Payment shall be made by the Party that owes it within two (2) Business Days after such notice is effective.

5.5 Disputes With Respect to Termination Payment. If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Termination Payment, in whole or in part, the Defaulting Party shall, within two (2) Business Days of receipt of Non-Defaulting Party's calculation of the Termination Payment, provide to the Non-Defaulting Party a detailed written

explanation of the basis for such dispute; provided, however, that if the Termination Payment is due from the Defaulting Party, the Defaulting Party shall first transfer Performance Assurance to the Non-Defaulting Party in an amount equal to the Termination Payment.

5.6 Closeout Setoffs.

Option A: After calculation of a Termination Payment in accordance with Section 5.3, if the Defaulting Party would be owed the Termination Payment, the Non-Defaulting Party shall be entitled, at its option and in its discretion, to (i) set off against such Termination Payment any amounts due and owing by the Defaulting Party to the Non-Defaulting Party under any other agreements, instruments or undertakings between the Defaulting Party and the Non-Defaulting Party and/or (ii) to the extent the Transactions are not yet liquidated in accordance with Section 5.2, withhold payment of the Termination Payment to the Defaulting Party. The remedy provided for in this Section shall be without prejudice and in addition to any right of setoff, combination of accounts, lien or other right to which any Party is at any time otherwise entitled (whether by operation of law, contract or otherwise).

Option B: After calculation of a Termination Payment in accordance with Section 5.3, if the Defaulting Party would be owed the Termination Payment, the Non-Defaulting Party shall be entitled, at its option and in its discretion, to (i) set off against such Termination Payment any amounts due and owing by the Defaulting Party or any of its Affiliates to the Non-Defaulting Party or any of its Affiliates under any other agreements, instruments or undertakings between the Defaulting Party or any of its Affiliates and the Non-Defaulting Party or any of its Affiliates and/or (ii) to the extent the Transactions are not yet liquidated in accordance with Section 5.2, withhold payment of the Termination Payment to the Defaulting Party. The remedy provided for in this Section shall be without prejudice and in addition to any right of setoff, combination of accounts, lien or other right to which any Party is at any time otherwise entitled (whether by operation of law, contract or otherwise).

Option C: Neither Option A nor B shall apply.

5.7 Suspension of Performance. Notwithstanding any other provision of this Master Agreement, if (a) an Event of Default or (b) a Potential Event of Default shall have occurred and be continuing, the Non-Defaulting Party, upon written notice to the Defaulting Party, shall have the right (i) to suspend performance under any or all Transactions; provided, however, in no event shall any such suspension continue for longer than ten (10) NERC Business Days with respect to any single Transaction unless an early Termination Date shall have been declared and notice thereof pursuant to Section 5.2 given, and (ii) to the extent an Event of Default shall have occurred and be continuing to exercise any remedy available at law or in equity.

ARTICLE SIX: PAYMENT AND NETTING

6.1 Billing Period. Unless otherwise specifically agreed upon by the Parties in a Transaction, the calendar month shall be the standard period for all payments under this Agreement (other than Termination Payments and, if “Accelerated Payment of Damages” is specified by the Parties in the Cover Sheet, payments pursuant to Section 4.1 or 4.2 and Option premium payments pursuant to Section 6.7). As soon as practicable after the end of each month,

each Party will render to the other Party an invoice for the payment obligations, if any, incurred hereunder during the preceding month.

6.2 Timeliness of Payment. Unless otherwise agreed by the Parties in a Transaction, all invoices under this Master Agreement shall be due and payable in accordance with each Party's invoice instructions on or before the later of the twentieth (20th) day of each month, or tenth (10th) day after receipt of the invoice or, if such day is not a Business Day, then on the next Business Day. Each Party will make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the other Party. Any amounts not paid by the due date will be deemed delinquent and will accrue interest at the Interest Rate, such interest to be calculated from and including the due date to but excluding the date the delinquent amount is paid in full.

6.3 Disputes and Adjustments of Invoices. A Party may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice, rendered under this Agreement or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with notice of the objection given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within two (2) Business Days of such resolution along with interest accrued at the Interest Rate from and including the due date to but excluding the date paid. Inadvertent overpayments shall be returned upon request or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Interest Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment. Any dispute with respect to an invoice is waived unless the other Party is notified in accordance with this Section 6.3 within twelve (12) months after the invoice is rendered or any specific adjustment to the invoice is made. If an invoice is not rendered within twelve (12) months after the close of the month during which performance of a Transaction occurred, the right to payment for such performance is waived.

6.4 Netting of Payments. The Parties hereby agree that they shall discharge mutual debts and payment obligations due and owing to each other on the same date pursuant to all Transactions through netting, in which case all amounts owed by each Party to the other Party for the purchase and sale of Products during the monthly billing period under this Master Agreement, including any related damages calculated pursuant to Article Four (unless one of the Parties elects to accelerate payment of such amounts as permitted by Article Four), interest, and payments or credits, shall be netted so that only the excess amount remaining due shall be paid by the Party who owes it.

6.5 Payment Obligation Absent Netting. If no mutual debts or payment obligations exist and only one Party owes a debt or obligation to the other during the monthly billing period, including, but not limited to, any related damage amounts calculated pursuant to Article Four, interest, and payments or credits, that Party shall pay such sum in full when due.

6.6 Security. Unless the Party benefiting from Performance Assurance or a guaranty notifies the other Party in writing, and except in connection with a liquidation and termination in accordance with Article Five, all amounts netted pursuant to this Article Six shall not take into account or include any Performance Assurance or guaranty which may be in effect to secure a Party's performance under this Agreement.

6.7 Payment for Options. The premium amount for the purchase of an Option shall be paid within two (2) Business Days of receipt of an invoice from the Option Seller. Upon exercise of an Option, payment for the Product underlying such Option shall be due in accordance with Section 6.1.

6.8 Transaction Netting. If the Parties enter into one or more Transactions, which in conjunction with one or more other outstanding Transactions, constitute Offsetting Transactions, then all such Offsetting Transactions may by agreement of the Parties, be netted into a single Transaction under which:

- (a) the Party obligated to deliver the greater amount of Energy will deliver the difference between the total amount it is obligated to deliver and the total amount to be delivered to it under the Offsetting Transactions, and
- (b) the Party owing the greater aggregate payment will pay the net difference owed between the Parties.

Each single Transaction resulting under this Section shall be deemed part of the single, indivisible contractual arrangement between the parties, and once such resulting Transaction occurs, outstanding obligations under the Offsetting Transactions which are satisfied by such offset shall terminate.

ARTICLE SEVEN: LIMITATIONS

7.1 Limitation of Remedies, Liability and Damages. EXCEPT AS SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN OR IN A TRANSACTION, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR

OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

ARTICLE EIGHT: CREDIT AND COLLATERAL REQUIREMENTS

8.1 Party A Credit Protection. The applicable credit and collateral requirements shall be as specified on the Cover Sheet. If no option in Section 8.1(a) is specified on the Cover Sheet, Section 8.1(a) Option C shall apply exclusively. If none of Sections 8.1(b), 8.1(c) or 8.1(d) are specified on the Cover Sheet, Section 8.1(b) shall apply exclusively.

(a) Financial Information. Option A: If requested by Party A, Party B shall deliver (i) within 120 days following the end of each fiscal year, a copy of Party B's annual report containing audited consolidated financial statements for such fiscal year and (ii) within 60 days after the end of each of its first three fiscal quarters of each fiscal year, a copy of Party B's quarterly report containing unaudited consolidated financial statements for such fiscal quarter. In all cases the statements shall be for the most recent accounting period and prepared in accordance with generally accepted accounting principles; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as Party B diligently pursues the preparation, certification and delivery of the statements.

Option B: If requested by Party A, Party B shall deliver (i) within 120 days following the end of each fiscal year, a copy of the annual report containing audited consolidated financial statements for such fiscal year for the party(s) specified on the Cover Sheet and (ii) within 60 days after the end of each of its first three fiscal quarters of each fiscal year, a copy of quarterly report containing unaudited consolidated financial statements for such fiscal quarter for the party(s) specified on the Cover Sheet. In all cases the statements shall be for the most recent accounting period and shall be prepared in accordance with generally accepted accounting principles; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as the relevant entity diligently pursues the preparation, certification and delivery of the statements.

Option C: Party A may request from Party B the information specified in the Cover Sheet.

(b) Credit Assurances. If Party A has reasonable grounds to believe that Party B's creditworthiness or performance under this Agreement has become unsatisfactory, Party A will provide Party B with written notice requesting Performance Assurance in an amount determined by Party A in a commercially reasonable manner. Upon receipt of such notice Party B shall have three (3) Business Days to remedy the situation by providing such Performance Assurance to Party A. In the event that Party B fails to provide such Performance Assurance, or a guaranty or other credit assurance acceptable to Party A within three (3) Business Days of receipt of notice, then an Event of Default under Article Five will be deemed to have occurred and Party A will be entitled to the remedies set forth in Article Five of this Master Agreement.

(c) Collateral Threshold. If at any time and from time to time during the term of this Agreement (and notwithstanding whether an Event of Default has occurred), the Termination Payment that would be owed to Party A plus Party B's Independent Amount, if any, exceeds the Party B Collateral Threshold, then Party A, on any Business Day, may request that Party B provide Performance Assurance in an amount equal to the amount by which the Termination Payment plus Party B's Independent Amount, if any, exceeds the Party B Collateral Threshold (rounding upwards for any fractional amount to the next Party B Rounding Amount) ("Party B Performance Assurance"), less any Party B Performance Assurance already posted with Party A. Such Party B Performance Assurance shall be delivered to Party A within three (3) Business Days of the date of such request. On any Business Day (but no more frequently than weekly with respect to Letters of Credit and daily with respect to cash), Party B, at its sole cost, may request that such Party B Performance Assurance be reduced correspondingly to the amount of such excess Termination Payment plus Party B's Independent Amount, if any, (rounding upwards for any fractional amount to the next Party B Rounding Amount). In the event that Party B fails to provide Party B Performance Assurance pursuant to the terms of this Article Eight within three (3) Business Days, then an Event of Default under Article Five shall be deemed to have occurred and Party A will be entitled to the remedies set forth in Article Five of this Master Agreement.

For purposes of this Section 8.1(c), the calculation of the Termination Payment shall be calculated pursuant to Section 5.3 by Party A as if all outstanding Transactions had been liquidated, and in addition thereto, shall include all amounts owed but not yet paid by Party B to Party A, whether or not such amounts are due, for performance already provided pursuant to any and all Transactions.

(d) Downgrade Event. If at any time there shall occur a Downgrade Event in respect of Party B, then Party A may require Party B to provide Performance Assurance in an amount determined by Party A in a commercially reasonable manner. In the event Party B shall fail to provide such Performance Assurance or a guaranty or other credit assurance acceptable to Party A within three (3) Business Days of receipt of notice, then an Event of Default shall be deemed to have occurred and Party A will be entitled to the remedies set forth in Article Five of this Master Agreement.

(e) If specified on the Cover Sheet, Party B shall deliver to Party A, prior to or concurrently with the execution and delivery of this Master Agreement a guarantee in an amount not less than the Guarantee Amount specified on the Cover Sheet and in a form reasonably acceptable to Party A.

8.2 Party B Credit Protection. The applicable credit and collateral requirements shall be as specified on the Cover Sheet. If no option in Section 8.2(a) is specified on the Cover Sheet, Section 8.2(a) Option C shall apply exclusively. If none of Sections 8.2(b), 8.2(c) or 8.2(d) are specified on the Cover Sheet, Section 8.2(b) shall apply exclusively.

(a) Financial Information. Option A: If requested by Party B, Party A shall deliver (i) within 120 days following the end of each fiscal year, a copy of Party A's annual report containing audited consolidated financial statements for such fiscal year and (ii) within 60 days after the end of each of its first three fiscal quarters of each fiscal year, a copy of such Party's quarterly report containing unaudited consolidated financial statements for such fiscal quarter. In all cases the statements shall be for the most recent accounting period and prepared in accordance with generally accepted accounting principles; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as such Party diligently pursues the preparation, certification and delivery of the statements.

Option B: If requested by Party B, Party A shall deliver (i) within 120 days following the end of each fiscal year, a copy of the annual report containing audited consolidated financial statements for such fiscal year for the party(s) specified on the Cover Sheet and (ii) within 60 days after the end of each of its first three fiscal quarters of each fiscal year, a copy of quarterly report containing unaudited consolidated financial statements for such fiscal quarter for the party(s) specified on the Cover Sheet. In all cases the statements shall be for the most recent accounting period and shall be prepared in accordance with generally accepted accounting principles; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as the relevant entity diligently pursues the preparation, certification and delivery of the statements.

Option C: Party B may request from Party A the information specified in the Cover Sheet.

(b) Credit Assurances. If Party B has reasonable grounds to believe that Party A's creditworthiness or performance under this Agreement has become unsatisfactory, Party B will provide Party A with written notice requesting Performance Assurance in an amount determined by Party B in a commercially reasonable manner. Upon receipt of such notice Party A shall have three (3) Business Days to remedy the situation by providing such Performance Assurance to Party B. In the event that Party A fails to provide such Performance Assurance, or a guaranty or other credit assurance acceptable to Party B within three (3) Business Days of receipt of notice, then an Event of Default under Article Five will be deemed to have occurred and Party B will be entitled to the remedies set forth in Article Five of this Master Agreement.

(c) Collateral Threshold. If at any time and from time to time during the term of this Agreement (and notwithstanding whether an Event of Default has occurred), the Termination Payment that would be owed to Party B plus Party A's Independent Amount, if any, exceeds the Party A Collateral Threshold, then Party B, on any Business Day, may request that Party A provide Performance Assurance in an amount equal to the amount by which the Termination Payment plus Party A's Independent Amount, if any, exceeds the Party A Collateral

Threshold (rounding upwards for any fractional amount to the next Party A Rounding Amount) (“Party A Performance Assurance”), less any Party A Performance Assurance already posted with Party B. Such Party A Performance Assurance shall be delivered to Party B within three (3) Business Days of the date of such request. On any Business Day (but no more frequently than weekly with respect to Letters of Credit and daily with respect to cash), Party A, at its sole cost, may request that such Party A Performance Assurance be reduced correspondingly to the amount of such excess Termination Payment plus Party A’s Independent Amount, if any, (rounding upwards for any fractional amount to the next Party A Rounding Amount). In the event that Party A fails to provide Party A Performance Assurance pursuant to the terms of this Article Eight within three (3) Business Days, then an Event of Default under Article Five shall be deemed to have occurred and Party B will be entitled to the remedies set forth in Article Five of this Master Agreement.

For purposes of this Section 8.2(c), the calculation of the Termination Payment shall be calculated pursuant to Section 5.3 by Party B as if all outstanding Transactions had been liquidated, and in addition thereto, shall include all amounts owed but not yet paid by Party A to Party B, whether or not such amounts are due, for performance already provided pursuant to any and all Transactions.

(d) Downgrade Event. If at any time there shall occur a Downgrade Event in respect of Party A, then Party B may require Party A to provide Performance Assurance in an amount determined by Party B in a commercially reasonable manner. In the event Party A shall fail to provide such Performance Assurance or a guaranty or other credit assurance acceptable to Party B within three (3) Business Days of receipt of notice, then an Event of Default shall be deemed to have occurred and Party B will be entitled to the remedies set forth in Article Five of this Master Agreement.

(e) If specified on the Cover Sheet, Party A shall deliver to Party B, prior to or concurrently with the execution and delivery of this Master Agreement a guarantee in an amount not less than the Guarantee Amount specified on the Cover Sheet and in a form reasonably acceptable to Party B.

8.3 Grant of Security Interest/Remedies. To secure its obligations under this Agreement and to the extent either or both Parties deliver Performance Assurance hereunder, each Party (a “Pledgor”) hereby grants to the other Party (the “Secured Party”) a present and continuing security interest in, and lien on (and right of setoff against), and assignment of, all cash collateral and cash equivalent collateral and any and all proceeds resulting therefrom or the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of, such Secured Party, and each Party agrees to take such action as the other Party reasonably requires in order to perfect the Secured Party’s first-priority security interest in, and lien on (and right of setoff against), such collateral and any and all proceeds resulting therefrom or from the liquidation thereof. Upon or any time after the occurrence or deemed occurrence and during the continuation of an Event of Default or an Early Termination Date, the Non-Defaulting Party may do any one or more of the following: (i) exercise any of the rights and remedies of a Secured Party with respect to all Performance Assurance, including any such rights and remedies under law then in effect; (ii) exercise its rights of setoff against any and all property of the Defaulting Party in the possession of the Non-Defaulting Party or its agent; (iii) draw on any outstanding

Letter of Credit issued for its benefit; and (iv) liquidate all Performance Assurance then held by or for the benefit of the Secured Party free from any claim or right of any nature whatsoever of the Defaulting Party, including any equity or right of purchase or redemption by the Defaulting Party. The Secured Party shall apply the proceeds of the collateral realized upon the exercise of any such rights or remedies to reduce the Pledgor's obligations under the Agreement (the Pledgor remaining liable for any amounts owing to the Secured Party after such application), subject to the Secured Party's obligation to return any surplus proceeds remaining after such obligations are satisfied in full.

ARTICLE NINE: GOVERNMENTAL CHARGES

9.1 Cooperation. Each Party shall use reasonable efforts to implement the provisions of and to administer this Master Agreement in accordance with the intent of the parties to minimize all taxes , so long as neither Party is materially adversely affected by such efforts.

9.2 Governmental Charges. Seller shall pay or cause to be paid all taxes imposed by any government authority("Governmental Charges") on or with respect to the Product or a Transaction arising prior to the Delivery Point. Buyer shall pay or cause to be paid all Governmental Charges on or with respect to the Product or a Transaction at and from the Delivery Point (other than ad valorem, franchise or income taxes which are related to the sale of the Product and are, therefore, the responsibility of the Seller). In the event Seller is required by law or regulation to remit or pay Governmental Charges which are Buyer's responsibility hereunder, Buyer shall promptly reimburse Seller for such Governmental Charges. If Buyer is required by law or regulation to remit or pay Governmental Charges which are Seller's responsibility hereunder, Buyer may deduct the amount of any such Governmental Charges from the sums due to Seller under Article 6 of this Agreement. Nothing shall obligate or cause a Party to pay or be liable to pay any Governmental Charges for which it is exempt under the law.

ARTICLE TEN: MISCELLANEOUS

10.1 Term of Master Agreement. The term of this Master Agreement shall commence on the Effective Date and shall remain in effect until terminated by either Party upon (thirty) 30 days' prior written notice; provided, however, that such termination shall not affect or excuse the performance of either Party under any provision of this Master Agreement that by its terms survives any such termination and, provided further, that this Master Agreement and any other documents executed and delivered hereunder shall remain in effect with respect to the Transaction(s) entered into prior to the effective date of such termination until both Parties have fulfilled all of their obligations with respect to such Transaction(s), or such Transaction(s) that have been terminated under Section 5.2 of this Agreement.

10.2 Representations and Warranties. On the Effective Date and the date of entering into each Transaction, each Party represents and warrants to the other Party that:

- (i) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;

- (ii) it has all regulatory authorizations necessary for it to legally perform its obligations under this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3);
- (iii) the execution, delivery and performance of this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3) are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it;
- (iv) this Master Agreement, each Transaction (including any Confirmation accepted in accordance with Section 2.3), and each other document executed and delivered in accordance with this Master Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms; subject to any Equitable Defenses.
- (v) it is not Bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming Bankrupt;
- (vi) there is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3);
- (vii) no Event of Default or Potential Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3);
- (viii) it is acting for its own account, has made its own independent decision to enter into this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3) and as to whether this Master Agreement and each such Transaction (including any Confirmation accepted in accordance with Section 2.3) is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3);
- (ix) it is a “forward contract merchant” within the meaning of the United States Bankruptcy Code;

- (x) it has entered into this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3) in connection with the conduct of its business and it has the capacity or ability to make or take delivery of all Products referred to in the Transaction to which it is a Party;
- (xi) with respect to each Transaction (including any Confirmation accepted in accordance with Section 2.3) involving the purchase or sale of a Product or an Option, it is a producer, processor, commercial user or merchant handling the Product, and it is entering into such Transaction for purposes related to its business as such; and
- (xii) the material economic terms of each Transaction are subject to individual negotiation by the Parties.

10.3 Title and Risk of Loss. Title to and risk of loss related to the Product shall transfer from Seller to Buyer at the Delivery Point. Seller warrants that it will deliver to Buyer the Quantity of the Product free and clear of all liens, security interests, claims and encumbrances or any interest therein or thereto by any person arising prior to the Delivery Point.

10.4 Indemnity. Each Party shall indemnify, defend and hold harmless the other Party from and against any Claims arising from or out of any event, circumstance, act or incident first occurring or existing during the period when control and title to Product is vested in such Party as provided in Section 10.3. Each Party shall indemnify, defend and hold harmless the other Party against any Governmental Charges for which such Party is responsible under Article Nine.

10.5 Assignment. Neither Party shall assign this Agreement or its rights hereunder without the prior written consent of the other Party, which consent may be withheld in the exercise of its sole discretion; provided, however, either Party may, without the consent of the other Party (and without relieving itself from liability hereunder), (i) transfer, sell, pledge, encumber or assign this Agreement or the accounts, revenues or proceeds hereof in connection with any financing or other financial arrangements, (ii) transfer or assign this Agreement to an affiliate of such Party which affiliate's creditworthiness is equal to or higher than that of such Party, or (iii) transfer or assign this Agreement to any person or entity succeeding to all or substantially all of the assets whose creditworthiness is equal to or higher than that of such Party; provided, however, that in each such case, any such assignee shall agree in writing to be bound by the terms and conditions hereof and so long as the transferring Party delivers such tax and enforceability assurance as the non-transferring Party may reasonably request.

10.6 Governing Law. THIS AGREEMENT AND THE RIGHTS AND DUTIES OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED, ENFORCED AND PERFORMED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW. EACH PARTY WAIVES ITS RESPECTIVE RIGHT TO ANY JURY TRIAL WITH RESPECT TO ANY LITIGATION ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT.

10.7 Notices. All notices, requests, statements or payments shall be made as specified in the Cover Sheet. Notices (other than scheduling requests) shall, unless otherwise specified herein, be in writing and may be delivered by hand delivery, United States mail, overnight courier service or facsimile. Notice by facsimile or hand delivery shall be effective at the close of business on the day actually received, if received during business hours on a Business Day, and otherwise shall be effective at the close of business on the next Business Day. Notice by overnight United States mail or courier shall be effective on the next Business Day after it was sent. A Party may change its addresses by providing notice of same in accordance herewith.

10.8 General. This Master Agreement (including the exhibits, schedules and any written supplements hereto), the Party A Tariff, if any, the Party B Tariff, if any, any designated collateral, credit support or margin agreement or similar arrangement between the Parties and all Transactions (including any Confirmation accepted in accordance with Section 2.3) constitute the entire agreement between the Parties relating to the subject matter. Notwithstanding the foregoing, any collateral, credit support or margin agreement or similar arrangement between the Parties shall, upon designation by the Parties, be deemed part of this Agreement and shall be incorporated herein by reference. This Agreement shall be considered for all purposes as prepared through the joint efforts of the parties and shall not be construed against one party or the other as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof. Except to the extent herein provided for, no amendment or modification to this Master Agreement shall be enforceable unless reduced to writing and executed by both Parties. Each Party agrees if it seeks to amend any applicable wholesale power sales tariff during the term of this Agreement, such amendment will not in any way affect outstanding Transactions under this Agreement without the prior written consent of the other Party. Each Party further agrees that it will not assert, or defend itself, on the basis that any applicable tariff is inconsistent with this Agreement. This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement). Waiver by a Party of any default by the other Party shall not be construed as a waiver of any other default. Any provision declared or rendered unlawful by any applicable court of law or regulatory agency or deemed unlawful because of a statutory change (individually or collectively, such events referred to as "Regulatory Event") will not otherwise affect the remaining lawful obligations that arise under this Agreement; and provided, further, that if a Regulatory Event occurs, the Parties shall use their best efforts to reform this Agreement in order to give effect to the original intention of the Parties. The term "including" when used in this Agreement shall be by way of example only and shall not be considered in any way to be in limitation. The headings used herein are for convenience and reference purposes only. All indemnity and audit rights shall survive the termination of this Agreement for twelve (12) months. This Agreement shall be binding on each Party's successors and permitted assigns.

10.9 Audit. Each Party has the right, at its sole expense and during normal working hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to this Master Agreement. If requested, a Party shall provide to the other Party statements evidencing the Quantity delivered at the Delivery Point. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof will be made promptly and shall bear interest calculated at the Interest Rate from the date the overpayment or underpayment was made until paid; provided, however, that no adjustment for any statement or payment will be

made unless objection to the accuracy thereof was made prior to the lapse of twelve (12) months from the rendition thereof, and thereafter any objection shall be deemed waived.

10.10 Forward Contract. The Parties acknowledge and agree that all Transactions constitute “forward contracts” within the meaning of the United States Bankruptcy Code.

10.11 Confidentiality. If the Parties have elected on the Cover Sheet to make this Section 10.11 applicable to this Master Agreement, neither Party shall disclose the terms or conditions of a Transaction under this Master Agreement to a third party (other than the Party’s employees, lenders, counsel, accountants or advisors who have a need to know such information and have agreed to keep such terms confidential) except in order to comply with any applicable law, regulation, or any exchange, control area or independent system operator rule or in connection with any court or regulatory proceeding; provided, however, each Party shall, to the extent practicable, use reasonable efforts to prevent or limit the disclosure. The Parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with, this confidentiality obligation.

SCHEDULE M

(THIS SCHEDULE IS INCLUDED IF THE APPROPRIATE BOX ON THE COVER SHEET IS MARKED INDICATING A PARTY IS A GOVERNMENTAL ENTITY OR PUBLIC POWER SYSTEM)

- A. The Parties agree to add the following definitions in Article One.

“Act” means _____.¹

“Governmental Entity or Public Power System” means a municipality, county, governmental board, public power authority, public utility district, joint action agency, or other similar political subdivision or public entity of the United States, one or more States or territories or any combination thereof.

“Special Fund” means a fund or account of the Governmental Entity or Public Power System set aside and or pledged to satisfy the Public Power System’s obligations hereunder out of which amounts shall be paid to satisfy all of the Public Power System’s obligations under this Master Agreement for the entire Delivery Period.

- B. The following sentence shall be added to the end of the definition of “Force Majeure” in Article One.

If the Claiming Party is a Governmental Entity or Public Power System, Force Majeure does not include any action taken by the Governmental Entity or Public Power System in its governmental capacity.

- C. The Parties agree to add the following representations and warranties to Section 10.2:

Further and with respect to a Party that is a Governmental Entity or Public Power System, such Governmental Entity or Public Power System represents and warrants to the other Party continuing throughout the term of this Master Agreement, with respect to this Master Agreement and each Transaction, as follows: (i) all acts necessary to the valid execution, delivery and performance of this Master Agreement, including without limitation, competitive bidding, public notice, election, referendum, prior appropriation or other required procedures has or will be taken and performed as required under the Act and the Public Power System’s ordinances, bylaws or other regulations, (ii) all persons making up the governing body of Governmental Entity or Public Power System are the duly elected or appointed incumbents in their positions and hold such

¹ Cite the state enabling and other relevant statutes applicable to Governmental Entity or Public Power System.

positions in good standing in accordance with the Act and other applicable law, (iii) entry into and performance of this Master Agreement by Governmental Entity or Public Power System are for a proper public purpose within the meaning of the Act and all other relevant constitutional, organic or other governing documents and applicable law, (iv) the term of this Master Agreement does not extend beyond any applicable limitation imposed by the Act or other relevant constitutional, organic or other governing documents and applicable law, (v) the Public Power System's obligations to make payments hereunder are unsubordinated obligations and such payments are (a) operating and maintenance costs (or similar designation) which enjoy first priority of payment at all times under any and all bond ordinances or indentures to which it is a party, the Act and all other relevant constitutional, organic or other governing documents and applicable law or (b) otherwise not subject to any prior claim under any and all bond ordinances or indentures to which it is a party, the Act and all other relevant constitutional, organic or other governing documents and applicable law and are available without limitation or deduction to satisfy all Governmental Entity or Public Power System' obligations hereunder and under each Transaction or (c) are to be made solely from a Special Fund, (vi) entry into and performance of this Master Agreement and each Transaction by the Governmental Entity or Public Power System will not adversely affect the exclusion from gross income for federal income tax purposes of interest on any obligation of Governmental Entity or Public Power System otherwise entitled to such exclusion, and (vii) obligations to make payments hereunder do not constitute any kind of indebtedness of Governmental Entity or Public Power System or create any kind of lien on, or security interest in, any property or revenues of Governmental Entity or Public Power System which, in either case, is proscribed by any provision of the Act or any other relevant constitutional, organic or other governing documents and applicable law, any order or judgment of any court or other agency of government applicable to it or its assets, or any contractual restriction binding on or affecting it or any of its assets.

D. The Parties agree to add the following sections to Article Three:

Section 3.4 Public Power System's Deliveries. On the Effective Date and as a condition to the obligations of the other Party under this Agreement, Governmental Entity or Public Power System shall provide the other Party hereto (i) certified copies of all ordinances, resolutions, public notices and other documents evidencing the necessary authorizations with respect to the execution, delivery and performance by Governmental Entity or Public Power System of this Master Agreement and (ii) an opinion of counsel for Governmental Entity or Public Power System, in form and substance reasonably satisfactory to the Other Party, regarding the validity, binding effect and enforceability of this Master Agreement against Governmental Entity or Public Power System in

respect of the Act and all other relevant constitutional organic or other governing documents and applicable law.

Section 3.5 No Immunity Claim. Governmental Entity or Public Power System warrants and covenants that with respect to its contractual obligations hereunder and performance thereof, it will not claim immunity on the grounds of sovereignty or similar grounds with respect to itself or its revenues or assets from (a) suit, (b) jurisdiction of court (including a court located outside the jurisdiction of its organization), (c) relief by way of injunction, order for specific performance or recovery of property, (d) attachment of assets, or (e) execution or enforcement of any judgment.

E. If the appropriate box is checked on the Cover Sheet, as an alternative to selecting one of the options under Section 8.3, the Parties agree to add the following section to Article Three:

Section 3.6 Governmental Entity or Public Power System Security. With respect to each Transaction, Governmental Entity or Public Power System shall either (i) have created and set aside a Special Fund or (ii) upon execution of this Master Agreement and prior to the commencement of each subsequent fiscal year of Governmental Entity or Public Power System during any Delivery Period, have obtained all necessary budgetary approvals and certifications for payment of all of its obligations under this Master Agreement for such fiscal year; any breach of this provision shall be deemed to have arisen during a fiscal period of Governmental Entity or Public Power System for which budgetary approval or certification of its obligations under this Master Agreement is in effect and, notwithstanding anything to the contrary in Article Four, an Early Termination Date shall automatically and without further notice occur hereunder as of such date wherein Governmental Entity or Public Power System shall be treated as the Defaulting Party. Governmental Entity or Public Power System shall have allocated to the Special Fund or its general funds a revenue base that is adequate to cover Public Power System's payment obligations hereunder throughout the entire Delivery Period.

F. If the appropriate box is checked on the Cover Sheet, the Parties agree to add the following section to Article Eight:

Section 8.4 Governmental Security. As security for payment and performance of Public Power System's obligations hereunder, Public Power System hereby pledges, sets over, assigns and grants to the other Party a security interest in all of Public Power System's right, title and interest in and to [specify collateral].

G. The Parties agree to add the following sentence at the end of Section 10.6 - Governing Law:

NOTWITHSTANDING THE FOREGOING, IN RESPECT OF THE APPLICABILITY OF THE ACT AS HEREIN PROVIDED, THE LAWS OF THE STATE OF _____² SHALL APPLY.

² Insert relevant state for Governmental Entity or Public Power System.

SCHEDULE P: PRODUCTS AND RELATED DEFINITIONS

“Ancillary Services” means any of the services identified by a Transmission Provider in its transmission tariff as “ancillary services” including, but not limited to, regulation and frequency response, energy imbalance, operating reserve-spinning and operating reserve-supplemental, as may be specified in the Transaction.

“Capacity” has the meaning specified in the Transaction.

“Energy” means three-phase, 60-cycle alternating current electric energy, expressed in megawatt hours.

“Firm (LD)” means, with respect to a Transaction, that either Party shall be relieved of its obligations to sell and deliver or purchase and receive without liability only to the extent that, and for the period during which, such performance is prevented by Force Majeure. In the absence of Force Majeure, the Party to which performance is owed shall be entitled to receive from the Party which failed to deliver/receive an amount determined pursuant to Article Four.

“Firm Transmission Contingent - Contract Path” means, with respect to a Transaction, that the performance of either Seller or Buyer (as specified in the Transaction) shall be excused, and no damages shall be payable including any amounts determined pursuant to Article Four, if the transmission for such Transaction is interrupted or curtailed and (i) such Party has provided for firm transmission with the transmission provider(s) for the Product in the case of the Seller from the generation source to the Delivery Point or in the case of the Buyer from the Delivery Point to the ultimate sink, and (ii) such interruption or curtailment is due to “force majeure” or “uncontrollable force” or a similar term as defined under the applicable transmission provider’s tariff. This contingency shall excuse performance for the duration of the interruption or curtailment notwithstanding the provisions of the definition of “Force Majeure” in Section 1.23 to the contrary.

“Firm Transmission Contingent - Delivery Point” means, with respect to a Transaction, that the performance of either Seller or Buyer (as specified in the Transaction) shall be excused, and no damages shall be payable including any amounts determined pursuant to Article Four, if the transmission to the Delivery Point (in the case of Seller) or from the Delivery Point (in the case of Buyer) for such Transaction is interrupted or curtailed and (i) such Party has provided for firm transmission with the transmission provider(s) for the Product, in the case of the Seller, to be delivered to the Delivery Point or, in the case of Buyer, to be received at the Delivery Point and (ii) such interruption or curtailment is due to “force majeure” or “uncontrollable force” or a similar term as defined under the applicable transmission provider’s tariff. This transmission contingency excuses performance for the duration of the interruption or curtailment, notwithstanding the provisions of the definition of “Force Majeure” in Section 1.23 to the contrary. Interruptions or curtailments of transmission other than the transmission either immediately to or from the Delivery Point shall not excuse performance

“Firm (No Force Majeure)” means, with respect to a Transaction, that if either Party fails to perform its obligation to sell and deliver or purchase and receive the Product, the Party to which performance is owed shall be entitled to receive from the Party which failed to perform an

amount determined pursuant to Article Four. Force Majeure shall not excuse performance of a Firm (No Force Majeure) Transaction.

“Into _____ (the “Receiving Transmission Provider”), Seller’s Daily Choice” means that, in accordance with the provisions set forth below, (1) the Product shall be scheduled and delivered to an interconnection or interface (“Interface”) either (a) on the Receiving Transmission Provider’s transmission system border or (b) within the control area of the Receiving Transmission Provider if the Product is from a source of generation in that control area, which Interface, in either case, the Receiving Transmission Provider identifies as available for delivery of the Product in or into its control area; and (2) Seller has the right on a daily prescheduled basis to designate the Interface where the Product shall be delivered. An “Into” Product shall be subject to the following provisions:

1. Prescheduling and Notification. Subject to the provisions of Section 6, not later than the prescheduling deadline of 11:00 a.m. CPT on the Business Day before the next delivery day or as otherwise agreed to by Buyer and Seller, Seller shall notify Buyer (“Seller’s Notification”) of Seller’s immediate upstream counterparty and the Interface (the “Designated Interface”) where Seller shall deliver the Product for the next delivery day, and Buyer shall notify Seller of Buyer’s immediate downstream counterparty.

2. Availability of “Firm Transmission” to Buyer at Designated Interface; “Timely Request for Transmission,” “ADI” and “Available Transmission.” In determining availability to Buyer of next-day firm transmission (“Firm Transmission”) from the Designated Interface, a “Timely Request for Transmission” shall mean a properly completed request for Firm Transmission made by Buyer in accordance with the controlling tariff procedures, which request shall be submitted to the Receiving Transmission Provider no later than 30 minutes after delivery of Seller’s Notification, provided, however, if the Receiving Transmission Provider is not accepting requests for Firm Transmission at the time of Seller’s Notification, then such request by Buyer shall be made within 30 minutes of the time when the Receiving Transmission Provider first opens thereafter for purposes of accepting requests for Firm Transmission.

Pursuant to the terms hereof, delivery of the Product may under certain circumstances be redesignated to occur at an Interface other than the Designated Interface (any such alternate designated interface, an “ADI”) either (a) on the Receiving Transmission Provider’s transmission system border or (b) within the control area of the Receiving Transmission Provider if the Product is from a source of generation in that control area, which ADI, in either case, the Receiving Transmission Provider identifies as available for delivery of the Product in or into its control area using either firm or non-firm transmission, as available on a day-ahead or hourly basis (individually or collectively referred to as “Available Transmission”) within the Receiving Transmission Provider’s transmission system.

3. Rights of Buyer and Seller Depending Upon Availability of/Timely Request for Firm Transmission.

A. Timely Request for Firm Transmission made by Buyer, Accepted by the Receiving Transmission Provider and Purchased by Buyer. If a Timely Request for Firm Transmission is made by Buyer and is accepted by the Receiving Transmission Provider

and Buyer purchases such Firm Transmission, then Seller shall deliver and Buyer shall receive the Product at the Designated Interface.

i. If the Firm Transmission purchased by Buyer within the Receiving Transmission Provider's transmission system from the Designated Interface ceases to be available to Buyer for any reason, or if Seller is unable to deliver the Product at the Designated Interface for any reason except Buyer's non-performance, then at Seller's choice from among the following, Seller shall: (a) to the extent Firm Transmission is available to Buyer from an ADI on a day-ahead basis, require Buyer to purchase such Firm Transmission from such ADI, and schedule and deliver the affected portion of the Product to such ADI on the basis of Buyer's purchase of Firm Transmission, or (b) require Buyer to purchase non-firm transmission, and schedule and deliver the affected portion of the Product on the basis of Buyer's purchase of non-firm transmission from the Designated Interface or an ADI designated by Seller, or (c) to the extent firm transmission is available on an hourly basis, require Buyer to purchase firm transmission, and schedule and deliver the affected portion of the Product on the basis of Buyer's purchase of such hourly firm transmission from the Designated Interface or an ADI designated by Seller.

ii. If the Available Transmission utilized by Buyer as required by Seller pursuant to Section 3A(i) ceases to be available to Buyer for any reason, then Seller shall again have those alternatives stated in Section 3A(i) in order to satisfy its obligations.

iii. Seller's obligation to schedule and deliver the Product at an ADI is subject to Buyer's obligation referenced in Section 4B to cooperate reasonably therewith. If Buyer and Seller cannot complete the scheduling and/or delivery at an ADI, then Buyer shall be deemed to have satisfied its receipt obligations to Seller and Seller shall be deemed to have failed its delivery obligations to Buyer, and Seller shall be liable to Buyer for amounts determined pursuant to Article Four.

iv. In each instance in which Buyer and Seller must make alternative scheduling arrangements for delivery at the Designated Interface or an ADI pursuant to Sections 3A(i) or (ii), and Firm Transmission had been purchased by both Seller and Buyer into and within the Receiving Transmission Provider's transmission system as to the scheduled delivery which could not be completed as a result of the interruption or curtailment of such Firm Transmission, Buyer and Seller shall bear their respective transmission expenses and/or associated congestion charges incurred in connection with efforts to complete delivery by such alternative scheduling and delivery arrangements. In any instance except as set forth in the immediately preceding sentence, Buyer and Seller must make alternative scheduling arrangements for delivery at the Designated Interface or an ADI under Sections 3A(i) or (ii), Seller shall be responsible for any additional transmission purchases and/or associated congestion charges incurred by Buyer in connection with such alternative scheduling arrangements.

B. Timely Request for Firm Transmission Made by Buyer but Rejected by the Receiving Transmission Provider. If Buyer's Timely Request for Firm Transmission is rejected by the Receiving Transmission Provider because of unavailability of Firm Transmission from the Designated Interface, then Buyer shall notify Seller within 15 minutes after receipt of the Receiving Transmission Provider's notice of rejection ("Buyer's Rejection Notice"). If Buyer timely notifies Seller of such unavailability of Firm Transmission from the Designated Interface, then Seller shall be obligated either (1) to the extent Firm Transmission is available to Buyer from an ADI on a day-ahead basis, to require Buyer to purchase (at Buyer's own expense) such Firm Transmission from such ADI and schedule and deliver the Product to such ADI on the basis of Buyer's purchase of Firm Transmission, and thereafter the provisions in Section 3A shall apply, or (2) to require Buyer to purchase (at Buyer's own expense) non-firm transmission, and schedule and deliver the Product on the basis of Buyer's purchase of non-firm transmission from the Designated Interface or an ADI designated by the Seller, in which case Seller shall bear the risk of interruption or curtailment of the non-firm transmission; provided, however, that if the non-firm transmission is interrupted or curtailed or if Seller is unable to deliver the Product for any reason, Seller shall have the right to schedule and deliver the Product to another ADI in order to satisfy its delivery obligations, in which case Seller shall be responsible for any additional transmission purchases and/or associated congestion charges incurred by Buyer in connection with Seller's inability to deliver the Product as originally prescheduled. If Buyer fails to timely notify Seller of the unavailability of Firm Transmission, then Buyer shall bear the risk of interruption or curtailment of transmission from the Designated Interface, and the provisions of Section 3D shall apply.

C. Timely Request for Firm Transmission Made by Buyer, Accepted by the Receiving Transmission Provider and not Purchased by Buyer. If Buyer's Timely Request for Firm Transmission is accepted by the Receiving Transmission Provider but Buyer elects to purchase non-firm transmission rather than Firm Transmission to take delivery of the Product, then Buyer shall bear the risk of interruption or curtailment of transmission from the Designated Interface. In such circumstances, if Seller's delivery is interrupted as a result of transmission relied upon by Buyer from the Designated Interface, then Seller shall be deemed to have satisfied its delivery obligations to Buyer, Buyer shall be deemed to have failed to receive the Product and Buyer shall be liable to Seller for amounts determined pursuant to Article Four.

D. No Timely Request for Firm Transmission Made by Buyer, or Buyer Fails to Timely Send Buyer's Rejection Notice. If Buyer fails to make a Timely Request for Firm Transmission or Buyer fails to timely deliver Buyer's Rejection Notice, then Buyer shall bear the risk of interruption or curtailment of transmission from the Designated Interface. In such circumstances, if Seller's delivery is interrupted as a result of transmission relied upon by Buyer from the Designated Interface, then Seller shall be deemed to have satisfied its delivery obligations to Buyer, Buyer shall be deemed to have failed to receive the Product and Buyer shall be liable to Seller for amounts determined pursuant to Article Four.

4. Transmission.

A. Seller's Responsibilities. Seller shall be responsible for transmission required to deliver the Product to the Designated Interface or ADI, as the case may be. It is expressly agreed that Seller is not required to utilize Firm Transmission for its delivery obligations hereunder, and Seller shall bear the risk of utilizing non-firm transmission. If Seller's scheduled delivery to Buyer is interrupted as a result of Buyer's attempted transmission of the Product beyond the Receiving Transmission Provider's system border, then Seller will be deemed to have satisfied its delivery obligations to Buyer, Buyer shall be deemed to have failed to receive the Product and Buyer shall be liable to Seller for damages pursuant to Article Four.

B. Buyer's Responsibilities. Buyer shall be responsible for transmission required to receive and transmit the Product at and from the Designated Interface or ADI, as the case may be, and except as specifically provided in Section 3A and 3B, shall be responsible for any costs associated with transmission therefrom. If Seller is attempting to complete the designation of an ADI as a result of Seller's rights and obligations hereunder, Buyer shall co-operate reasonably with Seller in order to effect such alternate designation.

5. Force Majeure. An "Into" Product shall be subject to the "Force Majeure" provisions in Section 1.23.

6. Multiple Parties in Delivery Chain Involving a Designated Interface. Seller and Buyer recognize that there may be multiple parties involved in the delivery and receipt of the Product at the Designated Interface or ADI to the extent that (1) Seller may be purchasing the Product from a succession of other sellers ("Other Sellers"), the first of which Other Sellers shall be causing the Product to be generated from a source ("Source Seller") and/or (2) Buyer may be selling the Product to a succession of other buyers ("Other Buyers"), the last of which Other Buyers shall be using the Product to serve its energy needs ("Sink Buyer"). Seller and Buyer further recognize that in certain Transactions neither Seller nor Buyer may originate the decision as to either (a) the original identification of the Designated Interface or ADI (which designation may be made by the Source Seller) or (b) the Timely Request for Firm Transmission or the purchase of other Available Transmission (which request may be made by the Sink Buyer). Accordingly, Seller and Buyer agree as follows:

A. If Seller is not the Source Seller, then Seller shall notify Buyer of the Designated Interface promptly after Seller is notified thereof by the Other Seller with whom Seller has a contractual relationship, but in no event may such designation of the Designated Interface be later than the prescheduling deadline pertaining to the Transaction between Buyer and Seller pursuant to Section 1.

B. If Buyer is not the Sink Buyer, then Buyer shall notify the Other Buyer with whom Buyer has a contractual relationship of the Designated Interface promptly after Seller notifies Buyer thereof, with the intent being that the party bearing actual responsibility to secure transmission shall have up to 30 minutes after receipt of the Designated Interface to submit its Timely Request for Firm Transmission.

C. Seller and Buyer each agree that any other communications or actions required to be given or made in connection with this “Into Product” (including without limitation, information relating to an ADI) shall be made or taken promptly after receipt of the relevant information from the Other Sellers and Other Buyers, as the case may be.

D. Seller and Buyer each agree that in certain Transactions time is of the essence and it may be desirable to provide necessary information to Other Sellers and Other Buyers in order to complete the scheduling and delivery of the Product. Accordingly, Seller and Buyer agree that each has the right, but not the obligation, to provide information at its own risk to Other Sellers and Other Buyers, as the case may be, in order to effect the prescheduling, scheduling and delivery of the Product

“Native Load” means the demand imposed on an electric utility or an entity by the requirements of retail customers located within a franchised service territory that the electric utility or entity has statutory obligation to serve.

“Non-Firm” means, with respect to a Transaction, that delivery or receipt of the Product may be interrupted for any reason or for no reason, without liability on the part of either Party.

“System Firm” means that the Product will be supplied from the owned or controlled generation or pre-existing purchased power assets of the system specified in the Transaction (the “System”) with non-firm transmission to and from the Delivery Point, unless a different Transmission Contingency is specified in a Transaction. Seller’s failure to deliver shall be excused: (i) by an event or circumstance which prevents Seller from performing its obligations, which event or circumstance was not anticipated as of the date the Transaction was agreed to, which is not within the reasonable control of, or the result of the negligence of, the Seller; (ii) by Buyer’s failure to perform; (iii) to the extent necessary to preserve the integrity of, or prevent or limit any instability on, the System; (iv) to the extent the System or the control area or reliability council within which the System operates declares an emergency condition, as determined in the system’s, or the control area’s, or reliability council’s reasonable judgment; or (v) by the interruption or curtailment of transmission to the Delivery Point or by the occurrence of any Transmission Contingency specified in a Transaction as excusing Seller’s performance. Buyer’s failure to receive shall be excused (i) by Force Majeure; (ii) by Seller’s failure to perform, or (iii) by the interruption or curtailment of transmission from the Delivery Point or by the occurrence of any Transmission Contingency specified in a Transaction as excusing Buyer’s performance. In any of such events, neither party shall be liable to the other for any damages, including any amounts determined pursuant to Article Four.

“Transmission Contingent” means, with respect to a Transaction, that the performance of either Seller or Buyer (as specified in the Transaction) shall be excused, and no damages shall be payable including any amounts determined pursuant to Article Four, if the transmission for such Transaction is unavailable or interrupted or curtailed for any reason, at any time, anywhere from the Seller’s proposed generating source to the Buyer’s proposed ultimate sink, regardless of whether transmission, if any, that such Party is attempting to secure and/or has purchased for the Product is firm or non-firm. If the transmission (whether firm or non-firm) that Seller or Buyer is attempting to secure is from source to sink is unavailable, this contingency excuses performance for the entire Transaction. If the transmission (whether firm or non-firm) that Seller

or Buyer has secured from source to sink is interrupted or curtailed for any reason, this contingency excuses performance for the duration of the interruption or curtailment notwithstanding the provisions of the definition of “Force Majeure” in Article 1.23 to the contrary.

“Unit Firm” means, with respect to a Transaction, that the Product subject to the Transaction is intended to be supplied from a generation asset or assets specified in the Transaction. Seller’s failure to deliver under a “Unit Firm” Transaction shall be excused: (i) if the specified generation asset(s) are unavailable as a result of a Forced Outage (as defined in the NERC Generating Unit Availability Data System (GADS) Forced Outage reporting guidelines) or (ii) by an event or circumstance that affects the specified generation asset(s) so as to prevent Seller from performing its obligations, which event or circumstance was not anticipated as of the date the Transaction was agreed to, and which is not within the reasonable control of, or the result of the negligence of, the Seller or (iii) by Buyer’s failure to perform. In any of such events, Seller shall not be liable to Buyer for any damages, including any amounts determined pursuant to Article Four.

EXHIBIT A

**MASTER POWER PURCHASE AND SALE AGREEMENT
CONFIRMATION LETTER**

This confirmation letter shall confirm the Transaction agreed to on _____, _____
between _____ (“Party A”) and _____ (“Party B”)
regarding the sale/purchase of the Product under the terms and conditions as follows:

Seller: _____

Buyer: _____

Product:

Into _____, Seller’s Daily Choice

Firm (LD)

Firm (No Force Majeure)

System Firm

(Specify System: _____)

Unit Firm

(Specify Unit(s): _____)

Other _____

Transmission Contingency (If not marked, no transmission contingency)

FT-Contract Path Contingency Seller Buyer

FT-Delivery Point Contingency Seller Buyer

Transmission Contingent Seller Buyer

Other transmission contingency

(Specify: _____)

Contract Quantity: _____

Delivery Point: _____

Contract Price: _____

Energy Price: _____

Other Charges: _____

Confirmation Letter
Page 2

Delivery Period: _____
Special Conditions: _____
Scheduling: _____
Option Buyer: _____
Option Seller: _____
Type of Option: _____
Strike Price: _____
Premium: _____
Exercise Period: _____

This confirmation letter is being provided pursuant to and in accordance with the Master Power Purchase and Sale Agreement dated _____ (the "Master Agreement") between Party A and Party B, and constitutes part of and is subject to the terms and provisions of such Master Agreement. Terms used but not defined herein shall have the meanings ascribed to them in the Master Agreement.

[Party A]

[Party B]

Name: _____
Title: _____
Phone No: _____
Fax: _____

Name: _____
Title: _____
Phone No: _____
Fax: _____

MASTER POWER PURCHASE AND SALE AGREEMENT COVER SHEET

This *Master Power Purchase and Sale Agreement* (“*Master Agreement*”) is made as of the following date: _____ (“*Effective Date*”). The *Master Agreement*, together with the exhibits, schedules and any written supplements hereto, the Party A Tariff, if any, the Party B Tariff, if any, any designated collateral, credit support or margin agreement or similar arrangement between the Parties and all Transactions (including any confirmations accepted in accordance with Section 2.3 hereto) shall be referred to as the “*Agreement*.” The Parties to this *Master Agreement* are the following:

Exelon Generation Company, LLC (“*Exelon*” or “*Party A*”)

Marin Clean Energy (“*MCE*” or “*Party B*”)

All Notices:

Street: 100 Constellation Way, Suite 500C
City: Baltimore, MD Zip: 21202
Attn: Contract Administration
Phone: 410-470-3500
Facsimile: 443-213-3556
Duns: 19-674-8938
Federal Tax ID Number: 23-2990190

All Notices:

Street: 781 Lincoln Ave., Suite #320
City: San Rafael Zip: 94901
Attn: Contract Administration
Phone: (415) 464-6010
Facsimile: (415) 459-8095
Duns: 829602338
Federal Tax ID Number: 26-4300997

Invoices:

Attn: Billing Group
Phone: 410-470-3737
Facsimile: 410-468-3540

Invoices:

Attn: Sarah Gardner, Administrative Associate
Phone: (415) 464-6028
Facsimile: (415) 459-8095

Confirmations:

Attn: Confirmations Department
Phone: 410-470-3738
Facsimile: 410-468-3540

Confirmations:

Attn: Greg Brehm, Director of Power Resources
Phone: (415) 464-6037
Facsimile: (415) 459-8095

Scheduling:

Attn: Scheduling Desk
Phone: 410-468-3530
Facsimile: 410-468-3540

Scheduling:

Attn: Greg Brehm, Director of Power Resources
Phone: (415) 464-6037
Facsimile: (415) 459-8095

Payments:

Attn: Payments Group
Phone: 410-470-3737
Facsimile: 410-468-3540

Payments:

Attn: Sarah Gardner, Administrative Associate
Phone: (415) 464-6028
Facsimile: (415) 459-8095

Wire Transfer:

BNK.: M&T Bank
ABA: 022000046
ACCT: 19190078

Wire Transfer:

BNK: River City Bank
ABA: _____
ACCT: _____

Credit and Collections:

Attn: Credit Risk Department
Phone: 410-470-6000
Facsimile: 443-213-3215

Credit and Collections:

Attn: Emily Goodwin, Internal Operations Coord.
Phone: (415) 464-6035
Facsimile: (415) 459-8095

With additional Notices of an Event of Default or Potential Event of Default to:
Attn: General Counsel
Phone: 410-470-3500
Facsimile: 443-213-3556

With additional Notices of an Event of Default or Potential Event of Default to:
Attn: Greg Stepanicich
Phone: (415) 421-8484
Facsimile: (415) 459-8095

The Parties hereby agree that the General Terms and Conditions are incorporated herein, and to the following provisions as provided for in the General Terms and Conditions:

Party A Tariff Tariff: FERC Electric Tariff Dated: April 30, 2010 Docket Number: ER10-1145

Party B Tariff Tariff: Dated: Docket Number:

Article Two

Transaction Terms and Conditions Optional provision in Section 2.4. If not checked, inapplicable.

Article Four

Remedies for Failure to Deliver or Receive Accelerated Payment of Damages. If not checked, inapplicable.

Article Five

Events of Default; Remedies Cross Default for Party A:

Party A: Cross Default Amount: \$150,000,000.00

Other Entity: Cross Default Amount:

Cross Default for Party B:

Party B: Cross Default Amount: \$500,000.00

Other Entity: Cross Default Amount:

5.6 Closeout Setoff

- Option A (Applicable if no other selection is made.)
- Option B - Affiliates shall have the meaning set forth in the Agreement unless otherwise specified as follows: _____
- Option C (No Setoff)

Article 8

Credit and Collateral Requirements

8.1 Party A Credit Protection:

(a) Financial Information:

- Option A
- Option B Specify: _____
- Option C Specify: _____

(b) Credit Assurances:

- Not Applicable
- Applicable

(c) Collateral Threshold:

- Not Applicable
- Applicable

If applicable, the provisions of Section 8.1 (c) of the Agreement shall be replaced by the provisions of the Collateral Annex attached hereto.

(d) Downgrade Event:

- Not Applicable
- Applicable

If applicable, complete the following:

- It shall be a Downgrade Event for Party B if Party B's Guarantor's Credit Rating falls below _____ from S&P and _____ from Moody's or if Party B's Guarantor is not rated by either S&P or Moody's
- Other:
Specify:

(e) Guarantor for Party B:

Guarantee Amount: N/A

8.2 Party B Credit Protection:

(a) Financial Information:

- Option A
- Option B Specify:
- Option C Specify:

(b) Credit Assurances:

- Not Applicable
- Applicable

(c) Collateral Threshold:

- Not Applicable
- Applicable

If applicable, the provisions of Section 8.2 (c) of the Agreement shall be replaced by the provisions of the Collateral Annex attached hereto.

(d) Downgrade Event:

- Not Applicable
- Applicable

If applicable, complete the following:

- It shall be a Downgrade Event for Party A if Party A's Guarantor's Credit Rating falls below ____ from S&P and ____ from Moody's or if Party A's Guarantor is not rated by either S&P or Moody's

Other:
Specify:

(e) Guarantor for Party A: Not Applicable.

Guarantee Amount: N/A

Article 10

Confidentiality

- Confidentiality Applicable If not checked, inapplicable.

Schedule M

- Party A is a Governmental Entity or Public Power System
- Party B is a Governmental Entity or Public Power System
- Add Section 3.6. If not checked, inapplicable
- Add Section 8.6. If not checked, inapplicable

Conditions Precedent: This Master Agreement shall not be effective and no Confirmation or Transaction between the Parties pursuant to this Master Agreement shall be effective, until (a) the Master Agreement [and each Confirmation or Transaction] has been approved by the MCE Board of Directors, (b) [*specify others*].

Other Changes:

This Master Power Purchase and Sale Agreement and the associated Collateral Annex incorporate, by reference, the changes published in the EEI Errata, Version 1.1, dated July 18, 2007.

Specify, if Any: See "Other Changes" Attached Hereto

**“OTHER CHANGES” TO EEI STANDARDIZED
MASTER POWER PURCHASE AND SALE AGREEMENT**

ARTICLE ONE: GENERAL DEFINITIONS

Section 1.1 is amended by adding the following new sentence at the end of the definition of “Affiliate”:
“Notwithstanding the foregoing, (i) The Parties hereby agree and acknowledge that with respect to Party A, Baltimore Gas & Electric Company, CNEGH Holdings, LLC, CNE Gas Holdings, LLC, CNEG Holdings, LLC, Constellation NewEnergy-Gas Division, LLC, CNE Gas Supply, LLC, PECO Energy Company, and Commonwealth Edison Company shall not be considered an Affiliate, (ii) with respect to Party B the members of Party B shall not constitute or otherwise be deemed an “Affiliate” for the purposes of this Master Agreement or any Confirmation executed in connection therewith.”.

Section 1.23 “Force Majeure” shall be amended by inserting in the thirteenth line of this Subsection before the phrase “foregoing factors” the word “two.”

Section 1.27 “Letter(s) of Credit” is hereby deleted in its entirety and replaced with the following:

“Letter(s) of Credit” shall mean an irrevocable, transferable, standby Letter of Credit, issued by a Qualified Institution, substantially in the form set forth in Schedule 1 [attached hereto/attached to Paragraph 10 to the Collateral Annex], with such changes to the terms in that form as the issuing bank may require and as may be acceptable to the beneficiary thereof”

Section 1.51 “Replacement Price” is amended by (i) adding the phrase “for delivery” immediately before the phrase “at the Delivery Point” in the second line and (ii) deleting the phrase “at Buyer's option” from the fifth line and replacing it with the phrase “absent a purchase”.

Section 1.52 “S&P” shall be amended by (i) deleting the words “Rating” and “Group” from the first line and replacing with “Financial Services LLC” and (ii) by replacing the words in the parenthetical with “a subsidiary of McGraw-Hill Companies, Inc.”.

Section 1.53 “Sales Price” is amended by (i) deleting the phrase “at the Delivery Point” from the second line, and (ii) deleting the phrase “at Seller’s option” from the fifth line and replacing it with the phrase “absent a sale”, and (iii) inserting after the phrase “commercially reasonable manner” in the sixth line, the following phrase “; provided, however if the Seller is unable after using commercially reasonable efforts to resell all or a portion of the Product not received by Buyer, the Sales Price with respect to such unsold Product shall be deemed equal to zero (0).”.

Section 1.56 “Settlement Amount” is amended by deleting the words “pursuant to Section 5.2” and by adding before the period at the end thereof the following: “, as determined in accordance with Section 5.2.”

Section 1.60 “Transaction” is amended by inserting the words “in writing” immediately following the words “agreed to”.

The following definitions shall be added to ARTICLE ONE:

1.62 “Merger Event” means, with respect to a Party or its Guarantor, that such Party or its Guarantor consolidates or amalgamates with, or merges into or with, or transfers substantially all of its assets to another entity and (i) the resulting entity fails to assume all of the obligations of such Party hereunder or of such Party’s Guarantor under its guaranty; or (ii) the benefits of any credit support provided pursuant to Article 8, or any guaranty provided by such Party’s Guarantor, fail to extend to the performance by such resulting, surviving or transferee entity of its obligations hereunder or (iii) the resulting entity's creditworthiness is materially weaker than that of such Party or its Guarantor immediately prior to such action.

1.65 "Local Business Day" means for all purposes of this Agreement and all Transactions entered into hereunder, all calendar days other than those days on which the Federal Reserve member banks in New York City are authorized or required by law to be closed.

1.66 "Qualified Institution" means a commercial bank or trust company organized under the laws of the United States or a political subdivision thereof, which is not the Pledgor (or a subsidiary of the Affiliate of the Pledgor) and which has assets of at least \$10 Billion Dollars and a Credit Rating of at least "A-" by S&P, or "A3" by Moody's.

ARTICLE TWO: TRANSACTIONS TERMS AND CONDITIONS

Section 2.1 "Transactions." is amended by deleting the first sentence in its entirety and replacing it with the following:

"A Transaction, or an amendment, modification or supplement thereto, shall be entered into only upon a writing signed by both Parties."

Section 2.1 is further amended by deleting the last sentence in its entirety and replacing it with the following:

"Each Party agrees not to contest, or assert any defense to, the validity or enforceability of the Transaction entered into in accordance with this Master Agreement based on any lack of authority of the Party or any lack of authority of any employee of the Party to enter into a Transaction; provided, however, the Party A acknowledges that no employee may amend or otherwise materially modify this Master Agreement or Confirmation without the approval of the board of Party B, and that the only employees with authority to act on behalf of Party B shall be limited based on the certified incumbency delivered to Party A pursuant to Section 10.15."

Section 2.3 "Confirmation." shall be amended by deleting in its entirety and replacing with the following:

"Notwithstanding anything to the contrary in this Agreement, for each Transaction Party A and Party B agree to enter into hereunder, (i) Party A and Party B agree that with respect to each Transaction hereunder, a legally binding agreement shall exist from the moment that the Parties agree in writing on the essential terms of such Transaction, and (ii) Party A shall promptly send to Party B a Confirmation setting forth the terms of such Transaction. Party B shall execute and return the Confirmation to Party A or request correction of any error within five (5) Local Business Days of receipt. Failure of Party B to either execute or respond within such period shall not affect the validity or enforceability of such Transaction and the Confirmation shall be deemed to be fully executed. If any dispute shall arise as to whether an error exists in a Confirmation, the Parties shall in good faith make reasonable efforts to resolve the dispute." "No Oral Agreements or Modifications. Notwithstanding anything to the contrary in this Master Agreement, the Master Agreement and any and all Transactions may not be orally amended or modified"

Section 2.4 "Additional Confirmation Terms." is hereby deleted in its entirety.

Section 2.5 "Recording." Shall be amended by deleting in its entirety and replacing with the following:

"Each Party to this Agreement: (i) acknowledges, consents and agrees that each Party may make a tape or electronic recording ("Recording") of conversations between its trading, marketing and scheduling officers, employees and representatives ("Personnel"); (ii) waives any further notice of such monitoring or recording; (iii) agrees to notify and obtain the consent of its Personnel to such monitoring and recording; and (iv) agrees that any such Recordings will be retained (subject to any applicable record retention policies of the recording Party unless one Party notifies the other that a particular Transaction is under review and the Recording warrants further retention) in confidence, secured from improper access, and may be submitted in evidence in any suit, action or proceedings relating to this Agreement or any actual or potential Transaction hereunder. In the event of any dispute between the parties relating to an actual or potential Transaction, the parties may use Recordings and any other "sufficient evidence" (as such term is defined in Section 5-701(b)(3) of the New York General Obligations Law) that a contract has been made between the parties as *prima facie* evidence of the terms and conditions of such Transaction until such

time (if any) as a written Confirmation has been executed or deemed executed by both parties. To the extent that one Party records telephone conversations (the "Recording Party") and the other Party does not (the "Non-Recording Party"), the Recording Party shall, in the event of any dispute, make a complete and unedited copy of the Recording Party's tape(s) of all conversations with the Non-Recording Party's personnel relating to the relevant dispute available to the Non-Recording Party."

The following shall be added as Section 2.6:

Index Transactions. If the Contract Price for a Transaction is determined by reference to a Price Source, then:

- (a) **Market Disruption.** If a Market Disruption Event occurs on any one or more days during a Determination Period (each day, a "Disrupted Day"), then:

The fallback Floating Price, if any, specified by the Parties in the relevant Confirmation shall be the Floating Price for each Disrupted Day.

If the Parties have not specified a fallback Floating Price, then the Parties will endeavor, in good faith and using commercially reasonable efforts, to agree on a substitute Floating Price, taking into consideration, without limitation, guidance, protocols or other recommendations or conventions issued or employed by trade organizations or industry groups in response to the Market Disruption Event and other prices published by the Price Source or alternative price sources with respect to the Delivery Point or comparable Delivery Points that may permit the Parties to derive the Floating Price based on historical differentials.

If the Price Source retrospectively issues a Floating Price in respect of a Disrupted Day (a "Delayed Floating Price") before the parties agree on a substitute Floating Price for such day, then the Delayed Floating Price shall be the Floating Price for such Disrupted Day. If a Delayed Price is issued by the Price Source in respect of a Disrupted Day after the Parties agree on a substitute Floating Price for such day, the substitute Floating Price agreed upon by the Parties will remain the Floating Price without adjustment unless the Parties expressly agree otherwise.

If the Parties cannot agree on a substitute Floating Price and the Price Source does not retrospectively publish or announce a Floating Price, in each case, on or before the fifth Business Day following the first Trading Day on which the Market Disruption Event first occurred or existed, then the Floating Price for each Disrupted Day shall be determined by taking the arithmetic mean of quotations requested from four leading dealers in the relevant market that are unaffiliated with either Party and mutually agreed upon by the Parties ("Specified Dealers"), without regard to the quotations with the highest and lowest values, subject to the following qualifications:

- 1) If exactly three quotations are obtained, the Floating Price for each such Disrupted Day will be the quotation that remains after disregarding the quotations having the highest and lowest values.
- 2) If fewer than three quotations are obtained, the Floating Price for each such Disrupted Day will be the average of the quotations obtained.
- 3) If the Parties cannot agree upon four Specified Dealers, then each of the Parties will, acting in good faith and in a commercially reasonable manner, select up to two Specified Dealers separately, and those selected dealers shall be the Specified Dealers.

Unless otherwise agreed, if at any time the Parties agree on a substitute Floating Price for any Disrupted Day, then such substitute Floating Price shall be the Floating Price for such Disrupted Day, notwithstanding the subsequent publication or announcement of a Delayed Floating Price by the relevant Price Source or any quotations obtained from Specified Dealers.

"Determination Period" means each calendar month a part or all of which is within the Delivery Period of a Transaction.

"Exchange" means, in respect of a Transaction, the exchange or principal trading market specified as applicable to the relevant Transaction.

"Floating Price" means a Contract Price specified in a Transaction that is based upon a Price Source.

"Market Disruption Event" means, with respect to any Price Source, any of the following events:

(a) the failure of the Price Source to announce, publish or make available the specified Floating Price or information necessary for determining the Floating Price for a particular day; (b) the failure of trading to commence on a particular day or the permanent discontinuation or material suspension of trading in the relevant options contract or commodity on the Exchange, RTO or in the market specified for determining a Floating Price; (c) the temporary or permanent discontinuance or unavailability of the Price Source; (d) the temporary or permanent closing of any Exchange or RTO specified for determining a Floating Price; or (e) a material change in the formula for or the method of determining the Floating Price by the Price Source or a material change in the composition of the Product.

"Price Source" means, in respect of a Transaction, a publication or such other origin of reference, including an Exchange or RTO, containing or reporting or making generally available to market participants (including by electronic means) a price, or prices or information from which a price is determined, as specified in the relevant Transaction.

"RTO" means any regional transmission operator or independent system operator.

"RTO Transaction" means a Transaction in which the Price Source is an RTO.

"Trading Day" means a day in respect of which the relevant Price Source ordinarily would announce, publish or make available the Floating Price.

- (b) Corrections to Published Prices. If the Floating Price published, announced or made available on a given day and used or to be used to determine a relevant price is subsequently corrected by the relevant Price Source (i) within 30 days of the original publication, announcement or availability, or (ii) in the case of RTO Transactions only, within such longer time period as is consistent with the RTO's procedures and guidelines, then either Party may notify the other Party of that correction and the amount (if any) that is payable as a result of that correction. If, not later than thirty (30) days after publication or announcement of that correction, a Party gives notice that an amount is so payable, the Party that originally either received or retained such amount will, not later than three (3) Business Days after such notice is effective, pay, subject to any applicable conditions precedent, to the other Party that amount, together with interest at the Interest Rate for the period from and including the day on which payment originally was (or was not) made to but excluding the day of payment of the refund or payment resulting from that correction. Notwithstanding the foregoing, corrections shall not be made to any Floating Prices agreed upon by the Parties or determined based on quotations from Specified Dealers pursuant to paragraph (a) above unless the Parties expressly agree otherwise.
- (c) Rounding. When calculating a Floating Price, all numbers shall be rounded to four (4) decimal places. If the fifth (5th) decimal number is five (5) or greater, then the fourth (4th) decimal number shall be increased by one (1), and if the fifth (5th) decimal number is less than five (5), then the fourth (4th) decimal number shall remain unchanged.

ARTICLE FIVE: EVENTS OF DEFAULT; REMEDIES

Section 5.1(a) is amended by changing "three (3) Business Days" to "five (5) Business Days" in the second line.

Section 5.1(e) is amended by adding " , as modified by the Collateral Annex, if applicable" at the end of that subsection.

Section 5.1(f) shall be deleted in its entirety and replaced with the following: "a Merger Event occurs with respect to such Party or its Guarantor;"

Section 5.1(g) is amended by (i) adding “after the Effective Date of this Agreement” after the words “occurrence and continuation”, (ii) deleting the phrase “, or becoming capable at such time of being declared,” after the word “becoming” and before the word “immediately” in the eighth and ninth lines, and (iii) adding “provided, however, that no default or event of default shall be deemed to have occurred under this Section 5.1(g) to the extent that any applicable cure period or grace period is available;” at the end of the last clause

Section 5.1(h)(ii) shall be amended by deleting the following phrase from the third and fourth line thereof: "and such failure shall not be remedied within three (3) Local Business Days after written notice;"

Section 5.2 “Declaration of an Early Termination Date and Calculation of Settlement Amounts.” is amended to reverse the placement of “(i)” and “to” in the first sentence.

Section 5.2 is further amended to delete the following phrase from the last two lines: “under applicable law on the Early Termination Date, as soon thereafter as is reasonably practicable).” And replaced with the following:

“under applicable law on the Early Termination Date, then each such Transaction (individually, an “Excluded Transaction” and collectively, the “Excluded Transactions”) shall be terminated as soon thereafter as reasonably practicable), and upon termination shall be deemed to be a Terminated Transaction and the Termination Payment payable in connection with all such Transactions shall be calculated in accordance with Section 5.3 below. The Gains and Losses for each Terminated Transaction shall be determined by calculating the amount that would be incurred or realized to replace or to provide the economic equivalent of the remaining payments or deliveries in respect of that Terminated Transaction. The Non- Defaulting Party (or its agent) may determine its Gains and Losses by reference to information either available to it internally or supplied by one or more third parties including, without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets. Third parties supplying such information may include, without limitation, dealers in the relevant markets, end-users of the relevant product, information vendors and other sources of market information. If the Non-Defaulting Party’s aggregate Gains exceeds its aggregate Losses and Costs, if any, resulting from the termination of this Agreement, the Settlement Amount shall be zero, notwithstanding any provision in this Section or any provision in this Agreement to the contrary.”

Section 5.3 “Net Out of Settlement Amounts.” Shall be amended by adding the phrase "plus, at the option of the Non-Defaulting Party, any cash or other form of liquid security then in the possession of the Defaulting Party or its agent pursuant to Article Eight," after the first use of the phrase "due to the Non-Defaulting Party" in the sixth line.

In Section 5.7, delete “(a)” and the phrase “or (b) a Potential Event of Default” in the second line.

ARTICLE SIX: PAYMENT AND NETTING

Section 6.2 is amended by changing (i) “twentieth (20th) day” to “twenty-fifth (25th) day” and (ii) “tenth (10th) day” to “fifteenth (15th) day” in the third and fourth lines, respectively.

ARTICLE SEVEN: LIMITATIONS

Section 7.1 “Limitations of Remedies, Liability and Damages.” shall be amended by: (a) deleting “Except as set forth herein” from the first sentence and “Unless expressly herein provided” from the fifth sentence, (b) adding “Notwithstanding anything in this Agreement to the contrary” to the beginning of the fifth sentence, and “set forth in this Agreement’ after “indemnity provision” and before “or otherwise”, also in the fifth sentence, (c) deleting in the fifteenth and sixteenth lines the words, “UNLESS EXPRESSLY HEREIN PROVIDED”, and (d) adding in the nineteenth line the words:

“;PROVIDED, HOWEVER, NOTHING IN THIS SECTION SHALL AFFECT THE ENFORCEABILITY OF THE PROVISIONS OF THIS AGREEMENT RELATING TO REMEDIES FOR FAILURE TO DELIVER/RECEIVE IN SECTIONS 4.1 AND 4.2, AND CALCULATION AND PAYMENT OF THE TERMINATION PAYMENT IN SECTIONS 5.2 AND 5.3.” immediately after the words “ANY INDEMNITY PROVISION OR OTHERWISE”.

ARTICLE EIGHT: CREDIT AND COLLATERAL REQUIREMENTS

Section 8.1(a) is amended by adding the phrase “, provided however, for the purposes of this (i) and (ii), if Party B’s financial statements are publicly available electronically, then Party B shall be deemed to have met this requirement” after the phrase “a copy of Party B’s quarterly report containing unaudited consolidated financial statements for such fiscal quarter”.

Section 8.1(d) Downgrade Event. Before the comma in line five, add “or fails to maintain such Performance Assurance or guaranty or other credit assurance for so long as the Downgrade Event is continuing”.

Section 8.2(a) is amended by adding the phrase “, provided however, for the purposes of this (i) and (ii), if Party A’s financial statements are publicly available electronically, then Party A shall be deemed to have met this requirement” after the phrase “a copy of Party A’s quarterly report containing unaudited consolidated financial statements for such fiscal quarter”.

Section 8.2(d) Downgrade Event. Before the comma in line five, add “or fails to maintain such Performance Assurance or guaranty or other credit assurance for so long as the Downgrade Event is continuing”.

ARTICLE NINE: GOVERNMENTAL CHARGES

Section 9.1 - “Cooperation” shall be deleted in its entirety.]

[Section 9.2 - “Governmental Charges” shall be amended by amending the Section number preceding the section to 9.1.]

ARTICLE TEN: MISCELLANEOUS

Section 10.2(ix) is hereby deleted in its entirety and replaced with the following:

“(ix) (1) it is a “forward contract merchant” within the meaning of the United States Bankruptcy Code; (2) it is an “eligible contract participant” as such term is defined in the Commodity Exchange Act, as amended 7 U.S.C. § 1 (a)(12); and (3) it is an “eligible commercial entity” as such term is defined in the Commodity Exchange Act, as amended 7 U.S.C. § 1 (a)(11).”

Section 10.4 “Indemnity.” is amended to add the phrase “unless a Claim is due to such Party’s gross negligence, willful misconduct or bad faith” at the end of the first sentence of Section 10.4.

Section 10.5 “Assignment.” shall be amended by:

- (i) moving the parenthetical “(and without relieving itself from liability hereunder)” from the fourth line and placing it in the fifth line after the phrase “or other financial arrangements” in Subsection 10.5(i);
- (ii) in clause (ii) thereof replace the words “affiliate” and “affiliate's” with, respectively, “Affiliate” and “Affiliate's”;
- (iii) in clause (iii) thereof immediately after the words “substantially all of the assets” insert the words “of such Party and”; and

- (iv) delete the phrase “which consent may be withheld in the exercise of its sole discretion” in the first line and replace it with “which consent shall not be unreasonably withheld.”

Section 10.6 “Governing Law.” Is deleted in its entirety and replaced with the following:

“10.6 Governing Law; Jurisdiction; Waiver of Jury Trial. This Agreement shall be construed in accordance with, and this Agreement and all matters arising out of or relating in any way whatsoever to this Agreement (whether in contract, tort or otherwise) shall be governed by, the law of the State of California.

With respect to any suit, action or proceedings relating to or arising out of this Agreement or any of the transactions contemplated hereby (*Proceedings*), each Party irrevocably waives, to the fullest extent permitted by applicable law, with respect to itself and its assets (irrespective of its use or intended use), all immunity on the grounds of sovereignty (or any similar grounds available to a governmental entity or instrumentality) from (i) suit, (ii) jurisdiction of any court, (iii) relief by way of injunction, order for specific performance or for recovery of its assets, (iv) attachment of its assets (whether before or after judgment) and (v) execution or enforcement of any judgment to which it or its revenues or assets might otherwise be entitled in any Proceedings in the courts of any jurisdiction and irrevocably agrees, to the fullest extent permitted by applicable law, that it will not claim any such immunity in any Proceedings.

ANY PROCEEDINGS ARISING OUT OF AND/OR RELATING TO THIS AGREEMENT SHALL BE RESOLVED BY A JUDGE TRIAL WITHOUT A JURY AND THE RIGHT TO A JURY TRIAL IS WAIVED, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW. Each party hereto hereby (a) certifies that no representative, agent or attorney of another person has represented, expressly or otherwise, that such other person would not, in the event of a Proceeding, seek to enforce the foregoing waiver and (b) acknowledges that it has not been induced to execute and deliver, or change its position in reliance upon the benefits of, this Agreement by, among other things, the mutual waivers and certifications in this Section.”“EACH PARTY SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE FEDERAL COURTS LOCATED IN SAN FRANCISCO, CALIFORNIA, FOR ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY TRANSACTION, AND EXPRESSLY WAIVES ANY OBJECTION IT MAY HAVE TO SUCH JURISDICTION OR THE CONVENIENCE OF SUCH FORUM.”

Section 10.8 “General.” is amended by adding the following to the end thereof: “Each Party authorizes the other Party to affix an ink or digital stamp of its signature to any Confirmation and agrees to be bound by a document executed in such a manner. This Master Agreement may be signed in any number of counterparts with the same effect as if the signatures to counterparty were upon a single instrument. Delivery of an executed signature page of this Master Agreement and any Confirmation by facsimile or electronic mail transmission shall be effective as delivery of a manually executed signature page.”

Section 10.9 is amended by adding the following to the last sentence of Section 10.9: “Party A agrees to cooperate with Party B’s audits in connection with this Master Agreement and the Confirmation, which shall commence on the first Business Day of January and June of each year. To the extent that an audit reveals that Energy Party A sold to Party B was incorrectly classified by Party A as Eligible Renewable Energy or Renewable Energy, Party A (i) shall, at Party A’s cost, deliver to Party B replacement Eligible Renewable Energy or Renewable Energy in a quantity equal to the incorrectly classified Energy.”

Section 10.10 “Forward Contract.” Shall be amended by adding the following to the end thereof:

The Parties acknowledge and agree that (1) any Transaction with a maturity date more than two days after the date the Transaction is entered into constitutes a “forward contract” within the meaning of the United States Bankruptcy Code (the “Bankruptcy Code”); (ii) certain Transactions may constitute “swap agreements” within the meaning of the Bankruptcy Code; ;(iii) all payments made or to be made by one Party to the other Party pursuant to this Agreement are “settlement payment” within the meaning of the Bankruptcy Code; and (iv) all transfers of “Performance Assurance” by one Party to the other Party under this Agreement are “margin payments” within the meaning of the Bankruptcy Code. Each Party further agrees that, for purposes of this Agreement, the other Party is not a “utility” as such term is used in 11

U.S.C. Section 366, and each Party agrees to waive and not to assert the applicability of the provisions of 11 U.S.C. Section 366 in any bankruptcy proceeding wherein such Party is a debtor. In any such proceeding, each Party further agrees to waive the right to assert that the other Party is a provider of last resort.

Section 10.11 "Confidentiality." is amended to read in its entirety as follows:

"If the Parties have elected on the Cover Sheet to make this Section 10.11 applicable to this Master Agreement, the contents of the Transactions and all other documents relating to this Agreement, if any, and any information made available by a Party and/or any guarantor of a Party ("Disclosing Party") to the other Party ("Non-Disclosing Party") with respect to this Agreement or any Transaction, if any, are confidential and shall not be disclosed to any third party, except for such information (i) as may become generally available to the public, (ii) as may be required or appropriate in response to any summons, subpoena, request from a regulatory body, or otherwise in connection with any litigation or to comply with any applicable law, order, regulation, ruling, regulatory request, accounting disclosure rule or standard or any exchange, control area or independent system operator rule, (iii) as may be obtained from a non-confidential source that disclosed such information in a manner that did not violate its obligations to the Disclosing Party, if any, in making such disclosure, or (iv) as may be furnished to the Non-Disclosing Party's Affiliates, and to each of such person's auditors, attorneys, advisors or lenders which are required to keep the information that is disclosed in confidence. Notwithstanding the foregoing, a Party may disclose any one or more of the commercial terms of a Transaction (other than the name of the other Party unless otherwise agreed to in writing by the Parties) to any industry price source for the purpose of aggregating and reporting such information in the form of a published energy price index. The Parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with, this confidentiality obligation. Party A and Party B acknowledge and agree that the Master Agreement and any Confirmations executed in connection therewith are subject to the California Public Records Act (Government Code Section 6250 et seq.)."

The following Sub-Sections shall be added to ARTICLE TEN:

Section 10.12 "FERC Standard of Review; Certain Covenants and Waivers.

(a) Absent the agreement of all Parties to the proposed change, the standard of review for changes to any rate, charge, classification, term or condition of this Agreement, whether proposed by a Party (to the extent that any waiver in subsection (b) below is unenforceable or ineffective as to such Party), a non-party or FERC acting *sua sponte*, shall be the "public interest" standard of review set forth in United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956) and clarified by NRG Power Marketing LLC v. Maine Pub. Util. Comm'n., 558 U.S. (2010) (commonly known as the "Mobile-Sierra" doctrine).

(b) In addition, and notwithstanding the foregoing subsection (a), to the fullest extent permitted by applicable law, each Party, for itself and its successors and assigns, hereby expressly and irrevocably waives any rights it can or may have, now or in the future, whether under §§ 205 and/or 206 of the Federal Power Act or otherwise, to seek to obtain from FERC by any means, directly or indirectly (through complaint, investigation or otherwise), and each hereby covenants and agrees not at any time to seek to so obtain, an order from FERC changing any section of this Agreement specifying the rate, charge, classification, or other term or condition agreed to by the Parties, it being the express intent of the Parties that, to the fullest extent permitted by applicable law, neither Party shall unilaterally seek to obtain from FERC any relief changing the rate, charge, classification, or other term or condition of this Agreement, notwithstanding any subsequent changes in applicable law or market conditions that may occur. In the event it were to be determined that applicable law precludes the Parties from waiving their rights to seek changes from FERC to their market-based power sales contracts (including entering into covenants not to do so) then this subsection (b) shall not apply, provided that, consistent with the foregoing subsection (a), neither Party shall seek any such changes except solely under the "public interest" application of the "just and reasonable" standard of review and otherwise as set forth in the foregoing section (a).

Section 10.13 “Imaged Agreement. Any original executed Agreement, Confirmation or other related document may be photocopied and stored on computer tapes and disks (the “Imaged Agreement”). The Imaged Agreement, if introduced as evidenced on paper, the Confirmation, if introduced as evidence in automated facsimile form, the Recording, if introduced as evidence in its original form and as transcribed onto paper, and all computer records of the foregoing, if introduced as evidence in printed format, in any judicial, arbitration, mediation or administrative proceedings, will be admissible as between the Parties to the same extent and under the same conditions as other business records originated and maintained in documentary form. Neither Party shall object to the admissibility of the Recording, the Confirmation or the Imaged Agreement (or photocopies of the transcription of the Recording, the Confirmation or the Imaged Agreement) on the basis that such were not originated or maintained in documentary form under the hearsay rule, the best evidence rule or other rule of evidence.”

Section 10.14: “Joint Powers. Party A hereby acknowledges and agrees that Party B is organized as a Joint Powers Authority in accordance with the Joint Powers Act of the State of California (Government Code Section 6500 et seq.) pursuant to a Joint Powers Agreement dated December 19, 2008 (the “Joint Power Agreement”) and is a public entity separate from its members. Party B shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement and Seller agrees that it shall have no rights and shall not make any claim, take any actions or assert any remedies against any of Party B’s members in connection with this Agreement or any of the Transactions.

SCHEDULE P: PRODUCTS AND RELATED DEFINITIONS

The following paragraph shall be added as an explanatory paragraph at the beginning of Schedule P:

“If the Parties agree to a service level defined by a different agreement (e.g., the WSPP Agreement, the ERCOT agreement) for a particular Transaction, then, unless the Parties expressly state and agree that all of the terms and conditions of such other agreement will apply, then such reference to a service level/product defined by such other agreement means that the service level/product for that Transaction is subject to the applicable regional reliability requirements and guidelines as well as the excuses for performance, Force Majeure, Uncontrollable Forces, or other such excuses applicable to performance under such other agreement, to the extent inconsistent with the terms of this Agreement, but all other terms and conditions of this Agreement remain applicable including, without limitation, Section 2.2.”

The following Sub-Section is hereby added to Schedule P:

7. “Other Products and Service Levels.

- (i) “CAISO Firm” means with respect to a Transaction, a Product under which the Seller shall sell and the Buyer shall purchase a quantity of energy equal to the hourly quantity without Ancillary Services (as defined in the California Independent System Operator (“CAISO”) Tariff) that is or will be scheduled as a schedule coordinator to schedule coordinator transaction pursuant to the applicable tariff and protocol provisions of the CAISO tariff as amended from time to time, for which the only excuse for failure to deliver or receive is “an Uncontrollable Force” as defined in the CAISO Tariff.
- (ii) “WECC” means the Western Electricity Coordinating Council.”
- (iii) “West Firm” or “WSPPC-Firm” means with respect to a Transaction, Product defined by the WSPP Agreement as amended, in Service schedule C as Firm Capacity/Energy Sale or Exchange Service.”
- (iv) “WSPP Agreement” means the Western Systems Power Pool Agreement as amended from time to time.”

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have caused this Master Agreement to be duly executed as of the date first above written.

Exelon Generation Company, LLC

Marin Clean Energy

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date : _____

Date: _____

DISCLAIMER: This Master Power Purchase and Sale Agreement was prepared by a committee of representatives of Edison Electric Institute (“EEI”) and National Energy Marketers Association (“NEM”) member companies to facilitate orderly trading in and development of wholesale power markets. Neither EEI nor NEM nor any member company nor any of their agents, representatives or attorneys shall be responsible for its use, or any damages resulting therefrom. By providing this Agreement EEI and NEM do not offer legal advice and all users are urged to consult their own legal counsel to ensure that their commercial objectives will be achieved and their legal interests are adequately protected.

PURCHASE AND SALE OF CALIFORNIA RPS PRODUCT 2 (“FIRMED AND SHAPED”)

TRANSACTION CONFIRMATION LETTER

From: Ed Mackay
 Exelon Generation Company, LLC
 111 Market Place, Suite 500
 Baltimore, MD 21202

To: Marin Clean Energy
 Contract Administration
 781 Lincoln Ave., Suite #320
 San Rafael, CA 94901

The purpose of this letter (this "**Confirmation Letter**") is to confirm the terms and conditions of the oral transaction between Marin Clean Energy ("**Buyer**") and Exelon Generation Company, LLC ("**Seller**") as of the Trade Date (the "**Transaction**") and is a Transaction under the Master Agreement defined herein. Seller and Buyer are each referred to as a "**Party**" and, collectively, as the "**Parties**." This Confirmation Letter, including the attached General Terms and Conditions (collectively, this "**Agreement**"), shall constitute the Transaction between the Parties related to the subject matter hereof and supersedes and replaces any prior oral or written confirmation, including broker confirmations, regarding this Transaction.

The terms of the Transaction to which this Confirmation Letter relates are as follows:

Trade Date:	June ___, 2014
Effective Date:	
Trade ID(s):	
Seller:	Exelon Generation Company, LLC
Buyer:	Marin Clean Energy
Product:	Energy and associated Green Attributes (inclusive of Renewable Energy Credits (“RECs”)) produced on or after the Trade Date and delivered, if needed, with substitute electricity from another source to Seller from the Project(s) to Buyer at the Delivery Point. Seller is not required to deliver to Buyer electrical generation directly from the Project, but may substitute energy. All RECs transferred shall qualify as “Renewable Energy Credit (Bucket 2)” Meaning any Renewable Energy Credit associated with the generation of electricity from an Eligible Renewable Energy Resource consisting of the portfolio content set forth in California Public Utilities Code Section 399.16(b)(2), as applicable to the Reporting Year(s) transferred hereunder.
Delivery Point:	NP15 EZ Gen Hub, or as otherwise mutually agreed to in writing by the Parties.
Reporting Year(s):	Deal #1: Calendar Year 2014 Deal #2: Calendar Year 2015

REC Generation Period(s):	Deal #1: January 1, 2014 through and including December 31, 2014. Deal #2: January 1, 2015 through and including December 31, 2015.
Delivery Term:	Energy Delivery Term: Deal #1: July 1, 2014 through and including December 31, 2014, when the applicable Energy Contract Quantity shall have been delivered. Deal #2: July 1, 2015 through and including December 31, 2015, when the applicable Energy Contract Quantity shall have been delivered. The Parties agree and acknowledge that Seller may revise the Energy Delivery Term upon written notice to Buyer. REC Delivery Term: Deal #1: January 1, 2014 through and including December 31, 2014. Deal #2: January 1, 2015 through and including December 31, 2015.
REC Contract Quantity:	Deal #1: 60,000/RECs 2014 Reporting Year Deal #2: 50,000/RECs 2015 Reporting Year WREGIS Certificates per Reporting Year, to be delivered at any time by April 15 following the end of each Reporting Year, as extended pursuant to Section 1 below, if applicable (individually and collectively, the “REC Delivery Date”), or in partial amounts during the applicable REC Delivery Term but not to exceed total amount of Energy delivered during the applicable Energy Delivery Term.
Energy Contract Quantity:	25 MW of 7X24 (All Days, All Hours, including NERC Holidays) Energy firmed and shaped for each hour of each day during the Energy Delivery Term.
REC Contract Price:	Deal #1: \$6.00/ WREGIS Certificate Deal #2: \$6.00/WREGIS Certificate
Energy Quality:	Firm Energy
Energy Contract Price:	(i) The corresponding CAISO NP15 On-Peak Index during On-Peak Hours, and (ii) the corresponding CAISO NP15 Off-Peak Index during Off-Peak Hours
Total Contract Price:	REC Contract Price + Energy Contract Price
Project(s)	As set forth on Schedule A, which may be amended by Seller from time to time.
Delivery:	Product will be transferred in accordance with Section 1 below

This Agreement shall be governed by the EEI Master Agreement by and between Seller and Buyer dated as of June ____, 2014, as amended and supplemented from time to time (“Master Agreement”), except as modified herein, and shall constitute part and be subject to the term of such Master Agreement; provided, that, to the extent there is a conflict between a provision of the Master Agreement and this Agreement, the terms of this Agreement shall control for the purposes of this Transaction. Capitalized terms used but not defined herein shall have the meaning given to them in the Master Agreement.

1. ***Product Delivery; Transfer & Tracking.***

Green Attributes. Seller hereby provides and conveys all Green Attributes associated with all electricity generation from the Project to Buyer as part of the Product being delivered. Seller represents and warrants that Seller holds the rights to all Green Attributes from the Project, and Seller agrees to convey and hereby conveys all such Green Attributes to Buyer as included in the delivery of the Product from the Project. [STC 2]

Energy Delivery and Associated Firming and Shaping. During the Delivery Term, on a day-ahead basis, Seller shall schedule energy, in a volume equal to the Energy Contract Quantity, to the CAISO Balancing Authority in accordance with the applicable rules. Energy deliveries shall be accompanied by a Scheduling Coordinator (SC) to SC inter-SC (IST) sale from Seller to Buyer at the Delivery Point pursuant to CAISO requirements. . Seller shall provide Buyer with the Project identification numbers required in the miscellaneous field for the E-Tags associated with the delivery of Product to the Delivery Point. Seller shall be responsible for the proper entry of any information on an E-Tag or in WREGIS. Pre-scheduling will be pursuant to the WECC ISAS daily pre-scheduling calendar and the WECC Business Practices.

Shortfall Energy. Seller’s Shortfall Energy. At any time during the Energy Delivery Term, in the event that, as a result of a transmission curtailment or other restriction on Seller’s ability to have the Energy Contract Quantity delivered to the Delivery Point, Seller delivers less than the Energy Contract Quantity during any delivery hour (“Seller’s Shortfall Energy”), Seller may upon mutual agreement of the Parties during the Energy Delivery Term make up such Seller’s Shortfall Energy by delivering an additional quantity of Energy, at mutually agreeable times, that equals the total Seller’s Shortfall Energy (“Seller’s Replacement Energy”) during the Energy Delivery Term, provided that such Seller’s Replacement Energy must be associated with a corresponding amount of Green Attributes as provided for in this Confirmation Letter and that such energy deliveries meet definition of Product.

REC Delivery. For each Reporting Year transferred hereunder, Seller shall initiate transfer orders for the applicable REC Contract Quantity in amounts no greater than the applicable Energy Contract Quantity to Buyer’s WREGIS account as the WREGIS Certificates become available in Seller’s WREGIS account, such that the full REC Contract Quantity is provided by the applicable REC Delivery Date. The REC Delivery Date shall be extended automatically until five (5) Business Days following the date that the WREGIS Certificates are first available in Seller’s WREGIS account if the WREGIS Certificates are not available in WREGIS on April 15th following the applicable Reporting Year. Upon receiving written, facsimile or electronic confirmation from WREGIS that a transfer order has been initiated by Seller, Buyer shall confirm such transfer order in WREGIS within five (5) Business Days.

Transfer of Renewable Energy Credits. Seller and, if applicable, its successors, represents and warrants that throughout the REC Delivery Term of this Agreement the Renewable Energy Credits transferred to Buyer conform to the definition and attributes required for compliance with

the California Renewables Portfolio Standard, as set forth in California Public Utilities Commission Decision 08-08-028, and as may be modified by subsequent decision of the California Public Utilities Commission or by subsequent legislation. To the extent a change in law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law. [STC REC-1]

Tracking of RECs in WREGIS. Seller warrants that all necessary steps to allow the Renewable Energy Credits transferred to Buyer to be tracked in the Western Renewable Energy Generation Information System will be taken prior to the first delivery under the contract. [STC REC-2]

Buyer warrants that all necessary steps to allow the Renewable Energy Credits transferred to Buyer to be tracked in the Western Renewable Energy Generation Information System will be taken prior to the first delivery under this Agreement.

2. **Payment.** Payment of the Energy Contract Price by Buyer to Seller shall be due and payable in accordance with the Master Agreement for the month Energy is delivered. For WREGIS Certificates delivered, within ten (10) Business Days of Buyer's receipt of written, facsimile or electronic confirmation from WREGIS that a transfer order has been completed, Buyer shall pay in full to Seller the following amount: REC Contract Price (\$/REC) multiplied by the number of RECs actually delivered as evidenced by transfer of WREGIS Certificates to Buyer's WREGIS account.

4. **Physical Delivery.** The Parties enter hereinto intending for the RECs and the energy to be physically settled.

5. **Term.** This Agreement shall commence on the Trade Date and shall terminate on the date on which both Parties have completed the performance of their obligations hereunder, unless earlier terminated pursuant to the terms hereof.

In WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the Effective Date.

Exelon Generation Company, LLC

By: _____

Name: _____

Title: _____

Accepted and Agreed:

Marin Clean Energy

By: _____

Name:

Title:

GENERAL TERMS AND CONDITIONS

1. DEFINITIONS

1.1 Definitions. In addition to any other terms defined in the Confirmation Letter or these General Terms and Conditions, the following terms shall have the meaning ascribed to them as set forth below:

“**7x24**” means HE 0100 PPT through HE 2400 PPT, Monday through Sunday, including NERC Holidays.

“**California Renewables Portfolio Standard**” or “**California RPS**” means the California Renewable Portfolio Standard, as administered by the CEC and CPUC and as set forth in CPUC Decision 08-08-028, and as may be modified by subsequent decision of the CPUC or by subsequent legislation, and regulations promulgated with respect thereto, Cal. Pub. Util. Code §§ 399.11 et seq., Cal. Pub. Res. Code §§ 25740-25751, CPUC D.08-04-009, CPUC D.11-01-025, & 11-12-052, and CEC RPS Eligibility Guidebook (7th Ed.), as may be subsequently modified by the CEC.

“**CEC**” means the California Energy Commission.

“**CPUC**” means the California Public Utilities Commission.

“**ERR**” is defined in Article 4 (Eligibility) below.

“**Force Majeure**” means an event or circumstance which materially adversely affects the ability of a Party to perform its obligations under this Agreement, which event or circumstance was not reasonably anticipated as of the Trade Date and which is not within the reasonable control of, or the result of the negligence of, the Party claiming Force Majeure, and which the claiming Party is unable to overcome or avoid or cause to be avoided, by the exercise of reasonable care. Force Majeure may not be based on (i) the loss or failure of Buyer’s markets; (ii) Buyer’s inability economically to use or resell the Product; (iii) Seller’s ability to sell the Product to another at a price greater than the Contract Price; (iv) Buyer’s ability to produce Product; or (v) Buyer’s ability to purchase product similar to the Product at a price less than the Contract Price. Force Majeure may include a change in applicable law and may, to the extent such a change falls under Article 6, require a negotiated amendment to this Agreement. In the case of a Party’s obligation to make payments hereunder, Force Majeure will be only an event or act of a governmental authority that on any day disables the banking system through which a Party makes such payments.

“**Green Attributes**” means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from the Project, and its avoided emission of pollutants. Green Attributes include but are not limited to Renewable Energy Credits, as well as: (1) any avoided emission of pollutants to the air, soil or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO) and other pollutants; (2) any avoided emissions of carbon dioxide (CO2), methane (CH4), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth’s climate by trapping heat

in the atmosphere;¹ (3) the reporting rights to these avoided emissions, such as Green Tag Reporting Rights. Green Tag Reporting Rights are the right of a Green Tag Purchaser to report the ownership of accumulated Green Tags in compliance with federal or state law, if applicable, and to a federal or state agency or any other party at the Green Tag Purchaser's discretion, and include without limitation those Green Tag Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present or future federal, state, or local law, regulation or bill, and international or foreign emissions trading program. Green Tags are accumulated on a MWh basis and one Green Tag represents the Green Attributes associated with one (1) MWh of Energy. Green Attributes do not include (i) any energy, capacity, reliability or other power attributes from the Project, (ii) production tax credits associated with the construction or operation of the Project and other financial incentives in the form of credits, reductions, or allowances associated with the project that are applicable to a state or federal income taxation obligation, (iii) fuel-related subsidies or "tipping fees" that may be paid to Seller to accept certain fuels, or local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits, or (iv) emission reduction credits encumbered or used by the Project for compliance with local, state, or federal operating and/or air quality permits. If the Project is a biomass or biogas facility and Seller receives any tradable Green Attributes based on the greenhouse gas reduction benefits or other emission offsets attributed to its fuel usage, it shall provide Buyer with sufficient Green Attributes to ensure that there are zero net emissions associated with the production of electricity from the Project. [STC 2]

"Product" means the form of energy and Green Attributes (inclusive of RECs) described in the Confirmation Letter for this Transaction.

"Project" means the CEC certified ERR(s), the output from which is used to source the Product sold and purchased hereunder, identified in the Confirmation Letter; provided, however, that the Parties agree and acknowledge that the Product may come from one or more other ERR(s) and that the acceptance of the Product sourced from such other ERR(s) in no way alters the delivery obligation hereunder with respect to the Contract Quantity shown in the Confirmation Letter, and if Seller substitutes the source ERR(s) it will promptly give notice to Buyer. Seller is not required to deliver to Buyer electrical generation directly from the Project, but may substitute energy.

"Renewable Energy Credit" or **"REC"** has the meaning provided in CPUC Decision (D.) 08-08-028, and generally means the right to claim title to Green Attributes attributable to the generation of electric energy from ERRs. RECs are measured in one megawatt increments and evidenced by the transfer of one WREGIS Certificate.

"Reporting Year" means the period beginning January 1 of the period year and continuing until December 31 of the subject year (e.g. Reporting Year 2014 means January 1, 2014 through December 31, 2014).

"STC" means the standard terms and conditions adopted by the CPUC to be incorporated into California RPS agreements.

"WREGIS" means the environmental registry and information system, which is administered by Western Renewable Energy Generation Information System that tracks the

¹ Avoided emissions may or may not have any value for GHG compliance purposes. Although avoided emissions are included in the list of Green Attributes, this inclusion does not create any right to use those avoided emissions to comply with any GHG regulatory program.

environmental and fuel attributes of generation, and any successor tracking system that both Parties agree in their reasonable commercial judgment facilitates the sale and purchase of Product and is approved by the CEC for use in the California RPS program.

“**WREGIS Certificate**” means “Certificate” as defined by WREGIS in the WREGIS Operating Rules.

“**WREGIS Operating Rules**” means the operating rules and requirements adopted by WREGIS.

2 Representations and Warranties of Seller.

Seller hereby represents and warrants to Buyer that:

- (a) it has originally purchased the energy bundled with the Green Attributes from the Project, it will not resell the energy back to the Project(s);
- (b) it has the right to sell the Product;
- (b) the Product has never been sold or committed to any other entity for any other purpose or use; and
- (c) the Product is free and clear of all liens or other encumbrances;

3 Limitation on Warranties. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, SELLER EXPRESSLY DISCLAIMS ANY OTHER REPRESENTATIONS OR WARRANTIES, WHETHER WRITTEN OR ORAL, AND WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY REPRESENTATION OR WARRANTY WITH RESPECT TO CONFORMITY TO MODELS OR SAMPLES, MERCHANTABILITY, OR FITNESS FOR ANY PARTICULAR PURPOSE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, SELLER MAKES NO REPRESENTATION OR WARRANTY HEREUNDER REGARDING ANY ACTION OR FAILURE TO ACT, OR APPROVAL OR FAILURE TO APPROVE, OF ANY AGENCY OR GOVERNMENTAL ENTITY.

4. **ELIGIBILITY**

Seller, and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement that: (i) the Project qualifies and is certified by the CEC as an Eligible Renewable Energy Resource (“ERR”) as such term is defined in Public Utilities Code Section 399.12 or Section 399.16; and (ii) the Project’s output delivered to Buyer qualifies under the requirements of the California Renewables Portfolio Standard. To the extent a change in law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law. [STC 6]

The Parties agree that “commercially reasonable efforts” as used in this Section 4 (Eligibility) and in the “Transfer of Renewable Energy Credits” paragraph in the Transaction Confirmation Letter shall not require Seller to spend more than \$2,500.00 in aggregate out-of-pocket costs and expenses (“Seller Expenditure Cap”). To the extent that the Parties have entered or may enter into other Transactions with respect to the purchase and sale of RECs, the Seller Expenditure Cap

set forth herein shall apply to this Transaction only and shall not be netted out or aggregated with any other similar limit on expenditures as may be set forth in such other Transactions.

5. FORCE MAJEURE

If either Party is rendered unable, wholly or in part, by Force Majeure to carry out its obligations with respect to this Agreement, that upon such Party's giving notice and full particulars of such Force Majeure as soon as reasonably possible after the occurrence of the cause relied upon, such notice to be confirmed in writing to the other Party, the obligations of the claiming Party will, to the extent they are affected by such Force Majeure, be suspended during the continuance of said inability, but for no longer period, and the claiming Party will not be liable to the other Party for, or on account of, any loss, damage, injury or expense resulting from, or arising out of such event of Force Majeure. The Party receiving such notice of Force Majeure will have until the end of the Business Day following such receipt to notify the claiming Party that it objects to or disputes the existence of an event of Force Majeure.

6. CHANGE IN LAW

This Agreement is executed for the express purposes of complying with the California RPS and to partially meet the requirements of Section 399.16(b)(2) of the California Public Utilities Code. The Parties acknowledge that the CEC and/or CPUC may be modifying mandatory contract language, altering the procurement and product qualification and validation rules, and updating the relevant California RPS Eligibility Guidebook in a manner consistent with that legislation. If any statutes, rules, regulations, permits or authorizations are enacted, amended, granted or revoked which have the effect of changing the transfer and sale procedure set forth in this Agreement so that the implementation of this Agreement becomes impossible or impracticable, or imposes language required to conform to the California RPS program, the Parties hereto agree to negotiate in good faith to amend this Agreement to conform with such new statutes, regulations, or rules in order while maintaining the original allocation of costs, risks, benefits and burdens of the Parties under this Agreement.

7. CONFIDENTIALITY

7.1 Confidentiality. Except as provided in this Article, neither Party shall publish, disclose, or otherwise divulge Confidential Information to any person at any time during or after the term of this Agreement, without the other Party's prior express written consent. Each Party shall permit knowledge of and access to Confidential Information only to those of its affiliates and to persons investing in, providing funding to or acquiring it or its affiliates, and to its and the foregoing persons' respective attorneys, accountants, representatives, agents and employees who have a need to know such Confidential Information related to this Agreement.

7.2 Required Disclosure. If required by any law, statute, ordinance, decision, order or regulation passed, adopted, issued or promulgated by a court, governmental agency or authority having jurisdiction over a Party (including the Federal Energy Regulatory Commission), that Party may release Confidential Information, or a portion thereof, to the court, governmental agency or authority, as required by the applicable law, statute, ordinance, decision, order or regulation, and a Party may disclose Confidential Information to accountants in connection with audits, provided that such Party has notified the other Party of the required disclosure, such that the other Party may attempt (if such Party so chooses) to cause that court, governmental agency, authority or accountant to treat such information in a confidential manner and to prevent such information from being disclosed or otherwise becoming part of the public domain. Parties

acknowledge that Buyer is obligated to provide Confidential Information to the CPUC and CEC for regulatory compliance purposes, and Seller waives the prior notice requirement and authorizes such disclosures to the CPUC and CEC.

8. APPLICABLE LAW; WAIVER OF TRIAL BY JURY

Governing Law. This Agreement and the rights and duties of the parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the state of California, without regard to principles of conflicts of law. To the extent enforceable at such time, each party waives its respective right to any jury trial with respect to any litigation arising under or in connection with this agreement. [STC 17]

SCHEDULE A
List of Project(s)

TBD

PARAGRAPH 10
to the
COLLATERAL ANNEX
to the
EEI MASTER POWER PURCHASE AND SALE AGREEMENT

Dated June 5, 2014

Between

EXELON GENERATION COMPANY, LLC (“Party A”)

And

MARIN CLEAN ENERGY (“Party B”)

CREDIT ELECTIONS COVER SHEET

Paragraph 10. Elections and Variables [SUBJECT TO CREDIT NEGOTIATIONS]

I. Collateral Threshold.

A. Party A Collateral Threshold.

- \$25,000,000.00 (the “Threshold Amount”); provided, however, that the Collateral Threshold for Party A shall be zero upon the occurrence and during the continuance of an Event of Default or a Potential Event of Default with respect to Party A; and provided further that, in the event that, and on the date that, Party A cures the Potential Event of Default on or prior to the date that Party A is required to post Performance Assurance to Party B pursuant to a demand made by Party B pursuant to the provisions of the Collateral Annex on or after the occurrence of such Potential Event of Default, (i) the Collateral Threshold for Party A shall automatically increase from zero to the Threshold Amount and (ii) Party A shall be relieved of its obligation to post Performance Assurance pursuant to such demand.

- (a) The amount (the “Threshold Amount”) set forth below under the heading “Party A Collateral Threshold” opposite the Credit Rating for [Party A][Party A’s Guarantor] on the relevant date of determination, or (b) zero if on the relevant date of determination [Party A][its Guarantor] does not have a Credit Rating from the rating agency specified below or an Event of Default or a Potential Event of Default with respect to Party A has occurred and is continuing; provided, however, in the event that, and on the date that, Party A cures the Potential Event of Default on or prior to the date that Party A is required to post Performance Assurance to Party B pursuant to a demand made by Party B pursuant to the provisions of the Collateral Annex on or after the occurrence of such Potential Event of Default, (i) the Collateral Threshold for Party A shall automatically increase from zero to the Threshold Amount and (ii) Party A shall be relieved of its obligation to post Performance Assurance pursuant to such demand.

Party A

Collateral Threshold

Credit Rating

\$ _____	_____ (or above)
\$ _____	_____
\$ _____	_____
\$ _____	_____
\$ _____	Below _____

- (a) The amount (the “Threshold Amount”) set forth below under the heading “Party A Collateral Threshold” opposite the Credit Rating for [Party A][Party A’s Guarantor] on the relevant date of determination, and if [Party A’s][Party A’s Guarantor’s] Credit Ratings shall not be equivalent, the lower Credit Rating shall govern or (b) zero if on the relevant date of determination [Party A][its Guarantor] does not have a Credit Rating from the rating agency(ies) specified below or an Event of Default or a Potential Event of Default with respect to Party A has occurred and is continuing; provided, however, in the event that, and on the date that, Party A cures the Potential Event of Default on or prior to the date that Party A is required to post Performance Assurance to Party B pursuant to a demand made by Party B pursuant to the provisions of the Collateral Annex on or after the occurrence of such Potential Event of Default, (i) the Collateral Threshold for Party A shall automatically increase from zero to the Threshold Amount and (ii) Party A shall be relieved of its obligation to post Performance Assurance pursuant to such demand.

Party A

Collateral Threshold

S&P Credit Rating

Moody’s Credit Rating

\$ _____	A- to AAA (or above)	A3 to Aaa (or above)
\$ _____	BBB+	Baa1
\$ _____	BBB	Baa2
\$ _____	BBB-	Baa3
\$ _____	BB+	Ba1
\$0	Below BB+	Below Ba1

- The amount of the Guaranty Agreement dated _____ from _____, as amended from time to time but in no event shall Party A’s Collateral Threshold be greater than \$_____.
- Other – see attached threshold terms

B. Party B Collateral Threshold.

- \$1,000,000.00 (the “Threshold Amount”); provided, however, that the Collateral Threshold for Party B shall be zero upon the occurrence and during the continuance of an Event of Default or a Potential Event of Default with respect to Party B; and provided further that, in the event that, and on the date that, Party B

cures the Potential Event of Default on or prior to the date that Party B is required to post Performance Assurance to Party A pursuant to a demand made by Party A pursuant to the provisions of the Collateral Annex on or after the occurrence of such Potential Event of Default, (i) the Collateral Threshold for Party B shall automatically increase from zero to the Threshold Amount and (ii) Party B shall be relieved of its obligation to post Performance Assurance pursuant to such demand.

- (a) The amount (the “Threshold Amount”) set forth below under the heading “Party B Collateral Threshold” opposite the Credit Rating for [Party B][Party B’s Guarantor] on the relevant date of determination, or (b) zero if on the relevant date of determination [Party B][its Guarantor] does not have a Credit Rating from the rating agency specified below or an Event of Default or a Potential Event of Default with respect to Party B has occurred and is continuing; provided, however, in the event that, and on the date that, Party B cures the Potential Event of Default on or prior to the date that Party B is required to post Performance Assurance to Party A pursuant to a demand made by Party A pursuant to the provisions of the Collateral Annex on or after the occurrence of such Potential Event of Default, (i) the Collateral Threshold for Party B shall automatically increase from zero to the Threshold Amount and (ii) Party B shall be relieved of its obligation to post Performance Assurance pursuant to such demand:

<u>Party B</u>	
<u>Collateral Threshold</u>	<u>Credit Rating</u>
\$ _____	_____ (or above)
\$ _____	_____
\$ _____	_____
\$ _____	_____
\$ _____	Below _____

- (a) The amount (the “Threshold Amount”) set forth below under the heading “Party B Collateral Threshold” opposite the Credit Rating for [Party B][Party B’s Guarantor] on the relevant date of determination, and if [Party B’s][Party B’s Guarantor’s] Credit Ratings shall not be equivalent, the lower Credit Rating shall govern or (b) zero if on the relevant date of determination [Party B][its Guarantor] does not have a Credit Rating from the rating agency(ies) specified below or an Event of Default or a Potential Event of Default with respect to Party B has occurred and is continuing; provided, however, in the event that, and on the date that, Party B cures the Potential Event of Default on or prior to the date that Party B is required to post Performance Assurance to Party A pursuant to a demand made by Party A pursuant to the provisions of the Collateral Annex on or after the occurrence of such Potential Event of Default, (i) the Collateral Threshold for Party B shall automatically increase from zero to the Threshold Amount and (ii) Party B shall be relieved of its obligation to post Performance Assurance pursuant to such demand:

Party A

<u>Collateral Threshold</u>	<u>S&P Credit Rating</u>	<u>Moody's Credit Rating</u>
\$ _____	A- to AAA (or above)	A3 to Aaa (or above)
\$ _____	BBB+	Baa1
\$ _____	BBB	Baa2
\$ _____	BBB-	Baa3
\$ _____	BB+	Ba1
\$0	Below BB+	Below Ba1

- The amount of the Guaranty Agreement dated ____ from _____, as amended from time to time but in no event shall Party B's Collateral Threshold be greater than \$_____.
- Other – see attached threshold terms

II. Eligible Collateral and Valuation Percentage.

The following items will qualify as "Eligible Collateral" for the Party specified:

	<u>Party A</u>	<u>Party B</u>	<u>Valuation Percentage</u>
(A) Cash	[x]	[]	100%
(B) Letters of Credit	[x]	[]	100% unless either (i) a Letter of Credit Default shall have occurred and be continuing with respect to such Letter of Credit, or (ii) twenty (20) or fewer Business Days remain prior to the expiration of such Letter of Credit, in which cases the Valuation Percentage shall be zero (0).
(C) Other	[]	[]	_____%

III. Independent Amount.

A. Party A Independent Amount.

- Party A shall have a Fixed Independent Amount of \$_____. If the Fixed Independent Amount option is selected for Party A, then Party A (which shall be a Pledging Party with respect to the Fixed IA Performance Assurance) will be required to Transfer or cause to be Transferred to Party B (which shall be a Secured Party with respect to the Fixed IA Performance Assurance) Performance Assurance with a Collateral Value equal to the amount of such Independent Amount (the "Fixed IA Performance Assurance"). The Fixed IA Performance Assurance shall not be reduced for so long as there are any outstanding obligations between the Parties as a result of the Agreement, and shall not be taken into account when calculating Party A's Collateral Requirement pursuant to the Collateral Annex. Except as expressly set forth above, the Fixed IA Performance Assurance shall be held and maintained in accordance with, and otherwise be subject to, Paragraphs 2, 5(b), 5(c), 6, 7 and 9 of the Collateral Annex.

- Party A shall have a Full Floating Independent Amount of \$_____. If the Full Floating Independent Amount option is selected for Party A, then for purposes of calculating Party A's Collateral Requirement pursuant to Paragraph 3 of the Collateral Annex, such Full Floating Independent Amount for Party A shall be added by Party B to its Exposure Amount for purposes of determining Net Exposure pursuant to Paragraph 3(a) of the Collateral Annex.
- Party A shall have a Partial Floating Independent Amount of \$_____. If the Partial Floating Independent Amount option is selected for Party A, then Party A will be required to Transfer or cause to be Transferred to Party B Performance Assurance with a Collateral Value equal to the amount of such Independent Amount (the "Partial Floating IA Performance Assurance") if at any time Party A otherwise has a Collateral Requirement (not taking into consideration the Partial Floating Independent Amount) pursuant to Paragraph 3 of the Collateral Annex. The Partial Floating IA Performance Assurance shall not be reduced so long as Party A has a Collateral Requirement (not taking into consideration the Partial Floating Independent Amount). The Partial Floating Independent Amount shall not be taken into account when calculating a Party's Collateral Requirements pursuant to the Collateral Annex. Except as expressly set forth above, the Partial Floating Independent Amount shall be held and maintained in accordance with, and otherwise be subject to, the Collateral Annex.
- Not Applicable

B. Party B Independent Amount.

- Party B shall have a Fixed Independent Amount of \$_____. If the Fixed Independent Amount Option is selected for Party B, then Party B (which shall be a Pledging Party with respect to the Fixed IA Performance Assurance) will be required to Transfer or cause to be Transferred to Party A (which shall be a Secured Party with respect to the Fixed IA Performance Assurance) Performance Assurance with a Collateral Value equal to the amount of such Independent Amount (the "Fixed IA Performance Assurance"). The Fixed IA Performance Assurance shall not be reduced for so long as there are any outstanding obligations between the Parties as a result of the Agreement, and shall not be taken into account when calculating Party B's Collateral Requirement pursuant to the Collateral Annex. Except as expressly set forth above, the Fixed IA Performance Assurance shall be held and maintained in accordance with, and otherwise be subject to, Paragraphs 2, 5(b), 5(c), 6, 7 and 9 of the Collateral Annex.
- Party B shall have a Full Floating Independent Amount of \$_____. If the Full Floating Independent Amount Option is selected for Party B then for purposes of calculating Party B's Collateral Requirement pursuant to Paragraph 3 of the Collateral Annex, such Full Floating Independent Amount for Party B shall be added by Party A to its Exposure Amount for purposes of determining Net Exposure pursuant to Paragraph 3(a) of the Collateral Annex.
- Party B shall have a Partial Floating Independent Amount of \$_____. If the Partial Floating Independent Amount option is selected for Party B, then Party B will be required to Transfer or cause to be Transferred to Party A Performance Assurance with a Collateral Value equal to the amount of such

Independent Amount (the "Partial Floating IA Performance Assurance") if at any time Party B otherwise has a Collateral Requirement (not taking into consideration the Partial Floating Independent Amount) pursuant to Paragraph 3 of the Collateral Annex. The Partial Floating IA Performance Assurance shall not be reduced for so long as Party B has a Collateral Requirement (not taking into consideration the Partial Floating Independent Amount). The Partial Floating Independent Amount shall not be taken into account when calculating a Party's Collateral Requirements pursuant to the Collateral Annex. Except as expressly set forth above, the Partial Floating Independent Amount shall be held and maintained in accordance with, and otherwise be subject to, the Collateral Annex.

Not Applicable

IV. Minimum Transfer Amount.

- A. Party A Minimum Transfer Amount: \$100,000.00
- B. Party B Minimum Transfer Amount: \$100,000.00

V. Rounding Amount.

- A. Party A Rounding Amount: \$100,000
- B. Party B Rounding Amount: \$100,000

VI. Administration of Cash Collateral.

A. Party A Eligibility to Hold Cash.

- Party A shall not be entitled to hold Performance Assurance in the form of Cash. Performance Assurance in the form of Cash shall be held in a Qualified Institution in accordance with the provisions of Paragraph 6(a)(ii)(B) of the Collateral Annex. Party A shall pay to Party B in accordance with the terms of the Collateral Annex the amount of interest it receives from the Qualified Institution on any Performance Assurance in the form of Cash posted by Party B.
- Party A shall be entitled to hold Performance Assurance in the form of Cash provided that the following conditions are satisfied: (1) it is not a Defaulting Party, (2), Party A has a Credit Rating of at least BBB- from S&P and Baa3 from Moody's; (3) Cash shall be held only in any jurisdiction within the United States; and (4) other, if any. To the extent Party A is entitled to hold Cash, the Interest Rate payable to Party B on Cash shall be as selected below:

Party A Interest Rate.

- Federal Funds Effective Rate - the rate for that day opposite the caption "Federal Funds (Effective)" as set forth in the weekly statistical release designated as H.15(519), or any successor publication, published by the Board of Governors of the Federal Reserve System.

Other - _____

B. Party B Eligibility to Hold Cash.

- Party B shall not be entitled to hold Performance Assurance in the form of Cash. Performance Assurance in the form of Cash shall be held in a Qualified Institution in accordance with the provisions of Paragraph 6(a)(ii)(B) of the Collateral Annex. Party B shall pay to Party A in accordance with the terms of the Collateral Annex the amount of interest it receives from the Qualified Institution on any Performance Assurance in the form of Cash posted by Party A.

- Party B shall be entitled to hold Performance Assurance in the form of Cash provided that the following conditions are satisfied: (1) it is not a Defaulting Party, (2), [Party B] [Party B's Guarantor] has a Credit Rating of at least BBB- from S&P and Baa3 from Moody's; (3) Cash shall be held only in any jurisdiction within the United States; and (4) [other, if any]. To the extent Party B is entitled to hold Cash, the Interest Rate payable to Party A on Cash shall be as selected below:

Party B Interest Rate.

- Federal Funds Effective Rate - the rate for that day opposite the caption "Federal Funds (Effective)" as set forth in the weekly statistical release designated as H.15(519), or any successor publication, published by the Board of Governors of the Federal Reserve System.

- Other - _____

VII. Notification Time.

- Other – 1:00 p.m., New York time

VIII. General.

With respect to the Collateral Threshold, Independent Amount, Minimum Transfer Amount and Rounding Amount, if no selection is made in this Paragraph 10 with respect to a Party, then the applicable amount in each case for such Party shall be zero (0). In addition, with respect to the "Administration of Cash Collateral" section of this Paragraph 10, if no selection is made with respect to a Party, then such Party shall not be entitled to hold Performance Assurance in the form of Cash and such Cash, if any, shall be held in a Qualified Institution pursuant to Paragraph 6(a)(ii)(B) of the Collateral Annex. If a Party is eligible to hold Cash pursuant to a selection in this Paragraph 10 but no Interest Rate is selected, then the Interest Rate for such Party shall be the Federal Funds Effective Rate as defined in Section VI of this Paragraph 10.

IX. Modifications.

Paragraph 1. Definitions.

- (i) The definition of "Downgraded Party" shall be amended by replacing "6(a)(i)" with "6(a)(ii)".

- (ii) The definition of "Letter of Credit" is deleted in its entirety and replaced with the definition set forth in the EEI Cover Sheet.

- (iii) The definition of “Qualified Institution” is deleted in its entirety and replaced with the definition set forth in the EEI Cover Sheet.

Paragraph 5. Reduction and Substitution of Performance Assurance.

Delete “before the Notification Time on a Business Day” in Paragraph 5(a) and replace it with “before the Notification Time on a Local Business Day”.

Paragraph 6. Administration of Performance Assurance.

Paragraph 6(a)(ii)(A) is amended by inserting “(other than subparagraph (B) below)” after “the provisions of this Paragraph 6(a)(ii)” in the first line thereof.

Paragraph 6(a)(ii)(B) is amended by deleting the phrase “to perfect the security interest of the non-Downgraded Party” in line 11 and replacing it with “to perfect the security interest of the Downgraded Party”.

Paragraph 7. Exercise of Rights Against Performance Assurance

Paragraph 7(b) is hereby deleted in its entirety and renumbering the remaining sections of Paragraph 7.

New Paragraph 7(b) shall be amended by inserting the word “The” prior to the word “Secured” in the first 1st line thereof.

Paragraph 8. Disputed Calculations.

Paragraph 8(b) is amended by replacing the term “Secured Party” with “Pledging Party” at the beginning of the 2nd line.

Paragraph 9. Covenants; Representations and Warranties; Miscellaneous.

Paragraph 9(a) - The parenthetical that begins in the first line and ends in the third line is hereby deleted in its entirety.

Paragraph 9(d) is amended by inserting the word “Party” between the words “other” and “in” on the 9th line.

Errata. This Collateral Annex incorporates, by reference, the changes published in the EEI Errata, as amended from time to time.

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IN WITNESS WHEREOF, the Parties have caused this Collateral Annex to be duly executed as of the date first above written.

Party A: EXELON GENERATION COMPANY, LLC Party B: MARIN CLEAN ENERGY

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____