


Marin Clean Energy

A project of the Marin Energy Authority


October, 2009


marin energy authority

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Why was Marin Energy Authority Formed?

MEA was formed in 2008 to address climate change by reducing energy related greenhouse gas (GHG) emissions and securing energy supply, price stability, energy efficiencies and local economic and workforce benefits.


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Committees of the Board

- Executive Committee
 - Agenda review for monthly Board meetings
 - Direction and policy advice for the Director
 - Legislative and regulatory
- Technical Committee
 - Policy and technical advice for RFP and Power Supply Contract
 - Review of PG&E proposals
 - Review other AB32 related programs
- Ad Hoc Contract Committee
 - Interface with and direction re:
 - Contract negotiations

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Ad Hoc Technical Advisory Group

- Tom Sweet, URS
 - Design, Technology, Engineering: Construction, Permitting: Galen Peracca, URS
- Ruth McDougall, Retired SMUD senior staff
 - Municipal Procurement & Operations:
- Bill Kissinger, Bingham McCutchen, LLP
 - Legal, Finance, Power Purchase Agreements
- Peter Luchetti, Table Rock Capital LLC
 - Infrastructure & Clean energy Private Equity
- Wally McOuat, HMH Resources, Inc.
 - Finance and Project Development
- Tom Delaney, CAISO
 - Transmission

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GHG Policy & Costs

- CA AB32 passed in 2006 requires 25% reduction in GHG emissions by 2020
- Cost of AB32 compliance estimated at \$36 million - \$48 million in Marin alone



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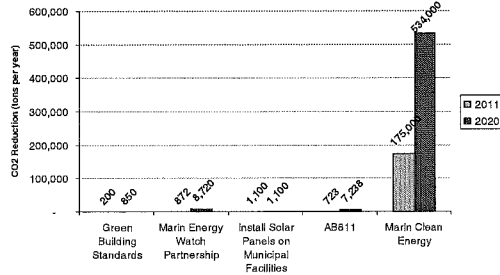
Marin Countywide GHG Emissions

Source	1990	1995	2000	2005
Electricity	165,700	155,000	140,000	101,000
(32%)	(34%)	(33%)	(33%)	(33%)
Transportation	1,242,400	1,255,000	1,363,000	1,383,000
(62%)	(60%)	(69%)	(62%)	(62%)
Waste	74,050	60,835	60,757	56,868
(2%)	(3%)	(1%)	(2%)	(2%)
Manufacture	118,800	118,000	107,000	97,000
(4%)	(4%)	(5%)	(3%)	(3%)
TOTAL tons eCO ₂	3,007,874	2,975,085	3,262,042	3,135,622

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GHG Reduction Sample Measures for Marin



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Renewable Portfolio Standards State requirement: 20% by 2010

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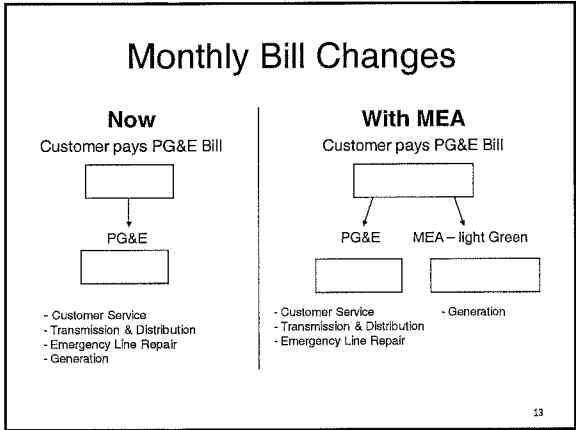
RFP for power purchase

- MEA's RFP released May, due July 2009
 - Energy supply at or below PG&E's projected costs, plus 100% renewable energy product (dark green) for customers
 - Minimum term length of 5 years, commencing on May 1, 2010
- 12 proposals received
- Submittals reviewed and screened
- Contract negotiations launched
- Draft contract released

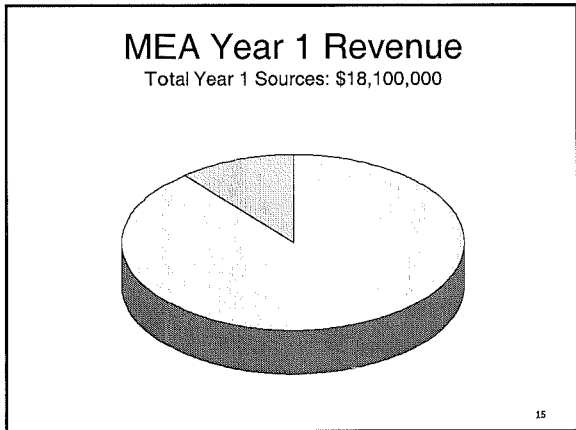


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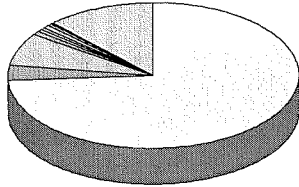
- ### Key MCE Contract Provisions
- Cost at or below PG&E generation costs for light green energy: CF #5
 - No risk or contribution from city, town county budgets: CS #17
 - Five year full requirements contract (all energy, scheduling, load following, risk management) at a fixed price: CF #2
 - Minimum credit rating from supplier required: CS #8.2d
 - Substituting MEA owned or acquired assets ok: CF #10
 - Deep green at 100% renewable energy: CF #2.2
 - Guaranteed supply of power 24 hrs/day: CF #2
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MEA Year 1 Expenses

Total Year 1 Uses: \$18,100,000



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MEA Risks & Mitigation

- Protecting General Fund
 - = State law, JPA agreement and Section 10.13 of Contract
- Ensuring Credit worthiness
 - = legal language, exit fees
- High number opt out
 - = Banded volumes approach and reset after 1 yr.
- Legal challenges from PG&E
 - = funds budgeted for legal support
- Provider can't deliver
 - = Parental guarantee; MEA has rights to providers energy assets; customers can be returned to PG&E at no cost to them (CPUC requires \$40,000 set aside bond in year 1 to cover this costs)

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Customer Risks & Mitigation

- Customer rates go above those of PG&E
 - = MEA would not sign 5 year contract; reserves and owned assets improve economics after 5 years
- Provider can't deliver
 - = Parental guarantee; MEA has rights to providers energy assets; customers can be returned to PG&E at no cost to them (CPUC requires set aside bond to cover this costs)
- Customer misses opt out period
 - = No penalty for 6 months, capped fee of \$3 after 6 months

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Public Power savings over IOU's \$46.8 – \$78 Million/yr

- Applying Palo Alto's rate of savings to MEA would save Marin customers
 - \$38,000,000/yr
- Applying SMUD (Sacramento Municipal Utility District) rate to MEA would save customers
 - \$32,400,000/yr
- Applying L.A. Dpt. Water & Power rates to MEA customers would save MEA customers
 - \$46,800,000/yr

*Assumes 130,000 Households



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Benefits for Customers

- Rate Competitiveness: Rates at or below PG&E rates
 - MEA's Low overhead
 - MEA's Ability to use tax-exempt financing for energy generation facilities
- Higher Renewable Content: MEA's ability to significantly increase renewable content at current PG&E prices
- Rate Stability: MEA plans to stabilize rates through fixed cost supply contracts
- Focus on Customer Needs: MEA's brings value to its customers and member jurisdictions by setting rates tailored to local need; Existing utility must bring value to its shareholders (\$589 M in dividends in 2008)
- Direct Customer Participation in GHG reduction

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Benefits for Marin County

- Competition in business = Better product
- Bringing Jobs and revenue to Marin County: Marin will be the center of an over \$135M/year CCA, bringing jobs and revenue to the local economy
- Local Renewable Development: Ensures local focus in development of renewable energy projects
- Integration of EE and DG: MEA will integrate energy efficiency and distributed generation (e.g. solar) into ongoing operations. A minimum 13 MW of DG and 11% EE planned in first 10 years.

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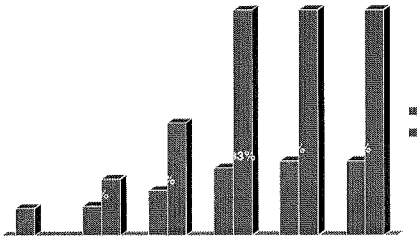
Improving Energy Supply

- **Higher Renewable Content:** MEA is poised to currently exceed RPS at or below PG&E rates; PG&E has indicated it will not meet RPS in 2010
- **Lower Generation Costs:** MEA can develop energy generation projects more cheaply than PG&E by using tax-exempt financing
- **Increased Market Competition:** MEA will compete with the existing monopoly utility, to create lower energy generation prices



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Renewable Energy Content PG&E Compared to MCE Light Green



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Projected Schedule July 2009 - February 2010

Bids received, reviewed by Advisory Group, Technical Consultants and Technical Committee; Summary documents produced	July 20 – August 20
MEA Board appoints Ad Hoc Contract Committee	August 20
Initial Interviews	Week of August 24
Short-list consideration by MEA Board	September 3
Contract negotiations begin	September 4
Early draft contract approved by MEA Board	October 1
Early loop-out to each city/town council and BOS to solicit feedback	October 2 – 30
MEA Board approves final draft contract	November 5
90-day review period of final draft contract	November 5 – February 4
Final loop-out to each city/town council and BOS re: final contract	November 6 – January 23
MEA Board final contract approval	February 4

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MASTER POWER PURCHASE AND SALE AGREEMENT

COVER SHEET

This *Master Power Purchase and Sale Agreement* (“*Master Agreement*”) is made as of the following date: _____, 2008 (“*Effective Date*”). The *Master Agreement*, together with the exhibits, schedules and any written supplements hereto, the Party A Tariff, if any, the Party B Tariff, if any, any designated collateral, credit support or margin agreement or similar arrangement between the Parties and all Transactions (including any confirmations accepted in accordance with Section 2.3 hereto) shall be referred to as the “*Agreement*.” The Parties to this *Master Agreement* are the following:

Name (“_____” or “Party A”)

Name (“Marin Energy Authority” or “Party B”)

All Notices:

All Notices:

Street: _____

Street: [3501 Civic Center Drive, Room 308]

City: _____ Zip: _____

City: [San Rafael, CA] Zip: [94903]

Attn: Contract Administration

Attn: Contract Administration

Phone: _____

Phone: _____

Facsimile: _____

Facsimile: _____

Duns: _____

Duns: _____

Federal Tax ID Number: _____

Federal Tax ID Number: _____

Invoices:

Invoices:

Attn: _____

Attn: _____

Phone: _____

Phone: _____

Facsimile: _____

Facsimile: _____

Scheduling:

Scheduling:

Attn: _____

Attn: _____

Phone: _____

Phone: _____

Facsimile: _____

Facsimile: _____

Payments:

Payments:

Attn: _____

Attn: _____

Phone: _____

Phone: _____

Facsimile: _____

Facsimile: _____

Wire Transfer:

Wire Transfer:

BNK: _____

BNK: _____

ABA: _____

ABA: _____

ACCT: _____

ACCT: _____

Credit and Collections:

Attn: _____
Phone: _____
Facsimile: _____

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

Attn: _____
Phone: _____
Facsimile: _____

Credit and Collections:

Attn: _____
Phone: _____
Facsimile: _____

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

Attn: _____
Phone: _____
Facsimile: _____

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

Party A Tariff Tariff _____ Dated _____ Docket Number _____

Party B Tariff Tariff _____ Dated _____ Docket Number _____

Article Two

Transaction Terms and Conditions

Optional provision in Section 2.4. If not checked, inapplicable.

Article Four

Remedies for Failure to Deliver or Receive

Accelerated Payment of Damages. If not checked, inapplicable.

Article Five

Events of Default; Remedies

Cross Default for Party A:

Party A: _____ Cross Default Amount \$[TBD]_____

Other Cross Default Amount
Entity: _____ \$ _____

Cross Default for Party B:

Party B: _____ Cross Default Amount \$TBD

Other Entity: _____ Cross Default Amount \$ _____

5.6 Closeout Setoff

Option A (Applicable if no other selection is made.)

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

Option C (No Setoff)

Article 8

Credit and Collateral Requirements

8.1 Party A Credit Protection:

(a) Financial Information:

Option A

Option B Specify: _____

Option C Specify: _____

(b) Credit Assurances:

Not Applicable

Applicable

(c) Collateral Threshold:

Not Applicable

Applicable

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If applicable, complete the following:

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

Party B Independent Amount: \$ _____

Party B Rounding Amount: \$ _____

(d) Downgrade Event:

- Not Applicable
- Applicable

If applicable, complete the following:

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

- Other:
Specify: _____

(e) Guarantor for Party B: _____

Guarantee Amount: _____

8.2 Party B Credit Protection:

(a) Financial Information:

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

(b) Credit Assurances:

- Not Applicable
- Applicable

(c) Collateral Threshold:

- Not Applicable
- Applicable

If applicable, complete the following:

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

Party A Independent Amount: \$ _____

Party A Rounding Amount: \$ _____

(d) Downgrade Event:

- Not Applicable
- Applicable

If applicable, complete the following:

- It shall be a Downgrade Event for Party A if Party A's Credit Rating falls below BBB- from S&P and Baa3 from Moody's or if Party A is not rated by either S&P or Moody's
- Other:
Specify: _____

(e) Guarantor for Party A: _____

Guarantee Amount: _____

Article 10

Confidentiality

Confidentiality
Applicable

If not checked, inapplicable.

Schedule M

- Party A is a Governmental Entity or Public Power System
- Party B is a Governmental Entity or Public Power System
- Add Section 3.6. If not checked, inapplicable
- Add Section 8. If not checked, inapplicable. Collateral description as follows:

Party B shall direct PG&E to deposit into a lockbox account, in favor of Party A, all of the proceeds of all of the customer account receipts (net of the amounts to be paid to PG&E) received by Party B from the sale of the Product to its customers. After Party A's invoice is paid, the amounts remaining in such lockbox shall be immediately released to Party B on the 25th of each calendar month. Party A acknowledges that revenues from customer account receipts may be subject to a lien in connection with a working capital facility for Party B under an intercreditor agreements between Party A, Party B and the lender(s) on terms and conditions acceptable to Party A.

Other Changes

- 1) In section 1.27 delete the word "transferable" in the first

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line and insert the following after the last sentence:

“The value of the Letter of Credit shall be its principal amount (the “Value”), provided that if the Letter of Credit expires within thirty days after the date its Value is being determined, its Value shall be zero. If a Party has delivered more than one form of Performance Assurance to the Secured Party, when a return of Performance Assurance is to be made, the Secured Party may elect which form to transfer.”

- 2) In section 1.50, replace Section 2.4 with Section 2.5
- 3) In section 2.4, delete “either orally or” after “agreed to” in the 7th line.
- 4) In section 2.5, insert the phrase “absent manifest error” after the first appearance of the word “Confirmation” on the eleventh line.
- 5) In section 5.1 (a) change “three (3) Business Days” to “five (5) Business Days”.
- 6) In section 5.1(d) add the following after “Bankrupt”:

“,provided, however, if the presentation of an involuntary petition for the winding-up or liquidation of a party (an "Involuntary Proceeding") is commenced, such Involuntary Proceeding shall be not be a Default in respect of that party unless the Involuntary Proceeding has not been withdrawn, dismissed, discharged, stayed or restrained within 60 days of its commencement and in such event the other party shall be entitled to exercise its rights and remedies under this Agreement in respect thereof;”

- 7) 5.4 Notice of Payment of Termination Payment. Add the following at the end:

“The Termination Payment shall bear interest at the Interest Rate from the date upon which notice is effective until paid. Notwithstanding any provision to the contrary contained in this Agreement, the Non-Defaulting Party shall not be required to pay to the Defaulting Party any amount under Article 5 until the Non-Defaulting Party receives confirmation satisfactory to it in its reasonable discretion that all other obligations of any kind whatsoever of the Defaulting Party to make any payments to the Non-

Defaulting Party or any of its Affiliates under this Agreement or otherwise which are due and payable as of the Early Termination Date (including for these purposes amounts payable pursuant to Excluded Transactions) have been fully and finally performed and that the Defaulting Party has returned any Performance Assurance of the Non-Defaulting Party's that is held simultaneously or before the Non Defaulting Party makes any Termination Payment hereunder."

8) In section 6.3, lines 3, 16 & 18, change twelve (12) months to twenty-four (24) months.

9) In sections 8.1(b) and 8.2 (b) change "three (3) Business Days" to "five (5) Business Days".

10) In sections 8.1(d) and 8.2(d) on line 5, change "three (3) Business Days" to "five (5) Business Days".

11) The following new section 8.2(f) shall be added as Section 8.2:

"Party A shall provide security in form and substance reasonably satisfactory to Party B, in an amount sufficient to cover the potential cost with respect to the involuntary return of Party B customers to PG&E as a result of an Event of Default by Party A. Party A shall be responsible for the payment for (and reimbursement to Party B for) any actual reentry fees assessed by PG&E in connection with an Event of Default by Party A regardless of the amount of the security provided by Party A to Party B."

Section 10.2(ix) shall be deleted in its entirety and replaced with the following:

"Each party acknowledges and agrees that (i) certain transaction(s) hereunder constitute a "forward contract" providing a "contractual right" within the meaning of such terms under Title 11 of the United States Code, as amended (the "Bankruptcy Code"); (ii) it is a "forward contract merchant" within the meaning of the Bankruptcy Code with respect to any transaction that constitutes a "forward contract," (iii) all payments made or to be made by one party to the other party pursuant to this contract constitute a "settlement payment" within the meaning of the Bankruptcy Code; (iv) all transfers of adequate

assurance, prepayment or similar performance assurance by one party to the other party under this contract constitute a "margin payment" within the meaning of the Bankruptcy Codes; (v) each party shall have the "contractual right" to terminate, liquidate, accelerate, or offset the transaction as a "master netting agreement participant" within the meaning of the Bankruptcy Code; (vi) Electricity delivered hereunder constitutes a "good" under Section 503(b)(9) of the U.S. Bankruptcy Code; and (vii) the parties are entities entitled to the rights under, and protections afforded by, Sections 362, 546, 553, 556, 560, 561 and 562 of the Bankruptcy Code."

12) In section 10.6 change "State of New York" to "State of California" and add the following after the last line: "EACH PARTY SUBMITS TO THE NON-EXCLUSIVE JURISDICTION OF THE FEDERAL COURTS LOCATED IN SAN FRANCISCO, CALIFORNIA, FOR ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY TRANSACTION, AND EXPRESSLY WAIVES ANY OBJECTION IT MAY HAVE TO SUCH JURISDICTION OR THE CONVENIENCE OF SUCH FORUM."

13) Section 10.8 General. Add at the end of the second to last sentence: "and the rights of either Party pursuant to (i) Article 5, (ii) Section 7.1, (iii) Section 10.11 (iv) Waiver of Jury Trial provisions, if applicable, (v) Arbitration provisions, if applicable, (vi) the obligation of either Party to make payments hereunder shall also survive the termination of the Agreement or any Transaction."

14) In section 10.9 and insert the words "copies of" after the word "examine". In line 9, change twelve (12) months to twenty-four (24) months.

15) Section 10.10 Bankruptcy Issues. Delete Section 10.10 in its entirety and replace with the following: "The Parties intend that (i) all Transactions constitute a "forward contract" within the meaning of the United States Bankruptcy Code (the "Bankruptcy Code") or a "swap agreement" with in the meaning of the Bankruptcy Code; (ii) all payments made or to be

made by one Party to the other Party pursuant to this Agreement constitute "settlement payments" within the meaning of the Bankruptcy Code; (iii) all transfers of Performance Assurance by one Party to the other Party under this Agreement constitute "margin payments" within the meaning of the Bankruptcy Code; and (iv) this Agreement constitutes a "master netting agreement" within the meaning of the Bankruptcy Code."

- 16) The following Mobile-Sierra clause shall be added as Section 10.12:

10.12 Standard of Review/Modifications.

(a) Absent the prior mutual written agreement of all parties to the contrary, the standard of review for any proposed changes to the rates, terms, and/or conditions of service of this Agreement or any Transaction entered into thereunder, whether proposed by a Party, a non-party or FERC acting sua sponte, shall be the "public interest" standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956).

(b) In addition, and notwithstanding the foregoing subsection (a), to the fullest extent permitted by applicable law, each Party, for itself and its successors and assigns, hereby expressly and irrevocably waives any rights it can or may have, now or in the future, whether under §§ 205 and/or 206 of the Federal Power Act or otherwise, to seek to obtain from FERC by any means, directly or indirectly (through complaint, investigation or otherwise), and each hereby covenants and agrees not at any time to seek to so obtain, an order from FERC changing any section of this Agreement specifying the rate, charge, classification, or other term or condition agreed to by the Parties, it being the express intent of the Parties that, to the fullest extent permitted by applicable law, neither Party shall unilaterally seek to obtain from FERC any relief changing the rate, charge, classification, or other term or condition of this Agreement, notwithstanding any subsequent changes

in applicable law or market conditions that may occur. In the event it were to be determined that applicable law precludes the Parties from waiving their rights to seek changes from FERC to their market-based power sales contracts (including entering into covenants not to do so) then this subsection (b) shall not apply, provided that, consistent with the foregoing subsection (a), neither Party shall seek any such changes except solely under the "public interest" application of the "just and reasonable" standard of review and otherwise as set forth in the foregoing section (a).

- 17) The following new Section shall be added as Section 10.13:

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

- 18) The following new Section shall be added as Section 10.14: No Immunity Claim. Party B warrants and covenants that with respect to its contractual obligations hereunder and performance thereof, it will not claim immunity on the grounds of sovereignty or similar grounds with respect to itself or its revenues or assets from (a) suit, (b) jurisdiction of court (including a court located outside the jurisdiction of its organization), (c) relief by way of injunction, order for specific performance or recovery of property, (d) attachment of assets, or (e) execution or enforcement of any judgment.

- 19) The Parties agree to add the following representations

and warranties to Section 10.2:

Party B represents and warrants to Party A continuing throughout the term of this Master Agreement, with respect to this Master Agreement and each Transaction, as follows: (i) all acts necessary to the valid execution, delivery and performance of this Master Agreement, including without limitation, competitive bidding, public notice, election, referendum, prior appropriation or other required procedures has or will be taken and performed as required under all the Joint Power Agreement and all applicable laws, ordinances, bylaws or other regulations, (ii) all persons making up the governing body of Party B are the duly elected or appointed incumbents in their positions and hold such positions in good standing in accordance with the Joint Power Agreement and other applicable laws, (iii) the term of this Master Agreement does not extend beyond any applicable limitation imposed by the Joint Power Agreement or other relevant constitutional, organic or other governing documents and applicable law, (iv) Party B's obligations to make payments hereunder are, except as otherwise specifically set forth herein, unsubordinated obligations which enjoy first priority of payment at all times under any and all bond ordinances or indentures to which it is a party, the Joint Power Agreement and all other relevant constitutional, organic or other governing documents and applicable law or (b) otherwise not subject to any prior claim under any and all bond ordinances or indentures to which it is a party, the Joint Power Agreement and all other relevant constitutional, organic or other governing documents and applicable law and are available without limitation or deduction to satisfy all of Party B's obligations hereunder and under each Transaction, and (v)

obligations to make payments hereunder do not constitute any kind of indebtedness of Party B or create any kind of lien on, or security interest in, any property or revenues of Party B which, in either case, is proscribed by any provision of the Joint Power Agreement or any other relevant constitutional, organic or other governing documents and applicable law, any order or judgment of any court or other agency of government applicable to it or its assets, or any contractual restriction binding on or affecting it or any of its assets.

21) The following shall be added as a new Section 10.15: Party B's Deliveries. On the Effective Date and as a condition to the obligations of Party A under this Agreement, Party B shall provide to Party A (i) certified copies of all ordinances, resolutions, public notices and other documents evidencing the necessary authorizations with respect to the execution, delivery and performance by Party B of this Master Agreement and (ii) an opinion of counsel for Party B, in form and substance reasonably satisfactory to Party A, regarding such the following matters: **[to be discussed]**

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

Party A

Party B **Marin Energy Authority**

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

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

DRAFT – NON-BINDING FOR DISCUSSIONS PURPOSES ONLY.

<i>For Seller's Use Only</i>	
Trade Date	
Seller's ID	

CONFIRMATION

Reference:

Master Power Purchase and Sale Agreement
Between <Company Legal Name> ("Seller")
And Marin Energy Authority ("Buyer")
As of <Month, Day, Year> (the "Effective Date")
Transaction Date: <Month, Day, Year>

RECITALS:

WHEREAS, pursuant to California Public Utilities Code Sections 366.1, et. seq., Buyer has been registered as a Community Choice Aggregator (the "CCA");

WHEREAS, Buyer is an independent public agency formed in accordance with the Joint Powers Act of the State of California (Government Code Section 6500 et seq.) and established by that certain Joint Powers Agreement, effective as of December 19, 2008 ("Joint Powers Agreement") by the Members to, among other things, study, promote, develop and conduct the CCA program;

WHEREAS, under the Joint Powers Agreement, the Buyer submitted Buyer's CCA Implementation Plan ("Implementation Plan") and statement of intent to the CPUC;

WHEREAS, Buyer issued a Request for Proposals for Full Requirements Product Supply for Buyer serving as the CCA;

WHEREAS, Buyer selected Seller to supply the Full Requirements Product for Buyer serving as the CCA;

WHEREAS, Buyer will in turn supply the Full Requirements Product for use by the Members; and

WHEREAS, Seller and Buyer desire to set forth the terms and conditions pursuant to which Seller shall supply the Full Requirements Product to Buyer, and Buyer shall take and pay for such supply of Full Requirement Product, including, subject to satisfaction of the conditions herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements in this Agreement and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the Parties agree as follows:

1. **DEFINITIONS.** Defined terms shall have the meanings set forth in this Confirmation or as set forth below:

"Ancillary Services" means those ancillary services, including but not limited to those described in FERC Order No. 888, that may from time to time be required by FERC to be supplied by CAISO.

"Applicable Law" means any statute, law, treaty, rule, regulation, ordinance, code, permit, enactment, injunction, order, writ, decision, authorization, judgment, decree or other legal or regulatory determination or restriction by a court or Governmental Authority of competent jurisdiction; or any binding interpretation of the foregoing, as any of them is amended or supplemented from time to time.

"CAISO" means the California Independent System Operator Corporation or the successor organization to the functions thereof.

"CAISO Charges" mean those amounts billed by CAISO and associated with the procurement and delivery of any full requirements product through the CAISO market to CCA Customers.

"Capacity" means the net generating capability of a generating resource or generating resources. Capacity is expressed in MW.

"Capacity Requirement" means Capacity as required for Buyer to meet its RAR.

"Customers" means any account designated, from time to time, by Buyer as being served by Buyer, and identified to Seller pursuant to this Confirmation.

"Energy" means real (not reactive) electric energy in the form of three-phase alternating current having a nominal frequency of approximately 60 cycles per second, a harmonic content consistent with the requirements of the Institute of Electrical and Electronic Engineers Standard No. 519, and a voltage content consistent with the guidelines applied by the Control Area in which the applicable generating resource resides. Energy is measured in MWh.

"Eligible Renewable Energy Source" means any renewable energy source which qualifies for the RPS.

"Environmental Attributes" means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to any Renewable Energy Source or Renewable Energy. Environmental Attributes include but are not limited to renewable energy credits, as well as: (1) any avoided emission of pollutants to the air, soil or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO) and other pollutants; (2) any avoided emissions of carbon dioxide

(CO₂), methane (CH₄), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere¹; (3) the reporting rights to these avoided emissions, such as Green Tag Reporting Rights. Green Tag Reporting Rights are the right of a Green Tag Purchaser to report the ownership of accumulated Green Tags in compliance with federal or state law, if applicable, and to a federal or state agency or any other party at the Green Tag Purchaser's discretion, and include without limitation those Green Tag Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present or future federal, state, or local law, regulation or bill, and international or foreign emissions trading program. Green Tags are accumulated on a MWh basis and one Green Tag represents the Environmental Attributes associated with one (1) MWh of energy. Environmental Attributes do not include (i) any energy, capacity, reliability or other power attributes from a Renewable Energy Source, (ii) production tax credits associated with the construction or operation of a Renewable Energy Source and other financial incentives in the form of credits, reductions, or allowances associated with the project that are applicable to a state or federal income taxation obligation, (iii) fuel-related subsidies or "tipping fees" that may be paid to a seller to accept certain fuels, or local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits, or (iv) emission reduction credits encumbered or used by a Renewable Energy Source for compliance with local, state, or federal operating and/or air quality permits. If the Renewable Energy Source is a biomass or biogas facility and Seller receives any tradable Environmental Attributes based on the greenhouse gas reduction benefits or other emission offsets attributed to its fuel usage, it shall provide Buyer with sufficient Environmental Attributes to ensure that there are zero net emissions associated with the production of electricity from such Renewable Energy Source.

"Governmental Authority" means any federal, state, local or municipal government, governmental department, commission, board, bureau, agency, or instrumentality, or any judicial, regulatory or administrative body, having jurisdiction as to the matter in question.

"Imbalance Charge" means any scheduling penalties, imbalance penalties, overpull or unauthorized overrun penalties, operational flow order penalties, cash out charges, banking charges or similar penalties, fees or charges, assessed by, or oversupply credits or payments due with respect to a failure to comply with balance and/or scheduling requirements of any applicable entity, specifically excluding any distribution charges imposed by PG&E on the delivery of the Energy hereunder.

"Other Renewable Energy Source" means any renewable energy source that is not an Eligible Renewable Energy Source, including wind, hydro-electric, geothermal, biogas including landfill gas, digester gases and gas conversion or gasification technologies, direct combustion biomass, biodiesel power producing facilities, photovoltaic, solar thermal, fuel cells using eligible renewable fuels, qualifying municipal solid waste conversion, tidal current, ocean wave, and ocean thermal technology; provided, however, that in no event shall coal or nuclear resources be deemed to be "Other Renewable Energy Source".

"Product" means any products provided by Seller to Buyer under this Confirmation.

"Renewable Energy Certificates" or "RECs" means a certificate of proof representing renewable and/or environmental attributes associated with energy production, issued through the accounting system established by the California Energy Commission under Public Utilities Code Section 399.13, that one unit of electricity was generated and delivered by an eligible renewable energy resource and such REC satisfies the requirements of RPS.

"Renewable Energy" means electricity generated from Renewable Energy Sources.

"Renewable Energy Source" means any Eligible Renewable Energy Source or Other Renewable Energy Source.

"Renewables Portfolio Standard" or "RPS" means that quantity of renewable energy resources that Buyer is required to procure pursuant to Applicable Law.

"Resource Adequacy Requirement" or "RAR" means those resource adequacy requirements that Buyer is required to comply with pursuant to Applicable Law.

"SC Agreement" means the Scheduling Coordinator Agreement by which Buyer appoints Seller as its scheduling coordinator with the CAISO.

"Weighted Average Price" shall mean the price calculated monthly: (i) with respect to Energy, [specify methodology] and (ii) with respect to Renewable Energy, the amount paid or received by Seller in buying or selling Renewable Energy.

2. PRODUCT.

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

2.1 Seller Supply Obligation. Throughout the Delivery Period, Seller shall sell and deliver or make available, or cause to be sold and delivered or made available to Buyer, the “Full Requirements Product,” which is comprised of:

- (a) a quantity of Electrical Energy determined in accordance with this Confirmation;
- (b) a quantity of Renewable Energy as set forth in Section 2.2;
- (c) a quantity of Capacity equal to the Capacity Requirement;
- (d) Ancillary Services required to supply the foregoing electrical energy identified in this Section 2.1 (the “Full Requirements Energy”) to the Delivery Point; and
- (e) CAISO scheduling coordination services as set forth in the SC Agreement.

2.2 Renewable Energy. During the Delivery Period, Seller shall provide to Buyer Renewable Energy in amounts sufficient to ensure that (i) Customers participating in Buyer’s (a) “Light Green” service receive at least 25% of their Energy from Eligible Renewable Energy Sources, and (b) “Deep Green” service receive 25% of Energy from Eligible Renewable Energy Sources during the Delivery Period and 100% of their Energy from Renewable Energy Sources and (ii) Buyer meets any RPS obligations. The Renewable Energy sold by Seller to Buyer shall also include any and all Environmental Attributes associated with such Renewable Energy. Any Renewable Energy required by Buyer above the Upper Limit shall be determined according to the following formula: [_____]. If due to any action by the CPUC or any state, federal or local governmental authority or agency, or any change in Applicable Law which occur after the execution date hereof (a “Change in Law”), the Parties shall work in good faith to try and revise this Confirmation so that the Parties can perform their obligations regarding the purchase and sale of Renewable Energy on economic terms equal to those in force on the execution date hereof. In the event the Parties cannot reach agreement on any amendments to this Confirmation within 60 days following the Change in Law, Seller shall perform its obligations hereunder with regard to Renewable Energy in accordance with the Applicable Law immediately prior to the Change in Law.

3. DELIVERY PERIOD. This Confirmation shall be in full force and effect as of the Transaction Date. The terms set forth herein shall apply from the Start Date through the End Date:

Start Date:	End Date:
June 1, 2010	May 31, 2015

4. LOCATION AND DELIVERY POINT.

Market Area	Supply Point	Delivery Point	Buyer’s Local Utility
CAISO	PGE EZ Gen Hub	PG&E LAP	PG&E

5. PRICING.

[Per MEA policy no contract will be executed unless monthly generation costs to customers for the “Light Green” service will be at or below PG&E costs.]

5.1. Contract Price (Electricity): Buyer shall pay the following Contract Price for Energy, including related Ancillary Services, [and CAISO scheduling services] (expressed in USD per MWh) for all monthly Electricity usage that is within the Balanced Monthly Usage as set forth in the tables, below.

Year	Contract Price (in US\$/MWh)
2010	\$ _____
2011	\$ _____
2012	\$ _____
2013	\$ _____
2014	\$ _____
2015	\$ _____

5.2. Contract Price (Renewable Energy): Buyer shall pay the following Contract Price (Renewable Energy) (expressed in USD per MWh) for all monthly Renewable Energy, including related Ancillary Services, [and CAISO scheduling services](expressed in USD per MWh) for all monthly Electricity usage that is within the Balanced Monthly Usage as set forth in the tables, below

Year	Eligible Renewable Energy Renewable Sources (in US\$/MWh)	Other Renewable Energy Premium (in US\$/MWh)
2010	\$ _____	\$ _____
2011	\$ _____	\$ _____
2012	\$ _____	\$ _____
2013	\$ _____	\$ _____
2014	\$ _____	\$ _____
2015	\$ _____	\$ _____

5.3. **Contract Price (Resource Adequacy Capacity):** Buyer shall pay the following Contract Price (Resource Adequacy Capacity) (expressed in USD per MWh) on a monthly basis for Capacity as set forth in the tables below:

Year	System Resource Adequacy Capacity (in US\$/MWh)	Bay Area Resource Adequacy Capacity (in US\$/MWh)	Other PG&E Resource Adequacy Capacity (in US\$/MWh)
2010		\$ _____	\$ _____
2011		\$ _____	\$ _____
2012		\$ _____	\$ _____
2013		\$ _____	\$ _____
2014		\$ _____	\$ _____
2015		\$ _____	\$ _____

5.4. **Balanced Monthly Usage:** The term "Balanced Monthly Usage" shall mean the volume of Energy that is between the Lower Limit and the Upper Limit as set forth below:

Balanced Monthly Usage Limits	
Lower Limit (Percent below Buyer's Baseline Monthly Usage)	Upper Limit (Percent above Buyer's Baseline Monthly Usage)
«TableStart:TotalContractedQuantity»«lower_limit»%	«upper_limit»«TableEnd:TotalContractedQuantity»%

5.5. **Pass-Through Charges:** Seller shall be responsible for bidding and scheduling the loads of all Customers in accordance with Applicable Law, including CAISO tariffs. Seller shall only pass through to Buyer all CAISO Charges for providing Energy to the Delivery Point. Buyer's Customers will remain responsible for payment of delivery charges for transmission, distribution, public goods and other non-bypassable surcharges charged directly to Customers by PG&E.

6. **CONTRACT QUANTITY.** Seller shall service 100% of Buyer's Energy requirements. Energy prices pursuant to this Confirmation will relate to the quantities set forth in the table below:

The Contract Price relates to the Contract Quantities at (choose one)			
<input checked="" type="checkbox"/> the Supply Point <input type="checkbox"/> the Delivery Point <input type="checkbox"/> Buyer's Meter			
Commodity			
Month	Energy Baseline Monthly Usage (MWh)	Renewable Energy Baseline Monthly Usage (MWh)	Resource Adequacy Obligation (in kW)
«TableStart:ContractedQuantity» «date»	«monthly_usage»	«monthly_usage»	«Calc_Demand_RA»«TableEnd:ContractedQuantity»

Buyer shall be liable for all costs associated with delivering Energy from the Supply Point to the Delivery Point and Seller shall assist Buyer (at Buyer's cost) with obtaining all Congestion Revenue Rights required relating to the congestion from the Supply Point to the Delivery Point.

7. **MONTHLY BILLING SETTLEMENT.** For monthly volumes within the Balanced Monthly Usage, Seller shall invoice Buyer at the Contract Price for the actual monthly usage.

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- 7.1. Usage Above Upper Limit: During any month of delivery, if Buyer's metered usage (expressed in MWh) exceeds the Upper Limit ("Excess Quantity"), Seller shall invoice Buyer an amount equal to the Upper Limit multiplied by the Contract Price. For the Excess Quantity, Buyer shall reimburse Seller at the monthly Weighted Average Price plus all related CAISO Charges at the Delivery Point. Seller shall make commercially reasonable efforts to minimize the cost of any Excess Quantity purchased on behalf of Buyer.
- 7.2. Usage Below Lower Limit: During any month of delivery, if Buyer's metered usage (expressed in MWh) is less than the Lower Limit ("Underused Quantity"), Seller shall invoice Buyer for an amount equal to the Lower Limit multiplied by the Contract Price and shall credit Buyer's account by an amount equal to the Underused Quantity multiplied by the monthly Weighted Average Price Seller shall make commercially reasonable efforts to maximize the value of Underused Quantity remarketed on behalf of Buyer.
- 7.3. Resource Adequacy Capacity Usage Above Limit. During any month of delivery, if Buyer's received Capacity with respect to its Resource Adequacy Requirement exceeds the Upper Limit ("Excess Resource Adequacy Capacity Quantity"), Seller shall invoice Buyer an amount equal to the Upper Limit multiplied by the Contract Price (Resource Adequacy Capacity). For the Excess Resource Adequacy Capacity Quantity, Buyer shall reimburse Seller for its actual cost of buying the Excess Resource Adequacy Capacity Quantity. Seller shall make commercially reasonable efforts to minimize the cost of Excess Resource Adequacy Capacity Quantity purchased on behalf of Buyer.
- 7.4. Resource Adequacy Capacity Usage Below Limit. During any month of delivery, if Buyer's received Capacity with respect to its Resource Adequacy Requirement is less than the Lower Limit ("Underused Resource Adequacy Capacity Quantity"), Seller shall invoice Buyer for an amount equal to the minimum multiplied by the Contract Price (Resource Adequacy Capacity) and shall credit Buyer's account for the revenues obtained by Seller from remarketing the Underused Resource Adequacy Capacity Quantity. Seller shall make commercially reasonable efforts to maximize the value of Underused Resource Adequacy Capacity Quantity remarketed on behalf of Buyer.
8. **CAPACITY REDUCTION**. Buyer shall notify Seller as soon as possible if there is to be a permanent decrease in the Capacity Requirement ("Capacity Reduction"). In addition, Buyer shall be deemed to have a Capacity Reduction if reduced capacity is shown on the most recent long-term forecast. Any Capacity associated with a Capacity Reduction shall be remarketed by Seller. Buyer shall pay Seller all costs Seller incurs in effectuating the Capacity Reduction, including any costs associated with hedging and other fees, costs, expenses and losses relating to selling or otherwise disposing of the Capacity, reduced by any revenues or gains realized thereby. The Parties will cooperate to endeavor to reduce the cost to Buyer of a Capacity Reduction.
9. **LOAD SERVED**. The services and the Product described under this Confirmation shall be provided to the Customer accounts specified by Buyer. During the initial commencement of this Confirmation, the Customers will be switched over to an approximately 30-day period in accordance with the applicable meter read cycle for such Customer. At the [beginning/end] of each month, Buyer shall provide to Seller an updated account information for Customers for the upcoming month. Buyer shall also provide to Seller a daily report of Customer sales based on the meter data reported by the utility distribution company. Buyer shall prepare invoices to the Seller based on such daily reports. Buyer shall also deliver notice of any Customers which are no longer part of the Buyer's Marin Clean Energy program.
10. **RESOURCE SUBSTITUTION**. Buyer may independently gain control of specific electric supply or demand-side resources procured from other third parties or independently developed by Buyer. Upon the written request of Buyer to Seller, the Parties shall discuss how seller can integrate such Buyer-controlled electric supply or demand-side resources into the Product and the revisions to this Transaction needed to accomplish such integration.

As supplemented by this Confirmation including its Appendices, if any, all other Terms and Conditions contained in the Agreement remain in full force and effect.

<p>This Confirmation is subject to the Schedule(s) identified below and that are attached hereto:</p> <p>Appendix I - Schedule of Operational Services</p> <p>Appendix II – Enrollment Form</p>
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SELLER

MARIN ENERGY AUTHORITY

Sign: _____

Sign: _____

Print: _____

Print: _____

Title: _____

Title: _____

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Appendix I
Schedule of Operational Services

<i>For Seller's Use Only</i>	
Trade Date	
Seller's ID	

Reference:
Master Power Purchase and Sale Agreement
Between <Company Legal Name> ("Seller")
And Marin Energy Authority ("Buyer")
As of <Month, Day, Year> (the "Effective Date")
Transaction Date: <Month, Day, Year>

1. Description of Operational Services ("Services"). In conjunction with the attached Confirmation, Seller shall provide the Services listed below:

- (a) Forecasting: Seller shall be responsible for preparing and submitting short-term load forecasts of Energy and Capacity for less than one year as Buyer's "Scheduling Coordinator" (as such term is defined by CAISO) necessary to meet its energy supply obligations to Buyer. The Parties shall mutually agree from time to time on the assumptions to be included in the short-term and long-term forecasts prepared hereunder. Buyer shall provide all data requested by Seller necessary for the preparation of the forecasts. Seller shall not be liable for any costs or losses incurred by or charged to Buyer as a result of Seller's forecasting obligations so long as Seller acts in good faith in carrying out these obligations.
- (b) Scheduling Services: Seller shall be responsible for submitting schedules and bidding Product in accordance with the obligations of a Scheduling Coordinator as defined by the CAISO, including the scheduling and bidding for loads of all Customers served by Buyer. Seller shall perform the scheduling and bidding services in accordance with the CAISO tariffs, protocols and business practices. Seller shall establish a separate "Scheduling Coordinator" identification to isolate CAISO charges related to providing energy supply services to Buyer.
- (c) Load Balancing Services: Seller shall be responsible for and shall pay, and shall reimburse or credit Buyer if Buyer pays, all Imbalance Charges resulting from the supply of Product between the Energy Minimum and Energy Maximum, except to the extent such Imbalance Charges are a result of Buyer's failure to perform hereunder, including but not limited to the failure to receive Energy, or under the SC Agreement, or are a result of an event of Force Majeure.
- (d) Filing: Seller shall file with CAISO all schedules and meter data reports required to be filed by the scheduling coordinator for Buyer.
- (e) Regulatory Reporting. Seller will provide information to Buyer necessary for Buyer to timely comply with monthly, annual and periodic regulatory reporting requirements for RPS and Resource Adequacy requirements and as otherwise required by Applicable Law with respect to any Product.

2. Buyer's Obligation.

- (a) Forecasting: Buyer will assist and coordinate with Seller to prepare appropriate long-term load forecasts of Energy and Capacity for greater than one year and Buyer shall submit such long-term load forecasts as required by the CPUC, CEC the CAISO or any other applicable regulatory body, including those required of a CCA (including all updates and revisions, the "Long-Term Forecast") and promptly provide Seller with a copy thereof, provided that every ninety (90) days Buyer shall provide Seller with either a new Long-Term Forecast or a statement that no changes to the most recent Long-Term Forecast have occurred. Seller shall have the right to request clarification regarding any change made to the Long-Term Forecast.
- (b) Information: Buyer shall timely provide any information as reasonably required Seller to perform the Services.

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SELLER

Sign: _____

Print: _____

Title: _____

MARIN ENERGY AUTHORITY

Sign: _____

Print: _____

Title: _____

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**Appendix II
Enrollment Form**

<i>For Seller's Use Only</i>	
Trade Date	
Seller's ID	

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