



# SUMMARY MINUTES

ABAG Power Executive Committee  
Meeting 2004-02  
April 21, 2004  
Metro Center, 101 8<sup>th</sup> Street, Oakland CA 94607

## WELCOME AND INTRODUCTIONS

Chairman Richard Averett opened the meeting with introductions at 10:10 a.m.

### Committee Representatives & Alternates Present

Richard Averett, Chairman  
John Lisenko  
Terry Mann  
Dave Millican, Vice-Chairman  
Steve Sprotte  
Vicki Swank  
Ed Buonaccorsi (attended for Jeff Kolin)  
Mark Akaba (attended for Mary Hill)

### Jurisdictions

City of San Carlos  
City of Foster City  
County of Contra Costa  
City of Fremont  
City of Union City  
County of Santa Clara  
City of Santa Rosa  
City of Vallejo

### Other Representatives Present

Teri Green

R.A.F.C.

### Committee Representatives Absent

Rob Sousa

City of Benicia

### Staff Present

Joe Chan  
Henry Gardner  
Jerry Lahr  
Gloria Lin  
Ken Moy

ABAG  
ABAG  
ABAG POWER  
ABAG  
ABAG

## PUBLIC COMMENTS/ANNOUNCEMENTS

There were no public comments.

## APPROVAL OF SUMMARY MINUTES OF FEBRUARY 18, 2004 MEETING

Motion was made by Millican/S/Mann/C/7:0:0 to approve the Summary Minutes of February 18, 2004 Executive Committee Meeting.

**FUTURE ROLES FOR ABAG POWER**

Jerry Lahr provided the members with a memo discussing potential future roles for ABAG POWER, along with a discussion outline for reference. He also provided a program summary for the Local Government Energy Partnership (LGEP) program, and gave a brief history of the ABAG POWER JPA including the Electric and Natural Gas programs. Members then engaged in an open-ended discussion regarding the future role for ABAG POWER (discussion notes provided separately). Members generally felt that while there were many good and positive roles for ABAG POWER, specifically Community Aggregation/Public Power Entities, funding was a key issue, and more discussion and input would be required before additional functions could be approved.

John Lisenko joined the meeting at this point.

**ABAG POWER FY 2003-04 BUDGET UPDATE**

Jerry Lahr provided the members with a Revised Operating Budget for Fiscal Year Ending June 30, 2004. Lahr mentioned that the Operating Budget which was approved by the members at their June, 2003 meeting was now revised based on actuals.

The Electric program budget revisions were as follows:

- Interest income was revised due to the impending distribution of funds, which in the earlier budget had assumed interest income for the entire year;
- A significant increase in ABAG fees due to internal legal work in connection with the Electric Program windup;
- A significant decrease in anticipated outside legal expenses.

The Natural Gas Program budget revisions were as follows:

- Due to the outcome of the true-up of the gas program in December, 2003, the estimate of the gas costs for the year was revised;
- A small increase in the billing agent fees;
- A small increase in the scheduling agent fees;
- A reduction in ABAG fees due to a portion of the energy management budget being moved to the funding provided under the new LGEP program.

Motion was made by Swank/S/Lisenko/C/8:0:0 to approve the revised operating budget as presented.

**STATUS REPORT ON NATURAL GAS PROGRAM****Summary of Gas Operations Report**

Jerry Lahr provided the members with the monthly Summary of Operations report for the Natural Gas Program. Lahr said that he had added two new rows of information "Monthly Rate Difference" and "Cumulative Savings" in response to the members' request for that information at a prior meeting.



Lahr mentioned that in March and April 2004 PG&E's Core Gas Procurement rate included a substantial negative "adjustment." This will cause PG&E's rate to appear to be lower than the actual cost of gas for those months.

Lahr said that ABAG POWER's rate compares very favorably to PG&E's rate up through January, 2004.

### **El Paso "Turn-back" Capacity**

Lahr provided an update on the El Paso "Turn-back" Capacity issue. He said that PG&E had filed an advice letter with the California Public Utilities Commission, requesting that the previously approved refund amount be made to eligible noncore and core aggregation gas customers within 60 days after CPUC approval of the Refund Plan, and requesting an effective date of May 1, 2004.

Lahr said that ABAG POWER members are eligible to receive a refund for the time period of March 1, 2003 to February 5, 2004. Members' gas usage during that period will be subject to the refund. The refund amount was set at .571 cents per therm, totaling approximately \$45,000 total for ABAG POWER members. Lahr said that ABAG POWER members will also be saving money by not paying .6 cents per therm for the El Paso capacity in the future. Members will see this refund either as a one time credit on their bills or receive a check directly from PG&E.

### **Gas Storage**

Lahr said that as a core transportation agent, ABAG POWER is required to meet specific monthly storage targets either with PG&E or an alternate provider. In the past, ABAG POWER has contracted with PG&E to meet this requirement. However, ABAG POWER recently evaluated the option of meeting its storage requirement through an alternate provider, and estimated that the program could save approximately \$10 – 15,000/year. ABAG POWER subsequently contracted with Wild Goose Storage Inc. (subsidiary of EnCana) for storage services for the period April 2004 through March 2005.

Chairman Averett requested that staff bring back the contract which ABAG POWER has signed with Wild Goose Storage for the Executive Committee's approval at its next meeting.

### **Gas Aggregation Contract Renewal**

Lahr said that as per the Executive Committee members' action at the prior meeting, ABAG POWER staff had made several revisions to the Natural Gas Aggregation Agreement and also added the "Rolling Evergreen" option to the Agreement.

Member Steve Sprotte requested that a memo accompany the Revised Core Natural Gas Agreement to members identifying the changes which are being made on the existing agreement.

ABAG POWER Legal Counsel, Ken Moy mentioned that ABAG POWER was setting up a threshold for a minimum number of gas agreement signatures before the contract period extends beyond June 2005.

**ELECTRIC PROGRAM WIND-UP****Bankruptcy Settlement Press Release**

Lahr mentioned that ABAG POWER will be sending out on that day a press release announcing the receipt of the bankruptcy settlement plus interest totaling \$19.4 million.

**City of Saratoga's Claim Settlement**

Lahr said that ABAG POWER had recently settled a claim with the City of Saratoga for \$8,240.94. City of Saratoga claimed that while they were a part of ABAG POWER's Electric Program, they had made a payment to ABAG POWER as well as subsequently made a payment to PG&E for the same energy used during a specific period. After investigation and communication with PG&E, it seemed that the City had in fact made duplicate payments.

Lahr said that it seemed the best way to resolve the issue was to go ahead and pay the City of Saratoga for their claims rather than fighting with PG&E. The City had been waiting for a resolution on this matter for a significant period of time.

**Electric Program Windup**

Ken Moy provided the members with a memo titled "Windup Agreement – Beta Testing Results". Moy said that the initial draft of the windup agreement was circulated for review among the following beta testers: The Cities of Foster City, San Mateo, Santa Rosa, Vallejo, Berkeley, the County of Contra Costa and the RAFC.

Moy said that feedback from the beta testers generally fell within the categories of Context, Risks and Defense and Indemnity.

Moy provided the members a transmittal memo, Windup Agreement Sections 9(b)-9(c) and 20 and requested Executive Committee approval of the following:

1. A transmittal memo from the Executive Committee to each member outlining the context for the proposed distribution.
2. Creation of a procedure requiring ABAG POWER to form a committee comprised of no less than five (5) and no more than eleven (11) representatives of members who sign the Windup Agreement to oversee the allocation of any contingent liability which materialized after distribution.
3. Modification of the scope of the indemnity to exclude fraud, intentional acts and gross negligence to mirror the Direct Access Agreement.

Joe Chan added that at prior meetings, the Executive Committee had expressed an interest in the windup distribution to be audited. Staff had decided that it was better for the audit process to take place prior to the distribution rather than after. Chan said the scope of the audit would involve checking the summary of usage and CTC credits from data files, which ABAG POWER received from the electric billing agent, APS and checking allocation formulas.



There was a consensus that staff should schedule a voluntary informational workshop which would allow ABAG POWER members to ask questions regarding the windup agreement.

Motion was made by Lisenko/S/Buonaccorsi/C/8:0:0 to authorize staff as follows:

- To draft a memo which would be addressed to the ABAG POWER Electric Distribution members from the Executive Committee
- Staff to send the memo for comments to the Executive Committee members. The final version to be transmitted once the exact wordings are decided upon by the Executive Committee.
- Ken Moy to send out a revised redlined windup agreement to the beta testers.
- Conduct an audit of the windup distribution and allocation based on data received from the billing agent.

#### **NEXT MEETING DATE**

Jerry Lahr requested and a general consensus was reached by members that the next ABAG POWER Executive Committee meeting date be moved from June 16th to June 23<sup>rd</sup>, 2004 due to Lahr's unavailability.

#### **ADJOURNMENT**

Chairman Averett adjourned the meeting at 2:10 p.m.

/vm

(Prepared by Vina Maharaj from recorded tapes of the meeting).

---

\*Example of a motion – [*Member No. 1/S/Member No. 2/roll call vote/C/8:0:0*] means Member No.1 motions, seconded by Member No.2, after roll call vote, motion carries, 8 = “yes” votes, 0 = “no” votes and 0 = abstentions.