



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Power Supply Contract Between the City of Lodi and Northern California Power Agency
MEETING DATE: November 6, 1996
SUBMITTED BY: Electric Utility Director

RECOMMENDED ACTION: That the City Council adopt the attached resolution authorizing the Electric Utility Director to approve the economic development Power Supply Contract (Contract) between the City of Lodi (City) and the Northern California Power Agency (Customer).

BACKGROUND: In return for the Customer's: 1) providing new employment and, 2) improving the City's industrial area by renovating and moving into one of the larger manufacturing facilities which is currently under-utilized, the Electric Utility Department has negotiated the proposed Contract with the Customer. While the Contract provides a significant discount from standard published rates, power costs will be covered and other ratepayers will still receive a contribution to the margin of electric system costs.

The Contract term will be from the document signing date by both parties until December 31, 2001. The Contract term and other elements were chosen to provide rate stability and balanced economic risk for both parties. NCPA will be the City's first customer to be served at 230,000 volts.

FUNDING: Not applicable.

Alan N. Vallow
Electric Utility Director

Prepared by John Stone, Manager, Rates and Resources

ANV/JLS/pn

Attachment

cc: City Attorney

APPROVED

H. Dixon Flynn
CITY MANAGER

RATE AGREEMENT
BETWEEN
NORTHERN CALIFORNIA POWER AGENCY
AND
THE CITY OF LODI

This Agreement is made by and between NORTHERN CALIFORNIA POWER AGENCY ("NCPA") and the CITY OF LODI ("City"), collectively called "the Parties" and individually as "Party". This Agreement supersedes the City's mandatory Rate Schedule assignment for this Customer.

WITNESSETH:

- WHEREAS,** City operates an electric utility system supplying electric power to City customers; and
- WHEREAS,** Customer is a Joint Powers Agency of the State of California operating a new power plant which is in the City; and
- WHEREAS,** Customer has constructed a new facility; and
- WHEREAS,** Customer has brought new employment to the City; and
- WHEREAS,** City desires to supply the Customer's total load and provide Customer with a contract rate; and
- WHEREAS,** City desires to provide the Customer an economic incentive in the form of a discounted electric rate in return for creating a new business with new electric load in the City.

NOW, THEREFORE, the Parties hereto agree as follows:

- Section 1. Definitions. Whenever used in this Agreement, in either the singular or plural number, the following terms shall have the following respective meanings:
- 1.1 "Agreement" is this contract.
 - 1.2 "City" is the City of Lodi, a California Municipal Corporation.
 - 1.3 "NCPA" is the Northern California Power Agency.
 - 1.4 "Facility" is the Customer's facility located at 12745 N. Thornton Road, Lodi, California, including all points of receipt of electric service.

- 1.5 "Account" is the Customer's Account Number initially assigned to Customer's Facility or its successor Customer Account Number(s).
- 1.6 "Parties" are collectively Customer and City.
- 1.7 "kw" is a kilowatt, a demand charge billing unit.
- 1.8 "kwh" is a kilowatt-hour, an energy charge billing unit.
- 1.9 "billing cycle" is the monthly bill.
- 1.10 "Force Majeure", as used herein, means unforeseeable causes beyond the reasonable control of and without the fault or negligence of the Party claiming force majeure. Such an occurrence may include, but is not limited to, acts of God, labor disputes, sudden actions of the elements, actions or inactions by federal, state and municipal agencies, and actions or inactions of legislative, judicial, or regulatory agencies.
- 1.11 "Energy Multiplier" is the sum of 1.000 plus the change in the Consumer Price Index (CPI) as published by the Bureau of Labor Statistics for the previous calendar year. This Energy Multiplier will be in effect for the following calendar year for bills rendered on and after February of the applicable year. Succeeding yearly Energy Multipliers will be the product of the previous Energy Multiplier and the sum of 1.000 plus the change in the Consumer Price Index for the previous calendar year. In no case will the Energy Multiplier be less than 1.000.

Section 2. Rate Application.

The billing cycle charge for the Customer shall be as follows:

December 1, 1996 through December 31, 1999:

Customer Charge:	\$125.00
Demand Charge:	\$ 0.00 per kw
Energy Charge:	\$ 0.05000 per kwh less the Economic Development

Credit

Economic Development Credit: \$ 0.0002 per kwh per Full Time Equivalent (FTE) employee up to a maximum of \$0.01000 per kwh. Initial and subsequent FTE totals may be updated at six-month intervals. The Electric Utility Department may update the FTE total at more frequent intervals when in its sole judgment an update is appropriate.

January 1, 2000 through December 31, 2001:

Customer Charge: \$125.00
 Demand Charge: \$ 0.00 per kw
 Energy Charge: (\$ 0.05000 per kwh less the Economic Development Credit) times the Energy Multiplier

Economic Development Credit: \$ 0.0002 per kwh per Full Time Equivalent (FTE) employee up to a maximum of \$ 0.01000 per kwh. Initial and subsequent FTE totals may be updated at six-month intervals. The Electric Utility Department may update the FTE total at more frequent intervals when in its sole judgment an update is appropriate.

Energy Multiplier: as defined in Section 1.11 above

Section 3. Term of Agreement.

3.1 This Agreement shall be binding for bills rendered on or after December 1, 1996, and shall remain in effect subject to Paragraphs 3.2 and 3.3 below, for bills rendered through December 31, 2001.

3.2 If either party fails to perform any of the provisions of this Agreement, the other party may, by written notice given within thirty days of such failure to perform, terminate this

agreement. Customer may appeal such termination in writing to the Electric Utility Director. This is in addition to any other legal recourse Customer may have.

3.3 This Agreement cannot be terminated without mutual consent of the Parties.

3.4 Parties may mutually extend this Agreement from year to year beyond the original term of this Agreement.

Section 4. Force Majeure.

4.1 If either Party because of Force Majeure is rendered wholly or partly unable to perform its obligations under this Agreement, that Party shall be excused from whatever performance is affected by the Force Majeure to the extent so affected, provided that: The non-performing Party, within two weeks after the occurrence of the Force Majeure, shall give the other party a written report describing the particulars of the occurrence. The suspension of performance is of no greater scope and of no longer duration than is required by the Force Majeure.

4.2 No obligations of either Party which arose before the occurrence causing the suspension of performance are excused as a result of the occurrence.

4.3 The non-performing Party uses its best efforts to remedy its inability to perform. This subparagraph shall not require the settlement of any strike, walkout, lockout or other labor dispute on terms which, in the sole judgement of the Party involved in the dispute, are contrary to its interest. It is understood and agreed that the settlement of strikes, walkouts, lockouts or other labor disputes shall be entirely within the discretion of the Party having the difficulty.

Section 5. Assignments.

5.1 Neither Party shall voluntarily assign its rights nor delegate its duties under this Agreement without the written consent of the other Party.

Section 6. Amendments.

6.1 This Agreement may be amended only by written instrument executed by the Parties or their successors.

Section 7. Severability.

7.1 In the event that any of the terms, covenants, or conditions of this Agreement shall be held invalid, the Parties intend that all other terms, covenants, and conditions and their application shall not be affected thereby, but shall remain in force and effect unless a court holds that such provisions are not severable from all other provisions of this Agreement.

Section 8. Governing Law.

8.1 This Agreement shall be interpreted, governed by, and construed under the laws of the State of California.

Section 9. Counterparts.

9.1 This Agreement may be executed in counterparts, all or any of which shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument.

Section 10. Headings.

10.1 The headings to the articles in this Agreement are intended for convenience only and not for the purpose of interpreting the provisions of this Agreement.

Section 11. Notices.

11.1 Any notice, demand or request required or permitted to be given by either Party to the other and any instrument required or permitted to be tendered or delivered by either Party to the other may be so given, tendered or delivered, as the case may be, by depositing the same in any United States Post Office with postage prepaid, for transmission by certified or registered mail, addressed to the Party, or personally delivered to the Party, at the

IN WITNESS THEREOF, the Parties have caused this Agreement to be executed by their duly authorized officers and their seal to be affixed, as of the day and year herein written.

CITY OF LODI

By _____
Alan N. Vallow
Electric Utility Director

(Date) _____

Approved as to form

Attest: _____
City Clerk
Jennifer M. Perrin

By *Randall A. Hays*
Randall A. Hays
City Attorney

NORTHERN CALIFORNIA POWER AGENCY

By _____

(Date) _____

RESOLUTION NO. 96-166

A RESOLUTION OF THE LODI CITY COUNCIL
APPROVING THE RATE AGREEMENT BETWEEN NORTHERN
CALIFORNIA POWER AGENCY (NCPA) AND CITY OF LODI

BE IT RESOLVED, that the Lodi City Council hereby authorizes the Electric Utility Director to execute Rate Agreement between the Northern California Power Agency (NCPA) and the City of Lodi on behalf of the City.

Dated: November 6, 1996

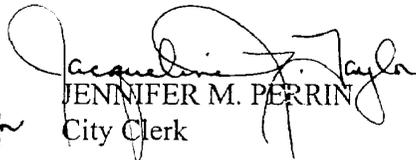
I hereby certify that Resolution No. 96-166 was passed and adopted by the Lodi City Council in a regular meeting held November 6, 1996 by the following vote:

AYES: Council Members - Davenport, Mann, Sieglock
and Warner (Mayor)

NOES: Council Members - None

ABSENT: Council Members - None

ABSTAIN: Council Members - Pennino


JENNIFER M. PERRIN
City Clerk