

Decision 90 06 028 JUN 06 1990

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
San Diego Gas and Electric Company)	
and Bonneville Pacific Corporation)	Application 90-03-050
for approval of Standard Offer 2,)	(Filed March 30, 1990)
as modified.)	

O P I N I O N

I. Summary

On March 30, 1990, San Diego Gas & Electric Company (SDG&E) and Bonneville Pacific Corporation (BPC) filed a joint application for the approval of Standard Offer 2, as modified in their filing (Joint Application). We find the Standard Offer 2, as modified by SDG&E and BPC, to be reasonable in this case. The terms of the modified Standard Offer 2 Purchase Power Agreement (Agreement) are attached to this order (Attachment 2).¹ In addition, we permit the parties to enter into the Agreement after the deadline established in Decision (D.) 89-08-031. We also find that SDG&E and BPC's treatment of the project fee was reasonable and prudent under the circumstances.

II. Background

BPC is the developer of a 50 MW cogeneration qualifying facility (QF) located outside of SDG&E's service area. By

¹ SDG&E and BPC originally requested confidential treatment of the actual contract under Public Utilities Section 583. By letter dated April 24, 1990, SDG&E and BPC withdrew its claim to confidentiality for the purpose of appending the Agreement to this order.

D.89-02-017 in Application (A.) 82-04-44 et al., we determined that BPC was eligible for a Standard Offer 2 (SO2) with SDG&E. We reiterated our policy that SO2 should contain an appropriate economic curtailment provision if interconnection with an out-of-service area QF could result in economic harm to the ratepayer, e.g., by displacing economy energy purchases off an intertie.² In D.89-02-017, we provided SDG&E and BPC until August 8, 1989 to execute the appropriate SO2. By D.89-08-031, we extended the time to execute SO2 until November 16, 1989. The extension was granted in order to afford BPC and other out-of-service area QFs sufficient time to respond to SDG&E's economic harm studies, ancillary agreements and proposed curtailment provisions.

In their Joint Petition, SDG&E and BPC describe the events following the issuance of D.89-08-031:

"In accordance with Decisions 88-04-090 and 89-02-017, SDG&E determined that BPC's project had the potential for economic harm to SDG&E's customers because of potential displacement of economic energy over the Southwest Powerlink. On July 11, 1989, SDG&E supplied BPC with an economic curtailment provision to address and resolve the potential for economic harm. This economic curtailment provision was the subject of extensive negotiation between SDG&E and BPC. By mid-November, 1989, it appeared as if SDG&E and BPC would be unable to reach agreement on an economic curtailment provision and the parties terminated discussions. Although SDG&E and BPC began to prepare for an expeditious approach for dispute resolution before the CPUC, they made one last attempt at negotiating an economic curtailment provision acceptable to both. These discussions immediately appeared promising, but carried on well after the November 16, 1989 deadline established by the CPUC. SDG&E determined that under the

² See D.88-04-070 in A.82-04-44 et al. for our policy determinations on this issue.

circumstances, and because negotiations were continuing in good faith on both sides, it would not make an immediate claim to BPC's Project Fee."

At SDG&E and BPC's request, the Executive Director temporarily suspended the November 16, 1989 deadline, pending receipt of a formal pleading seeking extension of the deadline.³ By petition dated December 19, 1989, SDG&E and BPC formally requested a modification of D.89-08-031 to extend the November 16, 1989 deadline and address the treatment of BPC's project fee.

Discussions on the Agreement concluded in March, 1990, with BPC and SDG&E's execution of the Agreement on March 9 and March 14, 1990, respectively. In addition, BPC, SDG&E and Arizona Public Service, the host utility, executed their three-party interconnection facilities agreement on March 9, March 14, and March 22, 1990, respectively.

BPC and SDG&E filed their Joint Application on March 30, 1990. In their Joint Application, SDG&E and BPC request the Commission to find that: (1) the modifications to the S02, as contained in the Agreement, are reasonable; (2) SDG&E's payments under the Agreement are recoverable by SDG&E through SDG&E's Energy Cost Adjustment Clause, subject only to a review of the reasonableness of SDG&E's performance under the Agreement; (3) entering into the Agreement after the deadline established in D.89-08-031 was reasonable and (4) SDG&E and BPC's treatment of the

³ Letter dated November 17, 1990 to SDG&E and BPC from Wes Franklin, Acting Executive Director.

Project Fee was reasonable, under the circumstances.⁴ On May 7, 1990, the Division of Ratepayer Advocates (DRA) filed comments supporting approval of the Agreement.

III. Modifications to the SO2

Under the SO2 adopted by this Commission, a utility can physically curtail a QF (i.e., refuse to purchase) only under negative avoided cost conditions. Negative avoided costs exist when, due to operational circumstances, purchases from QFs would result in costs greater than those which the utility would incur if it did not make such purchases, but instead generated an equivalent amount of energy itself.⁵ Curtailment under these circumstances can occur without limitations in terms of frequency or duration.

The SO2 provisions do not, however, provide for curtailment under circumstances where avoided costs are positive, but the utility can replace QF energy with cheaper sources (e.g., economy energy). Nor do they provide for curtailment under circumstances where purchases from a QF would physically displace cheaper economy energy power off an intertie. We refer to curtailment under these circumstances as "economic curtailment".

4 The Joint Application supercedes SDG&E and BPC's December 19, 1989 petition for modification of D.89-08-031. Hence, today's order resolves all of the issues raised in that petition.

5 For example, a baseload or large oil-fired intermediate load plant is shut down at night due to an excess of QF electricity but then cannot be restarted and brought up to its rated output for the next day's peak load. In this situation, the utility must start up a plant with very high operating costs (e.g., a gas turbine peaker) or purchase expensive emergency capacity to meet demand. See D.83-09-054, mimeo. p. 38.

The Agreement adds an economic curtailment provision to the S02.⁶ (See Section 16.6 of the Agreement.) In summary, the key parameters of this provision are:

- o Curtailment is limited to a specified number of hours and number of curtailments per year. Curtailments are divided into two types: Block Curtailments and Flexible Curtailments.
- o Block curtailments consist of one, 400-hour block or two 200-hour blocks annually of continuous curtailment prescheduled by SDG&E.
- o Flexible curtailments are scheduled by SDG&E with two hours' notice and a minimum eight-hour duration. In years 1-9, SDG&E is permitted to curtail up to 900 hours per year with a maximum of 125 separate curtailments per year. In years 10-15, the annual limitations are 1,400 hours and 125 curtailments, and in years 16 and thereafter, the annual limitations are 2,200 hours and 150 curtailments.
- o SDG&E may invoke economic curtailment at its discretion, without regard to whether the Southwest Powerlink is fully loaded.
- o BPC may elect to curtail or to continue to sell energy, up to a specified level. Deliveries during curtailment hours up to the permitted level are purchased at the lowest estimated expense per mw-hr which SDG&E would otherwise have incurred (currently SDG&E's system decremental value), or SDG&E's published avoided cost, whichever is lower.

⁶ The final terms and conditions of the S02 adopted by this Commission were filed by SDG&E in compliance with D.89-02-017. Our references to the language and sections of the S02 refer to that filing. See: Filing of San Diego Gas & Electric Company in Compliance with Decision 89-02-017, Ordering Paragraph 5, filed on March 10, 1989 in A.82-04-44 et al.

- o BPC must notify SDG&E of the level of its deliveries during the curtailment period and will only be paid for deliveries up to this level.
- o Because BPC is on the dispatchable capacity option, curtailment hours do not count toward the computation of the minimum performance requirement.

In addition, BPC and SDG&E negotiated minor modifications to the S02 performance milestones. Under the S02, the QF has basically two operation milestones to fulfill. The first is to commence energy deliveries to the SDG&E system by the Initial Operation Date. The second is to establish reliable operation by the Scheduled Firm Capacity Operation Date. In order to establish reliable operation, the QF must pass a firm capacity demonstration test defined in Section 3.14 of the S02. (Section 3.19 of the Agreement.)

In D.89-02-017, we established that BPC must achieve each of these milestones by no later than December 31, 1993. However, under the provisions of S02, the QF has one additional year from the Scheduled Firm Capacity Operation Date to establish reliable operation, provided that it fulfills certain reporting requirements. Hence, under the S02 adopted by the Commission, BPC would be required to achieve reliable operation by no later than December 31, 1994.

The Agreement modifies this timing by deleting the initial operation requirement, while still requiring BPC to meet the Scheduled Firm Capacity Operation Date by December 31, 1993. The Agreement retains the one-year extension described above. Hence, under the Agreement, BPC must still achieve reliable operation no later than December 31, 1994. BPC and SDG&E consider

this modification to be reasonable, because of the passage of time due to negotiations.⁷

In addition, SDG&E and BPC agreed to a day-for-day extension of the Scheduled Firm Capacity Operation Date if Commission approval does not occur by June 30, 1990. In no event can reliable operation be delayed beyond June 1, 1995. Because of delays and uncertainty surrounding the timing of the execution of the contract, SDG&E and BPC also agreed to give BPC until March 31, 1990 to complete the paperwork necessary to provide SDG&E with proof of site control.

IV. Discussion

The primary difference between the Agreement and our adopted SO2 is the economic curtailment provision. As defined in D.88-04-070, the objective of that provision is to adequately protect SDG&E's ratepayers from a situation where deliveries from BPC would prevent SDG&E from purchasing cheaper economy energy over the Southwest Powerlink.

Does Section 16.6 of the Agreement achieve this objective? To address this question, we use the economic curtailment provision recently adopted for final Standard Offer 4 (FSO4) as our frame of reference. The FSO4 provision is designed to provide the utility with some operational flexibility to curtail QF deliveries (or pay reduced prices) during periods when the utility's marginal cost is lower than the averaged energy prices payable under the contract. This provision was not, however, designed to address the potential ratepayer harm resulting from economic energy displacements over an intertie. Hence, our threshold criteria for reasonableness is that the curtailment

⁷ Joint Petition, page 6.

provision under the Agreement be, on balance, at least as stringent as its counterpart under FS04.

Attachment 1 compares the curtailment provision negotiated by SDG&E and BPC with the one adopted for FS04. As Attachment 1 illustrates, the curtailment provisions under FS04 (Option II) and the Agreement share some similarities. They both allow the utility full discretion to invoke economic curtailment, that is, they do not prespecify operating conditions. At the same time, they both provide QFs with limits on their exposure to potential economic curtailments. In addition, both provisions base QF payments during curtailable hours on the utility's marginal cost (either actual or projected).

However, there are notable differences in two areas. First, the FS04 and Agreement provide for different curtailment restrictions. Under FS04, the annual limit on curtailable hours is 1,500, and the utility may not schedule more than one period of curtailment in a single day. Moreover, the utility may curtail only during off-peak and super off-peak hours. The annual limit starts slightly lower under the Agreement (i.e., 1,300 hours including flexible and block curtailment), but increases to 1,800 hours by year 10 and 2,600 hours by year 16. While the Agreement does not limit the number of curtailments per day, it does set annual limits. (See Attachment 1.) However, under the Agreement, SDG&E may curtail during all time periods.

On balance, the tradeoffs between annual and frequency curtailment limits, as negotiated by SDG&E and BPC, are comparable to the overall curtailment restrictions adopted for FS04. These differences do not appear to disadvantage (or advantage) ratepayers, relative to FS04, in any significant way.

The second difference between FS04 and the Agreement is in the payment provisions during non-curtailable hours. Under FS04, the utility pays an energy price "adder" during non-curtailable hours, to compensate QFs for periods of reduced

payments. The adder is calculated as the difference between the QF's energy price and the utility's lower marginal cost, summed over a forecast of all curtailable (or reduced price) hours. This difference is then spread over the non-curtailed off-peak hours, in the form of an energy price adder. The curtailment provision under the Agreement does not provide for any energy price adders.

As we explained in D.87-08-047, an adder adjustment is appropriate because of the way we currently compute energy payments under our standard offers:

"Our standard offers compute energy payments to QFs based on the purchasing utility's fuel and fuel-burning efficiency (including expected hydro generation and purchases of economy energy) at the margin. We determine an average avoided operating cost and then time-differentiate this cost to reflect the utility's different operating costs depending on the magnitude of demand at the different times of day and seasons of the year. The time differentiation is such that a QF operating at random over all hours will receive the average avoided operating cost...." (D.87-08-047, mimeo., p. 9.)

Curtailment provisions effectively remove a number of the low-cost hours (or reduced prices paid during those hours) that were averaged into the approved energy prices. Therefore, without any adders to prices paid during non-curtailed hours, the curtailable QF would receive, on average, less than avoided costs.

By excluding adder payments, the Agreement is clearly advantageous to ratepayers, relative to the FS04 curtailment provisions. In essence, BPC has agreed to accept less than avoided costs up to prespecified limits in order to protect ratepayers from the potential displacement of economy energy over the intertie. And, as noted above, the prespecified limits agreed to by SDG&E and BPC are comparable to the overall restrictions adopted for FS04. Moreover, SDG&E can invoke economic curtailment under a wide range of operating circumstances to benefit ratepayers, and not just when

the Southwest Powerlink is fully loaded. Hence, in exchange for curtailment limits comparable to FS04, BPC must accept less than avoided costs under a broader range of economic curtailment conditions than anticipated under D.89-02-017. In sum, the curtailment provision contained in the Agreement is clearly designed to protect ratepayers' interests.

Does the provision adequately protect ratepayers from potential economic harm? Absent specific facts on (1) how frequently the Southwest Powerlink would be fully loaded and (2) the price and amount of economy energy "bumped" by purchases from BPC, we can only infer that it does. As described in Section II above, both SDG&E and BPC actively negotiated the Agreement instead of pursuing their dispute before this Commission. Litigating that dispute would have required us to determine the specific facts described above. Obviously, SDG&E and BPC had their differences regarding these issues. It is not our intent, in reviewing the Agreement, to resolve all of the factual issues that would have been raised in litigation. To do so would defeat the purpose of a negotiated settlement. We need only be satisfied that, in the give-and-take over disputed issues, SDG&E aggressively negotiated on behalf of its ratepayers. Absent any evidence to the contrary, we are satisfied that SDG&E did just that. Moreover, as described above, we are convinced that the design of the negotiated curtailment provision is one that protects ratepayers' interests. We also note that DRA, who filed comments on behalf of the long-term interests of ratepayers, also found the curtailment provision under the Agreement to be reasonable.⁸

⁸ As DRA notes in its comments, the reasonableness of SDG&E's administration of the curtailment provision is subject to review in future Energy Cost Adjustment Clause proceedings.

We now turn to the milestone modifications contained in the Agreement. As described in Section III above, the Agreement provides BPC with some additional flexibility in demonstrating initial and reliable operations, by relaxing the initial operation date. The Agreement also provides BPC with a modest extension to complete the paperwork necessary to provide SDG&E with proof of site control. However, as SDG&E and BPC point out, these changes do not alter the latest date for reliable operation authorized by D.89-02-017. Nor do they have a material impact on SDG&E's system. Even under the SO₂, SDG&E would not have been assured of BPC's firm capacity for summer needs until the summer of 1995. Moreover, the modifications were made in recognition of the fact that negotiations significantly delayed final contract execution. In light of these circumstances, we consider the milestone modifications contained in the Agreement to be reasonable.⁹

We also find that SDG&E was reasonable in deferring a claim on BPC's project fee pending completion of negotiations. We agree with SDG&E and BPC that, given the unique circumstances of this case, BPC would have been unable to make a final determination of its project feasibility until (1) negotiations were completed and (2) and the joint application was addressed. By notifying us of the potential delay and pursuing negotiations in good faith, SDG&E was also reasonable in entering into the Agreement after the November 16, 1989 deadline.

Findings of Fact

1. BPC is the developer of a 50 MW cogeneration qualifying facility located outside of SDG&E's service territory.

⁹ Since this order will be issued before June 30, 1990, the provision for a day-for-day extension of the firm capacity date becomes moot.

2. BPC proposes to deliver power to SDG&E over the Southwest Powerlink intertie.

3. By D.89-02-017 in A.82-04-44 et al., we determined that BPC was eligible for a Standard Offer 2 with SDG&E.

4. In D.89-02-017 we stated that S02 should contain an appropriate economic curtailment provision if interconnection with an out-of-service area QF could result in economic harm to the ratepayer, e.g., by bumping economy energy purchases off an intertie.

5. In D.89-02-017, we provided SDG&E and BPC until August 8, 1989 to execute the appropriate S02.

6. By D.89-08-031, we extended the time to execute S02 until November 16, 1989.

7. From July 11, 1989 until March 1990, SDG&E and BPC conducted extensive negotiations over an economic curtailment provision to address potential economic harm.

8. By letter dated November 17, 1989 from the Executive Director, the November 16 deadline was suspended pending receipt of a formal pleading seeking extension.

9. By petition dated December 19, 1989, SDG&E and BPC requested a modification of D.89-08-031 to extend the November 16, 1989 deadline and to address the treatment of BPC's project fee.

10. SDG&E and BPC executed a modified Standard Offer 2 Agreement on March 9 and March 14, 1990, respectively.

11. The Agreement settles the disputes between SDG&E and BPC over economic curtailment.

12. On March 30, 1990, SDG&E and BPC filed a joint application for approval of the Agreement.

13. On May 7, DRA filed comments supporting approval of the Agreement.

14. The Agreement adds an economic curtailment provision to the S02.

15. By D.89-04-047, the Commission adopted an economic curtailment provision for final Standard Offer 4 (FSO4).

16. The FSO4 curtailment provision allows the utility to pay reduced prices during periods when the utility's marginal cost is lower than the averaged energy prices payable under the contract.

17. Under the FSO4 curtailment provision, the utility pays an energy price "adder" during non-curtaillable hours to compensate the QF for reduced prices during curtailment.

18. Without any adders to prices paid during non-curtaillable hours, a QF would receive, on average, less than full avoided costs whenever the utility invokes economic curtailment.

19. Under the Agreement, SDG&E may invoke economic curtailment at its discretion, without regard to whether the Southwest Powerlink is fully loaded.

20. Under the Agreement, curtailment is limited to a specified number of hours and number of curtailments per year.

21. Under the Agreement, SDG&E pays for deliveries during curtailment at the system decremental value or published avoided costs, whichever is lower.

22. Under the Agreement, BPC would receive no compensating payment, or energy price adder during non-curtaillable hours.

23. The Agreement is structured to compensate ratepayers for potential economic harm by paying less than avoided costs whenever economic curtailment is invoked.

24. The Agreement limits BPC's exposure to economic curtailment by establishing curtailment restrictions.

25. The curtailment restrictions contained in the Agreement are comparable, on balance, to the overall curtailment restrictions contained in final Standard Offer 4.

26. The Agreement provides BPC with some additional flexibility in demonstrating initial and reliable operations, by relaxing the initial operation date.

27. The Agreement provides BPC with an extension until March 31, 1990 to provide SDG&E with proof of site control.

28. None of the milestone modifications alter the latest date for reliable operation authorized by D.89-02-017.

29. Pending completion of negotiations and the Commission's action on the joint application, BPC could not make a final determination of its project feasibility.

Conclusions of Law

1. SDG&E and BPC have negotiated an economic curtailment provision which adequately protects ratepayers from economic harm, under the circumstances specific to BPC.

2. The Standard Offer 2 Power Purchase Agreement, as modified by SDG&E and BPC and contained in Attachment 2 to this order, is reasonable.

3. SDG&E should be authorized to recover all payments properly made under the Agreement.

4. Given the specific circumstances of this case, it was reasonable for SDG&E and BPC to enter into the Agreement after the deadline established in D.89-08-031.

5. SDG&E's treatment of the Project Fee was reasonable and prudent under the circumstances.

6. Because BPC needs Commission action to move forward with project development, this decision should be effective on the date signed.

O R D E R

IT IS ORDERED that:

1. The Standard Offer 2 Power Purchase Agreement, as modified by San Diego Gas & Electric Company (SDG&E) and Bonneville Pacific Corporation is reasonable and is approved.


2. SDG&E is authorized to recover in rates all payments properly made under the Agreement.

This order is effective today.

Dated JUN 06 1990, at San Francisco, California.

G. MITCHELL WILK
President
FREDERICK R. DUDA
STANLEY W. HULETT
JOHN B. OHANIAN
PATRICIA M. ECKERT
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY


NEAL J. SHULMAN, Executive Director

DB

ATTACHMENT 1
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Comparison of Curtailment Provisions under
FSO's and the Agreement

<u>Characteristics</u>	<u>D.89-04-047 Adopted FSO's</u>		<u>SDG&E/RFC Agreement</u>												
	<u>Option I</u>	<u>Option II</u>													
Selection	QF selects at contract exec.		Not applicable												
Curtail/Alt Price Condition	Neg. avoided costs or hydrospill. ✓	Utility sole discretion. Designates Type A (Economic) or Type B (Neg. avoided cost).	Utility sole discretion. Designates neg. avoided cost or economic (flexible or block curtailment).												
Level of Operation	QF curtails to 30% of effective capacity.	QF selects, except for neg. avoided cost where QF curtails to 30%	QF selects, except for neg. avoided cost where QF can be curtailed to zero.												
Number of Hours/Other Limits	Unlimited	1,500 max. annually 3 hours min. duration. Only 1 period of curtailment per day.	Unlimited for neg. avoided costs. <u>Flexible:</u> 8 hours min. duration. <u>Annual limits:</u> <table border="1"> <thead> <tr> <th><u>Years</u></th> <th><u>Hours</u></th> <th><u>Max. \$ of Curtailment</u></th> </tr> </thead> <tbody> <tr> <td>1-9</td> <td>900</td> <td>125</td> </tr> <tr> <td>10-15</td> <td>1400</td> <td>125</td> </tr> <tr> <td>16+</td> <td>2200</td> <td>150</td> </tr> </tbody> </table> <u>Block:</u> one 400 hour block or two 200 hour blocks in any contract year.	<u>Years</u>	<u>Hours</u>	<u>Max. \$ of Curtailment</u>	1-9	900	125	10-15	1400	125	16+	2200	150
<u>Years</u>	<u>Hours</u>	<u>Max. \$ of Curtailment</u>													
1-9	900	125													
10-15	1400	125													
16+	2200	150													
Time periods	All	Off-peak and super off-peak	All												

ATTACHMENT 1

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FSO₄ and ISO₄ Curtailment Provisions

<u>Characteristics</u>	D.89-04-047 Adopted FSO ₄		
	<u>Option I</u>	<u>Option II</u>	
Payment	<u>Energy:</u> None during curtailment for either hydro-spill or neg. avoided costs.	<u>Energy:</u> QF receives lesser of actual incremental cost or avrg. s-r avoided op. cost (SRAOC) forecast. Price during non-curtailment hours adjusted based on production costing runs. ^{2/} No energy price for neg. avoided cost curtailments even when QF operates at authorized level below 30%.	<u>Energy</u> For economic curtailment, QF receives the lowest estimated expense per MW-hr. which SDG&E would otherwise have incurred in generating or purchasing 100 MW of energy from alt. sources (Alternative Energy Cost). ^{3/} Not to exceed published SRAOC. No adjustments in prices during non-curtailment hours. No energy price for neg. avoided cost curtailments.
	<u>EROC and Capacity:</u> Based on 12-month rolling average of historical operation	<u>EROC and Capacity:</u> Same as Option I.	<u>Capacity:</u> Firm capacity payments continue during hours of curtailment. Hours of curtailment and energy deliveries during curtailment excluded from calculations.
Frequency of Adjustments	Not applicable	Annual	Not applicable
Resource Inputs	Not applicable	Same as for SRAOC	Not applicable

Note: EROC (Energy-related Capital Costs) apply only to FSO₄ payments.

ATTACHMENT 1
Page 3FSO₄ and ISO₄ Curtailment Provisions

<u>Characteristics</u>	D.89-04-047 Adopted FSO ₄		
	<u>Option I</u>	<u>Option II</u>	
Notice	Utility gives reasonable notice when possible.	Utility publishes preliminary schedule annually. QF notifies of 1 week prior to curtailment hour. Utility may change schedule of curtailments up to 4 hours prior to curtailment.	<p><u>Flexible</u>: SDC&E notifies QF no later than 2 hours prior to curtailment of hours, duration, and Alternative Energy Cost. QF responds within 1/2 hour or else is curtailed to level at which QF was delivering to SDC&E at the time notice was due.</p> <p><u>Block</u>: Each year SDC&E notifies QF of schedule, with no less than 3 weeks notice of starting time, duration, and Alternative Energy Cost. QF responds within 7 days with operation level.</p>

- 1/ Negative avoided cost conditions occur when due to operational circumstances, the acceptance of QF power would cost the utility more than generating an equivalent amount of energy itself. Example: A baseload or large oil-fired intermediate load plant is shut down at night due to an excess of QF electricity but then cannot be restarted and brought up to its rated output for the next day's peak load. In this situation, the utility must start up a plant with very high generating costs (e.g., a gas turbine peaker) or purchase expensive emergency capacity to meet demand. Hydrospill conditions occur when system demand would require that hydro-energy be spilled to reduce generation.
- 2/ The procedure for adjusting energy prices based on SPAOC is described in July 1987 Joint Testimony (Exhibit 447, Appendix A) in A.82-04-44 et al. The reduction in energy payments during the 1,500 hours of curtailment is added to the remaining hours of non-curtailment in the super off-peak and off-peak hours. The adder is paid under both Type A and Type B curtailment.
- 3/ The Alternative Energy Cost is determined by SDC&E's Energy Control Center and recorded hourly on the California Power Pool Economy Energy Transactions Log as the system decremental value.

(END OF ATTACHMENT 1)

ATTACHMENT 2

APPENDIX A

STANDARD OFFER 2, AS MODIFIED BETWEEN
SDG&E AND BONNEVILLE PACIFIC CORPORATION

(Confidential)

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STANDARD OFFER NO. 2
STANDARD OFFER FOR POWER PURCHASE
WITH
A FIRM CAPACITY QUALIFYING FACILITY

(BONNEVILLE PACIFIC CORPORATION)

File No. QFE 200.416

Revised March 7, 1990

S02-6

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1. PARTIES

1 The Parties to this Agreement are Bonneville Pacific
 2 Corporation (Seller), a Delaware Corporation and San
 3 Diego Gas & Electric Company (SDG&E), a California
 4 corporation (individually "Party", collectively "Parties"), who agree as follows:

2. PROJECT SUMMARY

7 Seller represents that the statements made below are
 8 true and selects the options to this Agreement specified
 9 below, which options are described in more detail in the
 10 sections referenced below:

2.1 Seller's Generating Facility:

12 2.1.1 Nameplate Rating (Net of Station
 13 Load) 52,890 kw

14 2.1.2 Interconnection Voltage Level
 15 at the Generating Facility
 16 boundary/69 kV

17 For out-of-service area Sellers only:

18 (a) The Point of Delivery North Gila
 19 Substation and

20 (b) The Designated Point of
 21 Interconnection Miguel Substa-
 22 tion

23 2.1.3 Location (out of service area):

24 Yuma, AZ

25 (See Exhibit A)

26 (if address not available, append
 27 metes and bounds description)
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2.1.4 Type of Facility:
 X Cogeneration Facility
 Small Power Production Facility

2.1.5 Scheduled Firm Capacity Operation Date (Section 5.9) January 1, 1993 .

2.1.6 Term as measured from the Scheduled Firm Capacity Operation Date (Section 6.1) 30 years.

2.2 Purchase Price of Capacity.

2.2.1 Amount of Firm Capacity (Section 9.3) 50,000 KW

2.2.2 Seller shall provide Firm Capacity according to (check one) (Section 9.3):
 X Option 1 - Dispatchable
 Option 2 - Actually Delivered

2.2.3 Seller chooses to have Firm Capacity Payments based on (check one) (Section 9.4):

X Option 1 - Schedule in effect at time of execution (attached as Exhibit C).

Option 2 - Schedule in effect on the Scheduled Firm Capacity Operation

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Date.

2.2.3.1 If Seller chooses Option 1:
Price per kw of Firm
Capacity will be
\$140 /kw-yr

2.3 Method of Purchase and Sale (check one)
(Section 8.1):

- N/A Simultaneous Purchase and Sale
- N/A Sale of Surplus Energy
- X Off System Sales

2.4 Project Development Material Milestones:

- 2.4.1 Provide information for and pay costs of Preliminary Interconnection/Operating Study pursuant to Section 5.4. Not later than three (3) months after the date of execution of this Agreement or such other date as agreed to by the Parties. See Section 5.4.
- 2.4.2 (For out-of-service area Generating Facilities only) Provide acceptable proof that Seller has obtained rights for transmission of power to the designated SDG&E point of delivery (Section 5.5). Not later than six (6) months from the date of execution of this agreement.

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- 2.4.3 Provide information and pay cost for SDG&E to conduct a Line Loss and Transmission Impact Study (Section 5.6). Not later than the date specified in 2.4.4. See Section 5.6.
- 2.4.4 Provide information for and pay costs of Detailed Interconnection/ Operating Study pursuant to Section 5.7. Not later than 6 months following the date of execution of this agreement.
- 2.4.5 Commence construction of the Generating Facility pursuant to Section 5.8: Not later than 18 months prior to the date specified in 2.4.6
- 2.4.6 Establish Reliable Operation of the Generating Facility pursuant to Section 5.9. Not later than December 31, 1994.

2.5 Seller selects the following metering locations Section 15.1):

(a) For Sellers located within SDG&E Operating system:

- N/A Metering on SDG&E's side of Interconnection Facilities.
- N/A Metering on Seller's side of Interconnection Facilities.

Transformer Loss Compensation Factor N/A

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1 (b) For out-of-service area Generating Facili-
2 ties metering location to be as specified
3 in the Three Party Operating Agree-
4 ment.

5 2.6 NOTICES

6 Any formal communication or notice in connection
7 with the Agreement shall be in writing and shall be
8 deemed properly given if delivered in person or sent by
9 first class mail, postage prepaid, to the person speci-
10 fied below:

11 San Diego Gas & Electric Company
12 c/o Secretary
13 P.O. Box 1831
San Diego, CA 92112

14 Bonneville Pacific Corporation
15 c/o Secretary
257 East 200 South, Suite 800
Salt Lake City, Utah 84111

16 3. DEFINITIONS

17 3.1 Agreement: This Standard Offer for Power
18 Purchase and Interconnection with a Firm Capacity Quali-
19 fying Facility between SDG&E and Seller, and exhibits, as
20 amended from time to time.

21 3.2. Alternative Energy Cost

22 The lowest estimated expense per Mw-hr which SDG&E
23 would otherwise have incurred in generating or purchasing
24 100 Mw of energy from alternative sources. The value is
25 currently determined by SDG&E's Energy Control Center and
26 recorded hourly on the California Power Pool Economy En-
27 ergy Transactions Log as the system decremental value.
28

1 3.3 As-Available Capacity: That capacity lev-
2 el, up to the Nameplate Rating of the Generating Facili-
3 ty, Seller makes available to SDG&E from Initial Opera-
4 tion to the time Generating Facility achieves Reliable
5 operation per the terms of this Agreement.

6 3.4 As-Available Capacity Payment Schedule:
7 SDG&E's schedule of time-differentiated payments and con-
8 ditions for the purchase of As-Available Capacity from
9 Qualifying Facilities as updated from time-to-time.

10 3.5 Bill: A written statement setting forth
11 charges and requiring payment for electrical service, gas
12 service, or both, as more fully discussed in SDG&E's
13 Rules of Service.

14 3.6 Block Curtailment: A curtailment period
15 scheduled by SDG&E consisting of one 400 consecutive hour
16 period or two 200 consecutive hour periods.

17 3.7 Capacity Factor: The net kilowatt-hours
18 produced by the Generating Facility after Station Load
19 and delivered to the Designated Point of Interconnection,
20 for a period of time, divided by the product of the Firm
21 Capacity and the number of hours in the period of time.

22 3.8 Capacity Payment Schedule for Firm Capaci-
23 ty Qualifying Facilities: SDG&E's schedule of prices and
24 conditions for purchase of capacity from Firm Capacity
25 Qualifying Facilities. The capacity prices contained
26 therein are derived from SDG&E's full avoided cost as ap-
27 proved by the CPUC. SDG&E's current Firm Capacity Pay-
28 ment Schedule is attached as part of Exhibit C. The

1 schedule effective for the term of this Agreement will be
2 as specified in Sections 2.2.3 and 9.4.

3 3.9 Cogeneration Facility: A facility which
4 produces electric energy and steam or forms of useful
5 thermal energy (such as heat), which are used for indus-
6 trial, commercial, heating, or cooling purposes, as de-
7 fined in Title 18 Code of Federal Regulations (CFR), Part
8 292, as of the effective date of this Agreement.

9 3.10 Contract Year: The twelve month period
10 commencing with the Firm Capacity Availability Date and
11 each twelve month period commencing with the anniversary
12 of the Firm Capacity Availability Date.

13 3.11 CPUC: The California Public Utilities
14 Commission or any successor agency having regulatory con-
15 trol over SDG&E or its successors.

16 3.12 Current Capacity Payment: The \$/kW-Year
17 Capacity Payment Schedule, published by SDG&E, at the
18 time of termination or reduction of Firm Capacity, assum-
19 ing a term equal to the balance of the term of the Agree-
20 ment.

21 3.13 Detailed Interconnection/Operating Study:
22 SDG&E's determination of the Interconnection Facilities
23 required to interconnect the Generating Facility with the
24 SDG&E system for both on and off-system purchases for the
25 delivery, metering and scheduling of power, and the prop-
26 er and safe operation of the Generating Facility in par-
27 allel with the SDG&E electric system, including an esti-
28 mate of costs and construction lead time.

1 3.14 Designated Point of Interconnection: (ap-
2 plicable to out-of-service area Sellers only) The desig-
3 nated point on the SDG&E system at which power purchased
4 under this Agreement shall be deemed received into the
5 SDG&E service area.

6 3.15 Energy: Electric energy expressed in ki-
7 lowatt-hours generated by the Generating Facility less
8 Station Load , delivered to the Designated Point of In-
9 terconnection and sold to SDG&E.

10 3.16 Energy Payment Schedule: SDG&E's schedule
11 of time-differentiated payments and conditions for pur-
12 chase of Energy from Firm Capacity Qualifying Facilities
13 as updated from time-to-time. The Energy prices con-
14 tained therein will be derived from SDG&E's full avoided
15 operating costs, as approved by the CPUC, throughout the
16 life of the Agreement.

17 3.17 FERC: The Federal Energy Regulatory Com-
18 mission or any successor agency having a similar func-
19 tion.

20 3.18 Firm Capacity: The amount of kilowatts
21 specified in Section 2.2.1.

22 3.19 Firm Capacity Availability Date: The day
23 following the day Seller passes a capacity demonstration
24 test in which Seller demonstrates the ability of the Gen-
25 erating Facility to deliver Firm Capacity continuously
26 into SDG&E's system. The capacity demonstration test
27 will require the Seller to operate the Generating Facili-
28 ty at an average capacity factor, based on Firm Capacity,

1 of 80% or greater during the on-peak and semi-peak hours
2 in a thirty (30) consecutive day period or such shorter
3 period as the Parties agree is satisfactory. Calculation
4 of the average capacity factor shall exclude any energy
5 associated with generation levels greater than the Firm
6 Capacity.

7 3.20 Flexible Curtailment: A curtailment peri-
8 od of varying length as more fully described in Section
9 16.

10 3.21 Forced Outage: Any Generating Facility
11 outage resulting from a design defect, inadequate con-
12 struction, operator error or a breakdown of the mechani-
13 cal or electrical equipment that fully or partially cur-
14 tails the electrical output of the Generating Facility.

15 3.22 Generating Facility: All of Seller's gen-
16 erating units, together with all protective and other as-
17 sociated equipment and improvements owned, maintained,
18 and operated by Seller, which are necessary to produce
19 electrical power, excluding associated land, land rights,
20 and interests in land.

21 3.23 Initial Operation: The day upon which the
22 Generating Facility commences energy deliveries to the
23 SDG&E system.

24 3.24 Interconnection Facilities: Facilities
25 and devices which are either (1) required for the proper
26 and safe operation of the Generating Facility in parallel
27 with SDG&E's electric system, or (2) required for the de-
28 livery, metering and scheduling of power from an out-of-

1 service area Generating Facility; and which are either
2 owned by Seller or are SDG&E Facilities and which are as
3 described in Section 12.

4 3.25 Interconnection Facilities Agreement:

5 That Agreement which must be executed prior to Initial
6 Operation of the Generating Facility, which sets forth
7 the interconnection terms and conditions for interconnec-
8 tion of in-service area Generating Facilities in parallel
9 with the SDG&E system.

10 3.26 Line Extension Facilities: All facili-

11 ties, excluding the Interconnection Facilities, as gener-
12 ally described in Section 12, which are determined by
13 SDG&E to be necessary to connect SDG&E's existing system
14 to the Point of Delivery in order to accept the output of
15 the Generating Facility.

16 3.27 Line Loss/Transmission Impact Study: For

17 out-of-service area Generating Facilities, that study re-
18 quired in addition to the Operating Study, which will
19 identify (a) Line Losses associated with delivery of pow-
20 er from the Point of Delivery to the Designated Point of
21 Interconnection and (b) the extent to which capacity on
22 SDG&E's intertie transmission facilities will be affected
23 by the acceptance of power from the Generating Facility.

24 3.28 Meters: Any meter installed as part of

25 the Interconnection Facilities to measure the amount of
26 Energy and Firm Capacity delivered to SDG&E.

27 3.29 Minimum Load Condition: A situation when

28 SDG&E's electric system load minus the margin required

1 for regulation of its generation resources is equal to or
2 less than the sum of (1) the minimum electrical output of
3 generating units committed for system security; (2) the
4 electrical output associated with firm purchases which
5 SDG&E is obligated to accept due to contractual terms or
6 penalties; and (3) the output of Qualifying Facilities
7 providing electricity to SDG&E.

8 3.30 Nameplate Rating: The gross generating
9 capacity of the Generating Facility less Station Use.
10 For purposes of this Agreement, Nameplate Rating is that
11 rating specified in Section 2.1.1 of the Agreement.

12 3.31 O&M Charge: An amount paid monthly by
13 Seller to SDG&E to cover the operation and maintenance of
14 the Line Extension and SDG&E Facilities.

15 3.32 Point of Delivery: The point where: (1)
16 for Generating Facilities located within the SDG&E sys-
17 tem, Seller's electrical conductors contact SDG&E's sys-
18 tem as it shall exist whenever the deliveries are being
19 made or at such other point as the Parties agree in writ-
20 ing or (2) for out-of-service area Generating Facilities,
21 the point at which power delivered to SDG&E is accepted.

22 3.33 Preliminary Interconnection/Operating
23 Study: SDG&E's preliminary estimate of the costs and
24 equipment necessary for the interconnection and/or deliv-
25 ery of power from the Generating Facility to the SDG&E
26 system. This Study may also establish the date by which
27 Seller must request and pay for a Detailed Interconnec-
28 tion/Operating Study under Section 5.7.1.

ATTACHMENT 2

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3.34 Project Fee: The fee more fully de-
scribed in Section 4, which Seller posts and SDG&E shall
hold as security for Sellers maintaining adequate
progress in the development of the Generating Facility.

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3.35 Qualifying Facility: A Cogeneration Fa-
cility or a Small Power Production Facility as defined in
Section 3.9 and 3.41, respectively.

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3.36 Reliable Operation: That level of opera-
tion established as of the Firm Capacity Availability
Date. Reliable Operation must occur no later than one
(1) year from the Scheduled Firm Capacity Operation Date.

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3.37 Scheduled Firm Capacity Operation Date:
The date specified in Section 2.1.5 as the day upon which
the Generating Facility will be capable of reliably sup-
plying Firm Capacity to the SDG&E system.

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3.38 SDG&E's Electric Department Rule 21: SDG&E's
interconnection standards for cogenerators and small pow-
er producers interconnected with the SDG&E system, in ef-
fect on the date of execution of this Agreement, incorpo-
rated as Exhibit F. (Some portions not applicable to
out-of-service area generating facilities).

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3.39 SDG&E Facilities: Facilities owned by
SDG&E which are required for scheduling, metering and op-
eration and for the proper parallel operation of the Gen-
erating Facility with SDG&E's system. These facilities
will include, but not be limited to: connection, trans-
formation, communication, switching, metering, safety

1 equipment and any necessary additions and/or reinforce-
2 ments required and added by SDG&E to SDG&E's system, ex-
3 cluding any Line Extension Facilities.

4 3.40 Small Power Production Facility: A facil-
5 ity which produces electric energy solely by the use, as
6 a primary energy source, of biomass, waste, renewable re-
7 sources, or any combination thereof, as defined in Title
8 18 Code of Federal Regulations, Part 292, as of the date
9 of execution of this Agreement.

10 3.41 Station Load: Load specifically related
11 to the operation of the generation auxiliary equipment.
12 Such auxiliary equipment includes, but is not necessarily
13 limited to, forced and induced draft fans, cooling tow-
14 ers, boiler feed pumps, lubricating oil systems, generat-
15 ing facility lighting, fuel handling systems, control
16 systems, and sump pumps.

17 3.42 Statement: A written statement setting
18 forth amounts of Energy and Firm Capacity delivered and
19 sold to SDG&E and amounts due to Seller for such Energy
20 and Firm Capacity, as more fully described in Section 15.

21 3.43 Surplus Energy: The total output of the
22 Generating Facility, less Station Load and other load re-
23 quirements of the Seller, that the Seller actually deliv-
24 ers to the Point of Delivery from the Generating Facili-
25 ty.

26 3.44 System Emergency: A condition on SDG&E's
27 system which is likely to result in imminent significant
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1 disruption of service to customers, or is likely to en-
2 danger life or property.

3 3.45 Three Party Operating Agreement: That
4 Agreement which must be executed prior to Initial Opera-
5 tion, which will set forth the terms and conditions for
6 the metering, scheduling and billing, and ownership and
7 maintenance of facilities, necessary for delivery of pow-
8 er from an out-of-service area Generating Facility to the
9 SDG&E system.

10 3.46 Willful Action:

11 3.46.1 Action taken or not taken by a Party
12 at the direction of its directors, officers or superviso-
13 ry employees affecting its performance under this Agree-
14 ment, which action is knowingly or intentionally directed
15 by such directors, officers or supervisory employees with
16 conscious indifference to the injurious consequences
17 thereof, or with intent that injury or damage would re-
18 sult or would probably result therefrom. Willful Action
19 does not include any act or failure to act which is mere-
20 ly involuntary, accidental, or negligent.

21 3.46.2 Action taken or not taken by a Party
22 at the direction of its directors, officers or superviso-
23 ry employees affecting its performance under this Agree-
24 ment, which action has been determined by arbitration
25 award or final judgment or judicial decree to be a con-
26 tract breach under this Agreement and which occurs or
27 continues beyond the time specified in such arbitration
28 award or judgment or judicial decree for curing such

1 default, or, if no time to cure is specified therein, oc-
2 curs or continues thereafter beyond a reasonable time to
3 cure such default.

4 3.46.3 Action taken or not taken by a Party
5 at the direction of its directors, officers of superviso-
6 ry employees affecting its performance under this Agree-
7 ment, which action is knowingly or intentionally directed
8 by such directors, officers or supervisory employees with
9 the knowledge that such action taken or not taken is a
10 contract breach under this Agreement.

11 4. PROJECT FEE

12 4.1 No later than the date Seller executes this
13 Agreement, Seller shall post and thereafter maintain a
14 Project Fee equal to five dollars (\$5) for each kilowatt
15 of Nameplate Rating of the Generating Facility specified
16 in Section 2.1.1. Seller may not increase the Nameplate
17 Rating of the Generating Facility after the date of exe-
18 cution of this Agreement. The Project Fee shall be held
19 as security for Seller maintaining adequate progress in
20 the development of the Generating Facility. The Project
21 Fee shall be established by either an escrow account or
22 by an irrevocable letter of credit with terms and condi-
23 tions agreed to by the Parties. Such escrow account or
24 irrevocable letter of credit shall provide for the dis-
25 bursement of the Project Fee in accordance with Section
26 4.2.

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4.2 The Project Fee shall be disbursed in the following manner on notice provided to the holding agent by SDG&E.

4.2.1 The Project Fee, including any interest earned, shall be returned to Seller (a) if the Generating Facility achieves Reliable Operation prior to the date specified in Section 2.4.6; (b) if Seller terminates this Agreement as a result of an Uncontrollable Force prior to Reliable Operation of the Generating Facility; (c) if Seller determines as a result of either the Line Loss and Transmission Impact Study or the Detailed Interconnection/Operating Study that the project is no longer feasible or that transmission capacity is not available, (Seller must apply for a refund within ninety (90) calendar days after receiving written notification of the results of such study.); (d) if Seller determines that the cost or conditions of obtaining transmission rights from the Generating Facility to SDG&E's system renders the project non-economic, and so notifies SDG&E no later than 30 days after the date such transmission rights must be secured under Section 5.5; (e) if the conditions of Section 28 are not fulfilled and this Agreement is terminated; or (f) if Seller terminates this Agreement as a result of the CPUC approval described in Section 28 not having been obtained by November 30, 1990, and Seller notifies SDG&E in writing no later than 30 days after the actual date of said CPUC decision.

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4.2.2 The Project Fee, including any interest earned, shall be paid to SDG&E in the event Seller fails to complete each and every project development milestone set forth in Section 5, whether or not SDG&E pursues any other remedy at law or under this Agreement.

5. PROJECT DEVELOPMENT MILESTONES

5.1.1 The following events shall constitute Project Development Milestones:

- (a) Submit Quarterly Status Reports (Section 5.2)
- (b) Maintain Site Control (Section 5.3)
- (c) Provide information for and pay costs of the Preliminary Interconnection/Operating Study (Section 5.4).
- (d) (For out-of-service area Generating Facilities only) Provide evidence that Seller has secured acceptable transmission rights for delivery of Energy and Firm Capacity from the Generating Facility to the SDG&E Point of Delivery (Section 5.5).
- (e) (For out-of-service area Generating Facilities only) Provide information and pay costs for SDG&E to conduct a Line Loss/Transmission Impact Study (Section 5.6).
- (f) Provide information for and pay costs of the Detailed Interconnection/Operating Study (Section 5.7).
- (g) Commence construction of the Generating Facility (Section 5.8)

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5.1.2 If Seller fails to complete each Project Development Milestone in the time and manner provided in Sections 5.2 through 5.9, SDG&E may terminate this Agreement and Seller shall be liable for liquidated damages, if any, pursuant to Section 17 of this Agreement and such other damages as SDG&E may be entitled to. If SDG&E terminates this Agreement the provision of Sections 5.1.3 and 5.1.4 shall also apply.

5.1.3 If SDG&E terminates this Agreement pursuant to 5.1.2, Seller may execute another contract with SDG&E only under one of the other alternative methods described in Section 5.1.4 and only if the following conditions are satisfied.

- (a) Seller provides SDG&E with a new project definition and provides SDG&E a new project fee in the amount of \$5/kw; and
- (b) Seller has paid to SDG&E all outstanding obligations arising under this Agreement including any damages which SDG&E may have incurred as a result of Seller's failure to perform under this Agreement.

Nothing in this Section 5.1.3 shall limit SDG&E's remedies at law under this Agreement.

5.1.4 If Seller satisfies the requirements of Section 5.1.3, Seller may execute a new contract with

SDG&E, to sell power from the Generating Facility, by any of the following alternative methods:

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3 (a) By fulfilling all the prerequisites for eligi-
4 bility to execute and by executing a firm ca-
5 pacity standard offer contract, if one is
6 available. If Seller elects to sign a then
7 current firm capacity standard offer contract
8 within two years of the date of termination of
9 this Agreement by SDG&E, the price for the firm
10 capacity provided under such contract shall be
11 the lesser of the then current firm capacity
12 prices specified in the contract or the Firm
13 Capacity price Seller would have received under
14 this Agreement.

15 (b) By fulfilling all the prerequisites for eligi-
16 bility to execute and by executing an available
17 long-run standard offer contract if one is
18 available. However, Seller may not participate
19 in the next long run standard offer update cy-
20 cle if such cycle occurs within two years after
21 the date of termination of this Agreement by
22 SDG&E.

23 (c) By fulfilling all the prerequisites for eligi-
24 bility to execute and by executing an as-
25 available standard offer contract, if one is
26 available. If Seller signs an as-available
27 standard offer because no other standard offer
28 agreement is then currently available, Seller

1 may switch to another standard offer agreement
2 when one becomes available subject to the con-
3 ditions of such standard offer and this Section
4 5.1.4.

5 (d) A non-standard agreement subject to the negoti-
6 ations between Seller and SDG&E.

7 **5.2 Submit Quarterly Status Reports**

8 **5.2.1** Beginning on the first day of the
9 calendar quarter following the date of execution of this
10 Agreement, and continuing on the first day of each calen-
11 dar quarter thereafter until the Scheduled Firm Capacity
12 Operation Date, Seller shall submit to SDG&E a complete
13 and accurate Quarterly Status Report in the form attached
14 as Exhibit D. The Quarterly Status Report shall describe
15 the progress of project development and shall include
16 without limitation (a) the current status of and schedule
17 for project development; (b) Seller's progress since the
18 last submitted Quarterly Status Report; and (c) an expla-
19 nation of any changes to the project development schedule
20 since Seller's last submitted Quarterly Status Report.
21 If, in SDG&E's judgment, the scheduled development of the
22 Generating Facility places Seller in jeopardy of missing
23 a project development milestone under this Section 5,
24 Seller shall, upon request, provide a summary of the
25 steps which Seller has taken and proposes to take to en-
26 sure timely Reliable Operation of the Generating Facili-
27 ty.
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5.2.2 If Seller fails to provide a Quarterly Status Report in a timely manner or if Seller fails to submit a complete and accurate Quarterly Status Report, SDG&E will so notify Seller and Seller shall promptly provide a complete and accurate Quarterly Status Report. If Seller fails to provide two consecutive Quarterly Status Reports as provided in Section 5.2.1, SDG&E shall notify Seller in writing that Seller has failed to complete this project development milestone. Unless Seller provides SDG&E with a complete and accurate Quarterly Status Report within thirty (30) calendar days after Seller receives such notice from SDG&E, the provisions of Section 5.1.2 shall apply.

5.3 Maintain Site Control

5.3.1 Seller warrants that it will secure, and provide evidence to SDG&E that it possesses, Site Control of the site described in Section 2.1.3 and Exhibit A before March 31, 1990 and that Seller shall maintain continuous Site Control for the term of this Agreement. If SDG&E does not receive evidence sufficient to clearly demonstrate that Seller possesses Site Control consistent with Section 5.3.2 prior to said date, this Agreement shall terminate and the provisions of Sections 4.2.2 and 5.1.2 shall apply. Seller shall not have additional time to cure this default.

5.3.2 Site Control shall consist of the following, or other form of Site Control acceptable to SDG&E:

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- (a) The ownership of the location of Generating Facility specified in Section 2.1.3;
 - (b) The leasehold interest in the location specified in Section 2.1.3 which leasehold interest shall specifically include the right to construct and operate the Generating Facility at such location;
 - (c) Seller's exclusive and irrevocable contractual right to construct and operate the Generating Facility at the location specified in Section 2.1.3; or
 - (d) Seller's exclusive and irrevocable option to obtain any of the rights described in Section 5.3.2 (a) through (c) above. This alternative shall only constitute Site Control prior to the commencement of construction of the Generating Facility.

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5.3.3 Seller shall provide SDG&E with prompt notice of any change in the status of its Site Control. If, at any time, SDG&E has reason to believe that Seller has lost Site Control, SDG&E may request from Seller evidence that Seller continues to possess Site Control. If Seller fails to provide such evidence within thirty (30) calendar days after Seller receives SDG&E's request, the provisions of Section 5.1.2 shall apply.

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5.3.4 Where the term of Seller's Site Control does not extend for the full term of this Agreement, Seller shall advise SDG&E of the date Site Control is

1 scheduled to expire. Seller shall provide to SDG&E, no
2 later than the date Seller's Site Control is scheduled to
3 expire, evidence that Seller's Site Control has been re-
4 newed or extended. If Seller fails to provide such evi-
5 dence, SDG&E shall notify Seller in writing that Seller
6 is not in compliance with this Section 5.3.4. Unless
7 Seller provides SDG&E with evidence that Site Control has
8 been renewed or extended within thirty (30) calendar days
9 after SDG&E's notification, the provisions of Section
10 5.1.2 shall apply.

11 5.3.5 This Agreement is project and site
12 specific; however, with SDG&E's prior consent, Seller may
13 be permitted to adjust the location of the Generating Fa-
14 cility within the proximity of the site specified in Sec-
15 tion 2.1.3 if necessary for project development.

16 5.4 Provide information for and pay costs of Pre-
17 liminary Interconnection/Operating Study

18 5.4.1 To the extent that Seller will be in-
19 terconnected with the electrical system of Arizona Public
20 Service Company ("APS") and APS will deliver Seller's
21 generation to the North Gila substation, this milestone
22 is complete. Otherwise not later than three (3) months
23 after the effective date of this Agreement or such other
24 date as the Parties may agree, Seller shall provide SDG&E
25 with the information necessary for SDG&E to perform a
26 preliminary Interconnection/Operating Study. The Parties
27 shall cooperate to ensure that Seller provided SDG&E with
28 sufficient information no later than said date.

ATTACHMENT 2

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5.4.2 Seller shall pay any cost associated with the Preliminary Interconnection/Operating Study by the date specified in Section 5.4.1 or within thirty (30) calendar days of billing by SDG&E, whichever is later.

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5.4.3 Except for Generating Facilities located out of SDG&E's Service Area, priority for transmission capacity on the SDG&E system shall be established on the date Seller has completed the requirements specified in Section 5.4.1 and 5.4.2.

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5.4.4 The results of the Preliminary Interconnection/Operating Study are for information purposes only, except that in the event the date determined for providing information for and paying the cost of the Detailed Interconnection/Operating Study pursuant to Section 5.5 is earlier than the date specified in Section 2.4.3, then such earlier date shall establish the milestone date for this project development milestone pursuant to Section 5.7.1.

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5.4.5 SDG&E may, at its discretion, waive the requirements of this Section 5.4 if SDG&E deems that a Preliminary Interconnection/Operating Study is unnecessary.

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5.4.6 If Seller fails to either (a) provide the information necessary for SDG&E to conduct the Preliminary Interconnection/Operating Study or (b) pay the costs of such study by the date required, SDG&E shall notify Seller in writing that Seller has not completed this project development milestone. If Seller fails to

1 provide such information or pay such costs, as the case
2 may be, within thirty (30) calendar days after SDG&E's
3 notification, the provisions of Section 5.1.2 shall ap-
4 ply.

5 5.5 (For out-of-service area Generating Facilities
6 only). Provide evidence that Seller has obtained accept-
7 able transmission rights for delivery of Energy and Firm
8 Capacity from the Generating Facility to the Point of De-
9 livery.

10 5.5.1 Not later than six (6) months from
11 the date of execution of this Agreement, Seller shall
12 provide to SDG&E satisfactory evidence that Seller has
13 obtained rights for firm transmission service from the
14 Generating Facility to the Point of Delivery.

15 5.5.2 Such firm transmission rights must be
16 acceptable to SDG&E in its sole discretion, so as to al-
17 low for the proper and safe delivery of power from the
18 Generating Facility to SDG&E consistent with the obliga-
19 tions of Seller to provide SDG&E with Firm Capacity under
20 this Agreement. SDG&E's right to approve the firm trans-
21 mission rights hereunder shall not entitle it to require
22 terms or conditions more burdensome than those normally
23 contained in the standard practices in the utility indus-
24 try with respect to interutility firm capacity transac-
25 tions.

26 5.5.3 Such firm transmission rights must
27 commence no later than Initial Operation and must remain
28 in effect for the remaining term of this Agreement.

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5.5.4 If Seller fails to obtain transmission rights acceptable to SDG&E by the date specified in Section 5.5.1, SDG&E shall notify Seller in writing that Seller has not completed this project development milestone. If Seller fails to provide SDG&E with evidence that acceptable transmission rights have been secured within thirty (30) calendar days after SDG&E's notification; the provisions of Section 5.1.2 shall apply.

5.6 (For out-of-service area Generating Facilities only). Provide information and pay cost for SDG&E to conduct a Line Loss/Transmission Impact Study.

5.6.1 To the extent that Seller will be interconnected with the electrical system of Arizona Public Service Company ("APS") and APS will deliver Seller's generation to the North Gila substation, this milestone is complete. Otherwise not later than the date specified in Section 2.4.4 for conducting the Detailed Interconnection/Operating Study, Seller shall provide to SDG&E all information necessary for SDG&E to perform a Line Loss and Transmission Impact Study. The Parties shall cooperate to ensure that Seller provides SDG&E with sufficient information no later than said date.

5.6.2 Seller shall pay any costs associated the Line Loss and Transmission Impact Study by the date specified in Section 5.6.1 or within thirty (30) calendar days of billing by SDG&E, whichever is later.

5.6.3 Priority for transmission capacity on the SDG&E system shall be established on the date Seller

1 completes the requirements specified in Sections 5.6.1
2 and 5.6.2. (not applicable to out-of-service area Gener-
3 ating Facilities).

4 5.6.4 SDG&E shall complete the Line Loss/
5 Transmission Impact Study within thirty (30) days after
6 Seller has requested, paid for and provided all informa-
7 tion necessary for SDG&E to conduct such study. The Line
8 Loss and Transmission Impact Study shall, among other
9 items, identify any line losses associated with delivery
10 of Energy and Firm Capacity from the Point of Delivery to
11 the Designated Point of Interconnection, as well as iden-
12 tify any impacts of operation of the Generation Facility
13 on SDG&E's intertie transmission system including those
14 which would restrict SDG&E's ability to economically ac-
15 cept power along the designating intertie path.

16 5.6.5 The results of the Line Loss/Trans-
17 mission Impact Study pertaining to rates for transmission
18 losses are for informational purposes only. Actual rates
19 for losses from the Point of Delivery to the Designated
20 Point of Interconnection shall be SDG&E's FERC filed
21 rates, subject to change from time to time and filing
22 with the appropriate Regulatory Agencies.

23 5.6.6 If Seller fails either (a) to provide
24 the information necessary for SDG&E to perform the Line
25 Loss/Transmission Impact Study or (b) to timely pay the
26 costs associated with the Line Loss/Transmission Impact
27 Study, SDG&E shall notify Seller in writing that Seller
28 has not completed this project development milestone. If

1 Seller fails to provide such information or pay such
2 costs, as the case may be, within thirty (30) calendar
3 days after SDG&E's notification, the provisions of Sec-
4 tion 5.1.2 shall apply.

5 5.7 Provide information for and pay costs of
6 Detailed Interconnection/Operating Study

7 5.7.1 Not later than the date specified in
8 Section 2.4.4, or such earlier date as may be determined
9 by the Preliminary Interconnection/Operating Study, Sell-
10 er shall provide SDG&E with all information necessary for
11 SDG&E to perform a Detailed Interconnection/Operating
12 Study. The Parties shall cooperate to ensure that Seller
13 provides SDG&E with sufficient information no later than
14 said date.

15 5.7.2 Seller shall pay any costs associated
16 with the Detailed Interconnection/Operating Study by the
17 date specified in Section 5.7.1 or within thirty (30)
18 calendar days of billing by SDG&E, whichever is later.

19 5.7.3 Subject to Section 5.6. If priority
20 for transmission capacity on the SDG&E system has not
21 been previously established in Section 5.4, such priority
22 shall be established on the date Seller completes the re-
23 quirements specified in Section 5.7.1 and 5.7.2.

24 5.7.4 If Seller fails either (a) to provide
25 the information necessary for SDG&E to perform the De-
26 tailed Interconnection/Operating Study or (b) to timely
27 pay the costs associated with the Detailed Interconnec-
28 tion/Operating Study, SDG&E shall notify Seller in

1 writing that Seller has not completed this project devel-
2 opment milestone. If Seller fails to provide such infor-
3 mation or pay such costs, as the case may be, within
4 thirty (30) calendar days after SDG&E's notification, the
5 provisions of Section 5.1.2 shall apply.

6 5.8 Commence construction of the Generating
7 Facility

8 5.8.1 Seller shall commence construction of
9 the Generating Facility and shall provide to SDG&E writ-
10 ten notice that construction has commenced not later than
11 the date specified in Section 2.4.5. Construction of the
12 Generating Facility shall be deemed to have commenced in
13 accordance with Section 5.8.2. If Seller fails to com-
14 mence construction or fails to provide SDG&E written no-
15 tice that construction has commenced by the date speci-
16 fied, SDG&E shall notify Seller in writing that Seller
17 has not completed this Project Development Milestone.
18 Unless Seller commences construction and provides SDG&E
19 with written notice of commencement of construction with-
20 in thirty (30) calendar days after SDG&E's notification,
21 the provisions of Section 5.1.2 shall apply.

22 5.8.2 Commencement of construction shall be
23 defined as the date on which Seller initiates continuous
24 work to install major Generating Facility components such
25 as penstocks, diversion works, production wells and steam
26 gathering systems, or the placement of concrete founda-
27 tions for structures and equipment at the location of The
28 Generating Facility specified in Section 2.1.3.

5.9 Establish Reliable Operation of the Generating Facility

5.9.1 Seller must establish Reliable Operation of the Generating Facility by the Scheduled Firm Capacity Operation Date, specified in Section 2.1.5, subject to the provisions of Section 5.9.2.

5.9.2 If Seller does not establish Reliable Operation of the Generating Facility by the Scheduled Firm Capacity Operation Date specified in Section 2.1.5, Seller shall have until the date specified in Section 2.4.6 to establish Reliable Operation, subject to the following provisions.

- (a) Seller shall submit to SDG&E an updated Status Report for the Generating Facility, in the form as described in Section 5.2 within 10 days after the Scheduled Firm Capacity Operation Date. Seller shall submit an updated report every 30 days thereafter until Seller establishes Reliable Operation of the Generating Facility. Seller shall include in each report: (i) an update of the current status of and schedule for project development and (ii) a summary of the steps which Seller has taken and proposes to take to ensure that it will be able to establish Reliable Operation of the Generating Facility by the date required in this Section 5.9.2. In addition, Seller shall include in

ATTACHMENT 2

1 the initial report an explanation of why Reli-
2 able Operation did not occur by the Scheduled
3 Firm Capacity Operation Date.

4 (b) The price for Firm Capacity shall be that price
5 Seller would have received under this Agree-
6 ment, had Seller established Reliable Operation
7 as of the Scheduled Firm Capacity Operation
8 Date, according to the options selection in
9 Sections 9.3 and 9.4.

10 (c) The date specified in Section 2.4.6 shall be
11 delayed one additional day for each day after
12 June 30, 1990 elapsing until the CPUC approves
13 this Agreement consistent with Section 28. In
14 no event shall the date in Section 2.4.6 be de-
15 layed beyond June 1, 1995.

16 5.9.3. The provisions of Section 5.1.2 shall
17 apply if Seller fails to:

18 (a) provide Status Reports in a timely manner or to
19 submit complete and accurate Quarterly Status
20 Reports as prescribed in Section 5.9.2 or;

21 (b) establish Reliable Operation of the Generating
22 Facility within the time required by Sections
23 5.9.1 and 5.9.2.

24 6. EFFECTIVE DATE AND TERM

25 6.1 This Agreement shall be binding upon exe-
26 cution and shall remain in effect for the number of years
27 specified in Section 2.1.6 from the later of the
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Scheduled Firm Capacity Operation Date or the Firm Capacity Availability Date.

6.2 This Agreement shall terminate if Reliable operation does not occur on or before the date specified in Section 2.4.6.

7. PURCHASE OF ENERGY

7.1 Payment of Energy shall be based on time of delivery. The time periods currently in effect are shown in Exhibit B and may be revised from time to time.

7.2 Beginning with Initial Operation and continuing for the term of this Agreement, Seller shall sell and deliver and SDG&E shall purchase and accept, Energy produced from the Generating Facility up to the Nameplate rating specified in Section 2.1.1, according to SDG&E's Energy Payment Schedule as updated from time-to-time. For out-of-service area Generating Facilities all energy purchased shall be adjusted to reflect losses from the Point of Delivery to the Designated Point of Interconnection and losses incurred in delivering energy to the Point of Delivery. Additionally, Seller shall receive no line loss adjustments or credits for line losses deemed avoided by on-system Generating Facilities.

8. METHOD OF PURCHASE AND SALE

8.1 All Energy delivered to SDG&E at the Point

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1 of Delivery and registered by the Meters located thereat
2 shall be provided according to the option described below
3 and selected in Section 2.3.

4 8.1.1 Simultaneous Purchase and Sale:

5 Seller shall sell and deliver to SDG&E the total Generat-
6 ing Facility output, minus Station Load, to the Point of
7 Delivery. Seller shall purchase from SDG&E all energy
8 used by Seller for its own consumption.

9 8.1.2 Sale of Surplus Energy:

10 Seller shall sell and deliver to SDG&E at the Point of
11 Delivery any Surplus Energy generated by the Generating
12 Facility. Seller shall purchase from SDG&E any addition-
13 al energy required for Seller's own consumption.

14 8.1.3 Off-System Sales:

15 Seller shall sell to SDG&E at the Point of Delivery Ener-
16 gy delivered from the Generating Facility less any losses
17 associated with such delivery of power from the Generat-
18 ing Facility to the Point of Delivery and from the Point
19 of Delivery to the Designated Point of Interconnection.

20 8.2 All Energy delivered to SDG&E by Seller

21 shall be metered according to time-of-use metering at
22 Seller's expense.

23 8.3 Seller (except an out-of-service area

24 Seller) shall have the ability to convert between the op-
25 tions specified in Section 8.1 provided that the Seller
26 gives SDG&E a minimum of sixty (60) days advance written
27 notice prior to the desired date of such conversion.
28 Seller may not convert more than once in any 12 month

1 period. Any and all costs incurred by SDG&E as a result
2 of any such conversion shall be paid by the Seller within
3 thirty (30) days of receipt of notice from SDG&E of the
4 amount of such costs. In addition, the cost of SDG&E Fa-
5 cilities and Line Extension Facilities upon which the
6 monthly O&M charge is based shall be adjusted to reflect
7 the costs of such conversion. SDG&E shall not be re-
8 quired to remove or reserve capacity of the Interconnec-
9 tion Facilities or Line Extension Facilities made idle by
10 Seller's energy sale conversion except as provided in
11 SDG&E's Electric Department Rule 21 and may use such fa-
12 cilities at any time to serve other customers or to in-
13 terconnect with other electric power sources as provided
14 in SDG&E's Electric Department Rule 21.

15 8.4 If the option described in Section 8.3 is
16 exercised, then termination provision (as described in
17 Section 17) shall apply to the amount by which the Firm
18 Capacity is reduced as a result of such conversion.

19 8.5 SDG&E shall process a request by Seller to
20 convert between the Options specified in Section 8.1 and
21 institute any changes made necessary by such request as
22 expeditiously as possible given SDG&E's other resource
23 commitments. The conversion shall be effective on the
24 date SDG&E notifies Seller that all changes necessary to
25 accommodate such conversion have been completed.

26 9. PURCHASE OF CAPACITY

27 9.1 Payment for Capacity shall be based on
28 time of delivery. The time periods currently in effect

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2 are shown in Exhibit B and may be revised from time to
3 time.

4 9.2 Beginning on Initial Operation and con-
5 tinuing until the Scheduled Firm Capacity Operation Date
6 or the Firm Capacity Availability Date of the Generating
7 Facility, whichever occurs later subject to the provi-
8 sions of this Agreement, Seller shall sell and deliver
9 and SDG&E shall purchase and accept, as available capaci-
10 ty produced from the Generating Facility up to the Name-
11 plate Rating of the Generating Facility specified in Sec-
12 tion 2.1.1, according to SDG&E's As Available Capacity
13 Payment Schedule as updated from time to time.

14 9.2.1 For an out-of-area Generating Facili-
15 ty, capacity payments to Seller shall be adjusted to re-
16 flect additional losses from the Generating Facility to
17 the Point of Delivery and from the Point of Delivery to
18 the Designated Point of Interconnection. Additionally,
19 Seller shall receive no line loss adjustments or credits
20 for any line losses deemed avoided by on-system Generat-
21 ing Facilities.

22 9.3 Beginning on the Scheduled Firm Capacity Opera-
23 tion Date or the Firm Capacity Availability Date of the
24 Generating Facility, whichever occurs later subject to
25 the provisions of this Agreement, and continuing for the
26 remaining term of this Agreement, Seller shall provide
27 and SDG&E shall purchase Firm Capacity from the Generat-
28 ing Facility to the SDG&E system at the Point of Delivery
in an amount and for a period as specified in Sections

1 2.2.1 and 2.1.6 respectively, according to one of the
2 following options as selected in Section 2.2.2:

3 Option 1 - Dispatchable

4 Option 2 - Actually Delivered

5 9.4 SDG&E shall purchase Firm Capacity based upon
6 one of the following options as selected by Seller in
7 Section 2.2.3:

8 Option 1: The Capacity Payment Schedule for Firm
9 Capacity Qualifying Facilities in effect
10 at the time of execution of this Agreement
11 attached as Exhibit C; and

12 Option 2: The Capacity Payment Schedule for Firm
13 Capacity Qualifying Facilities in effect
14 as of the Scheduled Firm Capacity Opera-
15 tion Date of the Generating Facility.

16 9.5 If Seller has elected to provide SDG&E Firm Ca-
17 pacity according to the Dispatchable Option (Option 1),
18 payments for Firm Capacity under this Agreement shall be
19 calculated as follows:

20 The monthly payment for Firm Capacity will be
21 one-twelfth of the product of the Firm Capacity Price
22 (CP) taken from the Firm Capacity Payment schedule in ef-
23 fect at the time of execution, multiplied by the Firm Ca-
24 pacity (FC) and the Capacity Bonus Factor (CBF). Hours
25 of curtailment and energy deliveries during curtailments
26 shall be specifically excluded from the capacity calcula-
27 tions.

28 CP = Firm Capacity Price

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FC = Firm Capacity (for out-of-service area Generating Facilities, minus any adjustments for line losses from the Point of Delivery to the Designated Point of Interconnection)

CBF = Capacity Bonus Factor (see 9.7)

(\$) = (1/12) CP x FC x CBF

9.6 If Seller has elected to provide SDG&E with the Firm Capacity according to the Actually Delivered Option (Option 2), payments for Firm Capacity under this Agreement shall be calculated as follows:

The monthly payment for Firm Capacity will be the product of the Period Price Factor (PPF), the Monthly Delivered Capacity (MDC) and the Capacity Bonus Factor (CBF), plus any allowable payment for outages due to scheduled maintenance.

(\$) = PPF x MDC x CBF

The PPF is determined by multiplying the Firm Capacity Price, taken from the Firm Capacity Payment Schedule in effect on the date of execution, by the following Allocation Factor (AF):

AF(yr/month) x Firm Capacity Price(\$/kw-yr) = PPF(\$/kw-mo)

Summer 0.13801 x _____ = _____

Winter 0.04428 x _____ = _____

AF = The factor that allocates the Firm Capacity Price between summer and winter months. These factors may be changed upon one year notice from SDG&E.

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The MDC is determined as follows:

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- (1) Determine the Performance Factor (P), which is defined as follows:

$$P = \frac{A (1-L)}{C \times (B-S) \times E} \quad (P \text{ is less than or equal to } 1)$$

A = Total kilowatt-hours delivered during all on-peak and semi-peak hours during the month excluding any Energy associated with generation levels greater than the Firm Capacity.

L = (for an out-of-service area Seller) The losses, expressed as a decimal fraction, associated with delivery of capacity purchased by SDG&E from the Point of Delivery to the Designated Point of Interconnection as specified in the Section 2.1.2.

C = Firm Capacity.

B = Total on-peak and semi-peak hours during the month.

S = Total on-peak and semi-peak hours during the month the Generating Facility is out of service on scheduled maintenance.

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E = 0.8 to reflect a 20% allowance for forced outage.

- (2) Determine the Monthly Capacity Factor (MCF), which is computed using the following expression:

$$\text{MCF} = P \times \left(1.0 - \frac{M}{D}\right)$$

M = The number of hours during the month the Generating Facility is out of service on scheduled maintenance.

D = The number of hours in the month.

- (3) Determine the MDC by multiplying the MCF by C:

$$\text{MDC (kilowatts)} = \text{MCF} \times C$$

The monthly payment for Firm Capacity is then determined by multiplying the proper PPF determined above by MDC and CBF.

$$(\$) = \text{PPF} \times \text{MDC} \times \text{CBF}$$

CBF = Capacity Bonus Factor (See Section 9.7)

9.6.1 Furthermore, the payment for a month in which there is an outage for scheduled maintenance shall also include an amount equal to the product of the average hourly capacity payment and the number of hours

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of outage for scheduled maintenance in the month
calculated according to the following formula:

$$\text{Payment} = \frac{(\$)}{B - S} \times S$$

where (\$) is the monthly payment from the
second paragraph of Section 9.6, line 6 and B
and S are from paragraph 9.6(1).

9.7 Capacity Bonus Factor

A Seller who actually delivers Firm Capacity during
the on-peak hours of the peak months at a Capacity Factor
of 85%, as defined by the CPUC, is entitled to an incen-
tive payment. The Capacity Bonus Factor (CBF) will be
calculated as follows:

$$\text{CBF} = \frac{\text{ED} (1 - L)}{C \times (\text{PP} - \text{SP}) \times .85} \quad (\text{CBF is greater than or equal to 1})$$

ED = Energy delivered during on-peak hours of
the peak months.

L = (for an out-of-service area Seller) The
losses, expressed as a decimal fraction,
associated with delivery of capacity
purchased by SDG&E, from the Point of
Delivery to the Designated Point of
Interconnection as specified in Section
2.1.2.

C = Firm Capacity

PP = On-peak hours in the peak months

SP = Total on-peak hours during the peak months
that the Generating Facility is out of
service on Scheduled Maintenance.

Conditions

- (1) Agreement must be in effect and Generating Facility must be operable for all of the peak months in order that CBF be calculated.
- (2) The CBF for the period October 1 to September 30 will be determined by the Generating Facility's performance in the preceding peak months.
- (3) CBF will be equal to 1.0 until Seller's peak months data is available.
- (4) During probationary periods CBF will be limited to 1.0.
- (5) Hours of curtailment and energy deliveries during curtailments shall be specifically excluded from the capacity calculations.

9.8 Minimum Performance Requirements:

To receive capacity payments, the Generating Facility must meet the following requirements:

9.8.1 The amount of Firm Capacity shall be dispatchable by SDG&E throughout the year (Option 1) or actually delivered to SDG&E for all of the on-peak hours of the peak months (Option 2). These months are currently defined as the months of June, July, August and September, and may be changed upon one year notice by SDG&E.

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1 All Energy generated by the Generating Facility at levels
2 greater than the amount of Firm Capacity will be specifi-
3 cally excluded from the Firm Capacity payment calcula-
4 tions. Hours of curtailment and energy deliveries during
5 curtailments shall be specifically excluded from the ca-
6 pacity calculations.

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8 9.8.2 If Seller chooses Option 1, the Firm
9 Capacity shall be dispatchable by SDG&E throughout the
10 year, subject to a maximum 20 percent monthly allowance
11 for Forced Outages and scheduled maintenance, and also
12 subject to an allowance for up to 45 days for a major
13 overhaul. Except during the peak months on the SDG&E
14 system, Seller may accumulate and apply the 20 percent
15 allowance for Forced Outages for any consecutive three
16 (3) month period. Dispatchable means that the Generating
17 Facility is operable and is capable of delivering capaci-
18 ty, and, when called upon, must deliver at least the
19 amount of capacity requested by SDG&E up to the full
20 amount of Firm Capacity. Curtailment rights are as de-
21 fined elsewhere in this Agreement.

22 9.8.3 If Seller chooses Option 2, the Firm
23 Capacity must actually be delivered to SDG&E for all the
24 on-peak hours of all the peak months, excluding scheduled
25 maintenance and subject to a 20 percent monthly allowance
26 for Forced Outages.

27 9.9 Failure to meet minimum performance require-
28 ments:

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1 If Seller fails to meet the minimum performance re-
2 quirements, on a monthly basis, then the Seller will be
3 placed on a probationary period not to exceed 15 months,
4 and will be subject to the following:

5 9.9.1 Under Option 1 (Dispatchable):

6 During the probationary period, the Seller will con-
7 tinue to receive capacity payments for the amount of
8 dispatchable capacity available during said period. Dur-
9 ing the probationary period, the Seller's monthly payment
10 for capacity shall be determined by substituting for the
11 Firm Capacity, the capacity at which Seller would have
12 met the minimum performance requirements. In any month
13 during the probationary period that Seller does not meet
14 the minimum performance requirements at whatever capacity
15 was determined for the previous month, Seller's monthly
16 payment for capacity shall be determined by substituting
17 the capacity at which Seller would have met the minimum
18 performance requirements. If after the expiration of
19 this period, the Seller has not demonstrated an ability
20 to provide its amount of Firm Capacity to SDG&E, that ca-
21 pacity shall be derated and subsequent monthly payments
22 limited to the new amount of capacity. The amount by
23 which the Seller's capacity is reduced shall be subject
24 to Section 17 of the Agreement.

25 9.9.2 Under Option 2 Actually Delivered:

26 During the probationary period, the Seller shall
27 earn capacity payments for the amount of capacity actual-
28 ly delivered. If the Seller fails to deliver the full

1 contract capacity during each of the following year's
2 peak months, the amount of Firm Capacity shall be derated
3 to the greater of the Firm Capacity actually delivered
4 when the minimum requirements are not met, or the amount
5 of Firm Capacity which would be reasonably likely to be
6 met. The amount by which the Firm Capacity is reduced
7 shall be subject to Section 17 of the Agreement.

8 9.9.3 Hours of curtailment and energy de-
9 liveries during curtailments shall be specifically ex-
10 cluded from the capacity calculations.

11 9.10 Scheduled Maintenance:
12 Scheduled Maintenance for the Generating Facility shall
13 be allowed according to the following conditions:

14 9.10.1 Outage periods for scheduled mainte-
15 nance shall not exceed 840 hours (35 days) in any 12
16 month period.

17 9.10.2 Seller may accumulate unused sched-
18 uled maintenance hours on a year-to-year basis up to a
19 maximum of 1,080 hours (45 days). This accrued time must
20 be used consecutively and only for major overhauls.

21 9.10.3 Major overhauls shall not be sched-
22 uled during the peak months and shall be limited to once
23 every three years.

24 9.10.4 Scheduled maintenance shall not ex-
25 ceed 30 peak hours during the peak months.

26 9.10.5 Seller shall notify SDG&E 24 hours
27 prior to a scheduled outage of less than one day, one
28 week prior to a scheduled outage of one day or more

1 (except for major overhauls), and six months prior to a
2 major overhaul during periods acceptable to both parties.
3 Agreed upon dates shall not be changed without formal
4 written notice to SDG&E in accordance with Section 2.6 of
5 this Agreement.

6 9.10.6 Capacity payments will continue dur-
7 ing allowed outages for scheduled maintenance.

8 9.11 Adjustment to Firm Capacity:

9 Firm Capacity as specified in Section 2.2.1 may be ad-
10 justed only under the following conditions:

11 9.11.1 Seller may increase the amount of
12 Firm Capacity with the approval of SDG&E and receive pay-
13 ment for the additional capacity thereafter. A new over-
14 all capacity price will be established based on the orig-
15 inal capacity price for the original Firm Capacity and
16 the applicable capacity price for the remaining term of
17 this agreement published by SDG&E at the time the in-
18 crease is first delivered to SDG&E. This new overall ca-
19 pacity price will be prorated in proportion to the origi-
20 nal Firm Capacity and the increase in Firm Capacity.

21 9.11.2 Either Party may request, when it
22 reasonably appears that the capacity of the Generating
23 Facility may have changed for any reason, that a new Firm
24 Capacity be determined. If a decrease occurs that de-
25 crease will be subject to Section 17 of the Agreement.

26 10. SELLER'S GENERAL OBLIGATIONS

27 Seller shall:
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ATTACHMENT 2

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10.1 Design, own, construct, operate and main-
tain the Generating Facility provided that SDG&E shall
have the right to require modifications to such design as
provided in Section 11.2.

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10.2 Operate and maintain the Generating Facili-
ty in accordance with prudent electrical practices. If
a condition is created by Seller which may unreasonably
interfere with the reliability or safety of operation of
the Generating Facility or the SDG&E system, the Seller
shall correct or eliminate such condition with reasonable
diligence.

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10.3 Notify SDG&E: (a) by January 1, May 1 and
September 1 of each year, of the estimated scheduled
maintenance and estimated daily Energy and Firm Capacity
for the succeeding four months and (b) by September 1 of
each year, of the estimated scheduled maintenance and es-
timated daily Energy and Firm Capacity for the following
year.

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10.4 If an in-service area Generating Facili-
ty, place its main disconnect switch under the control of
both SDG&E and Seller by (a) allowing SDG&E to add its
lock to Seller's lock on the switch door, (b) allowing
SDG&E to stencil its markings on the switch door and (c)
allowing SDG&E 24-hour access to the switch. Switch op-
eration shall be reserved exclusively for SDG&E and Sell-
er personnel, and each Party will be able to lock out the
switch. Switch maintenance shall be performed by Sell-
er's personnel.

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10.5 Provide SDG&E by means of a separate, written instrument, any rights-of-way and access required for construction, operation, maintenance, inspection and testing of Interconnection Facilities and testing, reading of Meters and operating of Seller's main disconnect switch.

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10.6 Maintain proper daily Generating Facility operating records, including, but not limited to fuel consumption, cogeneration fuel efficiency, kilowatts, kilovars and kilowatt-hours generated and maintenance performed, and make such records as are reasonably needed by SDG&E to implement this Agreement available to SDG&E during normal business hours upon request.

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10.7 Provide to SDG&E Generating Facility electrical design and Interconnection Facilities design drawings for its review prior to finalizing Generating Facility design and before beginning construction work based on such drawings. SDG&E may require modification of such design as provided in Section 11.2.

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10.8 Provide to SDG&E reasonable advance written notice of any changes in the Generating Facility or Interconnection Facilities and provide to SDG&E design drawings of any such changes for its review and approval as provided in Section 11.2.

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10.9 If an in-service area Generating Facility, test its Interconnection Facilities at least every 12 months, by qualified personnel, notify SDG&E at least 72

1 hours in advance of such tests and permit SDG&E to have a
2 representative present at such tests.

3 10.10 If an in-service area Generating Facili-
4 ty, design and operate the Generating Facility to limit
5 the adverse effects of reactive power flow on the utility
6 system. Seller shall operate the Generating Facility in
7 a manner to satisfy the reactive power requirement of
8 Seller's load within the limit of the Generating Facili-
9 ty's capability as set forth in SDG&E's Electric Depart-
10 ment Rule 21.

11 10.11 Notify SDG&E of Initial Operation at least
12 forty-five (45) days prior to such date. SDG&E shall in-
13 spect the Interconnection Facilities within thirty (30)
14 days of receipt of such notice. If SDG&E concludes in
15 good faith that the Interconnection Facilities are for
16 any reason unacceptable, SDG&E will notify Seller in
17 writing within five (5) days of completion of the inspec-
18 tion, stating the reasons for its determination. Seller
19 shall correct any deficiencies noted by SDG&E and shall
20 provide SDG&E with the further right to inspect in accor-
21 dance with the guidelines set forth above.

22 10.12 Notify SDG&E at least fourteen (14) calen-
23 dar days prior to: (a) the initial energizing of the
24 Point of Interconnection; (b) the initial operation of
25 each of Seller's generators; and (c) the initial testing
26 of Seller's protective apparatus. SDG&E shall have the
27 right to have a representative present at such times.
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1 10.13 Reimburse SDG&E for the cost of acquiring
2 any property rights which are determined by SDG&E to be
3 required pursuant to this Agreement.

4 10.14 Be liable to SDG&E for any loss of what-
5 ever kind which SDG&E incurs as a result of (a) Seller's
6 failure to obtain or maintain any necessary permit or ap-
7 proval, including completion of required environmental
8 studies, necessary for the construction, operation and
9 maintenance of the Generating Facilities, and (b) Sell-
10 er's failure to comply with necessary permits and approv-
11 als or with any applicable law.

12 10.15 As of Initial Operation and throughout the
13 term of this Agreement, maintain and operate the Generat-
14 ing Facility to assure that the Generating Facility meets
15 the requirements of a Qualifying Facility established as
16 of the date of execution of this Agreement. Seller war-
17 rants that the Generating Facility will meet the require-
18 ments of a Qualifying Facility as defined herein from
19 Initial Operation throughout the term of this Agreement.

20 10.16 Comply with the requirements of and de-
21 sign the Generating Facility consistently with SDG&E
22 Electric Department Rule 21, to the extent that is clear
23 by the context of a particular provision of Rule 21 that
24 such provision should apply to off-system Generating Fa-
25 cilities, provided, however that the charge for operation
26 and maintenance of Line Extension and Interconnection Fa-
27 cilities specified in Rule 21 is subject to revision from
28 time-to-time as authorized by the CPUC.

11. SDG&E'S GENERAL OBLIGATIONS

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2 SDG&E shall:

3 11.1 Operate and maintain its electrical facil-
4 ities in accordance with applicable generally accepted
5 practices in the electric utility industry.

6 11.2 Have the right to review all Generating
7 Facilities and Interconnection Facilities specifications
8 and designs submitted by Seller. SDG&E may require modi-
9 fications to such specifications and designs as it deems
10 necessary to allow SDG&E to operate its system safely and
11 reliably. SDG&E shall notify Seller in writing of the
12 results of the review of the specifications and designs
13 submitted by Seller, within thirty (30) days of receipt
14 of such specifications and designs by SDG&E. SDG&E shall
15 include in its notification to Seller any flaws or design
16 errors, perceived by the utility in its review of the ma-
17 terial submitted by the Seller. SDG&E's review of Sell-
18 er's specifications and designs shall not be construed as
19 confirming or endorsing the design or as any warranty of
20 safety, durability or reliability of the Generating Fa-
21 cility or any of the equipment or the technical or eco-
22 nomic feasibility of the Generating Facility. SDG&E
23 shall not, by reason of such review or failure to review,
24 be responsible for strength, details of design, adequacy
25 or capacity of the Generating Facility or equipment, nor
26 shall SDG&E's acceptance of such specifications or de-
27 signs be deemed to be an endorsement of any facility or
28 equipment. Notwithstanding anything in this Agreement to

1 the contrary, SDG&E shall not be liable to Seller and
2 Seller shall indemnify and hold SDG&E harmless from any
3 claim, cost, loss, damage or liability, including attor-
4 ney's fees and interest, in connection with SDG&E's exer-
5 cise of its rights under this Section 11.2.

6 11.3 Make SDG&E Facilities' records available
7 to Seller upon request as are needed by Seller to imple-
8 ment this Agreement.

9 11.4 Make available to Seller any data filed in
10 accordance with CPUC Decision No. 83-10-093, Ordering
11 Paragraph 5f, as specifically requested by Seller.

12 11.5 Make available SDG&E Electric Department
13 rules and other existing publications governing intercon-
14 nection, at Seller's request.

15 12. INTERCONNECTION FACILITIES

16 12.1 The Parties shall execute a separate In-
17 terconnection Facilities Agreement. The Interconnection
18 Facilities Agreement shall provide for ownership, con-
19 struction, operation and maintenance of the Interconnec-
20 tion Facilities pursuant to SDG&E's Electric Department
21 Rule 21. For an out-of service area Generating Facility,
22 SDG&E and Seller shall execute a Three Party Operating
23 Agreement, in lieu of an Interconnection Facilities
24 Agreement, covering design, purchase, installation, own-
25 ership operation and maintenance of Interconnection Fa-
26 cilities.

27 12.2 If an in-service area Generating Facili-
28 ty, SDG&E shall own and shall be solely responsible for

1 the design, purchase, installation, operation and maintenance
2 of those Interconnection Facilities necessary to
3 protect SDG&E's system, employees and customers from damage
4 or injury arising out of or connected with the operation
5 of the Generating Facility.

6 12.3 If an in-service area Generating Facility,
7 SDG&E shall design, own, operate and maintain the
8 SDG&E Facilities and Line Extension Facilities required
9 to connect the Generating Facility to SDG&E's electric
10 system as set forth in the Interconnection Facilities
11 Agreement and the Three Party Operating Agreement.

12 12.4 If an in-service area Generating Facility,
13 Seller shall be allocated existing line capacity in
14 accordance with SDG&E's Electric Department Rule 21.

15 12.5 The Parties recognize that from time-to
16 time certain improvements, additions or other changes in
17 the Interconnection Facilities may be required for the
18 proper and safe operation of the Generating Facility in
19 parallel with SDG&E's system. SDG&E shall have the right
20 to make such changes or require Seller to make such
21 changes, whichever is appropriate, upon reasonable advance
22 written notice to Seller. Seller shall reimburse
23 SDG&E for all costs incurred by SDG&E for any additions
24 or changes in the SDG&E Facilities to the extent required
25 by SDG&E's Electric Department Rule 21 and the cost of
26 SDG&E Facilities upon which the O&M charge is based shall
27 be adjusted to reflect the cost of such changes.
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12.6 If an in-service area Generating Facility, Seller shall pay for operation and maintenance of Line Extension and SDG&E Facilities in accordance with SDG&E's Electric Department Rule 21 and Section 14.2 of this Agreement. Seller shall be solely responsible for maintaining in good operating condition all Interconnection Facilities owned by Seller. When the Generating Facility is generating electrical energy whether or not it is operating in parallel with SDG&E's system, all Interconnection Facilities shall be in good repair and proper operating condition.

12.7 For an out-of-service area Seller, Seller shall be responsible for securing all rights for transmission to the Point of Delivery. Seller shall also be responsible for securing all interconnection arrangements with its host utility necessary for the delivery of power to the Point of Delivery consistent with Seller's obligations under this Agreement.

13. CANCELLATION CHARGES

Seller shall be responsible for the reimbursement to SDG&E of any and all cancellation charges incurred as a result of SDG&E cancelling order(s) for equipment necessary for the interconnection between SDG&E and Seller, provided that said charges be due to Seller's cancellation or modification of the Generating Facility. Seller shall pay SDG&E within thirty (30) days after receipt of notice for said charges.

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28**14. BILLING AND PAYMENT**

14.1 SDG&E shall read all Meter(s) monthly according to its regular meter reading schedule beginning no more than thirty (30) days after Initial Operation. SDG&E shall mail to Seller not later than thirty (30) days after the end of each monthly billing period (a) a Statement showing Energy and capacity delivered to SDG&E during each of the then currently effective Time-of-Use periods during the monthly billing period, (b) SDG&E's computation of the amount due Seller, and (c) SDG&E's check in payment of said amount. If within thirty (30) days of receipt of the Statement Seller does not make a report in writing to SDG&E of an error, Seller shall be deemed to have waived any error in SDG&E's Statement, computation, and payment, and they shall be considered correct and complete. SDG&E reserves the right to provide such Statement concurrently with any Bill to Seller for electric or gas service provided by SDG&E to Seller in accordance with applicable Rules of Service. For off-system QFs, the determination of the amount of Energy and Capacity delivered shall be as specified in the Three Party Operating Agreement.

14.2 Seller shall pay SDG&E (a) the installed cost of SDG&E Facilities (to the extent appropriate) and the installed cost of any Line Extension Facilities, (b) a monthly payment for specified SDG&E Facilities, if appropriate, (c) a monthly O&M Charge for Line Extension Facilities and SDG&E Facilities, and (d) a monthly charge

1 to reimburse SDG&E for leased communication facilities
2 when required by SDG&E for telemetering the Generating
3 Facility output all in accordance with SDG&E's Electric
4 Department Rule 21 and Interconnection/Three Party Oper-
5 ating Agreement. Seller shall pay SDG&E for such charges
6 within fifteen (15) days of the receipt of a bill for any
7 such charge.

8 14.3 If either Party disputes a Statement, pay-
9 ment shall be made as if no dispute existed, pending re-
10 solution of the dispute. If the Statement is determined
11 to be in error, the amount determined to be in error
12 shall be refunded by the Party owing, with monthly inter-
13 est at a rate equal to that applied to SDG&E's Energy
14 Cost Adjustment Clause pursuant to Section 9.(j).(4) of
15 SDG&E's Electric Department Preliminary Statement, or
16 successor CPUC approved interest rate.

17 14.4 If either Party disputes a Bill, such dis-
18 pute shall be resolved in accordance with SDG&E's appli-
19 cable Rules of Service.

20 15. METERING OF ENERGY DELIVERIES

21 15.1 Metering for electric service to Seller
22 and for Energy purchases by SDG&E shall be at the Point
23 of Delivery or as specified in the Three Party Operating
24 Agreement. Metering will be installed which will measure
25 and record flows in each direction. All the meters and
26 equipment used for measuring power delivered to SDG&E
27 shall be located on the side of the Interconnection Fa-
28 cilities selected by Seller and selected in Section 2.5

1 or as otherwise specified in the Three Party Operating
2 Agreement. If Seller selects a metering location on
3 Seller's side of the Interconnection Facilities the power
4 recorded as delivered to SDG&E shall be adjusted by ap-
5 plying the transformer loss compensation factor specified
6 in Section 2.5 to derive the amount of energy and capaci-
7 ty deemed delivered. The transformer loss compensation
8 factor shall be as agreed to by the parties or at Sell-
9 er's election, shall be calculated based on the measured
10 value of transformer losses from the transformer to be
11 used. If Seller chooses this latter option, Seller shall
12 pay SDG&E for the cost of determining this measured val-
13 ue.

14 15.2 All Meters shall be sealed and the seal
15 shall be broken only by SDG&E, upon occasions when the
16 Meters are to be inspected, tested or adjusted.

17 15.3 SDG&E shall inspect and test all Meters
18 upon their installation and on its regular testing sched-
19 ule. If requested to do so by Seller, SDG&E shall in-
20 spect or test a Meter, but the expense of such inspection
21 or test shall be paid by Seller unless the Meter is found
22 not to comply with the accuracy specifications found in
23 SDG&E's Electric Department Rule 18, or any superseding
24 standard.

25 15.4 If a Meter is in error, Section B of
26 SDG&E's Electric Department Rule 18, or any superseding
27 standard, shall be applied.
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1 15.5 Seller shall report the hourly and daily
2 Energy recordings to SDG&E periodically as agreed upon by
3 the Authorized Representatives. Where the Generating Fa-
4 cility's rated capacity is greater than 2 Mw, the Gener-
5 ating Facility's output shall be telemetered to SDG&E's
6 Mission Control Center as specified in SDG&E's Electric
7 Department Rule 21.

8 16. CONTINUITY OF SERVICE

9 16.1 SDG&E shall not be obligated to accept or
10 pay for, and SDG&E may require Seller to temporarily cur-
11 tail, interrupt or reduce deliveries of Energy upon ad-
12 vance notice to Seller, in order for SDG&E to construct,
13 install, maintain, repair, replace, remove, investigate
14 or inspect any of its equipment or any part of its sys-
15 tem, or if SDG&E determines that such curtailment, inter-
16 ruption or reduction is necessary because of a System
17 Emergency, forced outages on the SDG&E system or its in-
18 terconnected tie lines, operating conditions on its sys-
19 tem, or compliance with prudent electrical practices,
20 provided that SDG&E shall not interrupt deliveries pursu-
21 ant to this this Section solely in order to take advan-
22 tage, or to make purchases, of less expensive energy
23 elsewhere.

24 16.2 SDG&E shall not be obligated to accept or
25 pay for, and may require Seller, with a Qualifying Facil-
26 ity with Nameplate Rating of one megawatt or greater, to
27 temporarily curtail, interrupt or reduce deliveries of
28 Energy during periods of Minimum Load Condition where

1 such purchase results in "negative avoided cost" to SDG&E
2 as such term is defined by the CPUC.

3 16.3 Notwithstanding any other provision of
4 this Agreement, if at any time SDG&E determines that ei-
5 ther (a) the Generating Facility may endanger SDG&E per-
6 sonnel, or (b) the continued operation of the Generating
7 Facility may endanger the integrity of SDG&E's electric
8 system, SDG&E shall have the right upon notice to Seller,
9 to disconnect the Generating Facility from SDG&E's sys-
10 tem. The Generating Facility shall remain disconnected
11 until such time as SDG&E is satisfied that the condi-
12 tion(s) referenced in (a) or (b) of this Section 16.3
13 have been corrected.

14 16.4 Whenever possible, SDG&E shall give Seller
15 reasonable advance notice of its intent to refuse to pur-
16 chase Energy under this Section 16.

17 16.5 The Parties will coordinate temporary cur-
18 tailment and interruption or reduction of deliveries of
19 Energy required for either Party to construct, install,
20 maintain, repair, replace, remove, investigate or inspect
21 equipment in its respective electric system.

22 16.6 Curtailment of out-of-service area Gener-
23 ating Facility

24 16.6.1 SDG&E may curtail deliveries of Ener-
25 gy from the Generating Facility, subject to the condi-
26 tions set forth in this Section.
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1 16.6.2 For purposes of this Section 16.6,
2 each day shall be considered to begin at midnight (0001
3 hrs) and end at midnight (2400 hrs).

4 16.6.3 In the event an hour of curtailment
5 scheduled pursuant to this Section 16.6. coincides with
6 scheduled maintenance, such hour shall be counted as
7 scheduled maintenance for the purposes of this Agreement.

8 16.6.4 SDG&E shall designate the type of
9 curtailment as either Flexible Curtailment or Block Cur-
10 tailment. SDG&E shall continue to make Firm Capacity
11 payments for each curtailment hour subject to the provi-
12 sions of this Section 16.6. At the time SDG&E gives no-
13 tice of a curtailment period, SDG&E shall also provide a
14 non-binding estimate of its expected Alternative Energy
15 Cost during the curtailment period. Seller shall be pro-
16 vided a copy of SDG&E's California Power Pool Economy En-
17 ergy Transactions log indicating SDG&E's system decremen-
18 tal value to verify the Alternative Energy Cost offers.
19 This information is confidential to SDG&E and Seller
20 shall not provide this information to anyone without
21 SDG&E's written consent.

22 16.6.5 To schedule a Flexible Curtailment,
23 SDG&E shall notify Seller, no later than two (2) hours
24 prior to the start of the curtailment period, of the
25 hours, duration, and Alternative Energy Cost for the cur-
26 tailment period. No later than one-half (1/2) hour after
27 SDG&E notifies Seller of such curtailment period, Seller
28 shall notify SDG&E of the level at which Seller will

1 operate during the curtailment period. If Seller fails
 2 to provide SDG&E such notice within the time required,
 3 SDG&E shall limit Seller's schedule of deliveries during
 4 the curtailment period to the level at which Seller was
 5 delivering to SDG&E at the time notice was due. The
 6 price for Energy delivered and accepted by SDG&E during
 7 these periods shall be as described in Section
 8 16.6.8.(b). Each Flexible Curtailment period shall have
 9 a duration of no less than eight (8) consecutive hours.

10 16.6.6 The maximum amount of Flexible Cur-
 11 tailment in any calendar year shall be as follows:

12	Contract	Flexible	Maximum
13	Years	Curtailment	Number of
14		Hours	Curtailments
15	1 through 9	900	125
16	10 through 15	1400	125
17	16 thereafter	2200	150

18 16.6.7 Each year SDG&E shall notify Seller
 19 of SDG&E's intent to schedule a Block Curtailment within
 20 a six month time period. When SDG&E better evaluates the
 21 timing of the Block Curtailment, SDG&E shall give Seller
 22 not less than three weeks notice of the starting time,
 23 duration, and Alternative Energy Cost for the Block Cur-
 24 tailment. No later than seven (7) days after SDG&E noti-
 25 fies Seller of such curtailment period, Seller shall no-
 26 tify SDG&E of the level at which Seller will operate dur-
 27 ing the curtailment period. If Seller fails to provide
 28 SDG&E such notice within the time required, SDG&E shall

1 limit Seller's schedule of deliveries during the curtail-
2 ment period to the level at which Seller was delivering
3 to SDG&E at the time notice was due. The price for Ener-
4 gy delivered and accepted by SDG&E during these periods
5 shall be as described in Section 16.6.8.(b). The amount
6 of Block Curtailment in any Contract Year shall not ex-
7 ceed one 400 hour block or two 200 hour blocks.

8 16.6.8 During each hour of Flexible or Block
9 Curtailment, payments shall be made based on the follow-
10 ing:

- 11 a) Firm Capacity payments shall be made in accor-
12 dance with Section 16.6.11.
- 13 b) Payments for Energy which Seller has opted to
14 continue to deliver and provided proper notice
15 of such election in accordance with Sections
16 16.6.5 and 16.6.7 shall be purchased by SDG&E
17 at the Alternative Energy Cost.
- 18 c) In the event that the output of the Generating
19 Facility during any curtailment hour exceeds
20 the level of scheduled deliveries, pursuant to
21 Sections 16.6.5 and 16.6.7, Seller shall not
22 be paid by SDG&E for any Energy in excess of
23 such scheduled amount during such curtailment
24 hour(s).

25 16.6.9 Nothing in this Section 16.6 is in-
26 tended to provide Seller the right, either expressed or
27 implied, to deliver energy to SDG&E in amounts greater
28 than that designated in Section 2.2.1.

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16.6.10 The maximum Energy price paid under this Section 16.6 may not exceed the applicable time differentiated price for a non-curtailment hour as provided in Sections 7 and 8.

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16.6.11 During hours of curtailment designated under this Section 16.6, SDG&E shall continue to make Firm Capacity payments. Under Option 1, hours of curtailment and energy deliveries during curtailments shall be specifically excluded from the capacity calculations. Under Option 2, for each curtailment hour, payments shall be made pursuant to the following: (i) payments to Seller for firm capacity during each on-peak or semi-peak curtailment hour shall be calculated using Assumed Production Factors derived from Seller's historical performance pursuant to Section 16.6.12, provided, that payments for firm capacity calculated using the Assumed Production Factors shall not exceed the maximum payments provided under Section 9, (ii) nothing in this Section 16.6 shall be construed to entitle Seller to payments for Firm Capacity prior to the Firm Capacity Availability Date, (iii) no firm capacity payment adjustments are applicable for curtailments during off-peak and super off-peak hours since no firm capacity payments are earned during those periods.

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16.6.12 Assumed Production Factors

- a) Subject to the provisions of Sections 16.6.4, 16.6.5 and 16.6.6, during periods of curtailment SDG&E shall pay Seller firm capacity

ATTACHMENT 2

1 payments, as appropriate, calculated using Assumed Production Factors derived from Seller's
 2 historical performance during the on-peak and
 3 semi-peak time periods during the previous calendar year. The Assumed Production Factors
 4 shall be calculated as follows:
 5
 6

$$7 \text{ APFs} = \frac{\text{summer kwHP} + \text{summer kwHsp}}{C \times (\text{summer Hp} + \text{Summer Hsp})}$$

$$8 \text{ APFp} = \frac{\text{summer kwHP}}{C \times \text{summer Hp}}$$

9 where:

10 APFs = Assumed Production Factor for the summer
 11 months for the combined on-peak and
 12 semi-peak periods.
 13

14 APFp = Assumed Production Factor for the
 15 summer on-peak period
 16

17 Summer KwHP, summer kwHsp = the respective
 18 on-peak and semi-peak Energy (kwh) purchased by
 19 SDG&E during the previous calendar year's
 20 summer billing period excluding any energy
 21 purchased during periods of curtailment.
 22

23 Summer Hp, summer Hsp = the respective on-peak
 24 and semi-peak hours during the previous calendar year's summer billing period excluding
 25 scheduled maintenance hours and curtailment
 26 hours under Section 16.
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ATTACHMENT 2

$$\text{APFW} = \frac{\text{winter kwhp} + \text{winter kwfsp}}{C \times (\text{winter Hp} + \text{winter Hsp})}$$

APFW = Assumed Production Factor for the winter months for the combined on-peak and semi-peak periods

Winter kwhp, winter kwfsp = the respective on-peak and semi-peak Energy purchased by SDG&E during the previous calendar year's winter billing period, excluding any Energy purchased during periods of curtailment.

C = Firm Capacity

Winter Hp, winter Hsp = the respective on-peak and semi-peak hours during the previous calendar year's winter billing period excluding scheduled maintenance and any curtailment hours under Section 16.

- b) During the first twelve (12) monthly billing cycles following Initial Operation, the Assumed Production Factors shall be calculated based on cumulative available monthly billing data. After the first twelve (12) months and until a full calendar year's billing data is available, the Assumed Production Factors shall be calculated using the most recent twelve (12) monthly billing cycles available.
- c) During any billing month in which a curtailment period has occurred during the peak or semi-peak time periods under Section 16.6, Firm

ATTACHMENT 2

Capacity payments and Bonus Payments made by SDG&E to Seller shall be made as follows:

- (1) The formula for calculation of Performance Factor (P) as defined in Section 9.6 shall be revised as follows:

$$P = \frac{Aasm(1-L)}{C \times (B-S) \times E} \quad \begin{array}{l} P \text{ is less than or} \\ \text{equal to 1} \end{array}$$

where Aasm replaces A

and where:

Aasm = the sum of the total kilowatt-hours delivered during all on-peak and semi-peak hours excluding any kilowatt-hours delivered during hours of curtailment and excluding any Energy associated with generating levels greater than the Firm Capacity, plus the kilowatt-hours associated with the applicable Assumed Production Factor for the combined time period(s) in which curtailment hours(s) occurred. The kilowatt-hours associated with the Assumed Production Factor shall be calculated by multiplying the appropriate APF times the Firm Capacity times the hours in the on-peak and semi-peak hours in which curtailment was invoked during the monthly billing cycle.

- 2) The formula for calculation of the Capacity Bonus Factor (CBF) as defined in Section 9.7 shall be revised as follows:

$$CBF = \frac{EDasm (1-L)}{C \times (PP-SP) \times .85}$$

CBF is greater than or equal to 1

where EDasm replaces ED

and where:

EDasm = the sum of the Energy delivered during the on-peak hours of the peak months excluding any Energy delivered during hours of curtailment, plus the kilowatt-hours associated with the Assumed Production Factor calculated for the on-peak hours of the summer months. The kilowatt-hours associated with the Assumed Production Factor shall be calculated by multiplying the APFp times the Firm Capacity times the number of summer on-peak hours in which curtailment was invoked during the billing cycle.

16.6.13 During hours of curtailment designed under this section 16.6, Seller shall have the right to sell such curtailed energy to a third party. It is Seller's obligation not to sell the curtailed energy on a firm basis. If Seller has elected to sell energy to a third party during curtailment period, SDG&E shall have the right to recall such energy for delivery to SDG&E during such curtailment period upon giving Seller one (1) hour prior notice of its desire to suspend curtailment. SDG&E will only suspend curtailment if circumstances change the assumptions underlying the scheduling of the curtailment. Seller shall use its best efforts to recommence deliveries to SDG&E should SDG&E suspend curtailment prior to the time such curtailment period was scheduled to end.

17. DEFAULT AND REMEDIES

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17.1 If either Party defaults in the due performance or observance of any term or condition of this Agreement, said Party shall be in default. Upon the occurrence of any default and at any time thereafter so long as the same shall be continuing, the non-defaulting Party may, by notice to the defaulting Party specifying the nature of such default, declare this Agreement to be in default. The defaulting Party must remedy such default within the time specified in this Agreement, or, if no time is specified, within thirty (30) days after receiving written notice from the non-defaulting Party. In the event that the defaulting Party fails to cure its default within such period of time, the non-defaulting Party may at any time thereafter exercise, at its election, any rights or remedies it may have under this Agreement, at law or in equity to enforce the terms hereof, including, but not limited to, monetary damages, injunctive relief, specific performance and termination of this Agreement.

17.2 Nothing in this Agreement is intended to limit SDG&E's right to demand and Seller's obligation to provide adequate assurance in the circumstances described in the Uniform Commercial Code. The Parties specifically intend that such rights and obligations shall exist whether or not the Uniform Commercial Code otherwise applies.

17.3 Liquidated Damages:
Seller agrees to pay SDG&E in event of Seller's default, as Liquidated Damages and not as a penalty, the amount calculated pursuant to this Section 17. The Parties agree that said

1 calculations represent a reasonable endeavor to estimate fair
2 compensation for SDG&E's foreseeable losses associated with
3 Seller's failure to deliver Firm Capacity that might result
4 from Seller's default or from a reduction in Firm Capacity
5 under this Agreement. The amount of Seller's Liquidated
6 Damages payment shall be reduced by the Project Fee, if any,
7 paid to SDG&E pursuant to Section 4 of this Agreement; provid-
8 ed, however, if the amount of Seller's Liquidated Damages
9 payment is less than the Project Fee paid to SDG&E pursuant to
10 Section 4 of this Agreement, Seller shall not be entitled to a
11 refund of the Project Fee or any portion thereof. This
12 Section 17 shall not preclude or limit SDG&E's entitlement to
13 monetary damages for losses other than for failure to deliver
14 Firm Capacity or resulting from other events of Seller's
15 default.

16 17.4 In the event of default, SDG&E shall bill
17 Seller for all amounts due under this Agreement including the
18 amounts calculated in Section 17. Seller shall pay interest
19 on all amounts due from the date of notice of default, com-
20 pounded monthly, at an interest rate equal to the lower of (a)
21 the maximum rate allowed by law, or (b) one-twelfth of the
22 most recent month's interest rate on Commercial Paper (prime,
23 three months) published in the Federal Reserve Statistical
24 Release, G.13, (or if such publication is no longer being
25 issued, the closest similar publication), plus 50 basis points
26 (See Exhibit E). Seller shall pay SDG&E within thirty (30)
27 calendar days of receipt of SDG&E's bill.
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17.5 The non-defaulting party shall have the right to offset any amounts due it from the defaulting party against any present or future payments it owes to the defaulting party and may at all times pursue any other remedies available to it.

17.6 For purposes of this Section 17, "Termination Payment A" shall mean an amount equal to the difference between payments for Firm Capacity to date based on the original Agreement length and payments that would have been made, based upon the period of Seller's actual performance, up to the date of reduction or termination, plus interest as set forth in Section 17.4.

17.6.1 If Seller terminates this Agreement, or all or part of the Firm Capacity stated in Section 2.2.1 with the following prescribed written notice:

<u>Amount of Capacity Terminated</u>	<u>Length of Notice</u>
Under 5,000 kw	12 months
5,000 kw to 10,000 kw	36 months
10,000 kw to 20,000 kw	48 months
20,001 kw and over	60 months

Seller shall refund to SDG&E Termination Payment A as described in Section 17.6. SDG&E shall then make capacity payments to Seller for the remainder of Seller's performance, if any, at an adjusted capacity price.

17.6.2 If Seller terminates this Agreement, or all or part of the Firm Capacity stated in Section 2.2.1, without the notice prescribed in Section 17.6.1, Seller shall pay SDG&E "Termination Payment B". Termination Payment B shall consist of the sum of (a) Termination

1 Payment A and (b) a one-time payment. The one-time
2 payment shall be equal to the amount of Firm Capacity
3 being terminated times the difference between the Current
4 Capacity Price on the date of termination for a term equal
5 to the balance of the term of the Agreement and the Firm
6 Capacity price. This product shall be pro-rated for the
7 length of notice given, if any, by taking the difference
8 between the amount of months of notice prescribed minus
9 the amount of months of notice given and dividing by
10 twelve (See Exhibit E, Example 2). In the event that the
11 Current Capacity Price is less than the Firm Capacity
12 price or the termination or reduction is a result of an
13 uncontrollable force on the part of the Seller, then only
14 Termination Payment A shall apply.

15 18. ABANDONMENT

16 18.1 If, in any six (6) month period after the
17 Firm Capacity Availability Date, Seller fails to deliver
18 to SDG&E at least the number of kilowatt hours derived
19 from the product of four hundred and thirty-eight (438)
20 hours times the Firm Capacity rating measured in kilo-
21 watts, Seller shall provide to SDG&E all of the following:

22 18.1(a) a written description of the reason
23 for Seller's low level of performance;

24 18.1(b) a summary of the action Seller is
25 taking to improve its performance; and

26 18.1(c) a schedule for bringing Seller's
27 deliveries up to the Firm Capacity rating.
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18.2 In any fifteen (15) month period after the Firm Capacity Availability Date, Seller shall deliver to SDG&E not less than the number of kilowatt hours derived from the product of one thousand and ninety-five (1,095) hours times the Firm Capacity rating measured in kilowatts. If, for any reason, Seller fails to deliver this minimum amount, SDG&E may terminate this Agreement on written notice. Unless excused as a result of an Uncontrollable Force, such failure shall constitute a default, entitling SDG&E to its remedies at law and under Section 17 of this Agreement.

19. NONDEDICATION OF FACILITIES

Seller does not hereby dedicate any part of the Generating Facility to serve SDG&E, its customers, or the public. SDG&E does not hereby dedicate any part of its system or facilities to serve or accept Energy and Firm Capacity from Seller to any greater extent than may be provided by law.

20. LIABILITY

20.1 Except in the case of Willful Action or sole negligence, neither Party shall hold the other Party, its officers, agents or employees liable for any loss, damage, claim, cost, or expense for loss of or damage to property, or injury or death of persons, which arises out of the other Party's ownership, operation or maintenance of facilities on its own side of the Point of Delivery.

20.2 Except as set forth in Section 20.1, each Party agrees to defend, indemnify and save harmless the

1 other Party, its officers, agents, and employees against
2 all losses, claims, demands, costs, or expenses for loss
3 of or damage to property, or injury or death of persons,
4 which directly or indirectly arise out of the indemnifying
5 Party's performance pursuant to this Agreement; provided,
6 however, that a Party shall be solely responsible for any
7 such losses, claims, demands, costs or expenses which
8 result from its sole negligence or Willful Action.

9 21. INSURANCE

10 21.1 Seller, at its own expense, shall secure
11 and maintain in effect during the life of this Agreement
12 the following insurance as will protect Seller and SDG&E
13 during the performance of operation hereunder:

14 21.1.1 General Liability Insurance with a
15 combined single limit for bodily injury and property
16 damage of not less than (a) \$1,000,000 each occurrence if
17 the Generating Facility is 100 kw or greater; (b) \$500,000
18 each occurrence if the Generating Facility is between 20
19 kw and 100 kw; and (c) \$100,000 each occurrence if the
20 Generating Facility is 20 kw or less. Such General
21 Liability Insurance shall include coverage for Premis-
22 es-Operations, Owners and Contractors Protective, Prod-
23 ucts/Completed Operations Hazard, Explosion, Collapse,
24 Underground, Contractual Liability, and Broad Form Proper-
25 ty Damage including Completed Operations.

26 21.1.2 The liability insurance specified in
27 Section 21.1.1 shall name SDG&E as additional insured and
28 shall contain a severability of interest or cross-

1 liability clause. The requirement to name SDG&E as
2 additional insured shall be waived if such requirement
3 prevents Seller from obtaining insurance as specified
4 herein.

5 21.2 Certificates of Insurance evidencing the
6 coverages and provision as required in Sections 21.1.1 and
7 21.1.2 above shall be furnished to SDG&E prior to inter-
8 connected operation of the Generating Facility and shall
9 provide that written notice be given to SDG&E at least
10 thirty (30) days prior to cancellation or reduction of any
11 coverage. SDG&E shall have the right, but not the obliga-
12 tion, to inspect the original policies of such insurance.
13 Seller will not be allowed to commence interconnected
14 operations unless evidence of satisfactory insurance has
15 been provided to SDG&E in a timely manner.

16 21.3 SDG&E will allow Seller to self-insure in
17 lieu of compliance with the requirements of Section 22.1
18 under the following conditions:

19 21.3.1 Seller must be a governmental agency
20 with an established record of self-insurance.

21 21.3.2 Seller must provide to SDG&E at least
22 thirty (30) days prior to the Operation Date evidence of
23 an acceptable plan to self-insure to a level of coverage
24 equivalent to that required under Section 22.1

25 21.3.3 If Seller ceases to self-insure to the
26 level required hereunder, or if Seller is unable to
27 provide continuing evidence of Seller's ability to
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1 self-insure, Seller shall immediately obtain the coverage
2 required under Sections 21.1.

3 22. UNCONTROLLABLE FORCE

4 Neither Party shall be considered to be in default
5 with respect to any obligation hereunder, other than the
6 obligations to pay money, if prevented from fulfilling
7 such obligation by reason of an uncontrollable force. The
8 term "uncontrollable force" means unforeseeable causes,
9 other than Forced Outages, beyond the reasonable control
10 of and without the fault or negligence of the Party
11 claiming uncontrollable force, including but not limited
12 to, acts of God, labor disputes, sudden actions of the
13 elements, actions by any legislative, judicial or regula-
14 tory agency which conflict with the terms of this Agree-
15 ment, and actions by federal, state, municipal, or any
16 other government agency. Whichever Party is rendered
17 unable to fulfill any obligation by reasons of uncontrol-
18 lable forces shall give prompt written notice of such fact
19 to the other Party and shall exercise due diligence to
20 remove such inability with all reasonable dispatch.
21 Nothing in this Agreement shall require a Party to settle
22 any strike or labor dispute in which it is involved.

23 23. NON-WAIVER

24 None of the provisions of this Agreement shall be
25 considered waived by either Party except when such waiver
26 is given in writing. The failure of either Party to
27 insist in any one or more instances upon strict perfor-
28 mance of any of the provisions of this Agreement or to

1 take advantage of any or its rights hereunder shall not be
2 construed as a waiver of any such provisions or the
3 relinquishment of any such rights for the future, but the
4 same shall continue and remain in full force and effect.

5 24. SUCCESSORS & ASSIGNS

6 24.1 This Agreement shall be binding upon and
7 inure to the benefit of the respective successors and
8 assigns of the Parties.

9 24.2 Neither Party shall voluntarily assign its
10 rights nor delegate its duties under this Agreement, or
11 any part of such rights or duties, without the written
12 consent of the other Party, except in connection with the
13 sale or merger of a substantial portion of its properties.
14 Any such assignment or delegation made without such
15 written consent shall be null and void. Consent for
16 assignment will not be withheld unreasonably. Such
17 assignment shall include, unless otherwise specified
18 therein, all of Seller's rights to any refunds which might
19 become due under this Agreement.

20 25. EFFECT OF SECTION HEADINGS

21 Section headings appearing in this Agreement are
22 inserted for convenience only, and shall not be construed
23 as interpretations of text.

24 26. GOVERNING LAW

25 This Agreement shall be interpreted, governed, and
26 construed under the laws of the State of California as if
27 executed and to be performed wholly within the State of
28 California.

27. SEVERAL OBLIGATIONS

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Except where specifically stated in this Agreement to be otherwise, the duties, obligations and liabilities of the Parties are intended to be several and not joint or collective. Nothing contained in this Agreement shall ever be construed to create an association, trust, partnership, or joint venture or impose a trust or partnership duty, obligation or liability on or with regard to either Party. Each Party shall be individually and severally liable for its own obligations under this Agreement.

28. CONDITIONS

28.1 This Agreement, other than Section 28, and Sections 4.1, 4.2.1, 4.2.2, and 5.3, is contingent on SDG&E obtaining an order from the CPUC that (i) SDG&E's payments made to Seller under this Agreement are recoverable, through SDG&E's Energy Cost Adjustment Clause, subject to review of the reasonableness of SDG&E's performance under the Agreement, and (ii) this Agreement is reasonable and SDG&E's entering into this Agreement is prudent. SDG&E will use best efforts and Seller shall provide such reasonable assistance as SDG&E may request in order to expedite obtaining such approval. Both Parties shall evaluate whether the CPUC has approved this Agreement based upon the above criteria. To the extent that the CPUC imposes conditions in its decision which increase either Party's risk in any respect beyond that which would be present, in the reasonable judgement of such Party, had the CPUC merely made the order specified in (i) and (ii)

1 above, such Party may notify the other that the Agreement
2 has not been Approved by the CPUC.

3 Within ten (10) days of both Parties' receipt of the
4 CPUC decision, each Party shall notify the other in
5 writing of its determination that the decision (a) ap-
6 proves this Agreement, or (b) does not approve this
7 Agreement, based on the criteria above. If either Party
8 determines that the CPUC decision does not approve this
9 Agreement, the Parties shall meet forthwith to modify the
10 Agreement in a manner to preserve its economic integrity,
11 and resubmit it to the CPUC, unless the Parties deem it
12 unnecessary and provide written notice to each other
13 consistent with this Section 28.1.

14 28.2 Upon both Parties' providing notice to the other
15 that this Agreement has been approved by the CPUC, the
16 condition set forth in Section 28.1 shall be deemed
17 fulfilled.
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IN WITNESS WHEREOF, the Parties have caused Agreement to be executed in their respective names, in duplicate by their respective official representatives as of the day and year last written below.

[Handwritten Signature]
(Dated)

By

[Handwritten Signature]
Robert A. Keegan
Vice President - Développement
Bonneville Pacific Corporation

3/14/90
(Dated)

By

[Handwritten Signature]
Donald E. Felsingor
Vice President - Marketing
and Resource Development
San Diego Gas & Electric Company

EXHIBIT A

SITE LOCATION METES AND BOUNDS DESCRIPTION

A parcel of property located within the South One-Half of the South One-Half (S 1/2, S 1/2) of Section Twenty-Eight (28) and the North One-Half of the North One-Half (N 1/2, N 1/2) of Section Thirty-Three (33), Township Sixteen South (T16S), Range Twenty-Two East (R22E), San Bernardino Base and Meridian (SBBM), Yuma County, Arizona. Said parcel being more particularly described as follows:

Commencing at the Southwest Corner of the Northwest Quarter of the Northeast Quarter (NW 1/4, NE 1/4), of Section Thirty-Three (33); Thence N00 14'37"E a distance of 417.42 feet to a point, said point being the TRUE POINT OF BEGINNING; Thence N00 14'37"E a distance of 538.56 feet to a point; Thence S89 58'54"W a distance of 464.64 feet to a point; Thence N00 06'31"E a distance of 354.69 feet to a point; Thence S80 13'33"E a distance of 471.47 feet to a point; Thence S00 00'30"W a distance of 5.07 feet to a point; Thence S80 13'33"E a distance of 1038.46 feet to a point; Thence S00 07'26"W a distance of 562.89 feet to a point, said point being the beginning of a curve to the left with a radius of 60.00 feet, a central angle of 250 31'44", a chord bearing of S54 51'34"W and a chord length of 97.98 feet; Thence 262.35 feet along the arc of said curve to a point, said point being the beginning of a curve to the right with a radius of 30.00 feet and a central angle of 70 31'44"; Thence 36.93 feet along the arc of said curve to a point; Thence S00 07'26"W a distance of 652.11 feet to a point, said point being the beginning of a curve to the right with a radius of 170.00 feet and a central angle of 11 28'43"; Thence 34.06 feet along the arc of said curve to a point; Thence S11 36'06"W a distance of 60.31 feet to a point, said point being the beginning of a curve to the left with a radius of 230.00 feet and a central angle of 11 28'43"; Thence 46.07 feet along the arc of said curve to a point; Thence S00 07'26"W a distance of 35.50 feet to a point, said point being the beginning of a curve to the right with a radius of 25.00 feet and a central angle of 89 51'28"; Thence 39.21 feet along the arc of said curve to a point; Thence S89 58'54"W a distance of 711.95 feet to a point; Thence N00 14'37"E a distance of 367.42 feet to a point; Thence S89 58'54"W a distance of 208.71 feet to a point, said point being the TRUE POINT OF BEGINNING.

EXHIBIT B

TIME PERIODS

The Time Periods currently in effect for San Diego Gas & Electric are defined in accordance with the following table:

	<u>Summer</u> May 1 - September 30	<u>Winter</u> <u>All Other</u>
On-Peak	11 a.m. - 6 p.m. Weekdays	5 p.m. - 8 p.m. Weekdays
Semi-Peak	6 a.m. - 11 a.m. Weekdays 6 p.m. - 10 p.m. Weekdays	6 a.m. - 5 p.m. Weekdays 8 p.m. - 10 p.m. Weekdays
Off-Peak	10 p.m. - Midnight Weekdays 5 a.m. - 6 a.m. Weekdays 5 a.m. - Midnight Weekends 5 a.m. - Midnight Holidays	10 p.m. - Midnight Weekdays 5 a.m. - 6 a.m. Weekdays 5 a.m. - Midnight Weekends 5 a.m. - Midnight Holidays
Super <u>Off-Peak</u>	Midnight - 5 a.m. All days	Midnight - 5 a.m. All days

All time periods listed are clock time.

The holidays specified are: New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day and Christmas Day as designated by California Law.

The time period definitions may be revised to comply with CPUC orders regarding billing hours.

The energy payments currently are calculated and published four times a year in accordance with the following table:

<u>Effective Date</u>	<u>Applicable Period</u>
February 1	February 1 - April 30
May 1	May 1 - July 31
August 1	August 1 - October 31
November 1	November 1 - January 31

DATE 09-Mar-89

A.90-03-050

TABLE 1

 SAN DIEGO GAS & ELECTRIC COMPANY
 CAPACITY PAYMENT SCHEDULE
 FOR
 FIRM CAPACITY QUALIFYING FACILITIES
 182 MW BLOCK OF SO-2 QFS
 DOLLARS/KW-YR

SCHEDULED FIRM
 CAPACITY OPERATING

DURATION OF CONTRACT (YEARS)

DATE	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
1988	65	37	28	32	35	41	46	50	54	57	60	62	64	67	69
1989	5	7	18	25	35	42	47	51	55	59	61	64	67	69	71
1990	9	25	33	44	52	57	62	65	69	72	74	77	79	81	83
1991	43	48	59	66	71	74	78	81	83	86	88	90	92	95	96
1992	53	69	75	80	83	86	89	91	94	96	98	100	103	105	106
1993	86	88	91	93	95	98	100	102	104	106	108	111	113	115	116

SCHEDULED FIRM
 CAPACITY OPERATING

DURATION OF CONTRACT (YEARS)

DATE	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30
1988	70	72	74	76	77	79	80	81	83	84	85	86	87	88	89
1989	73	75	77	79	80	82	83	85	86	87	89	90	91	92	93
1990	85	87	89	91	92	94	95	97	98	99	101	102	103	104	105
1991	98	100	102	104	105	107	108	110	111	112	114	115	116	117	118
1992	108	110	112	114	115	117	118	120	121	123	124	125	127	128	129
1993	118	120	122	124	125	127	129	130	132	133	135	136	137	138	140

ATTACHMENT 2

QUARTERLY STATUS REPORT

QFID No. _____
 Name of Seller _____
 Date _____

Directions: A complete and accurate response is required each time this report is filed with SDG&E. Responses of "not applicable" or "N/A" must be supported by a detailed factual explanation for clarification purposes. If Forecast Completion Date has not been established, so state and explain.

<u>Milestone</u>	<u>Forecast (or Actual) Completion Date (1)</u>	<u>Check if Completed</u>	<u>Check if Schedule Changed from Previous Report</u>
Site Control			
(a) Proof provided to SDG&E	_____	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
(b) Current site control status:			
_____ Project has site control			
_____ Project does not have site control			
Critical Path Permit (2)			
(a) Permit application filed	_____	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
(b) Permit application accepted	_____	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
(c) Permit issued	_____	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Fuel Supply Status: (e.g., contract signed, resource evaluation studies complete, etc.)			

Financing Secured			
(a) Construction (short-term)	_____	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
(b) Permanent (long-term)	_____	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

<u>Milestone</u>	<u>Forecast (or Actual) Completion Date (1)</u>	<u>Check if Completed</u>	<u>Check if Schedule Changed from Previous Report</u>
Final Method of Service Study Requested	_____	<input type="checkbox"/>	<input type="checkbox"/>
Equipment Contract Award			
(a) Generator	_____	<input type="checkbox"/>	<input type="checkbox"/>
(b) Turbine/prime mover	_____	<input type="checkbox"/>	<input type="checkbox"/>
Equipment Ordered			
(a) Generator	_____	<input type="checkbox"/>	<input type="checkbox"/>
(b) Turbine/prime mover	_____	<input type="checkbox"/>	<input type="checkbox"/>
Engineering/Design			
(a) Preliminary Engineering	_____ & Complete		
(b) Final Engineering	_____ & Complete		
Construction Contract Awarded	_____	<input type="checkbox"/>	<input type="checkbox"/>
Interconnection Construction			
(a) Seller construction started	_____	<input type="checkbox"/>	<input type="checkbox"/>
(b) SDG&E construction requested	_____	<input type="checkbox"/>	<input type="checkbox"/>
Project Construction			
(a) Site grading started	_____	<input type="checkbox"/>	<input type="checkbox"/>
(b) Major foundations started	_____	<input type="checkbox"/>	<input type="checkbox"/>
(c) Turbine/prime mover on site	_____	<input type="checkbox"/>	<input type="checkbox"/>
(d) Generator on site	_____	<input type="checkbox"/>	<input type="checkbox"/>
(e) Construction status	_____ & Complete		

<u>Milestone</u>	<u>Forecast (or Actual) Completion Date (1)</u>	<u>Check if Completed</u>	<u>Check if Schedule Changed from Previous Report</u>
Initial Parallel operation	_____	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Start-up testing begun	_____	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
(a) Testing status	_____ % Complete		
Firm (or As-Available) Capacity Availability Date	_____	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Describe progress of project development since the last submitted Quarterly Status Report (attach additional pages, if needed):

Explain any changes to the project development schedule since last submitted Quarterly Status Report (attach additional pages, if needed):

I certify that the foregoing information is true and complete.

Date _____
Signature _____
Name _____
Title _____

Contact Person _____
Telephone Number _____

Notes:

- (1) Should reflect project's current schedule for Milestones not yet completed or actual completion date for Milestone completed.
- (2) The Critical Path Permits for all non-thermal projects and thermal projects exempt from CEC Site Certification are (i) for Geothermal, County Conditional Use Permit or Special Zone Permit; (ii) for Biomass, County Conditional Use Permit or Special Zone Permit, or Air Quality Permit; (iii) for Wind, County Conditional Use Permit or Special Zone Permit; (iv) for Cogeneration, Air Quality Permit; (v) for Hydro, FERC License or Exemption. California Energy Commission Site Certification is required for non-exempt thermal projects over 50 MW.

EXHIBIT E

REDUCTION AND TERMINATION

PAYMENT EXAMPLE

These examples are for demonstration purposes only and should not be construed as a projection of SDG&E Actual Termination Payments.

Example 1:

Termination with 36 months written notice given 12 years after the Operation Date for termination 15 years after the Operation Date or on December 31, 1999.

Assumptions for this example:

Contract Capacity - 10 megawatts (10,000 kilowatts)

Contract Term - 25 years

Operation Date - January 1, 1985

Contract Capacity Price - \$115 per kilowatt

per year

Monthly Interest Rate - 1 $\frac{1}{2}$ per month

(assumed to be constant)

(a) Total Capacity Payment made = $\$115/\text{kW-yr} \times 10,000$
kw

= $\$1,150,000$ per year

(b) Total Capacity Payments which would have been made for a 15
year Contract Term = $\$100/\text{kW-yr} \times 10,000$ kw
= $\$1,000,000$ per year.

(c) The difference between (a) and (b) of annual overpayments =
 $\$1,150,000 - \$1,000,000/\text{yr} = \$150,000/\text{yr}$

Termination Payment A is then the value at the end of the 12th
year of the sum of the annual overpayments multiplied by a one
(1%) percent per month interest charge.

Termination Payment A:

$\$150,000/\text{yr} \times 1 \text{ yr}/12 \text{ months} \times (\text{Compound Amount Factor at } 1\% \text{ per}$
month for 12 years) = $\$3,988,269$.

SDG&E would then pay QF $\$100/\text{kW-yr}$ for the remaining 36 months
of revised contract term.

EXHIBIT E

Example 2:

Termination without prescribed notice 12 years after the Operation Date or on December 31, 1997.

Assumption for this Example:

Contract Capacity	- 10 megawatts (10,000 kilowatts)
Contract Term	- 25 years
Operation Date	- January 1, 1985
Contract Capacity Price	- \$115 per kilowatt per year
Monthly Interest Rate	- 1½ per month (Assumed to be constant)
Length of Notice Given	- 3 months

Termination Payment B is equal in the sum of Termination Payment A (using the same methodology as in Example 1 above), and a one-time payment, as follows:

Termination Payment A

- (a) Total Capacity Payment made = \$115/kW-yr x 10,000 kw
= \$1,150,000/yr
- (b) Total Capacity Payment which would have been made using the same Capacity Payment Schedule in effect at the time of execution for a 12 year contract term
= \$93/kW-yr x 10,000 kw = \$930,000/yr
- (c) The difference between (a) and (b), of overpayment
\$1,150,000 - \$930,000 = \$220,000/yr

Termination Payment A is then the value at the end of the 12th year of the sum of the annual overpayments multiplied by one (1½) percent per month interest charge.

Termination Payment A:

$$= \$220,000/\text{year} \times 1 \text{ year}/12 \text{ months} \times (\text{Compound Amount Factor at } 1\frac{1}{2} \text{ month for 12 years}) = \$5,849,460$$

One Time Payment

The payment can be formulated as follows:

$$\begin{aligned} &= \frac{(\text{Amount of Firm Capacity Terminated}) \times (\text{Current Capacity Price} - \text{Firm Capacity Price}) \times (\text{Amount of Notice Prescribed} - \text{Amount of Notice Given})}{12 \text{ months/year}} \\ &= (10,000 \text{ kW}) (200 \text{ \$/kW-yr} - 115 \text{ \$/kW-yr}) \frac{(36-3 \text{ mos})}{(12 \text{ mos/yr})} \\ &= \$2,337,500 \end{aligned}$$

EXHIBIT E

Termination Payment B

$$\begin{aligned} \text{Termination Payment B} &= \text{Termination Payment A} + \text{One} \\ &\quad \text{Time Payment} \\ &= \$5,849,460 + \$2,337,500 \\ &= \$8,186,960 \end{aligned}$$

(END OF ATTACHMENT 2)