



**CITY OF LODI  
COUNCIL COMMUNICATION**

**AGENDA TITLE:** Adopt Resolution Approving the Northern California Power Agency Legislative and Regulatory Affairs Program Agreement, and Authorizing the City Manager to Execute Said Agreement

**MEETING DATE:** April 18, 2012

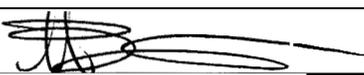
**PREPARED BY:** Electric Utility Director

**RECOMMENDED ACTION:** Adopt a resolution approving the Northern California Power Agency Legislative and Regulatory Affairs Program Agreement, and authorizing the City Manager to execute said agreement.

**BACKGROUND INFORMATION:** Since the inception of the Northern California Power Agency (NCPA), the legislative and regulatory activities of the agency have been fundamental for the purpose of managing substantial public investment, and protecting the public power business model through preservation of local control.

The attached Legislative and Regulatory Affairs Program Agreement (L&RPA) represents an important step toward ensuring clear and consistent agreements for programs throughout NCPA. While many important agency-wide governance issues have been addressed during previous membership deliberations, the structure of the L&R program area has not yet been formalized in the same way. This agreement provides this needed programmatic structure by:

- Ensuring that all NCPA members, because of their shared interest in protecting NCPA assets and the public power business model, participate in the L&R Program as outlined under the terms of the agreement with termination of the L&RPA being concurrent with membership in NCPA.
- Establishing three program areas: 1) General Legislative and Regulatory Affairs Program; 2) Specific Legislative and Regulatory Affairs Programs, and; 3) Member Services Program.
  - All NCPA members support the General Program which includes Legislative, Regulatory and Judicial Action.
  - The Specific Programs allows for the costs of project-specific Public Benefits and Judicial Action activities to be paid for by project participants only.
  - The Member Services program ensures all members support the costs of one staff person for this program, and provides flexibility to initiate public benefits projects paid for by the beneficiaries of the project.
- Clarifying that NCPA Pool-specific regulatory efforts currently governed by separate cost allocation methodologies are unaffected by the agreement.
- Requiring NCPA Commission approval of new L&R Judicial Action initiatives, and ensuring that NCPA members can opt out of these initiatives as they are formed, or withdraw during the

APPROVED:   
 Konradt Bartlam, City Manager

proceeding with appropriate notice and fulfillment of contractual financial obligations related to the initiative that were entered into prior to withdrawal.

- Providing the NCPA Commission with discretion to allow for exemptions or special terms under the agreement for new NCPA members due to unique, special, or legal circumstances.

Utility staff respectfully recommends approval of the NCPA Legislative & Regulatory Program Agreement.

**FISCAL IMPACT:** Not applicable.

**FUNDING:** Not applicable.

A handwritten signature in black ink, appearing to read "E.A. Kirkley for", written over a horizontal line.

Elizabeth A. Kirkley  
Electric Utility Director

**PREPARED BY:** Rob Lechner, Manager, Customer Service & Programs

EK/RSL/1st



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# Commission Staff Report

AGENDA ITEM NO.: 24

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**Date:** March 15, 2012  
**To:** NCPA Commission  
**Subject:** Commission Approval of NCPA Legislative and Regulatory Affairs Program Agreement

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## Background

Since the inception of NCPA, the legislative and regulatory activities of this agency have been fundamental to our purpose of managing substantial public investment, and protecting the public power business model through preservation of local control. The attached Legislative and Regulatory Affairs Program Agreement recognizes the integral role that this program plays today in protecting more than \$1 billion in power resource and infrastructure investments against potentially onerous legislative and regulatory measures that could undermine the value of these projects and lead to increased ratepayer costs.

The NCPA Legislative and Regulatory Affairs Program Agreement represents an important step toward ensuring clear and consistent agreements for programs throughout the agency. While many important agency-wide governance issues have been addressed during previous membership deliberations, the structure of the NCPA Legislative and Regulatory Affairs program area has not yet been formalized in the same way. This agreement provides this needed programmatic structure by:

- Ensuring that all NCPA members, because of their shared interest in protecting agency assets and the public power business model, participate in the Legislative and Regulatory Affairs Program as outlined under the terms of this agreement. Termination of this agreement is concurrent with membership in the agency.
- Establishing three program areas: 1) the General Legislative and Regulatory Affairs Program; 2) the Specific Legislative and Regulatory Affairs Program, and; 3) the Member Services Program. All members support the General Program which includes Legislative, Regulatory and Judicial Action. The Specific Program allows for the costs of project-specific Public Benefits and Judicial Action activities to be paid for by project participants only. The Member Services Program ensures all members support the costs of one staff person for this program, and provides flexibility to initiate public benefits projects paid for by the beneficiaries of the project.
- Clarifying that NCPA Pool-specific regulatory efforts currently governed by separate cost allocation methodologies are unaffected by this agreement.

- Requiring Commission approval of new Legislative & Regulatory Affairs Judicial Action initiatives, and ensuring that NCPA members can opt out of these initiatives as they are formed, or withdraw during the proceeding with appropriate notice and fulfillment of contractual financial obligations related to the initiative that were entered into prior to withdrawal.
- Providing the Commission with discretion to allow for exemptions or special terms under this agreement for new NCPA members due to unique, special, or legal circumstances.

The provisions of this agreement are the outgrowth of extensive member discussions and review. The agreement provides much-needed certainty for NCPA members by providing stability for the program and protecting against unanticipated cost-shifts. Importantly, the agreement also helps ensure NCPA member flexibility by establishing a “beneficiaries pay” structure for public benefits projects, and providing for increased local discretion related to participation in judicial action initiatives. It will also prevent undue staff time (and opportunity costs) and legal fees expended as a result of disputes that can arise in the absence of agreements that provide a shared understanding of the roles and obligations of both the agency and its members.

#### Fiscal Impact

This agreement will not affect the current cost allocation for the Legislative and Regulatory Affairs program as approved by the NCPA Commission in December, 2010 (please see attached Schedule 1). The agreement ensures that only those members participating in public benefits projects and judicial action initiatives cover the associated costs.

#### Environmental Analysis

This activity would not result in a direct or reasonably foreseeable indirect change in the physical environment and is therefore not a “project” for purposes of Section 21065 the California Environmental Quality Act. No environmental review is necessary.

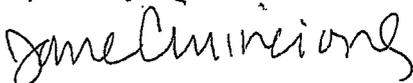
#### Recommendation

It is the recommendation of the NCPA staff that the Commission approve the attached NCPA Legislative and Regulatory Affairs Program Agreement.

Respectfully submitted,

  
JAMES H. POPE  
General Manager

Prepared by:

  
JANE CIRRINCIONE  
Assistant General Manager,  
Legislative & Regulatory Affairs

#### Attachments (3)

- Resolution 12-24
- Legislative and Regulatory Affairs Program Agreement
- NCPA Commission Approved Allocation Methodology for the Legislative & Regulatory Program

**RESOLUTION 12-24**

**RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY  
APPROVAL OF LEGISLATIVE AND REGULATORY AFFAIRS PROGRAM  
AGREEMENT**

**(Staff Report #133:12)**

WHEREAS, since the inception of NCPA, the legislative and regulatory activities of the agency have been fundamental to our purpose of managing substantial public investment and resources, and protecting the public power business model through the preservation of local control; and

WHEREAS, following extensive NCPA member review and consultation, a Legislative and Regulatory Affairs Program agreement has been developed that recognizes the importance of protecting the agency's assets, resources, and our member systems, and ensures all NCPA members participate in supporting the vital Legislative and Regulatory Affairs functions of this agency; and

WHEREAS, this agreement will provide stability and prevent against unanticipated cost-shifts within the Legislative and Regulatory Affairs Program; and

WHEREAS, this agreement will provide NCPA member flexibility by establishing a "beneficiaries pay" structure for public benefits projects and providing for local discretion over participation in judicial action initiatives; and

NOW, THEREFORE BE IT RESOLVED, that the Commission of the Northern California Power Agency adopts the Legislative and Regulatory Affairs Program Agreement.

PASSED, ADOPTED and APPROVED this \_\_\_\_ day of \_\_\_\_\_ 2012, by the following vote on roll call:

	<u>Vote</u>	<u>Abstained</u>	<u>Absent</u>
Alameda	_____	_____	_____
BART	_____	_____	_____
Biggs	_____	_____	_____
Gridley	_____	_____	_____
Healdsburg	_____	_____	_____
Lodi	_____	_____	_____
Lompoc	_____	_____	_____
Palo Alto	_____	_____	_____
Port of Oakland	_____	_____	_____
Redding	_____	_____	_____
Roseville	_____	_____	_____
Santa Clara	_____	_____	_____
Truckee Donner	_____	_____	_____
Ukiah	_____	_____	_____
Plumas-Sierra	_____	_____	_____

\_\_\_\_\_  
GARY W. PLASS  
CHAIRMAN

ATTEST:

\_\_\_\_\_  
DENISE DOW  
ASSISTANT SECRETARY

## NORTHERN CALIFORNIA POWER AGENCY

### LEGISLATIVE AND REGULATORY AFFAIRS PROGRAM AGREEMENT

This LEGISLATIVE AND REGULATORY AFFAIRS PROGRAM AGREEMENT ("this Agreement") is made as of July 1, 2012, by and among the Northern California Power Agency, a joint powers agency of the State of California ("NCPA") and its Members. NCPA and the Members are referred to herein individually as a "**Party**" and collectively as the "**Parties**".

#### RECITALS

A. NCPA maintains a Legislative and Regulatory Affairs Program by **which** NCPA provides its Members with: (1) representation and advocacy in areas of common interest to all, or nearly **all** Members at the regional, state and federal level, including, but not limited to, representation **and** advocacy before the California Legislature, **U.S.** Congress/ the CAISO, state and federal environmental and energy agencies, state and federal commissions and other regulatory bodies; (2) support **and** expertise for Members involved in particular NCPA Projects and Programs; and (3) programmatic support for implementation, reporting, and compliance with various state and federal programs and requirements.

B. The Legislative and Regulatory Affairs Program consists of three Program Areas: (1) the General L&R Program; (2) the Specific L&R Program; and (3) the Member Services Program. The General L&R Program, Specific L&R Program and Member Services Program are together referred to as the "L&R Program."

C. An agreement is necessary to formalize the contractual relationships between NCPA and Members with regard to the role, scope,

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governance, and the equitable allocation of costs associated with the L&R Program. Each Member agrees to pay its equitable share of costs associated with the L&R Program in accordance with its L&R Program Cost Allocation.

D. The L&R Program benefits all Members. It is an integral portion of NCPA's core function and is necessary in order to protect the investments NCPA and its Members have made in their public power assets. It is therefore mandatory for all Members of NCPA to become a signatory to this Agreement, except in such limited circumstances where the Commission exempts a Member from this requirement in accordance with Section 6.2.1 of this Agreement.

E. This Agreement includes provisions for the L&R Judicial Action Program, but does not affect or modify the Judicial Action program administered by NCPA's Power Management Division, nor affect the cost allocations for the Power Management Judicial Action Program.

F. Each Member agrees to pay its equitable share of costs associated with the L&R Program, as determined by the L&R Program Cost Allocation, which accounts for the cost allocation principles set forth in this Agreement.

G. The L&R Program shall operate in accordance with the guidance set forth in the Annual L&R Program Strategic Plan and the Annual Budget. All L&R Program functions are overseen by the NCPA Legislative and Regulatory Affairs Committee ("L&R Committee") and the NCPA Commission.

NOW THEREFORE, the Parties agree as follows:

**Section 1. Definitions.**

1.1 Definitions. Whenever used in this Agreement (including the Recitals hereto), the following terms shall have the following respective meanings:

1.1.1 "Agreement" means this Legislative and Regulatory Affairs Program Agreement, as the same may be amended from

time to time in accordance with the terms and conditions hereof.

- 1.1.2 "All Resources Bill" means the single, combined monthly bill from NCPA to a Member with respect to all NCPA programs and projects.
- 1.1.3 "Annual Budget" means the NCPA budget for the ensuing Fiscal Year adopted by the Commission, as it may be amended from time to time.
- 1.1.4 "Annual L&R Program Strategic Plan" means the strategic plan for the L&R Program adopted by the L&R Committee and the Commission, as it may be amended from time to time.
- 1.1.5 "Associate Member" means an associate member of NCPA.
- 1.1.6 "Base Resource Share" means an individual Member's Base Resource Share from Western.
- 1.1.7 "Bureau" means the U.S. Bureau of Reclamation.
- 1.1.8 "Business Day" means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday. A Business Day shall open at 8:00 a.m. and close at 5:00 p.m., Pacific Time.
- 1.1.9 "CAISO" means the California Independent System Operator Corporation, or any successor entity.
- 1.1.10 "California Refund Proceeding" means filings and proceedings, whether regulatory or judicial, in connection with the California energy crisis of 2000-2001.
- 1.1.11 "CARB" means the California Air Resources Board.
- 1.1.12 "CEC" means the California Energy Commission.
- 1.1.13 "Claims" has the meaning set forth in Section 10.2.

- 1.1.14 "Commission" means the NCPA Commission.
- 1.1.15 "Constitutive Documents" means, with respect to NCPA, the Joint Exercise of Powers Act (Cal. Govt. Code § 6500, *et seq.*), the Joint Powers Agreement, and the NCPA Rules of Procedure, and such resolutions of general applicability and governance as may be adopted by the Commission; and, with respect to each Member, the California Government Code and other statutory provisions applicable to **such** Member, any applicable agreements, charters, contracts or other documents concerning the formation, operation or decision making of such Member, including, if applicable, its City Charter, and any codes, ordinances, bylaws, and resolutions adopted by such Member's governing body.
- 1.1.16 "CPUC" means the California Public Utilities Commission.
- 1.1.17 "Effective Date" means the later of (i) the date set forth in the preamble of this Agreement; or (ii) the date this Agreement is executed by **all** Members.
- 1.1.18 "FERC" means the Federal Energy Regulatory Commission.
- 1.1.19 "Fiscal Year" means the NCPA fiscal year; currently the twelve month period beginning July 1 and ending on the next following June 30.
- 1.1.20 "General Manager" means the General Manager of NCPA.
- 1.1.21 "General L&R Program" means the (1) Legislative Representation, (2) Regulatory Representation, (3) Western Representation; and (4) Judicial Action Program areas as set forth in Section 3.

- 1.1.22 "Joint Powers Agreement" means that certain Amended and Restated Northern California Power Agency Joint Powers Agreement, dated as of January 1, 2008, establishing NCPA, as the same may be amended from time to time.
- 1.1.23 "Judicial Action Program" has the meaning set forth in Section 3.2.3.
- 1.1.24 "L&R" means legislative and regulatory affairs.
- 1.1.25 "L&R Committee" means the NCPA Legislative and Regulatory Committee, as established by the NCPA Rules of Procedure.
- 1.1.26 "L&R Program" has the meaning set forth in Recital B.
- 1.1.27 "L&R Program Cost Allocation" means the cost allocation methodology approved by the NCPA Commission on December 2, 2010, as set forth in Schedule 1.00, as amended from time to time.
- 1.1.28 "L&R Program Schedule" means the procedures, protocols and guidelines, appended to and part of this Agreement, which are subject to change or amendment from time to time by the Commission, as set forth in Section 10 of this Agreement.
- 1.1.29 "Legislative Program" has the meaning set forth in Section 3.1.1.
- 1.1.30 "Member" means any Member of NCPA or Associate Member of NCPA.
- 1.1.31 "Member Services Program" has the meaning set forth in Section 5.
- 1.1.32 "NCPA" has the meaning set forth in the preamble hereto.

- 1.1.33 "NCPA Rules of Procedure" means the Rules of Procedure for the Commission of the Northern California Power Agency, sometimes referred to as the NCPA By-laws, as amended from time to time.
- 1.1.34 "NERC" means the North American Electric Reliability Corporation.
- 1.1.35 "Party" or "Parties" has the meaning set forth in the preamble hereto; provided that "third party" or "third parties" are entities that are not a Party to this Agreement.
- 1.1.36 "PG&E" means Pacific Gas and Electric Company.
- 1.1.37 "Pooling Agreement" means that certain Amended and Restated Pooling Agreement dated as of October 29, 2008, as the same may be amended from time to time.
- 1.1.38 "Power Management Cost Allocation Methodology" means the methodology adopted by the Commission from time to time to allocate power management costs. As of the Effective Date, such methodology is based upon a consultant study referred to by the Parties as the "Nexant Study."
- 1.1.39 "Regulatory Program" has the meaning set forth in Section 3.1.2.
- 1.1.40 "Specific L&R Program" means activities or initiatives undertaken relative to a specific NCPA Project, NCPA Pooling Agreement matter, or other NCPA agreement as set forth in Section 4.
- 1.1.41 "Term" has the meaning set forth in Section 12.
- 1.1.42 "Utility Director" means the most senior Member employee with day-to-day authority to direct, manage and control

operation of Member's utility, or if the Member does not have a utility, the most senior Member employee with authority to direct, manage and control acquisition and use of electric power on behalf of that Participant.

1.1.43 "WECC" means the Western Electricity Coordinating Council.

1.1.44 "Western" means the Western Area Power Administration.

1.1.45 "Western Program" has the meaning set forth in Section 3.1.3.

1.2 Rules of Interpretation. As used in this Agreement (including the Recitals hereto), unless in any such case the context requires otherwise: the terms "herein," "hereto," "herewith" and "hereof" are references to this Agreement taken as a whole and not to any particular provision; the term "include," "includes" or "including" shall mean "including, for example and without limitation;" and references to a "Section," "subsection," "clause," or "Exhibit" shall mean a Section, subsection, clause or Exhibit of this Agreement, as the case may be. All references to a given agreement, instrument or other document shall be a reference to that agreement, instrument or other document as modified, amended, supplemented and restated through the date as of which such reference is made, and reference to a law, regulation or ordinance includes any amendment or modification thereof. A reference to a "person" includes any individual, partnership, firm, company, corporation, joint venture, trust, association, organization or other entity, in each case whether or not having a separate legal personality and includes its successors and permitted assigns. The singular shall

include the plural and the masculine shall include the feminine, and *vice versa*.

**Section 2. L&R Program Structure.** The L&R Program consists of three (3) Programs: (1) the General L&R Program; (2) the Specific L&R Program; and (3) the Member Services Program. Each Program Area shall operate in accordance with the guidance set forth in the Annual Budget and the Annual L&R Program Strategic Plan. To the extent practicable, and except as otherwise provided for in this Agreement, NCPA shall endeavor to allocate L&R Program costs in an equitable manner, taking into account factors such as cost causation, Member size (including load, population, and number of customers), **annual** percentage increase in Member allocation, level of Member participation in NCPA Programs and Projects, and other relevant factors. Each Member shall be responsible for paying its fair share of the costs of the L&R Program, as determined by the L&R Program Cost Allocation set forth in Schedule 1.00.

**Section 3. General L&R Program.** The General L&R Program includes the following four (4) areas: (1) a Legislative Program focused on broad policy issues of general significance to all, or nearly all Members; (2) a Regulatory Program focused on broad policy issues of general significance to all, or nearly all Members; (3) Western Program; and (4) L&R Judicial Action.

3.1 General L&R Program Areas.

3.1.1 Legislative Program. The Legislative Program addresses broad policy issues of general significance. The Legislative Program provides legislative advocacy **and** lobbying of both the state and federal government. The Legislative Program is divided into three separate budget centers:

3.1.1.1. State legislative. This budget center includes advocacy efforts focused on representing the

needs of public power systems and electricity ratepayers before members of the state Senate and Assembly, the Office of the Governor, and state energy and environmental agencies;

**3.1.1.2.** *U.S. Congress.* This budget center includes advocacy efforts focused on the potential impacts of national energy **and** environmental-related legislation on public power systems and representing the needs of public power systems and electricity ratepayers before Members of Congress, the Executive Branch, and federal energy and environmental agencies; and

**3.1.1.3.** *Advocacy groups.* This budget center includes NCPA's participation in, and associated financial support for, advocacy groups and national associations, which lobby on behalf of and share NCPA's state, federal and regional policy goals.

**3.1.2** *Regulatory Program.* The Regulatory Representation Program addresses broad policy issues of general significance.

NCPA's regulatory program is responsible for advocacy and ~~litigation~~ or participation in proceedings before state, federal, and regional regulatory agencies, including, but not limited to the CARB, CEC, CPUC, FERC, NERC, WECC and the CAISO.

3.1.3 Western Program. The Western Program is an advocacy program which provides legislative and regulatory advocacy before representatives of Western and the Bureau and works with these agencies and the United States Congress to maximize the value of the Western power resource for Members having Western power allocations. The Western Program does not include activities or initiatives engaged in solely for the benefit of signatories to a Western Assignment Contract with Western, and a concomitant Assignment Administration Program Agreement with NCPA by which certain Members (as assignor) have assigned their Base Resource Share to NCPA (as assignee) to permit NCPA to create a power resource portfolio administered through the Pooling Agreement.

3.1.4 L&R Judicial Action. The L&R Judicial Action Program involves participation in particular litigation and in discrete regulatory or legislative dockets, proceedings or cases pending at CARB, CEC, CPUC, FERC or other regulatory agencies, where such proceedings affect public power. In the Commission's discretion, and only under special and limited circumstances, major policy matters that are sufficiently unique, discrete and identifiable may be identified as part of and fall within the L&R Judicial Action Program, rather than other areas of the L&R Program (and rather than within the Power Management L&R Judicial Action Program).

3.1.4.1. *Judicial Action Programs – Notice and Commission Approval Requirements.* NCPA has an obligation to provide notice to Members and secure Commission approval when NCPA proposes to undertake a L&R Judicial Action Program initiative. NCPA shall provide notice concerning **any** L&R Judicial Action Program initiative it plans to undertake on the Commission agenda and secure Commission approval before NCPA undertakes that Judicial Action Program initiative; provided, however, that once NCPA has secured NCPA Commission approval of its participation **in a** Judicial Action Program initiative, it is not necessary for NCPA to provide notice in advance of each individual **filing**, action, or activity associated with that L&R Judicial Action Program initiative.

3.1.4.2. *Member Participation in L&R Judicial Action Program Initiatives.* Once NCPA has provided Members with notice of its intent to participate in a L&R Judicial Action Program initiative on a NCPA Commission Agenda and secured NCPA Commission approval to participate in the Judicial Action Program initiative, Members must affirmatively opt-out of **such** initiative by providing written notice to the

General Manager of that Member's intent to opt-out of the Judicial Action Program initiative within thirty (30) days of the NCPA Commission's approval of the Judicial Action Program initiative, otherwise such Member will be considered a part of the L&R Judicial Action Program initiative. The General Manager may extend the thirty (30) day time period for a Member to opt-out of a Judicial Action Program initiative for an additional thirty (30) days, as necessary, upon written request submitted by the Member to the General Manager.

**3.1.4.3.** *Withdrawal ~~from~~ L&R Judicial ~~Action~~ Program Initiatives.* Once a Member has failed to opt-out of an L&R Judicial Action Program Initiative that involves formal filing of pleadings before any court or regulatory agency, that Member may only withdraw from such Judicial Action Program initiative after providing sixty (60) days written notice to the General Manager. Any such withdrawal from **all** or part of any L&R Judicial Action Program initiative shall in no way relieve that Member from obligations and costs incurred on behalf of that Member prior to that Member providing notice of its intent to withdraw,

including any and all attorneys fees, consultant or witness fees, or any other costs incurred or contracts entered into prior to that Member's withdrawal.

**3.1.4.4.** *Joint Defense and Litigation Privileges.*

Notwithstanding any agreement or provision to the contrary, each Member in the L&R Judicial Action Program agrees that it intends a Joint Defense and Joint Litigation privilege to apply to **all** litigation and regulatory proceedings to which NCPA becomes a **party** as a consequence, and that such joint defense and joint litigation privilege is in addition to such attorney client or other privileges as may apply as a consequence of the Joint Powers Agreement, or otherwise.

**3.1.4.5.** *Agreement as Not Affecting **Power** Management Judicial Action.*

This Agreement provides for judicial action only within the context of the L&R Program. It does not affect such judicial action as may be undertaken by NCPA's Power Management Division, the costs of which shall continue to be allocated by NCPA in accordance with the power management cost allocation methodology, as may be amended by the

Commission or such other methodology as the Commission may establish.

3.2 Cost Allocation Principles for the General L&R Program. Costs associated with the General L&R Program shall be allocated in accordance with the following principles:

3.2.1 Legislative Program and Regulatory Program. Costs associated with the Legislative Program and Regulatory Program under the General L&R Program shall be allocated to all Members in accordance with the L&R Program Cost Allocation set forth in Schedule 1.00. The Commission may, in its sole discretion, utilize funds collected from Members pursuant to Article IV, Section 3(a) of the Joint Powers Agreement to offset Member costs associated with the General L&R Program.

3.2.2 Western Program. Costs associated with the Western Program shall be allocated based on each Member's Western Base Resource Share relative to other Members with Western allocations.

3.2.3 L&R Judicial Action. Costs associated with the L&R Judicial Action Program shall be borne only by Members that elect to participate (or fail to opt-out of a particular L&R Judicial Action initiative, as applicable) and shall be allocated amongst such Members on a case-by-case basis by the Commission as appropriate; provided however:

3.2.3.1. Rates & Tariffs. The costs associated with activities and initiatives related to CAISO Rates and Tariffs and PG&E Rates and Tariffs are not

governed by this Agreement. **Such** costs are a part of the Power Management L&R Program and shall be allocated pursuant to the Power Management Cost Allocation Methodology, as adopted or amended by the Commission from time to time; and

3.2.3.2. *Western--Pool Members.* The costs associated with activities and initiatives related, to Western undertaken solely for the benefit of signatories to a Western Assignment Contract with Western, and a concomitant Assignment Administration Program Agreement with NPCA by which certain Members (as assignor) have assigned their Base Resource Share to NPCA (as assignee) to permit NPCA to create a power resource portfolio administered through the Pooling Agreement shall be borne exclusively by those signatories to the Pooling Agreement, based on each signatory's relative Western Base Resource Share; **and**

3.2.3.3. *California Refund Proceeding.* The costs associated with activities and initiatives related to the California Refund Proceeding shall be allocated in accordance with the refund methodology approved by the Commission from time-to-time for that matter.

**Section 4. Specific L&R Program.** In addition to the General L&R Program, NCPA also undertakes activities and initiatives from time-to-time on behalf of particular subsets of NCPA Members that may or may not be of benefit to all Members.

4.1 Specific L&R Program Areas. The Specific L&R Program includes legislative, regulatory and judicial activities and initiatives undertaken solely for the benefit of a specific NCPA Project, signatories to the Pooling Agreement, or a signatory to a separate agreement with NCPA.

4.2 Cost Allocation Principles for the Specific L&R Program. Costs associated with the Specific L&R Program shall not be borne by Members in general. **Such** costs shall be allocated among specific Members in the relevant NCPA Project, Pooling Agreement or other agreement in accordance with the terms of the applicable agreements.

**Section 5. Member Services Program.** The Member Services Program generally undertakes activities or initiatives on behalf of particular subsets of NCPA Members that may or may not be of benefit to all Members.

5.1 Member Services Program Areas. The Members Services Program:

5.1.1 Provides data and information to Members needed to comply with statutory energy and environmental reporting obligations;

5.1.2 Undertakes joint projects to promote the adoption of best **utility** practices among Members; and

5.1.3 Collaborates with, and provides leadership for, statewide compliance efforts by public power agencies to ensure that credible and consistent data is provided to State agencies in

a manner that **will** help prevent future legislative intrusions on local control of publicly-owned generation, transmission and distribution of electric energy.

5.2 Cost Allocation Principles for the Member Services Program. Cost associated with the Member Services Program shall be allocated in accordance with the following principles:

5.2.1 Member Services Staff. The costs associated with the provision of services noted in section 5.1 ,and the cost (including **all** allocated overheads) of at least one (1) dedicated NCPA Member Services Program staff person, shall be allocated amongst all Members in accordance with the L&R Program Cost Allocation set forth in Schedule 1.00, as amended from time to time.

5.2.2 Other Member Services Program Costs. Costs associated with other Member Services projects, activities and initiatives shall be allocated based on each Member's involvement in a particular Member Services project, activity or initiative, and where applicable, the terms and conditions of any applicable agreements by and among Members and NCPA for discrete Member Services Program projects, activities or initiatives.

Section 6. **Member Commitments.**

6.1 Existing Members. The L&R Program benefits all Members. It is **an** integral portion of NCPA's core function and is necessary in order to protect the investments NCPA and its Members have made in their public power assets.,It is therefore mandatory for all Members of NCPA to become a signatory to this Agreement.

- 6.2 New Members. Following the Effective Date of this Agreement, any new Member of NCPA who becomes a signatory to the Joint Powers Agreement must also concurrently become a signatory to this Agreement, except as provided in Section 6.2.1.
- 6.2.1 Exceptions. The Commission may, by a unanimous vote and due to a special, unique or legal circumstance, exempt a Member from the requirement that it become a signatory to this Agreement when it becomes a signatory to the Joint Powers Agreement, and approve a Resolution setting forth the specific terms of that individual Member's participation in and cost allocation under the L&R Program; provided however, that the Commission may concurrently limit the authority to participate in the L&R Program for any Member granted such an exemption, including that Member's voting authority on the L&R Committee as set forth in Section 8.2.
- 6.3 L&R Program Costs. Each Member agrees to and acknowledges its mandatory obligation to pay its L&R Program Cost Allocation invoiced in its All Resources Bill.
- 6.3.1 Participation and Costs. Any Member may elect to represent itself, or not participate in whole or in part in any portion of the General L&R Program, Specific L&R Program or Member Services Program; provided however, that any such decision shall not relieve any Member of its mandatory obligation to pay its L&R Program Cost Allocation.
- 6.3.2 Exceptions to Cost Obligation. The Commission may, by a unanimous vote and due to a special, unique or legal circumstance, adopt a resolution which exempts a Member

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from paying all or a portion of the costs associated with the General L&R Program, Specific L&R Program and Member Services Program, and setting forth the terms of that individual Member's cost allocation under the L&R Program; provided however, that such an adjustment to a Member's cost allocation may, in the Commission's discretion, concurrently limit that Member's authority to participate in the L&R Program, including that Member's voting authority on the L&R Committee as set forth in Section 8.2. Exceptions granted pursuant to this Section shall be reflected in that Member's L&R Program Cost Allocation.

**Section 7. Strategic Plan and Annual Budget.**

- 7.1 Each year, NCPA shall present to the L&R Committee a proposed Annual L&R Program Strategic Plan. The proposed Annual L&R Program Strategic Plan shall outline proposed: (1) initiatives, goals, priorities and objectives for the L&R Program, including identification of those that fall within the General L&R Program, Specific L&R Program and the Member Services Program; and (2) budgets for the L&R Program, including individual budgets for the General L&R Program, Specific L&R Program and the Member Services Program.
- 7.2 Following approval by the L&R Committee, the proposed Annual L&R Program Strategic Plan shall be presented to the Commission for its consideration **and** adoption as part of NCPA's **Annual** Budget review process.

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- 7.3 The Annual L&R Program Strategic Plan adopted by the Commission shall serve as the basis for the Commission's development of the L&R Program's budget which shall be a part of the Annual Budget.
- 7.4 The Commission shall apply the L&R Program Cost Allocation set forth in Schedule 1.00 to the L&R Program's budget to determine each Member's equitable share of L&R Program costs, except as otherwise provided for in this Agreement.
- 7.5 NCPA shall operate the L&R Program in accordance with the adopted L&R Program Strategic Plan and within the monetary parameters of the Annual Budget adopted by the Commission.

**Section 8. L&R Committee.** The L&R Committee shall consider and report upon all matters relating to state and federal law referred to it by the NCPA Commission or by the General Manager and shall serve as an advisory committee on L&R matters in accordance with the NCPA Rules of Procedure.

8.1 Establishment of the L&R Committee. The L&R Committee exists in accordance with the provisions of the NCPA Rules of Procedure. The L&R Committee shall consist of one or more representatives appointed by each Member, which representatives shall be the Member's designated voting representative on the NCPA Commission, that Member's **Utility** Director, or a designated Alternate NCPA Commissioner of that Member.

8.1.1 *Designation of Alternate Representative.* Each Member may also designate a temporary alternate representative for an L&R Committee meeting, in accordance with the following procedure:

**8.1.1.1.** A Member must notify the General Manager in writing of the identity ~~of~~ its alternate representative in advance of the L&R Committee meeting at **which** that alternate representative intends to participate and vote. Such notification must be signed by either the Member's designated voting representative on the NCPA Commission or ~~that~~ Member's Utility Director;

**8.1.1.2.** In advance of the L&R Committee meeting at which that alternate representative intends to participate and vote, the Member must sign and submit a form to NCPA, using a form to be prepared by NCPA specifically for that purpose, to the General Manager, stating that the alternate representative's vote on L&R Committee matters **is** binding on that Member, and such form must be signed by the alternate representative and the Member's designated voting representative on the NCPA Commission or that Member's Utility Director.

**8.2** Voting. Except as provided in section 8.2.1, each Member shall be entitled to cast one vote. **If** a Member has designated more than one L&R Committee Representative, then the voting representative shall be first the Member's Commissioner, or in the absence of the Commissioner, the Utility Director, or in the absence of both the

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Commissioner and the Utility Director the temporary alternate designated pursuant to Section 8.1.1.

8.2.1 *Limitations.*

- 8.2.1.1. *Specific L&R Program.* Only Members participating in the relevant project, Pooling Agreement, or other agreement shall be entitled to vote, in accordance with the applicable Project Agreement, Pooling Agreement or other agreement.
- 8.2.1.2. *Member Services Projects, Activities, & Initiatives.* Only Members participating in a particular Member Services Program project, activity or initiative (pursuant to section 5.2.2) shall be entitled to vote on matters related to that project, activity or initiative.
- 8.2.1.3. *Limited Members.* Notwithstanding the foregoing, and except as otherwise provided by the Commission resolution granting an exception, any Member that has been granted an exception pursuant to Section 6.3.2 of this Agreement shall not be entitled to voting representation on the L&R Committee, but may designate one non-voting representative and one or more non-voting alternates. Such Members shall be entitled to receive notices of and to attend all regular and special meetings of the L&R Committee.

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**8.3 L&R Committee Rules of Procedure.** The Commission in its discretion may establish rules of procedure for the L&R Committee.

**Section 9. Administration of Agreement.** The Commission has sole overall responsibility and authority for the administration of this Agreement. NCPA shall undertake L&R Program activities in accordance with the Annual Budget and Annual L&R Program Strategic Plan adopted by the Commission. Any acts, decisions or approvals taken, made or sought by NCPA under this Agreement shall be ~~taken~~, made or sought, as applicable, in accordance with NCPA's Constitutive Documents.

**Section 10. L&R Program Schedules.** L&R Program Schedules may be established for the implementation of this Agreement. L&R Program Schedules can provide detailed descriptions, procedures, protocols and guidelines (including operating and cost recovery procedures) for the operation of the L&R Program. The L&R Program Schedules may be adopted, amended or deleted by the NCPA Commission after receiving the recommendation of the L&R Committee. Upon Commission approval, adoptions, amendments, or deletions of L&R Program Schedules shall be effective immediately without the necessity of approval by the governing board or commission of any Member. NCPA shall upon adoption, amendment or deletion of an L&R Program Schedule ensure that each Member is promptly provided notice of such adoption, amendment or deletion. In the event of a conflict between this Agreement and any L&R Program Schedule, this Agreement shall govern.

**Section 11. Effectiveness of Agreement.** This Agreement became effective on the Effective Date.

**Section 12. Term and Termination.** The Term of this Agreement for each Member is concurrent with each Member's membership in NCPA. If a Member withdraws from NCPA, then this Agreement shall terminate as to that Member,

but shall remain in effect for all other Members. Any cost or liability arising prior to withdrawal from membership and remaining undischarged as of the effective date of withdrawal from NCPA shall continue and ~~the~~ withdrawing Member shall be required to satisfy such costs or liabilities as a condition of withdrawal from NCPA.

**Section 13. Miscellaneous**

- 13.1 Confidentiality. All Parties acknowledge that, from time to time, the information provided to them as a ~~part~~ of the L&R Program will be politically and commercially sensitive and may be confidential or trade secret information. The Parties will keep confidential all confidential or trade secret information made available to them in connection with this Agreement or the L&R Program to the extent possible, consistent with applicable laws, including the California Public Records Act. It shall be the responsibility of the holder of the claim of confidentiality or trade secret to defend at its expense against any request that such information be disclosed. Confidential or trade secret information shall be marked or expressly identified as **such**.
- 13.2 Indemnification and Hold Harmless. To the maximum extent permitted by law and subject to the provisions of Section 13.4, each Member agrees to indemnify, defend and hold harmless NCPA and its Members, including their respective governing officials, officers, agents, and employees, from and against any and **all** claims, suits, losses, costs, damages, expenses and liability of any kind or nature, including reasonable attorneys' fees and the costs of litigation, including experts ("Claims"), to the extent caused by any acts, omissions, breach of contract, negligence (active or passive), gross

negligence, recklessness, or willful misconduct of a Member, its governing officials, officers, employees, subcontractors or agents.

**13.3 Separate Liabilities.** No Member shall be liable under this Agreement for the obligations of **any** other Member, and each Member shall be solely responsible and liable for performance of its obligations under this Agreement, except as otherwise provided for herein. The obligation of each Member under this Agreement is a separate obligation **and** not a joint obligation with those of the other Members.

**13.4 No Consequential Damages.** FOR ANY BREACH OF ANY PROVISION OF THIS AGREEMENT FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED IN THIS AGREEMENT, THE LIABILITY OF THE DEFAULTING PARTY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION, AND ALL OTHER DAMAGES OR REMEDIES ARE HEREBY WAIVED. IF NO REMEDY OR MEASURE OF DAMAGE IS EXPRESSLY PROVIDED, THE LIABILITY OF THE DEFAULTING PARTY SHALL BE LIMITED TO ACTUAL DAMAGES ONLY **AND** ALL OTHER DAMAGES AND REMEDIES ARE HEREBY WAIVED. IN NO EVENT SHALL NCPA OR ANY MEMBER OR THEIR RESPECTIVE SUCCESSORS, ASSIGNS, REPRESENTATIVES, DIRECTORS, OFFICERS, AGENTS, OR EMPLOYEES BE LIABLE FOR ANY LOST PROFITS, CONSEQUENTIAL, SPECIAL, EXEMPLARY, INDIRECT, PUNITIVE OR INCIDENTAL LOSSES OR DAMAGES, INCLUDING LOSS OF USE, LOSS OF GOODWILL, LOST REVENUES, LOSS OF PROFIT OR LOSS OF CONTRACTS EVEN IF SUCH PARTY HAS BEEN ADVISED OF

THE POSSIBILITY OF SUCH DAMAGES, AND NCPA AND EACH MEMBER EACH HEREBY WAIVES SUCH CLAIMS AND RELEASES EACH OTHER AND EACH OF SUCH PERSONS FROM ANY SUCH LIABILITY.

The Parties acknowledge that California Civil Code section 1542 provides that: "A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor." The Parties waive the provisions of section 1542, or other similar provisions of law, and intend that the waiver and release provided by this section of this Agreement shall be fully enforceable despite its reference to future or unknown claims.

- 13.5 Amendments. Except as provided in Section 8 of *this* Agreement, this Agreement may be amended only by written ~~instrument~~ executed by all of the Parties with the same formality as this Agreement.
- 13.6 Severability. In the event that any of the terms, covenants or conditions of this Agreement or the application of any such term, covenant or condition, shall be held invalid as to any person or circumstance by any court having jurisdiction, all other terms, covenants or conditions of this Agreement and their application shall not be affected thereby, but shall remain in force and effect unless the court holds that such provisions are not severable from all other provisions of this Agreement.
- 13.7 Governing Law. This Agreement shall be interpreted, governed by, and construed under the laws of the State of California.

- 13.8 Headings. All indices, titles, subject headings, section titles and similar items are provided for the purpose of convenience and are not intended to be inclusive, definitive, or affect the meaning of the contents of this Agreement or the scope thereof.
- 13.9 Notices. Any notice, demand or request required or authorized by this Agreement to be given to any party shall be in writing, and shall either be personally delivered to a Member's Utility Director, or in the case of NCPA to its General Manager, or transmitted to the Member and NCPA at the address shown on the signature pages hereof. The designation of such address may be changed at any time by written notice given to the Secretary of the Commission who shall thereupon give written notice of such change to each Member.
- 13.10 Warranty of Authority. **Each Party** represents **and** warrants that it has been duly authorized by all requisite approval and action to execute and deliver this Agreement and that this Agreement is a binding, legal, and valid agreement enforceable in accordance with its terms as to the Member, and as to NCPA. Upon execution of this Agreement, each Member shall deliver to NCPA a resolution of the governing body of such Member evidencing approval of and authority to enter into this Agreement and an opinion of legal counsel that such authority was duly exercised in accordance with **such** Member's Constitutive Documents.
- 13.11 Counterparts. This Agreement may be executed in any number of Counterparts, and each executed counterpart shall have the same force and effect as an original instrument and as if all the signatories to all of the counterparts had signed the same

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instrument. *Any* signature page of this Agreement may be detached from any counterpart of this Agreement without impairing the legal effect of any signatures thereon, and may be attached to another counterpart of this Agreement identical in form hereto but having attached to it one or more signature pages.

23.12 Assignment. No Member may assign or otherwise transfer their rights and obligations under this Agreement without the express written consent of NCPA.

IN WITNESS WHEREOF, each Member has executed this Agreement with the approval of its governing body, and NCPA has authorized *this* Agreement in accordance with the authorization of its Commission.

NORTHERN CALIFORNIA  
POWER AGENCY  
[Address]  
[City, State, Zip]  
[Telephone]  
[Facsimile]

**CITY OF ALAMEDA**  
[Address]  
[City, State, Zip]  
[Telephone]  
[Facsimile]

\_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

\_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**Approved** as to form:

Approved as to form:

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: General Counsel  
Date: \_\_\_\_\_

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: City Attorney  
Date: \_\_\_\_\_

SAN FRANCISCO BAY AREA RAPID  
TRANSIT

[Address]  
[City, State, Zip]  
[Telephone]  
[Facsimile]

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Approved as to form:

By: \_\_\_\_\_  
Its: General Counsel  
Date: \_\_\_\_\_

CITY OF GRIDLEY

[Address]  
[City, State, Zip]  
[Telephone]  
[Facsimile]

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Approved as to form:

By: \_\_\_\_\_  
Its: City Attorney  
Date: \_\_\_\_\_

CITY OF BIGGS

[Address]  
[City, State, Zip]  
[Telephone]  
[Facsimile]

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Approved as to form:

By: \_\_\_\_\_  
Its: City Attorney  
Date: \_\_\_\_\_

CITY OF HEALDSBURG

[Address]  
[City, State, Zip]  
[Telephone]  
[Facsimile]

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Approved as to form:

By: \_\_\_\_\_  
Its: City Attorney  
Date: \_\_\_\_\_

CITY OF LODI  
[Address]  
[City, State, Zip]  
[Telephone]  
[Facsimile]

CITY OF LOMPOC  
[Address]  
[City, State, Zip]  
[Telephone]  
[Facsimile]

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Approved as to form:

Approved as to form:

By: D. Stephen Schwabauer  
Its: City Attorney  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Its: City Attorney  
Date: \_\_\_\_\_



CITY OF PALO ALTO

**PLUMAS-SIERRA RURAL  
ELECTRIC COOPERATIVE**

[Address]  
[City, State, Zip]  
[Telephone]  
[Facsimile]

[Address]  
[City, State, Zip]  
[Telephone]  
Facsimile]

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Approved as to form:

Approved as to **form**:

By: \_\_\_\_\_  
Its: City Attorney  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Its: General Counsel  
Date: \_\_\_\_\_

CITY OF OAKLAND, acting by and through its BOARD OF PORT COMMISSIONERS  
[Address]  
[City, State, Zip]  
[Telephone]  
[Facsimile]

\_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: General Counsel \_\_\_\_\_  
Date: \_\_\_\_\_

CITY OF ROSEVILLE

[Address]  
[City, State, Zip]  
[Telephone]  
[Facsimile]

\_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: City Attorney \_\_\_\_\_  
Date: \_\_\_\_\_

CITY OF REDDING  
[Address]  
[City, State, Zip]  
[Telephone]  
[Facsimile]

\_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: City Attorney \_\_\_\_\_  
Date: \_\_\_\_\_

CITY OF SANTA CLARA

[Address]  
[City, State, Zip]  
[Telephone]  
[Facsimile]

\_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: City Attorney \_\_\_\_\_  
Date: \_\_\_\_\_

TRUCKEE DONNER PUBLIC  
UTILITY DISTRICT

[Address]

[City, State, Zip]

[Telephone]

[Facsimile]

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Approved as to form:

By: \_\_\_\_\_

Its: General Counsel \_\_\_\_\_

Date: \_\_\_\_\_

CITY OF UKIAH

[Address]

[City, State, Zip]

[Telephone]

[Facsimile]

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Approved as to form:

By: \_\_\_\_\_

Its: City Attorney \_\_\_\_\_

Date: \_\_\_\_\_

## INDEX OF L&R PROGRAM SCHEDULES

<u>Schedule</u>		<u>Page</u>
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<u>1-00</u>	L&R Program Cost Allocation	

L&R PROGRAM AGREEMENT  
L&R Program Schedule 0-00

INTRODUCTION TO L&R PROGRAM SCHEDULES

Separate L&R Program Schedules will be established for this Agreement and related purposes, as appropriate, pursuant to Section 7 of this Agreement. L&R Program Schedules will provide detailed descriptions, protocols, principles, guidelines **and** procedures (including operating and cost recovery procedures) for the L&R Program pursuant to this Agreement.

For NCPA Projects **and** Activities for which another Agreement is executed between NCPA and its Members, the L&R Program Schedule will supplement, **and** not supersede, such Agreements with respect to the L&R Program.

NCPA L&R Program Schedules shall provide for:

- o L&R Program Cost Allocation; and
- o Other topics as needed in the future.

Additional L&R Program Schedules may be established to provide guidance regarding the L&R Program, or for other aspect of the implementation of this Agreement.

Definitions as set forth in Section 1 of this Agreement shall have the same meaning in the L&R Program Schedules.

**NCPA L&R PROGRAM AGREEMENT**  
**L&R Program Schedule 1-00**

**L&R PROGRAM ALLOCATION**

**Approved Allocation Methodology for the Legislation and Regulatory Program**

Per Commission Action on November 18, 2010  
 Resolution 10-106

	FY 2012	Five Year Phase in Plan			FY 2016
		FY 2013	FY 2014	FY 2015	
<b>Legislative Program (State and Federal)</b>					
50% of costs (non pass through) allocated by Equal Shares among all participating members	10.00%	20.00%	30.00%	40.00%	<b>50.00%</b>
50% of costs (non pass through) allocated by Energy Shares from previous calendar year	90.00%	<b>80.00%</b>	70.00%	60.00%	<b>50.00%</b>
<b>Regulatory Program (State and Federal)</b>					
50% of costs (non pass through) allocated by Equal Shares among all participating members	10.00%	20.00%	<b>30.00%</b>	40.00%	<b>50.00%</b>
50% of costs (non pass through) allocated by Energy Shares from previous calendar year	90.00%	<b>80.00%</b>	70.00%	60.00%	<b>50.00%</b>
<b>Member Services</b>					
50% of costs (non pass through) allocated by Equal Shares among all participating members	41.86%	56.39%	70.93%	85.46%	100.00%
50% of costs (non pass through) allocated by Energy Shares from previous calendar year	<b>58.14%</b>	43.61%	29.07%	14.54%	0.00%
<b>Judicial Action - Green House Gas Reduction Initiative (same as Regulatory Program)</b>					
50% of costs (non pass through) allocated by Equal Shares among all participating members	10.00%	20.00%	<b>30.00%</b>	40.00%	<b>50.00%</b>
50% of costs (non pass through) allocated by Energy Shares from previous calendar year	90.00%	80.00%	<b>70.00%</b>	60.00%	<b>50.00%</b>
<b>Western</b>					
Costs of program allocated based on adjusted share of Western Base Resource Percentages					

Source: NCPA Commission Resolution 10-106.

RESOLUTION NO. 2012-40

A RESOLUTION OF THE LODI CITY COUNCIL  
APPROVING THE NORTHERN CALIFORNIA POWER  
AGENCY LEGISLATIVE AND REGULATORY AFFAIRS  
PROGRAM AGREEMENT

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WHEREAS, since the inception of the Northern California Power Agency (NCPA), the legislative and regulatory activities of the agency have been fundamental for the purpose of managing substantial public investment and protecting the public power business model through preservation of local control; and

WHEREAS, an official agreement is needed to formalize the contractual relationships between NCPA and its members with regard to allocation of costs and the role of the NCPA Legislative & Regulatory Program.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve the NCPA Legislative & Regulatory Affairs Program Agreement and authorizes the City Manager to execute this agreement on behalf of the City of Lodi, California, with administration by the Electric Utility Director.

Dated: April 18, 2012

=====

I hereby certify that Resolution No. 2012-40 was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 18, 2012, by the following vote:

- AYES: COUNCIL MEMBERS – Hansen, Johnson, Nakanishi, and  
Mayor Mounce
- NOES: COUNCIL MEMBERS – None
- ABSENT: COUNCIL MEMBERS – Katzakian
- ABSTAIN: COUNCIL MEMBERS – None

  
RANDI JOHL  
City Clerk