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October 21, 2014

Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, N.W. Room 1A
Washington, DC 20426

Re: AES Huntington Beach, L.L.C. and California Independent System
Operator, Docket Nos. ER15-____-000, ER13-1630-__, and ER13-351-____
Request for Approval of Extension of Contract Term

Dear Ms. Bose:

Pursuant to Section 205 of the Federal Power Act (“FPA”)¹ and Part 35 of the Commission’s regulations,² and pursuant to the requirements of AESHB Rate Schedule FERC No. 2, which is the Reliability Must-Run Service Agreement between AES Huntington Beach, L.L.C. (“AESHB”) and the California Independent System Operator Corporation (“CAISO”), including AESHB rate schedules for Huntington Beach Generating Station Units 3 and 4 (“HB 3 & 4”) (the “RMR Agreement”),³ AESHB hereby submits its annual filing pursuant to Section 4.11 of the RMR Agreement in response to CAISO’s notice of extension for the 2015 Contract Year. AESHB requests that the Commission permit the proposed Contract Service Limits and payments for the ensuing 2015 Contract Year to go into effect as of January 1, 2015, as described more fully below.

¹ 16 U.S.C. §§ 824d and 824e.

² 18 C.F.R. Part 35 (2013).

³ By order issued January 4, 2013, the Commission accepted the RMR Agreement, effective as of January 9, 2013. *AES Huntington Beach, L.L.C.*, Docket No. ER13-351-000, 142 FERC ¶ 61,017 (2013). The Commission accepted revisions to AESHB Rate Schedule No. 2, effective as of June 25, 2013. *AES Huntington Beach, L.L.C.*, Letter Order, Docket Nos. ER13-1630-000 and -001 (July 25, 2013).

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I. Communications

AESHB requests that all communications and correspondence concerning this filing be directed to:

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 Plant Manager
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 21730 Newland Street
 Huntington Beach, CA 92646
 Tel: 714-374-1421
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 E-Mail: Weikko.Wirta@aes.com

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II. Description of AESHB and the RMR Agreement

A. AESHB

AESHB is a public utility under the FPA that is authorized to sell electric energy, capacity, and ancillary services at market-based rates,⁴ and an exempt wholesale generator under the Public Utility Holding Company Act of 2005.⁵ AESHB currently owns and operates part of and leases and operates part of the Huntington Beach Generating Station. AESHB is an indirect, wholly-owned subsidiary of The AES Corporation (“AES”), a Delaware corporation that owns and operates both traditional utilities and competitive generation business segments in the United States and overseas. AES indirectly owns approximately 6,000 MW of competitive generating capacity in the United States through subsidiaries, each of which is a public utility or a qualifying facility under the Public Utility Regulatory Policies Act of 1978.

AESHB currently operates the Huntington Beach Generating Station, a natural gas-fired generating facility located in the city of Huntington Beach, California, within the balancing authority areas operated by CAISO.

⁴ *AES Huntington Beach, L.L.C., et al.*, 83 FERC ¶ 61,100 (1998), and *AES Redondo Beach, L.L.C., et al.*, 83 FERC ¶ 61,358 (1998).

⁵ *AES Huntington Beach, L.L.C.*, 84 FERC ¶ 62,017 (1998).

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B. RMR Agreement

The RMR Agreement was accepted by the Commission in Docket No. ER13-351-000, and amendments to the RMR Agreement were accepted by the Commission in Docket Nos. ER13-1630-000 and -001.

Under the RMR Agreement, AESHB collects a cost-of-service rate in exchange for operating two synchronous condensers necessary to provide voltage support in the Los Angeles Basin and San Diego/Imperial Valley local areas that is critically needed as the result of the unexpected long-term outage of San Onofre Nuclear Generating Station Units 2 and 3.

The RMR Agreement establishes the rates, terms, and conditions under which AESHB will provide RMR Service to CAISO. The RMR Agreement provides CAISO the ability to dispatch HB 3 & 4 to provide voltage support when required by CAISO for local reliability.

The RMR Agreement provides that CAISO will make fixed payments to AESHB for such RMR Service, based on an Annual Fixed Revenue Requirement in the amounts specified in Schedule B, Table B-6 to the RMR Agreement.

III. List of Documents Submitted with this Filing

- A. This Transmittal Letter
- B. CAISO Notice of Extension (Attachment A)

IV. Explanation of Request

Section 2.1(b) of the RMR Agreement provides that, once effective, the RMR Agreement continues in effect for one Contract Year. Section 2.1(c) of the RMR Agreement further provides that CAISO may extend the term of the RMR Agreement for an additional calendar year.

Under Section 4.11(a) of the RMR Agreement, if CAISO has extended the term of the RMR Agreement pursuant to Section 2.1, then not later than October 31 of the expiring Contract Year, AESHB must make a filing under Section 205 of the FPA to reflect the Contract Service Limits and payments for the ensuing Contract Year. Schedule 4.11(a) further provides that the Contract Service Limits for each year after the initial Contract Year shall be as set forth in Schedule A. In addition, Section 8 of Schedule B of the RMR Agreement provides that, if CAISO has extended the term of the

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RMR Agreement pursuant to Section 2.1, AESHB's filing with the Commission must contain the values in Tables B-1 through B-6 for the applicable Contract Year.

By letter dated September 24, 2014, CAISO gave AESHB notice to extend the term of the RMR Agreement for an additional calendar year, through December 31, 2015 (*see* Attachment A). Therefore, as required by Section 4.11(a) of the RMR Agreement, AESHB requests that the Commission permit to become effective, as of January 1, 2015, the Contract Service Limits for Contract Year 2015 set out in Section 12 of Schedule A to the RMR Agreement at the rates for Contract Year 2015 set out in Tables B-1 through B-6 of Schedule B of the previously approved RMR Agreement.

No changes to any language or rates contained in the RMR Agreement previously accepted by and on file with the Commission are proposed by this filing.

V. Requested Effective Date

Pursuant to Section 35.3 of the Commission's regulations,⁶ AESHB requests an effective date of January 1, 2015 for (1) the Contract Service Limits for Contract Year 2015 set out in Section 12 of Schedule A to the RMR Agreement, and (2) the payments for Contract Year 2015 set out in Tables B-1 through B-6 of Schedule B of the RMR Agreement.

VI. Request for Waiver of the Commission's Part 35 Filing Requirements

AESHB requests that the Commission grant a waiver of all remaining filing requirements under Part 35 of the Commission's regulations, including the information required by 18 CFR § 35.12(b), and permit the term of the RMR Agreement to be extended for one Contract Year, effective as of January 1, 2015, as requested above.

⁶ 18 C.F.R. § 35.3.

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VII. Conclusion

For all the foregoing reasons, the Commission should permit the RMR Agreement to be extended for one Contract Year, effective as of January 1, 2015, as described above and as set forth in the RMR Agreement.

Respectfully submitted,

/s/ Robert F. Shapiro

Robert F. Shapiro
Chadbourne & Parke LLP
1200 New Hampshire Avenue, N.W.
Washington, D.C. 20036
(202) 974-5600

Attorneys for AES Huntington Beach,
L.L.C.

cc: California Independent System Operator Corporation
California Public Utilities Commission
San Diego Gas & Electric Company
Southern California Edison Company

Attachment A

CAISO Notice of Extension



California Independent System Operator

Eric J. Schmitt
Vice President, Operations

September 24, 2014

Via FedEx & E-mail

Weikko Wirta
Plant Manager – AES Huntington Beach, L.L.C.
21730 Newland Street
Huntington Beach, CA 92646
Email: weikko.wirta@aes.com

Dear Mr. Wirta:

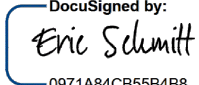
Pursuant to Section 2.1(b) of the Reliability Must-Run (RMR) Agreement the California Independent System Operator Corporation (“CAISO”) hereby gives notice to extend the term of the RMR Agreement for an additional calendar year, through December 31, 2015. This notice applies to the following Units:

RMR Owner	AES Huntington Beach, L.L.C.
Facility-RMR Unit(s)	Huntington Beach Unit 3 and 4

Pursuant to section 4.11 of the RMR Agreement the RMR Owner is required to make appropriate filings, as applicable, with the Federal Energy Regulatory Commission (“FERC”) to update the rates and associated data for the 2015 Contract Year, as applicable, by October 31, 2014.

Please serve copies of all RMR related FERC filings on the CAISO. If you have any questions or comments, please contact Bob Kott at (916) 608-5804.

Sincerely,

DocuSigned by:

0971A84CB55B4B8...

Eric J. Schmitt
Vice President, Operations

CJS/sw

cc: Yiyu Zhong (AES Huntington Beach)
Robert Kott (CAISO)
Bryan Frazee (SCE)
Jill Horswell (SCE)

California Independent System Operator

Jonathan Newlander (Sempra)
Christian Soderlund (Sempra)
Richard Sheaffer (Sempra)
Donald Brooks (CPUC)
William Dietrich (CPUC)
Christopher Clay (CPUC)
Marion Peleo (CPUC)

California Independent System Operator

bcc: (hardcopy)
File

bcc: (via electronic transmission)
S. Davies
K. Casey
P. Pettingill
D. Subakti
B. Der-Gevorgian
C. Micsa
D. Attisani
R. Kott
Regulatory Contracts

bcc: (SharePoint)
Cabinet: Regulatory Contracts
Folder: Records/Contracts/AES Huntington Beach, L.L.C/RMR/Annual Renewals/
Filename: AESHB_2015 Extension_20140924

AES Huntington Beach, L.L.C.
Rate Schedule FERC No. 2

**CALIFORNIA INDEPENDENT SYSTEM
OPERATOR CORPORATION**

AND

AES HUNTINGTON BEACH, L.L.C.

MUST-RUN SERVICE AGREEMENT

MUST-RUN SERVICE AGREEMENT

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AES Huntington Beach, L.L.C
Rate Schedule FERC No. 2

First Revised Sheet No. 5
Must-Run Service Agreement

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MUST-RUN SERVICE AGREEMENT

THIS MUST-RUN SERVICE AGREEMENT is made as of the 8th day of November, 2012, between AES Huntington Beach, L.L.C., a limited liability company organized under the laws of the State of Delaware (the "Owner"), and the CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION, a nonprofit public benefit corporation incorporated under the laws of the State of California (the "CAISO").

RECITALS

- A. Owner is the owner or lessee of, or is otherwise entitled to dispatch the Ancillary Services produced from and provided by, the Units located at the Facility described in Schedule A to this Agreement;
- B. Under Section 345 of the California Public Utilities Code, CAISO is responsible for the efficient use and reliable operation of the CAISO Controlled Grid;
- C. CAISO has determined that it needs the ability to dispatch Units under the terms and conditions of this Agreement to have Owner provide Ancillary Services to the CAISO Controlled Grid when required by CAISO to ensure the reliability of the CAISO Controlled Grid; and
- D. Each Unit covered by this Agreement has been designated as a Reliability Must-Run Unit.

In consideration of the covenants and agreements contained in this Agreement, the Parties agree as follows:

**ARTICLE 1
DEFINITIONS**

Terms, when used with initial capitalization in this Agreement and the attached schedules shall have the meanings set out below. The singular shall include the plural and vice versa. "Includes" or "including" shall mean "including without limitation." References to a section, article or schedule shall mean a section, article or schedule of this Agreement, unless another agreement or instrument is specified. Unless the context otherwise requires, references to any law shall be deemed references to such law as amended, replaced or restated from time to time. Unless the context otherwise requires, any reference to a "person" includes any individual, partnership, firm, company, corporation, joint venture, trust, association, organization or other entity, in each case whether or not having separate legal identity. References to "Owner" or "CAISO" shall, unless the context otherwise requires, mean Owner and CAISO respectively and their permitted assigns and successors. References to sections or

provisions of the CAISO Tariff include any succeeding sections or provisions of the CAISO Tariff.

“Adjusted RMR Invoice” is defined in Section 9.1(b).

“ADR” means alternative dispute resolution pursuant to Section 11.1 and Schedule K.

“Agreement” means this Must-Run Service Agreement, including schedules, as amended from time to time.

“Ancillary Services” means those ancillary services identified in Schedule E.

“Applicable UDC Tariff” means the applicable retail tariff(s), of the utility distribution company in whose service territory the Unit is located, under which the Unit is eligible to purchase power to meet its auxiliary power requirements, whether or not the Unit actually purchases auxiliary power under the tariff(s). The Applicable UDC Tariff for the Facility is set out on Schedule A.

“Availability” means, in relation to a Unit, the maximum quantity of Ancillary Services, measured at the Delivery Point, the Unit is capable of producing at any given time assuming adequate time to ramp the Unit to that maximum quantity. For hydroelectric Units, Availability measures the extent to which the Unit is capable of producing Energy or providing Ancillary Services, given sufficient usable water to produce Energy or provide Ancillary Services. The Availability of a Unit is measured by the capability of Delivering MVAR.

“Availability Deficiency Factor” is calculated as set forth in Section 8.5.

“Availability Payment” means the payment to Owner described in Section 8.1 for Condition 1 and 8.2 for Condition 2.

“Availability Test” means a test of a Unit’s Availability requested by CAISO or Owner pursuant to Section 4.9(a).

“Bid Sufficiency Test” means the test described in Section 4.1(c).

“Billable MWh” is defined in Section 8.3(a).

“Billing Month” is defined in Section 9.1(b).

“Black Start” means the ability of a Unit to start without an external source of electricity or the process of doing so.

“Business Day” means any of Monday through Friday, excluding any day which is a Federal bank holiday.

“CAISO Availability Notice” means a notice given by CAISO to Owner modifying the Availability of the Unit under Section 4.9 (a)(vi) or Section 5.4 (b).

“CAISO Controlled Grid” is defined in Appendix A to the CAISO Tariff.

“CAISO Invoice” is defined in Section 9.1(b).

“CAISO’s Repair Share” is defined in Section 7.5 (g).

“CAISO Settlements Calendar” is defined in Section 9.1(b).

“CAISO Tariff” means the California Independent System Operator Tariff on file with FERC and in effect from time to time.

“California Agency” means the agency or agencies responsible for representing the State of California in FERC proceedings involving the rates, terms and conditions of service under this Agreement.

“Capital Item” means an addition or modification to, change in or repair, replacement or renewal of plant, equipment or facilities used by Owner to fulfill Owner’s obligations under this Agreement. A Capital Item does not include Repairs to such plant, equipment or facilities. A Capital Item does not include an Upgrade, unless recovery of costs of the Upgrade has been approved by CAISO. For purposes of this Agreement, Capital Items are “retirement units” or other items the costs of which are properly capitalized in accordance with the FERC Uniform System of Accounts, 18 C.F.R. Part 101.

“Closed” is defined in Section 2.5.

“Collateral” is defined in Section 9.7.

“Commercial Operations Date” means the date on which the Owner has declared to CAISO that the Facility is available for continuous operation.

“Comparable RMR Unit” is defined in Section 4.7 (f).

“Competitive Constraint Run” is defined in Appendix A to the CAISO Tariff.

“Condition 1” means the terms of this Agreement applicable to a Unit providing service under Condition 1 as described in Section 3.1.

“Condition 2” means the terms of this Agreement applicable to a Unit providing service under Condition 2 as described in Section 3.1.

“Confidential Information” is defined in Section 12.5.

“Contract Service Limits” for a given Unit means the Maximum Annual MWh, Maximum Annual Service Hours, Maximum Annual Start-ups, and, if applicable, the Maximum Monthly MWh as stated in Section 12 of Schedule A.

“Contract Year” means a calendar year; provided, however, that the initial Contract Year shall commence on the Effective Date and expire at the end of the calendar year in which the Effective Date occurred. If the Agreement terminates during a calendar year, the last Contract Year shall end on the termination date.

“Counted MWh” is defined in Section 5.3.

“Counted Service Hours” is defined in Section 5.3.

“Counted Start-ups” is defined in Section 5.3.

“Credit Carryforward” is defined in Section 9.1(e) and Section 9.1(f).

“Day Ahead Schedule” is defined in Appendix A to the CAISO Tariff.

“Deliver” means to provide Ancillary Services pursuant to a Dispatch Notice and the terms “Delivered” and “Delivering” shall be construed accordingly.

“Delivered Ancillary Services” means the type and, if applicable, the MVA of Ancillary Services Delivered by Owner.

“Delivered MWh” means the MWh of Energy Delivered by Owner and shall be equal to the sum of Billable MWh, Hybrid MWh, MWh deemed Delivered under Section 5.1 (f); and MWh Delivered from Substitute Units under Section 5.1 (c) or Section 5.1 (d).

“Delivery Point” means the point identified in Section 4 of Schedule A where Ancillary Services are to be Delivered.

“Direct Contract” means a contract between Owner and one or more identified persons for the sale of Ancillary Services other than under this Agreement, and shall in no event include a transaction in a market run by CAISO.

“Dispatch Notice” means a notice delivered by CAISO to Owner’s Scheduling Coordinator on a daily, hourly or real-time basis requesting dispatch of one or more Unit(s) to provide Ancillary Services under this Agreement. Dispatch Notices include: (a) Day-Ahead Schedules and Real-Time Dispatches where the RMR Unit or Units are flagged as RMR Dispatches as a result of the Market-Power Mitigation and Reliability Requirements Determination processes pursuant to the CAISO Tariff, (b) Manual RMR Dispatch Notices, and (c) Test Dispatch Notices given by CAISO under Section 4.9 other than Test Dispatch Notices issued at Owner’s request to test Availability or heat input of the Unit.

“Distribution Grid” means the radial lines, distribution lines and other facilities used to transmit or distribute Ancillary Services from the Facility other than the CAISO Controlled Grid.

“Due Date” means the date which is the 30th day after the date on which a Party submits an invoice to the other Party. Notwithstanding the above, the Due Dates for the Revised Estimated RMR Invoice, the Revised Adjusted RMR Invoice, and the CAISO Invoice shall be as specified in Section 9.1(b). If the 30th day, or other Due Date as specified in Section 9.1(b), is not a Business Day, the Due Date shall be the next Business Day.

“Effective Date” means the date this Agreement becomes effective pursuant to Section 2.1 thereof.

“Energy” means electrical energy.

“Estimated RMR Invoice” is defined in Section 9.1(b).

“Existing Contractual Limitation” means a contractual limitation on the Start-up or operation of a Unit existing prior to the date the Unit was designated as a

Reliability Must-Run Unit. All Existing Contractual Limitations are described in Section 14 of Schedule A.

“Facility” means the facility described in Schedule A. A hydroelectric facility may include one or more electric generating facilities which are hydraulically linked by a common water system.

“Facility Trust Account” is defined in Section 9.2.

“FERC” means the Federal Energy Regulatory Commission, any successor agency, or any other agency to whom authority under the Federal Power Act affecting this Agreement has been delegated.

“Final Invoice” is defined in Section 9.10(a).

“Financing Agreement” means agreements for financing the Facility or any portion of the Facility.

“Fixed Option Payment Factor” is set forth in Section 2 of Schedule B.

“Force Majeure Event” means any occurrence beyond the reasonable control of a Party which causes the Party to be unable to perform an obligation under this Agreement in whole or in part and which could not have been avoided by the exercise of Good Industry Practice. Force Majeure Event includes an act of God, war, civil disturbance, riot, strike or other labor dispute, acts or failures to act of Governmental Authority, fire, explosion, flood, earthquake, storm, drought, lightning and other natural catastrophes. A Force Majeure Event shall not include lack of finances or the price of fossil fuel.

“Forced Outage” means a reduction in Availability of a Unit for which sufficient notice is not given to allow the outage to be factored into CAISO’s day-ahead or hour-head scheduling process.

“Generating Unit” means an individual generator and its associated plant and apparatus whose output is capable of being separately identified and metered or a Physical Scheduling Plant that, in either case, is: (a) located within the CAISO Balancing Authority Area (which includes a Pseudo-Tie of a generating unit to the CAISO Balancing Authority Area); (b) connected to the CAISO Controlled Grid, either directly or via interconnected transmission, or distribution facilities or via a Pseudo-Tie; and (c) capable of producing and delivering Ancillary Services.

“Good Industry Practice” means any of the practices, methods, and acts engaged in or approved by a significant portion of the electric power industry during the relevant time period, or any of the practices, methods, and acts which, in the exercise of reasonable judgment in the 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 Industry Practice does not require use of the optimum practice, method, or act, but only requires use of practices, methods, or acts generally accepted in the region covered by the Western Systems Coordinating Council.

“Governmental Authority” means the government of any nation, any state or other political subdivision thereof, including any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to a government.

“Hourly Metered Total Net Generation” means the electric generation in MWh for the Unit in any Settlement Period as measured by the Unit’s electrical meter described in Schedule A, Section 5, “Metering and Related Arrangements”, minus any auxiliary loads metered on the load side of such electrical meter for that Settlement Period in accordance with the CAISO Tariff.

“Hybrid MWh” is defined in Section 8.3(b).

“Hydroelectric Dependable Capacity” is the amount of MWh forecast to be produced by a hydroelectric Facility in an adverse hydrologic year.

“Interest Rate” means the lesser of the rate of interest per annum calculated in accordance with 18 C.F.R. 35.19a of the FERC’s Regulations or the maximum rate permitted by law.

“Local Capacity Area” is defined in Appendix A to the CAISO Tariff.

“Long-term Planned Outage” means a planned interruption, in whole or in part, in the output of a Unit to permit Owner to perform a major equipment overhaul and inspection or for new construction work but only if the outage is scheduled to last 21 consecutive days or more (which may span more than one Contract Year) and either (a) is scheduled in accordance with the CAISO’s outage coordination protocol prior to the beginning of the Contract Year or (b) was scheduled as a Long-term Planned Outage for the last quarter of the expiring Contract Year but, with approval of the CAISO Outage Coordination Office, was postponed and rescheduled into the new Contract Year.

“Manual RMR Dispatch Notice” is a Dispatch Notice issued other than as a result of the Market Power Mitigation and Reliability Requirements Determination process as described in the CAISO Tariff.

“Market Power Mitigation and Reliability Requirements Determination” or **“MPM-RRD”** is as defined in the CAISO Tariff.

“Market Schedule” is defined in Section 8.3(c)(i)(C).

“Market Transaction” means a delivery of Energy or provision of Ancillary Services from a Unit pursuant to a Direct Contract or bids into markets run by the, CAISO or any similar entity.

“Maximum Annual MWh” means, for each Unit, the maximum MWh of Energy that Owner may be obligated to Deliver from the Unit in each Contract Year without becoming entitled to charges for excess service under Schedule G. The Maximum Annual MWh for each Unit is set out in Section 12 of Schedule A. The rules for counting MWh are set out in Section 5.3.

“Maximum Annual Service Hours” means, for each Unit, the maximum Service Hours that Owner may be obligated to provide service from the Unit in each Contract Year without becoming entitled to charges for excess service under Schedule G. The Maximum Annual Service Hours for each Unit is set out in Section 12 of Schedule A. The rules for counting Service Hours are set out in Section 5.3.

“Maximum Annual Start-ups” means, for each Unit, the maximum number of times Owner may be obligated to Start-up the Unit in each Contract Year without becoming entitled to charges for Start-ups under Schedule G. The Maximum Annual Start-ups for each Unit is set out in Section 12 of Schedule A. The rules for counting Start-ups are set out in Section 5.3.

“Maximum Monthly MWh” means, for each hydroelectric Unit, the maximum MWh of Energy that Owner may be obligated to Deliver from the Unit without becoming entitled to charges for excess service under Schedule G. The Maximum Monthly MWh for each hydroelectric Unit is set out in Section 12 of Schedule A. The rules for counting MWh are set out in Section 5.3.

“Maximum Net Dependable MVar Capability” means the amount shown in Section 1 of Schedule A as the Maximum Net Dependable MVar Capability of a Unit.

“Minimum Load” means, for each Unit, the higher of (1) the lowest level in MW at which the Unit can maintain stable continuous operations, or (2) the Minimum Load for the Unit as shown in Section 9 of Schedule A.

“Minimum Off Time” means, for each Unit, the minimum time following Shutdown that the Unit must remain off line before initiation of the next Start-up. The Minimum Off Time for each Unit is shown in Section 11 of Schedule A.

“Minimum Run Time” means, for each Unit, the minimum time the Unit must remain Synchronized following Start-up. The Minimum Run Time for each Unit is shown in Section 10 of Schedule A.

“Month” means a calendar month.

“Monthly Option Payment” is defined in Section 8.1(a) for Condition 1 and Section 8.2(a) for Condition 2.

“Motoring Charge” means the payment in accordance with Schedule E for the Energy required to spin a generator or condenser that is electrically connected to the CAISO Controlled Grid or Distribution Grid to provide Ancillary Services in circumstances where the generator is not producing Energy.

“MVA_r” means one megavar.

“MVA_rh” means one megavar hour.

“MW” means one megawatt.

“MWh” means one megawatt hour.

“Net Repair Costs” is defined in Section 7.5(a).

“New Responsible Utility” is defined in Section 9.4 (f).

“Nonmarket Transaction” means a Delivery of Ancillary Services from a Unit pursuant to a Dispatch Notice.

“Non-Performance Penalty” means a penalty computed pursuant to Section 8.5.

“Non-Summer Months” means other months in the Contract Year not defined as Summer Months.

“Not Applicable” or **“N/A”** means that the relevant provision to which the term "Not Applicable" or "N/A" is mentioned is not applicable to this Agreement.

“Other Outage” means any reduction in the Availability of a Unit as reflected in an CAISO Availability Notice or Owner’s Availability Notice (whether characterized by the North American Electric Reliability Council (“NERC”) as a “forced outage”, “planned outage” or “maintenance outage”) other than a Long-term Planned Outage.

“Owner’s Availability Notice” means a notice given under Section 4.9(a)(vii) or Section 7.3(b) by Owner to CAISO notifying CAISO of the Availability of a Unit.

“Owner’s Repair Cost Obligation” is an allowance for Repairs to be made during the Contract Year calculated pursuant to Section 7.5 (k). Owner’s Repair Cost Obligation is set out in Section 13 of Schedule A.

“Party” means either CAISO or Owner, and “Parties” means CAISO and Owner.

“Penalty Period” is defined in Section 8.5 (a).

“Pre-empted Dispatch Payment” is defined in Schedule E.

“Prepaid Start-ups” is defined in Section 8.4.

“Prepaid Start-up Charge” means the payment to Owner for Prepaid Start-ups described in Section 8.1.

“Prepaid Start-up Cost” is defined in Schedule D.

“Prior Period Change(s)” is defined in Section 9.1(g).

“Prior Period Change Examples” is defined in Section 9.1(l).

“Prior Period Change Guidelines” is defined in Section 9.1(l).

“Prior Period Change Worksheet” is defined in Section 9.1(g).

“Ramp Rate” is the applicable Ramp Rate as stated in Section 8 of Schedule A.

“Ramping Constraint” means the limits on ramping a Unit to higher or lower output as set out in Section 7 of Schedule A.

“Real-Time Dispatch” is defined in Appendix A of the CAISO Tariff.

“Recalculation Settlement Statement” is defined in Appendix A of the CAISO Tariff.

“Reliability Must-Run Unit” means a “reliability must-run unit” as defined in Appendix A of the CAISO Tariff, as modified by the definition of Generating Unit in Article 1 of this Agreement.

“Repair” means repairs or replacement required to remedy or prevent any loss or damage that impairs the capability of the Unit to Deliver Ancillary Services, the cost of which is properly treated as an expense in accordance with the FERC Uniform System of Accounts, 18 C.F.R. Part 101.

“Repair Payment Factor” is determined pursuant to Section 7.5(g).

“Requested Ancillary Services” means the Ancillary Services CAISO requests Owner to Deliver from a Unit pursuant to a Dispatch Notice.

“Requested MW” means the MW of Energy CAISO requests Owner to Deliver pursuant to a Dispatch Notice.

“Requested MWh” means the product of the Requested MW of Energy and the time in hours (or fraction thereof) during which the Dispatch Notice requested Delivery of the Requested MW. This includes ramping energy calculated pursuant to the CAISO Tariff.

“Requested MVar” means the MVar of Ancillary Services CAISO requests Owner to Deliver pursuant to a Dispatch Notice.

“Requested Operation Period” means the time during which CAISO requests that a Unit Deliver Ancillary Services pursuant to a Dispatch Notice.

“Response Notice” is defined in Section 14.3(b)(ii).

“Responsible Utility” is an entity which, under the CAISO Tariff, is responsible for paying all or part of the costs incurred by CAISO under this Agreement.

“Responsible Utility Facility Trust Account” is defined in Section 9.2.

“Revised Adjusted RMR Invoice” is defined in Section 9.1(b).

“Revised Estimated RMR Invoice” is defined in Section 9.1(b).

“RMR Dispatch” is as defined in Appendix A of the CAISO Tariff.

“RMR Invoices” means the four invoices issued each Billing Month by Owner to CAISO pursuant to Section 9.1 for payment of charges under this Agreement. The four invoices are the Estimated RMR Invoice, Revised Estimated RMR Invoice, Adjusted RMR Invoice, and Revised Adjusted RMR Invoice.

“RMR Invoice Template” is defined in Section 9.1(d).

“RMR Owner Facility Trust Account” is defined in Section 9.2.

“RMR Payments Calendar” means the calendar issued by CAISO pursuant to Section 11.13 of the CAISO Tariff.

“Scheduling Coordinator” means an entity certified by CAISO for the purposes of undertaking the functions specified in Section 4.5 of the CAISO Tariff with respect to a unit.

“Scheduling Coordinator Revenues” is defined in Section 9.1(f).

“Service Hours” means the amount of time (measured in hours or fractions thereof) a Unit is Delivering Ancillary Services pursuant to a Dispatch Notice.

“Settlement Period” means the period beginning at the start of the hour and ending at the end of the hour.

“Shutdown” means the condition of a Unit when it is not Synchronized and not in Start-up.

“Small Project Estimate” is defined in Section 7.4 (b).

“Start-up” means the action of bringing a Unit from Shutdown to Minimum Load and the terms “Starts-up”, “Started-up” and “Starting-up” shall be construed accordingly.

“Start-up Lead Time” means, for each Unit, the amount of time required to Start-up the Unit, as shown in Section 6 of Schedule A.

“Start-up Payment” is defined in Schedule D.

“Substitute Unit” means a Generating Unit or combination of units, other than the Unit identified in the Dispatch Notice (whether or not located at the Facility, whether or not designated as a Reliability Must-Run Unit and whether or not owned by Owner), which, under the circumstances existing at the time, is capable of providing system reliability benefits equivalent to the system reliability benefits provided by the Unit identified in the Dispatch Notice. In the case of Units providing Ancillary Services, a Substitute Unit must (i) be certified to provide the requested type of Ancillary Service, (ii) provide the same or higher MVA_r of Ancillary Services and, (iii) is located in the same Local Capacity Area as the Unit identified in the Dispatch Notice.

“Summer Months” means July, August, and September for the Contract Year 2013, while for the remaining Contract Years means June, July, August, and September.

“Surcharge Payment” means the payment to Owner for Capital Items described in Section 8.1 for Condition 1 and Section 8.2 for Condition 2.

“Surcharge Payment Factor” means the percentage of the cost of a Capital Item that CAISO is obligated to pay.

“Synchronized” means the condition where a Unit is electrically connected to and capable of delivering Ancillary Services to the CAISO Controlled Grid or Distribution Grid.

“Synchronous Condenser Transaction” means the conversion of Huntington Beach Units #3 & 4 to synchronous condensers, including the development, procurement, construction, and operation under this Agreement of such synchronous condensers.

“Termination Fee” means amounts determined pursuant to the termination fee formula contained in Section 2.5(b).

“Termination Fee Invoice” is defined in Section 9.9(a).

“Test Dispatch Notice” means a notice issued to test a Unit pursuant to Section 4.9.

“Trading Day” means the day on which Ancillary Services are to be Delivered.

“Unit” means an individual Generating Unit which has been designated a Reliability Must-Run Unit and is part of the Facility identified in Schedule A.

“Unit Availability Limit” means for any hour the maximum MVAR which Owner is obligated to make available to CAISO from a Unit. The Unit Availability Limit shall be the lower of (a) the Maximum Net Dependable MVAR Capability of the Unit or (b) the Availability of the Unit as stated in the currently effective Owner’s Availability Notice or CAISO Availability Notice.

“Unplanned Capital Item Notice” is defined in Section 7.6(b).

“Unplanned Repair Notice” is defined in Section 7.5(b).

“Upgrade” means any change or modification to the Facility that increases the nameplate capacity rating of an existing Unit or adds a new unit.

“Variable Cost Payment” means the payment to Owner for Billable MWh described in Schedule C.

ARTICLE 2 TERM

2.1 Term

- (a) This Agreement shall become effective on the latest to occur of (1) January 1, 2013, (2) the date it is permitted to become effective by FERC, or (3) the satisfaction of the following conditions precedent as set forth in this Section 2.1(a) on or before the applicable date set forth in each such condition precedent, as such dates may be extended as provided in Schedule B, in each case on terms and conditions acceptable to Owner in its reasonable discretion:
- (i) [Reserved];
 - (ii) Receipt, on or before January 7, 2013, of approval of such amendments to California Energy Commission license relating to Huntington Beach Units #3&4 as are required for the proposed Synchronous Condenser Transaction to be constructed by Owner;
 - (iii) Receipt, on or before June 14, 2013, of such consent, confirmation or other acknowledgment as may be required from BE CA LLC ("BE CA") under the existing agreements between Owner and BE CA, to the effect that:
 - (x) while reserving on any determination as to whether Owner's participation in the Synchronous Condenser Transaction requires any consent or waiver by BE CA under such contractual agreements between BE CA and Owner, BE CA agrees that it will not claim that any such participation constitutes a breach or violation of any such contractual arrangement, or
 - (y) BE CA confirms that its consent or waiver is not required under such contractual agreements between BE CA and Owner in connection with or as a result of Owner's participation in the Synchronous Condenser Transaction, or
 - (z) BE CA consents to Owner's participation in the Synchronous Condenser Transaction for all purposes of such contractual agreements between BE CA and Owner;
 - (iv) Receipt, on or before June 28, 2013, of consent to this Agreement by the lenders under that certain Credit Agreement dated as of May 15, 1998 (as amended, the "Credit Agreement"), among AES Southland, L.L.C., AES Alamitos, L.L.C., AES Huntington Beach, L.L.C. and AES Redondo Beach, L.L.C. (collectively, the "AES Parties"), certain lenders and issuing banks named therein, Credit Suisse, New York Branch, as Agent and

- Collateral Agent, and Credit Suisse, New York Branch, as Securities Intermediary and Depositary Bank;
- (v) Receipt, on or before April 15, 2013, of consent to the Synchronous Condenser Transaction by Edison Mission Huntington Beach, LLC in respect of its existing lease arrangements in respect of certain components of Huntington Beach Units #3&4, and any amendment to such lease agreement as may be required to implement the same; and
 - (vi) Receipt, on or before June 28, 2013, of confirmation from Owner to CAISO that each of the conditions precedent set forth in clauses (iii), (iv) and (v) of this Section 2.1(a) have been satisfied on terms and conditions that provide Owner with assurances that Owner's participation in this Synchronous Condenser Transaction will not subject such Owner or its affiliates to an unacceptable risk of claims under any existing contractual arrangements;

provided, however, that for the avoidance of doubt, if any of the above-specified conditions precedent shall not have been satisfied to the satisfaction of Owner in its reasonable discretion on or before the applicable date for such condition precedent as set forth therein, as such dates may be extended as provided in Schedule B, this Agreement shall terminate and be of no further force and effect.

- (b) Once effective, this Agreement shall continue in effect for one Contract Year.
- (c) CAISO may extend the term of this Agreement for an additional calendar year as to all Units only for Contract Years 2014 through 2016, or for Unit 4 in Contract Year 2017, by notice given not later than October 1 of the expiring Contract Year, subject to the terms set forth in the attached Schedules for those future Contract Years for each Unit. CAISO may extend the term for less than a full calendar year to all Units only for Contract Years 2014 through 2016 or for Unit 4 in Contract Year 2017 only by mutual agreement. For years following Contract Year 2017, designation of the Units as Reliability Must-Run Units may occur only by mutual agreement.

2.2 Termination

- (a) Subject to any necessary authorization from FERC, this Agreement may be terminated as to all Units only for Contract Years 2013 through 2016, or for Unit 4 in Contract Year 2017, in accordance with this Section 2.2; provided, however, that if this Agreement applies to a Facility having hydroelectric Unit, this Agreement may be terminated only as to all hydroelectric Units at the Facility. If this Agreement terminates as to fewer than all Units, the Agreement shall remain in effect as to the remaining Units. If this Agreement terminates as to all Units, the Agreement shall terminate.
- (b) This Agreement may be terminated as to all Units only for Contract Years 2013 through 2016 or for Unit 4 in Contract Year 2017:
 - (i) by CAISO pursuant to Section 11.4 in the event of default by Owner;

- (ii) by Owner pursuant to Section 11.4 in the event of default by CAISO;
 - (iii) by Owner pursuant to Section 7.4 (f), 7.5 (i) or 7.6 (h);
 - (iv) by Owner or CAISO, if the Unit is condemned by a Governmental Authority; or
 - (v) by Owner or CAISO, if Owner's authorization from a Governmental Authority (including, where applicable, licenses under Part I of the Federal Power Act) that is necessary to site, operate or obtain access to such Unit is terminated or expires or is reissued or modified so that it becomes illegal, uneconomical or otherwise impractical for the Owner to continue operating the Facility. Owner shall be obligated to use its best efforts to renew and keep effective its licenses and authorizations and to oppose conditions or modifications which would make continued operation illegal, uneconomical or otherwise impractical.
- (c) To the extent that Owner transfers the right to control the dispatch of the Facility or Unit which right is necessary to satisfy its obligations under this Agreement, Owner shall assign this Agreement to the transferee in accordance with Section 13.1.
- (d) If CAISO terminates the Agreement or does not extend the term of the Agreement, CAISO shall not redesignate the same Units, or designate another non-reliability must-run unit at the same Facility, as a Reliability Must-Run Unit during the one year period following termination or expiration of the Agreement unless (i) CAISO demonstrates that the unit is required to maintain the reliability of the CAISO Controlled Grid or any portion thereof and the need to designate the unit as a Reliability Must-Run Unit is caused by an extended outage of a generation or transmission facility not known to CAISO at the time of the termination or expiration or (ii) the unit is selected through an CAISO competitive process in which Owner participated. For purposes of the foregoing, CAISO's need for spinning reserves, nonspinning reserves, replacement reserves or regulation as defined in the CAISO Tariff shall not be grounds for redesignating the Unit or designating another unit at the Facility as a Reliability Must-Run Unit.
- (e) Subject to any necessary authorization from FERC, this Agreement shall terminate as to any Unit leased by Owner in the event that, for any reason, the lease expires or is terminated unless Owner acquires ownership of such Unit upon such expiration or termination. Any termination under this Section 2.2 (e) shall not affect any right CAISO may have thereafter to designate such Unit as a Reliability Must-Run Unit and the conditions in Section 2.2 (d) shall not apply to such redesignation.

2.3 Effective Date of Expiration or Termination

If FERC authorization is required to give effect to expiration or termination of this Agreement as to one or more Units, the effective date of the expiration or termination shall be the date FERC permits the expiration or termination to

become effective. Owner shall promptly file for the requisite FERC authorizations to terminate service under this Agreement as of the proposed effective date of expiration or termination; provided, that nothing in this Agreement shall prejudice the right of either Party to contest the other Party's claim that a termination or expiration has occurred. If FERC authorization is not required to terminate service under this Agreement, the effective date of expiration or termination shall be the later of (i) the date specified in CAISO or Owner's notice of termination or (ii) the date that all conditions to the termination or expiration have been satisfied.

2.4 Effect of Expiration or Termination

Expiration or termination of this Agreement shall not affect the accrued rights and obligations of either Party, including either Party's obligations to make all payments to the other Party pursuant to this Agreement or post-termination audit rights under Section 12.2.

2.5 Termination Fee

(a) CAISO shall pay Owner a Termination Fee calculated pursuant to Section 2.5 (b) if the Units are Closed within six months after the Unit ceases to be subject to this Agreement as a result of termination pursuant to Sections 2.2 (b) (ii), (iii), (iv) or (v) or because CAISO does not extend the term under Section 2.1 (b). Prior to the date that the Units are Closed or prior to the expiration of the term if not extended under Section 2.1(b), Owner will send CAISO a notice stating (i) the date the Unit Closed and (ii) the amount of the Termination Fee due Owner for the applicable Contract Year as set forth in Section 2.5(b). For purposes of this Section, "Closed" shall mean that the Unit is not providing Ancillary Services and there are no Direct Contracts obligating any entity to deliver Ancillary Services from the Unit during the 12 month period beginning at the date the Unit Closed. A Unit shall cease to be Closed if, during the 12 month period beginning at the date the Unit Closed, any entity: (i) sells Ancillary Services; (ii) executes a Direct Contract for service or (iii) obtains a new permit from any Governmental Authority for operations, in each case that would involve use of the Capital Item for which a Termination Fee is being paid.

(b) The Termination Fee shall be as set forth below:

Huntington Beach Unit 3

END OF CONTRACT YEAR	2013	2014	2015	2016
Undepreciated CapAdd Items ("NCI")	\$5,633,787	\$3,755,858	\$1,877,929	N/A
("CWIP")	0	0	0	N/A
Salvage ("S")	0	0	0	N/A
Termination Fee	\$5,633,787	\$3,755,858	\$1,877,929	N/A

Huntington Beach Unit 4

END OF CONTRACT YEAR	2013	2014	2015	2016
Undepreciated CapAdd Items ("NCI")	\$6,009,373	\$4,507,030	\$3,004,687	\$1,502,343
("CWIP")	0	0	0	0
Salvage ("S")	0	0	0	0
Termination Fee	\$6,009,373	\$4,507,030	\$3,004,687	\$1,502,343

(c) The Termination Fee shall be payable in 12 equal monthly installments calculated using the following formula:

$$M = T \left[\frac{r}{1 - (1 + r)^{-12}} \right]$$

Where

M = the monthly payment,
T = Termination Fee under Section 2.5(b), and
r = an annual discount rate equal to the interest rate used by FERC for the calculation of refunds (as set forth in 18 C.F.R. § 35.19a) in effect on the date that Owner provides notice to the CAISO pursuant to Section 2.5(a) of this Agreement, divided by 12.

(d) If the Unit ceases to be Closed at any time within 12 months following the date the Unit Closed, CAISO shall cease payment of Termination Fee installments as of the Month in which the Unit ceased to be Closed, but

Owner shall not be obligated to refund installments for any Month in which the Unit was Closed. Once a Unit has ceased to be Closed, CAISO shall not be required to pay any remaining Termination Fee installments even if the Unit again Closes.

- (e) Any dispute regarding an element of the Termination Fee (e.g. salvage value) not resolved at the time the Capital Item was approved shall be subject to ADR. If the amount of the Termination Fees associated with a single termination or expiration is \$5 million or more as billed by Owner, the Responsible Utility shall have the same rights as CAISO to receive notice that the Unit(s) Closed and to initiate or participate in ADR.

ARTICLE 3 CONDITIONS OF MUST-RUN AGREEMENT

3.1 Conditions Under Which Units Will Operate

This Agreement includes two conditions of service under which Owner may provide service from its Unit(s). By way of general description and subject to the specific provisions set forth in this Agreement:

- (i) A Unit under Condition 1 may participate in Market Transactions and Owner will retain all revenues from participation in Market Transactions;
- (ii) A Unit under Condition 2 shall provide Ancillary Services when CAISO has issued a Dispatch Notice for the Unit. A Unit under Condition 2 shall not participate in a Market Transaction.

3.2 Transfer Between Conditions

- (a) Except for a hydroelectric Unit, Owner may, from time to time, transfer a Unit from one Condition to the other Condition, provided that it may not do so without CAISO's consent unless, as of the transfer date, the Unit will have been subject to its existing Condition for at least twelve months. If a transfer is to become effective at the beginning of a Contract Year, Owner shall provide CAISO at least 30 days prior notice of the transfer. For a transfer to become effective at any other time, Owner shall give CAISO notice at least 90 days prior to the transfer. If a Unit is transferred from Condition 1 to Condition 2 during a Contract Year, Owner shall credit to CAISO on the first invoice after the transfer is effective an amount computed by multiplying (i) the positive difference, if any, of the Prepaid Start-ups minus the Counted Start-ups by (ii) the Prepaid Start-up Cost. If a Unit is transferred from Condition 2 to Condition 1, CAISO shall not be required to pay a Condition 1 Prepaid Start-up Charge for the remainder of the Contract Year in which the transfer occurred, but shall pay, for each Start-up, the Condition 1 Start-up Payment calculated pursuant to Equation D-1 in Schedule D.
- (b) A hydroelectric Unit may only operate under Condition 1.
- (c) CAISO may not transfer a Unit from one Condition to the other Condition.

- (d) Any transfer of a Unit from one Condition to the other Condition shall be effective on the first day of the Month following expiration of the applicable notice.
- (e) If a Unit is transferred from Condition 1 to Condition 2, Surcharge Payments for Capital Items shall be changed prospectively from the effective date of the transfer to reflect a Surcharge Payment Factor of 1.0. If a Unit is transferred from Condition 2 to Condition 1, Surcharge Payments for Capital Items shall be changed prospectively from the effective date of the transfer to reflect the Condition 1 Surcharge Payment Factor previously determined for the Capital Item, or if the factor was not previously determined, the Surcharge Payment Factor agreed to by CAISO and Owner. If Owner and CAISO do not agree on the Surcharge Payment Factor, the Surcharge Payment Factor shall be determined through ADR in accordance with Schedule B.

ARTICLE 4 DISPATCH OF UNITS

4.1 CAISO's Right to Dispatch

- (a) Subject to the limitations set forth in this Agreement, CAISO shall direct dispatch of a Unit by delivering a Dispatch Notice to Owner's Scheduling Coordinator in accordance with the CAISO Tariff.
- (b) Dispatch Notices for Ancillary Services, shall be issued solely for purposes of meeting local reliability needs or managing congestion on non-competitive paths. CAISO shall issue Dispatch Notices to meet local reliability needs or manage congestion on non-competitive paths, whenever market bids cannot be used to meet those needs or manage such congestion or such market bids cannot be used to meet those needs or manage such congestion without taking a bid out of merit order or requiring CAISO to decrement another supplier's schedule to accommodate the unit which provided the bid. CAISO may not issue a Dispatch Notice to fill a need for imbalance energy.
- (c) Except as needed for black start or voltage support required to meet local reliability needs, to meet operating criteria associated with the Potrero power plant, or as outlined below, CAISO may issue Dispatch Notices for Ancillary Services only if the available bids in Ancillary Service markets do not provide sufficient capacity to meet CAISO's requirements.
 - (i) If the CAISO determines on a Trading Day that it needs additional Ancillary Service on that Trading Day, CAISO shall use the following procedures:
 - (A) CAISO shall communicate such needs to all Scheduling Coordinators as quickly as possible after such needs are identified.
 - (B) After completing (A), CAISO shall attempt to procure those additional Ancillary Services from the CAISO's Real-Time market (in the appropriate region if CAISO is procuring

- Ancillary Services on a regional basis) that have not closed, subject to the Bid Sufficiency Test described below.
- (C) CAISO shall not issue a Dispatch Notice for Ancillary Services for any hour of the Trading Day before the earlier of (a) the time at which the real-time market for that hour closes or (b) if a Start-up would be required to provide the Ancillary Service, such earlier time as is necessary to comply with the applicable Start-up Lead Time and Ramping Constraints on Schedule A.
- (ii) CAISO shall not be required to accept any bid for an Ancillary Service above applicable bid caps then in effect under the CAISO Tariff before issuing a Dispatch Notice for Ancillary Services.
- (iii) Bid Sufficiency Test
- (A) The Bid Sufficiency Test may only be applied:
- (1) To purchases from the real-time market;
 - (2) If CAISO has fully complied with its obligation to promptly notify Scheduling Coordinators of its need to acquire additional ancillary services from the real-time market; and
 - (3) To the extent that the approved CAISO Tariff does not preclude such a test.
- (B) The Bid Sufficiency Test shall be applied on an individual hourly basis and for an individual Ancillary Service type. The test result shall be considered "insufficient" in real-time market if, and only if - (1) bids in the real-time market for the particular Ancillary Service (including any bids that can be used to satisfy that particular Ancillary Services requirement under Section 8.2.3.5 of the CAISO Tariff) represent less than two times such remaining Ancillary Service requirement; or (2) there are fewer than two unaffiliated bidders to provide such remaining Ancillary Service requirement. If the application of the Bid Sufficiency Test results in a determination of "insufficiency", the CAISO may issue a Dispatch Notice to satisfy its needs for that hour and that individual Ancillary Service.
- (C) If the result of the Bid Sufficiency Test is a finding that available bids are "insufficient", CAISO may nonetheless accept available market bids if it determines in its sole discretion that the prices bid and the supply curve created by the bids indicate that the bidders were not attempting to exercise market power.

4.2 Timing of Dispatch Notices

Subject to the terms and conditions of this Agreement, CAISO shall issue Manual RMR Dispatch Notices promptly after it makes a determination that it will require Ancillary Services under this Agreement.

4.3 Form and Content of Dispatch Notices

- (a) All Dispatch Notices shall be in writing if circumstances permit. If circumstances require that a Dispatch Notice be given or changed orally, the Dispatch Notice shall be confirmed in writing within 24 hours after the oral notice or change was given.
- (b) Each Dispatch Notice shall specify the Unit from which CAISO requests Owner to Deliver Ancillary Services, the time of commencement and termination of the Requested Operation Period and, for each hour of the Requested Operation Period, the Requested Ancillary Services. A Dispatch Notice for a hydroelectric Facility must request that Owner Deliver Energy from the entire Facility rather than from a specific Unit. However, CAISO may request that Owner Deliver Ancillary Services from specific Units in a hydroelectric Facility; provided that Energy associated with such Ancillary Services shall be Delivered from the Facility and not the specified Units. CAISO may issue Dispatch Notices in real time without specifying the time the Requested Operation Period is to terminate and may adjust the Requested Ancillary Services in real time if CAISO provides all such information in writing as provided in Section 4.3(a).

4.4. Non-complying Dispatch Notices

Owner shall not be obligated to comply with a Dispatch Notice that does not comply with Section 4.3 or 4.6 and Owner shall not be liable, suffer any penalties or suffer any reduction in payments for failure to comply with a Dispatch Notice which is not in compliance with those Sections, provided that Owner promptly notifies CAISO that the notice does not comply with Section 4.3 or 4.6 and provides the reasons the Dispatch Notice does not comply. Owner may provide such notice after the Requested Operation Period if the notice concerns a Dispatch Notice given during, or less than one-half hour prior to, the Requested Operation Period. Compliance with a Dispatch Notice shall not be deemed a waiver of objections to the Dispatch Notice.

4.5 Intentionally left blank.**4.6 Limitations on CAISO's Right to Dispatch**

CAISO's Dispatch Notice may not request Owner to, and Owner shall not be obligated to:

- (i) Provide service from a Unit at less than the Minimum Load for the Unit;
- (ii) Provide service from a Unit for less than the Minimum Run Time;
- (iii) Start-up a Unit after less than the Minimum Off Time;
- (iv) Start-up a Unit unless the time between the delivery of the Dispatch Notice requesting such Start-up and the commencement of the applicable Requested Operation Period equals at least the Start-up Lead Time for the Unit and the Dispatch Notice provides sufficient time to satisfy the Ramping Constraint of the Unit;

- (v) Provide service from a Unit in excess of its Unit Availability Limit;
- (vi) Provide service from a Unit when to do so would violate environmental limitations applicable to the Unit as set forth in Section 3 of Schedule A;
- (vii) Start-up or provide service from a Unit in violation of any applicable law, regulation, license or permit; or
- (viii) Start-up or provide service from a Unit to the extent that doing so would cause a breach of an Existing Contractual Limitation; or
- (ix) Deliver Ancillary Services to the extent such Delivery would cause a breach of a contract for Ancillary Services made available through an Upgrade or a Capital Item or Repair for which CAISO is not obligated to make a Surcharge Payment or pay CAISO's Repair Share.

4.7 Dispatch in Excess of Contract Service Limits

- (a) CAISO shall use its best efforts in accordance with Good Industry Practice not to issue a Dispatch Notice that would cause a Unit's Counted Start-ups or Counted Service Hours to exceed any of the Unit's Contract Service Limits.
- (b) CAISO may issue a Dispatch Notice requiring a Unit to Deliver Ancillary Services after the Unit has exceeded a Contract Service Limit only if the Requested Ancillary Services cannot be obtained by CAISO either (i) by accepting market bids in accordance with Section 4.1 or (ii) from Comparable RMR Unit(s) without exceeding the contract service limits or violating other operational limitations under CAISO's agreement with the Comparable RMR Unit(s). Owner shall use its best efforts, in accordance with Good Industry Practice, to comply with such Dispatch Notice.
- (c) If Owner of a hydroelectric Facility complies with a request to exceed the Maximum Monthly MWh, Owner may reduce the Maximum Monthly MWh for remaining Months of the Contract Year to reflect the accelerated use of available water. Not later than 15 days after any delivery in excess of Maximum Monthly MWh, Owner shall provide CAISO a notice showing revised Maximum Monthly MWh for remaining Months of the Contract Year.
- (d) If the Owner does not comply with a Dispatch Notice under Section 4.7(b), Owner at CAISO's request shall provide a written explanation.
- (e) If Owner, in compliance with a Dispatch Notice, Starts up a Unit and the Counted Start-ups for the Contract Year exceed the Maximum Annual Start-ups for the Unit, CAISO shall pay for such excess Start-ups as set out in Schedule G. If Owner, in compliance with a Dispatch Notice, Delivers Ancillary Services and the Counted Service Hours for the Unit for the Contract Year exceeds the Maximum Annual Service Hours, or if applicable, the Counted Service Hours for the Month exceed the Maximum Monthly Service Hours, CAISO shall make the payments for the Deliveries in response to such Dispatch Notice and exceeding the Contract Service Limit as set forth in Schedule G.

- (f) For purposes of this Section 4.7:
- (i) “Best efforts” does not require Owner to provide service inconsistent with the limitations set forth in Section 4.6 or if Owner reasonably believes providing the service might cause significant physical harm to the Unit.
 - (ii) The term “Good Industry Practice” shall not be applied to permit CAISO to consider the relative costs of Comparable RMR Units when determining whether to request dispatch of a Unit in excess of the Contract Service Limits.
 - (iii) “Comparable RMR Unit” means a unit which has been designated a Reliability Must-Run Unit and which, in CAISO’s reasonable judgment, is capable of providing system reliability benefits to CAISO equivalent to the system reliability benefits provided by the Unit which otherwise would be subject to the Dispatch Notice. In the case of Units providing Ancillary Services, a Comparable RMR Unit must: (A) be certified to provide the Requested type of Ancillary Service, (B) provide the same or higher MVAR capability and (C) is located in the same Local Capacity Area as the Unit which otherwise would be subject to the Dispatch Notice.
- (g) CAISO and Owner shall have the right to dispute the other Party’s actions or inactions under this Section 4.7 and any dispute shall be subject to resolution through ADR.

4.8 Air Emissions

If CAISO determines that it is necessary to reserve MWh to satisfy potential dispatches under this Agreement without violating present or future limitations on the discharge of air pollutants or contaminants into the atmosphere specified by any federal, state, regional or local law by any regulation, air quality implementation plan, or permit condition promulgated or imposed by any Governmental Authority, the terms and conditions of such reservation shall be set out on Schedule P.

4.9 Test Dispatch Notices

- (a) Availability Tests
- (i) CAISO may from time to time test the Availability of a Unit by requiring the Unit to Deliver Ancillary Services pursuant to a Test Dispatch Notice provided to Owner’s Scheduling Coordinator using the procedures described in Section 4.2 and 4.3. CAISO, without cause, may request one Availability Test each Contract Year. CAISO may request additional Availability Tests if the Unit fails to comply fully with a Dispatch Notice. CAISO shall not request an Availability Test for a hydroelectric Unit during periods of constrained water availability. Lack of available water shall not be deemed to result in a failed test and reduction of the Unit Availability Limit for a hydroelectric Unit.

- (ii) Owner may request an Availability Test at any time. CAISO shall issue a Test Dispatch Notice within three days after receipt of Owner's request, but for good cause, CAISO may reschedule the test to a date acceptable to Owner. Owner's request shall state the amount of Ancillary Services to be produced. The effect of operations pursuant to such a request is set out in Section 5.3.
 - (iii) The Test Dispatch Notice shall be marked "Availability Test Dispatch Notice." The Test Dispatch Notice shall specify a Requested Operation Period of four hours of continuous operations at the requested output plus any applicable Start-up Lead Time, time to satisfy Ramping Constraints and time for Shutdown (or for hydroelectric Units the time sufficient water is available, if that is less).
 - (iv) Subject to the other conditions or restrictions expressed in this Agreement, Owner shall provide service from the Unit and Deliver the Requested Ancillary Services in accordance with the Availability Test Dispatch Notice.
 - (v) An Availability Test shall be treated as having been successfully completed if the average MVAR Delivered at the Delivery Point during the Availability Test was not less than 99% of the Requested MVAR for the Requested Operation Period. The average MVAR Delivered during the Availability Test shall be computed by dividing (i) the total MVAR produced during the four-hour period immediately following completion of the ramp up, multiplied by the appropriate ambient temperature correction factors for the Unit as set out in Section 3 of Schedule A, by (ii) four hours.
 - (vi) If a Unit fails an Availability Test, CAISO may issue a CAISO Availability Notice restating the Availability of the Unit to a level not less than the average MVAR Delivered during the Availability Test. Following the notice, Owner shall not issue an Owner's Availability Notice increasing the Availability of the Unit above the level determined through such failed Availability Test until (A) the Unit has successfully completed a subsequent Availability Test, (B) the Unit has delivered in Market Transactions, pursuant to a Dispatch Notice or in a combination of the two, during a continuous four hour operating period, average MVAR in excess of those determined in the Availability Test or (C) Owner has otherwise demonstrated to CAISO's reasonable satisfaction that the Availability of the Unit has been restored.
 - (vii) If the average MVAR Delivered during the Availability Test exceed 101% of the Unit Availability Limit in effect prior to the Availability Test, Owner may issue an Owner's Availability Notice setting Availability retroactive to the time the request was received by CAISO to the lesser of (A) the average MVAR Delivered during the Availability Test or (B) the Maximum Net MVAR Capability.
- (b) Emissions Test

If it is necessary for Owner to operate a Unit to fulfill regulatory requirements for emissions testing, Owner may request CAISO to issue a Dispatch Notice for such operation. Owner shall provide a request specifying the test date at least seven days in advance of the emissions test. CAISO shall issue a Dispatch Notice to schedule the requested operation on the date specified in Owner's request, or for good cause, CAISO may cause the test to be rescheduled to a date acceptable to Owner, provided that CAISO shall not delay the test by more than seven days without Owner's consent. The Test Dispatch Notice shall be marked "Emissions Test Dispatch Notice".

(c) Black Start Test

CAISO may from time to time test Unit(s) designated to provide Black Start service by requiring the Unit to deliver Black Start service pursuant to a Test Dispatch Notice provided to Owner's Scheduling Coordinator using the procedures described in Sections 4.2 and 4.3. Such Test Dispatch Notice shall be marked "Black Start Test Notice." The Black Start Test shall be performed in accordance with the Ancillary Services Requirements Protocol in the CAISO Tariff. CAISO shall not request a Black Start Test for a hydroelectric Unit during periods of constrained water availability.

(d) Heat Input Test

Not more frequently than once each Contract Year, Owner may, by giving at least seven days' prior notice to CAISO, request CAISO to issue a Test Dispatch Notice in order for Owner to determine the heat input of a Unit. CAISO shall not unreasonably refuse to issue a Test Dispatch Notice for a heat input test. The Test Dispatch Notice shall be marked "Heat Input Test Notice." The heat input test shall be conducted in accordance with testing standards and procedures agreed to by CAISO and Owner. In the absence of such agreement, the standards and procedures shall be determined through ADR before such test may be conducted. The arbitrator shall specify procedures for testing which are consistent with Good Industry Practice. Following such a heat input test, Owner shall be permitted to make a filing under Section 205 of the Federal Power Act limited to modifying the heat inputs used in the Variable Cost Payment, Start-up Payment, Preempted Dispatch Payment and Mandatory Energy Bid in Schedules C, D, E and M, respectively, to reflect the results of such test.

4.10 Forecasts Of CAISO's Requirements

Not later than November 15 of each year, CAISO shall provide Owner and the Responsible Utility with a non-binding forecast representing CAISO's then current best estimate of the monthly Service Hours that CAISO will require each Unit to provide each month during the ensuing Contract Year ("Annual Forecast"). In addition, not later than June 15 of each year, CAISO shall provide Owner and with a non-binding forecast ("Update") representing CAISO's then current best estimate of the monthly Service Hours that CAISO will require each

Unit to provide each month from June through the end of the Contract Year. Each Annual Forecast and Update will take into account the Long-term Planned Outages. The Annual Forecasts and Updates shall be treated as confidential pursuant to Section 12.5 and shall not be binding.

4.11 Determination of Contract Service Limits

- (a) If CAISO has extended the term of this Agreement pursuant to Section 2.1 (b), then not later than October 31 of the expiring Contract Year Owner shall make a filing under Section 205 of the Federal Power Act consistent with Schedule A and Schedule B to reflect the Contract Service Limits and payments for all Units other than hydroelectric Units for the ensuing Contract Year. The Contract Service Limits for each year after the initial Contract Year shall be as set forth in Schedule A.
- (b) If CAISO has extended the term of this Agreement pursuant to Section 2.1 (b), then not later than 15 days prior to the beginning of the ensuing Contract Year, Owner of a hydroelectric Facility shall make a filing under Section 205 of the Federal Power Act to reflect the revised Contract Service Limits to be in effect during the ensuing Contract Year for the hydroelectric Facility. Such filing shall be based on Owner's current water management forecast and shall reflect the water expected to be available for electric generation above the Hydroelectric Dependable Capacity. Such filing, if accepted or approved, shall set the Maximum Monthly MWh in Schedule A for the ensuing Contract Year, subject to adjustment in accordance with the notice described below giving revised Monthly Maximum MWh. The Maximum Monthly MWh in Schedule A of this Agreement on the Effective Date reflects the Hydroelectric Dependable Capacity. Not later than April 15 of each Contract Year, Owner shall provide notice to CAISO giving revised Maximum Monthly MWh for each remaining Month of the Contract Year based on its then current water management forecast. If, during any Contract Year, Owner determines that drought conditions jeopardize its ability to supply Hydroelectric Dependable Capacity, Owner shall promptly give notice to the CAISO of this determination, including revised Maximum Monthly MWh for each remaining Month of the Contract Year. Following such a determination, Owner shall provide CAISO with weekly updated water management forecasts until the earlier of the end of the Contract Year or Owner's determination that its ability to supply the Hydroelectric Dependable Capacity is no longer jeopardized by such conditions. CAISO acknowledges that the accuracy of a water management forecast may be substantially affected by a Force Majeure Event at any time after the Owner provides the forecast and consequently Owner shall not be liable for the accuracy of the water management forecast or any reliance on it other than a Monthly Maximum MWh amount.

ARTICLE 5 DELIVERY OF ANCILLARY SERVICES BY OWNER

5.1 Owner's Delivery of Ancillary Services

- (a) Subject to the limits in this Agreement, and subject to the CAISO's Real-Time Dispatch instructions whether flagged as an RMR Dispatch or not, Owner shall provide service from the Units and Deliver the Requested Ancillary Services in accordance with each Dispatch Notice. To the maximum extent practical, and except for regulation, Owner shall Deliver at each moment of each hour during the Requested Operation Period not less than the Requested Ancillary Services. If Owner has disputed a Dispatch Notice under Section 4.6 (i) (Minimum Load) (ii) (Minimum Run Time) (iii) (Minimum Off Time) (iv) (Start-up Lead Time and Ramping Constraint), or (v) (Unit Availability Limit) and such dispute is not resolved prior to the time for delivery, Owner will use reasonable efforts to comply with the Dispatch Notice, but shall not be liable to CAISO if it is unable to do so and Owner prevails in the dispute.
- (b) If Owner has disputed a Dispatch Notice under Section 4.6 (vi) (environmental), (vii) (violation of law), (viii) (Existing Contractual Limitations) or (ix) (Upgrade Contract), Owner shall not be required to Deliver Ancillary Services pending resolution of the dispute as to whether the Dispatch Notice violated such Section; provided, however, that Owner shall not be relieved from any liability that it would otherwise have for failure to comply with the disputed Dispatch Notice if it subsequently is determined that the Dispatch Notice did not violate Section 4.6 (vi), (vii), (viii) or (ix).
- (c) Subject to CAISO approval, if Owner cannot Deliver the Requested Ancillary Services by providing service from the Unit identified in a Dispatch Notice, Owner may Deliver the requested services by providing service from a Substitute Unit. Owner shall provide oral or written notice to CAISO as soon as possible in advance of the first Real-Time Dispatch of the Requested Operation Period stating why it cannot provide the requested service from the Unit identified in the Dispatch Notice, identifying the Substitute Unit, describing the services it will provide from the Substitute Unit and specifying the charges applicable to service from the Substitute Unit. CAISO may deny approval only if the proposed unit does not qualify as a Substitute Unit or if there is insufficient time to accommodate the request prior to the running of the MPM-RRD process and the operator determines that the substitution would affect the MPM-RRD results, in which case the substitution request will be accommodated for any remaining portion of the Requested Operation Period, if the unit is otherwise acceptable. The total cost to CAISO for service from the Substitute Unit shall be at the rate specified by the Owner, provided that the total cost will not exceed the total costs for the same amount of service from the Unit specified in the Dispatch Notice.

- (d) If Owner can Deliver the Requested Ancillary Services by providing service from the Unit identified in the Dispatch Notice, Owner may Deliver the requested services by providing service from (i) the Unit identified in CAISO's Dispatch Notice or (ii) with CAISO's consent, a Substitute Unit. Owner of a hydroelectric Unit will Deliver the Requested MWh from the Facility and will Deliver the Voltage Support and Black Start requested in a Dispatch Notice from the specified Unit or a Substitute Unit. If Owner proposes to satisfy its delivery obligations by providing service from a Substitute Unit, Owner shall provide oral or written notice to CAISO prior to the Requested Operation Period identifying the Substitute Unit, describing the services it will provide from Substitute Unit and specifying the charges applicable to service from the Substitute Unit. Owner may Deliver the agreed services from the Substitute Unit and will be paid at the agreed rates if CAISO accepts Owner's proposal, or CAISO and Owner otherwise agree on the services and applicable rates for service from a Substitute Unit. CAISO's decision shall not be subject to ADR.
- (e) Owner shall Deliver the Requested Ancillary Services at the Delivery Point or such other point(s) reasonably acceptable to CAISO and shall comply with the metering and related arrangements set forth in Section 5 of Schedule A to this Agreement or as otherwise specified in Owner's applicable Meter Service Agreement.
- (f) If Owner would have been able to Deliver the Requested Ancillary Services but for an outage in the CAISO Controlled Grid or Distribution Grid beyond Owner's reasonable control, Owner shall be deemed to have complied with the Dispatch Notice for purposes of Sections 5.4 and 8.5.

5.2 Substitution of Market Transactions for Dispatch Notices - Not Applicable

- (a) Owner may satisfy, in whole or in part, its obligation to Deliver Energy, but not Ancillary Services, during a Requested Operation Period by delivering Energy under a Market Transaction from the Unit identified in a Dispatch Notice if Owner complies with the requirements and procedures of this Section 5.2.
- (b) Owner shall give notice of its intent to substitute a Market Transaction through the submission of bids in the CAISO's Markets. Any dispatch level that clears the Competitive Constraint Run of the MPM-RRD process through the submission of Economic Bids or Self-Schedules, and is reflected in the Day-Ahead Schedule or Real-Time Dispatch, shall be deemed a Market Transaction.
- (c) Owner may substitute a Market Transaction only if the deadline for bids into the market selected by Owner has not passed.
- (d) Intentionally left blank.

5.3 Rules for Calculating Counted Start-ups and Counted Service Hours

- (a) The following rules shall govern calculation of Counted Start-ups:

- (i) Except as limited below, all Start-ups successfully completed in compliance with a Dispatch Notice shall be included in Counted Start-ups for the Unit for which the Dispatch Notice was issued.
- (ii) If a Start-up required by a Dispatch Notice is canceled by CAISO after the Start-up is initiated, Counted Start-ups shall include a fractional Start-up computed by dividing (i) the lesser of (a) the time elapsed between initiation of the Start-up and cancellation or (b) the Start-up Lead Time by (ii) the applicable Start-up Lead Time for the Unit.
- (iii) For Units under Condition 1, if a Dispatch Notice is issued pursuant to Section 4.5 for a period in which the Unit is scheduled to operate or is operating in a Market Transaction for which a Start-up was required, or Owner substitutes a Market Transaction under Section 5.2 for a Requested Operation Period for which a Start-up was required, Counted Start-ups shall include one-half of the Start-up for the Unit for which the Dispatch Notice was issued. No Start-up shall be counted more than once.
- (iv) For Units under Condition 2, Counted Start-ups shall include each Start-up.
- (v) If Owner complies with a Dispatch Notice by Delivering the Requested Ancillary Services from a Substitute Unit, any Start-ups of the Substitute Unit will not be included in Counted Start-ups for the Unit specified in the Dispatch Notice or the Substitute Unit.
- (vi) Except as provided in Section 5.3(a)(iii), any Start-up not required to comply with a Dispatch Notice will not be included in Counted Start-ups.
- (b) Reserved.
- (c) The following rules shall govern calculation of Counted Service Hours:
 - (i) Except as limited below, all Service Hours expended in compliance with a Dispatch Notice other than Service Hours expended for Ancillary Services during which the Unit is not Synchronized shall be included in Counted Service Hours for the Unit for which the Dispatch Notice was issued.
 - (ii) For Units under Condition 1, if a Dispatch Notice is issued pursuant to Section 4.5 for a period in which a Unit is scheduled to operate or is operating in a Market Transaction or if Owner, in response to a Dispatch Notice, substitutes a Market Transaction under Section 5.2 for all or part of the Requested MWh, one-half of the Requested Operation Period will be included in Counted Service Hours for the Unit for which the Dispatch Notice was issued.
 - (iii) If a Unit operating under Condition 2 sells Energy pursuant to bids made under Section 6.1 (b), each Service Hour expended by the Unit to produce the Energy shall be included in Counted Service Hours.
 - (iv) If Owner Delivers Requested Ancillary Services from a Substitute Unit, the Service Hours expended by the Substitute Unit will not be

included in Counted Service Hours for the Unit specified in the Dispatch Notice or the Substitute Unit.

5.4 Owner's Failure To Deliver Requested Ancillary Services

- (a) Owner shall promptly notify CAISO if Owner will not be able to Deliver all or part of the Requested Ancillary Services from the Unit identified in the Dispatch Notice or from the Substitute Unit previously accepted by CAISO.
- (b) If a Unit fails to Deliver the full amount of Requested Ancillary Services, CAISO may issue an CAISO Availability Notice restating the Availability to a level not less than the Availability indicated by the actual deliveries. If CAISO has issued an CAISO Availability Notice under this Section 5.4(b), Owner shall not issue an Owner's Availability Notice increasing the Availability of the Unit until (i) the Unit has successfully completed an Availability Test, (ii) the Unit has delivered pursuant to a Dispatch Notice during a continuous four hour operating period, average MVAR in excess of those shown in the CAISO Availability Notice, or (iii) Owner has otherwise demonstrated to the CAISO's reasonable satisfaction that the Availability of the Unit has been restored. CAISO's only other remedies for Owner's failure to Deliver Requested Ancillary Services are as set out in Sections 8.5, 11.3 and 12.6.

5.5 Reports

Not less than two days prior to the beginning of every Month during the Contract Year, Owner or Owner's Scheduling Coordinator shall provide CAISO and the Responsible Utility a report for each Unit setting forth as of the day before the date of the report the Counted Service Hours and Counted Start-ups for the current Contract Year. All reports shall be treated as confidential pursuant to Section 12.5.

ARTICLE 6 MARKET TRANSACTIONS - Not Applicable

6.1 Right To Engage In Market Transactions

- (a) In addition to the right to substitute a Market Transaction pursuant to Section 5.2, if a Unit is operating under Condition 1, Owner may enter into Market Transactions for Energy or Ancillary Services at any level outside of a Requested Operation Period. If CAISO has issued a Dispatch Notice for Energy to a Unit under Condition 1, Owner may enter into Market Transactions for Energy at any level during the Requested Operation Period, and may enter into a Market Transaction for Ancillary Services at any level that does not preclude compliance with the Dispatch Notice. If CAISO has issued a Dispatch Notice for Ancillary Services to a Unit under Condition 1, Owner may enter into Market Transactions for Energy or Ancillary Services at any level that does not preclude compliance with the Dispatch Notice.

- (b) If CAISO issues a Dispatch Notice for a Unit operating under Condition 2, Owner shall submit bids in succeeding available Energy and Ancillary Services markets for the Requested Operation Period in accordance with the following requirements:
- (i) If the next available market is an Energy market, Owner shall bid all Energy the Unit can produce, up to the Unit Availability Limit, in excess of the higher of (A) Energy or Ancillary Services capacity cleared in a prior market; or (B) capacity required to Deliver Requested Ancillary Services. Owner shall bid all Energy at the bid price calculated using the formula in Part I of Schedule M.
 - (ii) If the next available market is an Ancillary Services market, Owner shall bid all available capacity, up to the Unit Availability Limit, in excess of the higher of the capacity needed to (A) deliver Energy and Ancillary Services cleared in a prior market or (B) Deliver the Requested MWh or Ancillary Services different from the Requested Ancillary Service.
 - (iii) If the markets are concurrent, Owner shall bid in the Ancillary Services market all available capacity, up to the Unit Availability Limit, in excess of the higher of the capacity needed to (A) deliver Energy and Ancillary Services cleared in a prior market or (B) Deliver the Requested MWh or Ancillary Services different from the Requested Ancillary Service.
 - (iv) Owner shall bid all Ancillary Service capacity at the bid price calculated using the formula in Part II of Schedule M.
 - (v) Owner shall not bid Energy or Ancillary Services in excess of the quantities the Unit can provide during the Requested Operation Period given the Unit's ramp rates, Ramping Constraints and any other applicable operating limitations, with due allowance for a Unit's ability to change output during the Requested Operation Period.
 - (vi) Neither Owner nor Owner's Scheduling Coordinator shall bid Energy or Ancillary Services to the extent that participating in a Market Transaction would conflict with a contract entered into prior to the Effective Date. Owner shall include in Section 14 of Schedule A a description of all contract restrictions affecting Owner's ability to participate in Market Transactions.

CAISO may order Owner not to bid to participate in a Market Transaction if CAISO determines that participation in Market Transactions would cause a Unit to exceed Contract Service Limits or impair CAISO's ability to dispatch the Unit to meet reliability needs at other times during the Contract Year. A Unit operating under Condition 2 shall not otherwise engage in Market Transactions.

ARTICLE 7 OPERATION AND MAINTENANCE

7.1 Owner's Obligation

Owner shall fuel, operate and maintain each Unit, or cause the Unit to be fueled, operated and maintained, in accordance with applicable law and Good Industry Practice and with due regard for the reliability purpose of this Agreement. Owner is not required to have or maintain fuel oil burning capability, fuel oil inventories, or permits to burn fuel oil and shall not be required to burn fuel oil to respond to a Dispatch Notice unless, and then only to the extent that, the Unit's primary fuel is distillate fuel oil or Schedule H requires Owner to maintain fuel oil capability.

7.2 Outages and Overhauls

- (a) Owner shall be entitled to take a Unit out of operation or reduce the Availability of the Unit to repair and maintain the Unit in accordance with Good Industry Practice and the requirements of the CAISO Tariff. The dates and times of the outages and any changes to those dates and times shall be determined in accordance with the CAISO Tariff. For purposes of complying with the requirements of the CAISO Tariff, Other Outage shall be separated between "maintenance outage" and "forced outage," as defined in the CAISO Tariff.
- (b) Owner shall have the right to curtail or discontinue, in whole or in part, Deliveries of Ancillary Services from a Unit for so long as, and to the extent that, a Forced Outage affecting the Unit continues or when, in Owner's judgment in accordance with Good Industry Practice, operating conditions at the Unit so require. Curtailment or discontinuance under this Section shall give rise to applicable remedies under Article 8.

7.3 Reports and Notices

- (a) As soon as practical after commencement of a Forced Outage, Owner shall give CAISO notice of the Forced Outage, the expected duration of the outage, and the expected time when the Unit will be available to provide Ancillary Services and the expected Availability during and following the Forced Outage. Owner shall keep CAISO informed of any developments that will affect either the duration of the Forced Outage or the Availability of the Unit during or after the end of the Forced Outage.
- (b) Owner shall keep CAISO advised of the Availability of each Unit by promptly issuing Owner's Availability Notices any time Owner becomes aware that the Unit's Availability changed in accordance with Section 9 of the CAISO Tariff. Owner may not reduce a Unit's Availability due to the cost of fuel. An Owner's Availability Notice shall become effective when issued, provided, however, that if Owner becomes subject to a Non-Performance Penalty under Section 8.5, any Owner's Availability Notice given during the Penalty Period shall not become effective until 72 hours after the Owner's Availability Notice is given. An Owner's Availability Notice or CAISO's Availability Notice shall continue in effect until it is superseded by a subsequent Owner's Availability Notice or CAISO's Availability Notice.

7.4 Planned Capital Items

- (a) On or before March 1 of each year following the initial Contract Year, Owner shall provide CAISO a preliminary report in the form required by this Section 7.4 showing Owner's proposed Capital Items for the next Contract Year and a five-year forecast of anticipated Capital Items in the Form attached as Schedule L-1, assuming the Agreement will be extended. Owner shall submit a final report in the form required by this Section 7.4 reflecting updated information by August 1 of each year. Owner may, but shall not be obligated to, include an Upgrade as a proposed Capital Item in either the preliminary or final report.
- (b) The final report for proposed Capital Items for the initial Contract Year is being submitted on the form attached as Schedule L-1. Owner shall provide additional information requested by the CAISO necessary to evaluate the proposal. Each preliminary and final report shall separately list individual projects expected to cost more than \$500,000 and shall include two "Small Project Estimates." One Small Project Estimate shall identify Capital Items (projected to cost less than \$500,000 each) required to maintain or enhance reliability. The second Small Project Estimate shall identify all other Capital Items projected to cost less than \$500,000 each. Individual Capital Items projected to cost more than \$50,000 shall be identified separately in one of the two Small Project Estimates. All Capital Items covered by the Small Project Estimate will be depreciated over 10 years.
- (c) Within 60 days after submission of the final report, CAISO will notify Owner of the proposed Capital Items CAISO has approved and the Capital Items it has not approved. If CAISO fails to provide notice within such 60 day period, all Capital Items included in the final report shall be deemed approved as proposed by Owner. Approval constitutes CAISO agreement that the CAISO's share of the estimated cost of the Capital Item will be recovered through Surcharge Payment under Article 8 and will be eligible for recovery through a Termination Fee pursuant to Section 2.5. If the actual cost of the Capital Item exceeds the estimated cost, CAISO may initiate ADR to determine whether the additional costs were reasonable and shall not be obligated to pay through Surcharge Payments or as a Termination Fee any portion of the overrun found to be unreasonable in such ADR proceeding. If CAISO contests the additional costs, Owner shall have the burden of proving that the additional costs were reasonable. If CAISO does not initiate ADR or makes a separate agreement with Owner, the additional costs shall be deemed reasonable and CAISO shall be obligated to pay CAISO's share of the actual costs through Surcharge Payments or as a Termination Fee. For the avoidance of doubt, the attached Schedule L-1 for the Capital Items for the 2013 Contract Year has been approved by CAISO.
- (d) If a proposed Capital Item is not approved, CAISO shall provide Owner a detailed statement of the reasons for the disapproval and, if the proposal

would be acceptable with modifications, a detailed list of the proposed modifications. Owner may accept the modifications proposed by CAISO, or CAISO or Owner may initiate an ADR proceeding to review CAISO's rejection or proposed modification if the Capital Item is necessary for Owner to meet its obligations under this Agreement. In such proceeding, CAISO may not support its disapproval on any basis not shown in its detailed statement of the reasons for disapproval. Any Capital Items approved through such ADR proceeding shall be recovered by Owner through Surcharge Payments under Article 8 and will be eligible for recovery through a Termination Fee pursuant to Section 2.5. Owner shall not be obligated to install any Capital Item unless CAISO is obligated to pay a Surcharge Payment for the Capital Item. For the avoidance of doubt, the attached Schedule L-1 for the Capital Items for the 2013 Contract Year has been approved by CAISO.

- (e) The preliminary and final reports and all additional information about proposed Capital Items provided to CAISO shall be treated as Confidential Information in accordance with Section 12.5.
- (f) If CAISO rejects a proposed Capital Item, such rejection is not reversed by ADR and it would be uneconomical, impractical or illegal to continue operation without the Capital Item, then Owner, subject to obtaining authorization from FERC (if required by law to do so), may terminate this Agreement with respect to the affected Unit without cost or liability therefore, except as provided in Section 2.4.

7.5 Unplanned Repairs and Unrecovered Upfront Costs

- (a) In the event of any loss or damage to the Facility that impairs the capability of one or more Units to Deliver Ancillary Services, Owner shall, without additional charge, make necessary Repairs, to the extent that:
 - (i) the total cost (net of proceeds received by Owner from Insurers and other third parties pursuant to applicable insurance, warranties and other contracts in connection with all Repairs and excluding costs covered by clause (ii)) of all Repairs for all Units ("Net Repair Costs") during the Contract Year does not exceed Owner's Repair Cost Obligation for the Facility; or
 - (ii) the loss or damage impairing the Unit's capability to produce Ancillary Services was caused by Owner's failure to comply with Good Industry Practice or by any wrongful act or omission by Owner. The reference to "Units" in clause (i) includes all Reliability Must-Run Units located at the Facility, but no other Reliability Must-Run Units. Except as provided above, Owner shall not be obligated to make any Repairs unless CAISO is obligated to pay CAISO's Repair Share for the Repairs.
- (b) If the Net Repair Costs incurred by Owner for all Repairs since the beginning of the Contract Year exceed Owner's Repair Cost Obligation, then Owner shall provide a notice thereof ("Unplanned Repair Notice") in the form attached as Schedule L-1 to CAISO. Owner shall provide such

- additional information as CAISO may reasonably require to evaluate such proposed Repairs.
- (c) CAISO shall submit a written acceptance or objection to Owner's proposal within 21 days of receipt of an Unplanned Repair Notice. CAISO shall be deemed to have accepted Owner's proposal in the Unplanned Repair Notice if CAISO does not submit a written objection within 21 days after receipt of the Unplanned Repair Notice, as provided above. Any objection shall be based on one or more of the following grounds:
- (i) the loss or damage was caused by Owner's failure to comply with Good Industry Practice;
 - (ii) the loss or damage was caused by a wrongful act or omission by Owner;
 - (iii) the Repairs are not required or are more extensive than required in order to make good the loss or damage concerned or to comply with applicable law;
 - (iv) the Net Repair Costs for the Contract Year will not exceed or has not exceeded the Owner's Repair Cost Obligation;
 - (v) the estimated cost of Repairs exceeds that which is reasonably necessary to effect such Repairs;
 - (vi) the Repair will not result in benefits to CAISO as compared to alternatives available to CAISO;
 - (vii) Owner's proposals for carrying out the Repairs or the proposed CAISO's Repair Share are unreasonable;
 - (viii) Owner's proposal includes estimated costs which are not properly treated as an expense under FERC's Uniform System of Accounts; or
 - (ix) Owner has not provided sufficient information to evaluate Owner's proposal. In addition to providing the basis of the objection, any objection of CAISO shall include a list of all changes CAISO contends should be made to Owner's proposal and justification of all such changes.
- (d) If CAISO submits an objection to an Unplanned Repair Notice, the Parties shall attempt to reach agreement on changes to Owner's proposal. If the Parties have not reached agreement within 30 days after CAISO's receipt of the Unplanned Repair Notice, Owner or CAISO may refer the matter to ADR under a schedule (specified by the arbitrator if the participants cannot agree) requiring a decision within 30 days following appointment of the arbitrator. The ADR decision will be effective without delay.
- (e) Owner shall proceed with the Repairs if it is agreed or determined pursuant to ADR that CAISO will pay CAISO's Repair Share or that Owner is otherwise obligated to make the Repairs. Owner shall keep full and detailed records of the cost of the Repairs and shall make them available to CAISO for inspection upon reasonable request.
- (f) If the actual cost of the Repairs exceeds the estimated cost, CAISO may initiate ADR to determine whether the additional costs were reasonable and shall not be obligated to pay any portion of the additional cost found to

- be unreasonable in such ADR proceeding. Owner shall have the burden of proving that the additional costs were reasonable.
- (g) If it is agreed or determined pursuant to ADR that CAISO will pay for a Repair, CAISO shall pay CAISO's Repair Share of the actual cost as a lump sum within 60 days after the later of (i) the completion of the Repair and (ii) the effective date of authorization by FERC, if any is necessary, for Owner to charge such cost to CAISO. "CAISO's Repair Share" means the Repair Payment Factor for the Repair at issue multiplied by the amount by which (i) the agreed or determined cost of Repairs at issue plus the Net Repair Costs of all prior Repairs for the Contract Year minus the cost of all prior Repairs for which CAISO is obligated to pay CAISO's Repair Share during the Contract Year exceeds (ii) Owner's Repair Cost Obligation. The Repair Payment Factor shall be as agreed to by Owner and CAISO. If Owner and CAISO do not agree on the Repair Payment Factor, the Repair Payment Factor shall equal the Fixed Option Payment Factor, unless the Owner demonstrates in ADR that it would not have made the proposed Repair in accordance with Good Industry Practice but for its obligations under this Agreement, in which case the Repair Payment Factor shall be as determined in ADR.
- (h) Owner shall use commercially reasonable efforts to recover its full entitlements under applicable insurance policies, warranties and other contracts even after CAISO has paid CAISO's Repair Share. Owner shall keep CAISO informed of the status of such recovery efforts and will refund to CAISO any portions of CAISO's Repair Share payment that is later recovered from any other party as a credit to CAISO on the next invoice with interest at the Interest Rate from the date such proceeds are received by Owner to the Due Date of such next invoice, or if this Agreement is terminated, as a payment upon submission of the Final Invoice.
- (i) If Owner is not obligated to make a Repair and does not do so, and if it would be uneconomical, impractical or illegal to continue operation without the Repair, then Owner, subject to obtaining authorization from FERC (if required by law to do so), may terminate this Agreement with respect to the affected Unit without cost or liability therefor, except as provided in Section 2.4.
- (j) If Owner makes a Repair notwithstanding that CAISO is not obligated to pay for the Repair, Owner shall not be entitled to recover the costs of the Repair from CAISO unless FERC approves recovery of the costs.
- (k) Owner's Repair Cost Obligation shall be an amount computed as follows:
- (i) Intentionally left blank
 - (ii) The Owner's Repair Cost Obligation shall be equal to 3% of the fixed operation and maintenance costs for all Units at the Facility, underlying the rates in effect at the beginning of the Contract Year.
- (l) CAISO shall reimburse Owner for all of its unrecovered upfront costs incurred by Owner and its affiliates in connection with the implementation of the Synchronous Condenser Transaction, up to an aggregate maximum of \$875,000. Immediately following the Effective Date, Owner shall submit

to CAISO a Schedule L-1 for such actually incurred costs in accordance with Article 9.

7.6 Unplanned Capital Items

- (a) To the extent a Capital Item is required to remedy or prevent impairment of the Unit's capability to Deliver Ancillary Services and the impairment was caused by Owner's failure to comply with Good Industry Practice or by any wrongful act or omission by Owner, Owner shall install such Capital Item at Owner's expense. Otherwise, Owner shall not be obligated to install any Capital Item unless CAISO is obligated to pay a Surcharge Payment for the Capital Item. The issue of whether Owner is obligated to install a Capital Item is subject to ADR.
- (b) If, during the Contract Year, Owner determines it is necessary to install Capital Items not approved under Section 7.4 and Owner has expended all amounts covered by the approved Small Project Estimates under Section 7.4, Owner shall provide a notice thereof ("Unplanned Capital Item Notice") on the form attached as Schedule L-1 to CAISO. Owner shall provide such information as CAISO may reasonably require in order to evaluate the proposed Capital Items.
- (c) CAISO shall submit a written acceptance or objection to Owner's proposal within 21 days after receipt of a complete Unplanned Capital Item Notice provided that if the proposal does not involve either loss or damage to the Facility or a Capital Item required by law or regulation, CAISO shall respond within 60 days. If CAISO fails to provide notice within such period, Owner's proposal in the Unplanned Capital Item Notice shall be deemed approved. Any objection shall be based on one or more of the following grounds:
 - (i) the impairment being remedied or prevented was caused by Owner's failure to comply with Good Industry Practice;
 - (ii) the impairment being remedied or prevented was caused by a wrongful act or omission by Owner;
 - (iii) the Capital Item is not required or is more extensive than required in order to remedy or prevent impairment to the Facility or to comply with applicable law;
 - (iv) the estimated cost of the Capital Item exceeds that which is reasonably necessary;
 - (v) installation of the Capital Item will not result in benefits to CAISO as compared to alternatives available to CAISO;
 - (vi) Owner's proposals for installing or testing the Capital Item are unreasonable;
 - (vii) Owner's proposals for depreciation of the cost of the Capital Item or calculation of the Annual Capital Item Cost and Surcharge Payment Factor are unreasonable; or
 - (viii) Owner has not provided sufficient information to evaluate Owner's proposal. In addition to providing the basis of the objection, any objection of CAISO shall include a list of all changes CAISO

- contends should be made to Owner's proposal and justification of all such changes.
- (d) If CAISO submits an objection to an Unplanned Capital Item Notice, the Parties shall attempt to reach agreement on changes to Owner's proposal. If Owner's proposal involves either loss or damage to the Facility or the Capital Item is required by law and the Parties have not reached agreement 30 days after CAISO's receipt of the Unplanned Capital Item Notice, either Owner or CAISO may refer the matter to ADR under a schedule (specified by the arbitrator if the participants cannot agree) requiring a decision within 30 days following appointment of the arbitrator. The ADR decision will be effective without delay. Failure to agree on other proposed Capital Items may also be referred to ADR but without an expedited schedule.
 - (e) Owner shall proceed to install the Capital Item if it is agreed or determined pursuant to ADR that CAISO will pay a Surcharge Payment for the Capital Item or that Owner is otherwise required to install the Capital Item. Owner shall keep full and detailed records of the cost of the Capital Item and shall make them available to CAISO for inspection upon reasonable request.
 - (f) If the actual cost of the Capital Item exceeds the estimated cost, CAISO may initiate ADR to determine whether the additional costs were reasonable and shall not be obligated to pay any portion of the additional cost found to be unreasonable in such ADR proceeding. Owner shall have the burden of proving that the additional costs were reasonable.
 - (g) If it is agreed or determined pursuant to ADR that CAISO will pay for the Capital Item, CAISO shall be deemed to have agreed that the cost of the Capital Item will be recovered through a Surcharge Payment under Article 8 and will be eligible for recovery through a Termination Fee pursuant to Section 2.5. The costs included in Surcharge Payments and Termination Fees to be paid by CAISO shall be net of all proceeds received by Owner from insurers and other third parties pursuant to applicable insurance, warranties and other contracts after deducting all costs Owner incurred to collect the proceeds. Owner shall use commercially reasonable efforts to recover its full entitlements under applicable insurance policies, warranties and other contracts. Owner shall keep CAISO informed of the status of such recovery efforts and will adjust future Surcharge Payments to reflect proceeds later recovered from any other party.
 - (h) If the capability or performance of a Unit is impaired, if Owner is not obligated to install a Capital Item to remedy such impairment under Section 7.6(a) and does not do so, and if it would be uneconomical, impractical or illegal to continue operation without the Capital Item, then Owner, subject to obtaining authorization from FERC (if required by law to do so), may terminate this Agreement with respect to the affected Unit without cost or liability therefor except as provided in Section 2.4.
 - (i) If Owner installs a Capital Item notwithstanding that CAISO is not obligated to pay for the Capital Item, Owner shall not be entitled to recover

the costs of the Capital Item from CAISO unless FERC approves recovery of the costs.

- (j) Notwithstanding any other provision of this Agreement, if a Capital Item is required to remedy impairment of the Facility, the Unit's Monthly Option Payment shall not be decreased for any of the period of time during which Owner is waiting for CAISO's response to an Unplanned Capital Item Notice or during which ADR concerning an Unplanned Capital Item Notice is pending unless it is determined that Owner is required to install the Capital Item pursuant to Section 7.6 (a).

7.7 Adjustments to Performance Characteristics

- (a) If Owner installs any Capital Item or makes any Repairs the costs of which are paid by CAISO under this Agreement, Owner shall modify the Maximum Net Dependable MVA_r Capability, Unit Availability Limit, and performance characteristics of the affected Unit to reflect the resulting changes in operating costs effective as of the date CAISO's payment of CAISO's Repair Share of the Repairs is made, or in the case of a Capital Item, the date the cost of the Capital Item is included in a Surcharge Payment or the rates paid by CAISO.
- (b) If FERC authorization is required to permit Owner to recover the CAISO's Repair Share from CAISO or to include the costs of a Capital Item in a Surcharge Payment or the rates paid by CAISO hereunder, Owner shall make a Section 205 filing limited to recovery of the costs and implementation of related changes to performance characteristics, shall request that the filing become effective as of the date the Capital Item or Repair was placed in service and request expedited consideration of the filing. If CAISO has approved the Capital Item or Repair, CAISO shall intervene in support of such filing including support of requests to place the change in effect without suspension or hearing.
- (c) If Owner makes Repairs or installs a Capital Item when not required to do so and CAISO has not agreed or is not required by ADR to pay for such Repair or Capital Item, Owner may either:
 - (i) make an appropriate adjustment to the Maximum Net Dependable MVA_r Capability, Unit Availability Limit and performance characteristics of the affected Unit to reflect the capability the Unit would have had if the Capital Item had not been installed or the Repairs had not been made; or
 - (ii) make appropriate adjustment to the Maximum Net Dependable MVA_r Capability, Unit Availability Limit and performance characteristics of the affected Unit to reflect the Repairs or installation of the Capital Item.
- (d) Any adjustment to the Heat Input characteristics of the Unit shall be made in accordance with Section 4.9(d).

7.8 Upgrades of Generating Units

Owner may Upgrade any Unit at the Facility, provided that no Upgrade shall release Owner from Owner's performance obligations under this Agreement. CAISO shall secure no rights under this Agreement to any capacity or services increased or enhanced by any Upgrade unless the Parties agree as to the terms of CAISO's rights and the amount of CAISO's payment for such Upgrade. If the Parties so agree, the Maximum Net Dependable MVA_r Capability, Unit Availability Limit and performance characteristics of the affected Unit shall be adjusted to reflect CAISO's agreed upon rights to the Upgrade provided that any adjustment in heat input shall be made in accordance with Section 4.9(d). If FERC authorization is required to permit Owner to recover the portion of the Upgrade cost CAISO has agreed to pay for the agreed revisions to the Unit characteristics, Owner shall make a Section 205 filing limited to recovery of the costs and implementation of related changes to the Maximum Net Dependable MVA_r Capability, Unit Availability Limit and performance characteristics, shall request that the filing become effective as of the date CAISO begins paying its agreed portion of the cost of the Upgrade and request expedited consideration of the filing. CAISO shall intervene in support of such filing including support of requests to place the change in effect without suspension or hearing.

7.9 Third-Party Participation in CAISO Review Process

- (a) Subject to fulfillment of the requirements of Section 7.9 (b), CAISO shall consult with the Responsible Utility and the California Agencies prior to approving Capital Items or Repairs. CAISO may approve Capital Items or Repairs aggregating less than \$5,000,000 for the Facility in a Contract Year without approval of the Responsible Utility or the California Agencies. After Capital Items and Repairs aggregating \$5,000,000 for the Facility in a Contract Year have been approved by CAISO, CAISO's approval of all other Capital Items and Repairs for that Contract Year shall not be effective unless the Responsible Utility has consented to such Capital Item or Repair. For the avoidance of doubt, the Responsible Utility has approved recovery of the costs shown in the attached Schedule L-1 for the Capital Items for the 2013 Contract Year and the unrecovered upfront costs as Capital Items Repairs for the 2013 Contract Year up to an aggregate maximum of \$875,000.
- (b) The requirements of Section 7.9 (a) relating to Responsible Utilities shall apply only if and to the extent that the Responsible Utility agrees to waive its right to challenge before the FERC Owner's recovery of approved costs of Repairs or Capital Items. The requirement of Section 7.9 (a) relating to the California Agency shall apply only if and to the extent that each California Agency agrees to waive its right to challenge Owner's recovery of costs associated with the proposed Repairs or Capital Item on any grounds not set out in written objections provided by the California Agencies to CAISO and Owner within 30 days of the California Agencies'

receipt of the preliminary and final reports under Section 7.5 or Section 7.6.

- (c) Provided that the California Agencies and Responsible Utility are bound by the provisions of the Confidentiality and Non-disclosure Agreement attached as Schedule N and make the waivers required in Section 7.9 (b), Owner will provide copies of the required reports and notices under Section 7.4, Section 7.5 or Section 7.6, and any additional information provided to the CAISO pursuant to Sections 7.4, 7.5 and 7.6, as the case may be, to the California Agencies and Responsible Utility at the same time as the reports, notices and information are provided to CAISO, and CAISO will provide copies of all information provided to Owner pursuant to such Sections to the California Agencies and Responsible Utility.

ARTICLE 8 RATES AND CHARGES

8.1 Condition 1 - Not Applicable

When a Unit is under Condition 1, CAISO shall pay Owner each Month for each Unit the sum of:

- (a) the Monthly Option Payment which shall be equal to the Monthly Availability Payment plus the Monthly Surcharge Payment, minus the sum of all Non-Performance Penalties for the Month. In no event shall (i) the Monthly Option Payment for any month be less than zero, (ii) the sum of the Monthly Availability Payments for a Contract Year exceed the Annual Fixed Revenue Requirement for the Contract Year, or (iii) the sum of the Monthly Surcharge Payments for the Contract Year exceed the Annual Capital Item Cost (as defined in Schedule B) for the Contract Year. The Monthly Availability Payment and the Monthly Surcharge Payment shall each be computed in accordance with Schedule B. The Non-Performance Penalties for the Month shall be calculated in accordance with Section 8.5;
- (b) the Variable Cost Payment computed in accordance with Schedule C;
- (c) one-twelfth of the Prepaid Start-up Charge as set out on Schedule D;
- (d) the sum of the Start-up Adjustments calculated in accordance with Schedule D for each Start-up during the Month which was a Prepaid Start-up;
- (e) the sum for all Settlement Periods in the Month of the Pre-empted Dispatch Payments and Motoring Charges calculated in accordance with Schedule E;
- (f) once the Counted MWh for the Contract Year equals the Maximum Annual MWh, the Counted Service Hours for the Contract Year equals the Maximum Annual Service Hours, or the Counted MWh for hydroelectric units for the Month equals the Maximum Monthly MWh, a payment for each subsequent Billable MWh at the rate set out on Schedule G;
- (g) once the Counted Start-ups for the Contract Year equals the Maximum Annual Start-ups, a payment for each additional Start-up calculated in accordance with Schedule G; and

- (h) charges for services Delivered from Substitute Units pursuant to Sections 5.1(c) and (d).

8.2 Condition 2

When a Unit is operating under Condition 2, CAISO shall pay Owner the sum of:

- (a) the Monthly Option Payment, which shall be equal to the Monthly Availability Payment plus the Monthly Surcharge Payment, minus the sum of all Non-Performance Penalties for the Month. In no event shall (i) the Monthly Option Payment for any month be less than zero, (ii) the sum of the Monthly Availability Payments for a Contract Year exceed the Annual Fixed Revenue Requirement for the Contract Year or (iii) the sum of the Monthly Surcharge Payments for the Contract Year exceed the Annual Capital Item Cost (as defined in Schedule B) for the Contract Year. The Monthly Availability Payment and the Monthly Surcharge Payment shall each be computed in accordance with Schedule B. The Non-Performance Penalties for the Month shall be calculated in accordance with Section 8.5.
- (b) the Variable Cost Payment computed in accordance with Schedule C;
- (c) the sum of all Start-up Payments for the Month until Counted Start-ups equal Maximum Annual Start-ups computed in accordance with Schedule D;
- (d) the sum for all Settlement Periods in the Month of Motoring Charges calculated in accordance with Schedule E;
- (e) once the Counted Service Hours for the Contract Year exceed the Maximum Annual Service Hours, a payment shall be made as set out on Schedule G;
- (f) once the Counted Start-ups for the Contract Year equals the Maximum Annual Start-ups, a payment for each additional Start-up calculated in accordance with Schedule G; and
- (g) charges for services Delivered from Substitute Units pursuant to Section 5.1(c) and (d).

8.3 Determination of Billable MWh and Hybrid MWh - Not Applicable

- (a) "Billable MWh" shall be determined by application of the following rules:
 - (i) If a Unit under Condition 1 or Condition 2 Delivers MWh only in Nonmarket Transactions during a Settlement Period, the Billable MWh shall be the lesser of (A) the Hourly Metered Total Net Generation or (B) the Requested MWh.
 - (ii) If a Unit under Condition 1 delivers MWh in both Market and Nonmarket Transactions during a Settlement Period:
 - (A) If the Hourly Metered Total Net Generation during the Settlement Period is equal to or greater than the Requested MWh applicable to the Settlement Period, the Billable MWh shall be (1) the Requested MWh minus (2) the Hybrid MWh, but shall never be less than zero.
 - (B) If the Hourly Metered Total Net Generation during the Settlement Period is less than the Requested MWh

applicable to the Settlement Period, the Billable MWh shall be (1) Hourly Metered Total Net Generation minus (2) the Hybrid MWh, but shall never be less than zero.

- (iii) If a Unit is under Condition 2, the Billable MWh shall be the lesser of (A) the Hourly Metered Total Net Generation or (B) the sum of (1) Requested MWh and (2) the amount, if any, by which the total MWh for which Owner's bids pursuant to Section 6.1 (b) cleared the market exceeds the Requested MWh.
- (b) "Hybrid MWh" shall be the sum of the MWh scheduled in Market Transactions which were substituted for Requested MWh under Section 5.2 and the MWh scheduled in Market Transactions for which CAISO issued a Dispatch Notice pursuant to Section 4.5 provided that Hybrid MWh shall never exceed the Hourly Metered Total Net Generation.

8.4 Determination of Prepaid Start-ups

Prepaid Start-ups for Condition 1 shall be the Maximum Annual Start-ups. There shall be no Prepaid Start-ups for Condition 2.

8.5 Non-Performance Penalty

- (a) If a Unit fails to comply fully with a Dispatch Notice and such failure is not due to a Force Majeure Event under this Agreement, the Unit shall be subject to a Non-Performance Penalty computed in accordance with this Section 8.5.
- (b) The Non-Performance Penalty shall be calculated for each hour of the Penalty Period in which Owner is not deemed to be in full compliance with a Dispatch Notice and is not excused from performance. The Non-Performance Penalty shall be the sum of the amounts calculated for each Settlement Period in the Month by multiplying (i) the Availability Deficiency Factor for the Settlement Period by (ii) the sum of the Hourly Penalty Rate and the Hourly Surcharge Penalty Rate for the Unit as set forth on Schedule B; provided that the Non-Performance Penalty for any Month shall not exceed the sum of the Condition 1 Availability Payment and Condition 1 Surcharge Payment (for Units on Condition 1), or the sum of the Condition 2 Availability Payment and Condition 2 Surcharge Payment (for Units on Condition 2) for the Month. For purposes of this calculation:
 - (i) an Availability Deficiency Factor shall be calculated for each hour of the Penalty Period as one minus the number determined by dividing (a) the Delivered MVarh for the hour in question by (b) the product of the Unit Availability Limit and the percentage of the hour (up to 100%) that the Unit was subject to a Dispatch Notice;
 - (ii) the Penalty Period shall be the 72 hour period beginning at the time Owner fails to comply fully with a Dispatch Notice, provided that if Owner in accordance with Section 7.2(a) had scheduled an outage to begin during the 72 hour period, the Penalty Period will terminate at the time the outage was scheduled to begin.

- (iii) the Unit Availability Limit shall be the Unit Availability Limit as it existed at the time CAISO issued the Dispatch Notice with which Owner failed to comply but reduced to eliminate the effect of any Force Majeure Event affecting deliveries during the Penalty Period.
- (c) For purposes of this Section 8.5 and Section 4.9(a)(i), a Unit shall be deemed to be in full compliance with a Dispatch Notice if the Unit Delivers
 - (i) at least 97 percent of the Requested MVA.

8.6 Long-term Planned Outage Adjustment

Not later than 60 days after the end of each Contract Year, Owner shall submit to CAISO a statement showing the Long-term Planned Outage Adjustment for the Contract Year. The Long-term Planned Outage Adjustment shall equal (a) the Hourly Availability Charge plus each Hourly Capital Item Charge, as shown in Schedule B, multiplied by (b) the difference, if positive, of (i) the hours scheduled for performance of Long-term Planned Outages minus (ii) the actual hours spent performing Long-term Planned Outages during the Contract Year. Owner shall credit any Long-term Planned Outage Adjustment on the next invoice or, if this Agreement has terminated, shall pay any Long-term Planned Outage Adjustment to the CAISO upon submission of the Final Invoice. This Section 8.6 shall not apply to 2013 Contract Year.

ARTICLE 9 STATEMENTS AND PAYMENTS

9.1 Invoicing

- (a) The billing, invoicing and payment of charges under this Agreement shall be as specified in this Article 9, Schedule O to this Agreement and Section 11.13 of the CAISO Tariff. CAISO shall not modify any provision of Section 41 of the CAISO Tariff or Section 11.13 as they apply to this Agreement without Owner's consent, provided that Owner's consent shall not be required for a change of allocations of RMR costs among market participants under the CAISO Tariff. Notwithstanding anything in this Agreement to the contrary, invoices either due or from the RMR Owner or Responsible Utility for an amount less than \$10.00 will be adjusted to \$0.00 and no amounts will be due to or from that RMR Owner or Responsible Utility for that invoice.
- (b) Owner will submit to CAISO RMR Invoices for each Month during the term of this Agreement, which are defined in this Section 9.1(b) as follows: (i) Estimated RMR Invoice; (ii) Revised Estimated RMR Invoice; (iii) Adjusted RMR Invoice; and (iv) Revised Adjusted RMR Invoice. In the event there are no revisions to the Estimated RMR Invoice or the Adjusted RMR Invoice, Owner shall submit an e-mail to CAISO with a copy to the Responsible Utility indicating that the Estimated RMR Invoice or the Adjusted RMR Invoice shall be deemed to be the Revised Estimated RMR Invoice or the Revised Adjusted RMR Invoice.

- (i) Within 14 days after the end of each Month during the term of this Agreement (and, if this Agreement does not expire or terminate at the end of a Month, within 14 days after the end of the Month in which the Agreement expires or terminates), Owner shall submit an estimated invoice (“Estimated RMR Invoice”) to CAISO for all charges and credits due under this Agreement for the Month (“Billing Month”). Each Estimated RMR Invoice shall reflect actual data for the Billing Month to the extent actual data is available and shall otherwise reflect estimated data.
- (ii) By the date specified on the RMR Payments Calendar, Owner shall submit a revised estimated invoice (“Revised Estimated RMR Invoice”) to CAISO, which will include appropriate revisions based on the CAISO’s validation of the Estimated RMR Invoice. The Due Date of the Revised Estimated RMR Invoice shall be the 30th day after the date on which Owner submitted the Estimated RMR Invoice to CAISO, or if such date is not a Business Day, the Due Date shall be the next Business Day.
- (iii) By the date specified on the RMR Payments Calendar, CAISO shall submit an invoice (“CAISO Invoice”) to the Responsible Utility, with an e-mail notification to Owner and the Responsible Utility, which specifies the payment due from the Responsible Utility to CAISO and from CAISO to Owner on the basis of the Revised Estimated RMR Invoice. However, in the event the payment is due from Owner to CAISO and from CAISO to the Responsible Utility, then CAISO shall submit the CAISO Invoice to Owner with an e-mail notification to Owner and the Responsible Utility.
- (iv) Within 7 days of receipt by Owner of the Recalculation Settlement Statement for the last day of the Billing Month, Owner shall submit an adjusted invoice (“Adjusted RMR Invoice”) to CAISO, reflecting actual data for the Billing Month.
- (v) By the date specified on the RMR Payments Calendar, Owner shall submit to CAISO an invoice reflecting actual data for the Billing Month and including appropriate revisions based on the CAISO’s validation of the Adjusted RMR Invoice (“Revised Adjusted RMR Invoice”). The Due Date of the Revised Adjusted RMR Invoice shall be the 30th day after the date on which Owner submitted the Adjusted RMR Invoice to CAISO, or if such date is not a Business Day, the Due Date shall be the next Business Day.
- (vi) By the date specified on the RMR Payments Calendar, CAISO shall submit an CAISO Invoice to the Responsible Utility, with an e-mail notification to Owner and the Responsible Utility, which specifies the payment due from the Responsible Utility to CAISO and from CAISO to Owner on the basis of the Revised Adjusted RMR Invoice. However, in the event the payment is due from Owner to CAISO and from CAISO to the Responsible Utility, then CAISO

- shall submit the CAISO Invoice to Owner with an e-mail notification to Owner and the Responsible Utility.
- (c) If the day on which any RMR Invoice is due to be issued is not a Business Day, such RMR Invoice shall be issued on the next succeeding Business Day.
 - (d) Each RMR Invoice shall use the template posted on the CAISO Website in accordance with Schedule O ("RMR Invoice Template"). Each RMR Invoice shall set out detailed calculations and breakdowns of the amounts due, shall identify the source of each input used in the calculations, and shall identify all relationships among data in different invoice levels.
 - (e) This section 9.1(e) applies to all Condition 1 Units. Any amounts received by or due to Owner's Scheduling Coordinator for Billable MWh and Ancillary Services Delivered in Nonmarket Transactions during the Billing Month shall be subtracted from the amount otherwise due under each RMR Invoice. If subtraction of the Energy and any Ancillary Service amounts for a Unit under Condition 1 results in a credit to CAISO on an RMR Invoice, the credit shall be carried forward ("Credit Carryforward") to the RMR Invoices for each succeeding Billing Month in that Contract Year until extinguished; provided that Owner shall not be required to carry any such credit into a later Contract Year or to pay any part of such credit to CAISO.
 - (f) This section 9.1(f) applies to all Condition 2 Units. All amounts received by or due to Owner's Scheduling Coordinator in connection with Market Transactions and Nonmarket Transactions during the Billing Month ("Scheduling Coordinator Revenues") shall be subtracted from the amount otherwise due under each RMR Invoice. If subtracting the Scheduling Coordinator Revenues results in a credit to CAISO on an RMR Invoice, the credit shall be carried forward ("Credit Carryforward") to the appropriate RMR Invoices for each succeeding Billing Month in that Contract Year until extinguished. If there is an unextinguished credit balance remaining at the end of the Contract Year, Owner shall refund to CAISO an amount equal to the lesser of (i) the remaining balance of Scheduling Coordinator Revenues or (ii) the total amounts due Owner pursuant to Section 8.2 for the Contract Year minus all Scheduling Coordinator Revenues previously credited to Owner during such Contract Year. Such refund amount will be included on December's Adjusted RMR Invoice, or the Final Invoice if the Agreement is terminated.
 - (g) In the event any corrections, surcharges, credits, refunds or other adjustments pertaining to a Billing Month are discovered after the Revised Adjusted RMR Invoice for such Billing Month has been issued ("Prior Period Changes"), then such Prior Period Changes shall be included in a worksheet for the prior period ("Prior Period Change Worksheet") and submitted for payment in the next allowed Billing Month for Prior Period Changes. The allowed Billing Months for Prior Period Changes are as follows. Any Prior Period Changes pertaining to the months of January through June of a Contract Year which are discovered prior to the

submission of the December Estimated RMR Invoice for such Contract Year shall be included in a Prior Period Change Worksheet submitted with the December Estimated RMR Invoice. Any Prior Period Changes pertaining to the months of July through December of a Contract year which are discovered prior to the submission of the May Estimated RMR Invoice for the subsequent Contract year shall be included, subject to Section 9.8, in a Prior Period Change Worksheet submitted with the May Estimated RMR Invoice for the subsequent Contract Year. Any Prior Period Changes pertaining to a Billing Month for a prior Contract Year which are discovered after the first opportunity to submit a Prior Period Change Worksheet has passed, shall be included in a Prior Period Change Worksheet submitted with the Estimated RMR Invoice for the next December or May Billing Month, whichever comes first. Any Prior Period Changes pertaining to the time when the Facilities were under a superseded rate schedule using Conditions of Must Run Agreement A, B, and C, shall be calculated through a separate process and not included on RMR Invoices issued under this Agreement unless the Prior Period Changes result from the Revenue Requirements Settlements outlined in the Stipulation and Agreement approved on May 28, 1999, in FERC Docket No. ER98-441-000, et al.

- (h) Owner shall send a copy of each RMR Invoice and any Prior Period Change Worksheet(s) to the Responsible Utility at the time it sends such invoices to CAISO.
- (i) Owner shall provide supporting detail with the Prior Period Change Worksheets to identify the relevant Contract Year and provide clear calculations by Facility, by Billing Month, and such other detail as necessary to support the Prior Period Change(s). This level of detail shall be consistent with the level of detail originally required to perform the computation(s) that are being corrected in the Prior Period Change Worksheet. Prior Period Change Worksheets, when required, shall include all identified Prior Period Changes for each applicable prior Contract Year, and shall be computed as specified in section 9.1(j).
- (j) A Prior Period Change Worksheet shall contain the following information and calculations for each Billing Month in the relevant Contract Year(s), commencing with the Billing Month pertaining to the Prior Period Change(s):
 - (i) The Revised Adjusted RMR Invoice for the Billing Month or, if such Billing Month has previously been submitted on a Prior Period Change Worksheet, the most recent revision of such RMR Invoice.
 - (ii) A revision of the RMR Invoice specified in paragraph (1) above which shows the RMR Invoice revised to incorporate the Prior Period Change(s) as if such Prior Period Change(s) had been invoiced in the Billing Month which gave rise to the Prior Period Change(s). Such revision shall incorporate the impact of the Prior Period Change(s) on RMR payments, including any impact resulting from the Credit Carryforward calculation for the current or

previous Billing Months in the Contract Year. For Condition 2 Units, such calculation shall include a recalculation of the refund described in Section 9.1(f).

- (iii) The difference between the amounts calculated under paragraph (2) above and paragraph (1) above. The amount due to or from Owner as a result of this calculation shall be clearly specified, with interest shown separately from any other amount due. Interest shall be calculated at the Interest Rate from the Due Date of the Revised Estimated RMR Invoice for the Billing Month to the date payment of the amount due is made.

Owner shall total for all Billing Months which are included on the Prior Period Change Worksheet, the amount due as a result of the calculation in paragraph (3) above for each Billing Month. Owner shall also total for all Billing Months which are included on the Prior Period Change Worksheet, the interest due as a result of the calculation in paragraph (3) above for each Billing Month. The total amount due and interest due shall be transferred from the Prior Period Change Worksheet to the appropriate Estimated RMR Invoice, and such amounts shall be due as specified on the Estimated RMR Invoice.

- (k) Any time a Unit switches from Condition 1 to Condition 2 or Condition 2 to Condition 1 during a Contract Year, the provisions of Section 9.1(e) shall apply to the months when the unit was on Condition 1 and the provisions of Section 9.1(g) shall apply to the months when the unit was on Condition 2.
- (l) CAISO shall separately post on the CAISO Website examples ("Prior Period Change Examples") developed and agreed to by the RMR Invoice Task Force created under Schedule O of the calculations described in Sections 9.1(e), 9.1(f), 9.1(g) and 9.1(j) to provide guidance on the correct treatment of Prior Period Changes and to show the correct preparation of the Prior Period Change Worksheet and transfer of amount due to the appropriate Estimated RMR Invoice. Additionally, the RMR Invoice Task Force shall develop and agree to, and CAISO shall post on the CAISO Website, guidelines ("Prior Period Change Guidelines") underlying the calculations described in Sections 9.1(e), 9.1(f), 9.1(g) and 9.1(j). The Prior Period Change Worksheet shall be prepared, and the amount due shall be calculated and transferred to the Estimated RMR Invoice, in accordance with the RMR Invoice Template, the Prior Period Change Examples, and the Prior Period Change Guidelines posted on the CAISO Website. In the event of a dispute regarding the treatment of Prior Period Changes, all Parties to such dispute shall refer to the Prior Period Change Examples and Prior Period Change Guidelines posted on the CAISO Website for guidance.

9.2 Facility Trust Accounts

CAISO shall establish two segregated commercial bank accounts under the "Facility Trust Account" referred to in Sections 11.13 and 41 of the CAISO Tariff

for each Responsible Utility. One commercial bank account, the "RMR Owner Facility Trust Account", shall be held in trust by CAISO for Owner. The other commercial bank account, the "Responsible Utility Facility Trust Account", shall be held in trust by CAISO for the Responsible Utility. Payments received by CAISO from a Responsible Utility in connection with this Agreement, including payments following termination of this Agreement, will be deposited into the RMR Owner Facility Trust Account and payments from CAISO to Owner will be withdrawn from such Account, all in accordance with Sections 11.13 and 41 of the CAISO Tariff and this Article 9. Any payments received by CAISO from Owner in connection with this Agreement, including payments following termination of this Agreement, will be deposited into the Responsible Utility Facility Trust Account. Any payments to a Responsible Utility of funds received from Owner under this Agreement will be withdrawn from the Responsible Utility Facility Trust Account, all in accordance with Section 11.13 and 41 of the CAISO Tariff, and this Agreement. Neither the RMR Owner Facility Trust Account nor the Responsible Utility Facility Trust Account shall have other funds commingled in it at any time.

9.3 Payment

- (a) CAISO shall pay Owner all invoiced amounts due on Revised Estimated RMR Invoices, Revised Adjusted RMR Invoices, and Final Invoices whether or not disputed by CAISO or the Responsible Utility except to the extent that CAISO (i) is entitled to a refund on a Revised Estimated or Revised Adjusted RMR Invoice or Final Invoice against such payment under this Agreement or (ii) is entitled to deduct an amount under Section 9.6. All payments shall be made from the RMR Owner Facility Trust Account on or before the Due Date by wire transfer in accordance with instructions from Owner. If Owner is also the Responsible Utility, at the discretion of Owner payments to it may be made by memorandum account instead of wire transfer. Owner shall establish and maintain a settlement account at a commercial bank located in the United States and reasonably acceptable to CAISO which can effect money transfers via Fed-Wire where payments to and from the Facility Trust Accounts shall be made in accordance with Section 9.2 and Section 11.13 of the CAISO Tariff. Owner shall notify CAISO of its settlement account details prior to the Effective Date. Owner may from time to time change its settlement account details, provided that, Owner shall give CAISO 15 days notice before making changes. In the event there is a refund amount due to CAISO, Owner shall refund the amount due CAISO in accordance with Section 9.2 and Section 11.13 of the CAISO Tariff.
- (b) If a Revised Adjusted RMR Invoice is less than the amount paid by CAISO on the Revised Estimated RMR Invoice, the difference shall be paid by Owner to CAISO with interest at the Interest Rate from the Due Date of the Revised Estimated RMR Invoice to the Due Date of the Revised Adjusted RMR Invoice, or, if the Agreement is terminated, shall be paid to CAISO on submission of the Final Invoice. If a Revised Adjusted RMR

Invoice is greater than the amount paid by CAISO under the Revised Estimated RMR Invoice, CAISO shall pay Owner the difference with interest at the Interest Rate from the Due Date of the Revised Estimated RMR Invoice to the Due Date of the Revised Adjusted RMR Invoice by CAISO.

9.4 Payment Default

- (a) Except as provided in Section 9.4 (b), Owner, in addition to any other remedy it may have, may pursue all claims against CAISO and the Collateral, as defined in Section 9.7 below, if CAISO fails to pay any invoice in full by the Due Date as required under Section 9.3. CAISO, in addition to any other remedy it may have, may pursue all claims against Owner if Owner fails to pay any invoice in full by the Due Date as required under Section 9.3. The parties' remedies shall be subject to the limitations set forth in Article 11.
- (b) If the amounts CAISO has not paid have been invoiced by CAISO to the Responsible Utility and the Responsible Utility has not paid such amounts to CAISO, Owner shall cause execution to issue against, and shall collect solely from the Collateral or the Responsible Utility, and not CAISO, if all of the following conditions have been satisfied:
- (i) The Responsible Utility is Southern California Edison Company ("SCE") and San Diego Gas & Electric Company ("SDG&E"), with SCE responsible for 80% and SDG&E responsible for 20% of all costs under this Agreement, with each severally liable for that percentage.
 - (ii) CAISO has invoiced via the CAISO Invoice SCE and SDG&E for costs (net of any applicable credits, all as shown on the Revised Estimated or Revised Adjusted RMR Invoice) after deducting only amounts permitted to be deducted under Section 9.6.
 - (iii) The CAISO Tariff expressly requires SCE & SDG&E to pay all amounts shown on the CAISO Invoices without offset, recoupment or deduction (except to the extent that Section 41 of the CAISO Tariff permits deduction of amounts that are due the Responsible Utility after resolution of a dispute) and, to the extent that SCE or SDG&E disputes any amounts due under the CAISO Invoices, to pay the disputed amounts under protest and subject to refund with interest; and
 - (iv) SCE or SDG&E fails to pay all or a portion of the amounts due under the CAISO Invoices and did not have the right to have such amount deducted under Section 41 of the CAISO Tariff.
- (c) Notwithstanding the provisions of Section 9.4 (b), Owner may cause execution to issue against, and collect from, CAISO, the Responsible Utility, the Collateral or insurance maintained by CAISO pursuant to Section 12.1(a), if notwithstanding the requirement to pay CAISO Invoices without offset, recoupment or deduction (except to the extent that Section 41 of the CAISO Tariff permits deduction of amounts that are due the

- Responsible Utility after resolution of a dispute), a Responsible Utility nonetheless offsets amounts unrelated to this Agreement or withholds amounts based on a breach or default by CAISO of any of its obligations to the Responsible Utility.
- (d) The CAISO Invoices shall separately show the amounts due for services from each Facility. If the Responsible Utility withholds any portion of the amount due under the CAISO Invoices, CAISO shall inform Owner of the specific Facility and time periods for which the Responsible Utility withheld payments.
- (e) As a condition for Owner's agreement not to seek to recover amounts from CAISO under Section 9.4(b), CAISO agrees to include and retain in the CAISO Tariff provisions expressly recognizing that Owner is a third party beneficiary of, and has all rights that CAISO has under the CAISO Tariff, at law, in equity or otherwise, to enforce the Responsible Utility's obligation to pay all sums invoiced to it in the CAISO Invoices but not paid by the Responsible Utility, to the extent that, as a result of the Responsible Utility's failure to pay, CAISO does not pay Owner on a timely basis amounts due under this Agreement. Owner recognizes that its rights as a third party beneficiary are (i) no greater than CAISO's rights against the Responsible Utility, and (ii) subject to Section 13 of the CAISO Tariff regarding dispute resolution. Either CAISO or Owner (but not both) will be entitled to enforce any claim arising from unpaid CAISO Invoices, and only one party will be a "disputing party" under Section 13 of the CAISO Tariff with respect to such claim so that the Responsible Utility will not be subject to duplicate claims or recoveries. Owner shall have the right to control the disposition of claims against the Responsible Utility for non-payments which result in payment defaults by CAISO under this Agreement. To that end, CAISO agrees that in the event of nonpayment by the Responsible Utility of amounts due under the CAISO Invoices, CAISO will not take any action to enforce its rights against the Responsible Utility unless CAISO is requested to do so by Owner. CAISO shall cooperate with Owner in a timely manner as necessary or appropriate to most fully effectuate Owner's rights related to such enforcement, including using its best efforts to enforce the Responsible Utility's payment obligations if, as, to the extent, and within the time frame, requested by Owner. CAISO shall intervene and participate where procedurally necessary to the assertion of a claim by Owner.
- (f) If a Responsibility Utility was not the Responsible Utility on April 1, 1998 (a "New Responsible Utility") and if:
- (i) The senior unsecured debt of the New Responsible Utility is rated or becomes rated at less than A- from Standard & Poors ("S&P") or A3 from Moody's Investment Services ("Moody's), and
 - (ii) Such ratings do not improve to A- or better from S&P or A3 or better from Moody's within 60 days,
- CAISO shall then require the New Responsible Utility to issue and confirm to CAISO an irrevocable and unconditional letter of credit in an amount

equal to three times the highest monthly payment invoiced by CAISO to the New Responsible Utility (or the prior Responsible Utility) in connection with services provided under this Agreement during the last 3 months for which invoices have been issued. The letter of credit must be issued by a bank or other financial institution whose senior unsecured debt rating is not less than A from S&P and A2 from Moody's. The letter of credit shall authorize CAISO or Owner to draw on the letter of credit for deposit solely into the RMR Owner Facility Trust Account in an amount equal to any amount due and not paid by the Responsible Utility under the CAISO Invoices.

9.5 Interest

If CAISO or Owner fails to make any payment by the Due Date, the amount due but not paid shall accrue interest at the Interest Rate from the Due Date until the amount is paid.

9.6 Disputed Amounts

(a) If CAISO or the Responsible Utility disputes a Revised Estimated or Revised Adjusted RMR Invoice or Final Invoice or part thereof submitted by Owner under this Agreement, or if the Responsible Utility disputes an CAISO Invoice or part thereof that relates to an RMR Invoice or Final Invoice submitted by Owner to CAISO under this Agreement, and if such dispute is based in whole or part on an alleged error or breach or default of Owner's obligations to CAISO under this Agreement, then CAISO promptly shall give written notice to Owner of the reasons for the dispute and the amount in dispute. CAISO shall pay Owner the disputed amount without offset, recoupment or reduction of any kind or nature. Such payment may, however, be made by CAISO under protest with reservation of the right to seek a refund with interest at the Interest Rate from the date of the disputed payment to the date of repayment. If CAISO notifies Owner that CAISO or the Responsible Utility disputes any amount of Owner's RMR Invoice or Final Invoice, Owner shall at its own cost provide CAISO with all information and assistance CAISO reasonably requires to resolve the dispute and shall join with CAISO in any discussions and negotiations with the Responsible Utility to resolve the dispute. The dispute shall be subject to ADR provided that in such ADR proceeding only one entity (CAISO or Responsible Utility) will be the disputing party with respect to such claim. Owner shall be obligated to refund to CAISO as a result of resolution of such dispute only if, and to the extent, the resolution determines the amount invoiced by Owner exceeded the amounts due Owner under this Agreement for the period covered by the RMR Invoices(s) and/or Final Invoice. Any amount agreed or determined to be owed by Owner to CAISO under this Section 9.6 (a) shall be refunded by Owner to CAISO with interest, by Owner's inclusion of such refund (including interest) in a Prior Period Change Worksheet included with the next appropriate May or December Estimated RMR Invoice as

specified in Sections 9.1(g) through 9.1(l) of this Agreement. If Owner does not include such refund (including interest) in the appropriate RMR Invoice, then such refund shall be made by CAISO's deduction of such amount from the next Revised Estimated and Revised Adjusted RMR Invoice(s) and Final Invoice submitted by Owner to CAISO under this Agreement until such amount is extinguished, or, if this Agreement has terminated, by paying such amount to CAISO. Interest shall be at the Interest Rate unless it is determined through ADR that the amount invoiced by Owner was submitted without a good faith basis in fact or law, in which case interest shall be at twice the Interest Rate.

- (b) It is expressly understood that the Responsible Utility shall, to the extent set forth herein, be a third party beneficiary of, and shall have all rights that CAISO has under this Agreement, at law, in equity and otherwise, to dispute an RMR Invoice or Final Invoice submitted to CAISO by Owner under this Agreement and to enforce Owner's obligation to make any required payment to CAISO under this Agreement to the extent CAISO does not make a related deposit into the Responsible Utility Facility Trust Account as a result of Owner's failure to make the required payment. The rights of the Responsible Utility as third party beneficiary shall be no greater than CAISO's rights against Owner and shall be subject to the ADR provisions of this Agreement. Either CAISO or the Responsible Utility, but not both, will be entitled to enforce any claim arising from a related set of facts, and only one such entity will be a disputing party under Article 11 of this Agreement with respect to any such claim so that Owner shall not be subject to duplicate claims or recoveries. If the Responsible Utility is not the Owner, the Responsible Utility shall control the disposition of all claims against Owner for non-payment described in this Section 9.6, including the choice of disputing party. The CAISO shall have the right to intervene for the purpose of participating in the proceeding even if it is not the disputing party. CAISO shall cooperate with the Responsible Utility in a timely manner as necessary or appropriate to most fully effectuate the Responsible Utility rights related to such enforcement, including using its best efforts to enforce Owner's payment obligations if, as, to the extent, and within the time frame, requested by Responsible Utility. Subject to the foregoing, CAISO shall intervene and participate where procedurally necessary to the assertion of a claim by the Responsible Utility.

9.7 Payment Security

To secure all of CAISO's payment obligations to Owner under this Agreement, CAISO agrees to grant Owner a security interest and lien in the following collateral (collectively, the "Collateral"): (a) all past, present and future accounts and other amounts Responsible Utility owes CAISO at any time pursuant to Section 41 of the CAISO Tariff attributable to invoices submitted by Owner under this Agreement (collectively, the "Accounts"), (b) the RMR Owner Facility Trust Account, all funds in the

RMR Owner Facility Trust Account at any time, and all funds paid on account of any Accounts, (c) all proceeds of the Collateral, if any, and (d) all of CAISO's right, title and interest in the Collateral. CAISO represents and warrants to Owner that (a) CAISO has the authority to grant such security interest, (b) CAISO will have good, marketable and exclusive title to all of the Collateral, (c) such security interest and lien will at all times be a valid, enforceable and first-priority lien on the Collateral, and (d) such security interest will be duly perfected by the filing of a financing statement under the California Uniform Commercial Code describing the Collateral in the office of the Secretary of State of California and the delivery of a written notice of Owner's security interest to the bank with which the RMR Owner Facility Trust Account is maintained. If CAISO defaults on its obligation to pay under this Agreement, Owner shall be entitled to enforce such security interest, to exercise its rights in the Collateral, to collect the Accounts from Responsible Utility, to collect all funds in the RMR Owner Facility Trust Account, and to exercise all other rights and remedies under the California Uniform Commercial Code. CAISO agrees to promptly execute and deliver all financing statements and other documents Owner reasonably requests, including but not limited to a written notice of Owner's security interest in the Collateral to the bank with which the RMR Owner Facility Trust Account is maintained, in order to maintain, perfect and enforce such security interest.

9.8 Errors

If a Party discovers an error in the amount of an invoice or payment under this Agreement and notifies the other Party within 60 days after discovering the error, the error shall be corrected as specified in Sections 9.1(g) through 9.1(l) of this Agreement; provided that a Party shall not be entitled to have an error corrected unless the Party notifies the other Party within 12 months after the date of the applicable Revised Adjusted RMR Invoice or Final Invoice, or within 60 days after issuance of the final report with respect to an audit pursuant to Section 12.2(g), whichever is later.

9.9 Payment of Termination Fee

- (a) Within 14 days after the end of each Month during the period in which any Termination Fee is payable under Section 2.5, Owner shall submit an invoice ("Termination Fee Invoice") to CAISO and a copy to the Responsible Utility for all Termination Fee amounts due for the Month. Each Termination Fee Invoice shall: (i) be broken down by Unit and (ii) clearly identify the source of each input used.
- (b) CAISO shall pay Owner amounts invoiced under this Section 9.9 in accordance with Sections 9.3 through 9.8. If CAISO or, if applicable, the Responsible Utility, has disputed the amount of a Termination Fee stated in a Termination Fee Invoice, then neither CAISO nor the Responsible Utility shall be required to give notice of the same disputed amount as to subsequent Termination Fee Invoices.

9.10 Payment of Final Invoice

- (a) Within 7 days of receipt by Owner of the Recalculation Settlement Statement for market transactions for the effective date of termination of this Agreement, Owner shall submit an invoice ("Final Invoice") to CAISO and a copy to the Responsible Utility for all charges and other amounts then due under this Agreement. Amounts then due shall include: (i) charges for all Ancillary Services provided under this Agreement and not previously invoiced; (ii) the Long-term Planned Outage Adjustment under Section 8.6. and (iii) refunds described in section 9.1(f) for Condition 2 Units. Calculation of the Long-term Planned Outage Adjustment shall be made by deeming the effective date of termination to be the end of the Contract Year, and by assuming that all Long-term Planned Outages scheduled to occur after the termination date occur as scheduled. The Final Invoice shall not include remaining Monthly payments of a Termination Fee under Section 2.5, which shall continue to be paid monthly until the obligation is extinguished.
- (b) CAISO shall pay Owner the amount stated in the Final Invoice in accordance with Section 9.3 through 9.8.

**ARTICLE 10
FORCE MAJEURE EVENTS****10.1 Notice of Force Majeure Events**

If either Party is unable to perform its obligations under this Agreement due to a Force Majeure Event, the Party unable to perform shall notify the other Party of the Force Majeure Event promptly after the occurrence thereof. The Party's notice may be given orally but shall promptly be confirmed in writing or electronically.

10.2 Effect of Force Majeure Event

- (a) If a Force Majeure Event prevents a Party from performing, in whole or in part, its obligations under this Agreement, such Party's obligations, other than obligations to pay money (unless the means of transferring funds is affected), shall be suspended and such Party shall have no liability with respect to such obligations; provided, that the suspension of the Party's obligations is of no greater scope and of no longer duration than is required by the Force Majeure Event.
- (b) If a Force Majeure Event (other than a flood, storm or drought affecting a hydroelectric Unit) reduces the Availability of a Unit, the Availability shall be determined as if the Unit were available up to the Unit Availability Limit in effect prior to the Force Majeure Event through the earlier of the 120th day following the Force Majeure Event or until the Unit's Availability is restored, whichever occurs first. If a flood or storm Force Majeure Event reduces the Availability of a hydroelectric Unit, the Availability shall be determined as if the Unit were available up to its Unit Availability Limit in

effect prior to the Force Majeure Event through the earlier of the 120th day following the Force Majeure Event or until the Unit's Availability is restored, and as if the Unit were available up to one-half of such Unit Availability Limit from the 120th day through the earlier of the 240th day or the date on which the Unit's Availability is restored. If a drought Force Majeure Event reduces the Availability of a hydroelectric Unit, the Availability shall be determined as if the Unit were available up to its Unit Availability Limit in effect prior to the Force Majeure Event until the Unit's Availability is restored following the end of the drought Force Majeure Event.

10.3 Remedial Efforts

The Party that is unable to perform by reason of a Force Majeure Event shall use commercially reasonable efforts to remedy its inability to perform and to mitigate the consequences of the Force Majeure Event as soon as reasonably practicable; provided, that no Party shall be required to obtain replacement power or to settle any strike or other labor dispute on terms which, in the Party's sole discretion, are contrary to its interest and, except to the extent that the Unit's primary fuel is distillate fuel oil or Schedule H expressly requires Owner to maintain fuel oil capability for the Unit, Owner shall not be required to obtain or use fuel oil to operate a Unit. The Party unable to perform shall advise the other Party of its efforts to remedy its inability to perform and to mitigate the consequences of the Force Majeure Event, and shall advise the other Party of when it believes it will be able to resume performance of its obligations under this Agreement.

ARTICLE 11 REMEDIES

11.1 Dispute Resolution

The Parties shall make reasonable efforts to settle all disputes arising out of or in connection with this Agreement. Unless this Agreement expressly provides that a particular type of dispute is not subject to ADR, the Parties shall use ADR procedures to resolve all disputes which are not otherwise settled. Owner and CAISO will promptly join with all other owners of Reliability Must-Run Units and all Responsible Utilities to jointly develop ADR procedures to be used in connection with such disputes. Following unanimous agreement of Owner, CAISO and Responsible Utilities to the ADR procedures, such procedures shall be posted on CAISO Website. Until there is unanimous agreement on such procedures, the Parties shall use the ADR procedures contained in Schedule K.

11.2 Waiver of Damages

(a) Except for the obligations set forth in Section 11.4 (Termination for Default) and Section 12.6 (Indemnity), neither Party shall be liable to the other Party for any claim, loss or damage of any nature arising out of or relating to the performance or breach of this Agreement including

replacement power costs, loss of revenue, loss of anticipated profits or loss of use of, or damage to, plant or other property, personal injury, or death; provided, however, that this waiver of liability shall not include or cover any claim, damage or loss arising out of the willful misconduct of either Party. Amounts that are specifically payable or reimbursable by the other Party under the terms of this Agreement shall not be considered "claims, losses or damages" for purposes of this Section.

- (b) Neither Party shall be liable to the other for any special, indirect, incidental or consequential damages suffered by the other Party or by third parties arising out of, or relating to, this Agreement or the performance of, or breach of any obligation under, this Agreement, or the negligence of any Party. This limitation shall apply even if the Party is advised of the possibility of these damages.
- (c) Except for the obligations to make or adjust payments or pay penalties expressly provided in Section 2.5 (Termination Fee), Section 7.4 (Planned Capital Items), Section 7.5 (Unplanned Repairs), Section 7.6 (Unplanned Capital Items), Section 7.8 (Upgrades of Generating Units), Article 8 (Rates and Charges) and Article 9 (Statements and Payments), of this Agreement, either Party's maximum aggregate liability for any and all claims arising out of or relating to performance or breach of this Agreement during the Contract Year, whether based upon contract, tort (regardless of degree of fault or negligence), strict liability, warranty, or otherwise, including any liability for Owner's failure to Deliver Requested Ancillary Services shall not exceed \$20 million.

11.3 Injunctive Relief

In addition to any other remedy to which a Party may be entitled by reason of the other Party's breach of this Agreement, the Party not in default shall be entitled to seek temporary, preliminary and permanent injunctive relief from any court of competent jurisdiction restraining the other Party from committing or continuing any breach of this Agreement.

11.4 Termination For Default

- (a) If either Party shall fail to perform any material obligation imposed on it by this Agreement and that obligation has not been suspended pursuant to Section 10, the other Party, at its option, may terminate this Agreement by giving the Party in default notice setting out specifically the circumstances constituting the default and declaring its intention to terminate this Agreement. If the Party receiving the notice disputes the notice, it shall notify the other Party within 14 days after receipt of the notice setting out specifically the grounds of such disputes. Time is of the essence in remedying a default. If the Party receiving the notice does not, within 30 days after receiving the notice, remedy the default or refer the dispute to ADR, the Party not in default shall be entitled by a further notice to terminate this Agreement. The Party not in default shall have a duty to mitigate damages.

- (b) Termination of this Agreement pursuant to this Section 11.4 shall be without prejudice to the right of Owner or CAISO to collect any amounts due to it prior to the time of termination.

11.5 Cumulative and Nonexclusive

Except as provided in Section 5.4(b), each remedy provided for in this Agreement shall be cumulative and not exclusive.

11.6 Beneficiaries

Except as is specifically set forth in this Agreement, nothing in this Agreement, whether express or implied, confers any rights or remedies under, or by reason of, this Agreement on any persons other than the Parties and their respective successors and assigns, nor is anything in this Agreement intended to relieve or discharge the obligations or liability of any third party, nor give any third person any rights of subrogation or action against any Party. The owner of title to a Unit that is leased to Owner is an intended beneficiary of Section 2.2(e).

ARTICLE 12 COVENANTS OF THE PARTIES

12.1 Insurance

- (a) The CAISO shall maintain (i) an errors and omissions insurance policy and (ii) director and officer insurance, with combined aggregate coverage of at least \$150 million under the two policies and an operating reserve of at least \$15 million. The CAISO may reduce the level of insurance coverage, but may not do so unless it provides Owner at least 90 days notice of its intent to reduce the insurance coverage. At Owner's request, CAISO shall provide Owner with evidence of the insurance coverage it has in place. This Section 12.1 shall not be construed to require CAISO to maintain any level of coverage for any period after termination of the Agreement.
- (b) Owner and CAISO will secure and maintain in effect during the term of this Agreement the insurance required by Schedule I. Self-insurance may be utilized by mutual agreement. Owner shall name CAISO as an additional insured on its general commercial liability insurance policies. CAISO shall name Owner as an additional insured on its errors and omissions insurance policies. Owner and CAISO will each certify or cause its respective insurance agent to certify that it is insured under a major risk management program, including self-insured retentions, and except for policies covered by Section 12.1 (a), such insurance will remain in effect in amounts meeting the requirements of Schedule I.

12.2 Books And Records

- (a) For a period of 36 months from creation of the records, Owner shall maintain and make available for audit by CAISO complete operations records for each Unit. Such records shall include:

- (i) information for each Settlement Period on the Availability of the Units, Delivered Ancillary Services,
- (ii) outages,
- (iii) Facility licenses and permits,
- (iv) copies of operating and maintenance agreements for the Unit,
- (v) a list of citations filed against the Unit by any environmental, air quality, health and safety, or other regulatory agency in the last 36 months,
- (vi) a list of any resolved and unresolved WSCC log items from the last 36 months pertaining to the Unit,
- (vii) maintenance, overhauls and inspections performed, and
- (viii) books, accounts and all documents required to support Owner's statements, invoices, charges and computations made pursuant to this Agreement.

CAISO may audit Owner's books, accounts and documents relating to invoices, statements, charges and computations no more frequently than once each Contract Year, and only one time following expiration or termination of this Agreement.

- (b) The Responsible Utility shall have the right to participate jointly with CAISO in auditing books, accounts, documents and operating records of the Facilities to the extent required to verify the accuracy and correctness of all Owner's statements, invoices, and computations underlying all Owner charges passed through by CAISO to the Responsible Utility in connection with services rendered by Owner under this Agreement.
- (c) For a period of 36 months from the creation of the records, CAISO shall maintain and make available for audit by Owner all operations records required to permit Owner to verify that CAISO has complied with its obligations to Owner under this Agreement.
- (d) In addition to the audit rights under Section 12.2 (a) and (b), if Owner's rates are determined pursuant to the formula contained in Schedule F, representatives of CAISO and the Responsible Utility shall have the right jointly to audit the records, accounts and supporting documents of Owner to verify (i) the accuracy of any arithmetic calculation and (ii) application of the formula.
- (e) If Owner's rates are determined pursuant to the formula contained in Schedule F, the California Agency shall have the right to audit the records, accounts and supporting documents of Owner or CAISO to verify the accuracy of any arithmetic calculation and application of the formula, including the accuracy of allocation to accounts under the FERC Uniform System of Accounts, 18 C.F.R. Part 101. If there is more than one California Agency, only one audit shall be conducted by the California Agencies and such audit shall be binding on all the California Agencies.
- (f) Any entity exercising its right to audit under this Section 12.2 shall give the audited entity not less than 30 days prior written notice of the audit. Books or records requested in any audit shall be available for inspection by the auditing entity at the offices of the entity being audited between 9:00 A.M.

and 5:00 P.M. on Business Days. Any audit under this Section 12.2 shall be completed not more than 36 months after the records were created. Any audit right herein shall be limited to the books and accounts of Owner or CAISO and shall not extend to the books and accounts of the parent or any other affiliate of Owner or CAISO. The expense of any audit shall be borne solely by the auditing Party or entity.

- (g) No adjustments to payments shall be required as a result of an audit unless, and then only to the extent that, CAISO, Owner, or another entity making such an audit under this Section 12.2 takes written exception to the books and accounts and makes a claim upon Owner or CAISO for any discrepancies disclosed by such audit within 60 days following issuance of the final audit report.
- (h) All information provided during the course of an audit shall be treated as Confidential Information in accordance with Section 12.5.
- (i) Nothing in this Agreement shall override any obligation Owner or CAISO may have under applicable law to maintain books and records for periods longer than 36 months nor shall this Agreement override any obligation Owner or CAISO may have to make books and records available for audit by FERC or any other entity. Nothing in this Agreement is intended to limit in any manner (i) the authority of FERC to audit the books and records of Owner or CAISO or the manner in which such audit is noticed or conducted or (ii) CAISO's right to audit market participants (including Owner) under the CAISO Tariff.

12.3 Representations And Warranties

- (a) CAISO represents and warrants to Owner as follows:
 - (i) CAISO is a validly existing corporation with full authority to enter into this Agreement.
 - (ii) CAISO has taken all necessary measures to have the execution and delivery of this Agreement authorized, and upon the execution and delivery of this Agreement shall be a legally binding obligation of CAISO.
- (b) Owner represents and warrants to CAISO as follows:
 - (i) Owner is a validly existing limited liability company with full authority to enter into this Agreement.
 - (ii) Owner has taken all necessary measures to have the execution and delivery of this Agreement authorized, and upon the execution and delivery this Agreement shall be a legally binding obligation of Owner.

12.4 Responsibilities

Each Party shall be responsible for protecting its facilities from possible damage by reason of electrical disturbances or faults caused by the operation, faulty operation, or non-operation of the other Party's facilities. The other Party shall not be liable for any damages so caused.

12.5 Confidentiality

- (a) Except as may otherwise be required by applicable law, all information and data provided by the Parties to one another pursuant to this Agreement and marked "Confidential" or otherwise identified with specificity in writing as confidential at the time of disclosure ("Confidential Information") shall be treated as confidential and proprietary material of the providing Party and will be kept confidential by the receiving Party and used solely for purposes of this Agreement. Confidential Information will not include information that is or becomes available to the public through no breach of this Agreement, information that was previously known by the receiving Party without any obligation to hold it in confidence, information that the receiving Party receives from a third party who may disclose that information without breach of law or agreement, information that the receiving Party develops independently without using the Confidential Information, and information that the disclosing Party approves for release in writing. The receiving Party shall keep such information confidential and shall limit the disclosure of any such Confidential Information to only those personnel within its organization with responsibility for using such information in connection with this Agreement. The receiving Party shall assure that personnel within its organization read and comply with the provisions of this Section 12.5 and any Confidentiality Agreement implementing this Section 12.5. The Parties shall use all reasonable efforts to maintain the confidentiality of the Confidential Information in any litigation, shall promptly notify the providing Party of any attempt by a third party to obtain the Confidential Information through legal process or otherwise. A Party or third party beneficiary under Article 9 which has received Confidential Information may use that information in litigation or regulatory proceedings related to this Agreement but only after notice to the other Party and affording the other Party an opportunity to obtain a protective order or other relief to prevent or limit disclosure of the Confidential Information.
- (b) The Parties may provide any Confidential Information (i) to the Responsible Utility pursuant to provisions of this Agreement under which information is to be provided to that Responsible Utility and as required for settlement and billing; (ii) to any entity with audit rights under Section 12.2 or review rights specified in other provisions of this Agreement, (iii) on a need-to-know basis, to Owner's Scheduling Coordinator, financial institutions, agents, lessors of the Unit and potential purchasers of interests in a Unit; and, (iv) as required for settlement and billing, to Scheduling Coordinators responsible for paying for services provided under this Agreement. As a condition to receiving any Confidential Information under this Section 12.5, the recipient shall execute a Confidentiality Agreement in the applicable form contained in Schedule N and thereby agree to be subject to the non-disclosure and other obligations contained in this Section 12.5.

- (c) The obligation to provide confidential treatment to Confidential Information shall not be affected by the inadvertent disclosure of Confidential Information by either Party.

12.6 Indemnity

Subject to the limitations in Section 11.2 (b), each Party shall indemnify, defend and hold harmless the other Party and its officers, directors, employees, agents, contractors and sub-contractors, from and against all third party claims, judgments, losses, liabilities, costs, expenses (including reasonable attorneys' fees) and damages for personal injury, death or property damage, caused by the negligence or willful misconduct related to this Agreement or breach of this Agreement of the indemnifying Party, its officers, directors, agents, employees, contractors or sub-contractors, provided that this indemnification shall be only to the extent such personal injury, death or property damage is not attributable to the negligence or willful misconduct related to this Agreement or breach of this Agreement of the Party seeking indemnification, its officers, directors, agents, employees, contractors or sub-contractors. This indemnification shall not include or cover any claim covered by any workers' compensation law. This indemnification shall be for an amount not exceeding the deductible of the indemnifying Party's commercial general liability insurance in the case of Owner and errors and omission insurance in the case of CAISO. The indemnified Party shall give the other Party prompt notice of any such claim. The indemnifying Party shall have the right to choose competent counsel, control the conduct of any litigation or other proceeding, and settle any claim. The indemnified Party shall provide all documents and assistance reasonably requested by the indemnifying Party. Section 14 of the CAISO Tariff shall not apply to this Agreement.

12.7 Owner Financial Requirements

- (a) Through the term of the Agreement, Owner shall maintain an investment grade rating by Moody's or Standard and Poor's or provide documentation from a financial institution or corporate owner acceptable to the CAISO that there is an equity position described below. The CAISO shall not unreasonably withhold acceptance of the documentation.
- (i) An equity to debt ratio of at least 30%, or
 - (ii) An equity to total asset ratio of at least 30% or
 - (iii) Demonstrate to the CAISO's reasonable satisfaction that other factors, including, without limitations, commercial financing arrangements, and working capital positions, mitigate the risk of Owner failing to meet the performance requirements under this Agreement.
- (b) If the Owner does not possess and maintain an investment grade rating, an equity position or make other arrangements as described in Section 12.7 (a), then it must provide one of the following:

- (i) Proof of insurance to cover the financial exposure to the CAISO for one year of Capital Items, Repairs, fuel and any other operating expenses; or
- (ii) Security to cover the financial exposure to the CAISO for one year of Capital Items, Repairs, fuel and any other operating expenses in one of the following forms:
 - (A) standby letter of credit;
 - (B) corporate guarantee;
 - (C) cash deposit; or
 - (D) security bond.

ARTICLE 13 ASSIGNMENT

13.1 Assignment Rights and Procedures

Neither Party shall assign its rights or delegate its duties under this Agreement without the prior written consent of the other Party, which shall not be unreasonably withheld. CAISO shall be entitled to deny consent to a proposed assignment by Owner only if the assignee does not meet the financial criteria set out in Section 13.2 (a) or the technical criteria set out in Section 13.2 (b). Notwithstanding the foregoing, if FERC approves an assignment, then the non-assigning Party shall be deemed to have consented to the assignment, subject to the non-assigning Party's right to seek judicial review of a FERC decision. Each Party shall give the other Party prompt notice of any proposed assignment or delegation, together with such information as the other Party may reasonably request with respect to the proposed assignment or assignee. Each Party shall be deemed to consent to the assignment or delegation unless it submits a written objection to the assignment or delegation within 14 days of receiving the notice and all financial and technical information as required in Sections 13.2(a) and 13.2(b). In the event of an assignment of this Agreement pursuant to a Financing Agreement, CAISO will execute for the benefit of the bank, financial institution or other entity with an interest in the Financing Agreement, a consent to such assignment reasonably acceptable to CAISO and Owner. An assignment of this Agreement by Owner in connection with the sale of a Unit shall terminate Owner's rights and obligations under this Agreement prospectively from the effective date of the assignment.

13.2 Limitation on Right to Withhold Consent

- (a) CAISO shall not withhold consent to assignment of this Agreement on financial grounds if the assignee meets the financial requirements in Section 12.7(a) or provides financial security pursuant to Section 12.7(b).
- (b) CAISO shall not withhold consent to an assignment on grounds that the assignee is not technically qualified if the assignee was an Owner of a Reliability Must-Run Unit as of May 1, 1999 or the assignee submits appropriate documentation to the CAISO to establish that it has sufficient resources and expertise to be able to:

- (i) Secure the necessary fuel and transportation for the fuel for the Facility;
 - (ii) Secure all necessary support services, including water supply, communications, waste disposal, etc. for the Facility;
 - (iii) Provide service from the Facility in compliance with the terms of this Agreement;
 - (iv) Provide the engineering and other technical services required to support operation and maintenance of the Facility;
 - (v) Obtain as necessary, and comply with all permits or licenses required to operate or maintain the Facility; and
 - (vi) Provide environmental services required for the operation and maintenance of the Facility.
- (c) The proposed assignee shall provide the last two years' annual audited financial statements and quarterly financial statements (unaudited) prior to the proposed date of purchase. If the proposed assignee is a new company and there are no historical financial statements, then a financial institution or corporate owner must provide pro forma financial statements in a form acceptable to the CAISO.

13.3 Transfer of Conditions Following Assignment

If this Agreement is assigned to a new Owner pursuant to Section 13.1, the new Owner may transfer one or more Units to a different Condition by giving CAISO at least seven days prior notice provided that such notice is given not later than 30 days after the effective date of the assignment. The transfer shall become effective on the first day of month following the later of (i) seven days after the effective date of the assignment or (ii) seven days after the date CAISO receives the new Owner's transfer notice. This section shall not apply to assignment to a new Owner which is an affiliate of Owner as defined in 18 C.F.R. Section 161.2.

ARTICLE 14 MISCELLANEOUS PROVISIONS

14.1 Notices

Except as otherwise expressly provided in this Agreement or required by law, all notices, consents, requests, demands, approvals, authorizations and other communications provided for in this Agreement shall be in writing and shall be sent by personal delivery, certified mail, return receipt requested, facsimile transmission or by recognized overnight courier service, to the intended Party at such Party's address set forth in Schedule J. Any notices which may be given orally and are given orally shall be confirmed in writing. All such notices shall be deemed to have been duly given and to have become effective: (a) upon receipt if delivered in person or by facsimile; (b) two days after having been delivered to an air courier for overnight delivery; or (c) seven days after having been deposited in the United States mail as certified or registered mail, return receipt requested, all fees pre-paid, addressed to the applicable address(es) set forth in Schedule J.

14.2 Effect of Invalidation

Each covenant, condition, restriction and other term of this Agreement is intended to be, and shall be construed as, independent and severable from each other covenant, condition, restriction and other term. If any covenant, condition, restriction or other term of this Agreement is held to be invalid by any court or regulatory body having jurisdiction, the invalidity of such covenant, condition, restriction or other term shall not affect the validity of the remaining covenants, conditions, restrictions or other terms hereof unless the invalidity has a material impact upon the rights and obligations of the Parties. If an invalidity has a material impact on the rights and obligations of the Parties, the Parties shall make a good faith effort to renegotiate and restore the benefits and burdens of this Agreement as they existed prior to the determination of an invalidity.

14.3 Amendments

- (a) Any amendments or modifications of this Agreement shall be made only in writing and, except for changes authorized by the FERC under Sections 205 or 206 of the Federal Power Act, shall be duly executed by both Parties. To the extent that any amendments or modifications are subject to FERC approval, such amendments or modifications shall become effective when permitted to be effective by FERC. For purposes of this Agreement, transfer of any Unit from one condition to the other condition or termination of the Agreement as to less than all Units shall not constitute a modification or amendment to this Agreement.
- (b) Where Owner's rates are not subject to FERC jurisdiction, either CAISO or Owner may, not later than 90 days prior to the end of each Contract Year, serve a notice on the other Party and the Responsible Utility stating that it requires a review of the terms of this Agreement, including any rates, prices and charges contained therein ("Review Notice").
 - (i) The Review Notice shall, as a minimum requirement, set forth the following:
 - (A) the precise nature of the proposed revisions (indicating, where possible, the relevant Article, Section and Schedule); and
 - (B) justification for each proposed revision.
 - (ii) The Party in receipt of the Review Notice shall respond to such notice within 30 days of its receipt by issuing a notice in response ("Response Notice"). The Response Notice shall, as a minimum requirement, set forth the following:
 - (A) those revisions set forth in the Review Notice that are accepted as proposed;
 - (B) those revisions set out in the Review Notice that are not accepted;
 - (C) alternative proposals (if any) to the proposed revisions set out in the Review Notice;

- (D) any revisions required by the responding party not covered by (A) through (C) above; and
- (E) its justification for any of the matters raised under Sections 14.3 (b) (ii) (B) (C) or (D).
- (iii) Any Party failing to respond to a Review Notice shall be deemed to have accepted the revisions set out in the Review Notice.
- (iv) Following receipt of the Response Notice the duly authorized representatives of the Parties shall meet to negotiate in good faith any revisions to this Agreement.
- (v) In the event that the Parties are unable to reach agreement on the revisions to be made to this Agreement within 60 days of the date of the Review Notice, either Party may refer the matter for resolution through ADR. The arbitrator shall determine the revisions, if any, to the Agreement on the basis that:
 - (A) the purpose of the Agreement is to maintain the reliability of CAISO Controlled Grid; and
 - (B) costs and charges payable by CAISO should reflect the costs of providing services to the CAISO.
- (vi) In the event that the Parties agree to the revisions, or such matters are determined through ADR, or a Party fails to respond to a Review Notice, the agreed, determined or deemed accepted revisions shall take effect and the rights and obligations of the Parties shall be amended as from the beginning of the ensuing Contract Year or from such other date and time agreed between the Parties or determined through ADR, and following such time the Parties shall act in accordance with the terms and conditions of this Agreement as amended.

14.4 Filings Under Sections 205 or 206 of the Federal Power Act

Except as otherwise provided in this Agreement, nothing contained in this Agreement shall be construed as affecting the right of Owner unilaterally to make application to FERC for a change in rates, terms and conditions under Section 205 of the Federal Power Act and pursuant to FERC rules and regulations promulgated thereunder. CAISO may challenge such application or may submit complaints concerning Owner's rates, terms and conditions under Section 206 of the Federal Power Act and pursuant to FERC rules and regulations promulgated thereunder.

14.5 Construction

The language in all parts of this Agreement shall in all cases be construed as a whole and in accordance with its fair meaning, and shall not be construed strictly for or against either of the Parties.

14.6 Governing Law

This Agreement shall be interpreted and construed under and pursuant to the laws of the State of California, without regard to conflicts of laws principles.

14.7 Parties' Representatives

Both Parties shall ensure that throughout the term of this Agreement, a duly appointed Representative is available for communications between the Parties. The Representatives shall have full authority to deal with all day-to-day matters arising under this Agreement. If a Party's Representative becomes unavailable, the Party shall promptly appoint another Representative. Acts and omissions of Representatives shall be deemed to be acts and omissions of the Party. Owner and CAISO shall be entitled to assume that the Representative of the other Party is at all times acting within the limits of the authority given by the Representative's Party. Owner's Representatives and CAISO's Representatives shall be identified on Schedule J.

14.8 Merger

This Agreement and the Stipulation and Agreements filed April 2, 1999 and August 14, 2000 in Docket Nos. ER98-441-000 et al. constitute the full agreement of the Parties with respect to the subject matter hereto and supersede all prior agreements, whether written or oral, with respect to such subject matter.

14.9 Independent Contractors

Nothing contained in this Agreement shall create any joint venture, partnership or principal/agent relationship between the Parties. Neither Party shall have any right, power or authority to enter into any agreement or commitment, act on behalf of, or otherwise bind the other Party in any way.

14.10 Conflict with CAISO Tariff

The CAISO Tariff shall govern matters relating to the subject matter of this Agreement which are not set forth in this Agreement. In all other circumstances, this Agreement shall govern. In the event of a conflict between the terms and conditions of this Agreement and any terms and conditions set forth in the CAISO Tariff the terms and conditions of this Agreement shall prevail. For the avoidance of doubt, the provisions of the CAISO Tariff applicable to Generating Units shall apply to the Units except where the context makes them clearly inapplicable to synchronous condensers.

14.11 Waiver

The failure to exercise any remedy or to enforce any right provided in this Agreement shall not constitute a waiver of such remedy or right or of any other remedy or right provided herein. A Party shall be considered to have waived any remedies or rights hereunder only if such waiver is in writing.

14.12 Assistance

During the term of this Agreement, each Party shall provide such reasonable assistance and cooperation as the other Party may require in connection with performance of the duties and obligations of each Party under this Agreement,

including, but not limited to, assistance in securing any necessary regulatory approvals and in facilitating necessary financing.

14.13 Headings

Article and section headings used in this Agreement are inserted for convenience only and are not intended to be a part hereof or in any way to define, limit, describe or to otherwise be used in interpreting the scope and intent of the particular provisions to which they refer.

AES Huntington Beach, L.L.C
Rate Schedule FERC No. 2

First Revised Sheet No. 75
Must-Run Service Agreement

IN WITNESS WHEREOF, this Agreement has been executed as of the date first above written.

AES Huntington Beach, L.L.C.

By: _____

Name:

Title:

The California Independent System Operator Corporation

By: _____

Name:

Title:

FERC
RELIABILITY MUST-RUN SCHEDULES

- Schedule A Unit Characteristics, Limitations and Owner Commitments
- Schedule B Monthly Option Payment
- Schedule C Variable Cost Payment – **Not Applicable**
- Part 1 for Thermal Units
 - Part 2 for Geothermal Units
 - Part 3 for Conventional Hydro Units
 - Part 4 for Pumped Storage Hydro Units
 - Part 5 for Biomass Generation Units
- Schedule D Start-up Payment
- Part 1 for Condition 1 Units – **Not Applicable**
 - Part 2 for Condition 2 Units
- Schedule E Ancillary Services Payment
- Part 1 for Condition 1 – **Not Applicable**
 - Part 2 for Condition 2
 - Part 3 for Black Start Services – **Not Applicable**
- Schedule F Determination of Annual Revenue Requirements of Must-Run Generating Units – **Not Applicable**
- Schedule G Charges for Service in Excess of Contract Service Limits
- Schedule H Fuel Oil Service – **Not Applicable**
- Schedule I Insurance Requirements
- Schedule J Notices
- Schedule K Dispute Resolution
- Schedule L-1 Request for Approval of Capital Items or Repairs
- Schedule L-2 Capital Item and Repair Progress Reports
- Schedule M Mandatory Market Bid for Condition 2 Units

When Dispatched by the CAISO – **Not Applicable**

Schedule N-1 Non-Disclosure and Confidentiality Agreement for Responsible Utilities

Schedule N-2 Non-Disclosure and Confidentiality Agreement for Entities Other than Responsible Utilities

Schedule O Owner's Invoice Process

Schedule P Reserved Energy for Air Emissions Limitations – **Not Applicable**

Schedule A**Unit Characteristics, Limitations and Owner Commitments****1. Description of Facility**

Provide the following information for all units at the Facility, regardless of their RMR designation status. Information regarding units not designated as Reliability Must-Run Units is required only if and to the extent that the information is used to allocate Facility costs between Reliability Must-Run Units and other units.

Unit	RMR (Y/N)	Maximum Net Dependable MVar Capability (includes CAISO-paid Upgrade capacity)*	Fuel Type
Huntington Beach Unit 3	Y	145 MVar**	N/A
Huntington Beach Unit 4	Y	145 MVar**	N/A

* Maximum Net Dependable MVar Capability shall reflect any transformer or line loss to the Delivery Point.

** The final MVar allocated to each unit is subject to change based on testing results during commissioning and prior to the Commercial Operations Date. The total MVar for both units combined will not be materially less than 290 MVar leading.

2. Description of RMR Units

Provide the address(es) of the Units at the Facility and the following tabular information:

	Huntington Beach Unit 3	Huntington Beach Unit 4
Type (fossil, combustion turbine, etc.)	Synchronous Condenser	Synchronous Condenser
Synchronous Condenser Capability (Y/N)	Y	Y
Power Factor Range (lead to lag)	N/A	N/A
Maximum Reactive Power Leading, MVar	145**	145**
Maximum Reactive Power Lagging, MVar	120**	120**
Load at Maximum MVar Lagging, MW	N/A	N/A
Load at Maximum MVar Leading, MW	N/A	N/A
Black Start Capable (Y/N)	N	N
Automatic Start or Ramp (Y/N)*	N	N
Upgrade Capacity Paid by CAISO, MW	N/A	N/A

* If "Y", describe the conditions under which the Unit will start or ramp automatically.

** The final MVar allocated to each unit is subject to change based on testing results during commissioning and prior to the Commercial Operations Date. The total MVar for both units combined will not be materially less than 290 MVar leading and not materially different from 240 MVar lagging.

3. Operational and Regulatory Limitations of RMR Units: N/AAir Emissions Limitations - N/A

List applicable NO_x, CO, SO₂, particulate, and other appropriate emissions limits; note the name and address of the lead agency; the agency's applicable rule number(s); and note those pollutants for which an emissions cap applies.

Monthly Reserved MWh for Air Emission Limitations - N/AOperating Limits related to Ambient TemperaturesAmbient Temperature Correction Factors for Availability Test

Provide a curve or table showing the Ambient Temperature Correction Factors for each Unit (the relationship between Ambient Temperature and Maximum Net Dependable Capability).

FERC License Conditions (hydroelectric Units)

Other Limits (e.g., cooling water discharge)

4. Delivery Point

Unit	Transmission Node (Station Name)	Voltage
Huntington Beach Unit 3	SCE Ellis 230 kV Bus	230kV
Huntington Beach Unit 4	SCE Ellis 230 kV Bus	230kV

5. Metering and Related Arrangements

Unit	Meter Location	Meter (Manufacturer & Model No.)
Huntington Beach Unit 3	Huntington Beach Units 3&4 Control Room	Landis + Gyr; MaxSYS 2510
Huntington Beach Unit 4	Huntington Beach Units 3&4 Control Room	Landis + Gyr; MaxSYS 2510

6. Start-up Lead Times

Non-hydroelectric Units

Unit	Start-up Segment Number	Generating Unit Down Time (Minutes)	Generating Unit Start-up Time (Minutes)
Huntington Beach Unit 3	N/A	N/A	60
Huntington Beach Unit 4	N/A	N/A	60

Hydroelectric Start-up Lead Times

Unit	Time from notification to Minimum Load - Normal work hours	Time from notification to Minimum Load - Outside Normal Work hours
N/A	N/A	N/A

7. Ramping Constraint

Describe any constraints the Unit incurs between Minimum Load and PMax.

N/A

8. Ramp Rate

Unit	Ramp Rate Segment Number	Output of Point Range (MW)	Minimum Ramp Rate (MW/Minute)	Maximum Ramp Rate (MW/Minute)
Huntington Beach Unit 3	N/A	N/A	N/A	N/A
Huntington Beach Unit 4	N/A	N/A	N/A	N/A

Separate Ramp Rates will be shown for each load range and will describe any special restrictions affecting Ramp Rates at various load points, e.g., feed pump operation, heat soaks, etc.

The Ramp Rate shall be the Operational Ramp Rate submitted by the Owner through the process described in the CAISO Tariff. On the Effective Date, the values in the CAISO Master File shall be set equal to the values shown in the table above.

9. Minimum Load

Unit	Manual (MW)	AGC (MW)
Huntington Beach Unit 3	N/A	N/A
Huntington Beach Unit 4	N/A	N/A

10. Minimum Run Time

Unit	Hours
Huntington Beach Unit 3	0
Huntington Beach Unit 4	0

11. Minimum Off Time

Unit	Hours
Huntington Beach Unit 3	0.5
Huntington Beach Unit 4	0.5

12. Contract Service Limits

Unit	Contract Year	Maximum Annual MWh	Maximum Annual Service Hrs	Maximum Annual Start-ups
Huntington Beach Unit 3	2013	N/A	2086	145
	2014-2016	N/A	2636	200
Huntington Beach Unit 4	2013	N/A	2086	145
	2014-2017	N/A	2636	200

Maximum Monthly MWh (Hydroelectric Units only)

N/A

13. Owner's Repair Cost Obligation

Owner's Repair Cost Obligation is as follows:

	2013	2014	2015	2016	2017
Owner's Repair Cost Obligation	\$131,845	\$153,284	\$157,205	\$161,865	\$87,411

14. Existing Contractual Limitations and Other Contract Restrictions on Market Transactions

N/A

15. Applicable UDC Tariff(s)

Schedule S – Standby

Schedule TOU-8 – Time of Use General Service - Large

**Schedule B
Monthly Option Payment**

In the event that the required consents and confirmations specified in Section 2.1 of the Agreement have not been received by January 7, 2013 (with respect to all such required consents and confirmations other than the consent of Owner's lenders) or the required consent from Owner's lenders has not been received by February 1, 2013, as the case may be, and Owner or its affiliate, as the case may be, (at the request of the CAISO and the Responsible Utilities) agrees to suspend the Synchronous Condenser Transaction, the terms of Schedule B hereto will be revised in such a manner as to keep Owner whole for any additional costs or foregone 2013 revenues that it reasonably incurs or suffers as a result of such delayed execution or such suspension and associated delay in achieving the Commercial Operations Date pursuant to the Synchronous Condenser Transaction.

The formulas and values used to compute the Monthly Option Payment in accordance with Section 8.1 and Section 8.2 for each Unit for each Month are set forth in Equation B-1 below:

Equation B-1

$$\text{Monthly Option Payment} = \text{Monthly Availability Payment} + \text{Monthly Surcharge Payment} - \text{Monthly Nonperformance Penalty}$$

The Monthly Option Payment can never be less than zero.

1. The Monthly Availability Payment is calculated in accordance with Equation B-2 below:

Equation B-2

$$\text{Monthly Availability Payment (\$)} = \text{lesser of } \left[\begin{array}{l} \text{Current Monthly Availability Payment (\$)} \\ \text{or} \\ 100\% \text{ of AFRR minus Cumulative Monthly Availability Payments Excluding Current Monthly Availability Payment (\$)} \end{array} \right]$$

2. The Current Monthly Availability Payment is calculated in accordance with Equation B-3 below:

Equation B-3

$$\text{Current Monthly Availability Payment (\$)} = \text{Sum for all hours} \left[\begin{array}{l} \text{Hourly Availability Charge (\$/hr)} * \\ \frac{\text{Unit Availability Limit (MVAr)}}{\text{Maximum Net Dependable MVAr Capability (MVAr)}} \end{array} \right]$$

Where:

- A. Hourly Availability Charge is calculated in accordance with Equation B-4 below:

Equation B-4

$$\text{Hourly Availability Charge} = \text{Hourly Availability Rate} * \text{Fixed Option Payment Factor}$$

Where:

- Hourly Availability Rate is calculated in accordance with Equation B-5 below.

Equation B-5

$$\text{Hourly Availability Rate} = \frac{\text{Annual Fixed Revenue Requirement}}{\text{Target Available Hours}}$$

Annual Fixed Revenue Requirement is set forth in Section 7 below.

Target Available Hours are set forth in Section 6 below.

- For Units under Condition 1, the Fixed Option Payment Factor is set forth in Table B-0 below:

Unit	Fixed Option Payment Factor
Huntington Beach Unit 3	N/A
Huntington Beach Unit 4	N/A

For Units under Condition 2, the Fixed Option Payment Factor is 1.

The Hourly Availability Charges for the applicable Summer Month or Non-Summer Month of the Contract Year are set forth in Table B-1 below. Payment of the Hourly Availability Charges will be effective upon the Commercial Operations Date.

Unit	Contract Year	Contract Month	Condition 1	Condition 2 (AFRR/TAH)
Huntington Beach Unit 3	2013	Summer Months	N/A	\$2,020.87
		Non-Summer Months	N/A	\$298.71
	2014	Summer Months	N/A	\$1,368.32
		Non-Summer Months	N/A	\$336.29
	2015	Summer Months	N/A	\$1,339.58
		Non-Summer Months	N/A	\$329.74
	2016	Summer Months	N/A	\$1,313.53
		Non-Summer Months	N/A	\$322.47
2017	Summer Months	N/A	N/A	
	Non-Summer Months	N/A	N/A	
Huntington Beach Unit 4	2013	Summer Months	N/A	\$2,020.87
		Non-Summer Months	N/A	\$298.71
	2014	Summer Months	N/A	\$1,368.32

	2015	Non-Summer Months	N/A	\$336.29
		Summer Months	N/A	\$1,339.58
	2016	Non-Summer Months	N/A	\$329.74
		Summer Months	N/A	\$1,313.53
	2017	Non-Summer Months	N/A	\$322.47
		Summer Months	N/A	\$1,357.45
		Non-Summer Months	N/A	\$335.75

- B. Unit Availability Limit is defined in Article 1 of the Agreement.
- C. Maximum Net Dependable MVAR Capability is shown in Section 1 of Schedule A.

3. The Monthly Surcharge Payment is calculated in accordance with Equation B-6 below:

Equation B-6

$$\text{Monthly Surcharge Payment (\$)} = \text{lesser of } \left[\begin{array}{l} \text{Current Monthly Surcharge Payment (\$)} \\ \text{100\% of Sum of all Annual Capital Item Costs minus Cumulative Monthly Surcharge Payments Excluding Current Monthly Surcharge Payment (\$)} \end{array} \right]$$

4. The Current Monthly Surcharge Payment is calculated in accordance with Equation B-7 below:

Equation B-7

$$\text{Current Monthly Surcharge Payment (\$)} = \text{Sum for all hours} \left[\begin{array}{l} \text{Sum of all Hourly Capital Item Charges (\$/hr)} \\ \text{Unit Availability Limit (MVAR) / Maximum Net Dependable MVAR Capability (MVAR)} \end{array} \right]$$

Where:

- A. The Hourly Capital Item Charge for each Capital Item approved pursuant to Sections 7.4 or 7.6 is calculated in accordance with Equation B-8 below:

Equation B-8

$$\text{Hourly Capital Item Charge} = \text{Hourly Capital Item Rate} * \text{Surcharge Payment Factor}$$

Where:

- Hourly Capital Item Rate is calculated in accordance with Equation B-9 below:

Equation B-9

$$\text{Hourly Capital Item Rate} = \frac{\text{Annual Capital Item Cost}}{\text{Target Available Hours}}$$

- Annual Capital Item Cost is the amount recoverable by Owner under this Agreement in a Contract Year for each Capital Item approved pursuant to Section 7.4 or Section 7.6
- Target Available Hours are shown in Section 6 below.
- For Units under Condition 1, the Surcharge Payment Factor for all Capital Items covered by the Small Project Budget shall be the Fixed Option Payment Factor. For all other Capital Items, the Surcharge Payment Factor shall be as agreed to by Owner and CAISO. If the Owner and CAISO do not agree on the Surcharge Payment Factor, the Surcharge Payment Factor shall equal the Fixed Option Payment Factor, unless the Owner demonstrates in ADR that it would not have installed the proposed Capital Item in accordance with Good Industry Practice but for its obligations to the CAISO under this Agreement, in which case the Surcharge Payment Factor shall be as determined in ADR.
- For Units under Condition 2, the Surcharge Payment Factor is 1.

The Hourly Capital Item Charges for the applicable Summer Month or Non-Summer Month of the Contract Year are set forth in Table B-2 below. Payment of the Hourly Capital Item Charges will be effective upon the Commercial Operations Date.

AES Huntington Beach, L.L.C
Rate Schedule FERC No. 2

First Revised Sheet No. 88
Must-Run Service Agreement

Table B-2 - Hourly Capital Item Charges				
Unit	Contract Year	Contract Month	Annual Capital Item Cost	Condition 2 Hourly Capital Item Charge
Huntington Beach Unit 3	2013	Summer Months	\$3,033,406	\$1,383.22
		Non-Summer Months	\$505,568	\$219.05
		Full Year	\$3,538,973	\$786.26
	2014	Summer Months	\$2,173,699	\$747.49
		Non-Summer Months	\$1,086,850	\$195.76
		Full Year	\$3,260,549	\$385.41
	2015	Summer Months	\$1,966,368	\$676.19
		Non-Summer Months	\$983,184	\$177.09
		Full Year	\$2,949,551	\$348.65
	2016	Summer Months	\$1,760,770	\$605.49
		Non-Summer Months	\$880,385	\$157.89
		Full Year	\$2,641,155	\$311.31
	2017	Summer Months	N/A	N/A
		Non-Summer Months		
		Full Year		
Huntington Beach Unit 4	2013	Summer Months	\$2,705,704	\$1,233.79
		Non-Summer Months	\$450,951	\$195.39
		Full Year	\$3,156,655	\$701.32
	2014	Summer Months	\$1,947,435	\$669.68
		Non-Summer Months	\$973,718	\$175.38
		Full Year	\$2,921,153	\$345.29
	2015	Summer Months	\$1,776,967	\$611.06
		Non-Summer Months	\$888,484	\$160.03
		Full Year	\$2,665,451	\$315.07
	2016	Summer Months	\$1,608,235	\$553.04
		Non-Summer Months	\$804,117	\$144.21
		Full Year	\$2,412,352	\$284.34
2017	Summer Months	\$1,441,106	\$495.57	

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		Non-Summer Months	\$720,553	\$129.78
		Full Year	\$2,161,659	\$255.52

- B. Unit Availability Limit is defined in Article 1 of the Agreement.
C. Maximum Net Dependable MVA_r Capability is shown in Section 1 of Schedule A.
5. The Monthly Nonperformance Penalty is calculated pursuant to Section 8.5 using the following variables:

A. Hourly Penalty Rate

A Unit's Hourly Penalty Rate for the applicable Summer Month or Non-Summer Month of each Contract Year is the lesser of (a) the Unit's Hourly Availability Rate for the applicable Summer Month or Non-Summer Month of the Contract Year (calculated pursuant to Item 2.A above), or (b) three times the Unit's Hourly Availability Charge for the applicable Summer Month or Non-Summer Month of the Contract Year (as shown in Table B-1 above). The Hourly Penalty Rates for the applicable Summer Month or Non-Summer Month of the Contract Year are set forth in Table B-3 below. Payment of the Hourly Penalty Rate will be effective upon the Commercial Operations Date.

Unit	Contract Year	Contract Month	Condition 1	Condition 2
Huntington Beach Unit 3	2013	Summer Months	N/A	\$2,020.87
		Non-Summer Months	N/A	\$298.71
	2014	Summer Months	N/A	\$1,368.32
		Non-Summer Months	N/A	\$336.29
	2015	Summer Months	N/A	\$1,339.58
		Non-Summer Months	N/A	\$329.74
	2016	Summer Months	N/A	\$1,313.53
		Non-Summer Months	N/A	\$322.47
	2017	Summer Months	N/A	N/A
		Non-Summer Months	N/A	N/A
Huntington Beach Unit 4	2013	Summer Months	N/A	\$2,020.87
		Non-Summer Months	N/A	\$298.71
	2014	Summer Months	N/A	\$1,368.32
		Non-Summer Months	N/A	\$336.29
	2015	Summer Months	N/A	\$1,339.58
		Non-Summer Months	N/A	\$329.74
	2016	Summer Months	N/A	\$1,313.53

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		Non-Summer Months	N/A	\$322.47
	2017	Summer Months	N/A	\$1,357.45
		Non-Summer Months	N/A	\$335.75

B. Hourly Surcharge Penalty Rate

A Unit's Hourly Surcharge Penalty Rate for each Capital Item for the applicable Summer Month or Non-Summer Month of each Contract Year is the lesser of (a) the corresponding Hourly Capital Item Rate for the applicable Summer Month or Non-Summer Month of the Contract Year (calculated pursuant to Item 4.A above), or (b) three times the applicable Hourly Capital Item Charge for the applicable Summer Month or Non-Summer Month of the Contract Year (as shown in Table B-2 above). The Hourly Surcharge Penalty Rates for the applicable Summer Month or Non-Summer Month of the Contract Year are set forth in Table B-4 below. Payment of the Hourly Surcharge Penalty Rate will be effective upon the Commercial Operations Date.

Unit	Contract Year	Contract Month	Hourly Capital Item Rate	Condition 1 Hourly Surcharge Penalty Rate	Condition 2 Hourly Surcharge Penalty Rate
Huntington Beach Unit 3	2013	Summer Months	\$1,383.22	N/A	\$1,383.22
		Non-Summer Months	\$219.05	N/A	\$219.05
	2014	Summer Months	\$747.49	N/A	\$747.49
		Non-Summer Months	\$195.76	N/A	\$195.76
	2015	Summer Months	\$676.19	N/A	\$676.19
		Non-Summer Months	\$177.09	N/A	\$177.09
	2016	Summer Months	\$605.49	N/A	\$605.49
		Non-Summer Months	\$157.89	N/A	\$157.89
	2017	Summer Months	N/A	N/A	N/A
		Non-Summer Months	N/A	N/A	N/A

Unit	Contract Year	Contract Month	Hourly Capital Item Rate	Condition 1 Hourly Surcharge Penalty Rate	Condition 2 Hourly Surcharge Penalty Rate
Huntington Beach Unit 4	2013	Summer Months	\$1,233.79	N/A	\$1,233.79

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		Non-Summer Months	\$195.39	N/A	\$195.39
	2014	Summer Months	\$669.68	N/A	\$669.68
		Non-Summer Months	\$175.38	N/A	\$175.38
	2015	Summer Months	\$611.06	N/A	\$611.06
		Non-Summer Months	\$160.03	N/A	\$160.03
	2016	Summer Months	\$553.04	N/A	\$553.04
		Non-Summer Months	\$144.21	N/A	\$144.21
	2017	Summer Months	\$495.57	N/A	\$495.57
		Non-Summer Months	\$129.78	N/A	\$129.78

6. Target Available Hours

A Unit's Target Available Hours for each Contract Year are calculated in accordance with the Equation B-10 below:

Equation B-10

$$\text{Target Available Hours (TAH)} = \text{Hours in the Calendar Year} - (\text{Average Other Outage Hours} + \text{Long-Term Planned Outage Hours})$$

Average Other Outage Hours means the average annual Other Outage Hours as set forth in Table B-5 below.

Long-term Planned Outage Hours means the Long-term Planned Outage Hours for the Contract Year scheduled with CAISO pursuant to Section 7.2(a). For periods prior to December 31, 1998, Other Outage Hours shall exclude a planned interruption, in whole or in part, in the electrical output of a Unit to permit Owner to perform a major equipment overhaul or inspection or for new construction work, but only if the outage lasted 21 or more consecutive days.

Long-term Planned Outage Hours scheduled for a Contract Year shall be subject to the Long-term Scheduled Outage Adjustment pursuant to Section 8.6 of the Agreement, except for 2013 Contract Year.

The Average Other Outage Hours, Long-term Planned Outage Hours and Target Available Hours for each Unit for the Contract Year are shown in Table B-5 below:

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Table B-5 - Target Available Hours					
Unit	Contract Year	Contract Month	Average Other Outage Hours	Long-term Planned Outage Hours	TAH
Huntington Beach Unit 3	2013	Summer Months	15	0	2,193
		Non-Summer Months	20	4,224	2,308
		Full Year	35	4,224	4,501
	2014	Summer Months	20	0	2,908
		Non-Summer Months	280	0	5,552
		Full Year	300	0	8,460
	2015	Summer Months	20	0	2,908
		Non-Summer Months	280	0	5,552
		Full Year	300	0	8,460
	2016	Summer Months	20	0	2,908
		Non-Summer Months	280	0	5,576
		Full Year	300	0	8,484
	2017	Summer Months	N/A	N/A	N/A
		Non-Summer Months	N/A	N/A	N/A
		Full Year	N/A	N/A	N/A

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Table B-5 (cont'd) - Target Available Hours					
Unit	Contract Year	Contract Month	Average Other Outage Hours	Long-term Planned Outage Hours	TAH
Huntington Beach Unit 4	2013	Summer Months	15	0	2,193
		Non-Summer Months	20	4,224	2,308
		Full Year	35	3,624	4,501
	2014	Summer Months	20	0	2,908
		Non-Summer Months	280	0	5,552
		Full Year	300	0	8,460
	2015	Summer Months	20	0	2,908
		Non-Summer Months	280	0	5,552
		Full Year	300	0	8,460
	2016	Summer Months	20	0	2,908
		Non-Summer Months	280	0	5,576
		Full Year	300	0	8,484
	2017	Summer Months	20	0	2,908
		Non-Summer Months	280	0	5,552
		Full Year	300	0	8,460

7. Annual Fixed Revenue Requirement (AFRR)

The Annual Fixed Revenue Requirement for each Unit is set forth in Table B-6 below.

Table B-6 - Annual Fixed Revenue Requirement (AFRR)			
Unit	Contract Year	Contract Month	Annual Fixed Revenue Requirement
Huntington Beach Unit 3	2013	Summer Months	\$4,431,758
		Non-Summer Months	\$689,412
		Full Year	\$5,121,171
	2014	Summer Months	\$3,979,089
		Non-Summer Months	\$1,867,102

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		Full Year	\$5,846,191
	2015	Summer Months	\$3,895,490
		Non-Summer Months	\$1,830,731
		Full Year	\$5,726,221
	2016	Summer Months	\$3,819,742
		Non-Summer Months	\$1,798,090
		Full Year	\$5,617,832
	2017	Summer Months	N/A
		Non-Summer Months	N/A
		Full Year	N/A
Huntington Beach Unit 4	2013	Summer Months	\$4,431,758
		Non-Summer Months	\$689,412
		Full Year	\$5,121,171
	2014	Summer Months	\$3,979,089
		Non-Summer Months	\$1,867,102
		Full Year	\$5,846,191
	2015	Summer Months	\$3,895,490
		Non-Summer Months	\$1,830,731
		Full Year	\$5,726,221
	2016	Summer Months	\$3,819,742
		Non-Summer Months	\$1,798,090
		Full Year	\$5,617,832
	2017	Summer Months	\$3,947,477
		Non-Summer Months	\$1,864,099
		Full Year	\$5,811,576

8. Limited Section 205 Filing for an Extension of Contract Term

If CAISO has extended the term of this Agreement pursuant to Section 2.1(b), then not later than October 31 of the expiring Contract Year, Owner shall make a filing with FERC under Section 205 of the Federal Power Act containing the values in Tables B-1 through B-6 for the applicable Contract Year.

In the event that a Long-term Planned Outage that is scheduled for the last quarter of the expiring Contract Year is postponed or rescheduled after October 31 of such year to the ensuing Contract Year, Owner shall make an additional Section 205 filing to revise the values in Tables B-1 through B-5 to reflect such rescheduled Long-term Planned Outage Hours.

SCHEDULE C – N/A

**Variable Cost Payment
 Part 1 for Thermal Units**

The Variable Cost Payment for each Unit for the Billing Month shall be the amount calculated in accordance with the following formula:

$$\begin{aligned} \text{Variable Cost Payment} &= \text{A. CAISO Unit Monthly Billed Fuel} \\ &+ \text{B. Cost} \\ &+ \text{C. CAISO Unit Monthly Fuel Imbalance} \\ &+ \text{D. Charge} \\ &+ \text{E. CAISO Monthly Other Fuel Related} \\ &+ \text{F. Cost} \\ &+ \text{G. CAISO Monthly Emissions Cost} \\ &+ \text{CAISO Monthly Variable O\&M Cost} \\ &+ \text{CAISO Scheduling Coordinator} \\ &+ \text{Charge} \\ &+ \text{CAISO ACA Charge} \end{aligned}$$

Each component of the Variable Cost Payment for thermal Units will be calculated as described below:

A. CAISO Unit Monthly Billed Fuel Cost

The CAISO Unit Monthly Billed Fuel Cost is calculated in accordance with Equation C1-0.

Equation C1-0

$$\left(\begin{array}{l} \text{CAISO} \\ \text{Unit} \\ \text{Monthly} \\ \text{Billed} \\ \text{Fuel Cost} \\ (\$) \end{array} \right) = \frac{\text{Monthly sum of the CAISO Unit Hourly Cap Heat Input for this Unit (MMBtu)}}{\text{Monthly sum of the CAISO Unit Hourly Cap Heat Input for all Units at the Facility (MMBtu)}} * \left(\begin{array}{l} \text{CAISO} \\ \text{Facility} \\ \text{Monthly} \\ \text{Billed} \\ \text{Fuel Cost} \end{array} \right)$$

Where:

- CAISO Unit Hourly Cap Heat Input for each Unit is calculated in accordance with Equation C1-6;
- The CAISO Facility Monthly Billed Fuel Cost is calculated in accordance with Equation C1-1.

1. The CAISO Facility Monthly Billed Fuel Cost

The CAISO Facility Monthly Billed Fuel Cost is calculated in accordance with Equation C1-1.

Equation C1-1

$$\left(\begin{array}{l} \text{CAISO} \\ \text{Facility} \\ \text{Monthly} \\ \text{Billed} \\ \text{Fuel Cost} \\ (\$) \end{array} \right) = \text{Lesser of} \left(\begin{array}{l} \text{CAISO} \\ \text{Facility} \\ \text{Cumulative} \\ \text{Actual} \\ \text{Fuel Cost} \\ (\$) \end{array} \right) \text{ or } \left(\begin{array}{l} \text{CAISO} \\ \text{Facility} \\ \text{Cumulative} \\ \text{Cap} \\ \text{Fuel Cost} \\ (\$) \end{array} \right) - \left(\begin{array}{l} \text{CAISO Facility} \\ \text{Cumulative} \\ \text{Billed} \\ \text{Fuel Cost} \\ (\$) \end{array} \right)$$

Where:

- The CAISO Facility Cumulative Actual Fuel Cost is the sum of all CAISO Unit Monthly Actual Fuel Costs for all Units at the Facility since the start of the Contract Year, including the current Month. CAISO Unit Monthly Actual Fuel Costs for each Unit is calculated in accordance with Equation C1-2.
- The CAISO Facility Cumulative Cap Fuel Cost is the sum of all CAISO Unit Monthly Cap Fuel Costs for all Units at the Facility since the start of the Contract Year, including the current Month. CAISO Unit Monthly Cap Fuel Costs is the sum of the CAISO Unit Hourly Cap Fuel Cost (calculated pursuant to Equation C1-5) for each hour of the Month for each Unit.
- The CAISO Facility Cumulative Billed Fuel Cost is the sum of all CAISO Unit Monthly Billed Fuel Costs for all Units at the Facility since the start of the Contract Year, excluding the current Month. CAISO Unit Monthly Billed Fuel Cost for each Unit is calculated in accordance with Equation C1-0.

2. CAISO Unit Monthly Actual Fuel Cost

The CAISO Unit Monthly Actual Fuel Cost is calculated in accordance with Equation C1-2.

Equation C1-2

$$\left[\begin{array}{l} \text{CAISO} \\ \text{Unit} \\ \text{Monthly} \\ \text{Actual} \\ \text{Fuel Cost} \\ (\$) \end{array} \right] = \frac{\text{Monthly sum of the CAISO Unit Hourly Cap Heat Input for the Unit (MMBtu)}}{\text{Monthly sum of the Unit Hourly Cap Heat Inputs for all units at the Facility metered by the Fuel Meter (MMBtu)}} * \left[\begin{array}{l} \text{Monthly} \\ \text{Metered} \\ \text{Fuel} \\ \text{MMBtu} \end{array} \right] * \left[\begin{array}{l} \text{CAISO} \\ \text{Monthly} \\ \text{Fuel} \\ \text{Price} \\ (\$/\text{MMBtu}) \end{array} \right] - \left[\begin{array}{l} \text{Monthly} \\ \text{Start-up} \\ \text{Fuel Cost} \\ (\$) \end{array} \right]$$

Where:

- CAISO Unit Hourly Cap Heat Input is calculated in accordance with Equation C1-6.
- Unit Hourly Cap Heat Input is calculated in accordance with either Equation C1-7a or C1-7b.
- Monthly Metered Fuel is the non-duplicative sum of the quantities of fuel for the Month as measured by all gas metering systems or fuel oil measuring systems, as applicable (“Fuel Meters”), for the Unit.
 - (a) If the fuel is natural gas, the Owner may select from one of three options for the Fuel Meter:
 - (i) the revenue meter used by the entity providing natural gas to measure gas delivered to one or more Units (“Fuel Custody Meter”);
 - (ii) a gas metering system installed at the Facility to measure gas used in one or more Units that meets the measurement accuracy standard in the tariff of the local gas distribution company in whose service area the Facility is located and the measurement accuracy standards set forth below, and is subject to an annual accuracy test performed under the CAISO’s direction, as described below; or
 - (iii) a gas metering system installed at the Facility by the local gas distribution company in whose service area the Facility is located and maintained by the local gas distribution company to the same standards as revenue meters of the local gas distribution company.

For the selected Fuel Meter option, the Owner shall provide the required information for all Units, both RMR and non-RMR, connected to the specific Fuel Custody Meter.

If the Owner selects option (ii), the Owner shall assure the overall accuracy of the gas metering systems¹ in use for the Units are within acceptable industry and regulatory

¹ The gas metering system includes the primary measurement element (orifice, turbine meter, etc.); secondary elements such as pressure, temperature and heating-value measurement devices; the gas chromatograph, the flow computer or other data-collection and storage device; and the communication or output system.

standards.² Gas metering systems shall be designed, installed, calibrated and maintained according to standards set forth by the American Gas Association (AGA), the American National Standards Institute (ANSI) and the California Public Utilities Commission (CPUC). An audit trail of all calibration records and measurement parameters used in volume and heating-value calculations as recorded electronically by the flow computer shall be maintained and all data shall be in no-longer-than-hourly intervals. All equations and calculations performed by the flow computer may be reviewed for accuracy and completeness, including compressibility, volumetric flow and energy flow, by the CAISO or its agent. A consistent base pressure (14.73 psi) and base temperature (60°F) shall be used at all times. If the Facility has multiple sources of fuel gas, a gas chromatograph (“GC”) shall be installed which analyzes all constituents of the blended gas, with the sampling point downstream of the individual supplies such that proper mixing occurs prior to sampling. The GC speed loop shall permit analysis of the gas in “real time”.

In order to ensure the accuracy of a gas metering system selected under option (ii), an initial acceptance test shall be conducted by Owner and shall be witnessed by the CAISO or its agent to assure the installation meets applicable industry standards. Such a test shall be conducted at five load points (maximum load, minimum load, and three evenly spaced load points), under steady state conditions (i.e., off Automatic Generation Control), and for a minimum of one hour at each load point. Analysis of the test results shall consist of a side-by-side comparison of volumetric flow, energy flow, gas-specific gravity and mole percents, and other factors mutually agreed to by the CAISO and Owner for the Fuel Custody Meter and the meter installed at the Facility under option (ii). The gas metering system installed under option (ii) shall be deemed acceptable if the side-by-side energy flow comparison for the period shall be within +1 percent to –2 percent. The gas-metering system shall meet the required accuracy throughout the entire operating range of the RMR Unit. Following CAISO acceptance, an annual routine test shall be conducted at a time chosen by the CAISO to verify and confirm the performance of Owner’s gas-metering system. With the exception that the test shall be conducted at one load point specified by the CAISO, such a test shall be conducted in a similar fashion to the initial acceptance test and shall include inspection of the primary flow element; instrument end-to-end calibration; confirmation of integrity of sensing lines (meaning there shall be no leaks); confirmation of proper GC operation; and proper flow-computer operation and data handling. All systems and sub-systems utilized during the initial acceptance test, including, but not limited to, (a) all primary devices, including the differential producing device of the gas metering system, the GC, and differential pressure (“dP”) and temperature instruments; (b) all secondary devices and circuits, including dP and temperature transmitters and circuits, sensing lines, GC

² The American Gas Association (AGA) and the American National Standards Institute (ANSI) publish industry standards that gas utilities and gas transportation companies use for gas metering. Applicable standards include: AGA Report No. 3, Orifice Metering of Natural Gas; AGA Report No. 7, Measurement of Gas by Turbine Meters, AGA Report No. 8, Compressibility Factors of Natural Gas; AGA Report No. 9, Measurement of Gas by Multipath Ultrasonic Meters; ANSI B109.2, Diaphragm Type Gas Displacement Meters; and ANSI B109.3 Rotary Type Gas Displacement Meters. Also, CPUC General Order 58-A requires customer meters to register accurately to within –2% to 1%.

sampling line and secondary circuits; and (c) all electronic devices, flow computers and devices, shall be sealed with an CAISO-certified seal and no maintenance work or modifications and changes, including making any changes to flow computer programming, shall be permitted without prior approval by the CAISO.

If any part of the option (ii) gas-metering system requires either routine or emergency maintenance, the Owner shall notify the CAISO immediately by telephone or other means specified by the CAISO. The Owner shall inform the CAISO of the time period during which such maintenance is expected to occur. The CAISO may, at its discretion, require gas-metering systems which are changed or modified during maintenance or repair to undergo re-certification, including acceptance testing. If the maintenance activity is necessary due to concerns that the gas-metering system is not operating in accordance with the required accuracy standards, such maintenance work shall be completed within 2 business days from the time when the concern was first noted.

A V-cone meter may not be used under option (ii), unless the meter was installed prior to January 1, 1997.

If, as a result of a change in the use of fuel gas from a supplier other than the local distribution company, the properties of the fuel gas change materially (Higher Heating Value (HHV) or Specific Gravity (SG) varies more than -3 percent to +3 percent due to the addition of new gas constituents) following the installation of a gas metering system under option (ii) or option (iii), Owner shall notify the CAISO within twenty-four (24) hours. Acceptance testing shall be conducted to verify the metering accuracy due to the change in fuel gas supply and to test whether Owner's gas metering system meets the technical requirements of this specification. Owner shall be obligated to install any equipment necessary to bring its gas metering system into compliance. Owner shall not enter into any third-party agreements for non-pipeline grade fuel gas without the prior approval of the CAISO. Such approval shall not be granted until the CAISO has evaluated Owner's gas metering system, including the effect of the non-pipeline grade fuel gas on metering accuracy.

If an Owner selects option (iii) and the Facility has multiple sources of fuel gas, the local gas distribution company shall install a GC which analyzes all constituents of the blended gas, with the sampling point downstream of the individual supplies such that proper mixing occurs prior to sampling. The GC speed loop should permit analysis of the gas in "real time".

(b) If the fuel is other than natural gas, the Fuel Meter value shall be determined monthly by measuring the fuel oil consumed during the month using, at Owner's one-time election, either (i) a metering process which is acceptable to the Owner and CAISO or (ii) a calculation acceptable to the Owner and CAISO based on a tank-volume measurement process performed on the day immediately prior to the beginning of the Month and the last day of the Month and fuel oil deliveries during the Month. The metering or measurement process adopted shall comply with, or be comparable to, one or more applicable American Petroleum Institute ("API") Manual of Petroleum

Measurement Standards.³ If Owner and CAISO cannot agree on an acceptable process, it shall be determined through ADR pursuant to Schedule K to this Agreement. Owner shall be permitted to change its election between metering as described in (i) above or tank volume measurement described in (ii) above only to reflect changes in the physical circumstances of the Unit or a change in the type of fuel burned at the Unit.

During any period in which the Fuel Meter fails to accurately measure gas flow, the Owner shall provide information to the CAISO sufficient to estimate the gas flow during such failure. This information may include unit electric-generating history, accurate recorded gas flow based on another meter and heat input characteristics of all Units served by the failed meter. This information will be used to estimate the gas flow during the failure period to the mutual satisfaction of the CAISO, the Responsible Utility and the Owner.

If a Fuel Meter serves RMR Units as well as other units, the heat input characteristics of the other units will be included in Table C1-7a or C1-7b, as applicable, and the Monthly sum of the Unit Hourly Cap Heat Inputs for all units at the Facility metered by the Fuel Meter used in Equation C1-2 will include Hourly Cap Heat Inputs for such other units calculated using Equation C1-7a or C1-7b, whichever is applicable.

- CAISO Monthly Fuel Price is calculated in accordance with Equation C1-3.
- Monthly Start-Up Fuel Cost is the sum of the Start-Up Fuel Costs for all Start-ups (for Market and Nonmarket Transactions) in the Month for all units metered by the Fuel Meter with the Start-up Fuel Costs for each Unit calculated in accordance with Equations D-1a or D-1b in Schedule D, as applicable. If a Start-up is initiated but is not successfully completed, the Start-up Fuel Costs shall be adjusted in accordance with Equation C1-2a:

Equation C1-2a

$$\begin{array}{l} \text{Adjusted} \\ \text{Start-up} \\ \text{Fuel Cost} \\ \text{for Canceled} \\ \text{Starts} \\ (\$) \end{array} = \frac{\text{Number of hours} \\ \text{committed to the} \\ \text{Start-up}}{\text{Applicable} \\ \text{Start-up Lead Time} \\ \text{in hours shown in} \\ \text{Section 6 of} \\ \text{Schedule A}} \times \text{Start-up} \\ \text{Fuel Costs} \\ (\$)$$

³ The applicable API Manual of Petroleum Measurement Standards are: Chapter 2.2A (Measurement and Calibration of Upright Cylindrical Tanks by the Manual Strapping Method); Chapter 3.1B (Standard Practice for Level Measurement of Liquid Hydrocarbons in Stationary Tanks by Automatic Tank Gauging); Chapter 3.3 (Level Measurement of Liquid Hydrocarbons in Stationary Pressurized Storage Tanks by Automatic Tank Gauging); Chapter 5.2 (Measurement of Liquid Hydrocarbons by Displacement Meters); and Chapter 5.3 (Measurement of Liquid Hydrocarbons by Turbine Meters).

Where:

- The “number of hours committed to the Start-up” is the lesser of (a) time elapsed between the initiation of the Start-up and the cancellation or (b) the Applicable Start-up Lead Time as shown in Section 6 of Schedule A.

3. **CAISO Monthly Fuel Price**

The CAISO Monthly Fuel Price is calculated in accordance with Equation C1-3.

Equation C1-3

$$\text{CAISO Monthly Fuel Price (\$/MMBtu)} = \frac{\text{Monthly sum of CAISO Unit Hourly Cap Fuel Cost (\$)}}{\text{Monthly sum of CAISO Unit Hourly Cap Heat Input (MMBtu)}}$$

Where:

- CAISO Unit Hourly Cap Fuel Cost (\$) is calculated in accordance with Equation C1-5;
- CAISO Unit Hourly Cap Heat Input (MMBtu) is calculated in accordance with Equation C1-6.

4. **Intentionally Omitted** (There is no Equation C1-4.)

5. **CAISO Unit Hourly Cap Fuel Cost**

For each hour, the CAISO Unit Hourly Cap Fuel Cost is calculated in accordance with Equation C1-5.

Equation C1-5

$$\text{CAISO Unit Hourly Cap Fuel Cost (\$)} = \text{CAISO Unit Hourly Cap Heat Input (MMBtu)} \times \text{Hourly Fuel Price (\$/MMBtu)}$$

Where:

- The Hourly Fuel Price is calculated in accordance with Equation C1-8;
- The CAISO Unit Hourly Cap Heat Input (MMBtu) is calculated in accordance with Equation C1-6.

6. CAISO Unit Hourly Cap Heat Input

For each hour, the CAISO Unit Hourly Cap Heat Input is calculated in accordance with Equation C1-6.

Equation C1-6

$$\text{CAISO Unit Hourly Cap Heat Input} = \text{Unit Hourly Cap Heat Input (MMBtu)} * \frac{\text{Billable MWh}}{\text{Hourly Metered Total Net Generation (MWh)}}$$

Where:

- Unit Hourly Cap Heat Input is calculated in accordance with either Equation C1-7a or C1-7b.

7. Unit Hourly Cap Heat Input (MMBtu)

The Unit Hourly Cap Heat Input to a Unit for any load is given by the following equations and shall be determined either by a polynomial equation (C1-7a) or exponential equation (C1-7b):

Equation C1-7a

$$\text{Unit Hourly Cap Heat Input} = \frac{1.0}{2} * (AX^3 + BX^2 + CX + D) * E$$

Equation C1-7b

$$\text{Unit Hourly Cap Heat Input} = \frac{1.0}{2} * (A * (B + CX + De^{FX})) * E$$

Where:

- X is Unit's Hourly Metered Total Net Generation, MWh;
- e is the base of natural logarithms;
- A, B, C, D are coefficients given for Equation C1-7a in Table C1-7a and given for Equation C1-7b in Table C1-7b;
- The coefficient E is applicable only when burning fuel oil. At all other

times, it shall be set to 1.0.

- F is a coefficient given in Table C1-7b.

Table C1-7a					
	A	B	C	D	E
N/A	N/A	N/A	N/A	N/A	N/A

Table C1-7b						
	A	B	C	D	E	F
N/A	N/A	N/A	N/A	N/A	N/A	N/A

8. Hourly Fuel Price

The Hourly Fuel Price for Units shall be the same for each hour of a given day and is calculated in accordance with Equation C1-8.

Equation C1-8 (Gas)

Hourly Fuel Price (\$/MMBtu) = Commodity Price (\$/MMBtu) + Intrastate Transportation Rate (\$/MMBtu)

Equation C1-8 (Oil)

Hourly Fuel Price (\$/MMBtu) = Commodity Price (\$/MMBtu) + Transportation Rate (\$/MMBtu)

Commodity Price for Natural Gas

For the Facilities within the service area of SCE or SDG&E, the Commodity Price shall be the product of 1.02 and the simple average of the following indices:

Gas Daily, SoCal Gas, Large Packages index (midpoint)
BTU Daily Gas Wire, SoCal Border index, Topock
NGI Daily Gas Price Index, Southern California Border (average)

For the Facilities within the service territory of PG&E, the Commodity Price shall be the product of 1.02 and the simple average of the following indices:

Gas Daily, PG&E Citygate index (midpoint)
NGI Daily Gas Price Index, PG&E Citygate (average)

The indices to be used for each Settlement Period in a given day are shown in Table C1-8. Where more than one day's index is shown for a Trading Day, the average of the two daily indices should be used. If an applicable index for a day, which is used to compute the index's average for a Trading Day, is not published, then that index will not be used to compute the Commodity Price for that trading day. If no index for a day is published, then the average of applicable indices on the Index Publication Date preceding and the Index Publication Date following such day will be substituted for the Index Publication Date index for that day in Table C1-8. In the event that an index ceases to be published, Parties shall agree on a replacement index.

Table C1-8
Natural Gas Price Indices

Trading Day	Index Publication Date*		
	<u>Gas Daily</u> **	<u>Btu Daily</u> ** <u>Gas Wire</u>	<u>NGI Daily</u> ** <u>Price Index</u>
Tuesday	Tuesday/ Wednesday	Monday/ Tuesday	Tuesday/ Wednesday
Wednesday	Wednesday/ Thursday	Tuesday/ Wednesday	Wednesday/ Thursday
Thursday	Thursday/ Friday	Wednesday/ Thursday	Thursday/ Friday
Friday	Friday/ Monday	Thursday/ Friday	Friday/ Monday
Saturday	Monday/ Tuesday	Friday/ Monday	Monday/ Tuesday
Sunday	Monday/ Tuesday	Friday/ Monday	Monday/ Tuesday
Monday	Monday/ Tuesday	Friday/ Monday	Monday/ Tuesday

* *The Index Publication Date is the date of the publication which contains the prices for the applicable Trading Day.*

** *Where more than one day's index is shown for a Trading Day, the average of the two daily indices should be used.*

Gas Daily: The "Flow Date(s)" column should match the Trading Day.

Btu Daily: The Index Publication Date should be the day prior to the Trading Date in the Table above, except for Sunday and Monday, where Friday should be used as the Index Publication Date.

NGI Daily: The Index Publication Date should be the same as the Trading Date in the tables above, except for Saturday and Sunday, where Monday should be used as the Index Publication Date.

Commodity Price for Distillate Fuel Oil

The Commodity Price for Distillate Fuel Oil shall be the simple average of the midpoint of the ranges for CARB No. 2 Diesel and for Jet as published in Platt's Oilgram United States West Coast Product Assessments (page 22). If the Unit can burn only Jet, the Commodity Price shall be the midpoint of the range for Jet.

In an event the index ceases to be published, the Parties shall agree on a replacement index.

For distillate fuel, the index will be for the last day prior to the RMR Transaction Day.

Commodity Price for No. 6 Residual Fuel Oil

The fuel price shall be the prudent actual replacement cost of the fuel consumed, or, if the fuel is consumed and not replaced, then the fuel price will be "last-in-first-out" (LIFO) inventory price of the fuel consumed.

Where conversion from barrels of Fuel to MMBtu is required, the following conversion coefficients shall be used:

- No. 1 Distillate Fuel Oil - 5.754 MMBtu per barrel;
- No. 2 Distillate Fuel Oil - 5.796 MMBtu per barrel;
- Jet Fuel - 5.650 MMBtu per barrel;
- No. 6 Residual Fuel Oil - 6.258 MMBtu per barrel.

Intrastate Transportation Rate for Gas

The Intrastate Transportation Rate for Gas shall be the applicable intrastate transportation rate determined as follows:

Units served by SDG&E: The Southern California Gas Company intrastate transportation rate (currently GT-SD) plus the volumetric component of the SDG&E gas transportation rate for electric generation service, including

the ITCS⁴ (currently GTUEG - SD), or any successor rate for electric generation service applicable to deliveries to the Facility, divided by one minus the applicable in-kind shrinkage allowance, if any.

Units served by Southern California Gas: The Southern California Gas Company intrastate transportation rate for firm electric generation service, including the ITCS (GT-F) plus the G-ITC Wheeler Ridge Interconnection Access fee, if applicable, or any successor rate for firm electric generation service applicable to deliveries to the Facility, divided by one minus the applicable in-kind shrinkage allowance, if any.

Units served by PG&E: The PG&E intrastate transportation charge stated in Rate Schedule G-EG, or any successor rate for electric generation service applicable to deliveries to the Facility, divided by one minus the applicable in-kind shrinkage allowance, if any.⁵

Transportation Rate for Distillate Fuel Oil

The Transportation Rate for Distillate Fuel Oil shall be N/A. There shall be no Transportation Rate for No. 6 Residual Fuel Oil.

B. CAISO Monthly Fuel Imbalance Charge

Levels of Responsibility

Each month, the Owner is responsible for all Nonmarket fuel imbalance charges incurred up to and including 2.25 percent of the CAISO Facility Monthly Billed Fuel Cost.

The Monthly Fuel Imbalance Charge is equal to 75% of 1st Tier Imbalance plus 100% of 2nd Tier Imbalances;

Where:

The **1st Tier Imbalances** is that portion of the Monthly Sum of Daily Imbalance Charges which exceeds 2.25 percent of the CAISO Facility Monthly Billed Fuel Cost for the Month and is less than or equal to 10.0 percent of the CAISO Facility Monthly Billed Fuel Cost for the Month.

The **2nd Tier Imbalances** is that portion of the Monthly Sum of Daily Imbalance Charges which is greater than 10.0 percent of the CAISO Facility Monthly Billed Fuel Cost for the Month.

⁴ ITCS means Interstate Transition Cost Surcharges.

⁵ If the Facility does not qualify for service under Rate Schedule G-EG, the applicable rate shall be given by Rate Schedule G-NT.

The Monthly Sum of Daily Imbalance Charges is the sum for all days in the month of imbalance charges and similar fees and penalties imposed on Owner (or its fuel supplier and paid by Owner) by transportation providers delivering gas to the Units because deliveries were in excess of or less than scheduled for a given day, but only to the extent that (i) the imbalance was caused by Owner compliance with a Dispatch Notice issued after (or less than 30 minutes prior) to the Transporter's deadline for scheduling transportation, and (ii) Owner issued a notice to the CAISO as soon as possible after the Owner became aware it might incur imbalance charges advising CAISO of such possible charges.

In any month in which Owner incurs a 1st Tier or 2nd Tier Imbalance charge, Owner will provide the CAISO with a report showing the allocation of the imbalance charges between Market Transactions and Nonmarket Transactions. If CAISO or the Responsible Utility disagree on allocation, the dispute will be resolved through ADR.

To receive payment for a 2nd Tier Imbalance, Owner must document in an informational filing with FERC that the charges were appropriately allocated to Nonmarket Transactions and it was commercially reasonable to incur them. As used in this context and for purposes of calculating imbalance charges, "commercially reasonable" does not mean that Owner is required to acquire storage to avoid imbalances. If either the CAISO or Responsible Utility disagree with the imbalance charges, desires a formal review and gives such notice to the Owner within 30 days of the informational filing, the Owner must file under Section 205 of the Federal Power Act to collect any 2nd Tier Imbalance charges.

Pursuant to the above, the Monthly Fuel Imbalance Charge is calculated in accordance with Equation C1-9.

Equation C1-9

$$\text{Monthly Fuel Imbalance Charge} = 0.75 * \left(\text{Monthly Sum of Daily Imbalance Charges} - 0.0225 * \text{CAISO Facility Monthly Billed Fuel Cost} \right) + 0.25 * \left(\text{Monthly Sum of Daily Imbalance Charges} - 0.10 * \text{CAISO Facility Monthly Billed Fuel Cost} \right)$$

Note that if either of the two bracketed portions of the equation yields a value less than or equal to zero, then that portion of the equation is set to zero.

C. CAISO Monthly Other Fuel Related Cost

The CAISO Monthly Other Fuel Related Cost is calculated in accordance with Equation C1-10.

Equation C1-10

$$\begin{array}{l} \text{CAISO Monthly} \\ \text{Other} \\ \text{Fuel Related} \\ \text{Cost} \end{array} = \frac{\text{Monthly sum of} \\ \text{Billable MWh}}{\text{Monthly sum of Total Hourly} \\ \text{Metered Net Generation}} * \left[\begin{array}{l} \text{Other} \\ \text{Gas Tariff} \\ \text{Charges} \end{array} + \begin{array}{l} \text{Applicable} \\ \text{Taxes} \end{array} \right]$$

Where:

- Other Gas Tariff Charges are those intrastate gas transportation tariff charges not included in Transportation Rate Charges set forth in Section A.8 of this Schedule listed below:

[Insert applicable charges]

- Applicable taxes and fees are:
 1. [Insert applicable local utility user taxes]
 2. [Insert applicable G-SUR fee]

All other fuel related taxes and fees are intended to be covered by the two percent adder in Hourly Fuel Cost and are the Owner's responsibility.

D. CAISO Monthly Emissions Cost**Part 1 for SCAQMD-Jurisdictional Thermal Units**

The CAISO Monthly Emissions Cost for each Unit shall be the sum, for all hours in the month, of the CAISO Hourly Emissions Cost. These costs apply to a Facility within the South Coast Air Quality Management District (SCAQMD).

The CAISO Hourly Emissions Cost shall be calculated in accordance with Equation C1-11.

Equation C1-11

$$\begin{aligned} \text{CAISO Hourly Emissions} \\ \text{Cost (\$/hr)} = & \text{a. CAISO Hourly RECLAIM Trading Credit Cost} \\ & \text{b. (\$/hr) +} \\ & \text{c. CAISO Hourly NOx Emissions Cost (\$/hr) +} \\ & \text{d. CAISO Hourly Organic Gases Emissions} \\ & \text{e. Cost (\$/hr) +} \\ & \text{f. CAISO Hourly Sulfur Oxides Emissions Cost} \\ & \text{g. (\$/hr) +} \\ & \text{CAISO Hourly Particulate Matter Emissions} \\ & \text{Cost (\$/hr) +} \\ & \text{CAISO Hourly Carbon Monoxide Emissions} \\ & \text{Cost (\$/hr) +} \\ & \text{CAISO Hourly Sulfur Dioxides Trading Credit} \\ & \text{Costs (\$/hr)} \end{aligned}$$

a. CAISO Hourly RECLAIM Trading Credit Cost

For each hour, the CAISO Hourly RECLAIM Trading Credit (“RTC”) Cost for NOx emissions required for the Unit to generate the Billable MWh is calculated in accordance with Equation C1-12.

Equation C1-12

$$\begin{array}{ccccccc} \text{CAISO Hourly RECLAIM} & & \text{Hourly NO}_x & & \text{RECLAIM NO}_x & & \text{Billable MWh} \\ \text{Trading Credit Cost (\$/hr)} & = & \text{Emissions} & * & \text{Trading} & * & \text{Hourly Metered} \\ & & \text{(lbs/hr)} & & \text{Credit Rate} & & \text{Total Net} \\ & & & & \text{(\$/lb)} & & \text{Generation} \end{array}$$

Where:

- Hourly NOx Emissions is calculated in accordance with Equation C1-13.

Equation C-13

$$\text{Hourly NOx Emissions (lbs/hr)} = \frac{AX}{2} + \frac{B}{X} + C$$

Where:

- X is the Hourly Metered Total Net Generation for the hour.
- Coefficients A, B, and C are given in Table C1-13 for each Unit.

Table C1-13

Description of Unit	A	B	C
N/A	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>

The RECLAIM NOx Trading Credit Rate (\$/lb) will be equal to the 13-week sales-weighted average sales price for RTCs calculated as of the last day of the Month from sales records available from the SCAQMD for all actual sales in the SCAQMD during the thirteen preceding weeks, including the Settlement Period.

b. CAISO Hourly NOx Emissions Cost

For each hour, the CAISO Hourly NOx Emissions Cost for the Billable MWh is calculated in accordance with Equation C1-14.

Equation C1-14

$$\text{CAISO Hourly Nox Emissions Cost (\$/hr)} = (5 * 10^{-4}) * \text{Hourly Nox Emissions (lbs/hr)} * \text{NOx Emissions Fee (\$/ton)} * \frac{\text{Billable MWh}}{\text{Hourly Metered Total Net Generation}}$$

Where:

- (5×10^{-4}) is the conversion factor from lbs to tons.
- Hourly NOx Emissions is calculated in accordance with Equation C1-13.
- NOx Emissions Fee is obtained from Table III of SCAQMD Rule 301(e). The fee is dependent upon the Cumulative Tons of Pollutant (NOx), which is calculated in accordance with Equation C1-15. The Cumulative Tons of Pollutant is reset to zero each July 1st.

Equation C1-15

$$\text{Cumulative Tons of Pollutant (tons/hr)} = \text{Tons of Pollutant From the prior July 1st to the Previous Hour} + \text{Tons of Pollutant For Current Hour}$$

Where:

- Tons of Pollutant for Current Hour is in accordance with Equation C1-16.

Equation C1-16

$$\begin{array}{l} \text{Tons of Pollutant} \\ \text{for Current Hour} \\ \text{(tons/hr)} \end{array} = (4.76 * 10^{-7}) * (AX^3 + BX^2 + CX + D) * \begin{array}{l} \text{Pollutant Emissions Amount} \\ \text{for Natural Gas} \end{array}$$

Where:

- $(4.76 * 10^{-7})$ is the conversion factor from lbs. to tons (1 ton/2000 lbs.) and from mmcf to MMBtu (1 mmcf/1050 MMBtu).
- X is the Hourly Metered Total Net Generation, MWh.
- Coefficients A, B, C, and D are the coefficients of the hourly heat rate curve given in Table C1-16 for each Unit.

Table C1-16			
Description of Unit	A	B	C
N/A	N/A	N/A	N/A

Pollutant Emissions Amount For Natural Gas is the applicable pollutant from SCAQMD General Instruction Book (for the latest year), Annual Emissions Reporting Program, Appendix A - Common Emission Factors For Combustion Equipment, Table 1 - Common Emission Factors For Combustion Equipment for Forms B1 and B1U.

c. CAISO Hourly Organic Gases Emissions Cost, CAISO Hourly Sulfur Oxides Emissions Cost, CAISO Hourly Particulate Matter Emissions Cost, and CAISO Hourly Carbon Monoxide Emissions Cost

The CAISO Hourly Organic Gases (OG) Emissions Cost, CAISO Hourly Sulfur Oxides (SOx) Emissions Cost, CAISO Hourly Particulate Matter (PM) Emissions Cost, and CAISO Hourly Carbon Monoxide (CO) Emissions Cost are each calculated in accordance with Equation C1-17.

Equation C1-17

$$\begin{array}{l} \text{CAISO Hourly} \\ \text{Applicable} \\ \text{Emissions Cost} \\ \text{($/hr)} \end{array} = (4.76 * 10^{-7}) * \begin{array}{l} \text{CAISO Unit Hourly} \\ \text{Cap Heat Input} \\ \text{(MMBtu/hr)} \end{array} * \begin{array}{l} \text{Associated} \\ \text{Emissions Factor} \\ \text{(lbs/mmcf)} \end{array} * \begin{array}{l} \text{Associated} \\ \text{Emissions Fee} \\ \text{($/ton)} \end{array}$$

Where:

- CAISO Hourly Applicable Emissions Cost is the CAISO Hourly OG Emissions Cost, CAISO Hourly SOx Emissions Cost, CAISO Hourly PM Emissions Cost, or CAISO Hourly CO Emissions Cost.

- $(4.76 * 10^{-7})$ is the conversion factor from lbs. to tons (1 ton/2000 lbs.) and from mmcf to MMBtu (1 mmcf/1050 MMBtu).
- Associated Emissions Factor is the associated OG Emissions Factor, SOx Emissions Factor, PM Emissions Factor or CO Emissions Factor from Table 1 from General Instruction Book for the SCAQMD (for the latest year) Annual Emissions Reporting Program.
- Associated Emissions Fee is the associated OG Emissions Fee, SOx Emissions Fee, PM Emissions Fee, or CO Emissions Fee from Table III of SCAQMD Rule 301(e), and is dependent upon the Cumulative Tons of Pollutant pursuant to Equation C1-15.

d. CAISO Hourly Sulfur Dioxides Trading Credit Costs

Beginning in the year 2000, certain Units will be subject to Title IV of the Federal Clean Air Act for providing SO₂ Allowances to cover related trading costs. Prior to 2000, the CAISO Hourly Sulfur Dioxides Trading Credit Cost will be zero. The Owner may make a filing under Section 205 of the Federal Power Act limited to recovering applicable CAISO Hourly Sulfur Dioxides Trading Credit Costs when such costs are incurred.

Part 2 for Ventura County Air Pollution Control District⁶

Beginning in the year 2000, certain Units will be subject to Title IV of the Federal Clean Air Act for providing SO₂ Allowances to cover related trading costs. Prior to 2000, the CAISO Hourly Sulfur Dioxides Trading Credit Cost will be zero. The Owner may make a filing under Section 205 of the Federal Power Act limited to recovering applicable CAISO Hourly Sulfur Dioxides Trading Credit Costs when such costs are incurred.

E. CAISO Monthly Variable O&M Cost

The CAISO Monthly Variable O&M Cost for each Unit shall be the product of the Unit's Billable MWh for the Billing Month and the Unit's Variable O&M Rate. Variable O&M Rate for each Unit shall be:

Table C1-18	
Unit	Variable O&M Rate (\$/MWh)

⁶ Ventura County APCD, where Mandalay Generating Station is located, does not require payment of emissions fees, but rather permit renewal fees. The permit renewal fees are included in the fixed O&M costs.

N/A	N/A
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F. CAISO Scheduling Coordinator Charge

The CAISO Scheduling Coordinator Charge for each Unit shall be the product of \$0.31 and the Unit's Billable MWh for the Billing Month.

G. CAISO ACA Charge

The CAISO ACA Charge is the product of the Unit's Billable MWh for the Billing Month and the applicable annual charge for short-term sales under 18 CFR Section 382.201 of the FERC Regulations.

SCHEDULE C – N/A**Variable Cost Payment for All Conditions
Part 2 for Geothermal Units**

For each Unit each Month, the Variable Cost Payment for Billable MWh from the Unit pursuant to Nonmarket Transactions during that Month shall be the amount calculated in accordance with the following formula:

$$\begin{array}{l} \text{Variable Cost Payment} \\ = \\ \text{A. CAISO Monthly Billed Fuel Cost +} \\ \text{B. CAISO Monthly Variable O\&M Cost +} \\ \text{C. CAISO Scheduling Coordinator Charge} \\ \text{D. +} \\ \text{CAISO ACA Charge} \end{array}$$

Each component of the Variable Cost Payment for geothermal Units is calculated as described below:

A. CAISO Monthly Billed Fuel Cost [for Geysers Main only]

The CAISO Monthly Billed Fuel Cost is given by Equation C2-1.

Equation C2-1

$$\text{CAISO Monthly Billed Fuel Cost} = \text{Billable MWh} * \text{Steam Price (\$/MWh)}$$

Where:

- Steam Price is \$16.34/MWh.
- For purposes of Equation C2-1, Billable MWh is all Billable MWh Delivered after cumulative Hourly Metered Total Net Generation during the Contract Year from all Units exceeds the Minimum Annual Generation given by Equation C2-2.

Equation C2-2

$$\text{Minimum Annual Generation} = \frac{\text{Annual Average Field Capacity}}{8760 \text{ hours} * 0.4 - (A+B+C)}$$

Where:

- Annual Average Field Capacity is the arithmetic average of the two Field Capacities in MW for each Contract Year, determined as described below.

Field Capacity shall be determined for each six-month period from July 1 through December 31 of the preceding calendar year and January 1 through June 30 of the Contract Year. Field Capacity shall be the average of the five highest amounts of net generation (in MWh) simultaneously achieved by all Units during eight-hour periods within the six-month period. The capacity simultaneously achieved by all Units during each eight-hour period shall be the sum of Hourly Metered Total Net Generation for all Units during such eight-hour period, divided by eight hours. Such eight-hour periods shall not overlap or be counted more than once but may be consecutive.

Within 30 days after the end of each six-month period, Owner shall provide CAISO and the Responsible Utility with its determination of Field Capacity, including all information necessary to validate that determination.

- A is the amount of Energy that cannot be produced (as defined below) due to the curtailment of a Unit during a test of the Facility, a Unit or the steam field agreed to by CAISO and Owner.
- B is the amount of Energy that cannot be produced (as defined below) due to the retirement of a Unit or due to a Unit's Availability remaining at zero after a period of ten Months during which the Unit's Availability has been zero.
- C is the amount of Energy that cannot be produced (as defined below) because a Force Majeure Event reduces a Unit's Availability to zero for at least thirty (30) days or because a Force Majeure Event reduces a Unit's Availability for at least one hundred eighty (180) days to a level below the Unit Availability Limit immediately prior to the Force Majeure Event.
- The amount of Energy that cannot be produced is the sum, for each Settlement Period during which the condition applicable to A, B or C above exists, of the difference between the Unit Availability Limit immediately prior to the condition and the Unit Availability Limit during the condition.

B. CAISO Monthly Billed Fuel Cost [for Geysers Units 13 & 16 only]

The CAISO Monthly Billed Fuel Cost is given by Equation C2-1.

Equation C2-1

$$\text{CAISO Monthly Billed Fuel Cost} = \text{Billable MWh} * \text{Steam Price (\$/MWh)}$$

Where:

- Steam Price is \$11.25/MWh, which includes the cost of steam condensate re-injection.

C. CAISO Monthly Variable O&M Cost

The CAISO Monthly Variable O&M Cost for each Unit is given by Equation C2-3 and is the product of the sum of Billable MWh for the Billing Month and the Unit's Variable O&M Rate. Variable O&M Rate for each Unit is shown in Table C2-1:

Equation C2-3

$$\text{CAISO Monthly Variable O\&M Cost} = \text{Monthly sum of Billable MWh} * \text{Variable O\&M Rate}$$

Table C2-1	
Unit	Variable O&M Rate (\$/MWh)

D. CAISO Scheduling Coordinator Charge

The CAISO Scheduling Coordinator Charge for each Unit shall be the product of \$0.31 and the Unit's of Billable MWh for the Billing Month.

E. CAISO ACA Charge

The CAISO ACA Charge is the product of the Unit's Billable MWh for the Billing Month and the applicable annual charge for short-term sales under 18 CFR Section 382.201 of the FERC Regulations, to the extent payable by Owner for Billable MWh.

SCHEDULE C - N/A**Variable Cost Payment for All Conditions
Part 3 for Conventional Hydro Units**

For each month and each Unit, the Variable Cost Payment for Billable MWh from the Unit pursuant to Nonmarket Transactions during that Month shall be the amount calculated in accordance with the following formula:

$$\begin{array}{l} \text{Variable Cost Payment} \\ = \end{array} \quad \begin{array}{l} \text{A. CAISO Scheduling Coordinator} \\ \text{Charge +} \\ \text{CAISO ACA Charge} \end{array}$$

A. CAISO Scheduling Coordinator Charge

The CAISO Scheduling Coordinator Charge for each Unit shall be the product of \$0.31 and the Unit's Billable MWh for the Billing Month.

B. CAISO ACA Charge

The CAISO ACA Charge is the product of the Unit's Billable MWh for the Billing Month and the applicable annual charge for short-term sales under 18 CFR Section 382.201 of the FERC Regulations.

SCHEDULE C – N/A**Variable Cost Payment for All Conditions
Part 4 for Pumped Storage Hydro Units**

For each month and each Unit, the Variable Cost Payment for Billable MWh from the Unit pursuant to Nonmarket Transactions during that Month shall be the amount calculated in accordance with the following formula:

$$\text{Variable Cost Payment} = \begin{array}{l} \text{A. CAISO Monthly Billed Fuel Cost +} \\ \text{B. CAISO Scheduling Coordinator} \\ \text{C. Charge +} \\ \text{CAISO ACA Charge} \end{array}$$

A. CAISO Monthly Billed Fuel Cost

The CAISO Monthly Billed Fuel Cost is given by Equation C4-1:

Equation C4-1

CAISO Monthly Billed Fuel Cost = Year-to-Date CAISO Fuel Cost – Sum of Previous Months' CAISO Monthly Billed Fuel Cost in the Contract Year

Where:

- Year-to-Date CAISO Fuel Cost is given by Equation C4-2.
- Sum of Previous Months' CAISO Monthly Billed Fuel Cost in the Contract Year shall be the sum of the CAISO Monthly billed Fuel Cost for each Month from January 1 of the Contract Year⁷ through the end of the Month in the Contract Year before the Billing Month.

Equation C4-2

$$\text{Year-to-Date CAISO Fuel Cost} = \frac{\text{YTD Pumping Cost/YTD Energy Produced}}{\text{Variable O\&M Rate}}$$

Where:

- YTD Pumping Cost = Total cost of Energy purchased by Owner for pumping, including transmission charges, from January 1 of the Contract Year through the end of the Billing Month.

⁷ For purposes of Equations C4-1 and C4-2 as applied in 1999, Contract Year includes those months in the year, beginning in January 1999, when the same services as under this Agreement were provided to ISO under a predecessor rate schedule, as well as months when such services are provided under this Agreement.

- YTD Energy Produced = Total Energy produced by the Facility for Market and Nonmarket Transactions from January 1 of the Contract Year through the end of the Billing Month.
- YTD Billable MWh = Total Billable MWh from January 1 of the Contract Year through the end of the Billing Month.

B. CAISO Scheduling Coordinator Charge

The CAISO Scheduling Coordinator Charge for each Unit shall be the product of \$0.31 and the Unit's Billable MWh for the Billing Month.

C. CAISO ACA Charge

The CAISO ACA Charge is the product of the Unit's Billable MWh for the Billing Month and the applicable annual charge for short-term sales under 18 CFR Section 382.201 of the FERC Regulations.

Schedule C – N/A

**Variable Cost Payment for All Conditions
 Part 5 for Biomass Generation Units**

For each month and each Unit, the Variable Cost Payment for Billable MWh from the Unit pursuant to Nonmarket Transaction during that Month shall be the amount calculated in accordance with the following formula:

$$\text{Variable Cost Payment} = \begin{matrix} \text{A. CAISO Monthly Billed Fuel Cost +} \\ \text{B. CAISO Variable O\&M Cost +} \\ \text{C. CAISO Scheduling Coordinator} \\ \text{Charge} \end{matrix}$$

A. CAISO Monthly Billed Fuel Cost

The CAISO Monthly Billed Fuel Cost is given by Equation C5-1:

Equation C4-1

$$\text{CAISO Monthly Billed Fuel Cost} = \text{Billable MWh} * \text{Monthly Average Fuel Cost} (\$/\text{MWh})$$

Where:

- Monthly Average Fuel Cost (\$ / MWh) = Negotiated Cost Based Amount.

B. CAISO Monthly Variable O&M Cost

The CAISO ACA Charge is the product of the Unit’s Billable MWh for the Billing Month and the applicable annual charge for short-term sales under 18 CFR Section 382.201 of the FERC Regulations.

Equation C5-2

$$\text{CAISO Monthly Variable O\&M Cost} = \text{Monthly Sum of billable MWh} * \text{Variable O\&M Rate}$$

Table C5-1	
Unit	Variable O&M Rate (\$/MWh)

C. CAISO Scheduling Coordinator Charge

The CAISO Scheduling Coordinator Charge for each Unit shall be the product of \$0.31 and the Unit's Billable MWh for the Billing Month.

SCHEDULE D**Part 1—N/A****Start-up Payment for Condition 1 Units****1. Prepaid Start-up Charge**

Prepaid Start-up Charge for each Unit operating under Condition 1 for each Contract Year will be calculated as the Prepaid Start-up Cost times the number of Prepaid Start-ups. The number of Prepaid Start-up equals the Maximum Annual Start-ups per Unit. The Prepaid Start-up Cost will be calculated in accordance with Equation D-1 for Start-up Cost with the following assumptions:

- a. Hourly Fuel Price: For the initial Contract Year the Hourly Fuel Price shall be the simple average of the applicable index prices from Table C1-8 of Schedule C for the period beginning on the later of the initial publication date of such indices or January 1, 1998 and ending December 31, 1998, plus the applicable Transportation Rate under Equation C1-8 as in effect on April 1, 1999. For each subsequent Contract Year, the Hourly Fuel Price shall be agreed upon by CAISO and Owner; if there is no agreement, the Hourly Fuel Price shall be the simple average of the Hourly Fuel Prices for the twelve months ending the prior June 30 as calculated in accordance with Equation C1-8 of Schedule C;
- b. Energy Price shall be based on the [insert Applicable UDC Tariff rate], including applicable demand charges, provided that the Applicable UDC Tariff rate shall only be the energy charge rate at those Facilities where Units have the capability to use Energy from other units at the same Facility to effect Start-ups or where generation from other units is otherwise permitted under the CAISO Tariff to be netted against auxiliary power needed to effect Start-up of the Unit. For the initial Contract Year, the Energy Price shall be calculated as the total auxiliary power (including Energy for Start-ups) costs charged to the Facility by its supplier of end-use Energy for the six-month period ending December 31, 1998 divided by the auxiliary power (including Energy for Start-ups) consumed at the Facility for that same time period. For Facilities that have not been charged for auxiliary power for the six-month period ending December 31, 1998, the Energy Price for the Initial Contract Year shall be the simple average of the prices for Energy for varying times of day shown in the Applicable UDC Tariff. For each subsequent Contract Year, the Energy Price shall be calculated as the total auxiliary power (including Energy for Start-ups) costs charged to the Facility by its supplier of end-use Energy for the twelve months ending the prior June 30 divided by the auxiliary power (including Energy for Start-ups) consumed at the Facility for that same twelve-month period;

- c) All Start-ups are assumed to be from maximum time off line as shown by value XMax in Table D-1, and
- d) Other Start-up Costs shall be zero (\$0) for non-hydroelectric Units; for hydroelectric Units, other Start-up costs shall be the cost shown in Table D-2 for Normal Work Hours.

The Prepaid Start-up Cost and Prepaid Start-up Charge for the current Contract Year are set forth in Table D-0:

Unit	Number of Prepaid Start-ups	Prepaid Start-up Cost	Prepaid Start-up Charge
Huntington Beach Unit 3	N/A	N/A	N/A
Huntington Beach Unit 4	N/A	N/A	N/A

2. Start-up Cost

The cost for a Start-up shall be calculated in accordance with Equation D-1:

Equation D-1

$$\begin{array}{r} \text{Start-up} \\ \text{Cost} \\ (\$) \end{array} = \begin{array}{r} \text{Start-up} \\ \text{Fuel Cost} \\ (\$) \end{array} + \begin{array}{r} \text{Start-up} \\ \text{Power Cost} \\ (\$) \end{array} + \begin{array}{r} \text{Other} \\ \text{Start-up Costs} \\ (\$) \end{array} + \begin{array}{r} \text{Shutdown} \\ \text{Power Cost} \\ (\$) \end{array}$$

Each component of the Start-up Cost in Equation D-1 is set forth below.

a. Start-up Fuel Costs

The Start-up Fuel Cost shall be calculated in accordance with Equation D-1a:

Equation D-1a

$$\begin{array}{r} \text{Start-up} \\ \text{Fuel Cost} \\ (\$) \end{array} = \left[\begin{array}{r} \text{A} \\ (\text{MMBtu/hr}) \end{array} * \begin{array}{r} \text{x} \\ (\text{hrs}) \end{array} + \begin{array}{r} \text{B} \\ (\text{MMBtu}) \end{array} \right] * \begin{array}{r} \text{Hourly} \\ \text{Fuel Price} \\ (\$/\text{MMBtu}) \end{array}$$

Where:

- “x” equals the number of hours since the Unit ceased operation and cannot exceed “X_{Max}”.
- The Hourly Fuel Price is calculated pursuant to Schedule C Equation C1-8 for the hour in which the Start-up began.

- The values A, B and x_{Max} for each Unit are given in Table D-1 below.

b. Start-up Power Costs

The Start-up Power Cost shall be calculated in accordance with Equation D-1b:

Equation D-1b

$$\begin{array}{l} \text{Start-up} \\ \text{Power Cost} \\ (\$) \end{array} = \left(\begin{array}{l} [C \\ (\text{MWh/hr}) \end{array} * \begin{array}{l} x \\ (\text{hrs}) \end{array} \right) + \begin{array}{l} D \\ (\text{MWh}) \end{array} * \begin{array}{l} \text{Energy} \\ \text{Price} \\ (\$/\text{MWh}) \end{array}$$

Where:

- “x” is equal to the hours since the Unit ceased operation and cannot exceed “xMax”.
- The Energy Price shall be equal to the total auxiliary power (including Energy for Start-ups) costs charged to the Facility by its supplier of end-use Energy for the billing cycle in which the Start-up was initiated divided by the total auxiliary power (including Energy for Start-ups) consumed at the Facility during such billing cycle.
- The values C, D and xMax are given in Table D-1 below.

c. Shutdown Power Costs

The Shutdown Power Cost shall be calculated in accordance with Equation D-1c:

Equation D-1c

$$\begin{array}{l} \text{Shutdown} \\ \text{Power Cost} \\ (\$) \end{array} = \begin{array}{l} \text{Shutdown Power} \\ \text{Requirement} \\ (\text{MWh}) \end{array} * \begin{array}{l} \text{Energy} \\ \text{Price} \\ (\$/\text{MWh}) \end{array}$$

The Energy Price shall be equal to the total auxiliary power (including Energy for Shutdowns) costs charged to the Facility by its supplier of end-use Energy for the billing cycle in which the Shutdown was initiated divided by the total auxiliary power (including Energy for Shutdowns) consumed at the Facility during such billing cycle. The Shutdown Power Requirement is given in Table D-1 below.

d. Other Start-up Costs for Hydroelectric Only

Other Start-up Costs are the cost of labor to start hydroelectric Units that require an operator to manually parallel, and reflect the labor costs to travel to the site. If the Start-up of a hydroelectric Unit occurs outside normal work hours, the Start-up Costs include the minimum work hours and labor rates as set by the applicable collective bargaining agreement(s).

The Other Start-up Costs shall be calculated in accordance with Equation D1-d. The values for E are provided in Table D-2 for normal work hour and outside of normal work hour situations.

Equation D-1d

$$\text{Other Start-up Costs (\$)} = E$$

Once a Unit has been given a Dispatch Notice to Start-up, other Start-up Costs are incurred.

Table D-1, Start-Up Costs						
	X _{Max}	A	B ⁸	C	D	Shutdown Power Requirement
Unit	(Hrs)	(mmBtu)/ hr	(mmBtu)	(MWh)/hr	(MWh)	(MWh)
N/A	N/A	N/A	N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A	N/A	N/A	N/A

Table D-2, Other Start-Up Costs – Hydroelectric Units		
Unit	E (Normal Work Hours) (\$)	E (Outside Normal Work Hours) (\$)
N/A	N/A	N/A
N/A	N/A	N/A

3. Monthly Start-up Adjustment

⁸ Includes fuel consumed from the time Unit reaches Synchronization to the time Unit reaches Minimum Load.

For each Start-up successfully completed in compliance with a Dispatch Notice during the Billing Month, and each Start-up initiated in compliance with a Dispatch Notice but not successfully completed because it is canceled or rescinded by CAISO, until the total Counted Start-ups for the Contract Year equals the number of Prepaid Start-ups for the Contract Year, the Monthly Start-up Adjustment, which shall be a credit or payment, is the sum of Prepaid Start-up Adjustments, and Prepaid Start-up Adjustments for Canceled Start-ups calculated in accordance with Equations D-2 and D-3:

Equation D2

Prepaid Start-up Adjustment = Prepaid Start-up Cost calculated in accordance with Section 1 minus the actual Start-up Cost calculated in accordance with Equation D-1.

Equation D-3

Prepaid Start-up Adjustment for Canceled Start-up = $\frac{\text{Number of hours committed to the Start-up applicable Start-up Lead Time (hrs) as shown in Schedule A, Section 6}}{\text{Prepaid Start-up Adjustment calculated in accordance with Equation D-2}}$ *

Where:

- The “number of hours committed to the Start-up” is the lesser of (a) time elapsed between the initiation of the Start-up and the cancellation and (b) the applicable Start-up Lead Time.

SCHEDULE D**Part 2
Start-up Payment for Condition 2 Units****1. Start-up Payment**

The Start-up Payment for each Start-up successfully completed for each Unit operating under Condition 2 equals the Start-up Cost calculated using Equation D-1.

Table D-1, Start-Up Costs						
	X _{Max}	A	B ⁹	C	D	Shutdown Power Requirement
Unit	(Hrs)	(mmBtu)/ hr	(mmBtu)	(MWh)/hr	(MWh)	(MWh)
Huntington Beach Unit 3	N/A	N/A	N/A	N/A	3.0	0.2
Huntington Beach Unit 4	N/A	N/A	N/A	N/A	3.0	0.2

2. Payment for Canceled Start-up

If Start-up is initiated under a Dispatch Notice but is not successfully completed because it is canceled or rescinded by the CAISO, the Start-up Payment is calculated in accordance with Equation D-4:

Equation D-4

$$\text{Start-up Payment for Canceled Start-up (\$)} = \frac{\text{Number of hours committed to the Start-up applicable Start-up Lead Time (hrs) as shown in Schedule A, Section 6}}{\text{Start-up Cost calculated in accordance with Equation D-1 (\$)}} *$$

⁹ Includes fuel consumed from the time Unit reaches Synchronization to the time Unit reaches Minimum Load.

The “number of hours committed to the Start-up” is the lesser of (a) time elapsed between the initiation of the Start-up and the cancellation or (b) the applicable Start-up Lead Time.

SCHEDULE E**Ancillary Services
Part 1 for Condition 1 – N/A**

The CAISO may call upon the Unit to provide the following Ancillary Services as defined in the CAISO Tariff:

- Regulation
- Spinning Reserve
- Nonspinning Reserve
- Replacement Reserve
- Voltage Support (including synchronous condenser operation)
- Black Start

If the Unit is otherwise generating, the Owner shall be required to operate the Unit within the Power Factor range of the Unit specified in Schedule A to provide Ancillary Services without additional compensation.

Certain Units (hydroelectric and synchronous condensers) can provide Ancillary Services without generating Energy. Under this Condition, Owner will be compensated for Motoring Charges if the Unit is providing Ancillary Services while synchronized without generating Energy.

Motoring Charge

When Units are operated as synchronous condensers (i.e., motored using electric power) to provide Ancillary Services, if applicable, the payment for that service is given by the following formula:

$$\text{Motoring Charge} = (\text{Power consumption rate (MWh/hr)}) * (\text{hours operated}) * (\text{Energy Price})$$

Where the Power consumption rate is given by the following table:

Unit	Power consumption rate (MWh/hour)
------	-----------------------------------

The Energy Price shall be equal to the total power costs charged to the Facility by its supplier of end-use Energy under the Applicable UDC Tariff for the billing cycle in which

the Motoring Charge was incurred divided by the total power consumed at the Facility under such tariff during such billing cycle.

Pre-empted Dispatch Payment

If the CAISO issues a Dispatch Notice to:

- (i) decrease a Unit's scheduled output of Energy in a Market Transaction to provide Ancillary Services;
- (ii) decrease a Unit's scheduled provision of Ancillary Services capacity in a Market Transaction in order to provide Regulation, Spinning Reserve, Nonspinning Reserve, or Replacement Reserve pursuant to a Dispatch Notice,
- (iii) decrease a Unit's scheduled provision of Ancillary Service capacity in a Market Transaction in order to provide Energy pursuant to a Dispatch Notice, the CAISO shall pay the appropriate Pre-empted Dispatch Payment described below. The Pre-empted Dispatch Payments are intended to make an Owner whole with respect to the original Market Transaction.

A. For Pre-empted Energy Market Transactions:

Pre-empted Dispatch Payment = Imbalance Energy Charge – Cost Savings

- Imbalance Energy Charge = $(X_o - X_n) \times \text{Penalty Price}$
- Penalty Price = Unrestricted Imbalance Energy Price + additional penalties (per MWh) imposed by the CAISO for failure to comply with Market Schedules due to compliance with Dispatch Notice.
- Cost Savings = Fuel Cost Savings + Emissions Savings + Other Savings

Where:

- X_o = Original Total Schedule in Market and Nonmarket Transactions;
- X_n = New Total Schedule in Market and Nonmarket Transactions;

For fossil fuel Units, the Fuel Cost Savings is calculated as follows:

- Fuel Cost Savings = Fuel Savings x Hourly Fuel Price
- Fuel Savings = $(AX_o^3 + BX_o^2 + CX_o + D) - (AX_n^3 + BX_n^2 + CX_n + D) \times E$

or

- Fuel Savings = $[(A * (B + CX_o + De^{FX_o})) - (A * (B + CX_n + De^{FX_n}))] * E$
- A, B, C, D, E and F are the coefficients from Table C1-7a or C1-7b, as applicable;
- Hourly Fuel Price is calculated in Equation C1-8.

For geothermal Units, the Fuel Cost Savings is calculated by the following formula:

$$\text{Fuel Cost Savings} = (X_o - X_n) * \text{Hourly Fuel Price}$$

Where:

- Hourly Fuel Price is the Steam Price identified in Equation C2-1 in Schedule C. However, for purposes of this Pre-empted Dispatch Payment calculation, the value for the Steam Price will be set to zero for Geysers Main Units until the cumulative Hourly Metered Total Net Generation for the Contract Year from all Units exceeds the Minimum Annual Generation given in Equation C2-2.

For pumped storage hydroelectric Units, the Fuel Cost Savings is calculated by the following formula:

$$\text{Fuel Cost Savings} = (X_o - X_n) * \text{Hourly Fuel Price}$$

Where:

- Hourly Fuel Price is YTD Pumping Cost / YTD Energy Produced; and YTD Pumping Cost and YTD Energy Produced are as defined in Equation C4-2.

For conventional hydroelectric Units, the Fuel Cost Savings is zero.

Other Savings = $((X_o - X_n) * (\text{Variable O\&M Rate} + \text{applicable annual charge for short-term sales under 18 CFR 382.201 of the FERC Regulations}))$

Emissions Savings = RECLAIM Savings + NOx Emissions Fee Savings + Organic Gases Fee Savings + Sulfur Oxides Fee Savings + Particulate Matter Savings + Carbon Monoxide Fee Savings

$$\text{RECLAIM Savings} = ((AX_o^2 + BX_o + C) - (AX_n^2 + BX_n + C)) * \text{RECLAIM NO}_x \text{ Trading Credit Rate}$$

Where:

- A, B and C are the coefficients from Table C1-13;
- X_o = Original Total Schedule in Market and Nonmarket Transactions;
- X_n = New Total Schedule in Market and Nonmarket Transactions;

$$\text{NO}_x \text{ Emissions Fee Savings} = \frac{((AX_o^2 + BX_o + C) - (AX_n^2 + BX_n + C))}{2000} * \text{NO}_x \text{ Emissions Fee;}$$

Where:

- A, B and C are the coefficients from Table C1-13;
- X_o = Original Total Schedule in Market and Nonmarket Transactions;
- X_n = New Total Schedule in Market and Nonmarket Transactions;

Organic Gases Fee Savings =

$$4.76 * 10^{-7} * \text{Gas Fuel Savings} * \text{Associated Emission Factor for Organic Gases} * \text{Associated Emissions Fee for Organic Gases}$$

Sulfur Oxides Fee Savings =

$$4.76 * 10^{-7} * \text{Gas Fuel Savings} * \text{Associated Emission Factor for Sulfur Oxides} * \text{Associated Emissions Fee for Sulfur Oxides}$$

Particulate Matter Oxides Fee Savings =

$$4.76 * 10^{-7} * \text{Gas Fuel Savings} * \text{Associated Emission Factor for Particulate Matter} * \text{Associated Emission Fee for Particulate Matter}$$

Carbon Monoxide Fee Savings =

$$4.76 * 10^{-7} * \text{Gas Fuel Savings} * \text{Associated Emission Factor for Carbon Monoxide} * \text{Associated Emission Fee for Carbon Monoxide}$$

All Emissions Fees and Emission Factors are determined in accordance with Schedule C.

[If applicable, insert emission cost savings formula for fuel other than natural gas.]

The Owner will be entitled to retain all payments received from the Owner's Scheduling Coordinator for the Unit's scheduled output.

B. For Pre-empted Ancillary Services Market Transactions:

CAISO shall pay Owner the product of (i) the difference between the MW of the Ancillary Service Owner had scheduled to provide in a Market Transaction and the MW of Ancillary Services Owner is able to provide after complying with the Dispatch Notice and (ii) the Market Clearing Price the Owner pays to buy back its commitment to deliver the preempted MW of Ancillary Services (if the Owner actually incurs such a cost), or the penalty the Owner pays for failure to deliver the preempted MW of Ancillary Services (if the Owner actually incurs such a cost) for the applicable Ancillary Service, market, and hour. In addition, if compliance with the Dispatch Notice causes reduction of a market regulation transaction, the CAISO shall also pay the Owner the product of the Regulation Energy Payment Adjustment (REPA) amount, if applicable, and the MW of Regulation which Owner had scheduled but is unable to provide because of its compliance with the Dispatch Notice.

Schedule E**Ancillary Services
Part 2 for Condition 2**

The CAISO may call upon the Unit to provide the following Ancillary Services as defined in the CAISO Tariff:

Voltage Support (including synchronous condenser operation)

The Owner shall be required to operate the Unit within the Power Factor range of the Unit specified in Schedule A to provide Voltage Support without additional compensation.

The Owner shall receive no payment for any Ancillary Services Capacity provided. However, operation of a Unit in synchronous condenser mode will be compensated as shown below.

Motoring Charge

When Units are operated as synchronous condensers (i.e., motored using electric power) to provide Ancillary Services, if applicable, the payment for that service is given by the following formula:

Motoring Charge = (Power consumption rate (MWh/hr)) * (hours operated) * (Energy Price)

Where the Power consumption rate is given by the following table:

Unit	Power consumption rate (MWh/hour)	
	With Both Units Dispatched Simultaneously	With Only One Unit Dispatched
Huntington Beach Unit 3	2.661	3.106
Huntington Beach Unit 4	2.608	3.053

The Energy Price shall be equal to the total power costs charged to the Facility by its supplier of end-use Energy under the Applicable UDC Tariff for the billing cycle in which the Motoring Charge was incurred divided by the total power consumed at the Facility under such tariff during such billing cycle.

Schedule E
Ancillary Services
Part 3 for Black Start Services – N/A

For those Units with Black Start capability, the cost of maintaining such capability is included in this Agreement and no additional costs shall be charged to the CAISO for maintaining such capability. The CAISO will pay for Black Start service, including for a Black Start Test Dispatch Notice, at the rates and prices in this Agreement for Start-Ups and Delivery of Energy in connection with the Black Start service. Owner shall maintain the Black Start capability of the Unit and the Facility and provide Black Starts in accordance with the CAISO Ancillary Services Requirements Protocol and the CAISO Dispatch Protocol, which shall be deemed incorporated by reference into this Agreement.

When the CAISO first gives written notice to the Owner that it has obtained adequate Black Start service through an auction or a separate agreement with Owner or other Generators and Black Start service under this Agreement is no longer required, the CAISO shall not be entitled to call upon this Unit to provide Black Start service. Once the CAISO has given this notice, the Owner may remove Black Start service from this Agreement by filing unilaterally a change in rate schedule with FERC. Such filing shall not be required to include any reduction in rate or revenue solely because Black Start service is removed. The CAISO shall not oppose the absence of any rate or revenue reduction that results solely from removing such service.

Schedule F – N/A**Determination of Annual Revenue Requirements
of Must-Run Generating Units**

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Article I. Purpose and General Procedures**Part A. Determination of Rates and Charges**

This Schedule F establishes the procedures and methodology for determining the Annual Fixed Revenue Requirements (in dollars) and Variable O&M Rates (in \$/MWh) for facilities designated for must-run service for purposes of calculating certain charges for such service under the RMR Contract.

The Annual Fixed Revenue Requirements and the Variable O&M Rate for each designated must-run generating facility shall be determined annually. The Annual Fixed Revenue Requirements and the Variable O&M Rate for each such facility that shall be used for calculating charges to the CAISO during each calendar year shall be determined by application of the Formula set forth in Article II hereof to the Owner's costs incurred during the twelve-month period ended on June 30 of the prior calendar year. Each twelve-month period ending on June 30 of each year is hereinafter referred to as the "Cost Year" relating to the rates and charges that are effective during the succeeding calendar year.

Part B. Informational Filings

In connection with the determination of rates and charges for each calendar year, reflecting costs incurred during the June 30 Cost Year as described in the foregoing Part A of this Article I, the Owner shall provide to the CAISO an Information Package detailing and supporting all calculations involved in such determination. A single Information Package may contain all such informational materials pertaining to all of the Owner's designated must-run facilities. On or before October 1, 2001, the Owner shall provide to the CAISO the Information Package relating to the rates and charges to become effective on January 1, 2002. Thereafter, on November 1 of each year, the Owner shall provide to the CAISO the Information Package relating to the rates and charges to be effective during the calendar year beginning on the following January 1.

Each such Information Package shall be in a clear and readable format and shall contain:

1. detailed workpapers showing the derivation of costs under the Formula for the relevant Cost Year along with supporting schedules showing the data used in applying the formula, presented in a format consistent with the presentation of information in the FERC Form No. 1;
2. a clear identification of the depreciation rates reflected in claimed costs for the Cost Year and the rate of return and every other stated item (i.e., any item which appears as a numerical value in the Formula and which only may be changed by a filing with the FERC);

3. a comparison of the major components of the resulting revenue requirements for the relevant Cost Year with the corresponding components of the revenue requirements that result from the application of the Formula using costs from the Owner's FERC Form No. 1 relating to the preceding calendar year;
4. such additional documentation as to specific items of costs required by the Formula.

The Owner shall provide each Information Package to the CAISO in printed form and a suitable electronic format. The CAISO shall post the Information Package on its website. A suitable electronic format shall be any format that the FERC permits for electronic filings.

Coincident with providing each such Information Package to the CAISO, the Owner shall also submit the Information Package to the FERC in an informational filing so as to allow for review of the related rates and charges by the FERC staff and affected parties. As to the informational filing relating to rates and charges to be effective during calendar year 2002, (i) discovery requests by the FERC staff and affected parties shall be made within 45 days of the filing, with responses by the Owner due within 60 days of the filing, and (ii) protests, if any, by affected parties shall be filed with the FERC within 75 days of the filing. As to each subsequent informational filing, (i) discovery requests by the FERC staff and affected parties shall be made within 20 days of the filing, with responses by the Owner due within 35 days of the filing, and (ii) protests, if any, by affected parties shall be filed with the FERC within 45 days of the filing. In the event that the need arises during the discovery process for the nondisclosure or confidentiality of information, the Owner and affected parties, other than FERC Staff and state regulatory agencies, shall utilize the procedures contained in Schedules N-1 and N-2 of the RMR Contract. If the Owner seeks the confidentiality or nondisclosure of information provided to FERC or state regulatory agencies, it shall follow the applicable rules, regulations and statutory provisions of those agencies.

Protests to the Information Package challenging arithmetic calculations or conformity to the Rate Formula, not resolved by summary disposition of the FERC, shall be resolved by the use of the Alternative Dispute Resolution procedures in Schedule K of the RMR contract. In such a proceeding, the Owner will bear the burden of proof as in a proceeding under Section 205 of the Federal Power Act (FPA). If it is found that an erroneous calculation or non-conforming formula element has been used, refunds shall be ordered. The amount of refunds shall restore the parties to the positions they would have occupied had the erroneous calculations or non-conforming formula elements not been used, with interest calculated pursuant to Section 35.19a of the Commission's regulations, 18 C.F.R. Section 35.19a.

If a matter is set for hearing, additional discovery shall be permitted in accordance with the Commission's Rules of Practice and Procedure. Under hearings established pursuant to this provision, refund rights will be as in a proceeding under Section 205 of

the FPA. Any refunds due as the result of a final Commission order will be credited or paid to the CAISO with interest in accordance with 18 C.F.R. 35.19a.

In addition to the discovery provided above, affected parties shall have the ability to audit the Owner's books and records as provided in Section 12.2 of the RMR Contract. To the extent that an audit discloses that the formula was not correctly applied for a particular year, the affected prior billings shall be corrected, and appropriate refunds or credits shall be provided to the CAISO, with interest determined in accordance with 18 C.F.R. 35.19a.

Notwithstanding the above procedures, all parties retain full rights to make filings at any time under Sections 205 and 206 of the FPA, as appropriate.

Article II. Formula for Determination of Annual Revenue Requirements

Part A. Purpose and Overview

The purpose of this Formula For Determination of Annual Revenue Requirements ("Formula") is to specify the method for determining the Annual Revenue Requirements, and certain components thereof, of particular must-run generating units for each Cost Year.

Part B of this Formula contains the specifications for the components of costs that may be included in the Annual Revenue Requirements of individual designated must-run generating units (*i.e.*, for each "Subject Resource").

Part C of this Formula sets forth (i) general instructions for the use and application of the Formula, and (ii) certain general definitions of terms used herein.

Part B. Determination of Annual Revenue Requirements

Section 1. Annual Fixed Revenue Requirements and Variable O&M Rate

Annual Fixed Revenue Requirements

The "Annual Fixed Revenue Requirements" for the Subject Resource is the amount determined as the following difference:

1. Total Annual Revenue Requirements, as defined below; less
2. Total Annual Variable Costs, as defined below.

Variable O&M Rate

The "Variable O&M Rate" for the Subject Resource is the rate (in \$/MWh) determined as the follows:

Variable O&M Rate = [Annual Variable O&M Expenses]/[Annual Net Generation]

where "Annual Variable O&M Expenses" is defined hereinbelow, and "Annual Net Generation" is the net generation (in MWh) of the Subject Resource during the Cost Year.

Notwithstanding the foregoing, whenever the Annual Net Generation of the Subject Resource is zero or negative, the Variable O&M Rate shall be deemed to be zero.

Total Annual Revenue Requirements

The "Total Annual Revenue Requirements" for the Subject Resource is the amount that is the sum of the following amounts:

1. Operating Expenses, determined pursuant to Section 2 below; and
2. Return and Income Tax Allowance, determined pursuant to Section 3 below.

Section 2. Operating Expenses

"**Operating Expenses**" for the Subject Resource is the quantity that is the sum of the following amounts:

0. Total O&M Expenses, as defined below;
1. Depreciation Expenses, as defined below;
2. Taxes Other Than Income Taxes, as defined below; and
3. Revenue Credits, as defined below.

Total O&M Expenses

"Total O&M Expenses" is the amount of expenses arising from the operation and maintenance of the Subject Resource, including Production O&M Expenses, Transmission O&M Expenses, Distribution O&M Expenses, and Administrative & General Expenses, all as defined below.

- (1) **Production O&M Expenses:** Expenses incurred directly in operating and maintaining the Subject Resource:
 - (a) **Steam Production O&M:** For steam units only, amounts

properly recorded in Accounts 500-515.

- (b) **Hydro Production O&M:** For hydro units only, amounts properly recorded in Accounts 535-545.
 - (c) **Other Power Generation O&M:** For other types of units, amounts properly recorded in Accounts 546-554.
 - (d) **Other Power Supply Expenses:** Amounts properly recorded in Accounts 555-557, if any, that are reasonably assignable or allocable to the Subject Resource.
- (2) **Transmission O&M Expenses:** Expenses incurred directly in operating and maintaining the transmission facilities associated with the Subject Resource, as properly recorded in Accounts 560-573 and reasonably assignable or allocable to the Subject Resource.
 - (3) **Distribution O&M Expenses:** Expenses incurred directly in operating and maintaining the distribution facilities associated with the Subject Resource, as properly recorded in Accounts 580-598 and reasonably assignable or allocable to the Subject Resource.
 - (4) **Administrative and General (A&G) Expenses:** Those portions, if any, of administrative and general expenses, as properly recorded in Accounts 920-935, that are reasonably related to the operation of the Subject Resource, determined from appropriate direct assignment or reasonable allocation. Such expenses shall exclude (i) franchise fees related solely to the Owner's retail sales, (ii) retail regulatory expenses, (iii) assessments under 18 CFR Section 382.201 of the FERC Regulations, (iv) association dues, and (v) general advertising expenses.

Notwithstanding the foregoing, O&M Expenses hereunder shall exclude all Scheduling Coordinator Charges as charged under the CAISO Tariff, irrespective of in which Account or Accounts such charges are included.

Depreciation Expenses

"Depreciation Expenses" are provisions for depreciation and amortization for the Subject Resource, as properly recorded in Accounts 403, 404, 405, 406, and 407, including only:

- (1) **Production Plant Depreciation:** Depreciation and amortization, if any, of investment in the Subject Resource;
- (2) **Transmission Plant Depreciation:** Depreciation and amortization,

if any, of investment in the transmission facilities associated with the Subject Resource, as reasonably assignable or allocable to the Subject Resource;

- (3) **Distribution Plant Depreciation:** Depreciation and amortization, if any, of investment in the distribution facilities associated with the Subject Resource, as reasonably assignable or allocable to the Subject Resource;
- (4) **General and Intangible Plant Depreciation:** Depreciation and amortization, if any, of general and intangible plant investments that are reasonably assignable or allocable to the Subject Resource.

Notwithstanding the foregoing, costs recorded in Accounts 405, 406 and 407 shall be included hereunder only if, and to the extent that, FERC shall have permitted the inclusion of such costs for ratemaking purposes for the Owner under the RMR Contract.

Taxes Other Than Income Taxes

"Taxes Other Than Income Taxes" are taxes other than income and revenue taxes, as properly recorded in Account 408.1, that are reasonably assignable and allocable to the Subject Resource, including for example:

1. Property and Property-Related Taxes;
2. Payroll and Labor-Related Taxes;
3. Other Taxes, if any, identifiable as reasonably assignable or allocable to the Subject Resource.

Taxes Other Than Income Taxes assignable and allocable to the Subject Resource shall not include any taxes related solely to, or arising solely from, the Owner's retail sales.

Revenue Credits

"Revenue Credits" are those revenues, if any, that are (i) properly recorded in Account 451 (Miscellaneous Service Revenues), Account 453 (Sales of Water and Water Power), Account 454 (Rent From Electric Property), Account 455 (Interdepartmental Sales), and Account 456 (Other Electric Revenues), and (ii) directly related to, or reasonably allocable to, the Subject Resource. Such Revenue Credits shall be treated as negative values hereunder.

Treatment of Capital Leases

The foregoing components of Operating Expenses may include expenses associated with capital leases as approved by the Commission, as set forth more fully under Article II, Part B, Section 4(A) of this Formula.

Section 3. Return and Income Tax Allowance

"Return and Income Tax Allowance" is the quantity that is the sum of:

1. the product of:
 - a. Allowable Pre-Tax Rate of Return, and
 - b. Net Investment,
 as both such quantities are hereinafter defined; and
2. the quantity equal to:

$$[ITC Amortization]/(1-t)$$

where:

- a. "t" is the effective, combined state and federal income tax rate.
- b. "ITC Amortization," is amortization, if any, of investment tax credits, as properly recorded in Account 411.4, that are reasonably assignable or allocable to the Subject Resource and to those portions of general and intangible plant investments that are reasonably assignable or allocable to the Subject Resource. Notwithstanding the foregoing, this term shall include only those amounts of amortization of investment tax credits which the Owner shall have elected to receive under Section 46(f)(1) of the Internal Revenue Code. ITC Amortization amounts that reduce net income shall be treated as negative values hereunder, while ITC Amortization amounts, if any, that increase net income shall be treated as positive values hereunder.

Section 4. Net Investment

"Net Investment" is the quantity that is determined as follows:

$$\text{Net Investment} = \text{Gross Plant Investment} - \text{Depreciation Reserve} + \text{CWIP} + \text{PHFU} - \text{ADIT} + \text{Working Capital}$$

where the quantities appearing in the foregoing equation are defined hereinafter below.

In determining Net Investment hereunder, each component thereof, other than Cash Allowance, shall be determined as the end-of-year balances in the Accounts specified for the relevant Cost Year.

(A) Gross Plant Investment

"Gross Plant Investment" is gross original cost plant investment as properly recorded in Accounts 101, 102, 106, and 114, including only the following amounts:

- (1) **Production Plant Investment:** investment in the generating unit itself and in common facilities associated with the unit, as recorded in Accounts 310-316, 330-336, or 340-346, 106 and 114;
- (2) **Transmission Plant Investment:** investment in transmission facilities associated with the Subject Resource, as properly recorded in Accounts 350-359, 106, and 114, and reasonably assignable or allocable to the Subject Resource;
- (3) **Distribution Plant Investment:** investment in distribution facilities associated with the Subject Resource, as properly recorded in Accounts 360-373, 106, and 114, and reasonably assignable or allocable to the Subject Resource; and
- (4) **General and Intangible Plant Investment:** reasonably assignable and allocable portions, if any, of general and intangible plant investment, recorded in Accounts 389-399 and 301-303, 106 and 114.

Subject to the limitations detailed in this paragraph, when the Owner has a capital lease in lieu of gross plant investment, it may include Account 101.1 hereunder. A lease may be capitalized and the costs included for ratemaking purposes if the Owner demonstrates that the lease qualifies as a capital lease under 18 C.F.R. Part 101, General Instruction No. 19 (1998), and the Owner has obtained, prior to the informational filing, approval to include such costs for ratemaking purposes from the FERC under the FPA. Capital leases shall be accounted for in accordance with 18 C.F.R. Part 101, General Instruction No. 20 (1998).

(B) Depreciation Reserve

"Depreciation Reserve" is accumulated provision for depreciation and amortization, as properly recorded in Accounts 108, 111, and 115, related to the Subject Resource, including the following amounts:

- (1) **Production Plant Depreciation Reserve:** amounts of Depreciation Reserve for the investment in the unit itself and in common facilities associated with the unit;
- (2) **Transmission Plant Depreciation Reserve:** amounts of Depreciation Reserve for the investment in transmission facilities associated with the Subject Resource, as reasonably assignable or allocable to the Subject Resource;
- (3) **Distribution Plant Depreciation Reserve:** amounts of Depreciation Reserve for the investment in distribution facilities associated with the Subject Resource, as reasonably assignable or allocable to the Subject Resource;
- (4) **General and Intangible Plant Reserve:** amounts of Depreciation Reserve for the portions, if any, of general and intangible plant investments reasonably assignable and allocable to the Subject Resource.

Credit balances in the aforementioned accounts shall be treated as positive values hereunder, and debit balances in such accounts shall be treated as negative values.

(C) CWIP

"CWIP" is the amount of construction work in progress, as properly recorded in Account 107 for construction projects associated with the Subject Resource related solely and directly to pollution control for the Subject Resource.

(D) PHFU

"PHFU" is the cost of plant held for future use, as properly recorded in Account 105 that is reasonably assignable or allocable to the Subject Resource.

(E) ADIT

"ADIT" is accumulated provision for deferred income taxes, as properly recorded in Accounts 190, 281, 282, 283, and 255, that are reasonably assignable or allocable to the investment in, or operation of, the Subject Resource, including the following amounts:

- (1) **Production Plant ADIT:** amounts of ADIT arising directly from the investment in, or operation of, the Subject Resource itself and common facilities associated with the Subject Resource;

- (2) **Transmission Plant ADIT:** amounts of ADIT arising directly from the investment in, or operation of, the transmission facilities, if any, associated with the Subject Resource;
- (3) **Distribution Plant ADIT:** amounts of ADIT arising directly from the investment in, or operation of, distribution facilities, if any, associated with the Subject Resource; and
- (4) **General and Intangible Plant ADIT:** amounts of ADIT arising from the portions, if any, of general and intangible plant investments reasonably assignable and allocable to the Subject Resource.

For purposes of this Formula, ADIT means accumulated provision for deferred income taxes, as properly recorded in the aforementioned Accounts, *including* amounts previously recorded in such accounts and reclassified as a result of the adoption of SFAS No. 109, but *excluding* amounts recorded in such accounts as a result of the adoption of SFAS No. 109, such that the required adoption of SFAS No. 109 will have no effect on the costs determined hereunder.

Notwithstanding the foregoing, as to Account 255, ADIT hereunder shall include only those amounts, if any, related to investment tax credits which the Owner shall have elected to receive under Section 46(f)(2) of the Internal Revenue Code.

ADIT balances that are credit balances shall be treated as positive values hereunder, while ADIT balances that are debit balances shall be treated as negative values hereunder.

Owner shall support all amounts of ADIT included and not included hereunder in the manner described in sections 35.13(h)(6) and (7) of the Commission's regulations (Statements AF and AG, respectively), except that the time period for the relevant data for the informational package will be consistent with the requirements of this formula, rather than the "Periods" referenced in those regulations.

Working Capital

"Working Capital" is the sum of the portions, if any, of the following items that are reasonably assignable or allocable to the Subject Resource:

- (1) **Fuel Stocks**, which is the amount of fossil fuel stock, if any, maintained for the Subject Resource, as properly recorded in Account 151;
- (2) **Plant Materials and Supplies**, consisting of the value of plant

materials and supplies reasonably assignable or allocable to the Subject Resource, as properly recorded in Accounts 154 and 163;

- (3) **Prepayments**, consisting of the amount, if any, of prepayments reasonably assignable or allocable to the Subject Resource, as properly recorded in Account 165;
- (4) **Working Cash Allowance**, which is one-eighth of O&M Expenses (as defined herein), less (a) Total Annual Fuel Costs (as defined hereinbelow), and (b) all amounts or portions, if any, of Account 555 (Purchased Power) that may be included in such O&M Expenses; and

Unamortized Deferred Costs, which shall be that portion, if any, of Account 186 directly related to, or reasonably allocable to, the Subject Resource.

Section 5. Allowable Pre-Tax Rate of Return

The Allowable Pre-Tax Rate of Return shall be the sum of:

- (a) 12.25%, and
- (b) 30% of the amount, if any, by which (a) the latest available 6-month average of yields on 10-year U.S. Treasury Bonds, as of the date of the first Informational Filing, exceeds (b) the latest available 6-month average of yields on 10-year U.S. Treasury Bonds as of *[the effective date of the settlement]*.

Notwithstanding the foregoing, the Owner may make application to the FERC, prior to or in conjunction with the first Informational Filing, in a limited proceeding to seek to establish a different Allowable Pre-Tax Rate of Return under Section 205 of the Federal Power Act.

Section 6. Additional Quantities

(A) Annual Variable O&M Expenses

"Annual Variable O&M Expenses" is the sum of the following quantities:

- (1) **Variable Production O&M Expenses:** those portions of Production O&M Expenses, as defined above, other than fuel expenses, that are reasonably determined to be variable expenses, in the sense that they are incurred as a result of, or otherwise are reasonably associated with, the production of energy by the Subject Resource.

- (2) **Variable A&G Expenses:** that portion of A&G Expenses that is related or allocable to the foregoing Variable Production O&M Expenses.

Notwithstanding the foregoing, starting with the first information filing hereunder and continuing until the Owner elects to use a different method to determine its Annual Variable O&M Expenses, the Owner may compute Annual Variable O&M Expenses as the amount equal to the product of (a) the Initial Variable O&M Rate, in \$/MWh, for the Subject Resource, as set forth in Exhibit A hereto (Exhibit A can be found in Appendix B to the Stipulation and Agreement), times (b) the Net Generation of the Subject Resource (as defined hereinabove). Whenever the Owner does not compute Annual Variable O&M Expenses based on the Initial Variable O&M Rate in the foregoing manner, the Owner shall include in each of Informational Package a detailed explanation of the method or methods used to classify O&M expenses as between fixed (*i.e.*, capacity-related) expenses and variable (*i.e.*, energy-related) expenses and the reason(s) such method results in just and reasonable rates.

(B) Annual Fixed O&M Expenses

"Annual Fixed O&M Expenses" is the quantity that is equal to the following:

- (1) Total O&M Expenses, as defined hereinabove, less
- (2) the sum of:
- a. Annual Variable O&M Expenses, as defined hereinabove, and
 - b. Annual Variable Fuel Costs, as defined hereinbelow,
 - c. Annual Emissions Costs, as defined hereinbelow, and
 - d. Annual Non-Fuel Start-Up Costs, as defined hereinbelow.

(C) Fuel Expenses

(1) Total Annual Fuel Costs

"Total Annual Fuel Costs" is the total fuel expense for the Subject Resource for the Cost Year properly recorded in Account 501 or Account 547, as appropriate depending on the nature of the Subject Resource.

(2) Annual Fixed Fuel Costs

"Annual Fixed Fuel Costs" is that portion, if any, of Total Annual Fuel Costs related to fuel handling and administration of fuel planning, procurement and transportation which do not vary with the amount of fuel purchased.

(3) Annual Variable Fuel Costs

"Annual Variable Fuel Costs" is the quantity that is the following difference:

1. Total Annual Fuel Costs, less
2. Annual Fixed Fuel Costs.

(D) Annual Emissions Costs

"Annual Emissions Costs" is the total emissions costs that are related to the operation of the Subject Resource during the Cost Year.

(E) Annual Non-Fuel Start-Up Costs

"Annual Non-Fuel Start-Up Costs" is the aggregate sum of costs, other than fuel costs, attributable to start-ups of the Subject Resource during the Cost Year, consisting of start-up power costs, shut-down power costs, and other non-fuel start-up costs, all as determined pursuant to the applicable sections of Schedule D of the RMR Contract, as applied to all start-ups of the Subject Resource during the Cost Year.

(F) Total Annual Variable Costs

"Total Annual Variable Costs" is the sum of:

1. Annual Variable O&M Expenses,
2. Annual Variable Fuel Costs, and
3. Annual Emissions Costs.

Part C. General Instructions and Explanatory Notes

Section 1. General Instructions

In applying this Formula to a Subject Resource, the following instructions and explanations shall be followed:

(A) No Duplicative Charges

The costs determined and referenced by this Formula shall exclude costs that are recoverable, or that are actually recovered, elsewhere under the applicable contract or agreement between the Owner and the CAISO. There shall be no double counting of costs hereunder.

(B) Determination of Depreciation Expenses

Depreciation Expenses, Depreciation Reserve, and Deferred Income Taxes reflected in the revenue requirements determined pursuant to this Formula shall be computed using either fixed depreciation rates or depreciation rates determined annually from fixed mortality characteristics (i.e., service lives, net salvage ratios, etc.). Such depreciation rates and/or mortality characteristics, which may differ for particular assets or groups of assets comprising, or related to, the Subject Resource, are set forth on Exhibit B, which is attached hereto and made a part hereof. Such depreciation rates and/or mortality characteristics may not be changed except pursuant to Section 205 or Section 206 of the FPA. Nothing herein shall be construed as affecting any requirements of the FERC regarding the use by the Owner of depreciation rates for financial reporting purposes.

(C) Costs in Excess of Original Cost

The components of rate base and the costs reflected under the Formula shall not include an acquisition adjustment or costs associated with an acquisition adjustment unless the Owner shall have obtained approval from the FERC to include under the Formula such an adjustment or such costs for ratemaking purposes under the FPA. The effective date for the inclusion of such costs shall be as set forth in the FERC order.

(D) Use of FERC Accounting

The costs determined and referenced by this Formula shall reflect only FERC-basis accounting, and shall not reflect any accounting for costs approved by any state regulatory commission or other body if not approved or accepted by the FERC for use in connection with the RMR Contract. Except as otherwise provided herein, the accounting for costs

for purposes of applying this Formula shall be consistent with the requirements of the Uniform System of Accounts.

(E) Accounting Methods

The costs determined and referenced by this Formula shall reflect only such accounting methods prescribed by such authorities as AICPA and FASB that shall have been approved or accepted by the FERC for use in connection with the RMR Contract. The Owner shall be required to seek and gain such approval or acceptance from the FERC prior to reflecting any changed accounting methods in the determination of costs in connection with this Formula.

The Owner shall carry the burden of demonstrating that its accounting methods and entries reflected in the costs determined and referenced by this Formula produce just, reasonable, and nondiscriminatory rates for its customers.

(F) Out-of-Period Adjustments

The costs determined and referenced by this Formula shall not reflect any accounting entries the purpose of which is to adjust or correct for accounting entries in years other than the Cost Year if such adjusting or correcting entries would have an unjust, unreasonable, or discriminatory effect on the CAISO.

(G) Extraordinary Costs

Extraordinary costs included in the costs determined and referenced by this Formula shall be subject to amortization over a reasonable period of time. In determining how costs should be amortized, the parties shall also determine how the costs being amortized should be recovered in the event that the plant closes and does not reopen.

As used herein, "extraordinary costs" mean costs arising from events and transactions that are of an unusual nature and infrequent occurrence, the effects of which are abnormal and significantly different from the ordinary and typical activities of the Owner, and would not reasonably be expected to recur in the foreseeable future. In determining significance, items should be considered individually and not in the aggregate. However, the effects of a series of related transactions arising from a single specific and identifiable event or plan of action should be considered in the aggregate. An item can be extraordinary even if it is less than five (5) percent of income computed before the extraordinary item. In its annual Information Package, the Owner shall identify and provide explanations for all extraordinary costs which it seeks to include in the rates and charges

determined pursuant to this Formula, and the Owner shall bear the burden of proof, as in a proceeding under Section 205 of the FPA, that its proposed treatment of extraordinary costs is just and reasonable.

(H) Imprudently Incurred Costs

The costs determined and referenced by this Formula shall not include any costs which have been determined by the FERC in a proceeding under Section 206 of the FPA to have been imprudently incurred by the Owner.

(I) Transmission Cost Assignments and Allocations

Costs of transmission facilities assigned and/or allocated to the Subject Resource hereunder are intended to include only those costs, if any, related to the step-up substation facilities and other transmission facilities directly connected to the Subject Resource and used to deliver the output of the Subject Resource to the transmission grid. In each annual Informational Package, the Owner shall clearly identify and fully describe all transmission facilities which it claims satisfy the foregoing criteria.

(J) Distribution Cost Assignments and Allocations

Costs of distribution facilities assigned and/or allocated to the Subject Resource hereunder are intended to include only those costs, if any, related to the step-up substation facilities and other distribution facilities directly connected to the Subject Resource and used to deliver the output of the Subject Resource to the transmission or distribution system. In each annual Informational Package, the Owner shall clearly identify and fully describe all distribution facilities which it claims satisfy the foregoing criteria.

(K) Inclusion of Certain Costs

The Owner shall include in its annual Informational Package detailed workpapers and explanations supporting the reasonableness of including in the revenue requirements determined pursuant to this formula any amounts recorded in Accounts 501, 547, 555, 561, 927, 105, and 186. The Owner shall bear the burden of proof, as in a proceeding under Section 205 of the FPA, to affirmatively demonstrate that all such included amounts are directly related to the provisions of service under the RMR Contract and are reasonably assignable or allocable to the Subject Resource. As to Account 105, the requirement for a definitive plan required by the description of Account 105 in the Uniform System of Accounts, and the affirmative demonstration required by this paragraph, shall be deemed to be met upon a showing that the CAISO has approved,

in accordance with the provisions of Section 7.4 of the RMR Contract, a plan for the future use of the property.

(L) Direct Assignments and Allocations

Where Part B of this Formula provides for the identification and/or assignment of costs incurred directly in connection with a particular facility or facilities (including a Subject Resource), or directly related to such a facility or facilities, the Owner shall bear the burden of demonstrating the reasonableness of each such identification and/or assignment, and each failure to make such an identification and/or assignment. Notwithstanding the foregoing, where this Formula provides for such a direct identification or assignment of costs, the Owner may use an allocation method to apportion such costs among particular facilities; provided, however, that (i) the Owner shall in its Informational Package clearly identify and describe such allocation method and the basis for it, and (ii) the Owner shall bear the burden of demonstrating the reasonableness of the method. It is recognized that such allocation methods may, for example, be appropriate for apportioning certain types of costs between individual generating units at a multi-unit generating station. Such allocations of costs between individual generating units at a plant site shall be consistent with the requirements for such allocations, if any, provided in the RMR Contract.

(M) No Adverse Distinction

In applying this Formula and in maintaining its books and records insofar as they affect the results of applying this Formula, the Owner shall not make an adverse distinction between the Subject Resource and any other facility or facilities owned or operated by the Owner; *e.g.*, the Owner shall assign certain costs directly to the Subject Resource only if, and to the extent that, the Owner directly assigns such costs to other, similar facilities.

Section 2. General Definitions

Except as may be expressly stated otherwise, the following terms have the followings meanings as used herein:

(A) Account

"Account" refers to a particular account for "major" utilities as prescribed by the Uniform System of Accounts.

(B) FERC

"FERC" means the Federal Energy Regulatory Commission or its successor.

(C) Uniform System of Accounts

"Uniform System of Accounts" means the FERC's "Uniform System of Accounts Prescribed For Public Utilities and Licensees Subject to the Provisions of the Federal Power Act," as such uniform system of accounts was in effect as of the first effective date of the RMR Contract.

(D) RMR Contract

"RMR Contract" means the contract to which this Formula is attached and made a part thereof.

(E) Subject Resource

"Subject Resource" means any particular generating unit to which this Formula is applied for purposes of determining the annual costs thereof.

(F) Cost Year

"Cost Year" means the twelve-month period ended June 30 to which this Formula is applied to determine the Annual Fixed Revenue Requirements and Variable O&M Rate for a Subject Resource to be applicable during the next succeeding calendar year.

(G) Owner

"Owner" means the entity, other than the CAISO, that is a party to the RMR Contract.

(H) CAISO

The "CAISO" means the California Independent System Operator Corporation.

Exhibit C - 1998 Cost Information

Pursuant to Article IV.E of the Stipulation and Agreement filed with the FERC on April 2, 1999, the Owner shall file with the FERC in Docket No. ER98-441-000, et. al., a superceding Exhibit C, setting forth the following information for each unit for the period ending December 31, 1998:

- (1) Name of the facility and unit;
- (2) Gross Plant In Service, *i.e.* the original cost plus plant additions minus retirements, by major plant function (*i.e.* production, transmission, distribution and general);
- (3) Net Plant In Service Gross Plant, *i.e.* gross plant minus depreciation reserve, by major plant function;
- (4) Rate Base, *i.e.* net plant and other components of Net Investment as defined in the Formula, such as working capital, Accumulated Deferred Income Taxes (ADIT), etc.

This Exhibit C shall be for informational purposes only and shall be initially filed with FERC by June 1, 1999.

Schedule G**Charge for Service in Excess of
Contract Service Limits**

Payment for service in excess of the Maximum Annual Service Hours or Maximum Annual Start-ups shall be determined in accordance with Option A or Option B. Payment for service from hydroelectric Units in excess of the Maximum Monthly MWh shall be determined in accordance with Option A only. Owner shall make a one-time election between Option A or Option B. Owner must choose Option A for both Billable MWh and Start-ups or Option B for both Billable MWh and Start-ups. This election shall be applicable to all of the Owner's Units under this Agreement and all other Reliability Must-Run Units subject to a "reliability must-run contract" as defined in the CAISO Tariff with Owner or any of its affiliates as defined in 18 C.F.R. Section 161.2.

1. Option A

- A. For all Billable MWh Delivered after the Counted MWh for the Contract Year equals the Maximum Annual MWh, the Counted Service Hours equals the Maximum Annual Service Hours or, for hydroelectric Units, the Counted MWh for the Month equals the Maximum Monthly MWh ("Schedule G Billable MWh"):

Fossil Fuel Units

In addition to the Variable Cost Payment computed in accordance with Schedule C, the CAISO shall pay the Option A Variable Cost Payment, which shall be calculated in accordance with Equation G-1:

Equation G-1

$$\text{Option A Variable Cost Payment} = \frac{0.5 * (\text{Variable Cost Payment for the Billing Month})}{\text{Billable MWh for the Billing Month}} * \text{Schedule G Billable MWh}$$

Pumped Storage Hydroelectric Facilities

In addition to the Variable Cost Payment computed in accordance with Schedule C, CAISO shall pay the product of (a) the Schedule G Billable MWh, (b) 0.5, and (c) YTD Pumping Costs divided by YTD Energy Produced as computed in accordance with Equation C4-2 in Schedule C.

Conventional Hydroelectric Facilities

In addition to the Variable Cost Payment computed in accordance with Schedule C, CAISO shall pay the sum of the products for each hour in the Billing Month of (a) the Hourly Fuel Price for natural gas for the hour calculated in accordance with Equation C1-8 of Schedule C, (b) 12,000 Btu/kWh, (c) the Schedule G Billable MWh for that hour, and (d) 0.5.

- B. For all Service Hours provided after the Counted Service Hours for the Contract Year equals the Maximum Annual Service Hours.

Synchronous Condensers

In addition to the Motoring Charge computed in accordance with Schedule E, CAISO shall pay the product of (a) the Motoring Charges calculated in accordance with Schedule E, and (b) 0.5.

- C. For all Start-ups required to comply with a Dispatch Notice after the Counted Start-ups for the Unit equals the Maximum Annual Start-ups ("Schedule G Start-ups"), the CAISO shall pay:

Fossil Fuel Units and Geothermal Units

Two times (a) the Start-up Payment computed in accordance with Equation D-1 in Schedule D, or (b) if the Schedule G Start-up is initiated under a Dispatch Notice but is not successfully completed because it is canceled or rescinded by the CAISO, the Start-up Payment for Canceled Start-up is computed in accordance with Equation D-4 in Schedule D.

Conventional Hydroelectric Facilities and Units Capable Only of Synchronous Condenser Operation

The Start-up Payment computed in accordance with Schedule D, plus (a) (0.00338) * the Unit's Annual Fixed Revenue Requirement stated in Section 7 of Schedule B, divided by (b) the Unit's Maximum Annual Start-ups.

Pumped Storage Hydroelectric Facilities

The Start-up Payment computed in accordance with Equation D-1 in Schedule D, plus (a) 0.00167 * the Unit's Annual Fixed Revenue Requirement stated in Section 7 of Schedule B), divided by (b) the Unit's Maximum Annual Start-ups.

2. Option B

- A. For all Schedule G Billable MWh Delivered in the Billing Month, the CAISO shall pay the Variable Cost Payment computed in accordance with Schedule C. Since Schedule G Billable MWh are included in calculating the Variable Cost Payment for Billable MWh for the Billing Month under Schedule C, there is no additional payment for Schedule G Billable MWh under Option B.
- B. For all Service Hours provided after the Counted Service Hours for the Contract Year equals the Maximum Annual Service Hours:

Synchronous Condensers

In addition to the Motoring Charge computed in accordance with Schedule E, CAISO shall pay the product of (a) the Motoring Charges calculated in accordance with Schedule E, and (b) 0.5.

- C. For all Schedule G Start-ups in the Billing Month, the CAISO pay:

Units Capable Only of Synchronous Condenser Operation

The Start-up Payment computed in accordance with Schedule D, plus (a) (0.00338) * the Unit's Annual Fixed Revenue Requirement stated in Section 7 of Schedule B, divided by (b) the Unit's Maximum Annual Start-ups.

Fossil Fuel Units and Geothermal Units

Three times (a) the Start-up Payment computed in accordance with Equation D-1 in Schedule D, or (b) if the Schedule G Start-up is initiated under a Dispatch Notice but is not successfully completed because it is canceled or rescinded by the CAISO, the Start-up Payment for Canceled Start-up is computed in accordance with Equation D-4 in Schedule D.

3. Owner's Election

Option A ___ * ___

Option B ___ * ___

*Option A or Option B results in the same terms for Synchronous Condenser operation.

Schedule H – N/A***Fuel Oil Service***

The following is a description of existing capability of the Facility to burn fuel oil in lieu of or addition to natural gas:

N/A

Schedule I***Insurance Requirements*****Owner - Obtained Insurance*****Commercial General Liability***

Commercial general liability insurance covering personal injury and property damage to third parties in connection with the activities at the Facility. The coverage will have a limit of not less than \$20 million per occurrence, and will include coverage for sudden and accidental pollution losses. The CAISO will be added as an additional insured under the terms of this coverage to the per-occurrence limit above.

Property

Property Insurance for direct physical loss or damage to the Facility, in an amount not less than the probable maximum loss at the Facility.

CAISO – Obtained Insurance***Errors and Omissions Insurance and Directors & Officers Insurance***

Errors and omissions insurance and directors and officers insurance coverage will have a combined limit of not less than \$150 million for the shorter of (i) until the termination of this Agreement or (ii) until January 1, 2002.

**Schedule J
Notices**

Owner

Name: Weikko Wirta
Title: Plant Manager
Address: 21730 Newland Street, Huntington Beach, CA 92646
Telephone: 714-374-1421
Facsimile:
E-mail: Weikko.wirta@aes.com

With a copy to: Owner's Representative:

Name: Yiyu Zhong
Title: Billing and Settlement
Address: 690 North Studebaker Road, Long Beach, CA 90803
Telephone: 562-493-7704
Facsimile: 562-493-7320
E-mail: yiyu.zhong@aes.com

CAISO:

Benik Der-Gevorgian
Director, Market Services
California ISO Corporation
250 Outcropping Way
Folsom, CA 95630
Telephone: (916) 351-2277
Email: BDGevorgian@caiso.com

With copies to:

Sidney Mannheim Davies
Assistant General Counsel
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Robert Kott
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Email: rkott@caiso.com

**SCHEDULE K
DISPUTE RESOLUTION****Applicability****1.1 General Applicability.**

Except as limited below or otherwise as limited by law (including the rights of any party to file a complaint with FERC under the relevant provisions of the Federal Power Act (FPA)), these ADR Procedures shall apply to (a) all disputes between parties which arise under this Agreement and (b) disputes between CAISO and a Responsible Utility relating to a Responsible Utility Invoice, "Final Estimated RMR Invoice, Final Adjusted RMR Invoice" as defined in the CAISO Tariff, or RMR Charge or RMR Refund as defined in Section 11.13 in the CAISO Tariff. The foregoing shall not impair the applicability of the CAISO Tariff ADR procedures to other disputes between the parties that do not arise under this Agreement. All alternative dispute resolution proceedings hereunder shall be administered by the American Arbitration Association ("AAA"). The Owner, Responsible Utility and the CAISO shall enter into such arrangements with the AAA as are necessary to provide for AAA administration of this Schedule K.

1.1.2 This Schedule K shall not apply to disputes as to whether rates and charges under the Agreement are just and reasonable under the Federal Power Act except as provided in Schedule F. Nothing herein shall limit the right of the FERC to initiate or adjudicate complaints or other proceedings in accordance with applicable statutes or regulations or to compel FERC to exceed its statutory authority as defined by any applicable federal statutes, regulations or orders lawfully promulgated thereunder.

1.2 Disputes Involving Government Agencies.

If a party to a dispute is a government agency the procedures herein which provide for the resolution of claims and arbitration of disputes are subject to any limitations imposed on the agency by law, including but not limited to the authority of the agency to effect a remedy. If the governmental agency is a federal entity, the procedures herein shall not apply to disputes involving issues arising under the United States Constitution.

1.3 Injunctive and Declaratory Relief.

Where the court having jurisdiction so determines, use of the ADR Procedures shall not be a condition precedent to a court action for injunctive relief nor shall the provisions of California Code of Civil Procedure sections 1281 *et seq.* apply to such court actions.

1.4 Negotiation and Mediation.

1.4.1 Negotiation.

CAISO, Responsible Utility and Owner (“Parties”) shall make good-faith efforts to negotiate and resolve any dispute between them arising under this Agreement prior to invoking the ADR Procedures herein. Each Party shall designate an individual with authority to negotiate the matter in dispute to participate in such negotiations. The Responsible Utility may participate in the ADR proceedings arising under this Agreement to the extent the dispute involves billing or payment obligations, in which case CAISO or the Responsible Utility, but not both shall be the disputing party. In addition, to the extent Article 7 or other provisions of this Agreement provide the Responsible Utility third-party beneficiary rights, the Responsible Utility may also participate in the ADR as a Party.

The Owner may participate in the ADR proceedings relating to a Responsible Utility Invoice, “Final Estimated RMR Invoice, Final Adjusted RMR Invoice” as defined in the CAISO Tariff or RMR Charge or RMR Refund as defined in Section 11.13, in which case, CAISO or the Owner, but not both, shall be the disputing party. In addition, to the extent the CAISO Tariff provides the Owner third-party beneficiary rights, the Owner may also participate in the ADR as a Party.

1.4.2 Statement of Claim.

In the event a dispute is not resolved through such good-faith negotiations, any party may submit a statement of claim, in writing, to each other disputing party, which submission shall commence the ADR Procedures. The statement of claim shall set forth in reasonable detail (i) each claim, (ii) the relief sought, including the proposed award, if applicable, (iii) a summary of the grounds for such relief and the basis for each claim, (iv) the parties to the dispute, and (v) the individuals having knowledge of each claim. The other parties to the dispute shall similarly submit their respective statements of claim within 14 days of the date of the initial statement of claim or such longer period as the AAA may permit following an application by the responding party. If any responding party wishes to submit a counterclaim in response to the statement of claim, it shall be included in such party's responsive statement of claim. No party shall be considered as having received notice of a claim decided or relief granted by a decision made under these procedures unless the statement of claim includes such claim or relief.

1.4.3 Selection of Mediator.

After submission of the statements of claim, the parties may request mediation, if the disputing parties so agree. If the parties agree to mediate, the AAA shall distribute to the parties by facsimile or other electronic means a list containing the names of at least seven prospective mediators with mediation experience, or with technical or business experience in the electric power industry, or both, as he or she shall deem appropriate to the dispute. The parties shall either agree upon a mediator from the list provided or from any alternative source, or alternate in striking names from the list with the last name on the list becoming the mediator. The first party to strike off a name from the list shall be determined by lot. The parties shall have seven days from the date of receipt of the AAA's list of prospective mediators to complete the mediator selection process and appoint the mediator, unless the time is extended by mutual agreement. The mediator shall comply with the requirements of Section 1.5.2.

1.4.4 Mediation.

The mediator and representatives of the disputing parties, with authority to settle the dispute, shall within 14 days after the mediator's date of appointment schedule a date to mediate the dispute. Matters discussed during the mediation shall be confidential and shall not be referred to in any subsequent proceeding. With the consent of all disputing parties, a resolution may include referring the dispute directly to a technical body (such as a WSCC technical advisory panel) for resolution or an advisory opinion, or referring the dispute directly to FERC.

1.4.5 Demand for Arbitration.

If the disputing parties have not succeeded in negotiating a resolution of the dispute within 30 days of the initial statement of claim or, if within that period the parties agreed to mediate, within 30 days of the parties' first meeting with the mediator, such parties shall be deemed to be at impasse and any such disputing party may then commence the arbitration process, unless the parties by mutual agreement agree to extend the time. A party seeking arbitration shall provide notice of its demand for arbitration to the other disputing parties.

1.5 Arbitration.

1.5.1 Selection of Arbitrator.

1.5.1.1 Disputes Under \$1,000,000. Where the total amount of claims and counterclaims in controversy is less than \$1,000,000 (exclusive of costs and interest), the disputing parties shall select an arbitrator from a list containing the names of at least 10 qualified individuals supplied by AAA, within 14 days following submission of the demand for arbitration. If

the disputing parties cannot agree upon an arbitrator within the stated time, they shall take turns striking names from the list of proposed arbitrators. The first party to strike off a name shall be determined by lot. This process shall be repeated until one name remains on the list, and that individual shall be the designated arbitrator.

1.5.1.2 Disputes of \$1,000,000 or Over. Where the total amount of claims and counterclaims in controversy is \$1,000,000 or more (exclusive of interest and costs), the disputing parties may agree on any person to serve as a single arbitrator, or shall endeavor in good faith to agree on a single arbitrator from a list of ten qualified individuals provided by the AAA, 14 days following submission of the demand for arbitration. If the disputing parties are unable to agree on a single arbitrator within the stated time, the party or parties demanding arbitration, and the party or parties responding to the demand for arbitration, shall each designate an arbitrator. Each designation shall be from the AAA list of arbitrators, as applicable, no later than the tenth day thereafter. The two arbitrators so chosen shall then choose a third arbitrator.

1.5.2 Disclosures Required of Arbitrators.

The designated arbitrator(s) shall be required to disclose to the parties any circumstances that might preclude him or her from rendering an objective and impartial determination. Each designated arbitrator shall disclose:

1.5.2.1 Any direct financial or personal interest in the outcome of the arbitration;

1.5.2.2 Any information required to be disclosed by California Code of Civil Procedure Section 1281.9.; and

1.5.2.3 Any existing or past financial, business, professional, or personal interest that are likely to affect impartiality or might reasonably create an appearance of partiality or bias. The designated arbitrator shall disclose any such relationships that he or she personally has with any party or its counsel, or with any individual whom they have been told will be a witness. They should also disclose any such relationship involving members of their families or their current employers, partners, or business associates. All designated arbitrators shall make a reasonable effort to inform themselves of any interests or relationships described above. The obligation to disclose interests, relationships, or circumstances that might preclude an arbitrator from rendering an objective and impartial determination is a continuing duty that requires the arbitrator to disclose, at any stage of the arbitration, any such interests, relationships, or circumstances that arise, or are recalled or discovered.

1.5.2.4 If, as a result of the continuing disclosure duty, an arbitrator makes a disclosure which is likely to affect his or her partiality, or might reasonably create an appearance of partiality or bias or if a party independently discovers the existence of such circumstances, a party wishing to object to the continuing use of the arbitrator must provide written notice of its objection to the other parties within ten days of receipt of the arbitrator's disclosure or the date of a party's discovery of the circumstances giving rise to that party's objection. Failure to provide such notice shall be deemed a waiver of such objection. If a party timely provides a notice of objection to the continuing use of the arbitrator the parties shall attempt to agree whether the arbitrator should be dismissed and replaced in the manner described in Section 1.5.1. If within ten days of a party's objection notice the parties have not agreed how to proceed the matter shall be referred to the AAA for resolution.

1.5.3 Arbitration Procedures.

The AAA shall compile and make available to the arbitrator and the parties standard procedures for the arbitration of disputes, which procedures (i) shall conform to the requirements specified herein, and (ii) may be modified or adopted for use in a particular proceeding as the arbitrator deems appropriate, in accordance with Section 1.5.4. The procedures shall be based on the latest edition of the American Arbitration Association Commercial Arbitration Rules, to the extent such rules are not inconsistent with this Schedule K. Except as provided herein, all parties shall be bound by such procedures.

1.5.4 Modification of Arbitration Procedures.

In determining whether to modify the standard procedures for use in the pending matter, the arbitrator shall consider (i) the complexity of the dispute, (ii) the extent to which facts are disputed, (iii) the extent to which the credibility of witnesses is relevant to a resolution, (iv) the amount in controversy, and (v) any representations made by the parties. Alternatively, the parties may, by mutual agreement, modify the standard procedures. In the event of a disagreement between the arbitrator and the agreement of the parties regarding arbitration procedures to be utilized, the parties' agreement shall prevail.

1.5.5 Remedies.

1.5.5.1 Arbitrator's Discretion. The arbitrator shall have the discretion to grant the relief sought by a party, or determine such other remedy as is appropriate, unless the parties agree to conduct the arbitration "baseball" style. Unless otherwise expressly limited herein, the arbitrator shall have the authority to award any remedy or relief available from FERC, or any

court of competent jurisdiction. Where this Agreement leaves any matter to be agreed between the parties at some future time and provides that in default of agreement the matter shall be referred to the ADR, the arbitrator shall have authority to decide upon the terms of the agreement which, in the arbitrator's opinion, it is reasonable that the parties should reach, having regard to the other terms this Agreement concerned and the arbitrator's opinion as to what is fair and reasonable in all the circumstances.

1.5.5.2 "Baseball" Arbitration. If the parties agree to conduct the arbitration "baseball" style, the parties shall submit to the arbitrator and exchange with each other their last best offers in the form of the award they consider the arbitrator should make, not less than seven days in advance of the date fixed for the hearing, or such later date as the arbitrator may decide. If a party fails to submit its last best offer in accordance with this Section, that party shall be deemed to have accepted the offer proposed by the other party. The arbitrator shall be limited to awarding only one of the proposed offers, and may not determine an alternative or compromise remedy.

1.5.6 Summary Disposition.

The procedures for arbitration of a dispute shall provide a means for summary disposition of a demand for arbitration, or a response to a demand for arbitration, that in the reasoned opinion of the arbitrator does not have a good faith basis in either law or fact. If the arbitrator determines that a demand for arbitration or response to a demand for arbitration does not have a good faith basis in either law or fact, the arbitrator shall have discretion to award the costs of the time, expenses, and other charges of the arbitrator to the prevailing party. A determination made under this Section is subject to appeal pursuant to Section 1.6.

1.5.7 Discovery Procedures.

The procedures for the arbitration of a dispute shall include adequate provision for the discovery of relevant facts, including the taking of testimony under oath, production of documents and other things, the presentation of evidence, the taking of samples, conducting of tests, and inspection of land and tangible items. The nature and extent of such discovery shall be determined as provided herein and shall take into account (i) the complexity of the dispute, (ii) the extent to which facts are disputed, (iii) the extent to which the credibility of witnesses is relevant to a resolution, and (iv) the amount in controversy. The forms and methods for taking such discovery shall be as described in the Federal Rules of Civil Procedure, except as modified pursuant to Section 1.5.4.

1.5.8 Evidentiary Hearing.

The arbitration procedures shall provide for an evidentiary hearing, with provision for the cross-examination of witnesses, unless all parties consent to the resolution of the matter on the basis of a written record. The forms and methods for taking evidence shall be determined by the arbitrator(s) and modified pursuant to Section 1.5.4. The arbitrator may require such written or other submissions from the parties as he or she may deem appropriate, including submission of direct and rebuttal testimony of witnesses in written form. The arbitrator may exclude any evidence that is irrelevant, immaterial, unduly repetitious or prejudicial, or privileged. The arbitrator shall compile a complete evidentiary record of the arbitration that shall be available to the parties on its completion upon request.

1.5.9 Confidentiality.

Subject to the other provisions of this Agreement, any party may claim that information contained in a document otherwise subject to discovery is "Confidential" if such information would be so characterized under the Federal Rules of Evidence or the provisions of the Agreement. The party making such claim shall provide to the arbitrator in writing the basis for its assertion. If the claim of confidentiality is confirmed by the arbitrator, he or she shall establish requirements for the protection of such documents or other information designated as "Confidential" as may be reasonable and necessary to protect the confidentiality and commercial value of such information. Any party disclosing information in violation of these provisions or requirements established by the arbitrator, unless such disclosure is required by federal or state law or by a court order, shall thereby waive any right to introduce or otherwise use such information in any judicial, regulatory, or other legal or dispute resolution proceeding, including the proceeding in which the information was obtained.

1.5.10 Timetable.

Promptly after the appointment of the arbitrator, the arbitrator shall set a date for the issuance of the arbitration decision, which shall be no later than six months (or such earlier date as the parties and the arbitrator may agree) from the date of the appointment of the arbitrator, with other dates, including the dates for an evidentiary hearing or other final submissions of evidence, set in light of this date. The date for the evidentiary hearing or other final submission of evidence shall not be changed, absent extraordinary circumstances. The arbitrator shall have the power to impose sanctions, including dismissal of the proceeding, for dilatory tactics or undue delay in completing the arbitration proceedings.

1.5.11 Decision.

1.5.11.1 Except as provided below with respect to "baseball" style arbitration, the arbitrator shall issue a written decision granting the relief requested by one of the parties, or such other remedy as is appropriate, if any, and shall include findings of fact and law. The arbitration decision shall be based on (i) the evidence in the record, (ii) the terms of this Agreement and to the extent relevant, the CAISO Tariff and Protocols, (iii) applicable United States federal law, including the Federal Power Act and any applicable FERC regulations and decisions, and international treaties or agreements as applicable, and (iv) applicable state law. Additionally, the arbitrator may consider relevant decisions in previous arbitration proceedings involving this Agreement. To the extent it may do so without violating confidentiality requirements, a summary of the disputed matter and the arbitrator's decision may be published in an CAISO newsletter on CAISO Website.

1.5.11.2 In arbitration conducted "baseball" style, the arbitrator shall issue a written decision adopting one of the awards proposed by the parties, and shall include findings of fact and law. The arbitration decision shall be based on (i) the evidence in the record, (ii) the terms of this Agreement and to the extent relevant, the CAISO Tariff and Protocols, (iii) applicable United States federal law, including the Federal Power Act and any applicable FERC regulations and decisions, and international treaties or agreements as applicable, and (iv) applicable state law. If the arbitrator concludes that no proposed award is consistent with the factors enumerated in (i) through (iv) above, or addresses all of the issues in dispute, the arbitrator shall specify how each proposed award is deficient and direct that the parties submit new proposed awards that cure the identified deficiencies. To the extent it may do so without violating confidentiality requirements, a summary of the disputed matter and the arbitrator's decision may be published in an CAISO newsletter on CAISO Website.

1.5.11.3 Where a panel of arbitrators is appointed pursuant to Section 1.5.1.2, a majority of the arbitrators must agree on the decision. An award shall not be deemed to be precedent except in so far as a future dispute between the parties involves the same issue.

1.5.12 Compliance.

Unless the arbitrator's decision is appealed under Section 1.6, the disputing parties shall, upon receipt of the decision, immediately take whatever action is required to comply with the award to the extent the award does not require regulatory action. An award that is not appealed shall be deemed to have the same force and effect as an order entered by FERC or any court of competent jurisdiction.

1.5.13 Enforcement.

Following the expiration of the time for appeal of an award pursuant to Section 1.6.3, any party may apply to FERC or any court of competent jurisdiction for entry and enforcement of judgment based on the award.

1.5.14 Costs.

The costs of the time, expenses, and other charges of the arbitrator shall be borne by the parties to the dispute, with each side on an arbitrated issue bearing its pro-rata share of such costs, and each party to an arbitration proceeding bearing its own costs and fees. If the arbitrator determines that a demand for arbitration or response to a demand for arbitration was made in bad faith, the arbitrator shall have discretion to award the costs of the time, expenses, and other charges of the arbitrator to the prevailing party.

1.6 Appeal of Award.**1.6.1 Basis for Appeal.**

A party may apply to the FERC or any court of competent jurisdiction to hear an appeal of an arbitration decision only upon the grounds that the decision is contrary to or beyond the scope of this Agreement and to the extent relevant, the CAISO Tariff and Protocols, United States federal law, including, without limitation, the Federal Power Act, and any applicable FERC regulations and decisions, or state law. Appeals shall, unless otherwise ordered by FERC or the court of competent jurisdiction, conform to the procedural limitations set forth in this Section 1.6.

1.6.2 Appellate Record.

The parties intend that FERC or a court of competent jurisdiction should afford substantial deference to the factual findings of the arbitrator. No party shall seek to expand the record before FERC or a court of competent jurisdiction beyond that assembled by the arbitrator, except (i) by making reference to legal authority which did not exist at the time of

the arbitrator's decision, or (ii) if such party contends the decision was based upon or affected by fraud, collusion, corruption, misconduct or misrepresentation.

1.6.3 Procedures for Appeals.

1.6.3.1 If a party to an arbitration desires to appeal a decision, it shall provide a notice of appeal to all parties and the arbitrator(s) within 14 days following the date of the decision. Within ten days of the filing of the notice of appeal, the appealing party must file an appropriate application, petition or motion with FERC for review under the Federal Power Act or with a court of competent jurisdiction. Such filing shall state that the subject matter has been the subject of an arbitration pursuant to this Agreement and, to the extent relevant, the CAISO Tariff and protocols.

1.6.3.2 Within 30 days of filing the notice of appeal (or such period as FERC or the court of competent jurisdiction may specify) the appellant shall file the complete evidentiary record of the arbitration and a copy of the decision with FERC or with the court. The appellant shall serve on all parties to the arbitration copies of a description of all materials included in the submitted evidentiary record.

1.6.4 Award Implementation.

Implementation of the decision shall be deemed stayed pending an appeal unless and until, at the request of a party, FERC or the court of competent jurisdiction with which an appeal has been filed, issues an order dissolving, shortening, or extending such stay.

A summary of each appeal shall be published in a CAISO newsletter on the CAISO Website.

1.6.5 Judicial Review of FERC Orders.

FERC orders resulting from appeals shall be subject to judicial review pursuant to the Federal Power Act.

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Rate Schedule FERC No. 2

First Revised Sheet No. 174
Must-Run Service Agreement

**SCHEDULE L-1
REQUEST FOR APPROVAL OF CAPITAL ITEMS OR REPAIRS**

This form should be used to request CAISO approval of Planned Capital Items, Unplanned Repairs or Unplanned Capital Items pursuant to Sections 7.4, 7.5 or 7.6 of the Agreement.

CALIFORNIA INDEPENDENT SYSTEM OPERATOR
RELIABILITY MUST-RUN UNIT
CAPITAL ITEM AND REPAIR PROJECT REQUEST

Date:	TBD	CAISO Project Number:	TBD
Facility:	AES Huntington Beach Generating Station	Unit:	Unit 3 and Unit 4
Owner:	AES Huntington Beach, LLC	Location:	Huntington Beach, California

This request covers:

- Capital Items for the next Contract Year (preliminary)
- Capital Items for the next Contract Year (final)
- Unplanned Repairs
- Unplanned Capital Items
- Capital Items for the 2013 Contract Year (final)

If this request covers Capital Items for the next Contract Year, provide:

Small Project Estimate (reliability)

Not applicable

Small Project Estimate (other)

Identify separately each Capital Item included in a small project estimate projected to cost more than \$50,000.

Not applicable

If this request covers Unplanned Repairs, or Capital Items projected to cost more than \$500,000, provide the information in the remainder of this form for each project.**Project Description:** (describe the project and its major scope items – materials, new systems, modifications to existing systems, etc.)

Capital Item request is required for the conversion of Units 3 & 4 to Synchronous Condensers. Siemens proposal for this project is attached as Exhibit I of this Schedule L1. The proposed solution utilizes a Pony Motor arrangement and a variable frequency drive (VFD) to accelerate the units to synchronous speed. Expected in-operation date is June 26, 2013.

- One (1) Pony Motor package will be utilized for the Unit 3 HP generator.
- One (1) Pony Motor package will be utilized for the Unit 4 IP/LP generator.
- One (1) Thrust Bearing package will be utilized for the Unit 3 LP generator.
- One (1) Thrust Bearing package will be utilized for the Unit 4 HP/LP generator.
- Spare Parts (For details, refer to Section 4.1)
- Integration of Units 3 & 4 Synchronous Condensers into existing DCS (ABB) for Units 1 & 2.

Base Scope of Supply includes the following:

- Conversion of Units 3 & 4 STG into SC (For details, refer to Section 4.1)
- Spare Parts (For details, refer to Section 4.1)
- Integration of Units 3 & 4 SC into DCS (ABB) for Units 1 & 2

If the project is required because of loss or damage to a Unit, describe the cause and nature of the loss or damage and all repairs performed or required for all Units during the year:

Not applicable

Project Budget:

Option: Siemens	Cost excluding sales tax \$	Sales Tax \$	AES Total Cost \$
Unit 3	5,496,000	325,152	5,821,152
Unit 4	5,496,000	325,152	5,821,152
Project Manager	228,605	-	228,605
Controls upgrade	700,000	34,557	734,557
Parts	1,568,900	121,590	1,690,490
Constr. delay & COs	727,478		727,478
Total Costs	14,216,983	806,450	15,023,433

Describe any work or repairs performed relating to this project in the last five years:

Not applicable

As applicable, state the proposed depreciation life, Annual Capital Item Cost, Surcharge Payment Factor or Repair Payment Factor (percentage owed by CAISO) of the Capital Item or Repair:

Unit 3

		CapAdd Amount	\$7,511,717
Fiscal year	Contract year	Annual Surcharge	Annual Depreciation
2013	1	3,538,973	25.00%
2014	2	3,260,549	25.00%
2015	3	2,949,551	25.00%
2016	4	2,641,155	25.00%
Total		\$12,390,229	100.00%

Unit 4

		CapAdd Amount	\$7,511,717
Fiscal year	Contract year	Annual Surcharge	Annual Depreciation
2013	1	3,156,655	20.00%
2014	2	2,921,153	20.00%
2015	3	2,665,451	20.00%
2016	4	2,412,352	20.00%
2017	5	2,161,659	20.00%
Total		\$13,317,269	100.00%

Describe why this project is required (justification):

With the unexpected outage of the San Onofre Nuclear Generating Station (“SONGS”), HB 3&4 are providing critical voltage support and local reliability services to the system. Given the uncertainty surrounding when SONGS will return to service, the CAISO has determined that the conversion of HB3&4 into synchronous condensers is a necessary project to provide the required voltage support in the absence of SONGS.

Is this project required to comply with any laws, regulations or permits? If so, please list them and explain requirement.

Yes. Modification to the existing CEC permit 2000 – AFC – 013 is in progress.

Provide a cost/benefit analysis summary for this project:

Include all assumptions including changes to unit performance [efficiency, aux. power loads, etc.], impact on Maximum Net Dependable Capacity, grid interconnection/metering impacts, etc.

Information and details have been previously provided and accepted by the parties.

Describe the impacts on the Unit's ability to perform its obligations under this Agreement if this project is not approved:

If this CapAdd project is not approved, the Units will not be able to perform its obligations under the RMR Agreement.

Describe alternatives to this project that were evaluated and the projected costs of those alternatives:

Describe alternatives along with their major scope items. Also, compare the projected cost of these alternatives with the selected alternative, and compare the unit performance impacts (efficiency, auxiliary power demands, Maximum Net Dependable Capacity effects, etc.) of these alternatives against the chosen alternative.

Information and details have been previously provided and accepted by the parties.

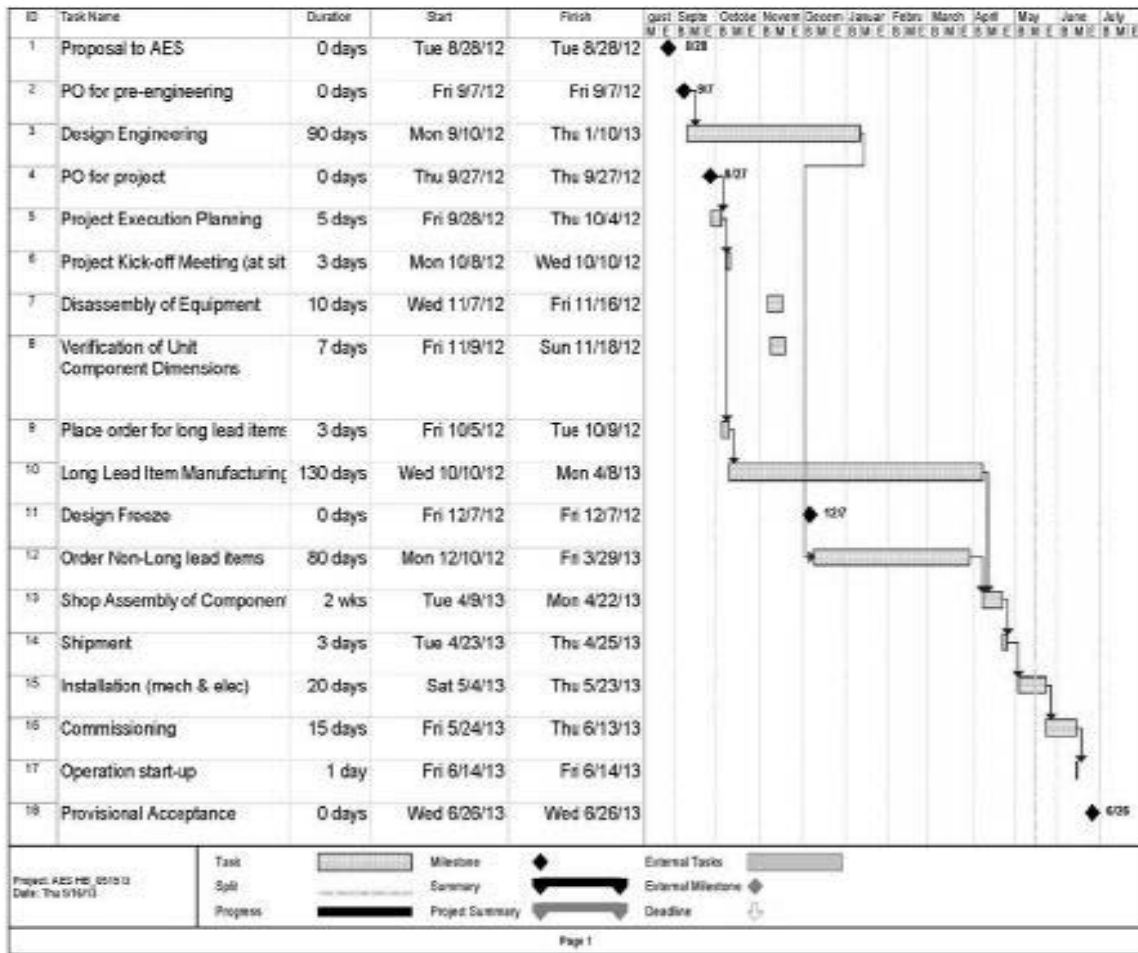
List any proceeds received or expected to be received by Owner from insurers or other third parties pursuant to applicable insurance, warranties and other contracts in connection with the project.

Performance warranty and liquidated damages provisions are included in Exhibit I – Siemens Proposal.

Provide the schedule for implementing this project:

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Describe any outages required to implement this project:

From RMR contract effective date through June 25, 2013.

Other comments:

None

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First Revised Sheet No. 179
Must-Run Service Agreement

SCHEDULE L-2

CAPITAL ITEM AND REPAIR PROGRESS REPORT

CALIFORNIA INDEPENDENT SYSTEM OPERATOR
RELIABILITY MUST-RUN UNIT
CAPITAL ITEM AND REPAIR PROGRESS REPORT

Date:	CAISO Project Number:
Facility:	Unit:
Owner:	Location:
Capital Item or Repair:	
Original In-Service Date:	Current In-Service Date:

If Current In-Service Date has changed, describe the reason why:

Describe any additional costs or savings resulting from the change in the Current In-Service Date:

Describe what portion of any additional costs Owner is requesting CAISO to pay, and why Owner believes that CAISO should be obligated to pay those additional costs:

SCHEDULE M – N/A
Mandatory Market Bid for Condition 2 Units
When Dispatched by the CAISO

Energy Bid

The bid the Owner of a Condition 2 Fossil Fuel Unit must submit into Energy markets when dispatched by the CAISO is given in Equation M-1a (for Units with input/output data in polynomial form) or Equation M-1b (for Units with input/output data in exponential form):

Equation M-1a

$$\text{Energy Bid (\$/MWh)} = \frac{(AX^3 + BX^2 + CX + D)}{X} * P * E$$

+ [Variable O&M Rate + Emissions Rates + Scheduling Coordinator Charge
+ ACA Charge]

Equation M-1b

$$\text{Energy Bid (\$/MWh)} = \frac{A * (B + CX + De^{FX})}{X} * P * E$$

+ [Variable O&M Rate + Emissions Rate + Scheduling Coordinator Charge + ACA Charge]

Where:

- for Equation M-1a, A, B, C, D and E are the coefficients given in Table C1-7a;
- for Equation M-1b, A, B, C, D, E and F are the coefficients given in Table C1-7b;
- X is the Unit Availability Limit, MW;
- P is the Hourly Fuel Price as calculated by Equation C1-8 in Schedule C using the Commodity Prices most recently published before the day the bid is submitted.
- Scheduling Coordinator Charge (\$/MWh): \$0.31.
- ACA Charge (\$/MWh): The applicable annual charge for short-term sales under 18 CFR Section 382.201 of the FERC Regulations.

- Variable O&M Rate (\$/MWh): as shown on Table C1-18

For Units in the SCAQMD only

Emissions Rate (\$/MWh) = Emissions Cost / Unit Availability Limit

Emissions Cost = (a) RECLAIM Cost + (b) NOx Emissions Cost + (c) Organic Gases Cost + (d) Sulfur Oxides Cost + (e) Particulate Matter Cost + (f) Carbon Monoxide Cost

(a) RECLAIM Cost = $((AX^2+BX+C) * \text{RECLAIM NOx Trading Credit Rate})$

(b) NOx Emissions Cost = $\frac{(AX^2+BX+C) * \text{NOx Emissions Fee}}{2000}$

Where:

A, B and C are the coefficients from Table C1-13;

X = Unit Availability Limit;

(c) Organic Gases Cost =

$4.76 * 10^{-7} * (\text{Gas Fuel}) * \text{Associated Emission Factor for Organic Gases} * \text{Associated Emissions Fee for Organic Gases}$

(d) Sulfur Oxides Cost =

$4.76 * 10^{-7} * (\text{Gas Fuel}) * \text{Associated Emission Factor for Sulfur Oxides} * \text{Associated Emissions Fee for Sulfur Oxides}$

(e) Particulate Matter Oxides Cost =

$4.76 * 10^{-7} * (\text{Gas Fuel}) * \text{Associated Emission Factor for Particulate Matter} * \text{Associated Emission Fee for Particulate Matter}$

(f) Carbon Monoxide Cost =

$4.76 * 10^{-7} * (\text{Gas Fuel}) * \text{Associated Emission Factor for Carbon Monoxide} * \text{Associated Emission Fee for Carbon Monoxide}$

Where:

Gas Fuel = $AX^3 + BX^2 + CX + D$ or $A * (B + CX + De^{FX})$, depending on the form of heat input the Owner is using

- A, B, C, D are the coefficients from C1-7a or C1-7b;
- F is the coefficient from C1-7b;
- X = Unit Availability Limit;
- Factors and Associated Emission fees are determined in Schedule C, Section D.3.

The bid the Owner of a geothermal Condition 2 Unit must submit into Energy markets when dispatched by the CAISO is given in Equation M-2.

Equation M-2

Energy Bid (\$/MWh) = Fuel Cost + [Variable O&M Rate + Scheduling Coordinator Charge + ACA Charge]

Where:

- The Fuel Cost is the Steam Price identified in Equation C2-1 in Schedule C. However, for purposes of this mandatory market bid, the value for the Steam Price will be zero for Geysers Main Units until the cumulative Hourly Metered Total Net Generation during the Contract Year from all Units exceeds the Minimum Annual Generation given in Equation C2-2.
- Variable O&M Cost (\$/MWh): the cost shall be as shown on Table C2-1.
- Scheduling Coordinator Charge: \$0.31.
- ACA Charge (\$/MWh): The applicable annual charge for short-term sales under 18 C.F.R. Section 382.201 of the FERC Regulations.

Ancillary Services Bid

The bid the Owner of a Condition 2 Unit must submit into Ancillary Service markets when dispatched by CAISO is as follows:

$$\text{Ancillary Services Bid (\$/MW per hr)} = \frac{\left[\left(\begin{array}{l} \text{30 minutes x} \\ \text{Unit's} \\ \text{Highest Ramp} \\ \text{Rate} \\ \text{from Schedule} \\ \text{A,} \\ \text{MW/min} \end{array} \right) * \left(\begin{array}{l} \text{Target} \\ \text{Availabl} \\ \text{e} \\ \text{Hours} \end{array} \right) \right] + \left[\left(\begin{array}{l} \text{Maximum} \\ \text{Net} \\ \text{Dependa} \\ \text{ble} \\ \text{Capacity} \end{array} \right) * \left(\begin{array}{l} \text{Target} \\ \text{Availabl} \\ \text{e} \\ \text{Hours} \end{array} \right) \right]}{2}$$

Annual Fixed Revenue Requirement is shown in Schedule B.

Target Available Hours is shown in Schedule B.

The product of 30 minutes times the Unit's highest Ramp Rate in Schedule A shall not exceed the Unit's Maximum Net Dependable Capacity.

Schedule N-1 Utility Non-Disclosure & Confidentiality Agreement**NON-DISCLOSURE and CONFIDENTIALITY AGREEMENT
for RESPONSIBLE UTILITY**

San Diego Gas & Electric and Southern California Edison (jointly, the "Responsible Utilities" and severally, the "Responsible Utility") acknowledge that AES Huntington Beach LLC ("AESHB" or "Owner") and the California Independent System Operator Corporation ("CAISO") (jointly, the "Providing Parties" and severally, the "Providing Party") have agreed to provide certain information to the Responsible Utilities pursuant to certain provisions of the Must-Run Service Agreement ("MRSA") between Owner and CAISO, in connection with discussions concerning the possible execution of such an MRSA, and as required for settlement and billing of charges under Article 9 of such Agreement. In order to permit the Responsible Utilities to receive such Confidential Information from Owner or CAISO, the Responsible Utilities and the Providing Parties hereby agree as follows:

For purposes of this Non-Disclosure and Confidentiality Agreement, the term "Confidential Information" shall have the same meaning it has in Section 12.5 of the pro forma MRSA, a copy of which is appended, except that the definition in Section 12.5 of the MRSA shall be deemed to also cover comparably designated information provided in connection with discussions concerning the possible execution of an MRSA;

The Providing Parties shall provide such Confidential Information pursuant to the terms of this Non-Disclosure and Confidentiality Agreement;

Each Responsible Utility shall keep such Confidential Information confidential, shall use it only for the purposes related to the MRSA under discussion, and shall limit the disclosure of any such Confidential Information to only those personnel within its organization with responsibility for using such information in connection with such MRSA. Such personnel may not include any person whose duties include (i) the marketing or sale of electric power or natural gas or gas transportation capacity at wholesale or retail, (ii) the purchase of electric power or natural gas or gas transportation capacity at wholesale or retail, (iii) the direct supervision of any employee with such responsibilities, or (iv) the provision of electricity or natural gas marketing consulting services to any employee with such responsibilities;

Each Responsible Utility shall assure that personnel within its organization read and comply with the provisions of this Non-Disclosure and Confidentiality Agreement;

Each Responsible Utility shall use all reasonable efforts to maintain the confidentiality of the Confidential Information in any litigation, and shall promptly notify the Providing Party of any attempt by a third party to obtain the Confidential Information through legal process or otherwise;

Each Responsible Utility may use Confidential Information in litigation or regulatory proceedings related to the MRSA under discussion but only after notice to the Providing Party and affording the Providing Party an opportunity to obtain a protective order or other relief to prevent or limit disclosure of the Confidential Information.

Each Responsible Utility agrees to be bound by the terms of Section 12.5 of the pro forma MRSA in the same manner and to the same extent as the Providing Parties. The person signing

AES Huntington Beach, L.L.C
Rate Schedule FERC No. 2

First Revised Sheet No. 185
Must-Run Service Agreement

on behalf of the Responsible Utility represents that he/she is authorized to bind the Responsible Utility to the terms of this Non-Disclosure and Confidentiality Agreement.

This agreement may be executed in counterparts by each signatory, each of which shall be deemed to be an original, but which together shall constitute one and the same agreement.

Signature:  _____

Name: S. Yari Ali

Title: Director of Grid Operations

Responsible Utility: San Diego Gas & Electric

Address: Mail Code SD1160, PO Box 129831, San Diego, CA 92112-9831

Telephone: (619) 725-8639

Date: _____

Signature:  _____

Name: Jill Horswell

Title: Director of Federal Energy Regulatory Commission Policy and Contracts

Responsible Utility: Southern California Edison

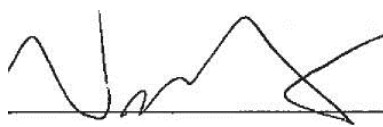
Address: 2244 Walnut Grove Avenue, Rosemead, CA 91770

Telephone: (626) 302-3286

Date: October 2, 2012

AES Huntington Beach, L.L.C
Rate Schedule FERC No. 2

First Revised Sheet No. 186
Must-Run Service Agreement

Signature: 

Name: Weikko Wirta

Title: Chief Executive Manager

Owner: AES Huntington Beach, LLC

Address: 21730 Newland Street, Huntington Beach, CA 92646

Telephone: (714) 374-1476

Date: 09/24/2012

Signature: 

Name: Phil Pettingill

Title: Director Regulatory Affairs

California Independent System Operator Corporation

Address: 250 Outcropping Way, Folsom, CA 95630

Telephone: (916) 608-7241

Date: September 24, 2012

Schedule N-2 Non-Utility Persons Disclosure & Confidentiality Agreement**NON-DISCLOSURE and CONFIDENTIALITY AGREEMENT
for PERSONS OTHER THAN THE RESPONSIBLE UTILITY**

The California Public Utility Commission (the "Receiving Party" or "California Agency") acknowledges (a) that AES Huntington Beach LLC ("AESHB" or "Owner") has agreed to provide Confidential Information to the California Agency pursuant to certain provisions of the Must-Run Service Agreement ("MRSA") between Owner and the California Independent System Operator Corporation ("CAISO") and in connections with discussions concerning the possible execution of such an MRSA, and (b) that Owner and CAISO (jointly, the "Providing Parties" and severally, the "Providing Party") may provide Confidential Information on a need-to-know basis to Owner's Scheduling Coordinator, financial institutions, agents and potential purchasers of interests in a Unit; and, as required for settlement and billing, to Scheduling Coordinators responsible for paying for services provided under the MRSA between Owner and CAISO. In order to permit the Receiving Party to receive such Confidential Information from Owner or CAISO, the Receiving Party and the Providing Parties hereby agree as follows:

- A. For purposes of this Non-Disclosure and Confidentiality Agreement, the term "Confidential Information" shall have the same meaning it has in Section 12.5 of the pro forma MRSA, a copy of which is appended, except that the definition in Section 12.5 of the MRSA shall be deemed to also cover comparably designated information provided in connection with discussions concerning the possible execution of an MRSA;
- B. The Providing Parties shall provide such Confidential Information pursuant to the terms of this Non-Disclosure and Confidentiality Agreement;
- C. The Receiving Party shall keep such Confidential Information confidential, shall use it only for the purposes related to the MRSA under discussion, and shall limit the disclosure of any such Confidential Information to only those personnel within its organization with responsibility for using such information in connection with the MRSA upon their execution of this Non-Disclosure and Confidentiality Agreement. Such personnel may not include any person whose duties include (i) the marketing or sale of electric power or natural gas or gas transportation capacity at wholesale or retail, (ii) the purchase of electric power or natural gas or gas transportation capacity at wholesale or retail, (iii) the direct supervision of any employee with such responsibilities, or (iv) the provision of electricity or natural gas marketing consulting services to any employee with such responsibilities;
- D. The Receiving Party shall assure that personnel within its organization authorized to receive Confidential Information read and comply with the provisions of this Non-Disclosure and Confidentiality Agreement;
- E. The Receiving Party shall use all reasonable efforts to maintain the confidentiality of the Confidential Information in any litigation, and shall promptly notify the providing Party of any attempt by a third party to obtain the Confidential Information through legal process or otherwise;

The Receiving Party agrees to be bound by the terms of Section 12.5 of the pro forma MRSA, as modified by paragraph A above, in the same manner and to the same extent as the Providing

AES Huntington Beach, L.L.C
Rate Schedule FERC No. 2

First Revised Sheet No. 188
Must-Run Service Agreement

Parties. The person signing on behalf of the Receiving Party represents that he/she is authorized to bind the Receiving Party to the terms of this Non-Disclosure and Confidentiality Agreement.

This agreement may be executed in counterparts by each signatory, each of which shall be deemed to be an original, but which together shall constitute one and the same agreement.

Signature: 

Name: Marion Peleo

Receiving Party: California Public Utilities Commission

Title: Staff Counsel

Address: 505 Van Ness Avenue, San Francisco, CA 94102

Telephone: (415) 703-2130

Date: 9/24/212

Signature: 

Name: Weikko Wirta

Owner: AES Huntington Beach LLC

Title: Chief Executive Manager

Address: 21730 Newland Street, Huntington Beach, CA 92646

Telephone: (714) 374-1476

Date: 09/24/2012

Signature: 

Name: Phil Pettingill

California Independent System Operator Corporation

Title: Director Regulatory Affairs

Address: 250 Outcropping Way, Folsom, CA 95630

Telephone: (916) 608-7241

Date: September 24, 2012

SCHEDULE O**RMR Owner's Invoice Process**

The following principles and practices shall govern the submission of invoices to the CAISO for Ancillary Services provided under this Agreement ("RMR services"):

1. Invoices submitted by Owner to the CAISO for RMR services shall be clear, understandable and complete.
2. The CAISO, all RMR Owners and Responsible Utilities shall agree on the RMR invoice template, which agreement shall not be unreasonably withheld, prior to its implementation. The CAISO shall publish the current version of the RMR invoice template by including it on the CAISO Website. The CAISO will specifically tell each Owner and Responsible Utility where on the CAISO Website this RMR invoice template can be found. Each Owner shall use the then current RMR invoice template for invoicing RMR services for each Facility. The RMR invoice template may change from time to time. The CAISO shall notify the California Agency, all RMR Owners and Responsible Utilities when a new agreed upon RMR invoice template has been placed on the CAISO Website.
3. Subject to the provisions of paragraph 4 below, a Completed RMR invoice based on the version of the RMR invoice template posted on the CAISO Website seven days prior to submission of the invoice shall be deemed to satisfy the requirements of this Agreement. As used herein, the term "Completed RMR invoice" means that: (a) all of the raw data required to calculate debits and credits have been included; (b) all calculations have been performed in accordance with the formulae in the current RMR invoice template, or in the event that Owner believes a conflict exists between one or more formula(s) in the RMR Owner's invoice and the corresponding formula in the RMR invoice template, such conflict has been identified and substitute equations have been documented and used at the appropriate location(s) in the invoice; (c) linkages between invoice levels are identified; (d) all billing and service assumptions, data inputs and formulae reasonably necessary to understand the derivation of each charge on the invoice has been included; and (e) the invoice has been provided to the CAISO and the Responsible Utility.
4. The Estimated RMR invoice or the Adjusted RMR invoice timeline set forth in the CAISO's RMR Payments Calendar (for the appropriate invoice) shall not commence, payments shall not be made and interest shall not begin to accrue until a Completed RMR invoice has been submitted to the CAISO and Responsible Utility.
5. In the event of any conflict between the RMR invoice template and this Agreement, this Agreement shall govern. The Owner or Responsible Utility

detecting the conflict shall promptly give notice to the CAISO. The CAISO shall notify all RMR Owners and all Responsible Utilities as soon as practicable after a conflict has been identified.

6. If Owner identifies a conflict, Owner shall identify the conflict in its letter transmitting its completed Estimated or Adjusted RMR invoice to the CAISO and include therein Owner's revised formula, which will be effective until agreement has been reached among the CAISO, Owner, the other RMR Owners and the Responsible Utilities on the correct formula, or a decision has been rendered through ADR from which no further appeal is possible.
7. An RMR Invoice Task Force has been formed with representatives from each of the RMR Owners, the Responsible Utilities and the CAISO. When a conflict has been identified, the CAISO, Owner, the other RMR Owners and the Responsible Utility will participate in meetings of the RMR Invoice Task Force to reach agreement on a revised RMR invoice template. The RMR Invoice Task Force shall meet at least monthly until all conflicts are resolved. Once all conflicts have been resolved, the RMR Invoice Task Force will meet approximately every six months to address invoicing and payment issues.
8. The RMR Invoice Task Force also shall be responsible for simplifying the RMR invoices so that they are easier to process and less burdensome to prepare.
9. To the extent that the Owner, the CAISO and the Responsible Utility have agreed, certain columns in the Owner's RMR invoice template shall be standard for the Facility and shall not change. The Owner shall not be required to complete such columns each month on its invoice for it to be considered a Completed RMR invoice, unless the underlying information requirements change.
10. Owner shall supply monthly RMR Level 0-3 invoice information in accordance with the RMR invoice template for each Responsible Utility service territory as follows:
 1. Level 0: the summary invoice for Owner's total amount invoiced to the CAISO for all of Owner's Facilities;
 2. Level 1: the summary invoice for all RMR Units at a Facility;
 3. Level 2: the detailed calculated information for individual RMR Units at the Facility; and
 4. Level 3: the detailed hourly data for individual RMR Units at each Facility.

Each invoice shall contain such other information as is necessary to perform the calculations, including indicated netted meter reads, CAISO Dispatch Notice information (both day-ahead, real time, and adjustments), Owner's Availability

Notice information and final market schedule information. No quantities shall be left blank. Each assumption made by the Owner to perform a calculation shall be listed and explained either in the appropriate Level 0-3 template under Notes or in a transmittal letter accompanying the invoice.

The methods described shall be used to calculate quantities such as Hourly Fuel Price, Hourly Emissions Cost and Start-up calculations used as input data in the RMR invoice template.

Owner shall indicate any data appearing on the invoice which it considers confidential. Responsible Utility may use the data in accordance with Section 12.5 and Schedule N of this Agreement.

SCHEDULE P – N/A**Reserved Energy for Air Emissions Limitations**

This Schedule P applies only to Units located within the San Diego Air Quality Control Basin (“Basin”).

1. For purposes of this Schedule P, the term Emission Limitation means present or future limitations on the discharge of air pollutants or contaminants into the atmosphere specified by any federal, state, regional or local law (“Clean Air Law”), by any regulation, air quality implementation plan, or permit condition promulgated or imposed by any agency authorized under any such Clean Air Law or by the judgment of any court of competent jurisdiction.
2.
 - (a) Except as set out in Sections 2 (b) and (c), if a Facility is located in the Basin and is subject to an Emission Limitation that would limit the MWh that can be produced from the Facility during the Contract Year or part thereof (such Contract Year or part being referred to as the “Limitation Period”), Owner shall, so long as some or all of the Units at the Facility are operating under Condition 1, reserve for the Facility for each Month of the Limitation Period for dispatch under this Agreement, a quantity of MWh equal to the average monthly Requested MWh for the Facility for that Month in the 36 Months preceding the next Contract Year (the “Monthly Reserved MWh”).
 - (b) If there are less than 36 Months of Requested MWh preceding the next Contract Year, the Monthly Reserved MWh for the Limitation Period shall be determined by agreement between CAISO and Owner. If Owner and CAISO are unable to reach agreement by October 31 preceding the next Contract Year, Owner or CAISO may refer the matter to ADR under a schedule (specified by the arbitrator if the participants cannot agree) requiring a decision within 30 days following appointment of the arbitrator.
 - (c)
 - (i) If the Monthly Reserved MWh has been determined in accordance with Section 2(a) and this Agreement terminates as to a Unit at the Facility, the Monthly Reserved MWh shall be adjusted downward to the average of the Requested MWh for the Units that remain subject to this Agreement for the same 36 Month period previously used to calculate the Monthly Reserved MWh.
 - (ii) If the Monthly Reserved MWh has been determined in accordance with Section 2 (b) and the Agreement terminates as to a Unit at the Facility, the adjustment shall be determined by agreement of Owner and CAISO. If the Parties are unable to reach agreement at least 45 days before the Agreement terminates as to the Unit, Owner or

CAISO may refer the matter to ADR under a schedule (specified by the arbitrator if the participants cannot agree) requiring a decision within 30 days following appointment of the arbitrator

3. The Monthly Reserved MWh are set forth on Schedule A. No less than 15 days before the beginning of each Contract Year, Owner shall make a Section 205 filing limited to changing the terms of Schedule A to revise the Monthly Reserved MWh determined in accordance with Section 2. The revised Monthly Reserved MWh shall be effective from the first day of the Contract Year.
4. If the sum of the Billable MWh and Hybrid MWh during a Month is less than the Monthly Reserved MWh, CAISO may:
 - (a) carry forward into the following Months of the Limitation Period all unused Monthly Reserved MWh, provided the cumulative unused MWh that are carried forward into the following Months may not exceed 20% of the aggregate Monthly Reserved MWh for the remainder of the Limitation Period including the Monthly Reserved MWh for the Months into which unused Monthly Reserved MWh are to be carried forward, or
 - (b) carry forward less than all unused Monthly Reserved MWh and release to Owner the Monthly Unused Reserved MWh not carried forward.

CAISO shall notify Owner of the amount of unused Monthly Reserved MWh to be carried forward within 3 Business Days after the beginning of the next Month.
5. CAISO may elect to reduce the aggregate Monthly Reserved MWh for the remainder of the Limitation Period by notifying Owner not less than 5 days prior to the beginning of the Month in which the reduction is to be effective. Notwithstanding the foregoing, if CAISO or Owner forecasts that usage will approach the Emission Limitation in the last Month of the Limitation Period, CAISO and Owner shall closely coordinate to release any unused Monthly Reserved MWh as soon as possible.
6. If there are unused Monthly Reserved MWh for the Facility remaining at the end of the Limitation Period, CAISO shall pay the Unused Emission Reserve Payment. The Unused Emission Reserve Payment shall be the product of (a) the Unused Monthly Reserved MWh Payment Rate and (b) the lesser of (i) the unused Monthly Reserved MWh carried forward by the CAISO into the last Month of the Limitation Period and (ii) the unused Monthly Reserved MWh remaining at the end of the Limitation Period. The Unused Monthly Reserved MWh Payment Rate shall be \$10 per MWh. The Unused Emission Reserve Payment shall be included in the invoice for the last Billing Month of the Limitation Period.

7. If the CAISO determines that the Monthly Reserved MWh have become insufficient due to a Force Majeure Event at the Facility or at Reliability Must-Run Units at another facility or because of an outage on the CAISO Controlled Grid or the Distribution Grid due to a Force Majeure Event, CAISO may request Owner to undertake, and if so requested, Owner shall undertake all such necessary and commercially reasonable measures approved in advance by CAISO and the Responsible Utility to (a) obtain, where possible, a modification or variance from applicable Emission Limitations, or (b) procure necessary emission reduction credits or allowances sufficient to offset emissions in excess of Emission Limitations to enable Owner to provide additional MWh dispatched by the CAISO to meet reliability requirements arising by reason of such Force Majeure Event. CAISO shall reimburse Owner for all reasonable costs of procuring such emission reduction credits or allowances.
8. If the CAISO wishes to dispatch a Unit at a Facility that is within 5% of exceeding its Monthly Reserved MWh for the Limitation Period, the CAISO shall first dispatch Units at other Facilities that are not within 5% of the Monthly Reserved MWh during the Limitation Period if the other Unit(s), in the CAISO's sole judgment, provide equivalent reliability benefits.
9. If any Emission Limitation affecting the Facility materially changes, CAISO and Owner promptly shall renegotiate this Schedule P to reflect such change. If CAISO and Owner are unable to agree on revisions to this Schedule P, the Owner may file a revised Schedule P with FERC under Section 205 of the Federal Power Act for the limited purpose of taking such changes in the Emissions Limitation into account. Such filing may be with or without the concurrence of the CAISO, but CAISO reserves its right to protest any such filing.

FERC rendition of the electronically filed tariff records in Docket No. ER15-00141-000

Filing Data:

CID: C001942

Filing Title: Request for Approval of Extension of Contract Term

Company Filing Identifier: 392

Type of Filing Code: 10

Associated Filing Identifier:

Tariff Title: Service Agreements

Tariff ID: 272

Payment Confirmation:

Suspension Motion:

Tariff Record Data:

Record Content Description, Tariff Record Title, Record Version Number, Option Code:

Rate Schedule No. 2, Must-Run Service Agreement with California ISO, 4.0.0, A

Record Narrative Name:

Tariff Record ID: 1

Tariff Record Collation Value: 1000000 Tariff Record Parent Identifier: 0

Proposed Date: 2015-01-01

Priority Order: 500

Record Change Type: CHANGE

Record Content Type: 2

Associated Filing Identifier:

This is a PDF section and we cannot render PDF in a RTF document.

Document Content(s)

392-7f91cea0-cf1c-420c-91d3-aa5a4d18e4ec.PDF.....	1-9
392-ceeaf45c-de94-4e9f-a70d-f71e0196c505.PDF.....	10-203
FERC GENERATED TARIFF FILING.RTF.....	204-204