



# SUMMARY MINUTES

ABAG Power Executive Committee

Meeting 2003-04

September 17, 2003

Metro Center 101 8<sup>th</sup> Street, Oakland CA 94607

## WELCOME AND INTRODUCTIONS

Chairman Jeff Kolin opened the meeting with introductions at 12:05 p.m.

### Committee Representatives & Alternates Present

Jeff Kolin  
John Lisenko  
Terry Mann  
Dave Millican  
Steve Sprotte  
Vicki Swank  
Wayne Green

### Jurisdictions

City of Santa Rosa  
City of Foster City  
County of Contra Costa  
City of Fremont  
City of Union City  
County of Santa Clara  
City of Salinas

### Committee Representatives Absent

Mary Hill  
Richard Averett

City of Vallejo  
City of San Carlos

### Staff Present

Joseph Chan  
Henry Gardner  
Jerry Lahr  
Vina Maharaj  
Ken Moy (via teleconference)

ABAG  
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ABAG POWER  
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## PUBLIC COMMENTS/ANNOUNCEMENTS

There were no public comments.

## APPOINTMENT OF NEW MEMBERS TO THE EXECUTIVE COMMITTEE

Chairman Kolin appointed and welcomed two new members to the ABAG POWER Executive Committee, as follows:

Vicki Swank, Management Analyst, County of Santa Clara  
Mary Hill, Assistant City Manager, City of Vallejo

## APPROVAL OF SUMMARY MINUTES OF APRIL 16, 2003 MEETING

Motion was made by Mann/S/Lisenko/C/5:0:3 to approve the Summary Minutes of June 18, 2003 Executive Committee Meeting.

**STATUS REPORT ON NATURAL GAS PROGRAM**

Jerry Lahr presented the Executive Committee with the monthly Summary of Operations report for the Natural Gas Program. He brought the members' attention to a corrected error on the spreadsheet carried over from prior months of not including twenty cents in costs under the "Total ABAG POWER Rate" which should have shown up in both PG&E and ABAG POWER's rate but was erroneously not included under the ABAG POWER rate.

Lahr provided the members with a comparison of the ABAG POWER and PG&E rates to the NGI Index (market rate). Lahr said that both ABAG POWER's and PG&E's rates are less volatile than the market and ABAG POWER's rate is even less volatile than PG&E's.

Lahr said that ABAG POWER's average rate was slightly higher (2.3%) than PG&E's rate for the 2002 – 03 year but was more stable than PG&E. He said that while ABAG POWER cannot guarantee a savings compared to PG&E, it can potentially begin to do better now that it has started to purchase gas from different suppliers and at different delivery points. Lahr stated that he was pleased with the services of the new gas scheduler, Interstate Gas Services.

Lahr said that ABAG POWER, as a core transportation agent and a gas Energy Services Provider receives a pro-rata portion of PG&E's pipeline capacity at a preferential rate. However, there is a problem of some regulatory risk in that the rules that govern ABAG POWER's ability to take advantage of this preferential rate may potentially change. The California Public Utilities Commission will be coming out with a new "Gas Accord" (regulatory rules) in 2004, which has been going through a series of progressive rule making and proceedings.

Jeff Kolin suggested that ABAG POWER try to bolster its non-core gas program, as this represents a significant potential savings to members with large gas accounts.

**ELECTRIC PROGRAM UPDATE**

Jerry Lahr referred the members to three documents in the agenda packet, a memo, titled "Electric Program Wind Up", a balance sheet and a financial breakdown of the ABAG POWER Electric Program.

Lahr announced that ABAG POWER had reached a final settlement with PG&E for its claim in the amount of \$17 million dollars. He pointed out that this \$17 million dollars, once received by ABAG POWER, represents a significant savings and an overall success of the Electric Program.

Ken Moy reviewed the September 17, 2003, ABAG POWER – Electric Program Wind Up memo.

His summary covered the following:

1. The CPUC has the power to impose a surcharge, or other tariff on previous Direct Access customers, including ABAG POWER Electric Program members, to recoup PX credits previously paid by PG&E. ABAG POWER had no information that such an action was contemplated or probable. However, ABAG POWER has to disclose this exposure to the Electric Program members and secure an agreement on how to deal with it.



2. The settlement with PG&E on the PX Credit claim requires ABAG POWER to defend, indemnify and hold PG&E harmless for any claims by a member against PG&E for PX credits. ABAG POWER gave PG&E this hold harmless and indemnity clause in lieu of requiring each Electric Program member to enter into the PX Credit Stipulation and Release. Moy said that ABAG POWER must secure the agreement of each Electric Program member to accept the proceeds of the wind up as a fulfillment of any PX Credit claim.
3. ABAG POWER accrued \$4,689,268 in "Accounts Payable" for potential energy and/or transmission and distribution charges which have not been invoiced to ABAG POWER or the Electric Program members to date. This amount has been reduced to \$2,951,004 as part of the proposed adjustments to include PG&E distribution costs that were offset against the receivable in calculating the PX Credit claim amount. ABAG POWER can remove this liability from its balance sheet in order to effect a wind up and release of funds. To do so, ABAG POWER should require each Electric Program member to assume the potential responsibility for these charges.

Joseph Chan provided a step-by-step explanation of the adjustments made to the Electric Program Balance Sheet, which reflects:

- (a) the anticipated receipt of the PX Credit settlement (principal and interest);
- (b) deletion of PX and ISO escrow deposits, and;
- (c) deletion of uninvoiced energy, distribution and transmission charges.

Chan said that in order to accomplish the proposal in Moy's memo, a total of six adjustments were made to the balance sheet, a detailed description of which is provided in Notes A through F of the Balance Sheet and further described in the Wind Up memo.

Jerry requested members to make a correction on page 3, third paragraph of Moy's memo. Fourth sentence should read "*This should be compared to Twenty-One Million Seven Hundred Seventy-Four Thousand Seven Hundred Thirteen Dollars (\$21,774,713) the total owed to members.*"

Moy requested members' feedback on the issue of distribution allocation. Moy said that from an accounting perspective, the straightforward method for distribution of funds to the members would be to pay CTC reversal liabilities to members based on the actual amounts accrued to each member's CTC reversal account and to return working capital deposits based on actual deposits.

Motion was made by Green/S/Millican/Amended by Lisenko with Green's consent/C/7:0:0, as follows:

1. To approve staff recommendation to allow staff to continue the Electric Program wind up process as specified in Ken Moy's memo re: ABAG POWER Electric Program Wind Up dated September 17, 2003, with the following revisions:



- i. Bankruptcy claim interest to be distributed in proportion to the CTC reversal change, as opposed to transferring it to the Members Balancing Account and allocating it in proportion to energy usage.
  - ii. Upon execution of the all-encompassing agreement of indemnification, members to receive the funds available in the ABAG POWER accounts minus what ABAG POWER needs to retain to cover the cost of winding up the Electric Program. Distribution will take place in two phases. Staff to consider and propose a scenario to the ABAG POWER Board wherein a deadline is set for the execution of the all-encompassing agreement by April 1, 2004, and that tied to this execution is the initial distribution of excess (in excess of cost of winding up the Electric Program) funds available in the ABAG accounts. The balance in the second phase will involve the distribution of the PG&E's settlement monies as well as any remaining funds in the ABAG account less expenses incurred.
2. To approve staff recommendation on holding off further discussions to sell the claim at this time, but reinstate discussions if it is ascertained that PG&E's reorganization is not timely approved by May 1, 2004.

#### **PG&E BANKRUPTCY – VOTE ON NEW PLAN FOR REORGANIZATION**

Lahr provided some background information on the revised PG&E bankruptcy reorganization plan. He said that the current Joint Plan offers to pay 100% of ABAG POWER's allowed claim in cash with interest, and with an effective date assumed to be in the first quarter of 2004. Lahr said that ABAG POWER can satisfactorily resolve its claim with the Joint plan.

Motion was made by Millican/S/Sprotte/C/7:0:0 to accept staff recommendation for ABAG POWER to vote to accept the Joint Plan.

#### **ANNUAL BOARD OF DIRECTORS MEETING**

Lahr provided the members with a draft agenda for the upcoming annual board of directors meeting. A short discussion followed regarding agenda items, speakers and meeting time. A general consensus was reached to cancel the October 15, 2003 Executive Committee meeting and to hold the ABAG POWER Annual Board of Directors Meeting on Monday, October 27, around noon with a presentation during the lunch buffet and then convene with the business portion of the meeting.

#### **CLOSED SESSION**

Cancelled.

#### **ADJOURN**

The meeting adjourned at 2:30 p.m.

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\*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.

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