

August 11, 2014

The Honorable Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

**Re: California Independent System Operator Corporation
Filing of CAISO Service Agreement No. 3114
Docket No. ER14-____-000**

Dear Secretary Bose:

The California Independent System Operator Corporation (“CAISO”) submits for filing and acceptance an approved project sponsor agreement (“APSA”) between the CAISO and the San Diego Gas & Electric Company (“SDG&E”).¹ The SDG&E APSA sets forth the terms under which SDG&E will construct the Sycamore-Penasquitos transmission line (“Sycamore-Penasquitos Project”), a transmission project that the CAISO approved through its transmission planning process. The SDG&E APSA is similar to the two other approved project sponsor agreements that the CAISO has submitted for Commission approval. The CAISO requests that the Commission accept the SDG&E APSA effective October 11, 2014.

I. Approved Project Sponsor Agreement Development and Background

The Sycamore-Penasquitos Project is one of three transmission solutions included in the CAISO’s 2012-2013 transmission plan for which the CAISO has selected a project sponsor through the competitive solicitation process.² This SDG&E APSA is

¹ The CAISO submits the SDG&E APSA pursuant to Section 205 of the Federal Power Act, 16 U.S.C. § 824d (2012), and Rule 205 of the Commission’s Rules of Practice and Procedure, 18.C.F.R. § 385.205 (2013).

² The CAISO submitted the first APSA for approval by the Commission on May 23, 2014. That agreement was with the Imperial Irrigation District, the project sponsor the CAISO selected to finance, construct and own the Imperial Valley Element. The Commission approved the Imperial Irrigation District APSA by letter order on July 15, 2014.

The CAISO submitted the second APSA agreement on July 1, 2014. That agreement was with Pacific Gas & Electric Company and MidAmerican Central California Transco, LLC and pertained to the Gates-Gregg transmission line project. The filing is pending Commission approval.

the third approved project sponsor agreement that the CAISO has negotiated and submitted to the Commission in connection with those transmission solutions.

The Sycamore-Penasquitos Project consists of a 230 kV transmission line between two existing SDG&E substations, one at Sycamore Canyon and the other at Penasquitos. The CAISO initially identified the Sycamore-Penasquitos Project during the 2012-2013 transmission planning process as needed as a policy-driven project to ensure delivery of renewables to CAISO load. However, in light of the San Onofre Nuclear Generating Station retirement, the CAISO determined that the project was critically needed for reliability purposes as well.³

Consistent with tariff and business practice manual procedures and milestones, the CAISO established a bid window from April 1, 2013, to June 3, 2013 for project sponsors to submit applications to construct the Sycamore-Penasquitos Project. Four project sponsors submitted applications to build the project. On March 4, 2014, the CAISO selected SDG&E as the approved project sponsor.

Under the CAISO tariff, approved project sponsors have 120 days after their selection to enter into an agreement with the CAISO setting forth the terms and conditions for construction of the transmission solution.⁴ The CAISO and SDG&E negotiated and completed the SDG&E APSA within that timeframe, although the document was not executed until several weeks later.

Separately, the CAISO has conducted a stakeholder process to develop a *pro forma* approved project sponsor agreement (“*pro forma* APSA”) that it will submit to Commission for approval in the near future. The CAISO intends to use the *pro forma* APSA on a prospective basis starting with approved project sponsors that the CAISO selects in Phase 3 of the 2013-2014 transmission planning cycle. The SDG&E APSA is very similar to the previously filed APSAs, but it follows the structure the CAISO will be using for the *pro forma* APSA and incorporates some modifications suggested by stakeholders during the *pro forma* APSA development.

II. The SDG&E Approved Project Sponsor Agreement

A. The SDG&E APSA Governs the Relationship between SDG&E and the CAISO Before SDG&E Turns the Transmission Facilities over to CAISO Operational Control.

Similar to the two previous approved project sponsor agreements, the SDG&E APSA “fills in the details” about project construction and network interconnection that vary by project and are not addressed in the tariff or business practice manual. For both non-participating transmission owners and participating transmission owners, such

³ See <http://www.caiso.com/Documents/Sycamore-PenasquitosProjectSponsorSelectionReport.pdf>

⁴ CAISO tariff §24.5.3.5

as SDG&E, the approved project sponsor agreement “bridges the gap” between the time the CAISO selects an approved project sponsor and the time the tariff and the transmission control agreement become applicable to the project and the approved project sponsor’s relationship with the CAISO. These same principles hold true for SDG&E, a participating transmission owner already subject to the transmission control agreement.

Structurally, the SDG&E APSA differs somewhat from the previous two APSAs, primarily in a reorganization of Article 5, but the substantive provisions are largely the same. The revised structure reflects clarifications and refinements that the CAISO agreed to adopt as part of the *pro forma* APSA stakeholder process, as well as provisions that address issues unique to SDG&E.

Article 1 sets forth the relevant definitions used in the APSA. The parties deleted several definitions included in the previous APSAs because the terms were not used later in the agreement.⁵ In addition, the parties refined the Interconnection PTO definition, as well as provisions referring to the PTO Interconnection Handbook.

Article 2 of the SDG&E APSA, which covers the effective date, term, and termination of the agreement, reflects one modification to the termination provisions. The parties eliminated the option that allowed an approved project sponsor to terminate the agreement on 90 days’ notice. During the *pro forma* APSA process, the parties and stakeholders agreed that such a provision would allow an approved project sponsor to walk away from the project without complying with the termination procedures in Article 14 or the terms of the APSA after the project is turned over to CAISO operational control. In this version of the APSA, Article 2 provides that unless the agreement is terminated for the reasons described other sections, the APSA terminates when the facilities are turned over to CAISO operational control.⁶

Article 3, which addresses the interaction between the CAISO tariff, the transmission control agreement and the SDG&E APSA, contains no substantive changes from the previous approved project sponsor agreements. As with the other two approved project sponsor agreements, SDG&E agrees to comply with all applicable tariff provisions and the terms of the SDG&E APSA to the extent that they do not conflict with the tariff. However, in section 3.5 of the SDG&E APSA, the parties eliminated the provision that the agreement termination must be filed with the Commission as duplicative of section 2.3.3.

⁵ Specifically, “Commercial Operation Date” and “Point of Interconnection”.

⁶ Certain obligations continue under the SDG&E APSA after the transmission elements are turned over to CAISO operational control, including (1) a requirement in section 5.6.2 that SDG&E provide final design information and other specifications within 120 days after the project has been turned over to CAISO operational control and (2) a requirement in section 5.6.1 for SDG&E to provide the final cost information to the CAISO within 12 months of turning the project over to CAISO operational control.

Article 4 addresses the scope of service under the APSA and for the most part sets forth requirements regarding interconnection with facilities of other transmission owners. Because SDG&E is interconnecting to its own facilities, Article 4 is largely inapplicable. The parties have included it to maintain consistency with the *pro forma* APSA.

B. The SDG&E APSA Contains the Same Project Details, Construction Milestones and a Communications Framework as the Two Prior APSAs, but the Agreement Structure is Different.

Like the previous APSAs, Article 5 of the SDG&E APSA provides the framework for communications between the CAISO and SDG&E during the project construction period, consistent with CAISO tariff sections 24.6.1 through 24.6.4, as well as the reporting requirements that will continue to apply after SDG&E turns the project over to CAISO operational control. However, as suggested by the stakeholders to the *pro forma* APSA initiative, the parties have reorganized the structure to follow the chronology of a transmission project.

The parties consolidated sections 5.1 and 5.2 to eliminate duplicative language. Section 5.2 now provides for the information exchange between the parties that begins after the effective date of the APSA. Section 5.3 contains the project and construction reporting requirements that were contained in later articles of the previous approved project sponsor agreements. The parties moved them up in the agreement to better track the project timeline. Section 5.4 sets forth the process for review by the CAISO and Interconnecting PTOs (or other entity) of changes to the project specification. These changes must be provided by the approved project sponsor at least 30 calendar days before construction is scheduled to start on the changed component of the project. Consistent with the previous approved project sponsor agreements, the project specifications must be compatible with Interconnecting PTO (or other entity) specifications.

Section 5.5 now outlines the activities that will take place as project construction commences, after the approved project sponsor has obtained regulatory approvals and necessary rights of ways or other land easements. The SDG&E APSA also contains two paragraphs that were not included in the previous approved project sponsor agreements. The CAISO developed these provisions through individual negotiations with SDG&E and the *pro forma* APSA stakeholder process.

Specifically, section 5.5.4 requires that the approved project sponsor indemnify the CAISO for claims resulting from project construction. In addition, section 5.5.5 addresses the situation wherein an approved project sponsor decides to use a vendor or project team member different than the one described in the project sponsor application. Under such circumstances, the approved project sponsor must immediately notify the CAISO and the CAISO may take any action necessary to ensure that the

selected vendor or team member will provide the same level of service that the vendor or team member identified in the application would have provided. This is an important provision because CAISO tariff section 24.5.4 specifically provides that the CAISO will consider the project sponsor and its team in determining the applicant that is best suited to finance, construct and own the project. In conducting the comparative analysis, the CAISO relies on the information provided in the project sponsor applications. This includes detailed descriptions of the project sponsor's proposed team members, including vendors.

Section 5.6 contains details about reporting final project design and project costs. Sections 5.6.1 and 5.6.2 are not new but are identified under a new section heading for Section 5.6, "Final Project Design." Sections 5.7 and 5.8, which address project delays and delays in project approvals, are unchanged from the previous APSAs. Section 5.9, project modifications, contains the same provisions as the previous APSAs except for section 5.9.3. In this section the parties acknowledge that a siting agency may order project modifications, and the approved project sponsor must notify the CAISO of these modifications.

Sections 5.10, 5.11 and 5.12 contain provisions about the interconnection process, CAISO as the Planning Authority for the project and maintain party tax status. These provisions have been carried over from the previous approved project sponsor agreements without substantive change. The CAISO notes that in the SDG&E AP SA, the parties added provisions, where necessary, identifying specific paragraphs that survive termination of the agreement. Section 5.10.4, regarding the interconnection process, is an example of this clarification.

C. The Remaining AP SA Sections Are Consistent With the Previously Approved APSAs

Article 8 outlines communication requirements between the CAISO, the approved project sponsor and the Interconnecting PTO. Article 9 covers start-up obligations. There have been no substantive changes to these provisions from the prior APSAs.

Article 10 provides for project cost recovery, billing and payment. Because SDG&E did not agree to a binding cost cap, section 10.1 contains a reference to the estimated costs and cost containment measures agreed to by SDG&E which are set forth in Appendix E. Section 10.1 contains the same revenue requirement opportunities and refund obligations set forth in the previous approved project sponsor agreements. It provides that the approved project sponsor may seek Commission approval of a transmission revenue requirement before the transmission facilities become operational. If approved, the CAISO will collect that revenue requirement through the regional access charge.

The parties have not substantively changed Articles 11 through 13. These are standard provisions addressing regulatory requirements, governing laws, notices and

force majeure. Article 14, which provides the terms and conditions for default, contains a new section 14.3. This section refers to the approved project sponsor's right under section 16.1 to assign the APSA for financial security collateral purposes, provided that it gives notice to the CAISO and that assignee contact information is included. Section 14.3 states that if the CAISO has received notice of assignment for collateral security purposes, the CAISO shall provide any notice of contract breach provided by the approved project sponsor to the collateral assignee, and the collateral assignee has the right, but not the obligation, to cure the breach on behalf of the approved project sponsor. This provision would allow the APSA to continue in place under certain circumstances and could prevent the need for choosing a new project sponsor if the collateral assignee is able to cure the breach.

With three minor exceptions, Articles 15 through 25 are the same as in the prior approved project sponsor agreements. The parties clarified section 20.1, pertaining to environmental releases, to specifically describe the obligations of the notifying party in the event of the release of any hazardous substance, including hazardous wastes and the timing of the notification. The parties re-worded section 24.1.5, under Representations, Warranties and Covenants, to be a warranty statement as to the accuracy and completeness of the technical specifications provided by the approved project sponsor. Finally, the parties simplified and clarified the reservation of rights in section 25.11 such that each party can unilaterally make a filing with the Commission to modify the APSA under Sections 205 and 206 of the Federal Power Act and the Commission's rules and regulations.

III. Effective Date

The CAISO requests that the SDG&E APSA be made effective on October 11, 2014. The parties are working cooperatively together on the project so that SDG&E can proceed with environmental permitting and other requirements on a timely basis to meet the expected online date of 2017.

IV. Service

The CAISO has served copies of this filing upon all parties to Docket No. ER14-1206-000, the California Public Utilities Commission, and the California Energy Commission. The CAISO has also posted the filing on the CAISO website.

Enclosed for filing is each of the following:

- (1) This letter of transmittal; and
- (2) Approved Project Sponsor Agreement (Attachment A).

V. Correspondence

The CAISO requests that all correspondence, pleadings, and other communications concerning this filing be served upon the following:

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18 C.F.R. § 203(b)(3).

VI. Conclusion

The CAISO respectfully requests that the Commission accept this filing and permit the APSA to be effective October 11, 2014. If there are any questions concerning this filing, please contact the undersigned.

Respectfully submitted,

By: /s/ Judith Sanders

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Attachment A – Approved Project Sponsor Agreement

Filing of Service Agreement 3114

California Independent System Operator Corporation

**APPROVED PROJECT SPONSOR AGREEMENT (APSA)
BETWEEN**

SAN DIEGO GAS & ELECTRIC COMPANY

AND

**CALIFORNIA INDEPENDENT SYSTEM OPERATOR
CORPORATION**

PROJECT: SYCAMORE-PENASQUITOS

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APPROVED PROJECT SPONSOR AGREEMENT

SAN DIEGO GAS & ELECTRIC COMPANY

CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION

THIS APPROVED PROJECT SPONSOR AGREEMENT (“APSA” or “Agreement”) is made and entered into this 24th day of July, 2014, between the San Diego Gas & Electric Company, organized and existing under the laws of the State of California (“Approved Project Sponsor”), and the California Independent System Operator Corporation, a California nonprofit public benefit corporation organized and existing under the laws of the State of California (“CAISO”). Approved Project Sponsor and CAISO each may be referred to as a “Party” or collectively as the “Parties.”

RECITALS

WHEREAS, CAISO exercises Operational Control over the CAISO Controlled Grid; and

WHEREAS, Approved Project Sponsor intends to construct, finance and own the Sycamore-Penasquitos Project (“Project”) consisting of transmission facilities identified in Appendix A to this APSA; and

WHEREAS, if applicable, Approved Project Sponsor will seek interconnection of the Project from the Interconnecting PTO or other entity in accordance with the requirements provided in this Agreement; and

WHEREAS, the Parties agree that, upon energization of the Project, Approved Project Sponsor will enter into the Transmission Control Agreement to become a Participating Transmission Owner (“Participating TO”), if it is not already a Participating TO, and will turn the Project over to the Operational Control of the CAISO; and

WHEREAS, the Parties recognize that the Approved Project Sponsor has certain rights and obligations related to the Project that arise prior to the date upon which the Approved Project Sponsor becomes a Participating TO and which may remain in effect for a discrete period of time after the Approved Project Sponsor enters into the Transmission Control Agreement; and

WHEREAS, Approved Project Sponsor and CAISO thus have agreed to enter into this APSA for the purpose of identifying rights and obligations associated with the Project that arise prior to the effective date of the Transmission Control Agreement;

NOW, THEREFORE, in consideration of and subject to the mutual covenants contained herein, it is agreed:

ARTICLE 1. DEFINITIONS

When used in this APSA, terms with initial capitalization that are not defined in this Article 1 shall have the meanings specified in the Article in which they are used or the meaning in the CAISO Tariff, Appendix A.

Affiliate shall mean, with respect to a corporation, partnership or other entity, each such other corporation, partnership or other entity that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such corporation, partnership or other entity.

Applicable Laws and Regulations shall mean all duly promulgated applicable federal, state and local laws, regulations, rules, ordinances, codes, decrees, judgments, directives, or judicial or administrative orders, permits and other duly authorized actions of any Governmental Authority.

Applicable Reliability Council shall mean the Western Electricity Coordinating Council or its successor.

Applicable Reliability Standards shall mean the requirements and guidelines of NERC, the Applicable Reliability Council, and the Balancing Authority Area of the Interconnecting PTO's Transmission System to which the Project is directly connected, including requirements adopted pursuant to Section 215 of the Federal Power Act.

Balancing Authority shall mean the responsible entity that integrates resource plans ahead of time, maintains load-interchange-generation balance within a Balancing Authority Area, and supports Interconnection frequency in real time.

Balancing Authority Area shall mean the collection of generation, transmission, and loads within the metered boundaries of the Balancing Authority. The Balancing Authority maintains load-resource balance within this area.

Breach shall mean the failure of a Party to perform or observe any material term or condition of this APSA.

Breaching Party shall mean a Party that is in Breach of this APSA.

Business Day shall mean Monday through Friday, excluding federal holidays and the day after Thanksgiving Day.

CAISO Controlled Grid shall mean the system of transmission lines and associated facilities of the parties to the Transmission Control Agreement that have been placed under the CAISO's Operational Control.

CAISO Tariff shall mean the CAISO's tariff, as filed with FERC, and as amended or supplemented from time to time, or any successor tariff.

Calendar Day shall mean any day including Saturday, Sunday or a federal holiday.

Confidential Information shall mean any confidential, proprietary or trade secret information of a plan, specification, pattern, procedure, design, device, list, concept, policy or compilation relating to the present or planned business of a Party, which is designated as confidential by the Party supplying the information, whether conveyed orally, electronically, in writing, through inspection, or otherwise, subject to Article 19.

Default shall mean the failure of a Breaching Party to cure its Breach in accordance with Article 14 of this APSA.

Effective Date shall mean the date on which this APSA becomes effective upon execution by all Parties subject to acceptance by FERC, if applicable.

Environmental Law shall mean Applicable Laws or Regulations relating to pollution or protection of the environment or natural resources.

Federal Power Act shall mean the Federal Power Act, as amended, 16 U.S.C. §§ 791a et seq.

FERC shall mean the Federal Energy Regulatory Commission or its successor.

Force Majeure shall mean any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, earthquake, explosion, breakage or accident to machinery or equipment, or any order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities. A Force Majeure event does not include acts of negligence or intentional wrongdoing by the Party claiming Force Majeure.

Good Utility Practice shall mean any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be any one of a number of the optimum practices, methods, or acts to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region.

Governmental Authority shall mean any federal, state, local or other governmental, regulatory or administrative agency, court, commission, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental authority having jurisdiction over the Parties, their respective facilities, or the respective services they provide, and exercising or entitled to exercise any administrative, executive, police, or taxing authority or power; provided, however,

that such term does not include the Approved Project Sponsor, CAISO, or any Affiliate thereof.

Hazardous Substances shall mean any chemicals, materials or substances defined as or included in the definition of “hazardous substances,” “hazardous wastes,” “hazardous materials,” “hazardous constituents,” “restricted hazardous materials,” “extremely hazardous substances,” “toxic substances,” “radioactive substances,” “contaminants,” “pollutants,” “toxic pollutants” or words of similar meaning and regulatory effect under any applicable Environmental Law, or any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any applicable Environmental Law.

Interconnection Facilities shall mean the Interconnecting PTO’s or other entity’s facilities, including any modification, additions or upgrades, that are necessary to physically and electrically interconnect the Project to the Interconnecting PTO’s Transmission System.

Interconnecting PTO shall mean any Participating TO, other than the Approved Project Sponsor, that owns or is building transmission facilities to which the Project will interconnect.

Interconnection Handbook shall mean a handbook, developed by the Interconnecting PTO and posted on the Interconnecting PTO’s web site or otherwise made available by the Interconnecting PTO, describing technical and operational requirements for controls and protection equipment for transmission connected to the Interconnecting PTO’s portion of the CAISO Controlled Grid, as such handbook may be modified or superseded from time to time. Interconnecting PTO’s standards contained in the Interconnection Handbook shall be deemed consistent with Good Utility Practice.

Interconnection Service shall mean the service defined in Article 4.2 of this Agreement.

Loss shall mean any and all damages, losses, and claims, including claims and actions relating to injury to or death of any person or damage to property, demand, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties.

Metering Equipment shall mean all metering equipment installed or to be installed for measuring the Balancing Authority Area boundary pursuant to this APSA at the metering points, including but not limited to instrument transformers, MWh-meters, data acquisition equipment, transducers, remote terminal unit, communications equipment, phone lines, and fiber optics.

NERC shall mean the North American Electric Reliability Corporation or its successor organization.

Operational Control shall mean the rights of the CAISO under the Transmission Control Agreement and the CAISO Tariff to direct the parties to the Transmission Control Agreement how to operate their transmission lines and facilities and other electric plant affecting the reliability of those lines and facilities for the purpose of affording comparable non-discriminatory transmission access and meeting applicable reliability criteria.

Party or Parties shall mean the CAISO, Approved Project Sponsor or the applicable combination of the above.

Reasonable Efforts shall mean, with respect to an action required to be attempted or taken by a Party under this APSA, efforts that are timely and consistent with Good Utility Practice and are otherwise substantially equivalent to those a Party would use to protect its own interests.

System Protection Facilities shall mean equipment, including necessary protection signal communications equipment, that protect (1) the Interconnecting PTO's Transmission System, Interconnecting PTO's Interconnection Facilities, CAISO Controlled Grid, and Affected Systems from faults or other electrical disturbances and (2) the Approved Project Sponsor's Transmission System from faults or other electrical system disturbances occurring on the CAISO Controlled Grid, Interconnecting PTO's Interconnection Facilities, and Affected Systems or on other delivery systems or other generating systems to which the CAISO Controlled Grid is directly connected.

Transmission Control Agreement shall mean CAISO FERC Electric Tariff No. 7.

ARTICLE 2. EFFECTIVE DATE, TERM AND TERMINATION

2.1 Effective Date. This APSA shall become effective upon execution by all Parties, subject to acceptance by FERC (if applicable). The CAISO shall promptly file this APSA with FERC upon execution in accordance with Article 3.1, if required.

2.2 Term of Agreement. This APSA shall remain in effect until termination consistent with Article 2.3.

2.3 Agreement Termination.

2.3.1 Except for the obligations set forth in Articles 5.6, 5.8, 10.1.1, and 10.3, this APSA will terminate when the Project has been turned over to CAISO Operational Control.

2.3.2 A Party may terminate this APSA in accordance with Article 5.8 or Article 14.

2.3.3 Notwithstanding Articles 2.3.1 and 2.3.2, no termination shall become effective until the Parties have complied with all Applicable Laws and Regulations applicable to such termination and, if applicable, FERC has accepted the notice of termination.

ARTICLE 3. REGULATORY FILINGS AND CAISO TARIFF COMPLIANCE

- 3.1 Filing.** The CAISO shall file this APSA (and any amendment hereto) with the appropriate Governmental Authority, if required. The Approved Project Sponsor may request that any information included in such filing be subject to the confidentiality provisions of Article 19. If the Approved Project Sponsor has executed this APSA, or any amendment to the APSA, the Approved Project Sponsor shall reasonably cooperate with CAISO with respect to such filing and to provide any information reasonably requested by CAISO needed to comply with applicable regulatory requirements.
- 3.2 Agreement Subject to CAISO Tariff.** The Approved Project Sponsor will comply with all applicable provisions of the CAISO Tariff.
- 3.3 Relationship Between this APSA and the CAISO Tariff.** With regard to rights and obligations between the CAISO and the Approved Project Sponsor, if and to the extent a matter is specifically addressed by a provision of this APSA (including any appendices, schedules or other attachments to this APSA), the provisions of this APSA shall govern, except in the case of inconsistencies with the CAISO Tariff or as provided in section 3.5. If and to the extent a provision of this APSA is inconsistent with the CAISO Tariff and dictates rights and obligations between the CAISO and the Approved Project Sponsor, the CAISO Tariff shall govern.
- 3.4. Requirement to Become a Participating TO.** The Approved Project Sponsor agrees that the Project will be placed under CAISO Operational Control upon completion of the Project. To the extent the Approved Project Sponsor is not already a Participating TO, the Approved Project Sponsor further agrees that it has or will meet the CAISO Tariff requirements to become a Participating TO in accordance with Section 4.3 of the CAISO Tariff.
- 3.5 Relationship Between this APSA and the Transmission Control Agreement.** Once the Approved Project Sponsor has entered into the Transmission Control Agreement, if and to the extent a matter specifically addressed in this APSA is inconsistent with the Transmission Control Agreement, the terms of the Transmission Control Agreement shall govern.

ARTICLE 4. SCOPE OF SERVICE

- 4.1 Transmission Facilities.** The Approved Project Sponsor shall build and connect to the CAISO Controlled Grid the Project identified in Appendix A.
- 4.2 Interconnection Service.** Interconnection Service allows the Approved Project Sponsor to connect the Project to the CAISO Controlled Grid or another transmission system. The Approved Project Sponsor shall request Interconnection Service from the Interconnecting PTO or other entity according to the milestones set forth in Appendix B and shall comply with the Interconnecting PTO's or other entity's applicable interconnection procedures. The Approved Project Sponsor must obtain a separate agreement for Interconnection Service from the Interconnecting PTO or any entity outside the CAISO Balancing Authority Area to whose facilities the Project will interconnect. This separate agreement with each Interconnecting PTO or other entity must provide, at a minimum, for the Interconnecting PTO or other entity to take any procedural steps required in the APSA with respect to the interconnection, including but not limited to, Articles 5.3.4, 5.4.2, 5.4.3, 5.5.1.3, 5.6.2, 6.1, 8.1 and 9.2, and must identify the Interconnection Facilities that a Interconnecting PTO is responsible for, and must pay for in accordance with Section 24.14.2 of the CAISO Tariff.
- 4.2.1** The Interconnection Service Agreement shall require that the Interconnecting Participating TO or other entity providing Interconnection Service shall provide to the CAISO, every ninety (90) Calendar Days until the Project is energized and under CAISO Operational Control, an Interconnection Facilities Status Report which shall include project schedule; permit and license status, including environmental, state, and local permits and licenses; right-of-way acquisition status, if required; land acquisition status, if required; design and engineering status; status of contracts for project work, including land, procurement, staffing; construction status; testing status; events creating risks and obstacles to project completion; and project budget including actuals, estimate to complete, contingency. The format for the report will be in accordance with Business Practice Manual for Transmission Planning Process.
- 4.3 Approved Project Sponsor to Meet Requirements of the Interconnecting PTO's Interconnection Handbook.** If applicable, the Approved Project Sponsor shall comply with the Interconnecting PTO's Interconnection Handbook for the interconnections.
- 4.4 Performance Standards.** Each Party shall perform all of its obligations under this APSA in accordance with Applicable Laws and Regulations, Applicable Reliability Standards, and Good Utility Practice. To the extent a Party is required or prevented or limited in taking any action by such regulations and standards, such Party shall not be deemed to be in Breach of this APSA for its compliance therewith, and, if such Party is the CAISO, then the CAISO shall amend the

APSA to eliminate the conflict with such regulations or standards and submit the amendment to FERC for approval.

ARTICLE 5. FACILITIES ENGINEERING, PROCUREMENT, AND CONSTRUCTION

- 5.1 General.** The Approved Project Sponsor shall, at its expense, design, procure, construct, own and install the Project, as set forth in Appendix A. The Approved Project Sponsor shall comply with all requirements of law and assumes responsibility for the design, procurement and construction of the Project using Good Utility Practice and the standards and specifications provided by the Interconnecting PTO or other entity, if applicable. The Project shall be based on the assumed accuracy and completeness of all technical information received by the CAISO from the Approved Project Sponsor and by the Approved Project Sponsor from any Interconnecting PTO or other entity providing Interconnection Service. Changes to the Project design described in this APSA must be approved by the CAISO in accordance with Article 5.9 of this Agreement. Unless otherwise mutually agreed to by the Parties, the Approved Project Sponsor shall select the testing date and the energization date for the Project consistent with the Approved Project Sponsor's application approved by the CAISO, and such dates shall be set forth in Appendix B (Milestones).
- 5.2 Information Exchange.** As soon as reasonably practicable after the Effective Date, the Approved Project Sponsor shall provide information to the CAISO regarding the design and compatibility of the Project and the Interconnection Facilities , and shall work diligently and in good faith to make any necessary design changes to the description of the Project set forth in Appendix A.
- 5.3 Initial Construction Plan and Reporting Requirements.** The Approved Project Sponsor will keep the CAISO advised monthly as to the progress of the financing, procurement, and construction efforts with respect to the Project, via email or verbal discussion as agreed upon by the Parties, and in accordance with the timeframes specified herein.
- 5.3.1** The Approved Project Sponsor shall provide the CAISO with the initial construction plan one hundred twenty (120) Calendar Days after the Approved Project Sponsor has been selected in accordance with Section 24.4.1 of the CAISO Tariff. The plan shall include: land acquisition and permits requirements, status and schedule; materials procurement requirements, status and schedule; construction financing status and schedule; and Project contact information, if different than as identified in the selection process.
- 5.3.2** Every ninety (90) Calendar Days after the initial construction plan is received until the Project is energized and under CAISO Operational Control, the Approved Project Sponsor shall provide the CAISO with a construction plan status report which shall include Project schedule;

permit and license status, including environmental, state, and local permits and licenses; right-of-way acquisition status; land acquisition status; design and engineering status; events that might affect the ability to meet design specifications; status of contracts for project work, including land, procurement, staffing; Interconnecting PTO or other entity interconnection agreements; construction status; testing status; risks and obstacles to project completion; and Project budget status, including actuals, estimate to complete, contingency. The format for the report will be in accordance with the Business Practice Manual on Transmission Planning Process.

5.3.3 Pursuant to Section 24.6.1 of the CAISO Tariff, the CAISO will send Project status reports received in accordance with Article 5.3.2 to the applicable Interconnecting PTO and then the CAISO will hold a call with the Interconnecting PTO to review the status report, including completion date and items of concern.

5.3.4 If, at any time, the Approved Project Sponsor determines, in consultation with the CAISO and Interconnecting PTO or other entity providing Interconnection Service, that the completion of the Interconnecting PTO's or other entity's Interconnection Facilities will not be required until after the specified energization date set forth in Appendix B (Milestones), the Approved Project Sponsor will provide written notice to the Interconnecting PTO or other entity and CAISO of such later date upon which the completion of the Interconnecting PTO's or other entity's Interconnection Facilities will be required.

5.4 Submission and Review of Project Specifications.

5.4.1 The Approved Project Sponsor shall submit specifications for major equipment and/or material of the Project, including System Protection Facilities, to the CAISO and Interconnecting PTO, if applicable, for review and comment at least thirty (30) Calendar Days prior to the date that procurement is scheduled to commence. The CAISO and Interconnecting PTO shall review such specifications to ensure that the Project is compatible with the technical specifications, operational control, safety requirements, and any other applicable requirements of the CAISO and Interconnecting PTO, and comment on such specifications within fifteen (15) Calendar Days of the Approved Project Sponsor's submission. All specifications provided hereunder shall be deemed confidential.

5.4.2 The Approved Project Sponsor shall submit necessary specifications for the Project, including System Protection Facilities, to the CAISO and Interconnecting PTO, if applicable, for review and comment at least one hundred eighty (180) Calendar Days prior to the date that testing is scheduled to commence pursuant to Appendix B (Milestones) and final specifications for review and comment at least ninety (90) Calendar Days

prior to the date testing is scheduled to commence. The CAISO will send the specifications to the Interconnecting PTO or other entity providing Interconnection Service to review the specifications, if applicable. If material and/or equipment is different from the original specification submittal, the CAISO and Interconnecting PTO or other entity shall review such specifications to ensure that the Project is compatible with the technical specifications, operational control, safety requirements, and any other applicable requirements of the Interconnecting PTO or other entity and the CAISO and comment on such specifications within thirty (30) Calendar Days of the Approved Project Sponsor's submission. All specifications provided hereunder shall be deemed confidential.

5.4.3 The Interconnecting PTO's or other entity's and the CAISO's review of the Approved Project Sponsor's final specifications shall not be construed as confirming, endorsing, or providing a warranty as to the design, fitness, safety, durability or reliability of the Project or the Interconnecting PTO's Interconnection Facilities, if applicable. As described in Article 5.4.2 above, Approved Project Sponsor shall make such changes to the Project as may reasonably be required by the Interconnecting PTO, other entity or the CAISO, in accordance with Good Utility Practice, to ensure that the Project is compatible with the technical specifications, Operational Control, and safety requirements of the Interconnecting PTO, other entity or the CAISO.

5.5 Construction Activities.

5.5.1 The Approved Project Sponsor shall commence construction of the Project as soon as practicable Consistent with Appendix B (Milestones) after the following additional conditions are satisfied by the Approved Project Sponsor:

5.5.1.1 Approval of the appropriate Governmental Authority has been obtained for any facilities requiring regulatory approval.

5.5.1.2 Necessary permits, real property rights and rights-of-way have been obtained, to the extent required for the construction of the Project.

5.5.2 At least thirty (30) Calendar Days prior to commencement of construction of the Project, the Approved Project Sponsor shall provide to the CAISO for informational purposes, a schedule for construction of the Interconnecting PTO's or other entity's Interconnection Facilities.

5.5.3 At any time during construction, should any phase of the engineering, equipment procurement, or construction of the Project not meet the standards and specifications provided by the Interconnecting PTO or other

entity, the Approved Project Sponsor shall be obligated to remedy deficiencies in that portion of the Project.

5.5.4 The Approved Project Sponsor shall indemnify the CAISO for claims arising under this APSA resulting from the Approved Project Sponsor's construction of the Project under the terms and procedures applicable to Article 15.1 Indemnity.

5.5.5 If, during the development, project siting, design engineering, construction or testing of the Project, the Approved Project Sponsor decides to use a vendor, or any other Project team member, who is different than the vendor or team member specifically set forth in the project sponsor application, the Approved Project Sponsor shall provide immediate notification to the CAISO. Upon notification, the CAISO may take whatever action is necessary to ensure that the selected vendor or Project team member will at a minimum provide the same level of service that would have been provided by the vendor or Project team member described in the application.

5.6 Final Project Design

5.6.1 As soon as reasonably practicable, but within twelve months after completion of the construction of the Project, the Approved Project Sponsor shall provide a summary of the final cost of the construction of the Project, which summary shall set forth such costs in sufficient detail to enable the CAISO to understand the cost of the Project, including a written explanation for the use of contingency and any cost overruns in excess of the cost estimate provided in Appendix E.

5.6.2 The Project shall be designed and constructed in accordance with Good Utility Practice. Within one hundred twenty (120) Calendar Days after the Project has been turned over to the CAISO's Operational Control, unless the CAISO and Approved Project Sponsor agree on another mutually acceptable date, the Approved Project Sponsor shall deliver to the Interconnecting PTO or other entity and CAISO "as-built" drawings, information and documents for the Project, including, as applicable, a one-line diagram, a site plan drawing showing the Project including plan and elevation drawings showing the layout of the Interconnection Facilities, a relay functional diagram, relaying AC and DC schematic wiring diagrams and relay settings for all facilities associated with the Project, and, if applicable, the impedances (determined by factory tests) for the associated transformers. The Approved Project Sponsor shall provide the Interconnecting PTO or other entity and the CAISO specifications for the protection settings, transformer tap settings, and communications, if applicable. Any deviations from the relay settings, machine specifications, and other specifications originally submitted by the Approved Project

Sponsor shall be assessed by the Interconnecting PTO or other entity and the CAISO pursuant to the appropriate provisions of this APSA and the agreement between the Approved Project Sponsor and the Interconnecting PTO or other entity.

5.6.3 The obligations under this Article 5.6, including Articles 5.6.1, 5.6.2, and 5.6.3, shall survive termination of the APSA.

5.7 Delay in Project. If CAISO receives notification from the Approved Project Sponsor of delay in Project energization beyond the date upon which the Project was found to be needed, pursuant to Section 24.6.2 of the CAISO Tariff the CAISO shall issue a market notice to market participants stating that the Project is delayed and that, if applicable, a plan is being developed to address potential NERC reliability standard violations as set forth in Section 24.6.3 of the CAISO Tariff as well as any material concerns.

5.7.1 The CAISO shall determine if there is a potential NERC violation, for either the CAISO or applicable Interconnecting PTO, arising from the Project energization delay and will determine if there are other material issues of concern as required in accordance with Section 24.6.3 of the CAISO Tariff. If there are potential violations or material issues, the CAISO, Approved Project Sponsor and applicable Interconnecting PTO shall develop a plan to address the delay. The plan may include the CAISO directing the Interconnecting PTO to develop a mitigation plan.

5.7.2 If violations or material issues cannot be promptly and adequately addressed, CAISO will take action to resolve the issues, including determining if an alternate project sponsor is required.

5.8 Delay in Approvals, Property Acquisition or Construction. Should the Project construction timelines, set forth in Appendix B (Milestones) be unreasonably delayed, or the Approved Project Sponsors cannot secure necessary approvals or property rights, including but not limited to fee title, right of way grant, easement and license rights essential for construction of the Project, or is otherwise unable to timely construct the Project, the CAISO may take such action as it reasonably considers appropriate to facilitate the development and evaluation of an alternative solution pursuant to Section 24.6.4 of the CAISO Tariff. The CAISO shall consult with the Approved Project Sponsor, and, after such consultation, should the CAISO determine that (i) the Approved Project Sponsor cannot secure necessary approvals or property rights or is otherwise unable to timely construct the Project; or (ii) an alternative Project Sponsor is necessary pursuant to Section 24.6.4 of the CAISO Tariff; or, alternatively if the Approved Project Sponsor determines that it is unable to proceed with construction and so notifies the CAISO, the CAISO shall take such action, including termination of this Agreement, as it determines to be necessary and appropriate in accordance with Section 24.6.4 of the CAISO Tariff. If either

Party determines that a new Approved Project Sponsor should be selected consistent with Section 24.6.4 of the CAISO Tariff, the Approved Project Sponsor agrees to work with CAISO, the new Approved Project Sponsor, and, if applicable, the Interconnecting PTO to transfer responsibility for the Project to the new Approved Project Sponsor.

5.8.1 The Approved Project Sponsor shall take all necessary steps, in conjunction with the CAISO, any replacement project sponsor or backstopping Interconnecting PTO and any necessary third-parties, to assure that it transfers to such replacement project sponsor or backstopping Interconnecting PTO the Approved Project Sponsor's rights, equity, ownership and interest in the Project including, without limitation; (a) all right, title, and interest in the real and personal property related thereto, (b) rights under agreements associated with the Project, including any interconnection agreements, and (c) any rights, title or interest that may have been pledged or assigned to any third parties (including without limitations, lenders, contractors or subcontractors) to the replacement project sponsor, or backstopping Interconnecting PTO, as the case may be, to the extent that replacement project sponsor or backstopping Interconnecting PTO is willing to assume such ownership interest, obligations, rights or agreements. The obligations of the Approved Project Sponsor under this Article 5.8.1 shall survive the termination of this Agreement.

5.8.2 The obligations under this Article 5.8, including Articles 5.8.1 and 5.8.2, shall survive termination of the APSA.

5.9 Modification.

5.9.1 The Approved Project Sponsor may undertake modifications to its facilities, subject to the approval of the CAISO and the provisions of this APSA and the CAISO Tariff. If the Approved Project Sponsor plans to undertake a modification it shall provide such information regarding such modification to the CAISO as the CAISO deems necessary to evaluate the potential impact of such modification prior to commencement of the work. Such information shall include information concerning the timing of such modifications, any technical information and cost impact. The Approved Project Sponsor shall provide the relevant drawings, plans, and specifications to the CAISO at least ninety (90) Calendar Days in advance of the commencement of the work or such shorter period upon which the Parties may agree, which agreement shall not unreasonably be withheld, conditioned or delayed. The CAISO shall determine if a modification is in accordance with the original Project criteria and intent and whether to approve the modification within thirty (30) Calendar Days of the Approved Project Sponsor's submission.

5.9.2 Any additions, modifications, or replacements made to the Project's facilities shall be designed, constructed, and operated in accordance with this APSA, applicable laws and regulations, and Good Utility Practice.

5.9.3 The Approved Project Sponsor is required to notify the CAISO of the modifications to the Project ordered by a siting agency within thirty (30) Calendar Days of such order.

5.10 Interconnection Study Process.

5.10.1 The Approved Project Sponsor shall be responsible for completion of any existing studies for interconnection to the Project that were in the Approved Project Sponsor's queue upon the effective date of this APSA, and CAISO and an impacted Participating TO will perform studies regarding such requests as an Affected System.

5.10.2 Any future generation interconnection requests submitted to the Approved Project Sponsor for the Project, following the execution date of this APSA, shall be directed to the CAISO Interconnection Queue process. The Approved Project Sponsor will assume the functions of a Participating TO in accordance with Appendix DD of the CAISO Tariff, including performing Phase I, Phase II, and reassessment analysis for generator interconnection requests to the Project. The Approved Project Sponsor will be reimbursed actual costs incurred for the analysis similar to the Participating TOs.

5.10.3 Any Generator Interconnection Agreements to the Project will be executed consistent with the relevant terms and conditions of the CAISO Tariff.

5.10.4 The obligations under this Article 5.10, including Articles 5.10.1, 5.10.2, 5.10.3, and 5.10.4 shall survive termination of the APSA.

5.11 Planning Authority. The CAISO is the Planning Authority, as that term is defined by NERC, for the Project from the time it is identified in the CAISO's Transmission Planning Process and approved by the CAISO Board of Governors, regardless of the status of Project construction or energization. As such, the Approved Project Sponsor shall be subject to the rights and obligations set forth in CAISO Tariff Section 24 that are applicable to Participating TOs as they pertain to the Project.

5.12 Tax Status. Each Party shall cooperate with the others to maintain the other Parties' tax status. Nothing in this APSA is intended to adversely affect the CAISO's or any Participating TO's tax exempt status with respect to the issuance of bonds including, but not limited to, Local Furnishing Bonds.

ARTICLE 6. TESTING AND INSPECTION

- 6.1 Testing and Modifications.** Prior to energizing the Project for testing, the Interconnecting PTO or other entity shall test the Interconnecting PTO's or other entity's Interconnection Facilities and the Approved Project Sponsor shall test the Project to ensure their safe and reliable operation. All testing shall be coordinated and approved by the CAISO to ensure grid reliability. Similar testing may be required after initial operation. Each Party shall make any modifications to its facilities that are found to be necessary as a result of such testing. The Approved Project Sponsor shall not commence initial parallel operation of the Project until the Interconnecting PTO or other entity provides prior written approval to the CAISO and the Approved Project Sponsor, which approval shall not be unreasonably withheld.
- 6.2 Right to Observe Testing.** The Approved Project Sponsor shall notify the CAISO at least fourteen (14) Calendar Days in advance of its performance of tests. The CAISO has the right, at its own expense, to observe such testing.
- 6.3 Right to Inspect.** The CAISO shall have the right, but shall have no obligation, to (i) observe the Approved Project Sponsor's tests and/or inspection of any of its System Protection Facilities and other protective equipment; and (ii) review the settings of the Approved Project Sponsor's System Protection Facilities and other protective equipment at its expense. The CAISO may exercise these rights from time to time as it deems necessary upon reasonable notice to the Approved Project Sponsor. The exercise or non-exercise by CAISO of any such rights shall not be construed as an endorsement or confirmation of any element or condition of the Project or the System Protection Facilities or other protective equipment or the operation thereof, or as a warranty as to the fitness, safety, desirability, or reliability of same. Any information that CAISO obtains through the exercise of any of its rights under this Article 6.3 shall be deemed to be Confidential Information and treated pursuant to Article 19 of this APSA.

ARTICLE 7. METERING

This section is intentionally left blank.

ARTICLE 8. COMMUNICATIONS

- 8.1 Approved Project Sponsor Obligations.** The Approved Project Sponsor shall maintain satisfactory operating communications with the CAISO in accordance with the provisions of the CAISO Tariff and with the Interconnecting PTO's or other entity's dispatcher or such other representative designated by the Interconnecting PTO or other entity during synchronization, testing and energization. The Approved Project Sponsor shall provide standard voice line, dedicated voice line and facsimile communications at the Project's control room or central dispatch facility through use of either the public telephone system or a voice communications system that does not rely on the public telephone system.

The Approved Project Sponsor shall also provide the dedicated data circuit(s) necessary to provide Approved Project Sponsor data to the CAISO and Interconnecting PTO as set forth in Appendix C, Security Arrangements Details. The data circuit(s) shall extend from the Project to the location(s) specified by the CAISO and Interconnecting PTO. Any required maintenance of such communications equipment shall be performed by the Approved Project Sponsor. Operational communications shall be activated and maintained under, but not be limited to, the following events: system paralleling or separation, scheduled and unscheduled shutdowns, and equipment clearances.

ARTICLE 9. OPERATIONS

- 9.1 General.** Each Party shall comply with Applicable Reliability Standards and the Applicable Reliability Council operating requirements. Each Party shall provide to the other Party all information that may reasonably be required by the other Party to comply with Applicable Laws and Regulations and Applicable Reliability Standards.
- 9.2 CAISO Obligations.** The CAISO shall cause the Interconnecting PTO's transmission system to be operated and controlled in a safe and reliable manner during testing and synchronization and before the Approved Project Sponsor turns the Project over to CAISO Operational Control. The CAISO may provide operating instructions to the Approved Project Sponsor consistent with this APSA and the Interconnecting PTO's and CAISO's operating protocols and procedures as they may change from time to time. The Interconnecting PTO and CAISO will consider changes to their operating protocols and procedures proposed by the Approved Project Sponsor.
- 9.3 Approved Project Sponsor Obligations.** The Approved Project Sponsor shall at its own expense operate, maintain and control the Project in a safe and reliable manner and in accordance with this APSA in advance of turning over Operational Control to the CAISO. Appendix A, Project Details, sets forth applicable requirements of the CAISO Balancing Authority Area and may be modified to reflect changes to the requirements as they may change from time to time. The Approved Project Sponsor shall not energize the Project with the Interconnecting PTO's or other entity's transmission system until the Interconnecting PTO or other entity provides prior written approval.
- 9.4 Start-Up and Synchronization.** Consistent with the Parties' mutually acceptable procedures, the Approved Project Sponsor is responsible for the proper energization of the Project to the CAISO Controlled Grid.

ARTICLE 10. COST RECOVERY, BILLING AND PAYMENT

- 10.1 Transmission Revenue Requirement.** The Approved Project Sponsor may apply to FERC for a Transmission Revenue Requirement for Transmission

Facilities not yet in operation, but approved under the transmission planning provisions of the CAISO Tariff, that will be Regional Transmission Facilities or Local Transmission Facilities when placed under the CAISO's Operational Control. If FERC approves such Transmission Revenue Requirement, the CAISO shall incorporate the Transmission Revenue Requirement into the Regional Access Charge or Local Access Charge in accordance with the CAISO Tariff. Appendix E provides the estimated costs of the Project and the cost containment measures the Approved Project Sponsor will utilize.

- 10.2 Application of CAISO Tariff.** The CAISO and Approved Project Sponsor shall comply with the billing and payment provisions set forth in the CAISO Tariff.
- 10.3 Refund Obligation.** The Approved Project Sponsor, whether or not it is subject to FERC rate jurisdiction under Section 205 and Section 206 of the Federal Power Act, shall make all refunds, adjustments to its Transmission Revenue Requirement, and adjustments to its Approved Project Sponsor Tariff, and do all other things required to implement any FERC order related to the CAISO Tariff, including any FERC order the implementation of which necessitates the CAISO making payment adjustments or paying refunds to, or receiving prior period overpayments from, the Approved Project Sponsor. All such refunds and adjustments shall be made, and all other actions taken, in accordance with the CAISO Tariff, unless the applicable FERC order requires otherwise. These obligations under this Article 10.3 shall survive termination of the APSA.

ARTICLE 11. REGULATORY REQUIREMENTS AND GOVERNING LAWS

- 11.1 Regulatory Requirements.** Each Party's obligations under this APSA shall be subject to its receipt of any required approval or certificate from one or more Governmental Authorities in the form and substance satisfactory to the applying Party, or the Party making any required filings with, or providing notice to, such Governmental Authorities, and the expiration of any time period associated therewith. Each Party shall in good faith seek and use its Reasonable Efforts to obtain such other approvals. Nothing in this APSA shall require the Approved Project Sponsor to take any action that could result in its inability to obtain, or its loss of, status or exemption under the Federal Power Act or the Public Utility Holding Company Act of 1935, as amended, or the Public Utility Regulatory Policies Act of 1978, or the Energy Policy Act of 2005.
- 11.2 Governing Law.**
- 11.2.1** The validity, interpretation and performance of this APSA and each of its provisions shall be governed by the laws of the state of California, without regard to its conflicts of law principles.
- 11.2.2** This APSA is subject to all Applicable Laws and Regulations.

11.2.3 Each Party expressly reserves the right to seek changes in, appeal, or otherwise contest any laws, orders, rules, or regulations of a Governmental Authority.

ARTICLE 12. NOTICES

12.1 General. Unless otherwise provided in this APSA, any notice, demand or request required or permitted to be given by a Party to another and any instrument required or permitted to be tendered or delivered by a Party in writing to another shall be effective when delivered and may be so given, tendered or delivered, by (i) recognized national courier, (ii) depositing the same with the United States Postal Service with postage prepaid for delivery by certified or registered mail, addressed to the Party, or (iii) personal delivery to the Party, at the address set out in Appendix D, Addresses for Delivery of Notices and Billings.

A Party must update the information in Appendix D as information changes. A Party may change the notice information in this APSA by giving five (5) Business Days written notice prior to the effective date of the change. Such changes shall not constitute an amendment to this APSA.

12.2 Alternative Forms of Notice. Any notice or request required or permitted to be given by a Party to another and not required by this APSA to be given in writing may be so given by telephone, facsimile or e-mail to the telephone numbers and e-mail addresses set out in Appendix D.

12.4 Operations Notice. Each Party shall notify the other Parties in writing of the identity of the person(s) that it designates as the point(s) of contact with respect to the implementation of Article 9.

12.5 Project Management. If the Approved Project Sponsor desires to change the identified project management, including key personnel, the Approved Project Sponsor shall notify the CAISO in writing thirty (30) Calendar Days in advance for approval. Such approval shall not be unreasonably withheld.

ARTICLE 13. FORCE MAJEURE

13.1 Force Majeure.

13.1.1 Economic hardship is not considered a Force Majeure event.

13.1.2 No Party shall be considered to be in Default with respect to any obligation hereunder, if prevented from fulfilling such obligation by Force Majeure. A Party unable to fulfill any obligation by reason of Force Majeure shall give notice and the full particulars of such Force Majeure to the other Party in writing or by telephone as soon as reasonably possible after the occurrence of the cause relied upon. Telephone notices given pursuant to

this Article shall be confirmed in writing as soon as reasonably possible and shall specifically state full particulars of the Force Majeure, the time and date when the Force Majeure occurred and when the Force Majeure is reasonably expected to cease. The Party affected shall exercise due diligence to remove such disability with reasonable dispatch, but shall not be required to accede or agree to any provision not satisfactory to it in order to settle and terminate a strike or other labor disturbance.

13.1.3 If required, the Parties shall revise the APSA including, but not limited to, Appendix B and Appendix E, following a Force Majeure event.

ARTICLE 14. DEFAULT

- 14.1. General.** No Default shall exist where failure to discharge an obligation (other than the payment of money) is the result of Force Majeure as defined in this APSA or the result of an act or omission of the other Party. Upon a Breach, the affected non-Breaching Party(ies) shall give written notice of such Breach to the Breaching Party. The Breaching Party shall have thirty (30) Calendar Days from receipt of the Default notice within which to cure such Breach; provided however, if such Breach is not capable of cure within thirty (30) Calendar Days, the Breaching Party shall commence such cure within thirty (30) Calendar Days after notice and continuously and diligently complete such cure within ninety (90) Calendar Days from receipt of the Default notice; and, if cured within such time, the Breach specified in such notice shall cease to exist.
- 14.2 Right to Terminate.** If a Breach is not cured as provided in this Article, or if a Breach is not capable of being cured within the period provided for herein, the affected non-Breaching Party(ies) shall have the right to declare a Default and terminate this APSA by written notice at any time until cure occurs, and be relieved of any further obligation hereunder and, whether or not such Party(ies) terminates this APSA, to recover from the Breaching Party all amounts due hereunder, plus all other damages and remedies to which it is entitled at law or in equity. The provisions of this Article will survive termination of this APSA.
- 14.3 Notice to Financing Parties.** If, as contemplated by Article 16.1, the Approved Project Sponsor has provided notice to the CAISO of an assignment of this APSA for collateral security purposes to aid in providing financing for the Project, then (a) if such notice of collateral assignment so indicates (and contains notice information for the collateral assignee), the CAISO shall provide a copy to collateral assignee identified in such notice of any notice of Breach given by the CAISO to the Approved Project Sponsor and (b) such collateral assignee shall have the right, but no obligation, to effect cure of the Breach on behalf of the Approved Project Sponsor, and any performance of any obligations under this APSA by such collateral assignee will be accepted by the CAISO to the same extent as though the Approved Project Sponsor had directly performed such obligations.

ARTICLE 15. INDEMNITY AND CONSEQUENTIAL DAMAGES

15.1 Indemnity. Each Party shall at all times indemnify, defend, and hold the other Parties harmless from, any and all Losses arising out of or resulting from another Party's action, or inactions of its obligations under this APSA on behalf of the indemnifying Party, except in cases of gross negligence or intentional wrongdoing by the Indemnified Party.

15.1.1 Indemnified Party. If an Indemnified Party is entitled to indemnification under this Article 15 as a result of a claim by a third party, and the Indemnifying Party fails, after notice and reasonable opportunity to proceed under Article 15.1 to assume the defense of such claim, such Indemnified Party may at the expense of the Indemnifying Party contest, settle or consent to the entry of any judgment with respect to, or pay in full, such claim.

15.1.2 Indemnifying Party. If an Indemnifying Party is obligated to indemnify and hold any Indemnified Party harmless under this Article 15, the amount owing to the Indemnified Party shall be the amount of such Indemnified Party's actual Loss, net of any insurance or other recovery.

15.1.3 Indemnity Procedures. Promptly after receipt by an Indemnified Party of any claim or notice of the commencement of any action or administrative or legal proceeding or investigation as to which the indemnity provided for in Article 15.1 may apply, the Indemnified Party shall notify the Indemnifying Party of such fact. Any failure of or delay in such notification shall not affect a Party's indemnification obligation unless such failure or delay is materially prejudicial to the indemnifying Party.

The Indemnifying Party shall have the right to assume the defense thereof with counsel designated by such Indemnifying Party and reasonably satisfactory to the Indemnified Party. If the defendants in any such action include one or more Indemnified Parties and the Indemnifying Party and if the Indemnified Party reasonably concludes that there may be legal defenses available to it and/or other Indemnified Parties which are different from or additional to those available to the Indemnifying Party, the Indemnified Party shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such action on its own behalf. In such instances, the Indemnifying Party shall only be required to pay the fees and expenses of one additional attorney to represent an Indemnified Party or Indemnified Parties having such differing or additional legal defenses.

The Indemnified Party shall be entitled, at its expense, to participate in any such action, suit or proceeding, the defense of which has been assumed by the Indemnifying Party. Notwithstanding the foregoing, the

Indemnifying Party (i) shall not be entitled to assume and control the defense of any such action, suit or proceedings if and to the extent that, in the opinion of the Indemnified Party and its counsel, such action, suit or proceeding involves the potential imposition of criminal liability on the Indemnified Party, or there exists a conflict or adversity of interest between the Indemnified Party and the Indemnifying Party, in such event the Indemnifying Party shall pay the reasonable expenses of the Indemnified Party, and (ii) shall not settle or consent to the entry of any judgment in any action, suit or proceeding without the consent of the Indemnified Party, which shall not be unreasonably withheld, conditioned or delayed.

- 15.2 Consequential Damages.** In no event shall any Party be liable under any provision of this APSA for any losses, damages, costs or expenses for any special, indirect, incidental, consequential, or punitive damages, including but not limited to loss of profit or revenue, loss of the use of equipment, cost of capital, cost of temporary equipment or services, whether based in whole or in part in contract, in tort, including negligence, strict liability, or any other theory of liability; provided, however, that damages for which a Party may be liable to another Party under another agreement will not be considered to be special, indirect, incidental, or consequential damages hereunder.

ARTICLE 16. ASSIGNMENT

- 16.1 Assignment.** This APSA may be assigned by the Approved Project Sponsor only with the written consent of the CAISO, whose consent will not be unreasonably withheld. The CAISO will not approve the assignment unless the assignee (i) meets the competitive solicitation qualification requirements set for in CAISO Tariff Section 24.5.3.1; (ii) agrees to honor the cost containment measures or cost caps specified in Appendix E, if applicable; (iii) agrees to meet the factors that the CAISO relied upon in selecting the Approved Project Sponsor; (iv) assumes the rights and obligations contained in this APSA; provided, however, that the Approved Project Sponsor shall have the right to assign this APSA, without the consent of the CAISO, for collateral security purposes to aid in providing financing for the Project, provided that the Approved Project Sponsor will promptly notify the CAISO of any such assignment, including identification of the assignee and contact information. Any financing arrangement entered into by the Approved Project Sponsor pursuant to this Article will provide that prior to or upon the exercise of the secured party's, trustee's or mortgagee's assignment rights pursuant to said arrangement, the secured creditor, the trustee or mortgagee will notify the CAISO of the date and particulars of any such exercise of assignment right(s). Any attempted assignment that violates this Article is void and ineffective. Any assignment under this APSA shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof.

ARTICLE 17. SEVERABILITY

- 17.1 Severability.** If any provision in this APSA is finally determined to be invalid, void or unenforceable by any court or other Governmental Authority having jurisdiction, such determination shall not invalidate, void or make unenforceable any other provision, agreement or covenant of this APSA.

ARTICLE 18. COMPARABILITY

- 18.1 Comparability.** The Parties will comply with all applicable comparability and code of conduct laws, rules and regulations, as amended from time to time.

ARTICLE 19. CONFIDENTIALITY

- 19.1 Confidentiality.** Confidential Information shall include, without limitation, all information relating to a Party's technology, research and development, business affairs, and pricing, and any information supplied by any of the Parties to the other Parties prior to the execution of this APSA.

Information is Confidential Information only if it is clearly designated or marked in writing as confidential on the face of the document, or, if the information is conveyed orally or by inspection, if the Party providing the information orally informs the Parties receiving the information that the information is confidential.

If requested by any Party, the other Parties shall provide in writing, the basis for asserting that the information referred to in this Article warrants confidential treatment, and the requesting Party may disclose such writing to the appropriate Governmental Authority. Each Party shall be responsible for the costs associated with affording confidential treatment to its information.

- 19.1.1 Term.** During the term of this APSA, and for a period of three (3) years after the expiration or termination of this APSA, except as otherwise provided in this Article, each Party shall hold in confidence and shall not disclose Confidential Information to any person.

- 19.1.2 Scope.** Confidential Information shall not include information that the receiving Party can demonstrate: (1) is generally available to the public other than as a result of a disclosure by the receiving Party; (2) was in the lawful possession of the receiving Party on a non-confidential basis before receiving it from the disclosing Party; (3) was supplied to the receiving Party without restriction by a third party, who, to the knowledge of the receiving Party after due inquiry, was under no obligation to the disclosing Party to keep such information confidential; (4) was independently developed by the receiving Party without reference to Confidential Information of the disclosing Party; (5) is, or becomes, publicly known, through no wrongful act or omission of the receiving Party or Breach of this APSA; or (6) is required, in accordance with Article 19.1.7 of this

APSA, Order of Disclosure, to be disclosed by any Governmental Authority or is otherwise required to be disclosed by law or subpoena, or is necessary in any legal proceeding establishing rights and obligations under this APSA. Information designated as Confidential Information will no longer be deemed confidential if the Party that designated the information as confidential notifies the other Parties that it no longer is confidential.

19.1.3 Release of Confidential Information. No Party shall release or disclose Confidential Information to any other person, except to its employees, consultants, Affiliates (limited by the Standards of Conduct requirements set forth in Part 358 of FERC's Regulations, 18 C.F.R. 358), subcontractors, or to parties who may be or considering providing financing to or equity participation with the Approved Project Sponsor, or to potential purchasers or assignees of the Approved Project Sponsor, on a need-to-know basis in connection with this APSA, unless such person has first been advised of the confidentiality provisions of this Article and has agreed to comply with such provisions. Notwithstanding the foregoing, a Party providing Confidential Information to any person shall remain primarily responsible for any release of Confidential Information in contravention of this Article.

19.1.4 Rights. Each Party retains all rights, title, and interest in the Confidential Information that each Party discloses to the other Parties. The disclosure by each Party to the other Parties of Confidential Information shall not be deemed a waiver by a Party or any other person or entity of the right to protect the Confidential Information from public disclosure.

19.1.5 No Warranties. The mere fact that a Party has provided Confidential Information does not constitute a warranty or representation as to its accuracy or completeness. In addition, by supplying Confidential Information, no Party obligates itself to provide any particular information or Confidential Information to the other Parties or to enter into any further agreements or proceed with any other relationship or joint venture.

19.1.6 Standard of Care. Each Party shall use at least the same standard of care to protect Confidential Information it receives as it uses to protect its own Confidential Information from unauthorized disclosure, publication or dissemination. Each Party may use Confidential Information solely to fulfill its obligations to the other Parties under this APSA or its regulatory requirements.

19.1.7 Order of Disclosure. If a court or a Government Authority or entity with the right, power, and apparent authority to do so requests or requires any Party, by subpoena, oral deposition, interrogatories, requests for production of documents, administrative order, or otherwise, to disclose

Confidential Information, that Party shall provide the other Parties with prompt notice of such request(s) or requirement(s) so that the other Parties may seek an appropriate protective order or waive compliance with the terms of this APSA. Notwithstanding the absence of a protective order or waiver, the Party may disclose such Confidential Information which, in the opinion of its counsel, the Party is legally compelled to disclose. Each Party will use Reasonable Efforts to obtain reliable assurance that confidential treatment will be accorded any Confidential Information so furnished.

19.1.8 Termination of Agreement. Upon termination of this APSA for any reason, each Party shall, within ten (10) Calendar Days of receipt of a written request from another Party, use Reasonable Efforts to destroy, erase, or delete (with such destruction, erasure, and deletion certified in writing to the other Party) or return to the other Party, without retaining copies thereof, any and all written or electronic Confidential Information received from the other Party, unless subject to retention for litigation or regulatory purposes.

19.1.9 Remedies. The Parties agree that monetary damages would be inadequate to compensate a Party for another Party's Breach of its obligations under this Article. Each Party accordingly agrees that the other Parties shall be entitled to equitable relief, by way of injunction or otherwise, if the first Party Breaches or threatens to Breach its obligations under this Article, which equitable relief shall be granted without bond or proof of damages, and the receiving Party shall not plead in defense that there would be an adequate remedy at law. Such remedy shall not be deemed an exclusive remedy for the Breach of this Article, but shall be in addition to all other remedies available at law or in equity. The Parties further acknowledge and agree that the covenants contained herein are necessary for the protection of legitimate business interests and are reasonable in scope. No Party, however, shall be liable for indirect, incidental, or consequential or punitive damages of any nature or kind resulting from or arising in connection with this Article.

19.1.10 Disclosure to FERC, its Staff, or a State. Notwithstanding anything in this Article to the contrary, and pursuant to 18 C.F.R. Section 1b.20, if FERC or its staff, during the course of an investigation or otherwise, requests information from one of the Parties that is otherwise required to be maintained in confidence pursuant to this APSA, the Party shall provide the requested information to FERC or its staff, within the time provided for in the request for information. In providing the information to FERC or its staff, the Party must, consistent with 18 C.F.R. Section 388.112, request that the information be treated as confidential and non-public by FERC and its staff and that the information be withheld from public disclosure. Parties are prohibited from notifying the other Parties to this APSA prior to

the release of the Confidential Information to FERC or its staff. The Party shall notify the other Parties to the APSA when it is notified by FERC or its staff that a request to release Confidential Information has been received by FERC, at which time any of the Parties may respond before such information would be made public, pursuant to 18 C.F.R. Section 388.112. Requests from a state regulatory body conducting a confidential investigation shall be treated in a similar manner if consistent with the applicable state rules and regulations.

19.1.11 Subject to the exception in Article 19.1.10. Confidential Information shall not be disclosed by the other Parties to any person not employed or retained by the other Parties, except to the extent disclosure is (i) required by law; (ii) reasonably deemed by the disclosing Party to be required to be disclosed in connection with a dispute between or among the Parties, or the defense of litigation or dispute; (iii) otherwise permitted by consent of the other Parties, such consent not to be unreasonably withheld; or (iv) necessary to fulfill its obligations under this APSA or as a transmission service provider or a Balancing Authority including disclosing the Confidential Information to a regional or national reliability organization. The Party asserting confidentiality shall notify the other Parties in writing of the information it claims is confidential. Prior to any disclosures of another Party's Confidential Information under this subparagraph, or if any third party or Governmental Authority makes any request or demand for any of the information described in this subparagraph, the disclosing Party agrees to promptly notify the other Party in writing and agrees to assert confidentiality and cooperate with the other Party in seeking to protect the Confidential Information from public disclosure by confidentiality agreement, protective order or other reasonable measures.

ARTICLE 20. ENVIRONMENTAL RELEASES

20.1 Each Party shall notify the other Parties, first orally and then in writing, of the release of any Hazardous Substances, including hazardous wastes as defined by local, state and federal law, any asbestos or lead abatement activities, or any type of remediation activities related to the Project or the Interconnection Facilities, each of which may reasonably be expected to affect the other Parties. The notifying Party shall (i) provide the notice as soon as practicable for an occurrence that may present an immediate risk to human health or the environment; or (ii) make a good faith effort to provide the notice no later than twenty-four hours after such Party becomes aware of the occurrence for an event that may present an immediate risk to human health or the environment; and (iii) promptly furnish to the other Parties information necessary for the designated Party to notify any Governmental Authorities of the event as required by law or Project-specific conditions. Copies of any publicly available reports will be distributed to the other affected Parties regarding such events.

ARTICLE 21. INFORMATION ACCESS AND AUDIT RIGHTS

- 21.1 Information Access.** Each Party (the “disclosing Party”) shall make available to the other Party information that is in the possession of the disclosing Party and is necessary in order for the other Party to (i) verify the costs incurred by the disclosing Party for which the other Party is responsible under this APSA; and (ii) carry out its obligations and responsibilities under this APSA. The Parties shall not use such information for purposes other than those set forth in this Article 21.1 and to enforce their rights under this APSA. Nothing in this Article shall obligate the CAISO to make available to a Party any third party information in its possession or control if making such third party information available would violate a CAISO Tariff restriction on the use or disclosure of such third party information.
- 21.2 Reporting of Non-Force Majeure Events.** Each Party (the “notifying Party”) shall notify the other Parties when the notifying Party becomes aware of its inability to comply with the provisions of this APSA for a reason other than a Force Majeure event. The Parties agree to cooperate with each other and provide necessary information regarding such inability to comply, including the date, duration, reason for the inability to comply, and corrective actions taken or planned to be taken with respect to such inability to comply. Notwithstanding the foregoing, notification, cooperation or information provided under this Article shall not entitle the Party receiving such notification to allege a cause for anticipatory breach of this APSA.
- 21.3 Audit Rights.** Subject to the requirements of confidentiality under Article 19 of this APSA, the CAISO audit rights shall include audit of the Approved Project Sponsor costs pertaining to performance or satisfaction of obligations under this APSA.
- 21.3.1** The CAISO shall have the right, during normal business hours, and upon prior reasonable notice to the Approved Project Sponsor, to audit at its own expense the accounts and records pertaining to satisfaction of obligations under this APSA. Subject to Article 21.3.2, any audit authorized by this Article shall be performed at the offices where such accounts and records are maintained and shall be limited to those portions of such accounts and records that relate to performance and satisfaction of obligations under this APSA. The Approved Project Sponsor shall keep such accounts and records for a period equivalent to the audit rights periods described in Article 21.4.
- 21.3.2** Notwithstanding anything to the contrary in Article 21.3, the Approved Project Sponsor’s rights to audit the CAISO’s accounts and records shall be as set forth in Section 21.1 of the CAISO Tariff.

21.4 Audit Rights Period for Construction-Related Accounts and Records.

Accounts and records related to the design, engineering, procurement, and construction of Project constructed by the Approved Project Sponsor shall be subject to audit and verification by the CAISO for a period of twenty-four months following the issuance of a final cost summary in accordance with Article 5.2.7.

ARTICLE 22. SUBCONTRACTORS

22.1 General. Nothing in this APSA shall prevent a Party from utilizing the services of any subcontractor as it deems appropriate to perform its obligations under this APSA; provided, however, that each Party shall require its subcontractors to comply with all applicable terms and conditions of this APSA in providing such services and each Party shall remain primarily liable to the other Party for the performance of such subcontractor.

22.2 Responsibility of Principal. The creation of any subcontract relationship shall not relieve the hiring Party of any of its obligations under this APSA. The hiring Party shall be fully responsible to the other Parties for the acts or omissions of any subcontractor the hiring Party hires as if no subcontract had been made; provided, however, that in no event shall the CAISO be liable for the actions or inactions of the Approved Project Sponsor or its subcontractors with respect to obligations of the Approved Project Sponsor under Article 4 of this APSA. Any applicable obligation imposed by this APSA upon the hiring Party shall be equally binding upon, and shall be construed as having application to, any subcontractor of such Party.

ARTICLE 23. DISPUTES

23.1 General. All disputes arising out of or in connection with this APSA whereby relief is sought by or from the CAISO shall be settled in accordance with the provisions of Section 13 of the CAISO Tariff, except that references to the CAISO Tariff in such Section 13 of the CAISO Tariff shall be read as references to this APSA. Disputes arising out of or in connection with this APSA not subject to provisions of Section 13 of the CAISO Tariff shall be resolved as follows:

23.2 Submission. In the event either Party has a dispute, or asserts a claim, that arises out of or in connection with this APSA or its performance, such Party (the “disputing Party”) shall provide the other Party with written notice of the dispute or claim (“Notice of Dispute”). Such dispute or claim shall be referred to a designated senior representative of each Party for resolution on an informal basis as promptly as practicable after receipt of the Notice of Dispute by the other Party. In the event the designated representatives are unable to resolve the claim or dispute through unassisted or assisted negotiations within thirty (30) Calendar Days of the other Party’s receipt of the Notice of Dispute, such claim or dispute may, upon mutual agreement of the Parties, be submitted to arbitration and resolved in accordance with the arbitration procedures set forth below. In

the event the Parties do not agree to submit such claim or dispute to arbitration, each Party may exercise whatever rights and remedies it may have in equity or at law consistent with the terms of this APSA.

- 23.3 External Arbitration Procedures.** Any arbitration initiated under this APSA shall be conducted before a single neutral arbitrator appointed by the Parties. If the Parties fail to agree upon a single arbitrator within ten (10) Calendar Days of the submission of the dispute to arbitration, each Party shall choose one arbitrator who shall sit on a three-member arbitration panel. The two arbitrators so chosen shall within twenty (20) Calendar Days select a third arbitrator to chair the arbitration panel. In either case, the arbitrators shall be knowledgeable in electric utility matters, including electric transmission and bulk power issues, and shall not have any current or past substantial business or financial relationships with any party to the arbitration (except prior arbitration). The arbitrator(s) shall provide each of the Parties an opportunity to be heard and, except as otherwise provided herein, shall conduct the arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association (“Arbitration Rules”) and any applicable FERC regulations; provided, however, in the event of a conflict between the Arbitration Rules and the terms of this Article, the terms of this Article shall prevail.
- 23.4 Arbitration Decisions.** Unless otherwise agreed by the Parties, the arbitrator(s) shall render a decision within ninety (90) Calendar Days of appointment and shall notify the Parties in writing of such decision and the reasons therefor. The arbitrator(s) shall be authorized only to interpret and apply the provisions of this APSA and shall have no power to modify or change any provision of this Agreement in any manner. The decision of the arbitrator(s) shall be final and binding upon the Parties, and judgment on the award may be entered in any court having jurisdiction. The decision of the arbitrator(s) may be appealed solely on the grounds that the conduct of the arbitrator(s), or the decision itself, violated the standards set forth in the Federal Arbitration Act or the Administrative Dispute Resolution Act. The final decision of the arbitrator(s) must also be filed with, and approved by, FERC if it affects jurisdictional rates, terms and conditions of service, Interconnection Facilities, or Network Upgrades.
- 23.5 Costs.** Each Party shall be responsible for its own costs incurred during the arbitration process and for the following costs, if applicable: (1) the cost of the arbitrator chosen by the Party to sit on the three member panel and one half of the cost of the third arbitrator chosen; or (2) one half the cost of the single arbitrator jointly chosen by the Parties.

ARTICLE 24. REPRESENTATIONS, WARRANTIES AND COVENANTS

- 24.1 General.** Each Party makes the following representations, warranties and covenants:

- 24.1.1 Good Standing.** Such Party is duly organized, validly existing and in good standing under the laws of the state in which it is organized, formed, or incorporated, as applicable; that it is qualified to do business in the state or states in which the Project and owned by such Party, as applicable, are located; and that it has the corporate power and authority to own its properties, to carry on its business as now being conducted and to enter into this APSA and carry out the transactions contemplated hereby and perform and carry out all covenants and obligations on its part to be performed under and pursuant to this APSA.
- 24.1.2 Authority.** Such Party has the right, power and authority to enter into this APSA, to become a Party hereto and to perform its obligations hereunder. This APSA is a legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization or other similar laws affecting creditors' rights generally and by general equitable principles (regardless of whether enforceability is sought in a proceeding in equity or at law).
- 24.1.3 No Conflict.** The execution, delivery and performance of this APSA does not violate or conflict with the organizational or formation documents, or bylaws or operating agreement, of such Party, or any judgment, license, permit, order, material agreement or instrument applicable to or binding upon such Party or any of its assets.
- 24.1.4 Consent and Approval.** Such Party has sought or obtained, or, in accordance with this APSA will seek or obtain, each consent, approval, authorization, order, or acceptance by any Governmental Authority in connection with the execution, delivery and performance of this APSA, and it will provide to any Governmental Authority notice of any actions under this APSA that are required by Applicable Laws and Regulations.
- 24.1.5 Technical Specifications Accurate.** The technical specifications provided by the Approved Project Sponsor to the CAISO are accurate and complete.

ARTICLE 25. MISCELLANEOUS

- 25.1 Binding Effect.** This APSA and the rights and obligations hereof, shall be binding upon and shall inure to the benefit of the successors and assigns of the Parties hereto.

- 25.2 Conflicts.** In the event of a conflict between the body of this APSA and any attachment, appendices or exhibits hereto, the terms and provisions of the body of this APSA shall prevail and be deemed the final intent of the Parties.
- 25.3 Rules of Interpretation.** This APSA, unless a clear contrary intention appears, shall be construed and interpreted as follows: (1) the singular number includes the plural number and vice versa; (2) reference to any person includes such person's successors and assigns but, in the case of a Party, only if such successors and assigns are permitted by this APSA, and reference to a person in a particular capacity excludes such person in any other capacity or individually; (3) reference to any agreement (including this APSA), document, instrument or tariff means such agreement, document, instrument, or tariff as amended or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; (4) reference to any Applicable Laws and Regulations means such Applicable Laws and Regulations as amended, modified, codified, or reenacted, in whole or in part, and in effect from time to time, including, if applicable, rules and regulations promulgated thereunder; (5) unless expressly stated otherwise, reference to any Article, Section or Appendix means such Article of this APSA or such Appendix to this APSA, or such Section to the CAISO Tariff or such Appendix to the CAISO Tariff, as the case may be; (6) "hereunder", "hereof", "herein", "hereto" and words of similar import shall be deemed references to this APSA as a whole and not to any particular Article or other provision hereof or thereof; (7) "including" (and with correlative meaning "include") means including without limiting the generality of any description preceding such term; and (8) relative to the determination of any period of time, "from" means "from and including", "to" means "to but excluding" and "through" means "through and including".
- 25.4 Entire Agreement.** This APSA, including all Appendices and Schedules attached hereto, constitutes the entire agreement among the Parties with reference to the subject matter hereof, and supersedes all prior and contemporaneous understandings or agreements, oral or written, between or among the Parties with respect to the subject matter of this APSA. There are no other agreements, representations, warranties, or covenants which constitute any part of the consideration for, or any condition to, any Party's compliance with its obligations under this APSA.
- 25.5 No Third Party Beneficiaries.** This APSA is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and, where permitted, their assigns.
- 25.6 Waiver.** The failure of a Party to this APSA to insist, on any occasion, upon strict performance of any provision of this APSA will not be considered a waiver of any obligation, right, or duty of, or imposed upon, such Party.

Any waiver at any time by either Party of its rights with respect to this APSA shall not be deemed a continuing waiver or a waiver with respect to any other failure to comply with any other obligation, right, duty of this APSA. Termination or Default of this APSA for any reason by the Approved Project Sponsor shall not constitute a waiver of the Approved Project Sponsor's legal rights to obtain an interconnection from the CAISO. Any waiver of this APSA shall, if requested, be provided in writing.

- 25.7 Headings.** The descriptive headings of the various Articles of this APSA have been inserted for convenience of reference only and are of no significance in the interpretation or construction of this APSA.
- 25.8 Multiple Counterparts.** This APSA may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.
- 25.9 Amendment.** The Parties may by mutual agreement amend this APSA by a written instrument duly executed by all of the Parties. Such amendment shall become effective and a part of this APSA upon satisfaction of all Applicable Laws and Regulations.
- 25.10 Modification by the Parties.** Except as described in Appendices B and E, the Parties may by mutual agreement amend the Appendices to this APSA by a written instrument duly executed by all of the Parties. Such amendment shall become effective and a part of this APSA upon satisfaction of all Applicable Laws and Regulations.
- 25.11 Reservation of Rights.** The CAISO has the right to make a unilateral filing with FERC to modify this APSA pursuant to Section 205 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder with respect to any rates, terms and conditions, charges, classifications of service, rule or regulation. The Approved Project Sponsor shall have the right to make a unilateral filing with FERC to modify this APSA pursuant to Section 206 or any other applicable provision of the Federal Power Act and FERC's rules and regulations. Each Party shall have the right to protest any such filing by another Party and to participate fully in any proceeding before FERC in which such modifications may be considered.
- 25.12 No Partnership.** This APSA shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership among the Parties or to impose any partnership obligation or partnership liability upon any Party. No Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, another Party.



25.13 Joint and Several Obligations. Except as otherwise provided in this APSA, the obligations of the CAISO, and the Approved Project Sponsor are several, and are neither joint nor joint and several.

IN WITNESS WHEREOF, the Parties have executed this APSA in multiple originals, each of which shall constitute and be an original effective agreement among the Parties.

San Diego Gas & Electric Company

By: DocuSigned by:
Dave Geier
932C83E4C18947E _____

Name: Dave Geier

Title: Vice President - Electric Transmission & System Engineering

Date: 7/24/2014

California Independent System Operator Corporation

By: DocuSigned by:
Keith Casey
EED7FCA7283E48C... _____

Name: Keith Casey

Title: VP Market & Infrastructre Dev.

Date: 7/14/2014

Appendices to APSA

Appendix A Project Details

Appendix B Milestones

Appendix C Security Arrangements Details

Appendix D Addresses for Delivery of Notices and Billings

Appendix E Approved Project Sponsor's Costs of Project

Appendix A

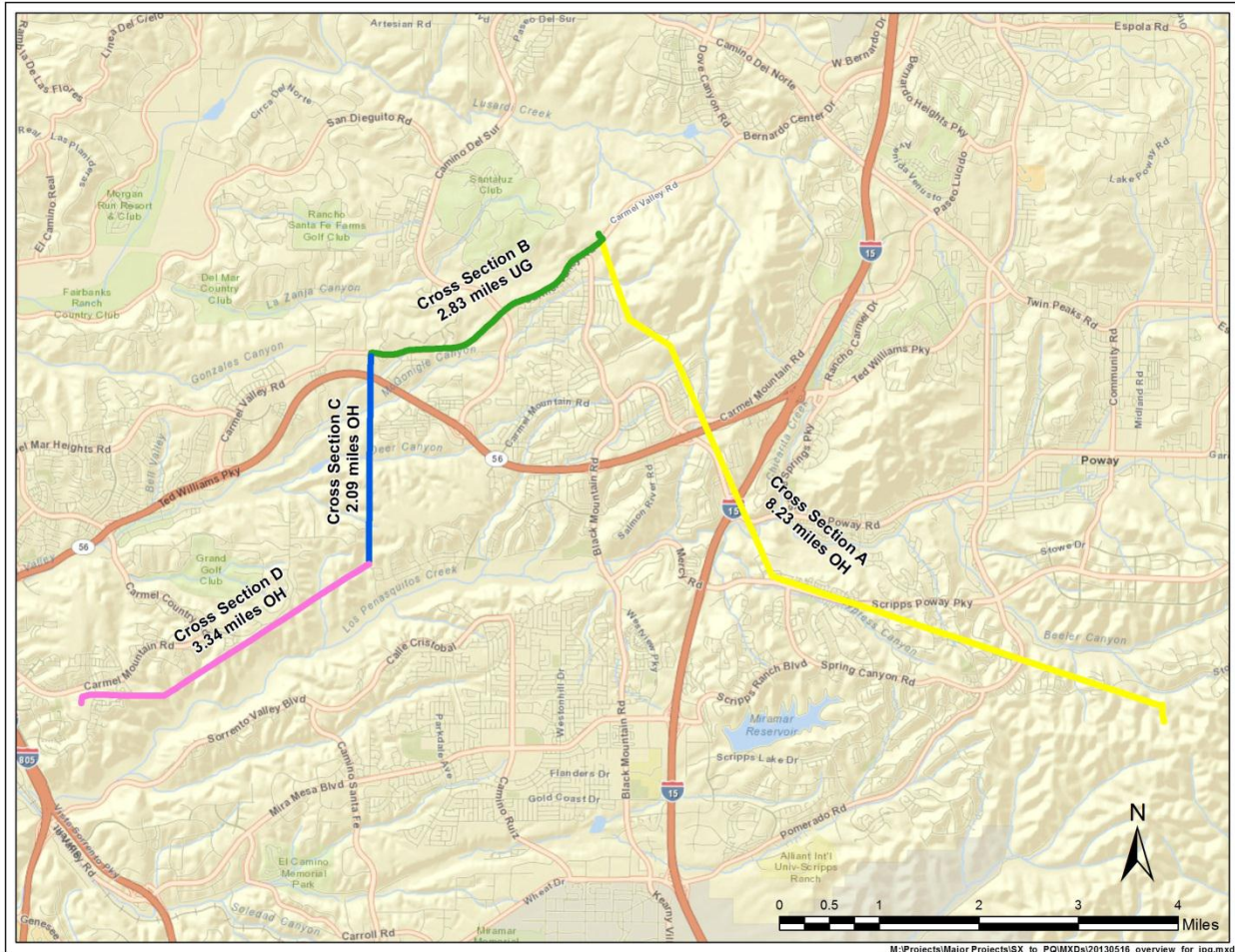
Project Details

1. Description:

A 230 kV transmission line between the existing Sycamore Canyon and Penasquitos substations. The new 230 kV line would include the installation of new 230 kV steel poles, utilize existing structures within the Approved Project Sponsor's existing right-of-way (ROW) and installation of new underground line in the Approved Project Sponsor's franchise position in a city street in the following manner:

- Installation of approximately 36 new 230 kV tubular monopole dulled galvanized steel poles that would replace existing single circuit wood H-frame structures between Sycamore Canyon Substation and Carmel Valley Road all within existing Approved Project Sponsor ROW (refer to **Cross Section A in the diagram below**).
- Grade new or refresh existing construction maintenance pads and spur roads for the new 230 kV poles as-needed.
- Installation of new 230 kV underground line in Carmel Valley Road, a city street, between the eastern TL 23051 corridor and the western TL 23001/04 corridor utilizing existing franchise position for almost the entire segment (refer to **Cross Section B in the diagram below**).
- Installation of two new 230 kV cables poles at each corridor end of Carmel Valley Road all within existing ROW. Underground rights through an existing ROW on the western corridor would need to be acquired for a short distance near Carmel Valley Road through an amendment to the existing ROW easement at this location. The new cable pole would replace an existing steel lattice tower.
- Installation of new 230 kV conductor on vacated position of the existing TL 23001/04 structures (double circuit 230 kV steel structures) between Carmel Valley Road and Penasquitos Junction all within existing SDG&E ROW (refer to **Cross Section C in the diagram below**).
- Installation of new 230 kV conductor on vacated position of the existing TL 13804/6906 structures (double circuit 230 kV steel structures) between Penasquitos Junction and Penasquitos Substation all within existing ROW. Existing 69 kV power lines (TL 675 and TL 6906) would be consolidated onto approximately 17 new 69 kV, double-circuit tubular steel poles that would replace 16 existing 69 kV wood H-frame structures and five existing wood monopole structures. (refer to **Cross Section D in the diagram below**).

- 2. **Interconnection Facilities: None**
- 3. **Network Upgrades: None**
- 4. **Distribution Upgrades: None**
- 5. **Diagram of Project:**



- 6. **Affected Systems: None**

Appendix B

Milestones

1. Milestone Dates:

Item	Milestone	Responsible Party	Due Date ¹⁷
1	Submit CPCN to the CPUC	Approve Project Sponsor	April 7, 2014 Completed
2	Submit Construction Plan in accordance with Article 5.3.1 of this Agreement.	Approved Project Sponsor	July 2, 2014 Completed
3	Start of development activities including commencement of regulatory approvals; acquisition of land; and permits.	Approved Project Sponsor	March 4, 2014 Started
4	Start of detailed engineering design	Approved Project Sponsor	March 4, 2014 Started
5	CPCN deemed complete	Approved Project Sponsor ^{2/}	August 8, 2015 **
6	Submit Construction Plan Status Report in accordance with Article 5.3.2 of this Agreement.	Approved Project Sponsor	September 30, 2014 December 29, 2014 March 29, 2015 June 27, 2015 September 25, 2015
7	Submit specifications on major equipment and/or material to CAISO for review in accordance with Article 5.4.1 of this Agreement.	Approved Project Sponsor	November 8, 2015 **
8	Comments due on specifications in accordance with Article 5.4.1 of this Agreement.	CAISO	November 23, 2015 **
9	Ex Parte Decision Issued – Final CEQA Document Certified	Approved Project Sponsor	December 7, 2015 **
10	Commence procurement activities including material and resources	Approved Project Sponsor	December 8, 2015 **
11	Submit Construction Plan Status Report in accordance with Article 5.3.2 of this Agreement.	Approved Project Sponsor	December 24, 2015
12	Complete engineering design	Approved Project Sponsor	June 4, 2016 **
13	Complete pre-construction permitting activities	Approved Project Sponsor	June 16, 2016 **
14	Submit Construction Plan Status Report in accordance with Article 5.3.2 of this Agreement.	Approved Project Sponsor	March 23, 2016
15	Commence Construction	Approved Project Sponsor	June 17, 2016 **



APPROVED PROJECT SPONSOR AGREEMENT

Item	Milestone	Responsible Party	Due Date ^{1/}
16	Submit Construction Plan Status Report in accordance with Article 5.3.2 of this Agreement.	Approved Project Sponsor	June 21, 2016 September 19, 2016
17	Submit final Project specifications in accordance with Article 5.4.2 of this Agreement	Approved Project Sponsor	October 20, 2016 **
18	Complete procurement including material and resources	Approved Project Sponsor	November 14, 2016 **
19	Submit Construction Plan Status Report in accordance with Article 5.3.2 of this Agreement.	Approved Project Sponsor	December 18, 2016
20	Provide comments on final Project specifications if required	CAISO	January 18, 2017 **
21	Submit Construction Plan Status Report in accordance with Article 5.3.2 of this Agreement.	Approved Project Sponsor	March 18, 2017
22	Commence Testing	Approved Project Sponsor	April 18, 2017 **
23	Energization Date	Approved Project Sponsor	May 25, 2017 *
24	Complete Construction	Approved Project Sponsor	December 31, 2017 **
25	Submit Construction Plan Status Report in accordance with Article 5.3.2 of this Agreement.	Approved Project Sponsor	June 16, 2017
26	In accordance with Article 5.6.2 provide final "as-built" drawings, information and other documents.	Approved Project Sponsor	September 22, 2017 **
27	In accordance with Article 5.6.1 provide final costs of the Project.	Approved Project Sponsor	May 24, 2018 **

- ^{1/} Dates in this Appendix B are good faith estimates and can be modified as follows:
 * Change in milestone date requires an amendment to this APSA pursuant to Article 25.10.
 ** Change in milestone date can be agreed to in writing by the representatives listed in Appendix D to this APSA without further regulatory approval.
- ^{2/} The Certificate of Public Convenience and Necessity ("CPCN") is subject to approval by the California Public Utilities Commission.

Appendix C

Security Arrangements Details

Infrastructure security of CAISO Controlled Grid equipment and operations and control hardware and software is essential to ensure day-to-day CAISO Controlled Grid reliability and operational security. FERC will expect the CAISO, and Approved Project Sponsor interconnected to the CAISO Controlled Grid to comply with the recommendations offered by the President's Critical Infrastructure Protection Board and, eventually, best practice recommendations from the electric reliability authority. All public utilities will be expected to meet basic standards for system infrastructure and operational security, including physical, operational, and cyber-security practices.

The Approved Project Sponsor shall meet the requirements for security implemented pursuant to the CAISO Tariff, including the CAISO's standards for information security posted on the CAISO's internet web site at the following internet address: <http://www.caiso.com/pubinfo/info-security/index.html>.



Appendix D

Addresses for Delivery of Notices and Billings:

Notices:

Approved Project Sponsor:

Bradley Carter
San Diego Gas & Electric
8315 Century Park Ct, CP21C
San Diego, CA 92123
Email: expq@semprautilities.com

CAISO:

California ISO
Attn: Infrastructure Contracts & Management
250 Outcropping Way
Folsom, CA 95630
Email: QueueManagement@CAISO.com

Alternative Forms of Delivery of Notices (telephone, facsimile or e-mail):

Approved Project Sponsor:

Bradley Carter
Email: bcarter@semprautilities.com
(858) 654-1269

CAISO:

Deb Le Vine
Email: dlevine@caiso.com
(916) 351-2144

Appendix E

Approved Project Sponsor's Costs of Project

The estimated cost components for the Project are as follows:

Transmission Line Costs	
Engineering, Procurement and Construction	\$ 76,345,096
Environmental/Regulatory	\$ 10,239,492
Public/External Affairs	\$ 2,742,710
Other Project Costs	\$ 1,893,045
Overheads	\$ 10,238,608
AFUDC	\$ 6,854,182
Total	\$108,313,133
Contingency (20 percent)	\$ 21,662,627
Total	\$129,975,759
<i>Note: Excludes the common costs necessary for the Sycamore Canyon and Penasquitos Substation upgrades and getaways</i>	

The specific cost containment measures the Approved Project Sponsor may implement include the following:

Engineering, Procurement and Construction (EPC) Contract

The Approved Project Sponsor may complete the Project through an Engineering, Procurement and Construction contract which would result in a known and agreed upon, fixed price bid prior to final engineering.

Design Elements of the Proposed Project

The Approved Project Sponsor strategically designed the Project with cost containment in mind which has resulted in a Project that would minimize potential cost and schedule risk, by 1) using existing right-of-ways; 2) using an existing franchise agreement; 3) using existing structures; 4) reconductoring and the installation of new structures on the overhead portion are the types of construction that the Approved Project Sponsor is familiar with and cost estimates are based on real work experience building and replacing similar structures on numerous past projects; and 5) Project was designed to avoid areas where construction could lead to environmental impact.

Approved Project Sponsor's Internal Resources, Alliances and Preferred Contractors

The Approved Project Sponsor's experience owning, operating and constructing electric infrastructure along with internal experienced resources and external relationships results in a very knowledgeable understanding of the associated costs of a project like the Project and results in a reduction of the Project's risk related to cost and schedule. Utilization of existing Approved Project Sponsor material alliances including steel poles, cable, hardware, etc. reduces uncertainty about price and availability, and preferred design and engineering consultants and construction contractors.

SDG&E's Subregional Natural Communities Conservation Plan (NCCP)

The Approved Project Sponsor has designed and located the Project to allow utilization of the SDG&E Subregional Natural Communities Conservation Plan (NCCP). Utilization of the NCCP would allow the Approved Project Sponsor to mitigate for impacts to biological resources using existing mitigation lands which is a critical advantage that the Approved Project Sponsor already has in place and results in an important cost containment strategy.

In accordance with Article 5.6.1, the Approved Project Sponsor shall provide a summary of the final cost of the construction of the Project as soon as reasonably practicable within twelve months of the completion of construction.