SILICON VALLEY CLEAN ENERGY

Silicon Valley Clean Energy Authority
Board of Directors Meeting
Wednesday, January 10, 2018
7:00 pm

Cupertino Community Hall
10350 Torre Avenue
Cupertino, CA

AGENDA

Call to Order

Roll Call

Public Comment on Matters Not Listed on the Agenda

The public may provide comments on any item not on the Agenda. Speakers are limited to 3 minutes each.

Consent Calendar (Action)

1a) Approve Minutes of the December 13, 2017, Board of Directors Meeting

1b) Adopt Resolution Amending the SVCE Operating Rules and Regulations to Change the Date of the Annual Meeting and the Appointment of Officers and Committee Members and Conform the Provisions Regarding the Holding of Regular Meetings to Board Resolution Nos. 2016-14 and 2017-11

1c) Adopt Resolution Amending Conflict of Interest Code to Replace Position of Regulatory/Legislative Analyst with Manager of Regulatory & Legislative Affairs and Add Power Resource Planning & Programs Analyst

1d) Authorize CEO to Execute Master Agreement with Southern California Edison Company (SCE) to Enable Future Acquisition of Resource Adequacy Capacity

1e) Confirm Appointment of Milpitas Representative to Customer Program Advisor Group

1f) November 2017 Treasurer Report

Regular Calendar

2) Executive Committee Report (Discussion)

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333 W El Camino Real
Suite 290
Sunnyvale, CA 94087

SILICON VALLEY CLEAN ENERGY

3) CEO Report (Discussion)
4) Recent Regulatory Developments (Discussion)
5) Report by General Counsel of Conflict of Interest Question Concerning ZGlobal (Discussion)

Board Member Announcements and Direction on Future Agenda Items

Adjourn

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Pursuant to the Americans with Disabilities Act, if you need special assistance in this meeting, please contact the Clerk for the Authority at (408) 721-5301 x1005. Notification 48 hours prior to the meeting will enable the Authority to make reasonable arrangements to ensure accessibility to this meeting. (28 CFR 35.105 ADA Title II).

Silicon Valley Clean Energy Authority
Board of Directors Meeting
Wednesday, December 13, 2017
7:00 pm

Cupertino Community Hall
10350 Torre Avenue
Cupertino, CA

DRAFT MINUTES

Call to Order

Chair Rennie called the meeting to order at 7:02 p.m.

Roll Call

Present:
Chair Rob Rennie, Town of Los Gatos
Vice Chair Daniel Harney, City of Gilroy
Director Courtenay C. Corrigan, Town of Los Altos Hills
Alternate Director Anthony Eulo, City of Morgan Hill
Director Jim Griffith, City of Sunnyvale
Director Margaret Abe-Koga, City of Mountain View (arrived at 7:08 p.m.)
Director Rod Sinks, City of Cupertino
Director Liz Gibbons, City of Campbell
Director Jeannie Bruins, City of Los Altos
Director Burton Craig, City of Monte Sereno

Absent:
Director Dave Cortese, County of Santa Clara
Director Howard Miller, City of Saratoga

Public Comment on Matters Not Listed on the Agenda

No Speakers.

Consent Calendar

Director Gibbons requested to pull Items 1d and 1e; Director Bruins and General Counsel Greg Stepanicich requested to pull Item 1h.

Chair Rennie opened public comment for those wishing to pull an item from the consent calendar.
No speakers.
Chair Rennie closed public comment for those wishing to pull an item from the consent calendar.

MOTION: Director Bruins moved and Director Craig seconded the motion to approve the Consent Calendar with the exception of Items 1d, 1e, and 1h.

The motion carried unanimously with Directors Abe-Koga, Cortese, and Miller absent.

1a) Approve Minutes of the November 29, 2017 Board of Directors Meeting
1b) Approve Employment Agreement with Chief Executive Officer
1c) Authorize CEO to Approve Agreement with Mail R Us dba Ad-Vantage Marketing Inc., for Printing and Mailing Services
1f) Adopt Resolution Amending the Adopted Organization Chart to Add the Reclassified Position of Manager of Regulatory and Legislative Affairs, Remove Position of Regulatory/Legislative Analyst, and Amend Salary Ranges
1g) Information Technology Security Audit Update and Results
1i) October 2017 Treasurer Report

1d) Authorize CEO to Approve Agreement with REACH Strategies for Facilitation Support Services

Interim CEO Don Eckert and Director of Marketing and Public Affairs Alan Suleiman provided information and responded to Board questions.

Board members provided comments including a suggestion of having staff facilitate the CPAG meetings, concern of the cost of the contract, the location of the vendor and selection process, a suggestion of bringing in an outside facilitator after the CPAG has met and the committee decides a facilitator is needed, and staff's involvement in the committee.

Chair Rennie opened public comment.
No speakers.
Chair Rennie closed public comment.

MOTION: Alternate Director Eulo moved and Director Gibbons seconded the motion to approve the agreement with REACH Strategies not to exceed $20,000 with the intent that they would set the groundwork for the CPAG as well as set the groundwork for future advisory bodies and sub-groups that SVCE may have.

RESTATED MOTION: Alternate Director Eulo restated the motion to proceed with the proposed consultant agreement with a cap at $20,000 with a specific eye toward the consultant doing work that would lay the groundwork for the CPAG and future committees.

FRIENDLY AMENDMENT: Director Corrigan suggested a friendly amendment to set the agreement at $10,000.
Alternate Director Eulo accepted; Director Gibbons declined to accept the friendly amendment.

Community Outreach Manager Pamela Leonard provided additional comments.

The motion failed by the following roll call vote:

Yes: 5 - Director Corrigan
Alternate Director Eulo
Chair Rennie
Director Gibbons
Director Craig

No: 5 - Director Griffith
Director Abe-Koga
Director Sinks
Vice Chair Harney
Director Bruins

Absent: 2 - Director Cortese
Director Miller

MOTION: Director Corrigan moved and Director Abe-Koga seconded the motion not to exceed $10,000 for facilitation services.

FRIENDLY AMENDMENT: Director Bruins suggested a friendly amendment if the committee, through the committee chair, determines that they would be better served by bringing in a facilitator, staff is authorized to hire for facilitation services.
Director Corrigan and Director Abe-Koga accepted the friendly amendment.

The motion carried by the following roll call vote:

Yes: 7 - Director Corrigan
Alternate Director Eulo
Director Abe-Koga
Chair Rennie
Vice Chair Harney
Director Bruins
Director Craig

No: 3 - Director Griffith
Director Sinks
Director Gibbons

Absent: 2 – Director Cortese
Director Miller

RESTATED MOTION: At the request of the Board, Director Corrigan restated her motion to allocate $10,000 to the subcommittee to be used as they see fit to facilitate their meetings.

1e) Adopt Resolution Approving Addendum No. 1 to the Community Choice Aggregation Implementation Plan and Statement of Intent

Interim CEO Eckert responded to Board questions.

MOTION: Alternate Director Eulo moved and Director Sinks seconded the motion to adopt Resolution 2017-12 approving Addendum No. 1 to the Community Choice Aggregation Implementation Plan and Statement of Intent and authorize submittal to the California Public Utilities Committee (CPUC).

Chair Rennie opened public comment.
No speakers.
Chair Rennie closed public comment.

The motion carried unanimously with Directors Cortese and Miller absent.

1h) Approve to Move the Annual Appointment of Chair/Vice Chair, Board Officers, and Committee Assignments to February Board Meeting

General Counsel Stepanicich clarified the purpose of the item.

The Board discussed appointment timing.

MOTION: Director Bruins moved and Director Gibbons seconded the motion to approve to move the annual appointment of Chair/Vice Chair, Board officers, and Committee members to the February regular Board meetings beginning in 2018.

Chair Rennie opened public comment.
No speakers.
Chair Rennie closed public comment.

The motion carried unanimously with Directors Cortese and Miller absent.

Chair Rennie announced a request from staff to consider Item 7 as the first item on the regular calendar. Without objection, the Board heard Item 7.

Regular Calendar

7) CEO Report (Discussion)

Interim CEO Eckert introduced the item and Manager of Regulatory and Legislative Affairs Hilary Staver presented a PowerPoint presentation which included information on the California Public Utilities Commission's Resolution E-4907. Manager of Regulatory and Legislative Affairs Staver responded to Board questions.

Interim CEO Eckert provided the CEO report which included an update on a letter sent to the California Air Resources Board (CARB) regarding CCAs receiving credits for supplying energy for electric vehicles, the "Watts For Lunch" inaugural event, and press release updates on Milpitas joining SVCE as well as the announcement of a new CEO. Interim CEO Eckert thanked Director Corrigan for attending a meeting with Assemblymember Marc Berman.

Chair Rennie opened public comment.

Bruce Karney, Mountain View resident, thanked Manager of Regulatory and Legislative Affairs Staver for her work and noted he would alert the advocacy community to file comments with the CPUC and attend the rally at the CPUC Commissioners' meeting.

Chair Rennie closed public comment.

Following Item 7, the Board considered Item 2.

2) Confirm Appointments to Customer Program Advisory Group (Action)

Interim CEO Eckert presented the item.

Chair Rennie opened public comment.
No speakers.
Chair Rennie closed public comment.

MOTION: Alternate Director Eulo moved and Director Abe-Koga seconded the motion to approve the appointment of selected applicants to serve on the Silicon Valley Clean Energy (SVCE) Customer Program Advisory Group (CPAG).

The motion carried unanimously with Directors Cortese and Miller absent.

Newly appointed members of the committee from the audience were acknowledged by the Board.

3) Approve Method for Adjustment of 2018 Rates (Action)

Interim CEO Eckert introduced the item. Manager of Account Services Don Bray presented the item with a PowerPoint presentation. Manager of Account Services Bray responded to Board questions.

Chair Rennie opened public comment.
No speakers.
Chair Rennie closed public comment.

Chair Rennie summarized Board comments which included the Board being generally happy with being able to choose from the various scenarios presented and the understanding that PG&E isn't finished

changing rates. Director Sinks added that a staff recommendation would be appropriate when brought back to the Board.

Director Craig noted that a similar chart (as presented to the Board) posted for the public on SVCE's website would be useful.

4) Review Audit and Finance Committee Structure (Action)

Interim CEO Eckert presented the item; the Board discussed the make up of financial committees in their respective agencies.

MOTION: Director Bruins moved and Alternate Director Eulo seconded the motion to approve option 1 of the staff report, eliminating the option for committee alternates to serve on the Audit and Finance Committee and amending the motion made on June 14, 2017 to exclude the possibility of alternates for this committee.

Chair Rennie opened public comment.
No speakers.
Chair Rennie closed public comment.

General Counsel Stepanicich provided additional information regarding the process for restructuring the committee if the Board determined they would like to change the current policy.

FRIENDLY AMENDMENT: Director Sinks suggested a friendly amendment to give direction to staff and the committee to work on a process to bring in outside financial expertise and bring back to the Board necessary language, amendments, changes, etc. to affect amending our financial procedures.
Director Bruins declined to accept the friendly amendment.

The motion carried unanimously with Directors Cortese and Miller absent.

Without objection, Director Bruins requested to give direction to the Audit and Finance Committee to consider the discussion and come back with a recommendation for structure to the Board.

5) Approve Scholarship Funding for E-Bike Competition (Action)

Community Outreach Manager Leonard introduced the item and Kelly Hoogland, SVCE Climate Corps Fellow, presented a PowerPoint presentation. Hoogland responded to Board questions. Community Outreach Manager Leonard provided additional information and responded to Board questions.

Board comments included timing of the competition, amount of scholarship money being offered, concerns regarding the overall timeline presented, partnering with community businesses, targeting youth commissions, providing materials and stock bikes, allocating money for a documentation crew, and a suggestion of allowing the community to ride an obstacle course with the bikes after the close of the competition at community events.

Chair Rennie opened public comment.

Bruce Karney commented the budget should include all costs for the competition and his belief that the scholarship awards are too low; Karney requested staff consider what could be done with the bikes when the competition concludes.

Director Gibbons noted that a financial summary with a rundown of the full budget in the staff report would have been helpful for the Board.

MOTION: Director Gibbons moved and Vice Chair Harney seconded the motion to request staff come back to the next meeting with a more flushed out idea of the E-Bike competition.

Following discussion, Director Gibbons amended her motion.

AMENDED MOTION: Director Gibbons moved to accept the staff recommendation for the project, with a budget not to exceed $35,000, with the details to be worked out by staff.
Vice Chair Harney accepted the amended motion.

Director Sinks noted he would like to give staff flexibility to revise the schedule or implementation details; Director Gibbons confirmed that the motion was implicit that staff is being given the opportunity to scope the project with the $35,000 budget.

Board members confirmed with the maker of the motion that direction to staff included moving forward with a "Bike to the Future" themed event with a budget not to exceed $35,000. Director Bruins suggested to include the project be done in 2018; Director Gibbons declined the suggestion.
The motion carried unanimously with Directors Cortese and Miller absent.

Board members requested a full staff report for future agenda items.

6) Executive Committee Report (Discussion)

Chair Rennie reported the Executive Committee did not meet.

Chair Rennie opened public comment.
No speakers.
Chair Rennie closed public comment.

8) Budget for Decarbonization of Existing Power Contracts (Discussion)

Interim CEO Eckert introduced Power Contracts and Compliance Specialist Dennis Dyc-O'Neal who presented the item and responded to Board questions. Manager of Account Services Bray provided additional information regarding carbon emitting numbers per kWh in comparison to PG&E and the national average.

Board members commented they were not in favor of paying at this time and suggested staff continue the process of evaluating current power resources and efforts to decarbonize.

Chair Rennie opened public comment.
No speakers.
Chair Rennie closed public comment.

9) 2017 Community Engagement Recap (Discussion)

Community Outreach Manager Leonard presented a PowerPoint and responded to Board questions.

Chair Rennie opened public comment.
No speakers.
Chair Rennie closed public comment.

Board Member Announcements and Direction on Future Agenda Items

Director Sinks requested a status update on the investigation regarding one of SVCE's power suppliers; General Counsel Stepanicich commented that a report would be brought to the Board at the January Board meeting.

Director Bruins acknowledged and thanked staff for their responsiveness to Item 1g: *Information Technology Security Audit Update and Results*.

Director Bruins inquired if there is a current policy on whom speaks to the media; Interim CEO Eckert noted that Community Outreach Manager Leonard is the designated person to handle media calls and Board Clerk Andrea Pizano is the designated person for public records requests. Director Bruins requested consideration for guidance for Board members in handling requests; Director Bruins confirmed with Interim CEO Eckert that the process for redacting information being posted on SVCE's website has been resolved. Director Bruins thanked staff for being responsive.

Manager of Account Services Bray introduced Account Representative Peyton Parks; Account Representative Parks recited a holiday poem.

Adjourn

Chair Rennie adjourned the meeting at 9:50 p.m.

SILICON VALLEY CLEAN ENERGY

Staff Report – Item 1b

To:	Silicon Valley Clean Energy Board of Directors
From:	Donald Eckert, Interim CEO
Item 1b:	**Adopt Resolution Amending the Operating Rules and Regulations to Change the Date of the Annual Meeting and the Appointment of Officers and Committee Members and Conform the Provisions Regarding the Holding of Regular Meetings to Board Resolution Nos. 2016-14 and 2017-11**
Date:	1/10/2018

RECOMMENDATION

Adopt Resolution 2018-01 amending the SVCE Operating Rules and Regulations to change the date of the annual meeting, appointment of officers, appointment of committee members, and conform the provisions regarding the holding of regular meetings to Board Resolutions 2016-14 and 2017-11.

BACKGROUND & DISCUSSION

At the December 13, 2017 Board of Directors meeting, the Board approved moving the annual appointment of the Chair/Vice Chair, Board officers, and Committee members to the February regular Board meetings beginning in 2018.

Resolutions 2016-14 and 2017-11 established the date, time and place of its regular meetings and the procedure to change meeting locations when the regular location becomes unavailable. The language of Section 1 of Article V of the ORR is being amended to conform to these resolutions.

The Operating Rules and Regulations Article VI "Amendments" state that a proposed amendment shall not be finally acted upon unless each member of the Board has received written notice of the amendment at least 10 days prior to the date of the meeting at which final action on the amendment is to be taken; this notice was sent via email on Dec. 28.

CONCLUSION

Adopting the proposed resolution will procedurally finalize the approval of the amendment to the ORR to reflect previous discussions of the Board to change the annual meeting date, appointment of officers, and appointment of committee members to February, and allow the Board Chair to select an alternative meeting place when the meeting place for regular meetings is unavailable.

RESOLUTION NO. 2018-01

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SILICON VALLEY CLEAN ENERGY AUTHORITY AMENDING THE OPERATING RULES AND REGULATIONS TO CHANGE THE DATE OF THE ANNUAL MEETING AND THE APPOINTMENT OF OFFICERS AND COMMITTEE MEMBERS AND CONFORM THE PROVISIONS REGARDING THE HOLDING OF REGULAR MEETINGS TO BOARD RESOLUTION NOS. 2016-14 AND 2017-11

WHEREAS, the Silicon Valley Clean Energy Authority ("Authority") was formed on March 31, 2016 pursuant to a Joint Powers Agreement to study, promote, develop, conduct, operate, and manage energy programs in Santa Clara County; and

WHEREAS, Section 2.5.11 of the Joint Powers Agreement provides for adoption by the Board of Directors of Operating Rules and Regulations; and

WHEREAS, the Board of Directors adopted Resolution No. 2016-04 on June 8, 2016 approving the initial Operating Rules and Regulations for the Authority; and

WHEREAS, the Board at its December 13, 2017 meeting directed that the Operating Rules and Regulations be amended to change the Board's annual meeting (at which officers and committee members are appointed) from January to February of each year in order to provide sufficient time at the beginning of each year for the member governing bodies to confirm their representatives to the Board of Directors; and

WHEREAS, the Board also desires to conform Section 1 of Article V relating to the holding of regular meetings to Board Resolutions Nos. 2016-14 and 2017-11 which established the date, time and place of its regular meetings and the procedure to change meeting locations when the regular location becomes unavailable.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE SILICON VALLEY CLEAN ENERGY AUTHORITY DOES HEREBY RESOLVE, DETERMINE, AND ORDER AS FOLLOWS:

Section 1. Sections 1, 2 and 3 of Article III of the Operating Rules and Regulations are hereby amended to read:

> Section 1. Appointment of Chair and Vice-Chair. The Board shall appoint from among themselves by majority vote a Chair and Vice-Chair. The Chair and Vice-Chair shall be appointed for one-year terms expiring at the annual meeting held in February of each year. As provided by the Agreement, there are no limits on the number of terms that a Board member may serve as Chair or Vice-Chair.
>
> Section 2. Appointment of Secretary and Treasurer. The Secretary and Treasurer shall be appointed by the Board for one year terms expiring at the annual meeting held in February of each year.

Section 3. Extension of Term of Office. If for any reason, the appointment of a Board officer is not made in February of any year at the annual meeting, such officer shall continue to serve in his or her position until an appointment is made at a meeting of the Board.

Section 2. Section 1 of Article IV of the Operating Rules and Regulations are hereby amended to read:

Section 1. Establishment of Committees. The Executive Committee and all other Committees of the Board shall be selected as provided by Sections 4.6 and 4.7 of the Agreement. Each duly established Committee may establish any Standing or Ad Hoc Committees determined to be appropriate or necessary. The duties and authority of all Committees shall be subject to the approval and direction of the Board. The term of office for each Committee established by the Board shall be one year expiring at the annual meeting held in February of each year. There are no limits on the number of terms that a Director may serve on a Committee. If for any reason, the appointment of Committee members is not made in February of any year at the annual meeting, such Committee members shall continue to serve in their positions until an appointment is made at a meeting of the Board.

Section 3. Section 1 of Article V of the Operating Rules and Regulations are hereby amended to read:

Section 1. Regular Meetings. The regular meetings of the Board of Directors of Authority shall be held on the second Wednesday of each month at the hour of 7 p.m. at the Cupertino Community Hall, located at 10350 Torre Avenue, in Cupertino, California. In the event that the Cupertino Community Hall is not available for a regular or adjourned regular meeting, the Chair of the Board may designate an alternative meeting place within the jurisdiction of the Authority after consultation with the Chief Executive Officer on available meeting locations.

Section 4. Section 3 of Article V of the Operating Rules and Regulations are hereby amended to read:

Section 3. Annual Meeting. Commencing in 2018, the Board shall hold an annual meeting at the regular February meeting of each year at which time it will appoint Board officers and Committee members.

ADOPTED AND APPROVED this 10th day of January, 2018.

Chair

ATTEST:

Clerk

SILICON VALLEY CLEAN ENERGY

Staff Report – Item 1c

To: Silicon Valley Clean Energy Board of Directors

From: Donald Eckert, Interim CEO

Item1c: Adopt Resolution Amending Conflict of Interest Code to Replace Position of Regulatory/Legislative Analyst with Manager of Regulatory & Legislative Affairs and Add Power Resource Planning & Programs Analyst

Date: 1/10/2018

RECOMMENDATION

Adopt Resolution 2018-02 amending the SVCEA conflict of interest code to replace the position of Regulatory/Legislative Analyst with the position of Manager of Regulatory & Legislative Affairs and add Power Resource Planning & Programs Analyst.

BACKGROUND

Shortly after the formation of SVCEA, the Board of Directors adopted a conflict of interest code as required by the Political Reform Act, commencing at Government Code Section 81000. The code lists the positions within the Authority that are required to file statements of economic interests (Form 700). As a joint powers authority with members located entirely within Santa Clara County, the County Board of Supervisors is the conflict code reviewing body that is required to approve all changes to the conflict of interest code. County Counsel has advised that when new positions are added to the conflict code, a new resolution must be adopted approving a new conflict of interest code with the new position.

The Manager of Regulatory & Legislative Affairs reclassified position was approved at the September 2017 Board meeting as part of the Fiscal Year 2017-18 Operating budget; Resolution 2017-10 was adopted at the December 2017 Board meeting amending the organization chart to reflect the addition as well as the removal of the Regulatory/Legislative Analyst position.

The Power Resource Planning & Programs Analyst is an existing position that has been identified to file a statement of economic interest once hired. Rather than amend the code when these vacancies are filled (there are two positions budgeted under this title), staff would like to submit one amendment to the Conflict of Interest Code that would reflect these changes.

ANALYSIS & DISCUSSION

The position of Regulatory/Legislative Analyst within the SVCEA staff has been replaced by the position of Manager of Legislative & Regulatory Affairs and the Power Resource Planning & Programs Analyst positions have been identified to file a statement of economic interest. In accordance with the requirements of the Political Reform Act and the County of Santa Clara, a new conflict of interest code must be adopted by resolution which includes the newly created position as well as any changes to the existing Conflict of Interest Code. The attached resolution simply amends Appendix A to the code to remove the position of Regulatory/Legislative Analyst, and add the position of Manager of Legislative & Regulatory Affairs and Power Resource Planning & Programs Analyst.

ATTACHMENT

1. Resolution 2018-02 Amending the Authority's Conflict of Interest Code to Remove One Position and Add Two Positions

RESOLUTION NO. 2018-02

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SILICON VALLEY CLEAN ENERGY AUTHORITY AMENDING THE AUTHORITY'S CONFLICT OF INTEREST CODE TO REMOVE ONE POSITION AND ADD TWO POSITIONS

WHEREAS, the Silicon Valley Clean Energy Authority ("Authority") was formed on March 31, 2016 pursuant to a Joint Powers Agreement to study, promote, develop, conduct, operate, and manage energy programs in Santa Clara County; and

WHEREAS, the Political Reform Act, Government Code Section 81000, *et seq*., (the "Political Reform Act") requires each public agency in California, including the Authority, to adopt and promulgate a conflict of interest code; and

WHEREAS, the Board of Directors of the Authority has adopted a conflict of interest code and has amended this code to add new positions and clarify the reporting requirements with the most recent code adopted by Resolution 2017-08; and

WHEREAS, the Board of Directors, after consultation with the County of Santa Clara as its code reviewing body, desires to remove one position and add two positions to the list of designated positions in Appendix A.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Authority rescinds Resolution No. 2017-08 and adopts the following attached Conflict of Interest Code including its Appendices of Designated Positions and Disclosure Categories.

BE IT FURTHER RESOLVED that The Board of Directors of the Authority hereby directs the Secretary of the Board to coordinate the preparation of a revised Conflict of Interest Code in succeeding even-numbered years following notice and instructions from the County of Santa Clara as the code-reviewing body for the Authority, in accordance with the requirements of Government Code Sections 87306 and 87306.5. Future revisions to the Conflict of Interest Code should reflect changes in employee or official designations. If no revisions to the Code are required, the Authority shall submit a response as indicated in the instructions provided by the County of Santa Clara no later than October 1st of the same year, stating that amendments to the Authority's Conflict of Interest Code are not required.

ADOPTED AND APPROVED this 10th day of January, 2017.

_____
Chair

ATTEST:

_____
Clerk

SILICON VALLEY CLEAN ENERGY AUTHORITY
CONFLICT OF INTEREST CODE

The Political Reform Act (Government Code § 81000, *et seq.*, hereinafter referred to as the Act) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission ("FPPC") has adopted a regulation (2 California Code of Regulations § 18730) which contains the terms of a standard conflict of interest code, which can be incorporated by reference in an agency's code. After public notice and hearing, the standard code may be amended by the FPPC to conform to amendments in the Act. Therefore, the terms of 2 California Code of Regulations § 18730 and any amendments to it duly adopted by the FPPC are hereby incorporated by reference. This regulation and the text here designating positions and establishing disclosure categories shall constitute the conflict of interest code of the Silicon Valley Clean Energy Authority ("Authority").

The most current version of 2 Cal. Code of Regs. Section 18730 is available on the website of the Fair Political Practices Commission (http://www.fppc.ca.gov/content/dam/fppc/NS-Documents/LegalDiv/Regulations/Index/Chapter7/Article2/18730.pdf).

Individuals holding a designated position shall file their Statements of Economic Interests with the Authority's Filing Official, which will make the Statements available for public inspection and reproduction subject to Government Code section 81008. If Statements are received in signed paper format, the Authority's Filing Official shall make and retain a copy and forward the original Statements to the Filing Officer, the County of Santa Clara Clerk of the Board of Supervisors. If Statements are electronically filed using the County of Santa Clara's Form 700 e-filing system, both the Authority's Filing Official and the County of Santa Clara Clerk of the Board of Supervisors will receive access to the e-filed Statements simultaneously.

SILICON VALLEY CLEAN ENERGY AUTHORITY
CONFLICT OF INTEREST CODE

APPENDIX "A"

DESIGNATED POSITIONS

Designated Position	Assigned Disclosure Category
Member of Board of Directors	1
Alternate Member of Board of Directors	1
Chief Executive Officer	1
General Counsel	1
Account Services Manager	2
Community Outreach Manager	2
Director of Administration & Finance	1
Director of Marketing & Public Affairs	2
Director of Power Resources	1
Finance Manager	1
General Counsel & Director of Government Affairs	1
Manager of Regulatory & Legislative Affairs	2
Power Contracts & Compliance Specialist	1
Power Resource Planning & Programs Analyst	1
Consultant	3
Newly Created Position	*

* Newly Created Position

A newly created position that makes or participates in the making of governmental decisions that may foreseeably have a material effect on any financial interest of the position-holder, and which specific position title is not yet listed in the Authority's conflict

of interest code is included in the list of designated positions and shall disclose pursuant to the broadest disclosure category in the code, subject to the following limitation: The Chief Executive Officer of the Authority may determine in writing that a particular newly created position, although a "designated position," is hired to perform a range of duties that are limited in scope and thus is not required to fully comply with the broadest disclosure requirements, but instead must comply with more tailored disclosure requirements specific to that newly created position. Such written determination shall include a description of the newly created position's duties and, based upon that description, a statement of the extent of disclosure requirements. The Chief Executive Officer's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict-of-interest code. (Gov. Code Section 81008.)

As soon as the Authority has a newly created position that must file Statements of Economic Interests, the Authority's Filing Official shall contact the County of Santa Clara Clerk of the Board of Supervisors Form 700 division to notify it of the new position title to be added in the County's electronic Form 700 record management system, known as eDisclosure. Upon this notification, the Clerk's office shall enter the actual position title of the newly created position into eDisclosure and the Authority's Filing Official shall ensure that the name of any individual(s) holding the newly created position is entered under that position title in eDisclosure.

Additionally, within 90 days of the creation of a newly created position that must file Statements of Economic Interests, the Authority shall update this conflict-of-interest code to add the actual position title in its list of designated positions, and submit the amended conflict of interest code to the County of Santa Clara Office of the County Counsel for code-reviewing body approval by the County Board of Supervisors. (Gov. Code Section 87306.)

SILICON VALLEY CLEAN ENERGY AUTHORITY
CONFLICT OF INTEREST CODE

APPENDIX "B"

DISCLOSURE CATEGORIES

Designated positions must report financial interests in accordance with the assigned disclosure categories.

Category 1: Persons in this category shall disclose:

(a) investments and business positions in business entities, and income (including gifts, loans, and travel payments) from sources that contract with the Authority, or that provide, plan to provide, or have provided during the previous two years, facilities, goods, technology, equipment, vehicles, machinery, or services, including training or consulting services, of the type utilized by the Authority; and

(b) all interests in real property located: in whole or in part within the jurisdiction of the Silicon Valley Clean Energy Authority, or within two miles of the borders of any of the parties to the Joint Powers Agreement for the Authority, or within two miles of any land owned or used by the Authority.

Category 2: Persons in this category shall disclose investments and business positions in business entities, and income (including gifts, loans, and travel payments) from sources that contract with the Authority, or that provide, plan to provide, or have provided during the previous two years, facilities, goods, technology, equipment, vehicles, machinery, or services, including training or consulting services, of the type utilized by the Authority.

Category 3: Each Consultant, as defined for purposes of the Political Reform Act, shall disclose pursuant to the broadest disclosure category in the Authority's conflict of interest code subject to the following limitation: The Chief Executive Officer of the Authority may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that are limited in scope and thus is not required to comply fully with the disclosure requirements of the broadest disclosure category, but instead must comply with more tailored disclosure requirements specific to that consultant. Such a written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Chief Executive Officer's written determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

SILICON VALLEY CLEAN ENERGY

Staff Report – Item 1d

To:	Silicon Valley Clean Energy Board of Directors
From:	Donald Eckert, Interim CEO
Item 1d:	**Authorize CEO to Execute Master Agreement with Southern California Edison Company (SCE) to Enable Future Acquisition of Resource Adequacy Capacity**
Date:	1/10/2018

RECOMMENDATION

Authorize the Interim Chief Executive Officer to execute a master power purchase agreement with Southern California Edison Company (SCE) to enable future purchases of Resource Adequacy Capacity as necessary to meet SVCE's regulatory obligations, with terms consistent with those contained in the attached agreement.

BACKGROUND & DISCUSSION

This agreement uses the Edison Electric Institute Master Power Purchase and Sale Agreement (EEI Master Agreement) template, with certain negotiated modifications consistent with those in previously authorized EEI Master Agreements in place with other counterparties. Staff is seeking approval of this EEI Master Agreement and associated Collateral Annex, which will set forth the general terms and conditions for future transactions between SVCE and SCE.

SVCE must ensure sufficient generation capacity is available to reliably meet the electric needs of its customers. Under the state's Resource Adequacy program, all load serving entities must commit to making electric generators available for dispatch by the California Independent System Operator (CAISO). Resource Adequacy Capacity is a separate product from energy, and no entitlements to energy or other attributes are conveyed through the purchase of Resource Adequacy Capacity. The Resource Adequacy Capacity obligation is equivalent to 115% of the projected load serving entity's peak demand for each month. A portion of the total Resource Adequacy obligation must be met with Resource Adequacy Capacity meeting certain locational and operational attributes in order to support local area reliability and ensure that sufficient amounts of flexible generating units are available for dispatch by the CAISO.

SVCE needs to make month-ahead and year-ahead filings to the CPUC demonstrating its compliance with the Resource Adequacy program. SVCE complies with the Resource Adequacy by submitting its load forecasts to the California Energy Commission. In turn, the CPUC issues SVCE's Resource Adequacy Compliance obligations.

This agreement will enable future confirmation agreements to be entered into with SCE, should they happen to have available Resource Adequacy Capacity at reasonable prices. These confirmation agreements, if any, would specify the transaction details for the purchase of Resource Adequacy Capacity, as needed to satisfy SVCE's monthly and yearly requirements, as applicable.

Agenda Item: 1d **Agenda Date: 1/10/2018**

CONCLUSION

SVCE has a regulatory compliance obligation necessitating execution of contracts for Resource Adequacy Capacity. Board authorization of this Master EEI will enable purchases of Resource Adequacy Capacity and thus enable compliance with SVCE's Resource Adequacy obligations.

ATTACHMENTS

1. EEI Master Agreement between Southern California Edison Company and Silicon Valley Clean Energy
2. Collateral Annex associated with EEI Master Agreement between Southern California Edison Company and Silicon Valley Clean Energy

MASTER POWER PURCHASE AND SALE AGREEMENT

COVER SHEET

This *Master Power Purchase and Sale Agreement* (Version 2.1; modified 4/25/00) ("*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, 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: Silicon Valley Clean Energy Authority, a California joint powers authority ("Party A")

All Notices:

Street: 333 W. El Camino Real, Suite 320

City: Sunnyvale, CA Zip: 94087

Attn: Dennis Dyc-O'Neal
Phone: (408) 721-5301 x 1016
Facsimile:
Email: dennis.dyconeal@svcleanenergy.org
Duns: 080462990
Federal Tax ID Number: 81-2158638

Invoices:
Attn: Silicon Valley Clean Energy Authority
Phone: (408) 721-5301
Facsimile:
Email: SVCEpowersettlements@svcleanenergy.org

Scheduling:
Attn:
Phone:
Facsimile:

Payments:
Attn: Silicon Valley Clean Energy Authority Finance
Phone: (408) 721-5301
Facsimile:

Wire Transfer:
BNK: [redacted]
ABA: [redacted]
ACCT: [redacted]

Credit and Collections:
Attn: Silicon Valley Clean Energy Authority Finance
Phone: (408) 721-5301
Facsimile:

Name: Southern California Edison Company ("Party B")

All Notices:

Street: 2244 Walnut Grove Ave., G.O.1, Quad 1C

City: Rosemead, CA Zip: 91770

Attn: Director, Contracts Management and Administration
Phone: (626) 302-3126
Facsimile: (626) 302-8168
Email: Energycontracts@sce.com
Duns: 006908818
Federal Tax ID Number: 95-1240335

Invoices:
Attn: EPM & Contract Settlements
Phone: (626) 302-8908
Facsimile: (626) 302-3276
Email: PPFDPowerSettle@sce.com

Scheduling:
Attn: Manager or Day Ahead Operations
Phone: (626) 307-4425 or (626) 307-4420
Facsimile: (626) 307-4413
E-mail: presched@sce.com

Payments:
Attn: EPM & Contract Settlements
Phone: 626-302-8908
Facsimile: (626) 302-3276
E-mail: PPFDPowerSettle@sce.com

Wire Transfer:
BNK: [redacted]
ABA: [redacted]
ACCT: [redacted]

Credit:
Attn: Manager of Risk Management
Phone: (626) 302-3672
Email: scecollateral@sce.com

Confirmations:

Attn:
Phone:
Facsimile:

With additional Notices of an Event of Default or Potential Event of Default to:

Troutman Sanders LLP
100 SW Main St. Ste. 1000
Portland, OR 97204
Attn: Stephen Hall
Phone: (503) 290-2336
E-mail: Steve.Hall@troutmansanders.com

Confirmations and Collateral:

Attn: Confirmation Coordinator
Phone: (626) 302-3383
Facsimile: (626) 569-2551

With additional Notices of an Event of Default or Potential Event of Default to:

Southern California Edison Company
2244 Walnut Grove Ave., G.O.1, Quad 1C
Rosemead, CA 91770
Attn: Director, Contracts Management and Administration
Phone: (626) 302-3126
Facsimile: (626) 302-8168
Email: Energycontracts@sce.com

and

Attention: Director and Managing Attorney Power Procurement Section
E-mail: PPLegalNotice@sce.com

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 N/A _____ Dated _____ Docket Number _____

Party B Tariff Tariff Original Vol. No. 8 Dated 09/01/2002 Docket Number ER 02-2263-000

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

5.1(g) Cross Default for Party A:

☒ Party A: Cross Default Amount $[redacted]

☐ Other Entity: Not Applicable Cross Default Amount $_____

5.1(g) Cross Default for Party B:

☒ Party B: Southern California Edison Company. Cross Default Amount $[redacted]

☐ Other Entity: Not Applicable. Cross Default Amount $_____

5.6 Closeout Setoff

☒ Option A, as amended.

☐ Option B - Affiliates shall have the meaning set forth in the Agreement unless otherwise specified as follows: _____

☐ Option C (No Setoff).

Article Eight

Credit and Collateral Requirements

8.1 Party A Credit Protection:

(a) Financial Information:

☒ Option A, as amended.
☐ Option B Specify: _____
☐ Option C Specify: _____

(b) Credit Assurances:

☒ Not Applicable.
☐ Applicable.

(c) Collateral Threshold:

☐ Not Applicable.
☒ Applicable, as specified in **Paragraph 10 to the EEI Collateral Annex**.

(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 _____ from Fitch or if Party B is not rated by any Ratings Agency.

☐ Other:
Specify:

(e) Guarantor for Party B: Not Applicable.

Guarantee Amount: Not Applicable.

8.2 Party B Credit Protection:

(a) Financial Information:

☒ Option A, as amended.
☐ Option B, as amended. Specify: [Guarantor or other party specified, if applicable] _____
☐ Option C Specify: _____

(b) Credit Assurances:

☒ Not Applicable.
☐ Applicable.

(c) Collateral Threshold:

☐ Not Applicable.
☒ Applicable, as specified in **Paragraph 10 to the EEI Collateral Annex**.

(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 _____ from Fitch or if Party A is not rated by any Ratings Agency.

☐ Other:
Specify:

(e) Guarantor for Party A:

Guarantee Amount: $_____

Article Ten

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 8.4. If not checked, inapplicable.

Other Changes

The following changes shall be applicable.

ARTICLE ONE: GENERAL DEFINITIONS. Amend Article One as follows:

Section 1.4 is amended by (i) deleting the word "or" in the first line, and (ii) inserting the words ", or the Friday immediately following the U.S. Thanksgiving holiday" immediately after "Bank holiday".

Section 1.11 is amended by (i) deleting the words "attorneys' fees and" and (ii) inserting the words "(excluding attorneys' fees)" after the word "expenses" in the fifth line.

Section 1.12 is amended by replacing the word "issues" in the fourth line with the word "issuer", and replacing the phrase "S&P, Moody's or any other rating agency agreed by the Parties as set forth in the Cover Sheet" with the phrase "the Ratings Agencies".

Section 1.24 is amended by inserting the words "in accordance with Section 5.2(b)" immediately after "reasonable manner".

New Section 1.26A is added to read as follows:

"1.26A "Joint Powers Agreement" means the Joint Powers Agreement, effective as of March 31, 2016, as amended, providing for the formation of Party A, as such agreement may be further amended or amended and restated."

Section 1.27 is amended to read as follows:

> "1.27 'Letter of Credit' means an irrevocable, nontransferable standby letter of credit, issued by a major U.S. commercial bank, U.S. financial institution, or the U.S. branch office of a foreign bank with, in either case, a Credit Rating of at least (a) A- by S&P, A3 by Moody's, and A- by Fitch, if such entity is rated by the Ratings Agencies; or (b) the lower of A- by S&P, A3 by Moody's, or A- by Fitch, if such entity is rated by only one or two of the Ratings Agencies, in substantially the form attached hereto as Schedule 1, with such changes to the terms in that form as the issuing bank may require and as may be acceptable to the beneficiary thereof. Costs of a Letter of Credit shall be borne by the applicant for such Letter of Credit."

Section 1.28 is amended by inserting the words "in accordance with Section 5.2(b)" immediately after "reasonable manner".

Section 1.50 is amended by replacing the term "Section 2.4" with the term "Section 2.5".

Section 1.51 is amended by (i) deleting the phrase "at the Delivery Point" and replacing it with ", from an entity that is not an Affiliate of either Party,"; (ii) in clause (ii) inserting after the phrase "at Buyer's option," the phrase "absent a purchase from an entity that is not an Affiliate of either Party,"; and (iii) in the last sentence thereof deleting the phrase "at the Delivery Point" and replacing it with "that is not an Affiliate of either Party".

Section 1.53 is amended by (i) deleting the phrase "at the Delivery Point" and replacing it with ", to an entity that is not an Affiliate of either Party,"; (ii) in clause (ii) inserting after the phrase "at Seller's option," the phrase "absent a sale to an entity that is not an Affiliate of either Party,"; and (iii) in the last sentence thereof deleting the phrase "at the Delivery Point" and replacing it with "that is not an Affiliate of either Party".

New Sections 1.62, 1.63, 1.64, 1.65, 1.66, 1.67, and 1.68 are added to read as follows:

"1.62 'Forward Price Assessments' means quotations solicited or obtained in good faith from regularly published and widely-distributed forward price assessments from a broker that is not an Affiliate of either Party and who is actively participating in markets for the relevant Products."

"1.63 'Market Quotation Average Price' means the arithmetic mean of the quotations solicited in good faith from not less than three (3) Reference Market-Makers (as hereinafter defined); provided, however, that the Party obtaining the quotes shall use reasonable efforts to obtain good faith quotations from at least five (5) Reference Market-Makers and, if at least five (5) such quotations are obtained, the Market Quotation Average Price shall be determined by disregarding the highest and lowest quotations and taking the arithmetic mean of the remaining quotations. The quotations shall be based on the offers to sell or bids to buy, as applicable, obtained for transactions substantially similar to each Terminated Transaction. The quote must be obtained assuming that the Party obtaining the quote will provide sufficient credit support for the proposed transaction. Each quotation shall be obtained in good faith by such Party, to the extent reasonably practicable, as of the same day and time (without regard to different time zones) on or as soon as reasonably practicable after the relevant Early Termination Date, such day and time as of which those quotations will be selected shall be specified in accordance with Section 5.2. If fewer than three (3) quotations are obtained, it will be deemed that the Market Quotation Average Price in respect of such Terminated Transaction or group of Terminated Transactions cannot be determined."

"1.64 'Merger Event' means, with respect to a Party or its Guarantor, that such Party or its Guarantor consolidates or amalgamates with, merges into or with, or transfers substantially all its assets to another entity and (i) the resulting entity fails to assume all the obligations of such Party hereunder or of such Party's Guarantor under its guaranty, or (ii) the benefits of any credit support provided by such Party pursuant to Article Eight, or any guaranty provided by such Party's Guarantor, fail to extend to the performance of such resulting, surviving or transferee entity's 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. The creditworthiness of the resulting entity shall not be deemed to be 'materially weaker' so long as the resulting entity maintains a Credit Rating of at least that of the applicable Party or its Guarantor, as the case may be, immediately prior to the consolidation, merger or transfer."

"1.65 'Ratings Agency' means any of S&P, Moody's, and Fitch, and any other ratings agency agreed by the Parties as set forth in the Cover Sheet (collectively the 'Ratings Agencies')."

"1.66 'Reference Market-Maker' means a leading dealer in the relevant market that is not an Affiliate of either Party and that is selected by a Party in good faith among dealers of the highest credit standing which satisfy all the criteria that such Party applies generally at the time in deciding whether to offer or to make an extension of credit. Such dealer may be represented by a broker."

"1.67 'Specified Energy Transaction' means any transaction (including an agreement with respect to any such transaction) now existing or hereafter entered into between Party A and Party B (or any Guarantor of such Party) which is not a Transaction under this Agreement, but which is a transaction under the International Swaps and Derivatives Association Master Agreement, the North American Energy Standards Board Base Contract for Purchase and Sale of Natural Gas, the WSPP Agreement, or under any other agreement with respect to the

purchase, sale, or transfer of (a) wholesale physical electric energy or capacity; (b) wholesale physical natural gas; or (c) emissions (including greenhouse gas emissions) related credits, allowances or offsets, or (d) financial derivative products related to any of the foregoing."

"1.68 'Fitch' means Fitch Ratings Ltd. or its successor."

ARTICLE TWO: TRANSACTION TERMS AND CONDITIONS. Amend Article Two as follows:

Section 2.1 is deleted in its entirety and replaced with the following:

"2.1 Transactions. A Transaction, or an amendment, modification or supplement thereto, shall be entered into only upon a writing signed by both Parties, except as provided in Section 2.3. 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."

Section 2.2 is amended to delete the second comma after the words "supplements hereto)," and before "the Party" in the second sentence.

Section 2.3 is deleted in its entirety and replaced with the following:

"2.3 No Oral Agreements or Modifications. The Parties agree that a Transaction of one week or longer shall be confirmed by a confirmation ("Confirmation") in a written form mutually agreeable to both Parties and signed by both Parties. With respect to any Transaction that is less than one week, Seller may confirm such Transaction by forwarding to Buyer by facsimile or email within three (3) Business Days after the Transaction is entered into a 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. 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 is amended by (i) deleting the words "either orally or" after the phrase "Section 2.3 unless agreed to" in the second to last line thereof.

Section 2.5 is amended (i) to delete the phrase "Unless a Party expressly objects to a Recording (defined below) at the beginning of a telephone conversation,"; (ii) by capitalizing the word "each" in the first sentence; and (iii) replacing the words "Parties to this Master Agreement" with "Parties' trading and marketing personnel".

A new Section 2.6 is added to read as follows:

"2.6 Imaged Agreement. Any original executed Master 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 evidence 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 or into other written format, 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 or written form under either the hearsay rule or the best evidence rule. However, nothing in this Section 2.6 shall preclude a Party from challenging the admissibility of such evidence on some other grounds, including, without limitation, the basis that such evidence has been materially or substantially altered from the original."

ARTICLE THREE: OBLIGATIONS AND DELIVERIES. Amend Article Three as follows:

A new Section 3.4 is added to read as follows:

"3.4 Index Transactions. If the Contract Price for a Transaction is determined by reference to an index, then the following provisions shall be applicable to such Transaction.

(a) Market Disruption. If a Market Disruption Event occurs during a Determination Period, the Floating Price for the affected Trading Day(s) shall be determined by reference to the Floating Price specified in the Transaction for the first Trading Day thereafter on which no Market Disruption Event exists; provided, however, if the Floating Price is not so determined within three (3) Business Days after the first Trading Day on which the Market Disruption Event occurred or existed, then the Parties shall negotiate in good faith to agree on a Floating Price (or a method for determining a Floating Price), and if the Parties have not so agreed on or before the twelfth Business Day following the first Trading Day on which the Market Disruption Event occurred or existed, then the Floating Price shall be determined in good faith by taking the average of the price quotations for the relevant commodity and relevant Business Days that are obtained from no more than two (2) Reference Market-Makers selected by each Party.

(b) For purposes of this Section 3.4, the following definitions shall apply:

(i) 'Determination Period' means each calendar month a part or all of which is within the Delivery Period of a Transaction.

(ii) 'Exchange' means, in respect of a Transaction, the exchange or principal trading market specified in the relevant Transaction.

(iii) 'Floating Price' means a price per unit in $U.S. specified in a Transaction that is based upon a Price Source.

(iv) 'Market Disruption Event' means, with respect to any Price Source, any of the following events: (a) the failure of the Price Source to announce or publish the specified Floating Price or information necessary for determining the Floating price; (b) the failure of trading to commence or the permanent discontinuation or material suspension of trading in the relevant options contract or commodity on the Exchange 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 specified for determining a Floating Price; or (e) a material change in the formula for or the method of determining the Floating Price.

(v) 'Price Source' means, in respect of a Transaction, the publication (or such other origin of reference, including an Exchange) containing (or reporting) the specified price (or prices from which the specified price is calculated) specified in the relevant Transaction.

(vi) 'Trading Day' means a day in respect of which the relevant Price Source published the Floating Price.

(c) Corrections to Published Prices. For purposes of determining a Floating Price for any day, if the price published or announced on a given day and used or to be used to determine a relevant price is subsequently corrected and the correction is published or announced by the person responsible for that publication or announcement within twelve (12) months of the original publication or announcement, either Party may notify the other Party of (i) that correction and (ii) 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 ten (10) Business Days after the effectiveness of that notice, 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.

(d) Calculation of Floating Price. For the purposes of the calculation of a Floating Price, all numbers shall be rounded to three (3) decimal places. If the fourth (4th) decimal number is five (5) or greater, then the third (3rd) decimal number shall be increased by one (1), and if the fourth (4th) decimal number is less than five (5), then the third (3rd) decimal number shall remain unchanged."

ARTICLE FIVE: EVENTS OF DEFAULT; REMEDIES. Amend Article Five as follows:

Section 5.1(e) is amended by adding after the word "hereof" the phrase "or any other credit arrangement, including, but not limited to, the Collateral Annex (or any similar agreement) related to this Agreement".

Section 5.1(f) is amended to read as follows:

"(f) a Merger Event occurs with respect to such Party or its Guarantor, if applicable;"

Section 5.1(h)(iv) is amended by inserting the words "made in connection with this Agreement" after the first instance of the word "guaranty".

Section 5.1(h)(v) is amended by inserting the words "made in connection with this Agreement" after the word "guaranty".

Section 5.1 is amended by adding the following Sections 5.1(i) and 5.1(j) at the end thereof:

"(i) an event of default occurs (howsoever determined) under a Specified Energy Transaction with respect to such Party and, after giving effect to any applicable notice requirement or grace period, there occurs a liquidation of, an acceleration of obligations under, or an early termination of that Specified Energy Transaction; or

(j) the Party disaffirms, disclaims, repudiates, or rejects, in whole or in part, or challenges the validity of, this Master Agreement, any Confirmation executed and delivered by that Party, or any Transaction evidenced by such a Confirmation."

Section 5.2 is amended by (i) inserting "(a)" at the beginning thereof; (ii) reversing the placement of "(i)" and "to"; (iii) inserting after the words "designate a day" the words "and time of day" in clause (i) thereof; (iv) replacing the phrase "as soon thereafter as is reasonably practicable)" with ", then each such Transaction — individually, an 'Excluded Transaction' and collectively, the 'Excluded Transactions'— shall be terminated as soon thereafter as is reasonably practicable, and upon termination shall be deemed to be a Terminated Transaction) and the Termination Payment payable in connection with all Terminated Transactions shall be calculated in accordance with this Section 5.2 and with Section 5.3 below"; and (v) adding the following paragraph at the end thereof:

"(b) The Non-Defaulting Party shall determine its Gains and Losses by determining the Market Quotation Average Price for each Terminated Transaction. In the event the Non-Defaulting Party is not able, after commercially reasonable efforts, to obtain the Market Quotation Average Price with respect to any Terminated Transaction, then the Non-Defaulting Party shall calculate its Gains and Losses for such Terminated Transaction in a commercially reasonable manner by calculating the arithmetic mean of at least three (3) Forward Price Assessments for transactions substantially similar to each Terminated Transaction. In the event the Non-Defaulting Party is not able, after commercially reasonable efforts to obtain at least three (3) Forward Price Assessments with respect to any Terminated Transaction, then the Non-Defaulting Party shall calculate its Gains and Losses for such Terminated Transaction in a commercially reasonable manner by reference to information supplied to it by one or more third parties including, without limitation, index prices, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads, or other relevant market data in the relevant markets; provided, however, that the provider of such information shall not be an Affiliate of either Party. Only in the event the Non-Defaulting Party is not able, after using commercially reasonable efforts, to obtain such third party information, then the Non-Defaulting Party may calculate its Gains and Losses for such Terminated Transaction in a commercially reasonable manner using relevant market data it has available to it internally."

Section 5.3 is amended by (i) deleting the ":" in the second line thereof; (ii) replacing the words "Agreement against" with "Agreement, against" immediately before "(b)"; and (iii) inserting the phrase "any cash then available to the Defaulting Party pursuant to Article Eight," between the words "Non-Defaulting Party," and "plus any" in the sixth line thereof.

Section 5.4 is amended by inserting the phrase "but in no event more than fifteen (15) Business Days following the Early Termination Date," after the phrase "liquidation," in the second line thereof.

Section 5.6 Option A is amended by (i) inserting the following phrase "with respect to the Specified Energy Transactions," before the words "and/or (ii)" and (ii) adding the following at the end thereof:

> "Notwithstanding anything to the contrary contained in this Master Agreement, or in any other agreement, instrument, or undertaking between the Parties with respect to a Specified Energy Transaction, if an Early Termination Date has been designated pursuant to Section 5.2, then, in addition to the other remedies provided in this Master Agreement, the Non-Defaulting Party may accelerate, liquidate and terminate all, but not less than all, Specified Energy Transactions between the Parties."

Section 5.7 is amended to capitalize the word "early" in line 6 to read "Early".

ARTICLE SIX: PAYMENT AND NETTING. Amend Article Six as follows:

Section 6.3 is amended to read as follows:

> "6.3 Disputes and Adjustments of Invoices. A Party may adjust any invoice rendered by it under this Agreement to correct any arithmetic or computational error or to include additional charges or claims within twenty-four (24) months after the close of the month in which the obligations being invoiced arose. A receiving Party may, in good faith, dispute the correctness of any invoice or of any adjustment to any invoice previously rendered to it by providing notice to the other Party on or before the later of (i) twelve (12) months of the date of receipt of such invoice or adjusted invoice, or (ii) twenty-four (24) months after the close of the month in which the obligation being invoiced arose. Failure to provide such notice within the time frame set forth in the preceding sentence waives the dispute with respect to such invoice. A Party disputing all or any part of an invoice or an adjustment to an invoice previously rendered to it may pay only the undisputed portion of the invoice when due, provided such Party provides notice to the other Party of the basis for and amount of the disputed portion of the invoice that has not been paid. The disputed portion of the invoice must be paid within two (2) Business Days of resolution of the dispute, along with interest accrued at the Interest Rate from and including the original due date of the invoice to but excluding the date the disputed portion of the invoice is actually 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 but excluding the date repaid or deducted by the Party receiving such overpayment. An invoice can only be adjusted or amended after it was originally rendered within the time frames set forth in this Section 6.3. If an invoice is not rendered within twenty-four (24) months after the close of the month in which the payment obligations arose, the right to payment for that month under this Agreement is waived."

Section 6.7 is amended to replace the phrase "Section 6.1" with the phrase "Section 6.2".

ARTICLE SEVEN: LIMITATIONS. Amend Article Seven as follows:

Section 7.1 is amended to (i) delete the phrase "EXCEPT AS SET FORTH HEREIN" in the first sentence; and (ii) in the fifth sentence (a) replace in its entirety the phrase "UNLESS EXPRESSLY HEREIN PROVIDED" with "NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY"; (b) add the following phrase "SET FORTH IN THIS AGREEMENT" after the words "INDEMNITY PROVISION"; and (c) add the following phrase "; PROVIDED, HOWEVER, THAT NOTHING IN THIS PROVISION SHALL AFFECT THE ENFORCEABILITY OF SECTIONS 5.2 AND 5.3 OF THIS AGREEMENT" after the words "OR OTHERWISE".

ARTICLE EIGHT: CREDIT AND COLLATERAL REQUIREMENTS. Amend Article Eight as follows:

Section 8.1(a) Option A is amended to add (i) the following phrase "(income statement, balance sheet, statement of cash flows and statement of retained earnings and all accompanying notes) after the words "consolidated financial statements" in the third line; (ii) the phrase "setting forth in each case in comparative form the figures for the previous year" after the words "for such fiscal year," in the third line; and (iii) the phrase "and the portion of the fiscal year through the end of such quarter, setting forth in each case in comparative form the figures for the previous year certified in accordance with all applicable laws and regulations, including without limitation all applicable Securities and Exchange Commission rules and regulations, provided however, for the purposes of this (i) and (ii), if Party B's financial statements are publicly available electronically on the Securities and Exchange Commission's website or Party B's website, then Party B shall be deemed to have met this requirement" after the words "for such fiscal quarter" in the fifth line.

Section 8.2(a) Option A is amended to add (i) the following phrase "(income statement, balance sheet, statement of cash flows and statement of retained earnings and all accompanying notes)" after the words "consolidated financial statements" in the third line; (ii) the phrase "setting forth in each case in comparative form the figures for the previous year" after the words "for such fiscal year," in the third line; and (iii) the phrase "and the portion of the fiscal year through the end of such quarter, setting forth in each case in comparative form the figures for the previous year certified by a Responsible Officer as being fairly stated in all material respects (subject to normal year end audit adjustments)], provided however, for the purposes of this (i) and (ii), if Party A's financial statements are publicly available electronically on Party A's website, then Party A shall be deemed to have met this requirement" after the words "for such fiscal quarter" in the fifth line; and (v) at the end thereof the phrase "For purposes of this Section, 'Responsible Officer' shall mean the Chief Financial Officer, Treasurer or any Assistant Treasurer of Party A or any employee of Party A designated by any of the foregoing.".

A new Section 8.4 is added to read as follows:

"8.4 California Commercial Code Waiver. This Agreement and the Collateral Annex set forth the entirety of the agreement of the Parties regarding credit, collateral and adequate assurances. Except as expressly set forth in the options

elected by the Parties in respect of Sections 8.1 and 8.2, in Section 8.3, and in the relevant portions of the Collateral Annex, neither Party:

(a) has or will have any obligation to post margin, provide letters of credit, pay deposits, make any other prepayments or provide any other financial assurances, in any form whatsoever, nor

(b) will have reasonable grounds for insecurity with respect to the creditworthiness of a Party that is complying with the relevant provisions of Section 8 of this Master Agreement and of the relevant provisions of the Collateral Annex;

and all implied rights relating to financial assurances arising from Section 2609 of the California Commercial Code or case law applying similar doctrines, are hereby waived."

ARTICLE NINE: GOVERNMENTAL CHARGES. Amend Article Nine as follows:

Section 9.2, is amended to add the words ", charges, or fees" after the word "taxes" in the first line thereof.

ARTICLE TEN: MISCELLANEOUS. Amend Article Ten as follows:

Section 10.2(vi) is amended to add the phrase "(for purposes of this Section 10.2(vi), Party A and Party B shall be deemed to have no Affiliates)" after the word "Affiliates".

Section 10.2(xii) is amended to read as follows:

"(xii) each Transaction that is not executed or traded on a 'trading facility', as defined in the Commodity Exchange Act, as otherwise amended, updated or modified from time to time, is subject to individual negotiation by the Parties."

Section 10.4 is amended by adding the following sentence at the end thereof:

"Neither Party shall be liable with respect to any Claim to the extent that such Claim resulted from the negligence, willful misconduct, or bad faith of the indemnified Party."

Section 10.5 is amended as follows:

(a) add the following phrase to the end of clause (i) immediately after the word "arrangements" the phrase "to any person or entity whose creditworthiness is equal to or higher than that of such Party"; (b) in clause (ii) replace the words "affiliate" and "affiliate's" with, respectively "Affiliate" and "Affiliate's"; and (c) in clause (iii) immediately after the words "substantially all of the assets" insert the words "of such Party and".

Section 10.6 is amended to read as follows:

"10.6 Governing Law; Venue; Dispute Resolution.

(a) Governing Law and Venue: 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 LAWS. EACH PARTY WAIVES ITS RESPECTIVE RIGHT TO ANY JURY TRIAL WITH RESPECT TO ANY DISPUTE ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT. The Parties hereby consent to

conduct all dispute resolution, judicial actions or proceedings arising directly, indirectly or otherwise in conjunction with, out of, related to, or arising from this Agreement in Los Angeles County, California.

(b) Dispute Resolution:

(i) Mediation. The Parties agree that any and all disputes, claims or controversies arising out of, relating to, concerning or pertaining to this Agreement, or to either Party's performance or failure of performance under this Agreement, which disputes, claims, or controversies the Parties have been unable to resolve by informal methods after undertaking a good faith effort to do so, shall first be submitted to Judicial Arbitration and Mediation Services, Inc. ('JAMS'), its successor, or any other mutually agreeable neutral (the 'Mediator') for mediation, and if the matter is not resolved through mediation, then it shall be submitted as provided below for final and binding arbitration.

The Parties agree that there will be no interlocutory appellate relief (such as writs) available. Any dispute resolution process pursuant to this Section 10.6(b) shall be commenced within one (1) year of the date of the occurrence of the facts giving rise to the dispute, without regard to the date such facts are discovered; *provided*, if the facts giving rise to the dispute were not reasonably capable of being discovered at the time of their occurrence, then such one (1) year period shall commence on the earliest date that such facts were reasonably capable of being discovered, and in no event more than four (4) years after the occurrence of the facts giving rise to the dispute. If any dispute resolution process pursuant to this Section 10.06(b) with respect to a dispute is not commenced within such one (1) year time period, such dispute shall be waived and forever barred, without regard to any other limitations period set forth by law or statute.

Either Party may initiate the mediation by providing to the other Party a written request for mediation setting forth the subject of the dispute and the relief requested.

The Parties will cooperate with one another in selecting the Mediator from the JAMS' panel of neutrals, or in selecting a mutually acceptable non-JAMS Mediator, and in scheduling the time and place of the mediation.

Such selection and scheduling will be completed within forty-five (45) days after a Party provides a written request for mediation.

Unless otherwise agreed to by the Parties, the mediation will not be scheduled for a date that is greater than one hundred twenty (120) days after a Party provides a written request for mediation.

The Parties covenant that they will participate in the mediation in good faith, and that they will share equally in its costs (other than each Party's individual attorneys' fees and costs related to the Party's participation in the mediation, which fees and costs will be borne by such Party).

All offers, promises, conduct and statements, whether oral or written, made in connection with or during the mediation by either of the Parties, their agents, representatives, employees, experts and attorneys, and by the Mediator or any of the Mediator's agents, representatives and employees, will

not be subject to discovery and will be confidential, privileged and inadmissible for any purpose, including impeachment, in any arbitration or other proceeding between or involving the Parties, or either of them, *provided*, evidence that is otherwise admissible or discoverable will not be rendered inadmissible or non-discoverable as a result of its use in the mediation.

(ii) Arbitration. Either Party may initiate binding arbitration with respect to the matters first submitted to mediation by making a written demand for binding arbitration before a single, neutral arbitrator (the 'Arbitrator') within sixty (60) days following the unsuccessful conclusion of the mediation provided for in Section 10.06(b)(i). If a written demand for arbitration is not provided by either Party within sixty (60) days following the unsuccessful conclusion of the mediation provided for in Section 10.06(b)(i), the dispute resolution process shall be deemed complete and further resolution of such dispute shall be barred, without regard to any other limitations period set forth by law or statute.

The Parties will cooperate with one another in promptly selecting the Arbitrator and shall further cooperate in scheduling the arbitration to commence no later than 180 days from the date of the initial written demand for binding arbitration.

If, notwithstanding their good faith efforts, the Parties are unable to agree upon a mutually acceptable Arbitrator, the Arbitrator shall be appointed as provided for in California Code of Civil Procedure Section 1281.6.

Unless otherwise agreed to by the Parties, the individual acting as the Mediator shall be disqualified from serving as the Arbitrator in the dispute, although the Arbitrator may be another member of the JAMS panel of neutrals or such other panel of neutrals from which the Parties have agreed to select the Mediator.

Upon a Party's written demand for binding arbitration, such dispute, claim or controversy submitted to arbitration, including the determination of the scope or applicability of this Agreement to arbitrate, shall be determined by binding arbitration before the Arbitrator, in accordance with the laws of the State of California, without regards to principles of conflicts of laws.

Except as provided for herein, the arbitration shall be conducted by the Arbitrator in accordance with the rules and procedures for arbitration of complex business disputes for the organization with which the Arbitrator is associated.

Absent the existence of such rules and procedures, the arbitration shall be conducted in accordance with the California Arbitration Act, California Code of Civil Procedure Section 1280 et seq and California procedural law (including the Code of Civil Procedure, Civil Code, Evidence Code and Rules of Court, but excluding local rules).

Notwithstanding the rules and procedures that would otherwise apply to the arbitration, and unless the Parties agree to a different arrangement, the place of the arbitration shall be in Los Angeles County, California.

Also, notwithstanding the rules and procedures that would otherwise apply to the arbitration, and unless the Parties agree to a different arrangement, discovery will be limited as follows:

(1) Before discovery commences, the Parties shall exchange an initial disclosure of all documents and percipient witnesses which they intend to rely upon or use at any arbitration proceeding (except for documents and witnesses to be used solely for impeachment);

(2) The initial disclosure will occur within thirty (30) days after the initial conference with the Arbitrator or at such time as the Arbitrator may order;

(3) Discovery may commence at any time after the Parties' initial disclosure;

(4) The Parties will not be permitted to propound any interrogatories or requests for admissions;

(5) Discovery will be limited to twenty-five (25) document requests (with no subparts), three (3) lay witness depositions, and three (3) expert witness depositions (unless the Arbitrator holds otherwise following a showing by the Party seeking the additional documents or depositions that the documents or depositions are critical for a fair resolution of the Dispute or that a Party has improperly withheld documents);

(6) Each Party is allowed a maximum of three (3) expert witnesses, excluding rebuttal experts;

(7) Within sixty (60) days after the initial disclosure, or at such other time as the Arbitrator may order, the Parties shall exchange a list of all experts upon which they intend to rely at the arbitration proceeding;

(8) Within thirty (30) days after the initial expert disclosure, the Parties may designate a maximum of two (2) rebuttal experts;

(9) Unless the Parties agree otherwise, all direct testimony will be in form of affidavits or declarations under penalty of perjury; and

(10) Each Party shall make available for cross examination at the arbitration hearing its witnesses whose direct testimony has been so submitted.

Subject to Section 7.1, the Arbitrator will have the authority to grant any form of equitable or legal relief a Party might recover in a court action. The Parties acknowledge and agree that irreparable damage would occur if certain provisions of this Agreement are not performed in accordance with the terms of the Agreement, that money damages would not be a sufficient remedy for any breach of these provisions of this Agreement, and that the Parties shall be entitled, without the requirement of posting a bond or other security, to specific performance and injunctive or other equitable relief as a remedy for a breach of Section 10.11 of this Agreement.

Judgment on the award may be entered in any court having jurisdiction.

The Arbitrator shall, in any award, allocate all of the costs of the binding arbitration (other than each Party's individual attorneys' fees and costs related to the Party's participation in the arbitration, which fees and costs shall be borne by such Party), including the fees of the Arbitrator, against the Party who did not prevail.

Until such award is made, however, the Parties shall share equally in paying the costs of the arbitration.

At the conclusion of the arbitration hearing, the Arbitrator shall prepare in writing and provide to each Party a decision setting forth factual findings, legal analysis, and the reasons on which the Arbitrator's decision is based. The Arbitrator shall also have the authority to resolve claims or issues in advance of the arbitration hearing that would be appropriate for a California superior court judge to resolve in advance of trial. The Arbitrator shall not have the power to commit errors of law or fact, or to commit any abuse of discretion, that would constitute reversible error had the decision been rendered by a California superior court. The Arbitrator's decision may be vacated or corrected on appeal to a California court of competent jurisdiction for such error. Unless otherwise agreed to by the Parties, all proceedings before the Arbitrator shall be reported and transcribed by a certified court reporter, with each Party bearing one-half of the court reporter's fees."

Section 10.8 is amended to replace in the penultimate sentence thereof the phrase "twelve (12) months" with the phrase "two (2) years".

Section 10.10 is amended to read as follows:

"10.10 Bankruptcy Issues. The Parties intend that (i) all Transactions constitute a 'forward contract' within the meaning of the United States Bankruptcy Code (the 'Bankruptcy Code') or a 'swap agreement' within the meaning of the Bankruptcy Code; (ii) all payments made or to be made by one Party to the other Party pursuant to this Agreement constitute 'settlement payments' within the meaning of the Bankruptcy Code; (iii) all transfers of Performance Assurance by one Party to the other Party under this Agreement constitute 'margin payments' within the meaning of the Bankruptcy Code; (iv) this Agreement constitutes a 'master netting agreement' within the meaning of the Bankruptcy Code; and (v) each of Party A and Party B are "forward contract merchants" 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, each Party waives and agrees 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 waives the right to assert that the other Party is a provider of last resort to the extent such term relates to 11 U.S.C. Section 366 or another provision of 11 U.S.C. Section 101-1532."

Section 10.11 is amended to read as follows:

"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 this Agreement to a third party (other than the Party's or the Party's Affiliates' officers, directors, employees, lenders, counsel, accountants, advisors, or rating agencies who have a need to know such information and have agreed to keep such terms strictly confidential and to take reasonable precautions to protect against disclosure of such terms) except (i) in order to comply with any applicable law, order, regulation, ruling, summons, subpoena, exchange rule, or accounting disclosure rule or standard, or to make any showing required by any applicable governmental authority; (ii) to the extent necessary for the enforcement of this Agreement or to implement any Transaction; (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 non-disclosing

Party or its Guarantor in making such disclosure; (iv) to the extent such disclosure to a third party is for the sole purpose of calculating a published index, so long as such third party (1) has agreed prior to the disclosure to protect the specific information disclosed from public disclosure and (2) is a party engaged in the business of collecting such information for the purpose of establishing, creating, or formulating a published index; (v) to the extent such information is or becomes generally available to the public prior to such disclosure by a Party; (vi) when required to be released in connection with any regulatory proceeding (provided that the releasing Party makes reasonable efforts to obtain confidential treatment of the information being released); or (vii) with respect to Party B, as may be furnished to its duly authorized regulatory and governmental agencies or entities, including without limitation the California Public Utilities Commission (the "CPUC") and all divisions thereof, and to Party B's Procurement Review Group (the "PRG"), a group of participants including members of the CPUC and other governmental agencies and consumer groups established by the CPUC in D.02-08-071 and D.03-06-071; provided, Party B shall have no liability to Party A in the event of any unauthorized use or disclosure by such entities. The existence of this Agreement is not subject to this confidentiality obligation; provided that neither Party shall make any public announcement relating to this Agreement unless required pursuant to subsection (i) or (vi) of the foregoing sentence of this Section 10.11. 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. With respect to information provided in connection with a Transaction, this obligation shall survive for a period of three (3) years following the expiration or termination of such Transaction. With respect to information provided under this Agreement, this obligation shall survive for a period of three (3) years following the expiration or termination of this Agreement. For the purposes of this Section 10.11, "Affiliate" for Party B shall mean "Edison International". This Master Agreement and any Confirmations executed in connection therewith are subject to the California Public Records Act (Government Code Section 6250 et seq.). Party A agrees that to the extent that it is required to make any disclosures of the Master Agreement or any Confirmations under the California Public Records Act, Party A shall provide Notice to Party B of any such required disclosures and Party A shall use commercially reasonable efforts to redact all confidential information contained within any disclosed documents prior to any such disclosure."

New Sections 10.12, 10.13, 10.14, 10.15, 10.16, 10.17, and 10.18 shall be added as follows:

"10.12 No Agency. Except as otherwise provided explicitly herein, in performing their respective obligations under this Agreement, neither Party is acting, or is authorized to act, as the other Party's agent."

"10.13 No Recourse Against Constituent Members of Party A.

Party B hereby acknowledges and agrees that Party A 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 the Joint Powers Agreement and is a public entity separate from its members. Party A 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 A's members in connection with this Agreement or any of the Transactions."

"10.14 Mobile Sierra Doctrine.

(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), *Federal Power Commission v. Sierra Pacific Power Co*., 350 U.S. 348 (1956), and clarified by *Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish*, 554 U.S. 527 (2008), and *NRG Power Marketing LLC v. Maine Public Utility Commission*, 558 U.S. 527 (2010) (the 'Mobile Sierra' doctrine).

(b) Notwithstanding any provision of Agreement, and absent the prior written agreement of the Parties, each Party, to the fullest extent permitted by applicable laws, for itself and its respective successors and assigns, hereby also expressly and irrevocably waives any rights it can or may have, now or in the future, whether under Sections 205, 206, or 306 of the Federal Power Act or otherwise, to seek to obtain from FERC by any means, directly or indirectly (through complaint, investigation, supporting a third party seeking to obtain 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 any rate or other material economic terms and conditions agreed to by the Parties."

"10.15 Multiple Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement. The exchange of copies of this Agreement and of signature pages by facsimile transmission, Portable Document Format (i.e., PDF) or by other electronic means constitutes effective execution and delivery of this Agreement as to the Parties and may be used in lieu of the original Agreement for all purposes."

"10.16 Independent Contractors. The Parties are independent contractors. Nothing contained herein shall be deemed to create an association, joint venture, or partnership relationship between the Parties or to impose any partnership obligations or liability on either Party in any way."

"10.17 Severability. If any term, section, provision or other part of this Agreement, or the application of any term, section, provision or other part of this Agreement, is held to be invalid, illegal or void by a court or regulatory agency of proper jurisdiction, all other terms, sections, provisions or other parts of this Agreement shall not be affected thereby but shall remain in force and effect unless a court or regulatory agency holds that the provisions are not separable from all other provisions of this Agreement."

"10.18 Rules of Construction.

(a) The word "or" when used in this Agreement includes the meaning "and/or" unless the context unambiguously dictates otherwise.

(b) Where days are not specifically designated as Business Days, they will be considered as calendar days.

(c) All references to time shall be in PPT unless stated otherwise."

SCHEDULE M: GOVERNMENTAL ENTITY OR PUBLIC POWER SYSTEM

Section A of Schedule M is hereby amended by deleting the defined term "Act" and replacing it with the following:

"Act" means the Joint Exercise of Powers Act of California (Government Code Section 6500 et seq.)."

SCHEDULE P: PRODUCTS AND DEFINITIONS. Amend Schedule P as follows:

The following definitions are added:

" 'CAISO Energy' 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 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 (as amended from time to time, the 'Tariff') for which the only excuse for failure to deliver or receive is an Uncontrollable Force (as defined in the Tariff)."

The following products are added:

"Other Products and Service Levels.

If the Parties agree to a service level or product defined by a different agreement, set of rules, tariff, or protocol (herein, the 'agreement') (i.e., the WSPP Agreement) for a particular Transaction, then, unless the Parties expressly state and agree that all the terms and conditions of such other agreement will apply, such reference to a service level or product defined by such other agreement means that the service level or product for that Transaction is subject to the applicable regional independent system operator and/or utility reliability requirements and guidelines as well as the permitted 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, provided, however, that all other terms and conditions of this Agreement shall and do remain applicable including, without limitation, Section 2.2; and provided, further that with respect to any Transaction for a product or service level defined by such other agreement, the methodology for calculating the payments for failure to deliver or receive shall be in accordance with Sections 4.1 and 4.2 of the Master Agreement; provided, further that the 'Accelerated Payment of Damages' addressed in Article Four and agreed to in the Cover Sheet of the Master Agreement shall continue to apply."

"Into _____ (the 'Receiving Transmission Provider'), Seller's Daily Choice" is deleted in its entirety.

[Remainder of Page Intentionally Left Blank]

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

Party A: **SILICON VALLEY CLEAN ENERGY AUTHORITY, A CALIFORNIA JOINT POWERS AUTHORITY**

By: _____

Name: Donald Eckert

Title: Interim CEO

Party B: **SOUTHERN CALIFORNIA EDISON COMPANY**

By: _____

Name: Colin E. Cushnie

Title: Vice President, Energy Procurement & Management

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 there from. 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.

SCHEDULE 1 – Form of Letter of Credit

IRREVOCABLE NONTRANSFERABLE STANDBY LETTER OF CREDIT

Bank Reference Number:_____

Issuance Date:

Issuing Bank:
[insert bank name and address]

Applicant:
[insert applicant name and address]

Beneficiary:
Southern California Edison Company
2244 Walnut Grove Avenue
GO#1, Quad 2B
Rosemead, CA 91770
Attn: Manager of Credit Risk and Collateral Management

Available Amount: [insert amount and spell out]

Expiration Date: [insert date]

Ladies and Gentlemen:
_____ (the "Bank") hereby establishes this Irrevocable Nontransferable Standby Letter of Credit ("Letter of Credit") in favor of Southern California Edison Company, a California corporation (the "Beneficiary"), for the account of_____, a _____ corporation, also known as ID# ____ (the "Applicant"), for the amount stated above (the "Available Amount"), effective immediately.

This Letter of Credit shall be of no further force or effect at 5:00 p.m., California time on the expiration date stated above or, if such day is not a Business Day (as hereinafter defined), on the next Business Day (as may be extended pursuant to the terms of this Letter of Credit) (the "Expiration Date").

For the purpose hereof, "Business Day" shall mean any day other than:

1. A Saturday or a Sunday,
2. A day on which banking institutions in the city of Los Angeles, California, are required or authorized by Law to remain closed, or
3. A day on which the payment system of the Federal Reserve System is not operational.

It is a condition of this Letter of Credit that the Expiration Date shall be automatically extended without amendment for one (1) year from the Expiration Date hereof or any future Expiration Date unless at least sixty (60) days prior to such Expiration Date, we send notice to you by certified mail or hand delivered courier, at the address stated below, that we elect not to extend this Letter of Credit for any such additional period.

Subject to the terms and conditions herein, funds under this Letter of Credit are available to Beneficiary by complying presentation on or before 5:00 p.m. California time, on or before the Expiration Date of the following:

1. A copy of this Letter of Credit and all amendments;

2. A copy of the Drawing Certificate in the form of Attachment "A" attached hereto and which forms an integral part hereof, duly completed and bearing the signature of an authorized representative of the Beneficiary signing as such; and

3. A copy of the Draft in the form of Attachment "B" attached hereto and which forms an integral part hereof, duly completed and bearing the signature of an authorized representative of the Beneficiary.

Drawings may also be presented by telecopy ("Fax") to fax number [insert number] under telephone pre-advice to [insert number] or alternatively to [insert number]; provided that such fax presentation is received on or before the Expiration Date on this instrument in accordance with the terms and conditions of this Letter of Credit. It being understood that any such fax presentation shall be considered the sole operative instrument of drawing. In the event of presentation by fax, the original documents should not also be presented.

Partial drawing of funds shall be permitted under this Letter of Credit, and this Letter of Credit shall remain in full force and effect with respect to any continuing balance; provided, the Available Amount shall be reduced by the amount of each such drawing.

This Letter of Credit is not transferable or assignable. Any purported transfer or assignment shall be void and of no force or effect.

All correspondence and any drawings (other than those made by facsimile) hereunder are to be directed to [Bank address/contact].

All notices to Beneficiary shall be in writing and are required to be sent by certified letter, overnight courier, or delivered in person to: Southern California Edison Company, Manager of Credit Risk and Collateral Management, 2244 Walnut Grove Avenue, GO1 Quad 2B, Rosemead, California 91770. Only notices to Beneficiary meeting the requirements of this paragraph shall be considered valid. Any notice to Beneficiary which is not in accordance with this paragraph shall be void and of no force or effect.

Banking charges shall be the sole responsibility of the Applicant.

This Letter of Credit sets forth in full our obligations and such obligations shall not in any way be modified, amended, amplified or limited by reference to any documents, instruments or agreements referred to herein, except only the attachment referred to herein; and any such reference shall not be deemed to incorporate by reference any document, instrument or agreement except for such attachment. Except in the case of an increase in the Available Amount or extension of the Expiration Date, this Letter of Credit may not be amended or modified without the Beneficiary's prior written consent.

The Bank engages with the Beneficiary that Beneficiary's drafts drawn under and in compliance with the terms of this Letter of Credit will be duly honored if presented to the Bank on or before the Expiration Date.

Except so far as otherwise stated, this Letter of Credit is subject to the International Standby Practices ISP98 (also known as ICC Publication No. 590), or revision currently in effect (the "ISP"). As to matters not covered by the ISP, the laws of the State of California, without regard to the principles of conflicts of laws thereunder, shall govern all matters with respect to this Letter of Credit.

AUTHORIZED SIGNATURE for Bank

By _____

Name: [print name]_____

Title: [print title]_____

ATTACHMENT A
Drawing Certificate
TO *[ISSUING BANK NAME]*
IRREVOCABLE NONTRANSFERABLE STANDBY LETTER OF CREDIT
No. _____

DRAWING CERTIFICATE
TO [ISSUING BANK NAME & ADDRESS]

IRREVOCABLE NONTRANSFERABLE STANDBY LETTER OF CREDIT
REFERENCE NUMBER: _____

DATE: _____

Southern California Edison Company (the "Beneficiary"), demands *[Issuing Bank Name]* (the "Bank") payment to the order of the Beneficiary the amount of U.S. $_____ (_____ U.S. Dollars), drawn under the Letter of Credit referenced above (the "Letter of Credit"), for the following reason(s) [check applicable provision]:

[ ] A. An Event of Default (as defined in the Edison Electric Institute Master Power Purchase & Sale Agreement Version 2.1 (modified on 4/25/00) between Applicant and Beneficiary, dated as of *[Date of Execution]*, as may be amended from time to time, (the "EEI Agreement")), with respect to the Applicant has occurred and is continuing.

[ ] B. An Early Termination Date (as defined in the EEI Agreement) has occurred or been designated as a result of an Event of Default (as defined in the EEI Agreement) with respect to the Applicant for which there exist any unsatisfied payment obligations.

[ ] C. The Letter of Credit will expire in fewer than 30 days from the date hereof, and Applicant has not provided Beneficiary alternative Performance Assurance (as defined in the EEI Agreement) acceptable to Beneficiary.

Unless otherwise provided herein, capitalized terms which are used and not defined herein shall have the meaning given each such term in the Letter of Credit.

Authorized Signature for Beneficiary:

SOUTHERN CALIFORNIA EDISON COMPANY

By:

Name: [print name]

Title: [print title]

ATTACHMENT B

DRAFT

[Insert Date]

TO:
[ISSUING BANK NAME & ADDRESS]

PAY AT SIGHT TO THE ORDER OF SOUTHERN CALIFORNIA EDISON COMPANY (THE "BENEFICIARY") THE AMOUNT OF USD [INSERT AMOUNT] DRAWN UNDER [ISSUING BANK NAME] IRREVOCABLE NONTRANSFERABLE STANDY LETTER OF CREDIT NUMBER [INSERT NUMBER] ISSUED ON [INSERT DATE].

FUNDS PAID PURSUANT TO THE PROVISIONS OF THE LETTER OF CREDIT SHALL BE WIRE TRANSFERRED TO THE BENEFICIARY IN ACCORDANCE WITH THE FOLLOWING INSTRUCTIONS:

[INSERT WIRING INSTRUCTION]

_____
AUTHORIZED SIGNATURE
SOUTHERN CALIFORNIA EDISON COMPANY

NAME: [PRINT NAME]

TITLE: [PRINT TITLE]

PARAGRAPH 10
to the
COLLATERAL ANNEX
to the
EEI MASTER POWER PURCHASE AND SALE AGREEMENT
Between Silicon Valley Clean Energy Authority, a California joint powers authority ("SVCE" or "Party A") and Southern California Edison Company ("SCE" or "Party B")

CREDIT ELECTIONS COVER SHEET

Paragraph 10. Elections and Variables

I. Collateral Threshold.

A. Party A Collateral Threshold.

☒ $0 (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 Ratings 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 _____

☐ The amount ("Threshold Amount") which is the lowest of:

(1) the amount set forth below under the heading "Party A Collateral Threshold" opposite the lower of the Credit Ratings for Party A or, if applicable, Party A's Guarantor on the relevant date of determination. If Party A or, if applicable, its Guarantor is rated by only two of the Ratings Agencies specified below, then

the lower Credit Rating shall apply. If Party A or, if applicable, its Guarantor is rated by only one of the Ratings Agencies specified below, then that Credit Rating shall apply. If Party A or, if applicable, its Guarantor does not have a Credit Rating from at least one of the Ratings Agencies specified below, the Collateral Threshold shall be $0 (zero);

(2) 80% of the amount of the guaranty agreement, as amended from time to time, provided by Party A's Guarantor, if any, for the benefit of Party B; or

(3) $0 (zero) if an Event of Default or a Potential Event of Default with respect to Party A has occurred and is continuing:

Party A Collateral Threshold (in thousands of US Dollars)	**Moody's Credit Rating**	**S&P Credit Rating**	**Fitch Credit Rating**
$[To be negotiated]	Aa3 or above	AA- or above	AA- or above
$[To be negotiated]	A1	A+	A+
$[To be negotiated]	A2	A	A
$[To be negotiated]	A3	A-	A-
$[To be negotiated]	Baa1	BBB+	BBB+
$[To be negotiated]	Baa2	BBB	BBB
$[To be negotiated]	Baa3	BBB-	BBB-
$ 0 (zero)	Ba1 or below	BB+ or below	BB+ or below

☐ 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. <u>Party B Collateral Threshold.</u>

☐ $_____ (the "Threshold Amount"); <u>provided, however</u>, 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; <u>and provided further that</u>, 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 Ratings Agency specified below or an Event of Default or a Potential Event of Default with respect to Party B has occurred and is continuing; <u>provided, however</u>, 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 B Collateral Threshold	**Credit Rating**
$_____	_____ (or above)
$_____	_____
$_____	_____
$_____	_____
$_____	Below _____

☒ The amount (the "Threshold Amount") which is the lower of:

(1) the amount set forth below under the heading "Party B Collateral Threshold" opposite the lower of the Credit Ratings for Party B on the relevant date of determination. If Party B is rated by only two of the Ratings Agencies specified below, then the lower Credit Rating shall apply. If Party B is rated by only one of the Ratings Agencies specified below, then that Credit Rating shall apply. If Party B does not have a Credit Rating from at least one of the Ratings Agencies specified below, the Collateral Threshold shall be $0 (zero);

(2) $0 (zero) if an Event of Default or a Potential Event of Default with respect to Party B has occurred and is continuing:

Party B Collateral Threshold (in thousands of US Dollars)	**Moody's Credit Rating**	**S&P Credit Rating**	**Fitch Credit Rating**
$100,000	Aa3 or above	AA- or above	AA- or above
$80,000	A1	A+	A+
$80,000	A2	A	A
$68,000	A3	A-	A-
$35,000	Baa1	BBB+	BBB+
$25,000	Baa2	BBB	BBB
$15,000	Baa3	BBB-	BBB-
$ 0 (zero)	Ba1 or below	BB+ or below	BB+ or below

☐ 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:

		Party A	**Party B**	**Valuation Percentage**
(A)	Cash	**[X]**	**[X]**	100%
(B)	Letters of Credit	**[X]**	**[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%).

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 (i) the amount specified in a Transaction or Confirmation, if any; and (ii) if Party A's Credit Rating is lower than BBB- by S&P, Baa3 by Moody's, or BBB- by Fitch, the amount equal to ten percent (10%) of the market value of all outstanding Transactions (except those for which an alternative Independent Amount is specified in the Confirmation), adjusted by the netting of the market value of purchases with the market value of sales within the same billing cycles. If the Full Floating Independent Amount option is selected for Party A, then for purposes of calculating the Collateral Requirements pursuant to Paragraph 3 of the Collateral Annex, such Full Floating Independent Amount for Party A shall be added to the Exposure Amount for Party B and subtracted from the Exposure Amount for Party A.

☐ 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: $0

B. Party B Minimum Transfer Amount: $0

V. Rounding Amount.

A. Party A Rounding Amount: $10,000.00

B. Party B Rounding Amount: $10,000.00

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 or, if applicable, Party A's Guarantor has a Credit Rating of at least (a) BBB- from S&P, Baa3 from Moody's, and BBB- from Fitch, if such entity is rated by the Ratings Agencies, (b) the lower of BBB- by S&P, Baa3 by Moody's, or BBB- by Fitch if such entity is rated by only two of the Ratings Agencies, or (c) BBB- by S&P, Baa3 by Moody's, or BBB- by Fitch if such entity is rated by only one Ratings Agency; and (3) Cash shall be held only in any jurisdiction within the United States. Notwithstanding the foregoing, in the event Party A or

its Guarantor has a Credit Rating of BBB- by S&P, Baa3 by Moody's, or BBB- by Fitch with a negative or developing outlook, or if such a Credit Rating is on "Credit Watch" negative or developing by S&P, on "Watchlist" under review for downgrade or uncertain ratings action by Moody's, or on "Credit Watch" negative or developing by Fitch, then Party A shall not be entitled to hold Performance Assurance in the form of Cash. 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 - _____

To the extent that Party A is not entitled to hold 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.

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 has a Credit Rating of at least (a) BBB- from S&P, Baa3 from Moody's, and BBB- from Fitch, if such entity is rated by the Ratings Agencies, (b) the lower of BBB- by S&P, Baa3 by Moody's, or BBB- by Fitch if such entity is rated by only two of the Ratings Agencies, or (c) BBB- by S&P, Baa3 by Moody's, or BBB- by Fitch if such entity is rated by only one Ratings Agency; and (3) Cash shall be held only in any jurisdiction within the United States. Notwithstanding the foregoing, in the event Party B has a Credit Rating of BBB- by S&P, Baa3 by Moody's, or BBB- by Fitch with a negative or developing outlook, or if such a Credit Rating is on "Credit Watch" negative or developing by S&P, on "Watchlist" under review for downgrade or uncertain ratings action by Moody's, or "Credit Watch" negative or developing by Fitch, then Party B shall not be entitled to hold Performance Assurance in the form of Cash. 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 - _____

To the extent that Party B is not entitled to hold 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.

VII. Notification Time.

10:00 a.m. Pacific Prevailing Time on a Local Business Day.

VIII. General.

With respect to the Collateral Threshold, Independent Amount, Minimum Transfer Amount and Rounding Amount, if no selection is made in this Cover Sheet 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. Other Changes. The following changes to the Collateral Annex shall be applicable.

A. Introduction. The first paragraph of the introduction is amended to read as follows:

"This Collateral Annex, together with the Paragraph 10 Cover Sheet, (the "Collateral Annex") supplements, forms a part of, and is subject to the EEI Master Power Purchase and Sale Agreement dated as of _____ between _____ ("Party A") and Southern California Edison Company ("Party B"), including the Cover Sheet and any other annexes thereto (as amended and supplemented from time to time, the "Agreement"). Capitalized terms used in this Collateral Annex but not defined herein shall have the meanings given such terms in the Agreement."

B. Paragraph 1. Definitions. Amend Paragraph 1 as follows:

i. The definition of "Credit Rating" is deleted from the Collateral Annex and all references shall have the meaning set forth in Section 1.12 of the Master Agreement as modified in the Cover Sheet.

ii. The definition of "Credit Rating Event" is amended by replacing "6(a)(iii)" with "6(a)(ii)".

iii. The definition of "Downgraded Party" is amended by replacing "6(a)(i)" with "6(a)(ii)".

iv. The definition of "Letter of Credit" is deleted from the Collateral Annex and all references shall have the meaning set forth in Section 1.27 of the Master Agreement as modified in the Cover Sheet.

v. The definition of "Letter of Credit Default" is amended by replacing the word "or" in the third line with the word "and".

vi. The definition of "Local Business Day" is amended by replacing the word "day" with "Business Day".

vii. The definition of "Notification Time" is amended by replacing "11:00, New York" with "10:00 a.m. Pacific Prevailing."

viii. The definition of "Performance Assurance" is amended by replacing "6(a)(iv)" with "6(a)(iii)".

ix. The definition of "Qualified Institution" is amended as follows:

" "Qualified Institution" means either (A) a commercial bank or financial institution (that is not an Affiliate or a Guarantor of any party to this Agreement) organized under the laws of the United States or a political subdivision thereof or (B) a U.S. branch office of a foreign bank, and, with respect to both entities identified in clause (A) and (B), having (i) (a) Credit Ratings of at least "A-" by S&P, "A-" by Fitch and "A3" by Moody's, if such entity is rated by the Ratings Agencies; (b) if such entity is rated by only two of the three Ratings Agencies, a Credit Rating from two of the three Ratings Agencies of at least "A-" by S&P, if such entity is rated by S&P, "A-" by Fitch, if such entity is rated by Fitch, and "A3" by Moody's, if such entity is rated by Moody's; or (c) a Credit Rating of at least "A-" by S&P or "A3" by Moody's, or "A-" by Fitch if such entity is rated by only one Ratings Agency, and (ii) shareholder equity (determined in accordance with generally accepted accounting principles) of at least $10,000,000,000.00 (TEN BILLION AND 00/100 DOLLARS)."

x. The definition of "Reference Market-maker" is deleted from the Collateral Annex and all references shall have the meaning set forth in Section 1.67 of the Master Agreement as modified in the Cover Sheet.

xi. The definition of "Secured Party" is amended by replacing "3(b)" with "3(a)".

C. Paragraph 3. Calculations of Collateral Requirement. In Paragraph 3(b)(2), is amended by replacing the comma after "Secured Party" with "and" and by deleting the phrase ", and any Interest Amount that has not yet been Transferred to the Pledging Party".

D. Paragraph 4. Delivery of Performance Assurance. In Paragraph 4, the penultimate sentence is amended by replacing the words "next Local Business Day" with "third Local Business Day thereafter" in clause (i), and by replacing the word "second" with "fourth" in clause (ii).

E. Paragraph 5. Reduction and Substitution of Performance Assurance. Amend Paragraph 5 as follows:

i. Paragraph 5(a) is amended by deleting the parenthetical "(but no more frequently than weekly with respect to Letters of Credit and daily with respect to Cash)" from the first line.

ii. The sixth sentence of Paragraph 5(a) is amended by inserting the word "Local" before "Business Day," in clause (i) of that sentence.

F. Paragraph 6. Administration of Performance Assurance. Amend Paragraph 6 as follows:

i. 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.

ii. Paragraph 6(a)(ii)(B) is amended by replacing "Non-Downgraded Party" with "Downgraded Party".

iii. Paragraph 6(b)(iv) is amended by capitalizing the second instance of the word "cash" in the second sentence.

iv. Paragraph 6(b)(v) is amended by replacing the parenthetical phrase "(including but not limited to the reasonable costs, expenses, and attorneys' fees of the Secured Party)" with "(excluding attorneys' fees)".

G. Paragraph 7. Exercise of Rights Against Performance Assurance. Paragraph 7(b) is amended by deleting it in its entirety and inserting the words "Intentionally Omitted.".

H. Paragraph 8. Disputed Calculations. Amend Paragraph 8 as follows:

i. Paragraph 8(a) is amended by adding in the third sentence the phrase "and, provided further, that if no quotations can be obtained, then the Secured Party's original calculation shall be used" immediately after the words "then that quotation shall be used" and before the ")".

ii. Paragraph 8(b) is amended by (1) adding the words "requested by the Pledging Party" between the word "Assurance" and the phrase "to be reduced", and (2) adding in the third sentence the phrase "and, provided further that, if no quotations can be obtained, then the Secured Party's original calculation shall be used" immediately after the words "then that quotation shall be used" and before the ")".

I. **Paragraph 9. Covenants; Representations and Warranties; Miscellaneous.** Section 9(d) is amended by deleting (i) the parenthetical phrase at the end of the first sentence, which reads, "(including, without limitation costs and reasonable fees and disbursements of counsel)" and (ii) the entire second sentence.

J. **Schedule 1 to Collateral Annex**: Schedule 1 to the Collateral Annex is deleted in its entirety.

IN WITNESS WHEREOF, the Parties have caused this Paragraph 10 to the Collateral Annex to be duly executed as of the Effective Date of the Agreement.

Party A: **SILICON VALLEY CLEAN ENERGY AUTHORITY, A CALIFORNIA JOINT POWERS AUTHORITY**	Party B: **SOUTHERN CALIFORNIA EDISON COMPANY**
By: _____	By: _____
Name: Donald Eckert	Name: Colin E. Cushnie
Title: Interim CEO	Title: Vice President, Energy Procurement & Management

SILICON VALLEY CLEAN ENERGY

Staff Report – Item 1e

To:	Silicon Valley Clean Energy Board of Directors
From:	Donald Eckert, Interim CEO
Item 1e:	**Confirm Appointment of Milpitas Representative to Customer Program Advisory Group**
Date:	1/10/2018

RECOMMENDATION

Approve the appointment of the selected Milpitas applicant to serve on the Silicon Valley Clean Energy (SVCE) Customer Program Advisory Group (CPAG).

BACKGROUND

During the board member announcements and future agenda items discussion at the Nov. 29, 2017 Board of Directors meeting, the Board discussed having a resident of Milpitas serve on the CPAG. Staff suggested that the process will be to work with Milpitas staff and the City Council-appointed SVCE Director to recruit and appoint a Milpitas resident before or after the first CPAG meeting.

ANALYSIS & DISCUSSION

The following Milpitas resident has been appointed by Director Grilli to serve as a representative on the CPAG:

Board Appointment

- **Milpitas** – **Thomas Clavel**, *Marketing Manager, Gigamon*
    - Served as president of the Sundrop Homeowners Association in Milpitas, currently the president of the South Bay Eco Citizens organization, an organization that aims at promoting social justice through environment advocacy for South Bay residents.

TREASURER REPORT

Fiscal Year to Date
As of November 30, 2017

(Preliminary & Unaudited)

Issue Date: January 10, 2018

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SILICON VALLEY CLEAN ENERGY AUTHORITY
Financial Statement Highlights ($ in 000's)

Financial Highlights for the month of November 2017:

SVCE began its initial financial audit for FY 2016-17 and March 2016 through September 2017 in December. Results of the audit should be available February 2018.

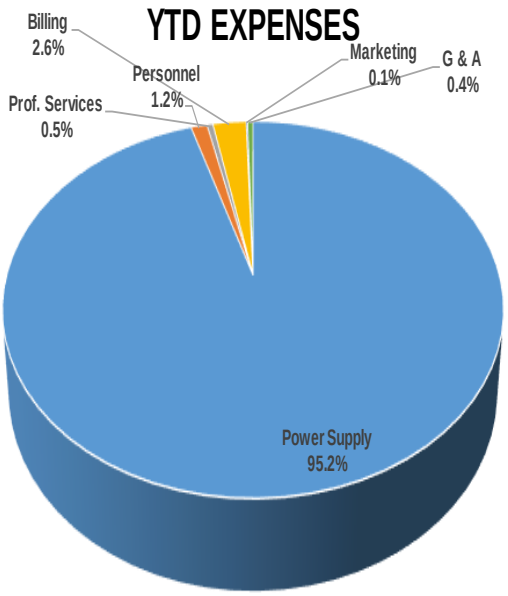
- SVCE operations resulted in net gain for the month of $1.8 million and year-to-date of $8.6 million.
  - Year-to-date energy sales has an unfavorable variance of 11% compared to budget mostly due to October performance.
  - Year-to-date contribution margin is $9.2 million.
- Retail MWh sales had an unfavorable variance to budget of 10%.
  - Most CCA's in the Region over-forecasted Oct/Nov load.
  - Residential load was approximately 32% with the remainder Commercial, Industrial, Street Lighting and Agriculture.
- Power Supply
  - SVCE was a net seller of power to CAISO during the month.
  - Power Supply costs has a favorable variance year-to-date of 12% mostly due to less than anticipated load to serve.
- Programs
  - There was no programs investment during the month.
  - Staff is expecting to initiate a Customer Programs Advisory Group meeting in January to develop recommendations.
- Financing - SVCE made no draws against the Lines of Credit in November.
  - At the November Board of Director meeting, SVCE received approval to retire the Line of Credit and repay the Member Agency Loan
  - The Revolving Line of Credit balance will be paid down in December and the Member Agency Loan will be repaid in January.

Change in Net Assets	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Total	Budget
Actual	6,725	1,840	-	-	-	-	-	-	-	-	-	-	8,565	42,617

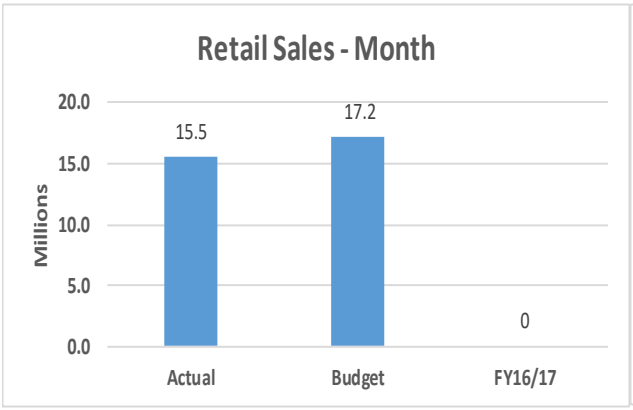
Power Supply Costs	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Total	Budget
Energy & REC's	13,251	12,727	-	-	-	-	-	-	-	-	-	-	25,978	
Capacity	275	743	-	-	-	-	-	-	-	-	-	-	1,018	
CAISO Charges	1,034	534	-	-	-	-	-	-	-	-	-	-	1,568	
NEM Expense	44	(19)	-	-	-	-	-	-	-	-	-	-	25	
Charge/Credit (IST/Net Rev)	591	(1,127)	-	-	-	-	-	-	-	-	-	-	(536)	
Net Power Costs	15,195	12,859	-	-	-	-	-	-	-	-	-	-	28,054	181,368

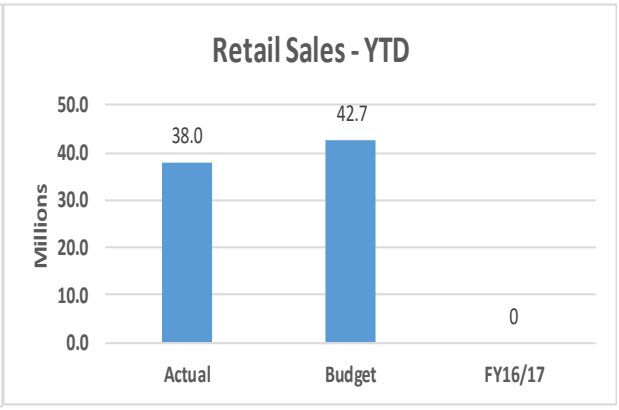
Other	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Total	Budget
Capital Expenditures	-	-											-	50
Energy Programs	-	-											-	4,780

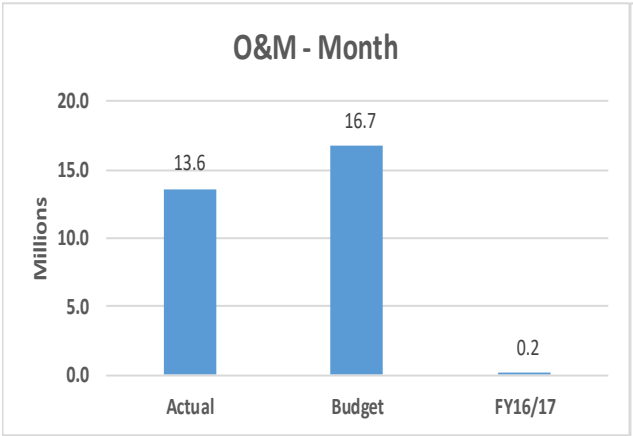
Load Statistics - MWh	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Total	Budget
Retail Sales Actual	278,214	265,874											544,088	
Retail Sales Budget	301,503	299,963											601,466	3,553,990

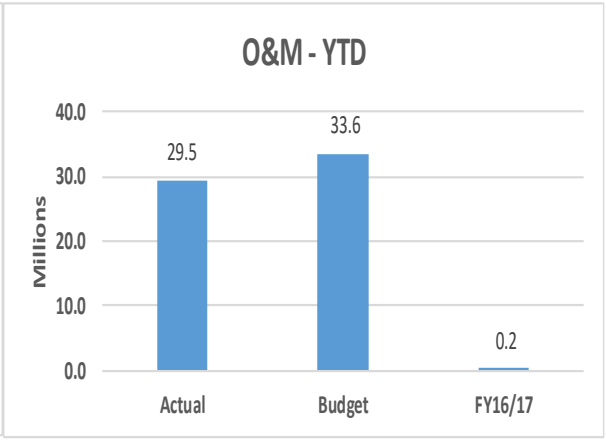


Other Statistics and Ratios	
Working Capital	$37,840,992
Current Ratio	2.2
Contribution Margin	$9,236,189
Expense Coverage Days	55
Return on Assets	51%
Outstanding Debt	$5,630,000
Debt Service Coverage	15.4
Total Accounts	247,737
Opt-Out Accounts	6,867
Opt-Up Accounts	2,347









SILICON VALLEY CLEAN ENERGY AUTHORITY

STATEMENT OF NET POSITION
As of November 30, 2017

ASSETS

Current Assets		
Cash & Cash Equivalents	$	37,091,909
Accounts Receivable, net of allowance		16,014,136
Energy Settlements Receivable		721,703
Accrued Revenue		9,400,941
Other Receivables		640,002
Prepaid Expenses		212,535
Deposits		3,900,000
Restricted cash - lockbox		2,500,000
Total Current Assets		**70,481,226**
Noncurrent assets		
Capital assets, net of depreciation		161,982
Deposits		129,060
Restricted cash - debt collateral		1,900,000
Total Noncurrent Assets		**2,191,042**
Total Assets		**72,672,268**

LIABILITIES

Current Liabilities		
Accounts Payable		346,225
Accrued Cost of Electricity		27,046,884
Accrued Interest Payable		8,225
Accrued Payroll & Benefits		123,643
Other Accrued Liabilities		200,000
User Taxes and Energy Surcharges due to other gov'ts		830,257
Supplier Security Deposits		1,185,000
Notes Payable to Bank		2,900,000
Total Current Liabilities		**32,640,234**
Noncurrent Liabilities		
Loans Payable to JPA members		2,730,000
Total Noncurrent Liabilities		**2,730,000**
Total Liabilities		**35,370,234**

NET POSITION

Net investment in capital assets		161,982
Unrestricted (deficit)		37,140,052
Total Net Position	**$**	**37,302,034**

SILICON VALLEY CLEAN ENERGY AUTHORITY

STATEMENT OF REVENUES, EXPENSES AND CHANGES IN NET POSITION
October 1, 2017 through November 30, 2017

OPERATING REVENUES	
Electricity Sales, Net	$ 37,949,888
GreenPrime electricity premium	96,287
TOTAL OPERATING REVENUES	**38,046,175**
OPERATING EXPENSES	
Cost of Electricity	28,054,664
Staff Compensation and benefits	364,769
Data Manager	554,402
Service Fees - PG&E	200,920
Consultants and Other Professional Fees	169,189
General & Administrative	121,856
Depreciation	5,524
TOTAL OPERATING EXPENSES	**29,471,324**
OPERATING INCOME(LOSS)	**8,574,851**
NONOPERATING REVENUES (EXPENSES)	
Interest Income	-
Interest and related expenses	(15,666)
TOTAL NONOPERATING EXPENSES	**(15,666)**
CHANGE IN NET POSITION	8,559,185
Net Position at beginning of period	28,742,849
Net Position at end of period	**$ 37,302,034**

SILICON VALLEY CLEAN ENERGY AUTHORITY

STATEMENT OF CASH FLOWS
October 1, 2017 through November 30, 2017

CASH FLOWS FROM OPERATING ACTIVITIES	
Receipts from electricity sales	$ 48,926,338
Receipts from supplier security deposits	1,185,000
Tax and surcharge receipts from customers	1,031,634
Energy settlements received	420,660
Payments to purchase electricity	(25,963,232)
Payments for staff compensation and benefits	(326,149)
Payments for consultants and other professional services	(1,229,614)
Payments for general and administrative	(282,345)
Energy settlements paid	(1,908,694)
Tax and surcharge payments to other governments	(927,918)
Net cash provided (used) by operating activities	**20,925,680**
CASH FLOWS FROM NON-CAPITAL FINANCING ACTIVITIES	
Payments of deposits and collateral	(662,700)
Interest and related expense payments	(14,667)
Net cash provided (used) by non-capital financing activities	**(677,367)**
CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES	
Acquisition of capital assets	-
CASH FLOWS FROM CAPITAL AND RELATED	
Interest income received	-
Net change in cash and cash equivalents	20,248,313
Cash and cash equivalents at beginning of year	16,843,596
Cash and cash equivalents at end of period	**$ 37,091,909**

SILICON VALLEY CLEAN ENERGY AUTHORITY

STATEMENT OF CASH FLOWS (Continued)
October 1, 2017 through November 30, 2017

RECONCILIATION OF OPERATING INCOME (LOSS) TO NET CASH PROVIDED (USED) BY OPERATING ACTIVITIES

Operating Income (loss)	$ 8,574,851
Adjustments to reconcile operating income to net cash provided (used) by operating activities	
Depreciation expense	5,524
Revenue reduced for uncollectible accounts	191,115
(Increase) decrease in net accounts receivable	5,212,952
(Increase) decrease in energy settlements receivable	(455,375)
(Increase) decrease in other receivables	(10,500)
(Increase) decrease in accrued revenue	5,575,381
(Increase) decrease in prepaid expenses	(140,694)
Increase (decrease) in accounts payable	(503,997)
Increase (decrease) in accrued payroll & benefits	38,620
Increase (decrease) in supplier security deposits	1,185,000
Increase (decrease) in accrued cost of electricity	1,058,773
Increase (decrease) in accrued liabilities	179,100
Increase (decrease) taxes and surcharges due to other governments	14,930
Net cash provided (used) by operating activities	**$ 20,925,680**

SILICON VALLEY CLEAN ENERGY

BUDGETARY COMPARISON SCHEDULE

October 1, 2017 through November 30, 2017

	FYTD Actual	FYTD Budget	Variance $	Variance %	FY 2017-18 Budget	% Budget Spent
REVENUES & OTHER SOURCES						
Energy Sales	$ 37,949,888	$ 42,584,770	$ (4,634,882)	-11%	$ 239,014,712	
Green Prime Premium	96,287	73,834	22,453	30%	443,005	
Investment Income	-	33,333	(33,333)	-100%	200,000	
TOTAL REVENUES & OTHER SOURCES	**38,046,175**	**42,691,938**	**(4,645,763)**	**-11%**	**239,657,717**	
EXPENDITURES & OTHER USES						
CURRENT EXPENDITURES						
Power Supply	28,054,664	31,740,687	3,686,023	12%	181,368,117	15%
Data Management	554,402	530,684	(23,718)	-4%	3,114,882	18%
PG&E Fees	200,920	203,044	2,124	1%	1,218,265	16%
Salaries & Benefits	364,769	697,872	333,103	48%	4,187,232	9%
Professional Services	134,960	247,167	112,207	45%	1,325,100	10%
Marketing & Promotions	24,577	49,167	24,590	50%	295,000	8%
Notifications	9,652	5,000	(4,652)	-93%	100,000	10%
Lease	51,483	50,750	(733)	-1%	314,650	16%
General & Administrative	70,373	29,350	(41,023)	-140%	251,100	28%
TOTAL CURRENT EXPENDITURES	**29,465,800**	**33,553,720**	**4,087,920**	**12%**	**192,174,346**	**15%**
OTHER USES						
Customer Programs	-	796,716	796,716	0%	4,780,294	0%
Office Equipment	-	8,333	8,333	100%	50,000	0%
CPUC Deposit	-	-	-		-	
TOTAL OTHER USES	**-**	**805,049**	**805,049**	**100%**	**4,830,294**	**0%**
DEBT SERVICE						
Interest	15,666	21,750	6,084	28%	32,625	48%
Principal	-	-	-		2,730,000	0%
TOTAL DEBT SERVICE	**15,666**	**21,750**	**6,084**	**28%**	**2,762,625**	**1%**
Total Expenditures, Other Uses & Debt Service	**29,481,466**	**34,380,519**	**4,899,053**	**14%**	**199,767,265**	**15%**
Net Increase(Decrease) in Available Fund Balance	**$ 8,564,709**	**$ 8,311,419**	**$ 253,290**	**3%**	**$ 39,890,452**	

SILICON VALLEY CLEAN ENERGY AUTHORITY

BUDGET RECONCILIATION TO STATEMENT OF REVENUES, EXPENSES AND CHANGES IN NET POSITION

Net Increase (decrease) in available fund balance per budgetary comparison schedule	$	8,564,709
Adjustments needed to reconcile to the changes in net position in the Statement of Revenues, Expenses and Changes in Net Position		
Subtract depreciation expense		(5,524)
Add back capital asset acquisitions		-
Add back collateral deposits		-
Change in Net Position		**8,559,185**

SILICON VALLEY CLEAN ENERGY AUTHORITY
STATEMENT OF REVENUES, EXPENSES AND CHANGES IN NET POSITION
October 1, 2017 through November 30, 2017

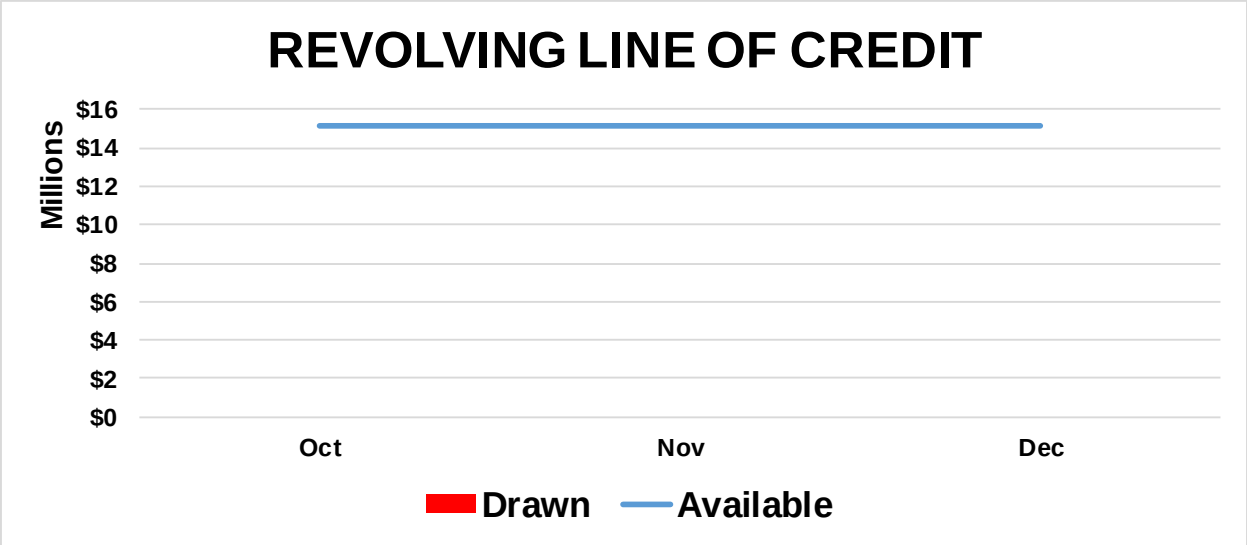
	October	November	December	January	February	March	April	May	June	July	August	September	YTD
OPERATING REVENUES													
Electricity sales, net	$ 22,523,034	$ 15,426,854	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ 37,949,888
Green electricity premium	32,946	63,341											96,287
Total operating revenues	22,555,980	15,490,195	-	-	-	-	-	-	-	-	-	-	38,046,175
OPERATING EXPENSES													
Cost of electricity	15,195,616	12,859,048											28,054,664
Staff compensation and benefits	196,743	168,026											364,769
Data manager	276,838	277,564											554,402
Service fees - PG&E	920	200,000											200,920
Consultants and other professional fees	78,816	90,373											169,189
General and administration	55,285	66,571											121,856
Depreciation	2,762	2,762											5,524
Total operating expenses	15,806,980	13,664,344	-	-	-	-	-	-	-	-	-	-	29,471,324
Operating income (loss)	6,749,000	1,825,851	-	-	-	-	-	-	-	-	-	-	8,574,851
NONOPERATING REVENUES (EXPENSES)													
Interest income	-	-											-
Interest and related expense	(7,442)	(8,224)											(15,666)
Total nonoperating revenues (expenses)	(7,442)	(8,224)	-	-	-	-	-	-	-	-	-	-	(15,666)
CHANGE IN NET POSITION	**$ 6,741,558**	**$ 1,817,627**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ 8,559,185**

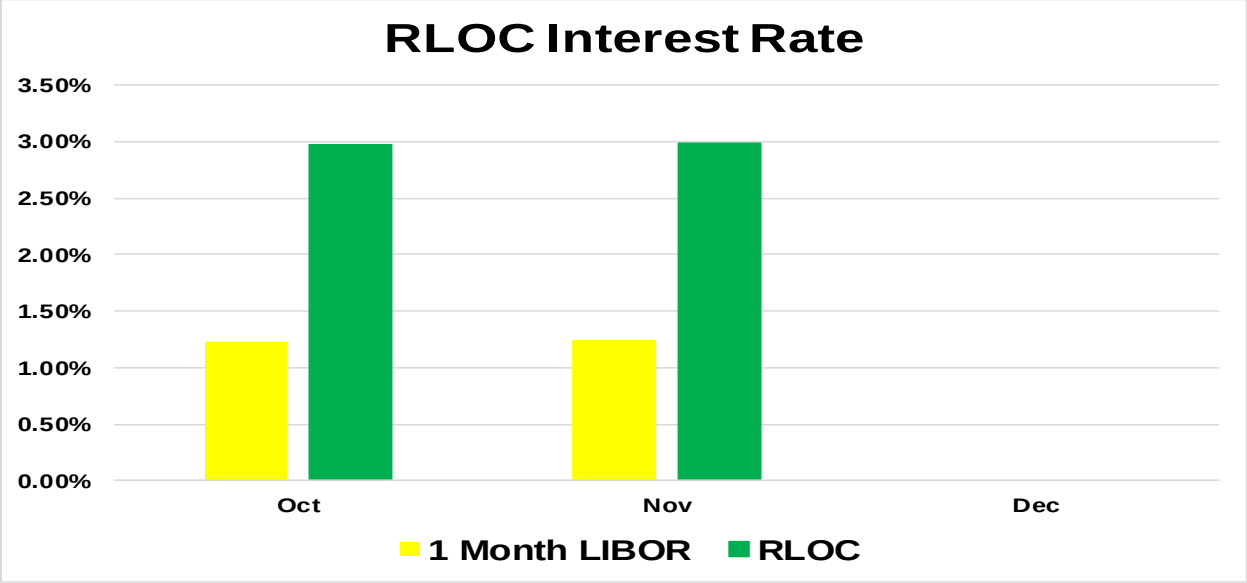
PERSONNEL REPORT

HEADCOUNT			
Position	**Budget**	**Actual**	**Variance**
Chief Executive Officer	1	0	1
Account Representative I / II	2	2	0
Account Services Manager	1	1	0
Administrative Analyst	3	2	1
Administrative Assistant	1	1	0
Board Clerk/Executive Assistant	1	1	0
Community Outreach Manager	1	1	0
Community Outreach Specialist	1	1	0
Director of Administration & Finance	1	1	0
Director of Marketing & Public Affairs	1	1	0
Director of Power Resources	1	0	1
Finance Manager	1	0	1
General Counsel & Director of Government Affairs	1	0	1
Power Contracts & Compliance Manager	1	1	0
Power Resource Planning & Programs Analyst	2	0	2
Manager of Regulatory & Legislative Affairs	1	1	0
Associate Regulatory Analyst	1	0	1
Total	**21**	**13**	**8**

CONTINGENT POSITIONS			
	Dollars		
	FY2017-18	**FY2017-18**	
Position	**Budget**	**Actual**	**% YTD Spent**
Climate Fellows / Part-Time	$144,000	66,257	46%

FINANCING REPORT

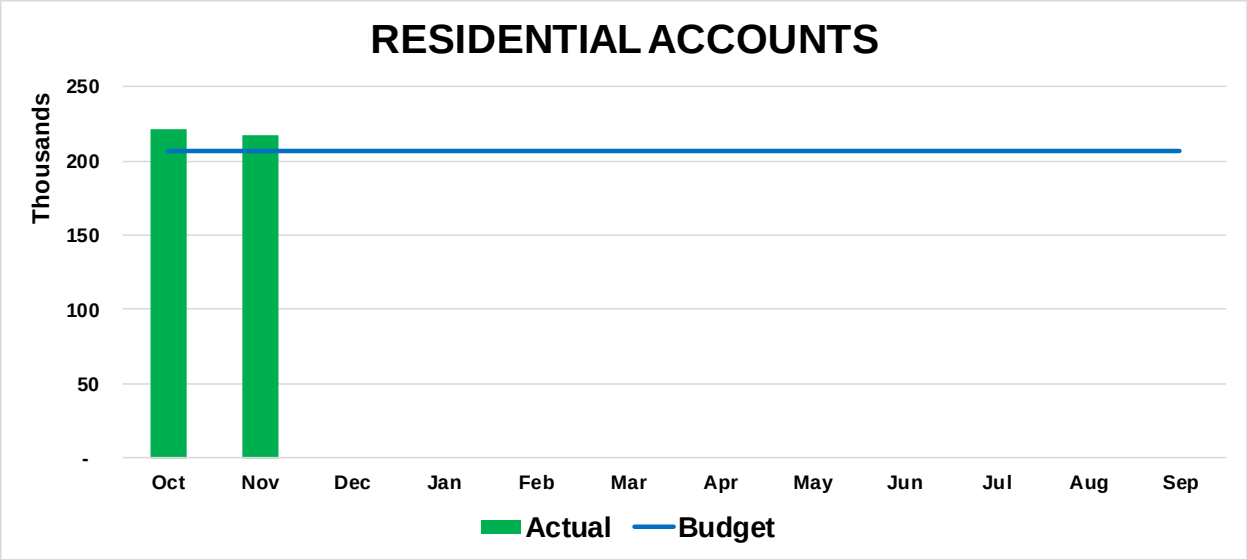


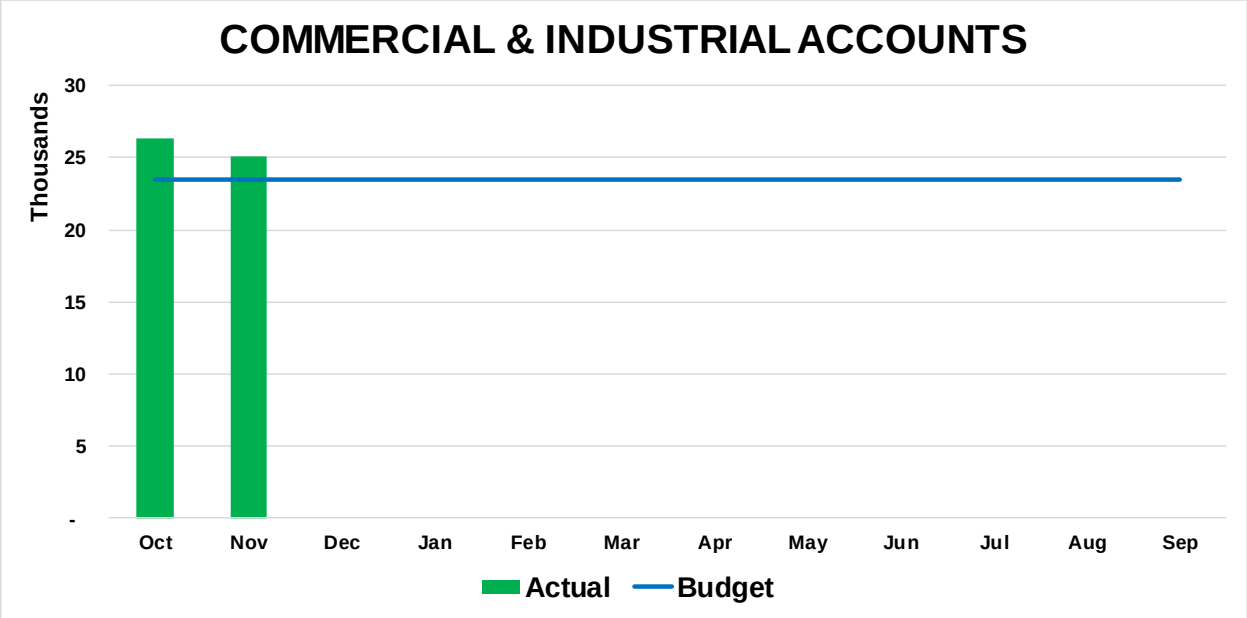


Non-Revolving Line of Credit

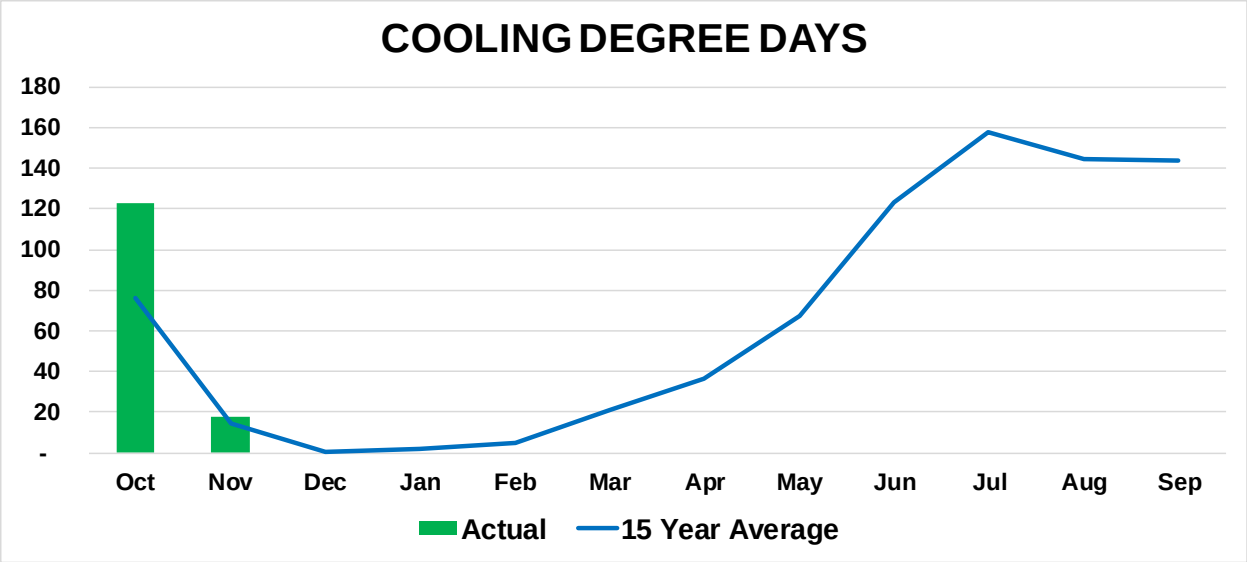
Year-to-date advances of $1.5 million were repaid during August. There is currently $0.5 million remaining of credit remaining that SVCE is not paying interest on and will expire at the end of 2017.

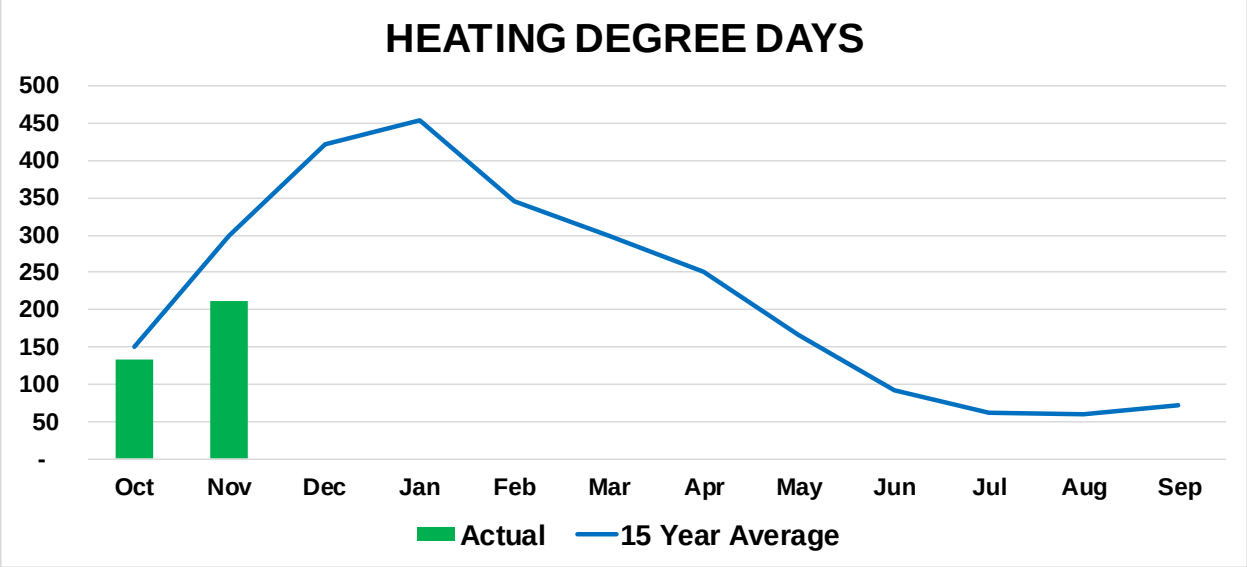
CUSTOMER ACCOUNTS





WEATHER STATISTICS





SILICON VALLEY CLEAN ENERGY AUTHORITY
ACCOUNTS RECEIVABLE AGING REPORT

		Days				
	Total	**0-30**	**31-60**	**61-90**	**90-120**	**Over 120**
Accounts Receivable	**$16,679,460**	$15,483,212	$763,755	$286,615	$97,352	$48,525
Period %	**100%**	92.8%	4.6%	1.7%	0.6%	0.3%

SILICON VALLEY CLEAN ENERGY

Staff Report – Item 3

To:	Silicon Valley Clean Energy Board of Directors
From:	Donald Eckert, Interim CEO
Item 3:	**CEO Report**
Date:	1/10/2018

REPORT

BAAQMD Meeting
On December 14, 2017, SVCE staff met with members of the Bay Area Air Quality Management District to discuss possible partnerships with both parties having a goal to reduce greenhouse gas emissions. This was an introductory session. A follow up meeting will occur in the next few months.

Implementation Plan and Statement of Intent
Per Board's approval at the December Board meeting, Addendum No. 1 to the SVCE Implementation Plan and Statement of Intent was submitted on December 20.

Long-Term Power Supply RFP Update
Negotiations began with the three power suppliers selected from the RFO process. Staff projects to conclude negotiations and present contracts for Board approval over the next 2-4 months.

Financial Audit Update
The financial audit is progressing on schedule. A draft report will be presented by the external auditor at the January 31, 2018 Audit and Finance Committee Meeting.

Vacant Position
The Community Outreach Coordinator position, which is budgeted as a contingent position, has been vacated. SVCE has posted the opening on the website.

Member Agency Loan and Revolving Line of Credit
The outstanding balance on the Revolving Line of Credit was paid in December. Staff is currently coordinating payment of the loan with each member's finance department with the process concluding by the end of next week.

CPUC Draft Resolution E-4907
As reported during the holiday week, the Draft Resolution E-4907, which impacts SVCE by delaying the City of Milpitas until January 2019, was moved from January 11th to February 8th.

Audit and Finance Committee Member Update
Dir. Cortese has submitted his resignation as a committee member of the Audit and Finance Committee (see attached). Staff is planning to keep the seat vacant for the January 31 meeting.

The discussion of the group's composition and who may serve as representatives will be a topic at the January 31 Audit & Finance Committee meeting, and will be brought to the Board for consideration in February.

Appointment for this committee will also be done at the February Board meeting.

CPAG Inaugural Meeting
The first meeting of the Customer Program Advisory Group (CPAG) will take place on Wednesday, January 17 from 11 a.m. – 1 p.m. at the Quinlan Community Center, Social Room in Cupertino. The agenda will be posted on Friday, January 12. A draft timeline for the CPAG is attached to this report.

SVCE is hosting an "SVCE 101" workshop for members of the CPAG on Saturday, February 3. The location and time are to be announced. The new director and alternate director from Milpitas have been invited, and current board members are also invited to attend (please let us know if you are planning on attending). More details will be provided.

2018 State of the Valley Conference
SVCE is again sponsoring a table at Joint Venture Silicon Valley's State of the Valley Conference on February 9 at the San Jose Convention Center. This annual event discusses the challenges and opportunities in the valley. There are six seats available to directors at our table. Please contact the Board Clerk, Andrea Pizano, to reserve one of these seats by Wednesday, January 31. SVCE will also have an exhibit table at this year's event.

CEO Agreements Executed
The following agreements have been executed by the CEO, consistent with the authority delegated by the Board:

1) ArchiveSocial, Inc.: Agreement for online software to assist in capturing and archiving records of online social media communications, $2,388.
2) Employee Relations, Inc.: Agreement for human resource risk management services including background checks for potential employees.

ATTACHMENTS
1. CalCCA Letter to CPUC re: Draft Resolution E-4907
2. Regulatory/Legislative Update, January 2018
3. Community Outreach Update, January 2018
4. Agenda Planning Document, January 2018 – June 2018
5. Dir. Cortese Resignation Letter for Audit and Finance Committee
6. CPAG Draft Timeline

CalCCA
California Community Choice Association

1125 Tamalpais Ave.
San Rafael, CA 94901
415-464-6189
cal-cca.org

December 21, 2017

Via Regular Mail and Electronic Mail

Assigned Commissioner Liane M. Randolph
California Public Utilities Commission
505 Van Ness Avenues
San Francisco, CA 94102

Re: Draft Resolution E-4907 and the Resource Adequacy Proceeding

Dear Assigned Commissioner Randolph:

The California Community Choice Association ("CalCCA") is writing to you in your role as assigned commissioner in the California Public Utilities Commission's ("Commission") Resource Adequacy ("RA") proceeding (R.17-09-020). On December 8, 2017, the Commission's Energy Division released Draft Resolution E-4907 ("Draft Resolution") for public comment and set the Draft Resolution for Commission action at the January 11, 2018 meeting. Among other things, the Draft Resolution holds that, in order to comply with the year-ahead RA process, material changes to the certification process for Community Choice Aggregation ("CCA") implementation plans are needed. CalCCA appreciates the issues raised in the Draft Resolution, and looks forward to providing input to address these issues. However, CalCCA has serious concerns about procedural matters associated with the Draft Resolution. For example, changes proposed in the Draft Resolution appear to be based on untested factual assertions regarding cost-shifting, and the proposed changes were developed without stakeholder review and Commission consideration in a formal proceeding. Moreover, the proposed changes are presented to the Commission on an accelerated timeline under constrained conditions for public input, particularly during the holiday season. In short, CalCCA has various due process and procedural concerns with the Draft Resolution, particularly since the Draft Resolution would impinge on the statutory right of local governments to implement CCA programs.

Since the Draft Resolution bases its holding on issues central to the RA program, CalCCA requests your action as assigned Commissioner in the RA rulemaking proceeding. Specifically, for reasons summarized below, CalCCA requests that the Draft Resolution be withdrawn, and that the issues raised in the Draft Resolution instead be included within the scope of issues to be addressed in the RA proceeding. If expedited consideration of these issues is warranted, a separate track could be established to facilitate early adoption of a Commission decision. Addressing these issues in a formal Commission proceeding will remedy due process and other procedural concerns associated with the Draft Resolution. To facilitate formal consideration of CalCCA's request, several CCA programs have prepared and will be filing a motion in the RA proceeding.

The RA Proceeding Provides The Appropriate Forum

The Commission's October 4, 2017 Order Instituting Rulemaking in R.17-09-020 ("OIR") states that the Commission will use the RA proceeding to "oversee the resource adequacy program" and "make any changes and refinements to the program."[1] Overseeing the RA program, as described in the OIR, expressly includes a review of whether the Commission should "re-examine the basic structure and processes of the Commission's RA program."[2] The Commission notes in the OIR that its approach in addressing RA program changes through an active ratesetting proceeding is in line with previous RA proceedings which "served as the forum for RA decisions."[3]

The actions required by the Draft Resolution are based on RA-related issues, and yet these issues are not being considered in the RA proceeding's ratesetting forum. Instead, important changes that will affect the RA program are being considered without meaningful stakeholder input or open discussion in the RA proceeding. Making reference to "[p]otential unquantifiable bundled ratepayer savings due to elimination of cost shifting of resource adequacy costs,"[4] the Draft Resolution reviews RA cost allocation issues independent of the RA proceeding. Material proposed changes to the CCA implementation plan appear to be grounded in confidential, untested communication from one investor-owned utility ("IOU").[5] Importantly, there was no invitation to a broader group of stakeholders in the development of the Draft Resolution's supporting facts or for advanced input on the Draft Resolution's proposed changes and solutions. Indeed, CalCCA and other interested parties were not made aware of these matters until the release of the Draft Resolution.

CalCCA believes that the Draft Resolution's characterization of RA-related costs as "potential" and "unquantifiable" illustrates the preliminary nature of the Draft Resolution's examination, and highlights the need for formal review in a proper forum. A formal proceeding provides the proper context within which substantive proposals can be made, underlying assumptions discovered and tested, factual assertions examined and rebutted, and arguments advanced. In general, formal proceedings provide the best context and structure for ensuring due process requirements are satisfied.[6] The RA proceeding's OIR contemplates this context and structure.[7] This is illustrated by the fact that previous changes to CCA-related RA forecasting timelines and cost allocation issues were addressed within this structure. For example, in the most recent RA decision (D.17-06-027), the Commission examined proposals for RA forecasting and set a mandatory RA forecasting requirement for August of each year.[8]

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1 OIR at 1.
2 *Id.* at 4.
3 *Id.* at 2 (referencing the previous RA proceedings R.11-10-023 and R.14-10-010).
4 *See* Draft Resolution at 1; *see also id.* at 7 (for reference to "potential" stranded costs).
5 *Id.* at 7.
6 *See People v. Western Air Lines Inc.,* 42 Cal. 2d 621, 632 (1954) (describing Commission due process requirements).
7 *See, e.g.,* OIR at 3 ("Because this proceeding has a broader scope and may include factual issues, it is preliminarily determined that evidentiary hearings will be needed in this proceeding.")
8 *See* D.17-06-027 at 30 and 33.

Findings And Conclusions In The Draft Resolution Must First Be Tested In The RA Proceeding

The Draft Resolution proposes significant changes to the CCA implementation process on the basis that such RA-related changes are necessary. The Draft Resolution directs that local governments launching CCA programs must submit implementation plans "on or before" January 1 of the year before the CCA intends to serve load, as well as submit RA forecasts ahead of January 1 in the following year.[9] Formed CCA programs that did not formally submit their implementation plan as of December 8, 2017 (the date on which the Draft Resolution was released) are required to adhere to these new procedures and timeline. This timeline materially and adversely affects local governments in the process of submitting implementation plans, materially delaying CCA implementation with no advance notice, formal process, or opportunity for input. In order to support and sustain these material effects, underlying assumptions and facts must first be tested in a formal proceeding. More directly, since the Draft Resolution's proposed changes impinge on the statutory right of local governments to implement CCA programs, as further described below, such changes can only be sustained if they are based on a robust, well-developed record.

As noted above, the Draft Resolution would impinge on the statutory right of local governments to implement CCA programs. In support of its proposal, the Draft Resolution references Assembly Bill ("AB") 117.[10] AB 117, as codified in the California Public Utilities Code, states explicitly that the Commission must provide the earliest possible effective date for CCA program implementation:

> The commission shall designate the *earliest possible effective date for implementation of a community choice aggregation program,* taking into consideration the impact on any annual procurement plan of the electrical corporation that has been approved by the commission.[11]

The successor to AB 117, Senate Bill ("SB") 790 states a clear intent of the Legislature to honor "the *right* of local governments to aggregate their electricity loads for the purpose of procuring and generating more renewable energy, expanding consumer choice, and greatly accelerating regional efforts to address climate change."[12] This right and the attendant aspect of "local control" was discussed this year by the United States Court of Appeals for the Ninth Circuit, which highlighted "the legitimate legislative purpose" of CCA programs in "reducing greenhouse gas emissions, providing electricity at a competitive cost, reducing energy consumption, and promoting rate stability, energy security, and energy reliability *through local control*."[13]

As written, changes to the implementation process described in the Draft Resolution would affect or implicate these statutory issues. As such, these changes should be carefully reviewed and examined in light of stakeholder input and normal regulatory processes.

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9 *See* Draft Resolution, Appendix B.

10 *See* Draft Resolution at 2.

11 Cal. Pub. Util. Code § 366.2(c)(8) (emphasis added).

12 *See* SB 790 Section 2(j) (emphasis added).

13 *Schmid v. Sonoma Clean Power*, 673 F. App'x 785, 786 (9th Cir. 2017) (unpublished, emphasis added).

In light of these matters, CalCCA requests that you, as assigned Commissioner in the RA proceeding, collaborate with the Energy Division to withdraw the Draft Resolution and instead set the issues raised in the Draft Resolution for consideration in the RA proceeding. An open rulemaking proceeding – where stakeholders can robustly engage, examine the evidence, and make their legal arguments – is the appropriate forum for the proposed changes described in the Draft Resolution.

Thank you for your consideration of this request.

Sincerely,

Dawn Weisz
President, CalCCA

Copy (via e-mail): CPUC President Michael Picker
CPUC Commissioner Martha Guzman Aceves
CPUC Commissioner Carla J. Peterman
CPUC Commissioner Clifford Rechtschaffen
CPUC Executive Director, Tim Sullivan
CPUC Energy Division Director, Ed Randolph
Service Lists: R.17-09-020
R.03-10-003
R.17-06-026
R.16-02-007

CalCCA
California Community Choice Association

SILICON VALLEY CLEAN ENERGY

SVCE Regulatory and Legislative Update
January 2018
Hilary Staver, Manager of Regulatory and Legislative Affairs

Regulatory Update

PCIA Reform Rulemaking (R. 17-06-026)	➢ Recall: [*On 7/10/17 the California Public Utilities Commission (CPUC) released an Order Instituting Rulemaking (OIR) "to Review, Revise, and Consider Alternatives to the Power Charge Indifference Adjustment." The OIR dismisses the investor owned utilities' (IOUs') PAM application, and opens a new proceeding to consider reforms to the PCIA more broadly.*] ➢ Release of confidential IOU data on contracts and other variables is now moving forward following the conclusion of the disclosure negotiations. **In addition to working towards the 3/12/18 deadline for testimony on proposed PCIA alternatives, the CalCCA PCIA working group is preparing a presentation for a workshop at the CPUC on January 16-17.** This workshop was originally scheduled for mid-November as a data-driven discussion on interpretation of trends and findings from the analysis of the IOUs' released confidential data. However, despite pushing the workshop back to mid January, we have not received enough of the data nor had enough for analysis to support the original agenda. Instead, **this workshop will now be used to discuss conceptual frameworks for possible PCIA alternatives, with the caveat that they must withstand testing once all the data is available**. The PCIA working group is considering a variety of possible alternatives, from incremental improvements to the existing PCIA framework to entirely new models based on one-time buyouts or direct distribution of the utilities' above-market contracts.
Integrated Resource Planning (R. 16-02-007)	➢ Recall: [*On September 19th, the CPUC released the Proposed Reference System Plan (RSP). The RSP is a statewide study that serves as a benchmark for what the Integrated Resource Plans (IRPs) of all the individual load-serving entities (LSEs) need to achieve in aggregate in order to meet California's GHG emission reduction goals. The RSP also lays out the IRP compliance process rules, including what an LSE's IRP must include and how it is to be filed and processed at the CPUC.*] ➢ **On December 28th, the CPUC released a Proposed Decision (PD) containing the final requirements for all load serving entities (LSEs) filing Integrated Resource Plans (IRPs).** The PD is a serious threat to CCA procurement authority and autonomy. Throughout this proceeding, the CCA parties and CalCCA have reminded the CPUC at every turn that, as laid down in statute, authority for procurement decision-making at each CCA lies with that CCA's Board of Directors. **The PD purports to re-interpret several key statutory provisions, and finds that the CPUC has the authority to review and approve CCA IRPs in the same manner that it does those of any other LSE**. This would weaken the role of CCA Boards, making their approval simply an extra step that CCA IRPs would go through before being submitted to the CPUC for review and approval in the same manner as the IRPs of all other types of LSEs. The PD also potentially gives the CPUC the right to order either long-term procurement commitments by the CCAs or new non-bypassable charges to recover costs of mandated procurement by the IOUs. On the bright side, the PD finds short-term mandated procurement of renewables related to the upcoming expiration of federal tax credits, the subject of several defeated bills that CCAs fought in the last legislative session, to be unnecessary. The contents of the PD and potential responses to it will be covered in greater detail in a presentation at the Board Meeting.

SILICON VALLEY CLEAN ENERGY

CCA Rulemaking (R. 03-10-003)	➢ Recall: [*On July 7th, SVCE and other CCAs filed testimony through CalCCA proposing an updated methodology for calculating the Financial Security Requirement (FSR, aka bond) that new CCAs must pay as insurance against failure and dissolution. In contrast to the IOUs' argument for including an estimated cost of emergency procurement for involuntarily returning customers, CalCCA proposes that the FSR should cover only the administrative costs of re-incorporation.*] ➢ **No New News:** CalCCA was represented in evidentiary hearings on October 11th and 12th by Mark Fulmer of MRW & Associates, LLC. Hearings were followed by opening and reply briefs, in which CalCCA continued to defend its proposal. Parties are now awaiting a proposed decision.
Resource Adequacy (R. 17-09-020)	➢ Recall: [*On September 28th, the CPUC issued an Order Instituting Rulemaking (OIR) opening a new Resource Adequacy (RA) proceeding. This proceeding will oversee the RA program for RA compliance years 2019 and 2020. It is the successor to R.14-10-010, a three-year proceeding that covered RA compliance years 2016, 2017, and 2018 and which was closed in June 2017. The OIR for R.17-09-020 indicates that CPUC staff are open to making structural improvements to the RA program, and asks for suggestions from stakeholders on how the program should be modified. SVCE and four other CCAs are participating jointly in this proceeding as the CCA Parties, and submitted comments on the OIR on 10/30/17 suggesting several structural improvements to the program*. A prehearing conference was held on 12/4/17.] ➢ **On 12/21/17, the CCA Parties filed a Motion to expand the scope of this proceeding to include the RA-related issues cited in Draft Resolution E-4907 (see below).** This request was made on the grounds that this proceeding is a more procedurally appropriate forum for such significant issues than is a Draft Resolution, which offers comparatively little opportunity for discussion and stakeholder participation. ➢ **Release of a Scoping Memo is the next expected step in this proceeding.**
Diablo Canyon Closure (A. 16-08-006)	➢ Recall: [*In June 2016, PG&E announced its intention to retire its Diablo Canyon nuclear facility when the licenses on the facility's two reactors expire in 2024 and 2025. PG&E subsequently submitted an application to the CPUC requesting permission to procure replacement energy for the Diablo facility and pass the costs on to ratepayers. After PG&E retracted part of its application due to strong criticism, evidentiary hearings were held in April on the remaining tranche 1, which covers energy efficiency and requests pre-approved cost recovery of about $1.3 billion from ratepayers. The Joint Intervenors, a coalition of thirteen parties including SVCE, CalCCA, and several other individual CCAs, participated in the hearings and filed opening and reply briefs in May and June opposing adoption of tranche 1.On November 8th, the CPUC released a Proposed Decision (PD) rejecting all tranches of PG&E's proposed replacement energy procurement. Among other reasons, the decision cites a lack of demonstrated need for replacement energy procurement due to increasing load departure, as well as an attempt by PG&E to apply weaker cost-effectiveness standards to the replacement energy efficiency (EE) procurement proposed in tranche 1 than are otherwise required for ratepayer-funded EE projects. SVCE and the Joint Intervenors support the PD in its current form.*] ➢ **The Proposed Decision is currently scheduled to be voted on at the 1/11/17 Commissioners' meeting.** The Commission may make changes to the PD before approving it, but the approval of any version of the PD will close this proceeding.
AB 1110 Implementation	➢ Recall: [*AB 1110 (Ting, Chapter 656, Statues of 2016) was passed in 2016 for the purpose of augmenting the information available to electricity consumers in the annually-distributed Power Content Label (PCL). AB 1110 requires that starting in 2020, in addition to displaying power mix the PCL will include the greenhouse gas emissions intensity (in lbs CO_2e/MWh) of each LSE's portfolio (or, if it offers multiple electricity products, of each individual product). AB 1110 also directs the*

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	California Energy Commission (CEC) to develop guidelines on how to treat unbundled RECs when calculating the power mix and GHG intensity metrics. On June 27th, the CEC released its proposed implementation plan for AB 1110. The proposal contains several provisions that could threaten SVCE's claim of being carbon-free. Most importantly, the CEC proposes that for the purposes of calculating carbon intensity, PCC2 (aka "bucket 2") RECs would have the emissions profile of the substitute energy that firms and shapes the energy product (usually gas) rather than that of the zero-carbon resource that generates the RECs. Secondly, PCC3 (unbundled) RECs would be reported in a footnote but not included in power mix or GHG intensity calculations. MWh for which SVCE has purchased unbundled RECs would thus no longer be carbon-free.] ➢ **Parties have been waiting for an updated implementation plan for AB 1110 throughout fall 2017, and it has yet to be released. However, the PD in the Integrated Resource Plan proceeding contains provisions such as a definition of GHG-free resources that, if adopted, would effectively constitute an end run around the AB 1110 process.** The definition of GHG-free resources and the emissions intensities of various resources was an authority granted to the CEC via under the AB 1110 implementation process, but the PD threatens to nullify this whole proceeding. More details to be included in the presentation.
Tree Mortality NBC (A. 16-11-005)	➢ Recall: [*In 2016, an emergency proclamation by Governor Brown and a bill passed by the legislature (SB 692) separately ordered the IOUs to procure extra energy from biomass in order to dispose of trees killed by the drought. SB 692 explicitly authorizes the IOUs to recover the above-market cost of this procurement through a new non-bypassable charge (NBC), while Governor Brown's proclamation does not. The IOUs would like to combine the procurement costs of these two mandates and recover both through a single new NBC. On July 14th, CalCCA submitted a Motion challenging a pre-hearing conference ruling in which the Administrative Law Judge (ALJ) erroneously determined the IOUs' proposed combined NBC to be legal and acceptable.*] ➢ **The workshop on 12/12/17 went well. CCA and IOU representatives discussed possible methodologies for valuing the biomass resources authorized for cost recovery, which would be the basis for the design of the new tree mortality NBC.** The conversation revealed some common ground, particularly regarding the importance of consistency with the outcome of the ongoing PCIA reform proceeding. However, the workshop agenda explicitly excluded discussion of whether procurement mandated by Governor Brown's emergency proclamation, which was not explicitly authorized for cost recovery via NBC, could be lumped in with the SB 692 procurement in the new NBC. This point has been the primary reason for CCA involvement in this proceeding so far, and parties continue to await a response to CalCCA's July 2017 Motion on this topic.
Low Carbon Fuel Standard	➢ Recall: [*On December 4, SVCE submitted a second set of comments advocating for CCAs to become eligible for all or a portion of the Low Carbon Fuel Standard credits currently allocated to Electric Distribution Utilities (ie, IOUs).*] ➢ **Parties are now awaiting release of updated LCFS guidelines, which are expected to be released in winter 2018.**
Transportation Electrification (R. 13-11-007)	➢ Recall: [*On June 16th, SVCE filed an opening brief as part of the joint CCA parties that highlights the need for IOUs to coordinate with CCAs in areas where they are implementing their Priority Review Projects (PRPs, aka proposed transportation electrification pilot projects). This was followed by a reply brief on July 10th.*] ➢ **On 11/22/17, a Proposed Decision (PD) was released approving 15 of the PRPs.** The PD will go to Commission vote in early 2018.

California Consumer Choice Project (CCCP)	➢ **No New News:** On October 31st, the CPUC held an all-day workshop in Sacramento dedicated to the topic of expanding consumer choice in California's retail electricity markets. This workshop follows the En Banc Hearing on consumer and retail choice held in May 2017, and is the latest step in the CPUC's guided stakeholder conversation about re-opening retail markets. However, it is unlikely that any substantive action will be taken before the PCIA proceeding concludes late next year.
Resolution E-4907 Registration Process for CCAs	➢ Recall: [*On December 8, the Commission released a resolution changing the compliance requirements for new and expanding CCAs that are submitting their implementation plans to the CPUC. The resolution sets more stringent timeline for implementation plan submission and certification, and if adopted as written would delay SVCE's initiation of service to Milpitas to January 2019.*] ➢ **Voting on Draft Resolution E-4907 has been moved from the January 11th Commissioners' meeting to the February 8th meeting, and the deadline for comments on the Draft Resolution has been extended to January 11th.** The deadline extension also introduced an opportunity for reply comments, which are due on January 18th. This extension saps some of the potency of the argument that this process lacks opportunity for stakeholder comment, but still does not approach the more appropriate comprehensives of a full proceeding such as the resource adequacy proceeding (R.17-09-020). ➢ **Letters from cities and counties are still valuable, and assistance is available for preparation of these letters.**

Legislative Update

The 2018 legislative session began on January 3rd, 2018, and the deadline for introduction of bills is February 16th. Nothing related to CCAs has been introduced yet, but we are anticipating plenty of such bills in the coming weeks. SVCE staff are monitoring incoming bills, and will provide an overview of relevant bills at the February Board meeting once there has been more time for bills to be introduced. Contingency preparations for a variety of scenarios are underway in collaboration with the CalCCA lobbyists, and a meet-and-greet with legislators and staff at the capitol is scheduled for January 24-25.

SILICON VALLEY CLEAN ENERGY

Community Outreach Update
January 2018

1. Phase 4 NEM Enrollment

Phase 4 Net Energy Metering (NEM) customer accounts are switched to SVCE this month. These solar customers have true-ups that fell in either November or December 2017, or January 2018. This enrollment also includes some NEM customers that had newly established NEM connections in February or March 2017 that could not be included in our first enrollment phase in April 2017. This marks the final phase of SVCE's year 1 enrollment activity.

2. Upgrade and Opt Out Update

Below is the number of GreenPrime Upgrades and Opt Outs as of Dec. 31, 2017, as well as the total opt out percentage in overall accounts, and opt out percentage by load.

	Upgrade	Opt Out	Opt Out by Account Type	Total Opt Out, All Accounts	Opt Out Percentage by Load
Residential	868	6,499	2.90%	2.85%	2.9%
Commercial	1501	621	2.42%		7.6%

3. Media

Press Release:

- Municipal Power Veteran Appointed as New SVCE CEO, *published 12-14-2017*

Mentions:

- Riverside Public Utilities manager leaving for Silicon Valley job, Press-Enterprise, 12-8-2017
- Riverside Public Utilities General Manager Leaving for Job in Silicon Valley, InlandEmpire.us, 12-8-2017
- California Proposes Resource Adequacy Obligations for CCAs, *RTO Insider, 12-11-2017*

SVCE Board of Directors Agenda Planning

Revised: 1/5/18

	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY
MILESTONES			**Potential Phase 1 of Milpitas**			
	February 14, 2018	**March 14, 2018**	**April 11, 2018**	**May 9, 2018**	**June 13, 2018**	**July 11, 2018**
ADMININSTRATION, POLICIES	Board Officers and Committee Assignments	Rates	Follow up from Workshop on Power Procurement	Rate Policy Review		
	Voting Shares Update Mid-Year Budget Review	Q1 Financial Review				
STAFFING						
CONTRACTS		PPA Contract	PPA Contract	PPA Contract		

DAVE CORTESE
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December 13, 2017

Andrea Pizano
Board Clerk
SVCE
333 W. El Camino Real, Suite 290
Sunnyvale, CA 94087

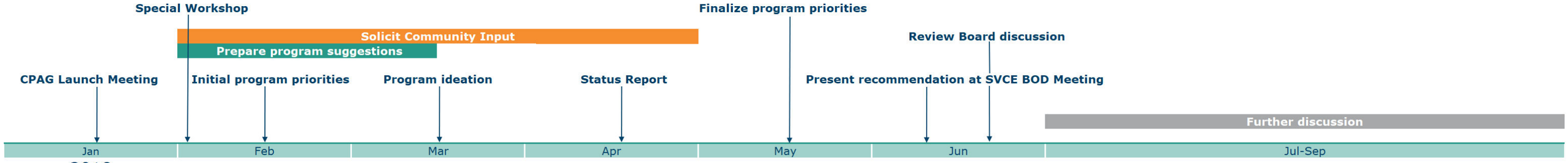
Dear Ms Pizano:

Please accept this letter as my resignation from the Audit and Finance Committee effective immediately.

Sincerely,

Dave Cortese
President, Santa Clara County Board of Supervisors

SVCE CPAG ROADMAP - DRAFT



SILICON VALLEY CLEAN ENERGY

Staff Report – Item 4

To:	Silicon Valley Clean Energy Board of Directors
From:	Donald Eckert, Interim CEO
Item 4:	**Recent Regulatory Developments**
Date:	1/10/2018

This item will be addressed in the form of a presentation to the Board.

SILICON VALLEY CLEAN ENERGY

Staff Report – Item 5

To:	Silicon Valley Clean Energy Board of Directors
From:	Donald Eckert, Interim CEO
Item 5:	**Report by General Counsel of Conflict of Interest Question Concerning ZGlobal**
Date:	1/10/2018

This item will be addressed in the form of an oral report to the Board from General Counsel.