

ABAG Publicly Owned Energy Resources (ABAG POWER)

Executive Committee

February 18, 2021

Agenda Item 6.b.

Natural Gas Program Membership

Subject: Request for approval of damages evaluation against the Regional Administrative Facility Corporation for early termination of the Natural Gas Sales and Aggregation Agreement

Background: The Regional Administrative Facility Corporation (RAFC) is a non-profit, public benefit corporation formed by the Association of Bay Area Governments (ABAG), the Metropolitan Transportation Commission (MTC), and the San Francisco Bay Area Rapid Transit District (BART). The entity was created to establish the respective ownership interests in the building located at 101 Eighth Street in the City of Oakland. RAFC has been a member of ABAG POWER since 1998. The sole account is the Eighth Street facility, which until 2017, jointly housed ABAG, MTC, and BART staff.

In June 2017, ABAG and MTC moved to an office in San Francisco and sold their Oakland condominium unit interests to BART. Thereafter, ABAG and MTC exited RAFC, leaving BART as the only member. In July 2018, the RAFC Board of Directors voted to dissolve RAFC; however, the POWER account remains enrolled and is in good standing. In September 2020, BART staff communicated an informal intent to withdraw from the program in advance of the required-three year noticing period.

At ABAG POWER's Executive Committee meeting on December 8, 2020, staff informed the Committee of the intended withdrawal of RAFC. Staff requested input regarding the evaluation of ABAG POWER damages due to the early withdrawal of RAFC in breach of the three-year opt-out term required by the Natural Gas Sales and Aggregation Agreement (NGSAA).

Discussion Items: The attached evaluation of damages incorporates the proposed framework for determining early termination damages. This analysis:

- Assumes an effective termination date of July 1, 2021 to minimize stranded costs for existing contracts ending June 30, 2021
- Concludes that ABAG POWER would incur damages of \$1,931 related to the early withdrawal of RAFC
- Provides that the evaluation will be netted against:

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- RAFC's working capital deposit of \$12,326
- Any difference in the levelized and actual costs paid by BART over the period July 1, 2020 to June 30, 2021


Following approval of the evaluation, staff will present BART with the determination of damages. If BART is agreeable to the recommended termination date and damages, staff will request BART provide formal intent to withdraw; prepare the account for disconnection; and, incorporate its removal in the upcoming fiscal year 2022 operating budget.

If BART disputes the determined damages, staff will attempt to negotiate an alternative agreement that will be presented to the Committee for approval. A status update will be provided at all subsequent Committee meetings until an agreement is reached and finalized.

Recommended Action: The ABAG POWER Executive Committee is requested to approve the steps outlined above regarding damages sustained by ABAG POWER related to the early termination of the Natural Gas Sales and Aggregation Agreement by the Regional Administrative Facility Corporation.

Attachment: Calculation of Sustained Damages

Reviewed:

DocuSigned by:

8C3380BA165B4D1 2/9/2021
Brad Paul

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1. Fixed Operational Costs in Dollars

Approved Fixed Operational Costs in Dollars, Year 1*			
Budget Category	Description	Core	Noncore
Cost of Energy	Gas Storage	127,618	-
Staff Cost	Salary & Benefits	266,243	266,243
Staff Cost	Overhead	150,854	150,854
Consultant Services	Gas Scheduling Services	30,400	30,400
Consultant Services	Database Hosting Services	20,000	20,000
Consultant Services	Brokerage Services	12,000	12,000
Consultant Services	External Legal Support	10,000	10,000
Consultant Services	Electronic Data Interchange Services	7,750	7,750
Other Expenses	Audit	70,000	70,000
Other Expenses	Bank Services Charges	9,500	9,500
Other Expenses	Catering	2,000	2,000
Other Expenses	Market Price Subscriptions	1,660	1,660
Other Expenses	Travel	1,000	1,000
Other Expenses	Industry Memberships & Conferences	1,450	1,450
Other Expenses	Insurance	700	700
Other Expenses	Miscellaneous	300	300
Total Fixed Expenses:		711,475	583,857
Number of Accounts:		768	768
Fixed Cost Per Account, Year 1**:		926	760

*Derived from ABAG POWER's adopted fiscal year 2020-21 operating budget.

**If the effective date of termination is July 1, 2021, and the member payment status is current, these costs will be paid through the fiscal year 2020-21 monthly levelized charges.

Estimated Fixed Operational Costs in Dollars, Years 2 & 3		
	Core	Noncore
Fixed Cost Per Account, Year 1	926	760
Annual Cost of Living Adjustment (2.8%)	26	21
Fixed Cost Per Account, Year 2	952	781
Annual Cost of Living Adjustment (2.8%)	27	22
Fixed Cost Per Account, Year 3	979	803

Evaluation of Fixed Operational Costs, Years 1-3	
Number of Accounts:	1
Account Classification:	Core
Fixed Cost Per Account, Year 1:	\$0
Fixed Cost Per Account, Year 2:	\$952
Fixed Cost Per Account, Year 3:	\$979
Evaluation of Fixed Costs:	\$1,931

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2. Variable Operational Costs in Dollars per Therm

Approved Variable Operational Costs in Dollars per Therm, Year 1			
Budget Category	Description	Core	Noncore
Cost of Energy	PG&E Pass-through Costs**	\$0.78	\$0.00
Cost of Energy	Gas Commodity & Transportation Costs**	\$0.36	\$0.35

**Derived from ABAG POWER's adopted fiscal year 2020-21 operating budget.*

***If the effective date of termination is July 1, 2021, and the member payment status is current, these costs will be paid through the fiscal year 2020-21 monthly levelized charges.*

Estimated Variable Costs in Dollars per Therm, Years 2 & 3		
	Core	Noncore
Variable Cost in Dollars per Therm, Year 2	\$0.00	\$0.00
Variable Cost in Dollars per Therm, Year 3	\$0.00	\$0.00

The program's current gas purchasing strategy relies exclusively upon short-term gas purchase and transportation contracts. If the effective date of termination is July 1, 2021, variable costs in years two and three can be avoided by incorporating the account's disconnection in the fiscal year 2021-22 budget.

Evaluation of Variable Operational Costs, Years 1-3	
Number of Accounts:	1
Account Classification:	Core
Fixed Cost Per Account, Year 1:	\$0
Fixed Cost Per Account, Year 2:	\$0
Fixed Cost Per Account, Year 3:	\$0
Evaluation of Fixed Costs:	\$0